IN THE COURT OF)
COAL MINES REGULATION) No. 1 of 1965
HOLDEN AT BULLI)

BEFORE HIS HONOR JUDGE GORAN

Tuesday, 7th December, 1965.

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IN THE MATTER OF AN INQUIRY IN PURSUANCE OF THE COAL MINES REGULATION ACT INTO AN ACCIDENT WHICH OCCURRED AT THE BULLI COLLIERY ON 9TH NOVEMBER 1965 AND ITS CAUSES AND CIRCUMSTANCES.

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(PART HEARD)

HIS HONOR: I can inform the parties in this matter that the Minister for Mines has approved of all parties to this inquiry being provided daily with a free copy of the transcript of evidence. The copy of the transcript will be available to the representative of each party at the office of the Clerk of Petty Sessions at this Court House between 9.30 and 9.45 a.m. on each day that the office is open after the day on which the evidence is taken. The first copy will be available tomorrow morning between half past nine and quarter to ten at the C.P.S. Office.

(The order for all witnesses to leave the Court was made, but after all counsel indicated they had no objection to witnesses remaining in Court, His Honor rescinded the order.)

MR. LEE: I will open the case which it is proposed to put on behalf of the Minister.

On Tuesday 9th November 1965 at about 9.15 a.m. a fire broke out in No. 8 Section Right at the Bulli Colliery and as a result of the fire four miners employed at the colliery lost their lives. They were Frederick Hunt, John Hilton Murray, Henry Albert Smith and Robert Charles Stewart. Three of those men were burnt to death and the fourth was asphyxiated. A fifth man received burns but survived. Rescue efforts were put in train, fire fighting measures were taken, and ultimately some twenty hours later the fire was brought under control.

An investigation by inspectors appointed by the Mines Department was undertaken and this took the form of questioning various persons who were able to give relevant information and inspecting the area, the plant, the appliances and the machinery, using various gas-testing devices and taking samples of air and gas. In this investigation it is proposed to put before the Court on behalf of the Minister evidence which will fall into two main categories. The first category is that relating to the actual origin of the fire and why it became such a serious and great fire. The second category, which will of necessity include much of the evidence covering the first, will relate to what I would describe as certain features in Section No. 8 and certain procedures adopted in Section 8 which it is claimed created a substantial hazard of fire or explosion in that section. It will be our submission that these objectionable features were, in effect, the ultimate reason, beyond the spark which set it off, for the disaster.

So, in other words, we will assign a specific set of circumstances and conditions to Section 8 on the morning of 9th November, we will seek to show how spark or flame was originally caused, and will then show that flame operating in those circumstances would do the things and cause the fire which in fact ensued. We will then contend that that set of circumstances should not have been permitted to exist because of the hazard of fire or danger to life created by those circumstances. Even if the origin of the fire as suggested by the Court to be precisely as the Department puts it, these circumstances and conditions

which existed in Section 8 would none the less have to be passed upon by Your Honor because of the hazard and danger which they created as far as fire was concerned.

Firstly, then, the precise origin of the fire. At this stage, if I may I will hand up to Your Honor a plan which I think all counsel have. If anybody has not received one they might let me know.

(Plan tendered and marked Exhibit "A")

I have one here in position and if it is held there Your Honor will see the various matters I refer to, as well as my learned friends, and it will obviate searching on the plan for the various things to which I will refer. AS Your Honor will see, this plan supplied by the Manager of the colliery shows as the item at the top indicates, the workings in No. 8 Right Panel as at 13th November 1965. It shows various items and there are some very slight divergences between that plan and the position as it actually existed at 9.15 on the morning of the 9th, but those differences are very slight, as I say, and I will not trouble about them at this stage.

Starting from the top left-hand corner of the plan, Your Honor will see the words "timber bay" and that area which I am indicating there was the area where the men were workingat the face and some of them will refer to that timber bay because it was from there that they ran back down the tunnel. Coming back down the tunnel one comes to an intersection between A. heading and No.2 cut-through and Your Honor sees at that intersection there are shown two fans in the position just to the left of the intersection. Behind those fans is a thing called brattice, with which Your Honor no doubt is familiar, and coming this way is the A. heading, so marked, and above that marking the words "return airway." I will say something about that later on.

From the fans there was a tube or vent which went into the face and there was another one which went across from the fan with the dotted lines - flexible vent tube is what it is called, in polite language the elephant's trunk. That plays a part and a considerably significant part in the evidence we will be bringing. Alongside the elephant's trunk is the shuttle car which is that oblong marked there right at the end or just near the word "driver." Your Honor may remember seeing that when we were down there. Towards the back of the shuttle car and near the position it ultimately came to rest, and I think Your Honor saw it yesterday, there had been erected some brattice - that was not visible yesterday because it was burnt or burnt out, but it was at a point which would indicate that the shuttle car went through it.

Still staying in A. heading and into that area which is in fact called the shunt area, I might mention that the heading there dips down towards the area marked "goaf." It is the down incline; it was quite a noticeable down incline although I do not know whether Your Honor walked down it. Coming back through No. 2 cut-through, we come to B. heading which intersects down here. Still further down, Your Honor sees another oblong with the word "driver" marked on it. That was another shuttle car which was in use that morning, shuttle car No. 67. Mr. Hope was driving that shuttle car. Mr. Mangles was driving shuttle car No. 40 which was up in A. heading, and both those witnesses give rather precise evidence about the starting of the fire and the form it took.

Coming further back down No. 2 cut-through, you are then in C. heading and Your Honor will notice under the words "C. heading" the words "intake airway." The air went along

C. heading, up through No.2 cut-through, along the face and back through A. heading. Along C. heading and coming back, you have the track and right back where I am pointing is the transformer, so marked. Over on this side is the area marked "goaf" and I will say something about that later on. I think that will tell Your Honor sufficient at this stage about the layout of the area to explain what I have to say.

Those two fans were exhausting air from the face and from near the brattice where No.40 shuttle car was ultimately found. The bleed tube went across there and the other vent went out into the face and the fan was taking the air from those two areas and exhausting it back through the brattice into the return airway. I mentioned that Mr. Hope was driving shuttle car No. 67 and Mr. Mangles was on shuttle car No.40. As I understand the procedure, Mr. Mangles would go into the face, get the load, come out and then, so that Mr. Hope can bring in his vehicle there not being sufficient room for two vehicles, Mr. Mangles shunts into the area where the shuttle car is shown on the plan. He comes back down a little bit over the intersection, then drives in at slant into the shunt, and at that point of time Mr. Hope is behind, waiting to go through, past him up into the face. That is rather significant because Mr. Hope from the position he was in will be able to describe to the Court the position of the shunt car at the time he first noticed the fire.

In addition to the four men who lost their lives and Mr. Barry Kent, the man who was burnt, there were two other men, Dale Jones and Charles Stewart, working near the face, and another gentleman, Mr. Donald Ashford, was driving the locomotive on the tracks. He will be able to give relevant information also.

When Mr. Mangles brought his vehicle back here and waited to go into the shunt, Mr. Hope is back here on his shuttle car, and while shuttle car No. 40 was at an angle into the shunt Mr. Hope saw a flash of flame come out on the driver's side of the shuttle car, the driver being on the side nearest the face. When Mr. Hope saw that, what he saw was in fact a flash of orange flame shoot out on the driver's side of the car. He saw the flames spread along the roof and over towards the fan over here, and it would seem much the same time Mr. Mangles, who was on the shunt car, saw a fire at the back of his car near the brattice which at that stage was a few feet away from the vehicle. He jumped off the car and he noticed the fire run up the elephant's trunk, the bleed tube. The fire that he saw, the first fire he saw, was a bright blue flame.

HIS HONOR: The tube which you call the elephant's trunk is also known as the bleed tube; that is the one you have just referred to?

MR. LEE: Yes; I will call it the bleed tube. He noticed this blue flame coming from the back of his vehicle and it went across to the bleed tube and the fire spread. When it began to spread along the bleed tube, he will say it appeared to him to be a normal flame. Neither Mr. Hope nor Mr. Mangles heard any explosion or any bang of any kind. The flames spread along the bleed tube, and the timbers at the side, and crossed to the fan, and it was soon a fire of considerable proportions.

In the meantime, Dale Jones, who was down here, had seen the fire up the tunnel and he had given an alarm to the men in that area, and he and Charles Stewart dashed along the tunnel through the intersection and made their way out. But the other men were not so fortunate. A third one, Barry Kent, was able to dash through, but he was badly burnt.

That left four,and it is not without significance that the three who were able to get through were somewhat younger than the men who unfortunately perished. Now, the remaining four men may have tried to get through - it is not at all clear what happened - but ultimately three of them were found alongside shuttle car No. 40 in the shunt area and they had been incinerated, and the fourth man was found further along the tunnel here with his head in the vent tube and his safety lamp upside down alongside him.

If I may return to the fire. It spread out across the intersection to the fans, it went down the cutting, it went back past where the brattice had been, it consumed the brattice it would seem, and further back towards the edge of the goaf, it came down here where No. 3 Cut Through is marked and the roof section, across the intersection, into No.2 Cut Through and up the tunnel there a little bit collapsed and substantially impeded ultimately the operations of rescue and fire fighting. I think that is as much as I need show at the moment.

The rescue and fire fighting operations commenced almost immediately and these efforts were considerably hampered by an inability to get to the area of the fire. The smoke position was very acute and men were kept back to fight and perform rescue operations in G. heading and they could not make progress at all for some considerable time until ultimately a way was found around the extension of the goaf there and into A.heading and the fire was brought under control. I shall not spend any further time on that. Your Honor will hear it from the witnesses.

When it was possible for an examination of the area to take place a number of inspectors went in and made a thorough examination of the scene of the fire, the shuttle car, the electrical system and its components, the bleed tubes, the fans and all other equipment that was there in the area. The inspectors from the Department of Mines were unable to find any fault in the electrical system or its components and evidence will be put before the Court on that matter. The shuttle car was checked for the possibility of an explosion in the hydraulic oil sump, but there was no evidence of any such explosion although there was evidence that the oil in the sump had been subjected by the intensity to a cracking process and no doubt volatile gases in the oil were released and may have aided the fire but the degree of heat required to bring about that situation was obviously caused, on this view, by some other factor. When the shuttle car was closely examined it was found a piece of wood had been jammed between the disc braking system and the drive shaft of the shuttle car. I may perhaps hand to Your Honor and tender two photographs. The larger is a photograph taken of shuttle car No. 40 soon after the fire showing quite clearly this piece of wood to which reference has been made and to which further reference will be made. Merely at this point of time, to be able to see the machinery, as it in fact operates on the shuttle cars, and you can see there was difficulty in getting a proper photograph, we took a photograph of another shuttle car quite unrelated to any of the shuttle cars in the mine showing the position of the machinery which is the same machinery on that other shuttle car. Your Honor will see the white stick, the white piece of wood in between the two component parts and that is to indicate the area where this piece of wood was in fact jammed between that drive shaft and the disc braking system, so the little photograph is by way of explanation only of the larger.

(Large photograph marked Exhibit "B1". Small photograph marked Exhibit "B2".)

Your Honor will hear evidence on this point at some length because it is the view of the Department that the friction created on the wood being jammed in that position and both the drive shaft and the disc braking system, the braking disc, there circulatingat a high rate was sufficient to create a spark and we will put technical evidence before the Court to show what temperature is required to do it and how that temperature could quite easily have been maintained in that area.

In addition I should mention in support of this proposition

that there was friction against the wood jammed between the disc and the drive shaft, that there was found certain coked coal in the area of the disc and the drive shaft bearing the profile of the disc as though it had been lying there against the disc and the disc had coked the coal dust by the heat and that portion of coked coal dust did bear the profile of the disc. The shuttle car, it will be shown, had been operating for a lengthy period. The brakes had been in regular use and we will put it that there was clearly a source of ignition here capable of igniting wood, and it was on the driver's side. Your Honor will remember Mr. Hope saw the flame flash from the driver's side of the car. Mr. Mangles, I understand, will be able to give the Court some information about the extent to which he had used the shuttle car and to the effect that the brakes at various times about this time had begun to smell hot.

If it can be shown it is reasonable to take the view on the evidence that there was a source of ignition in that area capable of igniting this piece of wood which was crunched in there between the disc and the drive shaft one would then need to go on and ask why would the ignition of a piece of wood in the shuttle car bring about a fire of the dimensions of this fire. As I have said there was no fault that the inspectors could find in the electrical system, nor could they on their investigation attribute the fire to any other causes except one, and that one is a cause which would suffice to explain why the fire developed so quickly and why it spread with such intensity, and that cause is the presence of inflammable gas, in this case, specifically, methane.

Your Honor no doubt, like all of us, is well aware that gas is released from coal and may I just make these brief observations because Your Honor will have the benefit of the full technical evidence on the matter: Methane gas is released from coal and is lighter than air. It is found, for that reason, usually near the roof. A concentration of 0.25% of methane near the roof within 100 yards of the working face is acceptable but a finding of 1¼% in the general body of air is regarded as a serious matter and measures must be taken. A finding of that percentage would preclude the use of any electrical equipment in that area. Carbon dioxide which is not inflammable is heavier than air and it is known, in the mining community, as black damp. Methane is known as fire damp. Actually, as the technical evidence will show, black damp consists of carbon dioxide and also a small percentage of nitrogen. Methane and carbon dioxide, although they exist separately as gases, can exist, or co-exist, as a mixture and they are then known as Illawarra Gas. The proportion of one to the other can vary and any ratio is possible. Where, however, carbon dioxide preponderates in the mixture the mixture is then known as, or called in the mining community Illawarra bottom gas, or, just bottom gas. The larger component, carbon dioxide, being heavier than air, the mixture is usually found near the floor. Given a mixture of certain proportions you have a mixture which will explode or burn in air. Now, tests taken after the fire prove conclusively, in our submission, methane carbon dioxide combination, in other words bottom gas, was present, in mixtures capable of igniting in air, that they were present in the vicinity of the fire, that is in the workings itself, and in and around the goaf area. Just after the fire bottom gas, methane in particular, in significant quantities was detected near the shuttle car at the floor, or a few feet off the floor and from there was traced to the edge of the goaf. May I refer to the plan again: It was found in the vicinity of the shuttle car and was traced back to the goaf edge there.

Your Honor perhaps has had the goaf area explained although it may be simply sufficient to say the goaf is the worked out

area and in this case it extends, we understand, over about 5 acres. It is not subject in any way to the ventilation system of the mine and in a goaf gases continue to form and accumulate and bottom gas forms in a goaf and, being heavier than air, it tends to stay there. This plan does not show one thing, which I had not observed earlier. If you continued out there you would be in an area also which had been worked out, the pillars had been taken out and it, I think, was still supported by roof timbers but the actual goaf area is taken down on this plan to there. These tests showed methane in bottom gas was present in A. heading and back to the goaf. In addition, near the edge of the goaf and for a short distance inside the goaf there was detected a mixture of methane and carbon dioxide in combinations that differed, appropriate for inflammability. In fact, the mixture of bottom gas in this mine was 40% methane, 58% carbon dioxide and 2% nitrogen, leaving out all decimal points.

The discovery of the gas near the goaf after the fire, and in the goaf, of course leads inevitably to the conclusion that it was there before the fire. So one then asks, on this interpretation being put forward by the Department, as to how the goaf gas got out, or, perhaps more appropriately, why it got out.

It is established fact that a drop in atmospheric pressure will cause the gas in the goaf to move and to move outwards into the area of reduced pressure and Your Honor is probably well aware that the Act itself provides for a barometer to be displayed in a conspicuous place in all mines, and that is the reason for it. It has been possible to calculate approximately the cubic gas content of the goaf and this figure will be put before the Court. The evidence will show in the 24 hours before 9 a.m. on 9th November 1965 the barometric pressure dropped half an inch. We will seek to show from experts what movement of gas might be expected to result from that drop but in any event the drop would cause the gas in the goaf to move out to the area of less than normal air pressure so created.

There was a brattice at the end of C. heading here. There was none at B. heading in here but there was brattice there.

HIS HONOR: There was brattice at C.?

MR. LEE: Yes. It is shown here. One there, none in B. and one in A.

If the goaf gases were to move anywhere they had to move in this direction. Theoretically they could come through the brattice in A., they could come down heading B. and through the brattice in C. because the brattice erected in A. and C. is not an air-proof brattice although it does tend to assist in the ventilation and does also tend to keep the goaf gases back but it is not airtight, gas can come through. So, theoretically, if the goaf gas moved out it could come into any one of these three passages. There are two features that are important here, one is that A.heading dips down to that corner and the general dip is of the land here, up here it has been worked out, back towards that point and across towards that point. So you have a situation A. heading there where there is a lower spot than anywhere in the surrounding area. That is the first point to be mentioned. It will be said that the bottom gas, being heavier than air, tends to travel, if it is travelling, somewhat after the style of the way you would expect water to travel, it will tend to go downhill, in other words. It is not restricted, as water is, to that form of movement, but that is the tendency, nonetheless.

HIS HONOR: To the lowest point?

MR. LEE: Yes, the lowest point. We do not discount - I am not suggesting at all it could not come out in the other places I have mentioned but there is a factor in A. heading which is important and it is rather significant that even after this fire, since this fire, and certainly to my knowledge up to the time I went down the mine which was last Wednesday, I think, they were still getting methane at that point in significant quantities. Then, quite apart from any falls in barometric pressure or anything of that nature it was still detectable there. There was this other feature of the location of the fans in A. heading. The effect of the fans is that an area of reduced pressure is created by virtue of the operation of the fans as they are discharging air from the vent tubes and there is a tendency, it will be shown, that that creates an area of reduced pressure so that not only have you the drop in barometric pressure but the area of reduced pressure further created, thus making it available for the gas to come out if it will. The bleed tube, on the evidence, was very close to the brattice in A. heading and whilst it would certainly pick up some gas which might come through the brattice there, if it did not pick it up then it was into the working area, through its natural movement, it would be into the area of reduced pressure round about the intersection and in that vicinity. May I stop and make these points: On the Department's interpretation of the matter you have the following, this is at 9.15 a.m. on 9th November: Inflammable gas in the goaf; you have a drop in pressure causing the gas to move out, or enabling it to move out. You have a likely movement of the gas to A. heading behind A. brattice because in that area the accumulation might be more favourably expected because of the layout of the land, and you have an area of reduced pressure from the brattice across the intersection because of the operations, not of one fan, but of two fans.

It is our submission that that situation was one which set the stage ideally for disaster because all that was needed was a spark, and on the Department's interpretation, that spark was supplied by the shuttle car as it moved slantwise into the shunt and the fire took place at that point, in other words, it took place where we claim, if there was to be gas, you would expect it to be and it was perhaps just diabolical fate that when Mr. Mangles jumped off his shuttle car it ran back a bit and went through the brattice of A. heading and thus left a free passage for whatever gas was accumulated behind that brattice at that time to come in and feed the fire which had started at that stage.

I think enough has been said to show that whether it was to be 9th November or some other date the situation in section 8 was one which was dangerous and one may fairly ask at this point why, it being now so clear inflammable gas was present, it was not detected earlier. It may be there are a number of answers for that. It may be simply the vagaries of fate had kept the goaf gas in the goaf. It may be this drop of half an inch of barometric pressure in 24 hours was needed to release it. It may be it required that drop together with the use of these fans in the situation in which they were. It may be, and it must be said that although the gas was there it may not have been detected or recognised for what it was, and this is not intended as a criticism or reflection on anyone at all who made any one of these tests, the method of testing is by the use of an oil safety lamp which, in the presence of methane, will show a cap on the flame. The same safety lamp, operated slightly differently, is used to test for carbon dioxide. The fact is the presence of methane in only small quantities in bottom gas could be missed by even a careful tester. If he has had experience before in detecting it in small quantities of methane gas, heis of course much better fitted for the test than the man whose previous tests have not revealed to him the

presence of any methane. Whether bottom gas was ever found or suspected in this colliery is something the Department is not aware of - perhaps the management can help on that point. I would like to say that there is a device called a methanometer which the inspectors have used for some little time which does accurately indicate the presence of methane and there would appear to be sound reasons for suggesting its use to detect methane in bottom gas leaving the oil safety lamp still as the very satisfactory test for carbon dioxide. So, I have dealt with the Department's interpretation of the circumstances which caused the fire and I have, as Your Honor can appreciate it, done it in a very general way but the evidence will fill up the outline I have drawn in perhaps a technical and very detailed fashion. I now wish to turn to what I have described as certain features in Section 8 and certain procedures adopted therein which in the Department's opinion created a substantial hazard for fire or danger to life, danger of explosion. The Department will put forward evidence to show that this danger was unnecessary, contrary to good mining practice and contrary to the practice which the Department had insisted upon and which the management of the colliery had hitherto adopted over a number of years and it is claimed that this situation of danger came about essentially because of disregard of a principle which was well established and well known to the colliery management in regard to ventilation in pillar extraction. Going back to the plan for the moment, I mentioned that the intake airway is along C. heading and the return airway is along A. heading. When the air comes through the brattice at C. heading of course tends to direct it properly to where it has to go, it passes through there, into the heading, and then the air is discharged from those two points back into A. heading but it is apparent from merely an inspection of the plan that if gas has to come from the goaf at all, for whatever reason, it must find itself into the workingáreas. It has got to go across the working areas or through them before it finds its way into the return airway. While ever this three heading system of design was continued the ventilation system was quite adequate and proper but when the workings took in the area which is now covered by the goaf the problem was immediately created and became acute and more acute as the workings continued. The proper practice is that the goaf gases must find their way into the return airway from the goaf. In this way they can be dissipated without danger. In the situation here the ventilation system with the auxiliary fan was not appropriate to do this and as I have shown from the plan it brought about a situation where the goaf gas would not, except to the extent that they might be drawn off by the bleeder tube in A. heading, get into the return airway ever without first circulating in the workingárea. It is true there was brattice in A. and C. headings which both aided the ventilation and tended to keep the goaf gas back but I doubt that it will be seriously suggested by anybody that brattice is a completely effective barrier. Had the ventilation system been revised when the company decided to move out in its workings to take in the area which is now the goaf, had it been revised, ifthe intake area had been what is now the return airway and down here or round there, whichever way you like, back here, the situation would have been satisfactory. The goaf then must bleed into the return airways. But that was not done. It would have meant a re-locating of the fans, taking them from there down to about here. It would have meant the transport system would have to be altered in some way and it would also have meant a system of overcasting air passages would be introduced to take the return air either under or over the incoming air at some point.

But fundamentally it is the Department's claim that it was the design of the pillar extraction in Section 8 that was wrong and that should not have been allowed to develop because once the original design of three headings was departed from, this problem arose immediately.

HIS HONOR: You have three headings there; what is the departure from?

MR. LEE: They are driving out there and while ever they keep that system it is the Department's claim that this system of intake air is quite in order, but once you move out there and your workings can be worked out as you go along, you are building up a goaf there in that area from which gases can come, and the only way they can come is back into the working area. The goaf is the trouble; it is the ogre in the picture. Whether the pillar extraction in this area was initially planned as it was subsequently worked as that plan shows, or whether like Topsy it just growed, is something we no doubt will find out. But whichever it was, the submission of the Department is that once the goaf came into the picture it behoved the management to reconsider the ventilation system and to appreciate the problem which the goaf created.

Up to 1959 the auxiliary fans of the type concerned here were not used in ventilation to any extent at all, I understand, and the only fans in use were the blowing fans delivering air in. But the introduction of the auxiliary fan in this colliery in 1960 immediately brought into prominence the problem of goaf gases in pillar extraction. In the early stages it was dealt with in this colliery between the Department and the management on what you might call a trial or an experimental basis. Both parties were seeking to devise the best method to deal with the problem which the creation of the goaf brought into existence. We will put before Your Honor evidence in that regard showing the company's first attempt to deal with the problem of the creation of the goaf and the necessity for the goaf gas to go into the return airway, how that was inspected by the then inspector who was not satisfied with it although fully appreciative of the genuine effort the company had made to deal with the situation, and he advised the company to give the matter some further consideration to make it safer because on the system which was used inflammable gas was found at a certain point. As a result of that, the company came up with a scheme or system or method which proved very satisfactory and in that instance to which I am referring it cut a bleed tunnel through to the goaf, linking up with the return airway, so that the goaf gas could go into the return airway through the bleed tunnel. In fact, that system of leaking the goaf into the return airway was carried out by the management of this colliery on at least a number of other occasions in the pillar extraction which followed after 1960, and we have plans submitted - a little sketch plan, I can think of one about 1961 - by the then manager showing this system of the goaf bleeding into the return airway and stating in the covering letter with it that this system had proved successful in the previous working. So that a system, or an appreciation of a problem if you like, was in existence, known to the management and the Department, and a device or method worked out to deal with it, known to the management and to the Department, over a period from 1960 and used successfully. Now, it was departed from in this instance.

From the correspondence which will be before the Court, passing between the management and the inspector at the time from 1959 and through to after that date, it will be clear that the positioning, the location and the set up of the auxiliary fans was a matter of prime importance. It was made

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Up to 1959 the auxiliary fans of the type concerned here were not used in ventilation to any extent at all, I understand, and the only fans in use were the blowing fans delivering air in. But the introduction of the auxiliary fan in this colliery in 1960 immediately brought into prominence the problem of goaf gases in pillar extraction. In the early stages it was dealt with in this colliery between the Department and the management on what you might call a trial or an experimental basis. Both parties were seeking to devise the best method to deal with the problem which the creation of the goaf brought into existence. We will put before Your Honor evidence in that regard showing the company's first attempt to deal with the problem of the creation of the goaf and the necessity for the goaf gas to go into the return airway, how that was inspected by the then inspector who was not satisfied with it although fully appreciative of the genuine effort the company had made to deal with the situation, and he advised the company to give the matter some further consideration to make it safer because on the system which was used inflammable gas was found at a certain point. As a result of that, the company came up with a scheme or system or method which proved very satisfactory and in that instance to which I am referring it cut a bleed tunnel through to the goaf, linking up with the return airway, so that the goaf gas could go into the return airway through the bleed tunnel. In fact, that system of leaking the goaf into the return airway was carried out by the management of this colliery on at least a number of other occasions in the pillar extraction which followed after 1960, and we have plans submitted - a little sketch plan, I can think of one about 1961 - by the then manager showing this system of the goaf bleeding into the return airway and stating in the covering letter with it that this system had proved successful in the previous working. So that a system, or an appreciation of a problem if you like, was in existence, known to the management and the Department, and a device or method worked out to deal with it, known to the management and to the Department, over a period from 1960 and used successfully. Now, it was departed from in this instance.

From the correspondence which will be before the Court, passing between the management and the inspector at the time from 1959 and through to after that date, it will be clear that the positioning, the location and the set up of the auxiliary fans was a matter of prime importance. It was made

clear to the management not only that permission was required for the installation of the fans but that the fans must be located in approved positions and in accordance with the system which had been devised to deal with this problem of goaf gases. No permission to locate these fans in that position was ever sought and no permission would have been given. No permission to use two fans was ever sought and no permission in that regard would have been given. Had the situation been drawn to the Department's attention there is only one thing the Department could have done, the works having advanced to the stage to which they had advanced; it was to direct a re-location of the ventilation system in the manner I indicated previously.

In broad outline that is the nature of the evidence which will be put before the Court. There are sections of the Act, there are Regulations to which perhaps reference will be made later on, but at this point of time it is not appropriate to refer to them. I propose to call evidence from the Department in this order: I propose to call the men who were at the scene of the fire in the workings on the day, 9th November. There will be seven such witnesses - possibly six if Mr. Kent is not well enough to give evidence. From that point on, the evidence of the Department will consist of the evidence of inspectors and technical experts all of whom are located in Sydney, and as I understand that some sittings may take place in Sydney I merely mention that at this point of time, once the men working in the area have given their evidence the evidence in my case from that point on will be from witnesses who are located in Sydney.

I will now call the evidence.

FREDERICK ALBERT HOPE,
Sworn and examined as under:

MR. LEE: Q. Is your full name Frederick Albert Hope? A. Yes.

Q. Do you reside at 200 Main Road, Bulli? A. Yes.

Q. You are a married man and you are employed at the Bulli Colliery as a shuttle car driver? A. Yes.

Q. On the morning of Tuesday the 9th, you were working in the No.8 Right Section of the mine on shuttle car No.67? A. That is correct.

Q. I think just before the incident you were at the shuttle car ramp waiting for the other shuttle car to come out and shunt? A. Yes.

Q. You might explain the procedure in your own words? A. Well, I had 67 shuttle car and I unloaded at the ramp.

Q. The ramp is down here (indicating on Exhibit "A"), is it not? A. On the heading.

Q. On the C. heading? A. Yes.

Q. You unloaded there? A. Yes, and I just moved back to drop the boom down, the back end - the front end, like down.

HIS HONOR: Q. What is the boom? A. You had to lift that up to go over the mine car to unload the coal out of the shuttle car.

Q. Take the shuttle car. You are taking the coal off the miner, is that right? A. Yes.

Q. Then you load that onto the car? A. Into a mine car, on a winch. The cars are on a winch.

MR. LEE: Q. While you are doing that, what is Mr. Mangles doing up here? A. He is down at the face, loading.

Q. And when he comes back with his full truck, what does he do? What is his procedure? A. He has to shunt to allow me to go past to the face again to fill.

Q. When he does his shunt, he shunts into the section I point out on the plan there? A. Yes.

Q. In a heading? A. Yes.

Q. When he does that shunt, which way does he go into the shunt? A. Comes straight up, straight from the face up past his shunt and then changes his seat to go into the shunt - he changes his seat on the shuttle car. There are two seats on the shuttle car.

Q. As he comes back from the face and he is driving towards you, which side of the car, looking at you from where you are looking, is he sitting on? A. On the opposite side to where I sit.

Q. Which is that? A. He is on my left hand side if I am looking at him.

Q. And he comes down and does his shunt here and gets on to the other side of the car, does he? A. No, he comes up the heading, he is facing me, and to go into the shunt he has to turn to the other seat to drive it into the shunt.

Q. The same side? A. Yes, they are on the same sides.

Q. How long had you been working that morning? A. I could not tell you the exact time.

Q. Well, what time did you start? A. We generally start about 20 to 8.

Q. And you had been operating the shuttle car since about that time, without being precise? A. Yes.

Q. And Mr. Mangles the same? A.Yes.

Q. What did you see happen? A. Well, when Mr. Mangles came up, as soon as he stopped to turn to go back into the shunt, to change the seat, I started to move down to pass him and I hadn't travelled very far and he was about halfway into the shunt. You could see this like flash.

Q. Where did it come from? A. It appeared to me to be on the driver's side.

Q. On the side he was on? A. Yes.

Q. Whereabouts in relation, say, to the floor or back of the car or where? A. Well, it appeared to me to be more towards the floor.

Q. What sort of a flash was it? A. It was a bright flash but it was light - like light blue in colour.

Q. I do not think you have said this: Was the shuttle car at the time you saw the flash - A. He was only about half way into the shunt.

Q. Was he at an angle across the corner? A.No, he was about straight up.

Q. He was about straight up, was he? A. Yes.

Q. There was a piece of brattice, or rather there was a brattice in A. heading at the back of the shunt car? A. Yes, there was a stopping there.

Q. What sort of brattice was it on that morning, do you remember? A.Oh, I couldn't tell you that.

Q. You cannot remember? A. No.

Q. But there was something there as a brattice? A. There was a stopping there.

Q. Do you know how far back from the intersection into the shunt area it was? A.No, I could not tell you that.

Q. You saw the flash. Did you see -

HIS HONOR: Q. When you saw the flash was the car moving or had it stopped? A. It was moving when I saw the flash.

Q. It was moving when you saw the flash; was it coming to a stop or moving off? A. No, he was on his way into the shunt.

Q. That means he had stopped and was going into the shunt? A. No, he was on his way into the shunt. He has to go down past his shunt to go back into the shunt.

Q. I take it at some stage he changed seats, as you told us? A. Yes.

Q. To do that he must stop?A. Yes, when he comes up the heading, he changes his seat to go into the shunt, and I would say the shuttle car was about halfway round, like, into the shunt when I saw the flash.

MR. LEE: Q. What did you do when you saw the flash? A. I stopped the shuttle car I was driving.

Q. And what did you see happen? A. I just got off and then there appeared to be like this flash and then immediately there was this flame shot up and that appeared to be on the driver's side too.

Q. You saw a flash first, is that right? A. Yes, immediately followed by these flames.

Q. Did you see what Mr. Mangles did? A. Icouldn't actually see him get off the car but I saw him run round the front end of it.

