

State inspector of coal mines reports

Section 65, Pages 1921 - 1950

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.

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State inspector of coal mines reports

Biennial Report.

199

the safest. They could n't fire so many shots at once, and the holes would all have to be properly tamped.

Q. That would be aside from any other motive than to preserving the safety of the shot-firers and the property? A. Yes, sir.

JAMES ROBB, of lawful age, being produced, sworn, and examined, testified as follows:

By Mr. Orr: Ques. State your name to the stenographer. Ans. James Robb.

Q. How are you employed, Mr. Robb? A. How am I?

Q. Yes. A. Digging coal.

Q. Where? A. Mine No. 2, Sheridan.

Q. How long you been mining there, Mr. Robb? A. Two years in March.

Q. What portion of the mine are you employed in? A. First west on the north.

Q. First west on the north? A. Yes, sir.

Q. What is the condition of that portion of the mine, in your judgment? A. Well, it is in very good condition, to my knowledge.

Q. Is there an accumulation of dust, or dry? A. No; it is more damp than dry.

Q. Any gas generated in that portion of the work? A. None that I have seen yet.

Q. Did you cut any horsebacks in that portion of the work? A. Not since I have been over there.

Q. Cut any in any other portion of the mine? A. I have on the south side.

Q. Discover any gas in there? A. Just inside of the horseback I have seen quite a bit of gas.

Q. Accumulate in your place? A. No, just in the drill holes; not enough to amount to anything.

Q. You could n't light it? A. Just in the drill holes.

Q. Would n't be any gas standing in your place in the morning when you went in? A. Oh, no.

Q. You been in the mine since this explosion occurred here on the 2d of this month? A. Yes, sir.

Q. Get through that portion of the work where the explosion occurred, as supposed to have occurred? A. Yes, sir.

Q. What seemed to be the condition of that portion of the mine when you were in there? A. Well, it was a little dry; not so much. It was in pretty fair condition.

Q. Any extra accumulation of dust, to your opinion? A. No; I don't think so.

Q. Did you investigate any of the shots up in that portion of the work? A. Yes, sir.

Q. Did you come to any conclusion as to the cause of the explosion? A. Yes, sir.

Q. What was your conclusion, Mr. Robb? A. Well, I think that it was a windy shot.

Q. Where was that windy shot? A. In the first room on the back entry on the third east on the north.

Q. What led you to believe that it might be a windy shot? A. Well, sir, simply because the shot was to the bad too much to do any good; just blew the tamping.

Q. What do you mean when it was to the bad too much? A. Well, the shot had no chance.

Q. Did you examine the shot sufficient to make any dimensions of it? A. Yes, sir, I measured the hole; measured it to my measurement three foot and seven inches. It was about five foot six inches across the toe and about eight inches on the heel.

Q. Was there any cutting or mining on that shot, or crack at the point in any manner? A. There was a little crack on the left-hand side

State inspector of coal mines reports

200

Inspector of Coal-mines.

of the shot. Did n't amount to very much; in three or four inches, such a matter.

Q. Did the powder seem to expand in all its energy in working on that shot in any manner? A. It never sprung the hole even; never done no good; only just blew the tamping.

Q. Was there no other shots in that vicinity that would lead you to believe that an explosion had occurred from that end? A. Yes, sir; there was one up in old man Gillette's place, in the third room east of that, in a horseback.

Q. In a horseback? A. Yes, sir.

Q. What was the condition of that shot? A. Well, sir, the condition of that shot was, if he had drilled six inches further he would have drilled into his other hole.

Q. Were both of those holes in the horseback? A. Yes, sir.

Q. They were drilled to shoot the horseback out, were they, or coal? A. They were drilled through the horseback into the coal.

Q. How big was the horseback? A. I could n't answer that, because I never paid enough attention to it; just simply went in and seen that the props was all blown down, curtain blown down, and things mangled up in pretty bad shape, was all I noticed about it, only the condition of the shot.

Q. What manner was this hole drilled within six inches of the other hole? A. He had drilled the hole in on the left-hand side of his place, and he had drilled another hole on the right-hand side of his place. The right-hand shot had been fired on the night before the explosion, and he fired the other shot on the night of the explosion.

By Mr. Craig: Ques. And the back of the holes were pointing towards each other? Ans. Pointing towards each other.

Q. Well, how can you figure that one hole was on the left-hand side of his place and the other one on the right-hand side of the place, and they were coming towards each other? A. Very nicely. One of them was on the left-hand side drilling that way, and the other one was on the right-hand side drilling this way; consequently if he had drilled this hole six inches deeper he would have drilled into this hole he had drilled the previous night.

Q. You mean, then, that he had drilled a hole parallel with the rib on the left-hand side of his place? A. No, sir; he had drilled the holes leaving—the holes had absolutely pretty near met.

Q. Well, he had drilled the one hole on the left-hand side of his place, then, and apparently it had done nothing? A. No, it had apparently left some of his hole.

Q. He went at right angles, did he, and drilled apparently across that shot, did he? A. Yes, sir.

Q. And drilled within six inches of the other hole? A. Of the other hole.

Q. Did that shot blow the coal out, or did it blow the tamping out? A. Just blew the tamping out. It blew a little more of the horseback off than it did the other; did n't blow none of the coal off.

By Mr. Roberts: Ques. On which side of the entry was that placed, Mr. Robb? Ans. On the right-hand side of the head of the entry.

Q. Gillette ain't working there, is he? A. I was n't acquainted with the parties working there, and had no knowledge but what somebody had worked in that place at that time, the reason he has made the above statement.

By Mr. Orr: Ques. Was there any other place in there that you discovered the shots weren't properly placed? Ans. Well, in the second room on the back, next to this first room, there was one shot in there that was a little overtight—not much.

Q. Well, what is your reason for believing that that shot in that first place was one that caused the explosion, Mr. Robb? A. Simply because it did n't do anything but just simply blow the tamping.

State inspector of coal mines reports

Biennial Report.

201

- Q. Well, was there any more evidence in there then? A. Certainly.
- Q. Well, where was the evidence? A. In this windy shot.
- Q. Was there no other evidence in that place than the position of that shot, that would lead you to believe—did you discover anywhere any charred timbers, or coked dust, or coal in there? A. Yes, sir; all the way out on the props.
- Q. Discover any other fire in this place? A. No, sir; never noticed any.
- Q. Do you know what the men usually use in tamping the holes? A. Well, no, I don't. Some of them use one thing and some another. I don't know.
- Q. What do you generally use, Mr. Robb? A. Well, sir, as a rule I tamp with slack.
- Q. And dummies? A. Yes, sir, in case of a wet hole; and not a wet hole, I tamp with slack entirely, without the dummy.
- Q. Don't use any drillings? A. I use to tamp with drillings pretty near all the time, but in the past year, or such a matter, I haven't done it.
- Q. You think the drillings, then, is a bad feature of the tamping? A. Well, I don't know; I don't think it is the best.
- Q. You think that some coarser coal and damper material is better to tamp with than the fine drillings? A. Certainly.
- Q. Do you know of any method that could be adopted or used that would minimize those explosions to any extent? A. No, sir; I don't.
- Q. You ever studied on the matter any? A. Yes, sir; quite a bit.
- Q. Never came to any conclusion as to what you thought may be used to guard against them? A. No, sir; nothing more only that the men be a little more particular about tamping.
- Q. Do you think the dust in that mine was any factor in this explosion? A. No, sir.
- Q. Think it was wholly and solely a windy shot, then? A. Yes, sir; that is my idea of it.
- Q. The shot-firers ever have any occasion to leave a shot for you at any time, that they thought was n't safe to fire? A. No, sir; I never had one left that I know of, that I can remember, that they ever condemned. I have had them left simply because they said they could n't get the powder back. They never lit the fuse and never tamped the bottom. I have had none left since, nor before, only in that one place.
- Q. You think the shot-firers are given sufficient authority, then, to make themselves safe in firing, do you? A. To a certain extent I do.
- Q. Well, to what extent don't you believe that they are not given? A. I think that our shot-firers have left shots that they had n't ought to have left.
- Q. For what reason do you think they have left those shots that shouldn't have been left? A. Simply because they were good clear shots and they ought to be fired.
- Q. Did they ever give any reasons why they thought they ought not to have fired them? A. No, sir; I have seen some of them that they left that I thought were pretty good shots, and some that I thought should have been left.
- Q. Do you think there was any other cause that they had left them that was unavoidable, or through some accident of some kind? A. Can't think of any.
- Q. You have seen shots, then, that they have fired that you think they should have left? A. Certainly I have.
- Q. Have the shot-firers ever been condemned or fined by the local for leaving shots that you think should have been fired? A. No, not as I know of.

By Mr. Roberts: Ques. If you were a shot-firer, would you have fired this shot in Toyne's place? Ans. No, sir; I would n't have fired it.

State inspector of coal mines reports

202

Inspector of Coal-mines.

Statement of Ed. and George Elliott, who were burned by an explosion at mine No. 2 of the Sheridan Coal Company, at Fuller, Kan., January 2, 1906:

Ed. and George Elliott were employed as shot-firers at the above mine, and were both burned by the explosion. Ed.'s statement is as follows. [At the time when the above statements were taken the Elliott boys were in very bad condition, and apparently had not thoroughly rallied from the shock of the accident, which accounts for the divergence of their statements.]

"We had twenty-five shots in the third east main and back entries on the north side of the mine. We could light as many as eight shots at one lighting and wait until they would go off. Then we would tamp what wet holes we would have, and split our fuse ready to light. We had eight shots to tamp in these two entries and had all the shots fired in these two entries when the explosion occurred, and had but three shots lighted at that time, which were in the two first places on the third north back entry. On the lighting, prior to the lighting on which the explosion occurred, there was one place in which there were three shots, and one of them was a shot that was drilled as a splitting shot in a shot which had been drilled and fired some time previously; and the shots which we lighted last seemed to be well placed shots and we had no fear of any bad results from them, and there was but very little smoke in the entry from the other shots, and we were getting along quite rapidly with the firing, and all the shots that were lighted previous to the two last places were all gone before we lighted them from which the explosion occurred. The roads were all wet and but very little dust in the rooms, although they were dry. We had no shots this evening that we left, nor fired any shots which we considered unsafe. And the shots which were fired last were all in clean coal and no horseback near them and no gas in any of these places, and in my opinion too much powder is used and the holes poorly tamped, and with drill dust; and when I began to fire this mine I considered it practically safe by taking time in firing the shots, and the only reason why I considered the fourth west more dangerous was on account of so much talk of it throwing so much fire and on account of the other two shot-firers being killed there, as I had never fired it myself. I had only fired two shots since the other explosion, and George had only begun to fire the night of which the explosion occurred."

George Elliott's statement is much the same as Ed.'s except that they could not quite agree as to the number of shots in the two last places, as George thought there was only one shot in each place, and after lighting them they made their run to the main north entry and had just got through the third east door and Ed. was in the act of taking a drink of water from a bucket which they had at the third east switch when the explosion occurred and blew the door open, and which struck George.

George's opinion is the gas assisted in the explosion to some extent, as he could hear it singing in the coal, although he had never detected any in any other manner.



State inspector of coal mines reports

Biennial Report.

203

REPORT OF COMMISSION.

In accordance with house joint resolution No. 5, which passed the lower house of the legislature February 14, 1905, and the senate February 15, 1905, and which was approved February 18, 1905, a committee consisting of Archie Fulton, superintendent of mines at Lansing; James A. Orr, state superintendent of mines, and Professor Bartow, of the Kansas State University, was appointed to investigate the condition of mines in southeastern Kansas, in which several disastrous explosions had recently occurred. The committee, after making personal examination of the mines and taking voluminous testimony from mine superintendents, miners and others connected with the working of the mines, submitted their findings and recommendations in the following report:

Hon. E. W. Hoch, Governor of Kansas:

SIR—In compliance with joint resolution No. 5 of the senate and house of representatives of the fourteenth biennial session, this commission respectfully submits to you, for your consideration, the report of results of its investigation of the cause of explosions in the coal-mines of southeastern Kansas, and the recommendations that the commission believes will help to prevent a recurrence of such disasters.

The commission was called to meet in Topeka on February 17, 1905, to receive instructions. After receiving our instructions, on February 20, 1905, we went to Weir City, which was made headquarters. From February 21 to 25, inclusive, four mines were visited. In four of these there had been six explosions since December 15, 1903, and nine shot-firers had lost their lives, and thousands of dollars' worth of property had been destroyed. To this must be added the loss from suspension of output of the coal and the loss of time on the part of many miners while repairs were being made.

