

File No. 13027 Continued.

or more circuitous route, is not such special damage as to entitle him to maintain an action, even though, by reason of his proximity to the highway, he may suffer more inconvenience than others,

Houck vs. Wachter, 34 Md. 265.  
Crook vs. Pichter, 61 Md. 510.

And in the first of said cases, the Court said, that the rule of law allowing such actions ought not to be extended.

From the above it is clear that compensation should be made for damage to property abutting on the portion of the street to be closed, or when a portion of the street is closed, compensation should be made to abutting property, located between the portion of the street and it would seem that for damage, loss or personal inconvenience occasioned to persons living beyond the next intersecting street, no recovery can be had which is occasioned by the necessity of traveling a more circuitous route, provided another route is open in all directions.

The right of a property owner to claim compensation for injury to property located beyond the next intersecting street seems to be an open question in Maryland, that is, the depreciation in the value of property, devoted to mercantile or other purposes, by reason of loss of trade, or the like, when said property is situated beyond the next intersecting street.

While, under the Charter, the City should pay damages "for which the owner or possessor ought to be compensated", and under the decision of the Court of Appeals the City cannot close a street without just compensation "to those entitled to it", the question as to who "ought to be compensated", and as to who are "entitled to it" is left open, to be determined, largely, as a question of fact.

When we turn to decisions of the Courts of other states, whose constitutional provisions are similar to the provision of the Constitution of Maryland, which provides that private property shall not be "taken" for public use, without just compensation, we find that the great weight of authority is against allowing damages for injury to property value, when the property is located beyond the next intersecting street.

Text books state the law as follows:

"Owners of lands abutting upon neighboring streets, or upon other parts of the same street, at least when beyond the next cross street, are not, however, entitled to damages, notwithstanding the value of their lands may be lessened by its vacation or discontinuance."

2 Elliott on Roads and Streets, sec. 1181.