

Y4
Ed 8/1
C 63/3/1
965

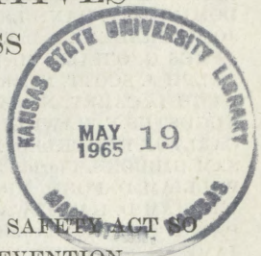
1015

89/14
Ed 8/1
C 63/3/965

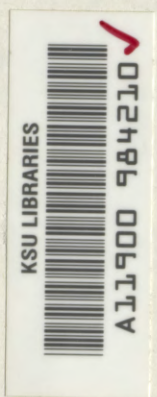
GOVERNMENT
Storage

HEARING
BEFORE THE
GENERAL SUBCOMMITTEE ON LABOR
OF THE
COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH CONGRESS
FIRST SESSION
ON
H.R. 3584



A BILL TO AMEND THE FEDERAL COAL MINE SAFETY ACT
AS TO PROVIDE FURTHER FOR THE PREVENTION
OF ACCIDENTS IN COAL MINES



HEARING HELD IN WASHINGTON, D.C.,
MARCH 10, 1965

Printed for the use of the Committee on Education and Labor
ADAM C. POWELL, *Chairman*



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1965

46-488

COMMITTEE ON EDUCATION AND LABOR

ADAM C. POWELL, New York, *Chairman*

CARL D. PERKINS, Kentucky	WILLIAM H. AYRES, Ohio
EDITH GREEN, Oregon	ROBERT P. GRIFFIN, Michigan
JAMES ROOSEVELT, California	ALBERT H. QUIE, Minnesota
FRANK THOMPSON, JR., New Jersey	CHARLES E. GOODELL, New York
ELMER J. HOLLAND, Pennsylvania	JOHN M. ASHBROOK, Ohio
JOHN H. DENT, Pennsylvania	DAVE MARTIN, Nebraska
ROMAN C. PUCINSKI, Illinois	ALPHONZO BELL, California
DOMINICK V. DANIELS, New Jersey	PAUL FINDLEY, Illinois
JOHN BRADEMAs, Indiana	OGDEN R. REID, New York
JAMES G. O'HARA, Michigan	GLENN ANDREWS, Alabama
RALPH J. SCOTT, North Carolina	
HUGH L. CAREY, New York	
AUGUSTUS F. HAWKINS, California	
CARLTON R. SICKLES, Maryland	
SAM GIBBONS, Florida	
WILLIAM D. FORD, Michigan	
WILLIAM D. HATHAWAY, Maine	
PATSY T. MINK, Hawaii	
JAMES H. SCHEUER, New York	
LLOYD MEEDS, Washington	

LOUISE MAXIENNE DARGANS, *Chief Clerk*

RUSSELL C. DERRICKSON, *Staff Director*

Dr. DEBORAH PARTRIDGE WOLFE, *Education Chief*

LEON ABRAMSON, *Chief Counsel for Labor-Management*

MICHAEL J. BERNSTEIN, *Minority Counsel for Education and Labor*

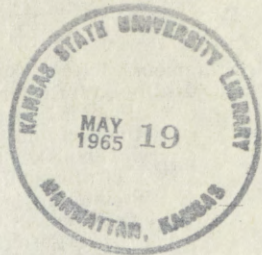
CHARLES W. RADCLIFFE, *Special Education Counsel for Minority*

GENERAL SUBCOMMITTEE ON LABOR

JAMES ROOSEVELT, California, *Chairman*

JOHN H. DENT, Pennsylvania	ALPHONZO BELL, California
ROMAN C. PUCINSKI, Illinois	CHARLES E. GOODELL, New York
DOMINICK V. DANIELS, New Jersey	DAVE MARTIN, Nebraska
AUGUSTUS F. HAWKINS, California	
EDITH GREEN, Oregon	

JAY H. FOREMAN, *Counsel*



CONTENTS

	Page
Text of H.R. 3584-----	1
Statement of—	
Boggs, Edmond M., Commissioner, Virginia State Department of Labor and Industry-----	100
Cooper, Hon. John Sherman, a U.S. Senator from the State of Kentucky-----	5
Holcomb, Robert, president, National Independent Coal Operators Association, presented by Armistead W. Gilliam, counsel, National Independent Coal Operators Association-----	124
Jennings, Hon. W. Pat, a Representative in Congress from the State of Virginia-----	11
Mullins, W. Foster, assistant chief mine inspector for the Commonwealth of Virginia-----	34
Taggart, J. B., president, Wise Coal & Coke Co., Inc., Robert Holcomb, president, National Independent Coal Operators; and Armistead W. Gilliam, Jr., counsel, National Independent Coal Operators-----	108
Statements, letters, supplemental material, etc.:	
Bell, Hon. Alphonzo, a Representative in Congress from the State of California:	
Letter from James Westfield, dated March 9, 1965-----	93
Letter to James Westfield, Assistant Director for Health and Safety, Bureau of Mines, Department of the Interior, March 5, 1965-----	92
Ferguson, Charles, director, Safety Division, International Union, United Mine Workers of America, statement of-----	27
Holcomb, Robert, president, National Independent Coal Operators Association, statement of-----	135
Jennings, Hon. W. Pat, a Representative in Congress from the State of Virginia, outline of three bills-----	13
Mullins, W. Foster, assistant chief inspector for the Commonwealth of Virginia:	
Certificates of mine inspection:	
Breaks Coal Co., Vacey, Va-----	46
McGlothlin Coal Co., Rosedale, Va-----	44
Ray, Bascom Coal Co., Oakwood, Va-----	48
Ferguson, Charles, director, Safety Division, UMWA:	
Letter dated June 15, 1964, enclosing inspection report of Jewell Coal Co., Jewell Ridge, Va-----	62
Letter dated July 6, 1964, enclosing inspection report of J. Paul White Coal Co., Whitewood, Va-----	67
Letter dated July 16, 1964, enclosing inspection report of F. & R. Coal Co., Oakwood, Va-----	72
Letter dated July 27, 1964, enclosing inspection reports:	
E. & A. Coal Co., Haysi, Va-----	77
Lovers Gap Coal Co., Haysi, Va-----	80
R. & A. Coal Co., Haysi, Va-----	79
No. 10 mine, Waldon Deel Co., Haysi, Va.:	
Certificate of inspection-----	60
Clemons, Bill W., Federal coal mine inspector, report by-----	56
Ferguson, Charles, director of safety, UMWA (telegram)-----	56
Nature of inspection (form)-----	40
Production and fatalities in the coal mines of Virginia, 1964-63 (table)-----	96

Statements, letters, supplemental material, etc.—Continued	
Mullins, W. Foster, assistant chief inspector, etc.—Continued	Page
Report for calendar year ending December 31, 1964 (form)-----	36
Underground mines, Virginia, Kentucky, West Virginia, Alabama, Tennessee, Ohio, from attached data furnished by department of mines of States concerned (tables)-----	38
Preliminary reports:	
Breaks Coal Co., Vacey, Va-----	52
Ferguson, Charles, safety director (telegram)-----	56
McGlothlin Coal Co., Jewell Valley, Va-----	54
Ray Coal Co., Jewell Valley, Va-----	50
Westfield, James Assistant Director, for Health and Safety, Bureau of Mines, Department of the Interior, memorandum on trend in coal mine fatalities and fatality rates-----	109

TO AMEND THE FEDERAL COAL MINE SAFETY ACT

WEDNESDAY, MARCH 10, 1965

HOUSE OF REPRESENTATIVES,
COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to call, in room 429, Cannon Office Building, Hon. John H. Dent, presiding.

Present: Representatives Dent, Pucinski, Daniels, Hawkins, and Bell.

Staff present: Jay H. Foreman, subcommittee counsel, Michael Bernstein, minority counsel, Committee on Education and Labor, and Adrienne Fields, subcommittee clerk.

Mr. DENT. Hearings on H.R. 3584 are now open for new material to be added to the record already made of hearings held in the last 3 years.

(H.R. 3584 follows:)

[H.R. 3584, 89th Cong., 1st sess.]

A BILL To amend the Federal Coal Mine Safety Act so as to provide further for the prevention of accidents in coal mines

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Coal Mine Safety Act Amendments of 1965".

SEC. 2. (a) Subsection (b) of section 201 of the Federal Coal Mine Safety Act (66 Stat. 693; 30 U.S.C. 471(b)) is repealed.

(b) For a period of six months following the month during which this Act becomes effective, the amendments made by section 3 of this Act to the Federal Coal Mine Safety Act shall not apply to any mine in which on the effective date of this Act no more than fourteen individuals are regularly employed underground, except that the amendments made by subsections (c) and (d) of such section shall become effective on the date of enactment of this Act.

(c) For a period of six months following the month during which this Act becomes effective, paragraph (5) of subsection (h) of section 209 of the Federal Coal Mine Safety Act shall not apply to any mine in which on the effective date of this Act (1) no more than fourteen individuals are regularly employed underground and (2) the storage, handling, or use of black powder is expressly permitted by a statute of the State in which such mine is located.

SEC. 3 (a) Section 203 of the Federal Coal Mine Safety Act (66 Stat. 694; 30 U.S.C. 473) is amended by adding a new subsection (d) and a new subsection (e), reading as follows, and by redesigning present subsections (d), (e), and (f) as subsections (f), (g), and (h), respectively, and by amending those subsections to read as follows:

"(d) (1) If a duly authorized representative of the Bureau, upon making an inspection of a mine as authorized in section 202, finds that any provision of section 209 is being violated, and if he also finds that, while the conditions created by such violation do not cause danger that a mine explosion, mine fire, mine inundation, or man-trip or man-hoist accident will occur in such mine immediately or before the imminence of such danger can be eliminated, such violation is of such nature as could significantly and substantially contribute to the cause or effect of a mine explosion, mine fire, mine inundation, or man-trip or man-hoist

accident, and if he finds such violation to be caused by an unwarrantable failure of such operator to comply with the provisions of section 209, he shall include such finding in the notice given to the operator under subsection (b) of this section. Within ninety days of the time such notice was given to such operator, the Bureau shall cause such mine to be reinspected to determine if any similar such violation exists in such mine. Such reinspection shall be in addition to any special inspection required under section 203 or section 206. If, during any special inspection relating to such violation or during such reinspection, a representative of the Bureau finds such similar violation does exist, and if he finds such violation to be caused by an unwarrantable failure of such operator to comply with the provisions of section 209, he shall forthwith issue an order requiring the operator to cause all persons in the area affected by such violation, except those persons referred to in paragraph (3) of this subsection, to be withdrawn from, and to be debarred from entering, such area. Such finding and order shall state the provision or provisions of section 209 which have been violated and shall contain a detailed description of the conditions which such representative finds cause and constitute such violation, and a description of the area from which persons must be withdrawn and debarred. The representative of the Bureau shall promptly thereafter advise the Director in writing of his findings and his action.

"(2) If a withdrawal order with respect to any area in a mine has been issued pursuant to paragraph (1) of this subsection, thereafter a withdrawal order shall promptly be issued by a duly authorized representative of the Bureau who finds upon any following inspection the existence in such mine of violations similar to those that resulted in the issuance of the withdrawal order under paragraph (1) of this subsection until such time as an inspection of such mine discloses no similar violations. Following an inspection of such mine which discloses no similar violations, the provisions of paragraph (1) of this subsection shall again be applicable to that mine.

"(3) No order issued under paragraphs (1) or (2) of this subsection shall require any of the following persons to be withdrawn from, or to be debarred from entering, the area described in the order: (A) Any person whose presence in such area is necessary, in the judgment of the operator of the mine, to abate the violation described in the order; (B) any public official whose official duties require him to enter such area; or (C) any legal or technical consultant or any representative of the employees of the mine, who is a certified person qualified to make mine examinations, or is accompanied by such a person, and whose presence in such area is necessary, in the judgment of the operator of the mine, for the proper investigation of the conditions described in the order.

"(e) Except as provided in subsection (g) of this section an order issued under subsection (c) or (d) of this section may be annulled, canceled, or revised by the duly authorized representative of the Bureau who issued such order or any other duly authorized representative of the Bureau.

"(f) If a duly authorized representative of the Bureau, upon making an inspection of a mine, as authorized in section 202, finds that methane has been ignited in such mine or finds methane by use of a permissible flame safety lamp or by air analysis in an amount of 0.25 per centum or more in any open workings of such mine when tested at a point not less than twelve inches from the roof, face, or rib, he shall make an order requiring the operator of such mine to comply with the provisions of section 209 of this title which pertain to gassy mines, in the operation of such mine.

"(g) (1) If an order is made pursuant to subsection (a) of this section with respect to a mine in a State in which a State plan approved under section 202(b) is in effect, and a State inspector did not participate in the inspection on which such order is based, the operator of the mine may request the agency designated in the State plan to assign a State inspector to inspect the mine. The State inspector assigned in accordance with such request shall inspect such mine promptly after the request is made.

"(2) No order shall be made pursuant to subsection (c) or (d) of this section with respect to a mine in a State in which a State plan approved under section 202(b) is in effect unless a State inspector participated in the inspection on which such order is based and concurs in such order, or an independent inspector appointed under paragraph (3) of this subsection concurs in such order. If the State inspector does not concur in such order, the operator of the mine, the duly authorized representative of the Bureau who proposes to make such order, or the State inspector may apply, within twenty-four hours after the completion of

the inspection involved, for the appointment of an independent inspector under paragraph (3). Within five days after the date of his appointment, the independent inspector shall inspect the mine. The representative of the Bureau and the State inspector shall be given the opportunity to accompany the independent inspector during such inspection. If, after such inspection is completed, either the independent inspector or the State inspector concurs in the order, it shall be issued.

"(3) Within five days after the date of receipt of an application under paragraph (2) of this subsection, the chief judge of the United States district court for the district in which the mine is involved is located (or in his absence, the clerk of such court) shall appoint a graduate engineer with experience in the coal-mining industry to serve as an independent inspector under this subsection. Each independent inspector so appointed shall be compensated at the rate of \$50 for each day of actual service (including each day he is traveling on official business) and shall, notwithstanding the Travel Expense Act of 1949, be fully reimbursed for traveling, subsistence, and related expenses.

"(4) An order made pursuant to subsection (a) or (c) or (d) of this section with respect to a mine in a State in which a State plan approved under section 202(b) is in effect shall not be subject to review under section 206, but shall be subject to review under section 207.

"(h) Notice of each finding and order made under this section shall promptly be given to the operator of the mine to which it pertains, by the person making such finding or order."

(b) Section 202 of the Federal Coal Mine Safety Act (66 Stat 693; 30 U.S.C. 472) is amended as follows:

(1) Subsection (a) is amended by striking out the reference to "section 203(d)" and inserting in lieu thereof "section 203(f)"; and by striking out the reference to "section 203(c)" and inserting in lieu thereof "section 203 (c) and (d)".

(2) Subsection (b) (2) (C) is amended by striking out the reference to "section 203(e) (1)" and inserting in lieu thereof "section 203(g) (1)".

(3) Subsection (c) is amended by striking out the reference to "section 203(e) (3)" and inserting in lieu thereof "section 203(g) (3)".

(c) Section 206 of the Federal Coal Mine Safety Act (66 Stat. 699; 30 U.S.C. 476) is amended as follows:

(1) Subsection (a) is amended by striking out the reference to "section 203(e) (4)" and inserting in lieu thereof "section 203(g) (4)".

(2) Subsection (b) is amended by striking out the reference to "section 203(e) (4)" and inserting in lieu thereof "section 203(g) (4)".

(3) A new subsection (c), reading as follows, is added and present subsections (c), (d), (e), and (f) are redesignated as subsections (d), (e), (f), and (g), respectively, and are amended to read as follows:

"(c) Except as provided in section 203(g) (4), an operator notified of an order made pursuant to section 203(d) may apply to the Director for annulment or revision of such order. Upon receipt of such application the Director shall make a special inspection of the mine affected by such order, or cause three duly authorized representatives of the Bureau, other than the representative who made such order, to make such inspection of such mine and report thereon to him. Upon making such special inspection himself, or upon receiving the report of such inspection made by such representatives, the Director shall find whether or not there was a violation of section 209 as described in such order, at the time of the making of such order. If he finds there was no such violation he shall make an order annulling the order under review. If he finds there was such a violation he shall also find whether or not such violation was totally abated at the time of the making of such special inspection. If he finds that such violation was totally abated at such time, he shall make an order annulling the order under review. If he finds that such violation was not totally abated at such time, he shall find the extent of the area of such mine which was affected by such violation at the time such special inspection was made, and he shall then make an order, consistent with his findings, affirming or revising the order under review.

"(d) An operator notified of an order made pursuant to section 203(f) may apply, not later than twenty days after the receipt of notice of such order, to the Director for annulment of such order. Upon receipt of such application the Director shall make or cause to be made such investigation as he deems necessary. Upon concluding his investigation or upon receiving the report of such

investigation made at his direction, the Director shall find whether or not methane has been ignited in such mine, or whether or not methane was found in such mine in an amount of 0.25 per centum or more in any open workings of such mine, when tested at a point not less than twelve inches from the roof, face, or rib, at the time of the making of such order. If he finds that methane has not been ignited in such mine and was not found in such mine as set out in such order, he shall make an order annulling the order under review. If he finds that methane has been ignited in such mine or was found in such mine as set out in the order under review, he shall make an order denying such application.

"(e) The Director shall cause notice of each finding and order made under this section to be given promptly to the operator of the mine to which it pertains.

"(f) Except as provided in section 203(g)(4), at any time while an order made pursuant to section 203 or this section is in effect, or any time during the pendency of a proceeding under section 207 or section 208 seeking annulment or revision of such order, the operator of the mine affected by such order may apply to the Director for annulment or revision of such order. The Director shall thereupon proceed to act upon such application in the manner provided in subsections (a), (b), (c) or (d) of this section.

"(g) In view of the urgent need for prompt decision of matters submitted to the Director under this section, all actions which the Director or his representatives are required to take under this section shall be taken as rapidly as practicable, consistent with adequate consideration of the issues involved."

(d) Section 207 of the Federal Coal Mine Safety Act (66 Stat. 700; as amended 74 Stat. 201; 30 U.S.C. 477) is amended as follows:

(1) Subsection (a) is amended by striking out the reference to "subsection (a), (c) or (d)" and inserting in lieu thereof "subsection (a), (c), (d) or (f)"; by striking out the reference to "subsection (d)" and inserting in lieu thereof "subsection (f)"; and by striking out the reference to "subsection (c)" and inserting in lieu thereof "subsection (d)".

(2) A new subsection (h), reading as follows, is inserted and present subsections (h), (i), and (j) are redesignated as subsections (i), (j), and (k), respectively, and are amended to read as follows:

"(h) If the proceeding is one in which an operator seeks annulment or revision of an order made pursuant to section 203(d), the Board, upon conclusion of the hearing, shall find whether or not there was a violation of section 209, as described in such order, at the time of the making of such order. If the Board finds there was no such violation, the Board shall make an order annulling the order under review. If the Board finds there was such a violation, the Board shall also find whether or not such violation was totally abated at the time of the filing of the operator's application. If the Board finds that such violation was totally abated at such time, the Board shall make an order annulling the order under review. If the Board finds that such violation was not totally abated at such time, the Board shall find the extent of the area of such mine which was affected by such violation at such time, and shall make an order, consistent with its findings, affirming or revising the order under review.

"(i) If the proceeding is one in which an operator seeks annulment of an order made pursuant to section 203(f) or 206(d), the Board, upon conclusion of the hearing, shall find whether or not methane has been ignited in such mine or was found in such mine in an amount of 0.25 per centum or more in any open workings of such mine when tested at a point not less than twelve inches from the roof, face, or rib, as set out in such order. If the Board finds that methane has not been ignited in such mine and was not found in such mine as set out in such order, the Board shall make an order annulling the order under review. If the Board finds that methane has been ignited in such mine or was found in such mine as set out in the order under review, the Board shall make an order denying such application.

"(j) Each finding and order made by the Board shall be in writing. It shall show the date on which it is made, and shall bear the signatures of the members of the Board who concur therein. Upon making a finding and order the Board shall cause a true copy thereof to be sent by registered mail or by certified mail to all parties or their attorneys of record. The Board shall cause each such finding and order to be entered on its official record, together with any written opinion prepared by any members in support of, or dissenting from, any such finding or order.

"(k) In view of the urgent need for prompt decision of matters submitted to the Board under this section, all actions which the Board is required to take under this section shall be taken as rapidly as practicable, consistent with adequate consideration of the issues involved."

SEC. 4. Subsection (d) of section 210 of the Federal Coal Mine Safety Act (66 Stat. 708; 30 U.S.C. 480(d)) is amended by striking out the reference to "section 203(e)(3)" and inserting in lieu thereof "section 203(g)(3)".

SEC. 5. Section 212 of the Federal Coal Mine Safety Act (66 Stat. 709; 30 U.S.C. 482) is amended by adding at the end thereof the following new subsections:

"(d) For the promotion of sound and effective coordination of Federal and State activities within the field covered by this Act, to eliminate duplication of effort and expense, and to secure effective enforcement of the coal mine safety requirements established by this title, the director shall affirmatively and diligently seek to cooperate with the mine inspection or safety agencies of the several States, through formal agreement or otherwise, in the enforcement of the provisions of this title.

"(e) The Secretary of the Interior shall enlarge and intensify the educational programs of the Bureau of Mines with respect to the advancement of health and safety in coal mines, and shall, to the fullest extent practicable, seek the cooperation and assistance of the appropriate State agencies in the planning and implementation of such programs."

SEC. 6. The Secretary of the Interior shall conduct a special study to determine the sufficiency of the present safety requirements of the Federal Coal Mine Safety Act, with particular emphasis upon the requirements relative to roof support, ventilation, and electrical equipment. The Secretary of the Interior shall make a report to the Congress on the results of such study, together with his recommendations, within one year after the enactment of this Act.

Mr. DENT. The Chair first wishes to apologize for being late.

At this time we are privileged to have as our first witness one of the fine Members of our U.S. Senate and a man who has a very sincere interest in the matter before us this morning, Senator John Sherman Cooper of Kentucky. I am pleased to welcome you this morning, Senator.

STATEMENT OF HON. JOHN SHERMAN COOPER, A U.S. SENATOR FROM THE STATE OF KENTUCKY

Senator COOPER. Thank you.

Mr. DENT. Senator, you may proceed in any fashion that you believe will give us the most value from your testimony.

Senator COOPER. Thank you very much.

Mr. Chairman, members of the committee, I want to thank you for your courtesy in permitting me to testify this morning on the bills that are before you.

I have always appreciated your courtesy, I have testified several times before you on this subject and I am glad to do so again.

Mr. DENT. We are always happy to have you, Senator.

Senator COOPER. As the chairman has noted, I have been interested in this legislation for several years. It was my pleasure and honor to serve for 5 years on the Senate Committee on Labor and so I am aware of the same difficult and controversial questions which come before your committee.

During that time, proposals to place title I mines under the Mine Safety Act were before the Senate committee. I began my study of this subject as a clean sheet the "tabula rasa." Based upon the hearings, my study, and the considerations of the committee, I concluded that these proposals were not only unnecessary but in the form which

they were presented, would be detrimental to the improvement of mine safety in title I mines.

I am necessarily, interested in this subject for another reason. My State, Kentucky, after West Virginia and Pennsylvania, produces the third largest volume of coal of any State in the United States.

In Kentucky, according to the latest figures that I have been able to secure, for 1964—I shall comment in a moment on the inability to secure adequate records—there were approximately 2,100 title I mines, employing 16,500 men; 100 title II mines, employing 9,600 men; the title I mines producing about 22 million tons of coal, and the title II mines producing about 28 million tons of coal.

I believe it is correct that there are approximately eight times as many title I mines in the United States as title II mines, and these mines produce about 40 percent of the coal now being produced.

I am interested also because most of the coal produced from title I mines comes from the eastern part of my State which is included in that area we have come to know as the Appalachian region. It is a region which has suffered for many years great economic problems, chiefly because of the technological advances that have been made in coal mining and the resultant unemployment of thousands of coal miners.

I raise here the question, as to the economic impact on title I mines that the enactment of your bill would have. In doing so, I want to state without any reservation that the predominant concern of your committee, I know, and of myself as a Member of Congress, is the safety of the individuals who are employed in these mines.

If there were adequate proof that the application of the provisions of the act to title I mines would result in increased safety for miners, no one could oppose or, in my judgment, would want to oppose this bill. I certainly would not. I have said that again and again.

But if it is correct that the application of the act to title I mines would not result in any increased safety, or if it is correct, as I believe, that it would reduce the possibilities of greater safety in title I mines, then, of course, we have the right to raise the question as to whether the passage of this bill would unnecessarily have an adverse affect on the economy of my State and other coal-producing States and an adverse effect on the operations of title I mines.

That is exactly what I believe it would do.

To say that this proposal is a safety bill does not make it so and for the Bureau of Mines to seek jurisdiction over title I mines thereby increasing its own authority and power does not make it a safety bill. I say this with all deference for the United Mine Workers of America, interested as they are in safety, and for the larger coal operators the statement that this bill is a safety measure is neither a statement of fact nor an argument.

But I do want to raise several questions.

The bill is predicated upon the assumption that its passage would result in improved safety in the title I mines. That assumption is based primarily, at least from my own experience, upon statistical information which has been supplied by the Bureau of Mines to indicate that the record of safety concerning injuries and fatalities in title II mines is better than that of title I mines.

I have read the records and for several years I have attempted to secure adequate information. The result of my efforts and the efforts

of the committee on which I served were never successful. The information which was furnished us was either inaccurate or it was changed from time to time—in fact, changed every time we asked for new information.

The period of years in which this legislation has been proposed has been marked, by an unwillingness on the part of the Bureau of Mines to attempt to secure adequate information. Several times bills were passed with specific sections of a bill requiring investigations by the Bureau of Mines for the purpose of securing adequate information. While these bills were not enacted by the Congress, I would think the fact that they were passed by one House, either the Senate or the House, would have placed some burden upon the Bureau of Mines to undertake the investigations to secure adequate information which the committees and the separate Houses requested. That has been done.

On the contrary, the records which are available—and they have come chiefly from the States—indicate that in the last 3 or 4 years there has been a better record of safety in the title I mines than in the title II mines. I know that later today other witnesses will place that information in the record and will give the committee the sources of that information. But I do not intend to go into these statistics in any detail.

I believe there is a reason for the accomplishment of a better safety record in the title I mines than in the title II mines. First, there is a distinction in the physical characteristics of title I mines and title II mines. One of the fallacies of the arguments made by the Bureau of Mines is to speak as if all of these mines bore the same characteristics and required the application of the same standards.

I may say that I live on the edge of the mining area of eastern Kentucky and I have been in every one of the counties in which coal mining in that area is carried on. I have been in many of the mines, I have talked to mine operators and to miners. I believe I know something about the characteristics of these mines and I want to address myself to that point for just a moment.

We know now that mines may be separated into two classes, not just title I and II, but according to their size and physical characteristics.

Large mines require greater areas of coal and are at the base of mountains or hills. Here I am speaking of drift mines where the entry goes into the side of the hill. These large mines require great capital outlay ranging from \$300,000 to millions of dollars.

Necessarily, the entries, passageways, and airways of these mines cover miles in their length. They require very complicated and highly technical machinery. These mines, unlike the title I mines—and this is the testimony of the former Director, if he is not now, Mr. Ankeny—present the possibility and risk of being gassy mines.

Mines having long entries, passageways, airways, large areas of room and heavy machinery, produce and accumulate dust which poses hazards not found in title I mines.

On the other hand, title I mines, employing on the average about six men, with entries I am informed rarely extending beyond 1,500 feet, do not hold the possibilities of danger that are found in the title II mines. The Bureau of Mines itself has testified that about 90 percent of title I mines are not gassy in any way.

If this bill is passed it will impose in addition to the provision of the Mine Safety Act which goes to imminent danger—and I have never found any fault with applying that provision of imminent danger to small mines, the provisions of section 209. If you will study the provisions of section 209, I think it is very evident its emphasis is upon ventilation in gassy mines, a condition that is not applicable to title I mines.

This bill, if it should be adopted, would cause a deterioration of mine safety in title I mines, and for this reason the State boards of mine safety are good and are improving all the time. Having detailed knowledge of the characteristics of the mines in their States, they have developed legislation and codes which are particularly applicable to the small mines. They make many more inspections than the Federal Bureau of Mines. I remember that I asked a few years ago about inspections in my State, and I found that in 1 year the mine safety agency of our State made 1,000 inspections of the mines in Kentucky which number amounts to more than all of the inspections made throughout the United States by the Federal Bureau of Mines.

If this bill is adopted, and complete jurisdiction and power is given to the Federal Bureau, it will have the effect of diminishing the safety efforts of the States over these title I mines. And I believe as a consequence that there will be a reduction in safety of these mines.

If due to the unique characteristics of small mines this proposal cannot, in my judgment, improve upon mine safety, then we have a right to ask what will be its effect upon the economy of our States and upon the operations of these small mines and the people who work in the mines.

Those who support this legislation argue that it would really have no permanent effect upon the small mines. But those who are in the business—and they are operators as well as miners—say that the additional expenses that would be imposed upon the mines by the application of the act to title I mines would cost from \$5,000 to \$15,000. Knowing the provisions of the act, and knowing these people, I can say that it will put many of them out of business.

The second point which I have argued many times concerns the provisions in the act for redress or review. As the committee knows so well, if the Director should find or the inspector should find a violation in a title I mine, then under section 209—which I do not think was designed to apply to title I mines—he could order a withdrawal under certain circumstances or in any case order an abatement of that deficiency.

The small operator could then appeal to the Director or could appeal to the Federal Mine Review Board. I would like to say to you, from my knowledge of the financial situation of these men, that for them to carry their appeal for an annulment or revision to the Federal Mine Review Board is beyond the financial capacity of many of them.

It is much easier for the large companies for they have the facilities to do so. But many small miners would be put out of business in the meantime.

We remember the legal principle that rights do depend in great measure upon procedures.

I would like to close by drawing again the distinction between these large and small mines, a difference that is ever widening. If this bill should pass, and has the effects that I think it would, it would mean the closing of many of these small mines, and add to the unemployment in regions which are already depressed.

The great problems we have in eastern Kentucky are due to unemployed miners. This bill would not only affect miners who are now employed, and many of them are former United Mine Workers—older men or men who had been out of work—but it would affect the economy of the counties, the businesses, and the banks. It would affect the total economy of these counties and of the State.

Finally, this bill would prevent the recapture of wealth in many of these areas. Because the requirements of large mines demand large areas at the base of the hill, these deposits are only found in certain parts of my State and other States. In the future, mining would be limited to these areas. The 2-, 5-, and 10-acre tracts, now mined by title I mines, would never be mined in the future. For other sections where coal is in smaller veins at the top of a hill, the man who owned that land and could mine it with his son or his family could not do so. If these mines were affected, as I believe they would be, it would deny the recovery of wealth of the land owned by an individual in small acreages or land that could be mined, bought, or leased by men with small resources.

Mr. Chairman and members of this committee, I know you are concerned about this matter, but I do urge you to consider, as I believe you will, the basic question as to whether or not it is really a safety measure or whether it is just a measure by which the Bureau of Mines desires to acquire jurisdiction over these mines at the expense of the State boards with the result of putting out of business hundreds of operators of small mines, thousands of workers, and setting back the economy of the very area that the Congress has been so interested in during the last 2 or 3 years.

I want to thank you for your kindness.

Mr. DENT. Thank you very kindly, Senator. I assure you that this committee has given and will continue to give every consideration to the economic problems of the areas. The advice and counsel that you have given us this morning will certainly be given consideration by the committee in its executive sessions. I assure you that no member of the committee is desirous of doing anything that would in any way injure the economy of the area any more than it is interested in making it possible to add new burdens at any place. We are mainly interested, of course, in the safety of those who have to, because of the very reasons that you enumerated here, find their livelihood in some of these questionable type of mines that now exist in many of our own mining areas.

On behalf of the committee I certainly want to thank you for taking time out of a very busy schedule to join us and help us to resolve this problem.

The ranking minority member from the State of California, Mr. Bell. Any questions?

Mr. BELL. I do have a couple I would like to ask the Senator. I want to add my remarks to that of the chairman in thanking you for coming before this committee. It is certainly an honor having you

here and having you make your very excellent testimony which you have delivered.

Senator, are there other bills before the House besides the Dent bill which are Mine Safety Acts?

Senator COOPER. Yes; and I appreciate your asking me that.

I do note that Congressman Jennings has introduced a bill. You have introduced a bill, which would go to the issue which I have tried to reach; namely, to determine actually what is the best procedure to assure safety for the miners which, I repeat, is my primary consideration as I know it is yours.

As I understand that bill, it would authorize a judicial decision based upon full and competent evidence as to whether the laws and practices of the State are adequate and effective in preserving safety and improving safety as those of the Federal Bureau of Mines.

Mr. BELL. In other words, there are three mine safety measures before the House: one the Dent bill; one the Jennings bill; and one the Bell bill?

Senator COOPER. Yes. I think that it is a proper approach which would give the committee an opportunity to determine which is the best method of protecting safety.

Mr. BELL. Right; this is the purpose of our hearings, to determine which is proper.

I was very interested in your remarks about the economic impact of the Dent safety bill if it were to pass—the dangers that the passage of this bill may threaten—to the areas which we in the House and in the Senate are now trying to help.

For example, the Appalachian bill, which just recently passed the House, and the poverty bill, which recently has become public law, would they, in your opinion, be somewhat affected adversely by the Dent bill?

Senator COOPER. I have supported these bills, cosponsored them, and comanaged them in the Senate because of my interest in this area. Coal is still the basic resource and business of eastern Kentucky and I am sure of Pennsylvania and of West Virginia. And if the effect of this bill, and I believe it would be its effect, would be to put out of business these small mines, the passage of Appalachia as far as eastern Kentucky is concerned, while still very helpful, would require additional measures to rehabilitate the economy of that section.

In my judgment, it would do more to make the Appalachian bill ineffective than anything I can conceive.

Mr. BELL. In other words, as I understand you, the economy of the Appalachian area generally is dependent on coal and the small coal miners. Title I coal miners and operators are important in this economy and to the extent that this Dent bill would adversely affect them, would adversely affect the economy and, therefore, might somewhat negate some of the provisions of the Appalachian poverty bills.

Do you believe, Senator, that most of the accidents that actually occur in coal mines to a large extent are really human error more than anything else? Is this a fair statement, do you think?

Senator COOPER. I only know what the Bureau of Mine Safety has reported; it has reported that most of the accidents are caused by roof falls, rib falls, and as they say, from the element of human error. Those errors, of course, respond to education.

I do not know what efforts the Bureau of Mines has made in that regard. I do know that the State of Kentucky—and I would assume local boards in other States—because they are acquainted with local conditions, do have strong educational programs to correct these major causes of injury.

Mr. BELL. You mentioned that the Bureau is attempting through the Federal Mine Safety Act to come into control of mines. Besides the Bureau's possibly becoming involved, are there any other possibilities of reasons behind this bill that may be other than safety? Do you have reason to believe there are some other motives?

Senator COOPER. That is a fair question. I have never tried to impugn the motives of persons who are interested in these measures, although I will say that when one testifies and testifies as to what he believes to be the fact, he is immediately charged, that he is not interested in the safety of human beings—something which I resent very much. So, I will say that I do believe that the larger companies and the United Mine Workers have an economic interest in this matter which is related to the production of coal and to the employment of their own people. I am not saying that safety is not a motive, but I think I would be a fool if I did not say that they have an interest the same as any organization would have an economic interest in particular legislation. It is not wrong for me, therefore, to talk about the economic interest of the small mines when the large mines are concerned about their economic interest and the United Mines Workers of America about their interests.

Mr. BELL. Thank you, Mr. Chairman; thank you, Senator, for your attendance.

Mr. DENT. Thank you, Mr. Bell, thank you, Senator.

The next witness is Congressman W. Pat Jennings, the Ninth District of Virginia, a man who has devoted a great deal of time to this, who has knowledge of the field; I am sure that his testimony will be very helpful to this committee.

Mr. Jennings, you may proceed in any fashion you desire that will be helpful to the committee.

STATEMENT OF HON. W. PAT JENNINGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. JENNINGS. Thank you, Mr. Chairman.

First of all, Mr. Chairman, I have a prepared statement I would like to read. Copies are being distributed to the members and then, of course, I would be delighted to answer any questions if that is the pleasure of the committee.

Mr. DENT. You may proceed.

Mr. JENNINGS. Thank you, Mr. Chairman and members of the committee and thank you for conducting this hearing on the pending bills to amend the Federal Coal Mine Safety Act, and for permitting me to make this statement. I appear in support of a bill that I have introduced, H.R. 317. I oppose H.R. 3584.

This subcommittee is composed of very able and interested members. You conducted the very fair, detailed, and extensive hearings on coal mine safety legislation in the 88th Congress. Many of you visited coal mines in my district and inspected both title I and title II mines.

You talked with both employers and employees. And, I believe you gained a very clear understanding of the coal industry in my district and saw the distinction we have tried to make between the kinds of mines that we have there.

Because of the detail in last year's hearings, I shall make my comments brief and to the point. They will be directed principally to the two bills that are being considered—H.R. 3584 and H.R. 317. Let me make it very clear, however, that my brief statement should not be interpreted, in any manner, as a lessening of opposition to H.R. 3584 and to other bills that would simply repeal section 201(b) of the Federal Coal Mine Safety Act.

May I refer you to my testimony of last year—as printed in the hearings on pages 272–283. Also, to the several questions and answers in those hearings and I shall certainly welcome questions today.

The history of congressional consideration of bills to amend the Federal Coal Mine Safety Act is quite lengthy. In each of the 85th, 86th, 87th, and 88th Congresses, in one House or the other, proponents have come forth with arguments to the effect that safety requirements make it mandatory the Federal act be extended to the small or title I mines.

I had felt that in the 88th Congress the record was made abundantly clear on this question. Extension of the act to title I mines is not required for safety reasons, and statistics will again be presented today to show this. I shall not go into those, because another witness will give them.

Let it suffice to say that the summaries will be as complete as can be secured from full State records, and are much more reliable than the fragmentary statistics that are usually provided by the Bureau of Mines.

If this subcommittee wishes to perform a real service to the coal industry, I would suggest that you place all the bills on the shelf for 1 year, obtain an adequate staff, and really go after complete statistics on this subject.

I am confident the results will lay to rest, once and for all, the contentions that the safety record in the small coal mines require an amendment to the act. After this complete study is accomplished—within a year—there would still be time in the second session to consider any legislation, if needed. Had this been done back in 1957–58, we would not be sitting here today.

During my testimony on this subject over the years, I have endeavored to make it perfectly clear that I would favor any provisions of a true safety bill that might help our coal industry and its employees. I proposed a bill in the last Congress that would have made the act apply in full to any mine wherein there might be danger of a major disaster. This bill was not approved.

H.R. 317, which I introduced this year accepts many key sections of H.R. 9000, the bill favorably reported to the House last year. It includes provisions that have been dropped in H.R. 3584, the bill this subcommittee has been inclined to report.

H.R. 317, which I introduced this year, accepts many key sections act apply completely to title I mines, but would establish a procedure where it could apply if State safety programs are proven to be inadequate during a Federal district court hearing.

H.R. 317 would establish the enlarged Coal Mine Safety Board of Review, which was a feature of last year's bill that this subcommittee favored. I believe it should be enlarged to be more representative of the industry as it operates today. H.R. 3584 has dropped the larger board.

H.R. 317 would include the \$750,000 appropriation proposed last year for expanded safety education programs by the Federal Bureau. This has been dropped in H.R. 3584.

H.R. 317 requires the enlarged board, which would be more inclined to make an objective study, to review the sufficiency of the Federal act and to conduct a study of the Bureau of Mines and its organizations, procedures, and practices. This is definitely needed, as last year's hearings brought out.

H.R. 3584, as did last year's bill, would require a study of the act and its sufficiency by the Secretary of Interior. I believe we all realize such study would produce little that was not recommended in the report sent to Congress last year, and which has not been accepted in full by the subcommittee. We can be certain, based on past actions, that such a study would not treat the small mine industry completely fair.

The attached brief outline of the three bills I have mentioned shows the extent to which H.R. 317 has incorporated provisions of the bill approved last year by this subcommittee. I believe it warrants your approval this year, with the major change I have proposed in section 201.

(The outline referred to follows:)

H.R. 9000, 88th Congress	H.R. 3584, 89th Congress	H.R. 317, 89th Congress
Sec. 1, title.....	Title.....	Title.....
Sec. 2, repeals sec. 201(b) of the Federal Coal Mine Safety Act and makes it apply to the title I mines; gives 6 months grace period to newly covered mines before withdrawal order authority becomes operative; allows continued use of black powder for 6 months in newly covered mines.	Same as H.R. 9000.....	Amends the act by adding a new subsection to provide that title I mines would be covered by the act after hearing in Federal district court and after a showing that State safety programs not adequate. Black powder provision is same.
Sec. 3, amends sec. 209 of the act regarding safety violations not deemed to be imminent danger.	do.....	Same as H.R. 9000.
Continues the Coal Mine Safety Board of Review with enlarged membership and makes it more representative of the coal industry.	Drops enlarged Board.....	Do.
Sec. 4, amends the act to conform to the bill as proposed.	Same as H.R. 9000.....	Do.
Sec. 5, seeks to promote cooperation between State-Federal safety programs. Requires enlarged safety education program; authorizes an appropriation of \$750,000.	do.....	Do.
Sec. 6, requires a 1-year study of existing Federal coal mine safety standards by Secretary of Interior.	Same as H.R. 9000.....	Do.
		Requires the enlarged Board of Review to make the study, including Bureau of Mines practices and procedures.

Mr. JENNINGS. Mr. Chairman, I have been brief and to the point in my testimony. I believe the statistics that have been assembled and which will be presented by other witnesses again prove that the safety record of title I mines is good, continues to get better, and that extension of the Federal act's enforcement provisions are not warranted.

I would like to say, however, that I would have no objection to the inclusion in my bill or any bill, a section that would allow immediate closing of any mine—large or small—when it is certain that imminent danger exists. There should be, of course, a procedure established to allow for agreement between State and Federal inspectors before such imminent danger closing could be required, and the closed mine should be returned to operation as quickly as possible.

We have approved a bill to assist the Appalachian area in making economic development strides in the immediate future. The small mine industry makes a great contribution to this economy. The industry will be damaged by requiring needless expense in meeting all the requirements of the Federal act.

Let's be realistic and approve a bill that meets any safety needs—H.R. 317.

Now, Mr. Chairman, I have mentioned the differences between two bills which we are talking about, primarily H.R. 317 and 3584. I am delighted to note that H.R. 3584 is different from H.R. 19 which the chairman originally introduced; I think 3584 is a better bill than H.R. 19; I think H.R. 317 is a better bill than either of the two.

Mr. DENT. You will be excused for that little bit of modesty. [Laughter.]

Thank you kindly, Congressman, for your continuing interest in this problem.

I think you know that all of us are vitally interested in the same aim and goal that you are.

Mr. JENNINGS. Right.

Mr. DENT. I note that there is some contradiction in my opinion in the situation where you state that you are not opposed to immediate closing of any mine, large or small, when imminent danger exists. If imminent danger exists, do we have time to have a consultation and review of the situation and if the State inspector does not see the danger then the mine is not closed, so what happens to the imminent danger feature?

Mr. JENNINGS. Mr. Chairman, what I would propose in this or any other bill—of course in my bill and the comparable bill introduced by Mr. Bell, 5356, what we provide is judicial review in the first section and then after that judicial review the same provisions that are in the act that apply to title II mines would then apply to title I mines which gives the Federal inspector the right to close on imminent danger.

I would even go further than that, I would say that I would certainly accept a bill that would provide, or a provision that would provide, for immediate closure upon the finding of imminent danger on the part of either a Federal or State inspector.

I would like to see, however, as soon as the mine was closed and the men withdrew as a result of the finding of the Federal inspector, that he would then in turn notify the State inspector. The State inspector would be required to make an inspection immediately. If he concurred, which I assume that he would, with the Federal inspector, then the mine would be closed and remain closed until such time as the infraction was corrected.

If there was a disagreement between the Federal inspector and the State inspector, the mine would still remain closed but an appeal would be made to the Review Board which would be composed of five men

rather than three men. The venue would be changed from Washington to the locality in which the infraction took place.

Mr. DENT. Of course, one of the reasons for reducing the five-man board was in order that we would have a change of venue, as you put it, to make it a more operable proposal. It is easier to get three men to move more quickly and expeditiously and economically to the scene of the operation if so desired by the mine operator, which is included in our legislative proposal, of course.

