

up with in this plan that we are going to be voting on later. I don't know if it is perfect. I don't know if it will work. But I do know this: he is the Commander in Chief.

We do need to change the dynamics there. We do need to go forward in a way that will produce a positive result or decide what else we are going to do. That is what the Senate, in the minds of our forefathers, was intended to do.

Let's stop questioning each other's motives or threatening to block this, block that. Let's work this out. Let's have a full debate on this issue, beginning tonight, going forward tomorrow. I think everybody will be satisfied with the results, once we actually get to some votes.

I yield the floor.

The PRESIDING OFFICER (Mr. WEBB). The Senator from West Virginia.

Mr. BYRD. How much time do I now have?

The PRESIDING OFFICER. The Senator from West Virginia has 56½ minutes.

MINE SAFETY

Mr BYRD. I thank the Chair.

Mr. President, the great labor leader—and I mean great labor leader—and legendary president of the United Mine Workers of America, John L. Lewis, pleaded the cause of America's working men and women, as he said, "not in the quavering tones of a feeble mendicant asking alms, but in the thundering voice of the captain of a mighty host, demanding the rights to which free people, free men are entitled."

This was the voice of a true coal miner. I know that voice. I grew up in the coalfields of southern West Virginia. My dad—not my father, my dad—Titus Dalton Byrd, was a coal miner. He belonged to the United Mine Workers, then district 29, now district 17, local union 5771. My coal miner dad worked in the coal mines with my father-in-law, my wife's father, Fred James. My wife's brother-in-law was killed by a slate fall in a coal mine. My wife's brother-in-law died of pneumoconiosis, black lung.

I—yes, I—married a coal miner's daughter. You have heard the song "I'm a Coal Miner's Daughter." By whom? By Loretta Lynn.

I married a coal miner's daughter a long time ago. We were married when we were 19. She was 19; I was 19. That marriage lasted almost 69 years, until her death. And today she is in heaven. She is in heaven. Yes, she is in heaven today. I believe that.

Together, my wife Erma and I—mostly Erma—ran a grocery store, yes, in Sophia, WV. Our customers were coal miners for the most part. Our neighbors were coal miners. Our friends were coal miners and others, but coal miners, surely.

Today my constituents in West Virginia, the core—certainly, the core in my viewpoint, but my constituents—

includes coal miners. When I speak about coal miners and their safety underground, I am speaking about coal miners, my people, my family. I am speaking from the bottom of my soul when I speak about coal miners. It is a different breed of people, coal miners. Yes, they would leave the open air and sunshine and go back into the bowels of the Earth to search for their brothers, their brother coal miners—Black or White, it doesn't make any difference. They are all black when they come out of that mine. But they are all coal miners. They are West Virginians. I am talking about my constituents. I am speaking from the heart because that is the heart of my background, the coal miners.

I know what it is to stand at the mouth of a mine after an explosion. I know what it is to see the widows and the children who are left to shed their tears and to bury their loved ones. I know. I have helped to carry coal miners who had died around the mountain-side. Their coffins are very heavy. I am no big man, never was, but I have helped to carry those coffins. And they are heavy, especially when we are walking on hillsides, yes. So I know what I am speaking about, and I am speaking from my heart. That is where I grew up. I expect to be buried there, yes, in the mountain soil of West Virginia.

The coal miner is proud—yes, you better believe it—of his profession. He is patriotic in that he mines the coal that fuels the American economy. You see those lights up there that are lighting this wonderful, beautiful Chamber of the Senate, the only Chamber of its kind in the world, the Senate, yes. The miner fuels those electric lights that surround this Chamber.

He, the coal miner, is religious in that he trusts in almighty God to keep him safe in his dirty, dangerous job; and he trusts in that God to keep and protect his family, while he, the coal miner, is away. He is courageous—you better believe it—in that he goes underground every day, even though he is surrounded by life-threatening hazards; they are overhead. I have been in the mines. I was not a coal miner, but I was in there with my dad—not my father but my dad. I have been in those mines. I heard the timbers, the tree trunks holding up the tons and tons and tons of earth and rock overhead to keep those rocks from crashing to the Earth and killing the miners. I could hear those timbers cracking. When I was in there, I heard the timbers—these trees, as they were. They are cut off, and they are 8, 10, 12, 15 feet, whatever the height of the covering earth is from the floor there; they were coming down. I heard them timbers cracking under that weight.

