

I am sure if you want to go into the area of damages, that there are other members on our Committee that will be glad to answer the questions for you.

I am sure that Delegate Burgess and Delegate Kiefer will be able to supply you with all the information that you need.

DELEGATE J. CLARK (presiding): Delegate Koss.

DELEGATE KOSS: Delegate Weidemeyer, it is my understanding that there are a number of private companies that now have the right of eminent domain that is granted almost on a permanent basis. Is there any way that the General Assembly can restrict that power?

DELEGATE J. CLARK (presiding): Delegate Weidemeyer.

DELEGATE WEIDEMEYER: No, then you get into the other provision that there should be no impairment in the obligation of a contract.

DELEGATE J. CLARK (presiding): Delegate Koss.

DELEGATE KOSS: In the unlikely circumstance, for example, that a competing power company would like to offer its service in an area covering an existing one, would they not be placed in an unfair competitive position?

DELEGATE WEIDEMEYER: If one power company wanted to come in and take over the line of another, I do not think the Legislature would grant it, because there you would have a question of an already-existing franchise.

This only covers, I think, new ones, and when you get into that area, you get into an area where a private corporation would be asking for power to take over somebody else's property for similar use.

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

The Chair hears none.

Your amendment has not been distributed yet, has it?

DELEGATE WEIDEMEYER: I think not, Mr. President.

DELEGATE J. CLARK (presiding): That is Amendment E, is it not?

DELEGATE WEIDEMEYER: Yes.

DELEGATE J. CLARK (presiding): Pages please distribute Amendment E. This

will be Amendment No. 19. The Clerk will please read the amendment.

READING CLERK: Amendment No. 19 to accompany Minority Report R&P-1 to Committee Recommendation R&P-1, by Delegates Burgess, Dabrowski, Hostetter, C. Murray, Weidemeyer:

On page 4, section 9, Limitations on State Action, in line 19 after the period add these words:

"No general or indefinitely continuing authority shall hereafter be granted which authorizes the taking or damaging of private property by private persons, firms or corporations for any public use or purpose. Any such specific authority hereafter granted shall be limited to a specific purpose or purposes and shall be exercisable during such period of time as may be reasonably necessary to acquire the property by condemnation but such period shall in no event extend for longer than three years. In granting any such specific authority the advance taking of property shall not be preferred but may be granted and exercised only upon a showing of immediate and urgent necessity."

DELEGATE J. CLARK (presiding): The Chair recognizes Delegate Weidemeyer.

DELEGATE WEIDEMEYER: Mr. President and members of the Convention, I do not want to take up a lot of your time. I think this is a good amendment and it should be adopted. As I pointed out in presenting it, this does not cover corporations that have had authority in the past. It only covers the future. Since the Committee Recommendation in regard to taking by the State for public use allows the quick take, if they have the same authority to grant it to private corporations, we should not give a general and continuing authority. When any corporation who wants condemnation authority and can show the need for it to the legislature or the board or the county which grants it, the county can then and should under this amendment limit the power of condemnation and the right to do the condemning for the time reasonably necessary to do the condemning, and, in any event, not to exceed three years.

There are those in this group who do not understand what we mean by "quick take". Under our existing law, the state roads commission has the right under the Constitution and the statutes to go out and appraise the property and deposit the amount of their appraisal in court and