

The 3 years after the enactment of this that they ask for seems to be a pretty long period of time for enabling legislation to be passed. There are some States that do not have legislatures which meet every year. So let us give them 2 years. I do not think 1 year is practical. I do not think 3 years is necessary. I think they can get it done before that length of time.

In 901(a) the problem has come up in paragraph 3 of whether or not this offering of the fair market value was a binding offering which could not be changed and sometimes it does have to be changed. I would suggest the addition of the words "at least" in that and then leave some leeway.

The leeway that our negotiators had in New York, as I understood it, was that they could go to the limit of our appraisal plus 10 percent in an attempt to keep it out of court. That plus 10 percent was a pretty good plus and this is sometimes what it took to keep it out of court. And you could not try it for 10 percent anyway. So some leeway should be left in there on this, in our judgment.

I would like also to say that we have—this is not in the bill, but we have had a number of very real complaints about the allocation of the power of eminent domain to State agencies which were not directly involved in these takings to accomplish the auxiliary objectives of State agencies. In particular, we had a good deal of correspondence from the State of Missouri where, after they had taken land in a valley for one of the dams and the inundation for these projects, destroyed a wild life refuge. They therefore gave the power of eminent domain to the State conservation department to go beyond the taking of the Federal Government and take additional land for wildlife refuges that they had destroyed. Now, this seems to be a rather farfetched use of the power of eminent domain on the part of the Federal Government, to be letting somebody else use it. If they were using a State agency to take the land for the dam, this is one thing. But to give another agency the power to take land for the use of a State agency seems to me to be carrying it a bit too far.

The statement was made by the Department of Defense that they have hearings regarding these takings. The problem of how the hearings are advertised and what is made available to the public at the time of the hearings is an important element in decisions of communities whether or not to support these projects. In the highway hearings, we first of all were—we had hearings that showed the general location of the highways. This would be subject to argument; maybe there is a family cemetery or something like that that is involved. I have thought sometimes the engineers made a curve to get a tree, especially if it were a pretty one. But they will make a curve to avoid a cemetery when it is pointed out to them, because this is the last thing everybody wants to get into, moving a lot of dead bodies from a cemetery. This is a complicated legal procedure that I will not go into now, but I will just tell you it is really complicated.

But there are other factors that come into it. But in the final analysis, this man who is losing property—in strip takings this is particularly true—may think about his property line being at a certain level, but unless he knows at what elevation this road is going to be, how much grade there is above him or below him, real critical factors in terms of evaluation of damage, then he is in difficulty at the same time.