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AMENDMENTS TO THE FEDERAL COAL MINE SAFETY ACT

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON LABOR

OF THE

COMMITTEE ON LABOR AND PUBLIC WELFARE

UNITED STATES SENATE

EIGHTY-NINTH CONGRESS

FIRST SESSION

ON

S. 1032 and H.R. 3584

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

JUNE 14 AND 21, 1965

Printed for the use of the Committee on Labor and Public Welfare

AUTHENTICATED
U.S. GOVERNMENT
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U.S. GOVERNMENT PRINTING OFFICE

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AMENDMENTS TO THE FEDERAL COAL MINE SAFETY ACT

JUNE 14, 1965

U.S. SENATE,
SUBCOMMITTEE ON LABOR OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to call, in room 4221, New Senate Office Building, Senator McNamara, chairman.

Present: Senators Morse (presiding pro tempore), Randolph, Kennedy of New York, and Fannin.

Also present: Senator Clark, a member of the full committee, and Senator Cooper, of Kentucky.

Committee staff members present: John S. Forsythe, general counsel, John Bruff, counsel for the subcommittee, Stephen Kurzman, minority counsel of the committee, and Frank Cummings, minority labor counsel.

Senator MORSE. The hearing will come to order.

This opens our hearings on S. 1032 and H.R. 3584, Federal Coal Mine Safety Act amendments.

(S. 1032 follows:)

89TH CONGRESS
1ST SESSION

S. 1032

IN THE SENATE OF THE UNITED STATES

FEBRUARY 8, 1965

Mr. Moss (for himself, Mr. BARTLETT, Mr. BAYH, Mr. BURDICK, Mr. DOUGLAS, Mr. GRUENING, Mr. HARTKE, Mr. MCGEE, and Mr. METCALF) introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

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 Public Law 552, Eighty-second Congress, entitled "An Act to amend Public Law 49, Seventy-seventh Congress, so as to provide for the prevention of major disasters in coal mines", approved July 16, 1952 (ch. 877, 66 Stat. 692; 30 U.S.C. 471), be amended by striking out section 201 (b) thereof.

89TH CONGRESS
1ST SESSION

H. R. 3584

IN THE SENATE OF THE UNITED STATES

JUNE 2, 1965

Read twice and referred to the Committee on Labor and Public Welfare

AN ACT

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 redesignating 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 representa-

tive 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 con-

sultant 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, and a State inspector did not participate in the

inspection on which such order is based, the duly authorized representative of the Bureau who issued the order shall notify the State mine inspection or safety agency immediately, but not later than twenty-four hours after the issuance of such order, that such order has been issued. Following such order the operator of the mine may immediately request the State mine inspection or safety agency to assign a State inspector to inspect the mine. The State agency shall then promptly assign a State inspector to inspect the mine affected by such order and file an inspection report with the Bureau and the State agency. The order of the duly authorized representative of the Bureau shall remain in effect, but shall immediately be subject to review as provided in this title.

"(2) No order shall be made pursuant to subsection (c) or (d) of this section with respetc 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 inspec-

tor 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) Subsections (a), (b), (c), and (d) of section 205 of the Federal Coal Mine Safety Act (66 Stat. 697; 30 U.S.C. 475) are amended to read as follows:

"(a) The Federal Coal Mine Safety Board of Review is hereby continued as an agency of the United States, except that the Board shall consist of five members, instead of three members, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) The terms of office of members of the Board shall be five years, except that—

"(1) the terms of office of members in office on the date of enactment of the Federal Coal Mine Safety Act Amendments of 1965, shall expire on the date originally fixed for their expiration,

"(2) the term of office of one of the members appointed to fill a vacancy resulting from the enactment of the Federal Coal Mine Safety Act Amendments of 1965 shall expire July 15, 1969, and the term of office of the member appointed to fill the other vacancy resulting therefrom shall expire July 15, 1970, and

"(3) a vacancy caused by the death, resignation, or removal of a member prior to the expiration of the term for which he was appointed shall be appointed only for the remainder of such unexpired term.

The members of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(c) Each member of the Board 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 other related expenses. The Board, at all times, shall consist of one person who by

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reason of previous training and experience may reasonably be said to represent the viewpoint of operators of coal mines employing fourteen or fewer employees underground (hereinafter referred to as 'small mine operators representative'), one person who by reason of previous training and experience may reasonably be said to represent the viewpoint of operators of coal mines employing fifteen or more employees underground (hereinafter referred to as the 'large mine operators representative'), one person who by reason of previous training and experience may reasonably be said to represent the viewpoint of coal mine workers in mines employing fourteen or fewer employees underground (hereinafter referred to as the 'small mine workers representative'), one person who by reason of previous training and experience may reasonably be said to represent the viewpoint of coal mine workers in mines employing fifteen or more employees underground (hereinafter referred to as the 'large mine workers representative'), and one person who shall be chairman of the Board, who shall be a graduate engineer with experience in the coal mining industry or shall have had at least five years' experience as a practical mining engineer in the coal mining industry, and who shall not, within one year of his appointment as a member of the Board, have had a pecuniary interest in, or have been regularly employed or engaged in, the mining of coal, or have regularly represented

either coal mine operators or coal mine workers, or have been an officer or employee of the Department of the Interior assigned to duty in the Bureau.

"(d) The principal office of the Board shall be in the District of Columbia. Whenever the convenience of the public or of the parties may be promoted, or delay or expense may be minimized, the Board may hold hearings or conduct other proceedings at any other place. At the request of an operator of a mine the Board shall hold hearings or conduct other proceedings at the county seat of the county in which the mine is located or at any place mutually agreed to by the chairman of the Board and the operator of the mine involved in the appeal or proceeding. The Board shall have an official seal which shall be judicially noticed and which shall be preserved in the custody of the secretary of the Board."

(d) Subsection (f) of section 205 of such Act is amended to read as follows:

"(f) Three members of the Board shall constitute a quorum, and official action can be taken only on the affirmative vote of at least three members, except that in any official action involving mines in which no more than fourteen individuals are regularly employed underground the participation of the small mine operators' representative and small mine workers' representative shall be required, and in any official action involving mines in which more than fourteen

individuals are regularly employed underground the participation of the large mine operators' representative and large mine workers' representative shall be required; but a special panel composed of one or more members, upon order of the Board, shall conduct any hearing provided for in section 207 of this title and submit the transcript of such hearing to the entire Board of its action thereon. Such transcript shall be made available to the parties prior to any final action of the Board. An opportunity to appear before the Board shall be afforded the parties prior to any final action and the Board may afford the parties an opportunity to submit additional evidence as may be required for a full and true disclosure of the facts. Every official act of the Board shall be entered of record, and its hearings and records thereof shall be open to the public."

(e) 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 re-

designated 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."

(f) 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 hear-

ing, 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)(1) 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.

"(2) The Secretary of the Interior may also make grants to States to assist them in planning and implementing programs for the advancement of health and safety in coal

mines. The amount granted any State for a fiscal year under this paragraph may not exceed 50 per centum of the amount expended by such State in such year for carrying out such programs and no one State may be granted an amount in a fiscal year which exceeds 15 per centum of the aggregate amount granted all States for that year. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1966, and each of the succeeding fiscal years for carrying out this paragraph, the sum of $500,000."

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.

SEC. 7. (a) The Secretary of the Interior shall, as soon as feasible after the enactment of this Act, convene one or more conferences for the purpose of enabling those persons affected by this Act to become familiar with its provisions, particularly the enforcement provisions of section 209. The Secretary shall invite the participation in such conference or conferences of (1) mine safety experts of the Department of the Interior, (2) representatives of the appropriate State

mine inspection or safety agencies, (3) representatives of owners and operators of all classes and categories of coal mines, (4) individuals or representatives of individuals employed in all classes and categories of coal mines, and (5) such other experts as he deems advisable.

(b) The Secretary of the Interior shall, upon the enactment of this Act, immediately provide the operator of each mine subject to inspection as authorized by section 202 with a copy of the form used in coal mine inspections by agents of the Bureau of Mines, clearly indicating the enforceable provisions of the Federal Coal Mine Safety Act. Such information should be in such form as would be readily comprehensible and shall include a complete description of the procedures available to an operator to seek the annulment or revision of an order of an agent of the Bureau of Mines. Nothing in this section shall be construed as authorizing the Secretary to modify the provisions of the Act.

Passed the House of Representatives June 1, 1965.

Attest: RALPH R. ROBERTS,

Clerk.

Senator MORSE. We will have the proponents today; if necessary for a longer hearing we will have them tomorrow morning.

The Chair will have to recess this hearing at 5 minutes to 12. He must be on the floor for debate, but I will convene it tomorrow morning if we have to continue at 9:30.

I shall put in the record a letter to the chairman of the Subcommittee on Labor, Senator McNamara, from Senator Frank Moss, of Utah, accompanied by a statement of his own.

(The statement and letter referred to follow:)

STATEMENT OF HON. FRANK E. MOSS, A U.S. SENATOR FROM THE STATE OF UTAH

Mr. Chairman and members of the subcommittee, since the 86th Congress I have been the principal sponsor in the Senate of a bill to amend Public Law 82–552 by deleting section 201(b) which provides that title II of the act shall not apply to mines in which 15 or fewer individuals are regularly employed underground. In the 89th Congress, my bill is S. 1032 and is cosponsored by Senators Bartlett, Bayh, Burdick, Douglas, Gruening, Hartke, McGee, and Metcalf.

I have long felt that the enforcible safety provisions of the Federal Coal Mine Safety Act should be applied to small mines, as well as large ones, if the products of that mine regularly enter commerce, or if the mine operations substantially affect commerce.

We are all aware of the arguments made by those who oppose the deletion of section 201(b). It is most certainly true that small mines differ in some respect from large mines, and it would be insupportable to impose additional requirements on small operators if it would not improve the safety of the men who work in them. This has been the stumbling block that has held the bill up in past sessions of Congress.

It is, therefore, with interest that I have viewed the efforts, both in this Congress and the last, of the General Subcommittee on Labor of the House Committee on Education and Labor, and especially of its chairman, Congressman James Roosevelt, and its ranking majority member, Congressman John H. Dent, to work out a bill that is sound and equitable, and yet allow us to move ahead with the task of reducing safety hazards in small coal mines. I feel this has been achieved in H.R. 3584, as reported by the committee and passed by the House, and I am glad to support it.

I believe that reconstitution of the Federal Coal Mine Safety Board of Review, so that the views of the operators and workers in the newly covered mines can be heard, is an admirable step. I also approve of the "time for abatement" provisions of the "Findings and Orders" section of the act relative to safety requirements. Furthermore, the intensification of coal mine safety educational programs and the authorization of a Department of Interior study into safety requirements with a report to Congress within a year, are provisions which no one could oppose. All of these amendments have made it a more acceptable bill to more people.

We must improve safety conditions for workers underground in small coal mines. From 1940 through 1964, 283 disaster-type accidents have occurred in the exempted underground coal mines and they resulted in the death of 101 persons and injury of 204 others. In eight of the explosions, all the men underground were killed. Bureau of Mines records show that imminent danger of explosion, fire, inundation, or man-trip or man-hoist accident was cited in reports on 23 percent of the exempted mines inspected during the last 5 months of 1964, and that less than 2 percent of these cited dangers were abated during the Federal inspection.

During the period 1952 through 1964, the number of exempted underground mines increased 24 percent whereas the number of mines covered by the mandatory provisions of title II decreased 56 percent. The number of employees in exempted underground mines increased from 26,451 in 1952, to 31,549 in 1962, whereas the number of employees in title II mines decreased from 264,711 to 72,238 in the same period.

In 1952, only 9 percent of the total underground coal mine employees were not protected by the mandatory provisions of title II of the act. By 1962, this figure had increased to 30 percent and is expected to be higher when this 1963–64 data are available. Thus, the exemption of small mines had far less significance in 1952 than it has today.

In view of these facts, there can be no justification for a law which says a mine with 15 or more workers must come under Federal jurisdiction, and be subject to Federal mining laws, while a mine which has fewer than 15 persons is not. We now have 50 years of experience in mine safety. That experience should be applied to all men who work anywhere underground in coal mines, regardless of the number of workers.

I sincerely hope that this subcommittee will report this House-passed bill (H.R. 3584) promptly and that the Senate will have the opportunity to consider it at an early date.

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
June 11, 1965.

Hon. PAT MCNAMARA,
Chairman, Subcommittee on Labor,
Committee on Labor and Public Welfare,
U.S. Senate, Washington, D.C.

DEAR PAT: I regret that I will not be in Washington on Monday when the Labor Subcommittee holds hearings on H.R. 3584 to amend the Federal Coal Mine Safety Act. Sometime before the hearings were scheduled I had accepted an invitation to address the Third International Conference on Water Conservation in Montreal, Canada, on that date.

It will be appreciated, therefore, if you will see that the enclosed statement is filed, and will call my views to the attention of the subcommittee.

Sincerely,

FRANK E. MOSS.

Senator MORSE. We are always privileged to have Senator Clark with us, either as a member of the committee or as a witness. This morning he appears before us as a witness. I welcome him, and he may proceed in his own way.

STATEMENT OF HON. JOSEPH S. CLARK, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Senator CLARK. Thank you very much, Mr. Chairman. I am most grateful for the opportunity of coming here to support H.R. 3584, the Federal Coal Mine Safety Act amendments which were passed by the House on June 1 of this year.

I have a prepared statement to which I have attached some statistics. With the permission of the chairman I would like to have the statement and the compilation printed in the record and just speak very briefly on the reasons why I believe this legislation should be passed.

Senator MORSE. The statement of the Senator from Pennsylvania and the statistical material and any other material he wishes to file may be made part of the record.

(The statement and statistical information follows:)

PREPARED STATEMENT OF HON. JOSEPH S. CLARK, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Mr. Chairman, I am most grateful for having the opportunity to speak briefly in behalf of H.R. 3584, the Federal Coal Mine Safety Act amendments which were passed by the House of Representatives on June 1 of this year.

I have been an advocate of this legislation since 1958, when I first introduced, in the 85th Congress, a bill to repeal the exemption of small mines from the enforcement provisions of the Coal Mine Safety Act. That bill was favorably reported to the Senate by the Committee on Labor and Public Welfare, but not passed by the Senate. In the 86th Congress, however, on April 27, 1960, S. 743, which I sponsored, did pass the Senate, but failed in the House. Subsequent attempts in the 87th and 88th Congresses to make the Coal Mine Safety Act applicable to all mines, regardless of size, were tried, but, unfortunately, not enough votes were able to be summoned in the House. Now, after 7 years, under the sponsorship and able leadership of my colleague from Pennsylvania, Congressman John H. Dent, the House, by an overwhelming majority of 335 to 43, has passed this long overdue legislation.

It has been 13 years since title II of the Federal Coal Mine Safety Act was enacted by the 82d Congress in 1952. Title II gave the Federal Government, for the first time, the authority to prevent major coal disasters. It empowered Federal inspectors to issue an order of withdrawal in the event of imminent danger of a mine disaster, or for failure to comply with Federal mine safety regulations within a reasonable time. This enforcement power was given, however, only with respect to mines regularly employing 15 or more persons underground. So-called title I mines, employing 14 or less individuals underground, have been subject only to inspection and the recommendations of the Bureau of Mines.

The exemption for title I mines was adopted as a result of opposition by mine operators who contended that enactment of the safety law would work an economic hardship on the smaller mines. The 14-man limit was a purely arbitrary legislative compromise. Experience has proven it an unfortunate one.

While injury and fatality rates for title II mines, those presently subject to the safety and enforcement provisions of the Coal Mine Safety Act, have shown a marked decrease since 1952, the record for mines employing less than 15 shows about the same fatality rate over the past 5 years as in the 5 years preceding the 1952 act.

Thus, according to the Bureau of Mines, in the 5 years between 1948 and 1952 there were 2,176 fatalities in title II mines, whereas in the last 5 years, from 1960 through 1964, the number of deaths was reduced to 842. For the same 5-year period prior to 1952 there were 400 deaths in title I mines. That number has been reduced by only 14, to 386 during the past 5 years.

I have with me, for the record, a chart showing the number of underground fatalities and the death rate per million man-hours for the coal mining industry, for title I and title II mines, each year from 1953 through 1964.

According to this data, compiled by the Bureau of Mines, the rate of fatal accidents per million man-hours for 1961, in mines employing 14 or less men underground, was 2.20. The fatality rate in mines employing 15 or more was 1.37. While this gap was closed slightly in 1963 and 1964, the fact remains that title I mines are far more hazardous places to work than title II mines.

Furthermore, the number of title I mines is increasing each year. Between 1952 and 1962 the number of these smaller mines increased by 30 percent. In that same period, the number of title II mines decreased by 53 percent. The evidence is clear, moreover, that many large title II mines have been split into several smaller title I mines, thus enabling them to avoid compliance with Federal safety standards.

Finally, and perhaps most revealing, during 1961, mines employing 14 or less men underground produced only 12 percent of the underground tonnage of coal, and yet these mines were responsible for 34 percent of all underground fatalities in that year.

Repeal of the small mine exemption is particularly significant for my own State of Pennsylvania, which ranks second in the Nation with 1,827 active title I mines in the year 1964; 275 Pennsylvanians have died in those mines from 1948 through 1964.

A majority of these men, I am sure, would be living today, had the mines in which they met their death been subject to the enforcement authority of the Federal Coal Mine Safety Act.

Coal mining is, at best, a hazardous occupation. Those unfortunate enough to labor in a 14-man mine have had to defend themselves against the hazards of the industry. Their lives are just as dear to them and their families as are the lives of those who work in larger mines. They are equally entitled to a safe place to work and to the full protection of their Government.

Underground fatality experience in the coal industry by title I and title II mines—Statistics published by Federal Bureau of Mines

	1953	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963 [1]	1964 [1]
Bituminous:												
Title I mines:												
Fatalities	69	57	59	72	92	83	72	75	82	67	58	57
Rate [2]	2.79	2.25	1.87	2.14	2.51	2.64	2.26	2.23	2.32	1.99	1.67	1.59
Title II mines:												
Fatalities	280	234	244	270	283	206	138	171	160	159	160	130
Rate [2]	0.92	1.08	1.04	1.14	1.29	1.26	0.94	1.25	1.35	1.38	1.35	1.06
Total fatalities	349	291	303	342	375	289	210	246	242	226	218	187
Rate [2]	1.06	1.20	1.13	1.26	1.46	1.48	1.18	1.44	1.57	1.52	1.42	1.18
Anthracite:												
Title I mines:												
Fatalities	12	15	10	15	12	7	7	8	4	13	12	10
Rate [2]	7.08	11.48	2.02	3.24	2.71	1.67	1.69	2.21	1.07	3.64	3.59	3.51
Title II mines:												
Fatalities	48	36	39	33	37	19	34	20	10	5	15	12
Rate [2]	1.21	1.31	1.77	1.43	1.90	1.40	3.46	2.76	1.81	1.02	2.95	2.77
Total fatalities	60	51	49	48	49	26	41	28	14	18	27	22
Rate [2]	1.45	1.77	1.82	1.73	2.05	1.47	2.94	2.58	1.51	2.13	3.20	3.06
All coal:												
Title I mines:												
Fatalities	81	72	69	87	104	90	79	83	86	80	70	67
Rate [2]	3.06	2.70	1.89	2.28	2.53	2.52	2.19	2.22	2.20	2.15	1.84	1.73
Title II mines:												
Fatalities	328	270	283	303	320	225	172	191	170	164	175	142
Rate [2]	0.96	1.11	1.10	1.16	1.34	1.27	1.10	1.32	1.37	1.37	1.41	1.12
Total fatalities	409	342	352	390	424	315	251	274	256	244	245	209
Rate [2]	1.11	1.26	1.20	1.30	1.51	1.48	1.30	1.51	1.57	1.55	1.51	1.26

[1] All data are preliminary for 1964. Data for 1963 are preliminary for bituminous coal and final for anthracite.
[2] Per million man-hours.

Senator CLARK. As the Senator well knows, the State of Pennsylvania is committed to the coal industry, both the anthracite region in the northeastern part of Pennsylvania, Wilkes-Barre and Scranton, and the bituminous region farther west, which surrounds Pittsburgh and around south and east of Pittsburgh into the Appalachian Mountains.

The United Mine Workers have been very active, indeed, in humanizing labor conditions in the Commonwealth, and the Senator will well recall the old days of John Mitchell, and after him John L. Lewis, an extraordinary job which was done in bringing the standards of living and the wages and conditions of the members of the United Mine Workers up to a decent and livable standard.

In the course of that, as a result of an extraordinary spread of technology and automation, in the coal industry there was, and to some extend still is, a very substantial unemployment resulting from the fact that many miners were laid off as machinery went in and were unable to find full employment elsewhere.

However, it must be emphasized that those who remain in the mines are well paid—their fringe benefits are excellent and generally speaking the conditions of labor in the industry are good for those union miners.

However, the depression of the 1930's and the vast unemployment resulted in a great deal of what was then described as bootleg coal mining in Pennsylvania. Also, a legitimate mining industry grew up which consisted largely of family owned and operated mines, or mines where some individual in the community would bring a few of his friends in and they would operate a mine on the side of a hill with practically no safety requirements.

These are what are known in the present coal mine safety act as title II mines.

There are many more of them, as the compilation shows, than there are title I mines, which generally speaking are the large coal company mines which have been unionized and the accident rate in the smaller mines, those employing 14 men or less, and who are exempt from the present Coal Mine Safety Act, the rate of injuries and of deaths there is substantially higher than in the larger mines which are covered by the Coal Mine Safety Act and its Federal provisions.

Now, to be sure, there is in Pennsylvania a State Coal Mine Safety Act which does cover the mines which carry 14 or less employees but for various reasons, some of which are political, the enforcement of that act has not been too vigorous, and in addition to which the provisions of the Federal act are somewhat stronger in terms of coal mine safety.

The result is that speaking as the Senator from Pennsylvania I am under conflicting pressures from the small operators and the major operators and the United Mine Workers.

The United Mine Workers and the big operators would like to extend the provisions of the Coal Mine Safety Act to all mines. I do not have any doubt if that is done the accident rate will come down. I do not have any doubt either this will put some people out of business who have no other way of making a living.

This has been a very hard choice. In earlier Congresses I have introduced legislation from time to time which would extend the Federal coal mine safety provisions to these smaller mines. You will be hearing later from Senator Cooper, of Kentucky, who I think has espoused the cause of the small miners—of course, he has only bituminous mines. There is some difference between the anthracite which tends to be more hazardous in the small mines because of the high pitch of the veins, and Senator Cooper is of the view that further extension of the Coal Mine Safety Act to take in some of these smaller mines is of dubious value.

With some reservations I have come down on the other side on the theory that the lives of human individuals are more important than the economic status of the smaller miners. Nor am I convinced that the small mine cannot operate profitably within the limits of the Federal act, extended to these smaller mines.

I believe they can comply with reasonable requirements which the Bureau of Mines would require them to install in their mines as a condition to being able to continue to operate.

So, I support the bill of my Pennsylvania colleague, John Dent, in the House of Representatives. It has been passed and brought over here.

Congressman Dent comes from the soft coal area and, therefore, the safety factor is not serious, although it exists, and exists significantly, as it is in the anthractie area, I would support without any qualifications in the Dent bill.

I make this statement in order that the committee may be advised of what is a real economic and human problem which exists in my Commonwealth. I thank the Senator.

Senator MORSE. Senator Clark, although you testify that the dangers are greater in the anthracite areas, may the record show, however, that there are considerable numbers of acidents in the soft coal areas as well as in the small mines.

Senator CLARK. That is correct; yes, indeed.

Senator MORSE. Thank you very much. Senator Fannin?

Senator FANNIN. Senator Clark, I am wondering about the duplication that would come about in view of the variations in different States. I know in my own State that we do have a program within the State which might be duplicated and I am wondering whether this may not be true of other States. Perhaps this should be left to the States.

Senator CLARK. This is a very vexing problem, Senator Fannin, which has given me great concern for the last 9 years. What you say is absolutely correct, and yet as a practical and pragmatic matter we find that where the regulation is left to State control the accident rate is a great deal higher, and this, again, raises the vexing question as to whether this is an activity which the States can perform with reasonable consideration of the safety of the men who go underground into these mines.

I have come to the reluctant conclusion on the basis of the experience not only in my State by the testimony which has been taken on various

bills since I have been in the Congress, the first one was back in 1958 when I first came to the Senate, that if we really want to save lives and prevent injuries we are going to have to extend the Federal control.

I deplore that, but conditions in my State are such that I do not have too much confidence in the State authority taking the action required to protect these people.

Senator FANNIN. Senator Clark, I worked on safety factors, a phase of my activity in the National Governors Conference. Of course, this pertained principally to highways but it was in the area of safety. I did feel this could be effectively handled in most instances by the States. I do not have the facts and figures comparing State regulation and Federal control.

Senator CLARK. I think it is really an economic factor, Senator Fannin. I think only about 12 percent of the coal is produced by these smaller mines which are exempt, but the number of mines is vastly larger and what we find is that I do not like to use the word fly-by-night because many of these people are reputable businessmen; many of them are families, hiring the son or the nephew or something, and they just do not comply with normal safety requirements, and yet their political influence is so strong in the local community in my State that the State people hesitate to crack down on them.

That is the real social and economic problem—and political problem, too.

Senator FANNIN. Thank you.

Senator MORSE. There is no question about the jurisdiction of the Federal Government if it wants to exercise it in view of the fact that we are dealing with an interstate commerce problem.

Senator CLARK. I think there is no doubt about the constitutionality. The Federal Government has been in this field for a good long while now; the real question is whether jurisdiction should be extended to these smaller mines.

Senator MORSE. I want to say, Senator Clark, because you have appeared before and you have acted as a member of the full committee on the subject matter before, we have taken extensive hearings in the other years, and the Chair now rules that the hearings we have taken in the past years will be made available to the members of the subcommittee and the full committee as working reference and to be used in our discussions.

Therefore, witnesses on both sides of the issue better familiarize themselves if they have not already done so, with the contents of past hearings because I shall take judicial notice of those contents.

Senator CLARK. Thank you very much, sir.

Senator MORSE. The staff member who organized these hearings advises me that we have, from the Department of the Interior, Mr. O'Leary; we have from the Bureau of Mines, Mr. Frank Memmott; and Mr. Memmott has others associated with him. If Mr. O'Leary and Mr. Memmott will come to the witness table and bring any associates they care to assist them them may proceed in their own way.

We are delighted to have you.

STATEMENT OF JOHN F. O'LEARY, DEPUTY ASSISTANT SECRETARY, REPRESENTING JOHN M. KELLY, ASSISTANT SECRETARY FOR MINERAL RESOURCES, DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY FRANK C. MEMMOTT, ACTING DIRECTOR, BUREAU OF MINES; JAMES WESTFIELD, ASSISTANT DIRECTOR, HEALTH AND SAFETY; AND HARRY WEAVER, CHIEF, DIVISION OF COAL MINE INSPECTION

Mr. O'LEARY. Mr. Chairman, my name is John F. O'Leary, Deputy Assistant Secretary of the Interior. I am appearing this morning in lieu of John M. Kelly, the Assistant Secretary, Mineral Resources, Department of the Interior.

I have with me the Acting Director of the Bureau of Mines, Mr. Frank Memmott, on my right; and the Assistant Director of the Bureau of Mines for Health and Safety, Mr. James Westfield on my left; and Mr. Harry Weaver, his assistant, is also with us.

Senator MORSE. The record will show the names of these participants.

Mr. O'LEARY. Mr. Chairman, I have a statement that has been prepared that I would like to submit for the record.

Senator MORSE. The statement of the witness will be inserted at this point in the record.

(The prepared statement of Mr. Kelly follows:)

PREPARED STATEMENT OF JOHN M. KELLY, ASSISTANT SECRETARY, MINERAL RESOURCES, DEPARTMENT OF THE INTERIOR

Gentlemen, I am John M. Kelly, Assistant Secretary for Mineral Resources, Department of the Interior, appearing before you today to express the intense interest of this administration in improving safety conditions for American coal miners. We appreciate this opportunity to present our views and to discuss recommendations which we believe will be of substantial aid in the cause of coal mine safety.

In 1952, after major disasters in the coal mines of this Nation had shocked and alerted us all to the need for strong legislation and mandatory Federal safety inspection, the Congress enacted title II of the Federal Coal Mine Safety Act, which was designed to prevent major disasters in coal mines employing regularly more than 14 individuals underground. As this act became operable, there was a notable reduction in the number of major coal mine disasters—one in 1953, one in 1954, and none in 1955 or 1956—and it appeared that the mandatory controls of the act, coupled with the long-term safety education and training program of the Bureau of Mines and the efforts of miners and operators, were really paying off. However on December 6, 1962, an explosion in the Robena No. 3 mine in Pennsylvania killed 37 men, and on April 25, 1963, tragedy again struck—this time in the Compass No. 2 mine in West Virginia where 22 men were killed.

The late President Kennedy expressed his personal concern over these disasters in a letter to Secretary Udall, which I quote:

"Within the past 5 months two major coal mine disasters have occurred, involving a total loss of 59 lives. The alarming thing about these accidents is that they occurred after a period of nearly 7 years during which there were no disasters involving such heavy casualties.

"Considering the accident prevention measures available to industry, and the inspection and compliance powers presently available to the State and Federal agencies charged with supervising mine safety—I consider such loss of life unacceptable.

"Therefore, to prevent the occurrence of further accidents, I direct you immediately, in close cooperation with the appropriate State officials, to conduct an intensive review of present mine safety regulations and practices to insure

that inspection and compliance procedures are applied rigorously so as to minimize the chance of further accidents. I also request your views promptly on the need for further or improved legislation which will enable us to prevent such accidents in the future.

"I know you share my concern over these disasters and the deep sympathy I feel for the families and friends of those who perished. It is imperative that we take every necessary step to avoid such accidents in the future."

To begin the intensive review of mines safety regulations and practices, the Secretary of the Interior invited the Governors of nine major coal-producing States to send their principal coal mine safety specialists to a Federal-State conference on coal mining safety, to be held at Washington, D.C. The conference was convened on May 20, 1963, with representatives of the mine safety agencies of Illinois, Kentucky, Pennsylvania, Virginia, and West Virginia, and with mine safety specialists of the U.S. Bureau of Mines. Secretary Udall opened the conference and I presided during the period of discussion and exchange of views and information.

A few days later, Secretary Udall held a second such conference at which representatives of the American Mining Congress, the National Coal Association, the Bituminous Coal Operators' Association, the Southern Coal Producers' Associatiaon, and the United Mine Workers of America presented their views.

Thereafter, Secretary Udall asked me to head a departmental task force—with Administrative Assistant Secretary D. Otis Beasley and Deputy Solicitor Edward Weinberg as members—to study the coal mine safety problem and to recommend administrative and legislative action which could be effective in improving the safety situation. Our task force presented to the Secretary its views and recommendations for legislation to strengthen the Federal Coal Mine Safety Act, and I appear here today in support of those recommendations that would (1) include mines employing 14 or less men under the mandatory inspection procedures and regulations; (2) modify the reasonable time provisions relative to corrections of hazards; and (3) modify the provision for special inspections by certain three-man committees designated by the Director of the Bureau of Mines.

Whereas the administration's conferences and studies stemmed from two recent major coal mine disasters in title II mines, which employ more than 14 persons underground, we believe that the rising incidence of disasters generally demonstrated that strengthened safety measures are essential in all sizes of mines. "Disasters" occur in title I mines that employ 14 or less persons underground as well as in title II mines—though without as large a loss of life at one time, without the widespread publicity, and without the great upswelling of public interest. We believe that all feasible measures should be taken to avoid loss of miners' lives, regardless of whether they occur singly or by the score.

In the title I underground mines, there were 283 disaster-type occurrences from 1940 through 1964—killing 101 men and injuring 204. In eight of the explosions all of the men underground were killed. Furthermore, the frequency rate of disaster-type occurrences in title I underground mines, based on man-hours exposure during the period July 1, 1952, through December 31, 1964, is 10 percent higher than in title II mines—despite the fact that 95 percent of the title I underground mines are nongassy and not ordinarily subject to gas explosions, 50 percent are wet and not subject to dust explosions, and thousands use electricity only to operate electric drills—thus minimizing ignition sources. Also, we suspect that many such incidents occur in title I mines and are not reported. In contrast, 56 percent of the title II mines are nongassy, only 8 percent are wet, and virtually all of them use electricity to power many thousands of machines of all types. And, generally, information on disaster-type occurrences in title II mines is brought to light.

Federal records indicate that imminent danger of explosion, fire, inundation, or man-trip or man-hoist accident was cited in 23 percent of the reports of title I underground mines inspected during the last 5 months of 1964, and less than 2 percent of the reported dangers were abated during the inspection.

I am sure that you all have a question in your mind as to whether the imposition of mandatory inspection and regulation on the small title I mines might drive them out of business. We, too, are concerned about this and our task force carefully looked into the matter. We found that more than half the present title II mines are truly small operations employing fewer than 50 men underground, and a great many of these mines have been in operation throughout the period since title II of the Federal Coal Mine Safety Act was enacted. Further, we found that there are hundreds of title II mines which employ from 15 to 19

men—just a few more than the number that would exempt them from mandatory inspection and safety regulation. They are in business and they are able to compete. Had the operators of these small mines felt that the provisions of title II did in fact cause undue hardship, we believe many of them would have dismissed a few men and reverted to title I status.

Another aspect of compliance with the Federal act involves State mining laws. Most of the title I underground coal mines are found in Pennsylvania, West Virginia, Kentucky, Virginia, and Tennessee. The laws of these States are almost identical to the principal Federal mine safety provisions that pertain to roof control on haulageways and travelways, ventilation, preshift and onshift examinations for gas and other hazards, cleanup and rock dusting, closed lights in gassy mines, and use of permissible electric face equipment in gassy mines—provisions that would entail the most expense. The laws of these 5 States require the owners and operators of mines employing fewer than 15 persons underground to comply with those State laws. It is only reasonable to deduce, therefore, that compliance with the Federal act should not add significantly to the operating expense of these title I underground mines. For example, 80 percent of our title I soft coal mines used main fans, as required by most State laws.

In assessing cost of compliance with the provisions of title II, it is important to know also that more than 95 percent of the title I mines are nongassy, and would be exempt from complying with the mine safety provisions of title II that pertain to gassy mines, 50 percent are wet and would not require rock dusting, about 90 percent are drift mines that would be exempt from the provisions that apply to shafts and slopes, and only 5 percent are using black blasting powder.

A striking trend in size of coal mines leads us to believe that safety enforcement in title I mines is becoming a progressively more important matter from the standpoint of miners involved. In the years between 1952 and 1964, the number of title I underground mines increased 24 percent. In that same period the number of title II mines, those employing 15 or more, decreased 55 percent. Some large title II mines have been split into several title I mines. In 1952, underground man-hours in title II mines exceeded 402 million; in 1963, the latest year for which complete figures are available, underground man-hours in title II mines were less than 122 million—a decrease of nearly 70 percent. In contrast, during the same period underground man-hours in title I mines rose nearly 36 percent—from 28 million to 38 million. It is vitally important also to know that only 9 percent of the underground coal miners employed in 1952 were not protected by the mandatory provisions of title II of the act. In 1963, this figure was 30 percent and likely is higher than that now.

As a group, the title I mines are not outstanding for safety practices. Because of their number, as well as their relative increase in total underground mine employment, we do not believe it is consistent with the objective of preventing disastrous loss of human lives to permit title I mines to continue to operate outside the mandatory provisions of the Federal law. We recommend the elimination of their special, exempt status.

Title II of the Federal Coal Mine Safety Act was designed to prevent major disasters by giving the Federal coal mine inspector authority (1) to order withdrawal of men from a mine or section thereof in which he finds imminent danger, and (2) to order withdrawal of men from an area affected by an observed violation of the mine safety provisions that a mine operator has not corrected within a "reasonable time" after discovery. While a violation of the mine safety provisions of section 209 generally does not portend immediate danger of a disaster, conditions covered by them—if allowed to exist—can develop into a disaster condition in a relatively short period of time. The mine safety provisions are as effective today as in 1952 in preventing disasters from developing—but only when these vitally important safety warnings are complied with at all times.

I am sure that all of us would agree that correction of hazards only at those times when a Federal mine inspector is present is not a procedure conducive to substantial improvement in mine safety. Obviously, the inspectors cannot be present in every section of every mine all the time. We find repeated violations of the mine safety provisions in the same mines, time after time, which are corrected when the inspector finds them—but between inspections we believe that all too often no corrections are made. Hazards that might lead to major disasters are permitted to remain until the next inspection—or until disaster strikes. Complete inspections customarily are made two or three times a year, with occasional spot inspections. But, no matter how many times the violation is

cited, if the mine operator can abate the situation while the inspector is still in the mine or within a "reasonable time" thereafter, there is less incentive than there should be to comply with the mine safety provisions at all times. We believe that the mere possibility of a violation that could not be erased before the withdrawal order became effective would lead to a continued effort by mine operators and miners to be sure that safe conditions constantly prevail.

To promote more continuous compliance with the mine safety provisions and to overcome the abuse by many mine operators of the "reasonable time" clause in section 203(b), our task force had recommended originally that the "reasonable time" provision be eliminated, and that the act be amended to require Federal coal mine inspectors to issue orders withdrawing persons from mines or sections thereof immediately when a violation of any mine safety provision of the act is observed. However, in view of objections to such strong position, we modified our decision by suggesting that Federal inspectors be empowered, instead of required, to issue withdrawal orders upon finding any violation of the mine safety provisions. This modification would give the Federal inspectors authority to grant reasonable time if justified but would empower them to summarily order withdrawal of persons if such action were warranted—bearing in mind that a mine operator has the right of appeal to the Director or the Federal Coal Mine Safety Board of Review if he objects to the issuance of such order.

Whereas we feel that granting the Federal inspectors such discretionary authority would be the simplest and most effective means of assuring more continuous compliance with the mine safety provisions of the act, we recognize also that the reasonable time amendment in H.R. 3584, as passed by the House of Representatives on June 1, 1965, is a step in the right direction, and we would accept that version if the committee decides not to favor our proposal for discretionary authority.

To make this procedure effective, but not overly burdensome on either the Bureau of Mines or the mine operator, we also endorse the provision in H.R. 3584 that authorizes the Federal inspector who issued such order or other duly authorized representative of the Bureau of Mines to annul the order when the violation is abated to his satisfaction, but still would allow the mine operator to appeal such order to the Director and to the Federal Coal Mine Safety Board of Review.

Our task force made certain other recommendations for eliminating the "grandfather" clauses in the act, and for adding a new item requiring that each mechanical section be ventilated with a separate split of air. H.R. 3584 proposes that the need for such changes be determined by a special 1-year study to be conducted by the Secretary of the Interior, and we have no objections to such additional study.

The enactment in 1952 of title II of the Federal Coal Mine Safety Act was a significant forward step in reducing the human costs of coal production. We think it is time that another such significant step be taken.

Mr. O'LEARY. I would like to summarize briefly the principal points in that statement, Mr. Chairman.

In 1963, in the spring of 1963, following two relatively serious disasters in the coal mining industry, the President of the United States and the Secretary of the Interior, evidenced their concern by establishing a study within the Department of the Interior to make a comprehensive review of the statute and of the practices associated with mine safety in the Bureau of Mines.

The outcome of that review essentially was in the form of 4 recommendations.

The first was that the so-called title I mines, those employing 14 or less, be incorporated under the mandatory provisions of the Coal Mine Safety Act which heretofore has applied only to mines employing more than 14 persons.

Secondly, that the reasonable time clause, one of the provisions of the old legislation, be amended to put more teeth, so to speak, into the mandatory provisions of the act; third, that grandfather clauses be eliminated which permitted nonpermissible equipment under circum-

stances which were conducive to danger; and finally, that a new provision be included in the act which would require separate slits of air, this is a technical ventilation problem, which had not heretofore been required.

The Dent bill goes to each of these points, Mr. Chairman, it does move immediately to eliminate the artificial separation of the smaller mines from the larger mines, and require their incorporation under the mandatory provisions of the act.

It does take a significant step in the right direction toward amending the weaknesses in the reasonable time clause and it sets up studies covering the two other points---the grandfather clauses and the separate splits of air.

Our principal concern is with the title I mines and with the reasonable time clause at this hearing.

At the present time some 30 percent of total underground employment is involved in the so-called title I mines—that is about 30,000 out of the total underground employment in the coal mine industry of approximately 100,000.

When the act that we have on the books today was first passed in 1952, the comparison was that approximately 9 percent of total employment was in title I mines; so it is becoming a larger factor of the total underground mining picture for the domestic coal industry.

We recognize, Mr. Chairman, that there will be some additional costs to some of the mines, at least, that are currently in title I status when they come under the mandatory provisions of the act. We point out, however, that a number of the mines, as a matter of fact the greater number, will be affected only nominally.

They will be required, for example, to go to rock dusting, in some cases will be required to improve their ventilation practices, but by and large the title I mines are nongassy; many of them are wet, and therefore they would not fall under the full scope of the title II provisions as they apply to the most hazardous of the title II mines at the present time.

With respect to the reasonable time clause, Mr. Chairman, the existing circumstances under the legislation on the books at the present time is that a Federal mine inspector may find an open violation of the mandatory provision of the act and is required to provide the operator a reasonable time to correct that violation.

The effect of this has been that the operator has a certain incentive to gamble a little bit on whether or not the inspector will find a violation and if a violation is found the penalty is not severe.

We initially proposed that there be absolutely no provision for reasonable time, that the finding of a violation of one of the mandatory provisions of the act would result immediately in a withdrawal order issued by the Federal coal mine inspector that would have the effect of closing a mine or that section of the mine in which a violation occurred.

The Dent bill does not go quite that far. It requires that we find a violation twice in two subsequent inspections. On the second occurrence of a violation of a particular nature the Federal mine safety inspector can close down the mine.

In the event that we find a clear record in the mine on a subsequent inspection then the cycle begins over again.

In short, we have a compromise here which we regard as workable and as a step in the right direction.

I think that briefly summarizes the position of the Department with respect to this legislation.

As I said, I do have these other gentlemen here who are ready and willing to answer any questions that you might have.

Senator MORSE. Just a question by way of clarification: How much time elapses between the first inspection when the inspector finds the violation and the second inspection when he finds the violation continuing, what period of time?

Mr. O'LEARY. No set period of time, Mr. Chairman. It might be as little as a week or a month, it might be as much as 6 months.

Senator MORSE. I am a little puzzled about that. If a Federal inspector finds a violation under the mandatory provisions, and you are going to have a compromise that provides he has no authority to shut down the mine right then, but the operator must have an opportunity to correct the violation. Do you mean to tell me he could wait 6 months before he goes back to see whether or not he has corrected it?

Mr. O'LEARY. Let me ask Mr. Westfield to help us with this.

Mr. WESTFIELD. When an inspector inspects a mine and finds a violation of 209, which is the mandatory provision of the law, he issues a notice giving the operator a reasonable time for correction—this might be 2 or 3 hours or it might be a day or two, depending upon what the violation is.

At the termination of this reasonable time he goes back to see if the condition was abated. If he finds the violation corrected, the notice is annulled. If not, the inspector can give the operator additional time or he can issue an order to withdraw the men.

Senator MORSE. I am more confused than ever now.

He finds a violation and gives what you call a reasonable time for the operator to start to remove the violation, if I understand you correctly—1 or 2 hours or a day or so, and he goes back and finds that the violation has not been corrected, I am speaking hypothetically, and he has a choice then, if I understand correctly, to withdraw, which means close the mine, until the correction is made, or give him an additional time to correct. How much is this next period of reasonable time?

Mr. WESTFIELD. That is correct. Provision in the present law results in considerable lack of compliance with the mine safety provisions of the Federal Coal Mine Safety Act between Federal inspections. For example, our inspectors find repeated violations of the rock dusting provisions that are corrected only when found by the inspector. What the Bureau is attempting to do is to get correction between inspections and if we would find a similar violation, say on the second inspection, then no reasonable time would be given that the men would be withdrawn in this case, as a penalty, so the operator would keep the mine rock dusted or clear any violations of 209 and keep them cleared rather than just doing it while the inspector was there.

Senator MORSE. What about this 6-month period? Up to 6 months?

Mr. O'LEARY. Mr. Chairman, if we run through one sequence it might explain this.

Senator MORSE. I think so.

Mr. O'LEARY. A coal mine inspector enters a mine and finds it is deficient so far as rock dusting is concerned. The operator has a reasonable time then to correct that, and he does, let us say, in an hour.

A subsequent reinspection under the present law, 6 months removed, finds the same deficiency and the same reasonable time provision runs and the same correction is made while the inspector is in the mine.

Under the Dent bill we would go through this sort of sequence. First we would find it. On a subsequent reinspection 6 months later we would find the same deficiency and that would result in the issuance of a withdrawal order.

Senator MORSE. My able counsel, Mr. Forsythe, thinks we will clarify the record if I put this problem to you:

When the inspector in the hypotheticals we have been talking about finds a violation of 209 he may find a violation that does not involve what in the industry is called an eminent danger.

If he finds an eminent danger there is no reasonable time, the mine is closed then and there; is that correct?

Mr. WESTFIELD. That is correct.

Senator MORSE. But when he finds a violation of 209, he may find not enough rock dust, but not a situation where it creates eminent danger, so he says to the owner, "You correct that."

He comes back in 2 hours, 2 days, whatever the period is and finds that as of then it has been corrected, but he comes back in 6 months and finds that there, however, is the same situation that he found 6 months before.

It has no way of knowing how long that has existed, but at that time, with that second offense does he give him reasonable time then, or does he issue an order of withdrawal at that point?

Mr. O'LEARY. No, the reasonable time has run, Mr. Chairman, and he may issue a withdrawal order at that point.

Senator MORSE. You say he may issue one? Does he have to? Is it mandatory or permissive?

Mr. O'LEARY. He has certain flexibility in this. I think the word is "may."

Senator MORSE. The word is "may"?

Mr. O'LEARY. Yes.

Senator MORSE. It is bothersome to me—I am forgiving them a reasonable time on that first occasion but if your major premise is sound; namely, that a continuation of not enough rock dust, using that as the factual situation, that the continuation of not enough rock dust creates a hazardous condition in the mine but not one involving at that point eminent danger, but you have now a second offender; or you have an offender that is guilty of the second time; why should the mine inspector at that point have the discretion to say, get busy and correct it and I will be back? Can he not just keep violating and hope there will not be a crackdown? Hold it just a moment.

Counsel suggests that I read into the record the following language:

During any special inspection relating to such violations or during such reinspection, the representative of the Bureau of Mines 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, hereby 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.

Mr. O'LEARY. Mr. Chairman, I think the key word here is unwarrantable.

For example, take another example, we might have a case of brattice cloth that was missing in two inspections, corrected the first time within a reasonable time and then torn by a trip, by a car, just ahead of a subsequent reinspection. In that case, there would be sufficient flexibility in the inspector to determine whether or not that was warrantable.

If it were a sheer accident that had just occurred he would not be required to issue a withdrawal order.

Senator MORSE. I recognize the necessity of giving to your inspector of the Bureau of Mines reasonable discretion in these cases, but I always get worried about the variants that develop in the administration of a policy when a discretion is too broad.

I should think that you might find yourself in a situation in which one group of mineowners in Kentucky—I am speaking hypothetically—say, oh, we were withdrawn, but they have some inspectors up in Pennsylvania who found the same thing and they did not withdraw.

Do you have an appeal procedure that those mine operators can use when they allege that there is such a variance in the application of this language that I have just read in regard to this word "unwarrantable" that you check into it? I am engaged now in my work on the Small Business Committee in investigating some remarkable exercise of discretion down here in the Department of Agriculture in a division on meat grading.

If you want to see discretion run wild take a look at some of the facts involved there.

They do have an appeal procedure, a pretty costly one to the little meatpacker, stops meat operation while they fly someone in from Washington or elsewhere to take a look and see whether or not there has been arbitrary exercise of discretion on the part of the meat graders, but at least it is a procedure of appeal, they have that protection, if they are willing to pay the price for it.

What happens frequently is it costs them more thousands of dollars to get the review than it would than to take the loss on the meat. So they take the loss on the meat.

Having had that experience just last week, one inspection I made up in New Jersey, I am a little gun shy of discretion this morning, let me say, and I want to be sure that in this law as it presently exists, and in the bill that is proposed, the Dent bill, you people in the Bureau of Mines have double checked the appeal procedure here so that if you have inspectors that seem to have great latitude on the record in regard to their findings and the exercise of their discretion that the mine operators are given some assurance of a quick appeal and a quick review and that the workers, on the other hand, are given assurance that you are not going to have a lax inspector that will come back and come back and come back, always giving additional time to correct a violation of 209, although it does not create an eminent danger it does create a hazard.

I assume that the purpose here of this legislation is to give the workers cause to believe that hazards, when found, will be corrected and give the operators assurance that if you are going to impose this kind of regulation on them it is going to be informally applied, and their competitors are not going to be allowed an advantage.

If you understand my point, that is all I am going to say. I will be glad to have you discuss it, but you are entitled to know my present state of mental confusion and I would like to have you clear it up.

Mr. O'LEARY. Mr. Chairman, there are two points that bear on this: First, the Federal mine inspectors do have, right now, the discretion to declare that a situation represents eminent hazard—this does require a certain amount of discretion on their part which must be exercised prudently and I think they have exercised that kind of prudent discretion.

Senator MORSE. Off the record.

(Discussion off the record.)

Senator MORSE. On the record. Proceed.

Mr. O'LEARY. Secondly, Mr. Chairman, there is an appeals procedure which runs to the Director of the Bureau of Mines or to the Federal Coal Mine Safety Board of Review and a speedy hearing can be held in either case.

Senator MORSE. Do you gentlemen wish to offer anything further?

Mr. WESTFIELD. No, the only thing, as I read the bill is that the inspector on the second inspection, this is a mandatory that he has to withdraw the men if there is a violation of 209 and it is repeated.

Senator MORSE. Is that absolutely clear then? You now testify that on the second inspection, staying with the hypothetical we have been using, not enough rock dust, he still finds not enough rock dust, although it does not meet the test of an eminent danger, it meets the test of a hazardous danger, it is a hazard and he says in effect, "withdraw."

Mr. WESTFIELD. When that section of the mine is affected, that is correct.

Senator MORSE. That completely clarifies it for the chairman. Senator Fannin?

Senator FANNIN. Mr. Chairman, as I understand it the desire of the Federal legislation is to augment the State legislation to make it optimum from the standpoint of the States, do you feel that the States are progressing in their legislation to accomplish this objective?

Mr. WESTFIELD. Over the years we have had progress in the States by rewriting laws and by the enforcement and things of this type, we have had an improvement; yes, sir.

Senator FANNIN. I was wondering whether or not you feel in this bill that we are duplicating or are doing more than just augmenting the State laws?

Mr. WESTFIELD. We have never considered it a duplication, we have considered this as supplementing what the States were doing so get more safety.

Senatro MORSE. Am I correct in my understanding that the Department of the Interior and the Bureau of Mines are recommending the passage of this bill?

Mr. O'LEARY. Yes, that is correct, Mr. Chairman.

Mr. MEMMOTT. That is correct.

Senator MORSE. Am I correct in my understanding that your recommendations is the passage of this bill because you think that the situation is sufficiently serious so that Federal regulation is necessary if you are going to have a uniformity of policy with regard to safety in the mines and in the interest of protecting the miners and also in the interest of protecting the employers in seeing to it that there is a uniform policy across the Nation?

Mr. O'LEARY. Yes, Mr. Chairman.

Senator MORSE. Senator Randolph?

Senator RANDOLPH. Mr. Chairman, I would like to note that I was identified with the passage of the original mine safety legislation when a Member of the House of Representatives. At that time I served on the Committee on Mines and Mining. In early 1940 a bill which would have authorized mandatory Federal inspections of coal mines to obtain information relating to health and safety was passed by the Senate. A special subcommittee of the Mines Committee was appointed to consider the Senate-passed measure and I appeared before the subcommittee durings hearings and urged passage of the bill.

However, due to the press of defense legislation, we failed to get a rule for consideration of the bill by the House. I joined immediately in urging a discharge petition and I was the second Member to sign it. The petition was signed by 215 Members, but the body adjourned before the measure could be brought to the floor for a vote.

The following year, however, the Committee on Mines and Mining reported favorably a bill embodying the same principles on which a rule was granted and ultimately this legislation was enacted as Public Law 49 (77th Cong.) in May 1941.

There has been a continuing interest, which I share with other Members of the House and Senate, in the safety of those who labor in the coal mines and in other mines throughout the United States of America. I believe there is a need for this subcommittee to give very careful consideration to the pending legislation which has been approved during this session by the House of Representatives.

I wish to compliment you and other Members who are listening to the witnesses and evaluating the testimony, and making plans for action within this subcommittee, possible action within the committee as a whole and the Senate of the United States.

Senator MORSE. Senator Cooper, I want you to understand that the Chair makes available to you the opportunity as a Member of the Senate to ask any questions you wish to of any witness at any time during these hearings on either side of this issue.

I understand that at a later date you are going to file a statement of your own and testify in your own behalf in regard to your views, but that in no way limits your right to participate with this subcommittee in asking any question of any witness that you care to.

If you have any questions you would like to ask of any of these witnesses, you are privileged to do so.

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

Senator COOPER. Senator Morse, I do thank you and I think it is characteristic of your fairness and objectivity that you asked me to come here and you asked me also to ask questions if I desire to.

I am not going to go into specifics at this time. I may say that what I testify to on next Monday or Tuesday will be based in large measure upon testimony which is heard this week and I would like to ask for some information.

It is possible that the chairman and other members of this subcommitee may have asked for this information, but I will ask for these facts and if they have already been requested by the committee this will just be a duplication.

Senator MORSE. We have not asked for any information this morning, Senator, so you may proceed.

Senator COOPER. I understand this is Mr. O'Leary, representing——

Mr. O'LEARY. Mr. Kelly.

Senator COOPER. I would like, subject, of course, to the approval of the chairman of the subcommittee, that you will file with the subcommittee this week, and as early as possible, these reports:

Total number of title I and title II mines in the United States, and also by States; second, total number of miners employed in title I and title II mines in the United States, and by States; third, records of deaths and injuries in title I and title II mines in the United States.

Senator MORSE. During which period of time?

Senator COOPER. Well, I would say—it has been now about 6 years, I believe, since this subcommittee considered this matter, held hearings, I think they were available through 1959, if we could have them from that time on to the present.

Senator MORSE. The Chair officially joins in requesting the information on behalf of the subcommittee that the Senator from Kentucky has asked for, and as to this last request, if you have any figures available as far back as 10 years, I would like to have it for the 10-year period, that will cover certainly the period of time, Senator Cooper, that the committee has had legislation of this type before it, but I would like to have statistical material that even predates our hearings on any of the legislation because we could compare two periods.

I think it is obvious, from the information that the Senator is asking for and I have expanded by way of request, I want to see what the statistics may show as to what has been happening in regard to improved mine safety in the country.

Senator COOPER. Four, elaborating on the last, of course, if you could file your record of mine disasters during this period and showing whether they occurred in title I or title II mines, the number of fatalities, the number of injuries.

Then, I should say, taking the last 3 years, unless the chairman wants to expand the time, show the average number of miners employed in the title I mines—that means, for example, if you had 1,000 title I mines and they ranged from 1 or 2 to 14, what was the average—

what would be the number of the men that are employed in the title I mines; and the same for title II mines.

Senator MORSE. You want that for 3 years?

Senator COOPER. Yes; I think that will show what is happening in this area.

Senator MORSE. That is sufficient?

Senator COOPER. Yes. Unless you would like to expand it.

Senator MORSE. May I say—pay very close attention to this——

Senator COOPER. Excuse me, I remember, I think, about 1959 when this matter was looked into, as I remember the average number was about seven over eight in the title mines, it may be less or more at this time.

Senator MORSE. Pay very close attention to this question of the chairman:

You have these data, I think, readily available anyway, so why do we not use the 6-year period that the Senator from Kentucky referred to, but in addition now on behalf of the chairman, do not limit yourselves to the statistics called for by the Senator from Kentucky; I want those, I want them officially, but you are here testifying in support of the bill.

If in the preparation of the statistical material the Senator from Kentucky has called for you find that there is other statistical material that this subcommittee ought to have that will bear upon the responsibility we have of deciding whether we should be for or against the bill, I want that.

In other words, the Senator from Kentucky is entitled to receive, and the committee wants, the data that he has asked for, but I want all data that you can supply us that you think will bear relevantly and materially upon the question I have to decide, and the subcommittee has to decide: Does the evidence show by a preponderance of the evidence that this bill ought to be supported?

Supply the Senator from Kentucky and the chairman with the material they asked for. In addition, supply me with any other material that you have in your files that you think is relevant to the issue that has caused you to appear here this morning and testify in support of this bill.

Senator COOPER. This question—I do not know whether you have the information or not, but if you do have it, I would like for you to supply information showing the production by titles I and II mines.

Senator MORSE. I join in that request.

Senator COOPER. In the United States—this is my next question: If you will describe to the committee the method by which you have obtained the various types of information which I have requested.

Senator MORSE. I join in that request.

Senator COOPER. And in connection with that, will you state whether you have asked for or secured the records of the mine safety boards in the various States and whether or not you have used those in formulating and preparing this material which has been requested.

Senator MORSE. I join in that request, but let me add this, because I do not know what you are going to file, and I have no way of knowing whether you have or have not followed a course of action that is implied by Senator Cooper's question.

Speaking entirely hypothetically, supposing on some matter you have not asked for the material that he seeks, then please file not only the statement that you have not, but your reasons for not doing so, because just the answer will not be of any help to me unless—because then I will do my own deductions and I cannot very well draw conclusions unless I know why you have followed the policy that you have followed.

Senator COOPER. The next request is, will you file with the committee a statement giving the number of inspections made by the Federal Bureau during this period annually.

Senator MORSE. I join in that request.

Senator COOPER. Also, do you have any record—you may not have this—of the number of inspections made by the State during that period.

If you have not, say so.

Senator MORSE. I join in this request.

Senator COOPER. Lastly, will you report to the subcommittee whether or not you are undertaking a study of other extractive industries to determine and make recommendations regarding safety with regard to other matters.

The reason I ask that, I believe some years ago the Senator from Montana, the Senate majority leader, asked that a study be made, I have forgotten whether it is zinc or lead, but I understand there are several studies going forward upon safety conditions in various other extractive industries.

I say this because I remember in 1958 and 1959 that I suggested a similar study be made by the Bureau of Mines. If there are such studies going along will you report not only the industry in which the studies are going on, but the authority for initiating such studies, when they were initiated, whether or not the Department has made a report on those studies.

Senator MORSE. I will join that request.

Now may I say, Mr. O'Leary, your chairman this morning in conducting any hearings that he chairs for the Subcommittee on Labor and Public Welfare, be they educational hearings or any other subject, always conducts a seminar and the Government witnesses are always registered students in that seminar, subject to term paper assignments and the terms are very short in duration of time.

But, we get much more help after we get the opening statement which you people have presented this morning. We get much more help from prepared memorandums than we do from further testimony, although we very often call witnesses back to ask them questions about the memorandums that they have filed, and I want you to know that you will remain registered students of my seminar until the committee finishes its report on this bill.

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We may find it necessary to call you in from time to time during executive discussions of the committee to supply us with additional information because you have, oh, a great trust to a legislative committee when we are dealing with a departmental recommendation to supply us with all supplemental information that we call for, and these questions that the Senator from Kentucky has asked, I think, are vital and will form the basis for a considerable discussion between the committee and you gentlemen of the Bureau of Mines.

I want to thank you very much for your cooperation.

Are you through?

Senator COOPER. I have one more.

Senator MORSE. I am sorry.

Senator COOPER. In the event this bill would become law, as I remember, there would be certain types of equipment, certain cases—I think they are called permissible equipment, which would be required to be used in title I mines as well as title II mines.

If you have such information can you state the items of equipment and if you have that information, the averaging cost.

I want to thank the chairman for his permitting me to ask these questions; I appreciate very much the courtesy.

(The material requested previously follows:)

QUESTIONS ASKED OF THE BUREAU OF MINES, DEPARTMENT OF INTERIOR, BY SENATORS COOPER AND MORSE, AND REPLIES THERETO

1. The number of title I and title II mines, by States.
2. The number of persons employed in title I and title II mines, by States.
3. The number of fatal and nonfatal injuries in title I and title II mines, by States.
4. The number of disaster-type occurrences in title I and title II mines, and fatal and nonfatal injuries therefrom.
5. The average mean number of persons employed in title I and title II mines.
6. Coal production by States.
7. Methods used by the Bureau of Mines to obtain statistics on coal mines.
8. The number of coal mine inspections made by the U.S. Bureau of Mines. The number of coal mine inspections made by the State mining agencies was requested, but such data are not available in the Bureau of Mines.
9. Information on safety studies of mineral extractive industries (other than coal) conducted by the Department of the Interior, including the authority for such study, the report thereon, and the results.
10. The annual report to the Congress as provided in the Federal Coal Mine Safety Act.
11. Federal report on the February 5 and 9, 1965, inspection of No. 2(A) mine, C. L. Kline Coal Co., Tennessee.
12. The final Federal report on the May 24, 1965, disaster in No. 2(A) mine, C. L. Kline Coal Co., Tennessee.
13. Records of safety educational training in the coal mining industry conducted by the Bureau of Mines.
14. Report on coal mine safety by a task force appointed by the Secretary of the Interior, August 1963.
15. The average cost of permissible electric face equipment for title I mines if H.R. 3584 is enacted.

No. 1.—*Title I underground mines*

	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964
Alabama	291	267	210	213	237	231	190	198	187	166
Alaska	2	0	0	1	1	1	1	0	0	0
Arizona	2	2	2	2	2	2	1	1	1	1
Arkansas	18	17	18	18	15	17	15	18	12	12
Colorado	112	117	98	107	100	96	96	91	77	72
Georgia	6	6	6	6	6	2	2	2	2	2
Illinois	81	47	43	36	39	30	27	24	15	14
Indiana	34	39	28	25	21	21	21	20	18	13
Iowa	27	30	17	23	22	20	17	14	10	11
Kansas	5	4	4	2	2	2	2	2	1	1
Kentucky	1,198	1,380	1,721	1,759	2,041	1,985	1,951	1,824	1,917	2,033
Maryland	43	52	52	46	44	29	33	44	60	60
Missouri	15	15	10	14	20	18	17	11	7	5
Montana	46	49	40	34	29	28	27	26	28	22
New Mexico	50	44	33	34	30	30	30	23	18	12
North Dakota	8	9	7	5	3	3	3	3	3	3
Ohio	190	185	176	161	183	160	144	134	126	109
Oklahoma	15	13	13	9	9	14	16	8	6	7
Oregon	4	1	1	1	1	1	1	1	1	1
Pennsylvania:										
Anthracite	673	791	748	743	723	762	674	669	610	543
Bituminous	705	653	1,131	1,062	1,048	1,082	1,045	966	674	652
South Dakota	0	0	0	0	0	0	1	1	0	0
Tennessee	615	583	617	646	599	521	475	370	282	267
Utah	31	33	27	29	29	28	25	25	24	18
Virginia	855	900	1,150	1,120	1,097	1,192	1,156	1,090	1,044	1,180
Washington	8	13	8	11	8	8	8	8	4	5
West Virginia	689	1,431	1,487	1,394	1,282	1,288	1,270	1,297	1,360	1,336
Wyoming	12	12	12	10	9	10	8	9	8	5
Total	5,735	6,693	7,659	7,511	7,600	7,581	7,256	6,879	6,495	6,550

No. 1 (continued).—*Title II mines*

	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964
Alabama	44	29	27	26	27	30	25	26	18	19
Alaska	2	3	3	2	2	1	1	1	0	0
Arkansas	6	5	4	4	3	3	3	1	1	1
Colorado	26	22	23	21	20	19	18	18	18	18
Georgia	0	0	0	0	0	0	0	0	0	0
Illinois	77	44	43	46	37	38	32	31	30	31
Indiana	20	10	12	14	13	12	12	11	9	9
Iowa	4	3	5	7	7	7	7	5	5	5
Kansas	1	0	0	0	0	0	0	0	0	0
Kentucky	284	313	294	261	225	203	197	209	223	226
Maryland	3	5	5	4	4	2	6	4	3	2
Missouri	8	8	10	6	4	5	5	4	3	3
Montana	3	3	1	2	2	1	1	1	0	0
New Mexico	1	2	2	1	3	2	2	3	3	2
North Dakota	0	0	0	0	0	0	0	0	0	0
Ohio	47	43	41	33	30	29	26	24	23	18
Oklahoma	7	5	4	4	4	5	3	3	2	2
Oregon	0	0	0	0	0	0	0	0	0	0
Pennsylvania:										
Anthracite	105	94	90	83	77	58	43	41	37	36
Bituminous	190	214	212	176	138	127	112	107	106	109
South Dakota	0	0	0	0	0	0	0	0	0	0
Tennessee	38	42	45	19	24	30	29	28	19	22
Utah	16	16	17	17	16	16	14	16	15	17
Virginia	118	122	106	120	131	97	71	72	90	61
Washington	8	8	5	5	5	1	2	1	2	1
West Virginia	461	544	532	484	433	405	433	436	422	417
Wyoming	5	6	3	3	3	3	3	3	2	2
Total	1,474	1,541	1,484	1,338	1,208	1,094	1,045	1,045	1,031	1,001

No. 2—*Number of men employed underground by State in title I mines, 1954–63*

	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963
Alabama	1,042	1,113	965	909	509	730	726	798	749	666
Alaska	14	19	7	11	6	2	6			
Arizona	8	19	16	29	5	15	15	3	3	4
Arkansas	125	53	66	92	44	87	76	71	85	49
Colorado	455	451	397	330	287	362	351	338	341	266
Georgia	31	22	11	16	16	18	10	8	9	9
Illinois	521	443	378	321	103	258	229	186	191	172
Indiana	241	224	214	194	106	156	128	143	146	139
Iowa	238	265	206	165	66	139	150	134	109	128
Kansas	48	38	39	39	18	21	21	8	9	5
Kentucky	7,941	7,941	8,155	7,362	8,445	8,029	8,541	8,415	8,615	8,723
Maryland	352	403	330	258	248	247	262	272	238	261
Missouri	155	81	95	118	108	89	90	98	64	40
Montana	95	106	115	76	70	60	60	54	75	61
New Mexico	121	141	96	99	100	74	74	59	66	52
North Dakota	18	22	21	14	8	3	3	4	5	4
Ohio	1,194	1,097	888	715	849	743	640	607	634	562
Oklahoma	86	57	47	26	54	53	47	55	20	26
Oregon	4	6	1	6	4	5	3	7	4	11
Pennsylvania:										
Bituminous	2,958	3,094	3,472	3,399	3,774	3,380	3,328	3,075	2,848	2,579
Anthracite	897	4,345	3,623	3,616	3,483	3,314	3,114	3,100	2,834	2,515
Total	3,855	7,439	7,095	7,015	7,257	6,694	6,442	6,175	5,682	5,094
South Dakota	1	1	1	1	1			1		
Tennessee	2,619	2,278	2,130	1,768	1,868	2,086	1,781	1,822	1,475	1,046
Utah	179	146	138	139	101	209	158	150	131	131
Virginia	2,213	4,159	3,784	6,227	5,564	6,407	5,947	6,405	6,139	6,167
Washington	57	36	23	27	20	41	48	44	39	30
West Virginia	3,108	3,955	4,357	5,282	5,103	5,232	6,610	6,002	6,699	7,085
Wyoming	38	58	48	52	32	26	27	23	21	18
All coal	24,759	30,573	29,623	31,291	30,992	31,786	32,445	31,882	31,549	30,749

No. 2 (continued).—*Number of men employed underground by State in title II mines, 1954–63*

	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963
Alabama	6,012	5,650	5,349	5,594	4,704	4,050	4,562	4,102	3,690	3,410
Alaska	164	114	106	99	89	52	17	18	16	
Arizona					10					
Arkansas	414	327	376	294	223	213	180	132	33	24
Colorado	1,702	1,618	1,581	1,654	1,419	1,119	1,330	920	903	783
Georgia										
Illinois	9,929	7,576	6,826	6,451	5,738	5,344	4,874	4,361	4,014	3,943
Indiana	2,022	1,558	1,542	1,551	1,563	1,500	1,479	1,321	1,230	1,115
Iowa	195	122	138	188	211	124	80	59	75	39
Kansas	45				15					
Kentucky	22,093	20,898	21,229	19,428	15,545	14,173	13,338	11,727	11,141	10,242
Maryland	61	29	69	116	127	88	86	68	36	15
Missouri	178	106	189	129	104	114	70	47	47	24
Montana	190	120	128	85	75	67	30	31		
New Mexico	67	40	40	46	58	86	104	124	124	95
North Dakota										
Ohio	4,404	4,047	4,069	3,764	2,780	2,674	2,584	2,236	2,199	2,295
Oklahoma	805	707	647	454	422	369	355	187	199	78
Oregon										
Pennsylvania:										
Bituminous	37,503	31,272	30,325	29,161	23,572	21,031	18,030	13,804	13,210	12,726
Anthracite	23,724	16,185	14,279	13,206	10,367	8,586	5,927	3,564	2,945	2,934
Total	61,227	47,457	44,604	42,367	33,939	29,617	23,957	17,368	16,155	15,660
South Dakota										
Tennessee	2,278	2,458	2,484	2,027	1,754	1,257	1,377	1,157	1,059	904
Utah	1,923	1,846	2,015	2,124	1,874	1,439	1,577	1,459	1,315	1,041
Virginia	8,196	6,576	5,879	5,388	5,624	4,690	4,361	3,892	3,967	3,659
Washington	399	321	277	210	180	149	85	90	117	123
West Virginia	50,505	48,224	51,636	51,259	40,882	35,896	31,662	27,224	25,766	26,362
Wyoming	1,051	523	454	551	238	176	190	163	152	81
All coal	173,860	150,317	149,638	143,789	117,574	103,197	92,298	76,686	72,238	69,893

No. 3.—*Number of fatal and nonfatal injuries underground by State in title I mines, 1954–63*

	1954		1955		1956		1957		1958		1959		1960		1961		1962		1963	
	Fatal	Non-fatal	Fatal	Non-fatal	Fatal	Non-fatal	Fatal	Non-fatal	Fatal	Non-fatal	Fatal	Non-fatal	Fatal	Non-fatal	Fatal	Non-fatal	Fatal	Non-fatal	Fatal	Non-fatal
Alabama	6	23	3	19	2	20	2	9	1	3	3	8	2	6	3	13	2	14	1	14
Alaska	------	3	------	9	------	------	------	9	------	------	------	------	------	1	------	------	------	------	------	------
Arizona	------	------	------	------	------	------	------	------	------	1	------	2	------	------	------	------	------	------	------	------
Arkansas	------	11	1	5	------	1	------	3	------	------	------	2	------	------	------	1	------	3	------	4
Colorado	1	55	4	58	------	41	------	50	------	40	2	36	1	43	1	38	2	38	1	33
Georgia	------	2	------	1	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------
Illinois	1	32	1	43	1	34	------	27	------	7	2	15	1	18	------	16	11	14	1	20
Indiana	2	23	------	18	------	18	------	15	------	11	------	9	------	20	1	10	1	11	1	4
Iowa	------	11	------	19	------	17	4	3	1	1	2	8	------	12	------	8	------	3	------	6
Kansas	------	2	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------
Kentucky	8	345	7	306	26	348	19	369	15	394	18	165	19	352	29	395	14	399	22	534
Maryland	------	14	------	12	------	6	------	11	------	13	1	10	3	16	1	10	------	17	------	19
Missouri	------	1	------	4	------	------	------	1	------	1	------	2	------	3	------	2	------	2	------	------
Montana	1	12	------	7	------	9	------	4	------	3	------	2	------	4	1	7	------	3	------	1
New Mexico	------	2	------	4	------	1	------	2	------	1	------	1	------	------	------	------	------	------	------	1
North Dakota	------	3	------	2	------	1	------	------	------	2	------	------	------	------	------	------	------	------	------	------
Ohio	1	72	4	33	2	19	1	39	2	34	------	28	2	15	4	25	2	8	------	14
Oklahoma	------	6	------	1	------	3	------	------	------	1	------	2	------	1	------	1	------	------	------	------
Oregon	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	1	------	------	------	------
Pennsylvania:																				
Bituminous	10	177	8	182	6	224	8	202	10	150	3	157	6	137	5	162	3	138	3	101
Anthracite	15	68	10	117	15	224	12	165	7	124	7	171	8	152	4	151	13	155	12	141
Total	25	245	18	299	21	448	20	367	17	274	10	328	14	289	9	313	16	293	15	242
South Dakota	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------
Tennessee	3	119	5	48	5	55	3	36	9	47	16	26	6	60	3	46	1	35	1	14
Texas	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------
Utah	------	18	------	13	1	3	------	17	------	12	1	16	------	21	3	16	1	8	------	18
Virginia	14	186	13	266	14	89	20	433	19	369	11	474	14	394	19	539	16	446	14	430
Washington	------	15	------	15	------	5	------	1	------	------	------	7	------	3	------	2	------	------	------	1
West Virginia	10	232	13	285	15	329	35	437	26	278	13	363	20	393	12	436	14	435	24	413
Wyoming	------	2	------	2	------	3	------	3	------	1	------	------	1	------	------	1	------	1	------	1
Total	72	1,434	69	1,469	87	1,450	104	1,836	90	1,493	79	1,504	83	1,651	86	1,880	80	1,733	80	1,769

No. 3 (continued).—*Number of fatal and nonfatal injuries underground by State in title II mines, 1954–63*

	1954		1955		1956		1957		1958		1959		1960		1961		1962		1963	
	Fatal	Non-fatal	Fatal	Non-fatal	Fatal	Non-fatal	Fatal	Non-fatal	Fatal	Non-fatal	Fatal	Non-fatal	Fatal	Non-fatal	Fatal	Non-fatal	Fatal	Non-fatal	Fatal	Non-fatal
Alabama	4	142	8	149	10	135	3	168	6	119	4	104	7	115	4	104	4	79	5	113
Alaska	------	32	------	30	------	24	6	33	------	29	------	12	------	13	1	9	------	3	------	------
Arizona	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------
Arkansas	------	39	------	22	------	35	5	20	------	8	------	1	------	5	------	------	------	1	------	------
Colorado	2	67	1	54	2	99	------	79	2	100	------	60	1	79	4	74	1	63	------	61
Georgia	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------
Illinois	17	854	15	743	18	774	18	580	7	512	4	481	3	341	5	307	6	312	11	378
Indiana	5	230	2	187	------	251	2	218	2	186	3	171	3	176	25	204	5	186	1	149
Iowa	------	15	------	7	------	4	------	8	------	20	------	11	------	1	------	4	------	4	------	4
Kansas	------	1	------	------	------	------	------	------	------	1	------	------	------	------	------	------	------	------	------	------
Kentucky	43	1,666	43	1,781	46	1,850	36	1,672	28	1,299	19	1,139	33	1,115	29	921	23	1,137	11	1,060
Maryland	------	4	------	7	------	10	------	19	------	18	------	1	------	5	------	2	------	4	------	------
Missouri	------	5	------	6	------	1	------	------	------	1	------	1	------	1	------	------	------	------	------	------
Montana	------	18	------	11	------	9	1	7	4	5	------	2	------	2	------	1	------	------	------	------
New Mexico	------	4	------	3	------	7	------	8	------	10	------	12	------	12	1	14	2	6	------	------
North Dakota	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------
Ohio	3	304	6	373	4	342	3	243	3	150	2	191	------	182	2	160	4	160	3	124
Oklahoma	------	117	------	87	1	112	1	130	2	96	------	130	1	111	------	43	1	47	------	24
Oregon	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------
Pennsylvania:																				
Bituminous	32	1,393	35	1,612	44	1,610	39	1,391	18	896	24	738	19	722	15	654	50	497	14	534
Anthracite	36	2,384	39	2,214	33	2,387	37	2,019	19	1,434	34	1,026	20	795	10	680	5	604	15	685
Total	68	3,777	74	3,826	77	3,997	76	3,410	37	2,330	58	1,764	39	1,517	25	1,334	55	1,101	29	1,219
South Dakota	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------
Tennessee	2	150	1	186	5	211	4	148	6	129	2	84	3	106	3	98	4	85	------	57
Texas	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------
Utah	6	131	6	149	2	154	17	171	5	149	2	107	3	80	1	82	------	55	9	69
Virginia	8	586	16	484	18	491	14	453	11	466	11	400	8	355	9	328	6	321	8	291
Washington	1	65	4	88	------	76	------	46	------	16	------	16	1	17	------	18	------	66	------	49
West Virginia	111	4,895	103	5,923	118	6,209	133	6,013	112	4,204	67	3,479	89	3,399	60	3,119	53	3,182	88	3,205
Wyoming	------	27	4	33	2	15	1	14	------	7	------	2	------	8	1	4	------	12	------	4
Total	270	13,129	283	14,149	303	14,806	320	13,440	225	9,855	172	8,168	191	7,640	170	6,826	164	6,834	165	6,807

No. 4—*Gas and dust ignitions, fires, inundations, and man-trip and man-hoist accidents in coal mines employing regularly fewer than 15 persons underground, July 16, 1952, through Dec. 31, 1964*

Year	Gas or dust ignitions			Fires			Inundations			Man-trip accidents			Man-hoist accidents			Total		
	Number	Killed	Injured	Number	Killed	Injured	Number	Killed	Injured	Number	Killed	Injured	Number	Killed	Injured	Number	Killed	Injured
July 16, 1952, through 1962	60	17	76	39	1	1	7	3	3	23	32	2	2	1	5	131	54	87
1963	5	0	8	7	0	0	0	0	0	2	2	0	0	0	0	14	2	8
1964	8	3	12	7	0	0	2	1	0	1	0	1	1	1	0	19	5	13
July 16, 1952, through 1964	73	20	96	53	1	1	9	4	3	26	34	3	3	2	5	164	61	108

Gas and dust ignitions, fires, inundations, and man-trip and man-hoist accidents in coal mines employing regularly 15 or more persons underground, July 16, 1952, through Dec. 31, 1964

Year	Gas or dust ignitions			Fires			Inundations			Man-trip accidents			Man-hoist accidents			Total		
	Number	Killed	Injured	Number	Killed	Injured	Number	Killed	Injured	Number	Killed	Injured	Number	Killed	Injured	Number	Killed	Injured
July 16, 1952, through 1962	216	247	212	425	40	98	19	23	1	31	25	89	8	4	30	699	339	430
1963	32	36	30	54	4	13	2	0	0	7	5	6	1	0	2	96	45	51
1964	30	3	23	49	0	0	1	0	0	5	5	0	3	2	1	88	10	24
July 16, 1952, through 1964	278	286	265	528	44	111	22	23	1	43	35	95	12	6	33	883	394	509

No. 5.—*Average number of persons employed in title I and title II mines*

	Title I	Title II		Title I	Title II
1958	4.1	87.8	1962	4.6	69.1
1959	4.2	85.4	1963	4.7	67.8
1960	4.3	84.4	1964	(1)	(1)
1961	4.4	73.4			

[1] Final data not yet available.

No. 6—*Production in underground title I mines by State, 1954–63*

	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963
Alabama	753,890	908,088	821,190	643,876	331,570	502,648	631,024	739,562	654,668	614,557
Alaska	4,592	96,446	2,787	50,456	3,000	437				
Arizona	6,625	8,898	10,060	9,301	3,725	7,284	5,526	973	900	960
Arkansas	40,336	44,400	45,426	71,797	22,918	42,267	46,651	71,643	80,793	72,221
Colorado	551,539	707,052	570,600	563,552	355,596	629,548	642,501	626,163	616,103	611,856
Georgia	22,500	11,487	6,177	8,444	8,995	7,487	4,215	4,426	8,574	5,472
Illinois	402,550	494,662	509,219	412,733	64,134	279,466	350,033	263,903	364,028	363,146
Indiana	290,160	319,542	284,166	233,251	130,682	198,796	163,881	218,036	239,697	268,681
Iowa	206,081	240,840	194,280	190,452	50,039	123,257	169,393	127,193	137,715	144,624
Kansas	16,674	15,104	13,173	12,275	4,037	6,059	3,584	2,076	2,395	1,715
Kentucky	6,365,485	8,304,812	9,928,671	9,571,033	8,986,744	7,158,382	9,664,225	9,118,841	10,773,119	13,724,629
Maryland	182,690	283,343	258,776	194,481	202,566	213,901	215,247	227,700	309,211	371,813
Missouri	41,503	46,188	31,143	36,144	34,101	23,440	27,644	28,915	23,411	12,005
Montana	117,537	135,572	111,071	71,864	61,536	64,037	60,424	49,476	85,461	52,289
New Mexico	67,923	92,030	73,092	90,338	76,866	36,799	37,561	30,535	30,419	22,210
North Dakota	23,339	22,370	10,927	6,524	4,947	3,849	3,211	2,902	3,449	2,835
Ohio	1,229,134	1,233,606	1,036,766	882,632	959,693	802,432	726,989	656,258	732,129	716,578
Oklahoma	34,357	31,276	22,343	15,798	27,040	25,536	22,198	14,150	9,129	12,527
Oregon	1,249	3,296	307	260	241	196	97	183	232	344
Pennsylvannia:										
Bituminous	2,461,180	3,034,031	3,831,909	4,243,229	3,141,598	3,125,327	2,816,666	2,862,070	2,711,472	2,856,988
Anthracite	990,700	2,519,998	3,364,312	2,715,743	2,583,015	2,949,937	2,901,676	3,112,647	3,104,727	3,016,960
Total	3,451,880	5,554,029	7,196,221	6,958,972	5,724,613	6,075,264	5,718,342	5,974,717	5,816,199	5,873,948
South Dakota	300	10	900	8	75			80		
Tennessee	2,516,359	1,870,283	2,076,851	1,098,077	1,485,186	1,882,755	1,652,631	1,475,843	1,270,474	1,213,772
Utah	647,171	664,528	548,444	632,484	333,220	785,434	765,742	733,738	668,223	688,622
Virginia	3,123,407	6,909,530	7,243,278	12,066,197	10,338,162	13,014,658	11,166,722	13,029,124	13,099,685	13,475,939
Washington	132,886	102,256	49,655	43,715	20,196	52,999	56,128	36,132	49,545	29,436
West Virginia	3,262,816	5,546,112	7,038,060	9,245,085	6,928,777	6,617,799	8,585,588	8,732,082	10,314,325	11,302,948
Wyoming	40,153	84,614	80,459	71,272	27,035	20,722	18,222	16,569	15,363	13,578
Total, all coal	23,533,136	33,730,374	38,164,042	43,181,021	36,185,694	38,575,452	40,737,779	42,181,220	45,305,247	49,596,705

No. 6 (continued).—*Production in underground title II mines, by State 1954–63*

	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963
Alabama	8,278,102	10,175,714	9,643,464	10,557,464	8,276,729	8,698,858	9,781,705	9,415,857	9,339,341	8,886,866
Alaska	280,179	217,134	262,118	247,288	198,445	117,689	66,982	109,294	109,813	
Arizona					3,924					
Arkansas	242,182	254,754	261,949	212,770	81,354	137,480	68,865	97,135	11,897	6,491
Colorado	2,063,111	2,288,236	2,360,968	2,395,806	2,196,658	2,131,746	2,276,462	2,537,318	2,207,994	2,234,994
Georgia										
Illinois	26,180,891	27,335,219	28,564,370	26,481,790	23,585,447	23,254,830	22,945,540	22,134,533	23,551,329	24,152,989
Indiana	4,582,318	4,638,349	4,885,218	4,707,783	4,560,948	4,425,912	4,558,356	4,387,548	4,139,272	3,877,341
Iowa	125,747	59,934	74,514	77,910	202,977	107,692	33,018	22,948	28,803	12,501
Kansas	8,260				5,618					
Kentucky	41,119,063	46,234,942	46,771,323	43,268,424	37,569,313	34,780,788	34,800,763	31,659,244	32,744,552	33,613,260
Maryland	47,332	17,832	81,034	129,275	160,097	93,420	54,881	82,501	55,447	21,000
Missouri	119,361	65,645	114,906	68,962	87,476	86,772	64,609	37,324	34,135	19,855
Montana	315,082	319,150	282,737	163,834	141,524	94,179	57,293	45,420		
New Mexico	121,757	79,271	69,306	41,146	29,240	78,898	215,570	370,708	251,670	293,371
North Dakota										
Ohio	9,544,293	11,392,192	12,396,048	11,225,387	8,316,105	8,736,505	8,559,509	7,830,327	8,577,216	9,748,606
Oklahoma	753,841	661,533	458,788	429,039	354,205	321,752	233,003	137,615	152,210	42,125
Oregon										
Pennsylvania:										
Bituminous	51,609,672	61,832,649	62,654,159	59,623,463	44,648,633	41,736,727	41,598,225	38,929,928	40,056,083	43,313,590
Anthracite	14,505,861	13,320,770	13,544,049	10,080,343	7,848,801	6,357,682	4,845,423	3,739,555	3,634,810	3,764,554
Total	66,115,533	75,153,419	76,198,208	69,703,806	52,497,434	48,094,409	46,443,648	42,669,483	43,690,893	47,078,144
South Dakota										
Tennessee	2,655,934	3,129,716	4,225,584	3,239,724	2,702,982	2,118,085	2,296,553	2,045,821	2,130,310	2,066,560
Utah	4,340,705	5,569,741	6,007,842	6,252,131	5,137,918	3,778,597	4,204,747	4,441,406	3,628,232	3,680,804
Virginia	11,803,170	13,229,267	13,057,885	12,443,071	12,092,829	12,452,054	13,348,669	12,957,923	13,463,871	13,689,776
Washington	438,314	473,278	396,268	299,761	227,956	178,654	157,942	151,764	184,112	150,638
West Virginia	101,991,780	123,289,482	133,525,517	134,977,016	102,375,333	104,713,647	101,828,327	95,990,816	98,173,738	109,433,227
Wyoming	1,357,790	1,297,355	946,376	580,458	343,228	313,607	295,189	289,135	215,296	106,164
Total, all coal	282,484,745	325,882,163	340,584,423	327,502,845	261,147,740	254,715,574	252,291,631	237,414,120	242,690,131	259,114,712

NO. 7.—METHODS USED BY BUREAU OF MINES TO OBTAIN STATISTICS ON COAL MINES

The following describes methods used by the Bureau of Mines to collect bituminous coal mine data:

In canvassing by mail with questionnaires for information on injuries, employment, and production data on coal mines, the Bureau does not differentiate mines as titles I or 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 titles I and 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.

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 for bituminous coal mines. For mines not reporting on this form, other available sources of reported information such as the 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.

The Bureau does 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 bases for estimation of missing data on nonreporting mines.

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.

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.

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.

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.

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.

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.

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 titles I and II breakdowns, 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.

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 esti-

mated 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.

As explained above, 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 11.7 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.

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.

The Bureau has not challenged the accuracy of State figures on coal production in title I mines.

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.

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.

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.

A substantial percentage of "truck" mines would be title I mines.

Statistics on coal mine safety, compiled by the various coal-producing States, are made available to the Bureau of Mines, and they are used by the Bureau in preparing monthly and annual reports.

No. 8.—*Number of inspections by Bureau of Mines, title I underground mines*

	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964
Alabama	558	412	417	364	371	351	350	312	309	282
Alaska	2	0	1	1	1	1	1	0	0	0
Arizona	5	2	2	2	2	1	0	1	1	1
Arkansas	27	21	26	26	21	29	30	29	29	27
Colorado	199	133	134	145	130	162	156	152	148	132
Georgia	10	6	12	8	12	4	4	6	4	4
Illinois	80	73	77	58	43	37	34	23	23	20
Indiana	31	36	29	24	24	31	22	36	24	13
Iowa	30	13	11	29	40	9	7	16	16	16
Kansas	6	2	4	3	2	2	2	3	1	1
Kentucky	1,035	1,016	1,313	1,468	1,619	1,705	1,922	1,625	1,563	1,632
Maryland	80	89	65	45	47	40	47	37	83	44
Missouri	13	12	6	23	27	13	9	7	7	4
Montana	54	46	45	38	28	41	47	45	49	38
New Mexico	95	56	43	33	28	37	33	37	29	23
North Dakota	1	1	0	0	2	6	6	6	6	6
Ohio	331	296	305	281	306	282	238	215	225	204
Oklahoma	21	17	17	15	13	27	23	12	12	11
Oregon	5	1	2	2	1	1	1	2	2	3
Pennsylvania:										
Anthracite	739	804	690	637	672	947	1,072	1,104	865	927
Bituminous	592	759	682	699	767	1,133	1,387	1,091	1,096	938
South Dakota	0	0	0	0	0	0	2	2	0	0
Tennessee	521	598	671	791	621	760	809	625	485	433
Utah	51	60	55	43	37	54	43	45	53	36
Virginia	652	558	736	822	889	1,119	1,552	1,548	1,472	1,172
Washington	12	16	13	20	7	6	9	12	7	12
West Virginia	540	1,221	1,181	1,157	1,240	1,265	1,787	1,865	1,712	1,385
Wyoming	14	12	18	10	9	12	14	16	10	10
Total	5,705	6,260	6,555	6,744	6,959	8,075	9,607	8,872	8,231	7,374

No. 8 (continued).—*Number of inspections by Bureau of Mines, title II mines*

	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964
Alabama	97	61	48	64	65	71	51	36	48	46
Alaska	4	5	8	7	4	3	2	3	0	0
Arizona	0	0	0	0	0	0	0	0	0	0
Arkansas	17	13	10	8	8	6	8	3	3	1
Colorado	55	52	57	53	47	50	48	49	50	50
Georgia	0	0	0	0	0	0	0	0	0	0
Illinois	106	127	133	109	104	90	89	77	86	73
Indiana	36	35	38	36	35	35	34	29	26	24
Iowa	6	7	9	13	13	5	9	10	10	6
Kansas	1	0	0	0	0	0	0	0	0	0
Kentucky	706	751	685	646	509	494	527	504	541	551
Maryland	8	14	10	12	8	7	10	6	9	3
Missouri	13	16	11	12	15	6	11	9	4	4
Montana	8	4	3	6	5	3	3	1	0	0
New Mexico	3	5	5	0	4	6	4	6	7	6
North Dakota	0	0	0	0	0	0	0	0	0	0
Ohio	123	119	109	83	75	69	61	55	53	50
Oklahoma	13	13	12	11	13	10	7	8	3	3
Oregon	0	0	0	0	0	0	0	0	0	0
Pennsylvania:										
Anthracite	239	248	243	229	165	129	107	107	99	104
Bituminous	510	527	468	395	316	311	295	267	298	309
South Dakota	0	0	0	0	0	0	0	0	0	0
Tennessee	86	109	83	51	53	69	70	73	52	42
Utah	44	47	44	46	46	46	42	42	44	43
Virginia	301	309	254	295	277	248	230	213	219	167
Washington	20	14	12	12	12	3	7	5	7	5
West Virginia	1,077	1,159	1,119	1,078	969	977	1,039	1,032	997	974
Wyoming	11	13	7	5	7	9	9	6	6	4
Total	3,484	3,648	3,368	3,171	2,750	2,647	2,663	2,541	2,562	2,465

No. 9.—Safety Studies of Mineral Extractive Industries (Other Than Coal) Conducted by the Department of the Interior

Public Law 87-300 (75 Stat. 649), dated September 26, 1961, authorized and directed the Secretary of the Interior to conduct a 2-year study of the causes and prevention of injuries, health hazards, and other health and safety conditions in metal and nonmetallic mines of the United States, and to submit to the Congress a report of his findings together with recommendations for an effective safety program based on those findings.

Volumes 1 and 2 of the report of the Secretary of the Interior to the Congress thereon are filed with the committee. In addition we have enclosed a copy of H.R. 8989, which was reported by the Committee on Education and Labor, House of Representatives, on June 10, 1965, and is the principal result of the study.

Public Law 87-300
87th Congress, H.R. 8341
September 26, 1961

AN ACT To authorize the Secretary of the Interior to conduct a study covering the causes and prevention of injuries, health hazards, and other health and safety conditions in metal and nonmetallic mines (excluding coal and ligite mines)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to make or cause to be made a study covering—

(1) the causes of injuries and health hazards in metal and nonmetallic mines (excluding coal and lignite mines);

(2) the relative effectiveness of voluntary versus mandatory reporting of accident statistics;

(3) the relative contribution to safety of inspection programs embodying—

(A) right-of-entry only and

(B) right-of-entry plus enforcement authority;

(4) the effectiveness of health and safety education and training:

(5) the magnitude of effort and costs of each of these possible phases of an effective safety program for metal and nonmetallic mines (excluding coal and lignite mines); and

(6) the scope and adequacy of State mine-safety laws applicable to such mines and the enforcement of such laws.

SEC. 2. (a) The Secretary of the Interior or any duly authorized representative shall be entitled to admission to, and to require reports from the operator of, any metal or nonmetallic mine which is in a State (excluding any coal or lignite mine), the products of which regularly enter commerce or the operations of which substantially affect commerce, for the purpose of gathering data and information necessary for the study authorized in the first section of this Act.

(b) As used in this section—

(1) the term "State" includes the Commonwealth of Puerto Rico and any possession of the United States; and

(2) the term "commerce" means commerce between any State and any place outside thereof, or between points within the same State but through any place outside thereof.

SEC. 3. The Secretary of the Interior shall submit a report of his findings, together with recommendations for an effective safety program for metal and nonmetallic mines (excluding coal and lignite mines) based upon such findings, to the Congress not more than two years after the date of enactment of this Act.

Approved September 26, 1961.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF MINES

NO. 10—ANNUAL REPORT

DIVISION OF COAL-MINE INSPECTION

BUREAU OF MINES

UNITED STATES DEPARTMENT OF THE INTERIOR

JANUARY 1 - DECEMBER 31, 1964

Prepared for transmittal to the Congress pursuant to secs. 106(a) and 212(c) of the Federal Coal Mine Safety Act (66 Stat. 692, 30 U.S.C. secs. 451-483).

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ANNUAL REPORT
DIVISION OF COAL-MINE INSPECTION
BUREAU OF MINES
UNITED STATES DEPARTMENT OF THE INTERIOR

January 1 - December 31, 1964

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ANNUAL REPORT
DIVISION OF COAL MINE INSPECTION
BUREAU OF MINES
UNITED STATES DEPARTMENT OF THE INTERIOR

January 1 - December 31, 1964

INTRODUCTION

This report covers the calendar year 1964 and is submitted to the Congress of the United States in accordance with the requirements of secs. 106(a) and 212(c) of the Federal Coal Mine Safety Act (66 Stat. 692; 30 U.S.C. secs. 451-483).

Background

The Federal coal-mine inspection program was established to carry out the provisions in Public Law 49, 77th Congress; H. R. 2082, approved May 7, 1941. This act has since been amended to be known as Title I, Advisory Powers Relating to Health and Safety Conditions in Mines, under Public Law 552, 82nd Congress, approved July 16, 1952, which also includes Title II, Prevention of Major Disasters in Mines. Public Law 552 is known as the Federal Coal Mine Safety Act.

Congress passed this act as a result of public indignation and the demands for enforcement powers for Federal coal-mine inspectors following a series of seven appalling major coal-mine disasters that occurred between January 18, 1951, and March 27, 1952.

Under the provisions of Title I, the Secretary of the Interior, acting through the United States Bureau of Mines, is authorized and empowered to make, or cause to be made, annual or necessary inspections and investigations in coal mines, the products of which regularly enter commerce or the operations of which substantially affect commerce. The principal functions of the Federal coal-mine inspectors under Title I are to determine the causes of accidents and occupational diseases in coal mines and then endeavor to eliminate or ameliorate them (1) by revealing, through personal conferences with mine personnel, correspondence, and published reports, the unhealthful and unsafe conditions and practices existing in the mines and (2) by recommending practical means for correcting the conditions observed. Title I does not provide any enforcement powers. Therefore, compliance with the recommendations of the inspectors is not mandatory under its provisions. It does give Federal coal-mine inspectors the right to enter coal mines for inspection purposes.

Title I further authorizes and directs the Secretary of the Interior, acting through the Bureau of Mines, to expend the funds made available to him for advancing health and safety in coal mines and for

preventing or relieving accidents or occupational diseases therein in such lawful manner as he may deem most effective, in the light of information obtained, to accomplish the objects for which the funds are granted. To comply with this directive, personnel of the division conduct nationwide safety-educational programs for coal-mine officials and coal-mine workmen. In addition, special studies are made of mine health and safety problems relating to roof control, haulage, ventilation, mine disasters, dusts, explosives, gases, and electricity; the results of these studies and any improved methods determined from them are made available to the mining industry and general public through published reports.

The Federal Mine Safety Code for Bituminous-Coal and Lignite Mines, which is used by Federal Coal Mine Inspectors as the basis for determining the existence of unsafe or unhealthful conditions and practices in these mines, has been adopted and incorporated by reference in the National Bituminous-Coal Wage Agreement between the United Mine Workers of America and the bituminous-coal-mine operators. Operators are required under this agreement to comply promptly with recommendations made to correct violations of the code. The agreement also established a Joint Industry Safety Committee to which either party to the contract may appeal if it feels that the recommendations would cause irreparable damage or great injustice.

The Anthracite Wage Agreement between the United Mine Workers of America and the anthracite operators accepts the Federal Mine Safety Code for Anthracite Mines, subject to the right of review by the Director of the Federal Bureau of Mines upon petition from either party to the agreement. The agreement of 1964 also established a Joint Industry Safety Committee to which either party to the contract may appeal.

Title II of the Federal Coal Mine Safety Act is designed to prevent major disasters in coal mines, the products of which regularly enter interstate or foreign commerce, or the operations of which substantially affect such commerce. Compliance with its mine safety provisions is mandatory; however, it applies only to coal mines in which 15 or more individuals are employed regularly underground. To accomplish compliance, Title II requires that the Director of the Bureau of Mines shall cause an inspection of each such mine to be made at least annually to determine whether an imminent danger described in sec. 203(a) exists, whether any of the Mine Safety Provisions of sec. 209 are being violated, or whether any mine is gassy as prescribed in sec. 203(d). It further provides that the Director shall make or cause to be made special inspections of such mines as may be required by secs. 203 and 206 and any other inspections that he deems necessary for the proper administration of Title II. Provisions also have been made for joint inspections of mines with representatives of the inspection agency of any State that desires to cooperate and submits a suitable plan for participation.

SUMMARY

Following is a brief resume of the division's activities that have had a favorable effect on health, safety, and the reduction of injuries at coal mines:

1. The Federal Mine Safety Code for Bituminous Coal and Lignite Mines of the United States was issued originally by the Director of the Bureau of Mines on July 24, 1946, after consulting with management and labor representatives of the coal-mining industry. The code has been used by Federal coal-mine inspectors while inspecting bituminous-coal and lignite mines as a basis for determining the existence of unhealthful and unsafe conditions and practices in these mines. A revised code was issued by the Secretary of the Interior on October 8, 1953, after further consultations with representatives of management and mine workers and was incorporated by reference in the 1952 and subsequent bituminous-coal wage agreements. The agreement of May 29, 1946, between the Secretary of the Interior, acting as Coal Mines Administrator under authority of Executive Order 9728, and the United Mine Workers of America, covering bituminous-coal and lignite mines in Government possession, charged Federal coal-mine inspectors with the responsibility of making periodic investigations of the mines and reporting to the Coal Mines Administrator any violations of the Federal Mine Safety Code. Federal coal-mine inspectors also had temporary authority to close mines found to be imminently dangerous, but such authority under Executive Order 9728 was removed on June 30, 1947, when Government control of the mines was terminated.

2. The Safety Standards for Anthracite Mines were prepared by personnel of the Bureau of Mines and have been used by Federal coal-mine inspectors as a basis for determining unhealthful and unsafe conditions and practices during their inspections of the anthracite mines of Pennsylvania. These standards were revised and issued by the Secretary of the Interior as the Federal Mine Safety Code for Anthracite Mines of the United States on October 14, 1953.

3. Public Law 328 (ch. 450, 80th Cong., 1st sess.), effective for 1 year following its approval (August 4, 1947), required the Secretary of the Interior, acting through the Director of the Bureau of Mines, to submit quarterly reports to the Congress of the United States on the condition of all bituminous-coal and lignite mines inspected by Federal coal-mine inspectors, on all recommendations and notifications sent to State agencies, and on action taken by mine owners, operators, and State agencies on the findings and recommendations.

4. In response to letters from the Secretary of the Interior to the Governors of coal-producing States and personal contacts by field personnel, State-participation plans for joint State-Federal coal-mine

inspections (provided for under sec. 202(b), Federal Coal Mine Safety Act) have been approved and are in effect in Alaska, North Carolina, North Dakota, Oklahoma, Washington, and Wyoming.

5. Approximately 9,374 coal mines were active in the United States in 1964. Since Public Law 49 became effective in May 1941, 188,694 regular Federal inspections of coal mines have been made, including 11,432 in 1964.

6. The revised Coal-Mine Accident-Prevention Course for Miners was introduced in the coal-mining industry by the Bureau of Mines on January 1, 1947. Since that date, most mine workers have completed the training conducted by division personnel assigned temporarily to educational work. In addition, thousands of mine workers have been given specialized training in the maintenance, use, and limitations of permissible flame safety lamps to qualify them to test for gas in accordance with the provisions of sec. 209(d)(9) of the Federal Coal Mine Safety Act.

7. The revised Coal-Mine Accident-Prevention Course for Supervisors was introduced in the coal-mining industry by the Bureau of Mines on March 1, 1948. Many supervisors and those aspiring to official positions have completed this training conducted by personnel of the division. A modernized basic course, Fundamentals of Accident Prevention for Coal-Mine Supervisors, was developed to supplement the previous training.

8. A course to train coal-mine electricians, technicians, and other in electrical safety was prepared in 1957 and is available to the industry.

9. Organizational work to extend The benefits of the Holmes Safety Association is continuing.

10. Federal coal-mine inspectors began investigating all coal-mine fatalities on February 10, 1950. The reports of these investigations are made available to the industry; they are summarized and published annually, with the hope that the information will help to prevent coal-mine accidents.

11. The bolting method of roof control, introduced in the coal-mining industry by the Bureau of Mines in 1948, is a major contribution toward reducing coal-mine accidents. Certain mining engineers and coal-mine inspectors have been especially trained in mine-roof control and roof bolting; they advise mine operators whether bolting is practical in their mines and, if so, the proper plan of bolting to follow. About 58 percent of all bituminous-coal underground production in 1964 was mined under bolted roof.

12. A short Coal-Mine Roof-Control Course, designed to impress mine officials and workmen with the need for more adequate roof-control measures and to make all concerned more roof-control conscious, was initiated by the Bureau of Mines on May 1, 1951.

13. A short Coal-Mine Haulage Safety Course was introduced in the coal-mining industry on April 1, 1951, by the Bureau of Mines, and many haulage employees and other persons have participated in this training under Federal coal-mine inspectors.

14. Other special studies covering roof control, explosives, gases (including restorage of natural gas beneath coal measures), fires, explosions, mining, electricity, haulage, ventilation, rock dusting, and control of atmospheric dusts are being made continually as part of the health and safety program provided for by the Federal Coal Mine Safety Act. Findings and recommendations are made available to the coal-mining industry.

15. A Bureau of Mines cooperative program has resulted in the development of fire-resistant hydraulic fluids for use in mine equipment, and special efforts are made to sell managements on the safety features of this product for use in underground equipment.

16. Personnel of the division is active in national, regional, and local safety organizations throughout the coal-mining areas.

17. Coal-mine inspectors and engineers of the division serve on foreign assignments in response to requests from other Federal agencies. These agencies acquire the technical knowledge and wide experience of the Bureau experts, and the assignees have the opportunity of adding to their fund of knowledge and making pertinent information available to the mining industry in this country.

18. A cooperative agreement with the Wage and Hour and Public Contracts Divisions of the Department of Labor, provides that the Bureau of Mines field offices shall inform the regional offices of the Wage and Hour and Public Contracts Divisions of violations of the Federal Mine Safety Code in mines that are under contract to furnish coal to the Federal Government. The operators of such mines face cancellation of Government contracts if the hazards are not eliminated promptly.

19. The over-all trend of coal-mine accidents has been favorable since the advent of Federal coal-mine inspection. During the 12½ years under the Federal Coal Mine Safety Act (through 1964) 18 major disasters involving 267 fatalities, occurred in the Nation's coal mines; no major disaster occurred in 1964.

20. The mine-safety laws of 10 States have been revised to conform closely to the provisions of the Federal Mine Safety Codes.

Health and safety conditions in coal mines in the United States have improved steadily since the institution of Federal coal-mine inspections. Nevertheless, the frequency of roof-fall fatalities and minor fires and gas or dust ignitions indicates that much remains to be done before conditions in many mines can be considered even fairly satisfactory.

The enactment of the Federal Coal Mine Safety Act, July 16, 1952, affords limited enforcement powers under Title II to Federal coal-mine inspectors with respect to certain safety provisions that might cause or lead to a major disaster in mines that regularly employ 15 or more individuals underground. However, the act prescribes no mandatory provisions to prevent the day-to-day accidents the result in more than 90 percent of the coal-mine fatalities or to prevent accidents in mines that employ regularly less than 15 men underground. This large field is left to the cooperative efforts of the Federal Bureau of Mines, State agencies, employers, and employees. The enforcement of rules and regulations concerned with day-to-day accidents, safety, health, and welfare is clearly left within the jurisdiction of the several States.

To improve safety conditions in coal mines, it is hereby recommended that the Federal Coal Mine Safety Act be amended to: (1) Include mines employing 14 or less men underground under its mandatory procedures and regulations; (2) modify the present "reasonable time" provisions relative to the correction of hazards; (3) eliminate and amend the "grandfather" clauses in the act; and (4) provide that each mechanical working section be ventilated by a separate split of air; (5) require at least two escapeways from each working section to the surface; and (6) require the use of permissible explosives or acceptable devices for underground blasting in coal.

Enactment of legislation to provide more liberal retirement benefits for coal-mine inspectors and investigators will improve Government services, in that it will permit the acquisition of younger and more efficient personnel by encouraging the better qualified men in industry to seek employment and allow for systematic retirement without undue hardship of those who can no longer safely and efficiently fulfill the required arduous and hazardous duties after serving the government well and faithfully.

EMPLOYMENT OF PERSONNEL

Coal-mine inspectors, electrical inspectors, and engineers of the Divisfon of Coal-Mine Inspection are selected from the Civil Service Register, and applicants must meet the rigid requirements of the United States Civil Service Commission before their names can be included in the register.

Following are the annual salary rates[1/] and the fundamental position requirements for coal-mine inspectors.

Coal-Mine Inspector, GS-12, $10,250 - $13,445. This group comprises those fully experienced inspectors, who are assigned full responsibility with a minimum of supervision.

1/ Effective July 1964

Coal-Mine Inspector, GS-11, $8,650 - $11,305. This group comprises those inspectors who have established their ability to inspect the larger and more complex mimes and perform other related health and safety activities with a moderate amount of direct supervision.

Coal-Mine Inspector GS-9, $7,220 - $9,425. This group comprises those inspectors, usually probationers, who have had practical experience in the coal-mining industry, but who must be oriented and trained as Federal inspectors under close supervision.

In cooperation with the Civil Service Commission, the Bureau of Mines late in 1957 completed and approved an assembled examination for Federal coal-mine inspectors to replace the previous nonassembled examination.

United States Civil Service Commission Requirements
For Federal Coal-Mine Inspectors

Experience

The Federal Coal Mine Safety Act provides that applicants must have had at least 5 years of practical experience in the mining of coal. In addition, they must demonstrate their knowledge, skill, and ability to perform the duties of the position at the level for which they apply.

Competitors who wish to be considered for the position of Coal Mine Inspector (Electrical) must show that they have also a theoretical and practical knowledge of the fundamentals of electricity and a knowledge of electrical equipment and electrical inspection work as applied to coal mining.

Written Examination

Applicants will be required to pass a written examination which will test knowledge of the Federal Coal Mine Safety Act and of the Federal Mine Safety Codes, both bituminous and anthracite. Applicants are urged to study these documents before taking the written examination. The written examination will also test ability to solve arithmetic problems as applies to mine safety, ability to prepare and understand written reports, and a knowledge of the principles of mining and mine safety, including knowledge of first aid and mine rescue as taught in the mining industry.

Ratings Required

Competitors will be rated on the written test on a scale of 100. They must attain a rating of at least 70 on the written test as a whole. They may also be required to attain a rating of 70 in particular subjects.

Certificate

Applicants must show that they possess a Bureau of Mines certificate of competency in first aid and mine rescue before appointment.

Additional Requirements

Competitors who pass the written test and meet the experience requirements may be given a performance test of stamina to work in mines and a driver's road test. These are to determine further whether they possess the personal qualifications, stamina and endurance, and ability to drive an automobile that are essential to proper performance on the job.

The performance test of stamina and road test will be given to such number of applicants at the top of the register as the needs of the service may require. Those who fail to pass each of these tests will not be eligible for appointment.

Interviews will be required of applicants to determine whether they possess the personal qualities required. Candidates will be rated on the interview on an "in or out" basis. Those rated "out" will receive an ineligible rating.

Confidential Inquiries

Confidential inquiries will be made of persons who are qualified to evaluate the individual applicants for these positions as an additional means of determining whether such applicants possess the personal qualities and the technical abilities sought. References will be asked to evaluate candidates on the characteristics necessary for job success in these positions. Candidates will be rated ineligible if information received indicates that the applicant does not possess these necessary characteristics.

Basis of Rating

Competitors will be rated on a scale of 100 in accordance with their knowledges, skills, and abilities in the factors considered important to the proper performance of the duties of a coal-mine inspector. This rating will be determined from an evaluation of their experience and training as outlined in their application forms and upon other information which may be secured by the Board of Examiners. It will be to the applicant's advantage to give a clear and complete description of any pertinent experience or training he may have gained. A Past Performance Record Blank will be furnished for this purpose.

Competitors will be required to attain a passing grade of at least 70 in both the written test and in the evaluation of their experience and training. Their final rating in the examination will be determined by a combination of the ratings attained in the written test and that assigned to their experience and training. The weights given to the examination will be:

Written Test 75
Experience and Training Evaluation . . 25

Citizenship

Applicants must be citizens of or owe permanent allegiance to the United States.

Age

Applicants must have reached their eighteenth birthday on the date of applying. There is no maximum age limit.

Physical Abilities

Applicants must be physically capable of performing efficiently the arduous duties of this position. They must be free of such defects or diseases as may constitute employment hazard to themselves or endanger fellow employees or others. Arms or legs must be sufficiently intact and functioning to permit the applicant to perform the duties described above. Vision must be at least 20/50 Snellen in one eye and 20/70 in the other, without glasses. The ability to distinguish basic colors is essential. Hearing, with or without a hearing aid, must be sufficiently acute to enable the applicant to hear ordinary conversation at 20 feet. These standards must be met by all applicants; however, certain requirements may be waived for veterans who can demonstrate ability to perform the duties efficiently and safely.

In view of the strenuous physical exertion required for this position, hernia (whether or not supported by truss), organic heart disease (whether or not compensated), varicose veins (unless slight), serious deformities or disabilities of extremities (including weak feet), mental or nervous disease, chronic respiratory or chronic constitutional disease or other physical defect which would cause the applicant to be a hazard to himself or to others, or which would prevent efficient performance of the duties of the position, will disqualify him for appointment.

Persons who are offered appointment must pay their own expenses in reporting for duty. If upon reporting at the place of assignment they are found to be ineligible because of physical defects, they cannot be appointed and no part of their expenses in returning home can be paid by the Government.

United States Civil Service Commission Basic Requirements for Mining Engineers

Applicants for the position of mining engineer must have completed successfully a full 4-year professional curriculum leading to a bachelor's degree in an accredited college or university or have had 4 years of successful and progressive experience in technical engineering comparable to

that acquired by successful completion of a full 4-year engineering curriculum in an accredited college or university. Applicants must be physically able to perform efficiently the arduous duties of the position.

Probational Appointment

Upon employment, each coal-mine inspector or engineer is given a probational appointment for 1 year. Probationers who do not meet Bureau of Mines standards are separated from the service, in accordance with Civil Service regulations.

TRAINING PERSONNEL

New inspectors and engineers usually are given a 4-week course of intensive training in technical matters and Bureau of Mines policy at the Bureau's Central Experiment Station, Pittsburgh, Pa., after a period of on-the-job training accompanying experienced inspectors at field headquarters.

A new inspector is required to accompany experienced inspectors until he has demonstrated his ability to work alone and is authorized by the Director to conduct inspections without immediate supervision. He is admonished to go slowly with his first inspections--to be very careful and thorough so that hazards are not overlooked. The need for thoroughness is emphasized throughout the training period and is reemphasized from time to time thereafter, so that Bureau policy will not be misunderstood.

One or more coal-mine inspectors of outstanding ability are assigned in certain field offices to assist the field officials in supervising the coal-mine inspectors under their jurisdiction. Such inspectors spend a portion of their time in accompanying regular inspectors, instruct them when necessary to improve the quality of their work, and submit reports of their observations for critical review and appropriate action. The work of all inspectors is checked periodically by special representatives assigned to the Washington office.

Coal-mine inspectors and engineers are called upon from time to time to teach Bureau accident-prevention courses, to address meetings of persons interested in mine safety, and to confer with groups of mining men--all for the purpose of "selling" safety. To assure that the inspectors and engineers are well equipped to perform these duties effectively, many of them have been given a short course of instruction in the conference method of teaching by a nationally known authority on vocational industrial training.

PROMOTION POLICY

Promotions are effected after a classification review shows that the duties performed by the employee over a significant period of time warrants a higher grade.

It is the established policy that additions to the coal-mine inspection staff shall be made in grade GS-9, and that it is the District Supervisor's responsibility to provide training and supervision for inspectors in grade GS-9, particularly during the probationary or trial period, necessary to develop and train them and prepare them for promotion. The District Supervisor shall give them appropriate tests to determine their proficiency. On full proof of an inspector's ability to assume a higher status, the District Supervisor shall so certify, summarizing evidence to support his findings. After approval by the Assistant Director--Health and Safety, the personnel office shall proceed with promotion of the individual to grade GS-11 at the place of employment, if the inspector is already doing or is to be assigned immediately in that area for a considerable time to inspection work classifiable as grade GS-11, subject to limitations inherent in law and regulation. Promotions to grade GS-12 are similarly achieved.

Coal-mine inspector positions are to be held only by men who are physically fit to perform the rigorous work involved at any time. To insure compliance with this policy, it is the duty of each District Supervisor to see that each coal-mine inspector is given a full physical examination at Federal expense at intervals of not more than three years up to age 55 and every year thereafter. This examination includes full-plate chest X-ray and electrocardiogram and shall be concluded with a statement by the examining physician as to the man's ability to perform the arduous work of a coal-mine inspector. In addition, such personnel is required to undergo and pass a physical examination, paid for by the Government, following each period of illness of 30 days or more. If an inspector is not able to perform such arduous work, the District Supervisor shall move through appropriate channels for disability retirement of the individual or other corrective measures. This procedure shall be applied to all persons whose job title is coal-mine inspector in Grades GS-9, GS-11 and GS-12 and all other members of the coal-mine-inspection staff, regardless of grade or title, whose positions require that they perform such arduous work.

ORGANIZATION

The coal-mine inspectors, electrical inspectors, and engineers of the division are headquartered at strategic places in the coal-producing areas of the United States. A list of the field headquarters, the area covered by each office, and the number of coal-mine inspectors, electrical inspectors, and engineers by headquarters as of December 31, 1964, is given in appendix A.

Reorganization of the health and safety activities of the Bureau of Mines, on the basis of a report of a survey team with members from private industry, who were appointed by the Secretary of the Interior, became effective December 19, 1954, in accordance with Administrative Order 695, issued by the Director of the Bureau of Mines on December 8, 1954.

INSPECTION PROCEDURE

The Federal Mine Safety Codes are used as the basis for determining unsafe and unhealthy conditions and practices in all coal mines inspected, and the Mine Safety Provisions of Title II of the Federal Coal Mine Safety Act are mandatory at all coal mines that regularly employ 15 or more individuals underground.

Briefly, the standard procedure for inspecting all coal mines (under Title I and II) follows: Generally, neither the mine operators nor the miners are notified of an impending inspection. The regular inspection work may require one day or several weeks, depending on the size of the mine, the thickness and pitch of coal beds, the system of mining, the degree of concentration of working places, the prevalence of hazardous conditions and practices, and other factors.

The inspector is required (1) to inspect every working place in the mine, all active haulageways, entrances to abandoned workings, accessible old workings, airways, escapeways, other places where men work or travel or where dangerous conditions might exist, electric equipment and installations, haulage facilities, first-aid equipment, ventilation facilities, communication installations, roof and rib conditions, blasting practices, surface plant, etc.

He also is required (2) to test for gas and for oxygen deficiency in all mines and to collect samples of mine air and mine dusts for chemical analysis, if necessary, to determine precisely the conditions with respect to noxious and explosive gases, oxygen content, and coal dust and rock dust.

In multiple-shift operations the inspector is required to devote part of his time to inspection on each shift so that hazards are not inadvertently overlooked and to spend enough time at the active working faces to observe, whereever practicable, a complete cycle of operations, including cutting, drilling, blasting, loading, hauling, support of roof, etc.

In addition, unannounced "spot-check" inspections are made between regular inspections of certain mines where experience indicates lack of sincere endeavor by the operator to comply with accepted safety standards between inspections.

To assure that the principle of States' rights is preserved, Title II provides for Joint Federal-State inspections when a State desires to cooperate in such activities. The Director of the Bureau of Mines is required by the act to cooperate with the official mine-inspection or safety agencies of the coal-producing States. Title II provides further that any State desiring to cooperate in joint inspections may submit a State plan for carrying out the purposes of this part of the act. Such a plan shall designate an authorized State safety or inspection agency to administer the plan and give assurance that such agency will employ an adequate and competent staff of inspectors, assign its inspectors to participate in inspections in the State under Title II, and submit reports to the Director of the Bureau of Mines as he requests them. The Director is required to approve any State plan that complies with the provisions of Title II. The Director may withdraw his approval and declare such a plan inoperative if he finds that the State agency is not complying with the spirit and intent of any provisions of the State plan.

If a State plan has not been adopted, the Federal coal-mine inspector is responsible under Title II for taking one of two courses of action if he finds certain hazardous conditions during an inspection:

1. The first action involves imminent danger: If a Federal inspector finds danger that a mine explosion, mine fire, mine inundation, or man-trip or man-hoist accident will occur in a mine immediately or before the imminence of such danger can be eliminated, he issues a written order requiring the operator of the mine to cause all persons, except certain public officials and those specifically permitted by law to correct the conditions, to be withdrawn from and debarred from the area described in the order. The operator is not permitted to resume normal operations in such an area until:

(a) The conditions specified in the order are corrected to the satisfaction of three duly authorized representatives of the Bureau of Mines appointed by the Director after receiving an application from the operator for annulment or revision of such order, and the order has been annulled or revised by the Director, or

(b) The Federal Coal Mine Safety Board of Review finds that, after receiving an application from the operator for annulment or revision of the order and after a formal hearing, the condition described in the order was erroneous or no longer exists.

2. The second action involves one or more violations of the Mine Safety Provisions set forth in sec. 209: If a Federal inspector find that any such mine-safety provision is being violated, but that the violation does not cause danger that an explosion, fire, inundation, or man-trip or man-hoist accident will occur in such mine immediately or before the imminence of such danger can be eliminated, he is required to issue a written notice to the operator, giving the operator a reasonable time

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to correct the violation. If upon making his special inspection to determine whether the violation has been abated in the time originally specified, the Federal inspector finds that the violation has been totally abated, he issues another written notice to that effect. If the inspector finds that the operator should be given additional time to abate the violation, he grants an extension of time in writing.

If, however, the violation is not abated and the Federal inspector finds that circumstances, such as obvious lack of effort by the operator to correct the condition, do not justify granting an extension of time, he issues a written order requiring the operator to cause all persons, except those specifically exempted by law, to be withdrawn and debarred from the area described in the order. Here again, the operator is prohibited from resuming normal operations in the affected areas until the order is annulled or revised by the Director of the Bureau of Mines or by the Federal Coal Mine Safety Board of Review under the same procedure as described for imminent dangers. Any final order by the Board is subject to judicial review by the United States Circuit Court of Appeals, upon notice of appeal by the Director or the operator.