Mr. JENNINGS. Mr. Chairman, if you—

Mr. DENT. We are trying to make it as easy as we can to reopen a mine that has been closed. I might say that if the safety record that the Senator called the attention of the committee to is as good as it is purported to be and if safe conditions exist in the mines in your State in line with the statistics you provided, there would not be any closing of the mines because there are no unsafe conditions in your State.

Mr. JENNINGS. Mr. Chairman, I do not share that view, I would not say we do not have any unsafe conditions; I would not go to the point to say there would not be any closings, because I think there would be some closings, rightfully so. But, Mr. Chairman, in addressing myself to your view that we would not have five men, that three men would be more available, I think perhaps that you might give consideration to the fact that a majority of that five-man committee might meet and have the power to act. If you had a five-man board any three of those members might have the power to act on one of these closures, and I do not share your view that it is going to be real difficult where imminent danger and where a mine is closed to get these five men available.

But let me say the real reason for enlarging the Board was the fact that we felt, and I think you would agree, that representation should be given to all segments of this coal industry. We would have one person on the Board who would represent the large title II ownership, one person who worked in the large title II-type operations, one person who represented the ownership of the small title I mines, one person who worked in the small title I mines, and one public member who was not connected with the mines.

Mr. DENT. I am well acquainted with that setup; if you will remember I originated the first thought along that line of having representatives.

Mr. JENNINGS. Indeed so, and I was surprised, Mr. Chairman, to not find it in your bill this time.

Mr. DENT. There have been contrary views submitted in testimony before the committee which are available, of course, to the committee and have been reviewed by the committee and, of course, will be available to you if you wish to review them. I certainly will be happy to consult with you about that phase of the legislation.

Mr. JENNINGS. You have been very kind in that so far, Mr. Chairman.

Mr. DENT. I might also, Mr. Jennings, say in looking over H.R. 317, the question arose as to how you would get this proposal before a U.S. district court, because until the act is put into effect there is no controversy. Where would the base be for an appeal to the court in that you are stipulating in legislation that the court must make a determination before an act is put into effect? You are stating that the act is to be put in effect only if the district court judges that State laws

and State requirements for safety are relatively the same or substantially equivalent to the Federal program.

Now, on the one hand you ask us to accept this as a criteria for implementing local or State inspection and then on the other hand you say to us that there ought to be a complete 1-year review and a sufficiency of staff and a statistical approach to find out whether or not the Federal law would add anything to the safety.

How then could a Federal court, without any equipment, the fore-hand knowledge or any staff to speak of that I know of, how would it be able to judge whether or not the State law in Pennsylvania, in Kentucky, or any other area affected by this legislation would be substantially equivalent to Federal programs and what does the word "substantial" mean, and what does equivalent mean?

Would that not be the first object of review by the court—what exactly the determinations ought to be based upon?

I think we are encumbering the intent of the law if not the complete application of the law.

Mr. JENNINGS. Well, Mr. Chairman, let me say that I think the courts, in answer to your question, would get the information from the same source that they get information in any case that is tried before a court, and that is from the witnesses that are presented to the court. I would assume that they would call sufficient witnesses to get adequate information.

Mr. DENT. Is that not true only when they have the controversy before them?

Mr. JENNINGS. No, Mr. Chairman, if you will look at page 2, line 7, of my bill, it says:

Upon application of the director or the official mine inspection or safety agency of the State, the U.S. district court with jurisdiction in the capital city of the State shall make a determination under paragraph (1) after public hearing held upon due notice providing an opportunity to interested persons to appear and be heard. In any such determination the burden of proof with respect to such determination under paragraph (1) shall rest on the agency bringing the action. No such application may be considered by the court if it has denied an application with respect to that State within 1 year.

In other words, we are just giving these people the benefit of what we give an ordinary criminal, they are innocent until proven guilty. It would be necessary to have the man who was bringing the charge to prove his point or to prove the point that the State itself did not have adequate coverage and adequate safety regulations in this field.

Mr. DENT. Of course, that would require a rather presumptuous view on the part of the court simply because no person could appear before the court and say they were adversely affected by a law which was not in effect.

Wherein the State has substantially equivalent programs that would meet the requirements of the Federal program, H.R. 3584 makes a provision whereby a State may submit a plan, and if this plan contains substantially equivalent programing of safety features within that State the director is required under this act that I have introduced to establish a working agreement with the State which would completely eliminate practically all Federal inspection except on the basis of once a year.

Now, if a State's record and its programing of safety inspection is such it will have absolutely no problem under this legislation to arrive

at an agreement under the terms of this act whereby the Federal inspection would be practically superficial.

You say, that sets aside the real intent of this act but it does not. We recognize from your testimony and other testimony that there are counties or mining areas where the mine itself and the condition of the mine lends itself to highly safe factors and therefore we tried to establish within this bill, most of it at your suggestion, a program that would allow for a State to continue where it does have the kind of a program that is acceptable. And that is exactly what you are saying, you are asking the court to make a determination which we allow the director to make without going to court, we allow the State, in conjunction with the safety director of the Federal bureau to make the decision without the necessity of going to court. Certainly the court would only hear the same testimony that the Federal director would hear, and in our bill we make it practically mandatory that he accept a State plan that has the features of equivalence and sufficiency of inspection.

I believe that if you will review our provisions, you will see that we do what you want us to do, and it was at your suggestion that we wrote the amendment. However, this is something new that you have conceived whereby you take from the bill that feature which you first promoted, and which I fought rather bitterly, but was accepted by the committee. Now you say, "No, that is not good enough," we do not trust the director in a sense and therefore we want the district court to supersede the director and I personally as a matter of practical operation—

Mr. BELL. Will the chairman yield at that point?

Mr. DENT. Yes.

Mr. BELL. Could I interrupt just a second—

Mr. JENNINGS. Would you yield 1 minute to let me point out that section 4 of my bill contains exactly what the gentleman has been talking about?

Mr. BELL. I think we are missing one basic point that the witness brought out, and that is the fact that the system of our Government is based on fundamentally judicial review—everybody has a right for a day in court, and this is what the gentleman is saying—that they have a right for a day in court. And I think the chairman is not accurate in assuming that we should, just any of us could go to a certain bureaucrat and at all times get fair rulings, that is why we have a court system.

Mr. DENT. The gentleman, of course, is becoming a little excited. In a calm analysis this is not a judicial review that you are asking for, judicial review is contained in H.R. 3584 as we know judicial review. This is a completely new departure in that you are asking for a review by the court prior to applying a law. You are giving a legislative power to the court without the law being in effect.

This has never been done in the history of jurisprudence.

Mr. BELL. I regret to say, Mr. Chairman, I think you are inaccurate on that. I think the basic principle of all our laws are based on judicial review. We have just passed an education bill, we have a judicial review in this act. It is the same thing.

Mr. DENT. In order to clear up any more questions on the matter, I might say that we have been advised by the best advice we can get

that the determination made by the U.S. district court upon application by the Director prior to the application of this law in any instance is considered to be by those who are supposed to know the Constitution as being an unconstitutional requirement.

Mr. JENNINGS. Could I address myself to that point?

Mr. DENT. Yes, you may.

Mr. JENNINGS. This is not my opinion, it is the opinion of men more learned in law. I am talking about the question that the gentleman just asked of the witness. Off the record.

(Discussion off the record.)

Mr. DENT. On the record.

Mr. JENNINGS. Let me say this, Mr. Chairman, my bill, H.R. 317, if you will note, has exactly the same provisions that you discussed in your bill, both of them were contained in H.R. 9000 last year, which as the gentleman said, was put in there at the insistence of those who are interested. Both of these bills contain exactly that same provision, I believe it is section 5 of the bill.

Now, before we get afield on this, let me say this, Mr. Chairman. We are both interested in the same thing and that is safety of the individual. I am not here purporting to you that my bill is perfect in every respect. If in the wisdom of this committee that bill can be improved upon in the interest of safety for the individual, of course, I am interested in it just as any other Member of the Congress who is interested in safety.

There are some other provisions of the bill that I think need pointing up also.

That is the fact that H.R. 317 provides \$750,000 for a safety education program—that was included in H.R. 9000 last year. There is no provision in your bill for any appropriations for education.

Mr. DENT. Do you want the answer to that?

Mr. JENNINGS. Yes.

Mr. DENT. Originally, \$750,000 appeared in my bill. Upon sound and good advice, it was suggested that the Bureau of Mines determine what funds are needed for the program. It can then receive approval of the Budget Director and get the sufficiency of funds to meet the needs under this particular section.

It is not done with any idea of wiping out educational programs. At this time—when, as you know, we are being accused of being a spending Congress—we did not like to endanger the bill with another three-quarters of a million dollars which I could not substantiate nor could I defend.

Mr. JENNINGS. Mr. Chairman, I think it can be substantiated and defended. I think we can defend it on the basis of education and the basis of safety. I do not think we would be in a very defensible position by saying that we were opposed to \$750,000 because of some spending figure when the safety of human beings is involved.

There is another section, also, in the differences between the bills and another good reason for having a five-member board. I suggest and recommend that the Board itself conduct this study because, after all, they are going to be studying the Federal Bureau of Mines and its application of safety.

You are asking the Interior Department or the Bureau of Mines to study themselves. Would it not be fair to have a five-man board

comprised of the industry make a study of all segments, both the State and the Federal aspects, rather than to ask someone who has a self-interest to make the study?

Mr. DENT. Well, of course, that is the very peculiar question to answer because I might be accused of saying I distrust the Interior Department and that they would not make an honest effort to come up with the statistics that we ask. The study would consist of gathering statistics. Their findings will have to be based upon information obtained from the official sources of the States and counties and districts in which the mines are located. I do not believe that it would be possible to create a board for the simple purpose of making a study with no other duties at this time.

Mr. JENNINGS. Oh, they would have other duties, Mr. Chairman.

Mr. DENT. How?

Mr. JENNINGS. They would have duties as the Appeal Board; it would be the same Board of Review.

Mr. DENT. Are you assuming then that there are some areas in which this act would go into effect?

Mr. JENNINGS. Oh, yes.

Mr. DENT. You believe there are some districts, then, where this particular type of mine safety legislation is necessary and needed?

Mr. JENNINGS. I do not know whether it is needed or not, but that is why I am asking the Board to make a study, that is why I asked this committee to make a new study of it.

Mr. DENT. If they made the study and determined there is no need for application of this law as long as State laws are substantially equivalent thereto, what would the Board then be doing?

Mr. JENNINGS. No, Mr. Chairman; if you will look back, you will see that the judicial review which I am talking about applies to section 1 of the bill. This does not repeal section 201(b) of the act.

Mr. DENT. Is that not the application of the mine safety law? Beyond that it is superfluous.

Mr. JENNINGS. Oh, no; there is more to the Mine Safety Act than 201(b).

Mr. DENT. We find that is the meat of the situation and I am sure, if we eliminated that particular feature, there would not be any objection to the bill.

Mr. JENNINGS. That is H.R. 19, Mr. Chairman, and I did not think we were going back to H.R. 19.

Mr. DENT. That is what we do when we give the Court the right to set aside the Board's decision.

Mr. JENNINGS. That is only on the section 1 of my bill. I am talking about the review which is outside of section 1; such as, section 209 of the act and the other sections of the bill.

Mr. DENT. Do you have some questions?

Mr. BELL. Yes, Mr. Chairman; I have some questions.

Congressman Jennings, I wanted to also add my word of thanks for your coming here and appreciation for your very fine statement.

There are some very definite differences, would you not say, between types of operations of the title I mines and title II mines? I think you brought that out in your statement. There are quite a lot of differences in many things; such as, equipment used and environment which they work under and so on.

Mr. JENNINGS. Oh, yes; very definitely.

I think for their benefit those new committee members who have not seen the difference in title I and title II mines should have such opportunity. Many of the members present today accompanied me in a title I mine which was about 3 feet in height, where no gas was prevalent, and they could operate with a different type of equipment; some open cables rather than closed cables.

Mr. DENT. Will the gentleman yield?

Mr. JENNINGS. Yes.

Mr. DENT. Is that the only type of title I mine that you know of?

Mr. JENNINGS. No; I was just saying—

Mr. DENT. Would you suggest that we go to all the different types of title I mines before we act on this legislation?

Mr. JENNINGS. I would suggest you acquaint yourselves thoroughly, as I am sure the chairman is, with the different types of title I and title II mines, and that all members be allowed to become as well educated as the chairman. And, to legislate with the intelligence and the background and the firsthand knowledge as a result of the inspection in these mines.

No, sir; I am not suggesting that we have only one type title I mine. I was referring to one type of title I mine that was visited by the chairman of the subcommittee, Mr. Roosevelt, Congressman Bell, and the counsel, Mr. Foreman, and other members last year in response to the question—

Mr. DENT. I might suggest that the committee also inspected the title I mines in Pennsylvania which are probably the main subject of this particular bill.

Mr. JENNINGS. Well, I rather thought they were, too, back about 5 or 6 years ago. I thought they were the main subject of this bill. We have primarily three types of title I mines: One is a slope mine that merely goes down into the mountain on an incline; another is a drift mine that goes straight back or maybe on a slight incline; and the other is a shaft mine that bores straight down.

Originally, I suggested that all gassy mines, whether they were shaft, slope, drift, title I, title II, or what-have-you, be included under the act. I cannot justify the fact that any gassy mine is exempt from any inspection, and the best inspection that we can get.

In response to the question that Mr. Bell was asking, I was merely referring to the one type of mine that they accompanied me on. I am aware of the fact they went with you in other types of mines.

Mr. DENT. Regarding the gassy mine, as a man born and raised in the coal mining areas, I would never, and I know of no other mine-experienced man who has been around the mines of my knowledge who would stake his life on any mine where coal is mined as being permanently nongassy.

Mr. JENNINGS. Mr. Chairman, the act itself provides when a mine is gassy and when it is not. The bill which you have introduced and which I have introduced do not address themselves to a gassy mine which does not meet the specifications that are set forth in the act.

Mr. DENT. I only stated what I personally, going in to dig coal, would never do.

Mr. BELL. Mr. Chairman, may I continue?

Mr. DENT. Yes.

Mr. BELL. I am very glad that the chairman agrees with us that perhaps more time should be taken in inspecting mines and I would very much like to go up to Pennsylvania and see one of those title I mines.

Mr. DENT. The chairman will be happy to arrange a trip and you can do this from now until January.

Mr. BELL. I think that would be—

Mr. DENT. I want to come out to California and inspect yours.

Mr. BELL. I wanted to point out further that along with the differences that I understand, according to Senator Cooper, that 90 percent of the mines in the areas of which we are speaking are nongassy mines; is that not approximately correct?

Mr. JENNINGS. That is probably true in Senator Cooper's section, I would say it is a much higher rate than that in my section; I would say 95 to 98 percent of the mines are nongassy as described in the Federal Mine Safety Act. As a matter of fact, we have very few gassy mines and practically all of them are of the title II nature.

Mr. BELL. Now, this is somewhat of a rhetorical question, but Congressman Jennings, in view of the differences that we have just brought out here between the two different types of mines where they are varied completely in type in title II and title I, in operation and environment and everything, would you not think that if a safety measure were enacted, should not the title I mines be considered by having representation on the Board insofar as they are entirely different, they have a different type of operation. Should not the mine-workers in these title I mines have an opportunity to have their voice heard as well as the title II, such as your bill brings out?

I think that is only fair.

Mr. JENNINGS. Mr. Bell, I could not agree with you more, and I am somewhat at a loss to understand why that is not included in all the bills because it was included in the bill that was reported out last year, H.R. 9000. There was no particular controversy between any members of the subcommittee and myself. I thought it was generally agreed that increasing the board to five members and giving representation to the title I mines, was generally assumed to be a good thing.

Mr. BELL. Yes, I would certainly concur.

Now, throughout the testimony, I think there has been questioning relative to this which assumes that the Federal Government, there is some magic about the Federal Government's inspection, I mean by that the Bureau's ability to determine whether a mine is in imminent danger or not, whereas the States do not seem to have this power, according to some of the questions that were asked you.

I understand from your testimony that you felt, first of all, that the State of Virginia was probably more knowledgeable and more effective and that they have a very good record and that they are doing a good job. Does this not seem reasonable to assume? Do we have to assume that the Federal Government has some magic about it through the Bureau?

Mr. JENNINGS. No, I think your assumption there, generally speaking, is correct. I do not think that the Federal Government or the inspectors have any corner on the ability to inspect and determine imminent danger. On the other hand, I think the inspectors are qualified individuals on the Federal level.

I think they are attempting to do a good job within the limitations of the time and the number of mines that they have to inspect. I think the same is true of the States. We have more State inspectors than we have Federal inspectors. I do not mean to say that they have infinite wisdom beyond the Federal inspectors either, but I say that it is a combination of these that we should have.

Now, there is one very strong feature today that exists that you would have a tendency to remove in the passage of the bill.

Mr. BELL. Of which bill?

Mr. JENNINGS. Of the Dent bill. And that is the fact that there is a great deal of competition today between the State inspectors and the Federal inspectors, each to see which can do the best job, each to prove to the other and to the public in general that they are competent and that a good job of inspection is being done. There are so many more State inspectors than there are Federal inspectors. They are inspecting the title I as well as the title II mines, I would say a frequency of five or six times greater than the Federal inspectors.

Mr. BELL. Now, there seems to be a feeling here that the State safety departments do not have the same powers that the Federal Government has. Maybe there is something in that word magic. But in most of the country, do not the States have the right to close down mines when they are in imminent danger?

Mr. JENNINGS. I would say so, and I would say that they definitely would; if not, it would leave the inspectors themselves very vulnerable.

We have here today the commissioner of labor from the State of Virginia, and also the chief mine inspector from the State of Virginia, who I am sure can answer those technical questions far better than I. But this is a partnership situation, and no evidence has been presented that the States are not doing a fine job in this field.

The fact that legislation has been introduced. It would be less than honest to say that it has not increased the efficiency of their States in their inspection program and their education program. I think that a better job is being done today than has ever been done in the field of inspections.

Mr. BELL. Thank you, Mr. Jennings, for your very excellent testimony, and that is all, Mr. Chairman.

Mr. DENT. Thank you.

Mr. Daniels?

Mr. DANIELS. First I would like to apologize to Mr. Jennings for not being here, I was called to my office for a very, very important call.

Mr. JENNING. I can certainly understand that.

Mr. DANIELS. So, I missed your testimony.

I understand, Mr. Jennings, that your bill is substantially the same as the bill, H.R. 3584, introduced by the chairman, Mr. Dent, except for title I?

Mr. JENNINGS. Well, except for title I, primarily that is true. Now, there are some other differences. I provide for a \$750,000 appropriation. I provide for the study to be made by the review board rather than the Secretary of Interior. But, primarily the first one is the main difference, as you suggest.

Mr. DANIELS. Under section 1, you provide for a proceeding being instituted in the U.S. district court to ascertain whether or not the

regulations of the State are satisfactory and have been complied with, and if not then the Federal Government will take jurisdiction.

Mr. JENNINGS. Correct.

Mr. DANIELS. Do we not have a question here as to the constitutionality of this provision?

Mr. JENNINGS. No, sir; I would not think so. I think it is merely providing for a judicial review, and the burden of proof is on the accuser just as it is in any other case. It must be proven that the States do not have an adequate program. If they prove that an adequate program is not available, then section 201 immediately goes into effect as it pertains to title I mines.

Mr. DANIELS. Will this not give rise to a multiplicity of suits in the Federal court, which is already overburdened with a backlog of cases at the present time?

Mr. JENNINGS. No, sir; I do not think so. The reason is this: I think you have adequate State inspection laws, and I cannot imagine anyone going to a Federal court to prove that they do not have, when, in my opinion, they would have a very slim chance of proving inadequacy. I think the States have an adequate inspection program.

Mr. DANIELS. Since it is your opinion that the State laws are adequate, do you feel there is no need for the Federal Government being given jurisdiction in this matter?

Mr. JENNINGS. That is exactly right—that is 100 percent true. I think that they have a State inspection program that is adequate for title I mines. However, there are those who disagree with me, and if they disagree with me I think then the burden of proof should fall on them to prove otherwise.

Yes, sir; I think you hit the nail right on the head. I feel we have a good education program, I feel we have a good inspection program, I think it is adequate today and, frankly, I am not recommending any change at all in section 201 except this one provision which I would accept and which I have always said that I would accept, and that is when any inspector, whether he be Federal or State or local, or anyone else, finds that he in his wisdom feels imminent danger exists that he should have the right to close that mine.

Mr. DANIELS. Let us take a hypothetical question.

Both the Federal and State inspectors inspect the mine, and there is an honest disagreement between the State inspector and the Federal inspector. The Federal inspector feels there is a question of imminent danger to the workers in that mine but the State inspector takes the opposite point of view. Now, under your bill it would be necessary, under these circumstances, to institute a suit in the Federal court; is that correct?

Mr. JENNINGS. No. It would be necessary to institute a suit in a Federal court to prove originally that the State inspections were not good, but under what I have just said here—

Mr. DANIELS. I know, but you do maintain that you must institute a suit under your bill in order for the Federal Government to obtain a ruling from the court that the State inspection was inadequate and therefore the Federal authorities ought to step in?

Mr. JENNINGS. That the State inspections were inadequate on all mines, not this particular one section.

Mr. DANIELS. What happens in the interim?

Mr. BELL. If the gentleman will yield, I think the gentleman is trying to answer the question. Let him answer the question in full.

Mr. JENNINGS. Yes. Let me say this, I did not anticipate, and certainly it is not in my bill, that every time there is a disagreement between a Federal inspector and a State inspector they would then go to the Federal court and have a judicial review as to which of the two were right.

What I really intended in this is to give the Federal inspector the right to close the mine. This is the administrative part of it. He would immediately, upon finding imminent danger, remove the people from the mine; he would also immediately notify the State inspector; the State inspector would have to make an inspection within 24 hours.

If he concurred with the Federal inspector, then the infraction or the violation would have to be corrected before the men could go back in.

Now, from a practical standing, I cannot imagine any State inspector taking it upon himself to say that "I disagree with this Federal inspector," because he would be particularly vulnerable—

Mr. DENT. Will the gentleman yield at that point? That is a very serious point. We had a disaster in Pennsylvania at the Shepton mine. Two or three days previous to the disaster the Federal inspector—I have the record on how many days—said that the mine should have been shut down. He had no power to shut it down; therefore, he merely reported it to the State inspector. The result was a death and two men trapped at the cost of over \$1½ million to extricate them from the bowels of the earth.

Now, you say that you cannot conceive of a State inspector refusing the recommendation of the Federal inspector? It goes on every day of the year.

Mr. JENNINGS. Wait just a minute, Mr. Chairman, you are missing one complete point. What I would recommend is that the Federal inspector and the Federal Bureau of Mines in that particular case you are talking about, be given authority to withdraw the men from that mine.

Mr. DENT. Not if the court in original jurisdiction says that the title does not go into effect.

Mr. BELL. Let him finish.

Mr. JENNINGS. I would give him the opportunity to withdraw the men from the mine, and in that particular case you are referring to, the men would have been withdrawn from the mine. He would then immediately notify the State inspector and the State inspector would be required within a period of 24 hours to make an inspection.

If he concurred with the Federal inspector, the violation would be as before. If he did not concur with him, the men would still stay out. Then they would appeal to this five-man board rather than the three-man board and the five-man board would have to sit in the locality.

Mr. DENT. That is exactly what they do now, practically the exact procedures.

Mr. JENNINGS. No, Mr. Chairman; using your own testimony just now on the case that took place in Pennsylvania, it was not done.

Mr. DENT. Your bill does not provide for the closing of a mine.

Mr. JENNINGS. I have said in my statement here that I would be delighted to accept a provision that would do just that. And I have constantly and repeatedly—

Mr. DENT. That comes closer to our concept of mine safety.

Mr. JENNINGS. Is it not true, I have repeatedly told you that, and other members, Mr. Chairman?

Mr. DENT. You said here you would accept the provision you started out by just saying in your written statement that you would allow immediate closing of the mine, large or small, when it is certain that imminent danger exists.

Mr. JENNINGS. That is correct.

Mr. DENT. Certainly; if imminent danger is pretty much a matter of judgment. There should be, however, you say, continuing, an allowance for agreement between the State and Federal inspectors before such imminent danger closing would be required.

In other words, that is entirely different than your oral statement. You say that before the closing could be required, an agreement had to be arrived at. You're suggesting an amendment.

Mr. JENNINGS. I am just suggesting an agreement that might be worked out and give you the practical mechanics of how it might be done.

Mr. DENT. Thank you very kindly.

Mr. DANIELS. Then you admit that your bill would have to be amended to provide for this situation that we have just discussed?

Mr. JENNINGS. Unless section 1 had previously been instituted in a Federal court and it was proven that a State did not have an adequate system. In that case a section 201 would be in effect.

Mr. DENT. I think you have to clear this matter up first. If the State is exempted from the Federal inspection, how then does the Federal inspector have any right to order the closing?

Mr. JENNINGS. He would not.

Mr. DENT. Then what happens in a mine where there is imminent danger if a State has already been exempted?

Mr. JENNINGS. By that time you would have proven that they have an adequate program in the State in the Federal court, and it would be the authority of the State inspectors rather than the Federal inspectors.

Mr. DENT. All right. Mr. Bell?

Mr. BELL. Mr. Chairman, may I ask this? I think in this questioning here we are missing a point, and that is that there has been no proof at all, in fact, less than that, that the Federal Government has a greater ability to determine whether a mine is in imminent danger than the State authorities do.

The point I think that we can bring out very easily is that the States are just as knowledgeable on the imminence of danger, the State authorities and inspectors, and they have the authority to close down the mine, so what additional feature is the Federal Government going to add to it?

Mr. JENNINGS. It may be that some States do not have the authority to close the mine, and I am not aware of all the State laws.

Mr. BELL. It is my understanding, I could be incorrect on this, I will ask another witness perhaps, but it is my understanding that all of the States now have the authority to close down mines and I think

that is a factual matter, I think it is a matter of the record, but it is my opinion that all the States now have that authority.

Mr. JENNINGS. Of course, the crux of this whole thing is whether or not you are going to treat the little mines the same as you treat the big mines. It is a question of whether you are going to treat all trucks as trucks or you are going to differentiate between tractors-trailers and pickup trucks.

Mr. DENT. We appreciate this very much, and I am sure that the witness knows that the questions have been aimed at trying to arrive at some kind of a solution to a vexing problem that has many ramifications. I reviewed the arguments when the first mine safety bill was passed for the title II mines, and for some reason or other, the same arguments were made then that the State inspections were adequate, and there was a heated argument as to whether or not the Federal inspectors had superior knowledge.

We understand this is one of the standard arguments and we accept it for what it is. I certainly appreciate the gentleman's coming before us and also his stated purpose to try to work with us, if we can arrive at some solution that would be mutually beneficial, I am sure he will cooperate.

Mr. JENNINGS. Mr. Chairman, just addressing myself to your last statement there, I agree that perhaps some of these same arguments were made back when the Federal mine safety bill was passed. I would like for you to review and listen to all of the statistics and to see what improvements have been made since the passage of that bill, to see if the passage has actually decreased the incident rate and decreased the number of people that have been killed in title II mines.

I would like for you to listen to the statistics and to the incident rate and the hours of exposure on the title I and title II mines; and to determine whether, actually, this bill is the best bill that can be passed in the interest of title II mines.

I think you first need to determine that very one thing. Is this the best bill that can be passed in title II mines? After all, let us remember the fact that in these title I mines, most of the fatalities take place, over 80 percent of the fatalities, take place within 25 feet of the face of that mine. Most of them are human failures. Most of the fatalities that happen in title II mines, this Federal Mine Safety Act will not touch because they are not included in it.

Mr. DENT. Any further questions?

Mr. DANIELS. No, thank you.

Mr. DENT. Thank you, Congressman, and I am sure your testimony will be reviewed by this subcommittee.

Mr. JENNINGS. Mr. Chairman, thank you for your kindness. The members of the committee have been interested and I appreciate the length of time you gave me.

Mr. DENT. At this point, I submit for the record, a statement of Charles Ferguson, director of the Safety Division of the United Mine Workers of America in support of H.R. 3584, and in opposition to H.R. 317 and H.R. 5365.

Any interested party can get the information contained in there in the record of the hearings.

Without objection it is so ordered.

(Document referred to follows:)

STATEMENT OF CHARLES FERGUSON, DIRECTOR, SAFETY DIVISION, INTERNATIONAL UNION, UNITED MINE WORKERS OF AMERICA

Mr. Chairman and members of the committee, my name is Charles Ferguson. I am director of the Safety Division of the United Mine Workers of America. As such, I am faced with the grave responsibility of supervising and maintaining a nationwide safety program in the coal mines of the country.

I am an experienced coal miner with about 40 years in the industry. I have done every type of work pertaining to coal mines, including supervisory positions, safety director, coal inspector, assistant mine foreman, and fire boss. Additional information regarding my experience is a matter of record before previous committees on this same type of legislation.

The United Mine Workers of America have historically opposed the exclusion of the so-called small mines from the statutory requirements of Public Law 552, for the reason that there is no logical or legal justification for this exclusion and, in our opinion, has made second-class citizens of thousands of men employed in these operations. Furthermore, the accident rate in these so-called small operations are presently responsible for more than 30 percent of the fatalities and less than 16 percent of the production in the mining industry.

It is not my intention to burden the committee with the statistical records on these so-called small mines. However, I desire to point out two examples of the failure of management to assume their responsibilities toward their employees. First, there was a cavein at the Oneida No. 2 slope mine, Fellin Mining Co., in August 1963. This occurrence resulted in worldwide publicity, and should be common knowledge to this committee. Secondly, there was a multiple fatality that occurred at the Bednarczyk Nos. 2 and 3 slope mine, Bednarczyk Coal Co., during February 1964 in the anthracite region, which resulted in the death of three men and serious injuries to another. Reports on these occurrences made by the U.S. Bureau of Mines are a matter of public record, available to the committee and in my opinion show complete lack of responsibility by the operators of these properties. The same lack of responsibility to the human element involved is prevalent throughout these so-called small mines.

I make this statement in support of H.R. 3584 and in opposition to H.R. 317 and H.R. 5365. This legislation, if enacted, will amend Public Law 552 by deleting the section which presently contains language freeing mines employing fewer than 15 men underground from the provisions of the act.

The records of previous committees who have studied this legislation are replete with statements, both oral and written, from the top ranking officers of the United Mine Workers of America from President Emeritus John L. Lewis to and including President W. A. Boyle. Therefore, I will not dwell upon the reasons for our position as they have been so well documented previously and such documents are available to this committee. Instead the rest of my statement will be confined to our opposition to consideration or passage of H.R. 317 and H.R. 5365. While these bills bear different numbers and different sponsors, they are identical in content and intent. The United Mine Workers vigorously oppose their consideration.

ARGUMENTS AGAINST BILLS (H.R. 317 AND H.R. 5365)

The bills (H.R. 317 and H.R. 5365) differ from the bill (H.R. 3584), and would radically alter the present title II of the Federal Coal Mine Safety Act on the following matters: (1) The exemption of title I mines; (2) the composition and functions of the Federal Coal Mine Safety Board of Review; and (3) certain duties of the Department of the Interior. Each of these categories will be considered separately.

1. Exemption of title I mines

Section 201(b) of the present act exempts from the safety requirements of title II all mines regularly employing less than 15 men underground. These exempt mines are commonly referred to as title I mines.

Contrary to section 2(a) of the bill (H.R. 3584), the bills (H.R. 317 and H.R. 5365), in what also appears to be section 2(a), propose a new section 201(b) of the act, to read as follows:

"(b) (1) This title shall not apply to any mine in which no more than fourteen individuals are regularly employed underground until there is in effect with

respect to the State in which the mine is located a determination under paragraph (2) that the laws of such State establishing safety standards applicable to such mine, and the enforcement of such standards, does not afford to the workers in such mine protection substantially equivalent to the protection which would be afforded them under this title.

"(2) Upon application of the director or the official mine inspection or safety agency of the State, the United States district court with jurisdiction in the capital city of the State shall make a determination under paragraph (1) after public hearing held upon due notice providing an opportunity to interested persons to appear and be heard. In any such determination the burden of proof with respect to such determination under paragraph (1) shall rest on the agency bringing the action. No such application may be considered by the court if it has denied an application with respect to that State within one year."

In addition to these provisions relating to the exemption of title I mines, section 2(c) of the bills (H.R. 317 and H.R. 5365) defers for 6 months after the amendments become effective, the application of section 209(h) (5) of the present act (proscribing the use of black blasting powder) to mines classed as title I on the effective date of the amendments, if the State where the mine is located sanctions the storage, handling or use of such powder.

Referring back to the manner in which the bills (H.R. 317 and H.R. 5365) purport to deprive a title I mine of its present exemption, the following complex and time-consuming procedures would apparently be required under the proposed new section 201(b) :

(a) The Director of the U.S. Bureau of Mines must file an application with the Federal district court in the capital of the State where the mine is located, requesting a determination that the State mine safety laws applicable to such mine, and the enforcement thereof, do not afford to the miners protection substantially equivalent to the protection which they would be afforded under title II, as amended ;

(b) The court must then hold a public hearing on the application, giving due notice and providing an opportunity for all interested persons to be heard ;

(c) The Director must establish in such proceeding, by a preponderance of the credible evidence, the lack of substantially equivalent protection under the State mine safety program ; and

(d) The court must finally issue its determination that the State laws and their enforcement fail to afford the miners protection which is substantially equivalent to that provided by the Federal act.

While it is unclear from the bills (H.R. 317 and H.R. 5365) as to who would comprise the immediate parties to this determination proceeding, it appears that, besides the Director, only the State inspection or safety agency would be included as a formal party. Also, although no reference is made to any right of appeal, I am advised that, under general statutory law, an adverse decision could be appealed to the U.S. court of appeals and, under certain circumstances, to the U.S. Supreme Court. So, even if a lower court determined that the workers in the small mines of the State were denied adequate protection, the mines might remain exempt from the Federal safety requirements during the months or even years required to litigate the case through the various appellate tribunals.

Assuming the title I mines in a particular State finally lose their present exempt status by reason of the court determination, such loss would not be permanent under the bills (H.R. 317 and H.R. 5365). Instead, it appears that :

(a) the State agency could immediately request a new determination that the State program provides substantially equivalent protection to that provided by the Federal law (the 1-year limitation on such an application in the bills (H.R. 317 and H.R. 5365) is operative only if the preceding application was denied) ; and (b) if the new application by the State agency for a favorable determination is rejected by the court, the State agency could request further determinations at succeeding 1-year intervals. In applying for such new determinations, the State agency would not be required to allege any changes either in the State laws or their enforcement. Moreover, the proceeding on each of these applications filed by the State would be the same as that conducted on the Director's initial application, except that the State agency would bear the burden of proof.

(1) At the outset, it is virtually certain, according to my legal advice, that the entire procedure established by the proposed new section 201(b) would be held violative the separation of powers requirement and of article III, section 2, of the U.S. Constitution.

Without going into detail as the extensive case law which I am advised supports this conclusion, I would point out that under the proposed subsection 201(b) (2), all interested persons, whether or not immediate parties to the case, would be fully entitled to appear and be heard at a public hearing in the determination proceeding. Such procedures, according to my advice, are plainly those of a legislative or administrative hearing, and not a judicial trial in which only the parties may participate. Moreover, the court under the proposed subsection 201(b) (2), would be required to assess and determine the relative efficacy of State and Federal safety programs, and thereupon issue a ruling as to what laws should, in the future, be applicable to title I mines in that State. This determination, according to my advice, is essentially legislative or quasi-legislative in nature and is an extreme departure from the recognized judicial function of finding the facts, applying the already established law to those facts, and concluding as to the rights and liabilities of the immediate parties before the court.

To repeat, therefore, as I have been advised, it would seem unquestionable that the procedures established by the proposed section 201(b) in the bills (H.R. 317 and H.R. 5365) would be deemed invalid under the U.S. Constitution.

(2) Even if the constitutionality of the proposed section 201(b) were upheld, which I am advised is highly unlikely, the courts would be faced with a multitude of complex problems concerning what is meant by the required determination that "the laws of such State establishing safety standards applicable to such mine, and the enforcement of such standards afford protection substantially equivalent to the protection which would be afforded" under Federal law. Among such problems the litigation of which would further delay any effort to bring the title I mines under the act, are the following:

(a) If the State laws as written were adequate, but the laws were not being properly enforced, could the court rule that substantially equivalent protection was not being afforded? Or must both the State laws and their enforcement be inadequate before such a determination can be made?

(b) Is the court required, under this language, to make a decision as to the effectiveness of each provision of each section of the State and Federal laws, in order to decide if substantially equivalent protection is afforded under State laws? Or is the court merely required to consider whether the State program covers the same types of conditions as the Federal law, such as ventilation, electrical equipment, rock dusting, gassy classifications, etc.? If operating comparisons are required, how could a court, without any mining competence whatsoever, properly resolve the innumerable technical questions which would be involved in such comparisons? And, if only a comparison of general types of conditions covered by the respective laws is intended, how would such a comparison establish that substantially equivalent protection is in fact provided for the mine-workers, since the operation of the State laws, or their enforcement, might be wholly ineffectual?

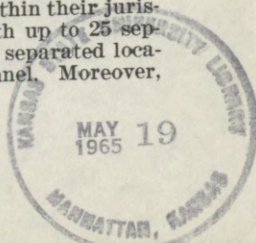
(c) The language in the proposed subsection 201(b) (1) provides for a comparison of the "laws" of the State, and their enforcement, with the Federal standards. Would the term "laws" be limited to State statutes, or would it also include the administrative regulations and practices of the State agency? And what effect would result from different enforcement of State laws within the same State? Also, is any cutoff date intended, so that changes of State laws or enforcement practices during the course of the hearing would not indefinitely prolong the proceedings?

(d) The language in the proposed subsection 201(b) (1) seems to refer to the State laws, and their enforcement, relating to a particular mine, although when subsections 201(b) (1) and 201(b) (2) of the proposed section are read together, the determination is apparently intended to cover the State as a whole. Does this mean that the court, in its determination as to the State, is required to consider each mine separately; or separate categories of mines (slope shaft, drift, gassy, nongassy, etc.); or mines located in separate coal seams; or mines producing separate types of coal (bituminous, anthracite); or all the coal mines generally?

(3) In addition to these questions, the administrative problems connected with the proposed section 201(b) would be prohibitive.

For instance:

(a) Approximately 25 States have underground title I mines within their jurisdiction. Consequently, the Bureau of Mines would be faced with up to 25 separate proceedings, occurring at frequent intervals and at widely separated locations, and each requiring a full staff of legal and technical personnel. Moreover,



the Federal Coal Mine Safety Board's caseload would undoubtedly increase, so the Bureau would have to designate additional legal and technical personnel merely to handle litigation before this agency. I cannot conceive how such diversions of personnel and funds could possibly be accomplished without a crippling impact on the Bureau's entire inspection and research activities.

(b) Similarly, the courts would be faced with heavy new administrative burdens. Lengthy and repetitive hearings would be required under these provisions of H.R. 317 and H.R. 5365 and would substantially increase the extensive case backlogs already present in most districts. Moreover, these determination proceedings would obviously require priority in order to prevent further deaths and injuries from substandard working conditions in the title I mines, and such priorities would necessarily add to the disruption of the scheduling and disposing of other cases in the district courts.

(4) Finally, of course, is the problem of whether safety determinations such as those required by the proposed new section 201(b) should be delegated to the courts at all for initial decision. As you will recall, the O'Brien disaster occurred in 1953, immediately after a lower court intervened to enjoin the enforcement of the present title II at that mine. This disaster could have been easily prevented, except for such judicial action, and the resulting tragedy demonstrates the grave hazard of assigning the initial handling of mine safety disputes to a court not equipped with procedures, or by training or experience, to handle such responsibility.

To summarize, the net effect of these provisions in H.R. 317 and H.R. 5365 would be to create so many problems, and such confusion and delay, that probably no title I mine would in fact lose its exempt status. Moreover, the administrative problems to the Bureau alone would shackle that agency's enforcement of the entire act.

2. *Composition and functions of the Board*

Unlike H.R. 3584, sections 3(c), 3(d), and 6, of H.R. 317 and H.R. 5365 would make serious changes in the present Federal Coal Mine Safety Board. The changes proposed by H.R. 317 and H.R. 5365 are as follows:

- (1) The number of Board members would be increased from three to five.
- (2) The terms of office of the Board members would be extended from 3 to 5 years, except that the terms of present members would expire without change, and the terms of the new members would expire on July 15, 1965.
- (3) Except for the Chairman, the representative status of each Board member would be changed, so that one member would represent the viewpoint of the operators of small mines (former title I mines); one, the viewpoint of the operators of large mines (former title II mines); one, the viewpoint of workers in small mines (former title I mines); and one, the viewpoint of workers in large mines (former title II mines).
- (4) In its composition, the Board would not be permitted to include any two persons who were, at any previous time, members or employees of the same labor organization or union, or members of employees of the same management company, corporation, group, organization or association.
- (5) Although presently the Board has discretion as to where to conduct its hearings and other proceedings, and while the Board has consistently deferred in this regard to the requests of the operators, H.R. 317 and H.R. 5365 would specify that, upon the request of an operator, the Board must conduct its proceedings at the county seat of the county in which the mine is located, or elsewhere as agreed to by the operator and the chairman.
- (6) The quorum and minimum vote requirements for Board action would be increased from two to three members, subject to the further condition that any official action concerning small mines would require participation of the operator and labor representatives of such mines, and any official action concerning large mines would require participation of the operator and labor representatives of those mines.
- (7) H.R. 317 and H.R. 5365 would continue to permit a hearing by less than the full Board, with submission of the transcript to the full Board for its action thereon. However, two new statutory requirements would be added, if a hearing is conducted by less than the full Board—that is, (a) transcripts must be made available to the parties before final action by the Board (the Board's rules of procedure already provide for such availability of transcripts in all cases, whether the hearing is conducted by the full Board or less than the full Board); and (b) the Board, before its final action, must grant the parties an opportunity

to appear before it, and may permit the parties to submit additional evidence for a full and true disclosure of the facts (these matters are now discretionary with the Board in all cases).

(8) The Board would be directed: (a) to study the sufficiency of the entire present act; (b) to study the organization, procedures and practices of the Bureau of Mines; and (c) to report to Congress within 1 year on the results of these studies, together with its recommendations thereon. Funds for the Board's studies would be required to be made available from appropriations authorized, in section 5 of H.R. 317 and H.R. 5365, for expanded educational programs by the Department of the Interior. (A related provision is contained in sec. 6 of H.R. 3584, which directs the Secretary of the Interior to conduct a special study to determine the sufficiency of the present safety requirements of the act, with particular emphasis on the provisions relating to roof support, ventilation and electrical equipment, and to report thereon to Congress, with his recommendations, within 1 year after the adoption of the amendments.)

These changes in the Board would raise many major problems and, in totality would destroy the effectiveness of the Board and the entire Federal Coal Mine Safety Act. Among these problems are the following:

(1) As already mentioned, the Board, under H.R. 317 and H.R. 5365, would consist of a chairman, who would continue as a public representative, and separate operator and labor representatives of large and small mines. The bill also provides that the chairman and the two present Board members would continue in office, and that two new members would be appointed. Presumably, the bill intends that the two present Board members, who were appointed by the President, with Senate approval, to represent the viewpoints of the operators and workers of all coal mines, would be redesignated as representatives of the operators and workers of only large mines. And presumably the two new members would be designated as representatives of the operators and workers of small mines. Under these circumstances of separate representation for small and large mines, what would be the impact, if, as appears likely, the related provisions for eliminating the exemption of small mines were declared unconstitutional? And would any different result be reached if, although such provisions were upheld as constitutional, no significant number of small mines were in fact brought within the jurisdiction of the Board?

(2) H.R. 317 and H.R. 5365 would also add a new condition to the composition of the Board; namely, the membership of the Board must not include two or more persons who were "previously" members or employees of "the same labor organization or union," or members or employees "of the same management company, corporation, group, organization, or association." Besides various minor questions raised by this language, the more difficult problems are as follows:

(a) Are these provisions intended merely to prevent the labor representatives on the Board from having common membership in, or employment by, the same union or labor organization, and the operator representatives on the Board from having common membership in, or employment by, the same management entity? Or would overlapping common membership or employment also be prohibited? That is, for example, would an operator-representative be disqualified if he had, at some remote time in the past, belonged to the same union as a labor representative? Or, conversely, would a labor representative be disqualified if he and one of the operator-representatives were each employed in the past by the same company? And would the Chairman be excluded if he had once been a member of, or employed by, the same union or company as any one of the labor or operator representatives?

(b) What constitutes membership in the same labor organization or union? More specifically, if, for instance, two Board appointees had previously been members of completely different international unions which, in turn, were affiliated with the same labor federation (like the AFL-CIO), would they be disqualified from serving together on the Board? And what would be the result if they were members of separate autonomous labor organizations within the same international union?

