

original intent of the 1977 statute: To place with the primacy States the exclusive jurisdiction to regulate surface coal mining operations within their borders. The bill will clarify the respective roles of the Federal and State governments, avoid costly and inefficient duplication in inspection and enforcement and establish clearer lines as to the activities subject to the law.

When the Surface Mining Control and Reclamation Act [SMCRA] was enacted in 1977, it was hailed as a model of cooperative federalism. It established a set of pervasive environmental and reclamation performance standards for all surface and underground mines in the United States. It also included provisions to allow each coal producing State which was able to demonstrate that it had adequate laws and organizations in place to assume primary responsibility for regulating coal mining operations with its State. Since that time, 23 of the 26 coal producing States have assumed the role as the SMCRA regulatory authority.

Unfortunately, The Office of Surface Mining [OSM] has proven reluctant to live up to this statutory promise and hand over fully the reins of regulation to these primacy States. Instead, OSM has perpetuated a dual regulatory scheme by its policies that entail daily interference through the issuance of notice of violations [NOV's] directly to coal mine operators in primacy States. The original act was clear that OSM's oversight role did not allow such pervasive intervention. OSM is only authorized to issue a cessation order for serious violations constituting an imminent harm or danger to the public or environment. Otherwise, OSM was to evaluate State performance, and if dissatisfied, initiate proceedings to substitute either Federal enforcement or a Federal program for all or part of the State program.

OSM's policies have ignored the careful balance of authority by intervening every day in State program matters by issuing notice of violations directly to operators anytime OSM disagrees with a State's view of program requirements. This practice has victimized coal mine operators caught in the middle of Federal-State disputes; perpetuated a scheme of dual and conflicting program administration; caused regulatory uncertainty and confusion; and bred disrespect for the States and the law itself.

As one Federal court observed, OSM's practice has upset SMCRA's fragile balance "between the federal and state roles with its trampling of the state's right to enforce its laws." *Fincastle Mining Inc. v. Babbitt*, 842 F.Supp. 204, 209 (W.D. Va. 1993).

A poignant example of this problem occurred in 1993 when OSM challenged one of Wyoming's existing permit conditions at the Black Thunder Mine as it related to its rough backfilling and grading plan. OSM wanted to issue an order requiring Black Thunder to mine and reclaim in a manner that practically speaking could not be achieved and which was actually based on an outdated rule.

After the mine submitted a modified mining and reclamation plan to the State agency, the State requested that it delay its backfilling and grading until it had an opportunity to review the plan revisions. In the meantime, OSM issued a 10-day notice to the Wyoming Department of Environmental Quality in an effort to pressure the State into bringing enforcement action against the mine. The State rigorously opposed OSM's efforts. Yet only after extensive time and resources were expended on

the issue did OSM finally agree that the issue was programmatic rather than regulatory and dropped its threat.

The amendments act will clarify that OSM does not have the authority to issue notice of violations in primacy States unless and until it has followed the procedures set forth in the 1977 law to substitute Federal enforcement for the State program.

The act's legislative history confirms the original intent that notice-of-violation authority belonged only to the regulatory authority and operators need to know who that regulatory authority is at any particular time—OSM or the States. My legislation will further restore meaning to the concept of State primacy by codifying the well-established principle that the approved State program is the law applicable in that State. Permits issued pursuant to those State programs would be the benchmark for compliance until modified in accordance with the permit revisions procedures of the State program.

This legislation is also intended to avoid regulatory duplication among various programs, require greater efficiency in enforcement actions and streamline the administrative appeal process for agency actions.

Since the passage of SMCRA, the number of producing mines has declined by more than 50 percent and the States have assumed the primary role for implementing SMCRA for 97 percent of the Nation's mines and production. However, the agency overseeing the States, OSM, has not changed significantly in terms of its size or duplicative role. The agency still has substantially more personnel than it had 12 years ago when the States assumed primacy.

As a result, the agency has sought to expand its reach to other activities such as regulating public roads, attempting to assume the role of separate agencies vested with authority to administer the Clean Water Act and raising state matters as possible violations of SMCRA.

My amendments to the act will clarify that: public roads are not subject to regulation; the authority to administer the Clean Water Act at coal mines belongs to the regulatory authority under the Clean Water Act and not SMCRA; and, place a 3-year time limitation upon commencing actions for alleged violations. Finally, the legislation would remove an extra and inefficient layer of administrative review of agency decisions before seeking review in court. The extra layer of administrative appeals is a creature of OSM's regulations and not mandated by the existing statute.