The work of the commission has been carried on by personal examinations, by interviews with thirty-nine persons, including shot-firers, miners, foremen, superintendents, managers, and proprietors of mines, and the officials of the Mine-workers' Association of the district; and the committee has received letters from four persons containing recommendations.

VISITS TO THE MINES.

On Tuesday, February 21, we visited mine No. 1 of the J. H. Bennett Coal Company, two and one-half miles northwest of Weir City. In this mine an explosion occurred on January 26, 1905, in which two shot-firers lost their lives, and the interior of the mine and the shaft were considerably damaged. Wreckage, including broken pit-cars and other debris, was noticed. In the mine we found evidences of the destruction wrought by the explosion, though work had been resumed on February 20. We examined the mine workings, and saw the remains of shots that may have thrown fire, and on account of the dry and dusty condition of the mine may have caused the explosion. We noted also the rooms where the heat had been most intense; coal dust collected on timbers was coked by the intense heat. While much had been done to get this mine into shape, we still regarded it as in a dangerous condition. Mining laws had been disregarded. There was dust on walls and floors, powder-cans containing powder at room mouths, and break-throughs not wide enough,



State inspector of coal mines reports

204

Inspector of Coal-mines.

and some partly filled with slate. Two of the shots prepared for firing were regarded as dangerous by the commission, and were promptly condemned by Mr. Evans, the pit boss. Some time prior to our visit Mine Inspector Orr had issued an order to Mr. Bennett to have the mine thoroughly saturated with water. An attempt had been made to carry out this order, but not enough had been done to make it effective. Mine Inspector Orr still deemed the mine in an unsafe condition, in which opinion the remainder of the commission concurred.

Mr. Bennett showed a willingness to do everything in his power to render the mine safe, and promptly gave orders to have Mr. Orr's instructions carried out. Mr. Orr also deemed it his duty to inform the shot-firers of the conditions existing in the mine, and warned them that they went into the mine that evening at their own risk, and in case of accident the inspector would not be liable to censure. After some deliberation they decided to go down, and we were informed later that they got through safely. Mr. Bennett, with the consent of the miners, has changed the method of firing from fuse to squibs. The main shaft in this mine is an upcast, and the mine is worked on the single-entry system.

On Wednesday, February 22, we visited mine No. 2 of the Weir Junction Coal Company, two miles southeast of Cherokee. There have been three explosions in this mine—on December 15, 1903, January 18, 1905, and January 26, 1905, in each of which one shot-firer lost his life. We found considerable wreckage at this mine, but more had been done to render it safe than had been done in the Bennett mine. Efforts had been made to thoroughly saturate the mine, including entries and rooms. A pipe-line had been laid in the entries, and by means of a hose the roofs, sides and floors were thoroughly saturated with water. All the roadways and rooms had been cleaned up. On account of the cold weather the air-shaft was almost blocked with ice. This mine is worked on the single-entry plan. Contained numerous faults. The mine shaft is the upcast.

On Thursday, February 23, 1905, we visited the mine of the Crescent Coal Company, located at Mineral. In this mine there had been one slight explosion, but no lives had been lost. We wished to visit a mine having conditions similar to the mines in which disastrous explosions had occurred, for the sake of comparison. This mine was dry, but precautions were being taken to thoroughly saturate it, and also to change the main shaft from upcast to downcast; also to put in reversible fan.

On Friday, February 24, we visited mine No. 1 of the Devlin & Miller Coal Company, six miles north of Pittsburg. In this mine two explosions had occurred, on February 1 and February 9, 1905, in each of which two shot-firers lost their lives. We were accompanied to this mine by general superintendent, Mr. Fletcher, superintendent, Mr. McCall, and foreman, Mr. Keegan, Mr. James Hamilton, of the Hamilton Coal Company, Mr. Geo. Murphy, deputy mine inspector, and Mr. J. Schwab. The explosions in this mine differed from the others described, in that the destruction was confined to the interior, no trace being found around the top, the explosion having spent itself in the entries. The timbers for several hundred yards were swept out of the entry, and charred coal adhering to the walls gave evidence of the awful heat and flame that must have prevailed at the time of the explosion. Both shot-firers had been burned and were considerably mangled. The Devlin & Miller Company is making every effort to prevent the recurrence of such an event.

The pit top is high and roomy and strongly built. This is also true of the bottom of the shaft. The roadways and break-throughs are clean and wide, and the mine we believe is in first-class condition. Since the explosion a steam-pipe has been placed in the entry, and, in addition to watering the roads, steam is allowed to circulate through the mine, especially at the time of shot-firing. By this means they have found it possible to raise the temperature of the mine thirty degrees during the cold



weather, and the shot-firers say they have noticed less effects from the firing of the shots. On Saturday, February 25, Mr. Orr held an investigation of the explosion of February 9, 1905, as he is required by law, and the commission was present and assisted in the investigation. This explosion probably spent itself in the mine, as there was room for expansion on account of the three parallel entries driven from the bottom as main entries and the double cross-entries. The initial cause of this explosion cannot be accurately stated on account of conflicting evidence. It was possibly caused by a gunning shot, which must have been assisted by coal-dust, owing to the condition of the coal-dust on the walls of the rooms in the neighborhood of the explosion. There was evidence that two poorly prepared shots had been fired in room 3, but evidence as to the date of firing these shots could not be obtained. This mine is worked on the double-entry system, and the main shaft is the downcast.

In addition to the explosions above mentioned, there was an explosion on April 21, 1904, Fleming Coal Company mine No. 4, one mile west of Stippville, in which two lives were lost; and explosions in mine No. 3 of the J. R. Crow Coal Company, two and one-half miles west of Weir City, and in mine No. 7 of the J. R. Crow Coal Company on February 1, 1905, and in mine No. 39 of the Central Coal and Coke Company, three miles northwest of Weir City, and in mine No. 11 of the Southwestern Coal and Development Company, at Mineral, in which no lives were lost. In the time allowed your commission was unable to visit these mines.

CAUSES CONTRIBUTING TO THESE EXPLOSIONS.

- 1.—Heat and Flame.
 - a.—Well prepared shot.
 - b.—Poorly prepared shot; shots on the solid or through a rib.
 - c.—Windy shots or blown-out shots.
 - d.—Inferior powder.
 - e.—Mixing dynamite with powder.
 - f.—Excessive use of powder.
 - g.—Insufficient tamping.
- 2.—Inflammable Gases.
 - a.—Fire-damp.
 - b.—Powder smoke.
- 3.—Coal Dust.
 - a.—Dust in rooms and entries.
 - b.—Drill dust.
 - c.—Holes tamped with drillings.
- 4.—Suitable amount of pure air.
- 5.—Weather conditions.

1. **HEAT AND FLAME.** It is possible that a well prepared normal shot may throw fire, and under certain conditions originate an explosion. It is much more probable that explosions are initiated by the poorly prepared shot. By this we mean shots on the solid or nearly through a rib, which, on account of the solidity of the coal vein in the one case and the weakness in the other are projected with their power undiminished into an adjoining room, causing a so-called windy or blown-out shot. Similar conditions may be obtained by use of inferior powder, in which the combustion may be incomplete; by mixing dynamite with powder, in which case the explosion of the dynamite may project the powder in an unconsumed state in the room; or by excessive use of powder, the effect in this case being a shattering of the coal and the projection of flame into the room; and, finally, insufficient tamping, in which case the shot is projected from the room as from a gun barrel. The commission has suggested a remedy for some of these causes in a later section.

2. **INFLAMMABLE GASES.** These gases may come from two sources: first, gases exuding from coal or surrounding strata, and second, combustible gases caused by the explosion of powder.

(a). Evidence is strong that there is no great amount of gas in the

State inspector of coal mines reports

206.

Inspector of Coal-mines.

mines of this district. A little has been found when a horseback has been cut. This gas by itself, under the excellent systems of ventilation which are found throughout the district, can hardly cause an explosion. The British royal commission, in its experiments in 1891 to 1894, conclude that marsh gas present in insufficient quantity to cause an explosion may assist in the propagation of an explosion, in the presence of coal dust. This the commission thinks should be investigated more fully.

(b). It is possible that powder smoke may be a contributory cause in cases where shots are fired in succession and rapidly. Under such conditions with the unconsumed gases which may be present to as high as forty-nine per cent. of the gases formed by the ignition of powder, may collect and mix with air to such an extent that a following shot throwing fire may cause the mixture to ignite. A means of lessening this danger is also suggested in a later section.

3. COAL DUST AS A FACTOR. In all but one of the above mentioned explosions the mines were wholly or partially dry, and contained more or less dust. It seems to the commission that dust is the most important factor in these explosions. The exact cause of a dust explosion is in doubt. The following conditions are, however, necessary: (a) It must be dry; (b) explosions take place in cold weather and on the first of the air; (c) explosions are usually caused by later shots.

(a). Explosions in wet mines are rare, only one having been reported, the Fleming mine, and that, as may be noted, occurred in the month of April, all the other explosions occurring in December, January, or February. Prior to 1903, explosions have also occurred in November and March. We also obtained evidence of several windy shots which were stopped by wet places in the mines, and some of the men with whom we talked expressed the belief that disastrous explosions would have occurred except for these wet places.

(b). The effect of cold weather. It is noticeable that all the explosions since 1903 have occurred in the months of January, February, and April. The one in the latter month happened in the only wet mine under discussion. Five of the major explosions and three minor explosions occurred between January 18, 1905, and February 9, 1905, during one of the coldest periods known in the history of this coal-field. It is the belief of the commission that cold weather may affect the dust in two ways: first, by lowering the temperature to such an extent that the very fine particles of dust which during warmer weather would be readily oxidized and destroyed remained undestroyed and accumulate. This will then be in condition to be readily ignited when a shot throws fire; second, in the summer the warm air is more moist than the air in the cooler parts of the mine and gives up its moisture to the cooler parts of the mine; while in the winter the cold, dry air from outside contains less moisture than the warmer air of the mine and absorbs the moisture from the mine, leaving it dry and tending to increase the amount of dust. As an illustration of the variation in temperature, we learned that at the time of the explosion in the Devlin & Miller mine No. 1, on February 9, the temperature was as low as zero at the head of the mine west entry, and was even lower in the air passages before reaching the head of the entries. The source of dust may be the dust which collects in the handling of the coal, in the breaking down of the coal by excessive shots, from the dust made by the drill, and by the blowing out of shots tamped with drillings. We have suggested the elimination as far as possible of these various kinds of dust.

4. PURE AIR. Many contend that an extra large amount of pure air has great effect in causing explosions; that the air is more dense in the winter; that it is more dense and under pressure where a downcast fan is used. Means of overcoming these difficulties will also be discussed in the next section.

5. WEATHER CONDITIONS. The effect of weather on dry, dusty mines has been discussed under section 3. Where explosions occur from other causes than dust, cold air is claimed to be more dense and contain more



State inspector of coal mines reports

Biennial Report.

207

oxygen to the cubic foot. It has been noted (Journal of the Society of Chemical Industry, March 31, 1903, page 356) that pressure exerts considerable effect on the explosive power of various gases.

CONDITIONS THAT TEND TO DECREASE THE NUMBER OF EXPLOSIONS AND THEIR DESTRUCTIVE POWER.

1. Every precaution should be taken to reduce the heat and the flame. Every miner should remember that the life of a fellow workman may depend on the placing of his shot. It is very difficult to lay down a rule for the placing of shots in all parts of the coal-field, since conditions vary throughout the field. The miners and the operators at each mine should examine the conditions in that mine and make rules to govern the placing of shots. In this respect, the amount of mining to be done and the extent of the cutting should be regulated. These rules should be subject to approval of the state mine inspector, and should be posted in the blacksmith shop or engine-room, where they can be seen and read by all miners. In mines where more than ten miners are employed who are of nationality speaking a language other than English, a copy of the rules in that language shall be posted. The following suggestions in regard to these rules are: That the shot must not be drilled on the solid, nor shall gripping shots be taken; dynamite shall not be used in coal shots, and excessive amount of powder should be avoided. The shots should be thoroughly tamped with non-combustible material, and should be tamped to the mouth of the hole, whether squib or fuse be used. It is the belief of the commission that the squibs should be adopted in this field, because it gives the shot-firer a better chance to judge the shot, allowing him to ascertain the direction of the hole and the depth of the hole.