Q. What did you do? A. I called out to him to knock the boxes off - the gate end boxes.

Q. Where are they located? A. They were on the opposite side of the shunt, just up the cut-through a bit.

Q. Perhaps you could indicate on here by some item? A. They are marked here (indicating on Exhibit "A").

Q .They are marked there as electrical boxes J.C.M.? A. Yes, they are all there.

Q. You told him to go and knock the boxes off? A. Well, he had to pass them.

Q. When he jumped off his car did you notice whether his shuttle car remained stationary or moved? A. No, it was stationary.

Q. It was stationary when you saw it at that point? A. When I saw it. I didn't actually see him jump off, I saw him run around the front of the car.

Q. And at that time the shuttle car was stationary, was it? A. Yes.

Q. What happened after that, after you had told him to knock the boxes off? A. He called back, "No, the tranny, the tranny."

Q. Meaning the fransformer? A. Knock the transformer.

Q. Which was some considerable distance further away? A. Oh yes.

Q. AND which is shown marked on the plan? A. Yes.

Q. Would you just proceed then and try to give us the events as they occurred, in the order in which they occurred. He has called out "the tranny." What happened after that? A.I had like started towards him. I got off the seat of the shuttle car. I had started to go towards the face - the other shuttle car - and that is when he sang out "the tranny, the tranny," so I turned round and I ran back towards the ramp.

Q. You got off your car? A. Yes, I was off the car, going towards him, when I told him like to knock the boxes off and then he called out "the tranny" and I turned round and I ran back towards the ramp. That is where I came from and loaded.

Q. That is down in C. heading? A. Yes. When I had nearly got to the top of the ramp I sang out "Knock the tranny off" and then I went on to C. heading, then just about the vicinity of the winch - before, I am sorry, when I said "Knock the tranny off" I looked back to where the shuttle car was and I could still see the shuttle car but the flames were nearly right across the heading then, across the intersection.

Q. To whom did you call out when you said "Knock the tranny off"? A. Oh well, what's-a-name - just before I had left I had been talking to the loco driver.

Q. That is Don Ashford? A. At the ramp, and I naturally thought he would be just around the corner of the pillar.

Q. Having done that, what did you do then? A. I went around to where the winch was.

Q. Where is the winch? A. It is on C. heading.

Q. It is marked there on the plan. You went to where the winch was and what happened? A. I was just standing there when Charlie Stewart came from up the headingand he sang out "Get help quick," so I looked at the loco. The loco was on the winch, it had cars on it, and I was on my own so I started to run towards the three 8 phone.

Q. You started to run towards the three 8 phone. Where is that? Is that shown here on the plan; I do not think that one is? A. No, it would be out further.

Q. Holding the plan, the Exhibit, you say the three 8 phone is still further left of the words "High tension cable track" shown on the bottom left hand side of the plan? A. Yes.

Q. So that is where you made off for, is that right? A. Yes, and then whe I got to about the compressor, there was lights.

Q. You see the compressor marked there in C. heading? A.Yes.

There were lights and I know Frank Zanni was one of them and he said "What's wrong?" and I said "There's a fire at the shuttle car." He had a fire extinguisher and he ran down C. heading towards the fire. I was there and then I turned around like and I went back towards the shuttle car ramp again and before I got there Frank Zanni, and there was another person with him - I think it was Mick O'Connor, but I wouldn't be sure of that - and they had Barry Kent, he was along C. heading, and he give Barry to me and he said "Make him sit down and keep him quiet" so Barry sat down and he was complaining about he couldn't get air, pains in his chest, so I undone his overalls and loosened his belt off. Frank had not gone very long and he came running back and he said "You can't get down that heading, it will be full of carbon monoxide fumes already. You had better take Barry out" so I helped Barry to his feet and the first loco that came out, I stopped him on the shunter's side and I stood beside him and asked him to keep his head down so that he wouldn't hit the bars going out and I went out to the three 8 phone. Then they took him in the cab and when I got there they were bandaging his hands. Ray Waring had his back to me, putting a bandage on his hands, and then he had another three cornered bandage and he was wanting someone to put eye holes through it and put it on him like a mask. I never went back into the tunnel anymore, and when the transport came to the pit I went out with it.

Q. Would you describe to us then where the fire was when you last saw it? A. It was coming right over the top of the shuttle car in the vicinity of the roofbecause I could still -

Q. To which shuttle car are you referring? A. The one Tommy Mangles was driving. It was coming over the top of that in the vicinity of the roof because I could still see across the top, the heading.

Q. Was the fire at or near floor level at that time? A. No.

Q. It was up in the roof, was it? A. It was about halfway down, I would say.

Q. You are referring there to your view of the intersection between A. heading and No. 3 cut-through, are you? A. Yes.

Q. How far down No.2 cut-through towards the face had it got when you last saw it? A. The fire?

Q. Yes? A. It was practically right across the intersection.

Q. What sort of flames did you see? A. I say they were orange colour.

Q. Was much smoke being produced? A. I never noticed any smoke.

Q. From the time you left, or up to the time you left them, was that the position that you did not notice smoke? A. Yes.

Q. How would you describe the way the fire was working? Did it appear to be raging or how would you describe it? A. Yes, it was going very strong I thought.

Q. It was going very strong, was it? A. Yes.

Q. Whilst you were there, before you left the section were you aware at all as to whether the transformer had been cut off? YOu called out, didn't you? A. Yes.

Q. "Cut it off" or whatever the words were; was that done to your knowledge while you were there? A. While I was there, I

would get to the transformer perhaps.

Q. How many years have you operated a shuttle car? A. I wouldn't know for sure. About seven I suppose.

Q. What can you tell the Court about the brakes and the braking system; any tendency to get hot? A. Well, where you are working on the grade the what's-a-name, I have always known them to get hot when working on a grade.

Q. How hot do they get? A. You can feel the warmth when you pass them.

HIS HONOR: Q. They are disc brakes, are they? A. Yes.

MR. LEE: Q. How long previous to this day, 9th November, had you been working in Section 8 Right? A. Ever since it had been started.

Q. Approximately when was that; just give us an idea in some weeks, some months, call it what you will? A. I wouldn't have much idea of it, but I have been there ever since 8 Right started.

Q. Would it be that you had worked in Section 8 Right for some months before? A. Yes.

Q. And had you yourself been aware of any gases in the section? A. Yes.

Q. Where did your information come from? A. Well, for years I would say there - (objected to by Mr. Reynolds; allowed).

Q. Where did the information come from as to gas? A. Well, you can feel black damp. I never said inflammable gases.

Q. I appreciate that, so that - A. And the Deputies also told us.

Q. About black damp? A. Yes. You can feel it.

Q. Did you have any awareness at all, from any source at all, of the existence of bottom gas in that section? A. Yes.

Q. You did; from where did that awareness come? A. From the goaf area.

Q. You say the Deputies mentioned black damp to you, is that right?A. They have talked about it, yes.

Q. You would have talked about it? A. Yes.

Q. Do you yourself know the difference between black damp and bottom gas? A. Black damp and bottom gas - Illawarra bottom gas?

Q. Yes. A. I wouldn't be sure.

Q. Well, you know black damp is not inflammable; you have told us that? A. Yes.

Q. Did you have any awareness of inflammable gas in Section 8? A. No.

Q. I should have asked you this. You have told us what you saw; did you hear any bang or explosion of any kind? A. None whatsoever.

CROSS-EXAMINATION:

MR. SULLIVAN: This witness is a member of my client Federation, so although I am quite prepared to cross-examine first, may I have a right to re-examination?

HIS HONOR: I think Mr. Reynolds should be last, but I shall certainly give any counsel leave to ask questions if any matter needs to be cleared up.

MR. McNALLY: No questions.

MR. MURRAY: No questions.

MR. DOYLE: No questions.

MR. CRANE: No questions.

MR. HUME: (Not present).

MR. PARKINSON: Q. Would you tell the Court what union you belong to? A. The Miners' Federation.

Q. How long have you worked in the No. 8 Right Section?A. Ever since it started.

Q. Well, how long would that be? A. The new section we are in now?

Q. Yes. A. I could nit rightly tell you that.

Q. Then approximately? A. The trouble is if I say, I might be a mile out. I just don't know when it was.

Q. Would it be six months, twelve months, eighteen months? A. I suppose it would be going about twelve months, it might be more.

Q. Had you driven the shuttle car during the period of the time you have been employed in the No. 8 Right Section? A. When we first started I was on the pick-up loader 14 B.U., picking up behind the miner and loading it into the miner. They only had one shuttle car in there.

Q. How long have you been driving the shuttle car in this particular section? A. You have got me again. All I know, we didn't use the 14 B.U. for very long.

Q. From the time you saw a flash on Mr. Mangles' shuttle car to the time you got to the ramp and shouted "Knock the tranny off " and then you say you turned around, you looked down and you saw the fire right across the intersection; do you remember saying that to Mr. Lee? A. Yes.

Q. Could you tell us approximately how many seconds it was from the time you saw the flash, ran up to the ramp, turned around and saw the fire right across the intersection? A. Oh, about 60.

Q. About 60 seconds? A. 60 seconds.

q. You also told Mr. Lee that you have experienced heat on these shuttle cars? A. Yes.

Q. Have you ever reported that particular heating to any official? A. No.

Q. You have not reported it? Were you at any time advised by any official that if there was any heating on your shuttle car it should be reported? A. No.

Q. In connection with inflammable gas, is it one of your duties to test for inflammable gas? a. No.

Q. So you rely in the main on whom to indicate to you whether there is gas there or no gas there or whether the place is safe or unsafe? A. The Deputy.

Q. You rely on the Deputy? A. And the machine operator at the face.

Q. At any time during the time that you were driving this particular shuttle car from this particular continuous miner, did you suffer from a headache of any description? A. No.

(Short adjournment).

MR. SULLIVAN: Q.Was the flash you saw, the first flash, actually a blue flash? A. Blue colour.

Q. Then it was followed later by orange flame, was it not? A. Orange colour.

Q. How long have you been working in mines? A. About 28½ years.

Q. You have had extensive experience of pit work, have you not? Can you see the plan from there? A. Yes.

Q. In order to get your coal from the face you had to bring your empty shuttle car down this heading there, and I am indicating the long heading going into the face? A. Yes.

Q. With the continuous miner, then collect your coal, then bring it back and bring it to the loading ramp; is that right? A. Yes.

Q. As far as this particular heading here was concerned, going inby to the face, was it level? A. No, it was a grade.

Q. Was it a steep grade? A. Yes, fairly steep.

Q. Have you any idea of the grade, could you say? A. No.

Q. It was what you described as fairly steep, is that right? A. Yes.

Q. What about from the intersection here of No. 2 cut-through and A. heading up to the loading ramp; was that level or a grade too? A. It was a grade too.

Q. What was that grade like? A. Well, I don't think that would be as steep as what it was just past the intersection where Tommy Mangles' shunts.

Q. So from the loading ramp right to the face was a grade down? A. Yes.

Q. Becoming what you describe as steep when you pass the intersection of A. heading and No. 2 cut-through? A. Yes.

Q. When you were taking your shuttle car in from the loading ramp to the continuous miner, you would have to stop to allow No. 40 shuttle car which was full at that stage to shunt?A.Yes.

Q. For a while; about how long? A. How longwould I have to wait?

Q. Yes; I mean normally? A. Oh well, he had a longer run from his shunt to the face than what I did when I passed him to go to the ramp.

Q. Would it be a matter of seconds, minutes? A. Minutes.

Q. Then again you would run straight through, then down to the face? A. Yes, when he was shunted I would go through to the face.

Q. Did you have to use the brakes all the time? A. Practically all the time.

Q. Practically all the time when running in empty, and you told my learned friend Mr. Lee that these brakes get hot with use; is that right? A. Yes.

Q. Indeed, if they are used continuously on the shift they are inclined to glow when they get in the dark, aren't they? A. I never saw them.

Q. But you can smell them, can't you? A. I never took particular notice about the smelling.

Q. You said yourself when you were going past Mr. Mangles' shuttle car you could feel the heat radiating, is that right? A. No.

Q. I must have misunderstood you. Could you feel the heat of the brakes yourself? A. When I used to pass, I put the cable up on the shoe - I had to pass, go round the offside, put the cable up on the shoe so that it wouldn't get caught on the wheels or the undercarriage of the shuttle car.

Q. You could feel the heat then, could you? A. Yes.

Q. As far as this particular heading was concerned going into the face from the intersection of where the bleed tube was - do you remember that? A. Yes.

Q. In your experience was that a particularly long heading? A. Yes.

Q. Had you had experience with one as long as that before? A.Yes.

Q. In this pit? A. Yes.

Q. Whereabouts? A. 8 Right.

Q. But apart from 8 Right? A. Oh no, only in 8 Right.

Q. That was the longest you had had experience of, was it? A. Yes.

MR. REYNOLDS: He did not say that.

MR. SULLIVAN: Q. I am putting that to you: That is the longest? A. Yes.

Q. Indeed it is most unusual, is it not, to have a heading of that length? A. Oh well, it was to me, from my experience.

Q. From your experience of28 years, is that right? A. Yes.

Q. Did you yourself come up to the surface when transport was available, immediately after the fire? A. No - oh, when the first transport came out, yes.

Q. And at that stage were other men from that section there with you to go out? A. Only one I can recall - Tommy Mangles was out there with me.

Q. How long was it before transport arrived to take you out? A. Two hours I would say.

Q. So you were at the site of the fire, and you were actually working in 8 Right, and it was two hours before you were given transport to come out; is that right? A. Yes.

Q. As far as the spread of the fire was concerned -

HIS HONOR: Q. You mean this is after the fire when you were waiting for transport? A. Yes.

Q. Two hours? A. Yes.

Q. At that time was the man who had been burnt with you, all that time? A. Barry Kent?

Q. Yes. A. No, he went out. I think there was some men working back and he went out on a diesel. It was either a diesel - they might have had a mine car there too, but he went out with them.

Q. On a battery operated car? A. Yes, a battery loco.

Q. And this man Barry Kent went out on the diesel car before you went? A. Yes. I came out with the transport men - like, the men off the transport who had come from another section.

MR. SULLIVAN: Q. It was approximately two hours before you got transport out? A. Approximately two hours.

Q. Have you any idea how far from the pit top you were there? A. From the pit top? (Objected to by Mr. Reynolds; question pressed).

HIS HONOR: I reject the question at this stage but should it appear from some other evidence of a real nature that there was a danger to other men, I will then allow you to re-open this field and this witness can be recalled.

MR. SULLIVAN: Q. I want to ask you some questions about the direction in which the fire went. There was an elephant's trunk or bleed through tube across the intersection, was there not? A. Yes.

Q. Do you know how long that had been there? A. Well, on that particular heading we were going down, that was put there like when we first started to go down.

Q. That is, do you mean this A. heading? A. Yes.

Q. This is the one at the top? A. Yes.

Q. When that heading was put down - that is the one that holed into the goaf here, this one (indicating)? A. When we first started off, you see, we used to shunt into B. heading and there was no need for it. But when we got down enough for the shuttle car to shunt into A. heading, well, he shunted in there.

Q. And at that stage was the bleed through tube put in? A. To my knowledge, yes.

Q. Well, you were working there at the time, were you? A. Yes.

Q. And was that because of any complaints by shuttle car drivers? A. Oh well, I couldn't tell you that. It was not by me because I don't shunt in there.

Q. You say not by you? A. No.

Q. Have you any idea how long before that was when the bleed tube was put in? Would it be weeks, months, days? A. Had they used it before?

Q. No, when it was put in there; would it be weeks, days, months or how long? A. I would say it would be only about a week.

Q. It had been there for a week? A. You are working double shift, you see.

Q. But it had been there for a week, that bleed tube, had it? A. I would say about a week.

Q. At least, or could it have been longer? A. I don't think it would have been longer than a week.

Q. And it was put in when the shuttle cars started to use that as a shunt, is that right? A. Yes.

Q. You had used this shunt frequently? A. No, never.

Q. You had never used that shunt? A. No.

Q. Of course that is right; it was the other car that shunted, wasn't it? A. Yes.

Q. You had not used that shunt, you said? A. No.

MR. REYNOLDS: What is "that shunt"? That is the shunt in A. heading?

MR. SULLIVAN: Yes, the shunt at A. heading.

Q. Now, the spread of the flames.

HIS HONOR: I take it that the other car would have to wait until you came back with your load? A. Yes, but he would wait in the shunt.

Q. And you passed by the shunt? A. Yes.

MR. REYNOLDS: I think there must be a misunderstanding, but Mr. Sullivan says there is not.

MR. SULLIVAN: Q. The cables are laid differently for each car, are they not? A. That is right.

Q. And the cables are laid in such a way that it is always car 40 that shunts in and you proceed straight? A. At that particular place it was.

Q. And indeed your seat is on the opposite side, is it not, in car No. 67 from what it is in car No. 40? A. Yes.

Q. For the same reason, and the idea is that you never run over the other fellow's cable; they are so placed, that is the idea, isn't it? A. That is correct.

Q. I just want to ask you about the spread of the flames here. Do you remember making a statement about this? A. Yes.

Q. It seems to have been on 12th November 1965, is that right? A. Yes.

Q. You made it in the presence of Mr. Muir, Mr. James, Mr. Menzies, and I think Mr. Parkinson, the check inspector, was there, was he not? A. Yes.

Q. Now, will you say whether you agree with this: When Mr. Mangbes came up to the shunt andwhen he turned his seat, you started to move towards the face, did you not? A. Yes.

q. You had not travelled far and his car was about halfway into the shunt "When I saw a flash" -- that is the blue flash you referred to, is it? A. Yes.

Q. "And an orange flame shoot out up on the driver's side of the car," is that right? A. Yes.

Q. "I immediately stopped, saw Tommy jump off the car and come running round to come up the heading"? A. Yes - but I didn't actually see him jump off, but I explained that later.

Q. Then you said "By thistime the flames had spread along the roof over the shuttle car andwere going towards the fan," is that right? A.Yes.

Q. When you used the expression "going towards the fan," were you referring then to the bleed tube? A. No. The fan is in A. heading. It was going across the intersection.

Q. You saw them go across the i ntersection? A. Going across the intersection.

Q. Did you see or notice anything about the bleed tube then? A. No.

Q. I think you said in your evidence that at that stage there was no smoke, is that right? A. Yes.

HIS HONOR: Q. Were you able to see the bleed tube at that stage or was it obscured by the flash? A. No, I could not see it from where I was, no.

MR. SULLIVAN: Q. It was then you ran back, was it, alongC. heading? A. No, I had run up towards the ramp. That is when I sang out for them to "Knock the tranny off," then I went on to C. heading.

Q. The location of the transformer on this plan seems to be quite a long way back along C. heading; is that right? A. Yes.

Q. And it is indicated here as being at this intersection well back along C. heading after the turn. Is that the transformer you were heading back towards? A. No, I was not going to the transformer, I was going - when Charlie Stewart said "Get help quick" I went along that heading, going towards three 8 phone.

Q. And three 8 phone is beyond the transformer, is that right? A. Yes.

Q. But you sang out to somebody back near the transformer, did you? A. No.

Q. Well, to whom did you sing out? A. I sang out at the ramp, to "Knock the tranny off."

Q. To whom did you sing out? A. I took it that Donnie Ashford was there because when I started to go to the face I had been talking to him.

Q. This (indicating) was the transformer you are referring to? A. No, I met the men at the - oh yes, for him to turn off.

Q. This one well back? A. Yes.

Q. You spoke to Mr. Ashford? A.No, I sang out - I didn't know who was there.

Q. Do you know whether it was actually knocked off/or not? A.No, I could not tell you that.

Q. You said "I turned around and ran towards the loading ramp again and calledout 'Put the tranny off'". Do you remember saying that? A. That is/when I got off/the car.

Q. Then "I looked back again and by now the fire was/right across the intersedtion. It was still up towards the roof"?A.Yes.

Q. That is correct, is it? A.Yes.

MR. MURRAY: Q. I think the fact is that those who are working in the particular section work in together, don't they? A. Yes.

Q. And as far as you know, the plan was tha' from the area where the miner is shown in the diagram it was planned to cut the coal until a break-through into the goaf had been achieved? A.Yes.

Q. And do you know was there any particular reason for moving the miner from the area shown above it on the sketch to where it is now on the diagram? A. Well, I could not/say for sure but I take it they ran out ofcable and never had enough cable to reach it.

Q. It wasalso planned, was it not, that when that break-through had taken place at the end of the heading, to bring the machine back and make another heading/through into the goaf about halfway along? A. I couldn'tsay about that.

Q. Well, did you know that there was a T-piece in the vent tubes about halfway down the slope towards where the miner is shown? A. No, I never noticed that.

Q. You did/not notice that? A. It would be on the opposite side to me.

MR. REYNOLDS: Q. In this cut-through where you were, the conditions were such that you could see a light or a flash or a flame very clearly because of the general murkiness, is that so? A. General Murkiness?

Q. Yes; it is not well lighted, is it? A. No, it is not well lighted - you have only your own light/and the light/on the shuttle car.

Q. So you would see quite vividly any flash or flame? A. Yes.

Q. As I understand it, at the actual time you saw some flash or flame you were close to B. heading in No. 2 cut-through?A.Yes.

Q. You would not have quite reached B. heading? A. No.

Q. And you were sitting on the inby side of/the shuttle car? A. No, the outby.

Q. Well, on the plan it shows the driver's position the other way. Is the plan wrong? (No answer).

Q. Would you mind/just having a look at this plan. It was on the right hand side of the vehicle as you proceed towards the face? A. I was sitting on the right hand side, yes.

Q. You see the other representation of shuttle car No. 40? A.Yes.

Q. And it shows the driver's side on that one? A. Yes. He is inby.

Q. Is that the correct position? A. Yes, he is on the inby side.

Q. The scale of this plan is 40 feet to an inch, so you were about 120 feet away from Mangles, were you? Would you just have a look at that. It is40 feet to the inch. Something about 100 to 120 feet away, 30 to 40 yards? A. From where I was?

Q. To where you saw this flash? A. How far did you say?

Q. Thirty to forty yards? A. Yes.

Q. And the flash you saw was when the vehicle was moving? A.Yes.

Q. That is, Mangles' vehicle was moving? A.Yes.

Q. Did it then pass completely out of your sight? A. The shuttle car, no.

Q. Well, does this mean that when it stopped you could still see the front of it ? A.Yes.

Q. Protruding into No. 2 cut-through? A. Yes.

Q. Much of it? A. I could see the front end, the boom part of it.

Q. Just see the boom, would that be a fair description? A. Yes, about.

Q. Did you see Mangles jump off while it was moving or don't you know? A. No, it had stopped when I saw him run around the front of the shuttle car.

Q. I mean when you saw him run round the front, it had stopped? A. Yes. It was stopped when he came around the front of the shuttle car.

Q. When you saw this flame, your description of the initial flash was that it wason the driver's side? A. That is where it appeared to me to be, on the driver's side.

Q. Does this mean that your impression is that you saw a lick of flame come out from behind this shuttle car No. 40 as you looked at it - it was side-on to you? A. At the side of it, not from behind it.

Q. It was side-on to you and it came out from the far side in the front; there was a flash of flame at the front, is that what you say? A. I could see it on the front of the shuttle car underneath the boom - that was on the inby side from me.

Q. You could see under the boom to a position which was on the side of shuttle car No.40 furthest from you? A. Yes.

Q. Was it a big lick of flame or just a small flame, the first blue flash? A. No, it was a big flash.

Q. Do you mean it protrudedin front of the shuttle car for some feet or for some yards or was it just a general sort of flash of light? A. No, just a general flash.

Q. I suppose it would be hard for you to really detect precisely where on the shuttle car it came from? A. Yes.

Q. Because there was just a flash of light at the front, with no noise? A. That is correct.

Q. Are these disc brakes on both sides of the vehicle? A. Yes.

Q. And on both sides of the vehicle are they adjacent to a universal coupling as we saw in these photographs? A. Yes.

Q. Of course you do not know on which side of the shuttle car No. 40 the piece of wood to which Mr. Lee referred was found? I suppose you don't know that? A. I never heard Mr. Lee refer to it.

Q. Then the next thing you saw was a flame which you described as an orange flame? A. Orange colour, yes.

Q. Is that what you mean by - well, I would take it to be the normal flame of a substance burning, wood or some such thing ? A. Yes.

Q. The sort of coloured flame we see in the grate at home, is that what you mean? A. Oh, similar.

Q. Yes, an ordinary product of burning? A. Yes.

Q. Where was this yellow flame or orange flame when you saw it? A. It appaared to me to come on the driver's side - to start on the driver's side.

Q. And to go where? A. Towards the roof.

Q. You had seen this bleed tube, of course, which crossed over the intersection? A. Yes.

Q. At sufficient height to let the shuttle cars pass andre-pass? A. Yes.

Q. You knew how it came down to the lower level in this end part of A. heading, how it came down to a - A. I couldn't tell you whether it went towards the floor or where it went. I knew it went along the roof but I don't know where it went after that.

Q. Was what you saw there after as if this tube itself was alight across the opening? A. I wouldn't know whether it was a tube or what it was. It was just big size flame, just going in the vicinity of the roof, straight across the intersection.

Q. And close to the place where you knew the bleed tube crossed, was it? A. Yes, it went across there.

Q. If Iwere to suggest to you that it was probably the bleed tube burning, would you say that anything you saw would make that statement wrong? A. Could you ask that question again please?

Q. If I were to suggest to you that what you saw was probably the bleed tube burning as it crossed over the intersection of the cut-through and the heading, is there anything that you saw which would indicate that what I am suggesting is wrong? A. I wouldn't know whether it was the bleed tube or what it was, but there was a terrible lot of flame there.

Q. Do I understand the situation was that your shuttle car No. 67 never did shunt into this shunting position; it was always the other one which shunted out ofyour road? A. Yes.

Q. Whether you were going up or coming down? A. That is correct.

Q. So you cannot really help us about conditions in there? A.No.

Q. Had you seen the Deputy go into there that day? A. Had I seen him go in, no.

MR. LEE: No further questions.

HIS HONOR: Q. What is the bleed tube made of, do you know? If you do not know, say so? A. No, Your Honor.

(Witness retired).

THOMAS MICHAEL MANGLES,
Sworn and examined as under:

MR. LEE: Q. Your name is Thomas Michael Mangles? A. Yes.

Q. You live at Lang Street, Woonona? A. Yes.

Q. You are a married man and you are a shuttle car driver employed at the Bulli Colliery? A. Yes.

Q. On the morning of Tuesday 9th November 1965, you were working in 8 Right Section driving No. 40 shuttle car? A. Yes.

Q. What time had you started, do you remember? A. I think about quarter to eight, I think it was.

Q. We are told the procedure was that you would take your car into the face, take a load, shunt into the shunting area to let Mr. Hope go through; while he is doing that, I suppose you are back unloading; is that right? A. Yes.

Q. Then you go back into the shunt, wait for him to come past, and so on? A. That is right.

Q. Do you remember making a statement to the inspectors about this matter? A. Yes.

Q. Do you remember that you had been to the face and filled a car and Mr. Hope's car was waiting behind you?A. Yes, that is right.

Q. Would you in your own words tell us what happened after that? A. Well, I had been down and got full and I came - I drove up, full, and then turned into the shunt and I had just turned into the shunt and was about to slow down to let the other car pass when the flame appeared at the back of the car.

Q. Perhaps just before you get to the flame, could you be a little more specific, if you would; in order to make this shunt which you did make, am I correct in my understanding that you came to a point at the intersection where you could reverse the car in? A. That is right.

Q. That is the way you do it? A. Yes.

Q. That involves you in changing your seat, does it? A. Change seats.

Q. And you had done that, had you? A. Yes.

Q. In what position was your car when you first saw flame? A. In what position was the car?

Q. Yes, if you can tell us? A. Well, I would say the car was just about stopped. I was just slowing down and that iswhen it appeared at the back of the car, on the offside of the car, I would say.

Q. That is not your side? A. No.

Q. You saw it at the back on the side opposite yourself? A. On the opposite side.

Q. Again I may ask you to be a little more specific. Was your car right into the shunt area or was it still to some extent out in the line of No. 2 cut-through when you saw the flame? A. I would say it would not be quite right in the shunt.

Q. A bit of the front of it would be sticking out, if I may use that expression? A. Yes.

Q. Were you straight in or at an angle across the corner? A. At an angle.

Q. Was there some brattice in that shunt? A. At the back of the car there was brattice stopping.

Q. What sort of brattice? A. Just ordinary brattice what they use.

Q. Was it cement washed? A. No.

Q. When you saw the flame you saw it at the back of the car on the side offside to where you were? A. Yes.

Q. What colour flame was it? A. Blue, I would say.

Q. Was it a large flame or small flame? A. Large flame.

Q. Which direction did it seem to go, towards the brattice or towards the side of the heading? A. Say towards the side, go across towards me.

Q. Towards your side? A. Across towards me.

Q. How far was the bleed tube from the brattice? A. Right on the brattice.

Q. How far from the floor was the bleed tube hanging? A. Say halfway up the heading.

Q. About four or five feet? A. Yes.

Q. Off the floor? A. Off the floor.

Q. When you saw the flame travel as you have indicated where did it go? A. I would say across on to the bleed tube.

Q. Which part of the bleed tube? Did you notice? Did you notice whether it went generally on the bleed tube or towards where the open end of the tube was hanging? A. I did not notice.

Q. Did it go anywhere in the vicinity of the open end? A. I could not say. When I stopped it just then ran up the bleed tube.

Q. What colour was it when you saw it on the bleed tube? A. Just an ordinary flame, I would say then, on the bleed tube.

Q. What did you do when you saw this? A. I stopped the car and hopped off and by that time she had run up on to the intersection.

Q. How much time elapsed from the time you first saw the blue flame on the rear and on the offside of your car from the time you saw it on the intersection? A. Only seconds.

Q. You jumped off the car. What did you do then? A. Ran back up to where Fred Hope was.

Q. Where you left your car, was that in the position you first saw the flame or did it move a little bit after that? A. It would move a little bit after that.

Q. As far as you can recall when you jumped off and left it how far from the brattice was it? A. I wouldn't know how far.

Q. Just an approximation, no one is going to bind you down in any precise way on this. Was it a matter of feet or several feet away? A. It could have been a couple of feet away.

Q. Did you put the brake on? A. I endeavoured to, yes.

Q. Did you succeed? A. I wouldn't rightly know at the time.

Q. You have been told since when the fire was over your car was found in a position which indicated it had moved through the brattice? A. Yes, I have been working up in A Right since.

Q. Have you got any view as to what might have made it move from where you left it to where it was found? A. No.

MR. REYNOLDS: It did not necessarily move.

MR. LEE: Q. When you jumped off and left it was not through the brattice, was it? A. No.

Q. You came back to where Mr. Hope was and you observed fire at some point further down No. 2 cut-through? A. No I never saw it after I saw it go across the cut-through. After I saw Fred Hope I never saw it no more.

Q. When you last saw the fire could you tell us, for instance, in relation to the fans, whether it had approached that far or not? A. No, I do not think it had approached that far.

Q. It was, as you said, across the intersection? A. Across the intersection.

Q. Did it appear to you to have a direction in which it was moving? A. No, I would not be able to -

Q. You did not form such a view? A. No.

Q. It went from the back of the car at least out to the intersection? A. Out to the intersection.

Q. Had you been in that area on that morning, in that shunt area? A. Oh yes.

Q. Had you used your brakes regularly on the shuttle car? A. Normal procedure.

Q. What would you say was the condition of the brakes at the time? Cold, hot, very hot, normal or what? A. Fairly hot at the time.

Q. Can you smell the brakes when they get hot? A. Yes, I would say so.

Q. Had you smelt the brakes that morning? A. Yes, I would say they were -

Q. They were hot? A. Oh, reasonably hot

Q. Just to give His Honor some idea of what you mean when you say they are hot, could you tell by standing alongside the shuttle car there was heat in there or would you have to put your hand right on it to know? A. No, if you stood at the side of the shuttle car you could tell.

Q. You could feel the heat, could you? A. Yes.

Q. The hydraulic oil sump on that vehicle, do you know that? A. Yes.

Q. Which side is that on? The driver's side or the other side? A. On the opposite side, I think.

Q. Opposite side to the driver? A. Yes.

Q. Do you have to check that before you take the car into working operation or do you assume it is in order? A. Assume it is in order.

Q. I take it you could not tell us if it was half full or full that morning? A. No.

HIS HONOR: What do you mean? There are two, aren't there?

WITNESS: There is the brake fluid oil and ordinary running oil.

MR. LEE: Q. The hydraulic oil, isn't it, serves the brake? A. That is near me.

Q. That is near you, is it? A. That one is, yes.

Q. How much does it hold? A. Say a pint.

HIS HONOR: Q. Do you know? A. No, I wouldn't actually know.

MR. LEE: Q. What about the other oil of the shuttle car, how much does it hold of the ordinary oil? A. That is distributed by the fitter, I wouldn't know.

