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A Constitutional Challenge to the Surface Mining Control and Reclamation Act

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A CONSTITUTIONAL CHALLENGE TO THE SURFACE MINING CONTROL AND RECLAMATION ACT

INTRODUCTION

Environmentalists hailed with delight the passage of the Surface Mining Control and Reclamation Act [hereinafter SMCRA][1] which set forth uniform environmental standards for coal surface mining operations. Prior to its enactment, strip mine regulation was either non-existent or varied from state to state.[2] State officials, anxious to protect local coal industry, were understandably less inclined than their federal counterparts to enact sound reclamation laws.[3] Congress sought to rectify this lack of uniformity without imposing exclusive federal control over strip mine operations.[4]

The SMCRA gives states primary regulatory responsibility[5] for surface mining and reclamation standards; however, the federal government, through the Office of Surface Mining Reclamation and Enforcement (OSM), retains authority to ensure state compliance.[6] States wishing to assert jurisdiction over surface mining operations within their boundaries must submit a proposed program of compliance to the Secretary of the Interior.[7] The Secretary has authority to approve or disapprove state programs, and if necessary, to promulgate and implement a federal program for a state.[8] Most coal mining states have sought to maintain primary authority. As of March 25, 1981, sixteen states had either a partially approved or a conditionally approved state program;[9] however, Washington, Georgia, Massachusetts and Michigan will be governed by a federal program. Some states are unique. Massachusetts, Oregon, Michigan and Rhode Island will be governed by federal exploratory programs, and Alaska is presently being studied.

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1. 30 U.S.C. §§ 1201-1328 (Supp. III 1979).

2. Rochow, *The Far Side of Paradox: State Regulation of the Environmental Effects of Coal Mining*, 81 W. VIR. L. REV. 559 (1978-79).

3. Udall, *The Enactment of the Surface Mining Control and Reclamation Act of 1977 in Retrospect*, 81 W. VIR. L. REV. 553 (1978-79).

4. 30 U.S.C. § 1201(g) reads: "Surface mining and reclamation standards are essential in order to insure that competition in interstate commerce among sellers of coal produced in different States will not be used to undermine the ability of the several States to improve and maintain adequate standards on coal mining operations within their borders."

5. 30 U.S.C. § 1201(f) reads: "Because of the diversity in terrain, climate, biologic, chemical, and other physical conditions in areas subject to mining operations, the primary governmental responsibility for developing, authorizing, issuing and enforcing regulations for surface mining and reclamation operations subject to this Act should rest with the States."

6. 30 U.S.C. § 1211(c)(1) (Supp. III 1979).

7. 30 U.S.C. § 1253 (Supp. III 1979).

8. 30 U.S.C. § 1254(a) (Supp. III 1979).

9. Telephone conversation with John Higgins, Denver Office of Surface Mining (March 25, 1981).

Section 708 of the Act directs the Secretary to initiate a study "of surface coal mining conditions . . . [in Alaska] . . . in order to determine which if any of the provisions . . . should be modified with respect to surface coal mining operations."[10]

Two federal district court cases in 1980, *Virginia Surface Mining and Reclamation Association Inc. v. Andrus*[11] [hereinafter cited as *Virginia*] and *Indiana v. Andrus*[12] [hereinafter cited as *Indiana*], declared major portions[13] of the SMCRA unconstitutional. These cases are now on direct appeal to the United States Supreme Court.[14] The thrust of

10. 30 U.S.C. § 1298(a) (Supp. III 1979).

11. 483 F.Supp. 425 (W.D. Vir. 1980), *appeal docketed*, No. 79-1538 (U.S. Sup. Ct. April 1, 1980).

12. 14 ERC 1769 (S.D. Ind. 1980), *appeal docketed*, No. 80-231 (U.S. Sup. Ct. Aug. 15, 1980).

