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Congressional Record

PROCEEDINGS AND DEBATES OF THE 91st CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Wednesday, October 29, 1969*

The House met at 12 o'clock noon.

Rev. Paul Suder, minister, Centenary Methodist Church, Reese's Mill, and Fort Ashby United Methodist Church, Fort Ashby, W. Va., offered the following prayer:

O God, whose days are without end and whose mercies cannot be numbered, we yield unto Thee most high praise for this great country and Nation, for courageous leadership that Thou hast endowed us with, for wisdom, and knowledge that Thou hast created for our understanding, for the principles and practices upon which this country was founded. We pray for Thy guidance in the time of difficulty. Make us aware of Thy presence each day. Help us to trust in Thee, as we live, move, and have our being. Give each of us skill and courage, endurance and self-control in the work that is set before us, for Thou art a Wonderful Counselor, a Mighty God, an Everlasting Father. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2314. An act to amend section 4 of the Revised Organic Act of the Virgin Islands relating to voting age.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OCTOBER 27, 1969.

The Honorable the SPEAKER,
U.S. House of Representatives.

DEAR SIR: On this date, I have been served with a subpena by the Assistant U.S. Attorney in Brooklyn, New York. This subpena was issued by the U.S. District Court for the Eastern District of New York. The subpena appears to be in connection with a Grand Jury investigation of the Seafarers Political Activity Donation Committee, 67 4th Avenue, Brooklyn, New York.

The subpena requests a number of House records as is further outlined in the subpena itself, which is attached hereto.

The rules and practices of the House of Representatives indicate that no official of the House may, either voluntarily or in obedience to a subpena duces tecum, produce such papers without the consent of the House being first obtained. It is further indicated that he may not supply copies of certain of the documents and papers requested without such consent.

The subpena in question is herewith attached, and the matter is presented for such action as the House in its wisdom may see fit to take.

Sincerely,

W. PAT JENNINGS,
Clerk, U.S. House of Representatives.

The SPEAKER. The Clerk will read the subpena.

The Clerk read as follows:

[Subpena to testify before grand jury]

U.S. DISTRICT COURT
FOR THE EASTERN
DISTRICT OF NEW YORK.

Hon. W. PAT JENNINGS,
Clerk, United States House of Representatives, The Capitol, Washington, D.C.

You are hereby commanded to appear in the United States District Court for the Eastern District of New York at 225 Cadman Plaza East, Brooklyn, New York, on the 13th day of November, 1969, at 10:00 o'clock A.M. to testify before the Grand Jury and bring with you official authenticated (within the purview of § 1733, Title 28, U.S.C.) copies of the reports and records filed with the Clerk of the House of Representatives, pursuant to the Federal Corrupt Practices Act, for the years 1962 to date and, in particular, those filed as follows:

March 8, 1968, covering the period January 1, 1968 to February 29, 1968.

June 10, 1968, covering the period March 1, 1968 to May 31, 1968.

September 10, 1968, covering the period June 1, 1968 to August 31, 1968.

October 25, 1968, covering the period September 1, 1968 to October 20, 1968.

October 31, 1968, covering the period October 21, 1968 to October 30, 1968.

November 10, 1968, covering the period October 31, 1968 to November 10, 1968.

January 10, 1969, covering the period January 1, 1968 to December 31, 1968.

This subpena is issued on application of the Grand Jury.

LEWIS ORGEL,
Clerk.
By ROSE SMITH,
Deputy Clerk.

Date: October 23, 1969.

AUTHORIZING CLERK, HOUSE OF REPRESENTATIVES, TO MAKE AVAILABLE COPIES OF CERTAIN PAPERS AND DOCUMENTS CALLED FOR BY A GRAND JURY, U.S. DISTRICT COURT, EASTERN DISTRICT OF NEW YORK

Mr. ALBERT. Mr. Speaker, I offer a privileged resolution (H. Res. 601) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 601

Whereas a subpena duces tecum was issued by the United States District Court for the Eastern District of New York and addressed to W. Pat Jennings, Clerk of the House of Representatives, directing him to appear before the grand jury of said court on November 13th, 1969, at 10:00 antemeridian to testify and to bring with him copies of certain and sundry papers in the possession and under the control of the House of Representatives: Therefore be it

Resolved, That by the privileges of this House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further

Resolved, That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that documentary evidence in the possession and under the control of the House is needful for use in any court of justice or before any judge or such legal officer, for the promotion of justice, this House will take such action thereon as will promote the ends of justice consistently with the privileges and rights of this House; be it further

Resolved, That W. Pat Jennings, Clerk of the House, be authorized to appear at the place and before the grand jury named in the subpena duces tecum before-mentioned, with certified copies of the documents and papers mentioned in the said subpena, but shall not take with him the papers or documents on file in his office or under his control or in possession of the House of Representatives; and be it further

Resolved, That as a respectful answer to the subpena duces tecum a copy of these resolutions be submitted to the said court.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MAKING IT IN ORDER FOR THE SPEAKER TO RECOGNIZE FOR MOTIONS TO SUSPEND THE RULES ON NOVEMBER 5

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that it be in order on Wednesday next, November 5, for the Speaker to recognize for motions to suspend the rules.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

Mr. GROSS. Mr. Speaker, reserving the right to object, what is the purpose of this request?

Mr. ALBERT. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the majority leader.

Mr. ALBERT. Mr. Speaker, I am happy

the gentleman from Iowa has brought this question up so the House may be advised that normally next Monday is Suspension Day, but there are several elections, as the gentleman knows, across the country on Tuesday. The only reason for this request is to accommodate the Members who want to go home and vote on Tuesday. That is the reason for it.

Mr. GROSS. Mr. Speaker, I thank the gentleman from Oklahoma.

Mr. Speaker, I withdraw my reservation of objection.

Mr. HALL. Mr. Speaker, reserving the right to object, would the distinguished majority leader just tell us "flat out" whether or not we are going to put off legislation again because of elections across the length of the land, and does it involve next Monday and Tuesday, as slow and as delayed as we have been in our annual legislative process already?

Mr. ALBERT. Mr. Speaker, will the gentleman yield?

Mr. HALL. I yield to the majority leader.

Mr. ALBERT. Mr. Speaker, of course there are several assumptions in the distinguished gentleman's question. First of all, the gentleman from Missouri knows that we have dropped the practice in which we indulged for a number of years of putting votes off that occurred on primary days. Tuesday is a general election day, as the gentleman knows. It is the election Tuesday, the first Tuesday in November. We are not suspending rollcalls ipso facto on that day. We are merely trying to accommodate Members, many of whom must be at home for the purpose of casting a general election day vote. This does distinguish the request from the former practice we had of putting all votes over on primary days. That practice just got out control, as the gentleman recalls, when we had as many as three in 1 week.

Mr. HALL. I do recall that. I agree with the distinguished majority leader in this respect. I understood we had changed over and foregone the practice of not having legislative business and quorum calls or rollcalls of importance on primary days.

I seem to sense that we are seeping back into that, although I recognize November 4 is, of course, a general election day in the Old Dominion State and in the "Cranberry" State, and perhaps in some others. I know well the difference between the two.

Only this morning one of the chairmen of one of the outstanding committees, that has fairly well done its work, approached me to see if I would object, as one of the objectors on the floor of the House to unanimous-consent decisions and so forth; first, if we had no legislative business on Veterans' Day, November 11, and, second, if I would object to the House not coming back into the second session of this Congress too early in January 1970, if we are going to work around the calendar this year.

We just cannot have it both ways. We cannot honor all of these days that come up by not having legislative business and not be called a "do-nothing Congress" at the end of this 91st first session by whomsoever might want to put this appellation on us; and, finally, not by working around the calendar.

I, for one, am against deferring legislative business. In fact, I am for putting our shoulders to the wheel and winding up this session at the earliest possible date.

Mr. GROSS. Mr. Speaker, will my friend from Missouri yield?

Mr. HALL. I am glad to yield to my friend from Iowa.

Mr. GROSS. Does not it appear to my friend from Missouri that this is in the nature of a device to put over votes, by transferring the business until Wednesday when there might well be votes on the Monday business that is put over?

Mr. ALBERT. Mr. Speaker, if the gentleman will yield, this is an accommodation to Members on the day immediately preceding a general election day. That is all. I can assure my friend, so far as I am concerned, this is no effort to inch back to the former procedure, which I found unworkable from the standpoint of myself and the operation of the House, of putting over record votes on primary days. I can assure the gentleman of that, so far as I am concerned.

Mr. HALL. Mr. Speaker, I appreciate the reassuring words of the majority leader. I recognize the truth of the prophecy by the gentleman from Iowa.

Does the leadership anticipate great controversy on this food stamp plan coming up under suspension of the rules on Wednesday? Second, is it being brought up under suspension of the rules to avoid amendments?

Mr. ALBERT. So far as I know, no decision has been made, although I recognize it is a possibility. I do not know whether it is a matter of major controversy or not. I have not been advised that it is. I have been advised if it came up under a rule it might be. That is as much as I know.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. HALL. I yield to the distinguished minority leader.

Mr. GERALD R. FORD. I would say to the gentleman from Missouri, I have consulted with the Speaker and with the distinguished majority leader on this. I reemphasize what the majority leader has said. This is not to reestablish the bad practice we had of having no business and no votes on primary days.

This is a unique situation, where we are in session late in the year and where there is in effect a general election in many States. Because of the importance of this in a number of States it did seem we could accommodate those Members who have good reason to be away the day before election. For that reason I agreed with the Speaker and the distinguished majority leader that this made sense.

Mr. HALL. Mr. Speaker, in view of the leadership evident in this instance, and although I think working around the calendar itself is not a point of great benefit to the Nation or to the Congress in particular, I withdraw my reservation.

THE AUTHORIZATION AND APPROPRIATION BUSINESS OF THE SESSION

Mr. MAHON. Mr. Speaker, reserving the right to object, I should like to ask my friend, the distinguished majority leader, whether this request would in his opinion in any way delay the work of the House of Representatives on the appropriation bills?

Mr. ALBERT. To my knowledge, it would not, if the gentleman will yield.

Mr. MAHON. The President, in a letter yesterday to me and others here on the Hill, pointed out that he is in the process of preparing his budget for the next fiscal year, but that in order to do so and meet the January deadline for its submission he needed to know what Congress was going to appropriate for this year. The minority leader, the gentleman from Michigan (Mr. FORD), seemed to attack the Congress for failure to get the appropriation bills to the President.

I would like further to inquire of the majority leader if it is not true that the House has passed all of the regular appropriation bills for fiscal 1970 that it is in order under the rules to do until we get further authorization. May I say that there are five appropriation bills that have not been passed by the House for lack of related authorizations. I am wondering if this request, if granted, will in any way delay an authorization bill on defense, on military construction, on certain items in the transportation area, on foreign aid, and on the District of Columbia. The guns of criticism have been leveled at the House and at the Senate and at the Congress, and I wonder if this request in any way will tend to militate against the desire of the Committee on Appropriations to give the House opportunity to pass the unreported appropriation bills at the earliest feasible date.

Mr. ALBERT. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Oklahoma.

Mr. ALBERT. I am just as sensitive to the further need for getting authorization and appropriation bills out of the way as is the gentleman. I think that the gentleman's committee has had before it and has passed through the House all the appropriation bills, with the possible exception of one, for which there are existing authorizations. We have urged as the gentleman well knows, that authorizing committees complete action on the authorization bills as quickly as possible. I cannot answer exactly whether the fact that we will not be programing suspensions on Monday will have anything to do with what the committees can do on Monday. I cannot answer that.

Mr. MAHON. We are on the threshold of the 11th month of the year and well over half of the President's appropriation budget—some $81 billion, in fact—has not been processed by the House because of the lack of significant authorizations. With only 2 months of the year left, this is a most disturbing situation. The Committee on Appropriations has acted in every instance where we thought we could. But time is running, and is now short. I think we have to do something in self-defense, and I do rise in self-defense.

I now yield to the gentleman from Michigan, who on yesterday seemed to attack the committee and the Congress for not having gotten more of the appro-

priation bills to the President. We have virtually come to a grinding halt in our ability to bring out the appropriation bills within the rules. I repeat, we have tens of billions of dollars of appropriations bottled up because we do not have authorizations for them. What can the Committee on Appropriations do about it and what can the minority leader do about this situation, and does this request have any adverse impact on the unfortunate situation in which we find ourselves with respect to appropriations?

Mr. GERALD R. FORD. Mr. Speaker, would my good friend and former chairman yield at this point?

Mr. MAHON. I am glad to yield to the gentleman.

Mr. GERALD R. FORD. I want to reassure the gentleman that I did not attack the Committee on Appropriations and I did not attack the Congress but simply said that we are in this position—and the record shows that we are—where only two appropriation bills for fiscal 1970 have reached the desk of the President. I deplore this, and I am sure that the distinguished chairman of the Committee on Appropriations deplores it. I would like to make an inquiry because I think what may come to the House Monday or Tuesday could give the green light to one of the appropriation bills still in the Committee on Appropriations.

I understand that the conferees on the District of Columbia revenue bill have agreed, and it is my understanding that the Committee on Appropriations has not acted on the District of Columbia appropriation bill pending this conference report from the legislative committee. Is there any reason why, if the conference report is ready, it cannot be considered Monday or Tuesday so that we could get the green light for this particular appropriation bill?

Mr. MAHON. I would like to yield to the majority leader for a response to this question. Let me first say that if we bring out an appropriation bill prior to the time that the legislative committees have fully acted and processed the related authorization, the legislative committees tend to be somewhat disturbed because they feel we are moving too fast and getting the cart before the horse, so to speak. In any event, we have to have a reasonable time for markup, getting the printing done, and the report drawn. It takes about a week or 10 days or more to do that. We cannot be expected to bring in our appropriation bill 30 minutes after the House has passed the related authorization measure.

Mr. ALBERT. The leadership insofar as I know has not been advised what day the conferees on the District of Columbia revenue bill will call up that bill. I know of no reason why it cannot be called up on any day.

I would like to to say to the gentleman that I would like to keep the discussion within the confines of my request. I have only asked that suspension bills be put over from Monday until Wednesday. I have not asked that any rollcalls be put over or that any other matters not be programed on Monday or Tuesday.

I would say this to the gentleman: This is not a matter which concerns just next week. Continually committee chairmen ask the leadership to call up bills on a certain day and the leadership cannot ignore these requests. In the same manner we have requests from committee chairmen not to call up bills on certain days. We attempt to schedule bills in accordance with the request of the chairmen or members in charge of legislation reported from their committees. We have habitually tried to do this throughout the session and I think it can be said in all candor that insofar as requests from committees are concerned and insofar as rules granted are concerned on bills on which committee chairmen desire to take action we have disposed of such legislation promptly. I know that the chairmen of committees now considering authorization and appropriation bills would like to have them disposed of as soon as possible.

Mr. MAHON. Would the distinguished majority leader tell us when we might have the authorizations relating to mass transportation, to highway safety, and airport aid in order that we can properly incorporate those in the transportation appropriation bill.

Mr. ALBERT. Mr. Speaker, if the gentleman will yield further, the leadership is in no position to predict when a committee is going to vote or when a chairman is going to request a rule or when a rule will be granted. I can only answer the question in that way. I do not wish to direct my remarks to any committee. I think I can say in all candor that we have discussed the matters with the chairmen of the committees which have jurisdiction over authorization bills not only recently, but over the months.

Mr. MAHON. Referring again the fact that we are on the threshold of the 11th month of the year and the fact that we have had 14 bills and resolutions out of the Appropriations Committee this session, I wonder if the majority leader could tell us when we might expect an authorization on the foreign aid bill. The subcommittee headed by the gentleman from Louisiana (Mr. PASSMAN) finished its hearings some time ago. We want to bring in a bill. When can we expect action on the foreign aid authorization bill?

Mr. ALBERT. The distinguished gentleman from Ohio is present and is a member of that committee and I am sure can give the gentleman the most recent information with reference to it.

Mr. HAYS. We voted the foreign aid bill out this morning.

Let me say to the gentleman, however, that we did not get the administration's request on the foreign aid bill until the beginning of the new fiscal year. We got it in June. It has taken a long time for the administration to line up the ducks on their side and to line up the votes in order to get it out. There have been long hearings conducted on it.

However, insofar as I am concerned—and I think I can speak for the chairman of the Committee on Foreign Affairs—we have our local elections next Tuesday—he and I do—and I cannot expect folks to vote in congressional elections if I am not interested enough to vote in the local election such as the mayors elections, and so forth.

I have noticed that the President took time out to do some campaigning in Virginia yesterday and plans to do the same thing in New Jersey today or tomorrow although I hope he does not have any success in either instance.

But I am going to take time out on Tuesday to go home and vote. I could not care less whether the foreign aid bill comes up then or not, but it is not coming up because of that, so it will come up in a week or so, I think if the Committee on Rules gives us a rule.

And I might say to the gentleman that I do not even care whether they do that, but it is out of the committee.

Mr. MAHON. The Defense appropriation bill involves a little over $75 billion of the appropriation budget. We do not yet have the enacted authorization for that. The military construction appropriation budget is in the area of $1.9 billion, and there is no enacted authorization.

Is the leadership able to tell the Committee on Appropriations what we can do about those?

Mr. ALBERT. The gentleman knows that the authorization bill has passed the House. The gentleman knows that the defense authorization bill was under consideration for a long time, and I am sure for the best of reasons, in the other body.

All of these are matters we have discussed with the appropriate committee chairmen. If the gentleman feels that by putting suspensions over from Monday to Wednesday would interfere with the consideration of appropriation bills, or if I did, I certainly would not make the request.

Further, Mr. Speaker, I want to compliment the gentleman from Texas. Every year he has come in with a schedule or agenda of bills from his committee. He has followed it, I believe, as religiously as any committee in the House has been able to follow an agenda, and he has done an outstanding job. He has been thwarted time and time again by the lack of authorizations and by matters beyond his control, and I believe beyond the control of the leadership in the House.

But again, Mr. Speaker, I would like to go back to the subject of my request, and I want to emphasize to the gentleman that as far as I am concerned I will be glad to meet every day of the week, every night of the week, to get authorization bills and appropriation bills through the House.

I would also like to say to the gentleman that I conferred some time ago with most of the committee chairmen about the possibility of adjourning at a fairly early date. We received reasonable assurances, but there are two Houses of the Congress, and I was not able to get the same degree of assurance in some places as I was in others.

Mr. MAHON. Mr. Speaker, I would like to make the further observation that as we approach the 11th month of the year, the House has not done anything about authorizing the antipoverty program. That is another item on which the Committee on Appropriations is stymied, and I am looking forward to some cold day in December when somebody may come

racing in with his shirttail flying, wanting us to bring in an appropriation bill for that.

Let it be said that if those concerned do not get these authorization bills processed, we may not be able to take care of the appropriations for them.

Mr. ALBERT. I have no argument with the gentleman, and I recognize the gentleman's position, and unless he wants to go to the Committee on Rules for a special rule he is of necessity bound by action on the part of the authorizing committees.

I believe the distinguished chairman of the Committee on Education and Labor commented on the subject of the OEO authorization during some of the colloquy yesterday.

Mr. ARENDS. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Illinois.

Mr. ARENDS. Mr. Speaker, I want to compliment the gentleman from Texas for bringing this matter up on the floor of the House, and for this rather lengthy debate on the matter, because I think that right now we have got not only a deadline, but there is a serious question as to what is going to happen in the next 6 weeks, or by the end of the year. I would also like to say this: that already the discussion is being held by various Members that from now on they would object to going over from now on, going over from one day to another, and I would even suggest that we might very well figure on starting working Fridays, and perhaps we should start working on Saturdays.

I would like to ask the majority leader if he would tell us what he contemplates in the way of the legislative program for Monday and Tuesday in view of the request that he has just made.

Mr. ALBERT. We have the Private Calendar and the Consent Calendar. There is another bill or two out of the Committee on Rules that might be programed if the chairman of the committee wishes to do so, and I will of course discuss this matter with the chairman.

May I say just one other thing because I want the House to have full knowledge of what is before us. So far as I know, as of now there are only 3 days left in this year prior to Christmas which are recognized and accepted as days of national importance or national holidays and they are—election day on next Tuesday, Veterans Day on the following Tuesday, and Thanksgiving Day.

We would be doing no more, insofar as I know on those days than just to accommodate Members on the Mondays before those two days, and on the Friday after Thanksgiving Day, and we are not contemplating any extended vacations. But we do think, being in session as long as we have been, that Members might be entitled to go home for Thanksgiving.

Mr. ARENDS. Might I express the hope that the majority leader will also tell the "Tuesday to Thursday Club" that they may well expect to be here on Friday from now on?

Mr. ALBERT. Mr. Speaker, if the gentleman will yield further, we have announced repeatedly, during recent announcements of the legislative programs that if it is necessary to clear the deck of bills that the chairmen are ready to bring to the floor that we will meet on Friday and if necessary on Saturday.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Michigan.

Mr. GERALD R. FORD. Mr. Speaker, I would like to make one further observation.

Having served as a member of the Committee on Appropriations for 14 years, I have an understanding of the problems of the committee. I also know that their problems have been multiplied because of the proliferation of authorization bills. A proposal has been made, and I joined in cosponsoring it, that if an authorization bill is not a law by the 30th of June of a particular year, the Committee on Appropriations may thereafter bring the appropriation bill to the floor of the House without the problem of a point of order being made against it. I think that proposal ought to be approved. It would be helpful for two reasons: First, in getting the authorization proposals through before June 30 and second, in helping the Committee on Appropriations to get its work done prior to June 30 or shortly thereafter.

Mr. MAHON. I would pose the question, what kind of buzz saw might we encounter, for example, on defense if we should bring up without authorization the defense appropriation bill, which, as the gentleman knows, has no enacted authorization this year because the committees have not been able to finalize it for us in the last 10 months? I do not know whether that would work or not.

Mr. ALBERT. Mr. Speaker, if the gentleman will yield for just one further comment. I appreciate what the gentleman has said. I hope his optimistic outlook of what he calls the optimism of the majority leader is not overly optimistic. We do want to finish just as fast as we possibly can.

Mr. MAHON. Mr. Speaker, I thank the gentleman and withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma (Mr. ALBERT)?

There was no objection.

DISCUSSIONS, IF NOTHING MORE, MAY BE HELPFUL

(Mr. SIKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIKES. Mr. Speaker, it is encouraging that American and Soviet negotiators are at long last prepared to begin discussions during November on arms limitations. The negotiations are a step toward world sanity in the arms race. But let us not place too much significance on what is happening. We should not assume that the negotiations would automatically insure progress. At this point they will show only that both sides are interested in finding out whether there is common ground to make further and more meaningful talks worthwhile.

Previous history of negotiations with the Soviets would indicate that there is a long and difficult road ahead before any genuine rollback in strategic stockpiles can be accomplished. In the meantime, it is important that the United States not indulge in the deadly luxury of unilateral disarmament. As a matter of fact, U.S. disarmament would probably have eliminated any possibility of accomplishment toward arms limitations at the conference table. The Soviets are much too clever to give up anything without a quid pro quo.

While we are effecting economies in defense expenditures we should also endeavor to modernize and to strengthen our fighting forces. This the Soviets will understand, for this is exactly what they will be doing.

The people of the world can draw some assurance from the fact that both we and the Soviets recognize the dangers of nuclear war and the cost of an arms race. Both countries should be willing to seek relief from the growing economic burden which accompanies military preparedness. Hopefully, the talks can provide the proverbial single step that marks the beginning of a long and important journey.

HIGHER PRICES? YOU CAN BE SURE IF ITS WESTINGHOUSE

(Mr. PODELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PODELL. Mr. Speaker, periodically a corporation shows true public spirit and tender consideration for consumers and their already devastated buying power. Yesterday such a case came to light when Westinghouse Electric Corp. announced plans to raise prices on 1970 models of all its major appliances. Dates of increases and their amounts have not been announced yet by this noble and altruistic corporation. Translation: they have not yet figured out how much the traffic will bear.

Is it not grand and glorious to see such public spirit aimed at ending inflation and helping consumers? Can we not all picture that embattled board of directors at a conference table, figuring out how they can fight inflation and lower the prohibitive cost of living? Simply raise all prices on 1970 appliances. Imagine the rejoicing, the firm handshakes of congratulation. Patriotism by Westinghouse, next to profit, is their most important product.

With interest rates at alltime highs, unemployment soaring, and inflation annihilating consumer dollars, Westinghouse raises prices. Yet we should not be too surprised, for recently they have shown similar unselfishness. Last month, they upped room air conditioner prices by 4 percent and dehumidifier costs by 3 percent. Now we have something else to look forward to. Refrigerators, washers, dryers, ranges, diswashers, and water heaters in addition to air conditioners and dehumidifiers will all cost more, if you buy Westinghouse.

Mr. Speaker, we all know the motto of this company. Now the entire consuming

public can be twice as sure if it is Westinghouse. At least they can be sure the prices will go up.

VIETNAM NEGOTIATIONS

(Mr. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLACKBURN. Mr. Speaker, and Members of the House, we all recall the beginning of the Paris peace talks some 2 years ago. We recall that at that time our President dispatched Mr. Averell Harriman to be our chief negotiator at those conferences. I think we all recall the surprise that some felt that before the negotiations had even started, Mr. Harriman had seen fit to sign a 1-year lease on his residence in Paris, which indicated either, first, he expected no progress from the peace talks or, second, he really was not anxious to achieve any progress at the peace talks.

Perhaps some insight into Mr. Harriman's thinking has been granted us by a speech he delivered last night, which is reported on the Associated Press News Service. It appears that last night Mr. Harriman encouraged a Yale University audience to "keep up the pressure" on President Nixon. A more interesting insight is granted by his statement:

> The moratorium has helped to build essential confidence that we do intend to get out.

Now, Mr. Speaker, if our chief negotiator in Paris for over a year was advocating an American bugout and surrender, then the mystery of the lack of progress there is no longer a mystery. It appears that instead of having a vigorous advocate for victory, we have instead been saddled with a senile supporter of surrender.

PUBLIC SENTIMENT ON THE CONVERSION OF THE POSTAL SYSTEM INTO A GOVERNMENT PUBLIC SERVICE CORPORATION

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, in recent months dozens of Members of this Congress have conducted polls within their districts and States to determine public sentiment on the President's proposal to convert the postal system into a Government public service corporation. As in my own poll, the Postal Corporation proves to be a very popular idea. In my poll it was second in popular support only to "economy in Government."

The results of these polls have been published, at one time or another, in the CONGRESSIONAL RECORD.

I think they should be required reading for the members of the Post Office and Civil Service Committee, and especially the 13 members of that body who recently voted against marking up H.R. 11750, the administration's total postal reform bill.

Without exception, these polls showed the public overwhelmingly opposes retaining the postal system in its present structure. With one exception, they indicated massive approval of the postal corporation concept.

The same results were obtained in polls conducted by the National Newspaper Association, the U.S. Chamber of Commerce, and numerous local newspapers, radio and television stations, and civic organizations.

Mr. Speaker, I think the voters are trying to tell us something. And I think it is incumbent upon all of us to listen closely—particularly the 13 members of the Post Office and Civil Service Committee who voted not to mark up the administration's postal corporation bill.

REPORT OF OFFICE OF ALIEN PROPERTY, DEPARTMENT OF JUSTICE, FOR FISCAL YEAR ENDED JUNE 30, 1968—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I herewith transmit the annual report of the Office of Alien Property, Department of Justice, for the fiscal year ended June 30, 1968, in accordance with section 6 of the Trading With the Enemy Act.

RICHARD NIXON.

THE WHITE HOUSE, *October 29, 1969.*

FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

Mr. PERKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 13950) to provide for the protection of the health and safety of persons working in the coal mining industry of the United States, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky.

The motion was agreed to.

IN THE COMMITTEE ON THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 13950, with Mr. STEED in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday, title I of the bill was subject to amendment at any point, and amendments had been offered by the gentleman from Kentucky (Mr. PERKINS) and considered as read.

The Chair recognizes the gentleman from Kentucky for 5 minutes in support of his amendments.

Mr. PERKINS. Mr. Chairman, during the course of general debate on Monday, specifically as reported on pages 31574 through 31576 of the CONGRESSIONAL RECORD for October 27, 1969, I submitted the complete text of the amendments and at that time explained the effect of the amendments. In essence, these amendments delete the Board from the bill and substitute in its place an Interim Compliance Panel whose sole function would be to review and act upon requests by mines for waiver of dust standards and for the waiver of the use of permissible mining equipment.

Since 1952, when the Board was created, it has operated as a very effective administrative mechanism for reviewing actions of the Bureau of Mines in administering the Federal coal mine safety law. This has been possible because the Board consisted of representatives of the miners and representatives of the coal industry who worked to make the Board effective in carrying out the objective of the act. Now the committee has received information to the effect that one of the interested groups represented on the Board and directly concerned believes that the Board is no longer necessary. It is obvious that the Board's ability to effectively operate as an administrative instrument may be impaired. Hence this amendment to delete it.

As I pointed out yesterday the amendment assures appropriate review procedures of orders and decisions of the Secretary in administering the act.

First, an Interim Compliance Panel is created to review requests by mines for waiver of dust standards and to review requests for waiver of the use of permissible—nonspark—mining equipment.

Second, a public hearing will be held by the Secretary as a matter of right for any persons objecting to proposed regulations on health and safety standards. The standards are further subject to review in court.

Third, the amendment retains procedures for appealing any closing orders issued by a Federal inspector to the Secretary and makes the adjudication provisions of the Administrative Procedures Act applicable to the appeal which are, of course, then reviewable by the courts.

Fourth, the amendment permits, on a limited basis, temporary relief from any closing order except those dealing with imminent danger—while an appeal is being taken.

Further, powers that were formerly under the Board with respect to the imposition of civil penalties for violation of mandatory standards are now reposed in the Secretary. He is required by the terms of the amendment to conduct appropriate hearings on request in connection with his assessment of any civil penalties. Appeal to the courts is provided where the proceedings would be de novo.

Other functions formerly assigned to the Board under the amendment with respect to overseeing the X-ray program would be assigned to the Secretary of Health, Education, and Welfare. Those functions with respect to health and safety research programs would be assigned to both the Secretary of Health, Education, and Welfare and the Secretary of the Interior.

Mr. Chairman, that is the basis of the amendment. I have discussed it with the minority, and, so far as I know,

the minority intends to accept this amendment. I think the gentleman from Illinois (Mr. ERLENBORN) should speak on that point.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. Yes. I yield to the distinguished gentleman from Illinois.

Mr. ERLENBORN. The statement just made by the gentleman from Kentucky, the chairman of the full committee, is correct. I have gone over this amendment with the chairman, the gentleman in the well, and I support this amendment, which removes the board of review and places in the legislation the compliance panel with provision for extension of the dust standards and acquisition of permissible equipment. I commend the gentleman for offering this amendment and I do support it.

Mr. PERKINS. And we agree that the amendments should be considered en bloc?

Mr. ERLENBORN. That is right.

Mr. HUNT. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Seventy-two Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names.

[Roll No. 247]

Ashbrook	Foley	Pepper
Ashley	Ford,	Pirnie
Baring	William D.	Powell
Barrett	Gubser	Preyer, N.C.
Bell, Calif.	Heckler, Mass.	Pucinski
Bingham	Holifield	Rees
Blatnik	Jarman	Reid, N.Y.
Boland	Kirwan	Robison
Brown, Calif.	Lipscomb	Rosenthal
Burton, Utah	Long, Md.	Rostenkowski
Byrne, Pa.	McClory	Scheuer
Cahill	McCulloch	Skubitz
Carey	Mailliard	Stuckey
Cederberg	Mikva	Udall
Clark	Miller, Calif.	Ullman
Clausen,	Monagan	Van Deerlin
Don H.	Moorhead	Weicker
Colmer	O'Neill, Mass.	Whalley
Daddario	Ottinger	
Dawson	Patman	

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. STEED, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 13950, and finding itself without a quorum, he had directed the roll to be called, when 375 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. HECHLER of West Virginia. Mr. Chairman, I rise in support of the amendments.

Mr. Chairman, I desire to commend the chairman of the Committee on Education and Labor, the gentleman from Kentucky, the sponsor of these amendments, and also the gentleman from Pennsylvania (Mr. DENT), the chairman of the subcommittee. I should like to ask the gentleman from Kentucky a couple of questions concerning the amendments.

Does this Interim Compliance Panel, provided for in these amendments, include any private citizens?

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the distinguished gentleman from Kentucky, my neighbor from the adjoining district to mine.

Mr. PERKINS. It does not include private citizens. It includes a group of select Federal officials or their delegates.

They are: First, the Assistant Secretary of Labor for Labor Standards; second, the Director of the Bureau of Standards of the Department of Commerce; third, the Administrator of Consumer Protection and Environmental Health Service, Department of Health, Education, and Welfare; fourth, the Director of the Bureau of Mines; and fifth, the Director of the National Science Foundation. There are no private citizens on the Panel.

Mr. HECHLER of West Virginia. Does this Panel include any power or authority to veto penalties or mine closures for safety violations? Can the Panel override the decisions of members of the President's Cabinet?

Mr. PERKINS. This Panel has nothing to do with vetoing any action of the Secretary and has no authority in the areas that the gentleman just mentioned..

Mr. HECHLER of West Virginia. I thank the chairman of the full committee for his clear answers.

Mr. PERKINS. This is an Interim Panel that goes out of existence when its duties have been carried out.

Mr. HECHLER of West Virginia. I thank the gentleman from Kentucky and commend him for sponsoring these amendments.

Mr. Chairman, I support the amendments.

For months I have been calling attention to the shortcomings of this Board of Review, which could have become the real Achilles heel of the new legislation had it remained in the bill. In the October 21 RECORD at page 30837, I placed in the RECORD the texts of five letters from distinguished experts in administrative law, calling attention to the unsound features of the device of allowing special-interest representatives to overrule the considered decisions of a responsible member of the President's Cabinet. Since having these letters printed, I have received responses from several other experts, including Prof. Kenneth Culp Davis, University of Chicago Law School; Dean Leo A. Huard of the School of Law, University of Santa Clara, Calif.; Prof. Arthur Earl Benfield, College of Law of the University of Iowa; and Prof. Walter Gellhorn, Columbia University School of Law.

Dean Huard in general supports the concept of the Board, unlike all the rest of his colleagues. He also makes some interesting and useful comments concerning the need for incorporating the practices under the Administrative Procedures Act. I am very happy to note that the gentleman from Kentucky (Mr. PERKINS) has done precisely this in his amendments which tie in the Interim Compliance Panel with the Administrative Procedures Act.

Professor Gellhorn, in his letter of October 24, 1969, generally endorses the comments of Prof. Fred Davis of the University of Missouri, a copy of which I have already had printed in the October 21 RECORD at page 30837, Professor Gellhorn adds:

> A body that is supposed to make dispassionate judgments about disputed questions of fact should not be composed of partisan representatives. That type of tribunal has progressively fallen into disuse because no matter how detached might be the judgment of its individual members, its decisions remained suspect in some quarters and therefore failed to carry the force they should have.

I most enthusiastically support these amendments to abolish and finally lay to rest the Board of Review.

Mr. ERLENBORN. Mr. Chairman, I rise in support of the amendment.

As I said during the time that the gentleman from Kentucky (Mr. PERKINS) yielded to me, I support this amendment. I wish to make it clear that it is somewhat reluctant on the basis of removing the Board of Review, which has done a good job, I believe, but I see the realities of the situation. The gentleman from Kentucky is including in this amendment the provisions for a Compliance Panel substantially the same as is in the bill in the other body. This would make our job in the conference much easier. It is something that the Secretary of the Interior has wanted namely, the Compliance Panel. As the chairman of the committee pointed out, this Panel will function in an area which is separate from what the Board of Review did. The Board of Review would review orders, and it has done so in the past. It reviews orders of closure and other orders issued by the Secretary based on inspectors' findings at the mines. The compliance panel will have application only to the areas of extensions of time in compliance with health and safety standards and extensions of time in the acquisition of permissible equipment. This is something that the Secretary of the Interior has wanted, as I said. I am happy that the gentleman from Kentucky has seen fit to offer this amendment and I do support it.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Kentucky (Mr. PERKINS).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. SCHERLE

Mr. SCHERLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SCHERLE: Beginning on page 38, line 18, through page 43, line 9, strike all of subsection 112(b).

Mr. SCHERLE. Mr. Chairman, I rise to ask support of the House to delete section 112(b) of the bill under consideration. We all support safety legislation, however, to inject Federal workmen's compensation would be wrong.

This section of the bill would establish a special system of Federal workmen's compensation payments for a small group of employees in one industry who are affected by one specific disease. For humanitarian reasons alone we are all sympathetic with any employee who is afflicted with an occupational disease—or, for that matter, with any disease, whatever its origin. Everyone is in agree-

ment that the victims of occupational diseases should be adequately compensated; however, this historic, far-reaching proposal for disabled miners is the wrong way to solve this problem.

The great dangers with this bill are twofold. First, it would undermine our State workmen's compensation system. Second, it would begin a new special social security disability program on top of our existing Federal system.

The State workmen's compensation system was our first form of social insurance. Every State has its own system of providing benefits for work-connected injuries and diseases. Such systems have been functioning successfully for over 50 years. They are still being refined and perfected. This is a continuing process.

There is universal agreement that our State workmen's compensation laws should provide adequate compensation for on-the-job diseases as well as on-the-job injuries. Thirty-eight of our States have broad occupational disease coverage for disabled employees. The remaining States list a schedule of compensable diseases. Improvements are being made in these laws by the State legislatures whenever necessary.

Section 112(b) of this bill would start a new system of Federal workmen's compensation payments for retired or active coal miners with pneumoconiosis. If this section is not struck, it will be the first step toward the ultimate federalization of all workmen's compensation.

This bill offers no incentive or encouragement to the States to further improve their occupational disease laws for coal miners. In fact, if the Federal Government is going to foot the bill, the States will be encouraged to do nothing.

The payments made would be discriminatory. They would apply only to workers suffering one specific disease in one specific industry. This is a step backward. For 50 years we have been working in this country for broad occupational disease or disability benefits. It would be a mistake to begin legislating special payments for this or that group of employees, in this or that industry, for this or that particular disease.

The other great problem to consider is whether this type of legislation would not start a second fragmentary Federal social security disability program. We already have a broad disability program under our social security system. Our citizens are entitled to payments when they are totally disabled without regard to whether the disability arose on or off the job. Section 112(b) of this bill takes no recognition of the fact that coal miners who are totally disabled from black lung disease can apply for disability under the Social Security Act. In fact, a number of the disabled coal miners who appeared at the hearings stated they were receiving monthly social security disability payments.

The great danger here is that we would be starting a third system of governmental disability insurance on top of the already existing State workmen's compensation system and Federal social security disability system. We begin with coal miners with black lung, but where do you stop? The list of industries and occupational diseases is endless. If this legislation is adopted each Congress from now on will be faced with special pleas for special workmen's compensation payments to special categories of employees in various industries for specific diseases. Without question, workmen's compensation should remain the responsibility of the States.

This section of the bill would set an unwise precedent. For the reasons cited, I strongly urge that we not start down this dangerous road.

Mr. LANDGREBE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment which has been offered by the gentleman from Iowa (Mr. SCHERLE).

Mr. Chairman, I support the Scherle amendment, not because I am opposed to the coal miners health and safety bill, but because I believe that the compensation measures for our various industries should remain in the States where they can best be managed and handled, perhaps better than we could possibly handle them at the Federal level.

There are many, many industries in our land; in fact, there is hardly any industry that does not have some health problems related to that industry. Of course, the industry that I know best is the motor freight industry. In this industry, back sprains, back injuries of a permanent nature, heart disease, kidney and bladder problems, hernias and ulcers are all health hazards of the trucking industry. Not only that, but the trucking industry is one of the biggest industries in the country. I need not remind the Members of this body of the importance of that particular industry. In many States it is the largest employer.

We have brown lung in the textile industry. We have lung problems in the lime quarries, grain elevators, farms, and the ammonia industry. Lead poisoning is a hazard of the gasoline industry, and of course the dairy workers and slaughterhouse workers are subject to rheumatism, a most unpleasant and crippling disease.

Then there is painters' colic, and on and on we could go. We could even mention bartenders, with that inherent health hazard of alcoholism.

I fully appreciate the coal miners' contribution to the progress and prosperity of this country, but I do believe that the Scherle amendment is right. I believe that compensation for industrial injuries and illnesses should remain with the States. Therefore, I urge my colleagues to support the amendment offered by the gentleman from Iowa (Mr. SCHERLE).

Mr. COLLINS. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the amendment offered by the gentleman from Iowa (Mr. SCHERLE).

I am not sure that all of the Members fully realize what is involved, or the particular thinking concerning this section of the bill. We are introducing for the first time the idea of workmen's compensation as a Federal responsibility. This can run into billions of dollars, and what we are doing we are doing on a single-shot basis. This raises the question, is this equity? It is not even equity to the coal miners themselves, because it is only the fellows who have black lung who get workmen's compensation. In other words, if you lost both arms or both legs you certainly would deserve workmen's compensation, but you do not get this Federal workmen's compensation. This is only for people with black lung.

Actually, we are talking about lung problems, but on only one type—black lung. That is the whole basis here. We are all very sympathetic with all lung situations because today there are probably as many as 5 million people in this country who have lung problems in one way or another.

In our section of the country we are familiar with people who have been involved with what is known as brown lung. They do not call it brown lung; some call it asthma, others consider it a chronic cough. Workers in textile mills may work with cotton, where there is cotton lint floating through the air all day. You can walk through a textile mill, and if you have on a dark suit it will be flecked all over with that cotton lint. That cotton lint has been going into the lungs of these men for years and years, and we have hundreds of thousands of men in the South who have this brown lung.

I want to tell you about another one, and that is in the asbestos industry. There are 3.5 million people in the country who work with asbestos in one form or another, and they have made X-rays of these people, and in over half of the cases of people who work with asbestos the X-rays show up with lung trouble.

Take silica. Many of you have been in some type of open mine in a rock quarry where they crush stone in one way or another and see the wind dust blowing all day long on the men working out there. These workers are developing in every case some type of lung problem.

We remember beryllium and when beryllium was considered all right to be used in fluorescent lighting. Recently, it was found out that it was poisonous. What about the people who suffered from use of beryllium?

We talk about coal being a very important item because it is a valuable national resource. Yet, take uranium. Uranium is a very highly sensitive commodity and nothing is done to provide for people involved in uranium.

From every angle this particular bill is highly partisan, highly prejudiced and this is a special interest situation. When the time comes that this country decides to take on workmen's compensation, it should take it on fairly, and should take it on equitably, and should take it on for everybody in the country who has a lung problem.

I recommend we give thorough consideration to the amendment offered by the gentleman from Iowa (Mr. SCHERLE).

Mr. ERLENBORN. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I rise in support of the Scherle amendment.

I agree with most of the arguments made by the sponsor of the amendment and those who have so far supported it.

It is a rather difficult thing for me to do to get up on the floor of the House today to support this amendment because the provisions it would strike do have a humanitarian thrust. I am not unaware of that. I am not insensitive to the fact that there are people who suffer from this disease, and who are not compensated under State law.

The unfortunate thing is that this particular disease was not identified as a separate disease until recently. It used to be called by other names such as anthracosis and chronic bronchitis and it had other designations.

It was not identified as a separate disease and it did not become compensable as a separate industrial disease because of that lack of identification. Many of the States have since been hesitant to move into this field to provide compensation.

I realize, even when they do provide compensation, that many miners who have already retired will not be covered because you do not have the reserves to pay the benefits that would accrue to those miners who are already retired.

So from a humanitarian standpoint, this is a good provision in the bill—but it is a very bad precedent.

I had an interesting discussion in my office last week with some student leaders from the college community. One of the questions they asked me was, "How do your Christian principles either conform with or conflict with some of the things that you must do in the legislative process?"

There came to my mind right away this provision in the bill for compensation for pneumoconiosis and I told them—Here is one where my Christian principles of doing right by my neighbor and seeing that people are properly compensated for disability and my feeling that we have to keep the Government structure right and do not destroy the values that we have developed in this country.

I got an interesting response from one young lady, a college student, and she said, "I do not think that is a very Christian thing to do, to use somebody else's tax money to take care of these people. The Christian thing to do would be to use your own funds."

I think this was a pretty good observation made by this young lady.

The problem I see, and this has been pointed out by some of the other speakers. We are going to establish a precedent. I know that this has been very carefully drawn to apply to only those who presently have the disease and is apparently to be self-liquidating in operation, within a certain period of time.

I commend the ideas of those speaking in favor of this provision for keeping it thus narrowly confined and if it is going to pass, apparently, it is going to be in this form. And I think it only can pass in this form. But still what is to prevent those who suffer from brown lung, byssinosis, from coming in and saying, "Now that you have established as a principle that the Federal Government will give compensation to those who have industrial diseases, perhaps no longer in an area of the country where they have this industry, that therefore the Federal Government will compensate you for these industrial diseases?" Then there is the next step, and the next step down the line, until we can see the takeover by the Federal Government of the whole system of compensation for industrial diseases and workmen's compensation. I fear the precedent established in this bill, even though I can readily commend the purposes of those who have drafted this and support this provision.

Mr. BURTON of California. Mr. Chairman, I rise in opposition to the amendment. Of all the sections of the bill, this is the one section that by no stretch of the imagination could be called in any manner, shape, or form anything but bipartisan.

It is intended, as the committee report so very emphatically and unambiguously states:

> This payment program is not a Workmen's Compensation program. It is not intended to be so. It contains none of the characteristic features which mark any Workmen's Compensation plan, and it is clearly not intended to establish a Federal prerogative or precedent in the area of payments for death, injury, or the illness of other workers.

This is what I think most of the members of the Committee on Education and Labor would agree was an honest effort to have a very narrowly drawn bill, on a one-shot basis only, the compensation to be paid only to those miners or their widows, if their predeceased spouse had the disease at the time of death—only those miners who have complicated pneumoconiosis that has arisen as the result of breathing anthracite or bituminous coal dust.

There as several stages of pneumoconiosis, but when one has complicated pneumoconiosis, it means that the disease has reached its most serious stage.

This amendment has been worked out with key management leadership, it has the acceptance of labor, it is a one-shot effort, and I hope that the pending amendment is defeated.

Mr. Chairman, I believe that it is only fair to note—that during the early, difficult days when the payment to "black lung" miners and widows was in serious jeopardy—the only person affiliated with the Mine Workers Union that supported Chairman DENT and myself—in our successful effort to have this vital provision inserted in the subcommittee's bill—was Mr. Joseph Yablonski.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. BURTON of California. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Chairman, I appreciate the gentleman from California yielding. I wish simply to reassert what I said during the general debate and what the gentleman from California has just now said so well, and that is that the provision to which the amendment refers is not a precedent. The committee report spells this out. The gentleman from California has stated it clearly and without equivocation. This is not a workmen's compensation provision.

My argument with the distinguished gentleman from Iowa, who has sponsored the amendment which I oppose, is that he is considering this a compensation plan, and it is not. It has none of the characteristics of such, and clearly ought not to be viewed by those who are concerned about this provision as being a precedent.

Mr. HANSEN of Idaho. Mr. Chairman, will the gentleman yield?

Mr. BURTON of California. I yield to the gentleman from Idaho.

Mr. HANSEN of Idaho. Mr. Chairman, I appreciate the gentleman yielding. I associate myself with the remarks made by the gentleman from California and add this comment, that the bill has been worked out over a long period of time, very painfully, and we have come up with some limited response to the problem. I am aware of the precedent-setting possibilities of this bill, but I think the history has been such that those possibilities have been eliminated or virtually minimized.

When I view the problem at which this amendment is aimed, it becomes obvious that if there is no help in this bill, there is no help whatever that we can offer to a limited number of individuals who have suffered impairment of their health by reason of pneumoconiosis.

I am hopeful the amendment offered by the gentleman from Iowa will be defeated.

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. BURTON of California. I yield to the gentleman from Virginia.

Mr. WAMPLER. Mr. Chairman, I thank the gentleman from California for yielding.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Iowa (Mr. SCHERLE).

Mr. Chairman, I support the intent and most of the provisions of H.R. 13950. I believe that this legislation answers the mandate which the American people have given to the Congress to abate the senseless slaughter which all too often characterizes the coal mining industry of America.

The legislation before us is tough legislation. It will impose a heavy burden on the coal mining industry. It will cost that industry money to comply with its provisions.

But, the available alternatives are even more costly, not only to the coal miner and to his family, but to the coal operators and the consumers of coal who must rely upon the productivity of the highly skilled and highly motivated work force.

This Congress is committed to passing a strong and effective health and safety bill. It is committed to including in that bill needed innovations in health and safety matters.

I would be remiss if I did not pay tribute to those people and to those sources which helped to bring this bill to the floor. I offer my congratulations to the members of the House Education and Labor Committee and the subcommittee which considered this legislation. I know full well the long and arduous task that was theirs as they took the ideas, the recommendations and the suggestions of a great many people and fashioned from these conflicting views a bill which will mean safer mines and healthier miners.

Putting this bill together was not an easy task. The committee deserves the

thanks of this body and the American people.

I would be remiss if I did not pay tribute also to the officers and the members of the United Mine Workers of America. I particularly want to call to the attention of this body the efforts on behalf of the legislation by Mr. W. A. Boyle, the president of the United Mine Workers of America; Mr. Louis Evans, the safety director of the union; and Dr. Loren E. Kerr, the director of the division of occupational health. These men and the staffs which support them have given of themselves to the ultimate degree to bring the strongest possible legislation to the floor of this House where it can be enacted into a piece of legislation which can be approved by the President and made into law.

Many of the innovations contained in this bill first came from the United Mine Workers of America.

It was the United Mine Workers of America which introduced legislation calling for the establishment of a dust level of 3 milligrams of respirable dust per cubic meter of air. It was the United Mine Workers of America which urged the establishment of safety chambers to which men could go in post disaster periods. It was the United Mine Workers of America which argued for penalties on the operators who violate the law. It was the United Mine Workers of America which established an increase in the ventilation required in mining operation. It was the United Mine Workers of America which asked that a Federal mine inspector be placed at every mine which liberated excess quantities of methane gas.

Finally, the United Mine Workers of America first suggested that a Federal compensation program be established to care for the victims of pneumoconiosis or black lung, not covered by State law. This effort was made because the union realized that many of the victims of black lung would be ineligible under State laws and would thus be denied that which rightfully should be theirs.

I also want to thank the National Coal Association, the National Independent Coal Operator's Association, other representatives of the coal industry, and members and officers of district 28 of the United Mine Workers of America, which I am privileged to represent. I appreciate their help and advice on this extremely complicated, technical, and controversial legislation.

I want to point out that while all 50 States have some sort of a workmen's compensation law, only one of these States provides retroactive benefits to individuals disabled by pneumoconiosis, and not even this State extends the benefits to the widows of these miners. Many such people are therefore forced to go on the welfare rolls. I believe such facts give evidence that the States are simply not fulfilling their responsibility in the area of workmen's compensation as it applies to pneumoconiosis.

Let me emphasize that I am a firm believer in State's rights, and I think workmen's compensation is generally a matter which should be left up to the States. However, when the States either do not act at all or do not act adequately in this area, I believe the Federal Government has a bound duty and moral obligation to bridge the gap.

Let me also point out that the proposed program of Federal payments to miners disabled by pneumoconiosis or to their widows does indeed bridge the gap, but it is not a workmen's compensation plan. As the committee report clearly states, it is not intended to be a workmen's compensation plan and it contains none of the characteristic features of any workmen's compensation plan. Furthermore, it is not intended to establish a Federal prerogative or precedent in the area of payments for the death, injury, or illness of workers.

The plan as reported by the committee provides payments for retroactive cases of pneumoconiosis only—not for prospective cases. It provides payments for complicated pneumoconiosis, which is the fourth stage of this disease.

The committee report defines complicated pneumoconiosis as a serious disease of the lungs caused by the excessive inhalation of coal dust. The individual incurs progressive massive fibrosis as a complex reaction to dust and other factors, which may include tuberculosis and other infections. The disease in this form usually produces marked pulmonary impairment and considerable respiratory disability. This respiratory disability greatly limits the physical capabilities of the person. It can cause death by cardiac failure, and it may contribute to other causes of death as well. Once the disease is contracted, it is progressive and irreversible.

The importance of the retroactive Federal payments and the provisions for payments to the widows becomes even more evident when you consider the uniqueness of pneumoconiosis: it can take up to 10 years to develop.

Many statistics have already been given in this debate to prove the importance of the coal industry to our Nation. I want to point out that my own State of Virginia is the fifth largest coal-producing State in the country. Coal contributes from $280 to $300 million to the economy of Virginia. Buchanan County in my Ninth Congressional District is the largest coal-producing county in Virginia, and it has some of the deepest shaft mines on the North American Continent.

The late Charles Evans Hughes, a former Governor of New York, was the father of modern labor legislation. He once said:

> We are for both the man and the dollar; but if we must choose between them, we put the man above the dollar.

Let us begin to repay our debt to those miners who have helped America prosper and grow.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield further?

Mr. BURTON of California. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Chairman, there is one other point in the committee report, and I refer the Members to the committee report. I think there is a good statement there on the question as to responsibility. When we say this is a State responsibility, it seems to me we are imposing a requirement on a State such as Wisconsin, which has no coal mines at all, to care for those who have contracted complicated pneumoconiosis in Pennsylvania or West Virginia. I am not at all sure I could recommend to the State of Wisconsin that it undertake a compensation program for a disease for which it is not responsible.

It seems to me this is a further reason for us to be in favor of retaining this provision of the bill.

Mr. BURTON of California. Mr. Chairman, the gentleman from Wisconsin has stated it much more aptly than I could possibly do.

Mr. SAYLOR. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the amendment offered by the gentleman from Iowa.

Mr. Chairman, I have listened with interest to the arguments advanced by my friends the gentleman from Iowa (Mr. SCHERLE), who has offered this amendment, and by the gentleman from Indiana (Mr. LANDGREBE) and the gentleman from Texas (Mr. COLLINS) and the gentleman from Illinois (Mr. ERLENBORN). The very arguments which they have given are the reasons this amendment should be defeated.

Those who suffer from this disease called pneumoconiosis which has been recognized by the medical profession—within the past several years—are spread throughout the 50 States of the Union. Yet they contracted the disease when many of them, years ago, worked in the coal mines, mostly in the Appalachian fields.

After World War II, when there were approximately 400,000 men working in the mines, the demand for coal was reduced, and the men who were there had to go elsewhere to find employment. They went where the job opportunities were given to them and spread throughout the length and breadth of this land. They are in California, Florida, Alaska, Hawaii, Maine, and in States which have absolutely no coal mining.

I could not as a member of a State legislature in any one of those States in all good conscience get up and ask for a favorable vote to take care of individuals with a specific disease which was contracted in the hills of Pennsylvania or West Virginia.

If this bill is passed—and I hope it is—in the form which has been recommended by our committee, then this disease will be attacked at its source and there will be no more cases of pneumoconiosis, because this bill provides for annual inspection by X-rays, and men who are discovered as having any lung condition whatsoever are moved out of these jobs. The dust level which in many mines has been high is going to be reduced.

The amount of air which is going to the face of the mine, is going to be increased.

So this is not a workman's compensation bill. This is a responsibility of mankind—we the Congress represent the mankind of the country—it is our responsibility to take care of this in one operation. We have provided the method whereby men suffering from this dread disease and their survivors can get some

benefit. This is our responsibility as a Congress. I believe it is one of the prices we have had to pay for the mistakes of the past.

I hope that this amendment will be defeated.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. SAYLOR. I am happy to yield to my colleague from Michigan.

Mr. ESCH. I thank the gentleman for yielding.

I wish to associate myself with the remarks of the gentleman from Pennsylvania and to compliment him on his leadership on this bill and on this section. As one who has a personal interest, having been born in his district and having had a father who served in the mines at the age of 14 in his district, I am aware that the gentleman in the well knows firsthand the problems of the miners and our responsibility toward them.

Hopefully this legislation in total will bring about a new era in the mines, but this amendment must be defeated so that we can give recognition to a related problem; that is, with the miners who are already afflicted from the past.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. SAYLOR. I am happy to yield to my colleague from Pennsylvania.

Mr. MORGAN. Mr. Chairman, I wish to associate myself with the gentleman. We represent the two largest active mining areas in the great State of Pennsylvania.

This is not a workman's compensation act, as it has been described by the proponents of this amendment. It contains none of the characteristic features which mark any workman's compensation plan. We are moving in this bill toward dust-free mines. The provisions in this bill are a limited response in a form of emergency assistance to the miners. This is not a permanent proposition.

I commend the gentleman from Pennsylvania for his remarks, and I associate myself with them.

Mr. Chairman, I rise in support of H.R. 13950, a bill to provide for the protection of the health and safety of persons working in the coal mining industry of the United States.

As a cosponsor of this bill, I find it far from perfect and I hope that it can be amended on the floor during the 5-minute rule. I have read both the majority and the supplemental views. If the amendments suggested by those who signed the minority report and the supplemental views are adopted, I feel it would definitely weaken the bill.

Mr. Chairman, this bill has many excellent provisions with regard to safety standards. I strongly feel, however, that dust levels should be measured once a shift. I am opposed to the weaker method of averaging such dust levels over several shifts as the present House bill provides.

Mr. Chairman, I was born in a coal mining community and have lived there all of my life. My father was a coal miner and I served as a coal miner's physician for over 25 years. During this time I was very close to the Nation's most dangerous occupation. A miner is constantly faced with many dangers such as mine fires, explosions, roof falls and the dreaded black lung or pneumoconiosis disease. If you will visit any mining town in the Nation you will see hundreds of disabled miners who were forced to stop work because of the gradual and progressive shortness of breath.

Mr. Chairman, for years in the medical profession there has been controversy as to whether coal dust was the cause of this progressive disability. I have always contended that clinical evidence was present to cause pneumoconiosis and that it will increase with the modern methods of coal mining.

Mr. Chairman, one of the matters of continuing interest in this bill is the manner in which the "black lung" or dust problem has been handled. The bill deals with both aspects of the problem of coal miner's pneumoconiosis, the prevention of the disease and the compensation of the victims.

With respect to prevention there is no question of what is needed. It is a dust-free mine. The problem is that, given what we now know about the technology of dust control, we cannot produce a dust-free environment in a coal mine. It will be some years before we can. But we can reduce the chance of a miner contracting the disease to tolerable levels with what we know right now. The only problem is that it takes a little while to manufacture and install the necessary equipment.

H.R. 13950 provides that after 6 months dust atmosphere in mines must be down to 4.5 milligrams per cubic meter. After 1 year, it must be down to 3 milligrams. But the bill goes further. It also prescribes that as soon as the Secretary of Health, Education, and Welfare deems it attainable—in other words as soon as research into dust-control technology catches up with the problem—he will require a standard of 2.2 milligrams or lower, a level where there is no danger of disabling disease.

And we provide in the bill for the money to finance the necessary research.

Now, what about those whom it is now too late to save from "black lung." No one knows the number, but it is estimated that probably 100,000 active and retired coal miners have pneumoconiosis and that about half of that number, 50,000 men, are already disabled from the disease. There are only about 144,000 active miners presently working in coal mines so one can readily see, Mr. Chairman, that we are dealing with a major health crisis.

One of the major accomplishments of the work here in Congress on this bill is to bring home to an aroused public that this major health problem actually existed. Thousands of men in our coal mining States are literally dying slow deaths from lungs unable to provide enough air to sustain life. Most of them are unable to work at all. Few of them are self-supporting. Many have other diseases, like tuberculosis and heart disease.

We also have a major problem to provide support for these victims of this occupational disease. The States cannot bear this burden, but H.R. 13950 provides for such support. The amount is approximately $136 a month for a disabled miner or for his widow, with additional amounts for dependents. A sick miner with three dependents would receive $272 a month.

The bill makes it very simple for a miner to establish entitlement for such disability. If the miner is obviously sick and disabled, there is no question if it can be shown that the disease arises out of or in the course of his employment in a coal mine. If the miner has a history of 10 years of employment in coal mining, it is assumed that the disease arose out of the course of his work.

Almost all of the older miners suffering from the disease will experience no difficulty establishing 10 years of employment. For those with less than 10 years of employment the bill requires that the miner demonstrate that the disease arose from his employment in coal mining. Again, this is not expected to impose any difficulty for the relatively few cases contracted in less than 10 years.

Mr. Chairman, I intend to support all the amendments which would strengthen the bill because I feel it is necessary that we send a strong bill to conference. The Senate bill passed the other body unanimously, and a strong vote for an amended bill will assure the coal miners of the Nation the first real safety bill in the history of coal mining.

Mr. DENT. Mr. Chairman, I rise in opposition to the amendment.

Monday afternoon during the debate I spent a little time on the subject matter before us today dealing with pneumoconiosis, and I tried to give the House some of the information that we gathered in our research.

I am very happy to be able to present at this time, and I shall, at the appropriate time, ask unanimous consent to include the synopsis of the work session proceedings at the Spindletop conference, the international conference attended by the best known experts in the field of dust diseases and respiratory diseases.

Mr. Chairman, what I wanted to do was to make sure that every Member of this Congress, if he so desired, could spend a few minutes reading the RECORD tomorrow, so that he will know as much as is possible to know as a layman at this point on the matter of this disease.

Its prevalence among the miners is about 10 percent of all working miners, and it is a slightly higher percentage of those who are no longer working in the mines simply because of the fact that they worked before there was any kind of an effort to try to reduce the dust density in the mines.

I do not want to take the time of the Members, but I want to compliment the gentlemen on the minority side who have all along given us as much help as it was possible to do in the face of the great opposition to this particular feature in the bill.

I want to reassure the gentleman from Wisconsin that this is not a compensation act in any way. It is a benefit payment for services rendered in an industry that did not take care of its problem and in the States that did not take care of their problem. This is a Federal obligation as this Congress sees it.

I want to compliment those on both

sides of the aisle who have done so much to have us arrive at this stage where we can undo a damage that has been done through neglect to the coal miners of the United States of America.

Mr. SCHERLE. Mr. Chairman, will the gentleman yield?

Mr. DENT. I am happy to yield to the gentleman from Iowa.

Mr. SCHERLE. It is difficult for me to comprehend the difference of interpretation—call it what you want—benefits or compensation. To me it is compensation and is for one specific group, for the coal miners. Do you not think that we owe the same compensation to all employees regardless of disease such as those mentioned by my friend from Indian (Mr. LANDGREBE). This legislation singles out one specific group and offers compensation to no one else. This is highly discriminatory. The door is now open—watch what happens next year.

Mr. DENT. I understand your question, and I might answer it very simply. We are not going to restrict this to miners except that we are restricting it to a certain disease.

Mr. SCHERLE. That is the problem.

Mr. DENT. It is a particular type of disease. Everybody that has it will be treated. If you have some corn huskers out your way and they have developed it, we will see that they get whatever it is that you call it, whether it is compensation or something else. If the gentleman wants to introduce legislation to take care of brown lung disease or any other kind of lung disease, I will give him all of the consideration that he has given to the miners today.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the chairman of the committee.

Mr. PERKINS. Mr. Chairman, we should not lose sight of the fact that we are dealing with a special compensation statute solely because this occupation is so hazardous. There are 10 times more fatal accidents in this industry than in all other industries. We have a disease here that may have been contracted 10 or 20 years ago, but the individual will never be compensated for it because the States will never enact retroactive laws to provide compensation for it. It is because of the insidious nature of this disease, pneumoconiosis, that we are enacting this special provision. We want to see that justice is done so that we can give these individuals, who have been denied workmen's compensation for this disease all through the years, compensation to cover them. They will never be compensated unless we pass this special provision. My only reservations about the provisions in the bill go to what is now obvious from the debate and that is—we have not provided broad enough coverage for those miners who have serious respiratory diseases—nor are the benefits adequate for the miner and his dependents. I fully intend that the Education and Labor Committee will continue to study this problem and the administration of these provisions to assure that they are effective in meeting the needs.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. DENT was allowed to proceed for 1 additional minute.)

Mr. KEE. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from West Virginia.

Mr. Chairman, I include herewith the material which I have previously referred to:

PNEUMOCONIOSIS

PREFACE

Spindletop Research, a not-for-profit institution, chartered in the public interest, is proud of having served as the catalyst in bringing this group of eminent medical scientists together to seek new approaches to eliminating the health problems created by coal workers pneumoconiosis.

INTRODUCTION

This document contains the highlights of a series of intensive work sessions participated in by a panel of distinguished medical scientists in preparation for a conference on the medical aspects of coal workers' pneumoconiosis (CWP), to be held at Spindletop Research, September 13, 1969. Although the technical discussions centered around the medical aspects of CWP, it should be emphasized that the often expressed motivation of the participants was to develop ways to allow the coal miner to enjoy a career in the mines without impairment to his health from dust exposure or other occupational factors.

The work sessions were attended by eminent medical scientists from the United States, Great Britain, Canada, and Germany, each well recognized as a leader in his specialized field. The work session participants were selected by Drs. R. W. B. Penman and W. H. Anderson, program co-chairmen, in consultation with an advisory staff composed of Drs. George W. Wright, Ian T. T. Higgins, Eugene P. Pendergrass, Charles E. Andrews, and Paul Gross. The program advisors and co-chairmen also participated in the work sessions. Mr. Murray Jacobson, Acting Chief of the Pittsburgh Field Health Group, U.S. Bureau of Mines also joined the discussions. A specialist in dust physics, he added substantially to synthesizing the medical aspects with the problem of the work environment. Brief biographical sketches of these men as well as other participants in the work sessions are included in the formal conference program statement.

The closed work session was held at the Dupont Lodge in the Cumberland Falls State Park in Kentucky on September 10, 11, and 12, 1969. It was divided into four sections—epidemiology, pathology, physiology, and diagnosis/clinical aspects.

Each section was chaired by an eminent scientist who was assisted by a panel of highly qualified specialists in that discipline. Each session was begun by brief presentations by the panelists designed to serve as a baseline for the subsequent discussions. From these presentations key or critical issues were identified and discussed by the entire group in the light of fundamental questions posed by the chairman. The resultant multi-disciplinary considerations provided an additional dimension to the work session discussions and the conclusions of the group.

A synopsis of each work session discussion was drafted, reviewed and debated by each group. The final drafts were then revised by all of the participants and modified until consensus was reached. Thus, the synopsis presented herein represents the combined thinking of the entire work session team.

EPIDEMIOLOGY OF CWP

Synopsis of the epidemiology session

Chairman: Philip E. Enterline, Ph. D., Professor of Biostatistics, Graduate School of Public Health, University of Pittsburgh, Pittsburgh, Pennsylvania.

Panel Members: Ian T. Higgins, M.D., Mrcp, Professor of Epidemiology, Professor of Community Health Services, School of Public Health, University of Michigan, Ann Arbor, Michigan.

Murray C. Brown, M.D., Deputy Regional Environmental Control Director, Chicago Regional Office, United States Public Health Service, Chicago, Illinois.

Professor Dr. Wolfgang T. Ulmer, Chief of the Department of Medicine, Institute of Silicosis Research of the Professional Society of Mining at Bochum, Germany; and Head of the Institute for Lung Function Research of the University of Münster at Münster, Germany.

William S. Lainhart, M.D., Deputy Director, Division of Epidemiology and Special Services, Bureau of Occupational Safety and Health, United States Public Health Service, Cincinnati, Ohio.

Reviewed and concurred with by the other work session participants.

Conclusions

Coal workers' pneumoconiosis (CWP) is caused by the inhalation of coal mine dust. For epidemiological purposes it can be detected in life only by means of the chest X-ray and an occupational history. If X-rays are of good technical quality they can be classified fairly reproducibly by experienced readers into categories of increasing severity.

The classification now used by most authorities is that recommended by the International Labour Office (1958). This divides X-rays showing CWP into three categories (1, 2, and 3) of simple pneumoconiosis and three categories (A, B, and C) of progressive massive fibrosis (PMF). Simple pneumoconiosis causes little ventilatory impairment and does not appear to reduce life expectancy. It may, however, lead to the development of PMF which can cause severe disability and frequently results in premature death.

The Prevalence of CWP in the United States

Studies of random samples of coal miners in the United States have shown the prevalence of CWP among working miners to be approximately 10%. Of this, one-third is PMF. There is, however, considerable geographic variation in the prevalence of CWP. This is probably because of variations in present and past mining conditions, the age and work experience of the mining population, the rate of labor turnover in the area under study, and the quantity and quality of coal mined.

The rate at which simple pneumoconiosis gives rise to PMF and the rate of progression of PMF from its early to later stages has not been measured in the United States. In the only area (Great Britain) where this has been done, it has been found that about 1% of men with simple pneumoconiosis develop PMF each year and that of those with PMF about 5% progress. The development of PMF is much more likely to occur in those with categories 2 or 3 simple pneumoconiosis than in those with category 1. Consequently, preventing a man from developing advanced stages of simple pneumoconiosis will reduce the risk of his developing PMF.

It is well established that the development and progression of simple pneumoconiosis is due to the dosage of dust a man inhales. This, in turn, depends on the concentration of dust in the air breathed and the duration of exposure. There is less certainty about the cause of PMF. Once a certain background level of simple pneumoconiosis is present, PMF may develop irrespective of further dust exposure, and it has been suggested, that some factor other than dust is needed for the development of PMF. In the past, tuberculous infection was thought to be a frequent other factor, but the general decline in the incidence of tuberculosis has

not been accompanied by a similar decline in PMF and this, along with other evidence, suggests that some other factor or factors are involved.

Other respiratory conditions related to coal mining

Coal miners are liable to all the other diseases which affect man. The most important of these in the present context are chronic bronchitis and emphysema. These diseases probably account for more disability among coal miners in this country than does CWP. The crucial question, therefore, is to what extent are they caused or aggravated by the working environment of the coal miner? Many factors, both inborn and environmental, contribute to the development of chronic bronchitis and emphysema and it is, therefore, exceedingly difficult to assess the individual importance of any one of them.

The importance of coal mining in the development of chronic bronchitis and emphysema has been assessed by comparing the prevalence of respiratory symptoms and of ventilatory lung function in representative samples of miners and ex-miners with that of men of similar age who live in the same area but who have never worked in coal mining (non-miners).

The great majority of these studies have shown that miners and ex-miners have a higher prevalence of respiratory symptoms of chronic bronchitis than other men. Miners and ex-miners also have, on the average, lower ventilatory lung function and defects in certain other tests. In some geographic areas the differences are small, while in others, the prevalence of respiratory symptoms has been found to be 2 to 3 times higher in miners than in non-miners. Curiously, however, it has not been possible to link these changes very consistently with the amount and duration of dust exposure or to other factors in the working environment of the miner. Moreover, it has been shown that the wives of men who work in mining also have a higher prevalence of respiratory symptoms and, sometimes, a lower ventilatory lung function than the wives of other men. To some extent, therefore, the difference between miners and non-miners in these other respiratory diseases appears to be due to environmental factors outside of their occupation. It seems unlikely, however, that such factors can account for all the differences.

The Relation of CWP to Chronic Bronchitis and Lung Function

There is no close relation between the prevalence of respiratory symptoms of chronic bronchitis and emphysema or level of lung function and the X-ray category of pneumoconiosis. Usually lung function is reduced in persons with PMF and it may be severely so in those with the advanced stages. On the other hand, those with simple pneumoconiosis do not differ much either in symptoms or in lung function from those with normal X-rays.

The general health of coal miners compared with that of other workers

The principal studies carried out in the United States which bear on this subject have been studies of mortality rates among coal miners. These suggest that, in the past, the risk of death among coal miners has been nearly twice that of the general population and higher than that of any other occupational group in the United States. Contributing heavily to this excess have been deaths from accidents and respiratory diseases. The fact that the excess of respiratory disease deaths increases sharply with the age of the miner strongly suggests the importance of environmental factors. Mortality rates of coal miners for most other causes are also high, and the picture obtained from studying mortality data is one of generally poor health. Unfortunately, the latest study available is for the year 1950, and health levels may have improved considerably since that time. The mortality rates of United States coal miners contrast sharply with mortality rates published for coal miners in Great Britain. In that country, coal miners' mortality for all causes is elevated only about 15% above that for the general population, although special studies of cohorts in certain areas of Great Britain do show excesses of as much as 50%.

The role of cigarette smoking

Surveys have shown that coal miners smoke cigarettes to about the same extent as the general population. However, smoking patterns probably differ somewhat, due to restrictions on smoking while at work. Cigarette smoking has not been shown to be related to CWP. Cigarette smoking is highly related to respiratory symptoms: cough, phlegm, breathlessness, and pulmonary function. In one study where a relationship between duration of dust exposure and pulmonary function was shown, division of the population into smokers and non-smokers showed that this relationship was strongest for smokers. Thus, it appears that cigarette smoking may potentiate the effects of dust on pulmonary function. Cigarette smoking by itself, however, is more important in the production of respiratory disease (other than CWP) than exposure to coal dust.

Needed research

Many of the statements on CWP and chronic respiratory diseases in miners, which have been made in this report, have been based on research carried out in other countries. While extrapolation to the United States is probably often justifiable, it is clear that it would have been better had it been possible to draw more on American experience. More knowledge about the natural history of the chronic respiratory and other diseases in miners in the United States is urgently needed.

The epidemiological research which should be carried out includes:

1. Further studies of the prevalence of pneumoconiosis, both simple and PMF, in different geographical regions.

2. Measurement of the factors which affect the rates of development and progression of both simple pneumoconiosis and PMF. Here dose-response relations based on adequate dust measurements and regular radiographic supervision are essential. But the importance of other factors both personal and environmental should also be assessed.

3. Further studies of the relationship of respiratory symptoms, chronic bronchitis and lung function changes to X-ray changes and to dust exposure and other etiological factors.

4. Further comparisons between miners and ex-miners and other men living in the same area of similar age of the frequency of chronic respiratory diseases and other diseases for which mortality statistics suggest miners have an excess. Such studies should not be confined to a single survey at one point in time, but should include longitudinal observations over a considerable period of time in order to study development, progression and mortality and the rate of decline in lung function, and the factors which are related to these. This should include further observations on the wives of coal miners to identify reasons for their apparent excess in respiratory disease symptoms. Those populations which have already been adequately studied in a cross sectional way, such as Mullins and Richwood, Beckley, and the communities in Marion County in West Virginia, should be followed up.

5. Further studies of the mortality of coal miners for various causes in different regions should be carried out.

We consider the study of dose-response relationships to be most needed at the present time. This is currently being started by the P.H.S. It can be outlined in more detail as follows:

1. Select a number of coal mines at random.

2. Monitor dust in a standardized and comparable manner in all of them.

3. Take pre-employment and periodic chest X-rays of all the employees.

4. Include at the time of X-ray brief information on respiratory symptoms, chest and other illnesses, occupational, residential and smoking habits.

5. Carry out tests of lung function.

6. Observe the relationship between dust and the development of disease and impairments.

One research group should be responsible for organizing and collecting all the data in different areas. This should ensure that the work is done comparably and that adequate checks of the instruments and other methods are made.

An attempt should be made to keep track of men who leave mining or move to other mines. Social security records provide some help in this respect, but cooperation with the U.M.W.A. would also be most helpful.

It is of vital importance that this study should receive adequate long term support. It should not be impaired by deflection of those involved to other activities which may appear momentarily to be of greater importance. The current legislation before the House and Senate to institute and enforce dust standards in the coal mines provides a good opportunity first to carry out a study of this kind and also to evaluate the efficacy of any dust levels which may be attained.

PATHOLOGY OF CWP

Synopsis of the Pathology Session

Chairman: Averill A. Liebow, M.D., Professor and Chairman of the Department of Pathology, University of California, San Diego School of Medicine, La Jolla, California.

Panel Members: Paul Gross, M.D., Director of Industrial Hygiene Foundation's Research Laboratory and Research Professor, Pathology of Industrial Diseases, University of Pittsburgh, Pittsburgh, Pennsylvania.

A. G. Heppleston, D.Sc., M.D., Professor and Chairman of the Department of Pathology at the University of Newcastle-upon-Tyne, England.

John P. Wyatt, M.D., Professor and Chairman of Pathology, University of Manitoba School of Medicine, Winnipeg, Canada.

Philip C. Pratt, M.D., Associate Professor of Pathology, Duke University School of Medicine, Durham, North Carolina.

Reviewed and concurred with by the other work session participants.

Conclusions

(1) Pneumoconiosis should be defined in anatomical terms. Pneumoconiosis is the accumulation of dust in the lungs and the tissue reaction to its presence. In some people it may reach a radiographically detectable level and in some it may be sufficient to cause clinical symptoms.

(2) The inhalation of coal mine dust is the cause of coal workers' pneumoconiosis. On the basis of epidemiological and pathological evidence, factors in addition to coal dust may contribute to pulmonary disease in coal workers.

(3) In general the extent of pneumoconiosis is proportional to the amount of dust retained. Only particles less than five microns are of significance in the development of coal workers' pneumoconiosis.

(4) The geometric mean size of particles in airborne coal mine dust is slightly less than one micron. According to U.S. Bureau of Mines data, water spray does not significantly decrease respirable size dust once it is airborne. Wet drilling and cutting operations however, may keep dust from becoming airborne.

(5) In coal miners whose lung dust contains 13% or more of quartz, the lesion is

likely to be morphologically that of silicosis. As the quartz content decreases below 13% of the total dust content, the morphological lesion more closely resembles that of coal workers' pneumoconiosis.

(6) Dust accumulation tends to be greater in the upper than the lower portions of the lungs.

(7) The basic lesion of coal workers' pneumoconiosis, the coal macule, is essentially the same irrespective of the geographical location of the coal field.

(8) The coal macule evolves by the incorporation of dust filled macrophages into the walls of respiratory bronchioles and adjacent alveoli. In this process reticulin fibers are formed and collagen may be produced.

(9) It is generally believed that the cleansing mechanisms are 98 to 99% effective in removing inhaled dusts. Pneumoconiosis results from the imperfection of these mechanisms.

(10) While the inhaled particles are relatively widely distributed initially, they soon tend to aggregate in and around many respiratory bronchioles of all orders, by mechanisms not well understood at this time.

(11) In many individuals respiratory bronchioles invested by dust enmeshed in fine connective tissue (the macule) can undergo dilatation, thus giving rise to the condition known as focal emphysema. As the focal emphysema becomes more severe, disruption of bronchiolar and alveolar walls may supervene.

(12) In experimental animals, clearance of dust from peripheral alveoli can occur within four days.

(13) Other types of emphysema, as encountered in the general population, are also found in coal workers. Associated pigmentation may render difficult the distinction from focal emphysema unless serial sections are studied.

(14) In more severe cases of coal workers' simple pneumoconiosis, a second manifestation may develop, progressive massive fibrosis. This is characterized by widespread consolidation composed of large amounts of dust enmeshed in connective tissue, typically in the upper parts of the lungs.

(15) There is evidence that in addition to coal mine dust, other factors such as infection, for example by mycobacteria, and immunological phenomena or both may be involved in the pathogenesis of PMF.

(16) Cor pulmonale is common in progressive massive fibrosis, but rare with simple pneumoconiosis. Severe vascular lesions are associated with the former but rarely with simple pneumoconiosis. The presence of such vascular changes is not necessarily the major cause of cor pulmonale.

(17) There is no evidence for the existence of specific extra-pulmonary lesions associated with coal workers' pneumoconiosis.

Problems

(1) Not only the mixed dust in coal mines but other potentially injurious factors in the mining environment require further investigation. Among these are gaseous atmospheric contaminants. The influence of smoking on the development and course of pulmonary disease in coal workers requires detailed analysis.

(2) The pathogenesis of the coal macule is only partly known. More information is needed regarding the role of cellular and extracellular mechanisms in dust transport and bronchoalveolar clearance. Biochemical mechanisms of tissue injury by inhaled dusts remain essentially unknown.

(3) It is questionable whether silica has been excluded as a possible etiological factor in progressive massive fibrosis.

(4) The delayed collagenization of pulmonary lesions produced by dust requires further investigation. Possible effects of dusts on surfactant production and activity should be studied.

(5) There is need to understand the possible interrelation between pneumoconiosis and infections. Does pneumoconiosis influence the course of infection? Do infections influence the course of pneumoconiosis?

(6) Host factors have received little consideration. Do genetic factors influence pneumoconiosis? Are there acquired host factors, such as state of nutrition and alcohol intake? Can other associated diseases such as brochitis influence susceptibility to pneumoconiosis? Are there immunological factors that influence the natural history of coal workers' pneumoconiosis, particularly progressive massive fibrosis?

(7) There is pressing need for the development of studies designed to correlate structural and functional aspects of the disease in man, as well as of experimental models. Electron microscopy has a place in these investigations. Acceptable criteria for an anatomical diagnosis of cor pulmonale must be better defined. The pathogenesis and significance of vascular lesions require reassessment.

The establishment of a well financed research institute situated in the geographic area of this major problem and in close association with a university will provide the best means of its solution.

PHYSIOLOGY OF CWP

Synopsis of the physiology session

Chairman: Jay A. Nadel, M.D., Senior Staff Member, Cardiovascular Research Institute; Associate Professor, School of Medicine, University of California, San Francisco, California.

Panel Members: George W. Wright, M.D., Head, Department of Medical Research, Division of Internal Medicine, Saint Luke's Hospital, Cleveland, Ohio.

Colin B. McKerrow, M.D., FRCP, Pneumoconiosis Research Unit of the Medical Research Council, Penarth, Glamorgan, South Wales.

Robert W. Penman, M.D., Associate Professor and Director of the Pulmonary Division at the University of Kentucky, Lexington, Kentucky.

Robert E. Hyatt, M.D., Associate Professor of Physiology, Mayo Graduate School of Medicine, University of Minnesota, Rochester, Minnesota.

William K. C. Morgan, M.D., MRCP, Chief of the Appalachian Laboratories for Occupational Respiratory Diseases (ALFORD), United States Public Health Service, and Associate Professor of Medicine, West Virginia University Medical Center, Morgantown, West Virginia.

Donald L. Rasmussen, M.D., Cardiopulmonary Laboratory, Appalachian Regional Hospital, Beckley, West Virginia.

Reviewed and concurred with by the other work session participants.

Recommendations

It is the physiologist's role in this problem to characterize the functional disorders found in the diseases of coal workers. After a consideration of the studies done to date, we conclude that present data are not adequate to characterize, in sufficient detail, the changes in cardiorespiratory function in miners. This is particularly true for the situation in the United States. The following are some questions that have been raised at this conference and need answers:

(1) What are the physiological abnormalities associated with the various roentgenologic findings in miners? For example, are punctate lesions on roentgenograms consistently associated with significant abnormalities in respiratory function?

(2) Are these abnormalities present in the dust exposed miner who has a normal chest X-ray?

(3) Do the lesions of simple coal workers pneumoconiosis potentiate the physiological abnormalities associated with bronchitis?

(4) Are there significant physiologic abnormalities of small airways (i.e. bronchioles) and blood vessels in miners?

(5) How do physiologic changes relate to total dust exposure?

(6) Are there factors which make some individuals more susceptible to lung disease from coal mining? It would be desirable to characterize bronchial reactivity and lung clearance mechanisms in men entering the mines and to study what happens to these functions with time.

(7) What are the specific effects of smoking on the physiologic abnormalities in dust exposed miners?

(8) How do physiologic changes relate to anatomic changes found in miners?

To answer these and other questions, this committee recommends that:

(1) Cardiorespiratory laboratories be developed near mines having contrasting experiences in terms of lung disease; and that these laboratories have the capability to measure sophisticated respiratory and cardiac functions.

(2) They be adequately staffed with physiological and technical personnel.

(3) That funds be available for ad hoc consultants.

(4) That projects be granted long term funds.

(5) That parallel in-depth study of environmental factors be undertaken.

(6) That all workers of such mines be studied and that all parallel studies of nonminers (i.e. non-dust exposed men) and exminers be undertaken. A particularly important group to study is the non-smoking miner. Information obtained by such an undertaking will hopefully form the basis for intelligent periodic examinations of miners and/or further surveys that may be indicated.

We recommend that the following types of studies be undertaken:

(1) Ventilatory Studies: Pathologic data indicate that the early lesions of CWP occur in small bronchioles. Most ventilatory tests presently used to evaluate function in miners measure changes in large airways. Therefore, we recommend the following studies which are aimed primarily at evaluating the bronchioles (small peripheral airways):

(a) The expiratory flow volume loop, especially the lower one-third of this curve.

(b) The full R_A-TGV curve (includes TLC, FRC and RV determination), with attention to the lower portion of the curve.

(c) Frequency dependence of C_L.

(d) Tests of distribution of ventilation, i.e. N_2 washout curves and xenon ventilation and perfusion studies.

(e) A-a O_2 gradients.

(f) Static P-V curves of the lungs should be measured to determine the possible presence of early lung tissue destruction and to relate recoil pressure to maximal expiratory flow.

(2) Diffusion: Some studies suggest that in simple CWP there may be a decrease in diffusing capacity in the absence of demonstrable airway obstruction. These findings require confirmation and correlation with other physiological studies and pathologic changes.

(3) Gas Transfer: Further detailed studies of O_2 and CO_2 exchange are needed, especially during moderate degrees of exercise. The studies should include determination of V_E', V_D/V_T', blood gases, and heart rate.

(4) Pulmonary Circulation: Further studies of the pulmonary circulation are recommended to evaluate: (a) possible changes in the vascular bed in simple CWP, and (b) the mechanism of cor pulmonale in progressive massive fibrosis. In selected cases consider: (1) perfusion scans (iodinated albumin), and (2) cardiac catheterization including evaluation of the effect of O_2 inhalation.

Structure-function relations

There is a glaring lack of information on the structural basis of physiologic changes associated with miner's dust inhalation. We recommend: (1) Studies on lungs post mortem include as detailed measurements as possible (such as recommended in physiology sections). Also measure peripheral airway resistance by retrograde catheter technique. (2) A means be developed to increase the availability of post mortem and resected lung specimens.

Contemporary data on energy expenditure of working miners need to be obtained.

An important result of the Spindletop Conference has been the exchange of ideas. Future conferences of this type could be very useful in furthering advances in this important area of endeavor.

DIAGNOSIS/CLINICAL ASPECTS OF CWP

Synopsis of the diagonsis/clinical session

Chairman: Benjamin V. Branscomb, M.D., FACCP, Professor of Medicine and Associate Professor of Physiology, Medical College of the University of Alabama, Birmingham, Alabama.

Panel Members: Eugene P. Pendergrass, M.D., Emeritus Professor of Radiology, School of Medicine and Graduate School of Medicine, University of Pennsylvania, Philadelphia, Pennsylvania.

Charles E. Andrews, M.D., Provost for Health Sciences, West Virginia University Medical Center, Morgantown, West Virginia.

William H. Anderson, M.D., Professor of Medicine, and Chief of the Pulmonary Diseases Section, University of Louisville School of Medicine, Louisville, Kentucky.

Reviewed and concurred with by the other work session participants.

Summary of diagnosis and clinical aspects

(1) Coal workers' pneumoconiosis cannot be diagnosed in the living in the absence of radiographic changes. There is no characteristic physiological derangement which is indicative of dust in the lungs.

(2) In simple pneumoconiosis no correlation has been demonstrated between X-ray category and either symptoms or physiological impairment, except for evidence that in category 3, ventilation may be slightly impaired. Thus in simple pneumoconiosis the X-ray has no value in predicting the presence or level of functional impairment in the individual miner.

(3) PMF is associated with significant morbidity, functional impairment and increased mortality in many instances.

(4) For epidemiological and comparative purposes the UICC-Cincinnati X-ray classification should be used. The PHS modification of ILO, however, is acceptable as an alternative for clinical purposes.

(5) Macroradiographic techniques do not contribute significantly in the diagnosis of pneumoconiosis and are not applicable to radiographic surveys.

(6) Lung biopsy is not useful in the diagnosis of coal workers' pneumoconiosis since this may not include involved tissue, and is not necessarily representative of the entire lung. If dust is shown in such a biopsy specimen, this indicates exposure to dust and not necessarily disease. Furthermore, the dust burden of the lung has not been adequately correlated with functional impairment.

(7) [1] The most desirable chest radiograph for the study of pneumoconiosis or other pulmonary disease is one in which the lung is shown in greatest detail. While it is helpful to visualize the mediastinal structures as well, this is of secondary importance. Thus a film in which the vertebral bodies are faintly visible through the heart shadow will ordinarily be adequate for the study of the pulmonary detail. The maximum information can be obtained from radiographs which have a broad range of contrasts, that is, a long, gray scale. High contrast radiographs should be avoided.

The kilovoltage used ranges from approximately 110 to 140 kilovolts and exposure time is comparatively short, 1/60 to 1/80 second. With this technique a grid is required to reduce secondary radiation.

(a) The installation and maintenance of the radiographic equipment is of the greatest importance. The electric power source should be independent of other users. It must be of adequate capacity and should be subject to no more than a 5% fluctuation. The radiographic unit must be carefully calibrated at the time of installation and should be recalibrated periodically. Preventive maintenance at regular intervals is necessary.

(b) The generator should have a minimum capacity of 300 milliamps at 125 kilovolts. A generator with a capacity of 150 kilovolts is strongly recommended. The generator must be full wave rectified. It should be equipped with an accurate timer plus or minus 1% capable of minimum exposure of no more than 10 milliseconds.

(c) A rotating anode tube is essential. It should have as small a focal spot as feasible for the anticipated load but in no instance should this exceed two millimeters in diameter.

(d) The total filtration, added and inherent, of the primary X-ray beam should be the equivalent of two millimeters of aluminum.

(e) The radiation should be confined by means of a collimator to the portion of the subject to be examined. This will not only decrease radiation hazard but also will improve the detail by reducing scattered radiation. The collimator should have adjustable diaphragms, a light beam for centering and be designed so the projected field cannot exceed the size of the film. Evidence of collimation should be visible at the edges of the film as cone cuts.

(f) Medium speed intensifying screens should be used. They provide the best compromise between sharper definition and short exposure. The cassettes in use must contain screens of the same speed and they must be checked periodically for screen cleanliness, contact and defects.

(g) The X-ray film should be of a general purpose type and of medium sensitivity. High speed film is not recommended. To improve collimation the film should be no larger than needed to cover both lungs including the costrophrenic angles.

(h) When using kilovoltages of 80 and above, reduction of secondary radiation by a grid or other means is essential. A 10 to 100 line per inch fixed grid or an air gap of eight inches with an eight foot focal spot film distance may be used.

Technique

(a) Correct centering of the X-ray tube and careful positioning of the subject are of great importance for the proper visualization of anatomic structures and comparison of serial examinations. For the PA projection, the X-ray tube should be centered to the center of the film and the X-ray beam directed horizontally. The shoulders should be positioned so that the scapulae are outside the lungs. The exposure should be made at full inspiration and made immediately after this has been reached to avoid the Valasalva effect. It is desirable, but not essential, that all the clothes above the waist be removed.

(b) The focal spot film distance should be fixed between 5 and 6 feet (1.5 and 2.0 meters).

(c) For the reasons given above, a variable high KV, constant mAs technique is recommended. Exposure factors employed may vary somewhat with each generator and tube. The highest range of KV and shortest range of mAs obtainable should be used. For the average subject, with an AP chest diameter between 21 and 23 cm., the usual exposure factors will be 5 mAs at approximately 125 KVp. The recommended exposure time is 1/60 (.017) second. It should not exceed 1/30 (0.32) second. With larger diameters of the chest, additional exposure is obtained by increasing the kilovoltage. The mAs is increased only when the kilovoltage required to give a proper exposure exceeds the capability of the generator or X-ray tube. With focal spot-film distances of less than 6 feet (2.0 meters), the technique should be adjusted by decreasing the mAs.

When using a low kilovoltage technique, the exposure factors for an average subject will be approximately 300 mA, 0.05 second (15 mAs) at 75 kv. For larger subjects, greater amounts of radiation are obtained by increasing either the mAs or the kv.

(d) Phototimers are inaccurate with exposures of less than .03 second and are not recommended with the technique suggested above since films of variable density and contrast result. Phototiming can be very useful with exposures of longer duration. The criteria above apply to both mobile and fixed installations. The application of this technique to mobile units will result in a marked decrease in the number of inadequate films obtained from such units. No attempt should be made to evaluate pneumoconiosis from technically inadequate films.

(8) The conventional chest roentgenogram has no value in establishing the presence or severity of chronic bronchitis.

(9) It generally requires an average of 15 years of underground exposure for the development of pneumoconiosis; those miners who have radiographic evidence in a shorter period of time should be considered for removal from a dusty atmosphere.

(10) No consistent relationship has been established between carcinoma of the lung and coal mine dust exposure.

(11) There is no evidence at this time that forms of emphysema other than focal emphysema can be attributed to factors encountered in coal mining.

(12) There is a geographic variation in the prevalence of pneumoconiosis among miners.

Recommendations

(1) A mechanism should be developed for the distribution in the United States of standard ILO films to any interested physician, radiology department or investigator in pneumoconiosis.

(2) It is recommended that all men in the coal industry have a pre-employment medical examination including chest radiographs and pulmonary function studies. These examinations should be repeated at least at five-year intervals. This material should be collected in a manner suitable for scientific examination as well as clinical use.

