HOUSE OF REPRESENTATIVES—*Thursday, July 25, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Jesus said:

I am the light of the world; he that followeth Me shall not walk in darkness, but shall have the light of life.—John 8:12.

God of life and love, whose goodness and glory is in all the world, we thank Thee for this quiet moment of prayer in this Chamber over whose portal is written the words "In God we trust."

Cleanse Thou the thoughts of our hearts that we may go forward into the duties of this day without the bitterness of ill will darkening our minds but with the brightness of good will illuminating our spirits, making us clear channels of positive service to our beloved country.

We pray for our President, our Speaker, these Representatives of our people, and all who work with them and for them. Grant unto them wisdom to see clearly and confidence to act courageously as worthy representatives of the American dream for all people.

In the spirit of the Lord of life we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill and a concurrent resolution of the House of the following titles:

H.R. 15461. An act to secure to the Congress additional time in which to consider the proposed amendments to the Federal Rules of Criminal Procedure which the Chief Justice of the U.S. Supreme Court transmitted to the Congress on April 22, 1974; and

H. Con. Res. 568. Concurrent resolution relating to adjournment to a date certain during the remainder of the 93d Congress.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (H.R. 69) entitled "An act to extend and amend the Elementary and Secondary Education Act of 1965, and for other purposes."

The message also announced that the Senate had passed, with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5094. An act to amend title 5, United States Code, to provide for the reclassification of positions of deputy U.S. marshal, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2125. An act to amend the act entitled "An act granting land to the city of Albuquerque for public purposes," approved June 9, 1906.

The message also announced that Mr. McINTYRE and Mr. BENNETT were appointed as additional conferees on S. 3066, proposed Housing and Community Development Act of 1974.

MOTION TO BE OFFERED BY CHAIRMAN MILLS

(Mr. MILLS asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. MILLS. Mr. Speaker, I take this occasion to announce to the House that on next Tuesday, July 30, I shall seek recognition to call up the conference report on the bill, H.R. 8217, a bill to which the Senate added certain provisions, including changes relating to unemployment compensation and the SSI program, among others, and to make available to the House the motion which I intend to offer with respect to those matters.

Mr. Speaker, I ask unanimous consent to include at this point in the RECORD the text of the motion which I intend to offer.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

MOTION TO BE OFFERED BY CHAIRMAN MILLS

Mr. Speaker, I move that the House recede from its disagreement to the Senate amendment to the text of the bill, H.R. 8217, and concur therein with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill (page 2, after line 6), insert the following:

SEC. 3. The last sentence of section 203(e)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 (as added by section 20 of Public Law 93-233 and amended by section 2 of Public Law 93-256 and by section 2 of Public Law 93-329) is amended by striking out "August 1, 1974" and inserting in lieu thereof "April 30, 1975".

SEC. 4. (a) The second sentence of section 204(b) of the Emergency Unemployment Compensation Act of 1971 is amended to read as follows: "Amounts appropriated as repayable advances and paid to the States under section 203 shall be repaid, without interest, as provided in section 905(d) of the Social Security Act."

(b) Section 903(b) of the Social Security Act is amended by striking out paragraph (3).

SEC. 5. Section 1631 of the Social Security Act is amended by adding the following at the end thereof:

"REIMBURSEMENT TO STATES FOR INTERIM ASSISTANCE PAYMENTS

"(g)(1) Notwithstanding subsection (d)(1) and subsection (b) as it relates to the payment of less than the correct amount of benefits, the Secretary may, upon written authorization by an individual, withhold benefits due with respect to that individual and may pay to a State (or a political subdivision thereof if agreed to by the Secretary and the State) from the benefits withheld an amount sufficient to reimburse the State (or political subdivision) for interim assistance furnished on behalf of the individual by the State (or political subdivision).

"(2) For purposes of this subsection, the term 'benefits' with respect to any individual means supplemental security income benefits under this title, and any State supplementary payments under section 1616 or under section 212 of Public Law 93-66 which the Secretary makes on behalf of a State (or political subdivision thereof), that the Secretary has determined to be due with respect to the individual at the time the Secretary makes the first payment of benefits. A cash advance made pursuant to subsection (a)(4)(A) shall not be considered as the first payment of benefits for purposes of the preceding sentence.

"(3) For purposes of this subsection, the term 'interim assistance' with respect to any individual means assistance financed from State or local funds and furnished for meeting basic needs during the period, beginning with the month in which the individual filed an application for benefits (as defined in paragraph (2)), for which he was eligible for such benefits.

"(4) In order for a State to receive reimbursement under the provisions of paragraph (1), the State shall have in effect an agreement with the Secretary which shall provide—

"(A) that if the Secretary makes payment to the State (or a political subdivision of the State as provided for under the agreement) in reimbursement for interim assistance (as defined in paragraph (3)) for any individual in an amount greater than the reimbursable amount authorized by paragraph (1), the State (or political subdivision) shall pay to the individual the balance of such payment in excess of the reimbursable amount as expeditiously as possible, but in any event within ten working days or a shorter period specified in the agreement; and

"(B) that the State will comply with such other rules as the Secretary finds necessary to achieve efficient and effective administration of this subsection and to carry out the purposes of the program established by this title, including protection of hearing rights for any individual aggrieved by action taken by the State (or political subdivision) pursuant to this subsection.

"(5) The provisions of subsection (c) shall not be applicable to any disagreement concerning payment by the Secretary to a State pursuant to the preceding provisions of this subsection nor the amount retained by the State (or political subdivision).

"(6) The provisions of this subsection shall expire on June 30, 1976. At least sixty days prior to such expiration date, the Secretary shall submit to Congress a report assessing the effects of actions taken pursuant to this subsection, including the adequacy of interim assistance provided and the efficiency and effectiveness of the administration of such provisions. Such report may include such recommendations as the Secretary deems appropriate.".

SEC. 6. (a) Section 1611 of the Social Security Act is amended—

(1) in subsection (a)(1)(A), by inserting "(or, if greater, the amount determined under section 1617)" immediately after "$1,752";

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(2) in subsection (a)(2)(A), by inserting "(or), if greater, the amount determined under section 1617)" immediately after "2,628";

(3) in subsection (b)(1), by inserting "(or, if greater, the amount determined under section 1617)" immediately after "$1,752"; and

(4) in subsection (b)(2), by inserting "(or, if greater, the amount determined under section 1617)" immediately after "$2,628".

(b) Part A of title XVI of such Act is further amended by adding at the end thereof the following new section:

"COST-OF-LIVING ADJUSTMENTS IN BENEFITS

"SEC. 1617. Whenever benefit amounts under title II are increased by any percentage effective with any month as a result of determination made under section 215(i), each of the dollar amounts in effect for such month under subsections (a)(1)(A), (a)(2)(A), (b)(1), (b)(2) of section 1611, and subsection (a)(1)(A) of section 211 of Public Law 93–66, as specified in such subsections or as previously increased under this section, shall be increased by the same percentage (and rounded, when not a multiple of $1.20, to the next higher multiple of $1.20), effective with respect to benefits for months after such month; and such dollar amounts as so increased shall be published in the Federal Register together with, and at the same time as, the material required by section 215(i)(2)(D) to be published therein by reason of such determination."

SEC. 7. (a) Section 15(c)(2) of Public Law 93–233 is amended by striking out "December 1, 1974" and inserting in lieu thereof "March 1, 1975", and by striking out "July 1, 1975" and inserting in lieu thereof "March 1, 1976",

(b) Section 15(c)(5) of Public Law 93–233 is amended by striking out "March 1, 1975" and inserting in lieu thereof "June 1, 1975", and by striking out "October 1, 1975" and inserting in lieu thereof "June 1, 1976".

(c) Section 15(d) of Public Law 93–233 is amended by striking out "January 1, 1975, except that if the Secretary of Health, Education, and Welfare determines that additional time is required to prepare the report required by subsection (c), he may, by regulation, extend the applicability of the provisions of subsection (a) to cost accounting periods beginning after June 30, 1975" and inserting in lieu thereof "July 1, 1976".

SEC. 8. Section 249B of the Social Security Amendments of 1972 is amended by striking out "June 30, 1974" and inserting in lieu thereof "June 30, 1977".

SEC. 9. (a) Section 1902(a)(14)(B)(i) of the Social Security Act (relating to certain cost-sharing fees required to be paid by some individuals under medicaid) is amended by striking out "shall" and inserting in lieu thereof "may".

(b) The amendment made by subsection (a) shall be effective January 1, 1973.

SEC. 10. (a) Section 211(a)(1) of the Social Security Act is amended by inserting after "material participation by the owner or tenant" each time it occurs the following: "(as determined without regard to any activities of an agent of such owner or tenant)".

(b) Section 1402(a)(1) of the Internal Revenue Code of 1954 (relating to definition of net earnings from self-employment) is amended by inserting after "material participation by the owner or tenant" each time it occurs the following: "(as determined without regard to any activities of an agent of such owner or tenant)".

(c) The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1973.

SEC. 11. (a) The staff of the Joint Committee on Internal Revenue Taxation shall conduct a comprehensive study and investigation of the operation and effect of the Renegotiation Act of 1951, as amended, with a view to determining whether such Act should be extended beyond December 31, 1975, and, if so, how the administration of such Act can be improved. The Joint Committee staff shall specifically consider whether exemption criteria and the statutory factors for determining excessive profits should be changed to make the Act fairer and more effective and more objective. The Joint Committee staff shall also consider whether the Renegotiation Board should be restructured.

(b) In conducting such study and investigation the staff of the Joint Committee on Internal Revenue Taxation shall consult with the staffs of the Renegotiation Board, the General Accounting Office, the Cost Accounting Standards Board, and the Joint Economic Committee.

(c) The staff of the Joint Committee on Internal Revenue Taxation shall submit the results of its study and investigation to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate on or before September 30, 1975, together with such recommendations as it deems appropriate.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 15472—AGRICULTURE-ENVIRONMENTAL AND CONSUMER APPROPRIATIONS, 1975

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 15472) an act making appropriations for agriculture-environmental and consumer protection programs for the fiscal year ending June 30, 1975, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT (H. REPT. NO. 93–1227)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15472) "making appropriations for Agriculture-Environmental and Consumer Protection programs for the fiscal year ending June 30, 1975, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 4, 5, 6, 10, 14, 18, 19, 20, 21, 22, 23, 24, 33, 38, 39, 42, 43, 44, 45, 47, 49, 50, 52, 57, 58, 59, 64, 65.

That the House recede from its disagreement to the amendments of the Senate numbered 26, 27, 28, 29, 32, 36, 37, 55, 61, 66, 67 and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by the Senate, insert the following:

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, including the dissemination of agricultural information and the coordination of informational work and programs authorized by Congress in the Department, management support services to selected Agencies and Offices of the Department of Agriculture, and for general administration of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, and not to exceed $15,000 for employment under 5 U.S.C. 3109, $16,973,000, of which $4,054,000 shall be available for the Office of Communication and, of which total appropriation not to exceed $822,000 may be used for farmers' bulletins, which shall be adapted to the interests of the people of the different sections of the country, an equal proportion of four-fifths of which shall be available to be delivered to or sent out under the addressed franks furnished by the Senators, Representatives, and Delegates in Congress, as they shall direct (7 U.S.C. 417), and not less than two hundred and thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided*, That this appropriation shall be reimbursed from applicable appropriations for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558: *Provided further*, That not to exceed $2,500 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary: *Provided further*, That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

None of the funds provided by this Act shall be used to pay the salaries of any personnel which carries out the provisions of section 610 of the Agricultural Act of 1970, except for research in an amount not to exceed $3,000,000; projects to be approved by the Secretary as provided by law.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $10,000, for employment under 5 U.S.C. 3109, $15,751,000, and in addition, $5,081,000 shall be derived by transfer from the appropriation, "Food Stamp Program" and merged with this appropriation.

And the Senate agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$204,839,000"; and the Senate agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$79,048,000"; and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$7,306,000"; and the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$16,437,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum named by said amend-

ment insert "$105,149,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$149,544,000"; and the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$2,030,000"; and the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$214,488,000"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$26,918,000"; and the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$22,026,000"; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$17,500,000"; and the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$6,000,000"; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$350,000,000"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$51,016,000"; and the Senate agree to the same.

Amendment numbered 35: That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$108,000,000"; and the Senate agree to the same.

Amendment numbered 40: That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$277,926,000"; and the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$53,240,000"; and the Senate agree to the same.

Amendment numbered 46: That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$194,116,000"; and the Senate agree to the same.

Amendment numbered 48: That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: "Agricultural Stabilization and Conservation Service"; and the Senate agree to the same.

Amendment numbered 51: That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,415,000"; and the Senate agree to the same.

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$38,269,000"; and the Senate agree to the same.

Amendment numbered 54: That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$38,043,000"; and the Senate agree to the same.

Amendment numbered 60: That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$1,299,630,000"; and the Senate agree to the same.

Amendment numbered 62: That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$28,000,000"; and the Senate agree to the same.

Amendment numbered 63: That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$30,000,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendment numbered 56.

JAMIE L. WHITTEN,
GEORGE E. SHIPLEY,
FRANK E. EVANS,
BILL D. BURLISON,
WILLIAM H. NATCHER,
NEAL SMITH,
BOB CASEY,
GEORGE MAHON,
MARK ANDREWS,
ROBERT H. MICHEL,
BILL SCHERLE,
J. K. ROBINSON,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

GALE W. McGEE,
WILLIAM PROXMIRE,
ROBERT C. BYRD,
HERMAN E. TALMADGE,
ROMAN HRUSKA,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15472) making appropriations for agriculture-environmental and consumer protection programs for the fiscal year ending June 30, 1975, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—AGRICULTURAL PROGRAMS

Department of Agriculture

Departmental Administration

Amendment No. 1: Restores House language stricken by the Senate for the Office of the Secretary and the Office of the Inspector General in lieu of the language provided by the Senate. Provides a total appropriation of $16,973,000 for the Office of the Secretary instead of $16,773,000 as proposed by the House. The conferees are in agreement that the Office of Inspector General shall be restored to its status prior to the reorganization which was effective January 9, 1974.

Agricultural Research Service

Amendment No. 2: Appropriates $204,839,000 for Agricultural Research Service instead of $202,789,000 as proposed by the House and $212,579,000 as proposed by the Senate. The increase over the amount provided by the House includes the following: $300,000 for predator control research; $250,000 for soybean research; $500,000 for soil erosion research (Pacific Northwest); $100,000 for pickle, onion and related research; $200,000 for bee research, Laramie, Wyoming; $50,000 for wild rice research; $150,000 for agricultural transportation research; and $100,000 for wild oats research.

The Conference Report also includes $400,000 for additional personnel at the Richard B. Russell Laboratory. This additional funding is solely for additional personnel at this location. The conferees are in agreement that the additional personnel at this location shall not be at the expense of personnel limitations at other ARS facilities.

The conferees did not approve $680,000 proposed for a dairy cattle management and forage research laboratory. This item has been passed over without prejudice and the Department is directed to provide the Appropriations Committees of the House and Senate with a report based on a complete study of the extent of forage and dairy cattle management research now being performed with recommendations as to needs for additional research in this area and the most efficient way in which the additional research can be performed.

The conferees also did not approve $1,000,000 for the construction of a human nutrition laboratory in Grand Forks, North Dakota. This project has been deferred without prejudice until the Department achieves more complete staffing of current laboratory facilities. Every effort should be made to provide full staffing for available laboratory space at the earliest possible time.

Amendment No. 3: Deletes language proposed by the Senate earmarking $45,000 for research and maintenance of the Eastern South Dakota Soil and Water Conservation Research Farm at Madison, South Dakota.

Amendment No. 4: Provides that $6,420,000 shall remain available until expended as proposed by the House instead of $8,100,000 as proposed by the Senate.

Scientific Activities Overseas

(Special Foreign Currency Program)

Amendment No. 5: Appropriates $5,000,000 for Scientific Activities Overseas as proposed by the House instead of $10,000,000 as proposed by the Senate.

Animal and Plant Health Inspection Service

Amendment No. 6: Appropriates $402,564,000 for Animal and Plant Health Inspection Service as proposed by the House instead of $403,564,000 as proposed by the Senate.

The conferees direct that within available funds the Department conduct a review and report to the Appropriations Committees of the House and the Senate the current situation with regard to tubercular swine, the need for an eradication or indemnity program, and the probable total cost of such a program.

Cooperative State Research Service

Amendment No. 7: Appropriates $79,048,000 to carry into effect the provisions of the Hatch Act instead of $77,048,000 as proposed by the House and $81,707,000 as proposed by the Senate.

Amendment No. 8: Appropriates $7,306,000 for grants for cooperative forestry research instead of $6,606,000 as proposed by the House and $8,349,000 as proposed by the Senate.

Amendment No. 9: Appropriates $16,437,000 for contracts and grants for scientific research instead of $16,287,000 as proposed by the House and $16,577,000 as proposed by the Senate. The increase of $150,000 over the House amount is for taro research.

Amendment No. 10: Appropriates $1,500,000 for Rural Development Research as proposed by the House instead of $3,000,000 as proposed by the Senate.

Amendment No. 11: Appropriates a total appropriation of $105,149,000 for the Cooperative State Research Service instead of $102,299,000 as proposed by the House and $110,491,000 as proposed by the Senate.

Extension Service

Amendment No. 12: Appropriates $149,544,000 for Cooperative Agricultural Extension work under the Smith-Lever Act instead of $147,294,000 as proposed by the House and $153,230,000 as proposed by the Senate.

Amendment No. 13: Appropriates $2,030,000 for the Pest Management Program instead of $1,680,000 as proposed by the House and $2,530,000 as proposed by the Senate.

The Department is directed to report to the Appropriations Committees of the House and the Senate the current capability and methods used in the conduct of an effective boll weevil control program.

Amendment No. 14: Appropriates $1,500,000 for Rural Development Education as proposed by the House instead of $3,000,000 as proposed by the Senate.

Amendment No. 15: Appropriates total funding of $214,488,000 for the Extension Service instead of $211,888,000 as proposed by the House and $220,174,000 as proposed by the Senate.

Statistical Reporting Service

Amendment No. 16: Appropriates $26,918,000 for the Statistical Reporting Service instead of $26,818,000 as proposed by the House and $28,043,000 as proposed by the Senate.

Within available funds the Department is directed to make an estimate of the domesticated horse population from information available that will be sufficient to warrant the allocation of funds under the provisions of the Animal Health Research Act.

Economic Research Service

Amendment No. 17: Appropriates $22,026,000 for Economic Research Service instead of $21,751,000 as proposed by the House and $22,076,000 as proposed by the Senate. The increase over the amount provided by the House is to continue and conclude the economic studies which are underway regarding predator losses, predator management and related predator data.

Agricultural Marketing Service

Marketing Services

Amendment No. 18: Appropriates $39,665,000 for the Agricultural Marketing Service as proposed by the House instead of $39,815,000 as proposed by the Senate.

Funds for Strengthening Markets, Income, and Supply (section 32)

Amendment No. 19: Earmarks $131,400,000 of section 32 funds for child feeding and nutritional programs authorized by law in the School Lunch Act and the Child Nutrition Act as proposed by the House instead of $134,200,000 as proposed by the Senate.

Amendment No. 20: Deletes language proposed by the Senate to provide $1,400,000 to assist local public or nonprofit agencies with the cost of distributing supplemental foods to pregnant and lactating women and to children.

The conferees are seriously concerned with the current status of funding for the section 32 fund. The purpose for which this fund was established can be achieved only if sufficient funds are available to purchase in toto any commodity that becomes surplus. During the past few years the assets of this fund have been greatly reduced by the expenditure for purposes other than which the fund was created. The Secretary is directed to take every possible action to preserve the solvency of this fund.

Foreign Agricultural Service

(Transfer from section 32)

Amendment No. 21: Provides that $2,117,000 of section 32 funds shall be available to the Foreign Agricultural Service as proposed by the House instead of $3,117,000 as proposed by the Senate.

The conferees' action on this item is not to be construed as an attitude not in favor of market development in foreign countries. On the contrary the conferees endorse energetic action in this area. In view of the current status of section 32 funding, the conferees are of the opinion that every possible effort must be made to reduce expenditures from this fund.

Public Law 480

Amendment No. 22: Deletes language proposed by the Senate which would have permitted various adjustments in the Public Law 480 program which were considered necessary for humanitarian purposes.

The action of the conferees on this item does not preclude necessary adjustments in the Public Law 480 program for humanitarian needs. The ten percent restriction included in the bill applies only to Title I funds of Public Law 480 appropriated in this bill.

Commodity Credit Corporation

Limitation on Administrative Expenses

Amendment No. 23: Restores House language stricken by the Senate which provided for an independent Sales Manager who shall report directly to the Secretary or Under Secretary of Agriculture.

TITLE II—RURAL DEVELOPMENT PROGRAMS

Department of Agriculture

Rural Development Service

Amendment No. 24: Appropriates $955,000 for the Rural Development Service as proposed by the House instead of $1,295,000 as proposed by the Senate.

Rural Development Grants

Amendment No. 25: Appropriates $17,500,000 for Rural Development Grants instead of $10,000,000 as proposed by the House and $25,000,000 as proposed by the Senate.

The conferees are in agreement that special attention shall be given to the development of new industry.

Rural Electrification and Telephone Revolving Fund Loan Authorizations

Amendment No. 26: Provides that insured loans of not less than $750,000,000 be made for Rural Electrification Loans as proposed by the Senate instead of $650,000,000 as proposed by the House.

The conferees are in agreement that the Administrator shall notify the Appropriations Committees of the House and the Senate at least 30 days in advance of his intention to make a loan under the guaranteed provisions of Public Law 93-32, and no such loans or commitments shall be made or finalized prior to the expiration of this 30-day period.

Amendment No. 27: Provides that rural telephone loans shall be made in an amount not less than $200,000,000 as proposed by the Senate instead of $150,000,000 as proposed by the House.

Farmers Home Administration

Agricultural Credit Insurance Fund

Amendment No. 28: Provides for real estate loans in the amount of $420,000,000 as proposed by the Senate instead of $370,000,000 as proposed by the House.

Amendment No. 29: Earmarks $400,000,000 for farm ownership loans as proposed by the Senate instead of $350,000,000 as proposed by the House.

Mutual and Self-Help Housing

Amendment No. 30: Appropriates $6,000,000 for Mutual and Self-Help Housing instead of $4,000,000 as proposed by the House and $10,000,000 as proposed by the Senate.

Rural Development Insurance Fund

Amendment No. 31: Provides $350,000,000 for Industrial Development Loans instead of $300,000,000 as proposed by the House and $400,000,000 as proposed by the Senate.

Rural Community Fire Protection Grants

Amendment No. 32: Appropriates $7,000,000 for Rural Community Fire Protection Grants as proposed by the Senate.

In administering this program the Department is directed to adhere strictly to the program authorization contained in Public Law 92-419.

Salaries and Expenses

Amendment No. 33: Appropriates $128,682,000 for Salaries and Expenses as proposed by the House instead of $133,682,000 as proposed by the Senate.

The conferees are concerned with the severe personnel limitations that have been imposed on the Farmers Home Administration notwithstanding a workload that has increased tremendously. The Department is directed to give every possible consideration to increasing the personnel limitation consistent with the workload increase.

TITLE III—ENVIRONMENTAL PROGRAMS

Environmental Protection Agency

Agency and Regional Management

Amendment No. 34: Appropriates $51,016,000 for agency and regional management activities instead of $49,016,000 as proposed by the House and $53,016,000 as proposed by the Senate.

The conferees will expect the agency to conduct a detailed study of its ADP requirements agencywide and report its findings to the House and Senate Appropriations Committees. In addition, the conferees direct the agency to defer the purchase of the computer now under lease at Research Triangle Park, North Carolina until the Committees have had an opportunity to review the study.

The conferees further agree that ample room exists within the agency's ADP budget to absorb a reduction of $2,000,000.

Energy Research and Development

Amendment No. 35: Appropriates $108,000,000 for energy research and development activities instead of $103,000,000 as proposed by the House and $123,000,000 as proposed by the Senate.

The Senate receded on the increase of $10,000,000 for the development of new automo-

tive power systems. The Senate had added $10,000,000 to demonstrate the commercial application of municipal and other wastes as an energy source for industrial combustion and related activities and the conferees agreed to $5,000,000 for this purpose.

Amendments Nos. 36 and 37: Delete language which repeated the agency's authority to transfer funds to other agencies as proposed by the House.

Amendment No. 38: Provides language limiting funds for the development of new automotive power systems to $7,200,000 as proposed by the House.

Research and Development

Amendment No. 39: Appropriates $175,668,000 for research and development activities as proposed by the House instead of $176,668,000 as proposed by the Senate.

The Senate had added $1,000,000 for the agency to establish an information clearinghouse to compile and disseminate information concerning new developments related to the agency's research and development programs. The conferees are in agreement that sufficient funds are available within the agency's research and development budget, as proposed by the House, to establish such a clearinghouse.

Abatement and Control

Amendment No. 40: Appropriates $277,926,000 for abatement and control activities instead of $257,426,000 as proposed by the House and $306,426,000 as proposed by the Senate.

The Senate receded on the $5,000,000 increase for testing and certification of motor vehicles.

The Senate receded on the proposed increase of $4,000,000 for the Clean Lakes Program since language is contained in the bill providing for the transfer of $75,000,000 in Housing and Urban Development water and sewer grant funds to EPA for the Clean Lakes Program.

The conferees agreed to an increase of $4,000,000 for industrial and nonpoint pollution source control instead of $7,000,000 as proposed by the Senate.

The conferees agreed to an increase of $1,000,000 for technical assistance and technology transfer in the solid waste program instead of $3,000,000 as proposed by the Senate.

The conferees agreed to an increase of $2,000,000 for water quality technical assistance and planning as proposed by the Senate.

The conferees agreed to an increase of $1,000,000 for air pollution monitoring and surveillance instead of $3,000,000 as proposed by the Senate.

The conferees agreed to increase grants to States for pollution control by $7,500,000 for water programs and $5,000,000 for air programs instead of $12,500,000 for each program as proposed by the Senate.

Enforcement

Amendment No. 41: Appropriates $53,240,000 for enforcement programs instead of $52,740,000 as proposed by the House and $53,740,000 as proposed by the Senate.

The conferees agreed to an increase of $500,000 for the Water Quality Permit Program instead of an increase of $1,000,000 as proposed by the Senate.

Buildings and Facilities

Amendment No. 42: Appropriates $1,400,000 for buildings and facilities as proposed by the House instead of $1,700,000 as proposed by the Senate.

Amendment No. 43: Deletes language proposed by the Senate which required the agency to cooperate with the University of Nevada to design and acquire additional research facilities at the Las Vegas campus.

The conferees will expect the agency to review their research facilities in Las Vegas and to report to the House and Senate Appropriations Committees.

Scientific Activities Overseas

Amendments Nos. 44 and 45: Restore language, as proposed by the House, which allows the agency to transfer up to $4,000,000 from other appropriations available to the agency for purposes of carrying out scientific activities overseas. The Senate bill would have provided for a direct appropriation of $4,000,000 for this purpose.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Conservation Operations

Amendment No. 46: Appropriates $194,116,000 for Conservation Operations instead of $192,116,000 as proposed by the House and $196,216,000 as proposed by the Senate. The increase over the amount provided by the House is for soil surveys in the Fort Union coal area of Montana, North Dakota, South Dakota, and Wyoming.

The Department is directed to consolidate information already available from previous studies on potential agricultural land in Alaska.

Watershed and Flood Prevention Operations

Amendment No. 47: Appropriates $122,643,000 for Watershed and Flood Prevention Operations as proposed by the House instead of $124,801,000 as proposed by the Senate.

The conferees have passed over the West Virginia project without prejudice. The $1,161,000 provided in the Second Supplemental Appropriations Act, 1974 will permit the initiation of work on this project as soon as the required approvals are obtained.

Agricultural Stabilization and Conservation Service

Amendment No. 48: Inserts heading "Agricultural Stabilization and Conservation Service" instead of "Agriculture Stabilization and Conservation Service" as proposed by the Senate.

Agricultural Conservation Program

Amendment No. 49: Authorizes a 1975 program level of $225,000,000 as proposed by the House instead of $200,000,000 as proposed by the Senate.

Of the total amount provided in conference, not to exceed $35,000,000 shall be available for long-range practices. The conferees are in agreement that practices under this program should be recommended by the community and county committeemen and that the approved practices should be those which were in effect for the 1970 program.

Amendment No. 50: Deletes language proposed by the Senate which would have established a limitation for an individual participant in the State of Alaska of $3,000.

TITLE IV—CONSUMER PROGRAMS

Department of Health, Education, and Welfare

Office of Consumer Affairs

Amendment No. 51: Appropriates $1,415,000 for the Office of Consumer Affairs instead of $1,365,000 as proposed by the House and $1,465,000 as proposed by the Senate.

General Services Administration

Consumer Information Center

Amendment No. 52: Appropriates $996,000 for the Consumer Information Center as proposed by the House instead of $886,000 as proposed by the Senate.

Consumer Product Safety Commission

Amendment No. 53: Appropriates $38,269,000 for the Consumer Product Safety Commission instead of $36,219,000 as proposed by the House and $42,569,000 as proposed by the Senate. The conference amount includes $200,000 for space costs.

Federal Trade Commission

Amendment No. 54: Appropriates $38,043,000 for the Federal Trade Commission instead of $37,743,000 as proposed by the House and $38,543,000 as proposed by the Senate.

The $200,000 and 11 positions for the Bureau of Economics were deleted because as of June 30, 1974, 16 existing positions were vacant. The positions were also deleted because of the failure of the Bureau of Economics to comply with the congressional directives to broaden the recruitment base.

Amendment No. 55: Provides that line-of-business data may be obtained from not to exceed 500 firms, as provided by the Senate, rather than 250 firms as provided by the House. While the language will permit collection of data from up to 500 firms, the conferees note that this is a new program with many complex and difficult technical questions and under these circumstances an initial mailing of less than 500 may be prudent until more experience is gained.

Amendment No. 56: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment. The conference agreement provides that the information in the line-of-business program shall be used only for statistical purposes, as provided in the House bill.

A new paragraph is added providing that the Federal Trade Commission shall separately obtain information for law enforcement purposes under existing practices and procedures, or as changed by law subsequent to the passage of this appropriation bill.

The stipulations of this section relating to the FTC's line-of-business survey are not to be interpreted as barring any duly authorized FTC personnel from inspecting the information provided in these line-of-business reports. Similarly, the stipulations of this section should not be read as qualifying the FTC's compulsory process power.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 57: Deletes language permitting publication in an enforcement proceeding of data on individual firms contained in line-of-business reports.

Amendment No. 58: Deletes language limiting access to data in line-of-business reports to employees of the Federal Trade Commission duly authorized in the premises. The language as approved will limit access to the data to employees of the Federal Trade Commission, and will exclude all others.

Amendment No. 59: Deletes language which would have made data in line-of-business reports available to various other agencies of the government. These agencies will have access to similar type data to the extent that such access is authorized by the existing laws under which the various agencies operate.

Department of Agriculture

Child Nutrition Programs

Amendment No. 60: Appropriates $1,299,630,000 for Child Nutrition Programs instead of $1,283,630,000 as proposed by the House and $1,315,630,000 as proposed by the Senate.

Amendment No. 61: Provides for the transfer of section 32 funds in the amount of $541,601,000 as proposed by the Senate instead of $641,601,000 as proposed by the House.

Amendment No. 62: Earmarks $28,000,000 for the nonfood assistance program instead of $22,000,000 as proposed by the House and $34,000,000 as proposed by the Senate.

Amendment No. 63: Earmarks $30,000,000 for the special food service programs for children instead of $20,000,000 as proposed

by the House and $40,000,000 as proposed by the Senate.

Amendment No. 64: Deletes language proposed by the Senate which would have increased from 10 to 15 per centum the amount of funds provided under Public Law 92-433 for administrative expenses.

Food Stamp Program

Amendment No. 65: Restores House language stricken by the Senate which provided certain prohibitions against the use of food stamps by college students.

General Provisions

Amendment No. 66: Deletes language proposed by the House which would have prohibited the agency from reallocating unobligated fiscal year 1973 construction grant funds. The agency has reported that the entire $2,000,000,000 original allotment to the States for fiscal year 1973 was obligated prior to the June 30, 1974 deadline and as a result no State was required to lose such funds to reallotment. Therefore, the provision is no longer required.

Amendment No. 67: Deletes section 512 of the General Provisions as provided by the Senate. This provision provided $7,000,000 for Rural Community Fire Protection Grants which has been transferred to the Farmers Home Administration section of the appropriations bill.

Personnel Limitations

The conferees are in agreement and so direct that all additional personnel provided for in this conference report shall be above and beyond any personnel limitations currently in effect.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1975 recommended by the Committee of Conference, with comparisons to the fiscal year 1974 total, the 1975 budget estimate total, and the House and Senate bills follow:

New budget (obligational) authority, fiscal year 1974	$10,588,101,000
Budget estimates of new (obligational) authority, fiscal year 1975	[1] 13,432,863,100
House bill, fiscal year 1975	13,405,420,000
Senate bill, fiscal year 1975	13,667,397,300
Conference agreement	13,571,395,000
Conference agreement compared with—	
New budget (obligational) authority, fiscal year 1974	+2,983,294,000
Budget estimates of new (obligational) authority (as amended), fiscal year 1975	+138,531,900
House bill, fiscal year 1975	+165,975,000
Senate bill, fiscal year 1975	−96,002,300

[1] Includes $275,000 contained in Senate Document 93-90 and not considered by the House.

JAMIE L. WHITTEN,
GEORGE E. SHIPLEY,
FRANK E. EVANS,
BILL D. BURLISON,
WILLIAM H. NATCHER,
NEAL SMITH,
BOB CASEY,
GEORGE MAHON,
MARK ANDREWS,
ROBERT H. MICHEL,
BILL SCHERLE,
J. K. ROBINSON,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

GALE W. MCGEE,
WILLIAM PROXMIRE,
ROBERT C. BYRD,
HERMAN E. TALMADGE,
ROMAN HRUSKA,
MARK O. HATFIELD,
Managers on the Part of the Senate.

CALL OF THE HOUSE

Mr. HOSMER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 407]

Anderson, Ill.	Diggs	Lehman
Arends	Dorn	McSpadden
Ashley	Drinan	Mitchell, Md.
Badillo	Esch	O'Hara
Blatnik	Evins, Tenn.	Patman
Brasco	Flynt	Powell, Ohio
Burke, Calif.	Foley	Railsback
Burlison, Mo.	Ford	Rangel
Burton, Phillip	Gettys	Rarick
Butler	Giaimo	Rees
Carey, N.Y.	Gray	Rodino
Casey, Tex.	Green, Oreg.	Roncalio, Wyo.
Chappell	Griffiths	Rooney, N.Y.
Chisholm	Hansen, Idaho	Rostenkowski
Clark	Hansen, Wash.	Ruppe
Clay	Hawkins	Steele
Conyers	Hébert	Sullivan
Culver	Hogan	Teague
Davis, Ga.	Holifield	Thompson, N.J.
Davis, S.C.	Hudnut	Van Deerlin
Dennis	Jones, Tenn.	Wiggins

The SPEAKER. On this rollcall 371 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

APPOINTMENT OF CONFEREES ON H.R. 11537, CONSERVATION PROGRAMS ON MILITARY AND OTHER FEDERAL LANDS

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill, H.R. 11537, to extend and expand the authority for carrying out conservation and rehabilitation programs on military reservations, and to authorize the implementation of such programs on certain public lands, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Michigan? The Chair hears none, and appoints the following conferees: Mrs. SULLIVAN, Messrs. DINGELL and GOODLING.

PERMISSION FOR SUBCOMMITTEE ON AERONAUTICS AND SPACE TECHNOLOGY TO SIT DURING GENERAL DEBATE

Mr. WYDLER. Mr. Speaker, I ask unanimous consent that the Subcommittee on Aeronautics and Space Technology of the Committee on Science and Astronautics may meet during debate this afternoon.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

SURFACE MINING CONTROL AND RECLAMATION ACT OF 1974

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11500) to provide for the regulation of surface coal mining operations in the United States, to authorize the Secretary of the Interior to make grants to States to encourage the State regulation of surface mining, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Arizona.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11500, with Mr. SMITH of Iowa in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday, titles II through VIII inclusive were subject to amendment at any point, and there was pending an amendment offered by the gentleman from California (Mr. HOSMER) to title II of the committee amendment in the nature of a substitute. Before recognizing the gentleman from California, the Chair will state for the information of the Committee of the Whole that there are 42 minutes remaining out of 50 minutes debate allocated to title II under the unanimous consent agreement of Tuesday, July 23.

Before the Chair recognizes the gentleman from California, the Chair will reiterate his announcement of yesterday that if listed Members who have printed their amendments to title II in the RECORD would agree to offer those amendments during the 42-minute period, and to be recognized for 1 minute and 20 seconds, the Chair will recognize both committee and noncommittee members for that purpose.

The Chair will request that Members who have amendments printed in the RECORD and who insist upon 5 minutes for debate defer offering those amendments until the conclusion of the 42 remaining minutes.

The Chair understands the gentleman from California (Mr. HOSMER) wishes to be recognized for 1 minute, 20 seconds on the pending amendment.

The gentleman is recognized.

Mr. HOSMER. Mr. Chairman, the requirements for data in a permit application, including maps, geologic information, core drillings, hydrologic information, laboratory analyses, and a great variety of other detailed information, as required in H.R. 11500 will prove to be

so expensive to develop and such an onerous burden that many small miners will simply not be able to comply, and are, therefore, likely to go out of business. This would eliminate that source of needed coal in this period of severe energy shortage and thereby further endanger the achievement of energy independence by this Nation.

My amendment would correct an anti-small business complexion of section 210 of this bill. With 65 percent of the surface mines producing less than 50,000 tons per year, and nearly 90 percent of the auger mines producing less than 50,000 tons per year, the economic impact upon these small operators to develop and submit such sophisticated, costly, and largely unnecessary information is at once apparent. It would appear that the bill was carefully designed to squeeze the small miner out of business. Is it any wonder that the measure has been characterized as being "anti-small business"?

Under section 210 there are 17 paragraphs describing the data to be submitted with a permit application. This occupies nearly six pages of the bill simply listing the data to be supplied. In addition, the mining and reclamation plan requires another nine paragraphs to list the information to be supplied. Some of this information will be extremely costly to come by, such as the detailed map described in section 210(b)(9), which map must be prepared under the direction of or certified by a professional engineer or registered land surveyor and a professional geologist.

This map must show contour lines showing elevation and depicting the topography, the surrounding drainage area, the location and name of all roads, railroads, rights-of-way, utility lines, oil wells, gas wells, water wells, lakes, creeks, streams, rivers, springs, and other surface water courses, the name and boundary lines of the present owners of abutting property showing the location of buildings within 1,000 feet of the permit area and the use of each building. In addition, other maps must be supplied showing the proposed mine area, test borings, core samples, water tables, aquifers, essentially all geologic data conceivable with respect to an area.

Moreover, there must be chemical analysis of the properties of both the overburden and the coal, with data on the potential of acid or toxic forming materials in the overburden and of the strata lying beneath the coal. These are merely three samples of the type of data that must be supplied with a permit application.

On the other hand, my amendment provides for the submission of sufficient and adequate data to allow and aid the regulatory authority to make all the appropriate and necessary evaluations and assessments of the proposed reclamation plan, to insure that good reclamation can and will be accomplished in accordance with that plan.

My amendment would require the submission of data and information on how the mining and reclamation plan will be achieved, as well as information on the proposed mining site and on past permit performance by the applicant. Adherence to Federal air and water pollution laws is recognized by requiring a listing of all violations of such laws, rules or regulations that occurred during the year prior to the date of permit application.

Under my amendment, the mining and reclamation plan data submission requirements contain general categories of information necessary to assure that the operator has performed a premining site evaluation in sufficient depth to plan the operation to facilitate a return of the site to a useful status following mining. Also, the planning information required, as specifically enumerated in promulgated regulations, would be sufficient to assure the regulatory agencies that provisions have been planned to prevent damage of the permit area during mining.

Under my amendment, the applicant is required to file for public inspection a copy of his application with an appropriate official approved by the regulatory authority in the locality where the mining operation is proposed to occur. Publication of a description of the property to be mined in a generally circulated newspaper in the locality of the permit area for a specific length of time is required.

Under my amendment, the permit renewal provisions provide the right of successive renewals provided the permittee has complied with the permit, require a listing of claim settlements or judgments arising from operations under the permit, written assurance of continuation of the performance bond, and additional or new information required under this section. All parties who participated in the review and hearing proceedings on the initial permit will be informed of any permit renewal application.

Furthermore, my amendment would provide appropriate protection for confidential proprietary information. As the Department of the Interior pointed out in its objections to H.R. 11500:

It is essential that the application requirements of the bill be modified to provide for preserving the confidentiality of competitively sensitive material made available by permit applicants.

Mr. Chairman, I ask for the adoption of my amendment, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HOSMER) to the committee amendment in the nature of a substitute.

The amendment to the committee in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MRS. MINK TO THE COMMITTEE AMENDENT IN THE NATURE OF A SUBSTITUTE

Mrs. MINK. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mrs. MINK to the committee amendment in the nature of a substitute: Section 210(b), page 175, line 13, strike all words after "geologist" and the words "surface information" on line 14 and insert in lieu thereof the following: "when specific subsurface information is deemed essential and requested by the regulatory authority."

Mrs. MINK. Mr. Chairman, with regard to this amendment it was the proposal of the Pennsylvania delegation. They expressed concern that the requirement of having a geologist was an onerous one with respect to many of the smaller operations affecting surface coal mining. This new language is intended to make it quite clear that the "or" which precedes the words "registered land surveyor" makes that selection in the alternative and that the requirement of having a geologist should be for the purpose of providing specific subsurface information which is deemed essential and requested by the regulating authority. This is qualifying language.

Mr. Chairman, I urge adoption of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Hawaii (Mrs. MINK) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. SYMMS TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. SYMMS. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. SYMMS to the committee amendment in the nature of a substitute:

On page 234, following line 17, add a new subsection "f" as follows and reletter the subsequent subsections.

"Sec. —. Every citizen of and within the United States may seek to enjoin before any United States District Court every effort to restrict the surface mining of coal upon a showing that such restriction will increase United States dependence upon imported fuels or will impair employment security among citizens of the United States: *Provided,* That any such injunction which may be issued by the U.S. District Court does not impair the obligation of surface mining operations to restore the mined land to substantially useful and relatively attractive condition."

Mr. SYMMS. Mr. Chairman, the purpose of this amendment is to soften the effect that this bill poses as a threat to us in coal production because under the present language in the bill every citizen has a right to sue in court to stop mining if an individual citizen or a group of citizens consider it to be damaging to the environment. This bill states that the area that is surface mined must be returned to the approximate contour that existed before any mining occurred. The term is vague and leaves the door open for excessive lawsuits and litigation under the above-mentioned provision.

This amendment will soften the language that is in the bill. It was carefully drawn by counsel to point out the fact that any citizen who can establish in

court that we are relying more and more heavily on foreign imports of oil or other energy sources because of the lawsuits that have taken place under this legislation will be allowed the right to go to court and sue for his right to be allowed to mine coal as long as reasonable measures to protect the environment are taken.

This gives the committee a choice of reasonable reclamation and a concern for human environment—warm houses, jobs, and food on the table.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. SYMMS) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. SYMMS) there were—ayes 13, noes 23.

Mr. SYMMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the committee amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. SEIBERLING TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. SEIBERLING. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING to the committee amendment in the nature of a substitute: Section 214, (a), page 204, line 25, delete all words after the word "weeks", and on page 205, delete all of line 1 and on line 2, delete the words "of letters which he has sent to" and insert in lieu thereof the words "The regulatory authority shall notify", and on line 5, delete the word "his" and insert in lieu thereof the words "the operator's".

Mr. SEIBERLING. Mr. Chairman, I yield to the gentlewoman from Hawaii.

Mrs. MINK. Mr. Chairman, again this is another suggestion made by the Pennsylvania delegation that instead of requiring that the applicant shall submit copies of letters that he has written to each of the local governmental agencies and planning agencies, that the regulatory authority have the responsibility of notifying the Government agencies so they can in turn respond to the pending application.

Mr. Chairman, I move the adoption of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mrs. MINK) there were—ayes 25, noes 15.

So the amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. FLOOD TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. FLOOD. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. FLOOD to the committee amendment in the nature of a substitute: Page 242, line 15, add section 227:

ANTHRACITE COAL MINES

The Secretary is hereby authorized to and shall issue separate regulations according to time schedules established in the Act for the interim and permanent programs for anthracite coal surface mines, if such mines are regulated by environmental protection standards of the State in which they are located. Such alternative regulations shall adopt, in each instance, the environmental protection provisions of the State regulatory program in existence at the date of enactment of this Act in lieu of: sections 201 (b) and (c), 202, 209 (except subsection 209(d)(3)), 210, and 211 of this Act. Provisions of sections 216 and 217 are applicable except for specified bond limits and period of revegetation responsibility. All other provisions of this Act apply and the regulations issued by the Secretary of Interior for each State anthracite regulatory program shall so reflect; *Provided, however,* That upon amendment of a State's regulatory program for anthracite mining or regulations thereunder in force in lieu of the above cited sections of this Act, the Secretary shall issue such additional regulations as necessary to meet the purposes of this Act.

The Secretary of Interior shall report to Congress biennially, commencing on December 31, 1975, as to the effectiveness of such State anthracite regulatory programs operating in conjunction with this Act with respect to protecting the environment and such reports shall include those recommendations the Secretary deems necessary for program changes in order to better meet the environmental protection objectives of this Act.

Mr. FLOOD. Mr. Chairman, this extension, I point out, is a very peculiar geographical and geological situation. Ninety-eight percent of the anthracite coal mined in the United States is in Pennsylvania. Forty-three percent of it is used for heating consumption. This amendment has nothing to do with avoiding the provisions of the act and is very strongly written, to be sure.

This is a Federal statute, not simply a State law. It is a Federal law to enforce the law, and Federal inspectors make the inspections. The provisions here of the State law which were enumerated and read by the Clerk are incorporated in the Federal law.

There is no desire to evade the environmental provisions of this law, quite the contrary. H.R. 11500 is important to the State of Pennsylvania, and to the Nation, and I strongly urge its adoption.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, the anthracite coal industry has some special purposes and is in about 1 percent of production, I am told.

We have worked this out pretty carefully with Mr. FLOOD and some of the Pennsylvania people, and it is acceptable to this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. FLOOD) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENTS OFFERED BY MR. QUILLEN TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. QUILLEN. Mr. Chairman, I offer two amendments to the committee amendment in the nature of a substitute, and I ask unanimous consent that these amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. QUILLEN to the committee amendment in the nature of a substitute: On page 215, beginning on line 9, delete the following sentence: "In addition, as part of any bond release application, the applicant shall also submit copies of letters which he has sent to various local governmental bodies, planning agencies, and sewage and water treatment authorities, or water companies in the locality in which the surface mining and reclamation activities took place, notifying them of his intention to seek release from the bond."

Following line 16, page 215, insert in lieu thereof the following new subsection and reletter the remaining subsections accordingly:

"(f) With any application for total or partial bond release filed with the regulatory authority, the regulatory authority shall notify the municipality in which a surface mining location is located by certified mail at least 30 days prior to the release of all or a portion of the bond."

On page 234, line 8, after the words "to any party" insert the words "(including any permittee defending an action brought pursuant to this section)".

Mr. QUILLEN. Mr. Chairman, the amendments are self-explanatory.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, these amendments deal wtih the procedure for notification in the bond release section of the bill. We have worked through several drafts with the gentleman from Tennessee, and we feel that the purposes of the bill are carried out by his amendments, and simplify and improve it. Therefore, the amendments are agreeable.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from California.

Mr. HOSMER. Mr. Chairman, I am not very enthralled with the gentleman's amendments, but I think that we will accept them.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Tennessee (Mr. QUILLEN) to the committee amendment in the nature of a substitute.

The amendments to the committee amendment in the nature of a substitute were agreed to.

AMENDMENT OFFERED BY MR. M'KAY TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. McKAY. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. McKAY to the committee amendment in the nature of a substitute: Section 209, subsection d, No. 9, on page 171 of the bill, lines 14 and 15, strike out "the national forests,".

Mr. McKAY. Mr. Chairman, under the existing bill, we would eliminate totally from mining permits the national forests along with national parks, wildlife refuges, and wilderness preserves.

With 70 percent of my State in Federal land, I feel that we need some controls which would be provided by this bill, but to totally eliminate the possibility of mining of coal from the forests, I do not think should be done.

Therefore, I would like to eliminate the national forests from this total exclusion from mining entirely. That is the purpose of the amendment.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. McKAY. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I would like to compliment the gentleman from Utah on his amendment. I too have some very substantial national forests in my district. There is no coal in the Angeles National Forest within my district, but I think where we do have coal in a national forest it can be controlled on a reasonable basis by the Federal Government through the forestry service as to how it is to be mined.

Mr. Chairman, I think the amendment is a correct one.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. McKAY. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I would like to say that the gentleman from Utah has offered a very wise and, in my opinion, thoughtful amendment. There are 187 million acres in the national forest system. And under the multiple purpose concept, should be available to mining.

The CHAIRMAN. The time of the gentleman from Utah has expired.

Mr. RUPPE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, with 187 million acres of national forest land in the United States, it would seem to me very unwise policy to provide categorically that there cannot be any mining of coal in that vast acreage.

At the present time the Federal Government is very careful to insure that the Federal forest acreage will not be despoiled. Certainly the Federal Government will not permit leases where there could be any danger to the ecological or other values in the national forest system. The fact of the matter is that the national forest lands are multiple-purpose lands and should be recognized as such in this bill.

I think we would be well advised to let the Department of the Interior or the Federal Forest Service make the decision as to whether mining should be permitted in the forest system, rather than to categorically prohibit mining in all of that multimillion acreage in the United States.

PARLIAMENTARY INQUIRY

Mr. ROUSSELOT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ROUSSELOT. In this time frame, when somebody might object or support the amendment, how does he get time to do it? He does not?

The CHAIRMAN. Not unless he is on the list.

Mr. ROUSSELOT. In other words, if anyone wants to oppose the amendment, he has no time; is that correct?

The CHAIRMAN. Not unless the gentleman is on the list announced by the Chair.

Mr. ROUSSELOT. That is what I mean, so we are now in that wonderful situation where we cannot speak up.

Mr. UDALL. Mr. Chairman, am I on the list of speakers? I would like to use my time against this amendment.

The CHAIRMAN. The gentleman has already used his time.

AMENDMENT OFFERED BY MR. DINGELL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. M'KAY TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. DINGELL. Mr. Chairman, I offer an amendment as a substitute for the amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. DINGELL as a substitute for the amendment offered by Mr. McKAY to the committee amendment in the nature of a substitute: On page 171, line 13, strike all through the semicolon on line 23 and insert the following:

"(9) the mining operations are not located within any area of the National Park System, the National Forest System, the National Wildlife Refuge System, the National Wilderness Preservation System, or the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act: *Provided, however,* That this paragraph shall not prohibit surface mining operations in existence on the date of enactment of this Act within any area of the National Forest System or the Wild and Scenic Rivers Systems or on lands within either system where the deeds conveying the surface lands to the United States reserve the coal and provide for the mining thereof;".

Mr. DINGELL. Mr. Chairman, I offer a substitute for the McKay amendment.

The McKay amendment changes adversely important provisions of the bill by eliminating the application of the prohibition in the bill against strip mining the national forest lands. It opens the national forest lands to strip mining.

My amendment says that one cannot strip mine in the national forest system as does the basic bill, but it does more. It attacks a particularly unfortunate provision in the bill which would allow strip mining where presently existing substantial commitments have been made. This, I think, is an important defect. My amendment says, instead, that this paragraph will not prohibit strip mining operations in existence at the date of enactment of the act within any national forest area or any of the other lands covered where the deeds conveying the surface lands to the U.S. reserve the coal and provide for the mining thereof.

Therefore, Mr. Chairman, I would point out that my amendment is superior to that offered by my colleague from Utah.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL) as a substitute for the amendment offered by the gentleman from Utah (Mr. McKAY) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. DINGELL) there were—ayes 23, noes 15.

So the substitute amendment for the amendment to the committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah (Mr. McKAY), as amended, to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. DINGELL) there were—ayes 31, noes 8.

So the amendment, as amended, to the committee amendment in the nature of a substitute was agreed to.

Mr. KETCHUM. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty-one Members are present, not a quorum.

The Chair announces that he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred and six Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

AMENDMENT OFFERED BY MR. ROUSSELOT TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. ROUSSELOT. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. ROUSSELOT to the committee amendment in the nature of a substitute: Page 232, line 10, strike out "SEC. 223." and insert a "SEC. 223." to read as follows:

SEC. 223. (a) Except as provided in subsection (c) of this section any person having an interest which is or may be adversely affected by actions of the Secretary or the regulatory authority may commence a civil action on his own behalf in an appropriate United States district court—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to

be in violation of any regulation, order, or permit issued under this Act;

(2) against the Secretary where there is alleged a failure of the Secretary or State regulatory authority to perform any act or duty under this Act which is not discretionary.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to remedy such violation or failure and to apply any appropriate civil penalties or injunctive relief under this Act.

(b) No action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the alleged violation (i) to the Secretary, (ii) to the State in which the alleged violation occurs, and (iii) to any alleged violator of the regulation, order, or permit, or provision of this Act;

(B) if the Secretary or State has commenced and is diligently prosecuting administrative or judicial action to require compliance with the regulation, permit, order, or provision of this Act, but in any such action in a court of the United States any person described in subsection (a) may intervene as a matter of right;

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the regulatory authority. Notice under this subsection shall be given in such manner as the Secretary shall prescribe by regulation.

(c) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, except against the United States or any Federal officer or agency, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(d) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of this Act or to seek any other relief (including relief against the Secretary or a State agency).

(e) The Secretary, if not a party in any action under this section, may intervene as a matter of right.

Mr. ROUSSELOT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROUSSELOT. Mr. Chairman, I will try to be brief in describing this amendment. I am sorry that we have denied ourselves adequate time again to discuss these kinds of important amendments and this language, but so be it.

Mr. Chairman, my amendment to section 223 of H.R. 11500 substitutes new citizen suits language for the existing language of H.R. 11500, and corrects some serious deficiencies in that existing language.

The first principal change is to require a person bringing a citizen suit to have an interest which is or may be adversely affected. The existing language of section 223 does not require that the complainant have an interest, and, therefore, could open the floodgates to all kinds of spurious and harassing lawsuits. Such an open invitation to sue could seriously hamper and disrupt the orderly administration of the act, even to promulgation of State or Federal regulations under it, not to mention the opportunities for harassment of operators. Certainly, the Congress does not intend to authorize by statute the abuse of legal process, but that is the effect of section 223 if not amended.

The second principal change is to authorize the court to issue orders directly for the remedy of violations. Existing language authorizes the courts to order the regulatory authority to "perform such act or duty."

The third principal change is to delete subsection (b) of section 223, which authorizes damage suits in the U.S. district courts "regardless of the amount involved or citizenship of the parties." Damage suits should be brought in State courts or Federal courts in accordance with existing law and rules of civil procedure regarding jurisdiction. There is no reason to modify the existing law with respect to the jurisdiction of courts in a civil action seeking damages for injury suffered. Furthermore, the existing subsection (b) authorizes the awarding of "attorneys fees." It does not limit such award to "reasonable attorneys fees" as is customary in a statute of this type.

The fourth principal correction incorporated in my amendment is to eliminate the right of private individuals to intervene in criminal prosecutions. The existing language of subsection 223(c)(1)(B) is subject to that interpretation. Nowhere else in the annals of Anglo-American jurisprudence is a private citizen allowed to intervene "as a matter of right" in a criminal prosecution and become a coprosecutor with the Attorney General. The right of a person with an interest to intervene in a civil action for injunctive or other appropriate relief, is preserved by my amendment.

The fifth principal change made by my amendment is to delete the authorization to award costs, attorneys fees, or expert witness fees against the United States or any Federal officer or agency. Such awards, as a matter of policy, should not be allowed, and I am not aware of any instance in the law where they are permitted against the Government where the Government is acting in its sovereign capacity as regulator.

Mr. Chairman, I urge adoption of my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROUSSELOT) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. UDALL) there were—ayes 14, noes 23.

So the amendment to the committee amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. RANDALL TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. RANDALL. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. RANDALL to the committee amendment in the nature of a substitute: at page 232, section 223, at line 10, strike all of lines 10, 11, and substitute therefor: "Except as provided in subsection (c) of this section any person having an interest which is or may be adversely affected by actions of the secretary or the regulatory authority may commence a civil action on his own behalf in an appropriate United States district court.

Mr. RANDALL. Mr. Chairman, on line 11, page 232, the language of the bill is far too broad when it gives the right to sue to "any person." We have had a little experience in our Congressional District by suits brought against some engineering projects by individuals who live in New York City and who cannot possibly establish an interest or claim they are affected adversely by such a project as the Truman Dam and Reservoir in west central Missouri. They have brought suit under the Evironmental Protection Act without showing any interest or any adverse effect from the dam. They tied up the project for months in the courts. The same thing could happen here, in this surface mining control bill.

My amendment simply requires the person filing a suit to have some interest that is adversely affected. The way the language is presently worded in the bill there could be a whole series of suits without any adverse interest required to be shown and brought simply for the purpose of harassment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. RANDALL. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, the gentleman's amendment states what we considered the law to be and what we intended in this bill but I think it is better to expressly state it the way the gentleman has, and I find the amendment agreeable.

Mr. RANDALL. I am grateful to the gentleman for his acceptance of my amendment.

May I continue on for just a moment to point out that all of us in west central Missouri have had to spend considerable sums of money for counsel fees to fight these really disinterested individuals from New York City who had no real interest or were not adversely affected by the Truman Reservoir Project. The litigants who filed under the name of the Environmental Defense Fund — had never seen the project or had never been in Missouri. That kind of thing should not be repeated in this surface mining bill.

Mr. Chairman, before I sit down I hope to make an observation or two concerning the committee bill, H.R. 11500, and H.R. 12898, the Hosmer substitute. I supported the Hosmer substitute because I felt that it was a more reasonable measure and it would be less inflationary in the years ahead when we have to use the coal that we have in this country. Someone has quite appropriately put the situation in perspective by saying that long after the Arabs have used all their oil we will still have our coal and they will be begging us to share it with them.

Mr. Chairman, we have large quanti-

ties of coal in this country. There is considerable coal that has been mined by surface mining in the district which I am privileged to represent. A lot of the land has been left in a condition that is relatively worthless. Very little effort has been made to restore it.

Within the last year or two there has been a State law passed in Missouri which is a long step in the right direction.

For some reason I find that there are misgivings as to whether or not State enforcement will be either as effective or as diligent as Federal control. I do not believe that the Federal Government enjoys any great advantage over the States on enforcement, but I do believe that a way must be found to use the coal to be mined by so-called strip mining or surface mining without complete destruction of the land.

In my judgment, a coal company should not be permitted to walk away and leave a large stretch of what could be called "badlands." These lands should not be left in a scarred condition.

Surface mining simply cannot be eliminated. It is too important a source of coal to be eliminated. That is why I oppose the Hechler substitute, which would virtually stop all strip mining. On the other hand, there must be a requirement that the land must be put back in such a condition that it may be used again. The very obvious and apparent reason for this kind of mining is that there is just not enough coal left in the country to do otherwise

Mr. Chairman, I might be constrained to take a much less enthusiastic view of H.R. 11500 if it were not for the fact that our entire coal industry does not rise or fall simply by what happens to surface or strip mining. It is difficult to acquire accurate figures and statistics, but if my information is correct, perhaps as little as 3 percent and certainly not much over 5 percent of our coal is mined as the result of surface mining operations. Certainly more will be surface-mined in the future. But now is the time to take some reasonable precautions to put the land back in a condition so that it can be used.

H.R. 11500 has been amended; it has been moderated; it has been improved by a series of amendments. There is no longer a requirement that the land be put back in its original condition, but that it be put back in a condition where it is usable. For example, the bill has been modified to the point that if cost-wise it would be prohibitive to put the land back to where it could be cultivated for such agricultural purposes as the growing of corn, then there is the alternative of an option to restore the land to where it could serve as orchardland or forestland. These are all reasonable amendments. That is why I find as we come near the end of this debate that I am able to support H.R. 11500.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. RANDALL) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. DELLENBACK TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. DELLENBACK. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. DELLENBACK to the committee amendment in the nature of a substitute: Line 11, page 232, insert "having an interest which is or may be adversely affected" between "person" and "may.".

Delete line 25 on page 232, and line 1 on page 233 through "as the case may be", and insert in place thereof "order such violation or failure to be corrected".

Beginning on line 7, and continuing on line 8, page 233, delete "regardless of the amount involved or citizenship of the parties".

Mr. DELLENBACK. Mr. Chairman, this does three things to the citizen suit section. It makes it clear that the person bringing a suit must have an interest which is or may be adversely affected. Second, it clears up some confused language at the bottom of page 232 and makes clear that the power to order correction of the violation is present. Third, on page 233 it removes the extra broadening of the jurisdiction of the court by deleting the words "regardless of the amount involved or citizenship of the parties" and leaves in effect the normal bases for going into Federal court as the pertinent bases.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I support the gentleman's amendment. I think it is very good and sound.

Mr. DELLENBACK. I thank the gentleman.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this is similar to the amendment which was offered by the gentleman from Missouri. We thought it was implied in the bill clearly that one had to have an interest adversely affected, but the gentleman's language makes it specific and clears this question and makes it a better bill. We would accept the amendment.

Mr. DELLENBACK. Mr. Chairman, I appreciate the gentleman's remarks.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. DELLENBACK) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. RONCALIO OF WYOMING TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. RONCALIO of Wyoming. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. RONCALIO of Wyoming to the committee amendment in the nature of a substitute: Page 200 on line 4 change the semicolon after "manner" to a period and add the following proviso: *"Provided,* That nothing in this subsection shall be construed to prohibit the standard method of room and pillar continuous mining."

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO of Wyoming. Mr. Chairman, I yield to the gentlewoman from Hawaii.

Mrs. MINK. Mr. Chairman, this is again another amendment offered by the Pennsylvania delegation to make sure that this method of underground mining is clearly understood to be an acceptable procedure provided all other assurances of the subsection are met. It was clearly the intent of the bill. I urge the amendment be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wyoming (Mr. RONCALIO) to the Committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENTS OFFERED BY MR. KETCHUM TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. KETCHUM. Mr. Chairman, I offer two amendments to the committee amendment in the nature of a substitute, and I ask unanimous consent to have them considered en bloc despite the fact that they are to two sections, but they are very similar amendments.

The Clerk read as follows:

Amendments offered by Mr. KETCHUM to the committee amendment in the nature of a substitute: Page 161, line 6, following line 6 insert a subsection (d) as follows:

"(d) Prior to the approval of a state program the Secretary shall prepare a surface coal mining and reclamation economic impact report for each state seeking financial assistance under this Act. The surface coal mining and reclamation economic impact report shall be submitted to the Committee on Interior and Insular Affairs of the United States Senate and House of Representatives."

Page 161, line 25, following line 25 insert a subsection "(d)" to read as follows:

"(d) The Secretary shall prior to the implementation of a federal program pursuant to this Act, prepare a surface coal mining and reclamation economic impact report, for each state in which a federal program is to be implemented, and the Federal Lands Program to be implemented pursuant to section 225 of this Act. The surface coal mining and reclamation economic impact report shall be submitted to the Committee on Interior and Insular Affairs of the United States Senate and House of Representatives.

The CHAIRMAN. Is there objection to the request of the gentleman from California to consider his amendments en bloc?

There was no objection.

Mr. KETCHUM. Mr. Chairman, these two amendments, I really believe that even the authors of this bill will accept, principally because they do no damage to the bill in any way, shape or form. They do not delay anything. All that it says that prior to the approval or disapproval, an economic impact statement will be filed and it will come to us.

It is not going to deny anybody a permit. It will come to us, so that we can see what we have or have not done to affect the economy of the area. It could include, as an example, a description of the economy of the State, the returns from mined coal and the impact of mined improvements, what effect it will have on the public schools, roads, et cetera.

We have addressed ourselves to this in the bill in some sections. I can see no objection to this amendment. It is only going to let us know what we have done to the States and to the Federal Government economically.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. KETCHUM) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. KETCHUM) there were—ayes 19, noes 21.

Mr. KETCHUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendments to the committee amendment in the nature of a substitute were rejected.

AMENDMENT OFFERED BY MR. ANDREWS OF NORTH DAKOTA TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. ANDREWS of North Dakota. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. ANDREWS of North Dakota to the committee amendment in the nature of a substitute: On page 239, line 20, delete the word "may" and insert in lieu thereof the word "shall" and reletter accordingly.

Mr. ANDREWS of North Dakota. Mr. Chairman, if amended, this provision under the Federal lands section would read as follows:

The Secretary shall require as one of the terms and conditions of any permit, lease or contract to surface mine coal owned by the United States that the lessee, permittee or contractor give satisfactory assurances that the anti-trust laws of the United States will be complied with and that no class of purchasers of the mined coal shall be unreasonably denied purchase thereof.

The rationale behind my amendment is to guarantee to smaller coal companies and other purchasers with smaller requirements the availability of Federal coal. At the present time, sales patterns of coal leased by the Federal Government are characterized by disproportional availability to the larger purchasers resulting in a disadvantage to the small purchasers.

What this amendment simply does is to require the Secretary of the Interior to see to it that lessees—permittees of Federal coal comply with our Nation's antitrust laws.

The necessity of guaranteeing smaller companies access to Federal coal is seen by noting that fewer than 5 percent of the surface coal mines in the United States produce as much as 200,000 tons of coal annually. In addition, 65 percent of the 2,300 surface coal mines in the United States produce 50,000 tons or less a year. Certainly, the small surface coal mines should have the protection of this country's antitrust laws without waiting for the Department of Justice to initiate proceedings or having to undergo the large economic burden themselves and perhaps have to experience long judicial delays. With the demands of the energy crisis upon us, everyone should be assured that they will have equal access to the vast reserves of strippable Federal coal on the most equitable basis possible.

For these reasons, I urge your adoption of this amendment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this is a good amendment. It says that the Secretary shall carry out the antitrust laws, and helps the little utilities and little companies. It says that there will not just be emphasis on the bigs.

Mr. Chairman, I accept the amendment and hope it is adopted.

Mr. RONCALIO of Wyoming. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Wyoming.

Mr. RONCALIO of Wyoming. Mr. Chairman, would the gentleman mind asking unanimous consent to strike the word "permanent?" All leases are temporary to some extent.

Mr. ANDREWS of North Dakota. Mr. Chairman, my amendment, if I could advise my colleague from Wyoming, is very simple. It just deletes the word "may" and inserts in lieu thereof the word "shall." It changes none of the other language. It just changes "may" to "shall."

Mr. RONCALIO of Wyoming. I thank the gentleman.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from California.

Mr. HOSMER. Mr. Chairman, I oppose the amendment on the grounds that I think it would be too restrictive.

Mr ANDREWS of North Dakota. I can appreciate the comment of the gentleman, but this is something we feel we need in our area, and to enforce the antitrust laws, I think, is in the best interests of this Nation. When the gentleman looks at the charts out in the lobby, he will see how the concentration of energy is coming to be in fewer and fewer bigger companies.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, I wholeheartedly support the amendment offered by the gentleman from North Dakota.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, does that mean, however, that if a company opens a coal mine in the future, it cannot develop long-term contracts with one or two utilities, but actually must make its coal available even on a short-term basis to anyone who comes along?

Mr. ANDREWS of North Dakota. Not at all. It merely says that the company has to comply with the antitrust laws and not discriminate.

Mr. RUPPE. It does not mean, then, that it has to guarantee availability to every type of user?

Mr. ANDREWS of North Dakota. It means it has to comply with the antitrust laws of the country.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentlewoman from Hawaii.

Mrs. MINK. Mr. Chairman, I want to commend the gentleman for offering this amendment, and I certainly support it. I hope it can be adopted.

The CHAIRMAN. The question is on the amendment to the committee amendment in the nature of a substitute offered by the gentleman from North Dakota (Mr. ANDREWS).

The amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. ECKHARDT TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. ECKHARDT. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT to the committee amendment in the nature of a substitute: On page 166, after line 5, add the following sentence: "After a person having an interest which is or may be adversely affected has filed a petition and before the hearing, as required by this subsection, any person may intervene by filing allegations of facts with supporting evidence which would tend to establish the allegations.".

Mr. ECKHARDT. Mr. Chairman, this goes to a matter that is not related to the citizens' suit question, but deals only with administrative procedure. Section 206 petition may be filed that no strip mining be done in a given area.

Under section 206 it is stated that any person having an interest which is or may be adversely affected shall have the right to file such petition.

I do not disturb that language at all, because nobody ought to be able to commence such a proceeding unless he is threatened by some action that contemplates strip mining.

I merely insert a provision on page 166, after line 5, saying that after such an administrative process is commenced, any person may intervene and file a like petition stating that person's interest.

What this would do is simply provide what most administrative processes permit anyway; that is, persons representing a public interest, but not having a specific private interest, may state their objection to strip mining in the area, or for that matter, may assert an interest in strip mining in the area.

Of course, it would be completely in-

appropriate for us to permit the commencement of a hearing before a committee of Congress by someone, a member of the general public. But on the other hand, it would be entirely improper for us to restrict our hearing only to those who come in and prove to us an interest after the hearing has begun.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I find this amendment acceptable, although I am unable to agree completely with the text of the gentleman's amendment, As I understand it, all the gentleman is saying in this amendment, is that someone can intervene and that the public can be heard in the hearing, provided that someone who has an interest has initiated the process in the first place.

Mr. ECKHARDT. That is right, and this is not in the lawsuit. This is only in the administrative process.

Mr. UDALL. For that purpose, I think it is a good amendment. The more participation we have, the better will be the procedure.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Do I understand that the intervenor would not be an instigator on the question of the administrative ruling? Is that correct?

Mr. ECKHARDT. That is right.

Mr. STEIGER of Arizona. Anybody can question it?

Mr. ECKHARDT That is right. It has to be started first by the party in interest.

Mr. STEIGER of Arizona. The party in interest must start it?

Mr. ECKHARDT. Yes.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia to the committee amendment in the nature of a substitute: Page 172, line 4, strike the word "and" and insert therein the following subsection:

"(12) the area proposed to be mined does not include any terrain with slopes greater than 20 degrees from the horizontal; and".

Renumber the following subsections accordingly.

Mr. HECHLER of West Virginia. Mr. Chairman, this is a very reasonable amendment. It does not go as far as the amendment which was sponsored by the gentleman from Georgia (Mr. YOUNG), which initiated a 20-degree ban on strip mining in the mountains during the interim period.

This action does not take effect for 38 months, or until the permanent standards take effect.

Mining on steep slopes is the most destructive form of mining.

I think it is very unfortunate that in the course of discussion of this bill, we have accepted amendments which the industry can live with, and we have accepted amendments that the people cannot live with.

It seems to me, Mr. Chairman, that this Capitol is swarming with lobbyists from the coal companies and utilities. As a matter of fact, I just wondered how coal can be mined during this week with all the coal and utility executives here.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from California.

Mr. HOSMER. Mr. Chairman, as long as the gentleman is speaking about lobbying, I think he ought to know that on the floor of this House there is a known member of the staff who works for the Appalachia Commission, and he has been here throughout the consideration of this bill. If that is not lobbying, I do not know what lobbying is. He has been right smack in the middle of the room.

Mr. HECHLER of West Virginia. Mr. Chairman, I decline to yield further to the gentleman.

I suggest also that the life of the people in the mountains has been threatened even more by an amendment that was apparently drafted by the West Virginia Surface Mining and Reclamation Association which was sent down here to try to weaken opposition to mountaintop removal, which is the most devastating form of mining.

Mr. Chairman, I suggest that the people of the mountains do not have an opportunity to be recognized here.

Mr. SLACK. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I gladly yield to the gentleman from West Virginia.

Mr. SLACK. Mr. Chairman, I will ask the gentleman this:

Has my friend visited any of the model mines in the State of West Virginia?

Mr. HECHLER of West Virginia. I have. I will state further I have not been impressed by those mines.

Mr. SLACK. Mr. Chairman, I will ask this further question:

Did the gentleman take the delegation to those mines when the delegation visited West Virginia, or did the gentleman take them to the mines that were surface-mined back during World War II and in the early 1950's?

Mr. HECHLER of West Virginia. Mr. Chairman, I will ask the gentleman: Where was he when the gentlewoman from Hawaii (Mrs. MINK) and the gentleman from Arizona (Mr. UDALL) came to West Virginia to see these mines?

Mr. SLACK. I am advised the gentleman took them to the old mines but did not take them to the model mines engaged in mountaintop mining. Is that not true?

Mr. HECHLER of West Virginia. Mr. Chairman, I will advise the gentleman that we went right over the Cannelton Mine in Montgomery, W. Va., and I am sure the delegation inspected model mines.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentlewoman from Hawaii.

Mrs. MINK. Mr. Chairman, I would like to concur with what the gentleman (Mr. HECHLER) said; that our subcommittee did indeed try to put together a balanced field inspection trip. We went to see what we considered were the worst examples that were readily available to us, and we did take the time to examine those areas which the industry suggested were the best evidences of reclamation.

I believe the gentleman (Mr. HECHLER) was with us throughout the entire trip, and he made a definite contribution toward our understanding of the problems in the State of West Virginia.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, if the Members will go out and look at the color photographs in the Speaker's lobby, they will see photographs I made on our subcommittee trip showing the very areas we are talking about, depicting the good mountaintop mining and other practices in West Virginia and bad practices in West Virginia. They can see that the differences between the good and bad practices are striking and significant.

Mr. HECHLER of West Virginia. Mr. Chairman, I appreciate the gentleman's comment. I also appreciate the support of the very able gentlewoman from Hawaii, which refutes the contention of my good friend, the gentleman from West Virginia, that we did not visit these areas.

The gentleman was in Charleston at the time, and he could very well have accompanied the committee. I do not want to put this argument on a personalized basis, Mr. Chairman, because I want to speak up for the people who are being threatened in these areas and who will continue to be threatened.

Most of the talk so far has been in terms of protecting those who sit in the board rooms and whose profits may be cut by some action of the Congress. It seems to me that we must face up to this issue very directly as representatives of the people and protect those people who are being threatened by strip mining in the mountains.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

POINT OF ORDER

Mr. HOSMER. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. HOSMER. Mr. Chairman, the gentleman from Arizona has spoken for a minute and 20 seconds already.

The CHAIRMAN (Mr. SMITH of Iowa). The Chair will state that under the rule, when the amendment has been printed

in the RECORD, the author of the amendment gets 5 minutes in support of his amendment and an opponent gets 5 minutes in opposition to the amendment, regardless of a time limitation.

The Chair overrules the point of order.

Mr. UDALL. Mr. Chairman, in this bill we have tried to legislate results, not particular techniques or practices. We have said that if operators can responsibly mine and reclaim on 20 degrees or 30 degrees or 25 degrees with modern equipment, technology and methods, they can go ahead and mine if they can produce a satisfactory result and reclaim the land in accordance with provisions of this act. I do not know what the technology is going to be 5 or 10 years from now, but this amendment would artificially place out of bounds all the coal that happens to lie on slopes above 20 degrees.

Mr. Chairman, we rejected by a very substantial vote a very similar amendment offered by the gentleman from Georgia (Mr. YOUNG) the other day. I think it would be unwise to take this arbitrary action at this time, and I oppose the amendment.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Chairman, I thank the gentleman for yielding.

I do not know, but perhaps in this instance those Members who oppose this amendment may not have had the benefit of the subcommittee's disclosures. If they did, I believe they would support this particular amendment.

In my view it is time we stopped being cosmetic. If we are going to control strip mining we had better control strip mining. So I urge the support of the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

I thank the gentleman for yielding.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. UDALL) there were—ayes 20, noes 25.

Mr. HECHLER of West Virginia. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the committee amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. ECKHARDT TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. ECKHARDT. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT to the committee amendment in the nature of a substitute: Page 205, line 16, after the word "person" strike all through the word "interest".

Mr. ECKHARDT. Mr. Chairman, this is a section that goes to a process under the bill by which permits are issued.

On page 205, it is permitted that—

Any person with a valid legal interest or the officer or head of any Federal, State, or local governmental agency or authority shall have the right to file written objections to the proposed surface mining and reclamation operation . . .

There has been a rather complex interpretation of who is a person with an interest contained in the Mineral King case. Of course, the Mineral King case dealt with a legal proceeding in court and what constituted standing in such a proceeding. In that case it was held that there must be some person who is himself among the injured in order for that person to have standing in court.

As the Members will remember, that case involved a commercial intrusion in a very beautiful area. The Sierra Club was objecting, but the Sierra Club was held not to have standing because it had not shown that any individual interest was involved.

Mind you, this amendment does not go to any court proceeding. All this does is permit any person—and that would include a person with a real and true knowledge and interest in environmental concerns—to call for a process before the agency, in which a public hearing would be held to find out whether strip mining was desirable or undesirable.

For the life of me I cannot see any reason why organizations of concerned citizens, merely because they are not directly and personally affected in an adverse way should not also be heard in such administrative hearings.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I cannot imagine what is going to happen to the small operator in this country if each time he applies for a mining permit anyone in the United States anywhere can make an immediate effort to have this application blocked. I would say that this would mean the end of the small operator.

Mr. ECKHARDT. Mr. Chairman, I decline to yield further. The gentleman from Michigan should speak on his own time.

Mr. Chairman, I have had experience in this area with respect to hearings held by the Corps of Engineers respecting dredging for oyster shells in Galveston and Trinity Bay, and similar hearings by the Corps of Engineers with respect to projects leading toward the purchase of land to move persons out of areas of subsidence.

These hearings are not difficult. Fifty or 75 people may be heard in a day or two. The control of the hearing is completely under the agency. It is not like a law case in which one is entitled to subpena information, to use discovery process, to cross-examine witnesses.

All this amendment calls for is the protection of a right of a concerned individual or organization to appear and make his case. That is all. It does not say he has the right to cross-examine; it does not say he has the right of appeal; but would we for a moment deny a person the right to come before one of our committees because he did not show himself to be a lobbyist with a specific interest but was simply representing what he thought was in the public good? All this amendment does is let a concerned citizen have the same voice as a corporation or individual with a commercial interest in the administrative proceeding.

Mr. Chairman, I ask for an aye vote on the amendment.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment goes contrary to the spirit of the Randall and Dellenback amendments which we adopted earlier which seeks to give some assurance. We are not going to have these proceedings and court proceedings wide open to any person who simply wants to harass someone applying for a permit. I see the rationale behind the gentleman's proposal, and under other circumstances it might be agreeable. We have repeatedly given assurances to industry and those concerned about how for this bill reaches; but we are not going to open wide the doors to any little old lady in Toledo with a bad disposition and a typewriter to harass any coal operator any place in the United States.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from California.

Mr. HOSMER. I thank the gentleman for yielding.

Obviously there is some sort of a ground swell for this particular phraseology that is offered by the gentleman from Texas. I suspect that it would either be accepted here or in the conference.

Mr. UDALL. No; I can assure the gentleman that the gentlewoman from Hawaii (Mrs. MINK) and I consider that we have a balanced bill, with the Randall and Dellenback amendments.

Mr. HOSMER. I think the gentleman from Arizona's and the gentlewoman from Hawaii's misconception that they have a balanced bill is what has kept us on the floor here for lo these 9 days now.

Mr. UDALL. I thought there was a question on the disposition of the balance.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. ECKHARDT) there were—ayes 3, noes 15.

So the amendment to the committee amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. FRASER TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. FRASER. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

PARLIAMENTARY INQUIRY

Mr. HOSMER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HOSMER. Is the gentleman's amendment being offered under rule XXIII, clause 6?

Mr. FRASER. Mr. Chairman, the amendment has been printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. FRASER to the committee amendment in the nature of a substitute: Page 172, line 4, strike the word "and" and insert therein the following subsection:

"(12) the area or region in which the mining is to take place has an annual average precipitation of at least ten inches; and".

Renumber the following subsections accordingly.

Mr. FRASER. Mr. Chairman, the purpose of my amendment is to prohibit surface mining of coal where average annual rainfall is less than 10 inches.

The National Academy of Sciences, in a February 1974 study, "Rehabilitation Potential of Western Coal Lands," states:

Those areas receiving 10 inches (250 mm) or more of annual rainfall can usually be rehabilitated.

The drier areas cannot—at least easily—

Revegetation of these areas can probably be accomplished only with major, sustained inputs of water, fertilizer, and management. . . . Rehabilitation of the drier sites may occur naturally on a time scale that is unacceptable to society, because it may take decades, or even centuries, for natural succession to reach stable conditions.

It has been pointed out that a better index of rehabilitation potential would be "the ratio of precipitation to evaporation during the growing season"—but, in any case, 10 inches of annual rainfall represents a minimum threshold for successful reclamation.

The Department of the Interior has estimated that two-thirds of the land stripped for coal has never been reclaimed—over 2.5 million acres, an area larger than the State of Delaware. Several million acres more have been rendered inaccessible through highwalls created when coal is scooped from hillsides by contour strip mining, walls as high as 100 feet.

Successful reclamation requires four things: First, restoration of the land to approximate original contours; second, elimination of highwalls; third, no deposit of spoil on downslopes; and fourth, revegetation.

Revegetation is the last and vital step in reclamation. Without it, we cannot prevent erosion or lessen acid runoff.

Water is the key element in success revegetation. The National Academy of Sciences study notes:

Effective precipitation (that which both wets the soil minerals and is available to growing plants) is the determinant factor for successful plant growth and soil development.

All the evidence confirms that successful reclamation is not possible in extremely arid areas.

EPA's Russell Train and John Quarles have called for strict controls on surface mining where reclamation is possible and an absolute prohibition on such mining where restoration of the land is not possible.

My amendment would prohibit strip mining of coal only where all agree successful reclamation cannot take place—where average annual rainfall is less than 10 inches. I ask for your support of this amendment to the committee bill, to provide the minimum protection needed for the land concerned.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. I wish to ask the gentleman a question. Is the gentleman's language dependent upon the previous 12-month rainfall or the previous decade for the average annual rainfall or the previous century's mean rainfall? On what does the gentleman predicate the 10 inches?

Mr. FRASER. It is an annual average so the average would be established by taking the rainfall over a period of time.

Mr. STEIGER of Arizona. Over what period of time does the gentleman have in mind, is my question. Is it the prior century? It is important because of course there are areas in which there is a rather wide fluctuation of rainfall, from none to very little.

Mr. FRASER. I would assume a period over a decade would be reasonable.

Mr. STEIGER of Arizona. The gentleman has not put that in his language but he feels this colloquy will solve that. Is that correct?

Mr. FRASER. My view would be that what is called for is a period of time sufficient to predict the likely average for the period during which revegetation has to take place. I would assume a decade would be reasonable under the circumstances.

Mr. STEIGER of Arizona. I know the gentleman must have given this a great deal of thought and I am disappointed he did not come up with this. Since this is an absolute prohibition we should have some absolute parameter to the definition. Would the gentleman agree it is a little vague as it is as to how we would establish the 10-inch rainfall requirement?

Mr. FRASER. It is my understanding that official records are kept for various areas of the country that identify average levels of rainfall and that this is an established and standard concept. The exact length of the period necessary for the purposes of my amendment could best be established by administrative regulation. The details would be worked out by the Department of Interior, under normal administrative procedures. The principle, however, should be established in the law.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Mr. Chairman, the official figures on rainfall are determined and published by the National Oceanographic and Atmospheric Administration and they are very clearly delineated as to which sections of the country have 10 inches of rainfall or less than or more than 10 inches of rainfall. I respect the gentleman from Arizona very much but I think he has raised a rather quibbling question. The National Academy of Sciences has very clearly set forth in its study the damage which can be done in those areas which are stripped where the rainfall is less than 10 inches, and the impossibility of reclamation. These figures are available to the gentleman as they are to other Members of Congress.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from California.

Mr. HOSMER. Mr. Chairman, the period of time you are going to average the figures is of course vital because there are not only annual particular rainfall variations but they also vary in the decades.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. HOSMER. Mr. Chairman, I rise in opposition to the amendment.

This kind of amendment we have before us is an example of the charade that is being played here on the floor. Today, I have not indulged in a lot of quorum calls because the die has been cast. The troops are heading toward the cliff and they are going to walk over it, come what may, with this bill. I just want my warnings printed in the RECORD so that those who may be here next year and the year after will be able to read that the gentleman from California (Mr. HOSMER) said with this bill we shall have a coal shortage, an energy shortage and a depression. During subsequent elections, I want the Members to try and explain why they participated in this kind of folly which will bring disaster to this great Nation.

The amendment, that is brought before us concerning average annual rainfall, does not specify the period over which the average is to be calculated; an omission demonstrating the highest kind of idiocy. Average rainfall is dependent upon the period of time selected and will vary in accordance with that criterion. Similar ambiguity hung up the courts for 10 years in the case of Arizona against California and prevented the progress in the reclamation of the West.

This amendment is typical of other provisions throughout this legislation. This bill was written by a man who is on the floor today, who is not even an employee of the House and who has significantly contributed to an environmentally overweighted bill, a bill that ignores other national values which are necessary to maintain a viable society.

Even if my opposition to this one amendment were successful, however, that would not begin to make a dent in the improvements in this bill that are required.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HOSMER. I yield to the gentleman from Arizona.

Mr. UDALL. I dispute almost everything the gentleman has said. And I join him in his opposition to this amendment. It raises an absolute standard. We require a 10-year period of bonding in these western regions. An operator has to come in with a plan to revegetate before he can get a permit. Just as I opposed the general prohibition of mines on 20-degree slope, I oppose this amendment.

Mr. HOSMER. This is similar to the situation when John Paul Jones was fighting a battle at sea. "Down came the sails and the mast," and John Paul said, "Let's not give up the ship."

And one of the besmeared and gunsmoked men said, "There is always somebody that doesn't get the word."

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. HOSMER. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Does the gentleman disagree with the National Academy of Sciences that it is impossible to reclaim where rainfall is under 10 inches?

Mr. HOSMER. Beauty is in the eye of the beholder. That is not what the report of the National Academy of Sciences said.

Mr. HECHLER of West Virginia. If the gentleman will just read the report——

Mr. HOSMER. I do not yield any further. I demand regular order.

I make the point of order that the gentleman is out of order.

That report from the National Academy of Sciences said no such thing.

Mr. HAYS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Fifty-five Members are present, not a quorum.

The Chair announces that we will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred and one Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The gentleman from California is still recognized for 1 minute.

Mr. HOSMER. Mr. Chairman, I urge that Members reject the pending amendment or that Members who want to see this bill made even more subject to a veto that it already is, adopt the pending amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. FRASER) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. HOSMER TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HOSMER. Mr. Chairman, under rule XXIII, clause 6, I offer my amendment No. 45 to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HOSMER to the committee amendment in the nature of a substitute: Page 162, line 20, strike out "SEC. 206." and insert a new "SEC. 206" to read as follows:

"SEC. 206. (a) To be eligible to assume primary regulatory authority pursuant to section 203, each State shall establish a planning process enabling objective decisions to be made based upon public hearings and competent and scientifically sound data and information as to which, if any, areas or types of areas of a State (except Federal lands) cannot be reclaimed with existing technology to satisfy applicable standards and requirements of law. The State agency will not issue permits for surface coal mining of such areas unless it determines, with respect to any such permit, that the technology is available to satisfy applicable performance standards.

"(b) The Secretary, and, in the case of national forest lands, the Secretary of Agriculture, shall conduct a review of the Federal lands and determine, pursuant to the standards set forth in subsection (a) of this section, areas or types of areas on Federal lands which cannot be reclaimed with existing technology to satisfy applicable standards and requirements of law. Permits for surface coal mining will not be issued to mine such areas unless it is determined, with respect to any such permit, that the technology is available to satisfy applicable performance standards.

"(c) In no event shall a permit for surface coal mining operations be issued after the date of enactment of this Act for lands located within any area of the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, or the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act: *Provided, however,* That this paragraph shall not prohibit surface mining operations in existence on the date of enactment of this Act, or those for which substantial legal and financial commitments were in existence prior to September 1, 1973; but, in no event shall such surface mining operations be exempt from the requirements of this Act.

"(d) In no event is an area to be designated unsuitable for surface coal mining operations on which surface coal mining operations are being conducted on the date of enactment of this Act, or under a permit issued pursuant to this Act, or where substantial legal and financial commitments in such operations are in existence prior to the date of enactment of this Act. Designation of an area as unsuitable for mining shall not prevent mineral exploration of the area so designated."

Mr. HOSMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HOSMER. Mr. Chairman, under the same conditions, I offer in addition my amendments Nos. 121, 127, 118, and 142 to the committee amendment in the nature of a substitute, and I ask unanimous consent that all of these amendments be considered en bloc and considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HOSMER. Mr. Chairman, I make the additional unanimous consent request that instead of the 25 minutes to which I might be entitled because of the application of rule XXIII, consisting of 5 minutes for each one of these amendments, notwithstanding that rules, I be recognized only for 5 minutes in *toto*.

The CHAIRMAN. The Chair will advise the gentleman that 5 minutes on his amendments considered en bloc is all the time the gentleman is entitled to in any event.

Amendments Nos. 121, 127, 118, and 142 offered by Mr. HOSMER are as follows:

Amendments offered by Mr. HOSMER to the committee amendment in the nature of a substitute: Page 227, line 11, strike out "SEC. 221." and insert "SEC. 221." to read as follows:

SEC. 221. (a)(1) Any action of the Secretary to approve or disapprove a State program pursuant to section 203 of this Act or to prepare and promulgate a Federal program pursuant to section 204 of this Act shall be subject to judicial review only by the appropriate United States Court of Appeals upon the filing in such court within thirty days from the date of such action of a petition by any person who participated in the administrative proceedings related thereto and who is aggrieved by the action praying that the action be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to the other parties, the Secretary, and the Attorney General and thereupon the Secretary shall certify and the Attorney General shall file in such court the record upon which the action complained of was issued, as provided in section 2112 of title 28, United States Code.

(2) Any promulgation of regulations by the Secretary pursuant to sections 211, 212, and 225 of this Act shall be subject to judicial review only by the appropriate United States Court of Appeals in accordance with the procedures set forth in subsection (1) of this section.

(3) All other orders or decisions issued by the Secretary pursuant to this Act shall be subject to judicial review only in the United States District Court for the locality in which the surface coal mining operation is located. Such review shall be in accordance with the Federal Rules of Civil Procedure. In the case of a proceeding to review an order or decision issued by the Secretary under section 224 of this Act, the court shall have jurisdiction to enter an order requiring payment of any civil penalty assessment enforced by its judgment.

(b) The court shall hear such petition or complaint on the evidence presented and on the record made before the Secretary. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

(c) In the case of a proceeding to review any order or decision issued by the Secretary under this Act, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate

pending final determination of the proceeding if—

(1) all parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief;

(2) there is a substantial likelihood that the person requesting such relief will prevail on the merits of the final determination of the proceeding; and

(3) such relief will not present imminent danger to the public health and safety or cause significant imminent environmental harm to the land, air, or water resources which cannot reasonably be considered reclaimable within the scope of the bonded reclamation plan.

(d) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the order or decision of the Secretary.

Page 229, line 24, strike out "SEC. 222." and insert a "SEC. 222." to read as follows:

SEC. 222. (a)(1) A notice or order issued to a permittee pursuant to the provisions of subparagraphs (a) (2) and (3) of section 220 of this title, or to any person having an interest which is or may be adversely affected by such notice or order or by any modification, vacation, or termination of such notice or order, may apply to the Secretary for review of the notice or order within thirty days of receipt thereof or within thirty days of its modification, vacation, or termination. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing, at the request of the applicant or person having an interest which is or may be adversely affected, to enable the applicant and such person to present information relating to the issuance and continuance of such notice or order or the modification, vacation, or termination thereof. The filing of an application for review under this subsection shall not operate as a stay of any order or notice.

(2) The permittee and other interested persons shall be given written notice of the time and place of the hearing at least five days prior thereto. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code.

(b) Upon receiving the report of such investigation, the Secretary shall make findings of fact, and shall issue a written decision, incorporating therein an order vacating, affirming, modifying, or terminating the notice or order, or the modification, vacation, or termination of such notice or order complained of and incorporate his findings therein.

(c) Pending completion of the investigation required by this section, the applicant may file with the Secretary a written request that the Secretary grant temporary relief from any notice or order issued under section 220(a)(3) of this title together with a detailed statement giving reasons for granting such relief. The Secretary may grant such relief, with or without a hearing, under such conditions as he may prescribe, if—

(1) the applicant shows that there is substantial likelihood that the findings of the Secretary will be favorable to him; and

(2) such relief will not present imminent danger to the health or safety of the public or cause significant imminent environmental harm to the land, air, or water resources which cannot reasonably be considered reclaimable within the scope of the bonded reclamation plan.

(d) Following the issuance of an order to show cause as to why a permit should not be suspended or revoked pursuant to section 220(a)(4), the Secretary shall hold a public hearing after giving written notice of the time, place, and date thereof. Any such hearing shall be of record and shall be subject to section 554 of title V of the United States Code. Within sixty days following the public hearing, the Secretary shall issue and furnish to the permittee and all other parties to the hearing a written decision, and the reasons therefor, concerning suspension or revocation of the permit. If the Secretary revokes the permit, the permittee shall immediately cease surface coal mining operations on the permit area and shall complete reclamation within a period specified by the Secretary, or the Secretary shall declare as forfeited the performance bonds for the operation.

(e) In view of the urgent need for prompt decision of matters submitted to the Secretary under this section, action shall be taken as promptly as practicable, consistent with adequate consideration of the issues involved.

Page 221, line 23, strike out "SEC. 220." and insert a "SEC. 220." to read as follows:

SEC. 220. (a)(1) Whenever, on the basis of any information available, including receipt of information from any person, the Secretary has reason to believe that any person is in violation of any requirement of this Act or any permit condition required by this Act, the Secretary shall notify the State regulatory authority, if one exists, in the State in which such violation exists. If no such State authority exists or the State regulatory authority fails within ten days after notification to take appropriate action to cause said violation to be corrected or to show good cause for such failure and transmit notification of its action to the Secretary, the Secretary shall immediately order Federal inspection of the surface coal mining operation at which the alleged violation is occurring unless the information available to the Secretary is a result of a previous Federal inspection of such surface coal mining operation. When the Federal inspection results from information provided to the Secretary by any person, the Secretary shall notify such person when the Federal inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection.

(2) When, on the basis of any Federal inspection, the Secretary or his authorized representative determines that any permittee is in violation of any requirement of this Act or any permit condition required by this Act, which violation also creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant imminent environmental harm to land, air, or water resources, which cannot reasonably be considered reclaimable within the scope of the bonded reclamation plan, the Secretary or his authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the violation has been abated.

(3) When, on the basis of a Federal inspection which is carried out during the enforcement of a Federal program or a Federal lands program, or during Federal enforcement of a State program in accordance with subsection (b) of this section, the Secretary or his authorized representative determines that any permittee is in violation of any requirement of this Act or any permit condition required by this Act, but such violation does not create an imminent danger to the health or safety of the public, or cause or can be reasonably expected to cause significant imminent environmental harm to land, air, or water resources which cannot reasonably be considered reclaimable within the scope of the bonded reclamation plan, the Secretary or his authorized representative shall issue a notice to the permittee or his agent fixing a reasonable time for the abatement of the violation. If, upon the expiration of the period of time as originally fixed or subsequently extended, the Secretary or his authorized representative finds that the violation has not been abated, he shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the violation has been abated.

(4) When, on the basis of a Federal inspection which is carried out during the enforcement of a Federal program, or a Federal lands program, or during Federal enforcement of a State program in accordance with subsection (b) of this section, the Secretary or his authorized representative determines that a pattern of violations of any requirements of this Act or any permit conditions required by this Act exists or has existed, and if the Secretary or his authorized representative also finds that such violations are caused by the unwarranted failure of the permittee to comply with any requirements of this Act or any permit conditions, or that such violations are willfully caused by the permittee, the Secretary or his authorized representative shall forthwith issue an order to the permittee to show cause why the permit should not be suspended or revoked.

(5) Notices and orders issued pursuant to this section shall set forth with reasonable specificity the nature of the violation and the remedial action required, the period of time established for abatement, and, where appropriate, a reasonable description of the portion of the surface coal mining and reclamation operation to which a cessation order applies. Each notice or other order issued under this section shall be given promptly to the permittee or his agent by the Secretary or his authorized representative who issues such notice or order, and all such notices and orders shall be in writing and shall be signed by such authorized representative. Any notice or order issued pursuant to this section may be modified, vacated, or terminated by the Secretary or his authorized representative. A copy of any such order or notice shall be sent to the State regulatory authority in the State in which the violation occurs.

(b) Whenever the Secretary finds that violations of an approved State program appear to result from a failure of the State to enforce such program effectively, he shall so notify the State. If the Secretary finds that such failure extends beyond thirty days after such notice, he shall given public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Secretary that it will enforce this Act, the Secretary shall enforce any permit condition required under this Act, shall issue new or revised permits in accordance with the requirements of this Act, and may issue such notices and orders.

(c) The Secretary may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the surface coal mining and reclamation operation is located or in which the permittee thereof has his principal office, whenever such permittee or his agent (A) violates or fails or refuses to comply with any order or decision issued by the Secretary under this Act, or (B) interferes with, hinders, or delays the Secretary or his authorized representative in carrying out the provisions of this Act, or (C) refuses to admit such authorized representative to the mine, or (D)

refuses to permit inspection of the mine by such authorized representative, or (E) refuses to furnish any information or report requested by the Secretary in furtherance of the provisions of this Act, or (F) refuses to permit access to, and copying of, such records as the Secretary determines necessary in carrying out the provisions of this Act. Such court shall have jurisdiction to provide such relief as may be appropriate. Temporary restraining orders shall be issued in acordance with Rule 65 of the Federal Rules of Civil Procedure, as amended. Except as otherwise provided herein, any relief granted by the court to enforce an order under clause (A) of this subsection shall continue in effect until the completion or final termination of all proceedings for review of such order under this title, unless, prior thereto, the district court granting such relief sets it aside or modifies it.

Section 225: Page 239, line 5. After the word "every" insert "new or".

Mr. HOSMER. Mr. Chairman, my amendment to section 206 revises the provisions of section 206 so that a decision relative to the unsuitability of an area for coal surface mining is based upon the reclaimability of that area.

Also, the prohibition against coal surface mining in national parks, wildlife refuges, wilderness areas, and wild and scenic rivers is moved from section 209 to section 206 where it more properly belongs. This will require the adoption of a conforming amendment to section 209 which I will offer later.

With respect to the prohibition of surface coal mining in national forests, Secretary Morton in his May 29, 1974, letter to Chairman HALEY of the House Committee on Interior and Insular Affairs, specifically opposes this proscription. He said:

National forests should be left open for coal development under multiple use principles.

Therefore, the proscription on coal surface mining in national forest lands is eliminated.

The only true test as to whether an area should be designated unsuitable for coal surface mining is: "Can the area be satisfactorily reclaimed?" Other criteria in the bill for so designating areas amount to the taking of an easement—without compensation—for public purposes. If surface coal mining operations would be incompatible with Federal, State, or local plans to achieve essential governmental objectives, it follows that the Federal, State or local government should acquire such lands for such public purposes.

Under existing provisions of H.R. 11500 the mere existence of Federal, State, or local plans for the use of that land at some future time is sufficient to deny the owner his full rights to the use and enjoyment of his property. From reading the language of the bill, plans may or may not be public, they may or may not be approved, and they may or may not be subject to approval by a duly constituted legislative body, and it is possible that the "essential governmental objective" may be to acquire the land at the lowest possible cost for budgetary purposes. If such plans are for the purpose of providing "essential governmental" service, then compensation should be paid, since under our form of government, no landowner should be singled out to carry the financial burden for governmental functions whose beneficiaries are the public in general.

The area may also be designated as unsuitable for surface mining if it is "a fragile or historic land area." Under such circumstances the designation of an area as unsuitable for surface mining is the equivalent of the taking of an easement. Historic lands should be preserved for public purposes, if they are significant. Under such circumstances their preservation can only be accomplished appropriately through the expenditure of public funds for the acquisition of such lands or through some form of voluntary agreement. If they are indeed lands of historic significance, they should be publicly acquired, publicly managed, and made available for the use and enjoyment of the public generally. No single landowner should be saddled with the burden of preservation of historic lands for the benefit of the public.

Over the past decade the House Interior and Insular Affairs Committee has acted upon literally hundreds of bills to acquire and preserve fragile and historic lands. Except in the cases of gifts, the committee has never failed to provide for compensation to the current landowners. The inclusion of this provision flies in the face of that consistent policy which is, of course, consistent with the Constitution. The effort to achieve a similar result through executive fiat, the authority for which is granted in a measure ostensibly providing for the regulation of surface mining reclamation is inappropriate. The House Interior Committee has performed its duty well in providing protection for historic lands and other important land areas requiring preservation, and there is no reason to believe the committee will fail to perform its duty in the future.

Section 206 of H.R. 11500 also provides for the designation of an area unsuitable for surface mining if the mining would affect renewable resource land areas. Mineral resources are not always located conveniently for mining operations, but must be mined where they are found. The fact that some exist on lands supporting a renewable resource should not be a deterrent to their exploration—rather the fact that the land supports a renewable resource should be another factor to be considered in the reclamation plan and the subsequent use of the land to be approved by the appropriate authority. The existence of a "renewable resource" on the land tends to indicate that reclamation can be highly successful, and that the renewable resource can be reestablished in accordance with the principle of sequential multiple use.

And, finally, section 206 provides that an area may be designated as unsuitable for surface mining if such mining would affect "natural hazard lands." This provision was, obviously borrowed from land use legislation, but is inappropriate in surface mining reclamation regulation legislation. If by "natural hazard lands" it is meant areas subject to flood, such as a flood plain, surface mining may actually prove beneficial and lessen the hazard to neighboring lands. But, the construction of major facilities, such as airports, highway interchanges, powerplants and the like, may be unwise on such hazardous lands. If "natural hazard lands" means an area subject to seismic activity, surface mining, if there are mineable deposits, may be the only reasonable use of the land area. Certainly, public facilities, certain industrial facilities, and housing projects should not be constructed in such areas, so those uses would not be "competing." The existence of high seismic activity would have a greater potential impact upon the location of underground mines than on surface mines. In short, the provision makes little sense when applied to surface mining.

This amendment preserves the prohibition against surface coal mining on lands located within any area of the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, or the Wild and Scenic Rivers System—including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act—despite the fact that the Secretary of the Interior expressed grave reservations over the proscription "based on our concern with legislative taking of existing private rights."

Mr. Chairman, my amendment to section 220 will substitute the Federal enforcement language of section 217 in H.R. 12898 for the language of section 220 of H.R. 11500. The principal differences are twofold:

First. A shutdown order under the existing language of the bill may be based upon "a condition, practice, or violation." My amendment would change this so that a shutdown order must be based on a violation of the act or of a permit condition.

Second. Under the existing language of section 220, a shutdown order may be issued in cases of "significant, imminent environmental harm." My amendment would qualify that so the "significant, imminent environmental harm" is not merely a disruption caused by the mining, which is and can be reasonably considered reclaimable within the scope of the bonded reclamation plan.

With respect to the first change, a shutdown order is drastic action. Such drastic action must be limited to violations of the act or violations of a permit condition so that the operator knows what activities can result in the issuance of a shutdown order leaving it so vague as to include a "practice or condition" does not give the operator adequate or proper notice of what constitutes a shutdown situation.

With respect to the second change, that is the disruption to the environment "cannot reasonably be considered to be reclaimable within the scope of the bonded reclamation plan," this language

is added to make certain that "significant, imminent environmental harm" does not mean that the mining can be stopped when such environmental disruption will be corrected in the reclamation process. Mining does cause a disruption to the land, just as subway construction, agriculture, and many other human activities do. But the land will be reclaimed—the bill guarantees this by its bonding provision. However, if a stop-mining order can be issued for disruption to the land, even though the disruptions will be corrected in the reclamation process, H.R. 11500 would indeed be a prohibitory bill. While this may not be the intention of the committee bill, it is the effect.

