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AUTHORIZE APPROPRIATIONS FOR ADDITIONAL COSTS OF LAND ACQUISITION FOR THE NATIONAL PARK SYSTEM

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HEARING
BEFORE THE
SUBCOMMITTEE ON PARKS AND RECREATION
OF THE

COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS
UNITED STATES SENATE
NINETY-SECOND CONGRESS

SECOND SESSION
ON

S. 2806

A BILL TO AUTHORIZE APPROPRIATIONS FOR ADDITIONAL
COSTS OF LAND ACQUISITION FOR THE
NATIONAL PARK SYSTEM

MAY 9, 1972



Printed for the use of the
Committee on Interior and Insular Affairs

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1972

78-092

Barcode with number 896500 703598 and 11600 00917. A red checkmark is visible above the barcode.

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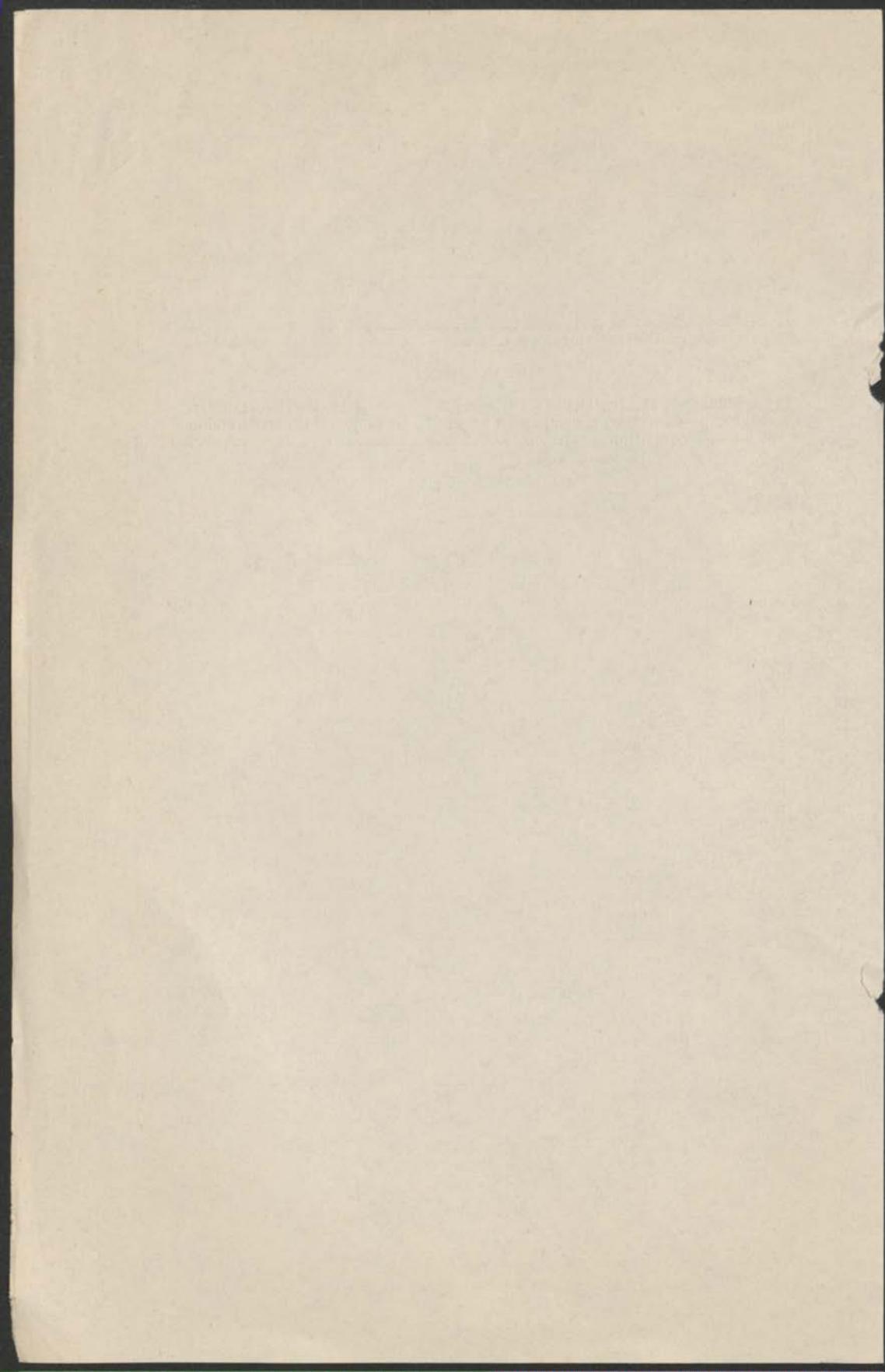
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(III)