(3) Radiographic research should be encouraged in improved survey techniques, in post mortem radiography, and in inhalation and perfusion scanning methods in the various radiographic categories of pneumoconiosis.

(4) Prospective studies of the natural history of coal workers' pneumoconiosis are needed and should be correlated with all environmental factors. One goal of these studies should be to determine the relationship between the exposure and the risk of disease, resulting in a determination of guidelines for permissible safe exposure for his working lifetime.

(5) Engineering research and action directed toward improving the enivronmental conditions of the coal miner must continue concurrent with the medical research.

(6) Because of our lack of specific knowledge concerning carcinoma of the lung, coronary disease, tuberculosis and other diseases in the miner, we urge that future sur-

[1] To Be Published: "Essentials of Chest Radiography," G. Jacobson, M.D., H. Bohlig, Dr. Med. and R. Kiviluoto, M.D.

veys be directed toward the total health of the miner in relation to his environment.

(7) Proper correlation of pathological findings with clinical, X-ray and physiological studies have been seriously impaired by the lack of autopsy material. Effective mechanisms must be developed which will provide access to autopsy material in conjunction with other studies. An adequate central facility should be available for the study of that material.

(8) Our concern is the health of the coal miner. In order to achieve this, there must be a coordinated effort and support in order to obtain, train, and utilize personnel and equipment for dust surveillance and control as well as medical research. The miner must have continuing medical care, including adequate vocational and rehabilitative services for those who are disabled.

(9) We strongly recommend that funds be recruited for distribution by an impartial, responsible research committee to competent investigators. In addition this committee should be responsible for periodic review of progress in the understanding and elimination of pulmonary problems of coal miners.

Mr. KEE. Mr. Chairman, as the Representative of the Fifth Congressional District of West Virginia, which is the largest coal-producing congressional district in the United States, I take this opportunity to highly commend Mr. DANIELS of New Jersey, chairman of the Subcommittee of the House Committee on Education and Labor, which held hearings on justly due payments to those coal miners who are suffering lung disease. Specifically lung disease due to the inhalation of dust because of exposure to dust by working underground in the mines. In addition, I commend Chairman DENT of Pennsylvania, and the most able and outstanding chairman of the House Committee on Education and Labor, my very dear friend, Congressman PERKINS, of Kentucky, and Mr. BURTON of California, for their leadership in guiding through the committee the Federal Coal Mine Health and Safety Act of 1969, which we are now considering.

Having been born and raised in a coal-producing area, it is my humble opinion, based upon experience, that section 112, subsection B, which provides payments to miners totally disabled from complicated pneumoconiosis and to widows of miners who suffered from complicated pneumoconiosis at the time of death, is the most important section of this historic legislation that we are now considering.

In simple words—this provision merely states that payments will be made to those disabled miners who are no longer physically able to continue working in the coal mines because of this dread and fatal disease. These are the men who are totally disabled but have been denied compensation by virtue of the fact that they are not covered under State workmen's compensation laws and—as such—they are denied these justly due benefits. It is important to note that this provision provides payments to the widows and eligible children of our coal miners who have gone to an early grave because their husbands and fathers contracted this dreaded disease during the course of their employment.

Mr. Chairman, this measure provides not only financial assistance but equally important, a renewed hope in the hearts of those who will be eligible for these benefits upon enactment of this section of the bill. It is my hope that justice will prevail and the Members of this House will vote overwhelmingly to retain this vital provision of the legislation now before us.

Not only the coal miners of America—but all Americans—owe a debt of gratitude to the members of the House Committee on Education and Labor—who guided this section through for our favorable consideration.

Mr. OLSEN. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Montana.

Mr. OLSEN. Mr. Chairman, I subscribe to the views expressed by the gentleman in the well and the chairman of the committee (Mr. PERKINS). I think we should all be enthusiastically in support of the committee position and against the amendment offered by the gentleman from Iowa.

Mr. Chairman, we are considering today legislation which meets a long standing need. H.R. 13950 provides the needed revision of the Federal coal mine health and safety bill. It provides for the first time a health standard and provisions for the regulation of dust exposure by coal miners.

This legislation is the end product of the work of a great many men and several organizations. Prominent in this effort was the contribution made by the United Mine Workers of America and by its officers and membership.

Of special note is the contribution of the Union president, Mr. W. A. Boyle, his safety director, Mr. Louis Evans, and his director of the department of occupational health, Dr. Loren E. Kerr.

These men, over the months since January, have helped to shepherd this bill through the various stages of the legislative process. They have made themselves available to every member for counsel, for information, for interpretation, and for the practical experience which we needed in our deliberations of the bill before us.

From the long tradition of the union in the health and safety field, have come many constructive suggestions which are now embodied in the legislation. For example, some of these are 3-milligram dust level; the stationing of a Federal mine inspector at every mine considered to be liberating excessive quantities of methane; rescue chambers for postdisaster periods; an increased ventilation requirement; and Federal compensation for the victims of black lung.

These suggestions and their legislative embodiment represent both the concern of coal miners for health and safety and the expertise of officials of the United Mine Workers of America who translated theory into practical legislative language.

I would also be remiss if I did not pay tribute to the Committee on Education and Labor, which considered this legislation. That committee, under the able leadership of Congressman PERKINS and Congressman DENT, has labored long and diligently to bring out an effective coal health and safety bill.

The Coal Mine Health and Safety Board of Review came into being in 1952. It was intended then to be an appeal mechanism where operators could go in the event of closure orders by Federal mine inspectors.

Under the conditions of that time, such a mechanism may have been desirable. Federal coal mine inspectors had no regulatory authority. Their inspections were authorized only for advisory purposes and their recommendations did not have to be accepted. In 1952, the law provided for effective enforcement by the inspectors. There was a fear, a perhaps legitimate fear, that unreasonable, capricious action on the part of the Secretary or his designee would severely injure the economic position of coal mining.

The Board was an attempt to forestall such a development.

However, in the years between 1952 and 1969, Federal coal mine inspectors have gained a great deal of experience in the enforcement of the Federal law. The Bureau of Mines, the Secretary of Interior, have a great body of practical knowledge upon which to base their decisions. No one can successfully argue that the Secretary or the Chief of the Bureau has been arbitrary or capricious in the enforcement of the Coal Mine Health and Safety Act. To the contrary, a great deal of criticism may be leveled because the Secretary or the Bureau has not been rigorous enough in enforcing the law.

In addition, the Federal Coal Mine Safety Board of Review as initially constituted, was of relatively narrow scope. Under the present bill, that scope has been significantly broadened. It includes the Board not only in the appeals procedure, but also in the review of standards and in the assessment and collection of money for research and development. I do not believe that the original support for the Board encompassed such a broad range of responsibilities for it.

The intervention of an appeal board of this type in administrative procedures is at best a compromise with effective law enforcement. Perhaps under some circumstances it may be necessary. I do not believe it necessary or desirable at this time.

The Federal Coal Mine Safety Board of Review has served its purpose. It has gotten the coal industry over the initial shock of Federal regulations, but now the coal industry must be prepared to accept Federal regulation in which neither industry or labor have a significant determining factor but rather in which the Federal Government will assume regulatory responsibilities.

Therefore, Mr. Chairman, I am happy we have striken the Coal Mine Safety Board of Review from this bill.

Mr. PRICE of Illinois. Mr. Chairman, will the gentleman yield?

Mr. DENT. I am happy to yield to the gentleman from Illinois.

Mr. PRICE of Illinois. Mr. Chairman, I strongly support the Federal Coal Mine Safety Act of 1969. As a cosponsor of this legislation, I am pleased that we have the bill before us. It reflects my long standing concern for the health and safety of our miners and the well being of their families.

It is gratifying to me that we are strengthening and improving our mine safety efforts and that we are focusing on the health needs of our miners. It has been 18½ years since I introduced H.R. 268 which became the foundation for the 1952 Coal Mine Safety Act. On January 3, 1951, the first day of the 82d Congress, I introduced that bill, which later served as the basis for the hearings before the House Education and Labor Committee following the terrible West Frankfort, Ill., disaster in December 1951 and from which evolved legislation which was approved by Congress and later signed into Public Law 82–522.

But it also concerns me, Mr. Chairman, that the legislation we have before us today is the result of the Farmington, W. Va., mine disaster of last November when 78 miners lost their lives. Why is it that the national conscience must be stricken before action is taken? There should be no question about the obligation of this House to the health and safety of our coal miners.

As I said in this House Chamber on July 2, 1952, when we considered the Federal Coal Mine Safety Act of 1952, an outgrowth of my bill H.R. 268:

It is the duty of Congress to provide adequate safeguards for the lives of those courageous men who dig the Nation's coal.

It is still our duty to do so and in doing so we must enact into law the strongest possible bill; not only from the standpoint of attempting to prevent the terrible tragedies and disasters that we have witnessed in the past but also in terms of preventing the suffering and misery that comes with the day-to-day accidents and the crippling diseases afflicting miners.

I shall not go into the provisions of the bill except to state that I feel it is imperative that we establish the soundest health and safety standards possible that adequately protect our miners and that we provide for the capability to deal with new types of hazards which might arise in the future. This bill, I feel, represents a step in that direction because it is in the interest of the coal miner.

Mr. DANIELS of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. DENT. I am happy to yield to the chairman of the Select Education Committee.

Mr. DANIELS of New Jersey. Mr. Chairman, is it not true that this section was approved by the full committee by a vote of 25 to 9?

Mr. DENT. That is exactly correct.

Mr. DANIELS of New Jersey. And is it not likewise true that the Senate in its consideration of the miners health and safety bill adopted on the floor a provision which is substantially in agreement with section 112(b), the matter under consideration now?

Mr. DENT. They voted for it in the Senate, with every Member of the Senate present, with 91 votes—a unanimous vote, practically—for the same proposition that is before us now.

Mr. DANIELS of New Jersey. Mr. Chairman, I rise in opposition to the amendment.

Section 112(b), "Entitlement to miners," is needed to save thousands of miners, their widows and children from a life of despair, illness and poverty.

The number of miners employed in coal mines has fallen from 650,000 in the late forties to a current figure of approximately 150,000.

In the last 20 years, approximately 1 million miners have been exposed to hazards of coal dust. As a result, some experts estimate that there are about 100,000 cases of miners' pneumoconiosis in this country today.

According to the Public Health Service, 20 percent of all inactive and 10 percent of all active miners show X-ray evidence of the disease, and of these, 9 percent of the inactive—18,000—and 3 percent of the active—4,300—miners have progressive massive fibrosis—the complicated form of the disease that causes severe disability and premature death.

Coal miners' pneumoconiosis was recognized as such in Great Britain as early as 1943 when it was defined as a disease separate from silicosis.

Pneumoconiosis was not generally recognized as such in the United States until this decade. Prevalence studies by the Pennsylvania Department of Health—1959–1961—and by the Public Health Service—1963–1965—confirmed the existence of the disease, documented its prevalence among coals miners and showed it was a widespread problem.

This Nation's failure to take cognizance of coal miners' pneumoconiosis as a separate clinical study some 20 years after this dreaded disease was recognized by Great Britain and other European countries has had five particularly unfortunate results:

First, it precluded attempts by private enterprise to control coal dust in the mines in order to prevent the effects of this insidious disease.

Second, it caused States to neglect the problem when it was in its inception and the cost of prevention could still be economically borne by State governments or private enterprise.

Third, it operated to prevent disabled coal miners from obtaining workmen's compensation, proper medical care, and other remedial action. Thus, many thousands of miners have died before their claims were processed or the statute of limitations expired which prevented many miners from proving their claims in time to receive benefits.

Fourth, it is economically impossible for most States to provide funds for retroactive claims.

Fifth, it is unconstitutional to make private employers pay these claims.

Therefore, section 112(b) is an attempt to do something about a situation which was created to a major extent by Federal neglect.

Section 112(b) is an emergency relief provision to aid thousands of miners and their widows and children.

For us to fail to provide for the future health, safety and protection of coal miners and at the same time to deny to the worker who has already given up precious years of life in this, our Nation's most hazardous occupation, would be both callous and unforgivable on our part.

We in Congress must concern ourselves with the unmet needs of the disabled miner and his family when his State, his employer, and his union have not met their responsibilities.

Section 112(b) is not intended to establish a Federal precedent in the area of payments for the death, injury or illness of workers. However, coal miners' pneumoconiosis is one of our Nation's most critical occupational health problems. It is up to us to act and to act now.

Mr. MINISH. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do not know how many people in this House have worked in the mines, but I had the privilege, if you want to call it that, of working in the mines. My father worked in them but died at the very early age of 36.

Mr. Chairman, I doubt that there are very many Members of Congress who would work in a mine for a full year's salary. I doubt if there is any other place of work where you actually look for rats for protection. I say this because anyone who has worked in a mine never hurts a rat. The rats can be heard moving around up in the roof of the mine, and perhaps, 2 or 3 days later you will have a cave-in. Therefore, when a miner hears a rat scurrying around in the roof of the mine, he loses no time in leaving the mine.

There is something else I want to say, Mr. Chairman, and that is this: Many of the mines are closed up now and when the disease develops, they are no longer in business. These miners, therefore, wind up on public welfare anyway.

I do not know how anyone in his right mind—I really do not—could support this amendment. It is beyond me to talk about being a Christian as the gentleman from Illinois does and not be able to support this provision of the bill. One is being a good Christian when one takes care of his brother. We are undertaking to take care of our brothers through this bill.

If you support your brother, you support the children of the miner who has been injured or disabled from this disease.

GENERAL LEAVE TO EXTEND

Mr. BURTON of California. Mr. Chairman, I ask unanimous consent that all Members may be permitted to extend their remarks in the RECORD on this subject of the Scherle amendment at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. SCHERLE).

The amendment was rejected.

AMENDMENTS OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer a series of amendments and ask unanimous consent that they may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. HALL. Mr. Chairman, reserving the right to object, I think it is only fair that the Members on the floor might

know what the amendments are before the unanimous-consent request is granted.

May we have the Clerk read them?

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. HALL. I yield to the gentleman from Illinois under my reservation of objection.

Mr. ERLENBORN. Before the amendments are read, I would like to state that some of the amendments I am asking to be considered en bloc would, if adopted, amend title II which is not yet open to amendment. I serve notice that should the amendments be adopted I will move to amend the sections in title II to conform to the amendments that are being considered en bloc if such unanimous-consent request is granted.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. ERLENBORN:

(Section 101(a))

On page 5, line 18, after the word "safety" insert "and health".

On page 5, line 19, after the word "injuries" insert "and ailments".

On page 5, line 20, strike the word "shall" and insert "may".

(Section 101(b))

On page 6, line 3, after the word "safety" insert "and health".

On page 6, line 9, after the word "safety" insert "and health".

On page 6, line 11, after the word "technical" insert "and economic".

On page 6, line 13, after the word "safety" insert "and health".

Beginning on page 6, line 14, section 101(c) is amended to read as follows:

"(c) Mandatory health standards proposed by the Secretary shall be based upon criteria developed and furnished to the Secretary by the Secretary of Health, Education, and Welfare on the basis of research, demonstrations, experiments, and such other information as may be appropriate and in consultation with appropriate representatives of the operators and States, advisory committees, miners, other interested persons, and where appropriate, foreign countries."

Beginning on page 7, line 5, section 101(d) is amended to read as follows:

"(d) The Secretary shall publish proposed mandatory health and safety standards in the Federal Register and shall afford interested persons a period of not less than thirty days after publication to submit written data or comments. The Secretary may, upon the expiration of such period and after consideration of all relevant matter presented, except as provided in subsection (e) of this section, promulgate such standards with such modifications as he may deem appropriate."

(Section 101(f))

On page 8, lines 17 and 18, strike the commas and the words "in the case of mandatory safety standards".

On page 8, line 20, strike the word "safety".

Beginning on page 8, line 21 through page 9, line 4, strike the next to the last sentence beginning with the word "Upon" and ending with the word "standards."

On page 9, line 5, strike the word "either" and insert the word "the".

(Section 202(a))

On page 45, lines 6 and 7, strike the words "and the Secretary of Health, Education, and Welfare".

On page 45, line 9, strike the word "Secretaries" and insert in lieu thereof "Secretary".

(Section 202(b))

On page 46, lines 8, 9, 24, 25, and page 47, lines 16 and 17, strike the words "and the Secretary of Health, Education, and Welfare".

On page 47, line 11, strike the words "of Health, Education, and Welfare".

(Section 202(c))

On page 47, lines 20 and 21, strike the words "and the Secretary of Health, Education, and Welfare".

(Section 203(b))

On page 50, lines 4, 5, 8, 9, strike the words "and the Secretary of Health, Education, and Welfare".

(Section 204)

On page 50, lines 18 and 19, strike the words "and the Secretary of Health, Education, and Welfare".

(Section 205)

On page 51, line 5, strike the word "prescribe" and insert in lieu thereof "recommend"; and, on line 8, strike "shall" and insert "may".

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the series of amendments be dispensed with, and that they be printed in the RECORD.

I also renew my request that the series of amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, the majority on our committee are aware of what this amendment does, other Members are not. I have asked unanimous consent that further reading be dispensed with and that these amendments be considered en bloc because it is a long series of technical amendments to accomplish only one point. Only one thing is sought to be accomplished, and I will explain that so that the Members will understand.

In the bill as introduced for the administration, and in the bills as introduced for other interested parties, the Secretary of the Interior was empowered to establish and promulgate safety and health standards. During the consideration of the bill that is now before us regarding health standards, the subcommittee, and again the full committee, saw fit to change the procedure relating to health standards. The procedure that is established in this bill is a very bad procedure in my opinion.

The bill before us would give the Secretary of Health, Education, and Welfare the authority to carry on health research. Further, it would give to the Secretary of Health, Education, and Welfare the authority to develop health standards, and to direct the Secretary of the Interior to adopt these standards, and then the Secretary of the Interior would be obligated to enforce the standards.

The problem that I see here is one of, first of all, governmental organization. I happen to be the ranking minority member on the Subcommittee on Executive and Legislative Reorganization of the Committee on Government Operations, and in this capacity I hope that I have some knowledge of the structure of our Federal Government, and as far as I am aware there is no place in the Federal Government where we have one Cabinet-level Secretary who can develop a set of rules and regulations and direct another Secretary to adopt them and enforce them, and yet that is what the committee, in reporting this bill to you, is asking you to do. It is bad organization. It has built-in conflict. The Secretary of Health, Education, and Welfare should not be able to dictate to the Secretary of the Interior.

Now, will the health standards so established be workable? I doubt in my humble opinion that they will be workable because nowhere in the establishment of the health standards will we get any input as to the technology that is available in the mines.

The Bureau of Mines within the Department of the Interior has the expertise. I know the argument is made that health expertise is in HEW. I agree that it is. But you cannot separate engineering technology from the control of dust in the mines. The only way you can control dust in the mines is through using existing or future developed technology.

What should be done is what was in the original bill, and that is what I would put back in with this amendment. Let the Secretary of Health, Education, and Welfare conduct studies relating to pneumoconiosis and the health of the miners. Let the Secretary of Health, Education, and Welfare recommend health standards, but then let there be the input from the Secretary of the Interior as to the reasonableness of those standards that can be obtained.

The argument that I have used in the supplemental views in the report—some of you may have read them—is carrying this to the extreme, and that is what, if the Secretary of Health, Education, and Welfare, looking at health only, should decide that it would be desirable to have no dust whatsoever in a coal mine, and he proposed a health standard of zero concentration of dust in the mine and directed the Secretary of the Interior to promulgate and enforce that regulation? It could not be done. We would close down every coal mine in this country if it were attempted. That is the sort of extreme result that could be accomplished through the kind of procedure that is in this bill, where the Secretary of the Interior and the Bureau of Mines have no input whatsoever in the establishment of health standards.

I would hope that the chairman of my subcommittee would support me in this because I think if we are going to get what we all want, workable health and safety legislation that can be enforced, and will do something to protect the miners, it can only be accomplished in the field of health if we have the input from both the HEW and Interior and if we have the man who is going to enforce the law being the one primarily responsible.

Mr. DENT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, since we are breaking new ground on this particular bill, it would be well to now consider the various arguments pro and con, especially at this moment when we are establishing the

guide rules that are going to govern this legislation in the future.

We did not go into this blindly nor did we do it without a great deal of research. We found only one country in the world that has a significant program on this particular subject matter before us today, namely, the question of dust standards and the question of miner's health on a national basis.

We found that the British do have what they call a National Coal Board which would be likened unto our Secretary of the Interior and his Bureau of Mines. But we also found that they have an independent body that handles health standards and promulgates the rules and regulations dealing with dust standards and all of the rules and regulations and standards dealing with pneumoconiosis and the payments of benefits to miners.

It has everything to do with the health sector of the mining law of Great Britain.

However, we have a better reason for doing this. We also discovered that the result of all of the X-rays not going to a central body caused the British in the last 50 years to have chaos in the administration of their act.

So they finally brought it all under this particular health department where every miner's case history is before this particular group at all times. They have a laboratory that has 30,000 specimens of autopsies in it. They have a research bureau in Edinburgh that does nothing but research on miners' diseases. This is all done by that health department.

If we let our Department of Health, Education, and Welfare handle this program, it will be handled with the idea—and the only purpose of the act, so far as the Secretary of Health, Education, and Welfare is concerned—is the health of the miner. The Secretary can look to the provisions we put in the bill to get away from the dangers the gentleman from Illinois believes may occur. We say in section 101(c)—

> The Secretary of Health Education, and Welfare shall, in accordance with the procedures set forth in this section, develop and revise, as may be appropriate, mandatory health standards for the protection of life and the prevention of occupational diseases of coal miners. Such development and revision shall be based upon research demonstrations, experiments, and such other information as may be appropriate. In the development of mandatory health standards, the Secretary of Health, Education, and Welfare may consult with appropriate representatives of the operators and miners, other interested persons, the States, advisory committees, and, where appropriate, foreign countries.
>
> Mandatory health standards which the Secretary develops or revises shall be transmitted to the Secretary and shall thereupon be published by the Secretary as proposed mandatory health standards.

Now, they must be published. The Secretary must publish them in the Federal Register. It will afford interested parties a period of 30 days in which they can submit written data or comments.

We are not tying the Secretary's hands. We are not saying that one member of the Cabinet has a whip over the head of another Cabinet member. We are putting the ducks in a row. We are rendering to Caesar the things that are Caesar's and to God the things that are God's. The Department of Health, Education, and Welfare handles health matters; the Secretary of the Interior handles safety.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Is it not true that under the provision you just read the Secretary of Health, Education, and Welfare would develop the standards; he would then transmit them to the Secretary of the Interior, who must then publish them as mandatory standards?

Mr. DENT. That is correct.

Mr. ERLENBORN. The Secretary of the Interior, then, would have no authority but to publish them. He would have no input at that point.

Mr. DENT. The gentleman is correct but the Secretary certainly has an input before the proposed standards are published, and it is totally unrealistic to believe the Secretaries will not be communicating with each other before the Secretary of Health, Education, and Welfare proposes a mandatory health standard.

Mr. ESCH. Mr. Chairman, I rise in support of the amendment. I recognize the sincere intent of the distinguished chairman of our subcommittee: that is that this legislation be as strong as possible. I would, therefore, agree with the intent of his remarks.

The question that the amendment addresses itself to, however, is just this: Are we or are we not going to have administratively a bill that is strong, that is direct, and places direct responsibility for the health and safety of miners in one particular office and administration? That is the essence of the amendment.

If you believe that we should develop a two-headed monster in regard to health and safety measures, then you will reject the amendment. If you believe that we should utilize to the fullest all of the expertise available in the Department of Health, Education, and Welfare; and then having given that expertise and that research and analysis—everything that our subcommittee chairman has indicated should be done in Health, Education, and Welfare, the final responsibility should be pinpointed in one particular man so that the responsibility can be clearly delineated.

If we believe we should have a pinpointed responsibility, then we will vote for this amendment. In essence, then, this is a strengthening amendment, which will strengthen the administration of this act. It will place direct responsibility on one man, yet will in no way weaken the role of HEW from the standpoint of providing the necessary expertise. I recommend strongly to this committee that this amendment be adopted.

Mr. PERKINS. Mr. Chairman, I rise in opposition to the amendment and move to strike the necessary number of words.

Mr. Chairman, there is no reason to anticipate conflict in the administration of this act. By placing the authority to develop health standards in the Department of Health, Education, and Welfare, we are bringing to bear on the solution of a serious national problem all the best scientific and medical expertise available in the Government.

The bill merely states that after the Secretary of Health, Education and Welfare developes the standards, he certifies them to the Secretary of the Interior, and the Secretary of the Interior must promulgate those standards as certified.

But if anybody takes exception to the standard as unfair or inequitable, he has the right to file exceptions, and the Secretary after hearings may modify in any way he wants to, and there is also the right to go to court.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I would like to straighten out that point. The chairman of the subcommittee read only a portion of that section. After the Secretary of the Interior publishes the standards, if objections are made, the Secretary of the Interior may suggest changes. He must then send those suggested changes back to the Secretary of Health, Education, and Welfare, and the final say on what are the health standards is by the Secretary of Health, Education, and Welfare, who then again directs the Secretary of the Interior to promulgate.

Mr. PERKINS. Mr. Chairman, here is the reason for this. We provide in the House bill that all mines shall achieve a 3.0-level in 6 months, with waivers for an additional 6 months. We feel the Secretary of Health, Education, and Welfare, where the technical assistance is available, is in a better position to develop the health standards and determine the effect of dust levels for example, on human health. I feel that there is no conflict here.

It is true, the Secretary of the Interior, after hearings and after modifications have been made to the standards is required to promulgate the standards as modified.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, is that not the answer to the criticism of the opposition, because they say they want to pinpoint responsibility?

Do we not then say that after the Secretary of the Interior reviews it and he believes a change ought to be made—do any of us believe that two Members working in the same Government and the same Cabinet would not be on talking terms?

Mr. PERKINS. I agree with the gentleman from Pennsylvania.

Mr. DENT. We are pinpointing it.

Mr. PERKINS. We can expect better results without a diffusion of responsibility. The Secretary of Health, Education, and Welfare in arriving at what are just and fair health standards is certainly going to consult with all interested parties. He will have resources and facilities not now available to the Secretary of the Interior.

Mr. ERLENBORN. If the gentleman will yield, I still contend it is unprecedented to have one Secretary dictating to another.

Mr. PERKINS. This is a workable arrangement that will redound to the benefit of everyone concerned.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 26, noes 53.

So the amendments were rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE II—INTERIM MANDATORY HEALTH STANDARDS

COVERAGE

SEC. 201. The provisions of sections 202 through 205 of this title shall be interim mandatory health standards applicable to all underground coal mines until superseded in whole or in part by mandatory health standards promulgated by the Secretary, and shall be enforced in the same manner and to the same extent as any mandatory health standard promulgated under the provisions of section 101 of title I of this Act. Any orders issued in the enforcement of the interim standards set forth in this title shall be subject to review as provided in sections 105, 107, and 108 of title I of this Act.

DUST STANDARD AND RESPIRATORS

SEC. 202. (a) Each operator of a coal mine shall take accurate samples of the amount of respirable dust in the mine atmosphere to which the miners in the active workings of such mine are exposed. Such samples shall be taken by any device approved by the Secretary and the Secretary of Health, Education, and Welfare and in accordance with such methods, at such locations, at such intervals, and in such manner as the Secretaries shall prescribe in the Federal Register within sixty days from the date of enactment of this Act and from time to time thereafter. Such samples shall be transmitted to the Secretary at his expense in a manner established by him, and analyzed and recorded by him in a manner which will assure application of the provisions of section 104(i) when the standard established under subsection (b) of this section is exceeded. The results of such samples shall also be made available to the operator. Each operator shall certify to the Secretary at such intervals as the Secretary may require as to the condition of the mine atmosphere in the active workings of the mine, including, but not limited to, the average number of working hours worked during each shift, the quantity of air regularly reaching the working places, the method of mining, the amount and pressure of the water, if any, reaching the working faces, and the number, location, and type of sprays, if any, used.

(b)(1) Effective on the operative date of this title, each operator shall maintain the average concentration of respirable dust in the mine atmosphere to which each miner in the active workings of such mine is exposed at or below 4.5 milligrams per cubic meter of air (if measured with an MRE instrument over several shifts) or an equivalent amount of dust (if measured with any other instrument approved by the Secretary and the Secretary of Health, Education, and Welfare). In the case of an operator who requests an extension of time beyond the operative date of this title in which to reduce such average concentration of respirable dust to or below 4.5 milligrams per cubic meter of air (or its equivalent) and demonstrates to the satisfaction of the Secretary that he is undertaking maximum efforts to so reduce such average concentration but is unable to do so because it is not technologically feasible for him to do so, the Secretary may grant such operator no more than ninety days for such purpose.

(2) Effective six months after the operative date of this title, the limit on the level of dust concentration shall be 3.0 milligrams of respirable dust per cubic meter of air (if measured with an MRE instrument over several shifts) or an equivalent amount of dust (if measured with any other instrument approved by the Secretary and the Secretary of Health, Education, and Welfare). In the case of an operator who requests an extension of time beyond the effective date of this paragraph in which to reduce the average concentration of respirable dust to or below 3.0 milligrams per cubic meter of air (or its equivalent) and demonstrates to the satisfaction of the Secretary that he is undertaking maximum efforts to so reduce such average concentration but is unable to do so because it is not technologically feasible for him to do so, the Secretary may grant such operator no more than six months for such purpose.

(3) Beginning six months after the operative date of this title, the Secretary of Health, Education, and Welfare shall reduce the limit on the level of dust concentration below 3.0 milligrams of respirable dust per cubic meter or air (if measured with an MRE instrument over several shifts) or an equivalent amount of dust (if measured with any other instrument approved by the Secretary and the Secretary of Health, Education, and Welfare) as he determines such reductions become technologically attainable.

(c) Respirators or other breathing devices approved by the Secretary and the Secretary of Health, Education, and Welfare shall be made available to all persons whenever exposed to concentrations of dust in excess of concentrations of dust permitted by subsection (b). Use of respirators shall not be substituted for environmental control measures. Each underground mine shall maintain a supply of approved respirators or other breathing devices adequate to deal with occurrences of concentrations of respirable dust in the mine atmosphere in excess of the limit prescribed in this section.

(d) As used in this title, the term "MRE instrument" means the gravimetric dust sampler with four channel horizontal elutriator developed by the Mining Research Establishment of the National Coal Board, London, England.

Mr. BURTON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 202 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. If there are no amendments to be proposed, the Clerk will read.

The Clerk read as follows:

MEDICAL EXAMINATION

SEC. 203. (a) The operator of an underground coal mine shall cooperate with the Board in making available to each miner working in an underground coal mine an opportunity to have, at least once every five years, beginning six months after the operative date of this title, a chest roentgenogram to be provided by the Board with funds derived under section 401(c) of this Act. Each worker who begins work in a coal mine for the first time shall be given, as soon as possible after commencement of his employment, and again three years later if he is still engaged in coal mining, a chest roetgenogram; and in the event the second such chest roentgenogram shows evidence of the development of pneumoconiosis the worker shall be given, two years later if he is still engaged in coal mining, an additional chest roentgenogram. Such chest roentgenograms shall be given in accordance with specifications and to the extent prescribed by the Secretary of Health, Education, and Welfare and shall be supplemented by such other tests as the Secretary of Health, Education, and Welfare deems necessary. The films shall be read and classified in a manner to be prescribed by the Secretary of Health, Education, and Welfare and the results of each reading on each such person and of such tests, shall be submitted to the Secretary, the Board, and to the Secretary of Health, Education, and Welfare, and at the request of the worker, to his physician. Such specifications, readings, classifications, and tests shall, to the greatest degree possible, be uniform for all underground coal mines and coal miners in such mines.

(b) Any miner, who, in the judgment of the Secretary of Health, Education, and Welfare based upon such reading, shows substantial evidence of the development of pneumoconiosis shall, at the option of the miner, be assigned by the operator, for such period or periods as may be necessary to prevent further development of such disease, to work either (1) in any active working place in a mine where the mine atmosphere contains concentrations of respirable dust of not more than 2.0 milligrams per cubic meter of air if measured with an MRE instrument or not more than an equivalent amount of dust if measured with any other instrument approved by the Secretary and the Secretary of Health, Education, and Welfare, or (2) in an area of the mine containing more than such 2.0 milligrams, or its equivalent, provided the miner wears respiratory equipment approved by the Secretary and the Secretary of Health, Education, and Welfare. Any miner so assigned shall receive compensation for such work not less than the regular rate of pay received by him immediately prior to his assignment.

Mr. BURTON of California (during the reading). Mr. Chairman, I ask unanimous consent that this section be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. BURTON OF CALIFORNIA

Mr. BURTON of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of California: On page 50, line 9, after the period insert:

"Within one year after the enactment of this Act, any miner who shows evidence of the development of pneumoconiosis shall be assigned by the operator for such period or periods as may be necessary to prevent further development of such disease, to work, at the option of the miner, in any working section or other area of the mine, where the average concentration of respirable dust in the mine atmosphere to which the miner is exposed during each shift is at or below 1.0 milligrams of dust per cubic meter of air or to whatever lower level the Secretary of Health, Education, and Welfare determines is necessary to prevent any further development of such disease."

Mr. BURTON of California. Mr. Chairman, this amendment deals exclusively and narrowly with the problem of the miner who already has any

pneumoconiosis and with what should be the dust level that should be set at the working place to which he is assigned. When we started out some 9 months ago, it was believed that a 2.0 dust level was feasible at a point in time when we also believed that it was quite likely that the highest area of concentration of dust would be some 4.5. With the new data in the new tests it is clear, to our side of the committee, that the reassigned miner should have the option of being assigned to a working place where the dust level is 1.0 or lower in the event that he has already contracted any degree or level of pneumoconiosis. I ask the chairman of the committee if that is acceptable to him.

Mr. PERKINS. Mr. Chairman, I thank the gentleman for yielding to me. I want to thank the distinguished gentleman from California for offering an amendment of this type. Any individual in the coal mines suffering from the beginning of this dreadful disease should certainly not be required to work in an atmosphere where there is a heavy dust concentration. I certainly want to compliment the gentleman for offering his amendment.

Mr. BURTON of California. I think the RECORD should also reflect the contribution of our distinguished colleague from West Virginia (Mr. HECHLER), who has also worked on this matter.

Mr. ERLENBORN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do not know what mischief we are playing with seniority rights in the unions when we give a man an option as to the place where he can work.

Again on the pneumoconiosis compensation item I was reluctant to do this, because it has the appearance of being a help to the man who has an incipient case of pneumoconiosis in the first stages which may progress into complicated massive fibrosis. So I hesitate to rise in opposition to this, but I must voice the opposition that I feel. In the first place, the recent tests conducted by the Bureau of Mines indicate that we may be able to reach in the foreseeable future this figure of 3 milligrams that we are mandating in this bill. I think at the time that our committee acted on it that the 4.5 milligram standard was not necessarily attainable and the 3 that the committee mandated in the bill were not within sight, but we may be getting to the point where it could happen.

One of the things that this report pointed out was a thing that apparently had not been recognized before, namely, that not all dust is generated at the working face of the mine. The ventilation air coming in behind the miner, in the passageway, in the halls, where the already mined coal is being taken out of the mine, picks up dust and brings it in to the working face, so that there is dust already present in the ventilation air that reaches the working face of the mine. Up until now most of us had the conception that all of the dust was created at the working face and all we had to do was get it away from the miner, but the very air that comes in to the working face, we understand now, has such a concentration of dust.

Whether we will be able to get that ventilation air down to 1 is very unlikely.

Now, there is one last point which I would like to make and then I will yield to the gentleman from California, and that is the subcommittee studies we have tell us what concentrations of dust may cause pneumoconiosis and reflect a figure of about 1.5 or 1.45 as being the figure at which a coal miner has a zero chance of contracting pneumoconiosis or having it progress.

Now, the figure that the gentleman from California suggests is well below that. The figure of 2 is a figure where there is practically no chance of the contraction or progression of the disease.

Mr. BURTON of California. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from California.

Mr. BURTON of California. The gentleman from Illinois is well aware that we have been told there is roughly a ratio of 3 to 1 between the area of the lowest concentration of dust, based upon all past department studies. There are some points of view that the ratio may be 2.5, 3, or 7 to 1. If the gentleman from Illinois will read my amendment he will find that the effective date of the amendment is 1 year after enactment.

May I say that the continuation of even 1 in cases of pneumoconiosis is too high, and it is our belief that a lower level is likely to be found by the Secretary of Health, Education, and Welfare as necessary to prevent both the development of "black lung" and any further progression in any miner so afflicted. This amendment will not be cheap. Estimates have ranged from $30 million the balance of this first year to $100 million a year for the peak years. But at any price, the Nation's conscience dictates that these victims of inadequate health standards be assumed the minimal payments provided in this legislation.

It is particularly important for the reason, among others, spelled out by the gentleman from Wisconsin (Mr. WILLIAM STEIGER) that these hapless victims not depend on State matching funds.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Pennsylvania.

Mr. DENT. I would like to say that in a recent report that has been studied by several members of the committee—and the gentleman has a copy of it—it gives all the graphs and demonstrations illustrating what has been done by this legislation already. We have had long and continuous hearings on the bill and have established what appear to be the ground rules that we are following. We have established as a minimum 9,000 cubic feet a minute of air requirement for the last open crosscut. It establishes as a minimum a 100-foot-a-minute velocity requirement for the miner to be measured 5 feet from the face as well as an additional minimum air volume requirement for the working force. In each case, the inspector can require a substantial increase in these minimums.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. DENT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Speaker, with further reference to these studies which were made by the Bureau, it shows that there is a ratio of approximately 2.7 to 1 in the diminishing amount of dust, as the dust is carried away to the face. So, we find here that we have used in this legislation a 3-milligram level from 1 year from the date of enactment of this legislation and that at that time in the return air chamber if we have men who contract pneumoconiosis they can be moved at their request or desire to the relatively nondusty areas of the mine. Those areas at that time, when we reach the 3-milligram level at the face, will be such that we will have the dust in the other sections of the mine down to less than 1 milligram. So, since we are going to have it down to at least that, the gentleman from California is merely suggesting that they establish as a criterion at least 1 milligram as the top level of dust that can be concentrated in an area where a miner with pneumoconiosis has asked to work. At that time and in that environment, if the miner has simple pneumoconiosis, he is not likely to have any progression of the disease.

Moreover, section 411(b) of the bill requires that the Secretary of Health Education, and Welfare, in his final report to the Congress, make recommendations relative to new health standards, including recommendations as to the maximum permissible individual dust exposure to the miner each shift. The objective and intent of that language is to insure that this first report will include recommendations of dust levels necessary to attain a medically acceptable mine atmosphere for each miner which will prevent new incidences of pneumoconiosis and any further development of this disease in miners who show signs of incurring the disease. We expect that these recommendations will provide the goal to which the Bureau of Mines must devote its research energies to make the achievement technologically feasible within the shortest possible period.

Therefore, Mr. Chairman, I urge the House to accept the amendment which has been offered by the gentleman from California (Mr. BURTON).

Mr. BURTON of California. Will the gentleman yield?

Mr. DENT. I yield to the gentleman from California (Mr. BURTON).

Mr. BURTON of California. I fully concur in the statement made by the distinguished chairman of the subcommittee (Mr. DENT).

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. BURTON).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

DUST FROM DRILLING ROCK

SEC. 204. 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, or by any other method or device approved by the Secretary which is at least as effective in controlling such dust. Respiratory equipment approved by the Secretary and the Secretary of Health, Education, and Welfare shall be provided persons exposed for short periods of inhalation hazards from gas, dusts, fumes, or mist.

When the exposure is for prolonged periods, other measures to protect such persons or to reduce the hazard shall be taken.

DUST STANDARD WHEN QUARTZ IS PRESENT

SEC. 205. In coal mining operations where the respirable dust in the mine atmosphere of any active working place contains more than 5 per centum quartz, the Secretary of Health, Education, and Welfare shall prescribe an appropriate formula for determining the applicable dust standard under this title for such working place and the Secretary shall apply such formula in carrying out his duties under this title.

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. PERKINS. Mr. Chairman, there are no further amendments to title II, as I understand.

The CHAIRMAN. There being no further amendments, the Clerk will read.

The Clerk read as follows:

TITLE III—INTERIM MANDATORY SAFETY STANDARDS FOR UNDERGROUND COAL MINES

COVERAGE

SEC. 301. (a) The provisions of sections 302 through 317 of this title shall be interim mandatory safety standards applicable to all underground coal mines until superseded in whole or in part by mandatory safety standards promulgated by the Secretary under the provisions of section 101 of title I of this Act, and shall be enforced in the same manner and to the same extent as any mandatory safety standard promulgated under title I of this Act. Any orders issued in the enforcement of the interim standards set forth in this title shall be subject to review as provided in sections 105, 107, and 108 of title I of this Act.

(b) The Secretary may, upon petition by the operator, waive or modify the application of any mandatory safety standard to a mine when he determines such application will result in a diminution of safety to workers in such mine, but any action taken by the Secretary under this subsection shall be consistent with the purposes of this Act and shall not reduce the protection afforded miners by it.

(c) Upon petition by the operator, the Secretary may modify the application of any mandatory safety standard to a mine. Such petition shall state that an alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded miners by such standard. Upon receipt of such petition the Secretary shall publish notice thereof and give notice to the representative, if any, of persons working in the affected mine and shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a hearing, at the request of such representative or other interested party, to enable the applicant and the representative of persons working in such mine or other interested party to present information relating to the modification of such standard. The Secretary shall make findings of fact and publish them in the Federal Register.

ROOF SUPPORT

SEC. 302. (a) Each operator shall undertake to carry out on a continuing basis a program to improve the roof control system of each mine and the means and measures to accomplish such system. The roof and ribs of all active underground roadways, travelways, and working places shall be supported or otherwise controlled adequately to protect persons from falls of the roof or ribs. A roof-control plan and revisions thereof suitable to the roof conditions and mining system of each mine and approved by the Secretary shall be adopted and set out in printed form within sixty days after the operative date of this title. The plan shall show the type of support and spacing approved by the Secretary. Such plan shall be reviewed periodically, at least every six months by the Secretary, taking into consideration any falls of roof or ribs or inadequacy of support of roof or ribs. No person shall proceed beyond the last permanent support unless adequate temporary support is provided or unless such temporary support is not required under the approved roof control plan. A copy of the plan shall be furnished the Secretary or his authorized representative and shall be available to the miners or their authorized representatives.

(b) The method of mining followed in any mine shall not expose the miner to unusual dangers from roof falls caused by excessive widths of rooms and entries or faulty pillar recovery methods.

(c) The operator shall provide at or near the working face an ample supply of suitable materials of proper size with which to secure the roof of all working places in a safe manner. Safety posts, jacks, or other approved devices shall be used to protect the workmen when roof material is being taken down, crossbars are being installed, roof boltholes are being drilled, roof bolts are being installed, and in such other circumstances as may be appropriate. Loose roof and overhanging or loose faces and ribs shall be taken down or supported. Supports knocked out, except in recovery, shall be replaced promptly.

(d) When permitted, installed roof bolts shall be tested in accordance with the approved roof control plan. Roof bolts shall not be recovered where complete extractions of pillars are attempted, where adjacent to clay veins, or at the locations of other irregularities whether natural or otherwise that induce abnormal hazards. Where roof bolt recovery is permitted, it shall be conducted only in accordance with methods prescribed in the approved roof control plan, and shall be conducted by experienced miners and only where adequate temporary support is provided.

(e) Where miners are exposed to danger from falls of roof, face, and ribs the operator shall require that examinations and tests of the roof, face, and ribs be made before any work or machine is started, and as frequently thereafter as may be necessary to insure safety. When dangerous conditions are found, they shall be corrected immediately.

VENTILATION

SEC. 303. (a) All coal mines shall be ventilated by mechanical ventilation equipment installed and operated in a manner approved by an authorized representative of the Secretary and such equipment shall be examined daily and a record shall be kept of such examination.

(b) All active underground workings shall be ventilated by a current of air containing not less than 19.5 volume per centum of oxygen, not more than 0.5 volume per centum of carbon dioxide, and no harmful quantities of other noxious or poisonous gases; and the volume and velocity of the current of air shall be sufficient to dilute, render harmless, and to carry away, flammable or harmful gases and smoke and fumes. The minimum quantity of air in any mine reaching the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms shall be nine thousand cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line shall be nine thousand cubic feet a minute. The Secretary or his authorized representative may require in any coal mine a greater quantity of air when he finds it necessary to protect the safety of miners. In robbing areas of anthracite mines, where the air currents cannot be controlled and measurements of the air cannot be obtained, the air shall have perceptible movement.

(c)(1) Properly installed and adequately maintained line brattice or other approved devices shall be used from the last open crosscut of an entry or room of each working section to provide adequate ventilation to the working faces for the miners and to remove gases, dust, and explosive fumes, unless the Secretary or his authorized representative permits an exception to this requirement. When damaged by falls or otherwise, they shall be repaired promptly.

(2) The space between the line brattice or other approved device 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.

(3) Brattice cloth used underground shall be of flame-resistant material.

(d)(1) Within three hours immediately preceding the beginning of a coal-producing shift, and before any workmen in such shift enter the underground areas of the mine, certified persons designated by the operator of the mine shall examine a definite underground area of the mine. Each such examiner shall examine every underground working place in that area and shall make tests in each such working place for accumulations of explosive gases with means approved by the Secretary for detecting explosive gases and shall make tests for oxygen deficiency with a permissible flame safety lamp or other means approved by the Secretary; examine seals and doors to determine whether they are functioning properly; examine and test the roof, face, and rib conditions in the underground working places; examine active roadways, travelways, and all belt conveyors on which men are carried, approaches to abandoned workings, and accessible falls in sections for hazards; examine by means of an anemometer or other device approved by the Secretary to determine whether the air in each split is traveling in its proper course and in normal volume; and examine for such other hazards and violations of the mandatory health safety standards, as an authorized representative of the Secretary may from time to time require. Belt conveyors on which coal is carried shall be examined after each coal-producing shift has begun. Such mine examiner shall place his initials and the date at all places he examines. If such mine examiner finds a condition which constitutes a violation of a mandatory health or safety standard or any condition which is hazardous to persons who may enter or be in such area, he shall indicate such hazardous place by posting a "DANGER" sign conspicuously at all points which persons entering such hazardous place would be required to pass, and shall notify the operator of the mine. No person, other than an authorized representative of the Secretary or a State mine inspector or persons authorized by the mine operator to enter such place for the purpose of eliminating the hazardous condition therein, shall enter such place while such sign is so posted. Upon completing his examination such mine examiner shall report the results of his examination to a person, designated by the mine operator to receive such reports at a designated station on the surface of the mine, 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 approved by the Secretary kept for such purpose in an area on the surface of the mine chosen by the mine operator to minimize the danger of destruction by fire or other hazard.

(2) No person (other than certified persons designated under this subsection) shall enter any underground area, except during a coal-producing shift, unless an examination of such area as prescribed in this subsection has been made within eight hours immediately preceding his entrance into such area.

(e) At least once during each coal-producing shift, or more often if necessary for safety, each underground working section shall be examined for hazardous conditions by certified persons designated by the mine operator to do so. Such examination shall include tests with means approved by the Secretary for detecting explosive gases and with a permissible flame safety lamp or other means approved by the Secretary for detecting oxygen deficiency.

(f) Examination for hazardous conditions, including tests for explosive gases, and for compliance with the standards established by, or promulgated pursuant to, this title shall be made at least once each week, by a certified person designated the operator of the mine, in the return of each split of air where it enters the main return, on pillar falls, at seals, in the main return, at least one entry of each intake and return aircourse in its entirety, idle workings, and insofar as safety considerations permit, abandoned workings. Such weekly examination need not be made during any week in which the mine is idle for the entire week; except that such examination shall be made before any other miner returns to the mine. The person making such examinations and tests shall place his initials and the date at the places examined, and if hazardous conditions are found, such conditions shall be reported promptly. Any hazardous conditions shall be corrected immediately. If a hazardous condition cannot be corrected immediately, the operator shall withdraw all persons from the area affected by the hazardous condition except those persons whose presence is required to correct the conditions. A record of these examinations, tests, and actions taken shall be recorded in ink or indelible pencil in a book approved by the Secretary kept for such purpose in an area on the surface of the mine chosen by the mine operator to minimize the danger of destruction by fire or other hazard, and the record shall be open for inspection by interested persons.

(g) At least once each week, a qualified 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 any pair or set of developing entries and the last open crosscut in any pair or set of rooms, the volume being delivered to the intake end of each pillar line, and the volume at the intake and return of each split of air. A record of such measurements shall be recorded in ink or indelible pencil in a book approved by the Secretary kept for such purpose in an area on the surface of the mine chosen by the mine operator to minimize the danger of destruction by fire or other hazard, and the record shall be open for inspection by interested persons.

(h)(1) At the start of each coal-producing shift, tests for explosive gases shall be made at the face of each working place immediately before electrically operated equipment is energized. Such tests shall be made by qualified persons. If more than 1.0 volume per centum of explosive gas is detected, electrical equipment shall not be energized, taken into, or operated in, such working place until such explosive gas content is no more than 1.0 volume per centum of explosive gas. Examinations for explosive gases shall be made during such operations at intervals of not more than twenty minutes during each shift, unless more frequent examinations are required by an authorized representative of the Secretary. In conducting such tests, such person shall use means approved by the Secretary for detecting explosive gases.

(2) If the air at an underground working place, when tested at a point not less than twelve inches from the roof, face, or rib, contains more than 1.0 volume per centum of explosive gas, changes or adjustments shall be made at once in the ventilation in such mines so that such air shall not contain more than 1.0 volume per centum of explosive gas. While such ventilation improvement is underway and until it has been achieved, power to face equipment located in such place shall be cut off, no other work shall be permitted in such place, and due precautions will be carried out under the direction of the agent of the operator so as not to endanger other active workings.

If such air, when tested as outlined above, contains 1.5 volume per centum of explosive gas, all persons shall be withdrawn from the portion of the mine endangered thereby, and all electric power shall be cut off from such portion of the mine, until the air in such working place shall not contain more than 1.0 volume per centum of explosive gas.

(i) If, when tested, a split of air returning from active underground workings contains more than 1.0 volume per centum of explosive gas, changes or adjustments shall be made at once in the ventilation in the mine so that such returning air shall not contain more than 1.0 volume per centum of explosive gas. Such tests shall be made at four-hour intervals during each shift by a qualified person designated by the operator of the mine. In making such tests, such person shall use means approved by the Secretary for detecting explosive gases.

(j) If a split of air returning from active underground workings contains 1.5 volume per centum of explosive gas, all persons shall be withdrawn from the portion of the mine endangered thereby, and all electric power shall be cut off from such portion of the mine, until the air in such split shall not contain more than 1.0 volume per centum of explosive gas. In virgin territory, if the quantity of air in a split ventilating the active workings in such territory equals or exceeds twice the minimum volume of air prescribed in subsection (b) of this section, if the air in the split returning from such workings does not pass over trolley or power feeder wires, and if a certified person designated by the mine operator is continually testing the explosive gas content of the air in such split during mining operations in such workings, it shall be necessary to withdraw all persons and cut off all electric power from the portion of the mine endangered by explosive gases only when the air returning from such workings contains more than 2.0 volume per centum.

(k) Air which has passed by an opening of any abandoned area shall not be used to ventilate any active working place in the mine if such as contains 0.25 volume per centum or more of explosive gas. Examinations of such air shall be made during the pre-shift examination required by subsection (d) of this section. In making such tests, a certified person designated by the operator of the mine shall use means approved by the Secretary for detecting explosive gases. For the purposes of this subsection, an area within a panel shall not be deemed to be abandoned until such panel is abandoned.

(l) Air that has passed through an abandoned panel or area which is inaccessible or unsafe for inspection shall not be used to ventilate any active working place in such mine. No air which has been used to ventilate an area from which the pillars have been removed shall be used to ventilate any active working place in such mine, except that such air, if it does not contain 0.25 volume per centum or more of explosive gases, may be used to ventilate enough advancing working places immediately adjacent to the line of retreat to maintain an orderly sequence of pillar recovery on a set of entries.

(m) A methane monitor approved by the Secretary shall be installed and be kept operative and in operation on all electric face cutting equipment, continuous miners, longwall face equipment, and loading machine, and such other electric face equipment as an authorized representative of the Secretary may require. Such monitor shall be set to deenergize automatically any electric face equipment on which it is required when such monitor is not operating properly. The sensing device of any such monitor shall be installed as close to the working face as possible. An authorized representative of the Secretary may require any such monitor to be set to give a warning automatically when the concentration of explosive gas reaches 1.0 volume per centum and automatically to deenergize equipment on which it is installed when such concentration reaches 2.0 volume per centum.

(n) Idle and abandoned areas shall be inspected for explosive gases and for oxygen deficiency and other dangerous conditions by a certified person with means approved by the Secretary as soon as possible, but not more than three hours, before other employees are permitted to enter or work in such areas. However, persons, such as pumpmen, who are required regularly to enter such areas in the performance of their duties, and who are trained and qualified in the use of means approved by the Secretary for detecting explosive gases and in the use of a permissible flame safety lamp or other means for detecting oxygen deficiency are authorized to make such examinations for themselves, and each such person shall be properly equipped and shall make such examinations upon entering any such area.

(o) Immediately before an intentional roof fall is made, pillar workings shall be examined by a qualified person designated by the operator to ascertain whether explosive gas is present, such person shall use means approved by the Secretary for detecting explosive gases. If in such examination explosive gas is found in amounts of more than 1.0 volume per centum, such roof fall shall not be made until changes or adjustments are made in the ventilation so that the air shall not contain more than 1.0 volume per centum of explosive gas.

(p) Within six months after the operative date of this title, and thereafter, all areas in all mines in which the pillars have been extracted or areas which have been abandoned for other reasons shall be effectively sealed or shall be effectively ventilated by bleeder entries, or by bleeder systems or an equivalent means. Such sealing or ventilation shall be approved by an authorized representative of the Secretary.

(q) Pillared areas ventilated by means of bleeder entries, or by bleeder systems or an equivalent means, shall have sufficient air coursed through the area so that the return split of air shall not contain more than 2.0 volume per centum of explosive gas before entering another split of air.

(r) Where areas are being pillared on the operative date of this title without bleeder entries, or without bleeder systems or an equivalent means, pillar recovery may be completed in the area to the extent approved by an authorized representative of the Secretary if the edges of pillar lines adjacent to active workings are ventilated with sufficient air to keep the air in open areas along the pillar lines below 1.0 volume per centum of explosive gas.

(s) Each mechanized mining section shall be ventilated with a separate split of intake air directed by overcasts, undercasts, or the equivalent, except an extension of time, not in excess of six months may be permitted by the Secretary, under such conditions as he may prescribe, whenever he determines that this subsection cannot be compiled with on the operative date of this title.

(t) In all underground areas of a mine,

immediately before firing each shot or group of multiple shots and after blasting is completed, examinations for explosive gases shall be made by a qualified person with means approved by the Secretary for detecting explosive gases. If explosive gas is found in amounts of more than 1.0 volume per centum, changes or adjustments shall be made at once in the ventilation so that the air shall not contain more than 1.0 volume per centum of explosive gas. No shots shall be fired until the air contains not more than 1.0 volume per centum of explosive gas.

(u) Each operator of a coal mine shall adopt a plan within sixty days after the operative date of this title which shall provide that when any mine fan stops, immediate action shall be taken by the operator or his agent (1) to withdraw all persons from the working sections, (2) to cut off the power in the mine in a timely manner, (3) to provide for restoration of power and resumption of work if ventilation is restored within a reasonable period as set forth in the plan after the working places and other workings where explosive gas is likely to accumulate are reexamined by a certified person to determine if explosive gas in amounts of more than 1.0 volume per centum exists therein, and (4) to provide for withdrawal of all persons from the mine if ventilation cannot be restored within such reasonable time. The plan and revisions thereof approved by the Secretary shall be set out in printed form and a copy shall be furnished to the Secretary or his authorized representative.

(v) Changes in ventilation which materially affect the main air current or any split thereof and which may affect the safety of persons in the coal mine shall be made only when the mine is idle. Only those persons engaged in making such changes shall be permitted in the mine during the change. Power shall be removed from the areas affected by the change before work starts to make the change and shall not be restored until the effect of the change has been ascertained and the affected areas determined to be safe by a certified person.

(w) The mine foreman shall read and countersign promptly the daily reports of the preshift examiner and assistant mine foremen, and he shall read and countersign promptly the weekly report covering the examinations for hazardous conditions. Where such reports disclose hazardous conditions, the mine foreman shall take prompt action to have such conditions corrected. The mine superintendent or assistant superintendent of the mine shall also read and countersign the daily and weekly reports of such persons.

(x) Each day, the mine foreman and each of his assistants 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 and portion thereof under his supervision which report shall state clearly the location and nature of any hazardous condition observed by them or reported to them during the day and what action was taken to remedy such condition. Such book shall be kept in an area on the surface of the mine chosen by the operator to minimize the danger of destruction by fire or other hazard.

(y) Before a mine is reopened after having been abandoned, the Secretary shall be notified and an inspection made of the entire mine by an authorized representative of the Secretary before mining operations commence.

(z) In any coal mine opened after the operative date of this title, the entries used as intake and return aircourses shall be separated from belt and trolley haulage entries, and each operator of such mine shall limit the velocity of the air coursed through belt and trolley haulage entries to the amount necessary to provide an adequate supply of oxygen in such entries, and to insure that the air therein shall not contain more than 1.0 volume per centum of explosive gas. Whenever an authorized representative of the Secretary finds, in the case of any coal mine opened on or prior to the operative date of this title which has been developed with more than two entries, that the conditions in the entries, other than haulage entries, are such as to adequately permit the coursing of intake or return air through such entries, (1) the belt and trolley haulage entries shall not be used to ventilate, unless such entries are necessary to ventilate active working places, and (2) when the belt and trolley haulage entries are not necessary to ventilate the active working faces, the operator of such mine shall limit the velocity of the air coursed through the belt and trolley haulage entries to the amount necessary to provide an adequate supply of oxygen in such entries, and to insure that the air therein shall not contain more than 1.0 volume per centum of methane.

COMBUSTIBLE MATERIALS AND ROCK DUSTING

SEC. 304. (a) Coal dust, including float coal dust deposited on rock-dusted surfaces, loose coal, and other combustible materials, shall be cleaned up and not be permitted to accumulate in active underground workings or on electric equipment therein.

(b) Where underground mining operations create or raise excessive amounts of dust, water, or water with a wetting agent added to it, or other effective methods approved by an authorized representative of the Secretary, shall be used to abate such dust. In working places, particularly in distances less than forty feet from the face, water, with or without a wetting agent, or other effective methods approved by an authorized representative of the Secretary, shall be applied to coal dust on the ribs, roof, and floor to reduce dispersibility and to minimize the explosion hazard.

(c) All underground areas of a mine, except those areas in which the dust is too wet or too high in incombustible content to propagate an explosion, shall be rock dusted to within forty feet of all faces, unless such areas are inaccessible or unsafe to enter or unless an authorized representative of the Secretary permits an exception. All crosscuts that are less than forty feet from a working face shall also be rock dusted.

(d) Where rock dust is required to be applied, it shall be distributed upon the top, floor, and sides of all underground areas of a mine and maintained in such quantities that the incombustible contents of the combined coal dust, rock dust, and other dust shall be not less than 65 per centum, but the incombustible content in the return aircourses shall be no less than 80 per centum. Where explosive gas is present in any ventilating current, the per centum of incombustible content of such combined dusts shall be increased 1.0 and 0.4 per centum for each 0.1 per centum of explosive gas, where 65 and 80 per centum, respectively, of incombustibles are required.

(e) Subparagraphs (b) through (d) of this paragraph shall not apply to underground anthracite mines subject to this Act.

ELECTRICAL EQUIPMENT

SEC. 305. (a) One year after the operative date of this title—

(1) all electric face equipment used in a coal mine shall be permissible and shall be maintained in a permissible condition, except that the Secretary may permit, under such conditions as he may prescribe, nonpermissible or open-type electric face equipment in use in such mine on the date of enactment of this Act, to continue in use for such period (not in excess of one year) as he deems necessary to obtain such permissible equipment: *Provided, however*, That the provisions of this paragraph shall not apply to any mine which is not classified as gassy; and

(2) Only permissible junction or distribution boxes shall be used for making multiple power connections inby the last open crosscut or in any other place where dangerous quantities of explosive gases may be present or may enter the air current.

(b) (1) Four years after the operative date of this title all electric face equipment used in mines exempted from the provisions of section 305(a)(1) of this Act shall be permissible and shall be maintained in a permissible condition, except that the Secretary may, upon petition, waive the requirements of this paragraph on an individual mine basis for a period not in excess of two years if, after investigation, he determines that such waiver is warranted. The Secretary may also, upon petition, waive the requirements of this paragraph on an individual mine basis if he determines that the permissible equipment for which the waiver is sought is not available to such mine.

(2) One year after the operative date of this title all replacement equipment acquired for use in any mine referred to in this subsection shall be permissible and shall be maintained in a permissible condition, and in the event of any major overhaul of any item of equipment in use one year from the operative date of this title such equipment shall be put in and thereafter maintained in a permissible condition if, in the opinion of the Secretary, such equipment or necessary replacement parts are available.

(3) One year after the operative date of this title all hand held electric drills, blowers and exhaust fans, electric pumps, and other such low-horsepower electric face equipment as the Secretary may designate which are taken into or used inby the last open crosscut of any coal mine shall be permissible and thereafter maintained in a permissible condition.

(4) During the term of the use of any nonpermissible electric face equipment permitted under this subsection the Secretary may by regulation provide for use of methane monitoring devices, under such conditions as he shall prescribe, which will automatically deenergize electrical circuits providing power to electrical face equipment when the concentration of explosive gas in the atmosphere of the active workings permits, in the opinion of the Secretary, a condition in which an ignition or explosion may occur.

(c) A copy of any permit granted under this paragraph shall be mailed immediately to a duly designated representative of the employees of the mine to which it pertains, and to the public official or agency of the State charged with administering State laws relating to coal mine health and safety in such mine.

(d) Any coal mine which, prior to the operative date of this title, was classed gassy and was required to use permissible electric face equipment and to maintain such equipment in a permissible condition shall continue to use such equipment and to maintain such equipment in such condition.

(e) All power-connection points, except where permissible power connection units are used, outby the last open crosscut shall be in intake air.

(f) The location and the electrical rating of all stationary electric apparatus in connection with the mine electric system, including permanent cables, switchgear, rectifying substations, transformers, permanent pumps and trolley wires and trolley feeders, and settings of all direct-current circuit breakers protecting underground trolley circuits, shall be shown on a mine map. Any changes made in a location, electric rating, or setting shall be promptly shown on the map when the change is made. Such map shall be available to an authorized representative of the Secretary and to the miners in such mine.

(g) All power circuits and electric equipment shall be deenergized before work is

done on such circuits and equipment, except, when necessary, a person may repair energized trolley wires if he wears insulated shoes and lineman's gloves. No work shall be performed on medium and high-voltage distribution circuits or equipment except by or under the direct supervision of a competent electrician. Switches shall be locked out and suitable warning signs posted by the persons who are to do the work. Locks shall be removed only by the persons who installed them.

(h) Electric equipment shall be frequently examined by a competent electrician to assure safe operating conditions. When a potentially dangerous condition is found on electric equipment such equipment shall be removed from service until such condition is corrected. A record of such examinations shall be kept and made available to an authorized representative of the Secretary and to the miners in such mine.

(i) All electric conductors shall be sufficient in size and have adequate current-carrying capacity and be of such construction that the rise in temperature resulting from normal operation will not damage the insulating materials.

(j) All joints or splices in conductors shall be mechanically and electrically efficient and suitable connectors shall be used. All joints in insulated wire shall be reinsulated at least to the same degree of protection as the remainder of the wire.

(k) Cables shall enter metal frames of motors, splice boxes and electric compartments only through proper fittings. When insulated wires other than cables pass through metal frames the holes shall be substantially bushed with insulated bushings.

(l) All power wires (except trailing cables on mobile equipment, specially designed cables conducting high-voltage power to underground rectifying equipment or transformers, or bare or insulated ground and return wires) shall be supported on well-installed insulators and shall not contact combustible material, roof, or ribs.

(m) Except trolley wires, trolley feeder and bare signal wires, power wires and cables installed shall be insulated adequately and fully protected.

(n) Automatic circuit-breaking devices or fuses of the correct type and capacity shall be installed so as to protect all electric equipment and circuits against short circuit and overloads. Three-phase motors on all electric equipment shall be provided with overload protection that will deenergize all three phases in the event that any phase is overloaded.

(o) In all main power circuits disconnecting switches shall be installed underground within five hundred feet of the bottoms of shafts and boreholes through which main power circuits enter the underground portion of the mine and at all other places where main power circuits enter the underground portion of the mine.

(p) All electric equipment shall be provided with switches or other controls that are safely designed, constructed, and installed.

(q) Each underground exposed power conductor that leads underground shall be equipped with lightning arresters of approved type within one hundred feet of the point where the circuit enters the mine. Lightning arresters shall be connected to a low resistance grounding medium on the surface which shall be separated from neutral grounds by a distance of not less than twenty-five feet.

(r) No device for the purpose of lighting any underground coal mine or flame which has not been approved by the Secretary or his authorized representative shall be permitted in any underground coal mine, except under the provisions of section 311(d) of this title.

(s) An authorized representative of the Secretary may require in any coal mine that face equipment be provided with devices that will permit the equipment to be deenergized quickly in the event of an emergency.

TRAILING CABLES

SEC. 306. (a) Trailing cables used underground shall meet the requirements established by the Secretary for flame-resistant cables.

(b) Short-circuit protection for trailing cables shall be provided by an automatic circuit breaker or other no less effective device approved by the Secretary of adequate current interrupting capacity in each ungrounded conductor. Disconnecting devices used to disconnect power from trailing cables shall be plainly marked and identified and such devices shall be equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected.

(c) When two or more trailing cables junction to the same distribution center, means shall be provided to assure against connecting a trailing cable to the wrong size circuit breaker.

(d) No more than two temporary splices shall be made in any trailing cable, except that if a third splice is needed during a shift it may be made during such shift, but such cable shall not be used after that shift until a permanent splice is made. In any case in which a temporary splice is made pursuant to this subsection such splice shall, within five working days thereafter, be replaced by a permanent splice. No temporary splice shall be made in a trailing cable within twenty-five feet of the machine, except cable reel equipment. Temporary splices in trailing cables shall be made in a workmanlike manner and shall be mechanically strong and well insulated. Trailing cables or hand cables which have exposed wires or which have splices that heat or spark under load shall not be used. As used in this subsection, the term "splice" means the mechanical joining of one or more conductors that have been severed.

(e) When permanent splices in trailing cables are made, they shall be—

(1) mechanically strong with adequate electrical conductivity and flexibility;

(2) effectively insulated and sealed so as to exclude moisture; and

(3) vulcanized or otherwise treated with suitable materials to provide flame-resistant qualities and good bonding to the outer jacket.

(f) Trailing cables shall be clamped to machines in a manner to protect the cables from damage and to prevent strain on the electrical connections. Trailing cables shall be adequately protected to prevent damage by mobile machinery.

(g) Trailing cable and power cable connections to junction boxes shall not be made or broken under load.

GROUNDING

SEC. 307. (a) All metallic sheaths, armors, and conduits enclosing power conductors shall be electrically continuous throughout and shall be grounded. Metallic frames, casing, and other enclosures of electric equipment that can become "alive" through failure of insulation or by contact with energized parts shall be grounded effectively. Methods other than grounding which provide equivalent protection may be permitted by the Secretary.

(b) The frames of all offtrack direct current machines and the enclosures of related detached components shall be effectively grounded or otherwise maintained at safe voltages by methods approved by an authorized representative of the Secretary.

(c) The frames of all high-voltage switchgear, transformers, and other high-voltage equipment shall be grounded to the high-voltage system ground.

(d) High-voltage lines, both on the surface and underground, shall be deenergized and grounded before work is performed on them.

(e) When not in use, power circuits underground shall be deenergized on idle days and idle shifts, except that rectifiers and transformers may remain energized.

UNDERGROUND HIGH-VOLTAGE DISTRIBUTION

SEC. 308. (a) High-voltage circuits entering the underground portion of the mine shall be protected by suitable circuit breakers of adequate interrupting capacity. Such breakers shall be equipped with relaying circuits to protect against overcurrent, ground fault, a loss of ground continuity, short circuit, and under-voltage.

(b) High-voltage circuits extending underground shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the source transformers, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all high-voltage equipment supplied power from that circuit. At the point where high-voltage circuits enter the underground portion of the mine, disconnecting devices shall be installed outby the automatic breaker and such devices shall be equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected.

(c) The grounding resistor shall be of the proper ohmic value to limit the voltage drop in the grounding circuit external to the resistor to not more than 100 volts under fault conditions. The grounding resistor shall be rated for maximum fault current continuously and insulated from ground for a voltage to equal to the phase-to-phase voltage of the system.

(d) High-voltage systems shall include a fail safe ground check circuit to monitor continuously the grounding circuit to assure continuity and the fail safe ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken.

(e) Underground high-voltage cables shall be equipped with metallic shields around each power conductor. One or more ground conductors shall be provided having a cross-sectional area of not less than one-half the power conductor or capable of carrying twice the maximum fault current. There shall also be provided an insulated conductor not smaller than No. 8 (AWG) for the ground continuity check circuit. Cables shall be adequate for the intended current and voltage. Splices made in the cable shall provide continuity of all components and shall be made in accordance with cable manufacturers' recommendation.

(f) Couplers that are used with high-voltage power circuits shall be of the three-phase type with a full metallic shell, except that the Secretary may permit, under such guidelines as he may prescribe, couplers constructed of materials other than metal. Couplers shall be adequate for the voltage and current expected. All exposed metal on the metallic couplers shall be grounded to the ground conductor in the cable. The coupler shall be constructed so that the ground check continuity conductor shall be broken first and the ground conductors shall be broken last when the coupler is being uncoupled.

(g) Single-phase loads such as transformer primaries shall be connected phase to phase.

(h) All underground high-voltage transmission cables shall be installed only in regularly inspected aircourses and haulageways, and shall be covered, buried, or placed so as to afford protection against damage, guarded where men regularly work or pass under them unless they are six and one-half feet or more above the floor or rail, securely anchored, properly insulated, and guarded at ends, and covered, insulated, or placed to prevent contact with trolley and other low-voltage circuits.

(i) Disconnecting devices shall be installed at the beginning of branch lines in high-voltage circuits and equipped or designed in such manner that it can be determined by visual observation that the circuit is de-energized when the switches are open.

(j) Circuit breakers and disconnecting switches underground shall be marked for identification.

(k) Terminations and splices of high-voltage cable shall be made in accordance with manufacturer's specifications.

(l) Frames, supporting structures, and enclosures of substation or switching station apparatus shall be effectively grounded to the high voltage ground.

(m) Power centers and portable transformers shall be deenergized before they are moved from one location to another. High-voltage cables, other than trailing cables, shall not be moved or handled while energized.

UNDERGROUND LOW- AND MEDIUM-VOLTAGE ALTERNATING CURRENT CIRCUITS

SEC. 309. (a) Low- and medium-voltage power circuits serving three-phase alternating current equipment shall be protected by suitable circuit breakers of adequate interrupting capacity. Such breakers shall provide protection for the circuit against overcurrent, ground fault, short circuits, and loss of ground circuit continuity.

(b) Low- and medium-voltage circuits used underground shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the power center, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all the electrical equipment supplied power from that circuit. The grounding resistor shall be of the proper ohmic value to limit the ground fault current to 25 amperes. The grounding resistor shall be rated for maximum fault current continuously.

(c) Low- and medium-voltage circuits shall include a fail safe ground check circuit to monitor continuously the grounding circuit to assure continuity and the fail safe ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken.

(d) Disconnecting devices shall be installed in conjunction with the circuit breaker to provide visual evidence that the power is disconnected. Trailing cables for mobile equipment shall contain one or more ground conductors having a cross sectional area of not less than one half the power conductor and an insulated conductor for the ground continuity check circuit. Splices made in the cables shall provide continuity of all components.

(e) Single phase loads shall be connected phase to phase.

(f) Circuit breakers shall be marked for identification.

(g) Trailing cable for medium voltage circuits shall include grounding conductors, a ground check conductor, and ground metallic shields around each power conductor or a grounded metallic shield over the assembly; except that on machines, employing cable reels, cables without shields may be used if the insulation is rated 2,000 volts or more.

TROLLEY AND TROLLEY FEEDER WIRES

SEC. 310. (a) Trolley wires and trolley feeder wires shall be provided with cutout switches at intervals of not more than 2,000 feet and near the beginning of all branch lines.

(b) Trolley wires and trolley feeder wires shall be provided with overcurrent protection.

(c) Trolley and trolley feeder wires, high-voltage cables and transformers shall not be located inby the last open crosscut and shall be kept at least 150 feet from pillar workings.

(d) Trolley wires, trolley feeder wires, and bare signal wires shall be insulated adequately where they pass through doors and stoppings, and where they cross other power wires and cables. Trolley wires and trolley feeder wires shall be guarded adequately (1) at all points where men are required to work or pass regularly under the wires, unless the wires are placed 10 feet or more above the top of the rail; (2) on both sides of all doors and stoppings, and (3) at man-trip stations. The Secretary or his authorized representatives shall specify other conditions where trolley wires and trolley feeder wires shall be adequately protected to prevent contact by any person, or shall require the use of improved methods to prevent such contact. Temporary guards shall be provided where trackmen and other persons work in proximity to trolley wires and trolley feeder wires.

FIRE PROTECTION

SEC. 311. (a) Each coal mine shall be provided with suitable firefighting equipment adapted for the size and conditions of the mine. The Secretary shall establish minimum requirements for the type, quality, and quantity of such equipment, and the interpretations of the Secretary relating to such equipment in effect on the operative date of this title shall continue in effect until modified or superseded by the Secretary. After every blasting operation performed on a shift, an examination shall be made to determine whether fires have been started.

(b) Underground storage places for lubricating oil and grease shall be of fireproof construction. Except for specially prepared materials approved by the Secretary, lubricating oil and grease kept in face areas or other underground working places in a mine shall be in portable, fireproof, closed metal containers.

(c) Underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps shall be housed in fireproof structures or areas. Air currents used to ventilate structures or areas enclosing electrical installations shall be coursed directly into the return. All other underground structures installed in a mine shall be of fireproof construction.

(d) All welding, cutting, or soldering with arc or flame in all underground areas of a mine shall, whenever practicable, be conducted in fireproof enclosures. Welding, cutting, or soldering with arc or flame in other than a fireproof enclosure shall be done under the supervision of a qualified person who shall make a diligent search for fire during and after such operations and shall immediately before and during such operations, continuously test for explosive gas with means approved by the Secretary for detecting explosive gas. Welding, cutting, or soldering shall not be conducted in air that contains more than 1 volume per centum of explosive gas. Rock dust or suitable fire extinguishers shall be immediately available during such welding, cutting, or soldering.

(e) Within one year after the operative date of this title, fire suppression devices meeting specifications prescribed by the Secretary shall be installed on unattended underground equipment and suitable fire-resistant hydraulic fluids approved by the Secretary shall be used in the hydraulic systems of such equipment. Such fluids shall be used in the hydraulic systems of other underground equipment unless fire suppression devices meeting specifications prescribed by the Secretary are installed on such equipment.

(f) Deluge-type water sprays or foam generators, automatically actuated by rise in temperature, or other effective means of controlling fire shall be installed at main and secondary belt conveyer drives. Such sprays or foam generators shall be supplied with a sufficient quantity of water to control fires.

(g) Underground belt conveyors shall be equipped with slippage and sequence switches.

MAPS

SEC. 312. (a) The operator of an active underground coal mine shall have, in a surface location chosen to minimize the danger of destruction by fire or other hazard, an accurate and up-to-date map of such mine drawn on such scale as the Secretary may require. Such map shall show the active workings, all worked out and abandoned areas, excluding those areas which have been worked out or abandoned before the effective date of this paragraph which are inaccessible or cannot be entered safely and on which no information is available, entries and aircourses with the direction of airflow indicated by arrows, elevations, dip of the coalbed, escapeways, adjacent mine workings within one thousand feet, mines above or below, water pools above, and oil and gas wells, either producing or abandoned, located within five hundred feet of such mine, and such other information as the Secretary may require. Such map shall be made or certified by a registered engineer or a registered surveyor of the State in which the mine is located. As the Secretary may by regulation require, such map shall be kept up to date by temporary notations, and such map shall be revised and supplemented at intervals on the basis of a survey made or certified by such engineer or surveyor.

(b) The coal mine map and any revision and supplement thereof shall be available for inspection by the Secretary or his authorized representative, by coal mine inspectors of the State in which the mine is located, and by persons working in the mine and their authorized representatives and by operators of adjacent coal mines. The operator shall furnish to the Secretary or his authorized representative, or to the Secretary of Housing and Urban Development, upon request, one or more copies of such map and any revision and supplement thereof.

(c) Whenever an operator permanently closes such mine, or temporarily closes such mine for a period of more than ninety days, he shall promptly notify the Secretary of such closure. Within sixty days of the permanent closure of the mine, or, when the mine is temporarily closed, upon the expiration of a period of ninety days from the date of closure, the operator shall file with the Secretary a copy of the mine map revised and supplemented to the date of the closure Such copy of the mine map shall be certified as true and correct by a registered surveyor or registered engineer of the State in which the mine is located and shall be available for public inspection.

BLASTING AND EXPLOSIVES

SEC. 313. (a) Black blasting powder shall not be stored or used underground. Mudcaps (adobes) or other unconfined shots shall not be fired underground.

(b) Explosives and detonators shall be kept in separate containers until immediately before use at the working faces. In underground anthracite mines, (1) mudcaps or other open, unconfined shake shots may be fired, if restricted to battery starting when explosive gas or a fire hazard is not present, and if it is otherwise impracticable to start the battery; (2) open, unconfined shake shots in pitching veins may be fired, when no explosive gas or a fire hazard is present, if the taking down of loose hanging coal by other means is too hazardous; and (3) tests for explosive gas shall be made immediately before such shots are fired and if explosive gas is present when tested in 1 volume per centum such shot shall not be made until the explosive gas content is reduced below 1 per centum.

(c) Except as provided in this subsection, in all underground areas of a mine only permissible explosives, electric detonators of proper strengths, and permissible blasting

devices shall be used and all explosives and blasting devices shall be used in a permissible manner. Permissible explosives shall be fired only with permissible shot firing units. Only incombustible materials shall be used for stemming boreholes. The Secretary may, under such safeguards as he may prescribe, permit the firing of more than twenty shots and allow the use of nonpermissible explosives in sinking shafts and slopes from the surface in rock. This section shall not prohibit the use of compressed air blasting.

(d) Explosives or detonators carried anywhere underground by any person shall be in containers constructed of nonconductive material, maintained in good condition, and kept closed.

(e) Explosives or detonators shall be transported in special closed containers (1) in cars moved by means of a locomotive or rope, (2) on belts, (3) in shuttle cars, or (4) in equipment designed especially to transport such explosives or detonators.

(f) When supplies of explosives and detonators for use in one or more working 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 twenty-five feet from roadways and power wires, and in a dry, well rock-dusted location protected from falls of roof, except 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.

(g) Explosives and detonators stored in the working places shall be kept in separate closed containers, which shall be located out of the line of blast and not less than fifty feet from the working face and fifteen feet from any pipeline, powerline, rail, or conveyor, except that, if kept in niches in the rib, the distance from any pipeline, powerline, rail, or conveyor shall be at least five feet. Such explosives and detonators, when stored, shall be separated by a distance of at least five feet.

HOISTING AND MANTRIPS

SEC. 314. (a) Every hoist used to transport persons at an underground coal mine shall be equipped with overspeed, overwind, and automatic stop controls. Every hoist used to transport persons shall be equipped with brakes capable of stopping the fully loaded platform, cage, or other device used for transporting persons, and with hoisting cable adequately strong to sustain the fully loaded platform, cage, or other device for transporting persons, and have a proper margin of safety. Cages, platforms, or other devices which are used to transport persons in vertical shafts 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. Hoisting equipment, including automatic elevators, that is used to transport persons shall be examined daily. Where persons are regularly transported into or out of a coal mine by hoists, a qualified hoisting engineer shall be on duty while any person is underground, except that no such engineer shall be required for automatically operated cages. platforms, or elevators.

(b) Safeguards adequate, in the judgment of an authorized representative of the Secretary, to minimize hazards with respect to transportation of men and materials shall be provided.

(c) Hoists shall have rated capacities consistent with the loads handled and the recommended safety factors of the ropes used. An accurate and reliable indicator of the position of the cage, platform, skip, bucket, or cars shall be provided.

(d) There shall be at least two effective methods approved by the Secretary of signaling between each of the shaft stations and the hoist room, one of which shall be a telephone or speaking tube.

(e) In order to be capable of stopping with the proper margin of safety each locomotive and haulage car used in an underground coal mine shall be equipped with automatic brakes, or shall be subject to speed reductions or other safeguards approved by the Secretary.

EMERGENCY SHELTERS

SEC. 315. The Secretary or an authorized representative of the Secretary may require in any coal mine that rescue chambers, properly sealed and ventilated, be erected at suitable locations in the mine to which men could go in case of an emergency for protection against hazards. Such chambers shall be properly equipped with first aid materials, an adequate supply of air and self-contained breathing equipment, an independent communication system to the surface, and proper accommodations for the men while awaiting rescue, and such other equipment as the Secretary may require. A plan for the erection, maintenance, and revisions of such chambers shall be submitted by the operator to the Secretary for his approval.

COMMUNICATIONS

SEC. 316. A two-way communication system, approved by the Secretary, shall be provided between the surface and each landing of main shafts and slopes and between the surface and each working section that is more than two hundred feet from a portal.

MISCELLANEOUS

SEC. 317. (a) No coal mine shall be operated in any coal seam where the coal has been or is being removed from the said seam within five hundred feet of a known gas or oil well whether producing or abandoned, except that the Secretary may permit such operation within three hundred feet of such well under regulations prescribing conditions which will assure the complete safety of all miners engaged in such operation.

(b) Whenever any working place approaches within fifty feet of abandoned workings in the mine as shown by surveys made and certified by a registered engineer or surveyor, or within two hundred feet of any other abandoned workings of the 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 and shall be continually maintained to a distance of at least ten feet in advance of the advancing working face. When there is more than one borehole, they shall be drilled sufficiently close to each other to insure that the advancing face will not accidentally hole through into abandoned workings or adjacent mines. 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.

(c) Smoking shall not be permitted underground, nor shall any person carry smoking materials, matches, or lighters underground. Smoking shall be prohibited in or around oil houses, explosives magazines, or other surface areas where such practice may cause a fire or explosion. The operator of a coal mine shall institute a program, approved by the Secretary, at each mine to insure that any person entering the underground portion of the mine does not carry smoking materials, matches, or lighters.

(d) Persons underground shall use only permissible electric lamps approved by the Secretary for portable illumination. No open flame shall be permitted in any underground mine except as specifically authorized by this Act.

(e) The Secretary shall prescribe the manner in which all underground working places in a mine shall be illuminated by permissible lighting while persons are working in such places.

(f) (1) At least two separate and distinct travelable passageways to be designated as escapeways, at least one of which is ventilated with intake air, shall be provided from each mine working section continuous to the surface, and shall be maintained in safe condition and properly marked. Mine openings shall be adequately protected to prevent the entrance into the underground portion of the mine of surface fires, fumes, smoke, and flood water. Adequate facilities approved by the Secretary or his authorized representative shall be provided in each escape shaft or slope to allow persons to escape quickly to the surface in event of emergency.

(2) Not more than twenty miners 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.

(3) When only one main opening is available, owing to final mining of pillars, not more than twenty miners shall be allowed in such mine at any one time, except that the distance between the mine opening and working face shall not exceed five hundred feet.

(4) In the case of all coal mines opened after the operative date of this title, the escapeway required by paragraph (1) of this subsection to be ventilated with intake air, shall be separated from the belt and trolley haulage entries of the mine.

(g) After the operative date of this title, all structures erected on the surface within one hundred feet of any mine opening shall be of fireproof construction. Unless structures existing on or prior to such date located within one hundred feet of any 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 monthly to insure effective operation. A record of such tests shall be kept and shall be available for inspection by interested persons.

(h) Adequate measures shall be taken to prevent explosive gases and coal dust from accumulating in excessive concentrations in or on surface coal-handling facilities, but in no event shall explosive gases be permitted to accumulate in concentrations in or on surface coal-handling facilities in excess of limits established for explosive gases by the Secretary within one year of the operative date of this title, and coal dust shall not accumulate in excess of limits prescribed by or under this Act. Where coal is dumped at or near air-intake openings, provisions shall be made to prevent the dust from entering the mine.

(i) Every operator of a coal mine shall provide a program, approved by the Secretary, of training and retraining of both qualified and certified persons needed to carry out functions prescribed in this title.

(j) In any mine that liberates excessive quantities of explosive gases, and if in the opinion of the Secretary such excessive liberations present or are likely to present explosion dangers, a Federal inspector shall be present at such mine, for the purpose of making mine inspections on each and every day such mine is producing coal.

(k) An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that the face equipment, including shuttle cars, be provided with substantially constructed canopies or cabs to protect the operators of such equipment from roof falls and from rib and face rolls.

(l) The opening of any mine that is declared inactive by its operator or is abandoned for more than ninety days, after the

operative date of this title, shall be sealed in a manner prescribed by the Secretary. Openings to all active coal mines shall be adequately protected to prevent entrance by unauthorized persons.

(m) Each mine shall provide adequate facilities for the miners to change from the clothes worn underground, to provide the storing of such clothes from shift to shift, and to provide sanitary and bathing facilities. Sanitary toilet facilities shall be provided in the active working of the mine when such surface facilities are not readily accessible to the active workings.

(n) Arrangements shall be made in advance for obtaining emergency medical assistance and transportation for injured persons. Emergency communications shall be provided to the nearest point of assistance. Selected agents of the operator shall be trained in first aid and first aid training shall be made available to all miners. Each mine shall have an adequate supply of first aid equipment located on the surface, at the bottom of shafts and slopes, and at other strategic locations near the working faces. In fulfilling each of the requirements in this subsection, the operator shall meet at least minimum standards established by the Surgeon General. Each operator shall file with the Secretary a plan setting forth in such detail as the Secretary may require the manner in which such operator has fulfilled the requirements in this section.

(o) A self-rescue device approved by the Secretary shall be made available to each miner by the operator which shall be adequate to protect such miner for one hour or longer. Each operator shall train each miner in the use of such device.

(p) The Secretary shall prescribe improved methods of assuring that miners are not exposed to atmospheres that are deficient in oxygen.

(q) Each operator of a coal mine shall establish a check-in and check-out system which will provide positive identification of every person underground and will provide an accurate record of the miners in the mine kept on the surface in a place chosen to minimize the danger of destruction by fire or other hazard. Such record shall bear a number identical to an identification check that is securely fastened to the lamp belt worn by the person underground. The identification check shall be made of a rust resistant metal of not less than sixteen gauge.

(r) The Secretary shall require, when technologically feasible, that devices to suppress ignitions be installed on electric face cutting equipment.

DEFINITIONS

SEC. 318. For the purpose of this title and title II of this Act, the term—

(a) "certified person" means a person certified by the State in which the coal mine is located to perform duties prescribed by such sections, except that, in a State where no program of certification is provided or where the program does not meet at least minimum Federal standards established by the Secretary, such certification shall be by the Secretary;

(b) "qualified person" means an individual deemed qualified by the Secretary to make tests for measurements, as appropriate, required by this Act;

(c) "permissible" as applied to—

(1) equipment used in the operation of a coal mine, means equipment to which an approval plate, label, or other device is attached as authorized by the Secretary and which meets specifications which are prescribed by the Secretary for the construction and maintenance of such equipment and are designed to assure that such equipment will not cause a mine explosion or a mine fire,

(2) explosives, shot firing units, or blasting devices used in such mine, means explosives, shot firing units, or blasting devices which meet specifications which are prescribed by the Secretary, and

(3) the manner of use of equipment or explosives, shot firing units, and blasting devices, means the manner of use prescribed by the Secretary;

(d) "rock dust" means pulverized limestone, dolomite, gypsum, anhydrite, shale, talc, adobe, or other inert material, preferably light colored, 100 per centum of which will pass through a sieve having twenty meshes per linear inch and 70 per centum or more of which will pass through a sieve having two hundred meshes per linear inch; the particles of which when wetted and dried will not cohere to form a cake which will not be dispersed into separate particles by a light blast of air; and which does not contain more than 5 per centum of combustible matter or more than a total of 5 per centum of free and combined silica (SiO_2);

(e) "coal mine" includes areas of adjoining mines connected underground;

(f) "anthracite" means coals with a volatile ratio equal to 0.12 or less;

(g) "volatile ratio" means volatile matter content divided by the volatile matter plus the fixed carbon;

(h) (1) "working face" means any place in a coal mine in which work of extracting coal from its natural deposit in the earth is done,

(2) "working place" means the area of a coal mine inby the last open crosscut,

(3) "working section" means all areas of the coal mine from the loading point of the section to and including the working faces,

(4) "active workings" means any place in a coal mine where miners are normally required to work or travel;

(i) "abandoned areas" means sections, panels, and other areas that are not ventilated and examined in the manner required for active underground working places;

(j) "electric face equipment" means electric equipment that is installed or used inby the last open crosscut in an entry or a room;

(k) "registered engineer" or "registered surveyor" means an engineer or surveyor registered by the State pursuant to standards established by the State meeting at least minimum Federal requirements established by the Secretary, or if no such standards are in effect, registered by the Secretary;

(l) "low voltage" means up to and including 660 volts; "medium voltage" means voltages from 661 to 1,000 volts; and "high voltage" means more than 1,000 volts;

(m) "average concentration" means a determination which accurately represents the atmospheric conditions with regard to respirable dust during a full working shift; such determination shall be the result of applying valid statistical techniques to the minimum necessary measurements of respirable dust; and

(n) "respirable dust" means only dust particulates 5 microns or less in size.

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

AMENDMENT OFFERED BY MR. DENT

Mr. DENT. Mr. Chairman, I offer an amendment.

Mr. Chairman, before the Clerk reads the amendment, may I be recognized for 5 minutes, because I want to explain the amendment to the House in order that the Clerk not have to read the amendment after I give the explanation? It is a voluminous amendment.

The CHAIRMAN. Is the gentleman asking to strike out the last word?

Mr. DENT. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. DENT. Mr. Chairman, before asking that this amendment be considered, and considering the title as read, and so forth, I want to explain exactly what it is.

During all of the work on the bill most of the emphasis was placed upon the pros and cons on the pneumoconiosis section and the pros and cons of the dust standard section, and, therefore, title III of the act, which contains all of the interim safety standards carefully developed by the Committee received not as much attention from the parties directly affected until only several weeks ago. After the committee reported the bill these parties noted deficiencies in the standards—from the standpoint of safety. The committee staff then held numerous sessions with the best experts within and outside the Bureau of Mines and the result of those meetings, rereview of these standards, and literally week upon week of review, is the amendment I now offer.

Now, what does it do? Technology has changed so fast in the last year, new and different types of equipment have already been developed—and I earlier demonstrated one piece of equipment never dreamed of even a year ago regarding the detection of methane gas—that the amendment also represents an improvement in the existing language mandated by the technological change in the industry since we first began consideration of the bill.

I asked the Bureau to review these changes, developed after these many sessions by the committee's staff, carefully for us.

The Bureau is the agency of Government that must administer them. The committee and our staff depended on them for their expert advice in drafting these amendments. Once drafted, we then wanted their advice on their adequacy from a technical, nonpolicy standpoint, to insure that the end result was, in fact, better safety.

And at this point, Mr. Chairman, I would like to read the letter from the Bureau of Mines, in response to my request:

DEAR MR. DENT: Your letter of October 22 requests that we provide a technical review of a series of amendments——

Mr. PERKINS. Mr. Chairman, will the gentleman yield briefly?

Mr. DENT. I yield to our distinguished chairman.

Mr. PERKINS. I just want to ask the distinguished gentleman if these interim standards have not already been printed in the RECORD?

Mr. DENT. Yes; I might say for the benefit of the Members that the RECORD will show that on Monday the chairman of the committee submitted this amendment, or series of amendments, as you might call it, into the RECORD, and it is now before each Member if he so desires to examine it.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Chairman, since the distinguished gentleman has been interrupted in the middle of this letter, could I ask the distinguished gentleman when this material that he wants considered en bloc, and which the gentleman has had the kindness to show me in advance of his request, and I certainly appreciate the gentleman taking time out of order, in order to explain this before the unanimous-consent request is placed—when did this material become available?

Mr. DENT. I would say that changes were made as late as last Friday in some instances. We wanted to be absolutely certain that we were, in fact, making improvements to the safety of miners. We also realize that we were dealing with a highly technical subject matter and insisted on proceeding with great caution.

Mr. HALL. I understood that from the distinguished gentleman's explanation on the floor before. I find no fault with that.

