

The Chair recognizes Delegate Johnson. I call to your attention now that section 1.16 as acted upon on second reading is before you on page 14 of the draft constitution.

Delegate Johnson.

DELEGATE JOHNSON: Mr. Chairman and fellow delegates, this particular provision of section 1.16 is appropriately under a section generally referred to as personal rights. We submit that this is a right of the citizens of this State.

As you are well aware, the constitution, unless otherwise provided, becomes effective on July 1, 1968. In our opinion, despite the fact that some reasons have been given to delay this right, the so-called reasons are not persuasive, since we are concerned and are considering the rights of all the citizens of this State with respect to eminent domain and the damages that may derive therefrom.

If we postpone the watered-down right with respect to damages that we have provided in this constitution, despite the fact that it may give the legislature some time to determine what damages are, I object to this particular provision. Despite the fact that this is being made to allegedly give the legislature some time, what happens to our fellow citizens whose property is damaged in the meantime?

In other words, if this constitution that we are writing for all the citizens of Maryland is going to take effect on July 1, 1968, why should some unfortunate citizens be deprived of this right for a period of one year just because we inserted it in these transitory provisions.

There is a strong probability that a citizen's property will be damaged in that year between July 1, 1968, and July 1, 1969. It is very easy for us to say, well, that is tough, as long as it is not our property that is damaged.

You will note that under the transitory provision, this section 3 is titled, "delayed effect of certain sections."

I submit that it is totally improper to delay rights under this personal rights section, and I would hope that this Committee of the Whole will strike this provision and make this right effective with the adoption of the constitution.

THE CHAIRMAN: Delegate Lord.

DELEGATE LORD: Mr. President, I wonder if Delegate Johnson would yield to a question.

THE CHAIRMAN: Delegate Johnson, do you yield to a question?

DELEGATE JOHNSON: Yes, Mr. President.

THE CHAIRMAN: Delegate Lord.

DELEGATE LORD: Delegate Johnson, if your amendment were adopted, is it not true that the effective date of this section would become July 1, 1968, if the constitution is adopted, and if that is true, how is it going to be possible for the legislature to limit and further describe this right under the specific language that we have adopted?

Apparently it is our intention that they should take further action and yet perhaps they will not be able to until this is effective.

THE CHAIRMAN: Delegate Johnson.

DELEGATE JOHNSON: As you are aware, the legislature may or may not further describe this particular right of damages. I submit that if they wanted to do so, they could do so prior to the adoption date of the constitution and make it effective at the time the constitution takes effect, on July 1, 1968. I submit that they may not particularly describe or define the question of damages. They may leave the matter entirely up to the court. I do not understand this constitution making a constitutionally enforceable mandate that the legislature must define this right. They very well may not. I hope they do not, frankly, for your sake and mine, and all the citizens of the State.

I believe damages are a proper judicial matter and that the legislature should not involve itself with what legal damages are or are not, so I submit that your particular concern really should be no concern because if they want to do it, they can do it, and they may or may not do it anyway.

THE CHAIRMAN: Delegate Singer.

DELEGATE SINGER: I wish to speak against the amendment.

THE CHAIRMAN: You may proceed.

DELEGATE SINGER: We have here under consideration a provision which caused much thoughtful doubt on the part of many delegates. It was amended at the second reading, with the specific purpose of allowing and providing for the General Assembly to lay down procedures and provide for any limitations that it felt necessary or proper under the new eminent domain provisions that we adopted.