13. The provisions held to be unconstitutional are in Title V of the Act. Indiana struck the "prime farmland" provisions as violative of the commerce clause. These provisions require the coal operator to submit a permit application which identifies prime farmland. 30 U.S.C. § 1257(b)(16). The operator is required to submit a reclamation plan with the application which includes statements concerning the productivity of the land prior to mining. An analysis of premining average yields under high levels of management must be included. 30 U.S.C. § 1258(a)(2)(C). Before the regulatory authority can issue a mining permit on prime farmlands, it must be clear that the operator has the technological capability to reclaim the land to equivalent or higher levels of yield. 30 U.S.C. § 1260(d)(1). Furthermore, the operator is required to separately remove and replace the A, B, and C soil horizons. 30 U.S.C. § 1265(b)(7). Provisions in 30 U.S.C. § 1265(b)(20) which refer to postmining agricultural use, and in 30 U.S.C. § 1269(c)(2) which allow the regulatory authority to hold the operator's bond until soil productivity returns, were also stricken, as were provisions requiring an operator commitment to a particular postmining land use. *See* 30 U.S.C. §§ 1257(d), 1260(b)(1) and (2). Certain parts of 30 U.S.C. § 1265(b)(19) and (20), which refer to regulatory approval of a postmining land use plan, were invalidated as well as certain support activities of the postmining land use plan contained in 30 U.S.C. § 1258(a)(2), (3), (4), (8), and (10). The court also struck the approximate original contour requirements of 30 U.S.C. § 1265(b)(3), the topsoiling provisions which require removal of topsoil as a separate layer and subsequent protection from erosion until replaced, 30 U.S.C. § 1265(b)(5), and the provisions which require a planning process for identifying areas unsuitable for strip mining. 30 U.S.C. § 1272(a), (c), (d), and (e)(4) and (5).

Essentially, these same provisions were also found violative of the tenth amendment, as were 30 U.S.C. §§ 1253(a)(1) and (7), and 1254(a), which provides for a federally enacted state program.

In Virginia the provisions held to be contrary to the tenth amendment were 30 U.S.C. § 1265(d) and (e), the steep slope, original contour requirements, which were also found unconstitutional under the fifth amendment. Section 1272, which prohibits mining near public roads, occupied dwellings, public buildings, schools, churches, community or institutional buildings, public parks, and cemeteries were also found unconstitutional under the fifth amendment. (Indiana also found 30 U.S.C. § 1272 contrary to the fifth amendment). The court also invalidated provisions which require the operator to demonstrate the technological capability to restore mined land to equivalent or higher levels of yield, 30 U.S.C. § 1260(d)(1), the provision withholding bond until such levels are reached, 30 U.S.C. § 1269(c)(2), and the provision which set premining productivity as the standard for postmining productivity, 30 U.S.C. § 1258(a)(2)(C).

14. 10 ENVT'L. REP. (BNA) 2153; 11 ENVT'L. REP. (BNA) 422.

the constitutional attack is on Title V,[15] which contains the controversial environmental standards. The constitutional arguments are based on the commerce clause,[16] the tenth amendment limitation of the commerce power, and the fifth amendment taking clause.[17] The most critical issue on appeal is the tenth amendment limitation on the commerce power. If the holdings of *Virginia* and *Indiana* are affirmed on that issue, it would not only affect major provisions of the SMCRA but could substantially alter the regulatory scheme of federal environmental legislation. The fifth amendment issue may not have such a potentially broad impact, yet an affirmance would require a congressional reevaluation of the Act's reclamation standards. The commerce clause issue could also have important ramifications if the *Indiana* analysis is upheld.

THE COMMERCE CLAUSE

Congress based its power to enact the SMCRA on the commerce clause.[18] In *Virginia* and *Indiana*, the plaintiffs contend that Congress exceeded its commerce power. Although the two courts used a similar approach, the *Virginia* court found no commerce clause violation while the *Indiana* court reached the opposite conclusion.

The central question is whether or not Congress can regulate coal production. Early commerce clause analysis suggests that Congress does not have such authority. In *United States v. E.C. Knight Co.*,[19] the Supreme Court distinguished commerce from manufacturing. Manufacturing was defined as the fashioning of raw materials into a change of form for use, whereas commerce was defined as buying and selling and the transportation incidental thereto. Manufacturing was considered a local activity, beyond the reach of the commerce clause; consequently, the power to regulate should be with the state. The distinction was again recognized in *Hammer v. Dagenhart*[20] where congress attempted to exclude goods produced by child labor from interstate commerce: "The grant of power to Congress is to regulate . . . commerce, and not to give it authority to control the states in their exercise of the

15. 30 U.S.C. §§ 1251-1279 (Supp. III 1979).

16. "The Congress shall have Power . . . to regulate Commerce with foreign Nations and among the several States." U.S. CONST. art. I, § 8.