I find fault with the procedures of the House, of the Committee of the Whole House on the State of the Union, or the committee that brings it here.

I wonder why we are rewriting the bill on the floor of the House just as we did another bill from another committee last week, completely revising the entire titles without a chance to study them, instead of writing them in committee and marking up a clean bill.

Mr. DENT. Very frankly, we did not change the contents to a great extent. The purpose of amending the bill by title was solely to highlight our proposed changes to all Members. We could have proceeded section by section and it would have been obvious then that we were not making many changes and thereby rewriting title III. As I have emphasized, the changes are highly technical and largely interrelated, and we offer them in this format only for the convenience and improved understanding of each Member.

Mr. HALL. I appreciate that. The gentleman has shown me this before, this preparation which is in conformance with the Ramseyer rule. As I understand from the gentleman's statement now, these are primarily technical amendments albeit they are to the entire title III?

Mr. DENT. That is right.

Mr. HALL. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. DENT. Mr. Chairman, I offer an amendment and ask unanimous consent that the amendment be considered as read, printed in the RECORD, and open for discussion.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. HECHLER of West Virginia. Mr. Chairman, reserving the right to object, I have an amendment to this amendment and I want to be protected.

Mr. DENT. This will not preclude that.

Mr. HECHLER of West Virginia. Mr. Chairman, since I have an amendment to this amendment, I would like to ask a parliamentary inquiry, whether it would be in order to offer this amendment after the debate on the amendment offered by the gentleman from Pennsylvania.

The CHAIRMAN. It will be in order to offer an amendment to the amendment.

Mr. HECHLER of West Virginia. At this time?

The CHAIRMAN. Not at this time.

Mr. HECHLER of West Virginia. Mr. Chairman, I have an amendment at the desk.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. DENT) asks unanimous consent that his amendment be considered as read. Is there objection?

Mr. MILLER of Ohio. Mr. Chairman, reserving the right to object, what part of title III would be changed—every page—every section?

Mr. DENT. Not quite. There are some sections left untouched—most of the sections of the bill, for instance, and I might give you the sections that are untouched—sections 303, 305, 307, 308, 309, 310, and 318. This is the section, title III, affected by the changes.

Mr. MILLER of Ohio. Do we have copies of this?

Mr. DENT. I will be glad to explain it if that is what the gentleman wants. But I thought if I read the letter from the Director of the Bureau of Mines before speaking, the Members would get a picture of the situation. I will give the gentleman a copy.

Mr. PERKINS. Mr. Chairman, would the gentleman in the well refer our distinguished colleague to the RECORD of a few days ago?

Mr. DENT. I did and this is already in the RECORD.

Mr. MILLER of Ohio. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENT OFFERED BY MR. DENT

The amendment is as follows:

Amendment offered by Mr. DENT: On page 51, line 10, strike all through page 106, line 2, and insert:

TITLE III—INTERIM MANDATORY SAFETY STANDARDS FOR UNDERGROUND COAL MINES

COVERAGE

SEC. 301. (a) The provisions of sections 302 through 317 of this title shall be interim mandatory safety standards applicable to all underground coal mines until superseded in whole or in part by mandatory safety standards promulgated by the Secretary under the provisions of section 101 of title I of this Act, and shall be enforced in the same manner and to the same extent as any mandatory safety standard promulgated under title I of this Act. Any orders issued in the enforcement of the interim standards set forth in this title shall be subject to review as provided in title I of this Act.

(b) The Secretary may, upon petition by the operator, waive or modify the application of any mandatory safety standard to a mine when he determines such application will result in a diminution of safety to workers in such mine, but any action taken by the Secretary under this subsection shall be consistent with the purposes of this Act and shall not reduce the protection afforded miners by it.

(c) Upon petition by the operator, the Secretary may modify the application of any mandatory safety standard to a mine. Such petition shall state that an alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded miners by such standard. Upon receipt of such petition the Secretary shall publish notice thereof and give notice to the representative, if any, of persons working in the affected mine and shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a hearing, at the request of such representative or other interested party, to enable the applicant and the representative of persons working in such mine or other interested party to present information relating to the modification of such standard. The Secretary shall make findings of fact and publish them in the Federal Register.

ROOF SUPPORT

SEC. 302. (a) Each operator shall undertake to carry out on a continuing basis a program to improve the roof control system of each mine and the means and measures to accomplish such system. The roof and ribs of all active underground roadways, travelways, and working places shall be supported or otherwise controlled adequately to protect persons from falls of the roof or ribs. A roof-control plan and revisions thereof suitable to the roof conditions and mining system of each mine and approved by the Secretary shall be adopted and set out in printed form within sixty days after the operative date of this title. The plan shall show the type of support and spacing approved by the Secretary. Such plan shall be reviewed periodically, at least every six months by the Secretary, taking into consideration any falls of roof or ribs or inadequacy of support of roof or ribs. No person shall proceed beyond the last permanent support unless adequate temporary support is provided or unless such temporary support is not required under the approved roof control plan. A copy of the plan shall be furnished the Secretary or his authorized representative and shall be available to the miners or their authorized representatives.

(b) The method of mining followed in any mine shall not expose the miner to unusual dangers from roof falls caused by excessive widths of rooms and entries or faulty pillar recovery methods.

(c) The operator shall provide at or near the working face an ample supply of suitable materials of proper size with which to secure the roof of all working places in a safe manner. Safety posts, jacks, or other approved devices shall be used to protect the workmen when roof material is being taken down, crossbars are being installed, roof boltholes are being drilled, roof bolts are being installed, and in such other circumstances as may be appropriate. Loose roof and overhanging or loose faces and ribs shall be taken down or supported. Supports knocked out, except in recovery, shall be replaced promptly.

(d) When permitted, installed roof bolts shall be tested in accordance with the approved roof control plan. Roof bolts shall not be recovered where complete extractions of pillars are attempted, where adjacent to clay veins, or at the locations of other irregularities, whether natural or otherwise, that induce abnormal hazards. Where roof bolt recovery is permitted, it shall be conducted only in accordance with methods prescribed in the approved roof control plan and shall be conducted by experienced miners and only where adequate temporary support is provided.

(e) Where miners are exposed to danger from falls of roof, face, and ribs the operator shall require that examinations and tests of the roof, face, and ribs be made before any work or machine is started, and as frequently thereafter as may be necessary to insure

safety. When dangerous conditions are found, they shall be corrected immediately.

VENTILATION

SEC. 303. (a) All coal mines shall be ventilated by mechanical ventilation equipment installed and operated in a manner approved by an authorized representative of the Secretary and such equipment shall be examined daily and a record shall be kept of such examination.

(b) All active underground workings shall be ventilated by a current of air containing not less than 19.5 volume per centum of oxygen, not more than 0.5 volume per centum of carbon dioxide, and no harmful quantities of other noxious or poisonous gases; and the volume and velocity of the current of air shall be sufficient to dilute, render harmless, and to carry away, flammable or harmful gases and smoke and fumes. The minimum quantity of air in any mine reaching the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms shall be nine thousand cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line shall be nine thousand cubic feet a minute. The minimum quantity of air in any mine reaching each working face shall be three thousand cubic feet a minute and, in the case of a mechanized mine, there shall also be a minimum velocity of one hundred feet per minute passing to within five feet of the working face and over any miner operating electrical equipment at the working face. The Secretary or his authorized representative may require in any coal mine a greater quantity and velocity of air when he finds it necessary to protect the safety of miners. Within three years after the operative date of this title, the dust level in intake aircourses shall not exceed 0.25 milligrams per cubic meter of air. In robbing areas of anthracite mines, where the air currents cannot be controlled and measurements of the air cannot be obtained, the air shall have perceptible movement.

(c)(1) Properly installed and adequately maintained line brattice or other approved devices shall be used from the last open crosscut of an entry or room of each working section to provide adequate ventilation to the working faces for the miners and to remove flammable, explosive, and noxious gases, dust, and explosive fumes, unless the Secretary or his authorized representative permits an exception to this requirement. When damaged by falls or otherwise, they shall be repaired promptly.

(2) The space between the line brattice or other approved device 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, explosive, and noxious gases, dust, and explosive fumes.

(3) Brattice cloth used underground shall be of flame-resistant material.

(d)(1) Within three hours immediately preceding the beginning of a coal-producing shift, and before any workmen in such shift enter the underground areas of the mine, certified persons designated by the operator of the mine shall examine a definite underground area of the mine. Each such examiner shall examine every underground working place in that area and shall make tests in each such working place for accumulations of explosive gases with means approved by the Secretary for detecting explosive gases and shall make tests for oxygen deficiency with a permissible flame safety lamp or other means approved by the Secretary; examine seals and doors to determine whether they are functioning properly; examine and test the roof, face, and rib conditions in the underground working places; examine active roadways, travelways, and all belt conveyors on which men are carried, approaches to abandoned workings, and accessible falls in sections for hazards; examine by means of an anemometer or other device approved by the Secretary to determine whether the air in each split is traveling in its proper course and in normal volume; and examine for such other hazards and violations of the mandatory health safety standards, as an authorized representative of the Secretary may from time to time require. Belt conveyors on which coal is carried shall be examined after each coal-producing shift has begun. Such mine examiner shall place his initials and the date at all places he examines. If such mine examiner finds a condition which constitutes a violation of a mandatory health or safety standard or any condition which is hazardous to persons who may enter or be in such area, he shall indicate such hazardous place by posting a "DANGER" sign conspicuously at all points which persons entering such hazardous place would be required to pass and shall notify the operator of the mine. No person, other than an authorized representative of the Secretary or a State mine inspector or persons authorized by the mine operator to enter such place for the purpose of eliminating the hazardous condition therein, shall enter such place while such sign is so posted. Upon completing his examination such mine examiner shall report the results of his examination to a person, designated by the mine operator to receive such reports at a designated station on the surface of the mine, 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 approved by the Secretary kept for such purpose in an area on the surface of the mine chosen by the mine operator to minimize the danger of destruction by fire or other hazard.

(2) No person (other than certified persons designated under this subsection) shall enter any underground area, except during a coal-producing shift, unless an examination of such area as prescribed in this subsection has been made within eight hours immediately preceding his entrance into such area.

(e) At least once during each coal-producing shift, or more often if necessary for safety, each underground working section shall be examined for hazardous conditions by certified persons designated by the mine operator to do so. Such examination shall include tests with means approved by the Secretary for detecting explosive gases and with a permissible flame safety lamp or other means approved by the Secretary for detecting oxygen deficiency.

(f) Examination for hazardous conditions, including tests for explosive gases, and for compliance with the standards established by, or promulgated pursuant to, this title shall be made at least once each week, by a certified person designated by the operator of the mine, in the return of each split of air where it enters the main return, on pillar falls, at seals, in the main return, at least one entry of each intake and return aircourse in its entirety, idle workings, and, insofar as safety considerations permit, abandoned workings. Such weekly examination need not be made during any week in which the mine is idle for the entire week; except that such examination shall be made before any other miner returns to the mine. The person making such examinations and tests shall place his initials and the date at the places examined, and if hazardous conditions are found, such conditions shall be reported promptly. Any hazardous conditions shall be corrected immediately. If a hazardous condition cannot be corrected immediately, the operator shall withdraw all persons from the area affected by the hazardous condition except those persons whose presence is required to correct the conditions. A record of these examinations, tests, and actions taken shall be recorded in ink or indelible pencil in a book approved by the Secretary kept for such purpose in an area on the surface of the mine chosen by the mine operator to minimize the danger of destruction by fire or other hazard, and the record shall be open for inspection by interested persons.

(g) At least once each week, a qualified 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 any pair or set of developing entries and the last open crosscut in any pair or set of rooms, the volume being delivered to the intake end of each pillar line, and the volume at the intake and return of each split of air. A record of such measurements shall be recorded in ink or indelible pencil in a book approved by the Secretary kept for such purpose in an area on the surface of the mine chosen by the mine operator to minimize the danger of destruction by fire or other hazard, and the record shall be open for inspection by interested persons.

(h)(1) At the start of each coal-producing shift, tests for explosive gases shall be made at the face of each working place immediately before electrically operated equipment is energized. Such tests shall be made by qualified persons. If 1.0 volume per centum or more of explosive gas is detected, electrical equipment shall not be energized, taken into, or operated in, such working place until such explosive gas content is less than 1.0 volume per centum of explosive gas. Examinations for explosive gases shall be made during such operations at intervals of not more than twenty minutes during each shift, unless more frequent examinations are required by an authorized representative of the Secretary. In conducting such tests, such person shall use means approved by the Secretary for detecting explosive gases.

(2) If the air at an underground working place, when tested at a point not less than twelve inches from the roof, face, or rib, contains 1.0 volume per centum or more of explosive gas, changes or adjustments shall be made at once in the ventilation in such mines so that such air shall contain less than 1.0 volume per centum of explosive gas. While such ventilation improvement is underway and until it has been achieved, power to face equipment located in such place shall be cut off, no other work shall be permitted in such place, and due precautions will be carried out under the direction of the agent of the operator so as not to endanger other active workings.

If such air, when tested as outlined above, contains 1.5 volume per centum or more of explosive gas, all persons shall be withdrawn from the portion of the mine endangered thereby, and all electric power shall be cut off from such portion of the mine, until the air in such working place shall contain less than 1.0 volume per centum of explosive gas.

(i) If, when tested, a split of air returning from active underground workings contains 1.0 volume per centum or more of explosive gas, changes or adjustments shall be made at once in the ventilation in the mine so that such returning air shall contain less than 1.0 volume per centum of explosive gas. Such tests shall be made at four-hour intervals during each shift by a qualified person designated by the operator of the mine. In making such tests, such person shall use means approved by the Secretary for detecting explosive gases.

(j) If a split of air returning from active underground workings contains 1.5 volume per centum or more of explosive gas, all persons shall be withdrawn from the portion of the mine endangered thereby, and all electric power shall be cut off from such portion of the mine, until the air in such split shall contain less than 1.0 volume per centum of explosive gas. In virgin territory, if the quantity of air in a split ventilating the active workings in such territory equals or exceeds twice the minimum volume of air prescribed in subsection (b) of this section, if the air in the split returning from such workings does not pass over trolley or power feeder wires, and if a certified person designated by

the mine operator is continually testing the explosive gas content of the air in such split during mining operations in such workings, it shall be necessary to withdraw all persons and cut off all electric power from the portion of the mine endangered by explosive gases only when the air returning from such workings contains 2.0 volume per centum or more of explosive gas.

(k) Air which has passed by an opening of any abandoned area shall not be used to ventilate any active working place in the mine if such contains 0.25 volume per centum or more of explosive gas. Examinations of such air shall be made during the preshift examination required by subsection (d) of this section. In making such tests, a certified person designated by the operator of the mine shall use means approved by the Secretary for detecting explosive gases. For the purposes of this subsection, an area within a panel shall not be deemed to be abandoned until such panel is abandoned.

(l) Air that has passed through an abandoned panel or area which is inaccessible or unsafe for inspection shall not be used to ventilate any active working place in such mine. No air which has been used to ventilate an area from which the pillars have been removed shall be used to ventilate any active working place in such mine, except that such air, if it does not contain 0.25 volume per centum or more of explosive gases, may be used to ventilate enough advancing working places immediately adjacent to the line of retreat to maintain an orderly sequence of pillar recovery on a set of entries.

(m) A methane monitor approved by the Secretary shall be installed and be kept operative and in operation on all electric face cutting equipment, continuous miners, longwall face equipment, and loading machines, and such other electric face equipment as an authorized representative of the Secretary may require. Such monitor shall be set to deenergize automatically any electric face equipment on which it is required when such monitor is not operating properly. The sensing device of any such monitor shall be installed as close to the working face as possible. An authorized representative of the Secretary may require any such monitor to be set to give a warning automatically when the concentration of explosive gas reaches 1.0 volume per centum and automatically to de-energize equipment on which it is installed when such concentration reaches 2.0 volume per centum.

(n) Idle and abandoned areas shall be inspected for explosive gases and for oxygen deficiency and other dangerous conditions by a certified person with means approved by the Secretary as soon as possible, but not more than three hours, before other employees are permitted to enter or work in such areas. However, persons, such as pumpmen, who are required regularly to enter such areas in the performance of their duties, and who are trained and qualified in the use of means approved by the Secretary for detecting explosive gases and in the use of a permissible flame safety lamp or other means for detecting oxygen deficiency are authorized to make such examinations for themselves, and each such person shall be properly equipped and shall make such examinations upon entering any such area.

(o) Immediately before an intentional roof fall is made, pillar workings shall be examined by a qualified person designated by the operator to ascertain whether explosive gas is present, such person shall use means approved by the Secretary for detecting explosive gases. If in such examination explosive gas is found in amounts of 1.0 volume per centum or more, such roof fall shall not be made until changes or adjustments are made in the ventilation so that the air shall contain less than 1.0 volume per centum of explosive gas.

(p) A ventilation system and explosive gas—and dust-control plan and revisions thereof suitable to the conditions and the mining system of the mine and approved by the Secretary shall be adopted by the operator and set out in printed form within ninety days after the operative date of this title. The plan shall show the type and location of mechanical ventilation equipment installed and operated in the mine and such other information as the Secretary may require. Such plan shall be reviewed by the operator and the Secretary at least every six months.

(q) Each operator of a coal mine shall provide for the proper maintenance and care of the permissible flame safety lamp by a person trained in such maintenance and before each shift care shall be taken to insure that such lamp is in a permissible condition.

(r) Where areas are being pillared on the operative date of this title without bleeder entries, or without bleeder systems or an equivalent means, pillar recovery may be completed in the area to the extent approved by an authorized representative of the Secretary if the edges of pillar lines adjacent to active workings are ventilated with sufficient air to keep the air in open areas along the pillar lines below 1.0 volume per centum of explosive gas.

(s) Each mechanized mining section shall be ventilated with a separate split of intake air directed by overcasts, undercasts, or the equivalent, except an extension of time, not in excess of six months may be permitted by the Secretary, under such conditions as he may prescribe, whenever he determines that this subsection cannot be complied with on the operative date of this title.

(t) In all underground areas of a mine, immediately before firing each shot or group of multiple shots and after blasting is completed, examinations for explosive gases shall be made by a qualified person with means approved by the Secretary for detecting explosive gases. If explosive gas is found in amounts of 1.0 volume per centum or more, changes or adjustments shall be made at once in the ventilation so that the air shall contain less than 1.0 volume per centum of explosive gas. No shots shall be fired until the air contains less than 1.0 volume per centum of explosive gas.

(u) Each operator of a coal mine shall adopt a plan within sixty days after the operative date of this title which shall provide that when any mine fan stops, immediate action shall be taken by the operator or his agent (1) to withdraw all persons from the working sections, (2) to cut off the power in the mine in a timely manner, (3) to provide for restoration of power and resumption of work if ventilation is restored within a reasonable period as set forth in the plan after the working places and other workings where explosive gas is likely to accumulate are reexamined by a certified person to determine if explosive gas in amounts of 1.0 volume per centum or more exists therein, and (4) to provide for withdrawal of all persons from the mine if ventilation cannot be restored within such reasonable time. The plan and revisions thereof approved by the Secretary shall be set out in printed form and a copy shall be furnished to the Secretary or his authorized representative.

(v) Changes in ventilation which materially affect the main air current or any split thereof and which may affect the safety of persons in the coal mine shall be made only when the mine is idle. Only those persons engaged in making such changes shall be permitted in the mine during the change. Power shall be removed from the areas affected by the change before work starts to make the change and shall not be restored until the effect of the change has been ascertained and the affected areas determined to be safe by a certified person.

(w) The mine foreman shall read and countersign promptly the daily reports of the preshift examiner and assistant mine foremen, and he shall read and countersign promptly the weekly report covering the examinations for hazardous conditions. Where such reports disclose hazardous conditions, the mine foreman shall take prompt action to have such conditions corrected. The mine superintendent or assistant superintendent of the mine shall also read and countersign the daily and weekly reports of such persons.

(x) Each day, the mine foreman and each of his assistants 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 hazardous condition observed by them or reported to them during the day and what action was taken to remedy such condition. Such book shall be kept in an area on the surface of the mine chosen by the operator to minimize the danger of destruction by fire or other hazard.

(y) Before a mine is reopened after having been abandoned, the Secretary shall be notified and an inspection made of the entire mine by an authorized representative of the Secretary before mining operations commence.

(z) (1) In any coal mine opened after the operative date of this title, the entries used as intake and return aircourses shall be separated from belt haulage entries, and each operator of such mine shall limit the velocity of the air coursed through belt haulage entries to the amount necessary to provide an adequate supply of oxygen in such entries, and to insure that the air therein shall contain less than 1.0 volume per centum of explosive gas, and such air shall not be used to ventilate active working places. Whenever an authorized representative of the Secretary finds, in the case of any coal mine opened on or prior to the operative date of this title which has been developed with more than two entries, that the conditions in the entries, other than belt haulage entries, are such as to adequately permit the coursing of intake or return air through such entries, (1) the belt haulage entries shall not be used to ventilate, unless such entries are necessary to ventilate active working places, and (2) when the belt haulage entries are not necessary to ventilate the active working faces, the operator of such mine shall limit the velocity of the air coursed through the belt haulage entries to the amount necessary to provide an adequate supply of oxygen in such entries, and to insure that the air therein shall contain less than 1.0 volume per centum of explosive gas.

(2) In any coal mine opened on or after the operative date of this title, or, in the case of a coal mine opened prior to such date in any new working section of such mine, where trolley haulage systems are maintained and where trolley or trolley feeder wires are installed, an authorized representative of the Secretary shall require a sufficient number of entries or rooms as intake air courses in order to limit, as prescribed by the Secretary, the velocity of air currents on such haulageways for the purpose of minimizing the hazards associated with fires and dust explosions in such haulageways.

COMBUSTIBLE MATERIALS AND ROCK DUSTING

SEC. 304. (a) Coal dust, including float coal dust deposited on rock-dusted surfaces, loose coal, and other combustible materials, shall be cleaned up and not be permitted to accumulate in active underground workings or on electric equipment therein.

(b) Where underground mining operations create or raise excessive amounts of dust, water, or water with a wetting agent added to it, or other effective methods approved by an authorized representative of the Secretary, shall be used to abate such dust.

In working places, particularly in distances less than forty feet from the face, water, with or without a wetting agent, or other effective methods approved by an authorized representative of the Secretary, shall be applied to coal dust on the ribs, roof, and floor to reduce dispersibility and to minimize the explosion hazard.

(c) All underground areas of a mine, except those areas in which the dust is too wet or too high in incombustible content to propagate an explosion, shall be rock dusted to within forty feet of all faces, unless such areas are inaccessible or unsafe to enter or unless an authorized representative of the Secretary permits an exception. All cross cuts that are less than forty feet from a working face shall also be rock dusted.

(d) Where rock dust is required to be applied, it shall be distributed upon the top, floor, and sides of all underground areas of a mine and maintained in such quantities that the incombustible contents of the combined coal dust, rock dust, and other dust shall be not less than 65 per centum, but the incombustible content in the return aircourses shall be no less than 80 per centum. Where explosive gas is present in any ventilating current, the per centum of incombustible content of such combined dusts shall be increased 1.0 and 0.4 per centum for each 0.1 per centum of explosive gas, where 65 and 80 per centum, respectively, of incombustibles are required.

(e) Subparagraphs (b) through (d) of this paragraph shall not apply to underground anthracite mines subject to this Act.

ELECTRICAL EQUIPMENT

SEC. 305. (a) One year after the operative date of this title—

(1) all electric face equipment used in a coal mine shall be permissible and shall be maintained in a permissible condition, except that the Secretary may permit, under such conditions as he may prescribe, nonpermissible or open-type electric face equipment in use in such mine on the date of enactment of this Act, to continue in use for such period (not in excess of one year) as he deems necessary to obtain such permissible equipment: *Provided, however,* That the provisions of this paragraph shall not apply to any mine which is not classified as gassy; and

(2) only permissible junction or distribution boxes shall be used for making multiple power connections inby the last open crosscut or in any other place where dangerous quantities of explosive gases may be present or may enter the air current.

(b) (1) Four years after the operative date of this title all electric face equipment used in mines exempted from the provisions of section 305(a) (1) of this Act shall be permissible and shall be maintained in a permissible condition, except that the Secretary may, upon petition, waive the requirements of this paragraph on an individual mine basis for a period not in excess of two years if, after investigation, he determines that such waiver is warranted. The Secretary may also, upon petition, waive the requirements of this paragraph on an individual mine basis if he determines that the permissible equipment for which the waiver is sought is not available to such mine.

(2) One year after the operative date of this title all replacement equipment acquired for use in any mine referred to in this subsection shall be permissible and shall be maintained in a permissible condition, and in the event of any major overhaul of any item of equipment in use one year from the operative date of this title such equipment shall be put in and thereafter maintained in a permissible condition, if, in the opinion of the Secretary, such equipment or necessary replacement parts are available.

(3) One year after the operative date of this title all hand held electric drills, blowers and exhaust fans, electric pumps, and other such low-horsepower electric face equipment as the Secretary may designate which are taken into or used inby the last open crosscut of any coal mine shall be permissible and thereafter maintained in a permissible condition.

(4) During the term of the use of any nonpermissible electric face equipment permitted under this subsection the Secretary may by regulation provide for use of methane monitoring devices, under such conditions as he shall prescribe, which will automatically deenergize electrical circuits providing power to electrical face equipment when the concentration of explosive gas in the atmosphere of the active workings permits, in the opinion of the Secretary, a condition in which an ignition or explosion may occur.

(c) A copy of any permit granted under this section shall be mailed immediately to a duly designated representative of the employees of the mine to which it pertains, and to the public official or agency of the State charged with administering State laws relating to coal mine health and safety in such mine. After the operative date of this title, whoever knowingly, in the case of manufacturer, distributes, sells, offers for sale, introduces, or delivers in commerce any new electrical equipment used in coal mines, including, but not limited to, components and accessories of such equipment which fails to comply with the specifications or regulations of the Secretary, or, in the case of any other person, removes, alters, modifies, or renders inoperative any such equipment prior to its sale and delivery in commerce to the ultimate purchaser, shall, upon conviction, be subject to the sanctions in section 109(f) of this Act.

(d) Any coal mine which, prior to the operative date of this title, was classed gassy and was required to use permissible electric face equipment and to maintain such equipment in a permissible condition shall continue to use such equipment and to maintain such equipment in such condition.

(e) All power-connection points, except where permissible power connection units are used, outby the last open crosscut shall be in intake air.

(f) The location and the electrical rating of all stationary electric apparatus in connection with the mine electric system, including permanent cables, switchgear, rectifying substations, transformers, permanent pumps and trolley wires and trolley feeders, and settings of all direct-current circuit breakers protecting underground trolley circuits, shall be shown on a mine map. Any changes made in a location, electric rating, or setting shall be promptly shown on the map when the change is made. Such map shall be available to an authorized representative of the Secretary and to the miners in such mine.

(g) All power circuits and electric equipment shall be deenergized before work is done on such circuits and equipment, except when necessary for trouble shooting or testing. Energized trolley wires may be repaired only by a person qualified to perform such repairs and the operator of such mine shall require that such person wear approved and tested insulated shoes and wireman's gloves. No work shall be performed on medium and high-voltage distribution circuits or equipment except by or under the direct supervision of a qualified person. Disconnecting devices shall be locked out and suitably tagged by the persons who perform such work, except that, in cases where locking out is not possible, such devices shall be opened and suitably tagged by such persons. Locks or tags shall be removed only by the persons who installed them or, if such persons are unavailable, by persons authorized by an agent of the operator.

(h) All electrical equipment shall be frequently examined, tested, and properly maintained by a qualified person to assure safe operating conditions. When a potentially dangerous condition is found on electric equipment, such equipment shall be removed from service until such condition is corrected. A record of such examinations shall be kept and made available to an authorized representative of the Secretary and to the miners in such mine.

(i) All electric conductors shall be sufficient in size and have adequate current-carrying capacity and be of such construction that the rise in temperature resulting from normal operation will not damage the insulating materials.

(j) All electrical connections or splices in conductors shall be mechanically and electrically efficient and suitable connectors shall be used. All electrical connections or splices in insulated wire shall be reinsulated at least to the same degree of protection as the remainder of the wire.

(k) Cables shall enter metal frames of motors, splice boxes, and electric compartments only through proper fittings. When insulated wires other than cables pass through metal frames the holes shall be substantially bushed with insulated bushings.

(l) All power wires (except trailing cables on mobile equipment, specially designed cables conducting high-voltage power to underground rectifying equipment or transformers, or bare or insulated ground and return wires) shall be supported on well-installed insulators and shall not contact combustible material, roof, or ribs.

(m) Except trolley wires, trolley feeder and bare signal wires, power wires and cables installed shall be insulated adequately and fully protected.

(n) Automatic circuit-breaking devices or fuses of the correct type and capacity shall be installed so as to protect all electric equipment and circuits against short circuit and overloads. Three-phase motors on all electric equipment shall be provided with overload protection that will deenergize all three phases in the event that any phase is overloaded.

(o) In all main power circuits disconnecting switches shall be installed underground within five hundred feet of the bottoms of shafts and boreholes through which main power circuits enter the underground portion of the mine and at all other places where main power circuits enter the underground portion of the mine.

(p) All electric equipment shall be provided with switches or other controls that are safely designed, constructed, and installed.

(q) Each ungrounded, exposed power conductor that leads underground shall be equipped with suitable lightning arresters of approved type within one hundred feet of the point where the circuit enters the mine. Lightning arresters shall be connected to a low resistance grounding medium on the surface which shall be separated from neutral grounds by a distance of not less than twenty-five feet.

(r) No device for the purpose of lighting any underground coal mine or flame which has not been approved by the Secretary or his authorized representative shall be permitted in any underground coal mine, except under the provisions of section 311(d) of this title.

(s) An authorized representative of the Secretary may require in any coal mine that face equipment be provided with devices that will permit the equipment to be deenergized quickly in the event of an emergency.

TRAILING CABLES

SEC. 306. (a) Trailing cables used underground shall meet the requirements established by the Secretary for flame-resistant cables.

(b) Short-circuit protection for trailing cables shall be provided by an automatic

circuit breaker or other no less effective device approved by the Secretary of adequate current interrupting capacity in each ungrounded conductor. Disconnecting devices used to disconnect power from trailing cables shall be plainly marked and identified and such devices shall be equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected.

(c) When two or more trailing cables junction to the same distribution center, means shall be provided to assure against connecting a trailing cable to the wrong size circuit breaker.

(d) No more than two temporary splices shall be made in any trailing cable, except that if a third splice is needed during a shift it may be made during such shift, but such cable shall not be used after that shift until a permanent splice is made. In any case in which a temporary splice is made pursuant to this subsection such splice shall, within five working days thereafter, be replaced by a permanent splice. No temporary splice shall be made in a trailing cable within twenty-five feet of the machine, except cable reel equipment. Temporary splices in trailing cables shall be made in a workmanlike manner and shall be mechanically strong and well insulated. Trailing cables or hand cables which have exposed wires or which have splices that heat or spark under load shall not be used. As used in this subsection, the term "splice" means the mechanical joining of one or more conductors that have been severed.

(e) When permanent splices in trailing cables are made, they shall be—

(1) mechanically strong with adequate electrical conductivity and flexibility;

(2) effectively insulated and sealed so as to exclude moisture; and

(3) vulcanized or otherwise treated with suitable materials to provide flame-resistant qualities and good bonding to the outer jacket.

(f) Trailing cables shall be clamped to machines in a manner to protect the cables from damage and to prevent strain on the electrical connections. Trailing cables shall be adequately protected to prevent damage by mobile machinery.

(g) Trailing cable and power cable connections to junction boxes shall not be made or broken under load.

GROUNDING

SEC. 307. (a) All metallic sheaths, armors, and conduits enclosing power conductors shall be electrically continuous throughout and shall be grounded. Metallic frames, casing, and other enclosures of electric equipment that can become "alive" through failure of insulation or by contact with energized parts shall be grounded effectively. Methods other than grounding which provide equivalent protection may be permitted by the Secretary.

(b) The frames of all offtrack direct current machines and the enclosures of related detached components shall be effectively grounded or otherwise maintained at safe voltages by methods approved by an authorized representative of the Secretary.

(c) The frames of all stationary high-voltage equipment receiving power from ungrounded delta systems shall be grounded by methods approved by an authorized representative of the Secretary.

(d) High-voltage lines, both on the surface and underground, shall be deenergized and grounded before work is performed on them, except that repairs may be permitted, in the case of energized surface high-voltage lines, if such repairs are made by a qualified person in accordance with procedures and safeguards, including, but not limited to, a requirement that the operator of such mine provide, test, and maintain protective devices in making such repairs, to be prescribed by the Secretary prior to the operative date of this title.

(e) When not in use, power circuits underground shall be deenergized on idle days and idle shifts, except that rectifiers and transformers may remain energized.

UNDERGROUND HIGH-VOLTAGE DISTRIBUTION

SEC. 308. (a) High-voltage circuits entering the underground portion of the mine shall be protected by suitable circuit breakers of adequate interrupting capacity which are properly tested and maintained as prescribed by the Secretary. Such breakers shall be equipped with devices to provide protection against under-voltage, grounded phase, short circuit, and overcurrent.

(b) High-voltage circuits extending underground and supplying portable, mobile, or stationary high-voltage equipment shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the source transformers, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all high-voltage equipment supplied power from that circuit, except that the Secretary of his authorized representative may permit ungrounded high-voltage circuits to be extended underground to feed stationary electrical equipment if such circuits are either steel armored or installed in grounded, rigid steel conduit throughout their entire length. Within one hundred feet of the point on the surface where high-voltage circuits enter the underground portion of the mine, disconnecting devices shall be installed and so equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected, except that the Secretary or his authorized representative may permit such devices to be installed at a greater distance from such portion of the mine if he determines, based on existing physical conditions, that such installation will be more accessible at a greater distance and will not pose any hazard to the miners.

(c) The grounding resistor, where required, shall be of the proper ohmic value to limit the voltage drop in the grounding circuit external to the resistor to not more than 100 volts under fault conditions. The grounding resistor shall be rated for maximum fault current continuously and insulated from ground for a voltage equal to the phase-to-phase voltage of the system.

(d) High-voltage, resistance grounded, wye-connected systems shall include a fail safe ground check circuit to monitor continuously the grounding circuit to assure continuity and the fail safe ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken.

(e)(1) Underground high-voltage cables used in resistance grounded, wye-connected systems shall be equipped with metallic shields around each power conductor, with one or more ground conductors having a total cross-sectional area of not less than one-half the power conductor, and with an insulated internal or external conductor not smaller than No. 8 (AWG) for the ground continuity check circuit.

(2) All such cables shall be adequate for the intended current and voltage. Splices made in such cables shall provide continuity of all components.

(f) Couplers that are used with high-voltage power circuits shall be of the three-phase type with a full metallic shell, except that the Secretary may permit, under such guidelines as he may prescribe, couplers constructed of materials other than metal. Couplers shall be adequate for the voltage and current expected. All exposed metal on the metallic couplers shall be grounded to the ground conductor in the cable. The coupler shall be constructed so that the ground check continuity conductor shall be broken first and the ground conductors shall be broken last when the coupler is being uncoupled.

(g) Single-phase loads such as transformer primaries shall be connected phase to phase.

(h) All underground high-voltage transmission cables shall be installed only in regularly inspected aircourses and haulageways, and shall be covered, buried, or placed so as to afford protection against damage, guarded where men regularly work or pass under them unless they are six and one-half feet or more above the floor or rail, securely anchored, properly insulated, and guarded at ends, and covered, insulated, or placed to prevent contact with trolley and other low-voltage circuits.

(i) Disconnecting devices shall be installed at the beginning of branch lines in high-voltage circuits and equipped or designed in such a manner that it can be determined by visual observation that the circuit is deenergized when the switches are open.

(j) Circuit breakers and disconnecting switches underground shall be marked for identification.

(k) In the case of high-voltage cables used as trailing cables, temporary splices shall not be used and all permanent splices shall be made in accordance with section 306(e) of this title. Terminations and splices in all other high-voltage cables shall be made in accordance with the manufacturer's specifications.

(l) Frames, supporting structures, and enclosures of portable or mobile underground high-voltage equipment and all high-voltage equipment supplying power to such equipment shall be effectively grounded to the high voltage ground.

(m) Power centers and portable transformers shall be deenergized before they are moved from one location to another, except that, when equipment powered by sources other than such centers or transformers is not available, the Secretary may permit such centers and transformers to be moved while energized, if he determines that another equivalent or greater hazard may otherwise be created, and if they are moved under the supervision of a qualified person, and if such centers and transformers are examined prior to such movement by such person and found to be grounded by methods approved by an authorized representative of the Secretary and otherwise protected from hazards to the miner. A record shall be kept of such examinations. High-voltage cables, other than trailing cables, shall not be moved or handled at any time while energized, except that, when such centers and transformers are moved while energized as permitted under this subsection, energized high-voltage cables attached to such centers and transformers may be moved only by a qualified person and the operator of such mine shall require that such person wear approved and tested insulated wireman's gloves.

UNDERGROUND LOW- AND MEDIUM-VOLTAGE ALTERNATING CURRENT CIRCUITS

SEC. 309. (a) Low- and medium-voltage power circuits serving three-phase alternating current equipment shall be protected by suitable circuit breakers of adequate interrupting capacity which are properly tested and maintained as prescribed by the Secretary. Such breakers shall be equipped with devices to provide protection against under-voltage, grounded phase, short circuit, and overcurrent.

(b) Low- and medium-voltage three-phase alternating-current circuits used underground shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the power center, and a grounding circuit, originating at the grounded side of the grounding resistor,

shall extend along with the power conductors and serve as a grounding conductor for the frames of all the electrical equipment supplied power from that circuit, except that the Secretary or his authorized representative may permit ungrounded low- and medium-voltage circuits to be used underground to feed such stationary electrical equipment if such circuits are either steel armored or installed in grounded rigid steel conduit throughout their entire length. The grounding resistor, where required, shall be of the proper ohmic value to limit the ground fault current to 25 amperes. The grounding resistor shall be rated for maximum fault current continuously and insulated from ground for a voltage equal to the phase-to-phase voltage of the system.

(c) Six months after the operative date of this title, low- and medium-voltage resistance grounded, wye-connected systems shall include a fail safe ground check circuit to monitor continuously the grounding circuit to assure continuity and the fail safe ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken. Cable couplers shall be constructed so that the ground check continuity conductor shall be broken first and the ground conductors shall be broken last when the coupler is being uncoupled.

(d) Disconnecting devices shall be installed in conjunction with the circuit breaker to provide visual evidence that the power is disconnected. Trailing cables for mobile equipment shall contain one or more ground conductors having a cross sectional area of not less than one half the power conductor and, six months after the operative date of this title, an insulated conductor for the ground continuity check circuit. Splices made in the cables shall provide continuity of all components.

(e) Single phase loads shall be connected phase to phase.

(f) Circuit breakers shall be marked for identification.

(g) Trailing cable for medium voltage circuits shall include grounding conductors, a ground check conductor, and ground metallic shields around each power conductor or a grounded metallic shield over the assembly; except that on machines, employing cable reels, cables without shields may be used if the insulation is rated 2,000 volts or more.

TROLLEY AND TROLLEY FEEDER WIRES

SEC. 310. (a) Trolley wires and trolly feeder wires shall be provided with cutout switches at intervals of not more than 2,000 feet and near the beginning of all branch lines.

(b) Trolley wires and trolley feeder wires shall be provided with overcurrent protection.

(c) Trolley and trolley feeder wires, high-voltage cables and transformers shall not be located inby the last open crosscut and shall be kept at least 150 feet from pillar workings.

(4) Trolley wires, trolley feeder wires, and bare signal wires shall be insulated adequately where they pass through doors and stoppings, and where they cross other power wires and cables. Trolley wires and trolley feeder wires shall be guarded adequately (1) at all points where men are required to work or pass regularly under the wires, (2) on both sides of all doors and stoppings, and (3) at man-trip stations. The Secretary or his authorized representatives shall specify other conditions where trolley wires and trolley feeder wires shall be adequately protected to prevent contact by any person, or shall require the use of improved methods to prevent such contact. Temporary guards shall be provided where trackmen and other persons work in proximity to trolley wires and trolley feeder wires.

FIRE PROTECTION

SEC. 311. (a) Each coal mine shall be provided with suitable firefighting equipment adapted for the size and conditions of the mine. The Secretary shall establish minimum requirements for the type, quality, and quantity of such equipment, and the interpretations of the Secretary relating to such equipment in effect on the operative date of this title shall continue in effect until modified or superseded by the Secretary. After every blasting operation performed on a shift, an examination shall be made to determine whether fires have been started.

(b) Underground storage places for lubricating oil and grease shall be of fireproof construction. Except for specially prepared materials approved by the Secretary, lubricating oil and grease kept in face areas or other underground working places in a mine shall be in portable, fireproof, closed metal containers.

(c) Underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps shall be housed in fireproof structures or areas. Air currents used to ventilate structures or areas enclosing electrical installations shall be coursed directly into the return. All other underground structures installed in a mine shall be of fireproof construction.

(d) All welding, cutting, or soldering with arc or flame in all underground areas of a mine shall, whenever practicable, be conducted in fireproof enclosures. Welding, cutting, or soldering with arc or flame in other than a fireproof enclosure shall be done under the supervision of a qualified person who shall make a diligent search for fire during and after such operations and shall immediately before and during such operations, continuously test for explosive gas with means approved by the Secretary for detecting explosive gas. Welding, cutting, or soldering shall not be conducted in air that contains 1.0 volume per centum or more of explosive gas. Rock dust or suitable fire extinguishers shall be immediately available during such welding, cutting, or soldering.

(e) Within one year after the operative date of this title, fire suppression devices meeting specifications prescribed by the Secretary shall be installed on unattended underground equipment and suitable fire-resistant hydraulic fluids approved by the Secretary shall be used in the hydraulic systems of such equipment. Such fluids shall be used in the hydraulic systems of other underground equipment unless fire supression devices meeting specifications prescribed by the Secretary are installed on such equipment.

(f) Deluge-type water sprays or foam generators, automatically actuated by rise in temperature, or other effective means of controlling fire shall be installed at main and secondary belt conveyor drives. Such sprays or foam generators shall be supplied with a sufficient quantity of water to control fires.

(g) Underground belt conveyors shall be equipped with slippage and sequence switches. The Secretary shall, within sixty days after the operative date of this title, require that devices be installed on all such belts which will give a warning automatically when a fire occurs on or near such belt. The Secretary shall prescribe a schedule for installing fire suppression devices on belt haulageways.

(h) On or after the operative date of this title, all conveyor belts acquired for use underground shall meet the requirements established by the Secretary for flame-resistant conveyor belts.

MAPS

SEC. 312. (a) The operator of an active underground coal mine shall have, in a surface location chosen to minimize the danger of destruction by fire or other hazard, an accurate and up-to-date map of such mine drawn on such scale as the Secretary may require. Such map shall show the active workings, all worked out and abandoned areas, excluding those areas which have been worked out or abandoned before the effective date of this paragraph which are inaccessible or cannot be entered safely and on which no information is available, entries and aircourses with the direction of airflow indicated by arrows, elevations, dip of the coalbed, escapeways, adjacent mine workings within one thousand feet, mines above or below, water pools above, and oil and gas wells, either producing or abandoned, located within five hundred feet of such mine, and such other information as the Secretary may require. Such map shall be made or certified by a registered engineer or a registered surveyor of the State in which the mine is located. As the Secretary may by regulation require, such map shall be kept up to date by temporary notations, and such map shall be revised and supplemented at intervals on the basis of a survey made or certified by such engineer or surveyor.

(b) The coal mine map and any revision and supplement thereof shall be available for inspection by the Secretary or his authorized representative, by coal mine inspectors of the State in which the mine is located, and by persons working in the mine and their authorized representatives and by operators of adjacent coal mines. The operator shall furnish to the Secretary or his authorized representative, or to the Secretary of Housing and Urban Development, upon request, one or more copies of such map and any revision and supplement thereof.

(c) Whenever an operator permanently closes such mine, or temporarily closes such mine for a period of more than ninety days, he shall promptly notify the Secretary of such closure. Within sixty days of the permanent closure of the mine, or, when the mine is temporarily closed, upon the expiration of a period of ninety days from the date of closure, the operator shall file with the Secretary a copy of the mine map revised and supplemented to the date of the closure. Such copy of the mine map shall be certified as true and correct by a registered surveyor or registered engineer of the State in which the mine is located and shall be available for public inspection.

BLASTING AND EXPLOSIVES

SEC. 313. (a) Black blasting powder shall not be stored or used underground. Mudcaps (adobes) or other unconfined shots shall not be fired underground.

(b) Explosives and detonators shall be kept in separate containers until immediately before use at the working faces. In underground anthracite mines, (1) mudcaps or other open, unconfined shake shots may be fired, if restricted to battery starting when explosive gas or a fire hazard is not present, and if it is otherwise impracticable to start the battery; (2) open, unconfined shake shots in pitching veins may be fired, when no explosive gas or a fire hazard is present, if the taking down of loose hanging coal by other means is too hazardous; and (3) tests for explosive gas shall be made immediately before such shots are fired and if explosive gas is present when tested in 1.0 volume per centum, such shot shall not be made until explosive gas content is reduced below 1.0 per centum.

(c) Except as provided in this subsection, in all underground areas of a mine only permissible explosives, electric detonators of proper strength, and permissible blasting devices shall be used and all explosives and blasting devices shall be used in a permissible manner. Permissible explosives shall be fired only with permissible shot firing units. Only incombustible materials shall be used for stemming boreholes. The Secretary may, under such safeguards as he may prescribe, permit the firing of more than twenty shots and allow the use of nonpermissible explosives in sinking shafts and slopes from the surface in rock. This section shall not prohibit the use of compressed air blasting.

(d) Explosives or detonators carried anywhere underground by any person shall be in containers constructed of nonconductive

material, maintained in good condition, and kept closed.

(e) Explosives or detonators shall be transported in special closed containers (1) in cars moved by means of a locomotive or rope, (2) on belts, (3) in shuttle cars, or (4) in equipment designed especially to transport such explosives or detonators.

(f) When supplies of explosives and detonators for use in one or more working 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 twenty-five feet from roadways and power wires, and in a dry, well rock-dusted location protected from falls of roof, except 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.

(g) Explosives and detonators stored in the working places shall be kept in separate closed containers, which shall be located out of the line of blast and not less than fifty feet from the working face and fifteen feet from any pipeline, powerline, rail, or conveyor, except that, if kept in niches in the rib, the distance from any pipeline, powerline, rail, or conveyor shall be at least five feet. Such explosives and detonators, when stored, shall be separated by a distance of at least five feet.

HOISTING AND MANTRIPS

SEC. 314. (a) Every hoist used to transport persons at an underground coal mine shall be equipped with overspeed, overwind, and automatic stop controls. Every hoist used to transport persons shall be equipped with brakes capable of stopping the fully loaded platform, cage, or other device used for transporting persons, and with hoisting cable adequately strong to sustain the fully loaded platform, cage, or other device for transporting persons, and have a proper margin of safety. Cages, platforms, or other devices which are used to transport persons in vertical shafts 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. Hoisting equipment, including automatic elevators, that is used to transport persons shall be examined daily. Where persons are regularly transported into or out of a coal mine by hoists, a qualified hoisting engineer shall be on duty while any person is underground, except that no such engineer shall be required for automatically operated cages, platforms, or elevators.

(b) Safeguards adequate, in the judgment of an authorized representative of the Secretary, to minimize hazards with respect to transportation of men and materials shall be provided.

(c) Hoists shall have rated capacities consistent with the loads handled and the recommended safety factors of the ropes used. An accurate and reliable indicator of the position of the cage, platform, skip, bucket, or cars shall be provided.

(d) There shall be at least two effective methods approved by the Secretary of signaling between each of the shaft stations and the hoist room, one of which shall be a telephone or speaking tube.

(e) In order to be capable of stopping with the proper margin of safety each locomotive and haulage car used in an underground coal mine shall be equipped with automatic brakes, or shall be subject to speed reductions or other safeguards approved by the Secretary.

EMERGENCY SHELTERS

SEC. 315. The Secretary or an authorized representative of the Secretary may require in any coal mine that rescue chambers, properly sealed and ventilated, be erected at suitable locations in the mine to which men could go in case of an emergency for protection against hazards. Such chambers shall be properly equipped with first aid materials, an adequate supply of air and self-contained breathing equipment, an independent communication system to the surface, and proper accommodations for the men while awaiting rescue, and such other equipment as the Secretary may require. A plan for the erection, maintenance, and revisions of such chambers shall be submitted by the operator to the Secretary for his approval.

COMMUNICATIONS

SEC. 316. A two-way communication system, approved by the Secretary, shall be provided between the surface and each landing of main shafts and slopes and between the surface and each working section that is more than two hundred feet from a portal.

MISCELLANEOUS

SEC. 317. (a)(1) While pillars are being extracted in any area of a mine, such area shall be ventilated in a manner approved by the Secretary or his authorized representative. Within six months after the operative date of this title, all areas which are or have been abandoned in all mines, as determined by the Secretary or his authorized representative, shall be ventilated by bleeder entries or by bleeder systems or equivalent means or sealed, as determined by the Secretary or his authorized representative, except that the Secretary may permit, on a mine-by-mine basis, an extension of time of not to exceed six months to complete such work. Ventilation of such areas shall be approved only where the Secretary or his authorized representative is satisfied that such ventilation can be maintained so as to, continuously, dilute, render harmless, and carry away explosive gases within such areas and to protect the active workings of the mine from the hazards of such gases. When sealing is required, such seals shall be made in an approved manner so as to isolate with explosion-proof bulkheads such areas from the active workings of the mine. In the case of mines opened on or after the operative date of this title, or in the case of working sections opened on or after such date in mines opened prior to such date, the mining system shall be designed, in accordance with a plan and revisions thereof approved by the Secretary and adopted by such operator, so that, as each working section of the mine is abandoned, it can be isolated from the active workings of the mine with explosion-proof seals or bulkheads. For the purpose of this paragraph, the term "abandoned" as applied to any area of a mine shall include, but not be limited to, areas of a mine which are not ventilated and inspected regularly, areas where mining has been started but not completed, areas where future mining is still possible, and areas that are deserted.

(2) Each operator of a coal mine shall take reasonable measures to locate oil and gas wells penetrating coalbeds or any underground area of a coal mine. When located, such operator shall establish and maintain barriers around such oil and gas wells in accordance with State laws and regulations, except that such barriers shall not be less than three hundred feet in diameter, unless the Secretary or his authorized representative permits a lesser barrier consistent with the applicable State laws and regulations where such lesser barrier will be adequate to protect against hazards from such wells to the miners in such mine, or unless the Secretary or his authorized representative requires a greater barrier where the depth of the mine, other geologic conditions, or other factors warrant such a greater barrier.

(b) Whenever any working place approaches within fifty feet of abandoned workings in the mine as shown by surveys made and certified by a registered engineer or surveyor, or within two hundred feet of any other abandoned workings of the 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 and shall be continually maintained to a distance of at least ten feet in advance of the advancing working face. When there is more than one borehole, they shall be drilled sufficiently close to each other to insure that the advancing face will not accidentally hole through into abandoned workings or adjacent mines. 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.

(c) Smoking shall not be permitted underground, nor shall any person carry smoking materials, matches, or lighters underground. Smoking shall be prohibited in or around oil houses, explosives magazines, or other surface areas where such practice may cause a fire explosion. The operator of a coal mine shall institute a program, approved by the Secretary, at each mine to insure that any person entering the underground portion of the mine does not carry smoking materials, matches, or lighters.

(d) Persons underground shall use only permissible electric lamps approved by the Secretary for portable illumination. No open flame shall be permitted in any underground mine except as specifically authorized by this Act.

(e) The Secretary shall prescribe the manner in which all underground working places in a mine shall be illuminated by permissible lighting while persons are working in such places.

(f)(1) At least two separate and distinct travelable passageways which are maintained to insure passage at all times of any person, including disabled persons, and which are to be designated as escapeways, at least one of which is ventilated with intake air, shall be provided from each working section of a mine continuous to the surface escape drift opening, or continuous to the escape shaft or slope facilities to the surface, as appropriate, and shall be maintained in safe condition and properly marked. Mine openings shall be adequately protected to prevent the entrance into the underground portion of the mine of surface fires, fumes, smoke, and flood water. Adequate and readily accessible escape facilities approved by the Secretary or his authorized representative, properly maintained, and frequently tested shall be immediately present at or in each escape shaft or slope to allow all persons, including disabled persons, to escape quickly to the surface in the event of an emergency.

(2) Not more than twenty miners 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.

(3) When only one main opening is available, owing to final mining of pillars, not more than twenty miners shall be allowed in such mine at any one time, except that the distance between the mine opening and working face shall not exceed five hundred feet.

(4) In the case of all coal mines opened on or after the operative date of this title, and in the case of all new working sections opened on or after such date in coal mines opened prior to such date, the escapeway required by this subsection to be ventilated with intake air shall be separated from the belt and trolley haulage entries of the mine for the entire length of such entries to the beginning of each working section, except that the Secretary or his authorized representative may permit such separation to be

extended for a greater or lesser distance so long as the safety of the miners is assured.

(g) After the operative date of this title, all structures erected on the surface within one hundred feet of any mine opening shall be of fireproof construction. Unless structures existing on or prior to such date located within one hundred feet of any 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 monthly to insure effective operation. A record of such tests shall be kept and shall be available for inspection by interested persons.

(h) Adequate measures shall be taken to prevent explosive gases and coal dust from accumulating in excessive concentrations in or on surface coal-handling facilities, but in no event shall explosive gases be permitted to accumulate in concentrations in or on surface coal-handling facilities in excess of limits established for explosive gases by the Secretary within one year of the operative date of this title, and coal dust shall not accumulate in excess of limits prescribed by or under this Act. Where coal is dumped at or near air-intake openings, provisions shall be made to prevent the dust from entering the mine.

(i) Every operator of a coal mine shall provide a program, approved by the Secretary, of training and retraining of both qualified and certified persons needed to carry out functions prescribed in this title.

(j) Whenever the Secretary finds that a mine liberates excessive qualities of explosive gases during its operations, or that a gas ignition or explosion has occurred in such mine which resulted in death or serious injury at any time during the previous five years, or that there exists in such mine other especially hazardous conditions, he shall provide a minimum of twenty-six spot inspections of all or part of such mine each year at irregular intervals by his authorized representative.

(k) An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that the face equipment, including shuttle cars, be provided with substantially constructed canopies or cabs to protect the operators of such equipment from roof falls and from rib and face rolls.

(l) The opening of any mine that is declared inactive by its operator or is abandoned for more than ninety days, after the operative date of this title, shall be sealed in a manner prescribed by the Secretary. Openings to all active coal mines shall be adequately protected to prevent entrance by unauthorized persons.

(m) Each mine shall provide adequate facilities for the miners to change from the clothes worn underground, to provide the storing of such clothes from shift to shift, and to provide sanitary and bathing facilities. Sanitary toilet facilities shall be provided in the active workings of the mine when such surface facilities are not readily accessible to the active workings.

(n) Arrangements shall be made in advance for obtaining emergency medical assistance and transportation for injured persons. Emergency communications shall be provided to the nearest point of assistance. Selected agents of the operator shall be trained in first aid and first aid training shall be made available to all miners. Each mine shall have an adequate supply of first aid equipment located on the surface, at the bottom of shafts and slopes, and at other strategic locations near the working faces. In fulfilling each of the requirements in this subsection, the operator shall meet at least minimum standards established by the Surgeon General. Each operator shall file with the Secretary a plan setting forth in such detail as the Secretary may require the manner in which such operator has fulfilled the requirements in this section.

(o) A self-rescue device approved by the Secretary shall be made available to each miner by the operator which shall be adequate to protect such miner for one hour or longer. Each operator shall train each miner in the use of such device.

(p) The Secretary shall prescribe improved methods of assuring that miners are not exposed to atmospheres that are deficient in oxygen.

(q) Each operator of a coal mine shall establish a check-in and check-out system which will provide positive identification of every person underground and will provide an accurate record of the miners in the mine kept on the surface in a place chosen to minimize the danger of destruction by fire or other hazard. Such record shall bear a number identical to an identification check that is securely fastened to the lamp belt worn by the person underground. The identification check shall be made of a rust resistant metal of not less than sixteen gauge.

(r) The Secretary shall require, when technologically feasible, that devices to suppress ignitions be installed on electric face cutting equipment.

(s) Whenever an operator mines coal in a manner that requires the construction, operation, and maintenance of tunnels under any river, stream, lake, or other body of water, such operator shall obtain a permit from the Secretary which shall include such terms and conditions as he deems appropriate to protect the safety of men working or passing through such tunnels from cave-ins and other hazards. Such permits shall require, in accordance with a plan to be approved by the Secretary, that a safety zone be established beneath and adjacent to any such body of water that is, in the judgment of the Secretary, sufficiently large to constitute a hazard. No plan shall be approved unless there is a minimum of rock cover to be determined by the Secretary based on test holes drilled by the operator in a manner to be prescribed by the Secretary.

(t) The Secretary shall require that developed and improved devices and systems for the monitoring and detection of mine safety conditions and for the protection of the individual miner be acquired by each operator of a coal mine and that such devices and systems be used as soon as they become available.

(u) All haulage equipment acquired by an operator of a coal mine on or after one year after the operative date of this title shall be equipped with automatic couplers which shall couple by impact and uncouple without the necessity of men going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on the operative date of this title shall also be so equipped within four years after the operative date of this title.

(v) An adequate supply of potable water shall be provided for drinking purposes in the active workings of the mine, and such water shall be carried, stored, and otherwise protected in sanitary facilities.

(w) The Secretary shall send a copy of every proposed standard or regulation at the time of publication in the Federal Register to the operator of each coal mine and the representative of the miners at such mine and such copy shall be immediately posted on the bulletin board of the mine by the operator or his agent, but failure to receive such notice shall not relieve anyone of the obligation to comply with such standard or regulation.

(x) An employee, the duties of whose position are primarily the inspection of coal mines, including an employee engaged in this activity and transferred to a supervisory or administrative position, who attains the age of fifty years and completes twenty years of service in the performance of those duties may, if the Secretary recommends his retirement and the Civil Service Commission approves, voluntarily retire and be paid an annuity. Any such employee who attains the age of sixty years and completes fifteen years of service may voluntarily retire on an annuity, unless the Secretary determines that such retirement would not be in the best interests of the program and, in such case, the Secretary may extend such employee's service on an annual basis. An employee who retires under this subsection shall be entitled to an annuity of 2½ per centum of his average pay multiplied by his total service, except that the annuities shall not exceed 80 per centum of his average pay. As used in this subsection the terms "employee", "average pay", and "service" have the meaning ascribed to those terms in subchapter III, chapter 83, title 5, United States Code, and the provisions of that subchapter respecting payment and adjustment of annuity, survivor annuities, and related matters, shall apply with respect to employees retiring under this subsection.

(y) (1) No person shall discharge or in any other way discriminate against or cause to be discharged or discriminated against any miner or any authorized representative of miners by reason of the fact that such miner or representative (A) has notified the Secretary or his authorized representative of any alleged violation or danger pursuant to section 103(g) of this title, (B) has filed, instituted, or caused to be instituted any proceeding under this Act, or (C) has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

(2) Any miner or a representative of miners who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) of this subsection may, within thirty days after such violation occurs, apply to the Secretary for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party, to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary shall make findings of fact. If he finds that such violation did occur, he shall issue an order requiring the person committing such violation to take such affirmative action to abate the violation as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the miner or representative of miners to his former position with back pay. If he finds that there was no such violation, he shall issue an order denying the application. Such order shall incorporate the Secretary's findings therein. Any decision issued by the Secretary under this paragraph shall be subject to judicial review in accordance with the provisions of this Act. Violations by any person of paragraph (1) of this subsection shall be subject to the civil penalties provisions of this Act.

(3) Whenever an order is issued under this subsection, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary to have been reasonably incurred by the applicant for or in connection with, the

institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

DEFINITIONS

SEC. 318. For the purpose of this title and title II of this Act, the term—

(a) "certified person" means a person certified by the State in which the coal mine is located to perform duties prescribed by such sections, except that, in a State where no program of certification is provided or where the program does not meet at least minimum Federal standards established by the Secretary, such certification shall be by the Secretary;

(b) "qualified person" means, as the context requires, an individual deemed qualified by the Secretary to make tests and examinations required by this Act; and an individual deemed, in accordance with minimum requirements to be established by the Secretary, qualified by training, education, and experience, to perform electrical work, to maintain electrical equipment, and to conduct examinations and tests of all electrical equipment.

(c) "permissible" as applied to—

(1) equipment used in the operation of a coal mine, means equipment to which an approval plate, label, or other device is attached as authorized by the Secretary and which meets specifications which are prescribed by the Secretary for the construction and maintenance of such equipment and are designed to assure that such equipment will not cause a mine explosion or a mine fire,

(2) explosives, shot firing units, or blasting devices used in such mine, means explosives, shot firing units, or blasting devices which meet specifications which are prescribed by the Secretary, and

(3) the manner of use of equipment or explosives, shot firing units, and blasting devices, means the manner of use prescribed by the Secretary;

(d) "rock dust" means pulverized limestone, dolomite, gypsum, anhydrite, shale, talc, adobe, or other inert material, preferably light colored, 100 per centum of which will pass through a sieve having twenty meshes per linear inch and 70 per centum or more of which will pass through a sieve having two hundred meshes per linear inch; the particles of which when wetted and dried will not cohere to form a cake which will not be dispersed into separate particles by a light blast of air; and which does not contain more than 5 per centum of combustible matter or (SiO_2), more than a total of 3 per centum of free and combined silica (SiO_2) or, where the Secretary finds that such silica concentrations are not available, up to 5 per centum of free and combined silica;

(e) "coal mine" includes areas of adjoining mines connected underground;

(f) "anthracite" means coals with a volatile ratio equal to 0.12 or less;

(g) "volatile ratio" means volatile matter content divided by the volatile matter plus the fixed carbon;

(h) (1) "working face" means any place in a coal mine in which work of extracting coal from its natural deposit in the earth is done,

(2) "working place" means the area of a coal mine inby the last open crosscut,

(3) "working section" means all areas of the coal mine from the loading point of the section to and including the working faces,

(4) "active workings" means any place in a coal mine where miners are normally required to work or travel;

(i) "abandoned areas" means sections, panels, and other areas that are not ventilated and examined in the manner required for active underground working places;

(j) "electric face equipment" means electric equipment that is installed or used inby the last open crosscut in an entry or a room;

(k) "registered engineer" or "registered surveyor" means an engineer or surveyor registered by the State pursuant to standards established by the State meeting at least minimum Federal requirements established by the Secretary, or if no such standards are in effect, registered by the Secretary;

(l) "low voltage" means up to and including 660 volts; "medium voltage" means voltages from 661 to 1,000 volts; and "high voltage" means more than 1,000 volts;

(m) "average concentration" means a determination which accurately represents the atmospheric conditions with regard to respirable dust during a full working shift; such determination shall be the result of applying valid statistical techniques to the minimum necessary measurements of respirable dust; and

(n) "respirable dust" means only dust particulates 5 microns or less in size.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. DENT) is recognized for 5 minutes.

Mr. DENT. Mr. Chairman, title III of the bill contains over 50 pages of highly technical and detailed interim mandatory safety standards designed to protect the safety of the miner. It is a most unusual procedure for the Congress to even attempt to legislate such standards because of their highly technical nature. Normally, these would be developed and promulgated by the administrators as regulations. But, in this case, the committee was faced with the fact that Congress, in 1952, did legislate such standards for this industry and unfortunately, Congress did not give the administrators the power to issue regulations in this area.

Well, 17 years have passed since then. Technology in this industry has made rapid changes. Mining practices and conditions have also changed. In order to meet these, the Bureau of Mines was forced to buttress these legislated standards with an even more detailed safety code which is enforceable under the labor-management contracts. We did not want to make that mistake this time. This bill provides a fair procedure, including hearings, for promulgating mandatory standards by the Secretary. But this procedure will take time. The miners cannot afford to wait. Their very life and limb depends on the establishment of new and up-to-date standards that are enforceable now. Thus, the need for title III of this bill. As time goes on, we expect and we encourage the administrators to improve upon these standards by changing them, or superseding them, or revising them. Congress should not be in the business of setting standards, only the guidelines and procedures for such standards.

As one can imagine, when there are 50 pages of such standards, errors can creep in. Also, omissions and other deficiencies are possible.

During the hearings and subsequent public executive sessions, we were concerned that many of the interested and directly affected parties were concentrating their concern on other areas of the bill and neglected this title to see if the provisions were technically sound and, in fact, improved safety.

Within the last several weeks, representatives of industry, labor, the Bureau of Mines, and others interested in this legislation, noted a few areas in this title that were technically unsound, in some cases, would diminish, not improve, safety unless they were revised. Similarly, the committee's staff found some technical errors that needed revision.

Accordingly, a series of amendments to sections 303, 305, 307, 308, 309, 310, 311, 317, and 318 of this title were prepared which are largely of a technical or clarifying nature. Some, like a standard to prevent cave-ins when mining under a body of water, and a standard requiring a ventilation and gas and dust control plan and a standard on maintaining the permissible flame safety lamp, fill a gap not yet covered by the bill. Other sections of this title are not changed by this amendment. The title, with these amendments, was placed in the RECORD Monday.

All of the amendments were reviewed carefully by Director O'Leary of the Bureau of Mines. In requesting such a review, we emphasized that no amendment would be offered, "which, even slightly, will reduce safety to the miners. The fact that one provision provides greater safety and another only slightly less safety will not satisfy the test we are applying to these amendments."

The Director responds as follows:

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF MINES,
Washington, D.C., October 23, 1969.

Hon. JOHN H. DENT,
Chairman, General Subcommittee on Labor, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR MR. DENT: Your letter of October 22, 1969, requested that we provide a technical review of a series of amendments to Title III of HR 13950, as reported by your Committee. These amendments result from discussions between your staff and various representatives of the industry, labor, and others interested in this legislation. Some of the Bureau's senior inspection personnel as well as others from the Department participated in some of these discussions to provide technical advice.

Most of the amendments are of a clarifying nature designed to overcome problems discovered during the discussions just mentioned. This is particularly true in connection with those amendments affecting Sections 303, 305, 307, 308, 309, 310, and 318. Most of these Sections deal with highly technical problems associated with providing adequate safeguards for the installation, maintenance, and operation of electrical equipment and power circuits of significant voltages. At our suggestion, these amendments were also reviewed by the two professional electrical engineers from the General Services Administration who participated in the drafting of many of these Sections with the staff of the Senate Committee. Despite their lack of familiarity with the coal industry, they are fully competent and raised a number of points that helped to improve these amendments.

Several of the amendments are distinctly superior to existing provisions of the Bill. This is particularly true with respect to the revisions related to sealing and ventilation of abandoned areas and to the provision of flame-resistant belts in haulageways and the requirement for sensing devices to detect belt fires. We are also pleased to see the revision authorizing the Secretary to require flame suppression devices on belt haulageways when such devices are technically feasible. The provisions relative to coupling mine cars and increasing the number of spot inspections at the more hazardous mines will also make a positive contribution to safety.

We have carefully reviewed each of these amendments from the standpoint of their

drafting sufficiency as related to other provisions of Title III of the Bill; from the standpoint of their technical application to the operations of the industry; and from the standpoint of their enforceability. We have concluded that each of the proposed amendments is technically sound, enforceable, and—most important—would not, if adopted, lessen the degree of protection of health and safety accorded miners by the Committee Bill, or create any additional hazards. Taken together, the proposed amendments significantly strengthen the Bill.

Sincerely yours,

JOHN F. O'LEARY,
Director.

I urge the adoption of these important amendments which will provide a greater safety to the miners.

BRIEF SECTION-BY-SECTION EXPLANATION OF THE AMENDMENTS

SECTION 303

The bill now provides that the minimum quantity of air reaching the last open crosscut in any pair or set of rooms must be 9,000 cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line must also be 9,000 cubic feet a minute. The bill does not, however, prescribe what the minimum quantity of air should be at the working face nor what the minimum velocity should be over any miner operating electical equipment at the working face. The amendment supplements this omission by requiring a minimum of 3,000 cubic feet a minute at the face and a minimum velocity of 100 feet per minute over the miner operating electrical equipment. The latter measurement must be made at the point where the air passes to within 5 feet of the face. As in the case of the 9,000 cubic feet minimum, the Secretary or an inspector may require a greater quantity of air where necessary for safety or health, or both.

The amendment also clarifies the present language of this section by requiring that each operator prepare and adopt a ventilation and explosive gas- and dust-control plan which must be approved by the Secretary.

Section 318(c)(1) of the bill defines the term "permissible" as applied to equipment, such as the flame safety lamp. Such equipment must comply with the Secretary's specifications for the construction and maintenance of such equipment. The amendment requires that the operator provide a maintenance program for the flame safety lamp by a person qualified in this work. Proper maintenance is required before each shift. The need for this program is demonstrated by the fact that, since 1952, there have been 17 ignitions killing five, and injuring 25, from improperly maintained flame safety lamps.

The amendment clarifies the present language of the bill relative to the percentage of explosive gas required before changes in ventilation must be undertaken or men withdrawn. The amendment makes it clear that if the explosive gas reaches 1 percent or more, but less than 1.5 percent, action must be taken to reduce the gas to less than 1.0, and if such gas reaches 1.5 percent or more, the miners must be withdrawn until the gas is reduced to less than 1 percent.

The amendment also clarifies the present language of the bill relative to separation of belt and trolley haulage entries from intake and return air courses.

In the case of new mines, intake and return entries must be separated from belt haulage entries, and the operator must limit the velocity of air coursed in such haulage entries to that needed to supply adequate oxygen to protect the health of miners, and to control methane. In addition, the air must not be used to ventilate active working places. The separation would be through the use of permanent stoppings constructed of incombustible material. When an inspector finds, in existing mines developed with more than two entries, that the conditions in the entries, other than haulage entries, are such as to permit the coursing of intake or return air, then the belt haulage entries cannot be used to ventilate, unless necessary to ventilate working places, and the operator must limit the air velocity coursed through such haulage entries to that needed to supply adequate oxygen, to protect the health of miners, and to control methane.

The objective of the section is to reduce high air velocities in belt haulageways where the coal is transported because such velocities fan and propagate mine fires, many of which originate along the haulageways. Rapid intake air currents also carry products of the fire to the working places quickly before the men know of the fire and lessen their time for escape. If they use the return aircourses to escape, the air coursed through may contain these products and quickly overtake them. Also, the objective is to reduce the amount of float coal dust along belt haulageways.

In some mines, it is not possible to isolate the intake and return airways from the haulageways. The latter is particularly true in a two or three entry system where the haulageway, of necessity, must be used to ventilate the face. Even in a multiple entry system of more than three entries, in some cases the haulageway runs for miles and some parallel entries may be blocked or partially blocked from roof falls, particularly in low coal, and, in such cases, it is not practical to open such entries.

While it is necessary to reduce the velocity of air in the haulageway, complete elimination of air in the haulageway is not desirable, because it would create a new hazard. Some air is essential. The air velocity, however, must be limited to an amount sufficient to insure an adequate supply of oxygen in the haulageway, to protect the health of miners, and to provide that the air not contain accumulations of methane.

In order to separate trolley haulageways from intake or return aircourses, doors are needed. These, however, tend to create a greater hazard to the miners. Thus, the amendment directs that, in new mines or new working sections in existing mines where there are trolley haulageways, there must be a sufficient number of entries or rooms as intake aircourses in order to limit the velocity of air currents on these haulageways. The Secretary will prescribe what these velocities should be.

Sections 305, 307, 308, and 309 of the bill are amended to clarify certain provisions and to permit the continued safe use of ungrounded, delta-connected systems for electrical equipment.

SECTION 317

The first of these amendments relates to the ventilation or sealing of abandoned areas, including areas not ventilated and regularly inspected, areas where mining has been started but not completed, areas where future mining is still possible, areas that are deserted, and partially pillared areas. While pillars are still being extracted, each operator must ventilate the area in a manner approved by the Secretary or his inspector in order to render harmless, dilute, and carry away explosive gases. In the case of abandoned areas at existing mines, such areas must be either sealed or ventilated, as determined by the Secretary or his inspector, within 9 months after enactment, but the Secretary may extend this period, on a mine-by-mine basis, for an additional 6 months. Before either method is utilized, the Secretary must be satisfied that it is appropriate given the conditions of the abandoned area. Large abandoned areas are difficult to ventilate adequately. Thus, ventilation will only be approved where it can be effectively maintained to, continuously, dilute, render harmless, and carry away explosive gases to the satisfaction of the Secretary or the inspector. When sealing is required, the seals must be approved so as to isolate with explosion-proof bulkheads these areas from the active mine workings.

In the case of new mines, and new working sections in existing mines, the mining system must be designed, in accordance with an approved plan, so that, as each section is abandoned, it can be sealed, if that is the best method to be utilized, as determined under the plan.

The next amendment clarifies the provision of the bill on requiring minimum barriers around oil and gas wells that penetrate the coal seam or mine. The Secretary can require greater barriers depending on the depth of the mine, other geologic conditions, and other factors. So long as safety is not sacrificed, lesser barriers may be permitted within limits of State laws.

The amendments clarify the present provisions of the bill relative to escapeways. The objective is to assure that each miner, even those who are injured, may escape without hinderance and quickly through the escapeway to the mine opening, in the case of a drift mine, and to the escape facilities, in the case of a shaft or slope mine. The escape facilities in a shaft or slope mine must be adequate and ever present and in workable condition so that they may be put into use with the minimum of delay. Ladders or stairs in deep mines can only be considered as secondary or backup facilities.

The amendment provides that where the Secretary finds either a mine liberates large quantities of gas, or there has been a death or serious injury in the previous 5 years caused by a gas ignition or explosion, or there exists in the mine some other especially hazardous condition that deserves particular and

special attention in order to protect the miners while the condition exists, the Secretary must provide at the very least 26 spot inspections of all or part of the mine by a Federal inspector. These inspections should be spaced each year on an irregular basis. This provision broadens section 317(j) of the bill to cover more than just the excessively gassy mine. It recognizes that there are other hazards in some mines that deserve special attention by the inspectors. At the same time, it avoids the very obvious pitfalls of the present language of the bill. If the Secretary must station an inspector at every mine that liberates excessive amounts of gas, he will quickly find that most, if not all, of his trained inspectors will be at these mines, many of which have multiple shifts, and none will be available to make the minimum of four inspections per year required elsewhere in the bill of every underground mine.

Further, in connection with a recent closure order now pending before the Board of Review, where a mine was reopened pending a decision on the merits, a Federal inspector was stationed around the clock in the working section of the mine under the closing order. Within a few days, it became apparent that the operator and his supervisory personnel were making few decisions involving safety without the approval of the inspector. In short, the inspector, not the operator, was running the safety program at that working section of the mine. This result is contrary to the whole purpose of this bill and should be avoided. The operator, not the inspector or the miners, has the primary responsibility for the safety of the miners at the mine. The miners' responsibility, while important, is secondary to that of management in this area. The inspector's responsibility is to enforce the law, not direct the operations at each mine.

The amendments also provide standards relative to protecting miners from cave-in's under bodies of water, where in 1959, 12 miners tragically lost their lives while mining coal under the Susquehanna River in my home State of Pennsylvania, to requiring that modern and improved devices and systems to monitor and detect unsafe conditions at a mine be used as they become available, including, where appropriate, computer systems, to requiring the use of automatic couplers and uncouplers on haulage equipment, to providing, for the use of potable water in the mines, for the early retirement of inspectors, on a voluntary basis, and for the prevention of discharges of miners for exercising various rights under provisions of this legislation.

SECTION 318

The amendment makes some changes for the purpose of clarification in the definition of a qualified person and rock dust. In the former, as well as in the present definition of a certified person, it is intended that the Secretary and his inspectors develop quickly a program for training, retraining, examining, testing, and approving persons who must be qualified or certified to perform certain tasks under this bill. Many accidents have occurred in mines due to the fact that people are not adequately trained and examined for many of these important jobs. The Secretary must establish minimum, but rigid, requirements for these functions and require adequate training and periodic retraining. The Secretary cannot rely on the States to do this. He must first establish the minimum requirements.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. DENT. I am happy to yield to the ranking minority member of the committee.

Mr. ERLENBORN. I thank the gentleman for yielding. I rise in support of the amendment. I am intimately aware of its provisions. I have gone over it with the gentleman and with the Bureau of Mines. I do support the amendment being offered by the gentleman from Pennsylvania.

Mr. DENT. I thank the gentleman very much.

I might say to all of you that I may know somewhat more than some of you about coal mining, but I would not dare to come before this House and say that I am qualified to write legislation on the technical aspects of modern-day mining, in the light of the new technology that has come into the field. I would not have the gall to try to impress you that I had that kind of knowledge or expertise. I do believe I know something has to be done in the mines. They have to have the safest kind of rules and regulations possible, and I do advise that amendment will help do the job. I ask that the Members consider them seriously and support them.

Mr. HECHLER of West Virginia. Mr. Chairman, I am pleased to support the amendments to title III because they will provide greater safety to the miners. A number of these amendments were also included in my bill, H.R. 14394, which I introduced on October 16, 1969. Some of these include: The requirement for the proper use of the flame safety lamp, the provision for a ventilation and gas and dust control plan, the provision for a minimum of 3,000 feet per second at the working face, first recommended by Mr. Joseph Yablonski, the provision requiring the use of modern devices as they are adopted, the requirement for automatic couplers, the provision for adequate escapeways to allow all miners to escape, even the injured, quickly, the provisions providing greater safety in the use and maintenance of electrical equipment, to name a few. But, most importantly, this title includes the provision which prohibits the discharge of miners or their representative or any discrimination against them who seek to exercise some of the most important rights established under this bill. The bill gives, for the first time, the statutory rights to the miners and their representatives to require inspections of the mines, to appeal closure orders and their termination and modification, and to insure generally that the health and safety standards are effectively enforced. It is an opportunity that they should exercise with care, but it must be utilized. This important provision will protect the miners and their representatives in exercising these rights.

Another important feature in this title which was in my October 16th bill is the requirement that all proposed standards and regulations are transmitted to every mine operator and then must be posted on the bulletin board at the mine for the miners—the ones who are deeply and vitally affected—to read and comment on. This an important provision because it assures that miners will get in at the ground floor when they are proposed. For the first time, the miners, not just management and the union, will have a say in these standards and regulations.

I think particular attention and thanks should be extended by all miners for all of these amendments which Chairman DENT had the foresight to include in this new title. His improvements in section 317 of the bill, particularly in connection with gas wells penetrating coal beds, with cave-in's in mines under bodies of water, and requiring a minimum of water, and requiring a minimum of 26 spot inspections on a far broader basis than anyone ever even considered, are essential safeguards. Under the previous provision, the executive branch, the Bureau of Mines, could, unfortunately have defined this provision as far too limited fashion never intended by anyone who expected it. These spot inspections on this broad basis should afford greater safety to the miners of these mines without the obviously bad effect of inspectors stationed at a mine that Chairman DENT just referred to in connection with a mine subject to a closing order where inspectors were stationed around the clock.

The miners of this country should be pleased that such dedicated members of the committee and the staff took the time to work out this title III amendment.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA TO THE AMENDMENT OFFERED BY MR. DENT

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from Pennsylvania (Mr. DENT).

The Clerk read as follows:

An amendment offered by Mr. HECHLER of West Virginia to the amendment offered by Mr. DENT: On page 21, strike section 305(a) and all that follows down through the bottom of page 23, and insert the following:

"SEC. 305. (a) Effective one year after the operative date of this title—

"(1) all junction or distribution boxes used for making multiple power connections in the active workings of a coal mine shall be permissible;

"(2) all hand-held electric drills, blower and exhaust fans, electric pumps, and other such low-horsepower electric face equipment as the Secretary may designate within two months after the operative date of this title, which are taken into, or used in the working section of any coal mine shall be permissible; and

"(3) all electric face equipment which is taken into, or used in, the working section of any coal mine classified as gassy under any provision of law prior to the operative date of this title shall be permissible.

"(b)(1) Effective one year after the operative date of this title, all electric face equipment not referred to, or designated under, subsection (a)(2) of this section which is taken into, or used in, the working section of any coal mine, except a coal mine subject to the requirements of subsection (a)(3) of this section or paragraph (2) of this subsection, shall be permissible.

"(2) Effective two years after the operative date of this title, all electric face equipment not referred to, or designated under, subsection (a)(2) of this section which is taken into, or used in, the working section of any coal mine, except a coal mine subject to the requirements of subsection (a)(3) of this section, which is operated entirely in coal seams located above the water table with one or more openings made prior to the date of enactment of this Act, and with a total production of coal that does not exceed fifty thousand tons annually, based on the mine's production records for three calendar years prior to such date, shall be permissible.

"(3) In the case of any coal mine subject to the requirements of paragraph (1) of this subsection, if the operator of such mine is unable to comply with such requirements on such effective date, he may file an application for a permit for noncompliance with the Secretary ninety days prior to such date. If the Secretary determines that such application satisfies the requirements of paragraph (6) of this subsection, he shall issue to such operator a permit for noncompliance. Such permit shall entitle the permittee to an extension of time to comply with such requirements of not to exceed twelve months, as determined by the Secretary, from such effective date.

"(4) In the case of a coal mine subject to the requirements of paragraph (2) of this subsection, if the operator of such mine is unable to comply with such requirements on such date, he may file an application for a permit for noncompliance with the Secretary ninety days prior to such date. If the Secretary determines, after notice to all interested persons and an opportunity for a hearing, that such application satisfies the requirements of paragraph (6) of this subsection, and that such operator, despite his diligent efforts will be unable to comply with such requirements, the Secretary may issue to such operator a permit for noncompliance. Such permit shall entitle the permittee to an additional extension of time to comply with such requirement of not to exceed twelve months, as determined by the Secretary, from the date such compliance is required.

"(5)(A) Any operator of a coal mine issued a permit under paragraphs (3) and (4) of this subsection who, ninety days prior to the termination of such permit, determines that he will be unable to comply with the requirements of said paragraphs upon the expiration of such permit may file with the Secretary an application for renewal thereof. Upon receipt of such application, the Secretary, if he determines, after notice to all interested persons and an opportunity for a hearing that such application satisfies the requirements of paragraph (6) of this subsection and that such operator, despite his diligent efforts, will be unable to comply with such requirements, may renew the permit for a period not exceeding twelve months. Any hearing held pursuant to this paragraph shall be of record and the Secretary shall make findings of fact and shall issue a written decision incorporating his findings therein.

"(B) Any permit issued pursuant to this subsection shall entitle the permittee to use nonpermissible electric face equipment, as specified in the permit, during the term of such permit. Permits issued under this subsection to operators who must comply with the requirements of paragraph (1) of this subsection shall in the aggregate, not extend the period of noncompliance more than thirty-six months after the date of enactment of this Act. Permits issued under this subsection to operators who must comply with the requirements of paragraph (2) of this subsection shall, in the aggregate, not extend the period of noncompliance more than forty-eight months after the date of enactment of this Act.

"(6) Any application for a permit of noncompliance filed under this subsection shall contain a statement by the operator—

"(A) that he is unable to comply with paragraphs (1) or (2) of this subsection, as appropriate, within the time prescribed;

"(B) listing the nonpermissible electric face equipment by type and manufacturer being used by such operator in connection with mining operations in such mine on the operative date of this title and on the date of the application for which a noncompliance permit is requested and stating whether such equipment had ever been rated as permissible;

"(C) setting forth the actions taken from and after the operative date of this title to comply with such paragraphs, together with a plan setting forth a schedule of compliance with the appropriate paragraphs for the equipment referred to in such paragraphs and being used by the operator in connection with mining operations in such mine with respect to which such permit is required and the means and measures to be employed to achieve compliance; and

"(D) include such other information as the Secretary may require.

"(7) One year after the operative date of this title all replacement equipment acquired for use in any mine referred to in this subsection shall be permissible and shall be maintained in a permissible condition, and in the event of any major overhaul of any item of equipment in use one year after the operative date of this title such equipment shall be put in, and thereafter maintained in, a permissible condition, if, in the opinion of the Secretary, such equipment or necessary replacement parts are available.

"(8) The operator of each coal mine shall maintain in permissible condition all electric face equipment, required by this subsection and subsection (a) of this section to be permissible.

"(9) Each operator of a coal mine shall, within two months after the operative date of this title, file with the Secretary a statement lising all electric face equipment by type and manufacturer being used by such operator in connection with mining operations in the working section of such mine as of the date of such filing, and stating whether such equipment is permissible and maintained in permissible condition or nonpermissible on such date of filing, and, if nonpermissible, whether such nonpermissible equipment has ever been rated as permissible, and such other information as the Secretary may require.

"(10) The Secretary shall promptly conduct a survey as to the total availability of new or rebuilt permissible electric face equipment and replacement parts for such equipment and, within six months after the operative date of this title, publish the results of such survey.

"(11) No permit for noncompliance shall be issued under this subsection for any nonpermissible electric face equipment, unless such equipment was being used by an operator in connection with the mining operations in a coal mine on the operative date of this title.

"(12) As used in this title, the term 'permissible electric face equipment' means all electrically operated equipment taken into or used in the working section of any coal mine the electrical parts of which, including, but not limited to, associated electrical equipment, components, and accessories, are designed, constructed, and installed, in accordance with the Secretary's specification, to assure that such machines will not cause a mine explosion or mine fire, and the other features of which are designed and constructed, in accordance with the Secretary's specifications, to prevent, to the greatest extent possible, other accidents in the use of such equipment. The regulations of the Secretary in effect on the operative date of this title relating to the requirements for investigation, testing, approval, certification, and acceptance of such equipment as permissible shall continue in effect until modified or superseded by the Secretary, except that the Secretary shall promptly provide procedures, including, where feasible, field testing, approval, certification, and acceptance by an authorized representative of the Secretary, to facilitate compliance by an operator with the permissibility requirements of this subsection within the periods prescribed.

"(13) Any operator or representative of miners aggrieved by a final decision of the Secretary under this subsection may file a petition for review of such decision in accordance with the provisions of this Act.

"(c) A copy of any permit granted under this section shall be mailed immediately to a duly designated"—.

Mr. HECHLER of West Virginia (during the reading). Mr. Chairman, in view of the fact that the amendment I have offered to the amendment has been printed in the RECORD at page 31616, I ask unanimous consent that further reading of the amendment be dispensed with.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state it.

Mr. ERLENBORN. Mr. Chairman, the amendment to the amendment refers to the Secretary in granting extensions of time. Already an amendment has been adopted removing this authority from the Secretary, and the extension of time authority now resides in the Compliance Panel. I believe this amendment conflicts with and does not conform to the amendments already adopted.

My point is this—that this refers to the power of the Secretary that he no longer has as a result of the amendment which already has been adopted.

The CHAIRMAN. Does the gentleman from West Virginia wish to be heard on the point of order?

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman from Illinois accept an amendment clarifying that point?

Mr. ERLENBORN. Mr. Chairman, if the amendment is in good form, I will have no point of order.

Mr. HECHLER of West Virginia. Mr. Chairman, I ask unanimous consent that the amendment be redrafted to conform to the point made by the gentleman from Illinois.

The CHAIRMAN. Does the gentleman from West Virginia have an amendment to carry out that redrafting?

Mr. HECHLER of West Virginia. May I ask the gentleman from Illinois to which particular section he refers?

Mr. ERLENBORN. I think it is throughout the amendment. I can identify some: At the top of page 2, section 3, it says "If the Secretary determines" and in section 4, it says "not in compliance with the Secretary," and again in 5(a), and it is replete throughout the amendment.

Mr. HECHLER of West Virginia. Mr.

Chairman, I ask the Chair for a ruling on the point of order.

The CHAIRMAN. The Chair is ready to rule on the point of order. The Chair does not rule on the consistency of the amendment, so the point of order is overruled.

The gentleman from West Virginia is recognized for 5 minutes in support of his amendment.

Mr. HECHLER of West Virginia. Mr. Chairman, it is infrequently that I express agreement with the current President of the United Mine Workers of America, but I would like to point out that I have a letter from the President of the United Mine Workers of America, Mr. W. A. Boyle, who states quite explicitly in a letter dated October 9:

> The United Mine Workers of America beseeches you to remove all exemptions in the law which would permit any group of coal operators to postpone installation of spark free equipment for as long as six years or even indefinitely.

Mr. Chairman, this is in a letter which was sent to all Members of Congress, and Mr. Chairman, I subscribe to the sentiments in this letter. I might add that Mr. Joseph A. Yablonski, candidate for President of the United Mine Workers of America, recognized this point long before it was finally recognized by Mr. Boyle.

We all know that one of the greatest sources of explosions is the non-permissible electrical equipment that causes sparks at the face of a mine.

When President Harry S. Truman signed the Federal Coal Mine Safety Act of 1952—which for the most part is the law under which we are still operating—he stated:

> The legislation contains several exemptions to the safety provisions particularly with regard to replacement of dangerous electrical equipment and faulty ventilation systems which have been the causes of most recent major disasters. I am advised that these exemptions were provided to avoid any economic impact on the coal mining industry, but they are so worded that the unsafe conditions and practices could continue for years before the mines would be required to comply with the law.

The gentleman from Pennsylvania (Mr. DENT) and the gentleman from Kentucky (Mr. PERKINS) and others have done a great job in bringing this bill this far. We may not have another opportunity for several years to make a comprehensive revision of the Coal Mine Health and Safety Act. It has been 17 years since that basic act signed by President Truman was passed by the Congress. Let us do a good job here today when we have an opportunity to do so, and do the best possible job to close every loophole and protect the miners of this Nation.

The main reason why my amendment is necessary becomes obvious when you read section 305(b)(1) on page 73 of the bill:

> Four years after the operative date of this title all electric face equipment . . . shall be permissible and shall be maintained in a permissible condition, except that the Secretary may, upon petition, waive the requirements of this paragraph on an individual mine basis for a period not in excess of two years.

Now that adds up to 6 years in which operators of the so-called nongassy mines, large and small, have before they have to get their electrical equipment house in order. But the provision now in the bill which really disturbs me is the next sentence on page 73, which states:

> The Secretary may also, upon petition, waive the requirements of this paragraph on an individual mine basis if he determines that the permissible equipment for which the waiver is sought is not available to such mine.

Mr. Chairman, that is a very disturbing open-ended extension and exception.

The committee report, in discussing the provisions permitting 6 years for the electrical equipment to be made explosion-proof, states as follows:

> The Department of the Interior has indicated a period of five years will be required for the mine equipment manufacturing industry to produce permissible replacement equipment in sufficient quantities for all underground mines. If the Department alters its present policy of requiring all inspections of permissible equipment to be made in Pittsburgh, and permits field inspections, the period necessary to produce sufficient equipment should be reduced. (See page 23.)

The committee then goes on and says that it, and I quote, "believes the time allowances in the bill, therefore, to be exceedingly generous." Let me repeat that "The committee believes the time allowances in the bill to be exceedingly generous."

Despite the committee's recognition that it is being exceedingly generous, it includes a provision in the electrical equipment section authorizing the Secretary to grant waivers even after the 6-year period is over. To me, this is unconscionable. Six years is exceedingly generous. It provides more time than even the Department believes necessary according to the committee report. To grant further extensions makes a mockery of the conclusion that this equipment can cause methane ignitions which kill coal miners. To me this provision permitting open-ended extensions by the Secretary is tantamount to condemning our miners to the continued risks of mining operations which the Congress knows to be unsafe.

Further, the committee bill grants even the gassy mine operators up to 28 months to convert their grandfathered nonpermissible equipment to permissible after they have had 17 years to do so.

My amendment would limit the time to 15 months for grandfathered equipment, to 15 months for so-called nongassy mines below the water table and such mines above the water table that produce more than 50,000 tons annually, with authority to grant further extensions for unavailability of equipment of an additional 21 months, and to 28 months for such mines above the water table if they annually produce 50,000 tons or less per year, with authority for extensions for unavailability of equipment of an additional 20 months. My amendment would also require field testing of equipment, where appropriate, to facilitate approvals. Small horsepowered equipment would be required to be converted in 15 months.

Now I am disturbed that 4 years, plus 2 years, plus an indefinite waiver period is provided for nongassy mines. Under my amendment this would be tied down to 4 years. It would give plenty of opportunity to the operators to acquire sparkproof equipment. Four years is a long enough period of time. It would give enough of an opportunity to make this equipment permissible.

Mr. Chairman, we have heard a great deal of talk about how difficult it is for the small mines, how tough it is. They have a lobbyist who does effective work for them, and according to the reports filed with the Clerk of the House, this lobbyist is paid $35 per hour.

The gentleman from Pennsylvania (Mr. DENT) who brought in the 1966 act, and could be termed the father of that act, knows the predictions of gloom and doom that were made in 1966. In that year, safety standards were extended to mines employing under 15 men.

Mr. J. B. Taggart, the president of Wise Coal and Coke Co., testifying in September 1963, charged that this legislation, which only extended safety features to mines employing under 15, was a "conspiracy to get" those mines "out of business."