Q. Tell us if you would, to make the picture complete, after you ran down to where Mr. Hope was where did you go from there? A. Donny Ashford was standing at the ramp.

Q. At the loading ramp in C. heading? A. At the loading ramp. He was there and went to put off the tranny. And then I stayed there for a while at the loading ramp and then when he came back, when I saw him next, they were knocking down the brattice stopping.

Q. Whereabouts? A. Along that heading, along the wheeling road heading.

Q. What brattice stopping? A. Down below the wheeling road.

Q. Just show me on the plan where they were knocking down the brattice at that stage. (Approaches witness). Here is C. heading. Here is your loading ramp. THere was Hope, about there. You came back from your shunt there? A. It was down below the wheeling road.

Q. You see the plan mark "brattice seal" at the end of C. heading? A. Yes.

Q. Is that where they were knocking it down? A. I just wouldn't know which particular spot. I wouldn't know what particular spot.

Q. But there was certainly no brattice from anywhere between your loading ramp and down C. heading towards the transformer, was there? A. No, down below the transformer there was a sweeps.

Q. That is way down here? A. Yes, down below the sweep, where the sweeps were, down below that.

Q. Is that where you saw them knocking it down? A. Knocking it down.

Q. You saw them knock down brattice somewhere past the transformer? A. Yes.

Q. Not up in this direction at the end of C. heading? A. No.

Q. Had you yourself been aware of gas in the workings at any time up to this point? I use the word gas to mean noxious or inflammable

gas? A. No I was not aware of it. I stated there was a strong odour at the back of the car.

Q. At what point? A. At the filling end of the car near the brattice side.

Q. In the shunt area? A. Yes.

Q. When had you first noticed that strong odour? A. It had been there on and off since the start of the place, I would say.

Q. We are told that had been at least for some months? A. Some months, yes.

Q. Was this odour an odour which was familiar to you that you had smelt over numerous or other parts of the mine when you had worked there or was it some new smell to you? A. I would not actually know. It could have been gas. I would not know. I would not be in a position to say.

Q. You rely on the Deputy, do you not? A.Yes.

Q. However you did notice it. Did you tell anybody about it? A. No, we never worried about it because the Deputy went in there and checked it periodically.

Q. You in fact saw the Deputy check? A. Yes.

Q. As far as your brakes getting hot are concerned, have you ever reported that fact to anybody? A. No, the brakes on 40 shuttle car get reasonably hot but they were never ever reported.

Q. You say you noticed this strong odour and did you tell us you had mentioned it to the Deputy? A. No. Oh no, I had not -

Q. Would you like to think about that as to whether in fact you told the Deputy about this strong odour? A. No, I would say I did not tell him about it.

Q. You yourself had noticed nothing about the electrical system, no feature about it, to indicate to you it was not working properly? A. No, I would say - I would say the cable, the shuttle car cable and everything was working satisfactorily that day.

Q. At any time when you first saw the flame that did come out, was that anywhere in the vicinity of the cable or any electrical section of the shuttle car? A. Yes, I would say it was in the vicinity of the anchor point.

Q. The anchor point? A.Yes.

HIS HONOR: Q. What is the anchor point? A. They have - what holds the cable - they have an anchor point in the shunt to hold the cable.

CROSS-EXAMINATION:

MR. MURRAY: Q. Just so I will understand these terms you were speaking about myself: When you saw the flame - that is the time I am asking about? A. Yes.

Q. You were sitting at the controls? A. At the controls.

Q. In one of the driver's seats? A. In the driver's seat.

Q. On what would have been the inby side of the shuttle car at that time? A. No, it would be the outby end of the car.

Q. And that end of the car is synonymous, or the same end, as what is called the boom end? A. Yes, boom end.

Q. Or the delivery end? A. The delivery end.

Q. Or the control end? A. The control end.

Q. Or the front end? A. Yes.

Q. It is the same end all the time? A. Same end.

Q. The other end is the back end or filling end? A. That is correct.

Q. You were driving what was called an off standard shuttle car. Do you know that term ? .A. Yes, I have heard it.

Q. In other words as you face the back the seat was on the left side of the vehicle? A. That is quite right.

Q. Did you think when you first saw this flame it appeared to you to be coming from the offside of the vehicle? A. Yes, that is correct.

Q. Near the back? A. Near the back.

Q. That would have been near your anchor point? A. Near the anchor point.

Q. You had been in and out of this heading, the shunt, I beg your pardon, many times? A. Many times.

Q. You were very familiar with the clearances of the shuttle car? A. Yes.

Q. It is important for your work to know those to very fine judgment? A.Yes.

Q. When you saw the flame was your shuttle car quite clear of the intersection, in other words, had you cleared the heading? Had you cleared the cut-through? A. No I would not say it would be quite clear of the cut-through.

Q. So the front of your shuttle car, No.40, would not have quite cleared the cut-through? A. No.

Q. HIS HONOR: When you saw the flame was it from the end that was still in the cut-through? A.Yes.

Q. From that end? A. Yes.

Q. You told Mr. Murray you saw the flame coming from the offside near the back? A. Yes.

MR. MURRAY: I have a diagram I am using, Your Honor.

HIS HONOR: Q. Is thatthe back or is that the boom? A. No, that is the back.

MR. MURRAY: Q. I am trying to make it clear, Your Honor -

HIS HONOR: Q. You have talked with Mr. Hope? A. Yes.

Q. You heard his description of the flame. You heard him say the flame came from under the boom? A. Yes.

Q. Did you hear that? A. Yes.

MR. REYNOLDS: He says diagonally opposite that point at the back on the other side.

HIS HONOR: Q. You disagree. As far as you are concerned that is not where you saw the flame coming from? A. No.

MR. MURRAY: Q. Have a look at this document: On the left-hand side of that piece of paper do you see a square drawn which purports to be a diagrammatic representation of your shuttle car? A. Yes.

Q. Do you agree that the layout of the diagram, not to scale, is the layout according to the vehicle? A. Yes.

Q. Is that right? A. Yes.

Q. The other oblong on the side closest to the right hand, does that represent a similar diagram representative of the one being driven by Mr. Hope? A. Yes.

Q. Are these vehicles more or less mirror images of each other? A. Yes.

Q. Assuming that as you look at it No.40, my diagram of No.40, is in the position where it was when you saw the flame first? A. Yes.

Q. The flame appeared to you on the offside of the vehicle near the back? A. THat is right.

Q. In other words, as you were looking at it, (demonstrates) over there? A. Yes.

Q. Is that right? A. Yes.

MR. LEE: Could we see it?

HIS HONOR: Have you any objection to everybody seeing it?

MR. MURRAY: Not at all, Your Honor.

(Document marked for identification "1". Shown to counsel and advocates).

Q. You were just entering the shunt and it was your custom to stop, I take it, at a certain place to allow Mr. Hope to go past behind you? A. That is right.

Q. In relation to the anchor point where was the back of the vehicle at the point where you always stopped in the shunt? A. It would be nearly opposite each other.

Q. So that the back of the vehicle would have been opposite the anchor point when you made your customary stop to allow 67 to go past? A. Yes, that is right.

Q. At the time you saw the flame had the back reached the anchor point? A. No, I would say it would not have quite reached the anchor point.

Q. A matter of a couple of feet? A. Yes.

Q. A couple of feet from it? A. A couple of feet from it.

Q. Until the time you left shuttle car No.40 did it move any closer to the anchor point? A. Yes it did move a bit closer to the anchor point.

Q. Up to it? A. Yes, I would say it would move up to it.

Q. So that when you left shuttle car No. 40 it was stationary in the position where you usually stopped to allow 67, Mr. Hope, to go past? A. No it wasn't quite in far enough, I would say, to let Mr. Hope through.

Q. Are you able to tell us how far? A foot? A. It may have been a couple of feet.

Q. When you usually stopped how far was the back of No. 40 from the brattice screen? A. I would say a couple of feet.

Q. Just to make it perfectly clear, that is the brattice screen on the goaf end of A. heading? A. That is right.

Q. A question was asked whether you smelt something to do with you brakes. You were asked about your smell? A. Yes.

Q. Is it your experience that working in a mine for any length of time one becomes very sensitive to smells? A. Yes.

Q. Had you ever been further towards the goaf than the brattice at the goaf end of the shunt? A.No, never been past the brattice.

Q. Never been past the brattice. The brattice was just plain hessian, was it? A. Just ordinary brattice, yes.

Q. Was it just plain hessian or was it treated in any way, as far as you know? A. I would not know if it had ever been treated. Just ordinary brattice.

Q. About B. heading, had you ever been down to the goaf in B. heading? A. In B. heading?

Q. Yes. Would you like to look at the plan. I am referring you to the heading parallel to A. heading and the next one back towards the loading point? A. No, only the crib cabin, in the one where the crib cabin was.

Q. That is the same one. Had you ever been to the goaf in the heading where the crib room was? A. No.

MR. McNALLY :Q. I think on this morning you had done a number of runs to the face, this was not the first one you had done?A.No.

Q. And everything was proceeding normally on that morning? A. Normally I would say, yes.

Q. I don't think you yourself had noticed a smell of gas on this particular day? A. No.

Q. Before the fire? A. No, it was no different to any ordinary day, I would say.

Q. I think in fact the Deputy, before the fire, Deputy Stewart, had made his normal inspection in the shunt area? A. That is right.

Q. You actually saw him do that? A. That is right.

Q. He did that test with the normal safety lamp? A. I would not know about the test.

Q. The tube, the elephant trunk which runs across No. 2 cutting on the roof -? A. Yes.

Q. And then runs down towards the ground in the shunt area itself? A. That is correct.

Q. I put it to you you are not too sure as to whether or not

the elephant trunk goes right to the ground or only half way down? A. Oh, not too sure.

Q. It may well go right to the ground itself? A. Yes it could have but I would say --

MR. LEE: I think he should be allowed to answer.

HIS HONOR: Q. What do you say? A. I wouldsay it was tied up on the props, half way up the props.

MR. McNALLY: Q. Have you actually seen the manner in which it is tied? A. Yes.

Q. How is it tied? A. I don't know - just tied on the props.

Q. Have you ever had occasion to move the elephant trunk yourself? A. No.

Q. In fact you have not had much to do with it at all. You know it has been there and that is all? A. That is all.

MR. SULLIVAN: Q. How long have you been working in mines? A. Since about 1947.

Q. So up to the time of this accident you had had considerable experience? A. Yes.

Q. Only in this colliery? A. Only in this colliery.

Q. Had you worked in pillars, before you worked in 8 Right? A. Yes.

Q. Working in pillars had you ever known a heading going into a place like that to be as long as that one was? A. I have been up in 8 Right a long time.

Q. You have not had experience of it? A. No, I have been in 8 Right a long time.

Q. 8 Right has been going about eighteen months? A. I would not be sure how long.

Q. Not much longer? A. I would not be sure how long it has been going.

Q. You have had mining experience of this colliery - did you say 1957? A. 1947.

Q. That means you have been at that colliery for much more than ten years? A. Yes.

Q. You have not worked in 8 Right all the time? A. No.

Q. Have you worked other pillar sections? A. Yes.

Q. Have you had experience of a heading - ? A. No. I would say no.

Q. Not nearly as long? A. No, not nearly as long.

Q. That had, of course, a steep downward grade into the face, did it not? A. Yes.

Q. And running down empty, as you did, you had to use your brakes continuously on that section? A. Yes.

Q. Much more so than you would in mormal flat running? A. Yes.

Q. That slope continued actually from the wheeling road, didn't it? A. From my shunt down.

Q. Yes. A. Down to the face.

Q. As far as smelling gas was concerned, you made a statement on 12th November 1965 and those present were Mr. Bob Menzies, the inspector, Mr. James, Mr. Parkinson the district check inspector, was there, wasn't he? A. Yes.

Q. And a Mr. Robinson and Mr. Pearce from the colliery? A. Yes.

Q. Do you remember in answer to a question from Mr. Menzies, and I will read the question, "Could you add anything to your statement that might help the investigation?" Do you remember that question being asked? A. Yes.

Q. Do you remember saying this "Periodically at the back of the shunt near the brattice stopping there was a strong odour"? A. Yes.

Q. "At times this strong odour had been mentioned to the Deputy". Do you remember saying that? A. I don't know that. I don't say I had ever mentioned it to him.

HIS HONOR: You are first asked do you remember saying that in the statement.

(Original statement called for by Mr. Sullivan: produced. Shown to witness).

Q. Have a look at the signature on page two of the document. Is that your signature? A. Yes.

Q. I want you to just hold that statement in your hand and listen to what I read to you, "Periodically at the back of the shunt near the brattice stopping there was a strong odour. At times this strong odour had been mentioned to the Deputy and the Deputy always checked on those occasions. He made no comment and as far as we were concerned the Deputy was looking after it. On the morning in question conditions were normal and no comment had been made to the Deputy". Is that right? A. Yes.

Q. Do you see that there? A. Yes.

Q. Did you say that to Mr. Menzies? A. Did I say this to Mr. Menzies?

Q. Yes. In reply to that question? A. I could not remember now - perhaps.

Q. Is that your signature at the bottom of that page? A. Yes.

Q. Did you read that over before you signed it? A. Yes.

Q. Do you deny that you said that? A. No, I perhaps at times, I had said it to the Deputy.

Q. Perhaps at times you had said it to the Deputy? A.Yes.

Q. How long had you been using that shunt? A. Say for a week or two.

Q. So at the time you had mentioned it to the Deputy you had experience for a period of a week to two weeks? A. That is correct.

Q. Is that right? A. Yes.

Q. So you can say during the week to two weeks before the fire you had smelt this smell in that shunt and mentioned it to the Deputy. Am I right? A. Oh yes, I would say I had mentioned it to the Deputy.

Q. On the morning of the Friday you say the Deputy had been told, you said to my friend Mr. McNally that the Deputy had come in whilst you were in the shunt; is that right? A. Yes.

Q. Who was that? A. Mr. Stewart.

Q. What did you see him do? A. I never saw him do anything. I just saw him go into the shunt and then, I don't know whether I went to tip the coal then, but I did not see him do anything.

Q. You did not see him do anything? A. No, just saw him walk into the brattice stopping.

Q. Walk into the brattice stopping. Did you see him walk out again? A. No. I could not recall because I think I went and tipped the coal and he went in.

Q. Did he walk through this particular heading up to the brattice stopping? A. Yes.

Q. You did not see him do anything before that? A. No.

(Luncheon adjournment).

(On resumption Mr. Murray requested that Mr. D. Ross, industrial advocate, employed by his instructing solicitors, be permitted to represent his clients on such occasions during the hearing as exigencies may make necessary. THere being no objection His Honor granted Mr. Murray's request.)

Q. The gate end box, that is the electrical box to which your cable was attached was the one, I take it, in No.2 cut-through between A and B heading, was it? A. Yes.

Q. It was on the left side and I assume the cable came around from the anchor in the shunt and crossed over the roof, did it? A. Yes.

Q. So that you could both pass underneath it? A. Yes.

Q. You sang out to switch off at the transformer, I understand, from your evidence? A. Yes, somebody sang out "Switch off the transformer".

Q. Why could not it have been switched off at the gate end box at that stage? A. No reason, I suppose.

Q. Just did not think of it? A. No.

Q. Did you think it was an electrical fire yourself? A. No, I did not think it was an electrical fire, no.

Q. Did you think it was coming from the brakes? A.I would not exactly know where it was. The reason I was - I did not think it was an electrical fire - was because we always check the cable going into the shunt. On this particular day the cable was hanging quite normal.

Q. You checked it at the anchor, did you? A. When you turn into shunt you can look up and see it hanging from the anchor point and it looked quite normal.

Q. You know where the cable passes over the winding wheel?
A. Yes.

Q. Had you checked the underneath of the cable? A. In the drum?

Q. Yes, where it goes on to the drum. What I call the winding wheel? A. Yes, we do check them.

Q. You do? A. We have been told to check them.

Q. Had you checked it that morning? A. I don't know about that, on that particular morning, no.

Q. You don't know whether there was any wear on the under side of the cable? A. No. We do check them a lot.

Q. Also, these shuttle cars when they touch any metal can spark, can't they? -

MR. REYNOLDS: Is that a technical question? If so I object to it.

MR. SULLIVAN: Q. These shuttle cars such as the one you were driving, when they touch any metal can spark? (Objected to by Mr. Reynolds).

MR. SULLIVAN: I will put it the other way, Your Honor.

Q. A shuttle car such as you were driving on this day, if it touches metal you have known it to spark, have you not, in your experience? A. No, never known it to spark.

Q. You say you have been working in 8 Right since the fire; is that right? A. Since the fire, yes.

Q. Were you aware that there was a bratticing stool near the brattice which was made of metal? A. I had been told it was there.

Q. Did you see it? A. I saw it, yes.

HIS HONOR: What was it?

MR. SULLIVAN: A bratticing stool.

Q. You had seen it? A. I had seen it, yes.

Q. And it had been crushed, hadn't it? A. Yes.

Q. As if the shuttle car had run over it? A. Yes.

Q. I want to return now to these brakes that are on the shuttle car: Has it been your experience that coal dust builds up on these disc brakes during the course of a shift? A. No.

Q. Did you look at these disc brakes on that day? A. I don't know about this particular day but we do look at them.

Q. Do you say you have never seen coal dust build up on disc brakes? A. No.

Q. Never? A. No, never seen it. Never seen a lot of dust on them. No.

Q. You have never seen a lot of dust on them. Of course it would be most dangerous if there was a lot of dust on them? (Objected to by Mr. Reynolds. Question rejected at this stage).

Q. I show you Exhibit "B1". I want you to assume that that is a picture of the disc brake in shuttle car No. 40 which you were driving, immediately after the fire. You would agree if that is a picture there is a good deal of dust and other material built up round the disc brake? (Objected to by Mr. Reynolds; disallowed).

Q. You yourself did not check the brakes to see whether there was any build up of coal dust on that day? A. No, we checked them, looked at them, when they started to get hot.

Q. Did you check these when they started to get hot? A. We always had a look at them, yes.

Q. When you say "we" who do you mean? A. Well, I always had a look at them.

Q. Did you look at them on this day? A. Yes.

Q. What did you see? A. That they were - we just checked them for heat.

Q. I am talking about you now. You checked them yourself? A. Just had a look at them for heating.

Q. What did you see? A. A bit of the smoke was coming, starting to come off.

q. Smoke? A. When I say smoke, they were starting to get hot.

Q. Was smoke coming off them? A. Yes, there was a little bit, yes.

Q. Was there any coal dust packed up around them? A. No.

Q. HIS HONOR: When you say they checked them, are they housed? A. Yes, they are housed by covers.

Q. When you check the brakes do you take the housing off? A. No.

Q. How can you see what is under the housing? A. What we do, if we think they are getting too hot we report it to the fitter. We just check them to see they are not getting too hot.

Q. On this day did you report them to the fitter? A. No, we never ever thought they got that hot, to that extent.

Q. Does that mean neither you nor the fitter, apparently, looked under the housing? A. No, never looked.

MR. SULLIVAN: Q. Yet there was smoke coming off them? A. Yes.

MR. PARKINSON: Q. You have already stated you have seventeen to eighteen years occupation in the Old Bulli Colliery? A. Yes.

Q. During that particular period have you known any other incidents of fire or explosion at Bulli Colliery? (Objected to by Mr. Reynolds).

HIS HONOR: Leave out "explosions". I will allow the question in the form of "fire", leaving out the word "explosion".

MR. PARKINSON: Q. Have you known any other incidents of fire during the seventeen years you have been employed at Old Bulli Colliery? A. Yes.

Q. Can you name them or approximately? (Objected to by Mr. Reynolds; allowed).

MR.PARKINSON: This is the question: Could the witness give the incidents he is aware of during the period of his occupation at Old Bulli Colliery?

MR. REYNOLDS: Of his own knowledge.

HIS HONOR: Q. Of your own knowledge. Nothing you have just heard about. Things you have seen yourself? A. Cables, Mr. Parkinson.

Q. What did you say about cables? A. We have got cables damaged, damaged cables on the shuttle cars.

Q. You were asked about fire? A. Not fires - more or less flashes off the cable.

HIS HONOR: I will have that struck out. Limit yourself to fires you know of your own knowledge.

WITNESS: No.

HIS HONOR: Q. Do you know of any? A. No, Your Honor.

MR. PARKINSON: Q. You were an employee of this particular colliery for seventeen years and it could well have been assumed that these incidents could have seriously affected you, could it not? (Objected to by Mr. Reynolds; disallowed).

MR. PARKINSON: Q. Would you describe the Old Bulli Mine as a gassy mine? -

HIS HONOR: Do you know what a gassy mine is? I don't.

MR. REYNOLDS: I will object to the question.

HIS HONOR: I have looked at the Act and I will allow "gassy place".

MR. PARKINSON: Q. Would you describe 8 Right where you were working as a gassy place? (Objected to by Mr. Reynolds; disallowed).

Q. Have you been performing your occupation or job and have you personally witnessed what is generally known in the mining industry as an electric flash? A. Yes.

Q. Would you say that this particular incident was similar to an electric flash? A. I wouldn't know.

HIS HONOR: Q. What? A. I couldn't say.

MR. PARKINSON: Q. In the previous electric flashes you have seen what actually happened? A. You mean when the cable blows out?

Q. That is right, or electrical flash on any mechanical unit or mechanical equipment. What happened when you saw the flash? A. It just flashed.

Q. Just flashed? A. Blew.

Q. And then did it go out? A. Yes, most - yes, I would say, yes.

Q. Did this one flash and then go out? A. No.

Q. So there was no similarity? A. No, no similarity to this one, no.

Q. (Approaches plan). The junction here, the junction where the fire took place, to the face, what was the distance? A. Roughly over 100 yards.

Q. Over 100 yards? A. Yes, I would say Yes.

Q. Could you say how far over 100 yards? A. No.

MR. REYNOLDS: It is a scale map.

MR. PARKINSON: Q. Could you say how far over 100 yards? A. No, no.

Q. How far from the timber bay to the intersection where the fire took place? A. It wouldbe about 100 yards I suppose to the timber bay.

Q. It would be 100 yards to the timber bay so it would obviously be over 100 yards to the face. If it was 100 yards from the intersection to the timber bay it would be over 100 yards to the face? A. No, I don't think it would be quite that far from the timber bay to the face.

Q. No, from the intersection to the face? A. Yes.

Q. Now, that was the only means of egress these men had ? A. That is right.

Q. With your experience in the coal mining industry would you say that was a good mining practice? (Objected to by Mr. Reynolds; disallowed).

Q. In your experience in the coal mining industry have you been a miner? A. No.

Q. Have you been a wheeler? A. No.

Q. So you have worked entirely at Old Bulli Colliery during its period of mechanisation? A. Yes.

Q. Would you say that an electric flash in a mine is a rather frightening experience? A. Yes. Yes.

Q. When you took your full load up you went past the shunt, didn't you? A. Yes.

Q. And you back into the shunt? A. Yes.

Q. Which way were you facing when you went back? Was your back towards the brattice in the shunt? A. No.

Q. You were facing -? A. Yes.

Q. The brattice, towards the goaf? A. Yes.

Q. What was the first thing -? A. Very frightening.

Q. But what was the first thing? Did you see what you thought appeared to be the initial flash? A. Yes.

Q. You think it was the intial flash. Was there any sound at all? A. No it would not - no, I don't think there was any sound.

Q. There was no detonation? A. No.

Q. No hissing noise? A. No.

Q. Would it be true to say when you saw this flash, and you admit that it is a frightening experience, would you be prepared to say definitely that you stopped that car or would you be prepared to say you endeavoured to stop it and you jumped off? A. Yes, I would say I endeavoured to stop it, yes.

Q. You could not say the car was at a standstill when you jumped off? A. No, you could not altogether say that.

Q. This was due entirely to the fact that it is a frightening experience? A. Yes.

Q. And the law of self preservation came in, did it not? A. Yes.

Q. You ran around the front of the car. You jumped off the car and ran around? A. Yes.

Q. That is when you shouted? A. Yes.

Q. "Knock the tranny". "Knock the tranny". How long would it be in your opinion before that whole intersection was lighted up from the time you jumped off the car? (Objected to by Mr. Reynolds - disallowed).

Q. How long would it be do you think, in seconds, after you jumped off the car and the flames had extended? A. Oh, only a couple of seconds.

Q. Was there ever any stone dust put in this shunt? A. No, not to my knowledge, no.

Q. Or in the working face? A. No.

Q. Did you ever at any time see any stone dust anywhere? -

MR. REYNOLDS: Before the fire or after?

MR. PARKINSON: Before the fire. I understand it is thick with stone dust now.

WITNESS: Not round the shunt and round the face, no.

MR. PARKINSON: Q. In your seventeen years' experience at Old Bulli Colliery would you say there has been a lot of stone dust used in Bulli Colliery? A. Now?

Q. No. In your seventeen years' experience? A. No, I would say not a lot, no.

Q. But they do have a stone dusting machine? A. Yes.

Q. Have they still got that stone dusting machine? A. I wouldn't know.

Q. You do know what stone dust is used for, don't you? A. Yes.

Q. Did you at any time during the driving of the shuttle car while working in this 8 Right Section experience heating in your particular shuttle car? A. Only on the brakes, yes.

Q. On the brakes. But that was heating? A. Yes.

Q. On some part of the shuttle car? A. Yes.

Q. Were you ever advised or instructed by any official at the colliery to immediately report any heating that may have taken place in your shuttle car? A. No.

Q. Never ever advised? A. No.

Q. Or instructed? A. No.

Q. What was the situation at, say, 9 o'clock on November 9th, a few minutes before the disaster? What was the situation with the shuttle car then? Was it showing any signs of heating? A. Yes the

brakes were showing signs of heating, yes.

Q. What time did you start?A. It would be roughly 8 o'clock.

Q. Eight o'clock, and this was approximately 9 o'clock?A.Yes.

Q. So in one hour there was evident heating of your shuttle car?A. Yes.

Q. And would it be true to suggest that that heating would intensify as the shift progressed if you were working normally? A. Yes, sir.

Q. And this used to take place day after day, is that the position? A. Day after day, yes.

Q. Now, you say the deputy made the inspection in the shunt?A.Yes.

Q. Did you actually see the deputy making the inspection in the shunt?A. Not actually, no.

Q. Well, it is a bit difficult to say that he made an inspection if you didn't see him - (objected to by Mr. Lee).

HIS HONOR: There is no evidence before me so far that he said that, Mr. Parkinson.

MR. PARKINSON. Q. I am sorry. Tell me this: you know the brattice in the shunt?A. Yes.

Q. Were you ever instructed not to go beyond that brattice?A.No.

Q. You were never ever instructed not to go beyond that brattice? A. No.

Q. Did you ever go beyond that brattice?A. No.

Q. When was this bleed tube first installed?A. When the place first started off.

Q. When would that be? The disaster took place on November 9th. What day was the bleed tube installed?A. I would not know exactly the day, no. I would say it could have been two to three weeks.

HIS HONOR: Two to three weeks what - before or after what event? A. After the place started off - this hundred yards heading started off.

MR. PARKINSON. Q. But what I am asking you, if you can recall - November 9th was the day of the disaster?A. Yes.

Q. Was it November 1st, or the 2nd, or the 3rd, could you say, when that bleed tube was installed?A. No sir, I could not.

Q. You couldn't say?A. No.

Q. Do you know why it was installed?A. Not actually, no. No, I wouldn't know why it was there.

Q. You did not know why it was there?A. No.

Q. Didn't you ever ask aby official as to why this was put there? A. Well, we naturally took it it was to bleed the gas away.

Q. You naturally took it it was to bleed the gas away?A. Yes.

Q. Is it not a fact that there had been complaints about gas in

this particular area?A. Yes.

Q. Is it not a fact that the face men had complained about lack of ventilation?(Objected to in that form by Mr. Reynolds).

HIS HONOR. Q. Did you hear anyone make any complaint to anybody? A. No - never heard them make complaints about bad ventilation,no.

HIS HONOR: I cannot have that, Mr. Parkinson. This witness may tell me what he heard and saw.

MR. PARKINSON. Q.Well, had you yourself made complaints about your suspicions about gas?A. Yes.

Q. And did anything happen as a result of these complaints?A. Oh well, we just left it to the deputy.

Q. And when the bleed tube was installed you just accepted the fact it was to bleed off gas?A. Yes.

MR. DOYLE. Q. How long have you been driving a shuttle car?A. Say eight years.

A. And have you during that time had occasion to complain of the brakes, the disc brakes of the shuttle car, overheating?A. No, no. No. 40 never got - never had complained.

Q. Not just no. 40, but any shuttle car that you had been driving during those eight years?A. No sir, not - this was the steepest grade.

Q. Are you familiar with the term "binding" as applied to brakes? Yes.

Q. Well, have you experienced the brakes of any shuttle car that you have been driving doing what is called binding?A. Yes sir.

Q. And do they, when this occurs, get excessively hot?A. Yes.

Q. Is this binding, in effect, caused by the brakes locking on? A. Yes.

Q. And if this happened, what step would you take?A. I would report it to the fitter.

Q. On this occasion did you have any reason to suspect that your brakes were binding?A. No.

Q. Have you in your experience in the operation of a shuttle car known of anything ever to become jammed - any foreign matter to become jammed in or around the disc brakes?A. No sir, no.

Q. From your experience as a shuttle car driver, do you believe that if this happened you would become aware of it?A. Yes. I think so, yes.

Q. And on this day in particular, did you have any indication that this had in fact happened?A. No - not on this day, no.

MR. CRANE: No questions.

MR. HUME: (Not present).

MR. REYNOLDS. Q. I just want to ask you this: What you said when you gave this written statement which Mr. Sullivan took you through was, on 12th November: "At times this strong odour had been mentioned to the deputy and the deputy always checked on these occasions". That was right, was it?A. Yes.

Q. So there was some action taken whenever gas was mentioned?A.Yes.

Q. Now, mention has been made about a bratticing stool?A. Yes.

Q. Had you seen that before the fire?A. No, I hadn't. No, never.

Q. But you had shunted into this place on a number of occasions before the last time?A. Oh yes.

Q. And it was not in your path then?A. No.

Q. You have ascertained since that it was jammed under the front end of the car after the incident?A. Yes.

Q. You saw it there, did you?A. Yes - this week I saw it.

Q. Yes, after the incident; and I suppose it is quite apparent to you now, from what you saw afterwards, that your attempt to apply the brake was not quite effective?A. No.

Q. And that when you jumped off, naturally concerned, the shuttle car went forward, ran over this bratticing stool and penetrated the brattice screen?A. Yes sir, it could have.

Q. Well, you saw this position after the fire and at that point of time it was at a place where it would have gone beyond the brattice screen?A. Yes. I stopped the car, but I mean, it could have. It could have.

Q. Let us be fair about it - you believed you stopped it ?A.Yes.

Q. But you cannot be certain that you were effective?A. No.

Q. And we then find it as you saw it after the fire, the front having gone through the brattice screen and the bratticing stool being impacted underneath it?A. Yes.

Q. It is a characteristic of the brakes on these cars that when you use them to any extent, they give off smoke or vapour?A. Yes, vapour. Smoke and vapour, yes.

Q. And if one runs it for quite a moderate distance with the brakes applied, you will get this giving off of vapour?A. Yes.

Q. And you never regarded this as unusual?A. No.

Q. Your instructions were to report any excessive heat to the fitter, Dale Jones, were they not?A. We were never told to report it, no.

Q. But you did in fact?A. We did in fact, yes.

Q. Because you knew that the efficiency of your equipment and the safety, the possible safety of the men, was involved?A. That is correct.

Q. And there was nothing unusual about the condition of your vehicle on this day?A. No.

Q. I want to ask you about what you said to Mr. R. Menzies in this early investigation. It was this, as I understand it: "Charlie Stewart frequently went to test the rear end of the bleed tube and he had been in there minutes before". Those were your actual words that you signed?A. Yes.

Q. You meant to convey by that that to your understanding he had indeed been in there for the purpose of testing shortly before this incident?(Objected to by Mr. Sullivan).A. Yes.

HIS HONOR: He is entitled to be asked what he intended to convey.

MR. REYNOLDS: Q. You see, it is in the one sentence, that is what I am asking: "Charlie Stewart frequently went to test the near end of the bleed tube and he had been in there minutes before"? A. That is right.

Q. And I suppose you saw him go in with his lamp; that is why you said that? A. Yes.

RE-EXAMINATION:

MR. LEE: Q. You made a remark which did not seem to have a complete context around it. It was this: "This was the steepest grade." Do you remember that? A. Yes.

Q. When you say it was the steepest grade, do you mean the steepest grade you had ever worked on, the steepest grade in that section of the mine, or what? A. The steepest grade in this section of the mine, yes.

