

Conceivably the damage might occur not by reason of taking but by reason of construction of a road and could be a later date but we mean in this case the time of damage to the property and at the time of the damage to the property must occur on or after July 1, 1969, for a person to have access to this provision.

DELEGATE JAMES (presiding): Delegate Robie, do you have a question? Excuse me. I thought Delegate Johnson had completed his question. Wait until Delegate Johnson completes his question.

DELEGATE JOHNSON: Is it not a fact there could be a taking July 1, 1968, and some damage resulting to an adjoining property and this damage or alleged damage would continue until 1969 or 1970 and that the individual who claims "damage," could still bring the suit even though the alleged taking took place the year before as long as the damage was in effect as long as the damage continued?

DELEGATE HARDWICKE: No, it is when the cause of action arises.

DELEGATE JAMES (presiding): Delegate Johnson.

DELEGATE JOHNSON: Suppose the individual did not claim damage until July 1, 1969, even though perhaps technically he could have claimed damage prior to that time?

DELEGATE HARDWICKE: As I see it, it is computed exactly like the statute of limitations on contract actions or tort actions. You compute your time from the time the cause of action is created or arises and it is to causes of action with respect to damage that occurs prior to July 1, 1969. They shall not be entitled to claim under the damage section of the new constitution but if the cause of action with respect to damages occurs on or after July 1, 1969, they shall be entitled to damages.

DELEGATE JAMES (presiding): Delegate Robie.

DELEGATE ROBIE: Did I understand you that there would be one session of the General Assembly? As I read it, this would be two.

DELEGATE HARDWICKE: There would be only one session under the new constitution, while the 1968 session of the General Assembly is under the old Constitution.

DELEGATE ROBIE: You are right, thank you.

DELEGATE JAMES (presiding): Are there any further questions?

*(There was no response.)*

Proceed, Delegate Hardwicke.

DELEGATE HARDWICKE: In Paragraph B —

DELEGATE JAMES (presiding): Delegate White has a question.

DELEGATE WHITE: Mr. Chairman, I was wondering if this Convention has the authority to change the effective date of this provision.

DELEGATE HARDWICKE: Delegate White, that question goes to the whole essence of the transitional provisions. We have the authority under section 16 of the Enabling Act, to provide that various sections of the constitution shall go into effect at various times.

Second it is within our power as the instruments of the people of Maryland sitting in Constitutional Convention to provide that the constitution shall go into effect at various times.

DELEGATE WHITE: The reason I ask the question is it appears that maybe we are putting the effective date off just a bit too long. I do not have enough information to make a sound judgment on it. I would like to have some comment on it. Why are we actually making it effective in 1969?

DELEGATE JAMES (presiding): Could the Chair interpose here? If you are putting a standard of damage as to the legislature and the legislature never defined measure of damage, you can have no damages under the constitution as the chair sees it. What is your comment on that, Delegate Hardwicke?

DELEGATE HARDWICKE: That is perfectly correct. Without this provision when this constitution goes into effect, this summer, July 1 coming up, the legislature will presumably not be sitting and they will not have made any arrangements or regulations by law with regard to this thing we said they shall make regulations for and we want to give them one session in which to act on the subject.

DELEGATE WHITE: We have had some discussions as to the possible need for the General Assembly to sit continuously in order to get this job done. I wonder if this becomes effective next summer if they could not begin sitting sooner than the next session of the house in January.