Coal miners provide so much for my country, for your country, for their country. And we—ROBERT BYRD, Senator ROCKEFELLER, and other Senators and Members in the House—owe them, the coal miners, our best efforts in se-

curing safer working conditions. Not as their alms but their right.

In 1977, the Congress passed—I was in this Senate in 1977—what is arguably the toughest worker safety law in the history of the world, the Federal Mine and Safety Health Act. I helped to write that law. I helped to champion its enactment in the Congress of the United States. It created the Mine Safety and Health Administration, MSHA, within the U.S. Department of Labor—MSHA, the Mine Safety and Health Administration, was in the Department of Labor—and the position of Assistant Secretary of Labor for Mine, Safety, and Health. I helped. I was here.

The opening passages of the MINE Act tell us all we need to know about what MSHA's priorities ought to be:

The first priority and concern of all in the coal or other mining industry must be the health and safety of its most precious resource: the miner, the coal miner.

In recent years, that obligation has been neglected. It has been eroded by a Department of Labor that emphasizes so-called "compliance assistance" programs and has tried to recast its role as a technical consultant to business rather than a protector of working men and women. Let me read that again. In recent years, that obligation has been neglected. It has been eroded by a Department of Labor that emphasizes so-called "compliance assistance" programs and has tried to recast its role as a technical consultant to business rather than a protector of working men and women; namely, coal miners.

The Department's obligation to protect the safety of the coal miners has been eroded by arbitrary spending targets that are designed to appease the White House Budget Office rather than ensure the safety of the coal miners in the coal fields. These policies have fostered the highest casualty rates in the coalfields in more than a decade. Forty-seven coal miners perished—died, dead—last year, half of them in West Virginia. In the opening days of 2006, our Nation mourned as 12 coal miners—yes, my darling wife was on her deathbed at that time in the opening days of 2006; that was last year. Our Nation mourned after a 40-hour rescue effort was unable to save 12 miners at the Sago mine in Upshur County, WV. Our Nation watched with disbelief as an underground mine fire, days later, at the Aracoma Alma mine in Logan County, WV, killed 2 more miners after another exhausting 40-hour rescue effort. The disbelief—yes, the disbelief—soon turned to outrage as congressional hearings and investigative news reports revealed an atrocious safety record at the Sago and Alma mines. The Department of Labor had been lax in assessing penalties for repeat violations. When penalties were assessed, habitual violators were too often given minor slaps on the wrist or had their fines reduced or negated within the appeals process.

Congressional hearings revealed the Department of Labor had abandoned or

had withdrawn countless safety standards prior to the Sago and Alma tragedies, leaving coal miners underground with outdated emergency breathing and communications equipment. How would you like to be a coal miner in those conditions? Emergency preparedness and rescue training had been allowed to fall by the wayside, as the safety of coal miners became a secondary concern to what? To rising corporate profits. Shame, shame. This is the lives of men and women underground, in the bowels of the Earth.

The Department of Labor had allowed the Federal budget for mine safety to be squeezed by lesser priorities, reducing the number of coal mine safety inspectors by 217 since January 2001. The Government Accountability Office—the General Accounting Office—had warned as early as 2003 about the timeliness of inspections, and the Mine Safety and Health Administration, which was created to be an ever-vigilant advocate for the safety of coal miners, had been failing in its duty. Mine safety budgets and regulations had been allowed to erode at the Sago mine.

MSHA could have required better communications. That alone might have saved those miners. It could have mandated better emergency preparedness. It could have been more vigorous in its inspections and assessments of penalties. If MSHA, the Mine Safety and Health Administration, had used its authorities under the Mine Act to the fullest extent possible, those miners who perished at Sago and Alma might have survived. They might have been alive today. Who knows.