Q. I thought that is what you meant. You told His Honor that you had never seen coal dust adhering to the disc brake?A. No, not -

Q. Of course the disc brake is in continuous motion, isn't it? A. Yes.

Q. But it and the components behind it are guarded by a guard? A. Yes.

Q. And the guard comes out to the front of the disc brake? A.Yes.

Q. It drops down where you might call the back of the disc brake, the other side of it? A. Yes.

Q. The guard has got a part flooring in it, has it not?A.Yes.

Q. And on that flooring coal dust could accumulate, couldn't it? A.Yes, it could.

Q. And be held there? A. Yes.

Q. It would be in very close proximity to the disc brake? A. It could.

Q. And as the disc brake went round and round, if it got close to it, really close to it, up against it, it may leave some mark on it? A.IT could do.

Q. That is a situation which is not a mere possibility but you would agree it is a definite probability? A.Yes.

Q. In fact if you would look at that picture (shown), that picture shows - I do not ask you this because you would not know what it was a picture taken of, but it does show a disc brake identical with the one on your vehicle? A. Yes.

Q. And it shows the guard? A. Yes.

Q. If you look down through the guard you can see on the floor of the guard an accumulation of what appears to be coal dust? A. Yes.

MR. REYNOLDS: This is the same question to which I successfully objected earlier, and I object again. (Last part withdrawn by Mr. Lee).

HIS HONOR: Q. It is not the same? A. No, Your Honor.

MR. LEE: Ithink the objection is a proper one.

Q. Down at thebottom of the guard there could be an accumulation of coal dust which could be close to or in fact contiguous with the disc brake? A. Yes.

Q. And that could be there for a lengthy period or a short period? A. Yes.

HIS HONOR. Q. Would you have a look at that again - whether it is coal dust or not it is a collection of something there?AYes.

Q. It is some kind of material? A. Yes.

Q. Some kind of loose material? A. Yes,

MR. LEE: Q. All I am suggesting is that in that position where that loose material is you have just described, there could be coal dust accumulated? A. Yes.

(Above photograph tendered and marked Exhibit "C")

Q. The other matter I wanted to ask you is that I think it was Mr. Parkinson or it might have been Mr. Doyle who put this to you: If you got something jammed in the mechanism you would be aware of it, and you answered yes to that: Would you like to reconsider that? A. Well - (Objected to by Mr. Reynolds; allowed).

Q. Do you remember Mr. Parkinson or Mr. Doyle put to you in effect that if something did jam in your mechanism you would be aware of it and you said yes. I would just ask you whether, given an opportunity now, you would care to reconsider whether your Yes is the complete answer or whether you would say "I might" or - A. On lots of occasions I would say you would, but in this particular stage with the place being so steep and such a long haul with the coal, I don't think you would notice it on this occasion.

Q.If something got into your mechanism and jammed in there but did not affect the working of the mechanism, would you have any way of knowing it was there? A. No.

Q. I suppose you are not aware, are you, of the number of revolutions per minute the drive shaft performs? A. No.

Q. Or the disc brake? A. No.

Q. And I suppose you would not be able to say what size piece of wood thrust in, we will say between the disc brake and the drive shaft with the car operating, would be needed to make even any impression on the working of those parts? A. No.

Q. I do not know whether you were asked, but did you notice any alteration to the shuttle car in what you might describe as the proper working of your car? A. No Sir, no.

(Witness retired).

DALE JONES,
Sworn and examined as under:

MR. LEE: Q.Your name is Dale Jones? A.Yes.

Q.You reside at 32B Popes Road, Woonona?A.Yes.

Q. You are a married man? A. Yes.

Q. You are employed as a fitter at the Bulli Colliery?A. Yes.

Q. Your age is 27, is it not? A. 27.

Q. On the morning of 9th November you were working in No. 8 Right Section?A.Yes.

Q. I think six of you workmen were collected at the timber bay at the end of the cutting? A. Yes.

Q. And another, a seventh man, was at the rear of the miner? A? On the left hand side, yes.

Q. At the end near the face? A. Yes.

Q. Who were the men with you at the timber bay? A. Jack Murray, Fred Hunt, Harry Smith, Charlie Stewart, Barry Kent and myself.

Q. Do you know Charlie Stewart - he is a comparatively young man, is he? A. Oh yes - well, yes.

Q. About your age? A. No, he would be perhaps 35, 36.

Q. He is in his thirties? A. Yes, but still -

Q. And Bobby Stewart, he is a young man, is he not? A. Yes, in his early thirties.

Q. THe other gentleman, Mr. Hunt, was about 50 years of age? A? 50 odd, yes.

Q. Mr. Murray, 50 or a little more? A. Yes.

Q. And Henry Smith about the same? A. Yes, about the same.

Q. Then there was Robert Charles Stewart - I think you knew he was only about 30 years of age, did you not? A. Yes. He was the chap inby.

Q.You were at the timber bay there and I think you were sitting, were you not? A. Well, I think I was, yes.

Q. And from where you were sitting could you see down or up the cutting to the intersection? A.Yes.

Q. Was there a good view - nothing to obstruct your view? A.No. In relation to where this fire was I had a clear view.

Q. You had a clear view? A.Yes.

Q. The cut-through sloped up towards the intersection,didn't it? A. Yes.

Q. You noticed a fire at some stage? A. Yes.

Q. When you noticed that where was it? A. On the left-hand rib and extended.

HIS HONOR : Q. The left hand as you were facing it? A. As I was looking at it it was over on the left hand side, on this side of the shunt.

Q. On your left hand rib? A. Yes.

Q. MR. REYNOLDS: On the side of the shunt?A. On that side,yes.

MR. LEE.Q.In relation to the intersection where was the fire as you saw it? A. AT the intersection, is that what you mean?

Q. That is what I want you to tell us. Was it at the intersection, down the cut-through or further back or where? A. No, it appeared as though it was between the prop, the props holding the bars up, and the rib coal, if you know how I mean. Up towards the shunt and extended from what I thought was the floor to the roof.

HIS HONOR.Q. Wheh you say it was up towards the shunt, do you mean you are looking down the timber bay? Can you see that plan from there? A. Yes.

Q. Can you see where the timber bay is marked at the left-hand side? A. Yes, near the black square.

Q. Have you seen this before? A. No, but I know that.

Q. When you say it was up near the shunt, do you mean it was still in that heading that you were looking up? A. Yes, it was - you know when you went in the mine how the bars were held up by the timbers.

Q. By props? A. Yes, that is right. Well, this fire appeared in this heading but between the props and the coal rib, but as to whether it was only - as I say, I think I must have been sitting down because looking uphill it did appear from the floor to the roof, but of course there could have been packer coal on the actual floor, if you know how I mean, and instead of it being say seven feet high, it might have been in this particular case five feet or high or four feet.

MR. LEE: Q. Anyway, we can find out from you what you saw when you ultimately got up to the intersection, but from where you said, it seemed to be from the floor to the roof? A. Yes.

Q. And on the rib side? A.Yes.

Q. Was there anything about the fire that you can tell us - the colour of it, the intensity, whether it was moving quickly or anything like that? A. Well, it was very large and at that particular time when I first noticed it it only seemed yellowish -orange colour, you know, in that left hand side, but then when we were running towards it, that is when you could notice sort of blue, bluey-type fingers, you know, with the flame sort of licking out. Then also when we got up close to it, it was across two bars, like - I never noticed this from the first time I seen it, this was as I was running towards it.

Q. When you were at the timber bay, was the position that you just became aware that there was a fire up at the intersection or had you been looking at it and the fire came out into it? A. No, the fire was there.

Q. You just became aware and looked around or towards it? A. No, we were throwing talk around, you know, just talking naturally and I just happened to look that way. I might have been looking that way, I don't know, but there was this hell of a fire.

Q. You shouted out, didn't you, "There's a hell of a fire," or words to that effect? A. Yes.

Q. And you jumped to your feet? A. Yes.

Q. I think you called out to Bobby Stewart behind the miner?A. Yes.

Q. And I think you heard Charlie Stewart say, "Come on," or something like that, "Follow me," or words to that effect?A.Yes.

Q. Then did you men run towards the fire? A. I can't say that Sir, because I don't even remember running about the first 30 yards.

Q. What is the next matter you recollect? A. Well, that was when I was aware that Charlie Stewart was in front of me and I was more or less gaining on him and as we got up towards the fire I asked him which way would we go.

Q. Stopping you there, if I may, is this the correct order, that Charlie Stewart was out in front? A. Yes.

Q. And you were behind him? A. Yes.

Q. Have you any idea how far behind you the other men were? A. No, not a clue.

Q. At some point you asked Charlie which way you would go? A. Yes.

Q. Did you stop? A. No.

Q. Was this done while you were running? A. Yes, while we were running.

Q. Did Charlie say something to you? A. Yes, he said "Follow me" or "straight through," I think, just "straight up" or words to that effect. I seen him then put his head down, like charge at it, and I did the same thing and followed through.

HIS HONOR : Q. He put his head down and charged what - at the fire? A. Yes.

Q. Was the fire across the - A. Yes, it was across the roof.

Q. How far down was it reaching at that stage? A. Well, it wasn't down very far.

Q. Did you actually pass through flame? A. I don't know what I passed through, Sir. It was very intense heat but I don't know whether there was actual flame. I know it was above me but I don't know -

Q. You knew it was above you but you did not know whether it came down far enough for you to have to go through it? A.No.

MR. LEE:Q.If you can, would you tell us what distance it was from where you started to run through the fire till you came out the other side? A. Well, I think from the start - you see, before we got up to the fire it was good air. There was not any smoke or anything like that and I know that the width of the cut-through from centre to centre was approximately 33 yards. Well, from the start, say where the fire went across the road, I wasn't able to breathe after I entered in there. There wasn't anything to breathe until I got - well, I thought, to the cut-through at the crib room.

Q. At B. heading? A. B. heading, yes, and just as I came round there I was able to breathe properly, but in that other place there was nothing to breathe whatsoever.

HIS HONOR:Q. Do you mean the long cut through? You are running along No.2 and could not get your breath till you got to B. heading? A. Yes, B. heading.

MR. LEE:Q. Were your clothes burnt?A. No.

Q. Or your skin or body burnt at all? A. No.

Q. Were your eyebrows singed?A.No.

Q. You mentioned that there was no smoke? A.Not to that particular point,no, and it was more or less a glow and very lit up. Like, when I put my head down I turned it to the left so that I more or less looked at the shuttle car, you know how I mean, and all was illuminated with this orange-yellow type of light. But as I say, there was nothing in there to breathe. I don't know - I don't think there was smoke at that particular time.

Q. You have seen a lot of ordinary fires and flame?A. Yes.

Q. But this glow you referred to, was that just an ordinary light thrown by the flame or did there seem to you to be something special about this fire? A. The only thing I could say there was the bluey-type fingers on this, on thd fire in the rib. That was the only thing that was perhaps a little bit out of the ordinary, of an ordinary house fire or like, you know, in the grate or anything like that.

Q. As you went through - you appreciate I have to ask you these questions even though in the circumstances in which you were placed they may seem a little unreasonable - but as you went through the fire you say you put your head to one side and you looked to where the shunt car would be? A. Yes.

Q. Did you see it? A. No.

MR.LEE:Q. Did you notice whether the fire had gotto the fans? A. I was - (demonstrates.)

Q. I appreciate that? A. No.

Q. Could you notice anything about the bleed tube as you ran through the intersection? A. Only that the fire seemed to extend now along that bar, as to what was on fire.

HIS HONOR: Q. Along what? A. The bar, I believe. By passing - we do that routine, the elephant tube was attached to the bar. As to whether the bar was on fire or the tube was on fire, I don't know.

MR.LEE:Q. Charlie Stewart went through first didn't he? A. Yes.

Q. How far behind him were you? A. I would say 3 to 4 yards, not very far.

Q. When you made your run through the fire were you at all conscious as to where the other men were? A. No.

Q. You went through and recovered and rang up and the phone was engaged? A. The first one I rang, yes.

Q. You rang some other numbers, 17 - 16 or 17? A. Yes.

Q. You got in touch with Mr. Smithers, Ned Smithers? A. Yes.

Q. And told him there was a fire? A. Yes.

Q. You asked for the other number at three-8? A. Yes.

Q. Which you tried to ring earlier? A. Yes.

Q. He told you it was three-7. You then got in touch with Hutcherson? A. Yes.

Q. And asked him whether Fred Wright was there? A. Yes.

Q. He said No. You said there was a fire in 8 right? A.Yes.

Q. And after putting the receiver down I think Charlie Stewart came to the phone and asked you to knock down the stopping outby of the number 1 cut-through? A. Yes.

Q. Have a look at the plan: is that the stopping he wanted you to knock down? I am referring to the rigi seal stopping shown between A and B? A. I didn't go into this. I don't believe I went into this seal at all.

MR.LEE: He is referring to Number 1 cut-through between A. and B.

WITNESS: I went to the rigi seal stopping straight down from the track road.

MR.LEE:Q. Can you see it there, the one you went to? A. Yes.

MR.LEE: He indicates the rigi seal stopping where my finger is.

MR.SULLIVAN: Is that the one in number 1 heading?

MR.LEE: No. It will be referred to by the inspectors as number 0 cut-through.

Q. That is the rigi seal you went through? A. Yes.

Q. On the dog leg down from B. heading? A. Yes.

Q. What did you do there? A. It was a rigi seal stopping. There was no way I could tear it down. I picked up a roof bolt that was in the rib and started into it with the roof bolt. I just succeeded in putting a tear about six inches in up near the top and I think I grasped it and tried to pull it but it was too strong for me. I turned round and seen a light outby somewhere up on the track heading. I don't know actually of the exact position. It was in the vicinity of the transformer, perhaps a little bit inby. I am not too sure actually whether it was inby at the transformer or a little bit outby of the transformer.

HIS HONOR: Q. It is right up along? A. Yes.

Q. It is right up on the left side of the chart at the bottom where it says "transformer and urn heater"? A. Yes.

Q. You are not sure whether you were inby or outby? A. No, that white one. I then sang out for help and Don Ashford then came down and assisted me in tearing the rigi seal stopping away a bit.

MR. LEE: Q. That isthe one you had previously been trying to pull down? A. Yes.

Q. Did you succeed, you and Ashford? A. Yes.

Q. What was your object in tearing that rigi seal stopping down? A. I was asked by the Deputy to.

Q. He asked you to? A. He asked me to go to the stopping.

Q. Did you understand the precise reason why he wanted that out? A.I do. It would be to try to short circuit the air.

Q. When you pulled the rigi seal down did you notice something about the smaoke? A. Yes, it was up to that particular point, up to the rigi seal and it was swerling, like, as the fresh air was hanging there it was swerling - like fresh air sort of mixing with it and it appeared that the fresh air was holding it.

Q. Where was the smoke coming from? A. Like up towards this way.

HIS HONOR: We can't understand that.

MR. LEE: I was going to let him complete where the smoke was coming from so Your Honor could see it.

WITNESS: The smoke was coming up this way and fresh air, like, coming in along the track heading down towards --

HIS HONOR: Q. Coming down past where the stopping had been - the smoke? A. It was coming through that - through the stopping - trying to.

Q. Trying to come through where the stopping was? A. Yes.

Q. The fresh air was coming from where? A. Coming down past the transformer.

MR. REYNOLDS: Q. The air was coming up B heading and pushing it back into this point? A. No, I don't think that would be right. I think it would be coming down from the transformer. That was

our main inlet coming down. I don't think it has a number on it.

Q. Coming down past the transformer into zero cut-through? A. Yes.

Q. And pushing it back? A. Yes.

MR. LEE: Q. At that time you heard a voice calling out in the middle heading? A. Yes.

Q. What do you call the middle heading? A. B. heading.

Q. You ran in and about the time you realised you would need air Charlie Stewart emerged from the smoke on his hands and knees? A. Yes.

Q. Where did he come from? A. I am not sure how far I went into B. heading. I realised that I was nearly out of breath and I would have to go back out when Charlie Stewart was on his hands and knees and coming out.

Q. Where did you meet Charlie Stewart? A. I don't know. I ran from here. I came up to this corner and sang out "This way mate", or "This way Charlie" or words to that effect. Then I could not see anything. There was no light. I ran into the smoke and like as I say, as I realised it was time to go back out, I could not hold my breath much longer, I bumped into Charlie and we then made our way - ran back out.

MR. MURRAY: This is rather difficult for us to follow, Your Honor. It is on a plan which we cannot see. Could we return to the other system?

HIS HONOR: Yes, let the witness go to the plan and point.

(The witness left the witness box and went to the plan).

Q. Point out firstly, where that smoke was swerling against the fresh air? A. Just here.

Q. The fresh air was coming -? A. Coming from here (indicates on plan).

Q. Where you are pointing? A. Yes, along here. And it was swerling just in between that stopping- it could not come out against the fresh air going in.

Q. I think you were speaking about hearing a voice calling out. Take it from there on? A. I heard a voice calling out and I came up to a point somewhere here. It might have been inby. I am not sure.

MR. REYNOLDS: Could that be described as the junction of zero cut-through and B. heading?

HIS HONOR: Yes. Thank you.

WITNESS: I came up to that particular point. As I could not see anything, any light, I ran inby. I don't know how far I ran.

MR. REYNOLDS. Q. Towards the crib room? A. Yes, towards the crib room. As I said I had to more or less start going back when Charlie Stewart emerged from the smoke on his hands and knees.

HIS HONOR: Q. Can you say from which direction Charlie Stewart was coming? A. As I say I don't know how far in but just say that was in here in B. heading, he was coming towards me and I was going towards him.

MR. LEE: Q. Would you mind going back right to the beginning and just trace with your finger the route you took from the timber bay out to the rigi seal stopping? A. I ran from the timber bay up this heading, up No.2 cut-through, up here to the turn, when Charlie Stewart told me to use the phone into B. heading I went to the crib room table where the phone was situated. I finished using the phone and Charlie Stewart came in. Charlie Stewart was there when I had finished using the phone. He then asked me to knock the stopping down outby of the crib room. I understand he was going to this seal and for me to go to this rigi seal at zero.

MR. REYNOLDS: May it be noted he understood Charlie Stewart was going to the rigi seal in No. 1 cut-through?

HIS HONOR: Yes.

MR. LEE: Q. You went out to the rigi seal and came back in the manner you have previously indicated? A. Yes.

Q. When you had run to the crib room to use the phone in the first instance what was the situation as far as smoke was concerned? A. No smoke there.

Q. But when you came back from trying to fix the rigi seal, or get it down, and met Charlie Stewart, what was the smoke then? A. Very dense. Just like driving in a fog, when your headlights hit the fog you can't penetrate. You could not see. I could not breathe.

Q. You grabbed Charlie Stewart and you went out into the fresh air? A. Yes.

Q. Which way did you go? A. We went back towards zero cut-through - from there on things were very hazy in my mind. I know from there I did make my way to three 8 phone.

Q. That is situated - ? A. It is not on that map.

Q. It is situated past the transformer, well back? A.Yes, well past the transformer.

Q. You saw, I think, Mr. Barry Kent? A. That is right, Barry Kent was being treated.

Q. From there you went out to the surface? A. Yes.

Q. Was there any delay in you leaving the area? A. The only delay was caused with waiting for Barry. He was being bandaged. There was a transport car and a diesel waiting to take the dogwatch shift out, like, who had worked overtime and that made its way down to the surface.

Q. How long have you been working in the Bulli Colliery? A. In the Bulli Colliery I have just been there on six - it will be seven years in May.

Q. Were you yourself aware of gas in any part of these workings prior to this fire? A. Yes.

Q. In what way? How were you aware of gas? Did the Deputy tell you or did someone else tell you or what? A. No. Well, the Deputy may have told me but in B. heading opposite the crib room there were drossed sticks.

Q. In B. heading? A. Opposite the crib room.

Q. From the crib room going -? A. Towards the goaf.

Q. There were crossed sticks placed? A. Yes.

Q. Past the intersection of No. 2 cut-through in B. heading? A. Yes.

Q. What did those crossed sticks tell you? A. Crossed sticks in any mine is a warning, like, not to - and they are usually marked in a way "No entrance here". I forget the exact words. Anyway, crossed sticks, you just don't go past that particular spot.

Q. Apart from the existence of the crossed sticks there did you have any other indication of the presence or likely presence of gas? A. Only I had tasted it, like more or less felt it, this particular gas, and that was I think on one occasion I went with Charlie past these sticks, I think I went down looking for a hose or some particular item, anyway, you could feel it and we just came back out. I am not sure how far we went in but I know we did not go very far past those sticks.

Q. You say you felt it. Was it something you smelt or something you could tell by the effect on you? A. You could feel it on your legs. It is a funny type of feeling and also, if it is up high enough or if you bend down in it there is a type of - it is a feeling, more or less.

Q. Where did you feel it? On your legs? A. Yes.

MR. McNALLY: No questions.

MR. MURRAY: Q. I did not quite follow the verbal description you gave of where the crossed sticks were. Could you just perhaps describe it slowly or indicate on the plan? A. Yes. (Witness leaves witness box and proceeds to plan) Just in here.

HIS HONOR: Q. That is in - ? A. B. heading past No. 2 cut-through.

Q. On the right of No.2 cut-through? A. On the right of No.2 cut-through.

Q. On the right? A. Yes, in here (indicates).

MR. MURRAY: Q. In other words if you are walking towards the goaf area the crossed sticks were on the right of the heading? A. No, they were directly in front of you.

Q. Do you recall what was written on this? A. No, I would not like to say as to what was written on it. I know the date was on it and also a signature, like, just the usual Deputy's signature but as to what date was on it and what signature, I would not know.

Q. As far as you are aware that sign had been there for how long before you actually went down and saw it the first time? A. Several days.

Q. The best statement you can make is it was put there during the time this section was being worked, while you were in there working the section? A. Yes.

Q. Do you recall whose signature was on it, or did you recognise it? A. No, I don't. I am not sure of that at all.

Q. Do you recall that when you walked down B. heading that you could see well into the goaf? A. Yes, you could stand there and could see right in - that depends upon the lights, of course.

Q. Do you recall whether you actually walked down to what appears on the plan to be the end of B. heading? A. No.

Q. You did not go down that far? A. No.

Q. . You did not go down that far? A. No.

Q. You certainly could see a clear avenue into the goaf at that point as far as your light would show? A. Yes.

Q. Going to No.2 cut-through I think you indicated you had an unobstructed view from No. 2 cut-through of the intersection. I beg your pardon. I withdraw that. You gave evidence you were at the timber bay when something happened? A. Yes.

Q. You were asked by Mr. Lee a question as to whether your view was or was not unobstructed from the timber bay to the intersection?A. Yes.

Q. You said there was no obstruction? A. Yes. I think I was going to say something else though.

Q. The only means you would have of seeing that distance would be your own helmet light?A. On this particular occasion the light of the fire because it illuminated that quite well.

Q. Assuming there was no fire there, would you have been able to see anything with any clarity just by the helmet light if you were to look towards the intersection from the timber bay? A. It would be very difficult, I should imagine.

Q. Are you of your own knowledge able to say the distance from the timber bay to the centre of the intersection of A. heading and No. 2 cut-through? A. I think it might be - I am not exactly sure - I think it might be close to 70 yards.

MR. MURRAY: It was mentioned from the Bar table that this plan -

MR. REYNOLDS: Seven inches.

MR. HERRON: 280 feet.

MR. MURRAY: Is it said the continuous miner is drawn to scale?

MR. REYNOLDS: I would doubt that. I would think that is only representational.

MR. SULLIVAN: It is very close.

MR. MURRAY: I am instructed the continuous miner is 39 feet long. Would therefore your recollection of the distance from the timber bay to where the miner was working on the face be consistent with it being 30 to 50 yards? A. 30 to 50 - to the back of the miner would be, I think, about 25 - 30.

Q. 25 to 30. That would be the boom? A. The boom.

Q. The back of the boom? A. Where Bobby Stewart - where I thought he was standing at that time. As to whether he was right up against the boom or a yard this way I don't know. I am not sure.

Q. Your recollection is he was standing beside the boom? A. At the back of the miner on the left hand side.

Q. As you look down towards the face? A. Yes.

Q. ANd that is the opposite side to the controls? A. Yes.

Q. Your estimate was he was how far from you? 30 to 35 yards? A. No, 25 yards. About 25 yards.

Q. From you? A. Yes.

Q. Are you able to say whether the miner was back from the face or had been sweeping? A. I think the miner was at the face. The only way - why I say that is because the shuttle car had gone out, we were waiting for another shuttle car to come in. Bobby Stewart, when he does make moves like that, Harry Smith who was his offsider on that particular side looked after the cable and he did not ask Harry to mind the cable or any words like that, it just appeared he got off the miner and came over on to that side.

Q. Have you any recollection of looking back at the time you called or someone called to him? A. Well I don't think I looked back because I sang out to him as I was about to take off, or may have been going, I am not sure.

Q. As far as you were aware, and I am only asking as far as you are aware as a member of the gang or team, was it the intention to cut through the goaf at that point? That shift? A. Was it the intention? (Objected to by Mr. Reynolds).

Q. Had there been any discussion as to what was to be the amount of coal cut during your shift that day? (Objected to).

Q. Did you know what the gang intended? A. I did not know, I can say that, because working pillars you never knew what you were going to do. When working pillars you don't know what is going to happen or where you are going to be next. There are so many things can go wrong.

Q. Was your work in any way involved in lengthening the miner cable or lengthening with additional lengths of cable? A. Not directly, no.

Q. What do you mean? A. I mean if we, say, ran short of cable and there was spare say a certain distance, and it was waiting to be pulled up to the face I would help in the pulling of the cable up. Is that what -?

Q. I was asking was your work in any way affected by the lengthening of the miner cable? There is nothing difficult as far as you are aware in adding length to the miner cable if the machine were required to go further from the gate end box, it was just a simple matter of adding a length? A. Oh no.

Q. Into the miner cable? A. No, I don't think that is right at all. These cables come in a certain length and once that length was expendable (sic) that was it. Is that it?

MR. MURRAY: Thank you. I will accept the answer.

MR. HUME: No questions.

MR. CRANE: No questions.

MR. PARKINSON: Q. What union are you a member of? A. The A.E.U., the Amalgamated Engineering Union.

Q. Could you tell us approximately what date the bleed tube was installed? A. No I could not. I would not have a clue on that.

Q. The men - you explained to Mr. Lee that were at the timber bay? A. Yes.

Q. Was Fred Hunt? A. Yes.

Q. Barry Kent? A. Yes.

Q. Harry Smith? A.Yes.

Q. Jack Murray? A.Yes.

Q. Charlie Stewart? A. Yes.

Q. How long had Charlie Stewart been talking to you? A. Minutes. I would not like to say. I would not say quarter of an hour. No, it wasn't that long at all but more or less it was talk just going on while waiting for the other car to proceed in the normal morning's work.

MR. SULLIVAN: Q. The continuous miner was not working at this stage, I take it; is that right? A. No.

Q. Was that because there was no shuttle car there? A. Yes.

Q. The men who had gathered down there; first of all, the late Mr. Stewart was the miner driver, was he? A. Yes.

Q. He was standing at the back of the continuous miner? A. And to the left.

Q. To the left ofit? A. Yes.

Q. Then, with you at the timber bay there was Deputy Stewart? A.Yes.

Q. Yourself, who was the fitter? A. Yes.

Q. Mr. Kent who was the electrician? A. The electrician.

Q. And the other three members of the miner crew? A. Federation, yes.

Q. What was going on exactly? I mean why were you all gathered there, the two technical men and the Deputy? A. Why?

Q. Yes. A. Well, this was more or less a point where there were bars, props and vents - air vents. Now, as was customary, or what we used to do anyway, while waiting, Bobby Stewart would be in the habit of dropping the back end or sending out for a bar whereas these chaps were already on the job would take the bar in, or if he said "We will need a vent" a vent was got out and in the case of a bar going down, props were made ready so that when they came back with the measurements it was just like ready to go on.

Q. Yes, but then you were there - you were the fitter? A. Yes.

Q. And the electrician was there and the Deputy was there? A. Yes.

Q. Was it just a coincidence that they were all there at this particular time? A. I don't quite know that. I mean, I think what had happened there previously was there was a new overman came into the section and he was introduced around and then he went out with Fred Wright, I think. I am not too sure of that.

Q. With whom? A. Fred Wright. I am not too sure, and I think Charlie Stewart who had been with these two other chaps, he more or less came up with them and then he -

Q. Who was Wright - you mentioned Fred Wright? A. Assistant Under-Manager.

Q. So whilst you were there Mr. Wright, the new overman, and Mr. Deputy Stewart came into the bord, is that right? A. Came into the what?

Q. Came into the working place? A. No, I am not sure whether Charlie was with them or not.

Q. Well, he was there when the fire broke out, wasn't he? A. Oh yes, certainly.

Q. You had suggested they had come in just a few minutes before? A. Well, they were there early - I am not sure whether this Mr., the new overman, I am not quite sure of his name - Fairs, that is right. Well, I am not quite sure how he came in. He was with us there first thing in the morning. He came in with the transport I think.

Q. Did he come into this particular working place? A. Mr. Fairs, yes.

Q. With Mr. Deputy Stewart? A. I think he may have and then Fred Wright came in, as was usual, later on.

Q. How long had Deputy Stewart been in there? A. He had been there a fair while.

Q. By "a fair while" you mean half an hour or quarter of an hour or something like that? A. Yes.

Q. Half an hour? A. Half an hour - it may not have been as long as that.

Q. More than a quarter of an hour, at any rate? A. Yes, by the time he was introduced around and had a bit of a balk with the new chap.

Q. Mr. Fairs had gone and Mr. Wright had gone at that stage? A. They had gone, yes.

Q. And Mr. Stewart was still staying, chatting with you? A. That is right.

Q. I want to make sure of this: The miner driver has a Deputy's lamp, doesn't he? A. Yes, a safety lamp.

Q. And he is supposed to test for gas periodically, isn't he? A. Yes.

Q. Was Mr. Deputh Stewart in that heading in connection with any request for him to come to test for gas? A. Not that I know of. I couldn't answer that.

Q. Not that you know of - you cannot put it any higher than that? A. No.

Q. You ran hard up this heading - it was rather a steep grade, wasn't it? A. Yes.

Q. And it was a hard run? A. Yes.

Q. There are a few things I want to put to you from your statement. You do remember making a statement, don't you? A. Yes.

Q. You said "I was sitting in a position where I could see inby and outby without any trouble"? A. Yes.

Q. "I noticed this fire on the left hand rib looking outby"? A. Yes.

Q. Now, you still agree that that was the first thing you saw? A. Yes, that is correct.

Q. Then "We ran towards the fire and I was three or four yards behind Charlie"? A. Yes.

Q. "I was not aware what went on behind me after I started to run"? A. Just excuse me there, Sir, you left out something.

Q. Yes, I left out portions not relevant to this. If my friends want me to read anything - "On nearing the fire I saw that the main part of the fire was on the left hand rib from the floor to the rib"? A. Yes.

Q. And extended like a finger across the elephant trunk attached to the roof"? A. Yes.

Q. Now, is that still your recollection of it? A. Yes.

Q. "There was a bluey-type flame on the left hand side and when I was in it there was a yellow glow which appeared to be all around"? A. That is right.

Q. That is your recollection of the description of those flames? A. Yes.

MR. REYNOLDS: No questions.

MR. LEE: No further questions.

(Witness retired).

MR. SULLIVAN: I have an application to make to Your Honor. We served a subpoena on Australian Iron & Steel asking for the production of certain documents, various plans and so on, which I could read through if necessary.

MR. REYNOLDS: The subpoena is answered in full. There are the documents, together with the subpoena. I have no objection to counsel for the Federation seeing them, but I am reluctant that everybody should wander through the company's records. I certainly have no objection to Mr. Sullivan and his junior having access to them, and if anyone makes a special application perhaps Your Honor could consider it?

HIS HONOR: Yes, I will deal with any special application.

(Further hearing adjourned to Wednesday, 8th December, 1965 at 10 a.m.).

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8th.

DEPARTMENT OF MINES
SYDNEY

Minute Paper

St. 9581 V. C. N. Blight, Government Printer

PAPERS:—

SUBJECT:—

BULLI COLLIERY INQUIRY - INFORMATION FOR THE MINISTER.

Attention is invited to the Minute of 9th December, 1965, herein, by the Deputy Chief Inspector of Coal Mines summarising evidence brought before the Inquiry on the second day of the Inquiry (8th).

Also attached herewith is a copy of the full transcript for Tuesday 7th December and part of the transcript for Wednesday 8th December, 1965.

E.O. Rayner
A/g. UNDER SECRETARY.

9th December, 1965.