Mr. Robert H. Holcomb, president, the National Independent Coal Operators' Association, Inc., of Middlesboro, Ky., stated in 1963 that was a "bill that will, if passed destroy the truck-mining segment of the coal industry and quite possibly many small coal mines."

Those same cries have been made today, and I dare say the predictions of doom are just as inaccurate.

I see the gentleman from Illinois (Mr. GRAY) is present. I know he is interested in this amendment. I appreciate the support of the gentleman from Illinois. I appreciate the support of others.

I particularly appreciate the support of the committee, which I reiterate once again states in its own report, on page 23:

> The Department of the Interior has indicated a period of 5 years will be required for the mine equipment manufacturing industry to produce permissible replacement equipment in sufficient quantities for all underground mines. If the Department alters its present policy of requiring all inspections of permissible equipment to be made in Pittsburgh, and permits field inspections, the period necessary to produce sufficient equipment should be reduced.

My amendment does just that. It affords field inspections, which can do this at a very low price.

I ask that my amendment be adopted.

Mr. ERLENBORN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, if there was any part of this bill which was more difficult than the particular section we are now considering I do not know what it would be.

All the bills introduced on behalf of the administration and on behalf of other interested parties abolished the nongassy classification which had historically been in the bill since the inclusion of title I mines.

The draftsmen of these several bills had not given much thought to the impact of doing away with the nongassy classification and the cost of complying with the requirements of having permis-

sible equipment in all mines. They became aware of this. The members of our committee and, obviously, from the action they took, the other body became aware that something had to be done to ameliorate the impact of doing away with the nongassy classification.

We have a very carefully worked out provision in this bill that seems to satisfy, first of all, the safety requirements in seeing that as soon as possible the nonpermissible equipment will be out of the mines and also recognizing the time that it will take to reach that point. It is going to take some 4 to 6 years and maybe longer than that before the industry that is manufacturing the permissible equipment will be able to supply sufficient equipment. If the amendment offered by the gentleman from West Virginia is adopted, there is one thing that I can guarantee will happen. Many mines will be closed. Miners are not going to be helped by having their jobs destroyed.

I can assure you of one other thing. If the provisions of the committee bill are sustained on the floor and become law, then the safety of the miner will be assured. Not one miner in the last 18 years has lost his life as a result of the use of large nonpermissible equipment in the nongassy mines in this country. Not one.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Is the gentleman familiar with the accident in 1962 in the Blue Blaze Co. where a disaster resulted in the death of 11 miners?

Mr. ERLENBORN. I am not aware of individual accidents. I can tell the gentleman that the Bureau of Mines has given us a list of all of the accidents in the nongassy classified mines and identified the cause of the accident in each one. In no case was it the use of nonpermissible equipment, with the exception of the small hand drills and small equipment. The large equipment covered by the committee amendment in no case was identified as the cause of a mine explosion which resulted in death.

Mr. HECHLER of West Virginia. Will the gentleman yield further?

Mr. ERLENBORN. I yield to the gentleman.

Mr. HECHLER of West Virginia. I placed on the Record last Thursday a list of all the accidents at so-called nongassy mines. There have been even more recent cases of fires in so-called nongassy mines. Yes, there have been accidents where there wasn't supposed to be any methane, yet a spark from nonpermissible equipment caused mine accidents. I think that the gentleman will acknowledge that there is really no such thing as a nongassy mine, because there is always the danger of someone striking a pocket of methane. Up to now we have given the benefit of doubt to death. Let us in this bill give the benefit of doubt to life and try to protect the miners in every instance.

Mr. ERLENBORN. Of course, the gentleman makes an appealing argument, but I reiterate that according to the records of the Bureau of Mines the type of equipment we are talking about here, which is large equipment—the continuous coal miners and so forth—has not been a cause of one single fatality in the last 18 years in a nongassy mine. Based on this, I fought for a long time to keep the nongassy classification, and I would be fighting here today to keep this nongassy classification—and I would have good reason to do so, and I have good arguments to sustain that position—but I have agreed with the committee to stretch out this period of time for a reasonable period in order to do away with all nonpermissible equipment in the small mines.

I hope this carefully drawn provision of the committee bill is maintained.

Mr. BURTON of California. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from California.

Mr. BURTON of California. As the gentleman from Illinois knows, I for one favor the elimination of any distinction between gassy and nongassy. The absolute fact of the matter is—and I would like to impress my colleagues on our side of the aisle—that I am not married to this proposal. The fact of the matter is we have given our word, to be sure, that this very important bill would not be encumbered with the confusion attendant on extensive division on the gassy-nongassy issue.

In this very important area we have said that we were going to support the full committee's recommendations on the floor. I stand before you urging my colleagues to do so. We have the finest piece of safety legislation that has ever been passed anywhere by any legislative body in the world. It is a little too late in the day to sweeten the package at this time. In my judgment, it would be the wrong thing to do. I hope this amendment is defeated for that reason.

In conference, I intend to join with Congressman DENT, in cutting back on the time provisions in section 305.

Mr. FLOOD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to make it clear, although it has been said during general debate, but I would like to ask the distinguished chairman of the subcommittee, the gentleman from Pennsylvania (Mr. DENT), insofar as the so-called small hand equipment is concerned, as I understand it much of this equipment is immediately available in many numbers which is required in many mines, gaseous or nongaseous, or what have you and will be so available upon the passage of this bill?

Mr. DENT. This equipment will be available and required within the period of 1 year after the operative date of the title. So, therefore, we put it so that they must obtain this equipment in that time period.

Might I say to the gentleman from Pennsylvania that we have done something else in this bill. We have said that no machinery can be replaced in what used to be designated as a nongassy mine, except permissible equipment. We have also said that no major overhauls could be made of nonpermissible machinery which has deteriorated to the point that it requires such overhaul repairs. In other words, that machinery has to be discarded and permissible equipment put in.

Mr. FLOOD. That was the second question I was going to ask the gentleman from Pennsylvania.

As the gentleman knows, I come from the hard coal fields. Insofar as we are concerned every mine is gaseous. I do not care what degree you look at it or anything else. Every hard coal mine is gaseous, from a dog hole down to 2,000 feet. I know my miners. My family were miners, my wife's family were miners, and my neighbors were miners. I want to be sure that this equipment, this so-called small equipment, will be available within 1 year after the passage of this bill.

Mr. DENT. I might say that the gentleman made a statement which in my opinion is an overriding factor within the minds of all of us in this Chamber today and that is this: We have been trying since the first mine safety law was enacted—on a Federal or State basis everywhere in this country—to remove the artificial and unscientific distinction between gassy and so-called nongassy mines. We are the only country in the world today that still allows the designation of a nongassy mine. There is no such animal. Some mines are more gaseous than others, but they are all gassy, as evidenced by the deaths and injuries over the years at mines that were not supposed to have gas.

Mr. FLOOD. You can be sure of that when it comes to hard coal mines.

Mr. DENT. And I might say at this time we are removing that distinction. We tried to do it in 1966, but I was defeated in that effort. We have it now. This bill removes the distinction. We are only doing that which the full committee thought had to be done in the face of all the testimony, all the testimony from the manufacturers of the equipment, from distributors of the equipment, who said it would take a considerable time to get this equipment. I want to make it clear, however, that I and the committee want this time to be the shortest possible. But the committee provided 4 years with a 2-year extension, at the discretion of the Secretary, now the Panel.

Mr. FLOOD. The reason I took this time is that I want this equipment today and insofar as this debate is concerned you would think there was only one coal mine in the entire country, a bituminous or soft coal mine. There is only one coal and that is anthracite. You know that.

Mr. DENT. I do not concede that point to the gentleman.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. I think one of the strongest arguments for my amendment are the words of the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. DENT) which appear in the RECORD of Monday of this week when he said, in effect, it should be noted here that a considerable segment of the Committee do not feel the additional time period for nongassy mines to obtain permissible electric face equipment was justified. It

was felt that the arguments made by representatives of such mines to retain the present distinction were wholly inadequate and I am pleased that the distinction was, in fact, removed.

I think we ought to take a bold step here. Four years is certainly enough. Four years is a long time. A lot of men can be killed in 4 years. Certainly this equipment can be made permissible within that period of time.

Mr. Chairman, I ask for support of the amendment.

Mr. DENT. Mr. Chairman, if the gentleman will yield further, I think this particular section has been bandied around enough in the press. It has been misrepresented by some. I do not think they did it maliciously. It has been called a "sellout" and a "loophole."

Let me say this to you: This bill is good legislation when you take into consideration all of the facts and all of the testimony. Certainly, in connection with this one provision, there were a few of us who wanted to hold it to less than 4 years. I am sure that we will improve upon this provision in conference to everyone's, particularly the miner's, satisfaction.

Mr. FLOOD. This is the best mine law in the world.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DENT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take the full 5 minutes. I want to just say this to you: that the overriding factor is that we are eliminating so-called nongassy mines. There are only 1,200 that are called title II mines in the United States. The manufacturers of the equipment have been attuned to the building of permissible equipment for only about 500 mines, and we are now dumping 3,500 more mines into their laps. They cannot possibly make the kind of equipment that we demand in these mines overnight. The gentleman from West Virginia should know that. He did not attend the hearings, and he may not know all we found out from questioning the witnesses. And I know that we are not going to say to the miners of America that we are going to give you an empty pocketbook. We are saying to the miners of America this is the type of permissible equipment that is needed, and this type of permissible equipment will be furnished by the end of this period of time.

We hope it can be done in 2 years and not the full 4 years. But we have also put in the RECORD and in the report of the committee the statement of fact that the Secretary must submit to the committee every 6 months a report on the progress of obtaining the necessary equipment, and to obtain the records on how many mines have gone over to this permissible type of equipment, and other relevant information.

Let me just read you one little statement, and I wish you would take it as a kindly bit of advice.

Mr. Chairman, I have waited a long time to see this day, as the distinguished gentleman from Pennsylvania (Mr. FLOOD) has; to see that we eliminate the nongassy designation. I am reminded of the parable—

A man watches his pear tree day after day, impatient for the ripening of the fruit. Let him attempt to force the process, and he may spoil both fruit and tree. But let him patiently wait, and the ripe fruit at length falls into his lap.

And we just want to have it in our lap, and let us keep it there and let us not destroy it with any more demagogery.

Mr. OLSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I shall not take the full 5 minutes.

Mr. Chairman, I address myself to the chairman of the subcommittee, and I want to congratulate the gentleman on the great effort he has made on this bill.

I would hope that, as and when it happens, there is going to be a shorter time limit on permissible tools, and that he will, as he told us he will, go for a shorter period.

Mr. DENT. If the gentleman will yield; absolutely.

Mr. OLSEN. Mr. Chairman, we are considering today a bill of vital importance to the coal miners of the United States, to their families, and to the men who have retired after long years of service from the mining industry of America.

I am from a State with vast reserves of bituminous coal and lignite. I, with the rest of the congressional delegation from Montana, look forward to seeing to the development of those coal resources. Such development means much to my State, to its citizens, and to its future.

But I want to insure that the coal resources of Montana will be developed without causing the death and injury among the coal miners who will produce Montana's resources. I want to insure that human life and suffering is not a part of the cost of production of Montana coal.

Mr. Chairman, some years ago, 75 men were killed in an explosion in the State of Montana. That explosion came at a time when the lives of coal miners were considered to be expendable and when death, injury, and disease was an all too common companion of the men who went underground. Happily, Mr. Chairman, those days are now past. The Congress of the United States has taken cognizance of the intolerable burdens of death, injury, and disease in the coal-mining industry and has reacted to the pleas from America's coal miners for surcease.

In November of 1968, a disaster occurred at Farmington, W. Va. This disaster, which took the lives of 78 men, brought public attention to focus upon the inadequacies of coal mine safety legislation. In addition, the continuing toll of disease in our Nation's coal industry came to public attention and aroused the heretofore apathetic public to demand remedial legislation.

So it was that early in this session of the Congress, legislation was introduced to update and improve the Federal Coal Mine Safety Act and to include in it provisions to prevent occupational disease in mining.

The first and most stringent legislative proposal came from the United Mine Workers of America. This union, which had over the years, carried on efforts to bring health and safety to coal miners, asked that the Congress immediately pass legislation to bring safety and health regulations to a par with technological improvements and productivity advances.

Among other things, the mine workers requested—

A mandatory health standard of 3 milligrams of respirable dust per cubic meter of air in 1 year;

Improved ventilation throughout the mine;

A rescue chamber to which men could go in the post disaster period;

The stationing of a Federal mine inspector at any mine considered to be liberating excessive quantities of methane;

The elimination of the artificial distinction between gassy and nongassy mines; and

A provision to provide compensation for sufferers from black lung who were not covered under State compensation laws.

Over the ensuing months, legislative activity on a Federal Coal Mine and Health Safety Act has been feverish. Hearings have been held, drafting has been done and the Labor Committee has come forth with a bill which is now pending before this body.

It is a good bill, Mr. Chairman, a bill that in many ways embodies the recommendations made by the United Mine Workers in the early days of this session. It is a bill which reflects the concern that the gentleman from Pennsylvania (Mr. DENT) and the other members of the committee have for the men who work in America; for their wives and children, who each day face grim possibility that their husbands, brothers, loved ones, will die as the result of a mine accident.

I commend the Committee on Education and Labor for the work they have done. I know that they have earned the gratitude of the American coal miner and his family. This bill is a tribute to their concern and to their belief that human lives must take priority over corporate profits and to their willingness to translate their humanitarian motives into solid legislative language to protect the men they represent.

As I have read this bill, Mr. Chairman, I find myself in substantive agreement with most of its provisions. There is one, however, which I feel should be strengthened if the bill is to become responsive to the need. That is the portion having to do with the use of permissive equipment in coal mines.

At the present time, many mines are operated with nonpermissible equipment. These mines are considered to be nongassy and as such they need not assume the presence of explosive quantities of methane, and operate accordingly.

This section of the Federal Coal Mine Safety Act is a dangerous anachronism that should not have been written and it should not have remained there as long as it has. Every coal mine is potentially gassy. Every coal mine possesses a constant threat for explosion. Even as the debate on this issue was being carried on in committee, a supposedly nongassy mine in the State of West Virginia had a gas ignition which injured three men.

Certain segments of the coal operating industry have argued that the nongassy distinction should remain. Failing in that argument, they have successfully postponed the effective date when their mines would be required to operate using permissible equipment. This should not have happened, Mr. Chairman. All operators should be on notice that they must in the immediate future install, use, and maintain only equipment in a permissible manner. I would suggest, Mr. Chairman, that the time limit be reduced. I would suggest that such a limit represent a reasonable approach to a critical problem.

I recognize that this will require a certain amount of haste on the part of the nongassy operator. On the other hand, the alternative is the continued threat of death and injury because of unneeded methane explosions. That alternative to a reasonable man is obviously unacceptable.

Farmington showed the American public that death remained a constant companion of the coal miner. In view of Farmington, the Congress has received the public endorsement of an effective coal mine statute. Let us take advantage of this endorsement and pass into law legislation truly responsive. I suggest, Mr. Chairman, that such legislation would close the current loophole given to nongassy operators and would require them in the shortest possible time to operate their mines with permissible equipment.

I sincerely hope that the committee will tighten up this part of the legislation when in conference with the Senate.

Mr. GRAY. Mr. Chairman, the problem of coal mine safety is with us again as it has been year after year since the late John L. Lewis decided that coal mine safety could not be promoted in the various mining States and the Congress of the United States should be asked to do something about the slaughter of men in the coal mines. Now we have a new problem added to the one of safety. Since the advent of using machinery to cut and load the coal, more and more miners are contracting that dreaded and disabling disease known in coal-mining circles as "black lung," formerly called "miners asthma." Now the medical circles call it "pneumoconiosis." By whatever name it is called, something should be done about it. If the men who operate the coal mines will do nothing about it, the Congress of the United States should. These men who mine the Nation's coal should be protected in every way possible.

So now we have a new bill before us, just as we have had in past years. Are we going to do as we have in the past, weaken it, water it down until it bears little resemblance to what the committee brought out?

Mr. Chairman, I was for the amendment that gave the coal operators 1 year to get rid of their spark-producing machinery and replace it with permissible machinery. It was in the original bill offered by the committee. It was in the bill when it was being considered and was there until almost the last meeting. And what happened? Just what has happened over the years when mine-safety legislation was being considered by the Congress. It is a funny thing, or it would be funny if it were not so tragic.

I listened to the hearings that were held by the subcommittee, I even testified. I heard prominent men who have charge of vast mining interests tell the committee that they would cooperate with the committee and abide by the legislation the committee prepared. They were most abject, contrite and conscience-stricken. But when the Bureau of Mines and the Department of the Interior were trying to find a middle ground on a bill, the coal operators were there fighting every inch of the way against any suggestions that were going to increase the cost of mining. They made their protestations to the committee and promised cooperation but their representatives were calling on Members of Congress protesting proposed committee action on doing anything that might add to their costs.

They said, let the States write the law and enforce it. The Congress heard the same cries when the first bill was introduced in 1938 by the late Congressman Kent Keller from Illinois, one of my predecessors. The Congress heard it in every Congress from that year on and especially was it emphasized when anyone was able to get a hearing on his bill to make coal mining safer. We heard it long and loud when the small mines safety bill was passed in the 89th Congress. It will put all the small mines out of business, they said. But here they are up here with the same cry and again the Congress has listened to them.

Mr. Chairman, every disinterested man who knows anything about coal mining knows that there is no such thing as a nongassy mine. Oh, yes, they go for years and not find any gas but any day that they break into the virgin coal seam there is always the chance they will break into a pocket of gas that has been imprisoned there for centuries. Every coal miner knows it. So does every man engaged in coal mining, the coal operators as well as the Federal inspectors. The recent history of coal mining bears evidence that many mines have blown up, that were labeled nongassy. Many men have been killed in explosions of these so-called nongassy mines.

But what has happened? We heard the loud criticism from the public when the Mannington mine blew up. The Congress, the coal operators, the UMWA, were all accused of not doing their duty. The newspapers were full of criticism of all of us. The public was demanding that something drastic must be done to protect the lives and health of the men who mine the Nation's coal. How many Mannington's how many Centralias, how many West Frankforts, how many more explosions, how many more coal miners must die, buried alive in a coal mine, before the Congress of the United States quit listening to certain coal operators and give them the option of making their mines safe, taking care of their employees who contact black lung in their jobs. I say the time is now, and if the Congress does not want protection for coal miners to say so and to tell them to find work somewhere else.

Mr. Chairman, both bodies of this Congress, guided by the advice of experts in the art of coal mining, came out with a bill that provided that all mines were to be considered gassy and that operators of all mines must have permissible, nonsparking machinery in their mines within 1 year of the passing of the legislation. And what happened. Emissaries of the coal operators descended on this 91st Congress with loud wailings and protestations that we will be put out of business. The same cry that Congress has heard since 1938, in every session. Some Members of the other body listened to the same old war cry, and as a result their bill was amended to allow the coal operators 4 and 5 years to replace their dangerous machinery. Then the Subcommittee on Labor sent a bill to the full committee with a maximum time of 2 years, and when the full committee took final action, lo and behold, it was also amended to allow the coal operators, not only 4 and 5 years but, at the option of the Secretary of the Interior, to go on and on ad infinitum.

Mr. Chairman, this is the modern version of the "grandfather clause" that was inserted in the Mine Safety Act passed in 1952. In the 17 years since the Congress passed that bill, there is no history of any coal operator in a so-called nongassy mine ever replacing his old and spark-producing machinery with modern permissible machinery that would give his coal miners added protection. They have in this bill permission to continue to use this dangerous machinery, they have been permitted to continue to keep a dangerous and unhealthy amount of dust in the air, all at option of the Secretary of the Interior, and I disagree with the committee on both points.

Mr. Chairman, the bill passed in 1952 was a good bill as far as it went. It would have saved the lives of many coal miners, probably those who died and were buried in the Mannington disaster. But it was never properly administered and enforced. After Mannington, when the public indignation demanded something be done, the Bureau of Mines made a great show of enforcement. More mines were shut down in a few months than were shut down in the 17 years that passed after the Congress voted out the first mine safety bill that possessed some teeth. Now we are faced with the same situation, the identical problem that faced all the other Congresses since 1938. Are we going to back up now that the public indignation has passed and the newspapers, radio, and television no longer talks about the disaster? Are we going to wait until we have another Mannington, Centralia, West Frankfort, or a Straight Creek, Ky., before we take the action that we know is necessary? This problem of mine safety will be with us and the following Congresses until proper action is taken. I say now is the time.

Mr. Chairman, I particularly want to commend the committee for allowing our request to compensate the sufferers of pneumoconiosis, the so-called black lung disease. I appreciate the courtesy of the members of the committee in allowing me to appear before your committee in behalf of the compensation bill that Congressman KEE of Virginia and I offered to the committe and has been incorporated into the present bill H.R. 13950, now before us. This will go a long way to help our miners in southern Illinois and their families.

Mr. Chairman, in closing, let me say a few words in behalf of my good friend and a great champion of the coal miner and his family, W. A. "Tony" Boyle, the strong president of the United Mine Workers of America. His mark is on this bill. His imprint has been on every safety and welfare bill to pass this Congress in recent years. Higher pay, more liberal pensions, both for miners and their widows, better working conditions, and certainly safer mines to work in are all high priority items of "Tony" Boyle. As we give thanks to Congress today for this step forward for safety and compensation for black lung sufferers we also owe a great debt to Tony Boyle and his U.M.W. of A.

Mr. Chairman, I hope we can get concessions in conference with the other body and bring to the President for his signature a bill that will retain the good features and eliminate the bad that I have listed here today. Thank you.

Mr. STEIGER of Wisconsin. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Wisconsin is recognized.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I am happy to yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding. I wish to commend my colleagues on the subcommittee and the full committee for having worked so hard to resolve this problem and make passage of the bill possible. I hope that the House will sustain the judgment that they have exercised. This is a carefully drawn provision of the bill. It provides safety during the interim and will not accomplish the very undesirable consequence that I am afraid the amendment offered by the gentleman from West Virginia might accomplish, and that is closing the mines and destroying jobs for no reason. I hope his amendment is rejected.

Mr. STEIGER of Wisconsin. Mr. Chairman, I support the committee position and oppose the Hechler amendment. I am a little concerned about the kind of demagoguery that is used by some who are in support of the amendment on the basis that this is a loophole in the committee bill. I have prepared, though I hope I do not have to offer it, an amendment that was proposed in the other body by that distinguished Senator from Kentucky, which would close down any mine that has suffered two explosions.

If we are going to talk about the provisions of the bill as if there were a loophole present, then let us recognize that this bill is subject to being accused of having all kinds of loopholes by continuing in operation mines of whatever character, gassy, or nongassy, that have been subject already to explosions and loss of life.

So I merely wish to make sure that the gentleman from West Virginia and any who desire to support this amendment are aware of the fact that if we are concerned about saving lives, and if we are concerned about the economics of maintaining certain mines in operation, and the accusation is lodged against the Committee on Education and Labor that that is what the bill does in its present form, then I think you ought to be well aware of the fact that the committee provision has been carefully drawn. It ought not to be disturbed. I am fully prepared to go a lot further, but will not, hopefully, if the amendment offered by the gentleman from West Virginia is defeated, as I hope it will be.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I am happy to yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. There have been 87 ignitions in the past 28 years with 84 miners killed and 114 injured in the type of so-called nongassy mine we are talking about here. It has been well said that a miner can be killed just as surely and just as dead in a nongassy mine as in a gassy mine. I would say that, so far as the drafting of the language is concerned, I think the best criticism of this language is contained in the remarks of the very able chairman of the subcommittee which I quoted, which indicate that there was considerable unhappiness concerning this particular provision. This covers both small and large so-called nongassy mines.

Mr. STEIGER of Wisconsin. I will say to the gentleman from West Virginia that in the same period of 16 years there were 400 explosions in only 392 gassy mines and nearly 400 people were killed, as contrasted with the figures just given by the gentleman from West Virginia in the 3,200 nongassy mines.

Mr. HECHLER of West Virginia. That is correct. Neither record is acceptable.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER) to the amendment offered by the gentleman from Pennsylvania (Mr. DENT).

The amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment in the form of a substitute for title III offered by the gentleman from Pennsylvania (Mr. DENT).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE IV—ADMINISTRATION

RESEARCH

SEC. 401. (a) The Board shall establish objectives for the conduct of such studies, research, experiments, and demonstrations as may be appropriate—

(1) to improve working conditions and practices, prevent accidents, and control the causes of occupational diseases originating in the coal-mining industry;

(2) to develop new or improved methods of recovering persons in coal mines after an accident;

(3) to develop new or improved means and methods of communication from the surface to the underground portion of the mine;

(4) to develop new or improved means and methods of reducing concentrations of respirable dust in the mine. Such research shall consist primarily, but not exclusively, of (I) studies of the relationship between coal mine environments and occupational diseases of coal mine workers; (II) epidemiological studies to (i) identify and define positive factors involved in the diseases of coal miners, (ii) provide information on the incidence and prevalence of pneumoconiosis and other respiratory ailments of coal miners, and (iii) develop criteria on the basis of which coal mine standards can be based; (III) medical prevention and control of diseases of coal miners, including tests for hypersusceptibility and early detection; (IV) evaluation of bodily impairment in connection with occupational disability of coal miners; (V) development of methods, techniques, and programs of effective rehabilitation of coal miners injured or stricken as a result of their occupation; and (VI) setting the requirements, extent and specifications for the medical examinations provided in section 203 of this Act, and utilizing and studying the material, data, and findings of such examinations for the preparation and publication, from time to time, of reports on all significant aspects of the diseases of coal miners as well as on the medical aspects of injuries other than diseases, which are revealed by the research carried on pursuant to this subsection;

(5) to study the relationship between coal mine environments and occupational diseases of coal mine workers; and

(6) for such other purposes at it deems necessary to carry out the purposes of this Act.

(b) To accomplish the objectives established in subsection (a), the Board shall distribute funds available to it after reserving funds necessary for carrying out section 203(a) as equally as practicable to the Secretaries of Health, Education, and Welfare and of Interior. Activities under this section in the field of coal mine health shall be carried out by the Secretary of Health, Education, and Welfare, and activities under this section in the field of coal mine safety shall be carried out by the Secretary of the Interior. In carrying out activities under this section the Secretaries of Health, Education, and Welfare and of the Interior may enter into contracts with, and make grants to, public and private agencies and organizations and individuals. Such Secretaries shall consult and cooperate with the Board on specific projects and programs. No research shall be carried out, contracted for, sponsored, cosponsored, or authorized under authority of this Act, unless all information, uses, products, processes, patents, and other developments resulting from such research will (with such exception and limitation, if any, as the Secretary or the Secretary of Health, Education, and Welfare may find to be necessary in the interest of national security) be available to the general public.

(c)(1) Each operator of a mine shall, at such times as the Board may prescribe, pay to the United States a royalty equal to 2 cents for each ton of coal he produces for use or sale. When the Board determines funds available to it under paragraph (2) of this subsection are sufficient to carry out section 203(a) and the activities under subsection (b) of this section, it may reduce the royalty required in the first sentence of this paragraph for such periods as it deems appropriate. The royalties so paid are hereby appropriated to the Board for use by it in carrying out this section. In the event an operator fails to pay the royalty required by this section, he shall be liable to the United States in an amount equal to double the amount he failed to pay. The Board may require such reports and shall have such access to the books and records of the operator as may be necessary for the effective enforcement of this paragraph.

(2) In addition to the amount made available under paragraph (1), there is authorized to be appropriated to the Board for each fiscal year an amount equal to 2 cents for each ton of coal produced for use or sale by operators during the preceding fiscal year for use by it in carrying out this section. In addition, there is authorized to be appropriated each fiscal year to the Board for use by it in carrying out this section, an amount equal

to any amount granted by any State to the Board for such fiscal year for carrying out this section, except that the appropriation based on the State's grant may not exceed an amount equal to 1 cent per ton of coal produced for use or sale from coal mines in such State during the preceding fiscal year.

TRAINING AND EDUCATION

SEC. 402. The Secretary shall expand programs for the education and training of coal mine operators, agents thereof, and miners in—

(1) the recognition, avoidance, and prevention of accidents or unsafe or unhealthful working conditions in coal mines; and

(2) in the use of flame safety lamps, permissible methane detectors, and other means approved by the Secretary for accurately detecting gases.

ASSISTANCE TO STATES

SEC. 403. (a) The Secretary, in coordination with the Secretaries of Labor and of Health, Education, and Welfare, is authorized to make grants to any State, in which coal mining takes place—

(1) to conduct research and planning studies and to carry out plans designed to improve State workmen's compensation and occupational disease laws and programs, as they relate to compensation for pneumoconiosis and injuries in coal mine employment; and

(2) to assist the States in planning and implementing other programs for the advancement of health and safety in coal mines.

(b) Grants under this section shall not extend beyond a period of five years following the effective date of this Act.

(c) Federal grants under this section shall be made to States which have a plan or plans approved by the Secretary.

(d) The Secretary shall approve any plan which—

(1) provides that reports will be made to the Secretary, in such form and containing such information, as may reasonably be necessary to enable him to review the effectiveness of the program or programs involved, and that records will be kept and afford such access thereto as he finds necessary or appropriate to assure the correctness and verification of such reports;

(2) provides such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting for Federal funds paid to the State;

(3) contains assurances that the State will not in any way diminish existing State programs or benefits with respect to pneumoconiosis and related conditions; and

(4) meets any additional conditions which the Secretary may prescribe by rule in furtherance of the provisions of this section.

(e) The Secretary shall not finally disapprove any State plan, or modification thereof, without affording the State reasonable notice and opportunity for a hearing.

(f) The amount granted any State for a fiscal year under this section may not exceed 80 per centum of the amount expended by such State in such year for carrying out such programs, studies, and research.

(g) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, and each of the succeeding fiscal years for carrying out this paragraph, the sum of $1,000,000.

EQUIPMENT

SEC. 404. The Secretary is authorized during the period ending five years after the date of enactment of this Act, to make loans to operators of coal mines to enable them to procure or convert equipment needed by them to comply with the provisions of this Act. Loans made under this section shall have such maturities as the Secretary may determine, but not in excess of twenty years. Such loans shall bear interest at a rate which the Secretary determines to be adequate to cover (1) the cost of the funds to the Treasury, taking into consideration the current average yields of outstanding marketable obligations of the United States having maturities comparable to the maturities of loans made by the Secretary under this section, (2) the cost of administering this section, and (3) probable losses. In carrying out this section, the Secretary shall to the extent feasible use the services of the Small Business Administration pursuant to agreements between himself and the Administrator thereof.

INSPECTORS; QUALIFICATIONS; TRAINING

SEC. 405. The Secretary may, subject to the civil service laws, appoint such employees as he deems requisite for the administration of this Act and prescribe their duties. Persons appointed as authorized representatives of the Secretary under the provisions of this section shall be qualified by practical experience in the mining of coal or by experience as a practical mining engineer and by education. Such persons shall be adequately trained by the Secretary. The Secretary shall seek to develop programs with educational institutions and operators designed to enable persons to qualify for positions in the administration of this Act. In selecting persons and training and retraining persons to carry out the provisions of this Act, the Secretary shall work with appropriate educational institutions and operators in developing and maintaining adequate programs for the training and continuing education of persons, particularly inspectors, and, where appropriate, shall cooperate with such institutions in the conduct of such programs by providing financial and technical assistance.

EFFECT OF OTHER LAW

SEC. 406. (a) No State law in effect upon the effective date of this Act or which may become effective thereafter, shall be superseded by any provision of this Act or order issued or standard promulgated thereunder, except insofar as such State law is in conflict with this Act or with any order issued or standard promulgated pursuant to this Act.

(b) The provisions of any State law or regulation in effect upon the effective date of this Act, or which may become effective thereafter, which provide for more stringent health and safety standards applicable to coal mines than do the provisions of this Act or any order issued or standard promulgated thereunder shall not thereby be construed or held to be in conflict with this Act. The provisions of any State law or regulation in effect upon the effective date of this Act, or which may become effective thereafter, which provide for health and safety standards applicable to coal mines for which no provision is contained in this Act or any order issued or standard promulgated thereunder, shall not be held to be in conflict with this Act.

ADMINISTRATIVE PROCEDURES

SEC. 407. The provisions of sections 551–559 and sections 701–706 of title 5 of the United States Code shall not apply to the making of any order or decision made pursuant to this Act, or to any proceeding for the review thereof.

REGULATIONS

SEC. 408. The Secretary is authorized to issue such administrative regulations as he deems appropriate to carry out any provision of this Act.

OPERATIVE DATE AND REPEAL

SEC. 409. The provisions of titles I and III of this Act shall become operative 90 days after enactment. The provisions of title II of this Act shall become operative six months after enactment. The provisions of the Federal Coal Mine Safety Act as amended, are repealed on the operative date of titles I and III of this Act, except that such provisions shall continue to apply to any order, notice, or finding issued under that Act prior to such operative date and to any proceedings related to such order, notice, or finding. All other provisions of this Act shall be effective on the date of enactment of this Act.

SEPARABILITY

SEC. 410. If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

REPORTS

SEC. 411. (a) Within one hundred and twenty days following the convening of each session of Congress, the Secretary shall submit through the President to the Congress and to the Office of Science and Technology an annual report upon the subject matter of this Act, the progress concerning the achievement of its purposes, the needs and requirements in the field of coal mine health and safety, the amount and status of each loan made under section 404, a description and the anticipated cost of each project and program he has undertaken under section 401, and any other relevant information, including any recommendations he deems appropriate.

(b) Within one hundred and twenty days following the convening of each session of Congress, the Secretary of Health, Education, and Welfare shall submit through the President to the Congress, the Secretary, and to the Office of Science and Technology an annual report upon the health matters covered by this Act, including the progress toward the achievement of the health purposes of this Act, the needs and requirements in the field of coal mine health, a description and the anticipated cost of each project and program he has undertaken under section 401, and any other relevant information, including any recommendations he deems appropriate. The first such report shall include the recommendations of the Secretary of Health, Education, and Welfare as to necessary health standards, including his recommendations as to the maximum permissible individual exposure to coal mine dust during a working shift.

SPECIAL REPORT

SEC. 412. (a) The Board shall make a study to determine the best manner to coordinate Federal and State activities in the field of coal mine health and safety so as to achieve (1) maximum health and safety protection for miners, (2) an avoidance of duplication of effort, (3) maximum effectiveness, (4) reduce delay to a minimum, and (5) permit most effective use of Federal inspectors.

(b) The Board shall make a report of the results of its study to the Congress as soon as practicable after the date of enactment of this Act.

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that further reading of title IV be dispensed with and that it be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Beginning on page 108, line 23, through page 110, line 2, subsection 401(c) is amended to read as follows:

"(c) There is hereby authorized to be appropriated for each fiscal year such sums as may be needed to carry out the purposes of section 203(a) and of this section."

On page 110, between lines 2 and 3, insert the following new subsections (d) and (e):

"(d) No payment may be required of any coal miner in connection with any examination or test given him pursuant to subsection (a) of section 203. Where such examinations or tests cannot be given due to the lack of adequate medical or other necessary facilities or personnel in the locality where the miner resides, arrangements shall be made to have them conducted in such locality by the Secretary of Health, Education, and Welfare, or by an appropriate and qualified person, agency or institution, public or private, under an agreement or arrangement between the Secretary of Health, Education, and Welfare and such person, agency or institution. Such examinations and tests shall be conducted in accordance with the provisions of subsection (a) of section 203. The operator of the coal mine shall reimburse the Secretary of Health, Education, and Welfare, or such person, agency or institution, as the case may be, for the cost of conducting each such examination or test and shall pay whatever other costs are necessary to enable the miner to take such examinations or tests.

"(e) If the death of any active miner occurs in any coal mine, or if the death of any active or inactive miner occurs in any other place, the Secretary of Health, Education, and Welfare is authorized to provide for an autopsy to be performed on such miner, with the consent of his surviving widow or, if he has no such widow, then with the consent of his next of kin. The results of such autopsy shall be submitted to the Secretary of Health, Education, and Welfare and, with the consent of such survivor, to the miner's physician or other interested person. Such autopsy shall be paid for the Secretary of Health, Education, and Welfare."

Mr. BURTON of California (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with, and that it be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, I would like to explain the amendment just very briefly. In the bill as reported by the clerk there was a provision for a 2-cent per ton tax to be levied on every ton of coal mined in the United States for the purpose of financing health and safety research and to cover the cost of the periodic X-rays that are required under the bill to be made by the Department of Health, Education, and Welfare.

This amendment would first of all strike the provision for the tax. It would, secondly, insert a provision that the cost of the X-rays made by the Department of Health, Education, and Welfare on a periodic basis would be reimbursed by the coal mine operator for each one of the coal miners employed by him who has an X-ray taken.

In addition, this provides that HEW would have the authority, given the consent of the next of kin of a deceased miner who had pneumoconiosis, to conduct an autopsy for the purpose of furthering their health research.

This amendment has been discussed with the chairman of the subcommittee and the full committee and I understand it will be agreed to by them.

Mr. BURTON of California. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from California.

Mr. BURTON of California. Mr. Chairman, as I understand the autopsy amendment it is the amendment that was otherwise to have been offered by the gentleman from West Virginia (Mr. HECHLER). Is that correct?

Mr. ERLENBORN. The gentleman's understanding is correct.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, the Senate felt perhaps they might be treading on rather slim constitutional grounds, and therefore, they removed the requirement for payment of any royalty by the operator. We then challenged in various sectors whether or not this committee was out of order in that we were assessing the tax, and we do not have the jurisdiction to assess the tax. So when the gentleman from Illinois proposed we remove the 2 cents per ton royalty I took it up with certain individuals who are Members of this Congress and who have had a great deal more experience than I have had on questions of ways and means and prerogatives of our committee.

They said there was a question as to whether or not we had the right.

Therefore, I went to the gentleman and we discussed it. One thing was, if we took out the 2 cents, would the content of the amendment include that the operator must pay for all the charges made by HEW, not alone for the X-rays and the keeping of the records but in the instances where the opportunity to have the X-ray was not available for the miner at the place where he resided or worked that the miner would be reimbursed for his travel time and expenses through the same charge made to the operator.

Is that right or wrong?

Mr. ERLENBORN. Yes. I believe the wording the gentleman refers to is contained in the amendment at the end of the second paragraph.

Mr. DENT. Yes.

Mr. ERLENBORN. It is our understanding that the coal-mine operators will pay the cost of the X-rays and other charges which are necessary costs connected with them.

Mr. DENT. With that understanding, Mr. Chairman, I accept the amendment.

AMENDMENT OFFERED BY MR. BURTON OF CALIFORNIA TO THE AMENDMENT OFFERED BY MR. ERLENBORN

Mr. BURTON of California. Mr. Chairman, I offer an amendment to the amendment of the gentleman from Illinois (Mr. ERLENBORN).

The Clerk read as follows:

Amendment offered by Mr. BURTON of California to the amendment offered by Mr. ERLENBORN: Insert the following:

"(f) On and after the operative date of this title, the standards on noise prescribed under the Walsh-Healey Public Contracts Act, as amended, in effect Oct. 1, 1969, or any such improved standards as the Secretary may prescribe shall be applicable to each coal mine and each operator of such mine shall comply with them. Beginning six months after the operative date of this title, at intervals of at least every six months thereafter, the operator of each mine shall conduct, in a manner prescribed by the Secretary, tests by a qualified person of the noise level at the mine and certify the results to the Secretary. If the Secretary determines, based on such tests or any tests conducted by his authorized representative, that such standards on noise are exceeded, such operator shall immediately undertake to install protective devices or other means of protection to reduce the noise level in the affected area of the mine, except that the operator shall not require the use of any protective device or system which the Secretary or his authorized representative finds will be hazardous or cause a hazard to the miners in such mine."

Mr. BURTON of California. Mr. Chairman, I discussed this amendment with the full committee chairman and with the subcommittee chairman, and they have indicated it is acceptable to them.

This amendment contains the current Walsh-Healey requirements set by this administration in the area of noise and provides certain minimum test check and enforcement machinery. It is something which I believe should be done, and I urge its adoption.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. BURTON of California. I yield to my distinguished subcommittee chairman.

Mr. DENT. The Senate has a feature in its bill concerning noise in the mines. We discussed the matter, and decided to put something in the bill, so that we would have a position in the conference.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. BURTON of California. I yield to the gentleman from Illinois.

Mr. ERLENBORN. As the gentleman knows, he has explained this amendment to me. We have discussed it. I have not agreed to accept it.

Mr. BURTON of California. That is correct.

Mr. ERLENBORN. I feel that if it is within the field of health or safety the Secretary already has the authority to promulgate standards. One of the problems I see is that we would be adopting standards under the Walsh-Healey Act which probably apply to some mines already, and we will make them applicable to all mines. If it is truly a matter of health or safety the Secretary can do this without the amendment the gentleman offers.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. BURTON of California. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Was this subject matter of noise covered in the hearings?

Mr. BURTON of California. No.

Mr. STEIGER of Wisconsin. If the gentleman will yield further, am I correct in the belief that if the other body has adopted a section and this House does not, that does not foreclose consideration of that issue in the conference?

Mr. BURTON of California. That is correct.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to address a question to the gentleman from Illinois (Mr. ERLENBORN).

Do I understand that your amendment provides for an open ended funding authorization?

Mr. ERLENBORN. Will the gentleman yield?

Mr. GROSS. Of course.

Mr. ERLENBORN. The authorization contained in my amendment is open ended in that we have not set a dollar figure as a maximum. It will allow funds to be appropriated to the Department of Health, Education, and Welfare to conduct X-ray examinations which will then be reimbursed by the mine operators. It is anticipated that there will be little or no cost involved to the Federal Government and it will become a revolving fund. We have no estimate as to how much it will take to get it started. The moneys appropriated under this authority would be reimbursed by the coal mine operators.

Mr. GROSS. And you do not anticipate that there will be a substantial expenditure as to the amendment you offered?

Mr. ERLENBORN. If the gentleman will yield, he is correct. I anticipate no substantial expenditures.

Mr. GROSS. What about the administrative costs of the total bill itself? Do we have any estimate of the costs of this legislation and of the increased personnel, if there is to be any increase in personnel?

Mr. ERLENBORN. Will the gentleman yield further?

Mr. GROSS. Yes. Of course.

Mr. ERLENBORN. There is no estimate that I can recall from the hearings. It is anticipated that there will be additional personnel to the extent that the Bureau of Mines will be successful in having its request for additional mine inspectors honored by the Bureau of the Budget or the administration. However, others on the committee may have a better recollection of it than I. I do not recall any estimate of the cost of additional inspectors.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. GROSS. Yes. I yield to the gentleman.

Mr. DENT. The only major costs which will be assessable against the Government, the Treasury, will be for the administration of the act, such as for any additional mine inspectors, and so forth, for the payments provision, for the health provisions, and for the research. However, we have to have an open-end type of appropriation so that we will have sufficient money to do the things we have to do. At this point in time, we just do not know the exact cost and we did not want to preclude any of these activities from being undertaken by specifying a dollar authorization as such.

Mr. GROSS. But the gentleman from Pennsylvania does not anticipate that there is going to be any substantial increase in moneys taken from the Federal Treasury for the administration of this act. Is that correct?

Mr. DENT. As far as what the actual administrative expense will be, I frankly do not know. We have made changes in the legislation even today, thereby affecting its administrative cost. I hope whatever is required will be appropriated.

Mr. GROSS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. BURTON) to the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois, as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. DENT

Mr. DENT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DENT: On page 112, line 10, strike out "paragraph" and insert "section".

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania.

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia: On page 117, after line 17, insert: Title IV—Judicial Remedy.

"SEC. 501. Any miner in a coal mine subject to this Act who shall suffer personal injury in the course of his employment as a result of the gross negligence of the operator, may, at his election, maintain an action for damages at law, with the right of trial by jury, against the operator of the coal mine, and in such action all statutes of the United States modifying or extending the common-law right or remedy in cases of personal injury to railway employees shall apply; and, in case of death of any coal miner as a result of any such personal injury, the personal representative of such coal miner may maintain an action for damages at law, with the right of trial by jury, against the operator of the coal mine, and in such action all statutes of the United States conferring or regulating the right of action for death in the case of railway employees shall be applicable. Jurisdiction in such actions shall be under the court of the district in which the operator resides or in which his principal office is located. This section shall not preempt any existing State statutes or other provisions of this Act which provides for compensation for coal miners. Any recovery obtained under this section shall be reduced by any amounts received under such compensation statutes."

Mr. ERLENBORN. Mr. Chairman, I reserve a point of order on this amendment until the gentleman has time to explain it.

Mr. BURTON of California. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from California.

Mr. BURTON of California. Is this the amendment I offered and, that appeared in the subcommittee recommendation as our title V?

Mr. HECHLER of West Virginia. That is correct.

Mr. BURTON of California. Then, I would I like to commend the gentleman from West Virginia for his interest in this matter. As the author of title V in the subcommittee deliberations obviously I thought it was well drafted and needed and I obviously support it. I am just not sure at this stage of the game what we will do with it, but I would like to commend the gentleman from West Virginia for highlighting during floor debate this very important issue as it affects the rights of those injured in their work.

Mr. HECHLER of West Virginia. I thank the gentleman from California, and I might say that this outburst of good feeling at the end of the evening is greatly appreciated, and so much so that out of deference to the subcommittee and its able chairman, the gentleman from Pennsylvania (Mr. DENT), who has done such a fine job with this bill, that I intend in 2 or 3 minutes to ask unanimous consent to withdraw my amendment.

My amendment would simply authorize suits by miners or their survivors when a miner is injured as a result of the gross negligence of the operator. Under our present State workmen's compensation laws, the compensation takes away the right of the miner to sue. He ought to have the right to sue with a trial by jury, which is a right afforded to railroad employees since 1908. And for over 60 years railroad workers have been even better protected because they only need the test of simple negligence and not gross negligence, as is contained in my amendment.

State compensation laws are totally inadequate in this area. They provide short-term payments to the injured to carry them over the period of disability, but do not compensate them fully for lost wages or pain and suffering resulting from these injuries.

I understand that experience has shown under other Federal statutes where this authority is now established that most cases are settled before they reach the trial stage. I further understand that where the employees are represented by a union contracts are generally negotiated with management whereby payments are made by management that are far higher than compensation law payments. Thus, the employee does not have to undergo the expense of lawyers' fees and the lengthy trials and appeals which might be expected to follow.

I would also like to emphasize that one of the real difficulties in the coal industry has been that there is a great economic incentive for high production. The economic incentive on the equipment manufacturers has been to produce equipment that will take the coal out faster, but will not necessarily protect those human beings who work in the coal mines. In fact the economic incentive is all against safety. I believe a provision such as the right to sue would produce a clear economic incentive on behalf of safety. It would be far cheaper to make and keep a mine safe rather than risk the expense of suit.

I feel that a provision such as this may be premature in 1969, but I am looking toward the future. I am hopeful that Congress might look with favor on the type of provision that would make it so expensive for a coal operator to maintain

an unsafe mine that he would take steps on his own initiative to maintain rigorous safety standards for the protection of all miners.

We talk about workmen's compensation laws taking care of those who lose their arms and their legs that are injured in the mines, but these are totally inadequate in their amount.

The fines and penalties in the bill bring money into the General Treasury, but why should not we help directly the miners who are hurt or killed in the mines?

I would certainly hope that in the future this type of amendment could be considered and adopted.

BENEFITS FOR PNEUMOCONIOSIS

Mr. Chairman, I would like to use just 1 minute of my time to establish an intelligible, legislative history on that wonderful provision of this bill that was written in with the assistance of many Members concerning benefits for those afflicted by pneumoconiosis.

I would like to ask the gentleman from New Jersey (Mr. DANIELS), the chairman of the Select Subcommittee on Labor, two questions. I am sure the gentleman from New Jersey appreciates the fact that this measure is a giant step in the right direction and one which is fully justified by the circumstances. On behalf of thousands of West Virginia coal miners, we thank the gentleman from New Jersey, the gentleman from California (Mr. BURTON), the gentleman from Pennsylvania (Mr. DENT), the gentleman from Kentucky (Mr. PERKINS), and all others who have participated in bringing this provision out in the bill.

There are some cases which the provisions of this bill do not seem to cover, and I would like to ask the gentleman from New Jersey whether in his opinion it would be justifiable to measure the incidence of pneumoconiosis through pulmonary function tests as well as simply and strictly by X-rays?

Mr. DANIELS of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from New Jersey.

Mr. DANIELS of New Jersey. Mr. Chairman, I appreciate the gentleman from West Virginia (Mr. HECHLER), asking that question, and I say to the gentleman that the impact of this legislation is that when diagnosis is made by means other than X-rays or biopsy that, under section 112(b)(iii), complicated pneumoconiosis can be demonstrated by a substantial loss of pulmonary functional capacity even though there was a lesser degree of X-ray abnormalities than that described in section 112(b)(i). In fact, diagnosis of complicated pneumoconiosis should include several factors:

First, significant exposure to coal dust;

Second, evidence of lung pathology; and

Third, symptomatology and impairment of pulmonary functions.

Mr. HECHLER of West Virginia. Mr. Chairman, I would further like to ask the gentleman from New Jersey if it is not true that there are many coal miners who may have serious discomfort and disability caused by pneumoconiosis whose X-rays for some strange reason do not clearly indicate the recognition of that disease?

Mr. DANIELS of New Jersey. If the gentleman will yield further, that is very true. As a matter of fact, we have had several doctors testify before our committee, Dr. Raymond Moore of the Environmental Control Administration of the Department of Health, Education, and Welfare, as well as Dr. H. A. Wells, Dr. Andrew Henderson, Dr. I. E. Buff, and Dr. Donald Rasmussen, physicians from coal mining regions with extensive experience in pulmonary diseases, who testified to the effect that X-ray is not the ultimate. It must be included as part of the diagnostic test. But the complete gamut of function tests, good, simple exercise function tests, can be performed simply, along with the physical examination periodically on these men.

Mr. HECHLER of West Virginia. I appreciate the answer of the gentleman from New Jersey. I would like to quote at this point the following letter from Dr. Donald Rasmussen, pulmonary specialist at the Appalachian Regional Hospital in Beckley, W. Va., who wrote as follows to Hon. JOHN DENT:

OCTOBER 6, 1969.

Hon. JOHN H. DENT.

DEAR REPRESENTATIVE DENT: I write this letter as a desperate plea on behalf of many thousands of coal miners disabled from respiratory diseases of occupational origin who will be denied rightful benefits under the present provisions for compensation in the pending coal mine health and safety bill. The restrictions limiting compensation only to those miners with "complicated pneumoconiosis" are unwarranted. No more than a minority of those severely disabled miners of this area would qualify for such benefits.

I am aware that most of the testimony and additional opinion upon which this decision was based supported the concept that disabling pulmonary insufficiency is encountered only in those miners with advanced X-ray changes. It must be emphasized that these opinions were based almost entirely upon European experience. Occupational health programs with periodic medical and X-ray examinations have been in operation in coal mines for over 20 years in some European countries. Miners showing early X-ray evidence of pneumoconiosis have been removed from dusty areas. In addition, dust suppression has been employed in most European coal mines. Thus, the risk to the European miner has been significantly reduced.

You are aware of the total lack of periodic examinations of American miners and the relative lack of dust suppression in coal mines in this country. Not a single miner of the more than 4,000 evaluated in this laboratory has had periodic chest X-rays. These differences in conditions may be sufficient to explain the apparent differences between European miners and miners at least in the Southern Appalachians in this country. We have observed a number of miners who were known to have X-ray evidence of pneumoconiosis for 10 to 25 years before our evaluation. These men continued working without symptoms until perhaps the last 2 to 4 years. Most showed clear-cut evidence of significant pulmonary insufficiency on testing in the laboratory. In only a small number did the chest X-rays reveal more than simple pneumoconiosis. In reviewing the laboratory studies of large numbers of miners and excluding all cases with significant bronchitis it is apparent that those miners with complicated pneumoconiosis on the average show somewhat more impairment than miners with only simple pneumoconiosis. There are wide variations in both groups, however. Many miners with minimal X-ray abnormalities have impairments of pulmonary functional capacity equal to or exceeding that of miners with advanced X-ray changes. On what basis, therefore, can one arbitrarily judge the miner with simple pneumoconiosis and severe incapacity to be ineligible for compensation?

I firmly believe that in addition to miners with complicated pneumoconiosis those with lesser degrees of X-ray abnormalities but with substantial loss of pulmonary functional capacity be considered eligible for compensation under the new bill.

I urge the Members of the Committee to give the above suggestions most thoughtful consideration. Without the additional inclusion the bill will provide relief far short of its intended goals.

Respectfully,

DONALD RASMUSSEN, M.D.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Missouri.

Mr. HALL. I just rise to a point of clarification.

I certainly agree with the answer to the gentleman from West Virginia's second question. But I do not believe he wants to establish a legislative record that one can determine pneumoconiosis or the involvement of the lung solely by pulmonary function itself?

Mr. HECHLER of West Virginia. That was not my intent, nor was this conveyed in the answers of the gentleman from New Jersey. We have merely established the fact that one cannot rely precisely or strictly on X-rays in determining the degree of disability from pneumoconiosis.

Mr. HALL. With that I agree, but there are many other things that can cause lung disease affecting the pulmonary function tests.

The CHAIRMAN. The time of the gentleman from West Virginia (Mr. HECHLER) has expired.

Mr. HECHLER of West Virginia. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mrs. MINK. Mr. Chairman, I rise in support of H.R. 13950, the Federal Coal Mine Health and Safety Act of 1969. As a member of the General Labor Subcommittee of the House Committee on Education and Labor, I took part in the drafting of this long-overdue measure establishing uniform health and safety standards for the coal miners of our Nation.

For the first time under this legislation we will have mandatory standards for all underground coal mines in the amount of respirable dust allowable in the mine atmosphere.

Approximately 100,000 active and retired coal miners are presently afflicted with pneumoconiosis, also known as black lung, a disease caused by excessive exposure to coal dust in the air over a long period of time. About half of these miners are disabled from the ailment. For many, existence in this living death is the price they must pay for the long years of hard labor in the mines.

Complicated pneumoconiosis causes progressive massive fibrosis as a complex reaction to dust and other factors, which may include tuberculosis and other infections. The disease in this form usually produces marked pulmonary impairment and considerable respiratory disability. This severely limits the physical capabilities of the individual, and may contribute to other causes of death. Once hardy and vigorous coal miners become reduced to invalids gasping for breath as they sink slowly into physical decay. When the disease is contracted, it is progressive and irreversible.

There is no specific therapy for pneumoconiosis in either its simple or complicated forms. Prevention of this disease is the only logical step. Adequate environmental dust controls, use of respirators, or removing the miners from the dusty environment as soon as they show minimal evidence of lung damage appear to be, under present technology, the only helpful preventive procedures. H.R. 13950 establishes strict environmental dust control standards and periodic medical examinations of miners as a means of combating this dread disease.

The British, after extensive study, determined that the probability of a miner contracting pneumoconiosis after 35 years of exposure to a dust concentration of 3 milligrams per cubic meter of air, is about 5 percent. This bill establishes a dust limit of 4.5 milligrams within 6 months of enactment. This level must be further reduced to 3 milligrams 6 months thereafter. The Secretary of Health, Education, and Welfare is authorized to reduce this limit further when reductions become technologically attainable.

I feel that this new safeguard will help protect the coal miners' health by lowering the amount of respirable dust they must breathe into their lungs while working in a coal mine, thereby reducing their susceptibility to contracting pneumoconiosis.

The bill also requires that respirators or other approved breathing devices be made available to all persons exposed to dust concentrations in excess of the limit established by this bill. However, the bill expressly prohibits the use of these respirators as a substitute for achieving environmental controls of the dust concentration in the mines.

Under the medical examination provision, section 203, each miner will have an opportunity to have a chest roentgenogram taken without charge at least once every 5 years. Physicians diagnose pneumoconiosis on the basis of X-ray evidence of nodules in the lungs. When a worker begins in the coal mines for the first time, he will be given a chest X-ray at the start of his employment and again 3 years later. If the second such X-ray shows evidence of the development of pneumoconiosis, the worker shall be given an additional chest X-ray 2 years later. The Secretary of HEW is responsible for reading, classifying, and recording all readings for each miner, and may prescribe such other supplemental tests as he deems necessary.

Any miner who, in the Secretary's judgment, shows substantial evidence of the development of the disease shall, at the option of the miner, be assigned by the operator to work in a relatively dust-free area of the mine, or in any other area provided he wears respiratory equipment. Any miner so assigned shall not receive less than his regular pay. This section of the bill is of equal importance with the dust-control section, insofar as prevention of black lung.

To protect miners from explosions such as the November 20, 1968, tragedy near Farmington, W. Va., in which 78 miners lost their lives, the bill codifies Interior Department safety regulations and establishes new requirements for electrical equipment for gassy mines. After a phase-in period only electrical junctions, distribution boxes, and equipment that the Secretary of the Interior designates as permissible will be allowed.

The bill provides a delay of up to 6 years in application of these electrical safety standards to nongassy mines. I would support an amendment to reduce this time period or any other amendment which will bring all mines under this safety requirement as soon as possible.

Section 103 of the bill authorizes and requires representatives of the Secretary of Interior to make frequent inspections and investigations in coal mines each year for information gathering and enforcement purposes. Each underground mine is to be inspected at least four times a year. The Secretary of Health, Education, and Welfare is also authorized entry to coal mines to enable him to carry out his functions and responsibilities under the act. I believe this joint control over the health and safety of our coal miners is an important new element.

The bill provides for limited pay guarantees to miners idled by a mine closure due to violation of health and safety standards. Miners are also entitled to payments for total disability due to complicated pneumoconiosis, and widows of such miners are also to receive benefits.

Section 103 empowers the Interior Secretary, in the event of an accident, to take whatever action he deems appropriate to protect the life of any person and to be consulted regarding any plan to recover any person in the mine. This section further provides opportunity for a miner to request the Secretary to conduct a special investigation to determine if an imminent danger or violation of a standard exists in a mine, and for the representative of miners to accompany an authorized representative of the Secretary—at no loss in pay—on any inspection. No advance notice of an inspection needs to be given.

These are some of the worthy features in this comprehensive legislation. In sum, I believe that this bill represents a long step forward in protecting our miners from pneumoconiosis or "black lung" and from explosions of the type that have taken a steady toll of life and limb.

We must not allow these dangers to continue terrorizing our miners and their families. Only by the adoption of this workable and far-reaching legislation can we assure the American people that the men who mine our coal shall work in health and safety.

Mr. FEIGHAN. Mr. Chairman, I support H.R. 13950, a bill to insure health and safety measures for the Nation's coal miners. Coal mining is crucial to our economy, providing one-fourth of our fuel energy. Yet, at the present time, it is one of our most hazardous industries.

Hundreds of coal workers die every year from much-publicized disasters; thousands of others suffer from incurable pneumoconiosis, which renders them disabled and which significantly shortens their life expectancy. No act of Congress can ever compensate for the injury and loss of life which has already resulted from coal mine safety inadequacies. This bill, however, may, if properly amended, become an insurance policy for present and future miners who will be spared from disaster and personal injury.

H.R. 13950 authorizes the Secretary of the Interior to promulgate appropriate health and safety standards and develop safety standards. The Secretary of Health, Education, and Welfare is mandated to develop health standards. The Federal Government would have the power to investigate, set policy, and revise regulations over both large and small coal operations.

It is my feeling, however, that initial review of appeals should lie with the Secretary of the Interior in accordance with the amendment to be offered by the committee and the position of the gentleman from West Virginia (Mr. HECHLER) rather than with the proposed Federal Coal Mine Health and Safety Board of Review as outlined in the bill.

The Departments of Interior and Health, Education, and Welfare should be empowered to thoroughly and frequently investigate mines, making certain that such conditions as dust standards, electrical equipment, ventilation, roof control and fire protection are meeting minimum standards.

The miner would be further protected under the provisions of this act by being provided with examinations for lung disease and by receiving some income if he is idled by mine closure under the provisions of this act. Moreover, the miner and his family would be entitled to emergency assistance if he is afflicted with or dies from complicated pneumoconiosis.

The Federal Mine Health and Safety Act is long overdue. It is late in rectifying some of the worst personal injustices in an impersonal industrial society. We must not lose sight of our humanitarian responsibility. We must not forget the widows and children in countless Farmingtons and the thousands of miners who suffer physical disability while they are performing their jobs. H.R. 13950 will not repair the loss of yesterday's lives, but it will effectively spare today's and tomorrow's miners. I therefore urge support of this bill to express our concern for a vital and long-neglected member of our working force—the American coal miner.

Mr. REID of New York. Mr. Chairman, I am happy that the House is finally acting to revise the mine health and safety code.

Last year 730 men were electrocuted, asphyxiated, crushed to death or otherwise killed in a coal mine somewhere in

the world. Each day 28 coal miners suffer disabling injuries, and each disabled miner loses on the average 144 days of work a year—more than half a year off the job.

In the 17 years since the old law was signed by President Truman, almost a million miners have been exposed to a daily dose of coal dust, and a shocking 5,500 miners have been killed.

These facts do not lend a great deal of credibility to recommend the virtues of the old bill.

At present, about 100,000 miners of the 150,000 who work the mines today suffer from black lung disease, with over half of these disabled from the disease. Dust is in their skin and their eyes and their mouths; they suck it into their lungs every day of their lives and cough and strain to breathe. This is a man-made disease that can and must be prevented. To ignore it is to ignore the No. 1 occupational health problem in U.S. coal mining, which has been ignored for far too long already.

For these reasons, I strongly support the sections of this bill which provide for payments to miners who are disabled from pneumoconiosis and to the widows of miners who suffered from the disease at the time of their death. These provisions are a limited response in the form of emergency assistance, included because of the failure of the States to assume compensation responsibilities.

Clearly, the hazards of the trade we are discussing are such that this bill should include the strongest possible health and safety provisions. This bill does include numerous provisions with these aims in mind, such as those establishing a mandatory dust standard of 3 milligrams per cubic meter, requiring medical examinations, calling for frequent inspections and investigations by qualified persons and providing realistic penalties for failure to comply.

There is one section of the bill, however, which endangers its effectiveness by entrusting what could become a veto power to a five-member Board of Review. These five men could nullify orders by Federal inspectors for the closing of unsafe mines, and they could rescind penalties assessed for violations of safety rules. These powers seriously weaken the remainder of the bill and indeed seem to challenge its very purposes. I strongly support the abolition of this Board, and hope that my colleagues will consider the welfare of thousands of miners over the power of five men.

Finally, in order to make this bill the strongest and most effective one possible, I support amendments to do the following:

To measure coal dust during one shift, instead of averaging the measurement over several shifts as the bill now provides. If the averaging method is used, a "clean-up" shift can be rushed in to bring the average down;

To require the Secretary of Health, Education, and Welfare to set medically acceptable coal dust standards which protect the health of the miner, instead of being forced to raise coal dust standards to meet pressure from considerations other than health.

To require that electrical equipment in gassy mines be made safe and spark-proof in 15 months instead of the 28 months after enactment of this bill, and to eliminate the open-ended waiver which is presently provided in the bill for all nongassy mines, large and small; and

To protect miners against losing their jobs or being discriminated against for reporting health and safety violations.

Mr. Chairman, I urge that the coal mine health and safety bill be passed with these amendments, so that in the future we will know no such disaster as that of Farmington, W. Va., in November of 1968 where mine No. 9 became the tomb for 78 men for whom no rescue operation could succeed.

Mr. MOLLOHAN. Mr. Chairman, the coal mine safety legislation we are today considering constitutes a landmark for industrial health and safety. For too many years, those of us who represent districts with a concentration of coal mining have seen the death and casualty tolls mount. Generally, it is an isolated accident that claims the life of one or two men, and little notice has been given to the overwhelming danger of coal mining.

Last year, the tragedy at Farmington took 78 lives, but the small accidents which receive little notice claimed the lives of another 230 men in the same year.

And the toll of black lung is difficult to gage because it affects almost every miner who has worked in the coal mines for more than 10 years.

The safety legislation to date is far from adequate. The health standards to date are nonexistent, the compensation, except from the union's pension fund, is next to nonexistent. Only this year did West Virginia pass a comprehensive workmen's compensation legislation, and that does not cover anyone who is presently disabled because of black lung.

This legislation before us today will be the landmark for safety and health protection and it will be the landmark for compensation of men who have lost their health to black lung.

I think the House Education and Labor Committee is to be congratulated for their work on this legislation and my colleague, Mr. JOHN DENT, is to be particularly congratulated on his efforts to bring to the floor a fair and comprehensive bill to deal with the entire area of health and safety and its consequences in the coal mining industry.

I am particularly pleased that the committee has established in this legislation a basis for continuing research in health and safety; for that, in my judgment, is where we will make the real breakthrough in mine safety.

I think it is altogether proper that we attempt through this legislation to give relief to those miners, or their widows, for disabilities arising from black lung disease.

There are some important amendments to this legislation as well, and particularly important, are those which would protect the individual miner from intimidation for reporting safety or health violations. I think the dust measurement amendment is also very important and I hope you will give it fair consideration.

There are other amendments as well which should be given serious consideration here today. But, on the whole, this legislation is well conceived, it is comprehensive and it will be effective. It represents the dedication of men who have intelligently sought better working standards and health and safety standards for years.

The passage of this bill will, to no small degree, usher in a new era of industrial safety practice.

Mr. HELSTOSKI. Mr. Chairman, as a cosponsor of legislation which would provide relief for our Nation's miners, I am pleased that the Committee on Education and Labor acted with speed to bring this legislation to the floor.

I am convinced that there is a definite need for establishing Federal health standards to protect the health of our Nation's coal miners. We are aware of the fact that many of the existing standards for safety applicable to mine operators and miners are inadequate under existing Federal laws.

If anyone needs adequate standards for safety and improved conditions for health, it is the coal miners of this Nation. The bill will provide them with a new degree of safety and a healthier atmosphere in which to work.

Mr. Chairman, I would like to point out that the whole picture as it relates to the coal mining industry has brought forth a national demand that we, right here and now, enact legislation that will bring a new and significant measure of safety to the men who mine the coal in this country. That is why we are here today—to provide these safety and health standards.

As we debate this bill today, hundreds of miners are risking their lives to reopen the mine at Farmington, W. Va., to recover the bodies of the 78 miners who died in the Consolidation Coal Co.'s No. 9 mine last November, and to determine the cause of the tragedy.

Many of our miners who are lucky enough to escape the violence of death in a mine, are subject to a peril which often causes total disability or death. These miners pay the price of having to work in an atmosphere often saturated with coal dust, which is inhaled daily into their lungs, causing respiratory disability and later death. This disease is referred to in the press and other news media as "black lung." The medical profession calls it coal workers' pneumoconiosis. But no matter what it is called, the fact is that the Surgeon General estimates that over 100,000 active and retired miners are afflicted with it.

Mr. Chairman, the purpose of the pending legislation is to insure the miners that they themselves cannot cope with this problem. In this legislation we wish to insure that both the industry and the Government do, in fact, give first priority to the health and safety of the miner; to insure an end to the annual carnage in our Nation's coal mines; and to insure that the new generation of coal miners is not ravaged by "black lung."

We have enough evidence that the miners themselves are no longer willing to accept the fatalistic attitude still pre-

vailing in the industry—the attitude which almost accepts with the shrug of the shoulder that "mining is a hazardous occupation." The miners know that coal mining need not be a hazardous occupation if only the operators and the Government will place as high a priority on the health and safety of the miner as is placed upon the economics associated with the mining industry.

This bill provides the tools for better health and safety. This Federal Coal Mine Health and Safety Act of 1969 makes an across-the-board comprehensive attack on both the health and safety problems. It not only corrects the deficiencies in the 1952 act, it takes into account all that we have learned since 1952, and provides for the development and implementation of safeguards against hazards which may develop in the future.

For the first time it covers the health of the miner, covers surface, as well as underground coal mines; authorizes health and safety standards by regulation, not just by statute, and permits administrative change of the standards in the bill to improve health and safety; establishes an extensive array of interim mandatory health and safety standards; provides for injunctions and for civil and criminal penalties for violations; requires an expansion of the sadly deficient Bureau of Mines safety and health research program and provides for a health and safety research trust fund; and expands the coverage of the law to afford protection against all accidents, not just those that kill five or more at one time, as the 1952 act provided.

Periodically, in the past 100 years, the Nation has responded to mine disasters with legislation, but the legislation has always been too timid and ineffective. Such legislation has frequently left more undone than was done.

Mr. Chairman, H.R. 13950 is a major comprehensive measure which offers our Nation's coal miners the promise of a lifetime of productive work free from the hazards that have depleted this work force. It offers the families of our coal miners the hope of relief from the daily fears that permeate their lives.

I believe that the hazards of coal mining can be substantially reduced or eliminated. Many are due to bad practices and a failure on the part of both the industry and the Government to act vigorously years ago to change them.

We owe this bill as a memorial to the many thousands who have died in coal mine tragedies and to those who are disabled because of their hazardous work.

We owe it even more to the living and the active hard-working mine workers, and to their families. No longer should they be forced to bear the cost, in pain and suffering, of the Nation's coal production.

Mr. Chairman, for these reasons, I earnestly urge passage of H.R. 13950.

Mr. GAYDOS. Mr. Chairman, after many long weeks of hearings and deliberations we now have before us, to vote up or down, H.R. 13950. Does anyone doubt the outcome?

As one who is familiar with the history of past efforts to strengthen the role of the Federal Government in the promotion of coal mine health and safety, one amazing fact about this bill stands out. This bill, Mr. Chairman, is one of the most far-reaching bills in any field to come before the Congress in many years. It extends the field of Federal regulation of working conditions and the provision of compensation for accident and disease far into an area hitherto largely reserved for State regulation alone. And yet, despite some marginal opposition to some of these compensation features of the bill, the bill is clearly going to pass the House and pass it in substantially its present form.

Of course, Mr. Chairman, I recognize that it is very difficult to be opposed to any measure to promote health and safety. No one wants to be on record in favor of death and disaster or even to seem to question the wisdom of proposals to prevent the same. But in the past, these considerations never prevented opposition arising to the form the proposed remedies took, or, a favorite objection, that "the rights of the States were being invaded," or that "the legislation was not needed, the States were doing a good job, all they needed was a little encouragement in the form of a Federal subsidy."

We have heard such objections in recent days, Mr. Chairman. But unlike in the past, they have not been trumpeted from the house tops. I have had to strain to hear them. Their voice is muted, subdued. We live today in a world where the rights of people are, at last, considered as more important than those of institutions.

I note also, Mr. Chairman, another remarkable change. This matter of health and safety has never, I think, been an area of sharp partisan conflict. Many Members from both sides of the aisle have favored coal mine safety legislation in years past. But I do find it utterly amazing that, if I read aright the report on this bill which came to me from the committee, not only did every member of the majority party vote in support of H.R. 13950, but the minority was unable to get a majority of its 15 members to join in opposition and wound up with three additional or separate sets of views, on no one of which were they able to muster more than six votes in support.

Mr. Chairman, H.R. 13950 has my complete support. Congress should move to complete action on the Federal Coal Mine Health and Safety Act without further delay.

We all understand that what prompted the consideration by this Congress of coal mine safety legislation was the Farmington, W. Va., disaster of last fall. This made clear to the American people that the Federal Government, which was then believed to have the responsibility and ability to inspect coal mines to prevent major disasters, lacked the power to take effective action. Since then, although there has been much work done on legislation no change has been made in the law. The Government has no greater ability today than it had last fall to prevent another major mine disaster. We have been talking about action for nearly a year. We have made progress. But we have not finished the job. The Senate has acted. We have not, as yet.

However, in the period of nearly a year since the Farmington disaster, while there has not been another major disaster, over 170 coal miners have been killed in mine accidents. This is well over two miners killed for each man who died in Consolidation Coal Co.'s No. 9 mine last November. And to prevent these nondisaster types of accident, the Federal Government does not now and never has had any power or responsibility to act.

These figures, in fact, are misleading. It is not that routine mine accidents are responsible for two deaths for every one killed in a major disaster. Major disasters account for only about 10 percent of the deaths and injuries in coal mines. The Federal law has never, even in its inadequate present form, been applicable to other than measures to prevent major disasters. And it has been too weak to accomplish even this limited objective.

Ninety percent of the accidents which have resulted in death or injury in coal mines are within the scope of State laws and the Federal Mine Safety Code, which are either inadequate, or which have not been or cannot be enforced. Many standards, including the Federal code, are advisory only and do not have the force of law.

Mr. Chairman, while we sit here discussing the details of this bill there is nothing to prevent another Farmington disaster. Nothing has been done to change the law since last November. And while we sit here men are being injured and killed by one's and two's in mines in every coal mining State in the Nation, and unless we act on H.R. 13950 nothing will be done to prevent such accidents.

H.R. 13950 offers the best hope we have to do something about coal mine disasters and accidents—all of them, major disasters and isolated rock falls. It was the result of weeks of work by a competent committee acting on the best advice of authorities here in America and from abroad. It is a bill to which no major exception has been taken on either side of the aisle. Let us act to pass it with no further delay and stop the slaughter in the mines.

Mr. CLARK. Mr. Chairman, today's debate represents a forward step for the coal miners of America and for the wives and the children of the men who work in that industry. It also represents a milestone for the thousands of coal miners who are now suffering or who are being exposed to the ravages of coal workers' pneumoconiosis and other mining related chest diseases.

I am from Pennsylvania, and thus I know first hand the great human price that has been paid for the coal produced over the years. Pennsylvania is an old coal producing State. From its mines comes both anthracite and bituminous coal. The quality of Pennsylvania coal is known world-wide. Much of it goes into the steel industry where quality is vital.

Over the years, the production, distribution, and consumption of coal has meant much to Pennsylvania. In fact, that industry undergirds the economic health of the Commonwealth and con-

tributes hundreds of millions of dollars each year to the economic progress of Pennsylvania.

But, such progress has not come without cost. A part of that cost, a tragic horrifying part, is seen in the number of men who have died in the mines of Pennsylvania.

The records of fatality for the production of anthracite in Pennsylvania goes back to 1870. During the period 1870 to 1968, 31,047 men died in the anthracite industry. These figures are understated because fatalities in mines employing less than five men were not recorded until 1955, when the Pennsylvania Department of Mines and Mineral Industry, under the leadership of Mr. Joseph Kennedy and Mr. Louis Evans, now the director of the UMWA Safety Division, began to keep a record of small mine fatalities.

In the bituminous industry, the record goes back to 1877. Since 1877, 20,071 miners have died in the soft coal mines in my State. This figure is understated because of the lack of reporting fatalities in small mines until 1955.

Thus, a high price in blood has been paid for the production of Pennsylvania coal; 51,118 men died for the economic value that coal has meant to Pennsylvania and to the Nation.

Mr. Chairman, this is a horrifying record. It is a dreadful indictment of the coal mining industry and of the operators who have owned and managed it over the years.

Mr. Chairman, today we consider a bill which will hopefully abate and eventually stop the wastage of human life in coal mines. We are being asked to pass legislation which will help to protect the safety of coal miners and see to it that they can live a long and useful life. We are also being asked, Mr. Chairman, to enact into legislation provisions which will begin the long task of preventing coal workers pneumonconiosis and which will provide for compensation for those men who now carry the terrible burden of that disease.

We can no longer turn a deaf ear to the demands of coal miners for relief from the dread burden of death, injury, and disease in the mining industry.

H.R. 13950 is a good piece of legislation. It has been drafted by a committee which has shown its concern for the men who work in the mines. Its language represents an acceptance of the moral obligation of the Congress to do something in the mine health and safety field.

Through the months that this legislation was pending, we of the Congress were fortunate to have the advice and counsel of the United Mine Workers of America and their able staff in our drafting efforts. The coal miner was indeed fortunate to have as his representatives here a group of his own, a group of men who have come from the pits and who worked ceaselessly to see to it that the strongest possible legislation was introduced and passed.

The imprint of the work of the United Mine Workers of America and its president, Mr. W. A. Boyle, is clear in the legislation you have before you.

The United Mine Workers of America, in January of this year, suggested a 3 milligram dust level to prevent the increasing incident of coal workers pneumoconiosis.

The bill has a 3 milligram figure in it.

The United Mine Workers of America suggested the concept of rescue chambers to which men could go in the event of a disaster. This, too, is in the bill. The United Mine Workers of America urged the increase in the ventilation in mines. We have provided for such an increase.

The United Mine Workers of America suggested that a Federal mine inspector be placed at every mine, which in the opinion of the Secretary, liberated excessive quantities of methane. This, too, is in the legislation.

We are being asked today to vote on a measure which will mean the saving of lives, the prevention of injury, and the reduction of disease. We are being asked to help to preserve the most valuable asset which the coal industry has, that is its manpower.

If we were to come before the Congress today and say that men should live rather than die, there would be no arguments. If we were to say that disease is an inherently undesirable thing, there could be no one who would dispute it. If we were to demand on the grounds of humanity that an end be put to the cost in human lives and suffering inherent in modern coal mining, we would have unanimous agreement.

Yet, when we come to the hard practical task of writing legislation, there are those who rise in opposition. There are those who still place priority and profit above priority of life. There are those who would sacrifice human beings for the expediency of production.

This bill, hopefully, will forever put an end to such a choice. It will place the coal operators of this Nation on notice that their safety and health record must improve and must improve dramatically. It will place them on record that unless they are prepared to undertake the necessary action to reduce the human toll, currently a part of the cost of production, that they must anticipate the increasing intervention of the Federal Government into their affairs.

Mr. GILBERT. Mr. Chairman, I rise in support of H.R. 13950, the coal mine health and safety bill. As you may know, I have no coal miners in my district, but I have Americans who are shocked at the frequency of mine disasters and saddened by lethal danger from illness faced by men who work in the mines. This legislation has, indeed, been too long in coming and too many men have lost their lives while it has been discussed. I am proud, as an American, to vote for a strong coal mine safety bill.

I believe the Committee on Education and Labor has written a fine bill. It gives authority to the Secretary of the Interior and the Secretary of Health, Education, and Welfare, for the first time, to investigate and inspect mines without prior notice. It improves and speeds the process for redressing health and safety violations. It provides severe but just penalties for violation of standards. It assures miners that they will not be penalized for cooperating with the authorities on mine safety and guarantees them payment whenever mines are closed for violations.

Mr. Chairman, in 1967 a total of 533 miners died in accidents, and untold numbers died of "black lung" and other diseases. Americans cannot in good conscience permit the hazards in mines to go undetected and uncorrected any longer.

I commend the gentleman from Pennsylvania (Mr. DENT), chairman of the General Labor Subcommittee, for his efforts in behalf of a strong and effective coal mine health and safety bill. I believe H.R. 13950 represents the minimum necessary for the protection we should provide miners and I shall vote for passage of this bill.

Mr. DENNIS. Mr. Chairman, if H.R. 13950 confined itself to requiring strict health and safety standards in the Nation's coal mines—including the most stringent of standards to prevent pneumoconiosis, or "black lung" disease—I would be strongly in favor of the bill.

The bill, as presented by the committee, goes far beyond this; it sets up a system of Federal compensation for sufferers from pneumoconiosis at a cost to the American taxpayer which has been knowledgeably estimated at running in the neighborhood of $50,000,000 per year—a cost which, in my judgment, ought to be borne by the coal mining States and by the coal mining industry.

Even this might be defensible as a one-shot proposition on humanitarian grounds—at least I cannot find it in my heart to blame Members from coal mining areas and from coal mining backgrounds for so believing—but the real vice of the bill is the precedent which it undoubtedly sets for compensation for industrial injury and disease on a Federal level—a field which has heretofore been reserved for the several States, operating, and generally with reasonable success, under State statutes dealing with workmen's compensation and occupational disease.

There is no logical reason why Federal intervention in this area of concern should be confined to the Nation's coal miners alone, and I do not think we can expect that it will be so confined. I am unwilling to participate in this driving of an "opening wedge" for a Federal takeover in the industrial compensation field, and it is for this basic reason that I vote "no" on H.R. 13950.

Mr. FULTON of Pennsylvania. Mr. Chairman, strange as it seems, studies are now being made by Federal agencies and private industry to use U.S. space program techniques for mining operations.

I include in my remarks letter of October 23, 1963, to me from the National Aeronautics and Space Agency:

NATIONAL AERONAUTICS
AND SPACE ADMINISTRATION,
Washington, D.C., October 23, 1969.

Hon. JAMES G. FULTON,
House of Representatives,
Washington, D.C.

DEAR MR. FULTON: This is in reply to your inquiry regarding the application of Apollo Life Support Systems to deep coal mining.

Last February, Mr. James K. Rice, President, Cyrus W. Rice and Company, wrote to NASA about a new coal mining project being proposed in Boone County, West Virginia under the direction of the Island Creek Coal Company, in which the mine would be filled

with gas containing very little oxygen. The object was to eliminate the effects of methane gas that is released as a by-product of mining coal, to reduce substantially the acid mine water pollution, and to eliminate the "Black Lung" problem. Mr. Rice was interested in ways NASA might be able to help.

On March 13, 1969, a meeting was held with officials of our Apollo Test Office, the Island Creek Coal Company, the Bureau of Mines, the Federal Water Pollution Control Administration and the C. W. Rice Company to explore the ways in which our technology would be utilized in the possible solution of coal mining problems.

As a result of this meeting, NASA was requested, and we agreed, to provide technical assistance to the C. W. Rice Company and the Island Creek Coal Company in connection with its contract with the Federal Water Pollution Control Administration.

Subsequently, we have reviewed and commented on the technological proposals and made available applicable life support data and reference material. In addition, we have put personnel from the C. W. Rice Company in touch with Bendix people at the Kennedy Space Center and their NASA counterparts concerned with life support and protective equipment used during hazardous operations.

We have enclosed additional material concerning the project.

Please let me know if you require any additional information.

Sincerely yours,

ROBERT F. ALLNUTT,
Assistant Administrator
for Legislative Affairs.

Mr. Chairman, I am also including in my remarks an article from the Washington Evening Star, as follows:

[From the Washington Evening Star, Aug. 5, 1969]

ASTRONAUT-TYPE BACKPACKS TO BE STUDIED FOR MINERS

The Interior Department has announced a research project to see if miners—like astronauts—can work in an oxygen-free environment, relying on backpack breathing equipment.

"If this new approach is successful," Interior Secretary Walter J. Hickel said yesterday, "we will be able to reduce lung diseases among coal miners, lessen the chances for explosions and fires in mines, and, at the same time, help prevent stream pollution by drainage of acids from both active and abandoned mines."

The project is being financed by grants of $55,178 from the Federal Water Pollution Control Administration and $15,000 from the Bureau of Mines, and a contribution of $30,047 from Island Creek Coal Co. of Holden, W. Va.

Mr. Chairman, in order to outline the proposals and programs for use of inert gases in mines, with space suits and life-support systems used by mines and mine personnel, I am including excerpts from the original application for research and development grant to the U.S. Department of the Interior, Federal Water Pollution Control Administration, from Island Creek Coal Co., Holden, W. Va., for a demonstration of a new mining technique to prevent the formation of mine acid in an active deep coal mine under date of February 20, 1969:

A DEMONSTRATION OF A NEW MINING TECHNIQUE TO PREVENT THE FORMATION OF MINE ACID IN AN ACTIVE DEEP COAL MINE

I. INTRODUCTION

Much has been written and spoken recently relative to the effective control of wastewater pollution from the coal mining industry. From the standpoint of health, safety, and environmental management, it is evident that every effort must be made to advance technology on a national basis to encourage the stability and productivity of the industry. The development of technically feasible and economically reasonable methods to achieve this end is the prime purpose of this request to the Federal Water Pollution Control Administration (FWPCA).

This application for a Research and Development Grant is indicative of the potential for the development of new technologies on a Government-industry cooperative basis. Island Creek Coal Company (ISLAND), the applicant, recognizes the potential impact of the proposed project to the coal mining industry in the areas of water pollution abatement and personnel health and safety.

II. TECHNICAL BACKGROUND

It has been established that the oxidation of sulfuritic material such as pyrites (FeS_2) leads to the production of ferrous sulfate and sulfuric acid according to the following equation:

$$2FeS_2 + 8O_2 + 2H_2 \rightarrow 2FeSO_4 + 2H_2SO_4$$

Laboratory investigations and published studies by the deceased Dr. S. A. Braley, while at Mellon Institute, Pittsburgh, Pennsylvania, and more recently the work reported to the FWPCA by Mr. W. E. Bell, Cyrus Wm. Rice and Company, Pittsburgh, Pennsylvania, have revealed that the prevention of the entry of oxygen into a coal mine by sealing and pressurization with an oxygen-free atmosphere retards the oxidation of the pyritic material to form mine acid water.

Cyrus Wm. Rice and Company (RICE) is proposed by ISLAND as their technical associates to serve as the project systems engineers and scientists. A summary description of two project-related investigations now being conducted by RICE follows:

On June 17, 1968, RICE received from the FWPCA Contract No. 14–12–404 covering chemical engineering laboratory investigations to determine the effects of various gas atmospheres on the oxidation of pyrite. The primary objective of the study is to determine the effect on acid production by the leaching of pyrites by water. The tests were to be conducted in the following atmospheres:

Air (control).
Pure nitrogen.
Nitrogen plus carbon dioxide.
Nitrogen plus ammonia.
Nitrogen plus carbon dioxide plus ammonia.
Nitrogen plus chlorine.

The secondary objective is to determine the effect of the particle size on acid production while exposed to the above atmospheres. This FWPCA contract is in its final stages of completion.

On June 20, 1968, RICE received a contract from the Commonwealth of Pennsylvania, Department of Mines and Mineral Industries, for a demonstration of the use of inert gas to eliminate acid pollution from abandoned deep coal mines. The contract is with the Coal Research Board and is identified by Project No. WPRD–227. The contract developed as a result of a grant application to the FWPCA by the Commonwealth of Pennsylvania. The object of the program is to demonstrate the feasibility of using inert gases as an effective deterrent to the chemical and bacteriological reaction of pyrites with air and water within *abandoned* deep mines. This program is now in progress.

The project proposed herein will extend the above-mentioned investigations to *active* deep coal mines. The project, in general, will demonstrate the use of an oxygen-free atmosphere in a deep mine specifically constructed for the project. The proposed project, while attacking the problem of mine acid formation, requires a completely new technique for coal mining. The proposed technique involves the use of life support systems for the mining personnel. While much work has been done on the use of life support systems in outer space and deep sea programs, and in a number of industrial operations, there has been no significant application of this to deep coal mining.

III. ISLAND'S PARTICIPATION

Mr. J. K. Rice, President of Cyrus Wm. Rice and Company, introduced the concept of adapting life support systems to the mining industry to Mr. William Bellano, President and Chief Administrative Officer, and Mr. William F. Diamond, Vice President-Engineering of Island Creek Coal Company. ISLAND, the third largest coal producer in the United States, is well-known for their constant searching for new and improved mining methods, safety improvements, and overall performance in labor relations, mine planning and development, maintenance of plant and equipment, and personnel health. ISLAND, being highly enthusiastic about the project potentials, agreed to make available to the project an area of a virgin coal seam in a new lease they are opening at Kohlsaat, Boone County, West Virginia. The new mine is called Pond Fork Mine, and is located approximately thirty miles south of Charleston, West Virginia. This mine is located within the Island Creek Division. Project plans were directed by Mr. Stonie Barker, Jr., President, Island Creek Division, who is the proposed project director.

IV. OTHER PARTICIPANTS

The proposed project was introduced to the FWPCA by RICE during 1967. In recent months, ISLAND and RICE met with FWPCA representatives and have discussed the project in detail with Mr. Allan Cywin and his associates Messrs. E. J. Martin, R. D. Hill, J. M. Shackelford, and D. J. O'Bryan. Mr. Cywin suggested a meeting with Mr. J. F. O'Leary, Director, Bureau of Mines, United States Department of the Interior On January 31, 1969 a meeting was held in the office of Mr. O'Leary, to discuss the project. Attending this meeting were Mr. O'Leary, Mr. H. Perry, from the Office of the Assistant Secretary (Mineral Resources), United States Department of the Interior, Messrs. A. Cywin and D. O'Bryan from the FWPCA, and ISLAND and RICE representatives.

The proposed project has been discussed in detail in meetings with Mr. J. P. Brennan, Director of Research and Marketing, United Mine Workers of America (UMW). ISLAND and RICE representatives have discussed the project with UMW Director of Safety, Mr. Lewis Evans.

It is proposed that the project be conducted with the cooperation of the State of West Virginia, Department of Natural Resources, Division of Water Resources, and the Department of Mines.

V. NEED FOR PROJECT

The critical need for the proposed project has been clearly stated by United States Senator Jennings Randolph (West Virginia), Chairman, Committee on Public Works, at the hearing on S. 1870, a Bill to amend the Federal Water Pollution Control Act in order to provide for acid pollution control demonstration projects. Senator Randolph stated when discussing the control of acid mine pollution, "We do recognize the seriousness and the urgency of the problem and we need to use the techniques now in our possession and we need to have demonstration programs, I think, of a very substantial nature in this field."

Mr. Richard B. Royce, Chief Clerk and Staff Director, Committee on Public Works, United States Senate, and Mr. William J. Van Ness, Special Counsel, Committee on In-

terior and Insular Affairs, United States Senate were contacted during March, 1968 to discuss the need for the inert gas projects.

The completion of the proposed project could have a world-wide impact on the coal industry resulting in major advances in environmental control, and health and safety.

VI. PROJECT OBJECTIVES

The object of the proposed project is to demonstrate that mining coal in an oxygen-free atmosphere will prevent the formation of acid mine water and that all water from the mine will be acceptable for discharge into a local stream without deleterious effect on the stream. The project will involve the investigation and demonstration of the adaptability of a life support system to conventional coal mining techniques to determine the feasibility of mining coal in an oxygen-free atmosphere.

The aerospace and underwater research programs in the past few years have proven that through the use of life support systems man can be successfully sustained in foreign environments for extended periods without detriment to his health. This life support technique has successfully been applied to several industrial manufacturing processes.

Major benefits may be derived from mining coal in an oxygen-free atmosphere including a major reduction in the amount of mine acid generated, improved working conditions from a health and safety standpoint, and availability of areas for refuge in case of emergency.

The life support system will provide dust free air for the miner and will eliminate the incidents of black lung so prevalent among the miners of today. It will also insulate the miner from the clatter of the mining equipment and will reduce the incidents of hearing problems. Hearing problems are rivaling black lung as the major health problem in the mining industry today.

Besides preventing the generation of mine acid, the oxygen-free atmosphere will eliminate many of the hazards associated with mining. It should prevent the accumulation of explosive mixtures of methane thereby eliminating the explosion hazard. Mine fires started by electrical spark igniting coal dust are prevented due to the absence of oxygen to support combustion.

The greatest killer in the mine today is roof falls caused by the seasonal variation of the humidity and temperature of the ventilating air injected into the mine resulting in spalling and deterioration of the roof. The sealing of the mine and the elimination of large volumes of ventilating air and the ability to maintain a constant humidity in the mine will minimize roof deterioration and improve mine safety.

The installation of waystations will provide areas of refuge in case of accident as well as a place where miners may remove their protective clothing. Bore holes directly into the waystation will provide fresh air for the miners and would serve as a means of supplying emergency food, water, power, and communications.

VII. PROJECT PLAN

This section will describe in detail the proposed plan for conducting the project. In order to coordinate the construction of the demonstration mine with the development of a new ISLAND Pond Fork Mine, it is necessary to adhere to a rigid schedule. The present schedule for the Pond Fork Mine calls for the receipt of all mining equipment by July, 1970. The development of the Pond Fork Mine will be in three phases according to how rapidly the working faces in the mine become available. Maximum production from this mine is planned for July, 1970.

The mining equipment purchased for the project demonstration mine is equipment required by ISLAND for completion of the development of the third phase of their Pond Fork Mine. This equipment will be required by July, 1970. Because of the limited amount of time available, it becomes necessary to strictly adhere to the schedule established for the demonstration mine so that ISLAND may be able to complete their Pond Fork Mine development on schedule. Table I is the construction schedule for the Pond Fork Mine. Table II is the project schedule for the Pond Fork Demonstration Mine.

The demonstration mine project is divided into three phases: Phase I will include the engineering studies and construction of the mine; Phase II will be the operation of the mine; and Phase III will be the evaluation and final report on the project.

The following will describe each of the phases of the project:

Phase I. Engineering studies and demonstration mine construction

This phase involves the evaluation of the available life support systems, communication systems, and air lock principles. After selecting those systems most applicable to the project, engineering specifications will be drawn and detailed engineering will be completed to adapt these systems to the project. The engineering specifications, design, and construction of the auxiliary facilities at the mine, and the necessary equipment to sustain the life support systems will be completed prior to the opening of the mine.

A. Life Support Systems Studies

A thorough investigation will be made of the available life support systems currently being used by the governmental space agencies and industries to determine if these systems are applicable to coal mining operations. It is the intent of this study to utilize, wherever possible, existing life support systems, realizing that minor modifications may be required.

Due to the uniqueness of the mining application, the type of personnel breathing equipment required is critical. It is therefore necessary that a complete investigation be made of the various types of breathing and re-breathing apparatus available to determine their compatibility with the life support system chosen.

