

in their nature tended to injure the public, so, in the present case, the acts which the Attorney-General sought to restrain were in their nature such as tended to injure the public. In coming, therefore, to the conclusion that this action can be maintained without proof of actual injury to the public, I think I am acting in accordance with the view of Lord Justice James. There is, moreover, the authority of Lord Hatherly in Attorney-General vs. Ely, Haddenham, and Sutton Railway Company. He said: 'The question is, whether what has been done has been done in accordance with the law; if not, the Attorney-General strictly represents the whole of the public in saying that the law shall be observed.' And that is what I submit to Your Lordship I am entitled to say here, that I can represent here the whole of the public, in saying that the law shall be observed, notably the law with regard to the operation of these coal mines, and that no Chinamen shall be employed underground. And I am entitled to urge the language, and the full force of the judgment of Lord Justice Fry. The concluding words of the judgment are: 'Here the law has been broken in a manner tending to injure the public, and, in my judgment, the relators are entitled to costs.'

His Lordship—This affidavit of Mr. Morgan does not suggest any danger to the people above ground by the employment of Chinese underground; it does not suggest, as you mentioned just now in argument, that this mine is situated in the heart of Cumberland and that an explosion in the mine was likely to cause an eruption and send the whole town flying.

The Hon. the Attorney-General—But I submit to Your Lordship that, being here in my capacity as Attorney-General, it is not necessary for me to show in concrete terms an injury that is likely to ensue; all I am obliged to show is that there is an illegal act, a contravention of the law.

His Lordship—I think you must show that the public are affected. As long as your affidavit is confined to the question of employing Chinese below, the public are not affected. I have no doubt if you, as Attorney-General, were to come here and make an application that parties be restrained from blasting in the street here because it was likely to cause injury to the public, they could be restrained.

The Hon. the Attorney-General—This is the proposition I put to Your Lordship, on this suggested illustration of Your Lordship; if I were to show that the blasting out in the roadway here was being pursued illegally, in contravention of the terms of an Act of Parliament, I submit with all deference to Your Lordship that I could come here as Attorney-General and have it stopped without its being at all an incident that anybody might be injured.

His Lordship—You might, because it is a public highway and concerns the public. But you could not go to some man's

sodawater plant, where there is just as much danger from explosion, and interfere, because the public would not be affected. And similarly, you cannot go down to this coal company's cellar and interfere there, where the public are not interested.

The Hon. the Attorney-General—If the sodawater factory had come within a general law of the province, that sodawater factory should be carried on under certain regulations, and if I show to Your Lordship that those regulations were flagrantly departed from, I submit again, that without it being at all an incident to the infraction of that general law that any one was injured, I could ask Your Lordship for an injunction.

His Lordship—I do not think it could be granted, because the rights of the public are not interfered with.

The Hon. the Attorney-General—I submit to Your Lordship that the coal company have been by the general law of the province of British Columbia seized upon as being a public company. There are general statutes under which they must operate. They have been seized upon in the same way as railway companies—works of public utility; and they have been taken away from that private incidence which attaches to private ownership and private right of property; and they have been carried into a category, in which they are told, You shall carry on your works subject to these general laws, and unless you carry them on subject to these general laws you can be prohibited from carrying on those works. My learned friend's clients can only work their mines under the provisions of the law governing coal mines; otherwise, My Lord, we would be perfectly powerless as a legislature and government to carry out the laws of this province. Is it to be that we are to pass laws in our parliament, and declare certain things illegal, and these companies shall sit by and give no heed to those enactments? I submit they can only operate their coal mines in accordance with those laws, and I submit I could ask for an injunction, if I were so minded here, to restrain their operations in their mines altogether unless they lived up to the provisions of the law. I submit I could do so; that I could come here with some fair measure of justice and ask that the Wellington Colliery company stop operations unless they live up to the provisions of the law. Otherwise, what control have we of them? Can it be said for a moment that because of the fact of the legislature not having stated in concrete terms that if there is any infraction of these rules the courts of the province shall be entitled to issue writs of injunction to compel enforcement, that no writ can be issued? That is practically what my learned friend would present to Your Lordship. I submit that such a provision is not necessary, but the power is inherent in the court to compel a company to desist from doing that which is illegal under the laws of the province. Because these mines can only be operated