

The economy of this thing is such that certain people bear an undue burden as regards the rest of us. It is an attempt to recognize this and bring it into conformity with existing laws in our sister states.

There is no judge or lawyer who would tell you we do not look to laws in sister states. There are ninety-seven years of case law in adjoining states. Yet in ninety-seven years we have not been able to recognize this very narrow concept which is not pie in the sky.

For God's sake, we have recognized it now, let us keep something forward looking, something which is an acknowledgment of the problems of our citizens of this State and which will serve that purpose and will not open the doors to the treasury.

May I cite to you a certain case occurring in California, which is a liberal state if ever there was one. This case involved the changing of a highway from a two-lane highway to four lanes either way.

A business attempted to collect damages for this reason. The court held that the abutting property owner has no right to compensation because he has no right to any particular flow of traffic.

Now this, I think, tends to illustrate what we are talking about here. You cannot act like a litigious nut and run in and sue the state for damages every time you are close to something like this. It just cannot be done.

THE CHAIRMAN: Delegate Marvin Smith.

DELEGATE M. SMITH: This vote here yesterday disturbed me as much as anything that has taken place. There have been other votes with which I disagreed, but none in which I felt so strongly that an absolute error had been made.

I was fearful that due consideration had not really been given here. I was fearful that people were to some extent not understanding, but getting carried away by their desire to benefit those whose property is taken.

My experience at the bar has been on the side of people whose property has been taken. Note specifically that there appears to be disagreement here between the Chairman of the Committee and the chief sponsor as to the language and what is meant by the word "damage." Note, also, that the language here is "taken or damaged" and not "taken and damaged".

It may well be, Mr. Chairman, that the condemnation law of this State requires an

overhauling, but I submit to you that we cannot very well do that in the short period of time that we have here. That the proper course of action would be for the proper committee of the General Assembly or the Legislative Council, if you will, to give careful consideration to the matter and consideration of the full impact.

I notice, specifically, that although it was indicated that the City of Baltimore had been asked to comment on this, that apparently there has been no contact other than a passing one with the State Roads Commission.

I think this was a hasty action. I hope that you will vote to reconsider and then vote for the amendment.

THE CHAIRMAN: Delegate Kiefer.

DELEGATE KIEFER: Mr. Chairman, I have to rise to say there is no disagreement between the Chairman and any members of the Committee on this point. I do not know how Delegate Smith gets that idea.

I also call everybody's attention to the Committee's Report on page 28 of our memorandum where we point out that the measure and nature of compensable damage are matters properly left to the legislature and the courts.

All of the amendments or rather all of the constitutions which use these words, use the same words and no more. All of them are implemented by acts of the legislature. There is no question about that, and they are interpreted by the courts of each state. This is not a radical thing and not a dangerous thing. We are not giving away anything. We have not sought anybody's advice except experts. When representatives of the City of Baltimore came to the Committee with some questions we pointed out to them the situation as we had gone into it and they withdrew any objections they had.

I urge you to defeat this. The amendment which is suggested is covered by our recommendation and inherently a part of it. I have no objection to the language, but it is not necessary.

THE CHAIRMAN: Delegate Bard.

DELEGATE BARD: Mr. Chairman, I should like to speak in favor of reconsideration, and I would like to call your attention to the fact that there are two names on the sheet labeled AR.: Mr. Macdonald, who voted yesterday against the proposal dealing with damages, and I, who voted for.