If a State plan has been adopted, no mine shall be inspected by a representative of the Bureau under Title II unless a State inspector participates in the inspection in accordance with such plan, except where, in the Director's judgment, an imminent danger is deemed to exist and participation by a State inspector would unreasonably delay inspection. If a Federal inspector issues a withdrawal order citing an imminent danger under sec. 203(a) and a State inspector did not participate in the inspection on which the order is based, the mine operator may request the State agency to assign an inspector to inspect the mine.

Title II further provides that no withdrawal order shall be issued if an operator of a mine in a State in which a State plan is in effect fails to abate a violation of a mine safety provision that does not present an imminent danger under sec. 203(a) at the expiration of the time originally set or extended for abatement unless a State inspector participates in the inspection and concurs in the order. If the State inspector does not concur in the order, the operator or the State or Bureau representative may request the Chief Judge of the United States District Court for the district in which the mine is located to appoint a qualified, independent inspector to inspect the mine. If, after the inspection, either the independent or the State inspector concurs in the order, it shall be issued.

Withdrawal orders issued to the operator of a mine where a State plan is effective are not subject to review by the Director but are subject to review by the Federal Coal Mine Safety Board of Review.

In response to requests, pertinent plans for State participation were drafted and submitted to Alabama, Arkansas, Kansas, Montana, North Carolina, Oklahoma, Washington, and Wyoming to serve as guides in formulating plans for submission to the Director for his approval. On September 29, 1952, a plan submitted by Wyoming was the first to be approved by the Director. Since then, five additional plans have been approved. The States that submitted plans and the effective date of each plan are: Washington, December 17, 1952; Oklahoma, February 13, 1953; North Dakota, February 16, 1953; North Carolina, March 27, 1953; and Alaska, June 15, 1953. During 1964, four joint State-Federal inspections were made in Wyoming, three in Washington, and three in Oklahoma--a total of 10. (See appendix B, table 2.)

Conferences, in which the Bureau participates jointly with safety directors of the coal-mine operators' and mine workers' organizations headquartered in Washington, D. C., are held to discuss problems in coal-mine safety and consider suggestions and ideas for improving the Federal coal-mine inspection service. This cooperative effort has assisted materially in solving many problems that have been encountered.

Each coal-mine inspector is assigned mines that he inspects regularly. This procedure, adopted in 1948, has resulted in the inspectors showing a greater interest in having the mines under their jurisdiction in the safest possible condition. Every inspector is responsible for devising ways and means of reducing accidents in his area. However, to assure that hazards are not being overlooked, about one out of four inspections of a mine is assigned to an inspector from another area. To improve the effectiveness of his inspections, he is required:

1. To determine the outstanding causes of accidents at each mine to be inspected; this information is used as a guide to detect hazards during the inspection.

2. To pay special attention to the prevention of disasters, without neglecting other serious hazards.

3. To discuss all hazards observed and means of correcting them with the official accompanying him when the hazard is discovered, with the mine-safety committeemen when feasible, and with high company officials when a conference can be arranged. It is vitally important that the inspector reach agreement with management that disaster-free conditions will be maintained between Federal inspections.

4. To enlist the cooperation of labor, management, State inspection personnel, and all other safety-promotion agencies.

5. To become acquainted with management, the officials of the mine workers' organization, and the mine safety committeemen.

6. To attend local union meetings occasionally to discuss safety with the members and endeavor to promote cooperation in accident-prevention work.

7. To participate in mining institutes, Holmes Safety Association chapter meetings and councils, and other agencies dedicated to the promotion of mine safety.

8. To assume a personal interest in and a definite personal responsibility toward accident prevention.

9. To investigate all fatal coal-mine accidents, gas or dust ignitions, mine fires, inundation, etc., in his area.

10. To assist in rescue, recovery, and investigative work after disasters.

11. To aid mine officials in improving operating methods, with a view toward greater safety, efficiency, and economy.

12. To conduct first-aid and mine rescue training and officiate at first-aid and mine rescue contests.

PROCEDURE FOR PREPARING AND DISTRIBUTING COAL-MINE INSPECTION AND INVESTIGATION REPORTS

The coal-mine inspector prepares a preliminary report, in accordance with standard regulations, following a regular inspection of a coal mine that employs less than 15 men underground only if conditions that present imminent danger are observed. Preliminary reports are not prepared for strip or auger mines. Mines that employ less than 15 men underground and strip and auger mines are herein called Title I mines.

The inspector prepares the preliminary report, indicating unsafe conditions and practices observed that present imminent danger, and posts it at the mine within one day after he completes the inspection. The Bureau of Mines field offices distribute typed copies of the preliminary report to the mine officials, the State mine-inspection agency, the district and national offices of the mine workers' organization having jurisdiction at the mine, the Washington office of the Bureau of Mines, and the Geological Survey if the mine is on the public domain or Indian land.

Preliminary reports are not prepared after inspections of mines that employ regularly 15 or more individuals underground, herein called Title II mines. In lieu thereof, withdrawal orders, citing imminent dangers under sec. 203(a), or notices, citing violations of sec. 209 (Mine Safety Provisions) involving dangers that do not appear to be imminent, as provided under sec. 203(c), or an order classifying the mine gassy

under sec. 203(d) are issued by the inspector to the mine operator during or after completion of an inspection; copies are posted on the mine bulletin board. Field offices of the Bureau of Mines distribute typed copies of such notices or orders to the mine officials and the agencies that receive copies of final reports.

A final report on each inspection, prepared promptly by the inspector, contains a general description of the property and the conditions and practices observed during the inspection. Unsafe conditions and practices that are not corrected promptly are recorded in detail, and recommendations are made to correct them. When applicable, violations of the Mine Safety Provisions of Title II that were observed during the inspection are cited, and the action taken by the inspector to have the violations abated is indicated. The results of chemical analysis of dust and air samples collected during the inspection are recorded in the report.

Final reports on inspections of coal mines are prepared and reproduced in the field offices and distributed to management, the State mine-inspection agency, the national and district offices of the mine workers' organization, the Joint Industry Safety Committee (coal mines that are affiliated with the United Mine Workers of America), the Washington office of the Federal Bureau of Mines, and the Federal Geological Survey if the mine is on the public domain or Indian land. Reports on mines that supply coal on Government contract are forwarded to the Department of Labor.

Enough reports are reviewed in the Washington office(after they have been transmitted to all concerned) to assure that the rules for preparing and distributing reports are being followed and to obtain information on serious hazards and violations of the safety provisions of the codes and the act.

Posting and distributing the reports and filing the reports in the Bureau of Mines field and departmental offices for public inspection constitute compliance with that part of the act requiring publication and dissemination of findings.

Reports are prepared on investigations of all fatal coal-mine accidents, major and minor coal-mine disasters, mine fires and ignitions not of disaster proportions, inundations, etc. They are distributed to all agencies and persons that ordinarily would receive copies of the regular inspection reports.

FOLLOW-UP PROCEDURE

Under the mandatory provisions of Title II, special inspections are made by an inspector at the expiration of time periods set or extended as reasonable for abatement of violations of sec. 209 and, in instances

where men have been withdrawn, upon orders from the Director of the Bureau, in response to a request from the operator, to determine whether the violations have been totally or partly abated.

The inspector may summarily issue an order to the operator to withdraw men from a mine or part of a mine if an imminent danger is deemed to exist or if the operator has not made a reasonable effort to abate a violation of sec. 209 at the expiration of the time that has been set or extended for abatement.

Sec. 205 provides for the creation of a Federal Coal Mine Safety Board of Review to hear and determine applications filed pursuant to sec. 207 for annulment or revision of orders made pursuant to secs. 203 or 206. In compliance with these provisions, the President, on August 21, 1952, appointed A. U. Miller, C. R. Ferguson, and J. G. Solari to serve as members of the first board. Miller was named chairman. In 1953, E. R. Price, manager of coal properties, Inland Steel Co. (retired), was appointed to represent the operators in place of Solari (resigned), and Edward Steidle, dean emeritus, School of Mineral Industries, Pennsylvania State University (retired), replaced Miller as chairman. C. R. Ferguson, Director, Safety Division, United Mine Workers of America, continues to serve as the representative of the coal-mine workers. Mr. Price died late in 1962, and George C. Trevorrow was appointed March 8, 1963, to fill this vacancy.

Sec. 206 provides that an operator may apply to the Director for annulment or revision of an order issued under sec. 203. However, where a State-participation plan is in effect, the application for annulment or revision of a withdrawal order must be directed to the Federal Coal Mine Safety Board of Review.

Sec. 208 provides that any final order issued by the Board under sec. 207 shall be subject to judicial review by the United States Court of Appeals for the circuit in which the mine is located upon appeal by the Director or the operator; it provides further that the decision of a United States Court of Appeals is final and subject only to review by the Supreme Court.

Inasmuch as the Federal coal-mine inspectors have no authority to require compliance with their recommendations under the provisions of Title I, every reasonable and practical effort is made to have these unsafe conditions and practices corrected. One method is to enlist the cooperation of the State mine-inspection agencies that generally have authority to require correction of hazards. When an inspector observes unduly hazardous conditions or practices that are not covered by Title II during inspection of a mine, he informs the local mine officials. If prompt action is not taken to correct the hazards, he so advises the mine safety committeemen and the Bureau of Mines official in charge; the Bureau official promptly relays the information to the State mine inspector and the head of the

State mine-inspection agency. In addition, the statement of the hazard and the recommendation for its correction are capitalized for emphasis in the final report.

If the operator of a Title I mine indicates a willingness to abate dangers observed, the inspector advises the operator that he will return to the mine after the completion of the inspection, not to exceed 7 days thereafter, to check the conditions, and, where corrective action has been taken, credit for such improvements is given in the final report on the inspection.

Such follow-up procedures undoubtedly have exerted considerable influence on improving practices and conditions in many mines and reducing coal-mine injury rates.

Fifteen of the 1,429 orders issued since the effective date of the act, requiring withdrawal of men from underground areas, have been appealed to the Federal Coal Mine Safety Board of Review; nine of these, issued under State-participation plans, could not be appealed to the Director under the provisions of the act. In each instance where a withdrawal order had been issued and the operator had appealed to the Director of the Bureau of Mines, claiming that the dangerous condition had been corrected, Bureau action was prompt. The Bureau is as much interested as the operator in causing no undue delay in reopening mines after violations of the law are corrected.

During the 12½-year period (ended December 31, 1964) that the Federal Coal Mine Safety Act has been in effect, 20 applications for annulment of gassy-classification orders under sec. 203(d) were made to the Director; 14 applications were denied, and six orders were annulled. Eight of the Director's decisions denying annulment were appealed to the Federal Coal Mine Safety Board of Review; four were upheld by the Board, three were reversed, and one decision limited the order to the area in which the air sample was collected. Two applications for annulment of gassy-classification orders were made directly to the Board, and both were denied. Eight withdrawal orders, issued under State-participation plans in accordance with the provisions of sec. 203(a), five citing imminent explosion, two citing mine-fire, and one citing inundation dangers, were annulled by the Board after it was found that the dangers had been eliminated; the Board granted three appeals and denied another appeal regarding orders issued under sec. 203(c), which were appealed directly to the Board; and the Board revised one withdrawal order issued under sec. 203(c), for failure to abate violations of sec. 209(d)(9), by extending the time for abatement to permit training enough men in the maintenance, use, and limitations of permissible flame safety lamps to make the required tests for gas. Upon request of the operator the Bureau provided personnel for this specialized training; at its completion, the violation was abated, and the Director annulled the order. One appeal to the Board was withdrawn when the Director agreed to extend the time for abatement of the violations. Five decisions of the Board were appealed to the United States Court of Appeals--two by the Director and three by operators. The Court affirmed four of the Board's decisions; one appeal was dismissed because it was not filed within the 30-day limit. (See appendix C.)

REGULAR INSPECTION WORK ACCOMPLISHED

According to a Bureau of Mines survey, 9,374 coal mines were operated more or less regularly in 1964. Tabulations showing the number of coal mines (by types and areas) operated in 1964 are included in appendix D, tables 1 and 2.

Performance data in appendix D reveal that:

1. 11,432 regular inspections of coal mines were made in 1964 (see tables 4 and 5).

2. 188,694 regular inspections of coal mines have been made since 1941, when Public Law 49 became effective (see table 3).

3. 4,690 coal mines employing less than 15 men underground (Title I mines) were inspected in 1964, and the average number of inspections per active small underground mine was 1.1 (see tables 4 and 5).5/

4. 972 coal mines employing 15 men or more underground (Title II mines) were inspected in 1964, and the average number of inspections per larger active underground mine was 2.5 (see tables 4 and 5).

5. 1,442 strip and auger mines were inspected in 1964, and the average number of inspections per active strip or auger mine was 0.8 (see tables 4 and 5).

During 1964, Federal inspectors observed 113,723 violations of the Federal Mine Safety Codes while inspecting 4,690 Title I underground mines, an average of 24.2 violations per Title I underground mine inspected; 15 percent of all violations were corrected during the inspection (see appendix E, tables 1-4).

Federal inspectors observed 22,355 violations of the Federal Mine Safety Codes while inspecting 972 Title II mines, an average of 23.0 violations per Title II mine inspected; 53 percent of the violations were corrected during the inspections (see appendix E, tables 1-4).

A total of 8,000 violations of the mandatory mine safety provisions of Title II of the Federal Coal Mine Safety Act was observed while 2,465 inspections of these mines were made in 1964, an average of 3.2 violations per inspection; 7,032 (88 percent) of these violations were corrected promptly after detection, and 968 original notices

5/ Owing to intermittent operation or abandonment, it was impossible to inspect some mines that operated part time during 1964.

(form B) were issued at 319 mines granting reasonable time to abate violations that required more time to correct. Subsequent special inspections revealed that 931 violations had been totally abated, and 103 notices (form C) were issued granting additional time for abatement of others. Seventy-one withdrawal Orders citing imminent dangers under sec. 203(a) were issued at 47 mines in 1964, making a total of 771 such orders since July 16, 1952 (see appendix B, tables 1, 2, and 3); 43 withdrawal Orders under sec. 203(c) (form D) were issued at 22 mines in 1964 for failure to abate violations within a reasonable time, making a total of 658 such orders since July 16, 1952 (see appendix B, tables 1, 2, and 4); 11 orders (form B-1) were issued classifying mines gassy under sec. 203(d) in 1964, making a total of 192 such orders issued since July 16, 1952; and 615 special inspections were made to determine whether violations cited under sec. 203 had been abated (see appendix B, tables 1 and 2). Comparable inspection data for 1953-64 are given in appendix D, table 6.

No violations of the Federal Mine Safety Codes were observed during inspection of 12 Title I underground mines and 17 Title II mines (see appendix E, tables 1 and 2), and no violations of sec. 209 of the Federal Coal Mine Safety Act were observed while at least one inspection was made of each of 154 Title II mines (see appendix B, tables 1 and 2). Eight mines were free of Title II and code violations during at least one inspection.

The Federal Coal Mine Safety Act requires the Director to have each mine that is subject to the provisions of Title II inspected at least annually by a duly authorized representative of the Bureau. However, it is believed essential that Title II mines be inspected at least three times a year by the Federal Government, that all small underground mines that are not covered by Title II be inspected at least twice a year, that strip and auger mines be inspected at least once a year, and that spot-check inspections be made between regular inspections at mines where experience indicates lack of compliance with the provisions of the act. These minimum requirements are desirable, because the provisions of Title I of the act are purely recommendatory, and Title II provides no penalties for noncompliance with its mandatory requirements between inspections.

In addition to this mine-inspection schedule, a Federal inspector is required to perform special duties, such as investigating fatal accidents, serious nonfatal roof-fall accidents, and gas or dust ignitions and mine fires; making dust surveys; reviewing reports; working in supervisory capacities; assisting with rescue, recovery, and investigative work after mine disasters; teaching coal-mine accident-prevention courses; organizing Holmes Safety Association chapters; and handling various other jobs. Special assignments are essential to comply with the provisions of the Federal Coal Mine Safety Act and to obtain the greatest benefits from regular inspection work.

SPECIAL WORK ACCOMPLISHED

Although the routine inspections of coal mines and the distribution of inspection reports are primary functions of personnel of the Division, it is realized that the effectiveness of an inspection is enhanced if mine supervisory personnel and mine workmen have enough technologic and practical knowledge of modern concepts of coal-mine safety to recognize an unsafe condition or practice when it exists or is developing and to know how to correct it.

The need for specialized training is recognized in sec. 106 of the Federal Coal Mine Safety Act, which authorizes and directs the Secretary of the Interior, acting through the Bureau of Mines, to expend the funds made available to him for advancing health and safety in coal mines and for preventing or relieving accidents and occupational diseases in mines in such lawful manner as he may deem most effective in the light of the information obtained under the act to promote the accomplishment of the object for which the funds were granted.

To comply with this directive, the Division performs many special duties, which are presented herewith.

Coal-Mine Accident-Prevention Course for Miners

The National Bituminous Coal Wage Agreement provides that:

> At each mine there shall be a mine Safety Committee selected by the local union. The mine Safety Committee may inspect any mine development or equipment used in producing coal. If the Committee believes conditions found endanger the life and bodies of the mine workers, it shall report its findings and recommendations to management. In those special instances where the Committee believes an immediate danger exists and the Committee recommends that management remove all mine workers from the unsafe area, the operator is required to follow the recommendation of the Committee.

The Anthracite Wage Agreement provides that:

> Mine Committees, acting on the request of individual employees or upon their own personal knowledge, shall have the right to report to management unsafe conditions affecting operations or equipment. In such cases, the Mine Committee shall have the right, accompanied by representatives of management, to make necessary inspections of property or

equipment for the ascertainment of actual facts. In the event that such conditions, when reported, are not satisfactorily corrected, the Mine Committee shall request action by the State and Federal inspectors.

To assure that members of these committees would be well versed in the provisions of the Federal Mine Safety Codes and thereby be better equipped to recognize unsafe conditions and practices that exist or are developing in mines and to learn the proper means of overcoming them, the Bureau of Mines, in cooperation with the United Mine Workers of America, inaugurated a Coal-Mine Accident-Prevention Course for Mine-Safety Committeemen in January 1947. The course covers the practical and some technical aspects of modern principles of coal-mine safety and required 20 hours of classroom instruction. Because it was so enthusiastically endorsed by mine safety committeemen and mine operators, the training course was offered to all mine workmen, and the over-all popularity of the training has been outstanding. Most mine-safety committeemen and other mine personnel have completed the course.

In addition, thousands of men have received specialized training in the maintenance, use, and limitations of permissible flame safety lamps to qualify them to test properly for gas in places where electric machines are operated in face areas, in accordance with the provisions of sec. 209(d) (9) of the act.

The Bureau of Mines will embark on an educational innovation in 1965 when four specially designed and equipped mobile training units will be put in service. The units will be devoted primarily to safety-educational training at small mines where, ordinarily, classroom facilities are not available.

Coal-Mine Accident-Prevention Course for Supervisors

The Bureau of Mines Coal-Mine Accident-Prevention Course for Supervisors requires 40 hours of classroom instruction and covers all technologic as well as practical phases of safety as applied to surface facilities; timbering and roof control; transportation, storage, and use of explosives; ventilation and mine gases; coal dust and rock dust; haulage; electricity; safeguarding equipment; fire prevention and control; and miscellaneous items. The course includes lectures, class discussions, demonstrations, and visual aids, such as motion pictures, slides, and blackboard sketches.

This training program has been successful. Since March 1948, when the revised course was first offered, thousands of coal-mine supervisors and other aspiring to similar positions completed the training. A modernized basic course, Fundamentals of Accident Prevention for Coal-Mine Supervisors, was developed to supplement this previous training.

Electrical Safety Course

An outline for a course in electrical safety--Electrical Fundamentals and Principles for Coal-Mine Electricians and Supervisors--was prepared by personnel of the division, and initial training in the

industry was begun in 1954. This course is now available to electricians, technicians, and others in the mining industry.

The Holmes Safety Association

Coal-mine inspection personnel take an active interest in the Holmes Safety Association, which has been sponsored by the Bureau of Mines since 1926. The association was organized as part of the Bureau's safety-education program to promote health and safety in the mineral industries through cooperative efforts of management and labor and State and Federal agencies. The Bureau has intensified its efforts to expand this organization into mining areas in all parts of the United States. The Federal coal-mine inspectors take an active part in promoting this program in their field areas.

Experience has proved that injury rates are lower than average in mines that have membership in this association.

Investigation of Fatal Coal-Mine Accidents

The Bureau of Mines has investigated major mine disasters, one in which five or more men are killed, since its inception in 1910 as part of its accident-prevention program, and the conclusions drawn from these investigations have been used as bases for recommending measures to prevent recurrences. The Bureau also has investigated explosions and fires in which less than five or no lives were lost, but before 1950 it was not general practice to investigate fatalities resulting from occurrences other than mine fires or explosions. The Bureau had long recognized the need for a comprehensive study of fatal accidents, but the task was too great for the available personnel. The reduced frequency of fatalities in coal mines and the increased inspection personnel provided by Congress permitted achievement of this goal, and all fatal accidents have been investigated since February 10, 1950. A report of each investigation is prepared by the Federal inspector and distributed to instructors of accident-prevention courses and agencies and persons who ordinarily would receive copies of the regular coal-mine inspection reports. The report gives the facts about the accident, the inspector's conclusions on the cause, and recommendations for preventing similar occurrences.

Condensed reports on the investigations of coal-mine fatalities since 1950 have been published annually. The information is particularly useful to officials of coal companies and mine workers' organizations in planning accident-prevention programs; to safety directors, inspectors, instructors, and supervisors who need such information to carry out their duties more effectively; and to mine workers who must know the causes of accidents to be better able to prevent injury to themselves and their fellow workmen.

The Bureau of Mines is the only agency that assembles, on a Nationwide basis, detailed reports on the investigations of all coal-mine fatalities in the United States.

Roof-Control Work

Accident statistics have indicated for years that falls of roof and coal cause a high percentage of the fatalities that occur in coal mines; this fact has challenged everyone interested in improving accident rates in the coal-mining industry. The Bureau of Mines has done considerable research on mine-roof control when funds were available, but until 1948 no person or agency had produced any new or improved means of satisfactorily solving the problems presented by this No. 1 killer in coal mines. The Bureau realized that, to reduce coal-mine injuries, it would be necessary to find better methods of roof control; its efforts in that direction finally culminated in a new method of roof control known as roof bolting, which was introduced in the coal-mining industry in 1948. The basic principle of this method is to prevent the initial sag in exposed roof strata by converting the strata into a rigid beam, with steel bolts set in holes drilled in the roof rock. The bolts must be installed as soon as practicable after the roof is exposed by the normal mining process.

After experimentation to prove the practicability and safety of bolting under controlled conditions, the method was widely publicized in Bureau of Mines publications and in the trade journals. To satisfy the demand of mine operators for Bureau suggestions on roof-bolt installations and to assure methods that would not be condemned as failures because of improper installations, the Bureau trained certain Federal coal-mine inspectors and engineers to qualify as expert consultants on roof bolting. These men are headquartered in coal-mining areas where their consulting services are needed, and the mine operators generally obtain their advice and recommendations before purchasing bolts. Some States require mine operators to obtain a permit from the State inspection agency before roof bolting can be done. Such wise precautions have contributed much to the success of this new method of roof control.

Before roof bolting is adopted in any mine, the Bureau of Mines recommends controlled experiments--in conformance with the procedures that have been worked out by the Bureau of Mines--to determine whether roof bolting is applicable. (Auxiliary conventional supports are used to control the roof during initial experimentation.) After a safe, economical method of bolting is determined, no deviation from that method is supposed to be made without a new experimental period. If roof conditions change radically from those during the initial experimental period, a new experimental period should be scheduled.

Federal coal-mine inspectors observe roof-bolting procedures during their regular inspections of coal mines and report deviations from the established plans and other substandard practices of roof support.

Roof bolts are used exclusively in many large mines for roof control, and in 1964, about 58 percent of the bituminous-coal underground production was mined under bolted roof.

The introduction of roof bolting in the coal-mining industry marks another major contribution of the Bureau of Mines in its efforts to attain the primary objective of the Congress in establishing the Bureau in 1910--to prevent accidents in the mineral industries.

To reduce further the incidence of roof-fall accidents, the Bureau of Mines initiated a Coal-Mine Roof-Control Course in May 1951. It requires 30 minutes to one hour of lecture and discussion and is presented to coal-mine officials and employees by a Federal coal-mine inspector, usually after he completes inspecting a mine. The course is designed to impress mine personnel with the need for more adequate roof-control measures and to make everyone concerned more roof-conscious.

The division actively cooperates in special safety campaigns, such as the National Campaign to Reduce Roof-Fall Injuries in Coal Mines. Intensive surveys are being made of conventional timbering systems to achieve immediate improvement in roof control and compliance with approved methods and to establish suitable, minimum timbering standards where none have been adopted.

Haulage-Safety Course

In April 1951, a Coal-Mine-Haulage Safety Course was completed and introduced in the industry. It consists of lectures and illustrations on haulage safety and is presented to mine personnel by the Federal coal-mine inspectors, usually after completing an inspection. Considering the comparatively few men employed in haulage operations at coal mines, the number of trainees is outstanding.

Injury and Employment Data

One of the special duties of coal-mine inspectors and engineers of the Division is to enlist the cooperation of coal-mine operators in submitting injury and employment statistics to the Bureau of Mines in compliance with sec. 105 of the Federal Coal Mine Safety Act. If an operator needs instruction on how to complete the proper forms, inspectors or engineers are prepared to give advice. Through this service, performed when the mine is being inspected, more and better reports have been submitted to the Bureau by mine operators.

Ventilation Surveys

Engineers and inspectors of the Division are assigned to coal-mine ventilation studies, surveys, and research. Owing to the frequency of minor gas ignitions at faces where boring-type, continuous mining machines are operated, a study is continuing with the cooperation of the Joint Industry Safety Committee to determine the efficiency of auxiliary ventilation in certain mines using these machines. The size of such machines seriously hampers normal face ventilation, but studies showed that properly installed auxiliary fans can overcome this difficulty. As a result, some manufacturers and coal companies are installing auxiliary fans on continuous mining machines.

Explosives Surveys

Division personnel conduct special investigations on storage, transportation, and use of explosives and blasting devices. Generally, the studies have been requested by mine operators who are interested in improving the safety and economy of their operations.

Electrical Surveys

Mining-electrical engineers and electrical inspectors of the Division conduct special technical investigations of electrical facilities and installations in coal mines, generally at the request of mine operators (see appendix D, table 3). These engineers also are assigned to cooperate with industry in conducting research work on electrical apparatus with a view toward designing safer equipment. The electrical inspectors advise and assist the coal-mine inspectors in determining the status of permissible electric face equipment as required by sec. 209(f) (1) of the Federal Coal Mine Safety Act.

Dust Surveys

To determine more accurately the adequacy of the rock dusting to prevent dust explosions, an intensive patterned dust-sampling survey is made of at least two sections during each inspection of a coal mine, where applicable. In addition, special rock-dusting surveys are conducted as required.

Research to Minimize Hydraulic Fluid Fire Hazards

The cooperation given the Bureau since the inception of this effort in 1955 by mine operators, mine workers, and manufacturers of mining equipment and hydraulic components for such equipment continues to be an important factor in this research program. The fluids developed and under present development are economically comparable with the flammable petroleum hydraulic fluids. The use of fire-resistant hydraulic fluids materially reduces underground fire hazards, since in many mine fires the addition of flammable hydraulic fluid to a fire by ruptured or burned hoses and other means increases the intensity of the fire, endangering mine personnel, and, in instances, the fire becomes out of control and necessitates abandonment of the area or entire mine.

Health and Safety Research and Testing

The division cooperates with and serves in advisory and investigative capacities with the Bureau's Health and Safety research and testing programs that are intimately associated with and serve as vital assets in achieving the aim of the Federal Coal Mine Safety Act--the improvement of health and safety conditions in coal mines. Such programs, which are being conducted by the Bureau's Health and Safety Research and Testing Center at Pittsburgh and Bruceton, Pennsylvania, are directed toward improving electric and diesel-powered equipment for underground work; methods and equipment to counteract health hazards in the mineral industries; establishing more scientific bases for roof control, including prevention of "bumps" or rock bursts; improving mine ventilation generally and aiding the mining industry in solving difficult ventilation problems; and preventing gas and dust explosions and mine fires by designing and applying new concepts on dust binding, rock dusting, controlling float-dust transport, gas detection, fire control, and suppressing mine explosions at their source by the automatic release of a flame retarder into the atmosphere.

Work is continuing in the testing and approval of electric face equipment, lighting and shot-firing devices, gas detectors, drill-dust collectors, respirators, and self-contained breathing apparatus.

Research has continued on the development of stable sensing devices for the methane monitor for use in detecting the presence of methane over extended periods of time without the necessity for adjustment or other manual attention.

Preliminary tests of Bureau-developed methane monitors have been made in the Experimental Mine at Bruceton, and further testing of a packaged unit has been carried on in a commerical mine under severe environmental conditions encountered in coal-mine service. A Bureau designed unit has now been approved under Schedule 32 complete with power shut off. Three units are now ready for extensive testing in practical coal mine service and these will be put on test as soon as arrangements can be made with the mine operators who have agreed to test them.

A methane-monitoring unit developed by a commercial manufacturer with Bureau assistance and cooperation has been undergoing tests in a commercial mine during the greater part of 1964.

Another prototype unit using a radio isotope ionization methane detector has been tested and approved by the Bureau as explosion proof and has been tested in a commercial mine. Further adjustment and experimental work has been indicated in all of these tests and the work will be continued during 1965.

The application of silicon rectifier diodes as a substitute for frame-grounding conductors on mobile electrically driven mining equipment has been continued throughout the year. Some difficulty experienced with the earlier applications from the effects of high inverse-voltage transients has been overcome by the application of surge-suppressor techniques and the use of avalanche-type diodes. The use of this form of protection has contributed to improved maintenance of portable cables and to a reduction in electric-shock hazard.

Studies to resolve face ventilation problems associated with continuous-mining machines were continued. Analysis of the efficiency and effectiveness of common methods of face ventilation were conducted in the Bureau's Experimental Mine. Efforts were directed toward improving application methods of auxiliary face ventilation systems, including research to determine the practicability of high-capacity ventilation equipment. The effect of atmospheric pressure changes on methane release from large mined-out areas of coal mines in Illinois was tested. Absolute pressure ventilation surveys were conducted at three large coal mines with recommendations for proposed ventilation improvements reported to the mine operators. Ventilation systems of four mines were analyzed by the fluid network analyzer.

Participation in Safety Organizations

Personnel of the division serve as officers and committee members and participate in the various programs of the National Safety Council and its affiliated regional organizations and in the Mine Inspectors' Institute of America, the National Mine Rescue Association, the American Mining Congress, the Coal-Mining Institute of America, and other national, regional, and local safety organizations throughout the United States.

The chief of the division serves as secretary of the Coal Mining Section, National Safety Council.

Cooperation With Other Federal Agencies

Personnel of the division have accepted special assignments from other Federal agencies to Colombia, Austria, Korea, Venezuela, Turkey, Germany, Burma, Afghanistan, Indonesia, and India. Two inspectors are presently serving a 2-year assignment in Afghanistan.

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Special assignments of engineers and inspectors serve a two-fold purpose: (1) The agency to which the Bureau expert is loaned receives the benefit of his wide experience in mining, and the expert, in turn, adds to his fund of knowldege; and (2) the information obtained through this special work is made available to the mining industry if it is deemed in the public interest.

Personnel of the division cooperate with the Wage and Hour and Public Contracts Divisions, U.S. Department of Labor, in administering the Public Contracts section of the Walsh-Healy Act. The Bureau of Mines field office informs the regional office of the Wage and Hour and Public Contracts Divisions when violations of the Federal Mine Safety Code are found by Federal coal-mine inspectors at mines that are under contract to furnish coal to the Federal Government. The Department of Labor requires the mine operator to eliminate the dangers or face cancellation of the contract.

Under Order 1940, April 4, 1944, the Secretary of the Interior delegated to the Bureau of Mines the responsibility for all mine-safety inspections of mining operations on public domain, Indian lands, and other Government-lease mining operations. In addition to the usual inspection procedures, the Bureau makes these investigations in conformance with the applicable parts of the regulations of the Federal Geological Survey, the Office of Indiana Affairs, and the General Land Office; copies of the reports are sent to the Geological Survey. Following a suggestion by the Director of the Bureau of Mines, the Geological Survey has revised its coal-mine safety regulations to conform more closely to the Federal Mine Safety Code. These revised regulations are in the process of approval.

Revision of State Coal-Mining Laws

Since 1947 the Division has helped to prepare proposed revisions of the coal-mining laws of 17 States. The safety-regulations sections of the proposed revisions were designed along the lines of the Federal Mine Safety Codes, assuring more modern and standardized State coal-mining laws. They have been adopted in Alabama, Colorado, Illinois, Indiana, Maryland, Montana, Pennsylvania (bituminous coal), Tennessee, West Virginia, and Wyoming.

The Bureau of Mines will continue to furnish this service to any agencies directly concerned with improving State mining laws, such as labor organizations, coal-operators' associations, and State officials.

This contribution toward the reduction of injuries in coal mines is another major and vitally important step taken by the Bureau to fulfill its obligations to the coal-mining industry.

First-Aid and Mine Rescue Training

Personnel of the Division conduct first-aid and mine rescue training for coal-mine personnel and take an active part in promoting and conducting National and regional first-aid and mine rescue contests.

Miscellaneous Special Assignments

Personnel of the division undertake many other miscellaneous assignments in response to requests for assistance in technical and safety problems in the industry.

ACHIEVEMENTS

This report covers the 12th full calendar year of coal-mine inspections under the Federal Coal Mine Safety Act and the 23rd full calendar year since Federal coal-mine inspections were begun. The effectiveness of the work done by all concerned in fulfilling the principal purpose of Federal inspections--the reduction of accidents in coal mines--is revealed in part by comparing the injury records for a 10-year period before 1941, when the law became effective, and two subsequent 10-year periods under Federal inspections. The overall figures for all coal mines show a consistent substantial reduction in the number and frequency of accidents in each of the two periods since 1941. (see appendix F, table 1)

Fatalities and nonfatal injuries, by calendar years, that have occurred in coal mines of the United States since 1932 are shown in appendix F, table 2. Preliminary figures indicate that the number of fatalities decreased from 284 in 1963 to 241 in 1964 while the fatal-accident frequency rate decreased from 1.11 to 0.93. The nonfatal injury data for 1964 were not available when this report was prepared.

The number of major coal-mine disasters in the United States and the resulting fatalities are listed for each year since 1931 in appendix F, table 3. (A major disaster is any accident that causes the death of 5 or more persons.) For the 12½-year period (January 1940-June 1952) immediately preceding the enactment of Public Law 552 there were 59 major disasters that killed 1,240 men, and for the following 12½ years (July 1952-December 1964) there were 18 major disasters that killed 267 men - a reduction of 69 and 78 percent respectively. No major disaster occurred in the Nation's coal mines in 1964.

The longest period between major-explosion disasters in coal mines of the United States was 29 months and 19 days--from July 30, 1948, to January 18, 1951. The longest period between major disasters (all kinds) in coal mines of the United States was 26 months and 14 days-- from November 4, 1948, to January 18, 1951. The next longest period between major disasters (all kinds) in coal mines of the United States was 26 months and 5 days--from November 13, 1954, to January 18, 1957.

Appendix F, table 4, compares underground fatality frequency in Title I and Title II mines from 1958 through 1964.

The favorable results attained during the past 23 years are not attributable to the efforts of any one group or agency, but it is well known in mining circles that Federal coal-mine inspection activities have been, and continue to be, a potent influence in getting deserved attention to health and safety in coal mines. The Bureau has strived, with success, to have management and labor work hand-in-hand to iron out their safety and health problems. The cooperative efforts of management, labor, State inspection agencies, manufacturers of mining equipment, coal-operators' associations, the Federal Bureau of Mines, and other agencies interested in mine safety have brought about improvements in conditions and practices that have resulted in continuing reduction in coal-mine injuries.

NEED FOR LEGISLATIVE ACTION

Expanded Coverage for the Federal Coal-Mine Safety Act

It is recommended that the Federal Coal Mine Safety Act be amended to:

1. Include mines employing 14 men or less underground under its mandatory inspection procedures and regulations. These mines, as a group, are usually poorly regulated and are not outstanding for safety practices.

2. Modify the "reasonable time" provision in sec. 203(b) of the act to authorize inspectors to issue orders to withdraw personnel from mines or sections of mines immediately when violations of any Mine Safety Provision under sec. 209 are observed.

3. Eliminate the "grandfather" clauses in secs. 209(d) (5) and (6), which exempt, for a reasonable period, compliance with certain ventilation requirements of the act and secs. 209(f) (1) and (2), which allow operators of gassy mines to continue using nonpermissible electric face equipment until it is worn out. Inasmuch as the act has been in effect for more than 12 years, the "grandfather" clauses have long since outlived their usefulness.

4. Provide that each mechanical working section in a gassy mine be ventilated by a separate split of air, directed by overcasts or undercasts.

5. Require at least two separate and distinct travelable escapeways from each mine working section to the surface, one of which shall be ventilated with intake air.

6. Require the use of permissible explosives or acceptable blasting devices in a permissible manner for underground blasting in coal.

Liberalized Retirement Benefits for Coal-Mine Inspectors and Investigators

It is recommended that the Civil Service Retirement Act be amended to provide more liberal retirement benefits for coal-mine inspectors and investigators.

Because of their arduous duties, coal-mine inspectors and investigators must have sturdy physical qualifications, and the experience requirements make it difficult to obtain young men. It is rare that any man has such experience before the age of 30; most appointees have been 40 years of age or older. Their physical abilities decline rapidly after 55, and after 60 most inspectors and investigators lack the physical stamina and agility to cope efficiently with the arduous efforts of their regular work or the hazardous emergencies which they constantly face.

The combination of arduous and hazardous duties plus the high average entrance age means that few coal-mine inspectors and investigators can hope to accumulate sufficient years of service to achieve an adequate retirement annuity. Enactment of legislation to provide more liberal retirement benefits for these people will improve Government services in that it will permit the acquisition of younger and more efficient personnel by encouraging the better qualified men in industry to seek employment and allow for systematic retirement without undue hardship of those who can no longer safely and efficiently fulfill the required duties after serving the Government well and faithfully.

PUBLICATIONS

The following Bureau of Mines Publications, issued during 1964 were prepared wholly or partly by personnel of the division:

Publication	Title	Authors
MIS	Falls of Roof, Rib, and Face, The No. 1 Killer in Bituminous-Coal Mines in 1963	A. D. Sisk
MIS	Fatalities at Pennsylvania Anthracite Mines in 1963.	James A. Moore
I.C. 8209	Survey of Burning Coal-Mine Refuse Banks	R. W. Stahl
I.C. 8224	Safety Organization and Activities of Award-Winning Companies in the Coal-Mining Industry	R. T. Davis R. W. Stahl
I.C. 8227	American Standard Safety Rules for Installing and Using Electrical Equipment in and about Coal Mines	Staff

Respectfully submitted,

Frank M. Munn

Acting Director, Bureau of Mines

APPENDIX A

TABLE A-1.--Health and safety districts as of Dec. 31, 1964, and coal area covered

Health and safety district	Field office	Supervisor	Coal area covered
A.....	Wilkes-Barre, Pa.	William Rachunis	Pennsylvania anthracite region.
B.....	Pittsburgh, Pa.	W. Dan Walker, Jr.	Pittsburgh office--(Allegheny, Armstrong, Beaver, Butler, Clarion, Fayette, Greene, Lawrence, Mercer, Venango, Washington, and Westmoreland counties).
	Johnstown, Pa. 1/	C. J. Dalzell	Pennsylvania (Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Elk, Huntingdon, Indiana, Jefferson, Lycoming, Somerset, and Tioga counties).
	St. Clairsville, Ohio 1/	T. C. Higgins	Ohio and West Virginia (Brooke, Hancock, Marshall, and Ohio counties).
C.....	Mount Hope, W. Va.	William R. Park	Mount Hope office--West Virginia (south of Jackson, Roane, Braxton, Webster, and Randolph counties).
	Morgantown, W. Va. 1/	John J. Dougherty	Maryland and West Virginia (north of Mason, Kanawha, Clay, Nicholas, and Pocahontas counties and south of Marshall county).
D.....	Birmingham, Ala.	Eric H. Brown	Birmingham office--Alabama, Georgia, and North Carolina.
	Jellico, Tenn. 1/	Carl F. Kahre	Tennessee.

E.....	Vincennes, Ind.	H. A. Schrecengost	Illinois, Iowa, Indiana, Kentucky (west of Frankfort), and Missouri.
G.....	Dallas, Texas	George M. Kintz	
	McAlester, Okla. 1/	Robert D. Bradford	Oklahoma, Arkansas, Kansas, and Texas.
H.....	Denver, Colo.	J. Howard Bird	Colorado, Montana, New Mexico, North Dakota, South Dakota, and Wyoming (Carbon, Converse, Campbell, Sheridan, Fremont, and Hot Springs counties).
	Salt Lake City, Utah 1/	L. D. Knill	Idaho, Utah, and Wyoming (all counties not covered by Denver).
	Seattle, Wash. 1/	L. H. McGuire	Washington, Oregon, and Alaska.
I.....	Norton, Va.	J. S. Malesky	Virginia and those parts of eastern Kentucky east of Elliott, Morgan, Magoffin, and Knott counties and parts of Letcher, Floyd, and Harlan counties east of Whitesburg, Prestonburg, and Cumberland.
	Barbourville, Ky. 1/	George W. Parry	Kentucky east of Frankfort and west of and including Elliott, Morgan, Magoffin, and Knott counties and parts of Letcher, Floyd, and Harlan counties west of Whitesburg, Prestonburg, and Cumberland.

1/ Subdistrict.

TABLE A-2.--Distribution of coal-mine inspectors and electrical inspectors, Dec. 31, 1964

Field office	Coal-mine inspectors							Coal-mine electrical inspectors			
	GS-9	GS-11	GS-12	GS-13	GS-14	GS-15	Total	GS-9	GS-11	GS-12	Total
Wilkes-Barre, Pa.....	-	-	19	1	1	-	21 1/	-	-	-	0
Pittsburgh, Pa.....	1	4	18	2	-	1	26 2/	-	-	1	1
Johnstown, Pa.....	2	3	18	2	-	-	25 3/	-	-	-	0
St. Clairsville, Ohio.	-	2	7	1	-	-	10	-	-	1	1
Mt. Hope, W. Va.....	10	2	32	4	-	1	49 4/	-	-	2	2
Morgantown, W. Va.....	2	2	16	2	-	-	22 3/	-	-	1	1
Birmingham, Ala.....	-	1	7	1	1	-	10 1/	-	-	-	0
Jellico, Tenn.....	-	-	8	1	-	-	9	-	1	-	1
Vincennes, Ind.....	-	-	13	1	1	-	15 1/	-	-	1	1
McAlester, Okla.....	-	-	1	1	-	-	2	-	-	1	1
Denver, Colo.....	-	-	5	1	-	1	7 3/	-	-	-	0
Salt Lake City, Utah..	-	-	3	1	-	-	4	-	-	-	0
Seattle, Wash.....	-	-	1	-	-	-	1	-	-	-	0
Norton, Va.....	1	-	25	1	1	-	28 3/	-	-	1	1
Barbourville, Ky.....	1	2	14	1	-	-	18	-	-	1	1
Washington, D. C.....	-	-	-	3	-	-	3 5/	-	-	-	0
Total	17	16	187	23	4	3	250 6/	0	1	9	10

1/ Includes 1 health and safety program management assistant.
2/ Includes 1 health and safety program management assistant and 1 technical assistant.
3/ Includes 2 technical assistants.
4/ Includes 1 management trainee, 2 technical assistants, and 3 health and safety program management assistants.
5/ Represents 3 technical assistants.
6/ Includes district and subdistrict supervisors, except district supervisors at Dallas, Tex., and Duluth, Minn., and subdistrict supervisors at Albany, N.Y.; Phoenix, Ariz.; Oakland, Calif.; and Seattle, Wash.

TABLE A-3.--Distribution of engineers, Dec. 31, 1964

Field office	GS-9	GS-11	GS-12	GS-13	GS-14	GS-15	Total
Wilkes-Barre, Pa.....	-	-	-	-	-	-	0
Pittsburgh, Pa.....	-	-	1	2	-	-	3
Johnstown, Pa.....	-	-	1	-	-	-	1
St. Clairsville, Ohio...	-	-	-	-	-	-	0
Mt. Hope, W. Va.....	-	-	1	-	-	-	1
Morgantown, W. Va.....	-	-	-	-	-	-	0
Birmingham, Ala.....	-	-	-	-	-	-	0
Jellico, Tenn.....	-	-	-	-	-	-	0
Vincennes, Ind.....	-	-	-	1	-	-	1
McAlester, Okla.....	-	-	-	-	-	-	0
Denver, Colo.....	-	-	1	-	-	-	1
Salt Lake City, Utah....	-	-	1	-	-	-	1
Seattle, Wash.....	-	-	-	-	-	-	0
Norton, Va.....	-	1	-	-	-	-	1
Barbourville, Ky.....	-	-	-	-	-	-	0
Washington, D. C.....	-	-	-	-	-	1	1
Total.....	0	1	5	3	-	1	10

Appendix B

Table B-1 - Details of inspection data - Title II mines - 1964 by Health and Safety Districts and Subdistricts

District	Field Office	Title II mine inspections	Joint State Federal inspections 1/	Violations Title II observed	Mines at which Form B Notices were issued	Notices issued			Orders issued			Mines at which Orders were issued		Mines free of violations of Title II	Title II mines inspected	Mines free of Title II and code violations during same inspection	Special inspections under secs. 203 and 206
						Form B (Original)	Form C Violations abated	Form C Time extended	Form A sec. 203(a)	Form D sec. (203(c)	Form B-1 sec. 203(d)	Form A	Form D				
A	Wilkes-Barre, Pa.	104	0	112	0	0	0	0	7	0	0	5	0	32	36	0	5
B	Pittsburgh, Pa.	143	0	545	4	7	7	1	1	0	1	1	0	5	49	2	2
	Johnstown, Pa.	166	0	508	4	6	6	2	1	1	1	1	1	6	60	0	11
	St. Clairsville, Ohio	63	0	252	4	4	4	0	0	0	1	0	0	0	23	0	4
C	Mt. Hope, W. Va.	732	0	2,583	116	309	292	47	16	17	5	11	9	28	299	1	239
	Morgantown, W. Va.	232	0	728	12	29	24	9	3	4	1	3	1	20	96	0	7
D	Birmingham, Ala.	46	0	58	0	0	0	0	0	0	0	0	0	8	16	4	0
	Jellico, Tenn.	42	0	131	5	10	10	2	4	0	0	3	0	1	19	0	20
E	Vincennes, Ind.	163	0	588	19	41	41	10	10	1	0	4	1	12	69	1	26
G	McAlester, Oklahoma	4	3	0	0	0	0	0	0	0	0	0	0	3	3	0	0
H	Denver, Colo.	56	0	121	3	6	5	0	3	1	0	3	1	7	20	0	9
	Salt Lake City, Utah	47	4	154	4	5	2	0	1	3	1	1	2	0	19	0	8
	Seattle, Wash.	5	3	0	0	0	0	0	0	0	0	0	0	1	1	0	0
	Anchorage, Alaska	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
I	Norton, Va.	310	0	1,045	75	285	278	7	11	8	1	7	4	17	113	0	80
	Barbourville, Ky.	352	0	1,175	73	266	262	25	14	8	0	8	3	14	149	0	204
	Total	2,465	10	8,000	319	968	931	103	71	43	11	47	22	154	972	8	615

1/ Included in Title II mine inspections

Table B-2 - Details of inspection data - Title II mines - 1964 - by States

State	Title II mine inspections	Joint State-Federal inspections 1/	Violations Title II observed	Mines at which Form B Notices were issued	Notices issued			Orders issued			Mines at which orders were issued		Mines free of violations of Title II	Title II mines inspected	Mines free of Title II and code violations during same inspection	Special inspections under secs. 203 and 206
					Form B (Original)	Form C Violations abated	Form C Time extended	Form A sec. 203(a)	Form D sec. 203(c)	Form B-1 sec. 203(d)	Form A	Form D				
Alabama	46	0	58	0	0	0	0	0	0	0	0	0	8	16	4	0
Alaska	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Arizona	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Arkansas	1	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0
California	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Colorado	50	0	112	2	5	4	0	3	1	0	3	1	6	18	0	8
Georgia	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Illinois	73	0	282	2	2	2	0	7	0	0	2	0	4	30	0	8
Indiana	24	0	87	6	15	15	6	0	1	0	0	1	1	9	0	7
Iowa	6	0	3	0	0	0	0	0	0	0	0	0	4	5	0	0
Kansas	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Kentucky	551	0	1,789	115	403	397	31	20	10	0	12	4	26	223	1	258
Maryland	3	0	5	0	0	0	0	0	0	0	0	0	1	2	0	0
Missouri	4	0	6	1	2	2	0	0	0	0	0	0	2	3	0	0
Montana	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
New Mexico	6	0	9	1	1	1	0	0	0	0	0	0	1	2	0	1
North Dakota	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Ohio	50	0	202	4	4	4	0	0	0	1	0	0	0	18	0	4
Oklahoma	3	3	0	0	0	0	0	0	0	0	0	0	2	2	0	0
Oregon	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Pa. (anth.)	104	0	112	0	0	0	0	7	0	0	5	0	32	36	0	5
Pa. (bit.)	309	0	1,053	8	13	13	3	2	1	2	2	1	11	109	2	13
South Dakota	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Tennessee	42	0	131	5	10	10	2	4	0	0	3	0	1	19	0	20
Texas	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Utah	43	0	148	4	5	2	0	1	3	1	1	2	0	17	0	8
Virginia	167	0	641	43	170	165	5	8	6	1	5	3	6	61	0	27
Washington	5	3	0	0	0	0	0	0	0	0	0	0	1	1	0	0
West Virginia	974	0	3,355	128	338	316	56	19	21	6	14	10	47	398	1	246
Wyoming	4	4	6	0	0	0	0	0	0	0	0	0	0	2	0	0
Total	2,465	10	8,000	319	968	931	103	71	43	11	47	22	154	972	8	605

1/ Included in Title II mine inspections

Table B-3 - Withdrawal Orders issued under sec. 203(a) for imminent dangers by States, July 16, 1952 - December 31, 1964

Conditions constituting imminent danger	Alabama	Alaska	Arkansas	Colorado	Illinois	Indiana	Kansas	Kentucky	Montana	Missouri	New Mexico	Ohio	Oklahoma	Pa. (anth.)	Pa. (bit.)	Tennessee	Utah	Virginia	Washington	West Virginia	Wyoming	Total
Man-trip:																						
Dangerous roof	5	1	-	1	4	1	-	24	3	-	-	1	-	2	2	6	1	30	-	32	-	113
Poor track and equipment and/or dangerous roof	-	-	-	-	-	-	-	1	1	-	-	-	-	-	1	-	2	2	-	6	-	13
Conveyor belt operated at excessive speed	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	1	1	3
Inadequate clearance over belt conveyor	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	-	-	-	2	-	4
Dangerous roof, car bottoms not locked, man-trip pushed	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Electric-shock hazard	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	1
Man-hoist:																						
Worn rope or hoist	-	-	-	1	-	1	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	3
Shaft partition and/or cages deteriorated	-	-	-	-	-	-	-	-	1	-	-	-	-	-	1	-	-	-	-	-	-	2
Emergency shaft and headframe damaged by fire	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	1
Mine-fire:																						
Active fire adjacent to or in producing area	-	3	-	4	15	5	-	11	-	-	1	-	-	25	13	3	10	4	-	41	-	135
Electric-arc hazards and accumulated coal and coal dust	-	-	1	-	2	-	-	13	-	-	-	-	-	-	1	3	-	24	-	28	-	72
Poor electrical installations	-	-	-	-	1	-	1	4	-	-	-	-	-	-	-	1	-	10	-	9	-	26
Loose coal, inadequate ventilation	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	-	1	-	-	-	3
Black powder, no rock dust, no fire-fighting equipment	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	1
No fire-fighting equipment, electric-arc hazards	2	-	-	-	-	-	-	6	-	-	-	-	-	-	-	-	-	2	-	3	-	13
Fire at blowing fan on surface	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	1
Loose coal and coal dust, inadequate rock dust, blasting with fuse and caps	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	8	-	-	-	9
Blasting off solid, combustible material, smoking, open lights, etc.	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	2	-	-	-	3
Explosion:																						
Excessive methane liberations	-	-	-	1	1	3	-	-	-	-	-	-	-	1	-	-	2	-	-	1	-	9
Methane and dust accumulations	-	-	-	-	4	3	-	-	-	-	-	-	1	-	-	-	-	-	1	1	-	10
Methane accumulations	-	-	-	-	2	5	1	4	-	-	-	2	-	31	6	-	1	1	-	4	-	57
Leak in surface gasoline line	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	1
Inadequate rock dusting	2	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	-	1	-	5	-	10
Coal-dust accumulations, no rock dust	-	-	2	5	7	1	-	6	-	-	-	-	1	-	-	1	-	7	1	22	-	53
Active mine fire	-	-	-	-	20	4	-	5	-	-	-	-	1	13	4	-	5	-	-	3	-	55
Black powder and inadequate rock dusting	1	-	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3
Explosion disrupted ventilation	1	1	1	2	1	2	-	1	-	-	-	-	-	4	7	-	3	-	2	15	-	40
Coal-dust stemming, no gas tests, doors open	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	2	-	-	-	1	-	4
Excessive methane in air currents	-	-	3	-	-	2	-	1	-	-	-	-	1	-	-	-	1	-	-	1	-	9
Approaching gas-filled sealed areas	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	1
Inadequate ventilation	-	-	1	-	-	-	-	1	-	-	-	-	-	1	-	1	-	1	-	2	-	7
Coal-dust accumulations and electric-arc hazards	-	-	-	-	-	-	-	4	-	-	-	-	-	-	1	-	2	15	-	11	-	33
No gas examinations, open lights, smoking, inadequate ventilation, etc.	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	-	-	2
No preshift examinations, inadequate rock dusting	-	-	-	-	-	-	-	4	-	-	-	-	-	-	-	-	-	-	-	1	-	5
Smoking in gassy mine	-	-	-	-	2	2	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	5
Multiple blasting, inadequate gas tests and rock dusting	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	7	-	7	-	15
Air current passed through gob areas to active areas	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	1
Gas well exposed	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	1
Inundation:																						
Working under body of water	-	-	1	-	-	-	-	2	1	-	-	-	-	1	-	1	-	-	-	-	-	6
Advancing toward abandoned workings	-	-	-	-	-	-	-	3	-	-	-	-	-	1	-	2	-	4	-	1	-	11
Inflow of oxygen-deficient air and/or carbon dioxide	-	-	-	-	1	-	-	-	-	-	-	-	-	2	-	-	-	1	-	-	-	4
Impounded water	-	-	-	-	-	1	-	1	-	-	-	-	1	3	-	-	1	-	-	1	-	8
Inflow of surface wash and/or water	-	-	1	-	-	-	-	-	-	-	-	-	-	13	-	-	-	-	1	1	-	16
Totals	11	5	10	14	62	30	2	103	8	1	1	3	6	97	39	20	30	122	5	201	1	771

Table B-4 - Withdrawal Orders issued under sec. 203(c) for failure to abate violations of sec. 209, by States
July 16, 1952 - December 31, 1964

Section violated	Alabama	Arkansas	Colorado	Illinois	Indiana	Iowa	Kentucky	Missouri	Ohio	Oklahoma	Pa. (anth.)	Pa. (bit.)	Tennessee	Utah	Virginia	West Virginia	Totals
209(c)	3	-	-	-	-	-	21	-	-	-	-	3	-	-	5	19	51
209(d)(1)	5	1	-	1	-	-	70	1	1	-	7	7	8	-	17	19	137
209(d)(2)	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	1
209(d)(3)	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	1
209(d)(4)	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	1
209(d)(6)	-	-	-	3	-	-	1	-	-	-	-	1	-	-	-	4	9
209(d)(7)	1	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	3
209(d)(8)	-	-	-	-	-	-	38	-	1	-	-	2	-	-	7	1	49
209(d)(9)	1	-	-	1	1	-	6	-	-	-	-	-	-	-	-	3	12
209(d)(11)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1
209(e)(1)	1	-	1	2	1	-	30	-	-	-	-	10	5	2	19	28	99
209(e)(3)	2	-	1	1	1	4	44	-	1	-	-	3	3	-	17	18	95
209(e)(4)	-	-	-	-	-	-	6	-	-	-	-	2	2	-	-	2	12
209(e)(5)	-	-	1	-	2	-	28	-	-	-	-	16	5	1	29	34	116
209(f)(1)	-	-	2	-	1	-	1	-	-	-	-	3	-	1	-	3	11
209(f)(4)	-	-	-	-	-	-	-	-	-	-	3	-	-	-	-	-	3
209(g)(1)	1	-	1	1	-	-	16	-	-	-	-	2	-	-	7	10	38
209(g)(5)	-	-	-	1	-	-	-	-	-	-	-	-	1	-	-	-	2
209(h)(2)	-	-	-	-	-	-	-	-	-	-	1	-	-	1	2	3	7
209(h)(3)	1	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	2
209(h)(4)	1	-	-	-	-	-	-	-	-	-	-	-	1	-	1	-	3
209(h)(5)	-	-	-	2	-	2	-	-	-	-	-	-	-	-	-	-	4
209(h)(7)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1
Totals	16	1	6	12	6	6	261	1	3	1	12	49	26	6	106	146	658

Appendix - C

Appeals to the Director on which hearings were necessary under sec. 206 and appeals to the Federal Coal Mine Safety Board of Review under sec. 207, July 16, 1952 - December 31, 1964

Mine and company	Reason for appeal	Disposition	
		Director 1/	Board
Sec. 203(d) Orders			
Maxton Slope, Morrisdale Mining Co., Hawk Run, Pa.	Gassy classification		Appeal denied 10/18/52
Glenmar No. 1, Moshannon-Smithing Coal Co., Beccaria, Pa.	"	Appeal denied 12/31/52	Appeal denied 2/24/53
Ponfeigh Pine Hill, Ponfeigh Pine Hill Smokeless Coal Co., Garrett, Pa.	" "	Order annulled 3/2/53	
Seaboard No. 1, Rebecca Coal Co., Richlands, Va.	"	Appeal denied 6/16/53	Order annulled 12/3/53
Carnegie, Clean Coal Co., Bellaire, Ohio	"	Appeal denied (application not made within 20 days)	
Haws No. 7, Haws Refractories Co., Johnstown, Pa.	"	Appeal denied 8/10/53	
Princess No. 2, Princess Elkhorn Coal Co., Permele, Ky.	"	Order annulled 2/11/54	
Princess No. 2, Princess Elkhorn Coal Co., Permele, Ky.	"	Appeal denied 10/15/54	Order annulled 1/28/55; appealed to court (Board decision affirmed 10/24/55)
Wheelwright, Inland Steel Co., Inc., Wheelwright, Ky.	"	Appeal denied 3/1/55	Appealed 3/22/55; interlocutory order 4/10/56; order applied to No. 3 mine only 9/13/56

1/ Blank space means appeal taken directly to Board.

Mine and Company	Reason for appeal	Disposition	
		Director 1/	Board
	Sec. 203(d) Orders - continued		
Banner No. 2, Banner Fuel Corp., Cranes Nest, Va.	Gassy classification	Appeal denied 3/28/55	
Buchanan No. 4, Buchanan County Coal Corp., Big Rock, Va.	"	Appeal denied 1/20/55	
No. 6, Caldonia Coal Co., Norton, Va.	"	Appeal denied 3/11/55	
No. 2, Harlan-Wallins Coal Corp., Evarts, Ky.	"	Appeal denied 5/11/55	Appeal denied 7/30/55
Kildee No. 3, Pschirrer & Sons Coal Co., Canton, Ill.	"	Order annulled 4/12/55	
Portage No. 4, Miller Shaft Co., Portage, Pa.	"	Order annulled 5/31/56	
Rosedale No. 8, Rosedale Coal Co., Maidsville, W. Va.	"	Appeal denied 12/17/56	Appeal denied 3/1/57 Appealed to Court 3/27/57; (Board decision affirmed 7/13/57)
North Point, St. Mary's Sewer Pipe Co., Dora, Pa.	"		Appeal denied 3/13/58 Appealed to Court 4/1/58; (Board decision affirmed 1/16/59
Midvale, Pittsburgh Plate Glass Co., Midvale, Ohio	"	Appeal denied 6/7/61	Order annulled 12/1/61

1/ Blank space means appeal taken directly to Board.

Mine and company	Reason for appeal	Disposition: Director 1/	Disposition: Board
Sec. 203(d) Orders - continued			
No. 1, Pearless Eagle Coal Co., Summersville, W. Va.	Gassy classification	Order annulled 1/30/63	
No. 2, Scott Coal Mining Co., Holcomb, W. Va.	"	Order annulled 10/15/63	
Splashdam, Panther Coal Co., Inc. Roseann, Va.	"	Appeal denied 2/20/64	Appeal denied 8/10/64
Ashland No. 11, Ashland Mining Corp. Ashland, W. Va.	"	Appeal denied 2/5/65	
Sec. 203(c) Orders			
Talleydale, Snow Hill Coal Corp., Terre Haute, Ind.	Violation of sec. 209(d)(9). 2/	Referred to Director by Board. Order annulled 8/4/53	Appealed for temporary relief 6/5/52; time extended until 7/11/53
Williams River No. 1, The Gauley Mountain Coal Co., Cowen, W. Va.	"		Appeal denied 3/16/55; affirmed by court 7/30/55
Cassity Nos. 2, 3, and 6 openings, Three Fork Coal Co., Inc. Cassity, W. Va.	Violation of sec. 209(e)(1)		Order annulled 3/4/55; Court dismissed appeal.
Crucible, Crucible Steel Company of America, Fuel Division, Crucible, Pa.	Violation of sec. 209(e)(5)		Appealed and relief granted 7/3/55; order annulled 11/23/55
No. 14 Mine, Lone Star Steel Co., Bokoshe, Okla.	Violation of sec. 209(d)(3)		Order annulled 6/6/57 3/
No. 1 Mine, Strait Fork Coal Co., Blackey, Va.	Violations of secs. 209(e)(3) 209(g)(1)	Annulled 2/28/61 Annulled 1/16/61	Appealed 12/30/60 Application withdrawn 3/21/61

1/ Blank space means appeal taken directly to Board.

2/ Failure to test for gas before electrical equipment was taken beyond the last open crosscut.

3/ State-participation plan in effect. No appeal to Director permitted.

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Mine and company	Reason for appeal	Disposition	
		Director 1/	Board
	Sec. 203(a) Orders		
Kleaner No. 1, Kleaner Coal Co., Bokoshe, Okla.	Explosion danger		Order annulled 10/2/53 3/
Starr No. 2, Starr Coal, Inc., Henryetta, Okla.	"		Order annulled 2/14/55 3/
Starr No. 2, Starr Coal, Inc. Henryetta, Okla.	"		Order annulled 5/12/55 3/
No. 14 Mine Lone Star Coal Co., Bokoshe, Okla.	"		Order annulled 6/22/56 3/
Suntrana, Healy River Coal Co., Suntrana, Alaska	Mine-fire danger		Order annulled 10/26/59 3/
Suntrana, Healy River Coal Co., Suntrana, Alaska	Mine-fire danger		Order annulled 10/26/59 3/
No. 14 Mine, Lone Star Coal Co., Bokoshe, Okla.	Inundation		Order annulled 11/21/59 3/
No. 9 Mine, Northern Pacific Railway Co., Roslyn, Wash.	Explosion danger		Order annulled 12/18/61 3/

1/ Blank space means appeal taken directly to Board.

3/ State-participation plan in effect. No appeal to Director permitted.

Appendix D

Table D-1 - Number of active coal mines in the Nation, 1964, by Health and Safety, Districts and Subdistricts

District	Field Office	Title I Mines			Total Title I mines	Title II mines	Total mines
		Strip	Auger	Underground			
A	Wilkes-Barre, Pa.	122	0	543	665	36	701
B	Pittsburgh, Pa.	202	20	161	383	49	432
	Johnstown, Pa.	263	25	491	779	60	839
	St. Clairsville, Ohio	194	54[1/]	112	360[1/]	23	383
C	Mount Hope, W. Va.	50	75	950	1,075	300	1,375
	Morgantown, W. Va.	117	19	443	579	114	693
D	Birmingham, Ala.	55	4	168	227	19	246
	Jellico, Tenn.	49	7	267	323	22	345
E	Vincennes, Ind.	164	4	69	237	72	309
G	McAlester, Okla.	41	0	20	61	3	64
H	Denver, Colo.	67	0	114	181	20	201
	Salt Lake City, Utah	2	0	19	21	19	40
	Seattle, Wash.	1	0	6	7	1	8
	Anchorage, Alaska	6	0	0	6	0	6
I	Norton, Va.	72	85	2,148	2,305	114	2,419
	Barbourville, Ky.	55	70	1,039	1,164	149	1,313
	National data	1,460	363[1/]	6,550	8,373[1/]	1,001	9,374

1/ Includes 1 remote-controlled continuous miner.

Table D-2 - Number of active coal mines in the Nation, 1964 by States

State	Title I Mines			Total Title I mines	Title II mines	Total mines
	Strip	Auger	Under-ground			
Alabama	55	4	166	225	19	244
Alaska	6	0	0	6	0	6
Arizona	0	0	1	1	0	1
Arkansas	11	0	12	23	1	24
California	1	0	0	1	0	1
Colorado	7	0	72	79	18	97
Georgia	0	0	2	2	0	2
Illinois	48	0	14	62	31	93
Indiana	33	0	13	46	9	55
Iowa	19	0	11	30	5	35
Kansas	9	0	1	10	0	10
Kentucky	120	104	2,033	2,257	226	2,483
Maryland	44	0	60	104	2	106
Missouri	22	1	5	28	3	31
Montana	13	0	22	35	0	35
New Mexico	3	0	12	15	2	17
North Dakota	33	0	3	36	0	36
Ohio	189	52[1/]	109	350[1/]	18	368
Oklahoma	19	0	7	26	2	28
Oregon	0	0	1	1	0	1
Pa. (anth.)	122	0	543	665	36	701
Pa. (bit.)	465	45	652	1,162	109	1,271
South Dakota	1	0	0	1	0	1
Tennessee	49	7	267	323	22	345
Texas	2	0	0	2	0	2
Utah	0	0	18	18	17	35
Virginia	49	54	1,180	1,283	61	1,344
Washington	1	0	5	6	1	7
West Virginia	128	96	1,336	1,560	417	1,977
Wyoming	11	0	5	16	2	18
National data	1,460	363[1/]	6,550	8,373[1/]	1,001	9,374

1/ Includes 1 remote-controlled continuous miner.

Table D-3 - Number of regular inspections, surveys, and miscellaneous investigations and inspections, 1941-1964

Period	District	Field Office	Regular inspections			Surveys				Investigations of injuries and disasters	Miscellaneous investigations	Spot-check inspections
			Original	Reinspections	Total	Electrical	Explosives	Ventilation	Float dust			
1941-1963		All	37,264	139,998	177,262	547	256	101	51	7,490	4,438[1/]	3,528[1/]
1964	A	Wilkes-Barre, Pa.	180	971	1,151	0	0	0	0	40	11	1
	B	Pittsburgh, Pa.	110	498	608	0	0	0	0	30	37	7
		Johnstown, Pa.	103	991	1,094	1	0	0	0	23	5	23
		St. Clairsville, Ohio	109	441	550	1	0	0	0	17	25	4
	C	Mount Hope, W. Va.	378	1,386	1,764	2	0	0	0	84	235	201
		Morgantown, W. Va.	145	649	794	0	0	2	0	43	15	25
	D	Birmingham, Ala.	48	389	437	0	0	0	0	10	7	16
		Jellico, Tenn.	65	464	529	0	0	0	0	14	16	30
	E	Vincennes, Ind.	31	384	415	2	0	0	0	38	59	36
	G	McAlester, Okla.	11	80	91	0	0	0	0	0	0	0
	H	Denver, Colo.	8	320	328	8	0	0	0	6	10	9
		Salt Lake City, Utah	1	86	87	2	0	0	0	8	3	2
		Seattle, Wash.	1	22	23	0	0	0	0	0	0	0
		Anchorage, Alaska	0	10	10	0	0	0	0	2	0	0
	I	Norton, Va.	409	1,809	2,218	0	0	2	0	41	64	25
		Barbourville, Ky.	376	957	1,333	0	0	0	0	18	7	11
1964		Totals	1,975	9,457	11,432	16	0	4	0	374	494	390
1941-1964		Grand Totals	39,239	149,455	188,694	563	256	105	51	7,864	4,932[2/]	3,918[2/]

1/ 1955-1963 only.

2/ 1955-1964 only.

Table D-4 - Active mines, mines inspected, regular inspections, and average inspections per active mine, 1964

by Health and Safety Districts and Subdistricts

District	Field Office	Active mines[1]					Mines inspected[2]					Inspections made					Average inspections per active mine				
		A	B	C	D	Total	A	B	C	D	Total	A	B	C	D	Total	A	B	C	D	Total
A	Wilkes-Barre, Pa.	122	0	543	36	701	119	0	527	36	682	120	0	927	104	1,151	1.0	0.0	1.7	2.9	1.6
B	Pittsburgh, Pa.	202	20	161	49	432	188	19	141	49	397	193	21	251	143	608	1.0	1.1	1.6	2.9	1.4
	Johnstown, Pa.	263	25	491	60	839	208	17	447	00	732	224	17	687	166	1,094	0.9	0.7	1.4	2.8	1.3
	St. Clairsville, Ohio	194	54[3]	112	23	383[3]	194	54[3]	112	23	383[3]	221	54	212	63	550	1.1	1.0	1.9	2.7	1.4
C	Mount Hope, W. Va.	50	75	950	300	1,375	33	63	662	299	1,057	36	64	932	732	1,764	0.7	0.9	1.0	2.4	1.3
	Morgantown, W. Va.	117	19	443	114	693	66	6	307	96	475	67	6	489	232	794	0.6	0.3	1.1	2.0	1.1
D	Birmingham, Ala.	55	4	168	19	246	54	4	162	16	236	98	7	286	46	437	1.8	1.8	1.7	2.4	1.8
	Jellico, Tenn.	49	7	267	22	345	43	7	227	19	296	47	7	433	42	529	1.0	1.0	1.6	1.9	1.5
E	Vincennes, Ind.	164	4	69	72	309	144	3	55	69	271	166	3	83	163	415	1.0	0.8	1.2	2.3	1.3
G	McAlester, Okla.	41	0	20	3	64	41	0	20	3	64	48	0	39	4	91	1.2	0.0	2.0	1.3	1.4
H	Denver, Colo.	67	0	114	20	201	60	0	112	20	192	64	0	208	56	328	1.0	0.0	1.8	2.8	1.6
	Salt Lake City, Utah	2	0	19	19	40	2	0	19	19	40	2	0	38	47	87	1.0	0.0	2.0	2.5	2.2
	Seattle, Wash.	1	0	6	1	8	1	0	6	1	8	3	0	15	5	23	3.0	0.0	2.5	5.0	2.9
	Anchorage, Alaska	6	0	0	0	6	6	0	0	0	6	10	0	0	0	10	1.7	0.0	0.0	0.0	1.7
I	Norton, Va.	72	85	2,148	114	2,419	4	2	1,291	113	1,410	6	3	1,899	310	2,218	0.1	0.1	0.9	2.7	0.9
	Barbourville, Ky.	55	70	1,039	149	1,313	48	56	602	149	855	50	56	875	352	1,333	0.9	0.8	0.8	2.4	1.0
	National data	1,460	363[3]	6,550	1,001	9,374[3]	1,211	231[3]	4,690	972	7,104[3]	1,355	238	7,374	2,465	11,432	0.9	0.7	1.1	2.5	1.2

1/ A, strip mines; B, auger mines; C, Title I underground mines; D, Title II mines.
2/ Due to intermittent operation or abandonment, it was not possible to inspect some mines.
3/ Includes 1 remote-controlled continuous miner.

Table D-5 - Active mines, mines inspected, regular inspections, and average inspections per active mine, 1964, by States

State	Active mines[1]					Mines inspected[2]					Inspections made					Average inspections per active mine				
	A	B	C	D	Total	A	B	C	D	Total	A	B	C	D	Total	A	B	C	D	Total
Alabama	55	4	166	19	244	54	4	160	16	234	98	7	282	46	433	1.8	1.8	1.7	2.4	1.8
Alaska	6	0	0	0	6	6	0	0	0	6	10	0	0	0	10	1.7	0.0	0.0	0.0	1.7
Arizona	0	0	1	0	1	0	0	1	0	1	0	0	1	0	1	0.0	0.0	1.0	0.0	1.0
Arkansas	11	0	12	1	24	11	0	12	1	24	14	0	27	1	42	1.3	0.0	2.5	1.0	1.8
California	1	0	0	0	1	1	0	0	0	1	1	0	0	0	1	1.0	0.0	0.0	0.0	1.0
Colorado	7	0	72	18	97	7	0	70	18	95	9	0	132	50	191	1.3	0.0	1.8	2.8	2.0
Georgia	0	0	2	0	2	0	0	2	0	2	0	0	4	0	4	0.0	0.0	2.0	0.0	2.0
Illinois	48	0	14	31	93	46	0	14	30	90	52	0	20	73	145	1.1	0.0	1.4	2.4	1.6
Indiana	33	0	13	9	55	31	0	11	9	51	37	0	13	24	74	1.1	0.0	1.0	2.7	1.0
Iowa	19	0	11	5	35	13	0	7	5	25	13	0	16	6	35	0.7	0.0	1.2	1.2	1.0
Kansas	9	0	1	0	10	9	0	1	0	10	9	0	1	0	10	1.0	0.0	1.0	0.0	1.0
Kentucky	120	104	2,034	226	2,483	87	58	1,145	223	1,473	92	58	1,632	551	2,333	0.8	0.6	0.8	2.4	0.9
Maryland	44	0	60	2	106	23	0	37	2	62	23	0	44	3	70	0.5	0.0	0.7	1.5	0.7
Missouri	22	1	5	3	31	15	1	3	3	21	22	1	4	4	31	1.0	1.0	0.8	1.3	1.0
Montana	13	0	22	0	35	8	0	22	0	30	8	0	38	0	46	0.6	0.0	1.7	0.0	1.3
New Mexico	3	0	12	2	17	3	0	12	2	17	5	0	23	6	34	1.7	0.0	1.9	3.0	2.0
North Dakota	33	0	3	0	36	32	0	3	0	35	32	0	6	0	38	1.0	0.0	2.0	0.0	1.1
Ohio	189	52[3]	109	18	368	189[3]	52	109	18	368	216	52	204	50	522	1.1	1.0	1.9	2.8	1.4
Oklahoma	19	0	7	2	28	19	0	7	2	28	22	0	11	3	36	1.2	0.0	1.6	1.5	1.3
Oregon	0	0	1	0	1	0	0	1	0	1	0	0	3	0	3	0.0	0.0	3.0	0.0	3.0
Pa. (anth.)	122	0	543	36	701	119	0	527	36	712	120	0	927	104	1,151	1.0	0.0	1.7	2.9	1.6
Pa. (bit.)	465	45	652	109	1,271	396	36	588	109	1,129	417	38	938	309	1,702	0.9	0.8	1.4	2.8	1.3
South Dakota	1	0	0	0	1	1	0	0	0	1	1	0	0	0	1	1.0	0.0	0.0	0.0	1.0
Tennessee	49	7	267	22	345	43	7	227	19	296	47	7	433	42	529	1.0	1.0	1.6	1.9	1.5
Texas	2	0	0	0	2	2	0	0	0	2	3	0	0	0	3	1.5	0.0	0.0	0.0	1.5
Utah	0	0	18	17	35	0	0	18	17	35	0	0	36	43	79	0.0	0.0	2.0	2.5	2.3
Virginia	49	54	1,180	61	1,344	4	2	768	61	835	6	3	1,172	167	1,348	0.1	0.1	1.0	2.7	1.0
Washington	1	0	5	1	7	1	0	5	1	7	3	0	12	5	20	3.0	0.0	2.4	5.0	2.9
West Virginia	128	96	1,336	417	1,977	81	71	935	398	1,485	85	72	1,385	974	2,516	0.7	0.8	1.0	2.3	1.3
Wyoming	11	0	5	2	18	10	0	5	2	17	10	0	10	4	24	0.9	0.0	2.0	2.0	1.3
National data	1,460	363[3]	6,550	1,001	9,374	1,211[3]	231	4,690	972	7,104	1,355	238	7,374	2,465	11,432	0.9	0.7	1.1	2.5	1.2

1/ A, strip mines; B, auger mines; C, Title I underground mines; D, Title II mines.
2/ Due to intermittent operation or abandonment, it was not possible to inspect some mines.
3/ Includes 1 remote-controlled continuous miner.

Table D-6 - Comparative inspection data, Title II mines, 1953-1964

Year	Regular inspections	Special inspections	Violations of Title II observed	Notices issued Form B	Orders issued Form A	Orders issued Form D
1953	3,664	3,622	7,928	3,593	36	138
1954	3,894	2,727	8,012	2,933	58	76
1955	3,484	2,360	8,701	2,177	80	69
1956	3,648	1,355	9,469	1,389	49	47
1957	3,368	1,596	8,275	1,371	46	34
1958	3,171	1,065	7,384	1,152	58	29
1959	2,750	884	7,025	1,005	59	36
1960	2,647	651	7,606	1,005	58	62
1961	2,663	659	7,716	982	78	33
1962	2,541	606	7,940	1,186	77	41
1963	2,562	541	8,291	1,112	96	37
1964	2,465	615	8,000	968	71	43

Appendix E

Table E-1 - Violations of the Federal Mine Safety Codes observed, 1964, by Health and Safety Districts and Subdistricts

District	Field Office	Title I underground mines				Title II mines			
		Mines inspected[1]	Violations observed[2]	Average violations per mine inspected	Mines free of violations	Mines inspected[1]	Violations observed[2]	Average violations per mine inspected	Mines free of violations
A	Wilkes-Barre, Pa.	527	10,391	19.7	0	36	818	22.7	0
B	Pittsburgh, Pa.	141	4,144	29.4	0	49	1,235	25.2	2
	Johnstown, Pa.	447	5,884	13.2	1	60	1,300	21.7	1
	St. Clairsville, Ohio	112	3,567	31.8	0	23	608	26.4	1
C	Mount Hope, W. Va.	662	12,475	18.8	0	299	6,730	22.5	2
	Morgantown, W. Va.	307	7,055	23.0	0	96	2,950	30.7	0
D	Birmingham, Ala.	162	5,956	36.8	0	16	98	6.1	5
	Jellico, Tenn.	227	6,538	28.8	7	19	617	32.5	0
E	Vincennes, Ind.	55	1,108	20.1	0	69	1,284	18.6	1
G	McAlester, Okla.	20	599	30.0	0	3	37	12.3	0
H	Denver, Colo.	112	796	7.1	4	20	151	7.6	3
	Salt Lake City, Utah	19	315	16.6	0	19	246	12.9	1
	Seattle, Wash.	6	62	10.3	0	1	38	38.0	0
	Anchorage, Alaska	0	0	0.0	0	0	0	0.0	0
I	Norton, Va.	1,291	41,737	32.3	0	113	3,057	27.1	1
	Barbourville, Ky.	602	13,096	21.8	0	149	3,186	21.4	0
	National data	4,690	113,723	24.2	12	972	22,355	23.0	17

1/ See Appendix D Table 4.
2/ Includes all violations observed during the first inspections made in 1964 and all new violations observed during subsequent inspections.

Table E-2 - Violations of the Federal Mine Safety Codes observed, 1964, by States

State	Title I underground mines				Title II mines			
	Mines inspected[1]	Violations observed[2]	Average violations per mine inspected	Mines free of violations	Mines inspected[1]	Violations observed[2]	Average violations per mine inspected	Mines free of violations
Alabama	160	5,902	36.9	0	16	98	6.1	5
Alaska	0	0	0.0	0	0	0	0.0	0
Arizona	1	7	7.0	0	0	0	0.0	0
Arkansas	12	430	35.8	0	1	17	17.0	0
California	0	0	0.0	0	0	0	0.0	0
Colorado	70	351	5.0	4	18	143	7.9	2
Georgia	2	54	27.0	0	0	0	0.0	0
Illinois	14	164	11.7	0	30	524	17.5	0
Indiana	11	324	29.5	0	9	260	28.9	0
Iowa	7	235	33.6	0	5	88	17.6	0
Kansas	1	41	41.1	0	0	0	0.0	0
Kentucky	1,145	28,650	25.0	0	223	4,618	20.7	2
Maryland	37	746	20.2	0	2	36	18.0	0
Missouri	3	69	23.0	0	3	61	20.3	0
Montana	22	277	12.6	0	0	0	0.0	0
New Mexico	12	76	6.3	0	2	8	4.0	1
North Dakota	3	64	21.3	0	0	0	0.0	0
Ohio	109	3,499	32.1	0	18	523	29.1	0
Oklahoma	7	128	18.3	0	2	20	10.0	0
Oregon	1	14	14.0	0	0	0	0.0	0
Pa. (anth.)	527	10,391	19.7	0	36	818	22.7	0
Pa. (bit.)	588	10,028	17.1	1	109	2,535	23.3	3
South Dakota	0	0	0.0	0	0	0	0.0	0
Tennessee	227	6,538	28.8	7	19	617	32.5	0
Texas	0	0	0.0	0	0	0	0.0	0
Utah	18	309	17.2	0	17	232	13.6	1
Virginia	768	26,499	34.5	0	61	1,976	32.4	0
Washington	5	48	9.6	0	1	38	38.0	0
West Virginia	935	18,852	20.2	0	398	9,729	24.4	3
Wyoming	5	27	5.4	0	2	14	7.0	0
National data	4,690	113,723	24.2	12	972	22,355	23.0	17

1/ See Appendix D, Table 4.
2/ Includes all violations observed during the first inspections made in 1964 and all new violations observed during subsequent inspections.

Table E-3 - Violations of the Federal Mine Safety Codes abated during inspections, 1964, by Health and Safety Districts and Subdistricts

District	Field office	Title I underground mines				Title II mines			
		Violations observed	Violations recorded in reports	Violations abated during inspections	Violations abated during inspections (percent)	Violations observed	Violations recorded in reports	Violations abated during inspections	Violations abated during inspections (percent)
A	Wilkes-Barre, Pa.	10,391	8,455	1,936	19	818	356	462	56
B	Pittsburgh, Pa.	4,144	3,378	766	18	1,235	431	804	65
	Johnstown, Pa.	5,884	4,392	1,492	25	1,300	487	813	63
	St. Clairsville, Ohio	3,567	3,220	347	10	608	170	438	72
C	Mount Hope, W. Va.	12,475	8,376	4,099	33	6,730	2,317	4,413	66
	Morgantown, W. Va.	7,055	5,049	2,006	28	2,950	1,202	1,748	59
D	Birmingham, Ala.	5,956	5,594	362	6	98	52	46	47
	Jellico, Tenn.	6,538	4,967	1,571	24	617	335	282	46
E	Vincennes, Ind.	1,108	914	194	18	1,284	575	709	55
G	McAlester, Okla.	599	590	9	2	37	37	0	0
H	Denver, Colo.	796	695	101	13	151	75	76	50
	Salt Lake City, Utah	315	246	69	22	246	68	178	72
	Seattle, Wash.	62	55	7	11	38	29	9	24
	Anchorage, Alaska	0	0	0	0	0	0	0	0
I	Norton, Va.	41,737	39,478	2,259	5	3,057	1,989	1,068	35
	Barbourville, Ky.	13,096	11,339	1,757	13	3,186	2,276	910	29
	National data	113,723	96,748	16,975	15	22,355	10,399	11,956	53

Table E-4 - Violations of the Federal Mine Safety Codes abated during inspections, 1964, by States

State	Title I underground mines				Title II mines			
	Violations observed	Violations recorded in reports	Violations abated during inspections	Violations abated during inspections (percent)	Violations observed	Violations recorded in reports	Violations abated during inspections	Violations abated during inspections (percent)
Alabama	5,902	5,540	362	6	98	52	46	47
Alaska	0	0	0	0	0	0	0	0
Arizona	7	7	0	0	0	0	0	0
Arkansas	430	424	6	1	17	17	0	0
California	0	0	0	0	0	0	0	0
Colorado	351	254	97	28	143	74	69	48
Georgia	54	54	0	0	0	0	0	0
Illinois	164	101	63	38	524	163	361	69
Indiana	324	285	39	12	260	163	97	37
Iowa	235	227	8	3	88	83	5	56
Kansas	41	41	0	0	0	0	0	0
Kentucky	28,650	26,027	2,623	9	4,618	3,100	1,518	33
Maryland	746	681	65	9	36	29	7	19
Missouri	69	66	3	4	61	58	3	5
Montana	277	277	0	0	0	0	0	0
New Mexico	76	73	3	4	8	1	7	88
North Dakota	64	64	0	0	0	0	0	0
Ohio	3,499	3,177	322	15	523	154	369	71
Oklahoma	128	125	3	2	20	20	0	0
Oregon	14	12	2	14	0	0	0	0
Pa. (anth.)	10,391	8,455	1,936	19	818	356	462	56
Pa. (bit.)	10,028	7,770	2,258	23	2,535	918	1,617	64
South Dakota	0	0	0	0	0	0	0	0
Tennessee	6,538	4,967	1,571	24	617	335	282	46
Texas	0	0	0	0	0	0	0	0
Utah	309	240	69	22	232	60	172	74
Virginia	26,499	25,025	1,474	6	1,976	1,273	703	36
Washington	48	43	5	10	38	29	9	24
West Virginia	18,852	12,787	6,065	32	9,729	3,506	6,223	64
Wyoming	27	26	1	4	14	8	6	43
National data	113,723	96,748	16,975	15	22,355	10,399	11,956	53

Appendix F

Table F-1 - Number of fatal and nonfatal injuries and rates per million man-hours of exposure, portal to portal, in coal mines, 1932-1963

Period 1/	Fatals	Nonfatals	Man-hours	Rate		Change, percent			
				Fatal	Nonfatal	Fatal	Rate	Nonfatal	Rate
			BITUMINOUS						
1932-41	10,036	447,139	6,794,840,163	1.48	65.81				
1942-51	8,889	416,646	7,496,573,667	1.19	55.58	-11	-20	-7	-16
1952-61	3,496	149,823	3,444,046,603	1.02	43.50	-61	-14	-64	-22
1962-63 2/	515	19,578	463,736,613	1.11	42.22				
			ANTHRACITE						
1932-41	2,295	151,299	1,428,093,979	1.61	105.94				
1942-51	1,537	110,234	1,374,622,564	1.12	80.19	-33	-30	-27	-24
1952-61	525	29,142	467,526,580	1.12	62.33	-66	---	-74	-22
1962-63	58	2,456	41,727,995	1.39	58.86				
			ALL COAL						
1932-41	12,331	598,438	8,222,934,142	1.50	72.78				
1942-51	10,426	526,880	8,871,196,231	1.18	59.39	-15	-21	-12	-18
1952-61	4,021	178,965	3,911,573,183	1.03	45.75	-61	-13	-66	-23
1962-63 2/	573	22,034	505,464,608	1.13	43.59				

1/ Calendar Years.
2/ Preliminary

Table F-2 - Number of fatal and nonfatal injuries and rates per million man-hours of exposure, portal to portal, in coal mines of the United States, 1932-64

Calendar year	Fatal injuries						Nonfatal injuries					
	Bituminous		Anthracite		Total		Bituminous		Anthracite		Total	
	Number	Rate	Number	Rate	Number	Rate	Number	Rate	Number	Rate	Number	Rate
1932	958	1.77	249	1.59	1,207	1.73	39,352	72.58	16,931	107.88	56,283	80.50
1933	833	1.31	231	1.49	1,064	1.34	43,946	68.87	15,183	98.13	59,129	74.58
1934	958	1.41	268	1.50	1,226	1.43	46,982	69.39	18,577	104.15	65,559	76.63
1935	968	1.46	274	1.78	1,242	1.52	47,529	71.47	15,897	103.16	63,426	77.43
1936	1,098	1.43	244	1.56	1,342	1.45	50,514	65.62	17,026	108.80	67,540	72.91
1937	1,198	1.54	215	1.58	1,413	1.55	52,847	68.05	13,412	98.72	66,259	72.62
1938	880	1.52	225	1.94	1,105	1.59	36,794	63.47	12,842	110.85	49,636	71.36
1939	867	1.36	211	1.71	1,078	1.42	38,544	60.52	13,229	107.37	51,773	68.12
1940	1,204	1.68	184	1.50	1,388	1.65	43,994	61.28	13,782	112.55	57,776	68.75
1941	1,072	1.35	194	1.49	1,266	1.37	46,637	58.93	14,420	110.83	61,057	66.26
1942	1,245	1.41	226	1.64	1,471	1.44	53,193	60.21	13,581	98.73	66,774	65.40
1943	1,225	1.39	226	1.50	1,451	1.40	51,067	57.79	13,527	89.68	64,594	62.44
1944	1,124	1.23	174	1.06	1,298	1.20	51,253	56.02	12,438	76.05	63,691	59.06
1945	925	1.13	143	1.01	1,068	1.11	46,194	56.52	10,923	77.32	57,117	59.58
1946	795	1.09	173	1.14	968	1.10	42,817	58.81	12,533	82.65	55,350	62.92
1947	985	1.23	173	1.18	1,158	1.22	46,025	57.32	11,635	79.41	57,660	60.72
1948	862	1.15	137	.91	999	1.11	42,078	56.28	11,394	75.69	53,472	59.53
1949	494	.93	91	.83	585	.91	27,548	51.67	7,857	71.88	35,405	55.11
1950	550	.92	93	.80	643	.90	28,390	47.73	8,874	76.14	37,264	52.38
1951	684	1.16	101	.95	785	1.13	28,081	47.56	7,472	69.94	35,553	50.99
1952	449	.90	99	1.03	548	.92	23,719	47.64	6,355	66.35	30,074	50.66
1953	397	.89	64	.92	461	.90	20,112	45.26	4,146	59.85	24,258	47.23
1954	334	.99	62	1.23	396	1.02	14,746	43.66	2,972	59.18	17,718	45.67
1955	360	.96	60	1.30	420	1.00	15,966	42.76	2,919	63.46	18,885	45.03
1956	392	1.02	56	1.12	448	1.03	16,486	42.99	3,330	66.31	19,816	45.69
1957	427	1.17	61	1.15	478	1.17	15,915	43.74	2,877	64.93	18,792	46.04
1958	326	1.14	32	.90	358	1.11	12,036	41.97	2,124	59.88	14,160	43.94
1959	246	.92	47	1.60	293	.99	10,440	39.15	1,723	58.66	12,163	41.09
1960	290	1.13	35	1.43	325	1.15	10,501	40.85	1,401	57.30	11,902	42.28
1961	275	1.18	19	.85	294	1.15	9,902	42.52	1,295	57.75	11,197	43.86
1962	263	1.15	26	1.26	289	1.16	9,783	42.86	1,161	56.14	10,944	43.96
1963	252[1/]	1.07[1/]	32	1.52	284[1/]	1.11[1/]	9,795[1/]	41.60[1/]	1,295	61.53	11,090[1/]	43.23[1/]
1964[1/]	217	.89	24	1.34	241	.93	[2/]	[2/]	[2/]	[2/]	[2/]	[2/]

1/ All data are preliminary for 1964. Data for 1963 are preliminary for bituminous coal and final for anthracite.
2/ Not available.

Table F-3 - Number of major coal-mine disasters in the United States and number of persons killed, 1932-64

Calendar year	Number of major disasters	Number of persons killed	Calendar year	Number of major disasters	Number of persons killed
1932	6	145	1948	6	49
1933	1	7	1949	0	0
1934	2	22	1950	0	0
1935	4	35	1951	5	157
1936	5	37	1952	2 1/	11
1937	6	101	1953	1	5
1938	6	84	1954	1	16
1939	1	28	1955	0	0
1940	6	276	1956	0	0
1941	8	73	1957	5	64
1942	7	132	1958	3	42
1943	8	174	1959	2	21
1944	4	94	1960	1	18
1945	5	68	1961	1	22
1946	2	27	1962	2	48
1947	6	179	1963	2	31
			1964	0	0

1/ Both occurred before effective date of Federal Coal Mine Safety Act.

Table F-4 - Underground fatalities in the coal-mining industry, Title I and Title II mines, 1958-64

	1958	1959	1960	1961	1962	1963[1]	1964[1]
Bituminous:							
Title I mines:							
Fatalities	83	72	75	82	67	58	57
Rate[2]	2.64	2.26	2.23	2.32	1.99	1.67	1.59
Title II mines:							
Fatalities	206	138	171	160	159	160	130
Rate[2]	1.26	.94	1.25	1.35	1.38	1.35	1.06
Total fatalities	289	210	246	242	226	218	187
Rate[2]	1.48	1.18	1.44	1.57	1.52	1.42	1.18
Anthracite:							
Title I mines:							
Fatalities	7	7	8	4	13	12	10
Rate[2]	1.67	1.69	2.21	1.07	3.64	3.59	3.51
Title II mines:							
Fatalities	19	34	20	10	5	15	12
Rate[2]	1.40	3.46	2.76	1.81	1.02	2.95	2.77
Total fatalities	26	41	28	14	18	27	22
Rate[2]	1.47	2.94	2.58	1.51	2.13	3.20	3.06
All coal:							
Title I mines:							
Fatalities	90	79	83	86	80	70	67
Rate[2]	2.52	2.19	2.22	2.20	2.15	1.84	1.73
Title II mines:							
Fatalities	225	172	191	170	164	175	142
Rate[2]	1.27	1.10	1.32	1.37	1.37	1.41	1.12
Total fatalities	315	251	274	256	244	245	209
Rate[2]	1.48	1.30	1.51	1.57	1.55	1.51	1.26

1/ All data are preliminary for 1964. Data for 1963 are preliminary for bituminous coal and final for anthracite.

2/ Per million man-hours.

Table F-5 - Production of Coal in the United States in 1963 1/
(in thousand net tons)

State		State	
Bituminous Coal and Lignite			
Alabama	12,359	New Mexico	1,945
Alaska	853	North Dakota (lignite)	2,399
Arkansas	221	Ohio	36,790
Colorado	3,690	Oklahoma	1,008
Georgia	5	Pennsylvania	71,501
Illinois	51,736	South Dakota (lignite)	16
Indiana	15,100	Tennessee	6,121
Iowa	1,213	Utah	4,360
Kansas	1,169	Virginia	30,531
Kentucky:		Washington	190
Eastern	41,634	West Virginia	132,568
Western	35,716	Wyoming	3,124
Total Kentucky	77,350		
Maryland	1,162	Total bituminous coal and lignite	458,928
Missouri	3,174		
Montana:		Anthracite	
Bituminous	53	Pennsylvania	18,267
Lignite	290		
Total Montana	343	Grand Total	477,195

1/ Published in Bureau of Mines Mineral Yearbook, 1963.

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UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF MINES
DIVISION OF COAL MINE INSPECTION

NO. 11—COAL MINE INSPECTION REPORT
NO. 2 (A) MINE
C. L. KLINE COAL COMPANY
(NEAR) ROBBINS, SCOTT COUNTY, TENNESSEE

February 5 and 9, 1965

By

H. D. Couk
Federal Coal Mine Inspector

Originating Office - Bureau of Mines
Jellico, Tennessee
C. F. Kahre, Subdistrict Supervisor
Jellico, Tennessee Subdistrict, Health and Safety District D

Metal Tag No. 6634 - Third bar inby portal

COAL MINE INSPECTION REPORT
NO. 2(A) MINE
C. L. KLINE COAL COMPANY
(NEAR) ROBBINS, SCOTT COUNTY, TENNESSEE

February 5 and 9, 1965

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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. Secs. 451-483).

The numeral recorded after a section identification shows the number of consecutive repetitions of the violation.

Capitalized items indicate serious hazards.

GENERAL INFORMATION

The No. 2(A) mine of the C. L. Kline Coal Company, is along the Huntsville Branch road, 1-1/2 miles east of a Brimstone road junction, 5 miles southeast of Robbins, Scott County, Tennessee.

The mine is entered by drifts in the Glenmary coal bed, which averages 28 inches in thickness in the present workings. The 12 men employed, worked underground on 2 coal producing shifts. The average daily production of 65 tons of coal was loaded by hand onto shaker-type conveyors. The previous Federal inspection was July 13 and 16, 1964.

The systematic timbering plan, adopted during this inspection, was complied with. Sufficient numbers of safety posts were used, but additional permanent posts were required to be set. The roof was tested by the workmen. Loose unsupported roof was not detected.

The mine is classed nongassy. Face ventilation was adequate.

The working places were dry. The rooms were rockdusted to the faces and through the last open crosscuts, however, the right airway along which a chain conveyor was extended was dry and rock dust had not been applied.

The prevention of roof fall and haulage accidents was discussed with the owner and employees.

PART I - FEDERAL MINE SAFETY CODE

Violations and Recommendations

Article IV - Explosives and Blasting

Section 5b2. 1. The explosives were fired with a nonpermissible blasting unit.

The explosives should be fired with a permissible blasting unit.

Article V - Ventilation and Mine Gases

Section 1a2. 11. The fan was in a wooden housing.

The fan should be in a fireproof housing.

Section 1a3. 11. The fan was offset less than 15 feet.

The fan should be offset at least 15 feet from the nearest side of the mine opening.

Section 1a4. 11. The airduct to the fan was of wood.

The airduct should be of fireproof construction.

Section 3c. 4. Weekly air measurements were not taken.

The volume of air in the intake, return and the amount passing through the last open crosscut of working entries should be measured at least once each week.

Article VI - Coal and Rock Dust

Section 1b. THE LEFT AIRWAY ALONG WHICH A CHAIN CONVEYOR WAS EXTENDED WAS DRY. ROCK DUST HAD NOT BEEN APPLIED.

THE LEFT AIRWAY SHOULD BE ROCKDUSTED.

Article VII - Transportation

Section 4a. 4. The clearance space, at numerous places along the haulageway was obstructed with tightset posts.

At least 24 inches of clearance, from the farthest projection of moving equipment, should be provided along the haulageway.

Section 4d. The clearance space along the haulage road was obstructed with mine refuse.

At least 24 inches of clearance space along the haulage road should be free of obstruction.

Article VIII - Electricity

Section 4n. The trolley wire was not guarded at the trap doors.

The trolley wire should be guarded on each side of the trap doors.

Section 5b. 11. The frames of the electrically driven equipment were not grounded.

Frames of electrically driven equipment should be grounded.

Section 10b. 8. The trailing cables, including 3 electric drill cables, were not protected against overload..

The trailing cables should be provided with fuse equipped power taps or have equivalent protection.

Article IX - Safeguard for Mechanical Equipment

Section 2a3. 2. The belt and chain drives to the crusher and elevating conveyor were not guarded.

The belt and chain drives should be guarded.

Article X - Fire Protection and Mine Disasters

Section 1a. 11. Adequate fire-fighting equipment was not provided.

Fire-fighting equipment, including fire extinguishers on the mobile equipment should be provided.

Article XI - Miscellaneous

Section 6a. 2. The check-in and check-out system was not in use.

Use of the check-in and check-out system should be activated.

Section 8b. 11. Some of the employees did not wear protective foot-wear.

Each employee should wear safety-toe shoes in and around the mine.

Article XII - General Safety Conditions

Section 4a. 5. First-aid supplies were inadequate.

Splints, blankets, and bandages should be provided.

PART III - DANGERS ELIMINATED DURING INSPECTION

Violations of the Code (Corrected)

1. Article III, Section 1a. A timbering plan was adopted and posted.

2. Article III, Section 2d. Sufficient numbers of permanent posts were set.

3. Article V, Section 1e. Records of the daily fan inspection were brought up-to-date.

4. Article V, Section 10f. Records of the preshift examinations were brought up-do-date.

5. Article VIII, Section 4b. The power conducting wires were supported on insulators.

6. Article IX, Section 1a. A locking chain was provided on one cutter chain.

7. Article X, Section 1f. The open top bucket, used as an oil storage near the faces was removed from the mine.

/s/ H. D. Couk

H. D. Couk
Federal Coal Mine Inspector

ANALYSES OF AIR SAMPLES

TABLE 1

DATE COLLECTED February 5, 1965

MINE No. 2-A COMPANY C. L. Kline Coal Company COLLECTED BY H. D. Couk

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			
E2508	52486	face last room off main entry	0.07	20.73	0.00		79.20			

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF MINES

District C

NO. 12—FINAL REPORT OF MAJOR MINE-EXPLOSION DISASTER
NO. 2-A MINE
C. L. KLINE COAL COMPANY
(NEAR) ROBBINS, SCOTT COUNTY, TENNESSEE

May 24, 1965

By

Eric H. Brown
Acting Subdistrict Manager

Carl F. Kahre
Supervising Inspector

Ralph B. Jones
Federal Coal Mine Inspector (Roof Control)

Jack E. Tisdale
Federal Coal Mine Inspector

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FINAL REPORT OF MAJOR MINE-EXPLOSION DISASTER
NO. 2-A MINE
C. L. KLINE COAL COMPANY
(NEAR) ROBBINS, SCOTT COUNTY, TENNESSEE

May 24, 1965

By

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INTRODUCTION

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

A gas and coal-dust explosion occurred in the No. 2-A mine of the C. L. Kline Coal Company, Robbins, Scott County, Tennessee, sometime between 1:30 p.m. and 3:45 p.m., Monday, May 24, 1965. All 5 men underground were killed by the explosion and all died from burns and/or forces.

The names of the victims, their ages, occupations, and number of dependents are listed in Appendix A of this report.

Bureau of Mines investigators believe that an explosive mixture of methane and air was ignited by a cigarette lighter at the face of the left air course which was driven 300 feet inby the last open crosscut. The explosion

propagated therefrom by coal dust to other areas of the mine. Forces extended to the surface, but were dissipated by expansion in abandoned worked out rooms.

GENERAL INFORMATION

The No. 2-A mine is along the Huntsville Branch Road, 1/2-mile east of the Brimstone road junction, 5 miles southeast of Robbins, Scott County, Tennessee. The coal is transported 1/2-mile by autotrucks to a preparation plant on the Brimstone railroad near the road junction. The mine was originally opened as No. 2 mine in 1959, temporarily abandoned on May 10, 1960, and reopened as No. 2-A by a new haulageway May 30, 1960. Mr. C. L. Kline, Robbins, Tennessee, is the owner and mine foreman.

During the last Federal inspection 12 men were employed underground on 2 shifts a day and an average of 65 tons of coal was being produced daily. Production in 1964 was 18,572 tons of coal. At the time of the explosion, 5 men, excluding the foreman, were working underground and 3 men reported for work on the second shift.

The mine is opened by 2 drifts in the Glenmary coalbed, which averages 36 inches in thickness in the area mined. The original haulageway was closed by caves and surface wash. The haulageway was virtually level with minor undulations throughout; however, when water accumulated sufficiently it flowed towards the carloading station near the active workings. The immediate roof was smooth shale that appeared solid in the working places, but had a tendency to disintegrate when exposed. The main roof contains

sandstone beds. The floor was hard shale. Cover over the coalbed varied from 10 to 20 feet in thickness at the hillside portals to about 250 feet over the active face regions.

The analysis of a coal sample from the Glenmary bed in this mine is as follows:

Moisture	2.8
Volatile Matter	35.9
Fixed Carbon	54.0
Ash	7.3
	100.0

Numerous tests by the Bureau of Mines have shown that coal dust with a volatile ratio of 0.12 is explosive. The volatile ratio of the coal from the aforementioned analysis is 0.40, indicating this coal dust is explosive. The last Federal inspection was completed February 9, 1965.

MINING METHODS, CONDITIONS, AND EQUIPMENT

Mining Methods

A room-and-pillar method of mining was followed. Entries in pairs, 11 feet wide, were on 60-foot centers. The main entries had been driven a distance of 1,900 feet from the surface and stopped. The active left entries were started off the main entries at a 30-degree angle about 1,300 feet from the main portal and driven 1,400 feet. The left air course entry was extended an additional 300 feet beyond the last open crosscut. The ends of the stopped main entries had been connected to the left entries by a diagonal entry. A few places had been worked to the right off the main entries. Rooms, starting near the portal, had been worked to the

left off the main and left entries. (See Appendix B) Rooms in the active section were 30 feet wide on 40-foot centers and driven to a maximum depth of 300 feet. The normal practice is to work rooms in a group of 6. After No. 6 room has been completed the carloading station and chain conveyor equipment are moved forward for the next set-up. Entry crosscuts were on 60- and 80-foot centers. Room crosscuts generally were 60 feet apart, but some room faces were more than 60 feet ahead of the last room crosscut. Room pillars were 10 feet or less in thickness and were not extracted. The coal was undercut by shortwall mining machines, and holes for blasting were drilled with hand-held electric drills. The coal was loaded by hand onto shaker conveyors which discharged onto a chain conveyor system that conveyed the coal to a common carloading station. The active left entries are referred to as main entry and air course. (See Appendixes B and C).

Minimum standards for roof support had been adopted and a copy of the plan was posted in the car shop. Permanent timbers were set on 4-foot centers in the rooms and safety posts were kept near the working faces. Line posts, 4 feet apart along the conveyor line, were set in the entries. The main haulageway was supported by well installed timber sets where abnormal roof conditions had been encountered.

Explosives

Coal was blasted on shift with permissible explosives and electric detonators. Rubberized bags were used to carry explosives to the working faces and detonators were carried in wooden containers. Loose explosives and detonators were found lying on the mine floor near the face of No. 5

room. Normally, 3 shot holes were drilled in the faces of rooms and 2 in faces of entries. The explosives were in 1-1/8 x 6-inch cartridges. Rib and center holes were charged with 1-1/2 and 1 cartridge, respectively. Reportedly, incombustible stemming and wooden tamping bars were used. Shots were fired singly by a 6-volt dry cell battery with exposed terminals. A 2-conductor plastic insulated cable was used. The battery ends of the shooting cable were kept shorted when not in use.

Ventilation and Gases

A 4-foot disk-type fan was exhausting 9,000 cubic feet of air a minute from the mine. The fan was installed in a wooden air duct about 15 feet in length in line with the airway, and it was not attended nor provided with an alarm signal. The pulley was changed during recovery operations and the quantity of air increased to 10,800 cubic feet a minute. Later; however, it was necessary to install a second fan in the right side of the air duct to continue with recovery operations. With the second fan installed, the total air quantity was increased to 14,000 cubic feet a minute as measured at the portal. After the recovery operations were completed, air measurements showed that very little air loss occurred between the portal and the left entries, but only 5,000 cubic feet of air a minute reached the outby end of the working section and only 4,000 cubic feet a minute was passing through the last open crosscut of the left entries. The stoppings in crosscuts between the main intake and return up to the left entries were built of concrete blocks. From there on the air current in the left entries was controlled by means of a wooden door and brattice

cloth stoppings and curtains. An overcast about 400 feet inby the portal was used to divert the air to a right side airway driven several years ago after the left side airway had been blocked by caves. Line brattice was used to direct air to the working faces. (See Appendix C)

The mine was classed nongassy by the State. During the 12 Federal inspections of this mine three air samples taken at faces contained 0.03, 0.15, and 0.05 percentum methane on January 1962, January 1963, and January 1964 respectively. There was no other record of gas having been detected in the mine prior to the explosion. Preshift examinations were made by the owner who is certified as a mine foreman by the State of Tennessee. His record book was carried to and from the mine in his automobile or truck. No evidence was in the book to show that the mine was either idle or working between August 4, 1964, and January 4, 1965. All indications in the book showed the mine and fan to be "O.K." During the last two Federal mine inspections, the operator brought his examination records up to date. Weekly examinations for methane and other hazards were not made. There are no abandoned mines adjacent to the 2-A mine. There is no knowledge of gas or oil wells on the property.

Dust

The main haulageway through its entirety was generally wet. At least 24 inches of the bottom was brushed along all of the main haulageway. The air course and working places had been drained and were dry. Accumulations of coal dust and loose coal were observed in the left air course entry particularly along the 300-foot chain conveyor line, the 2 active and 9 adjoining abandoned rooms, crosscuts, and ledges near the carloading station.

Rock dust had been applied to two working rooms during the previous Federal inspection at which time it was recommended that rock dust also be applied to the left air course entry. No traces of rock dust applications were apparent in accessible areas during the investigation. The incombustible content of 10 samples collected ranged from 17.6 to 26.6 percent.

Transportation

Mine cars were pulled in and out of the mine by a trolley locomotive. Side tracks were provided on the surface, near the left entry, and near the conveyor carloading station. Regular wooden mine cars were used for transporting men. Coal was conveyed from the face by shaker and chain conveyors.

Electricity

Electric power was received at the mine at 2,300 volts alternating current. It was reduced to 220 volts for the 3-phase 7.5 horsepower fan motor, the shop equipment, and the 75 kilowatt motor-generator unit in the surface substation, which produced direct current at 230 volts for the locomotive and underground equipment. The mining machines and electric drills were permissible type but were not maintained in permissible condition. Motors to operate the conveyors were open-type. The 6/0 trolley wire also served as the powerline for all underground electric equipment. A lightning arrester and a cut-out switch were installed at the mine portal. Power wires at pumps and at the carloading station were supported by nails and switches were not provided. Mine rails were bonded and crossbonded. Starting boxes for the conveyors were poorly maintained. Trailing cables of drills and

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mining machines lacked short-circuit protection, and bare wires were exposed at a few of the temporary splices. The electric equipment was not frame-grounded. The knife blade cut-out switch for all equipment in Nos. 5 and 6 rooms was open, indicating none of the equipment was in operation at the time of the explosion. A nipping station at the end of the trolley line for power supply to the left air course equipment was destroyed by the explosion; however, the controller of the mining machine was off and the drill cable was not plugged into the machine cable. An individual remote conveyor-control switch was provided near each working face.

Telephone or other two-way communication system was not provided between the surface and underground working section.

Illumination and Smoking

Permissible electric cap lamps were used for illumination underground. Men carried matches, cigarettes, and cigarette lighters into the mine.

Mine Rescue

A state mine rescue team, recently trained, from Devonia, Tennessee, assisted with recovery operations. Fire-fighting equipment in form of fire extinguishers or rock dust was not kept at the mine. A limited amount of brattice cloth was available on the mine property. Two escapeways were available from the mine. Direction signs were not posted. A positive check-in and check-out system was not in effect and a daily record of men underground was not available at the mine.

STORY OF EXPLOSION AND RECOVERY OPERATIONS

Participating Organizations

The following organizations assisted during the recovery operations: Tennessee Division of Mines, Scott County Sheriff's Department, Tennessee State Highway Department, Scott County Rescue Squad, Highland Telephone Company, the mine rescue team of Morco Colliery, Pocahontas Fuel Company, and United States Bureau of Mines. Miners and officials from neighboring operations worked feverishly in recovery operations and deserve much credit for the untiring services they rendered until the last body was brought to the surface.

Activities of Bureau of Mines Personnel

C. F. Kahre, supervising inspector, was advised by a telephone call from James Sisson, assistant director, Tennessee Division of Mines, about 5:50 p.m., May 24, 1965, that an explosion had probably occurred in the No. 2-A mine. Kahre immediately called Eric H. Brown, acting subdistrict manager, and other Bureau personnel, including James Westfield, assistant director--health and safety, and J. S. Malesky, acting district manager. Kahre also immediately called the Sheriff's office of Scott County and confirmed that an explosion had occurred involving 5 men. Bureau of Mines personnel of the Jellico office by this time had gathered rescue equipment to proceed to the mine. E. L. Davis, driving the Bureau rescue truck, with Dee Zimmermann following arrived at the mine about 8:30 p.m. Kahre and Stephen J. Bukovitz arrived at the mine about 8:45 p.m. Zimmermann and Davis immediately on arrival checked the fan and assured that the underground mine

power was disconnected. Considerable confusion was caused by the large group of persons gathered about the mine portal. About 10 minutes after his arrival, Kahre was able to contact James Sisson and Dean Stewart, of the Tennessee Division of Mines, who briefed him as to recovery operations in progress and the difficulties encountered. Ventilation was inadequate and a map of the mine was not available. About 9:00 p.m., Davis and Zimmermann made an exploratory trip underground and reported their findings.

The State Highway Patrol, Scott County Sheriff's Department, Scott County Rescue Squad and the Coroner roped off the area near the portal. The spectators were removed therefrom to make the area accessible for delivery of supplies.

Other Bureau of Mines personnel who aided in the exploratory and recovery operations arrived at the mine at various times from 9:00 p.m., May 24, to 12:10 p.m., May 25, 1965. J. S. Malesky, acting manager, District C, arrived at 12:15 a.m., May 25, Eric H. Brown, acting subdistrict manager, District C, arrived at 4:30 a.m., May 25, and James Westfield, assistant director--health and safety, arrived 12:10 p.m., May 25, 1965.

The following Bureau of Mines personnel also aided in the recovery operations: John D. Martin, Ralph B. Jones, Fred Jones, Hobart Jarvis, Jack E. Tisdale, W. R. Stewart, Brooks Blackwood, Ira Amburgey, H. D. Couk, J. A. Rejonis, and Charles E. Estep.

Mine Conditions Immediately Prior to Explosion

The weather on May 24, 1965, was fair. The temperature at Knoxville, Tennessee, about 40 air miles from the mine, ranged from a low of 56 to a high of 77 degrees Fahrenheit. Records of barometric pressure taken by U. S. Weather Bureau at Knoxville were as follows:

5:55 a.m.	May 24, 1965	30.23
8:58 a.m.	May 24, 1965	30.26
3:55 p.m.	May 24, 1965	30.15

It is believed the slight fluctuations in atmospheric pressures during the day had no bearing on the explosion.

The mine was operating normally on the day of the explosion, and the fan was running. An examination of the working places was reported to have been made before the day shift started work, and the examiner later said that dangerous conditions were not found. The examiner's record was not available at the mine during recovery operations, but on June 2, 1965, this record was available and indicated that the mine conditions on May 24, 1965, were "O.K."

Evidence of Activities and Story of Explosion

C. L. Kline, owner and mine foreman, was in the mine the morning before the explosion, and his statements are the primary source of evidence in reconstructing the activities before the disaster.

Kline arrived at the mine about 7:00 a.m.; he checked the fan and shortly thereafter entered the mine to make a preshift examination. Kline reported he examined the faces of Nos. 5 and 6 rooms and left air course entry after

which, about 8:00 a.m., he met the 5 workmen in the man trip near the left entry door. Methane or other dangerous conditions were not found during the examination.

The No. 6 room face had been stopped for several days because the coal had "pinched-out" to 22 inches, and Kline had decided to abandon this room. Kline believes that the mining in the left air course entry was stopped on Wednesday, May 19, because the shaker conveyor was "buckling." About 5 cars of loose coal remained to be loaded in No. 5 room.

At the start of the shift Russell Webb, motorman and carloading station operator, Arthur Norris and Lawrence Griffith were instructed to begin production from No. 5 room. Philip Davis and Clayton Griffith were assigned the job of delivering supplies to No. 5 room, and also to assist in loading the loose coal. Kline assisted the crew with their various duties making several trips into and out of the No. 5 room. He last visited the face of the No. 5 room about 11:30 a.m. Arthur Norris and Lawrence Griffith were cutting the place. The machine was sumped up and the cut across just started. Conditions appeared normal, and a gas test was not made. Philip Davis and Clayton Griffith were told to finish supplying No. 5 room and then start moving the equipment from No. 6 room. Kline went to the carloading station and had Webb haul him outside in a mine car attached to the locomotive. He estimated his arrival outside to be about 12:00 noon. Shorter timbers were needed for the No. 5 room

so Kline helped Webb load the timbers into the mine car. Webb then immediately returned underground and Kline left the mine for lunch and to check on his other mine.

At least 1-1/2 hours was needed to finish cutting, and to drill and blast the face of No. 5 room. None of the equipment was removed from No. 6 room so that phase of the work had not been started. The half-hour lunch period was taken after Kline left; all the lunch buckets were empty.

So before the explosion at least 2 hours of time had elapsed since 11:30 a.m. because the face of No. 5 room was blasted. Probably blasting was done before lunch so that the fumes could dissipate while the men ate; however, the lunch period could have been taken at 12:00 noon. Anyway, Davis and Clayton Griffith had not accomplished other tasks besides unloading the timbers and supplying No. 5 room, unless it was to assist in preparing the coal in No. 5 room.

After the explosion, the bodies of Davis and Clayton Griffith were found at the face of the left air course entry; Lawrence Griffith and Norris were found in No. 5 and 6 rooms, respectively, and Webb was found at the loading station. (See Appendix C) It is assumed that the men in the rooms and Webb were going to load the cut of coal in No. 5 room; however, the conveyor had not yet been turned on.

The men in the left air course had apparently just reached that location because no sign of any productive work was found. The reason they went

into this place is unknown; Kline thinks they may have misunderstood his instructions and were going to remove equipment, tools, or supplies from there instead of No. 6 room.

The explosion was not discovered until about 4:20 p.m. Kline returned to the mine about 3:45 p.m. followed by the 3-man second shift crew at 3:50 p.m. They waited for the day shift to come out at a location where the portal could not be seen. About 4:15 p.m., Kline walked towards the portal and noticed a box from inside the mine lying in the tract roadbed. Further investigation revealed that the explosion had occurred.

The underground mine ventilating system, such as stoppings, doors and curtains, was damaged extensively by the explosion. The conveyors were disjointed and roof supports on the haulageway were dislodged allowing the roof to fall at several locations.

Recovery Operations

Soon after the explosion was discovered, assistance was requested and rescue operations were started by the men at the mine. James Sisson and Dean Stewart of the Tennessee Division of Mines arrived shortly after being notified and took charge of recovery operations. A few workmen became ill during the early stages of recovery work. Work on restoring ventilation had to be started near the portal when the slight damage to the roof of the fan housing had been repaired.

The supplies to carry on the recovery operations had to be brought from various small mines in the area and suppliers. The equipment and material had to be carried or dragged and the low roof caused the work to be arduous

and slow. Thin clear polyethylene plastic material was used to replace stoppings. Bureau personnel entered the mine at 9:00 p.m. and shared an active part in recovery operations. The task was to patch and replace stoppings. All work was done in intake air. Favorable progress was made for the first 1,000 feet when much carbon monoxide was encountered and ventilation had to be improved. Air entering the portal was increased by 1,500 cubic feet a minute by changing the pulley and speeding up the fan. The job required about 30 minutes. About 10:00 p.m. the rescue party reentered the mine. Stoppings were built and the abandoned rooms on the left side were blocked off. A stopping was built to replace the door on the main haulage road and the door in the left entry. A fresh air base was established on the haulage entry at the stopping about 2,000 feet from the portal. From this location the recovery operations were carried on under roof that varied from 28 to 40 inches in height for the next 1,300 feet to the face of the left air course entry. Exploration work was carried on by use of a self-contained oxygen breathing apparatus, Chemox and gas masks. About 4:45 a.m., March 25, the body of Russell Webb was found at the carloading station in the main haulage entry which was in return air.

Again ventilation became sluggish and the removal of noxious gases was very slow. Recovery operations were halted and all persons returned to the surface at 7:45 a.m., May 25. The ventilation was improved by the installation of an additional fan at the side of the wooden fan casing.

Both fans were operated in parallel and the air intake at the portal increased from 10,800 to 14,000 cubic feet a minute. Equipment or materials to further increase the ventilation were not available.

Crews reentered the mine about 10:30 a.m. and recovery operations resumed. About 2:00 p.m., May 25, the body of Lawrence Griffith was located in No. 5 room. Fresh air was directed into No. 5 room by use of check curtains. About 3:20 p.m., the body of Arthur Norris was located in No. 6 room. Both bodies were taken to the surface. Rescue operations were then concentrated toward the face of the left air course entry, but the high carbon monoxide content made progress extremely slow. It was decided by James Westfield of the Bureau and James Sisson of the State that a side trip down the main entry be taken to see if the other 2 bodies could possibly be near the carloading station, but they were not found there. Efforts were again directed to free the left air course of noxious gases, but progress was extremely slow. When about 100 feet of line brattice had been installed into this single entry, it was decided to explore the entry by men using Chemox who located the last 2 bodies at the face of the entry about 6:00 p.m. The body of Webb located at the carloading station was brought to the surface about 7:30 p.m. High concentrations of carbon monoxide hindered the removal of the last 2 bodies and providing sufficient air to the face was very slow and tedious as it had to be directed with brattice cloth for the last 200 feet. Plastic material had been used on the first 100 feet. The last body was brought to the surface about 3:00 a.m., May 26, 1965.