(c) Similarly, what constitutes prior membership in, or employment by the same management company, corporation, group, organization, or association? For example, if, as might frequently occur, two Board appointees had been employed by separate companies which, at some time in the past, had been members of a common trade association (such as the National Coal Association, or American Mining Congress), would one of the appointees be disqualified?

(d) Since the language in question prohibits only "previous" membership in, or employment by, the same labor or management entities, would the Board

members be free to be employed by, or become members of, the same entities during their Board tenure?

(e) Assuming two Board members were appointed who, under a later determination, were found to have had some prohibited common employment or membership, would both Board members be disqualified, or only the member with less seniority, or only the member last appointed? And what would be the effect of such disqualification on Board decisions issued while these appointees were serving together on the Board?

(3) H.R. 317 and 5365 would require that, upon request of the operator, a Board hearing or other proceeding must be conducted at the county seat of the county where the mine is situated, "or at any place mutually agreed to by the Chairman of the Board and the operator." If the Chairman was temporarily absent, so that mutual agreement as to the place of the hearing or other proceeding could not be reached with the operator, would the Board be prohibited from conducting a hearing or other proceeding on the appeal? If so, this inability of the Board to take action on an appeal might relieve the operator of his duty to comply with the outstanding order, from which an appeal had been taken, and the mine would continue to operate in violation of the law.

(4) Similarly, H.R. 317 and 5365 require that, in any official action involving a small mine, the operator and labor representatives of such mines must participate and, in any official action involving a large mine, the operator and labor representatives of such mines must participate. Since, under the act, each Board member would still serve on an intermittent basis, and since each would therefore be unavailable on occasion, would the absence of a critical Board member, for any reason whatsoever, completely paralyze Board action in those cases where his participation is expressly stated in the bill to be mandatory? If so, as appears likely under the proposed bills, the operator involved would again appear free to disregard the outstanding order, because he has been denied his statutory right of a "prompt decision" on his appeal, under section 207(j) (or proposed sec. 207(k) of the act).

(5) A hearing by less than the full Board would technically still be permitted under H.R. 317 and 5365 but, before final action, the Board must afford the parties an opportunity to appear before the full Board and, in practice under the bill, the Board would probably deem itself required to allow the record to be reopened for additional evidence. In view of these statutory conditions attached to the conduct of hearings by less than the full Board, what material purpose would be served by the conduct of an initial hearing by less than the five-man Board? And if hearings by less than the full Board were in practical effect eliminated, how could the Board rapidly handle an increased caseload under the amended act?

(6) Section 6 of H.R. 317 and 5365 would require the Board to conduct studies of the sufficiency of the entire Federal Coal Mine Safety Act, and of the organization, procedures, and practices of the Bureau of Mines, and to report thereon, with recommendations, to Congress, within 1 year after the amendments are adopted. How could the Board possibly accomplish these wide-ranging assignments, along with handling an increased caseload, and still serve on an intermittent basis, and still render "prompt decisions," as required by the act? Moreover, how could such an investigation of the Bureau of Mines by the Board be reconciled with the "separation of powers" between prosecutory and quasi-judicial agencies, consistently and vigorously demanded by Congress?

(7) According to H.R. 317 and 5365, the funds for the above investigations by the Board would have to be made available from appropriations granted to the Department of the Interior for its expanded educational programs. How could the Board be expected to secure adequate funds from the Department of the Interior for an investigation of a Bureau in that very agency, without considerable conflict, time-consuming negotiations, and the impairment of the joint efforts so vital to the effectuation of the entire act?

(8) Viewing the changes in the Board's composition and functions as proposed by H.R. 317 and H.R. 5365 as a whole, how could the Board successfully accomplish its overriding statutory mission of promptly resolving disputes under title II, and thereby averting unnecessary economic hardship and the devastation of disaster-type catastrophies? And in view of the outstanding reputation for fairness, established by the present Board in the industry and in the courts, what could be accomplished by the proposed bills (H.R. 317 and H.R. 5365) except the destruction of the Board's effectiveness and the emasculation of the entire act.

3. Duties of the Interior Department

Section 5 of H.R. 3584, like section 5 of H.R. 317 and H.R. 5365, would delegate two additional duties to the Interior Department. These duties would be as follows:

(1) In order to coordinate Federal and State activities relating to coal mine safety, to eliminate duplication of cost and effort, and to secure effective endorsement of the safety requirements of the act, the Director would be required affirmatively and diligently to seek to cooperate with the appropriate State agencies, through formal agreement or otherwise, in the enforcement of title II.

(2) The Secretary of the Interior would be directed to increase the Bureau's educational programs concerning health and safety in coal mines, and to seek the cooperation and assistance of the State agencies in the planning and implementation of these programs.

However, two differences prevail between H.R. 3584, and H.R. 317 and H.R. 5365, with regard to the additional duties of the Interior Department; namely:

(1) As to the proposed expansion of the educational programs conducted by the Bureau, H.R. 317 and H.R. 5365 would specifically authorize "to be appropriated not to exceed \$750,000 for carrying out such programs"; while H.R. 3584 would omit any specific ceiling on the authorization of appropriations for these purposes.

(2) As previous indicated, section 6 of H.R. 3584 would direct the Secretary of the Interior to study the sufficiency of the act, with particular emphasis on the requirements concerning roof support, ventilation, and electrical equipment, and report thereon to Congress, together with his recommendations, within 1 year after the amendments are adopted; whereas, under section 6 of H.R. 317 and H.R. 5365, the Board would be required to conduct investigations of the entire act and of the organization, procedures, and practices of the Bureau of Mines, and similarly report thereon to Congress.

The serious problems which would be created by requiring the Board rather than the Interior Department to make the proposed investigations have already been described and will not be repeated here. As to the difference between the bills (H.R. 317 and H.R. 5365 and H.R. 3584) with regard to the ceiling on appropriations for expanded educational programs, it is obvious that no ceiling should be established. Instead, as proposed in H.R. 3584, Congress should retain its full discretion to meet these educational needs as they arise, without a rigid and difficult-to-administer limitation on the appropriation of funds.

H.R. 3584, H.R. 317, and H.R. 5365 would require, as already stated, that the Director increase his efforts to secure the cooperation of the States in the enforcement of the act by "formal agreement or otherwise." While no problem would be created by this requirement under H.R. 3584, the same requirement in H.R. 317 and H.R. 5365 would raise serious difficulties, because of the changes in the composition and functions of the Board proposed by H.R. 317 and H.R. 5365. More specifically, the Director's efforts to secure cooperation of the States "by formal agreement under H.R. 317 and H.R. 5365" would increase the number of State-plan arrangements executed under section 202 of the present act. An increase in such plans would necessarily add to the number of State-plan cases which would be appealed to the Federal Coal Mine Safety Board under section 203 of the act, and such appeals require particular speed in handling by this agency. Yet, in the light of the changes in the Board proposed by H.R. 317 and H.R. 5365, the Board could not effectively meet this obligation and, therefore, the Director's efforts to secure cooperation with the States would be defeated.

Gentlemen, this concludes my statement. In presenting it, I have tried to be objective and practical. I hope the committee will give serious consideration to my comments and be guided in their decisions only by the health and safety of the human elements affected by the proposed legislation.

I again urgently request that you take early and favorable action on H.R. 3584. Thank you.

Mr. DENT. At this time I would like to call together if possible, and cooperation can be gained from the gentlemen, Mr. Edmund M. Boggs, commissioner of labor and industry, State of Virginia, and Mr. W. Foster Mullins, assistant chief inspector of the Virginia Division of Mines, in the interest of expediting these proceedings in order that we can give consideration to the testimony in executive session.

I appreciate your cooperation very much.

Mr. MULLINS. Mr. Chairman, with your permission—
Mr. DENT. Decide between you who will go first.

**STATEMENT OF W. FOSTER MULLINS, ASSISTANT CHIEF MINE
INSPECTOR FOR THE COMMONWEALTH OF VIRGINIA**

Mr. MULLINS. My name is W. Foster Mullins, and I live at Big Stone Gap, Va. I am the assistant chief mine inspector for the State of Virginia, and as such I share responsibility with Mr. Creed Kelly, the chief inspector, for the proper enforcement of the coal mine safety laws of Virginia.

Additionally, I advise Mr. Boggs, the commissioner of labor and industry for the State of Virginia, concerning all matters relating to coal mine safety, including proposals which I believe will improve the safety laws of the State.

Prior to being appointed to my present post I served as laborer, engineer's helper, transitman, resident engineer, safety engineer, section foreman, general mine foreman, and mine superintendent. Altogether I have had 30 years of experience working in various capacities in the coal industry.

I am appearing today in opposition to H.R. 3584, not because I am opposed to coal mine safety, but rather because I am totally committed to a program of good coal mine safety. Accordingly, I support H.R. 317, introduced by Congressman Jennings, H.R. 5365, introduced by Congressman Bell, because I believe it is vitally important to determine exactly what conditions actually exist in each of the various States prior to applying the Federal act to the thin-seam drift mines of Appalachia.

In fact, unthinking application of the principles of the Federal act, which may be sound for gassy mines, may, when applied to nongassy, thin-seam mines, create hazardous conditions.

Preliminarily, I believe the committee should understand some of the basic differences between title I and title II mines. Many of you visited our State last year and went into a title I mine; but perhaps few or none of you have actually seen the operation of a large, title II underground mine.

The difference between the two types are multiple. First of all, perhaps 6 months of training is necessary before a worker can be put on the job as a production worker in a title II mine. This period is necessary for familiarization with the complex machinery which the title II worker will be using.

In contrast, a title I mine is essentially dependent upon human output; the individual miner produces from 8 to 10 tons per day. In the title II mines machines bolt the roof, set the timbers, undercut the coal, and in some mines there are giant continuous miners. In one of our title II mines an individual mineworker might produce 100 tons per shift.

The cost differential between establishing a title I and establishing a title II operation is enormous. In a title I operation the operator can purchase a mine tractor and mine cars, hand tools, timbers, wedges, brattice materials, and explosives and, having obtained his lease and perhaps seven other men to work with him, can begin operations for something between \$10,000 and \$15,000.

In contrast, there is a shaft mine, a title II mine, going into production shortly in Virginia which was established at a cost of \$15 million. While the investment for a title II operation is usually considerably less than this, it does indicate the essential differences between the two types of mines, that is, one is big business and the other is small business.

The cost of equipment alone which is necessary to keep an efficient mechanized mine in operation would begin at about \$200,000.

The importance of the title I operators to the economy of southwest Virginia cannot be overestimated. Just as a rough figure, I would say that in southwest Virginia there are over 100,000 people that are dependent upon the title I coal industry for their livelihood—not only the miners, themselves, but also the merchants, the bankers, barbers, automobile salesmen, and other tradesmen.

Speaking from the point of view of the Virginia Division of Mines, we have had, indeed, outstanding cooperation from our title I operators. Since 1961 the fatalities in title I mines in Virginia have progressively decreased from 20 to 12.

Our Virginia inspectors will find conditions which justify closures of title I mines every week, but in our experience the title I operator does not resent this. He appreciates our help. We advise him as to how he may remove the dangerous condition, and we also advise him concerning other matters of general safety and efficient operation.

While I have not participated in the hearings held on this subject in past years, I am familiar in general with the controversies which have arisen concerning the statistical information submitted.

I would like to state this: With respect to the State of Virginia, I believe that our figures are absolutely accurate. The Virginia State law requires that every commercial coal mine secure a license to operate before any coal is produced. This license must be renewed annually.

Before it is renewed, a license fee is required, the coal mine schedule and an application must be filled out. I would like to submit for the record a copy of this information, which is attached to this statement.

Mr. DENT. Without objection that will be included at this point in the record.

(The information referred to follows:)

TO AMEND THE FEDERAL COAL MINE SAFETY ACT



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF LABOR AND INDUSTRY
DIVISION OF MINES AND QUARRIES
BIG STONE GAP, VIRGINIA
COAL MINING SCHEDULE

Report for Calendar Year Ending December 31, 1964
SEPARATE REPORTS ARE REQUIRED FOR EACH MINE

1. REPORT ANY CHANGES IN OPERATING NAME OR ADDRESS OF MINE LISTED BELOW

2. Name of operator _____ 3. Location of mine (county) _____
4. Name or number of mine _____ 5. Name of coal seam _____
6. Type of mine and amount of tonnage (short tons) mined by each type: DO NOT REPORT PURCHASED
COAL

Type of Mine Operation	Check Type	Tonnage
1. Underground		
a. Tipple		
b. Truck		
2. Strip		
3. Auger		

7. MINING METHODS

- A. Coal loaded by machine _____
B. Coal loaded by hand _____

8. Production and distribution (short tons): Total of 8 should equal total of 6

DISTRIBUTION	Tonnage	
	Anthracite	Bituminous
Loaded at mine for shipment:		
Sold locally for domestic use		
Made into coke at mine		

9. Amount of coke produced _____
Net Tons

10. Indicate period covered by this report: Began _____, 1964 Ended _____, 1964
A. Total number of days mine operated _____
B. Average number of hours mine operated per day _____

11. OFFICE FORCE - Include the total number of full and part-time employees who worked or received pay for any part of a month. Include officers, superintendents, office help, clerks, engineers and similar employees (omit salesmen).

Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.

Total amount paid to office force \$ _____

13. PRODUCTION WORKERS - Include the total number of full and part-time production workers (surface and underground) who worked or received pay for any part of a month.

Month	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Surface												
Underground												

14. Total amount paid in wages to surface and underground employees \$ _____

IMPORTANT - SEE OTHER SIDE

15. Are you classified as Title I or Title II Mine? _____
(Title I is 14 men or less)
16. REPORT ALL DISABLING (OR LOST-TIME) INJURIES. DO NOT INCLUDE CASES THAT REQUIRED ONLY FIRST AID OR MEDICAL TREATMENT AND INVOLVED THE LOSS OF LESS THAN ONE (1) FULL CALENDAR DAY.

Count each work injury that disabled the worker for one (1) full calendar day or more: (a) regardless of whether workmen's compensation was paid; (b) whether disability developed immediately or some time after the injury.

1. List the temporary disabling work injuries and the number of days lost (for example: a broken right foot - 60 days lost).

2. List the number of permanent injuries and describe the injury (for example: amputation, middle joint of the right index finger).

REPORT REQUIRED BY LAW - Code of Virginia 1950, Title 45, Chapter 1, Section 45 - 7 requires this form to be filled out and returned to this office during the month of February. Section 45 - 17 of said acts imposes a fine for failure to comply herewith.

REMARKS: _____

DATE _____, 1965

Signed _____

Title _____

FOR OFFICE USE ONLY

Area _____ Type _____ Mine Index No. _____ Title _____

Mining Methods		Loaded for Shipment	Sold Locally	Coke	Days Wkd.	Hours Wkd.	Office Force	Salaries	Prod. Wkrs.		Wages	Dis. Inj.
Hand	Mchy.								Surf.	Under		

Days Dis.	No. of Mines

Underground mines—Virginia, Kentucky, West Virginia, Alabama, Tennessee, and Ohio—From attached data furnished by department of mines of States concerned

	Tonnage		Fatalities		Number of men employed		Fatalities per million man-hours	
	Title I	Title II	Title I	Title II	Title I	Title II	Title I	Title II
1962.....	43,826,456	158,680,279	59	98	34,708	52,298	1.35	1.54
1963.....	47,497,764	170,507,771	57	134	35,235	54,368	1.20	1.96
1964.....	33,759,843	167,287,424	42	96	25,660	51,908	1.24	1.43

¹ Figures for Virginia not included since not available as of this date.

NOTE.—Title I underground man-hours are based on 8 tons per man per day; title II underground man-hours are based on 20 tons per man per day.

	Tonnage		Fatalities		Number of men employed		Number of mines	
	Title I	Title II	Title I	Title II	Title I	Title II	Title I	Title II
Virginia:								
1962.....	15,358,859	11,408,756	16	6	7,873	2,783	1,474	203
1963.....	15,473,601	11,426,766	14	11	7,642	2,798	1,557	190
1964.....	(¹)		12	10				
Kentucky:								
1962.....	17,735,838	25,907,825	27	14	16,256	9,517	2,239	99
1963.....	21,134,043	26,972,010	21	12	16,543	9,676	2,170	104
1964.....	22,300,000	28,000,000	26	18	16,500	9,600	2,100	100
West Virginia:								
1962.....	6,895,276	101,652,774	13	61	7,315	34,030	1,134	432
1963.....	8,001,181	111,471,321	20	99	8,072	34,451	1,499	490
1964.....	8,308,649	119,007,675	15	67	6,294	35,083	1,550	475
Tennessee:								
1962.....	2,610,355	1,578,991	1	4	1,664	1,190	429	29
1963.....	1,569,827	2,074,188	1	4	1,392	1,242	325	29
1964.....	1,795,780	1,299,572	1	0	1,300	926	248	21
Alabama:								
1962.....	734,531	9,296,137	1	7	1,085	3,050	174	14
1963.....	831,287	8,527,101	1	5	1,150	3,075	183	14
1964.....	849,765	8,913,837	1	5	1,142	3,209	173	14
Ohio:								
1962.....	490,597	8,835,796	1	6	515	1,728	161	28
1963.....	487,825	10,036,385	0	3	436	3,126	146	28
1964.....	502,640	10,066,340	0	5	424	3,090	141	28

¹ Not available.

Mr. MULLINS. Furthermore, an up-to-date map must be provided. The law also requires that the coal mining schedule be filled out and mailed to the division whenever a mine changes ownership or when a mine is abandoned.

In the course of our inspections of the title I mines we are required to determine how many men are working in the individual mine and the average number of hours which are worked daily. When a mine inspector submits a report which does not have information, I require him to complete the report.

If an operator were to refuse to supply this information, I would direct our inspector to issue a closure order. Accordingly, I have every confidence that the number of people working in the title I mines and the number of title I mines in operation, as well as the hours worked in the State of Virginia as submitted in our statistics, are accurate.

I do not have the same confidence in the figures which have been submitted by the Bureau of Mines. To my knowledge the Bureau has no method of checking on the number of mines or determining where they are located. We have had instances where Bureau inspectors have asked us where a mine was located.

Further, to my knowledge the Bureau does not obtain complete information concerning the number of men working in title I mines or the tonnages produced by such mines for the reason that, in my experience, it is common belief among title I operators that such information submitted in response to the Bureau's questionnaire is not held confidential.

I find substantial support for this belief in my own experience. On many occasions I have received telegrams from the United Mine Workers concerning allegedly dangerous conditions in certain title I mines, and these telegrams were sent immediately after a Bureau inspection but before either I or the operator received the copy.

At this time I will submit these copies, if you gentlemen would like to see them.

MR. DENT. Without objection, it is so ordered.

(The information referred to follows:)

TO AMEND THE FEDERAL COAL MINE SAFETY ACT

Phone _____
 Day _____
 Night _____
 Drift ☐
 Shaft ☐
 Slope ☐

COMMONWEALTH OF VIRGINIA



DEPARTMENT OF LABOR AND INDUSTRY
 DIVISION OF MINES AND QUARRIES
 BIG STONE GAP, VIRGINIA

Mine Index No. _____

Tipple ☐
 Truck ☐
 Gassy ☐
 Nongassy ☐

Date: _____

*Nature of this inspection _____
 (pre-work, regular, mine on days, closed mine, requested, special, etc.)

GENERAL:

Company _____ Mine No. _____ Address _____
 Location of Mine _____ County _____ Seam & Thickness _____
 (creek, etc.)
 Principal Officer or Owner _____ Superintendent _____

* Mine Foreman _____ Address _____ If certified give class & number _____

* Total Employees _____ UG per shift: 1st _____ 2nd _____ 3rd _____ Surface _____ Daily Tonnage _____

Former Name & Mine Number if changed _____

*Approximate distance from portal to farthest face _____ Electric Power Underground: AC _____ DC _____

*Is license posted at mine? _____ Date of map _____ Engineer _____

Briefly list types of mining equipment _____

SURFACE:

Type of cleaning plant or tipple _____

Condition of wiring: Good ☐ Fair ☐ Poor ☐ Condition of Buildings: Good ☐ Fair ☐ Poor ☐

Surface fire or explosion hazards observed: Oil ☐ Dust ☐ Gas ☐ Wood ☐ Explosives ☐

Hoisting motive power: Electric ☐ Steam ☐ Hoisting Method: Skip ☐ Cage ☐ Belt ☐ Track ☐

*Describe unsafe conditions and/or practices observed on surface: _____

*Are there active fires in adjacent mines? _____ If yes, give name of mine _____

Are gas or oil wells on property? Yes ☐ No ☐ Are gas lines near mine openings? Yes ☐ No ☐

Type and size of fan (s) _____ Is housing fireproof? Yes ☐ No ☐

Is fan offset? Yes ☐ No ☐ Explosion door or weak wall? Yes ☐ No ☐ Reversible? Yes ☐ No ☐

Exhaust ☐ Force ☐ Fan motive power _____

VENTILATION:

*Was methane detected? _____ Percentage _____ Location _____

*Volume of air at main intake _____, at main return _____

Location of Air Measurement	Volume	Location of Air Measurement	Volume

TO AMEND THE FEDERAL COAL MINE SAFETY ACT

41

VIRGINIA DIVISION OF MINES AND QUARRIES Mine Inspection Report

COMPANY _____ MINE _____ INDEX NO. _____
INSPECTOR _____ DATE _____

IMMEDIATE ACTION MUST BE TAKEN TO COMPLY WITH THE RECOMMENDATIONS INDICATED BELOW:

TIMBERING

- ☐ SAFETY JACKS: At least _____ or more safety jacks or posts must be kept set in all face areas.
- ☐ SAFETY JACKS: Before posts or jacks are removed, additional ones must be set.
- ☐ LINE TIMBERS: Two or more rows of line timbers shall be set on _____ foot centers to within _____ feet of working faces.
- ☐ TIMBERING: Loose or doubtful roof at _____ shall be taken down or properly timbered.
- ☐ TIMBERING: Prepared header blocks shall be used over all line timbers and safety posts.
- ☐ TIMBERING: Adequate breaker posts shall be set at _____ (location)
- ☐ TIMBERING: Dislodged or decayed timbers shall be replaced immediately _____ (location)
- ☐ TIMBERING: The roadway clearance between line timbers shall not exceed _____ feet. (location)
- ☐ TIMBERING: All unused breakthroughs and room necks must be timbered off.
- ☐ TIMBERING: Only timbering material of proper size and strength shall be used.
- ☐ TIMBERING: Crossbars must be used _____ (location)
- ☐ SUPPLIES: An adequate supply of timbering material shall be kept available for all working places.
- ☐ ROOF TEST: The roof shall be examined at the beginning of the shift and at frequent intervals during the shift.
- ☐ ROOF BOLTS: Roof bolts must be installed on centers not to exceed _____ feet.
- ☐ ROOF BOLTS: Conventional timbering must be done along with roof bolting in _____
- ☐ NOTE: No coal shall be loaded from the dangered-off place until the above recommendations have been complied with and the operator has obtained permission from the Chief Mine Inspector to resume work.

DUST

- ☐ COAL DUST: Accumulations of loose coal and dust shall be removed from _____ (location)
- ☐ ROCK DUST: All dry and dusty sections of the mine must be rock dusted to within 40 feet of the faces.

VENTILATION

- ☐ AIR COURSE: _____ air course must be kept open and in good condition.
- ☐ AIR COURSES: Air courses must be examined by the foreman or his assistant at least once each week.
- ☐ AIRLOCK: An airlock must be provided at _____ (location)
- ☐ AIR MEASUREMENT: Air currents shall be measured and recorded at least once each week.
- ☐ AIR SPLIT: _____ must be placed on a separate split of air.
- ☐ STOPPINGS: All breakthroughs except the last must be promptly closed in _____ (location)
- ☐ STOPPINGS: Stoppings must be properly constructed of incombustible material.
- ☐ STOPPINGS: Leaky stoppings in _____ must be made reasonably air-tight.
- ☐ FAN: The fan must operate at all times while men are in the mine.
- ☐ FAN: If for any reason the fan is stopped, it must run _____ hours before men are permitted to enter the mine.
- ☐ FAN: Fan must be offset at least 15 feet in fireproof housing and protected by explosion door or weak wall.
- ☐ VENTILATION: No room or entry shall be turned in by the last open crosscut.
- ☐ VENTILATION: At least 6,000 cu. ft. of air must be provided at last crosscut in _____
- ☐ VENTILATION: The quantity of air at _____ must be increased. (location)
- ☐ BREAKTHROUGH: Breakthroughs shall be made at intervals not to exceed 80 feet.
- ☐ LINE BRATTICES: Line brattices (wing curtains) shall be used in _____ (location)

EXPLOSIVES AND BLASTING

- ☐ EXPLOSIVES: Explosives taken underground shall be transported, handled and stored as required by law.
- ☐ EXPLOSIVES: Not more than a 48-hour supply of explosives shall be stored in the mine at one time.
- ☐ MAGAZINE: An explosives magazine, erected in compliance with the law, shall be constructed.
- ☐ BLASTING: All working places must be carefully examined after blasting is done.
- ☐ BLASTING: Shots must be fired immediately after the holes are charged.
- ☐ STEMMING: Boreholes for blasting shall be stemmed with at least 24 inches of incombustible material unless approval has been granted to use a newly developed permissible stemming device.
- ☐ FUSE: Fuse must be cut at least one foot longer than the depth of the drill hole.
- ☐ DETONATORS: Electrical detonators must be used when blasting in a gassy mine.
- ☐ AIRDOX: Airdox lines must be properly installed and protected against mechanical or electrical damage.

SUPERVISION

- ☐ SUPERVISION: All work in this mine must be supervised by a mine foreman.
- ☐ SUPERVISION: The mine foreman must report conditions of the mine daily in the Mine Foreman's record book.
- ☐ SUPERVISION: Closer supervision must be given this mine by the mine foreman.
- ☐ SUPERVISION: The mine foreman shall visit and examine each working place each day or oftener while men are at work.

MAP, PLANS AND LICENSES

- ☐ MAP: A certified, up-to-date map must be filed with the Division of Mines.
- ☐ MAP: A copy of the mine map must be kept available at the mine.
- ☐ MAP: When this mine is to be abandoned, a final map must be filed with the Division of Mines.
- ☐ PROPERTY LINE: All working places must be stopped at least 5 feet from the property line.
- ☐ LICENSE: A license to operate a mine must be obtained and a copy posted at a prominent place at the mine.
- ☐ LICENSE: No coal is to be produced until a license to operate this mine has been obtained.
- ☐ PERMIT: A permit must be obtained to _____
(Shooting from the solid, using black powder, blower fans, etc.)
- ☐ NEW OPENINGS: The distance between all drift openings must be at least forty feet (40') of natural strata.
- ☐ PROJECTIONS: Mine workings must be driven to comply with engineer's projections.
- ☐ PROJECTIONS: Entries and rooms must be held to proper width.
- ☐ PILLARING: Pillars must be extracted in proper sequence.

ELECTRICITY

- ☐ LIGHTNING ARRESTERS: Lightning arresters shall be installed on all electrical lines entering the mine.
- ☐ INSULATORS: All positive power lines in and around the mine must be properly installed on insulators.
- ☐ INSULATING MATS: Rubber insulating mats shall be placed _____
(equipment or location)
- ☐ INSULATION: All hand-held electrical equipment must be properly insulated.
- ☐ WIRE GUARD: The telephone line shall be guarded at _____
(location)
- ☐ WIRE GUARD: The trolley wire shall be guarded at _____
(location)
- ☐ BELTS: Electrical wires crossing under or over belts must be properly installed and guarded.
- ☐ FUSES AND GROUNDS: _____ shall be properly fused.
(equipment)
- ☐ TRACK BONDS: All tracks shall be bonded the distance of the trolley wire with cross bonds installed every 200 feet.
- ☐ SWITCH: A disconnecting switch shall be installed _____
(location)

POWER CABLES

- ☐ CABLES: The power cable on _____ must be replaced or repaired.
(equipment)
- ☐ CABLES: Twenty feet of flexible rubber hose shall be installed over the end of the drag cable which is fastened to the buggy.
- ☐ CABLES: Power cables on mine floor must be protected from water and mechanical damage.

HAULAGE

- ☐ LOCOMOTIVE: _____ on the locomotives must be repaired immediately.
(brakes, lights, sandlogging, etc.)
- ☐ LIGHTS: Lights must be used on front and rear of trips while in motion in the mine.
- ☐ MAN TRIP: Man trips must be operated at a safe rate of speed and under control at all times.
- ☐ MAN TRIP: Man trips must not travel under unsafe or doubtful roof.
- ☐ TRACK: Track in _____ must be kept in a safe condition.
(location)
- ☐ MINE CARS: Mine cars must be kept in good operating condition or removed from service.
- ☐ REFUGE HOLES: Properly maintained refuge holes shall be provided at _____
- ☐ CLEARANCE: Adequate clearance must be maintained at _____
(location)
- ☐ SIGNALS: The movement of trips shall be controlled by a signal system or a dispatcher.
(location)

BELTS

- ☐ BELTS: Conveyor belts must be protected by emergency safeguards.
- ☐ BELTS: Transportation of men on belts shall be in compliance with the Mining Law with respect to - Clearance ☐ ,
Belt Speed ☐ , Lighting ☐ , Spacing of Men ☐ , Supervision ☐ .

DRAINAGE

- ☐ WATER: _____ shall be kept free of standing water.
(location)

BOREHOLES

- ☐ BOREHOLES: When approaching old workings, holes must be drilled 20 feet ahead of face with rib holes eight feet (8') apart and on a forty-five degree (45°) angle.

☐ ESCAPEWAY: A properly maintained escapeway must be provided.

☐ ESCAPE SHAFT: The escape shaft must be provided with an approved ladder, stairway or hoist.

☐ ESCAPE SHAFT: Escape shaft and its equipment must be inspected weekly by the mine foreman or other designated person.

☐ SIGNS: Signs pointing to escapeways must be posted.

☐ CHECK-IN-AND-OUT: A uniform check-in and check-out system for employees must be put into effect at once.

☐ ABANDONED MINE: No person shall enter, explore, or survey an abandoned mine unless the mine has been examined by a certified person.

☐ HOIST: The _____ at the main hoist must be maintained in a safe condition.
(ropes, brakes, etc.)

☐ CAGE: Men shall not ride cages while other material is being handled.

☐ SAFETY HATS: All employees shall wear safety hats.

☐ SAFETY SHOES: All employees shall wear safety-type shoes.

☐ FIRST AID: Adequate first-aid supplies must be obtained and kept at suitable locations in the mine.

☐ FIRE EQUIPMENT: Adequate fire fighting equipment must be obtained and kept at suitable locations in the mine.

☐ CLOSED LAMPS: All workmen should wear battery type lamps.

☐ RESPIRATORS: Respirators must be worn by _____.

☐ APRON: A substantial apron shall be erected over the portal where men are required to travel.

☐ HAND RAIL: A hand rail must be installed on _____ (location).

☐ GUY WIRES: _____ must be securely X-braced and anchored with cables of proper strength.
(tipples, bins, etc.)

☐ SKID LOGS: Skid logs must be installed on _____ (location) _____ must be properly guarded.

☐ GUARDS: _____ (gears, pulleys, belts, fans, etc.)

☐ CLEARANCE: Proper clearance shall be maintained between railroad tracks on the surface.

☐ DANGER SIGNS: A danger sign shall be posted at _____ (location).

☐ ZONING: Track switches at tipples shall be properly zoned.

☐ GAS REMOVAL: Closer supervision must be given to the removal of gas in _____ (location).

☐ SHOT FIRER: Certified shot-firer (s) must be employed.

☐ FOREMAN: A First Class Mine Foreman must be employed to supervise the operation of this mine.

☐ FIREBOSS: A fireboss must report mine conditions daily in the Fireboss' Record Book.

☐ FLAMEPROOF EQUIPMENT: Only flameproof electrical equipment shall be used underground.

☐ CERTIFICATION: Operators of electrical equipment must be certified to use a flame safety lamp.

☐ GAS TEST: Where electrical face equipment is used, tests for gas must be made every 30 minutes, or oftener, as required.

☐ CLOSED LAMPS: All workmen must wear permissible-type electric cap lamps.

☐ SMOKING: Employees shall not be permitted to carry smoking material, matches or lighting devices underground.

☐ SEARCHING: Underground employees shall be searched frequently for smoking material, matches and lighting devices.

☐ PRE-SHIFT EXAM: Pre-shift mine examinations must be made within 4 hours before the beginning of a shift.

☐ NOTE: This mine will be reinspected _____

Inspector



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF LABOR AND INDUSTRY
RICHMOND, VIRGINIA

Mine Index No. 00417

CERTIFICATE OF MINE INSPECTION

Name or No. of Mine 5 Date of Inspection April 3, 1964
Operator McGlothlin Coal Co. County where located Buchanan
Superintendent Nelson McGlothlin Post Office of Mine Rosedale, Virginia
General Foreman King McGlothlin Tipple or Truck Mine Truck
Name of Coal Seam Jewell Leased From Jewell Ridge Coal Corporation
General Office Address Same

SUMMARY OF CONDITIONS AND RECOMMENDATIONS

1. Ingress and Egress Two openings to the surface were available and escapeways were in safe, travelable condition.
2. Ventilation More than 6,000 cu. ft. a minute was reaching the last open entry cross-out and face ventilation was fair.
3. Breakthroughs None were needed at time of the inspection.
4. Doors and Brattices One permanent stopping was needed at time of the inspection.
5. Coal Dust Dangerous accumulations of coal dust were present at the loading point and at some locations along the main haulageroad. All accumulations of coal dust and loose coal must be loaded and removed from the mine and all dry and dusty sections adequately
6. ~~Explosives~~ and Blasting Coal was blasted onshift with permissible explosives, fired with blasting caps and fuse. Coal was undercut before shot holes were charged. Rock dust was used for stemming. Suitable storage facilities were provided.
7. Roof The immediate roof was faulty shale and required close timbering and constant attention. Inadequately supported, loose roof was present at three locations on the main haulageroad. This loose roof must be taken down immediately.
8. Timbering The company's rules for roof support were reasonable adequate and were followed in the face area. However, some additional timbering was needed along the main haulageroad.
9. Clearance Clearance was maintained along the roadways in the face area. However, clearance was obstructed at some locations along the main haulageroad.
10. Drainage Good, except for local dips.
11. Haulage Coal was transported to the surface in mine cars by a track battery-powered locomotive. Track was in need of alignment and surfacing.
12. Machinery The skid elevator drive was not guarded.
13. Voltage Wires Power wires were in contact with timbers at some locations.
14. Other Conditions Ample first aid supplies were provided for the mine.
A permissible flame safety lamp was available.
A map of the mine was available.

Signed John D. Krueger Address Jewell Ridge, Virginia
Mine Inspector

Fill Out Reverse Side

1. If mine has changed hands since last inspection, give name and address of former operator

2. Employees	DAY	Inside <u>12</u>	NIGHT	Inside <u>—</u>	MIDNIGHT	Inside <u>—</u>
	SHIFT		SHIFT		SHIFT	
	Surface <u>1</u>		Surface <u>—</u>		Surface <u>—</u>	

3. Approximate number tons produced since last inspection —

4. Approximate number days operated since last inspection —



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF LABOR AND INDUSTRY
RICHMOND, VIRGINIA

Mine Index No. 03404

Reinspection

CERTIFICATE OF MINE INSPECTION

Name or No. of Mine # 5 Date of Inspection 4/2/64
Operator Breaks Coal Co. County where located Dickenson
Superintendent Willie Yates Post Office of Mine Vicay Va.
General Foreman Clall Deal Tipple or Truck Mine Truck
Name of Coal Seam Havy Leased From _____
General Office Address Vicay Va.

SUMMARY OF CONDITIONS AND RECOMMENDATIONS

1. Ingress and Egress Good
2. Ventilation Good
3. Breakthroughs O.K.
4. Doors and Brattices O.K.
5. Coal Dust Not enough observed to be dangerous this mine is very wet and is rock dusted to within fifty feet of all working places.
6. Explosives and Blasting Properly stored and handled.
7. Roof Fair
8. Timbering Good
9. Clearance Good
10. Drainage Fair
11. Haulage Fair
12. Machinery O.K.
13. Voltage Wires O.K.
14. Other Conditions The dangerous accumulations of coal dust reported by the federal mine inspector was not found in this mine.

Signed Joe P. Clavis
Mine Inspector

Address Charlottesville
Fill Out Reverse Side

1. If mine has changed hands since last inspection, give name and address of former operator

2. Employees DAY SHIFT Inside 10 NIGHT SHIFT Inside 0 MIDNIGHT SHIFT Inside 0
Surface 0 Surface 0 Surface 0

3. Approximate number tons produced since last inspection Tons per day = 100

4. Approximate number days operated since last inspection _____



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF LABOR AND INDUSTRY
RICHMOND, VIRGINIA

Mine Index No. 61095

CERTIFICATE OF MINE INSPECTION

Name or No. of Mine 3 Date of Inspection April 2, 1964
Operator Ray, Mascom Coal Co. County where located L Buchanan
Superintendent Mascom Ray Post Office of Mine Oakwood, Virginia
General Foreman Dennis Keene Tipple or Truck Mine Truck
Name of Coal Seam Jewell Leased From Jewell Ridge Coal Corporation
General Office Address Same

SUMMARY OF CONDITIONS AND RECOMMENDATIONS

1. Ingress and Egress Two openings to the surface were available and escapeways were in safe, travelable condition.
2. Ventilation More than 8,000 cu. ft. a minute was reaching the last open entry cross-out and face ventilation was adequate.
3. Breakthroughs Breakthrough was needed in No. 2 entry.
4. Doors and Brattices None were needed at time of the inspection.
5. Coal Dust There were some accumulation of coal dust for a distance of about 100 feet at one location on the main haulageroad. Rock dust applications were inadequate at this point. This dust must be removed from the mine and all dry and dusty sections adequately rock dusted.
6. Explosives and Blasting Coal was blasted onshift with permissible explosives, fired with blasting caps and fuse. Coal was undercut before shot-holes were charged. Rock dust was used for stemming. Suitable storage facilities were provided.
7. Roof The immediate roof was faulty shale and required close timbering and constant attention. Inadequately supported, loose roof was present at one location on the main haulageroad. All loose and doubtful roof must be taken down or securely timbered.
8. Timbering The company's rules for roof support were reasonable adequate and were well followed in the face area. Some additional timbering was needed at two locations on the main haulageroad.
9. Clearance Ample clearance was maintained along the roadways.
10. Drainage Good, except for local dips.
11. Haulage Coal was transported to the surface in rubber-tired mine cars by a rubber-tired battery-powered locomotive.
12. Machinery The machinery was maintained in reasonable safe operating condition.
13. Voltage Wires Power wires were well-installed on insulators.
14. Other Conditions Ample first aid supplies were provided for the mine.
A permissible flame safety lamp was available.
A map of the mine was available.

Signed John L. Keene Address Jewell Ridge, Virginia

Mine Inspector

Fill Out Reverse Side

1. If mine has changed hands since last inspection, give name and address of former operator _____

2. Employees	DAY SHIFT	Inside <u>10</u>	NIGHT SHIFT	Inside <u>—</u>	MIDNIGHT SHIFT	Inside <u>—</u>
		Surface <u>1</u>		Surface <u>—</u>		Surface <u>—</u>

3. Approximate number tons produced since last inspection —

4. Approximate number days operated since last inspection —

6-154
(April 1955)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF MINES

File
SYMBOL AR5

PRELIMINARY REPORT

Company Ray Coal Company Mine No. 3
Location Jewell Valley, Buchanan, Virginia
(Town) (County) (State)
Date of Inspection March 13, 1964 Inspector Walter M. Allen
Telephone Number Norton 1230
Number of Men Employed 9 (all underground) Daily Production 75 tons
Originating Office Bureau of Mines, Norton, Virginia, J. S. Malesky, District
Supervisor, Health and Safety District I 16-70479-2 GPO

This inspection was made in accordance with provisions of Title I of the Federal Coal Mine Safety Act (66 Stat. 692; 30 U. S. C. —) to determine conditions and practices relating to health and safety and to propose recommendations for correcting hazards.

This preliminary report of the inspection calls attention to hazards of primary importance. All hazards observed and recommendations for their correction will be included in a more detailed final report.

The operator and mine workers are parties to the National Bituminous Coal Wage Agreement which requires prompt compliance with recommendations to correct violations of the Federal Mine Safety Code.

This mine is classed mongassy.

Violations of the Federal Mine Safety Code

Article IV - Explosives and Blasting

Section 5bl. Permissible explosives, fired with fuse and blasting caps, should be fired only with electric detonators of proper strength.

Article VI - Coal and Rock Dust

Section 1a. The dangerous accumulations of coal dust and loose coal along the roadways should be removed from the mine.

Section 2c. The rock dust applications were inadequate. Where rock dust is applied, it should be distributed upon the top, floor and sides of all open places and maintained in such quantity that the incombustible content of the combined coal dust, rock dust and other dust will not be less than 65 per centum.

Article X - Fire Protection and Mine Disasters

Section 1a. Fire-fighting equipment was not provided. This mine should be provided with suitable fire-fighting equipment, adequate for the size of the mine.

The practice and conditions listed in this report constitute imminent danger of a mine fire and/or explosion. All persons except persons engaged in eliminating these dangers should be removed from and barred from entering this mine.

/s/ Walter M. Allen

Walter M. Allen
Federal Coal Mine Inspector

6-156
(April 1958)UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF MINES

SYMBOL AR2

File

PRELIMINARY REPORT

Company Breaks Coal Company Mine No. 5

Location Viccy, Buchanan, Virginia
(Town) (County) (State)

Date of Inspection March 16, 1964 Inspector John J. Pendergast, Jr.

Telephone Number Morton 1230

Number of Men Employed 10 (all underground) Daily Production 90 tons

Originating Office Bureau of Mines, Norton, Virginia, J. S. Malesky, District Supervisor,
Health and Safety District I

16-60479-2 GPO

This inspection was made in accordance with provisions of Title I of the Federal Coal Mine Safety Act (66 Stat. 692; 30 U. S. C. —) to determine conditions and practices relating to health and safety and to propose recommendations for correcting hazards.

This preliminary report of the inspection calls attention to hazards of primary importance. All hazards observed and recommendations for their correction will be included in a more detailed final report.

The operator and mine workers are parties to the National Bituminous Coal Wage Agreement which requires prompt compliance with recommendations to correct violations of the Federal Mine Safety Code.

This mine is not classed gassy by the State but is a gassy mine under the provisions of the Federal Mine Safety Code. Analysis of an air sample (Bottle No. C-9822) collected September 18, 1963, at a location more than 12 inches from the face, roof, and ribs of the No. 2 main entry contained 0.31 per centum of methane.

VIOLATIONS OF THE FEDERAL MINE SAFETY CODE

Article IV - Explosives and Blasting

Section 5b1. Coal was blasted onshift with permissible explosives fired with fuse and blasting caps. Permissible explosives should be fired only with electric detonators of proper strength.

Section 5b7. Tests for gas were not made before and after blasting. Tests for gas should be made immediately before firing each shot or group of multiple shots and after blasting is completed.

Article V - Ventilation and Mine Gases

Section 10g. ~~Examinations~~ for methane were not made before electric equipment was taken into or operated in the face areas. Oneshift examinations should include tests for methane before electric equipment is taken into or operated in the face areas and frequently during such operation.

Article VI - Coal and Rock Dust

Section 2a. Rock dust had not been applied within 60 to 80 feet of the faces. This mine, except where wet, should be rock-dusted to within 40 feet of all faces, and open crosscuts less than 40 feet therefrom should also be rock-dusted.

Section 2c. The rock dust applications were inadequate. The incombustible content of the rock dust applications should be increased to at least 65 per centum.

Article X - Fire Protection and Mine Disasters

Section 1a. Fire-fighting equipment was not provided. Adequate fire-fighting equipment should be provided.

Article XI - Miscellaneous

Section 5a. Open-flame (candle) lamps were used for portable illumination. Persons underground should use only permissible electric cap lamps for portable illumination.

Section 7a. Smoking was practiced underground. Smoking should not be permitted underground nor should any person be allowed to carry smoking materials, matches, or lighters into this mine.

The above conditions and practices constitute imminent danger of a mine fire and/or explosion. All persons, except those engaged in eliminating the dangers should be withdrawn from the mine and debarred from entering.

/s/ John J. Fendergast, Jr.