Seen by Minister
14 DEC 1965

The Minister.

DEPARTMENT OF MINES
SYDNEY

Minute Paper

St. 9581 V. C. N. Blight, Government Printer

PAPERS:—
JD/IA

SUBJECT:—

INFORMATION FOR MINISTER.

BULLI COLLIERY - SECOND DAY OF INQUIRY BY JUDGE GORAN.

Barry Kent, Electrical Fitter, was sworn in and as a medical certificate had been furnished as to his unfitness to be cross-examined, his statement given to Mr. Menzies, was tendered as his evidence.

He told of having seen the fire at the intersection, and ensured that deceased Stewart, who was at the miner, was on his way out, and then together with the other deceased men, ran up to the intersection. There was a short discussion what to do, and he decided to go through a wall of fire that now engulfed the intersection. While passing through the flame he fell, but does not think the others would have seen him fall.

Mr. Ashford, loco driver, said he saw a flash, then saw a fire near the roof of the intersection, and heard someone call out to switch the "tranny" off. He then went and switched the power off at the transformer, and returned to the area.

Mr. Walker - Dogwatch Deputy. He told of making various inspections of the miner place, shuttle car shunt and goaf edge during the shift prior to the accident, and did not find any inflammable or noxious gases, and was emphatic that the section was in a safe condition for working on the following shift.

Stewart was with the deceased men at the timber bay in the miner area when the fire was first noted, and he called out for everyone to get out, then left expecting everyone to follow him. Reaching the intersection, he noted the bleeder tube was on fire to about halfway across the intersection and passed underneath and ran to the loading point to get assistance. The fire developed quickly and smoke defeated his efforts to short circuit the ventilation which he attempted to do by breaking down a stopping.

His evidence as to inspections was somewhat similar to Deputy Watkins, and that morning he had not found either inflammable or noxious gas. He stated when testing for blackdamp he got down on his hands and knees and sniffed.

Both deputies were subject to a great deal of cross-examination, and evidence to date has not shown up to their advantage, indicating serious weaknesses.

FURTHER INFORMATION FOR MINISTER: Ventilation in the area has been restored similar to that as on the day of the fire, and the inspectors today found a high percentages of methane present in the shunt where the fire originated. This would indicate that the deputies were lax in their inspections.

SUBMITTED:

J Dowlls
Deputy Chief Inspector of Coal Mines
9th December, 1965.

IN THE COURT OF)
COAL MINES REGULATION) No. 1 of 1965
HOLDEN AT BULLI)

BEFORE HIS HONOR JUDGE GORAN

ASSESSORS: MESSRS. MAHON and BUCK

Wednesday, 8th December, 1965

- - -

IN THE MATTER OF AN INQUIRY IN PURSUANCE OF THE COAL MINES REGULATION ACT INTO AN ACCIDENT WHICH OCCURRED AT THE BULLI COLLIERY ON 9th NOVEMBER 1965 AND ITS CAUSES AND CIRCUMSTANCES.

- - -

(PART HEARD)

HIS HONOR: My attention has been drawn to a report published in the newspaper, the Sydney Sun, yesterday. It is headed "Mine Blast Inquiry", and goes on during the body of the report to say "Four men died when an explosion and fire swept through the Bulli Colliery on November 9." The article is quite understandable as any newspaper making a report of these proceedings could fall into what is apparently a simple error but I think it ought to be said there is no evidence before me that there was any explosion involved in this mine disaster. The evidence is that there was a fire and as the matter may become important in these proceedings I think it is my duty to correct that report.

MR. ROSS: Mr. Murray did indicate yesterday at certain stages I would appear. This is the first of these occasions. We have also had copied m.f.i. "1".

HIS HONOR: I cannot see that any purpose would be served by numbering the Exhibits as if they came from different parties, in the usual course. I think we might well run out of various classifications if we did that. You are tendering that?

MR. ROSS: I see no reason why it should not be tendered.

HIS HONOR: You have no objection to this being tendered in what is roughly your case?

MR. LEE: No.

HIS HONOR: Is there any objection from the Bar table to the document being tendered?

(Document admitted and marked Exhibit "D")

MR. SULLIVAN: I have a further appearance to announce with my learned friend Mr. Bowie, as foreshadowed at the hearing in Sydney. I now appear with Mr. Bowie for the Amalgamated Engineering Union. Your Honor has already granted it representation on the first day.

HIS HONOR: Mr. Doyle was appearing.

MR. SULLIVAN: Yes.

HIS HONOR: You appear in place of Mr. Doyle.

MR. SULLIVAN: Yes, with my learned friend, Mr. Bowie.

MR. LEE: The next witness to be called in proper sequence would be Mr. Barry Kent, he being an eye witness to the fire.

He is in possession of a medical certificate which states he is not fit to testify, I think, for two days butI have discussed the matter with his counsel this morning and also with two of my learned friends and the course I propose to take, as I think it is desirable for the Court to have a full description of what happened at the fire before it moves on to other matters is this: I will call Mr. Kent and I will get him to identify the statement which he made and I will then tender that statement under Section 14 B of the Evidence Act and that can be read. I understand, and I am not completely sure of this, but I understand my learned friends will not wish to cross-examine Mr. Kent and if that can be done Mr. Kent can be relieved from further attendance and we will still have matters in proper sequence.

HIS HONOR: Has everybody seen the statement?

MR. LEE: I would be sure Mr. Sullivan has and Mr. Reynolds has.

HIS HONOR: Mr. Parkinson indicates he hasn't. Unless there is some important reason for cross-examining Mr. Kent, in view of his indisposition, I think it a proper course to adopt. Perhaps Mr. Parkinson could be afforded the opportunity of seeing a copy of the statement that was taken.

MR. LEE: It will only take him a short while to read it if I can hand it to him.

MR. CRANE: I leave it in the hands of Mr. Parkinson.

MR. ROSS: As Mr. Lee has said we are in possession of a medical certificate but we do appreciate the sequence which Mr. Lee is trying to present to the Court. I have discussed it with all those appearing this morning and the position as to procedure, as outlined, we think should meet the situation.

HIS HONOR: Does Mr. Kent's indisposition arise out of the accident?

MR. ROSS: It does, yes. Mr. Kent has been in Court but it has been, to date, a very harrowing experience for him.

MR. PARKINSON: I have no desire to cross-examine, Your Honor.

BARRY KENT,
Sworn and examined as under:

MR. LEE: Q. Your full name is Barry Kent? A. Yes.

Q. You reside at 7 Cochrane Road, Thirroul? A. Yes.

Q. You are an electrical fitter employed at Bulli Colliery? A. That is right.

Q. On 15th November 1965 I think you made a statement about a fire which took place on 9th November in the Colliery, the statement being witnessed by Inspector Longworth and being taken in the presence of other Inspectors and other Officials? A. Yes.

Q. Would you have a look at this document?(Shown to witness). Is that the statement you made? A. Yes.

Q. You were present when the fire was in progress in the Bulli Colliery? A. That is right.

(Statement tendered and marked Exhibit "E"; read by Mr. Herron, together with questions and answers at the end of the statement).

MR. ROSS: Mr. Kent mentioned to me before he went into the box that there was one correction he would wish to make on this statement, if I might just refer to that.

Q. Where you say 50 yards in relation to the Deputy and the fitter, on reflection would you change that 50 yards? A.Yes. It was about 20 yards, now I come to think of it - 50 yards is a long way.

HIS HONOR: Thank you for coming along, Mr. Kent.

(Witness retired).

HIS HONOR: That Exhibit will be made available to members of the Press during the short adjournment, in the Court Room.

DONALD HALROYD ASHFORD,
Sworn and examined as under:

MR.LEE: Q. Your name is Donald Halroyd Ashford? A. Yes.

Q. You reside at 90 Point Street, Bulli? A. That is correct.

Q. You are 28 years of age and a single man? A. Yes.

Q. You are employed at the Bulli Colliery as a locomotive driver? A. That is right.

Q. On 9th November you were working in No.8 Right Section of the mine? A. Yes.

Q. At 9.20 a.m. had you returned to the loading ramp, about that time? A. That is right.

Q. What happened after that? A. Well,I come back to the loading ramp after taking coal out and I walked up to see how much there was for them to clean up and as I looked over I was sideways to the shuttle cars and that. I was sideways to the shuttle cars, in their road, and I saw a flash with my eyes and I looked around and as I looked I just saw a big fire. I think I froze there for a second or so because I heard Tommy Mangles call out to "Put the tranny off", and I didn't take any notice then.

Q. Stopping there for the moment to get that in a little more detail, you say you saw a flash? A. That is right.

Q. Where exactly was this flash when you saw it? A. Coming from the side of me.

Q. And whereabouts in the heading, in the cut-through? A. Straight through or where the shuttle cars bring the coal out from the miner.

Q. Are you referring to both or only one shuttle car? A. Both shuttle cars used that road.

Q. In relation to A.heading where did you consider the flash was? A. Where is A. heading?

Q. The top heading.

HIS HONOR: Q. Would you like to go over to the plan and have a look at it? A. I wouldn't mind. (Witness approaches Exhibit "A")

MR. LEE: Q. Would you stay there and perhaps move to this side also. You say where you saw the flash - just put your finger, would you? A. Well, I am standing here facing this way (indicating) and the flash came from down this way.

Q. You are standing at the intersection of No. 2 cut-through and C. heading? A. Yes.

Q. And you were standing with the cut-through on your left, is that right?A. That is right.

Q. And you saw the flash in that position? A. That is right.

Q. Did you look towards the flash? A. Yes, I looked towards the flash.

Q. And where did you see that it was? A. Well, I just looked down and I could see this fire coming across, about two or three feet from the top of the roof.

Q. You indicate on the plan that you saw the fire going across two or three feet from the top of the roof at the intersection of No.2 cut-through and A. heading, is that right? A. Yes.

Q. Perhaps you could return to the witness box now. In relation to the whole of the intersection, was the flame right across the whole of it or just moving across or what? A. Well, when I looked around it just seemed to be one big fire there right across the top.

Q. Was the fire only on the roof or was it elsewhere? A. That was all I could see.

Q. Is there anything you can tell us about the colour of the fire? A. No, just a bright red.

Q. Within a couple of minutes you turned the transformer off? A. That is right.

Q. Then Frank Zanni and Mick O'Connor came up to the transformer and asked you what was wrong? A. Yes.

Q. You told them there was a fire at No. 8 Right and to get the extinguishers off the tranny and the loco? A. Yes.

Q. When you got back to the sweeps, I think you saw Dale Jones? A. Yes.

Q. He called out to you to give him a hand to knock the rigi seal stopping down? A. Yes.

Q. That is the stopping in the cut-through between A. and B. headings, one pillar length out from No. 1 cut-through?A. Yes.

Q. Would you indicate on the plan, so that there is no room for doubt? A. (Approaching Exhibit "A" and indicating) There.

Q. That is the one there, is it? A. Yes.

MR. REYNOLDS: We have called that number zero.

MR. LEE: The witness indicates the rigi seal in No. zero cut-through.

Q. I think you came up to the haulage road on the sweeps? A.Yes.

Q. What is that, exactly? A. Along this road there (indicating).

Q. That is the track, is it? A. Yes, the sweeps are there.

Q. You looked down, you could not see anybody, so you went back to where he went into B. heading? A. Is this after we heard the voice from down here?

Q. I am sorry. I have missed a passage. I will go back. Dale Jones called out to give you a hand to knock the rigi seal stopping down? A. That is right.

Q. You have identified that stopping. You went down to where Dale was and at that time he was bashing at the stopping which you have indicated there, with a roof bolt, and you got enough room to get your fingers between and to pull it apart at the top? A. That is correct.

Q. It was full of smoke in there, was it? A. Yes.

Q. And I think you thought you heard a voice in there? A.Yes.

Q. Then Dale yelled out into the return? A. That is correct.

Q. And the answer came from behind you? A. That is right.

Q. Dale went into B. heading? A. That is correct. He came back to this heading and I came up to the travelling road.

Q. Then you came up to the haulage road on the sweeps,looked down, and could not see anybody?A. That is correct.

Q. So you went back to where Dale had gone into B. heading? A.Yes.

Q. You saw him and Charlie Stewart coming out and he was assisting Charlie? A. Yes.

Q. And then I think Charlie Stewart gave you order to try to rectify the stopping again? A. Yes.

Q. What did you mean, when he gave you orders to try to rectify the stopping again? A. Charlie came back to where we were standing and asked us to try to rectify it as good as we could.

Q. You mean restore it? A. Yes, but we could not put it up,we had nothing there to hold it with and he said the best thing to do is to go and get some more brattice and I told him we could

not get back to the loading ramp where the brattice was, there was too much smoke down that way now and the only place we could get it was at the three 8 phone.

Q. Did Mr. Mangles jump on the loco up past the transformer? A. Yes.

Q. Did you go with him? A. I was driving the loco, yes.

Q. There was no brattice at three 8 phone? A. That is correct.

Q. So Bluey Ainsborough told Ken Mangles and his shunter to go down to 8 split to get some brattice? A. Yes.

Q. That is further back still? A. That is another section.

Q. You went back into 8 Right? A. That is right.

Q. You were told to go out and get an electrician? A. That is right.

Q. Then did you go to red panel and pick one up? A. I did.

Q. When you came out to the transformer the first time how could you tell the power was still on in the section? A. The handle was still in the upright position.

Q. In that position that indicates power on? A. Still on.

Q. You just pulled it down to cut it off? A. Yes.

Q. How long have you been working in the Bulli Colliery? A. Four and a half - about four years eight months.

Q. Is that the total experience you have had in a mine? A. Yes.

Q. During that period have you been a locomotive driver all the time? A. No,I have done brick work. I have done shift work too.

Q. In this Section 8 Right have you ever been aware of the presence of gas? A. No There were signs up down behind our ramp saying not to go beyond. We were never told not to go beyond but they had a sign up not to go beyond it.

Q. Where is that sign. Would you walk across and point to it? A. This is our loading ramp here. We used to have four empties going down here and then a couple of more yards and then there was brattice stopping put up and ithad a sign wrote across a piece of timber "No road".

HIS HONOR: Please describe the location.

MR. LEE: At the end of C, heading towards the goaf.

HIS HONOR: Near the sign showing brattice stopping or brattice seal.

MR. LEE: Q. Can you remember how long that brattice seal had been there? A. No, not exactly but I know it had been there a couple of days.

Q. Was that the only factor which gave you an awareness of the presence of gas? A. That is right.

MR. McNALLY: No questions.

MR. ROSS: No questions.

MR. PARKINSON: Q. To which union, industrial union, do you belong? A. The Federation.

Q. The Miners' Federation? A. Yes.

MR. CRANE: No questions, Your Honor.

MR. SULLIVAN: Q. You spoke of a flash which you saw more or less out of the corner of your eye? A. That is correct.

Q. Was that a blue flash? A. I would not know. It was just something bright hit my eyes, that was all.

MR. REYNOLDS: No questions.

HIS HONOR: Q. Could you tell me this: Did you understand the purpose of either pulling down or rectifying, as you call it, the brattice? A. No.

Q. You do not know why that was being done? A. No, Dale Jones just came up and started bashing and yelled out "Somebody come down and give me a hand". I thought he had orders to do it and I just gave him a hand.

Q. Who told you to put it back? A. Charlie Stewart.

(Witness retired)

CHARLES ALFRED WALKER,
Sworn, examined as under:

MR. LEE: Q. Your name is Charles Alfred Walker? A. Yes.

Q. You live at 19 Neville Avenue, Woonona? A. Yes.

Q. You are employed as a dogwatch Deputy at Bulli Colliery? A. Yes.

Q. Your age I think is 57 years? A. At the time, yes.

Q. You are married and you were in charge of the dogwatch shift in No. 8 Right Section prior to the day shift of Tuesday 9th November 1965? A. Yes.

Q. What has been your experience in mines? A. I have been connected with mines since I left school at the age of fourteen. I did twenty one years in Bulli Colliery as a wheeler, shot firer and Deputy and I transferred to the Mines Rescue Station in 1944 where I did twenty years and returned back to Bulli Colliery, I think, on 7th April this year.

Q. As dogwatch Deputy what were your duties? A. As dogwatch Deputy my duties were to prepare the colliery or prepare the section for the day shift following.

Q. What was involved in preparing the section? A. The duties of getting timber into the allotted places, fixing the vent tubes, putting the continuous miner wherever required and doing any timbering and seeing any maintenance work on any machines was carried out.

Q. On Monday evening at 11 p.m. did you commence the shift? A. Yes.

Q. I think you arrived at 8 Right Panel at approximately midnight? A. That is correct.

Q. While the men were changing for work did you go out to the work place? A. Yes.

Q. Did you there look around to see what was required? A. I did.

Q. Did you inspect the area for gas? A. I inspected the miner place for gas.

HIS HONOR: Q. What is the miner place? A. That is where the continuous miner, where the miner was working, the machine, the continuous miner.

MR. LEE: Q. How did you carry out that inspection? A. I had an oil safety lamp and I inspected the whole of the face both sides, centres, from roof to floor, and carried out a visual inspection of the roof timbers and sides on my way back to the crib room.

Q. We are very interested in this test. You might give us a little more detail as to firstly how you tested the place for gas. You say you used an oil safety lamp? A. I turned - where I got to the required places where I thought gas could possibly accumulate I turned my light down to such time as I got a testing flame on it, I tested along the roof in various places, both sides and centre.

Q. This is a test for inflammable gas? A. Yes, that is what I am doing now. I went down from the roof to the floor in the same manner and tested both sides and also the centre again. The whole of the place.

Q. Did you test at the floor for inflammable gas or carbon dioxide? A. I tested at the floor at the time for inflammable gas. I took my light right down.

Q. What was the result? A. I found nothing of any consequence, sequence, at all.

HIS HONOR: Q. Anything at all? A. I found no gas whatsoever.

Q. The process, and you correct me if I am wrong, is to turn your flame down and if there is inflammable gas the flame tends to rise? A. Yes.

Q. Was there even the slightest tendency for that flame to rise? A. I had no indication whatsoever.

Q. What time would that be when you tested it? A. That would be approximately, I would say, round about five minutes after midnight.

Q. About five past midnight? A. Yes.

Q. It would be somewhere, somewhere more than eight hours after that when this ignition took place, from what we have been told? A. Yes.

MR. LEE: Q. Would you tell us over what period it has been part of your duty to test for inflammable and other gases? A. Prior to going to the Rescue Station I did seven years and since coming back to Bulli Colliery I have done seven months but at the period of twenty one years at the Rescue Station I had various reasons and times where we did gas tests.

Q. So you were away from it for quite some time; is that the position? A. Yes.

Q. And then you came back to it at the Bulli Colliery? And had been doing it for seven months? A. Yes.

Q. Had you on other occasions made tests for inflammable gas? A.Yes.

Q. Had you been able to detect it? A. Yes, I found it.

Q. Were you quite familiar with the working of the lamp?A.Yes.

Q. As far as it showed the presence of methane gas? A. Yes.

Q. I think you did say you also tested for carbon dioxiede? A. At that particular time there was no indication of carbon dioxide.

Q. So you did not make a test? A. I made a test when I made a test for inflammable gas.

Q. MR. SULLIVAN: Did you say carbon monoxide then? A. No.

HIS HONOR: We are all talking about carbon dioxide.

MR. LEE: Q. There was no indication of that? A. No indication on the lamp when I tested for inflammable gas so there was no indication.

HIS HONOR:Q. You say there was no indication on the lamp when you tested for inflammable gas? A. Yes.

Q. So there was no indication of carbon dioxide? A. I would have lost my lamp if there had been any.

Q. Don't you turn your lamp up to test for carbon dioxide? A. Usually.

Q. Did you on this occasion? A. I didn't - it wasn't required.

Q. Isn't it the standard procedure, and you correct me if I am wrong, standard procedure when testing for carbon dioxide to turn your flame up to see whether it reduces by anything at all? A. If specifically testing for that, yes.

Q. Were you specifically testing for that? A. Not at that time, no.

Q. You were not? A. No.

MR. LEE:Q. Would you just go on. Apart from the test for gas were there any other tests or inspections you made relating to safety in that area? A. Just general observation as to the roof, sides and timbers.

Q. To make sure they appeared to you to be quite safe? A. Yes.

Q. Everything, as far as you could see, was in order? A. Appeared to be.

Q. You returned to the crib room? A. Yes.

Q. You allocated the work to the men ? A. Yes.

Q. You went down with the men to the working place at the face? A. Yes.

Q. Did you then carry out normal duties and inspections periodically till crib time, 3.a.m. to 3.30? A. That is correct.

Q. Did those normal duties and inspections include testing for gas? A. Yes.

Q. Where did you make the tests? A. I tested the continuous miner place again and also tested the shunt where the shuttle car was, I tested the goaf area which I think is known as B. heading.

Q. May I take it you tested at the face? A. Yes.

Q. In the fashion you have indicated a little earlier on? A.Yes.

Q. In the shunt area? A. Yes.

Q. Would you tell us how you made the test there? A. Yes, at the time the shuttle car was in the shunt and I was fairly close to the brattice and I went up both sides of the shuttle car and tested as far as I could reach in the ribs and as far as I could reach from the top of the roof to the floor again.

Q. What result did you get? A. I had no result - negative.

Q. In other words, you had set your flame at the level for testing for inflammable gas? A. Yes.

Q. And it did not vary during these tests at all? A. No.

Q. And it was set low? A. For the top testing - I did test for carbon dioxide in that area.

Q. You tested for carbon dioxide at the top? A. No, on the floor.

Q. Did you alter the flame for that purpose? A. I did.

Q. What result did you get? A. I had a negative result again.

Q. So that in that area you turned the flame up and turned it down? A. Yes.

Q. In that way you say you c vered both possibilities? A.Yes.

Q. You said you made a test at the goaf edge? A. Yes.

Q. How did you get to the goaf edge? A. It was open in B. heading.

Q. You went through into B. heading? A. Yes.

Q. Could you tell us what brattice there was in A. heading? A. Yes, there was a brattice stopping down inby the loading point.

Q. In the shunt area - I am talking about in A. heading, and the shunt area? A. Yes, there was brattice stopping in that.

Q. Would you give us a description of it? A. It was an ordinary brattice stopping you put up, crossed from rib to rib and from floor to floor (sic).

Q. Was it cement washed brattice? A. No.

Q. After you made your test of the shunt area you want round into B. heading and up towards the goaf in that direction? A. Yes.

Q. In order to get to the goaf was there any sign or barrier in your path? A. Yes.

Q. What signs or barriers were there? A. Crossed sticks.

Q. There were crossed sticks? A. Yes "No road".

MR. LEE: I think those crossed sticks should have really been put on the plan, Your Honor. It might be convenient, if Your Honor agrees, that they be drawn in on this plan because it seems to be common ground that they were there at the time of the fire so as a feature of the plan they should have been shown.

HIS HONOR: I think I have heard of more than one set of crossed sticks.

MR. LEE: No, only the one in B. heading.

HIS HONOR: Is it common ground as to where they are?

MR. SULLIVAN: Yes. There was a warning sign at the brattice seal in the other heading.

MR. LEE: That was a notice on a stick.

HIS HONOR: A warning sign. They were not crossed sticks?

MR. LEE: No, I do not think they were crossed sticks. Perhaps we can get Mr. Walker at this point to indicate exactly where these crossed sticks were and I will draw them in on that plan.

(The witness went to the plan).

WITNESS: I would say they were approximately two thirds down (indicates).

MR. LEE: I will draw a cross at that point. For the benefit of the notes the crossed sticks referred to by the witness were marked by the Court on Exhibit "A" at a point agreed upon.

Q. Did you go past the crossed sticks? A. Yes.

Q. How far into the goaf, or to the goaf, did you go? A. I went, as I thought was safely accessible.

Q. Does that mean you passed the edge of the goaf? A. Oh no I could not pass the edge of the goaf, I went towards the edge of the goaf.

Q. You were still in B. heading? A. Out of B. heading.

Q. I will have to ask you again to go and show us on the map as best you can how far in. The plan is 40 feet to an inch, if that helps you to fix the point more accurately? A. There had been a lift taken off that pillar which came up so far and had a hole through the top - the top broke - I went back into that heading there.

Q. You say the pillar between B. heading and C. heading near the goaf had had a lift taken off it? A. Yes.

Q. What does that mean? Does it mean that some portion of the thing had been removed? A. Yes.

Q. You walked past where that lift had been taken off? A. I walked into that lift.

Q. Then that plan, according to you, would not be quite right? A. That is correct.

Q. Is that so? A. I would say so.

Q. It does not show that lift taken off? A. That is so.

Q. The open area at the end of B. heading and C. heading, do you see that - come up the two headings? A.Yes.

Q. (Approaches witness). The open area here at the end of B. and C., did you go into that at all? A. I only went up to here (not heard).

MR. LEE: He said "I only went up to here. It was all fallen in here".

MR. REYNOLDS: We cannot see that.

MR. LEE: He said he did not come out into here (demonstrates), he walked to the split, the split was there and he said this area was fallen in and was not accessible, or safely accessible.

Q. You took your test, would this be correct, somewhere approximating to the pillar, the end of the pillar between B. and C. headings? A. That is right.

Q. What did your tests reveal? A. Very clear.

Q. What? A. It revealed the area clear.

Q. Clear. Nothing showed? A. No.

Q. Was that test made only the once in that area between midnight and crib time? A. No, twice.

Q. How many times did you make it? A. Twice.

Q. In the shunt area between midnight and crib time how many tests did you make? A. I think I made three.

HIS HONOR: Q. Crib is 3 a.m.? A. I made three.

Q. Crib was 3 a.m.? A. Yes.

MR. LEE: Q. At any time did your lamp dim or go out? A. On that night, no.

Q. After crib did you again proceed with the work and carry out normal duties at approximately 4.20 a.m.? A. Yes.

Q. Were tests taken during that period? A. Yes.

Q. At what points? A. At the same points as previous, that is the three main area.

Q. The face, the shunt and in B. heading near the goaf? A. Yes.

Q. With the same result? A. Yes - I did make another inspection of the goaf area after that.

Q. After 4.20? A. After 4.20.

Q. You then decided as the working of the panel was proceeding smoothly you would inspect the return airway? A. Yes.

Q. Did you do that? A. Yes.

Q. Does that mean you made an inspection of what is shown as A. heading return airway, at the top of the plan? A. That shows a part of it.

Q. Would you mind just showing us the full extent of the inspection you made? A. I can't. It is not on that plan.

Q. Would you mind just going across to the plan. What inspection did you make that at least is shown on that plan? A. I went along here, down through here and back up to here, continued up right through to No. 1 North Heading.

Q. Continued right through to No. 1 North Heading? A. Across No.1 North Heading.

Q. What you have indicated there is firstly you walked down A. heading as the return airway? A.Yes.

Q. And then went further on down the return airway and into north? A. I followed the return airway right through to where it meets the other airways coming from other districts.

Q. What distance altogether would you approximately cover on that inspection? A. I would say I would cover, there and back, I suppose three quarters of a mile.

Q. Did you make any tests for gas in the return airway? A. I tested various points.

Q. Any result? A. Not on my oil lamp.

Q. That is all you did, was it? A. That is all I did.

Q. Did you have any awareness of gas in that return airway? A. No.

Q. You told me you returned back to the working place at five o'clock to supervise the men working? A. Yes.

Q. Following this you again visited every place in the district? A. Yes.

Q. I am reading from your statement you made?A. I did the whole of the district again.

Q. That is the working face? A. Working place.

Q. Shunt? A. And goaf again, round the goaf again.

Q. I take it you had a reason for testing in the shunt area and at the goaf? A. The reason I always tested the shunt area, it is the normal practice and has been used for a shunt, the men have to work and travel in it so it had to be tested.

Q. Was there any reason why you did not or would not test the fans? A. I did go near the fans.

Q. You have not mentioned that? A. This is all in that area.

Q. The fans are at the return airway? A. Yes.

Q. But in fact, of course, they are still in the circulation system of the normal air coming into the mine? A. That would be correct.

Q. Did you test at the fans? A. I did when I went through the return airway.

Q. That is the only time? A. At that time. I tested later on again after that.

Q. Any result? A. No.

Q. When you made the test at the fans were you testing behind the brattice of the return airway or on the fan side of the brattice? A. I tested on the fan side of the brattice.

Q. After 5 a.m. you visited every place and I think you have indicated this means you checked for gas at the goaf? A. Yes.

Q. You then went back to the working place supervising the cleaning up of the floor by the continuous miner? A. Yes.

Q. Did you remain in the miner place till approximately 5.40? A. Yes.

Q. Then did you go to the crib room to make out your reports and fill in your day shift? A. Yes.

HIS HONOR: Q. What time was that? A. Five forty.

MR. LEE: Q. You had filled in a previous report at 3 a.m.? A.Yes.

Q. That is at cribe time? A. Yes.

Q. The earlier one being for the first half of the shift? A.Yes.

Q. And then you make out the other half at the end? A. Yes.

Q. You completed all your reports at 5.55 a.m. and did you then see the fitters, Wal Scott and Rick Jefferies doing repairs on a shuttle car? A. Yes.

Q. And it was your belief that was shuttle car 67? A. Yes

Q. The car at that time was in the crib heading at the intersection below the loading point? A. On the inby side of the loading point.

Q. Does that mean it was in B. heading below the loading point? A. On the goaf side of that heading.

Q. In B. heading? A. Yes.

Q. I think you saw them change a wheel there? A. I saw them during the process, yes.

Q. They told you the job was complete and the time then was six o'clock? A. Yes.

Q. I think they asked you were you going to the transport car? A. Yes.

Q. You told them you were going to look over the section before going out? A. That is correct.

Q. Did you then go to the miner face? A. Yes.

Q. Did you examine the fan and area to see if it was all right? A. Yes.

Q. What examination? Was it just a visual examination? A. In that area at that time, yes.

Q. There was no test made for gas? A. Not at that time.

Q. You examined the shunt opposite the fans to ascertain if the elephant trunk was driving the air through? A. Drawing the air through.

Q. That was done by putting your hand over it? A. In front of it.

Q. But again you did not test there for gas? A. I did.

Q. Both for inflammable and noxious gas? A. Yes, both.

Q. Any result? A. Negative.

Q. Was there any other place apart from the shunt you tested before you left that morning? A. The miner face.

HIS HONOR: Q. You say about six o'clock in the morning you made tests for inflammable gas in the shunt and at the miner face? A. Approximately six - a few minutes after.

Q. With no result? A. No result.

MR. LEE: Q. At the time you made that test the shunt was empty? A. Yes.

Q. On the previous tests was the shunt empty or was a shuttle car in it? A. One test, the first one there, the shuttle car was in but after lunch the shuttle car was out, it was being used.

Q. Both the fans were in operation during that shift, were they not? A. Yes.

Q. It was your view, no doubt, that everything was in order when you left the shift that morning? A. I was quite satisfied with the place.

Q. You left and you arrived at the surface at approximately 7 a.m.? A. Yes.

Q. At approximately 7 a.m. on that morning, going back now - ? A. Yes.

Q. Kevin Walker the assistant electrical engineer had a phone conversation with you, did he not? A. Yes.

Q. He asked you if No.40 car was in the shunt? A. Asked me was it vacant.

Q. What? A. Was it idle - out of use.

Q. He asked you if it was -? A. Not being used. I told him it was. It was in the shunt.

Q. What? A. I told him it was not being used, it was there in the shunt.

Q. He told you, I think, he had to change some contacts? A. Yes.

Q. And that he was coming down to do that? A. Yes.

Q. If the car was vacant? A. Yes.

Q. So you would in effect confirm it was all right for him to come down and start his work? A. I did.

Q. HE came with someone else, did he? A. Freddie Smith.

Q. And they arrived at about two o'clock? A. Yes.

Q. Did you go to the shunt when you knew they were there? A.Yes.

Q. Where did you find them? A. I found them sitting on the side of the shuttle car with the door of one of the panels open, working on the inside.

Q. I think you asked them if everything was all right? A. I did.

Q. And they told you it was? A. Yes.

Q. Then you said something to them about the position in which they were sitting? A. Yes.

Q. What did you say? A. They were sitting on the floor and I told them I thought it was a very dangerous practice for people to sit on the floor in a pillar section.

HIS HONOR: Q. The floor of the mine? A. The floor of the mine, yes, as if in the event of any black damp seeping through from anywhere, they might be in trouble.

MR. LEE: Q. And as far as you were concerned at that time, where did you think was the most likely place for the black damp to seep from?A. Well, if it seeped from anywhere it would seep from the goaf.

HIS HONOR: Q. From where? A. From the goaf.

MR.LEE: Q. I think you told them, did you not, that if anyone got the slightest sign of headache at all, they were to come and see you? A. Y es.