In summation, the Surface Mining Control and Reclamation Amendments Act of 1995 would reinforce the federalist scheme of the original law and restore true meaning to the concept of State primacy.

#### THE KEY TO JOBS

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1995

Mr. ROTH. Mr. Speaker, I had a meeting this morning with the congressional travel and tourism caucus.

I'm reporting that the travel and tourism is hard at work in every district in the Nation: from restaurants to retailers, hotels to campgrounds, airlines to rental cars.

With 13 million employees nationwide and an economic impact of \$416 billion, each and every one of you here needs to stand up and take notice.

Now, I know we're all very busy, but listen to these facts: Tourism is No. 1 in service exports; tourism generates exports equal to exporting 4-million cars, 1.15-million blue jeans or 5.5-billion bushels of wheat.

Tourism generates \$54 billion in Federal, State and local taxes.

If this had to be replaced, the average American household would have to pay an additional \$652 in income tax every year.

But note well for three straight years, U.S. market share of international travelers has deteriorated. And it's going to fall again this year.

Clearly, we must take action. I offer you three solutions:

First, On October 30 to 31, join the 1,700 travel industry professionals for the first ever White House Conference.

Second, join the tourism caucus—support your district. We already have more than 273 members.

Third, cosponsor H.R. 1083—The Travel and Tourism Relief Act. It's economically vital to your district and it's vital to America.

#### MILITARY EXCESS AND THE PROGRESSIVE ALTERNATIVE

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1995

Mr. CONYERS. Mr. Speaker, I have addressed this body often to discuss America's exorbitant defense spending. As the former chairman of the Government Operations Committee and its subcommittee on Legislation and National Security, I am intimately familiar with fraud, waste and financial self-indulgence in the Pentagon and the military-industrial complex at large. The fact that every one of the top 10 military contractors has either been convicted of or admitted to procurement fraud since 1980 as the Campaign for New Priorities recently pointed out, reminds all of us just how deep and pervasive their breach of trust with the American taxpayer has been.

Besides abuse and mismanagement in the private sector though, neglect by the Government remains equally of concern. We have funded meaningless, unnecessary military programs year after year.

Today I rise to bring to your attention the work of my distinguished colleague from California, RON DELLUMS, the ranking member of the House National Security Committee, who has articulated an alternative to this madness. In the October 2 issue of the *The Nation*, he outlines a post cold war paradigm—at post cold war funding levels. I think this article, which I am entering into the RECORD, demonstrates my colleague's years of reflection and expertise on these issues. I commend him for his scholarship and I hope you will grant it the careful study it deserves.

STEALTH BOMBING, AMERICA'S FUTURE

(By Ronald Dellums)

The September 7 House of Representatives vote to approve funding for the B-2 bomber—money the Pentagon does not even want—thrust forward the crucial question of the nation's military budget. After World War II,

the United States rejected opportunities to utilize most effectively a newly established international architecture for conflict resolution and economic development. An enormous financial and human price ensued during the five-decade cold war, with its nuclear and conventional arms races, numerous surrogate wars and potential for cataclysmic confrontation. Now, early in a post-cold war era, Congressional leaders and the Clinton Administration are spurning similar opportunities to avert future arms races and restrain potential conflicts.

By maintaining the current extraordinary levels of military spending in order to support a "go it alone" armed force capable of continuing worldwide intervention, U.S. policy-makers are once again seeking long-term security in short-term military superiority rather than in enduring international stability. Such a course significantly risks rekindling the threatening environment that existed during that now-fading era. And because other nations will undertake military modernization in part due to their reaction to any U.S. drive for improved capacity, long-range U.S. security interests will be better served by restraint in our own programs.

The Clinton Administration's military plan—known as the "bottom-up review"—maintains too much of the cold war force structure and fails to respond optimally to emerging security challenges. I reject the B.U.R.'s conclusion that the United States should maintain military forces sufficient to fight two major regional wars simultaneously without allied assistance, and with the type and size of military forces with which the allies fought Desert Storm. This implausible "worst case" assessment has provided the principal rationale for the stall in military force reductions that started after the fall of the Berlin wall. The B.U.R. mandates the perpetuation of old habits—such as routine deployments of aircraft carriers in three oceans—that then rationalize excessive peacetime acquisition programs and needlessly consume billions of dollars.

