WARRIOR RUN ACCIDENT

August 28, at 4.30 P. M., in Red Ash Slope, Warrior Run Colliery, Lehigh Valley Coal Company, an accident occurred by which six men were killed and five injured. The accident has a number of peculiar features about it that will be best understood by referring to the accompanying plan showing the arrangement of tracks about the head of the slope upon which the accident occurred.

The empty cars were run by gravity from the breaker plane to head block near the head of the slope over the light track shown in plan. It was the duty of the car runners to run the empty cars with sprags from the head of the breaker plane to head of the slope, also the loaded cars from head of the slope to head of the breaker plane. Orders had been given to these car runners to take a car of manure, as shown by arrows, from a point A to the hole B down which the manure was to be put for use in building a dam inside the mine. The method of doing this should have been to run the car, properly spragged, to the head block at C along the light track which had an average grade of 1.93 per cent. At C it should have been stopped and attached to the hoisting rope passing over the drum D and used for hoisting up the main slope. The car should then have been pulled past the spring switch E, stopped before reaching the slope track and then dropped back along the loaded track, and, after having been detached from the rope, allowed to run by gravity to the hole B attended by the car runner. This procedure was, however, not carried out, and the evidence shows that instead of the car loaded with manure being attended to by the regular car runners, this duty was being looked after by a headman whose business it was to attend a switch lever at the head of the slope at point F. This change of work was evidently an arrangement between the headman, who should have been at F, and the car runners, so that the runners might go home earlier without waiting to shift the car. Although the head block at C was known to have been in place some days prior to the accident it is probable that it was not in place on the day of the accident.

The superintendent of the colliery testified at the inquest that when he last examined the head of the slope the block was in place and that he was given no orders for it to be removed, and that any one giving such orders did so without authority. It was claimed that the head man stated to a witness immediately after the accident that he had ordered the head block removed, but this statement was denied by the headman at the inquest.

The car in running down the light track evidently gained greater headway than the man who was running it expected and he was unable to sprag it so that it would slow up before reaching the switch E. The evidence showed that instead of stopping the car at C and then transferring it from the light to the loaded track by attaching the car to the hoisting rope, an attempt was made to switch the car from the light to the loaded track without attaching the hoisting rope to the car. This point does not seem to be disputed by either side,

and the headman claims that it was a common practice to thus switch the cars, while the company officials claim that it was contrary to direct orders to do it. However this may be, an effort was being made to make such a switch at the time of the accident, but the car had gained such headway that it was impossible to stop it between the switches E and F. Consequently the car ran up the plane at the head of the slope to the point G opposite the foreman's office. To do this it was necessary for two wheels of the car to pass over the hoisting rope, which ordinarily stands taut about 5 inches above the track when the rope is down the slope and loaded as it was at the time of the accident. It was also necessary for the car wheels to turn switch at F, and ordinarily this would have left the switch in a position for the car to run back upon the loaded track. At this point the day after the accident, a trial hoist, under the condition at the time of the runaway, showed that the car was derailed each time that it was hoisted past switch F trusting to the switch being thrown by the car wheels instead of by hand as was customary. Hence the conditions were such that the car should have been derailed before reaching the main slope even though the head block at C was not in place.

The evidence brought out at the inquest showed that when a car had previously run away under similar conditions and had passed the head block at C, it had gone up the slope and returned upon the loaded track as was to be expected. At the time of the accident, however, the car passed over the rope, the switch F was thrown, and after reaching a point G the car returned down the slope for a distance of 900 feet, where it came in contact with man-cars, attached to the hoisting rope, containing twenty men ready to be hoisted to the surface. The impact broke the rope cone and allowed the cars and men to fall 200 feet farther down the slope, killing 6 men and injuring 5 others.

The verdict of the Coroner's Jury was as follows:

"We find that James Gallagher, Julius Muscavage, Peter Ostrafsky, Adam Buscavage, John Tokarshak, and Frank Propota, came to their deaths from injuries received August 28, 1908, at Warrior Run Colliery of the Lehigh Valley Coal Company in a collision on a slope between a man-car coming up and a loaded car going down.

