

By: Representative Yancey

To: Judiciary A

HOUSE BILL NO. 978

1 AN ACT TO PROHIBIT THE TRANSFERRING OF PROPERTY THAT IS
2 ACQUIRED BY EMINENT DOMAIN, FOR A PERIOD OF TEN YEARS AFTER ITS
3 ACQUISITION, TO ANY PERSON, NONGOVERNMENTAL ENTITY, PUBLIC-PRIVATE
4 PARTNERSHIP, CORPORATION, OR OTHER BUSINESS ENTITY WITH CERTAIN
5 EXCEPTIONS; TO PROVIDE THAT THE LEGISLATURE SHALL NOT PASS LOCAL,
6 PRIVATE, OR SPECIAL LAWS IN CERTAIN ENUMERATED CASES RELATING TO
7 EMINENT DOMAIN, AND SUCH MATTERS SHALL BE PROVIDED FOR ONLY BY
8 GENERAL LAWS; TO PROHIBIT THE TAKING OR DAMAGING OF PRIVATE
9 PROPERTY FOR PUBLIC USE, UNLESS DUE COMPENSATION IS MADE TO THE
10 PROPERTY OWNER FIRST; TO AUTHORIZE THE LEGISLATURE TO PROVIDE FOR
11 CONDEMNING CERTAIN RIGHTS-OF-WAY FOR PRIVATE ROADS WHERE
12 NECESSARY, PROVIDED THAT DUE COMPENSATION IS MADE TO THE PROPERTY
13 OWNER FIRST; TO PROHIBIT THE EXERCISE OF THE RIGHT OF EMINENT
14 DOMAIN FROM BEING ABRIDGED, AS TO PREVENT THE LEGISLATURE FROM
15 TAKING THE PROPERTY AND FRANCHISES OF INCORPORATED COMPANIES AND
16 SUBJECTING IT TO PUBLIC USE; TO PROHIBIT THE EXERCISE OF THE
17 POLICE POWERS OF THE STATE FROM BEING ABRIDGED, AS TO PERMIT
18 CORPORATIONS TO CONDUCT THEIR BUSINESS IN SUCH MANNER AS TO
19 INFRINGE UPON THE RIGHTS OF INDIVIDUALS OR GENERAL WELL-BEING OF
20 THE STATE; TO AUTHORIZE THE LEVEE BOARDS TO APPROPRIATE PRIVATE
21 PROPERTY IN THEIR RESPECTIVE DISTRICTS FOR THE PURPOSE OF
22 CONSTRUCTING, MAINTAINING, AND REPAIRING LEVEES THEREIN; TO
23 PROVIDE THAT WHEN ANY OWNER OF LAND OBJECTS TO THE BUILDING OF A
24 LEVEE, OR CLAIMS COMPENSATION FOR ANY LAND THAT MAY BE TAKEN OR
25 DAMAGES SUSTAINED TO THE LAND, THE PROPER OFFICER OR AGENT OF SUCH
26 LEVEE BOARD, OR OWNER OF SUCH LAND, MAY APPLY FOR AN ASSESSMENT OF
27 THE DAMAGES; AND FOR RELATED PURPOSES.

28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

29 **SECTION 1.** (1) Notwithstanding any other law to the
30 contrary, no property acquired by the exercise of the power of



31 eminent domain under the laws of the State of Mississippi shall,
32 for a period of ten (10) years after its acquisition, be
33 transferred or any interest therein transferred to any person,
34 nongovernmental entity, public-private partnership, corporation,
35 or other business entity with the following exceptions:

- 36 (a) Drainage and levee facilities and usage;
- 37 (b) Roads and bridges for public conveyance;
- 38 (c) Flood control projects with a levee component;
- 39 (d) Seawalls;
- 40 (e) Dams;
- 41 (f) Toll roads;
- 42 (g) Public airports;
- 43 (h) Public ports;
- 44 (i) Public harbors;
- 45 (j) Public wayports; and
- 46 (k) Common carriers or facilities for public utilities
47 and other entities used in the generations, transmission, storage
48 or distribution of telephone, telecommunication, gas, carbon
49 dioxide, electricity, water, sewer, natural gas, liquid
50 hydrocarbons or other utility products.

51 (2) The above provisions shall not apply where the use of
52 eminent domain:

- 53 (a) Removes a public nuisance;
- 54 (b) Removes a structure that is beyond repair or unfit
55 for human habitation or use;



56 (c) Is used to acquire abandoned property; or
57 (d) Eliminates a direct threat to public health or
58 safety caused by the property in its current condition.