Recovery operations got a big assist from the Highland Telephone Company. By the time the first Bureau of Mines personnel arrived at the scene, this company had a surface mobile telephone unit in operation which aided in making local and long distant calls. About 3:00 a.m., May 25, telephone communication was established between the portal and the rescue crew. A battery powered phone supplied by the telephone company was installed at the portal and the other phone was carried forward by a member of the recovery party. The phone cable was extended as forward progress was made and the surface was kept advised of work being performed in the mine and the supplies, equipment, or men needed.

INVESTIGATION OF CAUSE OF EXPLOSION

Investigation Committee

A formal investigation of the explosion was made on June 1 and 2, 1965, by company officials, representatives of the Tennessee Division of Mines and by the United States Bureau of Mines. Further investigations by the United States Bureau of Mines and the Tennessee Division of Mines were continued on June 7 and 8, 1965, to obtain pertinent information.

The members of the investigating committee consisted of the following persons:

C. L. Kline Coal Company and Consultants

C. L. Kline	Operator and Mine Foreman
Ben Smith	Company mine foreman at another mine
Chester Honeycutt	Maintenance man, No. 2-A mine

Andrew West	President, W and W Coal Company, Inc.
Jack King	Former Superintendent, Laddie Coal & Mining Company

Tennessee Division of Mines and Consultants

J. R. Miller	Director
James Sisson	Assistant Director
Dean Steward	District Inspector
J. H. Payne	District Inspector
William Davenport	District Inspector
I. W. Sampson	Superintendent, Pocahontas Fuel Company
Smith Williams	Superintendent, Tennessee Auger Co., Inc.

United States Bureau of Mines

James Westfield	Assistant Director--Health and Safety
J. S. Malesky	Acting District Manager, District C
Eric H. Brown	Acting Subdistrict Manager, District C
C. F. Kahre	Supervising Inspector
Ralph B. Jones	Federal Coal Mine Inspector (Roof Control)
Jack E. Tisdale	Federal Coal Mine Inspector

Methane and Dust as a Factor in the Explosion

The mine was classed nongassy by the Tennessee Division of Mines. Methane ranging from 0.02 to 0.15 percentum had been found in three air samples collected during 12 Federal inspections. Three gassy mines, in the Glenmary coalbed, one in which a methane explosion

occurred on March 23, 1959, killing 9 men, are located in a 4-mile radius from the No. 2-A mine.

Records were not kept at the mine concerning gas testing or preshift examinations, and the owner carried the only flame safety lamp from his home each day.

The owner stated he made an examination for methane with his safety lamp in Nos. 5 and 6 rooms and the face of the left air course before 8:00 a.m. on the day of the explosion. This was the only such examination said to be made that day, and initials and dates were not found in the active face areas. Records indicating the air quantity in circulation or examination of approaches to abandoned areas and air courses were not kept. The fan was kept running during the weekend of May 22-23.

Check curtains and line brattices were used to direct the air current near the room faces, and a line brattice was installed towards the face of the left air course. It was reported that this brattice was 25 feet from the face and evidence showed that this line brattice was in place but there was no way to determine its condition prior to the explosion because timbers supporting the line brattice were dislodged and the curtain itself was torn into shreds by the explosion. The left air course and No. 4 room were advanced 300 and 95 feet, respectively, without a crosscut. Apparently the inby eight stoppings between the main intake and return entries were constructed of brattice cloth material; there was no debris left indicating the use of other material.

Air measurements made during the investigation after all blown out stoppings were replaced with polyethylene plastic material showed 14,000 cubic feet

a minute intake and 4,000 cubic feet a minute at the last open crosscut. Methane was detected during recovery operations. While locating the last two bodies a Federal inspector wearing Chemox collected an air sample about 15 feet outby the face of the left air course, and about 200 feet ahead of the line brattice which at the time was being extended by the recovery crews. The analysis of this sample No. D-1314 showed 6.5 percent of methane. However, the same sample contained also 3.4 percent hydrogen and 4.9 percent carbon monoxide; it is known from combustion tests that when methane is near or at the upper explosive limit much hydrogen and carbon monoxide are formed.

The products of this sample were referred to the Bureau Research Center at Pittsburgh for comment. The high percentage of carbon monoxide and hydrogen have been duplicated in the past by experiments with fuel-rich mixtures. The high percentages of methane and oxygen left were probably caused not by uniformly mixed pre-explosion gases but stratified with the layers near the roof higher than the upper explosion limit. Samples taken on June 7 that show stratified layers substantiate the above (see Table 1).

More air samples were taken throughout the mine during the investigation on June 2 to determine the source of the methane. Ventilation was only partially restored to the room faces at this time. To further probe the source of methane the ventilation was short-circuited at the last two crosscuts between the left entries from June 2 to 7. State and Bureau representatives entered the mine during the morning of June 7 to see the effect of the short circuited air and if there was a methane build-up.

Detectors and flame safety lamps were used. About 55 feet inby the last open crosscut in the left air course entry about 2.0 per centum methane was found. The methane content increased to more than 3 percent about 100 feet inby; air samples collected on June 7 showed 1.5 and 3.85 (see Table 1). State and Federal inspectors returned to the mine on June 8 and the gas was removed. A crack in the roof was present not far from the face area of the entry where high percentages of methane could be detected.

The coal, roof, and ribs in the face area of the left air course entry showed evidence of gas burning. The bodies of the victims in this area had 3rd degree burns.

Rock dust had not been applied in the working area. Dangerous accumulations of loose coal and coal dust were present. The amount of coke deposited, up to 1/4-inch thick on posts, and extent of the flame area indicate that the explosion was propagated by coal dust.

Flame

Coke deposits, from moderate to heavy, were found from the face of the air course entry to about 1,600 feet outby and in the rooms (see Table 2 and Appendix B). Soot deposits extended beyond this area. Heavy coke deposits up to 1/4-inch thick were on posts in Nos. 2, 3, 4, and 5 rooms outby the last open crosscut and the entry opposite these rooms. Visible coke deposits were slight in the entry opposite No. 6 room; however, soot

deposits were heavy. Coke was formed at the face of the left air course entry, and the bodies therein were burned severly. Coke was not formed near the faces of the rooms. Explosives and detonators were found exposed in No. 5 room inby the last open crosscut; however, no evidence was found where explosives were detonated by the explosion.

Dust samples collected in the explosion area contained small to very large coke particles (see Table 2).

Forces

Evidence of forces radiating from the face of the left air course entry was: dislodged crossbars and chain conveyor at the carloading station in the track entry, deposits of debris on the outby rib of the last open crosscut between the entries, covers from the locomotive blown outby and the movement of the junction boxes in the left air course entry (see Appendix C).

Violence occurred throughout the working area as evidenced by the upturned chain conveyor, blown out stoppings, destruction of brattices, movement of light objects and brattice cloth. Swept places in the crosscuts to the abandoned areas show the forces dissipating in that direction.

The deposits of coke on the posts were generally thicker on the face and outby side in the rooms and crosscuts, respectively, indicating that the major forces moved through the rooms from the left air course face; however, some forces appeared to come from the rooms.

The forces reached the surface and did some damage to a portion of the fan duct roof, and material from the main haulageway was deposited on the fill about 20 feet from the drift opening.

Probable Point of Origin

Bureau of Mines and State investigators believe that the explosion originated at the face of the left air course entry.

Factors Preventing Spread of Explosion

The forces of the explosion reached the surface; however, the flame propagation was arrested primarily by pressure release while expanding into the worked out rooms. Also, wet areas along the haulage road and other wet to damp areas and rock falls in the worked out rooms probably retarded flame propagation.

Summary of Evidence

Evidence summarized below was obtained from: observations in the mine during recovery operations and investigation, discussion among members of the investigating committee, previous Federal Coal Mine inspection reports, and from the owner and workmen.

1. Methane and coal dust both were involved in the explosion.

2. The explosion occurred between 1:30 p.m. and 3:45 p.m., May 24, 1965.

3. All the victims died almost instantly.

4. The only gas test that had been made was before 8:00 a.m. on the day of the explosion. The examiner's initials and dates were not

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placed during this examination. The mine examination record books brought to the mine by the owner show the date and an "O.K." for that date. Flame safety lamps were not kept at the mine.

5. The fan was kept running during the weekend of May 22-23.

6. The inby eight stoppings were constructed of brattice cloth material. The left air course entry was advanced 300 feet without a crosscut and ventilated by means of a brattice cloth line curtain. Only 4,000 cubic feet a minute of air was reaching the last open crosscut after all blown out stoppings had been replaced with polyethylene plastic material and the air quantity at the fan increased 5,000 cubic feet a minute.

7. Small percentages of methane were present throughout the active working area and 6.5 percent of methane was found near the face of the left air course entry during recovery operations. Air samples collected during the investigation on June 1 and 2 show 0.04 to 0.35 per centum methane. Air samples collected on June 7 in the face area of the left air course entry after the ventilation was short-circuited at the last two open crosscuts since June 2, 1965, showed 0.87 to 3.85 per centum methane. Methane was being liberated in that place.

8. A cigarette lighter opened as for lighting was found near the face of the left air course entry. Smoking materials were found on the body of one victim near the face of the left air course entry and on 2 others. Smoking was practiced regularly underground.

9. Blasting was not being done.

10. Electric face equipment was not being operated. The trailing cables to the equipment in Nos. 5 and 6 rooms were not energized, and the controls on the equipment at the face of the left air course were in the "off" position. The chain conveyors were not running; the controls were "off" at the carloading station. The shaker conveyors were not running, and coal was not being loaded.

11. Accumulations of loose coal and coal dust were present. Rock dust was not applied in the dry working area.

12. The coal dust is explosive.

Cause of Explosion

This explosion was caused by the ignition of a body of methane by sparks or flame from a cigarette lighter. The methane was liberated in the face area of the left air course entry and accumulated because of inadequate face ventilation.

RECOMMENDATIONS

The following recommendations are made to prevent similar disasters:

1. The mine should be considered a gassy mine and operated accordingly.

2. Smoking and the carrying of smoking materials, matches, or lighters underground should be prohibited.

3. Permissible explosives should be fired with permissible shot-firing units and examinations for gas should be made immediately before and after firing each shot.

4. The ventilating fan should have a capacity suitable for the mine.

5. The volume and velocity of the current of air should be sufficient to dilute so as to render harmless, and to carry away flammable or harmful gases.

6. At least 6,000 cubic feet a minute of air should always reach the last open crosscut in any pair of entries.

7. The volume of air entering the main intakes and leaving the main returns and the volume passing the last open crosscut in each active entry should be measured once a week. A record of the measurements should be kept on the surface.

8. Crosscuts should be made between entries and between rooms at intervals not exceeding 60 feet, according to State mining law. Entries should be driven in sets of two or more.

9. Room entry stoppings should be constructed of materials that will minimize air losses.

10. Air that has been used to ventilate abandoned areas that are inaccessible for inspection, or are not inspected should not be used to ventilate active underground working areas.

11. At least two permissible flame safety lamps in proper working condition should be kept available at the mine for the use by authorized persons.

12. Thorough preshift examinations should be made of the active underground area. Such examination should include a test with a permissible flame safety lamp for accumulations of methane in each active working place, active roadways, travelways, approaches to abandoned workings and accessible falls in active sections. The examiner should place his initial and date near the face of each place he examines. The preshift examination should be made within 3 hours before any coal producing shift and before any workmen enter the mine. The examiner should record the results of his examination in a book kept for that purpose on the surface at the mine.

13. Subsequent examinations should be made during each shift by certified persons as often as necessary for safety. Such examination should include a test with a permissible flame safety lamp.

14. Sufficient personnel should be trained in the use of a flame safety lamp to permit an examination for methane in any place immediately before electrically driven equipment is operated or taken into that place and frequently during such operation.

15. Weekly examinations should be made in at least one entry of the intake and return airway in its entirety, on pillar falls, in idle workings, and, insofar as conditions permit, abandoned workings. The examination should include tests with a permissible flame safety lamp. A record of these examinations and tests should be kept at the mine.

16. Coal dust and loose coal should not be permitted to accumulate in dangerous quantities in active underground workings.

17. The dry areas of the mine should be rock-dusted to within 40 feet of all faces, including all open crosscuts.

18. Where rock dust is applied it should be distributed upon the top, floor, and sides of all open places in such quantity that the incombustible content of the combined rock dust, coal dust and other dust will not be less than 65 per centum plus 1 per centum of incombustible for each 0.1 per centum of methane in the ventilating current.

19. The electric face equipment for use in this mine should be maintained in permissible condition.

The following additional recommendations, although not directly related to this mine explosion are good mining practices.

1. Explosives or detonators carried underground by persons should be in containers constructed substantially of nonconductive material and kept closed.

2. Explosives and detonators stored near the working faces should be in separate closed containers, and should be in a location out of line of blast not less than 50 feet from the face and 15 feet from any pipeline, powerline, rail or conveyor.

3. The main fan should be equipped with an automatic device to give alarm when the fan slows down or stops. This device should be placed so that it will be seen or heard by a responsible person. A pressure-recording gage should be provided on the fan.

4. The single door on the haulageway should be replaced with an air lock or the ventilation arranged so that doors are unnecessary.

5. Abandoned workings should be posted to warn unauthorized persons against entering the territory.

6. Underground power wires and cables, except ground wires, grounded power conductors and trailing cables, not encased in armor should be supported by well installed insulators and should not touch combustible material, roof, or ribs.

7. All electric equipment should be frame grounded.

8. Pumps should be provided with switches or other controls of safe design, construction, and installation. Trailing cables on the drills and mining machines should be provided with suitable short-circuit protection.

9. Temporary splices in trailing cables should be well-insulated.

10. Electric equipment and wiring should be inspected at least once a month and defects should be corrected.

11. Suitable fire-fighting equipment, adequate for the size of the mine should be provided.

12. Telephone service or equivalent two-way communication facilities should be provided between the surface and the underground working section.

13. An accurate map of the mine should be prepared and brought up-to-date at least annually.

14. A check-in and check-out system that provides positive identification upon the person of every individual underground should be provided. A written record should be kept of the men in the mine.

15. Direction signs should be posted conspicuously at all points of intersections with other passageways to indicate designated escapeways.

ACKNOWLEDGMENT

The writers acknowledge gratefully the courtesies extended and help given by officials, employees and other representatives of the operating company and representatives of the Tennessee Division of Mines and the United States Bureau of Mines.

Respectfully submitted,

/s/ Eric H. Brown

Eric H. Brown

/s/ Carl F. Kahre

Carl F. Kahre

/s/ Ralph B. Jones

Ralph B. Jones

/s/ Jack E. Tisdale

Jack E. Tisdale

Approved by:

/s/ James Westfield

James Westfield
Assistant Director--Health and Safety

/s/ Frank C. Memmott

Frank C. Memmott
Acting Director

ANALYSES OF AIR SAMPLES

TABLE 1

MINE No. 2-A COMPANY C. L. Kline Coal Company COLLECTED BY: H. D. Couk, Dee Zimmermann, R. B. Jones, Jack E. Tisdale, John D. Martin, E. L. Davis

DATE	TIME	LOCATION IN MINE	BOTTLE NO.	Percent in Volume					
				CARBON DIOXIDE	OXYGEN	HYDROGEN	CARBON MONOXIDE	METHANE	NITROGEN
5/24/65	11:05 p.m.	Return at fan	F-1489	0.36	20.07	-	0.29	0.18	79.10
5/25/65	3:10 a.m.	Return at fan	E-8606	0.60	19.84	0.19	0.41	0.15	78.81
5/25/65	3:35 a.m.	Return at fan	F-97	0.53	19.86	0.18	0.34	0.11	78.98
5/25/65	1:30 p.m.	Return at fan	F-96	0.23	20.61	-	0.11	0.05	79.00
5/25/65	3:30 p.m.	Near face No. 6 room	F-1500	0.63	20.08	0.12	0.39	0.15	78.63
5/25/65	3:30 p.m.	Near face No. 5 room	F-1874	0.79	19.33	0.12	0.43	0.23	79.10
5/25/65	3:40 p.m.	Near face No. 6 room	D-1315	0.51	19.21	0.10	0.39	0.16	79.63
5/25/65	6:06 p.m.	Face left air course entry	D-1314	5.5	6.8	3.4	4.9	6.5	72.9
6/2/65	10:25 a.m.	Face No. 6 room	F-1487	0.22	20.65	-	-	0.13	79.00
6/2/65	10:45 a.m.	Face No. 5 room	E-1345	0.32	20.43	-	Trace	0.21	79.04
6/2/65	11:00 a.m.	Face left air course entry	F-1499	0.14	20.79	-	-	0.35	78.72

ANALYSES OF AIR SAMPLES

TABLE 1

MINE No. 2-A COMPANY C. L. Kline Coal Company COLLECTED BY: H. D. Couk, Dee Zimmermann, R. B. Jones, Jack E. Tisdale, John D. Martin, E. L. Davis

DATE	TIME	LOCATION IN MINE	BOTTLE NO.	Percent in Volume					
				CARBON DIOXIDE	OXYGEN	HYDROGEN	CARBON MONOXIDE	METHANE	NITROGEN
6/2/65	11:00 a.m.	Face No. 4 room	F-1491	0.20	20.71	-	-	0.06	79.03
6/2/65	11:45 a.m.	1st room outby No. 1 room over rock fall	E-1823	0.23	20.63	-	-	0.04	79.10
6/2/65	11:53 a.m.	3rd room outby No. 1 room over rock fall	E-4499	0.15	20.77	-	-	0.05	79.03
6/7/65	10:15 a.m.	Left air course entry, 100 feet inby last open crosscut	D-6321	0.34	19.87	-	-	3.85	75.94
6/7/65	10:18 a.m.	Left air course entry, 54 feet inby the last open crosscut (taken near roof)	F-1476	0.34	20.20	-	-	1.51	77.95
6/7/65	10:20 a.m.	Left air course entry, 54 feet inby the last open crosscut (taken near floor)	D-5420	0.19	20.45	-	-	0.87	78.49

ANALYSES OF DUST SAMPLES

TABLE 2

DATE COLLECTED: May 28 and June 2, 1965

MINE No. 2-A COMPANY C. L. Kline Coal Company COLLECTED BY: Charles E. Estep, John D. Martin

SAMPLE NO.	SAMPLE OF DUST FROM	LOCATION IN MINE	ALOCHOL COKE TEST	AS-RECEIVED PERCENT INCOMBUSTIBLE
1	band	Haulage entry - 60 feet inby carloading station	very large	22.9
2	band	Haulage entry - 120 feet inby carloading station	very large	26.6
3	band	Left air course at last open crosscut	small	19.6
4	band	Left air course 100 feet inby last crosscut	small	17.6
5	band	Left air course 200 feet inby last crosscut	large	19.6
6	band	Left air course at face	large	20.3
7	band	Left air course inby No. 6 room	large	23.4
8	band	Left air course inby No. 5 room	large	21.4
9	band	Left air course inby No. 3 room	large	21.1
10	band	Left air course 30 feet outby No. 1 room	large	24.8

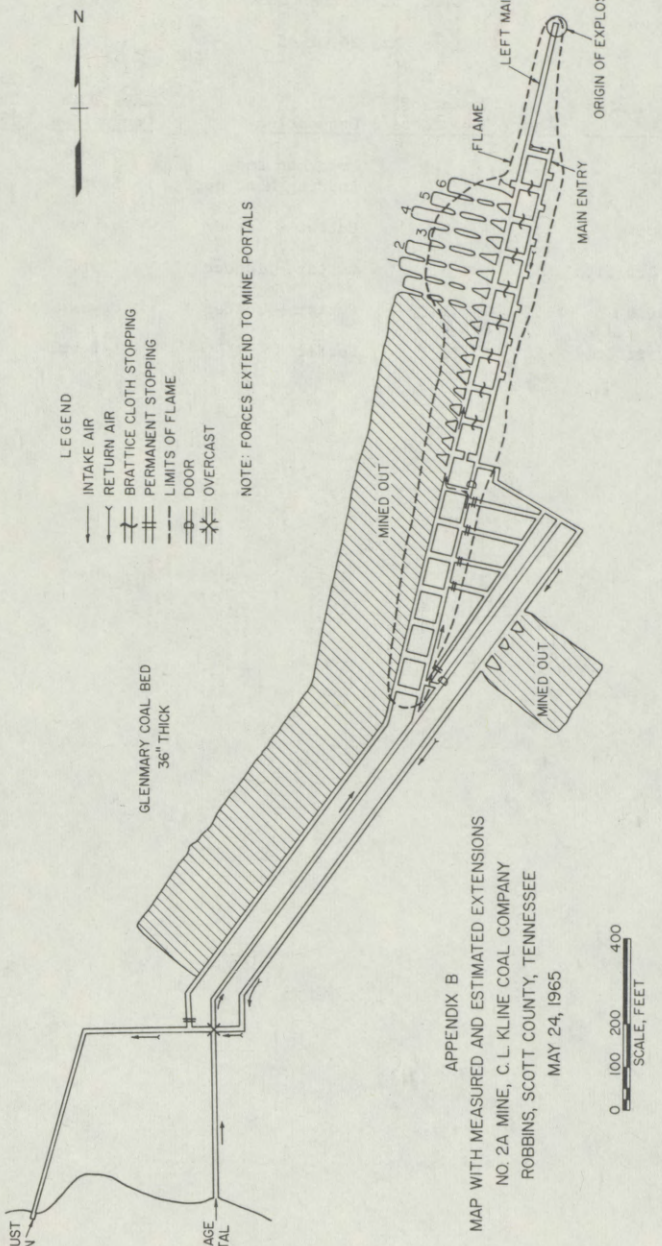
APPENDIX A

VICTIMS OF EXPLOSION, NO. 2-A MINE

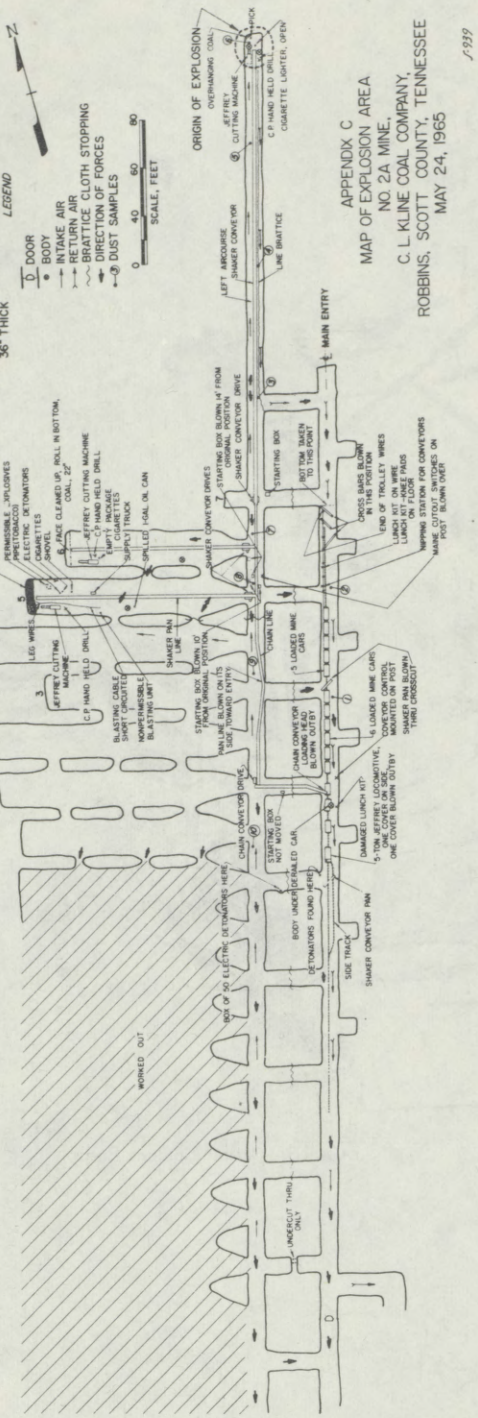
C. L. KLINE COAL COMPANY

May 24, 1965

Names of Persons Killed	Age	Number of Dependents	Occupation	Exp. This Occupation	Total Experience in Mines
Russell Webb	45	5	Motorman and Loading head opr.	6 yrs.	20 years
Arthur Norris	49	9	Cutter - loader	6 yrs.	20 yrs.
Lawrence Griffith	57	3	Cutter - loader	1 yr.	20 yrs.
Philip Davis	52	1	Cutter - loader	6 yrs.	20 yrs.
Clayton Griffith	20	0	Loader	1/2 yr.	1 yr.



APPENDIX B
MAP WITH MEASURED AND ESTIMATED EXTENSIONS
NO. 2A MINE, C. L. KLINE COAL COMPANY
ROBBINS, SCOTT COUNTY, TENNESSEE
MAY 24, 1965


GLENMARY COAL BED
36" THICK
LEGEND
DOOR
BODY
INTAKE AIR
RETURN AIR
BRATTICE CLOTH STOPPING
DIRECTION OF FORCES
DUST SAMPLES
0 40 60 80
SCALE, FEET
N
ORIGIN OF EXPLOSION
OVERHANGING COAL
JEFFREY CUTTING MACHINE
PICK
C.P. HAND HELD DRILL
CIGARETTE LIGHTER, OPEN
LEFT AIRCOURSE
SHAKER CONVEYOR
LINE BRATTICE
MAIN ENTRY
FRESH CUT, SHOT DOWN COAL, 29"
PERMISSIBLE EXPLOSIVES
PIPE (TOBACCO)
ELECTRIC DETONATORS
CIGARETTES
SHOVEL
FACE CLEANED UP, ROLL IN BOTTOM, COAL, 22"
JEFFREY CUTTING MACHINE
C.P. HAND HELD DRILL
EMPTY PACKAGE
CIGARETTES
SUPPLY TRUCK
SPILLED 1-GAL. OIL CAN
SHAKER CONVEYOR DRIVES
STARTING BOX BLOWN 14' FROM ORIGINAL POSITION
SHAKER CONVEYOR DRIVE
STARTING BOX
BOTTOM TAKEN TO THIS POINT
CROSS BARS BLOWN IN THIS POSITION
END OF TROLLEY WIRES
LUNCH KIT ON WIRE
LUNCH KIT-KNEE PADS ON FLOOR
WIPPING STATION FOR CONVEYORS
MAINE CUTOUT SWITCHES ON POST BLOWN OVER
LEG WIRES
JEFFREY CUTTING MACHINE
C.P. HAND HELD DRILL
BLASTING CABLE SHORT CIRCUITED
NONPERMISSIBLE BLASTING UNIT
SHAKER PAN LINE
STARTING BOX BLOWN 10' FROM ORIGINAL POSITION
PAN LINE BLOWN ON ITS SIDE TOWARD ENTRY
CHAIN LINE
5 LOADED MINE CARS
CHAIN CONVEYOR LOADING HEAD BLOWN OUTBY
6 LOADED MINE CARS
COVEYOR CONTROL MOUNTED ON POST
SHAKER PAN BLOWN THRU CROSSCUT
CHAIN CONVEYOR DRIVE
STARTING BOX NOT MOVED
DAMAGED LUNCH KIT
5-TON JEFFREY LOCOMOTIVE, ONE COVER ON SIDE, ONE COVER BLOWN OUTBY
BODY UNDER DERAILED CAR
DETONATORS FOUND HERE
SIDE TRACK
SHAKER CONVEYOR PAN
BOX OF 50 ELECTRIC DETONATORS HERE
WORKED OUT
UNDERCUT THRU ONLY
APPENDIX C
MAP OF EXPLOSION AREA
NO. 2A MINE,
C. L. KLINE COAL COMPANY,
ROBBINS, SCOTT COUNTY, TENNESSEE
MAY 24, 1965
F-939

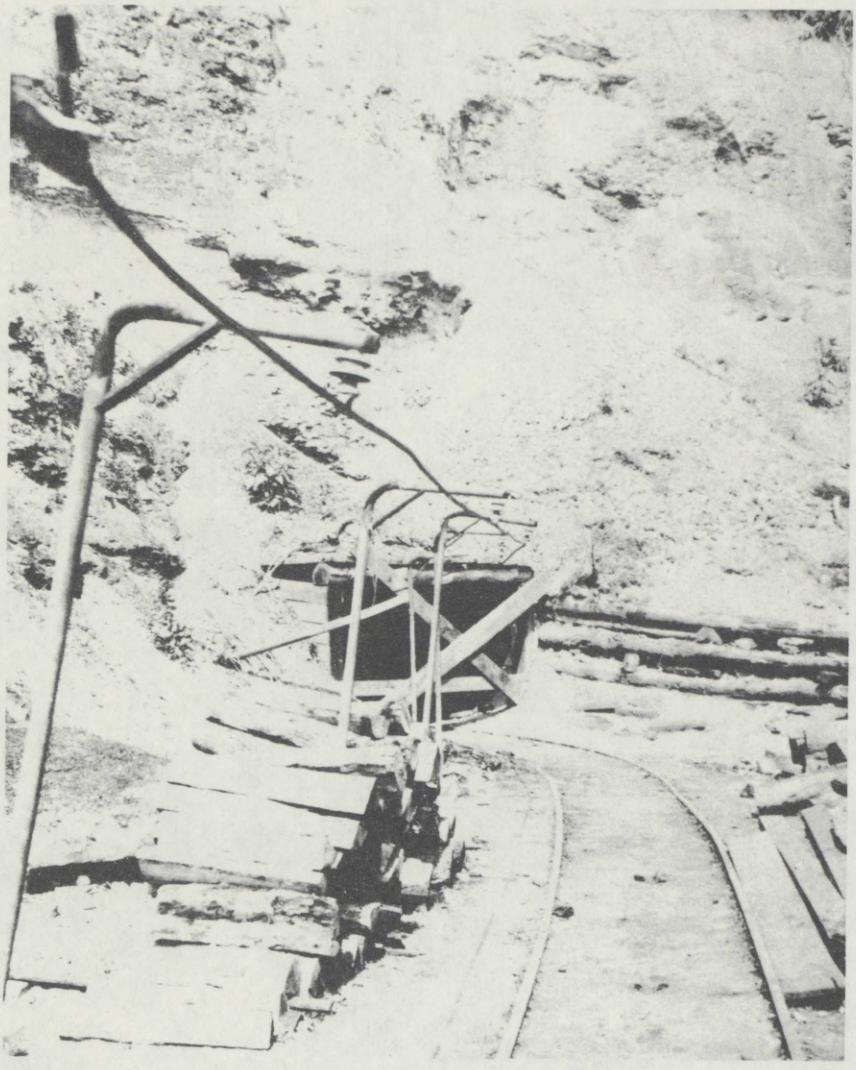


FIGURE 1. - Main Haulage Portal.

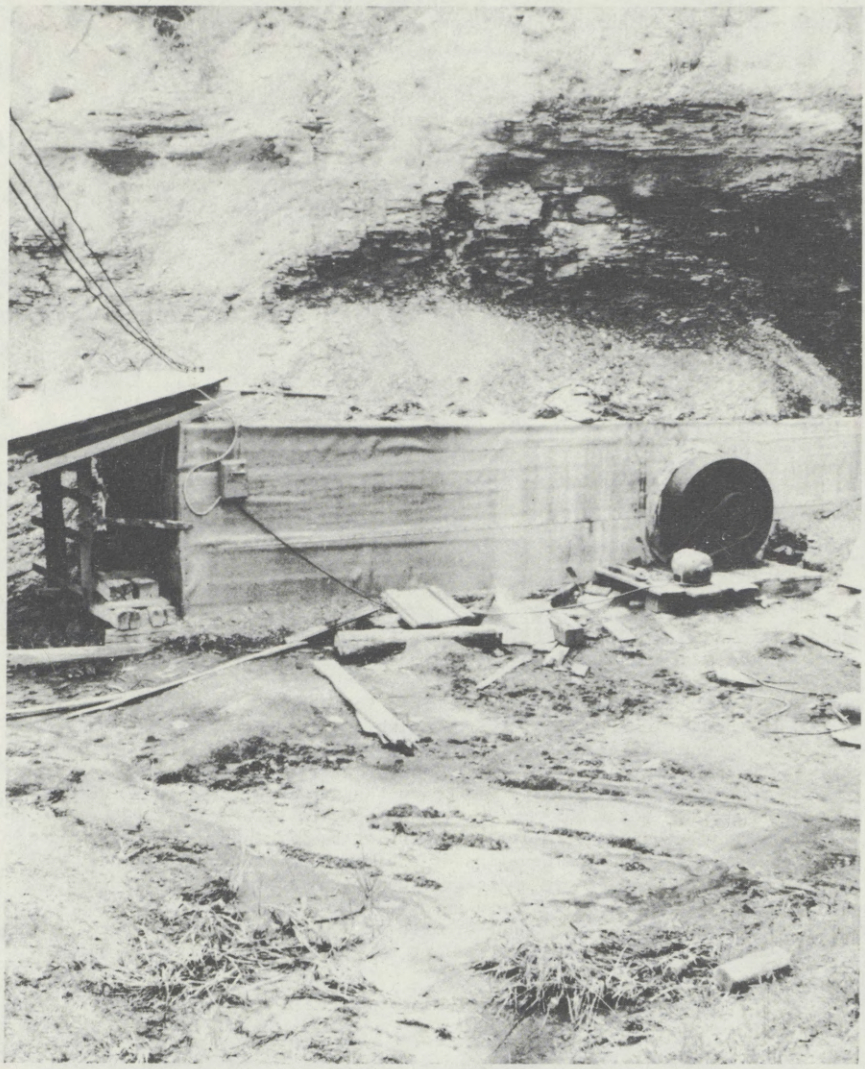


FIGURE 2. - Main Fan Housing Showing Fan at Right Installed During Recovery Operations.

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No. 13— Records of safety educational training in the coal mining industry conducted by the Bureau of Mines

Fiscal year	First aid	Mine rescue	Accident prevention	Special demonstrated lectures 1/
1955	11,293	559	30,699	1,569
1956	10,845	505	21,815	612
1957	11,382	449	16,627	18,230
1958	10,058	653	11,104	30,723
1959	11,818	695	8,207	16,984
1960	9,044	444	10,689	4,600
1961	8,555	429	4,732	193
1962	7,587	325	3,411	610
1963	6,581	394	1,875	3,730
1964	9,105	581	5,522	3,961
Totals	96,268	5,034	114,681	81,212

1/ Fire resistant hydraulic fluids, dust explosions and hazards of arcs and sparks.

Note: During fiscal year 1966, the Bureau of Mines plans to place into operation four bus-type mobile training units. These vehicles have been fitted on the inside to resemble classrooms, and will be taken to smaller mines and to mines in outlying locations where adequate classrooms or other meeting accommodations are not available especially near the mine. Experience has shown that the people who work at the mines usually will be willing to stay after work for safety education classes, but once they go home they are reluctant to come back for this purpose. We hope, in this manner, to bring safety education to a large segment of the mining population which has not yet had the benefits of the training. Past experience indicates that we can anticipate an improvement in the accident injury rate wherever we are able to present our safety training courses. The improvements are greatest whenever we can secure one hundred percent participation by miners and supervisors alike.

No. 14—REPORT

OF

TASK FORCE ON COAL MINE SAFETY

U. S. DEPARTMENT OF THE INTERIOR

AUGUST 1963

INTRODUCTION

This is the report by the Task Force which, pursuant your instructions, has studied the problems allied with major coal mine disasters.

Because of two major coal-mine disasters that occurred fairly recently--the first on December 6, 1962, and the second on April 25, 1963--the President of the United States wrote a letter, April 30, 1963, to you expressing his great concern over the loss of 59 lives resulting from the disasters. He directed that a review be made of present mine safety regulations and practices, in close cooperation with the appropriate state officials, to insure that inspection and compliance procedures are applied rigorously so as to minimize the chance of further accidents. The President also requested views on the need for further or improved legislation that would enable prevention of such accidents in the future.

In accordance with your instructions a Federal-State Coal Mine Safety Conference was promptly arranged through cooperation of State governors. Representatives of the Department of the Interior met with representatives of the mining departments of Illinois, Kentucky, Pennsylvania, Virginia, and West Virginia, and discussed the adequacy and enforcement of their respective state mining laws. The consensus of opinion expressed by the Governor's delegates was that in general the State laws were adequate and did not need revision because all had been revised and modernized within the past decade. Furthermore, they stated, the quality of the respective State mine inspectors were described as good.

Later, on June 11, 1963, you and members of the Department met with representatives of the American Mining Congress, the National Coal Association, the Southern Coal Producers' Association, the Bituminous Coal Operators' Association, and the United Mine Workers of America. American Mining Congress and coal-mine operators' representatives were generally agreed that State and Federal mining laws were adequate and that education and research were the best means to prevent the occurrence of major mine disasters. Representatives of the United Mine Workers agreed that research and education should be encouraged, but that only by stricter enforcement and expansion of the Laws would the conditions that cause major mine disasters be eliminated.

The Director of the Bureau of Mines, at this meeting, submitted four recommendations for changing the Federal Coal Mine Safety Act to strengthen it as a means of obtaining compliance and reducing violations. In essence they proposed to: (1) make all coal mines subject to Title II regardless of number of men employed; (2) to eliminate granting reasonable time to correct violations of the mine safety provisions of the Act; (3) consider all coal mines gassy; (4) and eliminate the "Grandfather" clauses.

The staff assigned to this Task Force reviewed annual reports of the Bureau of Mines' Division of Coal Mine Inspection and its Division of Accident Prevention and Health; the Federal Mine Safety Code; and the Federal Coal Mine Safety Act. Also studied were the transcripts of the Federal-State Coal Mine Safety Conferences of May 20 and June 11, 1963; the final reports of the most recent two major mine disasters (Robena and Compass); the Federal Coal Mine Safety Act and Federal Mine Safety Codes: Interpretations and Applications; a Historical Summary of Coal Mine Explosions in the United States; and other available published data pertinent to the problem.

A Task Force staff member met, July 2, 1963, in Glenwood Springs, Colorado, with representatives of Columbia-Geneva Steel, Union Pacific Coal Company, the Colorado Fuel and Iron Corporation, and Kaiser Steel Corporation, and requested their views on two major questions, (1) how is the present Federal Mine Safety Act functioning, and (2) what improvements if any should be made to improve the Act in order to prevent occurrence of coal mine disasters? All company representatives who were visited submitted letters setting forth their views in addition to having presented their views orally at the Glenwood Springs meeting.

Staff of the Task Force also met at various times in Washington, D.C. with representatives of the American Mining Congress, Bituminous Coal Operators' Association, Southern Coal Producers' Association, and United Mine Workers of America to discuss the Bureau of Mines four major recommended changes in Title II of the Federal Coal Mine Safety Act for strengthening the Act and other matters related to the problems of coal-mine safety.

Congressman W. Pat Jennings of Virginia and representatives of the "Small Mines" group met with the Task Force, July 18, 1963, to discuss the "Small Mines" bill H. R. 23, 88th Congress and similar bills.

The Task Force staff also carefully read and considered letters of comment on the Bureau's proposed revisions of the Act which were received from Southern Coal Producers' Association, Bituminous Coal Operators' Association, and from representatives of the "Small Mines" group.

History of Federal Coal Mine Safety Act

Public Law 49, 77th Congress, enacted in May 1941, empowered Federal inspectors to enter and inspect for health and safety hazards, all anthracite, bituminous coal, and lignite mines in the United States. At that time, Federal inspection standards and procedures - anthracite and bituminous - were adopted to guide the inspectors in the performance of their duties in the promotion of health and safety in coal mines. These standards were later superseded by the Federal Mine Safety Codes. Because the law conveyed the power only to recommend, it was often difficult and sometimes impossible to obtain compliance with the standards and codes, and thus effectively eliminate many safety hazards. In July 1952, Title II of the Federal Coal Mine Safety Act became effective.

The Federal Coal Mine Safety Act comprises two titles, as follows:

Title I, advisory powers relating to health and safety conditions in mines, covering all mines including mines employing regularly less than 15 persons underground, and strip mines.

Title II, prevention of major disasters in coal mines, covering mines employing regularly 15 or more persons underground.

Title II is designed to prevent disasters from mine explosion, mine fire, mine inundation, and man-trip and man-hoist accidents, and incorporates mine safety provisions, which take precedence over similar provisions of the codes, where applicable. Compliance with these mine safety provisions is mandatory in Title II mines. To accomplish such compliance, the inspector is empowered to issue an order of withdrawal in the event of imminent danger or for failure to comply with one or more mine safety provisions within a reasonable time. Such order requires the withdrawal of men from the mine or section thereof in the event of imminent danger or for failure to correct a violation of the mine safety provisions and prohibits normal operations in the mine or section thereof until the danger has been eliminated or the violation or violations corrected and the order is annulled by the Director of the Bureau of Mines or by the Federal Coal Mine Safety Board of Review.

Effect of Title II, Federal Coal Mine Safety Act on Prevention of Coal Mine Disasters

Statistics collected by the Bureau of Mines indicate that substantial progress has been made in the reduction of major coal mine disasters since Title II of the Federal Coal Mine Safety Act was approved more than a decade ago.

It should be pointed out that the favorable results obtained since the approval of Title II of the Act, July 16, 1952, have not been solely through the effort of any one group or agency, but is the result of combined efforts of management, coal operators' associations, State inspection agencies, Union safety committees, manufacturers of mining equipment, the Federal Bureau of Mines, and other agencies interested in mine safety.

Another factor involved that was discussed by the Safety Director, United Mine Workers of America and commented on by the President, Bituminous Coal Operators' Association, on June 11, 1963, is that the profit squeeze has a marked effect upon the attitude and practice of safety at some coal-mine operations. It is known that this practice is not necessarily peculiar to coal-mining alone. However, the degree of expansion and retrenchment of safety activities is known to vary not only with profit and loss, but also with managements' education in and attitude toward maintaining a safe operation. Hence, it is believed that the Federal Mine Safety Act has been a governing influence to counteract the tendency to cut safety corners when profits are low and ignore good safety practices when profits are high.

Statistical Record of Administration of Law

There were approximately 9,704 coal mines operated in the United States during 1962. Because of economic conditions many mines, especially small mines, often open and close before they can be enumerated. Of the 9,704 operated mines recorded, 8,659 were Title I and 1,045 were Title II mines.

In 1962 there were 7,940 violations of the mandatory provisions under Title II observed during 2,541 inspections, or 3.1 violations per inspection. Eighty-five percent or 6,754 of the violations were corrected promptly after detection and 1,186 original notices were issued at 394 mines to abate violations requiring more time to correct.

An average of 8,005 violations per year have been noted by inspections of Title II mines during the period from 1953 to 1962. Violations have ranged from a low of 7,025 in 1959 to high of 9,469 in 1956.

Compliance. Compliance with the Federal Mine Safety Codes and Title II leaves much to be desired. For example, no violations of the Federal Mine Safety Codes were observed during inspection of only 9 (0.1 percent) Title I underground mines and of only 34 (3 percent) Title II mines, and no violations of sec. 209 of the Federal Coal Mine Safety Act were observed while at least one inspection was made of each of 161 (15 percent) Title II mines. Seventeen (2 percent) mines were free of Title II and code violations during at least one inspection.

Mandatory Action. During the period July 16, 1952 - December 31, 1962, numerous Withdrawal Orders authorized by sec. 203(a) to prevent mine explosions, mine fires, mine inundations, man-trip or man-hoist accidents, were issued to prevent major disasters. The type of violation and number of violations involved in the action are as follows:

Type of violation	Number of violations
1. Man trip	
a. Dangerous roof	90
2. Mine fire	
a. Active fire near workings	113
b. Electric arc hazards - coal dust accumulations	50

3. Explosions

a.	Methane accumulations	51
b.	Coal dust accumulations - no rock dust	43
c.	Active mine fire	38
d.	Explosion disrupted ventilation	32
e.	Coal dust accumulations and electric arc hazards	26

These are the major hazardous conditions observed in the coal mines during the above mentioned period that required mandatory action to correct. Without Title II of the Federal Coal Mine Safety Act the above hazards would possibly have continued to exist.

During the same period 160 other violations of serious nature requiring Withdrawal Orders were disclosed by Federal mine inspectors. These violations are shown by State and criteria in Table 3, page 53, Annual Report, Division of Coal-Mine Inspection, 1962.

The following tabulated Withdrawal Orders were issued during the period July 16, 1952 - December 31, 1962 under Sec. 203(c) for failure to abate violations of Sec. 209 observed during Federal mine inspections. (Only the most prevalent violations are included in the tabulation.)

Section Violated	Number of violations
209(c) Roof support	43
209(d)(1) Ventilation	126
209(d)(8) Preshift inspection	44
209(e)(1) Coal dust accumulation	81
209(e)(3) Rock dust too far from face	87
209(e)(5) Insufficient rock dust	93
209(g)(1) Lack of firefighting equipment	36

There were 68 other violations of different category under Sec. 209 requiring Withdrawal Orders that were observed during the inspection period. Their incidence of occurrence ranged from 1 to 12 but most were below 5.

RECOMMENDATIONS

Based upon our study, we submit the following recommendations:

Legislative Recommendations

A. Title I Mines

Discussion: Coal mines with less than 15 employees (Title I mines) are now exempt from the mandatory provisions of Title II of the Federal Coal Mine Safety Act. There are now approximately 8,000 Title I mines in the United States, an increase of 30% since passage of the Federal Coal Mine Safety Act in 1952. In contrast, the number of Title II mines (those employing 15 or more persons) has decreased 53% since passage of the Act. At least a portion of the change over the past decade is explained by the practice of splitting Title II mines into several Title I operations, presumably to avoid compliance with the mandatory provisions of the Act.

The safety record of Title I mines is not outstanding. From 1940 to 1962 there were 250 disaster-type occurrences in Title I underground mines in which 94 men were killed and 183 injured. Eight of these were explosions that killed all the men in the mines.

Extension of Title II has been opposed in the past on the ground that the expense of compliance with Title II requirements would force small underground mines out of business. The experience of the smaller Title II mines indicates that this fear is not well founded. Thirty percent of the Title II mines now in operation employ only 15 to 19 men. It would be relatively simple for the operators of such smaller mines to reduce their work forces below the Title II minimum if in fact the mandatory provisions of Title II worked an undue hardship upon mines in this group. The existence of this group of small mines and its relative stability indicates that there is no intrinsic factor in Title II preventing small mines from meeting competition within the industry, while maintaining acceptable standards of safety. In addition, more than half the Title II mines employ less than 50 men underground. Again, there is little evidence that these mines as a class are unable to retain their competitive status in the industry.

The presence in the statute of special treatment for small mines constitutes a glaring weakness in the Federal Coal Mine Safety program. Mines in this category can be no less hazardous and no less a cause of serious injury and death than larger mines.

Recommendation: The Task Force recommends that a legislative proposal be prepared and introduced which would have the effect of eliminating the special treatment now accorded Title I mines and would require that all underground coal mines in the United States regardless of size be included under the mandatory provisions of the Act.

B. Reasonable Time for Correction of Hazardous Conditions

Discussion: Under the present law a reasonable time must be given a mine operator to abate violations of the Mine Safety Provisions of the Federal Coal Mine Safety Act which are disclosed by Federal mine inspection, no matter how many times the same type or kind of violation has been cited. In many instances, the cited violation is abated only at the time of the inspection, and a hazard that might lead to a major disaster is permitted by the operator to exist until a regular inspection. The Act was designed to prevent disaster conditions from developing. Compliance with the Act at all times is, therefore, vitally important.

Recommendations: The Task Force recommends that the Federal Coal Mine Safety Act be revised in order to encourage compliance with the Act during periods between Federal inspection by eliminating the "reasonable time" provisions of the Act. Thus, if a Federal mine inspector finds that any provision of section 209 of the Act is being violated, he shall issue an order requiring the operator of such mine to cause all persons other than those necessary to eliminate the hazard to be withdrawn from and to be barred from entering work areas affected by such a violation. This withdrawal order would continue in effect until the violation is totally abated and the order is annulled by the person making it or other duly authorized representative of the Bureau of Mines by written notice. Such orders shall in no case be annulled during a period of 24 hours following issuance of the withdrawal order. However, in order to allow a period of transition, this amendment should not become applicable to former "Title I mines" for a period of six months following the application of Title II to these mines.

C. "Grandfather" Clauses

Discussion: The "grandfather" clauses in Sections 209(d)(5) and (6) and 209(f)(1) and (2) were included in the Federal Coal Mine Safety Act to avoid undue hardship and to permit an orderly transition period for the operators, so that they could eventually comply with the provisions designed to prevent occurrence of major mine disasters. The "grandfather" provisions relating to ventilation in Section 209(d)(5) and (6) have been meaningless for some years. Title II of the Act has been in effect for eleven years, an adequate time, in the opinion of the Task Force, to permit operators to effect a transition to permissible equipment. Perpetuation of the clauses in Section 209(f)(1) and (2) contributes to the maintenance of hazardous conditions in mines.

Recommendations: The Task Force therefore recommends the following with respect to "grandfather" clauses in the Act:

1. That Section 209(d)(5) be amended to prohibit use at an active working face area of air which has been passed by an opening of any unsealed abandoned area in a mine. Such an amendment would eliminate a meaningless "grandfather" clause and would prohibit the use for ventilation of air which has passed by an unsealed, abandoned area without requiring a test to ascertain whether the air contains methane. The use of such air for ventilation is a highly unsafe practice because of the likelihood of the presence of methane in abandoned areas.

2. That the "grandfather" clause of Section 209(d)(6) of the Act be deleted.

3. That Section 209(f)(1) relating to electrical equipment be amended to require that all electric face equipment used in gassy mines shall be permissible provided that non-permissible electric face equipment which the operator had a right to use on the effective date of the amendatory legislation may continue to be used in such mine for a period of one year from the effective date of the proposed amendment. If, after the effective date of this proposed amendment, a mine is found to be a gassy mine by a Federal coal mine inspector or under State law, and nonpermissible electric face equipment is in use in such mine on the date that the mine is found to be a gassy mine, such nonpermissible electric face equipment may be continued in use in such mine for a period of not to exceed 5 years from the time the mine is found to be gassy.

4. That Section 209(f)(2) relating to use of permissible junction boxes be amended to require that in gassy mines permissible junction or distribution boxes shall be used for making multiple-power connections in working places or other places where dangerous quantities of methane may be present or may enter the air current, except where nonpermissible junction or distribution boxes are in use on the effective date of the proposed amendment or on the date that a mine is classified as a gassy mine, whichever is later, their use may be continued for a period not exceeding one year.

D. Ventilation

Discussion: The Federal Coal Mine Safety Act permits any number of working sections to be ventilated by the same current of air and permits the ventilating air currents in working sections to be directed and controlled by doors. Ventilating systems of this type are unreliable. The explosion disaster at Compass No. 2 mine, Clinchfield Coal Company, West Virginia, on April 25, 1963, again emphasized the long-known need for improvement in mine ventilating systems.

Recommendations: The Task Force recognizes the additional costs inherent in improving ventilation systems but considers that the safety advantages are so great as to justify support of an amendment to the law which would improve ventilation practices. The Task Force accordingly recommends that Section 209(d) be amended to provide that in gassy mines each working section shall be ventilated by a separate split of air which is controlled and directed by overcasts. This amendment should be applicable only to working sections which are developed after the effective date of the amendment.

Administrative Practices and Procedures

A. Preferential Treatment

Discussion: By administrative action initiated November 29, 1955, the Bureau of Mines created an incentive plan of preferential inspection treatment of Title II mines based on stringent qualifications. This plan provides that fewer than three inspections annually can be made in those mines that have a good record of compliance. Continuance of preferential inspection treatment depends on continued high standards of compliance.

The small number of Title II mines that are now qualified for preferential inspection treatment indicates that this special inspection procedure is not an effective incentive to improve safety practices. Further, the Task Force is of the view that the minimum of three mine inspections per year, combined with implementation of other recommendations made in this report, can contribute to the maintenance of high standards of safety in all mines.

Recommendation: The Task Force recommends that the preferential coal mine inspection procedure which has failed as an incentive to widespread industry compliance with the Federal Coal Mine Safety Act be discontinued.

B. Uniformity of Inspections

Discussion: Uniformity in applying the provisions of the Federal Coal Mine Safety Act and Federal Mine Safety Code has always been a problem. Uniformity is sought (1) by assigning dependable supervisory inspectors in the various field offices to accompany each inspector from time to time; (2) by having technical assistants from the Washington headquarters make periodic inspections with all coal mine inspectors in each field district to assure that the headquarters policies and instructions are being followed and that the provisions of the Federal Mine Safety Code and the Federal Coal Mine Safety Act are applied in an acceptable, uniform manner; and (3) through staff meetings in the field offices for inspectors and their supervisors and through staff meetings of all field supervisors with the headquarters staff twice each year. Moreover, inspectors are transferred from one district to another at irregular intervals in an attempt to strengthen any weak points that may develop in a field area, and generally not more than two consecutive inspections of the same mine are made by one inspector; thus, each inspector serves as a check on other inspectors and they vie with one another in attaining perfection.

Nevertheless there is some evidence that control of coal dust or dust abatement measures are not enforced with the same emphasis in some mining districts as in others. - -

Recommendations: The Task Force recommends that a field team of experienced personnel officers, mining men, and industrial safety men should make a survey to ascertain whether a greater degree of uniformity of mine inspections can be obtained within the limits of available funds and personnel of the Bureau of Mines.

C. Safety Education

Discussion: Safety education and training in coal mines was undertaken by the Bureau of Mines at its inception in 1910. It has been a continuous function since. Initial programs embraced first aid and mine rescue training of mine employees. These programs have been supplemented by additional courses throughout the years: advanced training for mine officials in directing rescue and recovery work was started in 1926; technical accident prevention training for coal mine supervisors was initiated in 1931 and similar training was undertaken for miners in 1939; on-the-job training for miners and officials was introduced in 1952; a fundamental course giving a psychological approach to accident prevention was initiated in 1957 for supervisors and adapted in 1962 for miners; and a course of accident prevention training for strip miners was begun in 1960. The foregoing regular courses have been further supplemented by specialized training to meet specific needs such as: instruction of shot firers and machinemen in the safe use and handling of flame safety lamps, training of shot firers in the safe handling and use of explosives and blasting devices, training in fundamentals of electricity and electrical safety, and short courses in haulage and roof control as an adjunct to Federal inspections.

The Task Force regards the maintenance of an up-to-date-and effective safety education program as one of the most effective means for the avoidance of accidents in coal mines.

Recommendations: The Task Force recommends that outside consultants should be employed to:

1. Assist and advise teaching staff relative to preparation of text books, use of visual aids, and new teaching techniques.

2. Determine whether educational programs are balanced, competent, and effective.

3. Determine direction of future programs - that is, should programs be general or specifically related to new coal mining techniques and equipment.

4. Determine qualifications of teaching staff and recommend measures to be adopted to improve staff teaching competency.

D. Safety Research

Discussion: The Bureau of Mines was founded in 1910 following a series of major mine disasters and one of its principal objectives, as stated in its Organic Act, is "to conduct inquiries and scientific and technologic investigations.....with a view to improving health conditions and increasing safety."

The Bureau of Mines original Central Experiment Station and Experimental Mine have been in operation from the time the Bureau was established in 1910, and much basic and applied research on health and safety has been performed and the results published.

The great need for more and better health and safety research has long been recognized, and in 1960 the Health and Safety Research and Testing Center was established and was organized on modern lines to assure the utmost in efficient production and performance.

At the present time, 40 percent of the employees in the Bureau's Health and Safety Research and Testing Center are assigned to research and 50 percent of the Center's 1-1/2 million budget is spent on research. This unbalanced structure is due to lack of funds. The testing of manufacturers' equipment for permissibility under established schedules, the analysis of mine gas and dust samples, and the service work performed for the coal mining industry are fairly constant insofar as manpower and costs are concerned, and research is limited to the remaining funds.

As a comparison, it has been estimated the Great Britain spends more than twice as much on coal mining health and safety research as is spent by the U. S. Bureau of Mines; and Great Britain produces only a fraction of the amount of coal produced in the United States.

The coal mining industry has been modernizing rapidly over the past decade, and the trend continues. This means that new concepts in mine design and mine equipment in turn create new and challenging health and safety problems. The coal mining industry looks to and expects assistance from the Bureau of Mines in connection with its fundamental mission in health and safety research.

To do an acceptable job in coal mining health and safety research, it is estimated that an annual expenditure of at least 1-1/2 million - double the amount now being spent - would be required currently.

Recommendations: The Task Force recommends that funds available for health and safety research, currently approximately $3/4 million, be increased immediately to $1-1/2 million and that available funds should be channelled to the following items: (1) further expand the research on methane monitoring; (2) expand research to improve mine face ventilation; (3) intensify research on control of mine float dust; (4) find a more effective means of preventing wide-spread dust explosions; (5) conduct research aimed at new designs of electrical face equipment to simplify permissibility; (6) continue research on degasification of coal beds in advance of mining and (7) study stratification of gases. Major emphasis now should be placed on item (1) development of the methane monitor.

Other research items should be continued as funds are made available.

E. Inspection Personnel

Discussion: In 1941, with passage of what is now Title I of the Federal Coal Mine Safety Act, the recruitment and training of an enlarged staff of coal mine inspectors became a necessity. The Bureau of Mines established qualification standards for employees based primarily on experience in coal mining operations and safety. Because length of experience remained a major criterion for the next 16 years, the Bureau was confronted with problems relating to age at entrance on duty, quality of written reports, lack of professional education and similar matters. Changes made in the qualification standards in 1957 resulted in notable improvements, but several problems still remain.

Recommendations: The Task Force recommends that measures be taken to improve personnel practices by:

a. Active recruitment to enlist younger qualified men in the inspection force;

b. Seeking to set a maximum age limit for coal-mine inspectors upon entrance on duty, either by changes in Civil Service regulations or by changes in the law, or both;

c. Changing qualification standards for coal-mine inspectors through substitution of professional or technical education for some years of the practical experience now required;

d. More frequent physical examinations for fitness for arduous duty;

e. Changes in the law to permit earlier retirement of coal-mine inspectors, preferably at 50 or 55 after 20 years of service;

f. Modifying present practice of strict conformance to promotion-from-within policy in the selection of supervisors so as to provide more

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supervisory personnel with broad backgrounds and recent technical education, as well as long experience;

g. Utilizing more fully the opportunities for outside training and education for supervisors and by participation in Government management training programs.

Assistant Secretary, Mineral Resources

Administrative Assistant Secretary

Deputy Solicitor

No. 15 — The Average Cost of Permissible Electric Face Equipment for Title I Mines if H. R. 3584 is Enacted

According to a survey of reports on Federal inspections of Title I underground mines employing regularly fewer than 15 persons underground, made in 1964, only 4 percent of the bituminous coal mines and 21 percent of the anthracite mines were classed gassy. This means that only 343 of the 6,550 Title I underground mines in the United States at the close of 1964 were classed gassy.

Under the provision of Sec. 209(f)(1) of Title II of the Federal Coal Mine Safety Act, operators of these 343 gassy Title I underground mines would be allowed to use, until worn out, any nonpermissible-type electric face equipment in use or on order at the time the law becomes applicable to such Title I mines. However, if other electric face equipment is purchased in the future, Sec. 209(f)(1) would require the operator to purchase permissible equipment for such purpose.

The enclosed record shows the average selling price of various types of electric face equipment used generally in small Title I mines, as provided by leading distributors of such equipment.

Type of equipment	Selling price (new)		Selling price (rebuilt or new)	
	Permissible	Nonpermissible	Permissible	Nonpermissible
Cutting machine	$13,000.00	$10,000.00	$3,500.00	**
Rubber tired tractor (battery type)*	8,750.00	7,000.00	3,500.00	$2,800.00
Rock duster	2,740.00	2,460.00	900.00	**
Electric drill	**	**	250.00	**

* Used to pull small mine cars from the working face to the surface.

** Price not available.

Senator MORSE. I want to thank you very much for helping the subcommittee. This material will be of great help to this subcommittee.

I understand, Mr. Memmott, that you have a statement. Do you wish to read it or have it filed at this point in the record and then summarize it? It is up to you.

Mr. MEMMOTT. We support this legislation, and in the interest of time I will submit my statement for the record.

Senator MORSE. The statement of Mr. Frank C. Memmott, Acting Director of the Bureau of Mines will be placed in or made a part of the record at this point.

(The prepared statement of Mr. Memmott follows:)

PREPARED STATEMENT OF FRANK C. MEMMOTT, ACTING DIRECTOR, BUREAU OF MINES, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the subcommittee, I am Frank C. Memmott, Acting Director of the Bureau of Mines. I am here today to assure you of the Bureau's strong support for the legislation that you are considering and to introduce to you members of the Bureau's health and safety activity who will be glad to provide information that can assist you in your deliberations.

I have had a stake in coal-mine safety since the moment of my birth. My father spent 53 years of his life in the coal-mining industry, and I began working part time in the coal mines of Utah while I was still in high school. Since then, I have had many opportunities to observe first hand the working conditions in coal mines of nearly a dozen States. As a former member of the Utah Legislature, I also was privileged to decide—as you gentlemen must now decide—on the merits of proposals designed to help insure the safety and health of those who mine our Nation's essential supplies of coal.

Because of this background, my interest in the legislation before you is personal as well as official. Many of my close friends are working today in coal mines across the country. Some are employed at large operations and therefore are protected by the mandatory (title II) provisions of the Federal Coal Mine Safety Act of 1952. Others, working at small mines that employ fewer than 15 men underground, daily face the hazards of their occupation without such protection.

Experience tells us that coal mining—like all mining—entails certain inherent dangers. These dangers exist regardless of the number of men employed in the mine; and to imply that the value of a man's life depends to some extent on the number of fellow workmen in his working area cannot, in my judgment, be called a rational approach. It is true, of course, that we are more profoundly shocked by news that hundreds have died in a mine disaster than we are when we hear that 20, or 10, or 5 miners' lives have been lost. But, the difference in our reactions stems from quantitative, not qualitative, reasons. The needless death of a single miner is still a tragedy, and a major disaster to his family. All of us must inevitably be diminished by such a tragic and unwarranted loss.

As the Bureau's Acting Director I have observed closely for more than 6 months now its operations under the mandatory provisions of the Federal Coal-Mine Safety Act. I can testify that coal-mine operators and workers and the State and Federal Governments are cooperating smoothly and effectively to achieve not only the letter but the spirit of our existing law. There is, in my opinion, no reason to anticipate anything less than the same kind of cooperation when this law is extended—as it should be—to cover operations that represent over 85 percent of the active coal mines in the United States, employing nearly a third of all our working coal miners.

We contend that excluding one out of every three of our coal miners from the protection afforded by mandatory provisions of the Federal Coal Mine Safety Act—and doing it solely on the basis of the size of the mine they work in—is in effect a form of discrimination. Like other forms of discrimination, it cannot be tolerated in a nation dedicated to the principle of equal justice and equal protection under the law.

The legislation now before this subcommittee affords an outstanding opportunity to advance the cause of safety in a major domestic industry. We in the Bureau of Mines are confident that you gentlemen will make the most of that opportunity.

If you should recommend that we be given the additional responsibilities recommended, I can assure you that the extensive knowledge and competence acquired by the Bureau of Mines in nearly 55 years of continuous experience in mine-safety work would be fully and effectively dedicated to discharging those responsibilities.

Senator MORSE. Anything more, Mr. O'Leary?

Mr. O'LEARY. Nothing more, Mr. Chairman.

Senator MORSE. Anything from the subcommittee?

Senator Randolph?

Senator RANDOLPH. Mr. Chairman, before Mr. Memmott leaves the table, I wish to have the record reflect that I have received in recent weeks and recent days letters congratulatory of the work which Mr. Memmott has been doing in West Virginia.

These have come from many sources—I may desire to read them later; I only wish to mention the fact today that the communications received from West Virginia indicate that in his contacts with both management and labor Mr. Memmott has been attentive to his duties and constructive in the programs that he has outlined.

Senator MORSE. I want to take this moment of opportunity to thank you and through you to Mr. Kelly and I hope you will so express this comment to Mr. Kelly. I appreciate very much the information that I receive from time to time in regard to the objectivity, the fairness in the Bureau of Mines in handling highly controversial matters, loaded very often with deep feelings on both sides of an issue.

I commend you for the information at least that I receive of your standing up for the issues as you find them.

Mr. O'LEARY. Thank you, Mr. Chairman.

Senator MORSE. Thank you very much, gentlemen.

Our next witness will be Mr. W. A. Boyle, president of the United Mine Workers of America. An old friend of this committee.

We are always glad to welcome him to our hearings to give us the benefit of his testimony.

Mr. Boyle, will you make a statement for the official reporter as to those who will accompany you.

I see sitting behind you one that ought to be up at the table, but he is known for his modesty and reticence around the Senate, and I would be very glad to have Mr. Mark up to the table.

The record should show, may I say to the reporter, Mr. Boyle is accompanied by Mr. Charles Ferguson, safety director of the United Mine Workers of America, who has in the past supplied this committee with a good deal of data.

You may proceed, Mr. Boyle.

STATEMENT OF W. A. BOYLE, PRESIDENT, UNITED MINE WORKERS OF AMERICA; ACCOMPANIED BY CHARLES FERGUSON, SAFETY DIRECTOR; AND JAMES MARK, JR., INTERNATIONAL REPRESENTATIVE, UNITED MINE WORKERS OF AMERICA

Mr. BOYLE. My name is W. A. Boyle. I am the president of the United Mine Workers of America. I appreciate the opportunity to appear before this committee and express the vital interest of the

United Mine Workers of America in H.R. 3584, which amends the Federal Coal Mine Safety Act.

I will speak generally about mine safety, and I have here with me today Mr. Charles Ferguson, director of the United Mine Workers' Safety Division. Mr. Ferguson will be available to answer any technical questions which you may wish to raise.

The representatives of the United Mine Workers are here today for one purpose: to seek legislation which will protect the lives of coal miners to the maximum extent. We are here to ask that the Congress of the United States acknowledge its responsibility to all of the coal miners of this Nation.

Since the United Mine Wofkers of America was organized, it has fought to secure by legislative enactment laws protecting the lives, limbs, and health of coal miners. Because we are coal miners, we know their needs, their joys, their sorrows, their aspirations, and we know all too well the stark tragedy that comes with death in the mines. We know the family suffering which endures after the initial public concern has subsided and others have forgotten.

We in the United Mine Workers cannot forget. We cannot walk away from a mine disaster or a mine death. We cannot erase from our conscience the faces of the widows and the orphans as they look upon the torn and twisted bodies of their loved ones and contemplate a future—a future in which the hollow anguish of premature death is perpetuated.

We are coal miners, and we know what a mine death means. We know, not in the abstract or in theory, but from bitter firsthand knowledge. This close personal concern has totally committed the United Mine Workers' Union to the struggle for effective coal mine safety legislation.

In 1952 Congress passed the Federal Coal Mine Safety Act which subjected to the requirements of the law certain mines known as title II mines, which employ more than 14 men. This act gave Federal inspectors of the Bureau of Mines authority to compel coal operators of these title II mines to comply with the requirements of the law.

In so recognizing its responsibility, Congress has made these title II mines a significantly safer place to work.

The action of Congress was laudable. It placed the power of the Federal Government behind the never-ceasing struggle to protect men's limbs and save men's lives. It placed human dignity before business expediency, and served notice on certain segments of the American coal industry that the lives of miners are precious and will not be sacrificed.

Unfortunately, however, Congress exempted from the provisions of Public Law 552 certain mines known as title I mines, which are mines employing less than 15 people.

This exemption was entirely unacceptable to the United Mine Workers of America. We were unable to comprehend the reason for discriminating against employees in small mines, nor did we understand the arbitrary decision to set the line of demarcation at 14 employees.

Although we adamantly opposed the exemption, we finally acquiesced, because even an unsatisfactory and unfair law which extended Federal enforcement power to mines employing more than 14 employees was better than no law at all.

In every ensuing session of Congress, the United Mine Workers has repeatedly urged Congress to amend Public Law 552 to delete the discriminatory exemption and to extend the Federal law to all mines, regardless of size.

Our persistence was partially rewarded in 1960, when the U.S. Senate recognized its responsibility to all coal miners and passed such an amendment, with only four dissenting votes.

I am pleased to appear before your committee today to support H.R. 3584, which extends the Federal law to small mines, and note with particular satisfaction that H.R. 3584 passed the House of Representatives on June 1 by a vote of 335 to 43.

There is no conceivable reason to differentiate between safety legislation in mines of different sizes. How can Congress neglect the employees of small mines and permit them to be maimed and killed—whether through willfulness or indifference—by denying them the same protection accorded employees in larger mines?

Such an inhuman distinction cannot be conscientiously justified, for the lives of men in small mines are just as precious as the lives of men in larger mines. It matters little to a mining disaster victim whether he died in the presence of 13 or 350 men. The widows and orphans of victims of mine disasters are just as grief stricken and just as destitute whether death comes in large or small mines.

I do not wish to burden the committee with statistics on production and accidents, but I would like to point out that although the small mines produce only 16 percent of the total coal tonnage of the Nation, more than 30 percent of the total injuries and deaths in coal mines occurs in small mines.

Many men have died in small coal mines in the years since the enactment of Public Law 552 excluding small mines from coverage and excusing management of small mines from their responsibility for the safety of their employees.

Despite our unrelenting struggle for extension of legislative coverage, small mine tragedies continue to mount. We are firmly convinced that such tragedies could be prevented if Congress would authorize the Bureau of Mines to compel small coal mine operators to protect and safeguard their employees.

Our past experience gives us every reason to believe that the Federal coal mine inspectors are conscientious public servants who are dedicated to preventing accidents and promoting safety in coal mines.

Only last month an explosion at the C. L. Kline Coal Co. in Robbins, Tenn., killed five men. These five men need not have died. Their deaths could have been prevented.

At this point, Mr. Chairman, I would like to insert a further part of my statement by saying that the blast killed five miners in east Tennessee.

An entire underground crew of five coal miners died May 24 in an explosion, believed caused by methane gas and coal dust, in an east Tennessee coal mine that was known to have committed repeated violations of State and Federal safety practices.

This was the Nation's first major coal mine disaster—five or more men killed—since nine men died in a Utah mine on December 16, 1963.

Four of the five men were married and left as survivors their wives and a total of 33 children.

The small mine, known as the C. L. Kline Coal Co., Robbins, Scott County, Tenn., normally employed nine men underground and produced 65 tons of coal daily, all of which was being sold to the Tennessee Valley Authority, according to reports.

The Tennessee mine was classified as a title I mine under the Federal Coal Mine Safety Act of 1952—14 or less men underground—and therefore did not come under enforcement provisions of the Federal law.

Federal coal mine inspectors had the authority to enter the mine and make inspections, but no authority to enforce their findings. The last Federal inspection was made during the period February 5–9, 1965. At that time, according to information reported, the Federal inspectors found 16 violations of the Federal Coal Mine Safety Code, 13 of which were repeat violations.

For more than 10 years, the UMWA has been trying to get Congress to enact legislation that would bring these small mines under the Federal law. Legislation was pending in Congress that could have saved the lives of the five victims of the May 24 disaster.

In addition, the UMWA has been protesting, for many years, but without much effect, the coal-buying policies of the TVA. TVA has consistently encouraged the operation of such hazardous coal mines as the east Tennessee mine.

Under the Walsh-Healey Act, TVA is not permitted to purchase coal from mines that do not conform to the prevailing minimum wage and safety standards in the coal industry. But TVA evades the law by buying coal in less than $10,000 lots, which means that such purchases do not come under provisions of the Walsh-Healey Act.

The victims of the May 24 disaster were:

Philip Davis, 55, married, no children.
Arthur Norris, 45, married, 10 children.
Lawrence Griffith, 45, married, 16, children.
Clayton Griffith, 20, single.
Russell Webb, 55, married, 7 children.

The bodies of all five of the men have been recovered.

During the early rescue operations on May 24, four rescue workers were overcome by poisonous carbon monoxide gas in the mine, and had to be hospitalized. Rescue work was temporarily halted by the U.S. Bureau of Mines and the State, to permit installation of a ventilating fan of sufficient strength to clear the noxious gases from the mine.

Rescue operations were conducted by a rescue team led by S. M. Sampson, superintendent of the Pocahontas Coal Co.'s Marco colliery under the jurisdiction of UMWA Local Union 8532, District 19.

Sources reported the mine had been operating without rock dusting, a safety practice which is necessary to prevent or minimize such explosions. It was also reported that the men had been working without a mine map, which would have given them some idea of conditions in the workings.

Apparently the company did not carry workmen's compensation insurance, although the State reported, after the disaster, that it had been told that the company was "self-insured."

It was also reported that the company had not been paying social securtiy taxes on the wages paid the men.

There also was a question as to whether the mine had a valid State mining permit. It was, in addition, reported that the mine did not employ a foreman, as required by law.

An indication of the arogant attitude of the company toward such matters is the fact that the chief of the State mining department was reported to have had to send State police into the mine office to clear the telephone line, so that official information could be obtained on the disaster.

The explosion apparently occurred between 12 noon and 2 p.m. on May 24. The first body discovered, that of Russell Webb, was at a loading ramp 2,700 feet in by the surface. Rescue workers had to remove an overturned pit car to get at the body.

Witnesses said the blast was so intense that it leveled grass and weeds for several feet outside the entrance to the mine.

Perhaps those who oppose mine safety legislation would like to explain to thier widows or their 33 orphans that economic considerations outweighed human considerations. Perhaps those who oppose mine safety legislation would like to visit the family of Lawrence Griffith, one of the victims, and explain to his widow and surviving 16 children that there is no need for Federal mine safety protection in the small mines of this country.

Lawrence Griffith is a part of the price that coal miners have paid because of this indefensible distinction that Congress had made between title I and title II mines. Griffith's wife and 16 children must be added to the terrible list of those who have suffered so much because small mines do not have to provide for the safety of their employees.

How long must we continue this unnecessary slaughter before we realize the importance of giving all miners, regardless of the size of their employers' mines, equal protection of the Federal law?

How long will we listen to those opponents who contend economic considerations preclude adequate safety precautions?

What price do we put on a human life? How do we compute the misery, the suffering, and the agony of the widow? How do we assess the tragedy of the orphan left without a father and without a source of support and without a future?

How can we justify continuing our national policy of permitting the wanton killing and maiming of its citizens employed in small coal mines?

There are those who falsely accuse the United Mine Workers of having a selfish interest in the passage of mine safety legislation. This distorted accusation is made to obscure the real issue.

The United Mine Workers supports this legislation because it will save the lives of coal miners, and reduce the appalling toll of injuries occurring in small mines of this Nation by compelling them to observe minimal safety standards.

Mr. Chairman and members of the subcommittee, the success of this legislation is of paramount importance to the future of the coal miners of this Nation. On behalf of the United Mine Workers of America, I implore you to give it your full support, so that H.R. 3584 might be enacted into law.

Senator MORSE. Thank you very much, Mr. Boyle.

I was disturbed in your testimony about your account of the policy that apparently was allowed to exist in the State of Tennessee by the Government and the State of Tennessee.

Could you give me any explanation as to why the State of Tennessee had not done something to enforce its own mine safety law, if the report of the Department this morning, through Mr. O'Leary, speaking for Mr. Kelly, the State laws would be somewhat similar to the Federal law, as far as mine safety regulations are concerned?

Mr. BOYLE. Senator, as I testified on this legislation in the House, and I testified here before this honorable Senate committee, that the State departments in most instances are reluctant to enforce the laws on the statutes that are similar to the Federal laws. That was also true in 1952, when this body and the House of Representatives passed legislation that compelled coal mine operators of mines employing more than 15 men to comply with a Federal law.

I would like to say the passage of this Federal act has reduced the number of accidents and deaths in these mines. The State laws are still on the statutes, and some departments of mines in these States are fulfilling their duties. Others are not.

I would like to also point out that there could be the same reason as I pointed out to the House committee, that in those States that fail to carry out their duties it could be expected, because their job depends upon political appointment by the State, and as the administrations change in the State, sometimes the State departments and the heads of those departments also change.

I said then without reservation, and I say now, that it is considered in most mining States that these appointments are political plums, and the Federal inspectors being career men and trying to do a job in the interest of safety are not subjected to the same pressures and harassments that they are in the State.

I do not say that every State coal mine inspector or every State head of a department of mines in an unscrupulous man who cares not about life, limb, or well-being of the coal miner in his particular State, but nevertheless, it has been proven times without number that people are dying, with State statutes prevailing in many instances, that could prevent them. They are not enforced.

Senator MORSE. My conclusion that I draw from your testimony, Mr. Boyle, is that even though your State mine safety law is similar to, for all intents and purposes identical with the Federal law, as far as its objectives are concerned, that nevertheless you ask for the Federal statute because you find that State mine inspectors and State mine safety departments, State bureau of mines, are not prone to enforce the law effectively and impartially to the degree that you have found you can count upon the Federal Bureau of Mines to do so.

Is that a fair statement of your conclusion?

Mr. BOYLE. That is correct.

Senator MORSE. Am I correct in also concluding that you are telling this subcommittee that on the basis of your experience, the mining industry, in carrying out your duties as president of the United Mine Workers of America, you have come to the conclusion that what is so frequently referred to as political consideration and political influences are more likely to be brought to bear upon an impartial enforce-

ment of a well-worded State safety mine code than is the case in connection with the enforcement of the Federal code?

Mr. BOYLE. Right.

Senator MORSE. You say in your statement the supplemental statement that you put in on the Tennessee disaster, apparently, that is your word, apparently the company did not carry workmen's compensation insurance, although the State reported after the disaster that it had been told that the company was self-insured.

Do you know, as a matter of fact, as to whether or not the company carried workmen's compensation?

Mr. BOYLE. No, I cannot say that they carried workmen's compensation. All I can say, that the report that we have is that they did not carry workmen's compensation under the State arrangement. They were told that they were self-insured.

Now, whether that is true or false, I do not know, Senator, because I did not pursue that any further on the self-insured arrangement, but it is an easy matter for these small coal operators to say to the State that they are not going to be covered.

Generally speaking, there are three plans, plan 1, plan 2, and plan 3, in most mining States, for coverage of workmen's compensation, and it is negligent, perhaps, not to check to find out whether or not the mine in question is self-insured or insured by an insurance company. They accept their statement that they are.

We have had explosions in the State of Kentucky, and in other States, but mainly in the State of Kentucky, where the men who died left dependents such as you heard me read here, and there was no coverage under the workmen's compensation law for them, and they received no money for the dependents.

Senator MORSE. Returning to the Tennessee disaster, for the information of the chairman, if you know, and if not, I will have counsel obtain it for me, do you know whether or not the State of Tennessee has a State workmen's compensation law?

Mr. BOYLE. I was under the impression that they had one. It is a choice arrangement, whether they want to be self-insured or be covered by the State.

Senator MORSE. That is my next question. It is your understanding—and I want counsel to pay heed to this—it is your understanding that Tennessee, such as so many States, has a State workmen's compensation law, but an employer can elect not to come under the law, but to substitute a private insurance policy which is labeled a "self-insured" policy?

Is that your understanding?

Mr. BOYLE. And they generally accept that.

Senator MORSE. It is your understanding, but you do not know as a matter of fact, or do you, that the Kline Co. was not self-insured?

Mr. BOYLE. We are inclined to believe that they were not covered. We have no reports to the contrary. When we challenged that the dependents were covered by workmen's compensation in one form or another, our information of recent date is that we cannot get any definite proof that they were covered under any of the plans.

Senator MORSE. The chairman requests that if possible, prior to the time he closes the record on these hearings, on Friday, June 25, at 5 p.m. following the testimony that will be taken next Monday and

Tuesday, if they require 2 days, for the opponents of the bill to make their record.

I would like to have him file a supplemental statement from counsel of your union, if he can obtain the information, in answer to the questions that I just raised.

I want to know whether the State of Tennessee has a workmen's compensation law. I want to know whether or not it permits an employer to elect not to come under it, and substitute a self-insured program in lieu thereof. I want to know which option, if such is the law the Kline Co. followed.

(Supplemental information follows:)

QUESTIONS AND ANSWERS SUBMITTED BY THE UNITED MINE WORKERS

Question. Does the State of Tennessee have a workmen's compensation law?
Answer. It does. It is court adminstrated and a workman must filed a lawsuit if the company refuses to pay.
Question. Was the C. L. Kline Coal Co. self-insured?
Answer. It does. He is required to post a bond under a surety company or put up Government bonds.
Question. Was the C. L. Kline Co. self-insured?
Answer. It was.
Question. Was the C. L .Kline Coal Co. paying social security taxes?
Answer. We are unable to answer this question.
Question. Did the C. L. Kline Coal Co. have a State mining permit?
Answer. They did.
Question. Did the C. L. Kline Coal Co. employ a mine forman?
Answer. Mr. C. L. Kline acted as his own foreman.

Senator MORSE. Assuming, speaking hypothetically, that there is such a law, that the Kline Co. elected not to come under it, thereby placed upon them an obligation to be self-insured, and assuming that they were not self-insured, would this mean in your opinion that the State of Tennessee was not really enforcing the policies under the workmen's compensation law options?

Mr. BOYLE. Yes, Senator. And I would say it is a sad commentary in accidents occurring in these small mines, that the workmen's compensation runs out.

Here is a mine that employs no more than nine men. Thirty-three children were left without a breadwinner, and in all probability any future of schooling, and things of those nature that they are rightfully entitled to, and will now be denied because of the loss of their father.

Senator KENNEDY of New York. Mr. Chairman, I wonder if it would not also be wise to obtain the views of the State of Tennessee.

Senator MORSE. I am about to ask the counsel——

First, I want the Mine Workers to supply me with the material I have requested here in support of their presentation, and while the Senator from New York has raised it, let me now say to counsel, I want counsel to proceed to obtain, if possible, from the State of Tennessee the information that the subcommittee needs in answer to the questions that I have raised, but I want the Mine Workers to have an opportunity to supply their own information.

Now, you say here, Mr. Boyle, that it is also reported that the company had not been paying social security taxes on the wages paid the men.

If you can supply any information to the subcommittee that verifies that, do so.

But, Mr. Counsel, will you check with the Federal officials and find out whether or not they have paid social security taxes, and if they have not, what steps, if any, were being taken, or will be taken, in order to correct that violation of the law, because if they, in fact, are not paying, and have not paid their social security taxes, we have a question of Federal enforcement as well as State enforcement involved in the case.

(The information requested follows:)

PERTINENT EXCERPTS FROM TENNESSEE WORKMEN'S COMPENSATION LAW

Section 50-904. *Exemption waived by notice—Notice of nonacceptance of provisions.* Either an employer or employee who has excepted himself by proper notice from the operation of the Workmen's Compensation Law may at any time waive such exemption and thereby accept the provisions of this law by giving notice as herein provided.

The notice of exemption and the notice of acceptance heretofore referred to shall be given thirty (30) days prior to any accident resulting in injury or death, provided, that if any injury or death occurs less than thirty (30) days after the date of employment, notice of such exemption or acceptance given at the time of employment shall be sufficient notice thereof.

The notice of election not to accept the provisions of the Workmen's Compensation Law shall be as follows:

(a) *Employer's notice.*—The employer shall post and keep posted in his shop of business a written or printed notice of his election not to be bound by the provisions of the Workmen's Compensation Law and shall file a duplicate thereof with the Division of Workmen's Compensation.

(b) *Employee's notice.*—The employee shall give written or printed notice to the employer of his election not to be bound by the provisions of the Workmen's Compensation Law and file a duplicate, with proof of service on the employer attached thereto, together with an affidavit of the employee that the action of the employee in rejecting the provisions of such law was not advised, counseled or encouraged by the employer or by anyone acting for the employer, with the Division of Workmen's Compensation, Department of Labor.

* * * * * * *

Section 50-907. *Application to coal mine operators and employees.*—All the provisions of the Workmen's Compensation Law shall apply to coal mine operators and to their employees.

* * * * * * *

Section 50-911. *Defenses not available to employer not operating under law to suit of employee electing to so operate.*—Every employer who elects not to operate under the Workmen's Compensation Law shall not, in any suit brought against him by an employee who has elected to operate under the provisions of such law, to recover damages for personal injury or death arising from accident, be permitted to defend such suit upon any of the following grounds, namely:

(a) That the employee was negligent.

(b) That the injury was caused by the negligence of a fellow servant or fellow employee.

(c) That the employee had assumed the risk of the injury.

* * * * * * *

Section 50-913. *When neither operating under law—Common law action and defense.*—When both employer and employee elect not to operate under the Workmen's Compensation Law, the liability of the employer for injury or death from accident shall be the same as at common law, and the employer may avail himself of all common law defenses in actions brought by such employee to recover damages for personal injury or death due to accident.

* * * * * * *

Section 50-1206. *Evidence of compliance to be filed.—Penalty for refusal—Liability to employee in damages—Defenses.*—Every employer accepting the provisions of the Workmen's Compensation Law shall file with the commis-

sioner of labor, division of workmen's compensation, on a form prescribed by the commissioner, annually, or as often as the commissioner in his discretion deems necessary, evidence of his compliance with the provisions of Section 50–1205. If any such employer refuses or wilfully neglects to comply with these provisions, he shall be punished by a fine of not less than ten dollars ($10.00), nor more than one hundred dollars ($100.00) and after such conviction shall be subject to a fine of not less than one dollar ($1.00) nor more than ten dollars ($10.00) for each day of such refusal or neglect and until he shall comply with said provisions, and also such employer so refusing or neglecting to comply, then during the continuance of such refusal or neglect shall be liable to an injured employee either for compensation as provided in this law to be recovered in an action brought in a court of competent jurisdiction for that purpose, or for damages to be recovered as if this law had not been enacted, as such employee may elect; and in case suit for damages is brought instead of a suit to recover compensation under the provisions of the workmen's compensation law, the employer, when sued, shall not be allowed to set up as defense to the action that the employee was guilty of contributory negligence, or that the injury was occasioned by the negligence of a fellow servant of the employee, or that the employee had assumed the risk of the injury. Claim of compensation made under the workmen's compensation law shall be deemed a waiver of the right to sue for damages, and the institution and prosecution to final judgment of a suit for damages shall be deemed a waiver of a right to claim compensation under this law.

* * * * * * *

Section 50–1207. *Certificate of compliance as to insurance—Issuance—Revocation thereof; New certificate.*—Whenever an employer has complied with the provision of this chapter relating to insurance, the commissioner of labor shall issue to such employer a certificate which shall remain in force for a period to be fixed by the said commissioner, but the said commissioner may, upon thirty (30) days' notice, and a hearing to the employer, revoke the certificate upon satisfactory evidence, for such revocation, having been presented. At any time after such revocation the said commissioner may grant a new certificate to the employer upon his petition.

STATE OF TENNESSEE,
DEPARTMENT OF LABOR,
Nashville, June 23, 1965.

U.S. SENATE,
Labor and Public Welfare Committee,
Washington, D.C.

(Attention: Mr. John B. Bruff, Subcommittee on Labor).

GENTLEMEN: This will acknowledge your letter of June 16, concerning workmen's compensation coverage of the C. L. Kline Coal Co.

Please be advised that the records of this division indicated that C. L. Kline, Robbins, Tenn., operates under the Tennessee workmen's compensation law as a self-insurer, and their coverage has been in force and effect since June 18, 1957.

Yours truly,

DEWEY WHITTLE,
Director, Division of Workmen's Compensation.

STATE OF TENNESSEE,
DEPARTMENT OF LABOR,
DIVISION OF MINES,
Knoxville, June 16, 1965.

Mr. JOHN B. BRUFF,
Counsel, Subcommittee on Labor,
U.S. Senate, Washington, D.C.

DEAR MR. BRUFF: In reply to your letter of June 14 requesting information involving the C. L. Kline Coal Co., Huntsville Branch Road, Robbins, Tenn., we are happy to be able to assist you.

I have checked with the Department of Insurance and Banking, State of Tennessee, Nashville, Tenn., and they advise that Mr. C. L. Kline is self-insured in complete compliance with the State law. Should you desire further confirmation on this matter, you may contact Mr. Thomas Patterson, Department of Insurance and Banking, Nashville, Tenn.

If we can be of further service to you, please feel free to call upon us.

Yours sincerely,

J. R. MILLER, *Director.*

AFFIDAVIT

STATE OF TENNESSEE,
County of Scott:

Comes, C. L. Kline, who, after being duly sworn, deposes and says that he is the owner and operator of the C. L. Kline Coal Company of Robbins, Scott County, Tennessee. That neither C. L. Kline, nor the C. L. Kline Coal Company, has sold any coal to the Tennessee Valley Authority in many years and have only sold a norminal quantity to the Tennessee Valley Authority since they have been in business. That C. L. Kline is a qualified self-insuror under the Tennessee Workmen's Compensation law, having deposited bond or securities as required by law. In addition to the foregoing, C. L. Kline has insurance with Lloyd's of London up to $200,000, covering workmen's compensation losses.

Further the deponent saith not.

C. L. KLINE.

Sworn to and subscribed before me this 19th day of June 1965.

——— JEFFERS,
Notary Public.

My commission expires October 24, 1967.

STATE OF TENNESSEE,
DEPARTMENT OF LABOR,
DIVISION OF MINES,
Knoxville, June 18, 1965.

Mr. CHARLES RICHARDS,
Middlesboro, Ky.

DEAR MR. RICHARDS: The name of the mine in which the explosion occurred on May 24, 1965, is the C. L. Kline Coal Co., No. 3 mine, located at Brimestone, Tenn., in Scott County. Mr. C. L. Kline is the operator and mine foreman.

Mr. Kline holds class A mine foreman certificate No. 284 which was issued May 13, 1952, and is recorded in the Office of the Secretary of State, Nashville, Tenn., Mine Foreman Certificate Book No. 12, page 17. A Thermofax copy of this certificate is attached hereto.

The C. L. Kline Coal Co., No. 3 mine, is operating under Tennessee Mining License No. E–126 which was issued November 16, 1964, and expires November 12, 1965. A copy of this license is also attached.

The office of Mr. Thomas Patterson, Department of Insurance and Banking, State of Tennessee, Nashville, Tenn., has advised this office that Mr. Kline was self-insured in full compliance with the Tennessee Code. Confirmation will be given from his office upon request. Mr. Kline states that he has "excess compensation" in addition to the self-insurance and his agent is the J. E. Lutz Co., Knoxville, Tenn.

I would like to add that Mr. Kline is a "safety conscious," operator and this explosion is the first serious accident that has occurred in any of his mines during his 25 years in operation.

Yours sincerely,

J. R. MILLER, *Director.*

Mine Index No. _____

DEPARTMENT OF LABOR
DIVISION OF MINES
KNOXVILLE, TENNESSEE

License No. E 126

LICENSE TO OPERATE A MINE

$30.00

This is to certify that on this date a license to operate a mine

was issued to C. L. Kline Coal Company

whose main office is at Robbins, Tennessee

for the operation of No. 5 Underground Coal Mine

located at Brimstone, Tennessee (Scott County)

THIS LICENSE EXPIRES November 12, 1965

THIS LICENSE IS ISSUED IN COMPLIANCE WITH CHAPTER NO. 58, SECTION 115;

("Any owner, operator, operating a mine and who fails to obtain a license as required by this section shall forfeit the right to operate a mine in this State and the Chief or District Mine Inspector shall have the authority to close said mine until the license is obtained as provided for by this Section.")

THE GREAT SEAL OF THE STATE OF TENNESSEE XVI AGRICULTURE 1796

Issued this 14th day of November, 19 64

THIS LICENSE IS NOT TRANSFERABLE

DEPARTMENT OF LABOR—DIVISION OF MINES

J. R. Waller, Chief

By _____

DEPARTMENT COPY

49-752 O—65——14

FORM B

THE STATE OF TENNESSEE

MINING DEPARTMENT

Certificate of Competency, No. 284, Class "A"

To All Who See These Presents—Greeting:

This is to Certify. That CHARLES LAURENCE KLINE

age 45 years, born in Robbins, Tennessee residing at Robbins, Tennessee having appeared before us, the BOARD OF MINE FOREMEN EXAMINERS, and having been duly examined by the Board of Examiners as provided by the Mine Laws of Tennessee, and the said Charles L. Kline having given satisfactory evidence of previous service in and about the Coal mines for the period of 15to20 years in the capacity of Miner and being a man of good moral character and sobriety, and having fully demonstrated to the satisfaction of the Board of Examiners his fitness and ability to discharge all the duties devolving upon him as such Mine Foreman under Class A in Coal mines.

Now, Therefore, we, the Board of Mines Foremen Examiners, for the State of Tennessee, by virtue of the power and authority vested in us by the Acts of 1915, do hereby award and issue this This man is qualified to act as Gas Boss

Certificate of Competency

to the said Charles L. Kline authorizing him to act as Mine Foreman under Class A in Coal mines of this State until otherwise directed.

In Testimony Whereof, we hereto affix our signatures and seals this 13th day of May 1952

(SEAL)
Chief Mine Inspector.
(SEAL)
District Mine Inspector.
(SEAL)
District Mine Inspector.
(SEAL)
District Mine Inspector.
(SEAL)
District Mine Inspector.
(SEAL)
District Mine Inspector.

STATE OF TENNESSEE—OFFICE OF SECRETARY OF STATE

I, [illegible], Secretary of State of the State of Tennessee, do hereby certify that the foregoing certificate has been duly recorded in Mine Foreman Certificate Book, No. 12, Page 17, as required by law.

Witness by official seal and signature at office in Nashville, State of Tennessee, this, the 13 day of May 1952

Secretary of State.

STATE OF TENNESSEE,
DEPARTMENT OF INSURANCE AND BANKING,
Nashville, June 18, 1965.

Re C. L. Kline, Robbins, Tenn.

Mr. ARMISTEAD W. GILLIAM, Jr.,
Landis, Cohen & Singman,
Attorneys at Law,
Washington, D.C.

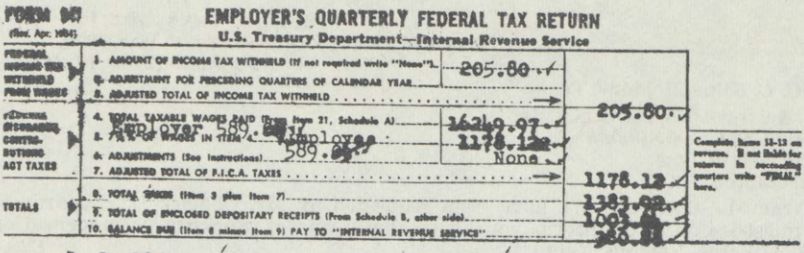
DEAR MR. GILLIAM: We have been requested by Mr. Charles D. Richards of Middlesboro, Ky., to inform you as to the status of workmen's compensation of C. L. Kline, Robbins, Tenn.

C. L. Kline, Robbins, Tenn., has been self-insured in accordance with the Tennessee workmen's compensation law since June 18, 1957, and this certificate of compliance has not been canceled or revoked since the effective date. The captioned has $25,000 in bonds on file with this department which is the required amount and excess or catastrophe insurance with underwriters at Lloyd's of $200,000. The company's financial statement as of December 31, 1964, shows total current assets of $126,137.86, total current liabilities of $11,685.88, and a net worth of $103,486.43. The company made an annual profit for the year ending December 31, 1964, of $13,370.16.

Trusting that the above information will be of help to you, and if we can be of service, do not hesitate to call on us at any time.

Very truly yours,

T. A. PATTERSON,
Manager, Self-Insurance Division.



FORM 941 (Rev. Apr. 1964)

EMPLOYER'S QUARTERLY FEDERAL TAX RETURN

U.S. Treasury Department—Internal Revenue Service

FEDERAL INCOME TAX WITHHELD FROM WAGES	1. AMOUNT OF INCOME TAX WITHHELD (If not required write "None")	205.80	
	2. ADJUSTMENT FOR PRECEDING QUARTERS OF CALENDAR YEAR		
	3. ADJUSTED TOTAL OF INCOME TAX WITHHELD		205.80
FEDERAL INSURANCE CONTRIBUTIONS ACT TAXES	4. TOTAL TAXABLE WAGES PAID (From Item 21, Schedule A)	16249.97	
	5. 7½% OF WAGES IN ITEM 4 Employer 589.[illegible] Employee	1178.12	
	6. ADJUSTMENTS (See instructions) 589.[illegible]	None	
	7. ADJUSTED TOTAL OF F.I.C.A. TAXES		1178.12
TOTALS	8. TOTAL TAXES (Item 3 plus Item 7)		1383.92
	9. TOTAL OF ENCLOSED DEPOSITARY RECEIPTS (From Schedule B, other side)		1003.[illegible]
	10. BALANCE DUE (Item 8 minus Item 9) PAY TO "INTERNAL REVENUE SERVICE"		380.[illegible]

Complete items 11-13 on reverse. If not liable for returns in succeeding quarters write "FINAL" here.

C. L. Kline
Robbins, Tenn.
July 20, 1964

62 0341080

Owner

YOUR COPY

April, May, June 1964. Final Due date July 31, 1964.

IMPORTANT.—Keep this copy and a copy of each related schedule or statement.

Before filing the return be sure to enter on this copy your name, address, and identification number, and the period for which the return is filed.

PAID 5-12-64 6-10-64 7-20-64 19 529.99 473.05 380.88 1383.92 2373

CHECK NO. 2279, 2324, 2373

SCHEDULE A—QUARTERLY REPORT OF WAGES TAXABLE UNDER THE FEDERAL INSURANCE CONTRIBUTIONS ACT (FOR SOCIAL SECURITY)

IF WAGES WERE NOT TAXABLE UNDER THE F.I.C.A. MAKE NO ENTRIES BELOW

14. Number of persons employed (except agricultural and household employees) during pay period ending nearest 15th of third month in quarter.	15. Total pages of this return, including this page and any pages of Form 941a.	16. Total number of employees listed.
28	2	28

List for each employee, except agricultural employees, the WAGES taxable under the Federal Insurance Contributions Act (for Social Security) which were paid during the quarter. If you pay an employee more than $4,800 in a calendar year, report ONLY THE FIRST $4,800 of such wages.

SAVE TIME AND MONEY—If your report shows each employee's name and number *exactly* as they appear on his Social Security card it will not be necessary to write back to you to ask for the correct information.

17. EMPLOYEE'S SOCIAL SECURITY ACCOUNT NUMBER (If number is unknown, see Circular E) 000 00 0000	18. NAME OF EMPLOYEE (Please type or print)	19. TAXABLE F.I.C.A. WAGES Paid to Employee in Quarter (Before deductions) Dollars Cents	20. See instructions, page 2
[redacted] XXXX	Audie Agres	891.00	Tenn.
[redacted] XXXX	Russell Webb	626.25	"
[redacted] XXXX	G. W. Bolen	660.00	"
[redacted] XXXX	Arthur Norris	586.25	"
[redacted] XXXX	Philip C. Davis	80.00	"
[redacted] XXXX	Robt. L. Springfield	616.25	"
[redacted] XXXX	Chester Honeycutt	698.75	"
[redacted] XXXX	D.O.Bertram	619.07	"
[redacted] XXXX	Wesley H. Webb	375.00	"
[redacted] XXXX	James N. Webb	470.00	"
[redacted] XXXX	Everatt Griffith	467.50	"
[redacted] XXXX	Columbus Blazing	595.01	"

If you need more space for listing employees, use Schedule A continuation sheets, Form 941a.

Total wages reported in column 19 on this page ..... $ 6685.09

21. TOTAL WAGES TAXABLE UNDER F.I.C.A. PAID DURING QUARTER
(Total wages in column 19 of this page and continuation sheets) ..... [illegible] { Enter this total in Item 4 above.

FORM 941a (Rev. July 1962)
U.S. Treasury Department
Internal Revenue Service

CONTINUATION SHEET FOR SCHEDULE A (FORM 941, 941-M, 941SS or 943)
REPORT OF WAGES TAXABLE UNDER THE FEDERAL INSURANCE CONTRIBUTIONS ACT

C. L. Kline
Robbins, Tenn.

XXXX

Apr. May & June 1964
Final Due date July 31, 1964

Type or print in this space employer's identification number, name, and address exactly as shown on the return.

Date Period Ended June 30, 1964 | Page Number 2

If this form is used as a continuation sheet for Form 943 Employer's Annual Tax Return for Agricultural Employees, please check here. ▶ ☐

READ INSTRUCTIONS CAREFULLY

Attach only original continuation sheets to your tax return. Do not send a carbon copy to the U.S. District Director of Internal Revenue.

EMPLOYEE'S SOCIAL SECURITY ACCOUNT NUMBER (If number is unknown, see Circular A, E, or SS)	NAME OF EMPLOYEE (Please type or print)	TAXABLE F.I.C.A. WAGES Paid to Employee in Period (Before deductions)	STATE OR POSSESSION WHERE EMPLOYED (or "Outside U.S.")
XXXX	Marshall Bowling	580.00	Tenn.
XXXX	Joe R. Potter	600.00	"
XXXX	Leoda Bowling	596.25	"
XXXX	Stanley Griffith	447.50	"
XXXX	Daniel Bowling	610.00	"
XXXX	Howard C. Bowling	572.50	"
XXXX	Charlie Harvey	588.75	"
XXXX	Johnnie Brewster	621.25	"
XXXX	Hale Bowling	606.25	"
XXXX	Clayton Griffith	183.75	"
XXXX	Ben M. Smith	691.63	"
XXXX	Edker Honeycutt	600.00	"
XXXX	David Potter	577.50	"
XXXX	Barney Stringfield	546.25	"
XXXX	Claude Phillips	580.00	"
XXXX	Harlen Lewallen	606.25	"
XXXX	Willard Sexton	20.75	"
XXXX	Lawsenee Griffith	526.25	"
XXXX	Leon Potter	10.00	"

TOTALS FOR THIS PAGE—Taxable wages and number of employees . . . . $ 9564.88 | Number of employees 19

FORM 941
(Rev. June, 1964)

EMPLOYER'S QUARTERLY FEDERAL TAX RETURN

U.S. Treasury Department—Internal Revenue Service

FEDERAL INCOME TAX WITHHELD FROM WAGES	1. AMOUNT OF INCOME TAX WITHHELD (If not required write "None")	140.20	
	2. ADJUSTMENT FOR PRECEDING QUARTERS OF CALENDAR YEAR		
	3. ADJUSTED TOTAL OF INCOME TAX WITHHELD		140.20
FEDERAL INSURANCE CONTRIBUTIONS ACT TAXES	4. TOTAL TAXABLE WAGES PAID (From Item 2), Schedule A) Employer 551.90, Employee 551.91	15225.02	
	5. 7¼% OF WAGES IN ITEM 4	1103.81	
	6. ADJUSTMENTS (See instructions) Fractions only	.03	
	7. ADJUSTED TOTAL OF F.I.C.A. TAXES		1103.84
TOTALS	8. TOTAL TAXES (Item 3 plus Item 7)		1244.04
	9. TOTAL OF ENCLOSED DEPOSITARY RECEIPTS (From Schedule B, other side)		794.56
	10. BALANCE DUE (Item 8 minus Item 9) PAY TO "INTERNAL REVENUE SERVICE"		449.48

Complete items 11-13 on reverse. If not liable for returns in succeeding quarters write "FINAL" here.

C. L. Kline
Oct. 15, 1964 Tenn. 62 0341080 Owner

YOUR COPY

July./Aug./Sept./1964

IMPORTANT.—Keep this copy and a copy of each related schedule or statement.

Before filing the return be sure to enter on this copy your name, address, and identification number, and the period for which the return is filed.

PAID 8-17-64 458.69
9-9-64 335.87
19 44948
CHECK NO. 2419, 2457, 3502
Total Paid → 1244.04

SCHEDULE A—QUARTERLY REPORT OF WAGES TAXABLE UNDER THE FEDERAL INSURANCE CONTRIBUTIONS ACT (FOR SOCIAL SECURITY)

IF WAGES WERE NOT TAXABLE UNDER THE F.I.C.A. MAKE NO ENTRIES BELOW

14. Number of persons employed (except agricultural and household employees) during pay period ending nearest 15th of third month in quarter.	15. Total pages of this return, including this page and any pages of Form 941a.	16. Total number of employees listed.
29	8	32

List for each employee, except agricultural employees, the WAGES taxable under the Federal Insurance Contributions Act (for Social Security) which were paid during the quarter. If you pay an employee more than $4,800 in a calendar year, report ONLY THE FIRST $4,800 of such wages.

SAVE TIME AND MONEY—If your report shows each employee's name and number *exactly* as they appear on his Social Security card it will not be necessary to write back to you to ask for the correct information.

17. EMPLOYER'S SOCIAL SECURITY ACCOUNT NUMBER (If number is unknown, see Circular E) 000 00 0000	18. NAME OF EMPLOYEE (Please type or print)	19. TAXABLE F.I.C.A. WAGES Paid to Employee in Quarter (Before deductions) Dollars Cents	20. See instructions, page 2
[redacted] XXXX	Russell Webb	616.25	Tenn.
[redacted] XXXX	G. W. Boles	565.00	"
[redacted] XXXX	Arthur Norris	584.13	"
[redacted] XXXX	Robt. L. Stringfield	405.62	"
[redacted] XXXX	Chester Honeycutt	777.50	"
[redacted] XXXX	D. O. Bertram	686.26	"
[redacted] XXXX	Wesley H. Webb	375.00	"
[redacted] XXXX	James N. Webb	155.00	"
[redacted] XXXX	Everett Griffith	540.00	"
[redacted] XXXX	Columbus Blevins	638.76	"
[redacted] XXXX	Marshall Bowling	70.00	"
[redacted] XXXX	Joe R. Potter	600.00	"

If you need more space for listing employees, use Schedule A continuation sheets, Form 941a.

Total wages reported in column 19 on this page $ 6013.52

21. TOTAL WAGES TAXABLE UNDER F.I.C.A. PAID DURING QUARTER
(Total wages in column 19 of this page and continuation sheets) $ 15225.02 { Enter this total in Item 4 above.

FORM 941a (Rev. July 1962)
U.S. Treasury Department
Internal Revenue Service

CONTINUATION SHEET FOR SCHEDULE A (FORM 941, 941-M, 941SS or 943)
REPORT OF WAGES TAXABLE UNDER THE FEDERAL INSURANCE CONTRIBUTIONS ACT

C. L. Kline
Robbins, Tenn. XXXX

Type or print in this space employer's identification number, name, and address exactly as shown on the return.

Date Period Ended Sept. 30, 1964

Page Number 2

If this form is used as a continuation sheet for Form 943, Employer's Annual Tax Return for Agricultural Employees, please check here. ▶ ☐

READ INSTRUCTIONS CAREFULLY

Attach only original continuation sheets to your tax return. Do not send a carbon copy to the U.S. District Director of Internal Revenue.

EMPLOYEE'S SOCIAL SECURITY ACCOUNT NUMBER (If number is unknown, see Circular A, E, or SS)	NAME OF EMPLOYEE (Please type or print)	TAXABLE F.I.C.A. WAGES Paid to Employee in Period (Before deductions)	STATE OR POSSESSION WHERE EMPLOYED (or "Outside U.S.")
XXXX	Leoda Bowling	640.00	Tenn.
XXXX	Stanley Griffith	540.00	"
XXXX	Daniel Bowling	593.75	"
XXXX	Howard C. Bowling	480.25	"
XXXX	Charles Harvey	625.75	"
XXXX	Johnnie Brewster	590.00	"
XXXX	Malk Bowling	30.00	"
XXXX	Ben M. Smith	720.50	"
XXXX	Edker Honeycutt	620.00	"
XXXX	David Potter	491.25	"
XXXX	Barney Springfield	590.00	"
XXXX	Claude Phillips	615.00	"
XXXX	Harlen Lewallen	490.00	"
XXXX	Lawrence Griffith	611.25	"
XXXX	Leon Potter	406.25	"
XXXX	Ranking Burchfield	455.00	"
XXXX	Bennie Reagan	387.50	"
XXXX	George H. Honeycutt	180.00	"
XXXX	Philip C. Davis	20.00	"
XXXX	Willard Sexton	131.00	"
	TOTALS FOR THIS PAGE—Taxable wages and number of employees	$9211.50	Number of employees 20

FORM 941 (Rev. Oct. 1964)

EMPLOYER'S QUARTERLY FEDERAL TAX RETURN
U.S. Treasury Department—Internal Revenue Service

FEDERAL INCOME TAX WITHHELD FROM WAGES	1. AMOUNT OF INCOME TAX WITHHELD (If not required write "None")	254.20	
	2. ADJUSTMENT FOR PRECEDING QUARTERS OF CALENDAR YEAR		
	3. ADJUSTED TOTAL OF INCOME TAX WITHHELD		254.20
FEDERAL INSURANCE CONTRIBUTIONS ACT TAXES	4. TOTAL TAXABLE WAGES PAID (From Item 21, Schedule A)	16,909.94	
	5. 7¼% OF WAGES IN ITEM 4	1,225.99	
	6. ADJUSTMENTS (See instructions) Employer 612.99, Employee 612.98 Fractions only	.03	
	7. ADJUSTED TOTAL OF F.I.C.A. TAXES		1,225.99
TOTALS	8. TOTAL TAXES (Item 3 plus Item 7)		1,[illegible]
	9. TOTAL OF ENCLOSED DEPOSITARY RECEIPTS (From Schedule B, other side)		[illegible]
	10. BALANCE DUE (Item 8 minus Item 9) PAY TO "INTERNAL REVENUE SERVICE"		480.[illegible]

Complete Items 11-13 as reverse. If not liable for returns in succeeding quarters write "FINAL" here.

62 0341080

Jan. 15, 1965 Oct. Nov. Dec. 1964
C. L. Kline Final due date Jan. 31, 1965 Owner
Robbins, Tenn.

YOUR COPY

IMPORTANT.—Keep this copy and a copy of each related schedule or statement.

Before filing the return be sure to enter on this copy your name, address, and identification number, and the period for which the return is filed.

PAID 10-16-64 / 11-9-64 / 1-15-65 19 — 347.53 / 452.10 / 480.57

CHECK NO. 2552, 2583, 2657 — 1480.14

SCHEDULE A—QUARTERLY REPORT OF WAGES TAXABLE UNDER THE FEDERAL INSURANCE CONTRIBUTIONS ACT (FOR SOCIAL SECURITY)
IF WAGES WERE NOT TAXABLE UNDER THE F.I.C.A. MAKE NO ENTRIES BELOW

14. Number of persons employed (except agricultural and household employees) during pay period containing the 12th of third month in quarter.	15. Total pages of this return, including this page and any pages of Form 941a.	16. Total number of employees listed.
27	2	12

List for each employee, except agricultural employees, the WAGES taxable under the Federal Insurance Contributions Act (for Social Security) which were paid during the quarter. If you pay an employee more than $4,800 in a calendar year, report ONLY THE FIRST $4,800 of such wages.

SAVE TIME AND MONEY—If your report shows each employee's name and number *exactly* as they appear on his Social Security card it will not be necessary to write back to you to ask for the correct information.

17. EMPLOYEE'S SOCIAL SECURITY ACCOUNT NUMBER (If number is unknown, see Circular E) 000 00 0000	18. NAME OF EMPLOYEE (Please type or print)	19. TAXABLE F.I.C.A. WAGES Paid to Employee in Quarter (Before deductions) Dollars Cents	20. See instructions on page 2
408 20 3419	Russell Webb	759.38	Tenn.
409 81 6003	G. W. Boles	580.00	"
409 14 5494	Arthur Norris	704.00	"
415 50 6525	Chester Honeycutt	836.88	"
415 18 0021	D. O. Bertram	734.06	"
410 16 8688	Wesley H. Webb	375.00	"
409 66 3495	James N. Webb	736.88	"
415 10 8908	Everett Griffith	633.75	"
410 22 7242	Columbus Blevins	727.81	"
412 34 6767	Joe R. Potter	600.00	"
409 10 3594	Leoda Bowling	641.25	"
409 70 4567	Stanley Griffith	618.75	"
410 52 3766	Daniel Bowling	628.75	"
408 66 0238	Howard C. Bowling	12.50	"
408 44 4986	Charlie Harvey	665.00	"
415 38 4199	Johnnie Brewster	644.06	"
411 18 6441	B. N. Smith	756.25	"
411 74 1608	Edgar Honeycutt	672.19	"
411 70 9850	David Potter	12.50	"
415 44 1117	Barney Stringfield	648.75	"
414 03 6448	Claude Phillips	652.19	"
283 32 6626	Harlem Lamallen	651.25	"
409 10 3620	Lawrence Griffith	667.50	"
414 28 5991	Leon Potter	12.50	"
414 03 6440	Benjamin Burchfield	12.50	"

If you need more space for listing employees, use Schedule A continuation sheets, Form 941a.

Total wages reported in column 19 on this page 13,9[illegible].70

21. TOTAL WAGES TAXABLE UNDER F.I.C.A. PAID DURING QUARTER (Total wages in column 19 of this page and continuation sheets) $ 16,909.94 — Enter this total in Item 4 above.

FORM 941a (Rev. Oct. 1964)
U.S. Treasury Department
Internal Revenue Service

CONTINUATION SHEET FOR SCHEDULE A OF FORMS 941, 941-M, 941SS, OR 943
REPORT OF WAGES TAXABLE UNDER THE FEDERAL INSURANCE CONTRIBUTIONS ACT

XXXX
C. L. Kline
Robbins, Tenn.

Type or print in this space employer's identification number, name, and address exactly as shown on the return.

Date Quarter Ended: Dec.31,1965

Page Number: 2

If this form is used as a continuation sheet for Form 943, Employer's Annual Tax Return for Agricultural Employees, please check here. ▶ ☐

READ INSTRUCTIONS CAREFULLY

Attach only original continuation sheets to your tax return. Do not send a carbon copy to the U.S. District Director of Internal Revenue.

EMPLOYEE'S SOCIAL SECURITY ACCOUNT NUMBER (If number is unknown, see Circular E) 000 00 0000	NAME OF EMPLOYEE (Please type or print)	TAXABLE F.I.C.A. WAGES Paid to employee in Quarter (Before deductions) Dollars	Cents	SEE INSTRUCTIONS Item 20, Form 941
XXXX	Bennie Reagan	627.50		Tenn.
XXXX	George H. Honeycutt	664.37		"
XXXX	Philip C.Davis	697.50		"
XXXX	George S. Bertram	506.87		"
XXXX	Len Henry	385.00		"
XXXX	Willard Sexton	45.00		"
TOTALS FOR THIS PAGE—Taxable wages and number of employees →		$ 2,926.24		Number of employees 6

FORM 941 (Rev. Oct. 1964)

EMPLOYER'S QUARTERLY FEDERAL TAX RETURN
U.S. Treasury Department—Internal Revenue Service

FEDERAL INCOME TAX WITHHELD FROM WAGES	1. AMOUNT OF INCOME TAX WITHHELD (If not required write "None")	289.50	
	2. ADJUSTMENT FOR PRECEDING QUARTERS OF CALENDAR YEAR		
	3. ADJUSTED TOTAL OF INCOME TAX WITHHELD		289.50
FEDERAL INSURANCE CONTRIBUTIONS ACT TAXES	4. TOTAL TAXABLE WAGES PAID (From Item 21, Schedule A)	16,111.64	
	5. 7¼% OF WAGES IN ITEM 4	1,168.09	
	6. ADJUSTMENTS (See instructions) Fractions Only	.03	
	7. ADJUSTED TOTAL OF F.I.C.A. TAXES		1,168.12
TOTALS	8. TOTAL TAXES (Item 3 plus Item 7)		1,457.62
	9. TOTAL OF ENCLOSED DEPOSITARY RECEIPTS (From Schedule B, other side)		935.56
	10. BALANCE DUE (Item 8 minus Item 9) PAY TO "INTERNAL REVENUE SERVICE"		522.06

Complete items 11-13 on reverse. If not liable for returns in succeeding quarters write "FINAL" here.

C. L. [illegible]ine,
Apr. 15, 1965 [illegible] Owner

YOUR COPY

[illegible] due date [illegible] 1965

IMPORTANT.—Keep this copy and a copy of each related schedule or statement. XX

Before filing the return be sure to enter on this copy your name, address, and identification number, and the period for which the return is filed.

PAID 2-15-65 / 2-8-65 / 4-15-65 19 — 489.66 / 445.90 / 522.06 / 1457.62

CHECK NO. 2676, 2724, 2781

SCHEDULE A—QUARTERLY REPORT OF WAGES TAXABLE UNDER THE FEDERAL INSURANCE CONTRIBUTIONS ACT (FOR SOCIAL SECURITY)
IF WAGES WERE NOT TAXABLE UNDER THE F.I.C.A. MAKE NO ENTRIES BELOW

14. Number of persons employed (except agricultural and household employees) during pay period containing the 12th of third month in quarter	15. Total pages of this return, including this page and any pages of Form 941a.	16. Total number of employees listed
28	2	22

List for each employee, except agricultural employees, the WAGES taxable under the Federal Insurance Contributions Act (for Social Security) which were paid during the quarter. If you pay an employee more than $4,800 in a calendar year, report ONLY THE FIRST $4,800 of such wages.

SAVE TIME AND MONEY—If your report shows each employee's name and number *exactly* as they appear on his Social Security card it will not be necessary to write back to you to ask for the correct information.

17. EMPLOYEE'S SOCIAL SECURITY ACCOUNT NUMBER (If number is unknown, see Circular E) 000 00 0000	18. NAME OF EMPLOYEE (Please type or print)	19. TAXABLE F.I.C.A. WAGES Paid to Employee in Quarter (Before deductions) Dollars Cents	20. See instructions on page 2
XXXX	Russell Webb	653.75	Tenn.
XXXX	G. W. Boles	876.25	"
XXXX	Arthur Norris	781.01	"
XXXX	Chester Honeycutt	808.13	"
XXXX	D. O. Bertram	674.37	"
XXXX	Wesley H. Webb	375.00	"
XXXX	James H. Webb	612.50	"
XXXX	Everett Griffith	671.25	"
XXXX	Columbus Blevins	653.76	"
XXXX	Joe R. Potter	600.00	"
XXXX	Leoda Bowling	637.81	"
XXXX	Stanley Griffith	130.00	"
XXXX	Daniel Bowling	580.62	"
XXXX	Howard C. Bowling	170.00	"
XXXX	Charlie Harvey	596.88	"
XXXX	Johnnie Brewster	634.37	"
XXXX	Ben M. Smith	735.63	"

If you need more space for listing employees, use Schedule A continuation sheets, Form 941a.

Total wages reported in column 19 on this page 10191.33

21. TOTAL WAGES TAXABLE UNDER F.I.C.A. PAID DURING QUARTER (Total wages in column 19 of this page and continuation sheets) $ 16111.64 — Enter this total in Item 4 above.

FORM 941a (Rev. Oct. 1964)
U.S. Treasury Department
Internal Revenue Service

CONTINUATION SHEET FOR SCHEDULE A OF FORMS 941, 941-M, 941SS, OR 943
REPORT OF WAGES TAXABLE UNDER THE FEDERAL INSURANCE CONTRIBUTIONS ACT

C. L. Kline
Robbins, Tenn.

XXXX

Jan. Feb.Mch. 1965. Final duedate
Apr. 30, 1965

Date Quarter Ended: March 31,1965 — Page Number 2

If this form is used as a continuation sheet for Form 943, Employer's Annual Tax Return for Agricultural Employees, please check here ▶ ☐

READ INSTRUCTIONS CAREFULLY

Attach only original continuation sheets to your tax return. Do not send a carbon copy to the U.S. District Director of Internal Revenue.

EMPLOYEE'S SOCIAL SECURITY ACCOUNT NUMBER	NAME OF EMPLOYEE (Please type or print)	TAXABLE F.I.C.A. WAGES Paid to employee in Quarter (Before deductions) Dollars	Cents	SEE INSTRUCTIONS Form 28, Form 941
XXXX	Edker Honeycutt	628.13		Tenn.
XXXX	Barney Stringfield	10.00		"
XXXX	Claude Phillips	600.62		"
XXXX	Harlen Lewallen	623.13		"
XXXX	Lawrence Griffith	640.00		"
XXXX	Leon Potter	365.00		"
XXXX	Bennie Reagan	501.87		"
XXXX	George H. Honeycutt	480.00		"
XXXX	Philip C. Davis	636.25		"
XXXX	George S.Bertram	649.06		"
XXXX	Len Henry	10.00		"
XXXX	Clayton Griffith	456.25		"
XXXX	Nelson Harness, Jr.	96.25		"
XXXX	Willard Sexton	127.50		"
XXXX	Nelson Harness	96.25		"

TOTALS FOR THIS PAGE— Taxable wages and number of employees → $ 5920.31 Number of employees 15

C. L. Kline Robbins, Tennessee

Wages of the men who lost their lives in the Mine Explosion on May 24, 1965 for April & May 1965 that are to be reported on form 941, Employer's Quarterly Federal Tax Return.