Coal mining communities across Appalachia were outraged by these findings, and they demanded action. They marched through the Halls of the Congress carrying pictures of their husbands, their brothers, their sons who had perished in the coalfield.

In response, my illustrious colleague, Senator JAY ROCKEFELLER, and I, along with the entire West Virginia delegation in the House of Representatives—two Democrats and one Republican—introduced mine safety legislation to force the Department of Labor to act. The chairman and ranking member of the Senate Health, Education, Labor, and Pensions Committee, Senators MIKE ENZI and TED KENNEDY, rallied to our cause. Our offices began to craft, to shape, to write important and much needed mine safety legislation.

By the end of May—May, O May, when the flowers bloom—the Senate had passed legislation to add the first new safety requirements to the Mine Act since 1977. The MINER Act required additional oxygen. Oh, I can only live with oxygen. You can only live with oxygen. You, Mr. President, can only live with oxygen. You can't live without it. No, I mean by that, without it, a few minutes. Oxygen. It has been around since Adam and Eve inhabited the Garden of Eden.

The MINER Act required additional oxygen supplies underground. It re-

quired emergency wireless communications within 3 years. It required improvements in emergency preparedness, rescue teams, and accident notification.

Separately, I worked to secure \$36 million in the fiscal year 2006 Iraq supplemental for the Mine Safety and Health Administration, MSHA, to hire additional mine safety inspectors and for the National Institute for Occupational Safety and Health, NIOSH, to expedite the introduction of emergency breathing and communications equipment into the coal mines.

Who am I? I am a member of the Senate Appropriations Committee. Yes, I am the chairman of the Senate Appropriations Committee. So I worked to do that.

By June—the merry month of June—the Congress had passed the MINER Act and added \$36 million to the Federal budget for mine safety. By the end of the summer, the Department of Labor had pledged, with the funds that I, a coal miner's boy, had secured, to hire 170 new coal inspectors by the end of the fiscal year 2007. By the end of calendar year 2006, the coal mining industry had at last focused on getting emergency communications and breathing equipment into the coal mines. That's late, isn't it? By the end of the calendar year 2006, while coal mining has been going on for decades—yes, yes, back beyond the beginning of the 20th century until now—by the end of the calendar year 2006, the coal mining industry had at last focused on getting emergency communications equipment and breathing equipment into the coal mines of America.

The question before the Congress now—do it here, do it now; do it here, do it now. Have you heard that on the radio or TV? Do it here; do it now. The question before the Congress now is, what happens next?

We know that extensive oversight will be required by the Congress not only to ensure that MSHA fulfills its duties under the MINER Act but also to ensure that the coal operators meet their duties. So we know that extensive oversight will be required by the Congress not only to ensure that MSHA fulfills its duties under the MINER Act but also to ensure that the coal operators meet their duties.

The House and Senate appropriations and authorizing committees have a significant role to play in this regard. We must do all—we must do all—that we can to ensure that the deadlines set by the MINER Act are met. We must do all that we can to ensure that wireless communications are available to coal miners within the next 2½ years, after all the many years that have gone before. If that means providing more funds to NIOSH to expedite the development of wireless communications and tracking and prodding the industry along to purchase and install that equipment, count on me. As the old Bible says: Here am I, send me. Here am I, send me.

We know also that several issues have not yet been addressed by the Congress from last year. The Congress has not yet addressed the issue of refuge chambers. The MINER Act required NIOSH to study the issue and report back by the end of this year. About what? Refuge chambers.

The Congress must require MSHA and NIOSH to find a way to make refuge chambers. What does "refuge" mean? A place to go. Refuge chambers, a place to go for refuge, for safety after an explosion. During the explosion, that's a big wind, a big explosion.

The Congress has not yet addressed the issue of whether belt air should be used to ventilate the working areas of underground mines—belt air, a conveyor belt that comes along, a belt, a wide belt that comes on rollers and comes into the mine.

