

## State inspector of coal mines reports

### Section 30, Pages 871 - 900

These reports of the Kansas State Mine Inspector mostly concern coal mining, though by 1929 the scope of the reports broadens to include metal mines. The content of individual reports will vary. The reports address mining laws and mining districts; industry production and earnings; fatal and non-fatal accidents; accident investigations and transcripts of oral interviews; labor strikes; mine locations; mining companies and operators; and proceedings of mining conventions. The reports document the political, economic, social, and environmental impacts of more than seventy years of mining in southeastern Kansas.

Creator: Kansas. Inspector of Coal Mines

Date: Between 1884 and 1956

Callnumber: SP 622 K13

KSHS Identifier: DaRT ID: 210191

Item Identifier: 210191

[www.kansasmemory.org/item/210191](http://www.kansasmemory.org/item/210191)

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### THE SCHOOL QUESTION, RELATIVE TO MINORS WORK- ING IN THE MINES.

On the 1st day of October, 1895, the governor called the Mine Inspector into his office and handed him the following communication:

Weir City, Kas., September 25, 1895.

Mr. Governor: Dear Sir—I have the honor to address you this letter to inform you of the violation of law of the state, of which I think that you can remedy the evils. Mr. Governor, there are officers in office that take the office for what money there is in it, but not for the respect and the protection of the law. My complaint is on the employment of boys under lawful age, which some of them have been employed in coal-mines at the age of eight years old; and employers take everything they are told and then never investigate whether those boys are able to write their names or read a line of a book. Mr. Morrill, I beg you, if you are a benevolent gentleman, to take pity on those poor innocents, and if possible establish public night schools for those who are not able to acquire a common education.

Mr. Governor, I hope that you will be kind enough to take action in this complaint. I remain, your faithful friend,

After the Inspector had read the letter, the governor asked him if the statements it contained were true. The Inspector replied that, so far as boys being at work in some of the mines in violation of the law, he believed it was true; but he had not observed any children working in or about the mines that were only eight years of age. The governor then asked the Inspector why he was not enforcing the law. The Inspector replied that times had been hard especially in the coal trade; that miners had been getting but little work and earning very small wages; that at the time he assumed the duties of the office, July 1, the schools were all closed; that now the schools had opened, the mines had started up briskly, with every prospect of running full time for the ensuing five or six months, and he had thought that under the circumstances it would perhaps be better to let matters remain as they were until the end of February, 1896; then make an effort to get the boys out of the mines and into the schools for the last three or four months of the school year. The governor replied that "this is a matter above and beyond the mere question of money; the law will have to be enforced."



## State inspector of coal mines reports

112

### *State Inspector of Coal-Mines.*

The following circular was the result of this interview:

Office of the State Coal-Mine Inspector,  
Leavenworth, Kas., October —, 1895.

Your attention is called to the following section of the mining laws of Kansas, relative to the employment of children in coal-mines:

Sec. 32. No person under 12 years of age shall be allowed to work in any coal-mine, nor any minor between the ages of 12 and 16 years, unless he can read and write and furnish a certificate from a school-teacher, which shall be kept on file, showing that he has attended school at least three months during the year; and in all cases of minors applying for work, the agent of such coal-mine shall see that the provisions of this section are not violated; and upon conviction of a wilful violation of this section of this act, the agent of such coal-mine shall be fined in any sum not exceeding \$50 for each and every offense.

From personal observation, the Inspector is convinced that this section is being openly and flagrantly violated in nearly every mine in the state, and adopts this method of notifying all operators and agents that if, after the expiration of 30 days from the time of serving this notice, he should find any child employed in any coal-mine in the state in defiance of this law, he will immediately commenced proceedings in the courts against the agent or superintendent of the mine.

Should the Inspector find that any parent or guardian has given false returns to the superintendent or agent regarding the age of the children so as to secure employment for them, in infringement of this law, he will prosecute him before the courts for perjury.

BENNETT BROWN, Inspector.

This circular was the means of demonstrating beyond any question that it was not the fault of the employers that the law was being violated, only so far as not observing strictly the requirements of the law as laid down for their guidance. In most cases it was at and because of the urgent solicitation of the parents that the children were permitted to work in the mines; and to use, as some of the mine managers did use, the phrase of one of my predecessors, "It is hard to refuse to allow a boy to work in the mine and send him home to an empty cupboard."

Nevertheless the law is a just one, and goes a step (only a step) in the right direction, and in justice to the boy himself, even at the risk of a little suffering, it ought to be rigidly carried out.

The difficulties in the way of enforcement are manifest and easily perceived; the principal one, however, lies in the fact that there is no compulsory registration of births, and the mine manager has to take the word of the parent regarding the age of the child; and the same necessity or inducement that would cause a parent to take his child away from school and place him in the mine would tempt him to conceal the true age of the boy.

Other states have recognized this difficulty, probably through experience, and have made the judgment of the manager or Inspector the final criterion of the age of the boy, and, therefore, of his eligibility for employment.



## State inspector of coal mines reports

### *Eighth Annual Report.*

113

It may not be out of place for the Inspector to submit a few thoughts on the subject:

During the session of 1880-'81 of the Ohio legislature, the writer was requested by the miners of that state to go before the mining committees of both branches of the legislature and submit reasons why an act—of which our own is virtually a copy—on this subject, should be passed and become a law. While giving his reasons for the necessity of such a law, he was interrupted by the chairman of the senate mining committee, and asked if he did not think that the miners themselves would be the first to object to such an innovation, as this idea was, of preventing them from taking their children into the mine. The writer replied to the effect that he did not think they would; that there might be some exceptions; but he believed that the great majority of the miners were not only willing but anxious to have such a law passed; and while it might seem anomalous that a man should desire the passage of a law compelling him to do that which was entirely under his own control, it was nevertheless a fact. Because it was true, though it might seem weak, that many a man took his child into the mine simply because his fellow workman had done so; that his ambition or necessity caused him to do this, contrary to his better judgment, to enable him to earn or have the opportunity to earn as much money as his neighbor; and so it happened that one man who was lacking in paternal affection, or perhaps, through his own ignorance was not conscious of the injustice he was doing his own child, caused others to do likewise. Even if his (the chairman's) suggestion were true, and the miners would object, it was the duty of the state, in the interest of the state, to see that no portion of her citizens should be allowed to grow up illiterate and ignorant. "In any event our nation and all nations can only permanently prosper when they give the people the facilities for moral and intellectual advancement, and an opportunity to surround themselves in fair proportion with the luxuries and comforts of life."

The legislature of Kansas of 1873-'74 had this idea clearly in mind when it enacted the present school laws of the state, providing that children between the ages of 8 and 14 years be compelled to attend school at least 12 weeks in each year, and providing penalties for failure on the part of parents or guardians to send them. The same act made it the duty of the director or president of the board of education to see that the law was enforced.

Perhaps the following comments from the Horton "Commercial" on this law may be of value to some of our citizens who are interested in this subject:

But there is another law in force, that was not passed for political effect,





## State inspector of coal mines reports

114

### *State Inspector of Coal-Mines.*

and will do more towards abolishing jails and penitentiaries than any other, if rigidly enforced in every community. It strikes at the very root of all evil, and being put into force while the subject is young and susceptible to good government, it will never fail in its object. We refer to the law of compulsory education. Only last week a trio of boys were arrested in Horton, and one sent to the county jail for burglarizing a store in Horton. It is a well-known fact that these boys picked up their only education on the streets of our own town, from the time they were eight years old to the present. There are a hundred other examples right before our eyes. There are a score of young boys in Horton to-day who, instead of receiving the benefits and moral teachings of our schools, are educating themselves in a life of idleness and crime on the streets, day and night.

