

State inspector of coal mines reports

Section 31, Pages 901 - 930

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

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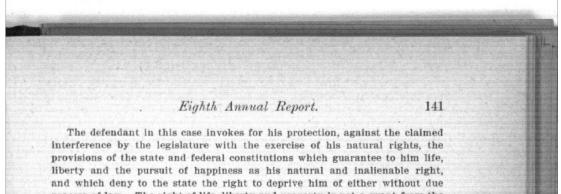
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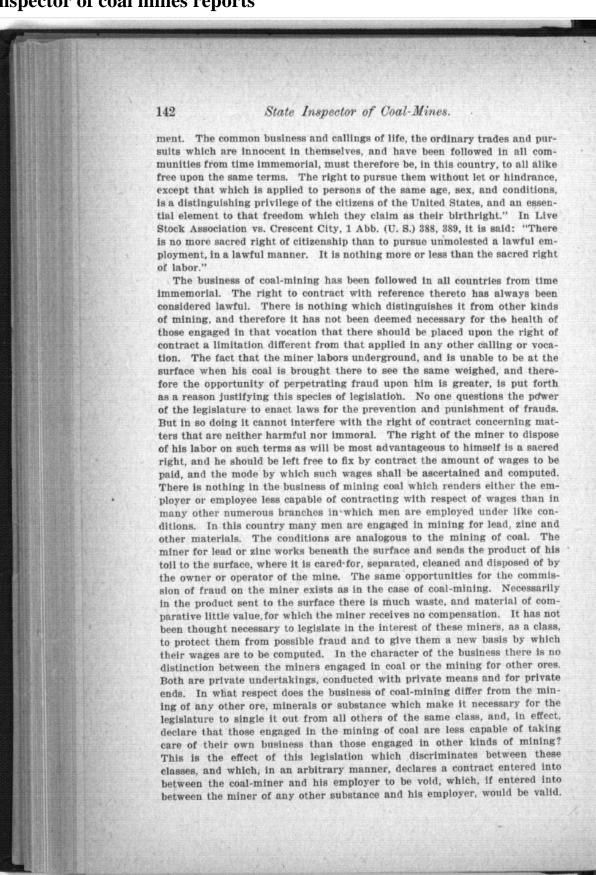
and which deny to the state the right to deprive him of either without due process of law. The right of life, liberty and property is not a grant from the state. It is the birthright of every freeman, and was clearly protected by the common law as a fundamental principle. Our bill of rights is simply a declaration of a principle which lies in the very foundation of civil liberty. It is not a glittering generality—a word of promise to the ear, to be broken to the hope—but, in the language of Chancellor Kent, "It is the muniment of a freeman, showing his title to protection." Kent's Com. vol. 1, p. 618. And no act of the legislature which trenches upon the right thus guaranteed can be sustained as the proper exercise of legislative power. Street Rly. Co. v. Mo. Pac. Rly. Co., 31 Kas. 666.

The terms used in our bill of rights declaring the natural and inalienable rights of a citizen cannot be frittered away by the legislature in enactments which invade, weaken, abridge or destroy the right of a citizen to their enjoyment. This nation is founded on the declaration that, "to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed," and the people have nowhere surrendered to the legislature the power or authority to destroy or abridge their rights. It cannot take life without due process of law, nor can it authorize the taking of life except as a punishment for crime committed. The term "life" means more than mere animal existence. It extends to all those limbs and faculties by which life is enjoyed. And the provision which guarantees protection to life prohibits mutilation of any of the members of the body. The term "liberty" is not limited in its meaning to mere freedom from physical restraint or imprisonment. It includes the free exercise of all those faculties of mind and body with which man has been endowed by his creator. The right to go where one will, to pursue such calling or vocation as may in his judgment tend to his happiness or prosperity, to dispose of the product of his skill or labor, to secure for himself as the result of his labor the highest wages possible, to acquire and enjoy property, are among the natural rights guaranteed to him by the constitution.

The term "pursuit of happiness," as used, is equivalent to the term "property," and the same construction which is required for the protection of "life" and "liberty," in which they are of any value, must be applied to protection of property. The means of acquiring and possessing property are as much within the protection of the constitution as property is itself within its protection. The Virginia resolution of 1776 clearly expresses the whole scope and purpose of these declarations. "All men," says the declaration, "are by nature equally free and have inherent rights, of which, when they enter into a state of society, they cannot by any compact deprive or divest their posterity, viz., the enjoyment of life and liberty, with the means of possessing and acquiring property and obtaining happiness and safety." 4 Bancroft Hist. U. S. 417.

Labor is property, and the right to dispose of it is a natural right, and it cannot be abridged except in the interest of the public welfare. In Butcher's Union Co. vs. Crescent City Co., 111 U. S., it is said that among the inalienable rights "is the right of men to pursue any lawful vocation in any manner not inconsistent with the equal rights of others which may increase their property or develop their faculties, so as to give them their highest enjoy-







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Does not this restrict the coal-miner in the enjoyment of his rights, privileges, and capacities, in a manner heretofore unknown to the law? Distinctions in these respects must rest upon some reason upon which they can be defended—like the want of capacity in infants and insane persons. If the legislature should undertake to provide that persons following some specified lawful trade or employment should not have capacity to make contracts, or to receive conveyances, or to build such houses as others are allowed to erect, or in any other way to make such use of their property as was permissible to others, it can scarcely be doubted that the act would transcend the due bounds of legislative power, although no express constitutional provision could be pointed out with which it would come in conflict. To forbid an individual or class the right to the acquisition or enjoyment of property in such manner as should be permitted to the community at large, would be to deprive them of liberty in particulars of primary importance to their pursuits of happiness.

See Cooley's Const. Lim. 393; Millet vs. The People, 117 Ill. 294, 57 Amer. 869, and cases cited.

The case of Millet vs. The People called for the interpretation of a statute similar to the one under consideration, and the act was held void, as being in conflict with the constitution of that state, which declares that "No person shall be deprived of life, liberty or property without due process of law." The question was again presented to the court in the case of Ramsay vs. The People, 32 N. E. Rep., and the act was held invalid as being class legislation, and as making a distinction between employer and employees engaged in coalmining and other classes of business.

In Froer vs. The People, 31 N. E. Rep. 295, an act of the legislature of Illinois making it unlawful for any company, corporation or association engaged in mining or manufacturing business to engage in or be in any wise interested in the keeping of any truck store, or controlling any store, shop or scheme for the furnishing of supplies or necessaries to employees, was considered, and on the principle that it interfered with the liberty of contract and was violative of constitutional rights it was held invalid. In State vs. Goodwill (W. Va.) a statute declaring that all persons engaged in mining coal, ore or other materials, or engaged in other mining or manufacturing, shall not issue for their labor any order or other paper, unless the same purports to be redeemable in legal money of the United States, at its face value, and bearing interest at the legal rate, and made payable to bearer and redeemable in 30 days by maker thereof, is held to be void, as in conflict with the bill of rights of that state, as well as to the fourteenth amendment to the constitution of the United States, the court saying:

"The vocation of an employer, as well as that of employee, is his property. Depriving the owner of property or one of its attributes is depriving him of his property, under the constitution. The right to use, buy and sell property, and contract in respect thereto, including contracts for labor, which is, as we have seen, property, is protected by the constitution. If the legislature, without any public necessity, has the power to restrict or prohibit the right of contract between private persons in respect to one lawful trade or business, then it may prevent the prosecution of all trades and regulate all contracts."

"Questions of power," says Chief Justice Marshall, in Brown vs. Maryland, 12 Wheat. 419, "do not depend on the degree to which it may be exercised. If it may be exercised at all it must be exercised at the will of those in whose hands it is placed." 25 Am. St. Rep. 863.

In the case of The Firecreek C. & C. Co., 33 W. Va. 188, same case, 25 Am.



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St. Rep. 891, an act of the legislature declaring it unlawful for persons engaged in mining or manufacturing to sell any merchandise to their employees at a greater per cent. of profit than they sold like goods to other buyers for cash was held void, as being class legislation and an unjust interference

as a citizen of the United States."

