force—although the members are still keeping their fingers crossed—that Loesch, for one, regrets that the project was not started sooner. Had it been started 2 or 3 years ago, he suggests, maybe the struggle over the strip-mine bill would have been foreshortened and perhaps the measure which emerged would have been more flexible than the one actually enacted.

On the other hand, it may well be, as Loesch concedes, that the project could not have been started sooner with any real chance of success. For, clearly, much of the motivation for industrialists to participate comes from an awareness that industry has been kept on the defensive in the federal and state legislatures and in the courts. "We've lost almost every battle on Capitol Hill," Decker says, overstating the case but indicating accurately enough the general drift of things.

On the environmental side, part of the motivation for taking part in the project comes from a deepening recognition that getting environmental laws passed is but the easier half of the battle. The problems of implementation and enforcement are frustrating and seemingly never-ending, especially where industry does not become reconciled to the new regulations imposed upon it. "The Environmental Protection Agency lives in a paper universe," observes Barbara Brandon, a Sierra Club member and University of Kentucky law professor who belongs to the mining task force.

Her colleague, Mike McCloskey, got some recent lessons in the limitations of government upon discovering during negotiations between environmental lead-

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Antitrust Suit Against Bell Winds Onward

It was almost 3 years ago, on 20 November 1974, that the government filed one of the largest antitrust cases in history, against the American Telephone and Telegraph Company (AT&T), the Western Electric Co., and Bell Telephone Laboratories, Inc. It sought to break up their alleged monopoly in the field of communications and communications equipment and to bring about the "divestiture and dissolution" of Western Electric. Although Bell Labs, which is jointly owned by AT&T and Western Electric, was named in the suit, the government did not indicate what should happen to the laboratory, which is often described as the nation's foremost industrial research laboratory. Presumably this will be revealed later when, if ever, the case comes to trial.

Since then, the two sides have been fighting mainly procedural battles. The Bell system has been arguing that the Justice Department has no right to try the suit, because the matters it is concerned with can only be regulated by the Federal Communications Commission. Bell system lawyers have tried to get the case set aside on these grounds twice, in two federal courts, but has lost each time, and has now appealed to the Supreme Court, which will consider the issue in its current session. But observers close to the proceedings say that, if the high court goes against the Bell system, and thus allows the Justice Department to go ahead and try the case, the company may just settle out of court. To do otherwise would mean a trial on the scale of the current antitrust trial against the IBM Corp. That case was announced in 1969, and trial began in 1975. To date, it has consumed 388 courtroom days, 60,000 pages of transcript, and 5,000 court exhibits. And the government hasn't even finished presenting its case. IBM, for its part, plans to put before the lone judge hearing all this another 350 witnesses and 5000 exhibits. The proceedings may go well into the 1980's.

The procedural sparring in the Bell system case has also been accompanied by some indications of the deeper questions each side plans to dredge up. For instance, the Bell lawyers have indicated in some briefs that the system should not be broken up because AT&T, Western Electric, and Bell Labs together, are a unique resource "vital" to the conduct of government business and national security. As evidence for this, they appear to be planning to produce the entire gamut of Bell-government relations.

For instance, in one move, Bell system lawyers obtained a court order forcing its adversary, the government, not to destroy the documentation of its relationship with the Bell system—presumably so these documents could eventually serve as part of Bell's evidence in the trial.

The order included a long list, submitted by the company, of every federal agency with which the Bell system has, or has had, some connection over the years. It included predictable areas of national defense, intelligence, and satellite communications. But it also included some surprises: the Bell system has designed a "critical telemetering and data service" for the Bureau of Land Management to monitor power generation in Western states; it provides the National Institutes of Health with telecommunications services to "disseminate biomedical information"; it developed communications services for regional offices and institutions run by the Veterans Administration; and, it developed the Inmate Calling Program for prisoners for the Bureau of Prisons.

Government lawyers, presumably, will have to counter by showing that the government can obtain these services elsewhere and that it can function perfectly well without the AT&T–Western Electric–Bell Labs combination. In short, they will have to prove that Uncle Sam doesn't need Ma Bell as much as she likes to think.

A Day in the Life of the Science Adviser

Scientists like to think that the person in the elevated post of Science Adviser to the President spends his time speaking momentous words about the relations between science and government—but this is not always so. Among the tasks recently assigned to Frank Press, the current occupant of the post, is that of finding some legal method of suppressing a government booklet on how to invade other people's privacy. Bootlegged copies of the report, which caused a stir over the summer, have been springing up all over Washington, even as Press is holding his finger in the dike, trying to prevent its official public release.

The report was prepared by the MITRE Corporation as volume 3 of a $47,000 study for the Office of Telecommunications Policy (OTP) on "the vulnerability of various commonly available electronic communications means to interception." The first two volumes of the study, delivered to OTP in January, were the usual government technical report—understandable mainly to people in the field.

