

cannot myself see any principle on which the Attorney-General is to interfere with a railway company's contracts because they are ultra vires any more than he would on the like ground interfere with the contracts of any other incorporated joint stock company, carrying on any other industrial enterprise. That is quite right, it seems to me. "In neither case is it, in my judgment, for the Attorney-General to take up the complaint of a rival trader who says that the company is trading in something which it was not established or incorporated to trade in. I cannot think that it is for the Attorney-General to invoke the court, nor for the court so invoked, to interfere to prevent a gigantic" and so on. That is right, your Lordship; but if the Attorney-General of the Province is not to be entitled to come here and state to your Lordship what the law of the province is, and ask that it should be obeyed, who is entitled to come here? I submit again that the miner could come here. I think he could. I think the white miner engaged in this mine along with the Chinamen underground, could come here and say, I am subjected to a possible injury which is aimed at by the statute; and this company is compelling me, in this sense, that unless I lose my labor and my right to work there—unless I go away and lose my right to labor there for myself, I am subjected to a peril that the legislature says I shall not be subjected to. Our evidence shows that there are white men in this mine along with the Chinamen, and the statute says there shall not be Chinamen underground there. Now I submit that I am entitled to come here and lay before your Lordship, to prove as I submit I have proved, that this company is doing an illegal act in employing those Chinamen underground; they are subjecting these white miners to a peril which the statute says they shall not be subjected to. They are acting outside their powers; they are not living within their powers, they are transcending their statutory rights and they are carrying on industries which have been specially dealt with and specially legislated in reference to for the general protection of property and life. It is clear, my Lord, from the very language of the statute. What has the legislature in its mind? The protection of life and limb. Now, I submit to your Lordship the protection of life and limb must certainly be the life and limb of those people and that man underground; I submit that it must be the life and limb of the person also who is casually proceeding along the public highway in the neighborhood of those mines; I submit that the legislature seized upon the particular fact itself, and said that in these mines underground there shall not be employed a class of people who will jeopardize the life or limb of the fellow-workmen there.

This concluded Mr. McArthur's argument.

His Lordship—I won't trouble you, Mr. Luxton. In the affidavit before me there is no statement as to where this mine is situated, beyond, at Union; there is nothing to show, nor is it suggested in the affi-

davit, that there is any danger to the public by reason of the proximity of a settlement to that mine that is being worked, or by reason of the mining operations being conducted so close to the surface as to become a nuisance or likely to injure people in the neighborhood. The case rests simply on this, that a statute prohibiting the employment of Chinese underground is being violated. And there is a suggestion contained in the affidavit that the lives of other people employed underground are endangered.

In granting injunctions, especially where there is a going concern, such as a colliery, the court has to proceed carefully. It is a very serious matter to interfere with any person's business. There are cases over and over again where the court has refused to grant an injunction against a colliery on that ground. In a sense, the public are interested in seeing that the thing is carried on. But that does not by any manner of means, make the system of carrying on the mine a matter of public concern. Now the Attorney-General contends that the system on which this mine is carried on is a matter of public concern. I am not able to see that it concerns the public in any way whatever. It is not a public question. Certainly it is not a question affecting the public or likely to affect the public to such an extent as to call for the allowance of an injunction—which is a very extraordinary remedy. This court does not grant an injunction for the purpose of enforcing moral obligations, nor for keeping people without the range of the criminal law. There usually must be some right—a right of property, or some right at any rate—infringed or likely to be infringed. The miner who is employed in that mine has no right to come here and ask for an injunction, because he has no right of property, he has no proprietary right which is being infringed. The Attorney-General is not entitled to obtain an injunction from this court, because there is no public right being infringed or likely to be infringed. The public are not concerned in this particular matter. To use the language that is referred to in some of the cases—the affidavit does not show that the public interests are so damaged as to warrant the issuing of an injunction in this case. The motion will be dismissed.

Not content with the decision, it was decided to exhaust every remedy possible. The next regular sittings of the Full Court, at which an appeal from Judge Irving's decision could be argued, would not take place until November. Under instructions from the Attorney-General, Mr. D. M. Rogers applied to the Chief Justice on September 17th for a special sittings of the Full Court to be granted at once, in order to bring on the appeal without delay. The Judges found, however, that it would be impossible to hold such a sittings, as the Fall Assizes were commencing and the Judges were leaving at once for the different points throughout the Province where the Assizes are held.

The matter is not ended yet, by any