Employee's Social Security Number	Name of Employee	Wages for April 1965	Wages for May 1965	Total wages to be reported 2nd Quarter 1965
XXXX	Russell Webb	210.00	160.00	370.00
XXXX	Arthur Norris	242.00	176.00	418.00
XXXX	Lawrence Griffith	200.00	160.00	360.00
XXXX	Philip C.Davis	210.00	160.00	370.00
XXXX	Clayton Griffith	200.00	150.00	350.00

Senator MORSE. Then you say; Mr. Boyle, there was also a question as to whether the mine had a State mining permit.

We want to know, and here again, if you can supply any further information in support of that allegation, or comment, please do so.

But, Mr. Counsel, I want you to supply a memorandum that will cover that point, as well, for the record.

Then you say that the mine did not employ a foreman, as required by law.

Between now and closing of the record, if you find out that they did not, or did, please supply the information.

But again, Mr. Counsel, I would like to have you look into it and see if you could obtain the information for us, and I instruct you, Mr. Counsel, to call upon the Federal Bureau of Mines for any assistance that you need in gathering this information, because although they do not have complete authority that Mr. Boyle is asking for, they do have authority under existing law to find that information.

(The information requested follows:)

C. L. Kline, operator of the No. 2(A) mine, C. L. Kline Coal Co., Tennessee, was issued a first-class mine foreman certificate No. 284 by the State of Tennessee in May 1952, and the certificate is still in effect.

The Tennessee mining laws provide as follows for coal mine licenses:

"Within ninety (90) days after January 1 of each year, the owner or operator of each mine shall procure from the department of labor, division of mines, a license to operate such a mine, and such license shall not be transferable. Any owner or operator who assumes control of a mine, opens a new mine or reopens an abandoned mine during any calendar year shall procure such license before mining operations are begun, said license shall be valid for one (1) year from date of issuance.

"The license shall be in such printed form as the chief may prescribe and when issued shall be kept posted at a conspicuous place near the main entrance of the mine."

The No. 2(A) mine, C. L. Kline Coal Co., Tennessee, was issued license No. E–126 on November 12, 1964, by the State of Tennessee.

Senator MORSE. The Senator from West Virginia?

Senator RANDOLPH. Mr. Chairman, President Boyle has given to the subcommittee valuable and, I would believe, factual information.

I wish the record to show at this point that on April 27, 1960, the Senate of the United States voted on an amendment to the Federal Coal Mine Safety Act.

Prior to that vote on S. 743, which I cosponsored, an amendment by our distinguished colleague, Senator Cooper, had been adopted by a voice vote, and that amendment gave to the Director of Mines mandatory, rather than permissive, authority to issue regulations modifying safety provisions of the existing law if found not to contribute to safety of miners.

You will remember that amendment, Senator Cooper, which was adopted.

Now, the rollcall reflects the fact, Mr. Chairman, and members of the subcommittee, that there were 80 votes for the amendment to the Mine Safety Act, and only 4 against.

Senator MORSE. May I interrupt to say that the record is also clear that in the case of some absentees, which included the present chairman of this subcommittee, we were in support of the final bill, and participated in voting the recommendation of the committee out of the committee onto the floor of the Senate.

Senator RANDOLPH. That is correct, Mr. Chairman. I wish further to have the record indicate that we were thinking in terms on that legislation of mines that employed no more than 14 individuals and which, therefore, were exempt from the mandatory provisions relating to compliance with the safety regulations.

When we think back to May of 1941, when the original act of 1910, which really did not call upon the U.S. Bureau of Mines' inspectors to enter and inspect for health and safety hazards was amended, when we think of the step-by-step interest of the Congress in this legislation, I believe it is evident that although the Congress has not done what in the belief of many should have been done—that is, the covering of all mines regardless of size—we have made a significant contribution toward the safety of coal miners.

Now, Mr. Boyle, I am not sure that you will agree with what I have said, but I think there has been a very genuine effort by Members of the Congress—not all Members, because there has been a disagreement on this subject—but there has been constructive effort which has been enacted into law.

Would you say that is true?

Mr. BOYLE. That is not only true, Senator, but we were very happy, indeed, when the Senate of the United States passed that amendment by a dissent of only four votes in 1960, and sent it to the other honorable House, where it died.

It was not as strong in many respects, and required many things that are not now required under this legislation, but as I stated in my opening remarks, that we decided, in 1952, we would rather have what was going to be passed to protect the lives and limbs of these people than nothing at all. So we accepted that legislation in 1960. And it went to the House and it died.

Now comes a bill, originating in the House of Representatives and passing by a vote of 335 to 43, I believe the figures are, and that is what this honorable body has now before it for consideration.

I just mention this in passing, Senator. I do not want the subcommittee to lose sight of the fact that they did pass by four dissenting votes a similar bill in 1960.

Senator RANDOLPH. Mr. Chairman, I wish to bring out this point which Mr. Boyle has documented, and to which I referred, regarding the action here on April 27, 1960.

I do feel that with the recent action in the House, and with the remembrance of our action in the Senate, there is strong support in both parties of the membership of the Senate on this legislation.

Senator MORSE. Thank you very much. Senator Fannin?

Senator FANNIN. Mr. Chairman, I would like to commend Mr. Boyle for the adamant position he has taken in trying to attain safety in the mines. I do appreciate the problems, also, from the standpoint of the small mine owner and operator.

Let me say that I do not think that any condition exists in the Western States that has been here. I hope this is an exception, and not typical of the mine operations in any part of our country.

But I would like to have your opinion whether or not the small mines can continue their operations and still comply with the requirements of this bill. It has been stated that it would in some instances cost in excess of $50,000 to comply.

Would it be possible for these small mines to still operate with safety and have an economically sound operation?

Mr. BOYLE. Senator, my answer, of course, to that would be the same answer that I gave in the House when I was interrogated there.

This was one of those methods to cloud the issue, to make the right-thinking Members of Congress, who want to do the right thing for the lives of coal miners.

You get into these mines, known as small coal mines, overnight and out again.

If I might depart for just a minute for my original reply to you—it is going to be difficult, as I heard the testimony of the Bureau of Mines, to come up with an actual, definite, concrete number of how many small mines there are.

That was one of the questions that was put to them, and told to put in that information, because these small mines are in today, and out. They are in tomorrow under another name, and then out.

They change their names as they are told to comply with something, and they go out of business.

I would not want the task that the Bureau of Mines has been charged to do, to try to find out how many of these small mines are in operation. Certainly they are there, and continue to be there. That is not going to be an easy matter on their part.

I wanted to get back as to whether I think it is economically sound or not.

First of all, in all fairness, Mr. Senator, the human equations and the lives and limbs of these people cannot, in my opinion, be compared with costs of production and costs per ton of coal.

Nevertheless, are they going to go out of business? I answer the question by saying what I said in the House, that a father in one of your southern mines took three of his boys, ages 10, 15, and 16 years of age, into his small coal mine. He was told he could make money selling coal to TVA. He took boys of the tender ages of 10, 15, and 16 years.

The three boys and the father met instant death in there because he lacked an ax and a prop, and what we call a cap piece, to hold the roof up.

The whole sum total would have been whatever an ax costs in that territory to have protected both the father and these three boys who died.

Of course, the child labor law administrators didn't know anything about it or they would have enforced them. That boy, 10 years of age, that boy, 15 years of age, and his brother, 16 years of age, died for the want of an ax, so to speak, to put up a prop.

Those are the things that they claim will drive them out of business.

Now, one time in testimony before the Senate, the Senators were alarmed at the cost these small mines were going to incur if they had to buy a safety lamp.

It was said at that time that a safety lamp would be one of those prohibitive items for small coal mines. The committee was greatly surprised to learn from the witness at that time that the safety lamp would cost in the neighborhood of $15, which would detect if properly handled whether there was gas in the mine.

Those are the things they say are going to happen. It is also necessary to note that rock dusting could have prevented this latest major

disaster. A major disaster, as you know, is one where it kills more than five men in a coal mine.

Senator FANNIN. Mr. Boyle, I premised my remarks with operating with safety. I did not mean to suggest that an unsafe mine should be permitted to operate. I obviously would advocate no such thing. But I am wondering whether the requirements would be such that these small mines would be prohibited from operation. On the other hand, reasonable regulations could be devised which might make the smaller mines as safe as the larger mines.

Mr. BOYLE. They could, and this legislation, Senator, let me assure you, if it is passed, if it becomes a law, will not drive these small coal mines out of business complying with it. Your question leads me to confirm or to make the statement that I made previously to the House committee: A coal company that I am very familiar with under the State requirement was not rock dusting their mine, and men died horrible deaths. Then, when the hearing was conducted on that, the management was asked—and I was there—what it would cost to rock dust that mine adequately to protect the lives of those people. Had the mine been rock dusted, and had they had an explosion, it would have been confined to the point of origin, and only 12 men could have possibly died. To the contrary, 74 men died, and they died for want of rock dusting.

The committee was greatly alarmed at that time, and asked how much it would cost to rock dust that mine, and the general manager and vice president of the company did not have the answer at hand. He was told to bring it in tomorrow, we want to know tomorrow, not later than tomorrow. And he brought it in, and his answer is a matter of record, where he said it would cost one-half of 1 cent on a ton of coal at that particular time to have adequately rock dusted that mine and saved the lives of the men, the difference in number between 12 and 74.

Those are the things that you will hear that is going to drive these mines out of business.

They will not tell you, however, that we now have large mines and large coal companies. Since this legislation has been before the House and now before the Senate, definite, concrete information has come to our attention that the large coal companies who are compelled to comply with all of these things, find it expedient to lease their lands to mines that will employ less than 14 men over which the Federal law does not have any control. Then they take the coal from these people at a lower cost.

Certainly, these large coal companies and these large mines are doing a better job of protecting their employees under the Federal statutes that now prevail, but some of them are also guilty of putting these small coal operators into business where they are violating the law. These large companies are the ones that are profiting more than the small coal operator or those people you call fly-by-night operators,

or sometimes term them "dog hole" operators, and the employees and these 33 orphans are the ones that pay the price.

And that is our sole, selfish motive, if it is selfish, for my being here today: to protect those lives, and to see that those children are educated, and that they have a right to have a breadwinner in their home.

That is my only purpose for being here.

Senator FANNIN. Mr. Boyle, I am sure all of us agree with you on this.

The matter, as I see it, is to be able to coordinate the efforts of the State and the Federal Government so that we will obtain our objectives, and still be within the concepts of a Federal-State relationship.

Mr. BOYLE. Right.

Mr. MARK. May I answer the Senator on that?

Senator Fannin, we have many of these small mines employing 14 or less men, under contract.

Now, they must not only comply with this legislation, if it is passed, but they must comply with the code which is mutually agreed upon by the operator, and not one of them went out of business.

Mr. BOYLE. And you will also hear, Mr. Chairman and Senators of this committee, I know you are going to hear, because it always comes up, that if protection of men in small mines becomes mandatory under an act passed by this Congress, that they will be driven out of business.

I think we have proved conclusively in the House that that is not so, by making replies to the Congressmen who wanted to know if it was true a number of mines have gone out of business since the passage of the Federal Coal Mine Safety Act in 1952.

Certainly that is true. There were larger mines. There were small mines. There were marginal mines. There were all sorts of mines that have gone out of business since the passage of this act, and that is a most misleading statement to make. They went out of business for obvious reasons, some of them could not compete with the importation of foreign fuels, natural gas, residual oil, and for different reasons, but the implication is they went out of business because a safety law was passed.

Nothing could be further from the truth. The safety laws that are now on the statute books have driven no one out of business, large or small.

Poor management on the part of coal operators of large or small mines, like poor management in other industries, certainly drives them to the wall, and drives them out of business, but even if it were a contributing factor, and if it saved the life of one father, whose children could grow up with him within their household, then the legislation is worthy legislation.

And I would be the last one to want to think that the coal operator, small or large, was so unscrupulous that he wants to maim and slaughter these people as is being done or that he was so and calloused at

heart to have very little or no regard for those children. It is hard for me to conceive that that such is within the body or the mind of man, but if it is, then we better correct it.

You will also be told, Senator, that if the United Mine Workers' bill, as they call it, is passed, it is going to be beneficial to the United Mine Workers.

I testified, and I only wish you had the time to read the record, for the record will show that is not the truth. We have many, many, many members of our United Mine Workers working in these small mines that are not covered. Members are working for coal companies that are both under contract with the United Mine Workers and those that are not under contract with them.

You say how does that happen? It happens because the men still want to keep their United Mine Worker card, where they are not covered by contract. There is nothing that as the president of this organization I can do about it, not a thing, other than to plead with you, plead with the State to do the things that we think should be done. The line of quesioning here this morning has, I believe in fairness to the committee, brought me to a point where I should say that the State of Kentucky and the State of Tennessee are not the only offenders.

You would think that they were the only places that employed men in their mines of less than 15 in number. It is not necessarily so at all.

Kentucky is one of those places, and Tennessee is one of those places, but you will notice that the greatest number of opponents to the passage of this measure will come from those States, and maybe Virginia.

That is where the testimony has come from. So I am led to believe that that is where you will be hearing your testimony when the opponents to the measure, if any, appear. We are hoping there will be none.

As I have previously stated this morning in reply to questions propounded by members of this Senate committee and as I testified before the Labor Committee of the House, that in some States it has occurred that coal operators depended on State inspectors and their inspection reports in the operation of their mines. Again I repeat after interrogation that I had this experience when 74 men died horrible deaths, there was not 1 casket that was not sealed, that is how bad they were—74 caskets were sealed because those men died in flame and torn to pieces, their bodies ruptured beyond recognition because of the force of that explosion.

Another man died on rescue operations.

The Governor of that State was horrified, so he appointed a committee of three neutral people. For the benefit of this committee, I will not burden you with the long, lengthy report of what they found, but the committee did state in its report to the Governor:

> The State coal mine inspector's report did not disclose that he checked what recommendations were being carried out as recommended by the Federal in-

spector, but only comprised recordings of air readings taken by him, which would lead one to believe that the mine was in a satisfactory condition.

Senator MORSE. If the Senator from Arizona will permit this interruption, you testified on this case before the House?

Mr. BOYLE. Yes, sir.

Senator MORSE. The Chair requests that the statement that you made before the House in regard to this case, which I assume will name the State and name the Governor, will be inserted in this record at the close of your testimony this morning.

(Testimony of Mr. Boyle before House Labor Subcommittee follows:)

TESTIMONY OF MR. BOYLE BEFORE HOUSE LABOR SUBCOMMITTEE

Mr. BOYLE. Well, first, Mr. Chairman, if the committee will bear with me, I would like to say that Congressman Olsen, like myself, is a little partial to Montana, having been born there and raised there.

We experienced in 1943, on February 27, the day that will live in my memory for several reasons, one of them not of interest to the committee, of course—it happened to be my wife's birthday and we had arranged to do certain things that evening.

On February 27, 1943, the largest coal mine explosion occurring in the industry that year, took place at Bear Creek, Mont. It claimed 74 lives, and 1 man that I knew very well died on a recovery operation.

Now, where Congressman Olsen enters into this picture, in my opinion, and I do have some opinion, never has the State of Montana experienced a more capable attorney general, and he was the attorney general out there when we rewrote the mining laws for the State of Montana. He was one individual in the State government that contributed everything to see that that law was rewritten, and it took considerable time to do that.

Now, in the Bear Creek explosion, it could have been prevented like all these explosions can be prevented. I have never read, heard, nor have experienced, an explosion that could not have been prevented. I know of none. Other people have different opinions but they cannot prove it to me. These explosions can all be prevented, Mr. Chairman.

Now, in the Bear Creek explosion which happened in 1943, the Federal mine inspectors who were without authority then to close mines came into that mine; they looked at it. They came to my office at 9 o'clock at night and asked me to meet them there. I met them there with the State coal mine inspector and they said at that time that that mine was in a dangerous condition and that that mine might blow up.

We were told then that they never had an explosion there and had been running for a great many years and, in all probability, they would not have any explosion. Sixty days to the exact day is when it blew up.

Thirty days prior to the explosion, the State coal mine inspector went in and came out with a one-page report, like these State coal mine inspectors usually do, which gave the company a green light to operate the mine.

I am not holding the company responsible because the company was operating under a report that was found and issued by the State department of mines that gave them a green light to operate as they were operating.

Thirty days to the date of his inspection, 74 men died and 1 died on rescue operation.

Among those people were my personal relatives; my mother's last brother was one of them. When they could not find him, I went in there and found him. They all died horrible deaths, Mr. Chairman, beyond recognition and things of that nature. Seventy-four caskets were sealed; no one could look at them.

Those are the things that you experience in these mines when you talk about explosions.

We went into extensive hearings in the coal companies in that State. That happened in 1943.

In the session of 1941, lobbying as the district president, as my duty to do so, I begged, pleaded, and did everything to get the legislature to pass legislation doing one thing. What was that? Compel the coal operators of that State to rock-dust their mines. Never heard of it; didn't want any part of it; and they killed it in the session of the legislature.

All right. After those men died, it made it somewhat easier to get legislation passed. We went up there and we rewrote the law. That is where Congressman Olsen enters into the picture.

While they were testifying, they had four different, distinct legal firms trying to kill the legislation. After killing 75 men, they had 4 distinct, reputable, going legal concerns lobbying for 60 solid days up there to kill the passage of the amendment to that law to protect men's lives.

Montana at that time was leading the Nation on a per capita basis of men killed and injured in coal mines. It is nil compared to that now. They are so far down on the list you can't find them. That law helped do it.

I was privileged to ask the general manager of that large mine if he could tell us how much it would cost to properly rock-dust the mine. Had it been rock-dusted and confined to the point of origin, only 12 men would have died in that explosion. No more could have possibly died if properly rock-dusted.

Well, he did'nt know, but the chairman of the committee told him to "find out; come back tomorrow and tell us; we want to know." It was amazing to hear him testify that it would cost one-half of 1 cent on a ton of coal to have properly rock-dusted that mine. In 1941 I pleaded and begged for the legislature to compel the coal companies to rock-dust their mines.

Then they talked about those prohibitive costs: one-half of 1 cent on a ton. That is what the general manager said, and the record shows that he so testified.

I said at that time I thought the public or those users or consumers of coal might be willing to pay one-half of 1 cent on a ton of coal to protect the lives of 75 people, so the amendment to compel coal companies to rock dust became a law after 75 men died. Congressman Olsen's office was as the disposal of people seeking safety regulations and safety laws. I want to say, in his absence, that I don't think that we have ever had anyone in State government to contribute more to protect the lives of the people in coal mines in the State of Montana than Arnold Olsen. I have a great deal of respect for him. I am happy he is in Congress, and I hope he remains here a long time.

Mr. ROOSEVELT. I am sure many of our colleagues will agree with that.

Thank you, sir.

Mr. Dent.

Mr. DENT. Mr. Boyle, first of all, I join with the chairman, and I am sure the others, in appreciation of your coming here this morning to give us the benefit of your experiences and your knowledge of this problem.

I note that we have some figures in your testimony on the question of the production percentages in the two types of mines, those covered and not covered by the inspection law.

I note 14 percent of production in the so-called title I mines. Has there been, to your knowledge, an increase in the number of title I mines percentagewise of the total number of mines in the country since the passage of the mine safety bill in 1952?

Mr. BOYLE. Do I understand you, Mr. Congressman—have there been more mines gone into operation since that time?

Mr. DENT. Smaller mines.

Mr. BOYLE. Small mines; yes.

Mr. DENT. The title I mines as compared to the total mines.

Mr. BOYLE. Yes; there are more of them.

Mr. DENT. There has been testimony before to the effect that there seems to be developing in the industry a plan whereby large acreages are broken up into small contract agreements whereby the contractor employs 14 or less miners, and yet the coal is delivered to the central operation and thereby avoiding periodical mine inspection.

To your knowledge, is there any of that that you know of?

Mr. BOYLE. Yes, sir. There is no question about it. It is being done, and it is being done now on a larger scale than ever before. They find it not only for economic purposes or whatever you want to call it, but they find it pleasurable for other reasons to lease out their properties, rather than to mine them themselves. They get away from a lot of responsibilities by so doing.

It might be well for the committee to know, we have some experiences with these mines that employ 14 men. They are evading the responsibilities under the law by having 16, 18, 20, and 24 men in the mine. Then, when the inspector comes around, the day the company knows he is coming to the mine, because he notifies them he is going to be there, they cut down to 13 men. When he gets on his bicycle and gets out of town or out of the camp, then they go back to 16, 18, 20 men.

We have a lot of mines in this country that employ more than 15 men but don't employ 20 men that are covered by this act. They live up to it, and they are doing a good job.

Mines that employ 20, 22 men—I happen to know because I worked for a while in what they call the contract division of our organization and I kept pretty good records of the mines of this country. In fact, our files will show that a lot of mines under contract with the United Mine Workers of America have 16 men in them, 17 men in them, and they are fully covered by the provisions and adhered to the law.

Then, across the street, we find an operator who employs 14 men who does not have to meet any requirements. These men can do whatever they want to do; nothing is done about it.

Then I would like to point out, while it is on my mind, Mr. Chairman, that you can say, "Well, why don't the States do something about this?" Why don't the Federal people when they go around and inspect, irrespective of the fact that they don't have the power under this law, Public Law 552, because of the exemption of title I mines so they can't do anything about it. The Federal inspectors can go in and examine the mine; they can tell the operator what he or they found and there it ends.

You know, after a period of time people forget. I worked in those coal mines and I don't forget. I do know that in 1941, while I was president of one of the going districts at that time that Federal mine inspectors were barred from going into these mines; they would run them off, tell them they could not go in their mines.

Even after they passed the law, they told them they could not examine their mines. Some of the inspectors walked away; some of them got authority to do so; some of them had to go to court to get that authority. Now they inspect the mines and no one objects to it, so I understand.

What do they do? They go in and find the violations in mines employing less than 14 men, which tomorrow will have 20 in it; and the inspectors point out those violations to them. The inspectors have no authority to do anything about it. So then they come back again and they come back again and on each occasion find the same—plus additional—violations.

Finally, you know, even the Federal mine inspector can become discouraged to the point where he says, "Why go there; not going to do anything about it." So, the State inspector makes the run of these mines.

The opponents to this bill will tell you: "Oh, we have great State inspection and we have got people who will be in here inspecting every 3 months." What do they do about it? What do the State inspectors do about it?

You know, as well as I know, in the coal mining States that the offices, generally speaking, of the State mine department are considered political plums and with a change of the administration, no matter what the administration may be, Democratic or Republican, those administrative and department employees are forced out; the personnel changed regardless of how efficient they may be. I have been watching it all my life.

To the victors go the spoils, they tell you, so they put their man in charge of safety to be dominated, controlled, and owned by these coal companies. When someone wants to challenge that with me, I will show them where they have been on the payroll of the company—some of them—at the same time that they were State coal mine people.

Our only hope, Mr. Congressman, if I might say so, our only hope and salvation to protect the people in these small mines, is that dependency that we can put on the Federal Government to do it because those people are not being displaced every time there is an election. They are there as career people with a solid interest of trying to do something for the men required to mine the basic commodity.

We have every reason to believe that if this bill were passed—this amendment were passed—that the Federal inspectors and the U.S. Bureau of Mines have no intention of doing any irreparable damage or harm to the operators of small coalmines or anyone else for that matter. All they want to do is to say to them that the men that work in that mine, whether it is 1 man or 14 men, that that wife and those children have the right to the same kind of protection of their breadwinner as anyone else.

I don't know who decided on 14 men but he might as well have said 20 men as far as I am concerned; he might as well have said 30 men. Why 14? Is it all right to legally kill 14 men but it is illegal to kill 15? I don't get it.

Mr. DENT. Thank you, Mr. Boyle.

While you mentioned the State mines, I want at this time to pay my respects to an old friend and gentleman who was the distinguished secretary of mines in Pennsylvania, Joe Kennedy.

Mr. BOYLE. Member of our union.

Mr. DENT. For many years he has been a close personal friend of mine, whom I happened to be privileged to serve with in the State of Pennsylvania during his entire service with the State. I might say that he instituted some reforms in our mining safety procedures in the State of Pennsylvania that probably—in the opinion of many people at least—have created a situation in Pennsylvania where our State mine inspection is far superior to what it used to be prior to his administration as secretary of mines.

I thought it would be good for the record to contain that little note for services well done by a dedicated public servant.

Mr. BOYLE. Mr. Congressman, I want the record to show that I did not say "all State mine inspection departments." The State of Pennsylvania is one of the few exceptions. Mr. Joe Kennedy's successor in office, Mr. Lewis Evans, was equally of the same beliefs and did a wonderful job. I have no idea what the new Pennsylvania secretary of mines will do.

Mr. DENT. There is only one question that I want to ask you and it is a question that I sincerely think has to be asked. In the main I find that, although these charges are not made publicly, the great opposition to this legislation appears to be a widespread campaign and not on the part of many of those who oppose it who are sincere and honest in their opposition, at least to the best of their conscience and their knowledge; but the charge has been made around that the reason the Mines Workers Union wants this legislation is because it will give them a whip to get more organized union members.

How, and in what fashion, would this in any way help the organizational drive?

Mr. BOYLE. That is some more of that weird thinking I talked about in the juggling of this legislation.

As far as I am personally concerned, as president of this organization, trying in the best way I know how to follow a much more effective and eloquent speaker, Mr. Labor, himself, Mr. John Lewis. He appeared over here time and time and time again. Fortunately, or unfortunately, I am called upon to take his place. I used to sit here and listen to him and I had a great deal of interest when I was listening to him, having worked in the coal mines as I had. I believe that same question was asked to him years ago as to what it would do.

Well, if you take all of the men that are now employed in these small mines and, by passage of this amendment, put them into our union—and nothing could be further removed from the facts of life than to say that the passage of this amendment will cause them to become members of the United Mine Workers.

We have a great many of these same mines—title I mines—now who are members of our organization and these companies have signed contracts with the United Mine Workers. The passage of this act will not alter or change in any way the provisions of the Landrum-Griffin Act, or the Taft-Hartley labor law. The passage of this amendment does not nullify the people's right as to whether they want to belong to the union or don't want to belong to the union. We can't make them belong to the union.

The mere fact that our people go around or they meet with people and ask them if they want to join the union does not say that the passage of the amendment, Mr. Congressman, is going to make it mandatory or compulsive on their part that they do so.

We think, though, that those people who are members of our union now, as well as the other people, whether they want to protect themselves or not—you know they do pass laws in this country to protect people against themselves. The narcotic law is one of them. They try to protect some people against themselves when they don't have good judgment.

Now we say that there are members of our union who are compelled from time to time to work in mines where there is no contract and when something happens to them those men are crippled, maimed, or murdered or killed by coal companies because of careless neglect. Who do you suppose is the first one to respond to try to do something for them? Certainly not the coal operator.

You know, President Lewis testified over here one time that a mine disaster that took place down in Kentucky—and they just got those men out here in recent days, left them entombed in there for years. When the call went out for some help and contributions, they got, I think, a $20 bill from the coal companies to help those orphans and widows down there. Twenty lousy pieces of silver is what they donated, and that happened to be a mine foreman working in another mine.

Who do you suppose took care of these people? Who do you suppose was looking out for them? No; this will not cause men to become members of our organization.

Mr. DENT. Thank you very kindly.

That is the extent of my questions.

Mr. ROOSEVELT. Mr. Martin.

Mr. MARTIN. First of all, Mr. Chairman, I would like to remark that the gentleman from Pennsylvania in his opening statement included in that statement the fact that those who opposed this legislation were not responsible people and he reiterated a similar charge a moment ago in saying that anyone who opposed it was not sincere.

Well, I think that is an entirely unfair statement for a member of this subcommittee to make when we are just opening hearings on this entire field and I think it should be approached with an open mind. I don't think that that indicates that the gentleman has an open mind in regard to this subject.

Mr. ROOSEVELT. Well, the Chair would like to remark sometimes a person might have a closed mind based upon his experience. He might have a steady belief just as the witness has a firm belief and, under such circumstances, I don't think it is improper for him to express his firm belief.

However, there are others who may not be as well qualified in this area who might have more reason to have an open mind.

Mr. DENT. We have a closed mind?

Well, Mr. Chairman, I might say that my earliest memory that I have in my mind is in the little town of White Rock in a mining camp in the county of Armstrong in the State of Pennsylvania, when a mine disaster occurred in that town and 17 of the families who lived in this small coal camp whose kids played with me at that time lost their fathers. That memory has come down through the years and it pretty well closed my mind almost the same as it closed that mine.

Mr. MARTIN. Mr. Boyle, you have made a very effective speech from an emotional standpoint.

I would like to ask a few questions in regard to some of your figures.

I notice that in regard to deaths in coal mines you use the figures in both 1962 and 1961.

Mr. BOYLE. Yes.

Mr. MARTIN. There could be a little confusion. In 1962 you use 287 and 263 in 1961.

You also state here on page 2 that "Falls of roof, face, or rib, accounted for 105 of the underground fatalities which amount to 47 percent of the total number."

Well, now, what total number are you speaking of? One hundred and five is less than 47 percent of the 263.

Mr. BOYLE. I am sorry, Mr. Congressman.

That should have said for 1962. That is right; 47 percent. That figure there, the 287 or 286 that we have there. I will look.

Mr. MARTIN. You state 105 fatalities accounted for 47 percent of the total number which was 263. I believe that percentage figure is incorrect, at the top of page 2 there, second paragraph.

Mr. BOYLE. I am looking for my 200 figure, and I don't find it. I know I have a 200 figure in here because I had it looked up.

These figures are not ours, Mr. Congressman. These are the figures of the U.S. Bureau of Mines. I said that the U.S. Bureau of Mines reported that 287 men were killed in accidents in the U.S. coal mines during 1962.

Then I go on to say, on page 2, of the deaths in the bituminous and lignite coal mines, because some of this could be contributed to the anthricite, but when we say of the deaths in the bituminous and lignite coal mines, 225 occurred underground. Then I set out commenting in the different mines. I say also there then, "which amount to 47 percent of the total." It does total 47 if you take the overall fatalities during that year in the coal mine.

Mr. MARTIN. All right.

On top of page 4, you are referring to total number of fatal accidents in the coal mines in the United States before passage of the Federal Mine Safety Act in 1952. You state in the first line on the top of page 4, "the coal industry killed as many as 2,500 men per year."

What year are you referring to?

Mr. BOYLE. Those would be the years, and I know because we had that before, prior to the passage of the act in 1952; that gave to the Federal Mine Inspection Department the right to close those mines or sections of mines or withdraw men when found dangerous.

Mr. MARTIN. Was that in 1951?

Mr. BOYLE. Yes; anywhere along in there. Could be anywhere.

Mr. MARTIN. But you don't know which years, specifically?

Mr. BOYLE. No; but I could get that for you.

It was running even higher than that at one time, but 2,500 is more or less a conservative figure just prior to the passage of the act.

Mr. MARTIN. You state here also at the bottom of page 2, Mr. Boyle, that the title I coal mines produce less than 14 percent of the total coal mined, but their fatalities are higher than in the title II mines.

Well, now, I happen to have before me here a copy of the hearings of 2 years ago from which I would like to quote.

Mr. Robert Holcombe of the Independent Coal Operators of Flingsville, Ky., was testifying in regard to figures as put out by the Federal Government in regard to the amount of coal mined and fatalities, and so forth. He says here, and he is speaking only about one district in Kentucky:

"According to the State bureau of mines, from which Mr. Anthony says he gets information, in 1959 in the Big Sandy District in title I mines there were 3,690,871 tons mined."

That was according to the Federal figures, 3,690,871 tons.

"According to railroad rates when this coal was actually shipped there were 6,578,398 tons mined in title I mines."

In other words, there was over twice the tonnage that was reported to the Federal Government by these operators.

I recall that in his testimony and in these hearings 2 years ago, there was a great deal of difference in the production figures of title I mines between what was reported to the Federal Bureau of Mines and what was actually mined and shipped out according to railroad weights.

Now, would you have any comment on that?

Mr. BOYLE. Yes.

I could say that could be so and I don't cast any aspersions or reflections on the gentleman whose name you mentioned there; I don't mean it for him in particular unless the shoe fits.

But I say to him or to any other coal operator who can come before this committee and show that there is more coal mined in those mines than was reported, is that for tax evasion purposes or why would they do that? I don't know why a coal operator if he produced a thousand tons of coal a day would not be happy to say that he produced a thousand instead of saying that he produced 500.

Mr. MARTIN. I am not getting into the reasoning. I am just bringing out the fact that the figures which you were evidently quoting from the Federal Bureau of Mines are inaccurate, in the title I mines.

Mr. BOYLE. No; I don't believe it is fair to say, Mr. Congressman, that any coal operator, for or against the passage of this amendment, can stand four-square against the figures of the U.S. Bureau of Mines who have been in the business down there for over 50-some years in compiling all these records.

The strange thing of it is that when these coal operators are in difficulty, when these people want to know things as we do, they go to the Bureau of Mines; but when the Bureau of Mines does not do all the things that they like, then they challenge their figures.

Now, I am not in any position as an officer of a union to challenge the figures compiled by a neutral agency of this Government, any more than I would be right to say that every act that you perform as a Congressman could be challenged and that I challenged it and that I know better and so and so. I do have faith in the Federal Government and its employees. I have enough faith in the Federal Government that I cannot believe they are compiling erroneous figures.

Mr. MARTIN. I am not talking about that, Mr. Boyle.

I am simply quoting here from railroad figures, actual tonnage mined according to railroad figures, which I am quite sure are accurate, against the figures from the same district in Kentucky as reported by the Federal Bureau of Mines as to the amount of coal mined, and it was about double.

Now, let me give you one other figure.

Mr. ROOSEVELT. Will the gentleman yield?

Mr. MARTIN. Very briefly.

Mr. ROOSEVELT. If it is agreeable to the gentleman, I think we might ask the Bureau of Mines to supply the answer to that question and I will ask counsel to be prepared to tell them to answer that question.

Mr. MARTIN. I would like to give you one other figure, Mr. Boyle.

You are making a point here in your whole argument in regard to the fatalities in the title I mines and therefore we need this revision in the law so that we can have Federal inspection, and so forth.

Without quoting all the figures which are sometimes a little bit confusing, the final figure, the total, this is in the same field in Kentucky:

"The number of tons per fatal accident was 1,057,052 in title II mines as compared with 2,192,791 in title I mines."

Now, that is based on the actual amount of coal that was shipped out there. In other words, the accident figures in title I mines from these figures are not any higher than they are in the title II mines.

We had actual statistics and figures on that and I think, Mr. Chairman, we will undoubtedly have additional information and testimony along those same lines during the course of these hearings.

Mr. BOYLE. If I might say, Mr. Congressman, I am not taking issue with your figures, but I am saying this——

Mr. MARTIN. These are not my figures. These are the figures of the U.S. Bureau of Mines.

Mr. BOYLE. From the opponents of the amendment: let's say that.

I say to them, I say to you, I say to this committee: That, as far as figures are concerned, whether it is in millions of tons or hundred of thousands of tons, whether it is in thousands or ten thousands or a hundred thousand man-hours of exposure, that the principle behind this is, Do we want to protect the lives of men who die in these small mines—and there is no possible way for anyone to refute that they are dying at the rate of these figures—or are we going to say by Congress that we are going to legalize through carelessness, neglect, that you can murder these people, you can kill these people, you can maim these people, but the moment you put on one more man you can't do it?

You can do it up to 14 men but just as soon as you put on 15 men, why, then, you become subject to the law and you can't kill them any more; you have to do the things that we want you to do.

Now, the principle behind this is, there will be all kinds of figures bantered around here; there will be all kinds of hours of exposure; there will be all kinds of production figures. I am not primarily concerned with figures. My prime concern is with those people who work in the bowels and recesses of this Nation are entitled to the same protection under the law as any man that works there, whether he works in a 15-man mine, a thousand-man mine, or a hundred-man mine.

Now they will come in also and tell you, as they told you in that record—I read his testimony, too—they will tell you that all of this is prohibitive. Nothing could be further from the truth. It is not prohibitive at all. They just want to say to us and they want to say to their employees, you just leave us alone; we are going to take care of this mine because we only have 14 men in it; if we want to kill them, that is our business; if we don't want to protect them, that is our business; if we want to murder them, that is our business, the Federal law notwithstanding. But the minute they put on 15 men, no; things all change.

Now, here is what happened to the sad state of affairs in that locality to which you refer in your remarks and the testimony of a small mine operator.

This happened, let me tell you it was a pitiful and a regrettable thing. Here is a father who decided that he was going into the small mine business. So he opened a small mine. He has three sons aged 10, 15, and 16 years, all three prohibited by the Child Labor Act from working underground. Nevertheless, he took them in the mine. He had no experience in underground mining; he didn't know enough to put up timbers to protect himself or his boys. And what happened? The three sons and he were killed instantly. Why? Because the Federal inspector could not order him to take safety precautions to make the mine as safe as possible. So a boy 10 years of age, a boy 15 years of age, and a boy 16 years of age lost their lives.

Now, if the Government of this country cannot feel that they want to do something to protect people against themselves, I then can't do anything about it. All I can do is to plead with you. I say to you that in all fairness and all

candor that these opponents of this measure, section after section, fought this thing ever since there has been an organized labor union in the coal industry. They fought safety legislation; they are still fighting it. If they are not going to do something to protect these people, I hope it rests with their conscience, not mine, because I am going to continue as long as I have a breath within me to fight for the protection of these coal miners whether they are in this union or out of the union. Many of our members work in these mines, you know.

I again want to repeat by saying I am not greatly concerned about the Bureau of Mines' figures although I quote them. I did it for a purpose. They do it for a purpose. What I want to know is the principle behind the thing, whether or not we can say to ourselves there is no use coming back to Congress any more, that Congress has now spoken and has said: "We are going to legalize this thing to a point that these people can be murdered, they can be maimed, they can be butchered, they can be cut up; you can do anything you want with them; take them out in sacks if you want to, but this is our mine; it belongs to us."

Those workers, as yet, don't belong to them, but nevertheless there are some operators who feel like they do. That is what is happening in the small mines of this country. When they want to prove to you or any member of this committee or to the Congress of the United States that the reason that they can't protect these people is because of a cost item or the economy, which I don't believe, then they have no business being in business because they won't let a bus on the streets of Washington run down the street without brakes on it because the management says we cannot afford to put brakes on it, and they won't let you get on an airplane today unless it is properly inspected.

Whether there is 1 man or 14 men on that airplane, it gets the same inspection, it gets the same going over as the others do that carry 50 or 100 passengers.

So I say that if the committee and Congress is going to say to this union again after all these years that, "We are not interested in what you have to say about the protecting of the people who work in mines of this country employing less than 14 men," then we ought to know about it. I think that, if nothing else, it is the humanitarian right that you people should do this; it is an obligation.

I think that if Congress is to be criticized, which I am not in a position to criticize and don't want to criticize, but if they are to be criticized, certainly they should be criticized for paying no attention to 14 men and then saying: "Don't kill 15 or we will be down on your neck telling you what you will do."

Mr. ROOSEVELT. The time of the gentleman from Nebraska has expired.

Mr. MARTIN. I still have additional questions.

Mr. ROOSEVELT. Well, we will ask Mr. Boyle whether he will be good enough to come back tomorrow or, if agreeable to the members, we will sit until the first quorum call comes and then we will have to adjourn until tomorrow.

Mr. Boyle, if you don't mind, in the meantime I am going to have to give the others time. I will come back to you, Mr. Martin, following the time of the other gentleman.

Mr. MARTIN. Will Mr. Boyle be back tomorrow morning?

Mr. BOYLE. I can make myself available for the committee.

By the way, Mr. Chairman, I am not the most important individual that works for a living, but I did set some things aside this morning and I can adjust myself because I know of nothing in this union that is of more importance to its people than to see that they get protection. They can wait for the other things that they want until I can at least have an opportunity to tell this committee what I feel about this safety measure.

Mr. ROOSEVELT. Thank you, Mr. Boyle, for your help to the committee.

Mr. Pucinski.

Mr. PUCINSKI. Mr. Chairman, I am happy to follow the openminded questioning by my colleague from Nebraska.

Mr. Boyle, it is really a pleasure having you here and listening to your testimony today. It is quite apparent that you are a very worthy successor to the inimitable John Lewis, who sat in that chair on many occasions as you have

today and in this experience to convince our committee of his viewpoints, and with some success, I might say.

Mr. BOYLE. Thank you, Mr. Congressman.

Mr. PUCINSKI. I have one question on your statement.

On page 4, in the third paragraph, you refer to the fact that there has been a great deal of improvement with the passage of Public Law 552:

"The possibility of Federal inspectors examining any mine has kept State coal mine inspectors on their toes."

Again on page 1, in your third paragraph, you mention the record of fatalities in these mines. I presume this is in the titles I and II mines.

There does seem to be some slight contradiction I thought you might like to clear up at this point.

Mr. BOYLE. No. It is not intended to be misleading and neither is it contradictory, as I understand the figures that have been put here or that I put here. They do just exactly what you said there. They include both titles I and II mines in the figure of 287, but when you get to boiling down, segregating, and separating the figures of the U.S. Bureau of Mines with respect to the number of those injured and those killed in title I mines, you will find that those are the percentages and no one can change them.

I don't care how they want to juggle them; those are the figures that have been submitted to us by the Bureau of Mines.

Again, I want to reiterate, Mr. Congressman, that all my life working inside the mines or outside the mines I have a great deal of respect for the agencies like the Bureau of Mines. There are some agencies of Government for which I don't hold the same respect as I do with the Bureau of Mines.

Mr. PUCINSKI. I think you made a very convincing argument about the title I Bureau of Mines figures. I am reminded a few weeks ago we passed the auto safety belt legislation with an overwhelming vote; I think it was almost unanimous. Some 7 million cars are manufactured in this country every year that require the installation of safety belts which cost anywhere from $8 to $11 each. At that time I remember that, I believe it was the author of the bill, several other members joined in supporting the bill, made the statement that if this legislation saves one life it is worthy legislation.

So, I assume that perhaps you are wise in not getting into a numbers controversy here.

My colleague from Nebraska has some figures as to the relative number of fatalities in the title II mines in relation to the tons of coal produced and the number of fatalities in title I mines in relation to number of tons. The fact remains men are dying in those mines.

Mr. BOYLE. That is right.

Mr. PUCINSKI. I think that you are to be congratulated for carrying on the fight to save their lives.

May I make the observation and perhaps you can comment on it. I hope that that bill is going to get serious consideration by the Congress, but I am wondering if you are not being too charitable to the Federal Bureau of Mines inspection?

I read the act which I have before me here, that the Federal inspectors are helpless in doing something about this. Well, that is not what the law provides.

We have in this law some very strong language. You, for instance, mention the fact and I wish that you would give this committee, if you can, the specific mines where you say that when the inspector comes around they have less than 14, but the moment he leaves they, in fact, become a title II mine by having more than 14 workers employed.

Well, now, certainly these inspectors have a right to look at the books of that company. They can determine what is the regular production of that mine. I think they can do a lot of things if this is really going on as you claim. This is in no way diminishing from the need for this legislation.

I say I am very, very seriously concerned about the lack of urgency in their assignment by many of these career people in the Federal Government. They have got a responsibility and, on the basis of your testimony today, I would be

inclined to think they have not been carrying out that responsibility to the degree of urgency that they are supposed to.

The Federal mine inspector has the right, for instance, to dissolve State agreements wherever he feels that a bad job is being done according to the act on the books today. Yet, I take it, this is not being done. So, for that reason, I think that while it is important to consider the legislation, and certainly you have spelled out a magnificent argument in supporting the legislation, the fact remains that I think we ought to take a look at what are the Federal authorities now doing with the legislation they have on the books? If 287 men died in mines last year, this is a serious indictment against this department.

I am mindful of the difficulties in mining. I don't think we are going to get a completely free record of deaths, but certainly it would appear to me that this committee ought to look into this, among other things; and I understand the chairman said the Director is coming before the committee; we will have an opportunity at that time to find out why this rate is so high.

Would you care to comment?

Mr. BROYLE. Yes; I would.

I don't intend to speak for the U.S. Bureau of Mines; they are more qualified to speak for themselves. I just want to say this on their behalf: That, it is comprised of human elements, the same as anything else. You might in some instance find a Federal mine inspector who is lazy or negligent or does not do all things that he is suposed to do, but, generally speaking, the U.S. Bureau of Mines, since I was a kid in the coal mines, has improved under its present directorship and its administrative officers down here in the city of Washington that is almost not only remarkable, it is almost unbelievable how much it has improved under previous Directors down there and people that were career men. I think they have done a spendid job; I think they are continuing to do a splendid job. I think the Director and his associates down there are devoted people, outstanding people, and people that have the concern of lives regardless of one mine, two mines, United Mine Workers, or anyone else.

You asked me, "Now where would this happen?" They don't have enough inspectors, in my opinion, to begin with because Congress has not allocated enough money for them. That also happened in the police force until you changed it over here the other day.

Anyway, there are not enough inspectors to go around; mines can only be inspected maybe once a year. They can come back and make a spot examination and they do those things, but these mines where they go in there and they find that they are not properly timbered—you know what a piece of timber would cost and an ax and a saw and a shovel would cost to make that portion of the mine safe. That is prohibited according to the coal operator who does not want to buy timber to keep the rock from falling down and murdering these people that are being murdered.

That is what has happened; they don't provide these necessary things, and the Federal mine inspector, under present law, can do nothing to compel them.

Mr. PUCINSKI. He has the right, though, to shut that mine down.

Mr. BOYLE. No.

Mr. PUCINSKI. If I read the language correctly.

Mr. BOYLE. Title II mines, but not title I.

Mr. PUCINSKI. We are talking about title II mines.

Mr. BOYLE. We are talking about two different things. I am talking about they do shut them down.

Mr. PUCINSKI. I am talking about the mines that they try to create the impression of title I mines when the inspector is there and then they put on more people after he leaves.

Mr. BOYLE. Let me tell you about that. Now, I wish you could enjoy your belief and concern with respect to those people keeping books. It is amazing that they don't keep any books at all and that some of these people still working for them are not paid by check; they are paid in cash.

Mr. PUCINSKI. Why does not the mine inspector then bring the Internal Revenue Service in? This is the point I am making.

You are saying here the proposal for this legislation is very important, very commendable, very laudable, and I think your statement today certainly spells out an excellent case of support of this legislation.

But, too often, I have seen in the Federal Government the career people use these shortcomings as an excuse for failing to enforce that kind of law that is now on the books. I think there is a great deal more that can be done in mine safetq under the existing law if the people who are charged with the responsibility would use all the tools at their resources.

If they are not keeping adequate books, we have the Revenue Service over here. Don't they know about it? Why does not the Revenue Service insist on keeping books?

Mr. BOYLE. You would be surprised what they do down there besides moonshining in those hills. You would be surprised.

Mr. PUCINSKI. You are absolutely right.

The point I am trying to make is that we have to move for protection, one to try to help you in extending this to include title I, but at the same time knowing the realities of the legislative process I think we ought to also move and see that there is a spirit of urgency among those who are charged with enforcing the laws that are now on the books.

I want to congratulate you for your testimony.

Mr. BOYLE. Thank you, sir.

I will say that if the Federal mine inspectors, and I don't know but few of them—I know a few of the men here in Washington to some degree—but the Federal mine inspectors, if they were given authority to do exactly what you say there, I have every reason to believe that they would cause those people to put up timber; they would cause them to put up props and avoid these fatalities; a boy 10 years of age might be alive, a boy of 15 years of age might be alive, and his brother, 16 years of age, might now be alive. The coal mine inspector could go in there, look at it, tell the guy about it and that is the end. He walks away and the owner says, "Well, we are not going to do anything about it, so what?"

Mr. ROOSEVELT. The Chair, unfortunately, has to announce there is a quorum call on at the present time and the committee will adjourn until 9:30 tomorrow morning and will meet until noon and then reassemble at 2:30 tomorrow afternoon to continue the hearing.

Mr. BOYLE. What time do you want me to be here?

Mr. ROOSEVELT. Nine-thirty.

The committee stands adjourned.

(Whereupon, at 11:15 a.m., the committee recessed until 9:30 a.m., Friday, Aug. 9, 1963.)

Senator MORSE. I am going to have your testimony in the House inserted. You will not need to repeat it this morning.

Mr. BOYLE. All right. That is fine.

To show you States are reluctant to perform as we would like them to perform, in this morning's mail, this being Monday, the 14th, I received the copy of a letter addressed to the State coal mine commissioner of the Department of Mines and Minerals, in the great Commonwealth of Kentucky, dated June 11.

I would like this to be made a part of the record, because it is signed by the officers of the United Mine Workers of America in the State of Kentucky in that region known as district No. 23.

Senator MORSE. The letter will be inserted in the record at this point in full.

(The letter referred to follows:)

JUNE 11, 1965.

Mr. A. H. MANDT,
Commissioner, Department of Mines and Minerals,
Commonwealth of Kentucky,
Lexington, Ky.

DEAR COMMISSIONER MANDT: On the second shift on June 8, 1965, at the underground Ken Mine of Peabody Coal Co., some three or four men were directed to increase the height of the entry a certain amount of footage by shearing both ribs upward some 45 inches and approximately 20 feet in length for the purpose of installation of belt equipment. Straight leg safety timbers were set in this area pending the withdrawal of the pin bolts from the roof. After extracting these bolts explosive charges were placed in these bolt holes for the purpose of shooting this roof down. It was thought that some of the straight leg safety timbers had been removed before the ignition of the explosives. A part of this roof suddenly caved in and a worker was killed instantly at 10:30 p.m.

A meeting was held at the Ken Mine office on June 9 at 11:30 a.m. for the purpose of thoroughly discussing this accident and the causes leading thereto. The following were represented at this meeting: Federal Bureau of Mines, mine management, local union safety committee, and District No. 23 United Mine Workers of America. It was very noticeable by all parties concerned that the Kentucky State Mines and Minerals Department was not represented so they could make their contribution in behalf of safety. It is common opinion, if not common knowledge, that mining departments are primarily created for the purpose of protecting life and limb of the workers employed in the industry. It is beyond the imagination or comprehension of the mines workers that the Kentucky State Department of Mines and Minerals would be so callous and indifferent to the safety of the men employed in and around the mines of the State of Kentucky as to fail or refuse to have representation at hearings created for the purpose of thoroughly discussing such accidents and meeting of minds to prevent the recurrence of a similar accident.

The Mine Workers would appreciate knowing if this is the policy of the Kentucky State Department of Mines and Minerals that no representatives will be present at these hearings and give their version and recommendation on such accidents. We would appreciate a reply at your earliest convenience.

Respectfully yours,

LOUIS AUSTIN,
Acting President.
JESS LOVELACE,
Secretary-Treasurer.
CHARLES HEAD,
International Representative.
ALLEN CONDRA,
International Representative.

Mr. BOYLE. This is all I have, Mr. Chairman.

Senator MORSE. Anything further, Senator Fannin?

Senator FANNIN. Nothing further.

Senator MORSE. Senator Cooper?

Senator COOPER. I would like to ask first that the Bureau of Mines file with the subcommittee a copy of a report, recommendations made by the Federal inspector concerning C. L. Kline Coal Co. of Robbins, Scott County, Tenn.

Senator MORSE. Excuse me just a moment, Senator. Do you have a copy?

Mr. BOYLE. No; I do not have a copy of that.

Senator MORSE. May I ask Mr. O'Leary, will you file with the subcommittee the information requested by Senator Cooper?

Mr. MEMMOTT. Yes, sir.

(The information requested above will be found on p. —.)

Senator COOPER. Next, Mr. Boyle, you referred to a disaster where 74 miners were killed. Would you tell the subcommittee in what State that occurred?

Mr. BOYLE. In the State of Montana.

Senator COOPER. Was that a title I or title II mine?

Mr. BOYLE. It would be considered a title II mine. That was before the passage of the act.

Senator COOPER. When was that?

Mr. BOYLE. The explosion occurred in the year of 1943, on February 27.

Senator COOPER. Was it a shaft mine, or a drift mine?

Mr. BOYLE. It was a slope mine.

Senator COOPER. In the side of a hill?

Mr. BOYLE. Yes, sir. Perhaps better known in that area as a slope mine. There is very little difference between a drift and a slope.

Senator COOPER. Yes.

Mr. BOYLE. I would like to say, Senator, now that you have asked me the question where it happened, I think it would be enlightening for you to know that the Federal Bureau of Mines had inspectors in that mine. They made a report on December 27, 1942. I was called at 9 o'clock at night by those inspectors. I did not know them. They called my home and asked me if they could meet me at my office. They wanted the State coal mine inspector present. He was there.

Those Federal inspectors told us that if something was not done to clean that mine up, that they were going to have an explosion and they were setting on top of a powder keg.

The reply to that from the State department came that they had never had an explosion of that magnitude and in all probability would never have one.

They said, "You are going to have one if you do not do something about it."

One month later, on January 27, the State inspector examined that mine and again I quote from the report of the Governor's committee where it says his report would lead one to believe that the mine was in a satisfactory condition.

One month later to the day, on February 27, the mine blew up, killed 74 men, and one of my personal friends died on the rescue operation.

I was in that mine shortly after the explosion. I knew every man in the mine by his first name. My last uncle, my mother's last remaining brother, died. You could not recognize him; they could not find him for that matter. I went into the mine with the rescue crews and found him, burned almost beyond recognition.

Those are the things that make it come home to you that these explosions should be stopped.

Senator MORSE. Proceed.

Mr. BOYLE. I would like to say briefly to you, and I know time is of the essence, here, but I would like to say very briefly that my experience in the mining industry, and now as president of the union of employees who work in the mines, that I have never experienced, neither have I read or heard of an explosion that could not have been prevented—notwithstanding what any of the experts will tell you to the contrary, they can all be prevented, Senator.

Senator MORSE. Senator Cooper?

Senator COOPER. Mr. Chairman, a comment has been made about the failure of some of these mines to pay the social security tax. I would certainly agree that is inexcusable. I may say that in 1963 I reported to the administration that there were some complaints that in my own State of Kentucky that some of these mine operators had not paid their social security tax.

I asked them to go into that, and make an examination, if that was correct.

I would like to inquire, and I will, and find out the results of that examination.

Senator MORSE. I want to join the Senator from Kentucky.

Senator COOPER. I have one other point, there.

Reference has been made to the action or efforts made in 1959 and 1960, I think, to amend the Mine Safety Act. There is no point in making this now, but I will say that I made an effort, along with other members of the committee, to provide that the Federal inspectors on finding that there was imminent danger, would have the right to close down mines.

I think also we determined then that other violations which were related to imminent danger, such as gas, rock dust, and others, that they would come under the control of the Federal inspectors.

If that bill had been passed, some of these deaths would have been prevented.

The question is, Senator Fannin, that those violations which would create and should be immediately corrected, and could come under the jurisdiction of the Federal Mine Safety Act, my question at that time was whether or not a great many of these procedures required for large mines were really applicable to the small mines, particularly as to whether or not the enforcement procedures which were costly and slow would have the effect of closing down small mines when they were not related to safety, and in imminent danger.

I will make another comment, since reference has been made to my own State; this would depend upon testimony.

My own State reports that it makes more inspections per year of Kentucky mines than the Federal inspectors make throughout the

entire Nation, and it is their claim that their record of safety in small mines is better than it is in the title II mines.

That is something that will be presented to the committee. That is the claim.

As I said before, what I say next week will depend greatly upon the information that is presented to the committee.

Senator MORSE. I thank the Senator from Kentucky very much.

I would like to have the attention of Mr. Boyle and his associates for just a moment.

We will recess until next Monday morning at 9 o'clock. I am going to start that hearing at 9 o'clock instead of 10.

Will counsel see to it that all of the witnesses are notified, and I will keep the record open until the following Friday at 5 p.m., and all participants in the hearing will be expected to file any supplemental rebuttal statements they wish to file between the close of the hearings when the opponents will be given an opportunity to testify on Friday at 5 p.m.

Mr. MARK. Mr. Chairman, before you close, Mr. Ferguson has a statement that he would like to just submit for the record, to be put in immediately after Mr. Boyle's statement.

Senator MORSE. Mr. Ferguson's statement will be made a part of the record, and will be printed in the record immediately following the statement of Mr. Boyle.

(The prepared statement of Mr. Ferguson follows:)

PREPARED STATEMENT OF CHARLES FERGUSON

Mr. Chairman and members of the subcommittee, my name is Charles Ferguson. I am director of the safety division of the United Mine Workers of America. In this position I am faced with the grave responsibility of maintaining a nationwide safety program encompassing all of the coal mines in the United States and Canada.

I am an experienced miner with more than 30 years in the industry. I am familiar with and have performed every type of work pertaining to the mining of coal, including supervisory positions of safety director, coal inspector, fire boss, and assistant mine foreman. Additional information regarding my experience is a matter of record before previous committees on legislation of this type.

I am appearing here today in support of H.R. 3584 which was approved by the House by a vote of 335 to 43. The position of the United Mine Workers on this legislation is a matter of historical record over the years. We have vigorously opposed the exclusion of the so-called small mines from the statutory requirements of Public Law 552 for the reason that there is no legal or logical justification for their exclusion. Furthermore, the failure of past Congresses to assume their responsibilities by amending Public Law 552 has made second-class citizens of the thousands of men employed in these substandard operations.

Three prime examples of the failure of management to assume their responsibilities are: (1) There was a cave-in at the Oneida No. 2 Slope Mine, Fellin Mining Co., in August 1963 which resulted in worldwide publicity. I am confident that this occurrence is a matter of common knowledge to this subcommittee. (2) There was a multiple fatality at the Bednarczyk Nos. 2 and 3 Slope Mines, Bednarczyk Coal Co., during February 1964 which resulted in the death of three men and serious injuries to another. (3) An explosion at the C. L. Kline Coal

Co. mine at Robbins, Tenn., caused the death of five men (all of the men in the mine at the time of the explosion). Four of these men were married and left as survivors their wives and a total of 33 children. What price human life? What price human suffering?

Reports made on these tragedies by the U.S. Bureau of Mines are available to this committee. They show complete lack of responsibility and a callous indifference toward human lives by the operators of these properties. The same combination of conditions and the same unconcern toward the human elements involved is prevalent throughout these so-called small mines and the operators thereof.

In 1952, when Congress passed legislation giving the Federal Bureau of Mines authority to suspend production in coal mines employing 15 or more men underground under specified conditions, they saw fit to attach this exemption, for which there is no logical explanation. Why this was done is beyond understanding.

The U.S. Bureau of Mines can now take measures to protect the lives of individuals in a mine employing 15 men or more, but such protection is denied others unfortunate enough to be forced to work in a mine employing less than 15 men.

During previous hearings before committees of other Congresses, opponents of this legislation appeared to protest the need for such legislation. I assume we may expect them to appear again decrying the need for any legislation whatever and asserting that they alone are qualified to determine whether or not employees who work in these small mines will live or die. The United Mine Workers vigorously oppose this position, and claim the right to expect the Federal Government to afford equal protection to the thousands of our membership who are presently employed in so-called title I mines.

Opponents of this legislation have also previously appeared and took the position that compliance with provisions of the Federal Coal Mine Safety Act would force them out of business. This position, of course, has been completely disproven by testimony of responsible representatives of the U.S. Government, the United Mine Workers, and others.

The witnesses in the past have appeared from Kentucky, Tennessee, Virginia, West Virginia, and other States. I say to this committee that, if these people are complying with the laws in their States, there will be no additional cost to them under Federal legislation.

The witnesses have said that ventilation requirements of the Federal Coal Mine Safety Act are excessive and, if complied with, would create such a velocity it would literally blow the men out of the mine with the force of this ventilation. This is not true. The States, mentioned above, have the same requirements.

These witnesses decry the need to hire fire bosses because they complain about being forced to preshift examine their mines. If obeying their State laws, they are required to preshift examine their mines under such laws. Therefore, it will not cost them anything to comply. They also decry the need to hire mine foremen because they must pay them salaries. All of these States require mine foremen of coal mines. They have also protested the right of the Bureau to close mines down under Public Law 552.

All States, mentioned heretofore, give to the department of mines and minerals in each State the right to close down mines, but, in fact, Congress more stringently provided for an appeal to the Federal Coal Mines Safety Board of Review, which is tripartite in nature and is presently composed of three members—one representing the viewpoints of the coal mine workers, one representing the viewpoints of the coal operators, and one representing the viewpoints of the public who serves as chairman of the Board. The passage of H.R. 3584 will increase the number of Board members from three to five by giving direct representation to the operators and employees of small mines. Further, H.R. 3584 provides that, while the main office of the Board shall be in Washington, the Board will be required to hold hearings at the county seat of the county wherein the mine is located or at some other place mutually agreed upon by the Chairman of the Board and the operator of the mine involved in the proceeding.

It might be well at this point to clear up any misunderstanding about the difference between the Federal Mine Safety Code and the Federal Coal Mine Safety Act. The Federal Mine Safety Code is an integral part of the contract, presently in force between the coal mine operators and the United Mine Workers of America. It was promulgated by the U.S. Bureau of Mines in cooperation with the industry and the union, and is a comprehensive document setting forth minimum requirements for all phases of coal mine safety in and around the mines. Only in those cases where the provisions of the code are synonymous with the requirements of the act does the Federal inspector have the right to enforce the provisions of the code.

The United Mine Workers are increasingly alarmed at the continuing injuries and deaths in these so-called title I mines. There are literally thousands of these mines. The latest figures available indicate that there are over 6,000. If the average employment runs between 5 and 10 men per mine, we have 10,000 men working in these mines today, and probably more because many of these mines are not a matter of record.

It is impossible to describe to anyone who is unfamiliar with the coal mining industry the conditions that exist in some of these operations. It is a matter of common knowledge that in literally hundreds of these mines, there are mine-explosion, mine-fire, inundation, or man-trip hazard potentials in existence. They remain uncorrected because of the failure of the States to enforce their own laws, and because the continued failure of Congress to pass this legislation prevents the U.S. Bureau of Mines, through its Federal inspectors, to correct this situation.

Let us now turn to the economic phase of this situation. While it is true that the cost of compliance with the Federal statutes is almost nil, it is still, in my opinion, having an adverse effect on coal mine safety. Competition in the coal mining industry being what it is—the continued exemption of these small mines from their legal and moral responsibility—is forcing the larger operators to use every means possible to meet this competition. They are only able to do so by operating at the absolute minimum of cost production and, as a result of situations of this kind, the employees of the industry are paying the price with blood.

Another phase of this situation in the coal mining industry is brought about by the human element in charge. For instance, an operator who is forced to comply with provisions of the act, in looking about him, finds that the operators across the street, because they have reduced their force to 14 men, are not obligated in any way to comply. This leads to attempts by the so-called large operators to evade their responsibilities.

As a result, many large operators are breaking their properties down into smaller units by reorganization, subleasing and otherwise, so that they, too, may enjoy freedom from Federal regulations. This, in turn, leads to greater injury potentials throughout the coal mining industry.

I could go on ad infinitum quoting specific cases wherein the so-called small operators, by their lack of responsibility, have caused the injury and death of hundreds and thousands of people. Previous records are replete with such information. The situation has not changed materially since my previous appearance before other committees of the Congress.

Gentlemen at this point I would like to refer to the opponents of this legislation who have appeared before other committees of Congress concerned with similar legislation. I assume they will be here as usual opposing any changes in the law and purporting to represent the men who are forced by economic circumstances to work in these so-called small mines.

I want to say here that over the years in coming here I have noticed the people who appear as representing the coal mine workers in these so-called title I mines. I submit to the committee that these are not the representatives of the mine workers in these mines. I submit to the committee that they are not even coal mine operators in the true sense of the word. I submit that they are more or less coal mine lessors who, by one fortunate circumstance or another, have

come into the possession of certain coal land. This is the way the majority of them operate.

They own the coal, thousands of acres of it. They go to a group of men who are unemployed and they say to them, "I will lease you at a given royalty per ton so many acres and you can have a coal mine." They lease it to these people who are unfortunately unemployed and have no place to go in the economic picture of this country as of now.

After the lease has been agreed to the following questions arise: (1) The lessee has to have a certain amount of production and transportation equipment which the owner of the coal land will lease to him at so much per ton of coal produced; (2) the owner will also charge the lessee so much per ton for the use of a tipple, so much per ton for hauling the coal to a loading ramp, and finally so much per ton for the use of the ramp.

The opponents of this legislation say they are coal mine operators. I submit that they are not coal operators. They are lessors and lessors only, and I say that by their actions and by their use of these people they are living off the blood on the coal which they produce.

Gentlemen, I could go on almost endlessly in telling the story of the exploitation of the men who are forced to work in these presently exempt mines. There are thousands of pages of unrefuted testimony before other committees, all of which is available to you.

In conclusion, let me say that the killing and maiming of the employees in these mines is a dark blot in the history of our Nation and, unless Congress assumes their responsibility by passing this badly needed legislation, they must bear the responsibility for failing to give these men the protection to which they are entitled. I trust that my statement will be of some help to the committee and earnestly request that you give early and favorable consideration to the passage of H.R. 3584.

Senator MORSE. We stand in recess until next Monday morning at 9 o'clock.

(Whereupon, at 12:05 p.m., the subcommittee recessed, to reconvene Monday, June 21, 1965, at 9 a.m.)

AMENDMENTS TO THE FEDERAL COAL MINE SAFETY ACT

MONDAY, JUNE 21, 1965

U.S. SENATE,
SUBCOMMITTEE ON LABOR OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The subcommittee met at 9 a.m., pursuant to recess, in room 4232, New Senate Office Building, Senator McNamara, chairman.

Present: Senators Morse (presiding pro tempore), Randolph, and Fannin.

Also present: Senator Cooper of Kentucky.

Committee staff members present: Stewart E. McClure, chief clerk, John A. Forsythe, general counsel, John Bruff, counsel for the subcommittee, Stephen Kurzman, minority counsel, and Frank Cummings, minority labor counsel.

Senator MORSE. The hearing will come to order.

I am pleased to have as our first witness this morning, resuming our public hearings on H.R. 3584 and S. 1032, the Honorable John Sherman Cooper.

Senator, you may proceed in your own way. We are delighted to have you, as you know.

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

Senator COOPER. Thank you very much, Senator Morse.

Initially I will testify, then there are other witnesses here who would like to testify on the bill who represent the title I mines. I think they will be introduced and I know that the subcommittee will give them ample opportunity to be heard.

Senator MORSE. I will be delighted to have you present them, Senator, when they get ready to testify.

Senator COOPER. Senator Morse and members of the subcommittee, I appreciate very much the opportunity to testify before this subcommittee in opposition to the bill, H.R. 3584, which would amend the Federal Coal Mine Safety Act in chief by removing the exemption now provided to title I mines, those employing no more than 14 individuals.

I know the chairman of this subcommittee, Senator Morse, and other members of the committee who were serving on it in 1958 and 1959 are familiar with the action taken by the Committee on Labor when similar proposals were made in 1959 and 1958. At that time, as a member of this committee, I had the opportunity to participate in the hearings and discussions on those proposals and, in fact, introduced bills and amendments at times which were adopted at various times.

As several years have elapsed, I think it will be of value to recall briefly the action of the committee in 1958 and 1959 and the Congress in 1960, and I do this because I believe the considerations and the facts which led the committee to act in those years are as valid today as they were at that time.

In 1958, a bill was introduced to remove the exemption applying to title I mines. The committee, after thorough consideration of the bill, refused to do so. It reported a bill to the Senate on September 10, 1958, amending the act and making title I mines subject to the provisions of section 203(a).

This section, as the subcommittee knows, authorizes a Federal mine inspector to close a title II mine if he finds there is imminent danger that a mine explosion, a mine failure, mine inundation, mine crypt, or mine hoist accident will occur in the mine immediately before the danger can be eliminated, he can order withdrawal of miners who cannot reenter the mine until the danger has been eliminated.

In 1958, the committee recommended a procedural change for the benefit of title I mines which might be ordered closed under section 203(a) because of imminent danger. Under section 203(a) of the act, where a State has a State plan, approved by the Bureau of Mines, the operator of a mine closed because of imminent danger way request an inspection by State inspectors.

If the State inspector does not concur with the closing order the mine must remain closed, but the mineowner may make application to the chief judge of the U.S. district court for the district in which the mine is located for the appointment of an independent inspector.

Unless the independent inspector concurs in the closing order it ceases to be effective and the mine must be reopened.

The amendment adopted by the committee in 1958 made this procedure available to title I mines without requiring that the State in which the mine was located had adopted a State plan approved by the Bureau of Mines.

The committee in 1958 also directed the Director of the Bureau of Mine Safety to conduct hearings in the principal coal mining States for the purpose of securing accurate statistics, and also to undertake a study of safety in title I mines.

This bill was not passed by the Senate and I must say that I do not believe it was ever considered or passed because of the opposition of the Bureau of Mine Safety.

In 1959 this committee again resumed consideration of a bill to remove the exemption of title I mines. Again, after thorough consideration the committee refused to remove the exemption. It reported a bill which took into account the differences in the physical characteristics and safety conditions of title I and title II mines.

And I know the Senator remembers that at that time I was a member of this committee, the long discussions we had, the great help that the Senator from Oregon made in the development of that bill, and its approval by the full committee.

The bill reported by the committee provided these amendments, among others:

1. It applied 203(a), that is the authority of a Federal inspector to close a mine in case of imminent danger, the same as the bill in 1958 had provided;

2. It provided that mines employing less than eight employees could not be closed for an alleged violation of section 209 unless the finding of the Federal inspector was concurred in by the State inspector or by an independent inspector appointed by the district court in which the mine was located.

3. It provided that any owner of a title I mine subject to a finding of violation under the Mine Safety Act would have the right to request the Mine Safety Board to hold a hearing in the county seat of the county in which the mine was located or at a place of reasonable convenience to the operator.

4. The committee, and I think this was at the insistence of the distinguished Senator, the acting chairman of the subcommittee, recognizing the differing characteristics of title I and title II mines directed the Director of the Bureau of Mines to issue regulations modifying or making inapplicable any provision of section 209 where he found that such provision would not substantially contribute to the safety of those working in such mine.

On April 27, 1960, the bill recommended by the committee was passed by the Senate by a vote of 8 to 4, but for some unexplainable reason, it was never considered by the House. If this bill had been passed better safety conditions would have been in force since 1960, and now I must make the same statement I made before: this bill was wrongly opposed by the Bureau of Mine Safety and in my judgment it was not considered in the House because of the opposition of the Bureau.

I recall the action of this committee in 1958 and 1959 and the Congress of 1960, because I believe the facts and considerations which led the committee to reject the proposal that title I miners be made subject to all the provisions of the act, applying to title II miners still valid today.

The committee recognized that there is a difference in the characteristics of the two classes of mines. It recognized that the provisions applicable to title II mines, chiefly those in section 209, are not applicable in every case to title I mines.

It recognized as the statistics furnished it by the Bureau of Mines regarding fatalities and injuries which was then and is today the chief basis for this claim of need for legislation were not accurate and it so stated in its report.

In 1958 and 1959 the committee stated that the information was not accurate and it was inconclusive. The House in this report comments on the lack of information and in fact, it directed to cooperate with the States to secure better information.

I asked the other day for a report of the Bureau of Mine Safety to this committee to explain its methods of securing information; I think if the committee will study that, I know it will, their report, it will see that their methods are very loose and they cannot be relied upon.

I believe that the information furnished by the State is much more accurate than that which is provided by the Bureau of Mine Safety.

But the committees in those years moved to pinpoint and recommend safety provisions which it found necessary and applicable to title I mines.

There is much evidence in past hearings and in hearings conducted in the House on the pending bill that there are vast differences from the physical characteristic of the two classes of mines and any one who has ever traveled through the bituminous coal mining areas of eastern Kentucky, eastern Tennessee, West Virginia, and Pennsylvania, would have no difficulty in finding this to be true.

And I may say I have traveled through this area, I have been in every county in the eastern Kentucky coal area; I have been in mines in those areas; I have talked to the coal operators; I have talked to the coal miners; I have been in the mines, and I think I know something about the conditions—perhaps more than some of those who testified.

The Bureau of Mines has reported to this committee that the average number of miners employed in title II mines was in 1963, 67.8 in contrast to the average number employed in title I mines of 4.7.

I am not sure that these statistics are correct, I do not believe they are, but I would judge that they are approximately correct. I remember before when we discussed this question it was reported then there were about 80, that 80 was about the average in the title II mine, and about 6 or 7 or 8 in the title I mine.

We know from testimony, from the testimony of the former Director of the Bureau that the cost of equipping the title II mine ranges from $300,000 to $500,000, to $35 million, while the cost of opening a

title I mine is nominal and it certainly could go up to $10,000, but many of them are opened for much less.

Now, it is obvious that a mine which employs an average of, say, 67.8, or up to 80, requires a capital investment of a minimum of $300,000 and goes to millions of dollars, must require a greater area of coal, in fact, thousands of acres, than a title I mine.

And you who have traveled through these hills know that such a mine must be located at the base of a hill in order to secure the area which would give the acreage of coal which it could economically mine with such an investment.

Necessarily, the entrees, passageways, and airways of these mines cover miles in length.

This presents a greater risk because the long entrees, passageways, airways, large rooms, and heavy machinery and electrical equipment produce hazards not found in title I mines, and it is the testimony of the Bureau of Mines Safety that 90 percent of the title I mines are not gassy at all.

Now, in contrast, small mines employing a small number of men do not require these large acreages of coal. Sometimes 1 or 2 acres, 5 or 10 acres, or more.

It has been testified in past hearings that the depth of the entry seldom exceeds 1,500 feet in contrast to the face of the coal, contrasted to the miles that miners must go in the large mines to reach the face of coal.

I can remember in 1947 when the Senator and I worked together on the portal-to-portal bill, and we can remember even the testimony there of the long trips that the miners in the large mines had to take in order to reach the face of coal in these large mines, 90 percent of them not being gassy, do not require the same types of airways and equipment, without which the large mines could not operate, and yet the Bureau of Mines has contended and contends today that the provisions of section 209, every one of them, must be made applicable in every respect to title I mines.

To give an example of the incongruity of this position, it has been testified in past hearings that the State of West Virginia—and I am sure Senator Randolph will agree—has an ideal mining code. This mining code and the mining code of Kentucky and other States requires 60,000 cubic feet of air at the face of the coal, but these codes—and I think I am correct—specify that so much per miner—and I think it is 150 cubic feet of air per mine per miner at the face of the coal.

We can see the distinction. Here is a miner in a great mine owned by the United States Steel Co., the Bethlehem Steel Co., the Island Creek, that steel company out of Cleveland in my State, with the face of the coal miles back—of course, they have to have airways and fans and blowers and crosscuts to provide a large volume of air to those miners working there.

Compare that to a small mine with a few men in it, with a face of the coal 1,500 feet or less, and without gas.

The Bureau of Mines has found that roof and rib falls are the chief cause of mine fatalities and injuries, and it has been reported by the Bureau of Mines in past years and testified to by many that the human element of judgment based on training is an important factor, perhaps the most important, in preventing mine accidents.

If this bill is enacted and the Bureau of Mines assumes jurisdiction over the small mines it will have the effect, I believe, of diminishing the safety programs of the States.

I have been informed that the Department of Mines and Minerals in Kentucky makes more inspections of the mines in Kentucky in 1 year in Kentucky than the Federal Bureau does of all the mines in the United States. The Bureau of Mine Safety must make one inspection per year in mines which it considers gassy.

The opportunity of the State inspector to provide for more inspections, more frequent inspections, and to advise and educate miners in the small mines and to inform them immediately of the proper steps to correct unsafe conditions would certainly be reduced, if not ended.

This is a factor directly applying to safety which I am sure this committee will consider.

At this point I would like to have inserted in the record the statement of Mr. J. H. Mosgrove, director, Safety Division, Kentucky Department of Mines and Minerals, in 1964, which he gave before the House committee in 1963.

His statement describes the outstanding safety procedures of Kentucky and from reading part of the hearings this year the testimony of the inspectors of other States it is evident that States have more comprehensive procedures and the personnel to apply them, at least in respect to title I mines, than does the Federal Bureau.

Senator MORSE. The statement will be made part of the record.

(The statement referred to follows:)

TESTIMONY BEFORE HOUSE SUBCOMMITTEE ON LABOR, 1963

TESTIMONY OF J. H. MOSGROVE, DIRECTOR, SAFETY DIVISION, KENTUCKY DEPARTMENT OF MINES AND MINERALS, LEXINGTON, KY.

Mr. Chairman, members of the committee, my name is J. H. Mosgrove and my title is director, Safety Division, Kentucky Department of Mines and Minerals. The purpose of my appearance before this committee is to explain the safety efforts of our department. We would like my appearance to be considered as that of a friend of the committee and that my testimony not be construed as being for or against the bills under consideration. It is merely our intention to furnish information which, we hope, will be of benefit to the committee. An effort is made to describe our program in as simple a manner as possible.

ANALYZING THE SAFETY PROBLEM

We felt and still feel that the most sensible approach to reducing accidents is to first make an analysis of the bottlenecks in our department's safety efforts. It took only a cursory analysis to determine that roof control was the area where the greatest effort should be exerted if a marked reduction in fatalities and serious accidents was to be realized. Further drawing from experience it was decided to apply the most pressure in the areas where the fatality frequency was out of line. It was elementary that the most logical approach to take would be to exert a concerted effort in removing the causes of roof fall accidents. With fatalities from this cause making up about 60 to 65 percent of the total it simply made good sense that an all-out effort must be made to attain better roof control. Going a step further in the analysis it made even more sense to direct the most attention to the area where approximately 80 percent of the roof fall fatalities occur—within 25 feet of the working face.

The fact that a majority of Kentucky's 2,500 or more coal mines is working in outcrop areas and in sections of abandoned mines where pillars are being extracted makes the roof control program even more important. By necessity, many of our mines operate in areas of hill seams, rotton roof, and in parts of large mines which were abandoned because of adverse mining conditions. The man-hours of exposure in many of Kentucky's coal mines runs extremely higher per ton of coal mined because in most instances the coal is hand loaded. After carefully appraising the department's past practices and policies, new safety measures were initiated and those already in effect were expanded upon by the department.

Regular inspections

Kentucky is divided into 6 inspection districts employing a total of 31 district mine inspectors, 4 of which are devoted to full-time roof control inspections. In 1962 they made almost 11,000 inspections of the more than 2,500 coal mines and 60 clay mines spread over 52 counties. Incidentally, when a mine shows repeated violations of a serious nature it is inspected every 30 days until the condition has been corrected. A checklist type of inspection form has been developed to assist the inspector during his routine inspection work (see fig. 1). This also enables him to immediately notify the mine operator of violations found. This form and all possible recommendations are discussed with an operator who is opening a new mine in order to familiarize him with the department's requirements. A blank copy of the recommendation checklist is left with the operator for his future reference in developing the mine.

When operating mines are found to be in a dangerous condition, they are closed by the department until corrections have been made. For instance, 598 mines were temporarily closed, for safety reasons, in 1962. An unusual change in the department's procedure is to require the operator to contact the commissioner personally when he feels he is ready for a reinspection, so his mine may resume production. This gives the commissioner an opportunity to talk directly with the mineowner and discuss the conditions under which the mine will be permitted to reopen and operate. It should be noted that the operator only is permitted to call in for reinspection. This prevents the operator from having someone else call in for him and also brings the operator face to face, by telephone, with the commissioner. In most instances this leads to a better understanding between the operator and the department of mines.

Roof control

Roof control inspectors use special forms developed by the department (see figs. 1 and 2). The primary duty of the inspector is to carefully check roof control practices from the mine opening to the working face with special emphasis on the face areas. After having measured and posted the position of each timber in the area in question, he uses his sketch form to report the condition of the roof and timbering. The drawing is then attached to the general information sheet

to be mailed to the Lexington office. When a place is found in a substandard condition, the workmen are removed, and are not permitted to return until the place has been securely timbered and the inspector has been notified by telephone. The inspector does not have time to wait until each place is timbered. To do so would curtail the number of mines he could visit each shift. After having discussed the condition with the operator, the inspector determines if they will be permitted to resume work in the "dangered off" place.

When men are found to be working without proper roof protection, their names and addresses are noted on the sketch. A personal letter (fig. 3) signed by the commissioner is mailed to the would-be roof fall "victim" calling his attention to the dangers of careless work habits. In addition to the letter to the worker, a letter is sent to the mine operator, calling his attention to his responsibilities in operating a mine (fig. 4). As a note of interest, the total number of roof fall fatalities in Kentucky coal mines in 1962 was 19 as compared to 43 in 1961. The 1962 roof fall fatality record also proved to be the best in the 83-year history of the department. The total number, from all causes, in 1962, was 41, which also established an alltime safety record for the department.

Posting of violations

For each mine licensed, a violation form is set up (see fig. 5). When an inspection of the mine is made, each violation is posted on the form under the proper classification. This record is kept in the possession of the district inspector for his use when he makes his inspections, and a duplicate copy is kept in the Lexington office. This form has been especially valuable to the inspector in checking out repeat violations. Good use is made of this form. When an operator, whose mine has been closed, calls in, it serves as a history of all past mine inspections, showing violations at a quick glance, which arms the commissioner with information needed when discussing present and past performance records of the operator.

When an operator calls in asking for a reinspection, in order to put his mine back into production, a copy of the timbering sketch, violation record, and closure inspection report is used in the discussion. Armed with this information the commissioner is able to discuss the matter as if he had personally made the inspection.

Accident prevention instruction

The primary objective of the safety division is to provide assistance to companies who cannot afford the services of a safety director. This division immediately inaugurated an accident prevention course for operators and employees of small mines. Several hundred men have been trained in these classes and results are quite encouraging. Persons completing these courses are awarded certificates signed by the Governor of the Commonwealth and by the commissioner of mines and minerals.

The safety division has also assumed the duty of instructing classes for applicants for mine foreman's certificates. Currently our results in this effort have been gratifying, because we are finding the response to this type of training to be excellent.

In mine rescue and first-aid training programs and in competition in this phase of safety work, Kentucky has always been one of the leading States. Records achieved by our teams over a period of many years in district, statewide, and in national competition give us reason to be extremely proud of them.

It would probably be of interest to you to know that our program has been written up in Coal Age, a national coal trade magazine, it has been presented at the Mine Inspector's Institute of America and is scheduled for presentation at the National Safety Council in October.

We trust your committee will not interpret our remarks as being boastful. We simply feel that we have been fortunate enough to have found answers to some of our problems. Time alone will be the judge. We sincerely appreciate the opportunity to appear before your committee to tell our story.

Senator COOPER. It is argued also that if anyone opposes the removal of the exemption as not applicable, removal of the exemption to title I mines or proposes a safety measure other than those sought by the Bureau of Mines, such a person is concerned only with the economic interest of his State and is not concerned at all with safety.

I would like to say that this is not an argument, and the fact that this statement is made does not make it true.

I live in this section of Kentucky, my family has lived in this section all their lives, I have traveled through it, I have been in these mines, I know the operators, and the miners, I think I am concerned with safety.

I have offered proposals to provide greater safety but I believe if this committee finds, and I believe that it can, that it can provide measures which will enhance the safety of title I mines and at the same time not impose in applicable provisions, cost and procedures, which will drive some small mines out of business, it will be a safety measure.

It is at this point that I have the right and the committee has the right and the duty to consider the economic interest of these mines and those that are employed and the communities and States in which they are located. And I say it is at this point, after making safety predominant and preeminent——

Senator MORSE. I would like to interrupt, Senator Cooper, to say this, as one who has served with you for a good many years on this committee and has served with you in the Senate in connection with other work, that I do not think you need to yield to anyone in your proven interest in placing human values first when they arise in connection with our work in the Senate, beyond the differences of opinion as to both procedures and as to substantive legislation that will accomplish the maximum protection in protecting the human values, but I think you deserve it, I simply want to say, as acting chairman of the subcommittee, that I have never questioned your sincere interest in trying to protect the lives of miners.

I want that clearly understood as far as my knowledge of your objectives are concerned, that there is no doubt in my mind that you never place materiality ahead of human welfare. There may develop differences of opinion with you on the part of some as how best to protect human values, and I think having said that, I think in view of your reference to the Senate bills of 1958 and 1959, that following your testimony this morning, if counsel will give me his attention, I want counsel to insert in the record a copy of those two bills and a copy of the Senate committee report thereon.

The hearings themselves will be a matter of reference for the committee, will not go into the printed record, but I want the bills and the committee reports to go into the record at this time.

Senator MORSE. Off the record.
(Discussion off the record.)
Senator MORSE. On the record.
(The bill and report follow:)

[S. 743, 86th Cong., 2d sess.]

AN ACT To amend the Federal Coal Mine Safety Act in order to remove the exemption with respect to certain mines employing no more than fourteen individuals

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 201 of the Federal Coal Mine Safety Act is amended to read as follows:

"(b) The provisions of this title shall apply to all mines, except that in the application of such provisions to mines in which no more than fourteen individuals are regularly employed underground—

"(1) the Director shall, by regulation established after reasonable notice and opportunity for hearing to interested parties, modify or make inapplicable any provision, or part thereof, of section 209 to any mine or class of mines when he finds that such provision or part thereof does not substantially contribute to the safety of the men working in such mines covered by such regulations; and

"(2) a finding under the provisions of section 203(b) shall be subject to review under the provisions of section 206 and 207 in the same manner as an order made pursuant to section 203(c)."

SEC. 2. Subsection (e) of section 203 of the Federal Coal Mine Safety Act is amended by adding at the end thereof the following new paragraphs:

"(5) No order shall be issued pursuant to subsection (c) of this section in a mine regularly employing less than eight men underground unless upon prompt request by the operator, a State inspector or an independent inspector appointed under paragraph 3 concurs in such order. Requests for concurrence must be made by the operator to a representative of the State mine inspection or safety agency and notification of such request must be made to a duly authorized representative of the Bureau within twenty-four hours after receipt of the findings made under subsection (b) upon which such order is predicated. The State inspection must be completed within five days after request by the operator. If the State inspector, upon the timely inspection, 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 appy within twenty-four hours after the completion of the inspection involved for the appointment of an independent inspector under paragraph 3 of this subsection. 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.

"(6) If an order is made pursuant to subsection (a) of this section with respect to a mine regularly employing less than eight individuals underground the operator of the mine may request the State mine inspection or safety agency of the State in which the mine is located to assign a State inspector to inspect the mine."

SEC. 3. Subsection (d) of section 205 of the Federal Coal Mine Safety Act is amended to read as follows:

"(d) The principal office of the Board shall be in the District of Columbia. Whenever the Board deems that the convenience of the public or of the parties may be promoted, or delay or expense may be minimized, it may hold hearings or conduct other proceedings at any other place. At the request of an operator of a mine in which no more than fourteen individuals are regularly employed underground the Board shall hold hearings or conduct other proceedings at the county seat of the county in which the mine is located or at any place reasonably convenient to the operator of the mine involved in the appeal or proceedings. The Board shall have an official seal which shall be judicially noticed and which shall be preserved in the custody of the secretary of the Board."

Passed the Senate April 27, 1960.

Attest:

FELTON M. JOHNSTON, *Secretary.*

[H. Rept. 2186, 86th Cong., 2d sess.]

AMENDMENT TO THE FEDERAL COAL MINE SAFETY ACT

The Committee on Education and Labor, to whom was referred the bill (S. 743) to amend the Federal Coal Mine Safety Act in order to remove the exemption with respect to certain mines employing no more than 14 individuals, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

BACKGROUND

Congress has since 1865 recognized the hazardous nature of coal mining. In 1910, on the heels of a number of serious coal mine disasters, Congress established in the Department of Interior the Bureau of Mines, and assigned as one of its important functions the promotion of health and safety in the minerals industries.

Despite the efforts which have been made over the years by employers, miners, State agencies, and the Federal Government, mining remains a hazardous occupation. The prevention of major accidents or disasters requires constant and strict adherence to established safety standards. In recognition of this fact, Congress enacted, in 1952, amendments to existing law which directed the Federal Bureau of Mines to undertake certain mine safety inspections and established standards therefor. The amended Mine Safety Act authorized Federal inspectors to close mines in which there was imminent danger of a mine explosion, mine fire, mine inundation, or man-trip or man-hoist accident. It further authorized Federal mine inspectors to inspect all coal mines with respect to a number of safety provisions specified in section 209 of this statute. These safety provisions cover such matters as roof supports, permissible equipment, ventilation, permissible explosives, and so forth. When a mine inspector finds a violation of these provisions in mines employing more than 14 men underground, he directs the mine operator to correct the deficiency within a certain time. If this is not done the mine may be closed.

In writing the Federal Coal Mine Safety Act, Congress exempted mines employing 14 or fewer men underground (sometimes called title I mines) from the provisions of the act which authorize Federal inspectors to close a mine.

During August of 1959, the Safety and Compensation Subcommittee of the Committee on Education and Labor conducted 4 days of public hearings on H.R. 1098 (Mr. Bailey) and 14 identical bills aimed at removing this exemption. Testimony was given by the authors of these bills, representatives of the Bureau of Mines, the United Mine Workers of America, and spokesmen for the smaller coal mine operators.

Meanwhile, the other body considered bills that originally were identical to H.R. 1098, and on April 27, 1960, enacted S. 743, with amendments. The bill (S. 743) was referred to the Committee on Education and Labor on April 28. The

Safety and Compensation Subcommittee reopened its hearings on June 17 and 21, 1960, to hear testimony from the Bureau of Mines, presented by the Honorable Marling J. Ankeny, Director, directed to changes made in the bill S. 743 by the other body.

Mr. Ankeny testified, as found on page 137 of the printed hearings, that S. 743 "will * * * provide the same protection to the men who work in the mines as H.R. 1098, and we favor enactment thereof."

The committee agrees with the Bureau of Mines in that experience has shown that there is no logical reason for applying the mine safety provisions set forth in the 1952 act to mines employing 15 or more persons and not applying these safety provisions to mines employing 14 or less.

EXPLANATION OF THE BILL

The bill S. 743 would remove the exemption for these so-called small mines but would at the same time provide for greater flexibility in the application of the safety provisions to mines employing 14 or fewer people underground by placing authority in the Director of the Bureau of Mines to issue regulations modifying or making inapplicable any provision of section 209 where he finds that such provision does not substantially contribute to the safety of the men working in such small mines.

The bill would also grant operators of small mines previously exempt the right to appeal from a finding rather than requiring that they wait until an order closing the mine has been issued.

A further safeguard for the protection of operators of small mines is provided by the requirement that the Federal Coal Mine Safety Board of Review must, if requested by the operator, hear the appeal from the finding at the county seat of the county in which the mine is located or at any place reasonably convenient to the operator of the mine.

In addition to other remedies for appeal presently available to operators under the Federal Coal Mine Safety Act, the operator of a very small mine (regularly employing less than eight men underground) would be given an additional remedy. This remedy is contained in the requirement which would prevent the Federal inspector from closing a mine employing lses than eight employees underground for a violation of section 209 unless his finding is concurred in as provided in the amendment by a State inspector or by an independent inspector appointed by the Federal district court in the district in which the mine is located.

ANALYSIS OF THE BILL

The bill, S. 743, amends the Federal Coal Mine Safety Act in a number of respects:

(1) It removes the present exemption in section 201(b) for mines in which no more than 14 men are regularly employed underground. The amendment, however, gives the Director of the Bureau of Mines authority to establish regulations for such small mines after notice and opportunity for hearing to interested parties, which may modify or make inapplicable any provision or part thereof of section 209 to any mine or class of mines which he finds that such provision or part thereof does not substantially contribute to the safety of men working in such mines.

Section 209 of the present law contains specific safety provisions pertaining to the operation of mines. These provisions are designed to provide for the determination of whether or not a mine is a gaseous mine, to provide for proper ventilation, proper rock dusting, proper electrical equipment and fire protection, adequate roof support in the travelways, and proper safety in regard to the hoisting of men.

Section 209 is limited to safety provisions designed to eliminate the causes of major disasters. It leaves to the various States enforcement of their own laws with regard to the day-to-day accidents which occur in the mining industry, and with regard to the general safety, health, and welfare of mine employees.

(2) Under the present law, a mine operator may not appeal to the Director of the Bureau or to the Federal Coal Mine Safety Board of Review until an order closing the mine has been issued by a Federal coal mine inspector.

The bill provides that an operator employing not more than 14 individuals underground may appeal either to the Director of the Bureau of Mines or to the Federal Coal Mine Safety Board from a finding before a closing order is issued.

The practical effect of this amendment will be that a small mine operator will be able to keep his mine in operation pending an appeal from a decision by a Federal coal mine inspector that he is in violation of one of the provisions of section 209 or of one of the regulations modifying section 209 issued by the Director.

(3) Section 2 of the bill provides an additional appellate procedure for operators of mines regularly employing less than eight men underground even though there may be no State plan for concurrent inspections by Federal and State inspectors in effect in the State where the mine is located.

Under this procedure, the Federal inspector would be prevented from issuing an order closing a mine employing less than eight men underground for a violation of section 209 unless a State inspector or an independent inspector appointed by the Federal district court concurs in the decision of the Federal inspector.

Under this provision, the operator employing less than eight men underground would be required, within 24 hours after receiving the findings alleging violation of section 209, to request a State inspector to inspect the mine in question. The State inspector would be given 5 days after the request is made in which to complete his inspection. If the State inspector concurs in the decision of the Federal inspector or if he does not make the inspection within the 5-day period, the order would issue; if the State inspector did not concur with the Federal inspector, the operator of the mine, the representative of the Bureau, or the State inspector may apply within 24 hours after the completion of the inspection for the appointment of an independent inspector by the chief judge of the U.S. district court for the district in which the mine is located. The independent inspector is required to complete his inspection within 5 days after his appointment by the Federal court. If the independent inspector agrees with the Federal inspector, the order would be placed in effect.

The bill also provides that in mines employing less than eight individuals underground, the operator may request a State mine inspection after the mine has been closed by a Federal inspector on a finding of imminent danger. If the operator chooses to request a State inspection, the mine remains closed regardless of the findings of the State inspector. However, the findings of the State inspector would be persuasive on appeal from the closing order.

(4) Section 3 of the bill provides that the operator of a mine employing less than 14 men underground, which is subject to a finding or an order under the Federal Coal Mine Safety Act, has a right to request the Federal Coal Mine Safety Board to hold a hearing in the county seat of the county in which the mine is located or at any other place reasonably convenient to the operator.

Under the present law, the Federal Coal Mine Safety Board is authorized to hold the hearing at any place. The bill makes it clear that such a hearing must be held near the site of the mine when requested by a small mine operator.

CHANGES IN EXISTING LAW

In compliance with clause 3 of the rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

FEDERAL COAL MINE SAFETY ACT

(30 U.S.C. 471)

SEC. 201. (a) * * *

[(b) This title shall not apply to any mine in which no more than fourteen individuals are regularly employed underground.]

(b) The provisions of this title shall apply to all mines, except that in the application of such provisions to mines in which no more than fourteen individuals are regularly employed underground—

(1) the Director may, by regulation establish after reasonable notice and opportunity for hearing to interested parties, modify or make inapplicable any provision, or part thereof, of section 209 to any mine or class of mines when he finds that such provision or part thereof does not substantially contribute to the safety of the men working in such mines covered by such regulations; and

(2) a finding under the provisions of section 203(b) shall be subject to review under the provisions of section 206 and 207 in the same manner as an order made pursuant to section 203(c).

* * * * * * *

SEC. 203. * * *

* * * * * * *

(e)(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) 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) 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 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) 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.

(5) No order shall be issued pursuant to subsection (c) of this section in a mine regularly employing less than eight men underground unless upon prompt request by the operator, a State inspector or an independent inspector appointed under paragraph 3 concurs in such order. Requests for concurrence must be made by the operator to a representative of the State mine inspection or safety agency and notification of such request must be made to a duly authorized representative of the Bureau within twenty-four hours after receipt of the findings made under subsection (b) upon which such order is predicated. The State inspection must be completed within five days after request by the operator. If the State inspector, upon the timely inspection, 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 of this subsection. 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.

(6) If an order is made pursuant to subsection (a) of this section with respect to a mine regularly employing less than eight individuals underground, the operator of the mine may request the State mine inspection or safety agency of the State in which the mine is located to assign a State inspector to inspect the mine.

* * * * * * *

SEC. 205. * * *

(d) The principal office of the Board shall be in the District of Columbia. Whenever the Board deems that the convenience of the public or of the parties may be promoted, or delay or expense may be minimized, it may hold hearings or conduct other proceedings at any other place. *At the request of an operator of a mine in which no more than fourteen individuals are regularly employed underground, the Board shall hold hearings or conduct other proceedings at the county seat of the county in which the mine is located or at any place reasonably convenient to the operator of the mine involved in the appeal or proceedings.* The Board shall have an official seal which shall be judicially noticed and which shall be preserved in the custody of the secretary of the Board.

Senator MORSE. I will put in the record counsel's memorandum on this research of what the House did in both 1958 and 1959. I was going to ask you when you finish your testimony, Senator, this question, and I will ask it now.

(The memorandum follows:)

MEMORANDUM RE HOUSE AND SENATE ACTION ON COAL MINE SAFETY LEGISLATION IN 85TH AND 86TH CONGRESSES

In the 85th Congress, the Senate reported a bill, S. 3290 (Rept. No. 1963); however, no floor action took place. The House took no formal action with

regard to coal mine safety amendments in the 85th Congress.

In the 86th Congress, the Senate reported S. 743 (Rept. No. 995) and passed this bill. It was referred to the House Education and Labor Committee and reported by said committee (Rept. No. 2186). However, there was no floor action as the bill did not come out of House Rules Committee.

Senator MORSE. You do not have to answer it now, but keep it in mind with the rest of your testimony, but having placed the stress that you did on the 1958 and 1959 bills, my question is, is it your recommendations to this committee this year that either one of those bills or a modification of those bills should be considered by this committee as a substitute for H.R. 3584, and S. 1032?

Senator COOPER. Yes. I have just a little more of my statement and then I am going to make some recommendations.

Senator MORSE. I am sorry I got ahead of you, I wanted you to know what was going through my mind while you were testifying on the 1958 and 1959 bills.

Senator COOPER. I am glad you did, because I think I have the duty to make some recommendations.

Senator MORSE. I will not interrupt you any more.

Senator COOPER. Turning to this economic situation, and as I have said, I place safety as preeminent and I believe that most of our people do, I am sure this committee does.

But talking about the economy, if we can satisfy safety provisions, I would like to say that I am informed there are about 201 title I mines in Kentucky, employing approximately 16,000 men in 1964, and that they produced 22 million tons of coal as compared to 28 million tons produced in title II mines.

I am informed there are approximately eight times as many title I mines in the United States as title II mines.

These statistics are not agreed to by the Bureau, but I would think the States have a better knowledge of the number of mines in their State than the Bureau.

The Congress of the United States recently passed the Appalachian Region Development Act, providing for the expenditure of approximately $2 billion in the Appalachian region over a period of 5 years.

I was a cosponsor of the bill. In fact, I worked on it several years before it was introduced and helped to develop it and I also actively supported it.

One which will assist in opening up and developing the region and in time provide better employment opportunities for the people. But coal is still the greatest natural resource of eastern Kentucky and of West Virginia and it is an important resource in Pennsylvania.

With the advent of modern mining technology and the equipment in the large coal mines, thousands of coal miners, and many of them are members of the United Mine Workers, chiefly those who are older have been displaced and I do not believe that many of them will ever be able to secure employment in the large coal mines.

During the close of World War II, there were about 60,000 miners working in eastern Kentucky; today there are less than 30,000. Thousands of men having to work in small mines, and in many cases have opened their own mines to make a living for their families, sometimes on land owned by them. If the bill is passed which unnecessarily requires the purchase of equipment the cost of which they are unable to bear, and I must say for many of these men it would not have to be a big cost, or provisions of the act applicable to title II but inapplicable to title I mines, are imposed upon them, if these difficult procedures are reviewed and appealed, appealed either to the Director or to the Bureau of Mine Safety which can be easily borne by the great coal mines but which could not be under—or costly to many of these small miners, they will just be driven out of business.

Thousands will be unemployed and the economy of many of the counties in eastern Kentucky, and I am sure in other Appalachian States, which depend in large measure upon the operation of these mines, will be disrupted.

I think there is a witness here today that will tell you that in Pike County, which is, I believe, the largest county in Kentucky, that the chief base of the economy of that county is these small mines.

If this happens, no Appalachian development bill, in my judgment, could ever correct this situation.

I will make another point. If the small mines are forced out it would mean that only those locations in the State where the mountains are high or where it is possible for operators or combinations with large capital to bring together large areas of coal at the foot of a mountain could operate.

If you remember, if you had been through this area, these smaller veins and smaller areas are up at the top of the hill, an entry is driven in at the top of the hill, well, those fellows just could never recover their dole.

The natural wealth there which they could not remove. The large operators—and I do not say anything about them because they have brought employment and wealth to our State—would be the ones who would be left to operate the coal mines.

I do not believe in unreasonably passing a bill which would tend to give the monopoly of coal production to these big coal operators.

Now, Mr. Chairman, I come to the close of my testimony and I turn again to the question of safety and to the efforts that have been made in the Congress since 1958 to amend the act to provide better safety provisions applicable to title I mines.

The 1958 bill approved by the committee to which I have referred, was one which I approved, if it had been enacted even as a beginning of improved safety measures the statistical information would have been secured upon which the Congress could have made a factual

analysis of the number of the two classes of the mines—the men working in them, coal production, injuries and fatalities, and their causes.

It was opposed by the Bureau of Mine Safety, and 7 years later, the Congress does not have this information.

The same bill recommended a study of safety conditions, particularly the reference to roof and rib falls which are known as the chief causes of injury. It was opposed by the Bureau, and now 7 years later the pending bill recommends such a study but only after the mines are placed under the jurisdiction of the Bureau.

In this connection I may say the fairest resolutions that passed the Congress providing for studies of safety measures in other types of mines, but the Bureau has always opposed this special study relating to coal mines.

The bill also directed a study of the economic effect of removing the title I exemption, a question which is still largely unknown today, but most important the bill which was approved in 1958 provided that a Federal inspector could close a title I mine in case of imminent danger.

The bill which the chairman of this subcommittee developed in 1959 which passed the Senate, had the same provisions. Now, what was wrong with it? If it had been in effect the mine disaster in Robbins, Tenn., a town located about 60 or 70 miles south of where I live, and about which much testimony was given last Monday, might have been prevented, for the Federal inspector would have had the power to close the mine.

But that provision was opposed by the Bureau of Mine Safety in 1958 and 1959.

As I have said, the bill which the chairman of the committee helped develop in 1959 provided to the Bureau the authority to close title I mines in case of imminent danger; it provided fair methods of review and appeal for small mines because they recognized their inability to travel to Washington and to go through these intricate review procedures.

Among other procedures which were recommended was the right to be heard in the county where the mine is located. Six years later, the pending bill contains this provision but none other.

For 7 years the Bureau of Mine Safety has opposed every safety measure, and its proponents have, too, unless the Congress would grant with it to the Bureau the authority for complete jurisdiction and power over title I mines, the authority to apply to them provisions whether they were needed or not and which might discourage State inspection services. This power, which if put into the hands of the Federal Bureau and unwisely used, would drive out business of these mines and not in the true cause of safety.

There are economic interests on both sides of this question and let no one be fooled about that. But the proponents of this bill have not

advanced any proposal to improve safety except the one of complete Federal jurisdiction which they have insisted on for 7 years while opposing any other possibility of improving safety. The only tangible efforts that have been made to improve safety conditions in title I mines have been made by those who represent States where the title I mines are located.

I recommend to the subcommittee that it make two important changes in the pending bill: The first would be an amendment to section 203(a) of the act to provide that when a Federal inspector finds a condition of imminent danger he will be empowered to close the mine. The second would amend section 203(d), a new section in this bill, which provides in substance that when a Federal inspector finds that violations of section 209 would significantly contribute to imminent danger or to disaster, unless corrected, he will give notice providing a time for their correction, and then on reinspection if they are not corrected close the mine and order the miners withdrawn.

I would say that these amendments would be proper because, if anyone, a State or Federal inspector, goes into a mine and finds a condition of imminent danger, or finds violations which unless corrected within a reasonable time could contribute to or bring about a situation of imminent danger or disaster, certainly in all humanity there should be authority to close that mine. I made these proposals in 1958 and 1959 and also in 1960. But to be fair to these miners and assure justice the committee should provide that whether or not a State plan is in effect the operator may call in a State inspector. If the Federal and State inspectors disagree, then the operator shall be permitted to make application to the U.S. district court for the appointment of an independent engineer to determine whether there is a violation of section 209 which could contribute to such a disaster. The remedy in section 203(a) should be made available to section 209(d).

In all other respects, I urge that the committee leave in the hands of the State inspection services the questions of violations of provisions of section 209, evidently not considered to cause imminent danger, or to contribute to conditions which could cause danger.

The State inspection services, with large personnel, more frequent inspections, knowledge of peak conditions in their State, programs of education, and deep and personal interest, will do a better job in the smaller mines than will the Federal Bureau.

If this Congress will take care of the questions of actual danger, imminent danger, or situations which could produce imminent danger as outlined in the new section 203(d), it will enact a true safety bill and it will remove the theory held by hundreds of small mine operators, thousands of miners who labor in them, the local communities —and I want to include myself among them—that the Federal Government will not unnecessarily and apart from the cause of safety drive these small mines out of business, throw hundreds and perhaps thousands out of work, the only work they know, and place their wives and children in the surplus food lines and set back the economy of my

State and other States already sorely distressed without any real reason except the claim of the Bureau of Mine Safety that the Congress should give it the authority to assume jurisdiction over every mine.

Senator MORSE. Senator Cooper, I want to say once again, you have presented your point of view on the proposed piece of legislation with great clarity and there is no question of sincerity as to your motivations. I want to thank you for your statement.

I have a question or two that I do not know whether you can help me with or not. But I have a duty as acting chairman to at least raise on the record a couple of matters that I think I need to raise so that the parties can make whatever statement they want to, either orally or by written statement.

As you know, I am keeping the record of these hearings open until next Friday at 5. I think I owe it to my committee members and to the Senate as a whole to raise, for any comment anyone wants to make, either oral testimony or in a written statement, that it is alleged by some that to get to the bottom of this proposed legislation the committee at least needs to give consideration to a claim that in the background of this controversy is a labor controversy.

The United Mine Workers of America on one side and nonunion members on another, and we will get the record straight as to its facts after the chairman raises the questions.

It is my understanding, I do not know what the facts are, that in these title I mines a very large percentage of the workers are nonunion or in some instances have been members of the United Mine Workers, may still be members of the United Mine Workers, but have a collective bargaining agreement between themselves and the owners of these so-called smaller independent mines.

This argument goes about as follows:

Because there are no collective bargaining agreements it is alleged by the union that the working conditions, the safety conditions, wage conditions, are not as satisfactory as they are in so-called union mines. So, it is said we better take a look at this motivation that may be involved in this bill.

I do not know what the facts are, but I owe it to my committee to say if anybody has anything they want to come forward with that will shed any light on whether or not we are dealing in part here with the union-nonunion controversy or a controversy between union operators and nonunion operators, we better get it on top of the cake.

The second point that I want to make a record of this morning is that it is alleged by some that what we really have here is a controversy between the Federal Bureau of Mines on the one hand and the State bureaus on another, and the fear that this is another attempt on the part of the Federal Government to expand jurisdiction in connection with regulating another segment of our economy; I want the attention of counsel because if counsel has a statement he better make it now as to the procedure in setting up these hearings.

As the Senator knows, I am not responsible for the format of the hearings, I have been appointed as acting chairman of this special subcommittee by the chairman of the subcommittee to conduct these hearings because of the past experience I have had with the subject matter.

But as it always happens in the Senate committee the job of counsel is to set up the hearings. It seems there has been no particular interest on the part of the owners and the operators of the independent mines or on the part of the workers in the independent mines as indicated by the witness list; that the witnesses in opposition to the bill consist primarily of representatives of State mine bureaus, that we find no independent mine operator testifying with the exception of Mr. William B. Hogg, who represents the West Virginia Independent Mining Association.

I have made this little comment, Senator Cooper, because I want to know if any light can be shed on it, whether I am dealing here with a bill in regard to which the independent coal operators themselves and the independent mine workers themselves are not particularly sufficiently concerned as to seek to testify themselves.

To put it more bluntly, why is it that we do not have independent coal operators and representatives seeking to testify on this bill if they feel that the result to them would be adverse?

Or am I confronted here with really a power struggle between State departments and Federal departments?

All I have done is raise it for the record, I am not going to say anything more. I want counsel, however, to advise me, if counsel can, at this point as to why we do not have representatives of the workers and representatives of the owners of title I mines, testifying on this bill.

(Discussion off the record.)

Senator MORSE. On the record.

Senator Cooper, counsel tells me that the assumption of counsel and the members of the staff was that the United Mine Workers of America represents members of the United Mine Workers. Apparently where there is no collective bargaining agreement on the basis of the testimony we have received, many of these workers are members of the United Mine Workers but do not enjoy a collective bargaining agreement with the operator of a particular mine. Counsel says as far as the independent mine operators themselves are concerned counsel assumes that the representatives of the associations represent them and that therefore they are represented but through their associations.

Is that a correct statement?

Mr. BRUFF. That is correct.

Senator COOPER. May I comment on this.

Senator MORSE. Yes; I raised it so you could comment.

Senator COOPER. I always appreciate the questions of the Senator from Oregon, because he does not dodge anything, because he goes right to the heart of the matter as difficult as it might be.

I try to answer in the same way.

Let me say first that I remember in 1958, when the bill was introduced to remove the exemption, and I happened to be on this committee, I had no position at the time.

I began my study, I studied the old act; that is the act of 1941, the act of 1952. I remember I read all of the testimony, both House and Senate report, and I discussed this question with representatives of the United Mine Workers, representatives of these small coal operations.

As I said, also in my rather long career in politics I have traveled over this area everywhere practically since 1939 except when I was in the Army.

As the Senator knows, and the subcommittee knows, what has occurred in the coal industry during World War II, the tremendous demand for production and the mines were working and were very busy, and in large production and as I said, at least in eastern Kentucky, about 60,000 miners employed.

After the war, with the competition of fuel oil and electricity there was a falling off of the exports, of the diminution and the demand for coal. The large coal operators who had the capital, and I may say that they were supported by the decision of the United Mine Workers which I think was a very statesmanlike decision that they agreed to install in these large mines these laborsaving devices and very modern equipment.

As a result, the average production of coal which as I remember was 4 or 5 tons per man, rose to about 15 or 16 tons a man, and in some cases 35 or 40—it may be more than that now. But the consequence was that 60,000 miners in eastern Kentucky, and I only quote my State as a type of other States, diminished to something under 30,000.

The older miners were the first to lose their jobs. There was no opportunity for new men to come into the industry, except as they came into the large mines. The Senator will remember that under the collective-bargaining agreements of the United Mine Workers, wages gradually rose until today they are about $26 a day, and that means portal to portal. The miners thrown out of work had to do something, and so the small mines began to be opened. As I said before, some members of the United Mine Workers opened them and went to work in them for it was their only opportunity to work. The miners and mine operators of the small mines were not able to pay the union wage and were not able to contribute to the pension fund. I think some of them do, but generally they do not. So, they were unorganized.

The Senator knows from my service on the Labor Committee that I have supported the union movement. But this is a matter of collective bargaining, such as in other industries—some of which are also not organized. I am not here today to say that the United Mine Workers—and I want this clearly understood—has fomented or has been responsible for the unrest which has occurred. I assume, of

course, that they want to organize these mines; they want to secure the wage of $26 a day, and they want the 40 cents per ton for their pension fund.

There has been violence directed at these small mines. I would say that the reason that some of the miners are not here to testify because they do not want to risk violence.

I want to make it clear that I favor collective bargaining, and always have, but I do not think it is the business of the Government to step in and do the collective bargaining for the operators and for the miners.

Concerning the struggle between the State departments of mine safety and the Federal Government, I think that the State inspection agencies—and I am chiefly familiar with my own—do a good job in the little mines. As I testified a few minutes ago, the director in Kentucky has stated that his agency made about 11,000 inspections in 1963—more than the Bureau of Mines made over the entire United States. In Kentucky, the inspectors live in the State, and they are trained by the State.

Leaving out questions which provoke emotion and raise other questions which can be decided only by collective bargaining, my whole argument has been that this is a question of safety. I hope the committee can produce a bill which will go to the very causes of the problem but not impose upon the small mines procedures and requirements which are not needed to provide safety and would result in putting them out of business.

Senator MORSE. Thank you very much.

Senator FANNIN. Mr. Chairman, Senator Cooper, I want to commend you for the very excellent presentation. You are certainly well informed and covered the subject extremely well. I am just wondering since we are talking about safety in coal mines, what is the comparative accident rate, comparing the small mines, title I to title II in your State.

Senator COOPER. Senator Fannin, earlier I testified that when the hearings were held in 1958 and 1959, the Bureau of Mines asserted that the safety record in title II mines was better than it was in title I mines. However, it developed that the Bureau produced different statistics almost every time we met and even the first committee report in 1958, when the then Senator John Kennedy was chairman, contained the statement that the evidence was inconclusive. I think that is still true today.

A week ago, I asked the Bureau to submit to this committee a statement about its procedures in securing information, and I think if one will read that report it will be seen that it is a very loose procedure. Representatives of various States have testified before the House committee in previous years that the record of safety in title I mines is better than that in title II mines.

Senator FANNIN. Was that on a per-man-hour basis?

Senator COOPER. It is all on a per-man-hour basis because that is the only true method of measuring exposure to conditions in the mines. My judgment is that safety conditions in title I mines are just as good as they are in title II mines. The great disasters have occurred in title II mines.

So, if the case is based upon statistics for including title I mines, I would say that such a case cannot be proved. If the case is based on the argument that the Bureau and its inspectors can do a better job than the State inspectors, I think that argument could be answered in two ways: (1) The record of injuries and fatalities do not support it; and (2) State inspectors, with peak knowledge of conditions in the mines and conducting frequent inspections, could not be adequately replaced by the Bureau of Mines, unless the Bureau increased its personnel by a staggering amount.

With respect to the large mines, I think that the Federal Bureau of Mines can do a better job because, in the past, most of the mines were large mines, deep underground. Many of the inspectors come from Pennsylvania and West Virginia where there are more of these types of mines.

But in the case of the small mines, which run back only to 1,500 feet and are not gassy, I believe that the States with more inspectors and more frequent inspections can do a better job.

I also believe, in all cases in which an inspector has found a condition which is going to endanger the miners, that the miners ought to be protected.

Senator MORSE. Thank you very, very much, Senator Cooper.

Senator COOPER. May I say I have a statement here from my colleague, Senator Thruston Morton, who asked that I present it for him and ask that it be printed in the record.

Senator MORSE. Senator Morton's statement——

Senator COOPER. It is in opposition to this bill as written.

Senator MORSE. Senator Morton's statement will be included in the record as though read.

STATEMENT OF HON. THRUSTON B. MORTON, A U.S. SENATOR FROM THE STATE OF KENTUCKY

Mr. President, the legislation now before this subcommittee deserves your most careful and considered judgment.

The objectives of S. 1032 and H.R. 3584, as stated by its proponents, are to improve the safety of thousands of men who work in the small underground coal mines.

Opponents of H.R. 3584 vigorously contend that the term "safety" is merely a device to camouflage the bill's true objectives—drive the small coal mine operator out of business.

The Federal Coal Mine Safety Act of 1952, Public Law 82–552, was enacted in response to a specific demand, and that was to prevent major disasters in coal mines. It was the opinion of the House Education

and Labor Committee, on which I served at the time, that the legislation be restricted to certain causative factors, that the small mines be exempt from the bill's mandatory compliance provisions, and that control of day-to-day types of accidents be reserved to the individual States.

It is my opinion that the States have done a remarkable job in safety inspection, accident prevention and safety education. It is my further feeling that extension of the act to the small mines is neither needed nor justified, and that such extension through H.R. 3584 could have disastrous social and economic consequences in Kentucky, Tennessee, Virginia, West Virginia, and other States where the small mines have emerged as a major economic unit.

Ever since efforts were initiated to remove the so-called title I exemption in Public Law 552, the Congress has operated in a "gray area" of information. Data, material, and statistics have proven largely unreliable and subject to dispute. Testimony has generally boiled down to vigorously supported opinions.

Witnesses representing the small mines will testify at some detail on this issue, and I understand that several amendments will be tendered for consideration. I know that their testimony and suggestions will be carefully studied.

I will not dwell on the technological evolution of coal production since the end of World War II because I feel that each member of this subcommittee is thoroughly familiar with what has happened. In essence, coal operators and labor, faced with drastically curtailed markets, cooperated to mechanize production. This, of course, was necessary in order to remain competitive in the domestic fuels market, but the effect was a sharp decrease in employment. The results of the industry's fight for survival have been remarkable, but we have inherited problems.

As coal production increased tonnagewise through mechanization, thousands of miners found themselves unemployed. Since mining was their only skill, it was natural that they try to stay in mining. Thus, the small coal mining industry developed. The small mines, predominantly nonunion, have become important to the economy throughout Appalachia. Should they be closed down, we can expect thousands of families to be added to the relief and welfare roles.

The importance of the small coal mining industry, Mr. Chairman, is pointed up rather dramatically in two magazine articles and a newspaper editorial which I have with me this morning and which I commend to the attention of the subcommittee.

The Coal Age magazine in its November 1964 issue carried a story on the industry's progress, problems, and plans. The second article, printed in the January 1965 issue of Nation's Cities, tells how one city is winning its war on poverty through existence of the small mines. The immediate question of "Mine Safety or Economic Wrecker" is rather forcefully answered by the Pike County Times in a January 21,

1965, editorial. I request, Mr. Chairman, that these three items be inserted in the record at the conclusion of my statement.

It was absolutely inevitable that the small mines would eventually step on someone's toes—and they did. The following brief recital of basic statistics demonstrates that the small mines have emerged as a strong competitive force in the industry.

U.S. Bureau of Mine records indicate that the number of title I mines has increased from 5,735 in 1955 to 6,550 in 1964. A total of 5,507 Federal inspections were performed in 1955; 7,374 in 1964. Total employment increased from 24,759 in 1954 to 30,749 in 1963, and tonnage produced climbed from 23.5 million tons in 1955 to 49.6 million tons in 1963. Average employment was about five men per mine in 1963.

Bureau records also show that title II mines decreased from 1,474 in 1955 to 1,001 in 1964. Similarly, the number of Federal inspections dropped from 3,484 in 1955 to 2,465 in 1964. Employment decreased from 173,860 in 1954 to 69,893 in 1963. Employment averaged about 68 per mine, down some 20 employees from the 1958 figure.

As I stated earlier, the Kentucky inspection and safety laws are completely adequate and competently administered. Inspection techniques have been improved and safety education stepped up. The accident prevention record is very good and improving. If the small mines are compelled to install expensive equipment and abide by unreasonable regulations unrelated to the types of accidents occurring in their operations, the industry is convinced that widespread closures will result.

We have heard a lot that the legislative effort to repeal or modify the title I exemption in Public Law 552 is part of a conspiracy between the big coal operators and the United Mine Workers of America. The big operators, largely unionized and title II operators, want to remove the small-mine competition from the market, and the UMWA wants elimination of miners who are not dues-paying members and of production which does not pay the tonnage royalty into the union's pension and welfare fund. At least that is the story adhered to in the small mining industry.

The UMWA is the principal protagonist for revision of the title I exemption and imposition of stricter provisions on the small mines. The union declares that it has an interest in the safety of all miners. So do I, so does the Congress; but it is the responsibility of the Congress to sift fact from fiction and enact legislation, if such is proven necessary, which serves the interests of safety and not merely the economic interests of an industry group at the expense of another group.

UMWA members employed by companies signatory to the National Coal Wage Agreement are fully covered, not only by the provisions of the Federal Coal Mine Safety Act but by the entire Federal Coal Mine Safety Code, which includes the act and other provisions far more stringent in their application. Although it has full enforcement

power under its contract to protect the safety of its members, the UMWA is desperately striving through legislation to extend to the employees of nonunion small mines safety standards it has been unable to obtain through negotiations.

An interesting analogy to these allegations of conspiracy can be found in a decision of the Supreme Court of the United States, handed down on June 7, 1965, in the case of *United Mine Workers of America* v. *James M. Pennington, et al.*

The Court's majority opinion contained this significant statement:

> One group of employers may not conspire to eliminate competitors from the industry, and the union is liable with the employers if it becomes a party to the conspiracy. This is true even though the union's part in the scheme is an undertaking to secure the same wages, hours or other conditions of employment from the remaining employers in the industry.