2. INFLAMMABLE GASES. No shot should be fired in any room known to generate gas in any quantity without first brushing it out. It was shown in a preceding section that marsh gas, though not present in a sufficient amount to explode or even to be detected by the Davy lamp, may become an aid in propagating an explosion. The danger from powder will be reduced by slower firing. Time should be allowed for the gases from one shot to cool down before other shots are fired. This can be accomplished by using the squib, where the time of the firing of the shot can be better regulated than when the fuse is used. The best method of firing would be from the outside of the mine. Electricity, the commission believes, could be used for this purpose. By this means the shot-firers would be taken out of danger. While it might tend to make the miners more careless in placing their shots, an inspection of the shots by a competent person would tend to eliminate this trouble.

3. COAL-DUST. The places should be cleaned up by the miners, and the roads and entries cleared by the operators. Drill dust should not be allowed to remain near the hole, and the entries and places should be thoroughly wet. The method of wetting is immaterial, provided it is thoroughly done. In the mines visited, the most satisfactory method was the laying of pipes in the entries with connections for hose at such convenient intervals that water could be thrown into the farthest end of the longest room.

4. AIR AND WEATHER CONDITIONS. Slowing down of the fan seems to be of advantage, and the exhaust fan is better than a blow fan. The warming of the incoming air in cold weather would be useful, as the air would be more moist, and oxidation of the very finely divided dust would continue as in the summer season. That this is possible has been shown at the Devlin & Miller mine No. 1, as described in a preceding section.

The following letter from Mr. A. L. Hayden, of Weir City, Kan., shows the conditions existing in the district, and contains some suggestions which the commission has decided to submit as a whole:



State inspector of coal mines reports

208

Inspector of Coal-mines.

"Mr. Archie Fulton:

"WEIR CITY, KAN., February 22, 1905.

"DEAR SIR—Complying with your request, I submit herewith certain suggestions which, if adopted, would have a tendency to lessen or obviate the loss of life and destruction of property through mine explosions, like those which have occurred with such appalling frequency of late in this district.

"I will premise by saying that I am a firm believer in the value of a daily and thorough wetting of all dry mines. The tendency of this to lessen the danger of explosion, by getting rid of the inflammable coal dust, will probably be admitted by all.

"I also believe that the great majority of explosions in this district are caused by rapid firing of shots—filling the mine with smoke and coal dust, thereby creating just the right conditions for a 'windy shot' to touch everything off. I believe firmly that slow firing and a good, strong circulation of air would materially lessen the danger, though admitting readily that there have been a few explosions which cannot be charged to rapid firing. The value of slow firing will probably be admitted by all (except the shot-firers, who want to earn a big day's wages in one or two hours' time). I am aware that I belong to the minority side in advocating a strong circulation of air, and mention the matter from no desire to argue the question, but because of its bearing on the second suggestion I shall make.

"My first suggestion is caused by the fact that in our recent explosions several men met death wholly from suffocation, being neither mangled nor burned. The firemen of New York and other large cities are now equipped with means for carrying with them a supply of fresh air, compressed, so that they can enter a building filled with smoke without danger of suffocation. If these shot-firers had been equipped on the same principle, but with a modified appliance, they would have walked out unhurt after the explosion. A pocket electric bulb as part of the equipment would furnish the light, if wanted, though any miner could make his way to the bottom in the dark. Such an equipment would be something of a nuisance to carry, yet not cumbersome. It would be like the Texan's pistol in one respect—not wanted often, but mighty badly and very suddenly when wanted at all. The cost to the operator would be small, and there should be enough extra equipments to fit out a rescue party. This idea would save only an occasional man, and no property, yet if it could have saved the four or five men who were suffocated here in the past two months, it would be well worth all it would have cost the operators of the entire state.

"My second suggestion, however, is to do away with shot-firers altogether, eliminating all loss of life and, I believe, ninety-nine per cent. of all explosions. This can be accomplished through firing from the top by electricity. There is no question as to the physical possibility of it—it is simply and solely a question of expense. At first glance it would seem, in view of the purchase and maintenance of the miles upon miles of insulated wire required, that this would be prohibitive; but, while admitting that I have not yet gathered the data nor made the estimates necessary to furnish a basis for a positive statement, I am of the opinion that the expense will not exceed the cost of the present system of shot-firing. Take the case, for example, of a mine employing two shot-firers and a night-watch. The shot-firers, at \$2.83 per day each, would be replaced by one day man to look after the wiring at a cost of \$2.42, leaving \$3.24 per day to reimburse the operator for the cost of wire. The miner to-day furnishes his own fuse. He should pay for the wire used daily in his shots, either in whole or in part—a detail to be settled by agreement between the operators and miners. If he paid for it in whole, the operator would have to pay for the wires from the top to the mouth of the room. The sum saved on shot-firing in a new mine would be much in excess of the daily cost of wire; but this cost would continually grow greater as the mine developed—just as the hauling cost does. The average would probably make the cost about the same as the present system



State inspector of coal mines reports

Biennial Report.

209

of shot-firing; but even if it were greater, the cost would adjust itself in the price of coal, just as the shot-firer's wages did.

"When it comes to firing the shots, the night-watch would do it and no extra man would be needed; and in the time which could be consumed in firing would lie the operator's greatest safety to property. Shots could be fired just so many minutes apart, and in different parts of the mine, so that there need never be any accumulation of smoke and dust to provide the conditions for an explosion. In a large and dangerous mine the firing could be extended over twelve hours' time, if deemed advisable (the operator could determine the time, as there would be nothing at stake except his property). With 350 men in a mine, and an average of two shots to the man, there could be a full minute between every shot; and by firing shots first in one entry and then in another there could be ten or fifteen minutes between shots on any one entry—time enough for a good strong air current to carry away all smoke and dust from the previous shot. A man could have three or four shots in his place, if wanted, and they could be fired an hour or two apart—long enough to eliminate all danger (from explosion) in the deadliest part of a mine, provided the fan is speeded instead of slowed, as is generally done now.

"There seems no way under the present system to make shot-firers take the time necessary for safety in their work. If they hurry through it, well knowing their lives are at stake, it is useless to talk of any other penalty. But with electric firing, and one man to do it, the operator could require all the time he deemed necessary for the work. A clock-work record could be easily attached to the keyboard, showing not only the exact time between shots, but also the exact time each individual shot was fired. (In the event an explosion *should* occur, this record would also show whose shot caused it.)

"This electric firing would absolutely put a stop to loss of life. As I said before, I am of the opinion the cost would not exceed our present system. In small mines the daily cost of wire would be small; so would the saving on shot-firers' wages. In large mines, employing six or eight shot-firers, the cost of wire would be pretty heavy, and the saving in wages would be correspondingly large. But suppose the cost *was* very materially greater than the present system, the game is worth the candle. The present shot-firing law imposed a cost upon the operators ranging all the way from \$1000 a year for the little fellows to \$50,000 a year for the big companies. Yet no one questions the wisdom of a law which put a stop to the wholesale holocaust of miners or would see it repealed; and if a law requiring electric firing went into effect, and added further cost to the operator, the saving of life would justify it and public opinion uphold it. As for the operator's pocketbook—well, when the shot-firing law was passed he simply handed on to the consumer the extra two or three cents per ton it cost; and if electric firing was compulsory he would figure in the added cost, if any, in making his price-list.

"There would be some difficulties in inaugurating a system of electric firing which did not arise when the shot-firing law was passed; and allowance should be made for them. A reasonable time should be given for operators to install the system; and mines nearly worked out should be exempted—the cost would be prohibitive to them. Perhaps the law should apply only to mines opened after its passage, or those where the percentage of coal worked out is yet small; it should certainly be fair and equitable to all. Aside from the matter of justice, prudence would dictate a fair law; for one imposing an unreasonable expense on mines developed prior to its passage would not be sustained by the courts.

Yours truly, A. L. HAYDEN."



State inspector of coal mines reports

210

Inspector of Coal-mines.

RECOMMENDATIONS.

We believe that the object of this commission was, primarily, to suggest means of saving the lives of the shot-firers and to prevent the loss of property which accompanies such explosions as have recently occurred in southeastern Kansas. The commission further believes that it has lacked time to consider this matter in as thorough a manner as it should be considered. The matter is of great importance, as is shown by the fact that there was an average of 10,375 men employed in and about the coal-mines of the state during the past year, and that the value of the property involved is upwards of thirty million dollars.

In the history of other coal-fields it has been noted that explosions become more frequent and more severe as the mines become deeper and are farther away from the outcrop. This is probably because of the greater depth of the overlying strata and the smaller chance which water has to enter the mine. We cannot, therefore, expect the natural conditions to improve, and unless precautions be taken more explosions will occur. Therefore, this commission recommends that a second commission be appointed, with more time to make investigations and experiments; that the legislature make provision for the appointment and expenses of said commission.

We further recommend that said commission consist of five members—one miner, one operator, one chemist, one mining engineer who is neither engaged in operating or mining, and one other person; that four thousand dollars be appropriated for the expenses of the commission. We would estimate the expenses as follows: That sixty days be allowed the commission for the investigation, except that the chemist and mining engineer be allowed not to exceed sixty additional days for making experiments. That the commission be empowered to employ a stenographer and assistant chemist, if necessary. That necessary books not in the state library or the library of the state institutions be purchased, and such apparatus as is needed for the use of the chemist and mining engineer be purchased.

ESTIMATED EXPENSES, SUMMARY.

Five men 60 days, at \$25.....	\$1,500
Two men 60 days, at \$10.....	600
Stenographer 120 days, \$2.....	240
Books	100
Apparatus	200
Railroad fare, hotel and livery bills.....	1,200
Incidentals	200
Total	\$4,000

That the commission make a preliminary report April 1, 1906, and a final report January 1, 1907, allowing a year and a half in which to make the examinations and experiments and prepare a report for the next legislature. We believe that the period of these examinations and experiments should extend through a winter season and that the commission be instructed to make investigations in regard to mine temperatures at the air intake and in different parts of the mine. That the commission be instructed to secure records of reports and experiments in other coal-fields, and to make use of these reports wherever similar conditions exist.

That the commission be instructed to secure records and reports of mines fired by electricity wherever that may have been done, and that the possibility of using electricity in this field be thoroughly investigated. That tests of the amount of marsh gas be made, and such other chemical tests as the quality of the powder, the matter of volatile matter in the coals in different parts of the field, as may be deemed advisable by the new commission.

Pending this report, the commission would recommend that the mine



State inspector of coal mines reports

Biennial Report.

211

inspector be given power to enforce the recommendations of the commission until the next meeting of the legislature, as follows:

First.—The operators of dry mines should keep them thoroughly wet.

Second.—That great care should be used in the placing of shots.

Third.—That no combustible matter be allowed in the tamping of shots.

Fourth.—That squibs should be used instead of fuse in firing shots.

Fifth.—That in the future the fan should be at least fifteen feet from the mouth of the shaft.

Respectfully submitted.

ARCHIE FULTON.

JAMES A. ORR.

EDWARD BARTOW.

FEBRUARY 28, 1905.



PROCEEDINGS
OF THE
Kansas State Society of Miners, 1906.

FIRST DAY.

TOPEKA, KAN., February 5, 1906.

Convention was called to order by President Phil Rooney at nine A. M. in the office of Labor Commissioner W. L. A. Johnson.

Moved and seconded that the president appoint a committee of five to confer with the secretary of state to secure the Senate Chamber in which to hold our convention.

The motion carried and the following committee was appointed: Henry Hecksher, W. D. Robinson, Geo. Harris, H. C. Cowan, J. A. Orr.

It was moved and seconded that the president appoint a committee of five on credentials, and that we adjourn until one P. M. Carried.

The president appointed the following members as the committee: Geo. Harris, of L. U. 544; Owen Doyle, of L. U. 569; Peter Kegan, of L. U. 127; Jas. Graham, of 679; Jas. Delaney, of L. U. 135.

AFTERNOON.

Convention was called to order by President Rooney, at one P. M., in the labor commissioner's office.

The committee which was to confer with the secretary of state in reference to securing the Senate Chamber reported that they had secured the Senate Chamber for our meeting.

The report was accepted, and on motion the convention adjourned to the Senate Chamber.

At this time the president ordered the call read.

WEIR, KAN., December 15, 1905.

To all Coal-miners' Unions in the State of Kansas, Greeting:

Pursuant to an act passed by the regular session of the legislature of 1901, entitled "An act creating a State Association of Miners, with power to elect a secretary of mining industries, who shall succeed to the duties of the state mine inspector," it is made the duty of the state secretary of mine industries to issue a call to all coal-miners' unions in the state of Kansas to have them elect delegates to the State Association of Miners' convention, to be held in the State Capitol on the first Monday in February, 1906.

