

security, stay the drilling of any well until a final decision on the appeal, and after a final hearing, at which any competent and relevant evidence may be introduced, may set aside any action or order of the department and enter such final order and decree as in its judgment is just and right and will best carry out the provisions of this article. From such final orders and decrees of the circuit court an appeal may be taken to the supreme court of appeals as now provided by law in proceedings in equity. During vacation periods or when for any reason the circuit court is not in session, such proceedings shall be before the judge of such court in vacation, or, in his absence, before the judge of an adjoining circuit, who may act until the return of the regular judge to his circuit, whereupon all further proceedings shall be had before the regular judge or circuit court having initial jurisdiction therein, and all proceedings in vacation shall be of like force and effect as if before the court in session. (1929, c. 86, §4.)

§5. Protective Devices When Well Penetrates Workable Coal Bed.—A well penetrating one or more workable coal beds shall be drilled to such depth, and of such size, as will permit the placing of casing and packers in the hole at such points and in such manner as will exclude all oil, gas or gas pressure from the coal bed, except such as may be found in the coal bed itself. Each string of casing run in the hole shall be provided with a steel casing shoe or collar firmly fixed on the bottom of the string of casing. Each string of casing run through a workable bed of coal shall be seated, at least thirty feet below

such coal bed, in twenty feet of cement, mud, clay or such other nonporous material as will make an effective seal. And after any such string of casing has been so seated, drilling may proceed forthwith to any required depth. (1929, c. 86, §5.)

§6. Protective Devices When Gas is Found Beneath or Between Workable Coal Beds.—In the event that gas is found beneath a workable coal bed before the hole has been reduced from the size it had at the coal bed, a packer shall be placed below the coal bed, and above the gas horizon, and the gas by this means diverted to the inside of the adjacent string of casing through perforations made in such casing, and through it passed to the surface without contact with the coal bed. Should gas be found between two workable beds of coal, in a hole, of the same diameter from bed to bed, two packers shall be placed, with perforations in the casing between them, permitting the gas to pass to the surface inside the adjacent casing. In either of the cases here specified, the strings of casing shall extend from their seats to the top of the well. (1929, c. 86, §6.)

§7. Continuance of Such Protective Devices During Life of Well.—In the event that a well becomes productive of natural gas or petroleum, all coal-protecting strings of casing shall remain in place during the life of the well. During the life of the well the annular spaces between the various strings of casing adjacent to workable beds of coal shall be kept open, and the top ends of all such strings shall be provided with casing heads, or such other suitable devices as will permit the free passage of

gas and prevent filling of such annular spaces with dirt or debris. (1929, c. 86, §7.)

§8. Protective Devices When Well is Drilled Through Horizon of Coal Bed From Which Coal Has Been Removed.—When a well is drilled through the horizon of a coal bed from which the coal has been removed, the hole shall be drilled at least thirty feet below the coal bed, of a size sufficient to permit the placing of a liner which shall start not less than twenty feet beneath the horizon of the coal bed and extend not less than twenty feet above it. Within this liner, which may be welded to the casing to be used, shall be centrally placed the largest sized casing to be used in the well, and the space between the liner and casing shall be filled with cement as they are lowered into the hole. Cement shall be placed in the bottom of the hole to a depth of twenty feet to form a sealed seat for both liner and casing. Following the setting of the liner, drilling shall proceed in the manner provided above. Should it be found necessary to drill through the horizon of two or more workable coal beds from which the coal has been removed, such liner shall be started not less than twenty feet below the lowest such horizon penetrated and shall extend to a point not less than twenty feet above the highest such horizon. (1929, c. 86, §8.)

§9. Plugging and Abandonment of Well; Notice of Intention; Affidavit Showing Time and Manner.—Prior to the abandonment of any well, the well operator shall notify, by registered mail, the coal operator or operators to whom notices are required to be given by section two of this article, and the department of mines, of its intention

to plug and abandon any such well (using such form of notice as the department may provide), giving the number of the well and its location and fixing the time at which the work of plugging and filling will be commenced, which time shall be not less than five days after the day on which such notice so mailed is received or in due course should be received by the department of mines, in order that a representative or representatives of the coal operator and of the department, or of both, may be present at the plugging and filling of the well. Whether such representatives appear or do not appear, the well operator may proceed at the time fixed to plug and fill the well in the manner hereinafter described. When such plugging and filling have been completed, an affidavit, in triplicate, shall be made (on a form to be furnished by the department) by two experienced men who participated in the work, in which affidavit shall be set forth the time and manner in which the well was plugged and filled. One copy of this affidavit shall be retained by the well operator, another (or true copies of same) shall be mailed to the coal operator or operators, and the third to the department of mines. (1929, c. 86, §9.)

§10. Methods of Plugging Well.—Upon the abandonment or cessation of the operation of any well drilled for natural gas or petroleum, the well operator, at the time of such abandonment, or cessation, shall fill and plug the well in the following manner:

(a) Where the well does not penetrate workable coal beds, it shall either be filled with mud, clay or other nonporous material from the bottom of the well to a point

twenty feet above the top of its lowest oil, gas or water-bearing stratum; or a permanent bridge shall be anchored thirty feet below its lowest oil, gas or water-bearing stratum, and from such bridge it shall be filled with mud, clay or other nonporous material to a point twenty feet above such stratum; at this point there shall be placed a plug of cement or other suitable material which will completely seal the hole. Between this sealing plug and a point twenty feet above the next higher oil, gas or water-bearing stratum, the hole shall either be filled, or bridged and filled, in the manner just described; and at such point there shall be placed another plug of cement or other suitable material which will completely seal the hole. In like manner the hole shall be filled and plugged, or bridged, filled and plugged with reference to each of its oil, gas or water-bearing strata. However, whenever such strata are not widely separated and are free from water, they may be grouped and treated as a single sand, gas or petroleum horizon, and the aforesaid filling and plugging be performed as though there were but one horizon. After the plugging of all oil, gas or water-bearing strata, as aforesaid, a final plug shall be anchored approximately ten feet below the bottom of the largest casing in the well; from this point to the surface the well shall be filled with mud, clay or other nonporous material. In case any of the oil or gas-bearing strata in a well shall have been shot, thereby creating cavities which can not readily be filled in the manner above described, the well operator shall follow either of the following methods:

- (1) Should the stratum which has been shot be the lowest one in the well, there

shall be placed, at the nearest suitable point, but not less than twenty feet above the stratum, a plug of cement or other suitable material which will completely seal the hole. In the event, however, that the shooting has been done above one or more oil or gas-bearing strata in the well, plugging in the manner specified shall be done at the nearest suitable points, but not less than twenty feet below and above the stratum shot. Or (2), when such cavity shall be in the lowest oil or gas-bearing stratum in the well, a liner shall be placed which shall extend from below the stratum to a suitable point, but not less than twenty feet above the stratum in which shooting has been done. In the event, however, that the shooting has been done above one or more oil or gas-bearing strata in the well, the liner shall be so placed that it will extend not less than twenty feet above, nor less than twenty feet below, the stratum in which shooting has been done. Following the placing of the liner in the manner here specified, it shall be compactly filled with cement, mud, clay or other nonporous sealing material:

(b) Where the well has penetrated one or more workable coal beds, it shall be filled and securely plugged in the manner aforesaid, to a point forty feet below the lowest workable coal bed. If in the judgment of the well operator, the coal operator and the department of mines, a permanent outlet to the surface is required, such outlet shall be provided in the following manner: A plug of cement, or other suitable material, shall be placed in the well at a suitable point, not less than thirty feet below the lowest workable coal bed. In this plug and passing through the center of it

shall be securely fastened an open pipe not less than two inches in diameter, which shall extend to the surface. At or about the surface the pipe shall be provided with a device which will permit the free passage of gas, and prevent obstruction of the same. Following the setting of the cement plug and outlet pipe as aforesaid, the hole shall be filled with cement to a point twenty feet above the lowest workable coal bed. From this point the hole shall be filled with mud, clay or other nonporous material to a point thirty feet beneath the next overlying workable coal bed, if such there be, and the next succeeding fifty feet of the hole filled with cement, and similarly, in case there are more overlying workable coal beds. If, in the judgment of the well operator, the coal operator and the department of mines, no outlet to the surface is considered necessary, the plugging, filling and cementing shall be as last above described. (1891, c. 106, §2; 1897, c. 58 §2; Code 1923, c. 62D, §2; 1929, c. 86, §10.)

§11. When Coal Operator to File Maps and Plans as Prerequisite to Extension of Coal Operations; Petition for Leave to Conduct Operations Within Two Hundred Feet of Well; Proceedings Thereon.—Before here after removing any coal or other material, or driving any entry or passageway within less than five hundred feet of any well, and also before hereafter extending the workings in any coal mine beneath any tract of land on which wells are already drilled, or within five hundred feet of any well, or under any tract of land in visible possession by a well operator for the purpose of drilling for oil or gas, the coal operator shall forward, by registered mail, to, or

file a copy of the parts of its maps and plans which it is required by law to prepare and file and bring to date from time to time, showing its mine workings and projected mine workings beneath such tract of land and within five hundred feet of the outer boundaries thereof, simultaneously, with the well operator and the department of mines, accompanying each of said copies with a notice (form of which shall be furnished on request by the department of mines), addressed to the well operator and to the department of mines at their respective addresses, informing them that such plans or maps and notice are being mailed by registered mail to them, or are being filed and served upon them, respectively, pursuant to the requirements of section eleven of this article. Following the filing of such parts of said plans or maps as aforesaid, the coal operator may proceed with its mining operations in the manner and as projected on such plans or maps, but shall not remove any coal or other material or cut any passageway nearer than two hundred feet of any completed well, or well that is being drilled, or for the purpose of drilling which a derrick is being constructed, without the consent of the department of mines, and the coal operator shall, at least every six months, bring such plans or maps so filed with the department to date, or file new plans and maps complete to date.

Application may be made at any time to the department of mines by the coal operator for leave to mine or remove coal or conduct its mining operations within two hundred feet of any well, by petition, duly verified, showing the location of the well, the workings adjacent to the well and any other

material facts, and what further mining operations within two hundred feet of the well are contemplated, and praying the approval of the same by the department, and naming the well operator as a respondent. The coal operator shall file such petition with, or mail the same by registered mail to, the department and shall at the same time serve upon or mail by registered mail a true copy to the well operator. The department of mines shall, forthwith upon receipt of such copy, notify the well operator that it may answer the petition within five days, and that in default of an answer the department may approve the proposed operations as requested, if it be shown by the petitioner or otherwise to the satisfaction of the department that such operations are in accordance with law and with the provisions of this article. At the expiration of such five-day period, the department, whether an answer be filed or not filed, shall fix a time and place of hearing within ten days, of which it shall give the coal operator and the well operator five days' written notice by registered mail, and after a full hearing, at which the well operator and coal operator, as well as the department of mines, shall be permitted to offer any competent and relevant evidence, the department shall grant the request of the coal operator or refuse to grant the same, or make such other decision with respect to such proposed further operations in the vicinity of any such well as in its judgment is just and reasonable under all the circumstances and in accordance with law and the provisions of this article. The department of mines shall docket and keep a record of all such proceedings substantially as required in the last paragraph of section three of this article, and from any such final decision or order of the

department of mines, either the well operator or coal operator, or both, may, within ten days, appeal to the circuit court of the county in which the well about which approval of such further operations is involved is located. The procedure in the circuit court shall be substantially as provided in section four, the department being named as a respondent. From any final order or decree of the circuit court, an appeal may be taken to the supreme court of appeals as heretofore provided. (1929, c. 86, §11.)

§12. Supervision by Department of Mines Over Drilling and Mining Operations; Complaints; Hearings; Appeals.—The department shall exercise supervision over the drilling, casing, plugging and filling of all wells and of all mining operations in close proximity to any well and shall have such access to the plans, maps and other records and to the properties of the well operators and coal operators as may be necessary or proper for this purpose, and, either as the result of its own investigations or pursuant to charges made by any well operator or coal operator, the department may itself enter, or shall permit any aggrieved person to file before it, a formal complaint charging any well operator with not drilling or casing, or not plugging or filling, any well in accordance with the provisions of this article, or charging any coal operator with conducting mining operations in proximity to any well contrary to the provisions of this article, or to the order of the department. True copies of any such complaints shall be served upon or mailed by registered mail to any person so charged, with notice of the time and place of hearing, of which the operator or operators so charged shall be given at least five days' notice. At the time

and place fixed for hearing, full opportunity shall be given any person so charged or complaining to be heard and to offer such evidence as desired, and after a full hearing, at which the department may offer in evidence the results of such investigations as it may have made, the department shall make its findings of fact and enter such order as in its judgment is just and right and necessary to secure the proper administration of this article, and, if it deems necessary, restraining the well operator from continuing to drill or case any well or from further plugging or filling the same, except under such conditions as the department may impose in order to insure a strict compliance with the provisions of this article relating to such matters, or restraining further mining operations in proximity to any well, except under such conditions as the department may impose. From any such order an appeal, naming the department as a respondent, may be taken by the operator or operators so restrained, within ten days of notice of entry of the same, to the circuit court of the county in which the well involved is located, and the department or complainant or complainants, or both, may in case such order is disobeyed, apply at any time to such circuit court for a decree enforcing the same (1929, c. 86, §12.)

§13. Rules and Regulations; Hearings Before Department of Mines; Appeals.—The department shall prescribe rules of procedure and for offering evidence in all matters brought before it, and shall prepare and, on request, furnish to applicants copies of forms of notices and of other forms that the department may require to be used, and prescribe the manner of serving the same. The department may also promulgate such other

rules and regulations as it may deem necessary or helpful in securing uniformity of procedure in the administration of this article. Any matter in controversy before the department shall, after hearing or hearings, of which all persons interested have had due notice and at which they have been given an opportunity to appear and be heard and to offer evidence and to make argument by counsel if desired, be decided by the department as may seem to it to be just and reasonable and necessary or desirable for the proper enforcement of the provisions of this article.

Whether or not it be so expressly stated, an appeal from any final decision or action by the department in administering the provisions of this article may be taken by any aggrieved person within ten days of notice of such action or decision, to the circuit court of the county in which the subject matter of such decision or action is located, and in all cases of appeals to the circuit court, that court shall certify its decisions to the department of mines, and from all such final decisions an appeal shall lie to the supreme court of appeals as now provided by law in cases in equity. Any party feeling aggrieved by the final order of the circuit court affecting him or it, may present his or its petition in writing to the supreme court of appeals, or to a judge thereof in vacation, within twenty days after the entry of such order, praying for the suspension or modification of such final order. The applicant shall deliver a copy of such petition to the department of mines and to all other parties of record, before presenting the same to the court or judge. The court or judge shall fix a time for the hearing on the application, but such hearing shall not be

held sooner than seven days, unless by agreement of the parties, after its presentation, and notice of the time and place of such hearing shall be forthwith given to the department of mines and to all other parties of record. If the court or judge, after such hearing, be of opinion that such final order should be suspended or modified, the court or the judge may require bond, upon such conditions and in such penalty, and impose such terms and conditions upon the petitioner as are just and reasonable. For such hearing the entire record before the circuit court, or a certified copy thereof, shall be filed in the supreme court, and that court, upon such papers, shall promptly decide the matter in controversy as may seem to it to be just and right, and may award costs in each (1929, c. 86, §13.)