TO AUTHORIZE APPROPRIATIONS FOR ADDITIONAL COSTS OF LAND ACQUISITION FOR THE NATIONAL PARK SYSTEM

THURSDAY, MAY 9, 1972

U.S. SENATE,
SUBCOMMITTEE ON PARKS AND RECREATION OF THE
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to other business, at 10:57 a.m. in room 3110, New Senate Office Building, Senator Alan M. Bible (chairman of the subcommittee) presiding.

Present: Senator Bible (presiding).

Staff members present: Jerry Verkler, staff director; Bernard Hartung, professional staff member; and Thomas Nelson, Jr., assistant minority counsel.

Senator BIBLE. Those of you who are interested in seeing the slides are welcome to stay. I don't anticipate that this hearing—I think we only have one witness, and it should not take very long. It is S. 2806.

The text of S. 2806 and department report will be incorporated in full at this point.

(The documents referred to follow:)

S. 2806, 92D CONGRESS, 1ST SESSION

A BILL To authorize appropriations for additional costs of land acquisition for the National Park System

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in all instances where authorizations of appropriations for the acquisition of lands for the National Park System enacted prior to January 9, 1971, do not include provisions therefor, there are authorized to be appropriated such additional sums as may be necessary to provide for moving costs, relocation benefits, and other expenses incurred pursuant to the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646; 84 Stat. 1894).

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., October 20, 1971.

HON. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: We enclose herewith a draft bill "To authorize appropriations for additional costs of land acquisition for the National Park System." We recommend that the bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

The mandatory provisions of titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646;

84 Stat. 1894) impose substantial additional costs and expenses on the National Park Service in connection with its land acquisition program. These additional amounts, for moving expenses and other relocation benefits, together with the increased administrative expenses incurred in connection with providing these benefits, are chargeable against the existing statutory ceilings on amounts authorized to be appropriated for land acquisition which were considered and imposed by the Congress prior to January 2, 1971, the effective date of the Act. Of course, land acquisition estimates presented to the Congress prior to that time did not include costs attributable to the benefits provided for in the later enactment.

It is anticipated that the increased costs, including administration costs, due to these benefits will be an amount approximately 12 percent to 15 percent above the present authorization ceilings. Clearly, then, unless appropriations are authorized to supply these additional amounts, the land acquisition program for the National Park System could not be completed within the ceilings imposed. In each instance, as funds would be exhausted or nearly exhausted, individual amendatory legislation would be required and serious delays in acquisition could be experienced pending congressional action. Of course, new legislation authorizing additional land acquisition which will be considered by the 92d Congress can have the authorizations reflect the increased costs.