But the third volume, which MITRE submitted separately and which a chastened OTP now says it never asked for,

ers and timber industry people over certain wilderness area boundaries in the Northwest that the role played by the U.S. Forest Service was not helpful but obstructive. Such negotiations over the Gospel Hump wilderness in Idaho proved successful, McCloskey says, only after the industry and environmental participants agreed to exclude the representatives of the Forest Service and the Idaho fish and game agency.

So, on both the industry and environmental sides, there has been an accumulation of experiences and insights over the last few years which, for a number of people, has made the idea of a search for accommodation attractive. But a more fundamental point may be that such a search has been greatly facilitated now that Congress has dealt with some of the more difficult and divisive issues—as, for instance, in its decision to ban highwalls and, in the case of all new coal-fired power plants, to require the best available pollution control technology, which for the moment means stack gas scrubbers.

Decisions of this kind impose such large costs and major changes in operating practices upon industry that, unless they are made by elected representatives through the political process, they are likely not to be made at all. Yet, after Congress does act on the larger regulatory issues, plenty of room is left for the kind of understandings and accommodations the coal policy project is trying to reach.

The fact that coal and power company executives were taking part in this project at the same time that their industries were making a no-holds-barred attempt

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was the kicker. It was a how-to manual, drawing on unclassified material in the first two volumes, and was written so simply and lucidly that it could tempt even the most somnolent armchair wiretapper to action.

Part one describes how to bug "a suburban residential telephone" in an "area similar to that found in Northern Virginia outside the Beltway." Steps included: "1. Visually trace drop wire to the distribution terminal. 2. Climb pole, open terminal enclosure and note color code of the [wire] pair in the distribution cable to which the drop wire is attached. . . ."

Part two tells how to intercept a business's data communication to a computer service "e.g. the business might have the computer center handling all their accounting." Here, the steps included: "4. Dig a trench from building to branch feeder cable and dig up cable. 5. Install gas pressurization bypass. Drill two small holes (say 24 inches apart) in cable sheath, being careful not to damage wire pairs and clamp by-pass to the two holes."

Part three describes how to intercept calls from a given phone to another city. "The interceptor . . . knows the difficulties of penetrating . . . coaxial cable systems. He is aware of the high voltage hazards and the monitoring and alarm systems associated with the coaxial cables. . . ." So he should intercept the microwave relay in the following way: "1. Locate microwave repeater sites for the route of interest either through physical observation or from FCC filings. 2. Acquire the use of a small farm along the route. . . ." And so on.

The telephone company is angered that the government might publish this incitement to the public to dig up its cables and drill holes in them. AT&T president Charles L. Brown wrote an angry letter to Vice President Mondale in late August, urging that the report not be released. Later, Mondale delegated the job to Press.

The first thing Press did, he says, was to withdraw the copy that had gone out to the government's National Technical Information Service, which otherwise might have distributed hundreds of thousands of them. Now, lawyers at the Justice Department, the White House, the Office of Management and Budget, the Department of Defense, and, yes, the OTP, are being asked if there is some way that the hundred or so of Freedom of Information Act requests for the report can be refused. This may be difficult, however, for the express purpose of the act is to enable taxpayers to get their hands on the documents and reports that they pay for.

Fill-in-the-Blanks Standards for Carcinogens Proposed

The workplace has long been suspected of being a major source of all human cancers. Nonetheless, the Occupational Safety and Health Administration (OSHA), the federal agency charged with regulating the thousands of carcinogens believed to be found in the workplace today, has only managed to promulgate standards for 17 in its 6 years of existence.

But now, the Carter Administration has dusted off and polished up a proposal developed by the Ford Administration for setting standards for all these carcinogens in a streamlined, sweeping manner.

Now, each time that OSHA—and for that matter most other health standard-setting agencies—has issued a standard for a carcinogen, the level has been contested on many different grounds, slowing down the entire process of implementation. How good were the scientific data? How much of the animal test data is applicable to human beings? What levels of exposure should be allowed, given the evidence on health effects? And so on.

Under the new policy, OSHA will use a fill-in-the-blanks method by which, on the basis of scientific evidence published in a preamble, any bureaucrat can assign the carcinogen to one of four categories, and then, depending on the category selected, calculate the appropriate standard. The idea is that, while manufacturers may later contest the standard on highly specific grounds, the big questions, which now delay implementation and are re-asked with each new standard, will all be settled.

The fill-in-the-blanks system could also circumvent the agency's chronic problem of staff turnover, according to sources familiar with OSHA's sluggish past performance. New staff members would have clear guidelines to follow, instead of, in the words of one source, having "to reinvent the wheel" with each new substance.

While the OSHA proposed policy, released by OSHA director Eula Bingham and Labor Secretary Ray Marshall on 3 October, has met with favorable response (except, of course, some manufacturers, one of whom denounced it as a "quick fix"), it could prove no panacea for OSHA's problems.

The basic validity of the proposed categories and corresponding tolerance levels could encounter early, drawn out court tests. Even if they are upheld, after a standard is imposed, a manufacturer may claim in court that his due process has been violated because, while he has to pay for worker protection under the standard, he was not specifically consulted in the formulation of the policy under which it was set.

Deborah Shapley