

Section 5 of the bill prescribes a number of restrictions on the acquisition of private property within the recreation area, primarily with respect to the acquisition of such property by condemnation. These restrictions include (a) a bar against condemnation of a fee except for a narrowly defined and limited purpose, (b) grandfather protection for nonconforming uses currently being exercised, and (c) provision under which the private property owner would have the right to sell his property to the Government at a price that would compensate him for any decrease in value resulting from secretarial regulations limiting the uses to which private property could be put in the proposed area.

In our judgment, the provisions of section 5 would be difficult of application and represent an unjustified limitation on the orderly administration of the proposed national recreation area. More importantly, the restrictions could operate to impair the values sought to be preserved in the area and would tend to accord preferential treatment to these private property owners as compared with those whose property is taken or affected in other park or recreational areas.

We are not aware of any circumstances which justify special treatment for private property owners in the Sawtooth National Recreation Area. Accordingly, we strongly recommend that, in lieu of section 5, provisions be substituted along the lines of those that have been incorporated in a number of bills that have recently been enacted establishing park or recreational areas. This would assure proper preservation of the values sought to be preserved in the area, while affording appropriate protection both to the interests of the Government and private property owners through reliance on established principles of just compensation. Suggested draft language to accomplish this purpose is attached.

The provision in section 4 that lands within the boundaries of the recreation area owned by the State or its political subdivisions may be acquired only with the concurrence of the owner has been incorporated in many recent acts establishing national recreation areas, parks, lakeshores, and seashores. But many of those acts further specify that such lands may be acquired only by donation of the present owner. In general, we believe the requirement that lands owned by State and local governments within the boundaries of such federally established recreational areas may be acquired only by donation is a sound principle and should be adhered to. Accordingly, we recommend that a requirement for donation in such cases be written into the bill.

We have just received estimates prepared by the Department of Agriculture concerning the cost of acquiring, developing, and operating the Sawtooth National Recreation Area. We have not had an opportunity to evaluate these figures either in terms of (1) the need to expend the amount estimated in order adequately to preserve and develop the recreation area; or (2) the relationship between the amounts proposed to be spent for this area compared to amounts proposed to be spent on other Federal recreation areas during the next few years in light of the relative priorities of the various areas.

The Bureau of the Budget would have no objection to the enactment of S. 1267 with the recommended amendments to sections 4 and 5.

Sincerely yours,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

[Attachment]

PROPOSED SUBSTITUTE FOR SECTION 5 OF S. 1267

Sec. —. The Secretary shall acquire by purchase with donated or appropriated funds, by gift, exchange, or otherwise, such lands or interests therein within the boundaries of the recreation area as he determines to be needed or desirable for the purposes of this Act. For the purposes of section 6 of the Act of September 3, 1964 (78 Stat. 897, 903), the boundaries of the Sawtooth and Challis National Forests as extended by this Act shall be treated as if they were the boundaries of those Forests on January 1, 1965.

Sec. —. (a) Privately owned "improved property" or interests therein shall not be acquired under this Act without the consent of the owner so long as an appropriate local zoning agency shall have in force and applicable to such property a duly adopted, valid, zoning ordinance that is approved by the Secretary. The term "improved property" as used in this Act shall mean any building or group of related buildings the actual construction of which was begun before January 1, 1966, together with not more than three acres of the land in the same ownership on which the building or group of buildings is situated.