Accordingly, the draft bill enclosed herewith authorizes additional appropriations for land acquisition for areas of the National Park System, in the amount of the actual costs and expenses payable or incurred by reason of the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. The bill specifically makes these increases applicable only to those authorizations approved prior to January 9, 1971, in which a congressionally imposed land acquisition ceiling does not include estimated amounts, or other provisions, for moving costs and other relocation benefits, and the directly related administrative expenses arising from payment of such benefits. We recommend an increased ceiling for projects approved prior to January 9, as opposed to the earlier effective date of P.L. 91-646 (January 2), because three new proposals, submitted prior to enactment of P.L. 91-646 without provision for relocation costs, were not finally approved until January 8. These are Gulf Islands National Seashore (P.L. 91-660), Voyageurs National Park (P.L. 91-661), and Chesapeake and Ohio Canal National Historical Park (P.L. 91-664).

Acquisition cost estimates submitted to the Congress have in the past included our administrative expenses as a part of the total. However, the benefits now to be provided will increase these costs. For example, we may be required to render assistance to a displaced homeowner by helping him locate or construct a suitable replacement dwelling, obtain financing, and so on. It is apparent, therefore, that these added administrative expenses, if not recouped, could seriously deplete available funds. All future proposals will include an estimate of costs attributable to requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act.

We strongly urge the favorable consideration of this bill in order to permit the continuation of the land acquisition program for the National Park System. The Office of Management and Budget has advised that there is no objection to the presentation of this draft bill from the standpoint of the Administration's program.

Sincerely yours,

NATHANIEL REED,
Assistant Secretary of the Interior.

Senator BIBLE. The witness is Tom Flynn.

STATEMENT OF THOMAS F. FLYNN, JR., DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY MR. PHILIP O. STEWART, CHIEF, DIVISION OF LAND ACQUISITION

Mr. FLYNN. Mr. Chairman, with your permission, I would like to have Phil Stewart, Chief of our Division of Land Acquisition here.

Senator BIBLE. I am glad to see that you finally resolved Piscataway, or did you finally?

Mr. STEWART. We hope so.

Senator BIBLE. I share your hope.

Mr. FLYNN, you are spokesman for the Department. Is the Piscataway solved once and for all?

Mr. FLYNN. I would not say it is solved once and for all. It seems to be popping up again, but as far as we are concerned it is solved at this point.

Senator BIBLE. I am glad to hear that, and I want the staff to underscore that, because you said as far as the Park Service is concerned, it is settled. Is that what you said?

Mr. FLYNN. This portion of it; yes, sir.

Senator BIBLE. No, no, no. You are quibbling now. You abandoned your answer. This last \$900,000 payment maybe it settles it, and maybe it doesn't.

Mr. FLYNN. I have some doubts that it will completely settle it. But I will be glad to furnish a further statement for the record.

Senator BIBLE. Furnish it for the record and check it out with the Department. I had hoped we had heard the last of Piscataway. I don't know whether we have or not. I want to know if we have heard the last of it or have not heard the last of it.

I would like to know, because somebody paid somebody \$900,000, which is a fair amount of money. Now, let's get back to this bill.

It can be on the record, but we are not going to put it in the hearing on the present bill. That is S. 2806.

All right, Mr. Flynn.

Mr. FLYNN. Mr. Chairman, we appreciate your committee's scheduling of this hearing on the legislation submitted by the Department on October 20, 1971, to authorize funds for additional land acquisition costs.

Basically, what S. 2806 does is to authorize the National Park Service to exceed existing statutory ceilings on land acquisition funds where necessary because of increased acquisition costs due to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646).

This act, which was approved January 2, 1971, applies to all Federal and federally assisted land acquisition agencies. It is intended, through a series of payments for expenses and other provisions, to provide fair and equitable treatment to a person whose land is acquired by the Federal Government.

We believe the Congress acted wisely in passing this act, because we believe no landowner should sustain a monetary loss while the public benefits from a project that requires his land.

In creating certain statutory benefits over and above just compensation, however, the act has increased the cost of land acquisition.

For the National Park Service, where authorizations are limited by individual area laws, this means that the acquisition program cannot be completed within the statutory ceilings set by this committee and the House committee in the authorizing acts.