The mine law, it will be noted, raised the age to 16 years, because it was doubtless contemplated that if a child entered the mine at the age of 12 years he could only get the benefit of less than one-half the regular school term for the ensuing four years.

It has often been said, and with great force, that the safety and only hope for the perpetuation of a government by the people lay in the intelligence and education of its citizens; the better educated the more self-reliant, and less likely to become the dupe or delegate their power into the hands of designing, corrupt, self-seeking men. It is also true that education broadens the mind and renders men more tolerant of each other, so that legislative errors are corrected by reasonable measures rather than by physical force. "Government, in the long run, is usually no better than the people governed."

It is, or it should be, the desire of every workingman to see his children placed in a better position, socially and economically, than that which he himself has occupied; and the better educated and more intelligent the workingman the more solicitude he manifests, and the more eager he becomes to see his children secure a liberal education; perhaps the most Christlike characteristic manifested on earth is the self-denial practiced by some parents to enable them to send their children to school.

And why education? Because they realize that the only hope of advancement for the child lies in intellectual development, and that can only be accomplished by the thorough mental training secured in passing through an educational course.

It has often been observed that when a young man secures a superior education, either through the self-denial of his parents, or his own Spartan-like habits and indefatigable exertions, the mine, unless as an official, knows him no more; he has raised himself above its surroundings, and unless he can secure a position as an officer he seeks and finds an opportunity to earn a living in some other sphere that gives him a higher social standing in the eyes of the world. Education is a leveler, but it levels up.



## State inspector of coal mines reports

### *Eighth Annual Report.*

115

The history of human progress teaches us that nothing is gained in the way of advancement without sacrifice, and it is self-evident to all that nothing will yield larger returns for that which is surrendered to obtain it than education. It not only increases the earning capacity, thus securing more of the comforts and luxuries of the world, but it elevates the mind, increases self-respect, and correspondingly commands the respect of others.

It destroys egotism and develops common sense. One never sees the astute employer or the sycophantic politician patronizingly pat the best-informed, and therefore the most intelligent, workingman on the back and whisper flatteringly in his ear, "Ah, you are the bone and sinew of the country! what would we do without you?" Oh, no, he reserves that kind of buncombe for the ear of the ignorant, therefore blind and conceited, whose vanity can be tickled and compliance secured by the use of a little flattery.

A writer in the St. Louis "Globe-Democrat," under date of January 30, 1896, discourses thus on "Illiterate Immigration:"

The records show that of the 229,370 immigrants who came in through the port of New York last year, 42,942 above the age of 14 could not read and write. There can be no doubt about the undesirability, to say the least, of such an addition to our illiterate population, which is already much larger than is consistent with a political theory that makes intelligence the best test of citizenship and the chief protection against adverse influences. These immigrants may all be honest and industrious people, but they are not fitted to serve the best purposes of society, and cannot be expected to make safe and useful voters. They are mostly poor, and likely to remain so, since their labor is of the unskilled kind that earns only the smallest wages, and their ignorance must prevent them from rising above their present condition, generally speaking. Their misfortune is to be lamented, of course, but our country is not responsible for it, and is not under any obligation to incorporate it into our industrial, social and political system. Such people have no right here in the strict sense of the word; and as for the claims of philanthropy, they are subordinate to considerations of public safety and prosperity.

There is a bill pending in Congress to exclude all immigrants between 14 and 60 years of age who cannot read and write, and these figures furnish a practical and forcible argument in favor of such legislation. The bill does not require that the immigrant shall know a word of English, but it demands that he shall have sufficient knowledge of his own language to lift him above the level of mental density that precludes the chance of success in any reasonable degree, and carries with it the danger of increasing the number of paupers and criminals. At the present time, or according to the last census, there are 6,324,702 persons over 10 years of age in the United States who cannot read and write—13.3 per cent. of the total population. This army of illiteracy is the source of most of the poverty and crime of the country. It is the element out of which mobs are evolved, and by which elections are frequently carried. To add to it is to invite further corruption and violence in our affairs. There can be no objection to immigrants who have intelligence, and are self-supporting, and can be depended upon to act the part of productive



## State inspector of coal mines reports

116

### *State Inspector of Coal-Mines*

and law-abiding citizens; but the gates should be shut against any additional accessions of illiteracy.

The objection is raised by many that they cannot afford to send their children to school; that the necessities of their condition compel them to put the children to work as soon as they are physically able to contribute a little toward the support of the family.

The very same cry was raised by the people of England a half century ago, when it was proposed that the government of that country should interfere and by legislative enactments prevent children from being employed in her factories and mines for 14 to 16 hours a day, at the tender age of six years and upwards.

Such great and shining lights as John Bright and Richard Cobden, who were entitled the "great commoners" of England, protested against this manifestation of paternity on the part of the government, declaring that the result of such legislation would be the total annihilation of the manufacturing industry of the country, and would inevitably end in industrial ruin, starvation, decay, and death.

No wonder, then, that the government hesitated, and honestly doubted the propriety of interfering, when those men, the acknowledged friends, and exponents of the cause of the common people, uttered these emphatic protests, and predicted such calamitous results.

The entire manufacturing and employing interests of the country were also arrayed in opposition to any restrictions being placed upon their right to employ children of any age, sex, or condition.

Fortunately, however, for the cause of humanity and the welfare of the country there were other men who thought, spoke and wrote differently; chief among them that great social reformer, Mr. Robert Owen, than whom the people never had had a more sympathetic, consistent, common-sense, practical champion, and who labored unremittingly until their efforts were crowned with success, and the right of protection (paternalism) in government over those unable to protect themselves was established by the passage of what became known as the "factory act." The results of this legislation are well expressed by Mr. William Willoughby, in a paper on this subject published by the American Economic Association, in 1890:

It can be said of it, as of no other course of legislation, that its results have all been beneficial, not only to the employees, but to the employers as well, as it is now generally admitted by them. . . . Its results have more than justified the acts in every particular. In it can be traced the rise of many important principles in the science of the functions of government. It has been of incalculable service to the progress of the lower classes in more



*Eighth Annual Report.*

117

ways than in the direct workings of the act itself. . . . Although every political economist who wrote before 1850 was uncompromisingly opposed to this legislation, not one who has written since 1865 has ventured to deny the advisability of the "factory act." . . . This change of front by the employers and economists is one of the most cheering signs of the time. . . . It has advanced the material prosperity and the intellectual, moral and political progress of the whole community. . . . It has brought about as a necessary consequence, an increased production and consumption of wealth, promoted the use of improved machinery, and reduced prices without lessening profits. . . . The increase in intelligence among the masses has not been less marked. . . . The working children are now for the first time receiving an education as a condition of employment. This requirement of school attendance has had a tremendous influence in increasing the number of the lower classes who attend school. . . . It would seem that such a history, so clearly marked in its results, would present an example that all nations having the same problem to contend with could scarcely refuse to follow.

In the face of such evidence, it cannot be doubted that restrictive measures were beneficial at a time when wages were at the minimum and the hours of labor at the maximum point. Then why, it may be asked, would not further restriction be beneficial now, when wages and hours of labor are at the medium point; with thousands of unemployed men eagerly but unsuccessfully seeking for some labor to perform by which they could earn their bread, and the productive power of man in agricultural and most manufacturing pursuits increased at least fourfold since that period by the introduction of labor-saving machinery?