Further, the opinion states that:

> * * * there is nothing in the labor policy indicating that the union and the employers in one bargaining unit are free to bargain about the wages, hours and working conditions of other bargaining units or to attempt to settle these matters for the entire industry.

I ask, Mr. Chairman, that the text of the Supreme Court's majority opinion in the *Pennington* case be inserted in the record at this point of my remarks, and I respectfully urge each member to read it in context with the current legislation.

(The matter referred to is as follows:)

SUPREME COURT OF THE UNITED STATES

No. 48.—October Term, 1964.

United Mine Workers of America, Petitioner, *v.* James M. Pennington et al.

On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit.

[June 7, 1965.]

Mr. Justice White delivered the opinion of the Court.

This action began as a suit by the trustees of the United Mine Workers of America Welfare and Retirement Fund against the respondents, individually and as owners of Phillips Brothers Coal Company, a partnership, seeking to recover some $55,000 in royalty payments alleged to be due and payable under the trust provisions of the National Bituminous Coal Wage Agreement of 1950, as amended, September 29, 1952, executed by Phillips and United Mine Workers of America on or about October 1, 1953, and re-executed with amendments on or about September 8, 1955, and October 22, 1956. Phillips filed an answer and a cross claim against UMW, alleging in both that the trustees, the UMW and certain large coal operators had conspired to restrain and to monopolize interstate commerce in violation of §§ 1 and 2 of the Sherman Antitrust Act, 15 U.S.C. §§ 1, 2 (1958 ed.). Actual damages in the amount of $100,000 were claimed for the period beginning February 14, 1954, and ending December 31, 1958.[1]

[1] The parties stipulated that the damages period would include the four-year limitation period, 15 U.S.C. § 15 (1958 ed.), preceding filing of Phillips' cross claim and extend up to December 31, 1958, the date on which Phillips terminated its business.

The allegations of the cross claim were essentially as follows: Prior to the 1950 Wage Agreement between the operators and the union, severe controversy had existed in the industry, particularly over wages, the welfare fund and the union's efforts to control the working time of its members. Since 1950, however, relative peace has existed in the industry, all as the result of the 1950 wage agreement and its amendments and the additional understandings entered into between UMW and the large operators. Allegedly the parties considered overproduction to be the critical problem of the coal industry. The agreed solution was to be the elimination of the smaller companies, the larger companies thereby controlling the market. More specifically, the union abandoned its efforts to control the working time of the miners, agreed not to oppose the rapid mechanization of the mines which would substantially reduce mine employment, agreed to help finance such mechanization and agreed to impose the terms of the 1950 agreement on all operators without regard for their ability to pay. The benefit to the union was to be increased wages as productivity increased with mechanization, these increases to be demanded of the smaller companies whether mechanized or not. Royalty payments into the welfare fund were to be increased also, and the union was to have effective control over the Fund's use. The union and large companies agreed upon other steps to exclude the marketing, production, and sale of nonunion coal. Thus the companies agreed not to lease coal lands to nonunion operators, and in 1958 agreed not to sell or buy coal from such companies. The companies and the union jointly and successfully approached the Secretary of Labor to obtain establishment under the Walsh-Healey Act, 41 U.S.C. § 35 *et seq.* (1958 ed.), of a minimum wage for employees of contractors selling coal to the TVA, such minimum wage being much higher than in other industries and making it difficult for small companies to compete in the TVA term contract market. At a later time, at a meeting attended by both union and company representatives, the TVA was urged to curtail its spot market purchases, a substantial portion of which were exempt from the Walsh-Healey order. Thereafter four of the larger companies waged a destructive and collusive price-cutting campaign in the TVA spot market for coal, two of the companies, West Kentucky Coal Co. and its subsidiary Nashville Coal Co., being those in which the union had large investments and over which it was in position to exercise control.

The complaint survived motions to dismiss and after a five-week trial before a jury, a verdict was returned in favor of Phillips and against the trustees and the union, the damages against the union being fixed in the amount of $90,000, to be trebeled under 15 U.S.C. § 15 (1958 ed.). The trial court set aside the verdict against the trustees but overruled the union's motion for judgment notwithstanding the verdict or in the alternative for a new trial. The Court of Appeals affirmed. 325 F. 2d 804. It ruled that the union was not exempt from liability under the Sherman Act on the facts of this case, considered the instructions adequate and found the evidence generally sufficient to support the verdict. We granted certiorari. 377 U.S. 929. We reverse and remand the case for proceedings consistent with this opinion.

I.

We first consider UMW's contention that the trial court erred in denying its motion for directed verdict and for judgment notwithstanding the verdict, since a determination in UMW's favor on this issue would finally resolve the controversy. The question presented by this phase of the case is whether in the circumstances of this case the union is exempt from liability under the antitrust laws. We think the answer is clearly in the negative and that the union's motions were correctly denied.

The antitrust laws do not bar the existence and operation of labor unions as such. Moreover, § 20 of the Clayton Act and § 4 of the Norris-LaGuardia Act permit a union, acting alone, to engage in the conduct therein specified without violating the Sherman Act. *United States* v. *Hutcheson*, 312 U.S. 219; *United States* v. *International Hod Carriers Council*, 313 U.S. 539, affirming per curiam,

37 F. Supp. 191 (D.C.N.D. Ill. 1941); *United States* v. *American Federation of Musicians*, 318 U.S. 741, affirming *per curiam*, 47 F. Supp. 304 (D.C.N.D. Ill. 1942).

But neither § 20 nor § 4 expressly deals with arrangements or agreements between unions and employers. Neither section tells us whether any or all such arrangements or agreements are barred or permitted by the antitrust laws. Thus *Hutcheson* itself stated:

> "So long as a union acts in its self-interest *and does not combine with non-labor groups*, the licit and the illicit under § 20 are not to be distinguished by any judgment regarding the wisdom or unwisdom, the rightness or wrongness, the selfishness or unselfishness of the end of which the particular union activities are the means." 312 U.S., at 232. (Emphasis added.)

And in *Allen-Bradley* v. *Local Union No. 3, IBEW*, 325 U.S. 797, this Court made explicit what had been merely a qualifying expression in *Hutcheson* and held that "when the unions participated with a combination of business men who had complete power to eliminate all competition among themselves and to prevent all competition from others, a situation was created not included within the exemptions of the Clayton and Norris-LaGuardia Acts." *Id.*, at 809. See also *United Brotherhood of Carpenters* v. *United States*, 330 U.S. 395, 398–400; *United States* v. *Employing Plasterers Assn.*, 347 U.S. 186, 190. Subsequent cases have applied the *Allen-Bradley* doctrine to such combinations without regard to whether they found expression in a collective bargaining agreement, *United Brotherhood of Carpenters* v. *United States*, *supra*; see *Teamsters Union* v. *Oliver*, 358 U.S. 283, 296, and even though the mechanism for effectuating the purpose of the combination was an agreement on wages, see *Adams Dairy Co.* v. *St. Louis Dairy Co.*, 260 F. 2d 46 (C.A. 8th Cir. 1958), or on hours of work, *Philadelphia Record Co.* v. *Manufacturing Photo-Engravers Assn.*, 155 F. 2d 799 (C.A. 3d Cir. 1946).

If the UMW in this case, in order to protect its wage scale by maintaining employer income, had presented a set of prices at which the mine operators would be required to sell their coal, the union and the employers who happened to agree could not successfully defend this contract provision if it were challenged under the antitrust laws by the United States or by some party injured by the arrangement. Cf. *Allen-Bradley* v. *Local Union No. 3, IBEW*, 329 U.S. 797; *United States* v. *Borden Co.*, 308 U.S. 188, 203–205; *Lumber Prods. Assn.* v. *United States*, 144 F. 2d 546, 548 (C. A. 9th Cir. 1944), aff'd on this issue *sub nom. Brotherhood of Carpenters* v. *United States*, 330 U.S. 395, 398–400; *Las Vegas Merchant Plumbers Assn.* v. *United States*, 210 F. 2d 732 (C. A. 9th Cir. 1954), cert. denied, 348 U.S. 817; *Local 175, IBEW* v. *United States*, 219 F. 2d 431 (C. A. 6th Cir. 1955), cert. denied, 349 U.S. 917. In such a case, the restraint on the product market is direct and immediate, is of the type characteristically deemed unreasonable under the Sherman Act and the union gets from the promise nothing more concrete than a hope for better wages to come.

Likewise, if as is alleged in this case, the union became a party to a collusive bidding arrangement designed to drive Phillips and others from the TVA spot market, we think any claim to exemption from antitrust liability would be frivolous at best. For this reason alone the motions of the unions were properly denied.

A major part of Phillips' case, however, was that the union entered into a conspiracy with the large operators to impose the agreed upon wage and royalty scales upon the smaller, nonunion operators, regardless of their ability to pay and regardless of whether or not the union represented the employees of these companies, all for the purpose of eliminating them from the industry, limiting production and pre-empting the market for the large, unionized operators. The UMW urges that since such an agreement concerned wage standards, it is exempt from the antitrust laws.

It is true that wages lie at the very heart of those subjects about which employers and unions must bargain and the law contemplates agreements on wages not only between individual employers and a union but agreements between the union and employers in a multi-employer bargaining unit. *Labor*

Board v. *Truck Drivers Union*, 353 U.S. 87, 94–96. The union benefit from the wage scale agreed upon is direct and concrete and the effect on the product market, though clearly present, results from the elimination of competition based on wages among the employers in the bargaining unit, which is not the kind of restraint Congress intended the Sherman Act to proscribe. *Apex Hosiery* v. *Leader*, 310 U.S. 469, 503–504; see *Adams Dairy Co.* v. *St. Louis Dairy Co.*, 260 F. 2d 46 (C. A. 8th Cir. 1958). We think it beyond question that a union may conclude a wage agreement for the multi-employer bargaining unit without violating the antitrust laws and that it may as a matter of its own policy, and not by agreement with all or part of the employers of that unit, seek the same wages from other employers.

This is not to say that an agreement resulting from union-employer negotiations is automatically exempt from Sherman Act scrutiny simply because the negotiations involve a compulsory subject of bargaining, regardless of the subject of the form and content of the agreement. Unquestionably the Board's demarcation of the bounds of the duty to bargain has great relevance to any consideration of the sweep of labor's antitrust immunity, for we are concerned here with harmonizing the Sherman Act with the national policy expressed in the National Labor Relations Act of promoting "the peaceful settlement of industrial disputes by subjecting labor-management controversies to the mediatory influence of negotiation," *Fibreboard Paper Prods. Corp.* v. *Labor Board*, 379 U.S. 203, 211. But there are limits to what a union or an employer may offer or extract in the name of wages, and because they must bargain does not mean that the agreement reached may disregard other laws. *Teamsters Union* v. *Oliver*, 358 U.S. 283, 296; *Brotherhood of Carpenters* v. *United States*, 330 U.S. 395, 399–400.

We have said that a union may make wage agreements with a multi-employer bargaining unit and may in pursuance of its own union interests seek to obtain the same terms from other employers. No case under the antitrust laws could be made out on evidence limited to such union behavior.[2] But we think a union forfeits its exemption from the antitrust laws when it is clearly shown that it has agreed with one set of employers to impose a certain wage scale on other bargaining units. One group of employees may not conspire to eliminate competitors from the industry and the union is liable with the employers if it becomes a party to the conspiracy. This is true even though the unions' part in the scheme is an undertaking to secure the same wages, hours or other conditions of employment from the remaining employers in the industry.

We do not find anything in the national labor policy that conflicts with this conclusion. This Court has recognized that a legitimate aim of any national labor organization is to obtain uniformity of labor standards and that a consequence of such union activity may be to eliminate competition based on differences in such standards. *Apex Hosiery* v. *Leader*, 310 U.S. 469, 503. But there is nothing in the labor policy indicating that the union and the employers in one bargaining unit are free to bargain about the wages, hours and working conditions of other bargaining units or to attempt to settle these matters for the entire industry. On the contrary, the duty to bargain unit by unit leads to a quite different conclusion. The union's obligation to its members would seem best served if the union retained the ability to respond to each bargaining situation as the individual circumstances might warrant, without being straitjacketed by some prior agreement with the favored employers.

So far as the employer is concerned it has long been the Board's view that an employer may not condition the signing of a collective agreement on the union's organization of a majority of the industry. *American Range Lines, Inc.*, 13

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[2] Unilaterally, and without agreement with any employer group to do so, a union may adopt a uniform wage policy and seek vigorously to implement it even though it may suspect that some employers cannot effectively compete if they are required to pay the wage scale demanded by the union. The union need not gear its wage demands to those which the weakest units in the industry can afford to pay. Such union conduct is not alone sufficient evidence to maintain a union-employer conspiracy charge under the Sherman Act. There must be additional direct or indirect evidence of the conspiracy. There was, of course, other evidence in this case, but we indicate no opinion as to its sufficiency.

N.L.R.B. 139, 147 (1939); *Samuel Youlin*, 22 N.L.R.B. 879, 885 (1940); *Newton Chevrolet, Inc.*, 37 N.L.R.B. 334, 341 (1941); See *Labor Board* v. *George P. Pilling & Son Co.*, 119 F. 2d 32, 38 (C.A. 3d Cir. 1941). In such cases the obvious interest of the employer is to ensure that acceptance of the union's wage demands will not adversely affect his competitive position. In *American Range Lines, Inc., supra*, the board rejected that employer interest as a justification for the demand. "[A]n employer cannot lawfully deny his employees the right to bargain collectively through their designated representative in an appropriate unit because he envisions competitive disadvantages accruing from such bargaining." 13 N.L.R.B., at 147. Such an employer condition, if upheld, would clearly reduce the extent of collective bargaining. Thus, in *Newton Chevrolet, Inc., supra*, where it was held a refusal to bargain for the employer to insist on a provision that the agreed contract terms would not become effective until five competitors had signed substantially similar contracts, the Board stated that "[t]here is nothing in the Act to justify the imposition of a duty upon an exclusive bargaining representative to secure an agreement from a majority of an employer's competitors as a condition precedent to the negotiation of an agreement with the employer. To permit individual employers to refuse to bargain collectively until some or all of their competitors had done so clearly would lead to frustration of the fundamental purpose of the Act to encourage the practice of collective bargaining." 37 N.L.R.B., at 341. Permitting insistence on an agreement by the union to attempt to impose a similar contract on other employers would likewise seem to impose a restraining influence on the extent of collective bargaining, for the union could avoid impasse only by surrendering its freedom to act in its own interest *vis-à-vis* other employers, something it will be unwilling to do in many instances. Once again, the employer's interest is a competitive interest rather than an interest in regulating its own labor relations, and the effect on the union of such an agreement would be to limit the free exercise of the employees' right to engage in concerted activities according to their own views of their self-interest. In sum, we cannot conclude that the national labor policy provides any support for such agreements.

On the other hand, the policy of the antitrust laws is clearly set against employer-union agreements seeking to prescribe labor standards outside the bargaining unit. One could hardly contend, for example, that one group of employers could lawfully demand that the union impose on other employers wages that were significantly higher than those paid by the requesting employers, or a system of computing wages that, because of differences in methods of production, would be more costly to one set of employers than to another. The anticompetitive potential of such a combination is obvious, but is little more severe than what is alleged to have been the purpose and effect of the conspiracy in this case to establish wages at a level that marginal producers could not pay so that they would be driven from the industry. And if the conspiracy presently under attack were declared exempt it would hardly be possible to deny exemption to such avowedly discriminatory schemes.

From the viewpoint of antitrust policy, moreover, all such agreements between a group of employers and a union that the union will seek specified labor standards outside the bargaining unit suffer from a more basic defect, without regard to predatory intention or effect in the particular case. For the salient characteristic of such agreements is that the union surrenders its freedom of action with respect to its bargaining policy. Prior to the agreement the union might seek uniform standards in its own self-interest but would be required to assess in each case the probable costs and gains of a strike or other collective action to that end and thus might conclude that the objective of uniform standards should temporarily give way. After the agreement the union's interest would be bound in each case to that of the favored employer group. It is just such restraints upon the freedom of economic units to act according to their own choice and discretion that run counter to antitrust policy. See, *e.g.*, *Associated Press* v. *United States*, 326 U.S. 1, 19; *Fashion Originators' Guild* v. *Federal Trade Comm'n*, 312 U.S. 457, 465; *Anderson* v. *Shipowners Assn.*, 272 U.S. 359, 364–365.

Thus the relevant labor and antitrust policies compel us to conclude that the alleged agreement between UMW and the large operators to secure uniform labor standards throughout the industry, if proved, was not exempt from the antitrust laws.

II

The UMW next contends that the trial court erroneously denied its motion for a new trial based on claimed errors in the admission of evidence.

In *Eastern R. Conf.* v. *Noerr Motors*, 365 U.S. 127, the Court rejected an attempt to base a Sherman Act conspiracy on evidence consisting entirely of activities of competitors seeking to influence public officials. The Sherman Act, it was held, was not intended to bar concerted action of this kind even though the resulting official action damaged other competitors at whom the campaign is aimed. Furthermore, the illegality of the conduct "was not at all affected by any anticompetitive purpose it may have had," *id.*, at 140—even though the "sole purpose in seeking to influence the passage and enforcement of laws was to destroy the truckers as competitors for the long-distance freight business," *id.*, at 138. Nothing could be clearer from the Court's opinion than that anticompetitive purpose did not illegalize the conduct there involved.

We agree with the UMW that both the Court of Appeals and the trial court failed to take proper account of the *Noerr* case. In approving the instructions of the trial court with regard to the approaches of the union and the operators to the Secretary of Labor and to the TVA officials, the Court of Appeals considered *Noerr* as applying only to conduct "unaccompanied by purpose or intent to further a conspiracy to violate a statute. It is the illegal purpose or intent inherent in the conduct which vitiates the conduct which would otherwise be legal." 325 F. 2d, at 817. *Noerr* shields from the Sherman Act a concerted effort to influence public officials regardless of intent or purpose. The Court of Appeals, however, would hold the conduct illegal depending upon proof of an illegal purpose.

The instructions of the trial court to the jury exhibit a similar infirmity. The jury was instructed that the approach to the Secretary of Labor was legal unless part of a conspiracy to drive small operators out of business and that the approach to the TVA was not a violation of the antitrust laws "unless the parties so urged the TVA to modify its policies in buying coal for the purpose of driving the small operators out of business." If, therefore, the jury determined the requisite anticompetitive purpose to be present, it was free to find an illegal conspiracy based solely on the Walsh-Healey and TVA episodes, or in any event to attribute illegality to these acts as part of a general plan to eliminate Phillips and other distributors similarly situated. Neither finding, however, is permitted by *Noerr* for the reasons stated in that case. Joint efforts to influence public officials do not violate the antitrust laws even though intended to eliminate competition. Such conduct is not illegal, either standing alone or as part of a broader scheme itself violative of the Sherman Act. The jury should have been so instructed and, given the obviously telling nature of this evidence, we cannot hold this lapse to be mere harmless error.[3]

There is another reason for remanding this case for further proceedings in the lower courts. It is clear under *Noerr* that Phillips could not collect any damages under the Sherman Act for any injury which it suffered from the action of the Secretary of Labor. The conduct of the union and the operators did not violate the Act, the action taken to set a minimum wage for government purchases of

[3] It would of course still be within the province of the trial judge to admit this evidence, if he deemed it probative and not unduly prejudicial, under the "established judicial rule of evidence that testimony of prior or subsequent transactions, which for some reason are barred from forming the basis for a suit, may nevertheless be introduced if it tends reasonably to show the purpose and character of the particular transactions under scrutiny. *Standard Oil Co.* v. *United States*, 221 U.S. 1, 46–47; *United States* v. *Reading Co.*, 253 U.S. 26, 43–44." *Federal Trade Comm'n* v. *Cement Institute*, 333 U.S. 683, 705; see also *Heicke* v. *United States*, 227 U.S. 131, 145; *American Medical Assn.* v. *United States*, 130 F. 2d 233, 250–252 (C.A.D.C. Cir. 1942), aff'd, 317 U.S. 519 (certiorari limited to other issues).

coal was the act of a public official who is not claimed to be a co-conspirator, and the jury should have been instructed, as Phillips requested, to exclude any damages which Phillips may have suffered as a result of the Secretary's Walsh-Healey determinations.[4] See also *American Banana Co.* v. *United Fruit Co.*, 213 U.S. 347, 358; *Angle* v. *Chicago, St. Paul, Minneapolis & Omaha R. Co.*, 151 U.S. 1, 16–21; *Okefenokee Rural Elec. Mem. Corp.* v. *Florida P. & L. Co.*, 214 F. 2d 413, 418 (C.A. 5th Cir. 1954). The trial court, however, admitted evidence concerning the Walsh-Healey episodes for "whatever bearing it may have on the overall picture" and told the jury in its final instructions to include in the verdict all damages resulting directly from any act which was found to be part of the conspiracy. The effect this may have had on the jury is reflected by the statement of the Court of Appeals that the jury could reasonably conclude "that the wage determination for the coal industry under the Walsh-Healey Act and the dumping of West Kentucky coal on the TVA spot market materially and adversely affected the operation of Phillips in the important TVA market . . . ," 325 F. 2d at 815, and that "this minimum wage determination prevented Phillips from bidding on the TVA term market . . . ," *id.*, at 815.[5]

The judgment is reversed and the case remanded for further proceedings consistent with this opinion.

It is so ordered.

Undoubtedly, the Federal Coal Mine Safety Act of 1952 has contributed to prevention of coal mine disasters. Yet, disaster-type fatalities continue to occur. The Bureau of Mines reports that 61 miners were killed in 164 disaster-type accidents in title I operations between July 16, 1952, to the end of 1964. Over this same period in title II mines, there were 394 fatalities in 883 disaster-type accidents.

Mine safety is a personal responsibility as much as anything else, and it is absolutely impossible to legislate against human frailty and carelessness or to anticipate unforeseen circumstances which can arise suddenly and unexpectedly in any coal mine, whether large or small.

The changes in Public Law 552 as proposed could have far-reaching consequences, and it is unfortunate that we do not have information and statistical data of a nature which could paint the issue all white or all black. In order to reach a judgment in this vacuum, I believe it is incumbent on congressional responsibility to give unusual attention to the special circumstances associated with the "safety" issue because no evidence, no supporting data, have ever been submitted to show that further regulation of the small mines would contribute materially or substantially to their safety.

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[4] By contrast, in *Continental Ore Co.* v. *Union Carbide & Carbon Corp.*, 370 U.S. 690, we held that the acts of a wartime purchasing agent appointed by the Canadian Government could be proved as part of the conspiracy and as an element in computing damages. The purchasing agent, however, was not a public official but the wholly owned subsidiary of an American corporation alleged to be a principal actor in the conspiracy. The acts complained of had been performed at the direction of the purchasing agent's American parent and there was "no indication that the Controller or any other official within the structure of the Canadian Government approved or would have approved of joint efforts to monopolize the production and sale of vanadium or directed that purchases from [the plaintiff] be stopped." 370 U.S., at 706. That case is wholly dissimilar from both *Noerr* and the present case.

[5] This latter conclusion regarding the term market would seem doubly erroneous as Phillips had virtually conceded, in the course of offering evidence respecting bids of the alleged conspirators on the term market, that it was claiming no damages from its exclusion from the term market, a market it never had any immediate prospect of entering. The trial court ruled that the proferred testimony was inadmissible on the damages phase of the case.

To me, one fact is clear: the small mining industry gives a livelihood to thousands of miners and their families in Kentucky and sister States in Appalachia. Should the proposed bill become law and the oppressive repercussions its opponents allege come true, the slow gains being made to restore economic stability in the coalfields will be fragmented and opportunity destroyed for years to come.

Thank you, Mr. Chairman.

(The matter referred to follows:)

[From Coal Age, November 1964]

THE SMALL-MINE INDUSTRY—PROGRESS, PROBLEMS, PLANS

Where the small-mine industry stands today—producing some 25 percent of the bituminous total.

What its spokesman, NICOA, sees for the future—greater growth ahead.

What its major problems are—safety, financing, Walsh-Healey, marketing.

The rising fortunes of the bituminous industry over the past several years have been marked by a significant increase in the percentage of the total output provided by the smaller mines—and, among other developments, the organization of the still-young National Independent Coal Operators Association (NICOA) to improve conditions in the small mine industry and advance its interests. The situation of the small mines is summarized by NICOA President Robert Holcomb as follows:

"Our segment of the coal industry has catapulted from infancy to adulthood in but a few years. We have lots of problems, but at the same time we have real opportunities."

In 1958, the small mines (primarily those employing 14 men or less) were producing less than 10 percent of the country's bituminous coal, according to Mr. Holcomb. Today, he puts their share at 25 percent, and expects that by 1975, if present trends continue, the figure will be more than 35 percent.

"Though our individual members are small, collectively we are a big business today, and we are growing bigger," Mr. Holcomb said in a recent Coal Age interview. He noted that the association, with headquarters in Pikeville, Ky., now has 5,000 members, employing 70,000 persons, in 15 States—Alabama, Arkansas, Colorado, Illinois, Indiana, Iowa, Kentucky, Maryland, Missouri, Ohio, Pennsylvania, Tennessee, Utah, Virginia, and West Virginia.

NICOA IS BORN

The increased tempo of mechanization following the 1950 wage agreement was a major factor in the organization of NICOA. Men were being displaced at a much more rapid rate and were looking for a chance to make a livelihood. Mining on their own was one way, but not if it was under the conditions of the standard union contract. Enchancement of their ability to withstand the pressure of union organizing efforts, often accompanied by violence, was a major reason for setting up NICOA.

Though initially created as a reaction to the UMW organizing drive, NICOA soon began to go beyond this original concept. Now, the organization, according to Mr. Holcomb, represents 90 percent of the so-called title I mines in the United States, and is active in the development of safety techniques and new and more efficient production methods. And rounding out its program, it has embarked on a study to arrive at the best methods of marketing the coal produced by the small mines.

President Holcomb and the 25-man board of directors serve without pay. The executive secretary of the association is Charles Richards, of Middlesboro, Ky.; Pete Janis is executive secretary of the Pike County Association;

Arch Alexander of the West Virginia Association; and Early White is executive secretary of the Tri-County Group in Virginia.

COOPERATIVE MINES

More than 50 percent of the small mine industry is stated to be composed of "cooperative business entities." The Dixie Mining Co., Pikeville, Ky., of which Mr. Holcomb is president, is a good example. In 1954, Mr. Holcomb, Charles D. Roberts, and Robert C. Billips pooled their funds and established a preparation plant and loading platform in Pikeville. The group also obtained leases on coal lands 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 he could get than be dependent on 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, we felt pretty lucky to earn $10 or $12 a day," says Mr. Coleman. "Today, we average $20 to $25 per man per day after all our expenses are paid."

Officially, Mr. Coleman is listed on Government forms as the operator of Big Four Coal. This is so that workmen's compensation can be obtained for the four to six men in the mine. Members of the group share equally in the proceeds. Hirings and firings are decided democratically by vote. Hospitalization of $14.35 per month is paid one-third by Dixie Mining and two-thirds by Big Four Coal. This pattern is said to be typical of the small-mine industry.

Since Big Four Coal started, 25 other operators have followed their lead, some cooperatives and others corporate entities. 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 as long as he pays the prevailing price. When the price is not maintained, the operator is free to sell his coal elsewhere.

Three hundred thousand tons of coal was shipped through Dixie Mining in 1963. The average miner's wage was $18 to $20 a day. Under the stringent safety standards of the group, there have been no serious accidents since the leased land was first mined 10 years ago.

Dixie Mining, which presently has four employees, currently is planning to expand facilities to meet new market opportunities. This will increase capacity to an average of 600,000 tons of coal a year by 1967.

MINING METHODS

The improved fortunes of the small mine industry have given rise to the use of specialized equipment and techniques designed by and for small mine operations. Approximately 98 percent of the NICOA mines are drift. Thin coal is the rule rather than the exception.

Perhaps the key piece of equipment is a rubber-tired haulage unit evolved from prototypes built and used by small-mine operators in the late 1940's to meet their needs for low-cost units that could work in thin coal. The manufacture of modern versions—now used by big mines as well as small—is presently a major business.

Junked autos provided the material for the first units, powered as a rule with a.c. motors (some d.c.) through drag cables. Both single cars—end- and bottom-dump—and tractor-trailer units were built (Coal Age, April, 1953, p. 88; July, p. 88). The disadvantages of cables quickly led to the design of battery-powered equipment in the early 1950's (Coal Age, May, 1953, p. 99), using automotive-type batteries.

Battery improvements made in part to meet the demands of this service, and the development of SCR control, are steps in the evolutionary process that have now put the battery back into the face-haulage picture, from which it was displaced starting in the late 1930's and early 1940's by the cable-reel shuttle car.

Haulage distance usually is less than 2,000 feet, but one mine plans to go 7,000. A description of how one of the latest rubber-tired units serves a major mine appeared in the June, 1964, issue of Coal Age, with another scheduled for later this year.

The fact that standard machines for other mining jobs were too big and too expensive also has resulted in certain "miniatures" for the thin-vein small mines, the principal one being shortwall cutters. Hand loading is still the rule, though machine loading is increasing.

EMPLOYMENT

Approximately 90 percent of the total membership of NICOA is concentrated in the so-called Appalachian area. Surveys cited by Mr. Holcomb indicate that more than a third of the active labor force in the Appalachian region is dependent directly or indirectly upon the truck-mining industry. In many counties, it is virtually the only industry offering employment. In 1954, Mr. Holcomb also notes, unemployment was 50 percent of the total employable labor force in Pike County, Ky. Today, by virtue of the growing health of the small mine industry, there actually is a labor shortage, and in many instances small mines have been forced to either seek employees from other States, or change to mechanical loading.

A mine employing 8 people will support 60 men, women, and children, says Mr. Holcomb. The mine will use at least one truckdriver and one full-time man to cut and prepare timber for roof supports. Added to this are a proportionate number man-hours for handling coal on the ramp or tipple, for loading railroad industry, there actually is a labor shortage, and in many instances small cars, billing the coal, providing equipment and supplies, such as trucks, cutting machines, powder, gasoline, tires, and other items, and for a sales agent's time. This averages out to four additional men. Thus, with an average Appalachian family totaling 5 persons, 12 employed people will support 60.

SAFETY

NICOA refutes claims of critics that the organization and its members are doing nothing about safety. Mr. Holcomb summarizes the NICOA case along the following lines:

The typical safety-conscious small operator supports his roof by conventional timbering or bolting. He reduces the shooting hazard by limiting the number of persons in the mine authorized to handle explosives to two or possibly three people.

The moving machinery hazard so far is practically nil since the only equipment moving is the trailer used for haulage. Fully 99 percent of the small mines are classified as nongassy, reducing the explosion threat. Since air does not have to travel far, keeping a sufficient quantity of pure air circulating in the mine is not a major problem. Good ventilation is, of course, needed to remove smoke and fumes resulting from shooting.

NICOA has taken elaborate and, in many cases, heroic steps to promote safety in small mines. As early as 1958, when the 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 played an important role in getting mine inspectors in Kentucky placed under civil service protection so they would be immune from unhealthy pressures. Also, while State inspectors are required to be knowledgeable in the broad gamut of mining problems, NICOA has been insistent 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 of 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 State authorities and cooperate in forcing the operator to employ safe mining practices.

In the field of safety education, NICOA has cooperated in setting up a series of training courses in Kentucky, and more recently in Virginia. Courses, taught by regular mine inspectors, are held 1 night a week for 10 weeks. Door prizes, such as miners' lights, hats, and ties, are used to encourage attendance. Workers are taught mining law, good work habits, and the consequences of bad habits. A special slide presentation on mine accidents has been made showing graphically what happens when good safety habits are neglected. "Miners, like other people, tend to think it can't happen to them," Mr. Holcomb notes. "But, when they see on the screen what has happened to others like themselves, it's very difficult to shrug off safety precautions."

In May 1963, partly through the intercession of NICOA, Kentucky mine safety officials began working with Virginia officials, passing on the experience and techniques that had proved effective in Kentucky. By the end of 1963, Virginia was able to report a record safety year. Now that the Kentucky and Virginia safety programs are well underway, the Commonwealth of Kentucky is extending its cooperation to officials in West Virginia, Pennsylvania, Alabama, Tennessee, and other interested States.

Before 1960, safety in small mines was a very serious problem and accidents per hour of underground exposure were greater than in large mines. Currently, NICOA contends that the small-mine safety record is better than that of the large title II underground mines, and considers the point proven in a recent presentation to the House Committee on Education and Labor of the 88th Congress.

PROPOSAL

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 workmen's compensation rates would be tied in with safety education and proneness to accidents. Under this plan, mines would 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 the 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 employees' wages. This is nearly doubled by an insurance company when a fatality occurs. One company, a member of NICOA, which 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 rate jumped from $5 to $9 per $100 of wages. Mr. Holcomb hopes that the plan to link safety standards to workmen's compensation rates can be worked out in Kentucky by the end of 1964. If this is the case, it will not be long before other States where NICOA operates will be asked to follow suit.

ISSUES

In addition to concerning itself with the problems of safety and productivity, NICOA has been actively promoting its position on a number of major issues facing the coal industry. Here is where NICOA stands on some of them:

Unit train activities.—NICOA has gone on record in favor of what it terms "integrated" trains, but is against "unit" trains. It considers integrated trains as those made up of cars from various loading points and assembled into one large train at the central dispatching place. NICOA believes that effective integrated train operations can reduce rates on coal from 60 cents to $1 per ton. At this writing, NICOA is preparing to request that the Interstate Commerce Commission withhold new rates on unit trains, pending a congressional hearing on the effect of unit trains on the small-mine industry. NICOA contends that unit

trains would make it impossible for small mines to participate in the public utility market, since unit-train coal cars and loading facilities require investments far beyond the ability of small operators. In addition, annual minimum tonnages required under the tariffs would range from 1 to 3 million tons a year. This obviously would exclude small operators from competing.

Federal Coal Mine Safety Act.—This act, which would require that the title I mines (employing 14 men or less) be subject to Federal Bureau of Mines inspection, has been opposed by NICOA. Members of the association have testified at various congressional hearings that the act (H.R. 9000) is not motivated by safety considerations, but would be used as a vehicle for putting the small mines out of business. In support, they cite testimony on the proposed measure in the autumn of 1963 by Nat Caldwell, a Pulitzer Prize writer for the Nashville Tennessean, before the House General Subcommittee on Labor:

"From my experience * * * I became strongly convinced that the principal proponents of this measure are far more interested in its utilization for forwarding an economic purpose; that is, closing down the small thin-seamed coal mines of the Appalachian area, than they are in assuring the union and nonunion miners of a safer place in which to earn a living.

"This bill, if it should be passed, I am convinced will be employed by some existing personnel of the Bureau of Mines to drive out of business the majority of the small mines of the country."

New UMW wage contract.—NICOA takes credit for the August 7 NLRB ruling that the 80 cent welfare fund penalty provision in the last UMW contract is illegal. It filed its objection with the Board April 2, contending that if the small operators were forced to pay an 80 cent per ton penalty on coal distributed through UMW contract companies, they would go out of busines.

"Our mines," Mr. Holcomb notes, "average 7 cents per ton profit on coal marketed. With an average price of coal of approximately $4 per ton, there was not enough spread between costs and selling price to pay the UMW penalty provisions."

Walsh-Healey minimum wage determination.—NICOA has appealed to the Department of Labor for reinvestigation of the minimum wage determination in the coal industry made under the Walsh Healey Act, NICOA has stated that the wage rate determined by the Secretary of Labor was based on the rate of a few large UMW contract signatories and was not indicative of the industry as a whole. This wage rate, the association states, is actually twice as high as most other industries under the Walsh-Healey Act. Because the small mines do not pay this wage, they are prevented from obtaining major coal contracts from Government groups such as TVA.

Small mine financing.—NICOA is appealing to the Small Business Administration to revoke existing prohibitions against small coal mine loans. "In the past, the Small Business Administration has prevented small coal mine loans, saying they were too speculative," Mr. Holcomb commented. "We believe our progress over the past 5 years gives evidence of fiscal soundness. If our industry can obtain the same kind of financing as small businesses in other industries, I believe that our chances of accelerating our growth will be greatly enhanced."

MARKETING

"For the past several years too many of our efforts have been dedicated to putting out fires." Thus Mr. Holcomb prefaced a discussion on NICOA marketing plans. "The big challenge and opportunity of the future lies in the field of marketing. Most economists agree that there is a growing market for low-cost, high-grade coal. The small-mine industry is in an excellent position to provide such fuel to many important sectors of the economy. We now have to develop the marketing, distribution, and sales organizations that can help us compete effectively with larger companies.

"To come to grips with this problem, we have initiated a pilot study and expect to come up with some preliminary answers by the end of the year. Farm groups around the country solved the same problem we face by forming marketing cooperatives. This is an intriguing precedent. Whether or not, however, we follow the same route is still indefinite. However, much like the rest of the bituminous industry, we feel there's a great opportunity for coal and we hope that through creative planning, hard work, and fair treatment of both customers and workers, we can obtain our share of this growing business."

[From Nation's Cities, January 1965]

Coal Town That Refused To Die

ALL IS NOT POVERTY IN THE APPALACHIAN AREA

To those conditioned to hear only of joblessness and despair from Appalachia, the story of Pikeville, Ky., is heartening. In the heartland of Appalachia, Pikeville is winning its war on poverty.

"We are not alone among the cities in this area to make progress," Dr. William C. Hambley, mayor of Pikeville, said recently. "Our story, with appropriate modifications, holds true for many other communities. There is a growing new spirit in Appalachia. People are taking charge of their fate and are working to bring on better days."

Among the highlights of Pikeville's progress:

High rate of employment is high.
New schools are being built.
Municipal government revenues are up.
Water, sewerage, and other services are being upgraded.
A new airport is underway.
City employees had pay increases.
A $7 million urban renewal project is in the offing.

Pikeville, a fourth-class city with 6,000 residents, serves a 40-mile radius trading area with an additional 100,000 in population.

Traditionally dependent on a coal economy, Pikeville suffered from the decline in the coal industry in the early 1950's. But the accompanying automation of the large mines, which threw out of work 350,000 of the industry's work force of 450,000, was almost a death blow.

In 1955, fully half of Pikeville's total employable labor force was jobless. By 1960, the city's outmigration had reduced the population to 4,750, an 8-percent reduction from the 1950 figure. The Pike County population as a whole had dropped to 68,000, a 13-percent reduction from 1950. Shopkeepers talked privately of selling out, salvaging what they could. Property taxes in large numbers were in default. Municipal services were at a minimum.

Finally, when the problem seemed most bleak, a near-miraculous change took place in Pikeville. People began to accept that they could no longer merely decry their plight; they had to do something about it. Professionals and businessmen, formerly aloof from community responsibilities, began to see government as an essential vehicle for progress. They became active in municipal affairs. Slowly, new hope dawned.

IMPROVING THE ECONOMIC BASE

The first priority was to improve the economic base. Since coal reserves were the only marketable resource the community had, citizens had to be able to earn a livelihood from coal once again. It didn't happen overnight, but a new method of small mine operations was born. Part of it was financed by generous townspeople. Much of it was funded by the meager savings of miners themselves who pooled their resources and formed new enterprises.

By 1958, a sturdy young industry was functioning in Pikeville and many other communities in Appalachia under an entity called The National Independent Coal Operators Association (NICOA).

Here is how the association members operate: A group of men pool their savings, lease good coal lands, and then build a nearby loading ramp and processing plant. A second group of men pool their funds or get a loan and mine the leased coal acreage. This second group of miners are obliged to sell coal to the ramp operators only to the extent that the ramp owners meet prevailing coal prices. If they fail to do so, the miners can sell their coal elsewhere. Approximately half of the small mine operations in Pikeville and elsewhere in Appalachia are cooperatives, according to Robert Holcomb, president of NICOA. This means the men share equally in the revenues produced and vote on hirings and firings. State safety and working conditions are stringently observed.

In the beginning men felt they were lucky if they could earn $6 or $10 a day. Now, with the development of improved technology and the rising fortunes of the coal industry as a whole, wages have increased to the point where the average person working in the mines brings home $18 a day.

The small mines in Pike County belonging to NICOA will sell $34 million worth of coal in 1964. Almost all of this money will stay in the county. Supplies for the mines are bought locally; salaries are paid locally. Ten years ago the two banks servicing Pikeville had assets of $21 million. Today, there are three banks in town, with assets of $44 million. The small coal mine industry has made the difference.

MUNICIPAL PLANNING

While private citizens were building new jobs for themselves and their neighbors, the municipal government showed signs of shaking off the burdens of isolation, pork barrelism, and apathy. First, under Mayor Elmer Blackburn, and for the past 6 years under dynamic Mayor Hambley, the professionals and businessmen in government set up a juggernaut of problem-solving, planning, and purposeful action.

A modern form of government structure was set up to replace the existing one. High on its priority list was a study of municipal revenues. It showed that they were far too low to provide necessary services. A 1-percent payroll tax and 1-percent net profit tax were initiated, doubling municipal revenues.

"As a matter of principle, we believe that taxes which reflect the business and economic activity in a community are preferable to fixed taxes such as the property taxes," said Mayor Hambley. "When business is good, revenues go up and when business is not good, revenues decline. This, we believe, gives citizens a greater sense of participation in government."

The cost of refuse collection and certain other municipal services to property owners was raised. These and the other additional revenues made it possible for the community to provide two salary increases to municipal employees improving the caliber of individuals seeking employment in local government and raising overall morale. All salaried employees now earn a minimum of 25 percent more than they did in 1962. The hourly wage minimum is $1.60.

It was recognized, however, that not all necessary improvements in Pikeville services could be financed only through tax increases and comparable means. Major new money had to be obtained.

Investigations of criteria for municipal indebtedness revealed that debt-free Pikeville had substantial borrowing capacity. In addition, Federal and State funds were available to small communities such as Pikesville, who showed both need and initiative.

Borrowings and State aid helped Pikeville make a dent in its water sewerage problems. Mayor Humbley, in private life one of Pikeville's leading surgeons, hammered home to the community that parasite-infested drinking water was a severe health problem. Fully 30 to 40 percent of the county's inhabitants suffered from various parasitic ailments, draining individual energy and ambition. Under the mayor's direction, the Pikeville City Planning Commission, together with the Department of Commerce of the Commonwealth of Kentucky, laid the plans for a $2.5 million water and sewer improvement program. The plan included new water and sewer treatment plants, new water distribution mains, and sewerage collection lines. Approximately $1 million was provided by funds under the accelerated public works program of the Public Health Service. The remainder was provided by a municipal revenue bond issue.

The water and sewerage plants as well as the water distribution lines are complete; the sewerage collection lines will be finished in a few months. The total program has been designed to provide three times the capabilities presently needed by the community so future growth will not be hamstrung.

Flood control also was a big headache. The Federal Government earmarked nearly $6 million for nearby Fishtrap Dam. When completed in 1966, the dam will transform the seasonal oversupply of water into manmade lakes for local and tourist recreational use. With installation of fresh water facilities for drinking purposes, the dam will expand the supply of drinking water for the whole area and make unnecessary costly sedimentation water treatment facilities.

Schools, too, have come in for their share of improvement. Two years ago, the community voted 3 to 1 in favor of an $800,000 school bond issue for the construction of a new elementary school to house 30 classrooms on a 2½-acre site. Another bond issue is on the drawing board for the near future for a new high school and other public school expansion.

Pikeville, too, is fortunate in having Pikesville College, a wonderful beacon to potential new residents. In the past year or so, various community leaders undertook to raise $1 million for the college's improvement and expansion

program. Half the money was raised locally and half from out of town sources doing business in the community.

Transportation has been a thorny problem. Community leaders are delighted with the volume of new motor hotel, shopping center, and retail store construction going on at all three highways feeding out of Pikeville. But they recognize that the area's mountainous terrain limits access to the outside world. Long-term improvement in the highway system is being worked out jointly with county, State, and Federal agencies. One major 150-mile highway, now under construction, will speed visitors from Lexington to Pikeville.

Pikeville presently has a class 1 airport which is inadequate for other than light planes. Encouraged by the number of small mine operators and other businessmen in the community using private planes, Mayor Hambley established a Pikeville-Pike County Airport Board to look into the feasibility of having an extensive airport facility built on top of one of the surrounding mountains. Members of the six-man board personally underwrote the purchase of a choice mountaintop site on which to build a 3,200-foot runway. The city government allocated $18,000 to grade and prepare the site. On the basis of this initiative, city officials are negotiating with the Federal Aviation Agency for funds to complete the new airport. On the horizon is eventual air service from a feeder airline.

An aggressive annexation policy is proving sound. Pikeville's land area, doubled already since 1962, should grow another 25 percent in the next several years. The purpose of this policy is to improve efficiency by amortizing the cost of good government over a larger population. Prior to the annexation program, Pikeville supplied fire, schools, and other services to surrounding communities but was unable to collect appropriate charges.

FUTURE GROWTH

"The heroic activities of the small mine industry in Pike County has given Pikeville and other communities in Appalachia a new lease on life and an opportunity to do some dreaming about where we go from here," said Mayor Hambley. "We all recognize that we no longer can be content to remain dependent on only one industry. We have to encourage other industries to settle here. To do so we must make the city a more attractive place in which to live. We need outside help for this—urban renewal."

Mayor Hambley and the Pikeville Planning Commission, completed a seven element planning program covering:

Street plan.
Subdivision regulations.
Zoning ordinance.
Land use plan.
Economic base study.
Community facilities plan and public improvements plan.
Housing conditions.

This program was submitted to the House and Home Finance Administration in support of an urban renewal proposal. The Agency subsequently advanced $36,000 for a feasibility engineering study on the urban renewal program.

The study, now completed, notes that, "Pikeville, and particularly that area of the city in and around the central business district, is experiencing the blighting effects of an inadequate street system, insufficient offstreet parking facilities, detrimental land uses and conditions, excessive dwelling unit density, and structures in mixed use and improper location on the lot.

"The presence of the Chesapeake & Ohio Railroad in the downtown area of the city, along with coal docks and tipples, creates serious problems both from the standpoint of health, safety and welfare of the public, as well as to the future development and growth of the city * * *. Dangerous street crossings of the railroad, the adverse affect on traffic movements, and the curtailment of the development of the central business district, indicate that serious consideration must be given to the relocation of the railroad."

The 61-acre renewal project contemplates relocating the Chesapeake & Ohio Railroad out of downtown to the west and the development of a centralized coal loading site in an adjoining area. The new loading facilities will be a boon to the small coal mine industry as well as an incentive for beautifying the downtown area of the city.

The proposed urban renewal plan also includes: a collector street on the existing railroad right-of-way to connect the town's two ends; development of 200 offstreet parking spaces; demolition and clearance of more than 100 blighted and deteriorating structures; creation of a 6-acre public housing area to provide approximately 50 low-income dwelling units and the development of approximately 10 acres of residential properties, 20 acres of commercial properties and 7 acres of public or semipublic properties. Of the estimated $7 million, which the project will cost, Pikeville will be required to put up approximately $1.3 million.

SUMMARY

Citizens of Pikeville recognize that they haven't solved all their problems. But they also recognize that they have solved many, and they can solve a good many more. The community's economy is strong, its city government has been revitalized and its citizens are sharing a sense of community pride and involvement which they never had before and which they never want to lose.

Mayor Hambley puts it this way: "We all are trying to give purpose and dignity to life in Pikeville. We know the only thing that gives man dignity is responsibility."

[Editorial, the Pike County News, Jaan. 31, 1965]

MINE SAFETY OR ECONOMY WRECKER?

In the U.S. Congress there are six bills pending under the name of mine safety.

Five of these bills are misnamed for in actuality they are not mine safety bills at all. Five of the six bills before Congress at this time are there only to put the small mines of eastern Kentucky, and other States, out of operation.

The sixth bill, one introduced by Pat Jennings, Democrat Congressman from Virginia, is in essence, a true mine safety bill designated and designed to aid mine safety in small and large mines alike.

The five bills, other than the one introduced by Congressman Jennings, include stipulations which would immediately put 90 percent of our small mines out of business. These stipulations not only would stop operations of the small mines but the same stipulations are of little or no value for the safety in those mines.

Examples of the provisions in some of the other safety bills are: A preshift examination only by certain certified personnel. Another provision allows blasting of coal from the face only by electric detonators. This would put a stop to blasting the coal loose from the face by the use of fuse and caps.

These are provisions not for safety in mines but rather to completely eliminate the small mine by their inability to install the expensive equipment and operations designated in the so-called mine safety bills.

How can we eliminate the small mine in this country when in eastern Kentucky it is our chief means of income? For instance in Pike County alone, this is the effect of one small mine.

Even before the mine is built a local construction company will realize around $1,000 or more building new access roads, facing up the coal and excavating the coal. Subsequently, mine equipment companies in eastern Kentucky or southwestern Virginia will get orders for approximately $15,000 in new equipment for that mine including motors, drills, fans, mining cars, and many other items.

Next, a sawmill located somewhere in the near vicinity of the mine 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.

Immediately, after the completion of the mine, eight men will be employed for inside work. In addition to this, a truckdriver will be hired making a total of nine men employed. This probably means nine families will be provided for by employment. It also could easily mean nine families not on relief.

The average family in Pike County consists of a man, his wife and four children. (The Pike County Health Department points out this is a very conservative figure.) This means that every merchant in the community has 54 potential new customers who now have money in their pocket. It also means money to the Federal, State, county governments and to the school system in the form of taxes.

It also means financial aid to the churches and civic organizations. But most

dramatically, it means that possibly 54 members of the community are now giving to the welfare of the community rather than getting welfare.

When the small mine, similar to this one, is multiplied by the 700 existing small mines in Pike County it is seen that approximately 37,800 people are receiving their living directly from the small mines here.

Last year in 1964, the average small mine put $6,500 in the community per month. Or, looking at the situation collectively, more than $35 million was dropped into the economy for Pike County for the 700 mines for the entire year.

Do we as citizens and residents of eastern Kentucky, Pike County, and the coalfields want to entirely omit this economy?

The Government has labeled us as a depressed area but what would we be if the major existing factor of our economy were wiped out? We, like the coal industry in this area, might also be completely wiped out.

Senator COOPER. In 1960 he voted for the bill that had been developed by this committee to insure greater safety.

Senator MORSE. Thank you very much.

Senator COOPER. Thank you very much. I will submit amendments and introduce them, covering the recommendations that I made.

Senator MORSE. I will appreciate any supplmental material which you want to file between now and Friday at 5 o'clock, Senator, and particularly I am interested in the amendments that you propose to offer.

I assume you will offer those on the floor of the Senate and then I will make them part of this record.

Senator COOPER. Yes.

Senator MORSE. Thank you very, very much.

Senator COOPER. I thank you and the members of the subcommittee.

Senator MORSE. We are now privileged to listen to a panel to testify on this bill consisting of Mr. W. Foster Mullins, assistant chief mine inspector, Commonwealth of Virginia, Richmond, Va.; Mr. Robert H. Holcomb, president of the National Independent Coal Operators Association of Pikeville, Ky.; and Mr. Armistead W. Gilliam, Jr., counsel, National Independent Coal Operators Association.

These are the three members of the panel.

Gentlemen, we are delighted to have you with us and I do not think there is any better way of presenting the testimony to a Senate committee than in this panel form. Because of my experience as chairman of the Subcommittee on Education, I have found it very helpful. I am sure it will be helpful here this morning.

Now, Mr. Mullins, I assume you are going to be serving as the chairman of the panel and I will let you direct the discussion in your own way.

STATEMENTS OF W. FOSTER MULLINS, ASSISTANT CHIEF MINE INSPECTOR, COMMONWEALTH OF VIRGINIA, RICHMOND, VA.; ROBERT H. HOLCOMB, PRESIDENT, NATIONAL INDEPENDENT COAL OPERATORS ASSOCIATION, PIKEVILLE, KY.; AND ARMISTEAD W. GILLIAM, JR., COUNSEL, NATIONAL INDEPENDENT COAL OPERATORS ASSOCIATION, PIKEVILLE, KY.

Mr. GILLIAM. If I may interject something before we get started, actually Mr. Holcomb will talk first and then Mr. Mullins and then myself. I wanted at the outset——

Senator MORSE. Be sure that the official reporter at all times knows who it is that is testifying.

Mr. GILLIAM. I want at the outset to set the record straight on one thing. Mr. Holcomb is a coal-mine operator. There are five other coal-mine operators in the room who are opposing this bill and would gladly be identified and give their names and addresses as being in opposition to the bill.

Senator MORSE. I am glad I raised the point; I want to get it clarified.

Mr. GILLIAM. Also, I could give you some general ideas of their preference.

Mr. Holcomb generally will talk about some of the amendments which we feel would protect the industry. Mr. Mullins is, of course, an expert on mine safety himself and will talk some about the technical side of it; and I propose to discuss the issue that you raised earlier about the possible antitrust implications of the proposed legislation.

Senator MORSE. Fine.

Mr. GILLIAM. So Mr. Holcomb will lead off.

Senator MORSE. Proceed, Mr. Holcomb.

Mr. HOLCOMB. My name is Robert Holcomb, I am from Pikeville, Ky. I am here representing title I operators from various States. We have a membership in 14 States, all coal producing.

Contrary to the avowals of the United Mine Workers, I do not come before you to oppose coal mine safety, but to praise it. Safety is a loaded word and what one man calls safety, another may call economic advantage. Certainly, everyone in the coal industry is for safety. The questions are not who is for safety and who is against safety, but rather are——

Senator MORSE. Excuse me, I thought you were leaving the room, Senator Cooper. As we did the other day, Senator Cooper, you are welcome to ask any questions or make any comments.

Senator COOPER. Thank you.

Mr. HOLCOMB. The questions are not who is for safety and who is against safety, but rather are: What will this particular bill do to promote coal mine safety? Is the bill justified upon the preponderance of the evidence? Considering all the evidence, is this the best bill which could be enacted at this time?

The central purpose of the bill is to remove the exemption of mines employing 14 men or less from the Federal Coal Mine Safety Act. This exemption has been in effect since 1952, when that act was first passed.

In the ensuing years, according to the Bureau of Mines own figures, the fatality rate in title II mines has increased and the fatality rate in nonfederally inspected title I mines has decreased. The Bureau's figures do not tell the entire story, however.

The fatality rate in mines, which is the index by which coal mine safety is judged, is based upon deaths per million man-hours of exposure. Obviously, if fatality rates are to be accurate, they must be based upon an accurate account of man-hours of exposure.

On this point we of the title I industry feel that the Bureau of Mines has abandoned any attempt at objectivity and fairness. To illustrate, the Bureau is well aware that the mining laws of the various States require mines operating in those States to report accurately: (1) the

number of mines in operation, (2) the number of men employed, (3) the days the mine was in operation, and (4) the fatalities and accidents incurred at the mine. Failure to report this information may result in a withdrawal order being issued by the State inspector.

Under the present law the Bureau of Mines does not have the mandatory authority to obtain accurate figures concerning mines in operation, number of employees, and days of operation. The Bureau has no authority, therefore, to close down a title I mine for failure to fill in a questionnaire which the Bureau distributes to all mines. Because of the deep distrust which the small mine operators have for the Bureau, the information sought by the questionnaire often is not supplied, with the result that the Bureau figures do not reflect the number of men working or the number of mines in operation.

Under section 202(b)(1) of the act, however, the Director of the Bureau is instructed to "cooperate with the official mine inspection or safety agencies of the various States." If the Bureau had cooperated with the States, it would have learned that there were a great many more men working in title I mines than its statistics indicated.

The practice of the Bureau of ignoring State statistics which, if considered, would reduce the fatality rate for title I mines, has been pointed up by a series of questions submitted to the Bureau by Congressman Alphonso Bell, of California.

In response to the Congressman's questions:

(*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?

The Bureau stated:

(*a*) The Bureau has not challenged the accuracy of the data on number of mines and men working in title I mines as published in the States 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 number of men working in them, and tonnages produced by them has not been invesigated.

I am unable to conceive of a single reason why the Bureau, which undoubtedly has been aware that the battle over the title I exemption which has ensued each year since 1958 would continue, has failed completely up to the present time to examine the vast discrepancies between State statistics and its own.

To rectify the picture which has been presented by the Bureau's statistics, we have prepared fatality rate statistics which appear as appendix B to this statement. I consider this the most telling example of the Bureau's indifference and hostility toward the small mines and a justification for the resulting distrust which the small operators have in the Bureau.

While I do not wish to belabor the point, I do wish to point out two more examples of incidents which have created this distrust, because I believe that this situation, if properly understood by this committee, will lead the committee to consider favorably the proposed amendments to the bill which I have appended to this statement as appendix A and which I shall discuss in a moment.

Senator MORSE. That material you just referred to will be incorporated in the record. (See p. 290.)

Mr. HOLCOMB. It is the Bureau's practice, for example (and I believe this will be confirmed by Mr. Mullins), to ask a mine operator whether he is a union or nonunion operator. This information is not required under the Federal Coal Mine Safety Act to be divulged to any Federal mine inspector nor is it relevant to safety considerations.

The only conceivable relevancy which this information might have is to inform the inspector whether or not the mine is subject to the provisions of the Federal Coal Mine Safety Code, which is not in fact a code, but rather is a portion of the bargaining agreement between the United Mine Workers and their signatory operators.

What is the importance of the code? I can only cite recent examples to illustrate my point. On page 50 and 52 of the recent hearings before the House Education and Labor Committee there appear copies of two Bureau inspections made in 1964 in Buchanan County, Va.

As you will note, as part of these reports there is a section entitled, "Violation of Federal Coal Mine Safety Code." The Bureau continues this practice of inspecting with reference to this alleged "code" today in all of its inspections. To my mind, this presents a unique spectacle in the annals of American law. Here we have a mine being inspected by a Federal inspector for violations of a United Mine Workers contract. Indeed, the mines in Virginia noted in these reports are not UMW mines, but are nonunion mines.

We have been told repeatedly in previous hearings that only the act is applicable to title I operators, not the code. If the code is not applicable, then why does it assume such importance that it becomes part of an official Government inspection report? I should like to have an answer from the Bureau on this point.

I submit that the Federal Coal Mine Safety Code is the criteria, if not the legally implementing regulation, by which the Bureau inspectors determine whether or not there is an imminent danger requiring closure of the mine.

Like the term "safety," the term "imminent danger" is capable of being construed in a great many ways. Nowhere in the act is "imminent danger" defined. Yet under section 203 of the act this is the criteria by which the Federal inspector must determine whether or not to close a mine.

I do not deny that there is a need for the meaning of "imminent danger" to be spelled out by way of regulation or, for that matter, by way of statute. I do deny, however, the right of the United Mine Workers to spell out the meaning of imminent danger for the small, nonunion operators through the medium of the Federal Coal Mine Safety Code.

Again, this does not mean that I am in disagreement of every section of the code. Realizing that we must face realities, our association has conducted meetings with State mine officials, engineers, and operators recently to discuss the applicability of the code to title I mines.

We have come up with an extensive critique of the code which sets forth, in detail, the sections which we could accept, those which should not be applicable to title I mines and those which should be added to improve safety.

We propose to offer these detailed suggestions at a series of meetings with the representatives of the Bureau of Mines if the proposed law

is enacted. I am herewith submitting a copy of our recommendations as they appear in the form of proposed legislation.

Senator MORSE. The regulations will be printed at the close of Mr. Holcomb's testimony.

Mr. HOLCOMB. Thank you, Mr. Chairman. We have not abandoned hope that this proposal may yet become law. It is a new proposal and I realize that it needs study and consideration from all parts of the industry. We hope that it will receive the study and consideration which it deserves.

I should like to point out to the committee that the Federal Coal Mine Safety Code is designed for the conditions which are met in title II mines; that is, mines which are slope mines, shaft mines, or gassy mines.

The title I mine is, in 95 percent of all cases, a drift mine, which is nongassy. Because of their geological structure mines are far less likely to incur disaster-type incidents than slope, shaft, or gassy mines. Indeed, the differences between these drift mines and the large, gassy, mechanized title II mines, are so extreme as to make them an entirely different type of industry.

There is another practice of the Bureau with which our membership is totally unsympathetic. Mr. Mullins, of Virginia, introduced evidence in the House hearings that in many instances after a mine has been examined by a Federal mine inspector, the State inspector will receive a telegram from the United Mine Workers' director of safety, Mr. Charles Ferguson, that the Federal inspector has found the mine to be unsafe.

This communication usually takes the form of a request that the State inspectors close the allegedly unsafe mine. This request made by the United Mine Workers is often received before either the mine operator himself is notified of violations or the State authorities are notified by the Bureau.

I wish to emphasize that this happens with respect to nonunion mines. There is absolutely no authority under the Federal Coal Mine Safety Act whereby the Bureau of Mines is authorized to give inspection information concerning individual mines to the United Mine Workers. This practice is known by the small nonunion operators and, of course, they suspect the motives of the Bureau in furnishing this information to the UMW. In my opinion, this distrust is justified.

Senator MORSE. May I interrupt just a moment?

Mr. HOLCOMB. Yes, sir.

Senator MORSE. In your testimony, you say there is an inspection by the Federal inspector before the State's inspection office hears from anyone else. It is the testimony of Mr. Mullins in the House that the State inspectors' office will refuse a wire from the union, the United Mine Workers Union, asking that the mine be closed because of safety.

Mr. HOLBOMB. That is true.

Senator MORSE. Does the State office eventually hear from the Federal inspector.

Mr. HOLCOMB. I would let Mr. Mullins answer that question.

Mr. MULLINS. Yes; we do periodically get these reports. We get them in maybe a week's time from the local office.

Senator MORSE. The implication, if I interpret it correctly, of your testimony is that the United Mine Workers send the wire simply to take unto themselves the authority to speak for the Federal Bureau.

Is the Federal Bureau aware of the fact that the United Mine Workers of America send out these wires?

Mr. HOLCOMB. This has been pointed out, Senator, in hearings to my knowledge during 1961 and during 1963, and again this year.

Senator MORSE. Am I correct in my next inference that what you were saying is in part or what you are saying, in effect, is that the Federal Bureau of Mines is really unduly influenced by the United Mine Workers of America?

Mr. HOLCOMB. We sincerely believe that this is a fact, Senator.

Senator MORSE. You may proceed.

Mr. HOLCOMB. Further, as an examination of the Federal reports on pages 50, 52, and 57 shows, Bureau reports contain information which may be useful to the union in organizing the mine.

As I stated previously, the practice of the Bureau of asking whether the mine operator has a UMW contract has created great distrust of the Bureau itself. As proof of this practice, I refer the subcommittee to the letter to Congressman Roosevelt submitted by Mr. Charles Ferguson, safety director of the UMW, in last year's hearings at pages 407 and 408.

In that letter, Mr. Ferguson challenged the right of our association to speak for the title I operators. He claimed that United Mine Workers were better qualified to speak for operators of title I mines since the Mine Workers had contracts with more than 1,800 such small operators.

Mr. Ferguson then went on to state how many contracts they had with title I signatories in each of the various States. When required to produce the names of the UMW signatory operators which were title I operators in a subsequent proceeding, Mr. Ferguson stated under oath that he did not have such information, but obtained that information from the U.S. Bureau of Mines.

I fail to see why the Bureau of Mines considers the union or nonunion status of an operator as bearing upon the issue of coal mine safety. I am also surprised to find that the UMW had lost 1,500 signatory members in the title I industry in the past year according to the testimony of its president, Mr. Boyle, who states that the union has only about 300 title I signatories. This does not fit with my information, but it does fit with the desire of the UMW to avoid the problems raised by its practice of entering into sweetheart contracts.

Senator MORSE. Mr. Holcomb, if I may interrupt once more. Is it true that Mr. Ferguson occupies a dual position, one as the safety director of the United Mine Workers of America, and second, the membership on some Federal board or organization that has to do with the safety code?

Mr. HOLCOMB. Mr. Ferguson is a member of the Federal Coal Mine Safety Board of Review. As a member of that Board he has the authority to handle and to inspect all appeals to that Board.

I do not think that he has authority to handle inspections of every title I nonunion operator, and I might say that these telegrams from Mr. Ferguson that were introduced in the House were signed by Mr.

Ferguson as safety director of the United Mine Workers and not as a member of the Federal Mine Safety Board of Review.

Senator MORSE. That was going to be my next question. But you say he signed them as the safety director of the United Mine Workers of America?

Mr. HOLCOMB. That is true.

Senator MORSE. I want the attention of counsel. I want counsel to send a letter in behalf of the acting chairman of the subcommittee to Mr. Ferguson calling his attention to Mr. Holcomb's testimony and telling him that the acting chairman would appreciate his statement, that the acting chairman felt he should be given an opportunity to file any memorandum that he wishes to file between now and 5 p.m. Friday, commenting upon this segment of Mr. Holcomb's testimony and that the acting chairman would appreciate receiving such a memorandum. Proceed.

(The letter requested by Senator Morse follows:)

UNITED MINE WORKERS OF AMERICA,
SAFETY DIVISION,
Washington, D.C., June 24, 1965.

Hon. WAYNE MORSE,
U.S. Senate, Washington, D.C.

MY DEAR SENATOR MORSE: In conformity with your request, I will address myself to certain portions of the testimony of Robert Holcomb, who appeared in opposition to the passage of H.R. 3584.

Beginning on page 123 of the transcript, Mr. Holcomb questions the propriety of the Federal inspector asking the operator whether or not he is operating under a contract with our union. I submit that this is a relevant question, because it is the only way he can determine who is entitled to copies of his report when final distribution is made. As an example, I receive and am entitled to receive copies of all preliminary and final reports pertaining to inspection of all mines operating under contract with the United Mine Workers of America.

Mr. Holcomb further states that the code is not in fact a code, but is an instrument of the bargaining agreement between our organization and the operators signatory thereto. The facts are that the Federal mine safety codes (bituminous and anthracite) were promulgated by the U.S. Bureau of Mines in cooperation with the mining industry and the United Mine Workers of America. The initial codes came into being in 1946 and were revised in 1953. They have been incorporated by reference in our contracts since 1946. They are used as a guide by coal mine inspectors in their inspection of all mines (title I and title II, and union and nonunion).

Mr. Holcomb makes misleading statements in his testimony regarding disaster-type hazards in drift mines as compared to slope and shaft mines. I refute this statement in its entirety, and point out that the Kline Coal Co. mine, where an explosion occurred killing all men in the mine, was a drift mine.

Mr. Holcomb questions my right as director of the safety division to send wires to the State department of mines calling upon them to assume their legal responsibilities when I receive information through a Federal inspection report that imminent danger is present. I resent Mr. Holcomb's attempt to impugn my motives in this respect. In view of the lack of enforcement power under which the U.S. Bureau of Mines now operates the State department of mines is the only agency vested with the authority to take necessary corrective action in these mines presently exempt from the provisions of Public Law 552. I would, indeed, be remiss in my duty if I failed to use every legal means available to protect the lives and limbs of our membership.

I deny categorically that any wires were intentionally sent to nonunion coal mine operators and, even if done through error, I fail to see anything heinous in attempting to save human lives.

As a prime example of the failure of the Virginia State Department of Mines to assume their responsibilities, I refer you to page 127 of the transcript, where,

in response to a question from you, "It is the testimony of Mr. Mullins in the House that the State inspectors' office will refuse a wire from the union, the United Mine Workers Union, asking that the mine be closed because of safety?" Mr. Holcomb's answer: "That is true." I believe nothing could more dramatically point out the need for the passage of H.R. 3584.

Mr. Holcomb attempts to mislead the committee by referring to previous testimony of mine in which I purportedly question their right to represent the operators of title I mines. Quite the contrary, I testified that their association did represent the coal mine operators, but did not in any manner truly represent the coal mine workers who, after all, are the ones maimed and killed in these mines.

Referring to Mr. Holcomb's testimony on the number of title I mines under contract with our organization, once again his testimony is self-serving and nonfactual. I have never testified under oath before any committee concerning this legislation. The record of my past testimony is available. I stand upon it.

In conclusion, Senator, let me say that once again the opponents of this humanitarian legislation have appeared and decried the need for any remedial action. They have said nothing new. They are, in my opinion, concerned only with wringing out the last penny of profit they can from the sweat and blood of the men and their families who are forced by economic necessity to work in these mines. The only hope these people have for release now lies with the Senate of the United States. I hope and pray that their hopes will be realized.

I am sincerely appreciative of your courtesy to me in allowing this extension of my previous testimony and, if I can be of any assistance to you personally or the members of your committee, please feel free to call upon me.

Sincerely yours,

CHARLES FERGUSON.

Mr. HOLCOMB. With the foregoing as background, I should like to explain the proposed amendments which we respectfully submit merit the careful attention of the subcommittee. This does not mean that we support the proposed legislation. It means that if that legislation is considered at all, it should be considered in the light of these amendments.

Amendment No. 1, 48-hour reinspection. This amendment provides that after a withdrawal order has been served and the mine operator has complied with such recommendations as has been made by the mine inspector, the mine operator may request a reinspection.

If the reinspection is not accomplished within 48 hours, then the mine may be reopened. The obvious purpose of this amendment is to permit the mine operator to return to operation as soon as possible after a withdrawal order has been served. This, of course, is in the best interests of both the operator and the workers of the mine. It is not believed that a 48-hour period imposes any unreasonable burden upon the representatives of the Bureau. Certainly, the burden imposed is commensurate with the seriousness of the order.

It is further provided that if upon reinspection the condition persists, the Bureau representative may issue a withdrawal order which is not subject to a reinspection request within the 48-hour period.

Amendment No. 2, Bureau representatives certified by States. This amendment requires that the representatives of the Bureau who inspect mines of the various States shall be required to qualify as certified mine inspectors in the States in which they accomplish their inspections.

This amendment has been offered because in a number of States the experience has been that the Bureau representatives have not measured up to the standard of competency of the State inspectors. This is in large part due to the fact that the Bureau representatives have not attempted to become educated in the various State require-

ments. These State requirements are based upon very high standards and it is our belief that the standards of the Bureau may be improved by requiring their personnel to take the State examinations.

Amendment No. 3, publication of reports. This amendment requires the Director of the Bureau of Mines to make public certain information which he is required to obtain.

For years the title I operators have sought to have a presentation to the Congress of accurate statistics concerning that industry. Unfortunately, a number of the States do not maintain their statistics on a basis of mines employing 14 men or less, but rather base their statistics upon designation, such as truck mines, rail mines, and so forth.

We believe that the various types of mines require various types of inspection, and that all mines should not be treated alike. If the statistics are kept accurately and are subject to review by having them made public, they should indicate the areas which require the attention of safety officials and those areas which are progressing satisfactorily toward a better safety record.

We believe that the only way this can be accomplished is through disclosure of the information relating to individual mines. This will in no way affect the mine operators' ability to compete, since the same information is obtainable through railroad reports and industry trade journals.

Senator MORSE. If I may interrupt, Mr. Holcomb, at this moment to to be sure that I understand this amendment.

You say that unfortunately a number of the States do not maintain the statistics on the basis of mines employing 15 men or less, but rather base their statistics on designations such as truck mines and rail mines.

We believe that the various types of mines require various types of inspection and all mines should not be treated alike. But the definitive difference between a title I and a title II mine, as far as the subject matter of the legislation is concerned, is whether the mine employs 14 or less. Is that true?

Mr. HOLCOMB. That is the subject matter, yes.

Senator MORSE. Does this amendment seek to put a burden upon the Federal Bureau to gather statistics on the basis of whatever classification of mines a State keeps, such as truck mines, rail mines? The fact that the Bureau does not gather statistics on the basis of a diversity of State classifications of mines, is this one reason why you complain about the fact that you cannot get accurate statistics out of the Bureau?

Mr. HOLCOMB. No, the reason we complain that we cannot get accurate statistics out of the Bureau is the fact that since 1958 these discrepancies have been pointed out and the Bureau, by its own admission, has made no attempts to correlate these differences.

Apparently they want to use their statistics for a definite purpose, and if they had all the mines and all the coal miners and all the manhours worked into their statistics, there would be a completely different picture.

Now, if you will refer to the last page of my statement, it will give statistics correlated—statistics that have been gathered and compiled from the States that do keep their records in that way.

Senator RANDOLPH. May I interrupt?

Senator MORSE. Yes.

Senator RANDOLPH. Mr. Holcomb, are you saying to the members of this subcommittee that the U.S. Bureau of Mines is deliberately withholding figures or compilations in such a way as to give an inaccurate picture?

Mr. HOLCOMB. I am not saying that they are deliberately doing this. I am saying that over the years this has become our feeling. In other words, these hearings have been going on since 1958, and only a month ago the Bureau of Mines, in answer to Congressman Bell's questions stated that they had made no attempt to correlate these differences and these differences have been repeatedly pointed out, and so our inference, I think, is a fair inference. We do not make any claims, but we do have our own opinions.

Senator MORSE. Help me a bit further. I am one of these fellows that admits when he is uninformed or cannot follow a witness' implications.

I take you back again to the part that you had read. Are you telling the subcommittee that the Bureau—that the Federal Bureau of Mines does not keep statistics on the basis of the various mine classifications in the States, such as truck mines and rail mines, and others, and that gives you a problem in getting accurate information out of the Bureau?

Or are you saying in addition that apparently the Bureau does not have full statistics State by State as to the facts concerning title I and II mines?

Mr. HOLCOMB. May I refer you to Mr. Gilliam for an answer?

Senator MORSE. Fine, anybody can do it.

Mr. GILLIAM. Senator, I want to respond in two ways. The first is that the requests which we are making by amendments here would not require the Bureau to collect any statistics which they cannot now collect. That is, they do keep figures on rail and truck mine production, which is published annually, but not with respect to safety procedures but with respect to production.

The problem we have is that the States, when they publish their annual reports, do not differentiate between mines on the basis of 15 men and less—some of the States do not, some do. The result is that although 95 percent of the truck mines are title I mines in the various States, the information as to how many truck mines employ 14 men or less is not collected by the Bureau nor is it collected by the States.

The amendment which we propose, which appears in appendix A, sets forth all of the things we are interested in.

I think this would result in a complete study of title I mines. I think there ought to also be a question answered as to whether or not the mine is a truck mine or a rail mine, because that also would relate to the question of safety.

Senator MORSE. I think this is a good place to put in the record some information that we have received, Senator Cooper, partly in response to your request a week ago, and this material will be inserted in the record at the end of Mr. Holcomb's testimony this morning. It is a memorandum, "Methods Used by the Bureau of Mines To Obtain Statistics on Coal Mines."

I am going to read two short paragraphs. On page 1 there is the following paragraph:

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 6–1420(b) for bituminous coal mines; for mines not reporting on this form other available sources of reported information such as State agency reports and publications or production reports to other parts of the Bureau are used directly or as the basis of summating, so as to provide as complete coverage as can be obtained.

The last page of the memorandum:

Statistics on coal mine safety compiled by the various coal-producing States are made available in the Bureau of Mines and are used by the Bureau in preparing monthly and annual reports.

So, Mr. Holcomb, what you and counsel are saying is that under amendment No. 3, you are calling for a standardization of the forms issued by the Federal Bureau to the various coal operators, title I and title II operators, so that you can have the additional data that you allege you have been calling for some years out of the Federal Bureau and have not been able to obtain.

If that is your point, then I understand Senator Cooper's request of a week ago in which he asked for full material and by which he testified this morning when he said, in effect, if I understood him correctly, that for some years now the operators have been asking for a broader scope of statistical study from the Federal Bureau, but to date have not been able to obtain it.

And Senator Cooper said this morning, bearing on this point, as I recall, that once again we have a bill before us in which it is provided that there will be a fuller study by the Federal Bureau, but that it has been this study that the operators have been seeking now since 1958 or earlier.

Senator, is that a fair statement.

Senator COOPER. That is correct. The Senator will remember that in 1958, section 3 of the bill provided that the Bureau of Mines, in collaboration with the States in hearings, secure this exact statistical information—the number of title I mines, the number of title II mines, the number of men working in title I mines and title II mines, the coal produced by the two classes, the number of injuries and fatalities in the two classes of mines, and the causes.

That was 7 years ago and the Bureau of Mine Safety has never done that. Although the bill did not pass the Senate committee certainly indicated its desire to have this information, but the Bureau of Mines has steadfastly refused to adopt procedures to secure this type of information, and I may say that the report of the House draws attention to the fact of the lack of cooperation and places in the bill section 4, which affirmatively orders the Director to undertake greater cooperation.

Now, the House would not do that without reason. It did it because, in my judgment, it is convinced from the evidence that the Bureau after 8 years did not condone what was expected of it. As a result, we have come again to consider a bill without accurate information.

Senator MORSE. Thank you very much.

You may proceed, Mr. Holcomb.

Mr. HOLCOMB. I would like for Mr. Mullins to point out some discrepancies. The Bureau has in its answer to Senator's request for information, stated that it cooperated with the State agencies and so forth.

Senator MORSE. Go ahead, Mr. Mullins.

Mr. MULLINS. Senator, we find as many as a thousand difference in the number of employees as shown by the Federal Bureau of Mines figures as compared with our own. We have found a discrepancy of as many as 500 minues in the title I category. As far as the statistics are concerned, the Bureau of Mines has asked us for the number of fatalities, or our record of fatalities as a comparison, but we have never been asked for man-hours or number of employees.

Mr. GILLIAM. I would like to also state in this regard that this is a very large discrepancy. In the State of Virginia there are approximately 7,000 men working and the difference of 1,000 makes quite a difference on the fatality rate and, of course, the difference of 500 with respect to an estimated 1,500 mines in operation also makes an enormous error where there is need for correction.

Senator MORSE. Is the mine procedure followed by the Federal Bureau in collecting these statistics by way of a questionnaire to title I operators and, on occasion, personal interview with title I operators? Are those the two procedures followed?

Mr. HOLCOMB. Senaor Morse, I have received questionnaires over the years from the Bureau of Mines, but I have never on the first occasion had a Federal Bureau of Mines inspector or any representative of the Bureau to interview me personally as far as a mine was concerned.

Senator MORSE. The chief procedure then, if I understand the testimony you just gave, is by way of questionnaire?

Mr. HOLCOMB. That is true.

Senator MORSE. Now, clarify for me this point. Early in your testimony you left me with the impression that in some instances there was not a return of answers on questionnaires by the title I operators. Was that a misinterpretation on my part?

Mr. HOLCOMB. No, that is not a misinterpretation on your part. As my testimony reveals, there is a feeling of complete distrust among small mine operators as far as the activities of the Bureau of Mines is concerned and just as the Bureau has indicated no willingness to cooperate with the small mine operators, the small mine operators have indicated no willingness to cooperate with the Bureau of Mines.

Senator MORSE. That is what is concerning me.

Now, if it is true that in some instances the title I operators do not supply the Bureau with the information that it requests, was that not one of the main reasons for the material that is being supplied by the Bureau, being unsatisfactory and subject to the allegations that it is inaccurate due to the fact that the operators themselves are not supplying accurate information?

Mr. GILLIAM. Senator, if I may answer that. The fact is that they do not supply the information because there is no mandatory requirement that they do supply it.

There is a mandatory requirement in the States that they give accurate information as to the number of men. Now, the problem we have had is that they will not cooperate with the Federal Government, they must cooperate with the States, but the Federal Government has not taken the figures which are obtained under compulsion of closing the mine down.

Senator MORSE. You keep one jump ahead of me, and I am glad you do, because my next question was that part of our difficulty here is the

difficulty of a lack of procedural liaison between the Federal Bureau and the State mine operators. Should we not give some consideration to a mandatory provision in Federal law that requires the operators of coal mines to respond to questionnaires?

Mr. HOLCOMB. This is exactly what that amendment would do, Senator.

Senator MORSE. What is that going to do about changing your distrust?

Mr. HOLCOMB. Well, apparently from all indications we are going to have to live with the problem and if we live with it, we want to do it in the right way.

Senator MORSE. In other words, you independent operators yourselves want to be sure that every other independent operator is supplying the material?

Mr. HOLCOMB. That is right. Like I say, if we are going to come under the jurisdiction of the Bureau we want everything the Bureau does to be completely accurate.

Senator MORSE. Again, thinking off the top of my head, and I may change it after I do some study of the record, but does your amendment provide a mandatory requirement on the part of the Federal Bureau to also make use for checking purposes if for no other purpose, the reports that are filed in a given State with the State bureau of inspection?

Mr. HOLCOMB. The present bill provides that the Director of the Bureau must cooperate with the States.

Mr. GILLIAM. That is already part of the law, Senator. We feel that that is adequate to cover that point, and although if there is any need found by this subcommittee, we would welcome an amendment requiring mandatory cooperation on this point.

Senator MORSE. That clears the point up for me.

Proceed. Thank you very much.

I might say to my colleagues here on the subcommittee, any time any of you want to interrupt, please do it. I am just trying to bring up some of the doubts or misunderstandings that I feel I may be suffering from as these witnesses go ahead.

Any time you want to interrupt, please do.

Mr. HOLCOMB. Amendment No. 4, reporting of injuries, production, and employment. This amendment sets up the means by which the Bureau shall be able to keep accurate records.

The amendment requires mine operators to file information which shall be compiled and made public by the Director pursuant to amendment No. 3 and provides that failure to file such information may result in a withdrawal order effective until such information is filed.

Amendment No. 5, preshift examinations. This amendment provides that the use of a device capable of detecting methane and/or oxygen deficiency in a preshift examination shall not be required until the Bureau has trained mine personnel in the proper use of a flame safety lamp to meet the requirements of the laws of the State in which the mine is operated. The amendment is applicable only to nongassy drift mines.

Amendment No. 6, use of fuse and caps in nongassy mines. This amendment provides that fuse and caps may be used in nongassy drift mines when expressly permitted by statute of the State in which the mine is located. It would permit the use of fuse and caps in those small mines where undercutting equipment is not used or is not practical.

As Mr. Mullins pointed out before the House committee this is a safer way of extracting the coal than the use of electric detonators where the coal is not undercut. Mr. Mullins will explain this further in his own testimony.

Amendment No. 7, notice of withdrawal to be orally explained. The additional requirement that after the issuance of a closure order the Bureau representative shall orally explain such order to the mine operator and recommend ways and means by which the danger may be abated is based upon an established practice of the various State inspectors.

The practice of Bureau inspectors has been to examine the mine for violations of the code and the act and to leave that mine without making these findings known to the operator. The operator is then later advised in writing of the Bureau's findings, often some weeks after the inspection has been completed. It is important, so that there will be no misunderstanding between the operator and the mine inspector, that the violations be discussed orally. Additionally, a Bureau representative is or should be fully qualified to recommend ways and means by which the dangers may be abated.

Amendment No. 8, hearings required prior to any disapproval of a State plan. Section 202(b)(3) of the act permits the submission of a State plan which would avoid duplication of inspection efforts by State and Federal officials.

This amendment simply provides that the Director shall not finally disapprove of any State plan or modification thereof without first affording the State agency and other persons reasonable notice and opportunity for hearing. It also provides that appeal may be taken from an opinion of the Director disapproving such proposal to the Coal Mine Safety Board of Review.

Amendment No. 9, false information relating to safety conditions. This amendment provides that representatives of the Bureau who willfully issue withdrawal orders based upon information known to be false shall be dismissed by the Director.

Amendment No. 10, independence of Bureau personnel. This amendment provides that Bureau personnel shall have no affiliation with a labor union, operating coal company, or coal operators' association. This amendment is necessary in order to preserve the fairness and objectivity of the Bureau personnel.

This concludes my statement, and I will now refer to Mr. Mullins.

Senator MORSE. Thank you very much, Mr. Holcomb. The appendixes have already been ordered to be inserted in the testimony at this point.

Thank you very much.

(The appendixes referred to will be found on p. 320.)

(The proposed regulations proposed by Mr. Holcomb follow:)

PROPOSED REVISIONS OF SECTION 209 OF THE FEDERAL COAL MINE SAFETY ACT (RECOMMENDED AS STATUTORY AMENDMENTS OR AS REGULATIONS)

Section 209 of the Federal Coal Mine Safety Act (66 Stat. 702, 30 U.S.C. 479) is amended by repealing (c), (d), (e), (f), (g), (h), and by adding new subsections (c), (d), (e), (f), (g), (h), (i), (j), to read as follows:

"(c) Surface structures

"(1) **Tipple and cleaning plants.** (a) In dusty locations, electric motors, switches, ligthing fixtures, and controls shall be protected by reasonably dust-tight construction.

"(b) Structures shall be kept reasonably free of excessive coal dust accumulations.

"(c) Where coal is dumped at or near air-intake openings, provisions shall be made to prevent the dust from entering the mine in such quantities as to create a dangerous condition.

"(d) Where repairs are being made to the plant or where equipment or material is being used or transported overhead, proper scaffolding or proper overhead protection shall be provided.

"(e) Welding or cutting with arc or flame shall not be done in excessively dusty atmospheres or excessively dusty locations, and firefighting apparatus shall be readily available during such operations.

"(2) **Lamp house.** (a) Naphtha or other flammable liquids in lamp houses shall be kept in safe containers and safe dispensers.

"(b) Flame safety lamps and methane detectors or indicators shall be of permissible type and maintained in permissible condition. All flame safety and methane detectors or indicators shall be properly cleaned, assembled, and checked by a qualified lamp attendant or other competent person before each period of use. All lamps used for portable illumination shall be properly cleaned and checked by a qualified lamp attendant or other competent person, as designated by the mine owner.

"(3) (a) Stairways, elevated platforms, floor openings, and elevated runways shall be equipped with suitable handrails or guardrails. Permanent ladders more than 10 feet in height shall be provided with back guards except that back guards need not be provided on ladders where such guards cannot be maintained, such as on the river side of river cells.

"(b) Elevated platforms, floor openings, and runways shall be provided with toeboards. Stairways built after the effective date of this act shall be provided with toeboards. Platforms, stairways, and runways shall be kept reasonably clear of stumbling and slipping hazards and maintained in good repair.

"(4) **Housekeeping.** (a) Good housekeeping shall be practiced in and around mine buildings and yards. Such practices include cleanliness, orderly storage of materials, and the removal of possible sources of injury, such as stumbling hazards, protruding nails, broken glass, and falling and rolling materials.

"(5) **Lighting.** (a) Lights shall be provided as needed in or on surface structures.

"(b) Paths and walks outside of structures which are required to be used by workmen in the performance of their work shall be kept reasonably free from unnecessary obstructions and shall be suitably illuminated when required to be used at night.

"(d) Miscellaneous surface conditions

"(1) **Surface fire prevention.** (a) Oil, grease, and similar flammable materials shall be kept in closed containers reasonably separate from other materials so as not to create a fire hazard to nearby buildings or mines.

"(b) Oily rags, oily waste, and waste paper shall be kept in closed metal containers until removed for disposal.

"(c) Smoking shall be prohibited in or around oil houses, explosive magazines or other places where such practice may cause a fire or explosion. After the effective date of this Act, all structures erected on the surface at or near the drift mouth of any active mine opening shall be of reasonably fire resistant construction. Unless existing structures are of such construction, fire doors shall be erected at effective points in mine openings to prevent smoke or fire from outside sources endangering men working underground. These doors shall be tested at least monthly to insure effective operation.

"(d) After the effective date of this Act all structures erected on the surface within 100 feet of any title II mine opening and within 50 feet of any title I mine

opening should be of reasonably fireproof construction. Unless existing structures located with 100 feet of any title II mine opening and 50 feet of any title I mine opening are of such construction, fire doors shall be erected at effective points in mine openings to prevent smoke or fire from outside sources endangering men working underground. These doors shall be tested at least once monthly to insure effective operation. In title II mines a record of such tests shall be kept and shall be available for inspection by authorized persons.

"(e) Wherever practicable the area at or near all title I active mine openings shall be kept free of combustible supplies; provided, however, that this shall not apply to the necessary storage of supplies needed for the safe operation of the mine, such as mine timbers, cap bore and caps.

"(f) Wherever practicable the area within 100 feet of all title II mine openings shall be kept free of combustible material; *provided, however,* That this shall not apply to the temporary storage of not more than a one-day supply of such material.

"(e) Control of roof, face, and ribs

"(1) **Support standards.** (a) The roof, ribs and face of all active underground roadways and travel ways in a mine shall be adequately supported to protect persons from falls of roof or ribs. Adequate minimum standards for roof support suitable to the roof conditions and mining system of each mine shall be adopted and followed. Such standards shall show the minimum number and the location of supports, such as posts, crossbars, or bolts that shall be installed. The adopted plan must be posted at the mine at all times.

"(b) Before roof bolting is adopted instead of conventional timbering as a sole means of support, its effectiveness shall be proved by experimental installations made in rooms or back entries where there is likely to be little travel after completion. Such experimental installations of bolts shall be accompanied by adequate conventional timbering. After such experimental area has been abandoned for regular travel, the timbers may be removed and the effectiveness of the bolts observed over a period to be determined by an authorized representative of the Bureau, not to exceed 60 days. On the basis of these observations, the minimum systematic support standards shall be determined.

"(2) **Support supplies and methods.** (a) The management shall provide at or near the face workings an ample supply of suitable materials of proper size with which to secure all working places in a safe manner.

"(b) Safety posts, jacks, or temporary crossbars shall be set close to the face for safety before other operations are begun and as needed thereafter.

"(c) Roof shall be adequately supported to protect the workmen when roof material is being taken down, crossbars are being installed, roof-bolt holes are being drilled, and when roof bolts are being installed.

"(d) The roof in all underground working places shall be secured sufficiently to protect employees from falls of roof, face, or rib. Loose roof and overhanging or loose faces and ribs therein shall be taken down or supported.

"(e) Supports knocked out accidentally shall be replaced promptly.

"(f) Permanent supports in active workings shall not be removed unless equivalent protection is provided.

"(g) No person shall advance beyond artificially supported roof, except those who are assigned to install supports or inspect the working place.

"(3) **Testing of roof, face, ribs, and roof bolts.** (a) All underground workmen shall be instructed by a duly authorized representative of the Bureau in the proper testing of roof, face, and ribs, when necessary at the conclusion of each mine inspection.

"(b) Persons exposed to danger from falls of roof, face, and ribs shall examine and test the roof, face, and ribs before starting work or before starting a machine and frequently thereafter. When dangerous conditions are found, they shall be corrected immediately before work is continued or any other work is done, or the place shall be vacated.

"(c) Any foreman finding a dangerous roof, rib, or face condition in any working place shall cause such condition to be corrected and shall order the removal of persons exposed to such danger from the area of danger except those required to correct such condition.

"(d) Any dangerous roof or rib condition found on roadways or travelways shall be corrected promptly, and traffic thereunder shall be discontinued until the danger has been removed.

"(e) When there is danger of coal rolling on a person during or after cutting, it shall be spragged by placing blocks in the cut or by blocking with leaning posts.

"(f) A bar of proper length shall be used to bar down loose material.

"(g) Crossbars and their supports shall be well secured to prevent them from being dislodged by falling or rolling coal or rock.

"(h) When roof bolts are tested, such testing shall be done by qualified persons designated by the mine foreman.

"(4) **Recovery of Supports.** (a) Recovery of roof supports shall not be done by inexperienced persons unless such persons are being trained by a qualified person. Installed roof bolts shall not be recovered unless an adequate temporary support plan is approved by the Director.

"(f) Explosives and blasting

"(1) **Surface magazines.** (a) Separate surface magazines shall be provided for the storage of explosives, detonators, and Cardox heater elements.

"(b) In title I mines, all magazines used for storing powder or other explosives in greater quantities than an estimated daily supply shall be located not less than 300 feet from any mine opening or building used or occupied by any person or persons or distances greater than 300 feet at the discretion of the Director and the outside construction of such magazine shall be of noncombustible material and nonconductive unless properly grounded.

"(c) Surface magazines for storing detonators and Cardox heater elements need not be bulletproof, but they shall be in accordance with other provisions for storing explosives.

"(d) Explosives or Cardox heater elements in amounts of 125 pounds or less or 5,000 detonators or less shall be stored in accordance with preceding standards or in separate locked box-type magazines may also be used as distributing magazines when quantities do not exceed those mentioned. Box-type magazines shall be lined with nonsparking material. No magazines shall be placed in a building containing oil, grease, gasoline, waste paper, or other highly flammable material, nor shall a magazine be placed less than 20 feet from a stove, furnace, open fire, or flame.

"(e) The location of magazine shall conform to the American table of distances as published by the Institute of Manufacturers of Explosives.

"(f) The supply kept in distribution magazines shall be limited to approximately one day's requirements, and such supplies of explosives and detonators may be distributed from the same magazine, if separated by at least a 4-inch substantially fastened hardwood partition or the equivalent.

"(g) The area surrounding magazines for not less than 25 feet in all directions shall be kept reasonably free of rubbish, dry grass, or other materials of a combustible nature.

"(h) If the explosive magazine is illuminated electrically, the lamps shall be of vapor-proof type, installed and wired so as to present minimum fire and contact hazards.

"(i) Only nonmetallic tools shall be used for opening wooden containers. Extraneous materials shall not be stored in an explosives, detonator, or Cardox heater element magazine.

"(j) Smoking, carrying smokers' articles, or open flame shall be prohibited in or near any magazine.

"(k) In Title II mines surface magazines for storing and distributing explosives in amounts exceeding 125 pounds shall be: (1) Reasonably bullet proof and constructed of incombustible material or covered with fire-resistant material. The roofs of magazines so located that it is impossible to fire bullets directly through the roof from the ground need not be bullet proof but where it is possible to fire bullets directly through them, roofs shall be made bullet-resistant by material construction or by a ceiling that forms a tray containing not less than a 4-inch thickness of sand, or by other methods; (2) provided with doors constructed of a ⅜-inch steel plate lined with a 2-inch thickness of wood or the equivalent; (3) provided with dry floors made of wood or other nonsparking material and have no metal exposed inside the magazine; (4) provided with suitable warning signs so located that a bullet passing directly through the face of a sign will not strike the magazine; (5) provided with properly screened ventilators; (6) equipped with no openings except for entrance and ventilation; (7) kept locked securely when unattended.

"(2) **Cardox charging station.** (a) A Cardox charging station shall:

"(1) Be in a fireproof structure on the surface or isolated from other operations in the same building by a substantial fireproof partition.

"(2) Be provided with at least two methods of relieving excess pressure in the storage tank at least one of which shall be automatic. If one of these methods is a valve, the valve shall be tested monthly.

"(b) The daily supply of heater elements shall be kept in a box-type magazine.

"(3) **Underground transportation.** (a) Explosives or detonators carried anywhere underground by any person shall be in containers constructed substantially of nonconductive material, maintained in good condition, and kept closed.

"(b) When explosives or detonators are transported underground in cars moved by means of a locomotive or rope, or in shuttle cars; they shall be in substantial covered cars or in special substantial covered containers used specifically for transporting detonators or explosives.

"(1) The bodies and covers of such cars and containers shall be constructed or lined with nonconductive material.

"(2) If explosives and detonators are hauled in the same explosives car or in the same special container, they shall be separated by at least a 4-inch substantially fastened hardwood partition or the equivalent.

"(3) Explosives, detonators, Cardox shells, or other explosive items shall not be transported on the same trip with men; provided, however, that explosives and detonators not to exceed one day's supply may be carried on the same trip with workmen, where this is now the practice, if they are carried in separate individual containers constructed of substantial, rigid nonconductive material.

"(4) When explosives or detonators are transported in special cars or containers in cars, they shall be hauled in special trips not connected to any other trip; provided, however, that this does not prohibit the use of such additional cars as needed to lower a rope trip, or to haul supplies including timbers; and provided further that materials so transported shall not project above the top of the car. Exposed highly flammable materials such as hay, oil, or grease shall not be hauled on the same trip with explosives.

"(5) Explosives or detonators shall not be hauled into or out of a mine within 5 minutes preceding or following a man-trip or any other trip.

"(6) Explosives may be transported in the original and unopened containers in a regular mine car pulled by rubber-tired locomotives. However, no car supplies or persons can be handled while explosives are being transported.

"(c) Explosives and detonators shall be transported underground by belt only under the following conditions:

"(1) In the original and unopened case, or in special closed cases constructed of nonconductive material, or in suitable individual containers.

"(2) Clearance requirements shall be the same as those for transporting men on belts.

"(3) Suitable loading and unloading stations shall be provided.

"(4) Stop controls shall be provided at loading and unloading of explosives and detonators.

"(d) Neither explosives nor detonators shall be transported on flight or shaking conveyors, scrapers, mechanical loading machines, drill trucks, or any self-propelled mobile equipment; provided, however, that this does not prohibit the transportation of explosives or detonators as provided in (3) (b) (6) above.

"(4) **Underground storage.** (a) When supplies of explosives and detonators for use in one or more sections are stored underground, they shall be kept in section boxes or magazines of substantial construction with no metal exposed on the inside, located at least 25 feet from roadways and power wires, and in a reasonably dry, well rock-dusted location protected from falls of roof. In pitching beds, where it is not possible to comply with the location requirement, such boxes shall be placed in niches cut into the solid coal or rock.

"(b) When explosives or detonators are stored in the section, they shall be kept preferably in separate boxes or magazines not less than 5 feet apart; if kept in the same box or magazine, they shall be separated by at least a 4-inch substantially fastened hardwood partition or the equivalent. Not more than a 48-hour supply of explosives or detonators shall be stored underground in such boxes or magazines.

"(c) Explosives and detonators stored near the working faces shall be in separate closed containers, and shall be in a location out of line of blast not less than 50 feet from the face and 15 feet from any pipeline, powerline, rail or

conveyor; except that if kept in niches in the rib, the distance from pipeline, powerline, rail, or conveyor shall be at least 5 feet. Such explosives and detonators, when stored, shall be separated by a distance of at least 5 feet.

"(d) Explosives and detonators shall be kept in their containers until immediately before use at the working faces.

"(e) Only nonmetallic tools shall be used for opening wooden explosives containers. Tools or other materials shall not be stored with explosives or detonators.

"(5) **Blasting practices.** (a) Black power shall not be stored, handled, or used underground in any mine; however, this paragraph shall not apply to any mine in which the storage, handling, or use of black pellet powder is expressly permitted by a statute of the State in which such mine is located.

"(b) No explosive which has been frozen or thawed or is in a frozen state, or shows any sign of deterioration and/or degradation shall be transported or used in any coal mine.

"(c) All explosives used underground in coal mines shall be of the permissible type and shall be used as follows:

"(1) Fired only with electric detonators of proper strength, except fuse and caps may be used in nongassy mines when expressly permitted by a statute of the State in which the mine is located.

"(2) Fired with permissible shot firing units in gassy mines unless firing is done from the surface when all men are out of the mine.

"(3) Where the coal is cut, shots shall not be fired if the blast hole is drilled beyond the limits of the cut.

"(4) Boreholes shall be cleaned, and they shall be checked to see that they are placed properly and are of correct depth, in relation to the cut, before being charged.

"(5) All blasting charges in coal shall have a burden of at least 18 inches in all directions if the height of the coal permits.

"(6) If fuses or caps are used for blasting, misfires may not be approached by anyone until twenty-four hours have elapsed, and handling of the misfire must be done with due care and under the direction of a supervisor or other competent person.

"(7) In gassy mines, examinations for gas shall be made immediately before firing each shot or group of multiple shots and after blasting is completed.

"(8) Shots shall not be fired in any place where methane can be detected with a flame safety lamp when tested at a point not less than 12 inches from the roof, face, or rib.

"(9) Charges exceeding 1½ pounds but not exceeding 3 pounds shall be used only if boreholes are 6 feet or more in depth, the explosives are charged in a continuous train, with no cartridges deliberately deformed or crushed, with all cartridges in contact with each other and with the end cartridge touching the back of the hole and the stemming, respectively, and Class A or Class B permissible explosives are used; provided, however, that the 3-pound limit does not apply to solid rockwork.

"(10) Shots shall be fired by certified shot firers wherever State law requires such certification. In mines where certification of shot firers is not required by State law, the management shall designate competent persons to fire shots.

"(11) Boreholes shall not be charged while any other work is being done at the face, and the shot or shots shall be fired before any other work is done in the zone of danger from blasting except that which is necessary to safeguard the employees.

"(12) Only nonmetallic tamping bars shall be used for charging and tamping boreholes. This does not prohibit the use of a nonmetallic tamping bar with a nonsparking metallic scraper on one end.

"(13) The leg wires of electric detonators shall be kept shunted until ready to connect to the firing cable.

"(14) Shots shall not be fired from the power or signal circuit.

"(15) The roof and ribs of working places shall be tested before and after firing each shot or group of multiple shots.

"(16) Ample warning shall be given before shots are fired, and care shall be taken to ascertain that all persons are in the clear. Men shall be removed from adjoining working places where there is danger of a shot blowing through.

"(17) Mixed types or brands of explosives shall not be charged or fired in any borehole.

"(18) Mudcaps (adobes) or other unconfined shots shall not be fired underground in a mine.

"(6) **Blasting cables.** (a) Blasting cables shall be:

"(1) Well insulated and as long as may be necessary to permit the shot firer to get in a safe place around a corner.

"(2) Short circuited at the battery and until ready to attach to the blasting unit.

"(3) Staggered as to length or the ends kept well separated when attached to the detonator leg wires.

"(4) Kept clear of power wires and all other possible sources of active or stray electric current.

"(7) **Misfires.** (a) Where misfires occur with electric detonators, a waiting period of at least 5 minutes shall elapse before anyone returns to the shot. After such failure, the blasting cable shall be disconnected from the source of power and the battery ends short circuited before electric connections are examined. If fuses or caps are used for blasting, misfires may not be approached by anyone until twenty-four hours have elapsed, and handling of the misfire 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 six hours have elapsed.

"(b) Explosives shall be removed by firing a separate charge at least 2 feet away from, and parallel to, the misfired charge or by washing the stemming and the charge from the borehole with water, or by inserting and firing a new primer after the stemming has been washed out.

"(c) A very careful search of the working place, and, if necessary, of the coal after it reaches the tipple shall be made after blasting a misfired hole, to recover any undetonated explosive.

"(d) The handling of a misfired shot shall be under the direct supervision of the mine foreman or a competent person designated by him.

"(e) When fuses are used, in no case shall such fuses be of less length than the drill hole, and extend not less than four inches outside the hole. In no case shall a fuse less than three and one-half feet in length be used. The Director shall approve the method of blasting with fuse and caps.

"(8) **Cardox.** (a) The provisions governing the handling, storage, and transportation of explosives shall apply to the heater elements of Cardox blasting devices prior to their installation in the shells.

"(b) Charged Cardox shells shall, except where transported on rubber belts, be transported underground in covered insulated cars or shuttle cars. They shall be stored on wooden racks or in insulated containers in a crosscut or idle room neck at least 10 feet from pipelines, powerlines, conveyors, roadways, and haulage tracks, and shall not be removed from such rack or container or wired until ready to use at the face.

"(c) Where Cardox is used for blasting, the following shall apply:

"(1) When Cardox is fired all persons in the vicinity, including the shot firer, shall be around a second corner or in an equally safe place.

"(2) Blasting cables shall be as long as may be necessary to insure the safety of the shot firer, attached only after the charge has been placed in the borehole, and maintained in good repair.

"(3) Blasting cables shall be kept clear of power wires and all other possible sources of active or stray electric currents.

"(4) The charge shall be detonated with a permissible shot firing unit.

"(5) Cardox shall not be shot off the solid, over heavy rock binders or shale, or in a "tight" shot.

"(6) Cardox misfires shall not be approached until after the elapse of 15 minutes and shall be handled under the supervision of a competent person.

"(7) Misfired shells shall be bled off before complete removal from the hole and marked conspicuously upon such removal.

"(8) All protruding wires shall be removed from misfired shells before the shells are removed from the face.

"(9) In gassy mines, examination for gas shall be made immediately before and after firing each shot or group of multiple shots.

"(10) Shots shall not be fired in any place where methane can be detected with a flame safety lamp when tested at a point not less than 12 inches from the roof, face, or rib.

"(11) Cardox shells shall not be heated. This does not apply to heat generated when the shell is discharged.

"(9) **Compressed-air blasting.** (a) Where compressed air is used for blasting or breaking down the coal, the following shall apply:

"(1) Compressed air shall be conducted from the compressor to within a practical working distance of the face by steel airlines tested to withstand an approximate pressure of 20,000 pounds per square inch.

"(2) Airlines shall be grounded at the compressor and, if possible, at other low-resistance ground connections along the lines, such as at borehole casings. They shall not be connected in any way to tracks, waterlines, or other electric power return conductors and shall be suitably insulated where they cross electric wires or underneath the track.

"(3) Shutoff valves shall be installed every 1,000 feet in all compressed-air blasting lines and in all branch lines at a point near the main lines.

"(4) Compressed-air blasting lines shall be protected at places where equipment passes over, under, or adjacent to them.

"(5) Steel, copper, or other lines shall not be handled or repaired when air pressure is in the line.

"(6) Airlines shall be examined periodically for kinks or other weaknesses and replaced immediately when defects are found.

"(7) Copper tubing shall be coiled and uncoiled properly. The part of the tubing that is affected by frequent coiling and uncoiling shall be renewed periodically because of the dangers from kinks and crystallization.

"(8) Blowdown valves shall not be less than 45 feet from the face and shall be around a right angle.

"(9) Holes for compressed-air tubes shall be within the limits of the cut.

"(10) When blowdown valves are opened to discharge the tube, they shall remain open until time to place the tube in the next borehole except where shearstrip or shearpin tubes are used.

"(11) After breaking down the coal in any one place, the tube shall be disconnected at once from the airline and not reconnected until ready to be used in the next place.

"(12) When a differential-pressure-type tube fails to discharge, the line leading to the tube shall be disconnected at the blowdown valve, and the tube shall be dragged by means of the line to an inactive place, marked with warning signs, and left one hour before any repair work is done thereon.

"(13) All persons shall be removed from adjoining working places where there is danger of breaking through and shall be at a safe distance around a right angle while coalbreaking is in progress.

"(g) **Ventilation and mine gases**

"(i) **Main fans.** (a) All mines opened after the effective date of this act shall be ventilated by means of main fans installed as follows:

"(1) On the surface.

"(2) In fireproof housing.

"(3) Offset not less than 15 feet from the nearest side of the mine opening; provided, however, that this does not apply to present fans that are offset any distance from the mine opening if they otherwise comply with subsection (a) of this section and were installed prior to an effective date of this act.

"(4) Equipped with fireproof air ducts and ample means of pressure relief.

"(5) In lieu of requirements for the location of the fan and the pressure-relief facilities the fan may be directly in front or over the mine opening; provided, however, the opening is not in direct line with possible forces coming out of the mine if an explosion occurs; and provided further, that there is another opening having a weak-wall stopping or explosion doors that would be in direct line with the forces coming out of the mine if an explosion occurs, such opening to be not less than 15 feet nor more than 100 feet from the fan opening.

"(b) In Title II mines fans shall be installed to permit the reversal of airflow and unless the fan is attended constantly, shall be provided with an automatic device to give alarm when the fan slows down or stops. This device shall be placed so that it will be seen or heard by a responsible person.

"(c) At gassy mines, main fans shall be on separate power circuits independent of any mine circuit.

"(d) The area surrounding main fan installations shall be kept free of combustible material for at least 100 feet in all directions, where physical conditions permit.

"(e) In Title II mines the fan shall be inspected daily and a record kept of the inspection, which shall be open for inspection by interested persons.

"(f) When the main fan fails or stops at a gassy mine, immediate action shall be taken to cut off the power and withdraw the men from the face regions of the mine. If ventilation is restored in a reasonable time, the face regions and other places where methane is likely to accumulate shall be reexamined by certified or competent supervisors, and if found to be free from explosive gas, power may be restored and work resumed. If ventilation is not restored in a reasonable time, all underground employees shall be removed from the mine. Where a mine is ventilated by multiple fans, and the split system of ventilation is employed, the foregoing shall apply only to the area that is affected by such failures.

"(g) When the main fan of a nongassy mine fails or stops and cannot be started within a reasonable time, the men shall be withdrawn from the face regions. If ventilation is not restored within a reasonable time, all persons shall be removed from the mine, and the mine shall be examined by properly certified persons before the men are permitted again underground.

"(h) Main fans shall be operated continuously except when the mine is shut down with all men out of the mine. In a Title II mine, after the fan has been started, the mine shall be examined for gas and other hazards and made safe before men, other than the examiners, are permitted in the mine. Main fans at Title I mines shall be operated continuously except when the mine is shut down with all men out of the mine. After the main fan has been shut down it must be operated for a period of two hours and examination made to see that all stoppings are in working order before employees are allowed to enter the mine.

"(i) Where electric power is available, main mine fans shall not be powered by means of internal combustion engines. Where electricity is not available, internal combustion engines may be so used. Internal combustion engines may also be used for "standby" power to drive fans. Where internal combustion engines are used, as provided, they shall not be set in the current of air caused by the fan operation, and the exhaust discharge shall be located so as to preclude the possibility of exhaust gases entering the mine. Such engines shall be in a fireproof structure.

"(j) Main fans at gassy mines shall be provided with pressure recording gages.

"(2) **Booster fans and auxiliary fans with tubing.** (a) Booster fans shall not be installed in any mine after the effective date of this act. Such fans in use on the effective date of this act may be continued in use upon the written approval and under the conditions prescribed by the Director of the United States Bureau of Mines.

"(b) Auxiliary blower fans with tubing may be used to ventilate shaft and slope-sinking operations and their underground connections, the faces of rock tunnels being driven between two coal beds or through faults and wants, if they are powered with permissible driving units, operated continuously, inspected at least twice during each shift, and so placed that recirculation of air is not possible.

"(c) Except as provided for in section 2b, auxiliary blower fans and auxiliary exhaust fans shall not be used after the effective date of this act except where there is a definite need for them and the results attained would be advantageous from a health or safety standpoint. The installation and use of such fans in each mine shall be in accordance with conditions prescribed by the Director of the United States Bureau of Mines and subject to the approval of the Federal Coal Mine Safety Board of Review; such approval shall be obtained for such fans now in use and prior approval shall be obtained for the installation of such fans in new mines or in mines in which such fans were not being used on the effective date of this act.

"(3) **Volume of air.** (a) In all mines the volume and velocity of the current of air reaching the last open crosscut in any pair or set of entries shall be sufficient to dilute so as to render harmless, and to carry away, flammable or harmful gases. A minimum of 400 cubic feet per minute per man shall be required in Title I mines.

"(b) In Title II mines, the quantity of air reaching the last open crosscut in any pair or set of entires shall not be less than 6,000 cubic feet a minute, except that the quantity of air reaching the last open crosscut in any pair or set of entries in pillar sections may be less than 6,000 cubic feet a minute if not less than 6,000 cubic feet of air a minute is being delivered to the intake end of the pillar line.

"(c) Each section in a Title II mine shall be ventilated by a separate split of air controlled by means of overcasts or undercasts.

"(d) At least once each week, a properly certified or competent person shall measure the volume of air entering the main intakes and leaving the main returns, the volume passing through the last open crosscut in each active entry, the volume being delivered to the intake end of each pillar line, and the volume at the intake and return of each split. A record of such measurements shall be open for inspection by interested persons. In Title II mines a system of bleeder openings of air courses designed to provide positive movement of air through and/or around abandoned or caved areas sufficient to prevent dangerous accumulation of gas in such areas and to minimize the effect of variations in atmospheric pressure shall be made a part of pillar recovery plans.

"(4) **Coursing of air.** (a) The main intake and main return air currents in slope mines driven after the effecive date of this act shall be in separate openings. The main intake and main return air currents in a single shaft sunk after the effective date of this act shall be separated by a curtain wall or partition substantially constructed of fireproof material.

"(b) All entries driven in coal after the effective date of this act shall be in sets of two or more.

"(c) Permanently installed underground stables, battery-charging stations, transformer stations and substations, except substations installed prior to the effective date of this act shall be ventilated by separate splits of air conducted directly to the return air courses. Electrically operated pumps and compressors, portable substations, and battery-charging stations shall be in a well ventilated places.

"(d) Changes in ventilation that materially affect the main air current or any split thereof shall be made when the mine is not in operation and with no men in the mine other than those engaged in changing the ventilation.

"(e) The number of men on a spilit shall conform to the requirements of the law of the State in which the mine is situated.

"(5) **Quality of air.** (a) All active underground working places in a mine shall be ventilated by a current of air containing not less than 19.5 per centum of oxygen, not more than 0.5 per centum of carbon dioxide, and no harmful quantities of other noxious or poisonous gases.

"(b) If the air at an underground working face in a mine, when tested at a point not less than twelve inches from the roof, face, or rib, contains more than 1.0 per centum of methane, as determined by a permissible flame safety lamp, air analysis, or other recognized means of accurately detecting such gas, changes or adjustments shall be made at once in the ventilation in such mine so that such air shall not contain more than 1.0 per centum of methane.

"(c) If a split of air returning from active underground working places in a mine contains more than 1.0 per centum of methane, as determined by a permissible methane detector, a permissible flame safety lamp, air analysis, or other recognized means of accurately detecting such gas, changes or adjustments shall be made at once in the ventilation in such mine so that such returning air shall not contain more than 1.0 per centum of methane.

"(d) If a split of air returning from active underground working places in a mine contains 1.5 per centum of methane, as determined by a permissible methane detector, a permissible flame safety lamp, air analysis or other recognized means of accurately detecting such gas the employees shall be withdrawn from the portion of the mine endangered thereby, and all power shall be cut off from such portion of the mine, until the quantity of methane in such split shall be less than 1.5 per centum. However, in virgin territory in mines ventilated by exhaust fans, where methane is liberated in large amounts, if the quantity of air in a split ventilating the workings in such territory equals or exceeds twice the minimum volume of air prescribed in paragraph (1) of this subsection and if only permissible electric equipment is used in such workings and the air in the split returning from such workings does not pass over trolley or other bare power wires, and if a certified person designated by the mine operator is continually testing the gas content of the air in such split during mining operations in such workings, it shall be necessary to withdraw the employees and cut off all power from the portion of the mine endangered by such methane only when the quantity thereof in the air returning from such workings exceeds 2 per centum, as determined by a permissible methane detector, a permissible flame safety lamp, air analysis, or other recognized means of accurately detecting such gas.

"(6) **Crosscuts and stoppings.** (a) Proper breakthroughs shall be made in all pillars at a distance not exceeding eighty feet apart, and closer when required by the Director or his authorized representative. If greater distance is required, line brattice shall be used to properly ventilate the face.

"(b) Crosscuts between intake and return air courses shall be closed by permanent or temporary stoppings. Crosscuts between rooms shall be closed where necessary to provide adequate ventilation at the working face.

"(c) Where practicable, a crosscut shall be provided at or near the face of each entry or room before the place is abandoned.

"(d) Entries or rooms shall not be started off an entry beyond the last open crosscut; provided, however, that room necks and entries not to exceed 18 feet in depth may be turned off an entry beyond the last open crosscut if such room necks or entries are kept free of accumulations of noxious gas by use of line brattice or other adequate means.

"(e) In Title I mines on entries other than room entries permanent stoppings in crosscuts between intake and return airways shall be built of substantial, fire resistant material. Temporary stoppings may be installed in the last 5 open crosscuts in accordance with the provisions of this Act relating to ventilation.

"(f) Stopping shall be reasonably airtight.

"(g) In Title II mines on entries other than room entries, stoppings and cross cuts between intake and return airways shall be built of solid, substantial, incombustible material, such as concrete, concrete blocks, bricks or tile. In mines where physical conditions exist because of heavy or caving ground so as to make the use of concrete, concrete blocks, bricks or tile impracticable, timbers laid longitudinally "skin to skin" may be used.

"(7) **Doors, overcasts, and undercasts.** (a) In Title II mines ventilation shall be so arranged by means of air locks, overcasts, or undercasts that the passage of trips or persons along the entries will not cause interruptions of the air current; provided, however, that where air locks are impracticable, single doors may be used. Where single doors are used, they shall be attended constantly while the section of the mine controlled by such doors is in operation, unless they are operated mechanically, except that doors in or between panel or room entries need not be attended if all persons who pass through such doors are instructed to close them promptly. Air locks shall be ventilated enough to prevent accumulations of methane therein.

"(b) Doors shall be kept closed except when men or equipment are passing through the doorways. Motor crews and other persons who open doors shall see that the doors are closed before leaving them.

"(c) Overcasts and undercasts shall be constructed tightly of incombustible material, such as masonry, concrete blocks, or prefabricated metal, of sufficient strength to withstand possible falls from the roof; they shall be of ample area to pass the required quantity of air and shall be kept clear of obstructions.

"(8) **Line brattice.** (a) Substantially constructed fire-resistant line brattice shall be used from the last open crosscut of an entry or room when necessary to provide adequate ventilation for the workmen and to remove gases and explosive fumes. When damaged by falls or otherwise they shall be repaired promptly.

"(b) The space between the line brattice and the rib shall be large enough to permit the flow of a sufficient volume of air to keep the working face clear of flammable and noxious gases.

"(c) In all mines brattice cloth used underground shall be of flame-resistant material.

"(9) **Abandoned workings.** (a) Abandoned workings shall be posted to warn unauthorized persons against entering the territory.

"(b) In a gassy mine, air which has passed by an opening of any unsealed, abandoned area shall not be used to ventilate any active face area in such mine if such air contains 0.25 per centum or more of methane; but if this provision cannot be complied with in such mine on the effective date of this section, such mine may continue to be operated after such date as it was operated immediately prior to such date, for a reasonable time until future mine development and ventilation of such mine can be changed to comply with this sentence. In no event shall such air be used to ventilate any area in such mine in which men work or travel if such air contains more than 1 per centum of methane. For the purposes of this paragraph, an area within a panel shall not be deemed to be abandoned until such panel is abandoned.

"(c) In a gassy mine, air that has passed through an abandoned panel which is inaccessible for inspection, or air that has passed through a similar abandoned

area which is inaccessible for inspection, or air which has been used to ventilate a pillar line or air which has been used to ventilate an area from which the pillars have been removed, shall not be used to ventilate any active face area in such mine; but if this sentence cannot be complied with in such mine on the effective date of this section, such mine may continue to be operated after such date as it was operated immediately prior to such date, for a reasonable time until future mine development and ventilation of such mine can be changed to comply with this sentence. In no event shall air be used to ventilate any area in such mine in which men work or travel if such air contains more than 1 per centum of methane.

"(d) In a gassy mine, all workings which are abandoned after the effective date of this section or the date such mine became a gassy mine, whichever is later, shall be sealed or ventilated. If such workings are sealed, the sealing shall be done in a substantial manner with incombustible material. One or more of the seals of every sealed area shall be fitted with a pipe and cap or valve to permit the sampling of gases and the measuring of hydrostatic pressure behind such seals. For the purposes of this paragraph, workings within a panel shall not be deemed to be abandoned until such panel is abandoned.

"(10) **Classification of mines and examinations for gas and other dangerous conditions.** (a) A mine not subject to Title II of the Federal Coal Mine Safety Act shall be deemed to be a gassy mine under this Act if any one of the following conditions exists:

"1. Methane has been ignited in the mine,

"2. Methane has been found after the effective date of the Federal Coal Mine Safety Act by use of a permissible flame safety lamp or by air analysis in an amount of 0.25 per centum or more when tested at a point not less than 12 inches from the roof, face or rib in any air return.

"(b) Every operator of a mine which, on or after the effective date of this title, is, or which, immediately prior to the effective date of this title, was defined, classed, classified as, or determined deemed, judged, held or found to be, a gassy or gaseous mine pursuant to and in accordance with the laws of the State in which it is located, and every operator of a mine which, immediately prior to the effective date of this title, was operated as a gassy mine, shall comply with the provisions of this section which pertain to gassy mines.

"(c) Not less than two permissible flame safety lamps in proper working condition shall be kept available at each mine for the use of authorized persons.

"(d) Certified persons in Title I mines whose regular duties require them to inspect working places in a nongassy mine for dangers shall have in their possession, and shall use, when underground, a suitable permissible device capable of detecting methane and/or oxygen deficiency. This shall not be required until the Bureau has trained mine personnel in the proper use of a flame safety lamp to meet the requirements of the laws of the state in which the mine is located.

