

Chinamen lost their lives. An inquest was held upon the bodies recovered, and the verdict of the coroner's jury was that the explosion was caused by a Chinaman passing towards the face of No. 10 level. If the accident was caused in this way, in my opinion, it was due to the gross ignorance or carelessness of the said Chinaman.

9. My experience gained as inspector and miner has led me to the firm conviction that the employment of Chinese below ground in coal mines endangers in a high degree the lives and limbs of the other miners employed in such mines. While many Chinese miners can speak some English, one never can be sure that, at the time of danger, they will clearly understand orders given to them, which need to be exactly carried out in order to avert a catastrophe.

10. My experience also is that Chinese miners, as a class, stubbornly adhere to their own ways of working in coal mines notwithstanding all efforts to convince them of their danger, of which I will give some examples:

(a) On the 9th of August, 1897, a Chinaman was killed in No. 4 slope. He had been directed to keep on the traveling road, but persisted in walking between the rails and was killed by the cars, as appears by the report of the then inspector of mines.

(b) On the 10th of November, 1902, a Chinaman named On How was killed in No. 5 shaft by a fall of rock. A post had been placed to keep the overhead rock from falling and, without any necessity for so doing, he stupidly knocked away the post and the rock at once fell on his head and killed him.

(c) On the 29th of June, 1900, William Armstrong, a fireman in No. 6 shaft, was attending to the reconstruction of two lengths of brattice, which had been knocked down by a shot in a stall, when a Chinaman named Wong Wing took his light to the return side of the brattice, on which side the gas had accumulated. The inevitable result was that an explosion of gas occurred, which burned the fireman and the Chinaman. This accident was directly owing to the gross ignorance or carelessness of the Chinaman.

(d) On the 27th of October, 1902, an explosion took place in shaft No. 5, under the following circumstances, which I ascertained by investigation on the spot as inspector as aforesaid: The fireman noticed that there was considerable gas in the portion of the mine in which he found a Chinaman using a naked light, although he was provided with a safety lamp. The fireman took the naked light from the Chinaman and instructed him not to use it there again on account of the presence of gas, and made him use his safety lamp. After the fireman left, the Chinaman put down his safety lamp and made use again of a naked light, with the result that the gas was ignited and the Chinaman was so severely injured by the explosion that he died within ten days.

11. On the fourth day of May, 1903, an Act of the Legislature of British Columbia

further to amend the Coal Mines Regulation Act, came into force. By section 2 of said amending Act, Rule 34 of the Coal Mines Regulation Act has been re-enacted, so that it now provides, among other things that no Chinamen shall be employed below ground in a coal mine in this province.

12. On the 18th day of July, 1903, I duly notified the defendant company to discontinue employing Chinamen below ground in their said mines, but, notwithstanding said notice, the company persists in employing Chinamen below ground in said mines as set out in paragraph 5 of this affidavit.

13. On the 22nd day of July, 1903, an information was laid by me against F. D. Little, the manager of the mines of the defendant company at Unlon, charging him with employing or permitting to be employed below ground in said mines certain Chinamen contrary to the provisions of the Coal Mines Regulation Act. The said Little was, on the 24th day of July last, convicted and fined; but notwithstanding said conviction, the defendant company, since the date of said conviction, have persisted in employing from day to day in their mines at Unlon the number of Chinamen mentioned in paragraph 5 hereof.

14. In my opinion, based upon my experience as Inspector and miner, unless the defendant company is restrained from employing Chinamen below ground in said mines, there is imminent danger of accident occurring which may cause the loss of many lives.

(Sgd.) THOMAS MORGAN.

Sworn at Victoria, British Columbia, this 15th day of September, A. D., 1903, before me.

(Sgd.) FRANK HIGGINS,

A Commissioner for taking affidavits within British Columbia.

Mr. Luxton—These papers only reached me late last night. On the affidavit itself I submit it is not a matter which should be brought on in vacation; it is not a matter that under the rules requires to be immediately or promptly heard. There is nothing shown in the affidavit why it could not equally as well have been brought on as soon as the vacation is over. There is no immediate danger threatened to anybody's property, or anything of that sort. It has been going on now as it has for a number of years; why then is it necessary a fortnight before the end of the vacation to apply to the court for an interlocutory injunction? I submit it is clearly not a case which should have been brought on in vacation. Also, there is a good deal of controversial matter in this affidavit of Mr. Morgan that is filed here, and absolutely no opportunity of getting any affidavit in answer to it.

His Lordship—There is only one statement of vital importance, namely, that Chinese are employed there. The rest of it is merely collateral matter which does not affect the merits of this case as far as I can understand it.

Mr. Luxton—I presume my friend will argue on the statements contained in the