Encapsulating a miner within a "space" helmet isolates him from the surrounding noises of the mine. An investigation and evaluation of various communication systems are necessary to provide the miner with a means of communication with his coworker in the mine, as well as with a monitoring and control station outside the mine. A miner is quite sensitive to in-mine noises and roof cracking noises. Therefore, it is imperative that his ability to hear within the "space" suit is as good as it would be normally. It is anticipated that each miner will have the capability of communicating directly with the monitoring and control station.

Since the miner will be encapsulated within a suit and working in an oxygen-free environment, it becomes necessary to provide an area (waystation) within the mine where the miner may go for lunch and for relief. In the waystation, he will be able to remove his breathing apparatus, and be supplied with fresh air from an external source. To enter the waystation, it will be necessary for the miners to pass through an air lock, the purpose of which is to prevent the infiltration of oxygen from the waystation into the mine and also to prevent the gaseous mixture in the mine from entering the waystation. A thorough investigation will be made of the methods of purging the air lock in order to prevent the infiltration of external gases into the air lock.

In order to evaluate the total effect of mining in an oxygen-free atmosphere, it is necessary to install gas analyzing equipment at all the critical points within the mine. A thorough study will be undertaken in order to evaluate the best way to continuously monitor the gases within the mine, air lock, and waystation to insure maximum safety.

Since large volumes of ventilating air will not be forced into the mine, the buildup of heat within the mine generated by the motors driving the mine equipment could become a problem. A thorough study is required to determine the methods of removing this heat so that adequate cooling will be provided for the mining equipment.

The development of a new type of personal lighting system is necessary as the current method of individual lighting will not be satisfactory. The present miner's light turns with the man's head so the light automatically points to where he is looking. When wearing life support clothing, it is possible for a man to move his head without the light moving. It is therefore necessary to design a lighting system which will be satisfactory for the miner's use.

Since the principle of the demonstration project is to operate the mine in an oxygen-free atmosphere, large quantities of inert gas will be required in order to operate a waystation, personal air locks, equipment air locks, etc. A thorough investigation will be made into the most economical methods of generating the inert gas, as well as the most economical methods of operating the waystation and air locks.

B. Demonstration Mine System Studies

After determining the most compatible life support system for use within the mine, it is necessary to determine what field modifications are necessary for the selected conventional mining equipment.

Having investigated the various procedures for operating the air locks, life support, and communication systems, the total support facilities required to sustain these systems will be determined. These facilities are those external to the mine (see Drawing No. 168.12.06.4).

The selected life support and communication systems will be tested in a ventilated mine in order to determine the problems involved. Should any problems develop, the operator being trained can remove his breathing apparatus and walk out of the mine, as is current practice. It is the intent to thoroughly check all life support and communication systems within a ventilated mine prior to operation of the demonstration mine.

Mr. SCHERLE. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I take this time to alert the Members of the House that I will offer a motion to recommit the bill.

I am not convinced that Federal workmen's compensation is the responsibility of this House. I hesitate to establish a precedent which this will do and one from which there can be no retreat.

This motion will delete the section beginning on page 38, section 112(b), as I did in the Committee of the Whole.

Mr. MILLER of Ohio. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I have heard this afternoon, especially from the gentleman from California, that we were not to rewrite the bill on the floor.

Yet, I was handed title III, a complete change, which includes approximately 63 pages. I am not positive that what we are doing is correct. I am not sure who made the changes and why. There are several points that certainly should be cleared up and I believe we should have someone, the chairman of the committee, or whoever is familiar with these points to answer the questions that are necessary before we vote on the bill.

On page 82 of the original bill, under

section (e); and in the amended title III, section (e)(1) it states: "underground high-voltage cables used in resistance grounded, wye-connected systems shall be equipped with metallic shields around each power conductor."

My question is: Are you aware that we may be causing more trouble in the mines than the good that we may do?

Mr. PERKINS. I have a letter from the Secretary, the Director of the Bureau of Mines, which in substance states that the overall changes in the interim standards redound to the benefit of safety.

Mr. MILLER of Ohio. Yes, but that does not answer my question.

Mr. BURTON of California. Mr. Chairman, will the gentleman yield so that I may make some modest effort to respond in part to the gentleman?

Mr. MILLER of Ohio. I yield to the gentleman.

Mr. BURTON of California. We found ourselves with identical provisions in both the House and Senate versions. Therefore, rendering unconferenceable some of the safety standards.

Some of these amendments were made at the request of an industry that has electrical wiring setups that are just somewhat different from those mandated in the bill. We were not contacted until after the bill was out of the Senate and after the bill was out of the full committee. But any changes made in this type of change were surrounded with safeguards and certified by every safety engineer participating, including all of the experts in the Bureau of Mines, that there was no sacrifice of safety.

Most importantly, we simply had to see that these matters were subject to conference. But even knowing that we had another look at the matter, we were determined not to proceed even this far without the assurance of the safety people that there was absolutely no reduction in safety afforded mine workers. I am unaware of a single mine expert in the country who would take any view other than that expressed by the Bureau of Mines today. There is no sacrifice in safety in any of these changes.

Mr. MILLER of Ohio. Then the gentleman cannot say whether there is anyone on the committee that has any background or any knowledge as to whether that particular section is correct?

Mr. BURTON of California. Just to the extent that we had experts from the industry; we had experts from the Department; we had Mr. Nader's general counsel; we had the counsel for Congressman HECHLER; we had the subcommittee counsel. We had as many people "fail safe," double, and triple check every one of these suggestions that the mind of man could contrive. And I respectfully submit that in the first instance we had an absolute obligation to see to it that this mandate was conferenceable.

Mr. MILLER of Ohio. If the gentleman is aware of what is going on, will he answer one simple question?

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. MILLER of Ohio was allowed to proceed for 2 additional minutes.)

Mr. MILLER of Ohio. I refer to section (e)(1) that states that metallic shields should be around each power conductor. The current would be AC because it follows through, that it is a wye-connected system. With AC current you achieve the effect of heating when you run each conductor separately through a solid metal tubing. With that are we going to create more problems or solve problems?

Mr. BURTON of California. It is steel tubing in the first instance. I, for myself, and I am sure those of us on the conference committee, if the gentleman has a fear that some of this may in some way be creating greater health safety hazard, would take up those matters. I suggest that you relay your concern to the Department. Call in the best safety engineers, and we will accept their input. From our point of view we felt an absolute responsibility, with tens and tens of millions of additional dollars involved for safety, that at least these matters in issue be conferenceable, particularly when they could be made conferenceable with our assurance that there was no sacrifice or diminution in terms of safety.

Mr. MILLER of Ohio. What we are after is information which would be helpful in enabling us to determine whether we should or should not vote for the bill. Right now we do not have the answers. We have another area where you talked about "permissible." I have heard it all afternoon. What is permissible? What are we talking about? Are you acquainted with class 1, group D, division 1 and division 2? I think we should have someone on the floor who would have that information and could answer our questions.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I believe the only answer that can be given to the gentleman is that we have no electrical engineers on our subcommittee or full committee that I am aware of. We have had to rely in this area on experts in the Bureau of Mines who have been approving or disapproving actual installations in the Bureau of Mines. They have looked at these requirements that they are going to have to enforce. They have approved the changes that were made in title III. We can only rely on their judgment.

If the gentleman knows of some area in which they have made a mistake, I wish he would call it to our attention so we could have them pass judgment on it, and they may be able to convince the Bureau of Mines. As the gentleman from California said, we are now in a position in which that matter could be adjusted in conference. We would appreciate your help.

Mr. MILLER of Ohio. As the gentleman said, if we are on a given section or given language, I would like to know if we are correct, whether we are in conference or back in the House.

Mr. FLOOD. Mr. Chairman, I move to strike the necessary number of words.

I am advised by the chairman, we are at the close of this debate on this bill. I want to say this. I am very grateful for my people from the anthracite coal fields to this committee under the distinguished chairman, the gentleman from Kentucky (Mr. PERKINS), and to the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. DENT), we are especially grateful.

I knew the gentleman from Pennsylvania (Mr. DENT) many, many years ago, when he was a fighting, raring, tearing, bulldog minority leader of the General Assembly of Pennsylvania. In those days it was tough—but so was he.

Mr. Chairman, I appeared before two subcommittees of this distinguished committee. I appeared before the subcommittee chaired by the gentleman from New Jersey on the matter of health, and I appeared before the subcommittee chaired by the gentleman from Pennsylvania (Mr. DENT) on the matter of safety. I appeared before both subcommittees in the Senate, known as the other body, for the same purpose.

I was pleased to hear some months ago that the gentleman from New Jersey, in charge of the subcommittee dealing with health, and the gentleman from Pennsylvania (Mr. DENT), in charge of the subcommittee dealing with safety, with the approval of their general chairman, the gentleman from Kentucky, were going to merge this bill into the bill we have today.

I assure the Members that my people, after 50 years, after 100 years, are grateful to all.

I conclude by saying that without the commanding insistence of the gentleman from California (Mr. BURTON) that part of the bill, which in my district is perhaps most vital, the health provisions relating to the health and black lung payment provisions, would not be in the bill.

I told Members yesterday when I came here 25 years ago, I had 35,000 miners. Today I have 3,500. However, I have 20,000 pensioners and their widows and the children of these deceased miners who died from miners' hazards, such as anthracosilicosis, in the hard coal mines. Had it not been for this great, big, eloquent Californian, who insisted upon the health and black lung payment provisions, I am advised by the gentleman from Pennsylvania (Mr. DENT), and the gentleman from New Jersey, and the general chairman of the committee, the health provisions would not be in the bill. I express our humble gratitude on the part of my pensioners and their wives and their children for the insistence of this great big fellow, the gentleman from California (Mr. BURTON).

Mr. PERKINS. Mr. Chairman, I move to strike the requisite number of words.

In concluding our work on this legislation, Mr. Chairman, I think that it would be a serious oversight on my part if I did not recognize the great contribution that members of the United Mine Workers of America have made over the years in insisting that Federal legislation be developed to effectively deal with providing greater and greater safety in this most hazardous of industries. When I first came to the Congress in 1949, one of the first conferences I had was with the legislative representative of the United Mine Workers, Mr. Robert Howe. He and other representatives have been

working diligently since that time in the interest of improved safety for miners. I believe that the legislation that this House is on the threshold of approving this afternoon takes another giant step forward in making this industry one which will attract many young workers because of the risks that we have taken from the occupation. The small step forward that we take in this legislation in assuring adequate levels of compensation to miners suffering from pneumoconiosis and their dependents and, in the case of those who have fallen due to this insidious disease, their widows, can in large part be attributed to the insistence by the members of the United Mine Workers for adequate compensation for their disabled members.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the distinguished gentleman from Ohio.

Mr. MILLER of Ohio. I want to say that I am for a mine safety bill. I am disturbed, frankly, that we have a complete change in title III, which is the technical part of the bill, which includes almost 63 pages.

Mr. PERKINS. The gentleman well knows that title III contains the interim standards, and all the effected groups were consulted with a view to trying to get the best possible safety standards in the act temporarily. But I say to you, by and large, that the amendments that the gentleman from Pennsylvania sponsored today strengthened mine safety and did not weaken it.

Mr. Chairman, I certainly want to pay tribute to the distinguished chairman of the subcommittee for the way he handled title III with these amendments. Proceeding as he has was the only feasible way that we could get the latest techniques and the latest suggestions of the Department of Interior—which has been working on these standards all year—incorporated in the bill.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. MILLER of Ohio. Mr. Chairman, I ask unanimous consent that the gentleman may be allowed to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. DENT. Mr. Chairman, I object.

Mr. MILLER of Ohio. Mr. Chairman, I move to strike the last word.

I will not take the 5 minutes, Mr. Chairman. I only want to state that we need to know exactly what we are doing here. I feel title III was brought out hurriedly. We need to know that we are on the right track. I am not saying that this section is wrong. There are some doubts in my mind about certain parts of it, and I think it is important that they be clarified. When the chairman mentioned the volume of methane that comes from some coal mines, that is exactly what I am concerned about. When we find methane in relation to air with a concentration at a minimum of 5.3 percent and a maximum of 14 percent of the mixture, then we know that it is explosive. If then we have an arc or the proper heat, we find that we have started a fire in the mine. We are only trying to protect against this possibility. I think it is important that we do not have a full title such as this brought out and rewritten on the floor, especially after we had heard that we should not change the bill on the floor and then we find that we have a complete title being changed here.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Might I ask the gentleman if he had read and was familiar with the original provisions of title III?

Mr. MILLER of Ohio. I say that I have title III marked up at almost every page. I would say that, no, I am not completely familiar with every word. I do not believe that there is a person here who is completely knowledgeable. If someone is knowledgeable, I have not found anyone on the committee who would attempt to answer the questions. But I would say that I have about 25 questions to ask.

Mr. ERLENBORN. If the gentleman will yield further?

Mr. MILLER of Ohio. I yield to the gentleman.

Mr. ERLENBORN. As was pointed out, title III of this bill and title III of the other body were identical. If we had adopted the provisions of that title today, we would not be able to go to conference on the item. As I suggested to the gentleman from Ohio, we welcome his help and his expertise. If he would tell us what items are questionable, we would take it up with the Bureau of Mines. They have put their stamp of approval on it. But the gentleman may be able to show where they are wrong, and we would like to work with you in the matter if we can and get the answers.

Mr. MILLER of Ohio. My main purpose in taking the time is that I am for a mine safety bill, but I want to know that what we are doing is right.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. STEED, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 13950) to provide for the protection of the health and safety of persons working in the coal mining industry of the United States, and for other purposes, pursuant to House Resolution 584, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SCHERLE

Mr. SCHERLE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. SCHERLE. I am, Mr. Speaker—in its present form.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. SCHERLE moves to recommit the bill H.R. 13950 to the Committee on Education and Labor with instructions to report the bill back forthwith with the following amendment: Beginning on page 38, line 18, through page 43, line 9, strike all of subsection 112(b).

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. ERLENBORN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 389, nays 4, not voting 38, as follows:

[Roll No. 248]

YEAS—389

Abbitt	Clawson, Del	Galifianakis
Abernethy	Clay	Gallagher
Adair	Cleveland	Garmatz
Adams	Cohelan	Gaydos
Addabbo	Collier	Gettys
Albert	Conable	Giaimo
Alexander	Conte	Gibbons
Anderson, Calif.	Corbett	Gilbert
	Corman	Goldwater
Anderson, Ill.	Coughlin	Gonzalez
Anderson, Tenn.	Cowger	Goodling
	Cramer	Gray
Andrews, Ala.	Culver	Green, Oreg.
Andrews, N. Dak.	Cunningham	Green, Pa.
	Daniel, Va.	Griffin
Annunzio	Daniels, N.J.	Griffiths
Arends	Davis, Ga.	Gross
Ashley	Davis, Wis.	Grover
Aspinall	de la Garza	Gubser
Ayres	Delaney	Gude
Beall, Md.	Dellenback	Hagan
Belcher	Denney	Haley
Bennett	Dent	Hall
Berry	Derwinski	Halpern
Betts	Devine	Hamilton
Bevill	Dickinson	Hammer-schmidt
Biaggi	Diggs	
Biester	Dingell	Hanley
Bingham	Donohue	Hanna
Blackburn	Dorn	Hansen, Idaho
Blatnik	Dowdy	Hansen, Wash.
Boggs	Downing	Harrington
Boland	Dulski	Harsha
Bolling	Duncan	Harvey
Bow	Eckhardt	Hastings
Brademas	Edmondson	Hathaway
Brasco	Edwards, Ala.	Hawkins
Bray	Edwards, Calif.	Hays
Brinkley	Edwards, La.	Hébert
Brock	Eilberg	Hechler, W. Va.
Brooks	Erlenborn	Heckler, Mass.
Broomfield	Esch	Helstoski
Brotzman	Esh1eman	Henderson
Brown, Mich.	Evans, Colo.	Hicks
Brown, Ohio	Evins, Tenn.	Hogan
Broyhill, N.C.	Fallon	Holifield
Broyhill, Va.	Farbstein	Horton
Burke, Fla.	Fascell	Hosmer
Burke, Mass.	Feighan	Howard
Burleson, Tex.	Findley	Hull
Burlison, Mo.	Fish	Hungate
Burton, Calif.	Fisher	Hunt
Bush	Flood	Hutchinson
Button	Flowers	Ichord
Byrnes, Wis.	Flynt	Jacobs
Cabell	Ford, Gerald R.	Johnson, Calif.
Caffery	Ford, William D.	Johnson, Pa.
Camp		Jonas
Carey	Foreman	Jones, Ala.
Carter	Fountain	Jones, N.C.
Casey	Fraser	Karth
Celler	Frelinghuysen	Kastenmeier
Chamberlain	Frey	Kazen
Chappell	Friedel	Kee
Clancy	Fulton, Pa.	Keith
Clausen, Don H.	Fulton, Tenn.	King
	Fuqua	Kleppe

Kluczynski	Obey	Slack
Koch	O'Hara	Smith, Calif.
Kuykendall	O'Konski	Smith, Iowa
Kyl	Olsen	Smith, N.Y.
Kyros	O'Neal, Ga.	Snyder
Landrum	Ottinger	Springer
Langen	Passman	Stafford
Latta	Patman	Staggers
Leggett	Patten	Stanton
Lennon	Pelly	Steed
Lipscomb	Perkins	Steiger, Ariz.
Lloyd	Pettis	Steiger, Wis.
Long, La.	Philbin	Stephens
Lowenstein	Pickle	Stokes
Lujan	Poage	Stratton
McCarthy	Poff	Stubblefield
McCloskey	Pollock	Stuckey
McClure	Preyer, N.C.	Sullivan
McDade	Price, Ill.	Symington
McDonald, Mich.	Price, Tex.	Taft
	Pryor, Ark.	Talcott
McEwen	Purcell	Taylor
McFall	Quie	Teague, Calif.
McKneally	Quillen	Teague, Tex.
McMillan	Railsback	Thompson, Ga.
Macdonald, Mass.	Randall	Thompson, N.J.
	Rarick	Thomson, Wis.
MacGregor	Rees	Tiernan
Madden	Reid, Ill.	Tunney
Mahon	Reid, N.Y.	Ullman
Mailliard	Reifel	Utt
Mann	Reuss	Vander Jagt
Marsh	Rhodes	Vanik
Martin	Riegle	Vigorito
Mathias	Rivers	Waggonner
Matsunaga	Roberts	Waldie
May	Robison	Wampler
Mayne	Rodino	Watkins
Meeds	Rogers, Colo.	Watson
Melcher	Rogers, Fla.	Watts
Meskill	Rooney, N.Y.	Weicker
Michel	Rooney, Pa.	Whalen
Miller, Calif.	Rosenthal	White
Miller, Ohio	Rostenkowski	Whitehurst
Mills	Roth	Whitten
Minish	Roudebush	Widnall
Mink	Roybal	Wiggins
Minshall	Ruppe	Williams
Mize	Ruth	Wilson, Bob
Mizell	Ryan	Wilson, Charles H.
Mollohan	St Germain	
Montgomery	St. Onge	Winn
Moorhead	Sandman	Wold
Morgan	Satterfield	Wolff
Morse	Saylor	Wright
Morton	Schadeberg	Wyatt
Mosher	Scheuer	Wydler
Moss	Schneebeli	Wylie
Murphy, Ill.	Schwengel	Wyman
Murphy, N.Y.	Scott	Yates
Myers	Sebelius	Yatron
Natcher	Shipley	Young
Nedzi	Shriver	Zablocki
Nelsen	Sikes	Zion
Nichols	Sisk	Zwach
Nix	Skubitz	

NAYS—4

Collins	Landgrebe
Dennis	Scherle

NOT VOTING—38

Ashbrook	Colmer	Mikva
Baring	Conyers	Monagan
Barrett	Daddario	O'Neill, Mass.
Bell, Calif.	Dawson	Pepper
Blanton	Dwyer	Pike
Brown, Calif.	Foley	Pirnie
Buchanan	Jarman	Podell
Burton, Utah	Jones, Tenn.	Powell
Byrne, Pa.	Kirwan	Pucinski
Cahill	Long, Md.	Udall
Cederberg	Lukens	Van Deerlin
Chisholm	McClory	Whalley
Clark	McCulloch	

So the bill was passed.

The Clerk announced the following pairs:

Mr. O'Neill of Massachusetts with Mr. Cederberg.
Mr. Monagan with Mrs. Dwyer.
Mr. Foley with Mr. Pirnie.
Mr. Podell with Mr. McCulloch.
Mr. Pike with Mr. Ashbrook.
Mr. Byrne of Pennsylvania with Mr. Cahill.
Mr. Barrett with Mr. Whalley.
Mr. Blanton with Mr. Buchanan.
Mr. Kirwan with Mr. Bell of California.
Mr. Jones of Tennessee with Mr. Lujan.
Mr. Daddario with Mr. Burton of Utah.
Mr. Pucinski with Mr. McClory.
Mr. Brown of California with Mr. Dawson.
Mr. Clark with Mr. Jarman.
Mr. Long of Maryland with Mr. Powell.
Mr. Van Deerlin with Mrs. Chisholm.
Mr. Udall with Mr. Conyers.
Mr. Pepper with Mr. Baring.
Mr. Mikva with Mr. Colmer.

Mr. ASPINALL changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

Mr. PERKINS. Mr. Speaker, pursuant to the provisions of House Resolution 584, I call up for immediate consideration the bill (S. 2917) to improve the health and safety conditions of persons working in the coal mining industry of the United States.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. PERKINS

Mr. PERKINS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PERKINS moves to strike out all after the enacting clause of S. 2917 and insert in lieu thereof the text of H.R. 13950, as passed, as follows:

That this Act may be cited as the "Federal Coal Mine Health and Safety Act of 1969".

DECLARATION OF PURPOSE

SEC. 2. Congress declares that—

(a) the first priority and concern of all in the coal mining industry must be the health and safety of its most precious resource—the miner;

(b) the occupationally caused death, illness, or injury of a miner causes grief and suffering, and is a serious impediment to the future growth of this industry;

(c) there is an urgent need to provide more effective means and measures for improving the working conditions and practices in the Nation's coal mines in order to prevent death and serious physical harm, and in order to control the causes of occupational diseases originating in such mines;

(d) the existence of unsafe and unhealthful conditions and practices in such mines cannot be tolerated;

(e) the operators of such mines with the assistance of the miners have the primary responsibility to prevent the existence of such conditions and practices in such mines;

(f) the disruption of production and the loss of income to operators and miners as a result of a coal mine accident or occupationally caused disease unduly impedes and burdens commerce; and

(g) it is the purpose of this Act to provide for the establishment of mandatory health and safety standards and to require that the operators and the miners comply with such standards in carrying out their responsibilities.

DEFINITIONS

SEC. 3. For the purpose of this Act, the term—

(a) "Secretary" means the Secretary of the Interior;

(b) "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between a place in a State and any place outside thereof, or within the District of Columbia or a possession of the United States, or between points in the same State but through a point outside thereof;

(c) "State" includes a State of the United States, the District of Columbia, the commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands;

(d) "operator" means any owner, lessee, or other person who operates, controls, or supervises a coal mine;

(e) "agent" means any person charged with responsibility for the operation of all or part of a coal mine or the supervision of the employees in a coal mine;

(f) "person" means any individual, partnership, association, corporation, firm, subsidiary of a corporation, or other organization;

(g) "miner" means any individual working in a coal mine;

(h) "coal mine" means an area of land and all structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed upon, under, or above the surface of such land by any person, used or to be used in, or resulting from, the work of extracting in such area bituminous coal, lignite, or anthracite from its natural deposits in the earth by any means or method, and the work of preparing the coal so extracted, and includes custom coal preparation facilities;

(i) "work of preparing the coal" means the breaking, crushing, sizing, cleaning, washing, drying, mixing, storing, and loading of bituminous coal, lignite, or anthracite, and such other work of preparing such coal as is usually done by the operator of the coal mine;

(j) "imminent danger" means the existence of any condition or practice in a coal mine which could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated;

(k) "accident" includes a mine explosion, mine ignition, mine fire, or mine inundation, or injury to, or death of, any person;

(l) "inspection" means the period beginning when an authorized representative of the Secretary first enters a coal mine and ending when he leaves the coal mine during or after the coal-producing shift in which he entered; and

(m) "Panel" means the Interim Compliance Panel established by this Act.

MINES SUBJECT TO ACT

SEC. 4. Each coal mine, the products of which enter commerce, or the operations or products of which affect commerce, shall be subject to this Act, and each operator of such mine and every person working in such mine shall comply with the provisions of this Act and the applicable regulations of the Secretary promulgated under this Act.

INTERIM COMPLIANCE PANEL

SEC. 5. (a) There is hereby established the Interim Compliance Panel, which shall be composed of five members as follows:

(1) Assistant Secretary of Labor for Labor Standards, Department of Labor, or his delegate;

(2) Director of the Bureau of Standards, Department of Commerce, or his delegate;

(3) Administrator of Consumer Protection and Environmental Health Service, Depart-

ment of Health, Education, and Welfare, or his delegate;

(4) Director of the Bureau of Mines, Department of the Interior, or his delegate; and

(5) Director of the National Science Foundation, or his delegate.

(b) Members of the Panel shall serve without compensation in addition to that received in their regular employment, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of duties vested in the Panel.

(c) Notwithstanding any other provision of law, the Secretary of Health, Education, and Welfare, Secretary of Commerce, the Secretary of Labor, and the Secretary of the Interior shall, upon request of the Panel, provide the Panel such personnel and other assistance as the Panel determines necessary to enable it to carry out its functions under this Act.

(d) Three members of the Panel shall constitute a quorum for doing business. All decisions of the Panel shall be by majority vote. The chairman of the Panel shall be selected by the members from among the membership thereof.

(e) The Panel is authorized to appoint as many hearing examiners as are necessary for proceedings required to be conducted in accordance with the provisions of this Act. The provisions applicable to hearing examiners appointed under section 3105 of title 5 of the United States Code shall be applicable to hearing examiners appointed pursuant to this subsection.

(f)(1) It shall be the function of the Panel to carry out the duties imposed on it pursuant to sections 202 and 305 of this Act and to provide an opportunity for a hearing, after notice, at the request of an operator of the affected mine or the representative of the miners of such mine. Any operator or representative of miners aggrieved by a final decision of the Panel under this subsection may file a petition for review of such decision under section 106 of this Act. The provisions of this section shall terminate upon completion of the Panel's functions as set forth under sections 202 and 305 of this Act. Any hearing held pursuant to this subsection shall be of record and the Panel shall make findings of fact and shall issue a written decision incorporating its findings therein in accordance with section 554 of title 5 of the United States Code.

(2) The Panel shall make an annual report, in writing, to the Secretary for transmittal by him to the Congress concerning the achievement of its purposes, and any other relevant information (including any recommendations) which it deems appropriate.

TITLE I—GENERAL

HEALTH AND SAFETY STANDARDS; REVIEW

SEC. 101. (a) The Secretary shall, in accordance with the procedures set forth in this section, develop, promulgate, and revise, as may be appropriate, mandatory safety standards for the protection of life and the prevention of injuries in a coal mine, and shall, in accordance with the procedures set forth in this section, promulgate the mandatory health standards transmitted to him by the Secretary of Health, Education, and Welfare. No mandatory health or safety standard promulgated under this title shall reduce the protection afforded miners below that afforded by the standards contained in titles II and III of this Act.

(b) In the development of such mandatory safety standards, the Secretary shall consult with the Board, other interested Federal agencies, representatives of States, appropriate representatives of the coal mine operators and miners, other interested persons and organizations, and such advisory committees as he may appoint. In addition to the attainment of the highest degree of safety protection for the miner, other considerations shall be the latest available scientific data in the field, the technical feasibility of the standards, and experience gained under this and other safety statutes.

(c) The Secretary of Health, Education, and Welfare shall, in accordance with the procedures set forth in this section, develop and revise, as may be appropriate, mandatory health standards for the protection of life and the prevention of occupational diseases of coal miners. Such development and revision shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In the development of mandatory health standards, the Secretary of Health, Education, and Welfare may consult with appropriate representatives of the operators and miners, other interested persons, the States, advisory committees, and, where appropriate, foreign countries. Mandatory health standards which the Secretary of Health, Education, and Welfare develops or revises shall be transmitted to the Secretary, and shall thereupon be published by the Secretary as proposed mandatory health standards.

(d) The Secretary shall publish proposed mandatory health and safety standards in the Federal Register and shall afford interested persons a period of not less than thirty days after publication to submit written data or comments. In the case of mandatory safety standards, except as provided in subsection (e) of this section, the Secretary may, upon the expiration of such period and after consideration of all relevant matter presented, promulgate such standards with such modifications as he may deem appropriate. In the case of mandatory health standards, except as provided in subsection (e) of this section, the Secretary of Health, Education, and Welfare may, upon the expiration of such period and after consideration of all relevant matter presented to the Secretary and transmitted to the Secretary of Health, Education, and Welfare, direct the Secretary to promulgate such standards with such modifications as the Secretary of Health, Education, and Welfare may deem appropriate and the Secretary shall thereupon promulgate such standards.

(e) On or before the last day of any period fixed for the submission of written data or comments under subsection (d) of this section, any interested person may file with the Secretary written objections to a proposed standard, stating the grounds therefor and requesting a public hearing on such objections. As soon as practicable after the period for filing such objections has expired, the Secretary shall publish in the Federal Register a notice specifying the proposed standards to which objections have been filed and a hearing requested.

(f) Promptly after any such notice is published in the Federal Register by the Secretary under subsection (e) of this section, the Secretary, in the case of mandatory safety standards, or the Secretary of Health, Education, and Welfare, in the case of mandatory health standards, shall issue notice of, and hold a public hearing for the purpose of receiving relevant evidence. Within sixty days after completion of the hearings, the Secretary who held the hearing shall make findings of fact which shall be public. In the case of mandatory safety standards, the Secretary may promulgate such standards with such modifications as he deems appropriate. In the case of mandatory health standards, the Secretary of Health, Education, and Welfare may direct the Secretary to promulgate the mandatory health standards with such modifications as the Secretary of Health, Education, and Welfare deems appropriate and the Secretary shall thereupon promulgate the mandatory health standards. In the event the Secretary or the Secretary of Health, Education, and Welfare determines that a proposed mandatory standard should not be promulgated or should be modified, he shall within a reasonable time publish his reasons for his determination.

(g) Any mandatory standard promulgated under this section shall be effective upon publication in the Federal Register unless the Secretary specifies a later date.

(h) Proposed mandatory safety standards for surface coal mines shall be developed and published by the Secretary not later than twelve months after the enactment of this Act.

ADVISORY COMMITTEES

SEC. 102. (a) The Secretary may appoint one or more advisory committees to advise him in carrying out the provisions of this Act. The Secretary shall designate the chairman of each such committee.

(b) Advisory committee members, other than employees of Federal, State, or local governments, shall be, for each day (including travel time) during which they are performing committee business, entitled to receive compensation at rates fixed by the Secretary but not in excess of the maximum rate of pay for GS–18 as provided in the General Schedule under section 5332 of title 5 of the United States Code, and shall, notwithstanding the limitations of sections 5703 and 5704 of title 5 of the United States Code, be fully reimbursed for travel, subsistence, and related expenses.

INSPECTIONS AND INVESTIGATIONS

SEC. 103. (a) Authorized representatives of the Secretary shall make frequent inspections and investigations in coal mines each year for the purpose of (1) obtaining, utilizing, and disseminating information relating to health and safety conditions, the causes of accidents, and the causes of diseases and physical impairments originating in such mines, (2) gathering information with respect to health and safety standards, (3) determining whether an imminent danger exists in a coal mine, and (4) determining whether or not there is compliance with the mandatory health and safety standards or with any notice or order issued under this title. In carrying out the requirements of clauses (3) and (4) of this subsection, no advance notice of an inspection shall be provided the operator of a mine. In carrying out the requirements of clauses (3) and (4) of this subsection in each underground coal mine, such representatives shall make inspections of the entire mine at least four times a year.

(b)(1) For the purpose of making any inspection or investigation under this Act, the Secretary or any authorized representative of the Secretary shall have a right of entry to, upon, or through any coal mine.

(2) The provisions of this Act relating to inspections, investigations, and records shall be available to the Secretary of Health, Education, and Welfare to enable him to carry out his functions and responsibilities under this Act.

(c) For the purpose of carrying out his responsibilities under this Act, including the enforcement thereof, the Secretary may by agreement utilize with or without reimbursement the services, personnel, and facilities of any Federal agency.

(d) For the purpose of making any investigation of any accident or other occurrence relating to health or safety in a coal mine, the Secretary may, after notice, hold public hearings, and may sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this section, the district court of the United States for any district in which such person is found or resides or transacts business,

upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) In the event of any accident occurring in a coal mine, the operator shall notify the Secretary thereof and shall take appropriate measures to prevent, to the greatest extent possible, the destruction of any evidence which would assist in invstigating the cause or causes thereof. In the event of any accident occurring in a coal mine where rescue and recovery work is necessary, the Secretary or an authorized representative of the Secretary shall take whatever action he deems appropriate to protect the life of any person, and he may, if he deems it appropriate, supervise and direct the rescue and recovery activity in such mine.

(f) In the event of any accident occurring in a coal mine, an authorized representative of the Secretary, when present, may issue such orders as he deems appropriate to insure the safety of any person in the coal mine, and the operator of such mine shall obtain the approval of such representative, in consultation with appropriate State representatives, when feasible, of any plan to recover any person in the mine or to recover the mine or to return affected areas of the mine to normal.

(g) If a miner or an authorized representative, if any, of the miners believes that a violation of a mandatory health or safety standard exists, or an imminent danger exists, in a mine, he may notify the Secretary or his authorized representative of such violation or danger. Upon receipt of such notification the Secretary or his authorized representative may make a special investigation to determine if such violation or danger exists.

(h) At the commencement of any inspection of a coal mine by an authorized representative of the Secretary, the authorized representative, if any, of the miners at the mine at the time of such inspection shall be given an opportunity to accompany the authorized representative of the Secretary on such inspection.

FINDINGS, NOTICES, AND ORDERS

SEC. 104. (a) If, upon any inspection of a coal mine, an authorized representative of the Secretary finds that an imminent danger exists, such representative shall determine the area throughout which such danger exists, and thereupon shall issue forthwith an order requiring the operator of the mine or his agent to cause immediately all persons, except those referred to in subsection (d) of this section, to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such imminent danger no longer exists.

(b) If, upon any inspection of a coal mine, an authorized representative of the Secretary finds that there has been a violation of any mandatory health or safety standard but the violation has not created an imminent danger, he shall issue a notice fixing a reasonable time for the abatement of the violation. If, upon the expiration of the period of time as originally fixed or subsequently extended, an authorized representative of the Secretary finds that the violation has not been totally abated, and if he also finds that the period of time should not be further extended, he shall find the extent of the area affected by the violation and shall promptly issue an order requiring the operator of such mine or his agent to cause immediately all persons, except those referred to in subsection (d) of this section, to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that the violation has been abated.

(c) (1) If, upon the inspection of a coal mine, an authorized representative of the Secretary finds that any mandatory health or safety standard is being violated, and if he also finds that, while the conditions created by such violation do not cause imminent danger, such violation is of such nature as could significantly and substantially contribute to the cause or effect of a mine accident, and if he finds such violation to be caused by an unwarrantable failure of such operator to comply with such mandatory health and safety standards, 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 Secretary 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 subsection (b) of this section, or section 105. If, during any special inspection relating to such violation or during such reinspection, a representative of the Secretary 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 the mandatory health or safety standards, 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 subsection (d) of this section, to be withdrawn from, and to be debarred from entering, such area until an authorized representative of the Secretary determines that such violation has been abated.

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 Secretary 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.

(d) The following persons shall not be required to be withdrawn from, or prohibited from entering, any area of the coal mine subject to an order issued under this section:

(1) any person whose presence in such area is necessary, in the judgment of the operator, to eliminate the condition described in the order;

(2) any public official whose official duties require him to enter such area;

(3) any representative of the employees of such mine who is, in the judgment of the operator, qualified to make coal mine examinations or who is accompanied by such a person and whose presence in such area is necessary for the investigation of the conditions described in the order; and

(4) any consultant to any of the foregoing.

(e) Notices and orders issued pursuant to this section shall contain a detailed description of the conditions or practice which cause and constitute an imminent danger or a violation of any mandatory health or safety standard and, where appropriate, a description of the area of the coal mine from which persons must be withdrawn and prohibited from entering.

(f) Each notice or order issued under this section shall be given promptly to the operator of the coal mine or his agent by an authorized representative of the Secretary issuing such notice or order, and all such notices and orders shall be in writing and shall be signed by such representative.

(g) A notice or order issued pursuant to this section may be modified or terminated by an authorized representative of the Secretary.

(h) (1) If, upon any inspection of a coal mine, an authorized representative of the Secretary finds (A) that conditions exist therein which have not yet resulted in an imminent danger, (B) that such conditions cannot be effectively abated through the use of existing technology, and (C) that reasonable assurance cannot be provided that the continuance of mining operations under such conditions will not result in an imminent danger, he shall determine the area throughout which such conditions exist, and thereupon issue a notice to the operator of the mine or his agent of such conditions, and shall file a copy thereof, incorporating his findings therein, with the Secretary and with the representative of the miners of such mine, if any. Upon receipt of such copy, the Secretary shall cause such further investigation to be made as he deems appropriate, including an opportunity for the operator or a representative of the miners, if any, to present information relating to such notice.

(2) Upon the conclusion of such investigation and an opportunity for a hearing upon request by any interested party, the Secretary shall make findings of fact, and shall require that either the notice issued under this subsection be canceled, or that an order be issued by such authorized representative of the Secretary requiring the operator to cause all persons in the area affected, except those persons referred to in subsection (d) of this section, to be withdrawn from, and be prohibited from entering, such area until the Secretary, after a hearing affording all interested persons an opportunity to present their views, determines that such conditions have been abated.

(i) If, based upon samples taken and analyzed and recorded pursuant to section 202 (a) of this Act, the applicable health standard established under section 202(b) of this Act is exceeded and thereby violated, the Secretary or his authorized representative shall find a reasonable period of time within which to take corrective action to reduce the average concentration of respirable dust to the miners in the area of the mine in which such standard was exceeded, and shall issue a notice fixing a reasonable time for the abatement of the violation. During such time, the operator of such mine shall cause samples described in section 202(a) of this Act to be taken of the affected area during each production shift. If, upon the expiration of the period of time as originally fixed or subsequently extended, the Secretary or his authorized representative finds, based upon such samples or upon an inspection, that the violation has not been totally abated, he shall issue a new notice of violation if he finds that such period of time should be further extended. If he finds that such period of time should not be further extended, he shall find the extent of the area affected by the violation and shall promptly issue an order requiring the operator of such mine or his agent to cause immediately all persons, except those referred to in subsection (d) of this section, to be withdrawn from, and to be prohibited from entering, such area until the Secretary or his authorized representative determines through such test procedures conducted in such area as he may require, including production and sampling that the violation has been abated.

REVIEW BY THE SECRETARY

SEC. 105. (a) (1) An operator notified of an order issued pursuant to section 104 of this title, or any representative of miners in any mine affected by such order or any modification or termination of such order pursuant to section 104(g), may apply to the Secretary for review of the order within thirty days of

receipt thereof or within thirty days of its modification or termination. The operator shall send a copy of such application to the representative, if any, of persons working in the affected mine. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a hearing, at the request of the applicant or a representative of persons working in such mine, enable the applicant and the representatives of persons working in such mine to present information relating to the issuance and continuance of such order.

(2) The operator and the representative of the miners shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code.

(b) Upon receiving the report of such investigation, the Secretary shall make findings of fact, and (1), in the case of an order issued under subsection (a) of section 104 of this title, he shall find whether or not the imminent danger as set out in the order existed at the time of issuance of the order and whether or not the imminent danger existed at the time of the investigation, and (2), in the case of an order issued under subsection (b), (c), or (i) of section 104 of this title, he shall find whether or not there was a violation of any mandatory health or safety standard as described in the order and whether or not such violation had been abated at the time of such investigation, and upon making such findings he shall issue a written decision vacating, affirming, modifying, or terminating the order complained of and incorporate his findings therein.

(c) In view of the urgent need for prompt decision of matters submitted to the Secretary under this section, all actions which the Secretary takes under this section shall be taken as promptly as practicable, consistent with the adequate consideration of the issues involved.

(d) Pending completion of the investigation required by this section, the applicant may file with the Secretary a written request that the Secretary grant temporary relief from any order issued under section 104 of this title, together with a detailed statement giving reasons for granting such relief. The Secretary may issue a decision granting such relief, under such conditions as he may prescribe, only after a hearing in which all parties are given an opportunity to be heard.

JUDICIAL REVIEW

SEC. 106. (a) Any decision issued by the Panel under section 5 or the Secretary under section 105 of this Act shall be subject to judicial review by the United States court of appeals for the circuit in which the affected mine is located, upon the filing in such court within thirty days from the date of such decision of a petition by the operator or a representative of the miners aggrieved by the decision praying that the decision be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to the other party and to the Secretary or the Panel, as appropriate, and thereupon the Secretary or the Panel, as appropriate, shall certify and file in such court the record upon which the decision complained of was issued, as provided in section 2112, title 28, United States Code.

(b) The Court shall hear such petition on the record made before the Secretary or the Panel, as appropriate. The findings of the Secretary or the Panel, as appropriate, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any such decision or may remand the proceedings to the Secretary or the Panel, as appropriate, for such further action as it may direct.

(c) Upon such conditions as may be required and to the extent necessary to prevent irreparable injury, the court may, after due notice to, and hearing of, the parties to the appeal, from a decision of the Secretary or the Panel, as appropriate, except a decision from an order issued under section 104(a) of this title, issue all necessary and appropriate process and grant such other relief as may be appropriate pending final determination of the appeal.

(d) The judgment of the court shall be subject only to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(e) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the Secretary's or Panel's decision.

POSTING OF NOTICES AND ORDERS

SEC. 107. (a) At each coal mine there shall be maintained an office with a conspicuous sign designating it as the office of the mine and a bulletin board at such office or at some conspicuous place near an entrance of the mine, in such manner that notices required by law or regulation to be posted on the mine bulletin board may be posted thereon, be easily visible to all persons desiring to read them, and be protected against damage by weather and against unauthorized removal. A copy of any notice or order required by this title to be given to an operator shall be delivered to the office of the affected mine, and a copy shall be immediately posted on the bulletin board of such mine by the operator or his agent.

(b) The Secretary shall cause a copy of any notice or order required by this title to be given to an operator to be mailed immediately to a duly designated representative of persons working in the affected mine, and to the public official or agency of the State charged with administering State laws, if any, relating to health or safety in such mine. Such notice or order shall be available for public inspection.

(c) In order to insure prompt compliance with any notice or order issued under section 104 of this title, the authorized representative of the Secretary may deliver such notice or order to an agent of the operator and such agent shall immediately take appropriate measures to insure compliance with such notice or order.

(d) Each operator of a coal mine shall file with the Secretary the name and address of such mine and the name and address of the person who controls or operates the mine. Any revisions in such names or addresses shall be promptly filed with the Secretary. Each operator of a coal mine shall designate a responsible official at such mine as the principal officer in charge of health and safety at such mine and such official shall receive a copy of any notice, order, or decision issued under this Act affecting such mine. In any case, where the coal mine is subject to the control of any person not directly involved in the daily operations of the coal mine, there shall be filed with the Secretary the name and address of such person and the name and address of a principal official of such person who shall have overall responsibility for the conduct of an effective health and safety program at any coal mine subject to the control of such person and such official shall receive a copy of any notice, order, or decision issued affecting any such mine. The mere designation of a health or safety official under this subsection shall not be construed as making such official subject to any penalty under this Act.

INJUNCTIONS

SEC. 108. The Secretary may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order, in the district court of the United States for the district in which a coal mine is located or in which the operator of such mine has his principal office, whenever such operator or his agent (a) violates or fails or refuses to comply with any order issued under section 104 of this title or decision issued under this title, or (b) interferes with, hinders, or delays the Secretary or his authorized representative in carrying out the provisons of this Act, or (c) refuses to admit such representative to the mine, or (d) refuses to permit the inspection of the mine, or an accident, injury, or occupational disease occurring in, or connected with, such mine, or (e) refuses to furnish any information or report requested by the Secretary, or (f) refuses to permit access to, and copying of, records. Each court shall have jurisdiction to provide such relief as may be appropriate: *Provided,* That no temporary restraining order shall be issued without notice unless the petition therefor alleges that substantial and irreparable injury to the miners in such mine will be unavoidable and such temporary restraining order shall be effective for no longer than seven days and will become void at the expiration of such period: *Provided further,* That any order issued under this section to enforce an order issued under section 104, unless set aside or modified prior thereto by the district court granting such injunctive relief, shall not be in effect after the completion or final termination of all proceedings for review of such order as provided in this title if such is determined on such review that such order was invalid.

PENALTIES

SEC. 109. (a) The operator of a coal mine in which a violation occurs of a mandatory health or safety standard or who violates any provision of this Act shall by order be assessed a civil penalty by the Secretary which penalty shall not be more than $10,000 for each such violation. Each occurrence of a violation of a mandatory health or safety standard may constitute a separate offense. In determining the amount of the penalty, the Secretary shall consider the operator's history of previous violations, the appropriateness of such penalty to the size of the business of the operator charged, the effect on the operator's ability to continue in business, the gravity of the violation, and the demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of a violation. No penalty shall be assessed under this subsection pending the final termination, expiration, or completion of all proceedings, administrative or judicial, for review of an order or decision under this title.

(b) Upon written request made by an operator within thirty days after receipt of an order assessing a penalty under this section, the Secretary shall afford such operator an opportunity for a hearing and, in accordance with the request, determine by decision whether or not a violation did occur or whether the amount of the penalty is warranted or should be compromised.

(c) Upon any failure of an operator to pay a penalty assessed under this section, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found or resides or transacts business to collect the penalty, and such court shall have jurisdiction to hear and decide any such action.

(d) Whoever knowingly violates or fails or refuses to comply with any order issued under section 104(a) of this title or any final decision on any other order issued under this title shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or both, except that if the conviction is for a violation committed after the first conviction of such person, punishment shall be by a fine of not more

than $20,000 or by imprisonment for not more than one year, or by both.

(c) Whenever a corporate operator violates a mandatory health or safety standard of this Act, or violates any provision of this Act, any director, officer, or agent of such corporation who authorized, ordered, or carried out such violation shall be subject to the provisions of subsection (a). Whenever a corporate operator knowingly violates or fails or refuses to comply with any order issued under section 104(a) of this title or any final decision on any other order issued under this title, any director, officer, or agent of such corporation who authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the provisions of subsection (d).

(f) Whoever knowingly makes any false statements or representations in any application, records, reports, plans, or other documents filed or required to be maintained in accordance with this Act or any mandatory health or safety standard of this Act or any order issued under this Act shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or both.

ENTITLEMENT OF MINERS

SEC. 110. (a) If a mine or portion of a mine is closed by an order issued under section 104, all miners working during the shift when such order was issued who are idled by such order shall be entitled to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than the balance of such shift. If such order is not terminated prior to the next working shift, all miners on that shift who are idled by such order shall be entitled to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than four hours of such shift. Whenever an operator violates or fails or refuses to comply with an order issued under section 104, all miners employed at the affected mine who would be withdrawn or prevented from entering such mine or portion thereof as a result of such order shall be entitled to full compensation by the operator at their regular rates of pay, in addition to pay received for work performed after such order was issued, for the period beginning when such order was issued and ending when such order is complied with, vacated, or terminated.

(b)(1) Compensation shall be paid under this subsection in respect of total disability of an individual from complicated pneumoconiosis which arose out of or in the course of his employment in a coal mine, and in respect of the death of any individual who, at the time of his death, was suffering from complicated pneumoconiosis which so arose. For purposes of this subsection, if an individual who is suffering or suffered from complicated pneumoconiosis was employed for ten years or more in a coal mine there shall be a rebuttable presumption that his complicated pneumoconiosis arose out of or in the course of such employment, but this sentence shall not be deemed to affect the applicability of the first sentence of this paragraph in the case of claims under this subsection on account of death or total disability of an individual when such individual has not worked for as much as ten years in a coal mine. For purposes of this subsection, any individual who suffers from complicated pneumoconiosis shall be deemed to be totally disabled.

(2)(A) Subject to the provisions of subparagraph (B), compensation shall be paid under this subsection as follows:

(i) In the case of total disability, the disabled individual shall be paid compensation during the disability at a rate equal to 50 per centum of the minimum monthly payment to which a Federal employee in grade GS-2, who is totally disabled is entitled at the time of payment under the provisions of Federal law relating to Federal employees' compensation (section 8112, title 5, United States Code).

(ii) In the case of death, compensation shall be paid to the widow at the rate the deceased individual would receive such compensation if he were totally disabled.

(iii) In the case of an individual entitled to compensation under clause (i) or (ii) of this subparagraph who has one or more dependents, his compensation shall be increased at the rate of 50 per centum of the compensation to which he is so entitled under clause (i) or (ii) of this subparagraph if such individual has one dependent, 75 per centum if such individual has two dependents, and 100 per centum if such individual has three dependents.

(B) Notwithstanding subparagraph (A), compensation under this paragraph shall be reduced by an amount equal to any payment which the payee receives under the workmen's compensation, unemployment compensation, or disability insurance laws of his State, and the amount by which such payment would be reduced on account of excess earnings under section 203 (b) through (l) of the Social Security Act if the amount paid were a benefit payable under section 202 of such Act.

(3)(A) The Secretary of Labor shall enter into agreements with the Governors of the States under which the State will receive and adjudicate claims under this subsection from any resident of the State and under which compensation will be paid as provided by this subsection from grants made to pay compensation under this subsection. Such Governor shall implement the agreement in such manner as he shall determine will best effectuate the provisions of this subsection. The Governor shall make such reports to the Secretary of Labor, subject to such verification, as may be necessary to assure that Federal grants under this subsection are used for their intended purpose.

(B) The Secretary of Labor shall make grants under this subsection to States with which he has an agreement under subparagraph (A) in the amount necessary to enable them to pay the compensation required by this subsection.

(4) If the Secretary of Labor is unable to enter into an agreement under paragraph (3), or if the Governor of the State requests him to do so, he shall make payments of compensation directly to residents of such State as required by this subsection. The administrative provisions for carrying out the Federal employees' compensation programs which are contained in sections 8121, 8122 (b), and 8123 through 8135, title 5, United States Code, shall apply with respect to claims under this paragraph.

(5) No claim under this subsection shall be considered unless it is filed (1) within one year after the date an employed miner received the results of his first chest roentgenogram provided under section 203 of this Act, or, if he did not receive such a chest roentgenogram, the date he was first afforded an opportunity to do so under such section, or (2) in the case of any other claimant, within three years from the date of enactment of this Act, or, in the case of a claimant who is a widow, within one year after the death of her husband or within three years from the date of enactment of this Act, whichever is the later. Payment of compensation under this subsection shall commence with the date the claim is filed.

(6) No compensation shall be paid under this subsection to the residents of any State which, after the date of enactment of this Act, reduces the benefits payable to persons eligible to receive compensation under this subsection, under its State laws which are applicable to its general work force with regard to workmen's compensation, unemployment compensation, or disability insurance.

(7) For purposes of this subsection—

(A) The term "coal mine" includes only underground coal mines.

(B) The term "complicated pneumoconiosis" means an advanced stage of a chronic coal dust disease of the lung which (i) when diagnosed by chest roentgenogram, yields one or more large opacities (greater than one centimeter in diameter) and would be classified in category A, B, or C in the International Classification of Radiographs of the pneumoconioses by the International Labor Organization, (ii) when diagnosed by biopsy or autopsy, yields massive lesions in the lung, (iii) when diagnosis is made by other means, would be a condition which could reasonably be expected to yield results described in clause (i) or (ii) if diagnosis had been made in a manner described in clause (i) or (ii).

(C) The term "dependent" means a wife or child who is a dependent as that term is defined for purposes of section 8110, title 5, United States Code.

(D) The term "widow" means the wife living with or dependent for support on the decedent at the time of his death, or living apart for reasonable cause or because of his desertion, who has not remarried.

REPORTS

SEC. 111. (a) All accidents, including unintentional roof falls (except in any abandoned panels or in areas which are inaccessible or unsafe for inspections), shall be investigated by the operator or his agent to determine the cause and the means of preventing a recurrence. Records of such accidents, roof falls, and investigations shall be kept and the information shall be made available to the Secretary or his authorized representative and the appropriate State agency. Such records shall be open for inspection by interested persons. Such records shall include man-hours worked and shall be reported for periods determined by the Secretary, but at least annually.

(b) Every operator of a coal mine and his agent shall (1) establish and maintain, in addition to such records as are specifically required by this Act, such records, and (2) make such reports and provide such information, as the Secretary may reasonably require from time to time to enable him to perform his functions under this Act. The Secretary is authorized to compile, analyze, and publish, either in summary or detailed form, such reports or information so obtained. Except to the extent otherwise specifically provided by this Act, all records information, reports, findings, notices, orders, or decisions required or issued pursuant to or under this Act may be published from time to time and released to any interested person, and shall be made available for public inspection.

TITLE II—INTERIM MANDATORY HEALTH STANDARDS

COVERAGE

SEC. 201. The provisions of sections 202 through 205 of this title shall be interim mandatory health standards applicable to all underground coal mines until superseded in whole or in part by mandatory health standards promulgated by the Secretary, and shall be enforced in the same manner and to the same extent as any mandatory health standard promulgated under the provisions of section 101 of title I of this Act. Any orders issued in the enforcement of the interim standards set forth in this title shall be subject to review as provided in sections 105, 107 and 108 of title I of this Act.

DUST STANDARD AND RESPIRATORS

SEC. 202. (a) Each operator of a coal mine shall take accurate samples of the amount of respirable dust in the mine atmosphere to which the miners in the active workings of

such mine are exposed. Such samples shall be taken by any device approved by the Secretary and the Secretary of Health, Education, and Welfare and in accordance with such methods, at such locations, at such intervals, and in such manner as the Secretaries shall prescribe in the Federal Register within sixty days from the date of enactment of this Act and from time to time thereafter. Such samples shall be transmitted to the Secretary at his expense in a manner established by him, and analyzed and recorded by him in a manner which will assure application of the provisions of section 104 (i) when the standard established under subsection (b) of this section is exceeded. The results of such samples shall also be made available to the operator. Each operator shall certify to the Secretary at such intervals as the Secretary may require as to the condition of the mine atmosphere in the active workings of the mine, including, but not limited to, the average number of working hours worked during each shift, the quantity of air regularly reaching the working places, the method of mining, the amount and pressure of the water, if any, reaching the working faces, and the number, location, and type of sprays, if any, used.

(b)(1) Effective on the operative date of this title, each operator shall maintain the average concentration of respirable dust in the mine atmosphere to which each miner in the active workings of such mine is exposed at or below 4.5 milligrams per cubic meter of air (if measured with an MRE instrument over several shifts) or an equivalent amount of dust (if measured with any other instrument approved by the Secretary and the Secretary of Health, Education, and Welfare). In the case of an operator who requests an extension of time beyond the operative date of this title in which to reduce such average concentration of respirable dust to or below 4.5 milligrams per cubic meter of air (or its equivalent) and demonstrates to the satisfaction of the Panel that he is undertaking maximum efforts to so reduce such average concentration but is unable to do so because it is not technologically feasible for him to do so, the Panel may grant such operator no more than ninety days for such purpose.

(2) Effective six months after the operative date of this title, the limit on the level of dust concentration shall be 3.0 milligrams of respirable dust per cubic meter of air (if measured with an MRE instrument over several shifts) or an equivalent amount of dust (if measured with any other instrument approved by the Secretary and the Secretary of Health, Education, and Welfare). In the case of an operator who requests an extension of time beyond the effective date of this paragraph in which to reduce the average concentration of respirable dust to or below 3.0 milligrams per cubic meter of air (or its equivalent) and demonstrates to the satisfaction of the Panel that he is undertaking maximum efforts to so reduce such average concentration but is unable to do so because it is not technologically feasible for him to do so, the Panel may grant such operator no more than six months for such purpose.

(3) Beginning six months after the operative date of this title, the Secretary of Health, Education, and Welfare shall reduce the limit on the level of dust concentration below 3.0 milligrams of respirable dust per cubic meter of air (if measured with an MRE instrument over several shifts) or an equivalent amount of dust (if measured with any other instrument approved by the Secretary and the Secretary of Health, Education, and Welfare) as he determines such reductions become technologically attainable.

(c) Respirators or other breathing devices approved by the Secretary and the Secretary of Health, Education, and Welfare shall be made available to all persons whenever exposed to concentrations of dust in excess of concentrations of dust permitted by subsection (b). Use of respirators shall not be substituted for environmental control measures. Each underground mine shall maintain a supply of approved respirators or other breathing devices adequate to deal with occurrences of concentrations of respirable dust in the mine atmosphere in excess of the limit prescribed in this section.

(d) As used in this title, the term "MRE instrument" means the gravimetric dust sampler with four channel horizontal elutriator developed by the Mining Research Establishment of the National Coal Board, London, England.

MEDICAL EXAMINATION

SEC. 203. (a) The operator of an underground coal mine shall cooperate with the Secretary of Health, Education, and Welfare in making available to each miner working in an underground coal mine an opportunity to have, at least once every five years, beginning six months after the operative date of this title, a chest roentgenogram to be provided by the Secretary of Health, Education, and Welfare with funds derived under section 401(c) of this Act. Each worker who begins work in a coal mine for the first time shall be be given, as soon as possible after commencement of his employment, and again three years later if he is still engaged in coal mining, a chest roentgenogram; and in the event the second such chest roentgenogram shows evidence of the development of pneumoconiosis the worker shall be given, two years later if he is still engaged in coal mining, an additional chest roentgenogram. Such chest roentgenograms shall be given in accordance with specifications and to the extent prescribed by the Secretary of Health, Education, and Welfare and shall be supplemented by such other tests as the Secretary of Health, Education, and Welfare deems necessary. The films shall be read and classified in a manner to be prescribed by the Secretary of Health, Education, and Welfare and the results of each reading on each such person and of such tests, shall be submitted to the Secretary and to the Secretary of Health, Education, and Welfare, and at the request of the worker, to his physician. Such specifications, readings, classifications, and tests shall to the greatest degree possible, be uniform for all underground coal mines and coal miners in such mines.

(b) An miner, who, in the judgment of the Secretary of Health, Education, and Welfare based upon such reading, shows substantial evidence of the development of pneumoconiosis shall, at the option of the miner, be assigned by the operator, for such periods or periods as may be necessary to prevent further development of such disease, to work either (1) in any active working place in a mine where the mine atmosphere contains concentrations of respirable dust of not more than 2.0 milligrams per cubic meter of air if measured with an MRE instrument or not more than an equivalent amount of dust if measured with any other instrument approved by the Secretary and the Secretary of Health, Education, and Welfare, or (2) in an area of the mine containing more than such 2.0 milligrams, or its equivalent, provided the miners wears respiratory equipment approved by the Secretary and the Secretary of Health, Education, and Welfare. Within one year after the enactment of this Act, any miner who shows evidence of the development of pneumoconiosis shall be assigned by the operator for such period or periods as may be necessary to prevent further development of such disease, to work, at the option of the miner, in any working section or other area of the mine, where the average concentration of respirable dust in the mine atmosphere to which the miner is exposed during each shift is at or below 1.0 milligrams of dust per cubic meter of air or to whatever lower level the Secretary of Health, Education, and Welfare determines is necessary to prevent any further development of such disease. Any miner so assigned shall receive compensation for such work not less than the regular rate of pay received by him immediately prior to his assignment.

DUST FROM DRILLING ROCK

SEC. 204. 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, or by any other method or device approved by the Secretary which is at least as effective in controlling such dust. Respiratory equipment approved by the Secretary and the Secretary of Health, Education, and Welfare shall be provided persons exposed for short periods to inhalation hazards from gas, dusts, fumes, or mist. When the exposure is for prolonged periods, other measures to protect such persons shall be taken.

DUST STANDARD WHEN QUARTZ IS PRESENT

SEC. 205. In coal mining operations where the respirable dust in the mine atmosphere of any active working place contains more than 5 per centum quartz, the Secretary of Health, Education, and Welfare shall prescribe an appropriate formula for determining the applicable dust standard under this title for such working place and the Secretary shall apply such formula in carrying out his duties under this title.

TITLE III—INTERIM MANDATORY SAFETY STANDARDS FOR UNDERGROUND COAL MINES

COVERAGE

SEC. 301. (a) The provisions of sections 302 through 317 of this title shall be interim mandatory safety standards applicable to all underground coal mines until superseded in whole or in part by mandatory safety standards promulgated by the Secretary under the provisions of section 101 of title I of this Act, and shall be enforced in the same manner and to the same extent as any mandatory safety standard promulgated under title I of this Act. Any orders issued in the enforcement of the interim standards set forth in this title shall be subject to review as provided in title I of this Act.

(b) The Secretary may, upon petition by the operator waive or modify the application of any mandatory safety standard to a mine when he determines such application will result in a diminution of safety to workers in such mine, but any action taken by the Secretary under this subsection shall be consistent with the purposes of this Act and shall not reduce the protection afforded miners by it.

(c) Upon petition by the operator, the Secretary may modify the application of any mandatory safety standard to a mine. Such petition shall state that an alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded miners by such standard. Upon receipt of such petition the Secretary shall publish notice thereof and give notice to the representative, if any, of persons working in the affected mine and shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a hearing, at the request of such representative or other intested party, to enable the applicant and the representative of persons working in such mine or other interested party to present information relating to the modification of such standard. The Secretary shall make findings of fact and publish them in the Federal Register.

ROOF SUPPORT

SEC. 302. (a) Each operator shall undertake to carry out on a continuing basis a program to improve the roof control system of each mine and the means and measures

to accomplish such system. The roof and ribs of all active underground roadways, travelways, and working places shall be supported or otherwise controlled adequately to protect persons from falls of the roof or ribs. A roof-control plan and revisions thereof suitable to the roof conditions and mining system of each mine and approved by the Secretary shall be adopted and set out in printed form within sixty days after the operative date of this title. The plan shall show the type of support and spacing approved by the Secretary. Such plan shall be reviewed periodically, at least every six months by the Secretary, taking into consideration any falls of roof or ribs or inadequacy of support of roof or ribs. No person shall proceed beyond the last permanent support unless adequate temporary support is provided or unless such temporary support is not required under the approved roof control plan. A copy of the plan shall be furnished the Secretary or his authorized representative and shall be available to the miners or their authorized representatives.

(b) The method of mining followed in any mine shall not expose the miner to unusual dangers from roof falls caused by excessive widths of rooms and entries or faulty pillar recovery methods.

(c) The operator shall provide at or near the working face an ample supply of suitable materials of proper size with which to secure the roof of all working places in a safe manner. Safety posts, jacks, or other approved devices shall be used to protect the workmen when roof material is being taken down, crossbars are being installed, roof boltholes are being drilled, roof bolts are being installed, and in such other circumstances as may be appropriate. Loose roof and overhanging or loose faces and ribs shall be taken down or supported. Supports knocked out, except in recovery, shall be replaced promptly.

(d) When permitted, installed roof bolts shall be tested in accordance with the approved roof control plan. Roof bolts shall not be recovered where complete extractions of pillars are attempted, where adjacent to clay veins, or at the locations of other irregularities, whether natural or otherwise that induce abnormal hazards. Where roof bolt recovery is permitted, it shall be conducted only in accordance with methods prescribed in the approved roof control plan and shall be conducted by experienced miners and only where adequate temporary support is provided.

(e) Where miners are exposed to danger from falls of roof, face, and ribs the operator shall require that examinations and tests of the roof, face, and ribs be made before any work or machine is started, and as frequently thereafter as may be necessary to insure safety. When dangerous conditions are found, they shall be corrected immediately.

VENTILATION

SEC. 303. (a) All coal mines shall be ventilated by mechanical ventilation equipment installed and operated in a manner approved by an authorized representative of the Secretary and such equipment shall be examined daily and a record shall be kept of such examination.

(b) All active underground workings shall be ventilated by a current of air containing not less than 19.5 volume per centum of oxygen, not more than 0.5 volume per centum of carbon dioxide, and no harmful quantities of other noxious or poisonous gases; and the volume and velocity of the current of air shall be sufficient to dilute, render harmless, and to carry away, flammable or harmful gases and smoke and fumes. The minimum quantity of air in any mine reaching the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms shall be nine thousand cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line shall be nine thousand cubic feet a minute. The minimum quantity of air in any mine reaching each working face shall be three thousand cubic feet a minute and, in the case of a mechanized mine, there shall also be a minimum velocity of one hundred feet per minute passing to within five feet of the working face and over any miner operating electrical equipment at the working face. The Secretary or his authorized representative may require in any coal mine a greater quantity and velocity of air when he finds it necessary to protect the safety of miners [Incomplete and illegible copy was received for the amended language at this point.] In robbing areas of anthracite mines, where the air currents cannot be controlled and measurements of the air cannot be obtained, the air shall have perceptible movement.

(c) (1) Properly installed and adequately maintained line brattice or other approved devices shall be used from the last open crosscut of an entry or room of each working section to provide adequate ventilation to the working faces for the miners and to remove flammable, explosive, and noxious gases, dust, and explosive fumes, unless the Secretary or his authorized representative permits an exception to this requirement. When damaged by falls or otherwise, they shall be repaired promptly.

(2) The space between the line brattice or other approved device 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, explosive, and noxious gases, dust, and explosive fumes.

(3) Brattice cloth used underground shall be of a flame-resistant material.

(d) (1) Within three hours immediately preceding the beginning of a coal-producing shift, and before any workmen in such shift enter the underground areas of the mine, certified persons designated by the operator of the mine shall examine a definite underground area of the mine. Each such examiner shall examine every underground working place in that area and shall make tests in each such working place for accumulations of explosive gases with means approved by the Secretary for protecting explosive gases and shall make tests for oxygen deficiency with a permissible flame safety lamp or other means approved by the Secretary; examine seals and doors to determine whether they are functioning properly; examine and test the roof, face, and rib conditions in the underground working places; examine active roadways, travelways, and all belt conveyors on which men are carried, approaches to abandoned workings, and accessible falls in sections for hazards; examine by means of an anemometer or other device approved by the Secretary to determine whether the air in each split is traveling in its proper course and in normal volume; and examine for such other hazards and violations of the mandatory health safety standards, as an authorized representative of the Secretary may from time to time require. Belt conveyors on which coal is carried shall be examined after each coal-producing shift has begun. Such mine examiner shall place his initials and the date at all places he examines. If such mine examiner finds a condition which constitutes a violation of a mandatory health or safety standard or any condition which is hazardous to persons who may enter or be in such area, he shall indicate such hazardous place by posing a "DANGER" sign conspicuously at all points which persons entering such hazardous place would be required to pass, and shall notify the operator of the mine. No person, other than an authorized representative of the Secretary or a State mine inspector or persons authorized by the mine operator to enter such place for the purpose of eliminating the hazardous condition therein, shall enter such place while such sign is so posted. Upon completing his examination such mine examiner shall report the results of his examination to a person, designated by the mine operator to receive such reports at a designated station on the surface of the mine, 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 approved by the Secretary for such purpose in an area on the surface of the mine chosen by the mine operator to minimize the danger of destruction by fire or other hazard.

(2) No person (other than certified persons designated under this subsection) shall enter any underground area, except during a coal-producing shift, unless an examination of such area as prescribed in this subsection has been made within eight hours immediately preceding his entrance into such area.

(c) At least once during each coal-producing shift, or more often if necessary for safety, each underground working section shall be examined for hazardous conditions by certified persons designated by the mine operator to do so. Such examination shall include tests with means approved by the Secretary for detecting explosive gases and with a permissible flame safety lamp or other means approved by the Secretary for detecting oxygen deficiency.

(f) Examination for hazardous conditions, including tests for explosive gases, and for compliance with the standards established by, or promulgated pursuant to, this title shall be made at least once each week, by a certified person designated by the operator of the mine, in the return of each split of air where it enters the main return, on pillar falls, at seals, in the main return, at least one entry of each intake and return aircourse in its entirety, idle workings, and, insofar as safety considerations permit, abandoned workings. Such weekly examination need not be made during any week in which the mine is idle for the entire week; except that such examination shall be made before any other miner returns to the mine. The person making such examinations and tests shall place his initials and the date at the places examined, and if hazardous conditions are found, such conditions shall be reported promptly. Any hazardous conditions shall be corrected immediately. If a hazardous condition cannot be corrected immediately, the operator shall withdraw all persons from the area affected by the hazardous condition except those persons whose presence is required to correct the conditions. A record of these examinations, tests, and actions taken shall be recorded in ink or indelible pencil in a book approved by the Secretary kept for such purpose in an area on the surface of the mine chosen by the mine operator to minimize the danger of destruction by fire or other hazard, and the record shall be open for inspection by interested persons.

(g) At least once each week, a qualified 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 any pair or set of developing entries and the last open crosscut in any pair or set of rooms, the volume being delivered to the intake end of each pillar line, and the volume at the intake and return of each split of air. A record of such measurements shall be recorded in ink or indelible pencil in a book approved by the Secretary kept for such purpose in an area on the surface of the mine chosen by the mine operator to minimize the danger of destruction by fire or other hazard, and the record shall be open for inspection by interested persons.

(h) (1) At the start of each coal-producing shift, tests for explosive gases shall be made at the face of each working place immediately before electrically operated equipment

is energized. Such tests shall be made by qualified persons. If 1.0 volume per centum or more of explosive gas is detected, electrical equipment shall not be energized, taken into, or operated in, such working place until such explosive gas content is less than 1.0 volume per centum of explosive gas. Examinations for explosive gases shall be made during such operations at intervals of not more than twenty minutes during each shift, unless more frequent examinations are required by an authorized representative of the Secretary. In conducting such tests, such person shall use means approved by the Secretary for detecting explosive gases.

(2) If the air at the underground working place, when tested at a point not less than twelve inches from the roof, face, or rib, contains 1.0 volume per centum or more of explosive gas, changes or adjustments shall be made at once in the ventilation in such mines so that such air shall contain less than 1.0 volume per centum of explosive gas. While such ventilation improvement is underway and until it has been achieved, power to face equipment located in such place shall be cut off, no other work shall be permitted in such place, and due precautions will be carried out under the direction of the agent of the operator so as not to endanger other active workings.

If such air, when tested as outlined above, contains 1.5 volume per centum or more of explosive gas, all persons shall be withdrawn from the portion of the mine endangered thereby, and all electric power shall be cut off from such portion of the mine, until the air in such working place shall contain less than 1.0 volume per centum of explosive gas.

(i) If, when tested, a split of air returning from active underground workings contains 1.0 volume per centum or more of explosive gas, changes or adjustments shall be made at once in the ventilation in the mine so that such returning air shall contain less than 1.0 volume per centum of explosive gas. Such tests shall be made at four-hour intervals during each shift by a qualified person desgnated by the operator of the mine. In making such tests, such person shall use means approved by the Secretary for detecting explosive gases.

(j) If a split of air returning from active underground workings contains 1.5 volume per centum or more of explosive gas, all persons shall be withdrawn from the portion of the mine endangered thereby, and all electric power shall be cut off from such portion of the mine, until the air in such split shall contain less than 1.0 volume per centum of explosive gas. In virgin territory, if the quantity of air in a split ventilating the active workings in such territory equals or exceeds twice the minimum volume of air prescribed in subsection (b) of this section, if the air in the split returning from such workings does not pass over trolley or power feeder wires, and if a certified person designated by the mine operator is continually testing the explosive gas content of the air in such split during mining operations in such workings, it shall be necessary to withdraw all persons and cut off all electric power from the portion of the mine endangered by explosive gases only when the air returning from such workings contains 2.0 volume per centum or more of explosive gas.

(k) Air which has passed by an opening of any abandoned area shall not be used to ventilate any active working place in the mine if such air contains 0.25 volume per centum or more of explosive gas. Examinations of such air shall be made during the pre-shift examination required by subsection (d) of this section. In making such tests, a certified person designated by the operator of the mine shall use means approved by the Secretary for detecting explosive gases. For the purposes of this subsection, an area within a panel shall not be deemed to be abandoned until such panel is abandoned.

(l) Air that has passed through an abandoned panel or area which is inaccessible or unsafe for inspection shall not be used to ventilate any active working place in such mine. No air which has been used to ventilate an area from which the pillars have been removed shall be used to ventilate any active working place in such mine, except that such air, if it does not contain 0.25 volume per centum or more of explosive gases, may be used to ventilate enough advancing working places immediately adjacent to the line of retreat to maintain an orderly sequence of pillar recovery on a set of entries.

(m) A methane monitor approved by the Secretary shall be installed and be kept operative and in operation on all electric face cutting equipment, continuous miners, longwall face equipment, and loading machines, and such other electric face equipment as an authorized representative of the Secretary may require. Such monitor shall be set to deenergize automatically any electric face equipment on which it is required when such monitor is not operating properly. The sensing device of any such monitor shall be installed as close to the working face as possible. An authorized representative of the Secretary may require any such monitor to be set to give a warning automatically when the concentration of explosive gas reaches 1.0 volume per centum and automatically to deenergize equipment on which it is installed when such concentration reaches 2.0 volume per centum.

(n) Idle and abandoned areas shall be inspected for explosive gases and for oxygen deficiency and other dangerous conditions by a certified person with means approved by the Secretary as soon as possible, but not more than three hours, before other employees are permitted to enter or work in such areas. However, persons, such as pumpmen, who are required regularly to enter such areas in the performance of their duties and who are trained and qualified in the use of means approved by the Secretary for detecting explosive gases and in the use of a permissible flame safety lamp or other means for detecting oxygen deficiency are authorized to make such examinations for themselves, and each such person shall be properly equipped and shall make such examinations upon entering any such area.

(o) Immediately before an intentional roof fall is made, pillar workings shall be examined by a qualified person designated by the operator to ascertain whether explosive gas is present, such person shall use means approved by the Secretary for detecting explosive gases. If in such examination explosive gas is found in amounts of 1.0 volume per centum or more, such roof fall shall not be made until changes or adjustments are made in the ventilation so that the air shall contain less than 1.0 volume per centum of explosive gas.

(p) A ventilation system and explosive gas—and dust-control plan and revisions thereof suitable to the conditions and the mining system of the mine and approved by the Secretary shall be adopted by the operator and set out in printed form within ninety days after the operative date of this title. The plan shall show the type and location of mechanical ventilation equipment installed and operated in the mine and such other information as the Secretary may require. Such plan shall be reviewed by the operator and the Secretary at least every six months.

(q) Each operator of a coal mine shall provide for the proper maintenance and care of the permissible flame safety lamp by a person trained in such maintenance and before each shift care shall be taken to insure that such lamp is in a permissible condition.

(r) Where areas are being pillared on the operative date of this title without bleeder entries, or without bleeder systems or an equivalent means, pillar recovery may be completed in the area to the extent approved by an authorized representative of the Secretary if the edges of pillar lines adjacent to active workings are ventilated with sufficient air to keep the air in open areas along the pillar lines below 1.0 volume per centum of explosive gas.

(s) Each mechanized mining section shall be ventilated with a separate split of intake air directed by overcasts, undercasts, or the equivalent, except an extension of time, not in excess of six months may be permitted by the Secretary, under such conditions as he may prescribe, whenever he determines that this subsection cannot be complied with on the operative date of this title.

(t) In all underground areas of a mine, immediately before firing each shot or group of multiple shots and after blasting is completed, examinations for explosive gases shall be made by a qualified person with means approved by the Secretary for detecting explosive gases. If explosive gas is found in amounts of 1.0 volume per centum or more, changes or adjustments shall be made at once in the ventilation so that the air shall contain less than 1.0 volume per centum of explosive gas. No shots shall be fired until the air contains less than 1.0 volume per centum of explosive gas.

(u) Each operator of a coal mine shall adopt a plan within sixty days after the operative date of this title which shall provide that when any mine fan stops, immediate action shall be taken by the operator or his agent (1) to withdraw all persons from the working sections, (2) to cut off the power in the mine in a timely manner, (3) to provide for restoration of power and resumption of work if ventilation is restored within a reasonable period as set forth in the plan after the working places and other workings where explosive gas is likely to accumulate are reexamined by a certified person to determine if explosive gas in amounts of 1.0 volume per centum or more exists therein, and (4) to provide for withdrawal of all persons from the mine if ventilation cannot be restored within such reasonable time. The plan and revisions thereof approved by the Secretary shall be set out in printed form and a copy shall be furnished to the Secretary or his authorized representative.

(v) Changes in ventilation which materially affect the main air current or any split thereof and which may affect the safety of persons in the coal mine shall be made only when the mine is idle. Only those persons engaged in making such changes shall be permitted in the mine during the change. Power shall be removed from the areas affected by the change before work starts to make the change and shall not be restored until the effect of the change has been ascertained and the affected areas determined to be safe by a certified person.

(w) The mine foreman shall read and countersign promptly the daily reports of the preshift examiner and assistant mine foreman, and he shall read and countersign promptly the weekly report covering the examinations for hazardous conditions. Where such reports disclose hazardous conditions, the mine foreman shall take prompt action to have such conditions corrected. The mine superintendent or assistant superintendent of the mine shall also read and countersign the daily and weekly reports of such persons.

(x) Each day, the mine foreman and each of his assistants 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 hazardous condition observed by them or reported to them during the day and what action was taken to remedy such condition. Such book shall be kept in an area on the surface of the mine chosen by

the operator to minimize the danger of destruction by fire or other hazard.

(y) Before a mine is reopened after having been abandoned, the Secretary shall be notified and an inspection made of the entire mine by an authorized representative of the Secretary before mining operations commence.

(z) (1) In any coal mine opened after the operative date of this title, the entries used as intake and return air-courses shall be separated from belt haulage entries, and each operator of such mine shall limit the velocity of the air coursed through belt haulage entries to the amount necessary to provide an adequate supply of oxygen in such entries, and to insure that the air therein shall contain less than 1.0 volume per centum of explosive gas, and such air shall not be used to ventilate active working places. Whenever an authorized representative of the Secretary finds, in the case of any coal mine opened on or prior to the operative date of this title which has been developed with more than two entries, that the conditions in the entries, other than belt haulage entries, are such as to adequately permit the coursing of intake or return air through such entries, (1) the belt haulage entries shall not be used to ventilate, unless such entries are necessary to ventilate active working places, and (2) when the belt haulage entries are not necessary to ventilate the active working faces, the operator of such mine shall limit the velocity of the air coursed through the belt haulage entries to the amount necessary to provide an adequate supply of oxygen in such entries, and to insure that the air therein shall contain less than 1.0 volume per centum of explosive gas.

(2) In any coal mine opened on or after the operative date of this title, or, in the case of a coal mine opened prior to such date, in any new working section of such mine where trolley haulage systems are maintained and where trolley or trolley feeder wires are installed, an authorized representative of the Secretary shall require a sufficient number of entries or rooms as intake air courses in order to limit, as prescribed by the Secretary the velocity of air currents on such haulageways for the purpose of minimizing the hazards associated with fires and dust explosions in such haulageways.

COMBUSTIBLE MATERIALS AND ROCK DUSTING

SEC. 304. (a) Coal dust, including float coal dust deposited on rock-dusted surfaces, loose coal, and other combustible materials, shall be cleaned up and not be permitted to accumulate in active underground workings or on electric equipment therein.

(b) Where underground mining operations create or raise excessive amounts of dust, or water with a wetting agent added to it, or other effective methods approved by an authorized representative of the Secretary, shall be used to abate such dust. In working places, particularly in distances less than forty feet from the face, water, with or without a wetting agent, or other effective methods approved by an authorized representative of the Secretary, shall be applied to coal dust on the ribs, roof, and floor to reduce dispersibility and to minimize the explosion hazard.

(c) All underground areas of a mine, except those areas in which the dust is too wet or too high in incombustible content to propagate an explosion, shall be rock dusted to within forty feet of all faces, unless such areas are inaccessible or unsafe to enter or unless an authorized representative of the Secretary permits an exception. All cross cuts that are less than forty feet from a working face shall also be rock dusted.

(d) Where rock dust is required to be applied, it shall be distributed upon the top, floor, and sides of all underground areas of a mine and maintained in such quantities that the incombustible contents of the combined coal dust, rock dust, and other dust shall be not less than 65 per centum, but the incombustible content in the return aircourses shall be no less than 80 per centum. Where explosive gas is present in any ventilating current, the per centum of incombustible content of such combined dusts shall be increased 1.0 and 0.4 per centum for each 0.1 per centum of explosive gas, where 65 and 80 per centum, respectively, of incombustibles are required.

(e) Subparagraphs (b) through (d) of this paragraph shall not apply to underground anthracite mines subject to this Act.

ELECTRICAL EQUIPMENT

SEC. 305. (a) One year after the operative date of this title—

(1) all electric face equipment used in a coal mine shall be permissible and shall be maintained in a permissible condition, except that the Secretary may permit, under such conditions as he may prescribe, nonpermissible or open-type electric face equipment in use in such mine on the date of enactment of this Act, to continue in use for such period (not in excess of one year) as he deems necessary to obtain such permissible equipment: *Provided, however,* That the provisions of this paragraph shall not apply to any mine which is not classified as gassy; and

(2) only permissible junction or distribution boxes shall be used for making multiple power connections inby the last open crosscut or in any other place where dangerous quantities of explosive gases may be present or may enter the air current.

(b) (1) Four years after the operative date of this title all electric face equipment used in mines exempted from the provision of section 305(a)(1) of this Act shall be permissible and shall be maintained in a permissible condition, except that the Secretary may, upon petition, waive the requirements of this paragraph on an individual mine basis for a period not in excess of two years if, after investigation, he determines that such waiver is warranted. The Secretary may also, upon petition, waive the requirements of this paragraph on an individual mine basis if he determines that the permissible equipment for which the waiver is sought is not available to such mine.

(2) One year after the operative date of this title all replacement equipment acquired for use in any mine referred to in this subsection shall be permissible and shall be maintained in a permissible condition, and in the event of any major overhaul of any item of equipment in use one year from the operative date of this title such equipment shall be put in and thereafter maintained in a permissible condition, if, in the opinion of the Secretary, such equipment or necessary replacement parts are available.

(3) One year after the operative date of this title all hand held electric drills, blowers and exhaust fans, electric pumps, and other such low-horsepower electric face equipment as the Secretary may designate which are taken into or used inby the last open crosscut of any coal mine shall be permissible and thereafter maintained in a permissible condition.

(4) During the term of the use of any nonpermissible electric face equipment permitted under this subsection the Secretary may by regulation provide for use of the methane monitoring devices, under such conditions as he shall prescribe, which will automatically deenergize electrical circuits providing power to electrical face equipment when the concentration of explosive gas in the atmosphere of the active workings permits, in the opinion of the Secretary, a condition in which an ignition or explosion may occur.

(c) A copy of any permit granted under this section shall be mailed immediately to a duly designated representative of the employees of the mine to which it pertains, and to the public official or agency of the State charged with administering State laws relating to coal mine health and safety in such mine. After the operative date of this title, whoever knowingly, in the case of a manufacturer, distributes, sells, offers for sale, introduces, or delivers in commerce any new electrical equipment used in coal mines, including, but not limited to components and accessories of such equipment which fails to comply with the specifications or regulations of the Secretary, or, in the case of any other person, removes, alters, modifies, or renders inoperative any such equipment prior to its sale and delivery in commerce to the ultimate purchaser, shall, upon conviction, be subject to the sanctions in section 109(f) of this Act.

(d) Any coal mine which prior to the operative date of this title, was classed gassy and was required to use permissible electric face equipment and to maintain such equipment in a permissible condition shall continue to use such equipment and to maintain such equipment in such condition.

(e) All power-connection points, except where permissible power connection units are used, outby the last open crosscut shall be in intake air.

(f) The location and the electrical rating of all stationary electric apparatus in connection with the mine electric system including permanent cables switchgear, rectifying substations, transformers, permanent pumps and trolley wires and trolley feeders, and settings of all direct-current circuit breakers protecting underground trolley circuits, shall be shown on a mine map. Any changes made in a location, electric rating, or setting shall be promptly shown on the map when the change is made. Such map shall be available to an authorized representative of the Secretary and to the miners in such mine.

(g) All power circuits and electric equipment shall be deenergized before work is done on such circuits and equipment, except when necessary for trouble shooting or testing. Energized trolley wires may be repaired only by a person qualified to perform such repairs and the operator of such mine shall require that such person wear approved and tested insulated shoes and wiremans gloves. No work shall be performed on medium and high-voltage distribution circuits or equipment except by or under the direct supervision of a qualified person. Disconnecting devices shall be locked out and suitably tagged by the persons who perform such work, except that, in cases where locking out is not possible, such devices shall be opened and suitably tagged by such persons. Locks or tags shall be removed only by the persons who installed them or, if such persons are unavailable, by persons authorized by an agent of the operator.

(h) All electrical equipment shall be frequently examined, tested, and properly maintained by a qualified person to assure safe operating conditions. When a potentially dangerous condition is found on electric equipment, such equipment shall be removed from service until such condition is corrected. A record of such examinations shall be kept and made available to an authorized representative of the Secretary and to the miners in such mine.

(i) All electric conductors shall be sufficient in size and have adequate current-carrying capacity and be of such construction that the rise in temperature resulting from normal operation will not damage the insulating materials.

(j) All electrical connections or splices in conductors shall be mechanically and electrically efficient and suitable connectors shall be used. All electrical connections or splices in insulated wire shall be reinsulated at least to the same degree of protection as the remainder of the wire.

(k) Cables shall enter metal frames of

motors, splice boxes, and electric compartments only through proper fittings. When insulated wires other than cables pass through metal frames the holes shall be substantially bushed with insulated bushings.

(l) All power wires (except trailing cables on mobile equipment, specially designed cables conducting high-voltage power to underground rectifying equipment or transformers, or bare or insulated ground and return wires) shall be supported on well-installed insulators and shall not contact combustible material, roof, or ribs.

(m) Except trolley wires, trolley feeder and bare signal wires, power wires and cables installed shall be insulated adequately and fully protected.

(n) Automatic circuit-breaking devices or fuses of the correct type and capacity shall be installed so as to protect all electric equipment and circuits against short circuit and overloads. Three-phase motors on all electric equipment shall be provided with overload protection that will deenergize all three phases in the event that any phase is overloaded.

(o) In all main power circuits disconnecting switches shall be installed underground within five hundred feet of the bottoms of shafts and boreholes through which main power circuits enter the underground portion of the mine and at all other places where main power circuits enter the underground portion of the mine.

(p) All electric equipment shall be provided with switches or other controls that are safely designed, constructed, and installed.

(q) Each ungrounded, exposed power conductor that leads underground shall be equipped with suitable lightning arresters of approved type within one hundred feet of the point where the circuit enters the mine. Lightning arresters shall be connected to a low resistance grounding medium on the surface which shall be separated from neutral grounds by a distance of not less than twenty-five feet.

(r) No device for the purpose of lighting any underground coal mine or flame which has not been approved by the Secretary or his authorized representative shall be permitted in any underground coal mine, except under the provisions of section 311(d) of this title.

(s) An authorized representative of the Secretary may require in any coal mine that face equipment be provided with devices that will permit the equipment to be deenergized quickly in the event of an emergency.

TRAILING CABLES

SEC. 306. (a) Trailing cables used underground shall meet the requirements established by the Secretary for flame-resistant cables.

(b) Short-circuit protection for trailing cables shall be provided by an automatic circuit breaker or other no less effective device approved by the Secretary of adequate current interrupting capacity in each ungrounded conductor. Disconnecting devices used to disconnect power from trailing cables shall be plainly marked and identified and such devices shall be equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected.

(c) When two or more trailing cables junction to the same distribution center, means shall be provided to assure against connecting a trailing cable to the wrong size circuit breaker.

(d) No more than two temporary splices shall be made in any trailing cable, except that if a third splice is needed during a shift it may be made during such shift, but such cable shall not be used after that shift until a permanent splice is made. In any case in which a temporary splice is made pursuant to this subsection such splice shall, within five working days thereafter, be replaced by a permanent splice. No temporary splice shall be made in a trailing cable within twenty-five feet of the machine, except cable reel equipment. Temporary splices in trailing cables shall be made in a workmanlike manner and shall be mechanically strong and well insulated. Trailing cables or hand cables which have exposed wires or which have splices that heat or spark under load shall not be used. As used in this subsection, the term "splice" means the mechanical joining of one or more conductors that have been severed.

(e) When permanent splices in trailing cables are made, they shall be—

(1) mechanically strong with adequate electrical conductivity and flexibility;

(2) effectively insulated and sealed so as to exclude moisture; and

(3) vulcanized or otherwise treated with suitable materials to provide flame-resistant qualities and good bonding to the outer jacket.

(f) Trailing cables shall be clamped to machines in a manner to protect the cables from damage and to prevent strain on the electrical connections. Trailing cables shall be adequately protected to prevent damage by mobile machinery.

(g) Trailing cable and power cable connections to junction boxes shall not be made or broken under load.

GROUNDING

SEC. 307. (a) All metallic sheaths, armors, and conduits enclosing power conductors shall be electrically continuous throughout and shall be grounded. Metallic frames, casing, and other enclosures of electric equipment that can become "alive" through failure of insulation or by contact with energized parts shall be grounded effectively. Methods other than grounding which provide equivalent protection may be permitted by the Secretary.

(b) The frames of all offtrack direct current machines and the enclosures of related detached components shall be effectively grounded or otherwise maintained at safe voltages by methods approved by an authorized representative of the Secretary.

(c) The frames of all stationary high-voltage equipment receiving power from ungrounded delta systems shall be grounded by methods approved by an authorized representative of the Secretary.

(d) High-voltage lines, both on the surface and underground, shall be deenergized and grounded before work is performed on them, except that repairs may be permitted, in the case of energized surface high-voltage lines, if such repairs are made by a qualified person in accordance with procedures and safeguards, including, but not limited to, a requirement that the operator of such mine provide, test, and maintain protective devices in making such repairs, to be prescribed by the Secretary prior to the operative date of this title.

(e) When not in use, power circuits underground shall be deenergized on idle days and idle shifts, except that rectifiers and transformers may remain energized.

UNDERGROUND HIGH-VOLTAGE DISTRIBUTION

SEC. 308. (a) High-voltage circuits entering the underground portion of the mine shall be protected by suitable circuit breakers of adequate interrupting capacity which are properly tested and maintained as prescribed by the Secretary. Such breakers shall be equipped with devices to provide protection against under-voltage, grounded phase, short-circuit, and open current.

(b) High-voltage circuits extending underground and supplying portable, mobile, or stationary high-voltage equipment shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the source transformers, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all high-voltage equipment supplied power from that circuit, except that the Secretary or his authorized representative may permit ungrounded high-voltage circuits to be extended underground to feed stationary electrical equipment if such circuits are either steel armored or installed in grounded, rigid steel conduit throughout their entire length. Within one hundred feet of the point on the surface where high-voltage circuits enter the underground portion of the mine, disconnecting devices shall be installed and so equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected, except that the Secretary or his authorized representative may permit such devices to be installed at a greater distance from such portion of the mine if he determines, based on existing physical conditions, that such installation will be more accessible at a greater distance and will not pose any hazard to the miners.

(c) The grounding resistor, where required, shall be of the proper ohmic value to limit the voltage drop in the grounding circuit external to the resistor to not more than 100 volts under fault conditions. The grounding resistor shall be rated for maximum fault current continuously and insulated from ground for a voltage equal to the phase-to-phase voltage of the system.

(d) High-voltage, resistance grounded, wye-connected systems shall include a fail safe ground check circuit to monitor continuously the grounding circuit to assure continuity and the fail safe ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken.

(e)(1) Underground high-voltage cables used in resistance grounded, wye-connected systems shall be equipped with metallic shields around each power conductor, with one or more ground conductors having a total cross-sectional area of not less than one-half the power conductor, and with an insulated internal or external conductor not smaller than No. 8 (AWG) for the ground continuity check circuit.

(2) All such cables shall be adequate for the intended current and voltage. Splices made in such cables shall provide continuity of all components.

(f) Couplers that are used with high-voltage power circuits shall be of the three-phase type with a full metallic shell, except that the Secretary may permit, under such guidelines as he may prescribe, couplers constructed of materials other than metal. Couplers shall be adequate for the voltage and current expected. All exposed metal on the metallic couplers shall be grounded to the ground conductor in the cable. The coupler shall be constructed so that the ground check continuity conductor shall be broken first and the ground conductors shall be broken last when the coupler is being uncoupled.

(g) Single-phase loads such as transformer primaries shall be connected phase to phase.

(h) All underground high-voltage transmission cables shall be installed only in regularly inspected aircourses and haulageways, and shall be covered, buried, or placed so as to afford protection against damage, guarded where men regularly work or pass under them unless they are six and one-half feet or more above the floor, or rail, securely anchored, properly insulated, and guarded at ends, and covered, insulated, or placed to prevent contact with trolley and other low-voltage circuits.