"(e) In a Title II mine, within four hours immediately preceding the beginning of a coal-producing shift, and before any workmen in such shift other than those who may be designated to make the examinations prescribed in this paragraph enter the underground areas of such mine certified persons designated by the operator of such mine to do so shall make an examination as prescribed in this paragraph of such areas. Each person designated to act as such a mine examiner shall be directed to examine a definite underground area of such mine, and in making his examination, such examiner shall inspect every active working place in such area and make tests therein with a permissible flame safety lamp for accumulations of methane and oxygen deficiency in the air therein; examine seals and doors to determine whether they are functioning properly; inspect and test the roof, face, and rib conditions in the working places and on active roadways, travelways, approaches to abandoned workways and accessible falls in active sections for explosive gas and other hazards; and inspect to determine whether the air in each split is traveling in its proper course and in normal volume. Such mine examiner shall place his initials and the date at or near the face of each place he examines. If such mine examiner, in making his examination, finds a condition which he considers to be dangerous to persons who may enter or be in such area, he shall indicate such dangerous place by posting a "danger" sign conspicuously at a point which persons entering such dangerous place would be required to pass. No person, other than Federal or State mine inspectors or persons authorized by the mine operator to enter such place for the purpose of eliminating the dangerous condition therein, shall enter such place while such sign is so posted. Upon completing his examination such mine

examiner shall report the result of his examination to a person designated by the mine operator to receive such reports, at a designated station, on the surface of the premises of the mine or underground, before other persons enter the underground areas of such mine to work in such coal-producing shift. Each such mine examiner shall also record the results of his examination with ink or indelible pencil in a book kept for such purpose at a place on the surface of the mine designated by the mine operator. No person (other than a certified person designated under this paragraph) shall enter any underground area in a gassy mine, except during a coal-producing shift, unless an examination of such area as prescribed in this paragraph has been made within twelve hours immediately preceding his entrance into such area.

"(f) In Title I mines an examination shall be made within four hours immediately preceding the beginning of the first coal producing shift on such date. Such examination shall comply with the requirements of the law of the State in which the mine is located.

"(g) The underground working places in all mines shall be examined for hazards by certified persons designated by the mine operator to do so, at least once during each coal-producing shift, or oftener if necessary, for safety. In a gassy mine, such examinations shall include tests with a permissible flame safety lamp for methane, and oxygen deficiency. In all underground face workings in a gassy mine where electrically driven equipment is permissible flame safety lamp by a person trained in the use of such lamp before such equipment is taken into or operated in face regions, and frequent examinations for methane shall be made during such operations.

"(h) In a gassy mine, immediately before a roof fall is likely to occur in pillar workings, such workings shall be examined to ascertain whether methane is present. If in such examination methane is found in amounts that can be detected with a permissible flame safety lamp, all the power must be removed from the section affected and the men withdrawn and necessary steps taken to remove the gas before production workers are allowed to return to the area.

"(i) Idle and abandoned sections shall be inspected for gas and other dangerous conditions by a certified foreman or fire boss immediately before other employees are permitted to enter or work in such places. A certified official or competent person designated by the mine foreman shall personally supervise the correction of exceptionally dangerous conditions.

"(j) In Title II mines examinations for dangerous conditions, including tests for methane with a permissible flame safety lamp, a permissible methane detector, or by chemical analysis shall be made at least once each week by the mine foreman or other properly certified person designated by him; provided, however, that such weekly examination need not be made during any week in which the mine is idle for the entire week. Such examinations and tests shall be made in the return of each split where it enters the main return, on pillar falls, at seals, in the main return, at least one entry of each intake and return airway in its entirety, idle workings, and, insofar as conditions permit, abandoned workings. The person making such examinations and tests shall mark his initials and the date at the places examined, and if dangerous conditions are found, they shall be reported promptly. A record of these examinations and tests shall be kept at the mine. In Title I mines such examinations shall comply with the laws of the State in which the mine is located.

"(k) The mine foreman shall read and countersign promptly the daily reports of the fire bosses and assistant mine foreman, and he shall read and countersign promptly the weekly report covering the examinations for dangerous conditions, and the mine foreman shall take prompt action to have such conditions corrected. The mine Superintendent, or assistant mine superintendent where such official is in charge at the mine, shall also read and countersign the daily and weekly reports of the mine officials.

"(l) Each day, the mine foreman and each assistant shall enter plainly and sign with ink or indelible pencil in a book provided for that purpose a report of the condition of the mine or portion thereof under his supervision, which report shall state clearly the location and nature of any danger observed by them or reported to them during the day, and the report shall state what action, if any, was taken to remedy such danger.

"(m) All records of daily and weekly reports, as prescribed herein, shall be open for inspection by authorized persons.

"(h) Coal and rock dust

(1) Coal dust, loose coal, and other combustible materials shall not be permitted to accumulate in dangerougs quantities in active underground workings of a mine. All dry coal mines, or parts of mines, or sections thereof, shall be rock dusted if conditions are found to be so dusty as to constitute a hazard after proper inspection. Should such conditions be found to exist, the Director or his authorized representative shall require the necessary rock dusting to make the mine part of mine or section safe.

"(2) In all mines accumulations of fine dry coal dust shall, as far as is practicable, be removed from the mine and all dry and dusty operating sections kept thoroughly watered or rock dusted, or the dust allayed by other methods approved by the Director; but in every dusty mine, or in any part or section thereof rock dusting shall be applied to maintain at all times a minimum percentage of 65 percent of noncombustible matter to within 40 feet of the faces, and under certain special conditions the Director may require that places be rock dusted to the faces. All open break-throughs within the 40-foot zone shall be rock dusted. Samples taken to determine noncombustible content shall be taken around the perimeter of the place. The term "dusty mine" shall not include a wet or damp mine, but the provisions hereof relating to rock dusting shall apply to any dusty part or section of a wet or damp mine. The Director may at his discretion approve rock dusting regulations consistent with advanced mining methods.

"(i) Transportation

"(1) *Hoisting.* (a) Where men are regularly transported into or out of a mine, or underground by hoists, or on surface inclines, a qualified hoisting engineer shall be on duty continuously while any person is underground, except as provided in subsection "b" of this section.

"(b) Every hoist used to transport persons at a mine, other than hoists used in excavating shafts or slopes, shall be equipped with overspeed, overwind, and automatic stop controls unless a second engineer is on duty. Every hoist used to transport such persons shall be equipped with brakes capable of stopping the platform, cage, or other device for transporting persons when fully loaded; and with hoisting cable adequately strong to sustain the fully loaded platform, cage, or other device for transporting persons, and have a safety factor of not less than 10. Cages or platforms which are used to transport persons in vertical shafts, except cages or platforms which are also used to transport coal, shall be equipped with safety catches that act quickly and effectively in an emergency, and the safety catches shall be tested at least once every two months. Every hoist that is used to transport persons at a mine shall be inspected daily. No engineer shall be required for automatically operated cages or platforms.

"(c) The hoisting engineer shall operate the empty cages up and down the shaft at least one round trip at the beginning of each shift and after the hoist has been idle for one hour or more before hoisting or lowering men.

"(d) An accurate and reliable indicator, showing the position of the cage or trip, shall be placed so as to be in clear view of the engineer, unless the position of the cage or trip is clearly visible to the engineer at all times.

"(e) The rope shall have at least three full turns on the drum when extended to its maximum working length and shall make at least one full turn on the drum shaft or around the spoke of the drum, in case of a free drum, and be fastened securely by means of clamps, unless the hoist design does not require the rope to be wrapped around the drum.

"(f) If the hoisting rope shall be fastened to its load, it shall be secured by a spelter-filled socket or by a thimble and adequate number of clamps properly spaced and installed.

"(g) Any rope attached to a cage, man-car, or trip used for hoisting or lowering men shall be provided with two bridle chains or cables connected securely to the rope at least three feet above the socket or thimble and to the crosspiece of the cage or to the man-car or trip.

"(h) Hoisting equipment, including the headgear, cages, ropes, connections, links and chains, shaft guides, shaft walls, and other facilities shall be inspected daily by a competent person designated by the management. Such inspector shall report immediately to his superior any defects found, and any such defects shall be corrected promptly. The person making such examination

shall make a daily permanent record of each inspection, which shall be open for inspection by authorized persons.

"(2) **Cages, shafts, slopes, and surface inclines.** (a) Cages used for hoisting men shall be of substantial construction; with adequate steel bonnets; with enclosed sides; with gates; safety chains, or bars, across the ends of the cage when men are being hoisted or lowered; and with sufficient handholds or chains for all men on the cage to maintain their balance. A locking device to prevent tilting of the cage shall be used on all self-dumping cages when men are transported thereon; at least 2½ square feet of floor space must be provided for each person and the number of men permitted to ride the cage shall be posted in a conspicuous place.

"(b) The floor of the cage shall be constructed so that it will be adequate to carry the load and so that it will be impossible for any part of a workman's foot or body to enter any opening in the cage.

"(c) The speed of the cage, car, or trip, in shafts, slopes, or on surface inclines shall not exceed 1,000 feet a minute when men are being hoisted or lowered.

"(d) Two independent means of signaling shall be provided between the top, bottom, and all intermediate landings of shafts, slopes, and surface inclines and the hoisting station. At least one of these means of signaling shall be audible to the hoisting engineer.

"(e) An adopted signal code shall be in use at each mine and shall be posted prominently in the engine room in easy sight of the engineer and at all places where signals are given.

"(f) Workmen shall wear safety belts while doing work in or over shafts. When men are working in the shaft, a qualified attendant shall be on duty at the cage station designated by the supervisor in charge, and the power used shall be locked out.

"(g) An attendant shall be on duty at the surface and all other cage stations when men are being hoisted or lowered at the beginning and end of each operating shift. Persons entering or leaving the mine at other times shall be properly instructed in the use of the signal system at the mine. Where automatic elevators are used, and the elevator is in charge of a competent person, no other attendant shall be required at the elevator station.

"(h) All open entrances to shafts shall be equipped with safety gates at the top and at each landing except at bottom landings. Such gates shall be self-closing and shall be kept closed except when the cage is at such landing. Gates shall not be required at the dumping point of self-dumping cages or skips.

"(i) Positive stopblocks or derails shall be placed near the top and at intermediate landings of slopes and surface inclines and at the approaches to all shaft landings.

"(j) At the bottom of each hoisting shaft and at intermediate landings, a 'runaround' shall be provided for safe passage from one side of the shaft to the other. This passageway shall be not less than five feet in height and three feet in width.

"(k) Ice which would interfere with the safe transportation of men shall not be permitted to accumulate in any shaft.

"(l) No person shall ride on a loaded cage.

"(3) **Haulage roads.** (a) The roadbed, rails, joints, switches, frogs, and other elements of the track of all haulage roads shall be constructed, installed, and maintained in a manner consistent with speed and type of haulage operations being conducted to ensure safe operation.

"(b) All track switches, shall be provided with properly installed throws, latches, and bridle bars, and where necessary guard rails must be provided.

"(c) At least 24 inches of clearance shall be provided at switch throws for a distance of not less than ten feet on each side of such throws.

"(d) Rails shall be secured at all joints by means of plates or weld.

"(e) Shuttle-car haulage roads shall be maintained as free as practicable from bottom irregularities, debris, and wet or muddy conditions that make it difficult to control the shuttle car.

"(4) **Clearance and shelter holes.** (a) Track-haulage roads in entries, rooms, and cross-cuts, developed after the effective date of this Act shall have a continuous clearance on one side of at least 24 inches from the farthest projection of moving traffic; provided, however, that this does not prohibit the changing of the clearance side, should it become necessary if adequate clearance is provided on both sides for a distance of not less than 100 feet and warning signs are provided at such locations.

"(b) Track-haulage roads in entries, rooms, and cross-cuts, developed after the effective date of this Act shall have a continuous clearance on the 'tight' side of at least 12 inches from the farthest projection of moving traffic.

"(c) On haulage roads where trolley lines are used, the clearance for traveling shall be on the side opposite the trolley lines, except where such lines are 6½ feet or more above the rail.

"(d) The clearance space on all track-haulage roads shall be kept free of loose rock, supplies, and other loose materials; provided, however, that not more than 24 inches need be kept free of obstructions.

"(e) Ample clearance for travel shall be provided at conveyor-loading heads, at conveyor-control panels, and along conveyor lines.

"(f) Where it is necessary for men to cross conveyors regularly, suitable crossing facilities shall be provided.

"(g) Shelter holes shall be provided at intervals of not more than 80 feet along all haulage entries driven after July 24, 1946, except conveyor entries.

"(h) Shelter holes made after the effective date of this Act shall be at least five feet in depth, not more than four feet in width, and six feet in height, or as high as the traveling space if the traveling space is less than six feet high. Room necks and cross-cuts may be used as shelter holes even though their width exceeds four feet.

"(i) Shelter holes shall be kept clear of refuse and other obstructions.

"(j) Shelter holes shall be provided at manually operated doors and at switch throws, except where more than six feet of side clearance is maintained and at room switches.

"(k) At each underground slope landing where men pass and cars are handled, a shelter hole at least ten feet in depth, four feet in width, and suitable in height shall be provided.

"(i) Upon the approach of moving traffic, persons not engaged in haulage operations shall take refuge in shelter holes or other places of safety.

"(5) **Haulage equipment.** (a) Locomotives, mine cars, shuttle cars, conveyors, and all other haulage equipment shall be maintained in a safe operating condition.

"(b) Wherever practicable, track-mounted, self-propelled mobile equipment and shuttle cars for use underground and ordered after the effective date of this Act shall be equipped with safe seating or standing facilities for the use of the operator while tramming.

"(6) **Safety devices and practices.** (a) Locomotives shall be equipped with proper rerailing devices for the rerailing of locomotives and cars.

"(b) An audible warning device and headlight shall be provided on each locomotive and shuttle car.

"(c) Where track haulage is used a permissible trip light shall be used on the rear of trips pulled and on the front of pushed trips and trips lowered in slopes; provided, however, that trip lights need not be used on cars being shifted to and from loading machines, on cars being handled at loading heads, during gathering operations at working faces, or on trips pulled by animals.

"(d) Pushing of cars on main haulage roads shall be prohibited, except where necessary to push cars from sidetracks located near the working section to the producing entries and rooms, where necessary to clear switches and sidetracks, and on the approach to cages, slopes, and surface inclines.

"(e) Backpoling shall be prohibited except at places where the trolley pole cannot be reversed or when going up extremely steep grades and then only at very slow speed.

"(f) No person, other than the motorman and brakeman, shall ride on a locomotive unless authorized by the mine foreman and then only when safe riding facilities are provided. No person shall ride on any loaded car or on the bumper of any car; provided, however, that the brakeman may ride on the rear bumper of the last car of a trip pulled by locomotive, and an animal driver and trip rider of a rope trip shall ride in the safest possible position on the trip.

"(g) No person shall get on or off moving locomotives or cars being moved by locomotives; provided, however, that the brakeman may get on or off of a slowly moving trip.

"(h) Operators of shuttle cars shall face in the direction of travel except during the loading operation.

"(i) All trips and locomotives shall come to a complete stop before cars are coupled or uncoupled by hand unless a coupling hook is used.

"(j) Standing cars on any track, unless held effectively by brakes, shall be properly blocked or spragged. Cars shall be secured effectively at working faces.

"(k) Positive-acting stopblocks or derails shall be used where necessary to protect persons from danger of moving or runaway haulage equipment.

"(l) Slides, skids, or other adequate means shall be used on descending trips on grades where the locomotive is not adequate to control the trip, and where practicable, a drag shall be used on ascending trips.

"(m) Material being transported shall be so loaded and protected that there is no danger to the motorman or brakeman from sliding of equipment and material.

"(n) Safe seating facilities shall be provided on self-propelled mobile haulage equipment, and the operator shall be seated while such equipment is in motion.

"(o) Operators of locomotives and shuttle cars shall sound a warning before starting such equipment and on approaching curves, sidetracks, doors, curtain, manway crossings, or any other place where persons are or are likely to be.

"(p) Rail locomotives following other trips shall maintain a minimum distance of 300 feet from the rear end of the preceding trip or locomotive unless such locomotives are coupled to the trips.

"(q) Where block signals are used, not more than one locomotive, except pushers, shall operate in any signal block at the same time unless by special authority.

"(r) Where a dispatcher is employed to control trips, traffic under his jurisdiction shall be moved only at his direction.

"(s) Except in emergencies, timbers and other materials not necessary for, or not incident to, the operation of locomotives, cutting machines, loading machines, and coal-drilling machines, shall not be transported on such equipment.

"(7) **Transportation of men.** (a) Man-trips operated by means of rail or rubber tired locomotives shall be pulled and at safe speeds consistent with the condition of roads and type of equipment used, and shall be so controlled that they can be stopped within the limits of visibility.

"(b) Each man-trip shall be under the charge of a certified official or other competent person designated by management, and it shall be operated independently of any loaded trip of coal or other material.

"(c) Man-trip cars shall be maintained in safe operating condition, and a sufficient number shall be provided to prevent their being overcrowded.

"(d) Man-trip passengers shall not ride under uninsulated electric wire unless suitable covered man-cars are used.

"(e) Supplies or tools, except small hand tools, shall not be transported in the same car or cage with men on any man-trip, except in special compartments in such cars, and all persons shall ride inside the cars except the motorman and trip rider.

"(f) Men shall not board or leave moving man-trip cars; they shall remain seated while in moving cars, and shall proceed in an orderly manner to and from man-trips.

"(g) A waiting station with sufficient room, ample clearance from moving equipment, and adequate seating facilities shall be provided where men are required to wait for man-trips or man cages, and the men shall remain in such station until the man-trip or man cage is ready to load. Men shall be permitted to unload from man-trips only at man-trip stations, except that persons assigned to special duties along haulageways may unload at any point where clearance from moving equipment is provided.

"(h) Trolley and power wires shall be guarded effectively at man-trip stations where there is a possibility of any person coming in contact with energized electric wiring while boarding or leaving the man-trip. De-energizing switches, used in conjunction with signal lights to indicate when such wires have been de-energized, may be used in lieu of guards at man-trip stations.

"(i) When belts are used for transporting men, the area of such belts upon which men are riding shall be free of loose coal or rock, and a minimum clearance of 18 inches shall be maintained between the belt and the roof or crossbars, projecting equipment, cap pieces, overhead cables, wiring, and other objects; but where the height of the coal bed permits, the clearance shall be not less than 24 inches. Control switches shall be provided at all places where men board or leave belts regularly.

"(j) The belt speed shall not exceed 250 feed a minute while men are loading, unloading, and being transported.

"(k) The space between men riding on a belt line shall be not less than five feet.

"(l) Minimum clearance and proper illumination shall be provided where men board or leave conveyor belts.

"(m) An official or other responsible person designated by him shall be in attendance while men are boarding or leaving belts.

"(j) Electricity

"(1) **Surface transmission lines.** (a) Overhead high-potential powerlines shall be placed at least fifteen feet above the ground and twenty feet above driveways and haulageways, shall be installed on insulators, and shall be supported and guarded to prevent contact with other circuits.

"(b) Surface transmission lines including trolley circuits shall be protected against short circuits and lightning. Each exposed power circuit that leads underground shall be equipped with lightning arresters of approved type at the point where the circuit enters the mine.

"(c) Electric wiring in surface buildings shall be installed, or insulators or in conduit, so as to minimize fire and contact hazards.

"(2) **Transformer stations.** (a) Unless surface transformers are isolated by elevation (eight feet or more above the ground), they shall be enclosed in a transformer house or surrounded by a suitable fence at least six feet high. If the enclosure or fence is of metal, it shall be grounded effectively. The gate or door to the enclosure shall be kept locked at all times, unless authorized persons are present.

"(b) Surface transformers containing flammable oil and installed where they present a fire hazard (near mine openings or in or near combustible buildings) shall be provided with means to drain or to confine the oil in event of rupture of the transformer casing.

"(c) All transformers ordered after the effective date of this Act, for use underground, shall be air cooled or filled with nonflammable liquid or inert gas.

"(d) Suitable danger signs shall be posted conspicuously at all transformer stations on the surface and underground.

"(e) All transformer stations on the surface and underground shall be kept free of nonessential combustible materials and refuse.

"(3) **Substations, battery-charging stations, electrically operated pumps, and compressors.** (a) All surface and underground substations, battery-charging stations, pump stations, and compressor stations shall be kept free of nonessential combustible materials and refuse.

"(b) Stations or rooms containing electrical transformers, rectifiers, motor generator sets, battery chargers, permanent pumps or air compressors, control rooms, and such other stationary and semipermanent equipment as would endanger lives of employees in event of equipment fire, shall be ventilated by a separate split of air, returning direct to the surface. Where it is impractical to connect directly to return air courses, vents made out of nonflammable material may be used, provided the installation is approved in writing by the Director.

"(c) Reverse-current protection shall be provided at storage-battery charging stations to prevent the storage batteries from energizing the power circuits in the event of power failure.

"(4) **Power circuits.** (a) All underground power wires and cables shall have adequate current-carrying capacity, shall be protected from mechanical injury, and with the exception of trailing cables and power cables connected to junction boxes, shall be installed in a permanent manner.

"(b) Wires and cables not incased in armor shall be supported by well-installed insulators and shall not touch combustible materials, roof, or ribs; provided, however, that this does not apply to ground wires, grounded power conductors, and trailing cables.

"(c) Power wires and cables installed in rope-and-belt haulage slopes shall be insulated adequately and fully protected against mechanical injury.

"(d) Splices in power cables shall be made in accordance with the following:

"1. Mechanically strong with adequate electrical conductivity.

"2. Effectively insulated and sealed so as to exclude moisture.

"3. If the cable has metallic armor, mechanical protection, and electrical conductivity equivalent to that of the original armor shall be provided.

"(e) All underground high potential transmission cables shall be:

"1. Installed only in regularly inspected airways or haulageways.

"2. Covered, buried, or placed so as to afford reasonable protection against damage by wrecked trips, trolley equipment, roof falls, and blasts.

"3. Placed in conduit where men regularly work or pass under them unless they are 6½ feet or more above the floor or rail.

"4. Securely anchored, properly insulated, and guarded at ends.

"5. Covered, insulated, or placed to prevent contact with trolley and other low-voltage circuits.

"(f) All power wires and cables shall be insulated adequately where they pass into or out of electrical compartments, where they pass through doors and stoppings, and where they cross other power wires and cables.

"(g) Where track is used as a power conductor:

"1. Both rails of main line tracks shall be welded or bonded at every joint, and crossbonds shall be installed at intervals of not more than 200 feet. If the rails are paralleled with a feeder circuit of like polarity, such parallel feeder shall be bonded to the track rails at intervals of not more than 1,000 feet.

"2. At least one rail on secondary track-haulage roads shall be welded or bonded at every joint, and crossbonds shall be installed at intervals of not more than 200 feet; provided, however, that rail joints in such secondary haulage roads need not be bonded where a suitable feeder adequate in size parallels the track and is electrically connected thereto at intervals of not more than 200 feet by crossbonds.

"3. Track switches on entries shall be well bonded.

"4. In rooms where electric equipment other than locomotives is dependent upon the room tract rails as a power conductor, rail joints shall be secured by means of fish plates, angle bars, or the equivalent, and at least one rail shall be bonded at each joint.

"(h) All power circuits and electric equipment shall be deenergized before work is done on them; provided, however, that employees may, where necessary, repair energized trolley wires if they wear insulated shoes and lineman's gloves.

"(i) Trolley wires and trolley feeder wires shall be installed on the side of the entry opposite the clearance space and shelter holes, except where the wires are guarded or are 6½ feet or more above the top of the rail.

"(j) Trolley-wire hangers shall be so spaced that the wire may become detached from any one hanger without creating a shock or fire hazard.

"(k) Trolley wires shall be alined properly and installed on insulated hangers at least six inches outside the rail on straight track and never less than twelve inches on curves.

"(l) Trolley wires and trolley feeder wires installed after the effective date of this Act shall be provided with cutout switches at intervals of not more than 2,000 feet and near the beginning of all branch lines.

"(m) Trolley wires and trolley feeder wires shall be kept taut and not permitted to touch the roof, ribs, timbers, or any combustible material.

"(n) Trolley wires, and trolley feeder wires unless insulated, shall be guarded adequately at both sides of doors and at all places where it is necessary to work or pass under them unless they are more than 6½ feet above the top of the rail.

"(o) In a gassy mine, trolley and feeder wires shall not extend beyond the last open crosscut and shall be kept at least one hundred and fifty feet from pillar workings.

"(p) Trolley wires and trolley feeder wires shall be guarded, anchored securely, and insulated properly at the ends.

"(q) In any new mine, or any old mine that may be reopened and reequipped after the effective date of this Act, trolley wires or other exposed conductors shall not carry more than 650 volts.

"(5) **Grounding.** (a) All metallic sheaths, armors, and conduits enclosing power conductors shall be electrically continuous throughout and shall be grounded effectively.

"(b) Metallic frames, casings, and other enclosures of stationary or handheld electric equipment that can become "alive" through failure of insulation or by contact with energized parts shall be grounded effectively or equivalent protection shall be provided.

"(6) **Circuit breakers, switches, and switchboards.** (a) Automatic circuit-breaking devices or fuses of the correct type and capacity shall be installed so as to protect all electric equipment and power circuits against excessive overload; provided, however, that this does not apply to locomotives operated regularly on grades exceeding five percent. Wires and other conducting materials shall not be used as a substitute for properly designed fuses, and circuit-breaking devices shall be maintained in good operating condition.

"(b) Operating controls, such as switches, starters, and switch buttons, shall be so installed that they are readily accessible and can be operated without

danger of contact with moving or live parts. On stationary equipment, provision shall be made for locking starting equipment in the "off" position to prevent accidental application of power.

"(c) Disconnecting switches shall be installed underground in all main power circuits within 500 feet of the bottoms of shafts and boreholes, and at other places where main power circuits enter the mine.

"(d) Electric equipment and circuits shall be provided with switches or other controls of safe design, construction, and installation.

"(e) Dry wooden platforms, insulating mats, or other electrically nonconductive material shall be kept in place at each switchboard, power-control switch, and at stationary machinery where shock hazards exist.

"(f) Resistors or rheostats shall be installed in such a manner as not to create a fire hazard, and shall be guarded adequately against personal contact.

"(g) When not in use, power circuits underground shall be deenergized on idle days and idle shifts.

"(h) Electric parts, such as switches, circuit breakers, rheostats, relays, and fuses, shall be installed on switchboards or mounted on incombustible bases of slate or equivalent insulating material.

"(i) Switchboards installed after the effective date of this Act shall be located so that ample room will be provided between the switchboard and passageways or lanes of travel and shall have an entrance at each end to permit authorized persons to inspect, adjust, or repair apparatus back of the board. Switchboards shall have the entrance to the rear guarded against entrance of unauthorized persons, unless in a building that is kept locked.

"(j) Switchboards shall be well lighted for switch operations in the front and for repair and maintenance in the rear.

"(k) Rooms housing switchboards shall not be used for the storage of combustible materials, and shall be kept free of debris and refuse.

"(l) Suitable danger signs shall be posted conspicuously at all high-potential switchboard installations.

"(7) **Communication systems.** (a) Telephone service or equivalent two-way communication facilities shall be provided between the top and each landing of main shafts and slopes and in all mines between the surface and each working section that is more than 2,500 feet from the main portal.

"(b) Telephone lines, other than cables, shall be carried on insulators, installed on the opposite side from power or trolley wires they shall be insulated adequately.

"(c) Lightning arresters shall be provided at the points where telephone circuits enter the mine. Mine-telephone extensions in surface buildings shall be provided with a lightning arrester for each circuit entering the building.

"(d) If a communication system other than telephones is used and its operation depends entirely upon power from the mine electric system, means shall be provided to permit continued communication in event the mine electric power fails or is cut off; provided, however, that where trolley phones and telephones are both used, an alternate source of power for trolley phones is not required.

"(8) **Signal systems.** (a) Signal wires shall be supported on insulators and insulated properly where they cross power lines.

"(b) Bare signal wires that are readily accessible to personal contact shall not carry more than 30 volts.

"(9) **Electric equipment.** (a) All electric face equipment used in a gassy mine shall be permissible, except that electric face equipment may be used in a gassy mine even though such equipment is not permissible if, before the effective date of this section or the date such mine became a gassy mine, whichever is later, the operator of such mine owned such equipment, and was in use in the mine at the time it was classed as a gassy mine.

"(b) In a gassy mine, permissible junction or distribution boxes shall be used for making multiple power connections in working places or other places where dangerous quantities of methane may be present or may enter the air current.

"(c) Electric equipment shall not be taken into or operated in any place where methane can be detected with a flame safety lamp at any point not less than 12 inches from the roof, face, or rib.

"(d) In any new mine or any old mine that may be reopened and reequipped after the effective date of this Act, electric power for face equipment shall be limited to 650 volts between any conductor and ground.

"(10) **Trailing cables.** (a) Trailing cables purchased after the effective date of this Act for use underground shall meet the United States Bureau of Mines requirements for flame-resistant cables.

"(b) Trailing cables shall be provided with suitable short-circuit protection and some means of disconnecting power from the cable.

"(c) Temporary splices in trailing cables shall be made in a workmanlike manner, mechanically strong, and well insulated.

"(d) Trailing cables or hand cables having exposed wires or splices that heat or spark under load shall not be used.

"(e) Permanent splices in trailing cables shall be made as follows:

"1. Mechanically strong with adequate electrical conductivity and flexibility.

"2. Effectively insulated and sealed so as to exclude moisture.

"3. The finished splice shall be vulcanized or otherwise treated with suitable materials to provide flame resistant properties and good bonding to the outer jacket.

"(f) In a gassy mine, explosion-tested cable-reel locomotives shall be equipped with two-conductor trailing cables.

"(g) Care shall be used to protect trailing cables from avoidable mechanical damage.

"(11) **Electrical inspections.** (a) Electric equipment and wiring shall be inspected by a competent person at least once a month and more often if necessary to assure safe operating conditions, and any defect found shall be corrected promptly.

"(12) **Underground illumination.** (a) Electric-light wires shall be supported by suitable insulators, or installed in conduit, fastened securely to the power conductors, and not permitted to touch combustible material.

"(b) Electric lights shall be installed so that they cannot come in contact with combustible materials.

"(c) Only weatherproof lamp sockets having no exposed metal parts shall be used for unenclosed applications.

"(h) Safeguards for mechanical equipment

"(1) **Face equipment.** (a) The cutter chains of mining machines shall be locked securely by mechanical means or electrical interlocks while such machines are parked or being trammed.

"(b) The dust resulting from drilling in rock shall be controlled by the use of permissible dust collectors or by water or water with a wetting agent except as provided in Article XI, Section 8(g).

"(c) Electric drills or other electrically operated rotating tools intended to be held in the hands shall have the electric switch constructed so as to break the circuit when the hand releases the switch or shall be equipped with properly adjusted friction or safety clutches, and all handles shall be properly insulated.

"(2) **Shop and other equipment.** (a) The following shall be guarded adequately:

"1. Gears, spockets, pulleys, fan blades or propellers, friction devices, couplings with protruding bolts or nuts, and counterweights.

"2. Shafting and projecting shaft ends that are within 7 feet of floor or platform level.

"3. Belt, chain, or rope drives that are within 7 feet of floor or platform.

"4. Fly wheels, power saws, and planers. Where fly wheels extend more than 7 feet above the floor, they shall be guarded to a height of at least 7 feet.

"5. Repair pits. Guards shall be kept in place when the pits are not in use.

"6. Mine fans. The approach to each side shall be guarded.

"7. Post-mounted drills, purchased after the effective date of this Act, shall be equipped with automatic stop-control safety switches or shall be equipped with properly adjusted friction or safety clutches.

"(b) Machinery shall not be repaired or oiled while in motion; provided, however, that this does not apply where safe remote oiling devices are used.

"(c) A guard or safety device removed from any machine shall be replaced before the machine is put in operation.

"(d) Mechanically operated grinding wheels shall be equipped with:

"1. Safety washers and tool rests.

"2. Substantial retaining hoods, the hood opening of which shall not expose more than a 90-degree sector of the wheel.

"3. Eyeshields, unless goggles are worn by the operators.

"(i) Fire protection and mine disasters

"1. **Fire protection.** (a) Each mine shall be provided with suitable fire-fighting equipment, adequate for the size of the mine, as determined by standards set by the Director. Such standards shall be subject to review by the Coal Mine Safety Board of Review.

"(b) After every blasting operation performed on shift, an examination shall be made to determine whether fires have been started.

"(c) Should a fire occur, the person discovering it and any persons in the vicinity of the fire shall make a prompt effort to extinguish it.

"(d) When a fire that may endanger the men underground cannot be extinguished immediately, the men shall be withdrawn promptly from the mine, except those men engaged in controlling the fire. Both the Bureau and State agencies shall be immediately notified.

"(e) Underground storage places for lubricating oil and grease in excess of two days' supply shall be of fireproof construction.

"(f) Lubricating oil and grease kept in face regions or other underground working places in a mine shall be in portable, closed, metal containers.

"(g) Underground structures (transformer stations, battery-charging stations, substations, permanent pump rooms, etc.) installed in a mine after the effective date of this section shall be of fireproof construction.

"(h) Welding, cutting, or soldering with arc or flame in underground face regions in other than a fireproof enclosure shall be done under the direct supervision of a certified person who shall test for methane before and during such operations in gassy mines and shall make a diligent search for fire after such operations in all mines. Rock dust or suitable fire extinguishers shall be immediately available during such welding, cutting, or soldering.

"(i) Hay or straw shall be transported from the surface to underground stables in enclosed, incombustible cars. It shall be stored in a fireproof structure apart from the stable or in a fireproof compartment within the stable.

"(j) Provisions shall be made to prevent accumulation of spilled oil or grease at the storage places or at the locations where such materials are used.

"(k) Oily rags, oily waste, and waste paper shall be kept in closed metal containers until removed for disposal.

"(l) All underground belt conveyors installed after the effective date of this Act, shall be equipped with control switches to automatically stop the driving motor in the event that the belt is stopped by slipping on the driving pulley, by breakage, or other accident. All underground belting installed in any mine after the effective date of this Act shall be of approved fire resistant material.

"2. **Mine accidents and disasters.** (a) All mine accidents resulting in the death or serious injury of one or more person, mine fires other than minor fires that are extinguished promptly upon discovery, and mine explosions shall be reported immediately and by the quickest available means to the nearest office of the Federal coal-mine inspector or other representative of the Health and Safety Division, United States Bureau of Mines and to the appropriate state agency. In the event of a mine disaster, all facilities of the mine shall be made available for recovery operations.

"(b) No mine shall resume operations following a mine disaster until such mine has been inspected in its entirety by a Federal coal-mine inspector and found by him to be in safe condition to operate.

"(c) Following a mine accident resulting in the death of one or more persons and following any mine disaster, the evidence surrounding such occurrence shall not be disturbed after recovery of bodies or injured persons until an investigation by Federal coal-mine inspectors has been completed; provided, however, that sufficient wreckage or debris may be moved to allow recovery work after disasters or continued general operation of the mine following fatalities not caused by mine fires or mine explosions.

"(i) Miscellaneous

"1. **Mine maps and reports.** (a) An accurate map of the mine shall be posted in a place accessible to employees. Such map shall be brought up to date at least every 6 months and a copy filed with the district office of the Bureau of Mines certified by a competent mining engineer recognized by the State in which the mine is located.

"2. **Oil and gas wells.** (a) The drilling and sealing of oil and gas wells penetrating coal beds or underground workings of mines shall be done in compliance with State statutes.

"3. **Approaching abandoned workings.** (a) Whenever any working place in an underground mine approaches within 100 feet of abandoned workings in such mine as shown by surveys made and certified by a competent engineer or surveyor, or within two hundred feet of any other abandoned workings of such mine, which cannot be inspected and which may contain dangerous accumulations of water or gas, or within two hundred feet of any workings of an adjacent mine, a borehole or boreholes shall be drilled to a distance of at least twenty feet in advance of the face of such working place. Such boreholes shall be drilled sufficiently close to each other to insure that the advancing face will not accidentally hole through into such workings. Boreholes shall also be drilled not more than eight feet apart in the rib of such working place to a distance of at least twenty feet and at an angle of forty-five degrees. Such rib holes shall be drilled in one or both ribs of such working place as may be necessary for adequate protection of persons working in such place.

"4. **Mine openings and escapeways.** (a) Every underground mine shall have at least two separate surface openings except as provided for in subsections 4(e) and 4(f) of this section.

"(b) The distance between shafts or mine openings shall comply with the laws of the State in which the mine is located. In the absence of State mining laws the distance between shafts at any mine opening shall be not less than 150 feet, and the distance between drift or slope openings at such mine shall be not less than 50 feet.

"(c) New shafts and partitions therein, made after the effective date of this Act, shall be fireproof; provided, however, that buntons and guides may be of wood.

"(d) Mine openings shall have adequate protection against surface fires, fumes, smoke, and water from floods entering the mine.

"(e) Not more than 20 persons shall be allowed at any one time in any mine until a connection has been made between the two mine openings, and such work shall be prosecuted with reasonable diligence.

"(f) When only one main opening is available, owing to final mining of pillars, not more than 20 persons shall be allowed in such mine at any one time; provided, however, that the distance between the mine opening and workings shall not exceed 500 feet.

"(g) There shall be at least two separate and distinct travelable passageways to be designated as escapeways from each working section to the surface of every mine. Such escapeways, one of which may be the haulageway, shall comply with the following provisions:

"1. They shall be kept in safe condition for travel and reasonably free from falls, standing water, and other obstructions to the extent that men can escape quickly in an emergency.

"2. One of such escapeways shall be ventilated with intake air.

"(h) Where the designated escapeways are shafts:

"1. They shall be equipped with hoist and cage or with travelable stairway or ladders maintained in good repair and in safe condition. No shaft more than 30 feet deep sunk after the effective date of this Act shall be equipped with ladders.

"2. Stairways shall be of substantial construction, set at an angle not greater than 45 degrees with the horizontal, and equipped on the open side with a suitable handrail; landing platforms shall be at least 2 feet wide and 4 feet long and shall be railed properly.

"3. Ladders shall be anchored securely.

"4. Permanently installed ladders that are more than 10 feet in length and that are set on an angle of 60 degrees or more with the horizontal shall be provided with substantial backguards, and all ladders shall be maintained in good repair.

"5. Where ladders or stairways set at an angle greater than 45 degrees are now installed, their use may be continued provided they are of substantial construction, with platforms at intervals of not more than 30 feet, and equipped with suitable handrails in the case of stairways.

"(i) If a designated escapeway is a slope of more than 19 degrees and less than 46 degrees, it shall be equipped with a stairway or adequate walkway with cleats. If the slope is more than 45 degrees, stairways shall be installed.

"(j) Direction signs shall be posted conspicuously at all points of intersections with other passageways to indicate manways and designated escapeways.

"(k) Good housekeeping shall be practiced underground.

"(l) All unused, abandoned, and isolated surface openings shall be effectively protected against unauthorized entrance.

"5. **Portable illumination.** (a) In a gassy mine, persons underground shall use only permissible electric lamps for portable illumination.

"(b) Light bulbs on extension cables shall be guarded adequately.

"6. **Checking system.** (a) Each mine shall have a check-in and check-out system that will provide positive identification upon the person of every individual underground. An accurate record of the men in the mine, which shall consist of a written record, a check board, or a time-clock record, shall be kept on the surface in a place that will not be affected in the event of an explosion. Said record shall bear a number identical to the identification check carried by the person underground.

"7. **Arcs, sparks, and flames.** (a) Smoking shall not be permitted underground. In a Title II mine no person shall be permitted to carry smoking materials, matches, or lighters underground.

"(b) The intentional creation of any arc, spark, or open flame, except as provided in Section 209 (i) (l) (h) of Title II, shall be prohibited in all gassey mines.

"8. **Protective clothing.** (a) All persons shall wear protective hats while underground and also while on the surface where falling objects may cause injury.

"(b) Protective footwear shall be worn by employees, officials, and others while on duty in and around a mine where falling objects may cause injury.

"(c) All employees inside or outside of mines shall wear approved-type goggles or shields where there is a hazard from flying particles.

"(d) Welders and helpers shall use proper shields or goggles to protect their eyes.

"(e) All employees employed in or around any underground mine shall wear snug fitting clothes.

"(f) Protective gloves shall be worn when material which may injure the hands is handled, but gloves with gauntlet cuffs shall not be worn around moving equipment.

"(g) Men exposed for short periods to gas-, dust-, fume-, and mistinhalation hazards shall wear permissible respiratory equipment. When the exposure is for prolonged periods, other measures to protect workmen or to reduce the hazard shall be taken.

"(h) All men employed underground shall have on his person an approved self-rescurer and shall be trained in the proper use of same by the Bureau at the time of Bureau inspections.

"(j) General safety conditions

"1. **Duties, qualification, and certification of persons employed underground.** (a) Each mine shall be supervised by a mine foreman. And when required such mine foreman shall possess a proper certificate of competency issued by the State in which the mine is operated. It shall be his duty to see that the provisions of this Act and State laws that pertain to his duties and the health and safety of the employees are complied with fully

"(b) The mine foreman may designate assistants who shall possess proper certificates of competency issued by the State in which the mine is operated, and may delegate to them authority and duties of such as are specified in this Act.

"(c) Each fire boss shall possess a proper certificate of competency issued by the State in which the mine is operated. He shall perform such duties as required by this Act and State laws.

"(d) Shot firers, electricians, machine operators, pumpmen, and other persons whose duties include the testing for gas shall be qualified for their respective occupations under the laws of the State in which the mine is operated. In states which have no laws qualifying such persons, the mine foreman shall designate competent persons to perform such duties.

"(e) In States that require certification of miners, all miners shall secure such certificates in accordance with requirements.

"(f) The certificates of competency, as hereinbefore stated, shall be made a matter of record on the surface of the mine, and this record shall be available for inspection by authorized persons.

"(g) In the event that certified persons as provided for in this section are unavailable for employment, the operator shall have the right to employ uncerti-

fied persons temporarily who in his judgment possess qualifications equal to those of certified persons, until such certified persons are available.

"2. **Reporting of injuries, production, and employment.** (a) The management of each mine shall keep an accurate record of all accidents occurring at the mine that involve an injury to an employee. All mine operators shall file with the Bureau on June 30 and December 31 of each year a map of the mine showing mining operations and projections, prepared by a certified mine engineer, together with a report showing the following: (1) number of tons produced; (2) number of employees; (3) number of days worked; (4) number of man-hours worked; (5) number of lost-time injuries; and (6) number of fatalities during the preceding six months.

"3. **Reporting of dangers.** (a) Any employee of a mine who discovers an unsafe condition at the mine shall immediately report such unsafe condition to his immediate supervisor.

"4. **First aid and medical care.** (a) Each mine shall have an adequate supply of first-aid equipment, and such supplies shall be located on the surface, at the bottom of shafts and slopes, and at other strategic locations near the working faces. The first-aid supplies shall be encased in suitable sanitary receptacles designed to be reasonably dusttight and moistureproof and shall be available for use of all persons employed at the mine. In addition to the material in the cases, splints, blankets, and properly constructed stretchers in good condition shall be provided.

"(b) When a disabling injury occurs underground, the injured person shall be brought to the surface without unnecessary delay. Prompt medical attention shall be provided in the event of any injury, and adequate facilities shall be made available for transporting injured persons to a hospital where necessary."

APPENDIX A

1. Forty-eight hour reinspection

"After an order issued under paragraph 1 has been served upon the mine operator by a duly authorized representative of the Bureau, the mine operator may immediately institute action to eliminate the danger or dangers causing the issuance of such order, in accordance with the recommendations of the Bureau representative, and upon compliance with such recommendations the mine operator may request a reinspection of the mine or area affected by such order. Such request may be made either in person, by telegram, or by registered letter addressed to the person issuing the order, the district representative of the Bureau or the Director, and such reinspection shall be made within 48 hours of the filing of the request. If reinspection is not accomplished within 48 hours following such request, the mine or section thereof may be reopened. If, upon completion of the reinspection, the authorized representative of the Bureau finds that the operator has not complied with said recommendations, the authorized representative of the Bureau may issue a withdrawal order, the duration of which shall be determined under section 203 (b) and (c)."

2. Requirement of certification

"Any duly authorized representative of the Bureau who shall inspect a coal mine shall first qualify as a certified coal mine inspector under the laws of the State in which the mine is located if the laws of such State require certification of mine inspectors."

3. Publication of reports

"The Director shall submit annually to the Congress as soon as practicable after the beginning of each regular session a full report of the administration of his functions under this title during the preceding calendar year. Such reports for each coal operator, whether corporation, partnership or proprietor, shall include (1) the names and addresses of each producing coal operator, (2) the tonnage produced by each operator, on a mine-by-mine basis, (3) the number of employees working at each coal mine, classified separately as underground employees and above-ground employees, (4) the man-hours worked underground for each coal operator, (5) the number of days worked at each mine, (6) the number of fatalities for each coal operator, (7) the number of lost-time injuries for each coal operator, (8) number of inspections in the past calendar year for each mine, (9) number of violations of the Federal Coal Mine Safety Act, (10) number of times each mine was closed for violation of section 209 of the act, and

(11) each mine shall be classified under one or more, as appropriate, of the following classes: (*a*) underground, (*b*) strip, (*c*) auger, (*d*) rail, (*e*) truck, (*f*) shaft, (*g*) slope, (*h*) drift, (*i*) gassy, and (*j*) nongassy. Said reports shall be public information. Such report shall also be compiled in summary form with such findings and comments thereon and such recommendations for legislative action as the Director may deem proper."

4. Reporting of injuries, production, and employment

"The management of each mine shall keep an accurate record of all accidents occurring at the mine that involve an injury to an employee. All mine operators shall file with the Bureau on June 30 and December 31 of each year a map of the mine showing mining operations and projections, prepared by a certified mine engineer, together with a report showing the following: (1) number of tons produced; (2) number of employees; (3) number of days worked; (4) number of man-hours worked; (5) number of lost-time injuries; and (6) number of fatalities during the preceding 6 months. Failure to file such information may result in a withdrawal order effective until such information is filed."

5. Preshift examinations

"Certified persons in nongassy drift title I mines whose regular duties require them to inspect working places in a nongassy mine for dangers shall have in their possession, and shall use, when underground, a suitable permissible device capable of detecting methane and/or oxygen deficiency. This shall not be required until the Bureau has trained mine personnel in the proper use of a flame safety lamp to meet the requirements of the laws of the State in which the mine is located. In nongassy drift title I mines an examination shall be made within 4 hours immediately preceding the beginning of the first coal producing shift. Such examination shall comply with the requirements of the laws of the State in which the mine is located."

6. Use of fuse and caps in nongassy drift mines

"Fuse and caps may be used in nongassy drift mines when expressly permitted by a statute of the State in which the mine is located. If fuses and caps are used for blasting, misfires may not be approached by anyone until 24 hours have elapsed, and handling of misfires must be done with due care and under the direction of a supervisor or other competent person. When fuses are used, in no case shall such fuses be of less length than the drill hole, and extend not less than 4 inches outside the hole. In no case shall a fuse less than 3½ feet in length be used. The Director shall approve the method of blasting with fuse and caps."

7. Notice of withdrawal to be orally explained

"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 and such person shall also orally explain such order to the mine operator or his duly authorized representative and recommend ways and means by which such dangers may be abated."

8. Hearings required prior to any disapproval of a State plan

"The Director shall approve any State plan or any modification thereof which complies with the provisions of paragraph (2) of this subsection. He shall not finally disapprove of any State plan or modification thereof without first affording the State agency and other interested parties reasonable notice and opportunity for hearing. Appeal from an opinion of the Director, which shall set forth his findings of fact and conclusions of law, disapproving such proposed plan may be taken to the Coal Mine Safety Board of Review within 30 days after the issuance of such opinion."

9. False information relating to safety conditions

"If any duly authorized representative of the Bureau shall issue a withdrawal order under section 202 or section 203 and such order is determined by the Coal Mine Safety Board of Review after hearing initiated upon a vote of at least two members of the Board of Review to contain false information relating to safety conditions, and such information was willfully introduced into the order by a representative of the Bureau, said representative shall be dismissed by the Director."

10. Independence of Bureau personnel

"Neither the Director nor any authorized representative of the Bureau or any employee of the Bureau shall, at any time during the term of his office or the term of his employment, have any affiliation with a labor union or any operating coal company or operators' association."

APPENDIX B

	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	2,793	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.

Senator MORSE. Mr. Mullins.

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

Mr. MULLINS. Mr. Chairman, first I would like to thank this subcommittee for allowing me to appear. I am submitting a written statement that I wish to have printed, but I will not read the full statement.

Senator MORSE. The full statement will be inserted in the record at this point, and, Mr. Mullins, you may summarize it in any way you care to.

(The prepared statement of W. Foster Mullins follows:)

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

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. Altogther I have had 30 years 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. Perhaps few or none of you have actually seen the operation of a large, title II underground mine. The differences 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 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 timbers, undercut the coal, and in some mines there are giant continuous-mining machines. 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 are all dependent upon this industry.

Speaking from the point of view of the Virginia Division of Mines, we have had excellent—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 controversy which has arisen concerning the statistical information submitted. I should 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. 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 that information, I require him to complete his 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 Bureau's report.

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 these laws.

We inspect all nongassy mines every 90 days and gassy mines every 45 days. In cases when conditions justify, 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 mining 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 is 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 misfire 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 drilled 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 ben started; rock dust, where needed, applied to within 40 feet of the working face; a minimum percentage of 65 percent incombustible material be maintained, 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 manways, 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 safety lamps. 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 lease 3 years' experience in mines generating gases, 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 not 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 cer-

tificates and 1,529 first-class mine fireman certificates, and according to Virginia, only these men are qualified to make a preshift examination. 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 don't, 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 requires. If he finds a dangerous condition, he must decide whether to attempt to cure the problem, or to close the section.

I am aware that suggestions have 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 on 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 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 at least 3 months. After the Viriginia 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 Federal Bureau 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 the 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 are 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 these small operators.

I should like to add that I do not believe that these small operators can be burdened with many 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 don't 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. It is simply impossible for them to stay in business and pay that cost.

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 operators. 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 the coal industry 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 these publications 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 made plans to do so. I don't 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 effort will be concentrated on title I mines, and if necessary on title II operations also.

Mr. MULLINS. I would like to summarize the statement and make some additional remarks upon the amendment to the act.

Let me state that I think the subcommittee should understand the basic differences between title I and title II operations, sometimes also referred to as truck and rail mines or hand loads and mechanical mines, or more simply small and large mines.

The difference between the two types are multiple. First of all, perhaps 8 months of training is necessary before a worker can be put on the job in a large title II mine. This period is necessary for

the familiarization of the complex machinery which the title II worker will be using.

In contrast, a title I mine is substantially dependent upon human output. The individual miner hand loads the coal and the production per man-day is from 8 to 10 tons.

In the title II mines, machines bolt the roof, set the timbers, undercut the coal, and in many of these are continuous mining machines. In one of the Virginia title II mines, an individual mine worker might produce as much as 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, handtools, timbers, wedges, brass materials, and explosives, and having obtained his lease and perhaps seven other men to work with him then between an operation, for between $10,000 and $15,000.

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

The cost of the 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 on the title I industry for their livelihood. Not only the miners themselves, but also the merchants, the bankers, the barbers, the automobile salesmen, and other tradesmen.

In the course of our inspection of the Virginia mines, we obtained statistics concerning the operation of these mines. We determined how many men are working in the individual mine and the average number of hours which are worked daily.

If the mine inspector on our staff submits a report which does not have that information, we will require him to complete the report. If the operator were to refuse to supply this information, I will direct the inspector to issue a closure order. Accordingly, I have every confidence that the number of people working in the title I mines and the 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. Respecting fatalities and injuries in title I mines—to my knowledge, the Bureau has no method of checking on the number of mines and where they are located. We have had instances where the 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 tons produced by such mines for the reason that in my experience it is common belief among the title I operators that if they submit such information to the Bureau, the Bureau will pass the information on to the United Mine Workers.

I find substantial support for this belief in my own experience. On many occasions, I have received telegrams from the United

Mine Workers, concerning alleged dangerous conditions in certain title I mines.

These telegrams were sent immediately after a Bureau inspection, before either I or the operator received the Bureau's report.

In Virginia we inspect all nongassy mines every 90 days and gassy mines every 45 days. In cases where conditions justify special inspections are made between regular inspections. The reports are filled out by our inspectors at the completion of their inspections, are discussed with the operator and means of remedying the situations 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.

We believe that we are practical as well as technically thorough in our inspection of the mines.

In this regard, I would like to emphasize that we have had excellent, indeed, outstanding cooperation from our title I operators. Although in my opinion there is no need for the extension of the Federal Coal Mine Safety Act to the State of Virginia, if the act is so extended, the amendments which have been described by Mr. Holcomb should be adopted to insure that the best possible bill is presented to the Senate for a vote.

In this regard, I would like to single out the proposed amendment affording the State mining agencies an opportunity to appeal the determination of the Director of the Bureau of Mines disapproving a proposed State plan. It is my belief that if the bill is enacted, many States will seek to have State plans adopted and I would hope that the Director of the Bureau would be fair in his determination of whether such a plan would offer equivalent protection. To assure fairness, however, I believe that there would be a review of the Director's determination.

I am also convinced that the provision requiring a reinspection within 48 hours after the mine operator informs the Bureau that he has complied with their recommendations concerning removal of possible dangers is a good and valid proposal.

I also wish to state that I do not believe that this will in any way impose an excessive burden on personnel of the Bureau.

The requirement that each order issued by the Bureau representative be thoroughly explained to the mine operator and ways and means by which the dangers may be abated shall be recommended is based upon the practicalities which we find in the title I industry.

Many of the operators who have every intention of complying with the law may be unable to understand the complicated report such as I have seen issued. We are dealing with people in a lot of cases whose education is limited. To assure their fullest cooperation and a rapid correction of the dangerous condition, I believe that the Bureau's order should be explained orally.

The proposed amendment which would require Bureau representatives that inspect coal mines to qualify as certified mine inspectors under the laws in the State in which the mine is located seems to me to be an eminently reasonable requirement.

If we require a foreman to pass an examination before the Board of Mine examiners before allowing him to act as a foreman in a coal

mine, why should an inspector be exempt from taking the examination, the inspector's examination?

From a recent statement by Mr. T. J. McDonald, assistant to the district manager, health and safety, district A, Bureau of Mines, U.S. Department of the Interior, Pittsburgh, Pa., I will quote the first paragraph:

> As you probably know—

this is a statement that I refer to—

Mr. GILLIAM. This is the statement by the Bureau of Mines official himself, sir?

Senator MORSE. I have been trying to follow his main statement, and I lost this.

Mr. MULLINS (reading):

> As you probably know, the Bureau of Mines conducts a rather intensive 2-year training program since our experience indicates that such a program is necessary. For example, 10 years ago we attempted to determine how well people were trained in some of the most fundamental pieces of equipment in the coal industry. We did this by subjecting newly appointed mine inspectors to test in the use of flame safety lamp, one of the best and most basic pieces of safety equipment. For this purpose we used a locked-in-type gas gallery. These tests were conducted before these inspectors received any training. We found that the average appointee failed to detect as much as 2½ to 3 percent of methane and that these same individuals estimated 2 to 3 percent methane when the gallery contained nothing but fresh air.

In my opinion, the qualifications of a prospective inspector should be verified before he is employed. An applicant is not considered in Virginia until he has taken the inspectors' examination.

The provisions relating to the use of fuse and caps, it seems to me, is essential if the entire title I industry of Virginia is not to suffer a crippling blow. In this regard, it is my understanding that the Bureau of Mines officials have informed their inspectors that only electric detonators may be fired in coal mines.

Several years ago we had an accident in one of our Virginia mines involving electric detonators, and under our State law, and it is my understanding that the identical provisions are in the State laws of other coal producing States, it is required that holes for explosives be ignited or blazed 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 worker I am talking about returned to the working face which was obscured by smoke, fumes, and dirt and was found under a roof fall.

A new section of the roof had been exposed by the blast and the victim was unable to see the danger.

As a result of the aforementioned death, Virginia has taken the position that where the detonating 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. To prohibit the use of fuse and caps would necessitate closing at least 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 of approximately $15,000. The majority of operators do not have this type of working capital and prob-

ably could not secure a loan of this magnitude. As to the danger of fuse and caps, I know of no case where a disaster was caused by the use of fuse and caps, and I have been working in and around mines since 1935.

Another proposed amendment is necessary if a majority of title I mines in Virginia are not to be closed. The act requires that preshift examination be conducted prior to entry into the mine. The amendment should require preshift examination in title I mines only after the Bureau of Mines had conducted training courses and instructed mine personnel in the title I mines to use the flame safety lamp in accordance with the provisions of the State laws.

The problem is that under the present law, before any title I mine could commence a 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 feel that such examinations are necessary for gassy mines.

The Virginia law requires that before a person can be certified as a fire boss, he must have at least 3 years' experience in mines generating gases, have a knowledge of fire damp and other dangerous gases and be able to detect the same with a flame safety lamp, and he should also have a practical knowledge of ventilation of the mines and the machines and appliances used for that purpose.

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 methane, in our opinion, in a shorter period of time than Virginia requires.

Having pointed out what I believe to be the necessary amendments to the act and the proposed bill as it has passed the House of Representatives, I should like to comment briefly on the provisions of the code which in my opinion should not in any way be made applicable to title I mines.

I am, of course, aware that the code does not have force of law, but it is my experience and it is my belief that the Federal inspectors determine the presence or absence of imminent danger by reference to the criteria set forth in the Federal Coal Mine Safety Code.

The code provides that all structures erected on a surface within any mine opening shall be of fireproof construction. I believe this requirement should be limited to 50 feet with respect to title I mines. The code prohibits storage of necessary supplies because of their combustible nature at or near active mine openings.

I believe this should not apply to supplies of mine timbers, cap boards, and the supplies necessary for the safe operation of the mine. Magazines used for storing powder for title I mines should not be required to be bulletproof, in most cases there is a small amount of powder stored there.

It should be amended to permit transportation of explosives or detonators by cars pulled by rubber-tired locomotives.

The requirement that main mine fans be installed to permit reversal of air flow should not be applicable to title I mines.

In title I mines, the provision concerning ventilation should be amended to provide the volume of air reaching the last crosscut in any set of entries should be sufficient to dilute so as to render harmless and to carry away flammable or harmful gases. A minimum of 400 cubic

feet per man per minute should be reqiured. The present act requires a minimum of 6,000 cubic feet per minute.

The code should not require that in title I mines rubber-tired locomotives follow at a distance of 300 feet, which is the requirement by rail locomotives. The code should not prohibit man trips by rubber-tired locomotives in which the men transported cannot carry small hand tools in the same car.

I believe there is a great deal of room for improvement in the so-called code and I hope the Bureau of Mines inspectors have not been lulled along by some of the provisions of the code which in my opinion are in serious need of updating.

For instance, requiring that in gassy mines that all sections be ventilated by a separate split and that bleeders be provided to bleed gas off after pillering operations have been completed.

To this end, I would welcome cooperation with the Federal Bureau in order to establish joint standards of coal mine safety for the States and the Federal Government. I believe that in the past there has been a regrettable lack of communication between the Federal and State agencies, and I believe that mine safety would be served if there were to be a joint conference on the problems of safety in which the States, the Federal Government, could participate fully with representatives from the large operators, the small operators, and the union.

If this is not done, I believe that next year there may have to be a new coal mine safety law in order to strengthen the existing provisions relating to large gassy underground mines.

In my opinion, the major problem of safety in the coal mine industry is in the accidents that occur—day to day, roof fall and machinery type.

The problem with respect to these accidents 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 inspector with the consent of the operator of the coal mine. Also, at the 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 reoccurring.

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 mine.

Also, during this year, we held several area safety meetings with the operators and workers in the coal fields.

In October, 1963, we began publishing a booklet entitled "Monthly Review of Coal Mining." This publication was mailed to each licensed miner 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 workers of any fatalities or safety measures which they wish to impart. In my opinion, the Bureau of Mines should adopt some similar procedure with respect to publishing information concerning accidents.

In many cases, the problem is one 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 bring home to the men that they must conduct themselves in a safe manner for their own protection.

When our inspector inspects the 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.

My understanding is that the Bureau of Mines inspectors do not follow this procedure but submit a report to the coal mine operator some 2 weeks after the inspection. I believe that the Virginia educational program should be stepped up and we have made plans to do so. I do not have any figures on the safety classes taught by the Bureau of Mines, but I do believe 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 operators do not get the benefit of this.

In conclusion, I would like to state that it is my belief we are just beginning to make headway in the solution of problems relating to coal mine safety and further it is my sincere belief that the greatest progress has been made by education of the miners themselves to the dangers which they face daily.

Thank you, sir.

Senator MORSE. That has been very helpful testimony. You have brought out some issues very clearly, in conflict with a part of the record already made. It has given this staff a job to do in preparing the memorandums for the subcommittee in executive session.

I have one delicate problem I want to raise that can be handled by a supplemental memorandum by both sides to the controversy, because I do not want to be in the position that either the subcommittee or the full committee, or possibly later on the floor of the Senate, to have this charge raised and not at least have something in this record that I can refer to.

At the present time, we need to know, I think, some of the problems in the mind of the acting chairman. I cannot escape at least the tentative conclusion that there is a conflict here among the parties to this dispute over the qualifications of Federal inspectors on the one hand and the qualifications of State inspectors on the other.

For example, a week ago today the record left a clear implication as far as the acting chairman is concerned that the proponents of the bill asking for an increased Federal jurisdiction have a lack of confidence in State bureau of mines officers.

I think the record will show that the implication is clear that State mine bureaus are greatly influenced by State politics, that their personnel are politically indebted, and their appointments are politically designated. You knew all that before I made this statement for the record.

This morning I cannot escape the conclusion that there is a considerable amount of criticism on the part of State officials and State mine safety representatives against the Federal Bureau. You have one amendment in here, for example, that would require any Federal inspector to take a State examination to show that he is qualified at least to meet State standards.

As a juror, so to speak, in this dispute, I would tentatively come to the conclusion that there just are areas of conflict between the State and the Federal officials. And I think we have the responsibility to seek to narrow the area of conflict. Some of your amendments are offered in the hope that they will narrow that area of conflict.

Now, I think we ought to meet it head on; I am not asking you to take time, although you are certainly free at this public hearing to say anything you want to say; but I hope that you will file with us in addition to what you may now say a memorandum that can go into this record answering from your standpoint or the State's standpoint, the indications that State mine bureaus are employer oriented whereas the charge has been made that the Federal Bureau is United Mine Worker of America oriented. And, of course, both groups ought to be right squarely down the middle—impartial and not oriented one way or another. It is not for me certainly to draw any conclusions at this point, but it is for me, as chairman, to give both sides here an opportunity to get this record cleared up on this point, and I do not want you to in any way modify the position of the State people.

I only say that I want more material in the record directly on this issue so that somebody in the committee or on the floor of the Senate—oh, what you are dealing with here after all are State bureaus that want more and more jurisdiction and they are run by the coal operators; and somebody on the other side says—oh, what is being asked for here is that the Federal Bureau be given more and more authority, and they are run by the United Mine Workers.

I want what I can say and my colleagues can say as impartial middlemen—at least that is what we ought to be, impartial middlemen—to come forward here with legislation that will get above these accusations and provide for a bill, if we are going to have a bill, that will eliminate this human factor, so to speak, and that is the most—I think that is the most objective way I can put it.

I think we have a controversy here in which apparently some human factors have developed and I want to get rid of them. I want to have a law that will get rid of them, because I am not going to question the sincerity of anybody. You may have different points of view on the merits, but I refuse to believe that we cannot come forward here with a bill that will put the public interest first.

You know whereof I speak about the charges against the State departments. I want to give you an opportunity here to publicly say anything you want to and then file later a statement in greater detail.

Mr. MULLINS. Senator, Commissioner Boggs, of the Department of Labor and Industry of Virginia, whom I work under, he will clear that up for you.

Senator MORSE. Fine.

Senator FANNIN. Mr. Chairman.

Senator MORSE. I am all through.

Senator FANNIN. I would just like to ask Mr. Mullins if he agrees with this statement—I have a letter from Arizona's State mine inspector, an elected official in the State of Arizona, and he, in his letter in answer to a question I wrote to him about mine safety—not about this particular bill—said:

We can prove about 85 percent of the accidents that occur could not have been prevented by anyone except the man involved. I have the records to prove it.

Would you want to comment on that?

Mr. MULLINS. Yes, I will concur in that percentage. Last year, our investigations indicated that between 85 and 90 percent of the fatalities which occurred were the fault of some individual—it could have been the supervisor or the man himself that was killed, failed to do or follow certain standard safety procedures as to timbering and protecting himself.

Senator FANNIN. I ask that question, because I am concerned that we should have in our legislation, if possible, a coverage of that factor.

He goes on to say in this letter:

> So far this year we have had six fatal accidents in the mines. Two of those accidents occurred on the Indian reservation where the Bureau of Mines has jurisdiction. No criticism should be made to the Bureau of Mines because the two men involved were caused by themselves. Three of the accidents were due to the fact that the men involved did not obey the orders issued by their supervisors. I feel when a workman is caught violating a safety rule by the Bureau of Mines, a State mine inspector or company rules, he most certainly should be ordered out of a mine. If such a law were in effect, believe me, the accident rate would surely drop fast.

That is his statement. Do you agree?

Mr. MULLINS. Yes; I will agree with that.

Senator FANNIN. He goes on:

> The Bureau of Mines can suggest corrections, but they cannot force a miner to obey those suggestions. You might think in some cases the company could lay off for a few days, but when they do, the union files a grievance.

Of course, I am very concerned with the statement that he has made, and as to whether or not we could incorporate into this legislation amendments that mould make it possible to overcome those objections.

I would like to ask another question, Mr. Mullins, on the floor of the House of Representatives, Mr. Martin, of Nebraska, made a statement regarding the State of Virginia where he said 50 percent of the small mines in your State would probably have to close if this bill becomes law.

Now, I notice in your testimony you stated that the bill would probably necessitate the closing of 50 percent of the truck mines in the State of Virginia. It went as far as to prohibit the use of fuse and caps. But now in answer to my question, would you state whether the statement made by Mr. Martin is a logical conclusion?

Mr. MULLINS. He said 50 percent would have to be closed; is that correct?

Senator FANNIN. I have it here that 50 percent of the small mines in the State of Virginia would probably have to close if this bill becomes law.

Mr. MULLINS. Yes; I agree with that.

Senator FANNIN. "Probably," he says.

Mr. MULLINS. I would agree with that.

Senator FANNIN. Would you also have the information whether the small mine operators who have contracts with the United Mine Workers and are subject to its code are able to remain competitive?

Mr. MULLINS. I could not answer that, sir.

Senator FANNIN. There seems to be some question regarding whether or not the small mine operators could remain competitive.

Mr. MULLINS. I do know that the margin of profit in the small truck-mine industry just from conversations with operators usually runs from 20 to 30 cents a ton. That is the margin of profit.

Senator FANNIN. I want to state I am very much concerned about the safety factor involved in this legislation and which is the basis for this legislation. I have met with the mine people in my State, have participated in mine safety talks, and am vitally concerned.

I also realize that the human factor is so great that we should be positive, if that is possible, to cover that factor in this legislation.

Senator MORSE. Thank you.

Senator FANNIN. I have no further questions.

Senator MORSE. Mr. Mullins, I have one question. I hold in my hand this House report with which you are familiar, Federal Coal Mine Safety Act amendments. On page 20 there is set out the provisions of the Federal Coal Mine Safety Act.

On page 21, at the very bottom of the page, I read this language:

> Subsection 2. Any State desiring to cooperate in making inspection requirements of this title shall submit to the official mine inspector agency a State plan for carrying out the purposes of this subsection.

Then it lists the items which should be covered by such a State plan.

Now, I also hold in my hand the annual report of the Division of Coal Mine Inspection, Bureau of Mines, U.S. Department of the Interior, at the top of page 15 of that report, which will be made a part of the record of this hearing at the end of the hearing; I read, as follows:

> In response to requests pertinent plans for State participation were drafted and submitted to Alabama, Arkansas, Montana, North Carolina, Oklahoma, Washington, and Wyoming to serve as guides in formulating plans for submission to the Director for his approval. September 29, 1952, a plan submitted by Wyoming was the first to be approved by the Director. Since then five additional plans have been approved and the States having submitted plans and the effective date of each plan are Washington, Oklahoma, North Dakota, North Carolina, Alaska; four joint State-Federal inspections were made in Wyoming, three in Washington, and three in Oklahoma.

There is not included in that material filed by the Bureau any indication that Virginia has sought to participate in that program.

Would you tell the committee, if that is true, why it is true?

Mr. MULLINS. In the past we have not sought to participate with them because their inspector spends what we think too much time at a small mine and we just do not have the personnel to send a man with every man they have.

Now, we will be willing to join with them and submit a State plan that we can work with as far as mine safety is concerned, but we certainly do not have the people at the present time to assign one with every Federal mine inspector.

Senator MORSE. I understand that. But how does that—how do you square your observation that you do not have the men to send with the Federal inspectors for every inspection with Senator Cooper's earlier testimony this morning, referring I grant you, to Kentucky and not to Virginia, to the effect that Kentucky has conducted many more mine inspections each year than the Federal Bureau?

Mr. MULLINS. Well, Senator, our inspectors average about seven and eight mines per week. I believe there has been testimony introduced into the House hearings that the average Federal inspector inspected 42 mines per year. Our people are similar to the Kentucky inspectors. They live in the area. They are acquainted with the conditions, and they visit more mines per year than the Federal inspectors do.

Senator MORSE. Personnelwise, I would infer from Senator Cooper's testimony, at least in Kentucky, they have the staff that permits more inspections in Kentucky each year than the Federal Bureau of Mines conducts and I judge from what you have just said that in Virginia you also make more inspections than the Federal Bureau, and if that is true, then why would you not be able to make an inspector available for any on-the-spot inspection of a small mine that the State planned to require?

Mr. MULLINS. Well, Senator, after the first of July we are adding two people to our personnel, and I think that on these on-the-spot inspections certainly we can do that, but we cannot inspect with them on each inspection. That is just humanly impossible. One thing that has helped our inspectors to inspect more mines than the Federal inspector has, we have streamlined our inspection reports. He has a series of statements on these reports and all he has to do is make a check mark or cross mark if there is a violation in that particular category.

Senator MORSE. I would like to put in the record at this point, Mr. Counsel, but I have been handed a document by counsel—"Number of Inspections by Bureau of Mines in title I underground mines, title II mines."

I want all of this material put in an orderly fashion at the end of the hearings, so that the parties to this dispute will have them in continuity rather than have them interspersed throughout the hearing.

I would like to get all these memorandums we have called for—this is one of them—from the Bureau of Mines put in one section of the report so we can turn to them and have them all available in one place.

(The memorandums requested follow:)

INFORMATION REQUESTED BY SENATOR MORSE OF THE BUREAU OF MINES

* * * * * * *

2. Number of Federal coal mine inspectors who were members of the UMWA prior to being employed by the Bureau of Mines and the number so affiliated at present.

3. Why hasn't the Bureau of Mines issued a definition of what constitutes imminent danger under section 203(a) of the Federal Coal Mine Safety Act?

4. Is it true that half the mines in Virginia would be closed because of imminent danger if H.R. 3584 were enacted?

5. Why hasn't the Bureau of Mines investigated the difference in the mine safety statistics published by the various States versus the Bureau of Mines?

6. Copies of forms and reports used in inspecting title II mines.

7. Method of using the forms and reports referred to in item 7 on inspections of title I mines if H.R. 3584 were enacted in its present form.

8. Comparison of State versus Federal inspection reports.

9. Major analysis of State laws:

(*a*) How inspectors are selected.

(*b*) Which State coal mining laws are comparable to the Federal Mine Safety Code and Federal Coal Mine Safety Act.

(*c*) State enforcement authority.

(*d*) Which States require mandatory reporting of injuries, man-hours, etc.

10. Qualifications for Federal coal mine inspectors and the same information for State inspectors, if available.

If additional information is needed, we will do our best to provide it.

Sincerely yours,

JOHN F. O'LEARY,
Deputy Assistant Secretary of the Interior.

ITEM NO. 1

* * * * * * *

ITEM NO. 2

Number of Federal coal mine inspectors who were members of the UMWA prior to being employed by the Bureau of Mines and the number so affiliated at present:

(*a*) The number of presently employed Federal coal mine inspectors who were members of the UMWA at any time before being employed as Federal inspectors—220.

(*b*) The number of presently employed Federal coal mine inspectors who were members of the UMWA at the time of appointment as Federal inspectors—23.

(*c*) The number of presently employed Federal coal mine inspectors who are now members of the UMWA—1.

(*d*) The number of presently employed Federal coal mine inspectors who were never a member of the UMWA—18.

The following information was not requested, but is included to supplement the record in (*a*), (*b*), (*c*), and (*d*) above.

(*e*) The number of presently employed Health and Safety District and Subdistrict Field Managers of coal areas who were members of the UMWA at any time before being employed as Health and Safety District and Subdistrict Field Managers—10.

(*f*) The number of presently employed Health and Safety District and Subdistrict Field Managers of coal areas who were members of the UMWA at the time of appointment as Health and Safety District and Subdistrict Field Managers—1.

(*g*) The number of presently employed Health and Safety District and Subdistrict Field Managers of coal areas who are now members of the UMWA—0.

(*h*) The number of presently employed Health and Safety District and Subdistrict Field Managers of coal areas who were never a member of the UMWA—6.

The Assistant Director—Health and Safety, and the Chief, Division of Coal Mine Inspection, never have been and are not now members of the UMWA.

ITEM NO. 3

Why hasn't the Bureau of Mines issued a definition of what constitutes imminent danger under section 203(a) of the Federal Coal Mine Safety Act?

Most imminent dangers are a combination of various factors, any one of which per se may not constitute imminent danger.

The Bureau of Mines has refrained from issuing a list of conditions and practices that constitute imminent danger simply because we are unable to think of all the combinations of conditions and practices that constitute imminent danger. And to issue a partial and incomplete list would be extremely dangerous.

We feel that the Federal coal mine inspectors are competent to judge the existence of an imminent danger. In most instances the inspector must make a

quick judgment of imminent danger to assure protection to the men in the mine and would have no time to refer to a list for support—or nonsupport depending on completeness of the list.

ITEM No. 4

Is it true that half the mines in Virginia would be closed because of imminent danger if H.R. 3584 were enacted?

The use of blasting caps and fuse, per se, in a nongassy mine would not be considered imminent danger of a mine explosion. However, if blasting is done with caps and fuse in a dry and dusty area that is not adequately rock dusted, then an imminent danger of a dust explosion does exist, and a Federal inspector would, under such conditions, declare an imminent danger of an explosion and order the withdrawal of men. To avoid such finding by a Federal inspector, all the operator would have to do would ge to keep the area reasonably free of coal dust accumulations and apply rock dust to the mine surfaces as provided under the act. If the mine is wet, the use of fuse and caps would not be considered to constitute iminent danger of an explosion.

We think it is important for the committee to know that a Federal investigation of the Centralia disaster in Illinois on March 25, 1947, disclosed that the blasting with caps and fuse in a dry and dusty area that was not rock dusted was the prime suspect in the cause of this disaster that killed 111 men. The mine was classed nongassy by the State and gas was not a factor in the disaster.

Bureau experiments have proved conclusively that "spitting" fuse can ignite a cloud of coal dust and initiate a coal dust explosion.

Inasmuch as the use of fuse requires an open flame or equivalent to cause ignition thereof, the use of fuse in a gassy mine would be prohibited under section 209(h)(3) of the Federal Coal Mine Safety Act. We are confident that the State of Virginia would not condone such practice of using a flame at the face of a room or entry in a gassy mine.

ITEM No. 5

Why hasn't the Bureau of Mines investigated the difference in the mine safety statistics published by the various States versus the Bureau of Mines?

The Bureau of Mines, in the course of its work of compiling injury statistics on coal mining, has become aware of the reasons for the differences between its data and those compiled by State agencies. Although the reasons are known, the necessary corrections can be obtained only by the adoption of the same statistical standards and procedures by each of the compiling agencies. Progress toward such standardization is being made but only at a slow rate.

Enclosed are the differences between injury statistics compiled by State agencies and by the Federal Bureau of Mines.

DIFFERENCES BETWEEN INJURY STATISTICS COMPILED BY STATE AGENCIES AND BY THE FEDERAL BUREAU OF MINES

The basic cause of the differences in the injury statistics compiled by State agencies and those compiled by the Federal Bureau of Mines is the standards followed by the several compiling agencies. The Federal Bureau of Mines works within two national standards whereas many of the State agencies work within varying standards established either administratively or by law at a State level.

With regard to industry definition and area covered, the Bureau follows the standard industrial classification sponsored by the Office of Statistical Standards, Bureau of the Budget, Executive Office of the President, 1957. Under this standard all establishments primarily engaged in mining and preparing bituminous coal and lignite and all establishments primarily engaged in contract mining services such as overburden removal, shaft sinking, drilling, and others are included in the bituminous coal and lignite mining industry. There is a similar standard for the anthracite mining industry.

The second national standard adhered to by the Bureau is the American Standard Method of Recording and Measuring Work Injury Experience (Z16.1–1954, R1959) of the American Standards Association. This standard defines the several classes of work injuries, prescribes the inclusion of all disabling work injuries down to those with 1 full day of disability, and provides rules for counting both the injuries and the resulting days of disability used in the standard frequency and severity rates.

The Bureau of Mines does not have detailed information on the different standards followed by State agencies in compiling injury statistics. However, examples of some known departures from the national standards will point out how the statistical differences originate.

The annual report of the Illinois Department of Mines and Minerals tabulates only those work injuries with 7 days or more of disability. Consequently, this count is lower than that compiled by the Federal Bureau.

In January 1965, an accident in a shaft-sinking operation by a contractor to a coal producing company killed three men in Pennsylvania. Under an administrative ruling by the State these fatalities are included with data on mineral and stone mines and quarries and tunnels and are not included with the coal industry data. The Federal Bureau under its national standards includes the three fatalities with the coal mining industry.

The annual reports of the Pennsylvania and West Virginia Departments of Mines on the coal mining industry includes data on coke ovens whereas the Federal Bureau separates such data from coal mining and includes them with the coke industry.

These examples point to only a few of the different standards followed by State agencies in compiling injury and employment data. The application of national standards and statistical methods by the Federal Bureau of Mines in its compilations provides uniform and standard injury and employment data on the coal mining industry throughout all States.

ITEM No. 6

COPIES OF FORMS AND REPORTS USED IN INSPECTING MINES

We have enclosed the following documents:

A. Forms used in issuing notices and orders under title II of the Federal Coal Mine Safety Act.

B. Copy of a Federal report covering a regular inspection of a title I mine not affiliated with the UMWA.

C. Copy of a Federal report covering a regular inspection of a title I mine operated under contract with the UMWA.

D. Copy of a Federal report covering a regular inspection of a title II mine not affiliated with the UMWA.

E. Copy of a Federal report covering a regular inspection of a title II mine operated under contract with the UMWA

6-290
(February 1953)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF MINES

NOTICE

.....
(Date of issue)

To the operator of the .....
(Mine)

.....
(Company)

.....
(Location of mine) (P. O. address of operator)

Notice is hereby given that the undersigned Federal coal mine inspector upon making an inspection of this mine finds danger that a

☐ mine explosion ☐ mine inundation ☐ man-hoist accident

☐ mine fire ☐ man-trip accident

will occur in the above-named mine immediately or before the imminence of such danger can be eliminated.

Extent of the area of such mine throughout which such danger exists .....

.....

.....

.....

.....

.....

Description of the conditions which cause and constitute such danger .....

.....

.....

.....

.....

.....

.....

ORDER

In accordance with Sec. 203 (a) (1) of the Federal Coal Mine Safety Act, you are hereby ordered to cause all persons, except persons referred to in Sec. 203 (a) (2) of the act, to be withdrawn from and to be debarred from entering the area described herein.

..... Signed .....
(Originating office) (Federal coal mine inspector)

6-391
(February 1953)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF MINES

NOTICE

(Date of issue)

To the operator of the _____
(Mine)

_____
(Company)

_____ _____
(Location of mine) (P. O. address of operator)

Notice is hereby given that the undersigned Federal coal mine inspector upon making an inspection of this mine finds that the provisions of sec. 209 of the Federal Coal Mine Safety Act are being violated in the above-named mine as follows:

Violation of sec. 209 _____

Legal requirement _____

FINDING

The undersigned inspector finds that a reasonable time within which the foregoing violation of sec. 209 should be totally abated is by 12 o'clock midnight on _____
(Date)

_____ Signed _____
(Originating office) (Federal coal mine inspector)

6-292
(February 1953)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF MINES

NOTICE

_____
(Date of issue)

To the operator of the _____
(Mine)

_____
(Company)

_____
(Location of mine) (P. O. address of operator)

Notice is hereby given that the undersigned Federal coal mine inspector upon making an inspection of this mine finds the following:

☐ Methane has been ignited in this mine.

☐ Methane was found during this inspection with a permissible flame safety lamp.

☐ Methane in amount of _____ per centum has been found by chemical analysis.

Description of the basis upon which this finding was made _____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

ORDER

In accordance with Sec. 203 (d) of the Federal Coal Mine Safety Act, you are hereby ordered to comply with the provisions of Sec. 209 of the act which pertain to gassy mines.

_____ Signed _____
(Originating office) (Federal coal mine inspector)

6–293
(February 1953)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF MINES

NOTICE

_____
(Date of issue)

To the operator of the _____
(Mine)

_____
(Company)

_____ _____
(Location of mine) (P. O. address of operator)

In reference to a Notice dated _____ in which was cited a violation in the above-named mine of the provisions of sec. 209 _____ of the Federal Coal Mine Safety Act, notice is hereby given that on _____ the undersigned Federal coal mine inspector
(Date)

☐ Upon the expiration of a period of time as originally fixed ☐ Upon the request of the operator
☐ Upon the expiration of a period of time as extended

made a special inspection of the above-named mine and finds that the violation referred to was

☐ Totally abated ☐ Not totally abated

Remarks _____

FINDING

The undersigned inspector finds further that the time for the total abatement of the foregoing violation should be extended to 12 o'clock midnight on _____
(Date)

_____ Signed _____
(Originating office) (Federal coal mine inspector)

6-294
(February 1953)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF MINES

NOTICE

.....
Date of issue

To the operator of the .....
Mine

.....
Company

.....
Location of mine *P. O. address of operator*

In reference to a Notice dated ..... in which was cited a violation in the above-named mine of the provisions of Sec. 209 ..... of the Federal Coal Mine Safety Act, notice is hereby given that on ..... the undersigned Federal coal mine inspector
Date

( ) Upon the expiration of a period of time as originally fixed ( ) Upon the request of the operator
( ) Upon the expiration of a period of time as extended

made a special inspection of the above-named mine and finds that the violation referred to was not totally abated and the fixed period of time should not be extended further.

Violation of Sec. 209 .....

.....

.....

.....

Legal requirement .....

.....

.....

.....

Extent of the area of such mine throughout which such danger now exists .....

.....

.....

.....

ORDER

In accordance with Sec. 203(c)(1) of the Federal Coal Mine Safety Act, you are hereby ordered to cause all persons, except persons referred to in Sec. 203(a)(2) of the act, to be withdrawn from and to be debarred from entering the area described herein.

.....
Originating Office

Signed .....
Federal Coal Mine Inspector

6-296
(February 1953)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF MINES

.....
(Date submitted)

In accordance with the Director's request of ....., 195....., the undersigned authorized representatives of the Bureau of Mines made a special inspection of the .....
(Mine)
.....
(Company)
.....
(Location of mine) (P. O. address of operator)
on ....., 195...., to determine whether or not an Order issued pursuant to Sec. 203 (c) of the Federal Coal Mine Safety Act on ....., 195....., by ....., Federal coal mine inspector, relative to violations of Sec. (s) 209 .....

☐ Upon the expiration of a period of time as originally fixed
☐ Upon the expiration of a period of time as extended
should be annulled or revised or the application denied.

FINDING

☐ A violation of Sec. 209 as described in the Order under review did not exist at the time the Order was issued.
☐ A violation of Sec. 209 as described in the Order under review was totally abated at the time of the present special inspection.
☐ The period of time fixed in the Order under review should be extended to 12 o'clock midnight on ....., 195....
☐ The period of time fixed in the Order under review should not be extended.

Explanation .....
.....
.....

Extent of the area of such mine throughout which such violation now exists .....
.....
.....
.....

Description of the conditions which cause and constitute such violation .....
.....
.....
.....

RECOMMENDATION

☐ The Order under review should be annulled. ☐ The Order under review should be revised.
☐ The application for revision or annulment should be denied.

Signed .....
(Federal coal mine inspector)

Signed .....
(Federal coal mine inspector)

.....
(Originating office)

Signed .....
(Federal coal mine inspector)

TITLE I MINE NOT AFFILIATED WITH THE UMWA

U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF MINES, DIVISION OF COAL MINE INSPECTION

Coal Mine Inspection Report, No. 2 Mine, Liberty Coal Co., (Near) Rock City, Marion County, Ala., June 2 and 9, 1965, by John F. Shoemaker, Federal Coal Mine Inspector

Originating office: Bureau of Mines, 1612 Tenth Avenue South, Birmingham, Ala., 35205, Eric H. Brown, acting subdistrict manager, Birmingham, Ala., subdistrict office, health and safety district C.

Metal tag No. 3620—On timber near portal.

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. secs. 451–483).

The numeral recorded after a section identification shows the number of consecutive repetitions of the violation.

Italicized items indicate serious hazards.

GENERAL INFORMATION

The No. 2 mine, Liberty Coal Co., is located about 2 miles south of Rock City, Marion County, Ala. The mine is opened in the Black Creek coalbed, that averages 26 inches in thickness, by one drift entry and one 30-foot unlined shaft.

Thirteen men were employed, all of whom worked underground on one shift a day, 4 or 5 days a week. The average daily production was about 40 tons of coal. The preceding Federal inspection was completed January 14, 1965.

A systematic method of roof support, that requires timbers to be set on 4-foot centers and safety posts to be set to within 4 feet of the active working faces, had been adopted, complied with, and appeared to be adequate. Roof control and haulage practices were discussed with employees during this inspection.

This mine is classed nongassy. Face ventilation was not adequate, and less than 6,000 cubic feet of air a minute was reaching the last open crosscut in the active entries. The quantity of air reaching the last open crosscut between the left air course and the main entry in straight heading was only 3,428 cubic feet a minute, and the volume and velocity of the current of air reaching the last open crosscut between the left air course and the main entry in the first right cross entry was not sufficient to operate an anemometer. Tests were made with a permissible flame safety lamp and permissible methane detector in all the active working places and accessible old workings during this inspection and methane was not detected nor was a deficiency of oxygen indicated. Also, one sample of the mine atmosphere was collected at a point not less than 12 inches from the roof, face, or ribs in the No. 20 left room in the first right cross entry, the analysis of which is given in table 1 of this report.

The mine surfaces ranged from wet to dry and rock dust had not been applied. Loose coal and coal dust in dangerous quantities were observed at several locations along the underground track roadway and along the pan lines in the working rooms, and in many parts of the return airways.

The following imminent dangers of a mine fire and/or explosion found during this inspection were discussed with the operator: Detonators in original containers were transported underground in open mine cars by trolley locomotive; black blasting power transported underground in original containes in open mine cars by trolley locomotive, carried to the working faces in open paper containers, was used for blasting coal; boreholes were stemmed with fine coal and charged while the machine was cutting, shots were fired from the power circuit; dynamite, in original containers, was transported underground in regular mine cars by trolley locomotive, and was used underground for blasting rock. Shots were fired from the power circuit; accumulations of loose coal and coal dust in dangerous quantities were observed along the underground track roadway in several locations and along the pan lines in the working rooms and also in many parts of the return airways. Rock dust had not been applied. The imminent danger of a man-trip accident occurring by using drop-bottom cars for man-trips without special locking devices and by pushing man-trips from the surface to the work-

ing sections was also discussed with the operator. The Department of Alabama Industrial Relations, Division of Safety and Inspection, was notified of this condition on June 2, 1965. Also, a preliminary report was posted at the mine on June 2, 1965, and the operator was requested to permit entrance to the mine to only those persons necessary to correct these hazards until such conditions are corrected. However, no abatement for these conditions was made during this inspection.

PART I—FEDERAL MINE SAFETY CODE

VIOLATIONS AND RECOMMENDATIONS

ARTICLE I—SURFACE STRUCTURES

Section 3a: 13. The tipple was provided with only a makeshift runway.

A substantial runway should be provided along the shaker screens and the runway should be provided with suitable guardrails.

Section 3b: 2. The elevated runway at the tipple was not equipped with toeboards.

The elevated runway at the tipple should be equipped with toeboards.

Section 4a: 2. Material and supplies around the mine buildings and yards were not stored in an orderly manner.

Good housekeeping should be practiced in and around mine buildings and yards. Such practice should include cleanliness and orderly storage of material.

ARTICLE IV—EXPLOSIVES AND BLASTING

Section 3b: 9. *Electric detonators in original containers were transported underground in regular mine cars by trolley locomotives.*

Detonators transported underground by means of trolley locomotive should be in substantially covered cars or special substantially covered containers used specifically for transporting explosives and detonators.

Section 5a: 3. *Black blasting powder in original containers transported underground in open mine cars by trolley locomotive, carried to the working faces in open paper containers, was used for blasting coal; boreholes charged while the machine was cutting were stemmed with fine coal, and shots were fired from the power circuit.*

Black blasting powder should not be stored, handled or used underground.

Section 5b: 22. *Dynamite in original containers transported underground in regular mine cars by trolley locomotive was used for blasting rock. Shots were fired from the power circuit.*

All explosives used underground should be of the permissible type.

ARTICLE V—VENTILATION AND MINE GASES

Section 1b: 22. The main fan was neither attended nor provided with an automatic signal.

The main fan should either be attended while men are underground or provided with an automatic device to give alarm when the fan slows down or stops.

Section 1e: 2. Daily records of the fan inspections were not kept.

Records should be kept of the daily fan inspections.

Section 3a: Face ventilation was inadequate.

The volume and velocity of the current of air should be sufficient to dilute so as to render harmless, and to carry away, flammable or harmful gases.

Section 3b: 8. Less than 6,000 cubic feet of air a minute was passing through the last open crosscuts in the active working entries; the velocity of the current of air reaching the last open crosscuts in the first right entries was not sufficient to operate an anemometer.

The quantity of air reaching the last open crosscut in any pair or set of active working entries should not be less than 6,000 cubic feet a minute.

Section 3c: 2. Weekly air measurements were not taken and recorded.

At least once each week, a certified or competent person should measure the volume of air entering the main intakes and leaving the main returns and the volume passing through the last open crosscut in each active entry. Records of such measurements should be kept.

Section 6a: The haulage entry in straight headings had been driven 150 feet beyond the last crosscut.

Crosscuts should be provided in the haulage entry in the straight headings at not more than 70-foot intervals.

Section 6e: 2. Several crosscuts between intake and return airways on the main entries were closed with brattice cloth.

On entries other than room entries, stoppings in crosscuts between intake and return airways should be built with solid, substantial, incombustible material, such as concrete, brick, or tile.

Section 6f: 2. Several stoppings on the main entries between intake and return airways were not reasonably airtight.

Stoppings should be reasonably airtight.

Section 7a: 3. A single door was installed on the main entry, and when it was opened to permit trips to pass through the air was short circuited at this point.

An additional door should be provided on the main entry, and it should be so located that the passage of trips or persons along the entry will not cause interruptions of the air current.

Section 9a: 8. Abandoned workings were not posted.

Abandoned workings should be posted to warn unauthorized persons against entering the territory.

Section 10c: 1. The permissible type flame safety lamps kept at the mine were not in proper working condition.

At least two of the permissible type flame safety lamps kept at the mine should be maintained in proper working condition for the use of authorized persons.

Section 10d: 3. The official in charge of the underground workings did not carry a permissible flame safety lamp on his person while underground.

Officials whose regular duties require them to inspect working places for dangers should have in their possession, and should use, when underground, a suitable permissible device capable of detecting methane and oxygen deficiency.

Section 10f: 16. Preshift examinations were not made.

A fire boss should make an examination of this mine before other men are permitted to enter. See article V, section 10f of the Federal Mine Safety Code for duties of the fire boss.

Section 10g: 2. On-shift examinations for dangerous conditions by a certified person were not made to comply with requirements of the Federal Mine Safety Code.

On-shift examinations for dangerous conditions should be made by a certified person at least once during each coal-producing shift or oftener if necessary for safety. Records should be kept of such inspections.

Section 10l: 3. The mine foreman did not make out a report of his daily examinations 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, which report should state clearly the location and nature of any danger observed by him or reported to him during the day, and the report should state what action, if any, was taken to remedy such danger.

ARTICLE VI—COAL AND ROCK DUST

Section 1a: Accumulations of loose coal and coal dust in dangerous quantities were observed along the underground track roadway in several locations and along the pan lines in the working rooms and also in many parts of the immediate return airways.

Coal dust and loose coal should not be permitted to accumulate in dangerous quantities in the active underground workings of this mine.

Section 2a: 4. Many portions of the mine were dry and rock dust had not been distributed on the dry exposed surfaces.

All dry portions of this mine should be thoroughly rock-dusted to within 40 feet of all faces, and, if open crosscuts near such faces are less than 40 feet therefrom, such crosscuts should also be rock-dusted.

ARTICLE VII—TRANSPORTATION

Section 3a: 2. The track and roadway were not well maintained.

The roadbed, rails, joints, switches, frogs, and other elements of the track haulage road should be maintained in good repair to insure safe operation.

Section 3e: 16. Many of the rail joints were not secured.

Rails should be secured at all joints by means of plates or weld.

Section 4a: 16. Adequate clearance was not provided along the underground track haulage road at several locations.

At least 24 inches of continuous unobstructed clearance on one side from the farthest projection of moving traffic should be provided.

Section 4d: 16. The available clearance space in several locations was obstructed with loose rock, mine refuse, and timbers.

The loose rock, mine refuse, and timbers should be removed from the available clearance space along the haulage road which should be kept free of obstructions for at least 24 inches.

Section 4i: 11. Room necks which served as shelter holes were obstructed with loose rock and refuse.

Shelter holes should be kept free of loose rock and other obstructions.

Section 4j: 3. A shelter hole or at least 6 feet of clearance was not provided at the main entry door.

A shelter hole should be provided at the manually operated door on the main entry.

Section 6c: 9. Trip lights were not used.

A trip light should be used on the front of trips pushed and on the rear of trips pulled.

Section 6d: 9. Cars were pushed into the mine.

Pushing of cars should be prohibited except where necessary to push cars from sidetracks to the loading point.

Section 6k: 2. A positive acting stopblock or derail was not used near the top of the incline at the coal dump.

A positive acting stopblock or derail should be used near the top of the incline at the coal dump to protect persons from possible runaway haulage equipment.

Section 6l: 22. Drags were not used on trips pulled from the mine to the tipple.

A drag should be used on the rear of all trips pulled from the mine to the tipple.

Section 7a: 11. Man-trips operated by means of locomotive were pushed into the mine.

Man-trips operated by means of locomotive should be pulled into the mine.

Section 7c: Drop-bottom cars without special locking devices were used for man-trips.

Drop-bottom cars should be provided with special locking devices when used for man-trips.

ARTICLE VIII—ELECTRICITY

Section 1b: 2. The alternating current power circuit leading underground was not equipped with a lightning arrester.

The alternating current power circuit that leads underground should be equipped with a lightning arrester at or near the point where the circuit enters the mine.

Section 1c: 2. Electric wiring in surface buildings was not installed so as to minimize fire and contact hazards.

Electric wiring in surface buildings should be installed so as to minimize fire and contact hazards.

Section 4b: The underground power wires were not supported by insulators in several places along the haulage entry and contacted timbers and ribs.

The underground power wires along the haulage entry should be supported by insulators and not permitted to touch timbers or ribs.

Section 4gl: 13. Only one rail of the track was bonded and crossbonds were not used.

Both rails of the track should be bonded at every joint and crossbonds should be installed at intervals of not more than 200 feet.

Section 4j: 1. Trolley-wire hangers were widely spaced at several locations creating a shock hazard.

Trolley-wire hangers should be so spaced that the wire may become detached from any one hanger without creating a shock hazard.

Section 4k: 22. The trolley wire was not alined properly and was less than 6 inches outside the rail in several locations.

The trolley wire should be alined properly and should be at least 6 inches outside the rail.

Section 4m: 3. The trolley wire was not taut in many places and, therefore, allowed to come in contact with roof and timbers.

The trolley wire should be kept taut throughout its length and not permitted to touch the roof or timbers.

Section 4n: 2. The trolley wire was not guarded at several locations where it was necessary for men to work or pass under.

The trolley wire should be adequately guarded at both sides of doors and at all places where men work or pass under it unless it is more than 6½ feet above the top of the rail.

Section 4p: The trolley wire was not guarded at the ends near the loading points.

The trolley wire should be guarded at the ends near the loading points.

Section 5b: 16. The mining machine, electric drill, several switch boxes, and motor frames were not equipped with frame grounds.

All electric equipment that can become "alive" through failure of insulation or by contact with energized parts should be frame grounded effectively.

Section 6a: 22. Most of the electric equipment was not equipped with overload protection.

All electric equipment should be provided with suitable overload protection.

Section 6d: 2. Several underground pumps were not provided with switches or other controls, and a cutout switch in the trolley wire near the mine portal was not of a safe design.

All electric equipment and circuits should be provided with switches or controls of safe design, construction, and installation.

Section 6e: 18. Insulating mats were not provided at the control stations of the electric equipment.

Dry wooden platforms or insulating mats or other nonconductive material should be placed at all control panels and switch boxes.

Section 6i: 1. The entrance to the rear of a switchboard installation on the surface was not guarded.

Entrances to the rear of the switchboard installation on the surface should be guarded against entrance of unauthorized persons.

Section 6j: 1. The switchboard for the surface generator was not provided with lights.

The switchboard for the surface generator should be provided with lights for switch operation in the front and repair and maintenance in the rear.

Section 7a: 3. The working sections were more than 1,500 feet deep and telephone service was not provided.

Telephone service or equivalent two-way communication facilities should be provided between the surface and each working section of the mine.

Section 10b: 16. The mining machine and electric drill trailing cables were not provided with short-circuit protection.

These trailing cables should be provided with suitable short-circuit protection.

Section 12a: 1. Electric-light wires were not fastened securely to power conductors at several locations along the underground track roadway.

Electric-light wires should be fastened securely to power conductors.

ARTICLE X—FIRE PROTECTION AND MINE DISASTERS

Section 1a: 22. Adequate firefighting equipment was not available.

Firefighting equipment adequate for the size of the mine should be provided.

ARTICLE XI—MISCELLANEOUS

Section 4gl: 2. The escapeway was obstructed in places with fallen rock, water, and mud.

The escapeway should be kept in a safe condition for travel, reasonably free from falls, standing water, and other obstructions to the extent that men can escape quickly in an emergency.

Section 4th: 11. The air shaft was not equipped with any means of escape.

The air shaft should be equipped with a ladder so that men could escape quickly in the event of an emergency.

Section 4j: 22. Direction signs were not posted to indicate the escapeway.

Direction signs should be posted to indicate escapeways and manways.

Section 8b: 22. Workmen did not wear protective footwear.

All workmen should wear protective footwear where there is a hazard from falling objects.

Section 8c: 22. Employees did not wear goggles or shields where flying particles existed.

Approved-type goggles or shields should be worn by all employees while they are doing work hazardous to the eyes.

Section 8e: 2. Some of the employees engaged in haulage operations did not wear snug-fitting clothing.

Employees engaged in haulage operations should wear snug-fitting clothing.

JOHN F. SHOEMAKER,
Federal Coal Mine Inspector.

TABLE 1.—*Analyses of air samples, date collected, June 2, 1965, mine No. 2, Liberty Coal Co., collected by John F. Shoemaker*

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		
E-1022	56418	Working place 20 left room, 1 right cross entry.	0.27	20.63	0	--------	79.10	--------	--------

TITLE I MINE AFFILIATED WITH THE UMWA

U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF MINES, DIVISION OF COAL MINE INSPECTION

Coal-Mine Inspection Report, No. 7 Mine, Richardson Coal Co., Jewell Valley, Buchanan County, Va., February 4, 1965, by Walter M. Allen, Federal Coal Mine Inspector

Originating Office: Bureau of Mines, Norton, Va. 24273, J. S. Malesky, district supervisor, Health and Safety District I.

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. secs. 451–483).

The numeral recorded after a section identification shows the number of consecutive repetitions of the violation.

Capitalized items indicate serious hazards.

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.

GENERAL INFORMATION

The mine is opened by drifts in the Jewell coalbed, which average 40 inches in thickness locally.

The 7 men employed worked underground on 1 shift daily, 5 days a week. The average daily production was 80 tons of coal. The life of the mine was estimated to be 1 year. The preceding Federal inspection was made September 3, 1964.

The immediate roof was fragile shale which required constant attention and prompt support. Roof-testing practices were satisfactory. Unsupported, loose roof was taken down at one location over the roadway in one right upon detection. The roof-support plan, which required a row of permanent posts to be set on 4-foot centers along each side of the roadways to within 6 feet of the faces and 2 or more safety posts to be set close to each working face was followed at the close of this inspection.

The mine is classed nongassy. More than 6,000 cubic feet of air a minute was entering the intake end of the pillar line, and face ventilation was adequate.

The mine surfaces were wet and rock dust was not required at the time of this inspection. However, the mine foreman stated that if and when the mine

surfaces dried to the extent that rock dust was needed, ample amounts of rock dust would be applied.

Since the preceding Federal inspection, the return airway, designated as the second escapeway, has been blocked by a roof fall at a point 30 feet in by the fan. Work was in progress at the time of this inspection to drive a new escapeway from the working section to the surface. A return visit will be made soon.

PART I—FEDERAL MINE SAFETY CODE

VIOLATIONS AND RECOMMENDATIONS

ARTICLE IV—EXPLOSIVES AND BLASTING

Section 1b7: 1. The magazine was not locked and it was unattended.

The magazine should be kept locked securely when unattended.

Section 5b1: 8. Permissible explosives were fired with fuse and blasting gaps.

Permissive explosives should be fired only with electric detonators of proper strength.

ARTICLE V—VENTILATION AND MINE GASES

Sections 1a1, 1a3 and 1a4: The fan was installed within and in direct line with the mine opening, and was not provided with a firepoof air duct or means of pressure relief.

The fan should be installed on the surface; offset at least 15 feet from the nearest side of the mine opening, and equipped with a fireproof air duct and ample means of pressure relief.

Section 1b: The unattended fan was not provided with a warning device.

The fan should be provided with an automatic device to give alarm when it slows down or stops.

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

These records should be kept.

Section 3c: 7. Weekly air measurements were not made.

At least once each week, a properly certified or competent person should measure the volume of air entering the main intake and leaving the main return, and the volume passing through the last open crosscut in each active entry.

Section 9a: 6. Warning signs were not posted at the entrances to abandoned areas.

Abandoned areas should be posted to warn unauthorized persons against entering the territory.

Section 10c: 1. Only one permissible 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 use of authorized persons.

Section 10d: 1. The mine foreman did not carry a flame safety lamp or other permissible device capable of detecting methane and oxygen deficiency.

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

Section 10j: 7. 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: 3. The mine foreman did not keep daily records 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 record of the condition of the mine.

ARTICLE VII—TRANSPORTATION

Section 4a: 7. Adequate clearance was not provided along the haulageways; posts were set too close to the tracks.

A continuous clearance on one side of at least 24 inches from the farthest projection of moving traffic should be provided along the track-haulage road.

Section 4d: 8. The clearance space along the haulageways was obstructed by loose rock and materials.

At least 24 inches of the clearance space on all track-haulage roads should be kept free of obstructions.

Section 6c: 8. Trip lights were not used.

A permissible trip light should be used on the rear of trips pulled and on the front of trips pushed along haulageways, except during gathering operations at the working faces.

Section 6d: 8. Trips of cars were pushed from the surface to the working section.

Pushing of cars on main haulage roads should be prohibited, except where necessary to push cars from sidetracks located near the working section to producing entries and rooms, and where necessary to clear switches and sidetracks.

Section 6j: 6. Standing cars at the faces were blocked insecurely with cap wedges.

Standing cars on any track, unless held effectively by brakes, should be properly blocked or spragged. Cars should be held effectively at working faces.

ARTICLE VIII—ELECTRICITY

Section 4g2: 7. The secondary track-haulage road was not bonded.

At least one rail on secondary track-haulage roads should be welded or bonded at every joint, and crossbonds should be installed at intervals of not more than 200 feet.

Section 4g3: 5. The entry track switches were not bonded.

These switches should be bonded.

Section 4g4: 7. The room tracks, used as return power conductors for the mining machines and drills, were not bonded.

In rooms where electric equipment other than locomotives is dependent upon the room tracks as a power conductor, at least one rail should be bonded at each joint.

Section 4p: 7. The inby ends of the trolley wires were not guarded.

Trolley wires should be guarded adequately at the ends.

Section 5b: 8. The portable electric equipment was not frame-grounded.

All electric equipment should be frame-grounded effectively or equivalent protection should be provided.

ARTICLE IX—SAFEGUARDS FOR MECHANICAL EQUIPMENT

Section 2a6: The inby approach to the fan was not guarded.

The approach to each side of the fan should be guarded.

ARTICLE XI—MISCELLANEOUS

Section 4g1: The return airway, designated as the second escapeway from the mine was blocked by a roof fall at a point 30 feet in by the fan.

Escapeways should be kept reasonably free from falls and other obstructions to the extent that men can escape quickly in an emergency.

Section 4j: 5. Direction signs were not posted in the escapeways.

Direction signs should be posted conspicuously at all points of intersection with other passageways to indicate designated escapeways.

Section 6a: 2. A check-in-and-out system was not used.

The mine should have a check-in-and-out system that will provide positive identification upon the person of every individual underground.

Section 8c: 8. The employees did not use goggles or shields while doing eye-hazardous work.

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

ARTICLE XII—GENERAL SAFETY CONDITIONS

Section 4a: 1. A sufficient number of triangular bandages and compresses were not provided.

The first aid materials should include a sufficient number of triangular bandages and compresses.

PART III—DANGERS ELIMINATED DURING INSPECTION

Violations of the Code:

1. Article III, section 1a: The roof-support plan was complied with.

2. Article III, section 2d: Permanent posts were set within 6 feet of the face in No. 1 right heading pillar face.

3. Article III, section 2: Unsupported, loose roof was taken down at one location over the roadway in No. 1 right.

WALTER M. ALLEN,
Federal Coal Mine Inspector.

TABLE 1.—*Analyses of air samples, date collected, Feb. 4, 1965, mine No. 7, Richardson Coal Co., collected by W. M. Allen*

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		
E-6107	52420	Face 1 right heading pillar--	0.10	20.80	0	--------	79.10	--------	--------

TITLE II MINE NOT AFFILIATED WITH THE UMWA

U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF MINES, DIVISION OF COAL MINE INSPECTION

Coal Mine Inspection Report, Deby No. 2 Mine, Deby Coal Co., Hyden, Leslie County, Ky., February 4–5, 9–12, 15–17, and 23, 1965, by T. A. Redin, Federal Coal Mine Inspector

Originating office: Bureau of Mines, Barbourville, Ky., G. W. Parry, subdistrict supervisor, Barbourville, Kentucky Subdistrict, Health and Safety District I.

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).

The numeral recorded after a section identification shows the number of consecutive repetitions of the violation.

GENERAL INFORMATION

The Deby No. 2 mine is on Owl's Nest Branch about 1½ miles east of Hyden, Ky. Railroad services are not available at the mine, and all coal is transported by autotrucks to a preparation plant on a siding of the Louisville & Nashville Railroad Co., at Manchester, Ky.

The mine was opened by drifts into the Hazard No. 4 coalbed, which ranged from 33 to 44 inches in thickness in the areas being worked. Of the 87 men employed, 82 worked underground on 2 coal-producing shifts a day, 5 days a week. About 50 percent of the average daily production of 825 tons of coal was hand loaded into steel drop-bottom mine cars, and the remainder was loaded mechanically into rubber-tired mine cars by a 14–BU Joy loader. After being transported to a dumping point by battery-powered, rubber-tired locomotives, the coal was transferred to steel drop-bottom mine cars. The management estimated the life of the mine to be 8 years. The preceding Federal inspection was completed September 24, 1964.

The immediate roof was either sandstone or shale, 2 to 10 inches in thickness, which was either taken down or supported by timbers as the coal was removed. The main roof was sandstone. Hillseams and mountain breaks were encountered frequently in each section. The company's systematic method of timbering required at least three safety posts within 3 feet of the working faces and permanent timbers to be set on 4-foot centers to within 8 feet of the faces, leaving an 11-foot roadway. A 2- by 6- by 24-inch cap piece was used over each line timber where the roof was shale. Crossbars were also used over the roadways where needed. The timbering standards were considered adequate. The workmen tested the roof in their working places, and an official examined the roof along the haulageways during the inspection. Inadequately supported roof present at two locations over the main haulage entry, 40 and 450 feet inby 2 left main No. 1 section, was either taken down or adequately timbered.

The mine is classed nongassy. The quantity of air was increased in one of the working sections, and more than 6,000 cubic feet of air a minute was reaching the last open-entry crosscuts and being delivered to the intake end of the pillar line. Face ventilation was adequate.

The mine surfaces ranged from wet to dry. Dangerous amounts of coal dust and loose coal were present at several locations along Nos. 3, 4, and 5 entries 2 left off 4 right No. 1 section. Rock dust had not been applied within 50 to 70 feet of the faces of Nos. 3, 4, and 5 entries 2 left off 4 right No. 1 section. Rock dust was distributed throughout the remainder of the mine, including the back and parallel entries, but the applications were generally inadequate. The incombustible content in 12 of the 19 regular (spot) samples collected ranged from 32 to 62.6 percent. The incombustible content in the 7 remaining samples ranged from 67.5 to 79 percent (see table 2). A systematic dust survey was made in 6 right entries off 2 left main No. 1 section. Dust samples were collected at regular intervals of 200 feet in the two entries beginning 15 feet inby the centerline of 2 left mains right air course. The incombustible content in the seven samples collected ranged from 81 to 96 percent (see table 3). Additional rock dust was applied promptly in the deficient areas as soon as the results of the analyses were received.

Adequate firefighting equipment was not provided.

PART I—FEDERAL COAL MINE SAFETY ACT

Notices and Actions

1. Violation, section 209(e) (1)

Dangerous amounts of coal dust and loose coal were present at several locations along Nos. 3, 4, and 5 entries 2 left off 4 right No. 1 section.

Legal requirement: Coal dust, loose coal, and other combustible materials shall not be permitted to accumulate in dangerous quantities in active underground workings of a mine.

Action taken: A notice was issued February 23, 1965, requiring that this violation be totally abated by midnight on this date.

2. Violation, section 209(e) (3)

Rock dust had not been applied within 50 to 70 feet of the faces of Nos. 3, 4, and 5 entries 2 left off 4 right No. 1 section.

Legal requirement: All underground mines, except those mines or areas of mines in which the dust is too wet or too high in incombustible content to propagate an explosion, shall be rock dusted to within 40 feet of all faces, and, if open crosscuts near such faces are less than 40 feet therefrom, such crosscuts shall be rock dusted.

Action taken: A notice was issued February 23, 1965, requiring that this violation be totally abated by midnight on this date.

3. Violation, section 209(g) (1)

Adequate firefighting equipment was not provided as 1 roll of brattice cloth and 25 bags of wood-fiber plaster were not available, and the blower on the high-pressure rock duster was in need of repair.

Legal requirement: Each mine shall be provided with suitable firefighting equipment, adequate for the size of the mine.

Action taken: A notice was issued February 23, 1965, requiring that this violation be totally abated by midnight on March 7, 1965.

PART II—FEDERAL MINE SAFETY CODE

Violations and Recommendations

ARTICLE IV—EXPLOSIVES AND BLASTING

Section 9a1: 3. Copper tubing was used to extend the compressed-air blasting line from the main entry to the working sections, which were 400 to 1,400 feet in length.

Compressed air should be conducted from the compressor to within a practical working distance of the face by high-pressure steel airlines.

ARTICLE V—VENTILATION AND MINE GASES

Section 7a: 25. Single doors, installed at two locations, permitted short-circuiting of the air from the inby working sections, when opened. These doors were unattended.

Doors installed on haulage entries, except room entries in the process of development, should be installed in pairs to form, at each location, an air lock large enough to contain an entire trip, or if the use of single doors is continued, each door, except automatic doors, should be attended.

Section 7c: 3. The overcast inby 2 left, No. 1 section, was partially constructed of wood.

Overcasts should be constructed of incombustible material, such as masonry, concrete, concrete blocks, or prefabricated metal, of sufficient strength to withstand possible falls of roof.

ARTICLE VII—TRANSPORTATION

Section 4a: 26. Clearance was restricted at numerous locations along the haulageways by timbers set too close to the tracks.

Track-haulage roads should have a continuous clearance on one side of at least 24 inches from the farthest projection of moving traffic.

Section 4d: 25. The clearance space along the haulageways was obstructed with rock and refuse.

The clearance space on all track-haulage roads should be kept free of loose rock, supplies, and other loose material.

Section 6b: 13. Audible warning devices were not provided on the locomotives.

Each locomotive should be equipped with an audible warning device.

Section 6j: Generally, standing cars were blocked insecurely with small pieces of wood.

All standing cars on any track, unless held effectively by brakes, should be properly blocked or spragged.

Section 6l: 14. A drag was not used on loaded trips on ascending grades.

A drag should be used on the rear of ascending trips.

ARTICLE VIII—ELECTRICITY

Section 4g2: 1. The rail joints on the secondary track-haulage road in east mains section were not bonded.

At least one rail on this secondary track-haulage road should be welded or bonded at every joint and crossbonds should be installed at intervals of not more than 200 feet.

Section 4k: The trolley wires were not alined properly at three locations along the main haulage entry as the trolley wires were inside the track gage in No. 1 section.

Trolley wires should be alined properly and installed on insulated hangers at least 6 inches outside the rail.

Section 5b: 5. The frames of the mining machine, loader, and handheld drills were not grounded.

The frames of such electric equipment should be grounded effectively, or equivalent protection provided.

Section 7a: 23. The Nos. 1 and 2 working sections, each more than 1,500 feet from the surface, were without telephone communication with the surface.

Telephone service, or equivalent two-way communication facilities, should be provided between the surface and each working section that is more than 1,500 feet from the main portal.

Section 10b: 19. The trailing cables on the locomotives were without short-circuit protection.

Trailing cables should be provided with short-circuit protection.

ARTICLE XI—MISCELLANEOUS

Section 6a: A check-in and checkout system was not in effect.

Each mine should have a check-in and checkout system that will provide positive identification upon the person of every individual underground.

Section 8b: 27. About 20 percent of the workmen did not wear protective footwear.

Protective footwear should be worn by all persons while on duty in and around a mine where falling objects may cause injury.

Section 8c: 27. The workmen did not wear goggles or shields while performing eye-hazardous work.

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

PART IV—DANGERS ELIMINATED DURING INSPECTION

Violations of the act (corrected):

1. Section 209(c): The inadequately supported roof present over the main haulage entry 40 feet and 450 feet inby 2 left main No. 1 section was either taken down or adequately timbered.

2. Section 209(d)(1): The quantity of air reaching the last open crosscut in 1 left off east main No. 2 section was increased to 7,200 cubic feet a minute.

3. Section 209(d)(8): Recent dates and initials, indicating preshift examinations, were placed at or near the faces of the working places.

4. Section 209(e)(5): Additional rock dust was applied promptly in the deficient areas as soon as the results of the analyses were received.

Violations of the code (corrected):

1–3. Article III, sections 1a, 2b, and 2d: Sufficient safety posts and permanent timbers in compliance with the timbering plan, were set close to the faces in 4 right off 2 left mains, two working places in 6 right off 2 left mains, and two places in 4 left mains, No. 1 section.

4. Article IV, section 9a2: The compressed-air blasting line was insulated where it crossed the negative power conductor in 2 left 4 right off 2 left mains.

5. Article VIII, section 4n: The trolley wires, less than 6½ feet above the rails at the entrance to Nos. 1 and 2 rooms 1 left east mains section, were guarded.

6. Article VIII, section 4p: The end of the trolley wire in the east mains section was guarded adequately.

7. Article VIII, section 10g: The trailing cables in 2 left 4 right off 2 left main No. 1 section were suspended over the shuttle-car roadway to avoid mechanical damage.

8. Article IX, section 2a6: The approach to the fan, No. 2 section, was adequately guarded.

9. Article XI, section 4g1: The loose roof over the emergency escapeway was taken down and in safe condition for travel in No. 2 section.

T. A. REDIN,
Federal Coal Mine Inspector.

TABLE 1.—*Analyses of air samples, date collected, Feb. 4, 9, and 11, 1965, mine: Deby No. 2, Deby Coal Co., collected by T. A. Redin*

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		
E-2971	52933	Working place No. 2 entry 4 left main No. 1 section.	0.16	20.73	0	--------	79.11	--------	--------
E-6773	52934	Working place No. 1 room No. 3 panel 6 right off 2 left main No. 1 section.	.15	20.84	0	--------	79.01	--------	--------
E-8486	52935	Working place No. 5 entry 4 right off 2 left main No. 1 section.	.17	20.72	0	--------	79.11	--------	--------
E-6778	52936	Working place No. 1 room 1 left No. 2 section.	.24	20.69	0	--------	79.07	--------	--------

TABLE 2.—*Analysis of dust samples, date collected, Feb. 9, 12 and 16, 1965, mine: Deby No. 2, Deby Coal Co., collected by T. A. Redin*

LABORATORY NOS. 133310 TO 133328

Laboratory No.	Can No.	Sample of dust from—	Spot location samples; location in mine, No. 1 section	As-received percent incombustible
133310	1	Band	4 left main entry 60 feet outby face	62.6
133311	2	do	4 left main back entry 70 feet outby face	[1] 76.0
133312	3	do	4 left main parallel entry 60 feet outby face	[1] 73.5
133313	4	do	Main entry 40 feet outby 2 left	[1] 68.0
133314	5	do	Main entry 700 feet outby 2 left	[1] 67.5
133315	6	do	Main entry 100 feet outby 4 left main	[1] 74.5
133316	7	do	Main entry 300 feet inby 2 left main	53.5
133317	8	do	No. 2 entry 4 right 50 feet inby loading point	[1] 49.0
133318	9	do	No. 3, 4 right parallel entry 50 feet inby loading point.	[1] 74.0
133319	10	do	No. 4, 4 right parallel entry 50 feet inby loading point.	[1] 54.5
133320	11	do	No. 5, 4 right parallel entry 50 feet inby loading point.	59.6
133321	12	do	No. 5, 4 right parallel entry 400 feet inby loading point.	[1] 54.0
133322	13	do	No. 4, 4 right parallel entry 400 feet inby loading point.	[1] 35.0
133323	14	do	No. 3, 4 right parallel entry 400 feet inby loading point.	[1] 32.0
133324	15	do	No. 2, 4 right entry 400 feet inby loading point	[1] 41.0
133325	16	do	No. 1, 4 right back entry 400 feet inby loading point 70 feet.	[1] 34.0
133326	17	do	2 left main entry 70 feet outby 4 right	[1] 79.0
133327	18	do	2 left main entry 200 feet inby 1 right	[1] 49.0
133328	19	do	2 left main entry 150 feet inby main entry	[1] 45.0

[1] By volumeter.

TABLE 3.—*Analyses of dust samples, date collected, Feb. 10, 1965, mine: Deby No. 2, Deby Coal Co., collected by T. A. Redin*

LABORATORY NOS. 133329-133335

[Sampling area—6 right off 2 left main No. 1 section. 0—centerline of 2 left main right air course+15 feet]

Laboratory No.	Can No.	Sample of dust from—	Location in mine	As-received percent incombustible
			DUST SURVEY SAMPLES	
			No. 1 entry	
133329	A-1	Band	0+0	[1] 84.5
133330	A-2	do	0+200 feet	[1] 90.0
133331	A-3	do	0+400 feet	[1] 84.0
133332	A-4	do	0+600 feet	[1] 87.0
			No. 2 entry	
133333	B-1	do	0+0	[1] 81.0
133334	B-2	do	0+200 feet	[1] 96.0
133335	B-3	do	0+400 feet	[1] 82.0
	B-4		Too wet, no sample	

[1] By volumeter.

TITLE II MINE AFFILIATED WITH THE UMWA

U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF MINES, DIVISION OF COAL MINE INSPECTION

Coal-Mine Inspection Report, Paragon Mine, Amherst Coal Co., Slagle, Logan County, W. Va., March 11–12, 16–18, 23–26, and 29–31, 1965, by Coperry Keith, Federal Coal-Mine Inspector

Originating office: Bureau of Mines, Mount Hope, W. Va., 25880, W. R. Park, acting district manager, Health and Safety District B.

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. secs. 451–483).

