

wise, to take this out of the draft, and the reason I feel that way so strongly is that a taking is something which is tied down to the concrete, but when you say "or damaged," in other words, damaged regardless of the taking and not incidental to the taking, but independent of the taking, then, you really have no criteria. The word "damage" in its fullest import would mean any detriment which is suffered by anybody in the neighborhood or in the State for that matter by a particular taking. That is the great danger.

Now, the Attorney General through his experience with the state roads certainly ought to know something about this. He tells us that in his estimate he figured that the cost of every condemnation in the State would probably be doubled.

We have no right to write a term like that into the constitution. The legislature has plenary power to remedy any wrongs which are put before it. It can extend the scope of damage, but I submit that we should not put this in the constitution.

THE PRESIDENT: Any delegates desire to speak in opposition to the amendment?

Delegate Burgess.

DELEGATE BURGESS: Ladies and gentlemen of the Convention, there seems to be a trend in certain areas of this Convention and particularly in the attorney general's office that nobody else knows how to read a lawbook or make a determination of what the law is. There are some of us who have had some exposure to the law and I say to you without qualification, I have very carefully studied this problem. You are being fed the fullest snow job in the fullest sense of the word. That memorandum from the attorney general he ought to be ashamed of. I have had exposure on the problem of right of way. It is like asking the proverbial fox to watch the hen house.

This means work for these gentlemen. This means they cannot go helter-skelter full speed ahead. We are talking about flesh and blood. The people in Delegate Della's area have suffered from this.

We ask the attorney general to research it and to advise us as to what happened and what developed. We wanted to know about it. Had there been any such area I would have asked for the amendment. We have researched it to the n'th degree. We know what we are talking about. We can read the law and we understand it and we have tried our share of cases and ladies and gentlemen, it is people we are talking

about; we are not talking about the State Roads Commission and all the rest of it. All these people have answers. What answers do they give to the little man who is economically destroyed by this?

Let us not kid ourselves. We are talking about flesh and blood people, and people are being cut up and destroyed by this thing. If we do not draw the line somewhere as they have done in forty-seven states, if the memoranda we keep submitting were not so studiously ignored, some of these people would be enlightened.

THE PRESIDENT: Delegate Marvin Smith.

DELEGATE M. SMITH: Mr. Chairman, let me say first of all I have never had a case from the State Roads Commission. I am a Republican. (*Laughter*) Those things just do not filter down to our end and the odds are that they will not.

Therefore, my experience in condemnation cases has been where I have been representing people whose property has been taken. If we leave this word "damaged" in there you will indeed put some money into my pocket. That is not the responsible way to approach this matter. The responsible way to approach it is that there should be a study in depth by the proper committee of the General Assembly and let the General Assembly study it.

Let us not be swept away by appeals by poor people whose property is being taken. I feel strongly about it. The responsible way to go about this is to give full, adequate, and complete study to it which has not been done to this point.

Now, let me point out that Chairman Kiefer, with all due respect to him, made an obvious misstatement here when he said that the State could take your property now without compensation. This is not true under the Fourteenth Amendment to the Constitution of the United States. You should support this amendment.

THE PRESIDENT: Any other delegate desire to speak against?

Delegate Dukes.

DELEGATE DUKES: Mr. Chairman and fellow delegates, unlike Delegate Smith, I have had an occasional title search. I suppose it is possible ten years from now to say I have not had any since 1967. Nonetheless, I did accompany Delegate Burgess up to the balcony above and we talked with Semelman there and we told him we did not want a bankrupt State. We