Mr. Chairman, my amendment to section 221 substitutes the language of section 215 of H.R. 12898.

Under the provisions of the existing section 221, judicial review of the approval of a State program shall be in the court of appeals. A petition for review must be filed within 60 days. My amendment would shorten that period to 30 days, but its authorization would not disturb the principal provisions in this regard.

Promulgation of regulations by the Secretary are made subject to review in the court of appeals by my amendment. No mention of judicial review of the Federal regulations is now contained in section 221. Certainly the promulgation of regulations is a matter of such great importance in the administration of this act that judicial review must be clearly and specifically authorized.

Another change made by my amendment is in regard to the record and evidence upon which review may be based. Under the existing language of section 221, judicial review shall be based solely upon the record made before the Secretary. My amendment would allow evidence to be adduced in addition to the hearing record before the Secretary for such judicial review.

With respect to the review of orders and decisions of the Secretary, my amendment achieves two corrections: First, it removes a redundancy with respect to granting temporary relief from an order; and secondly, inserts the qualifier relative to environmental harm that is "reasonably considered to be in the reclamation plan." My new subsection (c) states clearly that no temporary relief from any order or decision can be granted if such relief would present "imminent danger to the public health and safety or caused significant environmental harm."

The existing language of subsection 221(c) exempts the review of any order issued under subsection 220(a)(2), which are orders relative to public health and safety or significant environmental harm. Since relief cannot be granted under my amendment if it would cause imminent danger to public health and safety or significant environmental harm, the exemption for review of such orders is redundant, and may work to deny the operator temporary relief from an erroneous order issued under the provisions of section 220(a)(2).

The qualifier relative to environmental harm that is reasonably considered to be reclaimable within the scope of the bonded reclamation plan, is added so that shutdown orders based upon environmental considerations are reviewable and temporary relief may be granted when those environmental matters will be reclaimed and corrected under the bonded reclamation plan.

Finally, subsection (e) which relates to the review of State programs is eliminated as unnecessary. The existing subsection (e) places jurisdiction for review of action by the State regulatory authority in State courts. It is clear that such law would govern anyway, and, therefore, this subsection is surplusage.

Mr. Chairman, I urge the adoption of my amendment.

The principal changes respecting secretarial review are threefold: First, with respect to the granting of temporary relief by the Secretary, pending completion of the investigation by the Secretary, he is granted discretion as to whether to hold a public hearing in the locality of the permit area or not. Under the existing language of subsection 222(c) the Secretary must hold a public hearing, which requires notice to parties, publication of time and place, conduct of the hearing, and preparation and review of the transcript.

The purpose of temporary relief is to avoid undue hardship in cases where there is some question over the propriety or correctness of the order. To require a public hearing with all the delays therein entailed would render the provision for such relief a hollow promise indeed. However, if the Secretary feels a hearing should be held, he can require one. It would depend upon the circumstances, and under my language, the Secretary could use his discretion as to whether a hearing was indicated or not. Under the existing language, he has no such discretion.

Second, my amendment incorporates the qualifier that the order or notice from which temporary relief is sought, is not one which can reasonably be considered reclaimable within the scope of the reclamation plan. This would make this section consistent with other amendments I have offered, and consistent with the concept that insofar as reclamation will be carried out and environmental disruptions will be corrected, mining itself should not be allowed as an excuse for unrealistic orders or notices.

Third, my amendment adds a new subsection (e) which recognizes the urgent need for prompt decisions with respect to all matters submitted to the Secretary under the provisions of this section. It exhorts the Secretary to give prompt consideration to all such matters as it is practicable. Members know of instances where important appeals or other decisions have been before the Department of the Interior for substantial periods of time. If administrative review is to be meaningful, it must be conducted promptly, especially since judicial review may not be available until it is completed.

Mr. Chairman, I urge the adoption of my amendment.

The amendment to section 225 is necessary to conform section 225 with similar changes already adopted in section 201 of Mink substitute, section 201, paragraph (h)—allowing both new and existing surface coal mining operations to operate—in order to avoid an 18-month, or longer, moratorium on Federal coal leasing.

In this period of energy shortage, such a moratorium is unwise, unnecessary, and inappropriate. Furthermore, a "freeze" has been in force on Federal coal leasing for nearly 3 years, an additional 18 months will only further aggravate the current shortage.

Since a permanent Federal lands program cannot be inaugurated until after judicial approval of a Federal program—see subsection 201(h), specifically lines 14–15 on page 156—the moratorium could extend far beyond the 18 months; and, judging by recent experience with the Alaska pipeline, that moratorium could extend for years; while the energy shortage becomes more acute.

I would say to my friends on the committee that I know that these amendments are not going to be accepted, but I ask that they be accepted in accordance with the rule of reason, and under the dictates of sanity.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. HOSMER. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman for yielding.

I would like to say with respect to the gentleman's immediate past statement wherein the gentleman indicated that these amendments probably will not be accepted. I wonder if the gentleman in the well, in looking about this great Chamber and the number of Members who are present listening to this very technical, specific and very bad bill, whether the gentleman from California does not feel about like he did in the committee and the action that was taken there?

Mr. HOSMER. Mr. Chairman, I will say to the gentleman from California that I do feel about the same.

When the lights are going out, and there is no air-conditioning and very little heat, when the general public is in an uproar, and looking for the reason of the energy shortage, I will tell the people of our Nation to point their fingers at the U.S. Congress.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendments offered by the gentleman from California (Mr. HOSMER).

Mr. Chairman, I appreciate the cooperation of the gentleman from California in presenting these amendments en bloc, because they are largely rewrites of sections of title II, and I think that with their rejection we will be able to go ahead with title III.

Most of them, as I see them, were in

the Hosmer substitute that was defeated the other day, and I suspect that most of this language will be in the motion to recommit that will be offered at the conclusion of the debate. I believe that the proper course of action to take would be consistent with that which we have done before, and that would be to reject these amendments.

Mr. RONCALIO of Wyoming. Mr. Chairman, would the gentleman yield?

Mr. UDALL. I yield to the gentleman from Wyoming.

Mr. RONCALIO of Wyoming. Mr. Chairman, I would like to comment on Mr. Hosmer's remarks on the energy shortage in America. He assigns the blame on our bill to regulate these resources to decently regulate strip mines, mainly.

It is largely caused by the fact of the concentration of economic power in fewer and fewer companies over the last 40 or 50 years and the absence of vigorous antitrust prosecutions. Thus more and more of our energy resources passed into fewer and fewer hands so that free enterprise became less and less free, and became more and more the consortium of a combination of companies in restraint of trade. So today we have found virtually every source of energy in the hands of a handful of men on the boards of some of the larger central banks of America, and interlocking directorates of major power companies.

This can be cured, ironically enough, by the passage of good legislation like this, now being hampered by the gentleman from California, Mr. HOSMER who is making a grim parliamentary stand to impede it today. Because he, CRAIG HOSMER knows more about uranium enrichment requirements of the next few decades than possibly any person in America outside of a handful of top echelon men in AEC today.

So, Mr. Chairman, I hope that the gentleman from California (Mr. HOSMER), when this bill is passed, can proceed to assure that we avoid uranium enrichment gaps in this Nation.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Mr. Chairman, I thank the gentleman for yielding, and I want to commend the gentleman from Wyoming (Mr. RONCALIO) representing as the gentleman does a State which was once represented in the Senate by the late great Senator Joseph O'Mahoney, an implacable foe of monopoly. I would point out to the gentleman that 16 out of the top 17 holders of coal reserves in our Nation are oil corporations, steel companies, railroads, and metals interests. I wish to commend the gentleman for pointing out this concentration of power in the coal industry.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California Mr. HOSMER to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. HOSMER), there were—ayes 13, noes 19.

Mr. SYMMS. Mr. Chairman, I demand a recorded vote and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Sixty-four Members are present, not a quorum. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 408]

Arends	Gray	Patman
Ashley	Griffiths	Podell
Beard	Hanna	Powell, Ohio
Boggs	Hansen, Idaho	Rarick
Brasco	Hansen, Wash.	Rees
Breaux	Harsha	Reid
Burke, Mass.	Holifield	Rhodes
Burton, Phillip	Horton	Rooney, N.Y.
Carey, N.Y.	Howard	Rosenthal
Chamberlain	Hudnut	Rostenkowski
Chisholm	Jones, Okla.	Sikes
Clark	Jones, Tenn.	Sisk
Clay	Kluczynski	Steed
Collins, Ill.	Lehman	Steele
Culver	Lujan	Stokes
Davis, Ga.	McKinney	Sullivan
Davis, S.C.	McSpadden	Teague
Dennis	Martin, Nebr.	Thompson, N.J.
Diggs	Mazzoli	Whitten
Dorn	Minshall, Ohio	Wiggins
Evins, Tenn.	Mollohan	Wilson,
Flynt	Murphy, N.Y.	Charles H.,
Fraser	O'Neill	Calif.
Gettys	Passman	

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SMITH of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11500, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 365 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Chair notes that after the division vote, the gentleman from Idaho had requested that this vote be taken by a recorded vote.

Mr. SYMMS. Mr. Chairman, I withdraw my request.

So the amendments to the Committee amendment in the nature of a substitute were rejected.

The CHAIRMAN. Are there further amendments to title II? If not, the Chair will now compile a list of those Members seeking to debate or offer amendments to title III, and it will allocate the 20 minutes of debate accordingly.

Members standing at the time of the Chair's anncuncement will be recognized for 2 minutes each.

AMENDMENT OFFERED BY MR. HOSMER TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HOSMER. Mr. Chairman, according to rule XXIII, clause 6, I offer my amendment No. 144 to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HOSMER to the committee amendment in the nature of a substitute: Page 242, line 16, strike out all of "title III" and insert a new "title III" to read as follows:

"TITLE III—INDIAN LANDS SURVEY

"SEC. 301. (a) The Secretary is directed to study the question of the regulation of surface mining on Indian lands which will achieve the purposes of this Act and recognize the special jurisdictional status of these lands.

"(b) In carrying out this study the Secretary shall consult with Indian tribes, and may contract with or grant to Indian tribes, qualified institutions, agencies, organizations, and persons.

"(c) The study report shall be submitted to the Congress as soon as possible but not later than January 1, 1975."

Mr. HOSMER (during the reading). Mr. Chairman, I ask unanimous consent that further reading of my amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HOSMER. Mr. Chairman, the regulation of surface mining on Indian lands presents unique problems because of the number of different tribes involved and because of the diverse physical, climatic, and geological conditions characteristic of the lands and the coal seams where surface mining occurs.

It may well be in order for a national surface mining law to apply to Indian lands. However, neither the Environment and Mines and Mining Subcommittees nor the full Interior Committee heard testimony from tribes presently engaged in coal surface mining or contemplating surface mining arrangements. My amendment makes it possible for all interests to participate in a thorough ventilation of the issues.

Section 301 would direct the Secretary of Interior to study the question of the regulation of surface mining on Indian lands.

Moreover, it further directs the Secretary to consult with the various tribes, and authorizes the Secretary to contract with or make grants to tribes qualified institutions, agencies, organizations, and persons knowledgeable in this area.

Finally, my amendment requires the results of the study to be submitted to the Congress as soon as possible but not later than January 1, 1975.

And, it is my intention that this report establish the basis for congressional hearings on the subject, providing the tribes with the opportunity to be heard. In the interim, the Secretary of Interior presently has more than ample authority to protect the surface values of all Indian lands from potential ravages of unchecked surface mining. The Secretary now must approve all mineral leases and permits, and pursuant to other sections in H.R. 11500, the Secretary is directed to include terms and conditions in such leases which will meet the environmental protection standards in the bill.

Now, this amendment makes sense to me. It apparently makes sense to a lot of others, too. I am advised—by Mr. Jack Ross who represents the Crow—that In-

dian tribes that have coal rights, such as the Crow of Montana, the Arapaho of Wyoming, the Shoshone of Wyoming, and the three affiliated tribes of the Fort Berthold Reservation in North Dakota, and the Northern Cheyenne Indians of Montana, support my amendment—they want to be heard. The National Congress of American Indians, and the National Tribal Chairmen's Association also support the study amendment. This endorsement represents more than 90 percent of the entire Indian population in this country.

Without this amendment, the surface mining program which would be established by title III of the bill would create an unnecessary and ill-advised overlay. The Secretary of the Interior now has adequate authority to protect Indian lands and is exercising that authority. Both Federal and Indian resources would be needlessly diverted to the separate programs which title III would authorize. This would result in overtaxing the already limited manpower and financial resources available for surface mine reclamation work and dilute the effectiveness of such programs on Indian lands.

The Senate-passed bill contains a similar study provision. Those of us who will be going to conference and want a bill this year, certainly do not need still another point of contention.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. HOSMER. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I will ask the gentleman this:

Is it correct that the language the gentleman is offering in the form of an amendment to this bill is the identical language that is now contained in the Senate legislation and is a part of that legislation?

Mr. HOSMER. I believe it is; at least, it is very similar.

Mr. RUPPE. Mr. Chairman, I will inform the gentleman what I have said is correct, that it is the same language which is presently in the Senate bill.

Mr. MELCHER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment offered by the gentleman from California (Mr. HOSMER), although it may be similar or identical to the language in the Senate-passed bill, is not truly what the Senate wanted nor is it truly what the Indians wanted.

At the time the Senate enacted its bill last fall, there had not been agreement among the Indian tribes which have a great deal of coal on their lands as to what provisions affecting their land they wanted in the strip mine bill. Since last fall, we have held a series of meetings with various Indian tribes which have coal in order to determine what their wishes were. They elected to have a section contained in this bill giving them jurisdiction over reclamation programs on their own reservations. We have carefully worked out the details with them on this title of the bill. Except for one section of the bill, they are in agreement.

Mr. Chairman, I think I can tell the Members of the House truthfully and honestly that the tribes with the greatest amount of coal in this country are in favor of the House today enacting this title as is. As to the section where they have disagreement, they would like to have that reconsidered in the conference committee between the House and the Senate when the final version of the bill is drafted.

I hope that the House will agree to this title. It has been carefully worked out with Indian tribes. It is important, if Indians on their own reservations are going to go ahead and allow coal development. They want that jurisdiction themselves. They would prefer not to be under the jurisdiction of any State. They would prefer also to have the opportunity to establish that jurisdiction for themselves, meeting the requirements of this bill. If they can do so, this title and this section of the bill says they may have that opportunity. Without this right they are apprehensive about coal development on their reservations. If they fail to meet the requirements, then the Secretary of the Interior would have to take over for them. If they seek higher standards, that is their right, too, under this bill as it is drafted.

I urge defeat of this crippling amendment denying Indians their rights.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HOSMER) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was rejected.

The CHAIRMAN. If there are no further amendments to title III, the Chair will now compile a list of those Members seeking to debate or to offer amendments to title IV, and will allocate the 15 minutes of debate accordingly.

Those Members desiring to be recognized for such purposes will stand.

The Chair will state that the Chair will recognize the Members who were standing for 3 minutes and 20 seconds each.

The Chair recognizes the gentleman from Ohio (Mr. HAYS).

AMENDMENT OFFERED BY MR. HAYS TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HAYS. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HAYS to the committee amendment in the nature of a substitute: Page 251, line 18, strike the word "stated:" and insert in lieu thereof: "stated, and in carrying out the purposes of this Act, the Secretary shall give priority to the county in which the minerals were mined."

Mr. HAYS. Mr. Chairman, I believe that I can explain this amendment in approximately 1 minute.

All it does is to state that the Secretary in this orphan land business, in the reclamation of abandoned land, shall see that when the money goes to the States that they cannot just juggle it around for any reason, political or otherwise, which will not give priority to the county in which the minerals were mined, or those in which the most damage was done.

That is all the amendment does. I think it is only fair that it should be done that way.

At the moment we have a Democratic Governor in Ohio, and I am sure that he would be fair, as I suspect his opponent would be, but, let us make sure that the Democratic Governor does not overlook some Republican counties in Ohio which had damage, and just give priority to Democratic counties, or vice versa if the sad day ever comes that we get a Republican Governor.

Mr. UDALL. Mr. Chairman, if the gentleman from Ohio will yield, the gentleman has discussed this amendment with us. I like the spirit of the amendment in that it carries out that which we really intend to be done; that is, money is going to be placed where the damage occurs, and where the coal is mined.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I think the amendment is certainly going to be a very useful one, because it is likely a number of mines will be closed because of this legislation. I think, however, that I should point out that it may not be the panacea or the guarantee that it sounds under the legislation. I say that because in the first year there could be $200 million collected under what is really a severance fee. But 50 percent of that money can be taken by the States for reclamation or conservation purposes, and 40 percent of the remainder automatically goes back to local government. It is very likely, instead of $200 million being available from the severance tax for reclamation purposes that $60 million will be available.

Mr. HAYS. Mr. Chairman, I will say that I consider this to be a directive to the States to allocate the money this way; not only the Secretary, but the States. So to that extent it will be helpful.

Mr. Chairman, I have subsequent amendments which will give priority in the reclamation to companies which will be adversely affected, I doubt if any will be, or men whose employment may have been adversely affected, and I doubt that any will be.

Mr. RUPPE. Mr. Chairman, will the gentleman yield further?

Mr. HAYS. I yield to the gentleman from Michigan.

Mr. RUPPE. I thank the gentleman for yielding.

The reason I express my concern is that up to 50 percent of severance tax money goes to the States. That money can be used by the States possibly for reclamation, but it also can be used for conservation purposes. I just want to point out that there is no real assurance that the States will use their 50 percent

of the tax money for reclamation purposes.

Mr. HAYS. Perhaps the gentleman should offer another amendment saying they have to use it, and I would buy it.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentlewoman from Hawaii.

Mrs. MINK. I thank the gentleman for yielding.

I understand this amendment to mean that even with respect to the States' shares that the Governors in those instances have to spend the money in those areas?

Mr. HAYS. Which give priority, that is right. That is exactly my intent.

Mr. RONCALIO of Wyoming. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Wyoming.

Mr. RONCALIO of Wyoming. I appreciate the gentleman's yielding.

I have a slightly different problem, because three or four counties in Wyoming will be affected by mining in one particular county.

And in Decker, Mont., a few miles north of Sheridan, Wyo., its mine location is in one State, but massive impact on municipal services falls on Sheridan, Wyo. These are local and unique problems that will be ironed out under the gentleman's excellent amendment. I hope it is accepted.

Mr. HAYS. If the reclamation is there, it will also have an impact.

Mr. SEIBERLING. Mr. Chairman, I also rise in support of the gentleman's amendment, and would also like to say that in the amendment that I will offer, the same intent obtains.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. HAYS) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. SEIBERLING TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. SEIBERLING. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING to the committee amendment in the nature of a substitute: Section 401, page 250, line 5 through page 251, line 5, strike subsection (d) and (e), substitute the following new subsections, and renumber the remaining subsection accordingly:

(d) All operators of coal mining operations which are subject to this Act shall, not later than 60 days following the end of the calendar year 1975 and each calendar year thereafter, pay a reclamation fee to the Secretary equal in amount to $2.50 per ton of coal mined by the operator during the preceding calendar year, except that:

(1) A credit, in the amount of $0.01 for each 1000 British Thermal Units (BTU) or major fraction thereof by which the weighted average BTU value of coal mined by the operator during the year falls below 16,000 BTU per pound, shall be allowed upon presentation of reasonable proof; and

(2) A credit not to exceed 90 per centum of the total fee due shall upon presentation of reasonable proof be allowed for any incremental costs and expenses which have been incurred by the operator during such year for—

(A) reclamation activities, facilities and equipment required in order to comply with the standards established by or pursuant to sections 201, 211, and 212 of this Act.

(B) activities, facilities and equipment required in order to comply with the Coal Mine Health and Safety Act of 1969 as amended (Public Law 91–173; 83 Stat. 742);

(C) activities, facilities and equipment required in order to comply with the Federal Water Pollution Control Act (33 U.S.C. 1151–1175) in connection with the mining operation; and

(D) the amount of any reclamation fee, license fee, severance tax or other similar charge required by law to be paid by the operator to any State with respect to coal mining operations in such State, in the proportion that the proceeds of such fee, tax or charge are used by the State to support reclamation activities comparable to those provided for by this Title, but not to exceed 16 per cent of the total fee due before the credits allowable under paragraphs (1) and (2) of this subsection;

(3) Incremental costs and expenses, as used in paragraph (2) of this subsection, means all costs and expenses (including costs of equipment and facilities previously purchased but not previously amortized in accordance with generally accepted accounting practices) which have been necessarily incurred by the operator for the purpose of complying with the particular provisions of law referred to in subparagraphs (A) through (E) of paragraph (2) and which would not have been necessary in the absence of such provisions of law. In no event shall the total of such costs and expenses allowable to the operator under subparagraph (A) of paragraph (2) for a particular calendar year exceed the total amount of the bond or bonds required under section 216(a) with respect to the area in which the operator has completed the extraction of coal during such calendar year.

(e) The Secretary shall make a study of the effect of the reclamation fee and, within six months after the close of the twelve-month period ending June 30, 1977, and in each twelve-month period thereafter, shall report to Congress the results of the study with respect to its effects on the coal mining industry, including the relative competitive positions of deep coal mining and surface coal mining in each major coal mining region of the United States. With his report, he shall include his recommendations as to the extent, if any, that the reclamation fee should be increased or decreased in order to enable the deep coal mining industry to compete effectively with the surface coal mining industry.

(f) The Secretary shall periodically cause an audit to be made of the operations and records of each operator required to pay a reclamation fee under subsection (d) of this section, to determine the correctness of any credits claimed under said subsection. The Secretary shall promulgate regulations governing the imposition, collection, and audit of the reclamation fee and credits. In preparing such regulations, the Secretary shall consult with the Secretary of the Treasury to arrange, so far as feasible, for the Internal Revenue Service to assist in performing auditing activities under this subsection. Any amount taken by the operator as a credit under subsection (d) of this section that has been finally determined as not qualifying for credit thereunder shall be repaid by the operator to the Secretary promptly after such final determination shall have been made, together with interest, at the rate of 6% per annum from the date such credit was taken, and any penalty imposed by law. A determination by the Secretary as to the amount of fee or credit payable by or allowable to an operator shall be deemed prima facie correct.

(g) On or before July 1 of each year, 37½ per centum of the amounts received into the fund from reclamation fees paid under subsection (d) of this section with respect to coal mined in each State shall be paid to the governments of the respective States in which the coal was mined. Such money shall be used by such States, or political subdivisions thereof, for acquisition, reclamation, conservation or development of the public lands of the State, or political subdivisions thereof, or of lands reserved to or owned, within the State, by any Indian tribe, giving prime consideration, in accordance with the priorities set forth in section 402, to the needs of communities which supply or have supplied the major part of the work force for current or former coal mining operations.

Mr. SEIBERLING (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. SEIBERLING. Mr. Chairman, my amendment is also printed in the CONGRESSIONAL RECORD of July 16 on page 23638. I believe I am entitled to speak under the 5-minute rule.

Mr. Chairman, this amendment has been debated at great length in the committee. It was adopted by the subcommittee in substance, and it was removed from the bill by a fairly close vote in the full committee. I am offering it again for purposes of not only the amendment itself but to focus our attention on a problem that besets the coal industry.

What are some of the coal facts of life? The first fact is that only 3 percent of the coal in this country can be mined by the strip mining method, and even if you eliminate coal reserves that cannot be mined by available technology, only 18 percent of the available coal can be mined by strip mining. If we allow strip mining to take over from deep mining and allow the deep mining industry to collapse, in another 20 years we are going to have to reconstitute it from scratch.

I submit that because of the nature of deep mining and the fact that the techniques are handed down from one generation to the next, it will be extremely difficult to do that.

A third coal fact of life which I would like to get across is that there are 2.5 million acres of orphan lands which have been stripped and not reclaimed and have been abandoned. Also there are many deep mines which have been abandoned and which are polluting the waters of our land.

My amendment is a very simple concept. It puts all the coal producers on the same footing as far as congressionally imposed costs are concerned, and I include in those costs not only the costs of reclamation but also coal mine safety

requirements which were imposed by earlier legislation.

Second, it would provide an adequate fund to reclaim orphan lands, which the provision in the present bill would not do.

Here is what my amendment does not do.

It does not add $2.50 a ton to the cost of mining coal, although that is the starting figure set forth in the amendment. After credits, the national average cost per ton of coal would be 92 cents—$1.60 for strip mines and 25 cents for deep mines.

It does not add significantly to the cost of electricity generated by coal. Adding an average of 92 cents to the cost of coal would still leave the cost of coal at less than half the cost of the equivalent of the heat value of oil. This is less than six-hundredths of a cent per kilowatt hour, which is 36 cents per month on the average home electric bill and less than the cost of a package of cigarettes. It is peanuts compared to the recent increases in price of coal, which went up as much as $24 a ton last year. It is peanuts compared to the cost of transporting western coal to the east, which is about $14 a ton.

It does not discriminate against low heat or high heat value coal. It has a clause providing for a Btu adjustment.

It does not result in multiple reclamation fees or similar charges, since credits would be allowed for all such State charges.

It is no more difficult to administer than the business deduction provisions of the Internal Revenue Code, with which industry is already well familiar.

It does not put the burden on the taxpayer to restore the damage caused by industry's past indifference and neglect, as would some proposals to take the fund out of the general revenues.

What does it do?

It restores the competitive balance to deep mine coal, where 97 percent of the coal is. If we really want to end the future destruction of our land surface and solve our energy shortage, we must go underground for coal.

It provides added incentive to make underground mining safer. Despite the coal mine safety law, we all know there is still a tremendous disparity in the safety records of deep mines.

It provides added incentives to good strip mine reclamation.

It provides a fund sufficient to restore the 2.5 million acres of orphan lands in about 15 years and end pollution and other dangers from old deep mines.

It provides reclamation, conservation and development funds for State and local governments to the extent of 37.5 percent of the fund with priority to benefit communities where the work force for the mines resides and where the mines are.

Finally, it puts all mines on the same competitive basis as far as legislatively imposed reclamation, safety, and pollution control costs are concerned.

I have letters from the Governor of the State of Ohio, Mr. Gilligan and the Governor of the State of Michigan, Mr. Milliken, supporting this amendment. I have talked personally to Governor Shapp of Pennsylvania who expressed his support. It is supported by the United Mine Workers, and the AFL–CIO of Ohio. All the leading conservation organizations support it.

AMENDMENT OFFERED BY MR. RUPPE AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. SEIBERLING TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. RUPPE. Mr. Chairman, I offer an amendment as a substitute for the amendment to the committee amendent in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. RUPPE as a substitute for the amendment offered by Mr. SEIBERLING to the committee amendment in the nature of a substitute:

Page 249, line 8, strike all through page 251, line 14 inclusive, and insert therein:

(b) There is authorized to be appropriated to the fund initially the sum of $125,000,000 and such sums as the Congress may thereafter authorize to be appropriated.

(c) The following other moneys shall be deposited in the fund;

(1) moneys derived from the sale, lease, or rental of land reclaimed pursuant to this title;

(2) moneys derived from any user charge imposed on or for land reclaimed pursuant to this title, after expenditures for maintenance have been deducted.

(d) Amounts deposited in the fund shall be available for the acquisition and reclamation of land under section 406, administration of the fund, acquisition and filling of voids and sealing tunnels, shafts, and entryways under section 407 and, for use by the Secretary of Agriculture, of up to one-fifth of the money deposited in the fund annually and transferred by the Secretary of the Interior to the Department of Agriculture for such purposes. Such amounts shall be available for such purposes only when appropriated therefor; and such appropriations may be made without fiscal year limitation.

Mr. RUPPE. Mr. Chairman, the amendment I have offered would do one thing very simply. It would delete the severance tax of 1.23 cents per million Btu's and 30 cents per ton on coal mined and substitute therefor an authorization annually of $125 million for mine reclamation purposes.

Mr. Chairman, if we look at the situation with many utilities around the country, and let us take New York for example, we find, first of all, that the utility can hardly pay its bills and certainly cannot afford to pay 30 cents or any additional amount of money for the coal it consumes for generation purposes. At the same time we find that the customers of that utility, the consumer of that power, is literally up in arms because of ever-increasing prices they have to pay for energy in the country today.

It seems to me it is very unfair of us at this particular time to adopt a severance tax on coal which is going to wind up being paid for, first, by the utilities and, secondly, by the millions of utility consumers around the United States today.

The second thing I worry about is the legislation as we have it on the books today, because actually the legislation will not really provide a measurable and substantial abandoned mine fund. In the first year the revenues from the severance tax could reach $200 million; but let us note that 50 percent of those revenues can be taken and utilized by the States for reclamation purposes possibly, but also for conservation purposes which would have nothing to do with abandoned mines.

Third, out of the money left, after the States take their half share, 40 percent is given to local governments for a variety of purposes that go way beyond the purposes of the reclamation fund.

So I would say there is a strong likelihood that only 30 percent of the moneys taken in the first $200 million of severance or excise tax from the consumer will be available to the Government for reclamation purposes.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. KETCHUM yielded his time to Mr. RUPPE.)

Mr. RUPPE. Mr. Chairman, I thank the gentleman for yielding his time.

The tax will be difficult to administer. Coal varies in amount of Btu's, not only around the country, but even in Appalachia. How is the small company possibly going to measure the amount of Btu's in coal taken during mining?

We talk about fiscal responsibility. This is back door spending in the amount of $200 million. This will rise to $600 million in not too many years. I think a Congress interested in fiscal responsibility should have a different way of addressing the abandoned mine fund.

So I would state again, Mr. Chairman, at a time when the consumers of electric power are up in arms over ever-rising costs of that energy and the utilities themselves, Con Edison, for example, cannot pay its bills, Detroit Edison has to sell its coal inventory because it cannot absorb ever-rising costs, it seems to me we ought to take the abandoned mine reclamation funds from the general revenue of the United States and have the nerve, the integrity, to stand up here and vote $125 million every year for reclamation. It is the type of appropriation I would vote for.

I certainly do not want to take $200 million this year out of the taxpayers' pocketbooks, $400 million in a couple of years and $600 million in a couple of additional years beyond that.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I support the gentleman's amendment. It makes a great deal more sense to me to make a general fund expenditure to take care of this than it does for the individual mining company to do that under State law anyway, to do that reclamation. What we are really trying to do is take care of those lands abandoned some years ago by poor policies in mining.

This way, the individuals all over the United States, all of the taxpayers who participate in the benefits of the coal extracted in that manner are going to have

an opportunity, if that is what we would call it, to help pay the bill. I think the gentleman is entirely correct. Without this amendment we are penalizing the coal mining companies, and of course, they are not going to pay the bill. The ultimate consumer is going to pay the total tax on this, and we do not all use coal.

Mr. RUPPE. I thank the gentleman for his comments.

I think it is absolutely correct that the Appalachian practices in the past are the responsibility of all the people of the United States, not the responsibility of those individuals who will be using coal as a source of fuel or as an ultimate source of energy.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Chairman, I rise in support of the gentleman's amendment and congratulate him for offering this amendment.

As a matter of fact, any ecologist in the country would tell us now, "Never put any taxes, particularly at this time, on food, energy, or fertilizers." Those are the three things no taxes should be added to.

Mr. RUPPE. I certainly agree with that. This is a poor time to saddle the consumers of this country with an extra $200 million tax burden, and the only thing they can look forward to out of this legislation as it is written now is the likelihood and knowledge that it is going to rise to a $400 million and then to a $600 million direct tax levied on already high energy costs.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, what about the taxpayers? It is going to saddle them.

AMENDMENT OFFERED BY MR. M'DADE TO THE AMENDMENT OFFERED BY MR. RUPPE AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. SEIBERLING TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. McDADE. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment to the committee amendment in the nature of a substitute.

POINT OF ORDER

Mr. SEIBERLING. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. SEIBERLING. Mr. Chairman, this is a third degree amendment on an amendment.

The CHAIRMAN. This is an amendment to the substitute.

Mr. SEIBERLING. It is an amendment to the substitute, which is an amendment to my amendment.

The CHAIRMAN. That is not in the third degree.

The Clerk read as follows:

Amendment offered by Mr. McDADE to the amendment offered by Mr. RUPPE as a substitute for the amendment offered by Mr. SEIBERLING to the committee amendment in the nature of a substitute: Page 249, strike out lines 15 through 16 and insert in lieu thereof the following:

(3) appropriations made to the fund, or amounts credited to the fund, under subsection (d).

Page 249, beginning on line 19, strike out "and enforcement and collection of the fee as specified in subsection (d)".

Page 250, strike out line 5 and all that follows down through and including line 14 on page 251 and insert in lieu thereof the following:

(d)(1) In addition to the amounts deposited in the fund as specified in paragraphs (1) and (2) of subsection (b) there are authorized to be appropriated annually to the fund out of any money in the Treasury not otherwise appropriated, such amounts as are necessary to make the income of the fund not less than $200,000,000 for the fiscal year ending June 30, 1975, and for each fiscal year thereafter.

(2) To the extent that any such sums so appropriated are not sufficient to make the total annual income of the fund amount to $200,000,000 for each of such fiscal years, as provided in paragraph (1), an amount sufficient to cover the remainder thereof shall be credited to the fund from revenues due and provide payable to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act. Moneys covered into the fund under this paragraph shall remain in the fund until appropriated by the Congress to carry out the purposes of this title.

Mr. McDADE (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The chair will advise the gentleman from Pennsylvania that the time has been set. The gentleman is not on the list.

Mr. McDADE. Mr. Chairman, may I say that I have this amendment printed in the RECORD. It has been printed for about 10 days.

The CHAIRMAN. This is an amendment drafted as an amendment to the Ruppe substitute, whereas the amendment which the gentleman caused to be printed in the RECORD was drafted as an amendment to the committee amendment.

(By unanimous consent Mr. ESHLEMAN yielded his time to the gentleman from Pennsylvania, Mr. McDADE.)

Mr. McDADE. Mr. Chairman, the amendment I am proposing to the reclamation fund takes a different view from the taxing approaches we have discussed. I would argue a broader view, because I believe we are dealing with the question of how we should be investing our resource money. I say "investing" because we have embarked upon a national commitment to develop our national energy supplies, and coal—our most abundant fossil fuel—is a key to such a commitment.

With this bill we are considering legislation that will get the country back into the coal business. While we proceed to develop the Nation's vast coal reserves, we cannot afford to forget about the 2.5 million acres of abandoned mine-damaged lands which still scar our country.

While no one disputes the need to make a commitment to reclaim abandoned mine lands, the question is how to fund this. I want to move away from the taxing concept involved in both the Seiberling amendment and the Jones amendment presently in the committee bill.

Any tax approach does two things, neither of which we want: First, a tax directly increases the cost of coal to the consumer, whether those consumers burn coal directly to heat their homes, as 43 percent of those in northeastern Pennsylvania do, or whether the electricity the consumer uses is generated by coal-fired utilities which are prevalent throughout the country. Under the tax approaches, these consumers are asked to shoulder the burden of one hundred years of mining damages. This is not reasonable.

Second, a tax is by definition a disincentive. If, as I think, this House has recognized the expanding need for coal as an energy source, how can we turn right around and slap a disincentive on the mining of that coal? We do not need such inconsistencies.

The approach I offer is simple. It takes the resource dividends we are gaining now through our Outer Continental Shelf lands and returns a small amount of these funds to reclaim the damage done in gaining another energy resource, coal.

My amendment provides for funding the abandoned mine reclamation fund from three sources:

First. The sale, lease, or rental of lands reclaimed pursuant to title IV of the committee bill;

Second. Any user charge imposed on or for land reclaimed pursuant to title IV of the committee bill, after expenditures for maintenance are deducted; and

Third. From up to $200 million appropriated annually from the Outer Continental Shelf receipts.

Presently, significant revenues are accruing to the Treasury from bonus bids and royalties stemming from Outer Continental Shelf lands. These increasing revenues represent our national effort to bring the oil reserves of the vast Outer Continental Shelf lands into production. In fiscal year 1974, $6 billion in receipts were generated from these sales. In fiscal year 1975, an estimated $7.6 billion will be generated, and in fiscal years 1976 and 1977, another $10 billion will result from Outer Continental Shelf lands. These funds are plentiful and available. They are resource dollars, and they are general revenues not earmarked for any specific purpose. A small percentage of them should be invested to protect land damaged by the development of another resource.

Mr. Chairman, I believe that one of the basic problems in developing a national energy strategy has been our lack of coordination. We must learn to look at the total problem. Coal cannot be developed independently from our other en-

ergy efforts, especially with the growing inter-relationships between coal, oil, and utility industries. I believe my amendment is a meaningful step forward in a national strategy to invest our mineral receipts wisely in a program of land reclamation. The concept of an abandoned mine reclamation fund is vital to this bill. I hope the members will join with me in creating a fund that prevents rising coal prices for consumers, some incentive to mine coal, and provides sufficient funds for land reclamation and restoration.

Mr. CRONIN. Mr. Chairman, I would like to point out, as a member of the committee that reported this legislation, that I agree completely with the gentleman's suggested amendment. Few of us will disagree that such a reclamation fund must be established to prevent further damage to our environment and to compensate States devastated by strip mining. These States will be able to use these funds for roads, schools, and health facilities so that this country will never again see another Appalachia.

We are all hit hard by taxes, but I think that further taxes on the coal industry at this time would provide one additional disincentive to do the reclamation work that is needed. This amendment would eliminate the taxing approach and would establish a new source of funding—receipts from the leasing of the Outer Continental Shelf. These receipts will reach $10 billion a year in the very near future, and I think that by going into this energy resource we can still provide the funds for reclamation to land devastated to obtain another energy resource.

In addition, I believe that a tax would only be passed on to the consumer—who has already been forced to pay accelerating prices for our energy. I do not believe that consumers should be forced to pay for the excessive damage done by the coal companies.

In Massachusetts, we have a fuel adjustment charge added to our electric bills which compensates the electric utilities for the higher prices of fuel needed to generate electricity. By taxing the coal industries, we will only be increasing our monthly fuel adjustment charges.

This amendment would earmark $200 million of the $10 billion in receipts. This is only 2 percent, and it still leaves plenty of that energy resource money to be utilized for such programs as land and water conservation funding and additional recreation needed by our country.

I congratulate my colleague for his amendment, and I urge my fellow colleagues to support it.

Mr. DELLENBACK. Mr. Chairman, will the gentleman yield?

Mr. McDADE. I yield to the gentleman from Oregon.

Mr. DELLENBACK. Mr. Chairman, I commend Mr. McDADE for this particular suggestion which is before us. I think reclamation is something which needs to be done. When it comes to the fund we are here looking at, Mr. Chairman, I think it is an equitable way of using these dollars. This assures the funding for a very worthwhile purpose.

Mr. McDADE. Mr. Chairman, I thank my colleague for his contribution. I hope the Members will consider this. There is not any reason for it to be limited at this juncture.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. McDADE. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I have an amendment to offer which would apply to this section of the bill, however I am going to support my colleague with respect to his amendment. I think it has a better chance of survival than the amendment I intend to propose.

(By unanimous consent, Mr. RONCALIO of Wyoming yielded one-half of his allotted time to Mr. McDADE.)

The CHAIRMAN. The gentleman from Pennsylvania is recognized for 1 additional minute.

Mr. RONCALIO of Wyoming. Mr. Chairman, will the gentleman yield for a question?

Mr. McDADE. I yield to the gentleman from Wyoming.

Mr. RONCALIO of Wyoming. I wondered about the question of leasing.

Mr. McDADE. We currently, as the gentleman knows, as a nation are engaged in considerable leasing on the Outer Continental Shelf. That revenue is now running at $7 or $8 billion a year. It goes into the Treasury as general receipts. It is unearmarked except that the land and water fund claims $300 million.

I would say of that $7 or $8 billion, let us earmark but $200 million and cover it into a fund to repair the mine-damaged landscape of our country.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. McDADE. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, at the moment there are about four different ways to finance the reclamation program. The way the gentleman suggests is innovative. It seems to get away from a lot of the arguments about deep versus surface mining.

I think the gentleman has done a real service in giving us an alternative that enables us to avoid a lot of these difficulties and arguments that may prevent us from having any kind of fund.

Mr. McDADE. Mr. Chairman, I thank my colleague.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. McDADE. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. Mr. Chairman, I am glad to support the amendment of my colleague from Pennsylvania. I had filed an amendment to this section that would have kept the severance fee in the State where it originated. My amendment would have encouraged the States to enact their own laws under Federal guidelines. The McDade amendment accomplishes the same goal by doing away with a national severance fee and thereby leaving the field open to the States to levy their own severance taxes to meet their socioeconomic needs as well as reclamation needs. It also gives the hard-pressed average householder relief from one more hike in the cost of living. The McDade amendment also represents fairplay for other regions as opposed to the Seiberling amendment which would double the fuel cost of lignite-powered plants in the Midwest.

Mr. Chairman, I appreciate the gentleman's offering this amendment. It solves this East-West problem.

Mr. McDADE. Mr. Chairman, I thank the gentleman. I think we can solve this problem for the Nation through this method. I think we can get away from increased coal taxes, increased electricity taxes, increased rates to the consumers, and still establish a reliable fund which we can use to get about the purpose of repairing the land.

Mr. EILBERG. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Pennsylvania (Mr. McDADE).

This amendment is predicated on a belief that the public at large rather than the coal industry should be responsible for meeting the cost of restoring land which has been despoiled by strip mining. First of all, I do not believe that this is a valid proposition, and second, there is no logical reason why OCS revenues should be used for this purpose.

In addition, I should bring to my colleagues' attention the fact that there are several conflicting views as to the proper recipients of revenues derived from the development of the Outer Continental Shelf.

For example, some have suggested that OCS revenues be reserved for the environmental impacts caused by the accelerated leasing program recently announced by the administration. Others have recommended that OCS revenues be shared with adjacent coastal States which are most seriously and directly affected by OCS development. In addition, my Subcommittee on Immigration, Citizenship, and International Law has pending before it H.R. 9132, which would share a portion of OCS revenues with adjacent coastal States while the remaining revenues would be placed into a Marine Resources Conservation and Development Fund. This bill has been introduced by the distinguished majority leader and has been cosponsored by 32 other Members of Congress.

Finally, our Government during the current negotiations on the law of the sea has proposed that the United States would share certain revenues derived from oil and gas production on the shelf with the international community. It is, therefore, possible that approval of this amendment today could have an undesirable effect on our current LOS negotiations and may somewhat limit our ability to achieve an acceptable international agreement in Caracas.

All of these competing claims must be considered in detail prior to determining the purposes for which OCS revenues will be used.

Consequently, I believe this amendment is premature in nature, especially since my subcommittee, which has exclusive jurisdiction over the distribution of OCS revenues, intends to hold extensive hearings to resolve these complex issues.

I should also note that the administration is opposed to earmarking OCS revenues for particular purposes and believes that they should continue to be placed in the General Treasury. For example, in commenting on H.R. 9132, the Department of the Interior stated—

> The practice of earmarking budget receipts for certain expenditures is not consistent with sound budgetary practice, since it introduces unnecessary inflexibility into the budget process.

For these reasons I urge my colleagues to defeat the amendment offered by the gentleman from Pennsylvania (Mr. McDADE).

AMENDMENT OFFERED BY MR. DENT TO THE AMENDMENT OFFERED BY MR. SEIBERLING TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. DENT. Mr. Chairman, I offer an amendment to the amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. DENT to the amendment offered by Mr. SEIBERLING to the committee amendment in the nature of a substitute: Section 401, page 250, line 5 through line 22, strike subsection (d), substitute the following new subsections, and redesignate the remaining subsections accordingly:

(d) All operators of coal mining operations which are subject to this Act shall, not later than 30 days following the end of the calendar year 1975 and of each calendar quarter thereafter, pay the Secretary with respect to each ton of coal mined by the operator during the preceding calendar quarter, a reclamation fee in the following amounts:

(1) $1.50 per ton for coal mined by surface mining methods, including augering from the exposed outside surface; and

(2) $0.15 per ton for coal mined by underground methods.

(e) The Secretary shall periodically cause an audit to be made of the operations and records of each operator required to pay a reclamation fee under subsection (d) of this section, to determine the correctness of fees paid pursuant to such subsection. The Secretary shall promulgate regulations governing the imposition, collection, and audit of the reclamation fee payments. In preparing such regulations, the Secretary may consult with the Secretary of the Treasury to arrange, so far as is feasible, for the Internal Revenue Service to assist in performing auditing activities under this subsection. A determination by the Secretary as to the amount of fee payable by an operator shall be deemed prima facie correct.

(f) On or before July 1 of each year, 50 per centum of the amounts received into the fund from reclamation fees paid under subsection (d) of this section with respect to coal mined in each State shall be paid back to the governments of the respective States in which the coal was mined; provided, however, that 50 per centum of the amounts received into the fund from mining done on Indian reservations shall be paid back to the respective Indian tribes. Such money shall be used by such State, or political subdivisions thereof, or Indian tribe for acquisition, reclamation, conservation or development of the public lands of the State, or political subdivisions thereof, or Indian tribe, giving prime consideration, in accordance with the priorities set forth in section 402, to the needs of counties in which coal mining operations have or are taking place.

Mr. DENT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. DENT. Mr. Chairman, as one of the sponsors of the act said, there are 3 or 4 different methods of financing the reclamation of the so-called orphaned lands, but one thing has to be made sure and positive: This is the first endeavor by the Federal body to do something about something that should have been done long ago.

For the past 27 years we have been trying in the State of Pennsylvania to clean up our orphaned lands. We have fees which are charged against the coal companies, we have licensing fees, and we have reclamation fees which are charged, but it is too much for the coal companies alone, because they are competitive in this world, operating in 20 States that produce coal. Therefore, they cannot be loaded to the point where they must be, under this procedure, if we are ever going to get rid of the orphaned lands in this country.

These orphaned lands are a disgrace, but where do we put the blame? Where do we lay the blame for what has happened in the past? All of those before us have gone. The mining companies are gone; the railroad companies which were part of the whole deal are gone.

So I am proposing here today to substitute my amendment for the Seiberling amendment, and I am proposing to put a dollar and a half a ton on strip coal, 15 cents on deep coal, with 50 percent going back directly to the State, with priority on the particular land from which the coal was taken and where the damage was committed.

The priority is sound. It goes to the counties, it goes to the Indian tribes if they are covered under this act, and it goes to the localities.

What can be done with this? This will bring in approximately $241 million, less the fees that are paid in the various States for reclamation charges, and less the licensing charges that are levied in the various States which have strip mining.

Mr. Chairman, I have been in the district served by the good Congressman, the gentleman who just preceded me. The gentleman has come up with a very fine innovating idea. But this is a coal property proposition. This must come out of coal, and I believe it can come out of coal. And in 10 years I believe I can guarantee this Congress that there will not be an acre of blighted land in any State of the Union, because it takes this kind of money to accomplish that.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. DENT. I would be happy to yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I appreciate the gentleman's yielding.

I know of the gentleman's deep concern for this problem, the same as he knows of mine.

I think what we ought to do, I say to my colleague, is to look at our resources in the United States as a totality. I think we have been wrong in the past when we have separated something out as a coal problem or a gas problem or an oil problem. We do have now great resources which belong to us that generate unearmarked funds in the Treasury. I think that is largely a resource dividend. Let us put some of those dividends back in our Nation.

Mr. DENT. Mr. Chairman, I thank my friend, the gentleman from Pennsylvania, for his views on this matter.

If we do not do this now, many of us will never live to see the day when the orphaned lands are cleaned up.

Mr. Chairman, this amendment has the full support of our State mining bureau. Every known body interested in coal mining in the State of Pennsylvania, the environmentalists, the State government, the Bureau of Mines, the Bureau of Sanitation, the Bureau of Ecology and Environment, they have all supported this particular move toward the elimination of the greatest eyesore that has ever been created.

Mr. Chairman, we are not backward in Pennsylvania. We have tried to carry the load. We have now, for the last 12 years, had all surface mining. We even reclaim the land from which we take our sandstone, our glass sand, and our iron ore.

Any excavation into the ground must come under our surface code. I come to the Members as a pioneer in this field. I introduced the first legislation in the history of the United States on this in 1947. I want the Members to know that it was a difficult job to sell it at that time. The same arguments were made then. But let us look at the arguments:

Five years ago we were selling coal in strip for $11 and $12 a ton. Today, if the metallurgical content is high enough, they are getting as high as $34 and $36 a ton, and some are getting $42 a ton.

Mr. ANDREWS of North Dakota. Mr. Chairman, if the gentleman will yield, my point is that this would affect my district very much, because this tax amounts to virtually a 100 percent tax on coal in my State, coal that our people must have for electricity. Our coal sells for only $1.50 to $2.50 a ton, because it is almost 35 percent water, and we have to use this in the generation of electricity because it is the only fuel we have.

Mr. DENT. I am sorry, but the gentleman's figures do not jibe with the figures we have. There is no coal in the United States, unless it happens to be muck——

Mr. ANDREWS of North Dakota. It is selling for under $2 a ton.

Mr. DENT. If the gentleman can find any coal at that price, I will be the agent for his State tomorrow, and I will get you $5 a ton.

Mr. Chairman, the situation is this: We have the ability to do this, and we can do it now. Why? Because in the foreseeable 10 years that we talk about there will be a market for coal. The energy crisis is not going to pass overnight. There will be a market, and it is during these years that we have to do this. The return to the American people in the future through doing this, the crops that will be grown in the future, the grazing

lands that will be available, the return to the people in forests that we will put on these lands all over the United States; the return from this will be so much greater in return than the sacrifice that we must make.

Who in this room will guarantee that there will not be about another dollar a ton or $2 a ton, or $5 a ton on coal in the next 6 months, whether we pass this bill or not? I know it. Coal is sold on demand. Coal is sold on its analysis. If you get good coal you can sell it for twice as much as bad coal. But at this particular moment, the most important thing we are looking for is energy.

Anybody who knows anything about stripping must understand that it is easy——

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. EVANS of Colorado yielded his time to Mr. DENT.)

Mr. EVANS of Colorado. Mr. Chairman, if the gentleman will yield, my yielding the gentleman this time is the good news that I have. I am sorry, but the bad news is that I do not agree with the gentleman.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I do agree with the gentleman from Pennsylvania, and I am willing to accept the gentleman's substitute for my amendment, because, as far as the abandoned coal mine reclamation is concerned, it will produce the same amount of money as my amendment. As far as restoring the competitive balance between deep mining and strip mining that was thrown out of whack when we passed the Coal Mine Safety Act, it will do that job.

Let us quit kidding ourselves. The people are going to pay for reclamation, whether it comes out of the cost of coal or whether it comes out of the oil leasing revenues, which are part of the general revenues. But it is time we quit externalizing the costs of energy and started putting the costs where they really are. The cost of stripmine reclamation is a cost of energy, and it ought to be paid by the consumers of energy.

Each time we subsidize an industry from the general revenues we distort the economy. I will support the gentleman's amendment.

Mr. DENT. The gentleman could not do it in a nobler cause.

Mr. Chairman, I beg of the Members to give consideration to the two facts I have tried to point out.

First, that the amount of money on 13,500 Btu of coal, that the amount of money on 7,000 Btu lignite, that the amount of money on western strip, either 10,350 or 10,500 Btu, does not amount to enough of an increase to put anybody out of order from that company or any corporation.

But we will have 10 years, and in 10 years we will see a miracle, because we have created miracles in Pennsylvania. We have the most beautiful ponds, the most beautiful parks. We have the most beautiful land reclamation in what used to be substandard soil to begin with. We have cattle and sheep all over our fields that we created out of the wastelands.

Mr. Chairman, I ask the Members to support this legislation I ask them to support this amendment. As I have said many times on this floor, we only have an opportunity very few moments in our lives in the legislative field to do something that will outlive us, that will outlive anyone in this room or in this Chamber today, because it will make it somewhere near the kind of an area that God intended it to be.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Michigan.

Mr. RUPPE. I thank the gentleman for yielding.

The problem with the amendment is that basically it would have it in a way which would be very favorable to Pennsylvania, because the underground mining tax under the gentleman's amendment would be 15 cents, but the westerners and the utilities in my area that use western coal would be hit with a $1.50 tax to pay for it.

Mr. DENT. Mr. Chairman, I decline to yield further.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Montana (Mr. MELCHER).

Mr. MELCHER. Mr. Chairman, I want to ask a question of the gentleman from Pennsylvania, Mr. DENT, if he will engage in colloquy with me.

Is it the intention of the gentleman's amendment to make certain that 50 percent of the money collected would stay in the States or in the Indian reservations where it is collected from mining operations?

Mr. DENT. If the gentleman will yield, that is exactly right, and the other 50 percent of the money is allocated by the Congress of the United States through the appropriation process so that we can pinpoint it to the places needed.

Mr. MELCHER. It is the intention of the gentleman's amendment to utilize that money in those mining areas where strip mining is being done for the purposes such as schools and roads?

Mr. DENT. If the gentleman will yield further, if they are in any way connected to the disturbance caused by the mining operation: subsidence in some cases, water damage in other cases, overflows in other cases, silt runoff in other cases.

Mr. MELCHER. I thank the gentleman.

(By unanimous consent, Mr. MELCHER yielded the balance of his time to Mr. UDALL.)

Mr. UDALL. Mr. Chairman, this is one of the important decisions to be made in this debate. Let me see if I can put it in focus. The thrust of the bill is to stop the creation of orphan lands in the future, to stop the depredations of the past so in future mining we are not going to have current environmental problems continued. We are either going to reclaim and do it right, or we are not going to mine.

This title deals with a peripheral question, but a very vital peripheral question What will we do with the 2½ million acres of land that disgrace this country by lying there damaged from past mining operations? I think there is general agreement we want an abandoned mine reclamation program. We have about four different ways to fund such a program. The committee provision in the bill seems satisfactory to no one. We get into east-west arguments; we get into underground versus surface mining arguments; we get the argument that we are charging 30 cents a ton, and why should the consumers in New York and Boston pay for the sins done in the Appalachian coal fields 40 and 50 years ago?

I do not particularly like the funding provision now in the committee bill, but I want something that can pass muster, that can get enacted, so that we can start this 40- or 50-year business of curing the damages of the abandoned land.

Of all the proposals, I think I like the Ruppe proposal the least. I like him the most, perhaps, but I like his proposal the least in this situation.

What he says is, oh, we are going to have this wonderful abandoned lands program. But where are we going to get the money? We are going to get it out of general appropriations. But I will tell you that when we go to the OMB we will find out where we will get the money from in general appropriations. We will get it from the OMB, from the general appropriations, behind the foreign aid for Albania and behind the fund for Tea Tasters Board and behind the Disarmament Agency, and behind some other of the favorite subjects down there, which means that we simply are not going to get any general appropriation.

We are fooling ourselves if we think the Ruppe-Seiberling proposal will get an adequate amount of money in the fund in a timely way. The Dent proposal, which the gentleman from Ohio (Mr. SEIBERLING) says he will accept, will tax customers of surface mined coal $1.50, and this is roughly five times the amount of the fee contained in the committee bill, the 1.23 cents per million Btu. This is a discriminatory fee relative to underground mined coal which is only assessed 15 cents per ton in this proposal.

The most severe objections I have had have been from the electric company customers around the country who feel they should not have to pay even the 30 cents, and the gentleman says he is going to tax them $1.50. I do not think that is going to get acceptance by the consumers around the country. The strongest objectors I have had have been the utility company customers in Chicago who feel that they should not have to pay 30 cents, and now there is a proposal to charge five times that in order to recoup the damage done in past generations.

So of all the pending proposals I think the one most likely to fly, the one most likely actually to get money which we can put to work is that of my friend, the gentleman from Pennsylvania (Mr. MCDADE). What that says is, let us take the resource money that is available, and

it is fiscally responsible and it is income available now, and we get now $10 million, so let us take a tiny part of that, let us take $200 million a year and put it into this fund and put it to work. In that way we do not have to fight the howl of the utility companies and their customers who say they will have to pay for past sins, and we do not have to fight the fight of East against West, and we do not have to fight the fight of the deep mines against the surface mines. So the one I find which meets the problems we are now faced with if we are going to have a fund is the very innovative proposal of the gentleman from Pennsylvania (Mr. McDade).

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I mentioned the name of the gentleman from Michigan (Mr. Ruppe), so I yield to him.

Mr. RUPPE. Because of the gentleman's fine words and not necessarily because of the logic of his argument I join in support of the McDade amendment.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Massachusetts (Mr. Conte).

Mr. CONTE. Mr. Chairman, I associate myself with the remarks of the gentleman from Arizona. I agree with him 100 percent.

Mr. Chairman, I rise in support of Mr. McDade's amendment to H.R. 11500. This amendment is proposing to utilize already existing funds from the leasing of Outer Continental Shelf lands to the oil companies, and the royalties received from successful offshore drilling. Presently this amounts to $6 billion and will increase to approximately $10 billion by 1976. Mr. McDade would have the minute sum of $200 million withdrawn from this revenue which is not earmarked for any purpose, to provide for the reclamation of the scars of the past resulting from strip mining in our great country.

My colleague proposes to establish a sound reclamation fund through which we can effectively achieve this end, and at the same time, protect the rights of our already financially overburdened consumers.

While I believe that the amendments of my two good friends, Mr. Sieberling and Mr. Jones, are well intended in their desire to revamp the existing ravaged, orphaned lands in this country, the sins of our fathers, I strongly feel that the effects of either of these amendments would result in an unwarranted tax burden on the consumer, especially now in these times of economic uncertainty.

Although my district, and indeed the State of Massachusetts, has never been affected by the destruction caused by surface mining, I strongly feel this dilemma to be a national problem which affects us all.

I, therefore, ask the Members of this House to support this eminently sensible, and worthwhile amendment.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield, and if the gentleman from Massachusetts will hold up a minute before he leaves the Chamber, the gentleman's constituents are going to be ending up paying $14 a ton and more for coal brought from Wyoming to supply the energy needs for the utilities in his area, whereas we are saying if we impose a fee of $1.50 a ton on strip mined coal and 15 cents a ton on deep mined coal, they will not need the coal from Wyoming. They can get it from West Virginia and Pennsylvania and Ohio, which will be only about one-quarter as far away.

Mr. UDALL. I will say to my friend, the gentleman from Ohio, that he is one of the most exceptional and dedicated members of the committee. He made more input into this bill perhaps, than any Member on our side. He is trying very hard. This is an innovative proposal of his. I regret I must differ with him on this point.

Mr. SEIBERLING. If the gentleman will yield once more, I believe his objections are on tactical grounds, rather than on principle.

Mr. UDALL. In a perfect world, I would like to agree with the gentleman.

Mr. HEINZ. Mr. Chairman, I move to strike the last word.

Mr. DENT. Mr. Chairman, will the gentleman yield for one fast observation?

Mr. HEINZ. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, what is the difference in fuel cost if one is going to put the $200 million on oil or $200 million on coal?

Mr. HEINZ. Mr. Chairman, I would like to just take a couple of minutes, since that is all I have, to address several points. The question of what the Ruppe amendment, as perhaps amended by the McDade amendment, might do in contrast to the Dent amendment. Both represent alternatives to the Seiberling amendment which is pending before us. We must focus on three issues.

No. 1, what is going to happen to the deepmining of coal? Is it just a question of East versus West, as the gentleman from Arizona pointed out, or is there something more fundamental involved?

I would like to suggest to the Committee that since strippable coal is so easy to get, we do run a very substantial risk of driving deep mining out of business for a period of 10 or 15 years. This is because the 1969 Coal Mine Safety Act already penalizes deep mined coal about $1.50 a ton in the form of hidden costs. These costs have already put deep mining at a dangerous disadvantage.

This is a very serious question. It goes beyond the rather parochial interests of my State and the interests of East versus West. Once the deep mining industry is destroyed, it will be difficult and costly to rehabilitate it, not to mention the costs of potentially destroying the economy of an entire region.

The second question is who, if we are going to have a reclamation fund, is to pay for the reclamation fund? Now, several proposals have been advanced; first, that it should come from general revenue. The gentleman from Michigan has recommended that, and the gentleman from Pennsylvania (Mr. McDade) has proposed alternatively that these funds come from oil revenues from the Continental Shelf. This is not a bad idea, but in both cases it is coming out of existing revenues. We know one thing, we do not have enough revenues to pay our bills now and we have before us an opportunity to do something which this body seems to neglect time after time, which is, when we enact a new program with new costs, to figure out a way to pay for them.

The Dent amendment actually finds new revenues to pay for a program that is a new program. Let me repeat, the Dent amendment provides for new revenues for a new program. In the interest of fiscal responsibility I think it is important that we support the Dent amendment.

It is argued that the fees in the Dent amendment are too high. I argue that they are a modest cost to the consumer. Even if strip-mined coal were to supply 100 percent of our needs—which dependency I hope we never develop—the average household electric utility bill would increase, according to my estimates 36 cents a month, or less than the cost of a package of cigarettes. It is absurd to argue that this is too heavy a price.

Furthermore, the cost in those areas which depend mainly on deep-mined coal, as do most industry and electric utilities in Pennsylvania, would be less than a 5-cent-a-month electric bill increase. And I find it immensely fair that under the Dent amendment those who enjoy the benefits of energy produced from strip-mined coal will pay the cost of reclamation.

There is one final question that this body must confront. While we can, if we must, reduce our demand for energy through activation of a full-range of conservation programs, we cannot and must not reduce the Nation's production of agricultural products. Our people depend on the output of our farmers, the hungry people of the world depend upon our farmers, and increasingly America's international economic position depends upon the export of our farm products.

The coal lands of the West are also agricultural lands which provide a substantial portion of America's beef and grains. Commodities, I believe, are ultimately more valuable to our physical and economic well-being than the strippable coal beneath those pastures and wheatfields. And yet despite the agricultural importance of these lands, we are prepared to remove them from or diminish their production through strip mining or through destruction of vast quantities of scarce Western water in the coal gasification and liquefaction processes. And we do so with no firm assurances that the fragile lands of the Northern Plains, once stripped, can be reclaimed sufficiently to once again produce abundantly farm products and cattle. More importantly, we are about to place vast additional demands on the scarce water resources of the entire Missouri Basin. The result may very well affect dramatically both the

ecology and the agricultural potential of all the downstream Missouri River States, not just the coal States of Wyoming and Montana.

We are talking, therefore, about a huge portion of our Nation's breadbasket—for as little as 3 percent of our Nation's coal supplies.

So, Mr. Chairman, the Dent amendment makes good sense on several grounds:

First. It is simple to administer.

Second. It encourages the strengthening of our underground coal mining industry.

Third. It is fiscally responsible in that it generates new revenues—at an affordable cost—to pay for a new reclamation program, and the costs would be borne by only those consumers who benefit from the use of coal.

Fourth. It would reclaim and return to production stripped and abandoned lands while simultaneously slowing the shortsighted withdrawal of Northern Plains lands from agricultural production.

The Dent amendment. Mr. Chairman, is a sound, necessary approach assuring this country both a strong, balanced coal mining industry and the abundant production of vital farm products.

It deserves all Members' strong support and I urge the House to approve it.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. HECHLER).

Mr. HECHLER of West Virginia. Mr. Chairman, I rise to use my time in support of the Seiberling-Dent amendment. I appreciate very much what the gentleman from Pennsylvania (Mr. HEINZ) has said, because we must focus attention on the deep mining industry where our greatest resources are in this Nation. The strip mining of coal seems to be cheaper, because it is very heavily subsidized and its apparent cheapness comes from the damage it does to the land and to the people.

The Seiberling-Dent amendment puts a 15-cent a ton tax on deep-mined coal, which is a very minimal amount. It helps balance the cost differential between deep and strip mining.

In view of the fact that the coal industry has shown that it is not very well toilet trained in terms of the damage it does and the wastes that are created as a result of both deep and strip mining, it is only fair to the taxpayers and the people of this Nation that we internalize the costs, the real costs of both deep and strip coal mining.

It would be very unfortunate if we reached out to force the taxpayers of the Nation, as has been suggested, by taking this money out of general revenues.

I feel that the proposal of the gentleman from Pennsylvania (Mr. MCDADE) although innovative in nature, nevertheless does not provide the revenues directly from where they should come; namely, from the coal industry itself.

I had a colloquy with the gentleman yesterday in which the gentleman had a full and free opportunity to express his views. I would like to yield very briefly the balance of my time to the gentleman from Pennsylvania (Mr. DENT), whose position I am supporting, along with Mr. SEIBERLING.

First, I yield briefly for a question to the gentleman from Pennsylvania (Mr. MCDADE).

Mr. MCDADE. Mr. Chairman, is it not true if we support any of these separate taxes, what we are doing is not putting the cost on the industry, but in fact and in truth every one of those costs will be passed on to the consumer and we will have higher costs in electricity, higher costs for coal, and we will take a narrow class of consumers and make them carry the burden of financing this reclamation fund?

Mr. HECHLER of West Virginia. I know the gentleman's point. He made it yesterday and I responded.

I believe we should have realistic cost controls, internalize the genuine costs of coal mining, help equalize the costs of deep and strip mining, and that is why I support the Seiberling-Dent amendment.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Pennsylvania.

Mr. DENT. Somehow or other people think the $200 million that we will get from the offshore shelves from the oil company will be paid from out in space somewhere. Are not the consumers going to pay for it? Is it not the same? The idea that this cannot be paid for by the consumer is idiotic. There has not been 1 cent of increase in the cost of labor in the coal mines since the price went from $12 to $34. There has been no increase in any other item, except gasoline and oil used for the things they are hauling around with their shovels out in the strip mines.

Now, the gentleman is telling me, when coal has gone up 300 percent in price, it cannot stand an increase of $1.50 less the fees they pay, less reclamation fees they pay.

Mr. HECHLER of West Virginia. Mr. Chairman, I urge support of the Dent amendment.

Mr. DELLENBACK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it seems to me that we run the risk of finding, as we talk more and more on this issue, that the subject becomes more and more confused instead of simplified. We are mixing up the desire that many of us have for reclamation with the separate issue of impact on various types of coal mining, the question of whether or not we are going to be able to stimulate production of coal, or whether we are going to be holding back the production of coal. Let us look at the two problems separately. Do we want—do we even in areas of this country need reclamation? The answer is, "Yes." Anyone who comes from one of those areas where mining has stripped the soil, or anyone who has a chance to visit those areas, must come away with the feeling that these scars can be removed, and advantageously should be removed. But, when it comes to the question of who should pay for it; when it comes to the question of where the burden will fall, then I must suggest that the Dent proposal is a bad and unfair proposal, and indeed the proposal of the gentleman from Ohio is not an equitable proposal. Both of those proposals, at a time that we need stimulation of the production of coal, would run the very serious risk of inhibiting the production of coal.

If we need reclamation—and I start from the premise that we do need and want that reclamation and we want it for the benefit of the Nation—then the burden should not be placed disproportionately on an area of the country; it should not be placed disproportionately on one kind of mining; it should not through a tax that is a disproportionate tax end up in doing damage to the production of coal when we need to stimulate the production of coal.

The proposal of the gentleman from Pennsylvania (Mr. MCDADE) as the gentleman from Arizona (Mr. UDALL) has said, is the soundest possible suggestion that has been made here today. It reaches for reclamation very soundly, and yet it says that if we are going to do this, it should come out of the general revenues as this would do in effect, and it must do so with assurance that the money will be forthcoming. It is that kind of a balance that I think is important that we work into this particular procedure.

Mr. Chairman, I commend the gentleman from Pennsylvania (Mr. MCDADE) for having come forth with this proposal.

Mr. MCDADE. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentleman from Pennsylvania.

Mr. MCDADE. Mr. Chairman, I thank my distinguished colleague for yielding to me. I express my deepest appreciation to him for his willingness to think about this amendment, which I agree I submitted late. I was involved in appropriations hearings and I did not have an opportunity to come and testify before the Interior Committee, but I found people such as the gentleman from Oregon and the gentleman from Michigan (Mr. RUPPE), who now will support my amendment, willing to think about what is involved here.

What is really involved is paying for this in one of two ways: increasing the cost to every consumer in this Nation, or taking a small part of the resource dollar now going into the Treasury from the sales of peoples' resources and earmarking it to get this job done.

Mr. SYMMS. Mr. Chairman, I move to strike the last word.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Chairman, I think this record will be woefully incomplete if we did not get to the bottom line of the conflict here. We have what is an accepted policy about to be

adopted. We are going to attempt to reclaim abandoned mines.

Essentially the dispute originally was over where we should get the money to do this. We have left that now with the amendment of the gentleman from Pennsylvania (Mr. DENT), and we are now attempting to somehow equalize the economic imbalance between the production of underground coal and the production of surface coal.

That is not sophistry; that is just baloney.

It is tough enough to get the committee and the House to agree that we have a responsibility to reclaim abandoned mines. We are agreed on that. If we fall victim to the blackmail of somehow here waving a magic economic wand and equalizing arbitrarily the difference in production, let me tell you what we are going to do in the State of Kansas: In the State of Kansas it is not uncommon for an acre of ground worth about $70 or $80 to produce in the neighborhood of 70,000 tons of coal. Under the amendment of the gentleman from Pennsylvania (Mr. DENT) we are talking about generating somewhere in the neighborhood of $100,000 per acre for this fund. Under his amendment some $50,000 of that will remain in the county where it came from to reclaim lands which do not need reclaiming.

It is a total distortion of the intent of the legislation. It does not solve the problem of reclaiming abandoned mines. What it does do is attempt to distort what is basically an economic differential.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I will yield to the gentleman from Iowa.

Mr. GROSS. I have a suggestion for solving this. Just apply the money for arts and humanities to this, and you will get your money.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I want to say to my friend, the gentleman from Arizona, that he really has his States confused. The State of Kansas has about a 20-foot rate of thickness per acre foot, which would yield about 800 tons of coal.

In the Western States, we have States that yield or have veins that go from 40 to 60 feet in thickness. The simple mathematics of that is that 1,800 tons would be produced to the acre foot. Multiplied by 40, that would indicate 17,000 tons of coal. Multiply that by $1.50, and you are up to $800,000 per acre in those States.

Under the Dent amendment 50 percent of that would stay in that particular area, but the rest of the country would be paying increased fuel bills.

We start out with a reclamation fee to do reclamation work, and all at once in this bill we come up not only with reclaiming abandoned land, but providing recreation, public utilities, schools, and everything else.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Ohio.

Mr. HAYS. I thank the gentleman for yielding.

I would just like to ask the gentleman from Arizona (Mr. STEIGER) where some of that $70,000 an acre land is in Kansas, because I would like to buy some.

The CHAIRMAN. The gentleman from Wyoming has 1 minute and 50 seconds left.

Mr. RONCALIO of Wyoming. Mr. Chairman, I would like to ask the gentleman from Pennsylvania whether he intends to disturb the distribution formula in any way by his amendment.

Mr. McDADE. As my amendment is now written, all the funds come back to the Treasury, but the gentleman from Wyoming and his colleagues raise an important issue. I have no objection to the views they express.

Mr. RONCALIO of Wyoming. The gentleman has no intention of disturbing its present arrangement that 40 percent of the funds remain in the locality to help with roads and schools.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO of Wyoming. I yield to the gentleman from Arizona.

Mr. UDALL. I understood, when Mr. McDADE first approached me, that 50 percent of the funds and a 40-percent distribution were to be included. The Senate has no provision for that. We have to rewrite it in conference anyway.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO of Wyoming. Yes; I yield to the gentleman from Ohio.

Mr. SEIBERLING. There are two facts we simply cannot get away from. One is the fact that 97 percent of the coal in this country cannot be extracted by strip mining. The other is that the Coal Mine Safety Act has added $1.50 a ton to the cost of deep-mined coal, thus making it increasingly noncompetitive against strip-mined coal.

We have to do something about that if we want to preserve the capability of extracting the greater part of the Nation's coal reserves and ease the pace of devastation involved in strip mining.

Mr. RONCALIO of Wyoming. Mr. Chairman, I agree with that. I would like to see something done about that.

The CHAIRMAN. The Chair will state for the benefit of the members of the Committee of the Whole that the first vote will be on the Dent amendment to the Seiberling amendment.

The second vote will occur upon the McDade amendment to the Ruppe substitute; and following that there will be a vote upon the Ruppe substitute for the Seiberling amendment, whether or not it is amended.

The question is on the amendment offered by the gentleman from Pennsylvania (Mr. DENT) to the amendment offered by the gentleman from Ohio (Mr. SEIBERLING) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. SEIBERLING) there were—ayes 32, noes 40.

Mr. SEIBERLING. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the amendment to the committee amendment in the nature of a substitute was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennslyvania (Mr. McDADE) to the amendment offered by the gentleman from Michigan (Mr. RUPPE) as a substitute for the amendment offered by the gentleman from Ohio (Mr. SEIBERLING) to the committee amendment in the nature of a substitute.

The amendment to the substitute amendment for the amendment to the committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. RUPPE), as amended, as a substitute for the amendment offered by the gentleman from Ohio (Mr. SEIBERLING) to the committee amendment in the nature of a substitute.

The substitute amendment, as amended, for the amendment to the committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING), as amended, to the committee amendment in the nature of a substitute.

The amendment, as amended, to the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. HOSMER TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HOSMER. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

Amendment offered by Mr. HOSMER to the committee amendment in the nature of a substitute: Page 252, line 15, through page 256, after line 19, strike out sections 404 and 405.

Mr. HOSMER. Mr. Chairman, it is extremely important that we understand what section 404 requires. It is primarily aimed at polluting discharges, mine and refuse bank fires and conditions which present an imminent danger to the public. However, these problems are already covered by existing legislation, such as the Water Quality Act, the Clean Air Act, and public nuisance law. If water drainage or refuse bank fires cause pollution in violation of these laws, the mine operator will be required to take necessary corrective action. If the mine operator is responsible for a condition which creates a hazard to the public, he can be required to abate that condition.

The section also addresses hazards to the environment but in many, if not most instances, the lands involved were probably reclaimed in accordance with the then existing laws which were enacted to protect the environment. Furthermore, this bill does not set out or define what constitutes an imminent hazard to the environment and yet requires the elimination thereof by July 1, 1977, or be subject to penalties of this act. This includes the criminal penalties of section 224 and preventing the issuance of any

pending permit, permit revision or permit renewal which could shut down larger company's nationwide operations. The possibility of criminal penalties raises serious constitutional questions, including the argument that such a provision is expost facto.

Our attitude toward the environment has undergone a complete reexamination in the last few years. However, during this period most coal surface mining was regulated by environmental statutes requiring reclamation. It is unfair to use hindsight to punish mine owners and operators for the reclamation they did in the past, because it does not conform to the standards of this bill. The coal is gone now and there is no way the cost of additional reclamation can be recovered. I do not believe the mine owner or operator should be made to assume this burden and, therefore, my amendment eliminates section 404.

Section 405 which I also desire to eliminate provides for services and funding by the Secretary of Agriculture to owners of mined lands which are already available to any landowners through the Soil Conservation Service and the Agricultural Stabilization Committee. Thus, section 405 sets up a needless duplication of Federal services and should be deleted.

I believe that Members of the House Committee on Agriculture should look carefully at this amendment. First, it is an invasion of the committee jurisdiction of their committee. Second, it is largely duplicative of programs already authorized under legislation cleared by the Agriculture Committee and enacted by the Congress. The Agriculture Committee has the expertise in such programs, and this part of the bill should have been reviewed and passed upon by that committee.

I urge deletion of sections 404 and 405 and ask for the adoption of my amendment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HOSMER. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, we on this side are willing to agree to strike section 404, but we are not willing to strike section 405.

The gentleman from California has packaged them together. Therefore, would the gentleman be agreeable to ask for a divided vote, a separate vote on each part of his amendment?

Mr. HOSMER. Mr. Chairman, I ask unanimous consent that a separate vote be taken on each portion of my amendment, which provides for the deletion of section 404 and section 405.

The CHAIRMAN. Does the gentleman ask for a division of the question?

Mr. HOSMER. I do, Mr. Chairman. I ask unanimous consent for a division of the question as to sections 404 and 405.

The CHAIRMAN. The question will be divided.

The first question is upon the part of the amendment offered by the gentleman from California (Mr. HOSMER) referring to section 404.

The portion of the amendment, referring to section 404, to the committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. The question is on the portion of the amendment offered by the gentleman from California (Mr. HOSMER), referring to section 405.

The question was taken; and on a division (demanded by Mr. HOSMER) there were—ayes 7, noes 29.

So the portion of the amendment referring to section 405, of the amendment to the amendment to the committee amendment in the nature of a substitute was rejected.

The CHAIRMAN. Are there further amendments to title IV?

AMENDMENT OFFERED BY MR. HOSMER TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HOSMER. Mr. Chairman, I offer my amendment No. 146 as an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HOSMER to the committee amendment in the nature of a substitute: Page 249, line 1, strike out "title IV".

Mr. HOSMER. Mr. Chairman, I shall not linger long on this amendment. We have gone through a virtual Alice in Wonderland in the discussion of title IV. Where is the money going to come from? It is going to come from the Outer Continental Shelf or from some other place where nobody will be hurt.

Obviously, we know that money does not come out of a pump; that this is a real world, and that if it is mandated that sums of money come from any place for mining reclamation they do not go some place else.

There are many millions of people in this country trying to subsist beneath the poverty level of income. That money will not go to them, because it has been earmarked for mine reclamation in order that the landscape will look pretty—landscape which has been sitting, looking ugly, perhaps as far back as the depression in the thirties. But we have been rushing around here today with great enthusiasm, diverting money from places that people need it; need it for medicine, need it for clothing, need it for food, need it to protect the United States against its foreign enemies. All those things are now secondary, because the gentleman from Arizona (Mr. UDALL), and the gentlewoman from Hawaii (Mrs. MINK), have decided, with the help of their friends, that money is going to be taken out of somebody else's pocket to make the landscape look pretty.

When they get through doing that with Appalachia and a few places like that, how about the back side of the Moon, too? That is not very pretty. Maybe we could reclaim that. Maybe we could tax people, and maybe we could take money coming out of the public lands, money coming off of the offshore oil lands, and divert it to clean up the back side of the Moon. But I think there are a lot more serious things in this Nation of ours today, to worry about. I think this is a misallocation of funds. I think this is a misjudgment of priorities. It is a denial of funds where they are needed to areas where they are not needed. It is funds unjustly taken from worthy recipients, taken from worthy needs and allocated to second priorities simply to satisfy the emotionalism that has been raised over this issue—this issue that involves only a small fraction of our land. True, this land has indeed been left in a deleterious condition; however, in spite of that condition, no one is starving or is in jeopardy of life. Rather than reclaim these lands, the required funds should be diverted to benefit the lives of the people of this Nation.

Mr. Chairman, I ask for the adoption of this amendment striking this title which is so unfair.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HOSMER) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. HOSMER) there were—ayes 2, noes 38.

So the amendment to the committee amendment in the nature of a substitute was rejected.

The CHAIRMAN. If there are no further amendments to title IV, the Chair will now compile a list of those Members seeking to debate or to offer amendments to title V and will allocate the time of debate accordingly.

The Chair will recognize the Members for 50 seconds each.

The Chair recognizes the gentleman from North Dakota (Mr. ANDREWS).

Mr. ANDREWS of North Dakota. Mr. Chairman, I should like to point out at this point in the enactment of this bill this committee has taken a good deal of time in deep study of the problems facing the separate and unique areas of our country. I commend them for the job they have done. I think the House as a whole has written into the act some sensible amendments.

I am particularly gratified that we were able to protect the sole fuel we have in the Upper Midwest, lignite, from a tax that would have been close to 100 percent on the cost of that fuel. Our homeowners are under continual stress because of the rising cost of living, and our homes and businesses depend on a unique fuel, lignite, to run our generating plants. It is much lower in value per ton than eastern coal but its the only fuel we have and we could not stand a confiscatory Federal tax on it. I am deeply gratified that the House turned down an energy tax that would have been devastating to our area.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. HECHLER).

Mr. HECHLER of West Virginia. Mr. Chairman, this title V creates an Office of Surface Mining and Reclamation Enforcement in the Department of the Interior. I am very, very sorry, and I regret very much that the authors of this legislation have put this office in the Department of the Interior, because the Secre-

tary of the Interior has publicly and repeatedly indicated his opposition to this bill; and here we are going to give him authority to stipulate some regulations under the bill.

Basically, the biggest trouble with this bill is that the main regulatory authority is in the States who have traditionally shown that they are prisoners of the largest economic interests in those States. This is particularly true of Appalachia. But I cannot, for the life of me, understand why we have put any regulations whatsoever into the hands of a department whose head has indicated that he is opposed to this legislation.

AMENDMENT OFFERED BY MR. HOSMER TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HOSMER. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HOSMER to the committee amendment in the nature of a substitute: Page 265, line 17, strike title V.

Mr. HOSMER. Mr. Chairman, sound administration requires that authority and responsibility for the mined area reclamation program run directly to the Secretary of the Interior. This will provide the Secretary with sufficient flexibility to efficiently manage the program, utilizing available departmental resources where appropriate and adjusting the program as future developments warrant.

Failure to vest authority directly in the Secretary will result in duplication of effort since various agencies within the Department of the Interior are already engaged in activities covered under the act. For example, the Geological Survey as the regulatory authority for the administration of coal mining reclamation regulations of the Bureau of Land Management and the Bureau of Indian Affairs. In addition the Bureau of Mines, the Mining Enforcement and Safety Administration, Bureau of Reclamation, Bureau of Outdoor Recreation, National Park Service, and Bureau of Sport Fisheries and Wildlife all have expertise which can be utilized in the administration of this act.

Expertise in the field of surface coal mine reclamation is a scarce commodity. Establishment of a new office within the Interior Department can only drain sorely needed expertise from the above-mentioned bureaus which deal not only with the environmental problems of coal mining but all other mining as well.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HOSMER) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. HOSMER) there were—ayes 4, noes 27.

So the amendment to the committee amendment in the nature of a substitute was rejected.

The CHAIRMAN. There being no further amendments to title V, the Chair will now compile a list of those persons seeking to debate or to offer amendments to title VI. Those Members wishing to do so will please rise.

The Chair will recognize the Members for 30 seconds each.

AMENDMENT OFFERED BY MR. UDALL TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. UDALL. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. UDALL to the committee amendment in the nature of a substitute: Strike page 268, line 19, through page 271, line 24, and insert in lieu thereof the following:

SEC. 601. (a) With respect to Federal lands within any State, the Secretary of Interior may, and if so requested by the Governor of such State, shall review any area within such lands to assess whether it may be unsuitable for mining operations for minerals or materials other than coal, pursuant to the criteria and procedures of this section.

(b) An area of Federal lands may be designated under this section as unsuitable for mining operations if such area consists of:

(i) land of a predominantly urban or suburban character, used primarily for residential or related purposes, the mineral estate of which remains in the public domain; or

(ii) lands where such mining operations could result in irreversible damage to important historic, cultural, scientific, or aesthetic values or natural systems, of more than local significance, or could unreasonably endanger human life and property.

(c) Any person having an interest which is or may be adversely affected shall have the right to petition the Secretary to seek exclusion of an area from mining operations pursuant to this section or the redesignation of an area or part thereof as suitable for such operations. Such petition shall contain allegations of fact with supporting evidence which would tend to substantiate the allegations. The petitioner shall be granted a hearing within a reasonable time and a finding with reasons therefor upon the matter of their petition. In any instance where a governor requests the Secretary to review an area, or where the Secretary finds the national interest so requires, the Secretary may temporarily withdraw the area to be reviewed from mineral entry or leasing pending such review: *Provided, however,* That such temporary withdrawal be ended as promptly as practicable and in no event shall exceed two years.

In no event is a land area to be designated unsuitable for mining operations under this section on which mining operations are being conducted prior to the holding of a hearing on such petition in accordance with subsection (c) hereof. Valid existing rights shall be preserved and not affected by such designation. Designation of an area as unsuitable for mining operations under this section shall not prevent subsequent mineral exploration of such area, except that (i) with respect to lands designated under subsection 601(b)(i), such exploration shall require the prior written consent of the holder of the surface estate, which consent shall be filed with the Secretary, and (ii) the Secretary may promulgate, with respect to any designated area, regulations to minimize any adverse effects of such exploration.

(e) Prior to any designation pursuant to this section, the Secretary shall prepare a detailed statement on (i) the potential mineral resources of the area, (ii) the demand for such mineral resources, and (iii) the impact of such designation or the absence of such designation on the environment, economy, and the supply of such mineral resources.

(f) When the Secretary determines that an area on Federal lands is unsuitable for all or certain types of mining operations for minerals and materials other than coal, by reason of the criteria referred to in subsection 601(b), he may withdraw such area from mineral entry or leasing, or condition such entry or leasing so as to limit such mining operations in accordance with his determination, if the Secretary also determines, based on his analysis pursuant to subsection 601(e), that the benefits resulting for such designation would be greater than the benefits to the regional or national economy which could result from mineral development of such area.

(g) Any party with a valid legal interest who has appeared in the proceeding in connection with the Secretary's determination pursuant to this section and who is aggrieved by the Secretary's decision (or by his failure to act within a reasonable time) shall have the right of appeal for review by the United States District Court for the district in which the pertinent area is located.

EXPLANATION

The substitute incorporates a number of suggestions of the American Mining Congress. The following changes have been made:

(1) In subjection (c), the words "having an interest which is or may be adversely affected" have been added to modify the term "person" and thus make it clear that an individual seeking a non-coal designation must have an interest in the affected area.

(2) Language has been added in subsection (c) which will prevent the necessity of the Secretary initiating the review process on frivolous petitions. The substitute requires that the petition "contain allegations of fact with supporting evidence that tends to substantiate the allegations".

(3) Subsection (d) is amended to assure that designations do not interfere with valid existing rights. While this was the intent of the present subsection, the language has been altered to refer to "valid existing rights" which is terminology commonly used in withdrawals from entry under the Federal mining laws.

(4) Finally, the amendment strikes authorization to the Secretary to make grants to the State to develop a program for designating non-Federal and non-Indian lands as unsuitable for mining of minerals other than coal. Originally, this title included a State program, but in attempting to narrow this section to achieve a mechanism that really addresses only the worst abuses within the purview of Federal authority, the State program was limited. As the bill does not include specific authorizations for the purposes of a State grant program, it is better to now debate this subsection.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Chairman, title VI is a title I wrote in the committee to deal with the very difficult situation in my home town of Tucson, Ariz., where large mining operations were threatened in the middle of an urban area. This gives the Secretary of the Interior the authority and discretion to designate areas within urban areas as unsuitable for surface mining operations. It is a very limited title which I have tried to work out to

meet some objections of the industry. I know of no objection to this rewrite which represents a further retreat on my part to make sure we are not locking up areas where a withdrawal is not necessary.

I think it is acceptable. I would hope it would be adopted.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from California.

Mr. HOSMER. That was a rather large phrase of the gentleman that he knows of no resistance to the amendment.

Mr. Chairman, I do have an amendment to the amendment. It would merely strike out title VI.

The CHAIRMAN. Does the gentleman seek recognition?

Mr. HOSMER. Yes. I seek recognition for an amendment to the Udall amendment.

The CHAIRMAN. The Chair will advise the gentleman from California that his amendment to strike title VI is not in order as an amendment to the Udall amendment.

The question is on the amendment offered by the gentleman from Arizona (Mr. UDALL) to the committee amendment in the nature of a substitute.

So the amendment to the committee amendment in the nature of a substitute was agreed to.

Mr. HOSMER. Mr. Chairman, I now offer my amendment to delete title VI.

The CHAIRMAN. The Chair will advise the gentleman from California that the entire title has been amended by the Udall amendment and at this point an amendment to strike the title would not be in order.

Mr. HOSMER. Very well.

The CHAIRMAN. In other words, no more amendments are in order to title VI.

Are there any other Members desiring to be heard for purposes of debate?

Mr. HOSMER. Mr. Chairman, could I be heard at this time?

The CHAIRMAN. The gentleman has used his time.

Mr. SYMMS. Mr. Chairman, I move to strike the last word.

I yield to the gentleman from California (Mr. HOSMER).

Mr. HOSMER. Mr. Chairman, this title, a mischievous title, because it attempts to get into the sticky business of designating areas suitable for mining minerals other than coal on Federal lands. Now, there just did not seem to be a big enough world for the authors of this bill when they zeroed in on coal. Every time we stuck a stick into the ground, they even wanted that to be included under their Act. They were partially dissuaded from such excesses and agreed to limit the bill to surface coal mining, but in this title VI the same desire got cranked up again, and the authors have overstepped their bounds, meddling in areas they should not.

The CHAIRMAN. If there are no further amendments to title VI, the Chair will take requests for recognition from Members to title VII, with 40 minutes of debate.

ANNOUNCEMENT BY THE CHAIR

The CHAIRMAN. The Chair would like to restate the announcement made earlier.

The Chair requests Members who have amendments printed in the RECORD and who will insist upon 5 minutes for debate to defer offering those amendments until the conclusion of the 40 minutes, so that it will not disturb the proceedings.

AMENDMENT OFFERED BY MR. JOHNSON OF CALIFORNIA TO THE COMMITTEE AMENDENT IN THE NATURE OF A SUBSTITUTE

Mr. JOHNSON of California. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. JOHNSON of California to the committee amendment in the nature of a substitute: Page 287, line 10, strike out subsections (a) and (b) through line 2, page 288 and insert in lieu thereof the following and reletter accordingly:

(a) In those instances where the mineral estate proposed to be mined by surface coal mining operations is owned by the Federal Government, and the surface rights are held pursuant to patent, the application for a permit shall include either—

(1) the written consent of the owner or owners of the surface lands involved to enter and commence surface mining operations on such land or a document which demonstrates the acquiescence of the owner of the surface rights to the extraction of minerals within the boundaries of his property by current surfaces mining methods; or

(2) proof of the execution of a bond or undertaking for the use and benefit of the surface owner or owners of the land securing the prompt and full payment of any damages to surface estate, to the crops, to the tangible improvements on the land and to secure the income interest of the surface estate owner in those portions of his land affected by coal surface mining and reclamation operations for the time during which said portions of land are affected. The bond established pursuant to this subsection is in addition to the bond required by section 216 of this Act.

The CHAIRMAN. The Chair will announce the reallocation of time is 1½ minutes.

The gentleman from California is recognized for 1½ minutes.

Mr. JOHNSON of California. Mr. Chairman, members of the committee, the amendment that was just read is an amendment that was prepared by a staff of our committee, both the majority and minority. It was an amendment that was put together after the additional views were printed in the report by Messrs. UDALL, JOHNSON of California, TAYLOR of North Carolina, RUPPE, and MARTIN of North Carolina.

As I understand it, these Members were already of the opinion that the amendment was very necessary to protect the rights of the surface as well as the subsurface.

Mr. Chairman, the amendment that was just read was quite clear. It was not drafted by myself. It was drafted by the experts and gone over by members of the staff of both the majority and the minority. We have had many discussions on it. I think the amendment would alter the provisions of the bill to make it more reasonable. It says, in effect, that where the subsurface coal rights are federally owned, anyone seeking to commence surface mining operations must either, one, secure the written consent or acquiescence of the surface owner to the extraction of the minerals through surface mining methods or otherwise.

I just want to say that this would do away with the veto power or written consent or the second dip from the consumers of the electrical energy in the United States.

COMMITTEE LANGUAGE

Mr. Chairman, section 709 of the committee bill gives to the owner of the surface absolute and complete control over the subsurface estate—even if that subsurface estate is owned by another person or the Federal Government. It says, in effect, that if the subsurface owner wants to exercise his right to extract any coal from the subsurface estate, he must first have the written consent of the surface owner.

JOHNSON AMENDMENT

My amendment would alter this provision of the bill to make it more reasonable. It says, in effect, that where the subsurface coal rights are federally owned, anyone seeking a permit to commence surface mining operations must either:

First, secure the written consent or acquiescence of the surface owner to the extraction of the minerals through surface mining methods or

Second, prove the execution of a bond which will assure the surface owner a right to compensation for any damages to his surface estate.

EXPLANATION

Mr. Chairman, if the Members of this House are serious when they say they recognize that we must allow coal to be mined in a reasonable and environmentally sound manner, then this amendment should be adopted. To enact H.R. 11500 with provisions like the existing section 709 would be totally irresponsible and constitutionally questionable.

Owners of subsurface minerals are property owners, just as much as owners of the surface are. My amendment recognizes the rights of both. The committee language disregards the rights of the subsurface owner and says "you cannot use or enjoy that which you rightfully own." In effect, if we enact the language of section 709 (a) and (b), we are saying that the owner of the subsurface can be denied his property without just compensation contrary to the Constitution.

Legally, when a person buys land and the subsurface estate is reserved, he buys it with knowledge of that fact. Presumably, the price he pays is reduced in proportion to the right reserved. For that reason, as between two private parties, my amendment gives no veto or extraordinary right to compensation to the owner of the surface. Where the subsurface owner is the Federal Government, the case may be a little different. For this reason, my amendment requires the consent of the surface owner or a bond to assure compensation for the losses incurred by the surface owner if surface mining occurs.

Now, Mr. Chairman, let us examine what can, will, and is already happening as a result of the committee language on this issue. First, if a owner of the surface does not want to allow the surface extraction of the coal under any circumstances, he has an absolute veto. He can refuse to allow the owner of the subsurface interest to remove any of his coal. On the other hand, he may decide that he will allow the extraction of the coal by surface mining if the price is right. In short, he will be able to deny the subsurface owner the right to his property unless he is paid enough to satisfy his own interest. This could border on extortion.

In some cases, however, speculators may move in—there is some evidence that this is already happening—and requiring an unfair profit for the limited interest which they own as the price which a subsurface owner must pay to have access to his own property. In other cases, competitors in the energy market—and this is important if we want to assure a competitive free market in the energy field—may buy the surface rights for a fraction of the cost of the subsurface rights. Then they could use this limited ownership as a lever to preclude the development of this subsurface resource.

So you can see how important this issue is. It is important to the owner of the subsurface estate, because it can effectually divest him of his property and destroy his investment. At the same time, it is important to all of us who recognize that we will need to develop more energy resources in the future, because it may mean that large coal deposits cannot be effectively developed. It is important to all Americans who will be the ultimate consumers of the coal produced, because they will have to pay the extra cost which will be attributable to the unjust enrichment of the surface owner and the cost of any inefficiencies which result from creating such a negative power in the surface owner.

CONCLUSION

Mr. Chairman, my amendment deals with this issue in an equitable manner. I do not think that we can intervene where private parties dealt at arms length and purchased either the surface or the subsurface estates. On the other hand, we can deal with the situation where the Federal Government permitted lands to be patented subject to a reservation of the subsurface minerals. My amendment gives the surface owner fair consideration by requiring anyone proposing to develop the subsurface coal resources by surface mining methods to secure the written consent of the surface owner or assure the surface owner that he will receive prompt and full payment for any damages he suffers as a result of the surface mining operations.

I hope that the Members of this House will agree with me that this is the only reasonable way to resolve the dilemma between owners where the surface and subsurface rights have been severed.

Mr. HAYS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is an outrageous invasion of the rights of property owners. What it is saying is that we are going to give any strip coal operator who may buy coal that the Federal Government owns the right of eminent domain over anybody's private property.

That is just one step from saying that I have to sell my farm in Ohio to some strip operator because there is coal under it, even though I own both the coal and the surface.

That is just one step. It is one foot in the door.

If we want to protect the people who own this property, then the strip operator, who is going to make millions and billions of dollars on that thick coal, ought to have to buy the surface or pay the owner whatever it is worth.

Mr. JOHNSON of California. Mr. Chairman, will the gentleman yield?

Mr. HAYS. Yes, I will yield. I want to be fair, but I think the gentleman's amendment is terribly destructive of the rights of the people.

Mr. JOHNSON of California. I think the surface owner is protected under my amendment.

Mr. HAYS. He is not protected if he does not want to give up his farm or ranch or whatever, because the gentleman is giving these characters the right of eminent domain. Whether there is a 50-foot-thick seam of coal—out in Ohio they become multimillionaries on a 24-inch seam—the gentleman should figure out what they are going to become on a 50-foot seam.

This amendment ought not to get a single vote in this Chamber if there is anybody here who believes in human rights and property rights together.

Mr. RONCALIO of Wyoming. Mr. Chairman, I rise in opposition to the amendment.

Commanding every ounce of energy and whatever influence I may have in this body, I agree with every word that has been stated by my good friend, the gentleman from Ohio (Mr. HAYS).

I hold in my left hand three key decisions: One Circuit Court of Appeals, and of the Supreme Court's, and one of Tennessee, Texas, and Pennsylvania, in which the supreme courts of those States have affirmed that neither justice or equity in forcing the surface owner who has acquired his title by homesteading the land to have to go to court and let some judge assess the value of his home or tell him how many dollars are his and to move off his property as the strippers coal lease nullifies his patent or the deed to his land.

The Johnson amendment is outrageous to the people of the West, and I hope the Members vote it down with every vote here.

The CHAIRMAN. The gentleman from Texas (Mr. ECKHARDT) is recognized for 1½ minutes.

Mr. ECKHARDT. Mr. Chairman, I agree with the last speaker and particularly with the gentleman from Ohio.

Clearly this amendment would create a sort of truncated eminent domain procedure by which the surface owner's interested in the property could be utterly destroyed by the mere assurance of the offering of a bond to pay him what may later be determined to be a tremendous loss to him.

There would have to be no determination of any kind of the relative importance of mining coal as against the surface owner's right to live on his property and use it for the purposes for which he has always used it.

When we abuse the power of eminent domain to destroy a man's homestead in order to produce more power, it seems to me that we simply go berserk in the direction of producing energy in this country at the expense of all other values.

Mrs. MINK. Mr. Chairman, I rise in opposition to the amendment.

(By unanimous consent, Mr. DENT yielded his time to Mrs. MINK.)

Mrs. MINK. Mr. Chairman, one of the most important provisions, aside from the restrictions and regulations that we impose on the mining of coal, is this section here in 709.

Real property is the most treasured possession of an individual in our country.

Since we are dealing in this amendment primarily with Federal lands and Federal coal, it seems to me that it is imperative that the Congress address itself to the problems of what kinds of rights we are going to preserve for the surface owners; people who have been in possession of their land for many generations, who are farming on this land, or who are ranchers out in the far West.

These are people whose entire livelihood and style of living as well as of their families, will be in tremendous jeopardy if we do not provide adequate protection in this legislation. The bonding provision which is suggested in the amendment before this House is a sham. There is no way that a bond which may be released 10 years from now is going to provide any kind of consideration or payment for the losses that that family is going to have to sustain today when those tractors move in and start to remove the overburden.

Mr. Chairman, I believe that this House would be making a serious mistake if it jeopardized in any way the very careful language which was written into this bill to safeguard the fee simple ownership of the surface of the lands out West, and that is what this particular amendment will do.

We have provided an alternate provision where the surface owner is a mere lessee, and there we say that their rights can be adequately protected under a lease arrangement with bond protection. But where the surface owner is a private individual with rights in fee simple, it seems to me that it is imperative that the Congress recognize his primary right.

Mr. Chairman, these coal operators out in the West are not small operators. They are huge companies, and in large part they are owned by the oil industry. They are going to name their price.

We just concluded a hearing today before my subcommittee in which we were told that the annual lease for coal calls for less than one dollar per acre, and that these leases are issued in perpetuity. There is nothing the Congress or the Federal Government can do to terminate these leases.

So it seems to me that if coal is a

necessity in this country and if the people need to have energy these coal companies will come up with adequate compensation to buy these rights and provide funds for these families to move out of the area and find another farm to till the soil and to provide a living for their families.

Mr. JOHNSON of California. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK. I yield to the gentleman from California.

Mr. JOHNSON of California. Mr. Chairman, I will ask the gentlewoman this:

Is it not true that these mineral rights were owned by the Federal Government in the first instance, along with the surface rights, and the surface rights were conveyed to various people for certain purposes and certain uses? And does the gentlewoman not think that the mineral rights that are held in reserve for all of the people of the United States should be developed and used for their benefit?

I would say that the reclamation provisions of this act all apply. The reclamation provisions are there to take care of the lands after it is all through.

AMENDMENT OFFERED BY MR. HOSMER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. JOHNSON OF CALIFORNIA TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HOSMER. Mr. Chairman, I offer an amendment as a substitute for the amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HOSMER as a substitute for the amendment offered by Mr. JOHNSON of California to the committee amendment in the nature of a substitute:

Page 287, line 10, strike out subsections (a) and (b) through line 2, page 228 and insert in lieu thereof the following and reletter accordingly:

(a) In those instances where the surface rights owner is not the owner of the mineral estate proposed to be mined by surface coal mining operations, the application for a permit shall include either—

(1) the written consent of the owner or owners of the surface lands involved to enter and commence surface mining operations on such land or a document which demonstrates the acquiescence of the owner of the surface rights to the extraction of minerals within the boundaries of his property by current surface mining methods; or

(2) proof of the execution of a bond or undertaking for the use and benefit of the surface owner or owners of the land securing the prompt and full payment of any damages to surface estate, to the crops, to the tangible improvements on the land and to secure the income interest of the surface estate owner in those portions of his land affected by coal surface mining and reclamation operations for the time during which said portions of land are affected. The bond established pursuant to this subsection is in addition to the bond required by section 216 of this Act.

(3) Upon a determination by the regulatory authority that damages to the surface estate for which any bond or undertaking has been posted have occurred, the owner of the surface estate shall be paid upon said bond or undertaking eighty percent of the amount of said damages as calculated from the average amount of said damages determined by two Federal or State qualified and licensed appraisers, and the payment of any damages in excess of said eighty percent may be determined by an action brought upon the remaining value of the bond or undertaking or against the operator in a court of competent jurisdiction, and reasonable attorney fees and costs awarded in the discretion of the court.

Mr. HOSMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlemen from California?

There was no objection.

Mr. HOSMER. Mr. Chairman, my amendment extends to non-Federal as well as Federal lands and the surface owner consent provisions of section 709 of H.R. 11500, constitute a substantial shift of rights from the mineral owner of lands to the surface owner. The relative rights of the surface owner vis-a-vis the mineral owner are matters primarily within the purview of State law with respect to non-Federal lands. Federal interference or alteration of those rights could lead to unjust enrichment and invades the proper sphere of State power. The bill also grants new proprietary rights for compensation to permittees and lessees of the surface uses on federally owned lands, even though the permits and leases where issued subject to the right of the Government to issue mineral leases.

With respect to federally owned coal under lands the surface of which has passed into private ownership, the requirement for surface owner consent to surface mining without alternatives, such as bonding or agreement to compensate the surface owner for damages to his estate, is a "giveaway" of Federal coal rights to the surface miner. Under this provision, which is the recently adopted Melcher amendment, the surface owner has a veto power over the leasing and surface extraction of federally owned coal—unless, the coal lessee meets his price to enter and mine. The coal lessee is, then, required to pay twice for the same coal—first he must pay the Federal Government for the lease, including the royalties; and second, he must pay the surface owner.

Besides being unfair, in cases where Federal leases have already been issued, this provision raises several questions of constitutionality, including impairment of contract rights and the taking of property without due process of law and without just compensation.

With respect to Federal coal not yet subject to a lease, coal mine operators, mindful of this requirement to pay twice for the same coal and when considering the competitive market for coal, will be forced to lower their bids for Federal coal leases. Therefore, revenues to the Federal Government from coal leasing will likely be reduced, and the revenues to be returned to the States under the Mineral Leasing Act will also be reduced.

Furthermore, section 709 interjects Federal law into the complex Western water laws. Congress should avoid an interference with established water rights under existing water law in the various Western States because unintended results could cause enormous dislocations.

In any case, the surface owner is entitled to full compensation for actual damages to his surface estate, but no more. This is what my amendment provides—fair and prompt compensation for damages to the surface estate. As H.R. 11500 now reads, the surface owner of Federal coal lands has a veto power of the mining of this coal—coal owned by all the people.

Mr. Chairman, I urge adoption.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, this is one of the major and hardest-fought of the battles connected with this whole legislation. I find myself here against the majority of the committee on which I serve. The committee decided to accept the MELCHER amendment. I opposed the MELCHER amendment, and I do so now.