John J. Fendergast, Jr.
Federal Coal Mine Inspector

6-156
(April 1953)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF MINES

SYMBOL ARL1

PRELIMINARY REPORT

Company McGlothlin Coal Company Mine No. 2
Location Jewell Valley, Buchanan, Virginia
(Town) (County) (State)
Date of Inspection March 16, 1964 Inspector Walter M. Allen
Telephone Number Morton 1230
Number of Men Employed 14 (all underground) Daily Production 125 tons
Originating Office Bureau of Mines, Morton, Virginia, J. S. Malesky, District
Supervisor, Health and Safety District I

10-60479-2 GPO

This inspection was made in accordance with provisions of Title I of the Federal Coal Mine Safety Act (66 Stat. 692; 30 U. S. C. —) to determine conditions and practices relating to health and safety and to propose recommendations for correcting hazards.

This preliminary report of the inspection calls attention to hazards of primary importance. All hazards observed and recommendations for their correction will be included in a more detailed final report.

The operator and mine workers are parties to the National Bituminous Coal Wage Agreement which requires prompt compliance with recommendations to correct violations of the Federal Mine Safety Code.

This mine is classed nonagency.

VIOLATIONS OF THE FEDERAL MINE SAFETY CODE

Article IV - Explosives and Blasting

Section 5bl. Permissible explosives, fired with fuse and blasting caps, should be fired only with electric detonators of proper strength.

Article VI - Coal and Rock Dust

Section 1a. The dangerous accumulations of coal dust and loose coal along the roadways should be removed from the mine.

Section 2c. The rock dust applications were inadequate. Where rock dust is applied, it should be distributed upon the top, floor and sides of all open places and maintained in such quantity that the incombustible content of the combined coal dust, rock dust and other dust will not be less than 65 per centum.

Article X - Fire Protection and Mine Disasters

Section 1a. Suitable fire-fighting equipment was not provided. This mine should be provided with suitable fire-fighting equipment, adequate for the size of the mine.

The listed practice and conditions in this report constitute danger of a mine explosion or fire. All persons, except those persons engaged in eliminating the dangers should be withdrawn and debarred from entering the mine.

/s/ Walter M. Allen

Walter M. Allen
Federal Coal Mine Inspector

C. P. KELLY,
*Chief Inspector, Virginia Department of Labor and Industry,
 Big Stone Gap, Va.:*

WASHINGTON, D.C.

Preliminary Federal inspection reports Breaks Coal Co., No. 5 mine, Vicey, Va.; McGlothlin Coal Co., No. 2 mine, and Ray Coal Co., No. 3 mine, Jewell Valley, Va., states imminent dangers mine fire and mine explosion present. Request investigation and necessary corrective action taken. Please advise return wire.

CHARLES FERGUSON,
Safety Director.

C. P. KELLY,
*Chief Inspector, Division of Mines, Virginia Department of Labor,
 Big Stone Gap, Va.:*

WASHINGTON, D.C.

Federal coal mine inspection report No. 10 mine, Waldon Deel Coal Co., Haysi, Dickenson County, Va., states imminent dangers mine fire and mine explosion present. Request immediate investigation and necessary corrective action taken. Please advise return wire.

CHARLES FERGUSON,
Director, Safety Division, UMWA.

COAL MINE INSPECTION REPORT, NO. 10 MINE, WALDON DEEL COAL CO., HAYSI,
 DICKENSON COUNTY, VA., OCTOBER 8, 1963

(By Bill W. Clemons, Federal coal mine inspector)

INTRODUCTION

This report is based on an inspection made in accordance with provisions of the Federal Coal Mine Safety Act (66 Stat. 692; 30 U.S.C. 451-483).

Capitalized items indicate serious hazards.

The operator and mineworkers are parties to the National Bituminous Coal wage agreement which requires prompt compliance with the recommendations to correct violations of the Federal Mine Safety Code.

GENERAL INFORMATION

The mine, formerly operated as the No. 15 mine, H. C. Greer Coal Co., was acquired by the present company in July 1963. Mr. Waldon Deel, of Davenport, Va., is the sole owner, and he also acts as mine foreman. The mine is opened by drifts in the Splash Dam coalbed, which averages 32 inches in thickness locally; 9 of the 10 men employed worked underground on 1 shift and produced an average of 125 tons of coal daily. The preceding Federal inspection was made May 20, 1963.

The immediate roof in the area being mined was firm shale. Unsupported, loose roof was not observed. The roof-support plan (verbal) required permanent posts or crossbars to be set not more than 4 feet apart to within 6 feet of the faces and two or more safety posts to be set near each face. The plan, which appeared to be adequate, was not followed in 11 of the 12 working places. The mine is classed "nongassy." Face ventilation was adequate.

The mine surfaces were generally very dry. Dangerous accumulations of coal dust and loose coal were present at numerous locations in the mine. Except for the No. 3 room, rock dust had not been applied within 50 to 80 feet of the faces nor in the Nos. 4 and 5 back entries; elsewhere, the applications, including the parallel entries, were inadequate. The incombustible content of the two dust samples collected was only 19 and 20 percent. See table 2.

Escapeways were in a safe, travelable condition.

During this inspection imminent danger of a mine explosion and/or mine fire was present. The conditions and practices which constitute such danger are: (1) Permissible explosives (10 to 12 shots) were fired in rapid succession on-shift with fuse and blasting caps; (2) blastholes were stemmed with fine coal dust; (3) dangerous accumulations of coal dust and loose coal were present at numerous locations in the mine; (4) except for the No. 3 room, rock dust had not been applied within 50 to 80 feet of the faces nor in the Nos. 4 and 5 back entries;

(5) the rock-dust applications were inadequate; (6) firefighting equipment was not provided at the mine; and (7) examinations for fires were not made after blasting operations performed onshift.

A statement of this fact and a description of the conditions and practices constituting such danger was included in a preliminary report posted at the mine at the close of this inspection, and it was recommended that only such persons required to correct these conditions be permitted in the mine while the dangers are present. Management stated that the imminence of such danger would be eliminated.

PART I. FEDERAL MINE SAFETY CODE—VIOLATIONS AND RECOMMENDATIONS

Article II—Miscellaneous Surface Conditions

Section 1d.—The dumping platform, of wooden construction, was within 75 feet of the mine opening. This structure should be of reasonably fireproof construction.

Article III—Control of Roof, Face, and Ribs

Section 1a.—A sketch of the roof-support plan was not posted. Such sketch should be posted.

Section 2b.—SAFETY POSTS WERE NOT USED IN 11 OF THE 12 WORKING PLACES, AND ONLY 1 WAS USED IN 2 OF THE 3 REMAINING PLACES.

SAFETY POSTS SHOULD BE SET CLOSE TO THE FACE FOR SAFETY BEFORE OTHER OPERATIONS ARE BEGUN AND AS NEEDED THEREAFTER.

Article IV—Explosives and Blasting

Sections 1b1, 1b2, and 1b3.—The roof of the explosives-storage magazine was constructed of 1-inch lumber covered with tin. The door was constructed of three-eighth-inch steelplate, the metal of which was exposed inside the magazine.

This magazine should be constructed in compliance with the provisions of article IV, section 1 of the Federal Mine Safety Code.

Sections 3b and 3d.—Explosives, in cardboard shipping containers, were transported into mine in rubber-tired mine cars by battery locomotives and on battery locomotives.

Explosives transported in mine cars by locomotives should be in a substantial cover car or in substantial covered containers used specifically for that purpose. Explosives should not be transported on locomotives.

Section 4a.—Explosives were stored underground in cardboard shipping containers.

Explosives stored underground should be in a closed section box or magazine of substantial construction with no metal exposed on the inside.

Section 5b1.—PERMISSIBLE EXPLOSIVES WERE FIRED WITH FUSE AND BLASTING CAPS.

PERMISSIBLE EXPLOSIVES SHOULD BE FIRED ONLY WITH ELECTRIC DETONATORS OF PROPER STRENGTH.

Section 5b6.—BLAST HOLES WERE STEMMED WITH FINE COAL DUST. BOREHOLES SHOULD BE STEMMED WITH AT LEAST 24 INCHES OF INCOMBUSTIBLE MATERIAL.

Article V—Ventilation and Mine Gases

Sections 1a1 and 1a4.—The main fan was installed within the mine opening and it was not equipped with a fireproof air duct and ample means of pressure relief.

The main fan should be installed on the surface and equipped with a fireproof air duct and ample means of pressure relief.

Section 1e.—Records of the daily fan inspections were not kept.

These records should be kept.

Section 3c.—Weekly air measurements were not made.

At least once each week, a competent person should measure the volume of air entering and leaving the mine and the volume reaching the last open cross-cut in each active entry.

Section 10c.—Only one flame safety lamp was available at the mine.

Not less than two permissible flame safety lamps in proper working condition should be kept available at the mine for the use of authorized persons.

Section 10d.—The mine foreman did not carry a permissible device capable of detecting methane and oxygen deficiency while examining the underground working places.

The mine foreman should carry and should use, when underground, a suitable permissible device capable of detecting methane and oxygen deficiency.

Section 10f.—PRESHIFT EXAMINATIONS WERE NOT MADE.

A FIRE BOSS SHOULD EXAMINE THIS MINE BEFORE OTHER MEN ARE PERMITTED TO ENTER. SEE ARTICLE V, SECTION 10f OF THE FEDERAL MINE SAFETY CODE FOR DUTIES OF FIRE BOSSES.

Section 10j.—Weekly examinations for methane and other hazards were not made.

Weekly examinations for methane and other hazards should be made in accordance with provisions of article V, section 10j of the Federal Mine Safety Code.

Section 10l.—The mine foreman did not make a written report of the condition of the mine.

Each day the mine foreman should enter plainly and sign with ink or indelible pencil, in a book provided for that purpose, a report of the condition of the mine.

Article VI—Coal and Rock Dust

Section 1a.—DANGEROUS ACCUMULATIONS OF COAL DUST AND LOOSE COAL WERE PRESENT AT NUMEROUS LOCATIONS IN THE MINE.

THESE DANGEROUS ACCUMULATIONS SHOULD BE REMOVED FROM THE MINE, AND SIMILAR ACCUMULATIONS SHOULD NOT BE PERMITTED.

Section 2a.—EXCEPT FOR THE NO. 3 ROOM, ROCK DUST HAD NOT BEEN APPLIED WITHIN 50 TO 80 FEET OF THE FACES NOR IN THE NOS. 4 AND 5 BACK ENTRIES.

THIS MINE, EXCEPT WHERE WET, SHOULD BE ROCK DUSTED TO WITHIN 40 FEET OF THE FACES, INCLUDING ALL OPEN CROSSCUTS.

Section 2c.—THE ROCK-DUST APPLICATIONS WERE INADEQUATE. THE INCOMBUSTIBLE CONTENT OF THE TWO DUST SAMPLES COLLECTED WAS ONLY 19 AND 20 PERCENT. SEE TABLE 2.

WHERE ROCK DUST IS APPLIED, IT SHOULD BE DISTRIBUTED UPON THE TOP, FLOOR, AND SIDES OF ALL OPEN PLACES AND MAINTAINED IN SUCH QUANTITY THAT THE INCOMBUSTIBLE CONTENT OF THE COMBINED COAL DUST, ROCK DUST, AND OTHER DUST WILL NOT BE LESS THAN 65 PERCENT.

Article VII—Transportation

Section 6b.—The two locomotives were not provided with headlights. Each locomotive should be equipped with headlights on each end.

Article VIII—Electricity

Section 1b.—The power circuits leading underground were not protected against lightning.

Each exposed power circuit that leads underground should be provided with lightning arresters of approved type near the point where the circuit enters the mine.

Section 5b.—The electric equipment was not frame grounded.

Except for the battery locomotives, the electric equipment should be frame grounded effectively.

Section 10b.—The trailing cable to the hand-held drill was not provided with short-circuit protection.

This cable should be provided with suitable short-circuit protection.

Article IX—Safeguards for mechanical equipment

Section 2a6.—The inby approach to the mine fan was not guarded. The inby approach to the fan should be guarded.

Article X—Fire protection and mine disasters

Section 1a.—FIREFIGHTING EQUIPMENT WAS NOT PROVIDED AT THE MINE.

EACH MINE SHOULD BE PROVIDED WITH SUITABLE FIREFIGHTING EQUIPMENT, ADEQUATE FOR THE SIZE OF THE MINE.

Section 1b.—EXAMINATIONS FOR FIRES WERE NOT MADE AFTER BLASTING OPERATIONS PERFORMED ONSHIFT.

AN EXAMINATION FOR FIRES SHOULD BE MADE AFTER EVERY BLASTING OPERATION PERFORMED ONSHIFT.

Article XI—Miscellaneous

Section 6a.—A check-in-and-out system was not in use.

This mine should adopt and use a checking system that will provide positive identification upon the person of every individual underground.

Section 8c.—Employees observed doing eye-hazardous work did not wear goggles or shields.

All employees should wear approved-type goggles or shields where there is a hazard from flying particles.

Article XII—General safety conditions

Section 4a.—The first-aid equipment did not include splints or sufficient triangular bandages.

Splints and an adequate supply of triangular bandages should be included in the first-aid equipment provided.

TABLE 1.—*Analyses of air samples*

MINE No. 10, WALDON DEEL COAL CO., COLLECTED BY B. W. CLEMONS, OCT. 8, 1963

Bottle No.	Laboratory No.	Location in mine	Percent in volume					Cubic feet air per minute	Cubic feet methane in 24 hours
			Carbon dioxide	Oxygen	Methane	Carbon monoxide	Nitrogen		
D218	37310	Partial return at main portal.	0.05	20.89	0	-----	79.06	8,600	-----
D219	37311	Face No. 4 main entry-----	.15	20.85	0	-----	79.00	-----	-----

MINE No. 10, WALDON DEEL COAL CO., COLLECTED BY B. W. CLEMONS, OCT. 8, 1963

LABORATORY NOS 78687-79688

TABLE 2.—*Analyses of dust samples*

Sample No.	Sample of dust from	Location in mine, spot location samples	As-received percent in-combustible
1	Band-----	No. 1 main entry 20 ft. inby station 19-----	1 20
2	do-----	No. 4 main entry 15 ft. outby station 58-----	1 19

¹ By volumeter.



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF LABOR AND INDUSTRY
RICHMOND, VIRGINIA

OK 10-29-63

Mine Index No. 03435

CERTIFICATE OF MINE INSPECTION

Name or No. of Mine No 10 Date of Inspection Oct 25-1963
Operator Walden Deep Coal Co County where located Dickenson
Superintendent Walden Deep Post Office of Mine Danforth Va
General Foreman W Deep Tipple or Truck Mine Lux
Name of Coal Seam Speel Dam Leased From Clinchfield Coal Corp
General Office Address Danforth Va

SUMMARY OF CONDITIONS AND RECOMMENDATIONS

1. Ingress and Egress Good
2. Ventilation 5280 cuft Reaching last open break in Main No 2 Rd
3. Breakthroughs None needed except being made at time of inspection
4. Doors and Brattices Need one 2w. stopping head 2w. drop curtains
5. Coal Dust Considerable loose fine coal dust on Rd of mine also along haulage road
6. Explosives and Blasting Solid Lix Fuse and caps three cases of powder in No 1-2-Hdgs taken in by haulage
7. Roof Good
8. Timbering Good except on overcast where knocked by haulage locomotives and mine cars
9. Clearance Good
10. Drainage Good
11. Haulage Rebld Road Equipment
12. Machinery ok
13. Voltage Wires ok
14. Other Conditions Need to use powder mat to take powder in mine and store it to comply with state law. This mine not to blast or produce any more coal until all dust removed and mine road dusted and haulage road obliterated

Signed Walter F. Collier

Address Cashers Va

Mine Inspector

Fill Out Reverse Side

W. B. Harton
Call Mr. C. P. Kelly Phone 335 Raymont Sta

1. If mine has changed hands since last inspection, give name and address of former operator _____

2. Employees	DAY	Inside _____	NIGHT	Inside _____	MIDNIGHT	Inside _____
	SHIFT	Surface _____	SHIFT	Surface _____	SHIFT	Surface _____

3. Approximate number tons produced since last inspection _____

4. Approximate number days operated since last inspection _____

UNITED MINE WORKERS OF AMERICA,
Washington, D.C. June 15, 1964.

Mr. C. P. KELLY,
*Chief Inspector, Division of Mines, Virginia Department of Labor and Industry,
Big Stone Gap, Va.*

DEAR MR. KELLY: The Federal inspection reports on the Jewell Coal Co., No. 3-A mine, Jewell Valley, Va. (AR-6 preliminary), and the V. & O. Coal Co., No. 1 mine, Pearly, Va. (AR-10 coal mine), states imminent dangers of mine explosion and mine fire present.

In view of the Bureau of Mines' lack of enforcement authority, the responsibility for abatement of these conditions rests upon the State department of mines. Therefore, as a representative of the employees, I request that you make an immediate investigation of this situation and take the necessary action for the prompt correction thereof.

I will appreciate hearing from you as to your disposition of this request.

Sincerely yours,

CHARLES FERGUSON.

Phone Day 881 2793
 Night 881 2793
 Drift ☒
 Shaft ☐
 Slope ☐

COMMONWEALTH OF VIRGINIA



DEPARTMENT OF LABOR AND INDUSTRY
 DIVISION OF MINES AND QUARRIES
 BIG STONE GAP, VIRGINIA

Mine Index No. 02087

Tipple ☐
 Truck ☒
 Gassy ☐
 Nongassy ☒

Date: 6/22/64

*Nature of this inspection Requested
 (pre-work, regular, mine on days, closed mine, requested, special, etc.)

GENERAL: Company Jewell Coal Company Mine No. #1 Address Jewell Ridge, Virginia
 Location of Mine Indian Creek County Tazewell Seam & Thickness Jewell - 48 inches
 Principal Officer or Owner Alfred Jewell Superintendent Same
 *Mine Foreman H. L. Sparks Address Jewell Ridge, Va. If certified give class & number 2nd. Class
 *Total Employees 14 UG per shift: 1st 14 2nd 3rd Surface 2 Daily Tonnage 140
 Former Name & Mine Number if changed Lowe & Jewell Coal Co., NO. 3, M. I. 02087
 *Approximate distance from portal to farthest face 2,000 feet Electric Power Underground: AC DC ☒
 *Is license posted at mine? No Date of map 3/28/64 Engineer Noel Stallard
 Briefly list types of mining equipment 29J Jeffery outter, 3-6 ton mine locomotives, and 1 black and Decker coal drill.

SURFACE:

Type of cleaning plant or tipple

Condition of wiring: Good ☐ Fair ☒ Poor ☐ Condition of Buildings: Good ☐ Fair ☒ Poor ☐Surface fire or explosion hazards observed: Oil ☐ Dust ☐ Gas ☐ Wood ☐ Explosives ☐Hoisting motive power: Electric ☐ Steam ☐ Hoisting Method: Skip ☐ Cage ☐ Belt ☐ Track ☐

*Describe unsafe conditions and/or practices observed on surface: Portal apron need repairing, and new trolley poles were needed near the substation.

*Are there active fires in adjacent mines? No If yes, give name of mine

Are gas or oil wells on property? Yes ☐ No ☒ Are gas lines near mine openings? Yes ☐ No ☒Type and size of fan (s) Axle-flow - 44 inches. Is housing fireproof? Yes ☒ No ☐Is fan offset? Yes ☒ No ☐ Explosion door or weak wall? Yes ☐ No ☐ Reversible? Yes ☒ No ☐Exhaust ☐ Force ☐ Fan motive power

VENTILATION:

*Was methane detected? No Percentage Location

*Volume of air at main intake 15,000 cu. ft. a minute, at main return

Location of Air Measurement	Volume	Location of Air Measurement	Volume
Intake end of the pillar line.	6,000		

VIRGINIA DIVISION OF MINES AND QUARRIES
Mine Inspection ReportCOMPANY Jewell Coal CompanyMINE #1INDEX NO. 02087INSPECTOR John L. KeeneDATE June 22, 1964

IMMEDIATE ACTION MUST BE TAKEN TO COMPLY WITH THE RECOMMENDATIONS INDICATED BELOW:

TIMBERING

- ☐ SAFETY JACKS: At least _____ or more safety jacks or posts must be kept set in all face areas.
- ☐ SAFETY JACKS: Before posts or jacks are removed, additional ones must be set.
- ☐ LINE TIMBERS: Two or more rows of line timbers shall be set on _____ foot centers to within _____ feet of working faces.
- ☒ TIMBERING: Loose or doubtful roof at Two locations on main. shall be taken down or properly timbered.
(location)
- ☐ TIMBERING: Prepared header blocks shall be used over all line timbers and safety posts.
- ☐ TIMBERING: Adequate breaker posts shall be set at _____
- ☐ TIMBERING: Dislodged or decayed timbers shall be replaced immediately _____ (location)
- ☐ TIMBERING: The roadway clearance between line timbers shall not exceed _____ feet. (location)
- ☒ TIMBERING: All unused breakthroughs and room necks must be timbered off.
- ☐ TIMBERING: Only timbering material of proper size and strength shall be used.
- ☐ TIMBERING: Crossbars must be used _____ (location)
- ☐ SUPPLIES: An adequate supply of timbering material shall be kept available for all working places. (location)
- ☐ ROOF TEST: The roof shall be examined at the beginning of the shift and at frequent intervals during the shift.
- ☐ ROOF BOLTS: Roof bolts must be installed on centers not to exceed _____ feet.
- ☐ ROOF BOLTS: Conventional timbering must be done along with roof bolting in _____
- ☐ NOTE: No coal shall be loaded from the dangered-off place until the above recommendations have been complied with and the operator has obtained permission from the Chief Mine Inspector to resume work.

DUST

- ☐ COAL DUST: Accumulations of loose coal and dust shall be removed from _____ (location)
- ☐ ROCK DUST: All dry and dusty sections of the mine must be rock dusted to within 40 feet of the faces. (location)

VENTILATION

- ☐ AIR COURSE: _____ air course must be kept open and in good condition. (location)
- ☐ AIR COURSES: Air courses must be examined by the foreman or his assistant at least once each week. (location)
- ☐ AIRLOCK: An airlock must be provided at _____ (location)
- ☐ AIR MEASUREMENT: Air currents shall be measured and recorded at least once each week. (location)
- ☐ AIR SPLIT: _____ must be placed on a separate split of air. (sub-station, entry, etc.)
- ☐ STOPPINGS: All breakthroughs except the last must be promptly closed in _____ (location)
- ☐ STOPPINGS: Stoppings must be properly constructed of incombustible material.
- ☐ STOPPINGS: Leaky stoppings in _____ must be made reasonably air-tight. (location)
- ☐ FAN: The fan must operate at all times while men are in the mine. (location)
- ☐ FAN: If for any reason the fan is stopped, it must run _____ hours before men are permitted to enter the mine.
- ☐ FAN: Fan must be offset at least 15 feet in fireproof housing and protected by explosion door or weak wall.
- ☐ VENTILATION: No room or entry shall be turned in by the last open crosscut.
- ☐ VENTILATION: At least 6,000 cu. ft. of air must be provided at last crosscut in _____
- ☐ VENTILATION: The quantity of air at _____ must be increased. (location)
- ☐ BREAKTHROUGH: Breakthroughs shall be made at intervals not to exceed 80 feet. (location)
- ☐ LINE BRATTICES: Line brattices (wing curtains) shall be used in _____ (location)

EXPLOSIVES AND BLASTING

- ☒ EXPLOSIVES: Explosives taken underground shall be transported, handled and stored as required by law.
- ☐ EXPLOSIVES: Not more than a 48-hour supply of explosives shall be stored in the mine at one time.
- ☒ MAGAZINE: An explosives magazine, erected in compliance with the law, shall be constructed.
- ☐ BLASTING: All working places must be carefully examined after blasting is done.
- ☐ BLASTING: Shots must be fired immediately after the holes are charged.
- ☐ STEMMING: Boreholes for blasting shall be stemmed with at least 24 inches of incombustible material unless approval has been granted to use a newly developed permissible stemming device.
- ☐ FUSE: Fuse must be cut at least one foot longer than the depth of the drill hole.
- ☐ DETONATORS: Electrical detonators must be used when blasting in a gassy mine.
- ☐ AIRDOX: Airdox lines must be properly installed and protected against mechanical or electrical damage.

SUPERVISION

- ☐ SUPERVISION: All work in this mine must be supervised by a mine foreman.
- ☐ SUPERVISION: The mine foreman must report conditions of the mine daily in the Mine Foreman's record book.
- ☐ SUPERVISION: Closer supervision must be given this mine by the mine foreman.
- ☐ SUPERVISION: The mine foreman shall visit and examine each working place each day or oftener while men are at work.

MAP, PLANS AND LICENSES

- ☐ MAP: A certified, up-to-date map must be filed with the Division of Mines.
- ☐ MAP: A copy of the mine map must be kept available at the mine.
- ☐ MAP: When this mine is to be abandoned, a final map must be filed with the Division of Mines.
- ☐ PROPERTY LINE: All working places must be stopped at least 5 feet from the property line.
- ☐ LICENSE: A license to operate a mine must be obtained and a copy posted at a prominent place at the mine.
- ☐ LICENSE: No coal is to be produced until a license to operate this mine has been obtained.
- ☐ PERMIT: A permit must be obtained to _____

(Shooting from the solid, using black powder, blower fans, etc.)

- ☐ NEW OPENINGS: The distance between all drift openings must be at least forty feet (40') of natural strata.
- ☐ PROJECTIONS: Mine workings must be driven to comply with engineer's projections.
- ☐ PROJECTIONS: Entries and rooms must be held to proper width.
- ☒ PILLARING: Pillars must be extracted in proper sequence.

ELECTRICITY

- ☐ LIGHTNING ARRESTERS: Lightning arresters shall be installed on all electrical lines entering the mine.
- ☐ INSULATORS: All positive power lines in and around the mine must be properly installed on insulators.
- ☐ INSULATING MATS: Rubber insulating mats shall be placed _____
(equipment or location)
- ☐ INSULATION: All hand-held electrical equipment must be properly insulated.
- ☐ WIRE GUARD: The telephone line shall be guarded at _____ (location)
- ☒ WIRE GUARD: The trolley wire shall be guarded at over No. 3 switch. (location)
- ☐ BELTS: Electrical wires crossing under or over belts must be properly installed and guarded.
- ☐ FUSES AND GROUNDS: _____ shall be properly fused.
(equipment)
- ☐ TRACK BONDS: All tracks shall be bonded the distance of the trolley wire with cross bonds installed every 200 feet.
- ☐ SWITCH: A disconnecting switch shall be installed _____ (location)

POWER CABLES

- ☐ CABLES: The power cable on _____ must be replaced or repaired.
(equipment)
- ☐ CABLES: Twenty feet of flexible rubber hose shall be installed over the end of the drag cable which is fastened to the buggy.
- ☐ CABLES: Power cables on mine floor must be protected from water and mechanical damage.

HAULAGE

- ☐ LOCOMOTIVE: _____ on the locomotives must be repaired immediately.
(brakes, lights, sanddrifting, etc.)
- ☐ LIGHTS: Lights must be used on front and rear of trips while in motion in the mine.
- ☐ MAN TRIP: Man trips must be operated at a safe rate of speed and under control at all times.
- ☐ MAN TRIP: Man trips must not travel under unsafe or doubtful roof.
- ☐ TRACK: Track in _____ must be kept in a safe condition.
(location)
- ☒ MINE CARS: Mine cars must be kept in good operating condition or removed from service.
- ☐ REFUGE HOLES: Properly maintained refuge holes shall be provided at _____ (location)
- ☒ CLEARANCE: Adequate clearance must be maintained at 1 Rt. and 2 lt. switches. (location)
- ☐ SIGNALS: The movement of trips shall be controlled by a signal system or a dispatcher.

BELTS

- ☐ BELTS: Conveyor belts must be protected by emergency safeguards.
- ☐ BELTS: Transportation of men on belts shall be in compliance with the Mining Law with respect to - Clearance ☐ ,
Belt Speed ☐ , Lighting ☐ , Spacing of Men ☐ , Supervision ☐ .

DRAINAGE

- ☒ WATER: One right drownd out. shall be kept free of standing water.
(location)

BOREHOLES

- ☐ BOREHOLES: When approaching old workings, holes must be drilled 20 feet ahead of face with rib holes eight feet (8') apart and on a forty-five degree (45°) angle.

TO AMEND THE FEDERAL COAL MINE SAFETY ACT

ESCAPEWAYS

- ☐ ESCAPEWAY: A properly maintained escapeway must be provided.
- ☐ ESCAPE SHAFT: The escape shaft must be provided with an approved ladder, stairway or hoist.
- ☐ ESCAPE SHAFT: Escape shaft and its equipment must be inspected weekly by the mine foreman or other designated person.

GENERAL

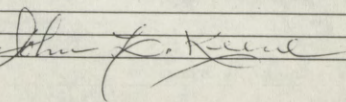
- ☒ SIGNS: Signs pointing to escapeways must be posted.
- ☒ CHECK-IN-AND-OUT: A uniform check-in and check-out system for employees must be put into effect at once.
- ☐ ABANDONED MINE: No person shall enter, explore, or survey an abandoned mine unless the mine has been examined by a certified person.
- ☐ HOIST: The _____ at the main hoist must be maintained in a safe condition.
(ropes, brakes, etc.)
- ☐ CAGE: Men shall not ride cages while other material is being handled.
- ☐ SAFETY HATS: All employees shall wear safety hats.
- ☐ SAFETY SHOES: All employees shall wear safety-type shoes.
- ☐ FIRST AID: Adequate first-aid supplies must be obtained and kept at suitable locations in the mine.
- ☐ FIRE EQUIPMENT: Adequate fire fighting equipment must be obtained and kept at suitable locations in the mine.
- ☐ CLOSED LAMPS: All workmen should wear battery type lamps.
- ☐ RESPIRATORS: Respirators must be worn by _____
- ☐ APRON: A substantial apron shall be erected over the portal where men are required to travel.
- ☐ HAND RAIL: A hand rail must be installed on _____
- ☒ GUY WIRES: Substation must be securely X-braced and anchored with cables of proper strength.
(tibble, bin, etc.) (location)
- ☐ SKID LOGS: Skid logs must be installed on _____ (location)
- ☐ GUARDS: _____ must be properly guarded.
(geon, pulleys, belts, fans, etc.)
- ☐ CLEARANCE: Proper clearance shall be maintained between railroad tracks on the surface.
- ☐ DANGER SIGNS: A danger sign shall be posted at _____
- ☐ ZONING: Track switches at tipples shall be properly zoned. (location)

GASSY OR GASEOUS MINE

- ☐ GAS REMOVAL: Closer supervision must be given to the removal of gas in _____ (location)
- ☐ SHOT FIRER: Certified shot-firer (s) must be employed.
- ☐ FOREMAN: A First Class Mine Foreman must be employed to supervise the operation of this mine.
- ☐ FIREBOSS: A fireboss must report mine conditions daily in the Fireboss' Record Book.
- ☐ FLAMEPROOF EQUIPMENT: Only flameproof electrical equipment shall be used underground.
- ☐ CERTIFICATION: Operators of electrical equipment must be certified to use a flame safety lamp.
- ☐ GAS TEST: Where electrical face equipment is used, tests for gas must be made every 30 minutes, or oftener, as required.
- ☐ CLOSED LAMPS: All workmen must wear permissible-type electric cap lamps.
- ☐ SMOKING: Employees shall not be permitted to carry smoking material, matches or lighting devices underground.
- ☐ SEARCHING: Underground employees shall be searched frequently for smoking material, matches and lighting devices.
- ☒ PRE-SHIFT EXAM: Pre-shift mine examinations must be made within 4 hours before the beginning of a shift.
- ☒ NOTE: This mine will be reinspected at regular intervals.

There were no conditions existing at this mine that would present an imminent danger of mine fires or explosions, as indicated by the Federal Coal Mine Inspector.

The mine was wet to damp throughout and rock dusting was not needed at time of the inspection. Also, power wires were well-installed on suitable insulators.

Inspector 

UNITED MINE WORKERS OF AMERICA,
Washington, D.C., July 6, 1964.

Mr. C. P. KELLY,
*Chief Inspector, Division of Mines, Virginia Department of Labor and Industry,
Big Stone Gap, Va.*

DEAR MR. KELLY: The AR-8 Federal preliminary inspection report on the No. 6 mine, J. Paul White Coal Co., Jewell Valley, Va., states imminent dangers of mine fire and mine explosion present.

In view of the Bureau of Mines' lack of enforcement authority, the responsibility for abatement of these conditions rests upon the State department of mines. Therefore, as a representative of the employees, I request that you make an investigation of this situation and take the necessary action for the prompt correction thereof.

I will appreciate hearing from you as to your disposition of this request.

Sincerely yours,

CHARLES FERGUSON.

Phone Day 881 2691
Night Same

Drift ☒
Shaft ☐
Slope ☐

COMMONWEALTH OF VIRGINIA



DEPARTMENT OF LABOR AND INDUSTRY
DIVISION OF MINES AND QUARRIES
BIG STONE GAP, VIRGINIA

Mine Index No. 01700

Tipple ☐
Truck ☒
Gassy ☐
Nongassy ☒

Date: July 11, 1964

*Nature of this inspection Requested.

(pre-work, regular, mine on days, closed mine, requested, special, etc.)

GENERAL: Company White, J. Paul Coal Company Mine No. #6 Address Whitewood, Virginia
Location of Mine Right Side of Mill Branch County Buchanan Seam & Thickness Jewell - 24 inches
(creek, etc.)
Principal Officer or Owner J. Paul White Superintendent Same

*Mine Foreman Same Address Same If certified give class & number S.C.

*Total Employees 9 UG per shift: 1st 9 2nd 3rd Surface 1 Daily Tonnage 60

Former Name & Mine Number if changed

*Approximate distance from portal to farthest face 1,600 feet Electric Power Underground: AC ☒ DC ☐

*Is license posted at mine? Yes ☐ Date of map No up-to-date map Engineer Noel Stallard

Briefly list types of mining equipment Rubber-tired.

SURFACE:

Type of cleaning plant or tipple

Condition of wiring: Good ☐ Fair ☒ Poor ☐ Condition of Buildings: Good ☐ Fair ☒ Poor ☐

Surface fire or explosion hazards observed: Oil ☐ Dust ☐ Gas ☐ Wood ☐ Explosives ☐

Hoisting motive power: Electric ☐ Steam ☐ Hoisting Method: Skip ☐ Cage ☐ Belt ☐ Track ☐

*Describe unsafe conditions and/or practices observed on surface: None observed.

*Are there active fires in adjacent mines? No ☐ If yes, give name of mine

Are gas or oil wells on property? Yes ☐ No ☒ Are gas lines near mine openings? Yes ☐ No ☒

Type and size of fan (s) Propeller - 36 inches Is housing fireproof? Yes ☒ No ☐

Is fan offset? Yes ☐ No ☐ Explosion door or weak wall? Yes ☐ No ☐ Reversible? Yes ☒ No ☐

Exhaust ☒ Force ☐ Fan motive power

VENTILATION:

*Was methane detected? No ☐ Percentage Location

*Volume of air at main intake 15,000 cu. ft. a minute, at main return

Location of Air Measurement	Volume	Location of Air Measurement	Volume
Last B. in No. 2 entry.	7,000		

VIRGINIA DIVISION OF MINES AND QUARRIES
Mine Inspection Report

COMPANY White, J. Paul Coal Company MINE # 6 INDEX NO. 01700
 INSPECTOR John L. Keene DATE July 11, 1964

IMMEDIATE ACTION MUST BE TAKEN TO COMPLY WITH THE RECOMMENDATIONS INDICATED BELOW:

TIMBERING

- ☐ SAFETY JACKS: At least _____ or more safety jacks or posts must be kept set in all face areas.
- ☐ SAFETY JACKS: Before posts or jacks are removed, additional ones must be set.
- ☐ LINE TIMBERS: Two or more rows of line timbers shall be set on _____ foot centers to within _____ feet of working faces.
- ☒ TIMBERING: Loose or doubtful roof at one location on main en shall be taken down or properly timbered.
(location)
- ☐ TIMBERING: Prepared header blocks shall be used over all line timbers and safety posts.
- ☐ TIMBERING: Adequate breaker posts shall be set at _____ (location)
- ☐ TIMBERING: Dislodged or decayed timbers shall be replaced immediately _____ (location)
- ☐ TIMBERING: The roadway clearance between line timbers shall not exceed _____ feet. (location)
- ☒ TIMBERING: All unused breakthroughs and room necks must be timbered off.
- ☐ TIMBERING: Only timbering material of proper size and strength shall be used.
- ☐ TIMBERING: Crossbars must be used _____ (location)
- ☐ SUPPLIES: An adequate supply of timbering material shall be kept available for all working places.
- ☐ ROOF TEST: The roof shall be examined at the beginning of the shift and at frequent intervals during the shift.
- ☐ ROOF BOLTS: Roof bolts must be installed on centers not to exceed _____ feet.
- ☐ ROOF BOLTS: Conventional timbering must be done along with roof bolting in _____
- ☐ NOTE: No coal shall be loaded from the dangered-off place until the above recommendations have been complied with and the operator has obtained permission from the Chief Mine Inspector to resume work.

DUST

- ☐ COAL DUST: Accumulations of loose coal and dust shall be removed from _____ (location)
- ☐ ROCK DUST: All dry and dusty sections of the mine must be rock dusted to within 40 feet of the faces.

VENTILATION

- ☐ AIR COURSE: _____ air course must be kept open and in good condition.
(location)
- ☐ AIR COURSES: Air courses must be examined by the foreman or his assistant at least once each week.
- ☐ AIRLOCK: An airlock must be provided at _____ (location)
- ☐ AIR MEASUREMENT: Air currents shall be measured and recorded at least once each week.
- ☐ AIR SPLIT: _____ must be placed on a separate split of air.
(sub-station, entry, etc.)
- ☒ STOPPINGS: All breakthroughs except the last must be promptly closed in One permanent stopping was needed.
(location)
- ☐ STOPPINGS: Stoppings must be properly constructed of incombustible material.
- ☐ STOPPINGS: Leaky stoppings in _____ must be made reasonably air-tight.
(location)
- ☐ FAN: The fan must operate at all times while men are in the mine.
- ☐ FAN: If for any reason the fan is stopped, it must run _____ hours before men are permitted to enter the mine.
- ☐ FAN: Fan must be offset at least 15 feet in fireproof housing and protected by explosion door or weak wall.
- ☐ VENTILATION: No room or entry shall be turned in by the last open crosscut.
- ☐ VENTILATION: At least 6,000 cu. ft. of air must be provided at last crosscut in _____
- ☐ VENTILATION: The quantity of air at _____ must be increased. (location)
(location)
- ☐ BREAKTHROUGH: Breakthroughs shall be made at intervals not to exceed 80 feet.
- ☐ LINE BRATTICES: Line brattices (wing curtains) shall be used in _____ (location)

EXPLOSIVES AND BLASTING

- ☒ EXPLOSIVES: Explosives taken underground shall be transported, handled and stored as required by law.
- ☐ EXPLOSIVES: Not more than a 48-hour supply of explosives shall be stored in the mine at one time.
- ☐ MAGAZINE: An explosives magazine, erected in compliance with the law, shall be constructed.
- ☐ BLASTING: All working places must be carefully examined after blasting is done.
- ☐ BLASTING: Shots must be fired immediately after the holes are charged.
- ☐ STEMMING: Boreholes for blasting shall be stemmed with at least 24 inches of incombustible material unless approval has been granted to use a newly developed permissible stemming device.
- ☐ FUSE: Fuse must be cut at least one foot longer than the depth of the drill hole.
- ☐ DETONATORS: Electrical detonators must be used when blasting in a gassy mine.
- ☐ AIRDOX: Airdox lines must be properly installed and protected against mechanical or electrical damage.

SUPERVISION

- ☐ SUPERVISION: All work in this mine must be supervised by a mine foreman.
- ☐ SUPERVISION: The mine foreman must report conditions of the mine daily in the Mine Foreman's record book.
- ☐ SUPERVISION: Closer supervision must be given this mine by the mine foreman.
- ☐ SUPERVISION: The mine foreman shall visit and examine each working place each day or oftener while men are at work.

MAP, PLANS AND LICENSES

- ☐ MAP: A certified, up-to-date map must be filed with the Division of Mines.
- ☐ MAP: A copy of the mine map must be kept available at the mine.
- ☐ MAP: When this mine is to be abandoned, a final map must be filed with the Division of Mines.
- ☐ PROPERTY LINE: All working places must be stopped at least 5 feet from the property line.
- ☐ LICENSE: A license to operate a mine must be obtained and a copy posted at a prominent place at the mine.
- ☐ LICENSE: No coal is to be produced until a license to operate this mine has been obtained.
- ☐ PERMIT: A permit must be obtained to _____
(Shooting from the solid, using black powder, blower fans, etc.)
- ☐ NEW OPENINGS: The distance between all drift openings must be at least forty feet (40') of natural strata.
- ☐ PROJECTIONS: Mine workings must be driven to comply with engineer's projections.
- ☐ PROJECTIONS: Entries and rooms must be held to proper width.
- ☐ PILLARING: Pillars must be extracted in proper sequence.

ELECTRICITY

- ☐ LIGHTNING ARRESTERS: Lightning arresters shall be installed on all electrical lines entering the mine.
- ☒ INSULATORS: All positive power lines in and around the mine must be properly installed on insulators.
- ☐ INSULATING MATS: Rubber insulating mats shall be placed _____
(equipment or location)
- ☐ INSULATION: All hand-held electrical equipment must be properly insulated.
- ☐ WIRE GUARD: The telephone line shall be guarded at _____
(location)
- ☐ WIRE GUARD: The trolley wire shall be guarded at _____
(location)
- ☐ BELTS: Electrical wires crossing under or over belts must be properly installed and guarded.
- ☐ FUSES AND GROUNDS: _____ shall be properly fused.
(equipment)
- ☐ TRACK BONDS: All tracks shall be bonded the distance of the trolley wire with cross bonds installed every 200 feet.
- ☐ SWITCH: A disconnecting switch shall be installed _____
(location)
- POWER CABLES
- ☐ CABLES: The power cable on _____ must be replaced or repaired.
(equipment)
- ☐ CABLES: Twenty feet of flexible rubber hose shall be installed over the end of the drag cable which is fastened to the buggy.
- ☐ CABLES: Power cables on mine floor must be protected from water and mechanical damage.

HAULAGE

- ☐ LOCOMOTIVE: _____ on the locomotives must be repaired immediately.
(brakes, lights, sanddrilling, etc.)
- ☐ LIGHTS: Lights must be used on front and rear of trips while in motion in the mine.
- ☐ MAN TRIP: Man trips must be operated at a safe rate of speed and under control at all times.
- ☐ MAN TRIP: Man trips must not travel under unsafe or doubtful roof.
- ☐ TRACK: Track in _____ must be kept in a safe condition.
(location)
- ☐ MINE CARS: Mine cars must be kept in good operating condition or removed from service.
- ☐ REFUGE HOLES: Properly maintained refuge holes shall be provided at _____
(location)
- ☐ CLEARANCE: Adequate clearance must be maintained at _____
(location)
- ☐ SIGNALS: The movement of trips shall be controlled by a signal system or a dispatcher.

BELTS

- ☐ BELTS: Conveyor belts must be protected by emergency safeguards.
- ☐ BELTS: Transportation of men on belts shall be in compliance with the Mining Law with respect to - Clearance ☐
Belt Speed ☐ , Lighting ☐ , Spacing of Men ☐ , Supervision ☐ .

DRAINAGE

- ☒ WATER: Mine was wet and muddy throughout. _____ shall be kept free of standing water.
(location)

BOREHOLES

- ☐ BOREHOLES: When approaching old workings, holes must be drilled 20 feet ahead of face with rib holes eight feet (8') apart and on a forty-five degree (45°) angle.

ESCAPEWAYS

- ☐ ESCAPEWAY: A properly maintained escapeway must be provided.
- ☐ ESCAPE SHAFT: The escape shaft must be provided with an approved ladder, stairway or hoist.
- ☐ ESCAPE SHAFT: Escape shaft and its equipment must be inspected weekly by the mine foreman or other designated person.

GENERAL

- ☒ SIGNS: Signs pointing to escapeways must be posted.
- ☒ CHECK-IN-AND-OUT: A uniform check-in and check-out system for employees must be put into effect at once.
- ☐ ABANDONED MINE: No person shall enter, explore, or survey an abandoned mine unless the mine has been examined by a certified person.
- ☐ HOIST: The _____ at the main hoist must be maintained in a safe condition.
(ropes, brakes, etc.)
- ☐ CAGE: Men shall not ride cages while other material is being handled.
- ☐ SAFETY HATS: All employees shall wear safety hats.
- ☒ SAFETY SHOES: All employees shall wear safety-type shoes.
- ☐ FIRST AID: Adequate first-aid supplies must be obtained and kept at suitable locations in the mine.
- ☐ FIRE EQUIPMENT: Adequate fire fighting equipment must be obtained and kept at suitable locations in the mine.
- ☒ CLOSED LAMPS: All workmen should wear battery type lamps.
- ☐ RESPIRATORS: Respirators must be worn by _____
- ☐ APRON: A substantial apron shall be erected over the portal where men are required to travel.
- ☐ HAND RAIL: A hand rail must be installed on _____
(location)
- ☐ GUY WIRES: _____ must be securely X-braced and anchored with cables of proper strength.
(tipple, bin, etc.)
- ☒ SKID LOGS: Skid logs must be installed on _____ (location) _____ must be properly guarded.
left side of coal tipple.
- ☐ GUARDS: _____
(gears, pulleys, belts, fans, etc.)
- ☐ CLEARANCE: Proper clearance shall be maintained between railroad tracks on the surface.
- ☐ DANGER SIGNS: A danger sign shall be posted at _____
(location)
- ☐ ZONING: Track switches at tipples shall be properly zoned.