§14. Preventing Waste of Gas.—Natural gas shall not be permitted to waste or escape from any well or pipe line, when it is reasonably possible to prevent such waste, after the owner or operator of such gas, or well, or pipe line, has had a reasonable length of time to shut in such gas in the well, or make the necessary repairs to such well or pipe line to prevent such waste: **Provided, however,** That (a) if, in the process of drilling a well for oil or gas, or both, gas is found in such well, and the owner or operator thereof desires to continue to search for oil or gas, or both, by drilling deeper in search of lower oil or gas-bearing strata, or (b) if it becomes necessary to make repairs to any well producing gas, commonly known as "cleaning out," and if in either event it is necessary for the gas in such well to escape therefrom during the process of drilling or making repairs, as the case may be, then the owner or operator of such well shall

prosecute such drilling or repairs with reasonable diligence, so that the waste of gas from the well shall not continue longer than reasonably necessary, and if, during the progress of such deeper drilling or repairs, any temporary suspension thereof becomes necessary, the owner or operator of such well shall use all reasonable means to shut in the gas and prevent its waste during such temporary suspension: **Provided further,** That in all cases where both oil and gas are found and produced from the same oil and gas-bearing stratum, and where it is necessary for the gas therefrom to waste in the process of producing the oil, the owner or operator shall use all reasonable diligence to conserve and save from waste so much of such gas as it is reasonably possible to save. (1891, c. 106, §1; 1897, c. 58, §3; Code 1923, c. 62D, §3.)

§15. Right of Adjacent Owner or Operator to Prevent such Waste; Recovery of Cost.—If the owner or operator of any such well shall neglect or refuse to drill, case and equip, or plug and abandon, or shut in and conserve from waste the gas produced therefrom, as required to be done and performed by the preceding sections of this article for a period of twenty days after a written notice so to do, which notice may be served personally upon the owner or operator, or may be posted in a conspicuous place at or near the well, it shall be lawful for the owner or operator of any adjacent or neighboring lands to enter upon the premises where such well is situated and properly case and equip such well, or, in case the well is to be abandoned, to properly plug and abandon it, or in case the well is wasting gas, to properly shut it in and make

such needed repairs to the well to prevent the waste of gas, in the manner required to be done by the preceding sections of this article; and the reasonable cost and expense incurred by an owner or operator in so doing shall be paid by the owner or operator of such well and may be recovered as debts of like amount are by law recoverable. (1891, c. 106, §§4, 5; 1897, c. 58, §4; Code 1923, c. 62D, §4.)

§16. Restraining Waste.—Aside from and in addition to the imposition of any penalties under this article, it shall be the duty of any circuit court in the exercise of its equitable jurisdiction to hear and determine any bill or bills in equity which may be filed to restrain the waste of natural gas in violation of this article, and to grant relief by injunction or by other decrees or orders, in accordance with the principles and practice in equity. The plaintiff in such bill shall have sufficient standing to maintain the same if he shall aver and prove that he is interested in the lands situated within the distance of one mile from such well, either as an owner of such land, or of the oil or gas, or both, thereunder, in fee simple, or as an owner of leases thereof or of rights therein for the production of oil and gas or either of them. (1897, c. 58, §7; Code 1923, c. 62D, §7.)

§17. Offenses; Penalties.—Any person or persons, firm, partnership, partnership association or corporation willfully violating any of the provisions of this article which prescribe the manner of drilling and casing or plugging and filling any well, or which prescribe the methods of conserving gas from waste, or which fix the distance from wells

within which mining operations shall not be conducted without the approval of the department, or violating the terms of any order of the department allowing mining operations within a lesser distance of any well than that prescribed by the article, shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding two thousand dollars, or imprisonment in jail for not exceeding twelve months, or both, in the discretion of the court, and prosecutions under this section may be brought in the name of the State of West Virginia in the court exercising criminal jurisdiction in the county in which the violation of such provisions of the article or terms of such order was committed, and at the instance and upon the relation of any citizens of this State.

(1891, c. 106, §3; 1897, c. 58, §6; Code 1923, c. 62D, §6; 1929, c. 86, §14.)

CHILD LABOR

Chapter 21 Article 6

Sec.

1. Employment of children under fourteen.
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§1. Employment of Children Under Fourteen.—No child under fourteen years of age shall be employed, permitted or suffered to work in, about, or in connection with any gainful occupation except agriculture or domestic service: **Provided,** That boys twelve years of age or over may be employed in mercantile establishments and business offices outside of school hours, if they obtain a special work permit from the school authorities as hereinafter provided.

It shall be unlawful for any person, firm or corporation to employ or permit any child, under fourteen years of age to work in any business or service whatever during any of the hours when the public schools of the school district in which the child resides are in session. (1887, c. 11, §1; 1891, c. 15, §1; 1905, c. 75, §1; 1911 c. 60, §1; 1919, c. 17 §1; Code 1923, c. 15H, §71.)

§2. Employment of Children Under Sixteen in Certain Occupations; How Determined; Appeal to Supreme Court.—No child under the age of sixteen years shall be employed, permitted, or suffered to work in any occupation dangerous to the life or limb, or injurious to the health, or morals of such child. The state commission of labor, the state commissioner of health, and the state superintendent of free schools may, from time to time, after hearing duly had, determine whether or not any particular trade, process of manufacture, or occupation in which the

employment of children under the age of sixteen years is not already forbidden by law, or any particular method of carrying on such trade, process of manufacture, or occupation, is sufficiently dangerous to the lives or limbs, or injurious to the health or morals, of children under sixteen years of age to justify their exclusion therefrom. No child under sixteen years of age shall be employed or permitted to work in any occupation thus determined to be dangerous or injurious to such children. There shall be a right of appeal to the supreme court of appeals from any such determination.

No child under the age of sixteen years shall be employed or permitted to work in any mine, quarry, tunnel or excavation. No child under the age of sixteen years shall be apprenticed, given away, let out, or otherwise disposed of to any person or company to engage in the occupation or service of rope or wire walker, gymnast, contortionist, circus rider, acrobat or clown, nor in any indecent, obscene or immoral exhibition or practice; and it shall be unlawful for any person, firm or corporation, to take, receive or employ such child for any of the purposes or occupations mentioned in this paragraph. (1911, c. 60, §2; 1919, c. 17, §2; Code 1923, c. 15H, §72.)

§3. Issuance of Work Permit; Vacation Work Permit; Special Work Permit.—No child between the ages of fourteen and sixteen years shall be employed or permitted to work in any gainful occupation, unless the person, firm or corporation by whom such child is employed or permitted to work, obtains and keeps on file and accessible to officers charged with the enforcement of this

article, a work permit issued by the superintendent of schools of the city or county in which such child resides, or by some person authorized by him in writing. Before any such work permit has been issued, it shall be necessary to obtain in writing the consent of the parent or parents, guardian or custodian of such child. Whenever such work permit has been issued, or whenever an age certificate has been issued under the provisions of section five of this article, it shall be conclusive as to the age of the child on whose behalf such work permit or age certificate was issued. The superintendent of schools or person authorized by him in writing shall issue such work permit only upon receipt of the following documents.

Proof of Prospective Employment.—A written statement, signed by the person for whom the child expects to work, that he intends legally to employ such child and agrees to return the work permit to the issuing officer within two days after the termination of such child's employment;

Proof of Age.—(a) A birth certificate or attested transcript thereof issued by the registrar of vital statistics or other officer charged with the duty of recording birth; or

(b) A record of baptism or a certificate or attested transcript thereof showing the date of birth and place of baptism of the child; or

(c) A bona fide contemporary record of the date and place of the child's birth kept in the Bible in which the records of the births of the family of the child are pre-

served, or other documentary evidence approved by the state commissioner of labor, such as a passport showing the age of the child, a certificate of arrival in the United States issued by the United States immigration officers and showing the age of the child, or a life insurance policy: **Provided**, That such other satisfactory documentary evidence shall have been in existence at least one year prior to the time it is offered in evidence: **Provided further**, That a school record or parent's, guardian's or custodian's affidavit, certificate, or other written statement of age alone shall not be accepted;

(d) A certificate signed by the public health physician or a public school physician specifying what in the opinion of such physician is the physical age of the child. Such certificate shall show the height and weight of the child and other facts concerning its physical development revealed by examination and upon which the opinion of the physician as to the physical age of the child is based. In determining such physical age the physician shall require that the school record or the school census record showing the child's age be submitted as supplementary evidence.

The issuing officer shall require first the proof specified in subdivision (a) and shall not accept the proof designated in any subsequent subdivision until he shall be convinced that the proof specified in the preceding subdivision can not be obtained;

Proof of Schooling.—A certificate signed by the principal of the school last attended showing that the child can read and write

correctly simple sentences in the English language and that he has satisfactorily completed the studies covered in the first six yearly grades of the elementary public schools or their equivalent. In case such certificate can not be obtained, then the officer issuing the work permit shall examine such child to determine whether he can meet the educational standard specified and shall file in his office a statement setting forth the result of such examination: **Provided**, That the superintendent of schools or person authorized by him in writing shall have authority and is hereby empowered it issue a vacation work permit to children fourteen years of age or over without requiring a statement that the child has completed the sixth grade of the elementary course of study, or its equivalent, as hereinbefore provided. Such vacation work permit shall be different in form and color from the regular work permit and shall be valid only during the time when the public schools of the district in which the child resides are not in session. Every vacation work permit shall be null and void on the day the public schools open for regular session: **Provided further**, That the superintendent of schools or person authorized by him in writing shall have authority and is hereby empowered to issue a special work permit to any boy twelve years of age or over to work in business offices and mercantile establishments outside of school hours without requiring a statement that he has completed any school grade whatsoever;

Proof of Physical Fitness.—A certificate signed by a medical inspector of schools or public health officer stating that the child has been examined by him and in his opin-

ion has reached the normal development of a child of its age, and is in sound health and physically able to be employed in the occupation in which the child intends to engage. (1911, c. 60, §2; 1919, c. 17, §3; Code 1923, c. 15H, §73; 1927, c. 38.)

§4. Contents of Permit; Forms; Filing; Revocation.—The work permit mentioned in the foregoing section shall set forth the full name, the date and place of birth of the child, with the name and address of his parents, guardian or custodian, and shall certify that the child has appeared before the officer issuing the permit and submitted the proofs of age, physical fitness, schooling and prospective employment required in the foregoing section. Printed forms for such permits and certificates shall be prepared and furnished by the state commissioner of labor to the superintendent of schools in the cities and counties of the State. A copy of each permit issued shall be forwarded to the state commissioner of labor within four days after its issuance, and there shall be kept in the office of the issuing officer a record of all permits granted and of all applications denied as well as all certificates of age, schooling, physical fitness and prospective employment submitted by the applicants for permits. The state commissioner of labor may at any time revoke a permit if in his judgment it was improperly issued, and for this purpose he is authorized to investigate the true age of any child employed, to hear evidence, and to require the production of relevant books or documents. If the permit be revoked, the issuing officer and the person employing the child at the time shall be notified of such action, and the child shall not thereafter be employed or permitted

to labor until a new permit has been legally obtained. (1911, c. 60, §2; 1919, c. 17, §4; Code 1923, c. 15H, §74.)

§5. Age Certificate for Employer; Inquiry as to Age; Revocation of Certificate; Supervision by State Superintendent of Schools.— Upon the request of any employer who is desirous of employing a child who represents his or her age to be sixteen years or over, the local officer charged with the issuance of work permits shall require of such child the proof of age specified in section three of this article, and, upon receipt thereof, if it be found that the child is actually sixteen years of age or over, shall issue to such employer a certificate showing the age and date and place of birth of such child. Such age certificate, when filed in the office of the employer, shall be accepted by the officer charged with the enforcement of this article as evidence of the age of the child in whose name it was issued. Any officer charged with the enforcement of this article may inquire into the true age of a child apparently under the age of sixteen years who is employed or permitted to work in any gainful occupation and for whom no work permit or age certificate is on file, and if the age of such child be found to be actually under sixteen years, the presence of such child in such establishment shall be deemed a violation of the provisions of this article. The state commissioner of labor may at any time revoke any such age certificate if in his judgment it was improperly issued, and for this purpose he is authorized to investigate the true age of any child employed as in the case of work permits. The issuance of work permits and of age certificates shall be under the supervision of the state super-

intendent of free schools, who shall seek at all times to standardize this work. (1919, c. 17, §5; Code 1923, c. 15H, §74a.)

§6. Inmate of Industrial Home or School.—It shall be unlawful for superintendents or other persons in whose custody children of the West Virginia industrial school for boys, West Virginia industrial home for girls, West Virginia industrial school for colored boys, and West Virginia industrial home for colored girls are placed to permit such children to be employed in the factories or workshops outside of these institutions without first securing for them the permits required by this article. (1921, c. 145, §1; Code 1923, c. 15H, §73a.)

§7. Hours and Days of Labor by Miners; Duty of Employer to Post Notice Thereof.—No child under the age of sixteen years shall be employed or permitted to work in, about, or in connection with, any gainful occupation, except agriculture or domestic service, for more than six days in any one week nor more than forty-eight hours in any week, nor more than eight hours in any one day, nor before the hour of six o'clock in the morning, nor after the hour of seven o'clock in the evening of any day. Every employer shall post and keep posted in a conspicuous place in every room where any child between the ages of fourteen and sixteen years is employed or permitted to work, a printed notice setting forth the maximum number of hours such person may be required or permitted to work each day of the week, the hours beginning and ending work each day, and the time allowed for meals. The printed form of such notice shall be furnished by the state com-

missioner of labor, and the employment of such child for a longer time in any day than so stated, or at any time other than as stated in such printed notice, shall be deemed a violation of the provisions of this section. (1919, c. 17, §6; Code 1923, c. 15H, §74b.)

§8. Officers for Enforcement of This Article.—It shall be the duty of the state commissioner of labor, his assistants, factory inspectors, school truancy officers and accredited agents of the humane society, to enforce the provisions of this article: **Provided, however,** That the provisions relating to the employment of children in mines shall be enforced by the state department of mines, said department to make complaint against any person firm or corporation violating any of the provisions of this article, and to prosecute the same before any magistrate or court of competent jurisdiction. (1905, c. 75, §3; 1911, c. 60, §4; 1919, c. 17, §7; Code 1923, c. 15H, §74c.)

§9. Offenses; Penalty.—Any person or agent or representative of any firm or corporation, who violates any of the provisions of this article, or any parent, guardian, or custodian of any child, who permits such child to work in violation of any of the provisions of this article, or any superintendent of county or city schools who illegally issues a work permit to a child or any person who furnishes false evidence in reference to the age, birthplace or educational qualifications of a child, shall be guilty of a misdemeanor, and upon conviction thereof, shall, for a first offense, be fined not less than twenty nor more than fifty dollars; for a second offense, shall be fined not less than fifty nor more than two hundred dollars, or imprisoned for not

more than thirty days, or both fined and imprisoned; and for a third or subsequent offense, shall be fined not less than two hundred dollars, or imprisoned for not more than sixty days, or both fined and imprisoned. (1887, c. 11, §2; 1905, c. 75, §2; 1911, c. 60, §3; 1919, c. 17, §8; Code 1923, c. 15H, §74d.)

ADJOINING OWNERS

CHAPTER 37

ARTICLE 5

Sec.

1. Excavation near boundaries.
2. Survey of mine.
3. Prosecution under preceding sections.

§1. Excavations Near Boundaries.—No owner or tenant of any land containing coal shall open or sink, or dig, excavate or work in, any coal mine or shaft on such land, within five feet of the line dividing such land from that of another person or persons, without the consent in writing of every person interested in, or having title to, such adjoining lands in possession, reversion, or remainder, or of the guardian of any such person as may be an infant, or the committee of any such person as may be insane or convict. If any person shall violate this section, he shall forfeit five hundred dollars to any person injured thereby who may sue for the same. (Code 1849, c. 124, P. 7; Code 1860, c. 124, P. 7; Code 1868, c. 79, P. 7; Code 1925, c. 79, P. 7.)

(Revisor's Note—Insane persons and convicts are added in this section. The same reasons which are applicable to infants apply to them.)