In support of the general principles hereinbefore discussed, the following cases are cited: In re Jacobs, 96 N. Y. 98, same case, 50 Am. Rep. 636; People vs. Gilson, 109 N. Y. 389, same case, 4 Am. St. Rep. 465; The Braceville C. Co. vs. The People, 36 N. E. Rep. 63; State vs. Loomis, 22 S. W. Rep. 351 (overruling same case in 20 S. W. Rep.); Lowe vs. Rees Printing Co., 59 N. W. Rep. 362, and cases cited in these cases.

with the rights, privileges and property of the parties, the court saying: "The act is an infringement alike of the rights of employers and employees. More than this, it is an insulting attempt to put labor under legislative tutelage. This is not only degrading to his manhood but subversive of his rights

It is contended that, notwithstanding this constitutional guaranty, the legislature has the right to regulate the privileges and immunities of the citizen; that he holds his life, liberty and property subject to the right of the legislature to regulate or deprive of any or all of them in the interest of the public welfare. It will be conceded that the right of making a contract, as affects the subject-matter, is subject to the restraint that such contracts shall not be against public policy or immoral. It will be conceded also that certain persons, by reason of tender years or mental infirmities, are incapable of entering into contracts which shall, under all circumstances, be binding on them. The power of a state over the life, liberty and property of a citizen is well defined; that the state may take life as a punishment for crime is unquestioned; that it may deprive a citizen of liberty as a punishment for criminal conduct is also conceded. But aside from these forfeitures, that the state may deprive the citizen of either by an arbitrary expression of the legislative will is denied. The state may take property for the public use, on due compensation being made, or it may take a portion thereof for the support of the government. It may also regulate the control and use of property, if necessary to be done for the protection of the rights of others. This is founded on the maxim that each one must so use his own as not to injure his neighbor. Within these limitations the state may act, and to this extent it may interfere with the absolute enjoyment of the natural and inalienable rights of a citizen. Statutes regulating the interest on money and statutes of frauds and perjuries are cited as the rightful exercise of legislative power, although in effect they interfere with the freedom of contract. By the ancient common law, the right to take interest for the use of money did not exist. and statutes conferring the right to take such interest ameliorate the rule of the common law by conferring it as a privilege, so that the right grows out of a privilege conferred by the legislature, and may be regulated by such conditions as the legislature may see fit to impose. The statutes of fraud are enacted for the prevention of frauds and perjuries, and are the rightful exercise of legislative authority for the prevention of wrongs. They do not prevent the voluntary performance of contracts entered into between the parties, and as a rule, and in the effect only, prescribe a rule of evidence by which the contract may be proven. The parties to such contract may perform such contract according to its terms without incurring any criminal liability for so

Legislation of the character under consideration has been upheld in sev-





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eral cases to which I shall refer. The reason given for sustaining such legislation is not entirely satisfactory. In Hancock vs. Yaden, 121 Ind. 366, same case, 16 Am. St. Rep. 396, a statute forbidding the execution in advance of contracts whereby the employee waives his right to his payment of wages in money was held valid. It was sustained on the ground of the power of the government to protect the money which it makes the standard of value throughout the country. If the reason advanced is sound, the legislature may, in the interest of the money of the country, declare contracts of any kind or nature whereby anything of value is given to another must be paid for in money. Such a rule would do away with and entirely destroy the system of barter and exchange prevailing through the country. A., the owner of a coal-mine, is also the owner of a horse which B. desires to purchase. B. is a miner, and not being able to pay the money for the horse, is willing to mine and offers to mine a certain number of tons of coal for the horse, which offer A. accepts. B. mines the coal, but demands his pay in money. A. is willing to perform as agreed upon. Under the decision cited he must pay him money, although, by his contract entered into in good faith, he was to pay in something else than money. In what way does the contract suggested impair the value of the currency of the country?

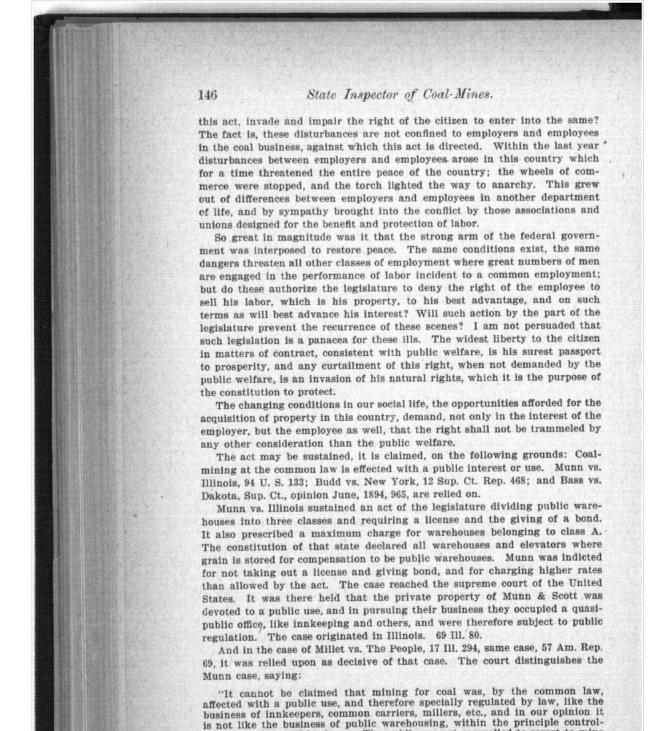
In the case of Leep vs. St. L. I. M. & S. R. R., 25 S. W. Rep. 85, a statute requiring certain employers to pay their employees at date of discharge was held valid, by a divided court, as affecting corporations, but invalid as affecting individuals, because it was class legislation and an arbitrary subversion of the right to contract.

In the case of Peel Splint Coal Co. vs. The State, 15 S. E. Rep. 1012, the supreme court of West Virginia passed upon a screen bill very similar to our own, and, by a divided court, reached the conclusion that the act was valid, as the proper exercise of police power of the state, and that the coal companies were public licensees in whose favor the right of eminent domain is exercised. In justifying the majority opinion, it is said that the disturbances growing out of the relations of the employer and employee, resulting from differences concerning wages, and which disturbances threaten the public peace, will, in the interest of public tranquillity, warrant the legislature in regulating the contracts between the employer and employees. That such disturbances disturb the public peace is unquestioned.

In this country, and within a recent period, great disturbances growing out of differences between the miners and their employers have existed, and such disturbances have required the interposition of the peace officers of the county to prevent acts of violence and disorder. Strained relations between operators of mines and their employees endangered the public peace. and threatened for a time to require the supreme power of the state to preserve order and suppress violations of law and of property rights. The causes leading to these conditions are not matters of such public notoriety that I may consider them. If the public tranquillity is threatened, there can be no doubt of the power of the state to exercise such authority as may preserve the peace, and if conditions exist which are liable to produce such commotion and disturbances, the legislature may, in the exercise of its police powers, enact such laws as may prevent them. The breach between employers and employees, leading to the condition I have suggested, came after the present law went into effect, and is not the result of conditions existing prior thereto. Can the legislature, for the reasons I have suggested, on the claim that such disturbances grow out of contracts of the nature prohibited by



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ling such classes of business. The public are not compelled to resort to mine owners any more than they are compelled to resort to owners of wood, or turf, or even to the owners of grain, domestic animals, or to those owning any of the other ordinary necessities or conveniences of life which form a part of the commerce of the country. The owner of a coal-mine is under no obliga-



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tion to obtain a license from any public authority, and therefore when he chooses to mine his coal he exercises no franchise. We are aware of no case wherein it has been held that the owner or operator of a coal-mine stands of a different footing, as respects the control and sale of his property, than the owner or operator of any other kind of property in general demand by the public."

