

tion from which minerals are extracted by surface mining methods for use in highway construction. Is this intended?

Section 7. Each State being competent to conduct its own affairs with respect to regulations of mining within its own bounds, the Secretary should not have sole discretion to decide whether a particular set of State laws and regulations is sufficiently stringent. At the very least, some provision for judicial appeal should be provided in case substantial disagreement arises. The requirements set out for the State plan seem so severe that many mining operations might not become possible. Moreover, the requirement that criminal penalties be required for non-performance seems indefensible. Many additional comments are possible here, but in the interests of space will be reserved for a later time.

Section 8. Two or 3 years are not sufficient for the development of a good State plan. Five years would be more realistic. The Secretary should not have sole power to issue regulations for a State. Provision should be made for judicial appeal in every case in which substantial conflict arises. No individual has the capability to arrive at the best judgments in all such cases. See especially section 8(d) in this regard.

Section 9 suffers from the same difficulties as section 8, especially as to the need for judicial appeal provisions in case of conflicts.

Section 11. This provides that the Secretary may issue such regulations as are deemed necessary to carry out the act. No specific provision is made in this section for hearings or judicial appeal from bad regulations.

Section 13. Here, as previously, it seems indefensible to set up criminal penalties for cases of nonperformance. The precedent, if any, is not known to us. Economic (civil) penalties would seem to be sufficient.

Generally, the tenor of this proposed law seems to be highly restrictive and even punitive, designed more to prevent mining than to encourage it, and thus not in keeping with the necessity to encourage mining in all ways possible and consistent with the well-being of society. This difficulty no doubt grows out of the fact that this proposed law was written by agency people all with views on one side of the question. It would be better to hold hearings on the content of such a law before it is written so that all interested parties could make their views and needs known. Only after such hearings should the law be written and then only by neutral persons who conduct the hearings.

Finally, it is much better that this be done in the several States and not at the Federal level at all.

In closing a few comments on S. 3126 are appropriate. Title I gives equal authority to Interior and Agriculture, which is sure to lead to difficult administrative problems. It suffers additionally from all of the problems raised with respect to S. 3132 and we view it in the same way as we do S. 3132, namely, any action on it should be held in abeyance until the outcome of the Public Land Law Review Commission's work. The remainder of the bill appears to be reasonably workable.

Thank you very much.

Senator METCALF. Thank you very much, Mr. Prater. Senator Jordan?