Up to this date, perhaps the only feature to be regretted in connection with the invention and perfection of labor-saving machinery is, that it has multiplied opportunities for the profitable employment of child labor, to the exclusion of adult labor, which manufacturers have not been slow to take advantage of. Machines are so perfect that neither mind nor muscle is required to manipulate them. In the mines, where perhaps inventive genius has done less to increase the productive power of man than in any other branch of industry, a boy 12 years of age can, with a drilling-machine, bore a hole in the vein in less time than an able-bodied man with a churning drill could have done 20 years ago; and consequently, when coal is blasted off the solid, with a little supervision and direction on the part of his father or other relative, mine more coal. The machine manufacturers, in illustrations advertising the sale of their machines, use the figure of a stalwart man posed in an easy position, a pipe in his mouth, and his hand resting lightly on the handle to indicate the ease with which it can be operated. Were they to substitute the figure of a child, with his slim body bent over the handle of the machine grinding out his young manhood, they would give a more



realistic and correct idea of how the fruit of their genius was being utilized.

These are some of the reasons why I say that our restrictive law is only a step in the right direction, and it should be improved upon, to the extent of compelling the youth of both sexes to attend manual-training schools at least six months every year, until they are 18 years of age.

The governor of our own state was lately credited with the following expression: "If it wasn't for the disgrace of it, I would rather have my son spend four years at the Concord (New Hampshire) reformatory than in any college in the land," because, as the reporter puts it, "of the habits of punctuality, cleanliness, attention to duty, and thorough methods, coupled with the learning of some useful trade," inculcated in these institutions. There is much food for thought contained in this expression. It suggests good reasons for the most conspicuous and strongest feature of the declared principles of that powerful and numerically strong organization, the American Federation of Labor, being "Compulsory Education." It is thus shown that the state exercises more paternal care in educating and training the dissolute and incorrigible than it does over the poor but honest, God-serving, law-abiding child; nay more, than the government taxes the latter—for it will not be denied that all self-supporting people, whether adults or minors, are taxed—to support, educate and teach the former some useful and remunerative trade, whereby he may and can, in time, outstrip him in the race of life. This is "killing the fatted calf" with a vengeance never even contemplated in the parable. The stain attached to having been educated in a reformatory may and will wear off; but the mark of ignorance, like the brand of Cain, is ever present with its baneful and deteriorating effects.

It will not be disputed that the child of the workingman, on reaching maturity, should have had the same opportunity for intellectual development as the child of the millionaire, and it is only by taking such steps gradually, in the direction of compulsory education of minors—the very name of which indicates a charge, persons who are irresponsible, and whom it is the duty of the state to protect—that such can ever be accomplished, and consequently the advancement of the entire human race.



### STRIKES : THEIR CAUSES AND RESULTS.

The state has been comparatively free from troubles of this character during the past year, yet it would be too much to expect that all the mines in the state could run for that period without some little unpleasantness occurring between the miners and their employers. All together, there was 17,930 days' labor lost, which, at an average of \$1.75 per day, represents a loss in wage earnings of \$30,377.50; of this, 326 men lost 10 days; 52 men, 15 days; 13 men, 6 days; 292 men, 21 days, and 367 men, 14 days, in an effort to secure an advance in wages. Of this number, the 367 men were out in sympathy with the 292 men, which is explained in detail in another part of this chapter entitled "The Leavenworth County Strike." All were successful except the 52 men out 15 days, who resumed work on the same terms as those on which they were working when they stopped.

In an unsuccessful attempt to secure pay for their labor every two weeks, 241 men lost 10 days, and 52 men lost 6 days. The law of the state makes it obligatory on the part of every private corporation doing business within the state, except steam surface railroads and corporations engaged in the production of farm and dairy products, to pay their employees the wages earned every week, in lawful money of the United States. (Session Laws 1893, ch. 187, p. 279).

Miners should not strike on this or any other kindred account. If they desire to be paid their wages as provided for by the laws of the state, let them so request their employer. In the event of the request being refused continue at work, but notify the Inspector. He will at once take steps to find out whether the law can or cannot be enforced. The only reason why the Inspector does not now interfere is that he does not consider it any part of his duty to stir up strife between employers and employees in matters of this kind when arrangements are in force which seem mutually satisfactory.

It is well known that the passage of the weekly-payment-of-wages bill was a blow aimed at the heart of the companies' or, as some prefer to call them, "truck" stores.

One bad feature in this connection is the charge, not always without foundation, that unless workmen trade at the company's





## State inspector of coal mines reports

120

### *State Inspector of Coal-Mines.*

store they are not accorded impartial treatment in their work. Especially is this manifest in times of depression and scarcity of trade, and it is not to be wondered at, as the first law of nature is self-preservation; it is only consistent that an employer should discriminate in favor of the workman who manifests some concern in his welfare. Fortunately this bone of contention is likely to soon disappear altogether. Last year the representatives of thousands of miners and hundreds of operators met in convention at Pittsburg, Pa., and agreed that the former should not go out on strike without first submitting their grievance to arbitration; the latter agreeing on their part, in return for this concession on the part of the miners, to abolish company stores or return 5 per cent. of all money paid by their workmen into the stores for merchandise. This is a giant stride in the proper direction, and one that must be productive of much good to all concerned. When the beauties of arbitration—reason applied to the solution of misunderstandings—are thoroughly understood and insisted upon, strikes and lockouts will have become a nightmare of the past.

### *The Leavenworth County Strike.*

On the 21st day of October a strike occurred at all of the mines in the Leavenworth district. The causes leading up to this strike were peculiar. On the 15th day of May the Home-Riverside Coal Mining Company, operating two of the three shafts in the district, notified its employees that, owing to the price for mining coal having been reduced in other districts, enabling competitive operators to place coal on the market at greatly reduced prices, it became necessary, to enable it to command a fair portion of the trade and give its employees work, to reduce the price of mining coal from 80 cents to 70 cents per ton.

Just two days prior to this action on the part of the Home-Riverside Coal Mining Company the contract for the surplus output of coal of the state penitentiary coal-mine at Lansing, had been let, and the board of directors had awarded it to a man named Majors, of Kansas City, Kas. This man, it afterward transpired, was identified with the Home-Riverside Coal Mining Company, and was in fact representing the company and bidding for the surplus coal on its behalf. The Home-Riverside Company made no secret of this transaction, and openly proclaimed that it would handle that coal for the next year.

The employees of the Home-Riverside Company, on being notified of the reduction to take effect on the 1st day of June, the very day the surplus output of coal of the penitentiary coal-mine was supposed to come into the hands of their employers, held a meeting,



*Eighth Annual Report.*

121

canvassed the situation thoroughly, and finally came to the conclusion, taking everything into consideration, that it would be wise to accept the reduction and continue at work, notifying the company, however, that they did so under protest, and would again expect to be paid 80 cents per ton just as soon as a revival of trade would justify it.

The Home-Riverside Company or its agent did not get the contract for the surplus coal of the penitentiary coal-mine. Between the time that the board of directors had awarded the contract to Majors and the completion of the act by accepting his bond and signing the agreement many influential men in the state, who were opposed to the wages of laboring men being subject to and influenced by direct competition with the products of convict labor, petitioned the governor, praying him to interpose and prevent the completion of the agreement with Majors, until the matter could be investigated, and if it was proven that Majors was acting as the agent of the Home-Riverside Company, that the award of the directors be set aside and the contract re-let.

The governor immediately took steps to prevent the contract being signed by the board of directors, and had the attorney-general of the state give an opinion as to whether the directors could legally refuse to complete the agreement with Majors; which opinion, on being given, was to the effect that the directors were in no way bound to accept the bond of Majors or sign the contract.

After investigation, the directors becoming satisfied that Majors was acting as the agent of the Home-Riverside Coal Mining Company, refused to accept his bond or sign the contract, and advertised for more bids, and two months later awarded the surplus coal to other parties.