Therefore, the eighth annual convention is hereby called, to convene at the State Capitol, Topeka, in the labor commissioner's office, at nine o'clock A. M., Monday, February 5, 1906.

All credentials must be duly certified to by the presiding officer and secretary and the original returned to this office at least five days before the annual meeting of the convention.

Among the most important business of the convention will be election of a president, vice-president and secretary of the State Association of Miners, and the discussion of such matters as will tend to conserve the best interests of the miners of the state.

JAMES A. ORR, Secretary.

P. S.—Please carefully read section of the law on credentials and call, retain proper credential, and avoid any mistakes.

After the reading of the call Labor Commissioner Johnson made an announcement that Gov. E. W. Hoch would make the address of welcome in the Representative Hall, at two P. M.

On motion the convention adjourned to the Representative Hall to listen to the governor's address, and at three P. M. reconvened in the Senate Chamber.

The committee on credentials being ready to report, made but a partial report owing to all the delegates not being in.

State inspector of coal mines reports

214

Proceedings of the

Moved that the partial report of the committee be received and the committee retained to make final report after all delegates arrived. Motion carried.

Moved that the chair appoint an assistant secretary to assist the secretary at this convention. Motion carried.

H. C. Cowan, of 528, was appointed as assistant secretary.

Moved that the president appoint the various committees this evening.

Amendment.—That the convention elect the various committees this evening.

Amendment carried—66 to 27.

Motion as amended carried—76 to 14.

Moved that the convention adjourn until nine A. M., February 6, 1906.

Carried.

SECOND DAY.

TOPEKA, February 6, 1906.

Convention called to order by President Rooney, at nine A. M.

The credential committee being ready to report, made the following majority report:

That all the delegates be seated as per the list of delegates and votes.

A minority report was also made to allow L. U. 1009 seven votes instead of nine, as the original credentials represented seven votes, while the duplicate credentials represented nine votes.

Moved that we accept the majority report of the credential committee.

After some discussion of the report a motion was made to table the above motion. Motion to table lost, by 50 to 32.

Original motion was then lost, by 58 to 57.

Moved that we elect two tellers for this convention. Carried.

Nominations for tellers were as follows:

W. S. Hoover, 405; Jno. O'Donnell, 597; F. Wise, 1858; Wm. Herral, 219; Geo. Condon, 1009; W. E. Long, 960; Jno. Hunt, 1088; Chas. Harvey, 2371.

Jno. Hunt and Chas. Harvey, having received the highest number of votes, were declared elected as tellers.

Moved that we accept the minority report of the committee on credentials, and allow L. U. 1009 seven votes.

Motion lost, by 50 to 48.

Moved that we receive the majority report of the committee on credentials.

Motion carried, by 59 to 32.

The following is a list of delegates and local unions which they represent, and number of votes to which each local union is entitled:

L. U. 219, nine votes.—Wm. Davis, A. Lindsay, W. H. Barber, W. D. Robinson, Wm. Herral, Oris Cordary, Wm. Jones, C. M. Crisler.

L. U. 544, six votes.—Geo. Harris, W. McNutt, H. Trebbe, Frank Gilday.

L. U. 444, eleven votes.—A. Purgitoria, Geo. Faletti, Sam Varlot.

L. U. 127, seventeen votes.—Jno. Gilday, Peter Keegan, Jas. Mackie, Joe Sla, Mike Bello, Chas. Coslenno.

L. U. 210, seven votes.—Joe Hanley, John Tanner, A. Dixon.

L. U. 533, three votes.—Thos. Banks, J. Langford.

L. U. 70, seven votes.—Leopold Kopmorel, Jno. Couttes, G. W. Coulter, Alex Young, Thos. McKewon, Wm. Richards.

L. U. 1009, seven votes.—G. Hurst, G. Condon.

L. U. 528, three votes.—H. C. Cowan.

L. U. 597, eight votes.—Jno. O'Donnell, Jno. Wikle, Jno. McGraw, R. T. Gilmore.

L. U. 760, seven votes.—H. Harrington, E. Fitzgibbons, F. Ferns.

L. U. 1074, five votes.—R. Jack, L. Laizler.

L. U. 1088, six votes.—Jas. Wilkerson, Jno. Hunt, Jno. Wells, B. F. Crowder, Sam Holmes, H. E. Hughes.

L. U. 447, one vote.—Jas. Grimsley.

L. U. 569, twelve votes.—Owen Doyle, H. McCann, Pat Griffin, T. D. Dunnigan, Pete McDonnell, Jas. McManus.

L. U. 85, four votes.—Jno. McDonald, Wm. Symes.

L. U. 1094, five votes.—W. H. McIlwrath.

L. U. 445, five votes.—F. Higgins, H. Hecksher, F. Brown, J. Baritti, Geo. Murphy.

L. U. 1580, six votes.—Geo. Wickware, J. M. Bollin, S. Welch.

L. U. 1661, four votes.—Thos. Patterson.

L. U. 1674, four votes.—Ed Welch, Peter White.

L. U. 1701, two votes.—M. Coughlin.



State Society of Miners, 1906.

215

- L. U. 1765, four votes.—Harry Wilkinson, E. Brown.
- L. U. 405, five votes.—Geo. Filkins, Smith Hoover, Jas. Emery.
- L. U. 1822, four votes.—L. B. Burns, Wm. Doublebower.
- L. U. 960, four votes.—W. C. Long, C. B. Mitchell.
- L. U. 1890, three votes.—N. V. Dabbs.
- L. U. 1991, two votes.—J. W. Clarkson.
- L. U. 1990, four votes.—Ed. Swigart.
- L. U. 589, five votes.—Jas. Sarles, J. N. Cook.
- L. U. 135, five votes.—Joe Hromeck, Jas. Delaney.
- L. U. 2425, four votes.—C. E. Bramlette, J. S. Francis.
- L. U. 2371, five votes.—Chas. Harvey, E. H. Upton.
- L. U. 2377, three votes.—Carson Tavetto.
- L. U. 273, four votes.—Duncan Cunningham.
- L. U. 1288, four votes.—Jas. Brennan.
- L. U. 2662, four votes.—Jas. Robertson.
- L. U. 2637, two votes.—Harry Wilkinson.
- L. U. 1884, four votes.—Chas. Riley.
- L. U. 2498, four votes.—Joe Duffield, Geo. Reid.
- L. U. 2755, three votes.—Peter Crelly.
- L. U. 2757, two votes.—F. J. Compton.
- L. U. 501, three votes.—Jno. Gore, Jno. Billard.
- L. U. 1858, five votes.—Robt. Buckley, Martin McDonald, F. W. Wise, W. E. Gelsner, Chas. Kenster.
- L. U. 679, six votes.—Jas. Graham, Ben Kenster, F. Smith, Abe Walker.
- L. U. 1611, five votes.—Frank Oswalt, P. C. Fields.
- L. U. 1429, five votes.—W. H. Burton, Fred Long, Thos. Morrissey.
- L. U. 2175, two votes.—Myron Monroe.

(Signed)

GEO. HARRIS, 544.
OWEN DOYLE, 569.
JAS. DELANEY, 135.
PETER KEEGAN, 127.

Jas. Graham, of 679, made a minority report on L. U. 1009, to allow them seven votes, as is the representation upon their original credentials, instead of nine votes, as is the representation upon the duplicate credentials.

At this time W. D. Robinson announced that Governor Meade, of Washington, would make an address to the societies, and requested our presence in the Representative Hall.

Moved that the convention adjourn to listen to Governor Meade. Carried.

Convention reconvened in the Senate Chamber, with Phil Rooney, president, in the chair.

Moved that we proceed to elect a committee of three on rules and order of business. Motion carried.

Nominations being called for, the following nominations were made: Jno. Tanner, 210; Peter McDonnell, 569; Thos. Morrissey, 1429; Jno. O'Donnell, 597; Jas. Robertson, 2662; Frank Higgins, 445; Matt Dabbs, 1890.

Moved that the three men receiving the greatest number of votes be elected as the committee on rules and order of business. Carried.

Jno. Tanner, Peter McDonnell and Jno. O'Donnell received the greatest number of votes, and were declared elected.

Moved that we proceed to elect a committee of five on resolutions. Motion carried.

The following nominations were made:

Wm. Doublebower, 1822; F. J. Compton, 2757; Wm. Herral, 219; Jno. Wells, 1088; Wm. Symes, 85; Smith Hoover, 405; Pat Griffin, 569; Ed. Swigart, 1990; Joe Duffield, 2498; Harry McCann, 569; R. T. Gilmour, 597; Joe Hanley, 210.

Moved that the five nominees receiving the greatest number of votes be declared elected. Carried.

Smith Hoover, Pat Griffin, Ed. Swigart, Harry McCann, R. T. Gilmour received the greatest number of votes and were declared elected.

Moved that a committee of three be elected on constitution. Carried.

The following nominations were made:

W. H. Burton, 1429; B. F. Crowder, 1088; Sam Variot, 444; Geo. Reid, 2498; Harry Wilkinson, 2637; W. E. Long, 960; Geo. Wickware, 1580; Robt. Jack, 1074; Geo. Coulter, 70.

Geo. Wickware, Geo. Coulter and Robt. Jack received the greatest number of votes cast, and were declared elected.

Convention adjourned until one P. M.

State inspector of coal mines reports

216

Proceedings of the

AFTERNOON.

Convention reconvened, with President Rooney in the chair.

Moved that we elect a committee of three to audit the books of the society. Carried.

The following nominations were made:

Jno. Gore, 501; Jno. McDonald, 85; Joe Landcake, 219; Wm. Herral, 219; Jas. Lanford, 533; R. Brown, 445; F. W. Wise, 1858; P. H. White, 1674.

Jno. Gore, Peter White and F. W. Wise received the greatest number of votes, and were declared elected.

The committee on order of business being ready to report, reported as follows:

MR. CHAIRMAN: We, your committee on rules and order of business, beg leave to report the following order of business:

1. Call to order by president.
2. Roll call of delegates.
3. Presentation of credentials.
4. Appointing committee on credentials.
5. Appointment of various committees.
6. Reports of various committees.
7. Reports of officers.
8. Unfinished business.
9. New business.
10. Election of officers, viz.:
 - First.—Secretary State Society of Miners.
 - Second.—President of State Society of Miners.
 - Third.—Vice-president State Society of Miners.
 - Fourth.—Legislative committee of one at large.
 - Fifth.—Legislative committee for Cherokee county.
 - Sixth.—Legislative committee for Crawford county.
 - Seventh.—Legislative committee for balance of state outside of Cherokee and Crawford counties.
11. Good of the association.
12. Miscellaneous business.
13. Adjournment.

(Signed)

PETER McDONNELL.
JOHN O'DONNELL.
JOHN TANNER.

All rules of order shall be governed by Robert's Manual of Rules and Order. Providing, however, that all nominating speeches shall be limited to five minutes.

Moved that the report of the committee on order of business be adopted as read. Carried.

The committee on special legislation being ready to report, reported as follows:

Report of the Legislative Committee of the Miners for the Session of 1905.

At the annual meeting of the State Society of Miners, held in Topeka, Kan., February 1, 2, and 3, 1904, it was unanimously agreed, at the suggestion of several members of the legislature of the state of Kansas, that it would be better for the interests of the miners in asking for laws in their own behalf to have a committee of miners to look after mining affairs alone. As a result the following were elected as that committee: Hugh Monahan, of Crawford county, J. T. Stewart, of Cherokee county, and a man from Leavenworth county who never appeared to take his place, and at the meeting of the Society of Miners in 1905, Oscar White, of Osage county, was elected as the third member of that committee.

At the 1904 session the following resolution was adopted (on the complaint and assertion repeatedly made by several of the mine inspectors that the law was of very little good, and could not be enforced if a test case was made):

Resolved, That the mine inspector be instructed to make a test case of the mining laws of the state before the 1st day of September, 1904.

Your committee did not hear anything about the enforcement of the law until we went to Mineral, in December, and consulted with Jean Bramlette, the miner on the committee of labor. We agreed to meet in Pittsburg December 23 and invite the mine inspector and the president



State inspector of coal mines reports

State Society of Miners, 1906.

217

and secretary of district 14, U. M. W. of A., to make what suggestions they thought best for the most needed legislation required.