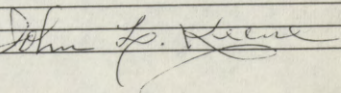
GASSY OR GASEOUS MINE

- ☐ GAS REMOVAL: Closer supervision must be given to the removal of gas in _____
(location)
- ☐ SHOT FIRER: Certified shot-firer (s) must be employed.
- ☐ FOREMAN: A First Class Mine Foreman must be employed to supervise the operation of this mine.
- ☐ FIREBOSS: A fireboss must report mine conditions daily in the Fireboss' Record Book.
- ☐ FLAMEPROOF EQUIPMENT: Only flameproof electrical equipment shall be used underground.
- ☐ CERTIFICATION: Operators of electrical equipment must be certified to use a flame safety lamp.
- ☐ GAS TEST: Where electrical face equipment is used, tests for gas must be made every 30 minutes, or oftener, as required.
- ☐ CLOSED LAMPS: All workmen must wear permissible-type electric cap lamps.
- ☐ SMOKING: Employees shall not be permitted to carry smoking material, matches or lighting devices underground.
- ☐ SEARCHING: Underground employees shall be searched frequently for smoking material, matches and lighting devices.
- ☐ PRE-SHIFT EXAM: Pre-shift mine examinations must be made within 4 hours before the beginning of a shift.
at regular intervals.
- ☒ NOTE: This mine will be reinspected

Insulated power wires were installed on suitable insulators, except that it was out of two insulators and sagging near the mine floor at two locations. The mine floor was wet and muddy throughout the mine.

There were no conditions existing at this mine that would present an imminent danger of mine fires or explosions, as reported by the Federal Coal Mine Inspector.

Inspector



UNITED MINE WORKERS OF AMERICA,
Washington, D.C., July 16, 1964.

Mr. C. P. KELLY,
Chief Inspector, Division of Mines, Virginia Department of Labor and Industry.
Big Stone Gap, Va.

DEAR MR. KELLY: The AR-4 Federal inspection report on the No. 5 Mine, F. R. Coal Co., Jewell Valley, Va., states imminent dangers of mine explosion and mine fire present.

In view of the Bureau of Mines' lack of enforcement authority, the responsibility for abatement of these conditions rests upon the State department of mines. Therefore, as a representative of the employees, I request that you make an immediate investigation of this situation and take the necessary action for the immediate correction thereof.

I will appreciate hearing from you as to your disposition of this request.

Sincerely yours,

CHARLES FERGUSON.

Day ?
 Phone Night _____
 Drift ☒
 Shaft ☐
 Slope ☐

COMMONWEALTH OF VIRGINIA



DEPARTMENT OF LABOR AND INDUSTRY
 DIVISION OF MINES AND QUARRIES
 BIG STONE GAP, VIRGINIA

Mine Index No. 02542

Tipple ☐
 Truck ☒
 Gassy ☐
 Nongassy ☒

Date: July 30, 1964

* Nature of this inspection Requested
 (pre-work, regular, mine on days, closed mine, requested, special, etc.)

GENERAL:
 Company F. & R. Coal Company Mine No. #5 Address Dismal Rt., Oakwood, Va.
 Location of Mine Mill Branch County Buchanan Seam & Thickness Jewell - 30 inches
 (creek, etc.)
 Principal Officer or Owner Henderson Fuller Superintendent Same

* Mine Foreman Wallace Cooper Address Whitewood, Va. If certified give class & number Truck

* Total Employees 10 UG per shift: 1st 10 2nd _____ 3rd _____ Surface 1 Daily Tonnage 80

Former Name & Mine Number if changed _____

* Approximate distance from portal to farthest face 1,000 feet Electric Power Underground: AC ☒ DC _____

* Is license posted at mine? Yes Date of map No map Engineer Noel Stallard.

Briefly list types of mining equipment Rubber-tired

SURFACE:

Type of cleaning plant or tipple _____

Condition of wiring: Good ☐ Fair ☒ Poor ☐ Condition of Buildings: Good ☐ Fair ☒ Poor ☐Surface fire or explosion hazards observed: Oil ☐ Dust ☐ Gas ☐ Wood ☐ Explosives ☐Hoisting motive power: Electric ☐ Steam ☐ Hoisting Method: Skip ☐ Cage ☐ Belt ☐ Track ☐* Describe unsafe conditions and/or practices observed on surface: Cover off the battery charger.

* Are there active fires in adjacent mines? No If yes, give name of mine _____

Are gas or oil wells on property? Yes ☐ No ☒ Are gas lines near mine openings? Yes ☐ No ☒

Type and size of fan (s) Sub. 36 inches. Is housing fireproof? Yes ☒ No ☐

Is fan offset? Yes ☐ No ☐ Explosion door or weak wall? Yes ☐ No ☐ Reversible? Yes ☒ No ☐

Exhaust ☒ Force ☐ Fan motive power _____

VENTILATION:

* Was methane detected? No Percentage _____ Location _____

* Volume of air at main intake 12,000 cu. ft. a minute, at main return _____

Location of Air Measurement	Volume	Location of Air Measurement	Volume
Last Br ak in No. 7 entry.	5,000.		

TO AMEND THE FEDERAL COAL MINE SAFETY ACT

VIRGINIA DIVISION OF MINES AND QUARRIES
Mine Inspection ReportCOMPANY F. & R. Coal CompanyMINE #5INDEX NO. 02542INSPECTOR John L. KeeneDATE July 30, 1964

IMMEDIATE ACTION MUST BE TAKEN TO COMPLY WITH THE RECOMMENDATIONS INDICATED BELOW:

TIMBERING

- ☒ SAFETY JACKS: At least two or more safety jacks or posts must be kept set in all face areas.
- ☐ SAFETY JACKS: Before posts or jacks are removed, additional ones must be set.
- ☒ LINE TIMBERS: Two or more rows of line timbers shall be set on 4 foot centers to within 6 feet of working faces.
- ☒ TIMBERING: Loose or doubtful roof at two locations on main shall be taken down or properly timbered.
- ☐ TIMBERING: Prepared header blocks shall be used over all line timbers and safety posts.
- ☐ TIMBERING: Adequate breaker posts shall be set at _____
- ☒ TIMBERING: Dislodged or decayed timbers shall be replaced immediately along the main haulage road.
- ☒ TIMBERING: The roadway clearance between line timbers shall not exceed 12 feet. (location)
- ☐ TIMBERING: All unused breakthroughs and room necks must be timbered off.
- ☐ TIMBERING: Only timbering material of proper size and strength shall be used.
- ☐ TIMBERING: Crossbars must be used _____
- ☐ SUPPLIES: An adequate supply of timbering material shall be kept available for all working places. (location)
- ☒ ROOF TEST: The roof shall be examined at the beginning of the shift and at frequent intervals during the shift.
- ☐ ROOF BOLTS: Roof bolts must be installed on centers not to exceed _____ feet.
- ☐ ROOF BOLTS: Conventional timbering must be done along with roof bolting in _____
- ☐ NOTE: No coal shall be loaded from the dangered-off place until the above recommendations have been complied with and the operator has obtained permission from the Chief Mine Inspector to resume work.

DUST

- ☐ COAL DUST: Accumulations of loose coal and dust shall be removed from _____ (location)
- ☐ ROCK DUST: All dry and dusty sections of the mine must be rock dusted to within 40 feet of the faces. (location)

VENTILATION

- ☐ AIR COURSE: _____ air course must be kept open and in good condition.
- ☐ AIR COURSES: Air courses must be examined by the foreman or his assistant at least once each week. (location)
- ☐ AIRLOCK: An airlock must be provided at _____ (location)
- ☐ AIR MEASUREMENT: Air currents shall be measured and recorded at least once each week. (location)
- ☐ AIR SPLIT: _____ must be placed on a separate split of air. (sub-station, entry, etc.)
- ☒ STOPPINGS: All breakthroughs except the last must be promptly closed in three permanent stoppings were needed. (location)
- ☐ STOPPINGS: Stoppings must be properly constructed of incombustible material.
- ☒ STOPPINGS: Leaky stoppings in main brattice line must be made reasonably air-tight. (location)
- ☐ FAN: The fan must operate at all times while men are in the mine.
- ☐ FAN: If for any reason the fan is stopped, it must run _____ hours before men are permitted to enter the mine.
- ☐ FAN: Fan must be offset at least 15 feet in fireproof housing and protected by explosion door or weak wall.
- ☐ VENTILATION: No room or entry shall be turned in by the last open crosscut.
- ☐ VENTILATION: At least 6,000 cu. ft. of air must be provided at last crosscut in _____
- ☒ VENTILATION: The quantity of air at in face area. must be increased. (location)
- ☐ BREAKTHROUGH: Breakthroughs shall be made at intervals not to exceed 80 feet. (location)
- ☐ LINE BRATTICES: Line brattices (wing curtains) shall be used in _____ (location)

EXPLOSIVES AND BLASTING

- ☒ EXPLOSIVES: Explosives taken underground shall be transported, handled and stored as required by law.
- ☐ EXPLOSIVES: Not more than a 48-hour supply of explosives shall be stored in the mine at one time.
- ☐ MAGAZINE: An explosives magazine, erected in compliance with the law, shall be constructed.
- ☒ BLASTING: All working places must be carefully examined after blasting is done.
- ☒ BLASTING: Shots must be fired immediately after the holes are charged.
- ☐ STEMMING: Boreholes for blasting shall be stemmed with at least 24 inches of incombustible material unless approval has been granted to use a newly developed permissible stemming device.
- ☒ FUSE: Fuse must be cut at least one foot longer than the depth of the drill hole.
- ☐ DETONATORS: Electrical detonators must be used when blasting in a gassy mine.
- ☐ AIRDOX: Airdox lines must be properly installed and protected against mechanical or electrical damage.

SUPERVISION

- ☐ SUPERVISION: All work in this mine must be supervised by a mine foreman.
- ☐ SUPERVISION: The mine foreman must report conditions of the mine daily in the Mine Foreman's record book.
- ☒ SUPERVISION: Closer supervision must be given this mine by the mine foreman.
- ☐ SUPERVISION: The mine foreman shall visit and examine each working place each day or oftener while men are at work.

MAP, PLANS AND LICENSES

- ☐ MAP: A certified, up-to-date map must be filed with the Division of Mines.
- ☒ MAP: A copy of the mine map must be kept available at the mine.
- ☐ MAP: When this mine is to be abandoned, a final map must be filed with the Division of Mines.
- ☐ PROPERTY LINE: All working places must be stopped at least 5 feet from the property line.
- ☐ LICENSE: A license to operate a mine must be obtained and a copy posted at a prominent place at the mine.
- ☐ LICENSE: No coal is to be produced until a license to operate this mine has been obtained.
- ☐ PERMIT: A permit must be obtained to _____
(Shooting from the solid, using black powder, blower fans, etc.)
- ☐ NEW OPENINGS: The distance between all drift openings must be at least forty feet (40') of natural strata.
- ☒ PROJECTIONS: Mine workings must be driven to comply with engineer's projections.
- ☒ PROJECTIONS: Entries and rooms must be held to proper width.
- ☐ PILLARING: Pillars must be extracted in proper sequence.

ELECTRICITY

- ☐ LIGHTNING ARRESTERS: Lightning arresters shall be installed on all electrical lines entering the mine.
- ☒ INSULATORS: All positive power lines in and around the mine must be properly installed on insulators.
- ☐ INSULATING MATS: Rubber insulating mats shall be placed _____
(equipment or location)
- ☐ INSULATION: All hand-held electrical equipment must be properly insulated.
- ☐ WIRE GUARD: The telephone line shall be guarded at _____
(location)
- ☐ WIRE GUARD: The trolley wire shall be guarded at _____
(location)
- ☐ BELTS: Electrical wires crossing under or over belts must be properly installed and guarded.
- ☒ FUSES AND GROUNDS: _____
out-out switch on the surface _____ shall be properly fused.
(equipment)
- ☐ TRACK BONDS: All tracks shall be bonded the distance of the trolley wire with cross bonds installed every 200 feet.
- ☐ SWITCH: A disconnecting switch shall be installed _____
(location)

POWER CABLES

- ☐ CABLES: The power cable on _____
(equipment) must be replaced or repaired.
- ☐ CABLES: Twenty feet of flexible rubber hose shall be installed over the end of the drag cable which is fastened to the buggy.
- ☐ CABLES: Power cables on mine floor must be protected from water and mechanical damage.

HAULAGE

- ☐ LOCOMOTIVE: _____
(brakes, lights, sandrigging, etc.) on the locomotives must be repaired immediately.
- ☐ LIGHTS: Lights must be used on front and rear of trips while in motion in the mine.
- ☐ MAN TRIP: Man trips must be operated at a safe rate of speed and under control at all times.
- ☐ MAN TRIP: Man trips must not travel under unsafe or doubtful roof.
- ☐ TRACK: Track in _____
(location) must be kept in a safe condition.
- ☐ MINE CARS: Mine cars must be kept in good operating condition or removed from service.
- ☐ REFUGE HOLES: Properly maintained refuge holes shall be provided at _____
(location)
- ☐ CLEARANCE: Adequate clearance must be maintained at _____
(location)
- ☐ SIGNALS: The movement of trips shall be controlled by a signal system or a dispatcher.

BELTS

- ☐ BELTS: Conveyor belts must be protected by emergency safeguards.
- ☐ BELTS: Transportation of men on belts shall be in compliance with the Mining Law with respect to - Clearance ☐ ,
Belt Speed ☐ , Lighting ☐ , Spacing of Men ☐ , Supervision ☐ .

DRAINAGE

- ☒ WATER: _____
(location) this mine was wet throughout. _____ shall be kept free of standing water.

BOREHOLES

- ☐ BOREHOLES: When approaching old workings, holes must be drilled 20 feet ahead of face with rib holes eight feet (8') apart and on a forty-five degree (45°) angle.

TO AMEND THE FEDERAL COAL MINE SAFETY ACT

ESCAPEWAYS

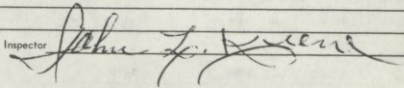
- ☐ ESCAPEWAY: A properly maintained escapeway must be provided.
- ☐ ESCAPE SHAFT: The escape shaft must be provided with an approved ladder, stairway or hoist.
- ☐ ESCAPE SHAFT: Escape shaft and its equipment must be inspected weekly by the mine foreman or other designated person.

GENERAL

- ☒ SIGNS: Signs pointing to escapeways must be posted.
- ☒ CHECK-IN-AND-OUT: A uniform check-in and check-out system for employees must be put into effect at once.
- ☐ ABANDONED MINE: No person shall enter, explore, or survey an abandoned mine unless the mine has been examined by a certified person.
- ☐ HOIST: The _____ at the main hoist must be maintained in a safe condition.
(ropes, brakes, etc.)
- ☐ CAGE: Men shall not ride cages while other material is being handled.
- ☐ SAFETY HATS: All employees shall wear safety hats.
- ☐ SAFETY SHOES: All employees shall wear safety-type shoes.
- ☒ FIRST AID: Adequate first-aid supplies must be obtained and kept at suitable locations in the mine.
- ☐ FIRE EQUIPMENT: Adequate fire fighting equipment must be obtained and kept at suitable locations in the mine.
- ☒ CLOSED LAMPS: All workmen should wear battery type lamps.
- ☐ RESPIRATORS: Respirators must be worn by _____
- ☐ APRON: A substantial apron shall be erected over the portal where men are required to travel.
- ☐ HAND RAIL: A hand rail must be installed on _____
- ☐ GUY WIRES: _____ must be securely X-braced and anchored with cables of proper strength.
(tibble, bin, etc.) (location)
- ☐ SKID LOGS: Skid logs must be installed on _____
- ☐ GUARDS: _____ must be properly guarded.
(gears, pulleys, belts, fans, etc.) (location)
- ☐ CLEARANCE: Proper clearance shall be maintained between railroad tracks on the surface.
- ☐ DANGER SIGNS: A danger sign shall be posted at _____
- ☐ ZONING: Track switches at tipples shall be properly zoned. (location)
- GASSY OR GASEOUS MINE
- ☐ GAS REMOVAL: Closer supervision must be given to the removal of gas in _____ (location)
- ☐ SHOT FIRER: Certified shot-firer (s) must be employed.
- ☐ FOREMAN: A First Class Mine Foreman must be employed to supervise the operation of this mine.
- ☐ FIREBOSS: A fireboss must report mine conditions daily in the Fireboss' Record Book.
- ☐ FLAMEPROOF EQUIPMENT: Only flameproof electrical equipment shall be used underground.
- ☐ CERTIFICATION: Operators of electrical equipment must be certified to use a flame safety lamp.
- ☐ GAS TEST: Where electrical face equipment is used, tests for gas must be made every 30 minutes, or oftener, as required.
- ☐ CLOSED LAMPS: All workmen must wear permissible-type electric cap lamps.
- ☐ SMOKING: Employees shall not be permitted to carry smoking material, matches or lighting devices underground.
- ☐ SEARCHING: Underground employees shall be searched frequently for smoking material, matches and lighting devices.
- ☐ PRE-SHIFT EXAM: Pre-shift mine examinations must be made within 4 hours before the beginning of a shift.
- ☒ NOTE: This mine will be reinspected at regular intervals.

In the judgement of the writer, the practices and conditions observed at this mine
did not constitute an imminent danger of mine fires and/or explosions, as reported by the
Federal Coal Mine inspector.

Inspector



UNITED MINE WORKERS OF AMERICA,
SAFETY DIVISION,
Washington, D.C., July 27, 1964.

Mr. C. P. KELLY,
*Chief Inspector, Division of Mines, Virginia Department of Labor and Industry,
Big Stone Gap, Va.*

DEAR MR. KELLY: The Federal preliminary inspection reports on the No. 1 mine, E. & A. Coal Co., Vicey, Va. (AR4), the No. 1 mine, Dailey Coal Co., Jewell, Valley, Va. (AR12), the No. 1 mine, R. & A. Coal Co., Prater, Va. (AR2), and the No. 1 mine, Lovers Gap Coal Co., Prater, Va. (AR5), states imminent dangers of mine fire and mine explosion present.

In view of the Bureau of Mines' lack of enforcement authority, the responsibility for abatement of these conditions rests upon the State department of mines. Therefore, as a representative of the employees, I request that you make an investigation of this situation and take the necessary action for the prompt correction thereof.

I will appreciate hearing from you as to your disposition of this request.

Sincerely yours,

CHARLES FERGUSON.

TO AMEND THE FEDERAL COAL MINE SAFETY ACT

Day _____
 Phone Night _____

Drift ☒
 Shaft ☐
 Slope ☐

COMMONWEALTH OF VIRGINIA

 DEPARTMENT OF LABOR AND INDUSTRY
 DIVISION OF MINES AND QUARRIES

Mine Index 03469
 Tipple ☐
 Truck ☒
 Gassy ☐
 Nongassy ☒
 Date: 7/31/64

Company E. & A. Coal Co. BIG STONE GAP, VIRGINIA Mine # 1
 Operator Nubern Deel Address Haysi, Va.
 Mine Location Greenbrier (Russell Prater) County Buchanan
 Underground employees each shift: 13 day No. working places 16
 Mine Foreman Earl Deel Address Prater, Va. If certified give Class and No. 2nd.
 Former Mine Name and No., if changed _____
 Approximate distance from portal to farthest face 3500ft.

IMMEDIATE ACTION MUST BE TAKEN TO COMPLY WITH THE RECOMMENDATIONS INDICATED BELOW:

- ☐ SAFETY JACKS: At least _____ or more safety jacks or posts must be kept set in all face areas.
☐ SAFETY JACKS: Before posts or jacks are removed, additional ones must be set.
☐ LINE TIMBERS: Two or more rows of line timbers shall be set on _____ foot centers to within _____ feet of faces.
☐ TIMBERING: Loose roof at _____ must be taken down or timbered.
☐ TIMBERING: Prepared header blocks or cap pieces shall be used over all line timbers and safety posts.
☐ TIMBERING: Adequate breaker posts shall be set at _____
☐ TIMBERING: Dislodged or decayed timbers shall be replaced immediately _____
☐ TIMBERING: The roadway clearance between line timbers shall not exceed _____ feet.
☐ TIMBERING: Only timbering material of proper size and strength shall be used.
☐ TIMBERING: All unused breakthroughs and room necks must be timbered off.
☐ TIMBERING: Crossbars must be used _____
☐ SUPPLIES: An adequate supply of timbering material shall be kept available for all working places.
☐ ROOF TEST: The roof shall be examined at the beginning of the shift and at frequent intervals during the shift.
☐ ROOF BOLTS: Roof bolts must be installed on centers not to exceed _____ feet.
☐ ROOF BOLTS: Conventional timbering must be done along with roof bolting in _____
☐ NOTE: No coal shall be loaded from the dangered-off place until the above recommendations have been complied with and the operator has obtained permission from the Chief Mine Inspector to resume work.
☐ WATER: _____ shall be kept free from standing water.
☐ ROCK DUST: All dry and dusty sections of the mine must be rock dusted to within 40 feet of the faces.

Eminent danger of explosions and mine fires did not exist as reported by Federal

Coal Mine Inspector. Mine wet to damp throughout.

Inspector Cliff Brantley

Day _____
 Night _____
 Drift ☐
 Shaft ☐
 Slope ☐

Phone _____
 Mine Index 03489
 Tipple ☐
 Truck ☒
 Gassy ☐
 Nongassy ☒
 Date: 7/31/64

COMMONWEALTH OF VIRGINIA

 DEPARTMENT OF LABOR AND INDUSTRY
 DIVISION OF MINES AND QUARRIES
 BIG STONE GAP, VIRGINIA

Company R. & A. Coal Co. Mine #1
 Operator Rescoe Quinn Address Haysi, Va.
 Mine Location Greenbrier (Russell Prater) County Buchanan
 Underground employees each shift: 10 day No. working places 13
 Mine Foreman Cornelius Deal Address Prater, Va. If certified give Class and No. 2nd.
 Former Mine Name and No., if changed _____
 Approximate distance from portal to farthest face 900ft.

IMMEDIATE ACTION MUST BE TAKEN TO COMPLY WITH THE RECOMMENDATIONS INDICATED BELOW:

- ☐ SAFETY JACKS: At least _____ or more safety jacks or posts must be kept set in all face areas.
☐ SAFETY JACKS: Before posts or jacks are removed, additional ones must be set.
☐ LINE TIMBERS: Two or more rows of line timbers shall be set on _____ foot centers to within _____ feet of faces.
☐ TIMBERING: Loose roof at _____ must be taken down or timbered.
☐ TIMBERING: Prepared header blocks or cap pieces shall be used over all line timbers and safety posts.
☐ TIMBERING: Adequate breaker posts shall be set at _____
☐ TIMBERING: Dislodged or decayed timbers shall be replaced immediately _____
☐ TIMBERING: The roadway clearance between line timbers shall not exceed _____ feet.
☐ TIMBERING: Only timbering material of proper size and strength shall be used.
☐ TIMBERING: All unused breakthroughs and room necks must be timbered off.
☐ TIMBERING: Crossbars must be used _____
☐ SUPPLIES: An adequate supply of timbering material shall be kept available for all working places.
☐ ROOF TEST: The roof shall be examined at the beginning of the shift and at frequent intervals during the shift.
☐ ROOF BOLTS: Roof bolts must be installed on centers not to exceed _____ feet.
☐ ROOF BOLTS: Conventional timbering must be done along with roof bolting in _____
☐ NOTE: No coal shall be loaded from the dangered-off place until the above recommendations have been complied with and the operator has obtained permission from the Chief Mine Inspector to resume work.
☐ WATER: _____ shall be kept free from standing water.
☐ ROCK DUST: All dry and dusty sections of the mine must be rock dusted to within 40 feet of the faces.

Eminent danger of explosions and mine fires did not exist as reported by Federal

Coal Mine Inspector.

Inspector Glenn E. Brantner

TO AMEND THE FEDERAL COAL MINE SAFETY ACT

Phone Day _____
Night _____

Drift ☒

Shaft ☐

Slope ☐

COMMONWEALTH OF VIRGINIA



DEPARTMENT OF LABOR AND INDUSTRY

DIVISION OF MINES AND QUARRIES

BIG STONE GAP, VIRGINIA

Mine Index No. 03441

Tipple ☐
Truck ☒
Gassy ☐
Nongassy ☒

Date: 7/30/64

*Nature of this inspection Regular
(pre-work, regular, mine on days, closed mine, requested, special, etc.)

GENERAL:
Company Lovers Gap Coal Co. Mine No. 1 Address Rt. 2, Haysi Va.
Location of Mine Russell Frater County Buchanan Seam & Thickness 34"
(creek, etc.)
Principal Officer or Owner Bruce Owens Superintendent Bruce Owens
*Mine Foreman Noah Blankenship Address Rt. 1, Vansant Va. If certified give class & number F.C.
*Total Employees 15 UG per shift: 1st 10 2nd 4 3rd _____ Surface 1 Daily Tonnage 125
Former Name & Mine Number if changed _____

*Approximate distance from portal to farthest face 1000' Electric Power Underground: AC ☒ DC _____

*Is license posted at mine? Yes Date of map 6/15/64 Engineer Clinchfield Coal Corp.
Briefly list types of mining equipment Battery Mtr. rubber tired cars & Kersey Cutting Machine

SURFACE:

Type of cleaning plant or tipple Wood
Condition of wiring: Good ☐ Fair ☒ Poor ☐ Condition of Buildings: Good ☐ Fair ☒ Poor ☐
Surface fire or explosion hazards observed: Oil ☐ Dust ☐ Gas ☐ Wood ☐ Explosives ☐
Hoisting motive power: Electric ☐ Steam ☐ Hoisting Method: Skip ☐ Cage ☐ Belt ☐ Track ☐

*Describe unsafe conditions and/or practices observed on surface: None

*Are there active fires in adjacent mines? No If yes, give name of mine _____
Are gas or oil wells on property? Yes ☐ No ☒ Are gas lines near mine openings? Yes ☐ No ☒
Type and size of fan (s) 40" Disk Is housing fireproof? Yes ☒ No ☐
Is fan offset? Yes ☐ No ☒ Explosion door or weak wall? Yes ☐ No ☒ Reversible? Yes ☒ No ☐
Exhaust ☐ Force ☐ Fan motive power 220 A.C.

VENTILATION:

*Was methane detected? No Percentage _____ Location _____
*Volume of air at main intake 37,320 Cu. Ft. at main return _____

Location of Air Measurement	Volume	Location of Air Measurement	Volume
<u>Last open crosscut</u>	<u>19,640 Cu. Ft.</u>		

TO AMEND THE FEDERAL COAL MINE SAFETY ACT

81

VIRGINIA DIVISION OF MINES AND QUARRIES Mine Inspection Report

COMPANY Lovers Gap Coal Co. MINE # 1 INDEX NO. 03447
INSPECTOR Joe C. Davis DATE 7.30/64

IMMEDIATE ACTION MUST BE TAKEN TO COMPLY WITH THE RECOMMENDATIONS INDICATED BELOW:

TIMBERING

- ☒ SAFETY JACKS: At least Two or more safety jacks or posts must be kept set in all face areas.
- ☐ SAFETY JACKS: Before posts or jacks are removed, additional ones must be set.
- ☐ LINE TIMBERS: Two or more rows of line timbers shall be set on 4 foot centers to within 6 feet of working faces.
- ☐ TIMBERING: Loose or doubtful roof at _____ shall be taken down or properly timbered.
- ☐ TIMBERING: Prepared header blocks shall be used over all line timbers and safety posts.
- ☐ TIMBERING: Adequate breaker posts shall be set at _____ (location)
- ☒ TIMBERING: Dislodged or decayed timbers shall be replaced immediately Along haulways (location)
- ☐ TIMBERING: The roadway clearance between line timbers shall not exceed _____ feet.
- ☒ TIMBERING: All unused breakthroughs and room necks must be timbered off.
- ☐ TIMBERING: Only timbering material of proper size and strength shall be used.
- ☐ TIMBERING: Crossbars must be used When needed (location)
- ☐ SUPPLIES: An adequate supply of timbering material shall be kept available for all working places.
- ☐ ROOF TEST: The roof shall be examined at the beginning of the shift and at frequent intervals during the shift.
- ☐ ROOF BOLTS: Roof bolts must be installed on centers not to exceed _____ feet.
- ☐ ROOF BOLTS: Conventional timbering must be done along with roof bolting in _____
- ☐ NOTE: No coal shall be loaded from the endangered-off place until the above recommendations have been complied with and the operator has obtained permission from the Chief Mine Inspector to resume work.

DUST

- ☒ COAL DUST: Accumulations of loose coal and dust shall be removed from Face region (location)
- ☒ ROCK DUST: All dry and dusty sections of the mine must be rock dusted to within 40 feet of the faces.

VENTILATION

- ☐ AIR COURSE: _____ air course must be kept open and in good condition.
- ☐ AIR COURSES: Air courses must be examined by the foreman or his assistant at least once each week.
- ☐ AIRLOCK: An airlock must be provided at _____ (location)
- ☐ AIR MEASUREMENT: Air currents shall be measured and recorded at least once each week.
- ☐ AIR SPLIT: _____ must be placed on a separate split of air.
- ☐ STOPPINGS: All breakthroughs except the last must be promptly closed in _____ (location)
- ☐ STOPPINGS: Stoppings must be properly constructed of incombustible material.
- ☐ STOPPINGS: Leaky stoppings in _____ must be made reasonably air-tight.
- ☐ FAN: The fan must operate at all times while men are in the mine.
- ☐ FAN: If for any reason the fan is stopped, it must run _____ hours before men are permitted to enter the mine.
- ☐ FAN: Fan must be offset at least 15 feet in fireproof housing and protected by explosion door or weak wall.
- ☐ VENTILATION: No room or entry shall be turned in by the last open crosscut.
- ☐ VENTILATION: At least 6,000 cu. ft. of air must be provided at last crosscut in _____ (location)
- ☐ VENTILATION: The quantity of air at _____ must be increased.
- ☐ BREAKTHROUGH: Breakthroughs shall be made at intervals not to exceed 80 feet.
- ☐ LINE BRATTICES: Line brattices (wing curtains) shall be used in _____ (location)

EXPLOSIVES AND BLASTING

- ☐ EXPLOSIVES: Explosives taken underground shall be transported, handled and stored as required by law.
- ☐ EXPLOSIVES: Not more than a 48-hour supply of explosives shall be stored in the mine at one time.
- ☐ MAGAZINE: An explosives magazine, erected in compliance with the law, shall be constructed.
- ☐ BLASTING: All working places must be carefully examined after blasting is done.
- ☐ BLASTING: Shots must be fired immediately after the holes are charged.
- ☐ STEMMING: Boreholes for blasting shall be stemmed with at least 24 inches of incombustible material unless approval has been granted to use a newly developed permissible stemming device.
- ☐ FUSE: Fuse must be cut at least one foot longer than the depth of the drill hole.
- ☐ DETONATORS: Electrical detonators must be used when blasting in a gassy mine.
- ☐ AIRDOX: Airdox lines must be properly installed and protected against mechanical or electrical damage.

SUPERVISION

- ☐ SUPERVISION: All work in this mine must be supervised by a mine foreman.
- ☐ SUPERVISION: The mine foreman must report conditions of the mine daily in the Mine Foreman's record book.
- ☐ SUPERVISION: Closer supervision must be given this mine by the mine foreman.
- ☐ SUPERVISION: The mine foreman shall visit and examine each working place each day or oftener while men are at work.

MAP, PLANS AND LICENSES

- ☐ MAP: A certified, up-to-date map must be filed with the Division of Mines.
- ☐ MAP: A copy of the mine map must be kept available at the mine.
- ☐ MAP: When this mine is to be abandoned, a final map must be filed with the Division of Mines.
- ☐ PROPERTY LINE: All working places must be stopped at least 5 feet from the property line.
- ☐ LICENSE: A license to operate a mine must be obtained and a copy posted at a prominent place at the mine.
- ☐ LICENSE: No coal is to be produced until a license to operate this mine has been obtained.
- ☐ PERMIT: A permit must be obtained to _____
(Shooting from the solid, using black powder, blower fans, etc.)
- ☐ NEW OPENINGS: The distance between all drift openings must be at least forty feet (40') of natural strata.
- ☐ PROJECTIONS: Mine workings must be driven to comply with engineer's projections.
- ☐ PROJECTIONS: Entries and rooms must be held to proper width.
- ☐ PILLARING: Pillars must be extracted in proper sequence.

ELECTRICITY

- ☐ LIGHTNING ARRESTERS: Lightning arresters shall be installed on all electrical lines entering the mine.
- ☐ INSULATORS: All positive power lines in and around the mine must be properly installed on insulators.
- ☐ INSULATING MATS: Rubber insulating mats shall be placed _____
(equipment or location)
- ☐ INSULATION: All hand-held electrical equipment must be properly insulated.
- ☐ WIRE GUARD: The telephone line shall be guarded at _____
(location)
- ☐ WIRE GUARD: The trolley wire shall be guarded at _____
(location)
- ☐ BELTS: Electrical wires crossing under or over belts must be properly installed and guarded.
- ☐ FUSES AND GROUNDS: _____
(equipment) shall be properly fused.
- ☐ TRACK BONDS: All tracks shall be bonded the distance of the trolley wire with cross bonds installed every 200 feet.
- ☐ SWITCH: A disconnecting switch shall be installed _____
(location)

POWER CABLES

- ☐ CABLES: The power cable on _____
(equipment) must be replaced or repaired.
- ☐ CABLES: Twenty feet of flexible rubber hose shall be installed over the end of the drag cable which is fastened to the buggy.
- ☐ CABLES: Power cables on mine floor must be protected from water and mechanical damage.

HAULAGE

- ☒ LOCOMOTIVE: Lights _____
(brakes, lights, sanddrilling, etc.) on the locomotives must be repaired immediately.
- ☐ LIGHTS: Lights must be used on front and rear of trips while in motion in the mine.
- ☐ MAN TRIP: Man trips must be operated at a safe rate of speed and under control at all times.
- ☐ MAN TRIP: Man trips must not travel under unsafe or doubtful roof.
- ☐ TRACK: Track in _____
(location) must be kept in a safe condition.
- ☐ MINE CARS: Mine cars must be kept in good operating condition or removed from service.
- ☐ REFUGE HOLES: Properly maintained refuge holes shall be provided at _____
(location)
- ☐ CLEARANCE: Adequate clearance must be maintained at _____
(location)
- ☐ SIGNALS: The movement of trips shall be controlled by a signal system or a dispatcher.

BELTS

- ☐ BELTS: Conveyor belts must be protected by emergency safeguards.
- ☐ BELTS: Transportation of men on belts shall be in compliance with the Mining Law with respect to - Clearance ☐ ,
Belt Speed ☐ , Lighting ☐ , Spacing of Men ☐ , Supervision ☐ .

DRAINAGE

- ☐ WATER: _____
(location) shall be kept free of standing water.

BOREHOLES

- ☐ BOREHOLES: When approaching old workings, holes must be drilled 20 feet ahead of face with rib holes eight feet (8') apart and on a forty-five degree (45°) angle.

ESCAPEWAYS

- ☐ ESCAPEWAY: A properly maintained escapeway must be provided.
- ☐ ESCAPE SHAFT: The escape shaft must be provided with an approved ladder, stairway or hoist.
- ☐ ESCAPE SHAFT: Escape shaft and its equipment must be inspected weekly by the mine foreman or other designated person.

GENERAL

- ☒ SIGNS: Signs pointing to escapeways must be posted.
- ☒ CHECK-IN-AND-OUT: A uniform check-in and check-out system for employees must be put into effect at once.
- ☐ ABANDONED MINE: No person shall enter, explore, or survey an abandoned mine unless the mine has been examined by a certified person.
- ☐ HOIST: The _____ at the main hoist must be maintained in a safe condition.
(ropes, brakes, etc.)
- ☐ CAGE: Men shall not ride cages while other material is being handled.
- ☐ SAFETY HATS: All employees shall wear safety hats.
- ☐ SAFETY SHOES: All employees shall wear safety-type shoes.
- ☐ FIRST AID: Adequate first-aid supplies must be obtained and kept at suitable locations in the mine.
- ☐ FIRE EQUIPMENT: Adequate fire fighting equipment must be obtained and kept at suitable locations in the mine.
- ☐ CLOSED LAMPS: All workmen should wear battery type lamps.
- ☐ RESPIRATORS: Respirators must be worn by _____
- ☐ APRON: A substantial apron shall be erected over the portal where men are required to travel.
- ☐ HAND RAIL: A hand rail must be installed on _____ (location)
- ☐ GUY WIRES: _____ must be securely X-braced and anchored with cables of proper strength.
(tippie, bin, etc.)
- ☒ SKID LOGS: Skid logs must be installed on each side of coal dump (location) must be properly guarded.
- ☐ GUARDS: _____ (gears, pulleys, belts, fans, etc.)
- ☐ CLEARANCE: Proper clearance shall be maintained between railroad tracks on the surface.
- ☐ DANGER SIGNS: A danger sign shall be posted at _____ (location)
- ☐ ZONING: Track switches at tipples shall be properly zoned.

GASSY OR GASEOUS MINE

- ☐ GAS REMOVAL: Closer supervision must be given to the removal of gas in _____ (location)
- ☐ SHOT FIRER: Certified shot-firer (s) must be employed.
- ☐ FOREMAN: A First Class Mine Foreman must be employed to supervise the operation of this mine.
- ☐ FIREBOSS: A fireboss must report mine conditions daily in the Fireboss' Record Book.
- ☐ FLAMEPROOF EQUIPMENT: Only flameproof electrical equipment shall be used underground.
- ☐ CERTIFICATION: Operators of electrical equipment must be certified to use a flame safety lamp.
- ☐ GAS TEST: Where electrical face equipment is used, tests for gas must be made every 30 minutes, or oftener, as required.
- ☐ CLOSED LAMPS: All workmen must wear permissible-type electric cap lamps.
- ☐ SMOKING: Employees shall not be permitted to carry smoking material, matches or lighting devices underground.
- ☐ SEARCHING: Underground employees shall be searched frequently for smoking material, matches and lighting devices.
- ☐ PRE-SHIFT EXAM: Pre-shift mine examinations must be made within 4 hours before the beginning of a shift.
- ☐ NOTE: This mine will be reinspected _____

The imminent danger as reported by the Federal Mine Inspector are not present
in this mine

Inspector

Joe P. Davis

Mr. MULLINS. One thing I would like to insert here on these letters and telegrams. There have been occasions when we inspected the mine and we found the condition existing as the Federal inspector reported, and the mines were closed by the State of Virginia.

Mr. DENT. It was done voluntarily by the State of Virginia?

Mr. MULLINS. When we find the condition that justifies closure, we close the mine; yes, sir.

Mr. DENT. But also on recommendation of the Federal inspectors?

Mr. MULLINS. I beg your pardon?

Mr. DENT. I say, you have just stated where the Federal inspector found a condition, you closed the mine.

Mr. MULLINS. If it justified it; yes, sir.

Of course, there are two ways in which an inspector, either State or Federal, may provide protection to the miners. First, there must be adequate law to protect the men, and secondly, there must be proper administration of that law.

In my opinion, Virginia gives equivalent protection to its miners as compared to the protection afforded by the Bureau of Mines both on the level of the adequacy of the coal mine safety laws and the administration of such laws.

We inspect all nongassy mines every 90 days and gassy mines every 45 days. In cases when conditions justify special inspections they are made between regular inspections. The reports filled out by our inspectors at the completion of their inspections are discussed with the operator and means of remedying the situation are brought to his attention.

When necessary the mine is closed regardless of whether the mine is title I or title II, union or nonunion. In short, we attempt to be practical as well as technically thorough in our inspection of the mines.

In this regard, I should like to point up what has come to my attention concerning a Bureau of Mines directive which is not only impractical but may create dangers and hazardous conditions in title I mines. It is my understanding that the Bureau of Mines officials have issued a directive that only electric detonators may be fired in coal mines.

Several years ago, we had a fatal accident in one of our Virginia mines involving electric detonators. Under our State law—and it is my understanding that there are identical provisions in the State laws of the other coal-producing States—it is required that holes for explosives be ignited or blasted as soon as they are charged.

However, if an electric detonator is used, unless the coal is undercut, the miner must return to the working face and connect the shot firing cable to the remaining shots. The victim in the accident I spoke of returned to the working face which was obscured by smoke, fumes, and dust and was found under a roof fall. A new section of roof had been exposed by the blast and he was unable to see the danger.

The Virginia law is relevant on this subject. It states that—

Where it is impractical to undercut, topcut, or shear the coal face and solid shooting is necessary, the method of placing and firing holes shall be subject to the approval of the chief.

Another section states:

If fuse or caps are used for blasting, misfires may not be approached by anyone until 24 hours have elapsed and handling of the misfires must be done with due care and under the direction of a supervisor or other competent person. If

blasting is on the surface, misfires may not be approached by anyone until 6 hours have elapsed.

As a result of the aforementioned death and other incidents, Virginia has taken the position that where shooting is done from the solid face, fuses and caps are safer to use in nongassy mines. All of the fuses can be ignited at the same time and by staggering the length of each fuse, the shot firer can retire to a safe location and count the shots as they are initiated.

The burning rate of fuse is 1 foot per minute. The method of multiple shooting, using fuses and caps as prescribed by the chief mine inspector states:

The place must be free of gas or any other dangerous condition. Fuses must be at least 6 inches longer than the depth of the drill hole, be loaded and fired by a competent person designated by the mine foreman or owner of the mine, be fired immediately after charging, the place examined after the shots are fired to see that no fires have been started; rock dust, where needed, applied to within 40 feet of the working face; a minimum percentage of 65-percent combustible material be maintained, and in special conditions, the chief can require rock dusting to the face.

To prohibit the use of fuse and caps would necessitate closing approximately 50 percent of the truck mines in the State of Virginia. In the remaining mines, where the height would permit the use of cutting machines, there would be an investment requirement of approximately \$15,000.

A majority of small operators do not have this amount of working capital and probably could not secure a loan of this magnitude. As to the danger of fuse and caps, I know of no case where any disaster was caused by the use of fuse and caps and, as I stated before, I have been working in and around coal mines since 1935.

Moreover, if the Federal inspectors were to begin requiring title I operators to use electrical detonators and those operators did so without undercutting I would be in the position of having to close many mines because of the safety hazard created. I do not believe that this is in any way a sensible manner in which to treat the small coal industry.

I doubt that there would be enough cutting machines on the market to supply all the title I mines in the country if they suddenly were forced to use such machines. Certainly most of the title I operators would have to purchase new machinery and even that would not be available.

There is another highly impractical and unnecessary requirement which appears in the Federal act, itself, which would require a great many title I mines to cease operations. As I understand the proposed legislation, before any title I mine could commence the day's operation, it would have to be inspected by a certified person.

I do not believe that a preshift examination is necessary in nongassy mines, but I do feel that such examinations are necessary for gassy mines. The Virginia law states:

Operators of mines classified as gassy are required to employ one or more certified fire bosses and to have a preshift examination made, prior to the beginning of a coal-producing shift.

The duties of the fire boss are to examine for dangerous conditions all man ways, slopes, and entries used by men in traveling to and from work, and to examine for gas and other dangerous conditions all working places, adjoining abandoned places and accessible pillar falls for accumulation of gas.

Each such fire boss shall have such knowledge of fire damp and other dangerous gasses as to be able to detect the same with the use of a flame safety lamp. He shall also have a practical knowledge of the ventilation of mines and the machines and appliances used for that purpose.

He shall have at least 3 years' experience in mines generating gasses, and shall hold a fire boss certificate from the Division of Mines.

Since Virginia has not had many gassy mines in recent years, this requirement has presented a problem at the title II gassy mines. There are enough certified men to fill the need which would be created.

Even if the operator could secure a certified person to perform this requirement, it would necessitate an added expense for the mine. Since 1949, there have been 808 fire boss certificates and 1,529 first-class mine fireman certificates, and according to Virginia law, only these men are qualified to make preshift examinations.

