

STATEMENT OF ROBERT E. LEE HALL, SENIOR VICE PRESIDENT, NATIONAL COAL ASSOCIATION

Mr. Chairman and Members of the Committee: My name is Robert E. Lee Hall. I am senior vice president of the National Coal Association. The membership and functions of the association were described by my colleague, George W. Sall, in his testimony previously. In brief, however, we are the nationwide trade association of the bituminous coal industry, representing two-thirds of the commercial production of coal and about the same portion of the strip-mine output of coal.

I endorse the testimony of previous coal industry witnesses who have explained the importance of the surface mining of coal to the Nation. They also have referred to the effective work of the land reclaimers and the progress being made in the art of restoring mined coal lands to useful purposes. Our witnesses have undertaken to show that the principal surface coal mining operators are meeting the obligation to reclaim the land. Moreover, it appears that 14 States where 89 percent of the surface-mined coal is produced have effective laws controlling such operations. Valid objections to the legislation under consideration here have been cited. In short, therefore, you have before you reliable evidence to support the conclusion that there is no need for Federal intervention to control the surface mining of coal.

A national imperative for Federal controls over the surface mining of coal certainly cannot be distilled out of the suprisingly low-keyed treatment this problem received at the hands of the President when he sent his conservation message to the Congress in March of this year. It betrayed no compelling urgency for Federal controls over surface mining. To me it is significant that the message laid most of its emphasis on "scars" that can be observed by air travelers over America. While there is a later reference to the "blight" on beauty, there is, nevertheless, a notable absence of any substantive showing to offset the case for voluntary reclamation and reliance on adequate State laws where needed. A clear-cut basis for Federal intervention or entrance into the field is missing. We sincerely believe that, given additional time and encouragement, industry performance under these circumstances will further reduce the basis for Federal controls.

Gentlemen, we are opposed to the legislation but we are not opposed to natural beauty.

"Beauty" is a relative term—and is relative in value. It has popularly been said to exist "only in the eye of the beholder!" Nor should this axiom be summarily dismissed as inapplicable in considering our problem here. For example, surface mining in Rock Creek Park, in an area specifically set aside for beauty, recreation, or the aesthetic pleasure of the general populace, might draw justifiable objections in the absence of an imperative national need to mine such an area. On the other hand, the same operation somewhere else may well be more than tolerated because of its vital contribution to the economy of the region as a supplier of an essential material to the Nation—a necessary and vital source of jobs and income. In such an area, by contrast, it could even be characterized as a "thing of beauty and a joy forever!"—provided, of course, that reasonable reclamation practices are effectively undertaken on a voluntary basis or pursuant to an adequate State law where needed.

As the anchor man for our testifying team, I respectfully ask careful attention to the facts, figures and contentions which have been advanced by my colleagues. However, I have the special purpose in my concluding remarks to emphasize that there are other reasons why your Committee is entirely justified in laying aside this legislation at this time. These reasons have to do with the constitutional questions that remain unanswered and the predictable adverse impact on the Federal budget if the Federal government undertakes to supervise and control surface mining in the United States.

I have been a lawyer in Washington long enough to know that it is predictably futile to question the constitutionality of government controls once the Congress has acted. The Supreme Court understandably hands down liberal interpretations of the scope of Federal power, particularly in view of the rapid growth of this country and the vast national problems this growth has created. However, in the case of S. 3132, at least a question of "philosophical constitutionality" arises. Let's say, for the sake of argument, that Federal power to control surface mining wholly within a given State may exist, or may be fashioned from a broad interpretation of the welfare or interstate commerce concepts—yet must a power always be exercised simply because it is there? Sure—