The mine inspector complained that the county attorneys of Crawford and Cherokee counties did not give the legal assistance required by him in enforcing the law. In that connection a law was suggested giving the mine inspector more power, which will be referred to later on.

At the 1904 session of the Society of Miners the following resolutions were unanimously adopted:

RESOLUTION No. 28: That a competent lawyer be consulted with reference to drafting a bill to present to the next legislature defining the law relating to contributory negligence in accident cases.

RESOLUTION No. 32, Relating to shafts 500 feet deep and more to have second openings or escapement shafts.

In accordance with our instructions, we arrived in Topeka on January 6, 1905. After making some inquiries we engaged J. G. Slonecker, of Topeka, to draw up five bills and have them ready to present to the legislature as soon as that body was ready for business. These bills were: The liability law, giving more power to the mine inspector; the double-entry law; the qualification bill, and an escapement law. The original copies of which are here attached:

LIABILITY LAW.

AN ACT in relation to the liability of owners and operators of coal-mines on account of damages to employees.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. Every person, company or corporation owning or operating any coal-mine in this state, shall be liable to all damages sustained by any employee thereof in consequence of any negligence of any agent thereof, or by any mismanagement of any manager, superintendent, foreman or other employee, to any person sustaining such damage. Contributory negligence on the part of the person injured shall not constitute a defense to any action brought to recover such damage, if the same was sustained in consequence of the neglect or refusal of the owner or operator of any coal-mine to comply with the provisions of any law of this state enacted to provide for the health and safety of persons employed in and about coal-mines.

SEC. 2. No contract of insurance, relief, benefit or indemnity in any case of injury or death, or any other contract entered into before the injury, between the person injured and any of the employers named in this act shall constitute any bar for defense to any cause of action brought under the provisions of this act.

SEC. 3. This act shall take effect and be in force from and after its publication in the official state paper.

HEALTH AND SAFETY LAW.

AN ACT to provide for the health and safety of persons employed in and about coal-mines, and amendatory of section 2 of chapter 257 of the Laws of 1901.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. That section 2 of chapter 257 of the Session Laws of 1901 be and the same is hereby amended so as to read as follows: SEC. 2. That the state mine inspector may be enabled to perform the duties here imposed on him, he shall have the right at all times to enter any coal-mine to make examination or obtain information. If, in any coal-mine or underground workings of the character mentioned in section 1 of this act, or in any portion of such mine or workings, because of improper or inadequate ventilation, the presence of stagnant water or noxious or explosive gases, inadequate or improper airways or air-gates, or the use of presence, with the knowledge, connivance or consent of the operator or person in active charge of said mine, for illuminating purposes, of oil other than lard or other equally safe first-class oil, lack of adequate and lawful stairways, break-throughs, or manholes, or for any other reasons within the power of the operator, owner, or lessee, by the exercise of ordinary care, to remove or guard against, or cause to be removed or guarded against, be or become injurious to the health or dangerous to the lives or limbs of persons working in such mine or part of mine, the state mine inspector shall notify the owners, lessees or agents immediately of the discovery of any violation of this act, and of the penalty imposed thereby for such violation, and in case of such notice being disregarded for the space of ten days, he shall institute a prosecution against the owner, owners, lessees or agent of the mine, under the provisions of section 16, chapter 159, Laws of 1897. In any case, however, where in the judgment of such inspector delay may jeopardize life or limb, he shall at once proceed to the mine where the danger exists and examine into the matter, and if after full investigation thereof he shall be of the opinion that there is immediate danger, he shall immediately order the owner, lessee, operator, agent, manager, superintendent or person in charge of the mine, to forthwith suspend all work in and about such mine; and if the owner, lessee, operator, agent, manager, superintendent or other person in charge of the mine shall refuse or neglect to comply with such order and forthwith suspend all work in and about such mine, he shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a term not exceeding one year or be fined not exceeding \$300, or by both such fine and imprisonment. Work in and about such mine shall not be resumed until the permission of the inspector is first ob-



tained, unless by order of some court of competent jurisdiction. In case of the inspector making such order the owner, operator, superintendent or other person in charge of such mine may bring an action in any court of competent jurisdiction to enjoin the inspector from interfering with the operation of the mine, but no injunction shall be granted upon such application without notice to the inspector and a hearing upon such application.

SEC. 2. Section 1 of chapter 171 of the Session Laws of 1889 and section 2 of chapter 257 of the Session Laws of 1901 are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its publication in the official state paper.

DOUBLE-ENTRY LAW.

AN ACT to provide for the health and safety of persons employed in and about coal-mines.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. The owner, agent or operator of any coal-mine in this state, if said mine is worked on the room-and-pillar plan, shall cause the work in such mine to be prosecuted in the following manner, and none other, to wit: Two entries must be driven parallel for the ingress and egress of air, and cross-cuts must be made at intervals not to exceed forty feet apart, and no rooms, entries or other openings shall be allowed to start inside of the last cross-cut until the next one is made.

SEC. 2. The state coal-mine inspector shall, after the taking effect of this law, give notice, in writing, to the owner, agent or operator in charge of each coal-mine in this state now being worked on the room-and-pillar plan, to conform the working of such mine to the requirements hereinbefore set out and prescribed; and such owner, agent or operator shall have thirty days in which to comply before being liable to the penalty provided herein.

SEC. 3. Any owner, agent or operator in charge of any coal-mine worked on the room-and-pillar plan failing to comply with the provisions of section 1 shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$50 nor more than \$100, or by imprisonment in the county jail not less than six months nor more than one year, or by both such fine and imprisonment; and every day that the mine is operated contrary to the provisions of section 1 after the owner, agent or operator in charge thereof shall have been convicted for a first offense under section 1 shall be and constitute a separate and distinct subsequent offense, and shall be punished as such.

SEC. 4. This act shall take effect and be in force from and after its publication in the official state paper.

QUALIFICATIONS OF MINERS.

Any person desiring to perform the work of coal-miner, and for himself to conduct room, entry or other underground mining in coal-mines in this state, shall, before being permitted to engage in such work, produce evidence of a satisfactory nature that he has for two successive years worked in coal-mines with or as a practical miner; such applicant to furnish evidence of his experience and qualifications to the coal-mine inspector or to any person designated by said inspector to pass upon the competency of such applicant, and until said applicant shall have fully satisfied the coal-mine inspector or the party designated by said inspector at the mine wherein such employment is sought of his fitness to perform the duties as above mentioned, he shall not be allowed to mine coal unless associated with a practical miner for such length of time as will qualify said applicant to safely for himself and others perform underground work, and any owner, agent or operator of any coal-mine in this state who shall knowingly violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$50 nor more than \$200 for each and every offense, or by imprisonment in the county jail for a period of not less than thirty days nor more than sixty days, or by both such fine and imprisonment, proceedings to be instituted in any court having competent jurisdiction; provided, that in any case where a party offering to work in a mine is by the mine inspector or his agent refused the privilege to work, but is nevertheless put to work by the mine operator, and the mine operator be prosecuted for permitting said party to work, it may be lawful for such mine operator to show, by way of defense, that the person put to work was competent to perform the work assigned to him with safety to himself and his fellow laborers; provided further, that the evidence of practical experience, where a miner leaves one mine to seek employment in any other mine in this state, may be certified to by the mine inspector or the person or persons designated by him at the respective mines to pass upon the competency of the applicant, etc., and that such certificate of competency shall be good and sufficient evidence without further examination; provided further, that the judge of the circuit court of the district in which said coal-mines are located shall have power to review and set aside the action of the mine inspector or persons designated by him, and the decision of said judge shall be final.

ESCAPEMENT LAW.

AN ACT in relation to escape shafts in coal-mines, and amendatory of section 1, chapter 165, Laws of 1899.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. That section 1 of chapter 165 of the Laws of 1899 be and the same is hereby amended to read as follows: SEC. 1. In all coal-mines that are now or which may hereafter be put in operation in the state of Kansas and which are worked by or through a shaft, slope, or drift, and in which more than ten miners are employed at any one time, if there is not already an escapement shaft to each and every said mine, or communication between each and every mine and some other contiguous mine, then there shall be an escape-shaft or some other communication such as shall be approved by the secretary of mine industries or mine in-



State inspector of coal mines reports

State Society of Miners, 1906.

219

spector, making at least two distinct means of ingress or egress for all persons employed or permitted to work in such mine. Such escape-shaft or other communication with a contiguous mine aforesaid shall be constructed in connection with every vein or stratum of coal worked in any mine and accessible from every entry, plane or level thereof; and the time to be allowed for such construction shall be four months when such mine is under 100 feet in depth, and eight months when said mine is over 100 and not over 200 feet in depth, and one year for all mines over 200 feet; provided, that not more than twenty-five miners shall be employed in such mine at any one time until a second escape-shaft is constructed in accordance with the laws of this state and approved by the mine inspector.

SEC. 2. Section 1 of chapter 165 of the Laws of 1899, section 1 of chapter 115 of the Laws of 1875 and all other acts inconsistent with this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its publication in the official state paper.

The escapement law, by Senator Porter, was introduced as Senate bill No. 3. The liability bill was misplaced or taken from Senator Miller's desk, and we had a new copy made at once. In the meantime the committee on mines and mining of the house had a meeting and we learned very soon that the majority of that committee were opposed to this bill, and as a consequence reported it back to the house with the recommendation that it retain its place on the calendar and to be printed. Of course this was a rather easy way to let it die a natural death.

We may as well state here that the members of the house committee on mines and mining were not, or a majority of them, very friendly to any of the mining measures placed before them. Cowan, of Cherokee county, was made chairman of that committee; also, Ohlhausen, of Leavenworth; Hulett, of Bourbon; Josserand, of Gray; McBride, of Jewell; Meagher, of Leavenworth; Rhodes, of Marshall; Roper, of Gove; Rochester, of Scott.

Only four of these by any stretch of the imagination could be considered from mining counties. McBride, Rochester, Rhodes and Josserand were the open and avowed enemies of every measure we presented before that committee; more especially McBride, who fought almost everything your committee said in behalf of our bills. His particular antipathy was to the U. M. W. of A. as an organization.

It may be well at this time to show the number of the bills as presented in the house. The first was No. 50, the mine-inspector bill as we called it, by Fisher, of Crawford; No. 51, the liability bill, by Cowan, of Cherokee; and No. 52, the escapement law, by Ohlhausen, of Leavenworth. (As these three bills were presented the first day of the session, you will understand that we had the work ready.) The next morning Mr. Cowan introduced No. 152, the double-entry bill, and No. 230, the qualification bill, by Fisher. These were the five bills mentioned at the beginning of this report.

In the senate No. 135, the double-entry bill, by Senator Huffman, of Cherokee, and No. 164, the qualification bill, by Senator Miller, of Osage. The next bill in the senate was No. 172, the mine-inspector bill, by Senator Porter. This bill came up before the joint committees of mines and mining of both houses and was fought on the operators' side by such men as C. J. Devlin and his lawyer, Gilloly, from Spring Valley, Ill., his right-hand man Kinney, and Joe Fletcher, W. C. Perry, Bennett Brown, Mayer, of Mineral, and several lesser lights, all on the operators' side. Their main argument against this bill was the power it placed in the hands of the mine inspector, who was a member of and elected by a secret society of miners and must be one of their number, and in fact all the law providing for the election of a mine inspector of the state of Kansas was unconstitutional. This was their main argument, as usual in every case, and of course, incidentally, referred to the fact that this law if passed would place the \$30,000,000 invested in coal-mining property in this state at the mercy of the mine inspector. Of course, with the power and eloquence and legal ability of the men on the operators' side, as mentioned above, it was very hard for three miners on your committee to meet them. We drew the committee's attention to these matters, with reference to the contract between the operators and miners, and also that the mine inspector was under \$3000 bond to the state for the faithful and efficient performance of his duty, and that if he had discriminated against any of them, as asserted by Mr. Jack, of Osage county,

State inspector of coal mines reports

220

Proceedings of the

and Mayer, of Mineral, that they had ample recourse against him through his bond. But these parties did not seem to want to follow this matter to any definite conclusion. We called the attention of the committee on mines and mining to the fact that there were 10,000 men employed in and around the coal-mines in Kansas, and with those depending upon them for a living and education making about 50,000 people, ought to have some consideration at least equal to the \$30,000,000 capital invested.

Senate bill No. 135, by Senator Huffman, the double-entry bill, also came up in this connection before the house committee on mines and mining, and W. C. Perry, Chas. Devlin and Mr. Mayer told the committee that they could report this bill for passage if they so desired, as all their mines were worked on that system at present. After these parties' objections were withdrawn as above this bill was reported back to both houses and recommended for passage.