17. Other issues addressed by both courts will not be discussed in this Comment. The selection of issues is based upon their potential impact on constitutional law and federal legislation.

18. 30 U.S.C. § 1201(c) and (j) (Supp. III 1979).

19. 156 U.S. 1, 14 (1895).

20. 247 U.S. 251 (1918). It must be noted that the reasoning utilized by the Hammer Court has been long abandoned. *See* United States v. Darby, 312 U.S. 100, 116 (1941).

police power over local trade and manufacture."[21] In *Carter v. Carter Coal Co.*[22] the court again distinguished production from commerce. Congress attempted to regulate maximum hours and minimum wages in coal mines. The Court defined commerce as intercourse for the purposes of trade and said the incidents leading up to and culminating in the mining of coal do not constitute such intercourse.[23] Production was "a purely local activity"[24] beyond the reach of the commerce power.

Modern commerce clause analysis begins with the 1937 case of *National Labor Relations Board v. Jones & Laughlin Steel Corp.*,[25] which marked a significant change from definitional commerce clause analysis. The Supreme Court upheld an order against Jones & Laughlin Steel Corporation for interfering with union activities. It was argued that since the company was engaged in manufacturing, its activities were beyond the reach of the commerce power. The court rejected the argument and adopted the close and substantial relationship test: "Although activities may be intrastate in character . . . if they have such a close and substantial relation to interstate commerce that their control is essential . . . Congress cannot be denied the power to exercise that control."[26] Competition among industry was also recognized as sufficient justification to invoke the commerce power in *United States v. Darby*,[27] where the Supreme Court upheld the Fair Labor Standards Act. The Court held that prohibition of the movement of goods in interstate commerce was a valid means to achieve the legitimate end of eliminating sub-standard labor conditions which were injurious to interstate commerce.[28] The court disavowed any control over the legislative motive or purpose of the regulation.[29] Both *Jones & Laughlin* and *Darby* recognized congressional power to regulate the terms and conditions of intrastate activities which have a relationship to interstate commerce.

Even if the specific intrastate activity sought to be regulated by Congress has an insignificant impact on interstate commerce, it can still be within the reach of the commerce clause. In *Wickard v. Filburn*[30] the court upheld marketing quotas of wheat applied to an individual farmer. There, a farmer's wheat production exceeded the

21. 247 U.S. at 273.
22. 298 U.S. 238 (1936).
23. *Id.* at 303.
24. *Id.* at 304.
25. 301 U.S. 1 (1937).
26. *Id.* at 37.
27. 312 U.S. 100 (1941).
28. *Id.* at 121.
29. *Id.* at 115.
30. 317 U.S. 111 (1942).

marketing quota established for his farm. The farmer argued that the excess was to be consumed on the farm, but the Court held that although the farmer's own demand for wheat was trivial itself, it was insufficient to remove him from federal regulation where "his contribution, taken together with that of many others similarly situated, is far from trivial."[31] The Supreme Court in *Maryland v. Wirtz*[32] also touched on "trivial impacts": "a trivial impact on commerce [is not] an excuse for broad general regulation of state or private activities."[33] It should be noted that the Supreme Court in *Wickard* did not unilaterally suggest that Congress can regulate trivial intrastate activities; rather, the suggestion was that regulation of individual and insignificant activities is allowed so long as the regulation bears a substantial relation to commerce.

The Supreme Court has adhered to the guidelines established since *Jones & Laughlin*. The standard of review that has emerged is that "justices will defer to the legislative choices . . . and uphold laws if there is a rational basis upon which congress could find a relation between . . . regulation and commerce."[34] Simply stated, Congress must rationally conclude that the regulation is related to interstate commerce.

In *Virginia* the court used the "rational basis" test, imposing upon itself the *Darby* limitation as it applied the test; it would not examine the motive behind the legislation.[35] The court found several reasons for holding that the SMCRA was a rational exercise of congressional power under the commerce clause. First, "there is no question that coal moves in interstate commerce and that its production has a substantial effect on the national economy."[36] The enactment of the SMCRA was a congressional attempt "to insure that surface mining of this valuable commodity is accomplished with regard to its impact on interstate commerce and the public welfare."[37] Second, if reclamation is not done in an environmentally sound manner, the land will lose productivity in terms of its ability to support other "important forms of commerce."[38] Third, the environmental side effects of substandard reclamation, "stream pollution, floods, landslides, loss of fish and wildlife habitats, erosion of other lands, and hydrological imbalances,"[39]

31. *Id.* at 127-128.
32. 392 U.S. 183 (1968).
33. *Id.* at 196, n. 27.
34. NOWAK, ROTUNDA, YOUNG, CONSTITUTIONAL LAW 150 (1978).
35. Virginia, 483 F.Supp. at 430.
36. *Id.*
37. *Id.* at 431.
38. *Id.*
39. *Id.*

cumulatively have a substantial impact on interstate commerce.