The mines continued to run smoothly in Leavenworth up to the 18th day of October. On that date the superintendent of the Leavenworth Coal Company, which had not reduced the price of mining coal, notified his employees that his company would have to reduce the price to 70 cents per ton, unless the Home-Riverside Company advanced the price to its miners to 80 cents.

The miners of the Leavenworth Coal Company immediately held a meeting and resolved to request the miners working for the Home-Riverside Company to demand 80 cents per ton, and in the event of the demand being refused to do everything lawful in their power to prevent the miners from working until the demand was conceded.

The resolution was carried out to the letter. Early on the morning of the 21st bands of miners might be seen wending their way towards the Home mine and congregating in its vicinity, commanding





all the approaches to the mine and intercepting all the miners that came there to work; there can be no doubt that a large majority of the men working in these mines were not averse to being intercepted, and only wanted an excuse to stop working until they had a promise of being paid the same rate as was being paid at the other shaft. After all had been gathered together a meeting was held, and the miners from the Leavenworth shaft explained the situation to the miners of the Home-Riverside shafts, saying that unless the price was advanced to them to 80 cents they, the miners of the Leavenworth mine, would be reduced to 70 cents. There was also the fear expressed that it might not end there; that if the precedent were established that it was worth 10 cents per ton more to mine coal at the Leavenworth shaft than at the Home-Riverside mines, and the Leavenworth shaft miners were forced to 70 cents, the Home-Riverside miners would be reduced to 60 cents, and so on, and that there would be no end to the reduction and trouble.

The result of this meeting was that all resolved to quit work and stay out of the mines until the Home-Riverside Company advanced the price of mining coal to 80 cents per ton.

This action on the part of the men had the effect of bringing the two companies into a conflict with each other, wherein much feeling was manifested, the one accusing the other of being the cause of the trouble; the other replying that if it would pay the men the price it could well afford to there would be no trouble; indeed, the president of one of the companies stated publicly in an open meeting that he could pay the 80 cents per ton and would pay it if the other company would.

This quarrel among the operators was gratifying to the men, and for once in their lives, instead of fighting among themselves, as they usually do under such circumstances, they became the inciters, urging and encouraging the fight by all means in their power.

About this time the labor commissioner of the state made a trip to Leavenworth to investigate the trouble; he accentuated the feeling in the community against the operators of the Home-Riverside mines, and created a great deal of sympathy for the miners by writing a letter to the press, after an investigation of the company's books, in which he stated that the earnings of the men at the Home-Riverside mines were only 93½ cents per day; adding that it was not possible for a man to support himself and dependents on that sum and he was bound to become a burden on the people, etc., etc.

This was the condition of affairs when the Mine Inspector was



*Eighth Annual Report.*

123

invited by the miners to attend one of their meetings. He went, and, on being requested to speak, brought on his head the indignation and disgust of the extremists among them, by advising to the effect that if after investigation they found that their employers could not pay more than 70 cents per ton and make a fair profit on the capital invested, and command a fair share of the trade in competition with other operators in competitive districts, to accept the 70 cents and go to work; advising them further, that if they and their employers could not get together and hold a conference so as to agree upon prices upon which to resume work, they should appoint a committee of business men of acknowledged standing in the city to represent them, and whatever these men should decide was fair to them, after the canvassing the whole matter with the operators and their representatives, they should submit to, and resume work.

The advice was not by any means palatable to the "80 cents or nothing" men; but after consideration by all and support from the most conservative, the principle was indorsed, and a committee appointed to represent the miners.

On the morning of the 31st of October the miners' representatives, accompanied by a committee of miners, visited the headquarters of the coal companies and politely requested them to state whether or not they were in favor of settling the trouble by arbitration, saying they were there to act on the part of the miners, and would be glad to confer with the operators or their representatives and try to settle the difficulty in an amicable and legitimate manner.

One company answered, in effect, that it was running its own business, and had no trouble with its men to arbitrate; when it had, it could settle it without outside interference, and only requested to be let alone.

The other company said that it was ready and willing to enter into any arrangement to have the trouble settled, and would be pleased to appoint a committee to represent it, and would agree to abide by the decision they might reach, or would pay 80 cents per ton and resume work if the other company would.

Thus matters remained in the same position as before, with this difference, however, that the arbitrary disposition manifested by one of the companies increased the sympathy of the community at large for the miners.

Matters ran along in this state until the 9th day of November, when the miners held another meeting, and resolved to resume work at the Leavenworth mine at 80 cents per ton.

An arrangement had been made with the company operating



## State inspector of coal mines reports

124

*State Inspector of Coal Mines.*

that mine whereby it had agreed to employ, in addition to its own men, all the men working for the Home-Riverside company it could possibly make room for. It also agreed to deduct 25 per cent. from the earnings of all the miners in its employment and hand it to a committee appointed by the miners, for distribution among the men still out. It was also resolved that all the miners formerly employed by the Home-Riverside Company should go to the mines on the morning of the 11th and request to be allowed to go into the mines and remove their tools. It was further resolved, that a committee be appointed to guard all approaches to the Home-Riverside mines, intercept all men found going to or coming from work there, and try to persuade them in a peaceable way to refrain from working until the Home-Riverside Company paid 80 cents per ton. A committee was appointed to solicit aid for the men on strike. Headquarters were established as a receiving and distributing point, into which everything in the shape of provisions, clothing, fuel or money was received, and distributed to those in need; and it speaks loudly for the benevolent spirit manifested by the people of Leavenworth, that after having satisfied all applicants this supply depot was never empty.

There was another feature connected with this strike that operated very largely in favor of the men. Representatives of coal companies from Illinois, Iowa, Missouri, Arkansas and Texas appeared in Leavenworth, offering the men inducements to go to their mines, stating that work was plentiful, miners scarce, wages good, and if a sufficient number would go their fare would be paid. Many went.

There was yet another circumstance, and that perhaps the most influential, in terminating this struggle in favor of the men.

The miners of Cherokee and Crawford counties had, on or about the first of the month, met in delegate convention in Pittsburg and formulated a demand for an increase in wages, and on the 13th again met to hear and consider the answers given by the various operators regarding the demand. While the meeting was in session the representatives of the operators appeared at the door of the room in which the meeting was being held and requested to be admitted, stating that they wished to confer with the men and try to effect a settlement of the trouble. They were admitted, and the result was the conceding of 6 cents per ton advance on mine-run coal by the operators, which concession was satisfactory to the men and trouble was averted in that district.

This action in the southeastern district of the state and its result strengthened the position of the miners in Leavenworth, and, conversely, weakened that of the operators.



Things remained in this condition, all quiet and peaceful, without any signs of yielding on the part of either contestant, until the 14th day of November. On this date the Home-Riverside Coal Company issued a statement addressed to its employees, comparing the wages earned by its miners with those of the men employed by the Leavenworth Coal Company, drawn from the figures compiled from the annual returns made by the companies to the State Mine Inspector, and while not disputing the figures given by the labor commissioner, showing that its miners for the days worked during the current month, prior to its men going out on strike, had earned over \$2 per day for every day worked.

The miners immediately replied through the press, in a statement signed by 22 men, accusing the company of having misrepresented them, not on the total amount earned, but in the number of days worked, and in giving the entire credit to one man while in many instances it should have been divided between two.

The issuing of this statement by the Home-Riverside Company was the first public acknowledgment by it that there was any trouble at its mines, and, conformable to the statement made to the miners' representatives, it soon settled it itself. For on the 18th day of November it posted notices at both mines stating that, on and after the 19th inst., the company would pay 80 cents for mine-run coal and return to the schedule of all prices paid for labor in effect prior to June 1, 1895.

