

to the proceedings, whose property has been so condemned, unless otherwise specified in the judgment of condemnation.

There is nothing in art. 33A which prohibits the city of Baltimore from condemning property subject to a reservation of a right of way in place of existing roadway. *Brack v. Baltimore*, 128 Md. 430.

An. Code, 1924, sec. 14. 1912, sec. 13. 1912, ch. 117. 1914, ch. 463, sec. 14.

14. Every appeal from any judgment in said proceedings to the Court of Appeals of Maryland under this article, shall stand for hearing at the next term after the record is received by the Clerk of the Court of Appeals, if that Court be not sitting, or at the pending term if the Court is then in session, and the Court of Appeals may advance the hearing of such appeal in its discretion, and if the final decision be that the petitioner is not entitled to condemn the property, a reasonable counsel fee to be fixed by the Court shall be awarded to counsel for the defendant and taxed against the petitioner, together with the other costs of the case.

An. Code, 1924, sec. 15. 1912, sec. 14. 1912, ch. 117. 1914, ch. 463, sec. 15. 1933, ch. 341.

15. The State, and any municipal or other corporation, commission, board, body or person, which under the laws of this State, has a right to acquire property by condemnation, shall acquire such property, if condemnation proceedings be resorted to, in pursuance of, and under the provisions of this Article, anything in any other Public General Law or Public Local Law or private or special statute to the contrary notwithstanding; provided, however, that nothing in this Article contained shall apply to or change the present law or procedure for the opening, closing, widening, or straightening of highways, except that the State Roads Commission may, at its discretion, acquire property by condemnation under the provisions of this Article

Under this section and under the specific authority granted Public Improvement Commission and Port Development Commission of Baltimore City by chs. 373 and 560 of acts 1920, it was not necessary to have ordinance for particular condemnation for harbor development. See notes to sec. 7. *Marchant v. Baltimore*, 146 Md. 518.

This section referred to in sustaining condemnation proceedings under art. 23, sec. 329, *et seq.*, by Road Directors of Alleghany County. *Brady v. Road Directors*, 148 Md. 499.

This section referred to in construing Maryland Constitution, art. 3, sec. 40A, to permit Baltimore to condemn property under provisions of City Charter or under this article. *Hubbard v. Baltimore*, 158 Md. 48.

This section referred to in construing art. 89B, sec. 40. *Dunne v. State*, 162 Md. 283.

City of Baltimore held to be entitled to condemn land for a parkway or boulevard, which is a street or highway, under sec. 1055 of the charter; this section not limited in its meaning, as contended. *Bouis v. Baltimore*, 138 Md. 292.

No reference is made in this article to public service commission act. This section and secs. 1, 2 and 3, referred to in construing art. 23, sec. 245, and the public service commission law, particularly sec. 388—see notes to secs. 344 and 388. *City & Sub. R. R. Co. v. W., W. & G. R. R. Co.*, 122 Md. 656.

See notes to art. 89B, sec. 4.

See notes to sec. 6.

An. Code, 1924, sec. 16. 1912, sec. 15. 1912, ch. 117. 1914, ch. 463, sec. 16.

16. In any proceeding under this Article, the petitioner shall pay all the costs in the lower Court to be taxed as in ordinary actions at law, and also the usual *per diem* to the jurors in the trial of the case which shall be taxed along with the other costs in the case. The costs in the Court of Appeals in any appeal from any proceeding under this Article shall be paid as directed by said Court in the same manner as costs in appeals from ordinary actions at law.