(i) Disconnecting devices shall be installed at the beginning of branch lines in high-voltage circuits and equipped or designed in such

a manner that it can be determined by visual observation that the circuit is deenergized when the switches are open.

(j) Circuit breakers and disconnecting switches underground shall be marked for identification.

(k) In the case of high-voltage cables used as trailing cables, temporary splices shall not be used and all permanent splices shall be made in accordance with section 306(e) of this title. Terminations and splices in all other high-voltage cables shall be made in accordance with the manufacturer's specifications.

(l) Frames, supporting structures, and enclosures of portable or mobile underground high-voltage equipment and all high-voltage equipment supplying power to such equipment shall be effectively grounded to the high voltage ground.

(m) Power centers and portable transformers shall be deenergized before they are moved from one location to another, except that, when equipment powered by sources other than such centers or transformers is not available, the Secretary may permit such centers and transformers to be moved while energized, if he determines that another equivalent or greater hazard may otherwise be created, and if they are moved under the supervision of a qualified person, and if such centers and transformers are examined prior to such movement by such person and found to be grounded by methods approved by an authorized representative of the Secretary and otherwise protected from hazards to the miner. A record shall be kept of such examinations. High-voltage cables, other than trailing cables, shall not be moved or handled at any time while energized, except that, when such centers and transformers are moved while energized as permitted under this subsection, energized high-voltage cables attached to such centers and transformers may be moved only by a qualified person and the operator of such mine shall require that such person wear approved and tested insulated wireman's gloves.

UNDERGROUND LOW- AND MEDIUM-VOLTAGE ALTERNATING CURRENT CIRCUITS

SEC. 309. (a) Low- and medium-voltage power circuits serving three-phase alternating current equipment shall be protected by suitable circuit breakers of adequate interrupting capacity which are properly tested and maintained as prescribed by the Secretary. Such breakers shall be equipped with devices to provide protection against undervoltage, grounded phase, short circuit, and overcurrent.

(b) Low- and medium-voltage three-phase alternating-current circuits used underground shall contain either a direct or derived neutral which shall be grounded through a suitable resister at the power center, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all the electrical equipment supplied power from that circuit, except that the Secretary or his authorized representative may permit ungrounded low- and medium-voltage circuits to be used underground to feed such stationary electrical equipment if such circuits are either steel armored or installed in grounded rigid steel conduit throughout their entire length. The grounding resistor, where required, shall be of the proper ohmic value to limit the ground fault current to 25 amperes. The grounding resistor shall be rated for maximum fault current continuously and insulated from ground for a voltage equal to the phase-to-phase voltage of the system.

(c) Six months after the operative date of this title, low- and medium-voltage resistance grounded, wye-connected systems shall include a fail safe ground check circuit to monitor continuously the grounding circuit to assure continuity and the fail safe ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken. Cable couplers shall be constructed so that the ground check continuity conductor shall be broken first and the ground conductors shall be broken last when the coupler is being uncoupled.

(d) Disconnecting devices shall be installed in conjunction with the circuit breaker to provide visual evidence that the power is disconnected. Trailing cables for mobile equipment shall contain one of more ground conductors having a cross sectional area of not less than one half the power conductor and, six months after the operative date of this title, an insulated conductor for the ground continuity check circuit. Splices made in the cables shall provide continuity of all components.

(e) Single phase loads shall be connected phase to phase.

(f) Circuit breakers shall be marked for identification.

(g) Trailing cable for medium voltage circuits shall include grounding conductors, a ground check conductor, and ground metallic shields around each power conductor or a grounded metallic shield over the assembly; except that on machines, employing cable reels, cables without shields may be used if the insulation is rated 2,000 volts or more.

TROLLEY AND TROLLEY FEEDER WIRES

SEC. 310. (a) Trolley wires and trolley feeder wires shall be provided with cutout switches at intervals of not more than 2,000 feet and near the beginning of all branch lines.

(b) Trolley wires and trolley feeder wires shall be provided with overcurrent protection.

(c) Trolley and trolley feeder wires, high-voltage cables and transformers shall not be located inby the last open crosscut and shall be kept at least 150 feet from pillar workings.

(d) Trolley wires, trolley feeder wires, and bare signal wires shall be insulated adequately where they pass through doors and stoppings, and where they cross other power wires and cables. Trolley wires and trolley feeder wires shall be guarded adequately (1) at all points where men are required to work or pass regularly under the wires; (2) on both sides of all doors and stoppings, and (3) at man-trip stations. The Secretary or his authorized representatives shall specify other conditions where trolley wires and trolley feeder wires shall be adequately protected to prevent contact by any person, or shall require the use of improved methods to prevent such contact. Temporary guards shall be provided where trackmen and other persons work in proximity to trolley wires and trolley feeder wires.

FIRE PROTECTION

SEC. 311. (a) Each coal mine shall be provided with suitable firefighting equipment adapted for the size and conditions of the mine. The Secretary shall establish minimum requirements for the type, quality, and quantity of such equipment, and the interpretations of the Secretary relating to such equipment in effect on the operative date of this title shall continue in effect until modified or superseded by the Secretary. After every blasting operation performed on a shift, an examination shall be made to determine whether fires have been started.

(b) Underground storage places for lubricating oil and grease shall be of fireproof construction. Except for specially prepared materials approved by the Secretary, lubricating oil and grease kept in face areas or other underground working places in a mine shall be in portable, fireproof, closed metal containers.

(c) Underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps shall be housed in fireproof structures or areas. Air currents used to ventilate structures or areas enclosing electrical installations shall be coursed directly into the return. All other underground structures installed in a mine shall be of fireproof construction.

(d) All welding, cutting, or soldering with arc or flame in all underground areas of a mine shall, whenever practicable, be conducted in fireproof enclosures. Welding, cutting, or soldering with arc or flame in other than a fireproof enclosure shall be done under the supervision of a qualified person who shall make a diligent search for fire during and after such operations and shall immediately before and during such operations, continuously test for explosive gas with means approved by the Secretary for detecting explosive gas. Welding, cutting, or soldering shall not be conducted in air that contains 1.0 volume per centum or more of explosive gas. Rock dust or suitable fire extinguishers shall be immediately available during such welding, cutting, or soldering.

(e) Within one year after the operative date of this title, fire suppression devices meeting specifications prescribed by the Secretary shall be installed on unattended underground equipment and suitable fire-resistant hydraulic fluids approved by the Secretary shall be used in the hydraulic systems of such equipment. Such fluids shall be used in the hydraulic systems of other underground equipment unless fire suppression devices meeting specifications prescribed by the Secretary are installed on such equipment.

(f) Deluge-type water sprays or foam generators, automatically actuated by rise in temperature, or other effective means of controlling fire shall be installed at main and secondary belt conveyor drives. Such sprays or foam generators shall be supplied with a sufficient quantity of water to control fires.

(g) Underground belt conveyors shall be equipped with slippage and sequence switches. The Secretary shall, within sixty days after the operative date of this title, require that devices be installed on all such belts which will give a warning automatically when a fire occurs on or near such belt. The Secretary shall prescribe a schedule for installing fire suppression devices on belt haulageways.

(h) On or after the operative date of this title, all conveyor belts acquired for use underground shall meet the requirements established by the Secretary for flame-resistant conveyor belts.

MAPS

SEC. 312. (a) The operator of an active underground coal mine shall have, in a surface location chosen to minimize the danger of destruction by fire or other hazard, an accurate and up-to-date map of such mine drawn on such scale as the Secretary may require. Such map shall show the active workings, all worked out and abandoned areas, excluding those areas which have been worked out or abandoned before the effective date of this paragraph which are inaccessible or cannot be entered safely and on which no information is available, entries and aircourses with the direction of airflow indicated by arrows, elevation, dip of the coalbed, escapeways, adjacent mine workings within one thousand feet, mines above or below, water pools above, and oil and gas wells, either producing or abandoned, located within five hundred feet of such mine, and such other information as the Secretary may require. Such map shall be made or certified by a registered engineer or a registered surveyor of the State in which the mine is located. As the Secretary may by regulation require, such map shall be kept up to date by temporary notations, and such map shall be revised and supplemented at intervals on the basis of a survey made or certified by such engineer or surveyor.

(b) The coal mine map and any revision and supplement thereof shall be available for inspection by the Secretary or his au-

thorized representative, by coal mine inspectors of the State in which the mine is located, and by persons working in the mine and their authorized representatives and by operators of adjacent coal mines. The operator shall furnish to the Secretary or his authorized representative, or to the Secretary of Housing and Urban Development, upon request, one or more copies of such map and any revision and supplement thereof.

(c) Whenever an operator permanently closes such mine, or temporarily closes such mine for a period of more than ninety days, he shall promptly notify the Secretary of such closure. Within sixty days of the permanent closure of the mine, or, when the mine is temporarily closed, upon the expiration of a period of ninety days from the date of closure, the operator shall file with the Secretary a copy of the mine map revised and supplemented to the date of the closure. Such copy of the mine map shall be certified as true and correct by a registered surveyor or registered engineer of the State in which the mine is located and shall be available for public inspection.

BLASTING AND EXPLOSIVES

SEC. 313. (a) Black blasting powder shall not be stored or used underground. Mudcaps (adobes) or other unconfined shots shall not be fired underground.

(b) Explosives and detonators shall be kept in separate containers until immediately before use at the working faces. In underground anthracite mines, (1) mudcaps or other open, unconfined shake shots may be fired, if restricted to battery starting when explosive gas or a fire hazard is not present, and if it is otherwise impracticable to start the battery; (2) open, unconfined shake shots in pitching veins may be fired, when no explosive gas or a fire hazard is present, if the taking down of loose hanging coal by other means is too hazardous; and (3) tests for explosive gas shall be made immediately before such shots are fired and if explosive gas is present when tested in 1.0 volume per centum, such shot shall not be made until the explosive gas content is reduced below 1.0 per centum.

(c) Except as provided in this subsection, in all underground areas of a mine only permissible explosive electric detonators of proper strength, and permissible blasting devices shall be used and all explosives and blasting devices shall be used in a permissible manner. Permissible explosives shall be fired only with permissible shot firing units. Only incombustible materials shall be used for stemming boreholes. The Secretary may, under such safeguards as he may prescribe, permit the firing of more than twenty shots and allow the use of nonpermissible explosives in sinking shafts and slopes from the surface in rock. This section shall not prohibit the use of compressed air blasting.

(d) Explosives or detonators carried anywhere underground by any person shall be in containers constructed of nonconductive material, maintained in good condition, and kept closed.

(e) Explosives or detonators shall be transported in special closed containers (1) in cars moved by means of a locomotive or rope, (2) on belts, (3) in shuttle cars, or (4) in equipment designed especially to transport such explosives or detonators.

(f) When supplies of explosives and detonators for use in one or more working 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 twenty-five feet from roadways and power wires, and in a dry, well rock-dusted location protected from falls of roof, except 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.

(g) Explosives and detonators stored in the working places shall be kept in separate closed containers, which shall be located out of the line of blast and not less than fifty feet from the working face and fifteen feet from any pipeline, powerline, rail, or conveyor, except that, if kept in niches in the rib, the distance from any pipeline, powerline, rail, or conveyor shall be at least five feet. Such explosives and detonators, when stored, shall be separated by a distance of at least five feet.

HOISTING AND MANTRIPS

SEC. 314. (a) Every hoist used to transport persons at an underground coal mine shall be equipped with overspeed, overwind, and automatic stop controls. Every hoist used to transport persons shall be equipped with brakes capable of stopping the fully loaded platform, cage, or other device used for transporting persons, and with hoisting cable adequately strong to sustain the fully loaded platform, cage, or other device for transporting persons, and have a proper margin of safety. Cages, platforms, or other devices which are used to transport persons in vertical shafts 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. Hoisting equipment, including automatic elevators, that is used to transport persons shall be examined daily. Where persons are regularly transported into or out of a coal mine by hoists, a qualified hoisting engineer shall be on duty while any person is underground, except that no such engineer shall be required for automatically operated cages, platforms, or elevators.

(b) Safeguards adequate, in the judgment of an authorized representative of the Secretary, to minimize hazards with respect to transportation of men and materials shall be provided.

(c) Hoists shall have rated capacities consistent with the loads handled and the recommended safety factors of the ropes used. An accurate and reliable indicator of the position of the cage, platform, skip, bucket, or cars shall be provided.

(d) There shall be at least two effective methods approved by the Secretary of signaling between each of the shaft stations and the hoist room, one of which shall be a telephone or speaking tube.

(c) In order to be capable of stopping with the proper margin of safety each locomotive and haulage car used in an underground coal mine shall be equipped with automatic brakes, or shall be subject to speed reductions or other safeguards approved by the Secretary.

EMERGENCY SHELTERS

SEC. 315. The Secretary or an authorized representative of the Secretary may require in any coal mine that rescue chambers, properly sealed and ventilated, be erected at suitable locations in the mine to which men could go in case of an emergency for protection against hazards. Such chambers shall be properly equipped with first aid materials, an adequate supply of air and self-contained breathing equipment, an independent communication system to the surface, and proper accommodations for the men while awaiting rescue, and such other equipment as the Secretary may require. A plan for the erection maintenance, and revisions of such chambers shall be submitted by the operators to the Secretary for his approval.

COMMUNICATIONS

SEC. 316. A two-way communication system, approved by the Secretary, shall be provided between the surface and each landing of main shafts and slopes and between the surface and each working section that is more than two hundred feet from a portal.

MISCELLANEOUS

SEC. 317. (a)(1) While pillars are being extracted in any area of a mine, such area shall be ventilated in a manner approved by the Secretary or his authorized representative. Within six months after the operative date of this title, all areas which are or have been abandoned in all mines, as determined by the Secretary or his authorized representative, shall be ventilated by bleeder entries or by bleeder systems or equivalent means or sealed, as determined by the Secretary or his authorized representative, except that the Secretary may permit, on a mine-by-mine basis, an extension of time of not to exceed six months to complete such work. Ventilation of such areas shall be approved only where the Secretary or his authorized representative is satisfied that such ventilation can be maintained so as to, continuously, dilute, render harmless, and carry away explosive gases within such areas and to protect the active workings of the mine from the hazards of such gases. When sealing is required, such seals shall be made in an approved manner so as to isolate with explosion-proof bulkheads such areas from the active workings of the mine. In the case of mines opened on or after the operative date of this title, or in the case of working sections opened on or after such date in mines opened prior to such date, the mining system shall be designed, in accordance with a plan and revisions thereof approved by the Secretary and adopted by such operator, so that, as each working section of the mine is abandoned, it can be isolated from the active workings of the mine with explosion-proof seals or bulkheads. For the purpose of this paragraph, the term "abandoned" as applied to any area of a mine shall include, but not be limited to, areas of a mine which are not ventilated and inspected regularly, areas where mining has been started but not completed, areas where future mining is still possible, and areas that are deserted.

(2) Each operator of a coal mine shall take reasonable measures to locate oil and gas wells penetrating coalbeds or any underground area of a coal mine. When located, such operator shall establish and maintain barriers around such oil and gas wells in accordance with State laws and regulations, except that such barriers shall not be less than three hundred feet in diameter, unless the Secretary or his authorized representative permits a lesser barrier consistent with the applicable State laws and regulations where such lesser barrier will be adequate to protect against hazards from such wells to the miners in such mine, or unless the Secretary or his authorized representative requires a greater barrier where the depth of the mine, other geologic conditions, or other factors warrant such a greater barrier.

(b) Whenever any working place approaches within fifty feet of abandoned workings in the mine as shown by surveys made and certified by a registered engineer or surveyor, or within two hundred feet of any other abandoned workings of the 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 and shall be continually maintained to a distance of at least ten feet in advance of the advancing working face. When there is more than one borehole, they shall be drilled sufficiently close to each other to insure that the advancing face will not accidentally hole through into abandoned workings or adjacent mines. 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.

(c) Smoking shall not be permitted underground, nor shall any person carry smoking

materials, matches, or lighters underground. Smoking shall be prohibited in or around oil houses, explosives magazines, or other surface areas where such practice may cause a fire or explosion. The operator of a coal mine shall institute a program, approved by the Secretary, at each mine to insure that any person entering the underground portion of the mine does not carry smoking materials, matches, or lighters.

(d) Persons underground shall use only permissible electric lamps approved by the Secretary for portable illumination. No open flame shall be permitted in any underground mine except as specifically authorized by this Act.

(c) The Secretary shall prescribe the manner in which all underground working places in a mine shall be illuminated by permissible lighting while persons are working in such places.

(f) (1) At least two separate and distinct travelable passageways which are maintained to insure passage at all times of any person, including disabled persons, and which are to be designated as escapeways, at least one of which is ventilated with intake air, shall be provided from each working section of a mine continuous to the surface escape drift opening, or continuous to the escape shaft or slope facilities to the surface, as appropriate, and shall be maintained in safe condition and properly marked. Mine openings shall be adequately protected to prevent the entrance into the underground portion of the mine of surface fires, fumes, smoke, and flood water. Adequate and readily accessible escape facilities approved by the Secretary or his authorized representative, properly maintained, and frequently tested shall be immediately present at or in each escape shaft or slope to allow persons, including disabled persons, to escape quickly to the surface in the event of an emergency.

(2) Not more than twenty miners 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.

(3) When only one main opening is available, owing to final mining of pillars, not more than twenty miners shall be allowed in such mine at any one time, except that the distance between the mine opening and working face shall not exceed five hundred feet.

(4) In the case of all coal mines opened on or after the operative date of this title, and in the case of all new working sections opened on or after such date in coal mines opened prior to such date, the escapeway required by this subsection to be ventilated with intake air shall be separated from the belt and trolly haulage entries of the mine for the entire length of such entries to the beginning of each working section, except that the Secretary or his authorized representative may permit such separation to be extended for a greater or lesser distance so long as the safety of the miners is assured.

(g) After the operative date of this title, all structures erected on the surface within one hundred feet of any mine opening shall be of fireproof construction. Unless structures existing on or prior to such date located within one hundred feet of any 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 monthly to insure effective operation. A record of such tests shall be kept and shall be available for inspection by interested persons.

(h) Adequate measures shall be taken to prevent explosive gases and coal dust from accumulating in excessive concentrations in or on surface coal-handling facilities, but in no event shall explosive gases be permitted to accumulate in concentrations in or on surface coal-handling facilities in excess of limits established for explosive gases by the Secretary within one year of the operative date of this title, and coal dust shall not accumulate in excess of limits prescribed by or under this Act. Where coal is dumped at or near air-intake openings, provisions shall be made to prevent the dust from entering the mine.

(i) Every operator of a coal mine shall provide a program, approved by the Secretary, of training and retraining of both qualified and certified persons needed to carry out functions prescribed in this title.

(j) Whenever the Secretary finds that a mine liberates excessive quantities of explosive gases during its operations, or that a gas ignition or explosion has occurred in such mine which resulted in death or serious injury at any time during the previous five years, or that there exists in such mine other especially hazardous conditions, he shall provide a minimum of twenty-six spot inspections of all or part of such mine each year at irregular intervals by his authorized representative.

(k) An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that the face equipment, including shuttle cars, be provided with substantially constructed canopies or cabs to protect the operators of such equipment from roof falls and from rib and face rolls.

(l) The opening of any mine that is declared inactive by its operator or is abandoned for more than ninety days, after the operative date of this title, shall be sealed in a manner prescribed by the Secretary. Openings to all active coal mines shall be adequately protected to prevent entrance by unauthorized persons.

(m) Each mine shall provide adequate facilities for the miners to change from the clothes worn underground, to provide the storing of such clothes from shift to shift, and to provide sanitary and bathing facilities. Sanitary toilet facilities shall be provided in the active workings of the mine when such surface facilities are not readily accessible to the active workings.

(n) Arrangements shall be made in advance for obtaining emergency medical assistance and transportation for injured persons. Emergency communications shall be provided to the nearest point of assistance. Selected agents of the operator shall be trained in first aid and first aid training shall be made available to all miners. Each mine shall have an adequate supply of first aid equipment located on the surface, at the bottom of shafts and slopes, and at other strategic locations near the working faces. In fulfilling each of the requirements in this subsection, the operator shall meet at least minimum standards established by the Surgeon General. Each operator shall file with the Secretary a plan setting forth in such detail as the Secretary may require the manner in which such operator has fulfilled the requirements in this section.

(o) A self-rescue device approved by the Secretary shall be made available to each miner by the operator which shall be adequate to protect such miner for one hour or longer. Each operator shall train each miner in the use of such device.

(p) The Secretary shall prescribe improved methods of assuring that miners are not exposed to atmospheres that are deficient in oxygen.

(q) Each operator of a coal mine shall establish a check-in and check-out system which will provide positive identification of every person underground and and will provide an accurate record of the miners in the mine kept on the surface in a place chosen to minimize the danger of destruction by fire or other hazard. Such record shall bear a number identical to an identification check that is securely fastened to the lamp belt worn by the person underground. The identification check shall be made of a rust resistant metal of not less than sixteen gauge.

(r) The Secretary shall require, when technologically feasible, that devices to suppress ignitions be installed on electric face cutting equipment.

(s) Whenever an operator mines coal in a manner that requires the construction, operation and maintenance tunnels under any river, stream, lake, or other body of water, such operator shall obtain a permit from the Secretary which shall include such terms and conditions as he deems appropriate to protect the safety of men working or passing through such tunnels from cave-ins and other hazards. Such permits shall require in accordance with a plan to be approved by the Secretary, that a safety zone be established beneath and adjacent to any such body of water that is, in the judgment of the Secretary, sufficiently large to constitute a hazard. No plan shall be approved unless there is a minimum of rock cover to be determined by the Secretary based on test holes drilled by the operator in a manner to be prescribed by the Secretary.

(t) The Secretary shall require that developed and improved devices and systems for the monitoring and detection of mine safety conditions and for the protection of the individual miner be acquired by each operator of a coal mine and that such devices and systems be used as soon as they become available.

(u) All haulage equipment acquired by an operator of a coal mine on or after one year after the operative date of this title shall be equipped with automatic couplers which shall couple by impact and uncouple without the necessity of men going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on the operative date of this title shall also be so equipped within four years after the operative date of this title.

(v) An adequate supply of potable water shall be provided for drinking purposes in the active workings of the mine, and such water shall be carried, stored, and otherwise protected in sanitary facilities.

(w) The Secretary shall send a copy of every proposed standard or regulation at the time of publication in the Federal Register to the operator of each coal mine and the representative of the miners at such mine and such copy shall be immediately posted on the bulletin board of the mine by the operator or his agent, but failure to receive such notice shall not relieve anyone of the obligation to comply with such standard or regulation.

(x) An employee, the duties of whose position are primarily the inspection of coal mines, including an employee engaged in this activity and transferred to a supervisory or administrative position, who attains the age of fifty years and complete twenty years of service in the performance of those duties may, if the Secretary recommends his retirement and the Civil Service Commission approves, voluntarily retire and be paid an annuity. Any such employee who attains the age of sixty years and completes fifteen years of service may voluntarily retire on an annuity, unless the Secretary determines that such retirement would not be in the best interests of the program and, in such case, the Secretary may extend such employee's service on an annual basis. An employee who retires under this subsection shall be entitled to an annuity of 2½ per centum of his average pay multplied by his total service, except that the annuities shall not exceed 80 per centum of his average pay. As used in this subsection, the term "employee", "average pay", and "service" have the meaning ascribed to those terms in subchapter III, chapter 83, title 5, United States Code, and the provisions of that subchapter respecting

payment and adjustment of annuity, survivor annuities, and related matters, shall apply with respect to employees retiring under this subsection.

(y) (1) No person shall discharge or in any other way discriminate against or cause to be discharged or discriminated against any miner or any authorized representative of miners by reason of the fact that such miner or representative (A) has notified the Secretary or his authorized representative of any alleged violation or danger pursuant to section 103(g) of this title, has filed, instituted, or caused to be instituted any proceeding under this Act, or (C) has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

(2) Any miner or a representative of miners who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) of this subsection may, within thirty days after such violation occurs, apply to the Secretary for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party, to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary shall make findings of fact. If he finds that such violation did occur, he shall issue an order requiring the person committing such violation to take such affirmative action to abate the violation as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the miner or representative of miners to his former position with back pay. If he finds that there was no such violation, he shall issue an order denying the application. Such order shall incorporate the Secretary's findings therein. Any decision issued by the Secretary under this paragraph shall be subject to judicial review in accordance with the provisions of this Act. Violations by any person of paragraph (1) of this subsection shall be subject to the civil penalties provisions of this Act.

(3) Whenever an order is issued under this subsection, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

DEFINITIONS

SEC. 318. For the purpose of this title and title II of this Act, the term—

(a) "certified person" means a person certified by the State in which the coal mine is located to perform duties prescribed by such sections, except that, in a State where no program of certification is provided or where the program does not meet at least minimum Federal standards established by the Secretary, such certification shall be by the Secretary;

(b) "qualified person" means, as the context requires, an individual deemed qualified by the Secretary to make tests and examinations required by this Act; and an individual deemed, in accordance with minimum requirements to be established by the Secretary, qualified by training, education, and experience, to perform electrical work, to maintain electrical equipment, and to conduct examinations and tests of all electrical equipment.

(c) "permissible" as applied to—

(1) equipment used in the operation of a coal mine, means equipment to which an approved plate, label, or other device is attached as authorized by the Secretary and which meets specifications which are prescribed by the Secretary for the construction and maintenance of such equipment and are designed to assure that such equipment will not cause a mine explosion or a mine fire,

(2) explosives, shot firing units, or blasting devices used in such mine, means explosives, shot firing units, or blasting devices which meet specifications which are prescribed by the Secretary, and

(3) the manner of use of equipment or explosives, shot firing units, and blasting devices, means the manner of use prescribed by the Secretary;

(d) "rock dust" means pulverized limestone, dolomite, gypsum, anhydrite, shale, talc, adobe, or other inert material, preferably light colored, 100 per centum of which will pass through a sieve having twenty meshes per linear inch and 70 per centum or more of which will pass through a sieve having two hundred meshes per linear inch; the particles of which when wetted and dried will not cohere to form a cake which will not be dispersed into separate particles by a light blast of air; and which does not contain more than 5 per centum of combustible matter or more than a total of 3 per centum of free and combined silica (S_iO_2) or, where the Secretary finds that such silica concentrations are not available, up to 5 per centum of free and combined silica;

(e) "coal mine" includes areas of adjoining mines connected underground;

(f) "anthracite" means coals with a volatile ratio equal to 0.12 or less;

(g) "volatile ratio" means volatile matter content divided by the volatile matter plus the fixed carbon;

(h)(1) "working face" means any place in a coal mine in which work of extracting coal from its natural deposit in the earth is done,

(2) "working place" means the area of a coal mine inby the last open crosscut,

(3) "working section" means all areas of the coal mine from the loading point of the section to and including the working faces,

(4) "active workings" means any place in a coal mine where miners are normally required to work or travel;

(i) "abandoned areas" means sections, panels, and other areas that are not ventilated and examined in the manner required for active underground working places;

(j) "electric face equipment" means electric equipment that is installed or used inby the last open crosscut in an entry or a room;

(k) "registered engineer" or "registered surveyor" means an engineer or surveyor registered by the State pursuant to standards established by the State meeting at least minimum Federal requirements established by the Secretary, or if no such standards are in effect, registered by the Secretary;

(l) "low voltage" means up to and including 660 volts; "medium voltage" means voltages from 661 to 1,000 volts; and "high voltage" means more than 1,000 volts;

(m) "average concentration" means a determination which accurately represents the atmospheric conditions with regard to respirable dust during a full working shift; such determination shall be the result of applying valid statistical techniques to the minimum necessary measurements of respirable dust; and

(n) "respirable dust" means only dust particulates 5 microns or less in size.

TITLE IV—ADMINISTRATION

RESEARCH

SEC. 401. (a) The Secretary and the Secretary of Health, Education, and Welfare, as appropriate, shall conduct such studies, research, experiments, and demonstrations as may be appropriate.

(1) to improve working conditions and practices, prevent accidents, and control the causes of occupational diseases originating in the coal-mining industry;

(2) to develop new or improved methods of recovering persons in coal mines after an accident;

(3) to develop new or improved means and methods of communication from the surface to the underground portion of the mine;

(4) to develop new or improved means and methods of reducing concentrations of respirable dust in the mine. Such research shall consist primarily, but not exclusively, of (I) studies of the relationship between coal mine environments and occupational diseases of coal mine workers; (II) epidemiological studies to (i) identify and define positive factors involved in the diseases of coal miners, (ii) provide information on the incidence and prevalence of pneumoconiosis and other respiratory ailments of coal miners, and (iii) develop criteria on the basis of which coal mine standards can be based; (III) medical prevention and control of diseases of coal miners, including tests for hypersusceptibility and early detection; (IV) evaluation of bodily impairment in connection with occupational disability of coal miners; (V) development of methods, techniques, and programs of effective rehabilitation of coal miners injured or stricken as a result of their occupation; and (VI) setting the requirements, extent and specifications for the medical examinations provided in section 203 of this Act, and utilizing and studying the material, data, and findings of such examinations for the preparation and publication, from time to time, of reports on all significant aspects of the diseases of coal miners as well as on the medical aspects of injuries other than diseases, which are revealed by the research carried on pursuant to this subsection;

(5) to study the relationship between coal mine environment and occupational diseases of coal mine workers; and

(6) for such other purposes as it deems necessary to carry out the purposes of this Act.

(b) To accomplish the objectives established in subsection (a), the Secretary shall distribute funds available to him under this section as equally as practicable between himself and the Secretary of Health, Education, and Welfare, activities under this section in the field of coal mine health shall be carried out by the Secretary of Health, Education, and Welfare, and activities under this section in the field of coal mine safety shall be carried out by the Secretary of the Interior. In carrying out activities under this section the Secretaries of Health, Education, and Welfare and of the Interior may enter into contracts with, and make grants to, public and private agencies and organizations and individuals. Such Secretaries shall consult and cooperate with the Board on specific projects and programs. No research shall be carried out, contracted for, sponsored, cosponsored, or authorized under authority of this Act, unless all information, uses, products, processes, patents, and other developments resulting from such research will (with such exception and limitation, if any, as the Secretary or the Secretary of Health, Education, and Welfare may find to be necessary in the interest of national security) be available to the general public.

(c) There is hereby authorized to be appropriated for each fiscal year such sums as may be needed to carry out the purposes of section 203(a) and of this section.

(d) No payment may be required of any coal miner in connection with any examination or test given him pursuant to subsection (a) of section 203. Where such examinations or tests cannot be given due to the lack of adequate medical or other necessary fa-

cilities or personnel in the locality where the miner resides, arrangements shall be made to have them conducted in such locality by the Secretary of Health, Education, and Welfare, or by an appropriate and qualified person, agency or institution, public or private, under an agreement or arrangement between the Secretary of Health, Education, and Welfare and such person, agency or institution. Such examinations and tests shall be conducted in accordance with the provisions of subsection (a) of section 203. The operator of the coal mine shall reimburse the Secretary of Health, Education, and Welfare, or such person, agency or institution, as the case may be, for the cost of conducting each such examination or test and shall pay whatever other costs are necessary to enable the miner to take such examinations or tests.

(e) If the death of any active miner occurs in any coal mine, or if the death of any active or inactive miner occurs in any other place, the Secretary of Health, Education, and Welfare is authorized to provide for an autopsy to be performed on such miner, with the consent of his surviving widow or, if he has no such widow, then with the consent of his next of kin. The results of such autopsy shall be submitted to the Secretary of Health, Education, and Welfare and, with the consent of such survivor, to the miner's physician or other interested person. Such autopsy shall be paid for by the Secretary of Health, Education, and Welfare.

(f) On and after the operative date of this title, the standards on noise prescribed under the Walsh-Healey Public Contracts Act, as amended, in effect October 1, 1969, or any such improved standards as the Secretary may prescribe shall be applicable to each coal mine and each operator of such mine shall comply with them. Beginning six months after the operative date of this title, at intervals of at least every six months thereafter, the operator of each mine shall conduct, in a manner prescribed by the Secretary, tests by a qualified person of the noise level at the mine and certify the results to the Secretary. If the Secretary determines, based on such tests or any tests conducted by his authorized representative, that such standards on noise are exceeded, such operator shall immediately undertake to install protective devices or other means of protection to reduce the noise level in the affected area of the mine, except that the operator shall not require the use of any protective device or system which the Secretary or his authorized representative finds will be hazardous or cause a hazard to the miners in such mine.

TRAINING AND EDUCATION

SEC. 402. The Secretary shall expand programs for the education and training of coal mine operators, agents, thereof, and miners in—

(1) the recognition, avoidance, and prevention of accidents or unsafe or unhealthful working conditions in local mines; and

(2) in the use of flame safety lamps, permissible methane detectors, and other means approved by the Secretary for accurately detecting gases.

ASSISTANCE TO STATES

SEC. 403. (a) The Secretary in coordination with the Secretaries of Labor and of Health, Education, and Welfare, is authorized to make grants to any State, in which coal mining takes place—

(1) to conduct research and planning studies and to carry out plans designed to improve State workmen's compensation and occupational disease laws and programs, as they relate to compensation for pneumoconiosis and injuries in coal mine employment; and

(2) to assist the States in planning and implementing other programs for the advancement of health and safety in coal mines.

(b) Grants under this section shall not extend beyond a period of five years following the effective date of this Act.

(c) Federal grants under this section shall be made to States which have a plan or plans approved by the Secretary.

(d) The Secretary shall approve any plan which—

(1) provides that reports will be made to the Secretary, in such form and containing such information, as may reasonably be necessary to enable him to review the effectiveness of the program or programs involved, and that records will be kept and afford such access thereto as he finds necessary or appropriate to assure the correctness and verification of such reports;

(2) provides such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting for Federal funds paid to the State;

(3) contains assurances that the State will not in any way diminish existing State programs or benefits with respect to pneumoconiosis and related conditions; and

(4) meets any additional conditions which the Secretary may prescribe by rule in furtherance of the provisions of this section.

(e) The Secretary shall not finally disapprove any State plan, or modification thereof, without affording the State reasonable notice and opportunity for a hearing.

(f) The amount granted any State for a fiscal year under this section may not exceed 80 per centum of the amount expended by such State in such year for carrying out such programs, studies, and research.

(g) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, and each of the succeeding fiscal years for carrying out this section, the sum of $1,000,000.

EQUIPMENT

SEC. 404. The Secretary is authorized, during the period ending five years after the date of enactment of this Act, to make loans to operators of coal mines to enable them to procure or convert equipment needed by them to comply with the provisions of this Act. Loans made under this section shall have such maturities as the Secretary may determine, but not in excess of twenty years. Such loans shall bear interest at a rate which the Secretary determines to be adequate to cover (1) the cost of the funds to the Treasury, taking into consideration the current average yields of outstanding marketable obligations of the United States having maturities comparable to the maturities of loans made by the Secretary under this section, (2) the cost of administering this section, and (3) probable losses. In carrying out this section, the Secretary shall to the extent feasible use the services of the Small Business Administration pursuant to agreements between himself and the Administrator thereof.

INSPECTORS; QUALIFICATIONS; TRAINING

SEC. 405. The Secretary may, subject to the civil service laws, appoint such employees as he deems requisite for the administration of this Act and prescribe their duties. Persons appointed as authorized representatives of the Secretary under the provisions of this section shall be qualified by practical experience in the mining of coal or by experience as a practical mining engineer and by education. Such persons shall be adequately trained by the Secretary. The Secretary shall seek to develop programs with educational institutions and operators designed to enable persons to qualify for positions in the administration of this Act. In selecting persons and training and retraining persons to carry out the provisions of this Act, the Secretary shall work with appropriate educational institutions and operators in developing and maintaining adequate programs for the training and continuing education of persons, particularly inspectors, and, where appropriate, shall cooperate with such institutions in the conduct of such programs by providing financial and technical assistance.

EFFECT ON OTHER LAW

SEC. 406. (a) No State law in effect upon the effective date of this Act or which may become effective thereafter, shall be superseded by any provision of this Act or order issued or standard promulgated thereunder, except insofar as such State law is in conflict with this Act or with any order issued or standard promulgated pursuant to this Act.

(b) The provisions of any State law or regulation in effect upon the effective date of this Act, or which may become effective thereafter, which provide for more stringent health and safety standards applicable to coal mines than do the provisions of this Act or any order issued or standard promulgated thereunder shall not thereby be construed or held to be in conflict with this Act. The provisions of any State law or regulation in effect upon the effective date of this Act, or which may become effective thereafter, which provide for health and safety standards applicable to coal mines for which no provision is contained in this Act or any order issued or standard promulgated thereunder, shall not be held to be in conflict with this Act.

ADMINISTRATIVE PROCEDURES

SEC. 407. Except as otherwise provided in this Act, the provisions of sections 551–559 and sections 701–706 of title 5 of the United States Code shall not apply to the making of any order or decision made pursuant to this Act, or to any proceeding for the review thereof.

REGULATIONS

SEC. 408. The Secretary is authorized to issue such administrative regulations as he deems appropriate to carry out any provision of this Act.

OPERATIVE DATE AND REPEAL

SEC. 409. The provisions of titles I and III of this Act shall become operative 90 days after enactment. The provisions of title II of this Act shall become operative six months after enactment. The provisions of the Federal Coal Mine Safety Act, as amended, are repealed on the operative date of titles I and III of this Act, except that such provisions shall continue to apply to any order, notice, or finding issued under that Act prior to such operative date and to any proceedings related to such order, notice, or finding. All other provisions of this Act shall be effective on the date of enactment of this Act.

SEPARABILITY

SEC. 410. If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

REPORTS

SEC. 411. (a) Within one hundred and twenty days following the convening of each session of Congress, the Secretary shall submit through the President to the Congress and to the Office of Science and Technology an annual report upon the subject matter of this Act, the progress concerning the achievement of its purposes, the needs and requirements in the field of coal mine health and safety, the amount and status of each loan made under section 404, a description and the anticipated cost of each project and program he has undertaken under section 401, and any other relevant information, including any recommendations he deems appropriate.

(b) Within one hundred and twenty days following the convening of each session of Congress, the Secretary of Health, Education, and Welfare shall submit through the Pres-

ident to the Congress, the Secretary, and to the Office of Science and Technology an annual report upon the health matters covered by this Act, including the progress toward the achievement of the health purposes of this Act, the needs and requirements in the field of coal mine health, a description and the anticipated cost of each project and program he has undertaken under section 401, and any other relevant information, including any recommendations he deems appropriate. The first such report shall include the recommendations of the Secretary of Health, Education, and Welfare as to necessary health standards, including his recommendations as to the maximum permissible individual exposure to coal mine dust during a working shift.

SPECIAL REPORT

SEC. 412. (a) The Secretary shall make a study to determine the best manner to coordinate Federal and State activities in the field of coal mine health and safety so as to achieve (1) maximum health and safety protection for miners, (2) an avoidance of duplication of effort, (3) maximum effectiveness, (4) reduce delay to a minimum, and (5) permit most effective use of Federal inspectors.

(b) The Secretary shall make a report of the results of his study to the Congress as soon as practicable after the date of enactment of this Act.

Amend the title so as to read: "An Act to provide for the protection of the health and safety of persons working in the coal mining industry of the United States, and for other purposes.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 13950) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2917

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill (S. 2917) and request a conference with the Senate on the disagreeing votes of the two Houses thereon.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and appoints the following conferees: Messrs. PERKINS, DENT, PUCINSKI, HAWKINS, Mrs. MINK, Messrs. BURTON of California, AYRES, ERLENBORN, BELL of California, and SCHERLE.

PERSONAL ANNOUNCEMENT

Mr. BUCHANAN. Mr. Speaker, on the vote occurring on the Federal Coal Mine Health and Safety Act of 1969 I was unavoidably detained off the floor. Had I been present, I would have voted "yea."

NIXON POLITICS

(Mr. THOMPSON of New Jersey asked and was given permission to address the House for 1 minute.)

Mr. THOMPSON of New Jersey. Mr. Speaker, this is a very important day in New Jersey's political history. The Virginia and New Jersey gubernatorial elections are next week. The President was in Virginia yesterday and is in New Jersey today. According to the wire service today, it says that:

Nixon was accompanied on his Virginia foray by Patrick Buchanan, often labeled his "conservative" speechwriter. There was a possibility that Raymond Price, generally regarded as his "liberal" speechwriter, might go with him to New Jersey.

Mr. Speaker, this is sort of like the fellow walking into a clothing store and they say "He wants a green suit. Turn on the green light." I wonder what color the light will be tonight in New Jersey and where Brother AGNEW is.

PERSONAL EXPLANATION

Mr. FULTON of Pennsylvania. Mr. Speaker, on Tuesday, September 30, 1969, the House of Representatives took under consideration H.R. 13300, amendments to the Railroad Retirement Act and the Railroad Retirement Tax Act.

Because of a consultation scheduled at my Pittsburgh office that evening, which included people traveling from out of town by plane, I was unable at the last minute to change these plans when the House remained in session into the evening.

If it had been possible for me to be present at the time of the vote on H.R. 13300, I would have voted "aye" to increase railroad pension payments which I have favored strongly, although I disagreed with some of the other specific provisions.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OCTOBER 29, 1969.

The Honorable THE SPEAKER,
U.S. House of Representatives.

DEAR MR. SPEAKER: Under Rule III, Clause 4 (Section 647) of the Rules of the House of Representatives, I herewith designate Mr. W. Raymond Colley, an official in my office, to sign any and all papers and do all other acts for me which he would be authorized to do by virtue of this designation, in cases of my temporary absence or disability.

If Mr. Colley should not be able to act in my behalf for any reason, then Mr. Benjamin J. Guthrie, another official in my office, shall perform such duties as are authorized by this designation.

These designations shall remain in effect until revoked by me.

Sincerely,

PAT JENNINGS,
Clerk.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. YOUNG. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 14001, AUTHORIZING MODIFICATIONS OF THE SYSTEM OF SELECTING PERSONS FOR INDUCTION INTO THE ARMED FORCES

Mr. YOUNG. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 586 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 586

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14001) to amend the Military Selective Service Act of 1967 to authorize modifications of the system of selecting persons for induction into the Armed Forces under this Act. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

CALL OF THE HOUSE

Mrs. MINK. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. YOUNG. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 249]

Anderson, Tenn.	Corbett	McEwen
Ashbrook	Daddario	Mikva
Aspinall	Dawson	Mollohan
Baring	Dent	Monagan
Barrett	Diggs	Morton
Bell, Calif.	Dingell	Murphy, N.Y.
Bingham	Dulski	O'Neill, Mass.
Blatnik	Dwyer	Pepper
Brock	Foley	Pike
Broomfield	Fountain	Pirnie
Brown, Calif.	Frelinghuysen	Podell
Burton, Utah	Hanna	Powell
Byrne, Pa.	Holifield	Pucinski
Cahill	Hunt	Rosenthal
Cederberg	Jarman	Sandman
Chamberlain	Keith	Udall
Chisholm	Kirwan	Utt
Clark	Kuykendall	Van Deerlin
Colmer	Lujan	Whalley
Conable	Lukens	Widnall
	McClory	Wilson, Bob

The SPEAKER. On this rollcall 369 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERSONAL EXPLANATION

Mr. FOUNTAIN. Mr. Speaker, I have been standing in the well for the last 10

minutes and assumed my name was recorded as being present at the last quorum. I was here, but in checking I determined that my name was not recorded as being present. I ask unanimous consent that the RECORD show I was here in the House standing in the well and that the RECORD be corrected accordingly.

The SPEAKER. The gentleman's statement will appear in the RECORD.

PROVIDING FOR CONSIDERATION OF H.R. 14001, AUTHORIZING MODIFICATIONS OF THE SYSTEM OF SELECTING PERSONS FOR INDUCTION INTO THE ARMED FORCES

The SPEAKER. The gentleman from Texas (Mr. YOUNG) is recognized for 1 hour.

Mr. YOUNG. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. SMITH) pending which I yield myself such time as I may require.

Mr. Speaker, House Resolution 586 provides an open rule with 4 hours of general debate for consideration of H.R. 14001 authorizing modifications of the system of selecting persons for induction into the Armed Forces.

The purpose of H.R. 14001 is to repeal section 5(a)(2) of the Military Selective Service Act of 1967.

The section which would be repealed presently contains language which prohibits the President from modifying the method of selection of inductees. Repeal of this prohibition as contained in section 5(a)(2) will permit the President to change the method of selecting registrants for induction from the method heretofore established. Thus, it would permit him to establish a so-called random system of selection in lieu of the so-called oldest-first system which is now utilized and required by the provisions of the act to be repealed.

Mr. Speaker, I urge the adoption of House Resolution 586 in order that H.R. 14001 may be considered.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, this resolution, House Resolution 586, will provide 4 hours of general debate and an open rule for the consideration of H.R. 14001, to amend the Military Selective Service Act of 1967 to authorize modifications of the system of selecting persons for induction into the Armed Forces under this act.

The purpose of the bill is to repeal section 5(a)(2) of the Military Selective Service Act of 1967. This will permit the President to institute any fair and impartial method of selecting individuals he desires to implement.

The President has already spelled out his proposed new method of selection in his message to Congress on May 13, 1969.

The prime age group each year would be those who reach the age of 19 during the year, plus those whose existing deferments expire during that year. Prior to each calendar year all dates of that year would be randomly drawn. This would establish the order in which dates of birth would be called in sequence for including persons born throughout the year.

A young man would only have to know how high on the random list his birth date was to estimate the likelihood of his induction. Local draft boards would still have the authority to authorize deferments under the existing law. The random selection only establishes an order of inducting those who are classified 1–A; it does not affect deferments.

This system would replace the existing induction system which places priority on the oldest persons in the available pool. This is somewhat disruptive to the future planning of young men.

There are no minority views. The administration strongly supports the bill. A letter from General Hershey to the Speaker is included in the report, as well as the President's message to the Congress on the matter.

Mr. Speaker, H.R. 14001, represents the President's highest priority legislative request of the Congress. It would permit him to implement fully the six changes in draft policy which he communicated in his message to Congress on May 13 and on October 13, 1969. It would, if enacted, repeal the existing prohibition against establishing a random system of selection for all inductees. Its enactment will enable the President to implement the random system over periods of time which he considers vital to his draft reform recommendations.

Now, Mr. Speaker, there was some testimony before the Committee on Rules that the President might already have this authority. But whether he does or not, I do not know. However, in connection with the several reforms which he wishes to implement, he wants this specific bill enacted so that he will very definitely have the authority. Otherwise, I assume he would have to try to do it by Executive order.

Now, Mr. Speaker, I am informed, and reliably so, that there will be efforts made to vote down the previous question. If the previous question is voted down, those who are supporting that effort would then offer a new rule which would open up the entire draft law as I understand it by making all amendments which would be germane to the present Selective Service Act germane to H.R. 14001.

Mr. Speaker, insofar as I am concerned, I think we should be able to consider the entire Selective Service Act. But I do not think that this is the correct time to do it.

I believe the House Armed Services Committee should have the opportunity and that they should hold detailed hearings and then report a bill to this House early next year so that every Member who desires to offer any amendments whatsoever, whether it be college deferments or whatever they are interested in, that the membership should have the opportunity to work its will.

But if we vote down the previous question on this rule today, in my personal opinion we will just be opening it up to what we refer to as a "Christmas tree," because we will be here until Christmas trying to work out this act.

I realize that there are a number of Members who would like to offer some amendments to the act and I would like to have that opportunity also. But, first, I would like for them to have the opportunity to testify before the Committee on Armed Services with reference to the entire Selective Service System.

Mr. Speaker, some have commented to me from the Democrat side of the aisle to the effect that they do not think the Democrat Party should give the President this political plum. Frankly, I do not understand that. It does not seem to me that it is giving the President any political plum. He only wants the six things which he has requested. I do not see any political mileage to be gained from that. In fact, if we do not give him this authority and if he can do it by Executive order, that would be more of a political plum.

Mr. Speaker, I am not looking at this from the standpoint of politics one way or the other. I think it will help some of the young men to better determine when they may be called for the draft. I, personally, support the rule and I support the passage of H.R. 14001.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG. Mr. Speaker, I yield 15 minutes to the distinguished gentleman from Missouri (Mr. BOLLING) for the purpose of debate only.

Mr. BOLLING. Mr. Speaker, I have been on the Committee on Rules for 15 years, and this is the only time I have ever attempted to lead a fight to overcome a rule. It is true that on a few occasions I have voted against rules, but I feel very strongly on this subject. I have felt very strongly for years, not just recently, that the Selective Service Act was inequitable; that it was at the base of much of the unrest that exists in this country, and on our college campuses in particular.

I voted against the amendments which passed this House in 1967 and, because I am for a draft, when it came back from the Senate I voted for the conference report.

I do not oppose the draft. I do not support a voluntary army, but I find it very nearly inconceivable that this House of Representatives will today do what I have heard so many of my friends on the left and my friends on the right say we should not do, and that is abdicate our responsibility here in the Congress and hand it over to the executive.

I do not think there are any politics in this issue. I believe that we have in the Congress an inescapable responsibility to deal with this issue.

It has been said that this will be a Christmas tree bill; that the House will be here until Christmas debating this issue. Well, I have been in Congress a little while, and I have never seen us get so far out of control on a Selective Service Act extension as to take until Christmas, or even to take a week or a month. We did have one on universal military training a long time ago that took quite a while, but it was a very long time ago. In 1967 we acted, and acted with reasonable expedition.

I urge that we vote down the previous question on this rule—which will permit me to offer an amendment which will make in order any amendment germane to any provision of the Universal Military Training Act, the Selective Service Act, as we should have the right to have in

order. I do not see that it is conceivable that Members on either side would wish to engage in what amounts to a technique used before on other matters whereby an open rule is granted and no amendment is in order except to a very narrow section of the law.

Now, as I say, I feel strongly on the bill. I have put in legislation. I have spoken for years against the inequities that I conceive to be in the Selective Service Act, but if I am successful and those who agree with me are in the majority, and we do open up the whole act, I do not propose to offer a single amendment. I know others will.

But I think the fundamental issue that confronts the House tonight is the issue of the responsibility of the institution.

There may be those who disagree that the present Selective Service Act is a major cause of unrest in the country. I have not run into them. But if it is in fact, as I believe, a major cause of some of the problems that we confront, can we, as the people's representatives, pass off to another, no matter how well intentioned, no matter how high the office he holds, the responsibility to act?

I think we have a fundamental responsibility to function. This whole legislative situation was contrived to deny the Members of this House of an opportunity to consider and act on all the provisions of the present draft act.

I urge my colleagues to join me in voting down the previous question and then support the amendment to the rule which I will offer which will make all amendments that are otherwise germane to the Selective Service Act in order to be offered to this bill.

Mr. BOLLING. Mr. Speaker, now if the gentleman from Washington (Mr. HICKS) will forgive me, I have already promised to yield to the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON of New Jersey. Mr. Speaker, I rise in support of the amendment by the gentleman from Missouri which would in practical effect open H.R. 14001 to any amendment germane to the Selective Service Act. As we know, H.R. 14001 would remove from the 1967 Selective Service Act the language which prohibits the President from instituting a random or lottery method of selecting persons from the draft pool for induction into military service.

I support the principle of random selection, and I believe that a workable system can be devised for its implementation. But random selection in and of itself does not begin to address itself to the many inequities in the system with respect to deferments, the lack of counsel for registrants, and a host of other matters. Random selection, after all, is a method of selecting people from the draft pool. It has nothing whatever to do with how people get into the draft pool. Nor does H.R. 14001 make any attempt to reorganize the system to provide more uniform treatment of registrants.

I had hoped that hearings would be held by the Committee on Armed Services on the many bills which pend before it on various aspects of draft reform. I sought such hearings. On June 20, I wrote to the gentleman from South Carolina, chairman of the committee, asking that hearings be held promptly on H.R. 7784 and related bills. That letter was cosigned by 15 of our colleagues, the cosponsors of H.R. 7784. In addition, 65 other Members of the House authorized me to advise the chairman that they associated themselves with my request that draft reform legislation be made the subject of hearings at the earliest possible date. On July 3, I was able to advise the chairman that eight more Members were in accord with that view. Thus, we have the picture of H.R. 7784 and its companion bill, H.R. 13025, being sponsored by 39 Members of the House. In addition, we have 51 other Members on record for prompt hearings on draft reform measures.

Mr. Speaker, I would imagine that there will be a number of amendments offered to H.R. 14001. If the rule is amended, it would be my intention to offer as a substitute H.R. 7784, which I might add, includes a provision for random selection. But H.R. 7784 addresses itself to the entire subject of draft reform. Time does not permit me now to discuss the bill's provisions at any length. Nevertheless, the committee cannot plead surprise at any of its provisions. In direct response to the specific request of the gentleman from South Carolina, I furnished the committee with section-by-section analysis prepared by the Legislative Reference Service for the bill on the occasion of the hearings chaired by the gentleman from Louisiana on H.R. 14001. I prefaced that analysis with a 13 page statement, both of which may be found on page 28566 of the CONGRESSIONAL RECORD of October 3, 1969. I truly believe that H.R. 7784 would meet most, if not all, of the inadequacies of the Selective Service Act.

Mr. Speaker, I respectfully suggest that there is sufficient concern on the part of the House to warrant an amendment to the rule as moved by the gentleman from Missouri so that Members may have an opportunity to vote upon substantive aspects of draft reform which go beyond the narrow issue of random selection.

It is no reflection of the President, nor is it a political plum, for the Congress to exercise its constitutional responsibility under article I, section 9, clause 8, to raise and support armies. It is our job and we should do it.

Mr. REID of New York. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from New York.

Mr. REID of New York. I thank the distinguished gentleman from Missouri for yielding. I commend him for his initiative in this matter in opposing the rule and for the lucidity of his statement. I think it would be inexcusable for this body tonight not to open the rule to necessary and equitable amendments. It would confirm the conviction of many people in this country that this body lacks both the time and the relevance to meet one of the most pressing problems facing our Nation.

Mr. Speaker, I urge defeat of the resolution.

The bill for which this resolution would grant a rule would change but one portion of the method by which we arbitrarily and inequitably select young men to go to war. Rather, the whole system needs to be changed, and it seems quite clear that under the rule we are now considering amendments to change the whole system will not be in order.

I think we need a lottery; I think we would call the youngest men first; and I think that men should be exposed to the draft for 1 year rather than 7. I cannot quarrel with the changes that H.R. 14001 would make.

But I also think that we must adopt national standards for the administration of the Selective Service System and the determination of who is to be drafted. I think that we must reduce the number of deferments and make those which are authorized scrupulously fair to all Americans. And I think that we must extend the right of conscientious objector status to atheists and agnostics, so long as they are genuine pacifists. These are the very minimal changes needed to insure that the draft is equitable, and it appears that the House will not be able to work its will in this regard under the rule we are now considering.

I urge that the previous question be defeated and that this legislation be considered under a procedure that will enable those Members who are sensitive to the young people of America to really represent their interests in this House.

Mr. BOLLING. I thank the gentleman from New York and I thank the gentleman from New Jersey.

Mr. LEGGETT. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. I also wish to compliment the gentleman from Missouri for making this point. If we do not rule down the previous question and open up this rule and amend it and allow all amendments to the Selective Service Act to be in order, I firmly believe that we will be missing an opportunity that is available to us. The American people in many of their polls have said that the most important question in the country today is the Selective Service Act. This is what they are concerned about. They are concerned about Vietnam; they are concerned about inflation; about the third most important thing facing the country is the Selective Service Act.

We can ask ourselves who is to blame for some of the slow activity in the Congress, and I believe we can talk about the fact that the President has not pioneered a program, the Departments have not submitted reports, we have not had a miraculous 100 days. We are going to have a slow year. But the real problem is that it is not all the fault of the President.

One of the problems is the fact that with our committee system, we do not hear most of the bills that are presented to the Congress for review. We now have had our colleague from New Jersey present legislation, selective service, with I think almost 89 coauthors, asking for review of the Selective Service Act. That is, 89 Members of this House have asked for a full review of the law. Still the only thing we get is merely repeal of a very small section.

The legislative point, the procedural point at this stage of the record is that when you repeal a preclusion, nothing is germane. So as a practical matter we can have a 4-hour debate, but there will be no amendments that will be of any value to us whatsoever or in order.

You may say, "Why do we need amendments to the Selective Service Act?" I pointed out the views of the American public. I saw a newspaper article the other day, "Draft Appeals Board Paralyzed by General Hershey. General Hershey is Going to Retire." I have an article from my home newspaper in Sacramento indicating that three of my local boards are disqualified and are probably acting illegally because of the fact that the members of the board are not residents of the district in which they are recruiting. One requirement is that, at the present time, a member can serve no longer on a local board than 25 years. He can serve no longer than his 75th birthday. This is a matter that should come under the review of this House. I do not think there is any polarized opinion on either side of the aisle. I think we are capable of reviewing these questions in this Congress because we have the report of General Clark, the report of Burk Marshall, and our experience over the past 5 or 6 years with this law.

I would hope we would support the position of the gentleman from Missouri.

Mr. BOLLING. Mr. Speaker, I yield to the gentleman from New York (Mr. RYAN).

Mr. RYAN. Mr. Speaker, I thank the distinguished gentleman from Missouri for yielding, and I commend him for his leadership in this fight. It seems to me it is rather ridiculous to call the reported bill (H.R. 14001) a draft reform bill. It is a sham and a deception to say it is. If we are serious about correcting the inequities in the present selective service system, then it is essential that the House have an opportunity to consider all the various amendments to be offered and all the various reform proposals which have been made, including the bill proposed by the gentleman from New Jersey (Mr. THOMPSON) as well as the legislation to create a volunteer army which I have sponsored.

I also believe very strongly that, as long as Congress has not declared war, no young man should be drafted to fight the war in Vietnam. I propose to offer an amendment to prohibit the assignment of a draftee, without his consent, to Vietnam. No more young men should be drafted and sent to fight and die in that undeclared war.

This House has a responsibility to the Nation, and especially to the young men who are immediately affected, to have an open debate with full opportunity to vote upon amendments and alternatives to the present draft law, and parliamentary techniques should not be used to stifle such a debate.

Since May 25, 1967, when the Selective Service Act was extended for 4 years—I was one of nine in the House to vote against it—the inequities in the draft have become apparent to more and more Americans.

According to the Harris poll, the majority of Americans under 30 favor the repeal of the draft. A majority of all Americans favor either repeal or some type of major change.

The House Armed Services Committee and the House Rules Committee, however, do not feel that the draft is an issue that merits full debate in the House. However, the House should not shirk from facing this issue. Parliamentary tactics must not be used to block congressional debate on this matter.

I urge the Members of the House to recognize the value and necessity of free and open debate and defeat the previous question. Only then will we be able to serve the wishes of the people of this country as illustrated by their feelings on the draft.

There are numerous inequities in the present Selective Service System which the proposed random selection will not change. In fact, H.R. 14001 merely shifts the burden of the inequities.

If the House is to meet its responsibility, then we should examine and explore some very basic questions—the question of a volunteer army, the question of alternative service such as the Peace Corps, Vista, or the Teachers Corps, the question of conscientious objection, and the question of student deferments. We should devise legislation to make local draft boards representative of a cross section of the community as an amendment, which I offered to the act in 1967, was designed to do.

We should insure the right of a registrant to have counsel at each stage of the proceedings and see that procedures are consistent, fair, and conducted with due process.

H.R. 14001 may give the appearance of reform by removing the 1967 prohibition against changing the method of determining the relative order of induction. Unfortunately, it provides no basic change and ignores the major deficiencies of the Selective Service System.

Mr. BOLLING. Mr. Speaker, I repeat: The issue here is whether the House is going to exercise its responsibility. The issue here is whether we will accept our responsibility, as we have in the past on the other amendments to the Selective Service Act, and have a free and open debate. That is why I urge you to support my effort to vote down the previous question.

Mr. SMITH of California. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER of Wisconsin. Mr. Speaker, I have wrestled with my conscience, I have wrestled with those in the leadership of the Republican Party on just what is the right position to take, I have listened with interest to those who have taken the position we ought to open this up, and I am persuaded that they are correct. If this House passes by today the opportunity to amend the Selective Service System in portions other than that which relates to the repeal of this one section, then, in fact, we are going counter to that which some argued yesterday when the argument was made that in the interest of orderly procedure, we ought not to make the Senate abide by the House position.

The only argument I have heard this afternoon as to why we should vote for the rule is because the Senate may not take anything else. Are we now to take the position that the House should not act because the other body may not accept our position?

I am satisfied this House has its own responsibility. I am satisfied the distinguished chairman of the Committee on Armed Services is willing to open up the hearings next year on the draft, that he will have the support of the distinguished minority whip, the gentleman from Illinois (Mr. ARENDS) and that this House may come back to consideration of it. But, on balance, the Selective Service System is one law that touches more deeply the hearts and lives of the young men in this Nation, and so long as that is the case, I think we must assert our own responsibility. We must not fail to take the opportunity open to us today to work on this law.

That is not an anti-Nixon position. In fact it is only because the President has exerted his leadership that this bill is here today. It seems to me it is a proequity position, and the Selective Service Act deserves a greater degree of attention by the Members of this House. Two years ago I supported an amendment for a 2-year extension. This bill will be a way to review all of this act. Therefore, I shall support the gentleman from Missouri in his motion and vote against the previous question.

Mr. YOUNG. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Speaker, I rise to concur with the gentleman from Missouri (Mr. BOLLING).

On this matter I found out a new body of parliamentary law, that it was possible to introduce a bill into the Congress which, in effect, is not subject to amendment in the committee. I offered an amendment striking the enacting clause and amending the title, an amendment which would abolish college deferments with the exception of ROTC deferments. That amendment was declared out of order.

I feel, Mr. Speaker, as does the gentleman from Missouri (Mr. BOLLING) that this body is making a tremendous mistake if we abdicate our responsibilities by voting on what is, in effect, a closed rule, because the rule of germaneness does not prevail in the Senate of the United States. It will be debated in the Senate. The bill may come back in the same form, but the Senate will have exercised its responsibility.

I ask the Members of the House to vote down the previous question so the amendment of the gentleman from Missouri can at least be considered.

Mr. FLYNT. Mr. Speaker, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Georgia.

Mr. FLYNT. Mr. Speaker, I rise to associate myself with the remarks of the gentleman in the well and the gentleman from Missouri (Mr. BOLLING) who spoke previously. I am in favor of amending the pending resolution.

I think, to consider this bill under a closed rule would be, indeed, to abdicate the authority of the House of Representatives to debate one of the most

pressing issues of our time at one of the most critical periods in American history.

I think the Selective Service Act should stand on its own merits. Those provisions which are correct and in the best interests of the United States of America should be retained, but there are certain provisions of it which should be discussed and should be discussed on the floor of this House of Representatives. This is the proper forum for such discussion. The previous question must be voted down in order to give the House of Representatives an opportunity to discuss it.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I especially want to commend the gentleman on his amendment. I do not believe there is any other one cause in the United States of America today for unrest on campuses that is as great as the way the draft is operating.

I think the draft will be necessary to meet manpower needs for sometime and that putting deferees together with all the pressure which naturally results from not knowing whether they will be drafted and that kind of indecision for 4 years results in a state of mind inducive to joining extremists in protests. The girl friends get involved too, because they cannot make plans or know whether their fiance will be going to service. This is causing more unrest on the college campuses than anything the Supreme Court has done, or some movies or any of the other things some people are pointing to. We need a law that permits those who are needed to know that they will be called and to avoid unnecessary periods of indecision.

Mr. ICHORD. I agree with the gentleman.

If the previous question is voted down, I will offer that amendment.

Mr. SMITH of California. Mr. Speaker, I yield 8 minutes to the gentleman from Illinois (Mr. ARENDS).

Mr. ARENDS. Mr. Speaker, on May 13, 1969, the President of the United States sent a message to the Congress in which he clearly stated his intention to implement six changes in draft policy.

In advising the Congress of his desire and intention to implement these changes in draft policy, he stated:

> It is my conviction that the disruptive impact of the military draft on individual lives should be minimized as much as possible, consistent with the national security. For this reason I am today asking the Congress for authority to implement draft reforms.

The report issued by the Committee on Armed Services on H.R. 14001 outlines the six changes in draft policy proposed by President Nixon. Therefore, I will not presume on the time of the Members of this body by reviewing the details of each of these proposed changes. However, I think it most significant that very few Members have expressed any disagreement with the six objectives of the President's program.

The Committee on Armed Services which has jurisdiction over legislative proposals affecting the draft law, has acted expeditiously on the President's request. Hearings were conducted on the legislative proposal, H.R. 14001, which would enable the President to go forward with his planned changes in draft policy.

This legislative proposal, H.R. 14001, was acted upon by the Committee on Armed Services immediately after the full committee had completed its exhaustive hearings on the military procurement authorization for fiscal year 1970.

I was pleased with the action of the subcommittee which conducted these hearings since that subcommittee confirmed the desirability of the change in the law requested by President Nixon and reported favorably on H.R. 14001, the bill which I sponsored.

The legislation we are acting on today is very simple—it repeals section 5(a)(2) of the draft law.

The effect of this repeal is to eliminate the existing prohibition in the law which requires the continuation of the so-called oldest first system in selecting inductees for the draft. Repeal of this prohibition in the law is necessary to permit the President, in accordance with other provisions in the law, to establish a new and impartial system of selection for these inductees.

Stripped of all the technicalities involved, and very simply stated, repeal of section 5(a)(2) will enable President Nixon to establish a random system of selection, or a lottery, to determine the relative order in which young men are to be placed in establishing their vulnerability for induction under the draft law.

The manner in which the President would establish this system of random selection is set out in detail on pages 10 and 11 of the committee report. It would be accomplished as follows:

> Prior to each calendar year, all dates of that year (365 or 366) would be randomly drawn. This drawing would establish for use by each local draft board the sequence for inducting members of the prime age group. For example, if August 3 was the first date drawn, then those in the prime age group whose birthdays are August 3 would be most draft susceptible. If November 10 was the last date drawn, then those in the prime age group whose birthdays are November 10 would be least draft susceptible—and so on in between the first and last dates drawn. At the beginning of the year, the young man has simply to examine where his birth date falls in the list of 365 and 366 dates, and he knows his relative susceptibility to the draft during his prime year.
>
> Once his place in the sequence is determined, his assignment in terms of draft order would never change. If he were granted a deferment or exemption at age 19 or 20, he would reenter the prime age group when his deferment or exemption expired, and would take the same place in the sequence that he was originally assigned.
>
> It is important to point out one thing the random selection system will not do. It will not substitute chance for reason. Draft boards would continue to be responsible for authorizing deferments on the basis of such reasons as hardship or college study. Random selection only establishes an order of inducting those who are classified I–A—that is, those who are qualified and available after deferment periods (if any) have expired. This would take the place of the mandatory oldest first procedure now used by draft boards in selecting qualified I–A's for induction.

Perhaps more important than the proposed system of random selection is the intention of the President to concentrate future draft calls on a younger age group.

President Nixon has advised that he intends to make the change from "an oldest first to a youngest first order of call so that a young man would become less vulnerable rather than more vulnerable to the draft as he grows older."

As the Members of this body will recall, the House committee report accompanying the 1967 act reflected the approval of this concept as originally proposed by the former administration.

Furthermore, in the Senate/House Conference Report on the 1967 changes to the Draft Act, the House conferees made a special effort to clearly enunciate that the changes made to the draft law in no way proscribed or inhibited the President in changing the priority of going from the older group to a younger group of inductees.

Despite this action by the conferees, President Johnson never made this change in draft policy despite the fact that he had assured the Congress that he would place such a change in effect on January 1, 1968.

President Nixon is going ahead with this change in the draft law, which should go a long way toward eliminating much of the criticism that now surrounds the administration of the draft law.

I suppose there are as many proposed changes to the draft law as there are critics of the draft law. Obviously, everyone cannot be right.

It would be folly for this body to attempt a wholesale revision of the draft law here on the floor today no matter how well intentioned each of us may be on that subject.

I would be the last to pretend that the draft law cannot be improved. Since it is man-made, it is undoubtedly imperfect. However, no matter how mightily we may strive to debate the total spectrum of possible changes to the draft law on this floor today, every Member of this body knows that we cannot legislate responsibly and intelligently without the benefit of committee hearings on such changes.

It is obvious also that the recommended reforms in the draft proposed by President Nixon have the overwhelming support of almost everyone knowledgeable on this subject. Therefore, since the President of these United States, and he is our President, be we Democrat or Republican, has developed and recommended draft reforms which are not controversial and have popular support, we would be derelict in our responsibility if we did not give him this authority which he requests here today.

The issue before the Congress is very clear. We either are in favor of instituting reforms in the draft law as recommended by the President, or we are not.

I know the American people are in favor of these changes in the draft law, and I trust that every other Member of this body feels the same.

From what I have heard reported from

some Members of the other body—there is the real possibility that unless we pass this bill as is, there will be no draft reform at all. We cannot and should not take that chance. Change is needed and now is the time to do it.

Mr. YOUNG. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Committee on Armed Services, the gentleman from South Carolina (Mr. RIVERS).

Mr. RIVERS. Mr. Speaker, despite the allegations of some of the instant authorities on the Draft Act, our committee has been in session for about 6 months on the procurement bill—day and night.

I related to you recently how many hearings we held and how many volumes we have had on the ABM and the other military materiel, along with the military construction bill. We have been in session all of this year handling the business of the security of this country.

Many draft proposals have been introduced. Going at top speed, as we have, we could not have gotten to all of them. We were in session all day—today—with the conferees of the other body on procurement authorization.

Mr. Speaker, when the President of the United States asked me to help him to get a random selection bill, I subordinated my own feelings because he is my President, too. He has the worst job on earth. I am not playing politics with the Armed Services Committee, whether it is a plum to someone or not. When the President says he needs something, I assume he is as honorable as either you or I.

Mr. Speaker, I asked the gentleman from Louisiana (Mr. HÉBERT) if he would hold hearings on random selection. Mr. HÉBERT, too, subordinated his own feelings and came to the call of the President of the United States. He does not agree, and neither do I, that those who are tearing our campuses apart in America are doing it because of the Draft Act. I think that is ridiculous. I do not believe it, and neither would I subscribe to it.

The SPEAKER. The time of the gentleman from South Carolina has expired.

Mr. SMITH of California. Mr. Speaker, I yield the gentleman 2 additional minutes.

The SPEAKER. The gentleman from South Carolina is recognized for 2 additional minutes.

Mr. RIVERS. Mr. Speaker, this bill was reported out during Mr. ARENDS' and my absence while in attendance at the NATO conference. It was reported unanimously by the Committee on Armed Services. Now, here it is. Are you going to turn your back on your President of the United States or not? It is as simple as that. As long as I am chairman, I am not going to permit political consideration to enter into our deliberation—regardless of who is presiding. I just will not play politics with the security of my country.

Now, I know there are those of you who want to review this Draft Act. We plan a review on it next year if we can get to it. There are just so many things that we can do in one session.

Mr. Speaker, I think the Draft Act is a good act. I cannot administer every draft board in the land. President Nixon is moving to modernize it.

Now, let us give him a chance, let us give him a chance. What if you were the President? This might give him the psychological opportunity to stop some of this iconoclastic activity on the campuses of America. This will not sink this country. Give him a chance for random selection. We cannot have a review on this floor.

Mr. Speaker, a lot of people say we want to stop the deferments. If you stop the war and bring our boys home, why do you want to stop deferments? It just does not make sense to me. It is as simple as that.

We are going to have a review next year. Mr. HÉBERT had a hearing day set aside to hear Members of Congress who had proposals. I do not know how many days it will take for full hearings on this, however. During debate, we will explain to you everything that is contained in the Draft Act. That Draft Act started before I came to Congress, giving the President of the United States discretionary authority and we have not touched it.

The SPEAKER. The time of the gentleman from South Carolina has again expired.

Mr. SMITH of California. Mr. Speaker, I yield the gentleman 1 additional minute.

Mr. RIVERS. We have had an extension of every Draft Act.

We have amplified and extended the discretionary authority of the President. The only place we have told him he could not move was in the random selection. Now President Nixon says he needs this. I am not in a position to question his intent. I want to give him my help, understanding, and active assistance.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. OTTINGER. Mr. Speaker, I strongly support the gentleman from Missouri (Mr. BOLLING) in his effort to permit consideration of complete revision of our draft laws.

Few of our laws affect so vitally so many of our citizens. They are literally a matter of life and death to our youth. They are of utmost concern to their parents. They vitally affect our schools and colleges, and the health of our society.

To proceed under the proposed rule on the limited bill reported by the Armed Services Committee, dealing only with permitting a lottery, would be a travesty. There are many other inequitable features of the existing draft laws that cry for correction. Even the lottery is rendered relatively meaningless by existing restrictions on the people who may be included in the lottery pool. A lack of national standards for interpretation of the draft laws has meant that youngsters in identical situations have been treated differently by different draft boards. The autonomy of draft boards has led to many abuses. The lack of definition of the rights of persons before draft boards and their ability to be represented by counsel has led to abuses. Conscientious objector provisions are inequitable and deserve reconsideration. Indeed, the necessity for a draft board at all is greatly in question and the pros and cons of a Volunteer Army deserve debate.

We abdicate our duty as the elected Representatives of our people if we follow the restrictions sought to be imposed on us by the Armed Services Committee. It is deplorable that this committee refused to hold hearings on the draft and, having shirked its duty, now seeks to prevent this House from consideration of thorough revision.

It is said that we should not revise the draft laws on the floor of the House. Certainly this is not the ideal method for their consideration. But we are faced with the situation that this is the only means open to us for consideration of thorough revision of the draft because of the arbitrary refusal of the Armed Services Committee to undertake the matter.

We will not be legislating in a vacuum on the draft laws. There are a number of proposals for revision that have received thorough consideration in the press by the public, and by various Members of Congress. Some of us have held local hearings on them. The proposals put before us will be well drafted and will have been thoroughly considered.

I was pleased to be one of the drafters and original cosponsors of a thorough draft reform bill with Senator EDWARD KENNEDY. I am also a cosponsor of the similar bill to be offered by the gentleman from New Jersey (Mr. THOMPSON) that will be offered for consideration if the rule is defeated so as to permit such consideration. These bills contain provisions that deserve consideration by this body, whether or not you may agree with every one of them.

In my opinion, the greatest disruptive force in America today, next to the Vietnam war itself, is the draft inequities under which our youth live. The uncertainties to which it subjects our young, the long time they are subject to these uncertainties, is a principal cause of their restiveness. It has caused many to become bitter, disruptive militants, many others to opt out of life, become isolated hedonists or jeopardize their futures by imbibing debilitating drugs.

If we want to restore peace to America, to achieve the unity for which the President spoke so eloquently in his Inaugural Address, there are few measures so important for us to pass than the overhaul of the draft.

We cannot satisfy this important obligation by tossing the ball to the President. It is our duty. We should exercise it, here and now.

I strongly urge my colleagues to join the gentleman from Missouri, vote down the previous question, and permit this body to consider this most important of laws, a thorough revision of the draft.

Mr. HICKS. Mr. Speaker, the opponents of comprehensive draft reform are making every effort to frustrate fair discussion of this issue on the floor. As we all are well aware, H.R. 14001 has been purposely drafted in such narrow terms that amendments going beyond the single question of "random selection" are subject to a point of order against them based on the rule of germaneness. Be-

cause of this the previous question on the rule must be defeated in order that the gentleman from Missouri (Mr. BOLLING) can propose an amendment to the rule bringing H.R. 14001 to the floor that will open the bill to much wider amendment of the Selective Service Act. I would certainly urge all of my colleagues to support this amendment which I heartily endorse.

Granted, the repeal of section 5(a)(2) of the Selective Service Act of 1967 is an important step to be taken, it falls far short of the comprehensive draft reforms which popular demand compels us to at least consider. Few were fooled by the lofty rhetoric of President Nixon's so-called Draft Reform Proposals made earlier this year. As the distinguished chairman of the Armed Services Committee (Mr. RIVERS) so ably demonstrated, of the six reforms the President proposed he already possessed ample authority to put into effect all but one of them. Both Secretary of Defense Laird, and the Director of Selective Service, General Hershey, later concurred in the views of Chairman RIVERS, that existing law authorized the President to implement all of his proposed changes in draft policy with the single exception of the establishment of a "random system of selection" or "lottery" for which H.R. 14001 is designed to give him authority.

Passage of H.R. 14001 is an important step and I am confident that it will be passed overwhelmingly, possibly without a single dissenting vote. However, a matter of even greater concern is that open and fair discussion of the broad range of draft reform proposals be allowed to take place. To frustrate open debate on this issue for fear of the measures that might gain popular support is contrary to all tenets of the democratic process.

There are a number of draft reform proposals of considerable merit which may be presented today if an amended rule is adopted. They are Mr. ICHORD'S proposal to eliminate college deferments; Mr. THOMPSON'S proposal for comprehensive reform of the draft board system; the proposal of measures which would allow the establishment of a volunteer army and others. I would like to speak briefly to some of them.

College deferments: The President's plan for a "random selection system" or "lottery" as it is frequently designated cannot be a random selection system as long as the current college deferment policy continues. In designing a fair lottery system it is no more important to determine how the names are to be drawn out of the hat than it is to determine which names should go into the hat in the first place. I do not care how thin we slice it, when we get down to it, even under the lottery system, when a boy gets out of high school and is capable of going to college, we are saying to him, "Do you want to go to college, or do you want to go to Vietnam, the choice is up to you." There is nothing fair about that when even a semblance of a shooting war is going on. A proposal such as Mr. ICHORD'S, to eliminate almost all college deferments, is long overdue.

Volunteer army: In the floor debate on the Selective Service Act of 1967, I raised the same question 2 years ago that I raise today: What serious consideration is being given to the return to a volunteer military establishment for the security of this Nation? The lack of constructive action on this question is most disappointing.

Comprehensive reform of the draft board system: The bill H.R. 7784, introduced by Mr. THOMPSON, goes a long way toward eliminating many of the inequities and injustices of the Selective Service induction system. It has been discouraging that such an important aspect of this matter has not yet been considered in committee. In this measure as in others, those opposed to reform of a comprehensive nature have been successful in delaying debate on this matter.

It will, of course, be said that the committee has not held hearings or considered these various items. That legislation should not be written on the floor. Such arguments have much to be said for them but when the committee will not act and when the entire draft act has been so widely debated in the public press, I suggest that this is a time when it is necessary to write legislation on the floor.

Mr. NELSEN. Mr. Speaker, many American young people believe the present draft system is unequitable, and I believe their grievance is justified. We recognize, of course, that no system of compulsory military service can ever be truly popular in a free country. But for so long as some such system is necessary for the defense of the country, we owe it to those who must serve to make that system of selection as fair as can be humanly devised. That is the purpose of the legislation before us today in H.R. 14001, to distribute the risk of callup equally and impartially. I wish to urge our colleagues to support this urgently needed draft reform recommended by President Nixon.

As outlined by the President, this legislation and other actions he intends to take will reduce the period of prime vulnerability for young Americans from 7 years to 12 months and will shift the selection order from the "oldest first" concept to the more just method of random selection. The lottery system this legislation would permit will strengthen the assurance to all eligible draftees that they are being treated impartially in the selection process, and will never be subject to vindictive induction because of their political views. Our young people are entitled to this assurance.

Mr. KOCH. Mr. Speaker, I rise in support of our colleague, Mr. BOLLING, and urge that we vote down the previous question and support his request that any and all amendments might be offered to the Selective Service Act.

Ever since coming to this Congress in January of this year, I have found that the most important bills affecting this Nation receive the least time in debate. Indeed, on several occasions debate was stifled to the point where when we discussed a military authorization bill in the amount of $21.35 billion, many of us seeking to speak out in opposition to wasteful programs were given 45 seconds to talk. On October 14, 20 Members of this House wished to conduct a debate after the regular order of business in opposition to the war in Vietnam, but again debate was cut off and this body adjourned over the objections of 110 Members who wished only the opportunity to state their position. Tomorrow we will be discussing one of the most important laws affecting the youth of this country; namely, the Selective Service Act. In the presidential campaign both candidates spoke out in support of overhauling that act. Indeed, our President said he supported a volunteer army. Now, when we are to discuss the Selective Service Act again, we find that we will not be permitted to discuss it at length and in depth but will be limited solely to a change in the "lottery" system. There are some of us assembled here who cannot understand what it is that we are so busily engaged in in this House that prevents us from a full discussion of one of the most vital areas of legislation affecting this country. There are many amendments which Members would like to offer to the Selective Service Act. Those of us opposed to the rule are not unanimous with respect to any one of these amendments. But we are unanimous in our support for the right to discuss each and every one of them.

If that debate should be opened, I will be offering two amendments establishing selective conscientious objector classification.

The first amendment would have prospective application. It clarifies the definition of conscientious objector so as to specifically include conscientious opposition to military service in a particular war.

The second amendment would have a retroactive effect. It provides a "second chance" to those young men who have been opposed to participation in the Vietnam war and have been forced into the dilemma of service in a war they oppose for ethical or religious reasons or prison or flight from the country. By "second chance," I mean giving a young man the opportunity now to offer information to his local board in substantiation of his claim to exemption from military service provided he was conscientiously opposed to participation in a particular war at the time he received a notice to report for induction or at the time he left a jurisdiction to evade military service.

Under both amendments any claim to exemption which is granted would require the young man to perform noncombatant service in the Armed Forces or an acceptable form of alternative civilian service as that now performed by traditional conscientious objectors.

Mr. LOWENSTEIN. Mr. Speaker, I cannot believe that anyone here believes it would be either wise or fair to adopt this rule. It may seem to be politically clever to adopt it, but it is not even that. Every time we make a mockery of what legislative procedure ought to be we erode the credibility of this House and anyone who thinks that that is politically clever is, in my judgment, politically very stupid.

The country is in a turmoil about the draft. This House is supposed to be representative of the country. It ought not

to demean itself and insult the country by refusing even to consider amendments and alternative proposals. That is one of our specific constitutional functions in the Congress—to decide how the United States shall raise the manpower for its Armed Forces. Nothing could be more "germane," and there could be no worse time to deny procedural democracy on a substantive question of such enormous importance to a functioning democracy. To adopt this rule is to engage, if I may use a phrase that has gained a certain currency, in effete snobbery of the most impudent kind.

I am grateful to the distinguished gentleman from Missouri and the distinguished gentleman from California for their leadership on this question and I thank the gentleman for yielding.

Mr. TAFT. Mr. Speaker, I am voting for the previous question on this resolution in order to bring about the most rapid possible passage of the Selective Service Amendments Act. The inequities and disruption of our draft system over the years has created much resentment and confusion. While it will not wholly end the many problems, this measure, uncomplicated by confusing amendments at this stage, will be a considerable step in the right direction. To try to rewrite the entire law on the floor at this stage seems likely to hurt greatly its chances of passage.

This does not mean we should rest here. As early as 1963, with other Republican members of the Education and Labor Committee, I called for study and action on legislation that would have started us toward an entirely voluntary system of military manpower procurement. I still believe that it is a desirable course and an achievable goal within 2 or 3 years.

The Gates Commission will report later this year on the subject and on the other proper consideration in military manpower. We should have the benefit of this report before we act further than this bill proposes, and the passage of any broader measure at this time might preclude the thorough and careful review we should have in committee and on the House floor next year.

GENERAL LEAVE

Mr. BOLLING. Mr. Speaker, before I yield to any of my colleagues, I ask unanimous consent that all Members may extend their remarks at the conclusion of my remarks.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

CALL OF THE HOUSE

Mr. FINDLEY. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. YOUNG. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 250]

Anderson, Tenn.	Dent	O'Neill, Mass.
Ashbrook	Dwyer	Patman
Baring	Edwards, Calif.	Pike
Barrett	Foley	Pirnie
Bell, Calif.	Fraser	Podell
Brown, Calif.	Frelinghuysen	Powell
Burton, Utah	Hanna	Pucinski
Byrne, Pa.	Hunt	Reifel
Cahill	Jarman	Sandman
Carey	Kirwan	Springer
Cederberg	Lipscomb	Stuckey
Chisholm	Lujan	Udall
Clark	Lukens	Van Deerlin
Colmer	McClory	Whalley
Daddario	Mikva	Widnall
Dawson	Monagan	
	Morse	

The SPEAKER. On this rollcall 383 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PROVIDING FOR CONSIDERATION OF H.R. 14001, AUTHORIZING MODIFICATION OF THE SYSTEM OF SELECTING PERSONS FOR INDUCTION INTO THE ARMED FORCES

Mr. YOUNG. Mr. Speaker, I ask unanimous consent that further consideration of this resolution be postponed until tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

TITLE AMENDMENT OF S. 2917, FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

The SPEAKER. Earlier today the House passed the bill S. 2917 with an amendment in the nature of a substitute.

Without objection, the title of the Senate bill will be stricken and the title of the House bill (H.R. 13950) inserted in lieu thereof.

There was no objection.

SESSION OF THE HOUSE ON FRIDAY NEXT

(Mr. ALBERT asked and was given permission to address the House for 1 minute.)

Mr. ALBERT. Mr. Speaker, I take this time before the Members leave, to advise that we plan definitely to have a Friday session.

HEROISM IN GREECE

(Mr. EDWARDS of California asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. EDWARDS of California. Mr. Speaker, the freedom of the floor of this House is a freedom we all enjoy, but we often fail to realize the rarity of such freedom. Today I am presenting to this House a letter from fellow representatives of the people of another country, but representatives who do not have freedom of the floor of their own parliament.

On this floor we have debated the most important issues of our day often with views in direct opposition to the administration being expressed freely and without fear. For the men who signed this letter, an expression of views in opposition to their administration's policy, a dictatorial policy, means the risk of jail and even of torture. These men in using the freedom of this floor risk the loss of their own freedom.

Thus, this letter, signed by 56 former members and/or ministers of the Greek Parliament, is a precious document. Its cry for freedom in that country is a cry made at great personal risk. The letter speaks for itself and I hope the response of this Nation will speak for itself.

The United States both officially and unofficially is well aware of the Greek dictatorship. Our State Department has described the dictatorship's trampling of the civil rights and liberties of the Greek people. Unfortunately, despite such statements, our Government continues to supply arms to that dictatorship to reinforce its subjection of the Greek people. I hope that we will cease such support and I urge the administration to end such support.

Mr. Speaker, I include the letter from the 56 former members of the Greek parliament in this RECORD and I include my reply to the letter in this RECORD. In addition I include the original congressional letter in this RECORD:

ATHENS, GREECE,
September 11, 1969.

Congressman DON EDWARDS,
Chairman, U.S. Committee on Democracy in Greece, Washington, D.C.

DEAR SIR: We were informed of your letter to the Secretary of State, W. Rogers, dated July 30, 1969 and wish to express our sincere appreciation to you and the forty-nine other honorable members of the U.S. House of Representatives who expressed their concern for the prevailing situation in our country.

In your Statement, Sir, you have mentioned that Greece was "the only European nation among the Western Allies which in the post war period fell to a military coup". Allow us to remind you that Greece, in addition to her contribution to the allied victory during the war, was also the only nation in the World to have successfully opposed an armed Communist Subversion.

It was exactly twenty years ago when the Greek army, under a *parliamentary Democracy*, with the leadership of the late King Paul and the generous material assistance of the U.S. through the Marshall Plan and the Truman Doctrine, gave the final blow to the communist armies and forced them to retreat defeated and disbanded beyond the Greek borders. This aid was given by the U.S. Congress, not only to defend the country from the communist threat but especially to secure and support the free institutions and democratic system of the nation.

Having been subjected to so many sacrifices, we believe that Greece, more than any other nation in the Western World, was entitled to live in peace, freedom and Democracy. Furthermore, we believe that our country, which bleeding and shattered was able to defeat the Communist Aggression immediately after she came out of Nazi occupation, was and is in the position to defend Democracy without resorting to a military regime. The history of the last 20 years, contrary to what is being said by the present rulers, proves that Democracy was functioning in our country and that the political leadership had knowledge of its mission. The

achieved progress in all spheres of public life prior to the military coup is a good confirmation of such views.

It is our view, Sir, that the moral, political, economic and military interests of Greece call for an immediate return to a free society, a government by the people and a Democracy which will safeguard, not only our freedom, but also the bonds of friendship with your great country.

As elected representatives of the last Greek Parliament, we accept your manifestation of solidarity and declare that the struggle for freedom, decency, democracy and civil rights is indivisible and knows no geographic barriers or national borders, but it is and ought to be the responsibility of enlightened leaders everywhere. We all have responsibilities for the defense of these traditions, but above all we have responsibilities to our people. Winston Churchill said: "Trust the people, make sure they have a fair chance to decide their destiny without being terrorized from any quarter." We do trust our people but they have no chance to decide their destinies and they are being terrorized.

It is for this that we declare again that the preservation of the great humanistic ideals will be better guaranteed if the U.S. of America remains a true beacon of Freedom and Democracy. Your statement and the answer of the Under Secretary of State will serve that goal if the ideas expressed will be converted into policies of decisive significance.

Please convey our friendly greetings and thanks to the other honorable members who signed the statement with you.

Sincerely yours,

President of the last Greek Parliament: Dimitrios Papaspyrous, deleted.

Ex-Members of Parliament and/or Ex-Ministers: Christos Avramides, deleted, Michael Galinos, Athanasios Gelestathis, deleted, Emmanuel Zapartas, deleted, Emmanuel Kothris, Dimitrios Kinias.

Stillanos Allamanis, Angelos Vlachothanasis, Dimitrios Georgiou, Dimitrios Davakis, E. Dentrinos, deleted, Chrisostomos Karapiperis, deleted, deleted.

George Bakatselos, deleted, Zisis Papalazarou, George Rallis, Evagelos Savopoulos, Agisilaos Spiliakos, deleted, Anthanasios Talladouros, John Tsirimokos, Iakovos Dismantopoulos.

Athanasios Yannopoulos, John Contovrakis, Helias Papaheliou, Agisilaos Spiliakos, John Tsirimokos, Constantine Maris, Evangelos Aneroussis, Christos Pipilis.

John Boutos, Panagiotis Papaligouras, Fotios Pitoulis, Theocharis Rentis, deleted, deleted, Constantine Tsatsos, John Toumbas, I. Tsoudepos.

Constantionos Aposkitis, Constantine Tsatsos, Thomas Adreadis, Achilles Papaloukas, Constantine Stefanakis, Dimitrious Chatzigakis, George Stefanopoulos, George Graphakos, Athanassios Taliathouros.

(The names deleted have been done so to protect signers who have undergone political persecution.)

To former members of the Greek Parliament.

DEAR SIRS: First let me express my admiration of your courage, to you the 56 former members of the Greek Parliament who signed the brave letter calling for a return to democracy in Greece. I know that some of the members of this group have been arrested and all braved arrest in making known their views.

We in the United States, still protected by our free institutions, believe that the political fight you are waging in a country far from our own is in behalf of free men everywhere. We find it disheartening that our government has not given a clearer sign of our support of your efforts, but we hope that United States policy can be changed. As you noted in your letter, "It was exactly 20 years ago when the Greek Army, under a parliamentary democracy, with the leadership of the late King Paul and the generous material assistance of the U.S. through the Marshall Plan and the Truman Doctrine, gave the final blow to the communist armies and forced them to retreat defeated and disbanded beyond the Greek borders. This aid was given by the U.S. Congress, not only to defend the country from the communist threat but especially to secure and support the free institutions and democratic system of the nation." Today the United States continues to send military support to Greece, but sadly it is not being used to protect the "free institutions and democratic system of the nation," but to suppress those very institutions and system. Many of us in Congress wish to see this aid ended, and we will work toward that end.

Speaking for myself, and I know for many of my colleagues, our dream is to see Greece free once again, to see it rejoin the honorable company of Western European nations in the Western Alliance. It is our belief that the people of Greece should make their own choice without outside interference. We believe the United States best can support the efforts of the Greek people to regain their freedom by making clear its lack of support of the present dictatorship.

Finally, let me add my prayers to yours and all of the other Greek citizens who desire a return to freedom, that shortly democracy will once more reign in the nation which founded the concept of a free people, living together in justice and harmony.

Sincerely,

DON EDWARDS,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 30, 1969.

Hon. WILLIAM P. ROGERS,
Secretary of State,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: We are writing to you because of our deep concern over the situation in Greece, the only European nation in the Western Alliance in the post World War II period to fall to a military coup.

Authoritative reports indicate that in junta-led Greece the economy is in decline, fundamental civil liberties are suppressed, and people continue to be arrested and jailed without charge. What's more, anti-Americanism is reportedly on the increase because our long-time friends believe the United States is the principal support of a military dictatorship which has no popular base.

Our policy of occasional, tepid expressions of "hope" that the junta will return to democracy stands in rather hollow contrast to the repeated instances of high-ranking American military figures being pictured and quoted in the controlled Athens press lavishing generous comments on the junta.

Thus we find ourselves in a situation where at a time of moral and political crisis in Greece, our traditional friends of liberal, centrist, and conservative persuasion believe with bitterness that the United States supports the dictatorship and the dictatorship, on the other hand, boasts about it. In the short term, and in the long term, we are in danger of reaping the whirlwind of anti-Americanism, especially when the junta falls, as it inevitably must.