Briefly, the history of this issue is that in the west is that homesteaders came out there and homesteaded, and they knew they were getting the ownership of the surface but the minerals—the coal—were reserved to the United States. Now much has been said about the intention of the Congress when the minerals were washdrawn. For at least one significant character involved in the debate, such in question was regarded as a policy issue to be decided by a future Congress.

In his 1907 message to Congress proposing the first reservation of rights in coal to the United States, President Roosevelt maintained that the real purpose of such a reservation was the ability to Congress to withhold premature action on the distribution of rights in the coal. Instead, the reservation would allow the development of the surface uses pending a decision as to how the fuel mineral could best be developed in the national interest.

If this government sells its remaining fuel lands they pass out of its future control. If it now leases them, we retain control, and a future Congress will be at liberty to decide whether it will continue or change this policy. Meanwhile, the Government can inaugurate a system which will encourage the separate and independent development of the surface lands for agricultural purposes, and the extraction of the mineral fuels, in such a manner as will best meet the needs of the people and best facilitate the development of manufacturing industries. Transmitted to Congress by President Roosevelt, CONGRESSIONAL RECORD, Senate at 2806 (February 13, 1907).

Obviously, the emphasis was on: First, Congress' right to set policy in the future regarding development of the coal resources; and second, such policy should reflect the national interest in protecting the people's coal resources. It is doubtful that Roosevelt or Congress believed that action would eventually result in the argument that the surface owner should end up with vested rights in the coal.

This is what they get under the Melcher proposal they give the ranchers the right to say no.

One can see what will happen under the committee provision. The coal mining

companies will come to the surface owner and say we need your consent, we would like to mine your land, and the rancher says, sure, give me $5 million.

So you would be giving him the right to prohibit that use of the coal that belongs to the people. You in fact give the surface owner the ownership of the coal. You will be paying for the coal twice—once to the operator and once to the surface owner for whom it is a windfall.

We had the strange business in the committee of the Sierra Club and the National Cattle Association ganging up on this one. The Sierra Club thinks they will stop the mining of all coal, and it will not. It will make millionaires out of the ranchers but it is doubtful that it is going to do much for the environment.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. SLACK).

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. SLACK. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, the amendment offered by the gentleman from California was bad enough, but if you take the amendment offered by the gentleman from California (Mr. HOSMER), you will be raping the patient twice. That is in effect what is going to happen.

It is bad enough that you will take the land away from the surface owner, although the Government owns the coal, but as I understand the amendment, by eminent domain they can come in and take my land where I own the coal, and the surface. I say this is contrary to every element of democracy and decency that this country is founded on.

I would say to the gentleman from Arizona (Mr. UDALL) do not cry too much about the coal operators or the Government, because out in those thick seams out there—and I am taking the average—at the present price of coal the operator will get a gross of $20 million an acre.

Now, I do not care if he has to pay the rancher a thousand dollars an acre for land worth $200 an acre. The gentleman calls it a windfall. Well, what do you call $20 million an acre, of which at least $15 million would be profit?

I have seen these instant millionaires all over Ohio.

All you are proposing to do by these two amendments is to take away from the people their own property and give it to a bunch of coal companies—no, let me change that, because most of the Government coal leases in the West are owned by oil companies. So you will give it to a bunch of the big oil companies who are already into your pockets up to their elbows and shoulders.

Have you read the profit statements that came out yesterday?

The CHAIRMAN. The Chair now recognizes the gentleman from North Dakota (Mr. ANDREWS).

Mr. ANDREWS of North Dakota. Mr. Chairman, I rise in opposition to these amendments.

We have been talking here today about property rights, and everybody forgets about the human rights that went into these United States of America.

This Nation through the Congress in this Chamber passed laws 100 years ago urging people to move West. The people went West. They settled there on the land, and they contributed to this great country because they put a lot of themselves into it. Now their grandchildren are farming that land, and maybe their great-grandchildren are farming that land.

The fact is that the Government of the United States retained the coal for all of the people, as the chairman of the committee pointed out, when he said that Teddy Roosevelt said the fuel lying under the soil belongs to the people.

The Government of the United States did this at a time when they did not know that these large strip mining machines would be moved in there. They did it in a day of hand shovels and Fresno scrapers drawn by horse.

Do not start weeping copious tears, or anything else, about the Government getting its share for all of the people, because all it gets is a lousy 6 cents for that coal that is mined.

We should trade that off against a lifetime heritage of the people who live in the West? I think not; I would hope not. I would hope that the people who have farmed and ranched and made this country what it is—even Teddy Roosevelt's ranch which lies in my State—would be protected and their heirs would be protected.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Ohio.

Mr. HAYS. I thank the gentleman for yielding.

The Government is getting 6 cents, and right now it will sell that kind of coal for $20 a ton.

Mr. ANDREWS of North Dakota. That is correct. And they can come in and negotiate with the surface owner. All we are saying is that the man who wants to mine the coal negotiate with the surface owner and say, "Can we come in and mine your coal?" When they reach an agreement, they can move the drag lines in.

Under this amendment, they can move the drag lines in, tell the surface owner they are going to mine the coal, and the cattleman can look out one morning and see his steers with drag lines moving in on them, wondering what happened to their pasture. Do not let the Government break faith with these pioneering people—vote down these amendments.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. TAYLOR).

Mr. TAYLOR of North Carolina. Mr. Chairman, as stated in additional views appearing in the report of the Committee on Interior and Insular Affairs on H.R. 11500, I cannot condone a requirement that the surface owner consent to surface mining where that ownership has been severed from ownership of the underlying coal.

Protection of the rights of a surface owner is important, but I believe if the committee bill goes unamended, the mere fact that a surface owner holds such rights over a coal deposit would result in large windfall benefits from property that he does not own. His veto over the right to mine someone else's coal will be worth whatever a mining company will pay for it.

The people of America need the energy which comes from coal. The people of America own vast resources of coal in many western States, title being in the Federal Government.

Language now in the bill gives a lucky surface owner a veto over the people's right to mine their own coal. Language now in the bill provides unjust enrichment to the surface owner at the expense of American consumers. It will add to the scarcity of coal and the high price of coal. The Johnson amendment will not only provide more coal and help keep coal prices down, but will prevent an inequity, will prevent windfall profits to a lucky few at the expense of all American citizens.

The Johnson amendment, which I support and urge adoption of, does two things:

First, where the rights in the coal have been severed and held by another party, this amendment removes any requirement that the consent of a surface owner be obtained.

Second, where the coal has been reserved to the United States, the amendment requires consent of the surface owner or the posting of a bond to cover the damages to a surface owner caused during the mining process.

This amendment will make it possible to mine coal where the land can be reclaimed and where the surface owner can be repaid for an injury he may suffer. But it will keep the cost of the coal so mined reasonable and uninflated by unjust enrichment.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. RUPPE).

Mr. RUPPE. Mr. Chairman, I rise in support of the Johnson amendment. I want to point out, frankly, that the legislation at the present time in the East as well as in the West would require written consent. I speak of written consent in the East where the focus is on private minerals and private property owners. This amendment would overturn law in the East, both case law and State law. The question of written consent is handled either by law or by the courts in a number of these States—Ohio, Kentucky, and Pennsylvania, for example.

So the bill as written would overturn State law in a number of Eastern States in the United States and overturn court decisions where this problem of written consent has already been resolved.

I cannot help but add my comments to those of the gentleman from North Caroline (Mr. TAYLOR) regarding lands in the West. The legislation as it is on the books today would certainly require the consumers of this country to pay a second price for the minerals to the surface

owners in the West. The value of those minerals is rising. The amount of money a surface owner in the West will collect from minerals he never owned is going to be a stupendous figure in years to come.

The Western surface owner who never owned those minerals is going to be paid more and more and more for the mineral values he did not own, and those moneys are going to come out of the hide of the American taxpayer. They are going to come out of the hide of the utility consumer. This is a great bill for the surface owner in the West who never owned the minerals, but God help the American taxpayer.

The CHAIRMAN. The Chair recognizes the gentleman from Montana (Mr. MELCHER).

(By unanimous consent, Messrs. OBEY and ROSE yielded their time to Mr. MELCHER.)

Mr. MELCHER. Mr. Chairman, this amendment is not just a bad amendment. These are black proposals. They are just as black as coal itself. Read it. There is nothing in there that has any basis in equity. It says written consent is not necessary if a bond is posted by the coal mining company. It has been touted as a means of holding down the cost of electricity.

I have documented a case in point concerning the Pacific Power & Light Co., and I shall place the facts concerning this documentation in the RECORD and only summarize now. I will only summarize by using their example that extinguishing all surface rights of an owner over federally owned coal in Montana and in Wyoming costs up to $1,000 per acre.

That is what they said, and I will accept that. I will not pass judgment on whether that is accurate or not but I will accept their $1,000 per acre figure for complete acquirement of the land and moving the owner off for the sake of illustration. I will accept that as the asking price and go from there. At that figure, the cost of acquiring surface rights comes to 1.8 cents per ton on typical coal leases. What does it cost per kilowatt? It costs 0.00001 cent.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I really do want to find out before any mine is put into being in the future that any geological reports are going to have to be submitted to the regulatory authority, the surface owner is going to know the value of those minerals, and he is going to collect for the full value of those minerals.

Mr. MELCHER. I thank the gentleman for his contribution, but that figure I just gave comes to two-thirds of 1 cent per month for the homeowner that uses the average of 600 kilowatts per month. That is what it costs a utility company paying the surface owner $1,000 per acre to get him off his land and then they mine the Federal leases of typical quantities of coal in Montana.

Who has the windfall?

I ask, would any citizen, any of us, my colleagues, like to be moved or pushed or shoved from our homes by a mining company that just posts a bond? How would the Members like to be forced to give up their home and their yard, their grass, their trees and their very livelihood by a coal mining company who need not negotiate with the owner, who need only post a bond and move the owner off?

None of us, no American would like that. That is not the American way, because that is giving eminent domain to a private company. I do not believe Congress or any State government has ever given eminent domain of such broad scope to a private individual, to a private company, against the property rights of a landowner. We have never dictated that in America. It is eminent domain when our Government ignores the property rights of landowners and gives a coal company the right to take land from a private property owner without his consent.

Mr. BOLLING. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Missouri.

(By unanimous consent, Mr. BOLLING yielded his time to Mr. MELCHER.)

Mr. MELCHER. Mr. Chairman, these amendments are unfair. They are unscrupulous. They deserve only the depths of oblivion. I ask the Members to vote "no" on both of them. I ask the Members to vote both of them down and damn them to the blackest hole and the deepest darkness of the deepest mine.

Mr. RONCALIO of Wyoming. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Wyoming.

Mr. RONCALIO of Wyoming. Mr. Chairman, it is either we are going to vote this down or we are going to get MIKE MANSFIELD shoved down our throats.

It is one thing or the other. Nobody can live with that.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I think one thing needs to be cleared up. Actually if one owns the surface rights, and that would include the Federal Government, the Federal Government has a right to access to those subsurface interests but only by reasonable means. If the amendment offered by the gentleman from California and even more so if the amendment to the amendment were passed, there would be no limitation whatsoever by which the property could be strip mined. The only result would be that the property could be completely scraped off and paid for, whereas common law access would have to be in accordance with the applied condition of obtaining the mineral interests.

So the greatest change in existing State law would be the passage of these amendments rather than the passage of the bill in its original form. Certainly it is a well-known proposition of constitutional law that one cannot take away the property right of the subsurface owner, he is entitled to his property, but he is not entitled to get to it in any way he wants to—to the destruction of the surface owner.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK. If the coal company should decide to move in and exercise their subsurface rights to coal, what recourse does the surface owner and rancher have? Who is going to pay for his moving costs, the loss of his coal and the loss of his cattle and all the investments he has put in it? Is he expected to wait for the bond to mature 10 years later?

Mr. MELCHER. That is the crux of this thing. It is very crucial.

These amendments are not just bad amendments; they are black, black proposals, as black as coal itself.

They say written consent is not necessary if a bond is posted by the coal mining company.

It has been touted as a means of holding down the cost of electricity. I have documented a case in point concerning the Pacific Power & Light Co. I shall place the facts concerning this documentation in the record and only summarize now by using their complaint that extinguishing all surface rights of an owner of federally owned coal in Montana and Wyoming costs up to $1,000 per acre.

I shall not pass judgment on their complaint that $1,000 per acre for complete acquirement of the land and moving the owner off is the asking price of the landowner, but at that figure it comes to 1.8 cents per ton on typical Federal coal leases in that area and the cost per kilowatt is .00001 or comes to two-thirds of 1 cent for the 600 kilowatts that the average homeowner uses in 1 month.

We are talking about landownership that was acquired by homesteaders and the Federal coal reservation by Congress was made on these lands with the idea that only underground mining would be used if the land were mined. We are talking about a property right of these homesteaders when they acquired the title to their land.

How would any citizen, how would you, my colleagues, like to be moved, pushed, shoved from your home by a mining company posting a bond?

How would you, my colleagues, like to be forced to give up your grass, your trees, your house, your fields, your very livelihood by a coal mining company who need not negotiate, who need not consider you, who need not even take cognizance of you if they choose not to do so, who could merely write you a letter telling you of their plans and then post a bond and commence strip mining? That is eminent domain—no more, no less. No matter how you cut it, it is eminent domain.

We have not—in America—dictated eminent domain for strip mining purposes to coal companies. When has our Government ignored property rights for a private company to exercise at their pleasure? We must not do so now. This amendment is unfair, unscrupulous,

and deserves only the depths of oblivion. I ask you to vote no on the basis of property rights of landowners. I ask you to vote it down and to damn it to a black hole as deep as the deepest, darkest coal mine.

Documentation material on these prints follow:

ALBERT W. STONE, UNIVERSITY OF MONTANA, SCHOOL OF LAW, KEY POINTS REFERRING TO THE SURFACE OWNER'S RIGHTS OVER FEDERALLY OWNED COAL

The most recent case was *Stewart v. Chernicky*, 1970 (36), in which Chernicky had strip mined and Stewart sought damages, alleging that his land had been stripped without right. The document in question was a 1902 deed that granted Chernicky the coal and the right of . . . mining . . . also the right to drain and ventilate said mines by shaft or otherwise . . . with a full release of and without liability for damages, for injury to the surface. . . .

The court found that the deed was not specifically for or against strip mining, but placed the burden of proof upon whoever seeks authority to destroy the surface. It acknowledged the general rule enunciated in the 1953 Rochez Bros. case and the 1961 Wilkes-Barre School district case that ambiguities and uncertainties should be resolved against the grantor, but it did not find that the deed gave rise to significant ambiguities and uncertainties. Rather, since strip mining was not common in 1902 when the deed was executed and since it incorporated such language as "ventilate said mines," it found that strip mining was neither intended nor included in the grant of the mineral rights.

Upon satisfactory proof of full compliance with the (several homestead, desert land entry, and stock-raising homestead laws) the entryman shall be entitled to a patent . . . which patent shall contain a reservation to the United States of all the coal in the lands so patented, together with the right to prospect for, mine, and remove the same. . . . (The language continues, reading nearly identically to the 1916 statute quoted below, authorizing licensees of the United States to enter, to prospect, and to mine, and to occupy so much of the surface as may be required, subject to payment of damages or the giving of a bond to secure damages ascertained by a court.) 1910 (38).

All entries made and patents issued under (stock-raising homestead) shall be subject to and contain a reservation to the United States of all the coal and other minerals in the lands so entered and patented, together with the right to prospect for, mine, and remove the same. . . . Any person qualified to locate and enter the coal or other mineral deposits, or having the right to mine and remove the same under the laws of the United States, shall have the right at all times to enter upon the lands . . . for the purpose of prospecting . . . and shall compensate the entryman or patentee for all damages to the crops on such lands by reason of such prospecting. Any person who has acquired from the United States the coal or other mineral deposits in any such land, or the right to mine and remove the same, may re-enter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining or removal of the coal.

SCHILTZ BRIEF

The following are items which indicate that Congress contemplated the traditional mining techniques, using shafts, tunnels, and rooms, which would leave the surface undisturbed except for ingress, egress, stockpiling, railroads, waste dumps, etc.:

Congressman Lacey observes that if the surface and subsurface ownerships were severed the home steader would not be hurt—that the land would be *undermined*, except as to his buildings.

Colloquy between Congressman Lacey and Campbell of the Geological Survey, discussing ventilation plants, airshafts, and water shafts in connection with coal mines, none of which has anything to do with strip mining.

The Congress, based on the committee hearings and reports, contemplated that the reserved coal would be mined by the traditional shaft, tunnel and room method, with incidental damage to the surface for ingress and egress, shafts, dumps, rails, etc.

JULY 23, 1974.

DEAR COLLEAGUE: Last week we wrote of a problem that Montana, Wyoming, the Dakotas, Utah and Colorado have with the homesteaded land taken up by settlers after 1912, when the Federal government retained ownership of the coal underlying their land. The strip mine bill in Section 709(b) requires the consent of the surface owner of these homesteaded lands before it can be strip mined but, as Congress intended, would allow underground mining.

An amendment to allow coal companies only to put up a bond for surface damage and go ahead and strip mine is supported by some on the grounds that it would hold down the cost of electricity.

The facts are that a typical federal coal lease in Wyoming or Montana has 55,000 tons of coal per acre. Some utility companies complain that it costs $1,000 per acre to settle and extinguish all of the rights of the landowner. The cost per kilowatt generated by the coal underneath that one acre of land would be increased $.0000106. Of if measured the other way, if there were no payment to the surface owner the difference in an average home owner's bill using 600 kilowatts would be less than 2/3c per month.

For 2/3c per month, we urge you to support this surface owners' rights portion of the bill and resist weakening amendments that would, in effect, give coal companies the power of eminent domain, completely abridging the rights of the landowners.

Sincerely,

John Melcher, Teno Roncalio, Gunn McKay, Mark Andrews, Frank Denholm, Wayne Owens, Frank Evans, Patricia Schroeder.

Groups supporting our position are: AFL–CIO; National Farmers Organization; National Farmers Union; Environmental Policy Center and numerous environmental organizations; National Rural Electric Cooperative Association; United Auto Workers.

Cost to consumer when an electric company pays $1,000 per acre for the land over Federal coal:

55,000 tons/acre at $4.00/ton=$220,000 coal/acre—asking price for surface is $1,000 per acre at $1,000/acre=1.8 cents per ton.

Impact on the cost of a kilowatt of electricity:

The national average for coal-fired steam electric generation plants of the number of Btu's required to produce one kilowatt-hour of electricity in 1970 was 10,269 Btu's; for the Mountain region (Montana, North Dakota, Wyoming, South Dakota, etc.) this figure was 10,445 Btu's. Source: National Coal Association.

1,000,000 Btu÷10,269 kwhr=97 kilowatt-hours per million Btu's of heat.

Btu value of the Colstrip Mine coal is 8,750 Btu/pound or 8,750 Btu/lb.X2000 lb.= 17.5 million Btu per ton.

Thus, one ton of Colstrip coal can produce: 17.5 million BtuX97 kwhr/million Btu=1697 kilowatt-hours.

With an increase of 1.8 *cents* per ton (based upon surface value of $1,000) the cost per kilowatt-hour is:

.018000÷1697=$.0000106 per kwhr increase.

An average home uses about 600 kilowatt-hours of electricity per month, thus the increase in the cost of a ton of coal of 1.8 cents would amount to: $.0000106 per kwhr.X600 kwhr.=$.00636 or .636 cents per month or approximately ⅔ of 1¢ per month.

A CASE IN POINT

Mr. Chairman, the committee strip mine bill, H.R. 11500, as presented to the House protects property owners' rights where the coal under amended homestead laws are reserved for Federal ownership. Pacific Power & Light, a utility company that serves the Northwest including parts of Montana, Wyoming, Idaho, Oregon, Washington, and California contends that obtaining consent of the landowner to strip mine federally owned coal will force up the price of electricity.

They recommend condemnation procedures be legislated to settle landowners' interests that would expedite mining of coal they have under Federal lease. They have urged me to consider this alternative to protecting surface owners' rights in the manner that the bill now does it.

Condemnation by a coal company or an electric utility company to move aside a landowner and strip mine is a harsh remedy. Their motives should be examined as a case in point:

What does the land cost per acre?

How much coal per acre lies under the land?

How much return would the Government receive for the coal?

Pacific Power & Light has 15 Federal leases in Wyoming, and 5 in Montana which they share with Decker Coal Co. and Peter Kiewitt Co. I shall include with this statement a list of these leases, the acreage of each, and the date and method acquired as provided to me by the Bureau of Land Management.

Federal coal leases may be obtained through a preference right system or through competitive bonus bidding. In either case Pacific Power & Light is required to pay 50 cents per acre per year to retain each lease. On about half of their leases, obtained through competitive bidding, they paid a bonus of $1.01 to $2.28 per acre which, unlike the 50 cents per acre rental, is only paid once. One lease in Montana is held in the name of Peter Kiewitt Co. had a bonus payment of $18.25 per acre.

The Federal lease by itself does not assure Pacific Power & Light that they can mine the coal. First the Interior Department must approve a mining plan and then issue a mining permit.

Pacific Power & Light purchased 5,880 acres of land in Wyoming on some Federal coal leases that they hold. They are in the process, they say, of attempting to buy more land from the owners. While they have not contacted all the owners involved in their 27,146 acres of Federal coal leases in Wyoming, Pacific Power & Light officials say that some of the owners that have been contacted have requested settlements for sale of their land which include compensation for inconveniences, costs of moving, and for what they describe as fringe benefits which range from $750 to $1,000 per acre. That is what Pacific Power & Light would pay

for ownership of the land and to completely eliminate any claims of the landowner.

How much coal is there per acre? Three of their leases picked at random in Wyoming and Montana, as reported by the U.S. Geological Survey have coal veins 21 to 43 feet thick lying underground from 26 to 150 feet. Current contract prices for such coal is around $4 per ton. That averages each acre of land covers 55,000 tons of coal.

Pacific Power & Light, and other companies with Federal coal leases, pays 50 cents per year per acre, and have some leases that they paid a bonus of $1 per acre or more, and will pay a royalty of 17½ cents per ton, or 6 percent of the value of the coal to the United States when and if it is mined. The value of the coal in the case in point is $220,000 per acre. So settling up with the landowner is going to drive up the cost of electricity? In the case in point, Pacific Power & Light is calling the price they are paying for the land and all incidental costs to remove all claims of the surface owner as excessive and inflationary. They have not contacted all of the landowners but object to the fact that the ones that they have contacted are asking as much as .4 of 1 percent of the value of the coal, or 1½ cents per ton, for coal that lies under the land. Windfall profit has been mentioned. The coal is federally owned, the lease costs are nominal, the royalty paid to the United States is 17½ cents per ton, or 6 percent, the coal seams are so thick production will run in a range around 55,000 tons per acre.

Windfall for whom?

The Western homestead land, if it is to be strip mined, needs to be protected by a firm Federal policy. A basic policy we have approved in the committee bill requires consent of the landowner to have his land strip mined for the Federal coal. That is step No. 1.

Then the Interior Department must overhaul their leasing policy, making it relevant to current values of coal, obtain environmental impact statements as required by law, prevent coal leases from being obtained and held by speculators contrary to the public's interest and provide for realistic return to the Federal Government, 17½ cents per ton is too low for coal worth $4 and more per ton. The Interior Department is now proposing 6 percent of the value as an alternative royalty and that is still too low.

Interior Secretary Rogers Morton is preparing a new policy for U.S.-owned coal known as the Energy Minerals Allocations Recommendations System which he launched several months ago. An environmental impact statement is being circulated. Public hearings will be held in Salt Lake City, Billings, Casper, and Denver in August and comments will be received until August 30. A moratorium on new Federal coal leases and approval on mining plans and mining permits began in early 1971, except for a few ongoing operations where it was necessary to approve new mining permits to avoid shutting down a mine.

The public interest in what is to happen to our public lands and where they are to be strip mined for coal, must be protected in the new policy that is being developed. I have called oversight hearings for August 12 and 13 to be held by the Public Lands Subcommittee of the Interior Committee to receive testimony from the Interior Department and the public as to the affect of the development of the Energy Minerals Allocation Recommendations System.

I believe it is timely and pertiment to chart the development of Federal coal—establish the guidelines. This bill H.R. 11500 can set those guidelines for reclamation and protection of our land and water by strong and clear language. It must also protect private property rights of individuals, and I believe it unjust if we did not assure landowners the right to protect that surface—and the right to deny consent for it to be stripped instead of mined by underground methods. It is not going to break the coal companies, the utility companies or anyone else to allow them a penny or two per ton of coal for being uprooted to start a new enterprise and a new life.

I include the following:

State and serial No.	Acreage	Type lease: Competitive	Type lease: Preference	Date issued
LEASES—PACIFIC POWER AND LIGHT CO.				
Montana:				
1. M057934	720.0	×($1.015)		Oct. 1, 1963
2. M069782	2,346.7	×(1.01)		July 1, 1965
Total	3,066.7			
DECKER COAL CO. LEASES				
Montana:				
1. M057934-A	1,840.5	×(1.015)		Oct. 1, 1963
2. M061685	2,360.2	×(1.00)		Mar. 1, 1964
3. M073093	9,409.5	×(18.25)		Aug. 1, 1966
Total	13,610.2			
Wyoming:				
1. W2727	2,880.0		×	Oct. 1, 1969
2. W2728	1,280.0		×	Do.
3. 0321780	2,908.0	×(1.17)		Dec. 1, 1966
4. 0322255	1,869.0	×(2.00)		Do.
5. 0312917	480.0		×	Apr. 1, 1967
6. 0312918	3,779.0	×(2.28)		June 1, 1965
7. 0313558	4,276.0		×	Jan. 1, 1968
8. 0313559	640.0	×(2.28)		June 1, 1965
9. 0244167	1,803.0	×(1.31)		June 1, 1963
10. 092140	671.0		×	July 1, 1962
11. 092141	2,480.0		×	Do.
12. C054769	120.0	[1] ×		May 31, 1963
13. 038597	1,400.0		×	Aug. 1, 1958
14. 038602	2,000.0		×	June 1, 1956
15. 041355	560.0	×(1.26)		July 2, 1956
Total acres	27,146.0	11,679	15,467	

[1] No bonus.

LEASES BY PACIFIC POWER AND LIGHT CO. AND DECKER COAL

MONTANA

1. Private leases, 2, 200 acres.
2. State leases, 8, 2,760 acres.
3. Federal leases, 3, 16,676 acres.

WYOMING

1. Private leases, 1, 13,960 acres.
2. State leases, 17, 16,800 acres.
3. Federal leases, 15, 27,146 acres.

Total acres leases in Montana and Wyoming, 78,210 acres.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HOSMER) as a substitute for the amendment offered by the gentleman from California (Mr. JOHNSON) to the committee amendment in the nature of a substitute.

The substitute amendment to the amendment to the committee amendment in the nature of a substitute was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. JOHNSON) to the committee amendment in the nature of a substitute.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. JOHNSON of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the committee amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska to the Committee Amendment in the Nature of a Substitute: Page 290, after line 17 insert the following:

ALASKAN SURFACE COAL MINE STUDY

SEC. 713. (a). The Secretary is directed to contract with the National Academy of Sciences-National Academy of Engineering for an in-depth study of surface coal mining conditions in the State of Alaska in order to determine the best set of surface mining regulations under which such mines should operate. The study shall—

(1) identify variations and differences between surface mining conditions in Alaska and surface mining conditions in the Lower 48 with respect to the environmental protection standards in this Act;

(2) identify suitable surface mining standards to assure that post-mining land use is compatible with the habitat, and surrounding terrain;

(3) identify impacts on the environment which could be engendered by current surface mining technology and identify how or if these impacts can be mitigated through the use of alternative mining technologies.

(b) The Secretary is to make a report to the President and Congress on the findings of the study no later than 24 months after the date of enactment of this Act;

(c) The Secretary shall include in his report a draft of Federal regulations to be promulgated to govern surface coal mining operations on Federal lands in the State of Alaska, and a draft of those regulations to use as a standard for determining the adequacy of an Alaskan State program for the regulation of surface coal mining operations;

(d) The draft regulations contained in the report are to be promulgated for comment by the public and other interested parties pursuant to this Act within 12 months of submission of the report to Congress. After considering such comments submitted and revising such regulations as appropriate, the Secretary shall promulgate such standards governing surface coal mining operations in the State of Alaska.

(e) Until the Secretary has made his report to the President and Congress and has promulgated Federal regulations on coal mining operations on Federal lands in Alaska, this Act shall not apply to the State of Alaska.

(f) There is hereby authorized to be appropriated for the purpose of this section $500,000.

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Chairman, I offer this amendment for actually a study, a 3-year delay of any section of this act for the State of Alaska. We are dealing primarily with a State that is 97 percent owned by the Federal Government, yet has a vast quantity of coal.

I have a letter from the Bureau of Mines in which it is stated under this bill, to their knowledge, it would be nigh on to impossible to do any strip mining in Alaska, due to the climatic conditions and the terrain.

All I am asking in this amendment is for a study of 3 years' time and the report of the Bureau of Mines be submitted to the Congress at that time to tell us what this bill will do to the State of Alaska as far as the mining of coal.

We are talking about the last amendment offered. That amendment would not affect the State of Alaska, but it is all federally-owned. I think the way the present bill is written, it would be nigh on to impossible to take any of that coal. I think it is very important that this amendment be adopted to the bill.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentlewoman from Hawaii.

Mrs. MINK. Does the amendment of the gentleman in any way affect the other aspects of the bill with respect to the implementation of the regulations and the interim program and all the other matters related thereto?

Mr. YOUNG of Alaska. It does not affect them. What it would do is give them a 24-month study program, plus a 12-month period of submission of the report to Congress.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from Alaska (Mr. YOUNG) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. PEPPER TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. PEPPER. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. PEPPER to the committee amendment in the nature of a substitute: Page 286, after line 23, insert the following:

RESEARCH AND DEMONSTRATION PROJECTS ON ALTERNATIVE COAL MINING TECHNOLOGIES

SEC. 708. (a) The Secretary is authorized to conduct, and promote the coordination and acceleration of, research, studies, surveys, experiments, demonstration projects, and training relating to—

(1) the development and application of coal mining technologies which provide alternatives to surface disturbance and which maximize the recovery of available coal resources, including the improvement of present underground mining methods, methods for the return of underground mining wastes to the mine void, methods for the underground mining of thick coal seams and very deep coal seams, and such other means of mining as may be recommended in the studies authorized under section 704; and

(2) safety and health in the application of such technologies, methods, and means.

(b) In conducting the activities authorized by this section, the Secretary may enter into contracts with and make grants to qualified institutions, agencies, organizations, and persons.

(c) There are authorized to be appropriated to the Secretary, to carry out the purposes of this section, $50,000,000 for each fiscal year beginning with the fiscal year 1976, and for each year thereafter for the next four years.

And renumber the succeeding sections accordingly.

The CHAIRMAN. The gentleman from Florida (Mr. PEPPER) is recognized for 1½ minutes.

Mr. PEPPER. Mr. Chairman, all this amendment does is to authorize the program of research in respect to improving the techniques of mining which are recommended by the Bureau of Mines of the Department of the Interior.

We do not have at the present time—due to the fact that other energy bills have not become law—we do not have authorization for that type of expenditure. I think we ought to provide the basis for future appropriations when it seems desirable by the Appropriations Committee and is approved by the Congress to increase the production of coal in the Nation—so essential to our well-being and security.

I ask consideration of the matter by the distinguished gentleman from Arizona (Mr. UDALL) handling this bill.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, do I understand that the Bureau of Mines now does not have sufficient research funding authorization, or no funding authorization over the particular area the gentleman outlined?

Mr. PEPPER. That is correct. In fact, when we had the Interior appropriation bill here in respect to improving coal mining technology a little bit ago, they had to get a waiver of points of order for the Appropriations Committee to present an appropriation of $46 million in fiscal year 1975, because there had not been an authorization.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this adds specific research authority to and strengthens the general research authority in the bill. We have got to get going to find new means and methods to deal with coal mining problems and this authority is an essential step.

Mr. PEPPER. That is right.

Mr. UDALL. Mr. Chairman, I think this is a good amendment and I am going to support it.

Mr. PEPPER. Mr. Chairman, this Congress has an opportunity to shape a national policy for the development of coal to meet our present and future energy needs which can be both economically and environmentally acceptable. The issue of regulation of surface coal mining has been debated for too long now and the damage of the past mining operations is testimony to the need for this legislation.

Strip mine coal production has been on the increase since the end of World War II and it now contributes almost one-half of the Nation's coal output. In 1943, the total coal production of 590 million tons was identical to the coal industry's output last year. However, deep mined coal contributed 200 million more tons in 1943 than in 1973. This shift in mining methods over the 30-year period has resulted in the closing of many hundreds of deep mines and the loss of almost 275,000 skilled underground coal miners.

This situation cannot persist if this Nation is to regain, once again, a self-reliance upon its own resources for energy generation. In the very near future we are going to have a critical need for those 275,000 deep miners as well as the technical expertise necessary to manage an efficient, highly productive deep mining industry. Despite all the excitement over the availability of easy-to-reach strippable coal reserves in the West, it is the deep minable reserves of coal which will pull this Nation through the tightening world energy shortage. But, this will not come about with a casual approach to revitalizing the underground coal mining industry. It will require great sums of money for the research and development of more efficient, safer methods of mining the coal and getting it to the consumer. Underground coal mining must be given incentives in the East and in the West. In the words of Russell E. Train, Administrator of the Federal EPA.:

The sooner we can make underground mining more economically attractive, more technologically feasible and more socially acceptable as a way of life, way of employment, the better off we're going to be. The underground reserves are by all odds the predominant sources that we have. We're going to have to get at this in any event.

The strip mining industry has enjoyed a competitive advantage over the deep mining industry since the passage of the Federal Coal Mine Health and Safety Act of 1969. That act has brought about great changes in the deep mines of America and the problems that plagued that industry in the past are fast coming under control. This has come about with new hardships placed upon the operators of the deep mines. The safety regulations are expensive and have resulted in a decrease in productivity but the benefits to the miners cannot be calculated and the costs of energy must include the costs of worker safety and evironmental protection as a part of the real cost.

The additional operating expense has caused the price of deep mine coal to rise above the cost of strip mined coal. Combine this with the fact that until recently the strip-mine operator has been able to externalize some of the operating expenses by doing partial reclamation or no reclamation at all because of weak reclamation laws in the various States, and it is easy to see why there has been a steady increase in strip mining.

Now the United States has turned its attention to coal as a primary fuel to meet our energy needs. Coal was the fuel for the railroads, mills, homes, steel foundries, and electric powerplants until diesel fueled locomotives and the cheap natural gas and imported oil undercut much of the coal market. But, that situation is beginning to reverse itself with the insecurities of importing oil, the growing shortages of natural gas, and the commitment toward energy independence and greater reliance upon our own resources for energy. Coal may once again become the king of fuels.

The President, the Federal Energy Agency, other Federal agencies, and the energy industry are working to map out strategies for greater reliance upon coal for the short- and long-term future energy demands of the country. This has brought about a variety of plans and an equal number of opposing views as to the means by which this Nation will mine its coal. For some of the coal industries there is a strong emphasis upon the thick, shallow, western seams of subbituminous coal found in the northern Great Plains States and in the Southwest. While others maintain that the coal should be mined from the traditional coal fields of Appalachia and the Midwest. We have all heard by now, the arguments from both sides on the controversial shift of the coal industry from the traditional coal fields of the East to the new, undeveloped strip mines of the West.

I want to see the Nation meet its energy demand with clean, environmentally safe and economically acceptable fuels. But, I am also concerned with the whole picture and it causes me concern to see the planners of our energy future running off in one direction which may lead us to another fuel crisis somewhere around the turn of the century.

Not too long ago we witnessed the birth of a natural gas industry in this country and before we knew it everyone was plugging into the natural gas transmission system. There was no great concern for the lifespan of the gas reserve back then. We looked upon it as an inexhaustable resource. Electric generation plants were fueled with the natural gas and no one questioned that it might be an inefficient use of that clean fuel. Now, we are being told that there may not be enough natural gas for sections of the county to add new customers and the Federal Power Commission requires the curtailment of gas during the winter months to certain types of customers.

We may have an analogous situation with our coal reserves. On the one hand we are told of the abundance of our coal deposits; enough to fuel the Nation for centuries. According to the figures I have seen, I would agree with those estimates. The U.S. Geological Survey has estimated that we have about 1.5 trillion tons of coal under our lands and these are only the identified deposits. The total coal resources may be as high as 3 trillion tons. Any way you look at it, we do have many centuries of coal supplies. But that should not cause us to go about the mining of that coal in a haphazard manner without first evaluating all of the impacts associated with that policy. We have learned that the quickest and the easiest methods of energy development may not always be the best for the Nation.

I have a copy of the background paper of the coal extraction research and development program devised by the Interior's coal extraction task force in which they have made startling conclusions regarding the nature and extent of our coal reserves. I would like to submit for the RECORD, the section which deals with various coal mining strategies that might be followed by the coal industry as a means of supplying our increasing coal demands.

The report analyzed the coal reserve base according to strip mine and deep mine reserves. Of the total coal in the ground, the report estimated that 193 billion tons are easily accessible to mining with the West holding about 36 percent of the reserves and the Appalachian and Midwestern fields holding the remaining 64 percent. Moreover, only 22 percent of this coal can be strip mined and 78 percent can only be recovered by deep mining.

It discussed the projections of the Nation's future energy demand. Using an annual energy demand increase of 4.2 percent, the 1985 coal demand was estimated to be roughly equivalent to 2 billion tons. That is more than triple the 1973 coal production for the entire Nation. It would require increasing coal production by about 12 percent per year and doubling of coal production by 1980.

Two alternative coal mining production strategies were evaluated. Strategy 1 was a maximum reliance upon surface mining to achieve the stated coal demand.This assumes that production from the western surface reserves will expand from 50 million tons in 1972 to 1.4 billion tons by 1985. Surface mining in the East will increase modestly from 250 to 380 million tons and underground mining in the West will not be initiated and eastern deep mining will not expand from its present 300 million tons.

Strategy 2 balances the increased production between regions and mining methods. Surface mining would increase initially but after 1980 would be reduced by relying more heavily on deep mining in both the East and West. Eastern deep mining is assumed to double to 600 million tons by 1985 and after 1985, large increments of western deep mine coal development are made. By 2000, some 200 million tons are assumed to be available from this location. Conversely, production from surface mines in the East is being steadily reduced after 1985.

I should mention that since strategy 1 relies upon the lower heat value of western coal, it will require mining about 3 billion tons more than strategy 2. At the 1973 average of $7.07 per ton, that means an additional cost of more than $21 billion between now and the year 2000.

The conclusions of the task force were that strategy 1 would exhaust the current surface mine reserves in the West by 1986 and about 67 percent of the eastern strippable reserves.

Strategy 1 was determined to cause rapid regional changes and exhaust a very high portion of surface coal reserves in both the East and the West by the year 2000, threatening rapid decline in surface mine development after the turn of the century. Thus, it would cause an initial rapid transition which may be followed by a rapid downturn. That, of course, is the "boom and bust cycle" which has plagued certain industries and regions of the country. According to strategy 1, the coal in the western strip mine fields would be mined out before the mortgage was paid on the strip mine worker's home.

For the above reasons, strategy 1 could not be depended upon to maintain the needed production output from 1986 to 2000 and was found unacceptable as a coal mining policy. Whereupon, the task force began to design a research and development program which emphasized the mining of deep mine coal reserves.

In keeping with the conclusions of the coal extraction task force and the findings and purpose section of this legislation, I have introduced an amendment to authorize the appropriation of $50 million, annually, for the research and development of alternative means of mining coal which can provide the Nation with the necessary coal to meet our fast-growing demand.

The deep mine industry is going to be called upon to carry a greater share of the coal production and this will require larger, more efficient mines, using the latest technologies developed in the more advanced European deep mines. The productivity of the mines must improve as well as the safety procedures, equip-

ment, and training programs for the miners. This will require a firm dedication on the part of the coal industry and the Federal Government. This will require the expenditure of many millions of dollars but the benefits to the Nation will be felt as new technologies come on line which will reduce the operating expenses through more efficient mining thus lowering the cost of deep mine coal.

A research and development program for deep mining should include funds for the design of new mining systems which will increase the productivity from the present 12 tons per man-shift to 30 tons per man-shift.

Longwall and shortwall mining systems, being implemented in European mines are beginning to win acceptance in U.S. underground mines. Additional study to determine greater applicability of this innovation in U.S. coal fields will aid in determining for coal mine operators where the longwall system can be used.

Remote control operation of mining equipment, such as the continuous miner and roof bolter, will substitute human control for remote control in dangerous mining operations.

Continuous haulage systems designed to carry the coal mined from the face of the coal seam to the preparation plant outside the mine will do much to speed up the underground mining operation by allowing continuous mining of the coal with no downtime for coal transfer. Since coal handling in the mine is one of the principal bottlenecks in today's underground production, success in this area will have extremely high benefits.

Mining systems for deep mining of western coal seams must be designed for the efficient mining of the thick coal and lignite beds of the West which must be added to the Nation's recoverable reserve category.

Another innovation which must be funded is the recovery of methane gas from unmined coal seams prior to the mining operation. Methane gas is another of the major impediments to increases in present productivity. In some areas 40 percent of the downtime of the face equipment is due to shutdown of the equipment when methane gas builds up to the danger level. Under the earlier research it was discovered that the methane gas could be pumped from the coal seam before mining begins. The gas could be piped to eastern markets and the revenue used to pay the cost of opening the future deep mine. If successful this could double the Nation's gas reserves and eliminate a key impediment to productivity and a major safety hazard in underground mining.

Dr. Thomas V. Falkie, Director of the Bureau of Mines, recently announced the expenditure of over $46 million for fiscal year 1975 for making existing technology in deep mining more productive and for devising the type of technology that will be needed for producing coal from deep coal deposits.

My amendment will provide $50 million, annually, for the next 5 years, after fiscal year 1975, to provide the answers to the problems facing the deep mining industry in this Nation. As we go forth to pioneer new advances in the deep mining industry we can be assured of a long lasting, secure energy source in the deep mine reserves of coal in this Nation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. PEPPER) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. HOSMER) there were—ayes 26; noes 6.

Mr. HOSMER. Mr. Chairman, inasmuch as this is a $50 million a year appropriation, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENTS OFFERED BY MR. EVANS OF COLORADO TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. EVANS of Colorado. Mr. Chairman, I offer three amendments to the committee amendment in the nature of a substitute, and I ask unanimous consent that these amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. EVANS of Colorado to the committee amendment in the nature of a substitute: Page 287, line 9, strike out "protection of the surface owner" and insert in lieu thereof "protection of the surface owner and owners of water rights".

Page 288, beginning on line 23, strike out "affect the hydrologic balance of water on or off site," and insert in lieu thereof "adversely affect the hydrologic balance of water on or off site, or diminish the supply or quality of such water,".

Page 289, strike out lines 3 through 15 and insert in lieu thereof the following:

(2) evidence of the capability and willingness to provide substitute water supply, at least equal in quality, quantity, and duration to the affected water rights of such owners.

(e) (1) An owner of water rights adversely affected may file a complaint detailing the loss in quality and quantity of his water with the regulatory authority.

(2) Upon receipt of such complaint the regulatory authority shall—

(A) investigate such complaint using all available information including the monitoring data gathered pursuant to section 219(b)(2);

(B) within 30 days issue a specific written finding as to the cause of the water loss in quantity or quality, if any;

(C) order the mining operator to replace the water, in like quality, quantity, and duration, within 30 days if the loss of such water was found to be due to the surface coal mining operations; and

(D) order the suspension of the operator's permit for failure to replace such water until such time as the operator has provided the substitute water supply.

(f) Nothing in this act shall be construed as affecting in any way the right of any person to enforce or protect, under applicable State law, his interest in water resources affected by a surface coal mining operation.

Mr. EVANS of Colorado (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

(By unanimous consent, Mr. JOHNSON of Colorado yielded his time to Mr. EVANS of Colorado.)

Mr. EVANS of Colorado. Mr. Chairman, the first amendment amends the title on page 287 to say "protection of the surface owner and protection of water rights."

On page 288 I just have one word. In the third line from the bottom I insert the word "adversely," so we are saying "adversely affect the hydrologic balance."

On page 289 after all of subsections (2) and (3), I insert the real meat of this amendment.

What I am talking about here is very much in line with what we just talked about and disposed of as it related to the manner in which we deal with the owners of surface land.

This body has said that it does not want to have the rights of the owners of surface land condemned by the use of a bond in the hands of the coal operators. I am saying the same thing here as it relates to the owners of water rights.

In my part of the country and in the arid West, land is not worth a dime unless you can have water which you can use or apply to it for a beneficial use. This has been the means by which the West was settled. Without it, we would not exist.

These are important property rights. If someone comes along to surface mine coal and one alleges he owns water rights and that the proposed mining is going to adversely affect these water rights, under my amendment he can go to the authority and so complain.

The authority then has the obligation of determining whether or not the surface mining of coal will adversely affect the water rights.

If it does, then it says in my amendment that, first of all, there should be a 30-day period of time within which to issue a specific written finding. If it does find that the water rights would be adversely affected, the authority has the right under subsection (D) to order a suspension of the operator's permit for failure to replace such water until such time as the operator has provided a substitute water supply.

In my last section, I simply say—

Nothing in this Act shall be construed as affecting in any way the right of any person to enforce or protect, under applicable state law, his interest in water resources affected by a surface coal mining operation.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I will be happy to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I would strongly oppose the gentleman's amendments for the same reason that I opposed the committee provision that Mr. JOHNSON of California wants to strike. They are not parallel.

The Melcher amendment, now in the bill, says that one has to get the surface owner's consent before he mines. What the amendment of the gentleman from Colorado does is to say that one has to get the consent of the owners of the water rights, people who have water rights, before anyone can mine.

I would hope that we would have a bonding provision covering both, first, owners' property rights and then owners' water rights, if we are going to deal in a uniform way with both.

For that reason, Mr. Chairman, I cannot support the gentleman's amendments.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I understand the gentleman's concern.

It would appear to me, however, that the value of the minerals in the western lands where the Federal Government owns those minerals is going to be paid for three times. It is going to be received once by the Federal Government when the minerals are sold. The minerals are going to be paid for a second time to the landowner, and now it looks as though the water rights owners will get a third grab at the value.

People who pay electricity bills are going to pay threefold for the value of the western minerals, once to the Government, once to the landowner, and then to the owner of the water rights.

Mr. EVANS of Colorado. If any companies are allowed to take, by virtue of a simple bonding procedure, land including the water rights, the entire manner of living and way of life of the West is going to be tragically changed, not only tragically changed, but I think permanently changed.

I cannot recommend to my colleagues in the House more strongly the need for the adoption of my amendment.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Let me say this: I am as big a cowboy as anybody here, and probably as much involved in my constituency in landownership. However, in my view, we are doing a tremendous disservice to the average landowner and average water owner.

Under existing law, there is a great deal of protection for both the water owner and the landowner, and just to put a loaded gun in the hands of the water owners and landowners, to me certainly would be unworthy of this House, in spite of all the great rhetoric.

Mr. EVANS of Colorado. Mr. Chairman, I understand the position of the gentleman. However, I will say that with the authority established here in this bill as National Federal policy, they may say to those who seek to strip mine coal, "We will give you, through the bonding provisions, the right to condemn a man's water rights if you pay him for it." That may answer, by force of a hand, that man's damages, but in the process it affects many other people and jeopardizes their way of life in an area where water is extremely short; it affects the rights of many others in the States besides the owners of water rights.

Mr. Chairman, I hope that the Committee will accept my amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Colorado (Mr. EVANS) to the committee amendment in the nature of a substitute.

The amendments to the committee amendment in the nature of a substitute were agreed to.

AMENDMENT OFFERED BY MR. STEIGER OF ARIZONA TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. STEIGER of Arizona. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. STEIGER of Arizona to the committee amendment in the nature of a substitute: page 287—line 9—strike SEC. 709 And Insert the following:

SEC. 709. PROTECTION OF THE SURFACE OWNER.—(a) Except as provided in subsection (b) of this section, in those instances in which the surface owner is not the owner of the mineral estate proposed to be mined by surface mining operations the application for a permit shall include the following:

(1) the written consent of, or a waiver by, the owner or owners of the surface lands involved to enter and commence surface mining operations on such land, or, in lieu thereof.

(2) the execution of a bond or undertaking to the United States or the State, whichever is applicable, for the use and benefit of the surface owner or owners of the land, to secure the immediate payment equal to any damages to the surface estate, which the operation will cause to the crops, or to the tangible improvement of the surface owner as may be determined by the parties involved or as determined and fixed in an action brought against the permittee or upon the bond in a local court of competent jurisdiction. This bond is in addition to the performance bond required for reclamation by this Act.

(b) All coal deposits, title to which is in the United States, in lands with respect to which the United States is not the surface owner thereof are hereby withdrawn from all forms of surface mining operations and open pit mining, except surface operations incident to an underground coal mine.

Mr. STEIGER of Arizona (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

(By unanimous consent, the following Members yielded time to Mr. STEIGER of Arizona, as follows: Mr. SKUBITZ, 40 seconds; Mr. HECHLER of West Virginia, 30 seconds; and Mr. MILLER, 1½ minutes.)

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. STEIGER).

Mr. STEIGER of Arizona. Mr. Chairman, it is ironic that we find ourselves in this position. I will tell the Members, for those Members who are not aware of the situation, that this amendment is the infamous Mansfield amendment. This amendment is offered exactly as written. I am sorry the staff did not catch that.

I offer this amendment because I am convinced that the language that is now written in the bill is completely unacceptable. The Mansfield amendment, for those Members who may not understand it—and I hope I have the attention of at least some of the Members—prohibits mining on any Federal land, any public land. It is an amendment which passed the Senate in overwhelming fashion.

It is my firm contention that this bill is in such a terrible condition now that the only way to insure a veto is to agree to the Mansfield amendment at this point. That is my purpose for introducing this amendment.

I will tell my friends who believe in no mining that this is an excellent chance for them to strike a blow for the position which they support. It also seems to me that it is going to be very tough on those "deep-breathers" among the Members who support the no-mining or limited-mining concept.

If indeed the Federal lands belong to these deep-breathers, this is the chance for Members who support their position to strike a blow for the protection of those lands, and if we accept this amendment and it is agreed to in exactly the the same form it is in the Senate, the conference will not be able to take it out, and we will have permanently locked up the Federal lands, to the joy of every deep-breather in the country and, I expect, to the despair of every consumer in the country. We now have our chance to fish or cut bait.

Mr. Chairman, there are some Members who have told me the President would not veto this bill with this in it. I will tell the Members I am the last one to stand here and predict what the White House will or will not do. I will tell the Members the President has not consulted me on this matter, nor on any other matter, I wish the record to show.

However, Mr. Chairman, it is a very serious amendment, and I do hope that those Members who want to protect the land will vote "aye" on this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Montana (Mr. MELCHER).

Mr. MELCHER. Mr. Chairman, I shall only take a few seconds to say that I do not believe the amendment is offered in all seriousness, and it strikes me as odd that it would be offered by the gentleman from Arizona (Mr. STEIGER).

I must, however, also point out that it does contain the provision as to eminent domain that we just voted down in our previous vote.

I urge defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. STEIGER) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. STEIGER of Arizona) there were—ayes 8, noes 29.

So the amendment to the committee

amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia to the committee amendment in the nature of a substitute: On page 287, line 8, strike out the period, insert a comma and add: "including recommendations for increasing the production from underground coal mines"

Mr. HECHLER of West Virginia. Mr. Chairman, this merely adds to the annual report section a stipulation that the Secretary should submit recommendations for increasing the production from underground coal mines. In view of the fact that the overwhelming reserves of our coal are coal reserves of underground coal, it would seem to me that this would be the kind of an innocuous amendment that the committee would be enthusiastic about.

Mr. UDALL. Mr. Chairman, if the gentleman will yield, we are enthusiastic about it, and we accept it. We think we ought to encourage underground mining at the same time we are responsibly surface mining.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. HAYS TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HAYS. Mr. Chairman, I have a published amendment which I offer to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HAYS to the committee amendment in the nature of a substitute: Page 290, after line 17 insert the following two new sections.

PREFERENCE FOR PERSONS ADVERSELY AFFECTED BY THE ACT

SEC. 713. (a) In the award of contracts for the reclamation of abandoned and unreclaimed mined areas pursuant to title IV and for research and demonstration projects pursuant to section 707 of this Act the Secretary shall develop regulations which will accord a preference to surface mining operators who can demonstrate that their surface mining operations, despite good-faith efforts to comply with the requirements of this Act, have been adversely affected by the regulation of surface mining and reclamation operations pursuant to this Act.

(b) Contracts awarded pursuant to this section shall require the contractor to afford an employment preference to individuals whose employment has been adversely affected by this Act.

ASSISTANCE TO PERSONS UNEMPLOYED AS A RESULT OF THIS ACT

SEC. 714. (a) The President is authorized and directed to make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred and shall be reduced by an amount of private income protection insurance compensation available to such individual for such period of unemployment.

(b) The President is authorized and directed to make grants to States to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by any such unemployment, have received written notice of dispossession or eviction from a residence by reason of foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to the employment loss. Such assistance shall be provided for a period of not to exceed one year or for the duration of the period of financial hardship, whichever is the lesser.

(c)(1) Whenever the President determines that, as a result of any such employment loss, low-income households are unable to purchase adequate amounts of nutritious food the President is authorized, under such terms and conditions as it may prescribe, to distribute through the Secretary of Agriculture coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964, as amended, and to make surplus commodities available.

(2) The President, through the Secretary of Agriculture, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the employment loss on the earning power of the households to which assistance is made available under this section.

(3) Nothing in this subsection shall be constructed as amending or otherwise changing the provisions of the Food Stamp Act of 1964, as amended, except as they relate to the availability of food stamps in such an employment loss.

(d) The Secretary of Labor is authorized and directed to provide reemployment assistance services under other laws of the United States to any such individual so unemployed. As one element of such reemployment assistance services, such Secretary shall provide to any such unemployed individual who is unable to find reemployment in a suitable position within a reasonable distance from home, assistance to relocate in another area where such employment is available. Such assistance may include reasonable costs of seeking such employment and the cost of moving his family and household to the location of his new employment.

(e)(1) The President, acting through the Small Business Administration, is authorized and directed to make loans (which for purposes of this subsection shall include participations in loans) to aid in financing any project in the United States for the conduct of activities or the acquisition, construction, or alteration of facilities (including machinery and equipment) required by the administration or enforcement of this Act, for applicants both private and public (including Indian tribes), which have been approved for such assistance by an agency or instrumentality of the State or political subdivision thereof in which the project to be financed is located, and which agency or instrumentality (including units of general purpose local government) is directly concerned with problems of economic development in such State or subdivision, and which have been certified by such agency or instrumentality as requiring the loan successfully to remain in operation or at previous levels of employment.

(2) Financial assistance under this section shall be on such terms and conditions as the President determines, except that—

(A) no loan shall be made unless it is determined that there is reasonable assurance of repayment;

(B) no loan, including renewals or extension thereof, may be made hereunder for a period exceeding thirty years;

(C) loans made shall bear interest at a rate determined by the Secretary of the Treasury but not more than 3 per centum per annum;

(D) loans shall not exceed the aggregate cost to the applicant of acquiring, constructing, or altering the facility or project;

(E) the total of all loans to any single applicant shall not exceed $1,000,000; and

(F) the facility or project has been certified by the regulatory authority as necessary to comply with the requirements of this Act.

(f) Where the loss, curtailment, removal, or closing of any industrial or commercial facility resulting from the administration and enforcement of this Act causes an unusual and abrupt rise in unemployment in any area, community, or neighborhood, the Small Business Administration in the case of a nonagricultural enterprise and the Farmers Home Administration in the case of an agricultural enterprise, are authorized to provide any industrial, commercial, agricultural, or other enterprise, which has the potential to be a major source of employment for a substantial period of time in such area, a loan in such amount as may be necessary to enable such enterprise to assist in restoring the economic viability of such area, community, or neighborhood. Loans authorized by this section shall be made without regard to limitations on the size of loans which may be otherwise be imposed by any other provision of law or regulation promulgated pursuant thereto.

(g) The President is authorized to make grants to any local government which, as a result of the administration and enforcement of this Act, has suffered a substantial loss of total revenue (including both real and personal property tax revenue). Grants made under this section may be made for the tax year in which the loss occurred and for each of the two tax years. The grant for any tax year shall not exceed the difference between the annual average of all revenues received by the local government during the three-tax-year period immediately preceding the tax year in which such loss occurred and the actual revenue received by the local government for the tax year in which the loss occurred and for each of the two tax years following such loss but only if there has been no reduction in the tax rates and the tax assessment valuation factors of the local government. If there has been a reduction in the tax rates or the tax assessment valuation factors then, for the purpose of determining the amount of a grant under this section for the year or years when such reduction is in effect, the President shall use the tax rates

and tax assessment valuation factors of the local government in effect at the time of such loss without reduction, in order to determine the revenues which would have been received by the local government but for such reduction.

(h) Any owner or operator of a surface coal mine, or employee (or former employee) of a surface coal mine, who would otherwise be eligible for assistance under this section, in lieu of such assistance may utilize the preference accorded in section 713 of this Act in receiving contracts or employment in the conduct of reclamation activities authorized by section 406 of this Act.

(i) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(j) The Secretary shall report to the Congress on the implementation of this section not later than thirty months after the enactment of this Act, and annually thereafter. The report required by this subsection shall include an estimate of the funds which would be necessary to implement this section in each of the succeeding three years.

(k) The Secretary shall report to the Congress not later than July 1, 1976, on the impact of the administration and enforcement of this Act on employees and owners or operators of firms with gross capital values of less than $500,000, together with a recommendation on a program granting relief to such employees and owners or operators for losses in capital value sustained as a consequence of the administration and enforcement of this Act.

Mr. HAYS (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the RECORD, and I will attempt to explain the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HAYS. Mr. Chairman, we have heard the reading of the first section which in effect says that the Secretary shall develop regulations which will—and I am paraphrasing—give first chance to a surface operator, who may be adversely affected and who can demonstrate that he has been, to contracts on reclamation projects.

The second section in effect does the same thing for persons who might be unemployed as a result of this act. I do not think there will be any or many of either, but in any case I do not think this protection that would be put in by these two sections would be out of the ordinary.

The second section goes also to providing assistance beyond the 6 months unemployment compensation if the person is not eligible for unemployment compensation, and at no higher rate than he would get if he were eligible. I think the two amendments serve as an added protection both to the operator and to the miner, and I would hope that they would be accepted unanimously.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

I voted against a similar amendment in the committee on the theory that the gentleman has expressed.

We want this bill to be able to increase surface coal mining, plus we believe it will. As the gentleman from Ohio said, he does not think there will be much need for this, but just in the event that some people or small business firms that are engaged in mining are going to lose work, and individuals are going to be unemployed, they should be given preference in the reclamation field and in other aspects of this bill. So I am going to support the amendment.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentlewoman from Hawaii.

Mrs. MINK. I thank the gentleman for yielding.

I think one of the major problems in this whole coal mining scene is the movement of the industry out to the West and the severe jeopardy this places the declining coal industry in Appalachia. So it is not a case of our bill affecting the miners in the Appalachian area, but rather it is industry moving out to where they can dig out 66,000 tons of coal in one acre of land. For those people in Appalachia who are going to be affected because of this movement out West, I think the gentleman's amendment is an imperative. If they get thrown out of work as a consequence of this drift out to the West, then it seems to me their labor ought to be placed in reclamation work.

Mr. HAYS. I thank the gentlewoman.

I might say that the land that can be put back into production in the East or in Appalachia, or at least that part of it in Ohio, is very productive land. We are growing up to 150 bushels of corn per acre on the hills that they are stripping before the stripping that is, so it is not wasteland in eastern Ohio.

I ask that the amendment be adopted.

Mr. KETCHUM. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I really have no objection to this amendment at all, but this points up what a phony process we go through here. We spent almost a year and a half, and we have heard everyone here tell how thoroughly we debated this bill in committee. Nothing could be further from the truth. Let me point out, and let the record show, that I have in my hand here a transcript of the hearings of the committee, and on April 30 these same provisions were removed from the bill by a vote of 25 to 3. Interestingly enough, two of the individuals who have just accepted that amendment did not oppose taking them out. The only three individuals that voted against it were Messrs. SEIBERLING, MARTIN of North Carolina, and CRONIN.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. HAYS) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. RUPPE TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. RUPPE. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. RUPPE to the committee amendment in the nature of a substitute: Page 282, line 14, after the period insert the following words: "The general elevation of the overall mined area may be lower than its original elevation, provided that all highwalls are eliminated, in cases in which the removal of coal results in insufficient material from any or all portions of the mined site being available to return the then mined site to its original elevation."

The CHAIRMAN. The Chair will ask the gentleman, Was this printed in the RECORD?

Mr. RUPPE. Something was printed in the RECORD similar to it, but I have changed the language somewhat.

The CHAIRMAN. It must be identical. If the amendment was not printed in the RECORD there can be a vote on the amendment but there will be no time for debate.

The question is on the amendment offered by the gentleman from Michigan (Mr. RUPPE) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. RUPPE) there were—ayes 4, noes 18.

So the amendment to the committee amendment in the nature of a substitute was rejected.

The CHAIRMAN. If there are no further amendments to title VII, the Chair will now compile the list of those Members seeking to debate or to offer amendments to title VIII and will allocate the 10 minutes accordingly.

Eight Members have arisen, so there will be approximately 1¼ minutes for each.

AMENDMENT OFFERED BY MR. HOSMER TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HOSMER. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HOSMER to the committee amendment in the nature of a substitute: On page 290, line 18, strike title VIII.

Mr. HOSMER. Mr. Chairman, my amendment deletes all of title VIII. It eliminates the State Mining and Mineral Resources Research Institutes. This title would fragment and undermine the priorities of current research efforts. It would create an inflexible and expensive program, precluding the best use of available research talents of the Nation, regardless of location. Furthermore, the Congress has enacted legislation authorizing revenue sharing in the form of block grants which are not earmarked. It seems far more sensible to allow the states to use their own judgment as to whether a mineral institute is needed within the State.

Members should recall that a bill containing provisions similar to title VIII passed the 92d Congress (S. 635), but

that bill was vetoed because spreading the green around with abandon just won't advance mining and mineral resources affairs.

The Secretary has indicated that adequate authority already exists for support of needed mineral research programs. Therefore, this entire title is not needed.

Mr. Chairman. I urge the adoption of my amendment.

Mrs. MINK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is a very critical title which we have included in this bill. Incidentally, as separate legislation it has passed the House several times. The many public colleges which have separate schools of mines have testified before various committees of the Congress that one of the biggest difficulties they are experiencing is in the training of expert personnel in the field of mineral engineering.

I think one of the ways we can support the need for research and development and implementation of new techniques in mining is to support these State schools and other public institutions with the very meager assistance this bill provides.

I realize that the administration and the Members of the minority have opposed various sections of this title but I think it is vital if we are going to do the job that is required to make the advancements needed to develop mineral technology, not only for coal but also for other minerals. We are going to have to support these colleges and develop the kinds of institutions this section calls for and give them at least this minimal R. & D. support.

Mr. Chairman, I urge that the amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HOSMER) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. HOSMER) there were—ayes 6, noes 28.

So the amendment to the committee amendment in the nature of a substitute was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO of Wyoming. Mr. Chairman, with regard to the reservation just concluded on title VII, I would like to ask the gentleman from Arizona (Mr. UDALL) to clarify the meaning of "written consent," found in section 705 (23) on page 282 of the bill. I would like to inquire as to whether the intent of the committee was to void all written consents obtained by an operator prior to date of enactment, as found on line 17.

Mr. UDALL. Mr. Chairman, I thank the gentleman for drawing attention to this particular phrase "after the date of the enactment of this Act." The intent of the committee was not to void all written consents obtained prior to date of enactment. This inclusion of that phrase was a simple oversight of the committee, and one which I believe can be corrected in conference. I thought this approach was preferable to offering an amendment, which would exhaust some of the remaining time of debate on title VII. I hope this clarifies the gentleman's understanding of the tern. "written consent."

Mr. RONCALIO of Wyoming. Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. MURTHA TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. MURTHA. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. MURTHA to the committee amendment in the nature of a substitute: On page 302, line 19, after the word "research." change the period to a comma and add the following: "two of whom shall be representatives of working coal miners."

Mr. MURTHA. Mr. Chairman, I would like to offer a very simple amendment, but one which I believe will make a very important input on the operation and implementation of strip mining regulations and reclamation.

Title VIII, section 810 of the bill creates an Advisory Committee on Mining and Mineral Research. The committee would be composed of nine persons, including the Director of the Bureau of Mines; the Director of the National Science Foundation; President of the National Academy of Sciences; President of the National Academy of Engineers; Director of the U.S. Geological Survey; and four persons knowledgeable in the field of mining and mineral resources.

My amendment, Mr. Chairman, would not add any new members to the nine-member committee, but would designate that one of the four persons knowledgeable in the mining field would have to be representative of working coal miners.

The committee's purpose involves making recommendations to the Secretary of the Interior on all matters relating to mining and mineral resources research. I can think of no group of men who could add more practical and important information to this committee than representatives of the working miners themselves.

These are hard-working men. These are talented men. These are concerned men. In Pennsylvania, coal miners have individually made many valuable suggestions and contributions that have strengthened our own mining regulation law. The suggestions have benefited coal producers and environmental groups. This same contribution can result at the Federal level.

I believe this is a sound amendment, Mr. Chairman. It strengthens the input of this committee and helps to insure that our strip mining regulation laws will be strong, and that they benefit from the practical experience of the men who work with the mines every day of their lives.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from California.

Mr. HOSMER. I want to say, a lot of people around here have never seen a piece of coal and have never dug a piece of coal, so I have brought to this Chamber a piece of coal. I would hope that every Member would take a look at it before he votes for this bill tonight.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MURTHA) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. HECHLER).

Mr. HECHLER of West Virginia. Mr. Chairman, I move to strike out the last word. This is a little more than a "pro forma" amendment, because the last word of the bill is the word "expenses." I shall vote against this bill because it puts the expense burden on the backs of the people of the mountains.

The fatal defect of H.R. 11500 is that it gives primary authority to the States. The history of every single piece of progressive legislation to protect people in this country is that those who are regulated always cry: "Leave it to the States, they are closer to the people." What they really mean is that "The States aren't powerful enough to control big conglomerates, so let us weaken control by giving it to the States." This has been true in the fields of civil rights, education, health, workmen's compensation, wage and hour legislation, pure food and drug laws, coal mine safety, or any effort to help people.

You know the economic and political history of this Nation. You know the realities of economic and political pressure. You know that neither a State legislature nor any administrative authority can stand up against the wealth and power of a dominant economic group.

Let us not kid ourselves—you cannot expect West Virginia, where coal is king, to do very much to regulate strip mining. You cannot expect Kentucky, or Virginia, or Tennessee to do very much at the State level. In Pennsylvania, where enforcement is a little better, the coal industry does not run the State since coal constitutes a relatively minor part of the State's economy.

Time after time in this debate, I have heard the bill's sponsors aver that the States can regulate if they choose to do so. Just try that in West Virginia and see how far you can get.

What we are doing in this bill is making people of Appalachia a national sacrifice area for the power-hungry strippers. By giving opportunity for the citizens to protect and sue, you are really putting the burden on the backs of the people in the hollows who have to fight their own battles against the ruthless and arrogant conglomerates.

I have heard the gentleman from California (Mr. HOSMER) use the term "hara-kiri." If there ever was a clear case of hara-kiri, it is strip mining. As the draglines and D–9 dozers rip off the

land and the people, it is just like plunging a samurai sword into the Nation's vitals.

When the Farmintgon, W. Va., coal mine disaster struck, killing 78 West Virginia coal miners of November 20, 1968, the conscience of the Nation was aroused, and Congress enacted the Federal Coal Mine Health and Safety Act of 1969. But strip mining is a slow disaster which chokes the people, one by one, and does not bring the dramatic headlines.

Where is the United Mine Workers of America? They have a stake, and every coal miner has a stake in coal mine health and safety so they lobby heavily to protect the coal miners. But the UMWA has its eyes on the welfare and retirement fund, and every worker in a strip mine is likely to side with the company against strong regulation, because it is in the economic interest of the company to cut corners in reclamation. The life of the strip miner is not on the line where reclamation is concerned, as it is with mine safety.

I know that my position as an abolitionist is not palatable to the United Mine Workers of America, which wants to organize the strip miners in the coal rush already moving westward. I know they are going to count this as a key labor vote.

I know that the environmental lobbyists are feverishly lining up support for H.R. 11500.

No union, no industry, no environmental lobby, and no economic or political power is going to control my vote except the people.

I intend to vote against this weak bill.

So far as strip mining is concerned, I will be out watching, investigating and reporting on what happens under this bill. My parents are both from Missouri and you will have to show me.

I am even more firmly an abolitionist on strip mining.

Like another abolitionist of the 19th century—

> I am in earnest,
> I will not equivocate;
> I will not excuse.
> I will not retreat a single inch
> And I will be heard!

The CHAIRMAN. The time of the gentleman has expired.

Mr. SYMMS. Mr. Chairman, I move to strike the last word.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I will vote in favor of the Surface Mining Control and Reclamation Act and commend those who have worked so hard to bring this bill to its present form. This legislation has been termed a historic landmark proposal and I suppose it is. In my judgment, it is needed to insure that major public interest requisites are fulfilled regarding the extraction of coal.

In order to fulfill domestic energy needs and promote our independence from imported foreign fuels, we will need to significantly expand the production of coal, which is our most plentiful fossil fuel. The recent so-called energy crisis only served to highlight the need for increased coal utilization. Coal liquefaction and gasification hold promise here. But, until these processes are commercially feasible, strip mining which currently provides half of the total U.S. coal production is necessary. On the other hand, the strip mining of coal, if not carefully regulated, leaves an aftermath of environmental devastation. I have seen the barren and lifeless ugly scars upon once beautiful landscapes in southeastern Ohio. Once ravaged by the shovels and draglines, such land, if not reclaimed, is for all practical purposes worthless. This fact is common knowledge, and I will not go into further detail.

The environmental and other adverse impacts of strip mining can, however, be reduced to a highly acceptable minimum. All that is needed is a strong and effective mining control and reclamation law. In Ohio, we have State strip mining regulations that are among the toughest in the Nation in terms of reclamation and related ecological safeguards. This law is now working effectively, and contrary to the predictions of the coal lobby doomsayers when it was being debated in the Ohio General Assembly, the State's coal industry is still quite healthy, profitable, and generally competitive with coal operations in other jurisdictions.

I support the committee bill because I feel it strikes an effective balance between the two alternatives offered today. With all due respect to my distinguished colleague from West Virginia, I submit that his substitute bill would be unnecessarily restrictive because it would soon prohibit the strip mining of all coal. While I share his view that the preponderance of all coal reserves in the United States is only obtainable by deep mining, the fact remains that energy demands in the next few years will necessitate a significant amount of strip mining. All coal that can be recovered consistent with environmental safeguards should be utilized. To do otherwise would be an unreasonable waste of a valuable resource.

The substitute offered by the distinguished gentleman from California was too weak. As I see it, there are insufficient reclamation standards. It contains no deep mining provisions, unreasonably limits citizen suits, and inadequately protects a surface owner's rights. It is basically a bill favorable to the strip mining industry.

By comparison, the committee bill H.R. 11500 is an effective middle-ground approach to the two proposals previously mentioned. It will allow the surface mining of coal where it is consistent with effective environmental protection and reclamation. It also adequately protects the rights of citizens who may become affected by strip mining operations. By insuring the protection of the surface mining of coal while protecting the environment, it meets two important national priorities. H.R. 11500 in committee form is a responsible approach, and I will vote for its passage.

Mr. SYMMS. Mr. Chairman, I respect the gentleman from West Virginia (Mr. HECHLER) and congratulate him for his fine statement in the well. However, I must say that I disagree with him. I have a very dear and gentle friend in Irvington, N.Y., who has always said that we should never pass a law in order to gain an advantage for one man at the expense of another man. I think he stated very clearly what this bill does.

Mr. Chairman, I intend to vote against it. I am very sorry the Hosmer substitute did not carry. I want to congratulate the gentleman from California (Mr. HOSMER). As H.R. 11500 wound its way through the legislative process, Mr. HOSMER early and austutely observed that H.R. 11500 could have a serious effect on our energy situation, if enacted as written. When the mantle of leadership fell upon him as the ranking minority member of the committee, he resolutely told the committee of his opposition to the legislation and of his firm intent to oppose its passage if not balanced to respect both the energy and environmental ethics.

The gentleman from California has displayed to all of us the courage of his convictions and a kind of leadership and campaign which at times is necessary to oppose legislation in this House. His knowledge of the rules of the House and their tactical employment demonstrates his skill and leadership. I commend him for a job well done and state that in my judgment the next Congress will miss the fine gentleman, CRAIG HOSMER.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, as we debate the merits of surface mining today, I think the watchword should be balance. After last winter's energy shortage alerted us to the potential of coal as a solution for our energy needs, I think it is important that we properly exploit this valuable resource to benefit the American consumer. Yet as we do this, I think it is equally important that we protect another valuable resource—the American landscape. I think that H.R. 11500, the committee bill, reflects a more balanced and sensible approach than either of the proposed substitute bills. It approaches the problem of surface mining as a way to meet our energy needs, yet still works to protect our environment. While I think H.R. 11500 is a sound compromise, I still think that some amendments to strengthen the environmental protections are in order. Let me elaborate.

The thrust of H.R. 11500 is the establishment of uniform regulations which will make it possible to open up the great coal reserves we have out West while reclaiming the land so it can be used again. Since there are twice as many tons of coal west of the Mississippi River than there are in the East, and since that western coal is more easily strippable from the Great Plains, we should be wary lest passage of this bill let loose a stampede to western production, leaving the eastern production crippled. The strengthening amendments, while they protect our environment, achieve this end, and in the process guarantee some stability to eastern energy needs.

Even though we in New England rely on coal for only 17 percent of our energy needs, it is necessary to consider the impact that opening up western reserves would have on the consumers in our area. Our heavy reliance on imported fuel oil has left us prey to the whims of Middle East potentates who tripled our oil prices since last year. An obvious example of the economic dislocation this rise effected appears on each consumer's bill each month via the fuel cost adjustment. Under this adjustment, the price of fuel oil is passed directly on to the consumer with a preliminary regulatory hearing. With oil prices skyrocketing to $14 a barrel, some people have found the fuel cost exceeds their monthly base rate.

Utility companies support the Hosmer substitute, H.R. 12898, as an easier way to strip more coal out of the Western States, and argue that such an expansion in production would benefit the Nation as a whole, since the price of coal will be low nationwide and a bargain, compared with oil. I have some skepticism with respect to this claim, however, and the reason is transportation costs. Quite frankly, it is not at all cheap to put coal on a train out West and ship it across the Hudson River into New England. In fact, it costs over twice as much to transport coal from the Western States to New England than it does to move coal from eastern mining States by ship, or even across the Atlantic from Poland.

Not only that, but if the utility companies in the East become increasingly dependent on western coal—whose sulfur content is higher than eastern coal—these higher fuel costs could be passed on directly to the consumer through fuel cost adjustment, instead of through a base rate established after public hearings. Even if western production costs are dirt cheap, I still do not see how we can realistically lower the cost of moving this coal to New England.

Consequently, a marked shift to coal dependence from oil dependence could be no benefit to the consumer, and we could find that we have only changed fuels, not lowered prices. If you think consumers are outraged at the fuel cost adjustment now, I shudder to think what would happen if utility industries, in an effort to break out of our oil dependence, ended up having to pass on high coal costs to the consumer. Furthermore, if our quest for self-sufficiency dramatically escalates the price of coal, I find it hard to believe that the price of coal will continue to remain a bargain, even if we strip the western plains bare.

I use the fuel cost adjustment as an example because I think it points up some of the fallacies in the arguments used by proponents of weak surface mining legislation. To enact legislation that would shift all our eggs into the one basket of western production would not only have a disastrous effect on the environment, but could lead to an equally disastrous collapse of the eastern mining industry as well, thereby leaving New England consumers locked into an even greater oil dependency.

Let us face it. Coal which can be surface mined accounts for only 3 to 18 percent of all our coal reserves, and sooner or later we are going to have to go underground. I agree with Russell Train, Administrator of the Environmental Protection Agency, that much as we need new energy sources, the American people just will not want to stand for a law which irresponsibly destroys our environment just to exploit 3 percent of our reserves. This is especially true if, 30 years from now, our surface mine reserves are played out, our deep mining industry is crippled, and we face a new and more frightening energy shortage.

For these reasons, I think that maintaining a balance between eastern and western production of coal is of paramount importance. The strong environmental protections set forth in amendments by Mr. BIESTER and Mr. EVANS to preserve and protect our water resources, and by Mr. YOUNG to end strip mining on slopes greater than 20 degrees, are especially important to protecting our western land, to maintain surface mining as a viable short-term solution to our energy needs, and to providing the industry with sufficient incentive to go underground.

I should like to comment briefly on the amendment offered by Mr. SEIBERLING as the best illustration of how the balance between surface mining and deep mining can be maintained. His amendment establishes a $2.50 per ton reclamation fee on both deep- and surface-mined coal, but allows the industry up to 90 percent for costs associated with safety and conservation efforts. After the credits are taken, an effective tax of only 92 cents per ton will be the eventual average tax, industrywide. More importantly, this tax breaks down to an average of $1.60 per ton for strip-mined coal, but only 25 cents per ton for deep-mined coal. The reason for this disparity is that more investments in safety costs and other deep mining expenses can be deducted for strip mining expenses. Thus, the surface mining segment of the industry is given a strong incentive to shift to deep mining to take advantage of these credits.

Is this cost yet another burden on the consumer? I do not think so. At most, this would raise the average residential consumer bill 36 cents a month. But the benefits of this tax are well worth the price, and the alternatives are disastrous. The reclamation schedule under this amendment goes to establish a fund for restoration of land which has already been surface mined. Each year that we let go by without regulation sees a minimum of 80,000 new acres chewed up. To put this figure in perspective, if this coal were stripped in my district, five out of the seven towns would not exist next year. In other words, 2 more years of inaction by Congress, and an area equaling all the towns in my district—and then some—would be wiped out. And this is only a conservative estimate.

This illustration should show the importance of relaiming surface-mined land so it can be put back to productive use instead of being left to lie ugly and useless. I think this approach is the most sensible and the most efficient way of raising more money more quickly and putting it to better use. Not only that, the money the industry pays to this fee goes to reclaim mines which have been abandoned but whose reserves are not played out.

As Mr. SEIBERLING has noted, since 1970, almost 1,600 mines, most of them in the East, have closed because it simply was not economical to keep them running. The fund would generate new money to reopen these mines in a way which is neither as expensive nor as time consuming as putting a new mine into production; thus, the short-term benefit to the consumer is apparent, and the long-term benefit to the deep mining industry, and ultimately to the consumer, would be another result.

I should parenthetically note that H.R. 12898, the Hosmer substitute, by comparison, has no such abandoned mine reclamation provision, nor does it make any effort to correct the problems of past misuse of our land. Unfortunately, this is only one of many deficiencies in this bill.

Since my time is limited, I will not discuss the other major environmental amendments, but I think this discussion has illustrated why amendments such as Mr. SEIBERLING's is vital to protect our Western lands and to keep them from becoming as ugly and scarred as the surface mined Appalachian mountains. At the same time, these amendments plan ahead for the future when deep mining—a bargain for its enormous reserves, lower sulfur content, lower price, and potential for rapid production—could be the predominant source of energy, not only for the East and Midwest, but for the Nation as a whole.

In light of this fact, some may ask why I do not support H.R. 15000, the Hechler substitute to end strip mining. Quiet honestly, I think that this past winter has shown us the problems of becoming locked into one dominant energy source. If we sink ourselves into coal dependency at the moment, I think this could merely be substituting fuels without solving problems now faced by New England consumers. No one really knows right now what our future energy picture will look like, whether oil prices will plummet, whether desulfurized coal will eventually cost more than oil, or what. For that reason, I think that both substitutes pull us too far in both directions. I think this is the wrong time to commit ourselves too strongly to strip mining, as H.R. 15000 does.

The problem of bending too far in any one direction became sharply focused earlier this year, when modifications of the Clear Air Act had to come before Congress. I think that adoption of either of these substitute bills could force us on to the same disastrous zigzag course which Congress had tended to take in the past. I think that H.R. 11500 strikes a harmonious balance for meeting our present needs in an orderly fashion, while keeping our options open for the future. For these reasons, I support H.R. 11500 as a flexible, balanced approach to meeting our energy and environmental needs, and will work to strengthen the environmental protections on the floor.

Mr. YATRON. Mr. Chairman, it is with a profound sense of concern that I rise in support of the Flood amendment to H.R. 11500.

The fact is that I represent one of the

five districts in the entire Nation which has an extremely vital stake in the outcome of our consideration of this legislation.

The Sixth District of Pennsylvania includes Schuylkill County, which still has an estimated 9 billion tons of recoverable anthracite in its fields. This is a much larger reserve than the other counties which comprise the Anthracite Coal Belt.

Mr. Chairman, if the Flood amendment is not adopted, some 3,500 persons will be unemployed in my district, the economy of which is already depressed. Let there be no doubt of the adverse consequences of our failure to approve the amendment to these families in my district and to the area per se.

I underscore the fact that the Flood amendment is in no way in conflict with the intent and aim of this legislation. As a matter of fact, Pennsylvania has the most stringent mining reclamation law in the country. This amendment which I so strongly support will not result in any harm to the environment, I assure you.

I have first-hand knowledge that this is so, because many hours have been devoted to discussions and meetings not only with local mining operators but with Pennsylvania State officials as well. These persons are directly involved in the strict application of the Pennsylvania reclamation law and they share my conviction that the Flood amendment is responsible and reasonable.

In addition, the amendment has been strongly endorsed by the AFL–CIO and the United Mine Workers. I feel that this fact lends credence to the desirability of adopting the Flood amendment.

Mr. Chairman, we have here a unique situation. Naturally, I am concerned with the protection of the economic interests of my district, but the Flood amendment relates to anthracite, which is geographically and geologically unique—and it comprises less than 1 percent of all coal produced nationwide.

The Pennsylvania law clearly recognizes the difference between bituminous and anthracite coal. As I stated, it is the strongest and toughest strip mine law in the Nation. It allows the continued mining of anthracite, while preserving the stringent environmental controls contained therein.

Pennsylvania Governor Shapp and Pennsylvania officials have also endorsed the Flood amendment. If approved, the Federal Government would enforce the law, citizen participation would certainly be maintained at all levels, and Pennsylvania's existing law would be in no way weakened through future amendment.

Unfortunately, over the last several decades, there has occurred a steady decline of the Pennsylvania anthracite industry. Production has declined from 29 million tons in 1953 to 7.1 million tons in 1972. An annual production of 6 million tons are estimated for 1974, not an encouraging projection for my district.

Very simply, the Flood amendment seeks to apply the Pennsylvania Surface Mining Conservation and Reclamation Act—recognized as the strongest in the entire United States—to the surface mining of anthracite coal, on which the future economic viability of the area heavily depends.

This fact, coupled with the fact that the Flood amendment is not in conflict with environmental considerations, lends credence to the need for adoption of this amendment.

I urge my colleagues to clearly recognize the merits of the amendment.

Mr. Chairman, I submit for the RECORD a forceful editorial which appeared in the Reading Times of March 30, touching upon this subject. The statements in the editorial are extremely well taken and are worthy of recognition:

COAL IS BACK IN ENERGY SCENE

Like it or lump it—King Coal is on the way back.

The concensus of scientists, industrialists, legislators and educators at the 1974 Pennsylvania Power Conference is that coal is the cornerstone of America's "interim" energy program.

Pennsylvania, the "Saudi Arabia" of coal in the United States, will be called upon to play a vital role in the crash program to buy time and help meet a very real energy crisis.

Eventually, the conferees—people concerned with where our next btu's are coming from—agreed nuclear power, which now represents 1 per cent of the nation's energy output (equal to all the firewood that's burned) must take the lead.

But for the next quarter century—if America is to attain energy self-sufficiency and cut itself loose from overseas blackmail—our economy and standard of living will hinge on a national commitment to clean-coal usage.

While coal reserves comprise 88 per cent of our fossil fuel resources (a known 1.5 trillion-ton supply so vast it will last for centuries at any conceivable level of energy demand), it provides only 17 per cent of our gross energy.

Presently 37 per cent of U.S. petroleum need is imported. By 1985, it is estimated, our imports would be 50 per cent if the demand was to continue and nothing was done on the home front.

Clearly, this is intolerable and hence the need to concentrate on coal, nuclear power, electricity and oil shale.

But coal and nuclear energy are interwoven with a clean environment.

The argument for coal, staunchly supported by realistic oil and electric interests, doubtless will find its stiffest opposition in Congress and in environmentalists who, surprisingly, failed to mount an attack during the two-day meeting in Hershey.

John C. Sawhill, 37-year-old deputy administrator of the Federal Energy Office (FEO) and President Nixon's "Project Independence" prophet, said the U.S. needs to increase domestic coal production 10 per cent a year to an output of nearly one billion tons a year by 1980.

The fly ash in the ointment, according to Robert V. Price, executive vice president of the National Coal Assn., is if Congress virtually prohibits surface mining, as some lawmakers advocate, then "there simply is no way" coal can meet the energy challenge.

The coal industry can only double or treble production by 1985, he said, if coal operators are permitted to mine every ton they can by both underground and surface means.

Perhaps envisioning an impending clash with ecologists, Price admitted it is imperative to "civilize" coal combustion so its impact on the environment can be held to an absolute minimum.

When coal was removed, as our main fuel, there was 30 per cent less pollution going up into the sky.

"Until coal can be burned without endangering human health or property," Price said, "only that fraction of our coal reserves that are low in sulfur will be able to contribute to easing the energy shortage now upon us."

However, in his next breath, Price declared Congress must amend sections of the Clean Air Act of 1970 and modify surface mining (the euphemism for strip mining) to make the most of coal's potential by whatever means it can be mined.

"If Congress all but outlaws surface mining," he said, "there is simply no way we can meet the energy challenge from underground mines alone. We can try until hell freezes—but we will all freeze first!"

Perhaps. But we in Pennsylvania who remember the rape of the coal fields are going to have to make some personal decisions and examine the options carefully—whether it is better to freeze to death or to choke to death.

We must assure adequate pollution controls and make sure surface mining is accompanied by adequate reclamation measures.

The shift from oil-oriented energy base to coal and nuclear power can't be brought about overnight by any Buck Rogers-style technology, as one speaker asserted.

The change will come about through the cooperative, well-reasoned efforts of all segments of society taking all factors into consideration.

One fact emerges. This is one time the future will not be like the past. In this situation, the past cannot be used as a guidepost for the future.

We have a chance to stop our careless drift toward energy dependence. Whether we can become totally self-sufficient by 1980 as President Nixon indicated is not the important question.

It is the direction that is important.

Future generations will hold us to blame if we fail to take steps now to assure energy self-sufficiency which will enable our offspring to live in a strong and independent nation.

Mr. BRADEMAS. Mr. Chairman, as a supporter of the efforts being led by the gentleman from Arizona (Mr. UDALL), and the gentlewoman from Hawaii (Mrs. MINK), to regulate the surface mining of coal and for other purposes, I am pleased to read into the RECORD at this point the text of a most thoughtful letter written by one of my constituents, Miss Wendy Armstrong, of Elkhart, Ind.

Miss Armstrong, the daughter of Mr. and Mrs. Jon Armstrong, is a student in the first grade who wrote her letter to me after having read an article in a magazine concerning pollution.

I commend Mis Armstrong for her thoughful, indeed, eloquent statement on the need for the passage of H.R. 11500.

Her letter follows:

ELKHART, IND.

DEAR MR. BRADEMAS: I wish you would stop the strip mining. It is tearing up our environment. It tears up wildlifes homes. Wildlife that does stay would die of starvation.

I wish you would also stop pollution.

If people put oil where ducks swim it could get on the ducks and they would not be able to swim or fly or walk. They too would die of starvation.

Also, when it pollutes air, birds and other things that fly would die.

When people pollute the ground wildlife could step on a piece of glass. It could go in its foot and it could die.

Please make those things stop.

Love,

WENDY ARMSTRONG.

Mr. KOCH. Mr. Chairman, as a Congressman from New York, I have been

asked why I supported Congressman HECHLER'S substitute strip mining bill, which could have possibly raised energy costs for my constituents. It would be inconsiderate of me to limit myself to such local interests if the environmental damages of strip mining and the vast areas of land affected are taken into account.

In every respect, strip mining is more devastating to the land than underground mining. Strip mining involves the destruction of the land surface throughout the area mined and the spread of destruction far beyond the mining area through siltation, pollution, and flooding. Congressman UDALL has proposed that this land can be reclaimed, but the essential question facing the House is the potential success of such reclamation. Because of the particular characteristics of our land, it is impossible to successfully reclaim strip mined land in the United States. In Appalachia, for example, a combination of steep slopes, pyritic shales, and thin topsoil creates significant reclamation problems. There is serious acid drainage in midwestern lands, and even when the toxic materials are buried, leaching still continues. The key to western reclamation is water, but western lands are characterized by a general scarcity of this resource. In the arid areas of the West, just as in the Midwest and the East, reclamation faces grave difficulties.

Some of my colleagues have argued that in a time of energy shortages, Congress should not abolish strip mining. However, strippable reserves are forecasted to be exhausted in 20 years, and if we are to meet the country's energy requirements, we will have to rely on deep mine coal. Economically recoverable deep mine reserves outnumber strippable reserves 8 to 1, 356 billion tons to 45 billion tons. As H.R. 15000 proposes, strip mining should be orderly phased out in order to allow time for deep mining to step up production.

This production, contrary to the coal industry's recent statements, can be facilely augmented. It is ironical that when proponents of strip mining employ the energy crisis to justify their views, a significant part of the existing deep mine capacity remains unused. The majority of U.S. mines operate two shifts a day, and many operate only 4 or 5 days a week. Because the coal industry has so strongly emphasized strip mine production, many deep mines have been closed that still have recoverable reserves. If we opened the 50 largest mines that were closed between 1970 and 1972, we could increase deep mine production by nearly 14 million tons annually.

Unfortunately the Hechler strip mine bill failed by a vote of 69 to 366. While strip mined coal is cheaper than deep mined coal, Congress did not adequately consider the more significant economic loss that will result from the destruction of millions of acres of our land. The House is now considering the Udall strip mine bill. While I believe that the inequities of this bill make it far inferior to the Heckler bill, it will still serve to minimize the environmental damages of strip mining. I hope that the House will take favorable action on Congressman UDALL'S bill.

Mr. PETTIS. Mr. Chairman, because I must leave on official business this evening, I want to state my strong support right now for passage of H.R. 11500, the Surface Mining Control and Reclamation Act.

As the hour grows late and it is obvious that the House will not complete action on the legislation any time soon, I regret that I may not be here when the final vote is taken. With the rest of my colleagues here in the House, I have sat through 6 long days of debate on H.R. 11500. I trust the pending amendments to the bill can be taken care of soon, so we can have a final vote before I go, because, in my book, 6 days is a lot of time to devote to any piece of legislation if you cannot help determine whether it ultimately passes or fails. And, this is especially true when the bill is as important as this one.

I hope we will be able to complete action on the bill before I must leave, but if we cannot, I urge my colleagues to pass H.R. 11500 and want the RECORD to show my support for this vital legislation.

Mr. TREEN. Mr. Chairman, I am voting against H.R. 11500 not because I oppose its purposes but because of my serious reservations about the constitutionality of major portions of the bill.

I wish I did not have these constitutional doubts, because I strongly believe that the beauty and vitality of this land of ours must be preserved, and that those who gather resources from our land are obligated not to harm it in the process. I do not believe this obligation necessarily requires the restoration of the land to its original configuration, but it does require that the user leave it in a form which comports with esthetic and utilitarian values. Enforcement of its obligation, where needed, lies primarily within the authority reserved by the several States, which reservation is affirmed by the 10th amendment.

If anything good comes out of the controversy over executive abuse of power, it will be a renewed understanding that the Constitution must remain the guiding force in our free society and Federal system. The exercise of power in the Federal Government is justified only so long as it comports with the grants of power and the limitations on power as defined in the Constitution.

Unfortunately, many members of the legislative branch do not realize that abuse of power is not confined to the executive department. Nothing is so indicative of this lapse of self-criticism in Congress as our penchant for passing legislation simply because, in our opinion, it is good in substance—without even broaching the question of whether it is a constitutional exercise of power.

That we believe a measure is "good" is not alone sufficient reason to enact it. The proposed legislation must also lie within the limits of congressional powers as defined in article I, section 8 of the Constitution. I am afraid with the current legislation, the surface mining bill, we are again covering up the constitutional issue.

The only justification substantively for this legislation is that only the Federal Government has the power to establish a nationwide policy. But without the imprimatur of constitutionally delegated powers, this rationale boils down to an argument which is incompatible with our constitutional system: the end justifies the means.

With H.R. 11500, the Federal Government will enter into an area that is constitutionally the province of the States—the regulation of land use. The Federal Government has only so much power as the people delegated to the Federal Government through the States by the process of constitutional ratification and amendment. A reading of article I, section 8 of the Constitution, the principal enumeration of the powers of Congress, reveals that the States have not delegated the regulation of land use to the Federal Government. The only justification of H.R. 11500 that could possibly be wrenched out of the Constitution is, of course, the commerce clause. Congress' authority to regulate interstate commerce, as interpreted by the Federal courts, has come to subsume almost every species of negotiation, manufacture, and movement of services, products, or persons affecting interstate commerce. But, as large as this regulatory *ambit* has grown, it has not yet grown to include the regulation of land itself as distinguished from the products which eventually move from State to State. H.R. 11500, I would remind my colleagues, does not regulate coal; it regulates the use of land itself. By what logic may land itself be defined as interstate commerce? Land is not a species of movement; land does not move from State to State. If there is anything anywhere which should not come under the definition of interstate commerce, it would seem to be land.

The surface mining bill is long and involved. A plausible constitutional case can be made to defend some provisions of the bill. Land erosion does effect waterways, which the Supreme Court in Gibbons against Ogden said comes within the commerce clause.

But most of the bill is constitutionally very dubious; and some provisions of the bill could come under the Commerce clause only by the most far-fetched interpretation. Under the latter I would include the provisions requiring reclamation of land to its original condition and provisions setting aside areas as unfit for surface mining. For example, section 204 of the bill would authorize the Secretary of Interior to prepare and implement a Federal program for the regulation of surface mining in any State which *fails* to formulate and implement regulations to the satisfaction of the Secretary. Section 206 would authorize the Secretary to include in this plan areas designated as unsuitable for surface mining. In determining what areas are unsuitable, the Secretary, according to section 206, could consider potential damage to "important historic, scientific, and esthetic values and natural systems." Whether the terrain of a State is interstate commerce is dubious enough. Whether the esthetic value of that land is a proper criterion for the regulation of interstate commerce is not dubious—it is preposterous. Mr. Chairman, I am not saying that the esthetic value of land is an unjustifiable reason for preserving land—I am not saying that at all. I am questioning

whether the esthetic value of the land is the proper subject for Federal regulation; and I am saying that if we interpret land as being interstate commerce and if we consider esthetic values a criterion for Federal regulation, is there anything, or any activity, anywhere, which does not come under the commerce clause?

Mr. Chairman, I am well aware that in our technologically complex society interstate commerce includes more than it did 200 years ago or a hundred years ago or 25 years ago. But I believe, unless we apply some logical limits to the definition of interstate commerce, that the definition is totally useless because it means nothing and everything. If the framers of the Constitution wanted Congress to regulate every activity of man, they would not have incorporated the commerce clause into the Constitution; they would have incorporated a clause giving Congress the power to do anything it likes.

Mr. Chairman, some might suggest that it is up to the Supreme Court to determine the validity of this vast new extension of the commerce clause. But I believe that our constitutional system is durable only if each of the three branches of the Federal Government adheres to its own sense of the constitutional restrictions of its power. By passing a bill we cannot constitutionally justify, we are abjuring this responsibility. The spirit of the Constitution—the spirit that there are limitations to governmental power—is not the attitude that each branch may do what it likes unless checked by another branch of the Government. This is the spirit of methodical anarchy.

Mr. KETCHUM. Mr. Chairman, we have just concluded 6 strenuous days of debate on the bill H.R. 11500, relative to the strip mining of coal. I firmly believe, Mr. Chairman, that those of us opposing this bill have made a case against its passage. As it now stands, this debate has lasted longer than any previous bill on the floor during my short tenure, and has amply demonstrated that this bill was not ready for floor debate, and is now in such shape as to preclude even its authors from knowing what the bill contains. During the course of this debate, the Members of the House have demonstrated a total lack of interest by their absence from the floor. Never during the debate, except for recorded votes or quorum calls, were there over 60 Members on the floor. It is no wonder our constituents have such a low esteem of this body. This bill is a very complex and technical instrument, and one which will have profound effects on our whole economy, yet it seems no one cared enough to be really informed.

Had this bill addressed itself simply to reclamation of strip mining damage which had occurred in the years prior to present high and tough State standards, it could have passed with little debate, and rightly so. However, such is not the case. This bill imposes Federal standards upon all States engaged in this practice, and, in essence, repeats what has so often happened in the past. We are telling our people: First, that our elected State legislators are not bright enough to do their jobs, which is totally untrue; second, that we here in Washington know what is best for the people, which is equally untrue; and third, that we deem it necessary to more strongly centralize our Government, a premise I cannot and will not accept. By way of analogy, we are saying, "Because the Federal Government, in its infinite wisdom, believes one make of automobile to be best, all you folks will have to drive one."

How did this bill arrive on the floor, Mr. Chairman? I can tell the body that it came to the floor voted on by the Interior Committee through the use of proxy vote. Members who had never attended sessions were voted in favor of this bill. While our rules permit this, it is an outrageous exercise, and is not to be condoned. Let us hope the Bolling committee recommendations on reform will be approved, and stop this practice. On one occasion, when I objected to this procedure, I was told it would not make any difference if the Member was in Spain, his vote would still be cast. A wonderful way to legislate, Mr. Chairman; if the people only knew.

Now to the cost. No one really knows the cost; all the figures which appear in the bill are estimates. It is estimated that the Federal Government will give $10 million in assistance to the States in the first year, rising to $30 million by 1977. Estimates of Research Institute expenditures start $200,000 for 1975, growing to $400,000 for years after 1977. A cost of $7 to $10 million is estimated to be spent by the Corps of Engineers to restore one small project alone—and nowhere in this bill is there even an estimated mention of administrative cost. And, Mr. Chairman, with less than 1½ minutes of debate, the House put in $50 million more for research. Could this mean more "Frisbee type" research? Who knows? Now then, Mr. Chairman, where were all those high-flown words on inflation we heard such a short time ago? Where were all the Members, Republicans and Democrats alike, who swore they would hold the line on spending and save the Nation? If for no other reason this bill should have failed. Our people will feel the impact in their power and heating bills with a vengeance.

This bill insures that the big companies will get bigger, and the small man we claim to care so much about will die. Have you ever seen "Big Muskie," Mr. Chairman? Five stories high, operated by three men, costing millions. Do you suppose a little guy could buy one?

I could go on, Mr. Chairman, but I shall not. I guess we have heard enough. After the 6-day exhibition on the floor, I am constrained to say—is anybody listening? Does anybody give a damn?

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SMITH of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11500) to provide for the regulation of surface coal mining operations in the United States, to authorize the Secretary of Interior to make grants to States to encourage the State regulation of surface mining, and for other purposes, pursuant to House Resolution 1230, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT WITH INSTRUCTIONS OFFERED BY MR. HOSMER

Mr. HOSMER. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. HOSMER. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit with instructions.

The Clerk read as follows:

Mr. HOSMER moves to recommit the bill, H.R. 11500, to the Committee on Interior and Insular Affairs with instructions to report the same back to the House forthwith with the following amendment: Strike out all after the enacting clause and insert in lieu thereof the text of H.R. 12898, as follows:

That this Act may be cited as the "Surface Coal Mining Reclamation Act of 1974".

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TITLE I—FINDINGS AND PURPOSES

FINDINGS

SEC. 101. The Congress finds that—

(a) the extraction of coal by underground and surface mining from the earth is a significant and essential activity which contributes to the economic, social, and material well-being of the Nation;

(b) there are surface and underground coal mining operations on public and private lands in the Nation which adversely affect the environment by destroying or diminishing the availability of land for commercial, industrial, recreational, agricultural, historic, and forestry purposes, by causing erosion and landslides; by contributing to floods and the pollution of water, land, and air; by destroying public and private property; by creating hazards to life and property; and by precluding post-mining land uses common to the area of mining;

(c) surface and underground coal mining operations presently contribute significantly to the Nation's energy requirements, and substantial quantities of the Nation's coal reserves lie close to the surface, and can only be recovered by surface mining methods, and therefore, it is essential to the national interest to insure the existence of an expanding and economically healthy coal mining industry;

(d) surface and underground coal mining operations affect interstate commerce, contribute to the economic well-being, security, and general welfare of the Nation and should be conducted in an environmentally sound manner;

(e) the initial and principal continuing responsibility for developing and enforcing environmental regulations for surface and underground coal mining operations should rest with the States; and

(f) the cooperative effort established by this Act is necessary to prevent or mitigate adverse environmental effects of present and future surface coal mining operations.

PURPOSES

SEC. 102. It is the purpose of this Act to—

(a) encourage a nationwide effort to regulate surface coal mining operations to prevent or substantially reduce their adverse environmental effects, to stimulate and encourage the development of new, environmentally sound surface coal mining and reclamation techniques, and to assist the States in carrying out programs for those purposes;

(b) assure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances thereto are protected from the adverse impacts of surface coal mining operations pursuant to the provisions of this Act;

(c) assure that surface coal mining operations are not conducted where reclamation as required by this Act is not feasible;

(d) assure that the coal supply essential to the Nation's energy requirements, and to its economic and social well-being is provided in accordance with the policy of the Mining and Minerals Policy Act of 1970; and

(e) assure that appropriate procedures are provided for public participation in the development, revision, and enforcement of regulations, standards, mining and reclamation plans, or programs established by the Secretary or any State pursuant to the provisions of this Act.

TITLE II—CONTROL OF ENVIRONMENTAL IMPACTS OF SURFACE COAL MINING OPERATIONS

INTERIM REGULATORY PROCEDURE

SEC. 201. (a) On and after ninety days from the date of enactment of this Act, no person shall open or develop any new or previously mined or abandoned site for surface coal mining operations on lands on which such operations are regulated by a State regulatory authority unless such person has obtained a permit from such regulatory authority. All such permits shall contain terms requiring compliance with the interim surface coal mining and reclamation performance standards specified in subsection (c) of this section. The regulatory authority shall act upon all applications for such permit within thirty days from the receipt thereof.

(b) Within one hundred and twenty days from the date of enactment of this Act, the State regulatory authority shall review and amend all existing permits in order to incorporate in them the interim surface coal mining and reclamation performance standards of subsection (c) of this section. On or before one hundred and eighty days from the date of issuance of such amended permit, all surface coal mining operations existing at the date of enactment of this Act on lands on which such operations are regulated by a State regulatory authority shall comply with the interim surface coal mining and reclamation performance standards in subsection (c) of this section with respect to lands from which the overburden has not been removed.