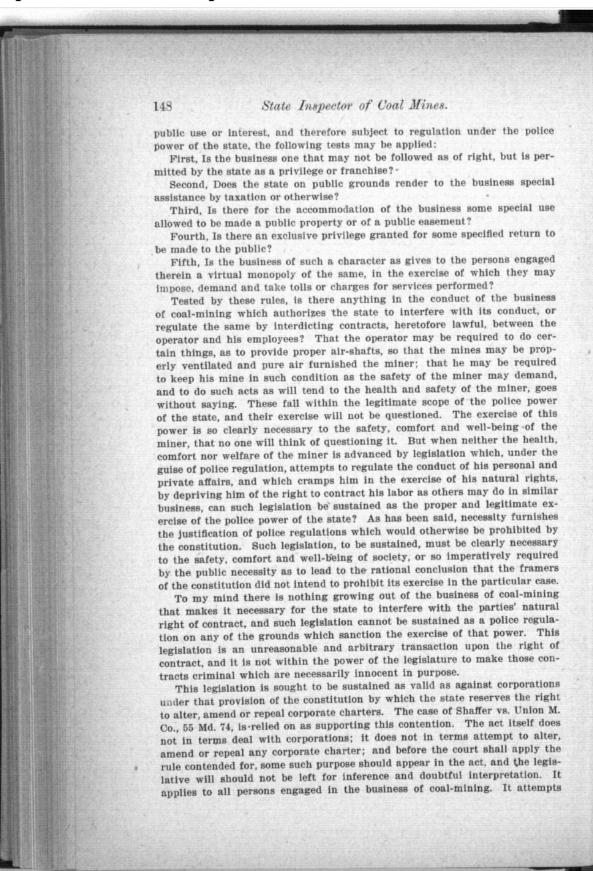
To constitute a public use, there must exist a right in the state to create and maintain it, one which the public has a right to demand and share in, and property can only be considered as devoted to a public use when its use is demanded by the public. There is a distinction between a public use and a public interest in the use of property. The public has an interest in the development, growth and prosperity of individual enterprises, but it does not follow therefrom that such enterprise is affected by such a public use as gives the right of public regulation. Coal-mining is a private undertaking. So is the raising of wheat. In each the public may feel an interest, as the quantity of production may tend to cheapen the price thereof. Coal is necessary to produce warmth. Wheat is necessary to sustain life. Both enter into the common use of the people, but one is no more affected with a public use than the other, and the right to regulate the production of one is no different than to regulate the production of the other. In what way is coal-mining affected with a public use, different from the mining of any other ore or mineral? And in what way does the miner of coal devote his property to a public use different from that of the miner of any other ore or mineral? I cannot discover anything in the connection which distinguishes the one from the other, or that gives the public a greater right of use and control in the case of the mining of coal than it has in the mining of any other mineral.

It is urged that this legislation is the proper exercise of the police power of the state. The limits of this power have never been fully defined. It is much easier to perceive and realize its existence than to mark its boundary or prescribe its limitations. The sphere of its operation is contantly widening; new conditions are constantly arising which call for the exercise of this power. In the absence of arbitrary definition, it is difficult to determine just where the power begins or where it ends. Cooley, in his Constitutional Limitations, in the chapter treating of the police power of the state, says:

"The police of a state, in a comprehensive sense, embraces the system of internal regulation, by which it is sought not only to preserve the public order and to prevent offenses against the state, but also to establish, for the intercourse of citizen with citizen, those rules of good manners and good neighborhood which are calculated to prevent a conflict of right, and to insure to each the uninterrupted enjoyment of his own so far as is reasonably consistent with a like enjoyment of rights by others."

Its exercise, in so far as it affects the use and enjoyment of property, is bounded by the maxim, "to so use your own that you injure not another," and to whatever enactment, affecting the conduct of business, it cannot fairly be applied, the power itself will not extend. All-pervading as this power seems to be, it has its limitations in the constitution itself, and where the constitution guarantees a right, the legislature cannot, under the police power, invade, limit, abridge or destroy its enjoyment. Regulations by the police power must have reference to either the public health, public morals, or the public welfare, and, as applied to property and business, must be to such property as is affected with a public use or interest; and if the property is not so affected its use cannot be regulated, except it fall within one of these enumerated cases. In determining whether business or property is affected with a







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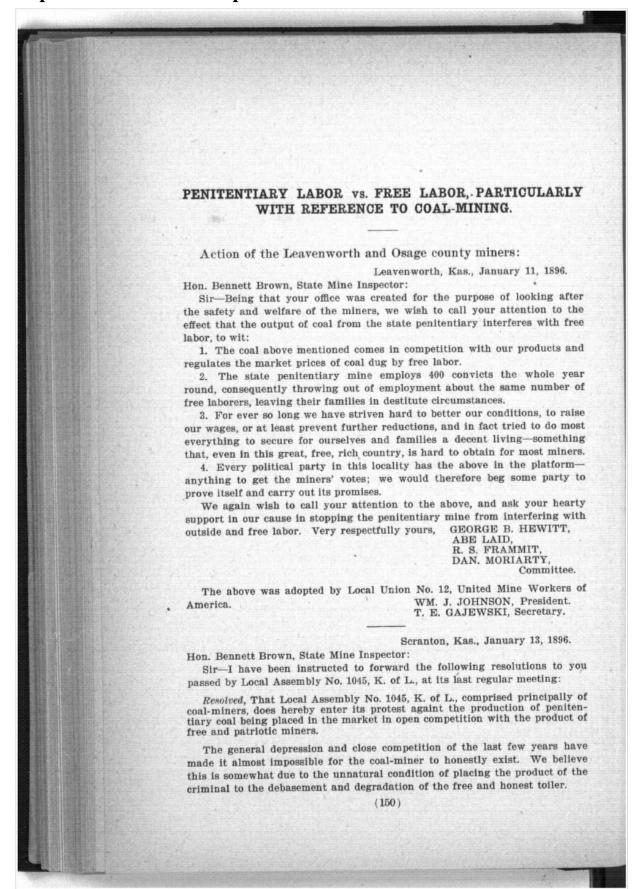
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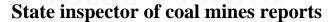
to regulate the right of contracting with reference to the business. It denies to the miner and the mine owner, whether such owner be a private person, partnership or corporation, the right to enter into a contract concerning a business purely private, and attempts to punish by a fine and imprisonment one of the parties to such contract. If section 4 of the act is to receive the interpretation contended for by the state, we have the strange picture presented of a contract heretofore lawful, in no wise immoral, being made criminal and being punishable as a crime. I do not recall legislation of a similar character which visits with such penalties acts that have heretofore been deemed innocent and which result from the common agreement of parties sui juris, concerning a matter affecting themselves, and in no wise affecting the public. It is said that this legislation is necessary to protect labor against the aggression of capital; that it is the result of the demand of the people engaged in mining, repeatedly made to the legislature of this state, and, after the expenditure of many thousands of dollars, has been put on the statute-book in the form of a law, and therefore ought to be upheld. With the policy prompting this enactment I have nothing to do. Concerning it there are differences of opinion, dividing the people into different political parties. It may well be doubted whether such demands for legislative protection are really productive of the good desired. Such legislation has a tendency to array class against class, instead of harmonizing the differences between them, and if upheld will lead to aggression by the class in power upon the one out of power. To protect all, the safer course for the courts is to maintain in their vigor the individual rights guaranteed the citizen, which are found in the healthful restrictions of the constitution, and which are safeguards against legislative encroachment, whether to-day it be exerted in favor of capital as against labor, or to-morrow in favor of labor as against capital. The constitution is the safeguard of the individual against the encroachments of the legislature.

The act under consideration is, in my judgment, violative of and repugnant to the constitution of this state and the federal constitution, and is therefore void.

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We therefore solicit the aid and assistance of the Inspector of Coal-Mines in the state of Kansas to intercede for us, and bring all the pressure he can to bear upon the suppression of this great and growing evil. (Signed)

JOHN F. YOUNG.
ROBERT CURLEY.
WILLIAM NIXON.
WILLIAM NIXON, Master Workman.
ROBERT CURLEY, Recording Secretary.

[Seal.]

It was also suggested for you to try the trades assembly to have a conference for the abolition of all criminal competition; second, to try to get a miners' state convention to be held in Topeka during the next legislative session, for the consideration of this question and others. Yours truly,

ROBERT CURLEY.

The following was inclosed with the resolutions above:

Convict Labor on Roads.—It has proved successful wherever a fair trial has been given. There is no doubt whatever of the practical value of employing convict labor on the public highways; whenever it has been tried it has proved highly successful, says R. P. Crandall, of the United States navy.