Given how the use of belt air and inadequate safety precautions at Alma Mine resulted in the death of two coal miners last year, this is an issue that will not go away with yet another study and yet another report to the Congress. The Department of Labor must reconsider the belt air rule issued in 2004.

We know that the low level of penalties remains an ineffective deterrent for too many coal operators. I am not against coal operators. We have to have them. They invest money, their money. They invest money. We know the low level of penalties remains an ineffective deterrent for too many coal operators. I know many of them personally. I like them. They like me, I think. Penalties are not commensurate with the seriousness of violations.

The Department of Labor recently informed my office that the accident at the Jim Walters Resources Mine in Alabama that killed 13 miners in 2001 will be punished with a fine as little as \$5,000—\$5,000. That is disgusting. That is disgusting. It is clearly a signal to the Congress that the penalty system demands further improvement.

Last October, MSHA issued its procedural instruction letter to revise the structure for how penalties are assessed by its inspectors. That procedural letter implemented the minimum penalty provision of the MINER Act. However, if higher fines are being assessed by inspectors but continue to be reduced or negated within the appeals process, then MSHA's procedural letter is almost irrelevant.

How much time do I have remaining, may I ask the Chair?

The PRESIDING OFFICER. The Senator has 19 minutes remaining.

Mr. BYRD. I thank the Chair.

Mr. President, we need to find a way to ensure that fair penalties are assessed by administrative law judges and the Mine Safety and Health Review Commission within the appeals process.

We must continue to review and ask questions about the structure of mine rescue teams and the changes codified by the MINER Act last year. Here is

another area where the rules issued by MSHA in recent years have contradicted the intent and spirit of the 1977 Mine Act.

We must continue to probe whether enough has been done. Two deaths last month in southern West Virginia serve as a macabre reminder that the crisis in the coal fields is not yet over—will probably never be over—but we have got to work at it. It is not yet over. We must be innovative. It is time for us to stop simply addressing mine disasters as they happen. We must seek opportunities to get ahead of the dangers. We must use foresight as well as hindsight.

Last month, I met with the Assistant Secretary of Labor, Mine Safety and Health, Richard Stickler. Mr. Stickler is in his current position because of a recess appointment in October 2006. He has not been confirmed by the Senate, and so his appointment will expire at the end of this year. I am hopeful that he will prove himself a friend of the coal miner. He has a dedicated team at MSHA, which includes many former coal miners who would like to see MSHA do better. I am convinced that more can be done. The question is whether the Department of Labor and the White House will let MSHA do what needs to be done. The Congress will get some insight into that question as it reviews the President's budget request for mine safety, which was delivered today.

As chairman of the Senate Appropriations Committee, and as a Senator who will have some say about the Federal budget for mine safety, hear me when I say that the days of cheating the safety and well-being of our Nation's coal miners are over. The Senate Appropriations Committee will examine the various mine safety accounts, and the Senate Appropriations Committee will make its recommendations to the Senate about where improvements can be made. That process has already begun with the inclusion of \$13 million above—above, on top of, over—the President's request in the continuing resolution for the fiscal year 2007 for MSHA to hire and train additional coal safety inspectors. I and other Senators have encouraged the President of the United States—hear me—to include additional funds to retain those inspectors in his mine safety budget request for the fiscal year 2008, and I am glad that the President appears to have done so.

This is an issue that is close to my heart, and I pledge to do all that I can to increase congressional oversight in the coal field. As a son of the coal fields, the Appalachian coal fields, as the son of a coal miner, I am determined, yes, determined to be the “captain of a mighty host demanding the rights to which free men”—free men—coal miners—“free men are entitled.” And women. Free men and women are entitled.

Mr. President, that concludes my prepared speech.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I say this to the distinguished Senator from West Virginia. I have been privileged to be here but a small fraction of the time that he has, 29 years here and well over 40 for my colleague from West Virginia, but in that period we have worked many times on behalf of coal miners.

Mr. BYRD. Yes.