Briefly, the benefits which we are required to pay under Public Law 91-646 are as follows: A landowner being displaced from a dwelling that he occupies is entitled to (1) actual moving and related

expenses, or an in-lieu payment not to exceed \$500; and (2) replacement housing cost (the amount required to pay the difference between the dwelling sold to the Government and the dwelling purchased, including increased interest payments and closing costs) not to exceed \$15,000.

A tenant being displaced from a dwelling is entitled to the following benefits:

(1) Actual moving and related expenses, or an in-lieu payment not to exceed \$500;

(2) Rental not to exceed \$4,000 over a 4-year period or in lieu thereof, the amount necessary to enable such a person to make a down payment on the purchase of a decent, safe, and sanitary dwelling, up to \$2,000.

An additional payment up to \$2,000 can be made on a matching basis with money provided by the tenant. Such total Federal contribution, however, in no event will exceed \$4,000 or the maximum amount of the rental differential payments.

This is done in order to encourage homeownership. In other words, payment by the Government of any amount up to a second \$2,000 of the \$4,000 maximum payment must be matched by an equal amount provided by the tenant.

Displaced owners or tenants occupying and operating farms or commercial units are entitled to actual moving and related expenses, or an in-lieu payment not to exceed \$10,000. They are also entitled to actual costs of moving personal property and to replacement housing not to exceed \$4,000 for tenants or \$15,000 for owners.

An occupant of a seasonal cottage is entitled to actual moving and related expenses, or an in-lieu payment not to exceed \$500.

In addition to the above, the property owner is entitled to incidental expenses resulting from the transfer of title to the United States, including recording fees, transfer taxes, prepayment penalty costs, and pro rata portion of real property taxes which are allocable to the period subsequent to the date title was vested in the United States.

An owner of unimproved land which is acquired by the Federal Government is entitled to these same benefits.

As you see, this act is complex, and because of unknown factors with respect to the landowner's elections and options, it is necessary to rely on averages when estimating our requirements.

Moreover, it is also difficult to estimate when these funds will be required in many cases, because, if an owner of an improved dwelling elects to exercise his rights of use and occupancy for a specific period of years, his displacement benefits are not paid until the expiration of that period.

Currently there are some 54 areas where acquisition has been completed or is in progress where the statutory ceiling will not permit us to pay the landowners benefits to which they are entitled, under Public Law 91-646.

There are several areas where the entire acquisition program will be accomplished under the provisions of this legislation. Some examples will help the committee to further understand the total impact of this act.

Chesapeake and Ohio Canal National Historic Park was authorized on January 8, 1971. The acquisition program for this area en-

compasses some 12,174 acres of privately owned land at a cost not exceeding \$20,400,000.

Approximately 70 percent of these lands are improved, primarily with dwellings. The balance of the lands are unimproved. The estimated relocation costs are \$2,486,300, or 12.2 percent of the acquisition costs.

Sleeping Bear Dunes National Lakeshore was authorized on October 2, 1970. This area will encompass some 52,117 acres of privately owned lands at a cost not exceeding \$19,800,000. The ratio of improved lands to unimproved lands within this area is nearly 50 to 50. Many of the improved properties are businesses, with relocation costs being higher than for residences. The relocation costs are estimated at \$2,159,375, or 10.9 percent of the acquisition costs.

Apostle Islands National Lakeshore was authorized on September 26, 1970, and encompasses some 24,143 acres of privately owned lands at a cost not exceeding \$4,250,000. A majority of these lands are unimproved, with the improved properties now being predominantly residences. Relocation costs are estimated at \$296,355, or 7 percent of the acquisition costs.

Voyageurs National Park was authorized on January 8, 1971. It is representative of the other end of the spectrum for there are some 78,879 acres of privately owned land authorized for acquisition at a cost not exceeding \$26,014,000.

There are improved lands within this area; however, a majority of these lands are unimproved and the impact of Public Law 91-646 will be relatively small. The relocation costs are estimated at \$755,030 or 2.9 percent of the acquisition costs.