The numeral recorded after a section identification shows the number of consecutive repetitions of the violation.

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.

GENERAL INFORMATION

The Paragon mine, at Slagle, approximately 5 miles north of Yolyn, W. Va., is developed through two drifts, two slopes, and three shafts into the Cedar Grove coal bed, which averages 54 inches in thickness locally. A total of 217 men, 212 underground and 5 on the surface, is employed on 3 shifts a day, 4 to 5 days a week. The average daily production, 5,000 tons of coal, is loaded mechanically. The preceding Federal inspection was completed November 25, 1964, and a check (spot) inspection of road No. 354 section and haulageways was made January 14, 1965.

Adequate minimum standards for systematic roof support, suitable to the roof conditions and mining system, were adopted and followed. The adopted plans required 1 row of posts to be set on 4-foot centers along the right side of the roadways as the continuous miners advance and 1 row of posts to be set on each side of a 16-foot-wide roadway to within 15 feet of the faces on road No. 270 section. Roof bolts were used as the sole means of roof support on the Nos. 354 and 361 road sections.

The plan required four rows of bolts to be in stalled on 4-foot centers, crosswise and lengthwise in 20-foot-wide places, to within 4 feet of the faces, and temporary safety posts to be set close to the face as the coal was removed. The roof in the working places and along the active underground roadways and travelways appeared to be supported adequately.

The mine is classed gassy in accordance with the laws of the State. The air in all accessible places was tested with a permissible flame safety lamp, and methane was not detected or oxygen deficiency indicated. More than 6,000 cubic feet of air a minute was reaching the last open entry crosscut and the intake ends of the pillar lines. The highest methane content in air samples collected in open workings at points at least 12 inches from the roof and ribs in the immediate, split, and main returns was 0.10 percent. A single split of air was being used to ventilate the road Nos. 270 and 361 sections. The dangers of this system of ventilation were discussed with management. The superintendent stated that mining in the road No. 361 section would be finished soon and the equipment moved to another location.

The mine ranged from wet to dry. Excessive dust was not raised into the air during mining operations, and loose coal and coal dust were not accumulated in dangerous quantities in the active underground workings. Following the annulment of the orders (form D) mentioned later in the report, rock dust was applied to within 40 feet of the faces, including the open crosscuts. The haulage roads, parallel and back entries were rock dusted, and the applications were adequate, except from road No. 192 to the loading point in road No. 270 and road Nos. 267 through 272, inclusive.

Rock dust surveys were made on three active sections (road Nos. 270, 354, and 361). Dust samples were collected on pattern in each entry as indicated in table 3 of the report. The incombustible content of 75 of the 116 dust samples collected in the survey areas and 2 of the 3 dust samples collected at spot locations was less than 65 percent; however, additional rock dust in ample quantity

was applied to these areas during the inspection and after the analyses of the samples were received.

Closure orders (form D) were issued March 26 and March 29, 1965, requiring all persons except persons referred to in section 203(a)(2) of the Federal Coal Mine Safety Act to be withdrawn from and debarred from entering the Nos. 361 road and 270 road sections respectively. The notices issued March 25 and March 26, 1965, covering violations of sections 209(e)(5) and 209(e)(3), respectively, were not totally abated by 8 a.m. on March 26 and March 29, 1965, as required, and the fixed period of time was not extended. The orders were annulled by the acting director on March 29 and March 30, 1965, upon the recommendation of a three-man investigating committee following a special inspection of the mine.

The safety features of fire-resistant hydraulic fluids were discussed with mine officials. They stated that such fluids have been tried and have been proven unsatisfactory.

PART I—FEDERAL COAL MINE SAFETY ACT

Notices and Actions

Violation, section 203(c)

Section 209(e)(3)—Rock dust was not applied to within 40 feet of the faces of road Nos. 267 through 272 and the open crosscuts were not rock dusted as required by a notice issued March 26, 1965.

Legal requirement: Said notice required that the violation be totally abated by 8 a.m. on March 29, 1965.

Action taken: As the violation was not totally abated as required, an order (form D) was issued March 29, 1965, and all persons, except persons referred to in section 203(a)(2) were withdrawn from and debarred from entering the area. The order was annulled by the acting director on March 30, 1965.

Violation, section 203(c)

Section 209(e)(5)—Roads Nos. 359 through 364, inclusive, from engineer's station No. 4617 to station No. 4734, road No. 362 from station Nos. 4615 to 4617, on road No. 364 from engineer's station No. 6566 outby to station No. 4508 were not re-rock-dusted as required by a notice issued March 25, 1965.

Legal requirement: Said notice required that the violation be totally abated by 8 a.m. on March 26, 1965.

Action taken: As the violation was not totally abated as required, an order (form D) was issued March 26, 1965, and all persons, except persons referred to in section 203(a)(2) were withdrawn from and debarred from entering the areas. The order was annulled by the acting director on March 29, 1965.

1. Violation, section 209(d)(9)

The program to maintain permissible flame safety lamps in permissible condition was inadequate. The lamps were not properly cleaned and serviced; distorted founts, damaged asbestos gaskets, and bad gauzes were found in several of the flame safety lamps.

Legal requirement: "A program shall be established and followed to assure that flame safety lamps are maintained in permissible condition." In a gassy mine, examinations for methane shall be made with a permissible flame safety lamp before electric equipment is taken into or operated in face regions and frequent examinations for methane shall be made during such operations.

Action taken: A notice was issued March 25, 1965, requiring that the violation be totally abated by 8 a.m. on March 29, 1965. The violation was totally abated during the inspection.

2. Violation, section 209(e)(5)

The rock dust applications were inadequate in roads Nos. 267 through 272, inclusive, and from road No. 192 to the shuttle-car discharge point.

Legal requirement: Where rock dust is applied, it shall 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.

Action taken: A notice was issued March 26, 1965, requiring that this violation be totally abated by 8 a.m. March 30, 1965.

3. Violation, section 209 (h) (4)

Several cigarette and cigar butts were found along the No. 355 haulage road.

Legal requirement: In a gassy mine, smoking shall not be permitted underground nor shall any person be permitted to carry smoking materials, matches, or lighters underground.

Action taken: A notice was issued March 24, 1965, requiring that this violation be totally abated by 12 o'clock midnight March 25, 1965. The violation was totally abated during the inspection.

PART II—FEDERAL MINE SAFETY CODE

Violations and Recommendations

ARTICLE I—SURFACE STRUCTURES

Section 3a: The guardrails along the elevated runways on the supply yard were loose and in a poorly maintained condition.

These guardrails should be repaired and maintained in good condition.

Section 3b: The floor of the elevated runway at the supply yard contained several loose, broken, and missing boards.

This runway should be repaired and maintained in good condition.

Section 4a: Poor housekeeping was practiced at the upper end of the mine car repair shop and loose materials presented stumbling hazards.

Good housekeeping should be practiced around this shop and should include orderly storage of materials to prevent stumbling hazards.

ARTICLE III—CONTROL OF ROOF, FACE, AND RIBS

Section 3f: The machine helper on road No. 361 section was pulling down loose roof with an ax.

A bar of proper length should be used to pull down loose roof.

ARTICLE IV—EXPLOSIVES AND BLASTING

Section 3b: The covers of the car used to transport explosives underground were not secured to the car.

Explosives transported underground in cars hauled by locomotive should be in substantial covered cars with the covers secured to the car.

Section 5b4: The boreholes on road Nos. 354 and 361 sections were not checked and were drilled beyond the cut coal into the ribs.

Boreholes should be checked to see that they are placed properly in relation to the cuts.

ARTICLE V—VENTILATION AND MINE GASES

Section 3c: The weekly air measurements did not include the volume of air entering the main intakes and leaving the main returns.

The volume of air entering the main intakes and leaving the main returns should be measured and the readings included in the weekly air measurement records.

Section 7a: Single unattended doors were installed to control the ventilation on the haulage roads to Nos. 270, 354, and 361 sections.

Doors, installed on haulage entries to control ventilation, should be in pairs to form air locks or the single doors should be attended constantly.

Section 10j: Weekly examinations of the return airways were not made in their entirety.

The return airways should be examined for methane and other dangerous conditions at least once a week in their entirety.

Section 101: The daily reports of the section foreman did not state clearly the location and nature of any dangers observed by them or reported to them.

The daily reports should state clearly the location and nature of any dangers observed by them or reported to them, and what action, if any, was taken to remedy such dangers.

ARTICLE VII—TRANSPORTATION

Section 3a: 5. The roadbed of the road No. 194 and supply haulage tracks contained accumulations of mine refuse and the tracks contained several high, low, and loose rail joints.

The mine refuse should be removed from these roadbeds and the rail joints should be repaired.

Section 4a: The coal rib was less than 24 inches from the farthest projection of moving traffic at one location along the road No. 270 haulage track.

The coal rib should be removed and a continuous clearance of at least 24 inches from the farthest projection of moving traffic should be provided.

Section 4d: 3. The clearance space along the supply haulage track was obstructed at many locations by loose rock, mine refuse, and set posts.

The clearance space along haulage roads should be kept free of obstructions for at least 24 inches.

Section 6a: Proper rerailing devices were not provided on 10 of the haulage locomotives.

A proper rerailing device should be provided on each haulage locomotive.

Section 6b: Audible warning devices were not provided on three of the haulage locomotives.

An audible warning device should be provided on each haulage locomotive.

Section 6c: Permissible trip lights were not used on the rear of trips pulled along the haulage roads.

Permissible trip lights should be used on the rear of these trips.

Section 6g: Operators of locomotives were getting on and off moving locomotives to throw switches.

Operators of locomotives should not get on or off moving locomotives to throw switches.

Section 6p: The locomotives following less than 300 feet behind other trips were not coupled to the trips.

Locomotives following other trips should maintain a distance of 300 feet from the rear of the trips or be coupled to the preceding trips.

ARTICLE VIII—ELECTRICITY

Section 1b: The secondary surface transmission lines at two substations were not protected against lightning, and lightning arresters were not provided in the power circuits at three boreholes where the circuits entered the mine.

Surface transmission lines should be protected against lightning, and power circuits that lead underground should be equipped with lightning arresters at points where the circuits enter the mine.

Section 4b: The insulated power wires at the loading points on road Nos. 312 and 337 and over the haulage track in Nos. 42 and 194 roads were not installed on suitable insulators.

These insulated power wires should be well installed on suitable insulators.

Section 4h: Employees were repairing energized trolley wire without the use of insulated shoes or linesman's gloves.

The trolley wire should be deenergized before repairs are made or the workman should wear insulated shoes or linesman's gloves.

Section 4k: The trolley wire was located over the inside of the rail at one location along the No. 200 haulage road.

The trolley wire should be properly alined at least 6 inches outside the rail.

Section 4n: The trolley wire was less than 6 feet above the top of the rail and was not guarded at the crossovers in the shop, supply yard, and at one location out by the car dump.

The trolley wire should be adequately guarded at these locations.

Section 4p: The end of the trolley wire was not guarded at two locations on the supply haulage road.

The end of the trolley wire should be guarded.

Section 5b: 5. The frames of the direct-current electric face equipment were not grounded.

The frames of this electric face equipment should be grounded effectively or equivalent protection should be provided.

Section 6d: Several pumps were not provided with control switches.

These pumps should be provided with switches or other controls of safe design, construction, and installation.

Section 12a: Electric light wires were not fastened securely to the power conductor and were wrapped around posts, cap wedges, or roof bolts.

Electric light wires should be installed on insulators, fastened securely to the power conductor, and should not touch combustible materials.

Section 12b: Electric lights were installed so that the light bulbs were touching the posts.

Electric lights should be installed so that they cannot come in contact with combustible materials.

Section 12c: Porcelain lamp sockets with exposed metal parts were used at the mine car dump and at several other locations along the haulage roads.

Only weatherproof lamp sockets, having no exposed metal parts, should be used for unenclosed applications.

ARTICLE IX—SAFEGUARDS FOR MECHANICAL EQUIPMENT

Section 1a: The cutter chain of the mining machine parked on road No. 270 was not locked.

The cutter chain of this mining machine should be locked securely by mechanical means while the machine is parked or being trammed.

ARTICLE XI—MISCELLANEOUS

Section 6a: Positive identification was not provided upon the person of several underground employees.

Positive identification should be provided upon the person of every individual underground.

Section 8c: Several employees were breaking rock without using goggles or shields.

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

PART IV—DANGERS ELIMINATED DURING INSPECTION

Violations of the act:

1. Section 209(c): The dislodged line posts along the shuttle-car roadways on roads Nos. 312, 337, and 361 sections were replaced; the loose inby the road No. 270 loaded track switch and the loose ribs along the haulage track out by the underground shop were taken down.

2. Section 209(d)(7): The haulage roads and the locations of several pumps were included in the preshift examinations and each preshift examiner recorded the results of his examinations in the foreboss' book kept on the surface.

3. Section 209(e)(1): The loose coal and coal dust, accumulated in dangerous quantities along the shuttle-car roadways in road No. 361 section, on the 194 haulage road on the curve outby road No. 270 empty track, were loaded and removed from the mine; the dangerous accumulations of loose coal and coal dust in road No. 362 from the trap door to a point 400 feet outby and three old loading points along road No. 270 were made inert by the application of a sufficient blanket of rock dust.

4. Section 209(e)(4): The back entries outby road No. 354 trap door, from the stopping line to a point 160 feet outby the stoppings, road No. 194 to a point 200 feet inby road No. 268, and near the slope bottom for a distance of 600 feet outby road No. 91 were rockdusted.

5. Section 209(f)(1): Loose and missing bolts were replaced and openings between flange joints of the cover plates to electrical compartments did not exceed 0.004-inch in two continuous mining machines, six loading machines, seven shuttle cars, and one coal drill; the broken housing on three reset switches on loading machines and the strain clamp on the reel of No. 52 shuttle car were replaced and the resistor cover to the headlights on No. 58 shuttle car was repaired; the conduit hose on the leads to the headlights on two mining machines were replaced; the reel on No. 51 shuttle car was adequately insulated and the packing gland was replaced on the reel of No. 21 mining machine; the number of temporary splices in four trailing cables was reduced to less than five and three trailing cables with too many temporary splices were replaced, and the permissible-type equipment was restored to permissible condition.

6. Section 209(g)(1): Suitable fire extinguishers were provided on nine haulage locomotives and the fire-fighting equipment was adequate.

7. Section 209(g)(4): Numerous open oil and grease containers were provided with lids or removed from the mine.

Violations of the code:

1. Article III, section 1a: Safety posts were set close to the faces of roads Nos. 351, 352, 360, and 362, and roof bolts were installed on pattern on road No. 361 section to comply with the roof-support plan.

2. Article III, section 2a: Sufficient timbering supplies were provided at the face of road No. 352 to secure the working place in a safe manner.

3. Article III, section 2b: Needed safety posts were set close to the face of roads Nos. 351, 352, 360, and 362.

4. Article III, section 2h: After being instructed and posts were set, workmen did not advance beyond artificially-supported roof.

5. Article IV, section 4b: Explosives and detonators, which were lying in a cardboard box and in a burlap bag along Nos. 337 and 354 haulage roads, were moved and stored in the section storage boxes.

6. Article IV, section 4c: Explosives and detonators, hanging within 3 feet of the shuttle-car roadway near the faces of roads Nos. 360 and 363, were moved and stored in a safe location.

7. Article VII, section 7h: The men on road No. 361 section were rerouted to the man-trip station to avoid passing under the unguarded trolley wire.

8. Article VIII, section 4d2: The bare splices in the power cable at the road No. 312 loading point were effectively insulated.

9. Article VIII, section 4j: The trolley wire was replaced in several hangers along the roads Nos. 55 and 200.

10. Article VIII, section 4m: The trolley wire and trolley-feeder wire were removed from contact with the roof, crossbars, and posts along the Nos. 5, 42, 55, and 151 haulage roads.

11. Article VIII, section 6a: Several pumps were provided with suitable overload protection and wire was removed and properly designed fuses were provided for the No. 44 shuttle car.

12. Article VIII, section 6b: The covers were placed on three control switches at No. 2 fan.

13. Article VIII, section 6f: The resistors for three pumps were removed from the crossbars and guarded against personal contact.

14. Article VIII, section 10b: The trailing cables for two loading machines on road No. 337 were provided with suitable short-circuit protection.

15. Article VIII, section 10c: The poorly made temporary splices in several trailing cables were remade in a workman like manner and were well insulated.

16. Article XII, section 1d: Gas test examinations were given employees whose duties included testing for methane to qualify them for their occupation annually as required by State law.

COPERRY KEITH,
Federal Coal-Mine Inspector.

TABLE 1.—*Analyses of air samples, date collected, Mar. 11, 16–18, 23, and 29–31, 1965, mine: Paragon, Amherst Coal Co., collected by Coperry Keith*

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		
E-8546	54386	Split return overcast on 46 road	0.15	20.74	0.05	-------	79.06	60,000	43,000
E-8555	54387	Main return No. 2 fan air shaft	.19	20.76	0	-------	79.05	198,000	-------
E-5157	54388	Immediate return 312 road section at road 50	.10	20.86	0	-------	79.04	-------	-------
E-5133	54389	Immediate return road 160 section	.05	20.84	0	-------	79.11	9,000	-------
E-5132	54390	Split return over 194 overcast	.05	20.77	.05	-------	79.13	36,000	26,000
E-5097	54391	Immediate return on road 364	.13	20.83	0	-------	79.04	10,000	-------
E-5096	54392	Immediate return on road 270 section	.05	20.88	.02	-------	79.05	15,000	-------
E-5156	54393	Immediate return outby pillar line on 335 road	.10	20.88	0	-------	79.02	-------	-------
E-2226	54394	Immediate return from road 354 section	.05	20.78	.05	-------	79.12	36,000	26,000
E-5401	54395	Split return at the overcast on road 155	.15	20.81	.10	-------	78.94	80,000	115,000
D-8824	54396	Main return No. 1 fan	.14	20.83	0	-------	79.03	175,000	-------

TABLE 2.—*Analyses of dust samples, date collected, Mar. 25, 1965, mine: Paragon, Amherst Coal Co., collected by Coperry Keith*

LABORATORY NOS. 139037–139039

Laboratory No.	Can No.	Sample of dust from—	Location in mine	As-received percent incombustible
			SPOT LOCATION SAMPLES	
139037	1	Band	30 feet outby spad No. 4568 in road No. 260	57.7
139038	2	do	25 feet inby spad No. 2495 in road No. 260	[1] 52.5
139039	3	do	60 feet from 194 haulage track on load No. 360	[1] 81.0

[1] By volumeter.

TABLE 3.—*Analyses of dust samples, mine: Paragon, Amherst Coal Co., collected by Coperry Keith*

LABORATORY NOS. 138674–138728—DATE COLLECTED, MAR. 24, 1965

Survey area—road No. 354 section; 0+00—engineer's station No. 4685+40 feet]

Laboratory No.	Can No.	Sample of dust from—	Location in mine	As-received percent incombustible
			Road No. 356	
138674	A–1	Band	0+00	59.2
138675	A–2	do	0+200	[1] 71.0
138676	A–3	do	0+400	[1] 24.0
138677	[2] A–3	do	0+400	[1] 43.0
138678	A–4	do	0+600	[1] 33.5
138679	A–5	do	0+800	[1] 27.5
138680	A–6	do	0+1,000	[1] 88.5
138681	[2] A–6	do	0+1,000	[1] 21.0
	A–7		0+1,200, wet, no sample	
138682	A–8	Band	0+1,400	[1] 38.5
			Road No. 355	
138683	B–1	do	0+00	[1] 76.5
138684	B–2	do	0+200	[1] 86.0
138685	B–3	do	0+400	[1] 75.0
138686	[2] B–3	do	0+600	[1] 88.0
138687	B–4	do	0+600	[1] 68.0
138688	B–5	do	0+800	[1] 90.0
138689	B–6	do	0+1,000	[1] 91.0
138690	[2] B–6	do	0+1,000	[1] 89.5
138691	B–7	do	0+1,200	62.2
138692	B–8	do	0+1,400	[1] 70.0
			Road No. 354	
138693	C–1	do	0+00	55.4
138694	C–2	do	0+200	[1] 44.0
138695	C–3	do	0+400	[1] 88.5
138696	[2] C–3	do	0+400	[1] 80.0
138697	C–4	do	0+600	[1] 76.5
138698	C–5	do	0+800	[1] 65.5
138699	C–6	do	0+1,000	[1] 66.0
138700	[2] C–6	do	0+1,000	61.8
138701	C–7	do	0+1,200	62.3
138702	C–8	do	0+1,400	[1] 100.0
			Road No. 353	
138703	D–1	do	0+00	[1] 89.0
138704	D–2	do	0+200	[1] 88.0
138705	D–3	do	0+400	[1] 97.0
138706	[2] D–3	do	0+400	[1] 65.5
138707	D–4	do	0+600	[1] 94.5
138708	D–5	do	0+800	[1] 49.0
138709	D–6	do	0+1,000	[1] 44.0
138710	[2] D–6	do	0+1,000	61.1
138711	D–7	do	0+1,200	61.5
138712	D–8	do	0+1,400	[1] 80.5

See footnotes at end of table.

TABLE 3.—*Analyses of dust samples, mine: Paragon, Amherst Coal Co., collected by Coperry Keith*—Continued

Laboratory No.	Can No.	Sample of dust from—	Location in mine	As-received percent incombustible
			Road No. 352	
138713	E-1	Band	0+10	[1] 71.0
138714	E-2	do	0+200	[1] 26.0
138715	E-3	do	0+400	[1] 53.0
138716	[2] E-3	do	0+400	[1] 68.0
138717	E-4	do	0+600	[1] 70.0
138718	E-5	do	0+800	[1] 38.0
138719	E-6	do	0+1,000	[1] 72.0
138720	[2] E-6	do	0+1,000	[1] 78.5
138721	E-7	do	0+1,200	[1] 39.0
138722	E-8	do	0+1,400	[1] 32.5
			Road No. 351	
138723	F-1	do	0+00	58.6
138724	F-2	do	0+200	[1] 38.5
	F-3	do	0+400, fall, no sample	
	[2] F-3	do	0+400, fall, no sample	
	F-4	do	0+600, no sample received	
138725	F-5	do	0+800	[1] 37.5
138726	F-6	do	0+1,000	57.8
	[2] F-6	do	0+1,000, no sample received	
138727	F-7	do	0+1,200	[1] 70.0
138728	F-8	do	0+1,400	[1] 40.5

[1] By volumeter. [2] Crosscut.

LABORATORY NOS. 138729–138751—DATE COLLECTED, MAR. 25, 1965

[Survey area—361 road section: 0+00—Engineers station No. 4617+40 feet]

			DUST SURVEY SAMPLES—NO. 2 SURVEY	
			Road No. 364	
138729	2-A1	Band	0+00	[1] 38.0
138730	2-A2	Floor and ribs	0+200	[1] 66.0
138731	2-A3	Band	0+400	[1] 52.5
138732	[2] 2-A3	do	0+400	59.6
138733	2-A4	Floor	0+600	[1] 48.0
138734	2-A5	Band	0+800	61.7
			Road No. 363	
138735	2-B1	do	0+00	58.7
138736	2-B2	Floor and ribs	0+200	[1] 29.0
138737	2-B3	Floor	0+400	[1] 72.0
138738	[2] 2-B3	Band	0+400	[1] 39.0
138739	2-B4	do	0+600	[1] 39.0
138740	2-B5	do	0+800	[1] 68.5
			Road No. 362	
138741	2-C1	do	0+00	[1] 53.5
138742	2-C2	do	0+200	[1] 65.5
138743	2-C3	do	0+400	[1] 51.5
138744	[2] 2-C3	do	0+400	[1] 50.0
138745	2-C4	do	0+600	[1] 53.5
	2-C5	do	0+800, no sample received	
			Road No. 261	
138746	2-D1	Floor and ribs	0+00, roof wet	64.0
138747	2-D2	do	0+200, roof wet	[1] 67.5
	2-D3		0+400, wet, no sample	
	[2] 2-D3		0+400, wet, no sample	
	2-D4		0+600, wet, no sample	
	2-D5		0+800, wet, no sample	
			Road No. 360	
138748	2-E1	Band	0+00	[1] 31.0
138749	2-E2	do	0+200	[1] 31.0
	2-E3		0+400, wet, no sample	
	[2] 2-E3		0+400, wet, no sample	
	2-E4		0+600, wet, no sample	
	2-E5		0+800, wet, no sample	
			Road No. 359	
138750	2-F1	Band	0+00	[1] 27.0
138751	2-F2	Floor	0+200, roof and ribs wet	[1] 41.0
	2-F3		0+400, wet, no sample	
	2-F4		0+600, wet, no sample	
	2-F5		0+800, wet, no sample	

[1] By volumeter. [2] Crosscut.

TABLE 3.—*Analyses of dust samples, mine: Paragon, Amherst Coal Co., collected by Coperry Keith*—Continued

LABORATORY NOS. 138752-138789—DATE COLLECTED, MAR. 26, 1965

[Survey area—270 road section; 0+00—Centerline of road No. 192+40 feet]

Laboratory No.	Can No.	Sample of dust from—	Location in mine	As-received percent incombustible
			DUST SURVEY SAMPLES—NO. 3 SURVEY	
			Road No. 272	
138752	3-A1	Band	0+00	[1] 73.0
	3-A2		0+200, wet, no sample	
	3-A3		0+400, wet, no sample	
	[2] 3-A3		0+400, wet, no sample	
	3-A4		0+600, wet, no sample	
	3-A5		0+800, wet, no sample	
138753	3-A6	Band	0+1,000	[1] 33.5
	[2] 3-A6		0+1,000, wet, no sample	
138754	3-A7	Band	0+1,200	[1] 8.0
			Road No. 271	
138755	3-B1	do	0+00	61.5
	3-B2		0+200, wet, no sample	
	3-B3		0+400, wet, no sample	
	[2] 3-B3		0+400, wet, no sample	
138756	3-B4	Band	0+600	66.3
138757	3-B5	do	0+800	[1] 72.5
138758	3-B6	do	0+1,000	69.2
138759	[2] 3-B6	do	0+1,000	[1] 36.0
138760	3-B7	do	0+1,200	[1] 6.0
			Road No. 270	
138761	3-C1	do	0+00	[1] 17.0
138762	3-C2	do	0+200	[1] 21.0
138763	3-C3	do	0+400	[1] 11.0
138764	[2] 3-C3	do	0+400	[1] 29.0
138765	3-C4	do	0+600	[1] 23.0
138766	3-C5	do	0+800	[1] 66.0
138767	3-C6	do	0+1,000	[1] 30.0
138768	[2] 3-C6	do	0+1,000	[1] 17.5
138769	3-C7	do	0+1,200	[1] 8.0
			Road No. 269	
138770	3-D1	do	0+00	[1] 77.5
138771	3-D2	do	0+200	[1] 50.0
138772	3-D3	do	0+400	[1] 25.0
138773	[2] 3-D3	do	0+400	[1] 33.0
138774	3-D4	do	0+600	[1] 19.5
	3-D5		0+800, wet, no sample	
138775	3-D6	Band	0+1,000	[1] 17.5
138776	3-D6	do	0+1,000	[1] 26.0
138777	3-D7	do	0+1,200	[1] 7.5
			Road No. 268	
138778	3-E1	do	0+00	[1] 29.0
138779	3-E2	do	0+200	[1] 49.0
138780	3-E3	do	0+400	[1] 42.0
138781	[2] 3-E3	do	0+400	[1] 65.5
138782	3-E4	do	0+600	[1] 18.0
138783	3-E5	do	0+800	[1] 37.5
138784	3-E6	do	0+1,000	[1] 33.5
138785	[2] 3-E6	do	0+1,000	[1] 50.0
138786	3-E7	do	0+1,200	[1] 18.0
	3-F1		0+00, not cut through	
138787	3-F2		0+200	[1] 54.0
	3-F3		0+400, fall, no sample	
	3-F4		0+600, wet, no sample	
	3-F5		0+800, wet, no sample	
138788	3-F6		0+1,000	[1] 45.0
138789	3-F7		0+1,200	[1] 18.0

[1] By volumeter.
[2] Crosscut.

ITEM NO. 7

Method of using the forms and reports referred to in item 7 on inspections of title I mines if H.R. 3584 were enacted in its present form:

The forms for issuing notices and orders, enclosed with item 6, would be used in inspecting title I mines, if they were brought under the mandatory provisions of title II.

The reports on inspections of title II mines, enclosed with item 6, would be used in reporting conditions and practices in title I mines, if they were brought under the mandatory provisions of title II.

ITEM NO. 8

COMPARISON OF STATE VERSUS FEDERAL COAL MINE INSPECTION REPORTS

The Federal coal mine inspection report, issued under the Federal Coal Mine Safety Act, was developed after years of experience and revision. The present form of report was adopted because it provided a concise but fairly complete summary of the mine property, underground and surface, that would be most useful to those interested parties, such as the top management of the company, top representatives of labor, State mining agencies, Federal Coal Mine Safety Board of Review, Joint Industry Safety Committee, insurance companies, Department of Labor, and the Geological Survey that receive copies of the reports.

The presidents of many mining companies find that the Federal reports give them an unbiased record of safety conditions and practices on their property, and the information therein is used in promoting their company safety programs.

We are confident that the interested parties would object strongly to our use of the short check-type inspection report used by some States.

The Federal reports provide for citing violations and hazards by definite locations and for recommendations that describe means of correcting the violation. The check-type report does not include such information.

Federal inspectors collect air and dust samples during inspections to determine the facts regarding the mine atmosphere, gases, dust control, etc. The analyses of such samples are included in the Federal report. Such records usually are not made a part of the check-type report, but they are most useful to a mine operator to understand the conditions in his mine.

The check-type report has the one advantage of requiring less time to prepare, but inasmuch as the reports on inspections are the only means we have of revealing the conditions and practices at a mine, and inasmuch as they are read by many interested parties, they should be fairly complete and informative.

ITEM NO. 9

MAJOR ANALYSIS OF STATE COAL MINING LAWS

A. Method of selecting State coal mine inspectors in the leading coal-producing States:

Illinois

State coal mine inspectors are appointed by the mining board and may be removed from office for cause by the board. Selection is made from a list of candidates who passed an inspector examination.

Kentucky

State coal mine inspectors are appointed by the Governor and the term of office is during the period of capable, efficient service and good behavior. Selection is made from a list of candidates who passed an inspector examination.

Ohio

State coal mine inspectors are appointed by the chief, division of mines, with the approval of the Governor. Selection is made from a list of candidates who passed an inspector examination.

Pennsylvania (bituminous)

State coal mine inspectors are appointed by the Governor and are selected from a list of candidates who passed an inspector examination. Inspectors are eligible for reappointment without further examination after having served as an inspector for a period of 4 or more years.

Virginia

State coal mine inspectors are appointed by the commissioner of labor and industry who may remove the inspectors from office for good causes. Selection is made from a list of candidates who passed an inspector examination.

West Virginia

State coal mine inspectors are appointed by the director, department of mines, and are selected from a register of candidates who passed an inspector examination. Appointed inspectors serve a probational period of 1 year and thereafter have permanent tenure until age 65.

B. Which State coal mining laws are comparable to the Federal Mine Safety Code and Federal Coal Mine Safety Act?

The following States have coal mining laws that parallel closely to the provisions in the Federal Coal Mine Safety Act and Federal Mine Safety Code:

Alabama	Maryland	Tennessee
Colorado	Montana	West Virginia
Illinois	Pennsylvania (bituminous)	Wyoming
Indiana		

C. State enforcement authority:

Illinois

State coal mine inspectors have authority to close a mine for law violations that are not abated promptly upon discovery. Enforcement authority applies to all mines.

Kentucky

State coal mine inspectors have authority to close a mine for a violation of the mining laws. Enforcement authority applies to all commercial mines.

Ohio

State coal mine inspectors have authority to close a mine for a violation of the mining laws. Enforcement authority applies to coal mines employing more than 3 persons.

Pennsylvania (bituminous)

State coal mine inspectors have authority to close a mine for a violation of the mining laws. Enforcement authority applies to all coal mines.

Virginia

State coal mine inspectors have authority to close a mine when life is endangered or when a mine is in dangerous condition.

West Virginia

State coal mine inspectors have authority to (1) close a mine upon finding imminent danger, (2) to close a mine if the operator fails to abate a violation of the law within a reasonable time set by the inspector. Enforcement authority applies to all mines.

D. Which States require mandatory reporting of injuries, man-hours, etc.?

Mandatory reporting of injuries and man-hours

State	Injuries and man-hours	Injuries only
Alabama		X
Alaska		X
Arkansas		X
Colorado	X	
Illinois		X
Indiana		X
Iowa		X
Kansas		X
Kentucky		X
Maryland	X	
Missouri		X
Montana		X
New Mexico		X
North Dakota	X	
Ohio	X	
Oklahoma		X
Pennsylvania	X	
Tennessee		X
Utah		X
Virginia	X	
Washington	X	
West Virginia	X	
Wyoming	X	

ITEM NO. 10

QUALIFICATIONS FOR FEDERAL AND STATE COAL MINE INSPECTORS

A. Federal coal mine inspector:

REQUIREMENTS

Experience

Sec. 212(b) of the Federal Coal Mine Safety Act provides that, "No person shall be assigned or appointed to perform the duties of a duly authorized representative of the Bureau of Mines unless he has the basic qualifications of at least 5 years' practical experience in the mining of coal and is recognized by the Bureau as having the training or experience of a practical mining engineer in those essentials necessary for competent coal mine inspection."

Written examination

Applicants for the position of Federal coal mine inspector are required to pass a written examination, which is designed to test their knowledge of the Federal Coal Mine Safety Act and of the Federal Mine Safety Codes, both bituminous and anthracite, and is conducted by the Civil Service Commission. The written examination will also test ability to solve arithmetic problems as applied to mine safety, ability to prepare and understand written reports, and a knowledge of the principles of mining and mine safety. The actual testing time for the written examination is 4 hours and 55 minutes, but because of other necessary details, competitors should expect to spend the morning and afternoon in the examining room.

Certificate

Applicants must show that they possess a Bureau of Mines certificate of competency in first aid and mine rescue before appointment.

Additional requirements

Competitors who pass the written test and meet the experience requirements are given an interview, a performance test of stamina to work in mines, and a driver's road test. These are to determine further whether they possess the personal qualifications, stamina and endurance, and ability to drive an automobile that are essential to proper performance on the job.

The interview, performance test of stamina, and road test are given to such number of applicants at the top of the Civil Service Register as the needs of the service may require. Those who fail to pass each of these tests will not be eligible for appointment.

Interviews will be required of applicants to determine whether they posses the personal qualities required. Candidates will be rated on the interview on an "in or out" basis. Those rated "out" will receive an ineligible rating.

Confidential inquiries

Confidential inquiries are made of persons who are qualified to evaluate the individual applicants for these positions as an additional means of determining whether such applicants possess the personal qualities and the technical abilities sought. References are asked to evaluate candidates on the characteristics necessary for job success in these positions. Candidates are rated ineligible where information is received which indicates that the applicant does not possess these necessary characteristics.

BASIS OF RATING

Competitors are rated on a scale of 100 in accordance with their knowledges, skills, and abilities in the factors considered important to the proper performance of the duties of a coal mine inspector as described above. This rating is determined from an evaluation of their experience and training as outlined in their application forms and upon other information which may be secured by the Board of Examiners.

Competitors will be required to attain a passing grade of at least 70 in both the written test and in the evaluation of their experience and training. Their final rating in the examination will be determined by a combination of the ratings attained in the written test and that assigned to their experience and training. The weights given to the examination will be:

Written test	75
Experience and training evaluation	25

CITIZENSHIP, AGE, AND PHYSICAL REQUIREMENTS

Citizenship

Applicants must be citizens of or owe permanent allegiance to the United States

Age

Applicants must have reached their 18th birthday on the date of applying. There is no maximum age limit.

Physical abilities

Applicants must be physically capable of performing efficiently the arduous duties of this position. They must be free of such defects or diseases as may constitute employment hazard to themselves, or endanger fellow employees or others. Arms and legs must be sufficiently intact and functioning to permit the applicant to perform the duties described above. Vision must be at least 20/50 Snellen in one eye and 20/70 in the other, without glasses. The ability to distinguish basic colors is essential. Hearing, with or without a hearing aid, must be sufficiently acute to enable the applicant to hear ordinary conversation at 20 feet. These standards must be met by all applicants; however, certain requirements may be waived for veterans who can demonstrate ability to perform the duties efficiently and safely.

In view of the strenuous physical exertion required for this position, hernia (whether or not supported by truss), organic heart disease (whether or not compensated), varicose veins (unless slight), serious deformities or disabilities of extremities (including weak feet), mental or nervous disease, chronic respiratory or chronic constitutional disease or other physical defect which would cause the applicant to be a hazard to himself or to others, or which would prevent efficient performance of the duties of the position, will disqualify him for appointment.

B. State coal mine inspector:

Qualifications for State coal mine inspector vary from State to State. However, the following record of qualifications for State coal mine inspectors in Kentucky, Virginia, and West Virginia, will provide a reasonable basis for comparison with the qualifications for Federal inspectors.

Kentucky: (1) The Governor shall appoint an adequate number of district mine inspectors to insure at least four inspections annually, provided the mine is in operation the entire year or the proportionate thereof, of all the mines in the State. One or more of the appointees shall be designated as electrical

mine inspectors. The Governor shall also appoint an adequate number of inspectors of mine weights. The term of office of each district mine inspector and each inspector of mine weights shall be during the period of capable, efficient service and good behavior.

(2) All district mine inspectors and inspectors of mine weights shall have a thorough knowledge of first aid and mine rescue and be able to instruct in first aid and mine rescue, and shall possess thoroughly the knowledge required of the chief by KRS 351.060, and shall have a thorough practical knowledge of mining gained by at least 10 years' experience in and about coal mines, at least 5 of which must have been in and about mines in this State.

(3) No person shall be appointed to the office of district mine inspector until he has passed a satisfactory examination before the Board of Examiners. The chief may recommend to the Governor applicants for district mine inspectors who have successfully passed the examination and are proved by worth, training and experience to be the most competent of the applicants.

(4) District mine inspectors and inspectors of mine weights shall be of good moral character and temperate habits and shall not, while holding office, act in any official capacity in operating any coal mine.

Virginia: The mine inspectors shall reside at such points convenient to their respective districts as may be designated by the chief. Each mine inspector shall:

(1) Be a qualified elector;

(2) Have a first-class mine foreman certificate of competency from the Board of Examiners of the Commonwealth of Virginia;

(3) Have had 8 or more years' practical experience in mines, of which experience at least 6 years or more must have been in coal mines; and

(4) Be not less than 28 years of age.

The assistant inspectors shall have a thorough knowledge of the different systems of working and ventilating coal mines, and of the nature and properties of mine gases, especially explosive gases, and dust. They shall have a thorough and practical knowledge of mining gained by 6 or more years' experience at and in coal mines; and they shall be of good moral character and temperate habits. Subject to the provisions of chapter 9 of title 2, the assistant mine inspectors may be removed from office by the commissioner of labor for incompetency, neglect of duty, drunkenness, malfeasance, and for other good cause.

West Virginia: No person shall be eligible for appointment as a mine inspector after the effective date of this article unless, at the time of his probationary appointment he:

(1) Is a citizen of West Virginia, in good health, not less than 30 nor more than 55 years of age, and of good character, reputation and temperate habits;

(2) Has had at least 10 years' practical experience in coal mining, at least 5 years of which, immediately preceding his original appointment, shall have been in mines in this State: *Provided, however*, That graduation from the school of mines of West Virginia University or any other accredited college of mining engineering shall be considered the equivalent of 2 years' practical experience;

(3) Has had practical experience with dangerous gases found in coal mines; and

(4) Has a good theoretical and practical knowledge of mines, mining methods, mine ventilation, sound safety practices and applicable mining laws.

In order to qualify for appointment as a mine inspector an eligible applicant shall submit to a written and oral examination by the mine inspectors' examining board and furnish such evidence of good health, character and other facts establishing eligibility as the board may require. If the board finds after investigation and examinaiton that an applicant: (1) Is eligible for appointment and (2) has passed all written and oral examinations, with a grade of at least 90 percent, the board shall add such applicant's name and grade to the register of qualified eligible candidates and certify its action to the director of the department of mines. No candidate's name shall remain in the register for more than 3 years without requalifying.

A mine inspector, after having received a permanent appointment shall be removed from office only for physical or mental impairment, incompetency, neglect of duty, drunkenness, malfeasance in office, or other good cause.

Mr. HOLCOMB. Senator, might I comment on the State of Kentucky along that line?

Senator MORSE. You certainly may.

Mr. HOLCOMB. The small mine operators back in 1959, 1960, and 1961, had meetings with the Kentucky State Department of Mines, and their inspectors and so forth, to determine what was the principal cause of accidents in small mines.

As a result of those meetings, it was determined that falls of roof and rib were the principal causes; that most of these accidents occurred within 25 feet of the working face; in fact, in small mines in Kentucky in 1961, 88 percent of the fatal accidents occurred as a result of this cause.

So, we worked with them to formulate a specialized inspection system whereby inspectors would inspect for roof control only in their principal inspection and would merely make observations as to other violations that might be present.

As a result of the streamlined inspection procedures adopted by the State of Kentucky and later by the State of Virginia, the mine fatality rate in Kentucky in 1962 was reduced 70 percent; in 1963 another new record was set, and another 40 percent reduction was made; in 1964, still another record was made as a result of these streamlined inspections. Now, the result of those inspections is that in 1964 some 33 employees of the Kentucky Department of Mines, and they are not all inspectors, they have a total of 33 employees, made more than 11,000 inspections of coal mines. This is more than the entire Federal Bureau of Mines made in 1964. That inspection procedure is reflected in statistics that are not in these reports today.

Senator MORSE. That causes me to urge again that in a rather detailed memorandum on this question of the qualifications of Federal inspectors and State inspectors, you are offering one amendment that causes me a little concern, whereby Federal mine inspectors would have to take a State examination and pass it to allegedly qualify him to inspect a mine in State X, Y, and Z. Usually we proceed on the assumption that the Federal Government has authority to exercise any jurisdiction in the subject matter, that the Federal Government has the right to lay down the qualifications for Federal personnel to carry out a Federal function. It may very well be that in certain areas of regulation and control, a State can appoint, a State policy may require additional qualifications, from State employees working in the same field. I can give you many, many examples in connection—Federal agricultural policies versus State agricultural policies, where the Federal Government would have certain criteria for inspections with respect to interstate transportation of fruits and vegetables, with livestock, and yet the State in the same field, intrastate might have some additional criteria.

Well, what we in Congress ought to make certain of is that the Federal qualifications for mine inspection cover the essential criteria necessary for determining the presence or absence of safety in individual mines. Then if the State wanted additional criteria, that is up to the State.

My concern about this amendment is that it may very well intensify rather than reduce the area of controversy between the Federal Bureau and the State bureaus. I can see the basis for a good many allegations that certain qualifications were put in because it is well known that the Federal employee would not have had the background, technical background to meet this particular qualification, it would

be alleged that it is put in in order to keep the Federal inspector out, that the criterion is not necessary to determine his qualifications in Virginia to determine whether or not a given mine is safe.

I am just setting forth these—I do not know, but I am telling you what my doubts are. That is why I think we need all of the information the subcommittee can get as to whether or not our Federal inspectors are, on the basis of existing criteria, that they have to satisfy in order to get on the Federal appointment list are men sufficiently trained to determine the question of safety or nonsafety in any State.

I do not want to see us get into any situation here where the States are going to have control in effect over the employment criteria that a Federal official is going to have to meet.

At the same time, I do not want to see my Federal Government set up a Bureau of Mines with men not sufficiently trained to go into the State to determine the question of safety.

That is all I am concerned about now.

Now I think I ought to also say and particularly for the benefit of counsel, he can put in the record any supplemental memorandum he wants to; that the jurisdiction of the Federal Government in this whole field really grows out of the interstate commerce clause.

If it were not for the interstate commerce clause we would have no business going into Virginia or any other State to lay down any rules and regulations.

The whole jurisdiction of the Federal Government, the entire matter of labor relations, the right for the Federal Government to issue any promulgation of rules and regulations in industrial relations grows out of the interstate commerce clause.

The jurisdiction of the Federal Government in connection with this matter of safety in mines in my judgment grows out of the interstate commerce clause, we are dealing with a product that is designed for interstate shipment.

Now, that is not the only basis for Federal jurisdiction but in my judgment it is the primary one in connection with this bill.

If it were not for the interstate commerce clause we would be out of court, so to speak, as the Congress, for want of jurisdiction.

Now, if the Federal Government has jurisdiction in this field growing out of the interstate commerce clause, I have a little difficulty with the basis for an amendment that says that the Federal employees must meet State rules and regulations.

Mr. GILLIAM. Senator, may I comment——

Senator MORSE. Just a minute—whether my point is that we have the right to insist that the Federal Government lay down the qualifications for Federal employees, that makes him competent to inspect the mine anywhere within Federal jurisdiction.

If he does not have that—if the criteria for the job are not sufficiently provided in order to guarantee every worker and every employer everywhere in the United States that we are sending out a qualified Federal employee to do the inspecting we ought to do one of two things—maybe both in some instances—we ought to change our qualifications for the job which I assume is inherent in some of your objections, you do not think they are broad enough.

Second, we ought to see to it that we put no one on the Bureau of Mines employment list to inspect the mines that does not meet the criteria.

I have a little difficulty, gentlemen, in adopting a rule that says we are going to let the States determine whether A, B, or C, can go on the Federal employment list in the Bureau of Mines as a mine inspector.

I would rather attack it if we are weak in our criteria for the employment of the Bureau of Mine inspectors. I would rather put in the criteria that we ought to have—but I have a little difficulty with an amendment that would say you have to have certain qualifications for Pennsylvania, different ones for Virginia, different ones for Kentucky, and so on.

Now, I may be misinterpreting the nature of this amendment.

Now I yield to counsel.

Mr. GILLIAM. Thank you, sir.

I think what you recognize as a problem, is a further problem in standardization really more than an absolute necessity, that the inspector be employed by a State criterion.

I think that again we have the problem that there is no standard inspection requirement between the Bureau and the States, and that there are vast differences in the State operations which should cause a meeting among the Bureau and the States to resolve these difficulties and possibly come up with a new set of criteria for employment. I think that is the point.

Senator MORSE. I do not quarrel with that.

Mr. GILLIAM. If I may, I will proceed with my statement.

Senator FANNIN. Before you start—Mr. Chairman, I have the Federal Mine Safety Code and in its introduction I would like to see if it has reference to what we are discussing:

> The Federal Mine Safety Code for underground bituminous coal and lignite mines of the United States, dated July 24, 1946.
>
> The 1953 Code, incorporating minimum standards to provide reasonable health and safety for all employees at underground bituminous coal and lignite mines, is promulgated for the guidance of Federal coal mine inspection in the inspection of such coal mines.

This was:

> To avoid separate codes to apply to mines subject to Title I and II of the Federal Coal Mine Safety Act and facilitate the administration of the 1953 Code and the Federal Coal Mine Safety Act, and the mine safety provisions of the act and the applicable definitions are included in the 1953 Code in italics.

This is approved by the Secretary of the Interior, with the introduction to this code by the Director of the Bureau of Mines.

Senator MORSE. I think that is desirable.

Senator FANNIN. Yes.

Senator MORSE. Furthermore, Senator, as a result of your experience as Governor of Arizona you can bring a lot of information to bear on our discussion in the subcommittee of the points that I have been raising here this morning over this controversy that I think is already inherent in this record between State bureaus and Federal bureaus and see if we cannot find a basis of cooperation between the two.

We certainly cannot let this situation go on.

Senator FANNIN. Mr. Chairman, I agree, and we will have the coordination of effort that we have been discussing.

Senator MORSE. Mr. Gilliam, you will proceed.

Mr. GILLIAM. The subcomittee has heard testimony that title I coal mining industry is vital to the economy of Appalichia, that it is, indeed, the backbone of that economy. It has also been told that the

passage of the proposed legislation would result in the closure of more than 50 percent of these mines in the Appalachian counties of Virginia.

These same statements were made to the Committee on Education and Labor of the House and went unchallenged. Yet that committee reported the bill favorably.

Why? It has been said by proponents of H.R. 3584 that it is better to close a thousand mines than to lose one life unnecessarily. I agree. But the safety record of the title I mines is better than the safety record of the title II mines.

It has also been said that there is no logical distinction between safety in a mine employing 14 men and a mine employing 15 men. Perhaps so. But there is a logical reason for establishing different standards for different types of mines. As it happens, mines which employ 14 men or less are, in 95 percent of the cases, drift mines which could not economically support more than 10 or 12 men, so the distinction between 14 and 15 men becomes understandable.

The factor which is more disturbing, however, is the indifference which greets the statement that 50 percent or more of these mines will be closed if the bill is enacted. I can only assume that this grows out of sheer disbelief in the assertion. Admittedly, such a figure is hard to believe. But consider these facts:

The average inspection of a title I mine by Federal inspectors will result in a finding of 10 or more violations of the Federal code, which establishes the criterion for Federal inspections.

In this regard, Senator Fannin, the code has been given the agreement of the Secretary of the Interior; it was drafted without representatives being present, and is, by any inspection of its terms by technical, competent authority applicable to title II mines, not to title I mines.

For example, (*a*) more than 50 percent of the title I mines do use fuse and caps in recovering the coal.

If you take a look at the hearings before the house you will see that there are inspections by the Federal inspectors and in those inspection reports they find violations.

One of the violations is use of fuse and caps. As a result of that violation of the code, not the act, the inspector makes a request that the mine be closed.

Now unless the Bureau changes this practice these mines using fuses and caps will be closed. We have also had testimony from Mr. Mullins that the use of fuse and caps is more safe. There is an enormous conflict here between the States and the Federal Government which should be resolved. More than 50 percent of the mines cannot comply with the preshift examination requirements of the act.

The Bureau has never denied that it would close these mines for these violations; nor has it ceased to inspect these mines to determine if they have violated the code. As an observer, it seems perfectly obvious that the Bureau will close a great many of these mines. What is the recourse of the operator?

He may appeal to the Coal Mine Safety Board of Review.

These would be five men under the present legislation. If the Board has other cases before his, he will have to wait his turn. In the meantime his mine remains closed. It is not idle conjecture to suggest that before relief can be had, the petitioner will be broke.

Aside from these matters, there are other considerations which convince me that this bill will put small mine operators out of business. The proponents of the bill in the House have been the United Mine Workers and the large coal operators.

Not one title I operator or worker has appeared in support of the legislation. The United Mine Workers doesn't need this legislation for its members since by its contracts the members have the benefit of the Coal Mine Safety Code.

The large operators don't need the legislation since they are all signatories to the United Mine Workers contract. Who will presumably benefit from the passage of this legislation? The nonunion truck mine operator of Appalachia is the only person affected by the passage of this legislation.

Only a few years ago, the nonunion truck mines of Appalachia were a negligible competitive factor in the national coal market. As the needs of the giant utility companies in the Nation's largest cities have doubled and trebled over the past several years, the need for coal, which is the chief source of fuel for these companies, has grown accordingly.

Therefore, the small mines which only yesterday were a mere thorn in the competitive side of the giant operators, have now become a full-fledged competing industry, producing over 100 million tons of the Nation's more than 450 million tons of annual production. This competition has not been welcome, and the United Mine Workers and the large operators have taken steps to reduce its effect.

Senator RANDOLPH. May I interrupt at this point?

Senator MORSE. Yes, indeed.

Senator RANDOLPH. Mr. Gilliam, with reference to the employment of miners in the Appalachian region, would you for the subcommittee state the number or the approximate number of persons employed within the States comprising the Appalachian region in the mining of coal?

Mr. GILLIAM. Senator, I can only give you the figure of about 69,000 which I believe is the total figure for the underground mines. Now, I would not be able to break it down for Appalachia, but I would say probably 90 percent of that represents Appalachia coal production.

Senator RANDOLPH. Would you also name for the record this morning, which you can do, the States which have production of coal in the Appalachian region?

Mr. GILLIAM. Yes, sir. Pennsylvania, Ohio, West Virginia, Maryland, Virginia, Kentucky, Tennessee, Alabama.

Senator RANDOLPH. At this point, Mr. Chairman, and I know that Mr. Gilliam will be responsive with later information for the record, I would want to indicate that what he says about a greater production of coal in the area is true.

In the State of West Virginia in the first 4 months of this year we have had a production of approximately 5 million more tons of bituminous coal than we had in the same period in 1964. And this applies only to West Virginia—the one State.

Also, there has been a greater employment of miners in this period of time—averaging over 34,000 miners who were employed during April of 1965 in contrast to approximately 33,000 in the comparable period in 1964.

I only wanted to indicate here that we often are inclined to believe, those who are not familiar with the production of coal, that the tonnages are declining. In reality the tonnages are increasing and bituminous coal is certainly a product which is being used in fueling and in many other ways saving our national economy.

Mr. GILLIAM. I wholeheartedly concur with the Senator's remarks. I would only add one thing, and that is in the State of West Virginia in 1964 there were 35,000 men employees in the title II mines, but there were 6,294 in West Virginia in title I mines according to the State's figures. So that is even a larger number of people in your State, Senator, than you indicated.

Senator RANDOLPH. I quote as an authority the West Virginia State Department of Mines which is the source for the information to which I referred. This information published in a United Press International dispatch which has been carried in the Keyser, W. Va., News-Tribune within the last 3 or 4 days.

Mr. Chairman, I request that the text of the dispatch to which I have referred be inserted in the record at this point:

[From the News-Tribune, Keyser, W. Va., June 17, 1965]

COAL PRODUCTION OUTPUT EXCEEDS 1964 RECORD

CHARLESTON, W. VA. (UPI).—West Virginia's coal production during the first 4 months of 1965 exceeded by nearly 5 million tons output during the same period a year ago, the State mines department said today.

The January 1-April 30 total this year was 48,157,485 tons and last year was 43,170,955. April production alone amounted to 12,075,245 this year and 11,423,371 a year ago.

Mine employment was up more than 1,000 from a year ago, avering 34,165 in April and 33,157 in the same month of 1964. Average number of days worked in the month was up from 18 to 20.

The report also showed that 30 fatal accidents have been recorded in mining through April 30 compared with 32 a year ago. Nonfatal accidents increased from 1,408 for the first 4 months of last year to 1,520 this year.

Mr. GILLIAM. This is also under the State authority, sir. Getting back to my statement in which I stated the competition has not been welcome. I want to talk about its effect.

Thus, if the title I mines do not pay the United Mine Workers' wage scale, which is $26.25 per man per day and 40 cents per ton into the United Mine Workers Welfare Fund, they are prohibited from selling coal to the vast TVA market. If the title I mines sign a United Mine Workers contract, they will be unable to meet the terms of that contract and will rapidly go into debt to the union, which at its leisure, may elect to close them down.

I make this assertion unqualifiedly, that any title I mine operating underground is unable to pay $26.25 per man, and 40 cents per ton into the Mine Workers Welfare Fund. They are unable to do that.

Senator FANNIN. I think Mr. Mullins has testified that the average profit per ton was 30 cents.

Mr. MULLINS. 20 to 30 cents.

Senator FANNIN. 20 to 30.

Mr. MULLINS. Yes, sir.

Mr. GILLIAM. And that does not include a welfare fund, this 40 cents. In other words, they are not talking about the coal sold to the TVA but the other sales then they would have a deficit if they pay 40 cents to a welfare fund.

Mr. MULLINS. Right.

Mr. GILLIAM. The union refuses to make separate contracts for small operators but requires them to sign the same contract which the giant strip and underground operators sign. Further, the refusal of the United Mine Workers to admit the economic differences between a small hand-loading operation and the operations which are run by the largest land machines in the world is a policy which has been furthered by both the Department of Labor in establishing the prevailing wage for the TVA market and the Bureau of Mines, which inspects for safety practices.

The Bureau has persisted in inspecting these small mines with reference to large mine requirements as they are set forth in the Federal Coal Mine Safety Code. If the small mines do not meet the criteria set forth for the the large mines, they will be closed down.

Senator MORSE. May I interrupt for a moment?

Mr. GILLIAM. Yes, sir.

Senator MORSE. Of course, the proposed bill does not require the small operator to enter into a collective bargaining agreement with the United Mine Workers of America or require that they pay 40 cents a ton for a welfare fund. But it does require that the safety regulations under the jurisdiction of the Federal Bureau should be applied to them.

Now, there must be some reason why in your testimony and other testimony there is this reference to $26.25 per day per worker and 40 cents per ton.

Is it the assumption that if we pass this bill, or some such bill, the net result will be to increase the power of the United Mine Workers of America so that the net effect will be that these small operators will have to come to collective bargaining tables?

Mr. GILLIAM. Senator, I will have to answer that in a fairly complex way.

Senator MORSE. That is all right.

Mr. GILLIAM. I cannot give you a "Yes" or "No."

Senator MORSE. I understand.

Mr. GILLIAM. The effect of the passage of the legislation is, as we pointed out before, criteria which the Bureau of Mines have adopted and which we cannot meet, as testified to by Mr. Mullins. This, as I am pointing out in this statement, is one facet of the competitive struggle that is going on.

I have suggested, as Mr. Mullins has suggested, that these mines will be closed down. I firmly believe that they will.

If they are closed down, this is one other way of excluding competition. I am not suggesting, on the other hand, that the Bureau has any way to force people into a bargaining agreement or that the Senate will in any way pass legislation which will force a bargaining agreement. I am suggesting, however, that if the legislation is not considered carefully, it could result in a situation where competition will be eliminated.

Senator MORSE. You have already testified that, if we pass this legislation, 50 percent of the small mines will close down for those two main reasons that you have set forth in your statement. I understand that contention. The only difficulty I had—and it is perfectly proper that you should make it as part of the record, but I want to be sure that you are not arguing any causal effect or relationship between the pas-

sage of the bill and a requirement of $26.25 per man per day and 40 cents per ton; I understand you are not making that contention—but what I was hazy about was whether or not you think the passage of the bill will lead the small operator into a position where he would have to pay $26.25 per man per day and 40 cents per ton?

My present understanding is what you are saying is he will go out of business in 50 percent of the cases and that means that the United Mine Workers will be the beneficiary because the competition will be to the advantage of the big operators and that is one of the reasons that I alluded to earlier this morning when I said the allegation was the United Mine Workers of America support this bill in order to increase the collective bargaining agreements and their authority over the mines.

Your argument is that they will end up that way because they will put a lot of small operators out of business. Is that a fair statement of what you are saying?

Mr. GILLIAM. That is a fair statement, Mr. Chairman.

Senator MORSE. Thank you.

Senator RANDOLPH. Mr. Chairman.

Mr. Gilliam, you speak of the smaller operator closing the mine. Would you say this will take place immediately if the legislation becomes law or will it be a matter of let us say 3, 4, 5 years? Will these operators attempt to hold on and compete, or will they stop at that certain point?

Mr. GILLIAM. Senator, if the Bureau of Mines continues to inspect on the same criteria that they have adopted in the past, and as shown by the hearings here, then I see no reason to believe that the mines would not be closed down immediately.

Those, for example, which do not conduct preshift examinations or those which use the fuse-and-cap method of extracting the coal. So I would say that the effect would be immediate, unless this committee and Congress and the Senate takes some steps to protect by way of amendment the small operators from this result.

Senator RANDOLPH. Mr. Chairman, if the legislation became law, I would like the witness to indicate to the subcommittee again how many persons in his estimation would be out of employment in this industry?

Mr. GILLIAM. Let me state that there is a conflict on how many persons are in the industry, Senator. First the Bureau of Mines finds there are between 30,000 to 35,000 in the title I industry alone. The State figures would indicate a much larger number, which would be in our estimation approximately 40,000 or 50,000 people.

Again, the conflict arises from the reporting procedures adopted by the Bureau of Mines and the reporting procedures by the States. The States show more men in these small mines.

Senator RANDOLPH. Can you give us your estimate and then the estimate of the Bureau of Mines?

Mr. GILLIAM. I would say my estimate would be about 45,000, and that the estimate of the Bureau of Mines would be about 30,000.

Senator RANDOLPH. Thank you, Mr. Chairman.

Senator MORSE. One other point. I hope I am a good enough lawyer to know that the court should not be interrupting counsel all of the time.

Senator RANDOLPH. Sorry.

Senator MORSE. I am not talking about you. I am talking about myself. But this case thus far draws this issue for me: The State representatives are saying that their present procedures are adequate to protect the safety of the workers. The proponents of the bill are saying you have to have more stringent inspection through the Federal Government to protect the safety of the worker.

That is the contest. Apparently the position of the opponents of the bill is that if you take the criteria that are required by the bill being vested in the Federal inspectors, you will put 50 percent of these small operators out of business with the resulting economic dislocation.

So we have to come to grips with one question of fact, among others, that is this question of fact as to whether or not the inspection called for under this bill is to be vested in the Federal Government is, in fact, necessary to protect the safety of workers. That is a question of fact which you are just at issue about. That is true, is it not?

Mr. GILLIAM. That is true.

Senator MORSE. I have it. All right.

Mr. GILLIAM. Continuing with my statement.

As I stated before, if the title I mines signed the United Mine Worker contract they cannot possibly meet its obligations. However, if the title I operator wishes to mine coal on land which is under lease to the larger operators (and 75 percent of the available coal lands are under such leases), the union contract requires that the title I operator become a union member.

That is, the union contract prohibits any title II mine from leasing the coal to nonunion competition. Furthermore, if the title I nonunion operator wishes to sell coal to the large union operator as supplemental coal (and approximately one-third of the total market of the small operator is the supplemental coal sales), it must also either become a union operator, or pay an 80-cent penalty into the United Mine Workers Welfare and Pension Fund for the right to sell such coal.

Let me explain that. In the current contract there is a provision which says that union operators who purchase coal on which 40 cents has not already been paid into the United Mine Workers Welfare Fund it will have to pay 80 cents into that fund. Now, this would eliminate, again, one-third of the market of the small title I operators who do supply supplemental coal for the long-term contracts of the major operators.

If the title I operator signs a UMW contract and does not pay 40 cents on each ton of coal produced (and it will not be able to do this, because its average profit is only 20 to 30 cents on each ton of coal produced), then the UMW welfare cards which entitle the operator's employees to hospital benefits will be withdrawn and in due course the employees will go on strike against the company to obtain the return of these privileges.

Let me explain that. In the operation of the welfare fund, if the fund finds that an operator is in flagrant violation of his duty to pay 40 cents, the welfare fund has taken the position that it may withdraw the hospital cards and benefit cards of the employees of that signatory operator. This was done wholesale in 1962 and is now being done sporatically in Appalachia.

The result is that these miners whose operator had signed a contract are without hospital benefits. And the result has been that they have gone on strike. We are in a dilemma where the operator cannot afford it and yet he is being struck.

Incidentally——

Senator MORSE. What do you say, Mr. Gilliam, to the argument that the coal operators that have a contract with the United Mine Workers of America maintain an option which permits the 40 cents a tons for the welfare fund, which includes the hospital fund, and their employees get sick, the fund takes care of them; whereas, the employers that operate the title I mines do not pay the 40 cents with the result when their employees get sick and, we will say, have no resources of their own the rest of the public pays for them by public welfare funds?

Mr. GILLIAM. Let me say this, sir. I think it is admirable that the United Mine Workers have been able to obtain a contract with certain of the larger operators which enables them to protect their members in this way. I do not suggest that the bargaining agreement is not perfectly applicable to some of the larger operators. I do say that when they have such an agreement with a small operator, nothing but that he cannot pay it.

These small operators, the workers in these small mines, do not receive any hospitalization benefits often because of the withdrawal of these cards. This results in also the shutting down of the mine which is a further competitive effect. On the other hand, so far as the nonunion operators are concerned I would say that probably 90 percent of them have hospitalization benefits for their workers and many of them have life insurance arrangements, so that in my opinion the nonunion operator actually is providing something more in the way of protection than the small title I union operator.

If the small title I operator refuses to become a union signatory because it realizes that it is impossible to comply with the terms of the UMW contract, it will face continuing threats of violence.

In Harlan County, Ky., where a number of mines have recently left the union because they are unable to meet the union wage scale, there have been repeated incidents of shootings and bombings in recent weeks. The father of 11 children was recently killed for crossing a UMW picket line and 11 UMW members are now awaiting trial.

While the national news finds headlines in the violence of our cities, the violence in eastern Kentucky, which has gone on for years, continues unabated and unnoticed just as if that were the way the world is meant to be.

In this regard, I want to say something about the operation in eastern Kentucky and in certain other areas.

A recent study as shown by the University of Kentucky, that none of these small operators can afford to meet the union scale. That is if they meet $26.25 they simply will go out of business. The average wage in the area as based upon the tax returns of these companies is $18 per man per day.

We also know that in Virginia where the title I operators work, and a recent study was made there, that based on a 10-percent study of the area, the nonunion mines are paying about $15.50 per man per day.

The union mines, on the other hand, although they have a contract calling for $26.25 are paying about $14.70, a difference of 80 cents. Now, this grows out of the practice of sweethearting which is a recognition by the United Mine Workers that the title I operators cannot possibly meet the terms of the union contract.

However, if they obtain a signature to one of these contracts by a title I operator through whatever means they can obtain that signature, and often it is as a result of violence, then by bringing suit against the operator they can collect 40 cents on every ton of coal that he has produced which amounts to an enormous debt and they have done this.

In Tennessee, for example, they did this wholesale. The result was the Supreme Court opinion which recently came down. I would like to introduce that opinion in the record.

Senator MORSE. It will appear in the record at the close of your testimony.

Mr. GILLIAM. A small operator was sued. He claimed there was a nationwide conspiracy between the large operators and the union to eliminate the competition of a title I operator. A Federal jury returned treble damages in favor of the small operator in the amount of $270,000. This was appealed to the 6th Circuit Court of Appeals which affirmed the holding of the lower court.

And they found there was such a conspiracy. The Supreme Court reviewed the case and remanded the case on one ground: They said there was information introduced into the record which showed that there had been Walsh-Healey proceedings which had resulted in the elimination of the TVA markets. This was improperly given to the jury as part of the conspiracy. The Supreme Court did state, however, that if the large operators and the union enter into an agreement whereby the union agrees to impose the union contract on the small operators which they know he cannot meet, then the union has lost its exemption under the antitrust laws.

This is a situation which will be retried, but I want the committee to understand that we are not here making allegations which have not been made a matter of public record and which have not in fact been discussed before the Supreme Court.

The economics of the industry are such that a small mine operator can afford to pay a wage of $15 to $18 per man per day. He may be able to provide substantial side benefits. Some of the large operators, on the other hand, produce as much as 100 tons per man per day. Some of their employees will contribute on a per man basis more than $4,000 each year to the United Mine Workers pension fund.

The employee may do this for 19 years, but if he leaves work before 20 years have elapsed, he receives nothing by way of retirement. This is because the United Mine Workers pension fund is not a vested fund.

A few statistics indicate the striking imbalance in economic power between the small mines and the large mines. According to the Bureau of Mines figures, there are over 7,000 mines in the United States. Last year, more than $133 million was paid into the United Mine Workers Welfare Fund; 83 percent of this amount was paid by 50 companies which are the first 50 in size in the industry.

These first 50 companies in the industry could absorb the entire output of the small operators in a very short period of time, since they

are not operating at their fullest capacity. If they did absorb this market, it would mean that 100 million tons of production being placed into the competitive market would be eliminated and that the United Mine Workers Welfare Fund would receive a payment of 40 cents on an additional 100 million tons, or an additional $40 million into the welfare fund.

At a time when the Nation's economy most needs a resurgence of the small mining industry in Appalachia, it has become the stepchild of the industry. The administration has ignored this industry in its provision for Appalachia. The Department of Labor has foreclosed the TVA market and other Government markets. The Department of Justice has declined to take action to break up the conspiracy between the United Mine Workers and the large operators despite the fact that both the Sixth Circuit Court of Appeals and the Supreme Court have received evidence which, they concur, would establish the existence of that conspiracy. The Small Business Administration has pursued a policy of refusing to make loans to small mine operators. The Office of Economic Opportunity is concerned lest the relations between the small nonunion operators and the United Mine Workers become such that the small operators are not a good risk for loans through that office.

I do not believe the Senate should consider this bill in a vacuum. As I have pointed out, there are other considerations which relate not to safety but to competition.

I am not willing to state before this subcommittee that there is not room for improvement in the matter of coal mine safety. I do not, however, believe that safety will be improved by imposing the safety standards of large mines upon small mines.

Nor do I agree that this fiction that all coal mines are alike must be pursued by the Congress just as it has been pursued by the Department of Labor in its prevailing wage determination. The fiction has resulted in a number of inequities to date. If this fiction is pursued by the Congress, and the Executive, as it has been to date, the demise of the small mining industry will result.

Senator, I just would like to make one further comment, and I think this is a fair comment, that this industry is plagued by a great many ills.

It is a stepchild because it has resulted from unemployment, from the loss of markets which took place when the railroads stopped using coal.

In 1950 there were 500,000 miners. Today, there is something in the area of 100,000. So many of these gentlemen were out of work that they had to go into the small mining industry. It has a vast potential because as mechanization methods are being modernized, the small title I coal will be produced. There is a need for it in the country because of the rising demands of the utilities. We have lost the opportunity to participate with the TVA market but that case will be reopened, I hope, eventually.

We have the problem of the competition being foreclosed to us by way of a union contract. We have the continuing violence in the area and this coal mine safety bill, while it certainly is related to safety and I am not inpugning the motives of those Members who have introduced the bill or who are supporting the bill, it is another factor,

another club which can be used if the Congress does not keep the bill solely related to safety.

And I feel that at this point that there is cause to concern ourselves that the bill is not solely related to safety, which is why I have brought this up in the hopes that the committee will understand the relevance of what I have been talking about to the entire economic picture.

Senator MORSE. I want to say, Mr. Gilliam, I agree with the last observation you have made as to the duty of this subcommittee. This subcommittee is considering a safety bill; that is all.

We need to pass labor legislation in connection with many other facets that may exist in the coal mining industry of the country; that is another issue not before this subcommittee. I have tried to direct all of my attention to the issue of safety as the basis for the legislation.

In the course of your testimony, if I understood you correctly, you said something to the effect that you think probably 90 percent of these small operators probably have life insurance programs in connection with the health and hospitalization policies. Would you supply the record later with a memorandum that will give us any further factual information on that allegation?

I think it is a rather important point that I would like to have in the record.

Mr. GILLIAM. I will be happy to do so.

(The memorandum requested by Senator Morse follows:)

GROUP INSURANCE CERTIFICATE

DESCRIBING YOUR BENEFITS PROVIDED BY AMERICAN CENTRAL, LIFE & DISABILITY INSURANCE CO., LOUISVILLE, KY.

Schedule of benefits

Daily room and board benefit	$12
Miscellaneous hospital expense benefit:	
100 percent of 1st	$200
80 percent of next	$1,000
Maximum	$1,000
Hospital benefit term	75 days
Surgical maximum	$350
Life insurance on insured	$1,000

NOTE.—This certificate replaces any and all insurance certificates, endorsements, and riders previously issued by American for insured under the master policy.

Master Policyholder: Pike County Independent Coal Operators Association
Insured: Holcomb, Robert H.
Certificate No., Effective Date: G2A-160—12-1-63
Beneficiary (if life insurance or accidental death insurance is included): Holcomb, Gladys B., Wife
Dependents: Single.

PART GP—GENERAL PROVISIONS

1. The master policy, its attached master application, and insured's individual application (if any) constitute the entire contract. Application statements are representations and not warranties, and cannot be used to reduce, avoid, or contest the insurance unless contained in an attached copy of the application furnished to the applicant. The policy can be changed only by amendment signed by holder and American. No agent has authority to change the policy or waive any of its provisions.

2. Written notice of claim identifying insured must be given to American at the home office in Louisville, Ky., or to any authorized American agent, within 20 days after loss begins, or as soon thereafter as reasonably possible. American will furnish claim forms. If such forms are not furnished within 15 days after notice is given, the claimant can comply with these requirements by giving writ-

ten proof of the occurrence, character, and extent of loss within the time limits for proof of loss. American must be given written proof of loss within 90 days after the loss or period of loss for which American is liable, or as soon thereafter as reasonably possible.

3. Indemnity will be paid to insured immediately upon due written proof of covered loss, or at least monthly for continuing loss. Any indemnity for loss of life is payable to the beneficiary, or, lacking an effective beneficiary provision, to insured's estate. American may pay any accrued benefits after insured's death, to the beneficiary or to insured's estate. Benefits up to $1,000, for insured's estate or to a minor or legally incompetent insured, may be paid to any relative of insured deemed equitably entitled by American. The right to change of beneficiary (if any) is reserved to insured.

4. American at its own expense may require insured to have physical examinations at reasonable intervals while a claim is pending, and American may obtain autopsy when legal.

5. No legal or equitable action may be brought to recover on the policy within less than 60 days or more than 3 years after the time written proof is required to be furnished.

An individual life insurance policy is guaranteed to insured if applied for (and premium paid) within 31 days after such termination. The new policy will be effective at the end of that period. If insured dies within 31 days after termination without having sought conversion, American will pay the maximum benefit which insured could have elected under an individual policy. The individual policy may be any form except term insurance, with face amount up to the amount of discontinued coverage. If all life insurance of insured's classification is terminated, conversion is guaranteed only if insured's life insurance was in force at least 5 years; and the guaranteed amount may not exceed $2,000 nor the difference (if any) between the amount of discontinued insurance and the amount of any new American life insurance plan to which insured becomes eligible within 31 days after termination.

PART LI—LIFE INSURANCE BENEFIT AND PAYMENT TO BENEFICIARY

American will pay the life insurance stated in the schedule of benefits for insured's death while this insurance is in force.

This indemnity will be paid in one amount, or by installments, as elected. If insured's age has been mistated, the benefit will be the amount the premium would have purchased at the correct age. Life insurance benefits cannot be contested after this insurance is in force 2 years, except for nonpayment of premium or for military exclusions.

PART EL—EXTENDED LIFE INSURANCE

Life insurance under this policy will continue without premium payment, if insured becomes totally disabled for at least 9 months while under age 60, so long as insured remains totally disabled and submits annual proof of continued permanent total disability. Total blindness or loss of both hands or both feet, or one hand and one foot, are conclusive proof of total disability.

Insured may not be covered by the above waiver of premium feature unless he returns any conversion policy (obtained under part TCL) to company, without claim under the conversion policy except for premium refund.

PART TCL—TERMINATION AND CONVERSION OF LIFE INSURANCE

Insured's life insurance terminates when he is no longer within an insurance classification covered under the policy.

This certificate is an outline of benefits under the master policy issued to the holder named in the schedule. Coverage begins on the certificate effective date; or, in case of total disability on the effective date and preceding day, upon resumption of regular activities. Coverage continues with premium payment until cessation, for reasons other than disability, or full-time employment or insurance in your classification with holder, or upon reaching the termination age (if any) stated in the policy. Coverage of child dependents cannot be renewed after marriage or 21st birthday. A conversion policy of accident and sickness insurance (including any insured dependents) is guaranteed to employees who apply for it within 31 days after termination.

All coverage and limits apply to the insured. Only the insured's dependent spouse, and his unmarried dependent children between 14 days and 21st birthday, may be included as dependents.

PART DE—DEFINITIONS

"Such injury" means accidental bodily injury occurring while insured, but does not include loss caused by a sickness condition, in combination with the accident.

"Such sickness" means sickness or disease occurring while insured, regardless of date or origin (except pregnancy).

"Hospital" means a lawfully operated hospital with organized facilities for diagnosis, major surgery, 24-hour nursing by registered graduate nurses; not including a Federal hospital, hospital for alcoholics or drug addicts, or a convalescent or nursing home.

PART HR—BENEFIT FOR HOSPITAL ROOM AND BOARD

If such injury or such sickness of the insured or insured dependent shall, on the instructions of a licensed physician or surgeon, require admission and confinement in a hospital, American will pay to the insured the actual expense of hospital room and board not exceeding the daily hospital benefit per day, nor exceeding the hospitalization benefit term stated in the schedule of benefits during any one period of hospital confinement. Successive periods of hospital confinement will be considered a continuance of the same confinement unless due to entirely unrelated causes or separated by a period of 3 months or more.

PART ME—MISCELLANEOUS HOSPITAL EXPENSES

If such injury or such sickness of the insured or insured dependent shall, on the instructions of a licensed physician or surgeon, require admission and confinement in a hospital, American will pay the insured the fees actually charged by the hospital and at the rates normally charged by the hospital for necessary services and supplies furnished during such hospitalization not including telephone, taxes, private nurse's meals or private duty nursing to the extent enumerated below, up to the amount shown for hospital miscellaneous benefit in the policy schedules:

Operating and delivery room.
Anesthetic materials.
Administration of anesthetic when done by an employee of the hospital as a regular hospital service.
Casts and splints.
Surgical dressings.
Laboratory examinations including tissue examinations.
Necessary X-ray examinations in connection with illness for which patient is hospitalized.
Physiotherapy and hydrotherapy.
Electrocardiograms.
Oxygen as provided by hospital.
All drugs and medicines which are officially accepted for general use at the time of such hospitalization.
Administration of blood, blood plasma, and plasma substitutes.
All examinations and first aid in hospitals for nonbed patients in case of emergency accidents only.

Hospitalization for mental disorders will be provided hereunder for 35 days during the life of the insured or insured dependent.

No fees will be paid by any services or supplies furnished except in the case of nonbed patient benefits unless at the time same are furnished the recipient thereof is entitled to be reimbursed for expenses under part HR above.

PART MB—MATERNITY BENEFITS

If a female insured covered under a family certificate or dependent spouse of a male insured covered under a family certificate shall, on the instructions of a licensed physician or surgeon, with respect to causes related to pregnancy, require admission and confinement in a hospital not sooner than 9 months after the effective date of the insured's coverage, American will pay the insured the expenses actually incurred and occasioned by such pregnacy during the first 10 days of confinement, and no more, at the daily hospital benefit rate specified in part HR and for the services and supplies furnished under part ME: Provided,

however, that if the coverage offered by this part MB replaced other valid group coverage which would, had it not been replaced, have paid to the insured approximately similar benefits and expenses, then said 9-month waiting period shall be waived.

PART AB—ANESTHETIST'S BENEFIT

If in the performance of an operation, as permitted under part SB, a general anesthetic is administered by a physician, other than the operating surgeon or his assistant, American will pay to the insured the amount of the anesthetist's fee charged to the insured, but in no event shall the amount paid by American exceed an amount equal to 20 percent of the amount paid to the surgeon or physician performing the operation under part SO. Minimum payment shall be $15.

PART HSE—HOSPITAL AND SURGICAL EXCLUSIONS AND LIMITATIONS

I. Coverages offered under parts HR, ME, and MB do not extend to losses resulting from (*a*) preexisting conditions until after the insured or dependent shall have been covered for a period of not less than 12 months: *Provided, however*, if this coverage replaces other valid group coverage covering approximately the same hazards, then the insureds and dependents whose coverage was replaced by this policy shall be covered as of the effective date of this coverage, except to the extent that they may be still covered by the replaced coverage; (*b*) admission for diagnostic studies, including physical checkup; (*c*) expenses incurred in connection with bodily injury arising out of, or in the course of any employment for wage or profit; or expenses incurred in connection with sickness for which benefits are provided under any workmen's compensation or employer's liability or other similar State or Federal law; (*d*) dental care; (*e*) rest cures; (*f*) alcoholism; (*g*) pulmonary tuberculosis; (*h*) blood, blood plasma, or plasma substitutes; (*i*) treatment in any sanitorium; (*j*) treatment in any State or Federal hospital where the insured or dependent would have been entitled in whole or in part to the services rendered or supplies furnished regardless of ability to pay; (*k*) intentionally self-inflicted injury or suicide or any attempt thereat whether sane or insane; (*l*) injury occurring, beginning, or causing expense while on active duty as a member of the military forces of any nation.

II. Coverages offered under parts SB, AB, and NSC do not extend to losses resulting from sections (*a*), (*c*), (*d*), (*i*), (*j*), (*k*), (*l*) of paragraph I above or: congenital abnormalities, operations for beautifying purposes, operations for deafness, medical visits in home or office, X-rays in doctor's office or X-ray examinations, professional services for treatment of nervous or mental disorders, physiotherapy, eye refractions, bruises, strains, or contusions.

PART SB—SURGERY BENEFIT

If such injury or such sickness of the insured or insured dependent shall require surgery recommended and performed by a licensed physician or surgeon, in or out of the hospital, American will pay to the insured the amount of the surgical fees charged to the insured but not to exceed the amount provided for such operation in part SO: "Surgical Operations." American's limits for any cutting operation not listed in part SO shall be the limits specified for comparable listed operations, unless payment for the operation is expressly excepted under part HSE: "Hospital and Surgical Exclusions and Limitations." Payment will be made for cutting operations only unless otherwise provided in the policy. If two or more surgical procedures are performed through a single incision or natural body cavity, payment will be made only for the operation for which the greater benefit is provided in part SO. If two or more operations are performed through two or more incisions or natural body cavities, payment for the first of such operations shall be made according to the amounts specified for such operation in part SO, but, however, payment for the second and all subsequent operations performed after the insured ceases active work and before he returns to work on a full-time basis shall be made at one-half the amount specified for such operation in part O, provided, however, that the amount payable for all such operations, including the first, shall not exceed the maximum surgical benefit stated in the schedule of benefits. Two or more surgical operations performed on an insured dependent, if not separated in time by at least 6 months or by complete recovery from the preceding operation, or unless due to totally unrealted causes, shall be subject to the same restrictions as those above imposed on the insured for two or more operations.

PART SO—SURGICAL OPERATIONS

ABDOMEN

	Indemnity
Appendectomy	$175.00
Gall bladder removal	225.00
Gall bladder removal, with duct exploration	250.00
Gall bladder drainage	175.00
Total gastrectomy	350.00
Bowl resection	300.00
Other cutting into abdominal cavity for diagnosis or treatment, unless specified below	175.00

ABSCESS

Deep cellulitis drainage	35.00
Carbuncle, excision of	35.00
Deep breast abscess (boils excepted)	35.00

AMPUTATIONS

Thigh through hip joint or neck of femur, arm through shoulder joint	200.00
Arm through neck of humerus, forearm through elbow joint, foot through ankle joint	150.00
Foot below ankle, upper arm, forearm	150.00
Hand at wrist	150.00
Finger or toe	50.00
Fingers or toes (each additional)	15.00
Coccys	75.00

BREAST

Simple amputation (single)	135.00
Simple amputation (bilateral)	200.00
Radical amputation (single)	275.00
Radical amputation (bilateral)	350.00
Removal of tumor (noncancerous)	75.00

CHEST

Complete thoracoplasty	300.00
Lobectomy or pneumonectomy	350.00
Cutting into thoracic cavity for diagnosis or treatment	200.00
Pneumothorax induced:	
1st induction	30.00
Each refill (maximum 4) (maximum $90)	15.00
Cutting into trachea	100.00
Bronchoscopy, diagnostic	75.00

DISLOCATION, REDUCTION OF

Shoulder (closed)	50.00
Shoulder (open)	200.00
Heel (closed)	50.00
Heel (open)	135.00
Hip joint	120.00
Knee	75.00
Knee cap	40.00
Ankle	75.00
Elbow (closed)	50.00
Elbow (open)	200.00
Collar bone, wrist	50.00
Jaw	15.00
Finger or toe	10.00

PART SO—SURGICAL OPERATIONS—Continued

	Indemnity
EAR, NOSE OR THROAT	
Mastoidectomy:	
One side	$125.00
Both sides	200.00
Tonsillectomy and adenoidectomy (under age 19)	75.00
Sinus operation:	
Sinusotomy or trephine	125.00
Frontal, external	125.00
Puncture for drainage or irrigation	10.00
Antrum, radical	125.00
EXCISION BY CUTTING	
Hip or shoulder joint	200.00
Joints of elbow, wrist, or ankle	200.00
Knee joint	200.00
EYE	
Removal of cataract	200.00
Needling of cataract	75.00
Removal of lacrimal sac	125.00
Any cutting operation into the eyeball (through cornea or sclera)	125.00
Removal of eyeball	100.00
Cutting on extrinsic eye muscles	125.00
Other cutting operation on eyeball	75.00
FRACTURES	
Thigh	125.00
Vertebra, body	150.00
Lower jaw (alveolar processes excepted), collar bone, shoulder blade	50.00
Forearm shaft:	
1 bone	75.00
Both bones	100.00
Wrist	100.00
Hand	50.00
Finger	30.00
Each additional finger	15.00
Nose	35.00
Rib	15.00
Each additional (maximum $40)	7.50
GENITO-URINARY TRACT	
Removal of entire kidney	275.00
Prostatectomy:	
Suprapubic or perineal, complete procedure, whole or part	300.00
Transurethral, complete	300.00
Cutting into bladder and removal of tumors	200.00
Other cutting into bladder	150.00
Cutting into kidney, including removal of stones or tumors	300.00
Fixation of kidney	175.00
Cutting into ureter	225.00
Cystoscopic examination	75.00
Cystoscopy for removal of urinary stones:	
First operation	75.00
Each subsequent operation	50.00
Varicocele	90.00
Hydrocele with excision of tunica vaginalis	125.00
Orchidectomy	100.00
Epididymectomy	100.00
Circumcision:	
Under age 1	10.00
Under age 13	40.00
Age 13 or over	50.00

PART SO—SURGICAL OPERATIONS—Continued

OBSTETRICS [1] AND GYNECOLOGY

	Indemnity
Pregnancy, delivery (all types except Caesarean) (Office calls are not covered in certificate.)	$75.00
Miscarriages:	
To 6 months	37.50
To 6 months (with D. and C.)	37.50
After 6 months (including D. and C.)	50.00
Caesarean section, vaginal	100.00
Caesarean section, abdominal	100.00
Pregnancy, ectopic (also ruptured)	87.50
Bartholin's gland, incision	25.00
Bartholin's gland, excision	60.00
Urethral caruncle, removal	35.00
Atresia of vagina, correction of	125.00
Perineorrhaphy	50.00
Colporrhaphy, anterior	75.00
Fistula, rectovaginal	175.00
Fistula, vesicovaginal	250.00
Cul-de-sac, drainage	50.00
Dilation and curettage	75.00
Uterine polypi, removal	50.00
Trachelorrhapy	50.00
Conization	15.00
Cervix, amputation	75.00
Hysterectomy, vaginal, total	275.00
Hysterectomy, abdominal, total	200.00
Myomectomy	150.00
Uterine Flexions, etc., correction	150.00
Oophorectomy	175.00
Ovariotomy	175.00
Salpingectomy with or without oophorectomy	175.00

GOITER

Thyroidectomy—complete procedure, including litigation of thyroid arteries, to be treated as one operation	275.00

HERNIA, CUTTING OPERATION

Hernia, unilateral	150.00
Hernia, bilateral	200.00

RECTUM

Hemorrhoidectomy:	
Internal or internal and external (in hospital)	125.00
External only	50.00
Fistula, resection of	75.00
Abdominal perineal resection	350.00

SKULL

Open operation within dura mater	325.00
Open operation not within dura mater	210.00

TENDONS, SUTURE OF

Single tendon	50.00
Each additional tendon (maximum of 250)	25.00

[1] Benefits are available only if applicant is the holder of a type 2 contract, and then only under the conditions and limitations prescribed in par. 2(b).

PART SO—SURGICAL OPERATIONS—Continued

TUMORS, CYSTS, ETC. REMOVAL OF

	Indemnity
Nonmalignant skin tumor or subcutaneous lipoma	$15.00
Pilonidal sinus or cyst	100.00
Saphenous vein, ligation with injection of involved tributary branches:	
Unilateral	100.00
Bilateral	150.00

RADIATION THERAPY

(When used in lieu of surgery for proved malignancies)

An allowance will be made as follows:	
X-ray, radium, or radioisotope treatment for skin cancer (not to exceed during any contract year)	50.00
Treatment for—	
Major malignant growths (such as cancer of breast, prostate, testes, bladder, uterus, cervix, or larynx) as follows:	
X-ray therapy: Allowance per treatment (Not to exceed $250 during any contract year.)	15.00
Radium therapy (not to exceed during any contract year)	100.00
Radium therapy in conjunction with X-ray therapy (maximum during any contract year):	
Radium	100.00
X-ray	150.00
Radio isotopes—Individual consideration.	

PART NSC—NONSURGICAL CARE BY PHYSICIAN

If an insured or insured dependent, while covered under part HR because of a sickness or injury that does not require surgical procedures or operations, requires the personal services of a licensed physician, American will pay the actual cost of such services at not to exceed the following rates per day:

1st day through 70th day	$5
Maximum per confinement	350

HOSPITAL, SURGICAL AND LIFE INSURANCE PLAN FOR PIKE COUNTY INDEPENDENT COAL OPERATORS ASSOCIATION, PIKEVILLE, KY.

Provided through American Central Life and Disability Insurance Co., Louisville, Ky.

OFFICERS

Robert H. Holcomb, president
Thomas B. Ratliff, vice president
Charles F. Trivette, vice president
P. K. Epling, treasurer
C. D. Roberts, secretary
Buddy Johnson, executive secretary

BOARD OF DIRECTORS

	Ramp director	Mine director
1. East Kentucky Collieries	Dan H. Walters	
2. C. O. Coleman Coal Co	C. O. Coleman	D. M. Stewart.
3. Charlotte Elkhorn	Brad Runyon	L. A. Runyon, Jr.
4. Dixie Mining Co	Robert Holcomb	William Justice.
5. Ramsey Elkhorn	Bill Ramsey	
6. Queen Coal Co	Albert Bartley	C. B. Robinson.
7. Robinson Creek Coal Co	Amos Newsome	Silas Tackett.
8. Famous Elkhorn	Jimmy Johnson	
9. Johnson Mining Co	do	T. T. Branham.
10. Ideal Elkhorn	do	B. F. Johnson.
11. Clark Coal Co	do	Leonard Hall.
12. Utilities Esco Coal Corp	Farris Johnson	Rush Thomas.
13. Fire King Coal Co	Herman Dotson	Carl C. Moore.
14. Charles F. Trivette Coal Co	Victor Sword	Lester Osborne.
15. New Virgie Coals, Inc	Charles F. Trivette.	C. E. Tackett.
16. Malvray Coal Co	Rubin Johnson	Albert Johnson.
17. Sutton By-Products Coal Corp	Virgil Justice	
18. Potter Mining Co	James W. Potter	
19. Blackburn Coal Co	Corbit Blackburn	
20. Elkhorn Fuel Corp	Paul B. Owens	Morgan Adkins.
21. Bernie Cox		
22. Ratliff Elkhorn Coal Co	T. B. Ratliff	Tommy Adkins.
23. Ratliff Coal Co	Elster Childers	Carmel Rowe.
24. Kentucky Clintwood	Spairel Bartley	Kermit Franch.
25. Henry Clay Coal Co	Gene Helton	
26. Cumberland Mountain Coal Co	(Fuller)	Mark Bailey.
27. Hellier Elkhorn Coal Corp	P. K. Epling	Maynard Webb.
28. Greenough Mining Corp	Ertel Whitt	T. L. Johnson.
29. Federal Mining Corp	P. K. Epling	Patricia Caudill.
30. Hawkins Bros. Coal Co	Clarence Hawkins	Henderson Hawkins.
31. Kentucky Elkhorn Coal Co		
32. Mountain States Coal Co		

To members and employees: I am pleased to present in this booklet your insurance plan which is made possible as a result of the combined buying power of the members of the Pike County Independent Coal Operators Association. This program has been established for the sole purpose of providing an added measure of security for you and your family, and to further contribute to your feeling of happiness, a part of which would be absent if you did not have the assurance that the high cost of health care can be met.

You will also find in this booklet an outline of your association's policies established with you in mind. These policies affect you and your dependents by providing provisions, which cannot be written into an insurance contract, but which the Pike County Independent Coal Operators Association guarantees to its members.

I am proud of this program and sincerely believe it to be the best available. We, as members, have an obligation to make it a continuously workable plan by using it wisely. May this be a big step in the right direction for the continued growth of our organization.

Sincerely,

ROBERT HOLCOMB, *President.*

SCHEDULE OF BENEFITS

HOSPITAL—EMPLOYEE AND ELIGIBLE DEPENDENTS

Room and board:	
Daily limit	$12
Aggregate (75 days per admission)	$900
(Miscellaneous limit paid in full for 75 days per admission)	
Surgical: Employee and eligible dependents, maximum, as per schedule	350
Physician's visits—in hospital:	
1st day	15
2d day	10
3d through 70th day	5
Aggregate	365
Life insurance (on employee only)	1,000

HOSPITAL

Room and board : Daily limit, $12.

Up to the daily limit is payable for each of hospital confinement occurring to either an insured member or any one of this eligible dependents.

Room and board: Term per admission, other than pregnancy, 75 days.

Up to daily limit is payable for a term not exceeding 75 days during any one period of confinement. Successive periods of confinement will be considered a continuance of the same confinement unless due to entirely unrelated causes or separated by a period of at least 3 months.

Room and board : Term per admission, pregnancy, 10 days.

Up to the daily limit is payable for a term not exceeding 10 days during confinement resulting from pregnancy. These benefits are provided for a female insured or a dependent spouse of a male insured who are covered under a family certificate.

MISCELLANEOUS HOSPITAL EXPENSES

(Charges made by the hospital for hospital expenses other than room and board.)

Payment in full is made to the insured for fees actually charged by the hospital, and at rates normally charged by the hospital for necessary services and supplies furnished during a period of hospital confinement. There is no dollar limit with regard to these services. However, the term of 75 days per period of confinement applies to these expenses the same as for room and board expenses.

SURGICAL

(See schedule in your certificate.)

The actual fee charged by a physician or surgeon for a surgical operation at the hospital, his office or elsewhere is payable up to the maximum, as shown in the schedule, payment for the operation. If two or more surgical procedures are performed through a single incision or natural body cavity, payment will be made only for the operation for which the greater benefit is provided. If two or more operations are performed through two or more incisions or natural body cavities, payment for the first procedure shall be made according to the amount specified for that procedure, and payment for the second and all subsequent procedures performed after the insured ceases active work and before he returns to work full-time, shall be payable at one-half the amount specified in the schedule of operations.

PREGNANCY

In addition to the benefits allowed under the hospital benefit, a payment is made to the attending physician for normal delivery in the amount of $150. Allowances are also made for miscarriages occurring at various stages. Please refer to the schedule of operations in your certificate.

MEDICAL RIDER

An allowance is made to the attending physician for calling on patients hospitalized for disabilities where no surgical procedure is performed. The allowance is payable beginning with the first daily visit in the amount of $15. The allowance for the second daily visit is $10. For the third and all subsequent daily visits, up to and including the 70th day, the allowance is $5. Please note that the medical rider is not payable in cases where a surgical procedure is performed.

ANESTHESIA

When administered by a licensed physician, other than the surgeon performing the operation, an allowance equal to 20 percent of the fee for the surgical procedure shown in the schedule of operations is made for the anesthetist's services. A minimum allowance of $15 is made in such cases where the allowance in the schedule would not develop this minimum fee when the 20 percent factor is used.

LIFE INSURANCE

Along with the hospital and surgical insurance, each insured member and employee will have $1,000 life insurance which is payable to the beneficiary so designated in the event of death from any cause. This protection is written with no

evidence of insurability required and in the event of discontinuance of employment, the insurance may be converted to an individual insurance plan in the same amount, also without evidence of insurability.

The life insurance provided through your association group plan is term insurance and has no cash value accumulation, its purpose being to provide pure protection on your life. You, however, are eligible for additional life insurance through the association, which does provide the features of cash accumulation and savings. You may contact the association office for more information regarding this additional insurance.

GENERAL INFORMATION

This booklet is intended to describe in general terms the essential features of your insurance plan. The terms and conditions are further detailed in the master contract issued to the Pike County Independent Coal Operators Association and in the certificate which you hold as an insured member issued by American Central Life & Disability Insurance Co.

Benefits not provided—hospital

Admission to the hospital for diagnostic studies, including physical checkup workmen's compensation cases, dental care, rest cures, alcoholism, pulmonary tuberculosis, blood, blood plasma or plasma substitutes, or treatment in any sanitarium or any State or Federal hospital.

Benefits not provided—surgical

Workmen's compensation cases, congenital anomalies, operations for beautifying purposes, operations for deafness, dental surgery, treatment in any sanitarium or State or Federal hospital, medical visits in home or office, X-rays in doctor's office or X-ray examinations, professional services for treatment of nervous or mental disorders, physiotherapy, eye refractions, bruises, strains, sprains, or contusions.

NOTE.—Both under the hospital and surgical benefits, services for preexisting conditions are not covered for the first 12 months nor for pregnancy benefits for the first 9 months, unless the association insurance plan replaces a like plan under which those conditions were covered.

How to file your claim

The hospitals and doctors in the Pike County area have been furnished with claim forms and are familiar with the benefits of our insurance program. At the time of entering the hospital, or at the time of consulting your physician regarding surgical procedures performed, present your identification card. You will be furnished a claim form which is to be completed in duplicate. The form has a space for assigning payment direct to the hospital or surgeon. At the time of your dismissal, the hospital will complete their portion of the claim form and send it direct to the office of the association.

In cases of emergency away from the Pike County area, when hospital confinement or surgery is needed, please feel free to have the hospital or surgeon wire collect to the association office for confirmation of your insurance being in effect and to receive details of benefits provided.

As a service to you, all claims will be processed through the office of your association.

The following information although not controlled under the terms of the group policy is published here for your convenience and shall be applicable to all insured members under the insurance program of the association.

(*1*) *Effective date of plan*

The revised benefits in this booklet become effective December 1, 1962.

(*2*) *Who may enroll*

The eligible classes are each employee and each employer conrtibutor to the Pike County Independent Coal Operators Association mine operators, ramp operators, and their employees.

If you have one or more dependents as defined herein you are eligible for the dependents benefits, when you become eligible for the employee benefits; if not, you become eligible for the dependents' benefits as of the date you acquire a dependent.

If husband and wife are both employees, both are eligible for the employee benefits, or they may enroll under our family plan.

(3) When you become insured

If you are included in the group now in effect or have become affiliated with the group before December 1, 1962, you will be insured as of December 1, 1962.

After December 1, 1962, all applications received before the 20th of each month will become effective as of the 1st day of the following month.

(4) Claims

When you have a claim, notify your association office or its representative immediately, and claim forms will be made available. Identification cards will be made available and will be honored by local hospitals for admittance to a hospital.

(5) When insurance terminates

Insurance will be terminated if the premium has not been paid by the 1st day of the month following the application or the 1st day of each month thereafter.

WORKMAN COMPENSATION

If an insured member is injured while working, his insurance will cover a period not to exceed 6 months from the date of his injury. When it appears from competent medical proof that he has not returned to work, although able, and refuses to do so, his insurance will be terminated.

TOTAL DISABILITY

An insured member who is off work due to total disability which is not covered under workman's compensation will be covered under this insurance for a period of not more than 6 months from the date of his last employment. The premiums will be paid by the association.

TEMPORARY TOTAL DISABILITY

An insured member who is unable to continue work because of temporary total disability shall continue to be covered for insurance benefits during his period of temporary total disability but not to exceed 6 months.

Temporary total disability shall be defined by evidence of competent medical proof which prohibits an insured member from holding a job. The premium will be paid by the association.

DEATH CASES

In the event of a death of an insured member, his family shall continue to have coverage for a period of 6 months from the date of his last employment. This shall only apply to those members who are currently covered by the insurance policies of this group. The premium will be paid by the assocition.

TRANSFERRING

An insured member who leaves his employment for the purpose of transferring from one job to another shall continue to be covered by insurance benefits only if he notifies the office of the association or its representative of his intentions to transfer prior to leaving his last employment. In no event for a period of longer than the first date of the month following his transfer, unless notification is given.

QUITTING

An insured member who voluntarily leaves employment or quits work must notify the association of his intentions to continue his insurance by the first day of the month following the time he leaves his employment.

FIRING CASES

An insured member who is fired from his job shall continue to be covered by insurance until the first day of the month following his severance or he may make arrangements with the association to make his own insurance payment.

INSURANCE COMMITTEE

Charles F. Trivette, Chairman
Thomas B. Ratliff
Paul B. Owens
Jimmy D. Johnson
Clarence Hawkins
Bill Ramsey
Robert Holcomb

Mr. HOLCOMB. Could I make a statement along that line?

Senator MORSE. Certainly.

Mr. HOLCOMB. I am from Pike County, Ky. We have approximately 750 of these small miners in our county. We have a local operator association and these mines are all members of it. Through that association we have worked out an insurance program, a life insurance program with a private insurance company, and the cost of the individual policies for complete hospital and medical coverage, plus $1,000 life insurance is $15.42 a month.

Now, this coverage is made available through our association to every operator and to every employee of that operator. And I want to say that we do have very definitely good participation.

Senator MORSE. I think there ought to be an addendum added, Mr. Holcomb, for the information of the Committee, showing us the benefits that the employees get under that insurance plan in comparison to the benefits that the employees of the big operators get under the United Mine Workers of America plan.

Mr. HOLCOMB. I will be glad to submit a copy of one of the policies to you.

(The memorandum referred to follows:)

PIKE COUNTY INDEPENDENT COAL OPERATORS ASSOCIATION,
Pikeville, Ky., June 23, 1965.

ARMISTEAD W. GILLIAM, Jr.,
Landis, Cohen & Singman,
Washington, D.C.

DEAR MR. GILLIAM: In reply to your request concerning coverage under our hospitalization program; enclosed is a copy of the policy provided to each beneficiary, also explanatory pamphlet of our association issued to each member and each employee. You will note that the daily room and board benefit is $12 per day.

Our insurance committee has met with the Methodist Hospital of Kentucky, which is located here in Pikeville, and we have an unofficial agreement with the board of directors of the hospital that the rate will cover all room and board charges in a semiprivate room. We have also met with the Pike County Medical Society and have an unofficial agreement with them that our medical and surgical schedule will cover all medical and surgical treatment given to our employees. We have made every effort to secure as many benefits as can be obtained within the limits of our ability to pay. Of 732 eligible member companies 679 are participating. We recommend that the cost of $15.48 per month for a family plan and $6 per month on the single plan be paid one-half by the employer and one-half by the employee, however, in any number of cases the entire cost is borne by the employer.

I have contacted the Letcher-Knott Truck Coal Association in Kentucky, the West Virginia Independent Coal Operators Association, the Tri-County Independent Coal Operators Association, the South-West Virginia Independent Coal Operators Association, and the Alabama Mining Institute to furnish figures on participation in their hospitalization plan as soon as possible. I might add that since we consider our hospitalization program as one of the most important functions to our members and their employees, I have been in con-

stant contact with these various associations and I feel that their participation is as good or better than ours.

If you have any further questions please feel free to contact us.

Sincerely,

ROBERT HOLCOMB, *President.*

Senator MORSE. Senator Fannin?

Senator FANNIN. No questions.

Mr. GILLIAM. Mr. Chairman, I have one other observation; during the course of these hearings, it was stated that the Kline Coal Co. in Tennessee did not have such a policy nor did it comply with the employment insurance requirements; nor did it pay social security.

We would like to introduce into the record the records of the Kline Coal Co., which will show that the allegations made on information and belief are false.

Senator MORSE. You may introduce that material into the record.

(The above material will be found on p. 205.)

Senator MORSE. Now, gentlemen, I want to meet at your pleasure. I would be very glad to continue at 2 this afternoon to hear Mr. Boggs, Mr. Hogg, and Mr. Richards. Would that meet with your favor to save you from staying over tomorrow? Unless I am stopped by some procedural objection in the Senate, we will recess until 2.

(Whereupon, at 12:30 p.m., the subcommittee recessed, to reconvene at 2 p.m., the same day.)

AFTERNOON SESSION

(The subcommittee reconvened at 2 p.m., Senator Wayne Morse (acting chairman of the subcommittee) presiding pro tempore.)

Prenent: Senators Morse and Randolph.

Senator MORSE. The hearing will come to order.

The first witness this afternoon will be an old friend of this committee, Edmond Boggs, Commissioner of the Virginia State Department of Labor and Industry.

Mr. Boggs, we are delighted to have you proceed.

STATEMENT OF EDMOND M. BOGGS, COMMISSIONER, VIRGINIA STATE DEPARTMENT OF LABOR AND INDUSTRY

Mr. BOGGS. Mr. Chairman, I want to express my sincere appreciation to you, sir, for giving us an opportunity to be heard on this date rather than the date that was previously scheduled, and on behalf of our Governor and our two Senators I appreciate it.

Senator MORSE. It is a pleasure to accommodate you.

Mr. BOGGS. This morning I believe that you said or asked Mr. Mullins a question or posed a question as to charges that may have been made about the State departments being politically dominated.

I want to make certain to you, sir, and to the U.S. Congress, that the Virginia Department of Labor and Industry is not politically dominated.

We have one political charge and that is to do a good job in the State of Virginia according to the laws. It is my responsibility as the commissioner of labor and industry to make appointments of all mine inspectors. The chief mine inspector of Virginia is appointed by the Governor. All of the mine inspectors are appointed in accord-

ance with law, which law provides that they must have served so much time in coal mining and well experienced in the field of coal mining, be certified for men in mines or superintendents, and also are required to take an examination for a mining inspector.

So, there is no question in my mind about the qualifications. As you know, as a politician yourself, and a great one at that, from the State of Oregon, that there are political pressures put on everybody at times, but we have never succumbed to any such pressures.

We respect ability first.

Now, Mr. Chairman, and gentlemen of the subcommittee, I am the commissioner of labor and industry for the State of Virginia. The division of mines is 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.

Mr. Chairman, I do not intend to get into the technicalities of coal mining because I am not a coal miner. I spent much time visiting with people but I would like to say something about the economic situation that we believe that unnecessary legislation would impose on our State.

We, in speaking of 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 business 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 of the facts indicating 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 title I truck mines 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 resources 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.

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 title I industries.

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 into this area. Other sections of the State are thriving on new industry; but new industries are highly reluctant to go into this section

I do not believe that the effect of this act should be lightly considered by the Senate. As the hearings which took place in the House this spring demonstrates on pages 50 through 59 where the reports of the Federal inspectors appear, the inspectors have taken the point of view that the use of fuse and caps shall be prohibited because such use constitutes imminent danger of a mine fire or explosion.

In the first place, I am convinced that the proper use of fuse and caps does not constitute an imminent danger of a mine fire or explosion, but rather, when used in operations where the coal is not undercut, this is a much safer way of operating than using electric detonators.

Secondly, if 50 percent of the small truck mines in Virginia are closed it will create chaos in our State. I am convinced that it would also create chaos in the neighboring States.

Mr. Chairman, when I refer to the use of electronic detonators and caps I am speaking on the confidence I have in the chief mining inspector, the assistant chief mine inspector and those people in large operations who have used them and have thoroughly convinced me that they are for the best interest.

We have been through this in the safety codes hearings regulating the use of blasting agents of all types in our State and I have become familiar only in that way. I have never used one.

In many areas these truck mines have created pockets of prosperity in the midst of poverty. This is a relatively new industry; it must rely upon small businessmen with limited resources as its principal force.

In many counties these small businessmen provide the main, and sometimes the sole source of major employment. Geologically, these counties are areas which are not suitable for farming and whatever timber values were once present have long since been utilized.

I, for one, do not understand the attitude which the Federal Government has exhibited toward these small operators in recent years. We in Virginia have found them to be most helpful and cooperative in our efforts to improve safety in mining.

If I may, sir, I would like to tell you that we over the last few years have instituted these safety programs. I have had the great privilege of visiting the southwestern part of Virginia, I have held several meetings with the coal operators, their foremen and their miners, and to discuss their responsibilities that they have to themselves and to the employees so that this industry would survive.

I talked to more than 735 of these people and the results have been phenominal, and they are interested in trying to do something about their own welfare.

Through their interest in our educational programs we have achieved what I am happy to say is an outstanding record. As they have been responsible in their safety procedures, they have also been responsible in providing a decent living wage for thousands of men and their families.

They have, in fact, created subsidiary industries which manufacture equipment for use in the small mines.

Yet the Federal Government is supporting a bill which would put some 50 percent of these mines in Virginia out of business. We also find that there is no help for the small truck mine industry in the Appalachian bill.

Although money was allocated for timber marketing cooperatives nothing was allocated for coal cooperatives despite the fact that coal is a far more important industry in the Appalachian region.

Congressman Jennings, of Virginia, introduced an amendment to the Appalachian bill which would have provided coal cooperatives the same funds as timber cooperatives; this amendment was never seriously considered by the Congress.

These small operators need an opportunity to perfect marketing arrangements whereby they can compete with the giants of the industry. They need encouragement from the Federal Government to continue to provide employment and use valuable resources, which otherwise would be going to waste.

I am sure, sir, that you understand in speaking about the giant industry, I am not here criticizing the large coal operators, we want them to survive, too; but the large coal operators could not possibly mine all this valuable coal that we have with the type of equipment they have to use and depend on the volume of coal that they have to produce; therefore, all this cloverleaf coal would go to waste if it was not for these small truck operators, and I mean it would be doomed, there would be no way they could mine it with this big equipment.

With the expanding nature of the coal industry due to the great increase in consumption of electrical energy, and the expanding overseas market for coal, there is great hope for this industry. Certainly it makes no sense to spend millions of dollars to rehabilitate Appalachia with one hand and with the other create a situation which will require additional millions to reconstruct.

At the present time these small operators are unable to sell coal to their own Federal Government. I am convinced that the determination by the prevailing wage for coal which has been established by the Secretary of Labor since 1956 is in error and that the Secretary should reconsider the entire matter.

A recent study made by my Department showed that the average wage in the title I mines was about $15.50 for nonunion mines and about $14.70 for union mines.

Yet these nonunion mines cannot sell to the TVA or to other Government agencies unless they pay what is the official UMW rate of $26.25 per man per day.

I do not understand why this matter has not been investigated, but certainly in Virginia the title I mines which have contracts with the UMW are not paying the official wage rate.

This is one of the investigations and surveys that we made; sir, in checking this out, because we could not quite understand how this could be.

We wanted to get the true picture.

I am not unaware that strong competition in the coal market may impel certain forces to act to the detriment of the title I industry. I do not believe that we should close our eyes to this possibility or that we should pass a law in the name of safety which will result in the economic destruction of a very important but fragile industry.

For these reasons I respectfully request that the committee decline to report out H.R. 3584. If the committee does determine to report the proposed legislation favorably, I respectfully request that the committee adopt the amendments which have been proposed here by the spokesmen for the title I industry.

These amendment are, I am convinced, crucial to the survival of this industry.

Mr. Chairman, if these amendments are adopted you will surely test the sincerity of those people who are interested in this bill.

I could not agree with you more. I do not think that the State could very well, in my opinion, require a Federal mine inspector to take an examination just State by State, but I would like to recommend to you, sir, and your committee, that consideration be given that an examination be prepared for the Federal Bureau of Mines consistent with the coal industry whereby we would have qualified people doing the job.

This is one thing that I think is very important—to have a man to do or know what he is doing, and how to do it, and the time to do it. We talked this morning, I believe, and I am certain of this about the Federal and State inspectors.

I might say to you, sir, that I find this not only in the coal-mining industry, the Federal Bureau of Mines and State departments, but I find it in about every other agency that I have to deal with, there is a real breakdown of communications as to whose fault it is—it is as much one's fault in some cases as it is in others. Somebody has to make the move, but there is one thing we can all do and that is to be honest in every way in whatever we do, and report the facts as they should be reported.

Now, we have not experienced that and I do not know why we have not. I know we have made attempts to do it, but it seems as though in all the meetings that I had in the southwestern part of Virginia for the purpose of trying to improve conditions to get the message over to the people, the miners themselves who work in the mine, that you have a responsibility, even then I was criticized in that area by certain groups of people who were not interested particularly in safety apparently.

But this was one way that I believe—and I do not believe you are going to pass any legislation that is going to say that a man is going

to be safe—we have to educate people, train people to do the thing like it ought to be done.

Then if you get people to cooperate with you on that basis you have a job well done, because whether it is Federal or State, or anyone else, you cannot be holding a man by the hand the whole time you are there.

I mean it just is not possible.

The other thing that you mentioned this morning that I would like to comment on, sir, was the fact that the State and Federal inspectors going together to make inspections. I believe that it would be good in some cases but in very few cases I believe, because then they are doing exactly what we do not want to do. It is a duplication of services and we are stealing away from those people who heed the services of one man when one man could do the job. I do not see any use of having two. That just is not good business.

But there are times that these people could pool their resources and their thinking and get together and just discuss their problems which I think would be most helpful in establishing this line of communication that we should have. Whatever you all consider here with this, I hope and I know you will see that safety is paramount, and that is our interest.

I thank you for letting me be with you.

Senator MORSE. Thank you very much, Mr. Boggs. That was very helpful. I have no questions.

The next witness will be Mr. William C. Richards, a businessman from Loyal, Ky.

Is Mr. Richards here?

Counsel, will you notify Mr. Richards that I will be very glad to have him file a statement for the record. Was he here this morning?

Mr. BRUFF. He was here this morning.

Senator MORSE. Does anybody know whether Mr. Richards is late or has he left?

Mr. GILLIAM. Mr. Chairman, I understand Mr. Richards did want to read his statement but that he was concerned about the time problem; he had a personal problem about leaving. There is a possibility he may have left.

I can assure you that he wants his statement filed on behalf of the Harlan County Department of Commerce.

Senator MORSE. Thank you very much, Mr. Gilliam. If he comes in later he can still file his statement.

Is Mr. Hogg here?

Mr. HOGG. Yes, sir.

Senator MORSE. Yes. We are glad to have you. Proceed in your own way.

Senator RANDOLPH. Before Mr. Hogg begins, I want to say that the present witness is well known to me. He is from West Virginia, he is a good citizen of our State and we have often talked about the pending matters. I am very glad that I am able to sit with the subcommittee while Mr. Hogg is giving his testimony.

Mr. HOGG. Thank you, Senator.

Senator MORSE. We will be glad to hear your statement.

STATEMENT OF WILLIAM B. HOGG, WEST VIRGINIA INDEPENDENT MINING ASSOCIATION, INC., WILLIAMSON, W. VA.

Mr. HOGG. Mr. Chairman and members of the committee, my name is William B. Hogg, I am a practicing attorney in the city of Williamson, W. Va., and I appear here in behalf of the West Virginia Independent Mining Association.

Our association has authority to speak for approximately 500 of the small miners in our State, and at the outset, Mr. Chairman, let me say that we are as much interested in the subject of mine safety as anyone who has appeared before this committee.

Let me make the further comment that I was impressed earlier in the day with the apparent desire of the chairman to pinpoint and bring out the actual issues in this proceeding and the real meat in this controversy.

I do not propose to devote much time to any particular facets of this question. It will be my purpose to present in a general way the views and the objections of our association, speaking for approximately 500 small operators.

I would like to discuss, first, the background of this proposed legislation. Several years ago the existing Federal act relating to coal mine safety was passed by the Congress after much study by the appropriate congressional committee. At that time it was deemed not necessary to include small mines having 14 or fewer employees, because the bill was designed primarily for the large mines.

Mr. Chairman, I am not going to go into any details of that statement. As time passed and industry conditions changed, the small mines became substantial competitors of the big mines. The big coal producers (few in number in comparison with the little producers) grew increasingly unhappy because of this competition.

And the union found it was growing more difficult to collect their 40-cents-per-ton welfare assessment from the little mines, many of them not being under union contracts. The small producers have always insisted that they cannot pay as much as 40 cents per ton and stay in business.

Mr. Chairman, let me parenthetically make this statement. In our county I am told by some of these small producers that they sell their coal for as little at $3.50 per ton, so that it is readily apparent that if they would have to pay 40 cents per ton as a union signatory, they could not stay in business.

This situation became quite a thorn in the side of the relatively few big operators and the United Mine Workers of America, and several efforts were made to amend the act in order to subject the little mines to Federal control and inspection.

In April of 1963 a disaster occurred in a large mine at Dola, W. Va., killed 22 miners, and President Kennedy asked Secretary Udall to search for some means of avoiding such disasters. Bear in mind that request was made following a big mine disaster, not one in the little mines.

And what was the result? Notwithstanding the good safety record of the small operators, a bill was again introduced (H.R. 9000) to put the little mines under Federal control. The bill contained nothing

new and was no answer whatever to the problem of preventing big mine disasters.

The Dola mine was subject to the present Federal law at the time, but the law did not prevent the disaster. It would appear that those eager to see Federal control of the small mines seized upon the public emotion following the Dola disaster, to again try to impose control. But H.R. 9000 failed to pass. So supposedly in the belief and confidence that the picture now looked "rosy," the pending bill, H.R. 3584, was introduced during the present session. Here is something to me that is rather important. The representatives of the Bureau of Mines admitted at the Senate committee hearing on June 14, 1965, that the present bill to subject small mines to Federal control came out of studies made as the result of the big Dola mine disaster, not as a result of any disaster in a small mine.

Here is something very significant about the Dola disaster. And, incidentally, as to the big Dola mine disaster, it is interesting to note a report in the press that the investigation by the Federal Bureau of Mines strongly pointed to pure carelessness as the cause of the Dola disaster.

Let me say here, Mr. Chairman, that if the committee would like it in the record, I have the original newspaper press account of the report from the Secretary of the Interior 2 years ago in which he reported that the Dola disaster probably came from poor carelessness, and if you would like that in the record I will be glad to insert it in the record.

Senator MORSE. We will put it in the record at the end of your testimony.

Senator RANDOLPH. Mr. Chairman, may I at this point say that the Dola disaster occurred in a mine which is located in what we call the central part of West Virginia, namely Harrison County.

There is so often associated with the mining industry in West Virginia that area we call southwest West Virginia that I think I should say that this is more or less the north central section of the State.

Mr. HOGG. That is correct, Senator.

The backers of this bill have shrewdly labeled it a "safety" measure. That is indeed a sham—if the existing law can't prevent accidents in the big mines, how can it prevent accidents in the small mines? Some accidents are bound to occur in both.

Accidents occur in the mining industry, as in all industries, and all the laws on the books can't eliminate the factors of human frailty and carelessness, in any industry, just as laws against careless driving do not prevent scores of fatal automobile accidents every day.

As was stated by the chairman of the subcommittee on June 14, 1965, there should be something in the nature of a "preponderance" in this controversy.

Let me say there parenthetically that when I make that statement, I think this, and this is what I mean by the statement: That unless there is sufficient evidence before this subcommittee and the committee to demonstrate that this bill with its accompanying expenses and redtape and more inspectors can promote safety in the small mines, then this bill should not pass.

Senator MORSE. The burden of proof is on the proponents of the bill.

Mr. HOGG. Exactly, Mr. Chairman. The proponents base their argument apparently on the sole ground of mine safety. Yet during all the hearings no witness has yet tried to explain how this bill could reduce accidents in the small mines. In fact, persons familiar with the statistics inform me that the accident record of small mines has improved tremendously in the last few years.

We have just received the monthly report of the West Virginia Department of Mines for May, and copies have been furnished, as I understand, to many persons including the members of the Senate committee. The report is certainly enlightening and persuasive The small mines in May had no fatalities, while the big mines had 18. Incidentally, I have that report with me.

Senator MORSE. Mr. Hogg, the chairman is going to make a copy of this report part of the record following your testimony.

Mr. HOGG. Thank you, sir.

Here is something else that is interesting. During the first 5 months of the current year of 1965, 91.3 percent of all fatalities occurred in the big mines, and only 8.7 percent in the little mines.

Compare this record with production: 8.7 against 30 percent of the coal produced, while the large mines produced 70 percent of the State's coal, but had 91.3 percent of the fatal accidents. It was stated by a union spokesman on June 14 that the title I mines produce 16 percent of the total tonnage, and even on that basis the record of our small mines is twice as good as that of the big mines.

And it should be remembered that the daily tonnage per man is much greater in the big mines. Now, Mr. Chairman, on that point and talking about the percentage of the production and the percentage of the fatalities, based on a man-hours worked or man-hours exposure basis, the record of the little mines is much, much greater, much better for the reason that the big mines, with their mechanical equipment and machinery produce much more coal per man than do the small mines. So that on a man-hours exposure, the safety record of the little mines is much better than even these figures in this statement.

The safety record of the small mines is far and away better than that of the big mines, either on a man-hour basis, or production basis. In fact, our record is not only good, it is comparatively excellent.

Incidentally, Mr. Chairman, on that point of whether you are going to measure safety on the basis of production or man-hours, I am reliably informed that back in the hearing about 1958 that the chief spokesman for the UMWA took the position then that the correct way to figure it was on a man-hour basis and not a production basis.