The *Indiana* court also cited the "rational basis" test but did not use the analysis for all of the contested provisions. With respect to the prime farmland provisions,[40] the court relied heavily on the trivial impacts concept of *Maryland v. Wirtz*.[41] The court concluded that "surface coal mining operations on prime farmland, as distinguished *per se* from any other type of land, have an infinitesimal or trivial impact on interstate commerce."[42] The prime farmland provisions were "directed at facets of surface coal mining which have no substantial and adverse affect on interstate commerce."[43] Trivial impacts on interstate commerce do not provide justification for assertion of the commerce power, but the holding of *Wickard*[44] suggests that trivial impacts can be regulated as long as there is a substantial relationship between the regulation and commerce.

Indiana did not totally abandon the "rational basis" test. After finding that the prime farmland provisions were not related to the removal of air and water pollution, the court held that these provisions were not a means reasonably and plainly adapted to the legitimate end of removing any substantial adverse affect on interstate commerce.[45] This is a narrow view compared with the findings of Congress: "Many surface mining operations result in disturbances of surface areas that burden and adversely affect commerce;"[46] "there are a substantial number of acres throughout major regions of the United States . . . on which little or no reclamation was conducted, and the impacts from these unreclaimed lands impose social and economic costs; . . ."[47] "surface and underground coal mining operations affect interstate commerce."[48]

THE TENTH AMENDMENT

The text of the tenth amendment is concise. "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."[49] In 1941 the judicial interpretation of the amendment was just as concise: "The amendment states but a truism that all is retained which has

40. *Supra* note 13.
41. *Supra* text accompanying notes 32-33.
42. Indiana, 14 ERC at 1773.
43. *Id.* at 1775.
44. *Supra* text accompanying notes 30-31.
45. Indiana, 14 ERC at 1775.
46. 30 U.S.C. § 1201(c) (Supp. III 1979).
47. 30 U.S.C. § 1201(h) (Supp. III 1979).
48. 30 U.S.C. § 1201(j) (Supp. III 1979).
49. U.S. CONST. amend. X.

not been surrendered. There is nothing in the history of its adoption to suggest that it was more than declaratory of the relationship between the national and state governments."[50] The amendment is no longer a dormant truism. It has become an active limitation on the commerce power. The new tenth amendment doctrine developed in *National League of Cities v. Usery*[51] recognizes that the federal system limits the congressional commerce power, prohibiting Congress from regulating the "States as States," since "there are attributes of sovereignty attaching to every state government which may not be impaired by Congress . . . ."[52]

Both *Virginia* and *Indiana* rely heavily on *National League* to conclude that parts[53] of the SMCRA are unconstitutional. In *National League*, Secretary Usery was defending the 1974 amendments to the Fair Labor Standards Act.[54] The amendments required states to comply with wage and hour guidelines applicable to state employees. The Supreme Court held the amendments unconstitutional. The critical point was not that the legislation required states to comply with the regulations, but rather that Congress imposed wage and hour guidelines on the states' relationships with their own employees. From this critical distinction comes the first arm of the two-part test of *National League*.

State-Private Analysis

The first arm of the test is easily stated and easily misinterpreted, if taken out of the factual context of *National League*. The test is whether or not the legislation is directed to the states as states.[55] When *Virginia* and *Indiana* invalidated legislation requiring their states to conform to federal environmental protection standards, the two courts drew a faulty analogy. *National League* did not strike the legislation because it forced state compliance but because its ultimate regulatory effect was on the "States as States."[56] The ultimate regulatory effect of the SMCRA, in contrast, is on the coal mine operator. The *Virginia* court

50. 312 U.S. at 124.
51. 426 U.S. 833 (1976).
52. *Id.* at 845.
53. *Supra* note 13.
54. 29 U.S.C. §§ 201-219 (1976).
55. National League, 426 U.S. at 845.
> It is one thing to recognize the authority of Congress to enact laws regulating individual businesses necessarily subject to the dual sovereignty of the government of the Nation and of the State in which they reside. It is quite another to uphold a similar exercise of Congressional authority directed, not to private citizens, but to the States as States.