Of this number, more than 100 are employed by one of the large title II mines. Assuming that we had enough gassy mines to train the requisite number of men, which we do not, 3 years would elapse before enough men could be qualified to meet the Federal requirement.

Although a man can be taught to use a flame safety lamp in a relatively short period, he cannot acquire the judgment to deal with the problems caused by the presence of methane in our opinion in a shorter period of time than Virginia law requires. If he finds a dangerous condition, he must decide whether to attempt to cure the problem or close the section.

I am aware that suggestions has been made in the course of previous hearings that the State mine inspection officials have been subjected to political pressures on the part of title I operators. I would like to state that I am starting my sixth year with the State of Virginia, and I have never had any political pressure placed upon me whatsoever.

The mine inspectors are given a free hand in their implementation of the Virginia law. In the last 6 years we have had very rigid inspectors' examinations and the people that we have hired have been hired upon the basis of their ability to administer the law, and their background and knowledge of the requirements to perform as an inspector.

To my knowledge there has been absolutely no instance whereby any of our inspectors have had their judgment colored by any considerations other than safety factors. We have a good relationship with all our inspectors and I am quite sure if any of them had any pressure brought upon them that I would have been the first to know it.

In short, there has been no political pressure brought upon me in any way by any operator, association operator, any union or other group. As Commissioner Boggs has advised the members of the Division, the best politics to play is to do a good job.

Although our relationship with the Bureau of Mines inspectors generally has been very good, we have noticed occasions when the Bureau of Mines in its official reports has not stated the actual facts and occurrences that have happened in this State.

For example, in a recent mine fire the Bureau of Mines wanted to close the mine down—incidentally, it was a title II mine—and this would have thrown 150 men out of work for a period of possibly 3 months.

After the Virginia inspectors took charge of the situation, the fire was out in 38 hours. In 42 hours we had the mine back in operation. The Bureau of Mines sent in a report to the office telling what they had done. They, in fact, were very much disturbed by our report as to what the Virginia inspectors had done.

Now, on occasions we have had statements from some of our smaller operators that the Bureau of Mines have found violations of the Federal act and the Federal Code which do not in fact exist. This has been verified by our own inspectors. I have records that will show that I have sent inspectors to check on conditions in mines which were described by the Bureau as imminent dangers.

For example, it was stated in a Bureau report that there was an imminent danger of a mine fire or explosion. Our inspector reported back to me that with respect to this mine he had to wade through water and mud 4 or 5 inches deep to make his inspection.

In my opinion that mine could not have been classed as a mine which had an imminent danger of fire or explosion. Now, of course, I am familiar with the distrust of the title I operators for the Bureau of Mines inspectors. I have no stake in any argument between title I operators and the Bureau of Mines inspectors.

But I do know title I operators whom I respect and whose veracity I have regard for in all other matters who have said to me that certain Federal inspectors have told them "Just wait until we get the authority and we will shut you down." Furthermore, I would say that this is a common feeling among small operators.

I should like to add that I do not believe that these small operators can be burdened with any additional expenses. From my knowledge of the industry I can say that essentially the profit margin of a title I operator is not more than 20 to 25 cents at most, after expenses per ton of coal.

We hear from our operators quite often that they do not know what to do, that they are not getting enough for their coal to sustain the operation and it looks like they are going to have to shut down. This is standard talk that we hear in and around the mines and it does not take an expert to look the situation over to determine they are telling the truth.

Of course they are concerned about the question of whether or not they will have to pay 40 cents per ton. In that respect I can only state that I do not know of any title I operator who can afford to pay 40 cents a ton and stay in business unless he is using mechanized equipment to load his coal which will produce at least three times as much as hand loading will produce.

Mr. DENT. Where does the 40 cents a ton that they would have to pay appear in our bill?

Mr. MULLINS. I do not think it is in your bill, Congressman.

Mr. DENT. Then we can rule that assumption out then, at this point.

Mr. MULLINS. I will proceed, then, sir.

I believe that there is room for improvement in coal mine safety programs. However, I do not believe that the Bureau of Mines is innovating such programs, and I do believe that the State of Virginia is progressing in the correct direction. Furthermore, it is certainly a fact that the safest operators in both title I and title II are the most profitable ones.

The mine operators in Virginia would virtually all agree with that statement. Accordingly they are not interested in attempting to cut their cost by operating a mine on an unsafe basis. One need only examine the cost of insurance which the operators are required to carry and the increase in that insurance which results from an accident or fatality to understand their concern for the economic effect of accidents or fatalities, even aside from the demoralizing and unhappy social effect.

In my opinion the problem of safety in coal mines is the accidents that occur from day to day—the roof fall and machinery-type accidents. The problem is one of education. In 1961 after reviewing our safety record for the past years, we decided to initiate an educational program.

Our first efforts were to conduct safety meetings at the conclusion of each inspection. These meetings were held by the district mine inspector with the consent of the operator of the coal mine. Also, at this time, we began making sketches of any fatal accidents which occurred giving the facts involved and our recommendations as to what would prevent accidents of this nature from recurring.

These sketches were distributed by the district mine inspector to each operator. In 1963 we stepped up our educational program by adding two additional inspectors whose primary interest was to check the timbering standards of the individual mines.

Also, during this year, we held several area safety meetings with the operators and workers in the coalfields. In October 1963, we began publishing a booklet titled "Monthly Review of Coal Mining." This publication was mailed to each licensed mine in the State of Virginia.

The operators of the coal mines felt that this information should be distributed to their foremen and superintendents as well. At this time we are mailing approximately 3,300 copies of this publication each month. The mine foreman uses this material to acquaint the worker of any fatalities or safety messages which they wish to impart.

In many cases it is the problem of making the individual miner understand that safety and production go hand in hand. Further, I believe that safety is a continuing thing. Each year innovations should be brought in to drive home to the man that he must conduct himself in a safe manner for his own protection.

When our inspector inspects a mine he gets the operator and the men together and holds a safety meeting with them. He points out the hazards that he sees, calls their attention to them, tells them how he thinks they can overcome them. It is my understanding that the Bureau of Mines inspectors do not do this but rather submit a report to the mine operator 2 weeks after his inspection.

I believe that the Virginia education program should be stepped up and we have plans to do so. I do not have any figures on the safety classes taught by the Bureau of Mines, but I do believe that there have been very few of them conducted in the State of Virginia in title I mines.

They do go to the large title II mines and hold accident prevention classes, but the small operator does not get the benefit of these. Starting on July 1, 1965, the State of Virginia is adding two additional men who will primarily spend their time in education programs.

Their efforts will be concentrated on title I mines, and if necessary on title II operations also.

Thank you, sir.

Mr. DENT. Thank you very kindly, Mr. Mullins. I am sure that we appreciate your taking the time to come here to give us the valuable testimony that you have presented.

Have you any questions?

Mr. BELL. Yes; I have some questions.

Mr. Mullins, I appreciate very much your coming before our committee and your very excellent testimony.

Mr. MULLINS. Thank you.

Mr. BELL. Could you tell us how long it would take, or if it could happen at all, for a nongassy mine to become gassy after some length of time?

Mr. MULLINS. Congressman, I might answer that question in this way. The geological structure of the coal and its location has a lot to do in determining whether the mine is gassy or not. It is very seldom that seams of coal that are located in the higher reaches of the mountain ranges have gas in them, due to the fact that the gas can leach out through the cracks and crevices put there by Mother Nature.

Mr. BELL. You mentioned in your statement something about the number of mines and the number of inspectors to go around. Assuming that the Dent bill were to pass, there would be a certain amount of inspection and inspectors that you would have to have in certain States, and they would have to be qualified.

Mr. MULLINS. You are speaking of fire bosses, now?

Mr. BELL. Right.

Mr. MULLINS. All right.

Mr. BELL. How many qualified fire bosses, as you put it, do you have, for example, in Virginia?

Mr. MULLINS. As I stated in my testimony, 808 was the figure, and 1,529 first class. According to our laws those are the only people who can make preshift examinations.

Mr. BELL. Mr. Mullins, you heard the testimony of Senator Cooper and others here this morning. Do you feel there would be an economic impact in your State and in other States in the Appalachia area if this so-called Dent bill were to pass?

Mr. MULLINS. Well, Congressman, if the provision that fuse and caps is an imminent danger in title I mines, as I said in my statement, there would be 50 percent of the mines in the State of Virginia, truck mines, which would have to be closed, title I, and it would put an economic hardship on the area.

Mr. BELL. A great part of the economy of your State is involved here in the small coal mining operations; is that correct?

Mr. MULLINS. In southwest Virginia we have very few factories and other methods of people earning their livelihood, other than those that are depending on the coal industry.

Mr. BELL. Is there not some benefit, I suppose, by the rivalry that exists between the State type of operation, inspection and so forth, and the Federal? Is this not going to keep them both on their feet a little more, perhaps?

Mr. MULLINS. Well, I would think so, because it is human nature that any person wants to do a good job, or be noticed, and certainly,

if we had a cooperative program and we in Virginia have stated on several occasions that we are willing to work with any group or organization that is primarily interested in safety and a better safety record, and we would certainly cooperate with the Bureau of Mines. We do cooperate with them.

Mr. BELL. Your mentioning the Bureau of Mines, I took the liberty of asking the Bureau of Mines some questions and in order to bring this out, I think it is important that we do, as to the accuracy of their knowledge and their up to dateness of their facts, that we bring out some of these facts and I might tell the committee that I gave a copy of this for you to look at to get your ideas on it, whether it is accurate or not.

Let me just read some of the questions and ask you to comment on them.

In title I mines, question: Does the Bureau rely exclusively on questionnaires to complete title I mine statistics?

Bear in mind this is a question asked of the Bureau.

Mr. MULLINS. Yes.

Mr. BELL. Now, the Bureau says, they do not rely exclusively on questionnaires to compile title I statistics. State agency data and publications and Bureau reports of production on form 6-1401A also are used to fill in missing data or to serve as a basis for estimation of missing data on unreported mines.

Would you like to comment on that?

Mr. MULLINS. Congressman, I might answer that question in this manner. When the Bureau of Mines asks us the number of fatalities we have had and where they were located as to title I and title II, we give that information. But our law prohibits us from giving out any information of a private nature which an operator has given to us.

Now that means man-hours, days worked, accidents that he had and so forth, and the tons that he produces. According to our law, we cannot give that information to anyone other than to that operator himself.

We can do this. We can give the total tons of coal produced in the State of Virginia by the different methods, but we cannot point out an individual.

Mr. BELL. So, the basis upon which the Bureau would have to judge some of the accidents would be missing, is that not correct?

Mr. MULLINS. I would think so, yes, sir. Speaking from Virginia.

Mr. BELL. Some of the things they would ask that they are basing their figures on are actually material that is somewhat, you might refer to it as partially guesswork.

What other information is used—

Mr. DENT. Excuse me. What are you trying to prove, that the State of Virginia does not give to the Federal Government vital statistics on mining?

Mr. BELL. That is not the point—

Mr. DENT. You are accusing the Federal Government of not having the figures.

Mr. BELL. I am saying, Mr. Chairman, that there are certain figures that the Bureau has come up with stating title I and comparing title I accidents to title II, and I am just saying that some of this material that they are basing this on, and which the Bureau shows the title II

accident rate is less than that of title I, some of those figures are not accurate, and this is the basis of my questioning.

Title I mines—I am trying to say also from the States you can often get more accurate figures. The States, I perhaps should say, have more accurate figures on actual rates than does the Bureau.

Mr. DENT. But I suggest that you cannot get those figures from the State. The gentleman has said it is illegal to give them to anybody but the mine operator.

Mr. BELL. But the essential point I am trying to get to you is that the Bureau's figures are not accurate either, on the problem of accident rate.

Mr. DENT. We will accept the word "either."

Mr. MULLINS. Congressman, I did tell you that we would give the total tonnage figures of each type operation. I want to be sure that is clear.

Mr. DENT. I understood that. I understood it very well, and so if the figures are incorrect that the Federal Bureau gives this committee, then they were given to them incorrectly?

Mr. MULLINS. I do not think they were.

Mr. DENT. Then they must be correct.

Mr. MULLINS. If they used the figures that we gave them.

Mr. DENT. Let us not go too far afield in condemning our Government by saying that they would falsify figures for the purpose of influencing a committee. I do not believe that is true any more than I believe that the State of Virginia would in any instance, give false figures.

Mr. MULLINS. I was going to ask you to clarify that as far as Virginia is concerned.

Mr. BELL. Nobody is saying anybody is giving false figures. We are just saying there is some question about the Bureau of Mines figures on accident rates, and this was brought up in the testimony last year in which the Bureau themselves admitted they were inaccurate and that some of their information was not accurate.

This was the essential part of what we are bringing out. Would you think that the implementation of a Federal act would discourage State regulations and education?

Mr. MULLINS. Well, to a certain extent I think it would. If the State inspector felt that his efforts were needless, he certainly would not want to perform. That is human nature.

Mr. BELL. Getting back a little bit to the Bureau and their questionnaires, I wanted to point out—this is the question that was asked of the Bureau—are all the questionnaires returned that are sent out by the Bureau to title I mines?

Not all the questionnaires are even returned, as I understand this. A certain percentage, of course, are returned. They figure that 70.5 percent are returned. But the Bureau does say that they do not know how many questionnaires are sent out to title I mines, as such distinctions are not made on the mailing list.

On the mail canvass of 1962 the Bureau received 4,245 reports from the mines, with an annual average of 14 men or less working underground.

This merely points up further the inaccuracy of some of the figures, and, Mr. Chairman, if I may I would like to submit these questions

and answers for the record showing some of the inaccuracies that exist and some of the figures that we are relying on for mine safety. What we have been thinking about as figures that supposedly are accurate may not be accurate at all, that the Bureau is giving us.

Mr. DENT. Without objection your material will be included in the record.

(The information referred to follows:)

MARCH 5, 1965.

Mr. JAMES WESTFIELD,
*Assistant Director for Health and Safety, Department of the Interior, Bureau of
Mines, Washington, D.C.*

DEAR Mr. WESTFIELD: I am submitting questions below relating to the Bureau's methods and procedure in accumulating and correlating information on title I and title II mines.

The answers to these questions are necessary to my work as ranking member of the general Subcommittee on Labor of the House Education and Labor Committee. It is imperative that they be answered as soon as possible since hearings on amendments to the Federal Mine Safety Act will be concluded on Wednesday, March 10, 1965. The questions are as follows:

1. Title I and title II mines:
 - (a) Current figures on fatalities in title I and title II mines for 1964.
 - (b) The ratio of such fatalities to man-hours of exposure in underground bituminous title I mines.
 - (c) The ration of such fatalities to man-hours of exposure in title II mines.
2. How are the following statistics determined by the Bureau relating to title I mines.
 - (a) Annual tonnage.
 - (b) Number of workers.
 - (c) Number of hours worked.
3. Title I mines:
 - (a) Does the Bureau rely exclusively on questionnaires to compile title I mine statistics?
 - (b) What other information is used by the Bureau if it does not rely exclusively on the questionnaires?
 - (c) Are all the questionnaires returned that are sent out by the Bureau to title I mines?
 - (d) What percentage of the questionnaires are returned?
 - (e) Give the specific number of questionnaires sent out and returned by the Title I mines.
4. Title I mines:
 - (a) How does the Bureau obtain the names of the mines to which it sends questionnaires?
 - (b) In obtaining the names of title I mines, does the Bureau rely on information on file in the States, such as the list of licensed mines?
 - (c) How does the Bureau explain the discrepancy between the number of mines it reports and the number of title I mines reported by the States?
5. Title I mines.
 - (a) How does the Bureau compute man-hours of exposure in a title I mine when the operator returns an incomplete questionnaire?
 - (b) Does the Bureau use tonnage produced by a title I mine to determine the man-hours of exposure? Give the figure which represents the Bureau's best estimate of production per man-day in a title I mine. If this figure varies among areas, what figure is used for each area? Explain in detail the basis for these figures.
6. State statistics.
 - (a) Does the Bureau challenge the accuracy of figures used in State annual reports concerning the number of title I mines and number of men working in them?
 - (b) Does the Bureau challenge the accuracy of State figures regarding tonnage of coal produced in title I mines?
 - (c) *What is the basis of the Bureau's disagreement with State statistics in this regard, if any?*
7. Title I mines.

(a) Does the Bureau obtain figures for the average productivity and average number of working days for title I mines?

(b) How does the Bureau obtain that information and what relationship does it have to estimates which the Bureau may make concerning man-hours of exposure?

8. In the estimation of the Bureau, what percentage of "truck" mines are title I mines?

Your prompt attention to these important questions is most appreciated. I apologize that circumstances did not permit more time for your response.

Sincerely yours,

ALPHONZO BELL,
U.S. Congressman.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF MINES,
Washington, D.C., March 9, 1965.

Hon. ALPHONZO BELL,
House of Representatives,
Washington, D.C.

DEAR MR. BELL: With reference to your letter of March 5, 1965, on the Bureau's methods and procedures in accumulating and correlating information on title I and title II bituminous coal mines, the information on the questions is presented below by the same numbers as in the letter.

In canvassing by mail with questionnaires for information on injuries, employment, and production data on coal mines, the Bureau does not differentiate mines as title I or title II on its mailing list or in any of its methods and procedures for collecting information. The data collected by the questionnaires are supplemented with data either picked up directly or estimated from information obtained from all other available sources of information on nonreporting mines. It is only in the final stages of tabulation of the data that an approximation of title I and title II operations is made by totaling all mines with an annual average of 14 men or less working underground in 1 group and all mines with an annual average of 15 men or more working underground in a second group.

1. Fatalities and fatality rates per million man-hours in title I and title II bituminous coal mines, 1964 (preliminary).

	Number of fatalities	Fatality rates
Title I mines.....	57	1.59
Title II mines.....	130	1.06
Total.....	187	1.18

2. In the collection of data from coal mines, the Bureau does not distinguish between titles I and II or any other breakdown. The data are collected on form 6-1420B (sample enclosed) for bituminous-coal mines. For mines not reporting on this form, other available sources of reported information such as State agency reports or publications, or production reports to other parts of the Bureau, are used directly or as the bases for estimating so as to provide as complete coverage as can be obtained.

(a) Annual tonnage includes totals reported on form 6-1420B supplemented with tonnages for nonreporting mines picked up from other statistical reports to the Bureau and from State agency reports and files.

(b) Annual number of workers includes total reported on form 6-1420B supplemented with numbers for nonreporting mines picked up from State agency reports and files and with numbers estimated on a productivity basis from production reports to other parts of the Bureau.

(c) Annual hours of work include totals reported on form 6-1420B supplemented with hours worked at nonreporting mines picked up from State agencies and with hours worked estimated on a productivity basis from production reports to other parts of the Bureau and from number of workers reported by State agencies.

3. (a) The Bureau does not rely exclusively on questionnaires to compile title I statistics.

(b) State agency data and publications and Bureau reports of production on form 6-1401A also are used to fill in missing data or to serve as bases for estimation of missing data on nonreporting mines.

(c) Not all questionnaires sent to title I mines are returned.

(d) Of the questionnaires sent to title I mines, 70.5 percent are returned.

(e) The Bureau does not know how many questionnaires are sent out to title I mines as such distinctions are not made on the mailing list. In the mail canvass for 1962 data, the Bureau received 4,245 reports from mines with an annual average of 14 men or less working underground.

4. (a) The Bureau obtains names and addresses of mines on its mailing list from reports of Bureau inspectors, State agency lists and publications, and from trade magazines and other sources. In addition, the questionnaire asks for information on changes of operators, new mines, and subcontractors.

(b) For mailing purposes, the Bureau has relied on lists of mines reporting data to State agencies and has not used lists of licensed mines owing to possible multiple counting caused by changes in operators during a year.

(c) The Bureau's questionnaire requests the reporting company to state how many mines are represented in the reported employment, production, and injury data. For nonreporting mines, the count is derived from data reported to State agencies or to other sources used by the Bureau for obtaining coverage as nearly complete as possible. For statistical purposes, to approximate a title I and II breakdown, the Bureau separates all mines with an annual average of 14 men or less working underground into one group and all mines with an annual average of 15 men or more working underground into a second group.

Published data on small mines by State agencies vary between States. For example, the Pennsylvania Department of Mines reports separately small mines as those with less than 5 men working and West Virginia defines small mines as those with 14 men or less working including all surface and underground men.

From these observations it appears that the counts of mines by the various sources are based on differing definitions and, hence, cannot be in agreement.

5. (a) The same method of estimating man-hours of exposure is used on all incomplete questionnaires. If production is the only figure available, man-hours are estimated on the basis of productivity (tons per man-hour) of like operations (underground mines) within the same county. If men, days active, and tonnage are the only figures given, the men are multiplied by days active to obtain man-shifts which are multiplied by the average length of shift for like mines within the county to obtain man-hours.

(b) As explained in 5(a), the Bureau does use production to estimate man-hours when this item is missing. The national average production per man-day in underground mines employing 14 men or less in 1962 was 9.84 tons. This figure does vary in different areas. For instance, in the thin seams of Arkansas, average tons per man-day was 6.23; in the pitching seams of Colorado, production per man-day was 11.70 tons; in the pitching but thick seams of Utah, 26.59 tons; in West Virginia—flat and thick seams, 10.62 tons; and in Alabama where the coal seams are generally pitching, 5.29 tons.

6. (a) The Bureau has not challenged the accuracy of the data on number of and men working in title I mines as published in the State reports.

(b) The Bureau has not challenged the accuracy of State figures on coal production in title I mines.

(c) The Bureau's disagreement with State statistics on numbers of title I mines, number of men working in them, and tonnages produced by them has not been investigated.

7. (a) Figures for average productivity and average number of working days for mines employing 14 men or less underground are obtained only after the close of the annual canvass. As mentioned earlier, there is no distinction made on the mailing lists between mines employing 14 men or less and 15 men or more.

(b) Estimates are based on averages of like operations within the same county without regard to the size of the mine. Averages for each type of operation within a county are obtained from a machine tabulation of complete or actual reports submitted by the operators within the county.

8. A substantial percentage of "truck" mines would be title I mines.

Sincerely yours,

JAMES WESTFIELD,
Assistant Director, Health and Safety.

Number of fatalities and frequency rates of occurrence per million man-hours worked at underground title I and title II bituminous-coal mines, 1964¹

	Number of fatalities	Frequency rate per million man-hours
Title I.....	57	1.59
Title II.....	130	1.06
Total.....	187	1.18

¹ Preliminary.

Number of mines and men working in underground bituminous-coal mines employing 14 men or less and 15 men or more in 1962, by State

State	14 men or less		15 men or more	
	Mine count	Men	Mine count	Men
Alabama.....	123	749	26	3,690
Arizona.....	1	3		
Arkansas.....	16	85	1	33
Colorado.....	90	341	16	903
Georgia.....	2	9		
Illinois.....	21	191	28	4,014
Indiana.....	25	146	11	1,230
Iowa.....	14	109	4	75
Kansas.....	2	9		
Kentucky.....	1,613	8,615	205	11,141
Maryland.....	68	238	2	36
Missouri.....	9	64	2	47
Montana.....	23	75		
New Mexico.....	18	66	1	124
North Dakota.....	3	5		
Ohio.....	142	634	20	2,199
Oklahoma.....	9	20	3	199
Oregon.....	1	4		
Pennsylvania.....	826	2,848	109	13,210
Tennessee.....	361	1,475	25	1,059
Utah.....	25	131	16	1,315
Virginia.....	1,290	6,139	84	3,967
Washington.....	10	39	2	117
West Virginia.....	1,323	6,699	317	25,766
Wyoming.....	7	21	4	152
Alaska.....			1	16
Total.....	6,022	28,715	877	69,293

Mr. BELL. I have no further questions.

Mr. DENT. Mr. Daniels, any questions?

Mr. DANIELS. Yes, Mr. Chairman.

Mr. Mullins, can you tell this committee how many fatal accidents you have had in title I mines in the State of Virginia in the past 5 years.

Mr. MULLINS. I have that in this report beginning with the year 1961, that is as far back as we went with it. Our annual report I have copies of those if you will give me just a minute.

Mr. DANIELS. How many man-hours were involved, Mr. Mullins?

Mr. MULLINS. Mr. Congressman, I might state that recently we have changed our coal mining schedule which you have a copy of. Prior to that time we did not gather the man-hour data, and beginning with the year 1964 we will have the man-hour data as given to us by each individual operator before he secures a license.

Mr. DANIELS. But it is not in this report?

Mr. MULLINS. No, sir.

Mr. DANIELS. Can you furnish that information to the committee?

Mr. MULLINS. I can give them an estimated figure. Anything prior to 1964 would have to be an estimate.

Mr. DANIELS. Since 1964.

Mr. MULLINS. Yes, sir; our report is not available until May. We allow our people until the last day of February to get these schedules in, and that has to be processed and sent through our office and the Richmond office and it is usually the 1st of May.

Mr. DENT. Will the gentleman yield?

Mr. DANIELS. Yes.

Mr. DENT. You say your fatality record only goes back to 1963?

Mr. MULLINS. No. I said the figures that I had in my presentation went back to 1961, in our annual report for the year 1963 it goes back as far as 1954. If you would like I will read those figures.

Mr. DENT. It is not necessary, if you will make a brief on that since we will have them to compare with figures from the Federal Bureau of Mines in order to arrive at this so-called accuracy schedule?

Mr. MULLINS. I will submit a brief to that effect.

(The material was furnished as follows:)

Production and fatalities in the coal mines of Virginia, 1954-63

Year	Fatal accidents	Production (short tons)	Fatality rate per million tons
1954.....	23	15,187,142	1.51
1955.....	33	21,849,115	1.15
1956.....	35	26,004,732	1.34
1957.....	37	26,528,081	1.39
1958.....	30	25,030,954	1.20
1959.....	22	28,223,508	.78
1960.....	22	26,706,285	.82
1961.....	30	28,156,370	1.07
1962.....	22	29,469,945	.75
1963.....	25	30,389,798	.82

Mr. DANIELS. Could you also tell the committee the number of mines closed by reason of these fatalities?

Mr. MULLINS. That does not necessarily mean you close a mine down, sir. We close between 250 and 350 mines per year, not because there has been an accident there, but because we find conditions such that we think are too dangerous for the mine to be allowed to operate.

Mr. DENT. May I inject? You also close them, according to your testimony, if an operator does not cooperate in giving you the man-hours worked and the number of men in the mines. Is that right?

Mr. MULLINS. Certainly. And if he does not buy a license we close him.

Mr. DENT. If he does not buy a license?

Mr. MULLINS. Right.

Mr. DENT. Does that affect his economy?

Mr. MULLINS. I imagine it does, they usually come and buy them anyway.

Mr. DANIELS. In answer to a question presented to you by my colleague, Mr. Bell, you mentioned something about rivalry between State inspectors and Federal inspectors. Does any such rivalry exist?

Mr. MULLINS. Wait, I did not say rivalry; competition, sir.

Mr. DANIELS. What is the distinction between rivalry and competition?

Mr. MULLINS. Well, we like to do as good a job as the other man, and that is what we strive to do.

Mr. DANIELS. Well, is there any competition with respect to inspecting mines for safety between the Federal inspectors and State inspectors?

Mr. MULLINS. There is no conflict if that is what you mean.

Mr. DANIELS. Why did you use the word "competition" then if there is no conflict?

Mr. MULLINS. "Competition" is a general term used in business and other things.

Mr. DANIELS. What did you mean to insinuate when you made that statement?

Mr. MULLINS. I meant to insinuate, sir, that if this feeling of accomplishment would be destroyed by enactment of a law it would certainly be detrimental to the industry because we are striving to put on good safety programs, give good inspections and possibly the Federal inspectors are doing so.

Mr. DANIELS. Do you not think that the Federal inspectors have the same objective?

Mr. MULLINS. I have no reason to doubt that they do not have that objective.

Mr. DANIELS. Would you not say they are doing as good a job of protecting life and limb from fatal accidents or injury or to the destruction of property?

Mr. MULLINS. Certainly I would not question that they are in most cases trying to do a good job. Our local people—we have no fight with our local Federal people.

Mr. DANIELS. You said in most cases, would it apply in any case?

Mr. MULLINS. Well, there could be a case where the individual inspector, even myself I may get up on the wrong side of the bed some day.

Mr. DANIELS. Do you know of any case of competition between a State inspector and Federal inspector during your years of experience in your job?

Mr. MULLINS. Well, the one conflicting incident that I can remember is the mine fire I mentioned in this report. There was conflict there, the Bureau officials felt that the mine should be sealed and we felt that the fire could be extinguished, that is a conflict of interest.

Mr. DANIELS. Is that not a matter of opinion?

Mr. MULLINS. It certainly is.

Mr. DANIELS. So it is an honest difference of opinion between State and Federal inspector?

Mr. MULLINS. In that case they felt they were right and I felt I was right.

Mr. DANIELS. I will yield.

Mr. BELL. I think the witness was trying to point out the interest on the part of the State organization to do a good job and do the best kind of a job and as he was just pointing out, already we have had pretty clear testimony that the State is probably more up to date in its efforts in the State of Virginia and other States than the Bureau because they have more inspections, they make more inspections, they

are closer to the mines, and as the witness just pointed out the Federal Bureau does not have many educational programs, for example, in the title I mines, whereas the State of Virginia has a considerable number of State education programs.

So, I think that we are getting far afield in this area of competition except to point out that the States are doing the best they can, particularly in the area of Virginia.

Mr. DANIELS. I do not think that makes any difference so far as the legislation is concerned here as to the State's program and the program of the Federal Government. I would like to ask you this question: Is there any basic difference in the standards or criteria employed by a Federal inspector and a State inspector?

Mr. MULLINS. Well, yes, there are. Even the Federal inspector's definition of an imminent danger as those reports will bear out which I gave you gentlemen to look at, there is a difference of opinion as to what constitutes an imminent danger.

Mr. DANIELS. Would you say that the Federal regulations are more stringent than the State regulations?

Mr. MULLINS. No, sir; I think our mining laws are as stringent, maybe more so. We do have the authority to close any mine.

Mr. DANIELS. Then, what would be the basic difference between the two?

Mr. MULLINS. As I told you the basic difference is in the interpretation and administration of the act and the mining laws.

Mr. DANIELS. Do you feel the Federal inspectors in the State of Virginia are doing a good job.

Mr. MULLINS. I have no reason to doubt their ability.

Mr. DANIELS. Would you give me a positive answer, either yes or no?

Mr. MULLINS. I might answer it this way, Congressman. Our inspectors inspect an average of $7\frac{1}{2}$ mines per week and they are certainly more qualified, I feel, because they visit these mines more often than the Federal inspector does.

Mr. DANIELS. I appreciate your answer, but you have not answered my question.

Mr. BELL. Mr. Chairman, may I ask a question?

The important—

Mr. DANIELS. Excuse me, Mr. Bell, will you permit the witness first to answer the last question.

Mr. BELL. I thought he answered it.

Mr. DENT. No; he has not.

Mr. MULLINS. Would you rephrase that, sir?

Mr. DANIELS. Very simply. I said do you feel the Federal inspectors are doing a good job in the State of Virginia? Either yes or no?

Mr. MULLINS. I can only give you the illustration that I did a few minutes ago. The difference, I think, is in our administration of the State law and the code.

Mr. DANIELS. Then I take it your answer is "Yes"?

Mr. MULLINS. I did not say that.

Mr. BELL. Will the gentleman yield for a question?

Mr. DANIELS. I want to ask one more question and I will be finished.

Mr. DENT. Let us not get into a controversy over interpretations in trying to answer questions asked by other members of the committee. We have the witnesses, that is their job, and let us let them answer the questions, if they can.

Mr. DANIELS. I have one other question. In the course of your testimony you stated, "I believe there is room for improvement in the coal mine safety program." Then you went on to recite the program of education which has been undertaken in the State of Virginia.

Other than the program of education is there any other area where there would be room for improvement?

Mr. MULLINS. No, sir; I do not feel that there is.

Mr. DANIELS. That is all.

Mr. BELL. May I ask a question of the witness?

Mr. DENT. Yes; you may.

Mr. BELL. As I understand your answer to the question placed by my colleague, Mr. Daniels, there is not really, is there, any argument as to who is the best inspector, either Federal or State, but under the Dent bill there would be new requirements placed on the title I mines which would make it more difficult for it to operate; is that not more close to it?

Mr. MULLINS. Certainly; that is true.

Mr. BELL. There would be new requirements; such as, perhaps, electric detonator is one of the features, I think, that was mentioned by you could become a requirement—

Mr. MULLINS. Preshift examination.

Mr. BELL (continuing). Which would cost the mines a substantial amount of money which they could ill afford—the title I mines. Is this not basically what we are concerned about—what you are concerned about, and that this might in effect result in many of the small mines going out of business, because they could not afford it?

Mr. MULLINS. As to the economic effects; yes, sir.

Mr. BELL. Without increasing safety at all, actually.

Mr. MULLINS. That is my opinion.

Mr. DENT. That is only an assumption. That is, of course, an assumption on your own, that it does not increase safety.

Mr. MULLINS. That is my opinion.

Mr. DENT. I do not believe you want that answer to remain; however, if you do, you can—that this is the main thrust of the proposal, is to worry about the economics of the situation rather than safety.

Mr. MULLINS. No, sir; I would not say that.

Mr. DENT. That was the question put to you, that this is the main thrust, it would cost more money, and is this not our main objective? The girl will repeat it if you wish.

We do have a witness I would like to hear very much. He has had quite an experience with his very serious and, I would say, diversified problems. I am certainly happy to have with us today Mr. Boggs, the commissioner of the Virginia Department of Labor and Industry. We are happy that you could be with us today.

**STATEMENT OF EDMOND M. BOGGS, COMMISSIONER, VIRGINIA
STATE DEPARTMENT OF LABOR AND INDUSTRY**

Mr. BOGGS. Mr. Chairman, and gentlemen of the committee, my name is Edmond M. Boggs. I am the commissioner of labor and industry for the Commonwealth of Virginia. The division of mines is one of the divisions under the jurisdiction of the department of labor and industry. I am here as a representative of the division of mines, the department, and the State.

I would like to preface my remarks, if I may. I would not want any misunderstanding in this statement, because I am here in the name of safety and the economy of our State, and I would not want that misunderstanding—

Mr. DENT. In other words, you want it clearly understood that you would not sacrifice safety for economy.

Mr. BOGGS. I want it clearly understood that Mr. Foster Mullins works for me, too, and he is for it.

Mr. DENT. Off the record he better be.

Mr. BOGGS. No, sir; he is dedicated to the cause of safety, and all our people are.

We require all of our people to be well qualified before we consider them, and they are not under any political whip. I have survived six Governors, and I voted against one. So I am still here, and I do not know why.

Mr. DENT. That is an unusual accomplishment, and it is certainly a great one. I think I survived a dozen or so in my time. You are to be complimented.

Mr. BOGGS. When we speak of the title I mines, we here in Virginia understand that this refers to our small truck operators who mine in the southwest portion of the State. They operate in what the Federal Government has classified as a "depressed area," and often provide the main economic support of the community in these areas. In recent years they have become an ever more important factor in the economy, and it is our sincere hope that they may continue to improve in their operations.

I must emphasize, however, that these small operators are, in almost every case, operating on a marginal basis. They are clearly unable to shoulder additional economic burdens, additional costs, or even minor additional costs; if such burdens are placed upon them, many of them will go out of business. For example, based on our knowledge and experience with this industry, we took the position in the last General Assembly of Virginia that our small coal businesses could not stand even a 3-cent-per-ton tax. The 3-cent-per-ton tax would have applied to every ton of coal that was mined and the operator would have had to pay this tax.

This bill was defeated in the Virginia Legislature because the facts indicated that, if the truck mines were to maintain a safe margin, it was absolutely necessary not to impose further costs on these businesses or they would not be able to stay in operation.

While the margin of profit in any title I truck mine is very low, I am aware that they do pay a substantial wage, somewhere between \$15 to \$18 per day. Furthermore, they are mining coal that could not possibly be mined by the large operators; they are using natural re-

sources of the State; and, of course, they are furnishing employment to subsidiary industries also.

I know bankers and others who have been interested in helping the small operators survive, and I know that there have been great sums of money advanced to put these operators in business. Some of them, of course, have gone broke, but most of them have been able to maintain a fair business. It is no secret that we in Virginia believe that to do anything that would cause the small truck mines to close other than for reasons of safety would be ruinous to this portion of Appalachia which is southwest Virginia.

For the reasons stated in Mr. Mullins' testimony, I believe that passage of this so-called Coal Mine Safety Act would definitely mean certain death to many of the operators in the title I industry. Certainly, at the very least, it will create a large unemployment problem in southwest Virginia, and, while many people do not understand this point, there is simply no replacement for people in this depressed area. It is very difficult in this day and time to encourage new industry to enter that area. Other sections of the State are thriving on new industry; but new industries are highly reluctant to go into this section.

Obviously, if the small coal operator cannot afford to pay 3 cents per ton without impairing his ability to stay in business, certainly he cannot afford to pay 40 cents per ton and stay in business.

Mr. DENT. This 40 cents a ton seems to be creeping into the testimony of witnesses. There is nothing in our bill that would require any 40-cents-a-ton tax to be placed upon coal in Virginia or anywhere else. I do not believe that the record should reflect this repeated assumption that the passage of this bill will create a 40-cents-a-ton cost. At least, I hope not.

Mr. Boggs. I may say this, sir—something people I am associated with do not like me to say—I think your bill does have a direct bearing on it if it is turned over to the Federal Bureau to get into the small operations. I have all the respect for these gentlemen. And the people I know in that Bureau are might fine fellows, and I think probably they are qualified. I cannot say they are, because I did suggest one time that they take the examination in the State before they be allowed to inspect a mine here. But I was laughed at.

Now the Federal Bureau is handing down directives that are not even conducive for their own people in the field, and this is a fact. However, no one is going to admit this. And I think this, too, and I have a lot of good friends in the United Mine Workers, and they are good fellows, and I think a great deal of them, I have worked with them and cooperated with them, but this in effect, the plan is to get all mines under the Federal Bureau for the prime purpose, in my judgment, and I believe this sincerely, that the mines could be more easily organized, either get in business or get out. This is exactly the way I see it, and this is what I believe to be true. And I think that the 40 cents a ton that I am speaking of, and later the 80 cents a ton, is something else, too.

Mr. DENT. I want the gentleman to understand that I am the sponsor of this bill, and the assumption that he makes as to the reason for the introduction of this legislation is not true. As the sponsor of the bill, I have no contact whatsoever in any way whatsoever other than they have appeared here as witnesses just as they have from time immemo-

rial on all legislative proposals relating to the safety of coal miners. I resent the implication contained in the statement and in this statement of the National Independent Coal Operators Association from 230 Park Avenue, New York, which represents the small truck mines you are talking about. They also make the statement that the objective of the Dent bill is to clearly drive the small coal miners of Appalachia out of business. I resent that and I want the record to clearly show that anybody that assumes that is absolutely wrong. There is nothing in this bill that I can find anywhere that gives the United Mine Workers or anybody else the right to attach 40 cents or 80 cents or any other amount to the mining of coal. I believe that my record of 30-some-odd years as a legislator will stand on that statement anywhere, because it is long before I came to Congress that I was interested in mine safety and introduced legislation along that line in the States and this is the first time I have ever had the charge made, and I certainly do not wish the record to remain unclear on that point. I believe the gentleman will understand that.

Mr. Boggs. I would be the first to agree, and if you think that I have questioned your integrity in any way, shape, or form, you are badly mistaken, and I am sorry that you interpret it that way. This is not you, Congressman Dent, that I am making the statement about. I am making—I made the statement based on what my findings have been.

Now, I have not made any charges against you as a Congressman or as a citizen or anything else. I think that your integrity is beyond reproach. I have not questioned that at all, and I make no such statements to anyone with respect to that. I have more respect for our Congress of the United States than to attempt to do such a thing. And I did think that this relation that I was putting into this statement that I had to make does have something to do with the economy of the State of Virginia, and that is the reason I wanted to make the statement. And you asked me if I am qualified to do that. I am not qualified to go into the technicalities of coal mining, of course.

Mr. DENT. You have the qualification to do that and your testimony is welcome. But I would say when we talk about the legislation before us, that we ought to stick to the letter of the legislation and not to what somebody may have in mind as to the use of the legislation. I do not know what any person may have in mind to the use of this legislation. I do not know whether a small mine operator is perfectly honest or dishonest. I do not know whether the mine workers have in mind to use this and I do not see how they could. But then, nevertheless, let us stick at least to the legislation and not to the suppositions of what it might do. I have not heard the 80-cents-a-ton argument, but I would like to hear it. I understand it is in your testimony.

Mr. Boggs. It is in there. And this is no reflection on you, sir. I want you to understand that.

Mr. DENT. I appreciate that. I have it here in plain language from the representatives of the independent mines.

Mr. Boggs. I am not representing any organizations. I am here representing the division of mines, the State of Virginia, and the department of labor and industry, and I have that only in mind, and what I think would be for the best interests of the economy of

the State of Virginia and our people. These are the things the way I saw them and this is the way I was attempting to present it, sir.

I believe that there has been a great deal of unrealistic thinking on the part of some congressional observers of this industry who seem to think that the problem is unionism versus nonunionism. This is the statement here. I am not here to organize or disorganize a mine in the country. I have no interest in that at all. Although, as commissioner of labor and industry I am not concerned, from the point of view of safety, in the question of whether a mine is union or nonunion, I am not unaware of the economic facts of life concerning this industry. For that reason I believe that it makes no sense to talk about—and here again is this 40 cents that I put there—about adding a 40 cents per ton royalty to the cost of production of the small title I operator. He will not have the money to pay it, and will go out of business if he is forced to pay it.

There is an additional move afoot which would add 80 cents to the small operators' cost of production. This 80 cents would be added to each ton of coal produced by nonunion operators and sold to the large union operators, pursuant to the terms of the 1964 United Mine Workers contract. This borders on the realm of the ridiculous.

Mr. DENT. Again, I might ask if you would add for the record, or at least give me, as sponsor of the bill, where in this legislation there is any provision that would in any way give anybody the idea that this bill is going to add 80 cents a ton. I understand your position that you say it would. But this has nothing to do with any proposal in a union contract of adding 80 cents or 30 cents.

Mr. Boggs. Frankly, I am talking really and truly about the economics of Virginia, Mr. Dent. If you would please give me the credit for not having little enough sense to come here and insult an honorable Congressman of this United States, I appreciate it. I would not think of doing it.

Mr. DENT. I appreciate that. But we have before us a piece of proposed legislation.

Mr. Boggs. I understand exactly what you say.

Mr. DENT. Under the rules, I am here holding a hearing on the contents of this legislation. I know we are going far afield and I appreciate your concern for the economics of the State of Virginia, just as you might appreciate my concern for the State of Pennsylvania when I am interested in a problem. However, this matter of the economics of the coal industry in Virginia, dealing with matters that have not even occurred, might give the wrong impression to people. And I am sure that the charge that this will add 80 cents to each ton mined in Virginia will be used on the floor. Now, I do not think you want to have that impression on the books.

Mr. Boggs. I do not want to falsify anything, sir. I would rather stick to the statement of fact, and I do know there are such things as 40 cents a ton. I know there are certain things such as the 80 cents a ton being tried. Maybe it does not and maybe I am all out of kilter on it. So I will drop down to the next paragraph, if you do not mind, and I think that would be probably in keeping.

I do not understand why the Federal Government, which seems to be interested in curing the problems of Appalachia, does not attempt to do something for the small mining industry such as providing loans

or funds for purchase of equipment so that these operations could become self-sustaining.

Is this out of order, too?

Mr. DENT. No; the Appalachia legislation does exactly that.

Mr. BOGGS. We hope it is going to do that, but all I have heard about is some road they are going to build down there.

Mr. DENT. It might interest you to know there is a total of \$35 million in one instance and \$10,200,000 in another instance that directly relates to the rehabilitation of the coal mining industry.

Mr. BOGGS. You have no idea how much it does interest me. Certainly I do not believe that the Government ought to give with its left hand and take away with its right.

What I am saying is to institute a program which would cure evil and turn around and have legislation which would put our people out of work altogether, where we already have a hardship, let us not have another one.

However, in the case of coal, there is nothing in the Federal legislation of which I am aware which would directly aid these small operators and yet they form the very backbone of the Appalachian economy. In these circumstances I do not see the point of increasing their economic burdens in the name of coal mine safety to the point where they will be driven out of business.

Again, do not misunderstand me. Safety is No. 1, so far as I am concerned.

Certainly, the title I operators should not be penalized for their attitudes toward coal mine safety. I want this committee to know that we have had excellent cooperation with our title I miners and operators and that they have taken a definite interest in the business of safety and have done something about it. They have voluntarily and most helpfully instituted safety education on their own in supplement to the State program. Of course, the State has been helping and encouraging the small operators to maintain and improve safety in every way that we can.