Q. Well, they said everything was in order? A. Yes.

Q. You indicated to us that on other shifts, previous shifts, you had made tests of the kind you have spoken about here? A. Yes.

Q. On previous tests had you found the presence of inflammable gas? A. Yes.

Q. And was there any particular area where you found it or did you find it in a number of different areas? A. I think I reported mainly at the goaf edge.

Q. And when you speak of the goaf edge, may I take it that you are referring to that position along B. heading which you have previously indicated? A. In similar positions.

Q. Did you ever, for instance, go behind the brattice in A. heading? A. No.

Q. Or behind the brattice in C. heading? A. I had been behind that - that work behind C. heading had been examined many times previously.

Q. By you? A. Yes, because we had worked down there, but not since the brattice had been put up, no.

Q. I understand; when you were working down there you had been in the area in fact behind where the bratticewas put up,

but when it was put up you had no occasion to go in there? A. I did have one occasion, I recall now. I took the fitters through to recover some material, perhaps the previous few nights before.

Q. Was any test made then? A. Yes, I tested it when I went into it.

Q. What did you find? A. Nothing.

Q. You have told us you did find inflammable gas? A. Yes.

Q. Over what period had you been finding inflammable gas near the goaf?A. I could not say.

MR. McNALLY: I think my friend and the witness are at cross purposes. My friend has assumed he has found inflammable gas, standing near the end of A. heading.

HIS HONOR: He said the goaf area. Ask him precisely where.

MR. LEE: Q. I did ask you whether on your previous findings of inflammable gas they were in the vicinity of where you showed us on the map, where at the end of B. heading you had made your test on the morning of the 9th? A. I couldn't say that because that position -

Q. That is what I asked you, whether it was in that position? A. That position had only been there for about a week.

Q. Where had you found it then, previously? A. I wouldn't know because I wouldn't know on what dates - where I was on those particular dates.

Q. But can't you -

MR. REYNOLDS: The goaf edge had not always been in the one place, I think.

WITNESS: That is correct.

MR.LEE: Q. But as the workings moved or the working place developed, your findings of inflammable gas were at the goaf edge? A. Yes.

HIS HONOR: Q. Over what period had you found the gas of this type? A. I wouldn't know the positions. I would not remember the position of the place, the working place, when I did find them.

Q. Anyway, you found it at the goaf edge? A. Yes. I had found it on several odd occasions.

MR. SULLIVAN: The Deputies' reports were subpoenaed. Could they be brought out now and be made available?

MR. LEE: Before they are made available I would like to complete my examination.

HIS HONOR: Mr. Lee may complete his examination and perhaps they may be tendered during your cross-examination.

MR. SULLIVAN: I wanted to have them ready in order to save time.

MR. REYNOLDS: The statement was made this morning that it was not complete, and that being so we have about an hour ago sent them back to the colliery manager with a request that they be made complete. We are waiting for them to come back

and that is the situation at the moment. We are attempting to get them as complete as possible. I will send for them if they are wanted and are not here within a few minutes.

MR.LEE: Q. Had you ever found inflammable gas in Section 8 Right? A. Inflammable gas in Section 8 Right, yes, I had.

Q. Had you ever found it anywhere other than, to use a general term, near the goaf? A. I hadn't.

Q. Do you recall finding inflammable gas at any time - A. Oh, my mistake.

Q. Wait a moment; in the miner place? A. I believe I did on one occasion.

MR. LEE: I do not feel it desirable to simply test it on the facts because the sheets will readily refresh him, but unfortunately at the moment the sheets on this matter are not here. Mr. Reynolds says they will be here soon.

Q. If I can, I want to get one thing clear. At, say, the middle of October, was the goaf edge where it was on 9th November? A. In the middle of October?

Q. Yes. That is three weeks before this incident? A. No.

Q. It would be quite different? A. Different again.

Q. In regard to the tests you took on the morning of 9th November, would you mind telling me the route you took; whether you took any special route to make those tests or whether it was a haphazard testing, any places anywhere? A. No. I usually follow the route, generally going to the miner face first and following back through to the miner place, shunt and down into the goaf area. I generally go down to the miner face and come back - I wouldn't say on all occasions but that was usually the practice.

Q. To make your test do you travel the main ventilating current of the area? A. Yes.

Q. That is what you do, is it? A. Yes.

Q. The brattice you saw in A. heading was just an ordinary brattice? A. Yes.

Q. Were you ever aware of a cement washed brattice behind that? A. No.

MR. LEE: Subject to asking Mr. Walker about a certain sheet of a date in October, that would be the evidence I would seek to get from him in chief. Perhaps that other matter could be dealt with later, with my friends' consent.

HIS HONOR: These reports are in fact kept in a book, are they not?

MR. LEE: The ones I saw were loose.

HIS HONOR: Mr. Mahon says there is a book containing carbon copies. Is there some procedure?

MR. LEE: Q. These sheets: Are carbons made of the reports? A. Yes.

Q. What do you do with them after you have made them out? A. One is left in the book and the other is brought out to the office outside for the Under-Manager.

Q. One is left in the book? A. Yes, and the other one is brought outside to the Under-Manager's office.

Q. Which is the one left in the book, the original or the carbon? A. The carbon is left in the book.

Q. So there is a book with the carbons in it, is there? A. Yes.

HIS HONOR: I think we should have the book, Mr. Reynolds.

MR. REYNOLDS: Yes. That is not what the subpoena asked for, but we will get the book if Your Honor wants the carbons. I have no doubt it is available and should be brought here.

MR. SULLIVAN: I make it clear we subpoenaed the originals of those reports and they were not completely forthcoming when I examined them yesterday afternoon. There were relevant dates left out and we want to see all those reports - the originals of them.

MR. REYNOLDS: We received this subpoena at half past three the day before and a special effort was made to comply with it by ten o'clock yesterday morning and it will be complied with. Everything that is there will be produced.

MR. LEE: That is all I wish to ask subject to the matter I have mentioned.

CROSS-EXAMINATION:

MR. ROSS: No questions.

MR. CRANE: (Not present).

MR. PARKINSON: Q. Would you agree with me that there is a certain degree of skill attached to detecting gas in a mine? A. I wouldn't say about skill. I would say commonsense.

Q. When was your eyesight tested last? A. In April this year.

Q. In April, before you took the job? A. Yes.

Q. In reply to a question from Mr. Lee you said that you tested in the shunt? A. Yes.

Q. As far as you could reach? A. That is right.

Q. Well, just exactly what did you mean by as far as you could reach? How far were you from the roof? A. I wasn't in the roof at all. I was referring to across the centre of the brattice. The shuttle car was in the shunt and it was very close to the brattice on this occasion and I couldn't walk behind it, so I reached across as far as I could towards the centre of the place both ways to make my test.

Q. You reached as far as you could? A. Yes.

Q. Would you say that that is a satisfactory inspection? A. It was on that occasion because I was going to do a similar inspection later on.

Q. You were going to do a similar inspection later on and you were only going to stretch as far as you could reach? A. I considered it quite safe.

Q. Isn't it possible that the portion you could not reach- isn't it quite possible there could have been CH4? A. Possibly. There is a possibility.

Q. And you still maintain, despite that, that that was a satisfactory inspection? A. Yes.

Q. Would you say that that would be in accordance with the Coal Mines Regulation Act? A. I think so (objected to by Mr. Reynolds; rejected).

Q. Now, the goaf area you inspected is towards the goaf edge in B. heading? A.Yes.

Q. You would not expect to find a great deal there at any time, would you? A. I don't know what I would expect.

Q. But that is an intake? A. Partially.

Q. What about A. heading and the goaf edge? A. It is not an intake.

Q. But what about that - did you ever inspect that? A. Behind the brattice,no.

Q. Why didn't you inspect behind it? A. Because it was not safely accessible.

Q. It wasn't safely accessible? A. Yes.

Q. As a result of what?.A. As a result of the brattice, the stopping being there.

Q. It was an ordinary brattice stopping? A. Yes.

Q. Would you say it was an effective seal? A. I would say it was for the purpose it was put there.

Q. What was the purpose it was put there? A. I wouldn't be correct in saying it definitely was, because I did not put it there.

Q. But you say you think it was effective for the purpose it was put there. Now what was the purpose it was put there for? A. Well, I am only surmising, but I would say it was put there to prevent any gas which might want to seep out of the goaf.

Q. You say it was effective in your opinion? A. Yes.
Q. When was the bleeder tube put in? A. The bleeder tube was in front of the brattice in the fresh air.

Q. Of course, but what was the bleeder tube put there for? A. For added safety (objected to by Mr. Reynolds).

Q. But to bleed what? A. I don't know (Objected to by Mr.Reynolds).

HIS HONOR: Q. Are you in a position to say why the bleeder tube was put there? A. I can only surmise.(objection upheld).

MR. PARKINSON: Q. You are the Deputy in that particular district? A. Yes.

Q. And you are charged with a certain degree of responsibility? A. Yes.

Q. In your experience as a Deputy, as you have outlined to the Court, have you ever seen these bleeder tubes used before? A. Only since I went back to Bulli.

Q. Only in this particular instance? A. No, previously - previous headings.

Q. In the previous headings? A. Yes.

Q. In this particular section? A. Yes.

Q. And didn't you make any inquiries at all as to why that bleeder tube was instituted? A. We had discussed it.

Q. When you say "We had discussed it", with whom had you discussed it? A. Between ourselves, the Deputies.

Q. Between the Deputies? A. Yes, and the men, on occasions.

Q. And the men? A. Yes.

Q. But there was no official reason given to you as to why that bleeder tube was put in? A. Not directly.

Q. When I say "official" I mean top official? A. No.

Q. No one ever explained the reason why? A. Not officially, no.

HIS HONOR: Q. Not officially? A. No.

Q. Do you mean an official had explained it unofficially? A. It had been discussed in general conversation, that is all.

Q. With whom? A. Now I wouldn't be in a position to say, but various ones.

Q. Will you see whether you can tell us anybody, unofficial or otherwise; have you any idea? A. It would probably be the Deputy on the previous shift.

Q. We are not talking about Deputies though, are we; we are talking about officials, apart from Deputies? A. No, it hadn't been. I wouldn't see the officials on some of those previous shifts.

Q. Did you ever ask why the bleeder tube was put there? A.Well, I took it for granted, Sir, that I knew.

Q. You knew? A. Well, I surmised what it was there for.

Q. Tell us your surmise? A. Well, as I say, it was put there I think for the purpose of added safety in the event of any black damp seeping from the goaf.

Q. What is the bleeder tube supposed to do? A. It would pick it up off the floor and carry it away through the ventilating system.

Q. It bleeds off the gas? A. And it wouldn't take it down the miner face.

MR. PARKINSON: Q. Now, is that actually what happened with the installation of this bleeder tube? (Objected to by Mr. Reynolds) A. That was its purpose.

HIS HONOR: Q. Do you know? A. That was its purpose, Sir - I don't know.

MR. PARKINSON: Q. When was the bleeder tube installed, do you know? A. I do know from inquiries it was installed on the afternoon shift of the second of the month.

Q. The 2nd November? A. Yes.

Q. That would be exactly one week before the disaster? A. That is correct - or less than a week, yes.

Q. Now, there must have been some reason other than added safety or added protection, as you say? (Objected to by Mr. Reynolds; rejected).

Q. Well, would you agree that this bleeder tube was installed for something more than added protection? (Objected to by Mr. Reynolds) A.No.

Q. You say the bleeder tube was installed on 2ndNovember? A. According to information I have, yes.

Q. Well, I mean if it was installed like this afternoon, you would naturally see it when you went in? A. I wasn't working that first four days.

Q. You were not working? A. No.

Q. In answer to a question by Mr. Lee - he said to you "Did your light dim or go out"? A. Yes.

Q. And you stated "Not that night"? A. That is correct.

Q. Has it gone out some other time when you have been testing? A. I have lost a light on occasions, yes.

Q. Whereabouts was the investigation or the inspection being made when you lost your light? A. In a goaf area.

Q. In the goaf area? A. In a goaf area.

Q. At the end of the - A. No.

Q. Well, whereabouts? A. I wouldn't know. I said "In a goaf area."

Q. In a goaf area? A. Yes.

Q. I thought you said "In the goaf area"? A. No.

Q. How long ago would that be? A. I wouldn't know.

Q. Did you report it? A. On that occasion I wouldn't because it was in a goaf area and I wasn't required to report it. It was beyond a working place and I would not be required to report it.

HIS HONOR: Q. Rule 4 paragraph B states, "A competent person or persons appointed ... inspection." Do you say you are not required to inspect places other than the actual working face? A. These places were not accessible to the workmen and probably would be on the return side of the workings.

Q. Not accessible to the workmen? A. No.

Q. It has been put to me this goaf area was on the ventilating side? A. Not always.

MR. McNALLY: I think the cross-examiner is talking of this goaf and the witness about some other.

MR. PARKINSON: I am not talking of this goaf at all.

HIS HONOR: He has said he is not required to make reports in that particular case because of the parts in which it is located not being accessible to the workmen.

Q. You say you do not have to, you are not required to report? A. I didn't think so.

Q. Of any gas - this is your belief - that is found in areas which are beyond the working place and not accessible to workmen? A. Yes.

Q. What does "accessible" mean to you - places where they may stray or places where they may have to go? A. Yes, a place where they may stray. They are not allowed to go in those areas.

Q. You say you are required or not required to make a report of areas of gas, areas of noxious gas found in areas where workmen may stray, although it is not part of their duty to go there? A. In goaf areas. I may be going there just for my own satisfaction.

Q. That does not answer my question. What is your understanding of what you are required to do; make a report of gas found there? A. I was of the opinion if I went into goaf areas for my own satisfaction and, as I say, wherein no man was to work or travel, beyond the working limits of the area, I didn't require to report noxious gas or gases.

Q. Tell me the purpose of your going there? A. For my own satisfaction, to see the condition of the area.

Q. Then you do not tell anybody? A. No, unless I consider it dangerous or might cause some further danger.

Q. You just go there as a matter of interest and you may find a vicious concentration of some gas, and then as far as you are concerned you are not required to tell a soul about it. You just keep it to yourself, is that the position? A. I would not be there, if it was a vicious concentration - I wouldn't be in it.

Q. But you could not find it if you do not go near it? A. No, but I might not even know.

Q. Assuming you go there and you find it, what do you do? Do you just shut up? (No answer)

MR. REYNOLDS: I do not think that follows, Your Honor. He is not required by Statute to report it.

WITNESS: That is correct.

HIS HONOR: Q. I am asking you assuming for the moment it to be so, that you find this gas there, what do you do about it? A. If I find a vicious concentration I would report it to the officials of the colliery.

Q. What about if you found gas, some concentration of some substance without being vicious, so that it constituted some danger; what would you do? A. Well, if it was constituting a danger I would report it to the officials of the colliery.

Q. You would report it? A. Yes, to the official of the colliery.

Q. Have you ever made any such reports? A. I have never found it in such conditions - not in the goaf area. I have only been there in that area for four months, five months.

(Mr. Parkinson requested His Honor to look at Rule 4, (f), page 89, during the morning adjournment; Mr. Lee asked His Honor to look at Rule 25, page 174; and Mr. Sullivan, at Schedule 6, Rule 36, page 176).

(Short adjournment)

HIS HONOR: It appears to me that at some stage I may have to decide whether or not I should make certain recommendations for alterations to the Act or Regulations made under the Act, to cover safety precautions. At this stage my mind is completely open about it, but I will have to consider, for instance, the problem which raised itself this morning. I have read the Regulations indicated to me by counsel. There may be submissions counsel may wish to make to me about the Regulations to which I was referred before the adjournment, and I do not mean general submissions but submissions concerning the evidence being given by this witness.

Looking at the Rules that have been made under the Act, the Act contemplates two kinds of inspections. One is inspection of the areas by competent persons in which they are working, areas beyond what are referred to as "stations" and on what might be called the inby side of the workings. They are areas covered by ventilation which is to be provided by those in charge. The others are inspections of any place which may be a source of danger, whether on that side of the workings or not. In both cases it is the duty of someone to make inspections as specified by the Regulations, and in both cases it is the duty of that person making the inspection to make an immediate report, or comparatively immediate report, of any source of danger, and particularly in this case the danger from gas. I find that principle at page 89 (Rule 4 (f) read). That is not of course limited to a Deputy nor is it limited to a person finding inflammable gas in any particular part of the workings of the mine; apparently it is anywhere in the mine.

If one looks at Regulation 25, page 174, to which Mr. Lee referred me, (read), there apparently is provision for regular inspections to be made and results to be recorded.

I was referred to Rule 36, Schedule 6, page 176, and in particular the last two lines, dealing with certain of the duties of the Deputy (read). That Regulation of course merely covers the edges of the goaf.

It seems to me that since there must be a report as to an unsafe place being made safe, somebody must go in to make that report. AT first I could not see any means of a report on safety, but the provisions I have already dealt with cover that adequately. Mr. Parkinson referred me to Rule 4 (f), page 89 (read), but that may well be limited to an inspection on the inside - I have not yet made up my mind. But it seems clear that the duty of a Deputy is, if he finds inflammable gas in any portion of the mine, to make a report about it, certainly before he leaves the shift or as soon as possible.

Q. Questions were being directed to you by Mr. Parkinson and I think I intervened at that stage, concerning the reports you made, and you put to me you are not required to make a report if you found inflammable gas in a portion of the mine which was not on the intake side? A. No Sir, I never said that.

MR. McNALLY: There was no suggestion by Mr. Walker he had found inflammable gas. I understand his own words were "black damp". Your Honor did say to the witness he had said earlier he had found inflammable gas. There may well be that gas, black damp, can be detected in such quantities that it does not constitute a danger.

HIS HONOR: Q. Have you ever found any inflammable gas in any of those sections you have inspected? A. Yes.

Q. In the goaf? A. Yes, I have.

Q. Have you made a report on that, always? A. Yes, on each occasion.

Q. What about in the goaf itself? A. You see, I have my job - I can do a lot of roaming around and probably I roam in places where nobody ever goes and nobody is ever required to go. I interpret it this way: If I get roaming round in areas I am not required to go and I do detect any gas, I am not required to make a report under Rule 4.

Q. Whether inflammable or otherwise? A. I have never found inflammable gas in those circumstances.

Q. You have never found inflammable gas? A. No, not in those circumstances.

Q. Have you ever found concentrations of black damp? A. I have lost my light but I didn't know to what extent it was because I did not pursue that any further.

Q. Whereabouts did you lose your light? A. I have lost it in these areas where I have been roaming around.

Q. You have? Did you make any report about that? A. No, because I did not consider it was dangerous.

Q. You lose your light, usually due to black damp? A. Yes.

Q. And black damp can seep out just as well as Illawarra bottom gas? A. Yes.

Q. Or methane? Any of those things can seep out and cause a condition of danger - do you agree with that? A. Yes.

Q. You say you did not think it was your duty to report that, either? A. Well, these places weren't ventilated - wouldn't be ventilated at all. You would expect, if any black damp was there, it would be in those areas.

Q. It has been put to me here that with Illawarra bottom gas you may get an admixture, so to speak, possibly in layers, of black damp and methane? A. Yes.

Q. So that you could lose your light, possibly, and miss the methane? A. It is possible.

Q. Have you ever considered that in making an inspection? A. Yes. I have tested it on all the working places - work in accessible places - for that condition.

Q. What test do you apply to discover the presence of methane when it may be low? A. Well, the method I adopt is to slightly reduce my flame and lower the light gradually towards the floor, at all times making sure I have control of my wick, the flame, and I would understand if coming into the presance of methane my flame would behave in a peculiar manner and if I saw that happening then straight away I would definitely adjust my wick to test for inflammable mixture.

Q. Have you ever discovered such a condition anywhere? A. No, I have not.

Q. You have not seen that anywhere? A. Not since I have been in this section, no.

Q. Would you know what to look for if you did? A. Yes.

Q. Have you ever had it put to you that there may be more reliable methods of testing for Illawarra bottom gas than the wick behaving in a peculiar manner? A. Yes. I have used the methanometer.

Q. Were you ever supplied with a methanometer before this time or was one made available to you? A. No.

MR. PARKINSON: Q. In connection with this conviction of yours, your conviction that it was not necessary to make reports, were you ever advised or instructed to this effect by any top official of the colliery? A. No.

Q. You did say to Mr. Lee earlier this morning that you had had occasion to speak to some employees who were sitting on the floor? A. Yes.

Q. And did you not say to them that if there was any seepage of black damp, they could be in trouble? A. Yes.

Q. In other words, they could be in danger? A. Yes.

Q. Do you remember earlier I asked you when you had had your eyesight tested last? A. Yes.

Q. Can you read today without glasses? A. No, not small print. Large print, yes.

Q. You cannot read without glasses? A. Not small print.

MR. SULLIVAN: Q. (Approaching Exhibit "A") Can you see this plan all right from there? A. Yes.

Q. The two fans that were exhausting were exhausting the working place, were they not? A. Yes.

Q. As you went out at the conclusion of your shift, did you switch off the fans? A. No.

Q. They were electrical fans? A. They were running, yes.

Q. And they were running? A. Yes.

Q. Were they unattended ? A. They would be after I left.

Q. They would be unattended for a couple of hours? A. Until the day shift came on, yes.

Q. As far as the system of circulation of air here was concerned, C. heading is the intake, is that right? A. Yes.

Q. At No. cut-through you had a brattice stopping that looks something like half way up the area between the goaf and No.2 cut-through? A. Yes.

Q. I suppose thatwas obviously there to cause the air to circulate down No. 2 cutting, is that right? A. Yes.

Q. Then you had B. Heading with no brattice stopping in it? A. That is quite right.

Q. Then you had A. heading with a brattice stopping in it? A.Yes.

Q. There was a current of air, was there not, circulating round the goaf edge into this A heading? A. I do not know.

Q. Well you had been in there? A. Yes. It was quite clear.

Q. It was quite clear wasn't it? A. Yes.

Q. There was a passage here between the goaf edge just to the right of those stooks there, and that pillar, wasn't there? A.Yes. A very small opening.

Q. And you had been through there? A. No.

Q. Never been through there? A. Not since it had fallen, no.

Q. No, I am talking about --- A. Yes, I know.

Q. You say not since? A. I had not been through those three previous nights. I had only worked in these particular workings three nights.

Q. And you had not been in there? A. No, I considered it not safely accessible.

Q. There was a goaf which abutted a working place? A. Yes, I know, but it was not safely accessible as far as I was concerned. I tested as far as I thought was safely accessible.

Q. Within how far? A. Within I would say ten to fifteen yards.

Q. Behind that brattice? A. No, I never went behind that brattice at all.

Q. So far as you knew on your tests there could have been both inflammable and noxious gas there? A. There could have been.

Q. Do not answer this if you do not think you are sufficiently qualified to do so? Why was not a brattice stopping put in B heading? A. Why, I can only surmise again.

Q. I am not going to ask you to do that. You don't know. A. No. not definitely.

Q. There is no doubt that air could have gone up through B heading into the goaf without any stopping in it? A. There is any amount of possibilities.

Q. I mean as a practical mining man, you would say yes to that question would you? A. I could not say yes to that.

Q. Do you say you never detected any inflammable gas in this section. A. I didn't say that.

Q. No, I was wondering. Have you detected inflammable gas in this section? A. In the 8 Right Section. A. Yes.

Q. For instance, would you look at this (document shown). You see that report. Could I have it back please. There is a report here on 6th October, 1965 in which you write in your handwriting don't you, "inflammable gas on goaf edge in centre heading". A. Yes.

Q. If I may go back to the plan again, I think you mean B heading by the centre heading? A. The centre heading, yes.

Q. So you detected inflammable gas on the goaf edge in the centre heading. A. Yes.

Q. Did you regard that as a condition of danger? A. I beg your pardon?

Q. Did you regard that as a condition of danger? A. I don't get you.

Q. What? A. I just don't get you.

Q. Did you regard that as creating a condition of danger? A. Well I would say all inflammable gases are dangerous.

Q. All inflammable gas is dangerous? A. Yes, dangerous.

Q. There are some reports of yours here. I hand you a report of 27th October 1965? A. Yes.

Q. That showed the presence of inflammable gas in the place where the continuous miner was working? -

MR. SULLIVAN: I may have all these marked together, perhaps?

HIS HONOR: Very well.

MR. SULLIVAN: Q. That was actually in the miner place and that was methane gas? A. If it is reported there it would be.

Q. Did you stop the working there? A. I had no working going on.

Q. You had no working going on? A. No.

Q. That was the inspection you commenced - which of these two inspections did you find that on? A. I think I probably found it on both, didn't I?

Q. I am not as familiar as you are. A. On the first one, I think.

Q. I show you the report again. Was it the first one? A. It was on both inspections.

Q. Both inspections you found that? A. Yes.

Q. And you did not have anything working there, did you? A. No, no machinery.

Q. I hand you this one, though it is a bit out of order, of 14th October 1965. Would you look at that one (shown to witness). That was described as inflammable gas found on the goaf edge being diluted? A. Yes.

Q. By the goaf edge, you say you never went up past the brattice in A. heading so that presumably must have been - did you ever go up past the brattice in C. heading? -

MR. REYNOLDS: May I intervene so that there is no misunderstanding about this: That brattice screening was not there in October and the situation was completely different. I am just trying to clarify the situation so that a misconception does not develop about it.

WITNESS: That is right, that brattice stopping to my knowledge had only been there from the second or third of the month.

MR. REYNOLDS: Q. The second? A. The second, I think.

MR.LEE: I don't know whether a misunderstanding has developed but it is quite obvious it may: When he talks about the goaf edge he is not talking about that edge shown there at that time. I think it is clear to Your Honor?

HIS HONOR: Yes.

MR. LEE: I don't know if my learned friend appreciates that.

HIS HONOR: Continue.

MR. SULLIVAN: Q. Where was the goaf edge at that time? A. I could not say. It would be somewhere inby. It could have been a pillar further or two pillars further, I don't know.

Q. Were those fans being used at that time for ventilation? A. The fans were always in use.

Q. When you say that gas was being diluted at that time -? A. Yes.

Q. Was it being diluted and drawn back towards the fan? A. What I mean, you could only find it in specific places. If you came perhaps three or four inches from that particular place you could not find it, it had been diluted by the air and was not there.

Q. If you deal with this particular case here and you found fnflammable gas, say at the top of B. heading on the goaf edge, if it was being diluted it could only be diluted back in this direction, couldn't it? A. I have to make a correction in one regard. For a period there we were using natural ventilation of brattice, I think for probably a week or two, we were using natural ventilation, using brattice for that, ventilating that previous line of pillars, so the fan on those occasions would not be working.

Q. Can you show us where? A. Yes, during the process of extracting these pillars here (indicates).

Q. Before you went into this working place here you took the pillar that had been originally here (indicates)? A. Two pillars.

Q. Two pillars that had been here? A. Yes.

Q. You were saying you were using brattice? A. Yes.

Q. Were you using this fan? A. No, the fan would be off on that occasion.

Q. When taking these pillars out? A. Yes, when the brattice was being used - on the top one, especially.

Q. Did the fans come into use when this heading - ? A. This heading.

Q. That was the first time the fans had been used? A. No, they were used back further inby.

Q. They were used back further? A. Yes.

Q. In the extraction of those pillars which are beyond? A. Yes.

Q. What is now shown as goaf? A. Yes.

Q. You yourself, in reply to a question asked by the inspector about the bleeding tube or elephant trunk, as it has been called here, said you had not been in the place for four days? A. Yes.

Q. That wasn't quite correct, was it? A. That was quite correct. I was away from that section from the first, second, third and fourth of the month.

Q. But these questions were being asked of you the day after the fire, weren't they? A. No.

Q. When were they being asked? A. I think on the Friday morning.

MR. LEE: 15th.

MR. SULLIVAN: Q. Mr. Menzies asked you the question: "We have been informed just behind the shuttle car shunt there was a brattice screen with an elephant trunk. Was there any special reason for this?" You said "I have been away for four days"? A. Yes.

Q. "I think this was placed there to deal with any black damp which may seep from the goaf area". Do you remember saying that? A. Yes.

Q. What four days are you referring to? A. Away the previous Monday, first, second, third and fourth of the month.

Q. You were there however on the 8th and 9th? A. YEs, 8th and 9th.

Q. On the night shift? A. That is correct.

Q. So the bleed tube or the elephant trunk was there for at least two shifts on which you were there? A. Three shifts.

Q. So you were aware that it was there? A. Yes.

Q. Used you conduct any special tests at the ingress of the elephant trunk? A.I used to always put my hand at the entrance to see if it was sucking air into it.

Q. How close to the brattice was it then? A. As far as I can remember that particular night it was between the first and second prop from the brattice.

Q. How many feet? A. I would say within two foot six, probably a bit less.

Q. Where would you test for gas? A. Where? In that shunt?

Q. Just round -? A. I would test all around the face of the brattice stopping and - on the face of the brattice stopping.

Q. His Honor has put it to you it is possible not to detect methane in Illawarra bottom gas because of the presence of CO2? A. If you were looking for it specifically you would find it, if it is there.

Q. You would find it? A. If sufficient capping came on your light you would certainly find it.

Q. Let us take the answer you gave to Mr. Menzies, "I have been away for four days but I think this was placed there to deal with any black damp which may seep from the goaf area"? A.Yes.

Q. The impression in your mind, whether it was correct or not, was that the trouble in that heading, in the shunt, was black damp? (Objected to by Mr. McNally).A.No.

Q. It was present in your mind when you were testing in that shunt that the elephant trunk had been put there to deal with black damp? A. If it was present, yes.

Q. Yes. A. If it became present.

Q. But black damp was what you thought? A. That is what I called it.

Q. Because that was present in that shunt? A. I did not say it was present.

Q. In that shunt? A. No, I did not.

Q. Why did you say that to Mr. Menzies, "I have been away for four days but I think this was placed there to deal with any black damp which may seep from the goaf area"? A. "Which may seep," that is correct.

Q. You did not say "Gas" or "methane gas"? A. No.

Q. Or "Illawarra gas"? A. No.

Q. You said "black damp"? A. Yes.

Q. So when you tested there you had in mind black damp - (objected to by Mr. Reynolds).

Q. I am putting it to you that what was present in your mind when you were testing in that area was that there might be black damp present? A. Yes.

Q. In testing for black damp you would turn the wick of your Deputy's lamp up, wouldn't you? A. No.

Q. Wouldn't you? A. No.

Q. What would you do? A. I would slightly turn it down.

Q. Slightly turn it down? A. Yes, just slightly reduce the flame.

Q. What would you do - drop it down? A. I would lower it steadily into the area.

Q. If there was Illawarra bottom gas there the presence of CO_2 in the Illawarra bottom gas would tend to depress the flame? A. I don't get that.

Q. Tend to lower the flame? A. I would get the inflammable gas, the CH_4, before I got to the black damp.

Q. Depending on where it was lying? A. I think it would be lying on top, if anywhere.

Q. You are making the assumption it was lying on the top? A. Yes.

Q. If it was not lying on top your test was useless, wasn't it? A. That is correct - my test - if I did not get inflammable gas and there was black damp there, I would get the black damp.

HIS HONOR: Q. Why do you turn the flame down to test for black damp? A. It would register quicker.

Q. You turn it down? A. I don't turn it right down, I just might reduce it slightly.

Q. You assume the methane would be lying on top of the black damp? A. Yes.

Q. You could not conceive the position where you might get a layer of methane held down by a layer of black damp? A. I can't see it.

Q. You can't see it? A. No.

Q. Do you know which is the lighter of the two gases? A. Yes.

Q. Which is the lighter of the two? A. Methane - half as light as air and the other is 1½ times as heavy as air.

MR. SULLIVAN: Q. In testing of the roof you would naturally tend to think more of methane, when testing the roof? A. Yes.

Q. Because it is the lighter of the two gases? A. Yes.

Q. And lighter than air. In testing at the roof you know the theory that methane lies either in pockets or in a layer along the roof, don't you? A. Yes.

Q. Assuming this is your safety lamp, where the gas goes in is a fair way down the lamp? A. Yes.

Q. Is that right? A. Yes.

Q. It is on the entry of the gas into the lamp that the presence of either the blue cap at the flame or the rising of the flame appears? A. Yes.

Q. So in order to detect the presence of methane on a roof you have got to get it sufficiently far into the methane so that some methane goes into the safety lamp? A. I have to get it as far as I can, yes.

Q. Have you ever in your experience struck a situation where the safety lamp, the locked safety lamp you use as a Deputy was not a proper instrument for detecting its presence on the roof because the layer was not sufficiently thick for the methane gas to get into the safety lamp? (Objected to by Mr. Reynolds) A. I could not say. I would not know if there was methane there.

MR. REYNOLDS: He has given the answer which I thought made the question objectionable.