So you see, Mr. Chairman, that this legislation is needed to authorize the appropriation of funds, over and above the statutory ceilings, for the payment of costs incurred under Public Law 91-646.

Of course, in the recommendations we have made for new legislation since that act was passed we have included estimates to cover these costs, with one exception. This exception is the omnibus bill, which was recently enacted as Public Law 92-272.

The new authorizations in the omnibus bill do not contain sufficient funds to cover the costs attributable to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

It is our understanding, that, rather than amend the omnibus bill as it was making its way through the legislative process, your committee preferred to consider this point in connection with the general legislation, which is before the committee today.

Accordingly, we recommend that language be added to S. 2806 which would enable us to request funds needed to pay relocation costs in connection with the recent omnibus bill. This amendment is as follows:

On line 11 after the period insert: "There are also authorized to be appropriated such sums as may be necessary in addition to those authorized in Public Law 92-272, to provide for such costs, benefits, and expenses in connection with the acquisition of lands authorized therein."

With this amendment, Mr. Chairman, we strongly support S. 2806. Thank you very much.

Senator BIBLE. I don't know that I have any questions. As I under-

stand the thrust of what you are saying, it is that because of Public Law 91-646, additional costs of acquisition are imposed upon the Park Service, and if you have a fixed ceiling, you can't come under those additional costs that are incurred under Public Law 91-646.

You say that a landowner being displaced from a dwelling that he occupies is entitled to moving and related expenses or an in-lieu payment not to exceed \$500. I think I can understand that.

I think the next part bothers me just a little. You say that replacement housing costs, the amount required to pay the differences between the dwelling sold to the Government and the dwelling purchased, including increased interest payments and closing costs, not to exceed \$15,000.

Would you develop that just a little, either yourself or Phil Stewart, as to how that works? If I have a home that you are condemning for whatever park project you have in mind, in Sleeping Bear Dunes, or the C. & O. Canal Historic Park, or other examples you use, if I have a home I am using that is valued, let's say, for \$30,000, and you appraise that and I say I am willing to take \$30,000, do I now understand you to say if I have to leave that area and go to an area just outside the park, I can then buy a home up to \$45,000 if that is all that I can find in that area?

Mr. STEWART. Not exactly. First of all, the provision is up to \$15,000 to provide you with a comparable home that is safe, sanitary and decent.

Now with a \$30,000 house, we would assume that it had the necessary interior plumbing and the like to meet the requirements of safe, sanitary, and decent. In that event, all you would be entitled to would be whatever differential was involved in acquiring a comparable house in the adjacent area.

Normally, this probably would be nominal, or perhaps equal. So you would not be entitled to any differential on that basis. What this was really designed to do was, in those areas where you had houses that were inferior in quality to have the Government guarantee the person a replacement house that is equal to what he has, plus meeting the test of being safe, sanitary, and decent.

Senator BIBLE. If I have a ramshackled old house with plumbing defective and the pipe roaring and the roof caving in a bit and leaking, then if I understand you correctly, I can find a comparable old shanty just outside the national park and then in order to make it sanitary and safe, and so the roof does not leak, then the Park Service will give me x dollars more to repair a comparable shanty outside the area where the roof does not leak, where the plumbing works and where it is sanitary?

Mr. STEWART. Not exactly.

Senator BIBLE. All right. Explain it again. Take me over the course again.

Mr. STEWART. If you have a house worth \$30,000 as in your original example, it is unlikely that it will require any upgrading to meet the test of being safe, sanitary, and decent, and in all likelihood—

Senator BIBLE. What was the last word, "decent"?

Mr. STEWART. Yes. That is the wording of the act.

Senator BIBLE. I am not questioning it. I just want to get this through my head.

Mr. STEWART. In that case, it would be unlikely that the acquisition of a comparable dwelling would require a differential payment of more than a very nominal amount.

