

secrets.⁶⁴⁵ So too, the franchise of a private corporation is property that cannot be taken for public use without compensation. Upon condemnation of a lock and dam belonging to a navigation company, the government was required to pay for the franchise to take tolls as well as for the tangible property.⁶⁴⁶ The frustration of a private contract by the requisitioning of the entire output of a steel manufacturer is not a taking for which compensation is required,⁶⁴⁷ but government requisitioning from a power company of all the electric power which could be produced by use of the water diverted through its intake canal, thereby cutting off the supply of a lessee which had a right, amounting to a corporeal hereditament under state law, to draw a portion of that water, entitles the lessee to compensation for the rights taken.⁶⁴⁸ When, upon default of a ship-builder, the Government, pursuant to contract with him, took title to uncompleted boats, the material men, whose liens under state laws had attached when they supplied the shipbuilder, had a compensable interest equal to whatever value these liens had when the government “took” or destroyed them in perfecting its title.⁶⁴⁹ As a general matter, there is no property interest in the continuation of a rule of law.⁶⁵⁰ And, even though state participation in the social security system was originally voluntary, a state had no property interest in its right to withdraw from the program when Congress had expressly reserved the right to amend the law and the agreement with the state.⁶⁵¹ Similarly, there is no right to the continuation of governmental welfare benefits.⁶⁵²

Consequential Damages.—The Fifth Amendment requires compensation for the taking of “property,” hence does not require payment for losses or expenses incurred by property owners or tenants incidental to or as a consequence of the taking of real property, if they are not reflected in the market value of the property taken.⁶⁵³ “Whatever of property the citizen has the government may take.

⁶⁴⁵ *Ruckelshaus v. Monsanto Co.*, 467 U.S. 986 (1984).

⁶⁴⁶ *Monongahela Navigation Co. v. United States*, 148 U.S. 312, 345 (1883).

⁶⁴⁷ *Omnia Commercial Co. v. United States*, 261 U.S. 502 (1923).

⁶⁴⁸ *International Paper Co. v. United States*, 282 U.S. 399 (1931).

⁶⁴⁹ *Armstrong v. United States*, 364 U.S. 40, 50 (1960).

⁶⁵⁰ *Duke Power Co. v. Carolina Env'tl. Study Group*, 438 U.S. 59, 88 n.32 (1978).

⁶⁵¹ *Bowen v. Public Agencies Opposed to Social Security Entrapment*, 477 U.S. 41 (1986).

⁶⁵² “Congress is not, by virtue of having instituted a social welfare program, bound to continue it at all, much less at the same benefit level.” *Bowen v. Gilliard*, 483 U.S. 587, 604 (1987).

⁶⁵³ *Mitchell v. United States*, 267 U.S. 341 (1925); *United States ex rel. TVA v. Powelson*, 319 U.S. 266 (1943); *United States v. Petty Motor Co.*, 327 U.S. 372 (1946). For consideration of the problem of fair compensation in government-supervised bankruptcy reorganization proceedings, see *New Haven Inclusion Cases*, 399 U.S. 392, 489–95 (1970).