§2. Survey of Mine.—The owner, tenant or occupant of any land on which a coal mine is opened and worked, or his agent, shall permit any person interested in, or having title to, any land coterminous with that in

which such coal mine is, to have ingress and egress with surveyors and assistants to explore and survey such mine at his own expense, and not oftener than once a month, for the purpose of ascertaining whether or not the preceding section has been violated. Every owner, tenant, occupant or agent, who shall refuse such permission, exploration or survey, shall forfeit twenty dollars for each refusal to the person so refused. (Code 1849, c. 124, P. 8; Code 1860, c. 124, P. 8; Code 1868, c. 79, P. 8; Code 1923, c. 79, P. 8.)

§3. Prosecution Under Preceding Sections.—A justice of the county in which such mine is, before whom complaint of such refusal is made, may issue summons to such owner, tenant, occupant or agent to answer such complaint. On the return of the summons executed, and proof that the complainant has right of entry, and that he has been refused without sufficient cause, the justice shall designate an early and convenient time for such entry to be made, and issue his warrant commanding the sheriff of the county to attend and prevent obstructions and impediment to such entry, exploration and survey. The cost of such summons, and a fee of three dollars to the sheriff executing the warrant shall be paid by the person whose refusal caused the complaint. But if the justice dismiss the complaint, the costs shall be paid by the party making it. (Code 1849, c. 124, Sec. 9; Code 1860, c. 124, Sec. 9; Code 1868, c. 79, Sec. 9; Code 1923, c. 79, Sec. 9.)

I hereby certify that the forgoing is a correct copy of the state laws pertaining to mining, as printed in the Official Code of West Virginia, 1931, and amended by the Legislature of 1933.

ERNEST L. BAILEY,
Chief of Department of Mines.

**EXPLOSIVES MALICIOUSLY
PLACED**
CHAPTER 21—ACTS 1933

(House Bill No. 332)

Sec.

1. Placing of dynamite or other explosive substance in or near coal mine, building, etc., with intent to destroy same, if human life or safety endangered if intent accomplished, a felony; penalty; carrying or possession of bomb or other explosive substance with intent to use same unlawfully against person or property, a felony; penalty.

**Be it enacted by the Legislature of
West Virginia:**

Section 1. If any person places in, upon, under, against, or near to any coal mine, building, car, vessel, or other structure, gunpowder, dynamite, nitroglycerine or any other explosive substance, with intent to destroy, throw down, or injure the whole or any part thereof, under such circumstances, that, if the intent were accomplished, human life or safety would be endangered thereby, although no damage is done, he shall be guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than one year; also if any person carries or possesses a bomb, bombshell or other explosive substance with the intent to use the same unlawfully against the person or property of another, he shall be guilty of a felony, and, upon conviction, shall be fined not to exceed five hundred dollars and be confined in the penitentiary not to exceed five years.

NOTICE

Rules adopted by the.....

.....

for the government and operation of its mines

at

County, West Virginia, made in compliance with the requirements of the Acts of the Legislature of 1931.

Sec. 72. Special Rules by Operator; Effect.—The operator of every mine in this State shall adopt special rules for the government and operation of his mine or mines, covering all the work pertaining thereto in and outside of the same, which, however, shall not be in conflict with the provisions of the mining laws of this State. Such rules, when established, shall be printed on cardboard, in the languages spoken by ten or more employees, and shall be posted in the drum house, tibble or some other conspicuous place about the mines where the same may be seen and observed by all employees at such mines. When such rules are so posted, they shall operate as a notice to all employees at such mine of their acceptance of the contents thereof. It shall be the duty of each mine operator to furnish a printed copy of such rules to each of his employees when requested by either or any of them.

RULES

WEST VIRGINIA SAFETY CREED

I believe in safety because duty demands it. My duty to my loved ones and to my fellowmen compels me to believe in and practice safety. I believe in safety because it is a duty I owe to my employer; as a safe man I am an asset to him, otherwise I am a liability. I believe in safety because the industry in which I earn my living is dependent upon safe men for its successful continuation.

DUTIES OF MINE FOREMEN

Rule 1. It is the first and paramount duty of the mine foreman to carefully observe, and require the strict observance by those under his supervision of the mining laws of West Virginia and the rules promulgated by the coal company for the purpose of avoiding injuries to employees.

The mine foreman is empowered and it is his duty to exercise thorough supervision over all working places. And—

To report to the District Mine Inspector any violations of the mining laws for prosecution in accordance with the provisions of such law.

To provide and deliver to working places an adequate supply of mine props, caps and timber.

To instruct all inexperienced employees in safety practices and safety methods.

To eliminate reckless conduct by employees in the performance of their work.

To require strict obedience to his orders.

To enforce rigid discipline.

DUTIES OF EMPLOYEES

Rule 2. A person seeking employment shall apply to the mine foreman outside of mine, and shall truly state his name, age, residence, citizenship, dependents, former occupations and employers, how long employed, whether or not he has been injured, how and where accident happened and length of time disabled, for preservation in the employment record of the company; and if requested by the company shall submit himself to a physical examination by the mine physician, the result of which examination shall be made a part of the employment record.

Rule 3. All employees upon entering the mine shall go direct to their working places, and no person shall be permitted to loiter in or about the mine, buildings or machinery, or go into an abandoned part of the mine without permission in writing from the mine foreman.

Every employee is forbidden from tampering with any door used for ventilation, or any machinery or equipment in or about the mines, except in the discharge of his duty.

Rule 4. When an employee is injured in the line of his employment, it shall be his duty to report such injury, however trivial, within twenty-four hours to the mine foreman in the presence of a witness, unless it be of such serious nature that he is unable to do so; and the mine foreman shall forthwith file a report of same in the company office, including name of witness.

Rule 5. It shall be the duty of each employee of this company:

To comply with the mining laws of this state and to report any violation coming under his observation to the mine foreman.

To observe every precaution to prevent accidents inside, outside or about the mines.

To obey the orders of the section foreman or mine bosses and their superiors, and assist in the maintenance of **order, safety,** and **discipline** throughout the plant.

TIMBERING

Rule 6. Every miner needing props, cap pieces and timber shall make request therefor at least one day in advance, and in case same is not supplied he shall cease work until material is furnished.

Rule 7. In addition to other tools, each miner shall be equipped with an axe and slate bar; and each day before beginning work shall examine his working place and take down all dangerous slate or make it safe by proper timbering.

(The best method to test the roof is to press the finger tips of one hand against the roof while a pick in the other hand is used to tap the roof. The hand pressed against the roof will feel the vibrations resulting from tapping. Attention should be paid to the sound as well. A clear, ringing sound denotes good condition, while a dull hollow sound indicates dangerous roof).

USE OF EXPLOSIVES

Rule 8. No employee shall take into any mine a larger quantity of powder or other explosive than he may expect to use

in one shift, and same shall be carried in an approved safe receptacle.

All explosives hauled into or out of mine shall be in compliance with Paragraph B, Section 63 of the State Mining Laws.

Rule 9. Not more than one shot shall be fired at one time and only one kind of explosive used in the same hole.

Coal dust or other inflammable material shall not be used for tamping, nor shall fuse be used unless with written permission of the mine foreman.

Detonators must always be kept separate from explosives, placed ten feet apart in holes cut in rib on side farthest away from track.

No short squib or fuse shall be used.

Rule 10. After a shot has been fired, the employee **before resuming work** shall make a careful examination as to the condition of the roof and its safety.

In case of miss-fire no person shall return to the working place for at least thirty minutes.

In no case shall the explosive be drilled out.

Rule 11. Shooting off the solid is prohibited, except by permission in writing from the mine foreman, under conditions prescribed by the District Mine Inspector.

GASEOUS MINES

Rule 12. No shots shall be fired in any place known to liberate explosive gas until such place has been properly examined by a competent person, and approved for work.

In mines liberating explosive gas shots shall be fired only by electric detonators and battery, or other method approved by the department of mines.

Rule 13. In mines where gas is likely to be encountered, a safety lamp or gas detector shall be provided for each cutting machine.

When dangerous gas is found the operator in charge shall immediately stop the machine, cut off the current, and machine shall not be started until gas has been removed and the place pronounced safe.

In any gaseous mine no cutting machine shall be operated more than thirty minutes without examination for the presence of gas.

Rule 14. In gaseous mines, fire bosses must examine all working places and adjacent places before men are permitted to enter the mine.

When pillars are being extracted or when falls of roof have occurred, the fire boss must go to the highest point to determine whether there is explosive gas present. He must leave his initials and date as proof of such examination.

HAULAGE AND TRAVEL

Rule 15. All persons are forbidden to ride upon any incline or upon any car engine, motor or other contrivance, except as permitted by law.

No employee shall travel to or from his work upon any slope, plane or motor road when another road is provided.

When necessary to travel upon any such slope, plane, road or haulway, employee must use every precaution to prevent accident to himself and others.

Rule 16. Motormen or brakemen shall not permit any person to ride on any locomotive or trip, except those duly author-

ized, and must stop trips to enforce this rule.

Motormen shall not operate any locomotive without burning headlights, or with defective brakes.

Brakemen shall be responsible for the proper display of trip lights on rear of all trips.

Motormen shall sound an alarm on approaching curves, doors, check curtains, cross-entries and places where workmen are near the track.

Motormen, brakemen and other employees and persons are prohibited from riding between cars; operating locomotive with pole in reverse position; nipping on trolley wire; cleaning sand pipe or sanding rails by hand while locomotive is in motion; and jumping on or off moving trips.

When hauling rails, pipe and other materials, an empty car shall be placed between the locomotive and the material truck.

Rule 17. Every miner shall adequately block his car or cars when and wherever the grade is sufficient to cause a runaway in either direction. Block shall be furnished by the company.

MISCELLANEOUS

Rule 18. All employees are prohibited from wearing loose or hanging clothing or apparel which may endanger life or limb by being caught in moving machinery.

OPENING OF ABANDONED MINES

Enrolled Senate Bill No. 122

Section 1. Any person, without first giving to the director of conservation ten days' notice thereof in writing, shall not reopen for any purpose whatsoever, any old or abandoned mine wherein water or mine seepage has collected or become impounded or exists in such manner or quantity that upon the opening of such mine such water or seepage may drain into any stream or water course. Such notice shall state clearly the name or names of the owner or owners of the mine proposed to be opened, its exact location, and the time of the proposed opening thereof.

Upon receipt of any such notice, the conservation commission shall send its representative or deputized agent to be present at the mine at the time designated in the notice for such opening, who shall have full supervision of the work of opening such mine with full authority to direct said work in such manner as to him seems proper and necessary to prevent the flow of mine water or seepage from such mine in such manner or quantity as will kill or be harmful to the fish in any stream or water course into which such mine water or seepage may flow directly or indirectly.

Any person failing to give notice as herein provided, or failing or refusing to submit to the supervision by the conservation commission of the work of any such opening, from which shall result harmful effects to or destruction of fish in any stream, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than five hundred dollars nor more than five thousand dollars.

748

Received of.....one copy
of the Mining Laws of the State of West Virginia, Chap-
ter 22, Official Code of West Virginia, 1931. I also
acknowledge receipt of instructions as to the particular
and general danger incident to my employment in such
mine.

.....
Witness:

750

MINING LAWS
OF
STATE OF VIRGINIA

Effective June 16, 1924



BUREAU OF LABOR AND INDUSTRY

JOHN HOPKINS HALL, JR., Commissioner



RICHMOND

Davis Bottom, Superintendent of Public Printing,
1924

752

CHAPTER 76, CODE OF VIRGINIA.

Department of Mines.

- Sec.
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1838. Maps of mine required to be made; contents; how extended.
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- 1864. Further duties of mine foreman.
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- 1881. Test for standard cotton seed oil.
- 1882. Penalties for furnishing or using improper oils; storage inside of mine of oils or other inflammable material limited.

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1884. When provisions as to oil not to apply.
1885. Owner not relieved from certain duties; who considered vice-principals.
1886. Jurisdiction of justices and circuit courts.
1887. To what mines this chapter applies; notice of opening of new underground mines.

Sec. 1835. Department of mines continued.—The department of mines, heretofore created, is continued. It shall be under and subject to the control of the Bureau of Labor and Industry, and shall have for its purpose the supervision of the execution and enforcement of all laws enacted for the safety of persons employed within or at mines within the limits of the Commonwealth, and the protection of mine property and other property used in connection therewith; and the said department shall be in charge of an official to be known as the State Mine Inspector, hereinafter designated as inspector, who shall be appointed by, be under the control of, and shall report to the Commissioner of Labor. (1912, p. 419.)

Sec. 1836. Qualifications of inspector of mines; for what removed; his records.—The inspector shall have a thorough knowledge of the different systems of working and ventilating coal mines, and of the nature and properties of mine gases, especially explosive gases, and dust; and shall have a thorough and practical knowledge of mining gained by at least five years' experience at and in coal mines; and shall be of good moral character and temperate habits. The said inspector shall be removed from office by the Commissioner of Labor for incompetency, neglect of duty, drunkenness, malfeasance and for other good causes. He shall keep a record of all inspections made by him and report same to the Commissioner of Labor, who shall keep a permanent record thereof properly indexed, which record shall at all times be open to inspection by any citizen of the

Commonwealth and shall be collated and embodied in the annual report of the bureau. (Id.)

Sec. 1837. Inspection of mines; certificates of inspection to be posted; penalties.—The inspector shall deliver to the operator or operators of each mine inspected a certificate of inspection and shall post a duplicate certificate at a prominent place at or in the vicinity of each mine inspected, of the operating company, where it may be conveniently read by any of the mine employees; said duplicate certificate shall remain posted until a subsequent certificate is issued; and said inspector shall visit each mine once in six months, or oftener if called on in writing by ten men engaged in any one mine, or the owner, operator or superintendent of such mine, and make a personal examination of the interior of all mines, and outside of the mine where any danger may exist to the workmen, and shall particularly examine into the condition of the mines as to ventilation, drainage and general safety, and shall make a report of such examination, and he shall see that the provisions of this chapter are strictly carried out. The inspector failing to carry out the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars nor more than two hundred and fifty dollars, and shall be dismissed from the office. (Id.)

Sec. 1838. Maps of mine required to be made; contents; how extended.—The operator or agent of every coal mine shall make or cause to be made, unless already made and filed, an accurate map or plan of such mine, on a scale to be stated thereon, of one hundred or two hundred feet to the inch. Such map or plan shall show the openings or excavations, the shafts, slopes, entries and airways, with darts or arrows showing direction of air currents, headings, rooms, pillars and so forth. and such portions of such mine or mines as may have been abandoned, the general inclination of the coal strata, and so much of the property lines and the outcrop of the coal seam of the tract of land on which said mine is located, as may be

within one thousand feet of any part of the workings of such mine. A true copy of such map or plan shall be delivered by such operator to the inspector to be preserved among the records of the Bureau of Labor and Industry, but in no case shall any copy of the same be made without the consent of the operator or his agent; and the original map, or a true copy thereof, shall be kept by such operator at the office of the mine, and open at all reasonable times for the examination and use of the inspector; and such operator shall, twice within every twelve months, to-wit: on or before the first day of February and the first day of August of each year, while the mine is in operation, cause such mine to be surveyed and the map thereof extended so as to accurately show the progress of the workings, the property lines and outcrop as before described, and shall forward the same to the department of mines, to be kept of record, subject to the conditions hereinbefore stated. (Id.)