There was much rejoicing over the termination of the strike, everybody feeling jubilant and happy, when suddenly a small, dark cloud loomed on the horizon, that for a time threatened to wreck the whole proceedings and prolong the trouble indefinitely. This controversy arose regarding a matter that neither party should have had the slightest friction over, namely, the appointment of a check weighman. This is a representative of the miners, paid by themselves, whose duty it is to stand at the scales and see that the company's weighman weighs and records correctly the coal sent by the miners to the top of the shaft.

The company did not object to the men employing a representative to see that their coal was correctly weighed and justly recorded; but it did object to certain individuals being appointed to that position, claiming, as they do in diplomatic circles, that they were *persona non gratio*; or, in plain English, that these men were imbued with a feeling of hostility toward the company, and let no opportunity slip of causing annoyance and trouble between the company and men; that the representatives of the company were subject to undue interference by those men, and if no opportunity occurred to



## State inspector of coal mines reports

126

### *State Inspector of Coal-Mines.*

cause strife they would soon make one; all of which allegations, it cannot be doubted, the company has sometimes good ground for making.

In many cases those appointed as the representatives of the men are the leaders of their unions—men who take an active part in looking after the interests of their fellow workingmen, and are vigilant and watchful to see that their rights and privileges are not encroached upon. They, like all representative men, are ambitious and desire to be popular, and sometimes, through mistaken zeal, think it necessary to seize a slight pretext as ground for causing trouble, in order to demonstrate to their fellows how watchful and zealous they are in their endeavor to protect them and their interest, losing sight of the fact that it is the most plain and positive proof of ability in a labor leader to keep down friction between the employers and employed and at the same time secure for the employed all that they are justly entitled to.

While there are instances of the kind alluded to, it is also true that there are a great many men who use sound discretion and good judgment in the performance of this difficult duty and give satisfaction to all parties concerned. The law regulating this matter is as follows:

The miners employed by or engaged in working for any mine owner, operator or lessee in this state shall have the privilege, if they so desire, of employing at their own expense a check weighman, who shall have like rights and privileges in the weighing of coal as the regular weighman, and be subject to the same oath and penalties as the regular weighman.

As a matter of courtesy to their employers, the miners might give due notice to the company that they were going to or had appointed a check weighman, stating the name of the appointee and the day he would begin the performance of his duties. The appointee appears on the ground on the date given and requests the superintendent of the mine to render him the necessary facilities for the performance of his duties, and if the superintendent does not do so, or places any obstacles in his way, or refuses to allow him to stand at the scales and check the coal as weighed by the company's weighman, he should leave the company's premises and notify the State Inspector of Coal Mines. It then becomes the duty of the Inspector to see the law vindicated and find out if there is any valid objection to the miners' appointee. It is not necessary for the men to have the slightest trouble with the company in regard to a matter of this kind.

But this controversy does not end here; the men go beyond the law and request the companies to pay the miners' representative



through the office, just the same as they do their own employees; that is, he shall be assigned a check number, a portion of coal will be deducted from the amount sent to the top by every miner in the shaft, and credited to the number assigned the check weighman; then the company assumes the performance of the labor requisite to charge each man the amount due the check weighman, credit him with those amounts, balance his account, and pay him what is due on pay-day. The performance of this labor on the part of the company is nothing when it is done for a man who is personally agreeable to them; but becomes an intolerable burden when compelled to perform it for a man who occupies the position in opposition to their wishes. The only cause that can be assigned for the miners making this request, or demand rather—for if it is refused they are always prepared to and have sometimes\* enforced it by a strike—is (and with good reason) a want of confidence in the honest purpose of each other; in other words, they fear, and the check weighman fears, that after he has performed the labor his employers cannot be trusted to put their hands into their pockets and pay him the amount honestly due; therefore the company is requested to secure the amount due from each man, whether he is willing or not, and turn it over to the employee of the men.

What a fine and elaborate argument some of our lawyers could make on the constitutionality of that act, and the abridgement of the right to "the pursuit of life, liberty and happiness" entailed in its performance! The miners themselves, by this act, practically invalidate the law. When the law was passed by the legislature it contemplated the employment of an agent by the miners, who would be free and untrammelled, under obligation to no man but his employer—the miners—whose representative he was, to see that absolute justice was meted out to them in the weighing of their product; but by compelling the company to assume the responsibility of paying him his wages it either increases the feeling of hostility, on the one hand, or, if agreeable to the company, places him under obligations on the other.

After several conferences between the superintendent of the company and the miners' committee, the request (?) of the miners was conceded, the following agreement signed, and all went to work on the morning of the 20th of November, after a strike which lasted 30 days:

[Copy.]

Articles of agreement between the Home-Riverside Coal Mining Company and its employees and United Mine Workers of America, Local Lodge No. 12.

\*St. Louis, December 4.—Seventy-five coal-miners in the Skellet mines, near Belleville, Ill., went on strike yesterday. The operators refused to employ a check weighman recommended by the miners.





Articles of agreement made this 20th day of November, 1895, by and between the Home-Riverside Coal Mining Company, by its superintendent, G. W. Kierstead, of Leavenworth, Kas., party of the first part, and its employees, and United Mine Workers of America, Local Lodge No. 12, by their committee, Henry Kock, Fritz Dekaski, Geo. Jordan, and Jos. Jorewitz, of Leavenworth, Kas., party of the second part:

Witnesseth, That the Home-Riverside Coal Mining Company, party of the first part, hereby agrees to restore the schedule of the wages for mining, brushing, day labor, etc., that was in effect at its No. 1 and No. 2 plants on May 31, 1895, which was on a basis of eighty (80) cents per ton for mine-run coal; allow the men at each plant a check weighman, to be paid at the expense of the miners by running a check number; the men to select said weighmen from among their own number, for each plant. No person in the employ of the company on October 19, 1895, or prior thereto, to be debarred from returning to his work, is he so elects.

Party of the second part hereby agree to call said strike off and return to work, and recommend that all men return to work immediately, and recommend the products of the Home-Riverside Mining Company to the patronage of the public. They further agree, that they will work faithfully and to their own best interests and to that of the coal company so long as this agreement is not violated by party of the first part.

In witness whereof, The parties of these presents have hereunto set their hands, this 20th day of November, A. D. 1895.

(Signed)

The Home-Riverside Coal Mining Company, by  
Geo. W. Kierstead, Superintendent.

Committee for employees and United Mine Workers of America, Local Lodge No. 12, by Henry Koch, Fritz Dekaski, George Jordan, and J. Jorewitz.

Witness: J. W. Niehaus.

In estimating the loss to the community of Leavenworth through this strike there must necessarily be much assumption. The writer desires to be moderate, and therefore bases his calculations on what he considers conservative figures. The Home and Riverside coal-mines were employing at the inception of the strike 326 men; six of this number were office employees, and 28 were employed on construction, leaving 292 men who were directly affected by the strike. Assuming that, out of the 25 possible working days during the strike, the mine would have lost four days through exigencies connected with the business, the total loss in time would be 21 days of 292 men, equal to 6,132 days' labor; assuming the average earning capacity of the men to be \$1.75 per day, the loss in wages at those mines would be \$10,731.