It is claimed that there should be no distinction between big mines and little mines as to the application of this law. We disagree with that premise. There is a controlling difference because the little mine has very few men, actual mining operations are confined to a small area and the entire process is subject to more direct control and supervision. And that could be the chief reason for the better safety record of the small mines.

Nor do we know how many accidents flow from plain carelessness. We have often heard the tearful stories about the widows and children. But there are widows and children in all industries. This is no time to be urging the passage of a bill on the basis of emotion.

We were particularly impressed with the details of the Kline mine accident, as recounted by the union representatives. But it seems that we do not hear so much about the accidents in the title II mines.

Several men were killed in the Kline mine, but not a day passes without loss of life in some industry. Are we being told that this bill would prevent accidents like that in the Kline mine? If so, why did the Dola accident occur?

The chief spokesman for the union says he never heard of an explosion that could not be prevented. In view of that statement, why is it that explosions occur in the big title II mines that are subject to Federal control and inspection?

The advocates of this bill to control the small mines piously throw up their hands when they are accused of trying to put the little mines out of business. And anyone not familiar with the situation might ask, and naturally so: "How could the UMWA control the little mines or put them out of business if they are under Federal control?"

Now, Mr. Chairman, I will try as flatly as I can to tell you why. The answer is simple: through UMWA control of the Federal mine inspectors. And that is one of the principal things in this case, that is what we are afraid of.

Of course, this has always been denied by the union. But the little mine operators thoroughly believe, and justifiably so, that the union does control the Federal Bureau of Mines. And if it be claimed that proof should be produced to indicate control of the Federal Bureau of Mines by the union, some items are available.

The promoters of this bill assert that the little mine operator is protected from arbitrary and unfounded actions of the Federal inspectors because the actions of the inspectors can be appealed to the Coal Mine Safety Board of Review, which the bill establishes.

Well, let's see how this would work. It is safe to estimate that there are at least 6,000 small mines in the coal States. And we have one board to hear all the complaints from these mines. How soon or when would any little fellow ever get his case heard before the Board, out of possibly several hundred pending cases? By the time the Board hears the case, the little mine has lost its present business, future customers, and its employees.

Senator MORSE. That is because they are shut down.

Mr. HOGG. Absolutely, Mr. Chairman, that is it exactly.

In this connection we recall the remarks of the chairman on June 14 regarding costly appeals in the meatpacking cases in the Department of Agriculture. They are apt here.

Frankly, we regard the Review Board machinery set up in this bill as a crumb held out to the little fellow. If all these small mines be subjected to the dictatorial control of these Federal inspectors, any mine could be closed down and put out of business at any time by any Federal inspector. Incidentally, we wonder how many of these Federal inspectors have been or now are members of this same union?

The spokesman from Pennsylvania declares, in substance, that political reasons impede proper State control, and that accident rates are higher when left to State control. That is not the case in our State.

The chief spokesman for the union claims that State inspectors are subject to political influences. That could be true in some instances,

but at the same time our little mining people firmly believe that, likewise, the union exerts tremendous influence over the Bureau of Mines.

The union spokesmen deny that they want to put the little mines out of business, pointing to the fact that 250 to 300 small mines are operating under union contracts, out of at least 6,000 small mines. But the point is that they miss the 40-cent-per-ton welfare levy from the other 5,700 mines. That is the whole hub of this controversy so far as the UMWA are concerned.

And now, let's consider the few big companies that want this bill. The big producers are already subject to Federal control, and the sole reason for their support of this bill has to be the competition from the little fellows. That is certainly a reasonable conclusion.

Senator MORSE. The Senator from West Virginia.

Senator RANDOLPH. I believe you were in the room this morning when the chairman questioned Mr. Holcomb in reference to the desirability of a statement by him in the record as to whether in his opinion the Bureau of Mines was within the control, let us say, of the United Mine Workers in reference to the safety factors.

The wording of his question I would not attempt to repeat, but that was the essence of what he requested. Now, I note that you in your statement have said that there is a control by the United Mine Workers of the Federal mine inspectors.

Now, later in your statement you use this language:

> The union exerts tremendous influence over the Bureau of Mines.

Mr. HOGG. Yes.

Sentaor RANDOLPH. Now, I do not want to be contentious.

Mr. HOGG. Oh, no.

Senator RANDOLPH. But you say that there is UMWA control of the Federal mine inspectors. You then soften or lessen that statement by the further statement where you asked the question: We wonder how many of these Federal inspectors have been or are now members of this same union.

But particularly you say:

> The union exerts tremendous influence over the Bureau of Mines.

Now, is there a conflict in your testimony or do you think this says it in several ways?

Mr. HOGG. What I mean to say plainly, Senator, is this: that our people are all firmly convinced that the union exerts control over the Federal Bureau of Mines. That is the belief that our people have. Now, I think they are justified in believing that.

Senator RANDOLPH. Mr. Chairman, I simply wanted to make certain there were no inconsistencies in what Mr. Hogg is saying. I do not mean to say that he has not said it, but when I find here the two versions of the way he said it, I thought that it was important to have him further clarify the position.

Mr. HOGG. Senator, let me call your attention to one piece of information that I received several years ago. I do not personally know that this is a fact, but throughout these hearings I find that contrary to the rules of law, you can say, I have been told or I understand, it has been reported and so forth.

But I was reliably informed, and I made a memorandum of this in my office, of a legislative hearing held in Frankfort, Ky., a few years ago at which two representatives of the Bureau of Mines were present and that on that occasion they belonged to the United Mine Workers of America.

I merely want to bring that in because we do not know how many of them belong to the union or how many do not belong to the union, but now that is one piece of information I wanted to give to the committee and that came to me, I think, from thoroughly reliable sources. That has been several years ago.

Senator MORSE. The Chair requests counsel to request of the head of the Bureau of Mines—from the Federal Bureau of Mines, the answer to the following question: How many members of the inspector staff of the Bureau of Mines once were members of the United Mine Workers of America and how many inspectors are presently members of the United Mine Workers of America?

The chairman draws no conclusions. I am only seeking an answer to these questions of facts. I do not know what investigation would show as to the past membership of State inspectors of various States vis-a-vis the United Workers of America or any other organization, but we have an operative fact in this case based upon the feeling on the part of representatives of the smaller mine operators that there is an allegation of union influence on the part of the union in relationship to the Federal Bureau of Mines.

What we are trying to do as a subcommittee is to get an answer to the controlling question of fact, namely, does a lack of inspection by the U.S. Bureau of Mines bear any cause to affect relationship to the percentage of accidents that occur in title I mines?

What these other factors bear upon the question as to whether or not we can get the necessary cooperation established between the Federal Government and the State governments because, in the opinion of this chairman, we have a multiple problem here.

I think we are all seeking to find what legislation, if any, is necessary to meet the problem of accidents in the mines. This is a fact I do not want to argue about. I want the Federal Bureau of Mines to give us the statistics, and then you may also in your letter say to the Federal Bureau of Mines that the chairman would be very glad to have the Bureau file a statement between now and Friday night at 5 o'clock, setting forth its rebuttal, if you will, concerning these allegations that witnesses have presented.

(The information requested by Senator Morse follows:)

COMMENTS BY THE BUREAU OF MINES ON CERTAIN STATEMENTS MADE BY WITNESSES DURING THE JUNE 21 HEARINGS ON COAL MINE SAFETY BILLS (H.R. 3584 AND S. 1032)

Statement by Senator Cooper (p. 84 of transcript): "The committee in 1958 directed the Bureau of Mines to conduct a study of safety in title I mines, but the bill was not passed by the Senate because of Bureau of Mines opposition to such study."

Comment: The Bureau of Mines was not in favor of the recommended study because the Bureau had been inspecting title I mines since 1941 under Public Law 49, 77th Congress, and had amassed a great deal of information and statistics thereon. The Bureau felt that to conduct a special study would serve no useful purpose because the results would add nothing to the fund of information

compiled over many years of inspecting and conducting investigations in such mines.

Statement by Senator Cooper (p. 89 of transcript): "The Bureau of Mines contends that the provisions of section 209 (Federal Coal Mine Safety Act), every one of them, must be made applicable in every respect to title I mines."

Comment: The Bureau of Mines could not apply every one of the 37 mine safety provisions of title II to either title I or title II mines, unless all the conditions or practices covered in the 37 mine safety provisions were found in the mine under inspection, and this would be a very rare occurrence. For example, (1) the provisions in section 209 that apply to gassy mines could not and would not be applied to nongassy mines; (2) the rock-dusting provisions in section 209 apply only to dry mines and therefore could not and would not be applied to wet mines; and (3) the provisions in section 209 that apply to hoisting in shaft mines could not and would not be applied to drift mines.

Only those mine safety provisions in section 209 that pertain to a condition or practice found in a mine could be applied. A study of title I underground mines inspected during 1964 was conducted by the Bureau of Mines to determine the number of violations of the mine safety provisions in section 209 that were observed during regular Federal inspections of such mines. The study revealed that an average of only 2.85 violations of the mine safety provisions in section 209 were found, and this seems to prove that all the 37 mine safety provisions of section 209 do not apply to all title I mines.

Statement by Robert Holcomb (p. 123 of transcript): "It is the Bureau's practice to ask a mine operator whether he is a union or nonunion operator. This information is not required under the Federal Coal Mine Safety Act to be divulged to any Federal mine inspector nor is it relevant to safety considerations."

Comment. Federal inspectors are required by the Bureau of Mines to determine whether a mine is operated under the national bituminous coal wage agreement between the coal mine operators and United Mine Workers of America. This information is used by the inspector to determine whether the following statement, which is recorded in the introduction of final reports on inspections of United Mine Workers of America affiliated mines, is applicable:

"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."

The Bureau of Mines uses this additional means of trying to obtain compliance with its recommendations and thus improve safety in the mines. Federal inspectors have no other reason or motive for determining whether a mine is union or nonunion.

Statement by Robert Holcomb (p. 124 of transcript): "We have been told that only the act is applicable to title I operators, not the code. If the code is not applicable, then why does it assume such importance that it becomes part of an official Government inspection report?"

Comment. The first Federal Mine Safety Code for Bituminous Coal and Lignite Mines of the United States was issued July 24, 1946, during the period when the major portion of the Nation's soft coal mines were operated by the Federal Government under Executive Order 9728 dated May 21, 1946 (11 F.R. 5593). This code was made a part of the contract (known as the King-Lewis agreement) between the Federal Government and the UMWA, and has been included in all subsequent contracts between the coal mine operators signatory thereto and the UMWA.

The 1946 code for soft coal mines was revised and issued by the Secretary of the Interior on October 8, 1953. The introduction to the 1953 code for bituminous coal and lignite mines states that it "is promulgated for the guidance of Federal coal mine inspectors in the inspection of such coal mines." The 1953 bituminous code has been used and is now being used as a guide by Federal coal mine inspectors in inspecting the Nation's bituminous coal and lignite mines. A separate code for inspecting anthracite mines was issued October 14, 1953, by the Secretary of the Interior.

The 37 mine safety provisions in section 209 of the Federal Coal Mine Safety Act are included in the code, and they are the only provisions that are enforcible under title II of the Federal Coal Mine Safety Act, and then only in title II mines. The remaining 376 provisions in the Federal Mine Safety Code are not enforcible under title I or title II, and would not be enforcible in any coal mine, large or small, under H.R. 3584.

Authority for the Secretary of the Interior to issue and use the code is found in section 106(b) of title I, Federal Coal Mine Safety Act, which provides as follows:

"The Secretary of the Interior, acting through the United States Bureau of Mines, is hereby authorized and directed—

"(b) To compile, analyze, and publish, either in summary or detailed form, the information obtained by him under this Act, together with such findings concerning the causes of unhealthy or unsafe conditions, accidents, or occupational diseases in coal mines, and *such recommendations* for the prevention or amelioration of unhealthy or unsafe conditions, accidents, or occupational diseases in coal mines as he may deem proper."

The italic was supplied to emphasize that the provisions in the codes issued and published by the Secretary of the Interior are his recommendations for the prevention or amelioration of unhealthy or unsafe conditions, accidents, or occupational diseases in coal mines.

Statement by Robert Holcomb (p. 126 of transcript): "The Federal Coal Mine Safety Code is designed for the conditions which are met in title II mines, i.e., mines that are slope, shaft, or gassy mines."

Comment: In 1964, 75 percent of the title II coal mines inspected by the Bureau of Mines were drift mines. We think Mr. Molcomb was referring to the Federal Coal Mine Safety Act and not code in his statement. The fact that 75 percent of the title II mines active in 1964 were drift mines seems to disprove Mr. Holcomb's claim. Furthermore, section 201(a)(7) of title II of the Federal Coal Mine Safety Act exempts only strip mines under the definition of a mine.

Statement by Robert Holcomb (p. 127 of transcript): "In many instances after a mine has been examined by a Federal mine inspector, the State inspector will receive a telegram from the United Mine Workers director of safety, Mr. Charles Ferguson, that the Federal inspector has found the mine to be unsafe. This communication is often received before either the mine operator or State authorities are notified by the Bureau. I wish to emphasize that this happens with respect to nonunion mines. There is absolutely no authority under the Federal Coal Mine Safety Act whereby the Bureau of Mines is authorized to give inspection information concerning individual mines to the United Mine Workers."

Comment: Bureau of Mines Health and Safety field offices mail all copies of inspection reports to interested parties at the same time. Copies of reports on inspections of mines are mailed to the UMWA Washington office, and no doubt the information therein is used as a basis for the safety communications directed to the State authorities by the UMWA.

We cannot account for the alleged delay in delivery of inspection reports to the coal mine operators and State mining agencies. As stated heretofore, all copies of reports on a Federal inspection of a mine are mailed at the same time.

Bureau of Mines authority to send coal mine inspection reports to the UMWA and to other interested parties is found in section 106(c) of title I of the Federal Coal Mine Safety Act, which authorizes the Secretary of the Interior, "to prepare and disseminate reports, studies, statistics, and other educational materials pertaining to the protection or advancement of health or safety in coal mines * * *." In addition, section 106(f) authorizes and directs the Secretary of the Interior to "make available for public inspection, either in summary or detailed form, the information obtained under the Act * * *."

Statement by Robert Holcomb (p. 139 of transcript): "The Bureau have in their answer to Senator's request for information, stated that they cooperated with the State agencies and so forth."

Comment: The Bureau of Mines is most willing and most anxious to cooperate with all State mining agencies in the promotion of coal mine safety. In some instances there is resistance to our overtures, but we are pleased to report that we enjoy excellent relations with the inspection authorities in most States.

Statement by Foster Mullins (p. 156 of transcript): "The act requires that preshift examinations be conducted prior to entry into a mine. The amendment should require preshift examination in title I mines only after the Bureau of Mines has conducted training courses and instructed mine personnel in the title I mines to use the flame safety lamp * * *."

Comment: The Bureau of Mines is equipped and prepared to conduct such training. We agree that only qualified and competent persons should be assigned to conduct preshift examinations for gas and other hazards.

Statement by Foster Mullins (p. 156 of transcript): "I do not believe that a preshift examination is necessary in nongassy mines * * *."

Comment: Ignitions of gas have occurred in the following Virginia title I nongassy mines since 1960:

Mine	Company	Date
No. 7	Dorothy Mae Coal Co	Aug. 16, 1960
Lynn Camp No. 1	Peerless Goodman Coal Co	Aug. 3, 1961
No. 5	Bridge Coal Co	Nov. 21, 1962
No. 9A	Roberts Coal Co	Oct. 14, 1964

It is significant that preshift examinations for gas were not made in these mines prior to the ignitions. The ignition on November 21, 1962, occurred at 6 a.m., when methane was ignited by a match that the foreman used to light his flame safety lamp while at the face of a working place. Four men were burned.

We feel that such incidents provide definite proof that preshift examinations for gas in nongassy mines are vitally important.

Statements by William B. Hogg:

1. (p. 231 of transcript): "Our people are firmly convinced that the union exerts control over the Federal Bureau of Mines."

2. (p. 234 of transcript): "I have in my file here a clipping from the Washington Post of June 29, 1963, in which they quote a former official of the Bureau of Mines, who had just retired. This retiring official is E. W. Pehrson."

Comment: These same accusations were made during hearings before the General Subcommittee on Labor, Committee on Education and Labor, House of Representatives in 1963. The Bureau's comments at that time are applicable today, and we quote our 1963 response:

"Request No. 2 (p. 454 of transcript of testimony): 'And that we now, in Mr. Weaver's presence, ask him to give us a report at the earliest possible time as to the correctness of the charge, and any explanation which he may or may not have with respect thereto.' Witness Holcomb had stated that 'When a high-placed official of the Bureau of Mines resigns because the Bureau has become, in his opinion, dominated by the United Mine Workers, then it seems to me that Congress might better consider whether legislative oversight of the activities of the Bureau might not be more appropriate than vastly increasing the power of the Bureau to serve the interests of those who have diverted its energies away from its duties.'

"Comment: Witness Holcomb refers here to a statement made by Elmer W. Pehrson who, prior to the time of his voluntary retirement from the Bureau of Mines in June 1963, was Chief, Division of Foreign Activities.

"Mr. Pehrson's accusatory statement was distributed by him to associates in the Bureau and parts thereof were published in several newspapers. It was not officially addressed to the Bureau of Mines.

"The Bureau of Mines took no action to refute the charges because they were false and did not merit recognition.

"For many years the Bureau of Mines has worked closely with management and labor of the coal mining industry in its role of accident prevention and is duly proud of its recognized accomplishment of bringing the two segments of the industry closer together to the extent that, generally, they are trying to solve their mutual health and safety problems in unison, trust, and harmony.

"Bureau of Mines officials have long realized that the battle against mine accidents can be won only by the full cooperation of all interested parties, and have worked diligently and objectively toward that end.

"The close collaboration between Bureau of Mines personnel and officials and rank-and-file members of the United Mine Workers of America undoubtedly has been construed by some antiunion and uninformed persons as collusion and connivance.

"At no time during his employment in the Bureau of Mines was Mr. Pehrson assigned to the Bureau's health and safety activities."

Statement by Robert Holcomb (p. 134 of transcript): "Now if you will refer to the last page of my statement, it will give statistics correlated—statistics that have been gathered and compiled from the States that do keep their records in that way."

Comment: The data referred to indicate the fatalities per million man-hours of exposure in title I and in title II mines for the States of Virginia, Kentucky, West Virginia, Alabama, Tennessee, and Ohio. A footnote states that, "Title I underground man-hours are based on 8 tons per man per day" and "Title II man-hours are based on 20 tons per man-day."

Inasmuch as the States of Kentucky, Alabama, and Tennessee do not require the reporting of man-hours worked in coal mines, we can understand the reason for the above-quoted footnotes. It is evident that the fatality rates recorded by Mr. Holcomb are based on calculated man-hours in turn based on an arbitrary production figure and not on actual man-hours, and therefore accuracy of the rates is subject to question.

Enclosed is a copy of the 1963 Annual Report of the Kentucky Department of Mines and Minerals. We have reviewed this report carefully and can find no record of man-hours or of injury rates based on man-hours. We deduce that the State of Kentucky does not publish coal-mine injury rates based on man-hours of exposure, and therefore there is no way of comparing the injury rates published by the Bureau of Mines with Kentucky rates.

SUPPLEMENTAL STATEMENT OF W. A. BOYLE, PRESIDENT, UNITED MINE WORKERS OF AMERICA

Senator Cooper in his testimony opposing H.R. 3584 states at page 86 of the record that if the bill passed by the Senate on April 27, 1960, had not been opposed by the Bureau of Mine Safety it would have passed in the House and we would have better safety conditions since 1960.

In all fairness, the U.S. Bureau of Mines did testify on behalf of the bill in the House, but the proponents were unable to get the bill through the Rules Committee until 1965. In 1961 we attempted to get the bill to pass by unanimous consent but there was objection to the request. In 1963–64 we attempted to get the bill passed by a suspension of the rule, but failed by only 33 votes to produce the two-thirds majority vote required.

The opponents contended that the big coal operators and the United Mine Workers of America instead of seeking mine safety are conspiring to drive the title I mines out of business. Yet on page 194 of the record Mr. Gilliam states that 75 percent of the available coal lands are under lease to the large coal companies. And it is to be assumed that the large coal companies own outright some additional coal lands. Therefore, the title I mine operator must lease substantial tonnage from the large coal companies. In addition, Mr. Gilliam states that one-third of the total tonnage produced by title I mines is sold to the title II operator as supplemenal coal sales. Obviously, if the large coal operator wanted to drive the title I mines out of business, all he would have to do would be to refuse to lease his lands to title I mines or refuse to purchase one-third of the total tonnage of title I mines.

The record is replete with accusations from all of the opponents of the bill that the Federal Bureau of Mines does not compile or publish accurate statistics on the accident rate, number of men working or hours of exposure in title I mines. Yet on page 121 Mr. Holcomb, who was speaking for the title I mines operators, stated: "Because of the deep distrust which the small mine operators have for the Bureau, the information sought by the questionnaire often is not supplied, with the result that the Bureau figures do not reflect the number of men working or the number of mines in operation." It is obvious that the Bureau may have difficulty getting the correct information if the small mine operators deliberately refuse to supply correct information.

In the event any UMWA witnesses left the impression that State mine inspectors were political appointees, it was not the intention of the UMWA. It is, however, our contention that the heads of State department of mines are political appointees.

Mr. Boggs, of Virginia, states on pages 207 and 208: "It is my responsibility as the commissioner of labor and industry to make appointments of all mine inspectors. The chief mine inspector of Virginia is appointed by the Governor. All of the mine inspectors are appointed in accordance with law * * *."

Most States like Virginia require mine inspectors to have practical mining experience, be certified as fire bosses, mine foremen or assistant mine foremen and pass an examination. But the heads of the State mining departments, who have the responsibility for the affairs of the department, who must enforce

and administer the mining law and the inspectors' findings, need not be practical mining men and need not have knowledge of mining or mine safety practices.

Mr. Gilliam states on page 187: "Thus, if the title I mines do not pay the United Mine Workers' wage scale, which is $26.25 per man per day and 40 cents per ton into the United Mine Workers welfare fund, they are prohibited from selling coal to the vast TVA market."

First of all, the wage determination which the Department of Labor made for the coal industry under the Walsh-Healey Act found the prevailing minimum wage rates range from $1.40 to $2.846 per hour and there was no provision regarding the payment of 40 cents royalty. Furthermore, the TVA has consistently ignored the Walsh-Healey wage determination by purchasing coal in amounts less than $10,000.

All the opponents of this bill insist at great length that passage of this bill would further desolate the depressed Appalachian area because it would put 50 percent of the small mines out of business. They don't categorically state these mines would go out of business because they had to abide by the law and make their mines safe for the employees who work in them, which is the issue before the committee. Instead, they state they cannot meet the UMWA's contract wages scale and they cannot pay the 40-cent royalty to the welfare fund. This is not an issue under consideration by the committee and I fail to see any relevancy.

Mr. Hogg, attorney for the West Virginia Independent Mining Association, states on page 222: "In our county I am told by some of these small producers that they sell their coal for as little as $3.50 per ton, so that it is readily apparent that if they would have to pay 40 cents per ton as a union signatory they could not stay in business." This has absolutely no bearing on the issue before the committee. We are not asking the Senate to compel all coal operators to sign a contract with the United Mine Workers. We are instead seeking the passage of legislation which will make all mines safe.

Surely Mr. Hogg does not wish to convey to the Senate committee a callous disregard for death as he appears to do on page 227 of the record where he says: "Nor do we know how many accidents flow from plain carelessness. We have often heard the tearful stories about the widows and children. But there are widows and children in all industries. This is no time to be urging the passage of a bill on the basis of emotion."

The fact there are widows and children in industries other than the coal mining industry does not alter the need for reducing the suffering in the coal industry. We hope by orderly processes to reduce their number and cannot merely accept their existence as a way of life.

We shall not dignify the ridiculous and baseless charge that the United Mine Workers of America influences or dominates the Federal Bureau of Mines. However, I would like to reply to Mr. Hogg's inquiry concerning how many Federal inspectors are or were members of the United Mine Workers of America.

Since both Federal and State inspectors require a background of training in mining and since at one time virtually all of the coal industry was under contract with the UMWA, it is safe to assume that many of the State and Federal inspectors were at one time members of the union.

However, mine inspectors are also required to have been certified as mine foremen, assistant mine foremen, or superintendents. Upon being certified in such a capacity a man becomes a part of management and because of the restrictive Federal laws it is also safe to assume that very few such supervisors have retained their membership in the United Mine Workers of America.

Senator MORSE. Now, Mr. Hogg has been very fair and open in regard to this matter. It is his obligation as counsel representing his clients to call the attention of this committee to the fact that this is one of their fears. He has done so.

I want to find out what the Bureau has to say about it.

You may proceed, Mr. Hogg.

Mr. HOGG. Mr. Chairman, we do not want to be in the position of coming in here and crying wolf and saying we are scared about something without something to back it up.

I have in my file here a clipping from the Washington Post of June 29, 1963, in which they quote a former official of the Bureau of Mines,

who had just retired. Would you care for me to read this to you, Senator?

Senator MORSE. We would be glad to have you read it.

Mr. HOGG. This retiring official is Mr. E. W. Pehrson, 67, retired from his post as Director of the Bureau of Foreign Activities. This clipping from the Washington Post undertakes to quote the language of the former official.

Here is how it reads, Mr. Chairman:

> Others and I have resented the immersion of the Bureau of Mines—

this is the actual language—

> into the cesspool of United Mine Workers' Union politics. Since then Bureau leadership has been weak and Bureau action on vital policy matters has been cowardly.

That is the quoted language of the retired official of the Bureau. If the committee would like me to file an exact copy of this——

Senator MORSE. The entire article will be inserted at the end of Mr. Hogg's testimony.

Mr. HOGG. I will try to speed this up, Mr. Chairman.

There are more than 1,300 small mines in West Virginia designated as title I mines, that would be affected by this pending bill. They employ 12,400 miners and 2,200 truckdrivers, and thousands of persons in supply and other related services.

Mr. Chairman, these statistics are furnished me by someone in our organization. In 3 counties alone in West Virginia, Raleigh, Wyoming, and Fayette, there are 292 small mine operations, that employ 1,919 men and provide a living for more than 11,000 persons.

Here a few statistics which will demonstrate the vital importance of the small mines in our State: These statistics are for the year 1963. The 1964 figures are not available at this time—may I say that these are conservative figures:

People employed (deep mines only)	12,000
Production—tons of coal	8,001,181
Value of wages	$33,976,000
Number of trucks used	2,200
Average gas used per day (gallons)	22
Value of mine supplies used	$4,000,000
Employment (indirect)	4,000
People provided with a livelihood from the small mines (5 to a family)	60,000
People provided with a livelihood from the small mines (indirect)	20,000
Total	80,000

If the small mines go out of business, we must not mistakenly assume that the employees will all get jobs with the big companies. That would not happen, because the per-man production of the big companies is much greater than that of the little companies, even as much as 10 times greater in some instances.

To be specific, the 8 million tons mined by the little producers, with 12,000 employees, would be mined by the few big companies with about 1,000 to 1,800 employees. But what is going to happen to the other 10,000 or 11,000 idle workers?

The small operators themselves are not the only ones afraid of this bill. An outstanding paper, the Louisville Courier-Journal, in its issue of June 6, 1965, editorially opposed it.

Our local business people are aware of the danger in this bill. They depend on the small mine payrolls. Reliable production figures show that in March 1965, in the West Virginia area of the Thacker district, a coal mining area, 1,270,000 tons of coal were mined and shipped. Of the total, more than two-thirds were mined by the small mines.

Our chamber of commerce and service clubs have gone on record against it. What is the small mine operator and employee going to do? Go on relief? Will he be able to find another job? Will he have to leave the State? What will happen to the hundreds of small business firms in all the coal counties?

The coal fields are already designated as depressed areas. We are in the heart of the Appalachian and poverty programs. But heaven help us if this bill becomes law.

There is another class of people who would be adversely and seriously affected by the downfall of the small mines, and I welcome the opportunity to speak in their behalf.

In the southern West Virginia coalfields, there are several thousand owners of relatively small tracts of coal land. These small tracts of coal are not now being mined by the large producers, either because they are not located close enough to the large company operations or because the tracts are too small.

The big companies are not interested in small acreages, and the coal from many of these small tracts of land is today being mined by the small producers. When, and if, the small producers are eliminated from the picture, the small landowners lose not only the royalty value of the unmined coal—the State also loses tax revenues on its production, and the local communities lose the benefit of the local payrolls.

A recent check of the public records in Mingo County alone indicates that there are more than 500 separate owners of small tracts of coal land, less than 100 acres each, but aggregating several thousands of acres. Who is going to mine this coal if it is not mined by the small producers?

And this situation prevails not only in Mingo County, but in all the coal counties in the State. Parenthetically, there are several thousands of individuals and small companies who own thousands of these small tracts of coal land, scattered throughout the entire coalfield. And that coal cannot be mined unless it is mined by the little mine operators.

We think it safe to say that in only 5 of the southern coal counties, there are at least 3,000 of these small coal landowners who would have much to lose.

SUMMARY

1. We think that the use of the term "safety" in this case is pure propaganda that has mislead many people not familiar with the facts and the workings of the coal industry;

2. The existing law was specifically designed for the big mines, the little mines being excluded;

3. The small mines already have a far better safety record than the big mines;

4. All mines are, and have been for years, subject to regular and effective inspection by the State mining authorities. Why duplicate it?

5. We are not aware that a single State mining department has asked for this Federal control;

6. In all congressional hearings on this bill, as far as we know, not a single State mining department has ever said that it will promote safety in the small mines;

7. So far as we know, even the Federal Bureau of Mines has never said that this bill will prevent accidents in the small mines;

8. The little coal people justifiably believe that the United Mine Workers of America have great influence over the Federal Bureau of Mines and through the Federal inspectors could exert almost life and death control of the small mines;

9. The actual backers of the measure consist of a few big coal-operating companies and the United Mine Workers Union, and we are convinced that their joint purpose is to drive the little fellows out of business;

10. If this bill be passed and enforced, it will most surely bring about (1) the closing of many small mines, (2) force their business over to and promote monopoly for the big companies, and (3) compel thousands of honest workers to accept public charity and relief sustenance; and

11. Lastly (I make this statement advisedly), if it were not for industry competition and the 40 cents per ton welfare levy, the few big operators and the union would not be demanding passage of this bill.

(Documents referred to follow:)

SAFETY BULLETIN

State of West Virginia Department of Mines, Charleston, Wilbur F. Eigenbrod, director, Elmer C. Workman, deputy director

RECORD FOR THE MONTH OF MAY 1965

Recapitulation

	May 1965	May 1964
Northern Division	9	1
New River and Winding Gulf Division	1	0
Logan Division	1	0
Kanawha Division	4	0
Pocahontas Division	3	0
Totals	18	1

NOTE.—Increase in fatal injuries, May 1965 over May 1964, 17 or 1700 percent.

	Number	Percent
Roof falls	11	61.1
Haulage	1	5.6
Machinery	1	5.6
Explosion	4	22.2
Electricity	1	5.5
Total	18	100

Roof falls:	
Injuries due to roof falls, May 1965	59
Injuries due to roof falls, May 1964	65
Decrease in injuries due to roof falls, May 1965 over May 1964 (8.2 percent)	6
Fatal injuries due to roof falls, May 1965	11
Fatal injuries due to roof falls, May 1964	1
Increase in injuries due to roof falls, May 1965 over May 1964 (1,000 percent)	10
	Percent of fatals
May 1965:	
18 fatal injuries in mines with 15 men or more employed	100
0 fatal injuries in mines with 14 men or less employed	0
Total (18)	100
Year to date, 1965:	
42 fatal injuries in mines with 15 men or more employed	91.3
4 fatal injuries in mines with 14 men or less employed	8.7
Total (46)	100

NOTE.—Plus 2 surface mining, total 48.

APRIL 30, 1965: LLEWELLYN RUN, MARION COUNTY—R. F. JOHNSON CO.

SHAFT

Glen L. Curfman, Donald E. Mickel, Chester Hildreth, and Robert F. Digman, were killed instantly on Friday, April 30, 1965, at 6:45 p.m., when an explosion occurred in an air shaft being sunk on Llewellyn Run, about 5 miles west of Mannington by the R. G. Johnson Co., of 25 South College Street, Washington, Pa.

Two others in the shaft escaped, one with minor head and hand injuries.

Glenn L. Curfman, age 35, had 11 years of experience in shaft, 8 months as a shift boss at his last occupation with the R. G. Johnson Co. He is survived by his widow and four children.

Donald E. Mickel, age 33, worked 8 months as a driller at his last occupation with the R. G. Johnson Co. He was divorced, and had one child under 18 years of age.

Chester Hildreth, age 30, worked 8 months as a driller at his last occupation with the R. G. Johnson Co. He is survived by his widow and three children under 18 years of age.

Robert F. Digman, age 31, worked 8 months as a driller at his last occupation with the R. G Johnson Co. He was single and had no dependents.

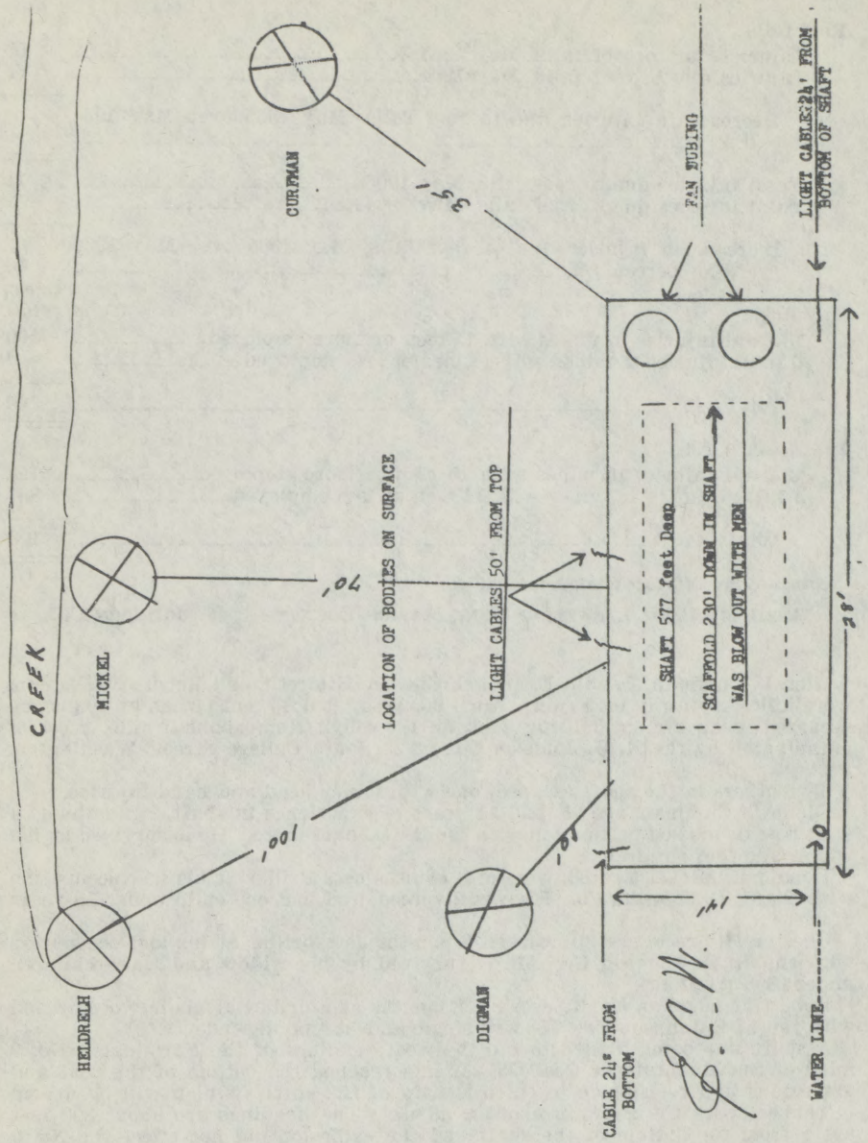
A shaft was being drilled to tap the west headings of the Farmington No. 9 mine of the Mountaineer Coal Co. It had reached the bottom of the coal and extensions had been made to catch the lip of the entries which will be driven to connect with the shaft in about a month. The headings are about 800 feet away from the bottom of the shaft and the explosion did not affect the No. 9 works.

Harold Swartz, who was working with Robert Patterson, was working in a water ring at the 280-foot level of the 577-foot deep shaft. According to Patterson, the four men who were killed were working on a 12- by 14-foot scaffold which was extended 230 feet down into the shaft by a derrick. The men were painting steel inserts in its concrete walls. They were about 50 feet above the small door which permits entrance to the water ring, a tank-like structure around the outside of the shaft used to collect drainage water for pumping to the surface. Patterson said he heard the roar and from his familiarity with shaft operations, realized what happened. A bucket was hanging in the shaft attached to a derrick on the surface and Patterson and Swartz managed to get into it. They were hauled to the surface by Duane Hill, one of the hoisting engineers.

The bodies of the victims, all killed outright, were thrown free of the shaft.

Conclusion

Ignition of methane.

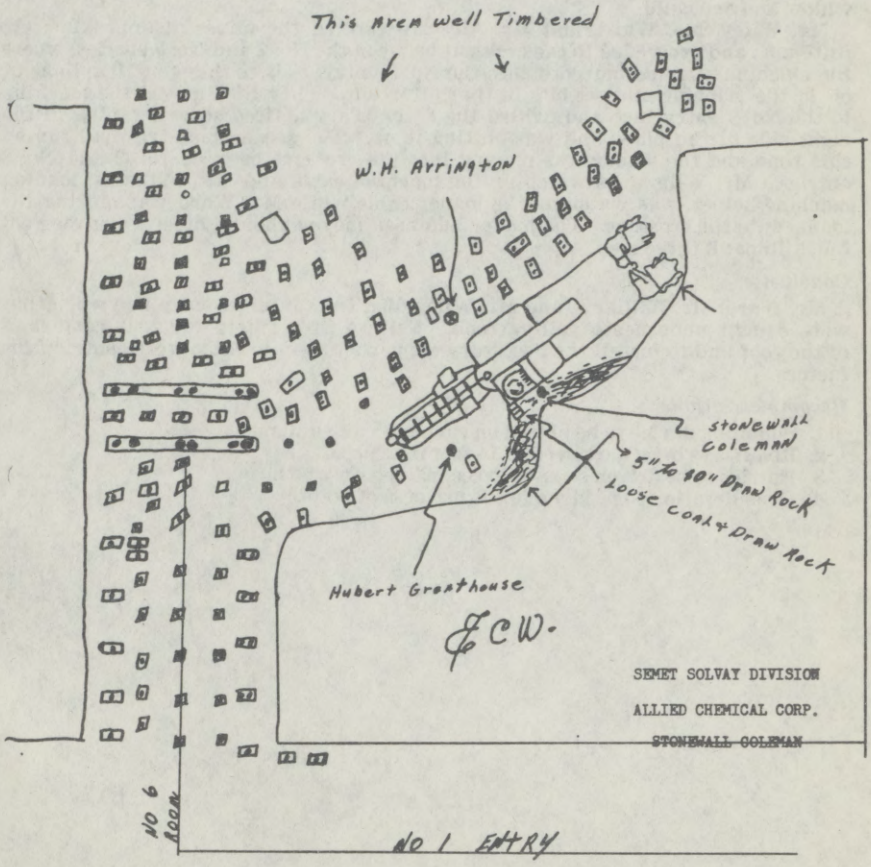

CURFMAN
35'
FAN TUBING
LIGHT CABLE 24' FROM BOTTOM OF SHAFT
CREEK
MICKEL
70'
LOCATION OF BODIES ON SURFACE
LIGHT CABLES 50' FROM TOP
SHAFT 577 feet Deep
SCAFFOLD 230' DOWN IN SHAFT
WAS BLOW OUT WITH MEN
28'
100'
10'
14'
HELDRELH
DIGMAN
LIGHT CABLE 24" FROM BOTTOM
WATER LINE

MAY 2, 1965: HAREWOOD MINE, FAYETTE COUNTY—SEMET SOLVAY DIVISION, ALLIED CHEMICAL CORP.

RAIL MINE

Stonewall Coleman, continuous miner operator, was seriously injured by a rib fall at 7:45 a.m., May 1, 1965, and expired at 8:30 p.m., May 2, 1965. The West Virginia Department of Mines was immediately notified and an investigation was made May 3, 1965. Mr. Coleman was 51 years of age and had approximately 26 years' mining experience, 9 years of this time as a continuous miner operator. He is survived by his widow and two dependent children.

On the day of the accident, Mr. Arrington, section foreman, instructed Mr. Coleman and the miner helper, Mr. Greathouse, to tram the miner from No. 5 room to No. 6 room pillar and to commence mining coal. Mining of coal progressed normally until occurrence of the accident at 7:45 a.m. At such time, Mr. Coleman had completed mining the lift on the back side of a chain pillar in No. 6 room. He was seated in the deck of the Lee Norse miner, preparing to tram the machine back when coal and rock squeezed off the rib, fell upon and trapped him in the deck of the miner. Mr. Arrington and Mr. Greathouse were nearby and witnessed the accident. They immediately proceeded to remove the fragmented coal and rock from Mr. Coleman. Mr. Coleman was released, rendered first aid, removed to the outside, and transported by ambulance to Charleston General Hospital where he expired the following day of chest injuries inflicted by the rib fall.



Conclusion

Mr. Coleman's death resulted from chest injuries sustained when struck by falling coal and rock rib.

Recommendations

1. All men involved in operating mobile loading machines be reinstructed as to the danger of squeezes pertaining to pillar mining.
2. When driving lifts through pillars, the ribs be sheared uniformly so as to provide even coal ribs as much as possible.

MAY 3, 1965: NO 1 MINE, BOONE COUNTY—DOROTHY COAL CO., INC.

RAIL MINE

Three men were killed instantly by a roof fall at approximately 7:15 a.m., May 3, 1965. The West Virginia Department of Mines was immediately notified and an investigation was made the same day.

Rovey Leonard Ward, loading machine operator, 47 years of age, 30 years' mining experience, with 2 years' experience at his present position. He is survived by his widow.

Boyd Bruce Wiley, loading machine operator helper, 49 years of age, 30 years' mining experience, with 3 days' employment at the present position. He is survived by his widow.

Leroy Williams, loading machine operator helper, 47 years of age, 30 years' mining experience, with 2 years at the present position. He is survived by his widow and one child.

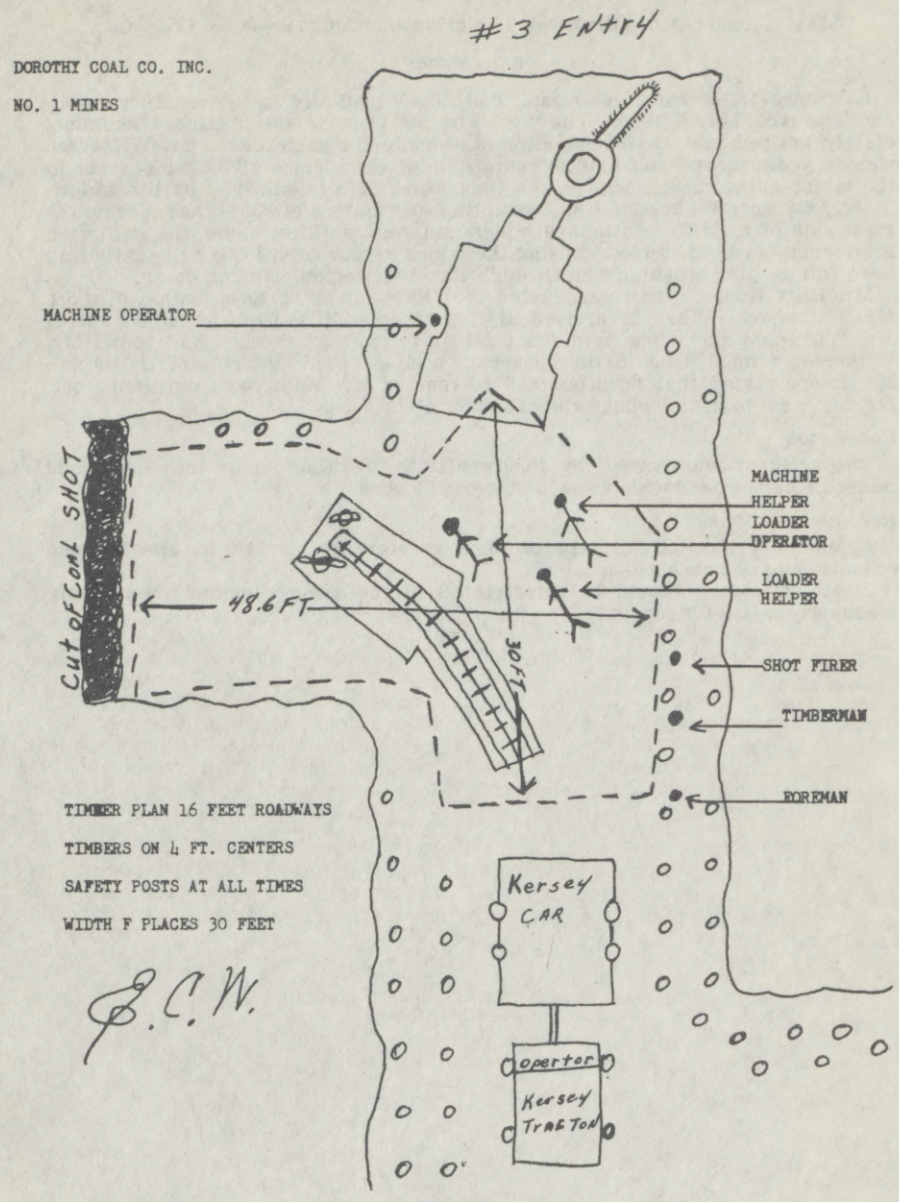
Mr. Wiley, Mr. Ward, and Mr. Aleshire entered the mines at approximately 6:07 a.m., and proceeded to the crosscut between the No. 2 and No. 3 entries, where the machine was and moved it into the No. 3 entry. There they put 10 gallons of oil in the machine and set bits in the cutter bar. They then moved the machine to the No. 3 entry face and drilled the face. They noticed some scraping in the right side of the place and was cutting it up. The second man-trip had run by this time and the loader was moving into the crosscut between No. 2 and No. 3 entries. Mr. Wiley was watching the machine cable and Mr. Williams, loading machine helper, was watching the loader cable while Mr. Ward was moving the loader into the crosscut. The loader had been moved about 40 feet when the roof fell, killing all three men.

Conclusion

Mr. Ward, Mr. Williams, and Mr. Wiley died from injuries sustained when they were caught underneath falling rock. Failure to evaluate the true conditions of the roof and to install the necessary supports to secure same were contributing factors.

Recommendations

1. Sounding device to be placed on each piece of equipment.
2. Roadways to be narrowed to 14 feet in width.
3. Entries to be driven so as to exceed 25 feet in width.
4. Consideration to be given to the use of roof bolts.


#3 ENTRY
DOROTHY COAL CO. INC.
NO. 1 MINES
MACHINE OPERATOR
CUT OF COAL SHOT
48.6 FT
30 FT
MACHINE
HELPER
LOADER
OPERATOR
LOADER
HELPER
SHOT FIRER
TIMBERMAN
FOREMAN
TIMBER PLAN 16 FEET ROADWAYS
TIMBERS ON 4 FT. CENTERS
SAFETY POSTS AT ALL TIMES
WIDTH F PLACES 30 FEET
E.C.W.
Kersey
CAR
operter
Kersey
TRACTON

MAY 6, 1965: OLGA MINE No. 1, MCDOWELL COUNTY—OLGA COAL CO.

RAIL MINE

Lawrence Wilkerson, repairman, was killed instantly by a machinery accident at 3 p.m., May 6, 1965. The West Virginia Department of Mines was immediately notified and an investigation was made the same day. Mr. Wilkerson was 48 years of age and had 29 years mining experience, all of which was in the maintenance department at the Olga Mine. He is survived by his widow.

Mr. Lawrence Wilkerson, was attempting to remove a broken crank disc on the right side of a CM37 continuous miner and was working under the gathering head when blocking creeled, causing the miner to move and letting the gathering head fall on him, crushing him through the chest region, causing death.

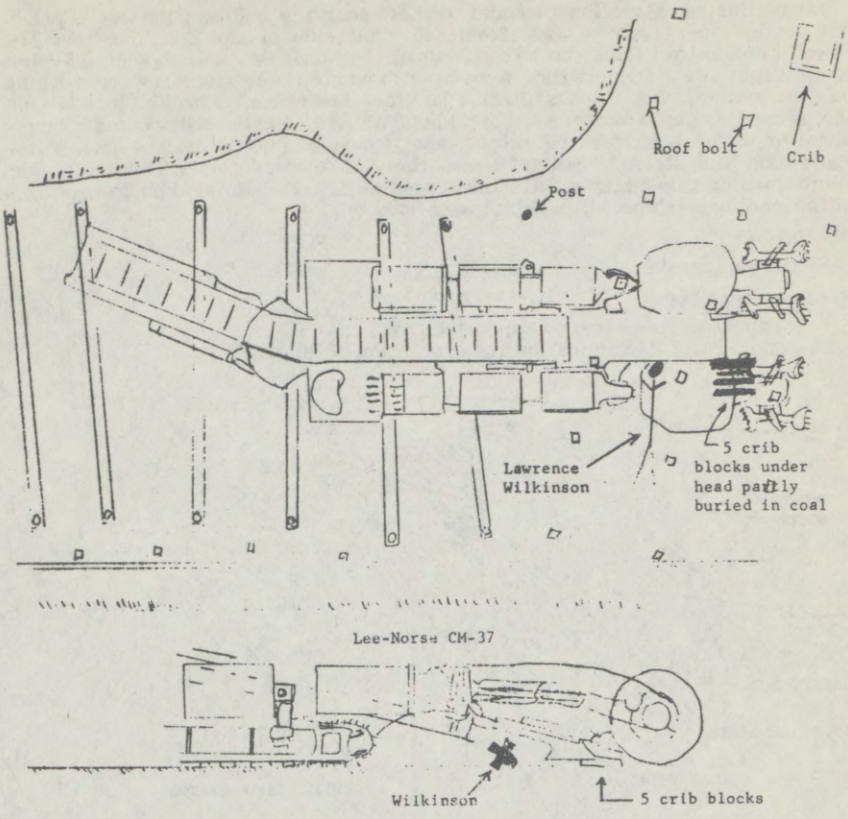
Mr. Billy Roope, repairman, stated that he went to 11 East mains to assist Mr. Wilkerson. When he arrived at the miner at 3:20 p.m., he called out to Mr. Wilkerson and when he did not get an answer he checked and found Mr. Wilkerson pinned beneath the gathering head on the right side of the miner. Mr. Roope stated that he attempted to remove Mr. Wilkerson, but could not. He then went to the telephone and called for assistance.

Conclusion

The accident was caused by the repairman working under the continuous miner gathering head which was improperly blocked.

Recommendations

1. Machinery, raised for repairs, shall be securely blocked by erecting one or more cribs on firm bottom.
2. All employees should be reinstructed in the proper method of blocking machinery raised for repairs.



FATAL MACHINERY ACCIDENT
OLGA MINES
OLGA COAL COMPANY
COALWOOD, McDOWELL COUNTY, WEST VIRGINIA

May 6, 1965

Scale 1" = 5'

MAY 11, 1965: MINE NO. 93, MARION COUNTY—MONTAINEER COAL CO.

RAIL MINE

Nick Fucello, loading machine operator, was killed instantly by a roof fall at 2:05 p.m., May 11, 1965. The West Virginia Department of Mines was immediately notified and an investigation was made the same day. Mr. Fucello was 50 years of age and had 30 years mining experience, 10 years as a loading machine operator. He is survived by his widow and two dependent children.

Shortly before 2 p.m., Nick Fucello, the loading machine operator, had cleaned the No. 2 entry. He then moved the loading machine through the crosscut to the No. 1 entry to load out the first cut, inby the crosscut. In the crosscut between the No. 1 and No. 2 entries a clay vein near the intersection of the No. 1 entry crossed the crosscut, then ran diagonally across the No. 1 entry into the right rib.

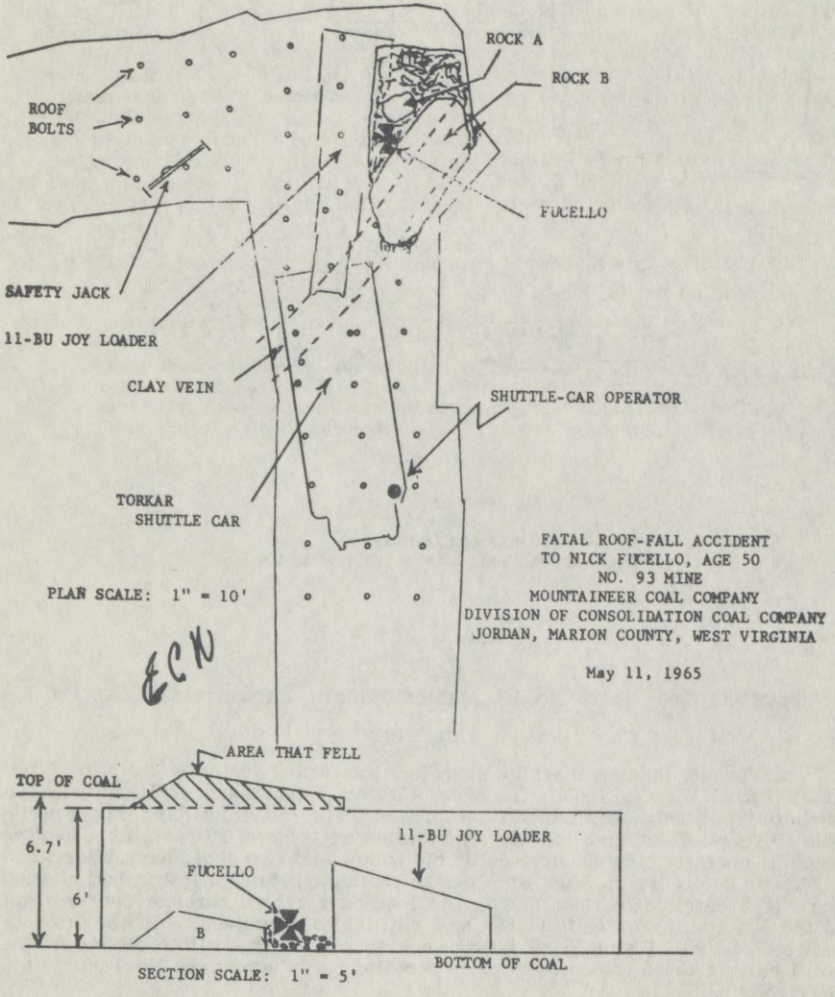
James Summers, section foreman, waited near the loader until Mr. Fucello had loaded one buggy of coal from the right side of the cut. He told Mr. Fucello not to load from the left side until the place was bolted, then he could clean it up. Mr. Summers then went back to where the mechanics were working on the miner, 3½ blocks back. In the meantime, Fucello loaded out the second buggy from the right side. William Bable, witness and buggy operator, came back for the third load. He said Fucello backed out of the right side and started loading across the No. 1 entry toward the left side. While loading this buggy a fall came, crushing Mr. Fucello against the controls of the loading machine, killing him instantly.

Conclusion

Victim was crushed by a roof fall.

Recommendations

1. No one to advance beyond supported roof.
2. A more careful examination and evaluation of the roof.



MAY 12, 1965: BARTLEY NO. 1 MINE, MCDOWELL COUNTY—ISLAND CREEK COAL CO.

RAIL MINE

Wolford East, section foreman, was killed instantly by a roof fall at 5 p.m., May 12, 1965. The West Virginia Department of Mines was immediately notified and an investigation was made the following day. Mr. East was 37 years of age, and had 17 years and 9 months mining experience, 17 years and 6 months of this time at this mine. He was employed as a section foreman August 1, 1956. He is survived by his widow and two dependent children.

Statement of Ballard Kirk, continuous mining machine operator:

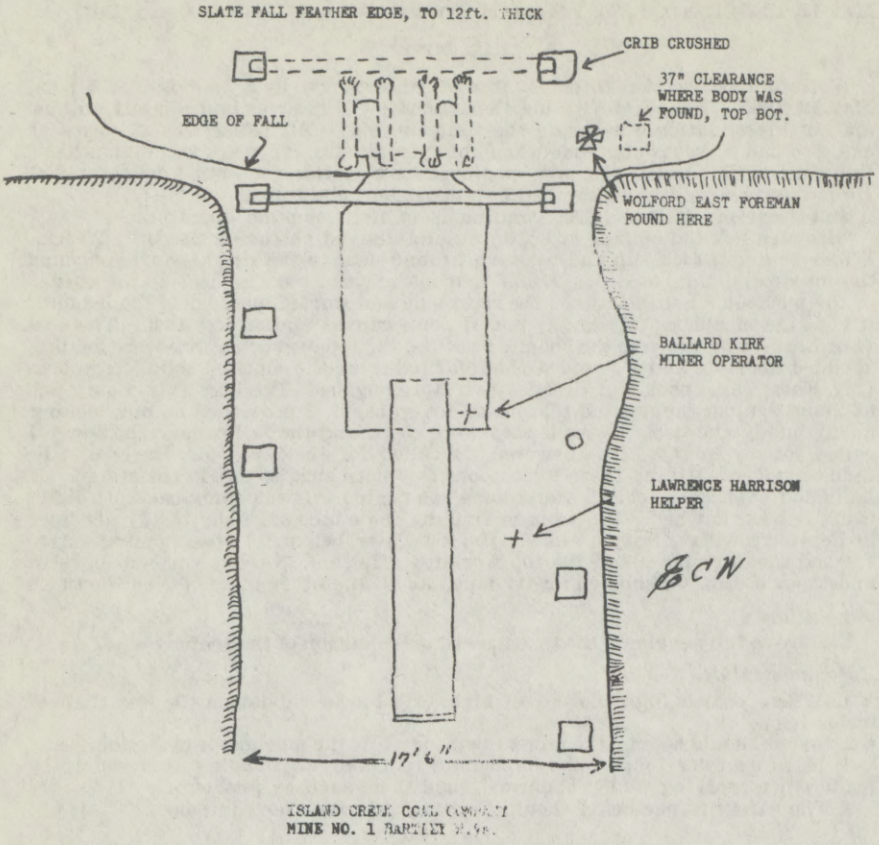
"Six men left the outside at 3:50 p.m. and arrived on the section at 4:20 p.m. Water was up in the dip and we went around next to the rib. I started around the miner and the boss (Mr. East) told me to push out the crib at the corner of the pushout. Set the crib on the right side and started loading. I loaded until it got kind of dusty. My buddy put up some canvas and moved dust. The boss (Mr. East) went down to the boom. I noticed the top over where we were loading sounded drummy and I sounded the top further and it sounded solid. The boss (Mr. East) came back and I loaded two more buggies. The boss (Mr. East) put his hand against the top and told me to get on back. I proceeded on out, looking at my buddy and cable to see if they were clear, and the fall came right now. I called for my buddy. He answered. I called for the boss (Mr. East) and he didn't answer. I think there were about five more buggies left in the stump. If he hadn't said 'get back,' it would have got me too. I was going back. I didn't think it was that bad. I have been running the miner since my buddy got hurt in February with a broken ankle. I'm a regular helper. I was running extra. I asked the day man about the top working. He said, 'No, but you will have to knock out a crib.' Timbered pretty much as all the other places. No different."

Conclusion

Failure to fully evaluate the true hazardous condition of the roof.

Recommendations

1. Where coal is 5, or more, feet high, crib blocks should not be less than 48 inches long.
2. No one should be inby the miner operator while the machine is in motion.
3. More examinations of the immediate roof and surrounding area should be made when working under abnormal conditions such as pushouts.
4. The safety of personnel should be given priority over equipment.



MAY 13, 1965: ARKWRIGHT NO. 1 MINE, MONONGALIA COUNTY—CHRISTOPHER COAL CO.

RAIL MINE

Harold Gordon Smith, motorman, was killed instantly by a haulage accident at 5 p.m., May 13, 1965. The West Virginia Department of Mines was immediately notified and an investigation was made the same day. Mr. Smith was 56 years of age and had 30 years mining experience, 21 years at this mine as a motorman. He is survived by his widow.

Harold Sanders and Harold Gordon Smith worked together, and each operated 25-ton mine locomotives. They used the locomotives as a pusher and puller in hauling trips of coal and empties. At the start of the 4 p.m. shift, Mr. Smith got his locomotive out of the shop track and left it on the main west haulage. Mr. Sanders got his locomotive out of the brake car track and coupled it behind the locomotive that Mr. Smith operated. Mr. Sanders then took both locomotives to the No. 3 sidetrack to get 50 empties to take to the working sections. There were 59 empties in the No. 3 sidetrack. Mr. Sanders pulled the 59 empties down to where he could leave 9 empties in the mouth of No. 3 sidetrack. Another locomotive crew at the No. 3 sidetrack cut off the nine empties for Sanders and Smith. Mr. Smith was in the deck of the locomotive with Sanders, who was operating the locomotive. Mr. Sanders stated that he started moving the 50-car trip of empties with first point of the controls open. He then was pulling the trip with the second point of the control open and had traveled approximately

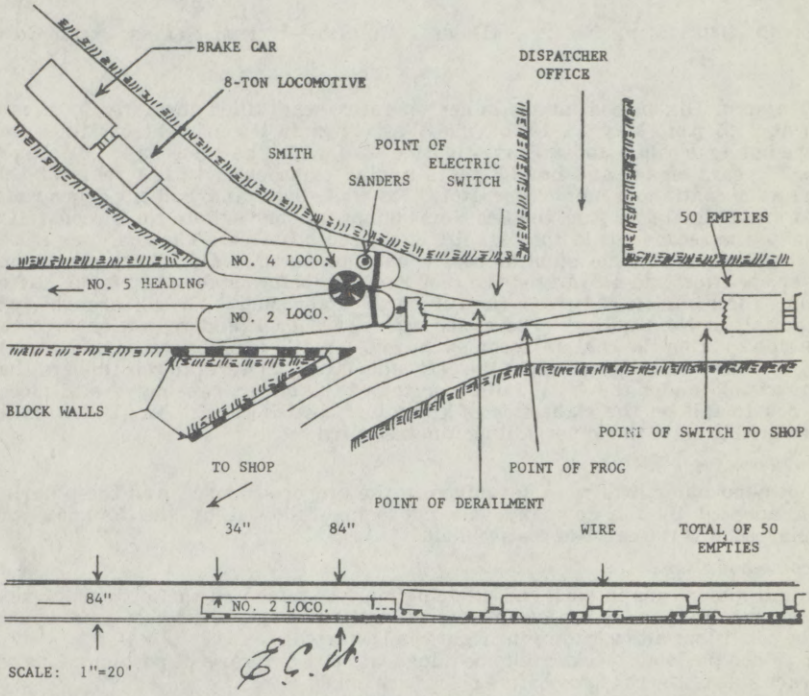
200 feet when his locomotive wrecked near the switch for the brake car. Mr. Sanders, fearing the empties would pile up on the locomotive, got out of the locomotive deck and was on top of the locomotive. He looked back and saw Mr. Smith standing on the seat of the locomotive. At that moment, Smith tumbled head first out of the locomotive, killing him instantly.

Conclusion

The cause of the accident was the derailment of the front locomotive. The cause of the derailment is not known.

Recommendation

With this type of locomotive a 3-inch armor steel shield around the deck would probably have been safer for the locomotive operators to stay low in the deck of the locomotive when the locomotive wrecks.



FATAL HAULAGE ACCIDENT
TO HAROLD G. SMITH, AGE 56
ARKWRIGHT NO. 1 MINE
CHRISTOPHER COAL COMPANY
MONA, MONONGALIA COUNTY, WEST VIRGINIA

May 13, 1965

MAY 15, 1965: NO. 1 MINE, PRESTON COUNTY—CHAPEL COAL CO.

RAIL MINE

Virgil E. Knotts, shift foreman, was killed by an electrocution at 6:30 p.m., May 15, 1965. The West Virginia Department of Mines was immediately notified and an investigation was made the same day. Mr. Knotts was 43 years of age and had 20 years mining experience. The past 3 months he had been the midnight shift foreman for the Chapel Coal Co.

On the day of the occurrence Mr. Knotts came to work at his usual time and reportedly seemed to be in good health. He went about his work in the usual manner and did not complain of feeling ill to any of the employees.

The equipment was being moved out to a new location in the No. 1 miner section, and was being moved along the supply road in the main entry. While doing so the cutting machine became lodged between the roof and floor. Mr. Knotts called for a shuttle car to try and push him through the low place. (Mr. Knotts was at the controls on the cutting machine.) As soon as the shuttle car touched the cutter, Mr. Bolyard looked around to see how Mr. Knotts was getting along, when he notice him with both knees on the bottom and his head resting on the boom swing jack guard. Mr. Bolyard called to the men to shut the power off immediately. Mr. Knotts was then taken to a clearance where artificial respiration was administered for about 15 to 20 minutes to no avail. He was then placed on a stretcher and taken to the surface and transported by ambulance to the hospital, where he was pronounced dead upon arrival.

An autopsy is being performed at the West Virginia University Medical Center, Morgantown, W. Va.

MAY 19, 1965: MINE NO. 2, MCDOWELL COUNTY—UNITED STATES STEEL CORP.

RAIL MINE

Benjamin Dixon, continuous miner operator, was killed instantly by a roof fall at 2:45 p.m., May 18, 1965. The West Virginia Department of Mines was immediately notified and an investigation was made the same day. Mr. Dixon was 55 years of age and had 33 years mining experience, with 3 years of this time as a continuous miner operator. He was single and had no dependents.

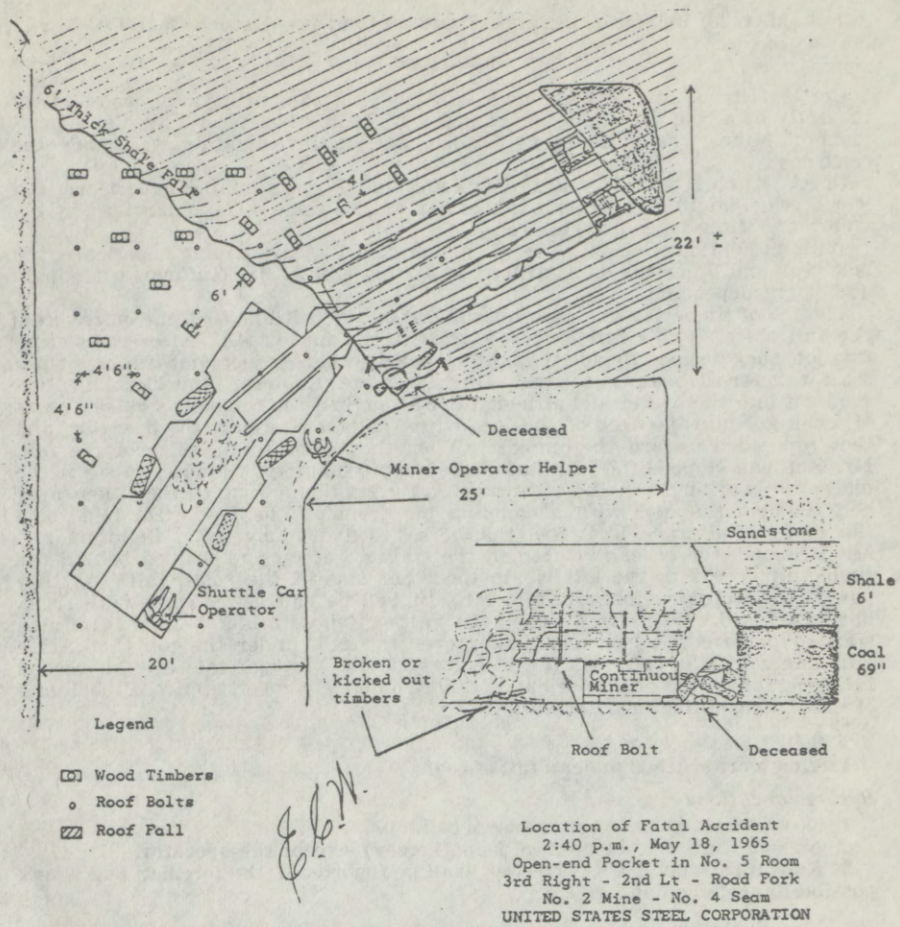
At approximately 2 p.m., the Lee Norse miner was moved into No. 5 room pillar to mine the second cut in the first lift in the second block. The roof was tested by the foreman and no unusual roof conditions noted. Mr. Dixon, continuous miner operator, had also tested the roof and face before starting to mine. After mining three shuttle cars from the run on the right side, it "holed through" to a pillar fall in No. 6 pillar. The miner was moved back and repositioned to the left side to mine the coal adjacent to the gob. While loading the second shuttle car, a pillar fall occurred from the left side (tripping several gob timbers that were visible under the fall), falling on top of the miner, causing several pieces of rock to fall on the right side of the miner, which caught Mr. Dixon as he attempted to leave the miner, killing him instantly.

Conclusion

Open end pillar lifts were not mined in the proper sequence, and the pillaring plan adopted by the company was not being followed by the foreman and employees, was the cause of the accident.

Recommendations

1. All miner runs in open end pillaring must be mined on the left side or next to the gob first, and when completed, at least two rows of timbers must be set if the conditions allow, before the right run is started.
2. When push-out blocks are to be mined, at least two rows of posts must be set on each side of the roadway before blocks are mined.
3. Adopted mining plan should be followed by workmen and officials. All officials and workmen should be reinstructed in the proper method pertaining to extraction of pillars as adopted by the company.



Location of Fatal Accident
2:40 p.m., May 18, 1965
Open-end Pocket in No. 5 Room
3rd Right - 2nd Lt - Road Fork
No. 2 Mine - No. 4 Seam
UNITED STATES STEEL CORPORATION
Gary, West Virginia
Scale - 1" = 8'

MAY 23, 1965; NO. 13 MINE, BARBOUR COUNTY—BADGER COAL CO.

RAIL MINE

Curtis Mitchell, timberman, and William Huffman, utilityman, were killed instantly by a roof fall at 10:50 p.m., May 23, 1956. The West Virginia Department of Mines was immediately notified and an investigation was made the same day.

Curtis Mitchell was 43 years of age and had 7 years mining experience, the last 1 year and 10 months as a timberman at this mine. He is survived by his widow and three dependent children.

William Huffman was 29 years of age and had 10 years mining experience, the last year and 8 months as a utilityman at this mine. Mr. Huffman was single and had no dependents.

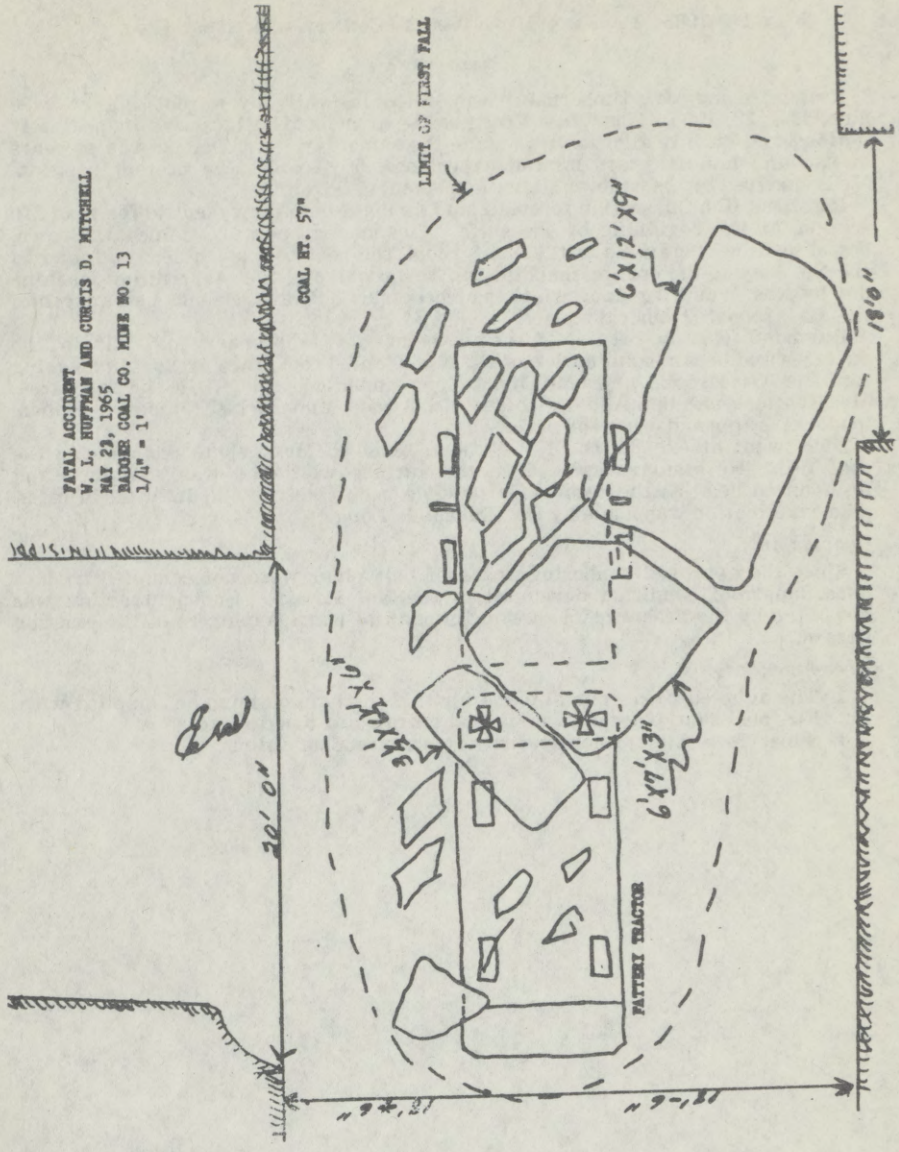
The job of timbering and cleaning the fall on the belt line took the entire crew the full shift. (This fall occurred prior to the fatalities.) After completing this job, they decided to ride the battery powered kersey jeep and trailer, rather than wait for the man trip. Arkie Huffman, Artel Robinson, and Franklin Rexroad got into the trailer and although it was against the company's rules, Curtis Mitchell got into the deck of the jeep with William Huffman, the operator, and they proceeded toward the outside. When they came to the edge of the fall, Mr. Huffman stopped the jeep and waited approximately 3 minutes to see if the place was working. In the meantime Arkie Huffman went to the fallen area and sounded the roof with a coupling pin from off the jeeq. He told them the roof had a crack in it and that it sounded drummy. Mr. Robinson and Mr. Rexroad, the other two men in the trailer, got up and walked behind the timber line, next to the left rib to the other side of the small fall. As they passed the jeep Mr. Robinson told Mr. Mitchell he had better come with them, but he refused. With Mr. Mitchell still in the jeep with him, William Huffman started to move the jeep and trailer over the fall, under the top that Arkie Huffman said was bad. As the jeep was moving through this area, a second fall occurred on top of the jeep and trailer completely covering Mr. Mitchell and Mr. Huffman, killing them instantly.

Conclusion

Victims were crushed under a fall of roof.

Recommendations

1. No one shall advance under known bad top.
2. No one shall ride in deck of jeep (kersey) except the operator.
3. Known bad top, if not corrected, shall be reported to the foreman and where possible dangered off at both ends.


FATAL ACCIDENT
W. L. HUFFMAN AND CURTIS D. MITCHELL
MAY 23, 1965
BADGER COAL CO. MINE NO. 13
1/4" = 1'
COAL HT. 57"
LIMIT OF FIRST FALL
6'X12'X9"
18'0"
20' 0"
6'X7'X3"
FATTERY TRACTOR

MAY 28, 1965: PARAGON MINE, LOGAN COUNTY—AMHERST COAL CO.

RAIL MINE

Frank Delong, Jr., timberman, was killed instantly by a roof fall at 7:30 a.m., May 28, 1965. The West Virginia Department of Mines was immediately notified and an investigation was made the same day. Mr. Delong was 40 years of age and had 18 years mining experience, 5 years at the present position. He is survived by his widow and five dependent children.

Raymond Keaton, section foreman, and an eight-man crew went to the road 270 section, at the beginning of the shift. The loader operator, James I. Brown, began loading operations in the No. 3 room, the roof bolt machine was found in the No. 5 room, the cutting machine in No. 6 room, and the coal drilling machine out by Nos. 1 and 2 rooms, which had been shot. Frank Delong had gone into the No. 4 room to timber the place.

Raymond Keaton, section foreman, went to the breaker box, put in the switches and began examination of the Nos. 5 and 6 room face areas. Upon going into the No. 4 room, he found Mr. Delong under a slate fall in the face area. Mr. Keaton went immediately to the No. 3 room and notified James I. Brown, loader operator and others of the crew.

They went at once to the No. 4 room, removed Mr. Delong from under the roof fall. He was transported to the surface where he was examined and pronounced dead as the result of a possible neck fracture and internal injuries. The examination was made by Dr. Thomas P. Long.

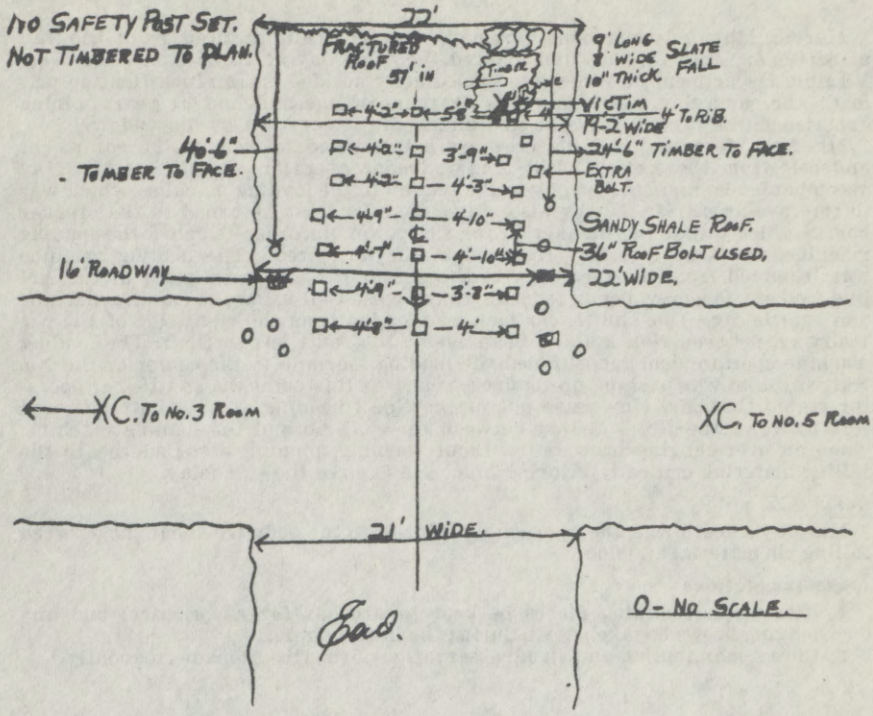
Conclusion

Since the approved timbering and roof bolt plans were not complied with, a hazardous roof condition developed in the No. 4 room. Sufficient action was not taken by the fireboss and section foreman to warn employees of the existing hazard.

Recommendations

1. The adopted room-control plans for this section and mine be complied with.
2. Fire boss shall place danger signs at entrance of unsafe places.
3. Supervisors shall promptly correct unsafe roof conditions.

ROAD 270 SECTION,
No. 4 ROOM.



AMHERST COAL COMPANY.
PARAGON MINE, SLAGLE, W.VA. D-982
FATAL ROOF FALL ACCIDENT TO FRANK DELONG.

WALTER S. DAVIS, 38.

MAY 28, 1965: KOPPERSTON NO. 1 MINE, WYOMING COUNTY—EASTERN GAS & FUEL ASSOCIATES

RAIL MINE

Marvin May, miscellaneous foreman, was critically injured by a rib fall at 8:50 a.m., May 28, 1965 and expired the same day at 10:55 a.m. The West Virginia Department of Mines was immediately notified and an investigation was made the same day. Mr. May was 51 years of age and had 31 years mining experience, the last 20 years at this mine. He is survived by his widow.

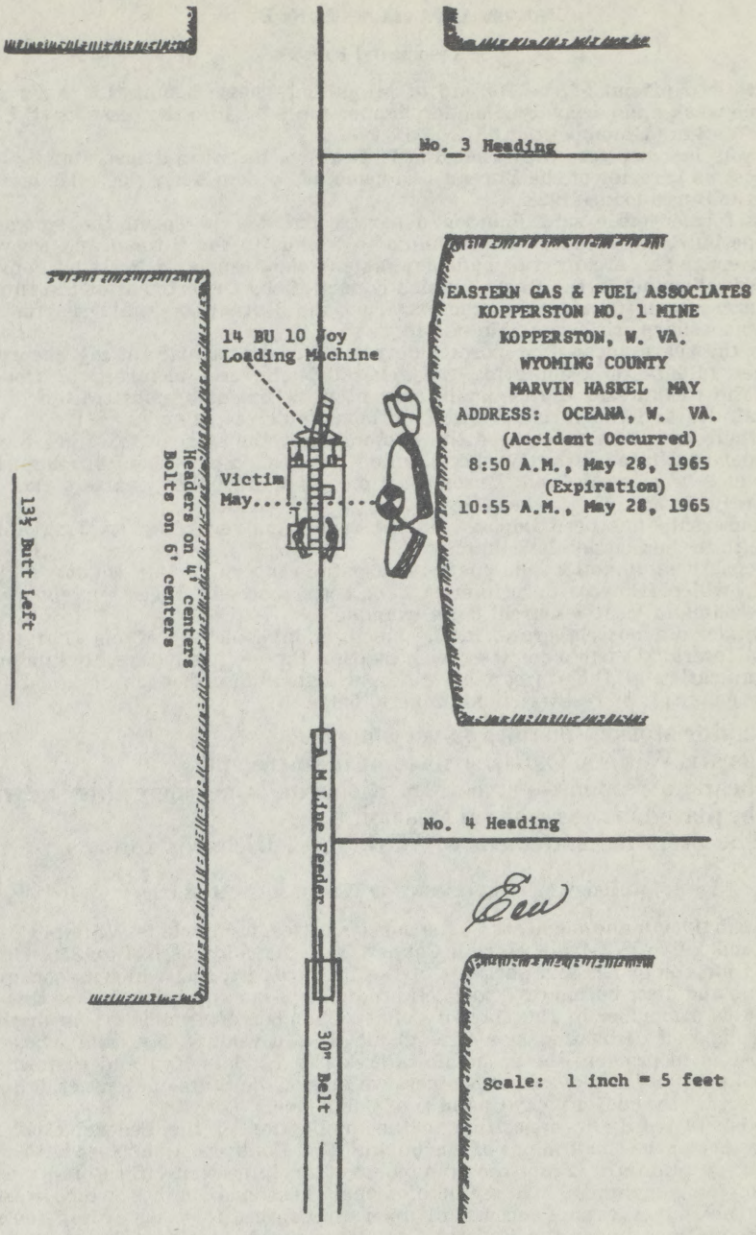
Mr. May, foreman, and his crew were instructed to remove the equipment and belt from the section. Bill Maxey, loader operator, stated that Mr. May accompanied he and Ira Murphy to the section to the loading machine, which was in the face area. Mr. Maxey also stated that Mr. May returned to the breaker box in order to put the breaker in for the power, in order to move the loading machine, and then Mr. May returned to the face area. The loading machine was trammed from the face area to the shuttle-car discharge point at the AM line feeder. The crew begun to clean up the loose coal using the loading machine and shuttle-car. One shuttle-car had been loaded from the right side of the No. 1 airway, between Nos. 3 and 4 headings at 13½ butt left section. The loading machine operator had repositioned the loading machine to the center of the No. 1 airway, and was pushing up the loose coal. At this point the shuttle-car operator stated that Mr. May came out of the No. 3 heading of 13½ butt left, and walked down the No. 1 airway between the coal rib and the loading machine, when an over-hanging brow fell without warning, pinning him underneath the falling material, critically injuring him. He expired the same day.

Conclusion

Mr. May's death was due to crushing injuries to the body when caught between falling rib material and floor.

Recommendations

1. Ribs of the working places be kept squared as far as practical and any overhanging brows be taken down during the initial mining.
2. Closer examination and visual observation of the ribs be made frequently.


No. 3 Heading
EASTERN GAS & FUEL ASSOCIATES
KOPPERSTON NO. 1 MINE
KOPPERSTON, W. VA.
WYOMING COUNTY
MARVIN HASKEL MAY
ADDRESS: OCEANA, W. VA.
(Accident Occurred)
8:50 A.M., May 28, 1965
(Expiration)
10:55 A.M., May 28, 1965
14 BU 10 Joy
Loading Machine
Victim
May
Headers on 4' centers
Bolts on 6' centers
13½ Butt Left
M Line Feeder
No. 4 Heading
30" Belt
Scale: 1 inch = 5 feet

RETIRED AID ATTACKS MINE BUREAU

Associated Press

A retired official of the Bureau of Mines has charged that this Agency has become weak and cowardly since its "immersion * * * into the cesspool of United Mine Workers Union politics."

It was learned yesterday that E. W. Pehrson, 67, retired last Monday from his post as Director of the Bureau's Division of Foreign Activities. He had been with the Bureau since 1928.

His former office said Pehrson departed Tuesday to spend the summer in Europe but left behind a memorandum to friends in the Bureau and elsewhere in Government. A copy was made available to the Associated Press by Pehrson's former colleagues in the Bureau which is part of the Department of the Interior.

There was no immediate reaction from the Bureau or the Department to Pehrson's sharp criticisms. He said in part:

"In the years ahead I propose to devote a substantial part of my energy and meager talents to acquainting the general public and members of Congress with the weaknesses that exist in current Government administration of mineral affairs and the formulation of national mineral policy.

"Others and I have resented the immersion of the Bureau of Mines into the cesspool of United Mine Workers' Union politics. Since then Bureau leadership has been weak and Bureau action on vital policy matters has been cowardly. * * *

"Censorship has been imposed on the true facts regarding growing mineral strength in the Communist countries.

"Departmental actions on matters of vital concern to our country's future and in which I have a deep interest have been anathema. The current swindle in the name of 'coal research' is an example."

Pehrson did not elaborate, in the memorandum, on any of his charges.

The Interior Department is expected within the next few days, to announce a reorganization of the Bureau of Mines, which is described as designed to increase emphasis on research in all mineral fields.

Senator MORSE. Thank you very much.

Has Mr. William C. Richards come in the room?

I hear no response—since Mr. Richards is not here, his statement will be placed in the record at this point.

(The prepared statement of William C. Richards follows:)

PREPARED STATEMENT OF WILLIAM C. RICHARDS

Mr. Chairman and members of the subcommittee, my name is William C. Richards and I live in Loyall, Harlan County, Ky. My address is Box 350, Harlan, Ky. I am the owner and operator of the Richards Oil Co., which is engaged in the sale and distribution of Texaco oil products. I am appearing before this committee as a member of the Harlan County Chamber of Commerce, an organization composed of businessmen throughout Harlan County, Ky., and whose sole purpose is to promote the economic interests of Harlan, Ky., and eastern Kentucky, as well as in general the business welfare of the State of Kentucky through membership in the Kentucky Chamber of Commerce.

I wish to testify in opposition to the application of the Federal Coal Mine Safety Act to the small mines of Harlan and Bell Counties, a business with which I am very familiar. From the standpoint of an interested citizen and businessman of the community, it is my opinion that these small mines, which we refer to as truck mines, cannot successfully operate if forced to observe all of the rules and regulations under the Federal Coal Mine Safety Act as they apply to the larger rail mines.

In event such legislation is passed, I believe that a majority of the truck mine in Harlan and Bell County, as well as the truck mines in other counties of eastern Kentucky will suffer a great economic hardship and a majority of them will be forced to close. I have been informed that there are now approximately 120 truck mines operating in Harlan County which employ about 1,200 mine workers. These mines produce approximately 20 percent of the tonnage in Harlan County and provide jobs for about 28 percent of the present labor force in Harlan County. There are only 15 rail mines still operating in Harlan County and these mines

employ 870 men, while the two captive mines there employ 915 men. Thus, it is seen that the number of truck mines add substantially to the economic well-being of Harlan County.

In Bell County, the last rail mine closed December 1964 and thus, all of the coal produced in this area now comes from truck mines and a few large strip and auger mines. It is my estimate that 70 percent of the present mine employment in Bell County is accounted for by the truck mine industry. Without the sale of coal produced by this segment of the industry the businessmen of Bell County would find it hard to keep their doors open in the face of the depressed condition in this county, which is likewise true in Harlan.

Ten years ago there were 30 large rail mines operating in Harlan County and 7 in Bell County. Due to competition from large strip mines in west Kentucky and the pressure of increased union wages and welfare benefits a majority of these mines have gone out of business. Presently all of the rail mines in Harlan County with the exception of one commercial mine and two captive mines are being operated nonunion. Production has been sharply curtaled at the rail mines and the economic condition of the county has steadily worsened until the situation has become almost hopeless. There have been more than 75 accounts of violence against employees who have continued to work in the rail mines and there is a weekly episode of dynamiting, shooting from ambush, arson and other such depredations against those who are willing to continue working in the face of a strike by the UMWA. We, of the Harlan County Chamber of Commerce, believe that this pattern of violence is a companion measure to the passage of this legislation which would shut down the truck mines of Harlan and Bell Counties. We believe the time has come when the Federal Government should offer assistance to these small businessmen instead of passing a law that would close them down and promote the business of those giants of the industry who now control 70 percent of the coal production in the United States.

From my own personal observation I have found that safety in the small mines in Harlan and Bell Counties is supervised and regulated by the State department of mines and minerals and is as effective as it would be if done by the U.S. Bureau of Mines. It is my opinion that should these mines be placed under the supervision of Bureau of Mines inspectors that the State mine inspectors would cease to be concerned about their welfare since their authority would be questioned by Federal legislation. I have been informed that the State department of mines and minerals through its efforts in safety education and strict enforcement of the State laws has improved the small mine safety record to the point where it is better than that of a the larger mines in the State of Kentucky. This, I believe, is true when we consider the man-hours of exposure of the small mine employees as against that of the larger mines using the same criteria.

Another reason why I believe that the small mines should be exempt from the Federal Coal Mine Safety Act is due to their inability to meet standards which require the purchase of expensive equipment and hire additional personnel. Due to the limited production of these mines it would be impossible for them to purchase firefighting equipment, for example, in the same manner as that required of larger mines. Again, the life of a truck mine is so limited that it would be impossible to apply certain requirements because of the cost involved since such requirements necessitate the building of permanent structures and the purchase of machinery that is not necessary or now required under State mining law. The purpose of truck mining is to recover coal that would not ordinarily be mined by the larger mines. This is certainly true in Harlan and Bell counties where a great number of inaccessible boundaries of coal yet remain to be mined. It would be impossible to mine this coal from adjoining large mines due to the cost of such mining. The small mine is better equipped to recover this coal which adds to the wealth of the county and supplements the basic economy of the mining industry.

As you know Congress recently passed legislation to assist in the economic recovery of the Appalachian region. Harlan and Bell Counties are splendid examples of the depressed areas referred to in this legislation. The production of coal in Harlan County in 1948 reached 10,139,673 tons. I have been informed that the production for 1965 will be approximately 5 million tons. Thus, you see a 50-percent decline in the basic wealth of this county over a period of 16 years. Of course, this decline has been due to various reasons; among them being the exhaustion of coal in some of the larger mines. The others, which I have referred to, being competitive pressure from strip coal and

the unwillingness of the union to negotiate a contract that these larger mines could operate under and stay in business. On the other hand, there has been a rapid growth of the truck mine industry during the same period of time starting from no production in 1948 with a gradual increase reaching approximately 25 percent of the total Harlan County production in 1960. As stated before, the production of truck mine coal in Harlan County today accounts for about 20 percent of the coal produced there. Similarly, Bell County production of truck mine coal has increased gradually over the years and now accounts for about 50 percent of this production. Whereas, production from large rail mines has ceased altogether. It is my opinion that the production of truck mine coal will likewise be limited should there be added to this overburdened industry any other problem such as that proposed in the Federal Coal Mine Safety Act.

The entire economy of Harlan and Bell Counties rests upon the production and shipping of coal. There is an almost unlimited reserve of coal in these counties. In fact, there remains over 2 billion tons of high quality coal, half of which is considered metallurgical coal and half is high quality domestic coal.

Very little stripping and augering is being done in Harlan County and more of the future production will come from rail mines and truck mines. It is our hope and belief that the basic economy of these counties can be stimulated through funds made available under the Appalachian Recovery Act. We shall see an increase in the production of coal and the upgrading of this product through the building of central preparation plants for truck mines and the possible building of coking plants for the refining of metallurgical coal into coke and its byproducts. Heretofore, we have not had sufficient capital available to take advantage of our natural resources. I am confident that our economy will recover under the influence of an intelligently administered program.

We are also in dire need of roads, such as Highway No. 119 and No. 25–E which would give us a connection with the interstate road system now being completed. Unless we are given the opportunity to build our economy on a sound basis such as that provided by our natural resources of coal and lumber, we believe that our economy will never recover sufficiently to provide jobs for our people. We feel that the Federal Government should assist our conomic recovery by providing funds for roads, flood control, and other improvements and refuse to pass legislation which would put our remaining truck mines out of business.

The population of Harlan County has declined from 72,000 in 1950 to approximately 45,000 at present. Any move to injure our present industry will cause a further decline of our population to the detriment of our overall economy. If there is to be legislation passed to the detriment of our remaining industry, we sincerely hope that Congress will provide some industry to replace it. We have tried in the past unsuccessfully to secure other types of industry but due to our labor difficulties, past and present, we have been unable to entice new industry to our area.

The Federal and State Governments have not seen fit to place any of their facilities within the area, which would provide payrolls to pick up the economy of these counties. We have also been unable to secure defense contracts of any kind. Our past experience in dealing with TVA, the only agency that buys our products, has been disillusioning and costly. It is my opinion that TVA purchase of coal should be made in this region to help stimulate our economy. However, our coal operators have found the policies of TVA to be such as to eliminate them from this market. I would like to point out many other problems of our coal industry if time would permit. One of great importance must be mentioned and that is freight rates which are so high as to limit the markets available to our producers. There is no water transportation available since no navigable streams are near the coalfields. However, our mines are forced to compete with mines that can transport their product to market by waterways subsidized by the Federal Government. We feel that any action taken to pass legislation against the truck mines would be unfair and discriminating in view of the above facts.

Briefly, the small truck operator is being provided adequate service and is being regulated sufficiently by inspectors of the State department of mines and minerals. He has been subjected to ruinous competitive situations which are making it almost impossible for him to stay in business. He has been forced to sign wage agreements calling for wages and welfare payments which

he cannot possibly pay. His business at present is so marginal that he is operating from day to day hoping that no other problem will arise to put him out of business. As I have said before, to add the burden of strict supervision by the U.S. Bureau of Mines in my belief will be the straw that will break this small businessman's back. It is my honest opinion that no good service to the truck mine industry, its employees, or the community in which it is located will arise from the passage of legislation putting the truck mines under the Federal Coal Mine Safety Act.

I wish to thank the committee for the privilege of testifying today and sincerely trust that your recommendation with regard to this legislation will be favorable to the small truck mine industry.

Senator MORSE. We will also insert in the record at this point the statement of Mr. H. W. Parker, representing the Independent Coal Operators, Birmingham, Ala.

(The prepared statement of H. W. Parker follows:)

PREPARED STATEMENT BY W. H. PARKER, BIRMINGHAM, ALA., REPRESENTING INDEPENDENT COAL OPERATORS, STATE OF ALABAMA

Mr. Chairman and gentlemen of the committee, my name is W. H. Parker. I am representing the independent coal operators of the State of Alabama. I am here to represent a majority of the independent coal operators in Alabama. I am not here to oppose safety, but to preserve and improve it, for the best interest of our citizens who are employed in, or connected with coal mining.

There are some who would try to convince this committee that further Federal legislation would prevent major disasters in coal mines. The truth is, the last several major disasters in coal mines have not been for the lack of State or Federal law, but due to human error. Legislation will not cure human error. It is my firm belief that education will. Education and responsibility are not just limited to management, but its coverage must extend to every individual who works in or about any coal mine operation.

There has been a great deal of testimony and publicity with respect to several tragedies, and consideration as to whether additional legislation was needed at the State and Federal level to prevent such tragedies. There has been no evidence presented by any of the States represented, the Federal Bureau of Mines or the Department of the Interior, which would indicate that these disasters were caused by lack of law. Reports made on these disasters indicate that human error and violation of State laws covered these major disasters.

Disasters have caused a great deal of concern to all States that mine coal. Again, the answer is not in further legislation, either State or Federal, but rather in strict enforcement of existing laws and better education of management and employees.

Alabama has a well-qualified staff of mine inspectors, with experience in all types of mining and the ability to make the proper inspections.

The individual years of experience of inspectors consists of 26, 25, 23, 8, 6, and 4, respectively. These inspectors issued 196 closing orders during the past 5-year period.

Lack of rock dust	38
Insufficient ventilations	48
Crosscuts not turned at required distance	110
Total	196

Sixty-one withdrawal orders were issued during the past 5 years.

No certified mine foreman employed	53
Second opening closed	5
No preshift examination for gas	3
Total	61
Working faces stopped in past 5 years for unsupported roof	234
Working faces stopped, no timbers available	18

Total fatalities—railroad-connected (title II) mines for fiscal years as follows:

Fiscal years Oct. 1, through Sept. 30

1959–60	10
1960–61	6
1961–62	7
1962–63	5
1963–64	6

Year	Production (title II) railroad mines	Number of mines	Number of employees
1959–60	11,424,230	35	6,138
1960–61	11,465,431	36	5,202
1961–62	11,629,820	38	5,202
1962–63	10,770,128	23	4,435
1963–64	11,726,369	20	4,329

Total fatalities—truck mines (title I) for fiscal years as follows:

Fiscal years Oct. 1, through Sept. 30

1959–60	2
1960–61	3
1961–62	1
1962–63	1
1963–64	1

Year	Production (title I) mines	Number of mines	Number of employees
1959–60	729,574	162	1,134
1960–61	1,045,050	175	1,225
1961–62	949,033	174	1,218
1963–62	781,537	179	1,315
1963–64	978,107	171	1,631

NOTE.—Number of coal mine inspections made 1962–63, 763; number of coal mine inspections mad 1963–64, 798.

Due to the low production of the average "title I" mine in Alabama, any cost made necessary by additional and unwarranted regulation adds to the cost of the product thereby pricing these mines out of the market.

(*a*) In our opinion enactment of these proposed regulations would force 65 to 70 percent of the small mines in Alabama out of business.

(*b*) Purchase and operation of additional equipment would increase cost approximately 40 to 60 percent.

(*c*) Our figures for Alabama show that approximately 68 percent of the employees of small mines are physically handicapped, and unable to secure work in the larger mines. If the act is adopted, there are an average of five dependents to each miner which would be thrown on relief rolls of the State or Federal Government.

So, our position is that we do not need further legislation, but we should continue to assume the responsibility of an educational program, with strict enforcement, with a well qualified staff of people who understand the laws of their State; and that the inspector, whether he be State or Federal, should be qualified to inspect the mines, as prescribed by law. The constant criticism of a State and Federal agency will not save a life, but the cooperation and desire to do a good job may save many lives.

I believe that if each State connected with coal mining would institute training programs, as suggested, this would be the answer to safety and the end to these unnecessary disasters, or fatalities.

Senator MORSE. The chairman now brings to a close the public hearings on H.R. 3584 and the amendment to the Senate bill.

He announces that the record will be kept open until 5 a.m. this coming Friday.

He announces that during that period of time the chairman or other members of the subcommittee may request counsel of the subcommittee to make certain requests of the Federal Bureau of Mines and the United Mine Workers of America and other proponents of the bill as well as opponents of the bill to supply the subcommittee with answers to questions the subcommittee wishes to elicit from the parties.

He may ask for additional memorandums to supplement their testimony in order to get it in the record. In the event that those requests require additional time beyond Friday at 5 p.m., the Chair reserves the right to extend the time depending upon a showing by the party of whom the request is made that a further extension of time is reasonable and proper.

In closing these hearings, the Chair wants to emphasize what he has already stated in the record:

1. The burden of proof in support of the legislation rests upon the proponents, and to meet that burden of proof there must be a showing by a preponderance of the evidence that there is a cause and effect relationship involved here in the bill and the problem of promoting safety in the mines of the country within the title I classification.

Lastly, the Chair wants to point out that the committee will give thorough consideration to amendments that have been proposed by Senator Cooper and other proponents of the bill. I want to say to the Federal Bureau of Mines that you are not on trial in this hearing. I would not want that impression to go forth.

Certain criticisms have been made, certain allegations have been made, but as far as the subcommittee is concerned we only seek from the Federal Bureau of Mines as an agency of the Federal Government and the fullest cooperation of the committee which I know we will have in supplying this committee with the data and the information that the arguments and allegations that have been raised in this hearing entitle this committee to satisfy.

The attitude of the chairman, and I know I speak for the Senator from West Virginia and my colleagues on the subcommittee, is to obtain between now and Friday at 5 p.m. a full record on the issues that have been raised so that we will have a basis for executive sessions of the subcommittee and ultimately report to the full committee.

I want to express to all concerned the deep appreciation of this chairman for the cooperation I have received in regard to the procedures that I have laid down in conducting the hearings.

I also want to thank you for the full cooperation I have received in presenting the evidence on the substantive issues that are involved.

The Senator from West Virginia.

Senator RANDOLPH. Mr. Chairman, I want the record to reflect my feeling and I will choose my words carefully. You have conducted these hearings with your characteristic fairness and thoroughness. I believe that with the testimony of last week from the proponents, the testimony of this week from the opponents, and the information that you have requested that the subcommittee be furnished those of us who

join with you in the consideration of the pending legislation will be knowledgeable as to what we believe to be the facts.

I commend you, Mr. Chairman.

Senator MORSE. I thank the Senator from West Virginia. Before I close, I want to ask counsel of the subcommittee if there is anything further.

At this point I will insert the statements of various individuals who were unable to appear.

PREPARED STATEMENT OF PAUL BYRGE, PRESIDENT, SOUTHERN LABOR UNION

The Southern Labor Union desires to submit to the honorable Members of the U.S. Senate its views and position on H.R. 3584, entitled "Federal Coal Mine Safety Act Amendments of 1965." As the bargaining representative of several hundred employees of small coal mines in Alabama, Tennessee, Kentucky, and West Virginia, we feel qualified to make recommendations on this proposed legislation.

The Southern Labor Union has always backed the safety committees of its local unions in their enforcement of the State and Federal laws. Our motto on safety has always been "A Safe Mine Is a Productive Mine." We have conducted and assisted in the instruction of training courses in the various fields of mine safety and firmly believe that education of our people to the need for safety will do more than any other one factor to make both the employee and the mine safe. Legislation can require the furnishing of safety equipment but only through education of the individual coal miner as to the necessity for the use of this equipment and the way to use it properly, can we make the coal miner and the coal mines safe. The Federal Bureau of Mines has at its command the facilities for research and development of educational programs which have been and are the greatest boon to safety within the industry. We have sincerely appreciated their cooperation and help in these safety training programs.

We believe that one of the primary reasons for the operators and employees of title I mines violent opposition to the passage of H.R. 3584 which would bring them under Federeal judisdiction is their belief that the Federal Bureau of Mines is dominated by and under the control of the United Mine Workers of America. They have reported to us that various representatives of the United Mine Workers of America have in essence, told them that they would be out of business as soon as they got this act passed so that the Federal Bureau of Mines would have jurisdiction; unless they affiliated with United Mine Workers of America. They have also been led to believe that more than 50 percent of the persons employed by the Federal Bureau of Mines are card-carrying members of the United Mine Workers of America. In fact we are informed that a recent issue of the United Mine Workers Journal stated that the Acting Director of the Federal Bureau of Mines is a card-carrying member of the United Mine Workers of America. The spreading of information such as this has led both the small mine operators and their employees to believe that the Federal Bureau of Mines is completely dominated by the United Mine Workers of America. We earnestly request that the good offices of the U.S. Senate determine the truth of this matter. If, in fact the Federal Bureau of Mines is dominated by the United Mine Workers of America immediate steps should be taken to rectify this situation so that the other unions representing members within the mining industry and those operations working nonunion would not be discriminated against. Regardless of the present situation we believe that the enactment of an amendment to H.R. 3584 prohibiting Federal Bureau of Mines directors or employees from conflicts of interest as proposed in exhibit A, would relieve the minds of the small mine operators and their employees and would insure that no personnel of the Federal Bureau of Mines had any conflict of interest which would prohibit him from doing the kind of job which you honorable gentlemen would expect to have done. This proposed amendment would in no way impede the Federal Bureau of Mines in the performance of the functions and duties enjoined upon it by law.

We further believe that the enactment of exhibit B, submitted herewith as an amendment to H.R. 3584, which provides for discharge of representatives or employees of the Federal Bureau of Mines found to be presenting false information, would materially strengthen this bill and resolve many of the doubts and fears of the small mine owner and his employees. As you will note this amendment provided for discharge only where the information was willfully introduced and would therefore inflict no penalty upon a person who unwittingly or unknowingly committed such an act but would punish the wrongdoers who deliberately attempted to injure any coal mine operator and his employees by the unnecessary closing of a mine. We further urge the passage of the amendment contained in exhibit C submitted herewith, and would respectfully show that this amendment which provides for reporting by the Bureau would assist all interested parties including the Congress of the United States in determining whether the Federal Bureau of Mines was properly functioning and whether or not additional amendments were needed to the act. We strongly urge that such reports be made public information.

In many instances the activities of the Federal Bureau of Mines and those of the State bureau of mines constitute a duplication of effort; however, where the lives and safety of our members, or any other coal miners, are at stake no amount of effort is too great.

EXHIBIT "A"

Southern Labor Union proposes and strongly recommends the adoption of the following amendment to section 212 of the Federal Coal Mine Safety Act (66 Stat. 709; 30 U.S.C. 482).

Section 212 of the Federal Coal Mine Safety Act (66 Stat. 709; 30 U.S.C. 482) is amended by adding a new subsection (d) reading as follows, and by redesignating subsection (d) and each subsequent subsection.

"(d) Neither the Director nor any authorized representative of the Bureau or any employee of the Bureau shall, at any time during the term of his office or the term of his employment, shall be a member of or have any affiliation with a labor union or affiliated with or own any interest in any operating coal company or Coal Operators Association nor shall he accept any remuneration or gratuity, including the benefits of any Welfare Fund and/or Pension Fund established within the coal industry or by any union or Coal Operators Association operating wholly or partially within the coal industry."

EXHIBIT "B"

Southern Labor Union proposes and strongly recommends the adoption of the following amendment to section 210, of the Federal Coal Mine Safety Act (66 Stat. 708; 30 U.S.C. 480).

Section 210 of the Federal Coal Mine Safety Act (66 Stat. 708; 30 U.S.C. 480) is amended by adding a new subsection (e) to read as follows:

"(e) If any duly authorized representative of the Bureau shall issue a withdrawal order under section 202 or section 203 and such order is determined by the Coal Mine Safety Board of Review, after hearing initiated upon a vote of at least two members of the Board of Review, to contain false information relating to safety conditions, and that such information was willfully introduced into the order by a representative of the Bureau, said representative shall be dismissed by the Director."

EXHIBIT "C"

Southern Labor Union proposes and strongly recommends the adoption of the following amendment to section 212(c) of the Federal Coal Mine Safety Act (66 Stat. 709; 30 U.S.C. 482).

Section 212(c) of the Federal Coal Mine Safety Act (66 Stat. 709; 30 U.S.C. 482) is amended to read as follows and is redesignated as subsection (d):

"(d) The Director shall submit annually to the Congress as soon as practicable after the beginning of each regular session a full report of the administration of his functions under this title during the preceding calendar year. Such reports for each coal operator, whether corporation, partnership, or proprietor,

shall include (1) the names and addresses of each producing coal operator, (2) the tonnage produced by each operator, on a mine-by-mine basis, (3) the number of employees working at each coal mine, classified separately as underground employees and aboveground employees, (4) the man-hours worked underground for each coal operator, (5) the number of days worked at each mine, (6) the number of fatalities for each coal operator, (7) the number of lost-time injuries for each coal operator, (8) number of inspections in the past calendar year for each mine, (9) number of violations of the Federal Coal Mine Safety Act, (10) number of times each mine was closed for violation of section 209 of the Act, and (11) each mine shall be classified under one or more, as appropriate, of the following classes: (*a*) Underground, (*b*) strip, (*c*) auger, (*d*) rail, (*e*) truck, (*f*) shaft, (*g*) slope, (*h*) drift, (*i*) gassy, and (*j*) nongassy. Such report shall also be compiled in summary form with such findings and comments thereon and such recommendations for legislative action as the Director may deem proper. Said reports shall be public information."

PREPARED STATEMENT OF CHARLES D. RICHARDS, MIDDLESBORO, KY.

Gentlemen, I am the publisher of a magazine circulating to the coal industry. As the representative of this publication, I have made a study of H.R. 3584 and similar bills in the Senate and House of Representatives since 1958. I have attended hearings on these so-called mine safety bills as a participant and as an interested party.

NOT A SAFETY MEASURE

If the bill you are considering was a safety measure I would support it. It is not a measure intended to increase safety in the title I coal mines despite its proponents' claims to the contrary.

I can, and do, assure you that H.R. 3584 could become a safety measure were certain amendments made. The amendments will be discussed further on in this statement.

SELFISH INTEREST LEGISLATION

It is extremely doubtful that a single owner of a coal mine, official of a mine union, or an official of a mine operators association, in the United States doesn't know the true intent of the proponents of these bills claimed to be safety measures.

H.R. 3584 is selfish interest legislation and its principal proponents, the United Mine Workers of America, and a few large coal companies, will be the chief beneficiaries if it is passed. There are in excess of 6,500 title I mines in the United States producing approximately 100 million tons of coal per year. These mines are either nonsignatory or, are not complying with the United Mine Workers contract. This contract calls for certain wage scales, fringe benefits, and the payment of 40 cents per ton royalty to the United Mine Workers welfare and retirement fund, on all coal produced.

It is these millions of tons of coal produced and sold without payment of 40 cents per ton welfare royalty to the United Mine Workers that caused H.R. 3584 and similar bills, since 1958, to be introduced. If, through legislation, the title I mines can be destroyed the large producers, signatory to the UMW contract with mechanized mines and high coal lending itself to large-scale production per payroll employee, would produce the coal and pay the United Mine Workers 40 cents per ton. H.R. 3584 is nothing more, nor less, than an effort to destroy the title I mines and add $40 million per year to the revenue of the United Mine Workers.

SPEECH BY JOHN L. LEWIS

In October 1956, in Cincinnati, Ohio, John L. Lewis, then president of the United Mine Workers of America said: "So, it behooves the coal industry to prepare for the future. Great consolidations of modern capital are taking place in the industry and they are highly beneficial. And, in the modern sense, are more efficient—better for men who work in the mines. *We still have the problem of the small mines up the hollows, scattered here and there. Unfortunately, our Congress refused to bring mines employing less than 15 men under the provisions of the Federal Coal Mine Safety Act. So those mines naturally trying in every way possible to avoid paying the industry scale and*

maintaining industry standards OR PAYING THEIR WELFARE ROYALTY." [Italics and caps mine.]

ANALYSIS OF LEWIS' STATEMENT

The Lewis statement can be condensed to the small mines are a problem because they don't pay our scale, maintain industry standards, or pay us 40 cents per ton. Unfortunately Congress refused to bring them within jurisdiction of the Federal Coal Mine Safety Act which, in turn, would turn them over to the Federal mine inspectors who enforce the act.

MR. JUSTICE GOLDBERG

On page 2 of the dissenting opinion, in the case of the *United Mine Workers of America* v. *Pennington* (*Phillips Brothers Coal Company*), Mr. Justice Goldberg said: "Despite allegations of conspiracy, which connotes clandestine activities, it is no secret that the United Mine Workers, acting to further what it considers to be the best interests of its members, espouses a philosophy of achieving uniform high wages, fringe benefits, and good working conditions. As the quid pro quo this, the union is willing to accept the burdens and consequences of automation. FURTHER, IT ACTS UPON THE VIEW THAT THE EXISTENCE OF MARGINAL OPERATORS WHO CANNOT AFFORD THESE HIGH WAGES, FRINGE BENEFITS, AND GOOD WORKING CONDITIONS DOES NOT SERVE THE BEST INTERESTS OF THE WORKING MINER [caps mine] but, on the contrary, depresses wage standards and perpetuates undesirable conditions. This has been the articulated policy of the union since 1933. See Baratz, "The Union and the Coal Industry, 62–74" (1955). *The Mine Workers has openly stated its preference, if need be, for a reduced working force in the industry, with those employed at high wages, rather than for greater total employment at lesser wage rates.*" [Italics mine.]

Here Mr. Justice Goldberg brings up to date the philosophy of the United Mine Workers of America as expressed by John L. Lewis in 1956.

INDUSTRY MONOPOLY DANGEROUS

I believe the desires and interests of the United Mine Workers to completely dominate and control coal production in the United States are made clear through the statements of Mr. Lewis and Mr. Justice Goldberg.

There does not seem any room for doubt that complete control of the employees of coal producers would put the United Mine Workers in a monopolistic position.

You will recall that the United Mine Workers brought the U.S. Government to its knees begging for coal during World War II when the UMW struck the U.S. Government. Also, that they did not go back to producing coal for the war effort until their demands were granted. Please bear in mind that the only coal produced for our war effort, during the UMW strike, came from the small mines segment of the industry. During World War II the small mine segment of the coal industry was in its infancy but, these small operators continued to mine coal for our factories and powerplants despite threats and violence from United Mine Workers. Supplied with management and labor, from large mines, unable to exist under United Mine Workers contracts, the small mine industry has grown into a young giant. This is the segment of coal business the UMW cannot control and would destroy through legislation such as H.R. 3584.

It would be equally wrong for one company or one labor union to control production of a product necessary to the strength of our country. We may need these small mines again in the future.

CONSEQUENCES OF AUTOMATION

The UMW willingly and openly accepted automation of the coal mines by those with capital, and seam thickness, to do so. The "burden and consequences of automation" are high production per employee at lower cost per ton. This enables the large producers to pay 40 cents per ton to the union. The UMW sacrificed the jobs of tens of thousands of its members for a welfare royalty per ton.

Many mines produce over 40 tons per employee per day. The company investment in continuous miners and other equipment is practically constant if

operated but one shift. By simple mathematics we can see that one employee's contribution, at 200 working days per year, is 40 tons per day times 200 or 8,000 tons per year. One hundred million tons divided by 8,000 shows that a few large companies could add 13,000 to 15,000 employees on extra shifts and produce the 100 million tons, now mined by title I mines, with little or no additional investment in equipment. The title I mines would require approximately 50,000 men to produce this tonnage underground in addition to higher land royalty costs and trucking charges from mine to shipping point; 50,000 men employed underground creates jobs for approximately 50,000 more, directly and indirectly, on the surface.

I respectfully point out that the United Mine Workers encouraged mechanization and automation in coal mines in order that the large operators be enabled to pay their scale plus 40 cents per ton.

UMW SAFETY COMMITTEES

I would also point out that every mine signatory to the United Mine Workers contract has a "mine safety committee" empowered to bring all employees out of a mine in which imminent danger of explosion, flood, or any condition endangering lives exists.

You may examine the records and find that they do not exercise this authority to protect the lives of their own members. The explosions in large title II mines where dozens of lives are lost in one catastrophe are not referred to in their testimony before any congressional committee. The reports upon these disasters are replete with references to faulty equipment and a buildup of conditions that eventually cost dozens of lives in one explosion after another. The causative factors in many cases were visible and could not have been concealed from miners and/or the mine committee. If the real desire of the UMW is to save the lives of miners why have they not any interest in saving the lives of their own members in the large mines where they have safety committees and, if necessary, the strike to bring about an immediate correction of unsafe conditions?

The U.S. Bureau of Mines was originally created to study and recommend safer mining practices and how to cut down the incidence of mine explosion. Then Congress gave them police powers with which they have not accomplished their original objective. Large-scale mine explosions still occur. Now the Bureau, pushed by the UMW, wants jurisdiction over title I mines despite the fact that with their inspection and police powers over title II mines and the authority to close a mine until dangerous conditions are corrected they are still far short of making title II mines as safe as title I. I would recommend that the Bureau complete its original task, and prime reason for existence, before asking for new duties.

A study of causes of great explosions, and mine flooding, reveals the record full of mine conditions and equipment defects that caused ignitions of gas and/or dust. Defects that dutiful inspectors must have seen but did nothing about.

FEAR OF TITLE I OPERATORS

One of the great fears of this legislation by title I operators is a knowledge of the strong influence in the U.S. Bureau of Mines by the United Mine Workers.

The small mine operators have not fought the so-called mine safety bills for 8 years in order to avoid operating safe mines. The various State inspection departments require that safety regulations be complied with. The fight against repeal of the 14-man exemption from Federal supervision is engendered by the fears, well justified, of small businessmen of wholesale destruction of their investments at the hands of Federal inspectors.

Most everyone in the coal business is well aware of the undue influence of the United Mine Workers in the U.S. Bureau of Mines. They know the United Mine Workers and, that they have not spent tremendous sums of money over a period of 8 years in an effort to get title I of the act repealed for the sole purpose of bringing safety to a group of coal miners that are not members of their union or, if so, only token members.

H.R. 3484 has provisions that would give a hostile inspector too much latitude in dealing with small coal operators. It is loaded with opportunities for harassment. The legal appeals from an inspector's findings are not within financial reach of most operators. If they were, their crew would be gone and the operator

probably broke before the possibility of relief was in sight. The bill was written for the purpose of harassing the title I mines out of existence is the belief of the operators.

You will note that preshift examinations are required under the act. Under Kentucky law this duty must be performed by a person certified by the Kentucky Department of Mines and Minerals. It is not easy. The expense and study necessary require several years. We have approximately 2,400 title I mines in Kentucky and not more than 500 certified men in the State. If you pass H.R. 3584, as written, you will automatically close approximately 2,000 title I mines in Kentucky, cause the loss of over 16,000 jobs, and bankruptcy for the mineowners.

If you inquire, you will learn that a large portion of the personnel of the Bureau, from top to bottom, are card-carrying members of the United Mine Workers and, received their appointment through UMW recommendations. You will learn that Federal mine inspectors have told operators that they would get along better if they were signed up with the United Mine Workers.

You will find a large portion of the Federal mine inspectors are unable to pass the State examinations for mine inspector in the State where they are working or in the States from which they were appointed. We have good reason to believe that no more than 70 percent of the Federal mine inspectors could pass these State examinations.

I do not intend to infer that the Bureau does not have good qualified men. They do. Many of them rate very high in their profession.

EDUCATION AND NOT LEGISLATION IS NEEDED

An examination of the record will reveal that the States that have made drastic reductions in their accident rate have done so through the personal assistance of State mine inspectors.

State mining departments in several States have safety programs that teach mine safety anywhere a group and a meeting place can be had. Kentucky has set alltime safety records through this system. Tennessee followed, as did Virginia. Despite these records, the Bureau has not followed the same system.

The Bureau says that an inspection or two per year by one of their inspectors will improve safety. I submit that it will not.

Education and not legislation will lower the accident rate in every mine in the United States. Let the Bureau do research, studies, and make known their findings and recommendations to qualified State agencies. Let the States implement and enforce safety programs and regulations.

PROTECTION OF TITLE I MINES ASKED

If the Members of the Senate deem it advisable to repeal title I, I strongly urge that you provide for the protection of approximately 6,500 small businessmen and their employees. Amend the act in order to protect them from harassment and unnecessary legal procedures and fees.

Provide that no person employed by the U.S. Bureau of Mines may be a member of any labor union, own an interest in a coal mine or coal property, or be affiliated with any association of coal operators. Also, that no employee may receive any gratuity, pension, or trust fund established by a labor union or operators' association or operator.

If Federal inspectors are to have supervision of the small mines, why not provide first-class supervision? Amend the act in order to require that a Federal mine inspector must pass the examination for mine inspectors in the State in which he is working.

In closing, I again reiterate, the coal industry needs education, not legislation.

I am deeply appreciative of the opportunity to present my statement.

Senator MORSE. There being nothing further, the hearing is closed.

(Whereupon, at 3:05 p.m., the subcommittee adjourned, subject to the call of the Chair.)

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