In the Hawaiian islands, for instance, the road work is done entirely by the convicts, and the result is that the little republic away off in the Pacific ocean can boast of far better roads than the United States.

During over a year's stay in the islands I had an excellent opportunity to watch the working of this system, and in several hundred miles of wheeling never came across an unridable road. The Hawaiian convicts themselves told me they preferred road work to any other form of punishment, as it gave them a chance to be out in the free air and occasionally see their friends.

From the Honolulu prison gangs are constantly being sent out to the other islands to open up new roads or keep the old ones in repair. The majority of the prisoners taken in the recent revolution are employed in this way. No trouble has ever been caused by the prisoners during the many years the system has been in operation.

In various South American countries also the convict system has proved highly successful. Why should not the system be tried in the United States, where good roads are so badly needed. Yes, and why not try the experiment in the state of Kansas.

The good-roads movement is a matter of discussion in almost every state in the union. All intelligent men are discussing the necessity of good roads and how to get them, and several state conventions have been held to forward the metter.

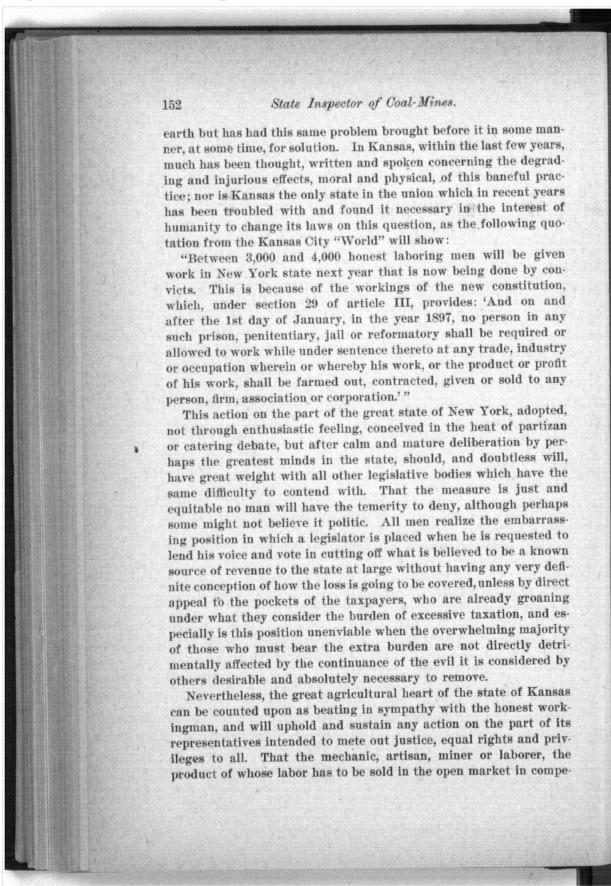
The League of American Wheelmen has been urging the making of good roads, both in and out of season, at all its meetings.

Then why not all those interested in the good-roads movement unite their energies with the miners and other tradesmen whose labor is placed in competition with the product of the penitentiary to avert this evil of pen.-made goods and put the convicts to work on the roads?

In 1883 the legislature made provisions to have a road made by the convicts from Lansing to Leavenworth, four miles, and it has been a pleasure and profit to the state and vicinity of Leavenworth ever since, and is a standing example of what good roads are worth to any community.

Agitation on the above subject is neither of a local character nor of recent date. Scarcely a civilized government on the face of the









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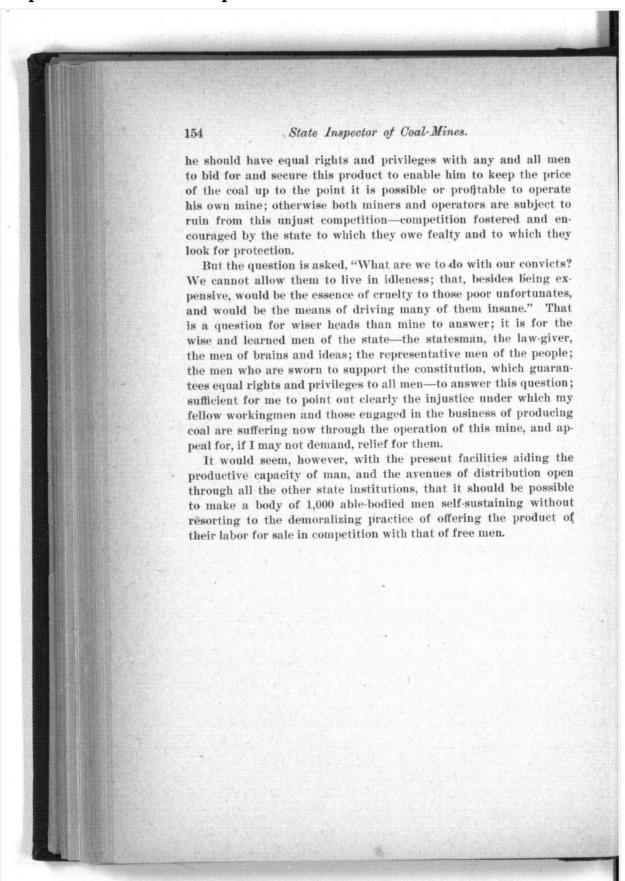
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titon with the products of subsidized convict labor is not receiving justice, is patent to all men who are not blinded by prejudice or self-interest.

A committee of representative men appointed by the legislature in 1893 to investigate and report on the subject relative to coal being mined and sold in the open market by the state unanimously condemned the practice, and in their report to that body urged the legislature to pass a law confining the product of the state mine to the requirements of state institutions, or, if this was found not to be advisable, they further recommended that the superintendent of the mine be instructed not to sell a pound of coal to outside parties at less than the cost of production. This recommendation was surely only fair and just to the coal-miners employed outside the walls of the penitentiary who had their children, their wives and themselves to maintain out of the proceeds of their labor, the product of which was being sold in competition with that of the state-fed, -clothed, and -lodged convicts. It cannot be fair or just to the honest, self-sustaining, laboring man that the state, of which he is a part, appropriates money, a portion of which he has to pay, to place a premium on the product of the convict, which is sold in competition with that produced in the sweat of his own

That the product of this mine can be and has been used to reduce the wages paid to outside miners, has been demonstrated beyond all question. (See details of Leavenworth county strike.) Notwithstanding the fact that the parties to whom the contract had virtually been awarded did not finally handle the coal, the result was none the less mischievous, because the party who finally did get the coal got it from the state at 10 cents per ton less than his original offer when bidding against the coal company, enabling him to sell the coal at much less, and thus reducing the market value to all. The market price of coal having gone down, the miners had either to submit to a reduction or see the mines stand idle; the consequence is that the price for mining coal in Leavenworth, Osage and Shawnee counties is lower to-day than it ever has been in the history of the trade. Again, it is not just or fair to a coal operator to deprive him of the right to contract and dispose of the product of the penitentiary as long as it is sold under contract by the state. It requires no argument to enable every man to understand that unless he has this right his business prosperity is virtually at the mercy of the contractor of the penitentiary coal. It is absolutely necessary to self-preservation from a business standpoint that









FATAL AND NON-FATAL ACCIDENTS.

FATAL ACCIDENTS.

No. 1. Hamilton & Braidwood's mine No. 2, January 5, Lewis Salvien, caught in cage.

No. 2. Cherokee & Pittsburg Coal-Mining Company's mine No. 4, February 1, John Fogarty, fall of rock.

No. 3. Zucea Coal Company's mine No. 1, February 11, Charles Seydoux, fall of rock.

No. 4. Leavenworth Coal Company's mine No. 1, February 25, William Becker, electrocuted.

No. 5. J. H. Durkee Coal Company's mine No. 4, April 3, Laris Hendrickson, caught in cage.

No. 6. Hamilton & Grant Coal Company's mine No. 1, June 21, B. Adams, fall of coal.

No. 7. Southwestern Coal Company's mine No. 1, October 28, Thos. Lakey, fall of rock.

No. 8. Kansas & Texas Coal Company's mine No. 37, November 5, Bass Dence (or Dinson), shot-firing.