Sec. 1839. When inspector may cause maps to be made.—If the operator or agent of any coal mine shall neglect or fail to furnish to the inspector any copy of map or extension thereof, as provided in the preceding section, the inspector is authorized to cause a correct survey and map or plan of said coal mine or extension thereof to be made at the expense of the operator of such mine, the cost of which shall be recovered from said operator as other debts are recovered by law; and if at any time the Commissioner of Labor has reason to believe that such map or plan or extension thereof, furnished in pursuance of the preceding section, be materially incorrect, or such as will not serve the purpose for which it was intended, he may have survey and map or plan or extension thereof made or corrected, and the expense of making such survey and map or plan or extension thereof, under the direction of said commissioner, shall be paid by the operator, and the same may be collected as other debts are recover-

able by law; but if found correct the expense thereof shall be paid by the State. (Id.)

Sec. 1840. Inexperienced laborers; how instructed; conditions under which laborers worked; openings required.—It shall be the duty of the mine foreman or assistant mine foreman of every coal mine in this State to see that every person employed to work in such mine shall, before beginning work therein, be instructed as to any unusual or extraordinary danger incident to his work in such mine which may be known to or could reasonably be foreseen by the mine foreman or assistant mine foreman, and it shall further be the duty of such mine foreman to see that every such person employed in such mine shall, upon request, be furnished with copies of this chapter and the printed rules of such mines.

Every inexperienced person so employed shall work under the direction of the mine foreman, his assistant or such other experienced worker as may be designated by the mine foreman or assistant until he has had reasonable opportunity to become familiar with the ordinary danger incident to his work, and it shall be unlawful for the operator, agent or mine foreman of any coal mine to employ any person to work in said mine or permit any person to be in said mine for the purpose of working therein, unless they are in communication with at least two openings or outlets separated by natural strata of not less than one hundred feet in breadth, if the mine be worked by shaft, and of not less than fifty feet in breadth at the outlet, if worked by slope or drift. To each of said outlets there shall be provided from the interior of the mine a safe and available roadway properly drained, which shall at all times while the mine is in operation, be kept reasonably free from obstruction which might prevent travel thereon in case of emergency, and if either of said outlets be by the shaft it shall be fitted with safe and available appliances, such as stairs or hoisting machinery, which shall at all times, when the mine is in operation, be kept in order and ready for

immediate use whereby persons employed in the mine may readily escape in case of an accident. (Id.)

Sec. 1841. When preceding section not applicable.—The preceding section shall not be applied to any mine while work is being prosecuted with reasonable diligence in making communication between said outlets, necessary repairs and removing obstructions, so long as not more than twenty persons are employed at any time in said mine; neither shall it apply to any mine, or part of a mine, in which a second outlet has been rendered unavailable by reason of the final robbing of pillars, preparatory to abandonment, so long as not more than twenty persons are employed therein at any one time. (Id.)

Sec. 1842. Punishment for violation of two preceding sections.—For violation of the two preceding sections the operator, agent or mine foreman shall, upon conviction, be fined not less than fifty nor more than five hundred dollars, or be imprisoned in the county jail not less than ten nor more than ninety days, in the discretion of the court or jury. (Id.)

Sec. 1843. Machinery and appliances required; inspection of same; passway around shaft.—The operator or agent of every coal mine worked by shaft shall forthwith provide, and hereafter maintain, a metal tube from the top to the bottom of such shaft suitably adapted to the free passage of sound, through which conversation may be held between persons at the top and at the bottom of the shaft, also the ordinary means of signaling, and an approved safety catch and a sufficient cover overhead on every carriage used for lowering or hoisting persons, and at the top of the shaft an approved safety gate, and an adequate brake on the drum of every machine used to lower or hoist persons in such shaft; and the said operator or agent shall have the machinery used for lowering or hoisting persons into and out of the mine kept in safe condition and inspected once in each twenty-four hours by some competent person; and

there shall be cut out and around the side of the hoisting shaft or driven through the solid strata at the bottom thereof a traveling way of not less than five feet high and three feet wide to enable a person to pass the shaft, going from one side of it to the other without passing over or under the cage or other hoisting apparatus. (Id.)

Sec. 1844. Punishment for violation of preceding section.—Any operator or agent who shall fail or refuse to comply with the requirements of the preceding section shall be guilty of a misdemeanor, and upon conviction be fined not less than fifty nor more than five hundred dollars, or be imprisoned in the county jail not less than thirty days nor more than one year, in the discretion of the court or jury. (Id.)

Sec. 1845. Character of engineers in certain cases; their duties; width of slopes et cetera; refuge holes; use of gasoline engines underground.—No operator or agent of any coal mine worked by shaft or slope, shall place in charge of any engine, used for lowering into or hoisting out of said mine persons employed therein, any but competent and sober engineers. No engineer in charge of such machinery shall allow any person, except such as may be deputed for that purpose by the operator or agent, to interfere with any part of the machinery, and no person shall interfere with or intimidate the engineer in the discharge of his duties; and in no case shall more than ten persons ride on any cage or car at one time and no person shall ride on a loaded cage or car in any shaft or slope.

All slopes, engine planes or motor roads used by persons in any mine shall be of sufficient width to permit persons to pass moving cars with safety or refuge holes of ample dimensions and not more than eighty feet apart shall be made on either side of said slope, engine plane or motor roads; such refuge holes shall be kept free from obstruction, and the roof and side thereof shall be made reasonably secure and kept whitewashed at all times. No gasoline engine shall be operated un-

derground except in cases where authorization for such operation shall have been obtained from the department of mines. No person shall travel on foot to or from his work upon any slope, engine plane or motor road when other good roads are provided for that purpose.

Sec. 1846. Punishment for violation of preceding section.—For violation of the preceding section, the operator, agent or miner shall upon conviction, be fined not less than ten nor more than five hundred dollars, or be imprisoned in the county jail not less than ten nor more than ninety days, in the discretion of the court or jury. (Id.)

Sec. 1847. Mine ventilation; amount required and how provided.—The operator, agent or mine foreman of every coal mine, whether worked by shaft, slope, or drift, shall provide and hereafter maintain for every such mine ample means of ventilation, affording no less than one hundred cubic feet of air per minute for each and every person employed in such mine, and as much more as the inspector may require, which shall be circulated around the main headings and cross headings and working places to such an extent as may be reasonably necessary to dilute, render harmless and carry off the noxious and dangerous gases generated therein. And as the working places shall advance break-throughs for air shall be made not to exceed eighty feet apart in pillars, or brattice shall be used so as to properly ventilate the faces, and all the break-throughs between intake and return airways not required for the passage of air, shall be closed with stoppings, substantially built with suitable material, which shall be approved by the inspector, so as to keep the working places well ventilated. Every mine, after being operated for six months, shall be ventilated by a mechanically driven fan of suitable capacity except in cases where the operation of such fan is deemed unnecessary by the department of mines.

Sec. 1848. How many persons may be permitted to work in same air current; where no per-

son shall work.—Not more than sixty persons shall be permitted to work in the same air current, in any mine in which dangerous gas has been detected in dangerous quantities; but a larger number, not exceeding eighty persons, may be allowed by the inspector where, in his judgment, it would be impracticable to comply with the foregoing requirements.

No operator, agent or mine foreman shall permit any person to work where they are unable to maintain at least one hundred cubic feet of air per minute per man, but this shall not be construed to prohibit the operator from employing men to make the place of employment safe and to comply with this requirement; but while the repair work necessary to get the mine in condition to comply with the law is being done, no person shall be permitted to enter that part of the mine affected except those actually employed in doing the necessary repair work. (Id.)

Sec. 1849. Accumulation of coal dust to be prevented.—In all mines accumulation of fine, dry coal dust shall, as far as practicable, be prevented, and such dust shall be properly moistened, or otherwise treated to insure safety, in such manner and form as the inspector may require. (Id.)

Sec. 1850. How violations of three preceding sections punished.—For violation of the three preceding sections the operator, agent or mine foreman shall, upon conviction, be fined not less than fifty nor more than five hundred dollars, or be imprisoned in the county jail not less than ten nor more than ninety days, in the discretion of the court or jury. (Id.)

Sec. 1851. Quantity of explosives allowed; punishment.—No minor or other employee shall take into any mine in this State any larger quantity of powder or other explosive than he may reasonably expect to use in any one shift, and all powder shall be carried into the mine in vessels containing not to exceed five pounds. Any person violating this section shall, upon conviction, be fined five dollars

for each offense, or imprisoned in the county jail not exceeding ten days. (Id.)

Sec. 1852. Minimum ventilation where fire damp may be encountered.—In all mines generating fire damp and where there is every reason to believe that gas will be encountered in the future workings and development of the mine, the minimum ventilation shall be one hundred and fifty cubic feet per minute for each and every person employed therein, and as much more as the inspector may deem requisite, and all stoppings on the main entries shall be substantially filled with suitable material, so as to keep the working places well ventilated; doors in the main haulways shall be avoided in gaseous mines where reasonably practicable, and overcasts built of masonry or other incombustible material and of ample strength shall be adopted, and where doors are used they must be built in a substantial manner and hung so as to close automatically when unobstructed. (Id.)

Sec. 1853. Punishment for violation of preceding section.—For violation of the preceding section the operator, agent or mine foreman shall, upon conviction, be fined not less than fifty nor more than five hundred dollars, or be imprisoned in the county jail not less than ten nor more than ninety days in the discretion of the court or jury. (Id.)

Sec. 1854. Protection from gas in old workings.—All old, unused workings and abandoned parts of the mine must be protected by such safeguards as would prevent the dangerous overflow of any standing gas therein, and all avenues leading thereto shall be arranged and conducted so as to give cautionary notice to all such workmen in such mines of the danger in entering therein; and in order to secure the safety of the workmen in general against the danger in said abandoned or worked out parts of the mines, proper notices shall be put up and kept standing as far as practicable, which shall afford warning to all such workmen not to enter such parts of said mine;

and in addition thereto, all persons except those specially charged with that duty, are hereby forbidden to enter such parts of said mine where gas may be found. (Id.)

Sec. 1855. When work resumed after blast: when workmen must withdraw.—It shall be unlawful for any miner, after having exploded in any working place sixty cubical inches or more of powder, in one or more blasts, in any mine known to generate gas in large quantities, to enter such working place and attempt to resume work in any manner whatever with a naked light in less than twenty minutes after the blast has been exploded. In all mines where explosive gas or other gas of a dangerous or poisonous nature is known to generate in dangerous quantities, the workmen shall be immediately instructed to withdraw from the mine in case of the stoppage of the fan, or heavy fall of the roof which may obstruct the main intake or return airway until such obstruction is removed. (Id.)

Sec. 1856. How violation of two preceding sections punished.—For violation of the two preceding sections, such person or persons so offending shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five nor more than one hundred dollars and be confined in the county jail not less than ten days nor more than one year. (Id.)

Sec. 1857. Fan required when gas is being generated in dangerous quantities.—It shall be unlawful in all mines where gas is being generated in dangerous quantities, to use any other mechanical power for ventilation purposes except fan power and the fan shall be kept in operation night and day unless written permission be granted by the Commissioner of Labor or the inspector, but no mine operator shall be required to keep such fan going where it is necessary to shut down for the purpose of repairing machinery or doing work in the mines, which may make it necessary. (Id.)

Sec. 1858. Fire bosses; qualifications.—It shall be the duty of every mine owner or operator in

this State, whose mine or mines are known to generate fire damp or other dangerous gas or gases in dangerous quantities, to employ a "fire boss" or "bosses" where necessary, who shall have such knowledge of fire damp and other dangerous gases as to be able to detect the same with the use of safety lamps, and shall have a practical knowledge of the subject of the ventilation of mines and the machinery and appliances used for that purpose and be a person with at least three years' experience in mines generating gases. (Id.)

Sec. 1859. Duties of fire bosses.—It shall be the duty of said fire boss or bosses, where employed in said gaseous mines, to prepare a danger signal with suitable color at the mine entrance and no person except the mine owner, operator or agent and only then in case of necessity, shall pass beyond this danger signal until the mine has been examined by the fire boss, and the same or certain parts thereof reported by him to be safe. It shall further be the duty of said fire boss or bosses to go into all the working places of such mine or mines where gas is known to exist in dangerous quantities, and carefully examine the same with a safety lamp and do or cause to be done, whatever may be necessary to remove from such working place or places all dangerous gases and make the same safe for persons to enter therein as workmen in such mine or mines. Such examination and removal of said gases shall begin within three hours before the time each shift commences work, and it shall be the duty of such fire boss at each examination to leave evidences of his presence at the face of every working place examined and if the mine is safe he shall remove the danger signal, or change the color thereof to safety, in order that the employees may enter said mine and begin work. In the performance of the duties on the part of the fire boss or bosses they shall have no superior officer, but all the employees working inside of said mine or mines shall be subordinate to said fire boss or bosses in this particular work. The fire boss shall, upon having completed the ex-

amination of the mine before each shift, make a written record of the condition of the mine within a book having a form prescribed by the department of mines, which record shall at all times be kept at the mine subject to the inspection of the inspector. It shall be unlawful for any person to enter said mine or mines for any purpose at the beginning of work upon each shift therein until such signal or warning has been given by said fire boss or bosses on the outside of said mine or mines as to the safety thereof, as herein provided, except under the direction of said fire boss or bosses, and then for the purpose of assisting in making said mine safe. (Id.)

Sec. 1860. How violation of three preceding sections punished.—Any operator, agent, fire boss or other person who shall violate the provisions of the three preceding sections shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than fifty nor more than five hundred dollars, or imprisoned in the county jail not less than sixty days nor more than one year. (Id.)

Sec. 1861. Lamp required in such mines.—Mines in which explosive gas is known to be generated in dangerous quantities from coal or adjacent strata shall be worked exclusively by the use of locked safety lamps, and no other lamp or torch shall be used except as may be permitted in writing by the inspector. The safety lamps used for examining any mine or which may be used for workings therein, shall be furnished by, and be the property of the operator of the mine, and shall be in charge of some person to be designated by the "fire boss." and at least two safety lamps shall be kept at every coal mine whether such mine generates fire damp or not. (Id.)

Sec. 1862. How failure or refusal to comply with preceding section punished.—Any operator agent or other person who shall fail or refuse to comply with the requirements of the preceding section shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty nor more than five hundred dollars, or be imprisoned

in the county jail not less than thirty days, nor more than one year, in the discretion of the court or jury. (Id.)

Sec. 1863. Mine foreman; his powers and duties.
—In order to better secure the proper ventilation of every coal mine and promote the health and safety of persons employed therein, the owner operator, or agent, shall employ a competent and practical inside overseer, to be called mine foreman, who shall be an experienced coal miner, or any person having five years' experience in a coal mine, who shall keep a careful watch over the ventilating apparatus and airways, traveling ways, pumps and drainage; and shall see that, as the miners advance their excavations, proper breakthroughs are made to properly ventilate the mine; and shall use reasonable care to remove or secure all loose coal, slate and rock overhead in working places and along the haulways, so as to prevent danger to persons employed in such mines; and that sufficient props, caps and timber, as nearly as possible of suitable dimensions, are furnished for the places where they are to be used, and such props, caps, and timbers shall be delivered and placed at such points as the rule for the government of each respective mine provides for them to be delivered; and every workman in want of props, cap pieces and timbers shall notify the mine foreman, or such other person who may be designated for that purpose at least one day in advance, or within such other time (not longer than one day) as may be prescribed by the written rules of the mine, giving the number and kind of timbers he requires; but in case of an emergency the timbers may be ordered immediately upon the discovery of any danger and no miner shall continue to work in any working place known by him to be unsafe, or which might have been so known to him in the exercise of ordinary care, but the happening of an accident shall not in itself be held to be evidence of such knowledge, or lack of ordinary care on his part, or of negligence on the part of the company. It shall be the duty of the mine foreman to see

that the cross-cuts are made as required by law, and that the ventilation shall be conducted through such cross-cuts into the room by means of check doors or curtains placed on entries or other suitable places, and he shall not permit any room to be opened in advance of the ventilation. Should the mine inspector discover any room, entry or airway or other working place being driven in advance of the ventilation contrary to the requirements of this chapter, he shall order the workmen working such places to cease work at once until the law is complied with, but said mine inspector shall have authority to permit violations of this provision when he considers it safe and desirable so to do. The mine foreman shall measure the air currents at least twice each month at the inlet and outlet, and at or near the faces of the advanced headings, and shall keep a record of such measurements in a book, having a form prescribed by the chief of the department of mines. An anemometer shall be provided for this purpose by the operator of the mine. (1912, p. 419; 1916, p. 773.)