Senator BIBLE. All right. I have a \$5,000 shanty, the home such as Jerry Verkler has. Take a \$5,000 shanty which is an example, and the roof does leak and the plumbing squeaks and it does not work, and I am within the Park Service and the Park Service says they want it, and you require me to put a value of \$5,000 on it.

Now, you go outside the park area and you find another shanty where the roof leaks and the plumbing does not work and where it is unsanitary, and where it is not decent. Then what would you do?

Mr. STEWART. The point is in that case you don't go out and look for this comparable shanty. You go out and look for a house that meets the requirements of the particular family involved and it meets a standard of safe, sanitary, and decent.

In other words, the wiring is in good shape so that none of the children or individuals will be electrocuted, there are adequate sanitation provisions in the dwelling, such as sewer and water, and that it meets a standard of—

Senator BIBLE. Safe, sanitary, and decent.

Mr. STEWART. A decent dwelling as accepted in the general community, and in that case, you would be entitled up to a \$20,000 house, or a \$15,000 differential.

Senator BIBLE. All right. I have a shanty here that is outside of the park and it is safe, and it is sanitary, and it is decent. But unfortunately, you only gave me \$5,000 for my leaky roofed house within the park area, and where it was unsanitary and where it did not meet the standards, of decency, and the only thing I can find is something that costs \$20,000 that is safe, is sanitary, and is decent.

Then will the Park Service say, "well, you go ahead and buy that, and we will pay the difference?"

Mr. STEWART. Yes, sir; and that is what is involved. That is not part of the fair market value that you are being paid for your property. That is totally over and above the fair market value concept.

Senator BIBLE. I am going to ask our legal beavers, and there are a number of them on both sides, to check out the ramifications of this.

It looks to me that people who have shanties that are unsanitary, that are unsafe and that are not decent have a great chance to upgrade their shanties at the Government expense.

Mr. STEWART. They do, and that is, I think, the intent of the law. The legislative history and reports on this indicate that that is exactly and precisely what the law intends.

Senator BIBLE. That is going to cost you much in total to acquire all of the shanties that do not meet these standards in all of the area to be acquired?

Mr. STEWART. There is a good deal more involved than in this particular section. We don't have that broken down as to how much that is going to cost to upgrade the houses.

Senator BIBLE. How much is it in round figures?

Mr. STEWART. In 54 areas, it is in excess of \$15 million.

Senator BIBLE. Well, I am going to ask you to meet with Jerry Verkler and Tom Nelson and whatever other lawyers they want to surround themselves with to see where we are heading and what we

are doing. How does that work in Cape Cod? We tell people when we adopt the Cape Cod formula that you can live there for the balance of your life, and it has variations to it.

Then I get the use of the Cape Cod formula home in Cape Cod. Then at the end of that time, the house runs down a bit, I don't repair it very much, because I know you are going to come in at the end of my life and pick it up.

Now, do I get the benefit of being able to stay there during all this period of time and getting an improved home at the end of the period?

Mr. STEWART. If you have taken a life estate, the answer is no.

Senator BIBLE. If I take 25 years.

Mr. STEWART. In the case where you take 25 years, this is correct. You are then entitled to these benefits at the end of that 25-year term.

Senator BIBLE. You are very honest and you are very frank. I don't know where it leads us, but I certainly can understand the moving expenses. I don't quarrel on that. This idea of improving my condition after Uncle Sam condemns and takes over the house is something that I don't completely understand.

I am going to keep this item open, and I am going to ask the lawyers to meet with you, because you are obviously knowledgeable now on this, and whatever lawyers you might have, just so we see exactly where we are heading.

You say that you are handcuffed and straitjacketed because this public law is not your public law. It is a public law that came out of what committee?

Mr. STEWART. The Public Works Committee.

Senator BIBLE. You are bound by that law, and now you have additional costs to impose on it. It is primarily, I think, because of the Interstate Highway System and the dislocations you had at that time.