America's attitude is critical to the survivability of the junta. The sooner the junta falls, the greater the prospect that a responsible, democratic, western-oriented successor government will emerge to bind the economic and political wounds. The longer the junta lasts, the grimmer the prospect of political polarization, turmoil, bloodshed, and unpredictable consequences to Greece and our own political, moral, and military interests.

Accordingly, we respectfully urge your consideration of the following action:

1. Since the post of U.S. Ambassador to Greece, presently vacant, has taken on a growing symbolic and practical value, that it be filled by an experienced, civilian-oriented diplomat of superior credentials and not be treated as a political reward or routine promotion.

2. That a clearer sign of U.S. moral and political disapproval of the dictatorship be given and sustained.

3. That U.S. military aid to Greece should not be increased, and indeed, should be curtailed.

Sincerely,

Hon. Joseph P. Addabbo, Hon. Glenn M. Anderson, Hon. Jonathan B. Bingham, Hon. John Brademas, Hon. George E. Brown, Jr., Hon. Phillip Burton, Hon. Daniel E. Button, Hon. Shirley Chisholm, Hon. Jeffery Cohelan, Hon. John Conyers, Jr., Hon. James C. Corman, Hon. R. Lawrence Coughlin, Hon. Charles C. Diggs, Jr., Hon. Don Edwards, Hon. Joshua Eilberg, Hon. Donald M. Fraser, Hon. Jacob H. Gilbert, Hon. Seymour Halpern, Hon. Augustus F. Hawkins, Hon. Henry Helstoski, Hon. Floyd V. Hicks, Hon. Daniel K. Inouye, Hon. Charles S. Joelson, Hon. Robert W. Kastenmeier.

Hon. Edward I. Koch, Hon. Robert L. Leggett, Hon. Allard K. Lowenstein, Hon. Abner J. Mikva, Hon. Patsy T. Mink, Hon. William S. Moorhead, Hon. John E. Moss, Hon. Lucien N. Nedzi, Hon. Gaylord Nelson, Hon. Robert N. C. Nix, Hon. Richard L. Ottinger, Hon. Bertram L. Podell, Hon. Adam C. Powell, Hon. Thomas M. Rees, Hon. Ogden R. Reid, Hon. Henry S. Reuss, Hon. Peter W. Rodino, Jr., Hon. Benjamin S. Rosenthal, Hon. Edward R. Roybal, Hon. William F. Ryan, Hon. William L. St. Onge, Hon. James H. Scheuer, Hon. Louis Stokes, Hon. Frank Thompson, Jr., Hon. Jerome R. Waldie, Hon. Stephen M. Young.

Mr. KOCH. Mr. Speaker, I rise today to express my great admiration for the moral courage displayed by the elected representatives of the last Greek Parliament who signed this letter read by the gentleman from California. It is also my intent to express my outrage at the continued oppression of human rights and democratic principles by the ruling military junta in Greece.

This letter from those brave and determined Greek patriots is representative of the passion of the Greek people for freedom and democracy that refuses to be quelled and is still so strong in the face of continued harassment and intimidation.

I renew the plea made to the Secretary of State by 50 Members of this Congress for "clearer signs of U.S. moral and political disapproval of the dictatorship in Greece." We can ill afford to continue our tacit approval for this outrageously tyrannical government which, despite its protestations of "future democratic reform," makes no visible effort in that direction. Indeed, it is a regime that makes no effort to conceal its acts of oppression and injustice and continues to ignore pleas to restore basic human rights.

How can we hope that the ruling Greek Government will change its present course and reinstitute democratic processes when the United States does no

more than pay lipservice to its interest in "full restoration of civil liberties" and the "achievement of representative government."

If we do not manifest in decisive policy statements our intention to encourage freedom and representative government in Greece we will not only betray those who signed this moving letter, but the very basic traditions and ideals of the United States.

AN APPEAL FOR A MUTUAL MORATORIUM ON ARMS TESTING

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, we are approaching a date that could be a historic turning point for a world living under the threat of nuclear warfare. On Nov. 17, the United States and the Soviet Union begin preliminary nuclear arms limitation talks at Helsinki. While I have constantly urged that such talks get underway, I have no illusions about any shortcuts for ending the arms race.

But I do believe that as a first order of business at Helsinki we must strive for a mutual moratorium on all arms testing pending the formulation of comprehensive agreements with extensive safeguards that can come only from prolonged negotiations. I think this Congress and the President should express a sense of willingness to accomplish this objective.

We have pondered too long while the world has been living under what the late John Fitzgerald Kennedy described as "a nuclear sword of Damocles." More than a year ago, our Nation and the Soviet Union pledged in the nuclear nonproliferation treaty to begin arms control talks promptly. Now, at last, we are on our way to the conference table. But the luxury of time has been lost.

Therefore, America and the Soviet Union must display a more urgent determination to reverse the arms race than either has exhibited thus far.

Both sides are continuing the development of multiple independently targetable reentry vehicles—MIRV's. This new type of multiple warhead will greatly expand the striking power of strategic missiles and further endanger all mankind.

It has been evident for too long that weapons systems have become more sophisticated and more destructive—and America and the Soviet Union are still locked in the arms race. We have reached the point where it is not enough to limit the buildup of strategic arms. We must instead reverse it.

I have often thought about the billions spent by the two superpowers for weapons from which there can be no survival. When I reflect upon this and then consider that we are spending billions more to sustain the arms race, I find myself deeply distressed and wonder whether the powers of the world have lost their senses.

Yes, I agree that we must be able to defend our Nation from attack. I am sure that this is the principal reason why we are moving ahead with the anti-ballistic-missile—ABM—system.

But when I think of our already overburdened taxpayers and America's grave urban problems—the ghettos and the crime and the underprivileged—I pray for an end to the arms race. Just think what we could do here in America to achieve tax relief, model cities, and equal opportunity for all if the Federal Government did not have to expend time, effort, and a fantastic amount of money to engage in an arms race with the Soviet Union. So much could be done for so many if we were able to divert some of the resources that are now required to sustain the arms race.

Take, for example, just one item: The cost of the anti-ballistic-missile system. Consider what America could do with that money alone at home if we did not have to spend it in the arms race.

I ask, therefore, that Congress help build the foundation for meaningful and effective talks at Helsinki. As a first and very important step, I urge expressions of support for a mutual moratorium on arms testing pending the outcome of an agreement with proper safeguards between the United States and the Soviet Union.

Such action would be an invitation to the Soviet Union to join us immediately in moving away from the shadows of war for the benefit of all mankind. It would also be a vivid demonstration of our good faith at the conference table on November 17.

REPRESENTATIVE WAGGONNER'S EFFORTS TO SAVE OUR FRATERNITIES AND SORORITIES

(Mr. LONG of Louisiana asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous material.)

Mr. LONG of Louisiana. Mr. Speaker, an article appears in a fraternity magazine, the Shield, of Phi Kappa Psi—volume 89, No. 4, summer 1969, pages 253–262—which goes into considerable detail about the efforts of my colleague, Representative JOE D. WAGGONNER, to protect the Nation's fraternities and sororities from the meddling of HEW into their membership practices. This discussion of what has transpired in recent months is well worth the time and attention of any reader who feels as I do, that it is high time to put whatever brakes are necessary on the extralegal, sociological meddling of this Department. With unanimous consent, I insert this article in today's RECORD, as follows:

CONGRESS, FEDERAL AID TO EDUCATION, AND FRATERNITY DISCRIMINATION

(By Tom Charles Huston, assistant attorney general, Phi Kappa Psi Fraternity)

(NOTE.—This is an analysis of the legislative history of the Waggoner Amendment and an assessment of the protection it provides for the fraternity system and for universities, through the 1965 Higher Education Act.)

On June 28, 1958, President John E. Horner of Hanover College wrote to the executive secretaries of national fraternities which had chapters on his campus that he had been requested by the U.S. Commission on Civil Rights "to file with the agency an extensive questionnaire relating to policies in the civil rights area." According to Dr. Horner, "the questionnaire makes specific reference to the policies of fraternities relating to the admission to the fraternities of Negro, Jewish, and non-Caucasian students in principle? How many actually have Negro, Jewish, an non-Caucasian students as members?

President Horner requested the national fraternities to provide him with the information necessary to answer these questions. In addition "to a complete statement" from them on these matters, he asked that they send him a copy of their constitution for use in the event that he received similar inquiries in the future.

The announcement that the Civil Rights Commission had begun an investigation into the affairs of college fraternities and sororities created a stir among fraternity leaders. On July 12, Louis F. Fetterly, a California attorney and leader in national interfraternity circles, wrote to the Commission about its activities. He asked for a copy of the questionnaire and an explanation of the use to which the information elicited would be put. A week later he received a reply from Cornelius P. Cotter, Assistant Staff Director for Programs, who declared that "The Commission is not at this time conducting a study related to fraternities or their admission policies." If such a questionnaire is being distributed among fraternities, he asserted, "it comes from a source other than this Commission." However, he added, "If you have reason to believe that a questionnaire is being distributed and represented as coming from this Commission, we should appreciate your help in securing additional information concerning it."

On August 12, Mr. Fetterly wrote Dr. Cotter advising him that the letterheads, return envelopes, and title on the questionnaire all indicated they came from the United States Commission on Civil Rights, Washington 25, D.C. Mr. Fetterly reported that the questionnaire was being represented as part of a nationwide survey, and the covering letter and questionnaire were apparently sent by Mr. Will Erwin, Co-Chairman of the Subcommittee on Education for the Indiana Advisory Committee to the U.S. Civil Rights Commission.

On the basis of this new information, the Commission ascertained that indeed there was a questionnaire. It had been developed by the Indiana Advisory Committee in cooperation with the Civil Rights Commission of the State of Indiana and, "due to a misunderstanding," had been mailed without prior clearance by the Washington staff of the Commission. Mr. Peter M. Sussman, Assistant Staff Director for State Advisory Committees, to whom the ball had been bounced by Dr. Cotter, explained that since this action was "contrary to established Commission procedures," he had requested the Indiana Advisory Committee to suspend any further use of the questionnaire. He went on to point out that the reference in the letter accompanying the questionnaire to a "nationwide survey" was in error: "Neither the United States Commission on Civil Rights itself nor any of its Advisory Committees outside the State of Indiana is conducting such a survey."

Less than two months later, however, fraternity chapter presidents at campuses throughout the State of Utah received a letter from Adam M. Duncan, Chairman of the Utah Advisory Committee of the Civil Rights Commission. Mr. Duncan explained that his committee had been "commissioned by Congress to make factual findings and recommendations" on problems of racial discrimination. The "function" of his committee, he went on, was to serve as a "sounding board" and "clearing house" for civil rights problems.

Mr. Duncan enclosed a questionnaire which he requested be promptly returned "in the

enclosed, self-addressed and franked envelope." The questionnaire concerned the membership practices and internal operations of the fraternity.[1] It requested information on whether members of minority groups were accepted as members by the local chapter and, if not, whether this was due to a prohibition in either the local or national governing document. It also requested that copies of these documents be attached, or if this was not possible, that a place be indicated where the Committee could examine them.

This intrusion into the affairs of a private organization by a government agency, coming as it did upon the heels of the Indiana case, aroused protests not only from fraternity leaders, but also from members of Congress. During debate on the proposed Civil Rights Act in the House of Representatives on February 6, 1964, Congressman Edward E. Willis of Louisiana, citing these incidents, moved to amend the bill by denying to the Commission the power to "authorize any investigation or study of the membership practices of any bona fide fraternal, religious or civic organization which selects its membership." [2]

Congressman Emanuel Celler, Chairman of the House Judiciary Committee and floor manager for the bill, accepted the amendment.[3] He told the House that on behalf of the Judiciary Committee he had complained to the Commission that it had gone too far and exceeded its authority. On January 29, he had received a letter from Howard W. Rogerson, Acting Chairman of the Commission, explaining that the action of the Utah Advisory Committee "was a very limited inquiry . . . into the racial practices of fraternities and sororities located at the State University." [4] "The Utah committee," Mr. Rogerson reported, "was not interested in the practices of fraternities of sororities at private colleges. Nor was the committee interested in the practices of adult fraternal organizations, such as the Masons, which are unconnected with public institutions of higher education." [5] The Commission was not, however, planning to pursue "even the limited Utah inquiry into the racial practices and sororities at the State university." [6]

Mr. Rogerson enclosed with his letter a memorandum outlining the legal basis for the inquiry which the Utah committee made. The final paragraph of this memorandum stated:

"We do not recommend that the Commission add a survey of practices at the State universities to its present program, but all of the factors discussed above indicate not only that there was a legal base for the Utah questionnaire, but that the Commission would have ample authority to inquire further into this matter if it chose to do so." [7]

Congressman Celler was not satisfied by Mr. Rogerson's letter and, apparently, not impressed by the reasoning of the legal memorandum.[8] He contacted Mr. Rogerson and requested a specific answer to the question of whether the Commission intended to pursue this sort of inquiry further. Mr. Rogerson replied in a letter dated January 30, that the Commission did not have any plans to do so. He indicated that the Utah committee had no authority to take any action if the questionnaires were not answered, and it did not plan to seek further information from fraternities and sororities. He concluded with the assurance that no other questionnaires were being sent by any of the Commission's advisory committees to fraternities or social organizations.[9]

Aware that similar assurance had been followed by more questionnaires, Congressman Celler advised the House of Representatives that it was essential to get "embedded in the statute, not correspondence or promises but some definite prohibitions against some of these activities which have been complained of with reference to the Civil Rights Commission.[10] He felt the Willis Amendment accomplished this purpose and he was happy to accept it.

Congressman Meader of Michigan, however, had doubts that the Willis proposal was explicit enough. He offered a substitute amendment which read that "nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to inquire into or investigate any membership practices or internal operations of any fraternal organization, any college or university fraternity or sorority, any private club, any religious organization, or any other private organization." [11]

Congressman Meader argued that the Commission believed, as expressed in the legal memorandum sent to Congressman Celler, that it had every right to conduct inquiries into discriminatory membership practices by private associations, and to preclude such activity it was necessary to spell out in the most precise terms the limitations which Congress wished to place upon the Commission in this area.[12] Congressman Roosevelt of California raised a question regarding the definition of "private organizations." [13] This phrase had not been included in the original Willis proposal, and Roosevelt feared that it would be construed so broadly as to limit the power of the Commission to investigate discrimination in labor unions, corporations, and other organizations not generally included in the concept of voluntary associations.[14] On the basis of this objection, Congressman Meader agreed to the deletion of the phrase.[15]

Congressman Meader had also added another dimension to the Willis proposal by including the phrase "internal operations" in his amendment. Not only would the Commission be prohibited from investigating into membership practices of private groups, but also would be prescribed from conducting an inquiry into their "internal operations." Congressman Celler was worried that this inclusion would unduly limit the authority of the Commission.[16] It was one thing, he argued, to investigate membership practices, but quite another to look into internal operations. The latter, he reasoned, might be of legitimate interest to the Commission where they involved the denial of rights granted to members of minority groups by other provisions of the Civil Rights Act. Congressman Meader was asked what he had in mind when he referred to "internal operations." "I will tell you what 'internal operations' was intended to get at," he answered. "The Masonic Order, Knights of Columbus, and many fraternal organizations like the Eagles, Elks, or secret clubs. It is not only their membership practices which should be protected but all of their internal operations.[17]

"Would you," asked Meader of Congressman Celler, "permit a Civil Rights Commission to demand a document of the ritual of a secret society or fraternity or sorority or Masonic order?" [18] "No," the Judiciary Committee Chairman replied.[19]

Congressman Roman Pucinski of Illinois introduced a subject into the debate which would be hotly debated in the Senate a year later.[20] He objected to the amendment on the grounds that fraternities and sororities, as an integral part of a State university which received federal financial assistance, should not be permitted to discriminate on the basis of race, and therefore the Commission should be authorized to investigate their membership practices. "I know from my own experience on the Committee on Education and Labor," he told the House, "that the Federal Government is perhaps the greatest contributor to many of these universities and colleges. But we say under this amendment that while the Federal Government can spend millions of dollars in these institutions, the Civil Rights Commission cannot investigate discrimination in these fraternities." [21]

Congressman Celler replied that "In the first place, sororities and fraternities are not supported by the Government. They receive no loans or funds directly from the Government." [22] Pucinski agreed with the thrust of this argument, but maintained that "being on the campus of the university benefitting from these taxes, they are a part of the university and indirectly benefit from Federal assistance." [23] Congressman Celler countered with the simple assertion that "I do not believe that is correct," [24] and the House proceeded to adopt the substitute amendment.[25]

When the Civil Rights Act of 1964 was signed into law by President Johnson, it contained the Meader Amendment,[26] which provided that:

"Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to inquire into or investigate any membership practices or internal operations of any fraternal organization, any college or university fraternity or sorority, any private club or any religious organization."

This section made it explicitly clear that the Civil Rights Commission could not under the color of Federal law investigate the activities of campus fraternities. The private acts of discrimination by voluntary student groups were beyond the realm of Federal concern or, at least, beyond the realm of the Commission's concern.

Congress, in various Titles of the Civil Rights Act, empowered specific Federal agencies to eliminate discrimination in the fields of education,[27] employment,[28] voting,[29] and public accommodations.[30] A key provision was Title VI, sec. 601, which declared that "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." [31] This policy clearly applied in the area of education where millions of Federal dollars were being expended annually in aid to colleges and universities, both public and private. The implementation of Section 601 of Title VI was to be effectuated through the issuance of regulations by the Federal departments empowered to extend Federal financial assistance.[32] These regulations were to be "of general applicability" [33] and "consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken." [34]

On December 31, 1964, Francis Keppel, U.S. Commissioner of Education, sent a memorandum to the presidents of all institutions of higher education in the United States advising them that the regulation of the Department of Health, Education, and Welfare authorized under Section 602 of Title VI had been approved by the President and promulgated by the Department to become effective on January 3, 1965.[35] Each college or university which received Federal funds was required under Section 80.4 of the Department Regulation to file an Assurance of Compliance with the non-discrimination requirements of Title VI. Unless the Assurance (HEW Form No. 441) was filed with the Department, the institution would not be eligible for Federal assistance.

Mr. Keppel enclosed with his memorandum an Explanation of HEW Form No. 441, which presented examples of the type of discriminatory practices which were prohibited under the Department Regulation.[36] Of interest to educators were questions 8 and 9 which explained the effect of the Assurance of Compliance upon their administrative practices:

"8. What effect will the regulation have

Footnotes at end of article.

on a college or university's admission practices or other practices related to the treatment of students?

"A. An institution of higher education which applies for any Federal financial assistance of any kind must agree that it will make no distinction on the ground of race, color, or national origin in the admission practices or any other practices of the institution relating to the treatment of students.

* * * * *

"(c) 'Other practices relating to the treatment of students' include the affording to students of opportunities to participate in any educational research, cultural, athletic, recreational, social, or other program or activity; . . . making available to students any housing, eating, health or recreational service; . . . and making available for the use of students any building, room, space, materials, equipment, or other facility or property.

"9. Does the assurance of nondiscrimination apply to the entire operation of an institution?

"A. Insofar as the assurance given by the applicant relates to the mission or other treatment of individuals as students . . . of an institution of higher education . . . or to the opportunity to participate in the provision of services, financial aid, or other benefits to such individuals, the assurance applies to the entire instruction."

The lure of, or necessity for, Federal aid prompted most universities to file their Assurance of Compliance with all deliberate speed. Within three weeks of Commissioner Keppel's memorandum, 821 of the nation's more than 2,100 Federally assisted institutions of higher education had signed. This included 199 colleges and universities in 13 Southern States. By the end of the year, nearly all institutions were properly enrolled with the Office of Education.

On Friday morning, January 1, 1965, the wire services carried a story across the nation announcing that unless colleges and universities signed an assurance of full compliance with the Civil Rights Act, they would receive no new Federal funds. A paragraph in the story caught the attention of fraternity leaders:

"For colleges, full compliance means not only open enrollment but integrated dormitories, swimming pools, and college-sponsored social events. *It means also integrated sororities and fraternities unless there is proof that the organizations are completely separate and independent of the university.*"

The alarm was immediate. An Act of Congress which was thought to have extended to fraternities protection from Federal interference was now interpreted as requiring universities to force fraternities to eliminate any and all discriminatory practices or face the loss of millions of dollars in Federal aid. The danger was obvious if, in fact, there were such a requirement. A university official given the choice between Federal money and college fraternities would not find it difficult to justify jettisoning the latter. Whereas the Civil Rights Commission had represented at the most a nuisance and an invasion of privacy, the possibilities latent in Commissioner Keppel's regulations constituted a threat to the very existence of the national fraternity system.

Fraternity leaders discussed privately among themselves the potential impact of the new regulation, but publicly there was little comment. Before the regulation had been issued, an article had appeared in the Delta of Sigma Nu [37] pointing out the potential threat to the independence of the fraternity system buried deep in the Civil Rights Act, but thereafter no one seemed willing to mention the subject in public for fear it might precipitate some hostile action from the Office of Education.

All remained quiet on the fraternity front during the first few months following the Keppel Memorandum, but in early April the calm was shattered by the announcement that the Sigma Chi chapter at Stanford University had been suspended by the national organization, allegedly because the chapter had pledged a Negro. While the first such incident to occur since the adoption of the Civil Rights Act, it is unlikely it would have attracted much interest except for one fact: Senator Lee Metcalf of Montana, an ardent civil rights advocate, was a member of the Stanford Sigma Chi chapter, and he chose to fight the suspension.

On June 7, 1965, Senator Metcalf wrote to Commissioner Keppel asking whether discriminatory activity such as that which he believed had taken place at Stanford disqualified a university from receiving Federal funds under the provisions of Title VI.[38] "I would appreciate your comments," the Senator wrote, "on whether your office would recommend the continued allocation of funds to institutions receiving aid under the National Defense Education Act, for example, where these institutions officially recognized or in any way supported fraternities or other organizations shown to practice de facto racial or religious discrimination." [39]

Ten days later, Mr. Keppel replied. After quoting from the explanation of the Assurance of Compliance issued by the Department of Health, Education and Welfare, he concluded that "This language makes it apparent that an institution which maintains a fraternity system as a part of its overall program is responsible under the Civil Rights Act requirements for assuring that discrimination is not practiced by the fraternities in the system." [40] James M. Quigley, Assistant Secretary of Health, Education and Welfare elaborated on Commissioner Keppel's announcement by noting that the matter had been reviewed by the general counsel of the Department, and on that basis he was confident that HEW had "the authority and obligation to deal with questions of racial discrimination in college fraternities." [41] His opinion was of some importance since he was responsible for directing the Department's enforcement of Title VI of the Civil Rights Act.

Mr. Keppel had observed in his letter to Senator Metcalf that to his knowledge "the suspension of Sigma Chi at Stanford by the fraternity's national executive committee is the first major test involving de facto discrimination within a national fraternity to develop since passage of the Civil Rights Act of 1964. As such, it seems certain to attract wide public interest." [42] This turned out to be an understatement. Critics of fraternity discrimination lost no time in praising Keppel and damning Sigma Chi and the national fraternity system of which it was such an important part.

One editorial writer commented that it seemed wrong for Mr. Keppel to seek to penalize the colleges and universities. The government's quarrel, he observed, is more properly with the fraternities which generally operate wholly independently of the institution in which its members are enrolled. He expressed the hope that the colleges and universities would pressure the fraternities to revise their thinking about membership, but, he concluded, "a frontal attack on the government's part would be more appropriate."

William Steif, a staff writer for the Scripps-Howard chain, pointed out that colleges were turning the heat on fraternities to end discrimination while the Department of Health, Education and Welfare was turning the heat on the colleges. "Federal leverage," Mr. Steif reported, "is money, much of which has gone to college construction in recent years. Stanford, for example, has put $6 million into new quarters for eight fraternities." Commenting on Mr. Steif's report, another editorial writer disclaimed knowledge as to why "the taxpayer should get stuck for providing fraternity quarters on any campus." But, he observed, "when they accept such handouts, they subject themselves to Federal rules. Colleges, local schools, fraternities or anybody else, once they accept assistance from the Federal Treasury, are at the mercy of Washington." And the St. Louis Post-Dispatch put in the final word editorializing that "it is now clear that college administrators must make sure that there is no discrimination in fact, or face the heavy sanction of Federal funds. This ought to be enough to put an end to a practice which is on the wane and which always was unworthy of democratic educational institutions."

For fraternity leaders concerned with "the image of the system," June of 1965 was a gruesome month. Apparently they decided that silence was the greater part of valor, for not a single national fraternity spokesman made a public statement which (a) defended Sigma Chi's right to discipline a recalcitrant chapter; (b) supported Sigma Chi's denial that the action had been taken for reasons other than the chapter's pledging of a Negro; or (c) denied that Title VI of the Civil Rights Act authorized the Office of Education to cut off Federal funds from universities which tolerated the existence of discriminatory fraternities.

Harry V. Wade, an Indianapolis insurance company executive and national president of Sigma Chi, waged a one man campaign to convince the public that the suspension was not motivated by racial considerations. He explained the actions of the chapter over a ten-year period which had expressed contempt for the national fraternity. He pointed out that the chapter had not held a formal chapter meeting in a decade. He denied that the Federal government had the constitutional right to interfere with the activities of fraternities and expressed the opinion that the time had come for universities to stop controlling the fraternities on their campuses. He spoke out vigorously in favor of a change in the relationship between the school and the fraternity chapter, suggesting that "it would be much better if all fraternities and sororities operated free and independently of all colleges and universities and the members were strictly accountable to the university only for their behavior as individuals." [43] It was a gallant effort, but he stood alone. The only statement from the National Interfraternity Conference came from Joel Reynolds, a member of Delta Tau Delta and chairman of the NIC Press Relations Committee. He pointed out that there was no clear policy among national fraternities on racial discrimination and the NIC took the position that each national fraternity would have to meet its own problems in this regard.[44] As for the officers of the other national fraternities, they maintained a discrete silence, fearful, perhaps, that if they entered the fray someone might begin looking into the membership practices of their own groups.

The first 90 days following the Keppel Declaration were ones of confusion for those concerned with the future of the American fraternity system. Undergraduates were uncertain of what to anticipate from their university administrations when they returned to school in the fall. Alumni were irate, and at the national conventions being held during the summer, speaker after speaker, denounced the Commissioner of Education for his "interference" in the private affairs of fraternities.

The denunciations flowed freely, but the problem of dealing with the situation did not lend itself to easy solution. The individual national fraternities convinced themselves that alone they were powerless, and the Na-

Footnotes at end of article.

tional Interfraternity Conference, the National Panhellenic Conference, and the other national interfraternity organizations [45] evidenced no desire to engage the Commissioner in battle over the question of his authority to invoke the provisions of the Civil Rights Act to force fraternity "desegration." Those commissioned with the responsibility to "represent" the fraternity system and to lead it in times of trouble chose to abrogate this responsibility to a small group of individuals who, without a mandate, took it upon themselves to meet Mr. Keppel head-on: not in a battle of rhetoric, but in a struggle over authority. If the Commissioner found in the Civil Rights Act authorization to take action against fraternity discrimination, the only answer to the problem was to eliminate this authorization. And this could occur in only one way. Congress, once again, must come to the aid of the fraternity system.

On Sunday evening, August 14, 1965, six men met privately in Room 705 of the Congressional Hotel in Washington, D.C. Of the group, only three were national officers of their fraternities, and of these, only one was currently the national president. The others included a former Congressman and an attorney retained by a national sorority for the purpose of assisting the planned effort. The group decided that the only hope to frustrate Commissioner Keppel's efforts was to convince Congress to amend the Civil Rights Act in such a manner as to prohibit the Office of Education from invoking Title VI in cases of fraternity discrimination.

It was late in the session, and it was obviously impossible to get Congress to take prompt action on a separate bill amending the Act. Thus, it was decided that the only hope was to draft an amendment to a proposal which was presently before Congress for consideration.

Once the course of action was decided upon, the small group designated one of their number to draft an appropriate amendment. In less than an hour, the proposal had been prepared, and after a few changes were suggested by other members of the group, it was agreed to submit the draft to a member of the House of Representatives for consideration as an amendment to Section 704 of Title VII of H.R. 9567, the proposed Higher Education Act.[46]

On Monday morning, the group met with Congressman Joe Waggonner of Louisiana, who is a member of Kappa Sigma. Congressman Waggonner agreed to introduce the amendment, although he pointed out that its adoption was not likely to be an easy task. He encouraged his callers to proceed at once to line up as much support for the proposal as possible in both Houses of Congress.

During the next week, the self-designated fraternity lobbyists met with members of Congress. The reception was not always cordial. One prominent Senator, himself a fraternity member, told the group they were silly to think Congress would act on such a proposal. "Discrimination," he told them, "is, in the eyes of our constituents, discriminaiton, regardless of whether it is practiced by private social organizations or by governmental agencies. This certainly is not the time to attempt to draw such fine distinctions." Other members of Congress, however, were less timid, and perhaps more aware of the constitutional limitations upon the power of government to intervene in the private affairs of private groups. At the end of the week, powerful support for the proposal had been mustered on both sides of Capitol Hill.

On August 26, Judge Smith of Virginia, the venerable and powerful Chairman of the House Rules Committee, announced that an amendment to the proposed Higher Education Act was going to be introduced to restrict Commissioner Keppel's authority to regulate the affairs of college farternities.[47]

He pointed out that a year earlier Congress had written into the Civil Rights Act a prohibition on the authority of the Civil Rights Commission to investigate fraternity membership practices. "Congress thought at that time," he told his colleagues, "that we had laid down a policy on that subject which would be respected. Now under the education program that department now proposes to dictate to the universities that they must supervise the admission policies of all fraternities and social organizations that are connected with the universities." [48] Judge Smith went on to observe that he was sure Congress did not intend such a result when it enacted the Civil Rights Act and had no desire to interfere with private social organizations and their membership. "I do hope," he concluded, "that the Committee on Education and Labor will not interpose any objection to this amendment which is actually needed because of the policy that has already been laid down by the Commissioner of Education." [49]

Shortly after Judge Smith concluded his remarks, Congressman Waggonner introduced his amendment which prohibited any department of the Federal government from exercising any control over "the membership practices or internal operations of any fraternal organization, any fraternity or sorority, any private club or any religious organization of any institution of higher education." [50] Congressman Waggonner pointed out that the intent of Congress with regard to the membership practices and internal operations of fraternities had been clearly stated in Title V of the Civil Rights Act, but that this intent was being ignored by the Office of Education on the grounds that the prohibition of Title V applied exclusively to the Civil Rights Commission. "As a consequence," he said, "it would seem imperative that there be legislation making it clear that the congressional intent evidenced by the prohibition in Title V applies to the whole act and particularly Title VI and further that such prohibition will apply to this bill and any other act of Congress." [51]

At the conclusion of his brief remarks, Congressman Waggonner yielded to Adam Clayton Powell, Chairman of the Education and Labor Committee and floor manager of the bill. Congressman Powell announced that he accepted the Amendment because he did not believe that "there should be any withholding of funds from any institution of higher education because of discriminatory practices on the campus by private clubs.[52] And, thus, with a minimum of debate the House of Representatives again came to the defense of the beleaguered fraternity system. To some, it seemed remarkably easy, but the men from Room 705 knew that it had been possible only because the hours of heated discussion in members' offices, persuasive argument over the table at late evening dinners, and last minute conferences in the House Cloak Room convinced reluctant members of Congress that emotional assaults upon discrimination in every guise could not withstand the test of rational confrontation with the requirements of the U.S. Constitution. However, these men were aware that the battle was only half won. The Senate must accept the amendment, and they knew that the reception on the other side of the Hill would not be so cordial.

The speed with which the Waggonner Amendment passed the House caught potential opponents by surprise. As the battleground shifted to the Senate, supporters of the Keppel position began to muster their troops within the ranks of Senate liberals. Clarence Mitchell, the respected director of the Washington office of the N.A.A.C.P., sent a telegram to Senator Wayne Morse, the floor manager for the higher education bill in the Upper House, urging the Senate to defeat the proposal.[53] At the same time, some members of the House of Representatives apparently had second thoughts about what had been done and called upon Senator Morse to block the adoption of the amendment. [54]

Supporters of the Waggonner Amendment hoped that they could convince the Senate to adopt the proposal in terms identical to those of the House version. If this could be done, the provision would be "locked" into the bill and thus not subject to change or deletion in the Conference Committee which would meet to reconcile differences between the versions of the bill adopted by the House and Senate. The strategy of the opposition was just the opposite. If they could not defeat the proposal on the floor of the Senate, they wanted at least to adopt a version different from that approved by the House and thus throw the matter into Conference. The debate which followed the introduction of the House-approved amendment by Senator Dirksen reflected the strategic goals of the two opposing forces.

The initial thrust of Senator Dirksen's argument was that Congress, by writing Section 104 into Title V of the Civil Rights Act, had expressed its clear intent that the Federal Government should not intervene in the private affairs of campus fraternal organizations. [55] If Mr. Keppel did not accept this reading of the Act, then it was necessary to make it crystal clear by enacting a new amendment. "I wish to be sure," Senator Dirksen said, "where Federal assistance to a school is involved, that they do not come in and say, 'Sorry, you can have no scholarship money. You can have no grant. You can have no loan. You can have no project. You cannot have anything, because of the internal operation and the rules under which sororities and fraternities, strictly private, may operate.' " [56]

Senator Javits asked Dirksen if he wished, by the adoption of his amendment, "to achieve a situation in which, if a fraternity or sorority operates dormitories or lodgings or an eating establishment which is a part of a program or activity financed by Federal funds, Title VI of the Civil Rights Act of 1964 cannot reach it?" [57] Senator Dirksen denied that was the intent of his amendment,[58] but this did not satisfy the senior Senator from New York. He insisted on making one further point so that he and Dirksen would "not pass each other like ships in the night":

"If sorority A conducts a dormitory and that domitory is helped by Federal funds, that sorority may not, if it is going to continue that dormitory, discriminate against Negroes. It can remain as a sorority on that campus for 150 years, but it has to give up conducting its dormitory with the aid of Federal funds. That is all that I say, and nothing else." [59]

Senator Tower responded that as he understood the Dirksen proposal a Government agency would be prohibited from denying funds to a university merely because a fraternity or sorority on the campus exercised some discriminatory practices in its membership.[60]

This prohibition would affect very few situations in which the housing for the fraternity or sorority was provided by the university since, in most cases, the housing was privately owned. "In some cases," he observed, "it is a leasehold that the fraternity or sorority enjoys for a period of 99 years. I do not believe that this would put restrictions on such practices from that point of view merely because the university leases property to them and receives a stipend for it." [61]

Senator Tower forthrightly confronted what was to become the central point of controversy: whether housing occupied by a fraternity or sorority for its exclusive private use, yet leased from the university, would be

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covered by the provisions of the proposed amendment. *Every Senator who spoke on the amendment agreed that a fraternity which constructed a chapter house on privately owned property at its own expense and maintained it with private funds should be protected in its right to select its membership according to any criteria it wished.*[62] The opponents of the proposal, however, wished to shift the discussion to a different situation. Senator Metcalf was concerned with the situation "where the university maintains a fraternity system, owns the land, owns the houses, and borrows money from the Federal Government to build them."[63]

Senator Pastore wondered about the situation where a university begins to turn over its facilities to a fraternity, or begins to allow a fraternity the use of its land, or begins to allow a fraternity to use a dormitory and says, "You do not own these facilities; you merely rent them."[64] Senator Morse summed up the attitude of the opposition when he explained that "All we seek to make certain is that we will not misguidedly accept an amendment that will have the effect of plowing taxpayers' money into the facilities of a fraternity or a sorority that follows a discriminatory policy, based upon race, color, or creed."[65]

In an effort to eliminate some of the uncertainties which the opposition feared were latent in the proposal, Senator Sam Ervin of North Carolina proposed to add to the amendment the words "whose facilities are not owned by the institution of higher education and whose activities are financed by funds derived from private sources."[66] Senator Javits objected that Ervin's proposal did not use the word "only" or "exclusively" with regard to private financing.[67] He understood, however, that the word "financing" meant total financing that came from private sources.[68] Senator Tower asked if the term "ownership" would include land leased from the university for a long-term period,[69] to which Senator Ervin replied that it would.[70] "I gather that ownership means effective ownership," Senator Javits said.[71] "Or control," Ervin responded.[72] Senator Javits protested that they were attempting to legislate on the floor and wished to disassociate himself from the policy entirely,[73] but Senator Dirksen agreed to accept the Ervin proposal and the amendment was modified accordingly.[74]

Senator Holland felt that the result of the adoption of the amendment as modified would be "to leave in conference a discussion of the matters lying between the minimum application which would be made by the amendment in its present form and the much larger application of this question which would be made by the so-called Waggonners amendment adopted by the House."[75] He believed that the minimum the amendment provided was that "when there is a fraternity house existing on private land, owned for and paid for by the fraternity and its members and alumni, and upon which a house has been constructed, paid for by the members and alumni of that fraternity, with no public money in it, and the fraternity members live or meet in that house off the campus, by no means is it to be affected, and by no means is the university to be affected by reason of the fact that it recognizes such a fraternity as a lawful part of its entire university complex."[76] To this statement, Senator Morse agreed: "That is the clear right of the fraternity."[77]

There were, however, gray areas which were not so easily susceptible of determination. "Suppose," Holland said, "a fraternity had, under earlier law, prior to the passage of the Civil Rights Act, borrowed Federal funds for the construction of a fraternity house, belonging to it, on lands belonging to the fraternity, but outside the university campus, and without any knowledge that such a law as the Civil Rights Act of 1964 would ever be enacted?"[78] Senator Morse's reaction was direct: in cases where there are mixed funds and a fraternity is the beneficiary of the taxpayers of the United States to some degree—and to him it made no difference to what degree—the result was to support discrimination with Federal aid.[79] The response, however, missed the point which Senator Holland was trying to make. "Does that mean if any Federal money goes in from the date of enactment of that act, or does it mean that a loan made, let us say, for the construction of a chapter house years before, upon a lot owned by the fraternity off campus, would bring it within the purview of this prohibition?"[80]

Senator Morse did not answer the question, but Senator Ervin offered the opinion that Section 602 of Title VI of the Civil Rights Act exempted such a situation from the effects of the Act where the Federal Government merely guaranteed the payment of a deed, trust or mortgage.[81] This, however, as Senator Holland noted,[82] did not cover the entire situation, and the question remained unanswered throughout the debate.

Senator Robert Kennedy suggested that the proposed amendment be modified by the words "And whose activities are not financed directly or indirectly by public funds,"[83] but Senator Ervin refused to agree to the proposal,[84] and it was dropped. Senator Morse asked Senator Dirksen if he would withdraw his amendment so that the matter could be considered in conference.[85] Senator Dirksen refused and expressed the opinion that the time had come for a vote, [86] at which point Senator Morse promptly requested a quorum call in order to re-group for a final assault.[87]

When the Senate again moved to consideration of the Dirksen proposal, it was obvious that the amendment as modified was assured of passage. The opposition had failed in its first line of defense: the proposal could not be defeated. The debate thus turned to the question of whether the matter would be in conference if the Dirksen-Ervin language were adopted. The Chair ruled that it would be,[88] and upon a roll call vote the proposal was approved by a vote of 60 to 28.[89]

The Senate action disappointed both the supporters and opponents of the Waggonner Amendment. The opponents had been unable to kill it, but they had succeeded in forcing the matter into conference where they might be able to further dilute its impact. The supporters had been unable to "lock" it into the bill and thus ensure the fraternities the broad protection which they sought. As is so often typical of the legislative process, both sides had to content themselves with that which was possible.

The man from Room 705 who was principally responsible for the initiation of the Waggonner Amendment had witnessed the Senate debate from the Family Gallery. When Senator Ervin suggested his modification, one of the key Senatorial supporters of the amendment rendered a pre-arranged signal, and the fraternity leader left the gallery and joined him in the Senate Reception Room. Well, this thing is getting pretty rough," the Senator said. "What do you think of the language of the modification?" "Do we have to accept it on that basis?" he was asked. "No, we can go for broke," the Senator replied. The man who had acted when other fraternity leaders were content to talk, the man who by sheer gall and determination had been able to muster support in the waning days of the session for a proposal that more knowledgeable people deemed politically impossible, weighed the alternatives. "I'd rather take nine-tenths than go home empty-handed," he said. "I'll go for the nine-tenths. I'll go for three-quarters or whatever it represents." The Senator nodded and returned to the floor. Shortly thereafter, the Ervin modification was accepted.

During the month that the Higher Education Act was in conference no one was sure exactly what the Ervin modification did represent in terms of restrictions upon the coverage of the amendment. As Senator Holland had said on the floor, the amendment as modified provided at least minimum guarantees.[90] If a fraternity owned its own chapter house and the land upon which it was situated, and if the land had been purchased and the house constructed with private funds, the fraternity was protected, and the Federal Government could not deprive a university of Federal financial assistance merely because it tolerated the existence of that fraternity and its discriminatory membership practices. It was in the realm of the "gray areas" that Senator Holland had spoken about where the uncertainties rested.

What of long-term leases? What of situations in which Federal funds had been utilized in the past to construct facilities occupied by fraternities? These were the questions with which the Senate and House conferees must deal. All that fraternity leaders could do was wait, and wait they did, anxiously for nearly a month.

On October 20, the report of the conference committee was submitted to the House and Senate. The amendment was included as Section 804(b) of the Act and provided that:

"Nothing contained in this Act or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the membership practices or internal operations of any fraternal organization, fraternity, sorority, private club or religious organization at an institution of higher education (other than a service academy or the Coast Guard Academy) which is financed exclusively by funds derived from private sources and whose facilities are not owned by such institution."

With the exception of the exclusion of service academies, the only significant change made in the amendment as adopted by the Senate was the addition of the word "exclusively." Senator Javits told the Senate that this addition "highly gratified" him since it "narrowly limited" the provisions of the amendment.[91] The inclusion of the word, which he had suggested on the floor during debate, carried out "specifically the intention I had stressed when the provision was before the Senate."[92]

If the change were as significant as Senator Javits indicated, Congressman Powell did not realize it. The Section had been reorganized, he reported to the House, "to avoid the unintended result of nullifying any application of Title VI of the Civil Rights Act of 1964 to institutions of higher education and the Senate restrictive language employed to make certain that the fraternities or sororities involved really are private within the meaning of the 14th Amendment and do not subsist on handouts from the institution in the form of cheap or no cost facilities."[93]

In an effort to ascertain the substantive nature of the changes which had been made since his proposal had been approved in the House, Congressman Waggonner posed several questions to Congressman Powell. This exchange[94] between the author of the amendment and the floor manager of the bill is extremely important in an honest effort to determine the degree of protection which Congress intended to extend to fraternities operating in the "gray area."

"Mr. WAGGONNER. When we talk about being financed exclusively through funds derived from private sources, we are talking about these organizations referred to rather than the institutions, are we not?

"Mr. POWELL. Absolutely correct, yes.

Footnotes at end of article.

"Mr. WAGGONNER. I think the language as amended is perfectly fair, and I thank the gentleman.

"It is my understanding that under the amended language of the conference report, of Section 804(b), privately owned facilities on long-term leased land would be exempt from any Federal supervision. Also, it is the intention of the language to prevent the subsidy of these organizations with public funds. Am I correct?

"Mr. POWELL. The gentleman is absolutely correct.

"Mr. WAGGONNER. Then, to further prohibit the subsidy of these organizations, with public funds, a fair service and/or rental charge must be charged any organization which might use public facilities. Am I correct?

"Mr. POWELL. Absolutely correct.

"Mr. WAGGONNER. I thank the gentleman for yielding and for his clarification."

A close study of the legislative history of the Waggonner Amendment shows that Congress intended to exclude from the realm of Federal concern the private acts of discrimination of private social organizations. To qualify for this protection, however, the fraternity must occupy privately owned facilities and must operate with funds exclusively derived from private sources.[95] However, a fraternity which occupies a facility constructed by the university is protected so long as that fraternity pays a fair rental and/or service charge. Authority in support of this latter case is derived explicitly from the exchange between Congressmen Powell and Waggonner[96] and supported by the dialogue between Senators Tower and Ervin.[97] A fair reading of the legislative history, Senator Javits' unsupported assertion to the contrary notwithstanding,[98] leads inevitably to the conclusion that the "gray area" is considerably more narrow than Senator Morse and his colleagues had hoped for.

As a result of Congressional action, fraternities are generally secure from Federal interference so long as they maintain their integrity as private organizations. The vast majority of fraternities and sororities which own their own chapter houses and the land upon which they are situated are unequivocally protected. Those who occupy university constructed facilities but occupy them under long-term leases are likewise clearly covered by the amendment. The exchange between Congressmen Powell and Waggonner suggests that those who occupy university constructed facilities, regardless of the terms of the leasehold, are also protected so long as they pay a fair rental. This seems to comply with the intent of the amendment since groups thus situated do not "subsist on handouts from the institution in the form of cheap or no cost facilities."[99]

The danger area for fraternities is those situations in which they allow the university to provide them with free services or facilities; for example, set aside meeting rooms for permanent use by a discriminatory fraternity or construct a chapter house and sell or rent to a fraternity at less than fair market value. It is unlikely that there presently exists many such situations, but wherever they may be found, the Waggonner Amendment provides them no protection.

FOOTNOTES

[1] 110 *Cong. Rec.* 2295 (remarks of Congressman Meader).
[2] *Id.* at 2291 (motion of Congressman Willis).
[3] *Id.* at 2292 (remarks of Congressman Celler).
[4] 110 *Cong.* Rec. 2292.
[5] *Ibid.*
[6] *Ibid.*
[7] *Id.* at 2293 (remarks of Congressman Meader).
[8] *Supra,* note 3.
[9] *Supra,* note 4.
[10] *Supra,* note 3.
[11] *Supra,* note 7.
[12] *Ibid.*
[13] 110 *Cong. Rec.* 2294 (remarks of Congressman Roosevelt).
[14] *Ibid.*
[15] *Ibid.*
[16] *Id.* at 2295 (remarks of Congressman Celler).
[17] *Id.* at 2295 (remarks of Congressman Meader).
[18] *Ibid.*
[19] *Supra,* note 16.
[20] *Infra,* note 57.
[21] 110 *Cong. Rec.* 2296 (remarks of Congressman Pucinski).
[22] *Id.* (remarks of Congressman Celler).
[23] *Supra,* note 21.
[24] *Supra,* note 16.
[25] 110 *Cong. Rec.* 2296.
[26] Public Law 88–352, Title V, Sec. 104(a)(6), 78 Stat. 251.
[27] Title III, 78 Stat. 246, 42 U.S.C. § 2000c (1964).
[28] Title VIII, 78 Stat. 253, 42 U.S.C. § 2000e (1964).
[29] Title I, 78 Stat. 241, 42 U.S.C. § 1971 (1964).
[30] Title II, 78 Stat. 243, 42 U.S.C. § 2000a (1964).
[31] 78 Stat. 252, 42 U.S.C. § 2000d (1964).
[32] 78 Stat. 252, 42 U.S.C. § 2000d–1 (1964).
[33] *Ibid.*
[34] *Ibid.*
[35] 45 C.F.R., § 80 (1967).
[36] *Id.,* Appendix A.
[37] Beach, "Fraternities, Discrimination and The Civil Rights Law," *The Delta,* Fall, 1964, p. 21, reprinted at 110 *Cong. Rec.* 22671.
[38] 110 *Cong. Rec.* 22673.
[39] *Ibid.*
[40] *Ibid.*
[41] The New York *Times,* June 19, 1965.
[42] *Supra,* note 38.
[43] *Supra,* note 41.
[44] *Ibid.*
[45] E.g., College Fraternity Secretaries Assn., College Fraternity Editors Assn., Interfraternity Research & Advisory Council.
[46] The proposed amendment provided that: "Nothing contained in this or any other affected or relevant Act shall be construed to authorize, permit, or empower any department, agency, officer, or employee of the United States, either directly or indirectly, to influence or exercise any direction, supervision, or control over the curriculum, program of instruction, or over the membership practices or internal operations of any fraternal organization, any college or university fraternity or sorority, any private club, or any religious organization at any educational institution, or over the selection of library resources by any educational institution."
[47] 111 *Cong. Rec.* 21877 (remarks of Congressman Smith).
[48] *Ibid.*
[49] *Id.* at 21878.
[50] *Id.,* at 21947 (remarks of Congressman Waggonner).
[51] *Ibid.*
[52] *Id.* at 21947 (remarks of Congressman Powell).
[53] 111 *Cong. Rec.* 22681.
[54] *Id.* at 22680–81 (remarks of Senator Morse).
[55] *Id.* at 22667 (remarks of Senator Dirksen).
[56] *Id.* at 22668.
[57] *Id.* (remarks of Senator Javits).
[58] *Id.* at 22668–69 (remarks of Senator Dirksen).
[59] *Id.* at 22669 (remarks of Senator Javits).
[60] *Id.* (remarks of Senator Tower).
[61] *Ibid.*
[62] "I agree with the Senator from Texas that the fraternities and sororities located off campus, owned by a building corporation, by the fraternity house, or privately owned, are not under Title VI," *Id.* at 22669 (remarks of Senator Metcalf); see also remarks of Senator Morse, *Id.* at 22681; remarks of Senator Javits, *Id.* at 22668; remarks of Senator Pastore, *Id.* at 22677; remarks of Senator Hart, *Id.* at 22695.
[63] *Id.* at 22669 (remarks of Senator Metcalf).
[64] *Id.* at 22677 (remarks of Senator Pastore).
[65] *Id.* (remarks of Senator Morse).
[66] *Id.* at 22675 (remarks of Senator Ervin).
[67] *Id.* (remarks of Senator Javits).
[68] *Ibid.*
[69] *Id.* (remarks of Senator Tower).
[70] *Id.* (remarks of Senator Ervin).
[71] *Id.* (remarks of Senator Javits).
[72] *Supra,* note 70.
[73] *Supra,* note 71.
[74] 111 *Cong. Rec.* 22675.
[75] *Id* at 22677 (remarks of Senator Holland).
[76] *Ibid.*
[77] *Id.* (remarks of Senator Morse).
[78] *Supra,* note 75.
[79] *Supra,* note 77.
[80] *Supra,* note 75.
[81] *Id.* at 22677 (remarks of Senator Ervin).
[82] *Id.* (remarks of Senator Holland).
[83] *Id.* at 22681 (remarks of Senator Morse).
[84] *Id.* (remarks of Senator Ervin).
[85] *Id.* (remarks of Senator Morse).
[86] *Id.* (remarks of Senator Dirksen).
[87] *Supra,* note 85.
[88] 111 *Cong. Rec.* 22685.
[89] *Id* at 22686.
[90] *Supra,* note 76.
[91] *Id.* at 27576 (remarks of Senator Javits).
[92] *Ibid.*
[93] *Id.* at 27677 (remarks of Congressman Powell).
[94] *Id.* at 27677–78.
[95] Higher Education Act of 1965, 79 Stat. 1270, 20 U.S.C. § 1114(b) (1965).
[96] *Supra,* note 94.
[97] *Supra* notes 69 and 70. See also *Supra,* note 61.
[98] *Supra,* note 91.
[99] *Supra,* note 93.

POSITIVE INITIATIVES ON VIETNAM TAKEN BY NIXON ADMINISTRATION

(Mr. RIEGLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIEGLE. Mr. Speaker, yesterday I participated in a press conference with my colleague, the gentleman from California (Mr. MCCLOSKEY) to discuss the war in Vietnam. Unfortunately the news account in today's Washington Post does not accurately reflect the views I expressed.

The purpose of the press conference was to highlight and to commend a specific series of positive initiatives the Nixon administration recently has taken with respect to the war in Vietnam. This included, for example, such things as the recent change in field tactics to a strategy of "defensive reaction," which has served to cut the American combat deaths in half in the last 3 weeks. We went further to express our support for the President's policy of a staged disengagement from the Vietnam war and to indicate our belief that this policy served the strategic security interests of the United States and South Vietnam.

I repeat today I am encouraged by the steps the President has taken and believe these new initiatives deserve commendation and support.

The news article in question had three incorrect references that I wish to correct.

First, I enthusiastically support the "Vietnamization" program in Vietnam and believe it is the only viable way to

scale down U.S. overcommitment—while offering the South Vietnamese Government a fair, fighting chance to make it on its own. What the South Vietnamese do with that opportunity is up to them. The Secretary of Defense deserves commendation for giving the "Vietnamization" program, in his words, "the highest priority." Whatever we call it, Vietnamization or de-Americanization, it means getting out, I am for it, and I support the administration 100 percent on this matter.

Second, I have the highest regard for Dr. Henry Kissinger. I think he is doing a commendable job under difficult circumstances. The facts are that today, under the new President, we are steadily scaling down the American commitment in Vietnam. This is a breakthrough of enormous significance and certainly all the President's foreign affairs advisers deserve credit for this. While Dr. Kissinger and I do not agree on every point with respect to winding down the war in Vietnam, I believe we are in substantial agreement on the fundamental aspects of the war. I consider him a friend and a thoroughly positive influence in helping to formulate this country's foreign policy.

Finally, I believe these new initiatives with respect to Vietnam are the product of executive judgment and decisionmaking.

While the Vietnamese moratorium of October 15, the various congressional initiatives aimed at speeding up the American disengagement, and the general disenchantment of the American people toward the war, are all factors that the Nixon administration understands and considers, I believe the executive decisions that are made are based on the strategic security interests of the United States. I would not want the RECORD to indicate that I think these decisions are—or should be—made on any other basis.

FEDERAL ASSISTANCE PROGRAM FOR URBAN TRANSPORTATION

(Mr. HUNT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HUNT. Mr. Speaker, the need for modernized urban transportation systems in all our major cities and many of our smaller ones is beyond dispute.

By no stretch of the imagination can Federal participation in the effort to provide adequate public transportation be called partisan.

The bipartisan approach to this problem is exemplified in recent testimony by John E. Robson before the Senate Subcommittee on Housing and Urban Affairs.

Mr. Robson is a former Under Secretary of Transportation. I call his testimony, which follows, to the attention of my colleagues in both parties:

STATEMENT OF JOHN E. ROBSON, BEFORE THE SENATE COMMITTEE ON BANKING AND CURRENCY, SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS, OCTOBER 14, 1969

My name is John E. Robson. I am a lawyer engaged in private practice in Washington. Formerly I served as Undersecretary of the United States Department of Transportation and prior to that as the Department's General Counsel. While Undersecretary I also acted for a period as Administrator of the Department's Urban Mass Transportation Administration. I am a member of the Secretary of Transportation's Urban Transportation Advisory Council.

Mr. Chairman, it is a great privilege to appear before your Committee to discuss the subject of a new Federal assistance program for urban transportation.

I believe this Committee and the Congress are presented with a singular opportunity to contribute to the salvation of our cities. I am here to urge you not to let that opportunity slip by.

I need not underscore for this Committee the pathetic condition of urban transportation in this nation. You have all experienced it. And you have all heard it repeatedly described by the leaders of our metropolitan areas.

Nor need I recite at length the harsh consequences which the deficiencies in our urban transportation systems have brought down upon us—the daily agony of the commuter; isolation of the poor; jobs, recreation, and vital community services which are outside the practical reach of many; polluted air; and vast hunks of precious urban land handed over to streets and parking.

It is time to enunciate a new Federal policy and a new Federal role in urban transportation.

I say a *new* policy. Because for over a decade there has been an unarticulated Federal urban transportation policy which has had a profound effect on our urban areas and on the shape of our metropolitan transportation systems. That policy has been manifested simply by the presence of significant Federal aid for highways and the absence of meaningful assistance for urban public transportation.

Who can blame a mayor or county executive for choosing a highway-dominated urban transportation system when he is certain of getting from 50% to 90% Federal funding for it as opposed to a wait-in-line chance to share in the meagerly funded Federal mass transportation program. And who can blame urban planners for failing to plan public transportation facilities which are unlikely ever to be built.

If the frequently voiced endorsement of local self-determination is to extend to local transportation systems, it is time we put some money where our mouth is.

There have been a number of legislative proposals to enlarge and extend Federal assistance to urban public transportation. Heated debate his encircled the question of whether a new program should be trust funded, funded under a contract authority or funded by some other device.

There is an old fable about a dog with a bone in its mouth who, upon seeing its reflection in the water, opened its mouth to snap at the other dog's bone and ended up with nothing. That fable has relevance here. For nothing could be more tragic than to allow differences of opinion on the technique for funding a new program to result in no new program at all.

The essential ingredients in a meaningful Federal assistance program for urban public transportation are:

First, an absolute assurance of continuity of funding;

Second, flexibility in the Federal government's authority to commit project funds in advance so that local governments can confidently plan and implement large, long-term projects.

And, third, sufficient Federal funds to do the job on a national scale.

In my judgment the contract authority approach embodied in Senate Bill 2821 can achieve those goals. And, I endorse the concept of that Bill.

In one significant feature, however, I believe Senate Bill 2821 requires modification. That is the time limitations in Section 3(c) on the authority to obligate funds. I strongly favor removing the provisions which chop-up and stretch-out over a five-year period the Secretary of Transportaton's right to obligate the $3.1 billion there authorized. I believe that the entire authorized amount should become available for obligation upon enactment of the legislation. Orderly project planning by local governments requires that the precise extent of the Federal commitment be fixed at the outset of a project. This is especially critical if the local share is to be raised by publicly approved bond issues. It is not adequate to have a system where the Federal government can annually commit only a fraction of the known funding requirements for a six, seven or ten-year project and where certainty of Federal funding for each succeeding increment of the project must await the coming of a new fiscal year. As a practical matter this may force the Department of Transportation to use an entire fiscal year's obligational authority for one or two projects and delay any commitment on other projects until commitment of the full Federal share can be made.

However, I do not view some reasonable spreading out of the *expenditure* of obligated funds as inconsistent with the flexibility I think necessary in the government's obligation of those funds. Expenditure usually lags behind obligation and phasing of expenditure is manageable and not uncommon in public work projects.

The amount authorized for obligation by Senate Bill 2821 is $3.1 billion. This is a significant start. But the preamble of the Bill recognizes that "success will require a Federal commitment to the expenditure of at least $10 billion over a twelve-year period." So it is only a start. Some mechanism should be established in the legislation to continue the momentum and keep Congress informed of future needs sufficiently in advance to permit timely legislative action to authorize additional funds for obligation.

I particularly support the requirement in the new Bill for public hearings in any project having a substantial effect on a community or its public transportation service. I hope that the Department will implement these provisions vigorously so that all points of view can be considered in decisions for local transportation facilities. We have passed the time when public works projects can be crammed down the throats of our citizens.

There is now before you a rare opportunity to offer our urban areas some real choice in shaping their transportation systems. You on this Committee are in a position to put important tools into the hands of our metropolitan areas so that they can reach their own goals. I urge you to seize that opportunity now. Further delay means further decay for our cities.

Thank you very much, Mr. Chairman, for this opportunity to appear before the Committee.

HUMORLESS MILITANTS AND NARROWMINDED NIHILISTS DO NOT REPRESENT ANY ENLIGHTENED WAVE OF THE FUTURE

(Mrs. GREEN of Oregon asked and was given permission to address the House for 1 minute, to revise and extend her remarks and include extraneous matter.)

Mrs. GREEN of Oregon. Mr. Speaker, in these restless years for a nation in search of new directions and workable methods for social progress, the clarion call has gone out; America must be realistic; America must submit to the admittedly fascinating, but rigidly doctrinaire and wholly uncompromising

politics of the "New Left." For that one I would like to quote the prominent philosopher Charlie Brown: "Rats." Mr. Theodore Sorensen, eminent adviser to national leaders and a perceptive student of American public affairs, has concluded that the "humorless militants and narrow-minded nihilists" certainly do not represent any enlightened wave of the future, and, in fact, fall far short of the genuine article which we call the "new politics." In an essay published in the November 4 issue of Look magazine, Mr. Sorensen explores this issue within the larger context of the Democratic Party in the years ahead. I commend his superlative observations to the attention of my colleagues, and I congratulate the author for a balanced and often inspiring statement on topics which have too often produced more heat than light.

DID CHAPPAQUIDDICK FINISH THE DEMOCRATS?

The incident at Chappaquiddick was more than human tragedy. It was a setback as well for the Democratic party. For the absence of Ted Kennedy from the 1972 race makes all the more difficult the defeat of Richard Nixon. The Democratic party once stood for energy and drive and hope. Now it is in danger of becoming a tired second-place defender of the status quo. Those of us who care not only about the party's survival but even more importantly about our children's future must do more than wring our hands. I intend to do so.

More Democratic candidates and incumbents must take the initiative and present constructive alternatives to the Nixon approach. It would be inconsistent with our philosophy to hamper the flexibility of the President's office, notwithstanding the incumbent's Republicanism. But we must fill the policy vacuum Mr. Nixon apparently intends to leave and fill it with something more than the bread-and-butter programs that have dominated Democratic platforms ever since the thirties, something more than a rehash of the domestic programs of the New Deal, Fair Deal, New Frontier and Great Society.

It is unfortunate that long years of power in Washington have committed many Democrats to a defense of big government, high taxes and centralized bureaucracy for their own sake. They pooh-pooh the concepts of individual involvement and community control as Republican slogans. They stubbornly cling to outmoded Democratic precedents: to public-welfare programs that humiliate those they should help; to farm-price programs not geared to feeding our hungry; to public-housing programs that create new slums; to payroll taxes that run counter to a progressive fiscal policy. New Deal liberalism, convinced that all wisdom stemmed from Washington, built traditional Government paternalism and handouts into LBJ's War on Poverty and opposed RFK's tax and credit incentives for attracting private business into the ghetto. For dramatic proof that the well-intentioned welfare approaches of the 1930's are inadequate for the 1970's, one need only look at the supposed "security" we have provided to the hapless American Indian.

To be sure, the Democratic party must offer new social programs: to make low-cost medical care available to all, to extend free public education beyond high school, and to erase the malnutrition and infant mortality that afflict the richest country on earth, to name only a few. But it must also offer new leadership with new perspectives—on the need to reallocate resources from military weaponry to the abolition of domestic deformities—on the need to give investments in our youth and our environment a higher priority than balancing the budget—on the need to treat the growing urban crisis as a clear and present danger to the prosperous white majority as well as to the black and poor minorities.

The Democratic party must remain the liberal party in the original sense; but the typical liberal-conservative analyses and labels are no longer as relevant as they were.

The movement to bring government closer to the people through decentralized control of schools and other community institutions, for example, is neither "liberal" nor "conservative." While the perils of that effort are many, it is an outgrowth of the same sense of helplessness, the same resentment of a distant, patronizing authority, that has accelerated the movement toward "participatory politics."

The mammoth Bedford-Stuyvesant ghetto project initiated by Robert Kennedy with the backing of private business sought to give those who were virtually powerless a real voice in improving their lives. It ran counter to cherished liberal notions about Federal patrimony, racial integration and corporate greed, but it was in fact in the best FDR tradition of seeking radical innovations for the future to preserve the basic values of our past.

With this and other equally new and far-reaching concepts, the Democratic party can provide a nonviolent answer to those understandably impatient youth who ask whether our system can be changed through means other than violent confrontation and coercion. Some of our goals, if they are meaningful, will no doubt sound like those now being proclaimed by all kinds of militants and revolutionaries. So what if they do? We intend to achieve them peacefully, not through violence, by changing the system, not throwing it out. "We cannot afford," as Archbishop Camara of Brazil has said, "to relinquish banners which are right merely because they have been carried by wrong hands."

Departures from old entrenched positions are also required of our party in foreign policy. Because Democrats held power immediately before and during both world wars, Korea and Vietnam, many of our traditionalists retain an emotional commitment to the cold war policies of containment. Many believe that the only alternative to isolationism is for America to be a global magistrate, an international New Dealer complete with military assistance to undemocratic regimes abroad and a security-conscious military-industrial complex here at home. That must change. Our party cannot conceal its role in the mistaken escalation of the war in Vietnam. But we can call now for a bargaining and battlefield posture that rejects the illusions of the past and seeks the earliest feasible liquidation of that basically bad investment. We can discard the negative attitudes that characterized Democratic administration on new approaches to China and Germany; and we can offer our own specific proposals for ending the East-West arms race and for building nonmilitary responses to Communism.

In both foreign and domestic policy, in short, we must shed the old liberal stereotypes. "Liberal" once meant open-minded, receptive to change, willing to try and to dare—not tied to any dogma or doctrine of the past. I do not consider myself illiberal because I am against inflation, crime, obscenity or teenage drug abuses. Nor do I think it liberal to condone violence on the campus or in the ghetto, or to pretend that the United Nations is more than it really is. Our party, to succeed, must recapture the enthusiasm of those tuned out by last year's series of tragedies. Those young and concerned voters must be shown that a peaceful revolution is possible, and that violent confrontations are unnecessary. Only if the Democrats, nationally and locally, offer that kind of action instead of clichés can we win and deserve to win.

Reports of the party's good health, following Hubert Humphrey's surprisingly narrow loss to Richard Nixon last November, were unfortunately exaggerated. The Republican-Dixiecrat coalition emerged in control of the White House, both Houses of Congress and the governorships of the principal states. The new President, unlike the last Republican President, has both the political know-how and the determination to perpetuate his party in power. Among the industrial states of the North, on which Democratic presidential candidates must depend, Republican governors sit in all but New Jersey (which holds its election this year).

Republican governors in fact control states with two-thirds of the nation's population. Republicans, if present trends continue, could organize the Senate after the 1970 election. Republican control of the House of Representatives is a distinct possibility in 1972—after the 1970 census enables Republican-controlled state legislatures to reapportion congressional districts. Even now, among the new and relatively new members of the House and Senate, Republicans have a two-to-one majority. Moreover, on most key issues dividing the 1968 Democratic platform from the Republican, roughly six out of seven Southern Democratic congressmen can be expected to vote with the Republicans.

The defection of the once Solid South typifies the erosion and division that have emasculated FDR's coalition of power-brokers. Labor unions and big city political machines can still provide important manpower and money to a Democratic candidate, as Hubert Humphrey's campaign in 1968 demonstrated. But as the members of these political, trade union and other organizations move to the suburbs, achieve economic security and make up their own minds after viewing TV, they are less influenced by a leader trying to enlist them behind some lackluster candidate. Many of these leaders are at odds with the party's young activists and intellectuals, who are in turn too often disdainful of the white nationality groups once prominent in the coalition—the Irish, Italians, Poles and others—who are in turn often resentful of the aspirations of black and Spanish-speaking groups, who can at times distrust each other. Most of the farmers who survived the agricultural revolution achieved their security and defected from the coalition long ago.

In 1968, deep-seated opposition to Nixon and Agnew had a temporarily galvanizing effect, and the patronage and other services dispensed by the party in power helped compensate for growing weaknesses. But 1968 was the last hurrah of the old Democratic coalition. For too long, its leaders had complacently counted on the loyalty of many who no longer felt they could count on the Democratic party. In 1968, some of these voters supported Wallace or fringe candidates, some stayed home, and some reluctantly voted Democratic without knowing why.

In too many places, moreover, the party had grown soft and stale. It repeatedly offered aging candidates more renowned for their past glories than for their appeal to the independent-minded, who saw no merit in automatically voting the straight Democratic ticket. Many high-quality candidates with broad appeal at the state and local level were defeated (or even discouraged from running) by party ineptitude; many ran independently of the party organization; and some ran as Republicans. In the best traditions of our party since the days of Al Smith and FDR, the national and local Democratic campaigns in 1968 were focused on those voters too hard-pressed to feel affluent or too aware of the nation's needs to feel indifferent—only to find that the affluent and the indifferent constituted, regardless of registration, a new Republican plurality.

"In stagnant pools," said Mr. Justice Holmes, "there is decay and death; in moving

waters there is life and health." Unless the Democratic party moves to become a more democratic party, it faces continuing decay and decline. The 1968 election—having deprived the Democrats of much of their patronage and power, having taught them not to rely on all the big-city machines or the South, having demonstrated that the support of their middle-class members must be newly won—may prove in the long run to have been at least a partial blessing in disguise if it forces our party to cut its ties with racism and bossism and to build a new coalition from the bottom up.

The basis for the old coalition was largely class. The workingman, the relief recipient, the dirt farmer and the tenement dweller looked to the New Deal and its successors for economic salvation. The basis for the new coalition must be not only the common good but also conscience, including not only the poor but also those too recently poor to have forgotten and those too secure to feel threatened—not only realistic black and Spanish-speaking Americans but also idealistic white Americans—not only the old-time New Dealers, interested in public power and Social Security, but also their children and grandchildren, interested in black power, Vietnam and urban blight. Those in the so-called white upper middle class including suburbanites and the well-educated and their voting-age children—once largely written off as traditional Republicans—now hold the balance of political power in the big states. Largely unorganized and uncommitted, unwilling to vote by party label only, uninterested in the old-time economic issues and party history, these voters will more easily find comfort and safety in generally following the lead of their Republican fathers, employers and neighbors unless Democratic candidates can appeal to their consciences as well as their pocketbooks.

A new coalition of conscience can bring the old Democrats and new Democrats together, combining the manpower of youthful activists and part-time housewives with that of regular precinct workers, who know what it takes to keep the party functioning. It can use the energies and skills of countless numbers of young lawyers and businessmen who have expressed to me their desire to take part in elevating American politics and who have the time, money and talent to help bring that about. Nothing would be more self-defeating than to discourage their participation by surrounding the new coalition with an ideological wall so high that only the inflexible purists of the so-called New Left would be eligible for entry. Humorless militants and narrow-minded nihilists, who want freedom for the indulgence of their own moral tastes but not for the majority of Americans (whom they denounce), do *not* represent the coming wave of New Politics.

On the contrary, the most important of all Democratic party traditions—the one historic trait distinguishing it through history from other parties—is its role as a broad-based, multi-interest, internally divided political party, too diverse to be doctrinaire, too big to be unanimous.

The key word in the lexicon of the New Politics is "participation." Real political power in both parties has too often rested disproportionately in the hands of a few party officials and contributors, nearly all of them white, male, affluent. Establishment-oriented and over 50, many of them more concerned about keeping their places on the political ladder than solving the national and urban crises surrounding them.

Until we change that picture, we can hardly preach to other peoples about self-determination.

Having been in power nationally for nearly all of the last 36 years, Democrats have become too accustomed to accepting leadership from the top down and changing it too infrequently. Southern dissent inside the party was expected, but liberal dissent was considered heresy. One of the brighter spots of the dreary 1968 convention in bloody Chicago was the willingness of 40 percent of the delegates to oppose the party Establishment in voting for the minority "peace" plank. That same convention terminated most concessions to the Old South, encouraged as never before the participation of black, young and grass-roots Democrats, ended the unit-rule device by which minority voices were stilled, established one commission to modernize convention rules and established still another to insist hereafter on the democratic selection of all delegates.

These developments must continue. The frustrating sense of powerlessness that many Americans feel toward remote, impersonal institutions applies to political parties as well. I am constantly asked by dissatisfied Democrats: "What can I do?" If our party is to be responsive to its members—and we cannot otherwise succeed—it is not enough that they be "involved" stuffing envelopes or ringing doorbells, important as such activities may be.

We must formulate procedures to redistribute political power to achieve the broadest possible participation in the exercising of that power. Precinct meetings open to all must have an effective voice in the formulation of policy and in the selection of both party leaders and candidates. The notion that a few men should successfully choose the party nominee for any important office regardless of whether he reflects the will of the voters is shocking.

Through direct primaries, periodic surveys and more frequent state and national platform conventions, through more open channels of communication between party members, leaders and public officials, through increased party informational and educational activities, and through a far broader financial base of small contributions, rank-and-file Democrats can obtain new confidence in party decisions, and that kind of direct participation can produce the enthusiasm and momentum that lead to victory.

A national presidential primary would be chaotic and exorbitantly expensive without assuring as representative a choice as an overhauled convention system. It would make even more difficult the prospects of an insurgent candidate. But every presidential and every senatorial or gubernatorial nominee of our party will have greater voter confidence (and surely more workers) if his policies and appeal have first been fairly tested in a contested open primary.

All this will be to no avail, however, without high-caliber candidates at every level. We need men and women who are able to appeal to all elements in the Democratic party and to independents as well, willing to campaign hard at the grass-roots level, and more inclined to explain on TV the new and current issues than to engage in blindly partisan exaggeration. Young people and intellectuals must be involved in those campaigns, their imaginative contributions welcomed regardless of their refusal to support every Democrat or every plank in their own candidate's platform. Storefront headquarters will be more important than smoke-filled hotel rooms. A candidate's convictions, commitment and ability to inspire a majority of the voters will be more important than his acceptability to a few party leaders and donors.

Increased citizen participation does not deny the need for strong leadership. On the contrary, the very turbulence and diversity that have consistently characterized the history of the Democratic party have also made it responsive to those strong personalities who survived spirited intraparty debates and led all factions to victory.

But above all, the Democratic party must not stand still. It must not be the party of the status quo. Its leadership must not be confined to the old and the established. As Edmund Burke cried out long ago: "Applaude us when we run, console us when we fall, cheer us when we recover, but let us [press] on—for God's sake, let us [press] on."

THE ARMS TRADE—PART VIII

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous matter.)

Mr. COUGHLIN. Mr. Speaker, last Saturday the President announced that the long-awaited strategic arms limitation talks—SALT—between the United States and the Soviet Union would commence in Helsinki on November 17, 1969. The time was never more opportune to urge the Soviet Union to join us in discussing limitation on the international trade in conventional weapons of war.

There is no doubt that the Soviet Union's aggressive arms sales policy has been primarily responsible for the current political, military, social, and economic instability in the Middle East. The size, scope, and objectives of the Soviet arms sales effort in the area, however, are seldom appreciated fully in the West. Therefore, I thought my colleagues might be interested in certain background information, charts and statistics which I have compiled that illustrate what I believe to be the true nature of the Soviet military involvement with the Arab States.

Since 1955, the Soviet Union has shipped an estimated $7 billion worth of military equipment to non-Iron Curtain countries. This averages approximately $500 million in arms sales yearly. Of that $7 billion in sales, $5 billion has gone to 10 Arab States. Egypt alone has received nearly $2 billion in Soviet arms, and the remaining $3 billion has gone, in varying amounts, to Afghanistan, Algeria, Cyprus, Iran, Iraq, Morocco, Pakistan, Syria, and the Yemeni Republicans.

There are many reasons why the Soviets are selling arms so vigorously in the Middle East, but all are predicated—as elsewhere in the world—on the desire to destroy Western influence and to replace it with their own. In pursuit of this overall objective, the Soviets will, for instance, support "wars of liberation" such as those in Algeria and the Yemen.

Moscow will also sell arms to dilute or destroy the effectiveness of a Western military alliance—such as CENTO. Arms also are sold to protect Soviet frontiers, trade routes, and 'forward facilities" in foreign countries. Sometimes, in its war for ideological supremacy, the Soviet Union sells arms to undercut Red China; on other occasions, it sells arms because it wants the money.

With few exceptions, the Soviets have never given away anything of significant value. Usually, they sell arms at low—by Western commercial standards—interest rates, from 2 to 2.5 percent payable over a 10- to 12-year period. Occasionally, they will barter arms in exchange for commodities. One result has been that Egypt, for instance, has been forced to hock many of its cotton crops to pay for the fancy Soviet hardware.

Selling arms, the Soviets realize, satisfies the touchy pride of a poor nation; limited foreign exchange reserves are also tied up in the Soviet Union, thus restricting a poor country's trade relations with the West.

From what sources are available, it appears that all arms sales decisions come from the Politburo, and that the operative control of the Soviet arms aid program rests with the KGB, the Soviet's foreign intelligence apparatus.

In order to hide their activities, the Soviets will sometimes use their satellites as intermediaries. Thus, many arms sales of Soviet origin often end up in the record books as Czech, Polish, East German or Bulgarian sales since it was these countries that actually handled the transaction. We in the West should not be fooled: all arms sales, no matter which country initiated the transactions, are first cleared in Moscow.

Red Chinese arms aid to the Middle East, as in other parts of the world, is currently small in volume; it is designed primarily to undercut the West and the Soviet Union and to promote worldwide revolution. While small, the future potential for a large-scale infusion of Red Chinese arms into the area is always present, and may become a reality once the Peking regime shifts its primary concern from domestic to foreign affairs.

The Soviet infusion of weaponry into Egypt and the other Arab States represents the classic example—in terms of world peace and stability—of the conventional arms trade at its worst.

Emboldened by the huge arms supplies, Nasser provoked the 1956 war that gave the first frightening glimpse of what a major power confrontation could portend. Eleven years later, Nasser dared again to plunge the Middle East into war.

Nasser's Egypt—overarmed and underdeveloped—used the Soviet weapons to invoke war as an instrument of national policy. Moscow found it could not control Cairo once it had overarmed Egypt which, in reality, faced no military threat other than that raised by its own reckless policies directed at Israel and the West.

The Israelis were compelled to engage in a terrifying game of military catchup on which their very existence depended. Even now Israel must devote an excessive portion of its gross national product to defense.

It is obvious that most of the Arab States intend to use their Soviet and Chinese arms to destroy Israel. There is no question, for instance, that Nasser has twice gone to war with Israel because, with all that Soviet weaponry, he saw no need to settle his differences peaceably. Each time the Communist nations have pumped an additional quantity of arms into an Arab country, the Israelis, in self defense, have been forced to increase both the size of their military and the quality of their weapons. This process has continued unchecked for over 14 years and has so swollen military establishments, so weakened economies, and so destabilized political and military factors, that the threat of widespread violence of a very high order is quite possible at any moment. It is clear that the Soviet Union, far more than any other nation, provoked this situation, and still sustains it, with its massive arms aid to Arab States.

In order to give my colleagues some idea of the volume of Communist weapons currently deployed in the Middle East, I submit the following chart showing a breakdown of arms delivered by country. Also included are footnotes and short comments on each recipient country which, hopefully, will both clarify and put into proper perspective certain aspects of the Soviet and Chinese arms aid programs not evident in the chart.

I hope that ths chart will also encourage the President of the United States to take whatever steps are necessary to initiate multilateral discussions among the United States, the Soviet Union, Great Britain, France, West Germany, Italy, and other arms-producing countries on control of the arms trade in general and in the Middle East in particular; to take whatever other steps are necessary to begin a general debate on the subject in the United Nations; and in particular to seek to include the international trade in conventional weapons of war on the agenda for the strategic arms limitation talks.

The material follows:

MILITARY EQUIPMENT FROM COMMUNIST COUNTRIES DEPLOYED IN THE MIDDLE EAST AS OF 1968–69 [1]

AFGHANISTAN [2]

Army

Six divisions, equipped mostly with Soviet arms.
At least 100 Soviet T–54 and PT–76 tanks.[3]
Soviet artillery.

Air Force

4–5 squadrons Soviet MiG–17's.
1–2 squadrons Soviet Il–28 bombers.
Some Soviet helicopters.

Navy

Afghanistan has no Navy.

ALGERIA

Army

200 Soviet T–34, T–54 and T–55 tanks.[4]
Soviet 140mm and 240mm rocket launchers.
Soviet 85mm, 122mm and 152mm howitzers.[5]
50 Soviet SU–100 self-propelled guns.
Some Soviet SA–2 surface-to-air missiles.

Air Force

140 Soviet MiG–15's, –17's and –21's.
30 Soviet Il–28 bombers.
8 Soviet AN–12 transports.
4 Soviet Il–18 transports.
50 Soviet Mi–4 helicopters.

Navy

6 Soviet subchasers.
2 coastal minesweepers.[6]
9 Komar- and Osa-class missile patrol boats.
8 Soviet motor torpedo boats.

CYPRUS

Army

30 Soviet T–34 tanks.[2]
Some Soviet trucks.[2]
Some SA–2 surface-to-air missiles.[2]
Soviet anti-aircraft guns.[7]
Soviet and Czech small arms.[8]

Navy

6 Komar-class motor torpedo boats.[7]

IRAN

Army

Some Soviet trucks.
Soviet 57mm and 85mm anti-aircraft guns.

IRAQ

Army

300 Soviet T–54 and T–55 tanks.
100 Soviet T–34 tanks.
Some Soviet SU–100 self-propelled guns.[9]
Some Soviet armored personnel carriers.[9]
5 batteries Soviet SA–2 surface-to-air missiles.[10]

Air force

60 Soviet MiG–21's.
45 Soviet MiG–17's and –19's.
20 Soviet SU–7 fighter-bombers.
8 Soviet TU–16 jet bombers.
10 Soviet IL–28 jet bombers.
About 20 Soviet transport planes.

Navy

Some Soviet river gunboats.[9]
Some Soviet Komar-class motor torpedo boats.[9]

MOROCCO

Army

35 Soviet T–54 tanks.[11]
Some Soviet SU–100 tank destroyers.

Air Force

16 Soviet MiG–17's (in storage).
Some Soviet Yak–9 trainers.[12]
Some Soviet helicopters.[9]

PAKISTAN

Army

80 Red Chinese T–59 tanks.[3]

Air Force

40 Red Chinese MiG–19's.
28 Red Chinese IL–28 jet bombers.[13]

SYRIA

Army

150 Soviet T–34 tanks.
250 Soviet T–54, T–55 tanks.
60 Soviet SU–100 tank destroyers.
500 Soviet BTR–152 armored personnel carriers.
Soviet artillery up to 155mm.
Some SA–2 surface-to-air missiles.

Air Force

60 Soviet MiG–21's.
70 Soviet MiG–15's and –17's.
20 Soviet SU–7 fighter-bombers.
8 Soviet IL–14 transports.
14 Soviet helicopters.

Navy

2 Soviet minesweepers.
6 Soviet motor torpedo boats with Styx missiles.
17 Soviet motor torpedo boats (less than 100 tons).

UNITED ARAB REPUBLIC

Army

500 Soviet T–54 and T–55 tanks.
100 Soviet T–34 tanks.
50 Soviet PT–76 tanks.
20 Soviet JS–3 tanks.
150–250 Soviet SU–100, JSU–152 and ZSU–157 self-propelled guns.[14]
600 Soviet heavy caliber field guns and truck-mounted rocket launchers.
800 Soviet armored personnel carriers.
100 Czech amphibious armored personnel carriers.[15]
15 Soviet Frog–3 surface-to-air missiles.
20 Soviet Samlet surface-to-air missiles.
180 SA–2 surface-to-air missiles (30 batteries).

Air Force

110 Soviet MiG–21's.
80 Soviet MiG–19's.
10 Soviet TU–16 jet bombers.
40 Soviet Il–28 jet bombers.
90 Soviet Su–7 fighter-bombers.[15]
120 Soviet MiG–15's and –17's.
40 Soviet Il–14 transports.
20 Soviet An–12 transports.
50 Soviet Mi–4, Mi–6 and Mi–8 helicopters.
150 Soviet and Czech trainers.

Footnotes at end of article.

Navy

4 Soviet destroyers.
8 Soviet minesweepers.
18 Soviet missile patrol boats.
40 Soviet and Yugoslav motor torpedo boats.
13 Soviet submarines.
1 Soviet tank landing ship.
Some small Soviet craft.

YEMEN (REPUBLICANS)[16]

Army

30 Soviet T–34 tanks.
50 Soviet SU–100 assault guns.
70 Soviet armored personnel carriers.
50 Soviet light guns.
100 Soviet anti-aircraft guns.

Air Force

30 Soviet Yak fighters (flown by foreign mercenaries).
24 Soviet MiG–19's.[17]
Some Soviet Il–10 bombers.[9]

FOOTNOTES

[1] Figures taken from "The Military Balance 1968–1969" (Institute for Strategic Studies, London, 1969), unless otherwise noted.

[2] "The Middle East and The Arab World, The Military Context," by David Wood, Adelphi Paper No. 20, Institute for Strategic Studies, July 1965, except as noted.

[3] "Arms to Developing Countries 1945–1965", by John L. Sutton and Geoffrey Kemp. Adelphi Paper No. 28, October 1966. P. 26.

[4] Ibid., p. 23. New York Times, February 10, 1967 reports 600 tanks.

[5] May be Red Chinese in origin.

[6] Probably Soviet.

[7] New York Times March 30, 1965.

[8] Ibid., December 22, 1966.

[9] "The Soviet Military Aid Program As A Reflection of Soviet Objectives", Georgetown Research Project, Atlantic Research Corporation, June 24, 1965. Table I, pp. 83–4.

[10] Mimeograph document issued by the Institute for Strategic Studies at the outbreak of the Six Day War of 1967 listing equipment of countries involved in the war.

[11] Sutton and Kemp, op. cit.

[12] "The Armed Forces of African States," by David Wood, Adelphi Paper No. 27, April 1966, p. 6.

[13] "The Diffusion of Combat Aircraft, Missiles and Their Supporting Technologies," by John H. Hoagland, Jr., and Erastus Corning III, et al. Browne & Shaw Research Corporation, Waltham, Massachusetts, 1966. P. A–14.

[14] (London) Sunday Times, August 31, 1969.

[15] New York Times, May 8, 1969.

[16] "The Middle East and the Arab World, The Military Context", op. cit. Most of the equipment came via Egypt.

[17] New York Times, December 15, 1967.

COMMENTS ON RECIPIENT COUNTRIES

AFGHANISTAN

The Soviet Union is the major arms supplier. Afghanistan first received Soviet arms in 1956; much of the equipment delivered since has been routed through Czechoslovakia, East Germany, Poland and Hungary.

A permanent Soviet military mission is stationed in the country, but its members are not allowed to accompany Afghan troops on maneuvers.

Soviet aid has been given to ensure that Afghanistan maintains its historical role as buffer state between the Soviet Union and Western interests to the south and west.

ALGERIA

The Soviet Union is the major arms supplier. Small quantities of arms were received from Czechoslovakia, Red China and Egypt during its war for independence. Some post-independence arms came from Cuba. Algeria was used by the Soviet Union as an arms aid transit point during the Congo violence of 1960–65.

Many Algerian army and air force officers are trained in the Soviet Union. At least ten communist countries offer political and military training courses to Algerian students.

Communist arms have been supplied to Algeria primarily to displace French influence in the area, and to acquire refueling and repair bases for Soviet planes and ships in the Mediterranean area.

CYPRUS

Great Britain and Greece are the major arms suppliers. Most of the small arms and crew-served weapons are of Swiss, Swedish and Belgian origin. Some arms were acquired from Egypt, Yugoslavia and private dealers during the troubles.

The 1964 military aid agreement with the Soviet Union reportedly states that no bloc personnel will be stationed in Cyprus.

The Soviet military aid program to Cyprus, while relatively small, is designed primarily to displace British influence, to antagonize two NATO allies (Greece and Turkey) and to enhance the Soviet political and military position in the Mediterranean and Middle East areas.

IRAN

The United States has been Iran's major arms supplier since the end of World War II. The value of U.S. military aid to Iran since 1950 exceeds half a billion dollars.

In January, 1967, the Soviet Union agreed to sell Iran $110 million worth of arms. Iran was the first Western ally to buy weapons from the Soviets. This move was made by the Shah reportedly to erase the "U.S. client only" tag, and to encourage Washington to supply Iran with the latest military equipment (which subsequently has been done.)

On at least one occasion Iran has acted as a secret arms purchasing agent for Pakistan, who was suffering under an arms embargo imposed in 1965.

IRAQ

The Soviet Union has been Iraq's principal arms supplier since 1956. Iraqi officers and technicians have attended training courses in the Soviet Union, Czechoslovakia and East Germany. In 1963, approximately 500 Soviet technicians were stationed in Iraq. In 1966, it was reported that 58 Soviet Il–28 bombers had been transferred from Egypt to Iraq.

Soviet reasons for selling arms to Iraq are essentially the same as those for Syria and Egypt.

MOROCCO

The United States and France have been Morocco's major arms suppliers.

Morocco first received Soviet aid in 1961 when a quantity of Mig fighter planes and other advanced equipment were delivered. The only other instance of Soviet aid occurred in 1967 when spares and replacements for the above equipment were delivered.

Soviet military aid is designed to help Morocco in its border disputes with Mauritania and Algeria, and to increase the pressure on the Rabat government to end the U.S. presence in the country.

PAKISTAN

The United States is Pakistan's major arms supplier. Since 1947, the U.S. has either given or sold to Pakistan military equipment valued at an estimated $750 million.

Following the 1965 war with India, Pakistan began to buy its arms from other sources than the United States, since a general American embargo was in force. (On at least two occasions Washington has covertly broken its own embargo by allowing several NATO allies to supply U.S. arms to Pakistan.)

Red China has supplied CENTO-ally Pakistan with a small amount of combat weapons. The aid was designed both to diminish Western influence in the country and to counter Soviet aid to India.

Pakistan recently offered to send troops to its Moslem allies in their fight against Israel.

SYRIA

The Soviet Union has been Syria's major arms supplier since 1956; however, Moscow's interest in the country seems to have waned temporarily. As far back as 1957 there were as many as 300 Soviet military and technical advisors in the country, although there are probably less today.

Despite all the Soviet aid, the Syrian military is considered ineffectual. Much of its better equipment was diverted to Egypt during the Egyptian-Syrian union.

Soviet aid to Syria was designed to destroy French, British and American influence in the country.

UNITED ARAB REPUBLIC

The Soviet Union has been the major arms supplier to the U.A.R., or Egypt, since 1955 when $200–225 million worth of weapons were delivered via Czechoslovakia. The presence of these arms alone were sufficient to provoke war the following year. Between 1955 and 1967 the Soviet Union delivered an estimated $1 billion worth of arms to Egypt. To pay for each new succeeding generation of Soviet arms, Egypt has become an exporter of its second-hand arms.

During the Six Day War of 1967, Egypt lost approximately one-half of its Soviet equipment. Within a year, Moscow had completely re-equipped Egypt with even more advanced weaponry, valued at an additional $1 billion. It is estimated that there are currently 3,000 Soviet military advisors in Egypt.

Soviet military aid to Egypt is designed to undercut Western influence in the Middle East, to protect Soviet trade routes to the Far East, to provide refueling and repair bases for Soviet planes and ships, and to provide a strategic transit point for Soviet economic, military and political aid going to other nations in the area.

YEMEN (REPUBLICANS)

The Soviet Union, using Egypt as its intermediary, has been the major arms supplier to the Republicans since 1965, possibly earlier. Soviet arms have been supplied to the Yemen as far back as 1928, although post-war interest dates from 1956 when a small quantity of arms was delivered.

Soviet and Syrian mercenaries reportedly have been flying combat missions for the Republicans. Czech guerrilla instructors are active in the army. Poison and blister gases of Egyptian origin are reported to have been used against the Royalists. Egypt denies using such weapons although the evidence is strong that the Egyptians used some type of toxic gas bomb.

Soviet interest in the Yemen complements its reasons for providing arms to Egypt.

TYPICAL COMMUNIST TERROR TACTICS CONTINUE IN KOREA AS WELL AS IN VIETNAM AND CZECHOSLOVAKIA

(Mr. TALCOTT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. TALCOTT. Mr. Speaker, the official attitude of Communist governments toward neighbors whose lands they covet was clearly brought home to us when the North Koreans ambused and murdered a patrol of U.S. servicemen south of the demilitarized zone. One of the soldiers, Bill Grimes, was a native and resident of Salinas, Calif.—a young friend of mine.

Contemporary conduct as well as history continues to remind us that neither agreements nor human life are respected by the Communists.

The geographical and political divisions of Germany, Berlin, Korea, and Vietnam were designed to purchase peace for the citizens of those places who wished to determine their own livelihoods

and destinies. The Communists, however, will not relent in their aggression or terror until they dominate all of these places.

I suppose I should be tolerant and meekly excuse this preplanned terrorist murder in South Korea as just another natural nationalistic exuberance. No offense intended. Planned Communist terror and aggression is somehow, and for some unknown reason, supposed to be played pianissimo.

I believe the Congress, particularly some Members of the other body, and most citizens of this country would look upon preplanned terror and murder differently if one of the victims was one of their young friends.

We need to remember these victims and these incidents when we negotiate the Communist control of South Vietnam.

DELAY ON THE PART OF CONGRESS WILL HAMPER THE CAMPAIGN TO MAKE OEO A BETTER AGENCY

(Mr. STEIGER of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEIGER of Wisconsin. Mr. Speaker, one of the most serious criticisms which has been leveled at the Office of Economic Opportunity in the past is the lack of State involvement in its programs.

In his February 19 message on the Economic Opportunity Act, President Nixon recognized the problems over the relationship of State, county, and local governments to the programs administered by OEO.

Again, in the hearings before the Education and Labor Committee it was pointed out that the partnership between the State and Federal Governments in the poverty program was a nominal one at best.

Now, however, this policy has changed. The concept of a new federalism has become a part of the OEO and efforts are being made to involve the States in a meaningful relationship with this program.

A number of major steps have been taken to heighten State involvement in antipoverty efforts. A new division of State and local government has been created to promote effective relationships between State governments and field operations. An increase of nearly 30 percent in the basic funding level for the State Economic Offices has been included in the fiscal year 1970 budget. A complete revision in the OEO directive on the role of the State Economic Opportunity Offices is being circulated for review and comment by Governors. It will dramatically increase the role of the State in the planning and coordination of programs under the Economic Opportunity Act.

I believe that this example of OEO's willingness to deal effectively with a serious problem within its program shows that the Nixon administration have made a serious commitment to the improvement of the poverty program. Delay on the part of Congress will only hamper the campaign to make OEO a better agency.