Some time after this B. F. Bush, of the Western Coal and Mining Company, Bennett Brown and W. C. Perry came to Topeka and had Senator Porter recall this bill (135), and have it referred back to the mining committee of the senate to hear the objections of Mr. Bush, as most of the Western Coal and Mining Company's mines were on the single-entry system. After a prolonged and heated argument we thought it best to agree to the following amendment rather than have the bill defeated:

"Provided, that in the case of mines already opened and in operation under the single-entry plan, the provisions of this act shall not apply to such parts thereof as have been worked out when this act takes effect."

The real meaning and intention of this amendment was to cover cases where entries were in two-thirds or more to the boundary, that such entry should be worked out on the old plan.

Finally this bill passed the senate on the 9th of February, 1905.

The mine inspector addressed the following communication to your committee:

WEIR, KAN., January 28, 1905.

To the Legislative Committee:

GENTLEMEN—In the past few years there has been a number of appalling and horrible disasters in this state in the manner of explosions and other serious accidents to shot-firers while firing the shots in the coal-mines, where a great number of miners have lost their lives and a number have been crippled and maimed for life. And while those disasters are becoming more frequent and disastrous, there has not yet been any method advanced or adopted whereby they might be prevented, or at least where the lives and limbs of the shot-firers might be protected from the awful danger which they are in while firing the shots.

And while it is a fact there are a great number of men being killed and crippled every year by those disasters, I feel like it is time some steps should be made to eliminate the jeopardy and dangers connected with shot-firing, and make some effort to improve their conditions, in order to discontinue the slaughtering of men in the future as it has been in the past. In the past two weeks there have been three dreadful explosions, in which four men have lost their lives and two others have miraculously escaped death.

On January 18, 1905, mine No. 2 of the Weir Junction Coal Company exploded, killing one man, while the other was dangerously overcome by deadly after-damp, and wrecking the mine. On the 26th inst., after the above mine resumed operation only two days, it exploded again, killing one man and teetotally wrecking the mine. While on the same instant, about thirty or forty minutes earlier, mine No. 1 of the J. H. Bennett Coal Company exploded, killing two men and teetotally wrecking the mine. Believing from a standpoint of humanity some immediate steps should be taken to investigate and search deep into the mysteries of those affairs and endeavor to determine the cause of them, or at least advance and determine a remedy or method whereby the lives and limbs of the shot-firers will not be jeopardized as under the present conditions. And I am of the opinion this can be effectually done by appointing an investigating commission of practical miners and scientific mining men, who will thoroughly investigate into those disasters and at least approve of some method or remedy where the loss of life will be minimized. I have applied to the governor, requesting him to appoint a commission to investigate into those affairs, of which he has declared his willingness to cooperate with the legislature in any possible method to prevent those terrible accidents, and asserts that he deems it a very important matter. I herewith request of your body to provide for this commission, and make an appropriation to defray the expense of the same at your earliest convenience. I am, most respectfully yours,

JAMES A. ORR, *State Mine Inspector.*

After reading it we called on Representatives Cowan and Fisher, and to our astonishment were told that the committee had already been appointed. We demurred some that a committee so necessarily important



State inspector of coal mines reports

State Society of Miners, 1906.

221

should be appointed without your committee being consulted in the matter. There was so much dissatisfaction with the appointment of this committee of investigation being "the paid officers of the state" by many of the best informed mine workers and the representatives of the mine operators that at the request of C. J. Devlin and Bennett Brown, in company with Senators Huffman, of Cherokee, and Porter, of Crawford, your committee went to the governor and agreed that the committee arrange a plan of appointing an investigating committee and the governor told us that he would appoint the committee on the plan we would agree upon.

We agreed upon the following plan, and went to Mr. Slonecker the next morning and had it drafted by him, and we gave it to Senator Porter before noon of the next day.

SENATE CONCURRENT RESOLUTION.

WHEREAS, Within the last thirty days there have been six explosions in the coal-mines of this state, in which nine persons were killed and two injured, and a number of widows and orphans left dependent as a result of such explosions; and

WHEREAS, The cause thereof is obscure and impossible to determine without a careful and impartial investigation: therefore, be it

Resolved by the Senate, the House of Representatives concurring therein, That the governor be and he hereby is instructed to appoint a commission to make a full, careful and complete examination as to the causes of such explosions, and to that end he shall appoint two persons on behalf of the miners, two on behalf of the operators, and one to represent the state, and the state mine inspector shall *ex-officio* be a member of such commission. Said commission shall have authority to send for persons and papers, appoint a stenographer, swear witnesses and take their evidence, and do whatever may seem necessary in their judgment to determine the cause of such explosions and the means that should be taken to prevent the same.

Such commission shall make a report within six months after their appointment to the governor of their findings and recommendations and as to what, in their judgment, should be done pending the enactment of any necessary legislation, and any recommendations made by said commission shall be directory to the state mine inspector until the legislature has enacted legislation to prevent, if possible, such accidents.

Said commissioners, except the state mine inspector, shall receive five dollars per day each for each day necessarily occupied in such investigation, and shall be authorized to expend the necessary sum for stenographer, witnesses and traveling expenses; provided, that the entire expense of such commission shall not exceed \$1000.

It is further resolved, That there is hereby appropriated out of any money in the treasury not otherwise appropriated, the sum of \$1000, or so much thereof as may be necessary, to meet the expenses provided for herein, and the state auditor is authorized to draw his warrant on the state treasurer for such sums, upon the verified voucher of the chairman of said commission, showing the purpose and amount for which the expenditure was made.

The same afternoon the investigation committee came to Topeka to be sworn in, and thus made any further action on our resolution useless.

In presenting this resolution to Senator Porter we incidentally called his attention to the following telegram from Pittsburg appearing in the *Kansas City Journal*:

PITTSBURG, KAN., February 16 (special).—Leading miners of this city criticize the resolution adopted by the house, inasmuch as they claim it did not appropriate sufficient to make a thorough investigation possible. They also criticize the commission appointed by the governor.

"The whole thing is a farce," declared Pres. George Richardson, of the miners' district board today. "It is an imposition. In the first place, not enough was appropriated to enable the commission to accomplish anything excepting a hasty examination. One examination has already been made of these mines by the state mine inspector, and he will have to make a report anyway. Now he is appointed on this commission to make a second examination. The commission will not accomplish anything, and the whole investigation will be only a farce."

Representatives of the coal operators and miners were contemplating going to Topeka and making suggestions to the governor and legislature regarding the matter, but the action taken will forestall any movement of that kind.

The report of the committee as printed fully bears out the above criticisms.

On February 17 there was a night session of the house, with just enough members present to make a quorum. It was a dangerous time to bring forward any of our bills. But three of them were on third reading, and something had to be done.

Mr. Cowan moved to substitute senate bill 135, the double-entry bill (which had already passed the senate) for house bill No. 152, the same bill in the house. All went well until Pringle, of Osage county, objected, as he wanted to consult his operators on the matter, notwithstanding that Brother White, of Osage county, who knew him personally, told him that



the bill did not apply to his county any way. Yet his opposition, without reason, endangered the final passage of the bill. Therefore, at that time it was moved that the bill be laid over and retain its place on the calendar.

The escapement bill was also passed over at this session, owing to the absence of Ohlhausen, who had it in charge.

On February 20, senate bill 135, the double-entry bill, passed the house as amended, and went back to the senate.

On the next night house bill No. 52, the liability bill, came up on third reading, and Glasscock, of Wyandotte county, moved, and Allaman, of Atchison county, seconded that the enacting clause be stricken out, and the so-called friends of the miners had not enough energy to call for the ayes and nays. And thus it died.

The morning after the adjournment of the Society of Miners, who had already indorsed all our bills as they had been originally presented, a committee of Leavenworth miners went to the senate committee on mines and mining and agreed to the following amendment to the escapement bill:

"Provided further, that nothing in this act shall be construed to affect mines now in operation until the period of limitations for constructing the escape-shafts herein provided for shall have elapsed."

This provision practically nullifies the very matter that the bill was intended to remedy. The Leavenworth delegation and Mr. Cowan took all the responsibility for this amendment, and your committee are satisfied.

James Hamilton, Mr. Boaz, and Mr. Nevius, with some others, came up in a great hurry at this time and wanted to get the double-entry bill recalled again. But it was in the hands of the governor, and Senator Huffman would not let it be brought, and so it escaped and was duly signed and became law.

House bill No. 230, the qualification bill, had a strenuous life before the committees, all the operators' lawyers getting off the old gag of being unconstitutional.

But the following article from the *Kansas City Journal* covers all their cross-arguments:

STATE MINE INSPECTOR.

It is probable that few of the *Journal's* readers know that Kansas has one state officer who is elected neither directly nor indirectly by the people at large nor appointed by the governor or any other official of the state. This officer is the state mine inspector. Formerly he was appointed by the governor, but the law now provides that delegates from local miners' unions shall meet once a year and elect a secretary of their state organization, who shall be *ex-officio* state mine inspector. All laws, so far as applicable, which were in force when this officer was appointed by the governor are continued in force. He is paid a salary of \$2000 a year by the state, and his reports are printed by the state with the reports of other state officers.

The constitutionality of this method of election is doubtful, but as no one is directly interested in the matter but the miners and mine owners, and as they seem satisfied with the law as it stands, the question of its constitutionality has never been raised. A bill is now pending in the legislature, however, which, if passed, will probably cause the question to be raised. This bill provides that no miner shall be allowed to work until his qualifications as a miner have been passed upon by the mine inspector. If this bill is passed the miners can limit the number of those who may work in the mines, and be not only protected but aided by the law in so doing. They will elect the inspector, and he can permit as many or as few to work as he sees fit.

Mining is a dangerous occupation, and the adoption of all reasonable laws for the protection of miners should be encouraged, but it is doubtful if such legislation as this should be encouraged. In a recent article Mr. Theodore Starrett, a member of the Employers' Association of New York City, notices that the practice of the labor unions of keeping their membership smaller than was required by the demand did much to bring labor unions into disrepute in England. While this may not be the purpose of the miners in seeking the legislation in question, it makes the result possible, and they should be protected, if they need protection, in some other way.

In fact that is the alpha and omega of all the arguments against bills in favor of the working man. But this argument was not repeated so often when we told them all our bills were drafted by J. G. Slonecker, of Topeka, with the very idea of avoiding that unconstitutional bugbear that was always raised.

At this time we had practically given up getting any more bills passed. House bill No. 50, after slumbering on and off the calendar, was sud-



State inspector of coal mines reports

State Society of Miners, 1906.

223

denly resurrected in the house on the 3d of March and passed, with an amendment that we did not like, nor were we consulted about it. The bill reached the senate on the 4th of March, after an attempt to smother it in the hands of the clerk of the senate. Senator Huffman went to the president of the senate, who ordered it placed on the calendar on third reading, subject to amendment and debate, its proper place, and on the 7th of March it came up on third reading.

State Treasurer Kelly and C. J. Devlin were very busy all day among the senators at their desks and in the ante-rooms, it was said working for an appropriation to some charitable institution, but in reality were working for the defeat of house bill No. 50, as some of the senators who were approached told us.

Senator Noftzger, of Harper, led the fight against the bill, ably seconded by Senator Benedict, of Wilson, he always choosing men to fight the mining bills from the purely farming counties. Noftzger moved and Benedict, of Wilson, seconded all kinds of ridiculous amendments, and with the work previously done and then doing got enough votes to carry them, notwithstanding the noble efforts made for the bill by Senators Stillings, of Leavenworth county; Huffman, of Cherokee county; Miller, of Osage county; Stewart, of Sedgwick county, and a few others, who by their votes and work tried to save the bill in its original form, but to no avail. Senator Porter seemed so busy at this time with his normal school bill that he was not available for any useful work in our behalf. It is a great mistake for the citizens of any county to have their representatives and senators muzzled, literally speaking, by getting and working for any state institution.

