

Delegate Gilchrist, do you desire to speak?

DELEGATE GILCHRIST: Yes.

THE PRESIDENT: In favor of or in opposition?

DELEGATE GILCHRIST: In favor.

THE PRESIDENT: Before you start under the informal procedure suggested by the Chair, and thus far observed by all delegates with a little prodding from the Chair, and the suggestion that time is expiring, the sponsor of the amendment and the Chairman of the Committee are allotted six minutes, all other speakers three minutes.

Delegate Gilchrist.

DELEGATE GILCHRIST: Mr. Chairman and ladies and gentlemen of the Convention. I was the sponsor of an amendment proposed when this eminent domain provision came before us earlier. I was the sponsor of that amendment because I was afraid of what could happen and I remain afraid of it.

The attorney general of Maryland, who may be scary and who may not be scholarly as the Chairman of the Committee has said, has pointed out to this Convention some of the dangers which are inherent in this sort of constitutional writing.

In the course of opinion he says "We wish to make it clear that we do not oppose some extension of the right to compensation by virtue of condemnation proceedings. We do, however, earnestly express the hope that this Convention will not adopt the unqualified phrase 'or damaged' as a part of the constitution. It is our hope from our concern over the best interests of the State of Maryland, that the Convention will qualify the phrase 'or damaged' in such a way that the General Assembly can exercise discretion as to what claims for damages are entitled to be considered. We have pointed out in this letter the unhappy experiences of four States which have similar phrases in their laws."

I might say that in the memorandum that has been submitted by the proponents of this provision, the proponents themselves admit that the legislature can broaden but cannot contract the liability of a state. The problem is not with the broadening, the problem is with the contraction of sweeping words such as "are damaged."

One does not now know and one cannot know what the courts of Maryland will determine damage to mean. One will not know for another ten or fifteen years. As one of my fellow lawyers pointed out this morning, I could not recommend to a client that he settle the condemnation case. I would have to recommend to him that it be litigated all the way to the Court of Appeals.

THE PRESIDENT: You have one half minute.

DELEGATE GILCHRIST: For these reasons, for the reasons which are inherent in anything so vague as this, I urge all of you to support the amendment, take it out, and leave this in the province of the legislature where it properly belongs.

THE PRESIDENT: Delegate Churchill Murray.

DELEGATE E. C. MURRAY: Mr. Chairman and fellow delegates, perhaps this is the first time that I have been able to say that I have the advantage of not being an attorney because I can approach this from a purely common sense standpoint. I do not mean to imply that being an attorney would prevent one from doing this, but I do not have to approach this from a legalistic standpoint. The question here is very simple.

Delegate Della says that no one can tell us what this will cost. I can tell him how to determine what this will cost. If he will add up the loss that the individual people are suffering in this, he will have the figure that it will cost the State.

The simplicity of the question is: will you leave it to those individuals who are forced into this position, who suffer this loss, or will the State of Maryland assume it?

I, too, am apprehensive of Pandora's Box. Nevertheless, we have twenty or more states who are operating under something very similar so we do have some examples. I think it is purely a question of whether we are going to meet our responsibility or recede from it.

THE PRESIDENT: Any other delegate desire to speak in favor of the amendment?

Delegate Henderson.

DELEGATE HENDERSON: I spoke on this matter once before and I hesitate to do so again, so I will be very brief.

I thoroughly agree with the proponents of this amendment that it is wise, most