

121 A.2d 181, 184; *Wakefield v. Kraft*, supra. But the presumption is stronger in original zoning or comprehensive rezoning cases than it is in instances of piecemeal rezoning. *Missouri Realty, Inc. v. Ramer*, supra.

[5-7] While it is true that it is not the function of a court to zone or rezone but only to determine whether the legislative body has properly applied the law to the facts, it is, nevertheless, also true that when there is no basis for reasonable debate or there are no supporting facts in the record, a court can—and indeed it should—declare the legislative action to be arbitrary, capricious, discriminatory or illegal. *Eckes v. Board of Zoning Appeals*, 1956, 209 Md. 432, 437, 121 A.2d 249, 251; *Wakefield v. Kraft*, supra, 202 Md. at page 142, 96 A.2d 27. It is commonplace to say that if there are no facts to support the action of the legislative body then there is no question to debate, but that is exactly the situation which confronts us in this case. There is, of course, a presumption that rezoning was reasonable, but in piecemeal rezoning cases there is also a counter-presumption that the original zoning was well planned and designed to be reasonably permanent which may be overcome only by showing that either there was error in the original zoning or there has been change in the character of the neighborhood, and unless one or the other, or both, is shown the presumption of reasonableness is destroyed. *Zang & Sons, Builders, Inc. v. Taylor*, 1954, 203 Md. 628, 102 A.2d 723. See also *American Oil Co. v. Miller*, 1954, 204 Md. 32, 102 A.2d 727.

Senator MUSKIE. Senator Baker, Senator Hansen?

Senator BAKER. I have nothing further. I thank Mr. Mitchell for his previous answers and thank the Chairman for letting me interrupt.

Thank you very much.

Senator MUSKIE. Thank you very much.

Now, our first witness of the day has finally torn himself away from the floor, and we are delighted to have Senator Tydings here this morning.

TESTIMONY OF HON. JOSEPH D. TYDINGS, A U.S. SENATOR FROM THE STATE OF MARYLAND

Senator TYDINGS. Thank you, Mr. Chairman.

Distinguished members of the Senate Committee on Government Operations, I appreciate your committee allowing me to testify this morning in favor of my amendment to title VIII of the intergovernmental cooperation bill. I ask permission to have my statement inserted in the record in its entirety.

Senator MUSKIE. Yes, it will be.

Senator TYDINGS. Mr. Chairman, when I went to the University of Maryland Law School, the law school was located down on Redwood and Greene Streets. It was somewhat of a blighted area. There were a few small stores, and one restaurant where most of the law students used to eat, and one little candy store which served not only candy, but some groceries, newspapers, and a lot of us used to stop in there.

The proprietors were elderly people, husband and wife, 65, 54, somewhere in that area, and all of the students enjoyed them, and they made a living down there—not much, but enough, and that was their life. This area was selected as a principal urban renewal area for Baltimore City. If you happen to be there now, you will see that there is a new law school, new nursing school, new annex to the hospital, new school of sociology. It is a beautiful addition to the city.

But in the course of it, this little store was condemned. Now, the elderly couple didn't own their place of business, they rented it. They

¹ Metzenbaum in his work on Zoning says that this was the first zoning case to reach the Supreme Court of the United States. 1 Metzenbaum, *Law of Zoning*, p. 57 (2 ed. 1955).