Sec. 1864. Further duties of mine foreman.—It shall further be the duty of mine foremen to have bore holes kept not less than twelve feet in advance of the face, and where necessary, on sides of working places that are being driven toward, and in dangerous proximity to an abandoned mine or part of mine suspected of containing inflammable gases or which is filled with water. On all haulways where hauling is done by machinery of any kind, the mine foreman shall provide a proper system of signals and for the carrying of a conspicuous light on the front, and a light or flag on the rear, of every trip or train of cars when in motion; but this shall not apply to trips being hauled by gathering motors or mule teams when operating on other than main headings, and when hoisting or lowering men occurs before daylight in the morning or at evening after darkness. At any mine operating by shaft the said mine foreman shall provide and maintain at the shaft

mouth a light of a stationary character sufficient to show the landing and all surrounding objects distinctly, and sufficient light of a stationary character shall be located at the bottom of the shaft, so that persons coming to the bottom may clearly discern the cages and other objects closely contiguous thereto. No cage on which men are riding shall be lifted or lowered at a rate of speed greater than six hundred feet per minute; no mine cars, either empty or loaded, shall be hoisted while men are being lowered or hoisted, and no cage having an unstable self-dumping platform shall be used for the carrying of workmen unless the same is provided with some device by which the same may be securely locked when men are being hoisted or lowered into the mine. (Id.)

Sec. 1865. Assistant mine foreman.—In mines in which the operations are so extensive that all the duties devolving upon the mine foreman cannot be discharged by one man, competent persons having three years' experience in a coal mine may be designated and appointed as assistants, who shall act under the mine foreman's instructions, and shall be responsible for their conduct in the discharge of their duties under such designation or appointment. (Id.)

Sec. 1866. Stretchers and equipment required.—At every mine where ten men are employed under ground, it shall be the duty of the operators thereof to keep always on hand at the mine, a properly constructed stretcher, a woolen and waterproof blanket, and all necessary requisites which may be advised by a medical practitioner employed by the company, and if as many as one hundred and fifty men be employed, two stretchers with the necessary equipment as above advised. (Id.)

Sec. 1867. Daily examination by mine foreman or assistant; provisions to insure safety.—The mine foreman or his assistant shall visit and examine every working place in the mine every day while the miners are at work, and shall direct that each and every working place shall be secured by

props and cap boards or cross-timbers whenever necessary, which shall be placed and used by the miners working therein, as in this chapter provided, to the end that such working places shall be made safe; and the said mine foreman shall not permit, nor shall any one work in a place known to be unsafe, unless it be for the purpose of making it safe. In all rib and pillar work at least one experienced miner shall be employed in each working place. (Id.)

Sec. 1868. Mine foreman to notify operator or agent of inability to comply with five preceding sections.—The mine foreman shall notify the operator or agent of the mine of his inability to comply with any of the requirements of the five preceding sections, and it shall then become the duty of any operator or agent, to at once attend to the matter complained of by the mine foreman, so as to enable him to comply with the provisions hereof, if the same can be practically done. (Id.)

Sec. 1869. Punishment for violation of six preceding sections.—Any operator or agent of any coal mine, or other person who shall neglect to comply with the requirements of the six preceding sections shall, upon conviction, be guilty of a misdemeanor, and shall be fined not less than fifty nor more than five hundred dollars, or be imprisoned in the county jail not less than ten nor more than ninety days. Any mine foreman or employee failing to comply with the said sections shall, upon conviction, be fined not less than five nor more than fifty dollars, or imprisoned in the county jail not less than ten days nor more than ninety days. (Id.)

Sec. 1870. When mine may be closed by inspector; appeal to circuit court.—The operator or agent of every coal mine shall furnish the inspector proper facilities for entering such mine and making examinations or obtaining information; and if any inspector shall discover that any mine does not, in appliances for the safety of the persons employed therein, conform to the provisions of this chapter, or that by reasons of any defect

or practice in or at such mine the lives or health of persons employed therein are endangered, he shall immediately, in writing, notify such operator or agent thereof, stating in such notice the particulars in which he considers such mine to be defective or dangerous, and if he deems it necessary for the protection of the lives or health of the persons employed in such mine, he shall, after giving notice of one day to said operator or agent in writing, notify immediately the State mine inspector who shall immediately examine the mine reported to be unsafe, and if upon such examination, it is in fact found to be in an unsafe condition, the department of mines shall forthwith order the mine, or such part thereof, to be closed until it is placed in a safe and proper condition for mining operations; the owner or operator of any mine so closed, may apply to the circuit court wherein such mine is located, or the judge thereof in vacation by petition, for an order directing such mine to be re-opened, and such court, or the judge thereof in vacation, shall immediately hear and determine the matters arising upon petition, and if upon full hearing thereof the court, or the judge thereof in vacation, shall find that said mine is in a reasonably safe condition, the prayer of said petition shall be granted; but notice of said hearing shall be given to the mine inspector or the Commissioner of Labor, three days at least before said hearing; and in all such hearings the Attorney General shall appear for the State and defend the same. (1912, p. 419.)

Sec. 1871. Persons not permitted to work in mine.—No male person under sixteen years of age, and no female of any age, shall be permitted to work in any coal mine, and in all cases of doubt the parents or guardians of such boys shall furnish affidavits of their ages.

Any operator, agent or mine foreman who shall knowingly violate the provisions of this section, or any person knowingly making a false statement as to the age of any boy under sixteen years of age applying for work in any coal mine, shall,

upon conviction, be fined not less than ten nor more than five hundred dollars, or to be imprisoned in the county jail not less than ten nor more than ninety days. (Id.)

Sec. 1872. Certain acts by miners prohibited.— No miner, workman or other person shall knowingly injure any shaft, lamp, instrument, air course, brattice, overcast door or curtain, or obstruct or throw open any airways, or carry matches or open lights in the places worked by safety lamps, or disturb any part of the machinery or appliances, open a door used for directing ventilation and not close it again, or enter any part of a mine against caution, or deposit human excretion in any air course, through which the ventilation air current passes, or disobey any order given in carrying out any of the provisions of this chapter, or do any other act whereby the life or health of any person employed in the mines or the security of the mines is endangered. It shall be unlawful for motormen, engineers or others operating machinery of any kind hauling empty or loaded cars to make what is known as a flying switch inside of a mine, except at designated points, which points shall be conspicuously marked. It shall be unlawful for any person, except employees engaged in operating the same, to jump on the front or between any moving trip of cars hauled by motor or other machinery, or on other machinery such as motors, engines, and coal cutting machines. Any person who shall violate the provisions of this section shall, upon conviction, be fined not less than ten nor more than five hundred dollars, or be imprisoned in the county jail not less than ten nor more than ninety days. When any operator of a mine shall refuse to furnish all supplies necessary for the mine foreman to comply with the requirements of this chapter, within a reasonable time, after being requested to do so, and by reason of such refusal, a loss of life or injury may result to any employee, a right of action for damages may ensue against the operator of the mine wherein such

employee has not contributed to his own injury or loss.

Sec. 1873. Explosions or other accidents to be reported and investigated.—Whenever by reason of any explosion or other accident in any coal mine, or the machinery connected therewith, a loss of life or serious personal injury shall occur, it shall be the duty of the superintendent of the colliery, and in his absence, the mine foreman in charge of the mine, to give notice forthwith by mail or otherwise, to the inspector, stating the particulars of such accidents; and the said inspector shall, if he deems it necessary from the facts reported, immediately go to the scene of such accident and make suggestions and render such assistance as he may deem necessary for the future safety of the men, and investigate the cause of such explosion or accident, and make a record thereof which he shall preserve with the other records of his office; and to enable him to make such investigation, he shall have the power to compel the attendance of witnesses, and to administer oaths or affirmations, and the cost of such investigation shall be paid by the county in which such accident occurred. Any operator, agent, superintendent or mine foreman who shall fail to perform the duty provided in this section shall, upon conviction, be guilty of a misdemeanor, and shall be fined not less than ten nor more than five hundred dollars, or be imprisoned in the county jail not less than ten nor more than ninety days, in the discretion of the court. (Id.)

Sec. 1874. Certain reports required from mine owners.—The operator or agent of every coal mine shall annually, during month of July, mail or deliver to the inspector a report for the preceding twelve months, ending with the thirtieth day of June. Such report shall state the names of the operators and officers of the mine, the quantity of coal mined and such other information, not of a private nature, as may from time to time be required by the inspector. Blank forms of such reports shall be furnished by the Commis-

sioner of Labor. If at any time any person, company or corporation operating a coal mine shall transfer the ownership of any mine to another person, company or corporation, the person, company or corporation transferring such ownership shall within thirty days make a report to the State inspector of mines of such change, and a statement of the tons of coal produced since the first of July last, previous to the date of such sale or transfer of such mine or mines. Any operator or agent failing to furnish the reports as required in this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty nor more than five hundred dollars, or imprisoned in the county jail not less than thirty nor more than ninety days. (Id.)

Sec. 1875. Penalties for violation of certain instructions of inspector.—Any operator, agent, superintendent or mine foreman having in charge any mine who shall knowingly permit any person to work in any part of said mine in violation of instructions in writing, issued by the inspector, made in compliance with the requirements of this chapter, shall, upon conviction, be fined not less than fifty nor more than five hundred dollars, and any employee who shall work in violation of such instructions shall, upon conviction, be fined not less than ten nor more than fifty dollars. (Id.)

Sec. 1876. Tamping; shooting off solid; use of Fuses.—No miner or other person shall tamp a shot-hole with coal. In any mine in which solid shooting is done, the inspector is authorized to prescribe the conditions under which such solid shooting may be done. When fuse is used to ignite explosives in blasting coal, rock, or other thing, it shall be unlawful to use a fuse which does not extend outside of the hole at least four inches. All holes must be tamped to the mouth. Any person violating the provisions of this section shall, upon conviction, be fined not less than ten nor more than fifty dollars.

Sec. 1877. When steam locomotives may be used.—No steam locomotive shall be used in mines where men are actually employed in the extraction of coal, except by the consent of the inspector, but this shall not be construed to prohibit any mine owner from operating a steam locomotive through any tunnel, haulway or part of a mine that is not in actual operation and furnishing coal. Any operator or agent who violates this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty nor more than five hundred dollars, or be imprisoned in the county jail not less than thirty nor more than ninety days. (Id.)

Sec. 1878. Rules to be adopted and posted by operators.—There shall be adopted by the operator of every mine in this State special rules for the government and operation of every mine, covering all the work pertaining thereto in and outside of the same, which, however, shall not be in conflict with the provisions of the mining laws of this State. Such rules when established shall be printed on cardboard, in the languages spoken by ten or more employees, and shall be posted up in the drum house, tibble or some other conspicuous place about the mines where the same may be seen and observed by all of the employees at such mines, and when said rules are so posted the same shall operate as a notice to all employees, at such mines of their acceptance of the contents thereof; and it shall be the duty of each mine operator to furnish a printed copy of said rules to either of his employees when requested by him. Any operator or agent who violates the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty nor more than five hundred dollars, or be imprisoned in the county jail not less than thirty nor more than ninety days. (Id.)

Sec. 1879. Protection of wires; voltage on trolley wires in new collieries.—In all electrically equipped mines at partings or other places where men are required to pass under bare power wires hanging less than six feet six inches above the

place where he is required to walk, the same shall be protected, either by having the wire in a trench cut in the top, or by means of a board along the wire or by any other method that shall be approved by the State mine inspector or his assistant. Electric power used on trolley wires in collieries established after July first, nineteen hundred and twenty-four, shall not exceed three hundred volts. Any person violating the provisions of this section shall, upon conviction, be fined not less than ten nor more than fifty dollars.

Sec. 1880. Kinds of oil which may be used.—Only animal, vegetable or paraffine oil, or other oil as free from evolution of smoke as a standard cottonseed oil, when burned in a miner's lamp shall be used in any open lamp or torch for illuminating purposes in any coal mine in this State, and kerosene or blackstrap oil, or a mixture of kerosene and blackstrap, shall not be used in miners' torches for illuminating purposes in any coal mine in this State; but a mixture of mineral oil (other than blackstrap oil), and vegetable oil may be used (in lamps) upon machinery used as a motive power to haul the coal in any mine in this State, and a mixture of mineral and vegetable oil may be used for all stationary lights. (1912, p. 419.)

Sec. 1881. Test for standard cottonseed oil.—A standard cottonseed oil shall have the following test:

(a) It shall be free from mineral oils or mineral oil compounds.

(b) It shall be tested in a glass tube one and one-half inches in diameter by eight inches deep and the oil shall be at a temperature of sixty degrees Fahrenheit when the test is made and shall not exceed twenty-four degrees Tagliabue hydrometer.

(c) If the oil to be tested is below forty-five degrees Fahrenheit temperature, it must be slowly heated until it reaches eighty-five degrees temperature and below sixty-five degrees, it must be heated to seventy degrees, when, in either case.

it must be well shaken and allowed to cool gradually to a temperature of sixty degrees, when the test must be made.

(d) In testing the gravity of oil the hydrometer must be, when possible, read from below, and the last line which appears under the surface of the oil shall be regarded as the true reading.

(e) Where the oil is tested in difficult circumstances an allowance of one-half of one degree may be made for error or parallax.

(f) All oil sold to be used for illuminating purposes in the mines of this State shall be contained in barrels, casks or packages, branded conspicuously with the name and address of the manufacturer of said oil, the specific gravity of the same and the date of shipment. (Id.)

Sec. 1882. Penalties for furnishing or using improper oils; storage inside of mine of oils or other inflammable material limited.—Any person, firm or corporation selling or offering for sale for illuminating purposes in any mine in this State any oil or any mixture or compound of oils which does not comply with the tests, as prescribed in section eighteen hundred and eighty, whether done through an agent or employee or not, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, fined not less than twenty-five nor more than one hundred dollars for each offense.

Any miner, or employee in any mine, or employee of any mine operator or mine owner, who shall knowingly use or permit to be used for illuminating purposes in any mine in this State any oil other than that prescribed in section eighteen hundred and eighty, or who shall store, or permit the storage of oils or other inflammable material inside of a mine in quantities in excess of normal daily needs, shall be guilty of a misdemeanor and upon conviction thereof, be fined not less than five nor more than twenty-five dollars, or be confined in jail not less than five nor more than sixty days or both, for each offense.

Sec. 1883. When and how oils tested.—It shall be the duty of the district mine inspectors, when-

ever they have reason to believe that oil is being used or sold, or offered for sale, in violation of the provisions of this chapter, to take samples of the same and have them tested under the direction of the chief mine inspector, and if they are found to be inferior to the quality prescribed by this chapter, the inspector shall make complaint to the prosecuting attorney of the county in which the offense is committed who shall forthwith commence proceedings against the offender.

Any miner, mine employee, firm, corporation or their agents, who shall refuse to permit the mine inspector to examine his or their oil used for or sold for illuminating purposes in the coal mines of this State, shall be guilty of a violation of this chapter, and may be taken before a justice of the peace and fined five dollars or imprisoned in the county jail for ten days for each offense.

In all cases where the accused stands convicted of a violation of this chapter the cost of such prosecution shall be borne by the person, firm or corporation so convicted, and in case of a failure to convict, the State shall pay the costs in the same manner as in other prosecutions for misdemeanors. (Id.)