If the Administration is too cautious, members of the Republican Congressional majority will pursue a powerfully destabilizing and dangerous set of policies. They will rekindle a nuclear arms race by reconstituting Star Wars, abrogating the A.B.M. treaty and abandoning the START II agreement that is designed to secure substantial reductions in U.S. and Russian nuclear weapons arsenals. They are on a wild buying spree of major weapons systems. They needlessly pursue confrontational relationships with former adversaries and reject foreign policy initiatives that could lead to regional stability. They reject peacekeeping and engagement with the United Nations. Both the Administration and Republican policies unjustifiably divert scarce national resources from urgent domestic requirements,

enhancing the potential for social instability and civil strife.

What alternative view—critical and constructive—do progressives in the Congress offer? Any alternative must begin with the three elements of a truly progressive national security policy: a right-sized military, an engaged foreign policy and a determined effort to rebuild our nation's communities.

A right-sized military: The nation could further reduce our aircraft carrier groups from twelve to as low as eight, and still accommodate the war-fighting requirements of the bottom-up review. Despite 30 percent reductions in land forces, there are still 50,000 soldiers that the Army does not plan to employ under the scenarios emerging from the B.U.R. More of our air forces can be demobilized or placed into reserve status.

Those of us who reject the B.U.R. see that even greater reductions and smart reorganization can occur. We seek a force structure sufficient for defense of U.S. interests through participation in allied or multinational efforts to halt aggression, undertake peacekeeping operations and meet humanitarian operations requirements. Such a realignment would present a very different picture of U.S. intentions to the world from what emerges either from the Administration or Republican plans.

One need not now declare a "steady state" number of divisions, aircraft or naval forces to know that we can safely make these substantial additional reductions without harm to national security, and that we will be able to make follow-on reductions in the future as other nations respond to our initiatives. My proposal to the House Budget Committee placed us back on the path of additional force reductions and canceled cold war-based weapons programs, resulting in \$82.5 billion in savings in just five years.

Under my plan, the United States would also commit to prompt, significant reductions in our nuclear weapons arsenal in compliance with the Non-Proliferation Treaty (N.P.T.), coupled with a continuing commitment to the prompt elimination of other weapons of mass destruction. This would lead to a minimum sufficient deterrent force of only several hundred weapons, significantly below START II limits of 3,500 strategic warheads, and we would work to secure a Russian commitment to a similar reduction. (The Senate Armed Services Committee bill contains an absurd requirements to retain the nuclear arsenal at much higher START I levels.) Such an arsenal would ease the current pressure to find a production source for tritium, and would place us more squarely on a path to eventual nuclear disarmament as is called for in the N.P.T., and which is stated U.S. policy.

What we should seek to acquire for the military are the logistics capabilities, intelligence assets and personnel training that will allow U.S. forces to participate effec-

tively and to lead, where appropriate, in peace operations and coalition efforts to stanch genocide or to meet humanitarian crises. Such a program would less likely be perceived as hostile by other nations, and would not as readily trigger reactive military buildups or arms acquisition programs.

Preventive engagement: Active U.S. engagement with the U.N. and regional organizations to solve local conflicts can help to avert serious crises before they arise, and will increase international confidence in U.S. intentions. Funding a fairer share of international development efforts can help to enhance stability in various regions. Engaged and imaginative diplomacy, the use of good offices in conflict resolution and international peacekeeping mechanisms can help to defuse—or constrain when necessary—ethnic, religious, sectarian, racial or transnational conflict. Vigorous pursuit of further arms control agreements governing weapons of mass destruction and conventional armaments will effectively complement these commitments.

Social investment: The third element of a progressive national security policy is investment in education infrastructure, and the strengthening of other institutions essential to enhancing community and individual well-being.

Throughout the 1980s domestic programs were ravaged by a costly arms buildup. President Reagan transferred \$50 billion from domestic accounts to military programs in his first budget, and continued such transfers throughout his tenure. Our communities have never recovered.

Republican Congressional budget planners are now shifting additional tens of billions from domestic accounts to the military, and slashing billions more for deficit reduction.

The nation is at a critical crossroads; the income gap between rich and poor is growing. Many of our children do not enjoy access to, much less training in, the technology that will drive the economy of the future. Our infrastructure—civic and industrial—is in desperate need of serious investment. Our citizens see their quality of life eroding, yet the answers from Washington are more tax breaks for the rich, environmental degradation and global economic strategies that benefit those with capital at the expense of those who must work for their livelihood.

These distorted priorities are a recipe for disaster. During the Vietnam War, Dr. King observed that the bombs being dropped in Vietnam were exploding in the ghettos and barrios of America—the diversion of resources to fight an unjust war was killing our children and their future. His metaphor for that time is just as grimly appropriate for assessing the domestic impact of today's excessive and unwarranted military spending.