

Under the present system, a landowner whose property is to be taken has no such right. Initially, he must submit to the jurisdiction of a special three-man commission. If the commission report is not satisfactory, he may then take an appeal to Federal district court to be heard by three judges. But, here, his appeal must end.

This arrangement, as you can see from the letters and testimony that will be presented here, does not square with traditional notions of "due process of law." In addition, its workings actually tend to discourage landowners from contesting what they feel to be unfair treatment at the hands of their own Government.

The small landowner who decides to contest an award must pay for appraisers' fees, a written transcript of the proceedings before the commissioners, employ an attorney, and travel to the courthouse at his own expense. These expenses substantially reduce any increased award he might hope to win, and, in effect, he stands to lose before he gets started. The entire bill incurred by TVA is covered by the taxpayer.

In fiscal 1967, the TVA acquired 45,367 acres of land and 404 miles of transmission line easements. Fiscal 1968 acquisitions are running well over this figure. A significant portion of this property is acquired from small farmers whose life earnings are invested in, and whose sole source of income derives from, their land. I am sure that you will agree that every care should be taken to provide for these people all of our constitutional safeguards against arbitrary action by Government.

Why is the Tennessee Valley Authority the only Federal condemnation agency whose regulations expressly prohibit an appeal to a trial by jury? Two arguments are offered. First, that "due process of law" does not necessarily entail trial by jury. Secondly, that determination of land value requires expert analysis that would be beyond the competence of a jury composed of average citizens.

I deny the validity of either argument.

There are certain traditional values which make up the collective conscience of the American people—certain things which they feel to be in conformity with natural and inherent principles of justice. That the Government could take a man's land without allowing him to appeal the issue of just compensation to a jury of his peers does not sit well on the American conscience.

To say that our juries are not competent to reach a just and accurate determination of value in land condemnation proceedings is to fault the entire jury system—which has long been recognized as the cornerstone of American jurisprudence. If we are to require so-called expert analysis in these cases—saying that awards made by TVA Commissioners are more consistently accurate because of the Commissioners' great experience in such matters—then we should discard all of our juries in favor of panels of experts. We should require that tax lawyers adjudicate estate settlements, or that teams of medical practitioners alone determine questions of insanity.

I would contend that landowners are equally, if not more, qualified to determine the value of neighboring lands than commissioners brought in from another area whose judgments are necessarily reliant on the TVA appraisers' initial recommendations.

Further, I believe the fair administration of justice requires a degree of responsiveness to individual circumstances—a principle which is, to