

not have the power to provide compensation for either taking or damage?

DELEGATE KIEFER: No, sir, I did not say that.

What I said was this, that where the constitution provides for compensation for a taking, that the taking as defined by the Court of Appeals means a physical taking. Therefore, by Court of Appeals decisions in this State, damages cannot be awarded under the constitutional provision unless there is a physical taking.

THE CHAIRMAN: Let me again see if I understand.

What you are saying is that the constitution without the words "damage" would not require compensation except for a taking, but you were not saying that the legislature could not voluntarily provide for compensation for damages?

DELEGATE KIEFER: No, sir. I was saying exactly the opposite. I was saying that if the constitution does not provide for damages the General Assembly cannot allow for damages under the ruling of our Court of Appeals. That is why we put the word damage in.

THE CHAIRMAN: The Chair would not agree with that interpretation nor do I think the Chairman of the Committee of the Legislative Branch would, Delegate Kiefer.

I may not be understanding what you are saying, and I would like the record to be very clear on it.

DELEGATE KIEFER: I have to withdraw those remarks. My legal adviser tells me that despite these rulings of the Court of Appeals the legislature could provide for damages other than for a taking.

If he says so, I will abide by that. I still say we should leave what we have done as is and defeat the motion to reconsider.

THE CHAIRMAN: Very Well.

Delegate Henderson.

DELEGATE HENDERSON: I do not know exactly where we are at this point in debate, but I would like to put in my two cents worth, if I may, in support of the motion to reconsider.

It seems to me that this matter should be reconsidered and the words "or damage" should be taken out of the proposal. The great difficulty with those words, it

seems to me, is this: that once you get away from the property that is taken and try to compensate people whose property is not taken, you open the door so wide that it would require years of definition even partially to close it, and for that reason, I think it is a matter that should be worked out at the legislative level.

Now, it is perfectly clear to me that by taking the words "or damaged" out of the constitution, you leave the legislature perfectly free to legislate in that whole field and to award damages to whomever they please, but as I have read the cases in other states, these cases range all over the field.

They go to extreme limits in awarding damages to people who are only slightly and incidentally damaged and it seems to me this would be a tremendous clog in the whole judicial process of condemning property for public use and would be of great harm to the people of the State of Maryland.

Therefore, I would urge, strongly urge, that we reconsider this matter and delete the words "or damaged" from the amendment.

THE CHAIRMAN: Delegate Churchill Murray.

DELEGATE E. C. MURRAY: Mr. Chairman.

THE CHAIRMAN: Do you desire to speak in opposition to the motion to reconsider?

DELEGATE E. C. MURRAY: Yes, sir.

THE CHAIRMAN: Delegate Murray.

DELEGATE E. C. MURRAY: Is it proper that I direct a question to Delegate Adkins?

THE CHAIRMAN: Not if someone else desires to speak in opposition.

Does any other delegate desire to speak in opposition to the motion?

Delegate Clagett.

DELEGATE CLAGETT: Will Delegate Henderson yield to a question?

THE CHAIRMAN: Not so long as someone desires to debate.

Does anyone desire to speak in opposition?

Delegate Dukes.

DELEGATE DUKES: I probably at one time or another will ask things of this