The evidence shows that a car loaded with manure was being run down a plane with a pitch of one and one-eight degrees towards the mouth of the slope with the intention of switching it off on another track before it reached the mouth of the slope, but the head-man who was running the car at the time lost control of it and it ran down past the mouth of the slope up on the apex and then backswitched and ran down the slope, meeting the man-car coming up.

The evidence shows also that the customary head-block near the head of the slope was not in place, it having been previously removed. It is quite evident to us that had this head-block been in place the accident would have been avoided.

We, therefore, find that the outside foreman,, whose duty it was to look after this safety device, was negligent in his duties in not maintaining in good condition a head-block near the head of this slope as Article 12, Rule 50, of the Anthracite Mine Laws directs. We find too that the head-man and the two runners were guilty of contributory negligence in running cars over the tracks at this point with the head-block missing."

Immediately after the verdict of the Coroner's Jury I entered prosecution against John L. Williams, outside foreman, and John Stinson, head-man, and the following is Judge Fuller's opinion on the case:

Opinion of Judge Fuller, is as follows:

Commonwealth of Pennsylvania,
vs.
John Stinson and John L. Williams. } ss:

This man John Stinson is charged with a specific offence of violating Rule 40, Article 12, namely: "At every shaft or slope in which provision is made in this act for lowering and hoisting persons, a head-man and foot-man shall be designated by the superintendent or foreman to be at their proper places from the time that persons begin to descend until all persons who may be at the bottom of said shaft or slope when quitting work, shall be hoisted; such head-man and foot-man shall personally attend to the signals and see that the provisions of this act in respect to lowering and hoisting persons in shafts or slopes shall be complied with."

The Commonwealth contends that if Stinson had not left his proper place, viz., at or near the head of the slope, he could by moving the lever of the device have turned the runaway car upon the connecting track and thus the accident would have been prevented.

His counsel contends, contra, (1) that he violated no duty of his employment by leaving the head of the slope to bring down the car, (2) that at least under all the circumstances, he was not negligently guilty of an offence, (3) that he was in fact at or near the head of the slope when the car started down the same, (4) that there was absolutely no casual connection whatever between his act in going from the head of the slope and the accident; in other words, that the accident was not nor could have been the result of his act.

Was he negligently guilty? He was a boy under age. His instruction from his superior authorized him to leave when the last car of coal was hoisted. The last car of coal had been hoisted just before quitting time, and while he actually started for the car just before quitting time, yet that time actually arrived before the car got under way.

Whether it was right for the head-man to take orders from the inside foreman is one of the ambiguities that the act does not define, but be this as it may, the work actually assigned to him did not take him repeatedly away from the head of the slope to different places around the yard.

The responsibility for this should rest where it belongs, upon the superior who gave the instructions, and not upon the inferior who obeyed them.

In this quasi criminal proceeding, in which a conviction might be attended by fine and imprisonment, the conclusion of guilty should be based upon more than a mere infraction of law. We cannot find under the circumstances that he was negligently guilty of an offence when his act was within the scope of his actual employment although not within the actual mandate of law.

Furthermore, when the car started upon its plunge down the slope he was in fact very near, not more than twenty feet distant from the slope track and not more than forty feet distant from the point of connection between that track and the other track.

He had accompanied the car as far as the safety block, where he jumped off, awaiting its return by gravity when it should come to a stop. At that distance, in the absence of specific definition by the act, it would seem unreasonable to find that he was not "at his proper place." We are also unable to discover any casual connection, or possible casual connection which the law can consider between his act in going from the head of the slope and the accident. In other words, we are unable to conclude that the accident was or might have been the result of his act. It was proper of course that some one should bring the car down. If he had remained all the time close to the head and the other car had been brought down by the runner, it is altogether likely that he would not have had the time or the thought to throw the lever and the result would have been just the same. An inquiry of this character should be governed by probability rather than by possibility, and in this case we cannot say that there was even the probability of a different result.