HIS HONOR: Do you want that struck out?

MR. REYNOLDS: No.

MR. SULLIVAN: Q. Is that something you have ever directed your attention to - that possibility? A. No. I use what is supplied to me.

Q. You use what is supplied to you? A. Yes.

Q. Did you ever ask for a methanometer? A. No.

Q. You knew there was inflammable gas in that area on the goaf edge and you knew the return air took the air across the working place? A. I did not know that at all - it took it across.

Q. You knew the ventilation system? A. Yes, I knew the ventilation system.

MR. REYNOLDS: Q. When you are coming off shift as a Deputy you have to make this report under General Rule 4? A. Yes.

Q. Is that made always as part of a big sheet, on a big sheet, as part of a big sheet, or is it sometimes made on a smaller sheet? A. Sometimes on the large sheet and sometimes on the smaller sheet, it all depends on the working of the colliery.

Q. When is it the big sheet of the kind which has been marked for identification is used? A. Generally on a working shift when the mine is working.

Q. When is it the small one is used? A. Generally, in general underground work or on days when the mine was not working.

Q. In both these cases are these sheets attached by a perforated edge to a book? A. Yes.

Q. Is there a carbon left in the book when the perforated sheet is torn out? A. Yes.

Q. Where are the carbon books kept? A. As far as I know they are left in the mine.

Q. Whereabouts in the mine? A. Generally at the crib cabin where we have our desk for our writing purposes.

Q. Are they left there indefinitely? A. I could not say.

Q. Are they kept safely or just left in the Deputy's crib? A. Just in the Deputy's crib. There is a desk and they are generally just pushed inside the desk.

Q. If you turn your flame down very low, as you say you do to test for methane - is that so? A. Yes.

Q. If you should then encounter extinctive gas such as black damp what happens to your flame? A. It puts it straight out.

Q. Have you got any means of re-lighting in the mine? A. Not on that occasion, no.

MR. McNALLY: Q. The map on the wall doesn't show the whole of section 8 Right? A. No.

Q. I think it is sufficient to say that A B and C headings extended towards me? A. Yes.

Q. That is, outby, some considerable distance? A. Yes.

Q. Inby, I am sorry? A. Inby, yes.

Q. And the heading that was being worked on 9th November, there were a number of similar headings parallel to that heading inby again? A. Yes.

Q. And these had all been worked previously over the few months? A. Yes.

Q. You referred to all that prior working as a goaf area? A. Yes.

Q. You were asked a question concerning the use of the lamp while testing up near the roof of the mine: How far from the roof of the mine is it possible to test for gas using a safety lamp? A. I would say approximately five inches.

Q. Is that because the holes in the safety lamp are about five inches from the top of the lamp? A. Yes.

Q. When you are testing at the floor of a mine I think you hold your safety lamp in one of your hands; is that correct? A. Yes.

Q. Do you hold it that way so you can regulate the light should it tend to go out? A. Yes.

Q. Do you then bend or crouch down and put your hand on the floor of the mine? A. As far as possible.

Q. The holes that are used to test for gas on the bottom of the mine, are they below the holes used for testing at the top of the mine? A. They are practically both together.

Q. How far from the bottom of the mine can you test for gas? A. Say five or six inches.

Q. When you said earlier you turned the lamp, the light or the lamp, down, to test for black damp, when you carry the lamp I suppose you have the light turned up so it won't go out? A. Yes.

Q. Do you turn down as far as you would - testing for black damp do you turn it down as far as you would testing for inflammable gas? A. Oh no. No.

Q. On these inspections you made on 9th November did you tell us in what areas - did you test in all the areas you have indicated both for black damp and inflammable gas? A. Yes.

Q. Did you use the ordinary methods that you had been shown to use? A. Yes.

Q. Incidentally, I don't think as a Deputy you are trained to use a methanometer? A. As a Deputy I don't think we were instructed on that. They were not instructed. In fact I have never seen one - I had not seen one at the colliery till a few weeks ago - I had seen them before that.

HIS HONOR: Q. You had seen them? A. At the Mines Rescue Station.

Q. You had seen them but never used them? A. No.

Q. Had you ever been trained to use one? A. No.

MR. McNALLY: I don't think he had ever seen one in Bulli Colliery before.

HIS HONOR: I thought he said he had.

WITNESS: No, that was at the Mines Rescue Station.

MR. McNALLY: Q. You had seen one there? A. Yes.

Q. They are an instrument, as you understand it, for testing methane gas? A. Yes.

Q. I think having carried out your inspections on 9th November you went out of the mine and did you speak to Deputy Stewart? A. Yes.

Q. Was he to be the Deputy of the shift after yours? A. Yes.

Q. Did you indicate to him the state of the mine when you left it? A. Yes I did.

Q. In what manner did you indicate to him? A. Charlie Stewart came up to me in the ~~little~~ LAMP cabin and said, "How is things mate? I said "They are lovely". I said, "They are very nice. They are as sweet as a nut and you should get a thousand skips today". I said, "You should fill a thousand skips today".

Q. I think on the way out you had made similar comments to the men in your shift? A. Yes.

Q. The gentlemen that were performing repairs to car 40 in the shunt, you said certain things to them? A. Yes.

Q. And asked them to report to you should they detect any gas at all? A. Yes.

Q. Did they in fact report to you subsequently? A. No, not that. They only reported they were going out of the section.

Q. Is it possible to move inby down the A cut-through beyond the brattice that is shown, or was it possible to do that before 9th November? A. No.

Q. That was because the brattice was too tight to get through? A. That is correct.

Q. My friend Mr. Sullivan indicated there was a way through at the inby of A heading on 9th November? A. Yes.

Q. Prior to 9th November did you know that was there? A. Yes.

Q. I wonder if you would just describe what it was like prior to 9th November? A. Prior to 9th November it was mostly a passageway, I should say in some places two to three feet wide. All the roof had broken on the inby side and was hanging off. All the props all the way down there had broken up. Just inby the side of the prop was all falling in and further in again all the props broken, just standing there like dogs' legs.

Q. Was that section open close to the end of A. heading? A. Yes.

Q. The end of B. heading? A. Approximately close to that. It would be a few yards further in, I should say.

Q. Could you walk through this opening at the end of A.heading or was it necessary to bend over or crawl? A. Oh, you could have walked through.

Q. All the props were broken and it was narrow? A. I did not consider it safe enough to go through on my own.

RE-EXAMINATION:

MR. LEE: Q. Did you suspect bottom gas in this section at all? A. Well I think it is well known and recognised in mining practice - (interrupted).

Q. I think that is a straight forward question. -

MR.McNALLY: I think he is answering it.

HIS HONOR: I think it is a fair question which should be given a simple answer, Yes or No.

WITNESS: In this particular shunt?

MR. LEE: Q. Yes. A. No I did not.

MR. SULLIVAN: Some of the questions I asked go back beyond the time the goaf was in this position but the sheets are here.

(Witness retired)

HIS HONOR: Is there any objection to the sheets being tendered?

MR. REYNOLDS: Not at all, Your Honor.

MR. LEE: I have seen them.

MR. REYNOLDS: Just before we rise, Your Honor requested the carbon copy book. I am instructed these are completed but we would have to go down the mine and get it. I am also instructed they are not intact but men use them for all sorts of purposes and they are not kept as an official record. This is the official record, the original copy. I would suggest unless there is any real query about the authenticity of the completeness, I was wondering in the circumstances whether Your Honor would adhere to the direction that we get them?

HIS HONOR: If there is no query I will not query it because if there is no query as to the authenticity of these sheets or as to them being a complete record of this witness within that period, I see no reason why the carbon copy book should be produced.

MR. REYNOLDS: In the meantime I will ask that those which can be found be brought up butI do indicate I probably will not be able to comply with it today because it may mean a special search in the mine to see what is there. These are the records and the others are not regarded as official records at all.

HIS HONOR: The only thing about your last statement is that the Regulations do require -

MR. REYNOLDS: The Act says a book.

HIS HONOR: And also says it should be available for inspection by workmen at any time.

MR. REYNOLDS: No doubt they are but I would think these are the forms which the Mines Department requires and possibly provides, I don't know.

HIS HONOR: So far as I am concerned and so far as the evidence in this Court is concerned, we are interested in seeing what was observed and what was the report, so that there is no query as to these being sufficient for that purpose.

MR. REYNOLDS: I think there might have been some misunderstanding because some are small and some are big. If you look at the small ones you think there is something missing and, similarly, if you look at the big ones.

(Regulations 22, 25, 27, 42 - seventh schedule records tendered and marked Exhibit "F")

(Luncheon adjournment).

ON RESUMPTION:

HIS HONOR: Mr. Lee, the evidence you propose to call, do you propose to tender any evidence as to the cause of death and discovery of those who died?

MR. LEE: I had not intended to go into that matter other than

to merely prove that they were found and where they were found and that they had died.

HIS HONOR: IS any other party preparing to call that evidence?

MR. SULLIVAN: I propose to call the district check inspector who was with the gang who discovered the body of each person concerned, I think.

HIS HONOR: Certain matters have been brought to my attention as a result of reading your opening, Mr. Lee. There is the question as to whether these four unfortunate men were burnt before they were asphyxiated. I have to report on the circumstances of the matter. I am to deal specifically with the loss of the lives of those persons involved and therefore I think one must be accurate even as to matters as to the cause of death. This matter is, of course, in the hands of the Coroner who is also the Clerk of Petty Sessions of this Court. There is a doctor, I understand, who made an examination and can give such evidence and failing any party proposing to call that evidence I propose to have the doctor called myself. I propose to do that this week so that we can have the picture completed at any rate as to what happened at the mine. Then I propose to let you call the evidence of a technical nature which I understand will tend to show why there was a fire. Does that meet with everybody's approval?

MR. SULLIVAN: Yes.

MR. LEE: I am sorry I overlooked that.

HIS HONOR: It is not a question of you overlooking it, frankly I do not think it is really part of your function.

(The matter of witnesses expenses was argued. His Honor ordered that the witnesses be paid witnesses expenses.)

BARRY KENT,
On former oath:

HIS HONOR: Q. I do not want to go into the details of this. You understand that. You recall when you made this statement, now an Exhibit, that you came to a point where five of you, you said, had been stopped by the heat about 15 feet away from the flame? A. Yes.

Q. Then you described who the five were and their relative positions, did you. You said"Jack Murray and Bobby Stewart were on my left side and Harry Smith and Freddie Hunt on my right and Freddie Hunt a little to the front." Can you tell me at this stage were any of you touching each other? A. I think we could have touched if I extended my arms, we could have touched each other.

Q. No one was hanging on to anybody else? A. No.

Q. Did you ever see or did you ever know what you tripped over when coming through the flame? A. No, a few yards before the fire I did fall but I don't know what I tripped over.

Q. I suppose it is a most difficult thing to ascertain in detail where and when you fell but did you form any opinion about which you could be reasonably sure now as to whether when you fell you would be visible through the flame to the men behind you, or not? A. I don't think so. I think I was at least ten to twelve yards through it. I was just on the very edge of the fire.

Q. The edge of the fire away from these men? A. Yes, about ten to twelve yards away from them and I do not think it would be possible to see into that fire because I could not see before I left, I did not know what I was going into before I left.

(Witness retired)

CHARLES ROBERT STEWART,
Sworn, examined as under:

MR. LEE: Q. Your name is Charles Robert Stewart? A. Yes.

Q. You are a Deputy employed at the Bulli Colliery? A. Yes.

Q. On the morning of 9th November 1965 you were in charge of eight Right Section? A. Yes.

Q. How long have you been connected with the Bulli Colliery? A. Just on 21 years.

Q. When you went to Bulli Colliery was that your first introduction to mining? A. Yes.

Q. What positions have you held, what work have you done and what experience have you had? A. I worked with the surveyor for some nine years and from 1954, I think it was round about 1954, I got my Deputy's Certificate and in 1955 I went on Deputy's work.

Q. Were you working in this area when the headings went out into what is now the goaf area? A. The first three headings, no.

Q. You weren't there? A. No.

Q. When did you begin to work in this section? A. It was round about July.

Q. At that time of course the extension of No.2 cut-through out, as shown on the plan, was not in existence then? A. No, there was only the A B and C headings were out, roughly, say another four pillars.

Q. The goaf area had not been worked at all? A. It had just started to be worked.

Q. Round about 9.20 a.m. on the morning of 9th November you were in the section and the men had been working at the face for approximately one and a half hours? A. Yes.

Q. A full shuttle car was on its way out. Do you remember that? A. Yes.

Q. I will read from the statement up to a certain point. Did you notice all the men except Bobby Stewart were collected at the time heap? A. Yes.

Q. Where were you when th cy were all collected at the timber heap? A. We were all actually just in a heap.

Q. They were waiting for the return of the empty shuttle car? A. That is right.

Q. You were on your way into the face? A. I had just taken about two steps towards the face, yes.

Q. You heard Dale Jones call out "There's a fire up there"? A. That is right.

Q. Tell me what happened after th[illegible]? A. As I said I had taken about two steps towards the face and Dale Jones, he really yelled out, "There's a fire up there", and I immediately looked around and I could see the fire up in the left top corner of this place. I said, "Come on boys get out of here". I turned round and called out "Come on Bobby" meaning Bobby Stewart who was sitting a matter of about 25 - 20 yards away from us and was standing behind the miner, actually.

HIS HONOR: Q. The fire was in the top left-hand? A. The top left-hand corner from where I was standing looking outby to up No. 2 cut-through, it seemed to be on the left-hand top corner.

MR. LEE: Q. And, in relation to the intersection of A heading and No. 2 cut-through? A. Right on the corner.

Q. When you first saw it was it just a small fire or a large fire? A. It was rather a large fire, round about four feet and about two feet in depth - four feet long and about two feet in depth.

Q. In depth from - ? A. - from the roof.

Q. Were you, in that position, able to see the actual floor of the intersection? A. No, I would be just in a little bit further in from the others and where I was going to walk in I could see part of it.

Q. You would tend to be more looking up at the roof of the intersection? A. Yes.

Q. The floor would be just obscured by the slant? A. Yes, and also by the timber prop because I would be actually closer to the timber than the other chaps would be.

Q. It was on the left-hand side at the intersection there. Did you form any impression at that stage how far across the intersection the fire had gone? A. Yes, as I said it looked roughly round about four feet.

Q. Then you called out, as you have said, and you were with the other men and went up to the intersection? A. Yes.

Q. Do you remember who was first? A. I think I was just followed by Dale Jones. I know Dale was very close to me but I could hear the others running but I don't know who would be in line from there on.

Q. Now when you arrived at near the intersection, what did you see there. A. Well as I got to within fifteen yards from the intersection you could get quite a good vision of this elephants trunk on the left hand side of the prop and up and along the heading. It was connected to the prop and over the bar and down the other side onto the vent tubes. Now when I got to about that point you could see that was burning all the way up and about three parts of the way across the heading.

Q. Was there anything about the burning that specifically attracted your attention. A. It was dripping.

Q. What was dripping. A. Well the flames were dripping from the plastic tube and just like drips of fire dripping right to the ground.

Q. At the ground at this moment of which you are speaking were you aware of any fire actually at floor level. A. No there was no fire at floor level.

Q. It was still up? A. It was up above us. Yes.

HIS HONOR. Q. Could there have been fire at floor level without your seeing it? A. I don't think so. I went right through it.

MR. LEE. Q. Well did you happen to observe at that point of time any fire at all over in the fan area? A. There was no fire in the fan area because that is the way I put my head down to look when I charged through. I put my head down towards the left and there was no fire on the left hand side - on my right hand side actually going out.

Q. When you ran through, you looked towards the fan area? A. That is correct.

Q. There was no fire there? A. No.

Q. Before you made your dash through you have told us about the elephant's trunk. Could you see into the shunt area? A. Not particularly well. Up to I said fifteen yards, I couldn't see into the shunt area but when I got to fifteen yards I could see partly into the shunt area.

Q. Could you see the shuttle car? A. I could see the shuttle car . I could see part of the shuttle car.

Q. Could you tell us with any accuracy the position that the shuttle car was in at that stage? A. No.

Q. You could not say if it was on a slant at the corner or well back down? A. No. The shuttle car was there was I went past, that is all.

Q. I am not blaming you for not stopping to notice that detail. Could you see at that point, however , the extent of the fire in the shunt area? A. No. As I said all I could see was this up the bleed tube and across. Now that was the only thing that I could see was on fire.

Q. When you say up the bleed tube, you are referring to the point on the left rib where it goes across the bar. You are not referring to the bleed tube back in the brattice,are you? A. Yes.

Q. You are? A. Yes.

Q. You could see that far in there? A. No. From where it was tied onto the prop and then it went in towards the brattice, now from that area I could see quite plain that it was on fire from there up and partly across the intersection.

Q. I thought that is what you did mean. You could not see the end of the bleed tube? A. No.

Q. You then dashed through the flames. Did you get burnt at all. A. I got a piece of plastic on the nose and a piece of plastic on the ear, two pieces, that is all stuck to my nose and ear.

Q. If you can remember, at what point as you ran through did those pieces - A. I imagine as I went under the tube.

Q. Can you tell us what area or what distance you travelled to get from one side of the fire out through to the other side. A. Yes, it was only a matter of a few feet.

Q. A few feet at that stage. A. Yes.

Q. Was there smoke about at the time. A. Very little smoke but the heat on the outby side seemed to be terrific for say fifteen to twenty feet, roughly that I would say.

HIS HONOR. Q. The heat on the outby side. A. After going through the initial flames, it was roughly about this wide - the heat from there out seemed to be pretty severe. There was a little bit of smoke but not much.

MR. LEE. Q. Was there anything about the fire, the colour of it or anything of that nature, that you can tell us some more about? A. No. It seemed to be just ordinary orange flame but these drips seemed to have a little bit of different colour into them, I am not sure what. It just seemed to be a little bit different, the drips from the tube.

Q. I think Dale Jones was alongside you before you made your dash. A. That is right.

Q. You were first through then. A. Yes. As we went up there Dale was behind me and he said to me "which way?" and I said, "Follow me straight through."

Q. At that point of time did you happen to notice where the other men were? A. No I thought they were all following behind.

Q. He arrived then at the other side very soon after you I suppose. A. Yes, very soon.

Q. You told him to go to the phone and you said you would go to the top and get assistance. A. That is right.

Q. Where did you go. A. Well I went to the top.

Q. What do you call the top. A. The loading ramp.

Q. That is down No. 2 cut-through? A. Straight up No. 2 cut-through. It is uphill.

Q. To where it has C heading ? A. Yes, to the loading ramp. I couldn't see anybody there at first and I came back, ran back in towards the crib room and there was some of these six feet vent tubes in the way and I had a quick look in there and I couldn't see Dale so I immediately went back again. I thought he had gone round the pillar because I said I was going up to the top. At the top again I saw Freddie Hope.

Q. Would you mind going over to the plan and describing this? (Witness approaches Exhibit A.)

You first of all ran down to the loading ramp? A. I came up to about there.

Q. That is the junction of C heading and No. 2 cut-through? A. That is right. I couldn't see anybody and I came back in through this area. I went back into B heading .

Q. Near the crib room? A. Well the crib room is quite some distance up there and there was quite a few of these six foot vent tubes there . When I looked in I couldn't see any lights and I imagined Dale Jones had done the ringing and he had gone up around this way.

Q. Did you imagine he had gone down No. 1 cut-through? A. Yes, but you see the crib room is very close to No. 1 cut-through and not up to where I would have met him.

Q. And up along C heading ? A. Yes. I only got in a matter of five to ten yards in there.

Q. You retraced your steps down that B heading and along No. 2 cut-through into C heading? A. Yes. That is where I saw Freddie Hope.

Q. You are indicating some point there. What is the word shown there that we can use? Is there the word "winch" there? A. Yes, winch - near the winch I saw Freddie Hope. I remember saying something about "What happened?" and the words he said were, "I saw a faint glow or something under Tommy's car and the next thing it was going up the bleed tube or up towards the bleed tube, the fire was going up towards the bleed tube." He said, "Will I get stone dust?" and I said, "No, we want help and extinguishers."

Q. Where did you go and what happened then? A. I came back down in here (indicating) .

Q. For the notes would you just tell us what you are indicating? A. I came down past the winch along to the loading ramp, down along No. 2 cut-through and back into the crib cabin. Dale Jones was still standing at the crib table and I asked him had the rung and he said he had and I rang again. Now I rang three 8 and I think it was Ray Waring answered the phone and I asked for extinguishers and he said he had already teed those up. Then again Dale said "What will we do?" and I said, "Well, you go to the outby stopping" meaning No. 1 stopping "and pull it down and we will short circuit the air. Now I'll go back and have a look." When I went back through B heading to No. 2 cut-through I just barely got round the corner, it could be down four or five yards and this smoke was swirling up towards me. I went back to the crib room along B heading and when I went to the seal here there was nobody. It appeared Dale had gone up to the seal in No. Zero heading so I started pulling down this seal in No. 1 cut-through. I started pulling that one down and when I pulled it down the dense black smoke began. It came out so I said that was no good and I would have to block it back up again.

I was in the process of plugging that back up again when Dale Jones and Don Ashford came to me and I said, "You complete that and I'll go back in and ring and see if there is any assistance coming." I went back into the crib room and while I was on the phone I rang some numbers that were engaged and by this time the smoke was creeping up and it was rather hazy. By the time I had sort of thought for a couple of seconds and tried to get onto some numbers the smoke had swirled right around me and I was in complete smoke at that time. Then I went to move out and I fell and I called out. Dale Jones came - I imagine it was from this stopping here around into that area and bumped into me , took me by the hand and we came out of the smoke. We then proceeded along this heading here.

Q. That is B heading? A. B heading No. Zero cut-through, through there and up onto this track road. From there on I seem to have been by myself, from here on. I thought Dale Jones and the rest of them went along this track road but I sort of seem to have been by myself here for some minutes. I had alook along that heading there and I couldn't see any smoke coming up at the time and I ran from that area up to the three 8 phone which was a matter of three hundred yards away and it was quite a considerable amount of people there and I asked for brattice and material to build stoppings. Then a loco came along. I don't know who was driving it but I asked would he run me back into the transformer and when I got back to the transformer the loco went back out. I sent it back out so that it could get the material that was required and then there was just a few minutes after that a few more deputies and the Assistant Undermanager came along and we started to go along there. I am not sure who had them - along C heading - but there were some extinguishers in their hands and we couldn't get very much past where this compressor was. You couldn't see the signal lights on No. 1 cut-through for the smoke coming back.

Q. About how long after your dash through the flames does this situation occur where you are speaking about now when you cannot really see down C heading? A. I don't know. Time went all hay-wire at that time. It could have been ten minutes. It could have been - I am not quite sure. (witness back to box)

Q. When was the first occasion that you were aware that there might have been some men still behind the fire? A. Well as I had detailed Dale to go into the crib room I thought everybody followed him round there.

HIS HONOR. Q. As you went to the crib room ? A. No, as I detailed Dale Jones to go to the crib room and I went straight up I thought everybody had followed him around that area - had gone through.

Q. You told me that you and Dale Jones came round into this flame which was some depth from the sealing, Jones behind you? A. That is right.

Q. When you got to the other side, I know you have told me there was heat fairly close to the outby section; did you turn round to see whether anybody else had come through or how they were getting out? A. No, I ran straight to the top of the loading ramp.

Q. How far is it to the top of the loading ramp? A. From where the fire was it is roughly sixty yards.

Q. I suppose you could see the flame from the top of the loading ramp? A. When I came back down I couldn't see any flame because of the smoke.

Q. You say when you came back down? A. Yes. You see I ran to the loading ramp and then back down again into the crib room in B heading.

Q. When you got to the top of the loading ramp would you have been able to see the fire? A. If I had turned - I did turn round and I couldn't see the fire for smoke from the top of the loading ramp.

Q. Where was this smoke - were you in it? A. No, it was just around the fire area.

Q. Where was Dale Jones at that stage? A. In the crib room.

Q. He had gone there? A. Yes.

Q. You had no idea where any of these men were so you assumed they followed you? A. I assumed they followed us through, yes. You see we all took off together and Dale and myself went through and I thought when I went up to get assistance at the top , I thought they had followed him round into the crib room.

Q. What about the man who was near the miner, he was twenty five yards or so away from the timbering? A. Yes.

Q. That is Bobby Stewart? A. Yes.

Q. When you started to make your run with Jones had he come up to the timber heap? A. No.

Q. Do you know where he was when you started to run? A. No. He was behind the miner when I called out. I called out "Come on Bobbie."

MR. LEE. Q. I suppose you were running very fast or as fast as you could? A. As fast as I could, yes.

Q. To go through the fire, and on the other side during the whole of the time it took you to get down to the loading ramp? A. Yes that is so.

Q. Do you say that when you got to the loading ramp and looked back you could not see the fire for the amount of smoke? A. That is right.

Q. Could you see the glow of it? A. Well, I wasn't sure . No I would say the smoke was there and I couldn't quite see the fire.

HIS HONOR. Q. When you ran through the fire you say there was very little smoke? A. Not very much smoke.

Q. Not very much smoke and the fire then came down how far from the roof? A. Roughly about two feet and the flames were dripping.

Q. How high is the roof from the floor? A. Seven feet at that point.

Q. So in other words you crouched down from a height of something like five feet eleven inches and ran through? A. Yes.

Q. There was ample room for you to go through apart from the pieces of inflammable material that might fall on you? A. Yes.

Q. And the fire was nowhere near the floor at that stage? A. No

Q. These men were, as you assumed, running behind you, is that right? A. That is right.

Q. We have been told that you and Jones got through, Kent got through after you but was burned? A. That is right.

Q. And these other men did not go through at all, is that as you see it? A. That is pretty right Your Honor.

Q. Do you feel sure this fire was firstly only two feet from the roof having got that picture? A. Yes.

Q. And you could not see it at all by the time you had run up to the top of the loading ramp? A. No, I didn't see it. Whether I didn't look for it I think if I had seen that I would have seen the fire going back down to the crib room.

MR. LEE. Q. When you started to make your dash through the fire you told us that Dale Jones was there with you, is that correct? A. That is correct.

Q. I suppose you had both stopped momentarily, had you? A. No, we didn't stop, we went straight through.

Q. Did you notice where Barry Kent was? A. No.

Q. You were not conscious at all of whether he was immediately behind or some considerable distance behind? A. No, I wouldn't know in fact exactly how far Dale was behind me.

Q. Prior to making your dash through the fire where did you last see Barry Kent? A. When we were collected I could probably have touched him with my hand at that time.

Q. After dashing through the fire, how long after you got through did you come across Barry Kent again? A. It was when I ran out to the three 8 phone to arrange for this brattice material and so on that Barry Kent was either sitting on a loco or being led up to a loco to go outside.

Q. Of course that was at least some time after you had dashed through the fire? A. Yes.

Q. How long have you been Deputy in this Colliery? A. Since 1955

Q. Could you tell us without too much detail what you regard as being your duties as a Deputy? A. Right from the start - well, I started off as a shot-firer, firing shots and examining places for gas and for the general safety. That was on afternoon shift. Then when I came on day shift I was put in a production panel. Actually, the first time I was put in a development panel for a development area. That is just getting places ready for starting new production units and then I was put in a production panel.

Q. And what do you consider to be your duties so far as gas was concerned? A. Testing for all types of gas and looking after the general safety of the men working there and testing of roof and sides and so on.

Q. You went on duty on this particular morning, it would have been round eight o'clock you arrived there? A. I arrived there round about a quarter to eight, ten to eight.

Q. Your shift was seven o'clock? A. Seven o'clock starting.

Q. Would you tell us, taking your time, what inspections you made from the time you got there until the time of the fire? A. The first inspection would be a visible inspection of this position or the timber and the roof and sides going down into the miner place, down B heading from the crib room down no. 2 cut-through and into the position where the miner is situated on that plan (indicating Exhibit A). Now when we arrived there Bobby Stewart, the machine--man went to the right hand side of the miner and I went to the left hand side and we tested for gas. Both, well I by myself tested from the roof to the floor and then I moved to the left-hand side of the place and tested from the roof to the floor and then I went over into that standing place, right over in the far rib, and tested from the roof to the floor, then -

Q. The words you used were "We tested for gas" but do you mean to say only you? A. No Bobby Stewart tested on the right hand side. He went on the right hand side for this particular time there. He had an oil safetylamp of his own.

Q.

Q. Did you test after him? A. I tested with him - he was on the right hand side. We would probably be four feet apart at one stage and I went that way (indicating).

HIS HONOR. Q. In other words you were splitting the test into half allowing him to do one half? A. No, well he did his right hand side of the place and then I went up in the coal machine and went right across and over into the goaf area.

Q. Did you also test the area which he had tested? A. Not at that time, no.

Q. At that time you allowed him to test one part and you tested another part, is that so? A. Yes.

Q. And where was this area where the test was done in this way? A. At the face.

Q. At the face itself? A. At the face itself.

MR. LEE. Q. Was it a common thing for some other person present to make a test whilst you also were testing ? A. Yes. The miner driver whoever he may have been the next day in there would test for gas roughly every half hour.

Q. I will come back to the test you made later on but so that I do not interrupt the sequence where was your next inspection and test? A. The next inspection was along the vent tubes to test the rubbers on the vent tubes for leakages for air. We went up all the way along these vent tubes up to the fans tested around the fan area, went immediately across into the shunt, the shuttle car shunt -

Q. When you say you tested around the fan area, you tested the rubbers, is that what you are talking about? A. Well , first, actually yes, I pulled back the rubbers at the fan to see there was nothing caught in the grills and tested for gas in and around that fan area.

Q. You tested for gas at the fan area? A. At that brattice stopping there or brattice surround. Then I went straight across from there, that is in A heading, into the shuttle car shunt where the bleeder tube was and I tested on the right hand side first. There was no shuttle car in there and then I tested towards the middle and then I went onto the floor. I think that was the sequence. I tested for gas on the floor , then I came out of there and went up into B heading to where the cross-sticks are and I made a test there. I don't think those cross-sticks were in, not as far as they are marked on that plan. It would be roughly not quite half way in that area there.

Q. You tested at the cross-sticks did you? A. Yes, at the cross-sticks - just inby the cross-sticks I would say and then I went back down to the face and I supervised the workings for -

Q. What do you call the base? A. Where the miner is working.

Q. Did you call it the base? A. The face and I supervised the workings there for I don't know exactly how long and that was roughly - it would be half past eight or a little bit better at that time and I had been on both sides of the miner at that time having a look at the roof with the timber men and also watching them erect the timber . Then I came back up and into the shuttle car shunt again and I went in there and this time I got down on my hands and my knees and I got this sensation right down low on the ground. It is a smell or a sensation or whatever anyone likes to call it. It is something like a sensation in your nose and mouth but it also burns your eyes and I gave this elephant tube a little

bit of a wave around and then I couldn't smell anything else again and I tested all round that area with the lamp and couldn't find anything. Then I went back down and I sat roughly at the back of the miner on the vent tubes for about another ten minutes and then I went back up to where everybody was collected on the timber bay and that is when the actual fire took place.

Q. That is when it happened? A. Yes.

Q. You say you had made these tests at the face, near the fans, in the shunt, and then you went back to the face and then you came out again? A. Yes.

Q. And you tested in the shunt? A. Yes that is right.

Q. On this second occasion you apparently felt the necessity to get down on your hands and knees? A. Yes.

Q. Taking it step by step, before you got down on your knees, you had not had any indication of anything at all in that area. A. No.

Q. Then what was it that made you take this step of getting down on your knees? A. It is the usual practice.

Q. It is the usual practice by whom? A. By me to get down and have a good smell of the area.

Q. You did not do that however on your first test? A. No, I made my tests on the first one .

Q. But this getting down on your hands and knees is to make really sure? A. To get right down to the ground, you see,

Q. But you left that to the second test? A. Yes.

Q. Is there anything you can tell us about why you wouldn't do that on your first test? A. No.

Q. Is this the position that nothing induced you to, nothing that had previously happened or anything that was said previously induced you to get down on your hands and knees in this area, it is just that it was your practice? A. Just my usual practice.

Q. Did you feel that there was any necessity to get down on your hands and knees in any other portion that was being tested? A. Well I have done it quite often in other portions but in this case - now if there is anything on the floor, very low on the floor, and the shuttle car goes in, it will swirl it and that is when I go in and have a smell.

HIS HONOR. Q. Had the shuttle car been in when you went in there? A. Yes it had been in there. It had been in maybe two or three times.

MR. LEE. Q. This sensation or smell whichever it was, was that something with which you were familiar from other tests that you had made? A. Yes.

Q. And what opinion did you form when you got this sensation or smell? A. Well when I got that smell I associated it with black damp.