59 **SECTION 2.** The Legislature shall not pass local, private, or
60 special laws in any of the following enumerated cases, but such
61 matters shall be provided for only by general laws, viz.:

62 (a) Granting divorces;

63 (b) Changing the names of persons, places, or
64 corporations;

65 (c) Providing for changes of venue in civil and
66 criminal cases;

67 (d) Regulating the rate of interest on money;

68 (e) Concerning the settlement or administration of any
69 estate, or the sale or mortgage of any property, of any infant, or
70 of a person of unsound mind, or of any deceased person;

71 (f) The removal of the disability of infancy;

72 (g) Granting to any person, corporation, or association
73 the right to have any ferry, bridge, road, or fish-trap;

74 (h) Exemption of property from taxation or from levy or
75 sale;

76 (i) Providing for the adoption or legitimation of
77 children;

78 (j) Changing the law of descent and distribution;



79 (k) Exempting any person from jury, road, or other
80 civil duty (and no person shall be exempted therefrom by force of
81 any local or private law);

82 (l) Laying out, opening, altering, and working roads
83 and highways;

84 (m) Vacating any road or highway, town plat, street,
85 alley, or public grounds;

86 (n) Selecting, drawing, summoning, or empaneling grand
87 or petit juries;

88 (o) Creating, increasing, or decreasing the fees,
89 salary, or emoluments of any public officer;

90 (p) Providing for the management or support of any
91 private or common school, incorporating the same, or granting such
92 school any privileges;

93 (q) Relating to stock laws, water-courses, and fences;

94 (r) Conferring the power to exercise the right of
95 eminent domain, or granting to any person, corporation, or
96 association the right to lay down railroad tracks or street-car
97 tracks in any other manner than that prescribed by general law;

98 (s) Regulating the practice in courts of justice;

99 (t) Providing for the creation of districts for the
100 election of justices of the peace and constables; and

101 (u) Granting any lands under control of the state to
102 any person or corporation.



103 **SECTION 3.** Notwithstanding any other law to the contrary,
104 private property shall not be taken or damaged for public use,
105 except on due compensation being first made to the owner or owners
106 thereof, in a manner to be prescribed by law; and whenever an
107 attempt is made to take private property for a use alleged to be
108 public, the question whether the contemplated use be public shall
109 be a judicial question, and, as such, determined without regard to
110 legislative assertion that the use is public.

111 **SECTION 4.** The Legislature may provide, by general law, for
112 condemning rights-of-way for private roads, where necessary for
113 ingress and egress by the party applying, on due compensation
114 being first made to the owner of the property; but such
115 rights-of-way shall not be provided for in incorporated cities and
116 towns.

117 **SECTION 5.** Notwithstanding any other law to the contrary,
118 the exercise of the right of eminent domain shall never be
119 abridged, or so construed as to prevent the Legislature from
120 taking the property and franchises of incorporated companies, and
121 subjecting them to public use; and the exercise of the police
122 powers of the state shall never be abridged, or so construed as to
123 permit corporations to conduct their business in such manner as to
124 infringe upon the rights of individuals or general well-being of
125 the state.

126 **SECTION 6.** The levee boards shall have, and are hereby
127 granted, authority and full power to appropriate private property



128 in their respective districts for the purpose of constructing,
129 maintaining, and repairing levees therein; and when any owner of
130 land, or any other person interested therein, shall object to the
131 location or building of the levee thereon, or shall claim
132 compensation for any land that may be taken, or for any damages he
133 may sustain in consequence thereof, the president, or other proper
134 officer or agent of such levee board, or owner of such land, or
135 other person interested therein, may forthwith apply for an
136 assessment of the damages to which said person claiming the same
137 may be entitled; whereupon the proceedings as now provided by law
138 shall be taken, viz.: In the Mississippi levee district, in
139 accordance with the terms and provisions of Section Three of an
140 act entitled "An act to amend an act to incorporate the Board of
141 Levee Commissioners for Bolivar, Washington, and Issaquena
142 counties, and for other purposes, approved November 27, A.D.
143 1865, and to revise acts amendatory thereof," approved March 13,
144 A.D. 1884; and in the Yazoo-Mississippi Delta Levee District, in
145 accordance with the terms and provisions of Section Three of an
146 act entitled "An act to incorporate the Board of Levee
147 Commissioners for the Yazoo-Mississippi Delta, and for other
148 purposes," approved February 28, A.D. 1884, and the amendments
149 thereto; but the Legislature shall have full power to alter and
150 amend said several acts, and to provide different manners of
151 procedure.



152 **SECTION 7.** This act shall take effect and be in force from
153 and after its passage.

