reversed his previous position, calling the bill "short-sighted and punitive."

Ironically, industry's pressure backfired. Anti-stripping crusader Hechler, who had opposed the bill because it was not tough enough, got wind of the Coal Association's pressure and called a hasty news conference on October 10, one day before the vote was finally to occur. "I'm not going to get in bed with industry," the West Virginian announced, revealing that he would support the bill and work for its passage. From then on the tide swung, and a strong push by the Coalition resulted in a landslide 265-75 vote for the bill the following day. Perhaps noteworthy is the fact that Aspinall voted against the bill, marking the first time he had ever opposed a bill reported by his committee.

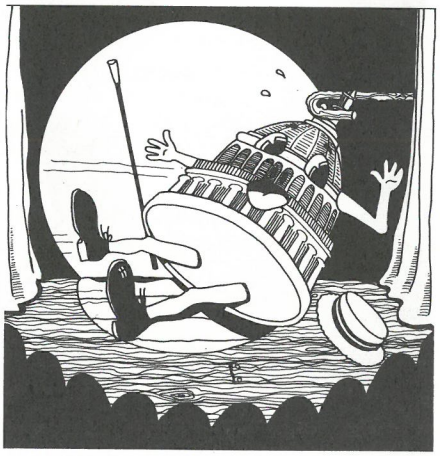
Over in the Senate, things were less complicated, less confusing and more frustrating. In late June, the Minerals subcommittee of the Interior Committee reported out a bill which environmentalists unanimously called "terrible." Unlike the coal-only House bill, this one dealt with all mineral strip mining: however, the Coalition identified 78 amendments which were *necessary* to bring the bill up to the House bill's far-less-than-perfect level.

From then until September 11, nothing happened. Senator Henry Jackson (D-Wash.), chairman of the Interior Committee, was involved in campaign politics, the SALT talks and his land-use bill. The industry was happy with the subcommittee bill. The Coalition was preoccupied with the House. Finally, on September 11, in an effort to jar the committee, four Western senators introduced a resolution banning strip mining on public lands until adequate legislation was passed. Meanwhile, the Senate deadline for submission of legislation was rapidly approaching.

The Interior Committee, which had originally planned to amend the Moss bill before reporting it out, panicked and decided to submit the bill and amend it on the floor. "Things got a bit sticky at that point," Dunlap recalls. "The bill was on the Whip Notice, which means that Jackson could have brought it up for a vote at any time, just while we were concentrating on the House. And Jackson didn't even have his package of amendments ready. Can you imagine separately introducing 110 amendments on the floor of the Senate?"

Environmental lobbyists quietly spread the word that committee members would be made to look foolish if they brought the strip mining bill up before Jackson's package was ready, especially since neither the industry nor the environmentalists liked it. The delaying tactic worked, although, due to a combination of factors, it worked too well. When Jackson saw the House bill he realized that he could not bring out his bill and then work out a compromise in the two days remaining in the session. A modified resolution banning stripping on public lands in only Montana was passed, but national strip mine legislation was dead for 1972.

"The clock ran out on us," commented Dunlap, "but we've come a hell of a long way. We got a bill in the House which had some excellent provisions, and we got 265 members, including some we never expected, to vote for it. That is a very important precedent to work with in January."



Although the House bill had weak enforcement provisions and a cumbersome administrative procedure, it included several key features that environmentalists strongly favor. Most significant is the requirement for public notice and the opportunity for public hearing on such matters as the establishment of federal regulations, approval of state plans, the issuance of permits, permit renewals and bond renewals. Topsoil had to be segregated and preserved, "stable and diverse" vegetation had to be replanted, spoil banks were not permitted to be left behind, and the approximate original contour of the land had to be restored.

As to the future? "We'll be there to greet the new Congress in January," smiles Dunlap, "and we'll get an even better bill next year."

Peter Harnik

3. The water legislation: Nixon veto sunk

Despite a last-minute Presidential veto, the Federal Water Pollution Control Act is now a matter of public law. One of the most promising environmental bills ever passed by Congress, the water bill calls for the total elimination of pollution in American waters by 1985 with the construction of secondary sewage treatment facilities for all municipalities, and the total elimination of industrial discharge of effluents to be realized by that date.

The bill calls for a two-phase program for the application and enforcement of effluent limitations. All industrial polluters of the nation's waters are required to utilize the "best practicable" control technology by 1977. "Best practicable" is defined as the result of a cost-benefit analysis which would exempt the polluter from adopting an available control technology only when the cost of achieving a marginal reduction in pollution would be wholly out of proportion to the beneficial results.

By 1983, however, all industries are required to utilize the "best available technology." At this stage, industry will be required to employ any available technology regardless of cost-benefit proportions.

Disappointingly, the Environmental Protection Agency, which is charged with enforcement of the bill, is granted the discretionary power to enforce certain key provisions rather than to prosecute all violators. All state enforcement programs are supervised by EPA, which is granted the authority to take over enforcement from states which fail to live up to their responsibilities.

Another shortcoming of the bill is the fact that it exempts its permit program from the provision of the National Environmental Policy Act which requires an environmental impact study before any permit is granted to an industry dumping effluents into the nation's waters. Excepted from that exemption

are the construction of waste treatment facilities and permits for new sources of pollution.