LEGISLATION INTRODUCED TO DELINEATE THE GOVERNMENT'S RIGHT TO APPEAL IN CRIMINAL CASES

(Mr. McCULLOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCULLOCH. Mr. Speaker, I have today introduced an administration bill which would correct two basic flaws in section 3731, title 18, United States Code, which delineates the Government's right to appeal in criminal cases.

Section 3731 divides appeals by the United States into two categories—those which may be taken only directly to the Supreme Court of the United States and those which may be taken directly to the court of appeals. The problem is this: too many cases of less than landmark significance are appealable only to the Supreme Court. A typical case might be one where the defendant moves to dismiss the indictment because he has not been accorded his constitutional right to a speedy trial. The resolution of that claim may very well involve nothing more than a question of fact. That is hardly a matter for an expedited review by the Supreme Court. Thus the Supreme Court will dismiss such an appeal because it presents no substantial Federal or constitutional question. The result is that the Government has neither a trial nor an appeal. In view of the mounting crime problem, such a result is not in the best interests of an effective administration of justice.

In addition to granting the often illusory right of appeal directly to the Supreme Court, section 3731 in some cases fails to authorize any appeal at all. The statute does not presently authorize any appeal to the court of appeals in all cases where the double jeopardy clause would permit it and where there is no direct appeal to the Supreme Court. It should. It would if the proposed legislation were adopted. However, if an indictment is dismissed for technical reasons after the jury is sworn, but before the verdict, the courts have held that no appeal is authorized.

It is important to note that those court decisions are not based on constitutional grounds but on statutory grounds only. Thus, this flaw can be, must be, and should be corrected by the Congress.

I find no inconsistency between granting the United States the right to one trial on the merits and the double jeopardy clause.

The leniency of trial judges in permitting the defendant to raise an objection to an indictment at any time should not deprive the Government of its appellate rights. Such a result completely subverts traditional notions of fair play and established rights. It, frankly, encourages defense counsel to delay in making motions which could have been made before trial. The continued practice of such dilatory tactics could only lead to restrictive measures for defense counsel, such as automatic waiver of rights not pressed before trial.

The proposed legislation is therefore both constitutional and wise. I urge its prompt consideration and adoption.

THE TRAGIC CONSEQUENCES OF UNCONDITIONAL IMMEDIATE WITHDRAWAL FROM VIETNAM

The SPEAKER. Under a previous order of the House, the gentleman from Oregon (Mr. WYATT) is recognized for 15 minutes.

Mr. WYATT. Mr. Speaker, for more than 4 years now the Gallup poll has shown the issue of Vietnam to be the most urgent question of public policy, foreign or domestic, in the minds of the American people.

During these 4 years there has been a dramatic shift in public opinion about the wisdom of the policy begun in 1965 of committing large American forces to combat in Vietnam. According to the Gallup poll of August 1965, 61 percent of the people approved of sending American troops to fight in Vietnam, whereas 24 percent opposed this step. The most recent Gallup poll on this subject indicates that only 32 percent now approve of the action while 58 precent call it a mistake.

During the Korean war, public opinion shifted in the same way from approval in the initial stages of the war to disapproval in the later stages. The 65 percent of the public who approved the commitment of American fighting forces to Korea in August 1950 dwindled to 37 percent by October 1952.

In the negotiations that brought the Korean war to an end, President Eisenhower faced a problem not unlike that which confronts the Nixon administration today—an impatient public opinion demanding swift termination of the war. Eisenhower did succeed in achieving an honorable settlement in Korea ending the war 6 months after taking office. In reaching this settlement, he was aided by the fact that the public, however disillusioned about the Nation's military involvement in Korea, appeared to place its trust in the President as he strove to restore the peace. Had there been widespread public demonstrations of dissatisfaction with the course the President was pursuing to achieve peace in 1953, the end of the Korean war might not have come so speedily.

So, to millions of Americans who today are impatient for an end to the war in Vietnam, I would raise the question of whether the methods of protest currently practiced advance or retard the coming of the peace which the overwhelming majority of our countrymen ardently desire. Sincere and concerned Americans should ponder the words of the respected British journalist, Victor Zorza:

> The main obstacle to a peaceful settlement now is the belief . . . that the pressure of American public opinion will in the end give the Communists all they want.

No one wants peace more earnestly than President Nixon, and he has em-

barked on a course of policy that leads to peace.

What the Nation needs now is a clear understanding of the President's policy and sober consideration of the real issue of Vietnam as it stands today.

The President's policy is not the policy of the past. President Nixon is reducing in swift and ready steps the responsibility, military and other, which the United States assumed in Vietnam. A total of 60,000 American troops—20 percent of our combat forces there—are being removed, and further reductions will be made. American casualties have decreased substantially.

The issue today is not whether to be pro or antiwar. The Government and the people of the United States are united in being antiwar. If Hanoi were antiwar, peace would have come to Vietnam months ago when President Nixon offered to negotiate a settlement on any terms that preserved the right of the South Vietnamese to determine their own destiny.

The issue today is not whether American troops should be removed from Vietnam. They are being removed from Vietnam.

The real issue now is whether this removal of American troops should proceed along the orderly course which it has begun so that South Vietnam will have the opportunity for self-determination or whether the United States should abruptly withdraw, leaving chaos and risking the subjugation of South Vietnam by the forces from the North.

Much has been said about our face saving and national honor. These considerations are not ends in themselves. Our purpose is to disengage, while protecting our own troops in the process, saving our prisoners of war, saving the South Vietnamese from wholesale slaughter, and preserving to the South Vietnamese the rights of self-determination.

Those who have assumed the position of spokesmen for the war protest movement in Washington call for immediate and total withdrawal of American forces.

The consequences of such a policy would be disastrous.

Whatever hope exists of ending the war through negotiation would be dashed.

The American servicemen held prisoner by the enemy, numbering somewhere between 400 and 900, would be abandoned.

The last American forces scheduled for departure could run the risk of being overwhelmed by vastly superior enemy forces. They could be the victims of a new Dunkirk or a new Corregidor.

Finally, assassinations, torture, and imprisonment would be the lot of large numbers of South Vietnamese. On the basis of the past behavior of the North Vietnamese and Vietcong authorities, this number should be put in the hundreds of thousands, perhaps as many as 1½ million.

The history of the Hanoi government and of the Vietcong is studded with heartless indiscriminate mass terrorism against any who stood in their way.

Principally for this reason, Vietnam has experienced proportionately the greatest large-scale shifts of population recorded in recent history except for those which Hitler engineered in Eastern Europe in World War II: 900,000 fled North Vietnam at the time of the Geneva settlement of 1954, and another 400,000 sought to do so but were turned back; 300,000 Montagnards abandoned their villages in the eastern highlands of South Vietnam to escape the Vietcong terrorism of 1962. Civilian refugees numbering in the millions have left their homes in other parts of South Vietnam to flee from the brutality of the enemy.

There can be no doubt that a precipitous American withdrawal from Vietnam at the present time would be followed by the full fury of a bloodbath against hundreds and hundreds of thousands of hapless people.

It might be well to reflect on the specific pattern of enemy brutality.

Dr. Tom Dooley gave an eye-witness report of the treatment given children in Haiphong in 1954 as he observed it in a staging area for refugees who had chosen to exercise the right given them to move to the south. Dr. Dooley wrote in his book "Deliver Us from Evil":

> Now two Viet Minh guards went to each child and one of them firmly grasped the head between his hands. The other then rammed a wooden chopped chopstick into each ear. He jammed it in with all his force. The stick split the ear canal wide and tore the ear drum. The shrieking of the children was heard all over the village.

Another incident I take from the report of a commission sent by the World Confederation of Organizations of the Teaching Profession to investigate the systematic Vietcong terror against teachers and schoolchildren. According to the Commission's report, the Vietcong stopped a schoolbus in a rural area and told the children not to attend school. When the children continued for another week, the Communists stopped the bus again, selected a little 6-year-old girl and cut off her fingers. They told the other children, "This is what will happen to you if you continue to go to that school." Needless to say, the school was forced to close.

The Commission's report is crammed with gruesome accounts of teachers who were shot, beheaded, or had their throats cut.

Dr. A. W. Wylie, an Australian physician, serving in a Mekong Delta hospital, has related a number of instances of barbaric treatment by the Vietnamese Communists which he has seen. He tells of a woman so mutilated by the Vietcong that her legs were dangling by ribbons of flesh and had to be amputated. Her husband, a hamlet chief, had been strangled, and her 3-year-old child had been machinegunned to death before her eyes.

Consider the fate of another hamlet chief not far from Da Nang and his family. While the residents of the hamlet were forced to look on, the chief's tongue was cut out. As he died, the Viet Cong killed his wife. Then, the 9-year-old son: a bamboo lance was rammed through one ear and out the other. Two more of the chief's children were murdered the same way. The Viet Cong did not harm the 5-year-old daughter—not physically: they simply left her crying, holding her dead mother's hand.

Except for the brutality of the Nazis, modern history records no worse instance of mass slaughter of innocent people than that which occurred at Hue at the time of the Tet offensive in 1968. There the Communist forces rounded up men, women, and children indiscriminately, killed them, and dumped them into mass graves, burying some alive. The number of bodies of victims of this massacre recovered in the vicinity of Hue is now well above 2,000. Among the victims were old people and children, teachers, Buddhist and Catholic priests and nuns.

The victory of Ho Chi Minh over the French in 1954 was accompanied by a wholesale purge of the population of North Vietnam in connection with the so-called land reform program. Death and imprisonment were visited on hundreds of thousands in this campaign which was not halted until 1956. Estimates of those who died in the land reform campaign run between 50,000 and 100,000. Each village of North Vietnam was given a quota of deaths—five per village—which it was expected to attain in the campaign to eliminate landlords. The principle on which the campaign was conducted was expressed by Dr. Nguyen Nanh Tuong at the National Congress of the Fatherland Front in October 1956 in these words:

> It is better to kill ten innocent people than to let one enemy escape.

Finally, at least 25,000 South Vietnamese civilians have been killed since the late 1950's and at least twice that number kidnaped in the unremitting campaign of terror conducted by the Vietcong against noncombatants.

The cruelty of the enemy in Vietnam has been systematic, thoroughgoing, and unrestrained. It is a fact that must be taken into our calculations when we consider the timing of redeployment of our troops from Vietnam. Few Americans would want to expose the people of South Vietnam to the vengeance of a victorious North Vietnam.

President Nixon's plan for peace involves the replacement of American troops in Vietnam as South Vietnamese become ready to assume responsibility for their own defense and to fight through a dwindling war without combat assistance from the United States. This policy is well on its way, and it is succeeding.

Every reliable indicator of public opinion shows that a substantial majority of the American people support the President in the course that he is following. The most recent Gallup poll indicates that 52 percent approve of the way President Nixon is handling the situation in Vietnam, whereas 32 percent disapprove. The Harris poll finds that 49 percent approve of the present rate of troop withdrawal against 29 percent who think it too slow.

The Nixon policy will bring the war in Vietnam to an honorable end if the time

that is needed to make it fully effective is granted.

The shortest and quickest way to end this war is to quit demanding the immediate, unconditional withdrawal of our troops, and instead to unite behind President Nixon in the only practical method of disengaging in Vietnam.

GENERALLY REGARDED AS SAFE IS AN UNSATISFACTORY STANDARD

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. MINISH) is recognized for 10 minutes.

Mr. MINISH. Mr. Speaker, the public has been exposed to food additives for many years now. They are used as preservatives, to enhance flavor and to improve the appearance of foods. Yet, within the space of a few weeks we have discovered that two food additives, both of them widely used, are potentially dangerous. First, cyclamates, will be taken off the market, and the other, monosodium glutamate, will be removed from baby foods. But there are more than 600 other food additives that remain listed as safe by the Food and Drug Administration. This generally regarded as safe list eliminates any testing requirement. I question the soundness of a list that permits food additives to be widely sold without conclusive proof of their safety.

Why are food additives approached with less caution than drugs when they may prove even more formidable? Generally, a drug is prescribed for a condition that will clear up within a given timespan. But additivies are used with no such limited timetable. They may be consumed by an individual over his entire lifetime, due to their presence in the food he eats. Yet, no study has been made of the cumulative effects of any additive on people. No conclusive data provides information about the residue remaining in the body after ingestion of additives once or over a period of time.

I recommend a thorough review of additives presently listed as safe. New additives should be thoroughly tested before making them available to the public. Food additives must be specifically regarded as safe, if public confidence is to be preserved.

SUPREME COURT HOLDS ITSELF NOT BOUND BY CONSTITUTION

The SPEAKER. Under a previous order of the House, the gentleman from Louisiana (Mr. RARICK) is recognized for 10 minutes.

Mr. RARICK. Mr. Speaker, today the Supreme Court of the United States handed down another landmark decision. By tomorrow morning the news media will have loudly trumpeted that it was a unanimous opinion, ending southern school segregation forever.

There will not be one line to indicate that it was a per curiam opinion. As is well known to lawyers and judges, a per curiam is one with which none of the participating judges will associate his name.

The matter to which I refer is Alexander against the Board of Education and after reading the opinion it is quite understandable that no member of any court would wish to have its authorship attributed to him.

Mr. Speaker, I state plainly and simply that this action of the Supreme Court of the United States is founded neither in any possible construction of the Constitution nor in any possible understanding of the law.

It is a classic example of the arbitrary and unfettered exercise of naked power.

Long years ago, Thomas Jefferson warned free men of this very possibility, when he dramatically pointed out that of all tyranny, judicial tyranny is the most fearful.

If the Constitution of the United States forbids a State to assign pupils to a school solely because of their race, it makes no difference whether the object of such assignment is segregation or forced integration under the newly invented "Doctrine of Racial Proportion." If government has no power to forcefully segregate, it has no power to forcefully integrate.

It does not take genius to understand that the State either has that power or does not. Until 1954, it had such power. The Constitution did not change, but in 1954 the Warren court decided the power had vanished. The Burger court has now decided that although the State has no such power, the court has.

What this preposterous decision amounts to is that racial school assignments are unconstitutional if they are made by the States, but constitutional if made by the courts.

Today's decision is a gross distortion of any possible interpretation of the Constitution.

There is yet another problem.

The Constitution of the United States places the legislative power in the Congress. It requires that the President execute the laws. Congress has stated plainly that desegregation does not mean integration, and has prohibited the use of Federal moneys for busing to further the "doctrine of racial proportions."

The Secretary of Health, Education, and Welfare has seen fit to ignore this law. He has made his own law, and by withholding funds, has attempted to do exactly that which he was forbidden to do. Now the Supreme Court has authorized the Fifth Circuit Court of Appeals to use its judicial power to enforce as law the lawless acts of Mr. Finch.

Mr. Speaker, this is judicial tyranny in its worst form. A Cabinet officer and some Federal judges—not one of whom were elected by or are responsible to the people—have combined to promulgate and attempt to enforce a bogus law, directly contrary to the laws enacted by the Congress.

The people whose children are endangered by this usurpation of power cannot be expected meekly to submit—nor should they.

In the guise of controlling public education, the judiciary has now destroyed it. The people are not deceived. They understand the total lawlessness of this attempt. As free Americans, they will do what is necessary to protect their children, and what they can to educate them.

Freedom of choice is not an empty slogan. Freedom of choice is the heart and soul of American liberty. The American people still understand this and we must understand that there is a point beyond which the great law-abiding majority can not be pushed. We are perilously near that point.

Those of us in this House are here as Representatives of the American people. Earlier this year—in the Powell case—this same power-crazed judiciary interfered in the internal affairs of this House. Nothing was done about it, and the inaction has been construed as submission.

Now we behold a cabinet officer, and the same judges, ignore the positive statute law which we have enacted and the Constitution which they have sworn to uphold.

Our responsibility under that Constitution is plain. The American people have no redress but in this House. The power of impeachment rests with us. The power of the purse rests with us. The very existence and jurisdiction of every district court and court of appeals in the federal system rests with us. The appellate and supervisory jurisdiction of the Supreme Court is entirely ours to bestow, limit or abolish.

Mr. Speaker, when loyal Americans refuse to bow to lawless tyranny will the President use the Armed Forces, as have his predecessors, to enforce lawless judicial fiat? And if he does, how clean are our hands?

To condone tyranny which we have the power to end, makes us responsible parties with the initial perpetrators.

I include the Supreme Court per curiam in my remarks:

SUPREME COURT OF THE UNITED STATES

NO. 632.— OCTOBER TERM, 1969

Beatrice Alexander et al., petitioners, against Holmes County Board of Education et al. On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit.

[October 29, 1969.]

PER CURIAM.

These cases come to the Court on a petition for certiorari to the Court of Appeals for the Fifth Circuit. The petition was granted on October 9, 1969, and the case set down for early argument. The question presented is one of paramount importance, involving as it does the denial of fundamental rights to many thousands of school children who are presently attending Mississippi schools under segregated conditions contrary to the applicable decisions of this Court. Against this background the Court of Appeals should have denied all motions for additional time because continued operation of segregated schools under a standard of allowing "all deliberate speed" for desegregation is no longer constitutionally permissible. Under explicit holdings of this Court the obligation of every school district is to terminate dual school systems at once and to operate now and hereafter only unitary schools. *Griffin* v. *School Board*, 377 U.S. 218, 234 (1964); *Green* v. *County School Board of New Kent County*, 391 U.S. 430, 438, 439, 442 (1968). Accordingly.

It is hereby adjudged, ordered, and decreed:

1. The Court of Appeals' order of August 28, 1969, is vacated, and the cases are remanded to that court to issue its decree and order, effective immediately, declaring that each of the school districts here involved

may no longer operate a dual school system based on race or color, and directing that they begin immediately to operate as unitary school systems within which no person is to be effectively excluded from any school because of race or color.

2. The Court of Appeals may in its discretion direct the schools here involved to accept all or any part of the August 11, 1969, recommendations of the Department of Health, Education, and Welfare, with any modifications which that court deems proper insofar as those recommendations insure a totally unitary school system for all eligible pupils without regard to race or color.

The Court of Appeals may make its determination and enter its order without further arguments or submissions.

3. While each of these school systems is being operated as a unitary system under the order of the Court of Appeals, the District Court may hear and consider objections thereto or proposed amendments thereof provided, however, that the Court of Appeals' order shall be complied with in all respects while the District Court considers such objections or amendments, if any are made. No amendment shall become effective before being passed upon by the Court of Appeals.

4. The Court of Appeals shall retain jurisdiction to insure prompt and faithful compliance with its order, and may modify or amend the same as may be deemed necessary or desirable for the operation of a unitary school system.

5. The order of the Court of Appeals dated August 28, 1969, having been vacated and the case remanded for proceedings in conformity with this order, the judgment shall issue forthwith and the Court of Appeals is requested to give priority to the execution of this judgment as far as possible and necessary.

THE POSTAL SERVICE

(Mr. OLSEN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OLSEN. Mr. Speaker, I would first like to acknowledge that I am well aware that there are many inadequacies in the present postal system, but I do not believe the problems can be solved with one arbitrary wave of the tyrannical wand as President Nixon indicated when he recommended "that the existing postal system be scrapped."

President Nixon, as evidenced by his comment that "the U.S. postal system is inferior to many countries of Western Europe," must also be reminded that our problems are different and unique because of the large volume of mail per capita and the distance that mail must travel, which is greater than Europe in its entirety.

The President has further assumed that a corporation would automatically succeed and well it might, but, at the expense of service to the American people. The adoption of any plan to reform the Postal Department into a public corporation would certainly spell disaster to the frequency of rural mail delivery, maintenance of star routes, and the very existence of many third- and fourth-class post offices across the country. Any attempt to reach a break-even point as the corporation legislation outlines would reduce the $122.8 million public services subsidy at the expense of rural dwellers by decimating the frequency and quality of postal service.

If the public is to be given the kinds of service it has been given in the past, at reasonable rates, incorporation is not the answer.

The answer lies in implementing findings of more than 15 years of extensive studies in the area of mail standardization and postal processing already available. In testimony before the Subcommittee on Postal Rates, July 30, 1968, the then Assistant Postmaster General, Dr. Leo S. Packer, attested to this thinking when he said:

> We have estimated that if our currently developing guidelines for Government mail were implemented today, we would be saving about $4 million per year. If smiliar guidelines were implemented for business mail, we would be saving about $50 million per year . . . or . . . about $200,000 per working day in unproductive postal labor.

Standardization of mail is what Dr. Packard was referring to and a program is now in effect to realize the standardization of Government mail by the end of fiscal year 1970. In addition to standardization, the report to Congress in March 1970 will show costs on an incremental basis allowing allocation of rates by cost of handling a particular mail class—meaning rates will be increased on those classes which should rightly bear the cost.

The Congress should enact legislation demanding that the Post Office Department proceed with standardization of business mail, with penalties for noncompliance, prior to their projected date of the first session of the 92d Congress in 1971. I realize that this means an all-out effort to develop the necessary equipment and a working definition of what standard mail is, but this should be the first priority of the Postal Department.

I would like to say that we are all cognizant of the fact that change is needed and must be accomplished if we are to maintain a viable postal system to serve the needs of the American public, but, that it should be accomplished within the present Post Office Department is all important.

The Congress knows only too well what has happened to the parcel post system as the result of giving ratemaking power to the executive branch rather than to Congress—the rates have increased out of all proportion and the volume has decreased substantially.

I can only applaud the words of J. Edward Day, former Postmaster General of the United States, who said:

> If the corporation were established, as proposed, on a rigid break-even basis, with participation by Congress in the rate-making process diluted almost to the vanishing point, and with the proposed bond issue authority, the result would be that the rates for all classes of mail would have to go up as much as 100 percent . . . the whole system is on the verge of being wrecked.

Mr. Speaker, if critics think the Post Office has problems now, I can assure you a sudden leap down the stream of time into postal corporate status would carry the postal system over the brink of the falls and into a veritable vortex of confusion and chaos. It would panic the postal employee, add $400 million of extra debt to finance postal bonds, double the postage rate in 5 years, and leave service to our people at the mercy of profit-minded boards and commissions, insulated entirely from the electorate.

The House Post Office Committee recognizes the urgent need for reform. Twice weekly executive sessions are currently being held. I might say Committee Chairman DULSKI is extremely dedicated to postal reform and he and other members of the committee will, I am certain, present the House with a major and memorable reform bill before the end of this year.

That bill, however, will be imbued with the basic concept that service to the American people is still the No. 1 goal of the Post Office Department.

NEW HAMPSHIRE MAN'S REPORT ON TOUR OF HUNGARY—A MOVING REBUTTAL TO THOSE SEEKING COMPROMISE WITH REDS

(Mr. CLEVELAND asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CLEVELAND. Mr. Speaker, On October 15, the so-called moratorium day, I received and read a letter from a New Hampshire friend of mine reporting on 10 days he spent in Communist Hungary this summer.

It is one of the most eloquent rebuttals to the purposes of the moratorium—that you can afford to compromise and yield to communism—that there could be.

He describes with great feeling the grey horror of life under communism. As one reads his letter one feels the full tragedy of a brilliant, ancient people struggling to keep their spirits alive.

The one encouraging observation reported by Mal Swenson is the rather incredible fact that the young people of Hungary yearn for freedom, for a land and circumstances they never knew. It is amazing that the young, born since World War II, and brought up all their lives under communism, should yet yearn to be free. That is great evidence and a great tribute to the human spirit.

I think there is an important lesson to all of us in this, especially to our own young persons.

I would hope all my colleagues and other readers of the RECORD would study this moving letter from a sensitive businessman from New Hampshire—whose State motto is "Live Free or Die"—who spent 10 days among the wreckage which communism has made of an ancient, proud civilization:

THE JOHN SWENSON GRANITE CO., INC.,
Concord, N.H., October 10, 1969.

Hon. JAMES C. CLEVELAND,
Longworth House Office Building,
Washington, D.C.

DEAR JIM: You certainly receive enough mail directed to specific legislation, so that you do not need such general letters as the one I am writing. I hope you read it, however, because it contains the impressions of a New Hampshire man to a ten day stay in Hungary, this summer. It was my first trip to the Country, although I had spent a considerable amount of time, including education, in Austria, and had read quite a bit about Hungary's history and politics. However, the impressions that now seem im-

portant to me could not come from my reading. For me, they had to be sensed. It was, perhaps, the difference between reading about a funeral and being there.

Although Hungary enjoyed a quite high standard of living prior to 1945, it now looks like a Country recovering from the *first* World War. Most of the buildings, roads, and even the subway cars in Budapest were built before 1914, and are now unkempt. Hungary used to be one of Europe's major agricultural countries, but its fields now appear poorly cared for, and food is in limited supply, even in the major hotels. Consumer goods, in general, are in very limited supply and of poor quality.

A few Hungarians live very well, but they tend to be Communist politicians or scientific and academic people. My wife and I stayed at a Communist "showplace" hotel on Lake Blaton near Budapest. Just after we arrived, a meeting of the Party Central Committee in the City ended and brought an influx of Communist officials to the hotel, wearing silk suits and driving Mercedes. (New Mercedes, except for one Chevy, seemed to be the choice of Party Officials, and carried the special Party "A" plate. The few civilian cars were considerably older and more modest.) Although we saw this new elite, we had virtually no contact with it. At the hotel, people just did not speak to other people. They had a great fear of speaking to the wrong person or saying the wrong thing. This condition produced silent dining rooms and beaches, crowded, but silent. It was not a very gay atmosphere. For example, the waiters would rotate so the same one could not serve you twice and possibly become acquainted with a Westerner. If a waiter would have a second contact with you, he would be accompanied by a security man when at the table.

Almost entirely, the common people were very friendly, or as friendly as they could be under the circumstances. The ones we could talk to were very anti-Russian and very pro-American and Austrian. German is spoken widely as a second language, more so than English in the Province of Quebec. Speaking German, and a few words of Hungarian, we could make contact with people, and visited several in their homes. The Hungarians are very likable, warm and hospitable, and it is depressing to see them suffering under Russian occupation. We visited one fellow in Budapest who was a strong Catholic anti-Communist. Although he has a degree in Civil Engineering, he is not allowed to practice it, and lives with three branches of his family in one small apartment. His parents and wife were in bad health and not far from death. They were not people the Regime cared much about providing with medical attention. Most of their suffering came from their determination to follow their religion. I could only think of the Biblical films which show Christians being martyred by the Romans, and thrown to the lions. In Hungary today, it is not all that different.

Although the Engineer was a Catholic-Monarchist with strong opinions, his opinions were no stronger than those of teenagers and students we met. One university student, and students are relatively privileged within the Communist Society, asked if we were fighting in Viet Nam because we wanted missile sites there to launch an attack on Russia. When we explained that was not the case, he was terrifically disappointed. Another teenager with whom we spoke at length was, along with many other Hungarians, thrown into a railroad car, guarded by Russians, and kept for two days without food during the Czech crisis last August. His dislike of the Russians, and his feeling for a Hungary he had never known, was intense. His feeling was for a Hungarian kingdom which has not existed in fact since 1918. However, after dictatorship and Russian occupation, the Hapsburg government has remained, in the minds of the people, a good government. So much so, that any display of its double-eagle symbol is forbidden, even in antique shops. It is interesting to see the Russians, and Hungarian Communists, feel threatened by a Monarchy from past centuries. But they have provided no alternatives to it, other than misery and fear.

As we could determine, those gifts of horror remain in Hungary only because of the Russian occupation. The Russians are very much in evidence in the Country, with snappy, well equipped troops, contrasting with the relatively poorly equipped and sloppy Hungarian ones. We seemed to constantly run across them, from tank units in the fields to garrisons in the towns. From one experience we had with them, they really seem to be disappointingly brainwashed. From our own, and friends' experience, they are apparently told all the Western tourists in the Country are spies. On the way back from Budapest one evening, passing through the Russian garrison town of Székesfehérvar, we stopped to pick up a woman standing in a heavy rain. We thought she would be Hungarian, but she turned out to be a Russian, apparently the wife of one of the soldiers. She saw the Austrian plate on the car and, after she was inside, said (in mixed Russian and German), "You are with the German Military Commission. Austria is bad. We have many partisans here and will shoot you. Go back to Austria". I frankly did not dare mention I was an American, lest she die of shock on the back seat. It is unfortunate, however, to think that her ideas were probably typical of those of the soldiers there. It was one of several unnerving experiences.

There are, of course, many security police in the Country, and there were several at the hotel. Since it was, at times, almost empty they did not have many people to watch, and watched us. Late one night, we had supper in a room, empty except for the waiters, a gipsy band, a table of security police (some wearing dark glasses), and us. I think we were watched enough by them to convince some of the hotel workers that we were spies. On several occasions, they would whisper, "God be with you", or "please be careful on the rest of your mission", to us. It was somewhat unsettling, as was the hotel in general.

We were, finally, quite anxious to leave and, after exhortations from Hungarian acquaintances not to forget them but to remember they are not Communists, only an occupied people, we left for the border. As we approached it, several miles away, we passed men sitting on corners at the roadside, recording our car and license number. Shortly afterwards, we were stopped by machine gun armed soldiers at an opening in a strip of mined land and barbed wire. After that check, we proceeded on through open country with watch towers, until we came to the border station, and a log barricade. This barricade was lifted and we drove forward just far enough to face another log barricade. Then, the first barricade was lowered behind us, sealing in our car. With fellow guards watching from small towers at the station, border police then searched the car, even checking to see if the engine compartment had been modified to hold an escapee. It was good to cross the Austrian border.

I did not find it possible to go to Hungary without becoming more anti-Communist. As an economic organization, Communism appears ridiculous, and it is a fantastic oppression of the human spirit. It is significant that while we try to correct our social problems in America, with varying degrees of success, the creation and maintenance of human suffering is virtually part of government policy under Communism.

I am afraid there will be no easy settlement of our differences with it.

Sincerely yours,

J. MALCOLM SWENSON,
President.

MORATORIUM—INDEED

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, Dr. George R. Davis, minister of the National City Christian Church, is an outstanding member of the clergy. From time to time he expresses "random thoughts" on the key social issues of our time, and I would particularly invite the attention of our colleagues to his "random thoughts" of Sunday, October 26. These relate primarily to the so-called "peace moratorium" and I am submitting them for the attention of all interested persons, whether they favor or oppose the moratorium:

RANDOM THOUGHTS

I was glad to see the Archbishop of the Roman Catholic Church, Cardinal O'Boyle, reject the Black Manifesto this past week, or at least the "District of Columbia version of it," and doubly glad to see the Minister of National Baptist Memorial Church reject it and renounce it with some of the strongest language to date, including the description, "Un-Christian." Not that it makes any difference, but my position was known long ago, and it remains the same now, toward it, and any other such device, threat, or project. My friends what I am about to write is not "politics." It has to do with the survival of your Nation. And it relates to the values and Institutions we should cherish.

We face now, following the so-called "Peace Moratorium" of October 15, the far worse threat of November 13–14–15, and then December, and on into the months ahead. The worst "radicals" had stated they would largely "remain out of October 15," and concentrate on November, December, etc. These additional facts should be known about even October 15. The cost of cleaning up the trash following, that bill alone was more than $100,000. And that cost has nothing to do with the costs of keeping the entire Military Command and Police Forces across the United States on alert twenty-four hours. The people pay those bills. Just as they paid and will pay the more than one million dollars cost for Resurrection City last year. Even the "normal bills" were not paid by the organizers, and the Government cancelled most of that balance. The organizers of these "street campaigns" have no intention of paying the bills. And the money cost also has nothing to do with the even more vital issue, and that is, the American way of life. It has been estimated that 1,000,000 people took part on October 15. One estimate was as high as 2,000,000, and one count less than 750,000. Let's take the higher figure, 2,000,000. On October 17, 8:00 a.m., the population of the United States was 203,890,039. Using the higher figure, that means 204 to 2 didn't take part. Using the lower figure it was 204 to 1 or less. The response is that many people not involved were nevertheless "for the Moratorium." It may likewise be argued many were not for it. So let's stay with the 204 to 2. And that 2,000,000 came as the result not only of the organization itself, but the almost total support of the press, radio, and television, men and women from Congress, college professors, and many clergy.

The lighted candles did not uplift me, they just reminded me even more strongly how much more we are "moving government to the streets," from the ballots, courts, and reason. The Three Sisters Bridge matter, and the marches and demonstrations (mostly students) in reference to it (whatever your view of the bridge may be) is another example, "government in the streets," government by pressure, threat, and ever increasing loud dissent. November will be worse, for the

radicals, including SDS have promised they will "be on hand." And Miss Carol Lipman, and Mr. Sam Brown, and the others assure us they have plans not only for the streets, and the cities, and the colleges, and the high schools, but also grade schools. And I suppose once again we'll have the almost total support of press, radio, and television, not only writers like Von Hoffman of the *Post*, and McGrory of the *Star*, the "really far out," but those who are supposed to "be responsible journalists." I would like to know what "makes Von Hoffman tick," "what is bugging him," what makes him hate the United States so fully, and completely.

I think we should also remember that on October 15, one half of the participants were in three cities on the Atlantic Seaboard, Boston, Washington, and New York, and one fourth of the remainder on the West Coast. I am grateful to God, October 15, was generally non-violent. But then also remember the entire military command and police forces were on 24 hour alert. But I wouldn't bet on November.

I write all of the above for several reasons, but also to disassociate myself completely from all of these plans. I dissassociate myself even more completely from November plans, if it is possible to disassociate more than 100 percent. For Miss Lipman to state on television, "The method of the streets is the good, old American way," is a downright fabrication. There is a great deal of difference between responsible dissent, and an occasional taking to the streets, as has been done during the history of this Nation, and making "the streets the total philosophy of national life." The radical leaders have one thing in mind, and one alone, to tear this Nation apart. They have so stated, And I will not be a part of it. I am running for no office, not conducting a popularity contest, and I do not believe in "playing dangerous games with children." And I do believe in the American system, in spite of our many faults. To quote once again from Churchill, or words of the same meaning, for my purpose, "it is the worst system in all the world, except for all the other systems."

Recently in an article, Dr. Robert McAfee Brown, Professor of Religion at Stanford University, where four years ago the radical students (and Stanford was by far one of the better places, compared to Columbia, and Berkeley, and some of the others), told me, that is the radical students told me, "We intend to bring the system down," said, that is, Dr. Brown said, "Whether we like it or not, this is a time of tearing down, and not a time of upbuilding." No doubt! But woe to those who "throw fuel on dangerous fires." I will have no part in the events of November, December, and on beyond!

Dr. Eugene Rostow, former Under-Secretary of State, has warned of the consequences or a shameful and precipitate retreat from VietNam and a reversion to isolationism. Recently he repeated that warning twice, at the Assembly of NATO Association in Washington, and in an interview last week in the *New York Times*. He said "powerful voices" are advocating the "policy of abdication on the part of the United States in the world," and that the result will be calamitous. And I agree with him! And I will not join the forces, some innocent, some evil "involved now in selling the United States and the free world down the river." In the *Washington Post* on October 21, Frank Mankiewicz and Tom Braden state that the "whole matter related to Dr. Angela Davis of the University of Los Angeles is a hoax perpetrated by the extremists to throw Americans into confusion." Whether they know what they are talking about or not, anyone who reads at all, and goes beyond what he reads, knows that the way of the radical, the old left, and the new left, is to create confusion. And they have one purpose in mind, total destruction! My friends, you follow your own conscience, but be prepared to live with it.

For those who might accuse me of being reactionary, etc., I was talking for and working for "real liberal causes," before some of the "Johnny come latelys" were even born, at least before they knew the words, let alone the ideas. And I began working for "ecumenical Christianity" very early in my Ministry, before some of the "religious Johnny-come-latelys" came along, and long before the word ecumenical was "even invented." I am somewhat in the position of Dr. Teller, when he appeared on a major TV program the other night, I probably wouldn't even be writing such papers, in fact I am sure I wouldn't, had it not been that so many "clergymen" and others were talking up so openly with other views. The Vice-President may have been overly caustic in his New Orleans speech, but at least he didn't "double-talk," "talk out of both sides of his mouth," talk in such a way that he could be taken as saying everything, nor did he get lost in eight syllable words. And Mr. Sullivan of the FBI warned us last week about the "infiltration of the peace movement." He is a man noted for his integrity. My friends, I repeat, you follow your own conscience, and be prepared to live with it.

Now that the "Moratorium," and the more militant "Mobilization" Committees have united forces for November, and always "standing in the shadows the SDS, and the invisible forces," we may not predict what is to happen. They promise, "No violence." But the tactics of revolutionaries change often, their purposes never. And the purpose on the part of many is, "to tear down the country, the government, all present values," the purposes of others, "to move government from courts and laws, to the streets," and the purposes of many are sincere. But there is the "time bomb" of revolution mixed in it all. I stood against "right wing extremism" for years. But the new left, the old left, and men like Von Hoffman are just as dangerous, and perhaps much more so to our way of life. My dear friends you walk whatever road you wish, take whatever position you wish, but know where you are walking first, and be prepared to live with your conscience.

LEGISLATION TO PROVIDE FOR U.S. DISTRICT COURT IN ALLENTOWN, PA.

(Mr. BIESTER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BIESTER. Mr. Speaker, today, the gentleman from Pennsylvania (Mr. ROONEY) and I are introducing legislation which provides for the sitting of the U.S. District Court in Allentown, Pa. A similar measure has been introduced in the other body by the senior and junior Senators from Pennsylvania.

The bill is being offered as an amendment to the recently Senate passed omnibus judges bill (S. 952) which provides for six additional judges for the eastern district of Pennsylvania. The eastern district comprises the counties of Berks, Bucks, Chester, Delaware, Lancaster, Lehigh, Montgomery, Northampton, Philadelphia, and Schuylkill.

Presently the district court sits in Philadelphia, with the exception of occasional limited sittings in the Post Office Building at Easton.

The situation in Allentown is ideal, as the former Lehigh County Courthouse was vacated recently and is available for use as a Federal court. The facilities are in excellent condition with two large courtrooms and numerous additional rooms available for hearings, conferences, and office purposes.

The Allentown facility would provide great convenience to the citizens in this area whether they be litigants, witnesses, or jurors. Allentown is one of the largest cities in Pennsylvania and is easily accessible by all means of transportation. This is a rapidly growing area, with the estimated 1970 population being approximately 3,500,000 people, excluding Philadelphia County.

Another consideration is that there is a serious backlog of cases in the eastern district. It has been reported by the administrative office of the U.S. courts that in 1968 the median time from filing to disposition of cases was 39 months compared to 12 months for all district courts in the United States. Permitting the court to sit in Allentown would help to alleviate this problem.

This proposal is strongly supported by the members of the bar association of Lehigh County, who at their quarterly meeting on October 16, 1969, passed a resolution stating "that the Bar Association of Lehigh County urges the judges of the U.S. district court, the judges of the Circuit Court of Appeals for the Third Circuit, the Judicial Conference of the United States, and the Congress of the United States to establish a further court house facility for the eastern district of Pennsylvania in the former Lehigh County Courthouse at Allentown, the same to be in addition to the contemplated establishment of a facility at Reading."

Following is an editorial from the June 28, 1969, Allentown Morning Call urging that the court be allowed to sit in Allentown:

BRING COURT TO THE PEOPLE

Proposals that the Judicial Conference and the Congress designate Allentown as a place where the U.S. District Court for Eastern Pennsylvania may hold sessions merit wide support.

Except for Philadelphia, where the court's 15 judges now sit, this is the largest city in the 10-county jurisdiction. The city also is the fourth largest in the state, the center of the third largest metropolitan area. It is convenient to an area that generates a considerable volume of federal court business and from which jurors can be drawn.

Facilities for the court are available in the Lehigh County Courthouse. The marble-paneled chambers of what once was known as "Court Room No. 2" are spacious and comfortable and have the appurtenances necessary for the court's business. Since the Community College moved to its permanent campus, this part of the building, in effect a separate structure, has been vacant.

There is nothing unusual about a federal district court sitting at various places within its boundaries. The Central District Court has its headquarters in Scranton but also holds sessions in Harrisburg, Lewisburg and Williamsport.

A bill passed by the Senate and now waiting approval by the House calls for the appointment of six additional judges for the Eastern District. This will make 21 available to keep abreast with the increasing volume of business. Some additional court rooms will

be necessary. It should be to the advantage of all who may be litigants before these courts or who may be called as witnesses and jurors to have judges sit where the business can be done most conveniently for all concerned and where proper facilities are available. Allentown meets these criteria.

The Eastern District includes Berks, Bucks, Chester, Delaware, Lancaster, Lehigh, Montgomery, Northampton, Schuykill and Philadelphia counties. The district is large enough to warrant the additional facilities in Reading, called for in the Senate bill, and those Sen. Hugh Scott and others have proposed for Allentown.

CONGRESSMAN GROVER TAGS 19TH CENTURY PROCEDURES AS VILLAIN IN CONGRESSIONAL LACKWORK SESSION

(Mr. CLEVELAND asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CLEVELAND. Mr. Speaker, our colleague, the gentleman from New York (Mr. GROVER) has won deserved recognition in the press of his district for his sound criticism of Congress for allowing procedures too out of date to meet the urgent needs of American society in the mid-20th century.

The late Suffolk Sun last month published the following editorial commending our colleague. I salute the Sun and regret the demise of so alert a newspaper. As one who has long been vitally concerned over congressional reform, I regret the closing of a newspaper so clearly attuned to the need of the present day. The gentleman from New York (Mr. GROVER) has also been a fighter for congressional reform and modernization. He has rightfully been given credit for putting his finger on the chief cause of congressional inaction.

Let us hope that this year, at last, some progress will be made by enactment of the legislative reform bill now pending before the Rules Committee.

The article follows:

THOSE PETRIFIED PROCEDURES

A monumental logjam of work is faced by the nation's lawmakers. Why has the work piled up?

A recent vacation is not the whole answer, according to Congressman James R. Grover, Jr. Neither is it because Congressmen are unwilling to work, nor that the administration has failed to provide programs for congressional consideration. Nor is the foot-dragging the result of a Democratic-controlled Congress attempting to make political hay at the expense of a Republican president.

The fact is that Congress is being victimized by a legislative machinery of nineteenth century vintage, according to Rep. Grover. He makes a good point.

Previous efforts over many years to update the parliamentary procedures have gone for naught. We struggle under a system that is slow, stilted and stultified.

This year, there is a bi-partisan effort in the works, but legislation is being kept off the floor by opposition from committee chairmen whose powers would be threatened.

There is some stronger hope than usual now, however, Ralph Nader's Raiders are looking into the procedures snafu. Meanwhile, as Rep. Grover says, "we can get men 286,000 miles to the moon, but can't always get a badly needed piece of legislation out of committee 286 feet away from the floor for debate."

WHO IS THE CAREER CRIMINAL? BACKGROUND DATA ON H.R. 14426

(Mr. SAYLOR asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SAYLOR. Mr. Speaker, in doing research for the introduction of my bill, H.R. 14426, I made use of statistics in the FBI's 1968 "Uniform Crime Reports." The statistics on the career criminal graphically show that the Nation is up against a frightening trend with regard to those persons convicted of violent crimes who are later released to continue their criminal activities. In my opinion, we must first put a stop to the activities of the career criminals if we are to enlist the support of the public in putting a stop to other kinds of crime. What is needed is a national crime deterrent.

My bill is designed to be the first building block in the construction of a national crime deterrent. The bill would establish a true deterrent; that is, the price a criminal would have to pay if convicted of a violent crime would be known prior to the commission, and we hope, the contemplation of such a crime. The bill would limit the powers of judges when sentencing those convicted, would spell out the sentences to be imposed, and would establish additional sentences if a firearm had been used in the crime.

The necessity for this type of legislation is apparent; all one has to do is read the daily crime report published in most of the Nation's leading newspapers. The FBI statistics will serve to emphasize the magnitude of the problem we face and must overcome and I have included them here for the benefit of our colleagues:

CRIME IN THE UNITED STATES: UNIFORM CRIME REPORTS, 1968

(By John Edgar Hoover, Director, Federal Bureau of Investigation, U.S. Department of Justice)

CAREERS IN CRIME

The study is made possible by the cooperative exchange of criminal fingerprint data among local, state and Federal law enforcement agencies. The all-important fingerprint card submitted to the Identification Division of the FBI by these law enforcement agencies contains information which serves as a basis for statistical examination of careers in crime. While there is a lack of uniformity in submissions made by all law enforcement agencies for all criminal charges, generally it is the practice to submit a criminal fingerprint card on all arrests for serious crimes, felonies, and certain misdemeanors. Fingerprinting by police is a part of the "booking" procedure of placing a formal charge against an arrested person. The arrest and charge have substance and differ from temporary detention for questioning or investigation. On the Federal level almost all persons arrested are fingerprinted by the arresting Federal agency or United States Marshals. Federal prisons, state penitentiaries and county jails also submit fingerprint cards and related data to the FBI Identification Division.

As the fingerprint card constitutes a positive means of identification it becomes possible to obtain each offender's criminal history. There is a limitation, of course, in that the offender must first be detected, arrested, and a fingerprint card submitted at the time of arrest. Of equal importance is the disposition of each arrest which is also requested. FBI Identification Division fingerprint files of known offenders in this Program are "flashed" to provide an accurate means of followup concerning any future criminal involvement.

As additional information is accumulated on these persons, it is added to the record which has been previously stored in a computer. These offenders are initially selected because they have become involved in the Federal process by arrest or release. The sample also includes serious state violators arrested as fugitives under the Fugitive Felon Act, as well as District of Columbia violators. Specifically excluded from this study and resulting tabulations are chronic violators of the immigration laws and fingerprints submitted by the military.

While the basis of selection is a Federal offense, it should be kept in mind that most Federal criminal violations are also violations of local and state laws. The offender records being examined in these tabulations are, therefore, felt to be comparable to local and state experience with the serious violator.

Since 1963, the Careers in Crime Program has been used in this publication to document the extent to which criminal repeating over time contributes to annual crime counts. The accompanying table sets forth the number of offenders processed based on an arrest in 1967 and 1968. The number was restricted to those offenders who were arrested for Crime Index type violations. A review of their prior history revealed that 39 percent had previously been arrested for one or more Crime Index type violations. Repeating in the same crime, as shown in the table, ranged from 6 percent for murder to 51 percent for burglary.

TABLE A.—PERSONS ARRESTED 1967–68

[Percent with previous charge for same offense]

Charge	Number	Percent with prior same charge
Murder	927	5.8
Forcible rape	786	15.6
Assault	4,553	30.2
Robbery	5,528	32.0
Burglary	8,984	50.7
Larceny	12,812	42.1
Auto theft	10,682	37.3
Total	44,272	39.0

An examination of all offender records processed in 1968 for new arrests in 1967 and 1968 totaled 94,467. This includes both offenders coming into the Federal process for the first time, as well as those processed since 1963 and now being rearrested for primarily local and state violations. The extent to which these offenders by type of crime had a prior arrest for any offense is set forth in the following table. Likewise, percent convicted for a prior crime are set forth, along with the percent of these offenders who previously served a prison term exceeding 90 days. It should be noted for all criminal violations 82 percent had a prior arrest, 70 percent had a prior conviction, and 46 percent of the 94,467 offenders had been imprisoned on a prior sentence of 90 days or more.

Keep in mind that this presentation is conservative and understates the amount of crime committed by these offenders since it is based on police detection, arrest and submission of a fingerprint card. As indicated in earlier pages of this publication law enforcement agencies do not clear or solve most crimes. It is also true that the prior conviction and imprisonment rates are slightly lower because police agencies do not always submit such data after arrest and conviction.

TABLE B.—PERSONS ARRESTED 1967-68
[Percent with prior arrest, conviction, and imprisonment]

Charge 1967–1968	Number	Percent with prior arrest	Percent with prior conviction	Percent with prior imprisonment
Murder	927	88.8	74.8	47.8
Forcible rape	786	83.5	68.8	41.2
Assault	4,553	92.0	77.1	47.4
Robbery	5,528	86.4	73.2	50.8
Burglary	8,984	92.2	81.6	57.1
Larceny	12,812	83.4	68.5	46.1
Auto theft	10,682	80.3	62.8	40.6
Subtotal	44,272	85.8	71.4	47.7
All other	50,195	78.3	69.1	44.7
Grand total	94,467	81.9	70.2	46.1

From the 1967 and 1968 offender records discussed above, 1,985 were persons arrested for bank robbery. Of the total arrested 61 percent were white, 38 percent Negro, and 1 percent other races. First time offenders made up 18 percent of the total bank robbery arrests and 82 percent were previously arrested for a criminal act. Young persons under 25 years of age comprised almost half of the first time offenders. Of those arrested for bank robbery in 1967 and 1968 with a prior criminal history, 52 percent had been arrested before for violent crimes.

PROFILES

A profile of criminal repeating for selected offenders is shown in the following table. This is based on criminal histories newly processed or updated after an arrest in 1968. While these samples will vary from year to year, the factors being measured, i.e., mobility, average arrests, etc., are very consistent. Average age for the first arrest is high because of the general practice not to submit criminal fingerprint cards on juveniles. Criminal career is the average years between first and last arrest. Mobility is measured by counting the number of states in which an offender was arrested during a criminal career. The offender profile is classified by type of crime for which arrested in 1968. This ratio of violent crime arrests to total arrests during the average criminal career is significant.

TABLE C.—PROFILE OF OFFENDERS ARRESTED IN 1968 BY TYPE OF CRIME

	Murder	Aggravated assault	Rape	Robbery	Total violent crime	Burglary	Heroin	Marihuana	Auto theft
Total number of subjects	688	3,640	494	4,176	8,998	6,106	1,636	2,850	6,687
Percent with prior arrest	65.6	68.5	64.6	66.8	67.3	75.1	67.1	39.6	59.6
Average age first arrest	21.2	21.3	20.5	19.7	20.5	19.5	21.4	21.0	19.9
Average criminal career years	10.7	10.4	7.6	8.3	9.3	9.5	10.4	4.6	7.1
Average number of any arrests during criminal career	7.8	8.5	6.7	7.9	8.0	9.5	9.1	4.6	7.0
Average number of violent crimes during criminal career	3.4	3.6	3.2	3.7	3.6	4.2	4.0	2.3	3.0
Frequency of arrest on specific charge (percent):									
1	86.0	59.1	78.9	61.5	63.4	42.2	61.6	78.2	55.7
2	12.6	23.6	14.8	24.7	22.8	26.0	22.5	15.8	24.0
3 or more	1.3	17.3	6.3	13.7	13.8	31.8	16.0	6.0	20.2
Leniency on specific charge (percent)	4.4	9.6	6.5	13.8	10.9	22.0	18.7	23.5	34.8
Frequency of leniency action (percent):									
0	46.5	42.6	44.5	44.0	43.7	32.7	40.2	56.6	41.8
1	29.5	31.5	31.0	29.1	30.2	33.8	28.7	31.4	32.6
2	15.6	14.9	11.7	15.2	14.9	18.1	16.3	7.1	13.0
3 or more	8.4	11.0	12.8	11.7	11.2	15.4	14.9	5.0	12.6
Mobility (percent):									
1 State	36.3	35.4	35.8	40.2	37.7	32.8	54.3	59.8	28.7
2 States	32.6	32.2	32.4	27.6	30.1	31.3	29.8	27.3	31.8
3 or more States	31.1	32.4	31.8	32.1	32.2	35.9	15.9	12.9	39.5

FIVE-YEAR FOLLOWUP

A part of the Careers in Crime Program has been the follow-up on 18,333 offenders released from the Federal criminal justice system in 1963. The records of these releasees were followed for new arrests through 1968. Charts and tables are presented in this section on the rearrest experience by offense, type of release, age, sex and race of the offender.

Of the 18,333 offenders released to the community in 1963, 63 percent had been rearrested by the end of the fifth calendar year after release. Of those persons acquitted or had their cases dismissed in 1963, 91 percent were rearrested for new offenses. Of those released on probation 55 percent repeated, parole 61 percent, and mandatory release after serving prison time 74 percent. Offenders receiving a sentence of fine and probation in 1963 had the lowest repeating proportion with 36 percent rearrest. This type of sentence is generally found in connection with violations such as income tax fraud and embezzlement. This offender has roots in a community, and as a result, detection and conviction serve as a deterrent to further unlawful activity.

When criminal repeating is viewed by type of crime for which arrested, convicted, or released in 1963, rearrests ranged from 19 percent for the income tax violators to 80 percent of the auto thieves. The predatory crime offenders had high repeat rates with 77 percent of the burglars being rearrested within five years, 74 percent of assault offenders, and 60 percent of the robbers released in 1963. Likewise, 69 percent of the narcotic offenders who are frequently users were rearrested after release. The fact that 68 percent of the forgery offenders were rearrested for new violations within the five-year follow-up documents law enforcement experience with this type offender.

CHART 19.—*Percent of persons rearrested within 5 years by type of release in 1963*

Fine and probation	36
Suspended sentence and/or probation	55
Parole	61
Fine	74
Mandatory release	74
Acquitted or dismissed	91
Total	63

CHART 20.—*Percent repeaters by type of crime in 1963—Persons released in 1963 and rearrested within 5 years*

Auto theft	80
Burglary	77
Assault	74
Narcotics	69
Forgery	68
Robbery	60
Larceny	59
Liquor laws	46
Fraud	46
Gambling	43
Embezzlement	23
All others	62
Total	63

CHART 21.—*Percent repeaters, persons released in 1963 and rearrested within 5 years by age group*

Under 20	72
20 to 24	69
25 to 29	67
30 to 39	63
40 to 49	54
50 and over	40
Total, all ages	63

The younger the age group, the higher the repeating rate has been documented many times, as it is here. Nevertheless, this fact calls for greater rehabilitation efforts directed at the young offender, if hardened criminal careers are to be aborted. Of the offenders under 20 released in 1963, 72 percent were rearrested by 1968, 69 percent of those 20–24 years of age, and 67 percent of the offenders 25 to 29 years. When viewed by race the Negro rearrest rate, 68 percent, was higher than the white offender rate of 59 percent. This was particularly true for the 20–39 year age group. All other races, made up primarily of Indian Americans, had a rearrest rate of 80 percent between release in 1963 and 1968. Of the 1,408 female offenders released in 1963 45 percent had been rearrested for new offenses by 1968. The highest rate of rearrest for females was offenders 20–29 years of age.

Table D sets forth the accumulative percentage of rearrest by age group by year after release. By the end of the second calendar year (1965) after release during different months in 1963, 52 percent of the offenders had been rearrested. The dropout (rearrest) then declines substantially to 2 percent by the end of the fifth calendar year. This pattern supports prior studies of this kind and is consistent for all age groups. Of all offenders rearrested during this five-year follow-up, over one-half were under 30 years of age. Rearrest after release in 1963 for this young age group occurred early within the second calendar year (1965).

TABLE D.—PERCENT OF OFFENDERS RELEASED IN 1963—ARRESTED ON NEW CHARGE

[By age group and year]

Year	Under 20	20–24	25–29	30–39	40–49	50–over	Total, all ages
1963	21.9	25.3	24.2	21.6	18.4	11.0	21.4
1964	51.9	49.4	45.9	42.4	34.1	24.6	42.6
1965	62.3	59.0	55.8	51.9	43.0	31.6	52.0
1966	67.5	64.0	61.8	57.4	48.1	35.7	57.2
1967	70.3	67.1	64.7	60.6	51.5	37.9	60.3
1968	72.4	69.1	67.1	63.3	53.9	40.1	62.6

During this five-year follow-up, 1963–1968, the repeating offenders contributed heavily to new crimes and administration of criminal justice costs. Of the 18,333 offenders released in 1963, 21 percent were arrested once between release in 1963 and the close of calendar year 1968. In fact, 13 percent were arrested twice, 9 percent were rearrested on

three occasions and 20 percent, four or more times. Significantly, 63 percent or 11,477 of those released in 1963 were rearrested over 28,000 times for new offenses by the end of 1968. The types of crimes for which these criminal repeaters were rearrested, 1963 through 1968, can be classified as 11 percent violent crimes, 32 percent crimes against property, 24 percent crimes against morals (sex offenses, prostitution, gambling, narcotics, etc.), 16 percent contempt of justice (parole and probation violator, harboring, escape, etc.), and 17 percent crimes against public order (disorderly conduct, moving traffic violations, drunkenness, etc.).

TABLE E.—5-YEAR FOLLOWUP OF PERSONS RELEASED IN 1963 BY AGE, RACE AND SEX

Age	Total	White	Negro	Other	Male	Female
Under 20:						
With subsequent charge	1,373	984	262	127	1,331	42
With no subsequent charge	524	396	96	32	468	56
Total	1,897	1,380	358	159	1,799	98
Percent with subsequent charge	72.4	71.3	73.2	79.9	74.0	42.9
20 to 24:						
With subsequent charge	2,853	1,924	759	170	2,656	197
With no subsequent charge	1,277	1,025	220	32	1,103	174
Total	4,130	2,949	979	202	3,759	371
Percent with subsequent charge	69.1	65.2	77.5	84.2	70.7	53.1
25 to 29:						
With subsequent charge	2,039	1,261	665	113	1,906	133
With no subsequent charge	999	731	247	21	872	127
Total	3,038	1,992	912	134	2,778	260
Percent with subsequent charge	67.1	63.3	72.9	84.3	68.6	51.2
30 to 39:						
With subsequent charge	2,985	1,750	1,094	141	2,814	171
With no subsequent charge	1,728	1,210	478	40	1,520	208
Total	4,713	2,960	1,572	181	4,334	379
Percent with subsequent charge	63.3	59.1	69.6	77.9	64.9	45.1
40 to 49:						
With subsequent charge	1,561	1,000	482	79	1,487	74
With no subsequent charge	1,335	960	357	18	1,201	134
Total	2,896	1,960	839	97	2,688	208
Percent with subsequent charge	53.9	51.0	57.4	81.4	55.3	35.6
50 and over:						
With subsequent charge	666	463	161	42	649	17
With no subsequent charge	993	774	199	20	918	75
Total	1,659	1,237	360	62	1,576	92
Percent with subsequent charge	40.1	37.4	44.7	67.7	41.4	18.5
All ages:						
With subsequent charge	11,477	7,382	3,423	672	10,843	634
With no subsequent charge	6,856	5,096	1,597	163	6,082	774
Total	18,333	12,478	5,020	835	16,925	1,408
Percent with subsequent charge	62.6	59.2	68.2	80.5	64.1	45.0

TABLE F.—5-YEAR FOLLOWUP BY AGE GROUP AND TYPE OF RELEASE IN 1963

Disposition	Under 20	20–24	25–29	30–39	40–49	50 and over	Total
Probation and suspended sentence:							
With subsequent charge	711	1,112	726	981	474	203	4,207
With no subsequent charge	339	675	498	849	662	453	3,476
Total	1,050	1,787	1,224	1,830	1,136	656	7,683
Percent with a subsequent charge	67.7	62.2	59.3	53.6	41.7	30.9	54.8
Fine:							
With subsequent charge	77	267	213	367	258	117	1,299
With no subsequent charge	16	54	51	119	118	97	455
Total	93	321	264	486	376	214	1,754
Percent with a subsequent charge	82.8	83.2	80.7	75.5	68.6	54.7	74.1
Fine and probation:							
With subsequent charge	10	49	55	82	60	33	289
With no subsequent charge	14	78	56	114	121	129	512
Total	24	127	111	196	181	162	801
Percent with a subsequent charge	41.7	38.6	49.5	41.8	33.1	20.4	36.1
Acquitted or dismissed:							
With subsequent charge	127	228	205	276	136	59	1,031
With no subsequent charge	10	14	19	23	17	17	100
Total	137	242	224	299	153	76	1,131
Percent with a subsequent charge	92.7	94.2	91.5	92.3	88.9	77.6	91.2
Parole:							
With subsequent charge	345	957	439	379	182	75	2,377
With no subsequent charge	128	418	278	319	218	171	1,532
Total	473	1,375	717	698	400	246	3,909
Percent with a subsequent charge	72.9	69.6	61.2	54.3	45.5	30.5	60.8
Mandatory release:							
With subsequent charge	103	240	401	900	451	179	2,274
With no subsequent charge	17	38	97	304	199	126	781
Total	120	278	498	1,204	650	305	3,055
Percent with a subsequent charge	85.8	86.3	80.5	74.8	69.4	58.7	74.4
Total:							
With subsequent charge	1,360	2,772	2,016	2,984	1,559	666	11,477
With no subsequent charge	520	1,237	994	1,727	1,333	993	6,856
Grand total	1,880	4,009	3,010	4,711	2,892	1,659	18,333
Percent with a subsequent charge	72.3	69.1	67.0	63.3	53.9	40.1	62.6

OPERATION SPEAK OUT

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, my hearty congratulations are extended to the Veterans of Foreign Wars on their proposal for "Operation Speak Out" during the week of November 9–15, 1969. This is an outstanding example of the great services performed by the VFW, not just for veterans, but all of the Nation.

"Operation Speak Out" is intended as a nationwide demonstration of patriotism in answer to the October 15 moratorium on war as well as a groundswell of support of our men in Vietnam and the cause for which they fight so valiantly. It is intended to enlist that great silent majority of civilians who fail to speak out. It is a timely effort to rekindle belief in America.

"Operation Speak Out" is very badly needed and it should have the full support and cooperation of the Congress. I consider it a particularly important program which will embrace the period in which Veterans' Day falls and focus the attention of the Nation on contributions of those who have worn the uniform of our country. In the material which has been received by all Congressmen from the Honorable Ray Gallagher, commander in chief of the Veterans of Foreign Wars, is included fine sentiments which I propose to submit for reprinting at this point in the CONGRESSIONAL RECORD:

OPERATION SPEAK OUT

Now that the self-styled 1969 moratorium manipulators have—done their thing—let's move on to some positive, two-fisted basic patriotic Americanism in action.

That means let us bury deep in memory those who staged their Communist supported street demonstrations against the Vietnam war.

Then let's re-declare, loud and clear, our determination to carry on to a conclusive, clean-cut victory against the sworn enemies of freedom.

The October demonstrations by those who would have us quit, surrender, to the Reds, are in the past. And so, for November and December and on through the coming year—let us switch the pitch to the positive.

The would-be quitters have had their day. Now let's push them to the sidelines and show them how true Americans really think and act.

We will make it very clear to them and to the entire world that real Americans always fight to win.

We will fly our Stars and Stripes flag high and proudly. Then we will reaffirm our united pledge to keep on fighting for freedom and our determination to protect all of our nation's priceless traditions, unity and ideals.

Just to help stir things up a bit let us recall the forthright declaration which was founded 194 years ago by the bold Scotch-American orator, statesman and patriot Patrick Henry. It was he who dared defy—in 1775—some of his fellow citizens who advocated surrendering to foreign enemies, rather than fighting for American freedom principles.

Yes, it was Patrick Henry who shouted—I do not know what course others may take, but as for me, give me liberty or give me death.

That did it back in the American Revolutionary era. The loyal citizens of our land rallied around Patrick Henry. They provided fighting men—and armed them—to wage war to a victory against the would-be killers of American rights and independence.

Give us liberty or give us death. That could very well be our battle cry today—in the year 1969.

Why not? The challenge is similar and our choice is that simple. It means we must fight to keep our freedoms intact or we shall suffer their loss—and that would truly mean the death of our nation.

That's what our ancestors faced back in the days when American democracy was being born. Their determined and victorious defense of freedom is the foremost reason we're here today—living as free peoples.

But not every American appreciates those facts. Some of our citizens have forgotten history. And now they're seeking to surrender everything to the current foreign enemies.

So the dissenters have taken their signals from today's enemy headquarters. And they've translated those signals into treacherous action against the security of our nation and against all American freedom ideals. They've cheered themselves on with their defeatist demand that we quit fighting Communism. They have advocated peace, peace—at any price.

Those dissenters called their demonstration a moratorium, but their actions were more suggestive of a mort-uarium—because they were really killing freedom and delivering freedom's body to our enemies so that they can do what they've always boasted they'll do. The Reds, you know, have said—we will bury you.

Well, presidents, secretaries of state, members of congress, war veteran leaders and the fighting men have all declared themselves against such a ghastly fate.

The late President John F. Kennedy said that—the cost of freedom is always high but Americans have always paid it. And he added that—one path we shall never choose is the path of surrender or submission.

President Richard Nixon has declared that our current enemies—the Communists we're fighting in Vietnam, in Korea and opposing elsewhere around the world—have said that they warmly welcome and wholeheartedly support our homefront dissenters. A message straight from Red Hanoi declared just that.

Secretary of State William Rogers, looking at the recent so-called moratorium against our continued fighting in Vietnam—said that the Communist Viet Cong enemies believe that our president does not have the support of his own people. But the secretary added that the noise which the Reds have been hearing comes only from a relatively small number of loud mouth dissenters—not from the majority of truly thinking Americans.

Some students have cried loudly for us to quit fighting in Vietnam—and to bring all of our men back home—regardless of whatever might be the final result of such a retreat. That's why some students staged their demonstrations across the country.

But other students, like T. Harding Jones of Princeton University, declared that such public displays of defeatism will lengthen the Vietnam war—rather than shorten it. And Jones added that the quit-fighting advocates are, in fact, saying to the Hanoi Red enemies—hang on, baby, you might win it all.

Our men who are fighting in Vietnam have looked at the homefront and asked—what's going on at home? Tell those silly dissenters to cool it. Then the frontline veterans say—we know why we're here. We are fighting to lick the Communists in Vietnam so we won't have to fight them later on our own shores.

The leader of my organization lays it squarely on the line. He is Raymond Gallagher of Redfield, South Dakota, Commander-in-Chief of the Veterans of Foreign Wars of the United States. He speaks for one-million 500-thousand V.F.W. members who declare that the only way to win a war is to pour everything upon the enemy until he yells quits—and surrenders.

Gallagher declares that the moratorium demonstrations against our fighting in Vietnam are Communist supported. He said they are a national disgrace which cheers the enemy, prolongs the war and increases the loss of American lives.

Gallagher adds that the time has come for the silent majority of American citizens to stand up and be counted in support of our fighting men overseas.

Never in the history of our nation, the V.F.W. leader declares, has there been greater need for national unity and support of our constituted leaders.

The Veterans of Foreign Wars calls upon our congressional leaders and upon all other loyal Americans to strengthen our government's pledge to help others gain freedom, also to help our fighting men in Vietnam win a just and honorable victory—and no compromise with the enemy.

So much has been said about Vietnam that some of our citizens have the notion that that is the only Red threat. But that is far from the truth. The Communist threat stretches around the world. It presses in upon free peoples everywhere.

All we need do is to look at the millions of unfortunate peoples in Czechoslovakia, Red China, Hungary, North Korea, East Berlin, the Soviet Union and Cuba, to name just a few places. They have been robbed of their freedoms—and the same fate is being aimed direct at us.

But we Americans are not all so stupid as to follow the few who seek to betray true Americanism through any distorted politics, or racism and radicalism, nor through just plain childish tantrums defying law and order in our land. That's what we've been seeing on our homefront recently and we're fed up with it. Yes, we are mighty sick of it.

More than 32-million American men have fought in nine major conflicts since the days when Patrick Henry spoke his mind. And well over 1-million of those men have given their lives in combat, also another million, 500-thousand were wounded in battles to defend and to perpetuate the freedoms we enjoy today.

Are we going to say that those men have fought in vain? Are we ready to surrender to the Reds all for which those men went to war and gave their lives? Certainly not.

If the homefront trouble makers of today think that they can upset our balance then they'd better calculate a little further. Because they are far outnumbered—by more than 27-million war veterans who are living in the United States today.

Those men do not know the meaning of the word—surrender—either on the fields of battle, nor through any negotiations in a phony, fruitless, Paris peace conference, or anywhere else.

Our combat war veterans—and millions of other real Americans like them—declare that there is only one answer to our true way of life. That is the steadfast loyal defense of everything we have in our country—and no crawling at the feet of any enemy, either.

Now, there are two special days in the month of November which emphasize our thinking and determination to stand firmly on all of this.

There is Veterans Day, celebrated on the eleventh of November. The other is Thanksgiving Day, November the 27th. Those days give the greatest impact to our appreciation of the men who have fought for our nation—and our deepest thanks to the Supreme Being for the freedoms we still enjoy.

Let's take a closer look at those two November days—because they do truly touch the very essence of American tradition and contemporary thought.

Veterans Day began as Armistice Day. That marked the November 11th date in the year 1918 when the First World War ended with the signing of some documents through which Kaiser Wilhelm and his Central Powers surrendered to the Allied Forces. We had defeated the Germans after four years of bloody fighting.

Woodrow Wilson, who was then president of the United States, declared that the first world conflict was the war to end all wars. That was his sincere hope for the future. It would have been mighty wonderful if the Wilson dream had come true but, as we all know, that war did not bring world peace. It merely set the stage for the power-crazed Adolph Hitler and his brutal Nazi Party. They launched the Second World War in 1939. Then we joined the fighting in 1941 and won victory in 1945.

More than 21-million Americans fought in those two world wars and close to 1-million, 500-thousand of them were killed or wounded.

Then came the Communists. And we've been combatting the Reds ever since—over in Korea, with nearly 6-million men—and in Vietnam, with more than a half-million other Americans. Our men who have been killed or wounded in Korea and Vietnam total more than 436-thousand—and we're still on those Asiatic firing lines.

So, fifteen years ago, in 1954, the United States Congress and the late President Dwight Eisenhower approved legislation which provided that, henceforth, the eleventh day of November should be celebrated as Veterans Day—instead of Armistice Day.

Our citizens are urged to make Veterans Day a very special recognition of—and tribute to—all the more than 32-million men who have defended this nation of ours since the American Revolution.

Veterans Day also gives the living ex-servicemen a special occasion upon which to redeclare their solid loyalties and to reemphasize, for the guidance of every American, both young and old, the importance of fulfilling his and her citizenship duties.

The Veterans of Foreign Wars takes the lead in declaring that the Veterans Day fight to win message is of most vital importance in this critical year of 1969. That is the fighting man's rebuttal against the so-called moratorium advocates.

Then there's Thanksgiving Day, on the fourth Thursday of November. We know the day well because it has been an American tradition nearly 350 years—ever since the Pilgrims introduced it in 1621. The hardy Pilgrims had come to our shores seeking freedom from oppression. And, after surviving a rough, hard winter they expressed their appreciation of our new land, with a feast and with the rendition of special prayers of thanks for Divine Guidance and protection.

That is why we still celebrate Thanksgiving Day. Because we, too, appreciate the good things in our mighty nation, therefore we thank God for all our blessings.

The overall answers can be summed up in five brief terms—and those are—

The United States of America forever.

The Stars and Stripes flag above all.

Fulfillment of our duty to always defend this nation, and

Heartfelt thanks for all our truly priceless freedom rights.

We in our hearts are always loyal to those principles and we shall always defend them—even unto death.

That is what Patrick Henry called for back in 1775. And that is what millions of other American patriots have upheld throughout all the history of our nation.

Yes, and that is what my organization—the Veterans of Foreign Wars—means when it declares—as it has always declared—we shall support our government and the laws of our land—today, tomorrow and to the very end of time.

So now, in line with our determination to switch from the negative to the positive let us reaffirm that we shall stand solidly against all enemies and against their homefront dupes. We shall press our fight against all of those until they cease to threaten the security of our land.

Then paraphrasing Patrick Henry, we'll add that—we care not what course others may take—but as for us—we who have fought for America—shall carry on—in peace as in war—for the ever solid defense of our nation—today and tomorrow.

As the final word here, we invite, urge every loyal citizen to join us in supporting our frontline men. Then let's thank God that they are carrying on like true Americans—fighting to win—against the enemies of freedom. Yes, they are setting the patriotic pattern of action for all of us to follow.

THIS WE BELIEVE

(By Raymond A. Gallagher)

The single greatest problem we face today in the United States is the security of our country because today our organization is fearful that too many people have forgotten just why we are in Vietnam and we are resentful of those who would, for reasons of political expediency, or any other reason, retreat from Vietnam no matter what the cost. The Veterans of Foreign Wars of the United States believes that our cause is just and right and proper in Vietnam, and we intend to challenge loudly and clearly those divisive elements in this which would back down from the challenge of Communism and sell out our men on the fighting front.

I say to you that it is high time that some of our amateur diplomats, armchair generals and would-be presidents in our nation be reminded that their continuing harsh and distorted criticism of America's continuing stand against aggression in Vietnam is harmful to the success of our mission and to the security of our nation.

It may not be their intention, but these self-appointed experts of international military and political strategy are providing false hope and misleading comfort to the enemy. They—no less, and perhaps even more, than the so-called anti-war demonstrators—are actually helping to prolong the war rather than to shorten it, as they so zealously claim is their objective. Their expressions of dissent and protest provide the North Vietnamese with a reason to believe that they can achieve the victory our men in uniform are denying them on the battlefront through a split in our ranks on the home front.

The divisive antics of the peaceniks, beatniks and draft card burners, can perhaps be blamed on ignorance or immaturity. It is difficult, however, to find any excuse for the increasing tendency of certain members of Congress and other elected officials to assume they somehow have acquired a special insight and wisdom which qualifies them to render better judgments on policies and actions than the Secretary of Defense, the Secretary of State or the Commander-in-Chief.

Never in the history of our nation has there been a greater need for national unity and support of our constituted leaders. The withholding of traditional bi-partisan Congressional support from the President in the conduct of foreign policy can only serve to undercut his bargaining strength with our enemies and diminish his stature among our friends.

Our military leaders report that our military position in Vietnam is sound. We have gained the offensive and the enemy has sustained crippling losses in men and materials. However, although the North Vietnamese can find little comfort in the trend of the war itself, they have only to read the statements of some of our Senators and Representatives to find reason to believe they can outlast our will even if they cannot outgun our fighting men.

It is difficult for our enemies to understand that America's freedom to debate and dissent does not mean a lack of resolve to honor our commitments. Too often they quote the words of our debaters and dissenters in their newspapers and on their broadcasts as a means of bolstering the morale of their own fighting men.

It is indeed unfortunate that the pressure that our guns and bombs bring to bear on the enemy in an effort to lead him to serious negotiations in Paris is continually negated by the words of the dissenters in this country.

Some of the dissenters say we should halt all bombing. Yet they do not ask that the enemy provide any assurances that he will respond with a comparable de-escalation in military activity, or that he will not use the occasion to build up his weaponry and manpower so that he can launch new offensives and kill more of our American troops.

Some of the dissenters want to restrict our military activities to the defense of isolated enclaves. Yet they do not explain how this will help the South Vietnamese achieve freedom for the people outside these limited areas or how this will help resolve the conflict.

Some of the dissenters even call for a complete withdrawal of our troops. Yet they do not say how we can explain this abrogation of our commitment to the other small nations of the free world who look to us as a bulwark against Communist aggression.

The dissenters do not have a monopoly on a desire for peace.

The administration has honored cease fire agreements during certain holiday observances, but the enemy has used them to infiltrate our lines and reinforce his positions.

The administration has conferred with every interested nation and used every available channel, including the United Nations . . . in its efforts to find some method for bringing about a meaningful cessation of hostilities.

Peace, unfortunately, cannot be achieved merely by making speeches on the floors of Congress or by holding demonstrations in the streets of our cities. And peace cannot be brought about by one side alone.

The enemy must be made to realize that he cannot achieve his goals of expansion and domination by military aggression. He must understand that this nation is committed to the defense of freedom in South Vietnam and that this nation honors its commitments. He must not be permitted the luxury of drawing hope, no matter how unjustified, from the misleading statements of the dissenters within our midst.

We do not need another pause in the bombing of North Vietnam to convince Hanoi of our desire for peace. We tried that, and it didn't work.

What we need to try now is a pause in irresponsible dissent to demonstrate our strength of purpose and unity of spirit. President Kennedy said "the cost of freedom is always high but Americans have always paid it. And one path we shall never choose, and that is the path of surrender or submission."

The path to a just peace is the one where we present a unified front to the enemy, so that he will not fail to recognize the futility of his aggressive course of action. The Veterans of Foreign Wars, therefore, call upon our Senators and Representatives to support our administration in fulfilling its pledge to support our fighting men in Vietnam and to work for a just and honorable peace in Vietnam.

Yes, we have reached a critical juncture in the history of our country. I urge you to raise your voices now. Make them ring with patriotism and devotion to country. Do not stop until they echo through every hamlet and city in the country. Do not permit yourselves to be shouted down by anarchists. Be not shamed into silence by soulless intellectuals and egg heads. Speak out above the ridicule of Communist sympathizers. This is your country. You have fought for it as brave men fight for it today in South Vietnam. Do not forsake it. Never has the nation been more in need of your wholehearted support and understanding. Never has it been more dependent on you for survival.

The Veterans of Foreign Wars will cry out. We shall be heard. We shall not be found wanting. We shall meet this challenge of today as we have met the great challenges of the past.

TO PROTECT THE SEAL OF THE UNITED STATES AND THE SEALS OF THE PRESIDENT AND THE VICE PRESIDENT FROM COMMERCIAL EXPLOITATION AND INDECOROUS USE

(Mr. McCULLOCH asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. McCULLOCH. Mr. Speaker, I have today introduced the administration bill to protect the seal of the United States and the seals of the President and of the Vice President from commercial exploitation and indecorous use. Like our flags, these symbols of Government are entitled to protection and respect.

Certainly, it is inappropriate with respect to our Government for these seals to be used as paperweights and costume jewelry and be found on coffee mugs and bumper stickers. And certainly it is unfair to competitors for a business to use these seals in its advertising to convey a mistaken connection between the Government and some product or service.

At present, only the great seal is protected, and that by criminal sanctions only. The proposed legislation would accord similar protection to the seals of the President and Vice President. Thus, with respect to all the seals, it would be a misdemeanor to use seals to convey "a false impression of sponsorship or approval by the Government of the United States."

Moreover, the proposed regulation would make it a misdemeanor for anyone knowingly in violation of Presidential regulations to manufacture, reproduce, sell, or purchase for resale any likeness of these seals.

Finally, the proposed legislation would permit the Government to enjoin the illegal use of the seals. Statutory authority is necessary to permit the utilization of this civil remedy because of doubts that may be raised by the old legal maxim that equity will not enjoin violations of

the criminal law. Lest the old rule cloud the Government's attempt to enforce public policy through civil proceedings, that right should be made explicitly clear.

Therefore, I urge the prompt consideration and passage of this measure.

LEAVE OF ABSENCE

Mr. BYRNE of Pennsylvania (at the request of Mr. GREEN of Pennsylvania), for October 29, on account of illness.

Mr. WYATT (at the request of Mr. GERALD R. FORD), for the period October 30 through November 7, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. WYATT (at the request of Mr. MCKNEALLY), for 15 minutes, today; to revise and extend his remarks and include extraneous matter:

(The following Members (at the request of Mr. ANDERSON of California); to revise and extend their remarks and include extraneous matter:)

Mr. GONZALEZ, for 10 minutes, today.

Mr. MINISH, for 10 minutes, today.

Mr. RARICK, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HECHLER of West Virginia to include extraneous material in his remarks during the Committee of the Whole on H.R. 13950.

Mr. KOCH immediately following the remarks of Mr. EDWARDS of California on Greece.

Mr. DENT and to include extraneous matter on the Scherle amendment.

(The following Members (at the request of Mr. MCKNEALLY) and to include extraneous matter:)

Mr. PETTIS.
Mr. BOW in five instances.
Mr. FINDLEY.
Mr. LIPSCOMB in two instances.
Mr. FOREMAN in two instances.
Mr. THOMPSON of Georgia.
Mr. LANGEN.
Mr. DUNCAN in two instances.
Mr. ROUDEBUSH.
Mr. TAFT.
Mr. WYMAN in two instances.
Mr. HORTON.
Mr. LUJAN.
Mr. BEALL of Maryland.
Mr. WOLD.
Mr. BRAY in three instances.
Mr. KUYKENDALL.
Mr. GUDE in two instances.
Mr. NELSEN.
Mr. MICHEL.
Mr. BUSH in two instances.
Mr. CRAMER.
Mr. SCHWENGEL.
Mr. WHALEN.
Mr. WHITEHURST.
Mr. PRICE of Texas.
Mr. MILLER of Ohio in two instances.
Mr. POLLOCK.
Mr. LANDGREBE.
Mr. COLLINS in five instances.

(The following Members (at the request of Mr. ANDERSON of California) and to include extraneous matter:)

Mr. CORMAN.
Mr. FISHER in four instances.
Mr. OTTINGER.
Mr. ICHORD.
Mr. STEED.
Mr. MURPHY of New York in two instances.
Mr. EILBERG in three instances.
Mr. GONZALEZ.
Mr. CAREY in two instances.
Mr. HUNGATE in two instances.
Mr. CHARLES H. WILSON in two instances.
Mr. MATSUNAGA.
Mr. DOWNING.
Mr. RARICK in three instances.
Mr. GAYDOS in two instances.
Mr. HANNA in two instances.
Mr. RYAN in three instances.
Mr. KASTENMEIER.
Mr. CLAY.
Mr. ROGERS of Florida in five instances.
Mr. GRIFFIN.
Mr. DULSKI in three instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2314. An act to amend section 4 of the Revised Organic Act of the Virgin Islands relating to voting age; to the Committee on Interior and Insular Affairs.

ADJOURNMENT

Mr. ANDERSON of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 52 minutes p.m.), the House adjourned until tomorrow, Thursday, October 30, 1969, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1295. A letter from the Attorney General, transmitting a report on Department of Justice activities in the enforcement of chapter 42 of title 18 of the United States Code (extortionate credit transactions) for the period May 29, 1968, through June 30, 1969, pursuant to the provisions of that law; to the Committee on Banking and Currency.

1296. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting the annual report of the Bank for fiscal year 1969, pursuant to the provisions of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking and Currency.

1297. A letter from the Comptroller General of the United States, transmitting a report on problems encountered in resolving weaknesses in State right-of-way acquisition activities, Federal Highway Administration, Department of Transportation; to the Committee on Government Operations.

1298. A letter from the Executive Director, Federal Communications Commission, transmitting a report on the backlog of pending applications and hearing cases in the Commission as of September 30, 1969, pursuant to the provisions of section 5(e) of the Communications Act, as amended; to the Committee on Interstate and Foreign Commerce.

1299. A letter from the Attorney General, transmitting a draft of proposed legislation to amend section 3731 of title 18, United States Code, relating to appeals by the United States in criminal cases; to the Committee on the Judiciary.

1300. A letter from the Attorney General, transmitting a draft of proposed legislation to amend title 18 of the United States Code to prohibit certain uses of likenesses of the great seal of the United States, and of the seals of the President and Vice President; to the Committee on the Judiciary.

1301. A letter from the Assistant Secretary of the Interior (Administration), transmitting a report on receipts and expenditures of the Department of the Interior in connection with the administration of the Outer Continental Shelf Lands Act of 1953 during fiscal year 1969, pursuant to the provisions of section 15 of the act; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MATSUNAGA: Committee on Rules: House Resolution 602. Resolution for consideration of H.R. 14252, a bill to authorize the Secretary of Health, Education, and Welfare to make grants to conduct special educational programs and activities concerning the use of drugs and for other related educational purposes (Rept. No. 91-602). Referred to the House Calendar.

Mr. ANDERSON of Tennessee: Committee on Rules: House Resolution 603. Resolution for consideration of House Joint Resolution 589, joint resolution expressing the support of the Congress, and urging the support of Federal departments and agencies as well as other persons and organizations, both public and private, for the international biological program (Rept. No. 91-603). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BARRETT:

H.R. 14562. A bill to amend the act of June 28, 1948, as amended, relating to the acquisition of property for the Independence National Historical Park; to the Committee on Interior and Insular Affairs.

By Mr. BIESTER (for himself and Mr. ROONEY of Pennsylvania):

H.R. 14563. A bill to provide that the U.S. District Court for the Eastern District of Pennsylvania shall be held at Allentown in addition to Easton and Philadelphia; to the Committee on the Judiciary.

By Mr. BROTZMAN (for himself and Mr. WYMAN):

H.R. 14564. A bill to require the Bureau of the Budget to submit to the Congress certain monthly estimates concerning national income and expenditures; to the Committee on Government Operations.

By Mr. DINGELL:

H.R. 14565. A bill to provide standby authority for price control; to the Committee on Banking and Currency.

H.R. 14565. A bill to provide standby authority for price control; to the Committee Committee on Banking and Currency.

H.R. 14567. A bill to amend section 301 of the Clean Air Act to require the Secretary of Health, Education, and Welfare to issue regulations relating to certain public hearings;

to the Committee on Interstate and Foreign Commerce.

By Mr. GRAY:

H.R. 14568. A bill to encourage the growth of international trade on a fair and equitable basis; to the Committee on Ways and Means.

By Mr. JACOBS:

H.R. 14569. A bill to amend section 11–931 of title 11 of the District of Columbia Code to require the clerk of the Court of General Sessions, to stamp copies of certain papers that have been filed with him to show that the original of those papers was filed with him and when and with whom it was filed; to the Committee on the District of Columbia.

By Mr. PHILBIN:

H.R. 14570. A bill to provide additional benefits for optometry officers of the uniformed services; to the Committee on Armed Services.

By Mr. RIVERS:

H.R. 14571. A bill to amend the Central Intelligence Agency Retirement Act of 1964 for certain employees, as amended, and for other purposes; to the Committee on Armed Services.

By Mr. STAGGERS:

H.R. 14572. A bill to amend part I of the Interstate Commerce Act by the addition of a new section 13b so as to set forth the duty of railroads operating intercity passenger trains to provide and furnish reasonably adequate service and to authorize the Commission to establish and enforce standards of reasonably adequate service and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 14573. A bill to amend the Communication Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. TEAGUE of Texas (by request):

H.R. 14574. A bill to amend title 38, United States Code, to permit the furnishing of benefits to certain individuals conditionally discharged or released from active military, naval, or air service; to the Committee on Veterans' Affairs.

By Mr. WYMAN:

H.R. 14575. A bill to amend title II of the Social Security Act to provide a 15-percent across-the-board increase in the benefits payable thereunder, with subsequent cost-of-living increases in such benefits, and to amend the Internal Revenue Code of 1954 to provide for cost-of-living adjustments in social security taxes in order to assure continuing financing for such increases in benefits; to the Committee on Ways and Means.

By Mr. ANDERSON of Illinois (for himself and Mr. LUJAN):

H.R. 14576. A bill to authorize the disposal of nickel from the national stockpile; to the Committee on Armed Services.

By Mr. BROWN of California:

H.R. 14577. A bill to amend the Clean Air Act to ban the use of certain internal combustion engines in motor vehicles after January 1, 1978; to the Committee on Interstate and Foreign Commerce.

H.R. 14578. A bill to authorize a program of research, development, and demonstration projects for non-air-polluting motor vehicles; to the Committee on Interstate and Foreign Commerce.

H.R. 14579. A bill to amend the National Emission Standards Act to require standards be set at the most stringent possible levels, and to require the use of a National Bureau of Standards for certain technical service in connection with establishing such standards; to the Committee on Interstate and Foreign Commerce.

By Mr. MORGAN:

H.R. 14580. A bill to promote the foreign policy, security, and general welfare of the United States by assisting peoples of the world to achieve economic development within a framework of democratic economic, social, and political institutions, and for other purposes; to the Committee on Foreign Affairs.

By Mr. DEVINE:

H.R. 14581. A bill to amend the Social Security Act to provide an increase in benefits under the old-age, survivors, and disability insurance program, provide for automatic benefit increases thereafter in the event of future increases in the cost of living, provide for future automatic increases in the earnings and contribution base, and for other purposes; to the Committee on Ways and Means.

By Mr. DINGELL:

H.R. 14582. A bill to abolish the position of Commissioner of Fish and Wildlife; to the Committee on Merchant Marine and Fisheries.

H.R. 14583. A bill to provide that the imposition of taxes the proceeds of which are appropriated to the highway trust fund shall be suspended during any period when amounts in the fund are impounded or otherwise withheld from expenditure, and to provide similar rules with respect to the land and water conservation fund and the Federal aid to wildlife-restoration fund; to the Committee on Ways and Means.

H.R. 14584. A bill to modify ammunition recordkeeping requirements; to the Committee on Ways and Means.

By Mr. ECKHARDT (for himself, Mr. BRADEMAS, Mr. CAHILL, Mr. CONYERS, Mr. CORMAN, Mr. EDWARDS of California, Mr. EILBERG, Mr. GIBBONS, Mr. HALPERN, Mr. HUNGATE, Mr. KARTH, Mr. LEGGETT, Mr. MCCLOSKEY, Mr. MIKVA, Mr. O'HARA, Mr. PETTIS, Mr. REUSS, Mr. RIEGLE, Mr. ROSENTHAL, Mr. RYAN, Mr. SCHEUER, Mrs. SULLIVAN, Mr. THOMPSON of New Jersey, Mr. WHALEN, and Mr. WRIGHT):

H.R. 14585. A bill to amend the Federal Trade Commission Act to extend protection against fraudulent or deceptive practices, condemned by that act to consumers through civil actions, and to provide for class actions for acts in defraud of consumers; to the Committee on Interstate and Foreign Commerce.

By Mrs. GREEN of Oregon:

H.R. 14586. A bill to define conditions for the use of draftees in undeclared wars without their consent; to the Committee on Armed Services.

By Mr. MCCULLOCH (for himself, Mr. POFF, Mr. MACGREGOR, Mr. SMITH of New York, Mr. MESKILL, Mr. SANDMAN, Mr. RAILSBACK, Mr. WIGGINS, Mr. DENNIS, and Mr. FISH):

H.R. 14587. A bill to amend title 18 of the United States Code to prohibit certain uses of likenesses of the great seal of the United States, and of the seals of the President and Vice President; to the Committee on the Judiciary.

By Mr. MCCULLOCH (for himself, Mr. POFF, Mr. MACGREGOR, Mr. HUTCHINSON, Mr. SMITH of New York, Mr. MESKILL, and Mr. RAILSBACK):

H.R. 14588. A bill to amend section 3731 of title 18, United States Code, relating to appeals by the United States in criminal cases; to the Committee on the Judiciary.

By Mr. POLLOCK:

H.R. 14589. A bill to amend the Internal Revenue Code of 1954 to increase from $600 to $1,200 the personal income tax exemptions of a taxpayer (including the exemption for a spouse, the exemptions for a dependent, and the additional exemptions for old age and blindness), with further increases in such exemptions for taxpayers who reside in States where the cost of living is above the national average; to the Committee on Ways and Means.

By Mr. SHIPLEY:

H.R. 14590. A bill to provide additional benefits for optometry officers of the uniformed services; to the Committee on Armed Services.

By Mr. WIGGINS:

H.R. 14591. A bill to amend the Bankruptcy Act and the civil service retirement law with respect to the tenure and retirement of referees in bankruptcy; to the Committee on the Judiciary.

By Mr. WOLD:

H.R. 14592. A bill to amend the Consolidated Farmers Home Administration Act of 1961, as amended, to make interest income on water and waste disposal loans sold out of the Agricultural Credit Insurance Fund subject to Federal income taxes, and for other purposes; to the Committee on Ways and Means.

By Mr. HANLEY:

H.R. 14593. A bill to amend the Public Health Service Act to provide special assistance for the improvement of laboratory animal research facilities; to establish further standards for the humane care, handling, and treatment of laboratory animals in departments, agencies, and instrumentalities of the United States and by recipients of grants, awards, and contracts from the United States; to encourage the study and improvement of the care, handling, and treatment and the development of methods for minimizing pain and discomfort of laboratory animals used in biomedical activities; and to otherwise assure humane care, handling, and treatment of laboratory animals, and for other purposes; to the committee on Interstate and Foreign Commerce.

By Mr. HATHAWAY:

H.R. 14594. A bill to amend chapter 34 of title 38 of the United States Code to restore entitlement to educational benefits to veterans of World War II and the Korean conflict; to the Committee on Veterans' Affairs.

By Mr. LENNON:

H.J. Res. 976. Joint resolution to provide for the establishment of a Commission by the Secretary of Health, Education, and Welfare to review and assess all available data on smoking and health including the carrying on of original scientific research; to the Committee on Interstate and Foreign Commerce.

By Mr RUTH:

H.J. Res. 977. Joint resolution proposing an amendment to the Constitution of the United States relating to prayer and Bible reading; to the Committee on the Judiciary.

By Mr. BROTZMAN:

H. Con. Res. 431. Concurrent resolution expressing the sense of Congress with respect to North Vietnam and the National Liberation Front of South Vietnam complying with the requirements of the Geneva Convention; to the Committee on Foreign Affairs.

By Mr. OTTINGER (for himself, Mr. TEAGUE of Texas, Mr. CONYERS, Mr. WILLIAM D. FORD, Mr. HARRINGTON, and Mr. FARBSTEIN):

H. Con. Res. 432. Concurrent resolution to provide that failure of executive departments, agencies or instrumentalities of the Federal Government to respond within 60 days to requests from committees of Congress for reports on pending legislation shall create the conclusive presumption that such agencies favor enactment of the legislation and that enactment is consistent with the legislative program of the President; to the Committee on Rules.

By Mr. WHALLEY:

H. Res. 604. Resolution to express the sense of the House of Representatives that the United States maintain its sovereignty and jurisdiction over the Panama Canal Zone; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. MAILLIARD introduced a bill (H.R. 14595) for the relief of Mrs. Kathryn S. Ports, which was referred to the Committee on the Judiciary.