

sonal feeling of concern about a matter that I am certain is of interest to all of us in this country.

I would like to first ask, Do you have any misgivings as to the constitutionality of the Federal authority which I infer this bill would convey upon an agency of Government to exercise police powers over privately owned lands which so far, insofar as I know, have been lodged at the State level, not at the Federal level?

Mr. UDALL. Senator, I think I can say quite flatly that I believe if I asked my lawyers this question, and I would be glad to furnish an opinion if you want, that there is authority in the Constitution with regard to this type of legislation.

I am sure we wouldn't be proposing it if we thought there was a serious question. Just take one aspect, only one aspect. For example, there is a national responsibility for interstate waters and of course water runs off land and I think one of the main conservation reasons that we need a program of this kind is to protect water quality and I would cite this merely as one paramount interest that I think the Federal Government has.

Senator HANSEN. Do I infer from your response, Mr. Secretary, that your authority or at least one of the sources of your authority to control mining operations on privately owned land would be in recognition of the contribution that mining operations might make toward water pollution?

Mr. UDALL. Yes.

Senator HANSEN. Are there other sources of authority in your judgment?

Mr. UDALL. The effect on other resources, including wildlife, I would think would be another.

Senator HANSEN. Including wildlife.

Mr. UDALL. Including wildlife, yes.

Senator HANSEN. Are you saying that if it could be demonstrated that a mining operation on privately owned land affected wildlife it would be your judgment that the Federal Government would have the right to move in?

Mr. UDALL. This is a sensitive subject that I don't want to get into and I certainly think that the States in terms of their legal control of wildlife would certainly have a clear responsibility with regard to their authority to regulate. Putting the wildlife question aside for the moment, our authority certainly is very clear with regard to the water pollution aspect because I can say to you that the most deadly form of water pollution that I know of in their areas is this acid mine pollution that comes out of these old mines in Appalachia and that has polluted most of their rivers.

It is a tragedy because the Appalachian region should be the great playground of the east. These ought to be the finest fishing streams and many of them are dead streams right today—large stretches of some of the finest rivers in Appalachia.

Senator HANSEN. Would it be fair to ask if, in your judgment, your authority to control activities on privately owned land would have to relate to the matter of water pollution; that if it could be demonstrated that water pollution did result you would have the authority, if it did not result you would not? Is that what you are saying?