

Secondly, it appears that a *prima facie* case makes the consideration of this legislation appropriate. Since the beginning of our development programs, a great deal has been done—so much so that relatively few rivers can qualify for inclusion in a scenic system. Also, alternative sources of power have caused a reduction in the dependence upon water power. The need for impoundments is not of the same magnitude today that it has been historically.

The principal problems in establishing a scenic system, as we are able to judge, are those dealing with contiguous land areas and establishing criteria and terms of reference that have a common meaning in dealing with different types of rivers. It is not our purpose within these remarks to detail each measure that has been introduced in both the House and Senate but rather to generalize these problems within the time allotted to us.

The major thrust of all the legislation seems clear, that is, "to preserve selected rivers or sections thereof in their natural or free-flowing condition." The problems of accomplishing this are obviously related to the control of land areas immediately contiguous to the river. This immediately raises questions as to how much land, how far back should control extend, or what kind of control? Should acquisition by the Federal Government be in fee simple or less than full title interest? What provision should be made for lands owned by local, county, and State? Should condemnation be authorized for acquisition in both fee and less than fee?

It appears that most of the legislation has dealt quite properly with the elements of all land acquisition or agreements with local, county, and State, as well as the jurisdictional problem at the Federal level. The most vexing problem of all, however, is the acquisition of private lands, or interests therein, for the purposes of the act. The major opposition, in many sections of the country to the act itself, is the manner in which this problem is handled. The need for land use in preserving scenic rivers is primarily visual and protective. It is protective in the sense that it provides the setting through which the river flows. It would be almost impossible, therefore, to separate the character of the land from that of the river. In the overwhelming number of instances, however, the need for the land to provide this setting is not the same need that is evident in the use of land for constructing buildings, highways, or any other type of activity that requires total and exclusive use.

It appears to us that new and imaginative techniques must be developed by the Federal Government if the recreation needs of our land and water resources are to be met properly. It is doubtful whether society will ever be sufficiently affluent to afford the acquisition in fee simple title to all the areas that will be required. It would not seem prudent to do so even if the funds were available, since in many instances the use to which the Government desires to place the land is not an exclusive one. A number of legal tools have been available to us for a considerable period of time. We do not, however, have a considerable backlog of experience, either in time or quantity, that allows us to speak with some certainty about all the effects. The taking of less than fee presents considerable administrative problems in constructing a document that is suitable in all instances. It is difficult to draft a