It follows that John Stinson must be adjudged, as we do now adjudge him, not guilty of the offence charged against him in this information.

The Case of John L. Williams

In the case against John L. Williams, outside foreman, the gist of Judge Fuller's opinion is as follows:

This man is charged with a specific offence of violating Rule 50, Article 12, viz: "Safety blocks or some other device for the purpose of preventing cars from falling into a shaft or running away on a slope or plane shall be placed at or near the head of every shaft, slope or plane, and said safety blocks or other device must be maintained in good working order."

Here then in a nutshell is the case against this defendant, viz: A safety block had been provided for the purpose of preventing the entrance of runaway cars upon the slope in question. The duty of maintaining this block in good working order devolved upon the outside foreman. He disregarded this duty and allowed the block to become ineffective; from this condition the accident resulted. He was guilty of an offence against the act.

Was he negligently guilty? Violation is not enough. It must be accompanied with negligence in order to convict. In the present case the safety block had been out of order for some time, perhaps, for as long as three weeks, and certainly for a period long enough to affect with knowledge of its condition the foreman who must have been in constant, close proximity. Beyond a doubt, therefore, according to law, he was negligent. This conclusion is irresistible.

Under all the circumstances, we are able to find that the negligence was wilful, or gross, or of higher grade than the ordinary inattention whereof even careful men may be guilty at times. This view would seem more convincing if the only damage had been a slight loss of property and not an awful loss of human life, but the character of the catastrophe must not blind the eyes to the character of human default by which it was occasioned.

We believe that the ends of justice will be fully met by suspension of sentence in a case where conviction itself must carry its own condign punishment.

Accidents will happen in and around the mines no matter how great a degree of care is exercised, but many of the distressing fatalities could be avoided if employes were made to feel that acts of gross and inexcusable carelessness made them liable to criminal prosecution. In all mines, no matter how well they are planed and conducted, danger constantly exists, and most of the accidents that occur in and around the mines are due to carelessness. In nearly all the cases the law does not and cannot be made to apply.

Intelligence, the education of experience, accurate judgment and the power to enforce rigid discipline cannot be implanted in men by legislative enactment.

ACCIDENT AT MIDVALE SLOPE, PROSPECT COLLIERY

At 12.30 noon, May 13, a fall of roof occurred in No. 4 lift road, No. 246 Bowkley vein in Midvale slope, Lehigh Valley Coal Company, by which Martin Degnan, timberman, Andrew Wasko, timberman's helper, Paul Bozent, miner, Peter Zwinski, driver, and Michael Libzak, doorboy, were instantly killed and two others slightly injured. It appears from testimony taken at the Coroner's inquest held at Wilkes-Barre, that Anthony Smith, runner, had run a trip of two loaded cars down a section and had failed to place the proper number of sprags in the wheels, which allowed the trip to get beyond control. When the trip landed on the gangway road it jumped the track discharging four props that stood on the lower side of the road, and a portion of the roof fell on top of the cars. The runner sent the driver to call the timberman to replace the cars on the track and to secure the roof. When the timberman arrived they replaced one of the cars on the road and pushed it back so that they could replace the other derailed car and the props. While this was being done, a large piece of top rock fell, without warning, catching seven of them. It also appears from the testimony that the timberman had failed to sound or examine the roof before they commenced to work at the derailed cars. He should have seen that the roof was safe to work under, knowing that all the props under this particular piece of rock had been discharged.

The following is the verdict of the Coroner's jury in the case:

"We find that Martin Degnan and others came to their death from injuries received at the Midvale Slope of the Prospect Colliery of the Lehigh Valley Coal Company, May 13, 1908. The evidence shows that a run-away occurred in the gangway, the cars jumping the track and knocking out four props that stood along the side of the gangway to protect the roof. A fall of rock occurred which Martin Degnan attempted to remove. Others were watching his movements when a second fall took place fatally injuring five men. The props that were