We will have Jerry Verkler work on it and see what we come up with. I think you need some relief here. I want to see how far this takes us down the road. You say you have 54 areas, and you are going to incur additional costs due to this public law that came out of public works and is not a law of land, for some \$15 million.

Mr. STEWART. \$15,343,595, but positive accuracy is not possible because, as you know, and it is obvious from reading the bill, there are certain landowner elections which he can make that tend to defeat an exact, precise formula.

But as nearly as we can tell, this is what it would amount to.

Senator BIBLE. As I understand it, the burden is on who locates this sanitary and safe shanty?

Mr. STEWART. The burden actually, is on the Federal Government. It is rather precise in the act. The Federal Government has to provide in addition to the various benefits that have been stated in the act certain relocation advisory services, and this has to provide the displaced person with current and continuing information on comparable decent, safe, and sanitary sales and rental housing of comparable quality. Also, a reasonable time prior to the displacement, you have to make sure that there will be dwellings equal in number to the number of people displaced that, generally are not less desirable than the area where the property is being acquired, so that they can move into them.

They have to be reasonably accessible to the displaced person's place of employment, and must be available to him at prices and rentals within his ability to pay. You also have to assist a person displaced from a business or a farm in obtaining a suitable replacement.

You have to supply information to the displaced persons regarding the availability of Federal and State housing programs and other Federal or State programs offering assistance to displaced persons and provide such other advisory services to displaced persons as they may need in order to minimize hardship to them.

Senator BIBLE. Well, you have done a great deal to either clear up my thinking or get it completely fuddled, and I am going to ask the staff to do a little more work on this bill.

You are obviously knowledgeable. It seems to me that this concept originated within the Government Operations Committee. I am not positive of that. It does not make any difference where it originated.

Mr. STEWART. On the Senate side, I think it did, but it actually came out of Public Works.

Senator BIBLE. It is the law of the land and we have to abide by it. Does Tom Flynn—and maybe he can respond to this himself—within his shop have a displaced person bureau that works under the Park Service to do this, to run around and see if he can find properties? Do you have a displaced person's division?

Mr. FLYNN. Just within Phil Stewart's shop.

Senator BIBLE. How many people does Phil Stewart employ to do this?

Mr. STEWART. We don't employ anyone full time except for a group that handles our instructions to our field personnel and they consist of three full-time people who go around to our various land acquisition offices, and explain the policies and procedures that have been developed in conjunction with the Office of Management and Budget and the Department of the Interior, which amount to regulations that are required for the processing of these claims and meeting the intent of this legislation.

Senator BIBLE. Since this law has been in effect—what year did it go into effect?

Mr. STEWART. January 2, 1971, and the part applicable to our programs was effective as of the date of signature.

Senator BIBLE. You have only had a little over a year on it. How many people have you added in total in the Park Service, whether in Washington or out in the field or wherever, because of this added responsibility?

Mr. STEWART. We have not added any. We are attempting to try to handle this within the existing resources, but it is becoming more and more evident to us all the time that this is not really possible.

It has increased our workload in land acquisition to a very extreme degree.

Senator BIBLE. I suppose in hearing the appropriations request, and Mr. Hartzog when he comes up to justify his National Park Service, he will pound the desk and say: "You have imposed another duty on us, and we have to have a displaced persons' bureau, and we have to have a chief, and an accountant and a lawyer and two secretaries, and it will cost x dollars."

I presume that is coming up in the foreseeable future. But that is not your cup of tea and it is not your responsibility. You have

always done a great job, and I know you did not look for this added responsibility that the Congress put on you.

Since they put it on you, I suppose they have to pay for it, and do something about it.

This has been a very educational exercise. I knew this law was on the books. I did not realize the ramifications that were inherent in it. Maybe we can come out with something that is realistic.

The hearing on this particular part of the bill will be closed.

(Whereupon, at 11:10 a.m. the subcommittee recessed, subject to call of the Chair.)