(c) Pending approval and implementation of a State program in accordance with section 203 of this Act, or preparation and implementation of a Federal program in accordance with section 204 of this Act, the following interim surface coal mining and reclamation performance standards shall be applicable to surface coal mining operations on lands on which such operations are regulated by a State regulatory authority, as specified in subsections (a) and (b) of this section:

(1) with respect to surface coal mining operations on steep slopes, no spoil, debris, or abandoned or discarded mine equipment may be placed on the natural or other downslope below the bench or cut created to expose the coal seam except that spoil from the cut necessary to obtain access to the coal seam may be placed on a limited or specified area of the downslope: *Provided,* That the spoil is shaped and graded in such a way so as to prevent slides, and minimize erosion, and water pollution, and is revegetated in accordance with paragraph (3) below; *Provided further, however,* That the regulatory authority may permit limited or temporary placement of spoil on a specified area of the downslope on steep slopes in conjunction with mountain top mining operations which will create a plateau with all highways eliminated, if such placement is consistent with the approved postmining land use of the mine site;

(2) with respect to all surface coal mining operations, the operator shall backfill, compact (where advisable to insure stability or to prevent leaching of toxic materials), and grade in order to restore the approximate original contour of the land with all high walls, spoil piles, and depressions eliminated, unless depressions are consistent with the approved postmining land use of the mine site;

(3) The provisions of paragraphs (1) and (2) of this subsection shall not apply to surface coal mining operations where the permittee demonstrates that the overburden, giving due consideration to volumetric expansion, is insufficient or more than sufficient to restore the approximate original contour, in which case the permittee, at a minimum, shall backfill, grade, and compact (where advisable) in order to cover all acid-forming and other toxic materials, to achieve an angle of repose based upon soil and climate characteristics for the area of land to be affected, to provide adequate drainage, and to facilitate a land use consistent with that approved for the postmining land use of the mine site;

(4) the regulatory authority may grant exceptions to paragraphs (1) and (2) if the regulatory authority finds that one or more variations from the requirements set forth in paragraphs (1) and (2) will result in the land having an equal or better economic or public use and that such use is likely to be achieved within a reasonable time and is consistent with surrounding land uses and with local, State, and Federal law;

(5) with respect to all surface coal mining operations, permanently establish, on regraded and all other lands affected, a stable and self-regenerative vegetative cover, where cover existed prior to mining and which, were advisable, shall consist of native vegetation;

(6) with respect to all surface coal mining operations, remove the topsoil in a separate layer, replace it simultaneously on a backfill area or if not utilized immediately segregate it in a separate pile from the subsoil, and if the topsoil is not replaced in a time short enough to avoid deterioration of topsoil, maintain a successful cover by quick growing vegetation or by other means so that the topsoil is protected from wind and water erosion, contamination from any acid or toxic material, and is in a usable condition for sustaining vegetation when replaced during reclamation, except if the topsoil is of insufficient quantity or of poor quality for sustaining vegetation, or if another material from the mining cycle can be shown to be more suitable for vegetation requirements, then the operator shall so remove, segregate, and protect that material which is best able to support vegetation, unless the permittee demonstrates that another method of soil conservation would be at least equally effective for revegetation purposes;

(7) with respect to surface disposal of coal mine wastes, coal processing wastes, or other wastes in areas other than the mine workings or excavations, stabilize all waste piles in designated areas, through compaction, layering with incombustible and impervious materials, and grading followed by vegetation of the finished surface to prevent, to the extent practicable, air and surface or ground water pollution, and to assure compatibility with natural surroundings in order that the site can and will be stabilized and revegetated according to the provisions of this Act;

(8) with respect to the use of impoundments for the disposal of coal processing wastes or other liquid or solid wastes, incorporate sound engineering practices for the design and construction of water retention facilities which will not endanger the health or safety of the public in the event of failure, that construction will be so designed to achieve necessary stability with an adequate margin of safety to protect against failure, that leachate will not pollute surface or ground water, and that no fines, slimes and other unsuitable coal processing wastes are used as the principal material in the construction of water impoundments, water retention facilities, dams, or settling ponds;

(9) prevent to the extent practicable adverse effects to the quantity and quality of water in surface and ground water systems both during and after surface coal mining and reclamation; and

(10) minimize offsite damages that may result from surface coal mining operations and institute immediate efforts to correct such conditions.

(d) (1) Upon petition by the permittee or the applicant for a permit, and after public

notice and opportunity for comment by interested parties, the regulatory authority may modify the application of the interim surface coal mining and reclamation performance standards set forth in paragraphs (1), (2), (3), and (4) of subsection (c) of this section, if the permittee demonstrates to the satisfaction of the regulatory authority that—

(A) he has not been able to obtain the equipment necessary to comply with such standards;

(B) the surface coal mining operations will be conducted so as to meet all other standards specified in subsection (c) of this section and will result in a stable surface configuration in accordance with a surface coal mining and reclamation plan approved by the regulatory authority; and

(C) such modification will not cause hazards to the health and safety of the public or significant imminent environmental harm to land, air, or water resources which cannot reasonably be considered reclaimable.

(2) Any such modification will be reviewed periodically by the regulatory authority and shall cease to be effective upon implementation of a State program pursuant to section 203 of this Act or a Federal program pursuant to section 204 of this Act.

(e) The Secretary shall issue regulations to be effective one hundred and eighty days from the date of enactment of this Act in accordance with the procedures of section 202, establishing an interim Federal surface coal mining evaluation and enforcement program. Such program shall remain in effect in each State in which there are surface coal mining operations regulated by a State regulatory authority until the State program has been approved and implemented pursuant to section 203 of this Act or until a Federal program has been prepared and implemented pursuant to section 204 of this Act. The interim Federal surface coal mining evaluation and enforcement program shall—

(1) include inspections of surface coal mining operations on a random basis (but at least one inspection for every site every three months), without advance notice to the mine operator, for the purpose of evaluating State administration of, and ascertaining compliance with, the interim surface coal mining and reclamation performance standards of subsection (c) above. The Secretary shall cause any necessary enforcement action to be implemented in accordance with section 217 with respect to violations identified at the inspections;

(2) provide that the State regulatory agency file with the Secretary copies of inspection reports made;

(3) provide that upon receipt of State inspection reports indicating that any surface coal mining operation has been found in violation of the standards of subsection (c) of this section, during not less than two consecutive State inspections or upon receipt by the Secretary of information which would give rise to reasonable belief that such standards are being violated by any surface coal mining operation, the Secretary shall order the immediate inspection of such operation by Federal inspectors and necessary enforcement actions, if any, to be implemented in accordance with the provisions of section 217. The inspector shall contact the informant prior to the inspection and shall allow the informant to accompany him on the inspection; and

(4) provide that moneys authorized pursuant to this Act shall be available to the Secretary prior to the approval of a State program pursuant to section 203 of this Act to reimburse the States for conducting those inspections in which the standards in subsection (c) above, are enforced and for the administration of this section.

(e) A coal surface mine operator operating pursuant to a valid permit and awaiting administrative action on his application for a permit from the appropriate regulatory authority may during the period prior to approval or disapproval of a State program pursuant to section 203 of this Act and for six months thereafter continue to operate his surface mine beyond the date of expiration of his permit subject to the terms and conditions of his permit or application in the event the appropriate regulatory authority has not acted on his application by the time his permit expires.

"(f) On and after the date of enactment of this Act, no person shall open, develop, or extend any new or previously mined or abandoned site for surface coal mining operations within any area of the National Park System, the National Wildlife Refuge System, or the National Wilderness Preservation System. Nothing in this Act shall be construed as authorizing surface coal mining operations within Federal lands where such mining is prohibited on the date of enactment of this Act by law, regulation, order, deed, or other instrument."

PERMANENT REGULATORY PROCEDURE

SEC. 202. Not later than the end of the one hundred-and-eighty-day period immediately following the date of enactment of this Act, the Secretary shall promulgate and publish in the Federal Register regulations covering a permanent regulatory procedure for surface coal mining and reclamation operations setting permanent surface coal mining and reclamation performance standards based on the provisions of sections 213 and 214, and establishing procedures and requirements for preparation, submission and approval of State programs, and the development and implementation of Federal programs under this title. Such regulations shall not be promulgated and published by the Secretary until he has—

(a) published proposed regulations in the Federal Register and afforded interested persons and State and local governments a period of not less than forty-five days after such publication to submit written comments thereon;

(b) consulted with and considered the recommendations of the Administrator of the Environmental Protection Agency with respect to those regulations promulgated under this section which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act (33 U.S.C. 1151–1175) and the Clean Air Act, as amended (42 U.S.C. 1857); and

(c) held at least one public hearing on the proposed regulations.

The date, time, and place of any hearing held on the proposed regulations shall be set out in the publication of the proposed regulations. The Secretary shall consider all comments and relevant data presented at such hearing before final promulgation and publication of the regulations.

STATE PROGRAMS

SEC. 203. (a) Each State in which surface coal mining operations are or may be conducted, and which proposes to assume State regulatory authority under this Act, shall submit to the Secretary, by the end of the twenty-four month period beginning on the date of enactment of this Act, a State program which demonstrates that such State has the capability of carrying out the provisions of this Act and meeting its purposes through—

(1) a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act and the regulations issued by the Secretary pursuant to this Act;

(2) a State law which provides sanctions for violations of State laws, regulations, or conditions of permits concerning surface coal mining and reclamation operations, which sanctions shall meet the minimum requirements of this Act, including civil and criminal penalties, forfeiture of bonds, suspension, revocation, and withholding of permits, and the issuance of notices and orders by the State regulatory authority or its inspectors;

(3) a State regulatory authority with sufficient administrative and technical personnel, and sufficient funding to enable the State to regulate surface coal mining and reclamation operations in accordance with the requirements of this Act;

(4) a State law which provides for the effective implementation, maintenance, and enforcement of a permit system, meeting the requirements of this title for the regulation of surface coal mining and reclamation operations on lands within the State;

(5) establishment of a process for the designation of lands unsuitable for surface coal mining operations in accordance with section 205; and

(6) establishment, for the purpose of avoiding duplication, of a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with any other Federal or State permit process applicable to the proposed operations.

(b) The Secretary shall not approve any State program submitted under this section until he has—

(1) solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise pertinent to the proposed State program;

(2) consulted with and considered the recommendations of the Administrator of the Environmental Protection Agency with respect to those aspects of a State program which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act (33 U.S.C. 1151–1175) and the Clean Air Act, as amended (42 U.S.C. 1857);

(3) held at least one public hearing on the State program within the State; and

(4) found that the State has the legal authority and qualified personnel necessary for the enforcement of the surface coal mining and reclamation performance standards. The Secretary shall approve or disapprove a State program, in whole or in part, within six full calendar months after the date such State program is submitted to him.

(c) If the Secretary disapproves any proposed State program, in whole or in part, he shall notify the State in writing of his decision and set forth in detail the reasons therefor. The State shall have sixty days in which to resubmit a revised State program, or portion thereof.

(d) For the purposes of this section and section 204, the inability of a State to take any action to prepare, submit or enforce a State program, or any portion thereof, because the action is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not result in a loss of eligibility for financial assistance under title III of this Act or in the imposition of a Federal program. Regulation of the surface coal mining operations covered or to be covered by the State program subject to the injunction shall be conducted by the State until such time as the injunction terminates or for one year, whichever is shorter, at which time the requirements of this section and section 204 shall again be fully applicable.

(e) If State compliance with this section requires an act of the State legislature, the Secretary may extend the period for submission of a State program up to an additional twelve months.

FEDERAL PROGRAMS

SEC. 204. (a) The Secretary shall prepare, promulgate, and implement a Federal program for the regulation of surface coal mining operations in any State which fails to—

(1) submit a State program covering sur-

face coal mining and reclamation operations by the end of the twenty-four-month period beginning on the date of enactment of this Act;

(2) resubmit an acceptable State program, or portion thereof, within sixty days of disapproval of a proposed State program, in whole or in part: *Provided*, That the Secretary shall not implement a Federal program prior to the expiration of the initial period allowed for submission of a State program as provided for in clause (1) of this subsection; or

(3) adequately implement, enforce, or maintain a State program approved pursuant to section 203.

(b) Prior to implementation of a Federal program pursuant to section 204(a), the Secretary shall consult with and publicly disclose the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having expertise pertinent thereto and shall hold at least one public hearing within the State for which the Federal program is to be implemented.

(c) Whenever a Federal program is promulgated for a State pursuant to this Act, any statutes or regulations of such State which are in effect to regulate surface coal mining operations subject to this Act shall, insofar as they are inconsistent or interfere with the purposes and the requirements of this Act and the Federal program, be preempted and superseded by the Federal program.

DESIGNATING AREAS UNSUITABLE FOR SURFACE COAL MINING OPERATIONS

SEC. 205. (a) To be eligible to assume primary regulatory authority pursuant to section 203, each State shall establish a planning process enabling objective decisions to be made based upon public hearings and competent and scientifically sound data and information as to which, if any, areas or types of areas of a State (except Federal lands) cannot be reclaimed with existing techniques to satisfy applicable standards and requirements of law. The State agency will not issue permits for surface coal mining of such areas unless it determines, with respect to any such permit, that the technology is available to satisfy applicable performance standards.

"(b) The State regulatory authority shall designate a surface area as unsuitable for certain types of surface coal mining operations if the State regulatory authority determines that reclamation pursuant to the requirements of this Act is not physically feasible."

(c) The Secretary, and, in the case of national forest lands, the Secretary of Agriculture, shall conduct a review of the Federal lands and determine, pursuant to the standards set forth in subsection (a) of this section, areas or types of areas on Federal lands which cannot be reclaimed with existing techniques to satisfy applicable standards and requirements of law. Permits for surface coal mining will not be issued to mine such areas unless it is determined, with respect to any such permit, that the technology is available to satisfy applicable performance standards.

(d) In no event is an area to be designated unsuitable for surface coal mining operations on which surface coal mining operations are being conducted on the date of enactment of this Act, or under a permit issued pursuant to this Act, or where substantial legal and financial commitments in such operations are in existence prior to the date of enactment of this Act. Designation of an area as unsuitable for mining shall not prevent mineral exploration of the area so designated.

EFFECT ON STATE LAW

SEC. 206. Any provision of State law or regulation in effect upon the date of enactment of this Act, or which may become effective thereafter, and provides more stringent regulations of surface coal mining and reclamation operations than the provisions of this Act, or any regulation issued pursuant thereto, shall not be construed to be inconsistent with this Act.

PERMITS

SEC. 207. (a) Except as provided in subsection (c) of this section, on and after six months from the date on which a State program is approved by the Secretary, pursuant to section 203 of this Act, or the Secretary has promulgated a Federal program for a State not having a State program, pursuant to section 204, no person shall engage in surface coal mining operations unless such person has obtained a permit in full compliance with this Act from the appropriate regulatory authority.

(b) All permits issued pursuant to the requirements of this Act shall be issued for a term not to exceed five years and shall be nontransferable: *Provided*, That a successor in interest to a permit holder who applies for a new permit within thirty days of succeeding to such interest and who is able to obtain the bond coverage of the original permit holder may continue surface coal mining and reclamation operations until such successor's application is granted or denied.

(c) Any person engaged in surface coal mining operations pursuant to a permit issued under section 201 and awaiting administrative action on his application for a permit from the appropriate regulatory authority in accordance with this section may continue to operate for a four-month period beyond the time specified in subsection (a) of this section if the appropriate regulatory authority has not acted on the application.

PERMIT APPLICATION REQUIREMENTS: INFORMATION, AND MINING AND RECLAMATION PLANS

SEC. 208. (a) Each application for a permit pursuant to a State or Federal program under this Act shall be submitted in a manner satisfactory to the regulatory authority and shall contain:

(1) the names and addresses of the permit applicants (if the applicant is a subsidiary corporation, the name and address of the parent corporation shall be included); every legal owner of the property (surface and mineral) to be mined; the holders of any leasehold or other equitable interest in the property; any purchaser of the property under a real estate contract; the operator if he is a person different from the applicant; and, if any of these are business entities other than a single proprietor, the names and addresses of principals, officers, and resident agent;

(2) the names and addresses of every officer, partner, director, or person performing a function similar to a director, of the applicant, together with the name and address of any person or group owning, of record or beneficially, 10 per centum or more of any class of stock of the applicant and a list of all names under which the applicant, partner, or principal shareholder previously operated a surface coal mining operation within the United States or its territories and possessions;

(3) a description of the type and method of surface coal mining operation that exists or is proposed;

(4) evidence of the applicant's legal right to enter and commence surface coal mining operations on the area affected;

(5) the names and addresses of the owners of record of all surface and subsurface areas abutting on the permit area;

(6) a statement of any current or previous surface coal mining permits in the United States held by the applicant and the permit identification;

(7) a statement of whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant, has held a Federal or State surface coal mining permit which subsequent to 1960 has been suspended or revoked or has had a surface coal mining performance bond or similar security deposited in lieu of bond forfeited and a brief explanation of the facts involved in each case;

(8) such maps and topographical information, including the location of all underground mines in the area, as the regulatory authority may require, which shall be in sufficient detail to clearly indicate the nature and extent of the overburden to be disturbed, the coal to be mined, and the drainage of the area to be affected;

(9) a copy of the applicant's advertisement of the ownership, location, and boundaries of the proposed site of the surface coal mining and reclamation operation (such advertisement shall be placed in a newspaper of general circulation in the locality of the proposed site at least once a week for four successive weeks and may be submitted to the regulatory authority after the application is filed);

(10) a schedule listing any and all violations of this Act and any law, rule, or regulation of the United States or of any department or agency in the United States pertaining to air, or water environmental protection incurred by the applicant in connection with any surface coal mining operation during the one-year period prior to the date of application. The schedule shall also indicate the final resolution of any such notice of violation.

(b) Each application for a permit shall be required to submit to the regulatory authority, as part of the permit application, a surface coal mining and reclamation plan which shall contain:

(1) the engineering techniques proposed to be used in the surface coal mining and reclamation operation and a description of the major equipment; a plan for the control of surface water drainage and of water accumulation; a plan where appropriate for backfilling, soil stabilization, and compacting, grading, and appropriate revegetation (where vegetation existed prior to mining); an estimate of the cost per acre of the reclamation, including statements as to how the permittee plans to comply with each of the applicable surface coal mining and reclamation performance standards establish under this Act;

(2) the consideration which has been given to developing the surface coal mining and reclamation plan in a manner consistent with local physical, environmental, and climatological conditions and current surface coal mining and reclamation technologies;

(3) the consideration which has been given to insuring the maximum practicable recovery of the coal;

(4) a detailed estimated timetable for the accomplishment of each major step in the surface mining and reclamation plan;

(5) the consideration which has been given to making the surface coal mining and reclamation operation consistent with applicable State and local land use programs;

(6) a description, if any, of the hydrologic consequences of the surface coal mining and reclamation operation, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding area so that an assessment can be made of the probable cumulative impacts of all anticipated surface coal mining in the area upon the hydrology of the area and particularly upon water availability;

(7) a statement of the results of test boring or core samplings from the land to be affected including where appropriate the surface elevation and logs of the drill holes so

that the strike and dip of the coal seems may be determined; the nature and depth of the various strata of overburden; the location of subsurface water if encountered and its quality; the thickness of the coal seam found; an analysis of the chemical properties of such coal to determine the sulfur content and the content of other potentially acid or toxic forming substances of the overburden and the stratum lying immediately underneath the coal to be mined; and

(8) proprietary information, if made available to the public would result in competitive injury to the applicant, may be designated confidential and, if accepted by the regulatory authority shall be subject to the provisions of section 1905 of title 18, United States Code. Appropriate protective orders against unauthorized disclosure or use by third parties may be issued with respect to such information, and violations of such orders shall be subject to penalties set forth in section 219 of this Act.

(c) Each applicant for a surface coal mining and reclamation permit shall file a copy of his application for public inspection with an appropriate official, approved by the regulatory authority, in the locality where the mining is proposed to occur, except for that information pertaining to the coal seam itself.

(d) A valid permit issued pursuant to this Act shall carry with it a right of successive renewals upon expiration provided that the permittee has complied with such permit. "The holder of the permit may apply for renewal shall be issued, subsequent to public hearing upon the following requirement and written finding by the regulatory authority that—" Prior to approving the renewal of any permit, the regulatory authority shall review the permit and the surface coal mining and reclamation operation and may require such new conditions and requirements as are necessary or prescribed by changing circumstances. A permittee wishing to obtain renewal of a permit shall make application for such renewal within one year prior to the expiration of the permit. The application for renewal shall contain:

(1) a listing of any claim settlements or judgments against the applicant arising out of, or in connection with, surface coal mining operations under said permit;

(2) written assurance by the person issuing the performance bond in effect for said operation that the bond continues and will continue in full force and effect for any extension requested in such application for renewal as well as any additional bond the regulatory authority may require pursuant to section 210 of this Act;

(3) revised, additional, or updated information required under this section.

Prior to the approval of any extension of the permit, the regulatory authority shall notify all parties who participated in the public review and hearings on the original or previous permit, as well as providing notice to the appropriate public authorities, and taking such other steps as required in section 209 of this Act.

PERMIT APPROVAL OR DENIAL PROCEDURES

SEC. 209. (a) The regulatory authority shall notify the applicant for a surface coal mining and reclamation permit within a period of time established by law or regulation, not to exceed ninety days, that the application has been approved or disapproved. If approved, the permit shall be issued after the performance bond or deposit and public liability insurance policy required by section 210 of this Act has been filed. If the application is disapproved, specific reasons therefor must be set forth in the notification. Within thirty days after the applicant is notified that the permit or any portion thereof has been denied, the applicant may request a hearing on the reasons for said disapproval unless a hearing has already been held under section 209(f). Such hearing shall be held in the locality of the proposed surface coal mining operation as soon as practicable after receipt of the request for a hearing and after appropriate notice and publication of the date, time, and location of such hearing. Within sixty days after the hearing the regulatory authority shall issue and furnish the applicant and any other parties to the hearing the written decision of the regulatory authority granting or denying the permit in whole or in part and stating the reasons therefor.

(b) Within ten days after the granting of a permit, the regulatory authority shall notify the State and the local official who has the duty of collecting real estate taxes in the local political subdivision in which the area of land to be affected is located that a permit has been issued and shall describe the location of the land.

(c) Prior to the issuance of a permit, the regulatory authority may require the applicant to alter his proposed surface coal mining and reclamation plan with respect to the methods, sequence, timing of specific operations in the plan, or the deletion of specific operations or areas from all or part of the plan in order to assure that the surface coal mining and reclamation objectives of this Act are met.

(d) No permit will be issued unless the regulatory authority finds that:

(1) all applicable requirements of this Act and the State or Federal program have been satisfied;

(2) the applicant can demonstrate that reclamation as required by this Act and the appropriate State or Federal program under this Act can be accomplished under the surface coal mining and reclamation plan contained in the permit application;

(3) the land to be affected does not lie within three hundred feet from any occupied dwelling, unless the owner thereof waives this requirement, nor within three hundred feet of any public building, school, church, community, or institutional building, or cemetery; or the land to be affected does not lie within one hundred feet of the outside right-of-way line of any public road, except that the regulatory authority may permit such roads to be relocated, if the interests of the public and the landowners affected thereby will be protected;

(4) no lake, river, stream, creek, or watercourse may be moved, interrupted, or destroyed during the surface coal mining or reclamation process except that lakes, rivers, streams, creeks, or watercourses may be relocated where consistent with the approved mining and reclamation plan; and no surface coal mining or reclamation activities will be conducted within one hundred feet of any lake, river, stream, or creek, except where permitted by the approved mining and reclamation plan;

(5) surface coal mining operations will not take place on any area of land within one thousand feet of parks or places listed in the National Register of Historic Sites, unless screening or other measures approved by the regulatory authority are used or if the mining of the area will not adversely affect or reduce the usage of the park or place; and

(6) the application on its face is complete, accurate, and contains no false information.

(e) The regulatory authority shall not issue any new surface coal mining permit or renew or revise any existing surface coal mining permit if it finds that the applicant has failed and continues to fail to comply with any of the provisions of this Act applicable to any State, Federal, or Federal lands program, or the permit includes an area as to which an administrative proceeding has commenced pursuant to section 205, or if the applicant fails to submit proof that violations described in subsection (a)(10) of section 208 have been corrected or are in the process of being corrected to the satisfaction of the regulatory authority, department, or agency which has jurisdiction over such violation.

(f) Any person having an interest which is or may be adversely affected by the proposed surface coal mining and reclamation operation or any Federal, State, or local governmental agency having responsibilities affected by the proposed operation shall have the right to file written objections to any permit application and request a public hearing thereon within thirty days after the last publication of the advertisement pursuant to section 208(a)(9). If written objections are filed and a hearing requested, the regulatory authority shall hold a public hearing in the locality of the proposed surface coal mining and reclamation operation as soon as practicable from the date of receipt of such objections and after appropriate notice and publication of the date, time, and location of such hearing. Within sixty days after the hearing the regulatory authority shall issue and furnish the parties to the hearing the written decision of the regulatory authority granting or denying the permit in whole or in part and stating the reasons therefor.

POSTING OF BOND OR DEPOSIT: INSURANCE

SEC. 210. (a) After a surface coal mining and reclamation permit application has been approved but before such a permit is issued, the applicant shall file with the regulatory authority, on a form prescribed and furnished by the regulatory authority, a bond for performance payable, as appropriate, to the United States or the State, under an approved State program, and conditioned that the applicant shall faithfully perform all the applicable requirements under this Act. The bond shall cover that area of land within the permit area upon which the applicant will initiate and conduct surface coal mining and reclamation operations within the initial year of the permit term. As succeeding increments of surface coal mining and reclamation operations are to be initiated and conducted within the permit area, the permittee shall file annually with the regulatory authority an additional bond or bonds to cover such increments in accordance with this section. The amount of the bond required for each bonded area shall depend upon the reclamation requirements of the approved permit and shall be determined by the regulatory authority. The amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by a third party in the event of forfeiture; in no case shall the bond be less than $10,000.

(b) The bond shall be executed by the applicant and a corporate surety approved by the regulatory authority, except that the applicant may elect to deposit cash, negotiable bonds of the United States Government or such State, or negotiable certificates of deposit of any bank organized under the laws of any State or the United States. The cash deposit or market value of such securities shall be equal to or greater than the amount of the bond required for the bonded area.

(c) The amount of the bond or deposit required shall be increased or decreased by the regulatory authority from time to time as affected land acreages are changed or where the cost of future reclamation increases or decreases.

(d) After a surface coal mining and reclamation permit application has been approved but before such permit is issued, the applicant for a permit shall be required to submit to the regulatory authority a certificate issued by an insurance company authorized to do business in the United States certifying that the applicant has a public liability insurance policy in force for the surface coal mining and reclamation operation for which such permit is sought, or

evidence that the applicant has satisfied State or Federal self-insurance requirements. Such policy shall provide for both on- and off-site personal injury and property damage protection in an amount adequate to compensate any persons injured or damaged as a result of surface coal mining and reclamation operations and entitled to compensation under the applicable provisions of Federal or State law, but in any event shall not be less than $100,000, or for such higher amounts as the regulatory authority deems necessary in light of potential risk and magnitude of possible off-site damages. Such policy shall be for the term of the permit and any renewal, including the length of any and all reclamation operations required by this Act.

RELEASE OF PERFORMANCE BONDS OR DEPOSITS

SEC. 211. (a) The permittee may file a request with the regulatory authority for the release of all or part of the performance bond or deposit. Within thirty days after any application for bond or deposit release has been filed with the regulatory authority, the permittee shall submit a copy of an advertisement placed at least once a week for three consecutive weeks in a newspaper of general circulation in the locality of the surface coal mining operation. Such advertisement shall be considered part of any bond release application and shall contain a notification of the location of the land affected, the number of acres, the permit number and the date approved, the amount of the bond filed and the portion sought to be released, and the type of reclamation work performed. In addition, as part of any bond release application, the permittee shall submit copies of letters which have been sent to adjoining property owners, and local governmental bodies, planning agencies, sewage and water treatment authorities, water companies, and all other public utility companies whose facilities cross or may be sufficiently close to the concerned area to be affected thereby in the locality in which the surface coal mining and reclamation activities took place, notifying them of intent to seek release of the bond.

(b) The regulatory authority may release in whole or in part said bond or deposit if the authority is satisfied that reclamation covered by the bond or deposit or portion thereof has been accomplished as required by this Act: *Provided, however,* That—

(1) no bond shall be fully released until all reclamation requirements of this Act are fully met, and

(2) an inspection and evaluation of the affected surface coal mining and reclamation operation is made by the regulatory authority or its authorized representative prior to the release of all or any portion of the bond.

(c) If the regulatory authority disapproves the application for release of the bond or portion thereof, the authority shall notify the permittee, in writing, stating the reasons for disapproval and recommending actions necessary to secure said release. The permittee shall be afforded an opportunity for a public hearing in accordance with the procedures specified in section 209(a), unless a hearing has already been held under subsection (d) of this section.

(d) Any person having an interest which is or may be adversely affected by the proposed release of the bond or any Federal, State, or local governmental agency having responsibilities affected by the proposed release shall have the right to file written objections to the proposed release of the bond and request a public hearing thereon to the regulatory authority within thirty days after the last notice has been given in accordance with subsection (a) of this section. If written objections are filed and a hearing requested, the regulatory authority shall inform all the interested parties, of the time and place of the hearing, which shall be held in the locality of the affected surface coal mining operation as soon as practicable after receipt of the request for such hearing. The date, time, and location of such public hearing shall be advertised by the regulatory authority in a newspaper of general circulation in the locality once a week for three consecutive weeks.

REVISION AND REVIEW OF PERMITS

SEC. 212. (a) During the term of the permit the permittee may submit an application, together with a revised surface coal mining and reclamation plan, to the regulatory authority for a revision of the permit.

(b) An application for a revision of a permit shall not be approved unless the regulatory authority finds that reclamation as required by this Act and the State or Federal program can be accomplished under the revised surface coal mining and reclamation plan. The revision shall be approved or disapproved within a period of time established by the State or Federal program, but such period shall not exceed ninety days. The regulatory authority shall establish guidelines for a determination of the scale or extent of a revision request for which all permit application information requirements and procedures, including notice and hearings, shall apply: *Provided,* That any revision which proposes a substantial change in the intended future use of the land or significant alterations in the mining and reclamation plan shall, at a minimum, be subject to the notice and hearing requirements of section 209 of this Act.

(c) Any extensions to the area covered by the permit except incidental boundary revisions shall be made by application for another permit.

(d) The regulatory authority may require reasonable revision or modification of the permit provisions during the term of such permit: *Provided,* That such revision or modification shall be subject to notice and hearing requirements established by the State or Federal program.

(e) Permits issued pursuant to an approved State program shall be valid but reviewable under a Federal program. Following promulgation of a Federal program, the Secretary shall review such permits to determine if the requirements of this Act are being carried out. If the Secretary determines that any permit has been granted contrary to the requirements of this Act, he shall so advise the permittee and provide him a reasonable opportunity for submission of a new application and reasonable time to conform ongoing surface coal mining and reclamation operations to the requirements of the Federal program.

(f) If a State submits a proposed State program to the Secretary after a Federal program has been promulgated and implemented, and if the Secretary approves the State program, the Federal program shall cease to be effective thirty days after such approval. Permits issued pursuant to the Federal program shall be valid but reviewable under the approved State program. The State regulatory authority may review such permits to determine if the requirements of the approved State program are being carried out. If the State regulatory authority determines that any permit has been granted contrary to the requirements of the approved State program, it shall so advise the permittee and provide a reasonable opportunity for submission of a new application and reasonable time to conform ongoing surface coal mining and reclamation operations to the requirements of the approved State program.

SURFACE COAL MINING AND RECLAMATION PERFORMANCE STANDARDS

SEC. 213. (a) Any permit issued under any approved State or Federal program pursuant to this Act to conduct surface coal mining operations shall require that such surface coal mining operations will meet all applicable surface coal mining and reclamation performance standards of this Act.

(b) The following general surface coal mining and reclamation performance standards shall be applicable to all surface coal mining and reclamation operations and shall require the permittee to—

(1) conduct surface coal mining operations so as to maximize the utilization and conservation of the coal being mined so that reaffecting the land in the future through surface coal mining operations can be minimized;

(2) restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or an equal or better economic or public use suitable to the locality;

(3) minimize to the extent practicable, any temporary environmental damage so that it will affect only the permit area;

(4) limit the excavation area from which coal has been removed at any one time during mining by combining the process of reclamation with the process of mining to keep reclamation operations current, and completing such reclamation in any separate distinguishable portion of the mined area as soon as feasible, but not later than the time specified in a reclamation schedule which shall be attached to the permit;

(5) remove the topsoil from the land in a separate layer, replace it simultaneously on a backfill area or if not utilized immediately segregate it in a separate pile from other spoil and if the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plant or other means thereafter so that the topsoil is protected from wind and water erosion, and contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation, except if the topsoil is insufficient quantity or of poor quality sustaining vegetation or if another material from the mining cycle can be shown to be more suitable for vegetation requirements, then the permittee shall so remove, segregate, and protect that material which is best able to support vegetation, unless the permittee demonstrates in the reclamation plan that another method of soil conservation would be at least equally effective for revegetation purposes;

(6) stabilize and protect all surface areas affected by the surface coal mining and reclamation operation to control as effectively as possible erosion and attendant aid and water pollution.

(7) provide that all debris, acid, highly mineralized toxic materials, or materials constituting a fire hazard are treated or disposed of in a manner designed to prevent contamination of ground or surface waters and sustained combustion;

(8) backfill, compact (where advisable to provide stability or to prevent leaching of toxic materials), and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles and depressions eliminated (unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to paragraph (9) of this subsection): *Provided, however,* That in surface coal mining operations where the operation transects the coal deposit and the permittee demonstrates that the overburden, giving due consideration to volumetric expansion, is insufficient or more than sufficient to restore the approximate original contour, the permittee, at a minimum, shall backfill, grade, and compact (where advisable) in order to cover all acid-forming and other toxic materials, to achieve an angle of repose based upon soil and climate characteristics of the area of land to be affected

to provide adequate drainage and to facilitate land use consistent with that approved for the post mining land use of the mine site;

(9) construct, if authorized in the approved surface coal mining and reclamation plan and permit, permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately demonstrated that—

(A) the size of the impoundment is adequate for its intended purposes;

(B) the impoundment dam construction will be so designed to achieve necessary stability with an adequate margin of safety;

(C) the quality of impounded water will be suitable on a permanent basis for its intended use and that degradation of water quality in the receiving stream as a result of discharges from the impoundment will be minimized;

(D) the level of water will be reasonably stable;

(E) final grading will provide adequate safety and access for proposed water users; and

(F) diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses will be minimized;

(10) refrain from the construction of roads or other access ways up a stream bed or drainage channel or in such proximity to such bed or channel so as to result in serious adverse effects on the normal flow of water;

(1) replace the topsoil or the other more suitable material from the mining cycle which has been segregated and protected;

(12) establish on the regraded areas and all other lands affected a stable and self-regenerating vegetative cover (including agricultural crops if approved by the regulatory authority), where cover existed prior to mining, which, where advisable, shall be comprised of native vegetation;

(13) assume the responsibility for successful revegetation for a period of five full years after the completion of reclamation (as determined by the regulatory authority) in order to provide a stable and self-regenerating vegetative cover suitable to the area, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the permittee's assumption of responsibility and liability will extend for a period of ten full years after the completion of reclamation: *Provided,* That unless prior thereto, the operator can demonstrate to the satisfaction of the regulatory authority that such a vegetative cover has been established for at least three full growing seasons;

(14) minimize the disturbances to the hydrologic balance at the mine site and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both during and after surface coal mining and reclamation operations by—

(A) avoiding acid or other toxic mine drainage to the extent practicable by preventing, retaining, or treating drainage to reduce mineral content which adversely affects downstream water uses when it is released to water courses;

(B) casing, sealing, or otherwise managing boreholes, shafts, and wells in a manner designed to prevent acid or other toxic drainage to ground and surface waters;

(C) conducting surface coal mining operations so as to minimize to the extent practicable the adverse effects of water runoff from the permit area;

(D) if required, removing and disposing of siltation structures and retained silt from drainways in an environmentally safe manner;

(E) restoring to the maximum extent practicable recharge capacity of the aquifer at the minesite to premining conditions; and

(F) relocating surface and ground water in a manner consistent with the permittee's approved surface coal mining and reclamation plan.

(15) minimize offsite damages that may result from surface coal mining operations and institute immediate efforts to correct such conditions;

(16) with respect to the use of impoundments for disposal of mine wastes or other liquid or solid wastes, incorporate sound engineering practices for the design and construction of water retention facilities which will not endanger the health and safety of the public in the event of failure, construct such facilities to achieve necessary stability with an adequate margin of safety to protect against failure, prevent leachate from polluting surface or ground water and prohibit fines, slimes, and other unsuitable coal processing wastes from being used as the principal material in the construction of water impoundments, water retention facilities, dams, or settling ponds;

(17) with respect to surface disposal of mine wastes, coal processing wastes, and other wastes in areas other than the mine workings or excavations, stabilize all waste piles in designated areas through construction in compacted layers with incombustible and impervious materials, and provide that the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to the provisions of this Act;

(18) with respect to the use of explosives—

(A) provide advance written notice to local governments and advance notice to residents who might be affected by the use of such explosives by publication in a newspaper of general circulation in the locality of the proposed site at least one week in advance of the planned blasting schedules and the posting of such schedules at the entrances to the permit area, and maintain for a period of at least three years a log of the magnitudes and times of blasts;

(B) limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts based upon the physical conditions of the site so as to prevent (i) injury to persons, (ii) damage to public and private property outside the permit area, and (iii) adverse impacts on any underground mine, and

(C) refrain from blasting in specific areas where the safety of the public or private property or natural formations of more than local interest are endangered;

(19) Refrain from surface coal mining within five hundred feet from underground mines in order to prevent breakthroughs and to protect health or safety of miners: *Provided,* That the regulatory authority shall permit an operator to mine closer to such a mine provided it does not create hazards to the health and safety of miners or shall permit an operator to mine near, through or partially through an abandoned underground mine working where such mining through will achieve improved resource recovery, abatement of water pollution or elimination of public hazards and such mining shall be consistent with the provisions of this Act.

(20) construct access roads, haulroads, or haulageways with appropriate limits applied to grade, width, surface materials, spacing, and size of culverts in order to control drainage and prevent erosion outside the permit area, and upon the completion of mining either reclaim such roads by regrading and revegetation or provide for their maintenance so as to control erosion and siltation of streams and adjacent lands; and

(21) fill auger holes to a depth of not less than three times the diameter with an impervious and noncombustible material.

(c) The following mining and reclamation performance standards shall be applicable to steep-slope surface coal mining and shall be in addition to those general performance standards required by this section: *Provided, however,* That the provisions of this subsection (c) shall not apply to mining operations which create a plateau with no highwalls remaining in such a manner as to otherwise meet the standards of this subsection or those situations in which an operator is mining on flat or gently rolling terrain, on which an occasional steep-slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area:

(1) No spoil, debris, soil, waste materials, or abandoned or disabled mine equipment may be placed on the natural or other downslope below the bench or cut created to expose the coal seam except that, where necessary, spoil from the cut necessary to obtain access to the coal seam may be placed on a limited or specified area of the downslope, provided that the spoil is shaped and graded in such a way so as to prevent slides and minimize erosion and water pollution and that the other requirements of subsection (b) can still be met.

(2) For the purposes of this subsection, the term "steepslope" is any slope above twenty degrees or such other slope as the regulatory authority may determine to be necessary based upon soil, climate, and other characteristics of a region or State.

(d)(1) In cases where an industrial, commercial, agricultural, residential, recreational or public facility development is proposed for postmining use of the affected land, the regulatory authority may grant appropriate exceptions to the requirements for regrading, backfilling, and spoil placement as set forth in subsection 213(b)(8) and in subsection 213(c)(1) of this Act, if the regulatory authority determines:

(A) after consultation with the appropriate land use planning agencies, if any, the proposed development is deemed to constitute an equal or better economic or public use of the affected land, as compared with the premining use;

(B) the equal or better economic or public use can be most effectively obtained only if one or more exceptions to the requirements for regrading, backfilling, and soil placement as set forth in subsection 213(b)(8) and subsection 213(c)(1) of this Act are granted;

(2) With respect to subsection 213(b)(12) and subsection 213(b)(13) of this Act, where postmining land use development is in compliance with all the requirements of this subsection and where the regulatory authority has found that an exception to the revegetation standards is necessary to achieve the postmining land use development, the regulatory authority may grant an appropriate exception.

(3) All exceptions granted under the provisions of this subsection shall be reviewed not more than three years from the date of issuance of the permit, unless the applicant affirmatively demonstrates that the proposed development is proceeding in accordance with terms of the approved schedule and reclamation plan.

(e) The Secretary may develop, promulgate, and revise, as may be appropriate, improved surface coal mining and reclamation performance standards for the protection of the environment and public health and safety. Such development and revision of improved surface coal mining and reclamation performance standards shall be based upon the latest available scientific data, the technical feasibility of the standards, and experience gained under this and other environmental protection statutes. The performance standards of subsections (b) and (c) of this section shall be applicable until superseded in whole or in part by improved surface coal mining and reclamation performance standards promulgated by the Secretary.

No improved surface coal mining and reclamation performance standards promulgated under this subsection shall reduce the protection afforded the environment and the health and safety of the public below that provided by the performance standards contained in subsections (b) and (c) of this section. Improved surface coal mining and reclamation performance standards shall not be promulgated by the Secretary until he has followed the procedures specified in subsections (a), (b), and (c) of section 202 of this Act.

MINING AND RECLAMATION PERFORMANCE STANDARDS FOR SURFACE OPERATIONS INCIDENT TO UNDERGROUND COAL MINING

SEC. 214. (a) In order to regulate the adverse effects of surface operations incident to underground coal mining, the Secretary shall, in accordance with the procedures established under section 202 of this Act, promulgate rules and regulations directed toward the surface affected by such underground coal mining operations embodying the requirements specified in subsection (c) of this section which shall be applicable to surface operations incident to underground coal mining.

(b) The performance standards specified in subsection (c) of this section shall be applicable to all such operations until superseded in whole or in part by improved performance standards promulgated by the Secretary in accordance with subsection (e) of section 213 of this Act.

(c) Any approved State or Federal program pursuant to this Act and relating to surface operations incident to underground coal mining shall require the underground coal mine operator to—

(1) seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mineworkings when no longer needed for the conduct of the underground coal mining operation;

(2) with respect to surface disposal of mine wastes, coal processing wastes, and other wastes in areas other than mineworkings or excavations, stabilize all waste piles created by the current operations in designated areas through construction in compacted layers with incombustible and impervious materials, and provide that the final contour of the waste pile will be compatible with natural surroundings and that the site is stabilized and revegetated according to the provisions of this section;

(3) with respect to the use of impoundments for disposal of mine wastes or other liquid and solid wastes incorporate sound engineering practices for the design and construction of water retention facilities which will not endanger the health and safety of the public in the event of failure, construct such facilities to achieve necessary stability with an adequate margin of safety to protect against failure, prevent leachate from polluting surface or ground water, and prohibit fines, slimes and other unsuitable coal processing wastes from being used as the principal material in the construction of water impoundments, water retention facilities, dams, or settling ponds;

(4) establish on regraded areas and all other lands affected, a stable and self-regenerating vegetative cover, where cover existed prior to mining, which, where advisable, shall be comprised of native vegetation;

(5) adopt measures consistent with known technology to minimize off-site damages resulting from surface operations incident to underground coal mining; and

(6) prevent to the extent practicable the discharge of waterborne pollutants both during and after mining.

(7) in order to protect the stability of the land, the regulatory authority shall suspend underground coal mining under urbanized areas, cities, towns, and communities and adjacent to industrial or commercial buildings, major impoundments, or permanent streams if imminent danger to inhabitants of the urbanized areas, cities, towns, and communities is presented.

(d) All operators of underground coal mines, both during and after mining, shall have abatement and remedial programs to prevent the discharge of waterborne pollutants to the extent practical and to eliminate fire hazards and other conditions which constitute a hazard to public health and safety.

JUDICIAL REVIEW

SEC. 215. (a)(1) Any action of the Secretary to approve or disapprove a State program pursuant to section 203 of this Act or to prepare and promulgate a Federal program pursuant to section 204 of this Act shall be subject to judicial review only by the appropriate United States Court of Appeals upon the filing in such court within thirty days from the date of such action of a petition by any person who participated in the administrative proceedings related thereto and who is aggrieved by the action praying that the action be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to the other parties, the Secretary, and the Attorney General and thereupon the Secretary shall certify and the Attorney General shall file in such court the record upon which the action complained of was issued, as provided in section 2112 of title 28, United States Code.

(2) Any promulgation of regulations by the Secretary pursuant to sections 213, 214, and 221 of this Act shall be subject to judicial review only by the appropriate United States Court of Appeals in accordance with the procedures set forth in subsection (1) of this section.

(3) All other orders or decisions issued by the Secretary pursuant to this Act shall be subject to judicial review only in the United States District Court for the locality in which the surface coal mining operation is located. Such review shall be in accordance with the Federal Rules of Civil Procedure, in the case of a proceeding to review an order or decision issued by the Secretary under section 219(b) of this Act, the court shall have jurisdiction to enter an order requiring payment of any civil penalty assessment enforced by its judgment.

(b) The court shall hear such petition or complaint on the evidence presented and on the record made before the Secretary. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

(c) In the case of a proceeding to review any order or decision issued by the Secretary under this Act, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceeding if—

(1) all parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief;

(2) there is a substantial likelihood that the person requesting such relief will prevail on the merits of the final determination of the proceeding; and

(3) such relief will not present imminent danger to the public health and safety or cause significant imminent environmental harm to the land, air, or water resources which cannot reasonably be considered reclaimable within the scope of the bonded reclamation plan.

(d) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the order or decision of the Secretary.

INSPECTIONS AND MONITORING

SEC. 216. (a) The Secretary shall cause to be made such inspections of any surface coal mining and reclamation operations as are necessary to evaluate the administration of approved State programs, or to develop or enforce any Federal program, and for such purposes authorized representatives of the Secretary shall have a right of entry to, upon, or through any surface coal mining and reclamation operations.

(b) For the purpose of developing or assisting in the development, administration, and enforcement of any approved State or Federal program under this Act or in the administration and enforcement of any permit under this Act, or determining whether any person is in violation of any requirement of any such State or Federal program or any other requirement of this Act, the regulatory authority shall—

(1) require any permittee to (A) establish and maintain appropriate records, (B) make monthly reports to the regulatory authority, (C) install, use, and maintain any necessary monitoring equipment or methods, (D) evaluate results in accordance with such methods, at such locations, intervals, and in such manner as the regulatory authority shall prescribe, and (E) provide such other information relative to surface coal mining and reclamation operations as the regulatory authority deems reasonable and necessary;

(2) for those surface coal mining and reclamation operations which remove or disturb strata that serve as aquifers which significantly insure the hydrologic balance or water use either on or off the mining site, specify those—

(A) monitoring sites to record the quantity and quality of surface drainage above and below the minesite as well as in the potential zone of influence;

(B) monitoring sites to record level, amount, and samples of ground water and aquifers potentially affected by the mining and also directly below the lowermost (deepest) coal seam to be mined;

(C) records of well logs and borehole data to be maintained; and

(D) monitoring sites to record precipitation. The monitoring, data collection, and analysis required by this section shall be conducted according to standards and procedures set forth by the regulatory authority in order to assure their reliability and validity; and

(3) the authorized representatives of the regulatory authority, without advance notice and upon presentation of appropriate credentials (A) shall have the right of entry to, upon, or through any surface coal mining and reclamation operations of any premises in which any records required to be maintained under paragraph (1) of this subsection are located; and (B) may at reasonable times, and without delay, have access to and copy any records, inspect any monitoring equipment or method of operation required under this Act.

(c) The inspections by the regulatory authority shall (1) occur on an irregular basis averaging not less than one inspection per month for the surface coal mining and reclamation operations for coal covered by each permit; (2) occur without prior notice to the permittee or his agents or employees; and (3) include the filing of inspection reports adequate to enforce the requirements of and to carry out the terms and purposes of this Act. The regulatory authority shall make copies of such inspection reports freely available to the public at a central location in the pertinent geographic area of mining. The Secretary or the regulatory authority shall establish a system of continual rotation of inspectors so that the same inspec-

tor does not consistently visit the same operations.

(d) Each permittee shall conspicuously maintain the entrance to the surface coal mining and reclamation operation a clearly visible sign which sets forth the name, business address, and phone number of the permittee and the permit number of the surface coal mining and reclamation operation.

(e) Each authorized representative of the regulatory authority, upon detection of each violation of any requirement of a State or Federal program pursuant to this Act, shall forthwith inform the permittee in writing, and shall report in writing any such violation to the regulatory authority.

FEDERAL ENFORCEMENT

SEC. 217 (a) (1) Whenever, on the basis of any information available, including receipt of information from any person, the Secretary has reason to believe that any person in violation of any requirement of this Act or any permit condition required by this Act, the Secretary shall notify the State regulatory authority, if one exists, in the State in which such violation exists. If no such State authority exists or the State regulatory authority fails within ten days after notification to take appropriate action to cause said violation to be corrected or to show good cause for such failure and transmit notification of its action to the Secretary, the Secretary shall immediately order Federal inspection of the surface coal mining operation at which the alleged violation is occurring unless the information available to the Secretary is a result of previous Federal inspection of such surface coal mining operation. When the Federal inspection results from information provided to the Secretary by any person, the Secretary shall notify such person when the Federal inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection.

(2) When, on the basis of any Federal inspection, the Secretary or his authorized representative determines that any permittee is in violation of any requirement of this Act or any permit condition required by this Act, which violation also creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant imminent environmental harm to land, air, or water resources, which cannot reasonably be considered reclaimable within the scope of the bonded reclamation plan, the Secretary or his authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the violation has been abated.

(3) When, on the basis of a Federal inspection which is carried out during the enforcement of a Federal program or a Federal lands program, or during Federal enforcement of a State program in accordance with subsection (b) of this section, the Secretary or his authorized representative determines that any permittee is in violation of any requirement of this Act or any permit condition required by this Act, but such violation does not create an imminent danger to the health or safety of the public, or cause or can be reasonably expected to cause significant imminent environmental harm to land, air, or water resources which cannot reasonably be considered reclaimable within the scope of the bonded reclamation plan, the Secretary or his authorized representative shall issue a notice to the permittee or his agent fixing a reasonable time for the abatement of the violation. If, upon the expiration of the period of time as originally fixed or subsequently extended, the Secretary or his authorized representative finds that the violation has not been abated, he shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the violation has been abated.

(4) When, on the basis of a Federal inspection which is carried out during the enforcement of a Federal program, or a Federal lands program, or during Federal enforcement of a State program in accordance with subsection (b) of this section, the Secretary or his authorized representative determines that a pattern of violations of any requirements of this Act or any permit conditions required by this Act exists or has existed, and if the Secretary or his authorized representative also finds that such violations are caused by the unwarranted failure of the permittee to comply with any requirements of this Act or any permit conditions, or that such violations are willfully caused by the permittee, the Secretary or his authorized representative shall forthwith issue an order to the permittee to show cause why the permit should not be suspended or revoked.

(5) Notices and orders issued pursuant to this section shall set forth with reasonable specificity the nature of the violation and the remedial action required, the period of time established for abatement, and, where appropriate, a reasonable description of the portion of the surface coal mining and reclamation operation to which a cessation order applies. Each notice or other order issued under this section shall be given promptly to the permittee or his agent by the Secretary or his authorized representative who issues such notice or order, and all such notices and orders shall be in writing and shall be signed by such authorized representative. Any notice or order issued pursuant to this section may be modified, vacated, or terminated by the Secretary or his authorized representative. A copy of any such order or notice shall be sent to the State regulatory authority in the State in which the violation occurs.

(b) Whenever the Secretary finds that violations of an approved State program appear to result from a failure of the State to enforce such program effectively, he shall so notify the State. If the Secretary finds that such failure extends beyond thirty days after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Secretary that it will enforce this Act, the Secretary shall enforce any permit condition required under this Act, shall issue new or revised permits in accordance with the requirements of this Act, and may issue such notices and orders as are necessary for compliance therewith.

(c) The Secretary may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the surface coal mining and reclamation operation is located or in which the permittee thereof has his principal office, whenever such permittee or his agent (A) violates or fails or refuses to comply with any order or decision issued by the Secretary under this Act, or (B) interferes with, hinders, or delays the Secretary or his authorized representative in carrying out the provisions of this Act, or (C) refuses to admit such authorized representative to the mine, or (D) refuses to permit inspection of the mine by such authorized representative, or (E) refuses to furnish any information or report requested by the Secretary in furtherance of the provisions of this Act, or (F) refuses to permit access to, and copying of, such records as the Secretary determines necessary in carrying out the provisions of this Act. Such court shall have jurisdiction to provide such relief as may be appropriate. Temporary restraining orders shall be issued in accordance with Rule 65 of the Federal Rules of Civil Procedure, as amended. Except as otherwise provided herein, any relief granted by the court to enforce an order under clause (A) of this subsection shall continue in effect until the completion or final termination of all proceedings for review of such order under this title, unless, prior thereto, the district court granting such relief sets it aside or modifies it.

REVIEW BY THE SECRETARY

SEC. 218. (a) (1) A notice or order issued to a permittee pursuant to the provisions of subparagraphs (a) (2) and (3) of section 217 of this title, or to any person having an interest which is or may be advesely affected by such notice or order or by any modification, vacation, or termination of such notice or order, may apply to the Secretary for review of the notice or order within thirty days of receipt thereof or within thirty days of its modification, vacation, or termination. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing, at the request of the applicant or person having an interest which is or may be adversely affected, to enable the applicant and such person to present information relating to the issuance and continuance of such notice or order or the modification, vacation, or termination, thereof. The filing of an application for review under this subsection shall not operate as a stay of any order or notice.

(2) The permittee and other interested persons shall be given written notice of the time and place of the hearing at least five days prior thereto. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code.

(b) Upon receiving the report of such investigation, the Secretary shall make findings of fact, and shall issue a written decision, incorporating therein an order vacating, affirming, modifying, or terminating the notice or order, or the modification, vacation, or termination of such notice or order complained of and incorporate his findings therein.

(c) Pending completion of the investigation required by this section, the applicant may file with the Secretary a written request that the Secretary grant temporary relief from any notice or order issued under section 217(a) (3) of this title together with a detailed statement giving reasons for granting such relief. The Secretary may grant such relief, with or without a hearing, under such conditions as he may prescribe, if—

(1) the applicant shows that there is substantial likelihood that the findings of the Secretary will be favorable to him; and

(2) such relief will not present imminent danger to the health or safety of the public or cause significant imminent environmental harm to the land, air, or water resources within the scope of the bonded reclamation plan.

(d) Following the issuance of an order to show cause as to why a permit should not be suspended or revoked pursuant to section 217(a)(4), the Secretary shall hold a public hearing after giving written notice of the time, place, and date thereof. Any such hearing shall be of record and shall be subject to section 554 of title V of the United States Code. Within sixty days following the public hearing, the Secretary shall issue and furnish

to the permittee and all other parties to the hearing a written decision, and the reasons therefor, concerning suspension or revocation of the permit. If the Secretary revokes the permit, the permittee shall immediately cease surface coal mining operations on the permit area and shall complete reclamation within a period specified by the Secretary, or the Secretary shall declare as forfeited the performance bonds for the operation.

(e) In view of the urgent need for prompt decision of matters submitted to the Secretary under this section, action shall be taken as promptly as practicable, consistent with adequate consideration of the issues involved.

PENALTIES

SEC. 219. (a) In the enforcement of a Federal program or Federal lands program, or during Federal enforcement of a State program pursuant to section 217(b) of this Act, any permittee who violates any permit condition or who violates any other provision of this title, may be assessed a civil penalty by the Secretary, except that if such violation leads to the issuance of a cessation order under section 217 (a) (3), the civil penalty shall be assessed. Such penalty shall not exceed $10,000. Each day of a coninuing violation may be deemed a separate offense. In determining the amount of the penalty, consideration shall be given to the permitee's history of previous violations at the particular surface coal mining operation; the appropriateness of such penalty to the size of the business of the permittee charged; the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public; whether the permittee was negligent; and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation.

(b) A civil penalty shall be assessed by the Secretary only after the person charged with a violation described under subsection (a) of this section has been given an opportunity for a public hearing. Where such a public hearing has been held, the Secretary shall make findings of fact, and shall issue a written decision as to the occurrence of the violation and the amount of the penalty which is warranted, incorporating, when appropriate, an order therein requiring that the penalty be paid. Where appropriate, the Secretary shall consolidate such hearings with other proceedings under section 218 of this Act. Any hearing under this section shall be of record and shall be subject to section 554 of title 5 of the United States Code. Where the person charged with such a violation fails to avail himself of the opportunity for a public hearing, a civil penalty shall be assessed by the Secretary after the Secretary has determined that a violation did occur, and the amount of the penalty which is warranted, and has issued an order requiring that the penalty be paid.

(c) If no complaint, as provided in section 215 of this Act, is filed within thirty days from the date of the final order or decision issued by the Secretary under subsection (b) of this section, such order and decision shall be conclusive.

(d) Interest at the rate of 6 per centum per annum shall be charged against a person on any unpaid civil penalty assessed against him pursuant to the final order of the Secretary, said interest to be computed from the thirty-first day after issuance of such final assessment order.

(e) Civil penalties owed under this Act, either pursuant to subsection (c) of this section or pursuant to an enforcement order entered under section 215 of this Act, may be recovered in a civil action brought by the Attorney General at the request of the Secretary in any appropriate district court of the United States.

(f) Any person who willfully and knowingly violates a condition of a permit issued pursuant to a Federal program or a Federal lands program or fails or refuses to comply with any order issued under section 217(a) of this Act, or any order incorporated in a final decision issued by the Secretary under this Act, except an order incorporated in a decision issued under subsection (b) of this section or section 305 of this Act, shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than one year, or both.

(g) Whenever a corporate permittee violates a condition of a permit issued pursuant to a Federal program or a Federal lands program or fails or refuses to comply with any order issued under section 217(a) of this Act, or any order incorporated in a final decision issued by the Secretary under this Act except an order incorporated in a decision issued under subsection (b) of this section or section 305 of this Act, any director, officer, or agent of such corporation who willfully and knowingly authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under subsections (a) and (f) of this section.

(h) Whoever knowingly makes any false statement, representation, or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to a Federal program or a Federal lands program or any order or decision issued by the Secretary under this Act shall, upon conviction be punished by a fine of not more than $10,000, or by imprisonment for not more than one year, or both.

(i) As a condition of approval of any State program submitted pursuant to section 203 of this Act, the civil and criminal penalty provisions thereof shall, at a minimum, incorporate penalties no less stringent than those set forth in this section, and shall contain the same or similar procedural requirements relating thereto.

ESTABLISHMENT OF RIGHT TO BRING CITIZENS SUITS

SEC. 220. (a) Except as provided in subsection (c) of this section any person having an interest which is or may be adversely affected by actions of the Secretary or the regulatory authority may commence a civil action on his own behalf in an appropriate United States district court—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any regulation, order, or permit issued under this Act;

(2) against the Secertary where there is alleged a failure of the Secretary or State regulatory authority to perform any act or duty under this Act which is not discretionary.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citzenship of the parties, to remedy such violation or failure and to apply any appropriate civil penalties or injunctive relief under this Act.

(b) No action may be commenced—

(1) under subsection (a) (1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the alleged violation (i) to the Secretary, (ii) to the State in which the alleged violation occurs, and (iii) to any alleged violator of the regulation, order, or permit, or provision of this Act;

(B) if the Secretary or State has commenced and is diligently prosecuting administrative or judicial action to require compliance with the regulation, permit, order, or provision of this Act, but in any such action in a court of the United States any person described in subsection (a) may intervene as a matter of right;

(2) under subsection (a) (2) of this section prior to sixty days after the plaintiff has given notice of such action to the regulatory authority. Notice under this subsection shall be given in such manner as the Secretary shall prescribe by regulation.

(c) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, except against the United States or any Federal officer or agency, whenever the court determines such award is appropriate. The court may, if a tempoary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(d) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of this Act or to seek any other relief (including relief against the Secretary or a State agency).

(e) The Secretary, if not a party in any action under this section, may intervene as a matter of right.

FEDERAL LANDS

SEC. 221. (a) (1) After the date of enactment of this Act all new surface coal mining permits, leases, or contracts issued with respect to surface coal mining operations on Federal lands shall incorporate therein the interim surface coal mining and reclamation performance standards of subsection (c) of section 201 of this Act.

(a) (2) Within sixty days from the date of enactment of this Act, the Secretary shall review and amend all existing surface coal mining permits, leases, or contracts in order to incorporate therein the interim surface coal mining and reclamation performance standards of subsection (c) of section 201 of this Act. On or before one hundred and twenty days from the date of issuance of such amended permit, lease, or contract, all surface coal mining operations existing at the date of enactment of this Act on Federal lands shall comply with the interim surface coal mining and reclamation performance standards with respect to lands from which the overburden has not been removed.

(b) The Secretary, in consultation with the heads of other Federal land managing departments and agencies, shall promulgate and implement a Federal lands program which shall be applicable to all surface coal mining and reclamation operations taking place on any Federal land. The Federal lands program shall incorporate all surface coal mining reclamation requirements of this Act and shall take into consideration the diverse physical, climatological, and other unique characteristics of the Federal lands in question.

(c) Within eighteen months after the date of enactment of this Act, all surface coal mining reclamation requirements of this Act through the Federal lands program shall be incorporated by reference or otherwise in any Federal mineral lease, permit, or contract issued by the Secretary which may involve surface coal mining and reclamation operations or surface operations incident to underground coal mines. Incorporation of such requirements shall not, however, limit in any way the authority of the Secretary to subsequently issue new regulations, revise the Federal lands program to deal with changing conditions or changed technology, and to require the lease, permit, or contact holder to conform any surface coal mining and reclamation operations to the requirements of this Act and the regulations issued pursuant to this Act. With respect to national forest lands, the Secretary shall include in

permits, leases, and contracts those conditions and requirements deemed necessary by the Secretary of Agriculture. The Secretary of Agriculture shall administer the provisions of such surface coal mining leases, permits, or contracts relating to reclamation and surface use, and is authorized to enforce such provisions.

The Secretary, or in the case of lands within national forests the Secretary of Agriculture, may enter into agreements with a State or with a number of States to provide for a joint Federal-State program covering a permit or permits for surface coal mining and reclamation operations on land areas which contain lands within any State and Federal lands which are interspersed or checkerboarded and which should, for conservation and administrative purposes, be regulated as a single-management unit. To implement a joint Federal-State program the Secretary, or in the case of lands within national forests the Secretary of Agriculture, may enter into agreements with the States, may delegate authority to the States, or may accept a delegation of authority from the States for the purpose of avoiding duality of administration of a single permit for surface coal mining and reclamation operations. Such agreements shall incorporate all of the requirements of this Act, and shall not preclude Federal inspection or enforcement of the provisions of this Act as provided in sections 216 and 217.

(d) Except as specifically provided in subsection (c), this section shall not be construed as authorizing the Secretary or the Secretary of Agriculture to delegate to the States any authority or jurisdiction to regulate or administer surface coal mining and reclamation operations or other activities taking place on the Federal lands.

(e) This section shall not be construed as authorizing the Secretary to delegate to the States any authority or jurisdiction to regulate or administer surface coal mining and reclamation operations or other activities taking place on Indian lands or to delegate to the States trustee responsibilities toward Indians and Indian lands.

SPECIAL BITUMINOUS COAL MINES

SEC. 222. The regulatory authority is authorized to and shall issue separate regulations for the interim and permanent programs for those special bituminous coal surface mines which meet the following criteria:

(a) were in existence on the date of the Act and because of past duration of mining (at least ten years) have substantially committed to a mode of operation which warrants exceptions to some provisions of this title;

(b) involves the mining of more than one coal seam and where mining has been initiated on the deepest coal seam contemplated to be mined in the current operation;

(c) involves a mining operation that follows the coal seam on an inclination of fifteen degrees or more from the horizontal;

(d) involves an operation on the same site for the duration of the mining operation, and will under present mine plan conditions result in a pit depth in excess of nine hundred vertical feet from the original land surface. Such alternative regulations shall pertain only to the standards governing on-site handling of spoils, elimination of depressions capable of collecting water, creation of impoundments, and regarding to approximate original contour and shall specify that remaining highwalls are stable; all other performance standards in this title apply.

TITLE III—GENERAL PROVISIONS AND ADMINISTRATION

AUTHORITY OF THE SECRETARY

SEC. 301. (a) In carrying out his responsibilities under this Act the Secretary shall:

(1) administer the State grant-in-aid program for the development of State programs for surface coal mining and reclamation operations provided for in this title;

(2) maintain a continuing study of surface coal mining and reclamation operations in the United States;

(3) assist the States in the development of State programs for surface coal mining and reclamation operations which meet the requirements of this Act;

(4) publish and promulgate such rules and regulations as may be necessary to carry out the purposes and provisions of this Act; and

(5) conduct hearings, administer oaths, issue subpenas, and compel the attendance of witnesses and production of written or printed materials as necessary to carry out his duties under this Act.

(b) For the purpose of carrying out his responsibilities under this Act, including the enforcement thereof, the Secretary may by agreement utilize with or without reimbursement the services, personnel, and facilities of any Federal agency.

STUDY OF SUBSIDENCE AND UNDERGROUND WASTE DISPOSAL IN COAL MINES

SEC. 302. The Secretary shall conduct a full and complete study and investigation of the practices of backfilling all coal mine wastes and coal processing plant wastes in mine voids or other equally effective disposal methods and the control of subsidence to maximize the stability, value, and use of lands overlying underground coal mines. The Secretary shall report to the Congress the results of such study and investigation no later than the end of the two-year period beginning on the date of enactment of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 303. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

RELATION TO OTHER LAWS

SEC. 304. Nothing in this Act or in any State regulations approved pursuant to it shall be construed to conflict with any of the following Acts or with any rule or regulation promulgated thereunder:

(1) The Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 721–740).

(2) The Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 801).

(3) The Federal Water Pollution Control Act (33 U.S.C. 1151–1175), the State laws enacted pursuant thereto, or other Federal laws relating to preservation of water quality.

(4) The Clean Air Act, as amended (42 U.S.C. 1857).

(5) The Solid Waste Disposal Act (42 U.S.C. 3251).

(6) The Refuse Act of 1899 (33 U.S.C. 407).

(7) The Fish and Wildlife Coordination Act (16 U.S.C. 661–666c).

EMPLOYEE PROTECTION

SEC. 305. (a) No person shall discharge, or in any other way discriminate against, or cause to be discharged or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

(b) Any employee or a representative of employees who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary for a review of such discharge or alleged discrimination. A copy of the application shall be sent to the person or operator who will be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to the alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation the Secretary shall make findings of fact. If he finds that a violation did occur, he shall issue a decision incorporating therein his findings and an order requiring the party committing the violation to take such affirmative action to abate the violation as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no violation, he shall issue such a finding. Orders issued by the Secretary under this subparagraph shall be subject to judicial review in the same manner as other orders and decisions of the Secretary are subject to judicial review under this Act.

(c) Whenever an order is issued under this section, at the request of applicant, a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees), to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the persons committing the violation.

GRANTS TO THE STATES

SEC. 306. (a) The Secretary is authorized to make annual grants to any State for the purpose of assisting such State in developing, administering, and enforcing State programs under this Act. Such grants shall not exceed 80 per centum of the program development costs incurred during the year prior to approval by the Secretary, shall not exceed 60 per centum of the total costs incurred during the first year following approval, 45 per centum during the second year following approval, 30 per centum during the third year following approval, and 15 per centum during the fourth year following approval. Not later than the end of the fourth year following approval, the State program shall be fully funded from State sources, and each application for a permit pursuant to an approved State program or a Federal program under the provision of this Act shall provide for payment of fees as determined by the regulatory authority. Such fees shall be based as nearly as possible upon the actual or anticipated costs of reviewing, administering, and enforcing such permit, and shall be payable on a phased basis over the period of the permit.

(b) The Secretary is authorized to cooperate with and provide assistance to any State for the purpose of assisting it in the development, administration, and enforcement of its State programs. Such cooperation and assistance shall include—

(1) technical assistance and training, including provision of necessary curricular and instruction materials, in the development, administration, and enforcement of the State programs; and

(2) assistance in preparing and maintaining a continuing inventory of information on surface coal mining and reclamation operations for each State for the purposes of evaluating the effectiveness of the State programs. Such assistance shall include all Federal departments and agencies making available data relevant to surface coal mining and reclamation operations and to the development, administration, and enforcement of State programs concerning such operations.

PROTECTION OF THE SURFACE OWNER

"SEC. 307. (a) Where the surface owner is not the owner of the mineral estate proposed to be mined by surface coal mining opera-

tions, the application for a permit shall include the execution of a bond or undertaking to the United States, the State, or the owner of the surface estate, whichever is applicable, for the use and benefit of the owner of the surface estate, to secure the payment of damages to the surface estate caused by the surface coal mining operations.

(b) Upon a determination by the regulatory authority that damages to the surface estate has occurred, the owner of the surface estate shall be entitled to direct payment of up to eighty percent of the value of the bond or undertaking, executed pursuant to subsection (a) of this section, based upon the average value of the surface estate as determined by at least two Federal or State qualified and licensed appraisers, and the payment of any damages in excess of eighty percent of the value of the bond or undertaking shall be determined by an action brought upon the bond or against the operator in a court of competent jurisdiction, and attorney fees and costs awarded in the discretion of the court.

PROTECTION OF GOVERNMENT EMPLOYEES

SEC. 308. Section 1114, title 18, United States Code, is, hereby amended by adding the words "or of the Department of the Interior" after the words "Department of Labor" contained in that section.

SEVERABILITY

SEC. 309. If any provision of this Act or the applicability thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

DEFINITIONS

SEC. 310. For the purposes of this Act—

(1) the term "Secretary" means the Secretary of the Interior, except where otherwise described;

(2) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and Guam;

(3) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States, or between a State and any other place outside thereof, or between points in the same State which directly or indirectly affect interstate commerce;

(4) The term "surface coal mining operations" means—

(A) activities conducted on the surface of lands in connection with a surface coal mine the products of which enter commerce or the operations of which directly or indirectly affect commerce. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, and area mining (but not open pit mining), and in situ distillation or retorting, leaching, or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, or loading of coal for interstate commerce at or near the mine site: *Provided, however,* That such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅔ per centum of the tonnage of minerals removed for purposes of commercial use or sale; and

(B) the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include land affected by mineral exploration operations which substantially disturb the natural land surface, and any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities;

(5) the term "surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of such operations;

(6) The term "lands within any State" or "lands within such State" means all lands within a State other than Federal lands and Indian lands;

(7) The term "Federal lands" means any land or interest in land owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof;

(8) The term "State program" means a program established by a State pursuant to title II to regulate surface coal mining and reclamation operations on lands within a State in accordance with the requirements of this Act and regulations issued by the Secretary pursuant to this Act;

(9) The term "Federal program" means a program established by the Secretary to regulate surface coal mining and reclamation operations on lands within any State in accordance with the requirements of this Act;

(10) The term "Federal lands program" means a program established pursuant to title II to regulate surface coal mining and reclamation operations on Federal lands;

(11) The term "mining and reclamation plan" means a plan submitted by an applicant for a permit under a State program, Federal program, or Federal lands program which sets forth a plan for mining and reclamation of the proposed surface coal mining operations pursuant to section 208;

(12) The term "State regulatory authority" means the department or agency in each State which has primary responsibility in that State for administering the State program pursuant to this Act;

(13) The term "regulatory authority" means the State regulatory authority where the State is administering this Act under an approved State program or the Secretary where the Secretary is administering any or all provisions of this Act;

(14) The term "person" means an individual, partnership, association, society, joint stock company, firm, company, corporation, or other business organization;

(15) The term "permit" means a document issued by the regulatory authority for a surface coal mining site pursuant to a State program, or a Federal lands program, authorizing the permittee to conduct surface coal mining and reclamation operations.

(16) The term "permit applicant" or "applicant" means a person applying for a permit;

(17) The term "permittee" means a person holding a permit;

(18) The term "backfilling to approximate original contour" means that part of the surface coal mining and reclamation process achieved by backfilling and grading of the mined area so that it closely resembles the surface configuration of the land prior to surface coal mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls, spoil piles, and depressions eliminated except that water impoundments may be permitted where the regulatory authority determines that they are necessary or desirable for reclamation or public recreation purposes;

(19) The term "operator" means any person engaged in surface coal mining operations;

(20) The term "reclamation" or "reclaim" means the process of land, air, and water treatment that restricts and controls water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other harmful effects resulting from surface coal mining operations, so that the affected areas, including, where appropriate, areas adjacent to the mining site are restored to a stable condition capable of supporting the uses which they were capable of supporting prior to mining or an equal or better economic or public use suitable to the locality;

(21) The term "unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of his permit or any requirement of this Act due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or the Act due to indifference, lack of diligence, or lack of reasonable care;

(22) "Open pit mining" means surface mining in which (1) the amount of material removed is large in proportion to the surface area disturbed; (2) mining continues in the same area proceeding downward with lateral expansion of the pit necessary to maintain slope stability or as necessary to accommodate the orderly expansion of the total mining operation; (3) the operations take place on the same relatively limited site for an extended period of time; (4) there is no practicable method to reclaim the land in the manner required by this Act; and (5) there is no practicable alternative method of mining the mineral or ore involved;

(23) The term "imminent danger to the health or safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this Act in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause death or serious physical harm to persons outside the permit area before such condition, practice, or violation can be abated.

TITLE IV—ABANDONED MINE RECLAMATION

ABANDONED COAL MINE RECLAMATION FUND

SEC. 401. (a) There is created on the books of the Treasury of the United States a fund to be known as the Abandoned Mine Reclamation Fund (hereinafter referred to as the "fund") which shall be administered by the Secretary of the Interior.

(b) The Secretary is authorized to use the money in the fund for making grants for the purposes of Sec. 404.

OBJECTIVES OF FUND

SEC. 402. Objectives for the obligation of funds for the reclamation of previously mined areas shall be to achieve the greatest estimated benefits from the costs incurred.

ELIGIBLE LANDS

SEC. 403. Funds for reclamation may be expended under this title only for lands which (i) were mined for coal or the value of which were adversely affected by such mining, wastebanks, coal processing, or other mining processes; (ii) were abandoned prior to the enactment of this Act; (iii) are subject to no continuing responsibility for such reclamation under State or other Federal laws, and (iv) title to which is held by the State or States in which they are located at the time any grants of money are made under this title.

SEC. 404. (a) For the purpose of carrying out the provisions of this title the Secretary is authorized to make grants on a matching basis to States in such amounts as may be provided in subsection (b), but in no event shall any grant exceed 50 per centum of the total cost of the reclamation of the lands for which such grant is made. Any disposal by a State of such lands subsequent to the completion of such reclamation shall be for

fair market value as determined by a competitive sale. All moneys from such sale shall be deposited in a State fund which, together with interest thereon shall be used for the purposes of the original grants and without further Federal matching.

(b) The Secretary shall establish entitlement for the various States on the basis of the incidence of abandoned coal mined lands and best estimates of costs of reclamation.

SEC. 405. (a) There is authorized to be appropriated to the fund initially the sum of $125,000,000 and such sums as the Congress may thereafter authorize to be appropriated.

(b) The following other moneys shall be deposited in the fund;

(1) moneys derived from the sale, lease, or rental of land reclaimed pursuant to this title;

(2) moneys derived from any user charge imposed on or for land reclaimed pursuant to this title, after expenditures for maintenance have been deducted.

(3) appropriations made to the fund, or amounts credited to the fund, under subsection (c).

Such amounts shall be available for such purposes only when appropriated therefor; and such appropriations may be made without fiscal year limitation.

(c)(1) In addition to the amounts deposited in the fund from the sale, lease or rental of land reclaimed pursuant to this title, there are authorized to be appropriated annually to the fund out of any money in the Treasury not otherwise appropriated, such amounts as are necessary to make the income of the fund not less than $200,000,000 for the fiscal year ending June 30, 1975, and for each fiscal year thereafter.

(2) To the extent that any such sums so appropriated are not sufficient to make the total annual income of the fund amount to $200,000,000 for each of such fiscal years, as provided in paragraph (1), an amount sufficient to cover the remainder thereof shall be credited to the fund from revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act. Moneys covered into the fund under this paragraph shall remain in the fund until appropriated by the Congress to carry out the purposes of this title.

TITLE V—ALASKAN SURFACE COAL MINE STUDY

SEC. 513. (a) The Secretary is directed to contract with the National Academy of Sciences-National Academy of Engineering for an in-depth study of surface coal mining conditions in the State of Alaska in order to determine the best set of surface mining regulations under which such mines could operate. The study shall—

(1) identify variations and differences between surface mining conditions in Alaska and surface mining conditions in the Lower 48 with respect to the environmental protection standards in this Act;

(2) identify suitable surface mining standards to assure that post-mining land use is compatible with the habitat, and surrounding terrain;

(3) identify impacts on the environment which could be engendered by current surface mining technology and identify how or if these impacts can be mitigated through the use of alternative mining technologies.

(b) The Secretary is to make a report to the President and Congress on the findings of the study no later than 24 months after the date of enactment of this Act;

(c) The Secretary shall include in his report a draft of Federal regulations to be promulgated to govern surface coal mining operations on Federal lands in the State of Alaska, and a draft of those regulations to use as a standard for determining the adequacy of an Alaskan State program for the regulation of surface coal mining operations;

(d) The draft regulations contained in the report are to be promulgated for comment by the public and other interested parties pursuant to this Act within 12 months of submission of the report to Congress. After considering such comments submitted and revising such regulations as appropriate, the Secretary shall promulgate such standards governing surface coal mining operations in the State of Alaska.

(e) Until the Secretary has made his report to the President and Congress and has promulgated Federal regulations on coal mining operations on Federal lands in Alaska, this Act shall not apply to the State of Alaska.

(f) There is hereby authorized to be appropriated for the purpose of this section $500,000.

Mr. HOSMER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit with instructions be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. Does the gentleman desire to use his time?

Mr. HOSMER. I do, Mr. Speaker.

Mr. Speaker, this motion to recommit with instructions is basically and for the most part, the thrust and philosophy of H.R. 12898, which is to "live and let live."

The bill proposed in my motion to recommit with instructions is a tough, strict, surface coal mining reclamation bill. It is a bill which will permit this country to maintain its energy dependence on the most abundant fossil fuel resource which this country has—coal. It will permit coal to remain available to meet the expanding energy needs of our Nation.

Most importantly, the bill contained in the motion to recommit with instructions is specifically drafted and amended to include the environmental concepts and safeguards as contained in the committee bill. The motion to recommit with instructions proposes a bill which has been revised to include various amendments which have been adopted by the House to the committee bill. The amendments that are included in the bill proposed in the motion to recommit include the following: In title I, the motion contains the congressional findings adopted by the House on July 18.

Title II, the motion has been revised to include time changes proposed to section 201 of the Mink amendment as adopted.

Also in title II are provisions for mountain-top removal, as approved by the House in the Slack amendment; the Dingell amendment regarding national parks, wildlife refuges and wilderness areas; the Roncalio-Ruppe-Hays amendment designating areas unsuitable for surface coal mining; the Melcher amendment on permit renewal; and the Wampler and Hosmer amendments, which were adopted in the Committee of the Whole, are also in the bill proposed in the motion to recommit.

The Hays amendment concerning the surface effects of underground mining operations, and the Young amendment, covering Alaskan problems, are contained in the bill proposed in the motion to recommit.

In order to take care of special circumstances, the motion to recommit contains a provision regarding special bituminous coal mines, as in the committee bill. The motion to recommit also contains a new provision regarding the protection of surface owners. And last, the motion to recommit provides for an abandoned mine reclamation fund for the rehabilitation of abandoned mined lands which includes the Ruppe-McDade amendment which was adopted by the House earlier today.

Mr. Speaker, the motion to recommit contains the rule of reason as against the rule of ruin and inflexibility of H.R. 11500.

The recommittal motion proposes a bill which will allow an equal respect for environmental and energy ethics in our country, and more importantly, the motion to recommit proposes a bill which will avoid the direct possibility, if H.R. 11500 in its present form should be enacted, of inducing an energy-caused depression in the United States of a permanent nature.

There is no doubt, and there is very serious contention that this bill—H.R. 11500—will preclude the production of a certain amount of coal. And, that amount is somewhere between 20 and 65 percent of all the coal that is surface mined. It is my best judgment that it will preclude approximately 50 percent.

In order to avoid that kind of consequence, Mr. Speaker, I ask that the motion to recommit with instructions be agreed to.

The SPEAKER. The gentleman from Arizona (Mr. UDALL) is recognized.

Mr. UDALL. Mr. Speaker, after 6 days of work, this House has produced a balanced surface mining bill. The motion to recommit offers a rehash, with some goodies thrown in, of a substitute that was defeated by over 100 votes when we started last week.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. HOSMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 106, nays 267, not voting 61, as follows:

[Roll No. 409]

YEAS—106

Archer	Fountain	Parris
Armstrong	Frelinghuysen	Price, Tex.
Ashbrook	Froehlich	Quillen
Baker	Goldwater	Rhodes
Bauman	Gray	Roberts
Beard	Gross	Robinson, Va.
Bevill	Gubser	Rousselot
Blackburn	Hammer-schmidt	Ruth
Bowen	Hanrahan	Satterfield
Bray	Hastings	Scherle
Breaux	Hébert	Sebelius
Broyhill, N.C.	Henderson	Skubitz
Broyhill, Va.	Hinshaw	Slack
Buchanan	Hogan	Snyder
Burleson, Tex.	Holt	Spence
Butler	Hosmer	Steiger, Ariz.
Camp	Huber	Stephens
Chappell	Hunt	Stubblefield
Clawson, Del	Hutchinson	Symms
Cochran	Ichord	Taylor, Mo.
Collins, Tex.	Jarman	Teague
Conable	Johnson, Calif.	Towell, Nev.
Conlan	Ketchum	Treen
Crane	Landgrebe	Veysey
Daniel, Dan	Lott	Waggonner
Daniel, Robert W., Jr.	McClory	Wampler
Davis, Wis.	McCollister	White
Derwinski	Martin, Nebr.	Whitten
Devine	Milford	Wiggins
Dickinson	Miller	Wilson, Bob
Downing	Mills	Wyatt
Duncan	Mollohan	Wyman
Edwards, Ala.	Montgomery	Young, S.C.
Erlenborn	Moorhead, Calif.	Young, Tex.
Fisher	Myers	Zion
Forsythe		

NAYS—267

Abdnor	Dellums	Lent
Abzug	Denholm	Litton
Adams	Dent	Long, La.
Addabbo	Diggs	Long, Md.
Alexander	Dingell	Luken
Anderson, Calif.	Donohue	McCloskey
Anderson, Ill.	Drinan	McCormack
Andrews, N. Dak.	Dulski	McDade
Annunzio	du Pont	McEwen
Ashley	Eckhardt	McFall
Aspin	Edwards, Calif.	McKay
Badillo	Eilberg	McKinney
Bafalis	Esch	Macdonald
Barrett	Eshleman	Madden
Bell	Evans, Colo.	Madigan
Bennett	Fascell	Mahon
Bergland	Findley	Mallary
Biaggi	Fish	Mann
Biester	Flood	Maraziti
Bingham	Flowers	Martin, N.C.
Blatnik	Foley	Mathias, Calif.
Boggs	Ford	Mathis, Ga.
Boland	Fraser	Matsunaga
Bolling	Frey	Mayne
Brademas	Gaydos	Mazzoli
Breckinridge	Giaimo	Meeds
Brinkley	Gilman	Melcher
Brooks	Ginn	Metcalfe
Broomfield	Gonzalez	Mezvinsky
Brotzman	Goodling	Michel
Brown, Calif.	Grasso	Minish
Brown, Mich.	Green, Pa.	Mink
Brown, Ohio	Grover	Mitchell, Md.
Burgener	Gude	Mitchell, N.Y.
Burke, Fla.	Guyer	Mizell
Burke, Mass.	Haley	Moakley
Burlison, Mo.	Hamilton	Moorhead, Pa.
Burton, John	Hanley	Morgan
Byron	Hansen, Wash.	Mosher
Carney, Ohio	Harrington	Moss
Carter	Harsha	Murphy, Ill.
Casey, Tex.	Hays	Murtha
Cederberg	Hechler, W. Va.	Natcher
Clancy	Heckler, Mass.	Nedzi
Clark	Heinz	Nichols
Clausen, Don H.	Helstoski	Nix
Cleveland	Holtzman	Obey
Cohen	Horton	O'Brien
Collier	Howard	O'Hara
Collins, Ill.	Hungate	O'Neill
Conte	Johnson, Colo.	Owens
Conyers	Johnson, Pa.	Patman
Corman	Jones, N.C.	Patten
Cotter	Jones, Okla.	Pepper
Coughlin	Jordan	Perkins
Cronin	Karth	Peyser
Daniels, Dominick V.	Kastenmeier	Pickle
Danielson	Kazen	Pike
de la Garza	Kemp	Poage
Delaney	King	Preyer
Dellenback	Koch	Price, Ill.
	Kyros	Pritchard
	Lagomarsino	Quie
	Latta	Railsback
	Leggett	Randall
	Rangel	Shriver
	Regula	Shuster
	Reid	Sikes
	Reuss	Smith, Iowa
	Riegle	Smith, N.Y.
	Rinaldo	Staggers
	Robison, N.Y.	Stanton, J. William
	Rodino	Stanton, James V.
	Roe	Steed
	Rogers	Steelman
	Roncalio, Wyo.	Steiger, Wis.
	Roncallo, N.Y.	Stokes
	Rooney, Pa.	Stratton
	Rose	Stuckey
	Rosenthal	Studds
	Roush	Symington
	Roy	Talcott
	Roybal	Taylor, N.C.
	Ruppe	Thompson, N.J.
	St Germain	Thomson, Wis.
	Sandman	Thone
	Sarasin	Thornton
	Sarbanes	Tiernan
	Schroeder	Traxler
	Seiberling	Udall
	Shipley	Van Deerlin
	Shoup	Vander Jagt
		Vander Veen
		Vanik
		Vigorito
		Waldie
		Walsh
		Ware
		Whalen
		Widnall
		Williams
		Wilson, Charles H., Calif.
		Winn
		Wolff
		Wright
		Wydler
		Wylie
		Yates
		Yatron
		Young, Fla.
		Young, Ga.
		Young, Ill.
		Zablocki
		Zwach

NOT VOTING—61

Andrews, N.C.	Green, Oreg.	Passman
Arends	Griffiths	Pettis
Brasco	Gunter	Podell
Burke, Calif.	Hanna	Powell, Ohio
Burton, Phillip	Hansen, Idaho	Rarick
Carey, N.Y.	Hawkins	Rees
Chamberlain	Hicks	Rooney, N.Y.
Chisholm	Hillis	Rostenkowski
Clay	Holifield	Runnels
Culver	Hudnut	Ryan
Davis, Ga.	Jones, Ala.	Schneebeli
Davis, S.C.	Jones, Tenn.	Sisk
Dennis	Kluczynski	Stark
Dorn	Kuykendall	Steele
Evins, Tenn.	Landrum	Sullivan
Flynt	Lehman	Ullman
Frenzel	Lujan	Whitehurst
Fulton	McSpadden	Wilson, Charles, Tex.
Fuqua	Minshall, Ohio	Young, Alaska
Gettys	Murphy, N.Y.	
Gibbons	Nelsen	

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Runnels for, with Mr. Fuqua against.

Mr. Dorn for, with Mrs. Burke of California, against.

Mr. Davis of South Carolina for, with Mr. Hicks against.

Mr. Rarick for, with Mr. Kluczynski against.

Mr. Passman for, with Mr. Stark against.

Mr. Arends for, with Mr. Pettis against.

Until further notice:

Mr. Rostenkowski with Mr. Andrews of North Carolina.

Mr. Rooney of New York with Mr. Evins of Tennessee.

Mr. Podell with Mr. Fulton.

Mr. Holifield with Mr. Flynt.

Mr. Hawkins with Mr. Gettys.

Mr. Brasco with Mr. Gibbons.

Mr. Phillip Burton with Mrs. Green of Oregon.

Mr. Rees with Mr. Chamberlain.

Mr. Sisk with Mr. Hanna.

Mrs. Sullivan with Mr. Jones of Alabama.

Mrs. Chisholm with Mr. Culver.

Mr. Davis of Georgia with Mr. Hansen of Idaho.

Mr. Gunter with Mr. Frenzel.

Mr. Jones of Tennessee with Mr. Dennis.

Mr. Lehman with Mr. Clay.

Mr. Murphy of New York with Mr. Hillis.

Mr. Ullman with Mr. Hudnut.

Mr. Carey of New York with Mrs. Griffiths.

Mr. Kuykendall with Mr. Landrum.

Mr. Ryan with Mr. Steele.

Mr. McSpadden with Mr. Lujan.

Mr. Charles Wilson of Texas with Mr. Nelsen.

Mr. Schneebeli with Mr. Minshall of Ohio.

Mr. Powell of Ohio with Mr. Whitehurst.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mr. HOSMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 291, nays 81, not voting 62, as follows:

[Roll No. 410]

YEAS—291

Abdnor	Fish	Moorhead, Calif.
Abzug	Flood	Moorhead, Pa.
Adams	Flowers	Morgan
Addabbo	Foley	Mosher
Anderson, Calif.	Ford	Murphy, Ill.
Anderson, Ill.	Fountain	Murtha
Andrews, N. Dak.	Frelinghuysen	Natcher
Annunzio	Frey	Nedzi
Armstrong	Gaydos	Nichols
Ashbrook	Giaimo	Nix
Ashley	Gilman	Obey
Aspin	Ginn	O'Brien
Badillo	Goldwater	O'Hara
Bafalis	Goodling	O'Neill
Barrett	Grasso	Owens
Bell	Green, Pa.	Patman
Bennett	Grover	Patten
Bergland	Gude	Pepper
Biaggi	Guyer	Perkins
Biester	Haley	Pickle
Bingham	Hamilton	Pike
Blatnik	Hanley	Preyer
Boggs	Hanrahan	Price, Ill.
Boland	Hansen, Wash.	Pritchard
Bolling	Harrington	Quie
Brademas	Harsha	Railsback
Breaux	Hastings	Randall
Breckinridge	Hays	Rangel
Brinkley	Hébert	Regula
Brooks	Heckler, Mass.	Reid
Broomfield	Heinz	Reuss
Brotzman	Helstoski	Riegle
Brown, Calif.	Henderson	Rinaldo
Brown, Mich.	Hogan	Robison, N.Y.
Brown, Ohio	Holtzman	Roe
Broyhill, N.C.	Horton	Rogers
Buchanan	Howard	Roncalio, Wyo.
Burgener	Hungate	Roncallo, N.Y.
Burke, Fla.	Ichord	Rooney, Pa.
Burke, Mass.	Johnson, Colo.	Rose
Burlison, Mo.	Johnson, Pa.	Rosenthal
Burton, John	Jones, Ala.	Roush
Byron	Jones, N.C.	Roy
Carney, Ohio	Jordan	Roybal
Carter	Karth	Ruppe
Casey, Tex.	Kastenmeier	Ruth
Cederberg	Kemp	St Germain
Chamberlain	King	Sandman
Chappell	Koch	Sarasin
Clancy	Kyros	Sarbanes
Clark	Lagomarsino	Scherle
Clausen, Don H.	Latta	Schroeder
Cleveland	Leggett	Seiberling
Cohen	Lent	Shipley
Collins, Ill.	Litton	Shoup
Conable	Long, La.	Shriver
Conte	Long, Md.	Shuster
Conyers	Luken	Sikes
Corman	McClory	Skubitz
Cotter	McCloskey	Slack
Coughlin	McCollister	Smith, Iowa
Cronin	McCormack	Smith, N.Y.
Daniels, Dominick V.	McDade	Spence
Danielson	McEwen	Staggers
Delaney	McFall	Stanton, J. William
Dellenback	McKinney	Stanton, James V.
Dellums	Macdonald	Steelman
Denholm	Madden	Steiger, Wis.
Dent	Madigan	Stephens
Derwinski	Mallary	Stokes
Devine	Mann	Stratton
Dickinson	Maraziti	Stuckey
Diggs	Martin, N.C.	Studds
Dingell	Mathias, Calif.	Symington
Donohue	Mathis, Ga.	Talcott
Drinan	Matsunaga	Taylor, N.C.
Dulski	Mayne	Thompson, N.J.
du Pont	Mazzoli	Thomson, Wis.
Eckhardt	Meeds	Thone
Edwards, Ala.	Melcher	Tiernan
Edwards, Calif.	Metcalfe	Traxler
Eilberg	Mezvinsky	Udall
Erlenborn	Michel	Van Deerlin
Esch	Miller	Vander Jagt
Eshleman	Minish	Vander Veen
Evans, Colo.	Mink	Vanik
Fascell	Mitchell, Md.	Veysey
Findley	Mitchell, N.Y.	Vigorito
	Mizell	Waldie
	Moakley	
	Mollohan	

Walsh	Wilson, Charles H., Calif.	Yates
Ware		Yatron
Whalen		Young, Fla.
White	Winn	Young, Ga.
Widnall	Wolff	Young, Ill.
Wiggins	Wright	Young, S.C.
Williams	Wydler	Zablocki
Wilson, Bob	Wylie	Zwach

NAYS—81

Alexander	Froehlich	Parris
Archer	Gonzalez	Poage
Baker	Gray	Price, Tex.
Bauman	Gross	Quillen
Beard	Gubser	Rhodes
Bevill	Hammer-schmidt	Roberts
Blackburn		Robinson, Va.
Bowen	Hechler, W. Va.	Rousselot
Bray	Hinshaw	Satterfield
Broyhill, Va.	Holt	Sebelius
Burleson, Tex.	Hosmer	Snyder
Butler	Huber	Steed
Camp	Hutchinson	Steiger, Ariz.
Clawson, Del	Jarman	Stubblefield
Cochran	Johnson, Calif.	Symms
Collier	Jones, Okla.	Taylor, Mo.
Collins, Tex.	Kazen	Teague
Conlan	Ketchum	Thornton
Crane	Landgrebe	Towell, Nev.
Daniel, Dan	Lott	Treen
Daniel, Robert W., Jr.	McKay	Waggonner
	Mahon	Wampler
Davis, Wis.	Martin, Nebr.	Whitten
de la Garza	Milford	Wyatt
Downing	Mills	Wyman
Duncan	Montgomery	Young, Tex.
Fisher	Moss	Zion
Forsythe	Myers	

NOT VOTING—62

Andrews, N.C.	Green, Oreg.	Pettis
Arends	Griffiths	Peyser
Brasco	Gunter	Podell
Burke, Calif.	Hanna	Powell, Ohio
Burton, Phillip	Hansen, Idaho	Rarick
Carey, N.Y.	Hawkins	Rees
Chisholm	Hicks	Rodino
Clay	Hillis	Rooney, N.Y.
Culver	Holifield	Rostenkowski
Davis, Ga.	Hudnut	Runnels
Davis, S.C.	Jones, Tenn.	Ryan
Dennis	Kluczynski	Schneebeli
Dorn	Kuykendall	Sisk
Evins, Tenn.	Landrum	Stark
Flynt	Lehman	Steele
Fraser	Lujan	Sullivan
Frenzel	McSpadden	Ullman
Fulton	Minshall, Ohio	Whitehurst
Fuqua	Murphy, N.Y.	Wilson, Charles, Tex.
Gettys	Nelsen	
Gibbons	Passman	Young, Alaska

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Murphy of New York for, with Mr. Dorn against.

Mr. Rostenkowski for, with Mr. Rarick against.

Mr. Phillip Burton for, with Mr. Davis of South Carolina against.

Mr. Fulton for, with Mr. Passman against.

Mrs. Sullivan for, with Mr. Runnels against.

Mr. Schneebeli for, with Mr. Arends against.

Until further notice:

Mr. Fuqua with Mr. Andrews of North Carolina.

Mr. Holifield with Mrs. Green of Oregon.

Mr. Hicks with Mrs. Griffiths.

Mr. Hawkins with Mr. Landrum.

Mrs. Burke of California with Mr. McSpadden.

Mr. Evins of Tennessee with Mr. Ryan.

Mr. Fraser with Mr. Hansen of Idaho.

Mr. Hanna with Mr. Frenzel.

Mr. Kluczynski with Mr. Whitehurst.

Mr. Lehman with Mr. Hillis.

Mr. Rees with Mr. Steele.

Mr. Podell with Mr. Minshall of Ohio.

Mr. Sisk with Mr. Pettis.

Mr. Stark with Mr. Hudnut.

Mr. Jones of Tennessee with Mr. Nelsen.

Mr. Gunter with Mr. Kuykendall.

Mrs. Chisholm with Mr. Culver.

Mr. Clay with Mr. Rodino.

Mr. Ullman with Mr. Lujan.

Mr. Rooney of New York with Mr. Powell of Ohio.

Mr. Gettys with Mr. Davis of Georgia.

Mr. Brasco with Mr. Flynt.

Mr. Carey of New York with Mr. Gibbons.

Mr. Dennis with Mr. Charles Wilson of Texas.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 1230, the Committee on Interior and Insular Affairs is discharged from further consideration of the Senate bill S. 425, to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. UDALL moves to strike out all after the enacting clause of the bill S. 425 and insert in lieu thereof the provisions of H.R. 11500 as passed, as follows:

That this Act may be cited as the "Surface Mining Control and Reclamation Act of 1974".

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TITLE I—FINDINGS AND PURPOSES

FINDINGS

SEC. 101. The Congress finds that—

(a) the extraction of coal by underground and surface mining from the earth is a significant and essential activity which contributes to the economic, social, and material well-being of the Nation;

(b) there are surface and underground coal mining operations on public and private lands in the Nation which adversely affect the environment by destroying or diminishing the availability of land for commercial, industrial, recreational, agricultural, historic, and forestry purposes, by causing erosion and landslides; by contributing to floods and the pollution of water, land, and air; by destroying public and private property; by creating hazards to life and property; and by precluding post-mining land uses common to the area of mining;

(c) surface and underground coal mining operations presently contribute significantly to the Nation's energy requirements, and substantial quantities of the Nation's coal reserves lie close to the surface, and can only be recovered by surface mining methods, and therefore, it is essential to the national interest to insure the existence of an expanding and economically healthy coal mining industry;

(d) surface and underground coal mining operations affect interstate commerce, contribute to the economic well-being, security, and general welfare of the Nation and should be conducted in an environmentally sound manner;

(e) the initial and principal continuing responsibility for developing and enforcing environmental regulations for surface and underground coal mining operations should rest with the State; and

(f) the cooperative effort established by this Act is necessary to prevent or mitigate adverse environmental effects of present and future surface coal mining operations.

PURPOSES

SEC. 102. *It is the purpose of this Act to*—

(a) establish a nationwide program to prevent the adverse effects to society and the environment resulting from surface coal mining operations and surface impacts of underground coal mining operation;

(b) establish priorities to the extent necessary in the nationwide program among the various types and individual operations of mining activities, their impacts on the environment, and the locations of mining relative to population concentrations and impacted land uses;

(c) assure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances thereto are fully protected from such operations;

(d) assure that surface coal mining operations are not conducted where reclamation as required by this Act is not feasible;

(e) assure that surface coal mining operations are so conducted as to protect the environment;

(f) assure that adequate procedures are undertaken to reclaim surface areas as contemporaneously as possible with the surface coal mining operations;

(g) assure that the coal supply essential to the Nation's energy requirements, and to its economic and social well-being is provided;

(h) assist the States in developing and implementing a program to achieve the purposes of this Act;

(i) promote the reclamation of mined areas left without adequate reclamation prior to the enactment of this Act and which continue, in their unreclaimed condition, to substantially degrade the quality of the environment, prevent or damage the beneficial use of land or water resources, or endanger the health or safety of the public; and

(j) assure that appropriate procedures are provided for the public participation in the development, revision, and enforcement of regulations, standards, reclamation plans, or programs established by the Secretary or any State under this Act.

TITLE II—CONTROL OF ENVIRONMENTAL IMPACTS OF SURFACE COAL MINING

INITIAL REGULATORY PROCEDURE

SEC. 201. (a) No person shall open or develop any new or previously mined or abandoned site for surface coal mining operations on lands on which such operations are regulated by the State unless such person has obtained a permit from the State regulatory authority.

(b) On and after the date of enactment of this Act, all new surface coal mining operations on lands on which such operations are regulated by the State shall comply, and all new permits issued for surface coal mining operations shall contain terms requiring compliance with the following environmental protection standards:

(1) With respect to coal surface mining on steep slopes, no spoil, debris, soil, waste materials, or abandoned or disabled mine equipment may be placed on the natural or other downslope below the bench or cut created to expose the coal seam except that spoil from the initial block or short linear cut necessary to obtain access to the coal seam may be placed on a limited or specified area of the downslop: *Provided,* That the spoil is shaped and graded in such a way as to prevent slides, erosion, and water pollution, and is revegetated in accordance with subsection (3) below: *Provided further however,* That limited or temporary placement of spoil on a specified area of the downslope on steep slopes in conjunction with mountaintop mining operation which will eliminate all high walls, if such placement is consistent with the approved postmining land use of the mine site and (B) the provisions of this subsection (b) (1) shall not apply to those situations in which an operator is mining on flat or gently rolling terrain, on which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area.

(2) (A) With respect to all surface coal mining operations, the operator shall backfill, compact (where advisable to insure stability or to prevent leaching of toxic materials), and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles, and depressions eliminated (unless depressions are needed in order to retain moisture in order to assists revegetation or as otherwise authorized under paragraph (2) (D) of this subsection).

(B) *Provided,* that in surface coal mining which is carried out at the same location over a substantial period of time, where the operation transects the coal deposit and the thickness of the coal deposit relative to the volume of the overburden is large and where the operator demonstrates that the overburden, giving due consideration to volumetric expansion, at a particular point on the mining site is insufficient or unavailable from other portions of the site to restore the approximate original contour, the operator, at a minimum, shall backfill, grade, and compact (where advisable) in order to cover all acid-forming and other toxic materials, to achieve not more than the angle of repose to provide adequate drainage and to facilitate an ecologically sound land use compatible with the surrounding region but not necessarily meeting the revegetation requirements of subsection (3): *And provided further,* That in surface coal mining other than described in the first proviso of this subparagraph (B), and other than operations covered by subsection (b) (1) of this section, where the volume of overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that due to volumetric expansion, the amount of overburden and other spoil and waste materials removed in the course of the mining operation is more than sufficient to restore the approximate original contour, the operator shall after restoring the approximate original contour, backfill, grade and compact (where advisable) the excess overburden and other spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose, and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding regions and that such overburden or spoil shall be shaped and graded in such a way as to prevent slides, erosion and water pollution and is revegetated in accordance with subsection (b) (3) of this section;

(3) With respect to all surface coal mining operations, establish on regraded and all other lands affected, a diverse vegetative cover capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation: *Provided,* That introduced species may be used in the revegetation process where desirable and necessary to achieve the approved post-mining land use plan.

(4) With respect to all surface coal mining operations, remove the topsoil in a separate layer, replace it on the backfill area, or if not utilized immediately, segregate it in a separate pile from other spoil, and when the topsoil is not replaced in a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plant or by other means so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material from other strata or drainage, and is in a usable condition for sustaining vegetation when replaced during reclamation, except if topsoil is of insufficient quantity or of poor quality for sustaining vegetation, or if other strata can be shown to be more suitable for vegetation requirements, then the operator shall remove, segregate, preserve, and replace in a like manner such other strata which is best able to support vegetation: *Provided,* That if the appropriate State agricultural agency approves, it shall not be necessary to separate the topsoil and other strata of subsoil if it can be shown that a mix of such topsoil and subsoil and soil nutrient would be equally suitable for vegetation requirements and meet the requirements of sound reclamation practices. In such instances, the operator shall remove, segregate, and replace the mix of topsoil and such other strata in a manner prescribed by the appropriate State agricultural agency.

(5) (A) With respect to surface disposal of coal mine wastes, coal processing wastes or other wastes in areas other than the mine workings or excavations, stabilize all waste piles in designated areas through construction and compacted layers with incombustible and impervious materials assuring the leachate will not pollute surface or ground waters and the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to provisions of this Act; and

(B) With respect to the use of impoundments for the disposal of coal mine wastes, or coal processing wastes or other liquid or solid wastes, incorporate the latest engineering practices for the design and construction of water retention facilities and construct such facilities to insure that the construction will be so designed to achieve necessary stability with an adequate margin of safety to protect the health and safety of the public and which, at a minimum, is compatible with that of structures constructed under Public Law 83–566 (16 U.S.C. 1006); that leachate will not pollute surface or ground water, and that no mine waste such as coal fines and slimes determined as unsuitable for construction constituents by sound engineering methods and design practices are used in the construction of water impoundments, water retention facilities, dams or settling ponds.