The Leavenworth Coal Company employed 385 men, of whom say 17 were office employees, superintendent, etc. This would leave 367 men directly affected by the strike. Assuming this mine lost three days through trade exigencies, the total loss in time would be 367 men 14 days—equal to 5,138 days' labor; and assuming the



## State inspector of coal mines reports

### *Eighth Annual Report.*

129

average wage of the men to be \$1.75 per day we have, 5,138 days at \$1.75 per day, equal to \$8,991.50. \*

Assuming the output of the mines to average two tons per day per man, the loss in production would be: Home-Riverside mines, 6,132 days' labor, at two tons per day, equal to 12,264 tons; Leavenworth Coal Company mine, 5,138 days' labor, at two tons per day, equal to 10,276 tons; total loss in production in coal, 22,540 tons. Assuming the average selling price to be 25 cents per ton above the cost of production at the mine, the loss to the companies in profit on tonnage would be \$5,635. Assuming that it cost the Leavenworth Coal Company \$40 per day to keep its mine open, feed its live stock, pay its salaried officials, etc., the loss to the company would be 14 days, at \$40 per day, equal to \$560; and assuming it cost the Home-Riverside Company \$60 per day to keep its two mines open, feed its live stock, pay salaried officials, etc., the cost to that company would be 21 days, at \$60 per day, equal to \$1,260. The total loss, then, in money alone, because of this trouble would be—

Loss to employees in earnings.....	\$19,722 50
Loss to companies (profit on tonnage).....	5,635 00
Loss to companies (incidental expenses).....	1,820 00
Total .....	\$27,177 50

These misunderstandings come high, but, as has lately been enunciated by the highest authority in the land, any loss is preferable to "supine submission to wrong and injustice."





### RECOMMENDATIONS REGARDING THE MINING LAW.

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The mining law of the state is far from being a perfect instrument; it would indeed be a matter of much surprise were it otherwise, the law since its enactment having been so much subjected to change and amendments, and that at times at the instigation and persuasion of men who, while meaning well, do not always know how far it is best to go for their own interest, safety, and welfare. Many of its provisions are obsolete, and no attention is paid to fulfillment by either party. An example of this ill-considered legislation is shown in the act passed at the last session of the legislature entitled "An act to provide for the health and safety of persons employed in mines," etc. (chapter 171, Session Laws of 1895, p. 312). A literal compliance with the provisions of this law would close nearly all the mines in the southeastern part of the state, because of the expense necessary to go back over the work that had been done for years previous and put it in the condition contemplated by this act; and did the Inspector insist upon the work being changed and prosecuted in compliance with the law, from the point to which the underground workings had progressed at the time the act was passed, the miners themselves would be the ones who would raise their voices in protest, because of the increased amount of labor they would have to perform for which they would receive no extra remuneration; and besides such changes are neither necessary nor beneficial to the parties most interested, the miners themselves.

The laws relative to mine maps, air measurements and examinations of airways are absurdities. The Mine Inspector has not the time to examine and make note of all mine maps that come into his office to satisfy himself as to whether they are correct or not. He cannot carry the details of a mine map in his head and compare it with the underground workings while he is examining the mine. The map should be made as required by law, kept on file at the mine subject to examination by the Inspector, and when the mine is abandoned the map should be placed on file in the county recorder's office, and become a matter of record in connection with the land on which the mine was located, for the information of future purchasers. The same remarks apply with equal force to air measurements and air-course examination. The record of the performance



## State inspector of coal mines reports

### *Eighth Annual Report.*

131

of these duties should be kept on file at the mine, subject not only to examination by the Inspector, but by the workmen as well. The law relative to the employment of children is weak and very unsatisfactory because the Inspector or mine agent has to take the word of the parent or guardian as to the age of the child. The law should be changed so that, in the absence of satisfactory evidence, the judgment of the Inspector or agent, or both, should be the final arbiter of his eligibility to employment.

The law relative to the operators reporting accidents to the Inspector should be made compulsory; notwithstanding the "incredibility" of a clever critical reviewer, reviewing the last report of the Kansas Mine Inspector in the "Black Diamond," and the "respect" he says a state officer is entitled to from the managers of the mines and their "respect" for the law, the managers very frequently forget (?) to notify the Inspector when an accident occurs at the mines. The same may be said in the matter of gathering the statistics in connection with the trade. While the law says that it is the duty, etc., of the companies to furnish this information to the Inspector, yet the managers very frequently forget to perform this duty, and overlook the respect (?) due to a state officer, compelling that state officer, figuratively speaking, to go down on his knees, hold up his hands, and pray to the managers to accommodate him with their returns, so he can perform his duty. This is rather humiliating to the pride of a "state officer," yet nevertheless it is a fact. These statistics, to be of any value, should be at least approximately correct; yet of my own knowledge I know many of them to bear on their faces the brand of mendacity. They should, therefore, be verified in some way before leaving the hands of those making them out. We have many mine officers in the state who have respect for the law and the office, to whom these remarks do not apply; but I am sorry to have to bear witness to the fact that there are also a great many who are very indifferent. It requires a great deal of the Inspector's time gathering these statistics which could be much more profitably spent in the proper discharge of his duties, viz., visiting and examining the mines. It would relieve him a great deal and make him a much more valuable servant to the state were a blank form adopted, stating the information required, placed in the hands of the township assessor, to be forwarded by that official to the Inspector when properly filled.

This is a part of the duty now imposed on the township assessor by the state board of agriculture in gathering statistics for its secretary.

To be in line with other states, provision should be made for the





appointment of a board to examine all applicants for Mine Inspector, and also to examine and grant certificates of competency to all persons having charge of mines.

There is no problem connected with mining, the satisfactory solution of which would tend more to harmonize the two elements necessary to mine coal than that of weighing the product. It was supposed that the enactment of a measure giving the miners the right to employ a check weighman to stand at the scales as their representative and see that the weighman employed by the company weighed and recorded the product of each man correctly would solve the problem; but, while the passage of such a law has had an ameliorative effect, yet it has undoubtedly failed to accomplish the end desired, as is manifest by the numerous complaints, trouble and even strikes over the appointment of check weighmen. This strife is not confined to our own state or even the United States, as the weighing of coal is a bone of contention between the operators and the miners all over the world, wherever coal is mined, and the subject is frequently brought before the courts for adjudication.

The question as to whether the operators do or do not credit the miners with the just amount of coal sent out of the mine, or whether the miners are entitled to the full weight because of the foreign matter they will persist in loading with their coal, is not one to be considered here, but, Can we adopt a method which will be absolutely just to both, while destroying the opportunity and thereby removing the temptation to defraud on the part of either? for to my positive knowledge the fault does not always lie on one side. As the question now stands, while the representative of the company may not always be satisfactory or just to the miners, it is also true that the man selected to represent the employees is in many instances not just or satisfactory to the operators, and while it is not disputed that the companies can be compelled, under the law, to allow the men a check weighman if they insist upon having one, and the mine continues to work, yet neither the law, the miners nor the Inspector can compel the companies to operate the mine. The consequence is that after a few days of enforced idleness the necessities of the workmen force them to give way and agree with their employer to resume work without a check weighman, thus nullifying the law. It seems impossible to legislate against action of this character, as any law which in any way interferes with, or hampers man's right to contract or arrange with his employer for his labor is immediately declared unconstitutional and void, on the ground that it conflicts with that wonderful comprehensive provision, guaranteeing the right to every man of "life,



## State inspector of coal mines reports

### *Eighth Annual Report.*

133

liberty, and the pursuit of happiness." That is, it guarantees to one man the power to starve another man into subjection to his will, whether that will is in accord with the law of the state, humanity, honesty and justice, or otherwise.