Mr. WARNER. As the Presiding Officer recognized, my fellow colleague from Virginia, our States are joined.

Mr. BYRD. Yes.

Mr. WARNER. Those mines have a great deal of comparability, those in Virginia and those in West Virginia.

Mr. BYRD. Joined at the hip.

Mr. WARNER. They are joined. The plight of the miners and their families has been a subject that no Senator in the modern history of this Senate has fought harder for than the senior senator from West Virginia, and very often you have involved me and my colleagues, whoever they might be. I have served with three now, the distinguished HARRY BYRD, Jr., whom you will recall, Senator Robb, and Senator Allen. All of us have worked on this subject.

I hope to join you on this, and I hope the Presiding Officer, likewise, will work on this subject of coal mine safety. So I thank my friend.

Mr. BYRD. I thank the distinguished, the very distinguished senior senator from the great State of Virginia. I thank him.

Mr. WARNER. Mr. President, I thank my colleague, and we will work together.

EXPRESSING THE SENSE OF CONGRESS ON IRAQ

Mr. WARNER. Mr. President, the cloture vote was very fully discussed by the distinguished Senator from Nevada and the distinguished Senator from Kentucky, with leadership and our ranking members, so I am confident that somehow this matter can be worked out. I want you to know, however, that I stand steadfast behind the content of a resolution I put together, along with Senator BEN NELSON, Senator SUSAN COLLINS, and some eight other cosponsors.

The question is how does the Senate bring it into focus under the complexity of our rules. I won't take the time to deal with that now, but I would say to those following this debate that we stand, the Senators I mentioned, the two principal cosponsors and myself, firmly behind this resolution, the content of which has been amended.

Mr. President, I ask unanimous consent that the amended copy of the resolution be printed in the RECORD following my remarks, allowing ready reference for those persons examining the CONGRESSIONAL RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. WARNER. That resolution has been distorted and misunderstood in the debate thus far. That is one of the reasons I am so anxious to proceed with this debate. I want to make clear, because it was mentioned that perhaps these resolutions were brought along for political cover, that on that issue each Senator has to speak for themselves, but I assure my colleagues that this Senator from Virginia has moved forward with my thoughts and my ideas in the best interest of the country and the best interest of the men and women of the United States military, and not for any political cover. Nor will I, in any way, impugn the motives of Senators whose opinions differ from mine.

This being my 29th year in the Senate, I have never, to my knowledge, ever intentionally, and I don't think indirectly, impugned the motive of any Senator for the position he or she has taken on a matter. We are all patriots. We are equal patriots. We all support the men and women of the Armed Forces. Let that be understood.

I firmly believe, as we are approaching this debate, that it is imperative that the Senate work its will, and work its will in the open, on this issue which is so critical at this point in time in our many years of involvement in the Iraq situation.

I solidly support the President in his view that we cannot accept failure in getting a government, whether it is this one or an ensuing government, in Iraq up and running and functioning such that it can seize the full range of sovereignty in this nation, and not let this nation implode, causing absolute disaster throughout the region. Indeed, certainly as it relates to energy and other issues, it could impact severely on the rest of the world, not only in energy but in a signal that the terrorists have won. We cannot let that happen. So let's let the Senate work its will, and I think our colleagues here, the distinguished leaders, will work out a procedure by which we will do that. The comment was made, and understandably, that this is a nonbinding resolution. Nonbinding. Well, we have them in the history of the Senate. At this time, this Senator is not voting for any cutoff of funds. That is our one constitutional lever we can pull. As a matter of fact, in our resolution—I refer to our resolution as the one that I, together with Senator BEN NELSON and Senator SUSAN COLLINS of Maine have put together—we specifically have included an iteration of the concept advanced by our distinguished colleague Senator GREGG, which may come before the Senate. We solidly support that concept of no cutoff of funds.

What do we do short of that? Well, we have a debate. Somehow you have to have some focal point, something written down, some document in writing as to the ability of this institution, the Senate, to reach a consensus, and a bipartisan consensus, on how best we go