(6) Minimize the disturbances to the hydrologic balance at the minesite and associated offsite areas and to the quantity and quality of water entering surface and ground water systems both during and after surface mining and reclamation giving particular attention throughout the mining operation to the aquifer recharge capacity of the mining area and to the protection of alluvial valley floors and stream channels.

(7) Upon petition by the permittee or other applicant for a permit and after public

notice and opportunity for hearing, the regulatory authority may grant one or more exceptions to the environmental protection standards set forth in the first clause before the first proviso in paragraph (1) and the provisions of paragraph (2) of this subsection, if the regulatory authority issues a written finding that one or more such standards cannot reasonably be met and that the permittee has shown by proper documentation that each specific item of equipment which is named in the petition as being essential to the performance of the standard in question, cannot be delivered by the manufacturer or supplier prior to the date on which the operation is required under this Act to be in compliance with said standards, and no other equipment owned by or readily available to the permittee or applicant is suitable for the performance of such standards.

The basis for any such exception shall be reviewed at least once every three months by the regulatory authority. If pursuant to such review, the regulatory authority finds that the permittee does not show, by proper current documentation, that the specific items of equipment named in the petition still cannot be delivered to the operator by the manufacturer then the exception shall be canceled.

At any time if the permittee is found to be in noncompliance with any other provision of this Act or if a State program pursuant to section 203 of this Act or a Federal program pursuant to section 204 of this Act is implemented, then any such exception shall cease to be effective immediately.

(c) On and after one hundred and eighty days from the date of enactment of this Act, all surface coal mining operations on lands on which such operations are regulated by the State existing at the date of enactment shall comply with the standards in subsection (b) above with respect to lands from which the overburden has not been removed. Within one hundred and twenty days following enactement of this Act, the regulatory authority shall review and amend permits in order to incorporate in them the standards of subsection (b) above.

(d) Upon petition by the applicant or permittee and after public notice and opportunity for a hearing, the regulatory authority may grant exceptions to provisions in the first clause before the first proviso in subsection (b)(1) and to the provisions of subsection (b)(2) of this section if the regulatory authority issues a written finding that one or more variations from these provisions will enable the affected land to have an equal or higher postmining economic or public use and such use will be achieved within a reasonable time, is consistent with surrounding land uses and with local, State, and Federal law and can be obtained only if one or more exceptions to the above provisions are granted.

(e) Not later than eighteen months from the date of enactment of this Act, all operators of surface coal mines in expectation of operating such mines after the date of approval of a State program, pursuant to section 203 of this Act, shall file an application for a permit with the regulatory authority, such application to cover those lands to be mined after the date of approval of the State program. The regulatory authority shall process these applications and grant or deny a permit within six months from the date of approval of the State program, but in no case later than thirty-six months from the date of enactment of this Act. The application filed pursuant to this provision and the permit thereby obtained shall be in full compliance with this Act.

(f) No later than one hundred and eighty days from the date of enactment of this Act, and after issuing regulations in accordance with the procedures of section 202, the Secretary shall implement a Federal enforcement program which shall remain in effect in each State in which there is surface coal mining until the State program has been accepted pursuant to section 203 of this Act or until a Federal program has been implemented pursuant to section 204 of this Act. The enforcement program shall:

(1) include inspections of surface coal mine sites which shall be made on a random basis (but at least one inspection for every site every three months), without advance notice to the mine operator and for the purpose of ascertaining compliance with the standards of subsection (b) above. The Secretary shall order any necessary enforcement action to be implemented pursuant to the Federal enforcement provisions of this title to correct violations identified at the inspections;

(2) provide that upon receipt of inspection reports indicating that any coal surface mining operation has been found in violation of subsection (b) above, during not less than two consecutive State inspections or upon receipt by the Secretary of information which would give rise to reasonable belief that such standards are being violated by any surface coal mining operation, the Secretary shall order the immediate inspection of such operation by Federal inspectors and the necessary enforcement actions, if any, to be implemented pursuant to the Federal enforcement provisions of this title. When the Federal inspection results from information provided to the Secretary by any person, the Secretary shall notify such person when the Federal inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection;

(3) for purposes of this section, the term "Federal inspector" means personnel of the Office of Surface Mining Reclamation and Enforcement and such additional personnel of the United States Geological Survey, Bureau of Land Management, or of the Mining Enforcement and Safety Administration so designated by the Secretary, or such other personnel of the Forest Service, Soil Conservation Service, or the Agricultural Stabilization and Conservation Service as arranged by appropriate agreement with the Secretary on a reimbursable or other basis;

(4) provide that the State regulatory agency file with the Secretary and with a designated Federal office centrally located in the county or area in which the inspected surface coal mine is located copies of inspection reports made;

(5) provide that moneys authorized by section 701(a) shall be available to the Secretary prior to the approval of a State program pursuant to section 203 of this Act to reimburse the States for conducting those inspections in which the standards in subsection (b) above, are enforced and for the administration of this section.

(g) A coal surface mine operator operating pursuant to a valid permit and awaiting administrative action on his application for a permit from the appropriate regulatory authority may during the period prior to approval or disapproval of a State program pursuant to section 203 of this Act and for six months thereafter continue to operate his surface mine beyond the date of expiration of his permit subject to the terms and conditions of his permit or application in the event the appropriate regulatory authority has not acted on his application by the time his permit expires.

(h) During the period prior to approval of a Federal or Indian program pursuant to this Act, including judicial review of the approval of a Federal or Indian program, new or existing coal surface mining operations on Federal land and Indian land may commence or continue mining operations: *Provided*, That such operations shall be subject to and bound by the provisions of section 201(b) hereof. The enforcement procedures of section 220 shall apply to such coal surface mining operations and the Secretary shall order the random inspections of such opertaions in the same manner provided by section 201(f) hereof. For purposes of this section existing coal surface mining operations means those in existence on the date of enactment of this Act and those for which substantial legal and financial commitments were in existence prior to September 1, 1973.

(i) On and after the date of enactment of this Act, no person shall open, develop, or extend any new or previously mined or abandoned site for surface coal mining operations within any area of the National Park System, The National Wildlife Refuge System, or the National Wilderness Preservation System. Nothing in this Act shall be construed as authorizing surface coal mining operations within Federal lands where such mining is prohibited on the date of enactment of this Act by law, regulation, order, deed, or other instrument.

PERMANENT ENVIRONMENTAL PROTECTION STANDARDS

SEC. 202. Not later than the end of the one-hundred-and-eighty-day period immediately following the date of enactment of this Act, the Secretary shall promulgate and publish in the Federal Register regulations covering a permanent regulatory procedure for surface coal mining and reclamation operations setting mining and reclamation performance standards based on and incorporating the provisions of title II and establishing procedures and requirements for preparation, submission, and approval of State programs and development and implementation of Federal programs under this title. Such regulations shall not be promulgated and published by the Secretary until he has—

(A) published proposed regulations in the Federal Register and afforded interested persons and State and local governments a period of not less than forty-five days after such publication to submit written comments thereon;

(B) obtain the written concurrence of the Administrator of the Environmental Protection Agency with respect to those regulations promulgated under this section which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151–1175), and the Clean Air Act, as amended (42 U.S.C. 1857); and

(C) held at least one public hearing on the proposed regulations.

The date, time, and place of any hearing held on the proposed regulations shall be set out in the publication of the proposed regulations. The Secretary shall consider all comments and relevant data presented at such hearing before final promulgation and publication of the regulations.

STATE PROGRAMS

SEC. 203. (a) Each State in which there is or many be conducted surface coal mining operations, and which wishes to assume State regulatory authority under this Act, shall submit to the Secretary, by the end of the twenty-four-month period beginning on the date of enactment of this Act, a State program which demonstrates that such State has the capability of carrying out the provisions of this Act and meeting its purposes through—

(1) a State law which provides for the regulation of surface mining and reclamation operations in accordance with the requirements of this Act and the regulations issued by the Secretary pursuant to this Act;

(2) a State law which provides sanctions for violations of State laws, regulations, or conditions of permits concerning surface mining and reclamation operations, which sanctions shall meet the minimum requirements of this Act, including civil and criminal actions, forfeiture of bonds, suspension, revocation, and withholding of permits, and the issuance of cease and desist orders by the State regulatory authority or its inspectors;

(3) a State regulatory authority with sufficient administrative and technical personnel, and sufficient funding to enable the State to regulate surface coal mining and reclamation operations in accordance with the requirements of this Act;

(4) a State law which provides for the effective implementation, maintenance, and enforcement of a permit system, meeting the requirements of this title for the regulation of surface mining and reclamation operations for coal on lands within the State;

(5) establishment of a process for the designation of lands unsuitable for surface coal mining in compliance with section 206; and

(6) establishment, for the purpose of avoiding duplication, of a process for coordinating the review and issuance of permits for surface mining and reclamation operations with any other Federal or State permit process applicable to the proposed operations.

(b) The Secretary shall not approve any State program submitted under this section until he has—

(1) solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise pertinent to the proposed State program;

(2) obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of a State program which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151–1175), and the Clean Air Act, as amended (42 U.S.C. 1857);

(3) held at least one public hearing on the State program within the State; and

(4) found that the State has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards.

The Secretary shall approve or disapprove a State program, in whole or in part, within six full calendar months after the date such State program was submitted to him.

(c) If the Secretary disapproves any proposed State program in whole or in part, he shall notify the State in writing of his decision and set forth in detail the reasons therefor. The State shall have sixty days in which to resubmit a revised State program, or portion thereof: *Provided, however,* That no State program shall be resubmitted pursuant to this subsection after thirty months from the date of enactment of this Act: *Provided further,* That the Secretary shall approve or disapprove the resubmitted State program or portion thereof within sixty days from the date of resubmission.

FEDERAL PROGRAM

SEC. 204. (a) The Secretary shall prepare and implement a Federal program for the regulation of surface coal mining in any State which fails to—

(1) submit and obtain approval of a State program as required under section 203; or

(2) adequately implement, enforce, or maintain a State program once approved pursuant to section 204.

(b) In the event that a State has a regulatory program for surface coal mining, and is not enforcing any part of such program, the Secretary may provide for the Federal enforcement, under the provisions of section 220, of that part of the State program not being enforced by such State.

(c) If State compliance with section 203 requires an act of the State legislature, the Secretary may extend the period for submission of a State program up to an additional six months in those States which have a constitutional convention in 1974 and whose legislatures do not meet in regular session until 1975.

RESUBMITTAL OF STATE PROGRAM

SEC. 205. A State which has failed to obtain the approval of a State program prior to implementation of a Federal program may submit a State program at any time after such implementation. Upon the submission of such a program, the Secretary shall follow the procedures set forth in section 203(b) and shall approve or disapprove the State program within six months after its submittal. Approval of a State program shall be based on the determination that the State has the capability of carrying out the provisions of this Act and meeting its purposes through the criteria set forth in section 203 (a) (1) through (6). Until a State program is approved as provided under this section, the Federal program shall remain in effect and all actions taken by the Secretary pursuant to such Federal program, including the terms and conditions of any permit issued thereunder, shall remain in effect.

DESIGNATING AREAS UNSUITABLE FOR SURFACE COAL MINING

SEC. 206. (a) (1) To be eligible to assume primary regulatory authority pursuant to section 203, each State shall establish a planning process enabling objective decisions based upon competent and scientifically sound data and information as to which, if any, land areas of a State are unsuitable for all or certain types of surface coal mining operations pursuant to the standards set forth in paragraphs (2) and (3) of this section but such designation shall not prevent the mineral exploration pursuant to the Act of any area so designated.

(2) The State regulatory authority shall designate an area as unsuitable for all or certain types of surface coal mining operations if the State regulatory authority determines that reclamation pursuant to the requirements of this Act is not physically feasible.

(3) A surface area may be designated unsuitable for certain types of surface coal mining operations if such operations will—

(A) be incompatible with Federal, State, or local plans to achieve essential governmental objectives; or

(B) affect fragile or historic lands in which such operations could result in significant damage to important historic, cultural, scientific, and esthetic values and natural systems; or

(C) affect renewable resource lands in which such operations could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products and such lands to include aquifers and aquifer recharge areas; or

(D) affect natural hazard lands in which such operations could substantially endanger life and property, such lands to include areas subject to frequent flooding and areas of unstable geology.

(4) To comply with this section, a State must demonstrate it has developed or is developing a process which includes—

(A) a State agency responsible for mining lands review;

(B) a data base and an inventory system which will permit proper evaluation of the capacity of different land areas of the State to support and permit reclamation of surface coal mining operations;

(C) a method or methods for implementing land use planning decisions concerning surface coal mining operations; and

(D) proper notice, opportunities for public participation, including a public hearing prior to making any designation or redesignation, pursuant to this section, and measures to protect the legal interests of affected individuals in all aspects of the State planning process.

(5) Determinations of the unsuitability of land for surface coal mining, as provided for in this section, shall be integrated as closely as possible with present and future land use planning and regulation processes at the Federal, State, and local levels.

(6) In no event is land to be designated unsuitable for surface coal mining operations on which surface coal mining operations are being conducted on the date of enactment of this Act or under a permit issued pursuant to this Act, or where substantial legal and financial commitments in such operations are in existence prior to September 1, 1973.

(b) The Secretary shall conduct a review of the Federal lands and to determine, pursuant to the standards set forth in paragraphs (2) and (3) of subsection (a) of this section, whether there are areas on Federal lands which are unsuitable for all or certain types of surface coal mining operations. When the Secretary determines an area on Federal lands to be unsuitable for all or certain types of surface coal mining operations, he shall withdraw such area or condition any mineral leasing or mineral entries in a manner so as to limit surface coal mining operations on such area. Where a Federal program has been implemented in a State pursuant to section 204, the Secretary shall implement a process for designation of areas unsuitable for surface coal mining for non-Federal lands within such State and such process shall incorporate the standards and procedures of this section.

(c) Any person having an interest which is or may be adversely affected shall have the right to petition the regulatory authority to have an area designated as unsuitable for surface coal mining operations, or to have such a designation terminated. Such a petition shall contain allegations of facts with supporting evidence which would tend to establish the allegations. As soon as pacticable after receipt of the petition the regulatory authority shall hold a public hearing in the locality of the affected area, after appropriate notice and publication of the date, time, and location of such hearing. After a person having an interest which is or may be adversely affected has filed a petition and before the hearing, as required by this subsection, any person may intervene by filing allegations of facts with supporting evidence which would tend to establish the allegations. Within sixty days after such hearing, the regulatory authority shall issue and furnish to the petitioner and any other party to the hearing, a written decision regarding the petition, and the reasons therefor. In the event that all the petitioners stipulate agreement prior to the requested hearing, and withdraw their request, such hearing need not be held.

(d) Prior to designating any land areas as unsuitable for surface coal mining operations, the regulatory authority shall prepare a detailed statement on (i) the potential coal resources of the area, (ii) the demand for coal resources, and (iii) the impact of such designation on the environment, the economy, and the supply of coal.

EFFECT ON STATE LAW

SEC. 207. Where any provision of any State law or regulation in effect upon the date of enactment of this Act or which may become effective thereafter, provides more stringent environmental controls and regulations of surface mining and reclamation op-

erations than do the provisions of this Act or any regulation issued pursuant thereto, such provision of State law or regulation shall not be construed to be inconsistent with this Act.

PERMITS

SEC. 208. (a) After six months from the date on which a State program is approved by the Secretary, pursuant to section 203 of this Act, or the Secretary has promulgated a Federal program for a State not having a State program, pursuant to section 203, no person shall engage in surface coal mining operations unless such person has obtained a permit in full compliance with this Act from the appropriate regulatory authority.

(b) All permits issued pursuant to the requirements of this Act shall be issued for a term not to exceed five years and shall be nontransferable: *Provided,* That a successor in interest to a permittee who applies for a new permit within thirty days of succeeding to such interest and who is able to obtain the bond coverage of the original permittee may continue surface coal mining and reclamation operations according to the approved mining and reclamation plan of the original permittee until such successor's application is granted or denied.

PERMIT APPROVAL OR DENIAL

SEC. 209. (a) Upon the basis of a complete mining application and reclamation plan or a revision or renewal thereof, as required by this Act and pursuant to an approved State program or Federal program under the provisions of this Act, including public notification and an opportunity for a public hearing as required by section 214, the regulatory authority shall grant or deny the application for a permit and notify the applicant in writing. Within ten days after the granting of a permit, the regulatory authority shall notify the State and the local official who has the duty of collecting real estate taxes in the local political subdivision in which the area of land to be affected is located that a permit has been issued and shall describe the location of the land.

(b) No permit, revision or renewal application shall be approved unless the regulatory authority finds in writing on the basis of the information set forth in the application or from information otherwise available which will be documented in the approval, and made available to the applicant, that (1) the requirements of this Act, and the rules and regulations adopted thereunder will be met, (2) there is objective assurance that the reclamation of the area of affected land can be achieved, and (3) the proposed post-mining land use is (A) compatible with surrounding land uses, exclusive of surface mining, (B) practical with respect to need or the surrounding land uses, and (C) reasonable with respect to the likelihood of availability of both public and private resources and support which may be needed to achieve such objectives.

(c) Prior to the issuance of a permit, the regulatory authority shall review and alter a proposed mining and reclamation plan with respect to the methods, sequence, timing of specific operations in the plan, or the deletion of specific operations or areas from part or all of the plan in order to assure that the environmental protection objectives of this Act are met.

(d) No permit shall be issued by the regulatory authority unless the permit application affirmatively demonstrates that, and the regulatory authority makes specific written findings to the effect that—

(1) there is probable cause to believe that the proposed surface coal mining operation will result in reclamation of the land area affected pursuant to the performance standards set forth in section 211 of this Act and regulations promulgated pursuant to this Act;

(2) the post-mining land use as proposed in the reclamation plan is practical, is likely to be achieved, and is not inconsistent with surrounding land uses;

(3) the area proposed to be mined is not included within an area designated unsuitable for surface coal mining pursuant to section 206 of this Act or is not within an area under study for such designation (unless in such an area as to which an administrative proceeding has commenced pursuant to section 206(a)(4)(D) of this Act, the operator making the permit application demonstrates that, prior to September 1, 1973, he has made substantial legal and financial commitments in relation to the operation for which he is applying for a permit);

(4) the land to be affected does not lie within three hundred feet from any occupied dwelling, unless waived by the owner thereof, nor within three hundred feet of any public building, school, church, community, or institutional building, public park, or cemetery; nor shall the land to be affected lie within one hundred feet of the outside right-of-way line of any public road, except that the regulatory authority may permit such roads to be relocated, if the interests of the public and the landowners affected thereby will be protected;

(5) the impacts of the mining operations on the hydrologic balance on and off the permit area are minimized; the specific provisions of section 211(b)(14) are met; the assessment of the probable cumulative impact of all anticipated mining in the area on the hydrologic balance specified in section 210(b)(14) has been made and the proposed operation thereof has been designed to prevent irreparable offsite impacts to hydrologic balance;

(6) the operator is not presently ineligible to obtain a permit to conduct any coal mining operation under the law of any Federal or State program authorized by this Act;

(7) the operator has not had a permit revoked by any regulatory authority under this Act within five years preceding the filing of the application;

(8) mining operations would not adversely affect nearby lands and waters to which the public enjoys use and access, or the mining of any area of land within one mile of publicly owned lands or parks or places located in the National Register of Historic Sites unless screening and other measures approved by the regulatory authority are used and the permit so provides, or if the mining of the area will not adversely affect or reduce the usage of the publicly owned land;

(9) the mining operations are not located within any area of the National Park System, the National Forest System, the National Wildlife Refuge System, the National Wilderness Preservation System, or the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act: *Provided, however,* That this paragraph shall not prohibit surface mining operations in existence on the date of enactment of this Act, within any area of the National Forest System or the Wild and Scenic Rivers System or on lands within either system where the deeds conveying the surface lands to the United States reserve the coal and provide for the mining thereof; but, in no event shall such surface mining operations be exempt from the requirements of this Act;

(10) the permit application does not include areas of lands affected that are noncontiguous;

(11) the operator has not forfeited a bond or partial bond under this Act within the past five years;

(12) the surface coal mine operations are not located within, and would not adversely affect, an alluvial valley floor in semi-arid and arid regions; and

(13) the application on its face is complete, accurate, and contains no false information.

(e) The applicant shall file with his permit application a schedule listing any and all violations of this Act and any law, rule, or regulation of the United States or of any department or agency in the United States pertaining to air, or water environmental protection incurred by the applicant in connection with any coal surface mining operation during the one-year period prior to the date of application. The schedule shall also indicate the final resolution of any such notice of violation. Where the schedule or other information available to the regulatory authority indicates that any coal surface mining operation owned or controlled by the applicant is currently in violation of this Act or such other laws referred to in this subsection, the permit shall not be issued until the applicant submits proof that such violation has been corrected or is in the process of being corrected to the satisfaction of the regulatory authority, department, or agency which has jurisdiction over such violation.

APPLICATION REQUIREMENTS

SEC. 210. (a) Each application for a mining and reclamation permit pursuant to an approved State program or a Federal program under the provisions of this Act shall be accompanied by a fee as determined by the regulatory authority. Such fee shall be based as nearly as possible upon the actual or anticipated cost of reviewing, administering, and enforcing such permit issued pursuant to a State or Federal program, and shall be in addition to the fee required for the Abandoned Mine Reclamation Fund.

(b) The permit application shall be submitted in a manner satisfactory to the regulatory authority and shall contain, among other things—

(1) the names and addresses of the permit applicant (if the applicant is a subsidiary corporation, the name and address of the parent corporation must be included); every legal owner of the property (surface and mineral) to be mined; the holders of any leasehold or other equitable interest in the property of record; any purchase of the property under a real estate contract; the operator if he is a person different from the applicant; and, if any of these are business entities other than a single proprietor, the names, addresses of the principal, officers, and resident agent;

(2) the names and addresses of every officer, partner, director, or person performing a function similar to a director, of the applicant, together with the name and address of any person owning, of record or beneficially, either alone or with associates, 10 per centum or more of any class of stock of the applicant and a list of all names under which the applicant, partner, or principal shareholder previously operated a surface mining operation within the United States or its territories and possessions;

(3) a description of the type and method of coal mining operation that exists or is proposed, the engineering techniques proposed or used, and the equipment used or proposed to be used;

(4) the anticipated or actual starting and termination dates of each phase of the mining operation and number of acres of land to be affected;

(5) evidence of compliance with section 709;

(6) the names and addresses of the owners of all surface and subsurface areas abutting on the permit area;

(7) a statement of any current or previous surface coal mining permits in the United States held by the applicant and the permit identification;

(8) a statement of whether the applicant,

any subsidiary, affiliate, or persons controlled by or under common control with the applicant, has ever held a Federal or State mining permit which has been suspended or revoked or has ever had a mining bond or similar security deposited in lieu of bond forfeited and a brief explanation of the facts involved in each case;

(9) an accurate map or plan to an appropriate scale clearly showing the land to be affected and contour lines of the surface at sufficient intervals of elevation to accurately depict the topography of the terrain, prepared by or under the direction of and certified by a registered professional engineer, or registered land surveyor and a professional geologist when specific subsurface information is deemed essential and requested by the regulatory authority. Such a map or plan shall among other things specified by the regulatory authority show all the boundaries of the land to be affected, its surrounding drainage area, the location and name, where known, of all roads, railroads, rights-of-way, utility lines, oil wells, gas wells, water wells, lakes, creeks, streams, rivers, springs, and other surface water courses, the name and boundary lines of the present owners of all surface areas abutting on the permit area and the location of all buildings on such abutting surface areas and within one thousand feet of the permit area; and the purpose for which each building is used;

(10) typical cross-section maps or plans of the land to be affected including the actual area to be mined showing pertinent elevation and locations of test borings or core samplings required under subparagraph (16) including the nature and thickness of any coal or rider seam above the coal seam to be mined, the nature of the stratum immediately beneath the coal seam to be mined, all mineral crop lines, strike and dip of the coal to be mined within the area of land to be affected, existing or previous surface mining limits, the location and extent of known working of any underground mines, including mine openings to the surface, the location of aquifers; underground waters, and the estimated elevation of the water table, the location of spoil, waste or refuse areas, the topsoil preservation areas, the location of all impoundments for waste or erosion control, any settling or water treatment facilities; constructed or natural drainways and the location of any discharges to any surface body of water on the area of land to be affected or adjacent thereto; and profiles at appropriate cross-sections of the anticipated final surface configuration that will be achieved pursuant to the operator's approved reclamation plan. The information pertaining to the coal seam required by this paragraph shall be kept confidential and not made a matter of public record, except that if such information becomes relevant to the parties to a hearing on the grant or denial of a permit or the forfeiture or release of part or all of the bond, such information may be disclosed to such interested parties under appropriate protective provisions.

(11) a copy of the applicant's advertisement to be published pursuant to section 214(a), which includes the ownership, a description of the exact location and boundaries of the proposed site sufficient so that the proposed operation is readily locatable by local residents, and the location of where the application is available for public inspection;

(12) the name of the watershed and location of all known surface and underground waterways into which surface waters may or will be discharged;

(13) a determination of the hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding area so that an assessment can be made of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability;

(14) a complete and verifiable list of all deeds, leases, options, or other instruments granting to the applicant or his agents rights to or in the land or minerals to be affected by the proposed permit;

(15) when requested by the regulatory authority, a statement of all lands, interests in lands, or options on such lands held by the applicant or pending bids on interests in lands by the applicant, which lands are contiguous to the land to be affected, and any information required by this subsection which is not on public file pursuant to appropriate laws shall be held in confidence by the regulatory authority;

(16) a statement of the results of test borings or core samplings from the land to be affected, including where appropriate, the surface elevation and logs of the drill holes so that the strike and dip of the coal seams may be determined, the nature and depth of the various strata of overburden, the location of subsurface water, if encountered, and its quality, the thickness of the coal seam found, an analysis of the chemical properties of such coal; the sulfur content of any coal seam and a chemical analysis of potentially acid or toxic forming sections of the overburden, and a chemical analysis of the stratum lying immediately underneath the coal to be mined; and

(17) such other information as the regulatory authority may require.

The collection and analyses of all information required under paragraph (16) of this subsection shall be conducted by a laboratory which is approved by the regulatory authority. The regulatory authority shall establish rules to preserve the integrity of the sampling. Information from test borings and core samplings required by this paragraph shall be made available to interested parties and that which pertains only to the quantitative and qualitative analysis of the coal seams (except the information regarding such mineral or elemental contest which is potentially toxic in the environment), shall be kept confidential and not made a matter of public record. If such coal seam information becomes relevant to the parties to a hearing on the grant or denial of a permit or the forfeiture or release of part or all of a bond, such information shall be disclosed to such interested parties under protective provisions defined by the regulatory authority.

(c) The mining and reclamation plan which each applicant for a permit shall be required to submit with a permit application, consistent with the performance criteria provided for in this Act, shall include, at least—

(1) the identification of the entire area to be mined and affected over the estimated life of the mining operation and the size, sequence, and timing of the subareas for which it is anticipated that individual permits for mining will be sought;

(2) a statement describing the full range of uses to which the land was put and the predominant uses of the area immediately surrounding the area of land to be affected prior to the commencement of any mining, and a description of the use or uses proposed to be made of the area of land to be affected following reclamation;

(3) a detailed description of the manner in which mining operations will be conducted and of the actions taken or planned to prevent adverse environmental effects during the life of the mining and reclamation operation;

(4) a detailed description of the measures to be taken during the mining and reclamation process to assure the protection of the quantity and quality of surface and ground water systems, both onsite and offsite from adverse effects of the mining and reclamation process, and the rights of present users to such water;

(5) a detailed description of the reclamation activities that will be taken to return the mined area to a condition consistent with the applicant's proposed postmining land use and in accordance with provisions of this Act (including, but not limited to preventing polluting discharges, seepages, mine and refuse bank fires, and other conditions that present an imminent hazard to the health or safety of the public on the permitted site that resulted from previous mining operations);

(6) a detailed description of how the proposed postmining land use is to be achieved and the necessary public or private support activities which may be needed to achieve the proposed land use;

(7) a detailed time schedule, including interim completion dates, for key stages of the surface coal mining and reclamation plan;

(8) a description of the actions planned to insure compliance with the environmental performance standards set forth in this Act and supplemented by regulation by the regulatory authority; and

(9) such other requirements as the regulatory authority shall prescribe by regulation.

(d) each applicant for a surface mining and reclamation permit shall file a copy of his application for public inspection with the Recorder at the courthouse of the county or an appropriate official approved by the regulatory authority where the mining is proposed to occur, except for that information pertaining to the coal seam itself.

(e) Each applicant for a permit shall be required to submit to the regulatory authority as part of the permit application a certificate issued by an insurance company authorized to do business in the United States certifying that the applicant has a public liability insurance policy in force for the mining and reclamation operations for which such permit is sought, or evidence that the applicant has satisfied other State or Federal self-insurance requirements. Such policy shall cover the mined area and provide for both on- and off-site personal injury and property damage protection as a result of mining and reclamation operations and entitled to compensation under the applicable provisions of Federal or State law but in any event shall not be less than $100,000, or for such higher amount as the regulatory authority deems necessary in light of potential risk and magnitude of possible off-site damages. Such policy shall be for the term of the permit and any renewal, including the length of any and all reclamation operations required by this Act.

(f)(1) Any valid permit issued pursuant to this Act shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. The holder of the permit may apply for renewal and such renewal shall be issued, subsequent to public hearing upon the following requirements and written findings by the regulatory authority that—

(A) the terms and conditions of the existing permit are being satisfactorily met;

(B) the present surface mining and reclamation operation is in full compliance with the environmental protection standards of this Act and the approved State plan pursuant to this Act;

(C) the renewal requested does not jeopardize the operator's continuing responsibility on existing permit areas;

(D) the operator has provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the regulatory authority might require pursuant to section 216(d), and

(E) any additional revised or updated information required by the regulatory authority has been provided. Prior to the approval of any extension of permit the regulatory authority shal provide notice to the appropriate public authorities.

(2) If an application for renewal on a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit the portion of the application for revision of a valid permit shall be treated as a new application which addresses any new land areas or any application and subject to the full standards applicable to new applications under this Act.

(3) Any permit renewal shall be for a term not to exceed the periods of the original permit established by this Act. Application for permit renewal shall be made at least one hundred twenty days prior to the expiration of the valid permit.

ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS

SEC. 211. (a) Any permit issued under any approved State or Federal program pursuant to this Act to conduct surface coal mining operations shall require that such surface coal mining operations will meet all applicable performance standards of this Act, and such other requirements as the regulatory authority shall promulgate.

(b) General performance standards shall be applicable to all surface coal mining and reclamation operations and shall require the operator as a minimum to—

(1) conduct surface coal mining operations so as to maximize the utilization and conservation of the solid fuel resource being recovered so that reflecting the land in the future through surface coal mining can be minimized;

(2) restore the land affected to a condition at least fully capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is a reasonable likelihood, so long as such use or uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution, and the permit applicants' declared proposed land use following reclamation is not deemed to be impractical or unreasonable, inconsistent with applicable land use policies and plans, involves unreasonable delay in implementation, or is violative of Federal, State, or local law;

(3) assure that any temporary environmental damage will be contained in the permit area;

(4) reduce the land disturbed incident to surface mining by limiting the amount of surface excavated at any one time during mining and combining the process of reclamation with the process of mining to keep reclamation operations current, and to complete such reclamation in any separate distinguishable portion of the mined area, as promptly as possible, but not later than the time specified in a reclamation schedule which shall be attached to the permit;

(5) remove the topsoil from the land in a separate layer, replace it on the backfill area, or if not utilized immediately, segregate it in a separate pile from other spoil and when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plant or other means thereafter so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation, except if topsoil is of insufficient quantity or of poor quality for sustaining vegetation, or if other strata can be shown to be more suitable for vegetation requirements, then the operator shall remove, segregate, and preserve in a like manner such other strata which is best able to support vegetation;

(6) stabilize and protect all surface areas including spoil piles affected by the mining and reclamation operation to control as effectively as possible erosion and attendant air and water pollution;

(7) insure that all debris, acid, or highly mineralized toxic materials, or materials constituting a fire hazard are treated or disposed of in a manner designed to prevent contamination of ground or surface waters and sustained combustion;

(8) with respect to all surface coal mining operations backfill, compact (where advisable to insure stability or to prevent leaching of toxic materials), and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles and depressions eliminated (unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to paragraph (9) of this subsection): *Provided, however,* That in surface coal mining which is carried out at the same location over a substantial period of time where the operation transects the coal deposit and the thickness of the coal deposit relative to the volume of the overburden is large and where the operator demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area is insufficient, giving due consideration to volumetric expansion, to restore the approximate original contour, the operator, at a minimum, shall backfill, grade, and compact (where advisable) using all available overburden and other spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose, to provide adequate drainage and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region: *And provided further,* That in surface coal mining other than as described in the first proviso to this paragraph (8), and other than operations covered by subsection (c) of this section, where the volume of overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that due to volumetric expansion the amount of overburden and other spoil and waste materials removed in the course of the mining operation is more than sufficient to restore the approximate original contour, the operator shall after restoring the approximate original contour, backfill, grade, and compact (where advisable) the excess overburden and other spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose, and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region and that such overburden or spoil shall be shaped and graded in such a way as to prevent slides, erosion and water pollution and is revegetated in accordance with subsection (b)(13) of this section;

(9) create, if authorized in the approved mining and reclamation plan and permit, permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately demonstrated that—

(A) the size of the impoundment is adequate for its intended purposes;

(B) the impoundment dam construction will be so designed to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under Public Law 83-566;

(C) the quality of impounded water will be suitable on a permanent basis for its intended use and that discharges from the impoundment will not degrade the water quality in the receiving stream;

(D) the level of water will be reasonably stable;

(E) final grading will provide adequate safety and access for proposed water users; and

(F) such water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational or domestic uses;

(10) refrain from the construction of roads or other access ways up a stream bed or drainage channel or in such proximity to such channel so as to seriously alter the normal flow of water;

(11) restore the topsoil or the best available subsoil which has been segregated and preserved;

(12) establish on the regraded areas, and all other lands affected, a diverse vegetative cover native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except, that introduced species may be used in the revegetation process where desirable and necessary to achieve the approved post mining land use plan;

(13) assume the responsibility for successful revegetation for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure a permanent, self-regenerative, effective, and diverse vegetative cover suitable to the area, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the operator's assumption of responsibility and liability will extend for a period of ten full years after the last year of augmented seeding, fertilizing, irrigation, or other work: *Provided,* That when the regulatory authority approves a long-term intensive agricultural postmining land use, the applicable five- or ten-year period for responsibility for revegetation shall commence at the date of initial planting for such long-term intensive agricultural postmining land use: *Provided further,* That when the regulatory authority issues a written finding approving a long-term, intensive, agricultural postmining land use as part of the mining and reclamation plan, the authority may grant exceptions to the provisions in this subsection (b) which require a diverse, self-regenerative, or permanent vegetative cover;

(14) minimize the disturbances to the prevailing hydrologic balance at the minesite and in associated off-site areas and to the quality and quantity of water in surface and ground water systems both during and after surface coal mining operations and during reclamation by—

(A) avoiding acid or other toxic mine drainage by such measures as, but not limited to—

(i) preventing or removing water from contact with toxic producing deposits;

(ii) treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses;

(iii) casing, sealing, or otherwise managing bore holes, shafts, and wells to keep acid or other toxic drainage from entering ground and surface waters;

(B) conducting surface mining operations so as to prevent additional contributions of suspended solids to stream flow or run-off outside the permit area above natural levels under seasonal flow conditions as measured prior to any mining, and avoiding channel deepening or enlargement in operations re-

quiring the discharge of water from mines;

(C) removing temporary or large situation structures from drainways after disturbed areas are revegetated and stabilized;

(D) restoring recharge capacity of the minesites to approximate premining conditions;

(E) preserving throughout the mining and reclamation process the hydrologic integrity of alluvial valley floors in the arid and semi-arid areas of the country; and

(F) such other actions as the regulatory authority may prescribe;

(15) prevent any offsite damages that may result from such mining operations and institute immediate efforts to correct such conditions;

(16) with respect to the use of impoundments for the disposal of coal mine wastes, coal processing wastes, or other liquid or solid wastes, incorporate the latest engineering practices for the design and construction of water retention facilities and construct such facilities to insure that the construction will be so designed to achieve necessary stability with an adequate margin of safety to protect the health and safety of the public and which, at a minimum, is compatible with that of structures constructed under Public Law 83-566 (16 U.S.C. 1006); that leachate will not pollute surface or ground water, and that no mine waste such as coal fines and slimes determined as unsuitable for construction constituents by sound engineering methods and design practices are used in the construction of water impoundments, water retention facilities, dams, or settling ponds;

(17) with respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine working or excavations, stabilize all waste piles in designated areas through construction and compacted layers with incombustible and impervious materials, and assure the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to the provisions of this Act;

(18) with respect to the use of explosives—

(A) provide advance written notice of the planned blasting schedule to local governments and advance notice to residents who might be affected by the use of such explosives by publication in a newspaper of general circulation in the locality of the proposed site one week in advance of the planned blasting and post such schedules at the entrances to the permit area and maintain for a period of at least three years a log of the magnitudes and times of blasts;

(B) limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts based upon the physical conditions of the site so as to prevent (i) injury to persons, (ii) damage to public and private property outside the permit area, (iii) adverse impacts on any underground mine, and (iv) change in the course, channel, or availability of ground or surface water outside the permit area;

(C) refrain from blasting in specific areas where the safety of the public or private property or natural formations of more than local interest are endangered;

(19) refrain from surface coal mining within five hundred feet from underground mines in order to prevent breakthroughs and to protect health or safety of miners: *Provided*, That the regulatory authority shall permit an operator to mine closer to such a mine: *Provided*, it does not create hazards to the health and safety of miners, or shall permit an operator to mine near, through, or partially through an abandoned underground mine working where such mining through will achieve improved resource recovery, abatement of water pollution or elimination of public hazards and such mining shall be consistent with the provisions of this Act.

(20) fill all auger holes to a depth of a minimum of three times the diameter with an impervious and noncombustible material; and

(21) construct access roads, haulroads, or haulageways with appropriate limits applied to grade, width, surface materials, spacing, and size of culverts in order to control drainage and prevent erosion outside permit area, and upon the completion of mining either reclaim such roads by regrading and revegetation or assure their maintenance so as to prevent erosion and siltation of streams and adjacent lands.

(c) The following performance standards shall be applicable to steep-slope surface coal mining and to mining operations which create a plateau with no highwalls remaining in such a manner as to otherwise meet the standards of this subsection and shall be in addition to those general performance standards required by this section: *Provided, however*, That the provisions of this subsection (c) shall not apply to those situations in which an operator is mining on flat or gently rolling terrain, on which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area:

(1) No spoil, debris, soil, waste materials, or abandoned or disabled mine equipment may be placed on the natural or other downslope below the bench or cut created to expose the coal seam except that where necessary spoil from the initial block or short linear cut necessary to obtain access to the coal seam may be placed on a limited specified area of the downslope: *Provided*, That the spoil is shaped and graded in such a way to prevent slides, erosion and water pollution and that the other requirements of subsection (b) can still be met.

(2) Complete backfilling with spoil material shall be required to a contour necessary to cover completely the highwall and return the site to the approximate original contour, which material will maintain stability following mining and reclamation.

(3) The operator may not disturb land above the top of the highwall unless the regulatory authority finds that such disturbance will facilitate compliance with the environmental protection standards of this section: *Provided, however*, That the land disturbed above the highwall shall be limited to that amount necessary to facilitate said compliance.

(4) For the purposes of this subsection, the term "steep-slope" is any slope above 20 degrees or such lesser slope as may be defined by the regulatory authority after consideration of soil, climate, and other characteristics of a region or State.

(5) With regard to postmining uses of land to which the performance standards of this subsection apply, any industrial, commercial, residential, or public facility development proposed for the affected land shall be shown by proper documentation to be:

(A) compatible with adjacent land uses;

(B) obtainable according to data regarding expected need and market;

(C) assured of investment in necessary public facilities;

(D) supported by commitments from public agencies where appropriate;

(E) practicable with respect to private financial capability for completion of the proposed development;

(F) planned pursuant to a schedule attached to the reclamation plan so as to integrate the mining operation and reclamation with the postmining land use; and

(G) designed by a registered engineer in conformance with professional standards established to assure the stability, drainage and configuration necessary for the intended use of the site;

(d)(1) In cases where an industrial, commercial, residential, agricultural, recreational, or public facility development is proposed for postmining use of the affected land, the regulatory authority may grant appropriate exceptions to the requirements for regrading, backfilling and spoil placement as set forth in subsection 211(b)(8) and in subsections 211(c) (1) and (2) of this Act, if the regulatory authority issues a written finding following public notice and public hearing pursuant to the provisions of section 214 that—

(A) after consultation with the appropriate land use planning agencies, if any, the proposed development is deemed to constitute a higher or better economic or public use of affected land, compared with the premining use;

(B) the equal or better economic or public use can be obtained only if one or more exceptions to the requirements for regrading, backfilling, and spoil placement as set forth in subsection 211(b)(8) and subsections 211 (c) (1) and (2) of this Act are granted.

(2) With respect to subsection 211(b) (12) and subsection (211) (b) (13) of this Act, where postmining land use development is in compliance with all the requirements of this subsection and where the regulatory authority has found that an exception to the revegetation standards is necessary to achieve the postmining land use development, the regulatory authority may grant an appropriate exception allowing maintenance of the vegetative cover to be terminated in advance of the expiration of the five-year or ten-year periods of responsibility for establishment of a permanent vegetative cover at particular locations and times as specified in the approved schedule and reclamation plan.

(3) All exceptions granted under the provisions of this subsection shall be reviewed not more than three years from the date of issuance of the permit, unless the applicant affirmatively demonstrates that the proposed development is proceeding in accordance with terms of the approved schedule and reclamation plan.

(e) The regulatory authority may impose such additional requirements as he determines to be necessary.

SURFACE EFFECTS OF UNDERGROUND MINING OPERATIONS

SEC. 212. (a) In order to regulate underground coal mining operations, the Secretary shall promulgate rules and regulations directed toward the surface affected by such underground coal mining operations embodying the following requirements and in accordance with procedures established under section 202 of this Act.

(b) Each permit issued under any approved State or Federal program pursuant to this Act and relating to underground coal mining shall require the operator to—

(1) Adopt measures consistent with known technology in order to prevent subsidence to the extent technologically and economically feasible, maximize mine stability, and the value and use of such surface lands, except in those instances where the mining technology used requires planned subsidence in a predictable and controlled manner: *Provided*. That nothing in this subsection shall be construed to prohibit the standard method of room and pillar continuous mining:

(2) seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mine workings when no longer needed for the conduct of the mining operations;

(3) with respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine

workings or excavations, stabilize all waste piles created by the permittee from current operations through construction in compacted layers with incombustible and impervious materials and assure that the final contour of the waste accumulation will be compatible with natural surroundings and that the site is stabilized and revegetated according to the provisions of this section;

(4) with respect to the use of impoundments for the disposal of coal mine wastes, coal processing wastes or other liquid or solid wastes, incorporate the latest engineering practices for the design and construction of water retention facilities and construct such facilities to insure that the construction will be so designed to achieve necessary stability with an adequate margin of safety to protect the health and safety of the public and which, at a minimum, is compatible with that of structures constructed under Public Law 83–566 (16 U.S.C. 1006); that leachate will not pollute surface or ground water, and that no mine waste such as coal fines and slimes determined as unsuitable for construction constituents by sound engineering methods and design practices are used in the construction of water impoundments, water retention facilities, dams or settling ponds;

(5) establish on regraded areas and all other lands affected, a diverse and permanent vegetative cover capable of self-regeneration and plant succession and at least equal in extent of cover to the natural vegetation of the area;

(6) prevent off-site damages which may result from such mining operations;

(7) prevent the discharge of water-borne pollutants both during and after mining.

(c) In order to protect the stability of the land, the regulatory authority shall suspend underground coal mining under urbanized areas, cities, towns, and communities and adjacent to industrial or commercial buildings, major impoundments, or permanent streams if he finds imminent danger to inhabitants of the urbanized areas, cities, towns, and communities.

(d) All operators of underground coal mines, both during and after mining, shall have abatement and remedial programs to eliminate any polluting discharge into our Nation's waters and to eliminate fire hazards and otherwise eliminate conditions which constitute a hazard to health and safety of the public.

(e) The provisions of title II of this Act relating to State and Federal programs, permits, bonds, inspection and enforcement, public review, and administrative and judicial review shall be applicable to surface coal mining and reclamation operations incident to underground coal mininfi with such modifications to the permit application requirements, permit approval or denial procedures, and bond requirements as are deemed necessary by the Secretary due to the differences between surface and underground coal mining. The Secretary shall promulgate such modifications in accordance with the rulemaking procedure established in section 202 of this Act.

REVISION AND REVIEW OF PERMITS

SEC. 213. (a) During the term of the permit the permittee may submit an application, together with a revised mining and reclamation plan, to the regulatory authority for a revision of the permit.

(b) An application for a revision of a permit shall not be approved unless the regulatory authority finds that reclamation as required by this Act and the State or Federal program can be accomplish under the revised mining and reclamation plan. The revision shall be approved or disapproved within a period of time established by the State or Federal program. The regulatory authority shall establish guidelines for a determination of the scale or extent of a revision request for which all permit application information requirements and procedures, including notice and hearings, shall apply: *Provided*, That such revision or modification shall be subject to notice and hearing requirement established by the State or Federal program.

(c) Any extensions to the area covered by the permit except incidental boundary revisions must be made by application for another permit.

(d) The regulatory authority may require reasonable revision or modification of the permit provisions during the term of such permit: *Provided*, That such revision or modification shall be subject to notice and hearing requirements established by the State or Federal program.

(e) Permits issued pursuant to an approved State program shall be valid but reviewable under a Federal program. Following promulgation of a Federal program, the Secretary shall review such permits to determine if the requirements of this Act are being violated. If the Secretary determines that any permit has been granted contrary to the requirements of this Act, he shall so advise the permittee and provide ninety days for submission of a new application and reasonable time to conform ongoing surface mining and reclamation operations to the requirements of the Federal program.

(f) Permits issued pursuant to the Federal program shall be valid but reviewable under the approved State program. The State regulatory authority may review such permits to determine if the requirements of the approved State program are being violated. If the State regulatory authority determines that any permit has been granted contrary to the requirements of the approved State program, it shall so advise the permittee and provide ninety days for submission of a new application and reasonable time to conform ongoing surface mining and reclamation operations to the requirements of the approved State program.

PUBLIC NOTICE AND PUBLIC HEARINGS

SEC. 214. (a) At the time of submission of an application for a surface mining and reclamation permit, or revision of an existing permit, pursuant to the provisions of this Act or an approved State program, the applicant shall submit to the regulatory authority a copy of his advertisement of the ownership, precise location, and boundaries of the land to be affected. At the time of submission such advertisement shall be placed in a local newspaper of general circulation in the locality of the proposed surface mine at least once a week for four consecutive weeks. The regulatory authority shall notify various local governmental bodies, planning agencies, and sewage and water treatment authorities, or water companies in the locality in which the proposed surface mining will take place, notifying them of the operator's intention to surface mine a particularly described tract of land and indicating the application's permit number and where a copy of the proposed mining and reclamation plan may be inspected. These local bodies, agencies, authorities, or companies have obligation to submit written comments within thirty days on the mining applications with respect to the effect of the proposed operation on the environment which are within their area of responsibility. Such comments shall be made available to the public at the same locations as are the mining applications.

(b) Any person with a valid legal interest or the officer or head of any Federal, State, or local governmental agency or authority shall have the right to file written application for a permit for surface mining and reclamation operation with the regulatory authority within thirty days after the last publication of the above notice. If written objections are filed and a hearing requested, the regulatory authority shall then hold a public hearing in the locality of the proposed mining within a reasonable time of the receipt of such objections. The date, time, and location of such public hearing shall be advertised by the regulatory authority in a newspaper of general circulation in the locality at least once a week for three consecutive weeks prior to the scheduled hearing date. The regulatory authority may arrange with the applicant upon request by any party to the administrative proceeding access to the proposed mining area for the purpose of gathering information relevant to the proceeding. At this public hearing, the applicant for a permit shall have the burden of establishing that his application is in compliance with the applicable State and Federal laws. Not less than ten days prior to any proposed hearing, the regulatory authority shall respond to the written objections in writing. Such response shall include the regulatory authority's preliminary proposals as to the terms and conditions, and amount of bond of a possible permit for the area in question and answers to material factual questions presented in the written objections. The regulatory authority's responsibility under this subsection shall in any event be to make publicly available its estimate as to any other conditions of mining or reclamation which may be required or contained in the preliminary proposal. In the event all parties requesting the hearing stipulate agreement prior to the requested hearings, and withdraw their request, such hearings need not be held.

(c) For the purpose of such hearing, the regulatory authority may administer oaths, subpena witnesses or written or printed materials, compel attendance of the witnesses, or production of the materials, and take evidence including but not limited to site inspections of the land to be affected and other surface mining operations carried on by the applicant in the general vicinity of the proposed operation. A verbatim transcript and complete record of each public hearing shall be ordered by the regulatory authority.

DECISIONS OF REGULATORY AUTHORITY AND APPEALS

SEC. 215. (a) If a public hearing has been held pursuant to section 214(b) of this Act, the regulatory authority shall issue and furnish the applicant for a permit and persons who are parties to the administrative proceedings with the written finding of the regulatory authority, granting or denying the permit in whole or in part and stating the reasons therefor, within thirty days of said hearings.

(b) If there has been no public hearing held pursuant to section 214(b) of this Act, the regulatory authority shall notify the applicant for a permit within a reasonable time, taking into account the time needed for proper invesigation of the site, the complexity of the permit application and whether or not written objection to the application has been filed, whether the application has been approved or disapproved. If the application is approved, the permit shall be issued. If the application is disapproved, specific reasons therefor must be set forth in the notification. Within thirty days after the applicant is notified that the permit or any portion thereof has been denied, the applicant may request a hearing on the reasons for the said disapproval. The regulatory authority shall hold a hearing within thirty days to such request and provide notification to all interested parties at the time that the applicant is so notified. Within thirty days after the hearing the regulatory authority shall issue and furnish the appli-

cant, and all persons who participated in the hearing, with the written decision of the regulatory authority granting or denying the permit in whole or in part and stating the reasons therefor.

(c) Any applicant or any person who has participated in the administrative proceedings as an objector, and who is aggrieved by the decision of the regulatory authority, or if the regulatory authority fails to act within a reasonable period of time, shall have the right of appeal for review by a court of competent jurisdiction in accordance with State or Federal law.

POSTING OF BOND

SEC. 216. (a) After a surface mining and reclamation permit application has been approved but before such a permit is issued, the applicant shall file with the regulatory authority, on a form prescribed and furnished by the regulatory authority, a bond for performance payable, as appropriate, to the United States or to the State, under an approved State program, and conditioned that the operator shall faithfully perform all the applicable requirements under this Act. The bond shall cover that area of land within the permit area upon which the operator will initiate and conduct surface mining and reclamation operations. As succeeding increments of surface mining and reclamation operations are to be initiated and conducted within the permit area, the permittee shall file with the regulatory authority an additional bond or bonds to cover such increments in accordance with this section. The amount of the bond required for each bonded area shall depend upon the reclamation requirements of the approved permit and shall be determined by the regulatory authority. The amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by a third party in the event of forfeiture; in no case shall the bond be less than $10,000. Libility under the bond shall be for the duration of the surface mining and reclamation operation and for a period coincident with operator's responsibility for vegetation requirements in section 211(b)(13). The bond shall be executed by the operator and a corporate surety licensed to do business in the State where such operation is located, except that the operator may elect to deposit cash, negotiable bonds of the United States Government or such State, or negotiable certificates of deposit of any bank organized or transacting business in the United States. The cash deposit or market value of such securities shall be equal to or greater than the amount of the bond required for the bonded area.

(b) Cash or securities so deposited shall be deposited upon the same terms as the terms upon which surety bonds may be deposited. Such securities shall be security for the repayment of such negotiable certificate of deposit.

(c) Upon the receipt of the deposit of cash or securities, the regultory authority shall immediately place the deposit with, as appropriate, the Secretary of the Treasury or a similar State authority under an approved State program, who shall receive and hold the deposit in safekeeping in the name of the United States, or the appropriate State under an approved State program, in trust for the purpose for which the deposit was made. The operator making the deposit may from time to time demand and receive from the Secretary of the Treasury or the aforesaid State regulatory authority, on written order of the regulatory authority, the whole or any portion of the deposit if other acceptable securities of at least the same value are deposited in lieu thereof. The operator may demand of the Secretary of the Treasury, or the aforesaid State authority, and receive the interest and income from the securities as they become due and payable. When deposited securities mature or are called, the operator may request that the Secretary of the Treasury or the aforesaid State authority convert the securities into other securities acceptable to the operator, and the Secretary of the Treasury or the aforesaid State authority shall so do.

(d) The amount of the bond or deposit required shall be increased or decreased by the regulatory authority from time to time as affected land acreages are changed or where the cost of future reclamation increases or decreases.

BOND RELEASE PROCEDURES

SEC. 217. (a) When the operator completes the backfilling, regrading and drainage control of a bonded area in accordance with his approved reclamation plan, he may report the completion to the regulatory authority, and request the release of 60 per centum of the bond or collateral for the applicable permit area. The request shall spefically include—

(1) the location of the land affected, the number of acres backfilled and regraded, and the approximate dates of the reclamation work;

(2) the permit number;

(3) the amount of the bond;

(4) a detailed description of the type of reclamation activities performed; and

(5) a detailed description of the results achieved as they relate to the operator's approved reclamation plan.

(b) Upon receipt of the notification and request, the regulatory authority shall, within one hundred days thereafter, make an inspection and evaluation of the reclamation work involved. Such evaluation shall consider, among other things, the degree of difficulty to complete any remaining reclamation, whether pollution of surface and subsurface water is occurring, the probability of continuance or future occurrence of such pollution, and the estimated cost of abating such pollution. If the regulatory authority finds that the reclamation meets the requirements of this Act, he shall so notify the operator and the Secretary of the Treasury or the appropriate State authority and release that portion of the bond requested. The Secretary of the Treasury or the appropriate State authority shall then return to the operator the amount of cash or securities constituting that portion of the bond so released. If the regulatory authority does not approve of the reclamation performed by the operator, he shall so notify the operator by registered mail within a reasonable time after the inspection and evaluation have been made. The notice shall state the reasons for unacceptability and shall recommend actions to remedy the failure.

(c) After revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan, the operator may request the release of additional bond or collateral for the applicable permit area. This request shall specifically include—

(1) location of the land, number of acres, and approximate dates of revegetation work;

(2) the permit number;

(3) the amount of bond sought for release; and

(4) a description of the revegetation work accomplished including seed bed and soil conditioning, the amount and timing of fertilizer application, the types of revegetation established and planting or seeding schedules and an estimate of vegetation survival and plant density.

Upon receipt of the notification and request, the regulatory authority shall within sixty days conduct an inspection and make such determinations as required in subsection (b) above. When determining the amount of bond to be released, the regulatory authority shall retain that amount of bond for the revegetated area which would be sufficient for a third party to cover the cost of reestablishing revegetation for the period of responsibility as specified in section 211(b)(13) should failure occur.

(d) When the operator has completed successfully all surface mining and reclamation activities, but not before the expiration of the period specified for operator responsibility in section 211(b)(13), he may file a request as hereinbefore provided for release of any remaining portion of the bond. Upon receipt of the notification and request and within six months, the regulatory authority shall make an inspection and evaluation of the reclamation work. If the regulatory authority finds that the reclamation meets the requirements under this Act, he shall so notify the surety company, the operator, and the Secretary of the Treasury or the appropriate State authority and release that portion of the bond requested. The Secretary of the Treasury or the appropriate State authority shall then return to the operator the amount of the cash or securities constituting that portion of the bond so released. If the regulatory authority does not approve of the reclamation performed by the operator, he shall so notify the operator by registered mail within a reasonable time after the request. The notice shall state the reasons for unacceptability and shall recommend actions to correct the failure.

(e) With any application for total or partial bond release filed with the regulatory authority, the operator shall submit a copy of the first advertisement placed at least once a week for three consecutive weeks in a newspaper of general circulation in the locality of the surface mining operation. Such advertisement shall be considered part of any bond release application and shall contain a notification of the precise location of the land affected, the number of acres, the permit number and the date approved, the amount of the bond filed and the portion sought to be released, and the type of reclamation work performed.

(f) With any application for total or partial bond release filed with the regulatory authority, the regulatory authority shall notify the municipality in which a surface mining operation is located by certified mail at least thirty days prior to the release of all or a portion of the bond.

(g) Any person with a valid legal interest or the officer or head of any Federal, State, or local governmental agency shall have the right to file written objections to the proposed release from bond to the regulatory authority within thirty days after the last publication of the above notice. If written objections are filed, and a hearing requested, the regulatory authority shall inform all the interested parties, of the time and place of the hearing, and hold a public hearing in the locality of the surface mining operation proposed for bond release within forty-five days of the request for such hearing. The date, time, and location of such public hearings shall be advertised by the regulatory authority in a newspaper of general circulation in the locality once a week for three consecutive weeks.

(h) For the purpose of such hearing the regulatory authority shall have the authority and is hereby empowered to administer oaths, subpena witnesses, or written or printed materials, compel the attendance of witnesses, or production of the materials, and take evidence including but not limited to inspections of the land affected and other surface mining operations carried on by the applicant in the general vicinity. A verbatim transcript and a complete record of each public hearing shall be ordered by the regulatory authority.

(i) The regulatory authority shall make its decision on the bond release request not more than sixty days after the record of the hearing is transcribed.

(j) Any applicant or person who has participated in the administrative proceedings as an objector and who is aggrieved by the decision of the regulatory authority or if the regulatory authority fails to act within a reasonable period of time, shall have the right of appeal to an appropriate United States district court.

SUSPENSION AND REVOCATION OF PERMITS

SEC. 218. (a) Once granted, a permit may not be suspended or revoked unless the regulatory authority gives the permittee prior notice of violation of the provisions of the permit or of the State or Federal program pursuant to this Act and affords a reasonable period of time of not more than ninety days within which to take corrective action, and the regulatory authority determines after a public hearing, if requested by the permittee, that the permitee remains in violation: *Provided, however,* That the continuation of any mining operation endangers the public health or safety, threatens significant damage to public and private property, endangers the quality and quantity of a public or private water supply, or poses other significant harm to land, air, or water resources, the permit, or such portion of the permit related to the offending activity, shall be suspended subject to subsequent determination, after a public hearing, if requested by the permittee, whether the permittee has violated the provisions of the permit, State or Federal programs.

(b) Following the hearing or any corrective action on the part of the permittee, the regulatory authority must issue and furnish the permittee a written decision, independently verified by the regulatory authority, either affirming or rescinding the suspension and stating the reasons therefor. The permittee shall have the right to appeal such decision of the regulatory authority to an appropriate United States district court.

(c) If the regulatory authority revokes the permit of the operator, the operator shall immediately cease any and all surface coal mining operations on the permit areas and the regulatory authority shall declare as forfeited the performance surety bonds for the operation. The Secretary shall be notified immediately upon a revocation of any permit by any State regulatory authority.

INSPECTIONS AND MONITORING

SEC. 219. (a) The Secretary shall cause to be made such inspections of any surface mining and reclamation operations as are necessary to evaluate the administration of approved State programs, or to develop or enforce any Federal program, and for such purposes authorized representatives of the Secretary shall have a right of entry to, upon, or through any surface mining and reclamation operations.

(b) For the purpose of developing or assisting in the development, administration, and enforcement of any approved State or Federal program under this Act or in the administration and enforcement of any permit under this Act, or of determining whether any person is in violation of any requirement of any such State or Federal program or any other requirement of this Act—

(1) the regulatory authority shall require any permittee to (A) establish and maintain appropriate records, (B) make monthly reports to the regulatory authority, (C) install, use, and maintain any necessary monitoring equipment or methods, (D) evaluate results in accordance with such methods, at such locations, intervals, and in such manner as a regulatory authority shall prescribe, and (E) provide such other information relative to surface mining and reclamation operations as the regulatory authority deems reasonable and necessary.

(2) for those mining and reclamation operations which remove or disturb strata that serve as aquifers which significantly insure the hydrogolic balance or water use either on or off the mining site, the regulatory authority shall specify those—

(A) monitoring sites to record the quantity and quality of surface drainage above and below the minesite as well as in the potential zone of influence;

(B) monitoring sites to record level, amount, and samples of ground water and aquifiers potentially affected by the mining and also directly below the lower most (deepest) coal seam to be mined;

(C) records of well logs and borehole data to be maintained; and

(D) monitoring sites to record precipitation.

The monitoring, data collection, and analysis required by this section shall be conducted according to standards and procedures set forth by the regulatory authority in order to assure their reliability and validity; and

(3) the authorized representatives of the regulatory authority, without advance notice and upon presentation of appropriate credentials (A) shall have the right of entry to, upon, or through any surface mining and reclamation operations or any premises in which any records required to be maintained under paragraph (1) of this subsection are located; and (B) may at reasonable times, and without delay, have access to and copy any records, inspect any monitoring equipment or method of operation required under this Act.

(c) The inspections by the regulatory authority shall (1) occur on an irregular basis averaging not less than one inspection per month for the surface mining and reclamation operations for coal covered by each permit; (2) occur without prior notice to the permittee or his agents or employees; and (3) include the filing of inspection reports adequate to enforce the requirements of and to carry out the terms and purposes of this Act and the regulatory authority shall make copies of such inspection reports immediately and freely available to the public at a central location in the pertinent geographic area of mining. The Secretary or regulatory authority shall establish a system of continual rotation of inspectors so that the same inspector does not consistently visit the same operations.

(d) Each permittee shall conspicuously maintain at the entrances to the surface mining and reclamation operations a clearly visible sign which sets forth the name, business address, and phone number of the permittee and the permit number of the surface mining and reclamation operations.

(e) Each inspector, upon detection of each violation of any requirement of any State or Federal program or of this Act, shall forthwith inform the operator in writing, and shall report in writing any such violation to the regulatory authority.

(f) Copies of any records, reports, inspection materials, or information obtained under this title by the regulatory authority shall be made immediately and freely available to the public at central and sufficient locations in the county, multicounty, and State area of mining so that they are conveniently available to residents in the areas of mining as well as in Washington, District of Columbia.

FEDERAL ENFORCEMENT

SEC. 220. (a)(1) Whenever, on the basis of any information available to him, including receipt of information from any person, the Secretary has reason to believe that any person is in violation of any requirement of this Act or any permit condition required by this Act, the Secretary shall notify the State regulatory authority, if one exists, in the State in which such violation exists. If no such State authority exists or the State regulatory authority fails within ten days after notification to take appropriate action to cause said violation to be corrected or to show good cause for such failure and transmit notification of its action to the Secretary, the Secretary shall immediately order Federal inspection of the surface coal mining operation at which the alleged violation is occurring unless the information available to the Secretary is a result of a previous Federal inspection of such surface coal mining operation. When the Federal inspection results from information provided to the Secretary by any person, the Secretary shall notify such person when the Federal inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection.

(2) When, on the basis of any Federal inspection, the Secretary or his authorized representative determines that any condition or practices exist, or that any permittee is in violation of any requirement of this Act or any permit condition required by this Act, which condition, practice, or violation also creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the Secretary or his authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the condition, practice, or violation has been abated, or until modified, vacated, or terminated by the Secretary or his authorized representative pursuant to subparagraph (a)(5) of this section.

(3) When, on the basis of a Federal inspection which is carried out during the enforcement of a Federal program or a Federal lands program, Federal inspection pursuant to section 201 or during Federal enforcement of a State program in accordance with subsection (b) of this section, the Secretary or his authorized representative determines that any permittee is in violation of any requirement of this Act or any permit condition required by this Act, but such violation does not create an imminent danger to the health or safety of the public, or cause or can be reasonably expected to cause significant, imminent environmental harm to land, air, or water resources, the Secretary or his authorized representative shall issue a notice to the permittee or his agent fixing a reasonable time for the abatement of the violation. The Secretary, or his authorized representative, may extend the period of time as originally fixed, but in no event shall the original period or original period and extension exceed ninety days. If, upon expiration of the period of time as originally fixed or subsequently extended, the Secretary or his authorized representative finds that the violation has not been abated, he shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the violation has been abated, or until modified, vacated, or terminated by the Secretary or his authorized representative pursuant to subparagraph (a)(5) of this section.

(4) When, on the basis of a Federal inspection which is carried out during the enforcement of a Federal program or a Federal lands program, Federal inspection pursuant to section 201, or during Federal enforcement of a State program in accordance with subsection (b) of this section, the Secretary or his authorized representative determines that a pattern of violations of any requirements of this Act or any permit conditions required by this Act exists or has existed, and if the Secretary or his authorized representative also finds that such violations are caused by the unwarranted failure of the permittee to comply with any requirements of this Act

or any permit conditions, or that such violations are willfully caused by the permittee, the Secretary or his authorized representative shall forthwith issue an order to the permittee to show cause as to why the permit should not be suspended or revoked.

(5) Notices and orders issued pursuant to this section shall set forth with reasonable specificity the nature of the violation and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the surface coal mining and reclamation operation to which the notice or order applies. Each notice or order issued under this section shall be given promptly to the permittee or his agent by the Secretary or his authorized representative who issues such notice or order, and all such notices and orders shall be in writing and shall be signed by such authorized representative. Any notice or order issued pursuant to this section may be modified, vacated, or terminated by the Secretary or his authorized representative. A copy of any such order or notice shall be sent to the State regulatory authority in the State in which the violation occurs.

(b) Whenever the Secretary finds that violations of an approved State program appear to result from a failure of the State to enforce such State program effectively, he shall so notify the State. If the Secretary finds that such failure extends beyond thirty days ater such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Secretary that it will enforce this Act, the Secretary shall enforce any permit condition required under this Act, shall issue new or revised permits in accordance with requirements of this Act, and may issue such notices and orders as are necessary for compliance therewith.

(c) The Secretary may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the surface coal mining and reclamattion operation is located or in which the permittee thereof has his principal office, whenever such permittee or his agent (A) violates or fails or refuses to comply with any order or decision issued by the Secretary under this Act, or (B) interferes with, hinders, or delays the Secretary or his authorized representative in carrying out the provisions of this Act, or (C) refuses to admit such authorized repreesntative to the mine, or (D) refuses to permit inspection of the mine by such authorized representative, or (E) refuses to furnish any information or report requested by the Secretary in furtherance of the provisions of this Act, or (F) refuses to permit access to, and copying of, such records as the Secretary determines necessary in carrying out the provisions of this Act. Such court shall have jurisdiction to provide such relief as may be appropriate. Temporary restraining orders shall be issued in accordance with Rule 65 of the Federal Rules of Civil Procedure, as amended. Any relief granted by the court to enforce an order under clause (A) of this section shall continue in effect until the completion or final termination of all proceedings for review of such order under this title, unless, prior thereto, the district court granting such relief sets it aside or modifies it.

JUDICIAL REVIEW

SEC. 221. (a)(1) Any action of the Secretary to approve or disapprove a State program pursuant to section 203 of this Act or to prepare and promulgate a Federal program pursuant to section 204 of this Act shall be subject to judicial review only by the appropriate United States Court of Appeals upon the filing in such court within sixty days from the date of such action of a petition by any person who participated in the administrative proceedings related thereto and who is aggrieved by the action praying that the action be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to the Secretary, and the Attorney General and thereupon the Secretary shall certify, and the Attorney General shall file in such court the record upon which the action complained of was issued, as provided in section 2112 of title 28, United States Code:

(2) All other orders or decisions issued by the Secretary pursuant to this Act shall be subject to judicial review only in United States District Court for the locality in which the surface coal mining operation is located. Such review shall be in accordance with the Federal Rules of Civil Procedures. In the case of a proceeding to review an order or decision issued by the Secretary under section 224(b) of this Act, the court shall have jurisdiction to enter an order requiring payment of any civil penalty assessment enforced by its judgment. The availability of review established in this subsection shall not be construed to limit the operation of the rights established in section 223.

(b) The court shall hear such petition or complaint solely on the record made before the Secretary. The findings of the Secretary if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

(c) In the case of a proceeding to review any order or decision issued by the Secretary under this Act, except an order or decision pertaining to any order issued under section 220(a)(2) of this title, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceedings if—

(1) all parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief;

(2) the person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding; and

(3) such relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air or water resources.

(d) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the action, order or decision of the Secretary.

(e) Action of the State regulatory authority pursuant to an approved State program shall be subject to judicial review by the court of competent jurisdiction in accordance with State law, but the availability of such review shall not be construed to limit the operation of the rights established in section 223.

REVIEW BY SECRETARY

SEC. 222. (a)(1) A permittee issued a notice or order pursuant to the provisions of subparagraphs (a) (2) and (3) of section 220 of this title, or any person having an interest which is or may be adversely affected by such notice or order or by any modification, vacation, or termination of such notice or order, may apply to the Secretary for review of the notice or order within thirty days of receipt thereof or within thirty days of its modification, vacation, or termination. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing, at the request of the applicant or the person having an interest which is or may be adversely affected, to enable the applicant or such person to present information relating to the issuance and continuance of such notice or order or the modification, vacation or termination thereof. The filing of an application for review under this subsection shall not operate as a stay of any order or notice.

(2) The permittee and other interested persons shall be given written notice of the time and place of the hearing at least five days prior thereto. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code.

(b) Upon receiving the report of such investigation, the Secretary shall make findings of fact, and shall issue a written decision, incorporating therein an order vacating, affirming, modifying, or terminating the notice or order, or the modification, vacation, or termination of such notice or order complained of and incorporate his findings therein.

(c) Pending completion of the investigation required by this section, the applicant may file with the Secretary a written request that the Secretary grant temporary relief from any notice or order issued under section 220(a)(3) of this title together with a detailed statement giving reasons for granting such relief. The Secretary may grant such relief, under such conditions as he may prescribe, if—

(1) a hearing has been held in the locality of the permit area on the request for temporary relief in which all parties were given an opportunity to be heard;

(2) the applicant shows that there is substantial likelihood that the findings of the Secretary will be favorable to him; and

(3) such relief will not adversely affect the health or safety of the public or cause significant, imminent environmental harm to land, air, or water resources.

(d) Following the issuance of an order to show cause as to why a permit should not be suspended or revoked pursuant to section 220(a)(4), the Secretary shall hold a public hearing after giving written notice of the time, place, and date thereof. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Within sixty days following the public hearing, the Secretary shall issue and furnish to the permittee and all other parties to the hearing a written decision, and the reasons therefor, concerning suspension or revocation of the permit. If the Secretary revokes the permit, the permittee shall immediately cease surface coal mining operations on the permit area and shall complete reclamation within a period specified by the Secretary, or the Secretary shall declare as forfeited the performance bonds for the operation.

ESTABLISHMENT OF RIGHT TO BRING CITIZENS' SUITS

SEC. 223. (a) Except as provided in subsection (c) of this section, any person having an interest which is or may be adversely affected by actions of the Secretary or the regulatory authority may commence a civil action on his own behalf in an appropriate United States district court—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any regulation, order, or permit issued under this Act or of any provision of this Act.

(2) against the regulatory authority where there is alleged a failure of the regulatory authority to perform any act or duty under this Act which is not discretionary with the regulatory authority.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to order such violation or failure to be corrected, and to apply any appropriate civil penalties under this Act.

(b) Any resident of the United States who

is injured in any manner through the failure of any operator to comply with the provisions of this Act, or of any regulation, order, permit, or plan of reclamation issued by the Secretary, may bring an action for damages (including attorney fees) in an appropirate United States district court.

(c) No action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the alleged violation (i) to the Secretary, (ii) to the State in which the alleged violation occurs, and (iii) to any alleged violator of the regulation, order, or permit, or provision of this Act;

(B) if the Secretary or State has commenced and is diligently prosecuting a civil or criminal action in a court of the United States, or a State to require compliance with the regulation, permit, or order, or provision, but in any such action in a court of the United States any person may intervene as a matter of right;

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the regulatory authority. Notice under this subsection shall be given in such manner as the Secretary shall prescribe by regulation.

(d) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party (including any permittee defending an action brought pursuant to this section), whenever the court determines such award is appropirate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules or Civil Procedure.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of this Act or to seek any other relief (including relief against the Secretary or a State agency).

(f) The Secretary, if not a party in any action under this section, may intervene as a matter of right.

PENALTIES

SEC. 224. (a) In the enforcement of a Federal program or Federal lands program, or during Federal enforcement pursuant to section 201(f) or during Federal enforcement of a State program pursuant to section 220 (b) of this Act, any permittee who violates any permit condition or who violates any other provision of this title, may be assessed a civil penalty by the Secretary, except that if such violation leads to the issuance of a cessation order under section 220, the civil penalty shall be assessed. Such penalty shall not exceed $10,000 for each violation. Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessments. In determining the amount of the penalty, consideration shall be given to the permittee's history of previous violations at the particular surface coal mining operation; the appropirateness of such penalty to the size of the business of the permittee charged; the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public; whether the permittee was negligent; and the demonstrated good faith of the permittee charged in attempting to achieve rapid compilance after notification of the violation.

(b) A civil penalty shall be assessed by the Secretary only after the person charged with a violation described under subsection (a) of this section has been given an opportunity for a public hearing. Where such a public hearing has been held, the Secretary shall make findings of fact, and he shall issue a written decision as to the occurence of the violation and the amount of the penalty which is warranted, incorporating, when appropriate, an order therein requiring that the penalty be paid. Where appropriate, the Secretary shall consolidate such hearings with other proceedings under section 220 of this Act. Any hearing under this section shall be of record and shall be subject to section 554 of title 5 of the United States Code. Where the person charged with such a violation fails to avail himself of the opportunity for a public hearing, a civil penalty shall be assessed by the Secretary after the Secretary has determined that a violation did occur, and the amount of the penalty which is warranted, and has issued an order requiring that the penalty be paid.

(c) If no complaint, as provided in section 224 of this Act, is filed within thirty days from the date of the final order or decision issued by the Secretary under subsection (b) of this section, such order and decision shall be conclusive.

(d) Interest at the rate of six percent per annum shall be charged against a person on any unpaid civil penalty assessed against him pursuant to the final order of the Secretary, said interest to be computed from the thirty-first day after issuance of such final assessment order.

(e) Civil penalties owed under this Act, either pursuant to subsection (c) of this section or pursuant to an enforcement order entered under section 221 of this Act, may be recovered in a civil action brought by the Attorney General at the request of the Secretary in any appropriate district court of the United States.

(f) Any person who willfully and knowingly violates a condition of a permit issued pursuant to a Federal program, a Federal lands program or Federal enforcement pursuant to section 201(f) or during Federal enforcement of a State program pursuant to section 222(b) of this Act or fails or refuses to comply with any order issued under section 222(a) or section 222(b) of this Act, or any order incorporated in a final decision issued by the Secretary under this Act, except an order incorporated in a decision issued under subsection (b) of this section or section 703 of this Act, shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than one year or both.

(g) Whenever a corporate permittee violates a condition of a permit issued pursuant to a Federal program, a Federal lands program or Federal enforcement pursuant to section 201(f) or Federal enforcement of a State program pursuant to section 220(b) of this Act or fails or refuses to comply with any order issued under section 220(a) or section 220(b) of this Act, or any order incorporated in a final decision issued by the Secretary under this Act except an order incorporated in a decision issued under subsection (b) of this section or section 703 of this Act, any director, officer, or agent of such corporation who willfully and knowingly authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under subsection (a) and (f) of this section.

(h) Whoever knowingly makes any false statement, representation, or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to a Federal program or a Federal lands program or any order or decision issued by the Secretary under this Act, shall, upon conviction be punished by a fine of not more than $10,000 or by imprisonment for not more than one year or both.

(i) As a condition of approval of any State program submitted pursuant to section 203 of this Act, the civil and criminal penalty provisions thereof shall, at a minimum, incorporate penalties no less stringent than those set forth in this section, and shall contain the same or similar procedural requirements relating thereto.

FEDERAL LANDS

SEC. 225. (a) The Secretary shall promulgate and implement a Federal lands program which shall be applicable to all surface mining and reclamation operations taking place pursuant to any Federal law on any Federal land. The Federal lands program shall, at a minimum, incorporate all of the requirements to this Act and shall take into consideration the diverse physical, climatological, and other unique characteristics of the Federal lands in question.

(b) Within ninety days after the date of enactment of this Act, the interim environmental protection standards are to be made part of every existing surface coal mining operation on Federal lands within any State.

(c) Within eighteen months after the date of enactment of this Act all requirements of this Act through the Federal lands program shall be incorporated by reference or otherwise in any Federal mineral lease, permit, or contract issued by the Secretary which may involve surface coal mining and reclamation operations or surface impacts of underground coal mines. Incorporation of such requirements shall not, however, limit in any way the authority of the Secretary to subsequently issue new regulations, revise the Federal lands program to deal with changing conditions or changed technology, and to require the lease, permit, or contract holder to conform any surface mining and reclamation operations to the requirements of this Act and the regulations issued pursuant to this Act. The Secretary shall require as one of the terms and conditions of any permit, lease, or contract to surface mine coal owned by the United States that the lessee, permittee, or contractor give satisfactory assurances that the antitrust laws of the United States will be complied with and that no class of purchasers of the mined coal shall be unreasonably denied purchase thereof.

(d) The Secretary may enter into agreements with a State or with a number of States to provide for a joint Federal-State program covering a permit or permits for surface mining and reclamation operations on land areas which contain lands within any State and Federal lands which are interspersed or checkerboarded and which should, for conservation and administrative purposes, be regulated as a single-management unit. To implement a joint Federal-State program the Secretary may enter into agreements with the States, may delegate authority to the States, or may accept a delegation of authority from the States for the purpose of avoiding quality of administration of a single permit for surface mining and reclamation operation. Such agreements shall, as a minimum, incorporate all of the requirements of this Act, and shall not preclude Federal inspection or enforcement of the provisions of this Act as provided in sections 219 and 220.

(e) Except as specifically provided in subsection (d), this section shall not be construed as authorizing the Secretary to delegate to the States any authority or jurisdiction to regulate or administer surface mining and reclamation operations or other activities taking place on the Federal lands.

(f) This section shall not be construed as authorizing the Secretary to delegate to the States any authority or jurisdiction to regulate or administer surface mining and reclamation operations or other activities taking place on Indian lands or to delegate to the States trustee responsibilities toward Indians and Indian lands.

(g) During the period prior to approval of

a Federal program pursuant to this Act, including judicial review of the approval of a Federal program, existing coal surface mining operations on Federal land and Indian land may continue surface mining operations as provided in section 201(h).

SPECIAL BITUMINOUS COAL MINES

SEC. 226. The regulatory authority is authorized to and shall issue separate regulations for the interim and permanent programs for those special bituminous coal surface mines which meet, the following criteria:

(a) were in existence on the date of the Act and because of past duration of mining (at least ten years) have substantially committed to a mode of operation which warrants exceptions to some provisions of this title;

(b) involves the mining of more than one coal seam and where mining has been initiated on the deepest coal seam contemplated to be mined in the current operation;

(c) involves a mining operation that follows the coal seam on an inclination of fifteen degrees or more from the horizontal;

(d) involves an operation on the same site for the duration of the mining operation, and will under present mine plan conditions result in a pit depth in excess of nine hundred vertical feet from the original land surface.

Such alternative regulations shall pertain only to the standards governing on-side handling of spoils, elimination of depressions capable of collecting water creation of impoundments, and regarding to approximate original contour and shall specify that remaining highwalls are stable; all other performance standards in this title apply.

ANTHRACITE COAL MINES

SEC. 227. (a) The Secretary is hereby authorized to and shall issue separate regulations according to time schedules established in the Act for the interim and permanent programs for anthracite coal surface mines, if such mines are regulated by environmental protection standards of the State in which they are located. Such alternative regulations shall adopt, in each instance, the environmental protection provisions of the State regulatory program in existence at the date of enactment of this Act in lieu of: sections 201(b) and (c), 202, 209 (except subsection 209(d)(3), 210, and 211 of this Act. Provisions of sections 216 and 217 are applicable except for specified bond limits and period of re-vegetation responsibility. All other provisions of this Act apply and the regulations issued by the Secretary of Interior for each State anthracite regulatory program shall so reflect; *Provided, however,* That upon amendment of a State's regulatory program for anthracite mining or regulations thereunder in force in lieu of the above cited sections of this Act, the Secretary shall issue such additional regulations as necessary to meet the purposes of this Act.

(b) The Secretary of Interior shall report to Congress biennially, commencing on December 31, 1975, as to the effectiveness of such State anthracite regulatory programs operating in conjunction with this Act with respect to protecting the environment and such reports shall include those recommendations the Secretary deems necessary for program changes in order to better meet the environmental protection objectives of this Act.

TITLE III—INDIAN LANDS PROGRAM

GRANTS TO TRIBES

SEC. 301. (a) The Secretary is authorized to make annual grants directly to any Indian tribe in developing and administering an Indian lands program for the purpose of enabling the tribe to realize benefits from the development of its coal resources while at the same time protecting the cultural values of the tribe and the physical environment of the reservation, including land, timber, surface and ground waters, and air, by the establishment of exploration, mine operating, and reclamation regulations.

(b) The distribution of funds under this Act shall achieve the purposes of the Act, recognize special jurisdictional status of Indian lands and allotted lands of such tribes and preserve the power of Indian tribes to approve or disapprove surface mining and reclamation operations.

(c) Indian lands programs developed by any Indian tribe shall meet all provisions of this Act and where any provisions of any tribal code, ordinance, or regulation in effect upon the date of enactment of this Act or which may become effective thereafter, provides for environmental controls and regulations of surface mining and reclamation operations which are more stringent than the provisions of this Act or any regulation issued pursuant hereto, such tribal code, ordinance, or regulation shall not be construed to be inconsistent with this Act.

COAL LEASING

SEC. 302. The Secretary is directed to obtain written prior approval of the tribe before leasing coal under the ownership of the tribe.

APPROVAL OF PROGRAM

SEC. 303. (a) The Secretary is directed to promulgate and publish in the Federal Register regulations for Indian lands programs pursuant to this title which adequately protect Indian lands. Such regulations shall be promulgated and published under the guidelines of section 202 of this Act.

(b) If within twenty-four months after the receipt of funding under section 301(a) a tribe shall have submitted a tribal program, the Secretary shall approve the program within sixty days of its submission if said program is consistent with standards set out in this Act. In the event that the Secretary finds that the program is inconsistent with the standards of this Act, the tribe will be allowed ninety days after written notification of the Secretary's rejection of the tribe's program to resubmit an acceptable program. In the event that a tribe's resubmitted program is rejected by the Secretary as inconsistent with standards of this Act, the Secretary shall establish a Federal program for the tribe's reservation in accordance with section 306. Upon request by a tribe, the Secretary may grant an extension of six months to the tribe for submission of an Indian lands program.

(c) Any tribe submitting an Indian lands program under the provisions of this Act shall be required (i) to hold a public hearing for the enrolled members of the tribe on its reservation before submission of the program. and (ii) to waive or cause the waiver of the defense of sovereign immunity for such tribe in connection with any suit, claim or legal proceeding brought pursuant to or arising out of this Act.

ADMINISTRATION BY THE SECRETARY

SEC. 304. (a) At any time, a tribe may select to have its program administered by the Secretary. Upon such a request by a tribe, the Secretary shall assume the responsibility of administering the tribe's program for that reservation.

(b) Permits issued pursuant to an approved Indian lands program shall be valid but reviewable under a Federal program. Immediately following promulgation of a Federal program, the Secretary shall undertake to review such permits to determine that the requirements of this Act are not violated. If the Secretary determines that any permit has been granted contrary to the requirements of this Act, he shall so advise the permittee and provide him a reasonable time to conform ongoing surface mining and reclamation operations to the requirements of the Federal program.

EXISTING OPERATION

SEC. 305. Any coal surface mining operation on Indian lands existing on the date of enactment or which shall commence before the approval of an Indian lands program under this Act shall be subject to the provisions of section 201(g) and section 225 of this Act until such time as there is an approved Indian lands program or Federal program for such Indian lands.

FEDERAL PROGRAM

SEC. 306. (a) In the event that a tribe shall decline to submit to the Secretary a proposal for funding as authorized by section 301(a) to develop a program within six months after the enactment of this Act, the Secretary shall, if it be necessary to protect the rights and interests of a tribe, develop and implement a Federal program which will insure the protection of the tribal culture and the physical environment of the reservation.

(b) Prior to promulgation and implementation of any proposed Federal program, the Secretary shall give adequate public notice and hold a public hearing for the enrolled members of the tribe in a location convenient to the tribe.

(c) In no event shall the Secretary approve a permit under a Federal program without the written prior approval of the Indian tribe having jurisdiction over the lands in question.

(d) If an Indian tribe submits a proposed Indian lands program to the Secretary after a Federal program has been promulgated and implemented pursuant to this section, and upon approval by the Secretary of the Indian lands program, the Federal program shall cease to be effective within thirty days after such approval. Immediately following promulgation of an Indian lands program, the tribe shall undertake to review all permits to determine that the requirements of the Indian lands program approved under this Act are not violated. If the tribe determines that any permit is not in conformity with the requirements of its program, it shall so advise the permittee and provide him a reasonable time to conform ongoing surface mining and reclamation operations to the requirements of the Indian lands program.

PERSONNEL

SEC. 307. (a) Indian tribes are authorized to use the funds authorized pursuant to section 301(a) of this title for the training and hiring of professional and technical personnel and, where appropriate, to allocate funds to legitimately recognized organizations of the tribe that are pursuing the objectives of this title, as well as hire special consultants, groups, or firms from the public and private sector, for the purpose of developing, establishing, or implementing an Indian lands program.

(b) Any Federal agency is authorized to assist any Indian tribe upon request from such tribe by providing the services of technical and professional staff on a reimbursable or nonreimbursable basis to assist in the development or management of an Indian lands program.

AUTHORIZATION PRIORITY

SEC. 308. Of the funds made available under section 701(a) of this Act, first priority on $2,000,000 for each of the fiscal years shall be for the purposes of this title.

REPORTS TO THE SECRETARY

SEC. 309. Any Indian tribe which is receiving or has received a grant pursuant to this title shall report at the end of each fiscal year to the Secretary, in a manner prescribed by him, on activities undertaken by the tribe pursuant to or under this title.

REPORTS TO CONGRESS

SEC. 310. The Secretary shall report annually to the President and the Congress on

all actions taken in furtherance of this title and on the impacts of all other programs or services to or on behalf of Indians on the ability of Indian tribes to fulfill the requirements of this title.

ENFORCEMENT

SEC. 311. For the purpose of administering an Indian lands program under this Act, a tribe shall have jurisdictional authority including the ability to require compliance with said regulations over all persons whether Indian or non-Indian engaged in surface coal mining operations and that all disputes will be adjudicated in the appropriate tribal court forum until that remedy is exhausted and then the aggrieved party has the right to a trial de novo in Federal district court in the appropriate district.

TITLE IV—ABANDONED MINE RECLAMATION

ABANDONED COAL MINE RECLAMATION FUND

SEC. 401. (a) There is created on the books of the Treasury of the United States a trust fund to be known as the Abandoned Mine Reclamation Fund (hereinafter referred to as the "fund") which shall be administered by the Secretary of the Interior.

(b) The fund shall consist of amounts deposited in the fund, from time to time, derived from—

(1) the sale, lease, or rental of land reclaimed pursuant to this title;

(2) any user charge imposed on or for land reclaimed pursuant to this title, after expenditures for maintenance have been deducted; and

(3) appropriations made to the fund, or amounts credited to the fund, under subsection (d).

(c) Amounts covered into the fund shall be available for the acquisition and reclamation of land under section 405, administration of the fund, acquisition and filling of voids and sealing of tunnels, shafts, and entryways under section 406, and for use under section 404, by the Secretary of Agriculture, of up to one-fifth of the money deposited in the fund annually and transferred by the Secretary of the Interior to the Department of Agriculture for such purposes. Such amounts shall be available for such purposes only when appropriated therefor; and such appropriations may be made without fiscal year limitation.

(d)(1) In addition to the amounts deposited in the fund as specified in paragraphs (1) and (2) of subsection (b) there are authorized to be appropriated annually to the fund out of any money in the Treasury not otherwise appropriated, such amounts as are necessary to make the income of the fund not less than $200,000,000 for the fiscal year ending June 30, 1975, and for each fiscal year thereafter.

(2) To the extent that any such sums so appropriated are not sufficient to make the total annual income of the fund amount to $200,000,000 for each of such fiscal years, as provided in paragraph (1), an amount sufficient to cover the remainder thereof shall be credited to the fund from revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act. Moneys covered into the fund under this paragraph shall remain in the fund until appropriated by the Congress to carry out the purposes of this title.

OBJECTIVES OF FUND

SEC. 402. Objectives for the obligation of funds for the reclamation of previously mined areas shall reflect the following priorities in the order stated, and in carrying out the purposes of this Act, the Secretary shall give priority to the county in which the minerals were mined:

(a) the protection of health or safety of the public;

(b) protection of the environment from continued degradation and the conservation of land and water resources;

(c) the protection, construction, or enhancement of public facilities such as utilities, roads, recreation, and conservation facilities and their use;

(d) the improvement of lands and waters to a suitable condition useful in the economic and social development of the area affected; and

(e) research and demonstration projects relating to the development of surface mining reclamation and water quality control program methods and techniques in all areas of the United States.

ELIGIBLE LANDS

SEC. 403. The only land eligible for reclamation expenditures under this title are those which were mined for coal or which were affected by such mining, wastebanks, coal processing, or other mining processes, and abandoned or left in an inadequate reclamation status prior to the date of enactment of this Act, and for which there is no continuing reclamation responsibility under State or other Federal laws.

RECLAMATION OF RURAL LANDS

SEC. 404. (a) In order to provide for the control and prevention of erosion and sediment damages from unreclaimed mined lands, and to promote the conservation and development of soil and water resources of unreclaimed mined lands and lands affected by mining, the Secretary of Agriculture is authorized to enter into agreements, of not more than ten years with landowners (including owners of water rights) residents and tenants, and individually or collectively, determined by him to have control for the period of the agreement of lands in question therein, providing for land stabilization, erosion, and sediment control, and reclamation through conservation treatment, including measures for the conservation and development of soil, water (excluding stream channelization), woodland, wildlife, and recreation resources, of such lands. Such agreements shall be made by the Secretary with the owners, including owners of water rights, residents, or tenants (collectively or individually) of the lands in question.

(b) The landowner, including the owner of water rights, resident, or tenant shall furnish to the Secretary of Agriculture a conservation and development plan setting forth the proposed land uses and conservation treatment which shall be mutually agreed by the Secretary of Agriculture and the landowner, including owner of water rights, resident, or tenant to be needed on the lands for which the plan was prepared. In those instances where it is determined that the water rights or water supply of a tenant, landowner, including owner of water rights, residents, or tenant have been adversely affected by a surface or underground coal mine operation which has removed or disturbed a stratum so as to significantly affect the hydrologic balance, such plan may include proposed measures to enhance water quality or quantity by means of joint action with other affected landowners, including owner of water rights, residents, or tenants in consultation with appropriate State and Federal agencies.

(c) Such plan shall be incorporated in an agreement under which the landowner, including owner of water rights, resident, or tenant shall agree with the Secretary of Agriculture to effect the land uses and conservation treatment provided for in such plan on the lands described in the agreement in accordance with the terms and conditions thereof.

(d) In return for such agreement by the landowner, including owner of water rights, resident or tenant the Secretary of Agriculture is authorized to furnish financial and other assistance to such landowner, including owner of water rights, resident, or tenant in such amounts and subject to such conditions as the Secretary of Agriculture determines are appropriate and in the public interest for carrying out the land uses and conservation treatment set forth in the agreement. Grants made under this section shall not exceed 80 per centum of the cost of carrying out such land uses and conservation treatment on not more than thirty acres of land occupied by such owner including water rights owners, resident, or tenant, or on not more than thirty acres of land which has been purchased jointly by such land owners including water rights owners, residents, or tenant under an agreement for the enhancement of water quality or quantity or on land which has been acquired by an appropriate State or local agency for the purpose of implementing such agreement.

(e) The Secretary of Agriculture may terminate any agreement with a landowner including water rights owners, operator, or occupier by mutual agreement if the Secretary of Agriculture determines that such termination would be in the public interest, and may agree to such modification of agreements previously entered into hereunder as he deems desirable to carry out the purposes of this section or to facilitate the practical administration of the program authorized herein.

(f) Notwithstanding any other provision of law, the Secretary of Agriculture, to the extent he deems it desirable to carry out the purposes of this section, may provide in any agreement hereunder for (1) preservation for a period not to exceed the period covered by the agreement and an equal period thereafter of the cropland, crop acreage, and allotment history applicable to land covered by the agreement for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation on the production of such crop; or (2) surrender of any such history and allotments.

(g) The Secretary of Agriculture shall be authorized to issue such rules and regulations as he determines are necessary to carry out the provisions of this section.

(h) In carrying out the provisions of this section, the Secretary of Agriculture shall utilize the services of the Soil Conservation Service, and the State and local committees provided for in section 8(b) of the Soil Conservation and Domestic Allotment Act, and is authorized to utilize the facilities, services, and authorities of the Commodity Credit Corporation.

(i) Funds shall be made available to the Secretary of Agriculture for the purposes of this section, as provided in section 401(c).

ACQUISITION AND RECLAMATION OF ABANDONED AND UNRECLAIMED MINED LANDS

SEC. 405. (a)(1). The Congress hereby declares that the acquisition of any interest in land or mineral rights in order to eliminate hazards to the environment or to the health or safety of the public from mined lands, or to construct, operate, or manage reclamation facilities and projects constitutes acquisition for a public use or purpose, notwithstanding that the Secretary plans to hold the interest in land or mineral rights so acquired as an open space or for recreation, or to resell the land following completion of the reclamation facility or project.

(2) The Secretary may acquire by purchase, donation, or otherwise, land or any interest therein which has been affected by surface mining and has not been reclaimed to its approximate original condition. Prior to making any acquisition of land under this section, the Secretary shall make a thorough study with respect to those tracts of land which are available for acquisition under this section and based upon those findings he shall select lands for purchase according to

the priorities established in section 402. Title to all lands or interests therein acquired shall be taken in the name of the United States. The price paid for land under this section shall take into account the unrestored condition of the land. Prior to any individual acquisition under this section, the Secretary shall specifically determine the cost of such acquisition and reclamation and the benefits to the public to be gained therefrom.

(c) For the purposes of this section, when the Secretary seeks to acquire an interest in land or mineral rights, and cannot negotiate an agreement with the owner of such interest or right he shall request the Attorney General to file a condemnation suit and take interest or right, following a tender of just compensation as awarded by a jury to such person. When the Secretary determines that time is of the essence because of the likelihood of continuing or increasingly harmful effects upon the environment which would substantially increase the cost or magnitude of reclamation or of continuing or increasingly serious threats to life, safety, or health or to property, the Secretary may take such interest or rights immediately upon payment by the United States either to such person or into a court of competent jurisdiction of such amount as the Secretary shall estimate to be the fair market value of such interest or rights; except that the Secretary shall also pay to such person any further amount that may be subsequently awarded by a jury, with interest from the date of the taking.

(4) For the purposes of this section, when the Secretary takes action to acquire an interest in land and cannot determine which person or persons hold title to such interest or rights, the Secretary shall request the Attorney General to file a condemnation suit, and give notice, and may take such interest or rights immediately upon payment into court of such amount as the Secretary shall estimate to be the fair market value of such interest or rights. If a person or persons establishes title to such interest or rights within six years from the time of their taking, the court shall transfer the payment to such person or persons and the Secretary shall pay any further amount that may be agreed to pursuant to negotiations or awarded by a jury subsequent to the time of taking. If no person or persons establish title to the interest or rights within six years from the time of such taking, the payment shall revert to the Secretary and be deposited in the fund.

(5) States are encouraged to acquire abandoned and unreclaimed mined lands within their boundaries and to transfer such lands to the Secretary to be reclaimed under appropriate Federal regulations. The Secretary is authorized to make grants on a matching basis to States in such amounts as he deems appropriate for the purpose of carrying out the provisions of this title but in no event shall any grant exceed 90 per centum of the cost of acquisition of the lands for which the grant is made. When a State has made any such land available to the Federal Government under this title, such State shall have a preference right to purchase such lands after reclamation at fair market value less the State portion of the original acquisition price. Notwithstanding the provisions of paragraph (1) of this subsection, reclaimed land may be sold to the State or local government in which it is located at a price less than fair market value, which in no case shall be less than the cost to the United States of the purchase and reclamation of the land, as negotiated by the Secretary, to be used for a valid public purpose. If any land sold to a State or local government under this paragraph is not used for a valid public purpose as specified by the Secretary in the terms of the sales agreement then all right, title, and interest in such land shall revert to the United States. Money received from such sale shall be deposited in the fund.

(6) The Secretary shall prepare specifications for the reclamation of lands acquired under this section. In preparing these specifications, the Secretary shall utilize the specialized knowledge or experience of any Federal department or agency which can assist him in the development or implementation of the reclamation program required under this title and following the standards for reclamation set forth in this Act. The Secretary may, with the approval of the Administrator of the department or agency involved, call to his assistance temporarily any engineer or other personnel of any Federal department or agency. The engineers and employees shall not receive any additional compensation other than that which they receive from the department or agency by which they are employed, but they shall be reimbursed for their actual and necessary expenses incurred while working under the direction of the Secretary. The Secretary shall follow the consultation and notification procedures specified in section 214(a) of this Act prior to the final approval of a reclamation plan.

(7) Any proposed reclamation contract shall be approved by the Secretary. Except as otherwise required by paragraph (8), the Secretary shall award each contract to the lowest qualified bidder after sealed bids are received, opened, and published at the time and place fixed by the Secretary and notice of the time and place at which the bids will be received, opened, and published, has been advertised at least once at least ten days before the opening of the bids, in a newspaper of general circulation in each county in which the area of land to be reclaimed under such contract is located. If no bids for the advertised contract are received at the time and place fixed for receiving them, the Secretary may advertise again, but he may, if he deems the public interest will be best served thereby, enter into a contract without further advertisement for bids. The Secretary may reject any or all bids received and may fix and publish again notice of the time and place at which new bids for the contract will be received, opened, and published.

(8) In selecting lands to be acquired pursuant to this section and in formulating regulations for the making of grants to the States to acquire lands pursuant to this title, the Secretary shall give priority to lands in this unreclaimed state which will meet the objectives as stated in section 402 above when reclaimed. For those lands which are reclaimed for public recreational use, the revenue derived from such lands shall be used first to assure proper maintenance of such funds and facilities thereon and any remaining moneys shall be deposited in the fund.

(9) Where land reclaimed pursuant to this section is deemed to be suitable for industrial, commercial, residential, or private recreational development, the Secretary may sell such land by public sale under a system of competitive bidding, at not less than fair market value and under other such regulations as he may promulgate to insure that such lands are put to a proper use, as determined by the Secretary. If any such land sold is not put to the use specified by the Secretary in the terms of the sales agreement, then all right, title, and interest in such land shall revert to the United States. Money received from such sale shall be deposited in the fund.

(10) The Secretary shall hold a public hearing, with the appropriate notice, in the county or counties or the appropriate subdivisions of the State in which lands acquired to be reclaimed pursuant to this title are located. The hearing shall be held at a time which shall afford local citizens and governments the maximum opportunity to participate in the decision concerning the use of the lands once reclaimed.

(b) (1) The Secretary is authorized to use money in the fund to acquire, reclaim, develop, and transfer land to any State, or any department, agency, or instrumentality of a State or of a political subdivision thereof, or to any person, firm, association, or corporation if he determines that such is an integral and necessary element of an economically feasible plan for a project to construct or rehabilitate housing for persons employed in mines or work incidental thereto, persons disabled as the result of such employment, persons displaced by governmental action, or persons, dislocated as the result of natural disasters or catastrophic failure from any cause. Such activities shall be accomplished under such terms and conditions as the Secretary shall require, which may include transfers of land with or without monetary consideration: *Provided*, That, to the extent that the consideration is below the fair market value of the land transferred, no portion of the difference between the fair market value and the consideration shall accrue as a profit to such person, firm, association, or corporation. Land development may include the construction of public facilities or other improvements including reasonable site work and offsite improvements such as sewer and water extensions which the Secretary determines necessary or appropriate to the economic feasibility of a project. No part of the funds provided under this title may be used to pay the actual construction costs of housing.

(2) The Secretary may carry out the purposes of this subsection directly or he may make grants and commitments for grants, and may advance money under such terms and conditions as he may require to any State, or any department, agency, or instrumentality of a State, or any public body or nonprofit organization designated by a State.

(3) The Secretary may provide, or contract with public and private organizations to provide information, advice, and technical assistance, including demonstrations, in furtherance of this subsection.

(4) The Secretary may make expenditures to carry out the purposes of this subsection, without regard to the provisions of section 403, in any area experiencing a rapid development of its coal resources which the Secretary has determined does not have adequate housing facilities.

FILLING VOIDS AND SEALING TUNNELS

SEC. 406. (a) The Congress declares that voids and open and abandoned tunnels, shafts, and entryways resulting from mining constitute a hazard to the public health or safety. The Secretary, at the request of the Governor of any State, is authorized to fill such voids and seal such abandoned tunnels, shafts, and entryways which the Secretary determines could endanger life and property or constitute a hazard to the public health or safety.

(b) In those instances where mine waste piles are being reworked for coal conservation purposes, the incremental costs of disposing of the wastes from such operations by filling voids and sealing tunnels may be eligible for funding providing that the disposal of these wastes meets the purposes of this section.

(c) The Secretary may acquire by purchase, donation, or otherwise such interest in land as he determines necessary to carry out the provisions of this section.

FUND REPORT

SEC. 407. Not later than January 1, 1976, and annually thereafter, the Secretary shall report to the Congress on operations under

the fund together with his recommendations as to future uses of the fund.

TITLE V—OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

CREATION OF THE OFFICE

SEC. 501. (a) There is established in the Department of the Interior, the Office of Surface Mining Reclamation and Enforcement (hereinafter referred to as the "Office").

(b) The Office shall have a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code, and such other employees as may be required. The Director shall have the responsibilities provided under this Act and those duties and responsibilities relating to the functions of the office which the Secretary may assign, consistent with this Act. Employees of the Office shall be recruited on the basis of their professional competence and capacity to administer objectively the provisions of this Act. No legal authority, program or function in any Federal agency which has as its purpose promoting the development or use of coal or other mineral resources, shall be transferred to the Office.

(c) The Secretary, acting through the Office, shall—

(1) administer the programs for controlling surface coal mining operations which are required by this Act; review and approve or disapprove State programs for controlling surface coal mining operations; make those investigations and inspections necessary to insure compliance with this Act; conduct hearings, administer oaths, issue subpenas, and compel the attendance of witnesses and production of written or printed material as provided for in this Act; issue cease-and-desist orders; review and vacate or modify or approve orders and decisions; and order the suspension, revocation, or withholding of any permit for failure to comply with any of the provisions of this Act or any rules and regulations adopted pursuant thereto;

(2) administer all responsibilities in Federal land use planning programs and associated functions which are now or hereafter assigned to the Secretary;

(3) publish and promulgate such rules and regulations as may be necessary to carry out the purposes and provisions of this Act;

(4) provide assistance to States for the development and implementation of State programs for assuring the control of surface coal mining operations and meeting the other requirements of this Act;

(5) develop and maintain an Information and Data Center on Surface Mining, Reclamation, and Surface Impacts of Underground Mining, which will make such data available to the public and to Federal, regional, State, and local agencies conducting or concerned with land use planning and agencies concerned with surface and underground mining and reclamation operations;

(6) assist the State in developing objective scientific standards and appropriate procedures and institutions for determining those areas of a State to be designated unsuitable for all or certain types of mining and for development of the State land use planning process pursuant to that process;

(7) monitor Federal and State research programs concerning mining and reclamation; maintain a continuing study of land use and environmental impacts of surface mining and surface effects of underground mining; and recommend to Congress the research and demonstration projects and necessary changes in public policy which are designated to (A) improve feasibility of underground coal mining, and (B) improve surface mining and reclamation techniques directed at eliminating environmental and social impacts; and

(8) perform such other duties as may be provided by law and relate to the purposes of this Act.

