

pulleys, and timbering, in order to ascertain that they are in a safe and efficient working condition. . . .

There was no shift-boss employed on the mine at the time of the accident and no foreman in charge of or having oversight over the workmen; and no inspection for the purpose mentioned in rule 31 was made by any one after the report to Grierson that the holes had broken badly, although he was, as I have said, in the mine and near the place in which the holes had been drilled.

The jury were, I think, warranted in coming to the conclusion that Grierson was negligent in not having made an examination of the mine after it had been reported to him that the holes had broken badly, and that it would again be necessary to "shoot" some of them, and in leaving the respondent to be guided by his own judgment as to which of them he should "shoot" and which of them he need not "shoot," instead of himself directing on the ground what was to be done. . . .

There would perhaps have been more difficulty in the respondent retaining his verdict if it had been established that he was directed to blast out any of the holes in which the rock had not broken away to the bottom of the hole, before drilling any new holes; but, as has been seen, no such direction was given to him, and he was left to use his own discretion as to what holes should be blasted out and what holes he need not blast out. The former direction would have been one that might have been safely carried out by a miner having as little experience as the respondent is shewn to have had, but the direction that was given involved the casting upon a comparatively inexperienced man the delicate duty of deciding what holes should be and what holes should not be blasted out, and running the risk that might result from an error of judgment in carrying out his instructions. The jury, no doubt, thought that, had Grierson inspected the mine after it was reported to him that the holes had broken badly, he should and would himself have determined and pointed out which of the holes should be blasted out, instead of leaving that to be determined by the respondent.

It may be that, as it stands, the answer to the second question does not cover this view of the case; but it is certainly not inconsistent with it; and, having before us all the materials necessary for finally determining the matter in question, we should exercise the power conferred upon the Court by the Judicature Act and make this supplementary finding, which there is ample