The bill was first passed by the Senate unanimously, and then cleared the House by a large majority. In his October 17 veto message, President Nixon recognized the bill's popularity by noting that he was "prepared for the possibility that my action on this bill will be overridden." The President's suspicions were justified as the Senate voted to override a few hours after the veto announcement, and the House followed suit the next day.

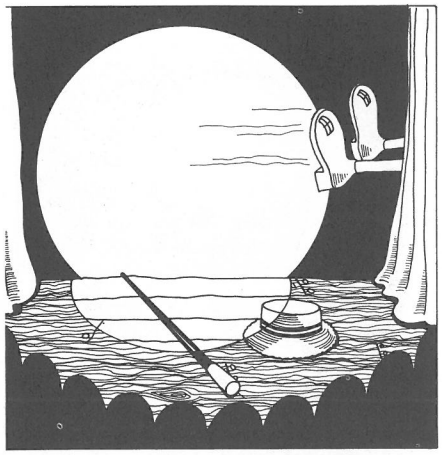
Prior to the Nixon veto, the administration's chief environmental enforcer had urged the President to sign the bill. As head of the Environmental Protection Agency, William Ruckelshaus warned the President that a veto would raise serious doubts concerning the administration's commitment to back up its oratory calling for stringent measures to protect the quality of the environment. Reminding the President that the bill would not have a serious impact on federal spending until fiscal year 1975, and that the President had the option to impound funds deemed inflationary, Ruckelshaus noted that unless Nixon approved the measure, "The administration will be embarrassed for having initiated a highly publicized and initially controversial program which ended up in total failure."

Originally, the bill had been proposed by the administration as part of a massive "environmental package" of legislation. However, Congress greatly strengthened the bill by increasing allocated funds from $6 billion to $18 billion to be granted over the next three years. Also, the administration had proposed a 50 percent federal share in the construction of municipal sewage treatment facilities while Congress increased the federal share to 75 percent.

Anticipating a Nixon veto on the grounds of inflationary problems, Congress had amended the bill to allow the administration considerable flexibility in controlling funds. Significantly, the bill's language indicates that funding authority is "not to exceed" $18 billion over the next three years. Also, all sums authorized must be allocated but need not be committed.

Consequently, some observers have suggested that the Nixon veto resulted from the President's dissatisfaction with the very stringent requirements for water pollution control which Congress imposed on industrial polluters. Both the President and major industries had worked to weaken those provisions and Senator Edmund Muskie (D-Me.) had suggested earlier that the President "may choose to veto this legislation on the basis of the stringent regulations it would impose."

In his veto message Nixon said, "I have nailed my colors to the mast on this issue; the political winds can blow where they may." Seemingly, the direction of the political winds is actually the factor which emboldened the President to veto a bill with obvious popularity both in Congress and in the nation as a whole. Apparently assured of re-election, Nixon took a stand which will further alienate environmentalists but will please industrial interests and give the President more ammunition to charge Democratic "spendthrifts" with



Drawings and cover by Martha Vaughan

responsibility for inflationary trends and the imposition of higher taxes.

Noting that Senator McGovern had showed up on the floor of the Senate to help override the veto, Presidential Assistant John Ehrlichman stated that the action of "Senator McGovern and his cohorts" means that the President will have to examine every piece of Congressional legislation and veto those which exceed the budget.

Presumably, the President will now take advantage of his discretionary powers in cutting funds for the implementation of the bill. Funds for the construction of sewage treatment plants are slated to be distributed on the basis of need within the separate states as determined by the Environmental Protection Agency's recent study for the years 1972-74.

Congress determined to increase funding levels originally proposed by the President due to a conviction that $18-billion "was the minimum amount needed to finance the construction of waste treatment facilities which will meet the standards imposed by the legislation," according to a report prepared by Senator Muskie.

Although the passage of the water bill is a clear victory for the environment, the actual implementation of the law is a crucial factor which bears watching in the months ahead.

4. Pesticides legislation: The bugs aren't out

Largely as the result of tremendous pressure from the chemical pesticide manufacturing industry, Congress has passed a so-called Federal Environmental Pesticide Control Act which does contain some improvement over existing law but is more importantly characterized by an indemnities provision which is a serious blow to those who seek to control the sale and use of dangerous pesticides.

As provided in the indemnities provision, pesticides which are "suspended" (immediate halt in use, sale and distribution) will have to be bought back by the federal government. Since this provision applies to consumers and manufacturers as well, there will be no real incentive for manufacturers to develop safe pesticides in pre-marketing testing procedures, and the potential cost to the government may well result in a timid approach to the use of the suspension mechanism. Since the majority of chemical pesticides already on the market have not been adequately tested (1500 were registered by the Pesticides Regulation Division from 1965 to 1969 over the objections of the Public Health Service), there is good reason to believe that if the new law is enforced, the cost to the taxpayer will be staggering while the cost to the manufacturers of dangerous pesticides will be minimal.

Certain elements contained in the bill do represent substantial gains for the environment, however. Most of these are the result of amendments offered in