TITLE VI—A PROGRAM FOR NON-COAL-MINE ENVIRONMENTAL IMPACT CONTROL

DESIGNATION OF LANDS UNSUITABLE FOR MINING OF MINERALS OTHER THAN COAL

SEC. 601. (a) With respect to Federal lands within any State, the Secretary of Interior may, and if so requested by the Governor of such State, shall review any area within such lands to assess whether it may be unsuitable for mining operations for minerals or materials other than coal, pursuant to the criteria and procedures of this section.

(b) An area of Federal lands may be designated under this section as unsuitable for mining operations if such area consists of:

(i) land of a predominantly urban or suburban character, used primarily for residential or related purposes, the mineral estate of which remains in the public domain; or

(ii) lands where such mining operations could result in irreversible damage to important historic, cultural, scientific, or aesthetic values or natural systems, of more than local significance, or could unreasonably endanger human life and property.

(c) Any person having an interest which is or may be adversely affected shall have the right to petition the Secretary to seek exclusion of an area from mining operations pursuant to this section or the redesignation of an area or part thereof as suitable for such operations. Such petition shall contain allegations of fact with supporting evidence which would tend to substantiate the allegations. The petitioner shall be granted a hearing within a reasonable time and a finding with reasons therefor upon the matter of their petition. In any instance where a governor requests the Secretary to review an area, or where the Secretary finds the national interest so requires, the Secretary may temporarily withdraw the area to be reviewed from mineral entry or leasing pending such review: *Provided, however,* That such temporary withdrawal be ended as promptly as practicable and in no event shall exceed two years.

(d) In no event is a land area to be designated unsuitable for mining operations under this section on which mining operations are being conducted prior to the holding of a hearing on such petition in accordance with subsection (c) hereof. Valid existing rights shall be preserved and not affected by such designation. Designation of an area as unsuitable for mining operations under this section shall not prevent subsequent mineral exploration of such area, except that (i) with respect to lands designated under subsection 601(b)(i), such exploration shall require the prior written consent of the holder of the surface estate, which consent shall be filed with the Secretary, and (ii) the Secretary may promulgate, with respect to any designated area, regulations to minimize any adverse effects of such exploration.

(e) Prior to any designation pursuant to this section, the Secretary shall prepare a detailed statement on (i) the potential mineral resources of the area, (ii) the demand for such mineral resources, and (iii) the impact of such designation or the absence of such designation on the environment, economy, and the supply of such mineral resources.

(f) When the Secretary determines that an area on Federal lands is unsuitable for all or certain types of mining operations for minerals and materials other than coal, by reason of the criteria referred to in subsection 601(b), he may withdraw such area from mineral entry or leasing, or condition such entry or leasing so as to limit such mining operations in accordance with his determination, if the Secretary also determines, based on his analysis pursuant to subsection 601(e), that the benefits resulting for such designation would be greater than the benefits to the regional or national economy which could result from mineral development of such area.

(g) Any party with a valid legal interest who has appeared in the proceedings in connection with the Secretary's determination pursuant to this section and who is aggrieved by the Secretary's decision (or by his failure to act within a reasonable time) shall have the right of appeal for review by the United States District Court for the district in which the pertinent area is located.

TITLE VII—APPROPRIATIONS AUTHORIZATION; DEFINITIONS; AND GENERAL PROVISIONS

AUTHORIZATION OF APPROPRIATIONS

SEC. 701. There is authorized to be appropriated to the Secretary for the purposes of this Act the following sums, and all such funds appropriated shall remain available until expended:

(a) For the implementation and funding of sections 201 and 206 and title III contract authority is granted to the Secretary of the Interior for the sum of $10,000,000 to become available immediately upon enactment of this Act and $10,000,000 for each of the two succeeding fiscal years.

(b) For administrative and other purposes of this Act, except as otherwise provided for in this section, authorization is provided for the sum of $10,000,000 for the fiscal year ending June 30, 1975, for each of the two succeeding fiscal years the sum of $20,000,000, and $30,000,000 for each fiscal year thereafter.

(c) For research and demonstration projects authorized under section 707, including the study directed under section 704, there is authorized to be appropriated to the Secretary $5,000,000 for the fiscal year ending June 30, 1975, and $5,000,000 for each fiscal year thereafter.

RELATION TO OTHER LAWS

SEC. 702. Nothing in this Act or in any State regulations approved pursuant to it shall be construed to conflict with any of the following Acts or with any rule or regulation promulgated thereunder:

(1) The Federal Metal and Nonmettalic Mine Safety Act (30 U.S.C. 721–740).

(2) The Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742).

(3) The Federal Water Pollution Control Act (33 U.S.C. 1151–1175), the State laws enacted pursuant thereto, or other Federal laws relating to preservation of water quality.

(4) The Clean Air Act, as amended (42 U.S.C. 1857).

(5) The Solid Waste Disposal Act (42 U.S.C. 3251).

(6) The Refuse Act of 1899 (33 U.S.C. 407).

(7) The Fish and Wildlife Coordination Act (16 U.S.C. 661–666c).

EMPLOYEE PROTECTION

SEC. 703. (a) No person shall fire, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

(b) Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after

such alleged violation occurs, apply to the Secretary for a review of such firing or alleged discrimination. A copy of the application shall be sent to the person or operator who will be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to the alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation the Secretary shall make findings of fact. If he finds that a violation did occur, he shall issue a decision incorporating therein and his findings in an order requiring the party committing the violation to take such affirmative action to abate the violation as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no violation, he shall issue a finding. Orders issued by the Secretary under this subparagraph shall be subject to judicial review in the same manner as orders and decisions of the Secretary are subject to judicial review under this Act.

(c) Whenever an order is issued under this section to abate any violation, at the request of applicant, a sum equal to the aggregate amount of all costs and expenses (including attorney's fees), to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the persons committing the violation.

(d) The Secretary shall conduct continuing evaluations of potential losses or shifts of employment which may result from the enforcement of this Act or any requirement of this Act including, where appropriate, investigating threatened mine closures or reductions in employment allegedly resulting from such enforcement or requirement. Any employee who is discharged or laid off, threatened with discharge or layoff, or otherwise discriminated against by any person because of the alleged results of the enforcement or requirement of this Act, or any representative of such employee, may request the Secretary to conduct a full investigation of the matter. The Secretary shall thereupon investigate the matter, and, at the request of any interested party, shall hold public hearings on not less than five days' notice, and shall at such hearings require the parties, including the employer involved, to present information relating to the actual or potential effect of such limitation or order on employment and on any alleged discharge, layoff, or other discrimination and the detailed reasons or justification therefor. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary shall promptly make findings of fact as to the effect of such enforcement or requirement on employment and on the alleged discharge, layoff, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Secretary or a State to modify or withdraw any enforcement action or requirement.

STUDY OF SUBSIDENCE AND UNDERGROUND WASTE DISPOSAL IN COAL MINES

SEC. 704. The Secretary shall conduct, for the purpose of developing mining and reclamation performance standards a full and complete study and investigation of the practices of backfilling all coal mine wastes and coal processing plant wastes in mine voids or other equally effective methods and the control of subsidence to maximize the stability, value, and use of lands overlying underground coal mines. The Secretary shall report to the Congress the results of such study and investigation no later than the end of the two-year period beginning on the date of enactment of this Act.

DEFINITIONS

SEC. 705. For the purpose of this Act—

(1) The term "Secretary" means the Secretary of the Interior, except where otherwise described.

(2) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and Guam.

(3) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States, or between a State and any other place outside thereof, or between points in the same State which directly or indirectly affect interstate commerce.

(4) The term "surface coal mining operations" means—

(A) activities conducted on the surface of lands in connection with a surface coal mine or surface operations and impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal for interstate commerce at or near the mine site: *Provided, however,* That such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅔ per centum of the tonnage of minerals removed for purposes of commercial use or sale; and

(B) the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include land affected by such ancillary mining operations which disturb the natural land surface, and any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities.

(5) The term "surface mining and reclamation operations" means surface mining operations and all activities necessary and incident to the reclamation of such operations.

(6) The term "lands within any State" or "lands within such State" means all lands within a State other than Federal lands and Indian lands.

(7) The term "Federal lands" means any land owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof, except Indian lands.

(8) The term "Indian lands" means all lands within the exterior boundaries of any Indian reservation, notwithstanding the issuance of any patent, and including rights-of-way, and all lands held in trust for or supervised by any Indian tribe.

(9) The term "Indian tribe" means any Indian tribe, band, group, or community having a governing body recognized by the Secretary.

(10) The term "Indian lands program" means a program established by an Indian tribe pursuant to title III to regulate surface mining and reclamation operations for coal, whichever is relevant, on Indian lands under its jurisdiction in accordance with the requirements of this Act and the regulations issued by the Secretary pursuant to this Act.

(11) The term "State program" means a program established by a State pursuant to title II to regulate surface coal mining and reclamation operations on lands within a State in accordance with the requirements of this Act and regulations issued by the Secretary pursuant to this Act.

(12) The term "Federal program" means a program established by the Secretary to regulate surface coal mining and reclamation operations on all lands in accordance with the requirements of this Act.

(13) The term "Federal lands program" means a program established by the Secretary pursuant to title II to regulate surface coal mining and reclamation operations on Federal lands and Indian lands.

(14) The term "reclamation plan" means a plan submitted by an applicant for a permit under a State program or Federal program which sets forth a plan for reclamation of the proposed surface mining operations pursuant to section 210.

(15) The term "State regulatory authority" means the department or agency in each State which has primary responsibility in that State for administering the State program pursuant to this Act.

(16) The term "regulatory authority" means the State regulatory authority where the State is administering this Act under an approved State program or the Secretary where the Secretary is administering any or all provisions of this Act.

(17) The term "person" means an individual, partnership, association, society, joint stock company, firm, company, corporation, or other business organization.

(18) The term "permit" means a permit to conduct surface mining and reclamation operations issued by the State regulatory authority pursuant to a State program or by the Secretary pursuant to a Federal program.

(19) The term "permit applicant" or "applicant" means a person applying for a permit.

(20) The term "permittee" means a person holding a permit.

(21) The term "fund" means the Abandoned Mine Reclamation Fund established pursuant to title IV.

(22) The term "appropriate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that it closely resembles the surface configuration of the land prior to mining and blends into and is in accordance with the drainage pattern of the surrounding terrain, with all highwalls, spoil piles, and depressions eliminated except that water impoundments may be permitted where the regulatory authority determines that they are in compliance with the requirements of this Act.

(23) The term "written consent" means such written consent as is executed by the owner of the surface estate after the date of enactment of this Act, upon a form approved by the Secretary, and shall demonstrate that such owner consents to entry of an operator for the purpose of conducting surface coal mining operations and that such consent is given only to such surface coal mining and reclamation operations which fully comply with the terms and requirements of this Act.

(24) The term "waiver" means any docu-

ment which demonstrates the clear intention to convey rights in the mineral estate for the purpose of extracting such minerals by current surface mining methods.

(25) The term "operator" means any person, partnership, or corporation engaged in coal mining who removes or intends to remove more than two hundred and fifty tons of coal from the earth by coal mining within twelve consecutive calendar months in any one location.

(26) The term "reclamation" or "reclaim" means the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, other harmful effects or after-effects from surface mining operations, or surface effects from underground mines, so that affected lands are restored to a stable condition and create no danger to public safety, barriers, to assess or reduce the value of surrounding lands. The process may extend to affected lands surrounding the lands on which the original mining occurred and may require backfilling to approximate original contouring, grading, resoiling, revegetation, soil compaction, and stabilization, in order to minimize water or soil pollution, erosion, flooding resulting from surface mining, water degradation or pollution from unfilled cracks and fissures or any other activity to accomplish reclamation of land to a stable condition at least fully capable of supporting the use or higher or better uses which they were capable of supporting prior to any mining.

(27) The term "permit area" means the area of land indicated on the approved map submitted by the operator with his application, which area of land shall be covered by the operator's bond as required by section 214(a) of this Act and shall be readily identifiable by appropriate markers on the site.

(28) The term "silt" means soil, soil or rock particles, wood, debris, or other materials that are transported by suspension or floating in streams flowing from or through mining areas.

(29) The term "aquifer" means a zone, stratum, or group of strata, that can store and transmit water in sufficiently recoverable quantities to be of economic or ecologic value as a source of water.

(30) The term "imminent danger to the health or safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this Act in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonbly be expected to cause substantial physical harm to persons outside the permit area before such condition, practice, or violation can be abated.

(31) The term "unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of his permit or any requirement of this Act due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or the Act due to indifference, lack of diligence, or lack of reasonable care.

GRANTS TO THE STATES

SEC. 706. (a) The Secretary is authorized to make annual grants to any State for the purpose of assisting such State in developing, administering, and enforcing State programs under this Act. Such grants shall not exceed 80 per centum of the total costs incurred during the first year, 60 per centum of total costs incurred during the second year, and 40 per centum of the total costs incurred during the third and fourth years.

(b) The Secretary is authorized to cooperate with and provide assistance to any State for the purpose of assisting it in the development, administration, and enforcement of its State programs. Such cooperation and assistance shall include—

(1) technical assistance and training including provision of necessary curricular and instruction materials, in the development, administration, and enforcement of the State programs; and

(2) assistance in preparing and maintaining a continuing inventory of information on surface mining and reclamation operations for each State for the purposes of evaluating the effectiveness of the State programs. Such assistance shall include all Federal departments and agencies making available data relevant to surface mining and reclamation operations and to the development, administration, and enforcement of State programs concerning such operations.

RESEARCH AND DEMONSTRATION PROJECTS

SEC. 707. (a) The Secretary is authorized to conduct and promote the coordination and acceleration of research, studies, surveys, experiments, and training in carrying out the provisions of this Act. In conducting the activities authorized by this section, the Secretary may enter into contracts with, and make grants to qualified institutions, agencies, organizations, and persons.

(b) The Secretary is authorized to enter into contracts with, and make grants to, the States and their political subdivisions, and other public institutions, agencies, organizations, and persons to carry out demonstration projects involving the reclamation of lands which have been disturbed by surface mining operations.

RESEARCH AND DEMONSTRATION PROJECTS ON ALTERNATIVE COAL MINING TECHNOLOGIES

SEC. 708. (a) The Secretary is authorized to conduct, and promote the coordination and acceleration of, research, studies, surveys, experiments, demonstration projects, and training relating to—

(1) the development and application of coal mining technologies which provide alternatives to surface disturbance and which maximize the recovery of available coal resources, including the improvement of present underground mining methods, methods for the return of underground mining wastes to the mine void, methods for the underground mining of thick coal seams and very deep coal seams, and such other means of mining as may be recommended in the studies authorized under section 704; and

(2) safety and health in the application of such technologies, methods, and means.

(b) In conducting the activities authorized by this section, the Secretary may enter into contracts with and make grants to qualified institutions, agencies, organizations, and persons.

(c) There are authorized to be appropriated to the Secretary, to carry out the purposes of this section, $50,000,000 for each fiscal year beginning with the fiscal year 1976, and for each year thereafter for the next four years.

ANNUAL REPORT

SEC. 709. The Secretary shall submit annually to the President and the Congress a report concerning activities conducted by him, the Federal Government, and the State pursuant to this Act. Among other matters, the Secretary shall include in such report recommendations for additional administrative or legislative action as he deems necessary and desirable to accomplish the purposes of this Act, including recommendations for increasing the production from underground coal mines.

PROTECTION OF THE SURFACE OWNER AND OWNERS OF WATER RIGHTS

SEC. 710. (a) In those instances in which the surface owner is not the owner of the mineral estate proposed to be mined by surface coal mining operations, the application for a permit shall include the written consent, or a waiver by, the owner or owners of the surface lands involved to enter and commence surface mining operations on such land.

(b) In those instances where the mineral estate proposed to be mined by surface coal mining operations is owned by the Federal Government, and the surface rights are held pursuant to patent, the application for a permit shall include the written consent of the owner or owners of the surface lands involved to enter and commence surface mining operations on such land or a document which demonstrates the acquiescence of the owner of the surface rights to the extraction of minerals within the boundaries of his property by current surface mining methods.

(c) In those instances where the mineral estate proposed to be mined by surface coal mining operations is owned by the Federal Government and the interest in the surface is in the nature of a lease or a permit, the application for a permit shall include either—

(1) the written consent of the permittee or lessee of the surface lands involved to enter and commence surface coal mining operation on such land; or

(2) the execution of a bond or undertaking to the United States or the State, whichever is applicable, for the use and benefit of the permittee or lessee of the surface lands involved, the secure payment of any damages to the surface estate, to the corps, or to the tangible improvements of the permittee or lessee of the surface lands as may be determined by the patent involved, or as determined and fixed in an action brought against the operator or upon the bond in a court of competent jurisdiction. This bond is in addition to the performance bond required for reclamation under section 216.

(d) In those instances in which it is determined that a proposed coal surface mining operation is likely to adversely affect the hydrologic balance of water on or off site, or diminish the supply or quality of such water, the application for a permit shall include either—

(1) the written consent of all owners of water rights reasonably anticipated to be affected; or

(2) evidence of the capability and willingness to provide substitute water supply, at least equal in quality, quantity, and duration to the affected water rights of such owners.

(e)(1) An owner of water rights adversely affected may file a complaint detailing the loss in quality and quantity of his water with the regulatory authority.

(2) Upon receipt of such complaint the regulatory authority shall—

(A) investigate such complaint using all available information including the monitoring data gathered persuant to section 219(b)(2);

(B) within 30 days issue a specific written finding as to the cause of the water loss in quantity or quality, if any;

(C) order the mining operator to replace the water, in like quality, quantity, and duration, within 30 days if the loss of such water was found to be due to the surface coal mining operations; and

(D) order the suspension of the operator's permit for failure to replace such water until such time as the operator has provided the substitute water supply.

(f) Nothing in this section shall be construed as affecting in any way the right of any person to enforce or protect, under applicable State law, his interest in water resources affected by a surface coal mining operation.

(g) For the purposes of this section, the term, "surface coal mining operation" does not include underground mining for coal.

SEVERABILITY

SEC. 711. If any provision of this Act or the applicability thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

PROTECTION OF GOVERNMENT EMPLOYEES

SEC. 712. Section 114, title 18, United States Code, is hereby amended by adding the words "or of the Department of the Interior" after the words "Department of Labor" contained in that section.

EXPERIMENTAL PRACTICES

SEC. 713. In order to encourage advances in mining and reclamation practices, the regulatory authority may authorize departures in individual cases on an experimental basis from the environmental protection performance standards promulgated under sections 211 and 212 of this Act. Such departures may be authorized if (i) the experimental practices are potentially more or at least as environmentally protective, during and after mining operations, as those required by promulgated standards; (ii) the mining operation is no larger than necessary to determine the effectiveness and economic fasibility of the experimental practices; and (iii) the experimental practices do not reduce the protection afforded public health and safety below that provided by promulgated standards.

ALASKAN SURFACE COAL MINE STUDY

SEC. 714. (a) The Secretary is directed to contract with the National Academy of Sciences-National Academy of Engineering for an indepth- study of surface coal mining conditions in the State of Alaska in order to determine the best set of surface mining regulations under which such mines should operate. The study shall—

(1) identify variations and differences between surface mining conditions in Alaska and surface mining conditions in the Lower 48 with respect to the environmental protection standards in this Act;

(2) identify suitable surface mining standards to assure that post-mining land use is compatible with the habitat, and surrounding terrain;

(3) identify impacts on the environment which could be engendered by current surface mining technology and identify how or if these impacts can be mitigated through the use of alternative mining technologies.

(b) The Secretary is to make a report to the President and Congress on the findings of the study no later than 24 months after the date of enactment of this Act;

(c) The Secretary shall include in his report a draft of Federal regulations to be promulgated to govern surface coal mining operations on Federal lands in the State of Alaska, and a draft of those regulations to use as a standard for determining the adequacy of an Alaskan State program for the regulation of surface coal mining operations;

(d) The draft regulations contained in the report are to be promulgated for comment by the public and other interested parties pursuant to this Act within 12 months of submission of the report to Congress. After considering such comments submitted and revising such regulations as appropriate, the Secretary shall promulgate such standards governing surface coal mining operations in the State of Alaska.

(e) Until the Secretary has made his report to the President and Congress and has promulgated Federal regulations on coal mining operations on Federal lands in Alaska, this Act shall not apply to the State of Alaska.

(f) There is hereby authorized to be appropriated for the purpose of this section $500,000.

PREFERENCE FOR PERSONS ADVERSELY AFFECTED BY THE ACT

SEC. 715. (a) In the award of contracts for the reclamation of abandoned and unreclaimed mined areas pursuant to title IV and for research and demonstration projects pursuant to section 707 of this Act the Secretary shall develop regulations which will accord a preference to surface mining operators who can demonstrate that their surface mining operations, despite good-faith efforts to comply with the requirements of this Act, have been adversely affected by the regulation of surface mining and reclamation operations pursuant to this Act.

(b) Contracts awarded pursuant to this section shall require the contractor to afford an employment preference to individuals whose employment has been adversely affected by this Act.

ASSISTANCE TO PERSONS UNEMPLOYED AS A RESULT OF THIS ACT

SEC. 716. (a) The President is authorized and directed to make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred and shall be reduced by an amount of private income protection insurance compensation available to such individual for such period of unemployment.

(b) The President is authorized and directed to make grants to States to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by any such unemployment, have received written notice of dispossession or eviction from a residence by reason of foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to the employment loss. Such assistance shall be provided for a period of not to exceed one year or for the duration of the period of financial hardship, whichever is the lesser.

(c) (1) Whenever the President determines that, as a result of any such employment loss, low-income households are unable to purchase adequate amounts of nutritious food the President is authorized, under such terms and conditions as it may prescribe, to distribute through the Secretary of Agriculture coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964, as amended, and to make surplus commodities available.

(2) The President, through the Secretary of Agriculture, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the employment loss on the earning power of the households to which assistance is made available under this section.

(3) Nothing in this subsection shall be constructed as amending or otherwise changing the provisions of the Food Stamp Act of 1964, as amended, except as they relate to the availability of food stamps in such an employment loss.

(d) The Secretary of Labor is authorized and directed to provide reemployment assistance services under other laws of the United States to any such individual so unemployed. As one element of such reemployment assistance services, such Secretary shall provide to any such unemployed individual who is unable to find reemployment in a suitable position within a reasonable distance from home, assistance to relocate in another area where such employment is available. Such assistance may include reasonable costs of seeking such employment and the cost of moving his family and household to the location of his new employment.

(e) (1) The President acting through the Small Business Administration, is authorized and directed to make loans (which for purposes of this subsection shall include participations in loans) to aid in financing any project in the United States for the conduct of activities or the acquisition, construction, or alteration of facilities (including machinery and equipment) required by the administration or enforcement) of this Act, for applicants both private and public (including Indian tribes), which have been approved for such assistance by an agency or instrumentality of the State or political subdivision in which the project to be financed is located, and which agency or instrumentality (including units of general purpose local government) is directly concerned with problems of economic development in such State or subdivision, and which have been certified by such agency or instrumentality as requiring the loan successfully to remain in operation or at previous levels of employment.

(2) Financial assistance under this section shall be on such terms and conditions as the President determines, except that—

(A) no loan shall be made unless it is determined that there is reasonable assurance of repayment;

(B) no loan, including renewals or extension thereof, may be made hereunder for a period exceeding thirty years;

(C) loans made shall bear interest at a rate determined by the Secretary of the Treasury but not more than 3 per centum per annum;

(D) loans shall not exceed the aggregate cost to the applicant of acquiring, constructing, or altering the facility or project;

(E) the total of all loans to any single applicant shall not exceed $1,000,000; and

(F) the facility or project has been certified by the regulatory authority as necessary to comply with the requirements of this Act.

(f) Where the loss, curtailment, removal, or closing of any industrial or commercial facility resulting from the administration and enforcement of this Act causes an unusual and abrupt rise in unemployment in any area, community, or neighborhood, the Small Business Administration in the case of a nonagricultural enterprise and the Farmers Home Administration in the case of an agricultural enterprise, are authorized to provide any industrial, commercial, agricultural, or other enterprise, which has the potential to be a major source of employment for a substantial period of time in such area, a loan in such amount as may be necessary to enable such enterprise to assist in restoring the economic viability of such area, community, or neighborhood. Loans authorized by this section shall be made without regard to limitations on the size of loans which may otherwise be imposed by any other provision of law or regulation promulgated pursuant thereto.

(g) The President is authorized to make grants to any local government which, as a

result of the administration and enforcement of this Act, has suffered a substantial loss of total revenue (including both real and personal property tax revenue). Grants made under this section may be made for the tax year in which the loss occurred and for each of the following two tax years. The grant for any tax year shall not exceed the difference between the annual average of all revenues received by the local government during the three-tax-year period immediately preceding the tax year in which such loss occurred and the actual revenue received by the local government for the tax year in which the loss occurred and for each of the two tax years following such loss but only if there has been no reduction in the tax rates and the tax assessment valuation factors of the local government. If there has been a reduction in the tax rates or the tax assessment valuation factors then, for the purpose of determining the amount of a grant under this section for the year or years when such reduction is in effect, the President shall use the tax rates and tax assessment valuation factors of the local government in effect at the time of such loss without reduction, in order to determine the revenues which would have been received by the local government but for such reduction.

(h) Any owner or operator of a surface coal mine, or employee (or former employee) of a surface coal mine, who would otherwise be eligible for assistance under this section, in lieu of such assistance may utilize the preference accorded in section 715 of this Act in receiving contracts or employment in the conduct of reclamation activities authorized by section 405 of this Act.

(i) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(j) The Secretary shall report to the Congress on the implementation of this section not later than thirty months after the enactment of this Act, and annually thereafter. The report required by this subsection shall include an estimate of the funds which would be necessary to implement this section in each of the succeeding three years.

(k) The Secretary shall report to the Congress not later than July 1, 1976, on the impact of the administration and enforcement of this Act on employees and owners or operators of firms with gross capital values of less than $500,000, together with a recommendation on a program granting relief to such employees and owners or operators for losses in capital value sustained as a consequence of the administration and enforcement of this Act.

TITLE VIII—STATE MINING AND MINERAL RESOURCES RESEARCH INSTITUTE

AUTHORIZATION OF STATE ALLOTMENTS TO INSTITUTES

SEC. 801. (a) There are authorized to be appropriated to the Secretary of the Interior sums adequate to provide for each participating State $200,000 for fiscal year 1975, $300,000 for fiscal year 1976, and $400,000 for each fiscal year thereafter for five years, to assist the States in carrying on the work of a competent and qualified mining and mineral resources research institute, center, or equivalent agency (hereinafter referred to as "institute") at one public college or university at the State, which has in existence at the time of enactment of this title a school, division, or department conducting a program of substantial instruction and research in mining or minerals extraction or beneficiation engineering or which establishes such a school, division, or department subsequent to the enactment of this title and which school, division, or department shall have been in existence for at least two years. The Advisory Committee on Mining and Minerals Resources Research as created by this title shall determine a college or university to have an eligible school, division, or department conducting a program of substantial instruction and research in mining or minerals extraction or beneficiation engineering wherein education and research in the minerals engineering fields are being carried out and wherein at least five full-time permanent faculty members are employed: *Provided*, That—

(1) such moneys when appropriated shall be made available to match, on a dollar-for-dollar basis, non-Federal funds which shall be at least equal to the Federal share to support the institute;

(2) if there is more than one such eligible college or university in a State, funds under this title shall, in the absence of a designation to the contrary by act of the legislature of the State, be paid to one such college or university designated by the Govects by two or more institutes. No portion of ernor of the State; and

(3) where a State does not have a public college or university with an eligible school, division, or department conducting a program of substantial instruction and research in mining or minerals extraction or beneficiation engineering, said advisory committee may allocate the States' allotment to one private college or university which it determines to have an eligible school, division, or department as provided herein.

(b) It shall be the duty of each such institute to plan and conduct and/or arrange for a component or components of the college or university with which it is affiliated to conduct competent research, investigations, demonstrations, and experiments of either a basic or practical nature, or both, in relation to mining and mineral resources and to provide for the training of mineral engineers and scientists through such research, investigations, demonstrations, and experiments. Such research, investigations, demonstrations, experiments, and training may include, without being limited to exploration; extraction; processing; development; production of mineral resources; mining and mineral technology; supply and demand for minerals; conservation and best use of available supplies of minerals; the economic, legal, social engineering, recreational, biological, geographic, ecological, and other aspects of mining, mineral resources, and mineral reclamation, having due regard to the interrelation on the natural environment, the varying conditions and needs of the respective States, to mining and mineral resources research projects being conducted by agencies of he Federal and State governments, and other, and to avoid any undue displacement of mineral engineers and scientists elsewhere engaged in mining and mineral resources research.

RESEARCH FUNDS TO INSTITUTES

SEC. 802. (a) There is further authorized to be appropriated to the Secretary of the Interior for fiscal year 1975, and six succeeding fiscal years thereafter the sum of $5,000,000 annually, which shall remain available until expended. Such moneys when appropriated shall be made available to institutes to meet the necessary expenses of specific mineral research and demonstration projects of industrywide application, which could not otherwise be undertaken, including the expenses of planning and coordinating regional mining and mineral resources research projects by two or more institutes. No portion of any grant under this section shall be applied to the acquisition by purchase or lease of any land or interests therein or the rental, purchase, construction, preservation, or repair of any building.

(b) Each application for a grant pursuant to subsection (a) of this section shall, among other things, state the nature of the project to be undertaken, the period during which it will be pursued, the qualifications of the personnel who will direct and conduct it, the estimated costs, the importance of the project to the Nation, region, or State concerned, and its relation to other known research projects theretofore pursued or being pursued, and the extent to which it will provide opportunity for the training of mining and mineral engineers and scientists, and the extent of participation by nongovernmental sources in the project. No grant shall be made under said subsection (a) except for a project approved by the Secretary of the Interior and all grants shall be made upon the basis of merit of the project, the need for the knowledge which it is expected to produce when completed, and the opportunity it provides for the training of individuals as mineral engineers and scientists.

FUNDING CRITERIA

SEC. 803. (a) Sums available to institutes under the terms of sections 801 and 802 of this title shall be paid at such times and in such amounts during each fiscal year as determined by the Secretary, and upon vouchers approved by him. Each institute shall set forth its plan to provide for the training of individuals as mineral engineers and scientists under a curriculum appropriate to the field of mineral resources and mineral engineering and related fields; set forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available for purposes of this title, and in no case supplant such funds; have an officer appointed by its governing authority who shall receive and account for all funds paid under the provisions of this title and shall make an annual report to the Secretary on or before the first day of September of each year, on work accomplished and the status of projects underway, together with a detailed statement of the amounts received under any provisions of this title during the preceding fiscal year, and of its disbursements on schedules prescribed by the Secretary. If any of the moneys received by the authorized receiving officer of any institute under the provisions of this title shall by any action or contingency be found by the Secretary to have been improperly diminished, lost, or misapplied, it shall be replaced by the State concerned and until so replaced no subsequent appropriation shall be allotted or paid to any institute of such State.

(b) Moneys appropriated pursuant to this title, in addition to being available for expenses for research, investigations, experiments, and training conducted under authority of this title, shall also be available for printing and publishing the results thereof and for administrative planning and direction. The institutes are hereby authorized and encouraged to plan and conduct programs under this title in cooperation with each other and with such other agencies and individuals as may contribute to the solution of the mining and mineral resources problems involved, and moneys appropriated pursuant to this title shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research.

DUTIES OF THE SECRETARY

SEC. 804. The Secretary of the Interior is hereby charged with the responsibility for the proper administration of this title and, after full consultation with other interested Federal agencies, shall prescribe such rules and regulations as may be necessary to carry out its provisions. The Secretary shall furnish such advice and assistance as will best promote the purposes of this title, participate in coordinating research initiated under this title by the institutes, indicate to them such lines of inquiry as to him seem most

important, and encourage and assist in the establishment and maintenance of cooperation by and between the institutes and between them and other research organizations, the United States Department of the Interior, and other Federal establishments.

On or before the 1st day of July in each year after the passage of this title, the Secretary shall ascertain whether the requirements of section 803(a) have been met as to each State.

The Secretary shall make an annual report to the Congress of the receipts, expenditures, and work of the institutes in all States under the provisions of this title. The Secretary's report shall indicate whether any portion of an appropriation available for allotment to any State has been withheld and, if so, the reasons therefor.

AUTONOMY

SEC. 805. Nothing in this title shall be construed to impair or modify the legal relationship existing between any of the colleges or universities under whose direction an institute is established and the government of the State in which it is located, and nothing in this title shall in any way be construed to authorize Federal control or direction of education at any college or university.

AUTHORIZATION FOR OTHER RESEARCH PROGRAMS

SEC. 806. There is authorized to be appropriated annually for seven years to the Secretary of the Interior the sum of $10,000,000 in fiscal year 1975, said sum increased by $2,000,000 each fiscal year thereafter for six years, from which the Secretary shall make grants, contracts, matching, or other arrangements with education institutions, private foundations, or other institutions; with private firms and individuals; and with local, State, and Federal Government agencies, to undertake research into any aspects of mining and mineral resources problems related to the mission to the Department of the Interior, which may be deemed desirable and are not otherwise being studied. The Secretary shall insofar as it is practicable, utilize the facilities of institutes designated in section 801 of this title to perform such special research, authorized by this section, and shall select the institutes for the performance of such special research on the basis of the qualifications without regard to race or sex of the personnel who will conduct and direct it, the nature of the facilities available in relation to the particular needs of the research project, special geographic, geologic, or climatic conditions within the immediate vicinity of the institute in relation to any special requirements of the research project, and the extent to which it will provide opportunity for training individuals as mineral engineers and scientists. The Secretary may designate and utilitze such portions of the funds authorized to be appropriated by this section as he deems appropriate for the purpose of providing scholarships, graduate fellowships, and postdoctoral fellowships.

MISCELLANEOUS PROVISIONS

SEC. 807. (a) The Secretary of the Interior shall obtain the continuing advice and cooperation of all agencies of the Federal Government concerned with mining and mineral resources of State and local governments, and of private institutions and individuals to assure that the programs authorized in this title will supplement and not duplicate established mining and minerals research programs, to stimulate research in otherwise neglected areas, and to contribute to a comprehensive, nationwide program of mining and minerals research, having due regard for the protection and conservation of the environment. The Secretary shall make generally available information and reports on projects completed, in progress, or planned under the provisions of this title, in addition to any direct publication of information by the institutes themselves.

(b) Nothing in this title is intended to give or shall be construed as giving the Secretary of the Interior any authority or surveillance over mining and mineral resources research conducted by any other agency of the Federal Government, or as repealing, superseding, or diminishing existing authorities or responsibilities of any agency of the Federal Government to plan and conduct, contract for, or assist in research in its area of responsibility and concern with mining and mineral resources.

(c) Contracts or other arrangements for mining and mineral resources research work authorized under this title with an institute, educational institution, or nonprofit organization may be undertaken without regard to the provisions of section 3684 of the Revised Statutes (31 U.S.C. 529) when, in the judgment of the Secretary of the Interior, advance payments of initial expense are necessary to facilitate such work.

(d) No part of any appropriated funds may be expended pursuant to authorization given by this title for any scientific or technological research or development activity unless such expenditure is conditioned upon provisions determined by the Secretary of the Interior, with the approval of the Attorney General, to be effective to insure that all information, uses, products, processes, patents, and other developments resulting from that activity will (with such exception and limitation as the Secretary may determine, after consultation with the Secretary of Defense, to be necessary in the interest of the national defense) be made freely and fully available to the general public. Nothing contained in this section shall deprive the owner of any background patent relating to any such activities of any rights which that owner may have under that patent.

CENTER FOR CATALOGING

SEC. 808. The Secretary shall establish a center for cataloging current and projected scientific research in all fields of mining and mineral resources. Each Federal agency doing mining and mineral resources research shall cooperate by providing the cataloging center with information on work underway or scheduled by it. The cataloging center shall classify and maintain for public use a catalog of mining and mineral resources research and investigation projects in progress or scheduled by all Federal agencies and by such non-Federal agencies of government, colleges, universities, private institutions, firms and individuals as may make such information available.

INTERAGENCY COOPERATION

SEC. 809. The President shall, by such means as he deems appropriate, clarify agency responsibility for Federal mining and mineral resources research and provide for interagency coordination of such research, including the research authorized by this title. Such coordination shall include—

(a) continuing review of the adequacy of the Government-wide program in mining and mineral resources research.

(b) identification and elimination of duplication and overlap between two or more agency programs.

(c) identification of technical needs in various mining and mineral resources research categories.

(d) recommendations with respect to allocation of technical effort among the Federal agencies.

(e) review of technical manpower needs and findings concerning management policies to improve the quality of the Government-wide research effort, and

(f) actions to facilitate interagency communication at management levels.

ADVISORY COMMITTEE

SEC. 810. (a) The Secretary of the Interior shall appoint an Advisory Committee on Mining and Mineral Research composed of—

(1) the Director, Bureau of Mines, or his delegate, with his consent;

(2) the Director of the National Science Foundation, or his delegate, with his consent;

(3) the President, National Academy of Sciences, or his delegate, with his consent;

(4) the President, National Academy of Engineering, or his delegate, with his consent;

(5) the Director, United States Geological Survey, or his delegate, with his consent; and

(6) not more than four other persons who are knowledgeable in the fields of mining and mineral resources research, at least one of whom shall be a representative of working coal miners.

(b) The Secretary shall designate the Chairman of the Advisory Committee. The Advisory Committee shall consult with, and make recommendations to, the Secretary of the Interior on all matters involving or relating to mining and mineral resources research and such determinations as provided in this title The Secretary of the Interior shall consult with, and consider recommendations of, such Committee in the conduct of mining and mineral resources research and the making of any grant under this title.

(c) Advisory Committee members, other than officers or employees of Federal, State, or local governments, shall be, for each day (including traveltime) during which they are performing committee business, entitled to receive compensation at a rate fixed by the Secretary, but not in excess of the maximum rate of pay for grade GS–18 as provided in the General Schedule under section 5332 of title 5 of the United States Code, and shall, notwithstanding the limitations of sections 5703 and 5704 of title 5 of the United States Code, be fully reimbursed for travel subsistence and related expenses.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To provide for the regulation of surface coal mining operations in the United States, to authorize the Secretary of Interior to make grants to States to encourage the State regulation of surface mining, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 11500) was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF AMENDMENT ADOPTED TO S. 425

Mr. UDALL. Mr. Speaker, I ask unanimous consent that in the engrossment of the amendments to the bill S. 425 the Clerk be authorized to correct section numbers and headings, punctuation, cross references, and appropriate conforming changes in the table of contents.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. HOSMER. Mr. Speaker, reserving the right to object, and I shall not object, I do want to congratulate the

gentleman from Arizona and the committee on the fine performance, on their victory, and to state that this is probably one of the longest performances we have had here for quite a long time.

We have engaged in a lot of parliamentary maneuvering. I hope that some of the younger Members have had opportunity to learn from that.

I want to express, Mr. Speaker, to the gentleman from Arizona and the gentlewoman from Hawaii my admiration for the way they skillfully conducted the battle.

I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. GROSS. Mr. Speaker, further reserving the right to object, and I shall not object, I wonder if there is a single soul in the House who really knows what is in this bill?

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

CONFERENCE REPORT ON H.R. 15074, DISTRICT OF COLUMBIA CAMPAIGN FINANCE REFORM AND CONFLICT OF INTEREST ACT

Mr. DIGGS submitted the following conference report and statement on the bill (H.R. 15074), to regulate certain political campaign finance practices in the District of Columbia, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 93-1225)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15074) to regulate certain political campaign finance practices in the District of Columbia, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—SHORT TITLE, DEFINITIONS
Sec. 101. Short title.
Sec. 102. Definitions.
TITLE II—FINANCIAL DISCLOSURES
Sec. 201. Organization of political committees.
Sec. 202. Principal campaign committee.
Sec. 203. Designation of campaign depository.
Sec. 204. Registration of political committees; statements.
Sec. 205. Registration of candidates.
Sec. 206. Reports by political committees and candidates.
Sec. 207. Reports by others than political committees.
Sec. 208. Formal requirements respecting reports and statements.
Sec. 209. Exemption for candidates who anticipate spending less than $250.
Sec. 210. Identification of campaign literature.
Sec. 211. Effect on liability.
TITLE III—DIRECTOR OF CAMPAIGN FINANCE
Sec. 301. Establishment of the Office of Director.
Sec. 302. Powers of the Director.
Sec. 303. Duties of the Director.
Sec. 304. General Accounting Office to assist Board and Director.
Sec. 305. Nominating committee.
Sec. 306. District of Columbia Board of Elections and Ethics.
TITLE IV—FINANCE LIMITATIONS
Sec. 401. General limitations.
Sec. 402. Limitation on expenditures.
TITLE V—LOBBYING
Sec. 501. Definitions.
Sec. 502. Detailed accounts of contributions; retention of receipted bills of expenditures.
Sec. 503. Receipts for contributions.
Sec. 504. Statements of accounts filed with Director.
Sec. 505. Preservation of statements.
Sec. 506. Persons to whom title is applicable.
Sec. 507. Registration of lobbyists with Director; compilation of information.
Sec. 508. Reports and statements under oath.
Sec. 509. Penalties and prohibitions.
Sec. 510. Exemptions.
TITLE VI—CONFLICT OF INTEREST AND DISCLOSURE
Sec. 601. Conflict of interest.
Sec. 602. Disclosure of financial interest.
TITLE VII—PENALTIES AND ENFORCEMENT TAX CREDITS, USE OF SURPLUS CAMPAIGN FUNDS, VOTERS' INFORMATION PAMPHLETS, STUDY OF 1974 AND REPORT BY COUNCIL, EFFECTIVE DATES, AMENDMENTS TO DISTRICT OF COLUMBIA ELECTION ACT, AND AUTHORIZATION
Sec. 701. Penalties and enforcement.
Sec. 702. Tax credit for campaign contributions.
Sec. 703. Use of surplus campaign funds.
Sec. 704. A study of 1974 election and report by Council.
Sec. 705. Effective dates.
Sec. 706. Amendments to District of Columbia Election Act.
Sec. 707. Authority of Council.
Sec. 708. Authorization of appropriation.

TITLE I—SHORT TITLE, DEFINITIONS

SHORT TITLE

SEC. 101. This Act may be cited as the "District of Columbia Campaign Finance Reform and Conflict of Interest Act."

DEFINITIONS

SEC. 102. When used in this Act, unless otherwise provided—

(a) The term "election" means a primary, runoff, general, or special election held in the District of Columbia for the purpose of nominating an individual to be a candidate for election to office or for the purpose of electing a candidate to office, and includes a convention or caucus of a political party held for the purpose of nominating such a candidate.

(b) The term "candidate" means an individual who seeks nomination for election, or election, to office, whether or not such individual is nominated or elected, and for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he has (1) obtained or authorized any other person to obtain nominating petitions to qualify himself for nomination for election, or election, to office, (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to office, or (3) reason to know, or knows, that any other person has received contributions or made expenditures for that purpose, and has not notified that person in writing to cease receiving contributions or making expenditures for that purpose. A person who is deemed to be a candidate for the purposes of this Act shall not be deemed, solely by reason of that status, to be a candidate for the purposes of any other Federal Law.

(c) The term "office" means the office of Mayor of the District of Columbia, Chairman or member of the Council of the District of Columbia, member of the Board of Education of the District of Columbia, or an official of a political party.

(d) The term "official of a political party" means—

(1) national committeemen and national committeewomen;

(2) delegates to conventions of political parties nominating candidates for the Presidency and Vice Presidency of the United States;

(3) alternates to the officials referred to in clauses (1) and (2) above, where permitted by political party rules; and

(4) such members and officials of local committees of political parties as may be designated by the duly authorized local committees of such parties for election, by public ballot, at large or by ward in the District of Columbia.

(e) The term "political committee" means any committee (including a principal campaign committee), club, association, organization, or other group of individuals organized for the purpose of, or engaged in, promoting or opposing a political party or the nomination or election of an individual to office.

(f) The term "contribution" means—

(1) a gift, subscription (including any assessment, fee, or membership dues), loan, advance, or deposit of money or anything of value, made for the purpose of financing, directly or indirectly, the election campaign of a candidate or any operations of a political committee;

(2) a contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any such purpose;

(3) a transfer of funds between political committees; or

(4) the payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or committee without charge, or for less than reasonable value, for any such purpose or the furnishing of goods, advertising, or services to a candidate's campaign without charge, or at a rate which is less than the rate normally charged for such services.

Notwithstanding the foregoing, such term shall not be construed to include (A) services provided without compensation, by individuals volunteering a portion or all of their time on behalf of a candidate or political committee, (B) personal services provided without compensation by individuals volunteering a portion or all of their time to a candidate or political committee, (C) communications by an organization, other than a political party, solely to its members and their families on any subject, (D) communications (including advertisements) to

any person on any subject by any organization which is organized solely as an issue-oriented organization, which communications neither endorse nor oppose any candidate for office, or (E) normal billing credit for a period not exceeding thirty days.

(g) The term "expenditure" means—

(1) a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of financing, directly or indirectly, the election campaign of a candidate or any operations of a political committee;

(2) a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure;

(3) a transfer of funds between political committees; and

(4) notwithstanding the foregoing provisions of this paragraph, such term shall not be construed to include the incidental expenses (as defined by the Board) made by or on behalf of individuals in the course of volunteering their time on behalf of a candidate or political committee.

(h) The term "person" means an individual, partnership, committee, association, corporation, labor organization, and any other organization or group of persons.

(i) The term "Director" means the Director of Campaign Finance of the District of Columbia Board of Elections and Ethics created by title III.

(j) The term "political party" means an association, committee, or organization which nominates a candidate for election to any office and qualifies under the District of Columbia Election Act (D.C. Code, sec. 1–1101 et seq.), to have the names of its nominees appear on the election ballot as the candidate of that association, committee, or organization.

(k) The term "Board" means the District of Columbia Board of Elections and Ethics established under the District of Columbia Election Act (D.C. Code, sec. 1–1101 et seq.), and redesignated by section 306.

TITLE II—FINANCIAL DISCLOSURES

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 201. (a) Every political committee shall have a chairman and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of treasurer thereof and no other person has been designated and has agreed to perform the functions of treasurer. No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or their designated agents.

(b) Every person who receives a contribution of $10 or more for or on behalf of a political committee shall, on demand of the treasurer, and in any event within five days after receipt of such contribution, submit to the treasurer of such committee a detailed account thereof, including the amount, the name and address (including the occupation and the principal place of business, if any) of the person making such contribution, and the date on which such contribution was received. All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee.

(c) Except for accounts of expenditures made out of the petty cash fund provided for under section 201(b), the treasurer of a political committee, and each candidate, shall keep a detailed and exact account of—

(1) all contributions made to or for such political committee or candidate;

(2) the full name and mailing address (including the occupation and the principal place of business, if any) of every person making a contribution of $10 or more, and the date and amount thereof;

(3) all expenditures made by or on behalf of such committee or candidate; and

(4) the full name and mailing address (including the occupation and the principal place of business, if any) of every person to whom any expenditure is made, the date and amount thereof and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made.

(d) the treasurer or candidate shall obtain and preserve such receipted bills and records as may be required by the Board.

(e) Each political committee and candidate shall include on the face or front page of all literature and advertisements soliciting funds the following notice: "A copy of our report is filed with the Director of Campaign Finance of the District of Columbia Board of Elections and Ethics.".

PRINCIPAL CAMPAIGN COMMITTEE

SEC. 202. (a) Each candidate for office shall designate in writing one political committee as his principal campaign committee. The principal campaign committee shall receive all reports made by any other political committee accepting contributions or making expenditures for the purpose of influencing the nomination for election, or election, of the candidate who designated it as his principal campaign committee. The principal committee may require additional reports to be made to it by any such political committee and may designate the time and number of all reports. No political committee may be designated as the principal campaign committee of more than one candidate, except a principal campaign committee supporting the nomination or election of a candidate as an official of a political party may support the nomination or election of more than one such candidate, but may not support the nomination or election of a candidate for any public office.

(b) Each statement (including the statement of organization required under section 204) or report that a political committee is required to file with or furnish to the Director under the provisions of this Act shall also be furnished, if that political committee is not a principal campaign committee, to the campaign committee for the candidate on whose behalf that political committee is accepting or making, or intends to accept or make, contributions or expenditures.

(c) The treasurer of each political committee which is a principal campaign committee, and each candidate, shall receive all reports and statements filed with or furnished to it or him by other political committees, consolidate, and furnish the reports and statements to the Director, together with the reports and statements of the principal campaign committee of which he is treasurer or which was designated by him, in accordance with the provisions of this title and regulations prescribed by the Board.

DESIGNATION OF CAMPAIGN DEPOSITORY

SEC. 203. (a) Each political committee, and each candidate accepting contributions or making expenditures, shall designate, in the registration statement required under section 204 or 205, one national bank located in the District of Columbia as the campaign depository of that political committee or candidate. Each such committee or candidate shall maintain a checking account at such depository and shall deposit any contributions received by the committee or candidate into that account. No expenditures may be made by such committee or candidate except by check drawn payable to the person to whom the expenditure is being made on that account, other than petty cash expenditures as provided in subsection (b).

(b) A political committee or candidate may maintain a petty cash fund out of which may be made expenditures not in excess of $50 to any person in connection with a single purchase or transaction. A record of petty cash receipts and disbursements shall be kept in accordance with requirements established by the Board and such statements and reports thereof shall be furnished to the Director as it may require. Payments may be made into the petty cash fund only by check drawn on the checking account maintained at the campaign depository of such political committee or candidate.

REGISTRATION OF POLITICAL COMMITTEES; STATEMENTS

SEC. 204. (a) Each political committee shall file with the Director a statement of organization within ten days after its organization. Each such committee in existence at the date of enactment of this Act shall file a statement of organization with the Director at such time as the Director may prescribe—

(b) The statement of organization shall include—

(1) the name and address of the political committee;

(2) the names, addresses, and relationships of affiliated or connected organizations;

(3) the area, scope, or jurisdiction of the political committee;

(4) the name, address, and position of the custodian of books and accounts;

(5) the name, address, and position of other principal officers, including officers and members of the finance committee, if any;

(6) the name, address, office sought, and party affiliation of (A) each candidate whom the committee is supporting, and (B) any other individual, if any, whom the committee is supporting for nomination for election or election, to any public office whatever; or, if the committee is supporting the entire ticket of any party, the name of the party;

(7) a statement whether the political committee is a continuing one;

(8) the disposition of residual funds which will be made in the event of dissolution;

(9) the name and address of the bank designated by the committee as the campaign depository, together with the title and number of each account and safety deposit box used by that committee at the depository, and the identification of each individual authorized to make withdrawals or payments out of each such account or box; and

(10) such other information as shall be required by the Director.

(c) Any change in information previously submitted in a statement of organization shall be reported to the Director within the ten-day period following the change.

(d) Any political committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year shall so notify the Director.

REGISTRATION OF CANDIDATES

SEC. 205. (a) Each individual shall, within five days of becoming a candidate, or within five days of the day on which he, or any person authorized by him (pursuant to section 401(d) to do so, has received a contribution or made an expenditure in connection with his campaign or for the purposes of preparing to undertake his campaign, file with the Director a registration statement in such form as the Director may prescribe.

(b) In addition, candidates shall provide the Director the name and address of the campaign depository designated by that candidate, together with the title and number of each account and safety deposit box used by that candidate at the depository, and the identification of each individual authorized to make withdrawals or payments out of each account or box, and such other information as shall be required by the Director.

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 206. (a) The treasurer of each political committee supporting a candidate, and each candidate, required to register under this Act, shall file with the Director, and with the applicable principal campaign committee, reports of receipts and expenditures on forms to be prescribed or approved by the Director. Except for the first such report which shall be filed on the twenty-first day after the date of enactment of this Act, such reports shall be filed on the 10th day of March, June, August, October, and December in each year during which there is held an election for the office such candidate is seeking, and on the fifteenth and fifth days next preceding the date on which such election is held, and also by the 31st day of January of each year. In addition such reports shall be filed on the 31st day of July of each year in which there is no such election. Such reports shall be complete as of such date as the Director may prescribe, which shall not be more than five days before the date of filing, except that any contribution of $200 or more received after the closing date prescribed by the Director for the last report required to be filed prior to the election shall be reported within twenty-four hours after its receipt.

(b) Each report under this section shall disclose—

(1) the amount of cash on hand at the beginning of the reporting period;

(2) the full name and mailing address (including the occupation and the principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate (including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events) within the calendar year in an aggregate amount or value in excess of $50 or more, together with the amount and date of such contributions;

(3) the total sum of individual contributions made to or for such committee or candidate during the reporting period and not reported under paragraph (2);

(4) the name and address of each political committee or candidate from which the reporting committee or the candidate received, or to which that committee or candidate made, any transfer of funds, together with the amounts and dates of all transfers;

(5) each loan to or from any person within the calendar year in an aggregate amount or values of $50 or more, together with the full names and mailing addresses (including the occupation and the principal place of business, if any) of the lender and endorsers, if any, and the date and amount of such loans;

(6) the net amount of proceeds from (A) the sale of tickets to each dinner, luncheon, rally, and other fundraising events organized by such committee; (B) mass collections made at such events; and (C) sales by such committee of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;

(7) each contribution, rebate, refund, or other receipt of $50 or more not otherwise listed under paragraphs (2) through (6);

(8) the total sum of all receipts by or for such committee or candidate during the reporting period;

(9) the full name and mailing address (including the occupation and the principal place of business, if any) of each person to whom expenditures have been made by such committee or on behalf of such committee or candidate within the calendar year in an aggregate amount or value of $10 or more, the amount, date, and purpose of each such expenditure and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made;

(10) the total sum of expenditures made by such committee or candidate during the calendar year;

(11) the amount and nature of debts and obligations owed by or to the committee, in such form as the Director may prescribe and a continuous reporting of its debts and obligations after the election at such periods as the Director may require until such debts and obligations are extinguished; and

(12) such other information as may be required by the Director.

(c) The reports to be filed under subsection (a) shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the unchanged amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the political committee or candidate shall file a statement to that effect.

(d) Each treasurer of a political committee, each candidate for election to office, and each treasurer appointed by a candidate, shall file with the Director weekly reports of cash contributions on forms to be prescribed or approved by the Director.

REPORTS BY OTHERS THAN POLITICAL COMMITTEES

SEC. 207. Every person (other than a political committee or candidate) who makes contributions or expenditures, other than by contribution to a political committee or candidate, in an aggregate amount of $50 or more within a calendar year shall file with the Director a statement containing the information required by section 206. Statements required by this section shall be filed on the dates on which reports by political committees are filed, but need not be cumulative.

FORMAL REQUIREMENTS RESPECTING REPORTS AND STATEMENTS

SEC. 208. (a) A report or statement required by this title to be filed by a treasurer of a political committee, a candidate, or by any other person, shall be verified by the oath or affirmation of the person filing such report or statement, taken before any officer authorized to administer oaths.

(b) A copy of a report or statement shall be preserved by the person filing it for a period to be designated by the Board in a published regulation.

(c) The Board shall, by published regulations of general applicability, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported. Such regulations shall provide that they be reported in separate schedules. In determining aggregate amounts of contributions and expenditures, amounts reported as provided in such regulations shall not be considered until actual payment is made.

EXEMPTION FOR CANDIDATES WHO ANTICIPATE SPENDING LESS THAN $250

SEC. 209. Except for the provisions of subsections (c) and (d) of section 201, and subsection (a) of section 205, the provisions of this title shall not apply to any candidate who anticipates spending or spends less than $250 in any one election and who has not designated a principal campaign committee. On the fifteenth day prior to the date of the election in which such candidate is entered, and on the thirtieth day after the date of such election, such candidate shall certify to the Director that he has not spent more than $250 in such election.

IDENTIFICATION OF CAMPAIGN LITERATURE

SEC. 210. All newspaper or magazine advertising, posters, circulars, billboards, handbills, bumper stickers, sample ballots, and other printed matter with reference to or intended for the support or defeat of a candidate or group of candidates for nomination or election to any public office shall be identified by the words "paid for by" followed by the name and address of the payer or the committee or other person and its treasurer on whose behalf the material appears.

EFFECT ON LIABILITY

SEC. 211. Nothing in this title shall be construed as creating or limiting in any way the liability of any person under existing law for any financial obligation incurred by a political committee or candidate.

TITLE III—DIRECTOR OF CAMPAIGN FINANCE

ESTABLISHMENT OF THE OFFICE OF DIRECTOR

SEC. 301. (a) There is established within the District of Columbia Board of Elections and Ethics the office of Director of Campaign Finance (hereinafter in this Act referred to as the "Director"). The Commissioner of the District of Columbia shall appoint, by and with the advice and consent of the Senate, the Director, except that on and after January 2, 1975, any vacancy in the office of Director shall be filled by appointment by the Mayor, with the advice and consent of the Council. Such appointments shall be made without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive service. The Director shall be entitled to receive compensation at the maximum rate as may be established from time to time for grade 16 of the General Schedule in section 5332 of title 5 of the United States Code, and shall be responsible for the administrative operations of the Board pertaining to this Act and shall perform such other duties as may be delegated or assigned to him from time to time by regulations or orders of the Board. However, the Board shall not delegate to the Director the making of regulations regarding elections.

(b) The Board may appoint a General Counsel without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive service, to serve at the pleasure of the Board. The General Counsel shall be entitled to receive compensation at the same rate as the Director of the Board and shall be responsible solely to the Board. The General Counsel shall perform such duties as may be delegated or assigned to him from time to time by regulation or order of the Board.

(c) In any appropriate case where the Board upon its own motion or upon recommendation of the Director makes a finding of an apparent violation of this Act, it shall refer such case to the United States Attorney for the District of Columbia for prosecution, and shall make public the fact of such referral and the basis for such finding. In addition, the Board, through its General Counsel, shall initiate, maintain, defend, or appeal any civil action (in the name of the Board) relating to the enforcement of the provisions of this Act. The Board may, through its General Counsel, petition the courts of the District of Columbia for declaratory or injunctive relief concerning any action covered by the provisions of this Act.

POWERS OF THE DIRECTOR

SEC. 302. (a) The Director, under regulations of general applicability approved by the Board, shall have the power—

(1) to require any person to submit in writing such reports and answers to questions as the Director may prescribe relating to the administration and enforcement of this Act; and such submission shall be made within such reasonable period and under oath or otherwise as the Director may determine;

(2) to administer oaths;

(3) to require by subpena the attendance and testimony of witnesses and the produc-

tion of all documentary evidence relating to the execution of its duties;

(4) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Director and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection;

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the Superior Court of the District of Columbia; and

(6) to accept gifts and voluntary and uncompensated services.

Subpenas issued under this section shall be issued by the Director upon the approval of the Board.

(b) The Superior Court of the District of Columbia may, upon petition by the Board, in case of refusal to obey a subpena or order of the Board issued under subsection (a) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

DUTIES OF THE DIRECTOR

SEC. 303. The Director shall—

(1) develop and furnish (upon request) prescribed forms for the making of the reports and statements required to be filed with him under this Act;

(2) develop a filing, coding, and cross-indexing system consonant with the purposes of this Act;

(3) make the reports and statements filed with him available for public inspection and copying, commencing as soon as practicable but not later than the end of the second day following the day during which it was received, and to permit and facilitate copying of any such report or statement by hand and by duplicating machine, as requested by any person, at reasonable cost to such person, except any information copied from such reports and statements shall not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose;

(4) preserve such reports and statements for a period of ten years from date of receipt;

(5) compile and maintain a current list of all statements or parts of statements on file pertaining to each candidate;

(6) prepare and publish such other reports as he may deem appropriate;

(7) assure dissemination of statistics, summaries, and reports prepared under this title;

(8) make from time to time audits and field investigations with respect to reports and statements filed under the provisions of this title, and with respect to alleged failures to file any report or statement required under the provisions of this title; and

(9) perform such other duties as the Board may require.

GENERAL ACCOUNTING OFFICE TO ASSIST BOARD AND DIRECTOR

SEC. 304. The Board and Director may, in the performance of its functions under this Act, request the assistance of the Comptroller General of the United States, including such investigations and audits as the Board and Director may determine necessary, and the Comptroller General shall provide such assistance with or without reimbursement, as the Board and Director and the Comptroller General shall agree.

NOMINATING COMMITTEE

SEC. 305. (a) Effective January 2, 1975, there is established within the Government of the District of Columbia a committee to be known as the "District of Columbia Board of Elections and Ethics Nominating Committee" (hereinafter in this Act referred to as the "Committee"). The Committee shall have the function of nominating individuals for appointment as members of the District of Columbia Board of Elections and Ethics for any and all vacancies occurring on such Board on or after the date on which a majority of the members first appointed pursuant to this section hold their first meeting as members of the Committee. Such nominations shall be made by the Committee in accordance with the provisions of this section. The Committee shall consist of five members. Within ten days following the date on which a majority of the members are first appointed pursuant to this section, such members so appointed shall hold their first meeting as members of the Committee.

(b)(1) Two members of the Committee shall be appointed by the Mayor, at least one of whom shall be a lawyer.

(2) Three members of the Committee shall be appointed by the Chairman of the Council of the District of Columbia, with the approval of the Council.

(c) Members of the Committee shall serve for terms of five years, except that of the members first appointed pursuant to subsection (b)(1), one shall serve for one year and one for five years, as designated at the time of appointment, and members appointed pursuant to subsection (b)(2), one shall serve for two years, one for three years, and one for four years, as designated at the time of appointment.

(d)(1) No individual may be appointed as a member of the Committee unless he or she—

(A) is a citizen of the United States, and

(B) is a resident of the District of Columbia and has maintained his or her domicile within the District for at least one year immediately preceding the date of his or her appointment, and

(C) is not a member of the Council of the District of Columbia or an officer or employee of the Government of the District of Columbia (including the judicial branch).

(2) Any vacancy in the membership of the Committee shall be filled in the same manner in which the original appointment was made. Any individual appointed to fill a vacancy, occurring other than upon the expiration of a term, shall serve only for the remainder of the term of such individual's predecessor.

(e) Members of the Committee shall be paid for each day spent performing their duties as members of the Committee at a rate which is equal to the daily equivalent of the rate provided by step 1 of grade 17 of the General Schedule under section 5332 of title 5, United States Code.

(f)(1) Except as otherwise provided in subsection (a) of this section, the Committee shall act only at meetings called by the Chairman or a majority of the members thereof and only after notice has been given of such meeting to all members of the Committee.

(2) The Committee shall choose annually from among its members a Chairman and such other officers as it deems necessary. The Committee may adopt such rules of procedure as may be necessary to govern the business of the Committee.

(3) Each agency of the government of the District of Columbia shall furnish to the Committee, upon request, such records, information, services, and such other assistance and facilities as may be necessary to enable the Committee to perform its function properly. Any information furnished to the Committee designated "confidential" by the person furnishing it to the Committee shall be treated by the Committee as privileged and confidential.

(g)(1) In the event of any such vacancy in the District of Columbia Board of Elections and Ethics, the Committee shall, within thirty days after such vacancy occurs, submit a list of three persons as nominees for appointment by the Mayor to fill the vacancy. If more than one such vacancy exists at the same time, the Committee shall submit a separate list of nominees for appointment to fill each such vacancy, and no individual's name shall appear on more than one such list. In filling such vacancy, the Mayor may appoint more than one individual from any list currently before the Mayor. In any case in which, after the expiration of the thirty-day period following the date on which a majority of the members of the Committee first meet as provided in subsection (a), a vacancy is scheduled to occur, by reason of the expiration of a term of office, the Committee's list of nominees for appointment to fill that vacancy shall be submitted to the Mayor not less than thirty days prior to the expiration of that term.

(2) If the Mayor fails to submit for Council approval the name of one of the individuals on a list submitted to the Mayor under this section within thirty days after receiving such list, the Committee shall appoint, with the approval of the Council, an individual named on the list to fill the vacancy for which such list of nominees was prepared.

(3) Any individual whose name is submitted by the Committee as a nominee for appointment to the District of Columbia Board of Elections and Ethics may request that the nomination of such individual be withdrawn. If any such individual requests that his or her nomination be withdrawn, dies, or becomes disqualified to serve as a member of the Board, the Committee shall promptly nominate an individual to replace the individual originally nominated on the list submitted to the Mayor.

(h) Members of the Committee shall be appointed as soon as practicable, but in no event later than June 30, 1975.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS

SEC. 306. (a) On and after the date of the enactment of this Act, the Board of Elections of the District of Columbia established under the District of Columbia Election Act (D.C. Code, sec. 1–1101 et seq.), shall be known as the "District of Columbia Board of Elections and Ethics" and shall have the powers, duties, and functions as provided in such Act, in any other law in effect on the date immediately preceding the date of the enactment of this Act, and in this Act. Any reference in any law or regulation to the Board of Elections for the District of Columbia or the District of Columbia Board of Elections shall, on and after the date of the enactment of this Act, be held and considered to refer to the District of Columbia Board of Elections and Ethics.

(b)(1) Any person who violates any provision of this Act or of the District of Columbia Election Act may be assessed a civil penalty by the District of Columbia Board of Elections and Ethics under paragraph (2) of this subsection of not more than $50 for each such violation. Each occurrence of a violation of this Act and each day of noncompliance with a disclosure requirement of this Act or an order of the Board shall constitute a separate offense.

(2) A civil penalty shall be assessed by the Board by order only after the person charged with a violation has been given an opportunity for a hearing, and the Board has determined, by decision incorporating its findings of facts therein, that a violation did occur, and the amount of the penalty. Any hearing under this section shall be of record and shall be held in accordance with chapter 5 of title 5, United States Code.

(3) If the person against whom a civil penalty is assessed fails to pay the penalty, the Board shall file a petition for enforcement of its order assessing the penalty in the Superior Court of the District of Co-

lumbia. The petition shall designate the person against whom the order is sought to be enforced as the respondent. A copy of the petition shall be forthwith sent by registered or certified mail to the respondent and his attorney of record, and if the respondent is a political committee, to the Chairman thereof, and thereupon the Board shall certify and file in such court the record upon which such order sought to be enforced was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order and the decision of the Board or it may remand the proceedings to the Board for such further action as it may direct. The court may determine de novo all issues of law but the Board's findings of fact, if supported by substantial evidence, shall be conclusive.

(c) Upon application made by any individual holding public office, any candidate, or any political committee, the Board, through its General Counsel, shall provide within a reasonable period of time an advisory opinion, with respect to any specific transaction or activity inquired of, as to whether such transaction or activity would constitute a violation of any provision of this Act or of any provision of the District of Columbia Election Act over which the Board has primary jurisdiction.

TITLE IV—FINANCE LIMITATIONS

GENERAL LIMITATIONS

SEC. 401. (a) No individual shall make any contribution which, and no person shall receive any contribution from any individual which when aggregated with all other contributions received from that individual, relating to a campaign for nomination as a candidate or election to public office, including both the primary and general or special elections, exceeds—

(1) in the case of a contribution in support of a candidate for Mayor, $1,000;

(2) in the case of a contribution in support of a candidate for Chairman of the Council, $750;

(3) in the case of a contribution in support of a candidate for member of the Council elected at large, $500;

(4) in the case of a contribution in support of a candidate for member of the Board of Education elected at large or for member of the Council elected from a ward, $200, and in the case of a runoff election, an additional $200;

(5) in the case of a contribution in support of a candidate for member of the Board of Education elected from a ward or for official of a political party, $100, and in case of a runoff election, an additional $100; and

(6) in the case of a contribution in support of a candidate for a member of an Advisory Neighborhood Council, $25.

(b) No person (other than an individual with respect to whom subsection (a) applies) shall make any contribution which, and no person shall receive any contribution from any person (other than such an individual) which when aggregated with all other contributions received from that person, relating to a campaign for nomination as a candidate or election to public office, including both the primary and general or special elections, exceeds—

(1) in the case of a contribution in support of a candidate for Mayor, $2,000;

(2) in the case of a contribution in support of a candidate for Chairman of the Council, $1,500;

(3) in the case of a contribution in support of a candidate for member of the Council elected at large, $1,000;

(4) in the case of a contribution in support of a candidate for member of the Board of Education elected at large or for member of the Council elected from a ward $400, and in the case of a runoff election, an additional $400;

(5) in the case of a contribution in support of a candidate for member of the Board of Education elected from a ward or for official of a political party, $200, and in the case of a runoff election, and additional $200; and

(6) in the case of a contribution in support of a candidate for a member of an Advisory Neighborhood Council, $25.

For the purposes of this subsection, the term "person" shall include a candidate making contributions relating to his candidacy for nomination for election, or election, to office. Notwithstanding the preceding provisions of this subsection, a candidate for member of the Council elected from a ward may contribute $1,000 to his own campaign. The provisions of this subsection to the extent that such provisions are applicable to corporations and unions shall, to that extent, expire as of July 1, 1975, unless the Council of the District of Columbia on or before such date enacts legislation repealing or modifying such provisions or extending such provisions as to corporations and unions on and after that date. In the event that the Council fails to so repeal, modify, or extend such provisions as to corporations and labor unions, the Council shall report its reasons therefor to the Committees on the District of Columbia of the Senate and the House of Representatives prior to August 1, 1975.

(c) No individual shall make any contribution in any one election which when aggregated with all other contributions made by that individual in that election exceeds $2,000.

(d) (1) Any expenditure made by any person advocating the election or defeat of any candidate for office which is not made at the request or suggestion of the candidate, any agent of the candidate, or any political committee authorized by the candidate to make expenditures or to receive contributions for the candidate is not considered a contribution to or an expenditure by or on behalf of the candidate for the purposes of the limitations specified in this Act.

(2) No person may make any unauthorized expenditure advocating the election or defeat of a clearly identified candidate during a calendar year which, when added to all other unauthorized expenditures made by that person during the year advocating the election or defeat of that candidate, exceeds $1,000.

(3) For purposes of paragraph (2)—

(A) "clearly identified" means—

(i) the candidate's name appears,

(ii) a photograph or drawing of the candidate appears, or

(iii) the identity of the candidate is apparent by unambiguous reference,

(B) "person" does not include the central committee of a political party, and

(C) "expenditure" does not include any payment made or incurred by a corporation or labor organization which, under the provisions of section 610 of title 18 of the United States Code would not constitute an expenditure by that corporation or labor organization.

(4) Every candidate shall file a statement with the Board, in such manner and form and at such times as the Board may prescribe, authorizing any person or any political committee organized primarily to support the candidacy of such candidate to either directly or indirectly, receive contributions, or make expenditures in behalf of, such candidate. No person and no committee organized primarily to support a single candidate may, either directly or indirectly, receive contributions or make expenditures in behalf of, such candidate without the written authorization of such candidate as required by this paragraph.

(e) In no case shall any person receive or make any contribution in legal tender in an amount of $50 or more.

(f) No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another person.

(g) For purposes of the limitations contained in this section all contributions made by any person directly or indirectly to or for the benefit of a particular candidate, including contributions which are in any way earmarked, encumbered, or otherwise directed through an intermediary or conduit to that candidate, shall be treated as contributions from that person to that candidate.

(h) (1) No candidate or member of the immediate family of a candidate may make a loan or advance from his personal funds for use in connection with a campaign of that candidate for nomination for election, or for election, to public office unless that loan or advance is evidenced by a written instrument fully disclosing the terms, conditions, and parts to the loan or advance. The amount of any such loan or advance shall be included in computing and applying the limitations contained in this section only to extent of the balance of the loan or advance which is unpaid at the time of determination.

(2) For purposes of this subsection, the term "immediate family" means the candidate's spouse and any parent, brother, or sister, or child of the candidate, and the spouse of any such parent, brother, sister, or child.

LIMITATION OF EXPENDITURES

SEC. 402. (a) (1) No principal campaign committee shall expand any funds which when aggregated with funds expended by it, all other communities required to report to it, and by a candidate supported by such committee shall exceed (1) in the case of a candidate for Mayor, $200,000 in the aggregate for any primary and general election in connection therewith, but in no event in excess of $120,000 for one of such elections and $80,000 for the other of such elections; (2) in the case of a candidate for Chairman of the Council, $150,000 in the aggregate for any primary and general election in connection therewith, but in no event in excess of $90,000 for one of such elections and $60,000 for the other of such elections; (3) in the case of a candidate for member of the Council elected at large, $100,000 in the aggregate for any primary and general election in connection therewith, but in no event in excess of $60,000 for one of such elections and $40,000 for the other of such elections; (4) in the case of a candidate for member of the Board of Education elected at large or member of the Council elected from a ward, $20,000 in the aggregate for any primary and general election in connection therewith, but in no event in excess of $12,000 for one of such elections and $8,000 for the other of such elections; (5) in the case of a candidate for member of the Board of Education elected from a ward, or in support of any candidate for office of a political party, $10,000 in the aggregate for any primary and general election in connection therewith, but in no event in excess of $6,000 for one of such elections and $4,000 for the other of such elections; and (6) in the case of a candidate for member of an Advisory Neighborhood Council, $500.

(2) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Board and the Board shall publish in the District of Columbia Register the per centum difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for 1974. Each amount determined under paragraph (1) shall be changed by such per centum differ-

ence. Each amount so changed shall be the amount in effect for such calendar year.

(b) No political committee or candidate shall knowingly expend any funds at a time when the principal campaign committee to which it shall report, or which has been designated by him, is precluded by subsection (a) from expendinf funds or which would cause such principal committee to be precluded from further expenditures. Any principal campaign committee of a candidate having reasonable knowledge to believe that further expenditures by a political committee registered in support of such candidate, or by the candidate it supports, will exceed the expenditure limitations specified in subsection (a) shall immediately notify, in writing, such political committee or candidate of that fact.

(c) Any expenditure made in connection with a campaign in a calendar year other than the calendar year in which the election is held to which that campaign relates is, for the purposes of this section, considered to be made during the calendar year in which that election is held.

TITLE V—LOBBYING

DEFINITIONS

SEC. 501. When used in this title—

(a) The term "contribution" includes a gift, subscription, loan, advance, or deposit of money or anything of value and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution.

(b) The term "expenditure" includes a payment, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure.

(c) The term "legislation" means bills, resolutions, amendments, nominations, rules, and other matters pending or proposed in the Council of the District of Columbia, and includes any other matter which may be the subject of action by the Council of the District of Columbia.

DETAILED ACCOUNTS OF CONTRIBUTIONS; RETENTION OF RECEIPTED BILLS OF EXPENDITURES

SEC. 502. (a) It shall be the duty of every person who shall in any manner solicit or receive a contribution to any organization or fund for the purposes hereinafter designated to keep a detailed and exact account of—

(1) all contributions of any amount or of any value whatsoever;

(2) the name and address of every person making any such contribution of $200 or more and the date thereof;

(3) all expenditures made by or on behalf of such organization or fund; and

(4) the name and address of every person to whom any such expenditure is made and the date thereof.

(b) It shall be the duty of such person to obtain and keep a receipted bill, stating the particulars, for every expenditure of such funds exceeding $10 in amount, and to preserve all receipted bills and accounts required to be kept by this section for a period of at least two years from the date of the filing of the statement containing such items.

RECEIPTS FOR CONTRIBUTORS

SEC. 503. Every individual who receives a contribution of $200 or more for any of the purposes hereinafter designated shall within five days after receipt thereof render to the person or organization for which such contribution was received a detailed account thereof, including the name and address of the person making such contribution and the date on which received.

STATEMENTS OF ACCOUNTS FILED WITH DIRECTOR

SEC. 504. (a) Every person receiving any contributions or expending any money for the purposes designated in subparagraph (a) or (b) of section 506 of this title shall file with the Director between the first and tenth day of each calendar quarter, a statement containing complete as of the day next preceding the date of filing—

(1) the name and address of each person who has made a contribution of $200 or more not mentioned in the preceding report; except that the first report filed pursuant to this title shall contain the name and address of each person who has made any contribution of $200 or more to such person since January 2, 1975;

(2) the total sum of the contributions made to or for such person during the calendar year and not stated under paragraph (1) of this subsection;

(3) the total sum of all contributions made to or for such person during the calendar year;

(4) the name and address of each person to whom an expenditure in one or more items of the aggregate amount or value, within the calendar year, of $10 or more has been made by or on behalf of such person, and the amount, date, and purpose of such expenditure;

(5) the total sum of all expenditures made by or on behalf of such person during the calendar year and not stated under paragraph (4) of this subsection;

(6) the total sum of expenditures made by or on behalf of such person during the calendar year.

(b) The statements required to be filed by subsection (a) of this section shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous statement only the amount need be carried forward.

PRESERVATION OF STATEMENTS

SEC. 505. A statement required by this title to be filed with the Director—

(a) shall be deemed properly filed when deposited in an established post office within the prescribed time, duly stamped, registered, and directed to the Director, Washington, District of Columbia, but in the event it is not received, a duplicate of such statement shall be promptly filed upon notice by the Director of its nonreceipt;

(b) shall be preserved by the Director for a period of two years from the date of filing, shall constitute part of the public records of his office, and shall be open to public inspection.

PERSONS TO WHOM TITLE IS APPLICABLE

SEC. 506. The provisions of this title shall apply to any person (except a political committee) who, by himself, or through any agent or employee or other persons in any manner whatsoever, directly or indirectly, solicits, collects, or receives money or any other thing of value to be used principally to aid, or the principal purpose of which person is to aid, in the accomplishment of any of the following purposes:

(a) The passage or defeat of any legislation by the Council of the District of Columbia.

(b) To influence, directly or indirectly, the passage or defeat of any legislation by the Council of the District of Columbia.

REGISTRATION OF LOBBYISTS WITH DIRECTOR; COMPILATION OF INFORMATION

SEC. 507. (a) Any person who shall engage himself for pay or for any consideration for the purpose of attempting to influence the passage or defeat of any legislation by the Council of the District of Columbia shall, before doing anything in furtherance of such object, register with the Director and shall give to him in writing and under oath, his name and business address, the name and address of the person by whom he is employed, and in whose interest he appears or works, the duration of such employment, how much he is paid and is to receive, by whom he is paid or is to be paid, how much he is to be paid for expenses, and what expenses are to be included. Each such person so registering shall, between the first and tenth day of each calendar quarter, so long as his activity continues, file with the Director a detailed report under oath of all money received and extended by him during the preceding calendar quarter in carrying on his work; to whom paid; for what purposes; and the names of any papers, periodicals, magazines, or other publications in which he has caused to be published any articles or editorials; and the proposed legislation he is employed to support or oppose. The provisions of this section shall not apply to any person who merely appears before the Council of the District of Columbia, or a committee thereof, in support of or opposition to legislation; nor to any public official acting in his official capacity; nor in the case of any newspaper or other regularly published periodical (including any individual who owns, publishes, or is employed by any such newspaper or periodical) which in the ordinary course of business publishes news items, editorials, or other comments, or paid advertisements, which directly or indirectly urge the passage or defeat of legislation, if such newspaper, periodical, or individual, engages in no further or other activities in connection with the passage or defeat of such legislation, other than to appear before a committee of the Council of the District of Columbia in support of or in opposition to such legislation.

(b) All information required to be filed under the provisions of this section with the Director shall be compiled by the Director as soon as practicable after the close of the calendar quarter with respect to which such information is filed and shall be printed in the District of Columbia Register.

REPORTS AND STATEMENTS UNDER OATH

SEC. 508. All reports and statements required under this title shall be made under oath, before an officer authorized by law to administer oaths.

PENALTIES AND PROHIBITIONS

SEC. 509. (a) Any person who violates any of the provisions of this title, shall be guilty of a misdemeanor, and shall be punished by a fine of not more than $5,000 or imprisonment for not more than twelve months, or both.

(b) In addition to the penalties provided for in subsection (a) of this section, any person convicted of the misdemeanor specified therein is prohibited, for a period of three years from the date of such conviction, from attempting to influence, directly or indirectly, the passage or defeat of any proposed legislation or from appearing before a committee of the Council of the District of Columbia in support of or opposition to proposed legislation; and any person who violates any provision of this subsection shall be guilty of a felony, and shall be punished by a fine of not more than $10,000, or imprisonment for not more than five years, or both.

EXEMPTION

SEC. 510. The provisions of this title shall not apply to—

(1) any Member of the United States House of Representatives or any Senator;

(2) any member of a staff of any person specified in paragraph (1) while operating within the scope of his employment;

(3) any member of an Advisory Neighborhood Council;

(4) any person who receives less than $500 during the calendar year as compensation for performing services relating to the influencing of legislation; or

(5) any entity specified in section 1(d) of title II of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code,

sec. 47–1554(d)), no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation.

TITLE VI—CONFLICT OF INTEREST AND DISCLOSURE

CONFLICT OF INTEREST

SEC. 601. (a) The Congress declares that elective and public office is a public trust, and any effort to realize personal gain through official conduct is a violation of that trust.

(b) No public official shall use his official position or office to obtain financial gain for himself, any member of his household, or any business with which he or a member of his household is associated, other than that compensation provided by law for said public official.

(c) No person shall offer or give to a public official or a member of a public official's household, and no public official shall solicit or receive anything of value, including a gift, favor, service, loan gratuity, discount, hospitality, political contribution, or promise of future employment, based on any understanding that such public official's official actions or judgment or vote would be influenced thereby, or where it could reasonably be inferred that the thing of value would influence the public official in the discharge of his duties, or as a reward, or which would cause the total value of such things received from the same person not a member of such public official's household to exceed $100 during any single calendar year.

(d) No person shall offer or pay to a public official, and no public official shall solicit or receive any money, in addition to that lawfully received by the public official in his official capacity, for advice or assistance given in the course of the public official's employment or relating to his employment.

(e) No public official shall use or disclose confidential information given in the course of or by reason of his official position or activities in any way that could result in financial gain for himself or for any other person.

(f) No member or employee of the Council of the District of Columbia or Board of Education of the District of Columbia shall accept assignment to serve on a committee the jurisdiction of which consists of matters (other than of a de minimis nature) in which he or a member of his family or a business with which he is associated, has financial interest.

(g) Any public official who, in the discharge of his official duties, would be required to take an action or make a decision that would affect directly or indirectly his financial interests or those of a member of his household, or a business with which he is associated, or must take an official action on a matter as to which he has a conflict situation created by a personal, family, or client interest, shall—

(1) prepare a written statement describing the matter requiring action or decision, and the nature of his potential conflict of interest with respect to such action or decision;

(2) cause copies of such statement to be delivered to the District of Columbia Board of Elections and Ethics (referred to in this title as the "Board"), and to his immediate superior, if any;

(3) if he is a member of the Council of the District of Columbia or member of the Board of Education of the District of Columbia, or employee of either, deliver a copy of such statement to the Chairman thereof, who shall cause such statement to be printed in the record of proceedings, and, upon request of said member or employee, shall excuse the member from votes, deliberations, and other action on the matter on which a potential conflict exists;

(4) if he is not a member of the Council of the District of Columbia, his superior, if any, shall assign the matter to another employee who does not have a potential conflict of interest, or, if he has no immediate superior, he shall take such steps as the Board prescribes through rules and regulations to remove himself from influence over actions and decisions on the matter on which potential conflict exists; and

(5) during a period when a charge of conflict of interest is under investigation by the Board, if he is not a member of the Council of the District of Columbia or a member of the Board of Education, his superior, if any, shall have the arbitrary power to assign the matter to another employee who does not have a potential conflict of interest, or if he has no immediate superior, he shall take such steps as the Board shall prescribe through rules and regulations to remove himself from influence over actions and decisions on the matter on which there is a conflict of interest.

(h) Neither the Mayor nor any member of the Council of the District of Columbia may represent another person before any regulatory agency or court of the District of Columbia while serving in such office. The preceding sentence does not apply to an appearance by such an official before any such agency or court in his official capacity.

(i) As used in this section, the term—

(1) "public official" means the office of the Mayor of the District of Columbia, Chairman of the Council of the District of Columbia, or member of the Council of the District of Columbia, or Chairman or member of the Board of Education of the District of Columbia, or each officer or employee of the District of Columbia government who performs duties of the type generally performed by an individual occupying grade GS–15 of the General Schedule or any higher grade or position (as determined by the Board regardless of the rate of compensation of such individual);

(2) "business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock, trust, and any legal entity through which business is conducted for profit;

(3) "business with which he is associated" means any business of which the person or member of his household is a director, officer, owner, employee, or holder of stock worth $1,000 or more at fair market value, and any business which is a client of that person;

(4) "household" means the public official and his immediate family; and

(5) "immediate family" means the public official's spouse and any parent, brother, or sister, or child of the public official, and the spouse of any such parent, brother, sister, or child.

DISCLOSURE OF FINANCIAL INTEREST

SEC. 602. Any candidate for nomination for election, or election, to public office who at the time he becomes a candidate, does not occupy any such office, shall file within one month after he becomes a candidate for such office, and the Mayor, and the Chairman and each member of the Council of the District of Columbia holding office under the District of Columbia Self-Government and Governmental Reorganization Act, and the Chairman and each member of the Board of Education, shall file annually, with the Board a report containing a full and complete statement of—

(1) the amount and source of each item of income, each item of reimbursement for any expenditure, and each gift or aggregate of gifts from one source (other than gifts received by him or by him and his spouse jointly during the preceding calendar year) which exceeds $100 in amount or value, including any fee or other honorarium received by him for or in connection with the preparation or delivery of any speech or address, attendance at any convention or other assembly of individuals, or the preparation of any article or other composition for publication, and the monetary value of subsistence, entertainment, travel, and other facilities received by him in kind;

(2) the identity of each asset held by him, or by him and his spouse jointly which has a value in excess of $1,000, and the identity and amount of each liability owned by him, or by him and his spouse jointly, which is in excess of $1,000 as of the close of the preceding calendar year;

(3) any transactions in securities of any business entity by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction during the preceding calendar year if the aggregate amount involved in transactions in the securities of such business entity exceeds $5,000 during such year;

(4) all transactions in commodities by him, or by him and his spouse jointly, or by any person acting on his behalf, or pursuant to his direction during the preceding calendar year if the aggregate amount involved in such transactions exceeds $5,000;

(5) any purchase or sale, other than the purchase or sale of his personal residence, or real property or any interest therein by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction, during the preceding calendar year if the value of property involved in such purchase or sale exceeds $5,000; and

(6) the amount of each tax paid by the individual, or by the individual and the individual's spouse filing jointly, for the preceding calendar year, except in the case of candidates filing reports during calendar year 1974, who shall file reports for the preceding three calendar years.

(b) Any candidate for nomination for, or election to, office who at the time he becomes a candidate, does not occupy any such office, shall file within one month after he becomes a candidate for such office, and the Chairman and each member of the Council and the Mayor holding mental Reorganization Act, and the Chairman and each member of the Board of Education, and each officer and employee of the District of Columbia government who performs duties of the type generally performed by an individual occupying grade GS–15 of the General Schedule under section 5332 of title 5, United States Code, or any higher grade or position (as determined by the Board regardless of the rate of compensation of such individual), shall file with the Board in a sealed envelope marked "Confidential Personal Financial Disclosure of (name)", before the fifteenth day of May in each year, the following reports of his personal financial interests:

(1) a copy of the returns of taxes, declarations, statements, or other documents which he, or he and his spouse jointly, made for the preceding year in compliance with the income tax provisions of the Internal Revenue Code of 1954;

(2) the name and address of each business or professional corporation, firm, or enterprise in which he was an officer, director, partner, proprietor, or employee who received compensation during the preceding year and the amount of such compensation;

(3) the identity of each trust or other fiduciary relation in which he held a beneficial interest having a value of $10,000 or more, and the identity, if known, of each interest of the other fiduciary relation in real or personal property in which the candidate, officer, or employee held a beneficial interest having a value of $10,000 or more, at any time during the preceding year. If he cannot obtain the identity of the fiduciary interests, the candidate, officer, or employee shall re-

quest the fiduciary to report that information to the Board in the same manner that reports are filed under this rule.

(c) Except as otherwise provided by this section, all papers filed under this section shall be kept by the Board in the custody of the Director for not less than seven years, and while so kept shall remain sealed. Upon receipt of a request by any member of the Board adopted by a recorded majority vote of the full Board requesting the examination and audit of any of the reports filed by any individual under section (b) of this title, the Director shall transmit to the Board the envelopes containing such reports. Within a reasonable time after such recorded vote has been taken, the individual concerned shall be informed of the vote to examine and audit, and shall be advised of the nature and scope of such examination. When any sealed envelope containing any such report is received by the Director, such envelope may be opened and the contents thereof may be examined only by members of the Board in executive session. If, upon such examination, the Board determines that further consideration by the Board is warranted and within the jurisdiction of the Board, it may make the contents of any such envelope available for any use by any member of the Board, or the Director or General Counsel of the Board which is required for the discharge of his official duties. The Board may receive the papers as evidence, after giving to the individual concerned due notice and opportunity for hearing in a closed session. The Board shall publicly disclose not later than the first day of June each year the names of the candidates, officers, and employees who have filed a report. Any paper which has been filed with the Board for longer than seven years, in accordance with the provisions of this section, shall be returned to the individual concerned or his legal representative. In the event of the death or termination of the service of the Mayor or Chairman or member of the Council of the District of Columbia or Chairman or member of the Board of Education, or officer or employee of the District of Columbia, such papers shall be returned unopened to such individual, or to the surviving spouse or legal representative of such individual within one year of such date or termination of service.

(d) Reports required by this section (other than reports so required by candidates) shall be filed not later than sixty days following the enactment of this Act, and not later than May 15 of each succeeding year. In the case of any person who ceases, prior to such date in any year, to occupy the office or position the occupancy of which imposes upon him the reporting requirements contained in subsection (a) shall file such report on the last day he occupies such office or position, or on such later date, not more than three months after such last day, as the Board may prescribe.

(e) Reports required by this section shall be in such form and detail as the Board may prescribe. The Board may provide for the grouping of items of income, sources of income, assets, liabilities, dealings in securities or commodities, and purchases and sales of real property when separate itemization is not feasible or is not necessary for an accurate disclosure of the income, net worth, dealing in securities and commodities or purchases, and sales of rental property of any individual.

(f) All public reports filed under this section shall be maintained by the Board as public records which, under such reasonable regulations as it shall prescribe, shall be available for inspection by members of the public.

(g) For the purposes of any report required by this section, any individual shall be considered to have been Mayor, Chairman, or member of the Council of the District of Columbia, or Chairman or member of the Board of Education, or officer or employee of the District of Columbia during any calendar year if such individual served in any such position for more than six months during such calendar year.

(h) For purposes of this section, the term—

(1) "income" means gross income as defined in section 61 of the Internal Revenue Code of 1954;

(2) "security" means security as defined in section 2 of the Securities Act of 1933, as amended (15 U.S.C. 77b);

(3) "commodity" means commodity as defined in section 2 of the Commodities Exchange Act, as amended (7 U.S.C. 2);

(4) "transactions in securities or commodities" means any acquisition, holding, withholding, use, transfer, or other disposition involving any security or commodity;

(5) "immediate family" means the child, parent, grandparent, brother, or sister of an individual, and the spouse of such person; and

(6) "tax" means the taxes imposed under chapter 1 of the Internal Revenue Code of 1954, under the District of Columbia Revenue Act of 1947, and under the District of Columbia Public Works Act of 1954 and any other provision of law relating to the taxation of property within the District of Columbia.

TITLE VII—PENALTIES AND ENFORCEMENT TAX CREDITS, USE OF SURPLUS CAMPAIGN FUNDS, VOTERS' INFORMATION PAMPHLETS, STUDY OF 1974 ELECTION AND REPORT BY COUNCIL, EFFECTIVE DATES, AMENDMENTS TO DISTRICT OF COLUMBIA ELECTION ACT, AND AUTHORIZATION

PENALTIES AND ENFORCEMENT

SEC. 701. (a) Except as provided in subsection (b), any person or political committee who violates any of the provisions of this Act shall be fined not more than $5,000, or shall be imprisoned for not longer than six months, or both.

(b) Any person who knowingly files any false or misleading statement, report, voucher, or other paper, or makes any false or misleading statement to the Board, shall be fined not more than $10,000, or shall be imprisoned for not longer than five years, or both.

(c) The penalties provided in this section shall not apply to any person or political committee who, before the date of enactment of this Act during calendar year 1974, makes political contributions or receives political contributions or makes any political campaign expenditures, in excess of any limitation placed on such contributions or expenditures by this Act, except such person or political committee shall not make any further such contributions or expenditures during the remainder of calendar year 1974.

(d) Prosecutions of violations of this Act shall be brought by the United States Attorney for the District of Columbia in the name of the United States.

TAX CREDIT FOR CAMPAIGN CONTRIBUTIONS

SEC. 702. (a) Title VI of article I of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, secs. 47–1565—47–1567e) is amended by adding at the end of that title the following:

"SEC. 7. (a) Credit for Campaign Contributions.—For the purpose of encouraging residents of the District to participate in the election process in the District, there shall be allowed to an individual a credit against the tax (if any) imposed by this article in an amount equal to 50 per centum of any campaign contribution made to any candidate for election to any office referred to in the first section of the District of Columbia Election Act, but in no event shall such credit exceed the amount of $12.50, or $25 in the case of married persons filing a joint return.

"(b) (1) A husband and wife filing separate returns for a taxable year for which a joint return could have been made by them may claim between them only the total credit (or refund) to which they would have been entitled under this section had a joint return been filed.

"(2) No individual for whom a personal exemption was allowed on another individual's return shall be entitled to a credit (or refund) under this section.".

"Sec. 7. Credit for campaign contributions.".

USE OF SURPLUS CAMPAIGN FUNDS

SEC. 703. Within the limitations specified in this Act, any surplus, residual, or unexpended campaign funds received by or on behalf of an individual who seeks nomination for election, or election to office shall be contributed to a political party for political purposes, used to retire the proper debts of his political committee which received such funds, or returned to the donors as follows:

(1) in the case of an individual defeated in an election, within six months following such election;

(2) in the case of an individual elected to office, within six months following such election; and

(3) in the case of an individual ceasing to be a candidate, within six months thereafter.

A STUDY OF 1974 ELECTION AND REPORT BY COUNCIL

SEC. 704. (a) The Council of the District of Columbia shall, during calendar year 1975, conduct public hearings and other appropriate investigations on (1) the operation and effect of the District of Columbia Campaign Finance Reform Act and the District of Columbia Election Act on the elections held in the District of Columbia during 1974; and (2) the necessity and desirability of modifying either or both of those Acts so as to improve electoral machinery and to insure open, fair, and effective election campaigns in the District of Columbia.

(b) Upon the conclusion of its hearings and investigations the Council shall issue a public report on its findings and recommendations. Nothing in this section shall be construed as limiting the legislative authority over elections in the District of Columbia vested in the Council by the District of Columbia Self-Government and Governmental Reorganization Act.

EFFECTIVE DATES

SEC. 705. (a) Titles II and IV of this Act shall take effect on the date of enactment of this Act, except the first report or statement required to be filed by any individual or political committee under the provisions of such titles shall include that information required under section 13(e) of the District of Columbia Election Act (D.C. Code, sec. 1–1113(e)) with respect to contributions and expenditures made before the date of enactment of this Act, but after January 1, 1974.

(b) Titles I, III, VI and VII of this Act shall take effect on the date of enactment of this Act.

(c) Title V of this Act shall take effect January 2, 1975.

AMENDMENTS TO DISTRICT OF COLUMBIA ELECTION ACT

SEC. 706. (a) Section 13 of the District of Columbia Election Act (D.C. Code, sec. 1–1113) is amended to read as follows:

"AUTHORIZATION

"SEC. 13. There are hereby authorized to be appropriated, out of any money in the Treasury to the credit of the District of Columbia not otherwise appropriated, such sums as are

necessary to carry out the purposes of this Act.".

(b) The first sentence of subsection (b) of section 4 of such Act (D.C. Code, sec. 1–1104) is amended to read as follows:

"(b) Each member of the Board shall be paid compensation at the rate of $100 for each eight hour period with a limit of $12,500 per annum, while performing duties under this Act, except during 1974 such compensation shall be paid without regard to such annual limitation.".

(c) The amendment made by subsection (a) shall not affect the liability of any person arising out of any violation of section 13 of the District of Columbia Election Act committed before the date of enactment of this title, and any action commenced with respect to such a violation shall not abate.

AUTHORITY OF COUNCIL

SEC. 707. Notwithstanding any other provision of law, or any rule of law, nothing in this Act shall be construed as limiting the authority of the District of Columbia Council to enact any act or resolution, after January 2, 1975, pursuant to the District of Columbia Self-Government and Governmental Reorganization Act with respect to any matter covered by this Act.

AUTHORIZATION OF APPROPRIATION

SEC. 708. Amounts authorized under section 722 of the District of Columbia Self-Government and Governmental Reorganization Act may be used to carry out the purposes of this Act.

And the Senate agrees to the same.

CHARLES C. DIGGS,
BROCK ADAMS,
D. FRASER,
W. S. (BILL) STUCKEY,
THOMAS REES,
ANCHER NELSEN,
GILBERT GUDE,
Managers on the part of House.

THOMAS F. EAGLETON
DANIEL INOUYE,
K. MCC. MATHIAS,
Managers on the part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15074) to regulate certain political campaign finance practices in the District of Columbia, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all the House bill after the enacting clause, inserted a substitute text and provided a new title for the House bill.

The Committee of Conference has agreed to a substitute for both the House bill and the Senate amendment to the text of the bill. Except for clarifying, clerical, and conforming changes, the major differences are noted below:

AGENCY TO ADMINISTER THE ACT

The House bill continued the existing Board of Elections to administer this act.

The Senate amendment replaced the present Board of Elections with the Board of Elections and Ethics to assume the duties of the previous Board. The new Board was given compliance authority, including civil penalties and general procedures for conduct of the Board's business.

The Conference substitute conforms to the Senate amendment.

APPOINTMENT OF DIRECTOR OF CAMPAIGN FINANCE

The House bill provided for appointment of the Director by the Board of Elections at a salary of GS–10 level.

The Senate amendment provided for appointment of the Director by the Mayor with Senate confirmation until January 2, 1975, and Council confirmation thereafter. The salary of the Director was set at GS–16 ($36,000).

The Conference substitute conforms to the Senate amendment.

CHAIRMAN OF THE BOARD OF ELECTIONS

The House bill made the position of Board Chairman full-time and retained the present $75 per day reimbursement for Board members, not to exceed $11,250 per annum.

The Senate amendment left the Board Chairman as a part-time position and raised the compensation of Board members to $150 per day without annual limitation.

The Conference substitute leaves the Chairman as a part-time position and raises the pay of each member of the Board to $100 for each 8-hour period worked, with an annual limitation of $12,500.

CONTRIBUTION LIMITATIONS—INDIVIDUALS

The House bill set maximum contributions as follows: to a candidate for Mayor, $1,000; to a candidate for Chairman of the City Council, $750; to a candidate for Council-at-Large, $500; to a candidate for official of a political party, $100, with an additional $100 contribution permitted in case of a run-off.

The Senate amendment lowered the ceiling for contributions to Mayoral candidates to $500; candidates for Chairman to $400, and candidates for Council-at-Large to $400. The Senate amendment had no provision for contributions to candidates for official of a political party or in case of a run-off. The Senate amendment limited contributions to candidates for Advisory Neighborhood Councils to $25.

The Conference substitute conforms to the House bill but accepts the Senate limitation for Advisory Neighborhood Councils.

CONTRIBUTION LIMITATIONS—PERSONS OTHER THAN INDIVIDUALS

The House bill limited contributions by persons other than individuals to a single candidate as follows: the Mayor, $2,000; the Chairman, $1,500; the Council Member-at-Large, $1,000; and Council Member from a ward, $400; for Board of Education from a ward, $200; for official of a political party, $200; and provided an additional $200 in case of a run-off.

The Senate amendment had no such provision.

The Conference substitute conforms to the House provision with the addition that these limitations as they apply to corporations and labor unions expire on July 1, 1975, unless reenacted or modified by the City Council. If the Council fails to act, it shall by August 1, 1975 report the reasons for its failure to act to the Senate and House Committees on the District of Columbia.

AGGREGATE CONTRIBUTIONS BY AN INDIVIDUAL

The House bill limited an individual to contributions to all candidates totaling $2,000.

The Senate amendment provided a limitation of $1,000.

The Conference substitute conforms to the House bill.

CONTRIBUTIONS BY A CANDIDATE AND HIS FAMILY TO HIS CAMPAIGN

The House bill contained individual limitations that may be spent by a candidate and his family in different amounts for each office, starting with $2,000 for the Mayor and ranging down.

The Senate amendment permitted contributions by a candidate and his immediate family to aggregate 25% of the total expenditures permitted in his campaign.

The Conference substitute conforms to the House provision.

MAXIMUM EXPENDITURES IN A CANDIDATE'S CAMPAIGN

The House bill limited total expenditures in any candidate's campaign for both primary and general elections and limited the expenditure to 50% in the primary and 50% in the general election: the Mayor, $200,000; the Chairman, $150,000; Council at-large, $100,000; Board of Education at-large, $40,000; Member of the Council from a ward, $40,000; Board of Education from a ward, $20,000; official of political party, $20,000.

The Senate amendment lowered those figures and permitted 60% to be spent in the general or primary election at the candidate's discretion in the races for Mayor, $150,000; Chairman, $115,000; Council at-large, $90,000; Board of Education at-large, $20,000; Member of the Council from a ward, $20,000; Board of Education from a ward, $10,000.

The Conference substitute adopts the total dollar expenditure limitations contained in the House bill, with the Senate provision which permits 60% of the funds to be expended in either the general or primary election at the candidate's discretion, with the other 40% to be the limitation on expenditures for the other election.

USE OF UNEXPENDED CAMPAIGN FUNDS

The House bill permits use of surplus campaign funds for political purposes of a political party; retiring proper debts of a political committee; contribution to educational organizations; contribution to charitable organizations; and use in future campaigns of same candidate.

The Senate amendment provided that surplus funds shall be used for political purposes of a political party; retiring proper debts of a political committee; or be returned to donors on a pro rata basis.

The Conference substitute provides that surplus funds shall be used for political purposes of a political party, for retiring proper debts of the candidate's political committee which received the funds, or be returned to donors within six months after the election.

LOBBYING

The House bill provided for registration and reporting by persons engaging for pay in lobbying for passage or defeat of legislation by the Council of the District of Columbia. The Director of Campaign Finance administered this provision.

The Senate amendment had no such provision.

The Conference substitute conforms with the House bill but makes certain exceptions and limits its operation to lobbyists being paid over $500 per year for this purpose.

CONFLICT OF INTEREST

The Senate amendment prohibited a public official of the District, from using his office to obtain financial gain, accepting gifts for taking official action, disclosing confidential information resulting in financial gain. No official could accept membership on a committee or an assignment of responsibility which created a conflict of interest.

The House bill contained no such provision.

The Conference substitute conforms to the Senate amendment.

DISCLOSURE OF PERSONAL FINANCES

The Senate amendment required the candidates and District office holders to file a report with the Board of Elections and Ethics containing the income, business transactions, property purchases or sales and taxes paid by him each year.

The House bill contained no such provisions.

The Conference substitute conforms to the Senate amendment.

TITLE

The Senate amended the title of the bill.

The Conference substitute adopts the title as contained in the Senate amendment.

CHARLES C. DIGGS,
BROCK ADAMS,
D. FRASER,
W. S. (BILL) STUCKEY,
THOMAS REES,
ANCHER NELSEN,
GILBERT GUDE,
Managers on the Part of the House.

THOMAS F. EAGLETON,
DANIEL K. INOUYE,
CHARLES MCC. MATHIAS,
Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 2296, FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT OF 1974

Mr. VIGORITO on behalf of Mr. POAGE filed the following conference report and statement on the bill (S. 2296), to provide for the Forest Service, Department of Agriculture, to protect, develop, and enhance the environment of certain of the Nation's lands and resources, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 93–1226)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2296) to provide for the Forest Service, Department of Agriculture, to protect, develop, and enhance the environment of certain of the Nation's lands and resources, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Forest and Rangeland Renewable Resources Planning Act of 1974".