Several years ago, as a result of the number of fatalities caused by roof falls in the small mines, we reexamined our thinking on the matter and determined that the best approach to curing this problem would be an educational approach. Roof falls, of course, are matters which occur in the day-to-day operation of the mines and do not constitute mine disasters. Accordingly, we instituted programs designed to educate the miners both in title I and title II mines concerning roof fall accidents and other types of accidents, and we have had remarkably good success. Our roof fall fatalities have steadily decreased each year since the beginning of this program.

In our meetings with the title I operators, we have had excellent attendance, have had many questions posed to our division of mines representatives, and have had an opportunity to explain in detail the means by which the small operator can meet his responsibility to maintain safety in his mines. I know of no criticism toward these meetings, but rather the operators seem to have welcomed the opportunity to participate.

Mr. Chairman, I might say that the operators were not the only ones who came to these meetings. We encouraged the miners themselves to come. You cannot have safety unless you have it all the way. It is not a halfway job.

Many of the Congressmen here today had an opportunity to talk to these operators in Virginia when the committee went down to our southwestern area to investigate conditions in title I mines.

Mr. Chairman, I believe you skipped us on that trip, and I certainly am sorry.

Mr. DENT. I might have skipped it, but I assure you I have been in many of them.

Mr. BOGGS. Will you promise me to come down and let us take you in some of them?

Mr. DENT. I might do that.

Mr. BOGGS. At this time, the committee had been informed about "dog holes" and substandard wages arising from cost cutting in safety measures and a number of the various other charges which have been made against the title I operators by persons interested in matters other than safety in the small mines. The Federal Bureau of Mines, which was strongly supporting the proposed legislation, picked several title I mines, and spoke better than any argument. These were mines that were agreed on by them that the gentlemen visited. They were not the dog holes which everyone had been led to expect, nor were the workers working at starvation wages.

I believe that having identified the major problem of title I safety as roof fall problems and having devised an educational program to combat this situation, we have taken long strides toward optimum safety conditions. Further, I believe that the record of these mines will demonstrate that such strides have been made.

With respect to these records, I require our inspectors to inform me of the number of people employed in the various title I mines. Also, the State of Virginia law requires that such mines be licensed. Therefore, I am absolutely sure that we know how many mines we have operating in Virginia, and I am also sure that we know the number of people working in those mines. I am convinced that the Bureau of Mines figures concerning the number of workers in Virginia title I mines is, to the extent that it disagrees with the Virginia figures, inaccurate.

As the commissioner of labor and industry of Virginia, I am not unaware that there are continuing labor problems between the small independent operators and so forth.

So there will be no misunderstanding, Mr. Chairman, I will delete that paragraph, because as a result of any differences that may arise in regards to labor management, I merely said that these things should be handled at a bargaining table.

Mr. DENT. I do not think I could agree with you more. I sincerely believe in that; I always have.

Mr. BOGGS. I am sorry if—I would not want to leave the impression with anybody that I am here to oppose the union. I am not here to oppose the Federal Bureau of Mines. I am here to protect a law and a thing that is already in existence in our State which I think is for the best interest of the economy of that State and the economy of that State is based, No. 1, on safety in these mines. We hope that they all stay that way.

Mr. DENT. I appreciate that very much, and I have no question at all about your position in this matter and your sincerity, sir.

I do believe, however, that there has been a great deal of misinformation about this bill.

Mr. BOGGS. There has been no question about it, sir.

Mr. DENT. I believe perhaps we ought to understand one thing, that we have arrived at a perfectly satisfactory agreement for the State of Virginia primarily, whereby we put a mandate in this legislation that the Director of the Bureau of Mines must, where a State has a plan that is sufficient to the needs, make an agreement with the State that the State take on the burdens and the complete operation. But we do not go so far as to say that we do not trust the Director and the State officials to make the agreement, as this new legislation does by first requiring a court review.

I believe, from your own experience, you would not say that all of the counties operating mines or that all of the mines operating in Virginia would come under one blanket arrangement as being exempted from any inspection by a Federal inspector, and I do not think the court would do that.

I believe that this portion of the proposal is superfluous even if it is constitutional.

Now, in your State you happen to have a very fine record, because of the mine conditions that you run into. No other State in the Union has the number of nongassy mines that you have; no other State in the Union has quite as complete a record of operation as you have; yet, you cannot deny that there is an area in which this legislation could be and would be helpful in the matter of safety.

I have spent most of my life in State government. I do not believe in Federal intervention into everything—I never have. But I know that Pennsylvania laws are inadequate and the administration is inadequate, and they know that I know it.

Mr. BOGGS. May I ask you something, please, sir?

Mr. DENT. Sure.

Mr. BOGGS. Let us have a simple bill introduced in the Congress and set up an educational program whereby all the States would benefit by it and let the Bureau of Mines and the State mines divisions cooperate in an educational program and do away with all this mess that we have written out. If you really want to take care of a safety problem, so help me, this is the only way you are going to do it. No law is going to save a life; you have to have the programs.

Mr. DENT. No one as yet has pointed out the difference between what the Federal inspector does today and what the Federal inspector would do tomorrow if this bill passes other than the fact that we give him authority he does not have now and that is that he could close the mine. Mr. Jennings, the chief opponent of this legislation, made the concession in this hearing that he would go even that far and allow the Federal inspector to close the mine.

Now, the only determination that I can see is as to what the degree of Federal inspection should be.

Mr. BOGGS. If you are getting ready to get technical with me, I am going to fool you, because I am not going to get involved too far.

Mr. DENT. I want you to clearly understand that that is the only situation we have before us.

Mr. BELL. Mr. Chairman, there is a quorum call, a vote on the Drug Act, and I was wondering if I may suggest this, that we recess

for an hour for lunch, and then come back, because there are some more witnesses.

Mr. DENT. We have three more witnesses. Do you have any questions of the gentleman? Do you want him to come back? Are you satisfied his testimony would stand?

Mr. DANIELS. I wanted to ask this question. Have you examined the bill?

Mr. BOGGS. Have I examined it?

Mr. DANIELS. The bill introduced by the chairman.

Mr. BOGGS. I would prefer not to get into technicalities.

Mr. DENT. That is perfectly all right.

I want to thank you very kindly.

Mr. BOGGS. I want to thank you. I am sorry over this misunderstanding, Mr. Dent. I do not do that kind of stuff.

Mr. DENT. There is a gentleman appearing later who makes that charge. I want him to come in with substantiation of that charge. We will be back at 2:30, if it is all right for the witnesses to be here.

I would like Mr. Holcomb to be here, because I want him to clarify something we are doing here.

(Whereupon, at 12:55 p.m., a recess was taken to 2 p.m.)

AFTER RECESS

(The subcommittee reconvened at 2:30 p.m., Hon. John H. Dent presiding.)

Mr. DENT. The hearings on H.R. 3584 and related legislation pertaining to the Federal Coal Mine Safety Act will be in order.

I would appreciate it if Mr. Gilliam, Mr. Taggart, and Mr. Holcomb would come up as a group, so that we can expedite the business of the hearing.

Mr. BELL. Mr. Chairman, can I make a statement for the record?

Mr. DENT. Yes, go ahead.

Mr. BELL. I wanted to make it clear that I have asked some of these witnesses, particularly Mr. Taggart, to appear before this committee. I want to make it clear that I am very much in favor of mine safety, and that I would rather see all the mines closed down in every State if mine safety were seriously and honestly achieved by this.

There is a question in my mind as just which bill is going to adequately achieve mine safety.

Mr. DENT. Fine. I do not think anybody questions that you would like to have the best bill, Congressman. I think that you are always interested in good legislation.

We would like to expedite these hearings. The hearings were only called for the purpose of getting new material. During the recess I reviewed much of the material received this morning, and in the main, most of it is already contained in the hearings of this committee.

If it is possible, I would appreciate it if you have a lengthy statement, to present the statement and whatever supporting data you have for inclusion in the record, and to summarize your statement, so that we can have more time for the questioning.

I do not care which order you come in. I understand that you want Mr. Taggart first.

Mr. BELL. I believe so.

Mr. DENT. Mr. Taggart is the president of Wise Coal & Coke Co.

Mr. Taggart.

STATEMENTS OF J. B. TAGGART, PRESIDENT, WISE COAL & COKE CO.; ROBERT HOLCOMB, PRESIDENT, NATIONAL INDEPENDENT COAL OPERATORS; AND ARMISTEAD W. GILLIAM, JR., COUNSEL, NATIONAL INDEPENDENT COAL OPERATORS

Mr. TAGGART. Mr. Chairman, my position is president of a coal company, the Wise Coal & Coke Co. It operates and leases land.

Mr. DENT. Will you hold for a moment?

Do you have a prepared statement for us?

Mr. TAGGART. I have a prepared document which I intend to present to you in just a moment, yes, sir, for the record.

Mr. DENT. Thank you.

Mr. TAGGART. I can give it to you now.

Mr. Chairman, I did not have time nor an opportunity to really prepare what I would call a statement. What I am going to discuss today is something that has already been prepared, and I would like to submit these for the record as my statement, and comment upon them and then read them.

Mr. DENT. Mr. Taggart, if you have something else you want to add to this, we will keep the record open. You can send it to me, and the committee will be happy to receive it. So if you have something, you said you did not have time to prepare, we will be glad to receive it for the record, and add it to your testimony.

Mr. TAGGART. Thank you.

Mr. Chairman and gentlemen of the committee, I appreciate the opportunity to be here.

I want to say this: I intend to be completely frank and completely candid. I think that the time of the Congress of the United States should not be taken up idly, and I do not intend to do so.

I also do not think that the time of representatives of the industry should be idly taken up.

I will try to direct myself to aspects of this hearing which have not been covered today.

The real goal, I think, of everybody in this room is admittedly the improvement of safety conditions in coal mines in America. That certainly is why we are here. We are not here necessarily to say that such and such a bill is the best bill, or the worst bill, that could be conceived. What we are here for is to try to see if there is some way that we can come up with a program which would be expected to materially improve safety conditions in coal mines.

I say that not with the implication that such safety conditions can be improved, or must be improved, or should be improved, but certainly that is our goal.

I would like to say that I am not in support of the so-called Dent bill, because I think it is unnecessary, and I do not think that a need for this legislation has been demonstrated.

I am not in favor of the so-called Jennings bill, because by the same token, I do not think the need for that bill has been completely demonstrated, and I think it would lead to confusion within the industry and confusion between the States and the Federal Government in the future.

I think I would like to devote a few minutes to bringing this committee up to date on what the actual conditions are in the coal mines

of the United States with regard to the latest data submitted by the Bureau of Mines.

I have in front of me a memorandum from James Westfield, Director of Health and Safety of the Bureau, dated January 13, 1965.

Mr. Dent, I will submit this as a memorandum after I have had an opportunity to go over it with you.

Mr. DENT. Without objection, so ordered.
(Memorandum referred to follows:)

MEMORANDUM

To: All health and safety personnel.

From: Assistant Director—Health and Safety.

Subject: Trend in coal mine fatalities and fatality rates.¹

ALL FATALITIES

Period	Bituminous		Anthracite		Total	
	Fatals	Rate ¹	Fatals	Rate ¹	Fatals	Rate ¹
1962-----	263	1.15	26	1.26	289	1.11
1963-----	252	1.07	32	1.52	284	1.16
1964 (December)-----	20	.94	2	1.38	22	.93
1964 (January-December)-----	217	.89	24	1.34	241	.97

ROOF-FALL FATALITIES

1963 (January-December):						
Title I mines-----	42		4		46	
Title II mines-----	81		9		90	
1964 (January-December):						
Title I mines-----	41		3		44	
Title II mines-----	73		6		79	

UNDERGROUND FATALITIES

1963:						
Title I mines-----	58	1.67	12	3.59	70	1.84
Title II mines-----	160	1.35	15	2.95	175	1.41
Total-----	318	1.42	27	3.20	245	1.51
1964:						
Title I mines-----	57	1.59	10	3.51	67	1.73
Title II mines-----	130	1.06	12	2.77	142	1.12
Total-----	187	1.18	22	3.06	209	1.26

¹ Fatalities per million man-hours exposure.

Mr. TAGGART. This document shows the following to be the latest data from the Bureau: In 1964, the bituminous title I mines are shown to have an accident record of 1.59 underground; and title II mines are shown at 1.06.

There has been quite a bit of publicity lately to the effect that 1964 was one of the best accident years in coal mining. This is true, it was one of the best. However, and I think your committee should be aware of this, the underground rate in the bituminous coal mines of America that are under the present Federal Public Law 552 in 1964 was 1.06. In 1953, 11 years ago, that same rate stood at 0.92.

² All data for 1964 are subject to revision. Data for 1963 are preliminary for bituminous coal and final for anthracite.

So that today, when we have just finished the most successful year in recent history, that accident rate still stands approximately 16 percent above where it was 11 years ago.

Now, the reason I point that out is to say "Why?" I think it is because there are problems in the coal mines today that we have not found out how to combat. I think that is primarily the reason.

It also demonstrates that the current Public Law 552 is apparently not a law designed to handle or to correct the incidents of day-to-day accidents in coal mines because, obviously, if after 11 years our rate in the best year we have had is 16 percent above what it was, then this law itself must not be doing much in that type of accident control.

The rate in title I mines—bituminous, underground—is shown at 1.59. That is admittedly the best data that the Bureau has ever submitted on title I bituminous coal mines. It indicates that the Government says that the record in title I mines is improving, and has greatly improved.

I think that it has. I am glad the Bureau says it has. That rate has improved without the legislation being considered today.

A few years ago, Mr. Marling J. Ankeny, who was the then Director of the Bureau, made a very famous statement. He said that he thought maybe the records of the Bureau were 80 percent correct. That is what he said. It is in the record, and we all know this.

Now, if this 1.59 figure is 80 percent correct, then in all probability the accident rate in title I mines, bituminous, last year was about 1.35 if all the other data of the Bureau is correct.

A figure of 1.35 would be the exact equivalent of what the title I rate was in 1963.

My point, gentleman, is that there has not really been demonstrated to the Congress a factual basis for the need of the legislation you are talking about. Maybe it is needed, maybe it is not. It has not been factually proven.

There is a great deal of conversation that floats around about the fact that there is no magic to a figure of 14, that there is no difference in a little coal mine and a big coal mine.

I submit to this Congress that there is a tremendous difference between little mines and big mines; between slope mines and drift mines; between gassy mines and nongassy mines; and a tremendous difference perhaps between mines in different fields and different areas.

For instance, in 1964, the anthracite title II coal mines had an accident record of 2.77 per million man-hours of exposure. Now, there is a situation where a group of mines has a record and a rate that is 50-percent higher than the rate that is complained of in the current title I coal mines of America. Yet nothing is said about it; nobody is complaining about it; nobody apparently intends to do anything else about it. Why? Because we all admit, I think, that mining in the anthracite field is basically more dangerous and more difficult.

I do not know too much about the anthracite field, but I do know that the Bureau of Mines says that 2.77 men lost their lives for every million man-hours of exposure in title II anthracite mines.

They apparently cannot do anything about it. The law apparently cannot do anything about it. And yet, the proponents of these measures and the supporters of them complain about a rate that is 50-percent lower than that in the title I bituminous mines.

Now, my point, gentlemen, is that this proves conclusively that there is a vast difference in coal mines, and I think it would be wise for your committee and the Congress of the United States to understand this complex problem before you attempt to legislate. I do think that you are becoming better educated all the time, and I compliment you for it.

There are differences in buses, and automobiles, and taxicabs. They are regulated differently. There are differences in little boats and medium-sized boats and big boats, and they are regulated differently.

I would like for a moment to point out remarks which have been made by recognized authorities in coal mine safety in recent years.

A Mr. Forbes, who was a former Director of the Bureau of Mines, I believe, has gone on record as saying that accidents are problems of human failure and that, if the Bureau and industry are going to correct these accidents, they have to be attacked through the medium of correction within the human mind, and the human body, and the man has to be made to act safely.

Mr. Ankeny has made the statement publicly that passage of bills such as the proposed Dent bill would not be expected to reduce the accident rate.

Therefore, how can we in logic or in good conscience say that we are going to pass—and when I say “we,” I am putting myself up there with you gentlemen—how can you say that you are going to pass a bill to improve the safety record, or because you complain of accidents, when the last Director of the Bureau said it would not reduce that accident rate?

Mr. DANIELS. Mr. Chairman, may I ask the witness a question at this point?

Mr. DENT. It is up to the witness.

Mr. TAGGART. Go ahead.

Mr. DANIELS. In view of the last statement that you made, that accidents are due to human failure, and their correction should be done through a process of the human mind, I presume by means of education, would you, in light of the fact that automobile fatalities throughout the Nation have year after year increased, abolish all of the traffic and safety laws that have been adopted in the 50 States of the Union?

Mr. TAGGART. No, sir; I would not by any manner of means.

Mr. DANIELS. In the light of that, that you would not, how can your statement stand, then, that accidents being due to human failure, that you do not need a law to regulate them?

Mr. TAGGART. Mr. Daniels, I believe if you will go back to the original report on Public Law 552, you will find that the Congress stated that there were two types of accidents that occur in coal mines. One is a type of accident over which the man effected has no control, and I am basically quoting from the report.

They further stated that this type of accident was in the field of mine fires, explosions, inundations, man trip accidents, man hoist accidents. They said that Public Law 552 was designed to control that kind of an accident, because that is an accident that originates and happens because of conditions that this man cannot control, such as gas in the seam, water seeping in, things of this nature.

They particularly pointed out when they passed this bill that it was not designed to handle or correct the accident which resulted from human failure, which actually consists of and comprises about 90 percent of all accidents.

This is factual. This is the truth, and this is the record.

So for that reason, I would not remove the good highway, because that helps the driver to act in a safe manner. I would not remove Public Law 552, because it has demonstrated that it is helpful in controlling disasters, it has done so.

May I proceed?

Mr. DANIELS. Yes, you may.

Mr. TAGGART. I think this is a pertinent statement. I am going to make it. No responsible member or employee of the Bureau of Mines has appeared before any congressional committee and has stated that removal of the 14-man exemption would improve the accident rate. I think that ought to be in the record. Nobody has done it.

Mr. DENT. You are making a statement.

Mr. TAGGART. I think, Mr. Chairman, and gentlemen, that there are some dangers in approaching the removal of the 14-man exemption as such, either through a straight removal or by a bill such as the Dent bill.

I am serious about this. I believe that if that exemption is removed, and 7,000 mines are placed under the jurisdiction of the Bureau of Mines, that they will in effect receive a mandate from Congress to cut the accident rate in those mines. That is in effect what you will be telling the Bureau of Mines.

The Bureau of Mines will be forced, in my opinion, to follow that mandate, and to say to their inspectors, "Look, we expect you to cut this accident rate. We expect you to improve the conditions which the Congress complained of in title I mines. Therefore, get out there and get some results."

I believe that more time of the Bureau would then be spent in title I mines, and that you would run the risk of increasing accident rates in the title II mines, and that you might conceivably worsen the disaster picture of the American mines.

I further believe that if a percentage of coal was taken out of production, in other words, if some title I mines went down, and this tonnage had to be replaced by title II mines which were gassy, you might conceivably and probably would ultimately increase the disaster record in America.

I think that is a danger that needs to be looked at.

I am not really playing up this as a bogey man or something, but it is true.

Another thing is that the little mines are doing a wonderful job insofar as recovery of natural resources are concerned, and I think you should be extremely careful about doing anything that is going to affect those mines.

I would like to read into the record, Mr. Chairman, if I may, a letter which I wrote to the Honorable James Roosevelt on October 11, 1963. My position has not changed one iota. I would like to say that is what I think about coal mine safety.

DEAR CONGRESSMAN ROOSEVELT: The purpose of this letter is to give you, as chairman of the subcommittee handling proposed coal mine safety legislation, my recommendation for an amendment to Public Law 552 which I sincerely be-

lieve would be good legislation and beneficial to the coal industry, to the various States, to the Bureau of Mines, and most importantly to the safety program as a whole.

Perhaps you will wonder why I would appear at a congressional hearing and present my views and then after having spent several hours with you and with members of your committee write a letter with a further recommendation. There is nothing herein that conflicts with my testimony, my answers to questions, or remarks which I made upon the occasion of your visit to Virginia. There are two reasons I haven't mentioned it heretofore: (1) I haven't felt until now that the problems and facts connected with this proposed legislation had been sufficiently well presented to your committee to make acceptance of this recommendation at all likely; (2) I have felt and continue to feel that this recommendation, if acceptable would be better received if it originates within your committee.

As I have told you, the problem of reducing accidents in title I mines is primarily one of making men act in a safe manner. We have contended and continue to contend that education and training are the only tools by which this can be done. The problem is to put these tools to work. The various State inspection services, mine operators, and mine employees must be made to attack the problem themselves if real progress is to result. How to do it is the question. Here's how.

As I have told you, the title I mine operators and employees are scared to death of the Bureau of Mines and of this proposed legislation. This fear has done a lot to improve the safety conditions in title I mines in the past 5 years. This fear and this legislative quarrel have contributed to more aggressive programs by several State mining departments. If we keep fear and psychology working we can get more results than any other way.

The actual extension of Public Law 552 to the small coal mines will not do as much to reduce accident rates as will the fear of that extension. When the Federal Coal Mine Safety Act was first passed coal mine operators feared it more than they do today. That is perhaps one reason the accident rate is climbing in title II mines. They are learning to live with it and that perhaps its bark is worse than its bite. Likewise, today the entire industry is on pins and needles for fear there will be another major mine disaster. They know such an occurrence would insure a "beefed up" Federal law. Their fear is resulting in safer mine operation this very day.

Now if we can make fear and psychology worker harder in title I mines we can make a material contribution to safety and we will save lives. I recommend that the Federal Coal Mine Safety Act be amended by changing section 201(b) to read as follows:

"This title shall not apply to any mine:

"(a) In which no more than 14 individuals are regularly employed underground; and

"(b) Which is not classed by the Bureau as a gassy mine, or as a slope mine, or as a shaft mine; and

"(c) Which has not suffered an underground fatal accident during the last preceding 24 months."

Such an amendment would have an immediate effect upon those mines where more safety precautions are needed. It would in effect say to all title I mine operators and mine employees—"Look, Buster, if you dope off and have a fatality you are going to get a concentrated dose of Federal supervision. As long as you behave—OK, but make a mistake and you've had it." In this case fear and psychology would demand and promote safer workmen, safer thinking, and safer working conditions. The very small percentage of title I mines (less than 1 percent per year) which have fatalities would pay the penalty. The Bureau would have an ax over their heads but would have to swing it only as needed and the need would almost evaporate. When an accident did occur in a title I mine that mine would get a concentrated dose. Possibly or probably it would end up by being closed down. This would simply improve the workability of the amendment.

As I have said, we need training and education. This amendment would make the title I mines see that safety was the No. 1 consideration. They couldn't afford not to. The mine owners, mine employees, and the State departments would be put squarely on the spot. Be safe or else.

There are some immediately apparent problems that would result but they can be answered.

(a) To avoid an "ex post facto" situation all mines can be considered as having a clean slate for the period before enactment of the law. The qualifying period would begin to run on the day the bill became law and would reach the full 24 months 2 years after passage.

(b) The committee could draft a further clause to excuse any accident which the Bureau certified to have been completely unavoidable.

(c) A clause could be added to provide that extension of the law to a mine because of a fatality could not be avoided by transfer of mine ownership, etc. Probably even better would be an administrative order by the Director of the Bureau setting forth the ground rules for administering this provision.

The amendment which I have outlined would give the Bureau control of the mines which are the least unlikely to have a disaster. This is the Jennings bill. In addition it would result in a much more aggressive training and education program by the States and within the title I industry. I do not see how it could fail to get results.

This amendment could be combined with others to enlarge the Safety Board of Review and if desired, with an amendment to insert the code roof fall and timbering provisions into the act itself.

You may recall my having made a statement that if we closed any mines which had a fatality we would cut the accident rate in half. This is very much the same approach but on a more workable basis. There is ample precedent for such legislation, for example, the various laws which provide that a driver loses his operator's license for driving drunk.

I believe that if you will think about this approach you will see the merit. It doesn't penalize any mine unless guilty. It doesn't overburden the Bureau with enforced extra inspections of thousands of mines that are quite difficult at times to inspect. The thing I like about it is it's a built-in safety program.

I would not particularly want to publicly propose this amendment for I am sure that a number of my friends and associates would not approve of it. On the other hand, I will gladly go on record as being in complete accord with it and will so testify at any time.

As you have seen, the problem of coal mine safety legislation is more complex than it might at first appear. I do not want to burden you with an overly long letter and will therefore not include any more argument in favor of this proposal. I would be happy to come to Washington at any time to discuss it further, to answer any questions, or to be of any service I could.

I hope you will not consider this to be presumptuous on my part. I offer the suggestion as a considered proposal which I believe would be very beneficial.

I wish to express my appreciation to you and the other members of your committee for the time and attention which you are giving to this matter. We thank you.

I will then go on with the second document which I handed to you, which is a memorandum regarding proposed legislation.

Gentlemen, I am perhaps being presumptuous as simply an individual to come in here and recommend a law to the Subcommittee of Labor of the House of Representatives.

Mr. DENT. You are not presumptuous, and I assure you that the committee welcomes any suggestion that you may make. It makes our job a little easier.

Mr. TAGGART. Thank you, Mr. Dent.

I do not know whether this will make your job any easier or not, but I do seriously recommend that you give careful consideration to that memorandum. I will read it, and then I would like to be cross-examined about it, if you see fit.

This memorandum is dated October 24, 1963, memorandum regarding proposed legislation:

The lack of acceptable data regarding accidents, tonnage, and hours of exposure in small mines is deplorable. In a nation like ours there is no excuse for this condition, yet it exists. No one really knows the accident rate of title I coal mines. No one knows how many people are employed in them and how many hours are spent therein or how much coal they produce. We need to know this.

Acceptable principles of safety say that a man must think to be safe. He must

be aware of the dangers and you can't legislate danger away. You can teach, you can train, and you can instruct. You can provide safety precautions, safety equipment and safety measures and safety rules, but if these are not used or followed accidents will still occur. We need legislation that will provide factual data and safety incentive. One way to do this is to pass a law along the following lines:

"Bill: Amendment to the Federal Coal Mine Safety Act.

"Amend section 201 to read as follows:

"(b) (1) This title shall not apply to any mine which (a) regularly employs no more than 14 individuals underground and (b) has not been classified by the Bureau as a gassy mine and (c) has not been classified by the Bureau as a slope mine and (d) has not been classified by the Bureau as a shaft mine and (e) has in effect a current license issued by the Bureau of Mines to operate under only the title I provisions of this act.

"(a) The license referred to in (1) above shall be issued by the Bureau of Mines in any of its district offices upon application by the operator of any mine meeting all the requirements of section 201(b) (1).

"Such license shall be suspended and considered as not current under the following conditions and for the following periods:

"(a) If an operator of any mine holding such a license fails to submit required quarterly reports of tonnage, employment, hours of exposure, accidents and injuries, such license shall be suspended until all required reports have been brought to a current status.

"(b) If any inspector of the Bureau of Mines finds imminent danger of a major disaster in a mine holding such a license, the license shall be suspended until imminent danger has been removed and certification so made by the Bureau.

"(c) If a fatal injury occurs within any such mine holding such a license the license shall be suspended for a period of 2 years or until the Director of the Bureau of Mines certifies that such accident was completely and positively unavoidable. Failure of the Director to make such certification shall not extend the period of suspension beyond the original 2 years."

Passage of this law would bring the required data and information into the Bureau. Passage of this law would not leave safety determinations up to political appointees. Passage of this law would bring psychology and economic pressures to bear to improve safety conditions. Passage of this law would scare the living hell out of title I coal mine operators and would insure prompt attention on their part to improved safety conditions. Passage of this law would put gassy, slope, and shaft mines under Federal control. If disasters are to occur in small mines it is probable that they would be in gassy, slope, or shaft mines. Passage of this law would reduce the accident rate in title I mines and would allow the Bureau to exert greater effort to stop the ascending accident rate in title II mines.

The interesting part of this legislation is that it would allow mines anywhere to be covered by the Federal law through the simple expediency of no application. Therefore any operator, and any group of employees who had sufficient influence, could see that their mine did not operate under such a license. Any State that wanted Federal inspection could get it by having the mines therein not apply for a license. If the union employees wanted it, they could get it.

Instead of costing money, this would save money. Instead of taking more effort, it would take less. Instead of making safety an "economic football," it would make safety a necessary part of an operation. It would provide against imminent danger in any mine. It would likewise give the Director the right to hold that a mine should not be penalized if an accident actually were unavoidable. Even then he would not have to make the determination.

We must remove duplication of effort and the currently increasing friction between the State departments and the Bureau. By this legislation we would give the Bureau custody of certain specified groups of mines, and we would leave with the States custody of certain mines. Mines would go from State to Bureau control only when they demonstrated the necessity by reason of failure to make reports or fatalities. This bill will eventually remove the necessity for Federal inspection of the great majority of small mines. It should improve safety and reduce accidents. I believe it will actually act over a period of time to materially improve the relationship between the State departments and the Federal Department. Certainly, it will not act to destroy the remaining cooperation as would the institution of a determination upon application of the Director as would be possible under one of the proposed amendments before the House Subcommittee on Labor.

I have discussed these provisions with several people who are familiar with the industry. Without exception, everyone has indicated that they really would work in their opinion. I am sincere in that I think it would be good legislation.

Mr. Chairman, I have submitted there a recommendation to the Congress. It is not an idle one. It was made and written after considerable thought, and I have not seen fit to change one word of it in the last 16 months. I think it is valid.

I think that there is a tremendous amount of confusion in the Congress, and in the industry, in the union, and in the Bureau of Mines, as to what is really needed in the coal industry.

I do not think the industry is proud of its accident record, although the record would indicate that it is. I think there is a tremendous amount of worry among the States and the Bureau of Mines and the safety directors in the coal industry as to how are they going to stop this situation which has been in existence.

We have had title II mines under Federal control show 60 percent ascendancy in accident rates up until last year. This is all true. The title I mines have been getting safer; they have been doing better. I think they can still do better. But I think you are on entirely the wrong tactic.

That concludes my statement. Yes; I will be glad to answer any questions you may have.

Mr. DENT. Thank you, sir.

As I understand it, you represent the Wise Coal & Coke Co.

Mr. TAGGART. That is correct, sir.

Mr. DENT. Is that a 14-man mine?

Mr. TAGGART. The Wise Coal & Coke Co. operated title II mines for many, many years. Due to economic necessity we closed the last title II mine that the company operated about 2 years ago.

We do not operate any mines at all. We lease property to strip mines, truck mines, some of which are title I, some of which are title II.

Mr. DENT. Is it not true that some of your mines are so-called small mines; in other words, you are a broker?

Mr. TAGGART. We are a landowner and a coal processor.

Mr. DENT. And all of the people who lease from you funnel their coal through your processes?

Mr. TAGGART. No, sir; not all of them. We have various areas of coal land. Some we just lease coal and have nothing to do with it; such as, in Dickinson and Lee Counties of Virginia.

In Wise County we have a contiguous area of land, and the coal there does come to plants that we operate.

Mr. DENT. In other words, this is a new departure in mining, an innovation which is taking place in Pennsylvania; particularly, too, where I know whereof I speak, where large mines have closed down and the property then subleased to numerous small mine operators who funnel their coal either to the tipple and processing plant in the bituminous mines, or to the breakers-up in the hard-coal region, and the large coal operator did not go out of business—he just set up a bunch of small mines to work under him. Is that right?

Mr. TAGGART. Congressman, it is very true that a great many large properties have been uneconomical and have been shut down and that production is now being continued in a great many instances from smaller truck mines. However, I could not go along with the part of your statement about “they set up a lot of little mines to operate under

them." That is hardly correct. But the net result is that you have had the disappearance of a lot of big mines and a lot of small mines have replaced them.

Mr. DENT. You also say in your statement to Mr. Roosevelt that—

The actual extension of Public Law 552 to the small coal mines will not do as much to reduce accident rates as will the fear of that extension.

Mr. TAGGART. That is exactly right.

Mr. DENT. You take the position that a robber with an empty gun does as much as a robber with a full gun?

Mr. TAGGART. I take this position, that the passage of Public Law 552 in 1952 did not reduce the day-to-day accident rate in title II mines.

I take this position, Mr. Chairman, that the provisions of Public Law 552 are not designed to correct the day-to-day accident rate, and the bill if passed will not correct it, and it will not improve it.

But if the group of title I coal mine operators thinks that if they have a fatality, that then they will get a concentrated dose of Federal inspection, that the fear of that inspection would turn out to do more good than would the actual passage of the bill itself.

Yes, sir, I repeat it.

Mr. DENT. Of course that was testified to this morning when the gentleman from Virginia said that since we introduced this legislation there has been a great increase in their activities in mine inspections in Virginia, and that they have improved the mine inspection, and they have improved, they believe, their procedures in mine inspection.

You also said that you knew of no member of the Bureau of Mines who testified before this committee in favor of this safety legislation.

Mr. TAGGART. I did not say that, sir. I said that no responsible member of the Bureau of Mines had testified that removal of this exemption would reduce the accident rate.

Mr. DENT. I do not know if there is a representative of the Bureau here. I read from page 108 a statement of John F. O'Leary, speaking for the Secretary. I quote:

I am appearing before you here today in support of the proposed legislation. We welcome the opportunity to discuss the administrative actions which we propose to assist in meeting the coal mine safety problem.

Mr. TAGGART. OK. He is supporting the bill.

Mr. DENT. He testified before this committee in favor of a mine safety bill, and testified in favor of it, that the purported intent of the bill is to inaugurate certain safety provisions in mines under title I.

And the entire aspect of the legislation is in the area of reducing accidents. How can he by any stretch of the imagination be testifying in favor of the bill and not say that this would reduce accidents?

If he believed it would not reduce accidents, he should never have come before the committee and testified.

Mr. TAGGART. You will have to ask Mr. O'Leary that.

Mr. DENT. I will. And I am sure his answer will be very illuminating.

Mr. TAGGART. Will you give me a moment to look up some testimony in that line?

Mr. DENT. You may look up the testimony all you wish, sir. While you are looking it up, maybe we can proceed with the other witness.

Mr. TAGGART. Very well.

Maybe I can answer you orally if you will accept my recollection.

I have it. On page 135 of the hearings before the Subcommittee on Labor of the Committee on Labor and Public Welfare, in the U.S. Senate, July 21, 22, and 24, 1959. May I read from that report?

Senator Clark, who was a proponent of a bill to remove the exemption, was talking to Mr. Marling Ankeny, and he said as follows, Senator Clark:

Now, to get to the heart of the matter, and accepting your explanation at face value, and in the light of your revised figures, would you want to make any change in your earlier testimony to the general effect that the fatality rate per man-hours worked in the small mine is substantially in excess of the fatality rate per man-hours worked in the larger mines?

Do I make myself clear?

And Mr. Ankeny replied:

Yes, I will still adhere to that statement.

Senator CLARK. And it is for that reason that you advocate the extension of Federal inspection in the smaller mines, because you think that if they have the Federal inspection you could improve the fatality rates?

Mr. ANKENY. No, sir, I would not go along with that statement.

Mr. DENT. I might remind the witness in 1959 Mr. Ankeny was working under a different administration with a different view of coal mine safety, and the records prove that—not to insinuate that Mr. Ankeny would be influenced by the fact that at that time the administration was opposed to the mine safety legislation, but I might suggest that you contact Mr. Ankeny, since I have, and I am sure that if you will dig up the records of 1963, you will find that Mr. Ankeny did appear before this committee. I will be happy to make them available to you.

He is the man that testified and gave us the statistics that we used that have been called inaccurate.

Mr. BELL. Mr. Chairman, may I ask the witness a question?

Did not the administration support the bill at that time, and did not Mr. Ankeny, too?

Mr. TAGGART. Yes, sir, very strongly. Mr. Ankeny said he supported the bill because of the possibilities of disasters in title I mines. That is what he said.

Mr. DENT. We are getting nowhere with this kind of testimony, simply because if there is a possibility of disaster in title I mines, there is need for legislation, in the opinion of some of us.

Mr. TAGGART. Mr. Chairman, I do object to your statement that we are not getting anywhere. I think we might be clearing the air a little bit.

If you say something long enough and often enough, then people start to believe it. There has been a great deal of talk about the accident rate in title I coal mines. There has been a tremendous amount. Then there has been the inclusion of the bill.

The Bureau of Mines has come in and said, "We support that bill," but nowhere in the record yet in 6 years has the Bureau of Mines said that passage of that bill will reduce the accident record.

This is a fact.

Mr. DENT. I would say to the witness that inasmuch as he has had operational experience in the large and the small mines, that he knows

full well that one accident in a large mine can add up to a terrific fatality.

For instance, let me give you my own experience at the Dorothy Mine in Dorothy, Pa., when a breakthrough occurred because of a faulty mapping. They drilled into a reservoir of backup water that had a heading higher than the opening of the shaft in the Dorothy Mine. Within $2\frac{1}{2}$ minutes, the water came out of the top of the shaft.

It happened to be a holiday. Two men lost their lives in the Dorothy Mine that day, the mine boss and the fire boss. If it would have occurred the day before or the day after, 240 men would have lost their lives, and that can do a terrific thing to the statistics.

When we have a mine fatality in a small mine, you can have anywhere from 2 to 14 men working in it, and the most that you could have would be an accident ratio of 14 men to the 1 accident.

But that same accident ratio in a large mine could, as it has in my area of Pennsylvania, wipe out better than 200 men at one time.

We had just recently, not too long ago, a series of accidents in Pennsylvania in large and small mines. The incident of accident is greater in the small mines by every statistic that this committee has been presented.

Now, if all statistics are false, then you cannot blame the committee for not accepting yours.

Mr. TAGGART. May I answer, sir?

Mr. DENT. Sure, if you think there is something to answer.

Mr. TAGGART. Quite a bit.

Your reference to the inundation in the Dorothy mine is a situation that is known as a disaster-type situation. Under the existing law, the disaster-type situations have been improved, and the disaster record has been markedly improved. I have said so many times. This is the proper function of Public Law 552.

Under the bill I just got through proposing, a slope mine, a shaft mine, or a gassy mine would automatically be under that law for disaster-type control. I recommended that.

But the point you are missing, sir, is this: In 1964 in all 7,000 title I coal mines in the United States there were a total of 16 fatalities resulting from anything other than roof falls. And I honestly believe that about 12 of those were haulage accidents, which means that there were 4 accidents in 7,000 mines, 4 fatal accidents, that resulted from something other than a roof fall and a haulage accident.

Now, the point I am making, Mr. Dent, is this: In the name of coal mine safety, you are proposing the passage and the extension of the law that is not designed to correct the situation of which you are complaining.

What I am saying is that if the Bureau's figures are correct, the title I accident rate is a little higher than the title II. I am suggesting to you a method of possibly encouraging the title I mine operator to improve his record, and a method of bringing this about. Your bill would not do it, sir.

Mr. DENT. You would close his mine, as I understand, if he does not make a report—

Mr. TAGGART. Right.

Mr. DENT (continuing). On total number of man-hours worked. How does that add to the safety?

Mr. TAGGART. I would not close his mine. I would put him under Federal law so he would be legally required to do so. Under title II of the Coal Mine Safety Act, he has to report those things.

Mr. DENT. Why would you not have the same requirement for the drift mine? Why should he not report, too?

Mr. TAGGART. He should report, too. All of them should report. Apparently you have not read this.

Mr. DENT. I have read it.

Mr. TAGGART. Apparently you do not understand it.

Mr. DENT. But you said it would not apply to any mine having 14 men or less, it would apply to a slope, gassy, and shaft mine, but no drift mine.

Mr. TAGGART. No, sir. I said that any mine that employed less than 14 people which was not a gassy mine, was not a slope mine, was not a shaft mine, and properly made its report, and had not had a fatality in 2 years, would be excluded from the act, but if he falls down in any one of those six categories, if he does not make his report, if he has an accident, if he is slope, shaft, gassy, he is under the law.

Now, what you will do here is create a terrific incentive on the part of the coal mine operator to improve his safety conditions, if they need improving, and there is plenty of reason behind it.

You do not convict a man of driving drunk until you catch him at it, then you take his license. You do not put a man in jail for murder until he shoots somebody, then you do.

Mr. DENT. If you could find some way of stopping it by inspecting, I am sure we would have a law.

Mr. TAGGART. Yes, but it has been demonstrated that you cannot do this, so you pass a law saying, "Look, we will get after you if you don't stop it." You use fear and psychology to stop it.

This is the only way I know to get at the tremendous, vast coal mine situation. I would like to quote from what Congressman Dent said earlier in the hearing:

I wonder if there is any solution to the vexing problem that has various ramifications.

This is true. This is a vexing problem with various ramifications, and they need to be thoroughly understood.

It is my considered opinion, and I am no smarter than anybody else, but maybe I have thought about this more than a lot of people have. There may be some holes in that, Congressman, but I do not know where they are.

Mr. DENT. I am sure if you draft it into a law and present it, the people will find holes in it, especially if you are an elected official.

Do you have any questions?

Mr. BELL. Yes, Mr. Chairman.

I want to congratulate Mr. Taggart on a very excellent statement, and excellent responses to questions.

I just seem to want to use parallel subjects occasionally in asking questions. Relative to one question I think that dealt with roads, would you have the same set of regulations, for example, for a State highway that you would for a little country road?

Mr. TAGGART. No, sir.

Mr. BELL. Of course, you would not. I wanted to bring out this is another example.

Mr. DENT. You are absolutely right. I want to congratulate you. But you must remember that the automobile that travels any road has the same inspection.

Mr. BELL. I want to remind you, Mr. Chairman, that I have the floor.

In essence, the very important part that I think you so ably expressed was the definite difference between these two types of mines, therefore they have to be dealt with and handled considerably differently.

Mr. TAGGART. They certainly do, Mr. Bell, because they are just as different as day and night. The problems are not the same.

A death is the same, no matter where it happens, and it is equally regrettable. But it could be terribly unfortunate for this Congress to spend 6 years discussing and considering coal mine safety, and then through inadvertence or lack of information pass a bill that was not really designed to get at the crux of the problem.

Once you pass this, Congress is going to wash its hands of it and say, "We don't want to hear any more about it for at least 10 years," and the situation can go to hell in the meantime.

Mr. BELL. I agree with you. I wanted to point out that this bill failed passage before under a parliamentary procedure we have called suspension. I think that, as you have said, correctly, the ramifications and the problems involved in this type of mine, which Mr. Dent has also some knowledge of, and has indicated that he felt this was true, the ramifications of this type are so far reaching that do you not think that a longer period of study and preparation should be made before this type of legislation should be rushed through and rushed out?

Mr. TAGGART. Mr. Bell, I could not agree with you more completely. One reason for including what I did in that recommendation was that this would be a method of assuring that the Bureau of Mines and the Government got the data on the little mines. It would be a way of being positive that we knew what we were talking about.

As long ago as 1959, I talked to the then Senator Kennedy about this matter. If you will go to the records, you will find in 1959 Senator Kennedy wrote a report, and he said that due to the inconclusive character of the testimony, the committee preferred to take an action to insure that the Congress got the facts and understood the problem.

Gentlemen, I think it is a travesty on justice or something that this Congress would spend 6 years and still not know much more about the problem than it did 6 years ago. I think this is a reflection of some nature.

Mr. BELL. I wanted to point out further that the Senator you are referring to was Senator John F. Kennedy, the late President of the United States.

Mr. TAGGART. Yes.

Mr. DENT. Should we not make the record complete and say the same Senator became President of the United States and handed me the bill to put in.

Mr. BELL. I am certain that the President expects some amendments and some improvements on any bill that comes down, and not to have

it rammed through. However, this was certainly true I know under the previous administration, but I do not know how it is going to be under this one.

I wanted to also ask you this, Mr. Taggart. We have discussed a little bit today about helping areas of our Nation with the right hand and then somewhat taking it away or lessening or negating the economy with the left hand.

You know the Appalachia area well, and in what conditions some parts of it are, and that it does need help. Do you not believe that in view of the fact that the great increase has taken place in the small mines, and that the economy has been dependent upon it, do you not believe that passage of this bill could quite conceivably have an adverse effect on the economy of this area?

Mr. TAGGART. Congressman, I think that it would. I think that the recent statements which have been credited to the Bureau of Mines, to the effect that they were finding conditions of imminent danger in 23 percent of the title I mines, would indicate that if this bill were passed, the Bureau inspectors would probably find imminent danger existing in not less than 23 percent of the title I mines.

This would lead me to believe that a large number of these mines would be closed under this legislation. I am positive that the closure of these mines would have a terrifically adverse effect, and would to a very large extent undo the good that we hope will be done by the Appalachian program and the poverty program.

