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RIGHT TO SET-OFF BENEFITS AGAINST DAMAGES TO PROPERTY IN EMINENT DOMAIN PROCEEDINGS

To insure protection of the individual landowner against possible abuse by the state in the exercise of its sovereign power, the law of eminent domain is hedged with specific constitutional and statutory inhibitions, limitations and restrictions. Probably the most fundamentally important safeguard from the standpoint of protection to the landowner in this regard is the requirement that the state pay adequate compensation for the property taken and for any injury done. The law in this respect contemplates that the injured landowner be made whole by an award which, in the universal language of our constitutions, statutes and court decisions on the subject, is termed "just compensation".¹ But the "measuring stick" by which the so-called "just compensation" is to be juridically computed, like most principles in our law is subject to changing variations and interpretations. That the measure of

¹ MCCORMICK, LAW OF DAMAGES (1935) 520.