

Under the TVA procedure, the commissioners are not required to make detailed findings and conclusions, but may simply report their determinations as to the value of the property. Therefore, the record of the testimony does not have to be transcribed in order for the commissioners to make their report. The record is not transcribed at all unless one of the parties appeals. Under rule 71A, the commissioners must file a report containing detailed findings and conclusions. In order to do this, they must have a transcribed record of the testimony. This is an unnecessarily expensive and time-consuming procedure.

Again, under the rule 71A procedure, an award by a commission must be accepted by the court unless it is clearly erroneous. Under the TVA procedure, if either party is dissatisfied with a commission award and files exceptions, the district court passes de novo upon the record made before the commissioners, may take additional evidence, may view the property; and then makes its own award without being bound by the determination of the commissioners.

Mr. SNYDER. Didn't you just say there is no record?

Mr. MARQUIS. If there is an appeal, then the record is transcribed.

Mr. SNYDER. I thought you said the commission did not make a record.

Mr. MARQUIS. No, sir; the record is made. The commission hands down its award and the record is transcribed only if there is an appeal to the court.

Mr. SCHWENGEL. You said in your testimony on this point the commissioners are not required to make a detailed finding or conclusion, but may report their determination as to the value of the property.

Mr. MARQUIS. That is right.

Mr. SCHWENGEL. Therefore, the record of the testimony does not have to be transcribed for the commission to vote.

Mr. MARQUIS. I also said that if either party files an exception, so there is an appeal to the court, in that event the testimony is transcribed so the court has a full record in the event of an appeal.

This guarantees a full opportunity to present to the court for correction any matter which either party may feel has not been properly passed on by the commission.

One of the witnesses who appeared on behalf of the Tennessee Valley Public Power Association before the Senate committee was William H. Wicker, who was for 19 years the highly respected dean of the university of Tennessee College of Law before reaching the university's compulsory retirement age and becoming a professor of law at Drake University in Des Moines, Iowa. Dean Wicker had served as Federal jury commissioner for the eastern district of Tennessee and had also served for 2 years as chairman of the commission hearing TVA condemnation cases in that district. He had had a unique opportunity to observe both the jury system and the TVA commission system at first hand, and having moved to Iowa, he had, as he said, "no ax to grind." Dean Wicker stated that in his opinion the TVA procedure is: "the best condemnation procedure in existence"; that it provides "a procedure that is cheap, efficient, speedy, and fair, both to the landowner and the Government"; * * * "as applied to the issue of just compensation in TVA cases tried in the second half of the 20th century, jury trial would be a retrogressive step."