It was intended that a check weighman could only be appointed by the votes of a majority of all the miners working in the mine, but in many instances he is appointed in opposition to the desires and wishes of a large majority of them, they being perfectly satisfied with the weights as registered by the company's weighman, and believe it will only add to the already excessive burden they have to carry, without any compensating results, to be taxed their proportion of the requisite sum necessary to pay their representative; but are diffident about standing up and giving expression to their honest sentiment through fear of being misunderstood, vilified, and abused by their fellow workmen. The constitution does not reach far enough down to protect these men under such circumstances. The British parliament understood this phase of the case when it stipulated in its act that the check weighman be appointed only by the wishes of a majority of all the miners in the mine ascertained by ballot cast at a meeting legally called for that purpose.

Again, an employer who is conscientious, honest, and just in all his dealings with his workmen, according to contract, is placed at a disadvantage when competing with one who is not governed by the same standard of moral principles, and he has the mortification to stand by and see his business dwindle away and become unprofitable simply because he cannot and will not resort to the methods to put his product on the market at prices made possible by those practiced by his less scrupulous competitor.

It would, therefore, seem desirable, just and reasonable that this official be appointed by and held accountable to some authority which is absolutely neutral and under obligations to neither party, while the appointee acting as representative and agent of both, each would have to assume an equal responsibility in the payment of his wages. In order to remove the appointment as far as possible from embarrassing influence the appointing power should, if possible, be placed in the judge of the federal court for all the mines in his district.

My idea then is, that a law should be enacted providing for the appointment by the courts of a weighmaster for every mine in the state employing 10 or more men, whose duty it would be, under oath, to weigh and record all coal sent out of the mine, on a legal and uniform bulletin; the total amount of coal taken out of the mine and the amount shipped or otherwise disposed of by the





company to be recorded on the bulletin each day and posted in a conspicuous position at the top of the mine for examination by all who are interested. The weights of all cars shipped, verified by this weighmaster, should, by virtue of his position, be accepted by all parties purchasing, and railroad companies transporting coal, as correct at initiative points.

There are so many changes necessary that I would respectfully suggest the appointment of a commission composed of two practical miners, two mine owners or managers, and one lawyer, whose duty it should be to take all necessary evidence, make thorough research, and from the information thus gained draw up an entire new law upon modern lines, to take the place of the present mass of inconsistencies.



### ENFORCEMENT OF THE MINING LAW.

Perhaps the principal reason why the laws governing the operation of mines are not as much respected or as rigidly enforced in the state of Kansas, or perhaps the United States, as they are in some other nations is the fact that the mine inspectors are supposed to be the only persons whose duty it is to detect and prosecute all offenders for violation of the provisions thereof. The idea that any law can be strictly enforced under such assumption is absurd. The Mine Inspector can, and very frequently does, notice instances where the law is not being strictly complied with on the part of the operators, and notifies them of the fact, and if prompt measures are not taken to rectify the error, he institutes proceedings in the courts to compel the offenders to observe the law; but that he is able to see, or of his own knowledge become cognizant of, all violations that may and without doubt do occur on the part of the companies is out of the question. He cannot, unless aided by the employees, in whose interest and for whose protection the law was supposed to be enacted and the office of Mine Inspector created. It is or it should be the duty of workmen having regard for their own safety to notify the Inspector of all failures that come under their observation on the part of the owners or their managers to comply with the law. The Inspector, on being notified, will investigate the complaint, and, if satisfied that the law is being violated, take such steps as he may deem requisite under the circumstances to see the law vindicated. Should the Inspector have any doubts as to the application of the law relative to the offense committed, he can and does consult the law officers of the state, by whose opinion the Inspector is governed in the matter, as the following correspondence will demonstrate:

Office of State Inspector of Coal-Mines.  
Leavenworth, Kas., February 1, 1896.

Hon. F. B. Dawes, Attorney-General, Topeka, Kansas:

Dear Sir—Please give me your opinion on the application of the inclosed law relative to shot-firing in coal-mines.

"Shot Firers.—Section 1. All owners, lessees, operators of, or any other person having the control or management of any coal-shaft, slope, drift or pit in this state employing miners to work therein shall employ shot-firers to fire the shots therein. Said shots shall be fired once a day on each day when any shaft, slope, drift or pit is in operation, but shall not be fired until after





all miners and other employees working therein shall have been hoisted out of said mine.

"Conditions.—Sec. 2. It shall be unlawful for any miner or any other person other than the shot-firers provided for in section 1 of this act to fire any shot in any coal-shaft, slope, drift or pit in this state. Any miner or other person engaged in mining coal in this state who shall drill any hole or fire any shot in the coal-vein at the working-face of any room or entry until so much of said coal-vein at said working-face as the said shot or shots are intended to throw down shall have been undermined to the depth of not less than two feet, or sheared or cut to the full depth of the drill or shot hole and of the full thickness of the coal-vein in rooms, or shall have been sheared to the full depth of the drill or shot hole and the full thickness of vein in entries, or who shall so direct the drilling of such holes as to include between such shearing or mining and the back or rear end of the hole a greater width of coal than is contained between such shearing or mining and the mouth of the hole, shall be deemed guilty of a misdemeanor, and fined as hereinafter provided."

Does the act apply to all coal-mines in the state, or is it confined to mines worked under the conditions described in section 2?

Very respectfully yours, BENNETT BROWN, Inspector.

(Reply.)

Topeka, Kas., February 12, 1896.

Hon. Bennett Brown, State Mine Inspector, Leavenworth, Kansas:

Dear Sir—Your letters of the 1st and 5th inst. were duly received. In reply thereto I desire to say, that the provisions of chapter 172, Laws of 1889, being "An act to provide for the protection of lives and property in and about coal-mines," apply to mines where powder or dynamite, or both, is used in blasting and knocking down coal. In all mines where it is necessary to fire shots, or rather in all mines where shots are fired in the mining of coal, it is necessary that parties operating such mine shall employ shot-firers to fire the shots therein, and they shall be governed by the other provisions of the act above referred to.

The provisions of sections 1 and 2 of such act (sections 35 and 36 of the mining law as published in the General Statutes) indicate the intention of the legislature to provide that, in every mine where the coal is thrown down from the vein by means of firing shots, for the safety of the miners, the party operating such mines shall employ persons whose specific duty it is to fire all the shots necessary to do such mining. Wherever parties are operating mines and are not using powder or dynamite in throwing down the coal in such mine it is not necessary for shot-firers to be employed, and the legislature clearly did not intend that the operators of such mines should be compelled to employ them. The provisions of such act are intended solely for the protection of the lives of miners employed in coal-mines from the dangers which were known to exist in mines where coal was thrown down by shot-firing. It was not passed or intended for any other kind of mines.

I believe this covers the question submitted in your letter of the 1st inst.

Yours very truly, F. B. DAWES, Attorney-General.

This correspondence was caused through a man getting severely injured in one of the mines in Osage county by being compelled to fire a shot he had prepared to shoot down the brushing in the roadway of his room, the blast going off prematurely, while he was in the act of lighting the squib. He had previously requested the pit-boss of the mine to fire, or furnish some one to fire, the shot for him.





*Eighth Annual Report.*

137

The boss refused to do either, and told him he would have to fire his own shot.

Under these circumstances I determined to prosecute the company, and had a complaint drawn to present to the county attorney, but before doing so thought it best to consult the attorney-general and get his opinion, having some doubt personally as to the general application of the law. After receiving the above opinion no complaint was filed, and all idea of prosecution on the part of the Inspector was abandoned, as, according to the above opinion, the law does not apply to mines worked under the conditions existing in Osage county.

Such, in my judgment, being the duty of the miner and Inspector, what is the duty of the operators and managers under the law? It is, perhaps, true that their lives are not jeopardized to any great extent—although they do not always escape injury—by any accident likely to follow a violation of the law on the part of a workman, but the property is; and there is a law as to the liability of employer for injury sustained through ignorance or criminal carelessness on the part of a fellow servant, as many companies have and many more are liable, at any time, to find out to their cost.

