

THE CHAIRMAN: Delegate Kiefer.

DELEGATE KIEFER: Yes.

THE CHAIRMAN: Delegate Clagett.

DELEGATE CLAGETT: Delegate Kiefer, is it not true that during the interim between the passage and effective date of the constitution, and the time when the General Assembly shall act by law, that the courts would determine the meaning of the word "damage" as used in this Bill of Rights section?

THE CHAIRMAN: Delegate Kiefer.

DELEGATE KIEFER: I would not only answer in the affirmative, but I would also say that whatever the legislature spells out, the court is going to have to interpret and affectuate and implement, too.

THE CHAIRMAN: Delegate Clagett.

DELEGATE CLAGETT: I agree with you there, but before the legislature acts, in any cases that come before the courts during the interim, between the effective date of the constitution and the time the General Assembly acts, the courts themselves would give a definition to the word "damage", which could be a guide to the General Assembly.

THE CHAIRMAN: Is that a statement or a question?

DELEGATE CLAGETT: Question.

THE CHAIRMAN: Delegate Kiefer.

DELEGATE KIEFER: Yes, sir.

THE CHAIRMAN: Very well.

Delegate Weidemeyer.

DELEGATE WEIDEMEYER: I had a question, but I think I was in error. I was going to ask him what the latter term meant, whether it meant public use purposes or compensation. He may have meant it to mean "damages" but I do not know whether it is so clear from reading the amendment.

THE CHAIRMAN: Well, so that there will be no doubt, the Chair will ask the sponsor and ask the Committee on Style to note.

The question raised is whether in line 5 of the amendment, the words "latter term" is intended to refer to "damage" or to some other word in section 9B.

Delegate Bard.

DELEGATE BARD: "Damage."

THE CHAIRMAN: Does that answer your question, Delegate Weidemeyer?

DELEGATE WEIDEMEYER: Yes, Mr. Chairman.

THE CHAIRMAN: Delegate Kiefer.

DELEGATE KIEFER: Mr. Chairman, I do not think that my answer to Delegate Clagett was recorded. My answer to his question was yes, the courts would have to interpret and perhaps provide guidelines until the legislature had acted.

THE CHAIRMAN: Delegate Johnson.

DELEGATE JOHNSON: Because of Delegate Kiefer's answer to that question, I have a question for Chairman Kiefer.

THE CHAIRMAN: Very Well.

Delegate Kiefer, will you respond to a question?

DELEGATE KIEFER: Yes.

THE CHAIRMAN: Delegate Johnson.

DELEGATE JOHNSON: Chairman Kiefer, just so that the record is perfectly clear, you are not precluding the possibility of either your Committee or the General Provisions Committee providing by way of a transitory provision that this particular section would not be applicable until perhaps a year later, so that the legislature would have an opportunity to set the necessary guidelines? Is that so?

THE CHAIRMAN: Delegate Kiefer.

DELEGATE KIEFER: Yes.

THE CHAIRMAN: Are you ready for the question?

Delegate Bamberger.

DELEGATE BAMBERGER: Mr. Chairman, I rise to speak against this amendment, and I suggest that the Chairman of the Committee and the members of the Committee consider the effect of this. As I understand it, it now means that that right to compensation for property which is not taken but which is damaged is circumscribed by whatever law the General Assembly might enact. If it was the intention of the Committee to give to the owners of property, compensation where property was not actually taken but damaged, as that word is defined in the decisions of the courts where there are similar constitutional provisions, then this amendment does absolute violence to the intention of the Committee.

The amendment says that a property