56. "The act, speaking directly to the States *qua* States, requires that they shall pay . . . the minimum wage rates currently chosen by Congress." *Id.* at 847-48.

clearly recognized that "the act ultimately affects the coal mine operator,"[57] but it did not realize the importance of its own statement in the context of the *National League* doctrine.[58] Failing to recognize this critical distinction, both courts found that the SMCRA was legislation directed to the "States as States." This finding is a prerequisite to consideration of the second arm of the two-part test.

Integral Governmental Function Analysis

The second arm of the test addresses the kind or type of regulation as opposed to the first arm, which addresses the direction or focus of the legislation. The second test is whether or not the contested regulation will "impermissibly interfere with the integral governmental functions"[59] of the states. In *National League* the determination of wages, hours, and overtime compensation of state employees was found to be an integral governmental function.[60] The court lists several other activities typically performed by state governments: "fire prevention, police protection, sanitation, public health, and parks and recreation."[61] However, the list was mentioned in the context of the states' ability "to structure employer-employee relationships."[62] Nothing in the opinion justifies the *Virginia* and *Indiana* courts' interpretation of *National League* that land use control is an integral governmental function. To the contrary, Justice Blackmun's concurring opinion indicates that this is an unjustified expansion: "I may misinterpret the Court's opinion, but it seems to me that it adopts a balancing approach, and does not outlaw federal power in areas such as environmental protection, where the federal interest is demonstrably greater and where state facility compliance with imposed federal standards would be essential."[63]

Virginia and *Indiana* justified the interpretation that land use control was an integral governmental function by referring to various provisions of the SMCRA. The *Virginia* court pointed to the steep slope approximate original contour provision as being the most "intrusive practical aspect of the act,"[64] since it requires complete back-filling to cover the highwall left from a surface cut. In essence, the *Virginia* court argued that the state was precluded from deciding whether or not it would be beneficial to allow the land to remain level after surface mining operations since "the facts show there is a great need for level

57. Virginia, 483 F.Supp. at 432.
58. *Supra* note 56.
59. National League, 426 U.S. at 851.
60. *Id.*
61. *Id.*
62. *Id.*
63. *Id.* at 856.
64. Virginia, 483 F.Supp. at 433.

land in the seven counties that comprise the coal fields of Virginia."[65] Furthermore, the court noted that "if land is restored to its original contour, its worth reverts to the lower values."[66] [R]eturning a steep slope to original contour . . . is economically infeasible and physically impossible."[67] The *Indiana* analysis is essentially the same. However, the focus is on the prime farmland provisions. These provisions reflect "a federal land use decision that no higher or better use exists for such land,"[68] and the state is denied "management . . . of (a) traditional governmental function . . . in the area of land use control and planning."[69]

It seems unlikely that these justifications will stand. First, Justice Blackmun, casting the deciding vote in *National League*, explicitly stated that there is an important federal interest in environmental protection. Second, *National League* gives no indication that land use control is an integral governmental function. The holding was narrowly limited to the states' authority to manage employer-employee relationships. Lastly, Congress recognized that postmining uses could be different from premining uses: "Many surface mining operations result in disturbances of surface areas . . . by destroying or diminishing the utility of land for commercial, industrial, residential, recreational, agricultural, and forestry purposes."[70]

THE FIFTH AMENDMENT

Judicial interpretation of the fifth amendment taking clause[71] is clear; that governmental regulation of private property can constitute a taking. This concept was recognized in *Pennsylvania Coal Co. v. Mahon*[72] where the Supreme Court stated that "while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking."[73] The contested statute in *Pennsylvania Coal* prohibited underground coal mining in such a way that surface structures would be damaged by subsidence. The Supreme Court invalidated the statute, stating that to make "it commercially impracticable to mine certain coal has very nearly the same effect . . . as appropriating or

65. *Id.* at 434.
66. *Id.*
67. *Id.*
68. Indiana, 14 ERC at 1780.
69. *Id.* at 1781.
70. 30 U.S.C. § 1201(c) (Supp. III 1979).
71. "[N]or shall private property be taken for public use, without just compensation." U.S. CONST., amend. V.
72. 260 U.S. 393 (1922).
73. *Id.* at 415.