It is, then, clearly the duty of the mine manager, in the interest of his employer, casting aside all consideration for the safety and welfare of the men under his charge, which ought to be first in the hearts of all men, to see that his workmen do not violate the law with impunity, as the lives of all the men employed in and the property connected with a mine are often seriously imperiled by the action of workmen; and there cannot be the slightest doubt in the mind of any man conversant with the history of coal-mining that ignorance, carelessness, or both, on the part of employees have been the cause of hundreds of lives being sacrificed and hundreds of thousands of dollars' worth of property destroyed through these appalling disasters that occur all too frequently in coal-mines.

It may be interesting if not instructive to some men connected with the operation of mines to note the number of prosecutions, by whom instituted, and the specific charges made for violation of the British mining law, as enumerated in the reports of the inspectors for 1894:

	No. of prosecutions.	By whom instituted.	
		Inspector.	Co.
District No. 2.....	77	15	62
District No. 4.....	26	...	26
District No. 6.....	47	20	27
District No. 8.....	41	29	12
District No. 10.....	16	1	15
District No. 12.....	72	37	35
	279	102	177



## State inspector of coal mines reports

138

### *State Inspector of Coal-Mines.*

The prosecutions against the companies are instituted by the mine inspectors, through instructions from the office of the home secretary. The charges were of the following character: Omitting to give notice of commencing work after having discontinued operations some time; omitting to publish abstract of special rules; omitting to examine working places before men going to work; omitting to have plans of workings; using a single chain on cage for men to ride; inadequate ventilation; working without second opening; report of condition of mine not being accurate; horses rubbing against roof and sides of roadways; failure to file plan of abandoned work; failure of fireman to enter report of mine examination in record kept at mine for that purpose; allowing shots to be fired in violation of law; not making annual returns; failure to post copy of coal-mines-regulations act in conspicuous place at mine; failure to report accident, etc.

The character of the charges by the companies against the men were as follows: Ill-treating horses; returning too soon to missed shot; neglecting to sprag mine-cars; taking powder into mine otherwise than in a secure case or canister; for riding on loaded cars; leaving cage before it was brought to a standstill; presenting a false certificate of birth (parent of boy); pressing powder cartridges into a hole not of sufficient size; refusing to leave the cage (ordered to do so by cager, too many men on); setting fire to hay in mine; firing shots contrary to orders; overloading pit-cars; intoxicated in the mine; destroying signals; unramming missed shots; interfering with timbering; interfering with ventilation of mine; taking matches into mine; neglecting to set holing sprags; leaving doors standing open; breaking doors, etc., etc.

This is the manner in which the law is enforced in that country, and suggests good reason why it is observed and respected, and consequently casualties connected with the operation of these dangerous mines reduced to the minimum.





### PRESENT STATUS OF THE SCREEN LAW.

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The Inspector hoped in this Report to have been able to give the decision of the supreme court on the screen law, but is informed by the clerk of the court that it will not come before that body for argument until the March sitting, and perhaps not then.

The case pending in the supreme court is that of *The State v. A. B. Kirkwood* (the Wear Coal Company), which was tried before Judge J. West in the district court at Girard, and the screen law was by him declared unconstitutional, on the ground that it interfered with the liberty of the citizen to make contracts for the disposition of his labor, etc. This case having been appealed, I do not feel at liberty to give the opinion of Judge West in full until the case is finally decided. Another case, *The State v. D. Mackie* (Central Coal and Coke Company), was tried before Judge J. D. McCue in the district court at Columbus, and the law was by him declared unconstitutional on the same ground. This case has not been appealed, as the decision of the court on the one first mentioned will decide the constitutionality of the law, or otherwise. A great many miners are not at all well informed of the manner in which a judge reaches a decision on a case of this character, and some have a suspicion that he is biased in favor of the operator when the decision is against the validity of the law passed at their solicitation and supposed to be for their benefit. For this reason the opinion of Judge McCue is given verbatim in this Report.

The Inspector reserves any remarks he may have to make on this subject until after it has been passed upon by the highest legal tribunal of the state.

#### IN THE DISTRICT COURT OF CHEROKEE COUNTY, KANSAS.

*The State of Kansas, Plaintiff, v. David Mackie, Defendant.*

Opinion by McCue, J.: The information in this case charges, in substance, that, on the 29th day of June, 1894, and divers days prior to that time, the Central Coal and Coke Company, a corporation, was engaged in the business of coal-mining in Cherokee county, Kansas, and the defendant was at that time the agent and superintendent of the said company, and at said time had charge of the business of said company. It further charges, that at said time he had in his employ a large number of miners, engaged in coal-mining at bushel or ton rates, and that the wages of said miners were determined by the quantity of coal mined by them, according to the weight thereof as ascer-





## State inspector of coal mines reports

140

### *State Inspector of Coal Mines.*

tained on the scales used by said defendant; that said defendant had adopted and used a certain screen over which the coal mined by said miners was passed before the same was weighed and credited to the miners at the legal rate of weights as fixed by the laws of Kansas.

The information attempts to charge a violation of chapter 188 of the Laws of 1893, entitled "An act to regulate the weighing of coal at the mines."

The sections of said chapter material to be considered in the determination of the question raised read as follows:

"Section 1. It shall be unlawful for any mine owner, lessee or operator of coal-mines in this state, employing miners at bushel or ton rates, or other quantity, to pass the output of the coal mined by said miners over any screens or other device which shall take any part of the value therefrom before the same shall have been weighed and duly credited to the employees, and accounted for at the legal rate of weights as fixed by the laws of Kansas."

"Sec. 4. Any person or persons, having or using any scale or scales, for the purpose of weighing the output of coal at mines, so arranged or constructed that fraudulent weighing may be done thereby, or shall knowingly resort to or employ any means whatever, by reason of which said coal is not correctly weighed and reported in accordance with the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished," etc.

Section 5 of the act declares: "Any provision, contract or agreement between mine owners or operators and the miners employed whereby the provisions of section 1 of this act are waived, modified or annulled shall be void and of no effect, and the coal sent to the surface must be accepted or rejected, and if accepted be weighed in accordance with the provisions of this act, and no right of action shall be invalidated by reason of such provision, contract, or agreement."

The defendant has moved to quash the information, and by his motion attacks the constitutionality of the act under which the information is framed, for the reasons following:

First. It is in conflict with section 1 of the bill of rights of this state, which reads: "All men are possessed of equal and inalienable natural rights, among which are life, liberty, and pursuit of happiness."

Second. It is repugnant to that clause of the fourteenth amendment of the federal constitution which declares that "No state shall deprive any citizen of life, liberty and property without due process of law."

In the consideration of questions involving the conceded powers of courts to declare acts of the legislature void, as being in conflict with constitutional provisions, certain rules have been adopted which are so universally acknowledged that they may not be disregarded. In this state it has been repeatedly said: "A statute will not be declared void unless there is a clear conflict between it and the constitution. All doubts must be resolved in favor of the statute, and the court will not be justified in holding it void because it may deem it opposed to the principles of natural justice and equity."

The court must look to the constitution, its restraints and limitations on the power of the legislature, and from these alone determine whether the act is invalid. In matters affecting property, the court will recognize the rule that all property is held subject to the general police powers of the state to so regulate its use as to secure the general safety and public welfare. *Insurance Co. v. Welsh*, 29 Kas. 674; *People v. Gibson*, 109 N. Y. 389; 3 c, 4 Am. St. Rep.

But when there is a clear conflict between a statute and the constitution, it is the duty of the court to give effect to the supreme law, by declaring the act of the legislature invalid.