Sec. 1884. When provisions as to oil not to apply.—The foregoing provisions concerning oils and the use thereof shall not apply to any mine or any part thereof unless the mine inspector, in his judgment, believes it necessary, and shall notify in writing the person or company operating the same that the said provisions shall apply to his mine or any part thereof, as the case may be, or unless the owner or operator of any such mine shall notify the said inspector in writing that it is the wish of the owner or operator that said provisions shall apply to said mine or part thereof as the case may be, and in such case said provisions concerning oils and the use thereof shall

apply to and take effect in thirty days after such notice is given by said inspector or by said mine owner or operator to said inspector. (Id.)

Sec. 1885. Owner not relieved from certain duties; who considered vice-principals.—Nothing in this chapter shall be so construed as to relieve the mine owner or operator from seeing that all of the provisions of this chapter are strictly complied with, nor from the duty imposed at common law to secure the reasonable safety of their employees and, in the performance of those duties that are non-assignable at common law, as well as those duties required by this chapter, the mine foreman boss or fire boss, and their assistants shall be considered as acting for the mine owner or operator as a vice-principal. (Id.)

Sec. 1886. Jurisdiction of justices and circuit courts.—In all prosecutions under this chapter the circuit courts and justices of the peace shall have concurrent jurisdiction, with right of appeal to the circuit court. (Id.)

Sec. 1887. To what mines this chapter applies; notice of opening of new underground mines.—The provisions of this chapter shall apply to coal mines, and other underground mines so far as applicable; and no new underground mine shall hereafter be opened without first giving notice to the department of mines. Any person, firm or corporation opening a new underground mine without first giving such notice shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten nor more than five hundred dollars.

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PLAINTIFF'S EXHIBIT 11
 Carter Coal Company
 Taxes Paid—1934

Year Ended December 31, 1934

	Period Covered by Tax	Amount
State of West Virginia:		
West Virginia Sales Tax—		
Rate \$1.50 per \$100 coal.	}.....	
.50 per \$100 mdse.		
1.00 per \$100 other income		
	Last quarter of 1933.....	\$4,811.16
	Surtax for 1933.....	4,662.83
	Three quarters of 1934.....	26,351.76
		<u>\$35,825.75</u>
Property Taxes—		
McDowell County Rate 1.72 per \$100 valuation.	First half of 1933.....	\$18,886.52
	Second half of 1933.....	18,886.52
	First half of 1934.....	17,900.39
		<u>55,673.43</u>
License Tax.....	July 1, 1934—June 30, 1935.....	547.90
Sundry License Taxes at Coalwood (Pool Tables, Cigarettes, Auto Tags, etc.).....		(Not available)
Total West Virginia.....		<u>\$92,047.08</u>
State of Virginia:		
Property Taxes—		
Tazewell County (Rate \$2.90 per \$100).....	1934	\$1,844.64
Buchanan County.....	1934	482.40
		<u>\$2,327.04</u>
Franchise Tax.....	1934	25.00
Total Virginia.....		<u>\$2,352.04</u>

PLAINTIFF'S EXHIBIT 11—Continued

		Year Ended December 31, 1934	
	Period Covered by Tax		Amount
State of Kentucky:			
Property Taxes—			
Bell County.....	1934	\$180.32	
Knox County.....	1933	1,605.21	
	1934	1,348.37	\$3,133.90
Total Kentucky.....	....	.....	<u>\$3,133.90</u>
Sundry Other Taxes Paid:			
Delaware—Registration.....	1934	\$50.00	
Filing Fees.....	1934	2.00	
Franchise.....	1933	170.83	\$222.83
New York State Franchise.....	Year Ended October 31, 1935.....	.....	25.00
District of Columbia Property.....	1935	.....	259.14
Greensboro, N. C.—Property.....	1934	.....	8.08
Total Miscellaneous.....	....	.....	<u>\$515.05</u>
Total Taxes Paid.....	.....	.....	<u><u>\$98,048.07</u></u>

[fol. 863]

PLT'FF'S EX. 12

Statement with respect to effect upon Carter Coal Company of the assessment against it in the year 1934 of a tax of 15% on the sale price at the mine of bituminous coal produced by it (approximate figures)

Tonnage sold	2,126,046 tons.
Sales price realized at the mine.....	\$3,918,266.00
Net profit realized in operation of business	\$323,998.00
If a tax of 15% on sales price at mine had been imposed, the tax payable would have been	\$587,740.00
If aforesaid tax of 15% had been imposed, the Company's net loss in the operation of its business would have been	\$263,752

Neither in the present year, nor at any time during the past five years, have the net profits of Carter Coal Company equaled 15% of the total sales price received by Carter Coal Company at the mine.

[fol. 864]

PLT'FF'S EX. 13 AND 14

United States Department of the Interior

National Bituminous Coal Commission, Washington, D. C.

Notice to Bituminous Coal Producers of District Board
Organization Meeting

Notice is hereby given to all producers of bituminous coal in District No. 7, as defined by Act of Congress, entitled "Bituminous Coal Conservation Act of 1935," that:

A meeting will be held at 10:00 o'clock A. M., on the 30th day of October, 1935, at Black Knight Country Club, Beckley, West Virginia, for the above named District No. 7, as defined by the said Act, of all qualified producers of bituminous coal, for the purpose of determining the number of members of a district board and for the election of its members, as the same is provided for in the said Act, and to consider and pass upon such other matters as may lawfully come before said meeting under the provisions of said Act.

Only qualified producers, as defined in General Order No. 3 of the National Bituminous Coal Commission, shall be entitled to participate in the said meeting and vote therein. Copies of General Orders No. 1, 2, and 3, and of Forms 1, 4, and 5, of said Commission may be procured from the undersigned Deputy at the address below stated.

All qualified producers voting by proxy must comply with said General Order No. 3.

Dated this 17th day of October, 1935.

P. M. Snyder, Acting Deputy District Secretary of
the National Bituminous Coal Commission.

Address: Mount Hope, West Virginia.

Instructions to Acting Deputy District Secretaries

(Not to be Included in Notice Published in the Newspaper)

A copy of the above notice and of General Orders No. 1, 2, and 3, and the following Forms of the Commission: in duplicate, Form 4, and in triplicate, Forms 1 and 5, shall be mailed to all known producers in the district in accordance with the provisions of said General Order No. 3.

[fol. 865]

PLAINTIFF'S EXHIBIT ~~85~~ / 5

United States Department of the Interior

National Bituminous Coal Commission, Washington, D. C.

General Order No. 1

An Order Promulgating the Bituminous Coal Code

Pursuant to Act of Congress, entitled "Bituminous Coal Conservation Act of 1935", the National Bituminous Coal Commission, by said Act duly created, in regular meeting duly assembled on this 9th day of October, 1935, for the purpose of carrying out the declared policy of said Act, hereby formulates and prescribes a working agreement, effective as provided in said Act, to be known as the "Bituminous Coal Code", as follows, to wit:

Bituminous Coal Code

The Act of Congress, entitled "Bituminous Coal Conservation Act of 1935", is hereinafter referred to as the "Act". The National Bituminous Coal Commission, created by said Act, is hereinafter referred to as the "Commission". This Bituminous Coal Code is hereinafter referred to as the "Code". A "Code Member", as hereinafter referred to, is a producer accepting the Code in the manner provided by the Commission, whose membership shall not have been terminated. The Bituminous Coal Labor Board, created by said Act, is hereinafter referred to as the "Labor Board". The term "bituminous coal" as used in this Code shall include all bituminous, semibituminous, and subbituminous coal and lignite. The term "producer" shall include all persons, firms, associations, corporations, trustees, and receivers engaged in mining bituminous coal.

Part I—Organization and Production

Sec. 1. Twenty-three district boards of coal producers shall be organized. Each district board shall consist of not less than three nor more than seventeen members. The number of members of the district board shall, subject to the approval of the Commission, be determined by the majority vote of the district tonnage during the calendar year 1934 represented at a meeting of the producers of the district called for the purpose of such determination and for the election of such district board; and all known producers within the district shall be given notice of the time and place of the meeting. All but one of the members of the district board shall be producers or representatives of producers truly representative of all the mines of the district. The number of such producer members shall be an even number. One-half of such producer members shall be elected by the majority in number of the producers of the district represented at the aforesaid meeting. The other producer members shall be elected by votes cast in the proportion of the annual tonnage output for the preceding calendar year of the producers in the district, with the right on the part of the producers to vote their tonnage cumulatively: Provided, That not more than one officer or employee of any producer within a district shall be a member of the district board at the same time. The remaining mem-

ber of each district board shall be selected by the organization of employees representing the preponderant number of employees in the industry of the district in question. The term of district board members shall be two years and until their successors are elected.

In case any marketing agency comprising a substantial number of code members in any producing field within a district establishes, to the satisfaction of the Commission, that it has no representation upon the district board and that it is fairly entitled thereto, the Commission may, in its discretion, after hearing, increase the membership of such district board so as to provide for such representation.

Marketing agencies may be established or maintained within any district by a voluntary association of producers within any producing field therein, as such producing field may be defined by the district board, and function under [fol. 866] such general rules and regulations as may be prescribed by the district board, with the approval of the Commission, for the purpose of marketing their coal with due respect for the standards of unfair competition as defined in said Act. Each such marketing agency shall impose no unreasonable or inequitable conditions of membership and shall be truly representative of at least one-third of the tonnage of any producing field or group of producing fields.

The term "marketing agency" or "agencies" as used in said Act shall include any trade association of coal producers complying with the requirements of a marketing agency and exercising the functions thereof.

The district boards and marketing agencies shall each have power to adopt bylaws and rules of procedure, subject to approval of the Commission, and to appoint officers from their own membership, to fix their terms and compensation, to provide for reports, and to employ such committees, employees, arbitrators, and other persons necessary to effectuate their purposes. Members of the district board shall serve, as such, without compensation, but may be reimbursed for their reasonable expenses. The territorial boundaries or limits of such twenty-three districts are set forth in the schedule entitled "Schedule of Districts" and annexed to this code: Provided, That the territorial boundaries or limits of any district or districts may be changed, or said districts may be divided or consolidated, after hearing, by the Commission.

Sec. 2. The expense of administering this code by the respective district boards shall be borne by those subject to the jurisdiction of such boards, respectively, each paying his proportionate share, as assessed, computed on a tonnage basis, in accordance with regulations prescribed by such boards with the approval of the Commission. Such assessments may be collected by the district board by action in any court of competent jurisdiction.

Sec. 3. Nothing contained in said Act shall constitute the members of a district board partners for any purpose. Nor shall any member of a district board be liable in any manner to any one for any act of any other member, officer, agent or employee of the district board. Nor shall any member of a district board, exercising reasonable diligence in the conduct of his duties under said Act, be liable to any one for any action or omission to act under said Act, except for his own willful misfeasance, or for nonfeasance involving moral turpitude.

Part II—Marketing

Sec. 4. All code members shall, in their respective districts, report all spot orders to the district board and shall file with it copies of all contracts for the sale of coal, copies of all invoices, copies of all credit memoranda, and such other information concerning the preparation, cost, sale, and distribution of coal as the Commission may authorize or require. All such records shall be held by the district board as the confidential records of the code member filing such information.

Each district board may set up and maintain a statistical bureau, and the district board may require that such reports and other information in this section described shall be filed with such statistical bureau in lieu of the filing thereof with the district board.

Each district board shall, from time to time on its own motion or when directed by the Commission, establish minimum prices free on board transportation facilities at the mines for kinds, qualities, and sizes of coal produced in said district, with full authority, in establishing such minimum prices, to make such classification of coals and price variations as to mines and consuming market areas as it may deem necessary and proper. In order to sustain the stabili-

zation of wages, working conditions, and maximum hours of labor, said prices shall be established so as to yield a return per net ton for each district in a minimum price area, as such districts are identified and such area is defined in the subjoined table designated "Minimum-price area table", equal as nearly as may be to the weighted average of the total costs, per net ton, determined as hereinafter provided, of the tonnage of such minimum price area. The computation of the total costs shall include the cost of labor, supplies, power, taxes, insurance, workmen's compensation, royalties, depreciation, and depletion (as determined by the Bureau of Internal Revenue in the computation of the Federal income tax) and all other direct expenses of production, coal operator's association dues, district board assessments for Board operating expenses only levied under this code, and reasonable costs of selling and the cost of administration.

Minimum-Price-Area Table

Area 1: Eastern Pennsylvania, district 1; western Pennsylvania, district 2; northern West Virginia, district 3; Ohio, district 4; Michigan, district 6; Panhandle, district 6; Southern numbered 1, district 7; Southern numbered 2, district 8; West Kentucky, district 9; Illinois, district 10; Indiana, district 11; Iowa, district 12; that part of Southeastern, district 13, comprising Van Buren, Warren, and McMinn Counties in Tennessee.

[fol. 867] Area 2: Southeastern, district 13, except Van Buren, Warren, and McMinn Counties in Tennessee.

Area 3: Arkansas-Oklahoma, district 14.

Area 4: Southwestern, district 15.

Area 5: Northern Colorado, district 16; southern Colorado, district 17; New Mexico, district 18.

Area 6: Wyoming, district 19; Utah, district 20.

Area 7: North Dakota and South Dakota, district 21.

Area 8: Montana, district 22.

Area 9: Washington, district 23.

The minimum prices so established shall reflect, as nearly as possible, the relative market value of the various kinds, qualities, and sizes of coal, shall be just and equitable as between producers within the district, and shall have due regard to the interests of the consuming public. The pro-

cedure for establishment of minimum prices shall be in accordance with rules and regulations to be approved by the Commission.

A schedule of such minimum prices, together with the data upon which they are computed, including, but without limitation, the factors considered in determining the price relationship, shall be submitted by the district board to the Commission, which may approve, disapprove, or modify the same to conform to the requirements of this section, and such approval, disapproval, or modification shall be binding upon all code members within the district, subject to such modification therein as may result from the coordination provided for in the succeeding section 5: Provided, That all minimum prices established for any kind, quality, or size of coal for shipment into any consuming market area shall be just and equitable as between producers within the district: And provided further, That no minimum price shall be established that permits dumping.

As soon as possible after its creation, each district board shall determine the weighted average of the total costs of the ascertainable tonnage produced in the district in the calendar year 1934. The district board shall adjust the average costs so determined, as may be necessary to give effect to any changes in wage rates, hours of employment, or other factors substantially affecting costs, exclusive of seasonal changes, so as to reflect as accurately as possible any change or changes which may have been established since January 1, 1934. Such determination and the computations upon which it is based shall be promptly submitted to the Commission by each district board in the respective minimum-price area. The Commission shall thereupon determine the weighted average of the total costs of the tonnage for each minimum-price area in the calendar year 1934, adjusted as aforesaid, and transmit it to all the district boards within such minimum-price area. Said weighted average of the total costs shall be taken as the basis for the establishment of minimum prices to be effective until changed by the Commission. Thereafter, upon satisfactory proof made at any time by any district board of a change in excess of 2 cents per net ton of two thousand pounds in the weighted average of the total costs in the minimum-price area, exclusive of seasonal changes, the Commission shall increase or decrease the minimum prices

accordingly. The weighted average figures of total cost determined as aforesaid shall be available to the public.

Each district board shall, on its own motion or when directed by the Commission, establish reasonable rules and regulations incidental to the sale and distribution of coal by code members within the district. Such rules and regulations shall not be inconsistent with the requirements of this code and shall conform to the standards of fair competition hereinafter established. Such rules and regulations shall be submitted by the district board to the Commission with a statement of the reasons therefor, and the Commission may approve, disapprove, or modify the same, and such approval, disapproval, or modification shall be binding upon all code members within the district.