No. 9. Leavenworth Coal Company's mine No. 1, November 30, Samuel Evans, caught in cage.

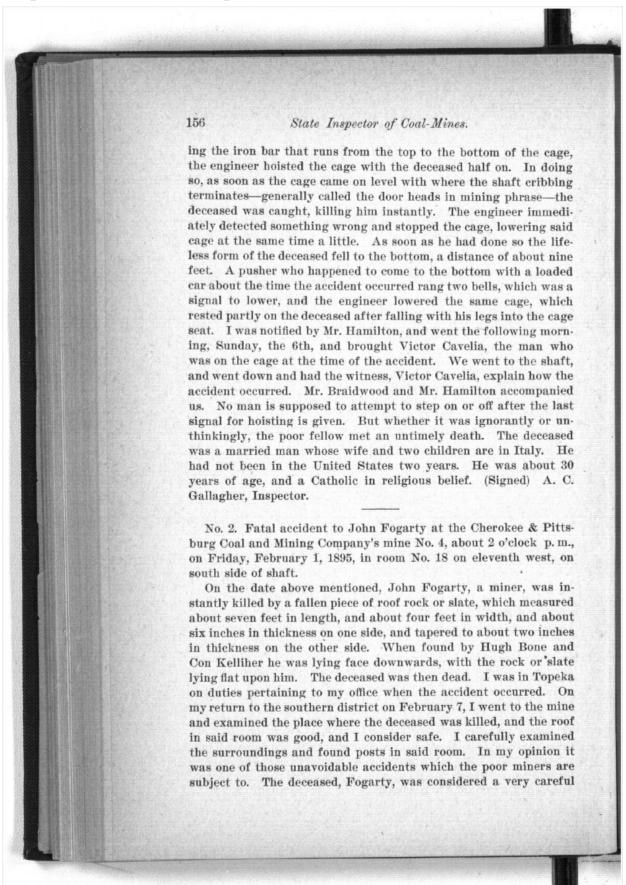
No. 10. Peter Graham shaft No. 1, December 16, Joe Veitrich, drowned.

No. 1. Fatal accident to Lewis Salvien, at Hamilton & Braidwood's mine No. 2, on Saturday, January 5, 1895.

Between 5 and 5:30 p. m., Saturday, January 5, Lewis Salvien and Victor Cavelia, two Italian miners employed at said mine, came to the bottom, and as usual proceeded to give the regular signal for hoisting men. The testimony of Victor Cavelia, the only man who was on the cage at the time the deceased, Lewis Salvien, met his death, is as follows: He stated that they rang three bells, and immediately after the engineer, J. M. Hendricks, signaled back, viz., one ring, indicating that he was ready. Victor Cavelia and the deceased, Lewis Salvien, stepped onto the west cage from the north side of bottom; then the deceased, Lewis Salvien, pulled the bell wire while standing on the cage, giving the final signal for hoisting to the top. In doing so his lamp fell off his bucket, where he sometimes used to carry it, and rolled into the east cage seat. As the engineer did not hoist the cage for a few seconds after the last signal was given the deceased, Lewis Salvien, thought he would have time to secure his lamp, and stepped off the cage. As he turned around again and put his foot upon the cage, at the same time catch-

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miner, having years of experience. He was a single man, of good reputation, respected by all who knew him; was 28 years of age, an Irish American, and a Catholic in religious belief. An inquest was held, but I did not receive a copy of the jurors' verdict from the coroner. (Signed) A. C. Gallagher, Inspector.

No. 3. Fatal accident to Charles Seydeoux, a miner in the Zucea Coal Company's mine, located two miles south of Burlingame, Osage county, Kansas, on February 11, 1895.

On February 11, 1895, between the hours of 3 and 4 o'clock in the afternoon of the above date, the deceased, Charles Seydeoux, was working in the fourth room in first south, on the east side of mine. Being sick and unable to work for a number of days, his room, which was worked on the long-wall system, got behind the other rooms adjacent to his place, which caused the roof to break and settle down at the face of his room. He was notified by the mineboss, Peter Carr, to set some props before any coal should be mined, as it was considered dangerous. The deceased promised to properly secure said place, but as soon as the mine-boss left the place he seemingly forgot the instructions given him, in his anxious desire to get as much coal out as possible before commencing to properly secure his place. But the poor unfortunate, like a good many of our craft, waited too long. Consequently a piece of roof rock fell upon him; it was about 10 inches in thickness, 18 inches in width, and about 7 feet in length, the estimated weight of which was about 800 pounds, killing him instantly. The deceased, Charles Seydeoux, was a single man, about 26 years old, and a native of France. The investigation goes to show that said accident was wholly due to the negligence of the deceased, as there were plenty of props in said room. Deputy Inspector Jno. Billings, of Osage county, examined the place wherein deceased met his death on February 12, 1895, and investigated the matter thoroughly, and was unable to learn wherein any blame rested upon the company or its officials.

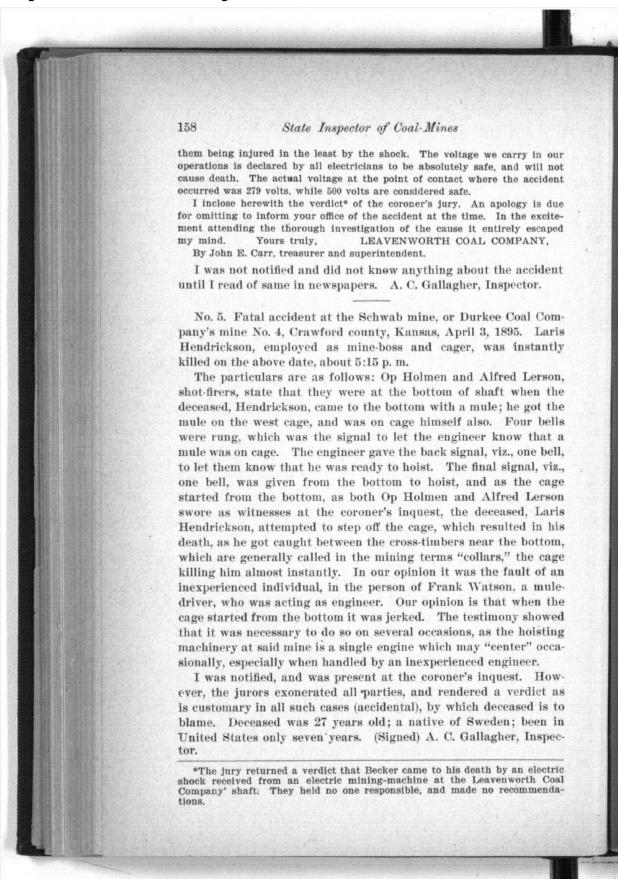
No. 4. Fatal accident to William Becker, at the Leavenworth Coal-Mining Company's mine No. 1, on February 25, 1895.

The following letter from the superintendent and a clipping from the Leavenworth "Times" fully explain this accident:

A. C. Gallagher, Inspector of Mines, Pittsburg, Kas.:

Dear Sir—Replying to yours of 5th inst.: On February 25, Wm. Becker, employed by us working with mining-machine, died in the mine, supposed to be from a shock of electricity. As we were denied a post-mortem examination, we are in doubt as to electricity being the cause of death, as the current had to pass through two other men before reaching him, neither one of







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No. 6. Fatal accident to Benjamin Adams, at Hamilton & Grant's shaft mine, at Weir City, Cherokee county, on June 21, 1895.

