

part of Special Rule 14 provides that "The underviewer, under the direction of the manager, shall see that locked safety-lamps are used and naked lights excluded wheresoever and whensoever danger from firedamp is apprehended." The Act and regulations provide that an examination of the mine is to be made each day (or, according to circumstances, twice per day). This examination was made, with the result noted above.

It seems to us that the question submitted is a simple question of fact. There can be no doubt as to the meaning of Special Rule 14. The test to be applied under that rule to any set of circumstances is, we think, this: Would a reasonable man have apprehended danger from firedamp? And as to the liability of the manager we may add the further test: Were the steps taken all that a reasonable man would take to ascertain whether or not there was firedamp?

As to the first question, we do not think that it could possibly be suggested that the mine-manager had any reason for fearing danger from firedamp. The Act and regulations provide that an underviewer is to be appointed, whose duty it is to examine the mine daily, and it is as a result of his examination that work is or is not undertaken in any part of the mine. In the case now under consideration the underviewer made examinations, and for several days preceding the accident everything was reported all safe, and ventilation good. In view of the fact of which you inform us, that with good ventilation a mine could be clear and work could quite safely be undertaken a day after gas was reported, we cannot conceive a reasonable man who relied on the underviewer's reports having any fear whatever of danger from firedamp. So that the manager could not, we think, be held to be guilty of an offence unless he could be said to have neglected Special Rule 14, or, in other words, unless the steps taken by him were less than would be taken by a reasonable man to ascertain the presence of firedamp. As stated above, the Act and regulations provide what is to be done as to examining the mine, and although a bare compliance with the letter of the statute is not necessarily sufficient, yet such a compliance (which is undoubtedly shown in this case) is *prima facie* evidence of reasonable care having been taken. And the evidence required to rebut such a *prima facie* case would have to show very definitely that the mine-manager did in some way neglect his duty. But there is nothing whatever in the facts submitted by you to us which suggests that the manager was in any way whatever neglectful. And on those facts we do not think that a Magistrate could or would find the manager guilty of a breach of Special Rule 14.

MILLER AND SON.

The Inspector of Mines, Thames.

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