destroying it."[74] *Virginia* and *Indiana* analogized the contested statute in *Pennsylvania Coal* to the SMCRA. In *Virginia* the contested provisions of the SMCRA required operators to return steep slopes to their approximate original contour, and compliance was found to be "economically and physically impossible."[75] *Indiana* found it tecnologically impossible to return prime farmlands to equivalent or higher levels of yield.[76] Both courts also invalidated parts[77] of section 522 which prohibits surface mining near occupied dwellings, public roads, buildings, schools, churches, community or institutional buildings, parks, and cemeteries.[78] The courts' rationale recognized that since coal can be owned as a mineral interest, and cannot be removed because of overly restrictive regulations, the mineral interest is destroyed and a taking results. This analysis of the taking clause is based on the "diminution of value" theory which measures or balances the taking issue primarily in terms of financial loss. "When [diminution of value] reaches a certain magnitude, in most if not in all cases there must be an exercise of eminent domain and compensation."[79]

Recent cases place less emphasis on diminution of value. In *Goldblatt v. Hempstead*[80] the Supreme Court upheld a zoning ordinance which effectively prohibited continued operation of a sand and gravel quarry. The court not only considered loss to the owner but also evaluated the adverse nature of the quarry and the availability of less drastic regulations. In *Penn Central Transportation Co. v. New York City*[81] the property owner sought permission from the New York Landmark Preservation Commission to build a multi-story office building above Grand Central Station. The Commission refused to allow construction. The Supreme Court upheld the refusal, finding that landmark preservation ordinances were akin to zoning ordinances which promote the general public welfare.[82] Both of these modern cases place emphasis on the public purpose being served by the contested regulation.

The Supreme Court has been unable to develop any set formula which is applicable to the taking clause analysis.[83] Each case will be decided on its individual facts.[84] Consequently, it is difficult to predict the result of a taking issue on appeal. However, there are reasons to

74. *Id.* at 414.
75. Virginia, 483 F.Supp. at 441.
76. Indiana, 14 ERC at 1783.
77. *Supra* note 13.
78. 30 U.S.C. § 1272(e) (Supp. III 1979).
79. Pennsylvania Coal Co. v. Mahon, 260 U.S. 393, 413 (1922).
80. 369 U.S. 590 (1962).
81. 438 U.S. 104 (1978).
82. *Id.* at 133.
83. *Id.* at 124.
84. *Id.*

suggest that the *Virginia* and *Indiana* analysis will not stand. First, the two courts rely heavily on the diminution-of-value theory while recent decisions have placed more emphasis on the public welfare. Second, Congressional findings indicate that reclamation technology has developed to the point where adherence to the standards of the SMCRA is both necessary and appropriate.[85]

CONCLUSION

Both cases were argued before the Supreme Court on February 23, 1981.[86] At the time of this writing, an opinion had not been issued, but the outcome will likely support the SMCRA as a valid exercise of Congressional power. The *Indiana* commerce clause analysis should be reversed because intrastate activities are clearly within the scope of the commerce power as long as Congress finds a rational relationship between the regulated activity and interstate commerce. Extensive Congressional findings justify the existence of this relationship.[87] Even trivial impacts which cumulatively affect commerce are reachable. The tenth amendment holdings of *Virginia* and *Indiana* are clearly erroneous. *National League* was misinterpreted and unjustifiably extended. Justice Blackmun's concurring opinion strongly suggests a reversal. The fifth amendment holdings are also suspect. The courts rely on a single case, rejecting recent decisions which emphasize the public purpose being served by the legislation. Policy reasons also support the validity of the SMCRA. Regulation of the environment has increasingly been viewed as a federal responsibility, since environmental effects do not stop at state boundaries. There is a strong need for uniformity and cooperation among the states. The SMCRA was enacted to achieve uniform surface mining and reclamation standards without which "competition in interstate commerce among sellers of coal produced in different States will . . . be used to undermine the ability of the several States to improve and maintain adequate standards on coal mining operations within their borders."[88]

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85. 30 U.S.C. § 1201(e) (Supp. III 1979).
86. 49 U.S. LAW WEEK (BNA) 3639 (1981).
87. 30 U.S.C. § 1201(e), (g), (j) (Supp. III 1979).
88. 30 U.S.C. § 1201(g) (Supp. III 1979).