SEC. 2. RENEWABLE RESOURCE ASSESSMENT.—(a) In recognition of the vital importance of America's renewable resources of the forest, range, and other associated lands to the Nation's social and economic well-being, and of the necessity for a long term perspective in planning and undertaking related national renewable resource programs administered by the Forest Service, the Secretary of Agriculture shall prepare a Renewable Resource Assessment (hereinafter called the "Assessment"). The Assessment shall be prepared not later than December 31, 1975, and shall be updated during 1979 and each tenth year thereafter, and shall include but not be limited to—

(1) an analysis of present and anticipated uses, demand for, and supply of the renewable resources, with consideration of the international resource situation, and an emphasis of pertinent supply and demand and price relationship trends;

(2) an inventory, based on information developed by the Forest Service and other Federal agencies, of present and potential renewable resources, and an evaluation of opportunities for improving their yield of tangible and intangible goods and services, together with estimates of investment costs and direct and indirect returns to the Federal Government;

(3) a description of Forest Service programs and responsibilities in research, cooperative programs, and management of the National Forest System, their interrelationships, and the relationship of these programs and responsibilities to public and private activities; and

(4) a discussion of important policy considerations, laws, regulations, and other factors expected to influence and affect significantly the use, ownership, and management of forest, range, and other associated lands.

(b) To assure the availability of adequate data and scientific information needed for development of the Assessment, section 9 of the McSweeney-McNary Act of May 22, 1928 (45 Stat. 702, as amended, 16 U.S.C. 581h), is hereby amended to read as follows:

"The Secretary of Agriculture is hereby authorized and directed to make and keep current a comprehensive survey and analysis of the present and prospective conditions of and requirements for the renewable resources of the forest and range lands of the United States, its territories and possessions, and of the supplies of such renewable resources, including a determination of the present and potential productivity of the land, and of such other facts as may be necessary and useful in the determination of ways and means needed to balance the demand for and supply of these renewable resources, benefits and uses in meeting the needs of the people of the United States. The Secretary shall carry out the survey and analysis under such plans as he may determine to be fair and equitable, and cooperate with appropriate officials of each State, territory, or possession of the United States, and either through them or directly with private or other agencies. There is authorized to be appropriated not to exceed $20,000,000 in any fiscal year to carry out the purposes of this section."

SEC. 3. RENEWABLE RESOURCE PROGRAM.—In order to provide for periodic review of programs for management and administration of the National Forest System, for research, for cooperative State and private Forest Service programs, and for conduct of other Forest Service activities in relation to the findings of the Assessment, the Secretary of Agriculture, utilizing information available to the Forest Service and other agencies within the Department of Agriculture, including data prepared pursuant to section 302 of the Rural Development Act of 1972, shall prepare and transmit to the President a recommended Renewable Resource Program (hereinafter called the "Program"). The Program transmitted to the President may include alternatives, and shall provide in appropriate detail for protection, management, and development of the National Forest System, including forest development roads and trails; for cooperative Forest Service programs; and for research. The Program shall be developed in accordance with principles set forth in the Multiple-Use Sustained-Yield Act of June 12, 1960 (74 Stat. 215; 16 U.S.C. 528–531), and the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321–4347). The Program shall be prepared not later than December 31, 1975, to cover the four-year period beginning October 1, 1976, and at least each of the four fiscal decades next following such period, and shall be updated no later than during the first half of the fiscal year ending September 30, 1980, and the first half of each fifth fiscal year thereafter to cover at least each of the four fiscal decades beginning next after such updating. The Program shall include, but not be limited to—

(1) an inventory of specific needs and opportunities for both public and private program investments. The inventory shall differentiate between activities which are of a capital nature and those which are of an operational nature;

(2) specific identification of Program outputs, results anticipated, and benefits associated with investments in such a manner that the anticipated costs can be directly compared with the total related benefits and direct and indirect returns to the Federal Government;

(3) a discussion of priorities for accomplishment of inventoried Program opportunities, with specified costs, outputs, results, and benefits; and

(4) a detailed study of personnel requirements as needed to satisfy existing and ongoing programs.

SEC. 4. NATIONAL FOREST SYSTEM RESOURCE INVENTORIES.—As a part of the Assessment, the Secretary of Agriculture shall develop and maintain on a continuing basis a comprehensive and appropriately detailed inventory of all National Forest System lands and renewable resources. This inventory shall be kept current so as to reflect changes in conditions and identify new and emerging resources and values.

SEC. 5. NATIONAL FOREST SYSTEM RESOURCE PLANNING.—(a) As a part of the Program provided for by section 3 of this Act, the Secretary of Agriculture shall develop, maintain, and, as appropriate, revise land and resource management plans for units of the National Forest System, coordinated with the land and resource management planning processes of State and local governments and other Federal agencies.

(b) In the development and maintenance of land management plans for use on units of the National Forest System, the Secretary shall use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences.

SEC. 6. COOPERATION IN RESOURCE PLANNING.—The Secretary of Agriculture may utilize the Assessment, resource surveys, and Program prepared pursuant to this Act to assist States and other organizations in proposing the planning for the protection, use, and management of renewable resources on non-Federal land.

SEC. 7. NATIONAL PARTICIPATION.—(a) On the date Congress first convenes in 1976 and thereafter following each updating of the Assessment and the Program, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate, when Congress convenes, the Assessment as set forth in section 2 of this Act and the Program as set forth in section 3 of this Act, together with a detailed Statement of Policy intended to be used in framing budget requests by that Administration for Forest Service activities for the five- or ten-year program period beginning during the term of such Congress for such further action deemed appropriate by the Congress. Following the transmission of such Assessment, Program, and Statement of Policy, the President shall, subject to other actions of the Congress, carry out programs already established by law in accordance with such Statement of Policy or any subsequent amendment or modification thereof approved by the Congress, unless, before the end of the first period of sixty calendar days of continuous session of Congress after the date on which the President of the Senate and the Speaker of the House are recipients of the transmission of such Assessment, Program, and Statement of Policy, either House adopts a resolution reported by the appropriate committee of jurisdiction disapproving the Statement of Policy. For the purpose of this subsection, the continuity of a session shall be deemed to be broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the sixty-day period. Notwithstanding any other provision of this Act, Congress may revise or modify the Statement of Policy transmitted by the President, and the revised or modified Statement of Policy shall be used in framing budget requests.

(b) Commencing with the fiscal budget for the year ending September 30, 1977, requests presented by the President to the Congress

governing Forest Service activities shall express in qualitative and quantitative terms the extent to which the programs and policies projected under the budget meet the policies approved by the Congress in accordance with subsection (a) of this section. In any case in which such budget so presented recommends a course which fails to meet the policies so established, the President shall specifically set forth the reason or reasons for requesting the Congress to approve the lesser programs or policies presented. Amounts appropriated to carry out the policies approved in accordance with subsection (a) of this section shall be expended in accordance with the Congressional Budget and Impoundment Control Act of 1974, Public Law 93-344.

(c) For the purpose of providing information that will aid Congress in its oversight responsibilities and improve the accountability of agency expenditures and activities, the Secretary of Agriculture shall prepare an annual report which evaluates the component elements of the Program required to be prepared by section 3 of this Act which shall be furnished to the Congress at the time of submission of the annual fiscal budget commencing with the third fiscal year after the enactment of this Act.

(d) These annual evaluation reports shall set forth progress in implementing the Program required to be prepared by section 3 of this Act, together with accomplishments of the Program as they relate to the objectives of the Assessment. Objectives should be set forth in qualitative and quantitative terms and accomplishments should be reported accordingly. The report shall contain appropriate measurements of pertinent costs and benefits. The evaluation shall assess the balance between economic factors and environmental quality factors. Program benefits shall include, but not be limited to, environmental quality factors such as esthetics, public access, wildlife habitat, recreational and wilderness use, and economic factors such as the excess of cost savings over the value of foregone benefits and the rate of return on renewable resources.

(e) The reports shall indicate plans for implementing corrective action and recommendations for new legislation where warranted.

(f) The reports shall be structured for Congress in concise summary form with necessary detailed data in appendices.

SEC. 8. NATIONAL FOREST SYSTEM PROGRAM ELEMENTS.—The Secretary of Agriculture shall take such action as will assure that the development and administration of the renewable resources of the National Forest System are in full accord with the concepts for multiple use and sustained yield of products and services as set forth in the Multiple-Use Sustained-Yield Act of 1960. To further these concepts, the Congress hereby sets the year 2000 as the target year when the renewable resources of the National Forest System shall be in an operating posture whereby all backlogs of needed treatment for their restoration shall be reduced to a current basis and the major portion of planned intensive multiple-use sustained-yield management procedures shall be installed and operating on an environmentally-sound basis. The annual budget shall contain requests for funds for an orderly program to eliminate such backlogs: *Provided*, That when the Secretary finds that (1) the backlog of areas that will benefit by such treatment has been eliminated, (2) the cost of treating the remainder of such area exceeds the economic and environmental benefits to be secured from their treatment, or (3) the total supplies of the renewable resources of the United States are adequate to meet the future needs of the American people, the budget request for these elements of restoration may be adjusted accordingly.

SEC. 9. TRANSPORTATION SYSTEM.—The Congress declares that the installation of a proper system of transportation to service the National Forest System, as is provided for in Public Law 88-657, the Act of October 13, 1964 (16 U.S.C. 532-538), shall be carried forward in time to meet anticipated needs on an economical and environmentally sound basis, and the method chosen for financing the construction and maintenance of the transportation system should be such as to enhance local, regional, and national benefits, except that the financing of forest development roads as authorized by clause (2) of section 4 of the Act of October 13, 1964, shall be deemed "budget authority" and "budget outlays" as those terms are defined in section 3(a) of the Congressional Budget and Impoundment Control Act of 1974 and shall be effective for any fiscal year only in the manner required for new spending authority as specified by section 401(a) of that Act.

SEC. 10. (a) NATIONAL FOREST SYSTEM DEFINED.—Congress declares that the National Forest System consists of units of federally owned forest, range, and related lands throughout the United States and its territories, united into a nationally significant system dedicated to the long-term benefit for present and future generations, and that it is the purpose of this section to include all such areas into one integral system. The "National Forest System" shall include all national forest lands reserved or withdrawn from the public domain of the United States, all national forest lands acquired through purchase, exchange, donation, or other means, the national grasslands and land utilization projects administered under title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 525, 7 U.S.C. 1010-1012), and other lands, waters, or interests therein which are administered by the Forest Service or are designated for administration through the Forest Service as a part of the system.

(b) The on-the-ground field offices, field supervisory offices, and regional offices of the Forest Service shall be so situated as to provide the optimum level of convenient, useful services to the public, giving priority to the maintenance and location of facilities in rural areas and towns near the national forest and Forest Service program locations in accordance with the standards in section 901(b) of the Act of November 30, 1970 (84 Stat. 1383), as amended.

SEC. 11. RENEWABLE RESOURCES.—In carrying out this Act, the Secretary of Agriculture shall utilize information and data available from other Federal, State, and private organizations and shall avoid duplication and overlap of resource assessment and program planning efforts of other Federal agencies. The term "renewable resources" shall be construed to involve those matters within the scope of responsibilities and authorities of the Forest Service on the date of this Act.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the amendment of the House, amend the title to read as follows: "An Act to provide for the Forest Service, Department of Agriculture, to protect, develop, and enhance the productivity and other values of certain of the Nation's lands and resources, and for other purposes."

And the House agree to the same.

W. R. POAGE,
JOSEPH P. VIGORITO,
JOHN R. RARICK,
GEO. A. GOODLING,
LAMAR BAKER,
Managers on the Part of the House.
HERMAN E. TALMADGE,
JAMES O. EASTLAND,
JAMES B. ALLEN,
HUBERT H. HUMPHREY,
GEORGE D. AIKEN,
HENRY BELLMON,
JESSE HELMS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2296) to provide for the Forest Service, Department of Agriculture, to protect, develop, and enhance the environment of certain of the Nation's lands and resources, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report. The differences between the Senate bill and the House amendments and the substitute agreed to in conference are noted in the following outline, except for conforming, clarifying, and technical changes:

(1) The Senate bill provides that the short title is the "Forest and Rangeland Environmental Management Act of 1974". The House amendment provides that the short title is the "Forest and Related Resources Planning Act of 1974".

The conference substitute provides that the Act may be cited as the "Forest and Rangeland Renewable Resources Planning Act of 1974".

(2) The Senate bill contains a statement of findings declaring the importance of renewable resources, their conservation, and their wise management to the Nation's ecological and economic well-being. The House amendment contains no comparable provision.

The conference substitute deletes the Senate provision.

(3) The Senate bill refers throughout to the "renewable resources" of the forest, range, and associated lands. The House amendment refers instead to the "forest and related resources" and defines such phrase as matters within the jurisdiction of the Forest Service on the date of enactment of the bill.

The conference substitute adopts the terminology of the Senate bill but defines "renewable resources" as matters within the jurisdiction of the Forest Service on the date of enactment of the bill.

(4) The Senate bill requires the Secretary of Agriculture to prepare a National Renewable Resource Assessment. The House amendment requires the Secretary to prepare a Forest and Related Resources Assessment, but limits the Assessment to programs administered by the Forest Service.

The conference substitute adopts the limitation of the House amendment in requiring the preparation of a Renewable Resource Assessment.

(5) The Senate bill requires the preparation of the Assessment not later than December 31, 1974. The House amendment changes the date to December 31, 1975.

The conference substitute adopts the House provision.

(6) Both the Senate bill and the House amendment require that the Assessment include an inventory of present and potential resources. The House amendment provides that the inventory is to be based on information available to the Forest Service and other Federal agencies.

The conference substitute provides that the inventory is to be based on information developed by the Forest Service and other Federal agencies.

(7) The House amendment requires that the Assessment include a detailed study of personnel requirements needed to meet existing and ongoing Forest Service programs. There is no comparable Senate provision.

The conference substitute includes the House provision as part of the Renewable Resource Program that the Secretary of Agriculture is required to prepare.

(8) Both the Senate bill and the House

amendment amend section 9 of the McSweeney-McNary Act of 1928 to require comprehensive surveys of the resources of the forest and range lands of the United States. The Senate bill authorizes the appropriation of such sums as may be necessary to carry out the surveys. The House amendment authorizes appropriations not to exceed $20 million in any fiscal year.

The conference substitute adopts the House provision.

(9) The Senate bill requires the Secretary of Agriculture to prepare and transmit to the President a Renewable Resource Program which shall provide for the protection, management, and development of the National Forest System, including forest development roads and trails, for cooperative programs on non-Federal lands, and for research. The House amendment requires the Secretary to prepare and transmit to the President a Forest and Related Resource Program "displaying alternative objectives and associated programs". The House amendment also refers to "cooperative forestry programs" rather than to cooperative programs on non-Federal land.

The conference substitute requires that the Secretary prepare and transmit to the President a recommended Renewable Resource Program. The conference substitute provides that the Program may include alternatives and refers to "cooperative Forest Service Programs".

(10) The House amendment requires that the Secretary of Agriculture, in preparing the Program, use information available to the Forest Service and other agencies of the Department of Agriculture, including data prepared pursuant to section 302 of the Rural Development Act. The Senate bill contains no comparable provision.

The conference substitute adopts the House provision.

(11) The Senate bill requires the preparation of the Program not later than December 31, 1974, to cover the five-year period 1975–1980. The House amendment changes the date to December 31, 1975, to cover the four-year period 1976–1980.

The conference substitute adopts the House provision.

(12) The Senate bill requires that the Program include a discussion of priorities for accomplishment of "inventoried program needs". The House amendment refers instead to "inventoried program opportunities, with specified costs, outputs, results, and benefits".

The conference substitute adopts the House provision.

(13) The Senate bill requires that the Secretary of Agriculture develop land and resource use plans for the National Forest System coordinated with the land use planning processes of State and local governments and other Federal agencies. The House amendment requires land and resource "management" plans. The Secretary would be required to consult with State and local officials in devising and implementing such plans.

The conference substitute requires land and resource management plans coordinated with the land and resource management planning processes of State and local governments and other Federal agencies.

(14) The Senate bill requires that the Secretary of Agriculture make available to States and other planning organizations the Assessment, resource survey, and Program prepared pursuant to the bill. The House amendment provides that the Secretary may utilize the Assessment, resource surveys, and Program to assist States and other planning organizations.

The conference substitute adopts the House provision.

(15) The Senate bill requires the Secretary of Agriculture to utilize such public participation as he deems appropriate—including public hearings, meetings, and advisory groups—in the development of the Assessment, resource inventories, and Program. There is no comparable House provision.

The conference substitute contains no express public participation provision. The conferees note that, under existing law, the Secretary has authority to provide for needed public participation in the development of the Assessment, resource inventories, and Program.

(16) The Senate bill requires the Congress to hold public hearings on the Assessment and Program and by resolution establish a Statement of Policy to guide the President in framing budget requests. The House amendment requires that the President submit the Statement of Policy, such statement to go into effect unless either the House of Representatives or the Senate adopts a resolution disapproving the statement within 60 days.

The conference substitute adopts the House provision with an amendment providing that Congress may revise or modify the Statement of Policy, and the revised or modified Statement of Policy shall be used in framing budget requests.

Too, in the absence of approval or formulation of Statements of Policy as provided in the bill, the President shall continue to submit budget requests in accordance with policies previously approved.

Although the conference substitute contains no provisions for public hearings, the conferees anticipate that the legislative committees will—as part of the Congressional review process evaluating the Assessment, Program, and Statement of Policy—hold such public hearings as are appropriate.

(17) The Senate bill provides that the President can impound funds appropriated for the purposes of the Statement of Policy adopted by Congress only when (a) the appropriation Act provides specifically for discretion as to such expenditures, or (b) the President finds that because of events occurring subsequent to the enactment of the appropriation Act, such expenditure would fail to accomplish its purpose. The House amendment contains no comparable provision.

The conference substitute deletes the Senate provision, but provides specifically that amounts appropriated to carry out the policies approved under the bill shall be expended in accordance with the Congressional Budget and Impoundment Control Act of 1974.

(18) The Senate bill sets the year 2000 as the target year when (a) all backlogs of needed treatment for renewable resources are reduced to a current basis and (b) the major portion of planned intensive management procedures are installed and operating on an environmentally sound basis. The House amendment contains no comparable provision.

The conference substitute adopts the Senate provision.

(19) The Senate bill contains an anti-impoundment provision to encourage the Administration's use of appropriated funds for forest development roads and trails rather than relying on construction financed by forest product purchasers. The House amendment contains no comparable provision, but requires that the Secretary of Agriculture prepare and transmit to the Congress an analysis of the various methods of financing the construction of forest development roads, together with his recommendations for financing such roads in the future.

The conference substitute retains the purpose of the Senate provision by providing that the financing of forest development roads by forest product purchasers shall be deemed "budget authority" and "budget outlays" as those terms are defined in the Congressional Budget and Impoundment Control Act of 1974 and effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(20) The Senate bill provides that, in applying the authority for financing the construction of forest roads and trails by forest product purchasers, the Secretary of Agriculture is to give due consideration to avoiding actions which may unduly impair revenues received and affect adversely payments to particular counties within the National Forest System. The House amendment contains no comparable provision.

The conference substitute deletes the Senate provision.

(21) The definition of the National Forest System is identical in the Senate bill and the House amendment, except that the House amendment inserts the phrase "federally owned" to make it clear that the System consists of federally owned units of forest range, and related lands.

The conference substitute adopts the House provision.

(22) The House amendment requires the Secretary of Agriculture, in carrying out the bill, to (a) use data available from other Federal, State, and private organizations and (b) avoid duplication and overlap of resource assessment and program planning efforts of other Federal agencies. The Senate bill contains no comparable provision.

The conference substitute adopts the House provision.

W. R. POAGE,
JOSEPH P. VIGORITO,
JOHN R. RARICK,
GEO. A. GOODLING,
LAMAR BAKER,
Managers on the Part of the House.

HERMAN E. TALMADGE,
JAMES O. EASTLAND,
JAMES B. ALLEN,
HUBERT H. HUMPHREY,
GEORGE D. AIKEN,
HENRY BELLMON,
JESSE HELMS,
Managers on the Part of the Senate.

PERSONAL EXPLANATION

Mr. RODINO. Mr. Speaker, on the vote on H.R. 11500 today, I did not vote. I was in the area, but in the confusion I realized that I was not recorded.

Had I been recorded, I would have voted "aye."

PERSONAL EXPLANATION

Mr. PEYSER. Mr. Speaker, I was inadvertently off the floor at the time of the last vote, on H.R. 11500. I would like to indicate that if I had voted, I would have voted in support of the bill which was just passed.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE JUDICIARY

The SPEAKER laid before the House the following communication from the chairman of the Committee on the Judiciary:

WASHINGTON, *D.C., July 25, 1974.*

Hon. CARL ALBERT,
Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: On February 6, 1974, the House of Representatives adopted H. Res. 803, which authorized and directed the Committee on the Judiciary to investigate fully and completely whether sufficient grounds exists for the House of Representatives to exercise under Article I, Section 2 of the Constitution, its power to impeach President Richard M. Nixon.

In carrying out its responsibility under

H. Res. 803, the Judiciary Committee investigated allegations regarding President Nixon's income tax returns. The Committee requested access to the President's returns and reports on those returns in the files of the Internal Revenue Service. This access was granted by the President in Executive Order 11786, dated June 7, 1974, and information from the returns and IRS documents was subsequently presented to the Committee in executive session.

The Committee is now publicly debating whether to report various articles of impeachment to the House. In the course of this debate reference will surely be made to income tax information regarding the President. Under the Constitution and H. Res. 803, it is appropriate, indeed necessary, to refer to this information in a debate which is of the highest Constitutional significance.

Commissioner Donald Alexander of the Internal Revenue Service has requested that before information from IRS files is released publicly it be submitted to the House, thus complying with Treasury Department regulations. While this procedure is undoubtedly unnecessary in view of this Committee's Constitutional responsibility and the authority granted it by H. Res. 803, in consideration of the Commissioner's position, I am herewith submitting the enclosed Statement of Information, Book X. This Book will be part of the Committee's record when it makes its recommendation to the House.

Sincerely,

PETER W. RODINO, Jr.,
Chairman.

LEGISLATIVE PROGRAM FOR THE WEEK OF JULY 29, 1974

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time in order to inquire of the distinguished acting majority leader if he is in a position to inform the Members of the House as to the program for the rest of the week and next week.

Mr. McFALL. Mr. Speaker, if the distinguished minority leader will yield, I will be happy to respond to his inquiry.

There is no further legislative business for consideration today.

Mr. Speaker, the program for the House next week is as follows:

On Monday we will consider House Concurrent Resolution 566, revised resolution authorizing additional copies of the hearings and report of the Committee on the Judiciary concerning the impeachment inquiry; and

Conference report on H.R. 14592, military procurement authorization.

Monday is also District day, and there are five bills scheduled as follows:

H.R. 15791, District of Columbia Self-Government Act amendment;

H.R. 15643, District of Columbia Public Higher Education Reorganization Act;

H.R. 15888, District of Columbia Community Development and Finance Corporation Act;

H.R. 15842, revenue for District of Columbia policemen, firemen, teachers and real property tax; and

H.R. 11108, District of Columbia Medical and Dental Manpower Act extension.

On Tuesday, we will consider the following legislation:

Conference report on S. 386, Urban Mass Transportation Act;

Conference report on H.R. 8217, unemployment compensation; and

Senate Concurrent Resolution 93, inflation policy study.

For Wednesday and the balance of the week, the program is as follows:

Conference report on H.R. 69, elementary and secondary education amendments;

H.R. 15582, Atomic Energy Act amendments, to enable Congress to concur or disapprove certain international agreements for peaceful cooperation, under an open rule, with 1 hour of debate;

H.R. 15264, Export Administration Act, under an open rule, with 1 hour of debate;

H.R. 15416, AEC omnibus legislation, under an open rule, with 1 hour of debate;

H.R. 15578, Small Business Act amendments, under an open rule, with 1 hour of debate;

H.R. 13044, Defense Production Act extension, under an open rule, with 1 hour of debate;

H.R. 9989, real estate settlement procedures, under an open rule, with 1 hour of debate;

H.R. 15736, Federal reclamation projects and programs, under an open rule, with 2 hours of debate;

H.R. 14780, International Broadcasting Board amendment, under an open rule, with 1 hour of debate; and

H.R. 15046, U.S. Information Agency authorization, subject to a rule being granted.

Conference reports may be brought up at any time. Any further program will be announced later.

Mr. Speaker, I would like to comment at this time that the Members can expect a Friday session. With this kind of a long program scheduled, I think we can expect certainly to be working here on next Friday.

Mr. RHODES. Mr. Speaker, could the gentleman from California, the distinguished acting majority leader, give the House any benefit of his thinking concerning future Fridays in this month?

Does the gentleman from California believe that Friday sessions will become the rule rather than the exception?

Mr. McFALL. If the gentleman will yield further, I can only make comment, I think, on next Friday. There is no announcement at this time concerning whether we will work on the following Friday because I think much depends upon how quickly we are able to get through our business next week, and whether or not we begin the impeachment, if any, on the 12th of August. If it begins on that day, and if we do not get all of our business done next week, it would be possible that we would have so much business to do that we might have to work on that Friday. But I do not believe we should make that judgment at this time concerning whether or not we will work on that Friday.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would say to the gentleman from California that this seems to be an unusually ambitious program for next week. Does the gentleman think we can handle all of these bills from Wednesday on, some 12 or 13 bills, most of them with rules, on Friday? Does not the gentleman think we might have to go into Saturday, and then perhaps have to put the Chaplain on notice to be here on Sunday so as to convene the House on Sunday?

Mr. McFALL. If the gentleman will yield, I would think we probably would not work on Sunday—although I would be glad to come down with the gentleman from Iowa to do whatever we could to clean up the program.

However, as the gentleman from Iowa knows, this week we had the long problem of the strip mining bill, and that we were unable to complete much of the legislation we had planned for this week.

Much of this legislation is renewal of acts that are expiring, and I think they probably will not be too controversial. I think if the Members will put their shoulders to the wheel and get through this legislation expeditiously, that we can accomplish all of this work by this time next Friday.

Mr. GROSS. Mr. Speaker, I wonder if the distinguished acting majority leader could tell me why there are only two conference reports and small bills on Tuesday? Is there some reason for early departure on Tuesday?

Mr. McFALL. I am unaware that there is any kind of social function that needs to to be accommodated on Tuesday.

Mr. THOMPSON of New Jersey. Mr. Speaker, will the gentleman yield to me, since the gentleman has been so generous in yielding to our beloved friend, the gentleman from Iowa (Mr. GROSS)?

Mr. RHODES. I certainly would like to be as generous to my friend, the gentleman from New Jersey, and I yield to the gentleman.

Mr. THOMPSON of New Jersey. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would say that this is in a sense the time between today and the time we adjourn sine die sort of the valedictory days of our energetic, distinguished, acerbic and lovable friend, the gentleman from Iowa (Mr. GROSS).

I just cannot understand, even in light of the fact that his personal physician, Doctor Hall, is no longer here, why the gentleman is willing to exhibit publicly such a degree of fatigue and such a degree of unwillingness to work 48 hours, and especially keeping all of his adversaries doing the same thing.

I think it is, if I might say so respectfully to my friend, the gentleman from Iowa, rather in bad taste. I think perhaps that the gentleman might need a long and restful trip on counterpart. I think we ought to wait until we adjourn sine die and if necessary we could introduce and pass, I am certain, a special resolution just to send the gentleman anywhere in the world, as far away from Washington, D.C., as possible, at the public expense, and I believe it would pass on the Consent Calendar.

I know it would pass on suspension, and then we could suspend this harassment. I am sorry he is so fatigued. I bleed

for him. I shall ask for an injection of one sort or another.

Mr. RHODES. My friend, the gentleman from New Jersey, I am sure does not want the gentleman from Iowa to leave until after the evening which I hear about.

Mr. THOMPSON of New Jersey. I do not know anything about what the distinguished minority leader speaks about. The world is replete with counterfeiters and fakers, and I do not know what the gentleman is talking about. I certainly do not want to discuss it.

Mr. RHODES. Mr. Speaker, I yield to the acting majority leader.

ADJOURNMENT OVER TO MONDAY, JULY 29, 1974

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

AMERICAN CITIZENS DETAINED FOR POSSIBLE INDUCTION IN GREEK ARMED FORCES

(Mr. BIAGGI asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BIAGGI. Mr. Speaker, a matter of utmost urgency has come to my attention. The Greek immigration authorities are detaining American citizens of Greek nationality who are in Greece for possible induction in that nation's armed forces.

I quote from a State Department cable from Greece:

> On July 23 the Greek General Staff issued an order to the Greek immigration authorities in conjunction with general mobilization that all male Greek subjects born during the years 1925 and 1956 were to be prevented from departing from Greece. The order covers all males of Greek origin regardless of place of birth, other citizenship or previous military service.

There are numerous American males stuck in Greece because all flights were canceled once the fighting erupted on Cyprus. Flights have resumed today, but—and again I quote from the State Department cable—

> Airlines are now refusing to allow any individual covered by the order, including Greek-Americans born in the United States and American citizens with Greek-sounding names, to board their aircraft.

I contacted the airlines and the Greek Embassy here in Washington and have been unable to find out what effect this is having on American citizens and how many are actually being detained. The State Department similarly has little information beyond the fact that it is occurring. They have entered a feeble protest with the Greek Government.

The area in Queens, N.Y., that I represent is the largest Greek community outside of Greece itself. Many of those under this edict from the Greek junta may well be my constituents. I am angered that the State Department is not doing more for these Americans.

I have sent a telegram to Secretary of State Henry Kissinger asking him to order all American officials in Greece to provide asylum for Americans who might fall under the edict and to provide military flights if necessary to evacuate these Americans—whether the Greek Government likes it or not.

It is about time the State Department did something to protect its own citizens. Diplomatic demagogery means nothing to the American boy who is stranded in a foreign land and liable to be picked up by foreign authorities and pressed into military service.

SUPREME COURT DECISION ON DETROIT BUSING CASE—A VICTORY FOR COMMONSENSE

(Mr. HUBER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HUBER. Mr. Speaker, I know that I speak for a majority of the House and 95 percent of the American people when I say that we all rejoiced to hear of the decision of the Supreme Court today in turning back the decision of the late Judge Roth in the Detroit busing case, which if the Court had ruled otherwise would have resulted in massive cross district busing. I recall talking with Bill Saxton, the attorney who argued before the Supreme Court that the case should be overturned. He urged my continued action believing that the Congress could have an effect on the case by any actions it took. Some Members may have felt that we have been carrying out futile actions in constantly adding antibusing amendments to various bills only to have them deleted in the Senate or watered down. However, the evidence is today that our actions have had an effect. The Court has listened to the will of the people. It has specifically affirmed that local control of schools is a deeply rooted American tradition.

Therefore, I am now hopeful that the other body will hear the message. They should have by our most recent reaffirmation of instruction to our House conferees on the Esch amendment to the Elementary and Secondary Education Act. In my view we have won a battle, but not the war. Until this matter is nailed down by a constitutional amendment, there will always be some who will want to tinker with our local schools in this regard, not in the name of education, but for purposes of social engineering. The battle is not over, but a victory has been won.

HELLENIC AGREEMENT WITHDRAWN

(Mr. PRICE of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, on July 15, I notified this House that the Joint Committee on Atomic Energy had received, in accordance with section 123c of the Atomic Energy Act, a proposed amendment to our bilateral agreement with the Hellenic Republic for peaceful cooperation in nuclear energy. I had, in fact, scheduled a hearing on this amendment for August 1 and was about to announce it when I received word that the administration has recalled the amendment for further review and consideration. I will, of course, keep the Members informed of future developments in this matter.

A FIGHTING FRESHMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CRANE) is recognized for 5 minutes.

Mr. CRANE. Mr. Speaker, at a time when Congress is criticized as a do-nothing body by so many American citizens, it is a pleasure to call attention to the unusually persistent and effective efforts of one of our freshmen colleagues, ROBERT J. "BOB" HUBER of Michigan's 18th District, in fighting for legislation that would return control of our public schools to local authorities and stop forced busing to achieve an arbitrary racial balance. Today's Supreme Court decision against cross-district busing in the Detroit area supports my assertion.

BOB was a leader in this antibusing fight in Michigan for several years before he came to Congress, and since becoming a Member of this body he has worked hard behind the scenes on a nonpartisan basis with Representatives of differing philosophical persuasion to stop the busing that repeated surveys indicate is opposed by as many as 95 percent of all Americans.

Colleagues of the antibusing persuasion have come to count on his steadfast stand and determination and those who oppose his views have come to admire his logical and conscientious efforts on this issue.

DOMESTIC SUMMIT MEETING ON ECONOMY NEEDED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. YOUNG) is recognized for 5 minutes.

Mr. YOUNG of Florida. Mr. Speaker, inflation is the chief problem facing this Nation today. No Americans can escape its cruel squeeze. Many young couples just beginning married life are prevented from acquiring their own homes by the sky-high price of real estate and mort-

gage money. Many middle-income families find themselves unable to send their children to college. The elderly see the value of their life savings slip away, while the purchasing power of their pensions diminishes month by month. Believe it or not, in this prosperous Nation, we find thousands of older Americans forced to eat pet food because they cannot afford to buy food for human consumption—prices have doubled or tripled on the basic staples of life.

Our current inflation rate is the highest since World War II. Interest rates are the highest in the history of the Nation; at any other period, 12 percent would be termed usury—and now it is "cooling off the money market." Shortages of various critical materials plague our construction and manufacturing industries and prices continue to rise.

Clearly, something must be done.

It is time for the President, the leadership of Congress, leaders of labor and business and other elements of American society to put aside their domestic and political differences and to work together for the good of this Nation.

It is time to bring the era of negotiation and spirit of détente home. It is time for us to confront our economic problems with the same energy, dedication, and selflessness which we have shown in meeting foreign crises.

Mr. Speaker, yesterday I introduced a House resolution which proposed a framework for action to deal with inflation and its associated economic problems. The resolution, which has already passed the Senate by an overwhelming vote, calls for the President, the top leaders of both parties in both Houses of Congress, and the Chairman of the Federal Reserve Board to meet together urgently in a domestic summit with appropriate leaders of business and labor, and anyone else they feel should participate. It calls on them to keep on meeting until some program of action can be agreed to which will show the American people that our Nation's leaders are prepared to act in unison to fight inflation and cope with our economic difficulties.

In short, a domestic summit meeting on the economy.

The idea of a domestic summit is predicated on several grounds. First, I feel that our exceptional problem of inflation demands an exceptional response. But this response cannot be scattershot—it requires unity and unanimity across the broad spectrum of American leadership. Such unity of purpose can best be achieved by all parties sitting down together at a domestic summit to work through our problems and needs. Furthermore, a domestic summit will provide a highly visible group of people to develop a leadership plan of action for the Nation as a whole.

Such a plan of action cannot be based on a single policy, program, or piece of advice. It must be a unified, coherent, systematic set of recommendations which have the backing of the summit participants, and their commitment to carry them through. We all know that such a plan of action will not be easy to devise, let alone carry out. Our problems are serious, and the remedies will have to be stringent.

In recent weeks I have spoken out on the two major recommendations which I personally feel should be an integral part of any program to fight inflation: a reduction in Federal spending, and a reduction in the Federal debt. These ideas, and others, have been expressed by many Members, and have substantial, if general, support among Americans of all walks of life.

But the time has come for us to stop speaking in generalities and to get down to basic fundamentals. My beliefs, suggestions, and recommendations must be compared with those of others, must be subjected to hard scrutiny and careful development. Agreement on a focused plan of action must be reached, and the determination generated nationwide to carry out such a plan. A domestic summit on the economy is one of the best vehicles I can suggest at this time, and I urge my colleagues in the House to lend their support to my resolution.

The text of House Resolution 1260 follows:

H. RES. 1260

Resolution calling for a domestic summit to develop a unified plan of action to restore stability and prosperity to the American economy

Whereas the American economy has in recent months reached an alarming state of instability and uncertainty combining reduced economic growth, corrosive inflation, high unemployment, unprecedented high rates of interest, the decline of available loan and venture capital, serious changes in energy supply and pricing, unanticipated and destabilizing commodity shortages, and growing international economic and financial uncertainties; and

Whereas the complexity, magnitude and persistence of these difficulties has occasioned substantial disagreement as to their causes and remedies; and

Whereas no agreed program for effective action has been developed; the Congress, the administration, and the Federal Reserve Board, acting independently, have not yet been able to overcome these problems; and specific Government programs, levels of Federal spending and activities in all economic sectors continue to contribute to these difficulties; and

Whereas the American people in the face of this persistent economic deterioration are growing more dismayed and uncertain as evidenced by the widespread labor unrest and the declining financial markets of recent weeks; and

Whereas this deepening lack of confidence could magnify an already serious economic situation into a national crisis should these difficulties continue unabated: Now, therefore, be it

Resolved, That it is the sense of the House that the leadership of the Nation responsible for our economic well being meet together immediately in a spirit of unity to design a set of policy actions to achieve the common goal of restoring stability and growth to the American economy and confidence and prosperity to the American people.

It is imperative as in previous moments of great national need, that the two political parties, the Congress and the President, labor and management, put aside their domestic and political differences and work together in a spirit of discipline, compromise, and sacrifice for the common good.

SEC. 2. It is further the sense of the House that this domestic summit be convened forthwith comprised of the President, the majority and minority leadership of both Houses of the Congress, the chairmen and ranking minority members of the Appropriations Committees of both Houses, the Chairmen and ranking minority members of the Senate Finance Committee and the House Ways and Means Committee, and the Chairman of the Federal Reserve Board, together with leaders of labor and business, and such other participants as they may agree upon. They shall meet and devote such time as necessary until a plan of action is decided upon which, by its demonstration of renewed unity, direction, and purpose will gain the public support and confidence necessary to be effective in overcoming these difficulties.

SEC. 3. It is further resolved by the House that it stands ready to cooperate fully in the spirit of commitment and unity which the solution of this truly national problem will require of all elements of American society.

JOHN W. McCORMACK SENIOR INTERN PROGRAM RESOLUTION INTRODUCED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. BIESTER) is recognized for 5 minutes.

Mr. BIESTER. Mr. Speaker, I am pleased to join with Mr. BINGHAM, Mr. HILLIS, Mr. PODELL, Mr. REGULA, and Mr. WYDLER in introducing with an additional 91 cosponsors a resolution establishing a senior intern program in honor of our distinguished former Speaker, John W. McCormack. I am particularly pleased and honored that our present Speaker, Mr. ALBERT, the majority leader, Mr. O'NEILL, and the minority leader, Mr. RHODES, are also joining in cosponsoring this resolution.

This resolution is a modification of one I first introduced in 1972 and resolutions cosponsored by over 40 colleagues in the first session which would enable each Member of the House to hire one or two elderly district residents for service in his or her Washington office for a 1 or 2 week period during May of each year.

As many colleagues may recall, several of us—including two Members of the other body—have experimented with ad hoc senior intern programs over the past few years. The programs have afforded senior citizens in our respective districts with the opportunity to observe firsthand the operation of a congressional office, gain a better understanding of the legislative process and develop a greater knowledge of Federal programs involving older Americans. Briefings and discussions were held with specialists in the field of aging and policy and programs involving the elderly.

We all are searching for constructive and meaningful ways to develop dialog with important groups in our congressional districts. The intern program provides a vehicle for selected representatives of senior citizens back home to learn what is happening in their area of special concern and to share this with others upon their return. The communication link which is established between the Representative and the elderly in the district is one which can be maintained and further improved upon.

I believe I am speaking for my colleagues who have taken the initiative to conduct such a program in their offices that the experience has been a most successful and rewarding one for both

Members and interns. Up until now the program has been undertaken on a small scale with less than a dozen Members participating. I feel, however, that it has proven its potential for expansion into the sort of program we currently offer for college students during the summer.

Mr. Speaker, at this point I would like to include the text of the resolution we have introduced and the names of those Members who are cosponsoring.

RESOLUTION

Resolved, That (a) each Member of the House of Representatives, the Resident Commissioner from Puerto Rico and the Delegates from the District of Columbia, Guam, and the Virgin Islands may hire not more than two additional employees who shall be known as "John W. McCormack Senior Interns" in honor of the former Speaker of the House of Representatives. Such interns may be hired for not more than two weeks during the period May 1 through May 31 of each year and shall serve within the District of Columbia. For this purpose each such Member, Resident Commissioner, or Delegate shall have available annually for payment of compensation to to such interns a total allowance of $500, to be payable to such interns at a rate not to exceed $125 per week, out of the contingent fund of the House. Such interns and such allowance shall be in addition to all personnel and allowances made available to such Member, Resident Commissioner, or Delegate under any other provision of law or other authority.

(b) No person shall be paid compensation as a John W. McCormack Senior Intern who does not have on file with the Clerk of the House of Representatives, at all times during the period of employment as such intern, an appropriate certificate that such intern is sixty years of age or older and a resident of the district which the employing Member, Commissioner, or Delegate represents.

(c) The Committee on House Administration shall prescribe such regulations as may be necessary to carry out this resolution.

SPONSORS OF "JOHN W. MCCORMACK SENIOR INTERN PROGRAM" RESOLUTION

Abzug, Addabbo, Albert, Badillo, Bergland, Biester, Bingham, Boggs, Brinkley, Buchanan, Burke (Cal.), Burke (Mass.), Carey, Chisholm, Collins (Ill.) Conte;

Corman, Coughlin, Daniels, Danielson, Davis (S.C.), Dellenback, Denholm, Dent, Diggs, Derwinski, Evins (Tenn.), Eilberg, Flood, Forsythe, Fraser;

Frenzel, Fulton, Grasso, Gunter, Hanrahan, Hansen (Idaho), Hechler (W.Va.), Heckler (Mass.), Heinz, Helstoski, Hillis, Holt, Holtzman, Horton, Johnson (Pa.);

Jordan, Ketchum, Luken, McDade, McKinney, Madden, Mazzoli, Meeds, Melcher, Metcalfe, Mitchell (Md.), Mitchell (N.Y.), Moakley, Moorhead (Pa.), Moss;

Murphy (Ill.), Murtha, Nix, O'Neill, Patten, Pepper, Perkins, Pickle, Podell, Preyer, Pritchard, Rangel, Regula, Rhodes, Riegle;

Rodino, Roy, Sarasin, Sarbanes, Schroeder, Seiberling, Steelman, Stokes, Stubblefield, Thone, Vanik, Waggonner, Waldie, Whitehurst, Wolff; and

Won Pat, Wydler, Young (Ill.).

ELECTION BILL NEEDS IMPROVEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 15 minutes.

Mr. FRENZEL. Mr. Speaker, my supplemental views in the committee report contain a much more detailed, elaborate analysis of the committee bill, H.R. 16090. This summary reduces my views to a simpler form. Since these dissenting views parallel my supplemental views, members can refer to them for a more detailed explanation.

For more than a year the American people have waited in vain for a positive response from the House on election reform. Subcommittee hearings were not begun until September 1973. Finally, last March the House Administration Committee began to work seriously on this matter. Since March 26, the committee has met more than 20 times in careful consideration of its election bill and over 95 amendments.

The committee has made a sincere, honest effort to reform the present system. Nevertheless, its bill is flawed by several major deficiencies. Its proposal elements are these:

CONGRESSIONAL DOMINATION

There is public consensus that administration and enforcement of election laws be stronger and more independent, but the committee bill has three major provisions that will make administration and enforcement less effective and independent.

First. It establishes a Board of Supervisory Officers which would place four congressional appointees and three employees of Congress in charge of the administration and enforcement of election law. The present conflict of interest situation whereby employees of Congress administer and report violations of laws that directly affect their employers is not eliminated. Members of Congress will still be policing their own selections. The full-time Board Members, two of whom are patronage employees of the Congress and one of whom works for a legislative agency, will surely dominate the Board.

There are no built-in safeguards to assure that violations by Members of Congress will actually be reported to the Justice Department. Moreover, the committee bill requires the Board to operate in secrecy.

Even with the most conscientious, diligent Board, public skepticism is certain to run high, and there will be widespread doubt about the zeal and fairness of the Board's administration and enforcement efforts. The creation of this Supervisory Board does little to reduce the crisis of confidence in Congress.

Second. It grants these seven people the power to interpret the law and grant presumed immunity from prosecution by issuing advisory opinions.

Third. It gives two committees of Congress veto power over the rules and regulations promulgated to administer and implement campaign finance legislation, thereby giving these two committees the power to control all regulations drawn under this law.

Under this bill, clearly, the Congress has tigthened its strangelehold on enforcement and supervision of its own elections. Not only is the fox in charge of the chicken coop, he is living in the farm house and managing the farm. If Congress response to Watergate is to increase its control over Federal elections, then it will be hard to blame the public for becoming even more cynical and alienated.

ADMINISTRATION AND ENFORCEMENT

First. Any candidate who fails to file will be disqualified from running for the office in the next election. This provision is clearly unconstitutional, because of the Supreme Court decision in the Powell against McCormack case.

Second. By abolishing the elections clearinghouse in the General Accounting Office, the bill eliminates the only good thing the Federal Government does to help the State and local governments run their election administration systems.

Third. The committee did wisely decide to increase the monetary penalties for violation of election law.

Fourth. Instead of weakening the present administration and enforcement provisions, the committee could have strengthened them by establishing an independent Federal Elections Commission.

Because of its independence, the Commission would be able to restore public confidence, eliminate the present conflicts of interest and reverse the long history of nonenforcement of election law. It should also reduce the amount of bureaucracy needed to administer the present law, increase coordination between administrators and enforcers of the law, and assure the expeditious enforcement of campaign finance law.

With Representative DANTE FASCELL, I intend to offer an amendment that will establish an independent Federal Elections Commission. Our Commission is designed to protect the rights of Members of Congress and other candidates, as well as the rights of the general public. Safeguards are provided which do not exist under the present law to prevent the filing of false complaints and unfair prosecutions of candidates.

Fifth. The committee did pass a good provision that would strengthen enforcement: a requirement that the supervisory officers publish lists of those who do not file reports.

C. DISCLOSURE: LOOPHOLES

The bill renders ineffective the full and complete disclosure requirements by making certain exceptions to the definition of contribution and expenditure in the 1971 disclosure provisions and contribution and expenditure limitation sections:

First. Real and personal property, including food and beverages used on an individual's premises of up to $500;

Second. Unreimbursed travel expenses of up to $500, and

Third. Slatecards, sample ballots and newspaper advertisements involving three or more candidates.

These provisions will have several negative, potentially disastrous effects:

Presently defined contributions and expenditures will be exempted from those definitions. Full and complete disclosure of contributions and expenditures will no longer be required;

Enforcement of both disclosure provisions and of contribution and expenditure limitations may be much more difficult;

These exemptions may be used as loopholes by special interests and wealthy individuals to circumvent limitations and to channel funds, goods and services

into Federal campaigns from hidden sources; and

These loopholes make ambiguous the prohibitions on contributions by corporations, labor unions and foreign nationals.

In reality, there is no need for these loopholes. The present law, and the bill, provide remedies for the concerns that produced these loopholes.

The bill improves disclosure by requiring all candidates to establish a central or principal campaign committee. This provision will centralize both accountability and responsibility and make it easier to monitor a candidate's campaign.

CONTRIBUTION LIMITATIONS

Contribution limitations are the best way to limit the power that wealthy individuals and special interests gain through campaign contributions.

First. The committee bill sets low limits—$1,000 per person per election and $5,000 per political committee per election. But, due to the loopholes, a skillful contributor can give more than this amount, and so can a special interest committee. The loopholes should be closed so that the effective limitation is closer to $2,000 or $3,000.

Second. The bill wisely limits the aggregate amount an individual can contribute in 1 year to all candidates and committees up to $25,000.

Third. Special interest groups have $17 million available for the 1974 congressional elections, almost twice as much as they spent in all of 1972. Given the potential for abuse, the committee did not go far enough in limiting the role of special interest committees. The limit on how much a political committee can give should be reduced to $3,000, $2,500 or even $1,000. Special interest groups should be prohibited from proliferating their committees to circumvent the limitations, and should be required to identify each contribution as to the original donor and intended recipient.

EXPENDITURE LIMITATIONS

The committee bill sets expenditure limitations at $75,000 for a House race, $20 million for the President—$10 million for the nomination—and $75,000 or 5 cents times the population of the State, whichever is greater, for the Senate.

While the committee's limits are really somewhat higher due to the loopholes in the definition of expenditure, they are still far too low and have a proincumbent bias. The adoption of expenditure loopholes was the committee's tacit agreement that the expense limit of $75,000 is too low.

A recent study at Harvard recommended that expenditure limitations be 50 cents per voter—approximately $150,000 for a House race. The study argues that the purpose of a political campaign is not just to elect the candidate, but also to inform the candidates, educate the electorate and encourage wider political participation. A survey of 1972 campaign managers found that they felt they had not adequately carried out the broad goals of education and involvement, even though most of them had spent more than 25 cents per voter. The Harvard study contends:

> If campaigns are to fulfill any of the functions listed above . . . the present level of spending is much too low, if anything.

Tight spending limits also substantially favor incumbents. Present proposals, the Harvard study continues:

> Are far too low to achieve any conceivable purpose other than to maintain incumbents in office.

In 1972, incumbents won well over 95 percent of the time, and the 12 challengers who did beat incumbents averaged $125,000 apiece in their campaigns. The year 1974 is supposed to be of the challenger. So far this year incumbents have won 80 of 82 races in the House.

PUBLIC FINANCING

The bill provides for public financing for Presidential nominating conventions and for Presidential elections. That is a negative feature, except in the sense that it provides no congressional public financing. The many sound and persuasive arguments against using taxpayer's money to bankroll elections need not be repeated here.

MISCELLANEOUS

First. The committee bill prohibits contributions by foreign nationals, contributions in the name of another and cash contributions in excess of $100. The bill also prohibits honorariums in excess of $1,000 per speech or appearance or $10,000 in the aggregate per calendar year. All of these are good provisions.

Second. The bill also preempts State laws, a welcome change that will insure that election laws are uniform, and that candidates for Federal office do not bear the burden of complying with different sets of laws.

Third. The committee bill would greatly weaken the role of the political parties in the electoral process. Political parties are the most broadly based groups in the political process and have a great potential for revitalizing our society. Strengthening the role of the parties in the political process may be as important a reform as changing the present system of campaign financing. Instead of reducing the parties' role, reform of our private system of campaign financing should increase their role by exempting parties from contribution limitations. If this is not an acceptable alternative, then parties should be able to make extra expenditures on behalf of candidates.

SUMMARY

After a late start, the committee has worked diligently to produce a workable elections bill. Despite its shortcomings, particularly its lack of an independent Federal Elections Commission, and its disclosure loopholes, it should be promptly brought to the floor where I hope it can be improved. Members have many amendments to offer to the committee bill. Open, fully democratic proceedings on the floor are the way to obtain the best bill possible.

The people have waited long enough for a straight-forward response to Watergate. The sooner this bill is passed, put into conference and enacted, the better off everyone will be.

THE SPEAKER'S RECENT SPECIAL ORDER ON THE ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BURKE) is recognized for 10 minutes.

Mr. BURKE of Florida. Mr. Speaker, on July 18, the Speaker of the House took a special order to voice his views on the problems of the American economy. Everyone knows that inflation is rampant, but no fair person can honestly charge this to the Nixon administration alone. The truth of the matter is that past Congresses over the years have obligated funds so that almost three-quarters of the budget will be virtually uncontrollable in fiscal year 1975 due to existing law and prior year commitments.

Our Constitution states in article I, section 7, clause 1, that:

> All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

Therefore, if you look at the history of both the Congress of the United States and its spending record for the last 44 years, you can see that the only time the Democrats have not had control of America's pursestrings was during the 71st Congress from 1929 to 1930 and the 80th Congress from 1947 to 1949. Thus the onus of blame for fiscal irresponsibility must be placed squarely on the Democratic Party and its big spending policies.

The Speaker of the House cast the tie-breaking vote in favor of passage of H.R. 14832, which provided for another temporary increase in the Federal debt ceiling. This move only helps promote inflation, not reduce it.

If one looks at the proposed budget for fiscal year 1975, he will see several shocking examples of the so-called uncontrollables and how they have risen to almost three-quarters of the total budget, a rise of 59 percent from 1967. The portion of the budget subject to discretionary control has shrunk in recent years mainly because:

First, the relative decline in controllable defense spending,

Second, the growth in human resources programs, which largely take the form of benefit payments, set by law, to individuals and families, and

Third, the growth in mandatory grants to State and local governments.

Defense outlays have remained virtually constant from 1969 to 1974, despite substantial price increases and pay raises which have accompanied the transition to an All-Volunteer Armed Forces. These added costs have been offset by large savings resulting from reduction in men and materiel. As a result, defense costs have been a decreasing share of our national budget, falling from 44 percent of Federal spending in 1969 to an estimated 29 percent in 1975. Conversely, Federal spending on human resources has increased from 34 percent of the budget in 1969 to almost 50 percent of the 1975 budget.

Under current law, the costs of existing social programs will rise in response to growth in the number of eligible bene-

ficiaries and to price increases. The rise in outlays for existing programs and those now proposed, however, will be less rapid than the rise in tax receipts. Thus, by 1979, receipts are projected to reach about $428 billion on a full-employment basis, while outlays for existing and proposed programs will be $391 billion. Thus the uncontrollable governmental expenses will continue to grow and any administration in the White House can only control an ever diminishing fraction of the budget.

Since coming to the Congress in 1967, I have continually voted to keep Federal spending down to reasonable levels in order to help curb inflation. I have voted against foreign aid, for a decrease in agricultural subsidies, against a guaranteed annual income, and against the raising of the public debt ceiling each time except in 1969.

If inflation is to be curbed, the Democratic leadership in Congress must stop blaming the administration's policies, the Arab oil boycott, or actions by others until their own policies of deficit spending are curbed. They have continually been the big spenders. They are the ones that have objected when the President impounded funds and asked to limit spending. The truth of the matter is that the Democratic leadership which controls both Houses of the Congress, should tell the public what they want to do to stop the inflationary spiral.

ARTHRITIS BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. MURPHY) is recognized for 5 minutes.

Mr. MURPHY of Illinois. Mr. Speaker, arthritis is often called "everybody's disease" since it affects every one of us in some way, either directly or indirectly, physically or economically.

Most people have only vague and often incorrect ideas of what arthritis is about. As a result many people become crippled unnecessarily and fail to get the treatment they need to prevent or reduce their disability. Arthritis is not hopeless and treatment can be given to prevent disability or substantially reduce it.

It is estimated that an annual cost of $3.6 billion is lost in wages and medical care bills but the cost in human suffering, in pain and disability is beyond measure.

Arthritis can occur at any age. Studies show that 97 percent of all individuals over age 60 have arthritis severe enough to be seen in X-ray films. At least 50 million Americans, both young and old, have some form of arthritis and at least 17 million persons require medical care. Each year arthritis claims 250,000 new victims.

Rheumatoid arthritis which is arthritis in its worst form actually destroys the joints. People who suffer from this become crippled. Normal activities of work and play are always accompanied by pain and often become completely impossible. The cause of this form of arthritis is not yet known. Successful treatment involves a strict program of medication carried out over a long period of time, and because of the chronic nature of the disease, treatment becomes an ongoing process.

All aspects of treatment have been improved. The most dramatic progress has been in surgery to insert artificial joints. This has helped thousands from pain and crippling handicaps. But there is a need for physicians trained in arthritis. There are only 2,000 trained specialists in the country and 40 of the country's 115 medical schools offer no training in rheumatology. There are obviously not enough qualified physicians in this field to take care of 20 million patients.

When the Arthritis Foundation was formed in 1948, it and various private foundations were the only source of funds for arthritis research and treatment programs. Gradually the Federal Government became the primary source of funds for such programs though the amount of money available is small in comparison to the arthritis problem. With the lack of general recognition of the extent and seriousness of arthritis, the problem has been relegated to a minor position in the national health picture. With inflation the result has been less arthritis research and less training of researchers.

The Arthritis Prevention, Treatment and Rehabilitation Act of 1974 which I am introducing today with several members of the Illinois delegation and others who are concerned over the present situation makes a contribution to the further study of arthritis. The bill was originally introduced by Congressman PAUL ROGERS, Democrat of Florida, and Congressman TIM LEE CARTER, Republican of Kentucky.

The bill would channel funds to a selected number of national arthritis training and demonstration centers. These centers would develop stronger research programs, training opportunities for physicians and allied health personnel and would standardize arthritis patient data in order to facilitate collaborative clinical research programs aimed at improving arthritis patient care. The bill also provides assistance to the one-third of the Nation's medical schools which have no arthritis teaching program for medical students. It would enable each of these schools to acquire a rheumatologist as a member of its faculty.

I feel as do others who have cosponsored this bill that this legislation is vital to progress in arthritis research and patient care.

AMERICANS ARE SUFFERING ECONOMICALLY AND POLITICALLY AND THERE SEEMS TO BE NO END IN SIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. TIERNAN) is recognized for 10 minutes.

Mr. TIERNAN. Mr. Speaker, one of the most laudable qualities of Americans is their resilience, their ability to flow with the tide, to respond to the needs of their Nation and the world without faltering or breaking. That quality has been sorely tested during the past 2 years. From Watergate to food prices, Americans have been bombarded with a stream of potentially catastrophic events the likes of which have toppled governments around the world.

Even though the United States has been spared governmental upheaval, we should not be lulled into thinking that Americans are not suffering in the wake of these events. We are suffering economically and politically, and there seems to be no end in sight. When we consider the implications of just one of these events on a major segment of the American population it becomes immediately obvious that something must be done to provide relief and assistance from increasing economic burdens.

I refer to the escalating cost of fuel and its effect upon the budgets of older Americans. Consider for a moment the position of an elderly person living on a fixed income trying to keep up with increasing cost of utilities for a house or apartment. In addition to all the other inflationary products and services this person cannot live without, the cost of fuel and electricity, which was once considered a relatively minor expense, has now become a major financial headache.

From May of 1973 to May of 1974 the Consumer Price Index for home heating fuel and utilities rose an astonishing 18.5 percent. As just one factor of the total Consumer Price Index, and a small one at that—fuels and utilities represent under 5 percent of the total index, and increases in these products comprised only 1 percent of the total 10.7 percent inflation in 1973–74—this increase represents an alarming rise in the cost of owning a home or renting an apartment. In New England, the cost of home heating fuel and electricity has increased 50 percent in the past year. In April of 1973, a thousand kilowatts of electricity cost $30.82, whereas the same quanttiy of electricity a year later cost $45.22. Likewise, home heating fuel, No. 2 heating oil. In April of 1973 100 gallons of heating fuel cost $22.13, whereas a year later 100 gallons cost $34.34.

The Federal Government has provided financial assistance to older Americans in other areas of increased costs through programs such as medicare and food stamps. Financial assistance for the elderly Americans to help lessen the burden of increased fuel and utility costs is long overdue. I am therefore introducing legislation today to establish a fuel stamp program for low-income elderly to provide some relief from these burgeoning costs.

Under my fuel stamp program any household which has an annual income of under $6,500 and at least one member of age 60 is eligible for $25 in fuel coupons per month. These fuel coupons could be used as direct payment for fuel and utility bills, or as a portion of rent payments. The bill contains a prohibition against rent increases which might result from the issuance of these fuel stamps.

The Federal Government has recognized its responsibility to assist elderly Americans in other high cost areas, such as food and health. The Congress must acknowledge and accept the Federal Government's responsibility to provide financial assistance to the elderly in the area of fuel and electricity costs.

CONGRESS LETTING OIL COMPANIES WINDFALL PROFITS CONTINUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 10 minutes.

Mr. VANIK. Mr. Speaker, on April 30, the House Ways and Means Committee reported the Oil and Gas Energy Tax Act of 1974. This bill was intended to encourage necessary energy explorations while bringing into the Treasury excess and windfall oil profits. I join those in the Congress who do not believe that the bill is nearly strong enough. My colleague from Pennsylvania (Mr. GREEN) expected to offer a floor amendment to the bill to terminate the percentage depletion allowance immediately. This amendment would increase calendar year 1974 Federal revenues by about $2 billion. I planned to offer an amendment which would repeal the overseas use of the intangible drilling expense and change the foreign tax credit for oil and gas production to a straight business deduction. This amendment would also raise an additional $2 billion per year and encourage increased capital investment here in the United States.

Some members of the Ways and Means Committee wanted the bill brought to the floor under a closed or "gag" rule. The caucus of the majority party instructed that the bill be brought under a rule which would permit our two amendments.

Since then the bill has been withheld from debate or consideration.

In the meanwhile oil windfall profits flow on. The second quarter profit reports are now coming in. According to newspaper accounts, they are as follows:

Increase in profits between second quarter 1973 and second quarter 1974

[In percent]

Company:	
Standard Oil of Indiana	130
Shell Oil	45
Cities Service	76
Marathon	90
Mobil Oil Corp	99
Occidental Petroleum Co	292
Continental Oil Co	94
Phillips Petroleum Co	166
Ashland Oil Inc	40
Standard Oil of California	18

Mr. Speaker, unless we pass a windfall profits bill, these oil companies will be getting away with the most gigantic ripoff in American economic history. This Congress should not suppress those who want a stronger bill—or those who want the simple democratic right to offer an amendment—or those whose position has been supported by the majority caucus.

The bill should be simply brought to the floor and the House should work its will, either through a modified rule, a closed rule or an open rule. The House must have a chance to vote. The House can determine the rule. The House can determine the fate of the bill.

If we fail to pass a bill, we will have failed the American people—and the oil companies will be buying up the country with their windfall profits.

Unless there is some movement on this bill, I intend to offer a reform amendment to the Bolling-Hansen bills which would permit any member of a committee to bring a bill which his committee has reported to the floor or the Rules Committee if the chairman of the committee fails to act within 30 days of the reporting of the bill.

FACTS AND FIGURES ON MARIHUANA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 5 minutes.

Mr. KOCH. Mr. Speaker, the FBI just issued a report on marihuana arrests. and the statistics in this report should give the country's legislatures cause for great concern. The FBI Uniform Crime Report for 1973 states that 66.9 percent of all drug arrests last year involved marihuana. Marihuana arrests in 1973 increased 43 percent over the prior year. The State of California led the country with 95,110 marihuana arrests in 1973, accounting for one out of every four felony arrests made in that State.

Mr. Speaker, according to statistics now available, 26 million Americans, or 16 percent of the adult population, have tried marihuana at least once. Thirteen million Americans smoke marihuana on a regular basis. If in one fell swoop we were to place just the 13 million regular users in jail for 1 year, the cost to the American public, at $6,100 per prisoner per year, would be over $79 billion. Does anyone suggest that this is practicable? Yet equal application of the law would demand such action. In consideration of such widespread use of marihuana, I urge the House to support H.R. 669, the Javits-Koch bill to decriminalize the personal use and possession of marihuana. This decriminalization does not legalize the sale of marihuana, but it does basically implement the recommendations of the National Commission on Marihuana and Drug Abuse, which support the decriminalization of the personal use and possession of marihuana.

In conclusion, I would like to bring to the attention of my colleagues some of the information provided by NORML, the National Organization for the Reform of Marihuana Laws, and also some of their recommendations:

1. Removal of all criminal penalties for the private possession and use of marijuana has been endorsed or recommended by, among others:

National Commission on Marihuana & Drug Abuse (Shafer Commission);

American Bar Association;

Consumers Union, publishers of *Consumer Reports*;

National Conference of Commissioners on Uniform State Laws;

American Public Health Association;

National Advisory Commission on Criminal Justice Standards and Goals;

National Council of Churches;

The Governing Board of the American Medical Association;

National Education Association;

B'nai B'rith;

Canadian Commission of Inquiry into the Non-Medical Use of Drugs (Le Dain Commission);

San Francisco Committee on Crime;

Mayor's Advisory Committee on Narcotics Addiction (Washington, D.C.);

John Finlator, retired Deputy Director, Bureau of Narcotics and Dangerous Drugs, U.S. Department of Justice; and

William F. Buckley, Jr., syndicated columnist, author, TV host and editor of *National Review*.

2. Criminal laws punishing marijuana users:

are ineffective as a deterrent to use;

are unreasonably harsh and disparate among differing jurisdictions;

are selectively enforced;

engender disrespect for all laws, and distrust of both the agents and institutions of the government;

stifle the already overburdened criminal justice system with the processing of thousands of minor arrests;

encourage the invasion of privacy, and violation of individual rights and civil liberties by overzealous law enforcement personnel;

divert costly law enforcement resources away from the control of serious crime; and

destroy the credibility of drug education programs which seek to inform youth of the very real dangers of hard drug use.

3. Public health and safety:

Unless otherwise noted, the following quotations and other data, along with appropriate page references, are from the report issued in March, 1972 by the National Commission on Marihuana and Drug Abuse, *Marihuana: A Signal of Misunderstanding*. The thirteen member bi-partisan Commission, created by the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Section 601, Public Law 91-513), consisted of 9 persons appointed by President Nixon, 2 United States Senators and 2 members of the House of Representatives. They were unanimous in their recommendations. A second report, *Drug Use in America: Problem in Perspective*, issued in March, 1973, reiterated the Commission's earlier recommendations. The continuing medical and scientific research of the National Institute of Mental Health, Department of Health, Education, and Welfare has confirmed the Commission's findings. HEW is required by law (title V of PL 91-296) to issue reports each year detailing all current research and findings. The third annual report, *Marihuana and Health*, has recently been issued.

A. Medical and Health Data:

"the most notable statement that can be made about the vast majority of marihuana users—experimenters and intermittent users is that they are essentially indistinguishable from their non-marijuana using peers by any fundamental criterion other than their marijuana use." (p. 41)

"from what is now known about the effects of marijuana, its use at the present level does not constitute a major threat to public health." (p. 90)

"no conclusive evidence exists of any physical damage, disturbances of bodily processes or proven human fatalities attributable solely to even very high doses of marijuana." (pp. 56-57)

"although a number of studies have been performed, at present no reliable evidence exists indicating that marijuana causes genetic defects in man." (p. 84)

"no objective evidence of specific pathology of brain tissue has been documented. This fact contrasts sharply with the well-established brain damage of chronic alcoholism." (p. 85)

"in a word, cannabis does not lead to physical dependence." (p. 87)

"research has not yet proven that marijuana use significantly impairs driving ability or performance." (79)

B. Public Safety:

"neither the marijuana user nor the drug itself can be said to constitute a danger to public safety." (p. 78)

"in sum, the weight of the evidence is that marijuana does not cause violent or aggressive behavior." (p. 73)

C. Marijuana and Hard Drugs:

"marijuana use per se does not dictate whether other drugs will be used; nor does it determine the rate of progression, if and when it occurs, or which drug might be used." (pp. 88–89)

"the fact should be emphasized that the overwhelming majority of users do not progress to other drugs." (p. 87)

D. Extent of Marijuana Use:

26 million Americans, or 16% of the adult population, have tried marijuana at least once. This represents an increase of 2 million people over 1971. (Marihuana Commission, News Release, February 13, 1973)

13 million Americans smoke marijuana on a regular basis. This figure was 8.34 million in 1971. (Ibid.)

approximately 67% of all college students have tried marijuana, as have 39% of all people between the ages of 18 and 25. (Ibid.)

E. Availability of Marijuana:

"it is now much too late to debate the issue: marijuana versus no marijuana. Marijuana is here to stay. No conceivable law enforcement policy can curb its availability." (Licit and Illicit Drugs, by Edward M. Brecher and the Editors of Consumer Reports.)

F. Arrest Statistics:

more than 706,000 persons were arrested for marijuana-related offenses during the period 1970–72. Arrests have increased steadily from a low of 18,815 in 1965. (p. 106)

in 1972 there were 292,200 marijuana arrests, an increase of 29% over 1971. (Uniform Crime Reports, 1972, Federal Bureau of Investigation, p. 119)

93% of all arrests are for possession, with only 7% for sale. 67% of those arrested possessed less than one ounce of marijuana. (p. 110)

88% of those arrested are under the age of 26. (p. 111)

62% of those arrested are under the age of 21. (Uniform Crime Reports, 1972, Federal Bureau of Investigation, p. 34)

53% of all young people 16 and 17 years old know someone who has been arrested for possession of marijuana (p. 121).

UNITED NATIONS RELIEF AND WORKS AGENCY REFUGEE SHELTERS BECOME TERRORIST BASES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. PODELL) is recognized for 10 minutes.

Mr. PODELL. Mr. Speaker, in recent weeks, there has been an attempt to picture some of the Arab terrorists as "moderate," in order to justify proposals for the establishment of a new Palestinian Arab State. Several weeks ago, the so-called moderate Fatah command claimed credit for the Nahariyah murders. This brazen claim, all part of a determined effort by Yassir Arafat to shoot his way into the Geneva peace talks; reflects the greatest tragedy of the latest rash of terrorist murders: The realization by these guerrillas that their murdering and maiming of innocent people may be done with impunity.

Not only have they seen Great Britain, Italy, West Germany, Cyprus, Greece, and Sudan acquiesce to their demands for release of fellow killers; they have also received the unabashed sanction and outright support of the Arab nations and the Soviet Union. Lebanon has been particularly receptive to these murderers and their arsenal. It has allowed the terrorists to establish their headquarters, including military bases, on its soil. In light of the attitude of the world, it is hardly surprising that the Lebanese permit terrorists to dominate the camps to train fedayeen, store arms, dictate camp policy, and mount attacks against Israel.

The United Nations Relief and Works Agency, a world-supported United Nations agency, is allowing these terrorists to dominate its wards. Its officials have permitted the transformation of refugee shelters into military bases. This civilian agency is making absolutely no effort to resist the terrorist invasion. Neither has Lebanon.

Providing 60 percent of the UNWRA budget, the United States has a right to demand that actions be taken to guard the camps and preserve UNWRA's humanitarian purpose. Since 1966, U.S. law has prohibited the use of American contributions to support training of individuals for military purposes. However, it has remained passive and permissive as the U.N. agency has been manipulated by terrorists leaders.

The United States must make a concerted effort to prohibit these actions by demanding that the Government of Lebanon prohibit any Palestinian Arab refugee camp in Lebanon from being used by Arab terrorists. Failing this, the United States should request a U.N. police force in Palestinian camps in Lebanon be established to deny the use of these camps by any terrorists.

Today, therefore, I am introducing a House resolution embodying these demands.

RESOLUTION ADOPTED AT THE ANNUAL CONGRESS OF THE NATIONAL SOCIETY OF THE SONS OF THE AMERICAN REVOLUTION

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the Sons of the American Revolution, a patriotic and highly respected organization made up of descendants of those who served in the cause of liberty in the American Revolution, held its 1974 national convention in Baltimore, Md., on June 23–27. It was the 84th Annual Congress of this outstanding organization. This organization is dedicated to the cause of a strong and free America and I feel that the resolutions adopted at the national convention should be printed in the CONGRESSIONAL RECORD for the information of the Congress. I submit the resolutions for this purpose:

THE NATIONAL SOCIETY OF THE SONS OF THE AMERICAN REVOLUTION

RESOLUTION NO. 1

Whereas, under the 1903 Treaty with Panama, the United States obtained the grant in perpetuity of the use, occupation and control of the Canal Zone territory with all sovereign rights, power and authority to the entire exclusion of the exercise by Panama of any such sovereign rights, power, or authority as well as the ownership of all privately held land and property in the Zone by purchase from individual owners; and

Whereas, the United States has an overriding national security interest in maintaining undiluted control over the Canal Zone and Panama Canal and solemn obligations under its treaties with Great Britain and Colombia for the efficient operation of the Canal; and

Whereas, the United States Government is currently engaged in negotiations with the Government of Panama to surrender United States sovereign rights to Panama both in the Canal Zone and with respect to the Canal itself without authorization of the Congress, which will diminish, if not absolutely abrogate, the present U.S. treaty-based sovereignty and ownership of the Zone; and

Whereas, these negotiations are being utilized by the United States Government in an effort to get Panama to grant an option for the construction of a "sea-level" canal eventually to replace the present canal, and to authorize the major modernization of the existing canal, which project is already authorized under existing treaty provisions; and by the Panamanian government in an attempt to gain sovereign control and jurisdiction over the Canal Zone and effective control over the operation of the Canal itself: and

Whereas, similar concessional negotiations by the United States in 1967 resulted in three draft treaties that were frustrated by the will of the Congress of the United States because they would have gravely weakened United States control over the Canal and the Canal Zone; and by the people of Panama because that country did not obtain full control; and

Whereas, the American people have consistently opposed further concessions to any Panamanian government that would further weaken United States control over either the Canal Zone or Canal; and

Whereas, many scientists have demonstrated the probability that the removal of natural ecological barriers between the Pacific and Atlantic oceans entailed in the opening of a sea-level canal could lead to ecological hazards which the advocates of the sea-level canal have ignored in their plans; and

Whereas, the Sons of the American Revolution believes that treaties are solemn obligations binding on the parties and has consistently opposed the abrogation, modification or weakening of the Treaty of 1903;

Now, therefore, be it resolved that the National Society, Sons of the American Revolution in its 84th Annual Congress assembled, opposes the construction of a new sea-level canal and approves Senate Resolution 301 introduced by Senator Strom Thurmond and 34 additional Senators, to maintain and preserve the sovereign control of the United States over the Canal Zone.

RESOLUTION NO. 2

Whereas, the strength and stability of the economic and monetary system of the United States is vital to the defense of the country, and

Whereas, the fiscal and monetary policies of the Congress and Administration, present and past, have led to the devaluation of the dollar, double digit inflation, and the current economic crisis in the United States, and

Whereas, double digit inflation with in is as great a threat, if not greater threat, to the liberty and freedom and well-being of this country as the threat from our enemies without, and

Whereas, the basic cause of the rampant inflation is the deficit spending of the United States Congress, and

Whereas, under the Constitution of the United States, Congress is charged with the responsibility for all federal appropriations, and

Whereas, it is the urgent duty of the United States Congress to limit federal spending to the revenues of the Federal Government,

Now, therefore, be it resolved that the National Society, Sons of the American Revolution in its 84th Annual Congress assembled, urges the Congress to balance the federal budget.

RESOLUTION NO. 3

Whereas, it was the national policy of the United States of America to intervene in Vietnam and prevent a Communist takeover of that country, and

Whereas, it is the duty of every American citizen to bear arms in support of the national policies of the United States, and

Whereas, a citizen of the United States is called upon to share the burdens of citizenship in order to insure its benefits for all citizens, and

Whereas, 40,000 young Americans fled to foreign countries to evade the military obligations of United States citizenship,

Now, therefore, be it resolved that the National Society, Sons of the American Revolution at its 84th Annual Congress assembled, is opposed to any granting of amnesty to those who refused to bear arms for their country and instead, fled to foreign countries to evade their military obligations.

RESOLUTION NO. 4

Whereas, this country was founded by God-fearing men and women and conceived in liberty, and

Whereas, men of all countries have been moved by the eloquence and high spiritual qualities of the Declaration of Independence, and

Whereas, the Bicentennial will be a focal point for a nationwide review, and reaffirmation of the values upon which this Nation was founded, and

Whereas, all businesses and private citizens should display the United States Flag daily during daylight hours except during inclement weather, and

Whereas, it is fitting for patriots to celebrate each Fourth of July with prayer, music, fireworks and other expressions of joy and cheer, and

Whereas, it is the duty of every citizen and local community to take the initiative in planning a suitable commemoration of the Bicentennial,

Now, therefore, be it resolved that the National Society, Sons of the American Revolution at its 84th Annual Congress assembled, urges its members and all citizens to fly flags daily, to ring bells and blow automobile horns on the Fourth of July at a time to be set by each community as a suitable prelude to the Bicentennial.

RESOLUTION NO. 5

Whereas, we believe the Federal Government has entered upon a movement to eliminate basic rights and powers guaranteed to the states by the 10th Amendment to the Constitution, in particular the control of education and public schools, the control of land, the extension of jurisdiction of the federal judiciary, the weakening of state criminal law enforcement by the imposition of untenable federal standards that result in interminable trials and sheer technicalities that often show more concern for the criminal than for the innocent victim and the long-suffering public, to name a few.

Now, therefore, be it resolved that the National Society, Sons of the American Revolution at its 84th Annual Congress assembled, recommends that our state governors and legislators resist these federal encroachments upon state sovereignty and oppose the extension of federal grants and Supreme Court decisions.

RESOLUTION NO. 6

Whereas, hostile foreign nations desire to obtain advanced American technology during a period of our history entitled "detente," and

Whereas, the sharing of our technology with unfriendly foreign powers will weaken this country's power and protection of the free world, and

Whereas, the joint exploration of space with any foreign nation will result in the release of technical information vital to the defense of this nation, and

Whereas, no foreign power has been successful in its man-in-space program.

Now, therefore, be it resolved that the National Society, Sons of the American Revolution, in its 84th Annual Congress assembled, opposes in general the sharing of any of our technology with unfriendly foreign nations and in particular the sharing of our man-in-space capability with any foreign power, and recommends that all federal agencies should intensify efforts to prevent the dissemination of critical technology to any foreign power.

RESOLUTION NO. 7

Whereas, the National Society, Sons of the American Revolution supports proper commemoration and celebration of the American War for Independence which gained the 13 Original Colonies their freedom; and

Whereas, the Battle of Cowpens, fought in South Carolina near the present village of Cowpens was a major victory for loyal Americans in their fight for liberty; and

Whereas, the Federal Government has appropriated certain funds for the improvement and enhancement of the Cowpens Battleground site; and

Whereas, the effect of monies spent will be much more effective and widespread, and of longer duration, if a permanent annual celebration is held at the Battleground:

Now, therefore, be it resolved that the National Society, Sons of the American Revolution in its 84th Annual Congress assembled, favors allocation of an adequate portion of available funds for the construction of a suitable amphitheater which will be made available for the production of an annual outdoor drama based upon the Battle of Cowpens and surrounding events, so that the people of America will have a better opportunity to become more conversant with the great deeds of our illustrious ancestors.

RESOLUTION NO. 8

Whereas, Professional Standards Review Organization (PSRO) was established as a rider attached to the Social Security Law of 1972 without public hearings or proper consideration; and

Whereas, confidential medical records of every patient under any of the numerous government-sponsored health care programs will be open to PSRO inspectors; and

Whereas, "norms" set by the Department of Health, Education and Welfare, after examination of all patient records, will change the concept of health care, nullifying doctor-patient privacy preventing full use of the doctor's knowledge, experience and training; and

Whereas, PSRO can overrule a doctor's decision in prescribing, hospitalization, or operating under penalty of fine and suspension from medical practice;

Now, therefore, be it resolved that the National Society, Sons of the American Revolution at its 84th Annual Congress assembled, supports the adoption of H.R. 9375, or similar resolutions, which would repeal the provisions of the Social Security Act which violate the confidentiality of the doctor-patient relationship which would be contrary to numerous state statutes, contrary to professional ethics, and which would lead to federal control of medicine.

RESOLUTION NO. 9

Whereas, there is pending in the United States Congress a resolution sponsored by Senator Harry Flood Byrd, Jr. of Virginia in which Senator William Scott of Virginia has also joined as a co-sponsor, to restore the citizenship of General Robert E. Lee.

Now, therefore, be it resolved that the National Society, Sons of the American Revolution at its 84th Annual Congress assembled, joins in with the purpose and spirit of this pending Congressional resolution.

RESOLUTION NO. 10

Now, therefore, be it resolved that the National Society, Sons of the American Revolution at its 84th Annual Congress assembled, reiterates and reaffirms that all previous resolutions adopted at prior Congresses be reaffirmed.

RESOLUTION FOR A DOMESTIC SUMMIT

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, I have introduced a resolution calling for a domestic summit to develop a unified plan of action to restore stability and prosperity to the American economy. In this I am joined by my distinguished colleagues from Florida, Mr. GIBBONS and Mr. BAFALIS.

I think it obvious that the American economy is suffering more and more from the ill-effects of inflation. High prices and high interest rates are hurting everyone. Individuals, businesses, and industries all are feeling the pinch. A genuine effort to find a solution is needed now. The country needs renewed confidence and this effort requires the cooperation of both the administration and Congress and it must involve a unified effort on the part of both national parties along with leadership from labor and business as well as consultation from the Federal Reserve System.

The resolution states that it is the sense of the Congress that the leadership of the Nation meet together immediately in a spirit of unity to design a set of policy actions to achieve the common goal of restoring stability and growth to the American economy and confidence and prosperity to the American people.

We are accustomed to summit conferences to deal with international affairs. The American people are convinced that the domestic affairs are the matters of greatest importance to our country now. They want action. It has not been forthcoming. Now the situation is such that a piecemeal approach will not resolve the crisis. The best brains of the Nation should be working together for solutions to our economic problems.

The Senate has adopted a similar resolution by a vote of 88 to 5. Early action by the House is very important. The text of the resolution follows. Other Members are invited to join in introducing this resolution.

H. CON. RES. 568

Concurrent resolution calling for a domestic summit to develop a unified plan of action to restore stability and prosperity to the American economy

Whereas the American economy has in recent months reached an alarming state of instability and uncertainty combining re-

duced economic growth, corrosive inflation, high unemployment, unprecedented high rates of interest, the decline of available loan and venture capital, serious changes in energy supply and pricing, unanticipated and desalting commodity shortages, and growing international economic and financial uncertainties; and

Whereas the complexity, magnitude and persistence of these difficulties has occasioned substantial disagreement as to their causes and remedies; and

Whereas no agreed program for effective action has been developed; the Congress, the Administration, and the Federal Reserve Board, acting independently, have not yet been able to overcome these problems; and specific government programs, levels of federal spending and activities in all economic sectors continue to contribute to these difficulties; and

Whereas the American people in the face of this persistent economic deterioration are growing more dismayed and uncertain as evidenced by the widespread labor unrest and the declining financial markets of recent weeks; and

Whereas this deepening lack of confidence could magnify an already serious economic situation into a national crisis should these difficulties continue unabated; Now therefore be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the leadership of the Nation responsible for our economic well being meet together immediately in a spirit of unity to design a set of policy actions to achieve the common goal of restoring stability and growth to the American economy and confidence and prosperity to the American people.

It is imperative as in previous moments of great national need, that the two political parties, the Congress and the President, labor and management, put aside their domestic and political differences and work together in a spirit of discipline, compromise, and sacrifice for the common good.

SEC. 2. It is further the sense of the Congress that this domestic summit be convened forthwith comprised of the President, the majority and minority leadership of both Houses of the Congress, the Chairmen and ranking minority members of the Appropriations Committees of both Houses, the Chairmen and ranking minority members of the Senate Finance Committee and the House Ways and Means Committee, and the Chairman of the Federal Reserve Board, together with leaders of labor and business, and such other participants as they may agree upon. They shall meet and devote such time as necessary until a plan of action is decided upon which, by its demonstration of renewed unity, direction, and purpose will gain the public support and confidence necessary to be effective in overcoming these difficulties.

SEC. 3. It is further resolved by the Congress that it stands ready to cooperate fully in the spirit of commitment and unity which the solution of this truly national problem will require of all elements of American society.

DECISION OF THE U.S. SUPREME COURT IN UNITED STATES VERSUS NIXON

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, the Supreme Court of the United States yesterday announced its unanimous decision in the case of United States versus Nixon.

The Court held that while the conversations of a President and his closest aides enjoy a limited privilege from the compulsory process of a court, "the generalized assertion of privilege must yield to the demonstrated, specific need for evidence in a pending criminal trial."

In short, Mr. Speaker, the President must surrender to the U.S. District Court for the District of Columbia the material subpenaed by the Special Prosecutor in the pending criminal prosecution against the President's former aides.

Mr. Speaker, it cannot be denied that this is a decision of momentous consequence for both the President and the Nation.

In order that all Members may have the opportunity to read the opinion of the Court—and judge for themselves its import—I include at this point in the RECORD the complete text of the Court's opinion rendered yesterday in United States versus Nixon.

[Supreme Court of the United States, Nos. 73–1766 and 73–1834]

United States, Petitioner, 73–1766 *v.* Richard M. Nixon, President of the United States, et al.

Richard M. Nixon, President of the United States, Petitioner, 73–1834 *v.* United States. On Writ of Certiorari to the United States Court of Appeals for the District of Columbus Circuit before judgment.

[July 24, 1974]

Mr. CHIEF JUSTICE BURGER delivered the opinion of the Court.

These cases present for review the denial of a motion, filed on behalf of the President of the United States, in the case of *United States* v. *Mitchell et al.* (D.C. Crim. No. 74–110), to quash a third-party subpena *duces tecum* issued by the United States District Court for the District of Columbia, pursuant to Fed. Rule Crim. Proc. 17(c). The subpena directed the President to produce certain tape recordings and documents relating to his conversations with aides and advisers. The court rejected the President's claims of absolute executive privilege, of lack of jurisdiction, and of failure to satisfy the requirements of Rule 17(c). The President appealed to the Court of Appeals. We granted the United States' petition for certiorari before judgment,[1] and also the President's responsive cross-petition for certiorari before judgment,[2] because of the public importance of the issues presented and the need for their prompt resolution. —— U.S. ——, —— (1974).

On March 1, 1974, a grand jury of the United States District Court for the District of Columbia returned an indictment charging seven named individuals [3] with various offenses, including conspiracy to defraud the United States and to obstruct justice. Although he was not designated as such in the indictment, the grand jury named the President, among others, as an unindicted coconspirator.[4] On April 18, 1974, upon motion of the Special Prosecutor, see n. 8, *infra*, a subpoena *duces tecum* was issued pursuant to Rule 17 (c) to the President by the United States District Court and make returnable on May 2, 1974. This subpoena required the production, in advance of the September 9 trial date, of certain tapes, memoranda, papers, transcripts or other writings relating to certain precisely identified meetings between the President and others.[5] The Special Prosecutor was able to fix the time, place and persons present at these discussions because the White House daily logs and appointment records had been delivered to him. On April 30, the President publicly released edited transcripts of 43 conversations; portions of 20 conversations subject to subpoena in the present case were included. On May 1, 1974, the President's counsel, filed a "special appearance" and a motion to quash the subpoena, under Rule 17(c). This motion was accompanied by a formal claim of privilege. At a subsequent hearing,[6] further motions to expunge the grand jury's action naming the President as an unindicted coconspirator and for protective orders against the disclosure of that information were filed or raised orally by counsel for the President.

On May 20, 1974, the District Court denied the motion to quash and the motions to expunge and for protective orders. — F. Supp. — (1974). It further ordered "the President or any subordinate officer, official or employee with custody or control of the documents or objects subpoenaed," *id.*, at —, to deliver to the District Court, on or before May 31, 1974, the originals of all subpoenaed items, as well as an index and analysis of those items, together with tape copies of those portions of the subpoenaed recordings for which transcripts had been released to the public by the President on April 30. The District Court rejected jurisdictional challenges based on a contention that the dispute was nonjusticiable because it was between the Special Prosecutor and the Chief Executive and hence "intra-executive" in character; it also rejected the contention that the judiciary was without authority to review an assertion of executive privilege by the President. The court's rejection of the first challenge was based on the authority and powers vested in the Special Prosecutor by the regulation promulgated by the Attorney General; the court concluded that a justiciable controversy was presented. The second challenge was held to be foreclosed by the decision in *Nixon* v. *Sirica*, — U.S. App. D.C. —, 487 F. 2d 700 (1973).

The District Court held that the judiciary, not the President, was the final arbiter of a claim of executive privilege. The court concluded that, under the circumstances of this case, the presumptive privilege was overcome by the Special Prosecutor's prima facie "demonstration of need sufficiently compelling to warrant judicial examination in chambers. . . ." — F. Supp. at — The court held, finally, that the Special Prosecutor had satisfied the requirements of Rule 17(c). The District Court stayed its order pending appellate review on condition that review was sought before 4 p.m., May 24. The court further provided that matters filed under seal remain under seal when transmitted as part of the record.

On May 24, 1974, the President filed a timely notice of appeal from the District Court order, and the certified record from the District Court was docketed in the United States Court of Appeals for the District of Columbia Circuit. On the same day, the President also filed a petition for writ of mandamus in the Court of Appeals seeking review of the District Court order.

Later on May 24, the Special Prosecutor also filed, in this Court, a petition for a writ of certiorari before judgment. On May 31, the petition was granted with an expedited briefing schedule — U.S. — (1974). On June 6, the President filed, under seal, a cross-petition for writ of certiorari before judgment. This cross-petition was granted June 15, 1974, — U.S. — (1974), and the case was set for argument on July 8, 1974.

I. JURISDICTION

The threshold question presented is whether the May 20, 1974, order of the District Court was an appealable order and whether this case was properly "in," 28

Footnotes at end of article.

U.S.C. § 1254, the United States Court of Appeals when the petition for certiorari was filed in this Court. Court of Appeals jurisdiction under 28 U.S.C. § 1291 encompasses only "final decisions of the district courts." Since the appeal was timely filed and all other procedural requirements were met, the petition is properly before this Court for consideration if the District Court order was final. 28 U.S.C. § 1254(1); 82 U.S.C. § 2101(e).

The finality requirement of 28 U.S.C. § 1291 embodies a strong congressional policy against piecemeal reviews, and against obstructing or impeding an ongoing judicial proceeding by interlocutory appeals. See *e.g., Cobbledick* v. *United States*, 309 U.S. 323, 324–326 (1940). This requirement ordinarily promotes judicial efficiency and hastens the ultimate termination of litigation. In applying this principle to an order denying a motion to quash and requiring the production of evidence pursuant to a subpoena duces tecum, it has been repeatedly held that the order is not final and hence not appealable. *United States* v. *Ryan*, 402 U.S. 530, 532 (1971); *Cobbledick* v. *United States*, 309 U.S. 322, (1940); *Alexander* v. *United States*, 201 U.S. 117 (1906). This Court has "consistently held that the necessity for expedition in the administration of the criminal law justifies putting one who seeks to resist the production of desired information to a choice between compliance with a trial court's order to produce prior to any review of that order, and resistance to that order with the concomitant possibility of an adjudication of contempt if his claims are rejected on appeal." *United States* v. *Ryan*, 402 U.S. 530, 533 (1971).

The requirement of submitting to contempt, however, is not without exception and in some instances the purposes underlying the finality rule require a different result. For example, in *Perlman* v. *United States*, 247 U.S. 7 (1918), a subpoena had been directed to a third party requesting certain exhibits; the appellant, who owned the exhibits; the appellant, who owned the exhibits, sought to raise a claim of privilege. The Court held an order compelling production was appealable because it was unlikely that the third party would risk a contempt citation in order to allow immediate review of the appellant's claim of privilege. *Id.*, at 12–13. That case fell within the "limited class of cases where denial of immediate review would render impossible any review whatsoever of an individual's claims." *United States* v. *Ryan*, *supra*, at 533.

Here too the traditional contempt avenue to immediate appeal is peculiarly inappropriate due to the unique setting in which the question arises. To require a President of the United States to place himself in the posture of disobeying an order of a court merely to trigger the procedural mechanism for review of the ruling would be unseemly, and present an unnecessary occasion for constitutional confrontation between two branches of the Government. Similarly, a federal judge should not be placed in the posture of issuing a citation to a President simply in order to invoke review. The issue whether a President can be cited for contempt could itself engender protracted litigation, and would further delay both review on the merits of his claim of privilege and the ultimate termination of the underlying criminal action for which his evidence is sought. These considerations lead us to conclude that the order of the District Court was an appealable order. The appeal from that order was therefore properly "in" the Court of Appeals, and the case is now properly before this Court on the writ of certiorari before judgment. 28 U.S.C. § 1254; 28 U.S.C. § 2101(e). *Gay* v. *Ruff*, 292 U.S. 25, 30 (1934).[7]

II. JUSTICIABILITY

In the District Court, the President's counsel argued that the court lacked jurisdiction to issue the subpoena because the matter was an intra-branch dispute between a subordinate and superior officer of the Executive Branch and hence not subject to judicial resolution. That argument has been renewed in this Court with emphasis on the contention that the dispute does not present a "case" or "controversy" which can be adjudicated in the federal courts. The President's counsel argues that the federal courts should not intrude into areas committed to the other branches of Government. He views the present dispute as essentially a "jurisdictional" dispute within the Executive Branch which he analogizes to a dispute between two congressional committees. Since the Executive Branch has exclusive authority and absolute discretion to decide whether to prosecute a case, *Confiscation Cases*, 7 Wall. 454 (1869), *United States* v. *Cox*, 342 F. 2d 167, 171 (CA5), cert. denied, 381 U.S. 935 (1965), it is contended that a President's decision is final in determining what evidence is to be used in a given criminal case. Although his counsel concedes the President has delegated certain specific powers to the Special Prosecutor, he has not "waived nor delegated to the Special Prosecutor the President's duty to claim privilege as to all materials . . . which fall within the President's inherent authority to refuse to disclose to any executive officer." Brief for the President 47. The Special Prosecutor's demand for the items therefore presents, in the view of the President's counsel, a political question under *Baker* v. *Carr*, 369 U.S. 186 (1962), since it involves a "textually demonstrable" grant of power under Art. II.

The mere assertion of a claim of an "intra-branch dispute," without more, has never operated to defeat federal jurisdiction; justiciability does not depend on such a surface inquiry. In *United States* v. *ICC*, 337 U.S. 426 (1949), the Court observed, "courts must look behind names that symbolize the parties to determine whether a justiciable case or controversy is presented." *Id.*, at 430. See also: *Powell* v. *McCormack*, 395 U.S. 486 (1969); *ICC* v. *Jersey City*, 322 U.S. 503 (1944); *United States ex rel. Chapman* v. *FPC*, 345 U.S. 153 (1953); *Secretary of Agriculture* v. *United States*, 347 U.S. 645 (1954); *FMB* v. *Isbrandsten Co.*, 356 U.S. 481, 482n. 2 (1958); *United States* v. *Marine Bank Corp.* —— U.S. —— (1974), and *United States* v. *Connecticut National Bank*, —— U.S. —— (1974).

Our starting point is the nature of the proceeding for which the evidence is sought—here a pending criminal prosecution. It is a judicial proceeding in a federal court alleging violation of federal laws and is brought in the name of the United States as sovereign. *Berger* v. *United States*, 295 U.S. 78, 88 (1935). Under the authority of Art. II, § 2, Congress has vested in the Attorney General the power to conduct the criminal litigation to the United States Government. 28 U.S.C. § 516. It has also vested in him the power to appoint subordinate officers to assist him in the discharge of his duties. 28 U.S.C. §§ 509, 510, 515, 533. Acting pursuant to those statutes, the Attorney General has delegated the authority to represent the United States in these particular matters to a Special Prosecutor with unique authority and tenure.[8] The regulation gives the Special Prosecutor explicit power to contest the invocation of executive privilege in the process of seeking evidence deemed relevant to the performance of these specially delegated duties.[9] 38 Fed. Reg. 30739.

So long as this regulation is extant it has the force of law. In *Accardi* v. *Shaughnessy*, 347 U.S. 260 (1953), regulations of the Attorney General delegated certain of his discretionary powers to the Board of Immigration Appeals and required that Board to exercise its own discretion on appeals in deportation cases. The Court held that so long as the Attorney General's regulations remained operative, he denied himself the authority to exercise the discretion delegated to the Board even though the original authority was his and he could reassert it by amending the regulations. *Service* v. *Dulles*, 354 U.S. 363, 388 (1957), and *Vitarelli* v. *Seaton*, 359 U.S. 535 (1959), reaffirmed the basic holding of *Accardi*.

Here, as in *Accardi*, it is theoretically possible for the Attorney General to amend or revoke the regulation defining the Special Prosecutor's authority. But he has not done so.[10] So long as this regulation remains in force the Executive Branch is bound by it, and indeed the Unted States as the sovereign composed of the three branches is bound to respect and to enforce it. Moreover, the delegation of authorty to the Special Prosecutor in this case is not an ordinary delegation by the Attorney General to a subordinate officer: with the authorization of the President, the Acting Attorney General provided in the regulation that the Special Prosecutor was not to be removed without the "consensus" of eight designated leaders of Congress. Note 8, *supra*.

The demands of and the resistance to the subpoena present an obvious controversy in the ordinary sense, but that alone is not sufficient to meet constitutional standards. In the constitutional sense, controversy means more than disagreement and conflict; rather it means the kind of controversy courts traditionally resolve. Here at issue is the production or nonproduction of specified evidence deemed by the Special Prosecutor to be relevant and admissible in a pending criminal case. It is sought by one official of the Government within the scope of his express authority; it is resisted by the Chief Executive on the ground of his duty to preserve the confidentiality of the communications of the President. Whatever the correct answer on the merits, these issues are "of a type which are traditionally justiciable." *United States* v. *ICC*, 337 U.S., at 430. The independent Special Prosecutor with his asserted need for the subpoenaed material in the underlying criminal prosecution is opposed by the President with his steadfast assertion of privilege against disclosure of the material. This setting assures there is "that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions." *Baker* v. *Carr*, 369 U.S., at 204. Moreover, since the matter is one arising in the regular course of a federal criminal prosecution, it is within the traditional scope of Art. III power. *Id.*, at 198.

In light of the uniqueness of the setting in which the conflict arises, the fact that both parties are officers of the Executive Branch cannot be viewed as a barrier to justiciability. It would be inconsistent with the applicable law and regulation, and the unique facts of this case to conclude other than that the Special Prosecutor has standing to bring this action and that a justiciable controversy is presented for decision.

III. RULE 17(C)

The subpoena *duces tecum* is challenged on the ground that the Special Prosecutor failed to satisfy the requirements of Fed. Rule Crim. Proc. 17(c), which governs the issuance of subpoenas *duces tecum* in federal criminal proceedings. If we sustained this challenge, there would be no occasion to reach the claim of privilege asserted with respect to the subpoenaed material. Thus we turn to the question whether the requirements of Rule 17(c) have been satisfied. See *Arkansas-Louisiana Gas Co.* v. *Dept. of Public Utilities*, 304 U. S. 61, 64 (1938); *Ashwander* v. *Tennessee Valley Authority*, 297 U. S. 288, 346–347 (1936). (Brandeis, J., concurring.)

Rule 17 (c) provides:

"A subpoena may also command the per-

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son to whom it is directed to produce the books, papers, documents or other objects designated therein. The court on motion made promptly may quash or modify the subpoena if complicance would be unreasonable or oppressive. The court may direct that books, papers, documents or objects designated in the subpoena be produced before the court at a time prior to the trial or prior to the time when they are to be offered in evidence and may upon their production permit the books, papers, documents or objects or portions thereof to be inspected by the parties and their attorneys."

A subpoena for documents may be quashed if their production would be "unreasonable or oppressive," but not otherwise. The leading case in this Court interpreting this standard is *Bowman Dairy Co.* v. *United States*, 341 U.S. 214 (1950). This case recognized certain fundamental characteristics of the subpoena *duces tecum* in criminal cases: (1) it was not intended to provide a means of discovery for criminal cases. *Id.*, at 220; (2) its chief innovation was to expedite the trial by providing a time and place *before* trial for the inspection of subpoenaed materials.[11] *Ibid.* As both parties agree, cases decided in the wake of *Bowman* have generally followed Judge Weinfeld's formulation in *United States* v. *Iozia*, 13 F.R.D. 335, 338 (SDNY 1952), as to the required showing. Under this test, in order to require production prior to trial, the moving party must show: (1) that the documents are evidentiary[12] and relevant; (2) that they are not otherwise procurable reasonably in advance of trial by exercise of due diligence; (3) that the party cannot properly prepare for trial without such production and inspection in advance of trial and that the failure to obtain such inspection may tend unreasonably to delay the trial; (4) that the application is made in good faith and is not intended as a general "fishing expedition."

Against this background, the Special Prosecutor, in order to carry his burden, must clear three hurdles: (1) relevancy; (2) admissibility; (3) specificity. Our own review of the record necessarily affords a less comprehensive view of the total situation than was available to the trial judge and we are unwilling to conclude that the District Court erred in the evaluation of the Special Prosecutor's showing under Rule 17(c). Our conclusion is based on the record before us, much of which is under seal. Of course, the contents of the subpoenaed tapes could not at that stage be described fully by the Special Prosecutor, but there was a sufficient likelihood that each of the tapes contains conversations relevant to the offenses charged in the indictment. *United States* v. *Gross*, 24 F. R. D. 138 (SDNY 1959). With respect to many of the tapes, the Special Prosecutor offered the sworn testimony or statements of one or more of the participants in the conversations as to what was said at the time. As for the remainder of the tapes, the identity of the participants and the time and place of the conversations, taken in their total context, permit a rational inference that at least part of the conversations relate to the offenses charged in the indictment.

We also conclude there was a sufficient preliminary showing that each of the subpoenaed tapes contains evidence admissible with respect to the offenses charged in the indictment. The most cogent objection to the admissibility of the taped conversations here at issue is that they are a collection of out-of-court statements by declarants who will not be subject to cross-examination and that the statements are therefore inadmissible hearsay. Here, however, most of the tapes apparently contain conversations to which one or more of the defendants named in the indictment were party. The hearsay rule does not automatically bar all out-of-court statements by a defendant in a criminal case.[13] Declarations by one defendant may also be admissible against other defendants upon a sufficient showing, by independent evidence,[14] of a conspiracy among one or more other defendants and the declarant and if the declarations at issue were in furtherance of that conspiracy. The same is true of declarations of coconspirators who are not defendants in the case on trial. *Dutton* v. *Evans*, 400 U.S. 74, 81 (1970). Recorded conversations may also be admissible for the limited purpose of impeaching the credibility of any defendant who testifies or any other coconspirator who testifies. Generally, the need for evidence to impeach witnesses is insufficient to require its production in advance of trial. See, *e.g.*, *United States* v. *Carter*, 15 F. R. D. 367, 371 (D. D. C. 1954). Here, however, there are other valid potential evidentiary uses for the same material and the analysis and possible transcription of the tapes may take a significant period of time. Accordingly, we cannot say that the District Court erred in authorizing the issuance of the subpoena *duces tecum*.

Enforcement of a pretrial subpoena *duces tecum* must necessarily be committed to the sound discretion of the trial court since the necessity for the subpoena most often turns upon a determination of factual issues. Without a determination of arbitrariness or that the trial court finding was without record support, an appellate court will not ordinarily disturb a finding that the applicant for a subpoena complied with Rule 17 (c). See, *e.g.*, *Sue* v. *Chicago Transit Authority*, 279 F. 2d 416, 419 (CA7 1960); *Shotkin* v. *Nelson*, 146 F. 2d 402 (CA10 1944).

In a case such as this, however, where a subpoena is directed to a President of the United States, appellate review, in deference to a coordinate branch of government, should be particularly meticulous to ensure that the standards of Rule 17 (c) have been correctly applied. *United States* v. *Burr*, 25 Fed. Cas. 30. 34 (No. 14,692d) (1807). From our examination of the materials submitted by the Special Prosecutor to the District Court in support of his motion for the subpoena, we are persuaded that the District Court's denial of the President's motion to quash the subpoena was consistent with Rule 17 (c). We also conclude that the Special Prosecutor has made a sufficient showing to justify a subpoena for production *before* trial. The subpoenaed materials are not available from any other source, and their examination and processing should not await trial in the circumstances shown. *Bowman Dairy Co., supra, United States* v. *Iozia, supra,*

IV. THE CLAIM OF PRIVILEGE

A

Having determined that the requirements of Rule 17(c) were satisfied, we turn to the claim that the subpoena should be quashed because it demands "confidential conversations between a President and his close advisors that it would be inconsistent with the public interest to produce." App. 48a. The first contention is a broad claim that the separation of powers doctrine precludes judicial review of a President's claim of privilege. The second contention is that if he does not prevail on the claim of absolute privilege, the court should hold as a matter of constitutional law that the privilege prevails over the subpoena *duces tecum*.

In the performance of assigned constitutional duties each branch of the Government must initially interpret the Constitution, and the interpretation of its powers by any branch is due great respect from the others. The President's counsel, as we have noted, reads the Constitution as providing an absolute privilege of confidentiality for all presidential communications. Many decisions of this Court, however, have unequivocally reaffirmed the holding of *Marbury* v. *Madison*, 1 Cranch 137 (1803), that "it is emphatically the province and duty of the judicial department to say what the law is." *Id.*, at 177.

