

deeded right to capitalize on these is the heart of the land value and the heart of this legislation. One cannot and must not be considered without the other.

As a concession to public opinion, I urge this committee and the Congress, to give the Forest Service whatever rights are necessary to protect the land, but to also give compensating rights to the landowner to protect himself. The Forest Service should not serve in both the field and the jury box. Scenic easements should provide reciprocal protection for the land and landowner, and this recourse should be available to either party on an independent basis. Paragraph (d) in section 5 should be for the sole protection of the landowner and serve as an escape hatch from a world of shrinking land rights. It is more important to have our rights under this section absolute than to have them vague and more generous. There must be no legislation by regulation in this area. The wording and intent of this law should make this clear.

Senator BIBLE. Do you think it does?

Mr. NELSON. I understand that there has been a discussion with the Forest Service, particularly with relation to the scenic easements. In other words, they have felt that a man who was in the livestock business there could make a demand on them for money, say, to restrict him from subdividing, and he could say, I have made \$100,000 today, I have just sold a scenic easement to the Federal Government. The point that we are overlooking, or that anyone who talks that way is overlooking, is that that man has given up the heart of his land, he has given up a very valuable right. And I believe that it is most essential that this be clear to anyone. They talk about the future recourse in the event that you are unable to make a settlement in court. And if this is the case, then I think it is most essential that the wording of this law be such as to show clearly that the committee intends to protect that landowner and the value of his property.

Senator CHURCH. Mr. Chairman, may I say in that connection that this very paragraph—as I recall it, LeGrande, we inserted this in the bill as a result of your particular testimony at the Sun Valley hearings last year. And I think we ought to read it into the record just to make legislative history on this bill, because its purpose is to protect the landowner. That subsection reads—

Where an owner of private property within the exterior boundaries of the recreation area at the date of this Act or his heirs desires to dispose of such property to the Federal Government the Secretary shall purchase said property at a price that shall include compensation for any decrease in the value thereof that may have resulted from the promulgation of regulations, zoning or scenic easements as a consequence of the establishment of the recreation area.

And then it provides for a 10-year period within which to exercise the option.

What we were trying to do there, as you will recall, is to make certain that an owner with a ranch property, let's say, who binds himself to be subject to certain regulations with respect to its use, zoning regulations, does not suffer a substantial decrease in the value of the property by virtue of those regulations, and goes uncompensated for it. In other words, we wanted to make certain that he would have the option if he chooses to do so to get the full value of his property without suffering a diminution of that value without compensation. And I think it was as a direct result of your testimony that this provision was included in the bill.