

# HOUSE . . . No. 1333

---

---

By Messrs. Ayers of Weston and Harding of Dedham, petition of J. Robert Ayers that relief be provided to owners of land who suffer remote or consequential damages when land is taken by eminent domain for certain public improvements. The Judiciary.

---

---

## The Commonwealth of Massachusetts

---

In the Year One Thousand Nine Hundred and Fifty-Six.

---

### AN ACT PROVIDING FOR THE RELIEF OF OWNERS OF LAND IN EMINENT DOMAIN PROCEEDINGS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Chapter 79 of the General Laws is hereby amended by  
2 striking out section 12 and inserting in place thereof the  
3 following new section: —  
4 *Section 12.* The damages for property taken under  
5 this chapter shall be fixed at the value thereof before the  
6 taking, and in case only part of a parcel of land is taken  
7 there shall be included damages for all injury to the part  
8 not taken caused by the taking or by the public improve-  
9 ment for which the taking is made; and there shall be  
10 deducted the benefit accruing to the part not taken un-  
11 less it was stated in the order of taking that betterments  
12 were to be assessed. The same measure of damages shall  
13 apply to that portion of a parcel of land injured when  
14 no part of it has been taken which lies within five hun-  
15 dred feet of the nearest point of taking. In determining  
16 the damages to that portion of a parcel of land injured  
17 when no part of it has been taken which lies more than  
18 five hundred feet from the nearest point of taking, re-

19 gard shall be had only to such injury as is special and  
 20 peculiar to such parcel, and there shall be deducted the  
 21 benefit accruing to such parcel, unless it was stated in  
 22 the order of taking, or if there was no taking in the order  
 23 for the establishment, construction, alteration, repair or  
 24 discontinuance of the public improvement which caused  
 25 the injury, that betterments were to be assessed. When-  
 26 ever the title or interest taken is such that the property  
 27 will be exempt from taxation so long as it is held and  
 28 used for the purposes for which it is taken, the damages  
 29 for the taking shall include an amount separately de-  
 30 termined and stated, which shall be estimated to be  
 31 equal to that portion of the tax assessed upon the prop-  
 32 erty in the year it is taken which, if the tax were appor-  
 33 tioned pro rata according to the number of days in such  
 34 year, would be allocable to the days ensuing after the  
 35 taking.

It is ordered by the Senate and House of Representatives in  
 General Court assembled, and by the authority of the same,  
 as follows:

1 Chapter 70 of the General Laws is hereby amended by  
 2 striking out section 12 and inserting in place thereof the  
 3 following new section:  
 4 Section 12. The damages for property taken under  
 5 this chapter shall be fixed at the value thereof before the  
 6 taking and in case only part of a parcel of land is taken  
 7 there shall be included damages for all injury to the part  
 8 not taken caused by the taking or by the public improve-  
 9 ment for which the taking is made and there shall be  
 10 deducted the benefit accruing to the part not taken un-  
 11 less it was stated in the order of taking that betterments  
 12 were to be assessed. The same measure of damages shall  
 13 apply to that portion of a parcel of land injured when  
 14 no part of it has been taken which lies within five hun-  
 15 dred feet of the nearest point of taking. In determining  
 16 the damages to that portion of a parcel of land injured  
 17 when no part of it has been taken which lies more than  
 18 five hundred feet from the nearest point of taking, the