Sec. 5. District boards shall, under rules and regulations established by the Commission, coordinate in common consuming market areas upon a fair competitive basis the minimum prices and the rules and regulations established by them, respectively, under section 4 hereof. Such coordination, among other factors, but without limitation, shall take into account the various kinds, qualities, and sizes of coal, and transportation charges upon coal. All minimum prices established for any kind, quality, or size of coal for shipment into any consuming market area shall be just and equitable, and not unduly prejudicial or preferential, as between and among districts, and shall reflect, as nearly as possible, the relative market values, at points of delivery in each common consuming market area, of the various kinds, qualities and sizes of coal produced in the various districts; to the end of affording the producers in the several districts substantially the same opportunity to dispose of their coals upon a competitive basis as has heretofore existed. The minimum prices established as a result of such coordination shall not, as to any district, reduce or increase the return per net ton upon all the coal produced therein below or above the minimum return as provided in section 4 of this code by an amount greater than necessary to accomplish such coordination, to the end that the return [fol. 868] per net ton upon the entire tonnage of the minimum price area shall approximate and be not less than the weighted average of the total costs per net ton of the tonnage of such minimum price area. Such coordinated prices

and rules and regulations, together with the data upon which they are predicated, shall be submitted to the Commission, which may approve, disapprove, or modify the same to establish and maintain such fair competitive relationship, and such approval, disapproval, or modification shall be binding upon all code members within the affected districts. No minimum price shall be established that permits dumping. On the petition of any district board or other party in interest or on its own motion, after notice to the district boards, the Commission may at any time conduct hearings to determine whether the foregoing method of fixing minimum prices under section 4 is prejudicial to any district with respect to the fair opportunity of such district to market its coal. Should the Commission so find, and further find that the prejudice cannot be removed through the coordination of minimum prices as provided for in this section 5, then the Commission may establish a different basis for determining minimum prices in such district, to the end that fair and competitive prices shall prevail in the marketing of the coal produced in such district: Provided, That the minimum prices so established as to any such district shall yield a return, per net ton, not less than the weighted average of the total costs, per net ton, of the tonnage of such district.

Sec. 6. When, in the public interest, the Commission deems it necessary to establish maximum prices for coal in order to protect the consumer of coal against unreasonably high prices therefor, the Commission shall have the right to fix maximum prices free on board transportation facilities for coal in any district. Such maximum prices shall be established at a uniform increase above the minimum prices in effect within the district at the time, so that in the aggregate the maximum prices shall yield a reasonable return above the weighted average total cost of the district: Provided, That no maximum price shall be established for any mine which shall not return cost plus a reasonable profit.

Sec. 7. If any code member or district board, or any State or political subdivision of a State, shall be dissatisfied with such coordination of prices or rules and regulations, or by a failure to establish such coordination of prices or rules and regulations, or by the maximum prices established for

him or it pursuant to section 6 of this code, he or it shall have the right, by petition, to make complaint to the Commission, and the Commission shall, under rules and regulations established by it, and after notice and hearing, make such order as may be required to effectuate the purpose of sections 5 and 6 of this code, which order shall be binding upon all parties in interest. Pending final disposition of such petition, and upon reasonable showing of necessity therefor, the Commission may make such preliminary or temporary order as in its judgment may be appropriate, and not inconsistent with the provisions of said Act.

Sec. 8. Subject to the exceptions provided in section 12 of said Act, no coal shall be sold or delivered at a price below the minimum or above the maximum therefor approved or established by the Commission, and the sale or delivery of coal at a price below such minimum or above such maximum shall constitute a violation of this code.

Subject to the exceptions provided in section 12 of said Act, a contract for the sale of coal at a price below the minimum or above the maximum therefor approved or established by the Commission at the time of the making of the contract shall constitute a violation of this code, and such contract shall be invalid and unenforceable.

From and after the date of approval of said Act, until prices shall have been established pursuant to sections 4 and 5 of part II of this code, no contract for the sale of coal shall be made providing for delivery for a period longer than thirty days from the date of the contract.

While said Act is in effect no code member shall make any contract for the sale of coal for delivery after the expiration date of said Act at a price below the minimum or above the maximum therefor approved or established by the Commission and in effect at the time of making the contract.

The minimum prices established in accordance with the provisions of this code shall not apply to coal sold by a code member and shipped outside the domestic market. The domestic market shall include all points within the continental United States and Canada, and car-ferry shipments to the Island of Cuba. Bunker coal delivered to steamships for consumption thereon shall be regarded as shipped within the domestic market. Maximum prices established in accordance with the provisions of this code

shall not apply to coal sold by a code member and shipped outside the continental United States.

Sec. 9. All data, reports, and other information in the possession of the National Recovery Administration in relation to bituminous coal shall be available to the Commission for the administration of said Act.

Sec. 10. The price provisions of said Act shall not be evaded or violated by or through the use of docks or other storage facilities or transportation facilities, or by or [fol. 869] through the use of subsidiaries, affiliated sales of transportation companies or other intermediaries or instrumentalities, or by or through the absorption, directly or indirectly, of any transportation or incidental charge of whatsoever kind or character, or any part thereof. The Commission is hereby authorized, after investigation and hearing, and upon notice to the interested parties, to make and issue rules and regulations to make this section effective.

Sec. 11. All sales and contracts for the sale of coal shall be subject to the code prices herein provided for and in effect at the time of the making of such sales and contracts. The Commission shall prescribe the price allowance to and receivable by persons who purchase coal for resale, and resell it in not less than cargo or railroad carload lots; and shall require the maintenance by such persons, in the resale of coal, of the minimum prices established under said Act.

Unfair Methods of Competition

Sec. 12. The following practices shall be unfair methods of competition and shall constitute violations of this code:

1. The consignment of unordered coal, or the forwarding of coal which has not actually been sold, consigned to the producer or his agent: Provided, however, That coal which has not actually been sold may be forwarded, consigned to the producer or his agent at rail or track yards, tidewater ports, river ports, or lake ports, or docks beyond such ports. Such limitations on the consignment of coal shall not apply to the following classes: Bunker coal, coal applicable against existing contracts, coal for storage (other than in railroad cars) by the producer or his agent in rail

or track yards or on docks, wharves, or other yards for resale by the producer or his agent.

2. The adjustment of claims with purchasers of coal in such manner as to grant secret allowances, secret rebates, or secret concessions, or other price discrimination.

3. The prepayment of freight charges with intent to or having the effect of granting a discriminatory credit allowance.

4. The granting in any form of adjustments, allowances, discounts, credits, or refunds to purchasers or sellers of coal, for the purposes or with the effect of altering retroactively a price previously agreed upon, in such manner as to create price discrimination.

5. The predating or postdating of any invoice or contract for the purchase or sale of coal, except to conform to a bona fide agreement for the purchase or sale entered into on the predate.

6. The payment or allowance in any form or by any device of rebates, refunds, credits, or unearned discounts, or the extension to certain purchasers of services or privileges not extended to all purchasers under like terms and conditions, or under similar circumstances.

7. The attempt to purchase business, or to obtain information concerning a competitor's business by concession, gifts, or bribes.

8. The intentional misrepresentation of any analysis or of analyses, or of sizes, or the intentional making, causing, or permitting to be made, or publishing, of any false, untrue, misleading, or deceptive statement by way of advertising, invoicing, or otherwise concerning the size, quality, character, nature, preparation, or origin of any coal bought, sold, or consigned.

9. The unauthorized use, whether in written or oral form, of trade marks, trade names, slogans, or advertising matter already adopted by a competitor, or any deceptive approximation thereof.

10. Inducing or attempting to induce, by any means or device whatsoever, a breach of contract between a competitor and his customer during the term of such contract.

11. Splitting or dividing commissions, broker's fees, or brokerage discounts, or otherwise in any manner directly or indirectly using brokerage commissions or jobbers' arrangements or sales agencies for making discounts, allowances, or rebates, or prices other than those determined under said Act, to any industrial consumer or to any retailers, or to others, whether of a like or different class.

12. Selling to, or through, any broker, jobber, commission account, or sales agency, which is in fact or in effect an agency or an instrumentality of a retailer or an industrial consumer or of an organization of retailers or industrial consumers, whereby they or any of them secure either directly or indirectly a discount, dividend, allowance, or rebates, or a price other than that determined in the manner prescribed by said Act.

13. Violations of the provisions of this code.

It shall not be an unfair method of competition or a violation of this code or any requirement of said Act (1) to sell to or through any bona fide and legitimate farmer's cooperative organization duly organized under the laws of any State, Territory, the District of Columbia, or the United States whether or not such organization grants re-[fol. 870] bates, discounts, patronage dividends, or other similar benefits to its members, (2) to sell through any intervening agency to any such cooperative organization; or (3) to pay or allow to any such cooperative organization or to any such intervening agency any discount, commission, rebate, or dividend ordinarily paid or allowed, or permitted by this code to be paid or allowed, to other purchasers for purchases in wholesale or middleman quantities.

Sec. 13. The Commission shall have jurisdiction to hear and determine written complaints made charging any violation of this code specified in this part II. It shall make and publish rules and regulations for the consideration and hearing of any such complaint, and all interested parties shall be required to conform thereto. The Commission shall make due effort toward adjustment of such complaints and shall endeavor to compose the differences of the parties, and shall make such order or orders in the premises, from time to time, as the facts and the circumstances

warrant. Any such order shall be subject to review as are other orders of the commission.

Part III—Labor Relations

Sec. 14. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from interference, restraint, or coercion of employers, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; and no employee and no one seeking employment shall be required as a condition of employment to join any company union.

Sec. 15. Employees shall have the right of peaceable assemblage for the discussion of the principles of collective bargaining, shall be entitled to select their own checkweighman to inspect the weighing or measuring of coal, and shall not be required as a condition of employment to live in company houses or to trade at the store of the employer.

Sec. 16. The Labor Board shall have authority to adjudicate disputes arising under sections 14 and 15 of this part III, and to determine whether or not an organization of employees has been promoted, or is controlled or dominated by an employer in its organization, management, policy, or election of representatives; and for the purpose of determining who are the freely chosen representatives of the employees the Board may order and under its supervision may conduct an election of employees for that purpose. The Labor Board may order a code member to meet the representatives of its employees for the purpose of collective bargaining.

Sec 17. The Labor Board may offer its services as mediator in any dispute between a producer and its employees where such dispute is not determined by the tribunal set up in a bona fide collective contract; and upon the written submission by the parties requesting an award on a stated matter signed by the duly accredited representatives of the employer and employees, the Labor Board may arbitrate the matter submitted.

Sec. 18. Whenever the maximum daily and weekly hours of labor are agreed upon in any contract or contracts nego-

tiated between the producers of more than two-thirds the annual national tonnage production for the preceding calendar year and the representatives of more than one-half the mine workers employed, such maximum hours of labor shall be accepted by all the code members. The wage agreement or agreements negotiated by collective bargaining in any district or group of two or more districts, between representatives of producers of more than two-thirds of the annual tonnage production of such district or each of such districts in a contracting group during the preceding calendar year, and representatives of the majority of the mine workers therein, shall be filed with the Labor Board and shall be accepted as the minimum wages for the various classifications of labor by the code members operating in such district or group of districts.

Annex to Code—Schedule of Districts

Eastern Pennsylvania

District 1. The following counties in Pennsylvania: Bedford, Blair, Bradford, Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Elk, Forest, Fulton, Huntingdon, Jefferson, Lycoming, McKean, Mifflin, Potter, Somerset, Tioga.

Armstrong County, including mines served by the P. & S. R. on the west bank of the Allegheny River, and north of the Conemaugh division of the Pennsylvania Railroad.

Fayette County, all mines on and east of the line of Indian Creek Valley branch of the Baltimore and Ohio Railroad.

Indiana County, north of but excluding the Saltsburg branch of the Pennsylvania Railroad between Edri and Blairsville, both exclusive.

Westmoreland County, including all mines served by the Pennsylvania Railroad, Torrance, and east.

[fol. 871] All coal-producing counties in the State of Maryland.

The following counties in West Virginia: Grant, Mineral, and Tucker.

Western Pennsylvania

District 2. The following counties in Pennsylvania: Allegheny, Beaver, Butler, Greene, Lawrence, Mercer, Venango, Washington.

Armstrong County, west of the Allegheny River and exclusive of mines served by the P. & S. R. R.

Indiana County, including all mines served on the Saltsburg branch of the Pennsylvania Railroad north of Coneaugh River.

Fayette County, except all mines on and east of the line of Indian Creek Valley branch of the Baltimore and Ohio Railroad.

Westmoreland County, including all mines except those served by the Pennsylvania Railroad from Torrance, east.

Northern West Virginia

District 3. The following counties in West Virginia: Barbour, Braxton, Calhoun, Doddridge, Gilmer, Harrison, Jackson, Lewis, Marion, Monongalia, Pleasants, Preston, Randolph, Ritchie, Roane, Taylor, Tyler, Upshur, Webster, Wetzel, Wirt, Wood.

That part of Nicholas County including mines served by the Baltimore and Ohio Railroad and north.

Ohio

District 4. All coal-producing counties in Ohio.

Michigan

District 5. All coal-producing counties in Michigan.

Panhandle

District 6. The following counties in West Virginia: Brooke, Hancock, Marshall, and Ohio.

Southern Numbered 1

District 7. The following counties in West Virginia: Greenbrier, Mercer, Monroe, Pocahontas, Summers.

Fayette County, east of Gauley River and including the Gauley River branch of the Chesapeake and Ohio Railroad and mines served by the Virginia Railway.

McDowell County, that portion served by the Dry Fork branch of the Norfolk and Western Railroad and east thereof.

Raleigh County, excluding all mines on the Coal River branch of the Chesapeake and Ohio Railroad.

Wyoming County, that portion served by the Gilbert branch of the Virginian Railroad lying east of the mouth of Skin Fork of Guyandot River and that portion served by the main line and the Glen Rogers branch of the Virginian Railroad.

The following counties in Virginia: Montgomery, Pulaski, Wythe, Giles, Craig.

Tazewell County, that portion served by the Dry Fork branch to Cedar Bluff and from Bluestone Junction to Boissevain branch of the Norfolk and Western Railroad and Richlands-Jewell Ridge Branch of the Norfolk and Western Railroad.

Buchanan County, that portion served by the Richlands-Jewell Ridge branch of the Norfolk and Western Railroad and that portion of said county on the head waters of Dismal Creek, east of Lynn Camp Creek (a tributary of Dismal Creek).

Southern Numbered 2

District 8. The following counties in West Virginia: Boone, Clay, Kanawha, Lincoln, Logan, Mason, Mingo, Putnam, Wayne, Cabell.

Fayette County, west of, but not including mines of the Gauley River branch of the Chesapeake and Ohio Railroad.

McDowell County, that portion not served by and lying west of the Dry Fork branch of the Norfolk and Western Railroad.

Raleigh County, all mines on the Coal River branch of the Chesapeake and Ohio Railroad and north thereof.

Nicholas County, that part south of and not served by the Baltimore and Ohio Railroad.

Wyoming County, that portion served by Gilbert branch of the Virginian Railroad lying west of the mouth of Skin Fork of Guyandot River.

The following counties in Virginia: Dickinson, Lee, Russell, Scott, Wise.

All of Buchanan County, except that portion on the head waters of Dismal Creek, east of Lynn Camp Creek (tributary of Dismal Creek) and that portion served by the Richlands-Jewell Ridge branch of the Norfolk and Western Railroad.

Tazewell County, except portions served by the Dry Fork branch of Norfolk and Western Railroad and branch from

Bluestone Junction to Boissevain of Norfolk and Western Railroad and Richlands-Jewell Ridge branch of the Norfolk and Western Railroad.

