

THE CHAIRMAN: Do you desire to speak in opposition?

DELEGATE RYBCZYNSKI: Yes, sir.

THE CHAIRMAN: You may proceed.

DELEGATE RYBCZYNSKI: Mr. Chairman, I think it is important that every delegate here know the concept of eminent domain. This is the only un-American provision that you will find in a state constitution. This is in direct opposition to everything we hold near and dear, the right of freedom and the right of contract and the right of property ownership.

What we are saying is that the legislature has the right to interfere with the right of contract and the right of property ownership, to go in and take any person's house or property or business, take it away for a stated amount of money.

Now, we talk about the problem of cost. The whole idea behind this thing is that the cost is spread amongst all of the citizens of the State of Maryland and is not allowed to be borne by one individual. Now, if a person after many years of effort and hard labor is fortunate enough to own a \$10,000 house, is there any reason why that person should get any less than \$10,000 for his property when it is taken away from him? And yet this occurs every day of every week in the State of Maryland.

This change relating to damages is headed toward relieving the damage done to private individuals by the State of Maryland. If there is an increase in the acquisition cost to the State of Maryland, all that they need to do is to raise the gasoline tax. It is what they do anyway, do they not? Every time a contractor says that cement has gone up and the cost of labor has gone up, nobody stops building roads. They merely increase the tax that is necessary.

In other words, it is spread amongst all of the citizens and not one citizen; the obligation is not on one citizen to take the lion's share of the damage.

This is an extremely good provision in this constitution. I hope that the amendment is defeated.

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: Fellow delegates, I, during my time, sat on a good many of these cases involving taking by eminent domain and am quite familiar with the cases in *Nichols* which is a stand-

ard authority. I want to suggest that the problem here is not whether people will be adequately protected when their property is taken which gives them a right not only to the value of the taking, but the incidental damages involved. This, however, introduces a concept which has had the unfortunate result, I think, in many states, of extending this nebulous concept of damage quite apart from the property taken.

Now, when property is taken, you can have valuations put on by your own appraisers in the states and these matters can be submitted to a jury including the incidental damages following from it. But when the property is not taken, it does not require much imagination to see that you are in a cloudy area, that property miles away could be affected by a particular change of a road for example. That is the difficulty that I see. It introduces a perfectly nebulous concept which has been rejected by our legislature and now it would be written in the vaguest terms into our constitution itself. I think it would indeed open a Pandora's box of litigation.

THE CHAIRMAN: Are you ready for the question?

Delegate Churchill Murray.

DELEGATE E. C. MURRAY: Nothing that has come to our attention since the beginning of this convention has concerned me more than the pain, the injury and oftentimes the injustice that has resulted from eminent domain.

In a country that is growing as ours is, and as ours will, it is inevitable that the harm from it is widespread. I had no idea until we had begun hearing witnesses on this subject, concerning slum clearance in connection with roads in the cities, that many times the owners are living in houses that are not worth much and that are not worth enough for them to go out and replace them.

I have been in the State and all over the State and I feel very badly. I could weep were I an actor for the millions and millions and millions of dollars that the adoption of this would cost the State of Maryland, but I do believe that I can answer the question as to how much it would cost.

It would cost exactly the sum total of what these individual people are losing individually now instead of having it shared by the State, which is in many cases causing the loss for the good of us as a whole.