

Honorable Philip H. Goodman
Mayor of Baltimore City

(continued)

"To acquire by purchase or condemnation any property, or interest therein, of any kind for public purpose, and to provide for the procedure, with reasonable notice to the owner, by which such purchase or condemnation shall be made; and to acquire property adjoining or near to property to be used for any public purpose and to sell or dispose of such property subject to restrictions and reservations, and to assess benefits on any person benefited by any public works, construction or improvement. Nothing in this paragraph shall be construed to authorize the condemnation of property beyond the City limits."

It would appear that the implication may be drawn from the section quoted above from the Maryland Constitution that a sovereign may condemn private property only for a public use, whereas the language in the Baltimore City Charter quoted above clearly limits the City's right of condemnation "for any public purpose".

In the case of Riden v. Phila. B. & W. R.R. Co., 182 Md. 336 (1943), an injunction was sought by the Plaintiff to restrain the Defendant from condemning, under its power of eminent domain, a portion of his land for a branch line to Bowie Race Track. The Court found that the use contemplated was a public one, but in so holding, the Court said:

"The Constitution of the State of Maryland, Article 3, Section 40, declares that the Legislature shall enact no law authorizing private property to be taken for public use, without just compensation as agreed upon between the parties, or awarded by a jury, being first paid or tendered to the party entitled to such compensation . . . we hold that this section of the Constitution unmistakably declares by implication that private property shall be taken only for public use and then only for such compensation, and no private property shall be taken for private use, either with or without compensation, except with the owner's consent. Moreover, the taking of a man's property for the private use of another, even with just compensation, violates Article 23 of the Maryland Declaration of Rights, which declares that no man ought to be deprived of his life, liberty or property but by the law of the land. Likewise, the taking of private property for private use by authority of the State is a violation of the due process clause of the 14th Amendment of the Constitution of the United States . . . It follows that where an undertaking for which property is sought by condemnation is intended for private use, the property owner can invoke the aid of a court of equity to restrain the unlawful condemnation."