I have lived in this area all my life. I am thoroughly familiar with it, and I think it would be a very bad mistake.

Mr. BELL. That is all, Mr. Chairman.

Mr. DENT. Mr. Daniels?

Mr. DANIELS. Where did you arrive at that figure of 23 percent of the mines?

Mr. TAGGART. I read in the United Mine Workers Journal, I believe, Mr. Daniels, that the recent report of the Bureau showed imminent danger in 23 percent of the mines.

Mr. DANIELS. Do the Federal inspectors employ different criteria than the State inspectors in inspecting these mines?

Mr. TAGGART. Yes, sir, I think so.

Mr. DANIELS. What are the differences?

Mr. TAGGART. I am not a technical man, but I would say this: The Federal inspector tends to inspect the coal mine having in mind compliance with the so-called Federal Coal Mine Safety Code. This tends to be his Bible. This is not the basis of Public Law 552. He tends to want to get all mines put into compliance with that code.

Mr. DANIELS. Is the code different from the State law?

Mr. TAGGART. Oh, yes.

Mr. DANIELS. What higher standards does the code provide which is not provided for under State law?

Mr. TAGGART. Actually, I have not reviewed the very many, many, many ramifications of the coal mine safety code, but one pops into my mind immediately, that the code calls for not less than 6,000 cubic feet of air at the last open crosscut in any location in any coal mine. This also is part of the Federal law. But this is not a part of all State laws. The code has certain requirements of clearance, so many feet of clearance on each side of a track. This might not be in complete compliance with State laws.

Mr. DANIELS. In these small mines you would not have a track, would you?

Mr. TAGGART. In many of them, yes.

Mr. BELL. May I ask a question?

Mr. DANIELS. I yield.

Mr. BELL. As I understand, Mr. Taggart, under the Federal Coal Mine Safety Act, the Federal inspectors usually require electric detonators. This is one of the facts that I have heard. Do you know whether this is true or not?

Mr. TAGGART. This is my understanding, Mr. Bell.

Mr. BELL. Which would be costly to a small title I mine. As one example, it could affect them adversely economically?

Mr. TAGGART. I understand that is one situation of which the Federal coal mine inspectors have been currently complaining.

Mr. DENT. Let's make the record clear, that that is a regulation, and it does not necessarily apply to the small mines any more than some of the features about 10-inch timber or 14-inch timber in a title II mine, where necessary. In a small mine, they sometimes use as low as four and a half.

Mr. BELL. Will the gentleman yield?

Mr. DENT. At a bark-to-bark distance.

These are regulations that are made according to the conditions they find. This will not, in my opinion, force any mine to do anything that is necessary to meet the type of safety requirement that would help the mine safety record. If the drift mines are safe, they are not going to go in and tell them they are going to have to put conditions in there that will make the mine unsafe.

I think it is presumptuous to think that the inspectors of the Bureau of Mines of the United States is interested in driving people out of business. To me that does not seem sensible or reasonable to assume such a thing.

Mr. BELL. Mr. Chairman, I appreciate your comment on this. I think you have shown your great interest in the possibility of being sure that it is fair in every way.

One of the three gentlemen could perhaps correct me. Is it not true in the bill itself—I could be wrong on this—section 209, that they actually require electric detonators?

Mr. GILLIAM. Yes; I think the practice will show, Mr. Chairman, and these are the burden of the reports that were submitted by Mr. Mullins, that it is the practice of the Bureau of Mines to find that where fuse and caps are used in shooting coal from the solid, that they consider this an imminent danger.

An imminent danger is a danger which requires the closing of the mines. Now, in Mr. Mullins' testimony, he stated that 50 percent of the mines in Virginia would be closed, if this were enforced. He submitted to the committee reports of the Federal Bureau of Inspectors which would, if they had the jurisdiction, close these mines.

Now, this is their interpretation of the meaning of "imminent danger." They differ with the States on this point.

Mr. DENT. They differ with the interpretation. You and I both have our interpretation, but we cannot say that Mr. Mullins says that 50 percent of the mines in Virginia would be closed, if the Bureau ever put out such a requirement, overnight. And you and I both know it.

Let's get down to the facts of the case. There is nothing in this bill that would close 50 percent, 10 percent, or one mine.

Mr. GILLIAM. Mr. Chairman, either the Bureau reports are accurate, or inaccurate. If these mines would not be closed, then that should not be in the report. I think the Bureau of Mines should be brought up here to explain that. If it is in there, and it is incorrectly in there, they are the people to answer, not us.

Mr. DENT. Are they talking about title I mines?

Mr. GILLIAM. Yes, sir.

Mr. DENT. In the report?

Mr. GILLIAM. In the Bureau of Mines reports which were submitted concerning title I mines by Mr. Mullins to this committee, in their reports they stated use of fuse and caps creates imminent danger in this mine. They have example after example after example of this particular violation of what they consider to be the act, that is the imminent danger provision, in their own reports.

Either those reports are wrong, or the mines will be closed. If they are right, they will close the mines.

Mr. DENT. Fifty percent of the mines of Virginia will be closed?

Mr. GILLIAM. Yes, sir.

Mr. DENT. Very interesting.

Mr. TAGGART. Mr. Chairman, may I make one remark?

Mr. DENT. I would like to get to the other witnesses.

Mr. TAGGART. I merely wanted to state this, that coming before this committee today, I did so voluntarily, with the honest desire to help this safely deliberation. I really want that honestly in the record.

My desire is to see the best legislation possible passed, if legislation is needed.

I submit, again, that this committee really need to get the facts. And that is all I have to say, sir.

Mr. DENT. Thank you.

The next witness, I believe, is Mr. Holcomb, who represents the National Independent Coal Operators Association of New York City.

I would like to thank Mr. Taggart for his testimony, and I am sure that we will study his statements in executive committee and see where there is a difference between his position and that of the Bureau of Mines, and ask the Bureau of Mines to clarify their position.

Mr. Holcomb.

STATEMENT OF ROBERT HOLCOMB, PRESIDENT, NATIONAL INDEPENDENT COAL OPERATORS ASSOCIATION, PRESENTED BY ARMISTEAD W. GILLIAM, COUNSEL, NATIONAL INDEPENDENT COAL OPERATORS ASSOCIATION

Mr. HOLCOMB. There is a slight difference. I am not from New York City.

Since I have had the flu and my voice is in bad shape, I would ask the committee to let Mr. Gilliam present my testimony, and I will be available for any cross examination.

Mr. DENT. I only have your letter. That is all I have, and its address is 230 Park Avenue, room 1911, New York, N.Y., 10017, signed by you, and I assumed you were represented by the letter. I beg your pardon if you are not.

Mr. HOLCOMB. I get around a lot.

Mr. GILLIAM. Congressman, if I may address myself to that remark, I would only like to say this: because of the publicity which we have received, we have had to employ publicity counsel also, and that is the address of our publicity counsel, and of our public relations counsel, and it is not the address or headquarters of the National Independent Coal Operators Association.

Mr. DENT. This organization, I understand, is representing the truck coal operators in Virginia, and other small coal mines.

Mr. GILLIAM. That is quite correct.

Mr. DENT. And the members of your association.

Mr. GILLIAM. That is quite correct.

Mr. DENT. Also, as I understand it, Mr. Gilliam, you are going to speak for Mr. Holcomb.

Mr. GILLIAM. Yes, sir, I am. I am also speaking for myself.

Mr. DENT. Will you give your position?

Mr. GILLIAM. Yes; I am counsel for the National Independent Coal Operators Association.

Mr. DENT. Do you know anything about the letter sent by Mr. Holcomb in which he says that the objective of the Dent bill is to clearly drive small coal mines in Appalachia out of business?

Mr. GILLIAM. In all candor, Mr. Dent, I would say this is the first time I have read the letter. I would say the use of the word "objective"—I can see that you might find that offensive. I think that the effect or the facts of this will be to drive a great many people out of business. I think that is the purport of the letter.

Mr. DENT. That is an assumption, of course.

Mr. GILLIAM. That, of course, is our opinion.

Mr. DENT. That is right. But do you also know that the same letter says that this bill introduced by me, unfortunately, it says that the central objectives of this bill are not safety and fairplay?

Is that an assumption, or is that your opinion?

Mr. GILLIAM. I would say that the central objective of the bill is not achieved by the bill, if the central objective is safety.

Mr. DENT. You do not say that in this letter.

Mr. GILLIAM. What the central objective of the bill is is a matter for the record to reveal, I think. So far as I am concerned, the objective of the bill is safety, but the effect of the bill will be to put a good many mines out of business.

Mr. DENT. Let me ask you, then, at that point, what will be different in the duties of the Federal mine inspector under this bill than what it is today in title I mines?

Mr. GILLIAM. The duties of the inspector will be, under this bill, if it is passed, to close those mines which they consider to be in imminent danger. It will also be their duty in 6 months after the bill is passed to issue a recommendation for an improvement in the unsafe condition which is found, which must be complied with within 90 days.

That will be the burden of their duties. At the present time they do not have those duties.

Mr. DENT. What duties do they have today?

Mr. GILLIAM. At the present time they inspect these mines and make recommendations only.

Mr. DENT. So, therefore, the only difference in the duties prescribed under this law and that which they have today is that they will have the right under this law, where they find imminent danger, they can close a mine, and 6 months later they can make a report of the general conditions and recommend that these objectives that they promote for safety be put into effect in 90 days.

Do you also know that the bill gives the operator the right to appeal within that period to the same Board; and if they are wrong, and if the State inspector feels that they are wrong, he can of course join in the plea, and if they prove that the Federal mine inspector is wrong, that the recommendations will not go into effect?

Mr. GILLIAM. We have no objections to the appeal provisions, Congressman, at all.

Mr. DENT. How can we have the appeal provisions if we do not have the enforcement provisions? There would be nothing to appeal.

Mr. GILLIAM. That is quite true. We hope there will be nothing to appeal, because we oppose this bill.

Mr. DENT. You do not want any mine safety laws applying to mines under 14; is that right?

Mr. GILLIAM. No, sir; that is not the answer.

Mr. DENT. What do you want to do with the bill?

Mr. GILLIAM. I think there are two points: One is Congressman Bell's bill, Congressman Jennings' bill, and the proposal put forth by Mr. Taggart.

I personally believe that either one of these bills would have a tremendously effective effect on title I operations.

I think that Mr. Taggart's recommendations deserve special attention, since they would not be directed to the State but to the individual himself.

Mr. DENT. Allow me to interject at this point. Mr. Taggart's recommendation—

Mr. BELL. The only point I would like to make, Mr. Chairman, is let the witness finish his statement.

Mr. DENT. He made a statement about the Taggart recommendations, and I want to be clear on it.

Do I understand that the Taggart recommendations would put mines with 14 employees or less under this act, if they are not drift mines?

Mr. GILLIAM. The Taggart recommendation, as I understand it—I do not have it in front of me, but I listened to it carefully—

Mr. DENT. Here, I will give it to you, because you are endorsing it, and I think you ought to know.

Mr. GILLIAM. I would like to state this: as I understand his recommendation, the title I mines would be put under the bill under the five conditions which he enumerated: One, that it did not report; two, that there was a fatality; three, that it was a gassy mine; four, that it was a slope mine; five, that it was a shaft mine.

Mr. DENT. Can you name any kind of mine that it exempts? How about a drift mine?

Mr. GILLIAM. If it were a drift mine, that is correct.

Mr. DENT. If you represent the National Independent Coal Operators Association, you must represent the slope mines, shaft mines, gassy mines. Do I understand that the Independent Coal Operators

Association is in favor of covering all mines but drift mines under the Taggart amendment?

Mr. GILLIAM. We represent all types of mines, and we are perfectly willing to accept Mr. Taggart's recommendation, in toto, as a very fine piece of legislation, which would reduce the incidents of accidents in title I mines.

We do not believe that there is a necessity for putting drift mines under this act.

Mr. DENT. Now we are getting to where we understand each other. You also represent the independent mines in the anthracite region?

Mr. GILLIAM. No; we do not.

Mr. DENT. Do you represent the independent mines in the bituminous fields of Pennsylvania?

Mr. GILLIAM. No; we do not.

Mr. DENT. In the State of West Virginia?

Mr. GILLIAM. We do; we represent mines. Some of our members are located, and I should be corrected by Mr. Holcomb, in Pennsylvania. They are not anthracite operators. We represent bituminous operators exclusively.

Mr. DENT. Drift?

Mr. GILLIAM. Not exclusively. We represent gassy mines, shaft mines, slope mines, all kinds of mines.

Mr. DENT. Of course they are opposed to the legislation in any form.

Mr. GILLIAM. We are speaking today to the legislation. We are not aware that they are opposed. If they are opposed then I think that is their problem, but we are not addressing ourselves to their problem, because we think they ought to be under the Federal legislation.

Mr. DENT. Thank you. Now, so the record is clear, the Independent Coal Operators Association in this instance is only speaking for the drift mines?

Mr. GILLIAM. Yes; and with respect to drift mines, we are perfectly willing to go along with Mr. Taggart's suggestion, where there is a fatality, and the Director does not make the finding therein that the fatality was avoidable, that they should come under the Federal law for 2 years.

I would like to clarify the reason why I think that would be effective. Today we believe that the application of the Federal law, as indicated by the Federal mine inspectors' reports, is something that very deeply concerns the drift mine operator. I do not believe that they can comply with what the Federal inspectors believe to be or state to be imminent danger situations in a number of instances.

Now, because of this, they do have a considerable concern, and fear, that they will in fact be put out of business, if they come under the Federal law, and I think this would in fact deter them from engaging in any activity which could be considered possibly unsafe.

This does not mean that I agree with what the Federal inspectors are doing. I am simply saying what they have recommended, and are doing, is something which so concerns the drift mine operators that it will improve their safety record.

Mr. DENT. Now, the main difference between the two proponents of the legislation, of course, is a question of whether the Director ex-

empts the mine, or whether the courts shall exempt the mines. We have a difference of opinion on that.

But the legislation that has been presented here and bandied about does make reservations. For instance, the secretary of labor in West Virginia, who gave his testimony this morning, representing, as he does, the head of the labor division, which includes the mining section, could under our law, present a plan to the Director of the Bureau. If that plan covers the features that are being talked about here, they would be exempt.

The only difference is what Mr. Jennings also proposed this morning.

I would like to ask whether or not you would concur in that, as an amendment this morning, that we give the power to close the mines to the Federal inspector; that within 24 hours he had to report it to the State inspector, which I am completely in favor of. I see nothing wrong with that. And that the mine, if there was a disagreement, would still remain closed until the case was adjudicated before the Board.

Now, that is his proposal, and he is the only other proponent of this legislation, because the bill presented by Mr. Bell was a cosponsored bill which I understand has the same provisions as Mr. Jennings'. Would you agree to that?

Mr. GILLIAM. Mr. Chairman, may I clarify? I can only say what I heard this morning. I am sure the record will reflect the opinions of Congressman Jennings much better than my recollection, but my recollection is that he would agree only if the State was placed under the Federal jurisdiction by the court, that then the closure by a Federal inspector, because of an imminent danger situation, would be acceptable to him.

I think the record is confused on that point. I do not believe that your statement of what Congressman Jennings has said is what he said.

Mr. DENT. I beg your pardon, but I did go over the situation with Congressman Jennings in the hope of reaching some kind of a base from which we would both reach a reasonable procedure here.

I repeated to Mr. Jennings exactly what I repeated here, and he agreed to it.

Mr. GILLIAM. Congressman, what I would have to agree to, then, is that I concur in the determination by the Bureau that use of fuse and caps creates an imminent danger, and I would have to concur, and refute what I previously said, that 50 percent of the mines would not be closed down.

I believe we can establish that 50 percent would be closed down. If that is what Congressman Jennings has stated, we would have to respectfully disagree with him, also.

Mr. DENT. Did you ever look at the records of the congressional debates on the original safety bill?

Mr. GILLIAM. Yes, sir.

Mr. DENT. Could you give the committee the benefit of your recollection, and tell the committee how many mines were professed to be closed within 1 year after passage?

Mr. GILLIAM. No, I could not do that.

Mr. DENT. They prophesied that better than two-thirds of the mines covered by the law would be closed down within 1 year after passage of the act.

If you take that as a criterion——

Mr. GILLIAM. As I recall, there was something in the order of 2,000 title II mines in 1950, and probably there are not more than a thousand right now. I am sure the mine safety law has nothing to do with that, but we do not represent the title II industry.

Mr. DENT. Many of the mines were closed. As the gentleman who preceded you stated, they closed their large mines and are now operating a lot of little ones.

Mr. GILLIAM. That is a fact of life, and it is a fact because of the costs of producing coal today, which are tremendously higher due to a number of factors.

It is impossible to operate a title I mine under a union contract and pay a union wage unless that mine is mechanized. That is a fact of the economics of the industry. That is why there are so many small mines being run in the industry today.

Mr. DENT. Are you making the assumption that the passage of this bill would unionize the small mines?

Mr. GILLIAM. I am not making that assumption.

Mr. DENT. How would it increase the costs, if you have the same inspection that you have today?

Mr. GILLIAM. That will happen in several ways.

I think Mr. Mullins' testimony on this was very clear. He said that if you do not use fuse and caps and shoot from solid, you create such a danger that it is possible that the State inspectors would have to close that mine. That is simply an unsafe procedure.

And secondly, if you use electric detonators, you will have to undercut your coal. Undercutting equipment is expensive, and the title I operators in Virginia and in Kentucky do not generally do that. Some do, if they have a good enough seam of coal. It is very expensive, and also the electrical equipment which would have to be hooked up to that undercutting equipment is also expensive, and it is not necessary from the point of safety.

Yes, if we used electric detonators, we could mine the coal only if we used undercutting equipment.

Mr. DENT. Is it not true that if that hypothetical case you are talking about took place under the very provisions of this act, that the Federal inspector would be subject to a review and his decision would be subject to a review, and that it would only take a pilot case to demonstrate, and to establish the basis for the use or nonuse of any particular type of detonating equipment?

Further, which do you believe would serve the purpose best of safety, closing a mine because of what an inspector trained in his work determines to be the imminent danger, or closing that mine because a mine operator failed to make a statistical report?

And how would the closing one way or the other affect the economy more than the other would?

Mr. GILLIAM. Congressman, you have given three questions to me.

Mr. DENT. That is right. They are all related.

Mr. GILLIAM. I am having a little bit of trouble following them.

Mr. DENT. Let me give you the first one. How would the interests of safety be better served by closing a mine because a mine operator failed to report a statistical report, or closing that mine because a licensed inspector determined that there was imminent danger?

Mr. GILLIAM. If we are talking about safety and closing mines, as protecting the people within the mines at the time the safety problem arises, certainly if there is a safety problem, it ought to be closed by the State or Federal inspector.

I think there is a relationship, however, in the disclosure of the statistics which would be brought forth by Mr. Taggart's proposal, and I think it is related to safety.

I think that neither the Congress, nor the State, for that matter, really know yet from a scientific point of view, nor does the Bureau of Mines know, what the trouble is in these mines. We do not have adequate statistics.

I have statistics which I propose to submit which would indicate that the title I record is better on man-hours of exposure for the last 3 years than the title II record.

This comes out of official reports.

I suggest this to you, sir, in all honesty, we honestly do know how many men work in these mines in these States. They have to have a license in order to get into business. They have to count men. They have a sanction to close them down if they do not get that information.

The Bureau of Mines, in response to Congressman Bell's questions, said that they get their information from the questionnaires which they send out, and from State data, but they do not challenge the State data, and they do not use it, because the State data and their data is 180° out of whack.

That means our fatality record presented to Congress looks worse than the title II record, and in fact, it is better.

Mr. BELL. On this point, let me read the answer.

The Bureau's disagreement with the States' statistics on the number of title I mines, number of men working in them, and the tonnages produced by them has not been investigated.

That is their answer.

Mr. DENT. Might I just say at this point an earlier witness said that it was illegal in the State of Virginia to give the Bureau of Mines the statistics they asked for.

Mr. GILLIAM. I am awfully glad you brought that up, because it needs clarification.

Yes; it is illegal to give tonnage information with respect to one mine. That tonnage information has been fed time and time again to the United Mine Workers, who have then used it for whatever purposes they want, through the Bureau of Mines.

The State has protected the nonunion operators in their State from this kind of disclosure.

I think, frankly, there ought to be complete disclosure of all the mines. I think that would eliminate a lot of confusion.

Mr. DENT. You want an accusation to stand on the record that the Bureau of Mines uses confidential information to help the United Mine Workers, as you say; that your State uses the opposite procedure and, in your own language, protects the nonunion miner?

Mr. GILLIAM. I would say they protect him from the use of this confidential information, and that the Bureau of Mines does not.

I would state further that, as you heard the testimony today, you have an inspection by a Federal inspector and, before the operator receives the news of what that inspector found, there will be a tele-

gram sent from Mr. Ferguson, who sent in a statement here today, which will advise the State officials that there is a dangerous situation.

That gets to the States, in many instances, mind you, before any official report comes from the Bureau of Mines.

There is no provision under the law, as far as I know, for that information to be given to the United Mine Workers.

Mr. DENT. By somebody in the mines?

Mr. GILLIAM. Of my own knowledge, I do not know, because I am not there. All I do is get the information. I think the facts speak for themselves.

Mr. DENT. Go ahead.

Mr. BELL. I want him to first complete his answer.

Mr. GILLIAM. All I want to say, Congressman, is that we can show you the letters, telegrams, and inspection reports. I do not know where they came from, except I know that they have the information that is derived by the Bureau inspection. That is enough for me. I do not know who else is inspecting them, except the Bureau and the States.

Mr. DENT. That is enough for you. Is there something illegal in there?

Mr. GILLIAM. I am not suggesting, Congressman, that there is anything that violates present law. I am suggesting, however, that the use of the Bureau of Mines, or the cooperation in this respect, is something that creates a very, very bad situation in the States where it operates, and it operates in Virginia, and it operates in the other States.

This situation is something between the mine operators and the Bureau of Mines. It has nothing to do with the United Mine Workers. In many cases they are not union mines. If they are union mines, they are entitled to the information, under their contract. They have no contract which requires them to be given this information. And they do not get it from the operator; I can assure you of that.

Mr. DENT. I understand, of course, maybe you do not, that Mr. Ferguson is a member of the Mine Workers' Board of Review.

Mr. GILLIAM. This is sent in in his name, as safety director of the United Mine Workers, not of the Board of Safety Review.

Mr. BELL. I see reference to a situation existing between the United Mine Workers and the Bureau and possibly large operators and what-have-you.

Do you know anything about a case before the U.S. Supreme Court, *Pennington v. United Mine Workers*, and what happened in the previous courts? Could you describe that?

Mr. DENT. It has something to do with mine safety?

Mr. BELL. Yes; to the relationship which you have now gotten the witness talking about.

Mr. DENT. Are we going to review the Supreme Court?

Mr. BELL. You are talking about relationships between the Bureau and the United Mine Workers.

Mr. DENT. No; we are not. We are talking about reports on safety, violations, or conditions that are reported back.

Mr. BELL. Mr. Chairman, let me say that the discussion was a report on tonnage, primarily, and that is not mine safety directly involved. You got involved in the relationship between the Bureau and the United Mine Workers.

Mr. DENT. Will the gentleman answer the question, if he so desires, and let's see where it is connected.

Mr. GILLIAM. There is a case called *Pennington v. United Mine Workers*. The burden of that case is in a counterclaim. A small title I operator sued the union for violation of the Sherman Act, alleging a conspiracy to eliminate small operators. The jury returned a verdict of \$275,000 in favor of Pennington. The case was reaffirmed before the court of appeals, and is now before the Supreme Court.

Mr. DENT. That has nothing to do with the contents of this hearing. I think the witness will agree. That was an international agreement written between the United Mine Workers and certain mines on the distribution and acquisition and the purchase and sale of coal which was taken to court. I have no quarrel with the court or anybody else on it.

Mr. GILLIAM. May I try to connect the two for your information? We have been talking about fuse and caps and interpretation of imminent danger.

The fuse and caps provision comes out of the safety code which was drafted by the United Mine Workers in conjunction with the Bureau of Mines. The United Mine Workers was the instigating force behind it.

We know that the United Mine Workers receive these reports and in many cases the operators do. It is our feeling that the fuse and cap provision is being pushed by the United Mine Workers and that, in effect, will put out of business 50 percent of our mines, and that is related to the *Pennington* case in that the allegation was that it was the intention of the union and the large operators to eliminate small operators. This will do it.

Mr. DENT. There were no allegations anywhere along the line that the safety cap provision was used by either one of the two.

Mr. GILLIAM. Not yet, but there was reference to the Walsh-Healey provision, and that was discussed in that case, and it would not be the first time that an official body was used in this way.

Mr. DENT. Do you have any questions, Mr. Daniels?

Mr. DANIELS. No.

Mr. DENT. Mr. Hawkins?

Mr. HAWKINS. No.

Mr. GILLIAM. I would like to state for the record that the statement of Mr. Holcomb will speak for itself.

I think the committee ought to consider what we as an association have done to improve coal mine safety. I think we have done more as an association in the title I mines than the Bureau of Mines themselves have done with respect to title I problems.

Our recommendations and what we have done are set forth in this statement.

I would also like to say this: We have heard a great deal about the problems of poverty in Appalachia. Now, in Pikeville, Ky., there is a thriving community. This is a community of progress in a sea of poverty. Why is it so? Because in this area the title I operators have operated safe mines—good mines. They poured \$35 million into the economy of Pike County alone.

If this bill affects these people as it inevitably will, the poverty bill is going to have to be amended, and it is going to have to be amended way, way up.

I do not believe that if you are considering mine safety you can consider it in an island. You cannot consider it by itself. You have to look at what you are doing to an industry, and what you are doing to the major industry, mind you.

And I believe it will show in Appalachia that the title I operations are the backbones of many of these distressed areas.

You are working at cross purposes to what the administration is seeking to do in the Appalachian and poverty bills.

We are important to the economy of Appalachia, and this committee, before it considers mine safety in a vacuum, should consider that fact.

Mr. DENT. I would resent that this committee is considering this legislation in a vacuum, unless you people make up the vacuum, because we have been listening to witnesses for 6 years.

You talk about Appalachia, and you use Appalachia as a weapon, as it were. If Appalachia does anything, we had better not touch any of the operations in the area.

The Governor of Pennsylvania made it his business to come before the President of the United States asking for extra appropriations, which amounted to \$10,200,000. What was that money for? That was money to clean up situations left by abandoned, in the main, small mines. That was put into the bloodstream of my State, Virginia, and West Virginia.

I would not speak of Virginia, because it has a wall around it, where nothing is wrong, but in my State, plenty is wrong. And the Appalachia program is needed primarily in our section because of what happened by the abandoned mines that have made our streams useless.

We are going to spend \$47 million for the purpose of cleaning up the mess left by the abandoned mines. The reason we cannot have industry in there, and if you will read the Appalachia appeal by the President, the statements by Governor Scranton, is we have to go in and clean up what was left by the abandoned mines, because industry would not come in.

The commissioner of labor from your own State said it is impossible to get industry. Why? Because of the blighted areas.

If we had Federal inspection in those mines years ago, you would not have had the seepage from mines that were abandoned.

We have spent millions of dollars trying to even find these unlicensed mines. The State does not give the information to the Federal Government. How can they know where these mines are?

Mr. BELL. Mr. Chairman, to get back to the subject—

Mr. DENT. That is on his Appalachia plea.

Mr. GILLIAM. Congressman, I was there the day Governor Scranton talked. Mr. Holcomb was there the day Governor Scranton talked, and he submitted a statement for the record, and he read that statement into the record, and what he said in that statement was not challenged.

He said there is no direct aid to any mine industry as such. Sure, we are cleaning up the streams, sure, we are filling in the holes, but there is no aid to keep these people in business in this Appalachian bill. That is a fact.

The reason why it is a fact is because the main beneficiaries—and this is the burden of his testimony, and it is on record—would be the title I operators who are nonunion.

And, in fact, that statement was made not only to the Senate, but to the House. Eight Democratic Congressmen, and I am a Democrat, sat on their hands and never challenged that statement. It was made to the Public Works Committee.

I will make it here today. It will not aid any one of these title I operators in any way. So far as the consideration of coal as an industry, it has not been considered, in my opinion, for one reason, for the political reason that the United Mine Workers do not want the money to go to the title I operators.

Mr. DENT. You are making some very broad statements. I am certainly sure that the United Mine Workers, if they have a representative here, will be glad to answer your allegations to the committee.

I do not believe even you, in your enthusiasm for your clients, would take the position that the United Mine Workers would deliberately hold back the rehabilitation of any of the areas in Appalachia for selfish purposes. That is the statement you made. I do not believe it.

Mr. GILLIAM. They have said in the Mine Workers Journal that coal ought to be aided in the Appalachian bill. They have supported the Appalachian bill. Do not misunderstand me. But they have not supported and, in fact, they have opposed direct aid to mines, and one of the things they wanted to put in the bill was a provision on coal mine safety. This was submitted to the Appalachian task force, and it was rejected.

This is a political thing we are talking about.

Mr. DENT. I appreciate your testimony, but as I get most of the testimony in my mind today, there is not so much opposition to the mine safety legislation, but it is opposition to the United Mine Workers.

If you will review the testimony, there is all through this a feeling that this Congress, or somebody, is in league with a diabolical scheme to force all the miners in Virginia to join the United Mine Workers, and the independent coal operators are going to extend every effort to keep that from happening.

I doubt if the passage of this bill will add one single member to the United Mine Workers who does not want to join.

Mr. GILLIAM. I certainly hope not. I think that collective bargaining we are certainly in favor of, and we have never opposed it. I believe that is the area where the mine workers ought to work, not in the Appalachian area, not in this bill, but in the business of collective bargaining.

In this bill, yes, you have heard about the United Mine Workers, because these facts we brought up to you are facts, and I think the record will demonstrate their interest in the proposed legislation.

Mr. DENT. Did you propose any amendments to Appalachia that would have helped?

Mr. GILLIAM. Yes, we did.

Mr. DENT. How come it did not come to the attention of those vitally interested in title I, title II, and others?

Mr. GILLIAM. We may have overlooked you, Congressman Dent, but we certainly have talked to a great many other people.

Mr. DENT. I think maybe you might look in the record, that in most instances when coal is mentioned, and oil is mentioned, you will find that the records are replete with instances where my interest lies.

Mr. GILLIAM. We had a West Virginia representative that heard my story, and did not say a word.

Mr. DENT. I did not hear it. I am glad to know you tried. We might have helped you.

We thank you. We do not know what the answer will be.

Without objection, Mr. Holcomb's statement will be in the record. (Statement referred to follows:)

STATEMENT OF ROBERT HOLCOMB, PRESIDENT, NATIONAL INDEPENDENT COAL OPERATORS ASSOCIATION

My name is Robert Holcomb. I am president of the National Independent Coal Operators Association.

In previous hearings before this committee, the small mine industry has been accused of being uninterested in safety and operating under substandard safety conditions. I should like to take this opportunity to present something of the positive side of the picture.

As early as 1958, when this association was first founded, NICOA's leadership met with State mine authorities to work out joint ways of improving safety. The Kentucky Department of Mines and Minerals, as an example, gives much credit to the pioneering work of NICOA for the 55-percent reduction in roof fall fatalities in 1962, plus 20 percent more in 1963.

NICOA's safety program has been divided into two parts: First, establishment of meaningful small mine inspection; and second, conducting effective safety education.

NICOA has also played an important role in getting mine inspectors in Kentucky placed under civil service protection. Also, while State inspectors are required to be knowledgeable in the broad gamut of mine problems, NICOA has recommended and been insistent in its point that each inspector become a specialist in at least one violation that is a primary cause of serious accidents. The key areas are roof control and timbering (roof falls cause 80 percent of the small mine fatalities); equipment and machinery; and air control and ventilation. In Kentucky, inspection specialization, coupled with streamlined inspection forms and records, has resulted in a 75-percent increase in inspection productivity.

Careful records are kept, not only on every mine but on every operator. If a mine is found to be prone to continuous violations, it will be inspected regularly, at least once a week. When a given operator with a bad record goes into a new mine he is followed and inspection is frequent and severe. When NICOA learns that an operator continuously has been careless of mine safety, the association will bring the matter to the attention of State authorities and cooperate in forcing the operator to employ safe mine practices. In the field of safety education, NICOA has cooperated in setting up a series of training courses in Kentucky and Virginia. Courses taught by regular mine inspectors are for one night a week for 10 weeks. Workers are taught mining law, good work habits and the consequences of bad habits. A special slide presentation on mine accidents is made showing graphically what happens when good safety habits are neglected. Miners, like other people, tend to think it can't happen to them, but when they see on the screen what has happened to others like themselves it is very difficult to shrug off safety precautions.

The most recent innovation in motivating good safety performance, on the part of both operator and employee, has been a proposal by NICOA to Kentucky officials under which workman's compensation rates would be tied in with safety education and proneness to accidents. Under this plan, mines will be categorized as class A, class B, class C, and class D. In a class A mine, all miners would have attended safety courses and the mine itself would meet all safety requirements. In a class B mine, some, but not all, miners would have attended a safety course, and the mine would have satisfied safety standards. Miners of a class C mine would not all have attended a safety course and the mine would have violated some safety requirements. Class D mines would be closed until safety requirements had been met.

Class A mines, under the proposed NICOA plan, would have the lowest workman's compensation rates and class C the highest. Even under present conditions, accidents cause a heavy compensation rate burden.

Rates presently are stated to average from 5 to 12 percent of an employee's wages. This is nearly doubled by an insurance company when a fatality occurs. One company, a member of NICOA, had gone for 15 years without a fatality, lost an employee through an accident which was entirely the workman's own fault. As a result of this death, the company's insurance jumped from \$5 to \$9 for \$100 of wages. Although NICOA has worked very closely with the State officials and has been able to thus innovate and implement safety programs in cooperation with these officials, it has never had such a working relationship with the Federal Bureau of Mines. Indeed, the only contact which the members of the association have had with the Bureau of Mines occurred last year when the Bureau, having been directed by the President to study the causes of major disasters in two title II mines met with the larger operators, and the union and came up with a bill to put the small mines under Federal jurisdiction, presumably as a means of curing disasters in title II mines.

The title I industry was not invited to participate in the discussions which led to the formulation of this bill, but ultimately at the demand of a Congressman were given an opportunity to present their case. After a brief oral session they were told to have their entire presentation in writing within 24 hours after the meeting because of the immediate action which was to be taken on the draft legislation. No action was taken by the Bureau for 2 months thereafter. As a result of these and other actions, it is understandable that the small title I industry would wonder whether the Bureau of Mines had its best interests at heart. Additionally we are beginning to wonder when the Bureau will make a study of title II mines to determine what is happening to bring about the disasters there.

The record does not establish that this bill, if enacted, will achieve safety. The record does not establish that such a law is necessary to alleviate unsafe conditions. The record does establish, however, that there are real—not apparent, but real—fears that economic suffering will result from an extension of the coverage of the Federal Mine Safety Act to title I mines. Is this a time for gambling with the livelihood of thousands in the depressed regions of Appalachia? We leave this to the conscience of the committee.

In addition to our failure to understand the apathy and hostility with which the Bureau of Mines treats title I operations, we are further distressed at the attempts of the Bureau of Mines to make our safety record look worse than it is. For example, on page 410 of the hearings which took place last year, you may see that the Bureau states that there were 24,941 men employed in title I strip mining operations in 1961. The Bureau also states that there were 1,744 title I strip mines in operation in that year. However, even if each of the title I mines employed a full force of 14 men and no less, and certainly they did not average that high, there would only be 24,416 men employed or 500 less than the Bureau figure. Moreover, the Bureau figures state that 24,941 men were engaged in title I strip mining and 31,051 engaged in underground mining, or 6,110 more men engaged in underground mining than strip mining. However, the Bureau found that the 24,941 men had 43,038,045 man-hours and the 31,051 had 39,051,363 man-hours, a difference of almost 4 million man-hours. I simply do not believe that the 6,000 more that were engaged in underground mining had 4 million less man-hours than the men working in strip mines. Furthermore, I believe that the Bureau has padded the number of men working in strip mines in order to reduce the number of man-hours in title I underground mines.

Certainly the Bureau has made no serious effort to obtain the proper information concerning the number of man-hours in title I mines. For example, the State of Kentucky reports in its year book that 2,379 title I mines were licensed by the State of Kentucky. The Bureau shows only 1,558 mines for that year. Kentucky states that 17,190 men were employed in these mines in 1961. The Bureau reports only 8,247 men. Is the Bureau challenging the Kentucky figures? It would seem that Kentucky would have a better opportunity to obtain these figures; all of the mines must be licensed by the State and Kentucky has the sanction to close down the title I mines which were not licensed and were not affording the number of men employed. Kentucky had no stake in trying to build up or fictionalize the number of mines or men employed. To do so would mean that they would lose license fees and tax fees. However, the Bureau of Mines would appear to have some stake as an advocate in this matter.

Look at the Virginia reports for 1961. Virginia states that there were 1,576 title I mines and the Bureau says there were only 1,111 such mines. Mr. Boggs and Mr. Mullins have told this committee that Virginia licenses these mines and

that it knows where and who the operators are. Does the Bureau challenge the Virginia figures? Virginia employment reports 8,247 men in title I mines in 1961 and the Bureau reports 6,405 men for the same period. Obviously the fatality records are affected by the number of man-hours, and obviously the number of man-hours are affected by the number of men working in the mines. For that reason I do not believe that this committee ought to listen to the Bureau of Mines statistics on this matter. Furthermore, I think this talk about the killing of people in title I mines is pure nonsense. There is not as great, in my opinion, a fatality rate in title I mines per man-hour of exposure as there is in title II, and if we are going to close title I mines for killing men we ought to close all mines since the title I record is just as good as the title II record.

What can be done about coal mine safety? Mr. Harry Gandy, Jr., director of safety of the National Coal Association, which comprises the larger operators as well as the United Mine Workers, has written an article for *Coal Age* which sets forth some of his views. He states, "I am one that believes that safety cannot be legislated." He pointed out that the Bureau of Mines lists 18 different work locations or causes of accidents in underground mines, and that there is one golden rule that can be applied in all of these circumstances, from falls of roof to falls of people, and he states, "It might be the one word that IBM has made famous—'Think.' We must have our safety inspections, our regulations, our slogans, posters, envelope stuffers, signs and everything else, but none of them does much good unless you think about them so long and so hard that they become instinctive." He points out that the rule that says, "Don't work under undersupported roofs" is just as critical and should become just as instinctive a danger as the prehistoric shout that meant "look out for tigers." He states that it is the job of management to create this instinct. He points out further that we need to give careful planning to our safety training sessions, that we need to consider disciplining a man who has had an accident when his injury resulted from a violation of a safety rule, and he points out some of the factors which the accident-free mines had. They were "(1) a sincere desire on the part of both management and employees to prevent injuries; (2) a very obvious effort to determine why certain incidents occurred, and then to do everything possible to eliminate the hazards and actions which lead to injuries; (3) an obvious pride in safety accomplishments as well as mine performance; (4) a well-organized active safety department respected by management and employees alike; (5) an eagerness to discuss safety matters with anyone who might contribute something to further their efforts; (6) an acceptance by the frontline supervisor of his responsibility for prevention of injuries with assistance by the safety department and for supervision in his efforts; (7) a safety director with staff status or one responsible to an official charged with the overall operation of a group of mines."

Before the committee moves to apply legislation against the title I mines which would endanger their existence, I believe it should know how important these mines are to the community in which they operate. The manner in which the small mines help Appalachia can be seen by examining the effect of one of these small mines in a typical area, Pikeville, Ky. Even before the mine is built, a local construction company will realize approximately \$1,000 or more building new access roads, facing up the coal and excavating the coal debris. Subsequently, nearby mine equipment companies will get orders for approximately \$15,000 in new equipment for the new mine, including motors, drills, fans, and many other items.

Next, a sawmill located nearby will furnish lumber valued at around \$1,500. Other material used by the mine will include sheet iron, tin siding and numerous other items, all purchased from local merchants and distributors.

After the completion of the mine, eight men will be employed for inside work. In addition, a truckdriver will be hired, making a total of nine men employed. This means nine families will have a source of income. It also means that nine families are not on relief.

The average family in Appalachia consists of a man, his wife, and four children. This means that every merchant in the community has 54 potential new customers who now have money in their pockets. It also means money to the Federal, State, county, and municipal governments in the form of taxes. In 1964 the small mines poured \$35 million into the economy of Pike County.

In addition to the men employed directly by the mine there should be a proportionate number of man-hours added to the employment figures for handling of coal on the ramp or tippie, loading railroad cars, billing the coal, providing

equipment and supplies, such as trucks and machinery, powder, gasoline, tires, and other items; and for a sales agent's time.

More than 50 percent of the small mine industry is composed of cooperative business entities. Take the people with whom my own company deals. I am president of Dixie Mining Co. of Pikeville. This company was formed in 1954 by myself, Charles D. Roberts, and Robert C. Billips. We pooled our funds and established a preparation plant and loading platform in Pikeville. We also obtained leases on coal land in the area.

At about the same time Clifford Coleman, a laid-off miner with a second-class foreman's certificate, decided that it was better to pick up any mining work that he could than to be dependent upon handouts. He and three cousins, also out of work, pooled their talents to form the Big Four Coal Co. They obtained help from Dixie Mining and a contract to mine certain parcels of leased land.

In the beginning Mr. Coleman stated that he felt lucky to earn \$10 to \$12 a day. However, today he is averaging \$20 to \$25 a day per man after all expenses are paid. Members of the Coleman group share equally in the proceeds. Hirings and firings are decided democratically by vote. Hospitalization of \$14.35 is paid one-third by Dixie and two-thirds by Big Four Coal.

Since Big Four Coal started, 25 other operators have followed their lead, some cooperative and other corporate entities, essentially dealing through Dixie. As is the case elsewhere in the small mine industry, these producers are morally obligated to sell their coal to the ramp operator holding the lease only so long as he pays prevailing prices. When the price is not maintained, the operator is free to sell his coal elsewhere.

Three hundred thousand tons of coal were shipped through Dixie Mining in 1963 and the average miner's wage was \$18 to \$20 a day. Under the stringent safety standards of this group there have been no serious accidents since the lease land was first mined 10 years ago. Additionally, there is a bright future for the small mine industry, if it can be permitted to survive by the Government. In 1958 the small mines were producing less than 10 percent of the country's bituminous coal and today their share is about 25 percent and by 1975, if the present trends continue, it will be more than 35 percent. However, there are tremendous needs for Federal aid to these small mines. Three of these needs which must be satisfied if the small mine industry is to help brighten the employment picture in Appalachia are:

1. Management training sessions for the small mine operators—many individuals interested in starting new mine enterprises and sharing in the growing coal economy are unable to do so because of lack of business know-how.

2. Sound financing for small mines—an effective small mine can be established for less than \$25,000 capital. In the past, traditional sources of funds have been reluctant to invest in small mines.

3. Fiscal aid in the creation of mammoth cooperatives for storage, processing, and shipment of coal. The first requirement for establishing a prototype cooperative is a grant of approximately \$50,000 for an engineering feasibility study covering the most appropriate location and the necessary equipment for a small mine cooperative marketing organization.

The story of distress and poverty in the coal mining regions of Appalachia is not new; it has been spread far and wide by the news media, by reports of Government agencies and by the hearings of this committee. However, there is a story about the coal mining industry which few people know and that is the story of pockets of prosperity in the midst of poverty.

In my hometown, Pikeville, people 6 years ago talked about pulling up stakes and moving elsewhere to make a living. Today Pikeville is experiencing an economic boom and there is a growing spirit in the community. Investment is up, a new shopping center, an \$800,000 motel, a \$750,000 bowling and recreation center have all been built recently to mention a few of the more obvious examples. The Pike County News has increased circulation. Pikeville College is prospering and bankers, builders, and professional men are all optimistic about the future.

Yet the passage of this legislation would put economic burdens on the people who have already, through their own heroic effort, managed to emerge from the depression of 6 years ago. That this is being done in the ostensible name of safety does not justify the act.

It is my belief that the entire Appalachian program will be a failure if nothing is done to preserve competitive opportunities of the small coal operators. Certainly the Government should not hand out with one hand and take away with the other. We do not ask for relief, we want only the opportunity to work for an honorable living.

Mr. DENT. I am going to ask the committee to meet tomorrow morning, and to take under consideration the bill offered by the gentleman, Mr. Taggart, and also the amendments suggested by the gentleman from Virginia, Mr. Jennings.

For that purpose, the meeting stands adjourned until tomorrow morning at 9:15, when we will have an executive meeting.

(Whereupon, at 4:15 p.m., the subcommittee was adjourned, to meet in executive session at 9:15 a.m., Thursday, March 11, 1965.)



