

*superior*, would apply. That maxim is bottomed on the principle, that he who expects to derive advantage from an act which is done by another for him, must answer for any injury which a third person may sustain from it. The defendants admit that these acts were done for the benefit of the inhabitants, and being so done, there can exist no fear or apprehension that if they are compelled to pay for this special damage, or any special damage necessarily incurred for the public benefit, that any improvements useful or necessary to beautify or extend the city, to preserve its health, to advantage its navigation, will be in the slightest degree impeded. The city corporation, the inhabitants of this city, will always be willing to pay for that which their general advantage, and benefit, and prosperity may require to be done; and they ought to pay for it. There is no principle which would bind the individual sufferer to bear the whole burthen of any public improvement. The law cannot be so unjust as to produce such a consequence.

I will not say that there may not be some cases which the public interest and the policy of the country might demand should not be heard in courts of justice, and in which the maxim, *Salus populi est suprema lex*, must prevail, as in the cases of war and public danger. It may be necessary to demolish a house, for offence or defence. It may be necessary for a general to enter the lands of a citizen in pursuit of an enemy, or to erect a fortification thereon to prevent his incursions; to march over extensive districts and constantly over private estates in repelling an invasion. These are cases of uncontrollable necessity, and of pressing public emergency. And the policy of every nation might demand, in order to secure the utmost possible exertion of all her agents and officers, that for damages thus occasioned, in seasons of public danger, there should not be a remedy furnished personally against such agents, because if courts of justice are open to every complainant under such circumstances, the ruin of such agents would be the necessary consequence. This might be a case, too, in which it might be decorous in a court of justice, for the public safety, to presume that the legislative authority of the country would yield a proper indemnity. But be the law in such cases as it may, it is sufficient to say that this case is not in principle like any of those which have been mentioned.

This is a corporation invested with certain legislative powers for the benefit of all within the sphere of its operation. It