

Byron Spark, the man who was handling the pitch, had had no experience in such work. No precaution was taken to prevent any one from going near the furnace and boiling pitch, or to protect children from accident.

The pitch was ladled out of the caldron and poured into pails with a ladle with a wooden handle which had been made out of a piece of pine board. When the ladle got partially filled with pitch, Sparks put it in the furnace to melt it out. This practice necessarily burned the handle of the ladle and weakened it.

The evidence is that the handle of the ladle should have been made of iron.

In pulling the ladle out of the fire the handle broke off, the ladle was dashed upon a heap of sand, and the boiling pitch was splashed on the child Reginald Waller, whose face was burned severely.

The accident took place on the 12th April, 1912. At that time the boy was under seven years of age.

Front street near where the furnace was placed and where the pavement was being repaired is a very busy street.

I think the corporation was guilty of negligence in allowing the furnace to be placed on Lochiel street so close to Front street with its busy traffic. The corporation should have seen that there was a fence or some barrier to prevent children from going near the furnace and the hot pitch. They should have seen that the ladle with which the pitch was ladled into the pails had an iron handle, so that it could not be burned off or weakened by fire, and that the handling of such dangerous material as boiling pitch was done with a proper implement and by a skilled man.

I do not think that the corporation can absolve themselves from liability by the contention that the work was being done by an independent contractor. They permitted a dangerous implement to be placed in the streets and permitted an essentially dangerous substance to be handled in the street without a proper ladle and without adopting any precaution to protect the public. Neither the city engineer nor the road commissioner nor any other official of the corporation paid any attention to the work, or did anything to guard the public.

The evidence is that the injury to the eye, mouth and nose of the boy, Reginald Waller, is permanent. The sight