In both the house and senate there were many good and straightforward men who were willing to aid us in any way that they could, but as a rule they were not thoroughly posted on the arguments produced against our measures by the more eloquent and less conscientious members of both houses. Among our most unscrupulous opponents in the house were McBride, of Jewell county; Allaman, of Atchison; Glasscock, of Wyandotte; Josserand, of Gray, and several others who are not worth mentioning, who were consistent enemies of all our mining bills. Yet for all, this man Allaman got a bill through the house, with the aid of Bailie Waggener in the senate, giving the coal under the Missouri river belonging to the state for a royalty of forty dollars per acre for every acre mined, or in other words about one cent per ton. From the mining counties we may mention the fact that Hussey, of Osage county; Meagher, Phenicie, and Ohlhausen, of Leavenworth county; Montee and Fisher, of Crawford county; Cowan and Schermerhorn, of Cherokee county, did their best in the interest and for the passage of our measures. We cannot commend Pringle, of Osage county, as his action endangered the passage, at a very critical time, of the double-entry bill. In this report we are not endeavoring to bolster up the political record of any man nor yet injure him in any way. The truth as it happens is always the best.

In relation to a liability law of some kind, the matter should be taken up in a thoroughly earnest manner and something done and put in shape to be made into law at the next session of the legislature, as mining accidents are growing alarmingly prevalent during the last year. The number of widows and orphans are on the increase as well as the accidents.

We here present for your consideration a proposed workmen's compensation act, reported by the committee on relations between employer and employee by the governor of the state of Massachusetts at the request of the legislature of that state.

We believe if the chair would appoint a special committee to read and thoroughly examine this report, that some good would actually accrue from even a discussion of this subject.

Miners as a body, collectively and individually, always aid the widow and orphan, but the word charity hurts the independent nature of the mine worker.

When it is called to mind that there are "compensation acts" in Great Britain, France, Germany, Norway, Denmark, Holland, Sweden, Finland,



State inspector of coal mines reports

224

Proceedings of the

Italy, Spain, New Zealand, and South Australia, but no such act appears to have been previously contemplated in any of the United States. In conversation with Mr. Slonecker when he drafted our liability law, and afterwards when he read this proposed compensation act, he was thoroughly of the idea that a bill could be got through our legislature on the lines of this bill, or one to suit the statutes of our state covering the matter contained in this proposed law. When we think of the very few cases where any damages were got in the courts and the cost of lawyer's fees for collecting the same, very little good was had for those who happened to win the suit.

WORKMEN'S COMPENSATION BILL.

AN ACT providing for compensation to employees for personal injuries received in the course of their employment.

Be it enacted, etc.:

SECTION 1. If an employee in any employment to which this act applies receives personal injury while performing duties growing out of or incidental to such employment, he shall be paid compensation by his employer in accordance with the scale and conditions of compensation hereinafter provided.

SEC. 2. The employer shall not be liable under this act for any injury which does not incapacitate the employee for a period of at least one week from earning full wages at the work at which he was employed.

SEC. 3. When an employee is injured by the negligence of the employer, or some person for whose act of default the employer is liable independently of this act, such liability of the employer shall not be affected by this act, but such injured employee may, at his option, either claim compensation under this act or proceed against his employer as though this act were not passed; but the employer shall not be liable to pay compensation to the injured employee both under this act and under proceedings instituted independently thereof, and the injured employee shall be bound by the proceedings which he first institutes against his employer.

SEC. 4. If it shall appear that an employee was injured by reason of his own wilful or fraudulent misconduct, any compensation claimed by him under this act may be disallowed.

SEC. 5. All questions arising under this act as to the liability of employers to pay compensation under the same, or as to the amount or duration of such compensation, if not settled by the agreement of the parties interested hereon, shall, subject to the provisions of this act, be settled by arbitration, as hereinafter provided.

SEC. 6. No proceedings for compensation for an injury under this act shall be maintained unless a notice of the accident shall have been given to the employer as soon as practicable after the happening thereof, and unless the claim for compensation with respect to such accident shall have been made within six months after the occurrence of the same, or, in case of the death of the employee or in the event of his physical or mental incapacity, within six months after such death or removal of such physical or mental incapacity. Such notice shall be in writing, and shall contain the name and address of the person injured, and shall state in ordinary language the time, place and cause of the injury, and shall be signed by the person injured or by a person in his behalf, or by his legal representative in the event of his death; and such notice shall be served upon the employer, or upon one employer if there are more employers than one, or upon any officer of a corporation if the employer is a corporate body, by delivering the same to the person to whom it is to be served, or at his residence or place of business, or by mail by a registered letter addressed to the person on whom it is to be served at his last known place of residence or place of business. A notice given under the provisions of this act shall not be held invalid or insufficient by reason of any inaccuracy in stating the time, place or cause of the injury, if it is shown that there was no intention to mislead, and that the employer was not in fact misled thereby.

SEC. 7. If an employer enters into a contract, written or oral, with an independent contractor to do part of such employer's work, or if such contractor enters into a contract with a sub-contractor to do all or any part of the work comprised in such contractor's contract with the employer, and such employer would, if such work were executed by employees immediately employed by him, be liable to pay compensation under this act to those workmen, such employer shall be liable to pay to such employees any compensation which would be payable to them under this act by such independent or sub-contractors if such independent or sub-contractors were employers to whom this act applies. Such employer, however, shall be entitled to recover indemnity from any other person who would have been liable to such employees independently of this section. This section shall not apply to any contract of such independent or sub-contractors which is no part of or process in the trade or business carried on by such employer.

SEC. 8. If any employer becomes liable under this act to pay compensation to any employee, and is entitled to any sum from insurers due to an employee under such liability, and also becomes insolvent, or makes a composition or arrangement with his creditors, such employee shall have a first lien upon the sum aforesaid for the amount so due him; and any justice of the superior court, upon motion of any disinterested person, may order the insurers to pay over such sum to the person or persons entitled thereto under this act.

SEC. 9. If an employee sustains an injury for which compensation is payable under this act, and which was caused under circumstances creating a legal liability therefor in some person other than his employer, such employee may, at his option,



State inspector of coal mines reports

State Society of Miners, 1906.

225

proceed independently of this act to recover damages against such other person or against his employer for compensation under this act, but not against both; and if compensation be paid under this act under such conditions, the employer shall be entitled to recover indemnity therefor from such other person.

SEC. 10. This act shall apply only to employment on or in or about a railroad, a street railway, a factory, a workshop, warehouse, a mine, a quarry, engineering work, and any building which is being constructed, repaired, altered or improved by means of a scaffolding, temporary staging or ladder, or being demolished, or on which machinery driven by steam, water or other mechanical power is being used for the purpose of the construction, repair or demolition thereof.

SEC. 11. The following words and phrases, as used in this act, shall, unless a different meaning is plainly required by the context, have the following meanings: "Engineering work" shall mean any work of construction, operation, alteration or repair of a railroad, railway, of the works of gas, telephone, telegraph, water and electric-light companies, harbor, dock, vessel, canal, sewer, and any work for the construction, alteration or repair of which machinery driven by steam, water or other mechanical power is used. "Factory" shall mean any premises where steam, water or other mechanical power is used in aid of any manufacturing process there carried on. "Workshop" shall mean any premises, room or place, which is not a factory as above defined, wherein manual labor is exercised by way of trade, or for purposes of gain in or incidental to a process of making, altering, repairing, ornamenting, finishing or adapting for sale any article or part of an article, and to which or over which premises, room or place the employer of the persons working therein has the right of access or control; but the exercise of such manual labor in a private house or private room by the family dwelling therein, or by any of them, or if a majority of the persons therein employed are members of such family, shall not of itself constitute such house or room a workshop within this definition. "Employer" shall include any number of individuals, firms or corporations, or their successors, and the legal representatives of deceased employers. "Employees" shall mean every person who is engaged in an employment to which this act applies, whether engaged in manual labor or otherwise employed, and whether his agreement is expressed or implied, oral or in writing. Any reference to an employee who has been injured shall, when the employee is dead, also include his legal representative, dependents, and other persons to whom compensation may be payable. "Dependents" shall mean such members of the employee's family or next of kin as were entirely or partly dependent upon the earnings of the employee at the time of his death.

SEC. 12. The amounts of compensation payable under this act shall be as provided in this section. *First.*—In case death results from the injury: If the employee leaves any dependents wholly dependent upon his earnings at the time of his death, a sum shall be payable equal to his earnings in the employment of the same employer during the three years next preceding the injury, or the sum of \$1000, whichever of those sums is the larger, but not exceeding in any case \$2000; provided, that the amount of any weekly payments made under this act shall be deducted from such sum; and if the period of the employee's employment by the said employer has been less than the said three years, then the amount of his earnings during the said three years shall be deemed to be \$900 and thirty-six times his average daily earnings during the period of his actual employment under the said employer. If the employee leaves only dependents partly dependent upon his earnings at the time of his death, a sum shall be payable not exceeding in any case the amount payable under the foregoing provisions of this section, as may be agreed upon, or, in default of agreement, may be determined on arbitration under this act. If the employee leaves no dependents, the reasonable expenses of his burial and last sickness shall be payable, which shall not exceed \$200. *Second.*—In case total or partial incapacity for work results from the injury: In such case a weekly payment during the incapacity after the first week shall be payable, which shall not exceed in amount fifty per cent. of his average weekly earnings during the previous twelve months, if he has been so long employed; but if not, then a weekly payment shall be payable, equal to fifty per cent. of six times his average daily earnings for any less period during which he has been in the employment of the same employer. Such weekly payment, however, shall not exceed in any case ten dollars, but such weekly payment shall not extend over a period exceeding four years.

SEC. 13. In fixing the amount of the weekly payment, regard shall be had to the difference between the amount of the average weekly earnings of the employee before the accident and the average amount which he is liable to earn after the accident, and to any payment other than wages which he may receive from the employer on account of his injury during the period of his incapacity.

SEC. 14. After an employee has given his employer a notice of an injury, as provided under this act, he shall, if so requested by his employer, submit himself for examination to a physician or surgeon authorized to practice medicine under the laws of the commonwealth, furnished and paid by the employer. If he refuses to submit himself to such examination, or in any way obstructs the same, his right to compensation, and any proceedings under this act in relation to compensation, shall be suspended, and his compensation during such period of suspension may be forfeited until such examination takes place.

SEC. 15. The sum payable under this act in case of the death of the injured employee shall be paid to his legal representative, or, if he has no legal representative, to his dependents, or, if he leaves no dependents, to the persons to whom the expenses for the burial and last sickness are due. If the payment is made to the legal representative of the deceased employee, it shall be paid by him to the dependents or other persons entitled thereto under this act.

SEC. 16. Any question that may arise under this act as to whom are dependents



State inspector of coal mines reports

226

Proceedings of the

for their support, or as to whether there are any dependents, or as to whether there are any dependents who are wholly or partly dependent, or as to the amount payable to each dependent, shall, in the absence of agreement by the parties, be determined by arbitration, as provided in this act; provided, that no savings or insurance of an injured employee independent of this act shall be taken into consideration in determining the compensation to be paid thereunder.

SEC. 17. Any employee receiving weekly payments under this act shall, if so requested by his employer, from time to time submit himself for medical examination, as provided in section 14 of this act; but if he is dissatisfied with the certificate of such practitioner concerning his condition, he may submit himself for examination to one of the medical practitioners appointed for the purposes of this act, as hereinafter provided, and the certificate of such medical practitioner as to the condition of the employee at the time of the examination shall be given to the employer and the employee, and it shall be conclusive evidence of that condition. If the employee refuses to submit himself to any examination required herein, or if he in any way obstructs the same, his rights under this act to compensation shall be suspended, as provided in section 14 of this act, and his compensation during such period of suspension may be forfeited.

SEC. 18. Any weekly payments made under this act may be reviewed by a committee chosen as provided in section 21 of this act, at the request either of the employer or of the employee; and on such review it may be ended, diminished or increased, subject to the maximum amount above provided, and the amount of payment in case of disagreement shall be settled by arbitration under this act.

SEC. 19. Whenever any weekly payment has been continued for not less than six months, the liability therefor may, on the application by or on behalf of the employer, be redeemed by the payment of a lump sum, to be settled, in default of agreement, by arbitration under this act.

SEC. 20. No payment made under this act shall be assignable or subject to attachment, or be liable in any way for any debts.

SEC. 21. Any employer and his employees may choose a committee equally representing their respective interests, which committee shall have the power to consider and adjust matters of dispute under this act between employers and employees, unless either party objects, by a notice in writing, to the other party to such action by said committee in relation to any particular matter, before it shall proceed to consider such particular matter. Said committee may, however, in its discretion, and in default of unanimous agreement shall, refer any matter in dispute to arbitration as hereinafter provided.

SEC. 22. If no committee is chosen or either party objects, or the said committee refers the matter in dispute as provided in section 21 of this act, or fails to settle the same within three months from its submission to them, the matter in dispute shall be settled by a single arbitrator agreed on by the parties, or, in the absence of such agreement by them, such arbitrator shall be appointed by any justice of the superior court, and shall be called under this act a referee, according to procedure which shall be prescribed by said court.