[fol. 872] The following counties in Kentucky: Bell, Boyd, Breathitt, Carter, Clay, Elliott, Floyd, Greenup, Harlan, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Letcher, Leslie, McCreary, Magoffin, Martin, Morgan, Owsley, Perry, Pike, Rockcastle, Wayne, Whitley.

The following counties in Tennessee: Anderson, Campbell, Claiborne, Cumberland, Fentress, Morgan, Overton, Roane, Scott.

The following counties in North Carolina: Lee, Chatham, Moore.

West Kentucky

District 9. The following counties in Kentucky: Butler, Christian, Crittenden, Daviess, Hancock, Henderson, Hopkins, Logan, McLean, Muhlenberg, Ohio, Simpson, Todd, Union, Warren, Webster.

Illinois

District 10. All coal-producing counties in Illinois.

Indiana

District 11. All coal-producing counties in Indiana.

Iowa

District 12. All coal-producing counties in Iowa.

Southeastern

District 13. All coal-producing counties in Alabama.

The following counties in Georgia: Dade, Walker.

The following counties in Tennessee: Marion, Grundy, Hamilton, Bledsoe, Sequatchie, White, Van Buren, Warren, McMinn, Rhea.

Arkansas-Oklahoma

District 14. The following counties in Arkansas: All counties in the State.

The following counties in Oklahoma: Haskell, Le Flore, Sequoyah.

Southwestern

District 15. All coal-producing counties in Kansas. All coal-producing counties in Texas. All coal-producing counties in Missouri.

The following counties in Oklahoma: Coal, Craig, Latimer, Muskogee, Okmulgee, Pittsburg, Rogers, Tulsa, Wagoner.

Northern Colorado

District 16. The following counties in Colorado: Adams, Araphahoe, Boulder, Douglas, Elbert, El Paso, Jackson, Jefferson, Larimer, Weld.

Southern Colorado

District 17. The following counties in Colorado: All counties not included in northern Colorado district.

The following counties in New Mexico: All coal-producing counties in the State of New Mexico, except those included in the New Mexico district.

New Mexico

District 18. The following counties in New Mexico: Grant, Lincoln, McKinley, Rio Arriba, Sandoval, San Juan, San Miguel, Santa Fe, Socorro.

Wyoming

District 19. All coal-producing counties in Wyoming.

Utah

District 20. All coal-producing counties in Utah.

North Dakota-South Dakota

District 21. All coal-producing counties in North Dakota. All coal-producing counties in South Dakota.

Montana

District 22. All coal-producing counties in Montana.

Washington

District 23. All coal-producing counties in Washington.

Approved, August 30, 1935.

Dated this 9th day of October, 1935.

National Bituminous Coal Commission, by C. F. Hosford, Jr., Chairman; George E. Acret, Walter H. Maloney, C. E. Smith, Percy Tetlow, Commissioners. (Seal.)

[fol. 873]

PLAINTIFFS' EXHIBIT 16

United States Department of the Interior

National Bituminous Coal Commission, Washington, D. C.

General Order No. 2

An Order Providing the Form of Acceptance of the Bituminous Coal Code

Pursuant to authority contained in Act of Congress, entitled "Bituminous Coal Conservation Act of 1935", it is hereby ordered, for the purposes, and to be effective as, contemplated by said Act, that the form of acceptance for membership in the Bituminous Coal Code, formulated and prescribed by this Commission, in its General Order No. 1, on the 9th day of October, 1935, shall be as follows:

Acceptance of Membership in the Bituminous Coal Code

The undersigned, bituminous coal producers, hereby accepts the Bituminous Coal Code, formulated and prescribed October 9, 1935, by the National Bituminous Coal Commission, in General Order No. 1 of said Commission, pursuant to and under the provisions of an Act of Congress, entitled "Bituminous Coal Conservation Act of 1935."

Neither this acceptance, nor compliance with the provisions of said Code, nor acceptance of the drawback provided by said Act, shall be held to preclude or estop the undersigned from contesting the constitutionality of any provision of said Code or of said Act, or the validity thereof as applicable to the undersigned, in any proceeding authorized by

said Act or any other appropriate proceeding at law or in equity.

Dated this — day of —, 193-

..... (Seal.)
..... (Seal.)
..... (Seal.)

(NOTE.—The above form of acceptance may not be altered by the acceptors in any respect whatsoever and must be signed and acknowledged before an officer qualified to administer an oath. When in behalf of a partnership, it must be signed and acknowledged by a partner thereof, and in behalf of a corporation, by the president or vice president, and attested by the secretary or assistant secretary. A form of acknowledgment conformable to the laws of the state in which the acceptance is executed shall be thereto attached.)

The above form of acceptance shall be known as “Form 1”, and, if the producer desires to accept the Code, must be signed and acknowledged in triplicate, one triplicate original to be filed with the National Bituminous Coal Commission at Washington, D. C., another with the District Board Secretary, and another retained in the files of the producer. Said acceptance shall become effective only when properly executed and filed with the Commission at Washington, D. C.

Dated this 9th day of October, 1935.

National Bituminous Coal Commission, by C. F. Hosford, Jr., Chairman; George E. Acret, Walter H. Maloney, C. E. Smith, Percy Tetlow, Commissioners. (Seal.)

[fol. 874]

PLAINTIFF'S EXHIBIT 17

United States Department of the Interior

National Bituminous Coal Commission, Washington, D. C.

General Order No. 3

An Order Providing for the Organization of the District Boards

Pursuant to authority contained in Act of Congress, entitled “Bituminous Coal Conservation Act of 1935”, it is

hereby ordered by the National Bituminous Coal Commission, in regular meeting assembled, as follows :

1. District boards of coal producers shall be forthwith organized pursuant to the provisions of said Bituminous Coal Conservation Act of 1935 and in conformity with the provisions of this order.

2. The following are hereby appointed acting deputy district secretaries for this Commission in their respective districts :

Districts	Name	Address
1	W. A. Jones.....	c/o Central Pennsylvania Coal Producers Association, Altoona, Pennsylvania.
2	B. H. Canon.....	Oliver Building, Pittsburgh, Pennsylvania.
3	T. J. Ashcraft.....	P. O. Box 1164, Fairmont, West Virginia.
4	Ezra Van Horn.....	Rockefeller Bldg., Cleveland, Ohio.
5	Warren E. Pippin....	Graebner Building, Saginaw, Michigan.
6	Geo. A. Blackford....	500 Board of Trade Building, Wheeling, West Virginia.
7	C. E. Bockus.....	75 West Street, New York City.
8	P. M. Snyder.....	Mt. Hope, West Virginia
9	C. E. Reed.....	Starks Bldg., Louisville, Kentucky.
10	Fred Wilkey.....	309 West Jackson Blvd., Chicago, Ill.
11	Jonas Waffle.....	Opera House Block, Terre Haute, Ind.
12	M. G. Youngquist....	Polk Bldg., Des Moines, Iowa.
13	James L. Davidson...	Webb Crawford Building, Birmingham, Ala.
14	S. A. Bramlette.....	Merchants National Bank Building, Fort Smith, Arkansas.
15	W. E. Blucher.....	540 Dwight Building, Kansas City, Mo.
16	N. C. Brooks.....	508 Sugar Building, Denver, Colorado.
17	F. O. Sandstrom.....	Boston Building, Denver, Colorado.
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18	A. R. Litts.....	Box 623, Albuquerque, New Mexico.
19	L. W. Mitchell.....	610 Boyd Blvd., Cheyenne, Wyoming.
20	B. P. Manley.....	Ezra Thompson Building, Salt Lake City, Utah.
21	E. M. Hendricks.....	307 Broadway, Bismarck, North Dakota.
22	M. F. Purcell.....	c/o Montana Coal Operators Association, Billings, Montana.
23	D. S. Hanley.....	Chamber of Commerce Building, Seattle, Washington.

The appointment of an acting deputy district secretary shall be effective upon his taking and signing an oath of office before a notary public or other officer qualified to administer an oath.

3. Each of such acting deputy district secretaries shall serve without compensation but shall be reimbursed by his district board, when such district board shall be organized, for his actual expenses incurred in complying with this order.

4. Each of the above named acting deputy district secretaries shall accept his appointment by telegraphing, prepaid, to this Commission at Washington, D. C., such acceptance within 24 hours of the receipt of this order, stating therein the date, hour, and place of such meeting and the quantity of forms required for his use in organizing his district in conformity with this order. The Commission reserves the right, at any time, to revoke the appointment of any acting deputy district secretary without prior notice or hearing.

5. The duties of an acting deputy district secretary shall be as follows:

(a) To fix the time and place of a meeting for the organization of the district board in conformity with the provisions of this order and of said Act, such meeting to be held within 15 days of the date of the receipt of this order.

(b) To give notice, in the manner and form herein provided, of the time and place of such meeting to all known bituminous coal producers in his district, and to make distribution of all forms as required by this order.

(c) To call said meeting to order at the time and place fixed in said notice.

(d) To receive and safely keep for delivery to the district board, when organized, all proxies and tonnage affidavits herein provided for and, prior to the meeting, to list and arrange such proxies and affidavits in a manner such as to best facilitate their use at the meeting.

(e) To act as temporary chairman of said meeting and to do such other things as the Commission may by its subsequent instructions or orders direct.

(f) Within five days after said meeting, to file with the Commission at Washington, D. C., a full report of the proceedings of said meeting, together with proof of service and proof of publication of said notice in conformity with the requirements of this order, and upon the filing of such report the appointment of such acting deputy district secretary shall terminate.

[fol. 876] 6. The notice of said meeting shall be in the form attached to this order, marked "Form 2," and made a part hereof.

7. Not less than ten days prior to the day fixed for said meeting, said notice shall be published once in a newspaper of general circulation in the district, and, not less than ten days prior to the day fixed for said meeting, a copy of said notice upon said Form 2 shall be mailed, postage prepaid, to all known bituminous coal producers in the district, together with a copy of General Orders No. 1, 2, and 3, and, in triplicate, Forms 1, 4, and 5.

8. Proof of service of said notice shall be made in the form attached to this order, marked "Form 3," and made a part hereof. Proof of publication of said notice shall be made by affidavit of the publisher of the newspaper in a form customary in the district.

9. Qualified coal producers, as defined in this order, and properly represented at the meeting, shall proceed to a determination of the number of members to comprise the district board in accordance with the provisions of Sub-Section (a) of Part I of Section 4 of said Act. Thereafter, an election of members of the district board shall be proceeded with as provided in said Section 4 and in this order, provided: That one vacancy shall be left in the total number of members of the board, such vacancy to be thereafter filled by selection by an organization of employees as provided in said Act, and provided further: That the number of members elected at the meeting shall be an even number.

10. Each qualified coal producer may attend said meeting and vote in person, or by proxy, in the manner provided in said Act.

11. All proxies shall be in the form attached to this order, marked "Form 4", and made a part hereof, and shall be in fact filed with the acting deputy district secretary not less than 48 hours prior to the date and hour fixed for said meeting. No proxies shall under any circumstances have any validity which shall not have been so filed.

12. A producer may not vote by proxy or otherwise unless he be a qualified producer. A qualified producer, within the meaning of this order, shall be a producer, as defined in Section 19 of said Act, who, 48 hours prior to the date and hour of said meeting, has performed each of the following acts: (a) Mailed to the Commission at Washington, D. C.,

his or its acceptance of the Bituminous Coal Code, duly executed, on Form 1, pursuant to General Order No. 1 of the Commission. (b) Filed with (actually in the possession of) the acting deputy district secretary, for his delivery to the secretary of the district board when elected, a duplicate original of said acceptance. (c) Filed, in duplicate, with the acting deputy district secretary, an affidavit of tonnage in the form hereinafter provided, sworn to before an officer qualified to administer an oath.

13. The affidavit of tonnage above referred to shall be executed in duplicate and made upon the form attached hereto, marked "Form 5", and made a part hereof. One duplicate original of the affidavit of tonnage received by the acting deputy district secretary shall be filed with the Commission at Washington, D. C., and the other duplicate original delivered to the secretary of the district board when elected.

14. No producer, who shall not be a qualified producer as herein provided, shall have any vote or voice at said meeting, or right to the floor thereof.

15. Following the election of the members of the district board, the board shall proceed to organize as promptly as possible, and shall transmit to the Commission, for its consideration and approval, a full report of said meeting, which report shall be duly certified. Said report shall include such information as will inform the Commission as to whether or not members of said board are truly representative of all the mines of the district, as provided in Section 4, Part I, Sub-Section (a) of said Act, and as to whether or not said meeting was held in a locality suitable to the convenience of a majority of the producers of the district.

16. District boards, immediately following said meeting, shall levy an initial assessment upon all those subject to their jurisdiction, as provided in said Act, each paying his proportionate share computed on the basis of his tonnage for the calendar year 1934, and thereafter shall levy quarterly assessments upon the same, each paying his proportionate share computed on the basis of his tonnage for the preceding quarter.

17. District boards, when organized, shall be known as "Bituminous Coal Producers Board for District No. —".

18. No district board organized at a meeting called, notice, or held prior to the date of the issuance of this order, or organized other than in conformity therewith, will be recognized by the Commission.

Dated this 9th day of October, 1935.

National Bituminous Coal Commission, by C. F. Hosford, Jr., Chairman; George E. Acret, Walter H. Maloney, C. E. Smith, Percy Tetlow, Commissioners. (Seal.)

Attest: N. W. Roberts, Secretary.

[fol. 878]

Form 1

United States Department of the Interior

National Bituminous Coal Commission, Washington, D. C.

Name of Producer.....
Post Office Address.....
District No.....

Acceptance of Membership in the Bituminous Coal Code

The undersigned, bituminous coal producer, hereby accepts the Bituminous Coal Code, formulated and prescribed October 9, 1935, by the National Bituminous Coal Commission, in General Order No. 1 of said Commission, pursuant to and under the provisions of an Act of Congress, entitled "Bituminous Coal Conservation Act of 1935."

Neither this acceptance, nor compliance with the provisions of said Code, nor acceptance of the drawback provided by said Act, shall be held to preclude or estop the undersigned from contesting the constitutionality of any provision of said Code or of said Act, or the validity thereof as applicable to the undersigned, in any proceeding authorized by said Act or any other appropriate proceeding at law or in equity.

Dated this — day of —, 193-.

..... (Seal.)
..... (Seal.)
..... (Seal.)

(NOTE.—The above form of acceptance may not be altered by the acceptors in any respect whatsoever and must be signed and acknowledged before an officer qualified to administer an oath. When in behalf of a partnership it must be signed and acknowledged by a partner thereof, and in behalf of a corporation, by the president or vice president, and attested by the secretary or assistant secretary. A form of acknowledgment conformable to the laws of the state in which the acceptance is executed shall be thereto attached.)

Attention is called to the fact that, pursuant to Paragraph 12 of General Order No. 3, an executed and acknowledged duplicate original of the above form must be mailed to the Commission at Washington, D. C., and an executed and acknowledged duplicate original thereof must be filed with (actually in the possession of) the acting deputy district secretary at least 48 hours prior to the date and hour fixed for the District Board meeting.

[fol. 879]

Form 2

United States Department of the Interior

National Bituminous Coal Commission, Washington, D. C.

Notice to Bituminous Coal Producers of District Board
Organization Meeting

Notice is hereby given to all producers of bituminous coal in District No. —, as defined by Act of Congress, entitled "Bituminous Coal Conservation Act of 1935," that:

A meeting will be held at o'clock ... M., on the day of, 193.., at
.....
for the above named District No., as defined by the said Act, of all qualified producers of bituminous coal, for the purpose of determining the number of members of a district board and for the election of its members, as the same is provided for in the said Act, and to consider and pass upon such other matters as may lawfully come before said meeting under the provisions of said Act.

Only qualified producers, as defined in General Order No. 3 of the National Bituminous Coal Commission, shall