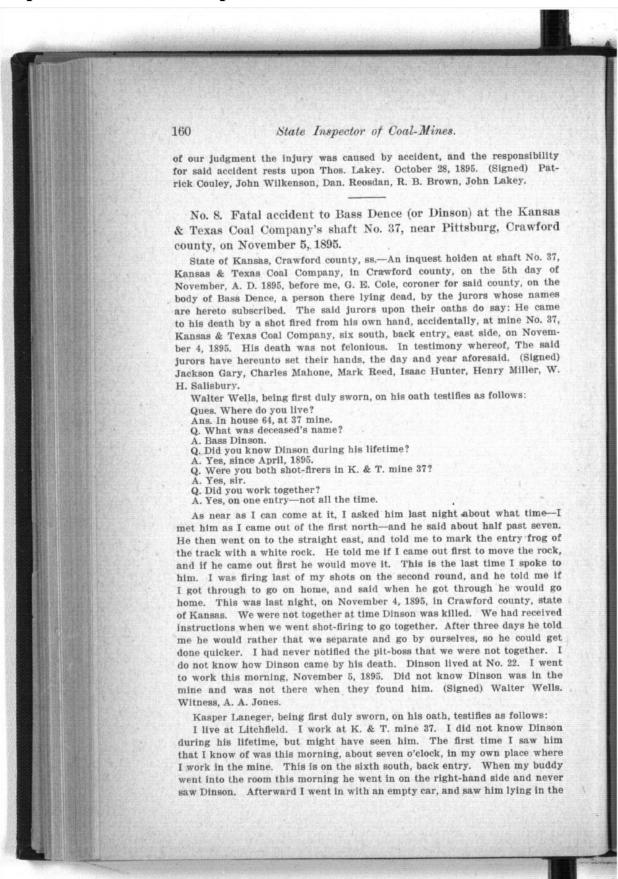
Between 3 and 4 o'clock on the afternoon of the above date the deceased, B. Adams, was killed by a fall of top coal, in his room on the first east, on south side of mine. I was notified the following day by Messrs. Hamilton & Grant. I went to the mine and examined the place where the deceased met his death. He was working under some top coal which was not propped; evidently he considered it safe, as he was an experienced miner. However, about 1,200 or 1,500 pounds of coal fell upon him, killing him instantly. In my opinion there is no one to blame. There were props in his place close at hand, and he must have negligently overlooked the necessity of setting one post which would have saved his life. Deceased was a married man, aged 54 years, an Englishman by birth. (Signed) A. C. Gallagher, Inspector.

No. 7. Fatal accident to Thos. Lakey, at the Southwestern Coal Company's mine No. 3, at Cornell, Crawford county, on October 28, 1895.

This man was buried before I heard of the accident. He was killed on the 28th day of November, and I received notice on the 1st of December. I visited the mine and examined the place in which Mr. Lakey was working when the accident occurred. The room had just passed through a clay vein or "horseback." There were two other slips in the roof, one on the right side of his place, angling toward the left, which he could see and must have been cognizant of; another on the left side, running so as to intersect with the first, was hidden by the coal left standing by a shot which he was in the act of mining and taking out. The moment the coal was taken down from under the last-named slip or fault in the roof the rock in the form of a right-angle triangle fell, striking Mr. Lakey on the neck and shoulders, breaking his spine. This was an accident familiar to all miners, and one which it seems impossible wholly to guard against. Had Mr. Lakey known of the presence of the last-mentioned slip he would have known what must be the inevitable result of mining off the coal before propping the roof; but the danger was hidden from his sight; consequently he lost his life. There is no blame attached to anyone. The following is the testimony of his fellow workmen who took the body from under the rock and examined the place at the time:

We, the undersigned, have carefully examined the locality of said accident, and find that the injury consisted of neck broken, which was caused by a fall of slate 6 feet 4 inches long, 2½ feet wide, and 11 inches thick. To the best







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room on the left-hand side. I then called my buddy and said there was a man there dead: that it was the shot-firer. Dinson's back was straightened out, and his foot, head and arms were covered up a little. Then I sent for the pit-boss. He (Dinson) was covered with fine coal that I expect the shot threw on him. Dinson was lying about 16½ feet from where shot was put in. The shot was in the break-through—there was no shot in the entry. He (Dinson) was lying on his face. His feet were nearer than his head to the place where shots had been fired. The shot had been fired. I do not know of any trouble with the shot. It threw out coal and was not a blown-out shot. I did not examine Dinson. I didn't make up the powder for Dinson's shots. There were no cars in the entry. My buddy, John Wingebach, is not here. (Signed) Kasper Laneger. Witness, A. A. Jones.

Green Gibbons, being first duly sworn, on his oath testifies as follows:

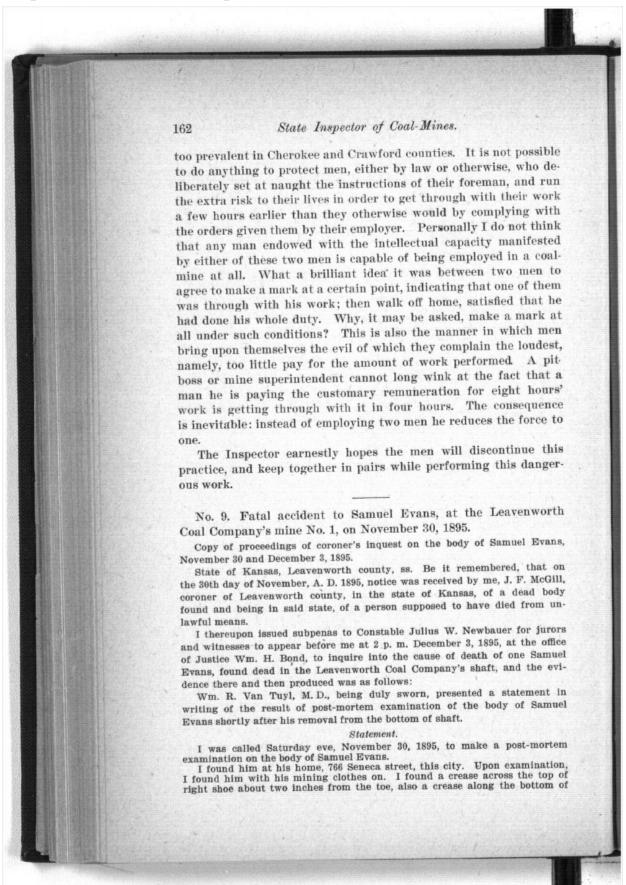
I went down in the mine this morning with Mr. Willege. I do not know whether there had been any one there before we got there or not. When I got there I looked for the man who was killed, and saw him; then looked for the shot. The shot was on east side, on right-hand side, and he was lying on west side, with his feet pointing towards the shot. He was partly covered with coal; his feet and part of his hips were out, but his head and shoulders were covered with coal. I never knew Dinson, but knew he was a shot-firer and that he had worked in this part of the mine. He had shot for me about two weeks. I know the gentlemen who drive the entry. I saw the shot. There was small coal on Dinson—no large lumps. There were no loaded cars in entry. I do not know whether there had been a driver in the entry this morning or not. Dinson was lying about 16 feet from the shot. (Signed) Green Gibbons. Witness, A. A. Jones.

Vincent Glades, being first duly sworn, on his oath testifies as follows:

I am pit-boss at K. & T. No. 37. I knew Dinson while he worked for me-I think about one year. He was coal-miner and shot-firer. I think he has been shot-firing since last spring, which he was doing at the time he was killed. The last time I saw him alive was yesterday morning. I next saw his body at sixth south, back entry, on east, about half past 7 o'clock this morning. When I got report of his death this morning I went in room to see where he got killed. When I got there part of his leg and part of his back were sticking out. I then went back to see where shot was standing, and the shot was on right-hand rib, on back sixth, south entry. The shot was put in to start a break-through, and the coal was all thrown off except a little stump, and thrown all over the place. I did not examine him and do not know whether there were any bones broken. He was lying on his face, with his feet towards the shot. It looked as though he was going out after having fired the shot. I had given the shot-firers instructions as to how they were to work. I instructed them to go together in pairs. I never knew they were going separately, but supposed they were going together. I took Mr. Dinson's time. I knew he was one of the shot-firers when I found him dead this morning. The shot-firers come out of the mine by the manway and are not hoisted out of the mine by the engineer. I receive no report as to any misfortune to a shotfirer. I have no watchman, and put two shot-firers together, so that in case anything happened to one of them the other could report. Dinson gets onehalf shift. When one shot-firer is not at mine to go down his partner makes report of his absence. (Signed) Vincent Glades.

