were talking about here as damage is often held to be a tort, under the tort cause of action, and therefore is recovered under those circumstances. That is, you have to prove a tort against yourself and a loss.

DELEGATE J. CLARK (presiding): Delegate Kiefer.

DELEGATE KIEFER: You might have to here, Delegate Hargrove, but I simply do not know, except to say to you that this gives the citizens a right for damage for the taking or damaging of their property and the mechanics of it we have not worked out. That is not a problem that need concern us.

At this point we are concerned only with establishing that a person may recover, or his property cannot be damaged without compensation to him.

DELEGATE J. CLARK (presiding): Delegate Hargrove.

DELEGATE HARGROVE: Did your Committee consider the question of where property is being taken for public use and there is damage, and other property is damaged by virtue of an action of someone who is working on the property and therefore might preclude an accidental tort against a third party in the State? Would you consider that as a possibility?

DELEGATE J. CLARK (presiding): Delegate Kiefer.

DELEGATE KIEFER: A common law cause of action is not involved in this at all. This does not interfere with such a cause of action nor does it aid such a cause of action.

This is only an action or a right to damages under a concept that has been in existence for some time. Implementation of it would have to be left to the courts and to the legislature.

DELEGATE J. CLARK (presiding): Are there any further questions?

Delegate Grant.

DELEGATE GRANT: Pursuing just a little further on Delegate Hargrove's question, this is not an intention to waive sovereign immunity as far as tort claims go?

DELEGATE KIEFER: No, this is simply recognizing that in this day and age an individual property owner has a right for damages in a situation in which he does not have the right under the present law. It is intended to fill a need because the increased building of public highways and public improvements can cause damage without a physical taking of the property itself.

DELEGATE J. CLARK (presiding): Delegate Grant.

DELEGATE GRANT: I understand what your situation is there. But allowing for the possibility that it could be expanded, would you suggest that the legislature could define this area, what you would want to include in that would be within their power to define what is taken for a public purpose?

DELEGATE KIEFER: Yes, and this is normally what is done in other states that have it.

DELEGATE J. CLARK (presiding): Are there any further questions?

Delegate Sybert.

DELEGATE SYBERT: Mr. Chairman, I should like to address a question to the Chairman of the Committee.

Referring to section 9, subsection B, which provides that property shall not be taken or damaged for public use or purposes without just compensation, that wording except for the addition of the words "or damaged" is more or less substantially the wording of the provision in the present Constitution against the taking of private property for public use without just compensation.

Now, I notice in the Committee Memorandum, beginning at page 28 running through page 29, it is stated that the legislature could provide for quick takes, that is for the payment of money into court under a special provision which was added to the Maryland Constitution about 35 years ago, so that the State Roads Commission could pay money into court and take the property after paying an amount into court that was estimated by the State Roads Commission to be the fair value of the property.

At that time, it was considered necessary and there could not be a quick take without that provision being in the Constitution and, indeed, as you point out on page 29 of the Committee Memorandum, similar provisions have been added to the Constitution with respect to quick takes for certain public purposes in Baltimore City, Baltimore County, Montgomery County and Cecil County, and also property located in Prince George's County.

Now, with a similar provision in the present Constitution, is it absolutely clear