

said if he had a constructive suggestion we would accept it. We thought he was going to do a real job. We thought it would be a research job and not a snow job.

Compare the memorandum you got from Delegate Kiefer with the memorandum you saw from the Attorney General's office. The Attorney General talked to people in California and New York. They said they thought it would have been easier and it would have expedited their roads programs if they did not have to fool around with this. I suppose that is so. If they did not have to pay anybody anything, they could do it more quickly, easily, and cheaply.

To figure the cost, you just add up the injury. If you are willing to pay for the injury, that is what the cost is. I suppose from the kind of research we got from the attorney general's office it could run from zero to thirty billion because they did not base it on anything.

There are cases in this area. It is not pure speculation as to whether or not these incidental matters will be included. The Maryland Court of Appeals is not known for its liberality in giving away the money of the State of Maryland. The courts are not unfamiliar with the word "damages". It is in the main stream of Anglo-Saxon jurisprudence. I am sure the courts can handle it. If the circuit courts cannot do it the Court of Appeals will help out.

I know we can do this. In some twenty-six jurisdictions the courts in those states have been able to handle this difficult problem. They have not given away the states. The courts always help them out.

THE PRESIDENT: Delegate Kirkland.

DELEGATE KIRKLAND: Mr. Chairman, somewhere I have heard all this before so I would like to move the previous question.

THE PRESIDENT: The question arises on the motion to order the previous question rising on Amendment No. 3.

A vote Aye is a vote in favor of ordering the previous question; a vote No is a vote against.

All in favor signify by saying Aye; contrary, No. The Ayes have it. It is so ordered.

The question arises on the adoption of Amendment No. 3. The Clerk will ring the quorum bell.

The question arises on the adoption of Amendment No. 3 to Committee Recom-

mendation R&P-1 and R&P-2 as amended by Report S&D-9. A vote Aye is a vote in favor of Amendment No. 3; a vote No is a vote against. Cast your vote.

Has every delegate voted?

Delegate James Clark.

DELEGATE J. CLARK: Aye.

THE PRESIDENT: Delegate James Clark votes Aye. Does any delegate desire to change his vote?

The Clerk will record the vote.

There being 53 votes in the affirmative and 67 in the negative, the motion fails and the amendment is rejected.

Delegate James, do you now desire to offer your Amendment V?

DELEGATE JAMES: Yes.

THE PRESIDENT: The pages will please distribute Amendment V. This will be Amendment No. 4. The Clerk will read the amendment.

READING CLERK: Amendment No. 4 to Committee Recommendation R&P-1 and R&P-2 as amended by Report No. S&D-9 by Delegate James and others: On page 4, section 1.16, Eminent Domain, in line 34 after the word "compensation" add the following words: "except that the allowance of compensation for property damaged but not taken for public use or purposes shall be subject to any limitations and restrictions that the General Assembly may prescribe by law."

THE PRESIDENT: The amendment is submitted by Delegate James and seconded by the co-sponsors. The Chair recognizes Delegate James.

DELEGATE JAMES: Mr. Chairman and fellow members, the traditional law of condemnation for eminent domain in Maryland has required that there be some sort of a physical taking before the State could be required to pay compensation to the property owner. If there is a physical taking or a physical invasion or a cutting off of the right of access, then in that event, the State would have to pay fair compensation under standards set by the General Assembly.

Now, the adding of the words "or damaged" introduces a new concept into the law of eminent domain in Maryland, and it introduces it in a way which is not free from doubt.

Now, it may well be that in other states a body of law has been developed which might be a guideline to the Maryland