No holding of the Court has defined the scope of judicial power specifically relating to the enforcement of a subpoena for confidential presidential communications for use in a criminal prosecution, but other exercises of powers by the Executive Branch and the Legislative Branch have been found invalid as in conflict with the Constitution. *Powell* v. *McCormack, supra; Youngstown, supra.* In a series of cases, the Court interpreted the explicit immunity conferred by express provisions of the Constitution on Members of the House and Senate by the Speech or Debate Clause, U.S. Const. Art. I, § 6. *Doe* v. *McMillan*, 412 U.S. 306 (1973); *Gravel* v. *United States*, 408 U.S. 606 (1973); *United States* v. *Brewster*, 408 U.S. 501 (1972); *United States* v. *Johnson*, 383 U.S. 169 (1966). Since this Court has consistently exercised the power to construe and delineate claims arising under express powers, it must follow that the Court has authority to interpret claims with respect to powers alleged to derive from enumerated powers.

Our system of government "requires that federal courts on occasion interpret the Constitution in a manner at variance with the construction given the document by another branch." *Powell* v. *McCormack, supra*, 549. And in *Baker* v. *Carr*, 369 U.S., at 211, the Court stated:

"[d]eciding whether a matter has in any measure been committed by the Constitution to another branch of government, or whether the action of that branch exceeds whatever authority has been committed, is itself a delicate exercise in constitutional interpretation, and is a responsibility of this Court as ultimate interpreter of the Constitution."

Notwithstanding the deference each branch must accord the others, the "judicial power of the United States" vested in the federal courts by Art. III § 1 of the Constitution can no more be shared with the Executive Branch than the Chief Executive, for example, can share with the Judiciary the veto power, or the Congress share with the Judiciary the power to override a presidential veto. Any other conclusion would be contrary to the basic concept of separation of powers and the checks and balances that flow from the scheme of a tripartite government. The Federalist, No. 47, p. 313 (C. F. Mittel ed. 1938). We therefore reaffirm that it is "emphatically the province and the duty" of this Court "to say what the law is" with respect to the claim of privilege presented in this case. *Marbury* v. *Madison, supra*, at 177.

B

In support of his claim of absolute privilege, the President's counsel urges two grounds one of which is common to all governments and one of which is peculiar to our system of separation of powers. The first ground is the valid need for protection of communications between high government officials and those who advise and assist them in the performance of their manifold duties; the importance of this confidentiality is too plain to require further discussion. Human experience teaches that those who expect public dissemination of their remarks may well temper candor with a concern for appearances and for their own interests to the deteriment of the decisionmaking process.[15] Whatever the nature of the privilege of confidentiality of presidential communications in the exercise of Art. II powers the privilege can be said to derive from the supremacy of each branch within its own assigned area of constitutional duties. Certain powers and privileges flow from the nature of enumerated powers; [16] the protection of the confidentiality of presidential communications has similar constitutional underpinnings.

The second ground asserted by the President's counsel in support of the claim of

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absolute privilege rests on the doctrine of separation of powers. Here it is argued that the independence of the Executive Branch within its own sphere, *Humphrey's Executor* v. *United States*, 295 U.S. 602, 629–630; *Kilbourn* v. *Thompson*, 103 U.S. 168, 190–191 (1880), insulates a president from a judicial subpoena in an ongoing criminal prosecution, and thereby protects confidential presidential communications.

However, neither the doctrine of separation of powers, nor the need for confidentiality of high level communications, without more, can sustain an absolute, unqualified presidential privilege of immunity from judicial process under all circumstances. The President's need for complete candor and objectivity from advisers calls for great deference from the courts. However, when the privilege depends solely on the broad, undifferentiated claim of public interest in the confidentiality of such conversations, a confrontation with other values arises. Absent a claim of need to protect military, diplomatic or sensitive national security secrets, we find it difficult to accept the argument that even the very important interest in confidentiality of presidential communications is significantly diminished by production of such material for *in camera* inspection with all the protection that a district court will be obliged to provide.

The impediment that an absolute, unqualified privilege would place in the way of the primary constitutional duty of the Judicial Branch to do justice in criminal prosecutions would plainly conflict with the function of the courts under Art. III. In designing the structure of our Government and dividing and allocating the sovereign power among three coequal branches, the Framers of the Constitution sought to provide a comprehensive system, but the separate powers were not intended to operate with absolute independence.

"While the Constitution diffuses power the better to secure liberty, it also contemplates that practice will integrate the dispersed powers into a workable government. It enjoins upon its branches separateness but interdependence, autonomy but reciprocity." *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579, 635 (1952) (Jackson, J., concurring).

To read the Art. II powers of the President as providing an absolute privilege as against a subpoena essential to enforcement of criminal statutes on no more than a generalized claim of the public interest in confidentiality of nonmilitary and nondiplomatic discussions would upset the constitutional balance of "a workable government" and gravely impair the role of the courts under Art. III.

C

Since we conclude that the legitimate needs of the judicial process may outweigh presidential privilege, it is necessary to resolve those competing interests in a manner that preserves the essential functions of each branch. The right and indeed the duty to resolve that question does not free the judiciary from according high respect to the representations made on behalf of the President, *United States* v. *Burr*, 25 Fed. Cas. 187, 190, 191–192 (No. 14,694) (1807).

The expectation of a President to the confidentiality of his conversations and correspondence, like the claim of confidentiality of judicial deliberations, for example, has all the values to which we accord deference for the privacy of all citizens and added to those values the necessity for protection of the public interest in candid, objective, and even blunt or harsh opinions in presidential decisionmaking. A President and those who assist him must be free to explore alternatives in the process of shaping policies and making decisions and to do so in a way many would be unwilling to express except privately. These are the considerations justifying a presumptive privilege for presidential communications. The privilege is fundamental to the operation of government and inextricably rooted in the separation of powers under the Constitution.[17] In *Nixon* v. *Sirica*, — U.S. App. D. C. —, 487 F. 2d 700 (1973), the Court of Appeals held that such presidential communications are "presumptively privileged," *id.*, at 717, and this position is accepted by both parties in the present litigation. We agree with Mr. Chief Justice Marshall's observation, therefore, that "in no case of this kind would a court be required to proceed against the President as against an ordinary individual." *United States* v. *Burr*, 25 Fed. Cas. 187, 191 (No. 14,694) (CCD Va. 1807).

But this presumptive privilege must be considered in light of our historic commitment to the rule of law. This is nowhere more profoundly manifest than in our view that "the twofold aim [of criminal justice] is that guilt shall not escape or innocence suffer." *Berger* v. *United States*, 295 U. S. 78, 88 (1935). We have elected to employ an adversary system of criminal justice in which the parties contest all issues before a court of law. The need to develop all relevant facts in the adversary system is both fundamental and comprehensive. The ends of criminal justice would be defeated if judgments were to be founded on a partial or speculative presentation of the facts. The very integrity of the judicial system and public confidence in the system depend on full disclosure of all the facts, within the framework of the rules of evidence. To ensure that justice is done, it is imperative to the function of courts that compulsory process be available for the production of evidence needed either by the prosecution or by the defense.

Only recently the Court restated the ancient proposition of law, albeit in the context of a grand jury inquiry rather than a trial:

" 'That the public . . . has a right to every man's evidence' except for those persons protected by a constitutional, common law, or statutory privilege, *United States* v. *Bryan*, 339 U. S., at 331 (1949); *Blackmer* v. *United States*, 284 U. S. 421, 438; *Branzburg* v. *United States*, 408 U. S. 665, 688 (1973)."

The privileges referred to by the Court are designed to protect weighty and legitimate competing interests. Thus, the Fifth Amendment to the Constitution provides that no man "shall be compelled in any criminal case to be a witness against himself." And, generally, an attorney or a priest may not be required to disclose what has been revealed in professional confidence. These and other interests are recognized in law by privileges against forced disclosure, established in the Constitution, by statute, or at common law. Whatever their origins, these exceptions to the demand for every man's evidence are not lightly created nor expansively construed, for they are in derogation of the search for truth.[18]

In this case the President challenges a subpoena served on him as a third party requiring the production of materials for use in a criminal prosecution on the claim that he has a privilege against disclosure of confidential communications. He does not place his claim of privilege on the ground they are military or diplomatic secrets. As to these areas of Art. II duties the courts have traditionally shown the utmost deference to presidential responsibilities. In *C. & S. Air Lines* v. *Waterman Steamship Corp.*, 333 U.S. 103, 111 (1948), dealing with presidential authority involving foreign policy considerations, the Court said:

"The President, both as Commander-in-Chief and as the Nation's organ for foreign affairs, has available intelligence services whose reports are not and ought not to be published to the world. It would be intolerable that courts, without the relevant information, should review and perhaps nullify actions of the Executive taken on information properly held secret." *Id.*, at 111.

In *United States* v. *Reynolds*, 345 U.S. 1 (1952), dealing with a claimant's demand for evidence in a damage case against the Government the Court said:

"It may be possible to satisfy the court, from all the circumstances of the case, that there is a reasonable danger that compulsion of the evidence will expose military matters which, in the interest of national security, should not be divulged. When this is the case, the occasion for the privilege is appropriate, and the court should not jeopardize the security which the privilege is meant to protect by insisting upon an examination of the evidence, even by the judge alone, in chambers."

No case of the Court, however, has extended this high degree of deference to a President's generalized interest in confidentiality. Nowhere in the Constitution, as we have noted earlier, is there any explicit reference to a privilege of confidentiality, yet to the extent this interest relates to the effective discharge of a President's powers, it is constitutionally based.

The right to the production of all evidence at a criminal trial similarly has constitutional dimensions. The Sixth Amendment explicitly confers upon every defendant in a criminal trial the right "to be confronted with the witnesses against him" and "to have compulsory process for obtaining witnesses in his favor." Morever, the Fifth Amendment also guarantees that no person shall be deprived of liberty without due process of law. It is the manifest duty of the courts to vindicate those guarantees and to accomplish that it is essential that all relevant and admissible evidence be produced.

In this case we must weigh the importance of the general privilege of confidentiality of presidential communications in performance of his responsibilities against the inroads of such a privilege on the fair administration of criminal justice.[19] The interest in preserving confidentiality is weighty indeed and entitled to great respect. However we cannot conclude that advisers will be moved to temper the candor of their remarks by the infrequent occasions of disclosure because of the possibility that such conversations will be called for in the context of a criminal prosecution.[20]

On the other hand, the allowance of the privilege to withhold evidence that is demonstrably relevant in a criminal trial would cut deeply into the guarantee of due process of law and gravely impair the basic function of the courts. A President's acknowledged need for confidentiality in the communications of his office is general in nature, whereas the constitutional need for production of relevant evidence in a criminal proceeding is specific and central to the fair adjudication of a particular criminal case in the administration of justice. Without access to specific facts a criminal prosecution may be totally frustrated. The President's broad interest in confidentiality of communications will not be vitiated by disclosure of a limited number of conversations preliminarily shown to have some bearing on the pending criminal cases.

We conclude that when the ground for asserting privilege as to subpoenaed materials sought for use in a criminal trial is based only on the generalized interest in confidentiality, it cannot prevail over the fundamental demands of due process of law in the fair administration of criminal justice. The generalized assertion of privilege must yield to the demonstrated, specific need for evidence in a pending criminal trial.

D

We have earlier determined that the District Court did not err in authorizing the issuance of the subpoena. If a president con-

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cludes that compliance with a subpoena would be injurious to the public interest he may properly, as was done here, invoke a claim of privilege on the return of the subpoena. Upon receiving a claim of privilege from the Chief Executive, it became the further duty of the District Court to treat the subpoenaed material as presumptively privileged and to require the Special Prosecutor to demonstrate that the presidential material was "essential to the justice of the [pending criminal] case." *United States* v. *Burr, supra,* at 192. Here the District Court treated the material as presumptively privileged, proceeded to find that the Special Prosecutor had made a sufficient showing to rebut the presumption and ordered an *in camera* examination of the subpoenaed material. On the basis of our examination of the record we were unable to conclude that the District Court erred in ordering the inspection. Accordingly we affirm the order of the District Court that subpoenaed materials be transmitted to that court. We now turn to the important question of the District Court's responsibilities in conducting the *in camera* examination of presidential materials or communications delivered under the compulsion of the subpoena *duces tecum.*

E

Enforcement of the subpoena *duces tecum* was stayed pending this Court's resolution of the issues raised by the petitions for certiorari. Those issues now having been disposed of, the matter of implementation will rest with the District Court. "[T]he guard, furnished to [President] to protect him from being harassed by vexatious and unnecessary subpoenas, is to be looked for in the conduct of the [district] court after the subpoenas have issued; not in any circumstances which is to precede their being issued." *United States* v. *Burr, supra,* at 34. Statements that meet the test of admissibility and relevance must be isolated; all other material must be excised. At this stage, the District Court is not limited to representations of the Special Prosecutor as to the evidence sought by the subpoena; the material will be available to the District Court. It is elementary that *in camera* inspection of evidence is always a procedure calling for scrupulous protection against any release or publication of material not found by the court, at that stage, probably admissible in evidence and relevant to the issues of the trial for which it is sought. That being true of an ordinary situation, it is obvious that the District Court has a very heavy responsibility to see to it that presidential conversations, which are either not relevant or not admissible, are accorded that high degree of respect due the President of the United States. Mr. Chief Justice Marshall sitting as a trial judge in the *Burr* case, *supra,* was extraordinarily careful to point out that:

"[I]n no case of this kind would a Court be required to proceed against the President as against an ordinary individual." *United States* v. *Burr,* 25 Fed. Cases 187, 191 (No. 14,694).

Marshall's statement cannot be read to mean in any sense that a President is above the law, but relates to the singularly unique role under Art. II of a President's communications and activities, related to the performance of duties under that Article. Moreover a President's communications and activities encompass a vastly wider range of sensitive material than would be true of any "ordinary individual." It is therefore necessary [11] in the public interest to afford presidential confidentiality the greatest protection consistent with the fair administration of justice. The need for confidentiality even as to idle conversations with associates in which casual reference might be made concerning political leaders within the country or foreign statesmen is too obvious to call for further treatment. We have no doubt that the District Judge will at all times accord to presidential records that high degree of deference suggested in *United States* v. *Burr, supra,* and will discharge his responsibiltiy to see to it that until released to the Special Prosecutor no *in camera* material is revealed to anyone. This burden applies with even greater force to excised material; once the decision is made to excise, the material is restored to its privileged status and should be returned under seal to its lawful custodian.

Since this matter came before the Court during the pendency of a criminal prosecution, and on representations that time is of the essence, the mandate shall issue forthwith.

Affirmed.

MR. JUSTICE REHNQUIST took no part in the consideration or decision of these cases.

FOOTNOTES

[1] See 28 U.S.C. §§ 1254(1) and 2101(e) and our Rule 20. See, *e.g. Youngstown Sheet & Tube Co.* v. *Sawyer,* 343 U.S. 937, 579, 584 (1952); *United States* v. *United Mine Workers,* 329 U.S. 708, 709, 710 (1946); 330 U.S. 258, 269 (1947); *Carter* v. *Carter Coal Co.,* 298 U.S. 238 (1936); *Rickert Rice Mills* v. *Fontenot,* 297 U.S. 110 (1936); *Railroad Retirement Board* v. *Alton R. Co.,* 296 U.S. 330, 344 (1935); *United States* v. *Bankers Trust Co.,* 294 U.S. 240, 243 (1935).

[2] The cross-petition in No. 73–1834 raised the issue whether the grand jury acted within its authority in naming the President as a coconspirator. Since we find resolution of this issue unnecessary to resolution of the question whether the claim of privilege is to prevail, the cross-petition for certiorari is dismissed as improvidently granted and the remainder of this opinion is concerned with the issues raised in No. 73–1766. On June 19, 1974, the President's counsel moved for disclosure and transmittal to this Court of all evidence presented to the grand jury relating to its action in naming the President as an unindicted coconspirator. Action on this motion was deferred pending oral argument of the case and is now denied.

[3] The seven defendants were John N. Mitchell, H. R. Haldeman, John D. Erhlichman, Charles W. Colson, Robert C. Mardian, Kenneth W. Parkinson, and Gordon Strachan. Each had occupied either a position of responsibility on the White House staff or the Committee for the Re-Election of the President. Colson entered a guilty plea on another charge and is no longer a defendant.

[4] The President entered a special appearance in the District Court on June 6 and requested that court to lift its protective order regarding the naming of certain individuals as coconspirators and to any additional extent deemed appropriate by the Court. This motion to the President was based on the ground that the disclosures to the news media made the reasons for continuance of the protective order no longer meaningful. On June 7, the District Court removed its protective order and, on June 10, counsel for both parties jointly moved this Court to unseal those parts of the record which related to the action of the grand jury regarding the President. After receiving a statement in opposition from the defendants, this Court denied that motion on June 15, 1974, except for the grand jury's immediate finding relating ot the status of the President as an unindicted coconspirator—U.S.— (1974).

[5] The specific meetings and conversations are enumerated in a schedule attached to the subpoena. 42a–46a of the App.

[6] At the joint suggestion of the Special Prosecutor and counsel for the President, and with the approval of counsel for the defendants, further proceedings in the District Court were held *in camera.*

[7] The parties have suggested this Court has jurisdiction on other grounds. In view of our conclusion that there is jurisdiction under 28 U.S.C. § 1254(1) because the District Court's order was appealable, we need not decide whether other jurisdictional vehicles are available.

[8] The regulation issued by the Attorney General pursuant to his statutory authority, vests in the Special Prosecutor plenary authority to control the course of investigations and litigation related to "all offenses arising out of the 1972 Presidential Election for which the Special Prosecutor deems it necessary and appropriate to assume responsibility, allegations involving the President, members of the White House staff, or Presidential appointees, and any other matters which he consents to have asigned to him by the Attorney General." 38 Fed. Reg. 30739, as amended by 38 Fed. Reg. 32805. In particular, the Special Prosecutor was given full authority, *inter alia,* "to contest the assertion of 'Executive Privilege' . . . and handl[e] all aspects of any case within his jurisdiction." *Ibid.* The regulations then go on to provide:

"In exercising this authority, the Special Prosecutor will have the greatest degree of independence that is consistent with the Attorney General's statutory accountability for all matters falling within the jurisdiction of the Department of Justice. The Attorney General will not countermand or interfere with the Special Prosecutor's decisions or actions. The Special Prosecutor will determine whether and to what extent he will inform or consult with the Attorney General about the conduct of his duties and responsibilities. In accordance with assurances given by the President to the Attorney General that the President will not exercise his Constitutional powers to effect the discharge of the Special Prosecutor or to limit the independence he is hereby given, the Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part and without the President's first consulting the Majority and Minority Leaders and Chairman and ranking Minority Members of the Judiciary Committees of the Senate and House of Representatives and ascertaining that their consensus is in accord with his proposed action."

[9] That this was the understanding of Acting Attorney General Robert Bork, the author of the regulations establishing the independence of the Special Prosecutor, is shown by his testimony before the Senate Judiciary Committee:

"Although it is anticipated that Mr. Jaworski will receive cooperation from the White House in getting any evidence he feels he needs to conduct investigations and prosecutions, it is clear and understood on all sides that he has the power to use judicial processes to pursue evidence if disagreement should develop."

Hearings before the Senate Judiciary Committee on the Special Prescutor, 93d Cong., 1st Sess., pt. 2, at 470 (1973). Acting Attorney General Bork gave similar assurances to the House Subcommittee on Criminal Justice. Hearings before the House Judiciary Subcommittee on Criminal Justice on H.J. Res. 784 and H.R. 10937, 93d Cong., 1st Sess. (1973). At his confirmation hearings, Attorney General William Saxbe testified that he shared Acting Attorney General Bork's views concerning the Special Prosecutor's authority to test any claim of executive privilege in the courts, Hearings before the Senate Judiciary Committee on the nomination of William B. Saxbe to be Attorney General, 93d Cong., 1st Sess. 9 (1973).

[10] At his confirmation hearings Attorney General William Saxbe testified that he agreed with the regulations adopted by Acting Attorney General Bork and would not remove the Special Prosecutor except for "gross improperiety." Hearings, Senate Judiciary Committee on the nomination of

William B. Saxbe to be Attorney General, 93d Cong., 1st Sess., 5–6, 8–10 (1973). There is no contention here that the Special Prosecutor is guilty of any such impropriety.

[11] The Court quoted a statement of a member of the advisory committee that the purpose of the Rule was to bring documents into court "in advance of the time that they are offered in evidence, so that they may then be inspected in advance, for the purpose . . . of enabling the party to see whether he can use [them] or whether he wants to use [them]." 341 U.S., at 220 n. 5. The Manual for Complex and Multi-district Litigation published by the Administrative Office of the United States Courts recommends that Rule 17(c) be encouraged in complex criminal cases in order that each party may be compelled to produce its documentary evidence well in advance of trial and in advance of the time it is to be offered. P. 142, CCH Ed.

[12] The District Court found here that it was faced with "the more unusual situation . . . where the subpoena, rather than being directed to the government by the defendants, issues to what, as a practical matter, is a third party." *United States* v. *Mitchell*, — F. Supp. — (D.C. 1974). The Special Prosecutor suggests that the evidentiary requirement of *Bowman Dairy Co.* and *Iozia* does not apply in its full vigor when the subpoena *duces tecum* is issued to third parties rather than to government prosecutors. Brief for the United States 128–129. We need not decide whether a lower standard exists because we are satisfied that the relevance and evidentiary nature of the subpoenaed tapes were sufficiently shown as a preliminary matter to warrant the District Court's refusal to quash the subpoena.

[13] Such statements are declarations by a party defendant that "would surmount all objections based on the hearsay rule . . ." and, at least as to the declarant himself "would be admissible for whatever inferences" might be reasonably drawn. *United States* v. *Matlock*, — U.S. — (1974). On *Lee* v. *United States*, 343 U.S. 747, 757 (1953). See also McCormack on Evidence, § 270, at 651–652 (1972 ed.).

[14] As a preliminary matter, there must be substantial, independent evidence of the conspiracy, at least enough to take the question to the jury. *United States* v. *Vaught*, 385 F. 2d 320, 323 (CA 4, 1973); *United States* v. *Hoffa*, 349 F. 2d 20, 41–42 (CA 6, 1965), aff'd on other grounds, 385 U.S. 293 (1966), *United States* v. *Santos*, 385 F. 2d 43, 45 (CA 7, 1967), cert. denied, 390 U.S. 954 (1968); *United States* v. *Morton*, 483 F. 2d 573, 576 (CA 8, 1973), *United States* v. *Spanos*, 462 F. 2d 1012, 1014 (CA 9, 1972); *Carbo* v. *United States*, 314 F. 2d 718, 737 (CA 9, 1963), cert. denied, 377 U.S. 953 (1964). Whether the standard has been satisfied is a question of admissibility of evidence to be decided by the trial judge.

[15] There is nothing novel about governmental confidentiality. The meetings of the Constitutional Convention in 1787 were conducted in complete privacy. 1 Farrand, The Records of the Federal Convention of 1787, xi–xxv (1911). Moreover, all records of those meetings were sealed for more than 30 years after the Convention. See 3 U.S. Stat. At Large, 15th Cong. 1st Sess., Res. 8 (1818). Most of the Framers acknowledged that without secrecy no constitution of the kind that was developed could have been written. Warren, The Making of the Constitution, 134–139 (1937).

[16] The Special Prosecutor argues that there is no provision in the Constitution for a presidential privilege as to his communications corresponding to the privilege of Members of Congress under the Speech or Debate Clause. But the silence of the Constitution on this score is not dispositive. "The rule of constitutional interpretation announced in *McCulloch* v. *Maryland*, 4 Wheat. 316, that that which was reasonably appropriate and relevant to the exercise of a granted power was considered as accompanying the grant, has been so universally applied that it suffices merely to state it." *Marshall* v. *Gordon*, 243 U.S. 521, 537 (1947).

[17] Freedom of communication vital to fulfillment of wholesome relationships is obtained only by removing the specter of compelled disclosure . . . [G]overnment . . . needs open but protected channels for the kind of plain talk that is essential to the quality of its functioning." *Carl Zeiss Stiftung* v. *V.E.B. Carl Zeiss, Jena*, 40 F.R.D. 318, 325 (D.C. 1966). See *Nixon* v. *Sirica*, — U.S. App. D.C. —, — 487 F 2d 700, 713 (1973); *Kaiser Aluminum & Chem Corp* v. *United States*, 157 F. Supp. 939 (Ct. Cl. 1958) (*per* Reed, J.); The Federabst No. 64 (S. F. Mittel ed 1938).

[18] Because of the key role of the testimony of witnesses in the judicial process, courts have historically been cautious about privileges. Justice Frankfurter, dissenting in *Elkins* v. *United States*, 364 U.S. 206, 234 (1960), said of this: "Limitations are properly placed upon the operation of this general principle only to the very limited extent that permitting a refusal to testify or excluding relevant evidence has a public good transcending the normally predominant principle of utilizing all rational means for ascertaining truth."

[19] We are not here concerned with the balance between the President's generalized interest in confidentiality and the need for relevant evidence in civil litigation, nor with that between the confidentiality interest and congressional demands for information, nor with the President's interest in preserving state secrets. We address only the conflict between the President's assertion of a generalized privilege of confidentiality against the constitutional need for relevant evidence to criminal trials.

[20] Mr. Justice Cardozo made this point in an analogous context. Speaking for a unanimous Court in *Clark* v. *United States*, 289 U.S. 1 (1933), he emphasized the importance of maintaining the secrecy of the deliberations of a petit jury in a criminal case. "Freedom of debate might be stifled and independence of thought checked if jurors were made to feel that their arguments and ballots were to be freely published in the world." *Id.*, at 13, Nonetheless, the Court also recognized that isolated inroads on confidentiality designed to serve the paramount need of the criminal law would not vitiate the interests served by secrecy.

"A juror of integrity and reasonably firmness will not fear to speak his mind if the confidences of debate are barred to the ears of more impertinence or malice. He will not expect to be shielded against the disclosure of his conduct in the event that there is evidence reflecting upon his honor. The chance that now and then there may be found some timid soul who will take counsel of his fears and give way to their repressive power is too remote and shadowly to shape the course of justice" *Id.*, at 16.

[21] When the subpoenaed material is delivered to the District Judge *in camera* questions may arise as to the excising of parts and it lies within the discretion of that court to seek the aid of the Special Prosecutor and the President's counsel for *in camera* consideration of the validity of particular excisions, whether the basis of excision is relevancy or admissibility or under such cases as *Reynolds*, *supra*, or *Waterman Steamship*, *supra*.

REMARKS OF THE HONORABLE WILBUR D. MILLS AT THE MEETING OF THE SOUTHEASTERN TAX ADMINISTRATORS ASSOCIATION, HOT SPRINGS, ARK., JULY 22, 1974

(Mr. WAGGONNER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WAGGONNER. Mr. Speaker, I would like to call to my colleagues' attention a timely speech given by the Honorable WILBUR MILLS, distinguished and able chairman of the Ways and Means Committee, at a meeting of the Southeastern Tax Administrators Association in Hot Springs, Ark., on July 22. It deals with our No. 1 problem today, inflation.

While everyone agrees that inflation is a major ailment, equally obvious is the fact that there is no single answer. The distinguished chairman of the Ways and Means Committee makes a number of recommendations which I submit are all worthy of consideration.

It follows:

REMARKS OF THE HONORABLE WILBUR D. MILLS AT THE MEETING OF THE SOUTHEASTERN TAX ADMINISTRATORS ASSOCIATION, HOT SPRINGS, ARK., JULY 22, 1974

It is a very great pleasure to have this opportunity to be with you today for the Annual Meeting of the Southeastern Tax Administrators' Association. It is a particular pleasure at this time to have the chance to discuss with you, as professionals in the field of taxation, the critical problems of the economy and the significant impact which tax policy can have in restoring stability while reducing inflation. I plan to limit my initial remarks today so that at their conclusion you might have the opportunity of asking questions on issues which may be of concern to you and with which I have not dealt in these brief remarks.

The most serious problem facing this nation today is the continuation of excessive levels of inflation. In recent months we have witnessed rates of inflation which are unsurpassed in the peacetime history of the United States, inflation so serious that economists have coined a new phrase—double digit inflation—to describe the magnitude of inflation at annual levels in excess of 10%.

I have been gravely concerned that despite the waning confidence of both consumer and business alike in the ability of the government to deal with inflation both the Congress and the Administration have failed to take action in a magnitude equal to the crisis we face.

Since 1965 inflation has run rampant in this country, and if the past appeared dismal, the future seems dark.

In recent months increases in the chemical, rubber, lumber, paper and metal industries have increased at an alarming pace at annual rates between 20% and 60%.

Inflation for the consumer has accelerated with prices rising at a rate in excess of 10% and wholesale prices at a rate in excess of 15%.

And with the lag in wage increases behind those of prices during the past year and a half, we can anticipate a strong catch-up effort on the part of labor in the forthcoming contract negotiations in many key industries.

There has been some indication that these drastic price increases have moderated and that the short-term factors which magnified the inflationary pressures within the economy has been reduced.

Food shortages of last spring, attributable to the worldwide shortage of grain and accentuated by the export policies of the Administration have subsided and in the past few weeks, livestock prices have shown signs of decline.

Energy shortages and drastic price increases caused by the political policies of the oil exporting nations are being reduced.

The impact of the devaluations of the dollar resulting in higher prices for imported goods has been absorbed and somewhat diminished.

And some signs of recovery from the distortions of the economy under the multi-phased disaster of wage-price controls are appearing.

But though these short-term factors have reduced the stronger immediate pressures toward inflation, the long-term causes of which we have been aware for quite some time still reflect a dismal future and general governmental neglect.

The international boom economy has produced an enlarged demand for capital goods, and shortages of materials and component parts such as steel, aluminum, coal, paper, bearings, electric motors, and forgings forecast future shortages of consumer goods.

Wages rates have risen sharply at a time when production has been falling off, and in the second quarter, earnings in the private nonfarm economy have risen at an annual rate of 10%, and the labor cost per unit of output has risen at an even higher rate.

And we are continuing to pursue exhorbitant governmental spending policies, producing greater deficits and promoting demand.

The time has come and past for selective action, and our inaction in dealing with these long-term causes in the past has reduced our options compelling immediate and drastic action. In a speech last month on the floor of the House, I outlined my proposals for ending inflation and moving toward a more realistic and stable economic growth. Since that time many of our nation's key economic spokesmen have echoed that call for prompt and decisive measures to curb consumer demand, reduce government spending, and control the wage-price boom.

It is generally agreed that perhaps the most significant pressure toward continued inflation has been the fiscal policy of the Federal government for the past ten years, producing record deficits and setting the tone for the nation to live far beyond its means to produce. Few people realize that if you examine the history of Federal expenditures, we exceeded the $100 billion mark in spending in fiscal year 1962. But the next $100 billion increase came in 1971, meaning that in only 9 years, Federal spending increased as much as in the first almost two hundred years of our nation's history. And it is entirely possible that unless we take immediate action, the next $100 billion increase will be reached in this fiscal year.

In testimony before the House Committee on Ways and Means in our present tax reform deliberations, Chairman Arthur Burns of the Federal Reserve Board labeled the need for a $10 billion reduction in Federal spending in the current fiscal year as the most crucial step in an immediate assault on inflation.

In keeping with that call and my own long-standing commitment to a reduction in Federal spending, I called upon the President last week to join with the Congress to achieve this goal. This is neither the time for partisanship or Executive-Legislative conflict, but rather a time for immediate reductions to take place.

Secondly, I have called for the continuation of our present policy of monetary restraint. Such a policy is necessary at this time to break the psychology that has driven the consumer to anticipate a higher quality of life and to hedge against higher prices through the heavy use of borrowed funds. This expansion in demand has exceeded our capacity to produce sufficient goods, and credit restraint should serve to ease the pressure of this magnified demand. However, the present policy poses serious problems for many industries including agriculture, utilities, and governments to secure adequate capital for essential needs. Some action will be necessary in the course of this policy to insure that particularly in capital-goods short industries, adequate capital for expanded production is available.

Thirdly, I have called for the re-institution of wage-price controls. Some action will be necessary, I believe to insure that while the efforts toward controlling long-term inflation are becoming effective, a new surge of wage-price increases will not occur. I do not believe that with the present lack of confidence on the part of the American people in the ability of government to deal with our economic problems, jawboning will be sufficient to curb demands for higher wages in anticipation of higher prices and the resulting price increases which these wages will produce. I would call today upon organized labor both in the interest of the national economy and in the interest of one of the foremost goals of the labor movement, low unemployment, to negotiate in this round for moderate wage increases coupled with an assurance from business that the remainder of former wage demands will be used for capital expansion tied to new jobs. This would serve a three-fold purpose, stimulating production, reducing per unit costs, and moderating the cost-push pressure of higher wages.

And finally, I believe that we must continue to rely upon the tax system to provide those necessary incentives to capital expansion while avoiding the extreme inflationary step of reducing taxes across the board.

As you are aware, the Committee on Ways and Means has been engaged in an extensive tax reform effort, seeking to terminate abuses that have arisen under present law, simplify the tax law for the average taxpayer, and preserve the economic integrity which underlies the incentive provisions of the Code.

The economy at the present time demands that incentive provisions such as the accelerated depreciation range and the investment tax credit be retained in order to insure that adequate capital is available not only for modernization, but for expansion as well. The 12% increase in business capital expenditures that is projected for this year may mean very little should the sharp rises in the cost of material and labor continue to escalate.

Business capital investment in this nation has, in fact, not been sufficient in recent years, and particularly in such short-supply industries as those producing raw materials increased capital investment is essential to prevent a long-term demand-pull inflationary surge. It must be remembered that much of the capital expenditures in recent years have been geared to compliance with State and Federal anti-pollution and safety improvements and sufficient resources have not necessarily been directed to expenditures which will result in increased productivity. I believe that the Committee may also want to consider such proposals as increasing the investment tax credit as well as other possibilities for added incentives to capital expansion in short-supply industries.

In addition to retaining and the possibility of expanding these provisions of the tax law, the Committee has already taken tentative action which I believe will be in the interest of sparking the economy by unlocking capital currently tied to dismal market conditions. In keeping with my own long-standing interest in altering the tax treatment of capital gains, the Committee last week tentatively decided to implement a form of sliding-scale treatment for capital gains. Under present law, gain from the sale of a capital asset held for six months or longer qualifies for preferential long-term capital gains treatment. I have felt that six months was too short a period for such treatment and that giving an equal deduction to those who held assets for only six months to those that had been held for a number of years was inequitable. As a result, the Committee's tentative decision would extend the holding period for long-term capital gains treatment to one year or more.

The present fifty percent deduction allowed for such gains would be retained for assets held for up to five years. This is the period over which income averaging provides significant benefits. After five years, the fifty percent exclusion ration would be increased by an amount equal to 1% of the cost basis of the asset for each year thereafter up to twenty years. This provision would not only more accurately reflect the amount of such gain attributable to inflation, but would also succeed in freeing assets and capital to rejuvenate the sagging securities and real estate industries.

In addition, the amount of long-term capital loss allowed as a deduction against ordinary income has been increased from $1,000 annually to $2,000. Coupled with the carryback and carryforward provision which is currently allowed only to corporations, this will hopefully allow investors currently locked-in to a downturned market to liquidate and reinvest again sparking greater economic activity.

But in order for the Congress to develop a tax policy that is consistent with the goal of restoring strength to our ailing economy, it is necessary to demonstrate to the average taxpayer that our tax system is equitable and that similarly situated taxpayers will assume an equal share of the tax burden. As State tax administrators, you are well aware of the general public feeling that there is widespread abuse of the tax law resulting in individuals with high incomes paying little tax. This feeling has been accentuated of late with revelations of the public marketing of tax shelters and various other manipulations of the tax law.

A system of voluntary compliance upon which we rely for the reporting and collection of income taxes in this nation, requires that every taxpayer have faith in the tax law with which he is required to comply. Few people realize that the Committee and the Congress have enacted far-reaching tax reform legislation in the past, and the Committee on Ways and Means was widely known as the most reform minded Committee of the Congress long before reform was a catchphrase for political demagoguery.

For example, from 1962 through 1973, the tax liability of the average married couple with two children earning $6,000 per year was reduced by 53.9%. For the same family earning less than $4,000 per year, that burden was reduced by 100%. In fact, changes in the tax law since 1962 are estimated to result in individuals paying $40 billion less in income taxes in fiscal year 1975.

In our present tax reform effort, the Committee has examined every incentive provision in the tax code, first through panel discussions and later through extensive public hearings. Although I do not believe that there will be sufficient time remaining in the present session to complete action in every area in which action is desired, I do believe that we have already taken tentative action which will move us much closer to eliminating the abuses that have arisen under present law. In our close examination of tax shelters, we found that not only was equity being sacrificed in most of these abuses, but that economic distortions were resulting as well. The Committee has tentatively decided to adopt the Administrations Limitation on Artificial Accounting Loss (LAL) proposal which will limit the amount of income from other sources that can be offset by accelerated deductions and the resulting artificial losses from certain business operations.

Among these operations which the Committee found were the subject of tax shelter abuse were farming, real estate, oil and

gas operations, and films. I believe that the action which the Committee has taken in these areas not only will remove the abuse of the tax law, but will also promote the non-tax shelter operators of such business who rely on sound economics, not the tax laws to derive a profit. The Committee has also taken action in the field of taxation of foreign source income, an area which has received wide attention because of the possibility that many domestic corporations could offset U.S. domestic income with foreign losses in early years of foreign operations, while offsetting the income derived from those operations in later years with foreign tax credits. The Committee's action will, I believe, insure that the tax treatment of those foreign operations is equitable and in accord with generally accepted international practice, while insuring that abuse will not occur.

Additionally, the Committee has taken tentative action designed to simplify compliance for the individual taxpayer. And though many of these tentative decisions in the area of simplification have been interpreted as increasing taxes for the average taxpayer, I want to point out that it has been the Committee's long-standing practice to complete action on revenue-raising provisions before determining how much relief we will be able to provide.

Among these decisions are the elimination of the $100 dividend exclusion, elimination of the deduction for gasoline taxes, an increase in the 3% floor applicable to the medical expense deduction to 5%, and the inclusion of a floor of $200 which miscellaneous deductions must exceed in order to be deductible. Among the possibilities for providing similar reductions to compensate for the deductions that have been eliminated or reduced are the increase of the personal exemption, an increase in the standard deduction, and a miscellaneous itemized deduction of a fixed amount.

I believe that the Committee's action will insure a greater degree of equity in our present tax law in a rational manner consistent with our economic goals.

The months ahead will be trying months for our economy and for the American people. In cooling-off the boom period we have created, we must pay for the accelerated pace at which we have moved. In order to insure that the inflation eroding away our wages, our investments, and our economic strength is ended, we must move into an era of great sacrifice for us all. This effort will require the strong support of all of the American people, their understanding and their trust, and it will also require the cooperation and complementary efforts of each of the other levels of government in this nation. Spending at all levels of government must be reduced. The pressure toward high interest rates must be ended. Productive resources must be expanded, and the cost per unit of production must be reduced.

With the support of the American people, the Congress, the Administration, and government at the State and local level can insure a higher quality of life in a more stable economic climate.

"BETWEEN FANATICISM AND CYNICISM," AN ADDRESS BY PRESIDENT JOHN R. SILBER OF BOSTON UNIVERSITY

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, given the current consideration by the House of Representatives of the impeachment of President Nixon, I believe that Members of Congress will find illuminating and, indeed, inspiring, an address delivered by John R. Silber, president of Boston University, at the 101st commencement of that institution.

In his address, President Silber deals in a profound way with the meaning of the rule of law in the American constitutional system and does so with particular attention to the current impeachment proceedings.

I should note, Mr. Speaker, that a longer and more detailed version of this address is to appear in the September issue of the Center magazine, published by the Center for the Study of Democratic Institutions at Santa Barbara, Calif.

I insert the text of Mr. Silber's address at this point in the RECORD:

BETWEEN FANATICISM AND CYNICISM

(Address by President John R. Silber)

For the past four years this graduating class has been witness to continuing and accelerating change in American life. They have found themselves in an age of bewilderment marked by a pervasive sense of indirection, alienation and loss. They have lived in a time of intensified polarization in our society that seems almost to validate John Adams' somber description of the ineluctable fate of democracies: "Remember," he wrote thirty-eight years after the Declaration of Independence, "democracy never lasts long. It soon wastes, exhausts, and murders itself. There never was a democracy yet that did not commit suicide."

Adams was himself a revolutionary of impressive professional credentials. He did not write this evaluation out of counter-revolutionary pessimism. He could find examples in his own lifetime and in recent history, of democratic experiments that destroyed themselves: Adams himself had seen the bloody and erratic course of the French Revolution, and the memory of the decay, a century before, of the English Puritan republic into a military dictatorship was still fresh. Even more than by these examples, Adams must have been guided by his assessment of the nature of man and by his belief that the character of society is derived from the character of those who make it up: "Passions are the same in all men, under all forms of simple government, and when unchecked, produce the same effects of fraud, violence and cruelty. When clear prospects are opened before vanity, pride, avarice, or ambition, for their easy gratification, it is hard for the most considerate philosophers and the most conscientious moralists to resist the temptation. Individuals have conquered themselves; nations and large bodies of men, never."

A dozen years ago graduating classes and those attending graduation exercises might have given slight credence to Adams' judgment. In the 1950's and early 60's America seemed a society on the move and in the right direction, gaining momentum, adequate to the challenge of the future as it had been to the challenges of the past. The events of the intervening years have eroded that confidence, and now Adams' words seem obviously and frighteningly true. Balance and control seem lacking, not merely in the nation but in the individuals who make it up. Idealism has given rise to fanaticism and lawlessness.

The moral force and ultimate respect for law that animated Martin Luther King's Southern Christian Leadership Conference dissipated into the factionalisms of black power. The idealism of the Port Huron statement and the original members of the Students for a Democratic Society degenerated into brutal assaults on the university. As youth movements once motivated by the highest idealism became increasingly shrill, irrational and fanatical, what had been a careful coordination of means with ends became first careless and finally disappeared altogether by May 1970, when arsonists put the torch to more than one academic building in the mad belief that this action would force the cancellation of the Cambodian invasion. Far from bringing the President to his knees, the ten days of rioting diverted the attention of the great majority from the serious moral issue at hand.

OLDER GENERATIONS

Older generations that under Roosevelt and Truman and Eisenhower had risen to the moral challenge of the times, rose once again under Kennedy and Johnson to meet responsibilities abroad and the goal at home of providing increased opportunity for all citizens. But the older generation, enjoying the growing affluence of an economy force-fed by federal spending, allowed itself to be compromised by gradual stages into a full-scale land war in Asia that it eventually came to see as, first, economically, then militarily, and finally morally bankrupt. The "activists" spent themselves in an effort to achieve instant public virtue for the nation, and the older generation spent itself trying to make the worse appear the better cause by affixing the gloss "Peace With Honor" to an exhausting exercise that discredited us all.

Like two bulls exhausted by the probes of overzealous picadors, the generations have come to face each other impassively, questioningly, uncertainly, on the common ground of cynicism. Many of the young have reached an accommodation with their parents only by giving up on them. Expecting nothing noble or worthy from the older generation, they have become free to find them tolerable, amusing, or even delightful. The parental generation has also become increasingly reconciled to the younger, and largely through a similar act of renounced expectation. And so the generations have lived since 1972, the Nixon re-election having been the point at which the younger generation lost its interest in instant politics and the older began to ponder the implications of triumphant cynicism.

During the last two years the generations have maintained a wary truce. They pause in cynicism, one having arrived there through frustrated fanaticism, the other through gradual accommodation.

Each generation tends toward an excess of qualities that in moderation are necessary to the human condition: the idealism, aspiration and daring of youth, and the realism, experience and caution of age. In the best of times, when the generations are in proper contact, the tendencies are self-correcting. When the generations are separated—as they have been—the tendencies have been free to develop into excess. In the last decade the idealism of youth too often became mindless fanaticism, and then at the first sign of failure degenerated into cynicism of an intensity possible only in the young. The experience of age too often moved from wisdom to pragmatism to compromise to sell-out, accommodating to anything and expecting nothing. Each generation was confirmed, first in its excess and then in its cynicism, by a constant, if remote, view of the other. The corrections, like the tendencies, were to excess.

THE MEETING OF THE GENERATIONS

But if the generations meet once again, the process of mutual correction can begin once again. We can make the correction of youth, insisting upon idealism. We can make the correction of age, insisting upon an ideal that can be realized. We can meet on the ground of law, on the ground of decency, and on the ground of civility.

The possibilities of such a collaboration are brilliantly set forth in Robert Bolt's play, *A Man for All Seasons*, in a passage dealing with Sir Thomas More's impending confrontation with Henry VIII. More receives a visit from a devious and ambitious young

man named Rich who appears to be spying on him in the guise of asking for help. "Employ me!" says Rich. "No!" replies More. "Employ me," says Rich desperately. He turns to exit.

RICH. I would be steadfast.

MORE. Richard, you couldn't answer for yourself even so far as tonight.

[Rich leaves and More takes counsel with his wife, Alice, his daughter, Margaret, and his prospective son-in-law, Roper.]

ROPER. Arrest him!

ALICE. Yes.

MORE. For what?

ALICE. He's dangerous!

ROPER. For libel; he's a spy.

ALICE. He is! Arrest him!

MARGARET. Father, that man's bad!

MORE. There is no law against that!

ROPER. There is! God's law!

MORE. Then God can arrest him!

ROPER. Sophistication upon sophistication!

MORE. No, sheer simplicity. The law, Roper, the law. I know what's legal, not what's right. And I'll stick to what's legal.

ROPER. Then you set man's law above God's!

MORE. No, far below; but let *me* draw your attention to a fact—I'm *not* God. The currents and eddies of right and wrong, which you find such plain sailing, I can't navigate. I'm no voyager. But in the thickets of the law, oh, there I'm a forester. . . .

ALICE. While you talk, [Rich] is gone!

MORE. And go he should, if he was the Devil himself, until he broke the law!

ROPER. So now you'd give the Devil the benefit of law!

MORE. Yes. What would you do? Cut a great road through the law to get after the Devil?

ROPER. I'd cut down every law in England to do that!

MORE. Oh? And when the last law was down, and the Devil turned round on you—where would you hide, Roper, the laws all being flat? . . . If you cut them down—and you're just the man to do it—d'you really think you could stand upright in the winds that would blow then? Yes, I'd give the Devil benefit of law, for my own safety's sake.

There you hear a dialogue that moves successfully between the generations. These men talk directly to each other. Roper wants right to be done. He is understandably impatient with the law's inadequacies. He does not want to let the guilty go free or to accomplish less than the highest perfection demanded by the law of God. More is not insensitive to these higher demands, these loftier purposes. Like Roper, he prays, he reads the Bible, he understands theology, he is aware of the shortcomings of the law. But he would rather stand with the law of man and all its shortcomings than open wide the gates to the moral judgments of the fanatic.

THE CONSTRAINT OF LAW

Without the constraint of law, not only Roper but anyone can decide what is right. He need not be deterred by what is legal. The imperative of conscience is a rationale open to any man, a guide to which every man can lay claim. Conscience is no better than the person to whom it speaks. Acutely aware of this, More tries to convince his young colleague of the necessity to transcend the subjectivity of conscience, the subjectivity of individual opinion about what is right, through appeal to a society grounded in law. It is More's point that without the law only contingent factors may differentiate the idealist Roper from the scoundrel Rich.

MR. JUSTICE BRANDEIS

The view that Bolt here puts into More's mouth is strikingly reminiscent of a celebrated statement of Mr. Justice Brandeis. In 1928, dissenting in the Olmstead case, Brandeis said:

"Decency, security, and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means—to declare that the government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution."

If the younger generation takes Brandeis' words as the sagest counsel an older generation has to offer, and as the opening statement in what might become a healing dialogue between them, what would it say? Would it not correctly respond that the government of the United States has been guilty—by its own admission—of precisely those actions that Brandeis condemns? And that the terrible retribution he promises is now upon us?

It is evident in the improper subordination of the legislative and judicial branches to the executive. Congress must restore the proper balance between the executive and legislative branches. This balance will deteriorate further if Congress allows the President to define the nature of impeachable offenses, to determine what evidence may be available to the House of Representatives in the assessment of his stewardship, and to dictate the procedure of the Judiciary Committee's inquiry.

PROPER BALANCE IN OUR GOVERNMENT

Proper balance will not be restored to our government until the authority and scope of the judicial branch are also re-established. Elementary legal traditions, such as that sanction should follow conviction of a crime, must be observed. While the President has said of the misdeeds of Watergate, "I assume responsibility for such actions," he has thus far refused to entail his responsibility with consequences. He emphatically disclaims any legal consequences, and he angrily dismisses those who propose moral or political consequences as mere partisans.

Some defenders of the administration are prompted, not by cynicism, but by a genuine, though ill-conceived, concern that no one should injure the office of the President of the United States. On this point we may all be reassured. There is no way that anyone can injure or detract from the office of the President as long as one holds all incumbents to the very highest standards of moral, legal, and political rectitude. To demand anything less than the highest standards of the incumbents of this office would seriously impair if not destroy the office of the President.

THE PRESIDENCY

To preserve the presidency we need only distinguished the office from its incumbent. This basic distinction was made 1500 years ago by St. Augustine and reiterated at the Council of Trent when the Catholic Church held that the efficacy of the Mass did not depend upon the moral quality of the priest. By distinguishing carefully between office and incumbent, it preserved the integrity of the Mass. No institution—not the Church, not the judiciary, not the bar, not the Constitution of the United States—can guarantee that every incumbent will fulfill the responsibilities of his office. We do not damage or dishonor the presidency of the United States by being critical of its incumbents. Serious damage to the presidency derives rather from the cynicism of the sort voiced by Secretary Melvin Laird, whom *The New York Times* reported to say: "If the President was involved in Watergate, I don't want to know about it." If the President is involved, the public must know about it. If the President is involved, the President must be removed.

Macaulay in his *History of England* deals brilliantly with this question, Concerning the removal of King Charles I, he said that "When [an institution] is regarded with love and veneration, but the person who fills that office is hated and distrusted, it should seem that the course which ought to be taken is obvious. The dignity of the office should be preserved; the person should be discarded" In 1649 the English beheaded the incumbent and abolished the office. After eleven years of experiment with a republic that degenerated into dictatorship, the country restored the monarchy, realizing that there was nothing wrong with the monarchy that a good king could not correct. After twenty-five fairly satisfactory years with Charles II the country was troubled by an incompetently arbitrary incumbent, but they did not repeat the mistake of 1649. They dismissed James II and retained the monarchy.

THE FOUNDING FATHERS AND IMPEACHMENT

The Founding Fathers of the American Republic were beneficiaries of the English experience and provide impeachment as a means of preserving the office while assaying the worthiness of any incumbent to hold it.

How do we deal wih the objection, however, that the nation cannot afford impeachment, for impeachment itself creates serious problems? At this point I would not urge the youthful shortcut of a Roper. I would stick with Sir Thomas More. I would argue that until the law concerning impeachment is changed, the law must be observed as it stands. And if impeachment turns out to be an inconvenience to the nation, so be it, for that is the law. I would reject the revolutionary counsel that since impeachment can be difficult and since impeachment will impair the processes of government, let us therefore abide cynically with the only President we've got; put Watergate behind us and get on with it. This answer has some initial plausibility. Despite its cynicism, it reflects a concern for the nation. But at this point we must reject the suggestion out of respect for the Constitution. Until the Constitution is changed to provide a more satisfactory procedure for removing the incumbent, we must uphold the Constitution for our own safety's sake. By upholding the Constitution we shall have less than an ideal solution, but we shall avoid the risks of anarchy and tyranny.

We may restore the balance of power in government on which successful democracy depends, and we may move to overcome the alienation and disgust of a younger generation that could rightly have expected better of us than we have delivered in the past decade. In turn, the younger generation may find in us more nobility than they have come to expect, and we may find in them a willingness to respect the rule of law and to eschew those shortcuts dictated by a fanatical desire to achieve perfection.

THE WATERGATE TRANSCRIPTS AND THE FEDERALIST PAPERS

If the American public takes time to read the Watergate transcripts, as it seems it will, this will be the first time since the publication of the Federalist Papers that the literate population of America has been united by the knowledge of a single document. This is a new and regrettably sordid basis for our political community. But a nation that reads together may stay together—long enough to improve. Its appetite for reading having been quickened, the people may turn again to the works of our Founding Fathers, whose relevance for today is greater than that suggested by the ceremonial programs of the Bicentennial. If we return to the documents of our Founding Fathers we may make the Bicentennial more than an occasion for tourism.

No one who understands the law will identify it with perfection. The law denies us access to the highest reaches of moral insight and political aspiration; likewise, the rule of law saves us from a variety of diseases to which the social organism is prone, most especially, from anarchy and tyranny. We need the law, not in order to obtain the best, but to avoid the worst. The Constitution, our legislative enactments, and English and American common law provide the least, not the most, that can be expected of our citizens and our Congressmen. After they have fully met the requirements of law, we can then hope they will move on to the requirements of perfection and wisdom. But we will destroy this nation if we attempt to make things convenient for ourselves, if we do anything less than carry out the full demands of the Constitution.

Over the past three and a half years in conversation and in confrontation, Boston University has argued against and condemned all efforts by students to circumvent legal, constitutional channels in the pursuit of their social, political, and moral objectives. And in urging students to observe the refinements and restraints of law, we have received the applause of parents, alumni, and Trustees. It is essential, now, that this parental generation also be observant of the rule of law. It is essential that across generational lines we insist that the House Judiciary Committee pursue the evidence wherever it may lead; that the House of Representatives act on the evidence presented by the Judiciary Committee, wherever it may lead, even to impeachment; and that the Senate act on the recommendation of the House, wherever it may lead, even to the removal of the President. If Congressman Wilbur Mills or any other member of Congress introduces legislation immunizing Mr. Nixon from the legal consequences of his acts, the Congress must defeat it resoundingly. If he is found guilty, let him be dealt with in accordance with law, not in accordance with political convenience.

The older generation forfeited much of its self-respect by its unwillingness to face the Vietnam issue squarely; the student generation forfeited much of its self-respect by using illegal and immoral means to advance its objectives. Let us together regain our self-respect by facing Watergate squarely within the context of law. Let us firmly resolve that anyone who occupies the office of President shall meet the highest expectations of that office, that he shall meet the demanding standards proposed by John Adams, who on his first night in the White House wrote his wife, Abigail: "I pray Heaven to bestow the best blessings on this house and all that shall hereafter inhabit it. May none but honest and wise men ever rule under this roof."

If we parents insist on the fulfillment of the rule of law and on the fullest realization of those ideals and purposes for which this nation was founded, we shall find our children by our side. The generation gap shall be closed, and a new period of high purpose and opportunity shall open before this nation.

A TRIBUTE TO JULIA BUTLER HANSEN FROM NANCY HANKS

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, yesterday, during debate on H.R. 16027, the Interior and Related Agencies Appropriations, fiscal 1975, bill, among the persons seated in the House gallery was the distinguished and able chairman of the National Endowment for the Arts, Miss Nancy Hanks.

Mr. Speaker, I take great pleasure in including at this point in the RECORD the text of a letter I have just received from Miss Hanks in which she pays tribute to the outstanding contributions to the support of the arts and humanities of our beloved colleague, the gentlewoman from Washington (Mrs. HANSEN).

Miss Hanks' letter follows:

NATIONAL ENDOWMENT FOR THE ARTS,
Washington, D.C., July 25, 1974.

Hon. JOHN BRADEMAS,
U.S. House of Representatives,
Washington, D.C.

DEAR JOHN: It was with mixed emotions that I had the great privilege of hearing, from a seat in the House gallery, the outpouring of tributes to Representative Julia Butler Hansen on Wednesday. As member after member of this distinguished body rose to praise a truly remarkable woman for her legislative skills, her contribution to the Congress and to the country, her personal charm and warmth as a wonderful human being, I was thrilled that I, too, have had the meaningful experience of knowing Julia Hansen and the privilege of calling her "friend."

My four and a half years as Chairman of the National Endowment for the Arts have been blessed and enriched by my personal and professional relationship with Mrs. Hansen. She has been a source of encouragement and help when I . . . and the arts in America . . . most needed it. Her realistic, as well as inspirational approach to the development and support of the arts in our country have helped make the joys of music, theatre, dance, painting, sculpture, film, crafts, poetry, a right for all citizens rather than a privilege for the few. Along with pure water, clean air, great forests and national parks, Julia Hansen has recognized the arts as part of our heritage and as a national resource to bring beauty to our lives. Although a very small part of a major budget, Mrs. Hansen has devoted the same conscientious, painstaking attention to the needs of our nation's artists and cultural resources as she has those agencies and projects that make up the major part of her responsibilities as Chairman of the Subcommittee.

Always available for counsel and guidance, always sympathetic to the needs of this very small agency, always interested in our goals and our problems, she has indeed been an integral part of the cultural growth and the burgeoning involvement in the arts which marks the United Staes as we approach our bicentennial. Her influence will be felt for generations to come.

Along with my joy and pride that I could share in the outpouring of affection and admiration expressed by Julia's Congressional colleagues is a feeling of regret that she is leaving Washington, D.C., for her beloved state of Washington.

We will all miss her very much but she will always be part of my life and that of the arts in America.

Sincerely,

NANCY HANKS,
Chairman.

COMPARISON OF HOUSE-PASSED PROVISIONS AND H.R. 69 CONFERENCE REPORT PROVISIONS RELATING TO BUSING AND DESEGREGATION ORDERS

(Mr. QUIE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. QUIE. Mr. Speaker, there were 23 sections in title II of the House-passed H.R. 69—known as the Esch amendment—plus the Ashbrook amendment, for a total of 24 sections relating to desegregation orders and busing to carry out such orders.

Of those 24 sections, the Senate amendment retained 17 intact—dropping four and amending three. Those provisions remaining intact included the very heart of the bill—the direction to the courts on application of remedies in desegregation cases and the limitation on busing as an applicable remedy.

The four provisions dropped included section 218—Reopening Proceedings—although the Senate amendment contained a weaker version of that which is in the Conference bill, section 212—Attorney's Fees—and sections 219 and 220—Limitation on Orders—which relate to the termination of court orders once a unitary school system is achieved.

The three amended sections included one amendment each to the Policy and Purpose and Findings sections—202 and 203—commonly referred to as the "Scott-Mansfield amendment", and an amendment to the Ashbrook amendment, already in existing law, which permits a local school board to use Federal funds for transportation to carry out a desegregation plan if it voluntarily requests such use.

So only these seven House sections were before the conference. In addition, the Senate had added in a separate title 10 sections, much of which is in existing law—such as the Broomfield amendment staying orders through final appeal—and all of which—with the exception of a clause watering down the Ashbrook amendment—are consistent with the positions taken by the House. For example, one of these provisions says that no provision of the act shall be construed to require racial balancing; another says that rules of evidence in desegregation cases should be uniform throughout the Nation; another, and new provision, says that no court shall approve a desegregation plan involving the transportation of students unless it finds that all alternative remedies are inadequate; another new provision prohibits the initiation of forced busing in the midst of the school year.

So these were hardly at issue. The real issue narrowed to the seven sections of the House bill which were dropped or amended, none of which were at the heart of the proposed limitations on orders of courts and of Federal agencies relating to desegregation and busing.

Now it will be argued that the conferees' acceptance of the Scott-Mansfield language in one instance vitiates the limitations on court orders. The language states that:

It is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, specify appropriate remedies for the elimination of the vestiges of dual school systems, except that the provisions of this title are not intended to modify or diminish the authority of the courts of the United States to enforce fully the fifth and fourteenth amendments to the Constitution of the United States to enforce fully the fifth and fourteenth amendments to the Constitution of the United States.

My question is: How in the world could an act of Congress even purport to diminish the authority of the courts to fully enforce constitutional rights? It would require an amendment to the Constitution to do that, presumably by limiting rights established under the Constitution.

Title II of this act does not attempt to do this; it reaffirms rights established under the 5th and 14th amendments to the Constitution, while legislating with respect to the remedies which may be applied to secure those rights. If we have gone so far as to deny an effective remedy for the denial of a constitutional right, then undoubtedly the courts will declare that action unconstitutional—but it would not be because of the presence or absence of the Scott-Mansfield language.

It will be further argued, however, that this language somehow confirms remedies approved by the courts, as opposed to the rights those remedies sought to assure. To assert that is to completely confuse remedies and rights. The constitutional right in this case is for children to attend public schools which are not racially segregated by law or by a governmental act having the force of law. This bill emphatically reasserts that right, as do those of us who support it. Numerous remedies have been devised and approved by trial courts to correct denials of that right in widely varying circumstances. The remedies, accordingly, widely vary—as has been recognized by the U.S. Supreme Court. There are also pronounced variations in remedies applied by trial courts and sustained on appeal in quite similar factual circumstances. What this bill seeks to do is to bring about a far greater degree of uniformity in the application of remedies—particularly as they relate to busing. The Scott-Mansfield language in no way asserts that a particular remedy has been elevated by the courts to the level of a constitutional right which would then be fully enforced.

Indeed, one could take the view that to argue that the Scott-Mansfield language modifies the explicit requirements of the bill with respect to the application of remedies comes perilously close to arguing that the Congress has no power to legislate with respect to remedies for denials of constitutional rights because such legislation diminishes "the authority of the courts of the United States to enforce fully . . . the Constitution of the United States." While recognizing that the Congress could go so far in such legislation as to have that effect, I for one would not take that view as a general proposition. I believe that the Congress can legislate with respect to remedies so long as it does not deny a court the power to shape an effective remedy for the denial of a constitutional right.

There will be argument over the remaining changes from the House bill. The reopener provision adopted is not as strong, as I have indicated, as the House provision because it does not relate directly to conforming old orders to the new law. However, courts may reopen such cases upon the motion of a proper party in the absence of an explicit provision. The same is true with respect to the award of attorneys' fees to the prevailing party, although admittedly courts would seldom do so except for express statutory authority. Of the two sections dealing with limitations on orders in cases where a school system has met constitutional requirements, section 219 dealing explictly with transportation seemed more important to us than the more general section 220. Admittedly, that section is weakened by making it permissive rather than mandatory, but it still constitutes a clear congressional direction to the courts.

The Ashbrook amendment, which we have passed several times only to have it watered down by Senate action, emerges in stronger form than in existing law or in the Senate amendment to this bill. It would bar the use of many Federal funds for transportation to carry out a desegregation plan, with the single exception of those portions of impact aid funds—Public Law 874, 81st Congress—as are available for general educational purposes and are commingled with and treated as local school revenues.

So I would argue that the House conferees while trying to do even better did quite well with the limited number of issues involved in this portion of the bill. In any event, the important thing to recognize is that—aside from the vast educational benefit of this bill—this bill goes farther than the Congress has ever gone in attempting to guide and restrain the courts and Federal agencies in the use of busing as a remedy in desegregation cases. If this conference report is lost, that action to restrain the courts is lost with it.

There follows a side-by-side comparison of the provision of the House-passed bill and of the conference committee bill which relate to desegregation and busing.

HOUSE BILL

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES

SEC. 201. This title may be cited as the "Equal Educational Opportunities Act of 1974".

PART A—POLICY AND PURPOSE

SEC. 202. (a) The Congress declares it to be the policy of the United States that—

(1) all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin; and

(2) the neighborhood is the appropriate basis for determining public school assignments.

(b) In order to carry out this policy, it is the purpose of this Act to specify appropriate remedies for the orderly removal of the vestiges of the dual school system.

SEC. 203. (a) The Congress finds that—

(1) the maintenance of dual school systems in which students are assigned to schools solely on the basis of race, color, sex, or national origin denies to those students the equal protection of the laws guaranteed by the fourteenth amendment;

(2) for the purpose of abolishing dual school systems and eliminating the vestiges thereof, many local educational agencies have been required to reorganize their school systems, to reassign students, and to engage in the extensive transportation of students;

(3) the implementation of desegregation plans that require extensive student transportation has, in many cases, required local educational agencies to expend large amounts of funds, thereby depleting their financial resources available for the maintenance or improvement of the quality of educational facilities and instruction provided;

(4) transportation of students which creates serious risks to their health and safety, disrupts the educational process carried out with respect to such students, and impinges significantly on their educational opportunity, is excessive;

CONFERENCE REPORT BILL

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES AND THE TRANSPORTATION OF STUDENTS

SHORT TITLE

SEC. 201. This title may be cited as the "Equal Educational Opportunities Act of 1974".

PART A—EQUAL EDUCATIONAL OPPORTUNITIES

SUBPART 1—POLICY AND PURPOSE

DECLARATION OF POLICY

SEC. 202. (a) The Congress declares it to be the policy of the United States that—

(1) all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin; and

(2) the neighborhood is the appropriate basis for determining public school assignments.

(b) In order to carry out this policy, it is the purpose of this Act to specify appropriate remedies for the orderly removal of the vestiges of the dual school system.

FINDINGS

SEC. 203. (a) The Congress finds that—

(1) the maintenance of dual school systems in which students are assigned to schools solely on the basis of race, color, sex, or national origin denies to those students the equal protection of the laws guaranteed by the fourteenth amendment;

(2) for the purpose of abolishing dual schools solely on the basis of race, color, sex, thereof, many local educational agencies have been required to reorganize their school systems, to reassign students, and to engage in the extensive transportation of students;

(3) the implementation of desegregation plans that require extensive student transportation has, in many cases, required local educational agencies to expend large amounts of funds, thereby depleting their financial resources available for the maintenance or improvement of the quality of educational facilities and instruction provided;

(4) transportation of students which creates serious risks to their health and safety, disrupts the educational process carried out with respect to such students, and impinges significantly on their educational opportunity, is excessive;

HOUSE BILL—Continued

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES—Continued

(5) the risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades; and

(6) the guidelines provided by the courts for fashioning remedies to dismantle dual school systems have been, as the Supreme Court of the United States has said, "incomplete and imperfect," and have not established a clear, rational, and uniform standard for determining the extent to which a local educational agency is required to reassign and transport its students in order to eliminate the vestiges of a dual school system.

(b) For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, specify appropriate remedies for the elimination of the vestiges of dual school systems.

PART B—UNLAWFUL PRACTICES

DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY PROHIBITED

SEC. 204. No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—

(a) the deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools;

(b) the failure of an educational agency which has formerly practiced such deliberate segregation to take affirmative steps, consistent with part D of this title, to remove the vestiges of a dual school system;

(c) the assignment by an educational agency of a student to a school, other than the one closest to his or her place of residence within the school district in which he or she resides, if the assignment results in a greater degree of segregation of students on the basis of race, color, sex, or national origin among the schools of such agency than would result if such student were assigned to the school closest to his or her place of residence within the school district of such agency providing the appropriate grade level and type of education for such student;

(d) discrimination by an educational agency on the basis of race, color, or national origin in the employment, employment conditions, or assignment to schools of its faculty or staff, except to fulfill the purposes of subsection (f) below;

(e) the transfer by an educational agency, whether voluntary or otherwise, of a student from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency; or

(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.

BALANCE NOT REQUIRED

SEC. 205. The failure of an educational agency to attain a balance, on the basis of race, color, sex, or national origin, of students among its schools shall not constitute a denial of equal educational opportunity, or equal protection of the laws.

ASSIGNMENT ON NEIGHBORHOOD BASIS NOT A DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY

SEC. 206. Subject to the other provisions of this title, the assignment by an educational agency of a student to the school nearest his place of residence which provides the appropriate grade level and type of education for such student is not a denial of equal educational opportunity or of equal protection of the laws unless such assignment is for the purpose of segregating students on the basis of race, color, sex, or national origin, or the school to which such student is assigned was located on its side for the purpose of segregating students on such basis.

PART C—ENFORCEMENT

CIVIL ACTIONS

SEC. 207. An individual denied an equal educational opportunity, as defined by this title, may institute a civil action in an appropriate district court of the United States against such parties, and for such relief, as may be appropriate. The Attorney General of the United States (hereinafter in this title referred to as the "Attorney General"), for or in the name of the United States, may also institute such a civil action on behalf of such an individual.

SEC. 208. When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population

CONFERENCE REPORT BILL—Continued

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES AND THE TRANSPORTATION OF STUDENTS—Continued

(5) the risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades; and

(6) the guidelines provided by the courts for fashioning remedies to dismantle dual school systems have been, as the Supreme Court of the United States has said, "incomplete and imperfect", and have not established a clear, rational, and uniform standard for determining the extent to which a local educational agency is required to reassign and transport its students in order to eliminate the vestiges of a dual school system.

(b) For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, specify appropriate remedies for the elimination of the vestiges of dual school systems, except that the provisions of this title are not intended to modify or diminish the authority of the court of the United States to enforce fully the fifth and fourteenth amendments to the Constitution of the United States.

SUBPART 2—UNLAWFUL PRACTICES

DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY PROHIBITED

SEC. 204. No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—

(a) the deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools;

(b) the failure of an educational agency which has formerly practiced such deliberate segregation to take affirmative steps, consistent with subpart 4 of this title, to remove the vestiges of a dual school system;

(c) the assignment by an educational agency of a student to a school, other than the one closest to his or her place of residence within the school district in which he or she resides, if the assignment results in a greater degree of segregation of students on the basis of race, color, sex, or national origin among the schools of such agency than would result if such student were assigned to the school closest to his or her place of residence within the school district of such agency providing the appropriate grade level and type of education for such student;

(d) discrimination by an educational agency on the basis of race, color, or national origin in the employment, employment conditions, or assignment to schools of its faculty or staff, except to fulfill the purposes of subsection (f) below:

(e) the transfer by an educational agency, whether voluntary or otherwise, of a student from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency; or

(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instruction programs.

BALANCE NOT REQUIRED

SEC. 205. The failure of an educational agency to attain a balance, on the basis of race, color, sex, or national origin, of students among its schools shall not constitute a denial of equal educational opportunity, or equal protection of the laws.

ASSIGNMENT ON NEIGHBORHOOD BASIS NOT A DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY

SEC. 206. Subject to the other provisions of this part, the assignment by an educational agency of a student to the school nearest his place of residence which provides the appropriate grade level and type of education for such student is not a denial of equal educational opportunity or of equal protection of the laws unless such assignment is for the purpose of segregating students on the basis of race, color, sex, or national origin, or the school to which such student is assigned was located on its site for the purpose of segregating students on such basis.

SUBPART 3—ENFORCEMENT

CIVIL ACTIONS

SEC. 207. An individual denied an equal educational opportunity, as defined by this title, may constitute a civil action in an appropriate district court of the United States against such parties, and for such relief, as may be appropriate. The Attorney General of the United States (hereinafter in this title referred to as the "Attorney General"), for or in the name of the United States, may also institute such a civil action on behalf of such an individual.

EFFECT OF CERTAIN POPULATION CHANGES ON CIVIL ACTIONS

SEC. 208. When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population

HOUSE BILL—Continued

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES—Continued

occur which result in school population changes in any school within such a desegregated school system, such school population changes so occurring shall not, per se, constitute a cause for civil action for a new plan of desegregation or for modification of the court approved plan.

JURISDICTION OF DISTRICT COURTS

SEC. 209. The appropriate district court of the United States shall have and exercise jurisdiction of proceedings instituted under section 207.

INTERVENTION BY ATTORNEY GENERAL

SEC. 210. Whenever a civil action is instituted under section 207 by an individual, the Attorney General may intervene in such action upon timely application.

SUITS BY THE ATTORNEY GENERAL

SEC. 211. The Attorney General shall not institute a civil action under section 207 before he—

(a) gives to the appropriate educational agency notice of the condition or conditions which, in his judgment, constitute a violation of part B of this title; and

(b) certifies to the appropriate district court of the United States that he is satisfied that such educational agency has not, within a reasonable time after such notice, undertaken appropriate remedial action.

ATTORNEYS' FEES

SEC. 212. In any civil action instituted under this Act, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorneys' fee as part of the costs, and the United States shall be liable for costs to the same extent as a private person.

PART D—REMEDIES

FORMULATING REMEDIES; APPLICABILITY

SEC. 213. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws.

SEC. 214. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, which may involve directly or indirectly the transportation of students, a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below, or of the first combination thereof which would remedy such denial:

(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;

(d) the creation or revision of attendance zones or grade structures without requiring transportation beyond that described in section 215;

(e) the construction of new schools or the closing of inferior schools;

(f) the construction or establishment of magnet schools; or

(g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of sections 215 and 216 of this title.

TRANSPORTATION OF STUDENTS

SEC. 215. (a) No court, department, or agency of the United States shall, pursuant to section 214, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

(b) No court, department, or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such student or constitutes a significant impingement on the edudcational process with respect to such student.

CONFERENCE REPORT BILL—Continued

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES AND THE TRANSPORTATION OF STUDENTS—Continued

occur which result in school population changes in any school within such a desegregated school system, such school population changes so occurring shall not, per se, constitute a cause for civil action for a new plan of desegregation or for modification of the court approved plan.

JURISDICTION OF DISTRICT COURTS

SEC. 209. The appropriate district court of the United States shall have and exercise jurisdiction of proceedings instituted under section 207.

INTERVENTION BY ATTORNEY GENERAL

SEC. 210. Whenever a civil action is instituted under section 207 by an indivdual, the Attorney General may intervene in such action upon timely application.

SUITS BY THE ATTORNEY GENERAL

SEC. 211. The Attorney General shall not institute a civil action under section 207 before he—

(a) gives to the appropriate educational agency notice of the condition or conditions which, in his judgment, constitute a violation of subpart 2 of this part; and

(b) certifies to the appropriate district court of the United States that he is satisfied that such educational agency has not, within a reasonable time after such notice, undertaken appropriate action.

SUBPART 4—REMEDIES

FORMULATING REMEDIES; APPLICABILITY

SEC. 213. In formulating a remedy for a denial of educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws.

PRIORITY OF REMEDIES

SEC. 214. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, which may involve directly or indirectly the transportation of students, a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below or of the first combination thereof which would remedy such denial:

(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;

(d) the creation or revision of attendance zones or grade structures without requiring transportation beyond that described in section 215;

(e) the construction of new schools or the closing of inferior schools;

(f) the construction or establishment of magnet schools; or

(g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of section 215 and 216 of this part.

TRANSPORTATION OF STUDENTS

SEC. 215. (a) No court, department, or agency of the United States shall, pursuant to section 214, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

(b) No court, department, or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such student or constitutes a significant impingement on the educational process with respect to such student.

HOUSE BILL—Continued

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES—Continued

(c) When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, no educational agency because of such shifts shall be required by any court, department, or agency of the United States to formulate, or implement any new desegregation plan, or modify or implement any modification of the court approved desegregation plan, which would require transportation of students to compensate wholly or in part for such shifts in school population so occurring.

DISTRICT LINES

SEC. 216. In the formulation of remedies under section 213 or 214 of this title, the lines drawn by a State, subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn for the purpose, and had the effect, of segregating children among public schools on the basis of race, color, sex, or national origin.

VOLUNTARY ADOPTION OF REMEDIES

SEC. 217. Nothing in this title prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this title, nor shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this title, if such plan is voluntarily proposed by the appropriate educational agency.

REOPENING PROCEEDINGS

SEC. 218. On the application of an educational agency, court orders, or desegregation plans under title VI of the Civil Rights Act of 1964 in effect on the date of enactment of this title and intended to end segregation of students on the basis of race, color, or national origin, shall be reopened and modified to comply with the provisions of this title. The Attorney General shall assist such educational agency in such reopening proceedings and modifications.

LIMITATION ON ORDERS

SEC. 219. Any court order requiring, directly or indirectly, the transportation of students for the purpose of remedying a denial of the equal protection of the laws shall, to the extent of such transportation, be terminated if the court finds the defendant educational agency is not effectively excluding any person from any school because of race, color, or national origin, and this shall be so, whether or not the schools of such agency were in the past segregated de jure or de facto. No additional order requiring such educational agency to transport students for such purpose shall be entered unless such agency is found to be effectively excluding any person from any school because of race, color, or national origin, and this shall be so, whether or not the schools of such agency were in the past segregated de jure or de facto.

SEC. 220. Any court order requiring the desegregation of a school system shall be terminated, if the court finds the schools of the defendant educational agency are a unitary school system, one within which no person is to be effectively excluded from any school because of race, color, or national origin, and this shall be so, whether or not such school system was in the past segregated de jure or de facto. No additional order shall be entered against such agency for such purpose unless the schools of such agency are no longer a unitary school system.

PART E—DEFINITIONS

SEC. 221. For the purposes of this title—

(a) The term "educational agency" means a local educational agency or a "State educational agency" as defined by section 801(k) of the Elementary and Secondary Education Act of 1965.

(b) The term "local educational agency" means a local educational agency as defined by section 801(f) of the Elementary and Secondary Education Act of 1965.

(c) The term "segregation" means the operation of a school system in which students are wholly or substantially separated among the schools of an educational agency on the basis of race, color, sex, or national origin or within a school on the basis of race, color, or national origin.

(d) The term "desegregation" means desegregation as defined by section 401(b) of the Civil Rights Acts of 1964.

(e) An educational agency shall be deemed to transport a student if any part of the cost of such student's transportation is paid by such agency.

CONFERENCE REPORT BILL—Continued

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES AND THE TRANSPORTATION OF STUDENTS—Continued

(c) When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, no educational agency because of such shifts shall be required by any court, department, or agency of the United States to formulate, or implement any modification of the court approved desegregation plan, which would require transportation of students to compensate wholly or in part for such shifts in school population so occurring.

DISTRICT LINES

SEC. 216. In the formulation of remedies under section 213 or 214 of this title the lines drawn by a State subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn for the purpose, and had the effect, of segregating children among public schools on the basis of race, color, sex, or national origin.

VOLUNTARY ADOPTION OF REMEDIES

SEC. 217. Nothing in this title prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this part, nor shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this part, if such plan is voluntarily proposed by the appropriate educational agency.

REOPENING PROCEEDINGS

SEC. 218. A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, or an educational agency subject to a court order or a desegregation plan under title VI of the Civil Rights Act of 1964 in effect on the date of enactment of this part and intended to end segregation of students on the basis of race, color, or national origin, may seek to reopen or intervene in the further implementation of such court order, currently in effect, if the time or distance of travel is so great as to risk the health of the student or significantly impinge on his or her educational process.

LIMITATION ON ORDERS

SEC. 219. Any court order requiring, directly or indirectly, the transportation of students for the purpose of remedying a denial of the equal protection of the laws made to the extent of such transportation, be terminated if the court finds the defendant educational agency has satisfied the requirements of the fifth or fourteenth amendments to the Constitution, whichever is applicable and will continue to be in compliance with the requirements thereof. The court of initial jurisdiction shall state in its order the basis for any decision to terminate an order pursuant to this section, and the termination of any order pursuant to this section shall be stayed pending a final appeal or, in the event no appeal is taken, until the time for any such appeal has expired.

No additional order requiring such educational agency to transport students for such purpose shall be entered unless such agency is found not to have satisfied the requirements of the fifth or fourteenth amendments to the Constitution, whichever is applicable.

SUBPART 5—DEFINITIONS

SEC. 221. For the purposes of this part—

(a) the term "educational agency" means a local educational agency or a "State educational agency" as defined by section 801(k) of the Elementary and Secondary Education Act of 1965;

(b) the term "local educational agency" means a local educational agency as defined by section 801(f) of the Elementary and Secondary Education Act of 1965;

(c) the term "segregation" means the operation of a school system in which students are wholly or substantially separated among the schools of an educational agency on the basis of race, color, sex, or national origin or within a school on the basis of race, color, or national origin;

(d) the term "desegregation" means desegregation as defined by section 401(b) of the Civil Rights Act of 1964; and

(e) an educational agency shall be deemed to transport a student if any part of the cost of such student's transportation is paid by such agency.

HOUSE BILL—Continued

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES—Continued

PART F.—MISCELLANEOUS PROVISIONS

SEC. 222. Section 709(a)(3) of the Emergency School Aid Act is hereby repealed.

SEPARABILITY OF PROVISIONS

SEC. 223. If any provision of this title or of any amendment made by this title, or the application of any such provision to any person or circumstance, is held invalid, the remainder of the provisions of this title and of the amendments made by this title and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 909. Part B of the General Education Provisions Act is amended by adding at the end thereof a new section as follows:

"PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

"SEC. 417. No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purpose of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system."

CONFERENCE REPORT BILL—Continued

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES AND THE TRANSPORTATION OF STUDENTS—Continued

SUBPART 6.—MISCELLANEOUS PROVISIONS

REPEALER

SEC. 222. Section 709(a)(3) of the Emergency School Aid Act is hereby amended.

SEPARABILITY OF PROVISIONS

SEC. 223. If any provision of this part or of any amendment made by this part, or the application of any such provision to any person or circumstance, is held invalid, the remainder of the provisions of this title and of the amendments made by this part and the application of such provision to other persons or circumstances shall not be affected thereby.

PART B.—OTHER PROVISIONS RELATING TO THE ASSIGNMENT AND TRANSPORTATION OF STUDENTS

PROHIBITION AGAINST ASSIGNMENT OR TRANSPORTATION OF STUDENTS TO OVERCOME RACIAL IMBALANCE

SEC. 251. No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

SEC. 252. Part B of the General Education Provisions Act, as amended by title IV of this Act, is amended by adding at the end thereof the following new section:

"PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

"SEC. 420. No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except for funds appropriated pursuant to title I of the Act of September 30, 1950 (P.L. 874, 81st Congress), but not including any portion of such funds as are attributable to children counted under subparagraph (C) of section 3(d)(2) or section 403(1)(C) of that Act."

PROVISION RELATING TO COURT APPEALS

SEC. 253. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired. This section shall expire at midnight on June 30, 1978.

PROVISION REQUIRING THAT RULES OF EVIDENCE BE UNIFORM

SEC. 254. The rules of evidence required to prove that State or local authorities are practicing racial discrimination in assigning students to public schools shall be uniform throughout the United States.

APPLICATION OF PROVISO OF SECTION 407(A) OF THE CIVIL RIGHTS ACT OF 1964 TO THE ENTIRE UNITED STATES

SEC. 255. The proviso of section 407(a) of the Civil Rights Act of 1964 providing in substance that no court or official of the United States shall be empowered to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards shall apply to all public school pupils and to every public school system, public school and public school board, as defined by title IV, under all circumstances and conditions and at all times in every State, district, territory, Commonwealth, or possession of the United States, regardless of whether the residence of such public school pupils or the principal offices of such public school system, public school or public school board is situated in the northern, eastern, western, or southern part of the United States.

ADDITIONAL PRIORITY OF REMEDIES

SEC. 256. Notwithstanding any other provision of law after June 30, 1974, no court of the United States shall order the implementation of any plan to remedy a finding of de jure segregation which involves the transportation of students, unless the court first finds that all alternative remedies are inadequate.

HOUSE BILL—Continued

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES—Continued

CONFERENCE REPORT BILL—Continued

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES AND THE TRANSPORTATION OF STUDENTS—Continued

REMEDIES WITH RESPECT TO SCHOOL DISTRICT LINES

SEC. 257. In the formulation of remedies under this title the lines drawn by a State subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn, or maintained or crossed for the purpose, and had the effect of segregating children among public schools on the basis of race, color, sex, or national origin, or where it is established that, as a result of discriminatory actions within the school districts, the lines have had the effect of segregating children among public schools on the basis of race, color, sex, or national origin.

PROHIBITION OF FORCED BUSING DURING SCHOOL YEAR

SEC. 258. (a) The Congress finds that—

(1) the forced transportation of elementary and secondary school students in implementation of the constitutional requirement for the desegregation of such schools is controversial and difficult under the best planning and administration; and

(2) the forced transportation of elementary and secondary school students after the commencement of an academic school year is educationally unsound and administratively inefficient.

(b) Notwithstanding any other provisions of law, no order of a court, department, or agency of the United States, requiring the transportation of any student incident to the transfer of that student from one elementary or secondary school to another such school in a local educational agency pursuant to a plan requiring such transportation for the racial desegregation of any school in that agency, shall be effective until the beginning of an academic school year.

(c) For the purpose of this section, the term "academic school year" means, pursuant to regulations promulgated by the Commissioner of Education, the customary beginning of classes for the school year at an elementary or secondary school of a local educational agency for a school year that occurs not more often than once in any twelve-month period.

(d) The provisions of this section apply to any order which was not implemented at the beginning of the 1974–1975 academic year.

REASONABLE TIME FOR DEVELOPING VOLUNTARY PLAN FOR DESEGREGATING SCHOOLS

SEC. 259. Notwithstanding any other law or provision of law, no court or officer of the United States shall enter, as a remedy for a denial of equal educational opportunity or a denial of equal protection of the laws, any order for enforcement of a plan of desegregation or modification of a court-approved plan, until such time as the local educational agency to be affected by such order has been provided notice of the details of the violation and given a reasonable opportunity to develop a voluntary remedial plan. Such time shall permit the local educational agency sufficient opportunity for community participation in the development of a remedial plan.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RONCALLO of New York) to revise and extend their remarks and include extraneous matter:)

Mr. CRANE, for 5 minutes, today.

Mr. YOUNG of Florida, for 5 minutes, today.

Mr. BIESTER, for 5 minutes, today.

Mr. FRENZEL, for 15 minutes, today.

Mr. BURKE of Florida, for 10 minutes, today.

Mr. HOGAN, for 15 minutes, today.

(The following Members (at the request of Mr. MOAKLEY) to revise and extend their remarks and include extraneous matter:

Mr. MURPHY of Illinois, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. TIERNAN, for 10 minutes, today.

Mr. VANIK, for 10 minutes, today.

Mr. KOCH, for 5 minutes, today.

Mr. PODELL, for 10 minutes, today.

Mr. HECHLER of West Virginia, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BRADEMAS and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,459.50.

Mr. PEPPER, to extend his remarks in the Committee of the Whole today on H.R. 11500, immediately preceding the adoption of the Pepper amendment.

Mr. HECHLER of West Virginia, to revise and extend his remarks made during general debate in the Committee of the Whole today on H.R. 11500, and to make one deletion.

Mr. QUIE, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,181.50.

(The following Members (at the request of Mr. RONCALLO of New York) and to include extraneous matter:)

Mr. HANRAHAN in two instances.

Mr. RONCALLO of New York.

Mr. SYMMS.

Mr. PARRIS.

Mr. BIESTER.

Mr. HUBER.

Mr. SMITH of New York.

Mr. ASHBROOK in four instances.

Mr. DERWINSKI in two instances.

Mr. CARTER in three instances.

Mr. COUGHLIN.

Mr. HOSMER in three instances.

Mr. SHRIVER.

Mr. ROUSSELOT in two instances.

Mr. WYMAN in two instances.

Mr. VANDER JAGT.

Mr. PRITCHARD.

Mr. YOUNG of South Carolina.

Mr. ROBISON of New York.

Mr. FRENZEL in two instances.

Mr. ZWACH.

Mr. ARMSTRONG.

Mr. WALSH.

Mr. HOGAN in five instances.

Mr. SPENCE.

Mr. BRAY in three instances.

Mr. RINALDO in three instances.

(The following Members (at the request of Mr. MOAKLEY) and to include extraneous matter:)

Mr. STEED.

Mr. GONZALEZ in three instances.

Mr. RARICK in three instances.

Mr. ANDERSON of California in two instances.

Mr. McCORMACK in four instances.
Mr. HARRINGTON in three instances.
Mr. ADDABBO.
Mr. CHARLES H. WILSON of California.
Mr. TIERNAN in two instances.
Mr. ROSE.
Mr. ROONEY of New York.
Mr. MATSUNAGA.
Mr. BADILLO in two instances.
Mr. ROSTENKOWSKI.
Mr. HELSTOSKI in 10 instances.
Ms. SCHROEDER in two instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1566. An act to provide for the normal flow of ocean commerce between Hawaii, Guam, American Samoa, or the Trust Territory of the Pacific Islands and the west coast, and to prevent certain interruptions thereof; to the Committee on Education and Labor.

S. 2125. An act to amend the act of June 9, 1906, entitled "An act granting land to the city of Albuquerque for public purposes" (34 Stat. 227), as amended; to the Committee on Interior and Insular Affairs.

ADJOURNMENT

Mr. MOAKLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 19 minutes p.m.), under its previous order, the House adjourned until Monday, July 29, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2586. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee and insurance transactions supported by Eximbank to Yugoslavia, Romania, the U.S.S.R., and Poland during May 1974; to the Committee on Foreign Affairs.

2587. A letter from the Chairman, Federal Home Loan Bank Board, transmitting a draft of proposed legislation to amend the Federal Home Loan Bank Act to provide for the continued duration of the Federal Savings and Loan Advisory Council; to the Committee on Banking and Currency.

2588. A letter from the Chairman, Federal Trade Commission, transmitting a statistical supplement to the Commission's report on cigarette labeling and advertising; to the Committee on Interstate and Foreign Commerce.

2589. A letter from the Director of Federal Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of March 1974, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2590. A letter from the Director of Federal Affairs, National Railroad Passenger Corporation, transmitting a report for the month of May 1974, on the average number of passengers per day on board each train operated, and the ontime performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2591. A letter from the Director of Federal Affairs, National Railroad Passenger Corporation, transmitting a report for the month of June 1974, on the average number of passengers per day on board each train operated, and the ontime performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2592. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting a report on the facts in each application for conditional entry of aliens into the United States under section 203(a)(7) of the Immigration and Nationality Act for the 6-month period ended June 30, 1974, pursuant to section 203(f) of the act (8 USC 1153(f)); to the Committee on the Judiciary.

2593. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting the annual report for calendar year 1973 on the administration of the Federal Water Pollution Control Act (Public Law 92-500), pursuant to section 516(a) of the act; to the Committee on Public Works.

RECEIVED FROM THE COMPTROLLER GENERAL

2594. A letter from the Comptroller General of the United States, transmitting a report on the need to modernize the Mining Law of 1872; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STRATTON: Committee on Armed Services. H.R. 15936. A bill to amend chapter 5, title 37, United States Code, to provide for continuation pay for physicians of the uniformed services in initial residency; with amendment (Rept. No. 93-122). Referred to the Committee of the Whole House on the State of the Union.

Mr. POAGE: Committee on Agriculture. H.R. 13267. A bill to authorize Federal agricultural assistance to Guam for certain purposes; with amendment (Rept. No. 93-1222). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 14897. A bill to amend the Youth Conservation Corps Act of 1972 (Public Law 92-597, 86 Stat. 1319) to expand and make permanent the Youth Conservation Corps, and for other purposes (Rept. No. 93-1223). Referred to the Committee of the Whole House on the State of the Union.

Mr. FISHER: Committee on Armed Services. H.R. 16006. A bill to amend section 2634 of title 10, United States Code, relating to the shipment at Government expense of motor vehicles owned by members of the armed forces, and to amend chapter 10 of title 37, United States Code, to authorize certain travel and transportation allowances to members of the uniformed services incapacitated by illness (Rept. No. 93-1224). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIGGS: Committee of conference. Conference report on H.R. 15074 (Rept. No. 93-1225). Ordered to be printed.

Mr. POAGE: Committee of conference. Conference report on S. 2296 (Rept. 93-1226). Ordered to be printed.

Mr. WHITTEN: Committee of conference. Conferencereport on H.R. 15472 (Rept. No. 93-1227). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of North Carolina (for himself, Mr. MATSUNAGA, Mr. GINN, Mr. BIESTER, Mr. ROGERS, Mr. DICKINSON, Mr. ESCH, Mr. ADDABBO, Mr. HAMILTON, Mr. PODELL, Mr. BEVILL, Mr. BELL, Mr. SATTERFIELD, Mr. BADILLO, Mr. GUBSER, Mr. PEYSER, Mr. LANDGREBE, Mr. BIAGGI, Mr. O'BRIEN, Mr. MURPHY of New York, Mr. MCCLOSKEY, Mr. WYLIE, Mr. SHOUP, Mr. PERKINS, and Mr. HAYS):

By Mr. ASPIN:

H.R. 16115. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income the amount of certain cancellations of indebtedness under student loan programs; to the Committee on Ways and Means.

H.R. 16116. A bill to extend the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. BAKER (for himself, Mr. OBEY, Mr. BEARD, Mr. COUGHLIN, Mr. FORD, Mr. HINSHAW, Mr. ROE, Mr. ROSTENKOWSKI, Mr. ROUSH, Mr. STEELMAN, Mr. TALCOTT, and Mr. TRAXLER):

H.R. 16117. A bill to further the purposes of the Wilderness Act by designating certain lands for inclusion in the National Wilderness Preservation System, to provide for study of certain additional lands for such inclusion, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DINGELL:

H.R. 16118. A bill to limit the jurisdiction of the Supreme Court and of the district courts in certain cases; to the Committee on the Judiciary.

By Mr. DULSKI (by request):

H.R. 16119. A bill to amend title 5, United States Code, to establish and govern the Executive Personnel System, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. FREY:

H.R. 16120. A bill to protect the constitutional right of privacy of individuals concerning whom identifiable information is recorded by enacting principles of information practices in furtherance of articles I, III, IV, V, IX, X, and XIV of amendment to the U.S. Constitution; to the Committee on the Judiciary.

By Mr. McKINNEY:

H.R. 16121. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the tax imposed on interest on savings; to the Committee on Ways and Means.

By Mr. MURPHY of Illinois (for himself, Mr. ROGERS, Mr. CARTER, Mr. ANNUNZIO, Mrs. COLLINS of Illinois, Mr. HANRAHAN, Mr. MADIGAN, Mr. METCALFE, Mr. KLUCZYNSKI, Mr. ROSTENKOWSKI, Mr. YATES, Mr. ROY, Mr. WALDIE, and Mr. ANDERSON of California):

H.R. 16122. A bill to provide for the development of a long-range plan to advance the national attack on arthritis and related musculoskeletal diseases and for arthritis training and demonstration centers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. RIEGLE (for himself, Mr. BRADEMAS, Mr. FASCELL, Mr. GUNTER, Mr. HUNGATE, Mr. JONES of Oklahoma, Mr. OWENS, Mr. PEPPER, Mr. RUPPE, Mr. RYAN, Mr. SHIPLEY, Mr. STEELMAN, Mr. STOKES, and Mr. WHALEN):

H.R. 16123. A bill to amend the Employment Act of 1946 with respect to price stability; to the Committee on Government Operations.

By Mr. ROUSH (for himself and Mr. McCLORY):

H.R. 16124. A bill to amend the act establishing the Indiana Dune National Lakeshore to provide for the expansion of the lakeshore, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STEELMAN (for himself, Ms. HECKLER of Massachusetts, Mr. HORTON, and Mr. MOSHER):

H.R. 16125. A bill to enforce the first amendment and fourth amendment to the Constitution and the constitutional right of privacy by prohibiting any civil officer of the United States or any member of the Armed Forces of the United States from using the Armed Forces of the United States to exercise surveillance of civilians or to execute the civil laws, and for other purposes; to the Committee on the Judiciary.

By Mr. THONE:

H.R. 16126. A bill to authorize the Secretary of the Department of Agriculture to carry out an emergency assistance program to assist States in relieving severe drought conditions that threaten to destroy livestock or crops; to the Committee on Agriculture.

By Mr. WALSH:

H.R. 16127. A bill to provide for the issuance of a special postage stamp in commemoration of the life and work of Harriet Tubman; to the Committee on Post Office and Civil Service.

By Mr. WYLIE:

H.R. 16128. A bill to amend the Federal Election Campaign Act of 1971 to provide for an independent Federal Elections Commission, and for other purposes; to the Committee on House Administration.

By Ms. ABZUG:

H.R. 16129. A bill to amend chapter 3 of title 3, United States Code, to provide for the protection of foreign diplomatic missions; to the Committee on Public Works.

By Mr. ARMSTRONG:

H.R. 16130. A bill to amend section 1401a (e) of title 10, United States Code, to preclude a military member from receiving less retired pay by continued active service; to the Committee on Armed Services.

H.R. 16131. A bill to amend the Fair Labor Standards Act of 1938 to revise the application of the overtime compensation provisions of that act to public employees engaged in public utility functions or other functions operated on a continuous basis; to the Committee on Education and Labor.

By Mr. BARRETT:

H.R. 16132. A bill to amend the Federal Reserve Act, the Federal Deposit Insurance Act, and the Federal Home Loan Bank Act to provide for the regulation of the issuance and sale of debt obligations by affiliates of member banks, nonmember insured banks (including insured mutual savings banks), and savings and loan associations, and for other purposes; to the Committee on Banking and Currency.

By Mr. COCHRAN:

H.R. 16133. A bill to amend title 23, section 323, of the United States Code to make certain changes in the procedures for donating highway rights-of-way; to the Committee on Public Works.

By Mr. KYROS (for himself and Mr. BOLAND):

H.R. 16134. A bill to amend the Wool Products Labeling Act of 1939 with respect to reprocessed wool; to the Committee on Interstate and Foreign Commerce.

By Mr. LATTA:

H.R. 16135. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973, and to provide for daylight saving time for 8 months during each calendar year; to the Committee on Interstate and Foreign Commerce.

By Mr. PIKE (for himself and Mr. KING):

H.R. 16136. A bill to authorize certain construction at military installations, and for other purposes; to the Committee on Armed Services.

By Mr. ROY (for himself and Mr. MILLS):

H.R. 16137. A bill to provide for a mandatory balanced budget, automatic tax bracket adjustments reflecting increases in the Consumer Price Index, and, after the budget is balanced, increases in personal exemptions and the low income allowance; to the Committee on Ways and Means.

By Mrs. SCHROEDER (for herself, Mr. FRENZEL, Mr. MANN, and Mr. VAN DEERLIN):

H.R. 16138. A bill to amend title 39, United States Code, to provide additional standards to regulate the proper use of the penalty mail privilege on an official basis by Government departments, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. STAGGERS (for himself and Mr. DEVINE):

H.R. 16139. A bill to amend certain provisions of the Communications Act of 1934 to provide long-term financing for the Corporation for Public Broadcasting and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. TIERNAN:

H.R. 16140. A bill to establish a fuel stamp program which will provide fuel stamps to certain low-income elderly households to help meet fuel costs incurred by such households; to the Committee on Interstate and Foreign Commerce.

By Mr. DINGELL:

H.J. Res. 1098. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. HELSTOSKI (for himself, Ms. ABZUG, Mr. BRASCO, Mr. BROWN of California, Mr. CRONIN, Mr. DRINAN, Mr. EILBERG, Mrs. GRASSO, Mr. KOCH, Mr. ROSENTHAL, and Mr. SISK):

H.J. Res. 1099. Joint resolution to designate April 24 of each year as National Day of Remembrance of Man's Inhumanity to Man; to the Committee on the Judiciary.

By Mr. BIESTER (for himself, Mr. BINGHAM, Mr. RHODES, Mr. HILLIS, Mr. REGULA, Mr. WYDLER, Mr. LUKEN, Mr. McDADE, Mr. McKINNEY, Mr. MADDEN, Mr. MAZZOLI, Mr. MEEDS, Mr. MELCHER, Mr. METCALFE, Mr. MITCHELL of Maryland, Mr. MITCHELL of New York, Mr. MOAKLEY, Mr. MOORHEAD of Pennsylvania, Mr. MOSS, Mr. MURPHY of Illinois, Mr. MURTHA, Mr. NIX, Mr. PATTEN, Mr. PEPPER, and Mr. PERKINS):

H. Res. 1261. Resolution to establish a John W. McCormack senior intern program; to the Committee on House Administration.

By Mr. BIESTER (for himself, Mr. BINGHAM, Mr. PICKLE, Mr. PREYER, Mr. PRITCHARD, Mr. RANGEL, Mr. RIEGLE, Mr. RODINO, Mr. ROY, Mr. SARASIN, Mr. SARBANES, Mrs. SCHROEDER, Mr. SEIBERLING, Mr. STEELMAN, and Mr. STOKES):

H. Res. 1262. Resolution to establish a John W. McCormack senior intern program; to the Committee on House Administration.

By Mr. BIESTER (for himself, Mr. BINGHAM, Mr. STUBBLEFIELD, Mr. THONE, Mr. VANIK, Mr. WALDIE, Mr. WAGGONNER, Mr. WHITEHURST, Mr. WOLFF, Mr. WON PAT, Mr. YOUNG of Illinois, Mr. DELLENBACK, Mr. DRINAN, and Mr. HARRINGTON):

H. Res. 1263. Resolution to establish a John W. McCormack senior intern program; to the Committee on House Administration.

By Mr. BINGHAM (for himself, Mr. BIESTER, Mr. ALBERT, Mr. O'NEILL, Mr. PODELL, Ms. ABZUG, Mr. ADDABBO, Mr. BADILLO, Mr. BERGLAND, Mrs. BOGGS, Mr. BRINKLEY, Mr. BUCHANAN, Mrs. BURKE of California, Mr. BURKE of Massachusetts, Mr. CAREY of New York, Mrs. CHISHOLM, Mrs. COLLINS of Illinois, Mr. CONTE, Mr. CORMAN, Mr. COUGHLIN, Mr. DANIELSON, Mr. DOMINICK V. DANIELS, Mr. DAVIS of South Carolina, Mr. DENHOLM, and Mr. DENT):

H. Res. 1264. Resolution to establish a John W. McCormack senior citizen intern program; to the Committee on House Administration.

By Mr. BINGHAM (for himself, Mr. BIESTER, Mr. DERWINSKI, Mr. DIGGS, Mr. EILBERG, Mr. EVINS of Tennessee, Mr. FLOOD, Mr. FORSYTHE, Mr. FRASER, Mr. FRENZEL, Mr. FULTON, Mrs. GRASSO, Mr. GUNTER, Mr. HANRAHAN, Mr. HANSEN of Idaho, Mr. HECHLER of West Virginia, Mrs. HECKLER of Massachusetts, Mr. HEINZ, Mr. HELSTOSKI, Mrs. HOLT, Ms. HOLTZMAN, Mr. HORTON, Mr. JOHNSON of Pennsylvania, Ms. JORDAN, and Mr. KETCHUM):

H. Res. 1265. Resolution to establish a John W. McCormack senior citizen intern program; to the Committee on House Administration.

By Mr. LITTON (for himself, Mr. BROWN of California, Mr. GUNTER, Mr. LUKEN, Mr. MITCHELL of Maryland, Mr. TRAXLER, Mr. ST GERMAIN, and Mr. UDALL):

H. Res. 1266. Resolution requesting the President to turn over evidentiary information to the House Judiciary Committee and the Special Prosecutor; to the Committee on the Judiciary.

By Mr. McKINNEY:

H. Res. 1267. Resolution to amend the Rules of the House of Representatives to allow broadcasting of public sessions of the House and the Committee of the Whole House; to the Committee on Rules.

By Mr. PEPPER (for himself, Mr. BENNETT, Mr. MILLS, Mr. ASHLEY, Mr. BINGHAM, Mrs. BOGGS, Mr. JOHNSON of California, Mr. ROUSH, Mr. KOCH, Mr. MITCHELL of Maryland, Mr. REID, Mr. MELCHER, Mr. HAMILTON, Mrs. GRASSO, Mr. COTTER, Mr. MURPHY of Illinois, and Mr. CARNEY of Ohio):

H. Res. 1268. Resolution calling for a domestic summit to develop a unified plan of action to restore stability and prosperity to the American economy; to the Committee on Banking and Currency.

By Mr. PODELL:

H. Res. 1269. Resolution expressing the sense of the House of Representatives with respect to the responsibility of the Government of Lebanon for Arab Terrorists whose bases are located within Lebanon; to the Committee on Foreign Affairs.

By Mr. YATES (for himself, Mr. PRICE of Illinois, Mr. ANNUNZIO, Mr. BURKE of Massachusetts, and Mr. VANIK):

H. Res. 1270. Resolution providing for television and radio coverage of proceedings in the Chamber of the House of Representatives on any resolution to impeach the President of the United States; to the Committee on Rules.

By Mr. YATES (for himself, Mr. HEINZ, and Mr. ANDERSON of Illinois):

H. Res. 1271. Resolution providing for television and radio coverage of proceedings in the Chamber of the House of Representatives on any resolution to impeach the President of the United States; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. GUBSER introduced a bill (H.R. 16141) for the relief of Firman B. Voorhies, which was referred to the Committee on Merchant Marine and Fisheries.