SEC. 23. Any referee so appointed by a justice of the superior court shall for the purposes of this act have the powers of an auditor, except as otherwise provided herein, and shall receive the same compensation and be paid in the same manner. The proceedings before said referee shall be the same as those had before auditors, unless the superior court shall prescribe additional or other rules for the conduct of said proceedings.

SEC. 24. Any referee so appointed by a justice of the superior court may, at his discretion, submit any question of law arising under this act to any justice of the superior court for his decision; and such decision, or a decision rendered by the arbitrator himself in regard to any question of law, shall be conclusive, unless exceptions to the same are taken and filed in the supreme judicial court for final determination; provided, however, that until such final determination any justice of the superior court may, in serious and worthy cases, order the employer to pay such a weekly payment to the injured employee as in the judgment of the said justice may be fair and reasonable, but such allowance shall not exceed the amount to which said employee might ultimately be entitled to recover under this act.

SEC. 25. In the event of the death of a referee appointed as aforesaid, or his refusal or inability to act, any justice of the superior court, on motion of any interested party, may appoint a new referee.

SEC. 26. Whenever the amount of compensation under this act shall have been ascertained, or any weekly payment amended, or any other matter decided, by any arbitrator or referee, a memorandum thereof shall be filed by said arbitrator or referee in the office of the clerk of the superior court for the county in which said decision was rendered, in manner and form prescribed by said court. The said clerk shall file such memorandum, without expense to any party, with other memoranda of a similar nature, which shall be accessible to all interested parties or their attorneys. Such memorandum shall for all purposes have the same force and effect as a judgment of the court; provided, that the same may at any time be corrected by order of any justice of the superior court.

SEC. 27. The proceedings for compensation under this act shall take place in the county where all the parties reside, and if they reside in different counties, then the proceedings shall take place in the county wherein the accident occurred from which said proceedings shall arise. The hearings in regard to said matters shall be held in the places most convenient to all interested parties.

SEC. 28. The justices of the superior court may make such rules as they may deem necessary for the proper conduct of proceedings under this act, as far as they pertain to the said court, its officers and the referees appointed by them as hereinbefore provided.

SEC. 29. No court fees shall be paid by any party in relation to any proceeding in the superior court, or for the entry or filing of any original papers pertaining to

State inspector of coal mines reports

State Society of Miners, 1906.

227

matters arising under this act. No taxable costs shall be incurred by either party in any proceedings before an arbitrator or referee under this act.

SEC. 30. Any sum awarded as compensation hereunder shall be paid to the person entitled thereto upon his receipt for the same. The justices of the superior court may make rules regulating the fees which may be charged by attorneys for services rendered by them in proceedings under this act.

SEC. 31. The governor, with the advice and consent of the council, may from time to time appoint the necessary number of physicians and surgeons required for the purposes of this act, who shall each receive a fee not exceeding three dollars for each examination, which fee shall be paid by the county in which such examination takes place.

SEC. 32. This act shall take effect on the 1st day of January, 1905.

In accident cases the employers claim as follows:

That the tendency of juries is to increase their burdens by awarding liberal verdicts against them.

That laws are being passed more and more favorable to employees.

That there is a growing inclination among injured employees, either through their own indifference to friendly relations with their employers or through the influence of others, to institute legal proceedings to secure damages.

The employees claim that under present conditions injured workmen do not receive substantial justice or fair and certain compensation for their injuries.

That they are denied speedy trials in the courts, owing to crowded dockets.

That they are forced to fight to obtain either their common-law or statutory rights, which only tends to make operators and workmen enemies.

A man working in any dangerous occupation, or in any occupation, as to that matter, is really doing a service to the public. He is enabling the public to prosper through industrial conditions, and, therefore, the public owes him something should he meet with disaster.

That capital recoups itself for losses by charging off a certain percentage every year for deterioration of plant.

That the workingman has no means of charging off the deterioration of muscle and skill through accidents incident to production, and that he ought in all justice to have such deterioration compensated in some reasonable way by society itself. That as the deterioration of a plant is paid for by being added to the cost of production, the deterioration of the men should also be added to the cost of production.

The theory is also that society ultimately pays all such costs through consumption.

Respectfully submitted.

J. T. STEWART,
HUGH MONAHAN,
OSCAR WHITE,
Committee.

Moved that we accept the report of the legislative committee as read.
Carried.

At this time Chas. Riley requested admission to the convention as a delegate without credentials, for the reason that his local had failed in some manner to either give him the duplicate credential or send in his original credentials to the secretary, but that he was elected to both bodies and credentialed to the State Society of Labor and Industry.

Moved that the convention grant Chas. Riley, of L. U. 1884, a seat and voice in the State Society of Miners.

Moved that the former motion be tabled.

Motion to table was lost, and the original motion carried, and Chas. Riley was allowed a seat and voice in the convention.

Committee on constitution being ready to report, reported the following:

GENTLEMEN—We, your constitution committee, beg leave to submit the following report for your consideration:

That we adopt the 1905 constitution, with the following amendments:

By adding to article 2, section 2, "And no local shall be entitled to more votes than is reported on the original credentials."



State inspector of coal mines reports

228

Proceedings of the

And that article 3, section 2, be stricken from the constitution.
And that article 5, section 1, be amended by striking out the word "appointed" and inserting the word "elected."

Constitution as amended reads as follows:

ARTICLE I.

SECTION 1. The association shall be known as the Miners' and Mine Workers' Association.

ARTICLE II.

SECTION 1. The state association shall be composed of delegates duly elected and certified to by any association, society or union which is composed of members whose occupation shall be in the mining of coal in the state of Kansas, now organized, or which may hereafter be organized, for a period of three months preceding the meeting of this association.

SEC. 2. No delegate shall represent more than one local in the annual convention, and shall not be entitled to cast more than five votes. And no local shall be entitled to more votes than is reported on the original credentials.

ARTICLE III.

SECTION 1. The officers of the Association of Miners and Mine Workers shall consist of one president, one vice-president, secretary, treasurer. They shall be elected at each annual meeting.

ARTICLE IV.

SECTION 1. Should vacancies occur by death, resignation or removal of the president, the vice-president shall succeed to the office of president, who shall fill the office until the next annual meeting of the association.

SEC. 2. Should a vacancy occur in the office of secretary the president of the association shall, immediately upon notice of the same, call a special convention for the purpose of filling that vacancy for the unexpired term.

ARTICLE V.

SECTION 1. There shall be elected at each annual convention a committee of five members on credentials, five on constitution, five on legislation, and five on resolutions.

ARTICLE VI.

The constitution and by-laws of this association may be amended or repealed at any annual meeting by a two-thirds vote of the delegates present.

ARTICLE VII.—ORDER OF BUSINESS.

1. Call to order by the president.
2. Roll call of delegates.
3. Presentation of credentials.
4. Appointment of committee on credentials.
5. Appointment of the various committees.
6. Report of the various committees.
7. Report of officers.
8. Unfinished business.
9. New business.
10. Miscellaneous business.
11. Good of the association.
12. Election of officers.
13. Adjournment.

All rules of order shall be governed by Robert's Manual of Rules and Order.

ARTICLE VIII.

The president and vice-president of this association shall receive, providing they are not delegates, five dollars per day and transportation while attending said meetings of this association, said amount to be paid from a fund assessed for this purpose on all local unions represented in the association. Said money shall be forwarded to the secretary of this association not later than December 31 of each year.

GEO. WICKWARE,
ROBERT JACK,
G. W. COULTER,
Committee.

Moved that we accept the report of the committee on constitution as read.

Amendment to the motion: That we accept the report of the committee, except that we allow section 2 of article 3 to remain as it now stands.

Amendment lost.

Original motion carried.

Moved that we adjourn until February 7, 1906, at nine A. M. Carried.

THIRD DAY.

February 7, 1906.

Convention reconvened at nine A. M., with Bro. Phil Rooney, president, in the chair.

Report of the state secretary was read.

To the Delegates of the State Society of Miners, Greeting:

I herewith submit to you a brief report of the work done by the inspector and deputies in the past year. While it was my desire and aim to have all mining laws



State Society of Miners, 1906.

229

thoroughly complied with and to bring about as good conditions for the miners as possible, but to my dismay I have been handicapped by the action of the county attorneys, who have practically in every instance when I would apply for complaints either refuse to enter proceedings or juggled the law to such an extent that I was unable to secure such compliance as I had attempted to enforce, and for that reason I am unable to say further than that it is my opinion that the political influence of the coal companies is so great that they fear to attack them on any question, whether it is a direct violation of the law or otherwise.

In October of 1904 I had occasion, after giving a certain coal company due notice to comply with the law regarding ventilation, which they had failed to obey, to go before the county attorney of Crawford county, along with the deputy of the same county, to make complaint against the company for violating the law regarding the inadequate ventilation, at which time he seemed ignorant of how to proceed in the case and requested a few days to look the matter up before issuing a complaint. Over two weeks passed before I heard from him, and then it was in reply to the following letter:

WEIR, KAN., November 11, 1904.

Hon. J. M. Wayde, County Attorney, Pittsburg:

DEAR SIR—About the 24th of October I was at your office in conference with you regarding a violation of the mining laws at mine No. 5 of the Western Coal and Mining Company, located at Yale. At that time I wanted you to make out complaint for such violations, of which you objected to do until you had a few days to look the matter up, and since that time eighteen days have gone by, and I have not yet heard from you regarding the matter. What I want to know is, can there be anything done in this matter through your office, and if not I would like very much to know it?

Trusting an early reply, I remain,

Yours respectfully,
JAMES A. ORR.

Mr. Wayde replied promptly, as follows:

PITTSBURG, KAN., November 12, 1904.

Jas. A. Orr, State Mine Inspector:

DEAR SIR—I received your letter of November 11, and in reply I beg to state that I have investigated the matter concerning which you spoke to me somewhat, but I have not fully made up my mind as to the proper method to proceed. You will remember that you called at my office on October 24, and as we have an unusually large criminal docket this term of court, it has required considerable of my time to prepare for that. You will also remember that this was just before election, and I do not think that you will censure me for looking after my political interests a little just before election. I began the trial of criminal cases in Girard the second day after my election, and have been busy every day since until to-day. I will go to Girard Monday morning, and expect to be engaged in criminal cases all of next week, and in Pittsburg for the two weeks following. This is a matter that I would like very much to look after myself, and I assure you that just as soon as I can possibly get away from the court-room long enough to do so, that I will give it prompt attention. However, I will instruct the young man in my office to look the matter up for me, and I assure you that I will take action in regard to this matter just as soon as I can get the time to give it attention, but as the criminal business will last for about three weeks at Girard and Pittsburg, I do not see how I can possibly give this matter my individual attention until after I get through with the criminal docket. This is a matter that I do not like to entrust to a deputy.

Very truly,
J. M. WAYDE.

Hoping to induce the county attorney to take some action soon, I answered him as follows:

WEIR, KAN., November 14, 1904.

Hon. J. M. Wayde, County Attorney, Pittsburg:

DEAR SIR—I herewith make application for injunction against the Western Coal and Mining Company, mine No. 5, located at Yale, Kan., for non-compliance with the section 4149 of the General Statutes of 1901 and non-compliance with section 4129 of the General Statutes of 1901.

I herewith urge that complaint be made at once, otherwise I shall apply to the attorney-general of the state to take this matter up. I am respectfully yours,
JAMES A. ORR.

After waiting a couple of weeks, and failing to receive any answer to my previous letter or to learn of any action being taken, I wrote to the state's attorney as follows:

WEIR, KAN., December 3, 1904.

Hon. C. C. Coleman, Attorney-general:

DEAR SIR—I have made application to the county attorney of Crawford county for an injunction against a certain company for violation of a number of the mining laws of the state, but I cannot get him to take the matter up. On the 24th of October last I went to him personally and laid the matter before him, and requested him to issue a complaint, but at that time he desired a few days to look the matter up, and up to the 11th of November last nothing had been done. I then wrote him applying for an injunction on the same company, and I will quote his reply. And to this date there has been no steps taken to have the law complied with, and I wish to know what I must do to enforce the laws when the county attorney will fail in such cases?

This is a very important case in my judgment, as much so as his criminal cases, as men are, in a manner speaking, being slowly murdered, and will continue to be so if there is no way in which the laws can be enforced, as I have given all the opportunities and time necessary to improve the conditions if they so desired to do it,