

issued an "interim" report⁸⁸ to the Secretary in February, 1965, but unfortunately on consensus was reached on major leasing policy questions and the report has been likened to "six dissents saying nothing." No further report from the Advisory Board has yet appeared on the horizon, and Secretary Udall now seems little disposed to take any affirmative action.

Undersecretary of Interior John Carver, Jr., has been perhaps most candid and pointed of all when he recently said:

"The Secretary has not yet determined what recommendation should be made to Congress, if any, for the resolution of any policy questions prior to the lifting of the withdrawal order

"Legally, as I have already said, I think he has the power to lift the order, promulgate regulations, and begin to issue leases

"But I also think that no Secretary, beginning with Hubert Work, right down to the present one, can take any more than tiny and tentative steps which have the effect of relinquishing title to this resource without running great risks of misinterpretation It is, in my personal and unofficial view, a question requiring congressional resolution."⁸⁹

6. Congress

Thus it is that we are led by a process of elimination to the one body of the federal government which can, and should, come to grips with the oil shale policy problem. Senator Bennett of Utah addresses himself to the problem with a statement entitled "Do Something."⁹⁰ A response to Senator Bennett is that it is now up to Congress "to do the doing" and to reassume here a portion of the initiative which some feel it has lost by default to the Executive Branch of our Government.

In May, 1965 the first "informational" hearings on oil shale were held by the Senate Interior Committee.⁹¹ Senator Jackson, Chairman of the Committee, opened the hearing with these words:

"All too often in dealing with problems affecting our natural resources, both economic and aesthetic, this committee is faced with a condition, not a theory. Conditions often demand ad hoc solutions to immediate limited problems. But . . . such is not the case here today. We hope to have basic facts and issues presented, and then to be able to deliberate upon broad overall policy questions involved in the wisest and best course of action to take with respect to this great natural resource"⁹²

In addition to committee action and congressional hearings, it may be that the oil shale policy problem will be taken up by the recently established Public Land Law Review Commission.⁹³ The Commission, which is to make its report by June 30, 1968, is not explicitly directed to study oil shale, but such a study is clearly not outside the Commission's present authority.⁹⁴

B. Formulation of a Leasing Policy: Immediate Considerations

If Congress is to formulate a leasing policy for the early development of oil shale, it must deal with a number of specific, immediate considerations. Many of them have already been outlined by members of the Oil Shale Advisory Board.⁹⁵ None present insurmountable problems. Straightforward alternatives are available from which Congress can make its necessary policy choices with relative ease.

1. Conservation

Two distinct conservation problems present themselves when considering oil shale development. First, there is concern for other regional resources in the oil shale area. Second is the concern for maximum utilization of the oil shale resource itself.

As was noted earlier, the State of Colorado is actively aware of the need to protect all of its many resources. Thus Governor Love has said:

⁸⁸ INTERIM REPORT OF THE OIL SHALE ADVISORY BOARD, *op. cit.*, *supra* note 77.

⁸⁹ *Senate Hearings on Oil Shale*, *supra*, note 3, at 38-39.

⁹⁰ *Senate Hearings on Oil Shale*, *supra* note 3, at 6.

⁹¹ *Senate Hearings on Oil Shale*, *supra* note 3.

⁹² *Id.* at 2.

⁹³ 78 Stat. 982 (1964), 43 U.S.C. § 1391 (1965).

⁹⁴ S. REP. No. 1444, 88th Cong., 2d Sess. 13 (1964).

⁹⁵ Mock, *supra* note 12, at 59-60. See there "Issues to be considered by the Oil Shale Advisory Board."