

summary in 1978, and that basically was the second major Supreme Court case in the twentieth century on this particular subject. Then in 1987, twice in 1987 and once in 1992 the Supreme Court, three times in that short seven-year period, took up the just compensation and the takings question boom, boom, boom because they wanted to do more for the property owners. They wanted to look at the property owner question. And in the first English case, in 1987, and in the Nolan case of 1987, and in particular in the Lucas versus South Carolina Coastal Council cases they took little, bitty pieces of the law and essentially gave a stronger position to the property owner...

PRESIDENT ROBAK: Time.

SENATOR BEUTLER: ...in those particular areas. Thank you.

PRESIDENT ROBAK: Thank you, Senator Beutler. Senator Preister.

SENATOR PREISTER: I rise in appreciation of Senator Beutler's comments in light of our discussion where we're concerned about what takes place when there is what's called a takings. From Senator Beutler's comments, it doesn't look like there is an erosion of the property owner's rights but that certainly the courts are looking at a way of protecting those rights and that's why we have that system set up. If there is a takings, certainly there is the opportunity to go through the court system, and to have one's day in court. To have legislation before us that is what I consider an end run around that separation in the divisions of government is not the way we should be approaching this. I think that the opportunity for additional lawsuits, as I mentioned earlier, is certainly there. When I spoke the first time and the only other time I spoke today on this I mentioned that in statute the term "property" is extended beyond just land. And as it's extended beyond actual land the takings, which are not defined in this bill, so we don't, at this point, and nor does the court really even know then what takings refers to. There is no exclusion for environmental health and safety regulations in the legislation that we have, therefore it seems clear to me that when a takings is made that that takings is something that could be a person's property right and that it's their profit right. And when someone is not granted a license and when someone is not allowed to do what many of us would consider pollute that they certainly have a right to challenge that taking. I passed out a copy of an allowable emissions pounds per year from Ash Grove Cement.