is because the apparent explanation of the accident given by defendants and accepted generally is that a piece of frozen dynamite had been left unexploded in the old hole, which was reached in drilling the new hole on the day of the accident. Plaintiff's evidence is that if the débris had been removed after each explosion, the partly unexploded hole could have been detected and remedied either by extracting the rest of the charge or making a new and further explosion of it per se. Defendants admit that it might be discovered by the removal forthwith of the loose material, but think that the removal might be equally useful if done later. In this view plaintiff's witnesses do not agree. Contemporaneous removal is, in their opinion, the best and surest way of making the discovery. And then, last of all, the jury say, in view of the diverging views as to what was done and what might have been done, and in affirmation of what the witnesses say, that there was really no method or system of inspection—that defendants were "negligent in that there was no organized system of inspection of the work and the appliances in general."

I think the verdict at common law could be sustained on the first answer given by the jury, that the negligence consisted in there being no system of inspection. It was a dangerous piece of work in rock excavation, carried on by the extensive and constant use of a most powerful explosive—without any apparent safeguards being adopted after every compound discharge to see whether it was reasonably safe to proceed to the next discharge. Defendants admit the danger, but say "there is no practical way of finding out these sources of danger." . . .

For plaintiff it is pointed out that it is possible after each blast to know if the charges have all exploded, by examination . . . and still better that only one shot should be set off at a time, and then its failure would be detected before the next. Plaintiff was told to work at this place, and a message from defendants was given to him that it was all safe in the neighbourhood where he was about to drill; and no blame can be cast on him. . . .

[Reference to two "noteworthy dynamite cases," Hopkins v. Osler, 176 Mass. 258, and Hove v. Boston, 187 Mass. 68, as to the duty of the employer to make an inspection after every blast.]