

it is enforced against him; that is, until he has violated it by subdividing the land. Another unfortunate situation might arise where, after the enactment of such regulation, a landowner wished to sell his land to a private purchaser. Obviously, the purchaser would not be willing to pay a price which valued the land for subdivision purposes. The seller, however, could not obtain more, nor could he challenge the regulation without first violating it. Such a situation might force the landowner to bring in bulldozers and carve out roads, in order to force the Secretary to go to court to enforce the regulation, where its validity could be challenged. Obviously this would be contrary to the spirit of the bill.

And parenthetically, may I say that you have touched on that.

Senator JORDAN. Yes. Are you satisfied with the colloquy that we had with the Secretary and Chief Forester in this regard?

Mr. BRECKENRIDGE. This appeared to clear up this question quite a bit, Senator. I personally would feel better if some language were contained in the bill which would spell out this a little bit more clearly in general terms.

Senator JORDAN. Will the language that you recommend later cover this to your satisfaction?

Mr. BRECKENRIDGE. Yes.

Another aspect of the same problem relates to the acquisition of scenic easements. The bill places no duty on the Secretary to acquire such easements, but simply authorizes their acquisition. Thus, if a landowner who has not sold the Secretary a scenic easement wishes to either develop this property or sell such an easement, he can do nothing but negotiate with the Secretary concerning a fair price. Condemnors and condemnees often have widely varying ideas on what constitutes a fair price, and it is only the prospect of going to court that forces each side to give a little.

If access to court were eliminated, it seems doubtful that a price would ever be negotiated. This section provides for no such access. There is no way a landowner can force the Secretary to acquire a scenic easement, with the possible exception of beginning to subdivide his land. Again, this remedy seems contrary to the purposes of the bill, and an alternative remedy should be given to the landowner.

Subsection (d) relates to the same general problem, and raises some of the same difficulties. It appears to refer to the disposition by landowners of their fee interests in such lands. The reference to "private property" and "such property" could also refer to the disposition of scenic easements, but in view of the subsequent reference to decrease in value that may have resulted from the acquisition of scenic easements, I doubt it. The subsection allows the landowner to be compensated for the value of his land, plus compensation for the decrease in value resulting from regulations, zoning or easements which may have restricted its use to something less than its highest and best use. The difficulty with this provision is that in order to obtain compensation for that part of his property that has already been taken, the landowner must sell the remainder of what he owns—the fee interest in most cases. Thus, if all of the landowners are to receive full compensation for what will be taken from them, they must sell out entirely to the Federal Government within 10 years, or lose their right to full compensation. If this is so, within 19 years we may see the end of ranching in the area, and the Federal Government may acquire far more private land than it needs or wants.