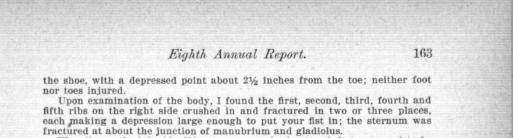
The testimony of Walter Wells in this case marks a custom all







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The ribs on the left side did not appear to be fractured, but appeared to be separated from their cartilaginous attachments. The skin was not broken, but on the right side of the sternum was a space about three inches long by two wide where the cuticle was scraped off. The injury was of a crushing nature, and was sufficient to cause instant death.

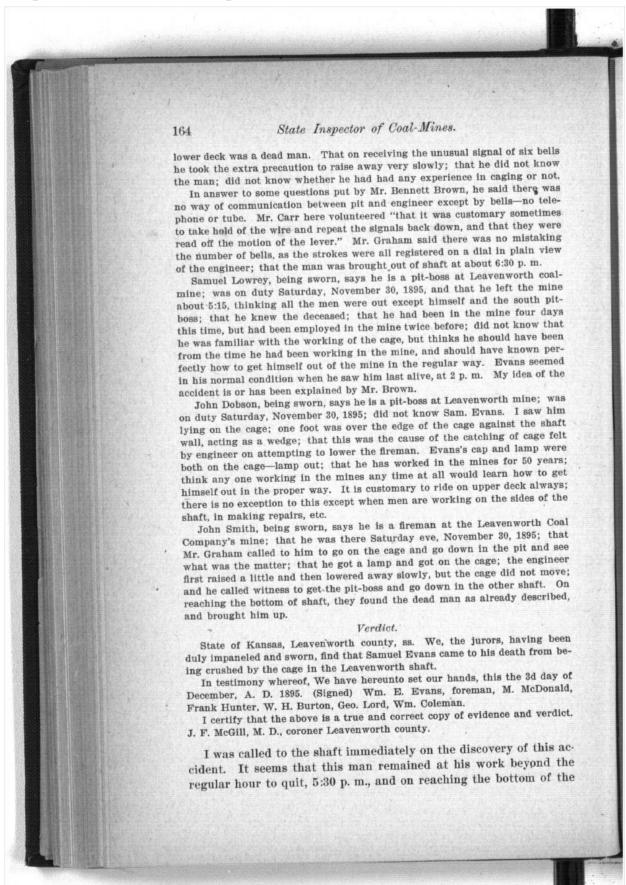
The next morning, in company with Superintendent Carr, I visited the bottom of the Leavenworth Coal Company's shaft and made an examination of the cage and pit, and arrived at the following theory: That the deceased, after ringing for the cage to go up, probably thought he could not get on that one in time and had to wait for a cage to come down; that he stood at the west side of the north half of the shaft, with his right foot resting on the pit rail and his toe extending over the edge of pit shaft, when the cage came down, which it does very quietly, it making no noise at all; the lower floor of the cage caught the shoe of the right foot. This would naturally throw the body forward. Having done this, the floor of the upper deck caught him as described above, i. e., across the chest, and crushed him between the floor of the pit and the deck of the cage, in a space of about six inches in a part of the distance and about three inches in the balance. The guide on the floor of the cage caught the ribs of the right side of chest and crushed them as above described. After passing about 12 or 15 inches below the floor of the pit, the head, being released, would naturally fall upon the lower deck, as he was found

From examination of deceased and the place of death it is my opinion that it was purely accidental, and due entirely to his own carelessness. (Signed) W. R. VanTuyl, M. D.

Mr. Bennett Brown, being duly sworn, says he is State Mine Inspector; that he made an examination of the mine shafts after the death of Samuel Evans, and that from the examination he cannot say positively how the man was killed; thinks that the man must have attempted to get on the cage when it was first stopped at the bottom of the mine and just when the engineer lowered away to bring the lower floor of the upper cage on a level with the floor of head-house—that is, when the cage first came down.

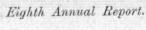
Wm. Graham, being duly sworn, says he is engineer at the Leavenworth Coal Mining Company's shaft; that he was on duty Saturday, November 30, 1895; that all the men were supposed to be out of the mine on Saturday by 5 p. m.; but that about 6:15 p. m., when he was washing up to go home, he received a signal of six bells from the pit; that it was an unusual signal for that time of day, but that he went to the engine and raised away about 12 inches the usual proceeding-and then waited a short time and raised the cage to the top, as he would for a "man to ride," and he was surprised when the cage came into view to see no one on the upper deck, the place where men are supposed to ride always; but he then, in scarcely any time at all, raised the cage so as to bring the lower deck into view, and there being no one on it either, he called to his fireman to take a lamp and go to the bottom of the pit, and that the fireman got on the cage just brought up; that he attempted to lower away, and that he saw something was holding the lower cage at the bottom of pit. He then called the fireman to go for the pit-boss, and he got the engine of the other shaft in readiness, and when the pit-boss came he sent the fireman and pit-boss down, telling them that as soon as they were down he would go back to the other engine and await their signal there. After a time he received the proper signal (four bells) for a man to ride, and raised away and brought cage into view; there stood the pit-boss and fireman, and on the







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shaft found that all the men in the shaft had gone out. According to the statement of the engineer, Mr. Graham, the man rang the signal bell six times, indicating that he wanted to come up. This was an unusual signal; but the engineer, supposing that the man at the bottom did not know the proper signal, considered that all was right and raised the cage, slowly from the bottom to the top.

The Leavenworth elevators or cages are what are known as double-decked—that is, there are two compartments, one above the other; the top compartment is about five feet in height and the lower compartment about four feet. When the floor of the top compartment of one cage is on a level with the floor of the head-house, the floor of the lower compartment of the other cage is on a line with the roadways of the mine. When Graham had raised the southwest cage from the bottom to the top of the shaft he stopped the cage with the floor of the upper compartment on a line with the floor of the head-house, to enable any person who might be on the cage to get off, as the upper compartment is the one in which the men are supposed to ride, and the one which was on a level with the roadways in the mine when the signal was given to hoist.

The engineer, seeing no one get off the cage, lifted the lower compartment to a level with the floor of the head-house. Not seeing any one on the cage, and receiving no further signal from the bottom, he became alarmed, and, fearing there was something wrong, called to his assistant and instructed him to get on the cage and go to the bottom and find out what was the matter.

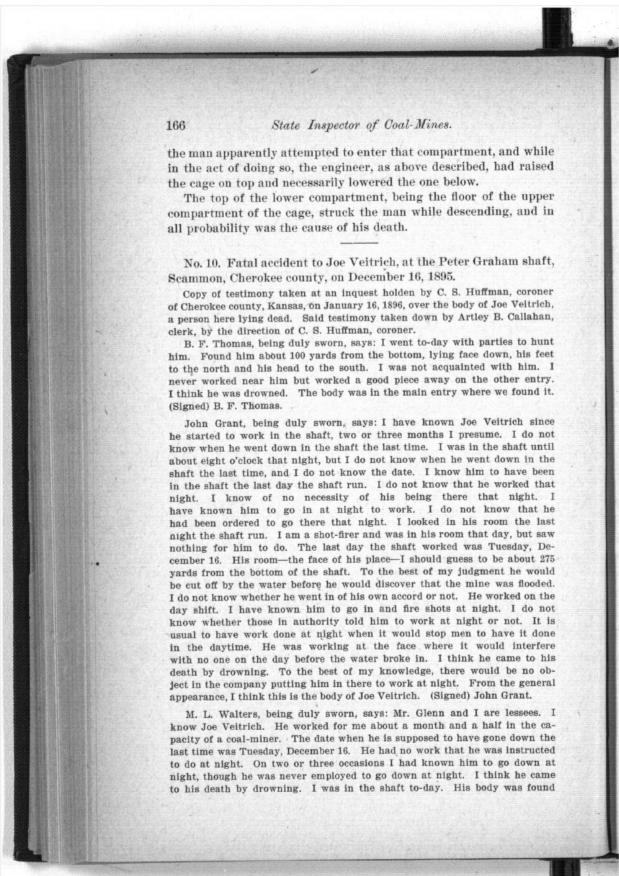
The assistant did as he was instructed, got on the cage, and gave the signal to lower. The engineer, on attempting to move the cage, felt that there was something obstructing the one at the bottom, and instructed the assistant to go to the residence of the pit-boss, Mr. John Dobson, and tell him to come to the shaft, as there was something wrong. The pit-boss immediately hurried to the pit, and he and the engineer's assistant went down the water (or communication) shaft.

