

With that constitutional recognition, however, comes some very serious problems in terms of deciding the amount of damages that should be awarded. With no body of law in Maryland despite the fact that courts outside of Maryland have made decisions in the area, each case must necessarily be litigated to the Court of Appeals on its own peculiar facts if justice truly is to be done both to the entire State who is paying the bill and to the recipient of the damage. This means delay, it means uncertainty, it means confusion.

Now, it is quite true, as Delegate Kiefer's memorandum indicates, that it is possible to synthesize conclusions of the courts in other states. Being true, it is perfectly possible for the legislature to sit down and write reasonable rules, reasonable legislative definitions of the term damage. By so doing, the rights of those people about whom many delegates are so deeply concerned are amply protected. The rights of all the people are amply protected and what is even more significant, a certain element of certainty is introduced into the law which will permit condemnation proceedings to proceed in due orderly fashion.

I suggest to you, however, inarticulate as the attorney general's opinion may be, he speaks with more authority in this field than anybody else in the State of Maryland because within his office is and has been historically the burden of condemnation. If he says that it will probably double the costs of taking, he may be right. If it is necessary to double the costs of taking to be fair to the people, so be it, but all I urge this Convention to do is to permit this somewhat radical change in our laws of eminent domain to be done in an orderly fashion; to wit, through legislation, not left to the ten or fifteen year period which would be necessary if judicial regulations are to spell out the damages.

Anybody involved knows what a chaotic condition this can be in the law of eminent domain. I would like you to consider the fact that under the proposed amendment we preserve the concept constitutionally. At the same time we permit definitions to be written intelligibly for the immediate present as well as for the future.

I would urge you to support the amendment.

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

Delegate Bamberger.

DELEGATE BAMBERGER: Would Delegate Adkins yield to a question?

THE PRESIDENT: Just a second. He has time for just one short question.

Delegate Adkins, will you yield?

DELEGATE ADKINS: Yes, sir.

THE PRESIDENT: Delegate Bamberger.

DELEGATE BAMBERGER: As a sponsor of the amendment, Delegate Adkins, do you agree with the intent, as I understand it, expressed by Delegate James; that is, that this would not permit the legislature to abolish any compensation or property which was damaged but not taken, but merely permit the legislature to define what is damage, absent the taking, and to define the amount and measure of compensation?

DELEGATE ADKINS: Yes, I do. I think it is quite clear that there is a constitutional right to be compensated for property which is damaged, but not taken.

The purport of this amendment is to permit the General Assembly to specify the limits within which that damage may be compensable, but I would read it not as giving the right to completely abolish the concept or in other words to negative the constitutional import.

THE PRESIDENT: Delegate Marvin Anderson.

DELEGATE ANDERSON: Mr. Chairman, I rise to oppose the amendment notwithstanding the distinguished gentlemen who have sponsored the amendment and spoken in its favor.

What we are trying to do here is something that should have been done many years ago in the State of Maryland. We are here, supposedly, to correct the deficiencies of the old constitution. Well, here is one in all its glory for over one hundred years neither the legislature nor anyone else has seen fit to correct, the inequity which has prevailed.

Massachusetts as far back as 1832 corrected this situation. Illinois, I think, in 1870. Twenty-seven states since 1870 have adopted this identical language which we propose in this new constitution.

Now, what we do not want to do is to put this responsibility in the hands of the legislature. We want to put it in the constitution where we know that it will be and we will not have to wait for the legislature