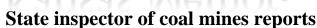
On reaching the bottom of the hoisting shaft, they discovered the body of a man lying dead in the lower compartment of the cage, and pressing against the timbers of the cage seat. They drew the body of the man clear into the cage and brought him to the top of the shaft.

It would seem that when the engineer raised the cage, after having received the signal to do so, the person who had given the signal failed to get on. When the other cage reached the bottom, the engineer, as before described, stopped the floor of the lower compartment of the cage on a level with the roadways of the mine;

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about 100 yards from the bottom, face downward, on the first south, west of shaft. He never drove any entry for our company. The place where he worked was originally a 12-foot place for an entry, but it was made into a room by Charley Hodge before this man worked there. We employed this man to work it as a room. All that he was employed to do in the way of extra or yardage work was brushing. The first part of the work would have been necessary to do at night, but the brushing was stopped some 6 or 8 or 10 days before the water broke in. I could not say whether he worked the last day or not. The shaft worked until about 10:30 or 11, and then stopped work. The water broke in south of hoisting shaft, probably 100 yards, at an old cave hole-an old place where the water broke in once before. The hole was not in use and had been filled up, and was supposed to be secure. I think the water broke in about six o'clock. I was there about 6:20, and the water was about two feet deep; that was not enough water to shut him in. Had we known the man was in, we could have got him out up to nine o'clock. I first learned that he was there at two the next day, Thursday. It was about 23 feet deep then. He must have been drowned at that time. The cave hole stood full of water at that time. I met my partner, Mr. Glenn, about a quarter of a mile from Scammon, who told me. He learned it from Mr. Graham. His mother-in-law knew that he was in the shaft, and she told my wife that she prepared enough lunch for him to last until Wednesday night. Mr. Graham learned it from Mr. Thixton. (Signed) M. L. Walters.

James Kelly, being duly sworn, says: I was in this shaft when it was drowned out. I am a coal-miner and was acquainted with Joe Veitrich, and worked about 25 or 30 yards from him. I worked the day before it filled up. Joe worked that day. I knew him to do night work. He did brushing—shooting down roof. He did it from the time he started in there, but had it down two or three days before he was drowned. I knew of nothing for him to do the last night before the water broke in. I never knew him to work at night to get extra coal. I was in the shaft when his body was found. I think he was drowned. I do think he was alone responsible for his own death.

Q. For what purpose was you in his room the day before?

A. Just for a chat. I do not know this to be the body of Joe Veitrich, but I think it is. I do not know what his object was in going in there. I am satisfied that this is the body of Joe Veitrich. (Signed) Jas. Kelly.

Wm. Smith, being duly sworn, says: My work in this shaft is that of working in the interest of Mr. Walters, in doing anything that comes along. I am mine foreman. I have seen Joe Veitrich to speak to; am not acquainted with him. I recognize this as his body. I was working the last day the shaft worked. I do not know whether he was there or not. I know that he had no night work to do. The water broke in on Wednesday, at 6 o'clock. I did not know he was in the shaft until Thursday, the 18th. There was 20 feet of water in the shaft on Thursday. There was about an inch of water at a quarter of six, Wednesday; that was two hours before work time. If he had gone in at the usual time he would have known there was something wrong. (Signed) Wm. Smith.

This is to certify that the foregoing is a true and correct copy of all the testimony taken at said inquest. (Signed) Artley B. Callahan, clerk. C. S. Huffman, coroner.

Verdict.

State of Kansas, Cherokee county, ss. An inquisition holden in Cherokee county, on the 16th day of January, A. D. 1896, before me, C. S. Huffman, cor-



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oner of Cherokee county, on the body of Joe Veitrich, there lying dead, by the jurors whose names are hereunto subscribed.

We, the jury, find that deceased came to his death by accidental drowning, and that he alone is responsible for his death. (Signed) M. Tindall, W. D. Walker, Wm. Robertson, Sam. L. Harris, W. N. Enfield, John Hardison.

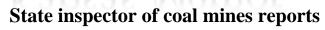
The first notification I had of this accident was on January 1, 1896, at least 12 days after the owner and operators of the mine had every reason to believe a man had been drowned therein; they were at once notified to have the water taken out of the shaft as quickly as possible, and notify me when I could get into the mine or when they discovered the body, which was done. According to all the evidence and the knowledge I could glean on the subject, it would seem that this man must have been asleep in the mine when the water broke in, as he had ample time, between the water flooding the floor and reaching the roof, to get out, as the distance to travel was short—five minutes' walk, and at least one hour must have transpired between the time that the water had covered every portion of the floor and reaching the roof of any part of the mine.

While I do not think that the owner or operators of this mine are in any way to blame for this accident, yet it would be well for them and all men having mines located in such position to take every precaution to prevent inundations of this character, and also to post notices in a conspicuous place at the mine warning men of the danger of going into the mine at night, and forbidding them to do so. In those shallow mines men are in the habit of wending out and in at will.

NON-FATAL ACCIDENTS.

Fifteen were caused by falling roof; 8 by coal falling down while men were in the act of holing or mining it; 6 by premature blast, while charging shots; 3 by being caught with or while on cage; 2 while firing shote; 2 while lifting coal in pit-cars, overstraining themselves; 2 while riding on loaded mine-cars; 1 finger cut off, jammed between two lumps of coal; 1 finger cut off, jammed between mine-cars; 1 by falling off ladder while repairing upcast smoke-stack; 1 while emptying mine-car—door of car fell down and bruised hand.

Of these 42 accidents, one proved fatal within a few weeks. Charlie Giovanna, while sitting in his room in mine No. 9 of the Pittsburg & Midway Coal Company, conversing with a comrade, was struck on the head and shoulders by a piece of slate falling from the roof, which bent his head downwords, breaking his spine just above the hips. This was a most remarkably simple accident to be attended with such grave results. The slate could not weigh





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more than 30 or 40 pounds; it did not fall more than three inches before striking him on the head; had he been sitting in a position so that his body could have resisted or yielded to the strain, he would not have been injured at all; but his legs, being extended before him, acted as a brace to the lower part of his body, preventing him from turning, with the above result.

A man named Robert Crane was severely injured on the 29th day of April, in the Fuller coal-mine, Crawford county, by rock falling from the roof in his room, breaking his spine. This man is still alive, but his body is paralyzed below the fracture, making him a physical wreck for life.

Another accident with nearly the same result happened to George Fulton, on the 10th day of October, while he was repairing a roadway in the Hamilton & Braidwood No. 1 mine, at Weir City. He is, however, slowly recovering, and shows signs of being able to get around, although he will never fully recover from the effects of the injury to his spine.

One man, a carpenter, while repairing the wooden air- or smokestack of the Osage Carbon Company's mine No. 13, Osage county, fell from the ladder, fracturing one leg so badly that it had to be amputated; his life was in great danger for some time, but he is now fully recovered. The local superintendent of the company warned this man that his ladder was not properly placed, and said he should get down and fix it; he himself was wiser than the superintendent, with the result as above noted.

Three men had each one leg fractured; two by falling coal, and one by trying to jump on a loaded trip of cars while they were in motion. Two men had each one arm broken; one by a stone falling from the roof in his room, and one by slate falling from the roof while he was in the act of wedging down his coal. One man had his foot badly bruised by having it jammed between the descending cage and the edge of the cage-seat. One was caught by descending cage while standing on the "buntons" in the center of the shaft, above the lower top landing, repairing the signal wire. How this man escaped with his life is a miracle. One man had his head bruised and cut by a piece of rock or coal falling down the shaft while he was standing on the cage, at or near the bottom of the shaft; there had been a cover on the top of this cage, but it had been broken off some time previous to this accident, and had not been replaced; had the cover been put back where it belonged this man would not have been injured.

Six men were injured by premature blasts, the powder igniting while the men were in the act of forcing the cartridge into a hole