Q. You never suspected bottom gas did you? A. Not suspected it, no, but I had been looking for it.

Q. What you thought you were getting there was black damp? A. That is right.

Q. Did you test at the face and at the fans and in the shunt in the same manner each time? A. I would say yes . Yes.

Q. What is the method you used then? A. First of all going into a place I test the roof first. Now I lower my flame to that very small luminous blue colour and get it up to as high to the roof as possible and work across the face and if there is any inflammable gas it forms another blue or a lighter blue halo at the top of this flame and if there is no gas there, there is no alteration to your flame. From then I lower it and I will raise my flame till it is just a little bit below normal height and the orange flame, then I will hold my hand underneath it and lower it into the bottom. If there is any inflammable gas in that area it will still flame on my light and if there is no inflammable gas there and what I call black damp is there it will tend to take your light out, to extinguish your light, and that is the usual way that I test. Now while I am testing at the top I have the vents open from the top and my light has this , and while I am testing for the bottom you can screw the ring around and have the vents open. It is about four or five inches from the bottom of the lamp.

Q. So the flame you use to detect the CO 2, you say is one that will reveal methane to you also ? A. Yes.

Q. Are you sure of that? A. I am positive of it.

Q. You would not agree that you need the small flame in order to be able to see the cap on this flame that ultimately forms there? A. No. The flame is reduced a little bit but it is nothing like the small flame.

Q. Then you do not agree that by leaving your flame at the same level to test for the CO 2 you are placing yourself ina position where you could very easily miss the cap?

MR. REYNOLDS. That is a false premise. He did not say when he was testing for CO2 he left it at the same level.

Q. We do not want any doubt about it but what you said was having tested for methane with the small flame you then turned it up to give you the flame which you were ultimately going to use to test for CO2? A. Yes, that is right.

Q. You took that flame down to the floor? A. Yes.

Q. You claim on that flame if there were methane you would see it? A. Yes.

Q. You would not accept a proposition that by using as a test for methane the same flame that you used to test for CO2 you were placing yourself in a position where you could very easily miss the methane if it was there? A. No I would not.

HIS HONOR: Q. How close to the ceiling can you test for methane? A. Five inches, I would say.

Q. If you have a thin layer up near the ceiling you cannot tell with the safety lamp at all? A. That would be the same, probably the same with the floor.

Q. If you have a layer of methane or an inflammable pocket of gas that is seeping out along the floor and is only just around the floor you cannot tell with the safety lamp? A. No.

Q. You say you got down on your hands and knees and smelt some gas. Did you make a report on that gas? A. As I said I could not get a detection on the light.

Q. You thought there was sufficient black damp down there to wave the elephant tube round? A. Yes.

Q. But you did not report? A. Yes - I beg your pardon.

Q. That is what I asked you in the first place? A. I beg your pardon.

MR. LEE: I think he thought you meant did he get it on the light.

WITNESS: I thought you meant did I get it on the light. I did report it.

HIS HONOR: Q. When did you report it? A. As I recall it it was on 11th because --

Q. Some time after the fire? A. After, that is right. I stayed there till six o'clock that afternoon, or round about, and went home and was under sedation next day and went back to the mine to fill in the reports the following day.

Q. Did you think when you smelt CO2 you might possibly be smelling bottom gas? A. No, I have smelt it before and every time when the test has been taken, when you got that smell the light was extinguished, or tended to be extinguished.

Q. Bottom gas is a mixture of methane that is undetected by feel or any sensation of smell; is that right? A. That is right.

Q. Fire damp - I am sorry - black damp - CO2 is so detectable by those with experience; is that so? A. Yes.

Q. Have you ever smelt a mixture of bottom gas? A. Yes, I have been shown bottom gas.

Q. Have you ever smelt the black damp in bottom gas? A. I would say this smell or sensation I get was black damp.

Q. You could smell black damp in bottom gas? A. Yes, you can smell the black damp but whether you can find the bottom gas there or not is another thing.

Q. Did you think when you smelt black damp you in fact might be smelling a mixture which constituted bottom gas? A. Yes, I took the precaution of testing them and when I found no inflammable cap on the light I thought it would be black damp.

Q. Did you think where this bottom gas might be coming from if it were bottom gas? A. It could be coming from anywhere actually. It could be coming from the goaf area.

Q. From the goaf area? A. Yes.

Q. Looking back do you think that is the most probable area from which it would come? A. Yes it would.

Q. Did it strike you at the time that it might be coming from the goaf area? A. No I would not say it did strike me at that time.

Q. Did you think, even though you waved the elephant trunk over it and got rid of it temporarily the source might replenish the supply at some later stage? A. I treated that smell as black damp and I got rid of it with the elephant trunk until there was no smell left in that area at that time.

Q. I may have been mistaken but I thought you did say, and you correct me if I am wrong, that at the time you thought it might possibly be bottom gas? A. That is right.

Q. Did you say that? A. Yes, I did say that.

Q. But you treated it as black damp? A. Yes.

Q. Not as bottom gas? A. Because I did not detect any inflammable mixture in that.

MR. LEE: May I ask something on that, Your Honor?

HIS HONOR: I thought I would deliberately ask those questions to give any party a chance to ask further questions.

MR. LEE: Q. Did I understand you to say although you smelt this, or sensed this gas you could not get the black damp indications on your lamp? A. Could not get it.

Q. Even though you could smell it? A. Yes. It was not a smell as strong as I have smelt it. It was just a smell and that was all - just a sensation.

Q. Is it a common thing that you can smell before your testing apparatus indicates the presence of gas? A. No, I would say, well if you walked into a place with your light in your hand and did not take any tests and then you walked back out of the place, the footsteps may kick that gas up and you can smell it.

Q. If that was so I then want you to tell His Honor what the factual situation is once you can smell it - won't your lamp show it up? A. Oh, I would say not in every case.

Q. The position is you neither got a carbon dioxide reading nor a methane reading? A. That is so.

Q. But there was some there? A. Yes.

MR. ROSS: No questions, Your Honor.

MR. CRANE: No questions.

MR. PARKINSON: Q. As a deputy do you act under the orders of the manager and/or under-manager? A. Yes, at all times.

Q. What is your position in the absence of the under-manager or manager? A. I would be in charge technically.

Q. You would be in charge of all workmen in the district? A. That is right.

Q. Is there any official known as an overman in your particular district? A. No.

Q. Have you ever worked as a deputy in a district where there was an official known as an overman? A. Yes.

Q. In the absence of the under-manager and the manager on that occasion who was in charge? (Objected to by Mr. McNally).

Q. Is there a place known as a deputy's cabin in this particular district?A. A deputy's cabin, no.

Q. WHere do you make your reports? A. In the crib room.

Q. You do not have any particular cabin known as a deputy's cabin to make your reports, to keep your records, to keep your books? A. No, just in the crib room.

Q. It is just in the crib room, and the reports and books - just where in the crib room? A. Sometimes they are on the desk, sometimes on the table. It depends on who is using them.

Q. So there is no special place? A. No.

Q. (Approaches map). This is the goaf area, is it not? (indicates) A.Yes.

Q. We are extracting pillars? A. Yes.

Q. We are what we call retreating? A. Yes.

Q. And as we are retreating this goaf automatically advanced; is that right? A. Gets bigger, yes.

Q. When you made this statutory examination on Tuesday 9th as the day shift deputy where did you examine? A. Where did I examine?

Q. Yes. I don't want you to repeat what Mr. Lee has told you- can I put it to you this way - what Mr. Lee asked you, I should say - can I put it to you this way: Did you examine in B heading adjacent to the goaf edge? A. B heading, I did not go past, more than two yards past the crossed sticks.

Q. You did not? A. No, not at that time but later on in the day I would have gone round that area.

Q. You say you would have? A. I usually do go round that area.

Q. Have you ever found gas adjacent to the goaf edge in the B heading? A. Adjacent? In that area?

Q. Yes?A. Noxious gas, yes.

Q. You have found noxious gas? A. Yes.

Q. Have you ever found inflammable? A. In that area, no, but I have reported it inby of the goaf area, I don't know exactly how far inby but it was inby.

Q. Have you always reported a finding of gas? A. Noxious gas and inflammable gas, and reported it as such.

Q. So you would not agree with what Mr. Walker said earlier today that he did not - he was convinced it was not necessary to report all gases when found - (objected to by Mr.Reynolds).

Q. In the last month before the disaster could you with approximation say how many times you have found noxious or inflammable gas? A. I would not be exact but I know I found noxious six or eight times down in that bottom side and inflammable once or twice.

Q. When you met Mr. Walker in the ~~little~~ LAMP cabin on Tuesday night Mr. Walker told you, did he not, that everything was sweet and everything was apples? -

HIS HONOR: He said "As sweet as a nut".

MR. PARKINSON: Q. And that you would be able to get one thousand skips? A. Yes, I think he did say that.

Q. Will you agree that there is a degree of skill required to detect CH4? A. A degree of skill - you have to have eyesight tests for a start. If you pass those eyesight tests I imagine you are capable of seeing the gas test. I imagine some people would be able to detect say a very - in my opinion there would not be much difference in two detections if you had roughly the same eye, say one and a quarter or something like that.

Q. Would you agree with this, that in an inspection for CH4 with the safety oil lamp that there could be a layer of CH4 of up to four inches extending from the roof and you would not be able to detect it on the oil lamp? A. I would say that is right.

Q. Would you say a layer of four inches of methane extending from the roof could be considered to be a reasonably fair pocket of gas? (Objected to by Mr. Reynolds).

HIS HONOR: Q. Did you answer the question? A. Yes.

Q. What did you say? A. "Yes".

Q. It would be considered a fair pocket of gas? A. Yes, depending on how fast it went. It could be four inches over a hundred yards or a mile, actually.

MR. PARKINSON: Q. Say if it was four inches over one hundred yards? A. That would be a fair pocket of gas.

Q. Then it could be four inches over one hundred yards and you would not be able to register it on an oil lamp; that is the situation, is it not? A. I would say in a level seam, yes, but in a seam that is dipping I imagine it would float up to the higher part.

Q. Would you say the brattice stopping in A heading was an effective seal? A. Yes, very good seal.

HIS HONOR:Q. Was it just ordinary brattice? Was there anything special about it? A. Ordinary brattice off the roll.

Q. It had not been treated in any way? A. By what?

Q. Stone dust or anything like that? A. No,just ordinary brattice off the roll as it comes from the makers.

Q. What does it seal off? A. Actually it is put there for to stop the flow of air from going that way and pushing the air straight down past --

Q. That is not a seal, that is a director, isn't it? A. Well, that is the same thing.

Q. It does not seal off gas? A. I was going to say, and also to seal off any gas that may bleed from the goaf.

Q. How effectively does it stop the gas from bleeding? A. All I can say, this stopping was a very well directed stopping and I would say it was pretty effective.

Q. So effective that it needed an elephant tube to bleed off the gas as well? A. Well actually speaking that elephant trunk, as it was so called, was told to me that it was to ventilate that shunt, that was told to me.

Q. What did you understand by that, what did ventilating the shunt mean? A. That shunt was a dead end in there and they were going to ventilate it with that elephant trunk.

Q. You mean blow air into it? A. Suck air out of it, just like the same thing as the tube at the face, to suck the air out of the area.

Q. Not to remove noxious gas but stale air? A. Yes, that is what was told to me.

Q. Who told you that? A. The under-manager.

Q. What is his name? A. Mr. Puddle.

Q. Mr. Puddle, the under-manager, told you the purpose of the elephant trunk was to ventilate the shunt by removing stale air and that it had apparently little to do with removing any kind of gas; is that right? A. That is right.

MR. PARKINSON:Q. This was just ordinary brattice? A. It came off the roll, yes.

Q. How many thicknesses? A. I could only see one thickness. I am not saying there were not two thicknesses there but I could only see one andthe bottom layer was tacked back that I could see, it had gone to the rib and rolled back there at least one of the layers over the four or six,I think it was the four feet, was a double layer.

Q. Would you be able to see a light from the other side through the brattice? A. I have never seen a light and I don't think you would.

Q. Assume a place was full of CO2, would you be prepared to put one strip of this brattice over your face and go into that place? A. No I wouldn't.

Q. Why? A. Well, I would not like to take the risk.

Q. Because you feel you would breathe CO2 in through the brattice? A. No, it is like putting your head in, well, in a plastic bag.

Q. Isn't that brattice porous? A. Yes but it is also, what would you call it, it is used for regulating air. I mean, there must be some porousness (sic) in it, yes.

Q. HIS HONOR: Can you breathe through it? A. I don't think so.

MR. PARKINSON: Q. If that brattice is porous some mechanical equipment pulling air would pull air through that brattice, wouldn't it? A. It could.

Q. If it can pull air through the brattice it could also pull gas through? A. Yes.

Q. Do you still say it was an effective seal? A. I do, yes.

Q. Despite the fact you could pull gas through? (Objected to by Mr. McNally).

Q. Who was responsible for erecting the cross sticks in B. heading? (Objected to by Mr. Reynolds).

Q. Who was responsible for the decision that cross sticks should be erected in B. heading? A. I directed those cross sticks.

Q. What was the reason for it? A. I did not want anybody to go into that area because I did not think it was a fit place for anybody to go in.

Q. Fit in what way? A. There was broken timber, that was towards the goaf area, and I had detected noxious gas in that corner.

Q. Had you ever personally detected inflammable gas? A. In that place, no.

Q. Do you know who it was that was responsible for the decision to erect the brattice there? A. The brattice in A?

Q. Yes? A. No.

Q. You don't know? A. No, it was there in the morning when we came to work.

Q. Aren't part of your responsibilities to see that there is adequate ventilation? A.Yes.

Q. Part of your duties? A. Yes.

Q. And isn't that stopping there on what could be termed an intake?A. No I don't think it is. There can be a bit of air go in B heading but I do not think there would be very much to go in there to be called an intake, no.

Q. Would you say no one told you as to the reason why that brattice was put there? A. No but I imagine it had been put in previous - the same position in previous lifts and was just put up there for the same reason.

MR. PARKINSON: May I show him Section 31 D of the Act?
HIS HONOR: You cannot ask the witness questions of law.

MR. PARKINSON: Q. What is the width of the pillar that was being extracted? A. I don't quite follow which one you mean.

Q. From the cut-through into the goaf? A. Where the miner was?

Q. Yes? A. Roughly, well, I would say 50 yards.

Q. 50 yards? A. It might have been 48 or 50 yards.

Q. How far had the miner progressed up to this lift up to November 9th, the day of the accident? A. I would only be having a stab at it - 35 yards.

Q. Would you say they were then within about 15 yards of holing into the goaf?A.Yes.

Q. Had any precautions been taken preparatory to holing into the goaf?(Objected to by Mr. Reynolds).

Q. Isn't it quite possible that there could be an accumulation of inflammable gas in that particular goaf area you were going to? (Objected to by Mr.Reynolds).

HIS HONOR:Q. Is it possible for there to be a collection of inflammable gas in the goaf area into which you were heading? A. Yes.

MR. PARKINSON: Q. Had any precautions been taken? (Objected to by Mr. Reynolds; question to be limited).

Q. Have you ever used a methanometer? A. No.

Q. Have you ever seen one? A. Yes. I have watched them being used.

Q. At Old Bulli Colliery? A. Yes.

Q. What is your opinion of a methanometer?(Objected to by Mr. Reynolds).

HIS HONOR: This witness' opinion will not help me one way or the other.

MR. PARKINSON: Q. When did you first know Illawarra or bottom gas, the first time you ever knew there was such a thing existed? A. It would be many years ago, in a position in One North, when I was surveying at the time, I am not sure who it was, I think it was the old under-manager took me down and showed it to me on one occasion.

Q. And were you able to smell it on that occasion? A. I couldn't say. That is quite a long time ago, but he showed me how the cap was formed on the ground or thereabouts.

Q. Is it or is it not a fact that you are mainly concerned about black damp? A. In this area?

Q. In this particular area? A. Yes Sir.

MR. REYNOLDS: No questions.

MR. SULLIVAN: Q. Would you have a look at this (document shown to witness)- is that the report you prepared on the 11th? A. Yes.

Q. The events on the morning of the 9th, what you had found on inspections, were much fresher in your memory then than they are now? A. Yes, I would imagine they would be.

Q. The evidence you have given today differs somewhat from this report, doesn't it? A. No, I don't think so.

(Mr. Sullivan requested the document be marked for identification; Mr. Reynolds stated he would tender it.)

Q. I have not yet finished with the document. What areas were you referring to there when you said noxious gas was found at the goaf area? A. I call that goaf area - may I go to the board? (Permission granted and witness approaches Exhibit "A") Over there (indicating).

Q. Yes, actually in the working place? A. No, that is not in the working place. There (indicating).

Q. You are referring to this area in here where the previous lift had been taken? A. That is right, that goaf area.

Q. That is goaf area because the previous lift had been taken out there? A. Yes.

Q. You actually found noxious gas there? A. In this area on that side.

Q. You have not mentionedthat in your evidence, have you? A. Yes I did.

Q. When did you say that? A. To the Judge. I had reported it on that morning.

Q. And you said "And at A. heading"? A. Yes.

Q. I take it that means in the area of the shuttle car shunt? A. Yes, the shuttle car shunt.

Q. So actually you found it in the shuttle car shunt? A. Yes.

Q. And also in the goaf which is virtually part of the place where the miner was? A. I don't think it is part of the place.

Q. But it is within some yards of it, is that right? A. Yes, that is right, I call that -

q. It is all along the same ventilation system? A. I call that a goaf.

Q. Because it is all along the same ventilation system, is it not? A. Yes.

Q. That is the gas you were reporting here, found in that A. heading near the elephant's trunk and what you call the goaf area which is at the end of the long heading, is that right? A. Yes.

Q. What type of gas was it? A. It says here "noxious gas."

Q. Yes, that is right - what type of gas was it? A.IT was black damp.

Q. And as you said to His Honor, you agree now that it may have been Illawarra bottom gas? A. I treated it as black damp.

Q. I know you treated it as black damp but do you agree now it may have been Illawarra bottom gas? A. Yes Sir, it could be.

Q. Did you find it - and I suppose you will have to trust to your recollection now, won't you - on the floor or on the roof or in the ribs? A. On the floor on the left-hand side.

Q. You are referring now to what? A. To the bottom itself, goaf side.

Q. You found it on the floor on the goaf side? A. Yes, and on the floor in the shuttle car shunt.

Q. But did you tell us you got no reaction on your lamp in the shuttle car shunt? A. That is right.

Q. But you were satisfied that there was? A. That there was some there, yes.

Q. And you were going there not by your lamp but by your sense of smell, is that right? A. Sense of smell, yes.

Q. When you are formulating these what do you go by? Do you go by one, both or either sense of smell or lamp? A. Well, if I smell it and I think it is there then I test for it and find it, well and good.

Q. And if you do not find it? A. If I don't find it?

Q. Yes, if you smell it but do not find it on your lamp? A. Well, depending on the smell.

Q. But then if the smell is strong you should find it on your lamp, should you not? A. Yes, that is right.

Q. Well, has it ever occurred to you that where there is a mixture of methane and carbon dioxide, the lamp wick may give you no indication at all by that test of the presence of the two gases? A. Well, when I am taking my test if there is any inflammable gas there I expect to see it.

Q. Yes, you expect to see it? A. ANd if it is layered, as we know it can be, and it is being held down by the noxious gas, when you put your light into that it is going to be extinguished before it comes to the -

Q. Before it comes to the inflammable gas? A. Yes, that is right.

MR. REYNOLDS: Q. In this report of yours you wrote "Noxious gas found at goaf area (of previous lift)"? A. That is right.

Q. What is the previous lift? A. It is that outside lift.

HIS HONOR: Q. It is the area from which coal had already been lifted? A.Yes.

Q. MR. REYNOLDS: Had been won near the face? A. Yes.

Q. And A. heading means in the shuttle car shunt? A. That is right.

MR. SULLIVAN Q. When you were describing your escape from the heading there when you ran out, did you intend to convey to the Court, that only the bleed tube was alight? A. Yes.

Q. Only the bleed tube? A. At that time I could see only the bleed tube because that was right in my -

Q. Only the bleed tube was alight? A. That is all I saw, yes.

Q. Well, is it all you were capable of doing? I mean do you mean by that there could have been other material alight? A. Well, as I said, I could see this bleed tube going along the prop alight and that was what was alight when I went out. Over on the left hand side towards the shuttle car there could have been more.

Q. There could have been more? A. Yes, but nothing on the right hand side. I would say for sure there would be nothing on the right hand side towards the fan.

Q. This bleed tube was made of a type of plastic, was it not? A. Yes.

Q. With wire? A. That is right.

Q. And are you aware that this material only burns if a flame is applied to it directly? A. I don't know but I know it was aflame at this time.

Q. Was it aflame from inside or outside? A. I didn't take, I wasn't - I didn't take much time to have a look at it. I went straight -

Q. We know you did not have much time but - A. It seemed to be - all on the outside seemed to be aflame.

Q. All on the outside? A. Well, a complete ball of flame that high to the vent tube.

Q. And stretching aflame right into the shuttle car shunt? A. No, I didn't say that. I said up the prop, that is as far as I could see as I was running up to it - up the prop and over almost to the other side of the bar which it was connected to.

Q. And thereafter you did not see any flame because I think you told us when you looked at it from the loading ramp, you could only see smoke, is that right? A. Yes, well - I am saying that, yes. When I came down for the next look at the fire I couldn't get a look at it for thick, brown, dark smoke.
Q. So as far as you are concerned all you saw of fire was the bleed tube? A. At that time, yes.

MR. McNALLY: Q. Dealing firstly with the report that you made on the 11th relating to the gas you detected on the 9th, I think that after you had done the things described to Mr. Lee you stayed there fighting the fire until that night; is that correct? A. Yes, round about.

Q. You stayed there with the under-manager and fought the fire? A. Yes.

Q. I suppose you were tired when you finished and you went home and slept all the next day? A. Yes, I had burnt eyes and I was sent home and the next day I was under sedatives and I was asked to go up to the colliery on the Thursday to make a report.

Q. The elephant tube or bleed tube or elephant trunk, in the shunt area did it actually go right on to the ground? A. Yes, it was on the ground. At the end of it?

Q. Yes? A. Yes.

Q. You detected black damp in the goaf area near the face that day on the 9th? A. That is right.

Q. How did you detect that - on your lamp or by smell? A. On the lamp.

Q. And you reported that in the normal manner? A. Yes.

Q. I suppose frequently during the course of your work you come across black damp? A. Yes.

Q. In varying proportions? A.Yes.

Q. Sometimes you consider it dangerous, sometimes not? A.Yes.

Q. When testing for black damp do you bear in mind the possibility of Illawarra bottom gas? A. I do, yes.

Q. And do you rely upon your lamp to determine whether or not it is black damp or Illawarra bottom gas? A. That is right, yes.

Q. How far behind the anchor point of No. 40 car is the brattice - before the fire? A. I would not be quite sure but I would say six to eight feet.

MR. LEE: No further questions.

HIS HONOR: Q. This smell from gas that you speak about, is it a natural smell? A. Well, it is a sensation, I should say.

Q. What, a sensation in the nostrils? A. In the nostrils and the back of the throat and burning eyes.

Q. What kind? A. Well, I have always said it is like when you take the top off an ammonia bottle and take a bit of a whiff, it sorts of lifts you back.
Q. It catches you? A. Yes.

Q. It is not a smell like, for example say the smell of some of those gases we know of, coal gas, sulphur? A. No, it is not a gas you can really say was a smell of gas. It is really a sensation in the throat and nose.

Q. And have you ever had the sensation of actual smell as distinct from that effect on your nostrils and throat, down in the mine? A. No. It has always been associated with goaf areas and black damp.

(Witness retired)

CHARLES ALFRED WALKER,
Recalled on former oath:

MR. LEE:Q. When you were on the night shift, the dogwatch shift, where was the elephant tube hanging in relation to the floor? A. The elephant tube came across from the fan or from the vent tube across the bars, down the prop, along the back of the rib and the entrance to the vent tube was right on the ground.

Q. Right on the ground? A. Within I would say two feet to two feet six inches from the brattice stopping. It was definitely on the ground.

HIS HONOR:Q. Right along the ground itself? A. Yes.

Q. Like this (demonstrating), flat along the ground? A. It was just laying out - it was on a slight angle coming down.

Q. You mean as this tumbler is on the ground, was it down like that or at an angle? A. No, at an angle.

MR. McNALLY: Q. The angle - when you say an angle, was it lying with the opening exposed? A. Yes, full opening to the area.

Q. And the elephant tube is held open by wire? A. Yes.

(Witness retired)

(Further hearing adjourned to Thursday, 9th December, 1965 at 10.00 a.m.)

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DEPARTMENT OF MINES
SYDNEY

9th.

Minute Paper

St. 9581 V. C. N. Blight, Government Printer

PAPERS:—

SUBJECT:—

BULLI COLLIERY INQUIRY - INFORMATION FOR THE MINISTER.

Herewith for your information is a precis by the Deputy Chief Inspector of Coal Mines of evidence given at the third day's hearing, together with copies of the transcript for the 8th December and 9th December, 1965.

E.O. Rayner

for UNDER SECRETARY.

10th December, 1965.

The Hon. T.L. Lewis, M.L.A.,
MINISTER FOR MINES.

14 DEC 1965

Seen by Minister

DEPARTMENT OF MINES
SYDNEY

Minute Paper

St. 9581 V. C. N. Blight, Government Printer

APERS:—
JD/IA

SUBJECT:—

INFORMATION FOR THE MINISTER.

Precis of evidence given at the third day's hearing of the Inquiry at Bulli.

The first witness to give evidence was Maxwell Garritty, shuttle car driver on the afternoon shift in 8 Right. He stated that he tasted gas in the entrance of "A" heading or the area previously referred to as the shunt for 40 shuttle car. He mentioned it to the deputy that black damp was present and the deputy had brattice erected to dilute the gas. He also stated that the other car driver, Robinson, had complained of being affected by gas in the shunt area.

Maxwell Ackerman, shiftman, also employed with 8 Right District on afternoon shift, told the Court that the Tuesday prior to 9th November, brattice had been erected in the shunt to clear gas, and he had tasted gas that night, and also assisted in placing a bleeder tube in the area to within a short distance of a brattice stopping after he had complained to the deputy of gas seeping through the stopping on the Wednesday night. He stated that he had noted gas on several occasions, and had become nauseated by the gas. In reply to a question by Mr. Parkinson, he said that an instruction had been given by the deputy to move back as quickly as possible should they hole the goaf to allow the fan to draw the gas out as quickly as possible.

Albert Longworth, Inspector of Collieries, followed and he detailed the steps taken to fight the fire, and mentioned in particular the finding of a passageway around the goaf edge, and the finding of the first bodies. Also that the following day he found 1¾% methane at the fire area, and 3% in the shunt area at floor level the first discovery of this gas at floor level. Confirmed by Deputy Kelly with oil flame safety lamp. Continued to find gas during that day and on many occasions since, the last being yesterday, when conditions in 8 Right were restored, simulating conditions prevailing prior to the fire occurring. On this occasion he had recorded as high as 5%. He gave evidence on the behaviour of gas in the goaf, the effect of the barometer and ventilation of the area, also the air samples taken. He pointed out that the ventilation should be such that the air should ventilate the workings, and then the goaf to the return. This would bleed off the gas direct to the return instead of bleeding gas into the intake air, and being carried into the face as in this case. He stated that an unsatisfactory condition regarding ventilation developed when a goaf was erected on the left hand side; prior to the goaf being created, the ventilation of the headings was satisfactory.

J Doaas

Deputy Chief Inspector of Coal Mines.
10th December, 1965.

Under Secretary.

IN THE COURT OF)
COAL MINES REGULATION) No. 1 of 1965
HOLDEN AT BULLI)

BEFORE HIS HONOR JUDGE GORAN

ASSESSORS: MESSRS. MAHON and BUCK

Thursday, 9th December, 1965

- - -

IN THE MATTER OF AN INQUIRY IN PURSUANCE OF THE COAL MINES REGULATION ACT INTO AN ACCIDENT WHICH OCCURRED AT THE BULLI COLLIERY ON 9th NOVEMBER 1965 and ITS CAUSES AND CIRCUMSTANCES.

- - -

(PART HEARD)

HIS HONOR: Mr. Stewart was subject to recall.

MR. SULLIVAN: I do not require him any further.

(Witness C. R. Stewart released).

MR. LEE: During the adjournment Mr. Sullivan made available to me statements of three witnesses who appear to be in a position to give evidence which is relevant to this inquiry. I propose to call them. I may say I have not interviewed them. The information which they give as far as I know was not known to the inspectors, but I feel that in this matter I am in a position which is something akin to that of counsel assisting the inquiry and it is for that reason I will simply put them in the witness box and I would like Your Honor to hear what they have to say.

MAXWELL McGARRITY,
Sworn and examined as under:

MR. LEE: Q. Did you know you were going to be called as a witness? A. Not at this stage.

Q. Your name isMaxwell McGarrity? A. Yes.

Q. You live at Lot 10, George Avenue, Bulli? A. Yes.

Q. How long have you been working inthe Bulli Mine? A. Roughly about two years, just a bit over two years.

Q. In what capacity have you been working there? A. Mainly as a shuttle car driver.

Q. Were you working in 8 Right Section? A. Yes.

Q. For what period? A. Since they started that 8 Right Section.

Q. Can you tell us when they started it? A. Not the precise time I couldn't state.

Q. Well, approximately; three months, six months, nine months? A. Actually, as I said, precisely - it could have been six months, it could have been four months or something like that. I couldn't precisely state this.

Q. Were you working in the section when the extension of No.2 cut-through was driven? A. Yes.

Q. And you say you were a shuttle car driver? A. Yes.

Q. On what car were you working? A. 67.

Q. No. 67 was the car that used to go straight in and out without going into the shunt area? A.Yes, that is correct.

Q. Was A. heading always used as the shunt area after the extension on the cut-through was driven through? A. Yes - it was not used at the beginning, the commencement of the cut-through.

Q. It was not used at the beginning? A. No.

Q. What was used then? A. It was just an empty cut-through at the beginning.

Q. What shunt was used? A. In B heading.

Q. In B heading? A. Yes, until such time as there was sufficient room behind the miner to allow the shuttle car to move in there.

Q. Do you wish to tell His Honor of any matter which occurred of your own knowledge in regard to the A. heading and the shunt area there? A. Well as far as I recollect that there was - the commencement of No.2 cut-through was the night we went in there, was trouble with the miner water hose which we went to fix and we noticed some type of gas or whatever they state it is, I don't know, because I don't have an oil lamp, and we mentioned it.

Q. Just before that: You talk about some type of gas. Was it something you felt or smelt? A. Tasted, actually.

Q. You tasted it? A. Tasted it.

Q. Was it a taste that was familiar to you, one that you had experienced before? A. Yes.

Q. What was your belief as to what it was? A. My belief was it was black damp.

Q. About how long before November 9th are you speaking about? A. Experienced tasting it?

Q. Yes, this incident you are talking about now? A. Well I had tasted it in quite a few places off the goaf area.

Q. You just started to tell us about tasting some gas and that you mentioned it to somebody. What point of time are you speaking about? Was it a week before the 9th, a month before or what? A. The week before.

Q. Are you saying a week because I suggested a week? A. No.

Q. That is your own -- ? A. That is the week, the night we started in there, it was the week before.

Q. You say you tasted this and where was it you experienced this taste? What part of the mine? The section? A. In A heading.

Q. Whereabouts? -

HIS HONOR: GO over to the chart.

Q. Do you think if you went over and looked at it you could become familiar with the area and tell us? A.Yes. (Witness approaches chart). It was in this section here.

HIS HONOR: The witness is pointing to the intersection of A heading and No.2 cut-through.

MR. LEE: Q. You just said something about the shunt. What did you say when you had your finger on the plan? A. At the entrance of - the entrance of that shunt.

Q. That is where you tasted it? A. Tasted gas. (The witness returnedto the witness box).

Q. At the time you are speaking of was the area you have indicated used as a shunt? A. No.

Q. Was there anything in the heading up towards the goaf that related to ventilation? A. There was a brattice stopping.

HIS HONOR: Where was this brattice stopping?

MR. LEE: In the heading, in A heading near the goaf.

Q. How far along from the intersection was the brattice, as near as you can say? A. I would say it would be about fifteen yards or something like that.

Q. What sort of brattice was it? A. Just the normal straight brattice.

Q. When you got this taste what did you do? A. Well, we asked the deputy -

Q. WHo was the "we"? A. Oh, there was Phyl Clarke and Clem Robertson, we were working at the time and we mentioned it to the deputy - (objected to by Mr. McNally).

Q. Who was the deputy you refer to? A. Mr. Cambourne.

Q. Can you remember which one of you it was who mentioned the matter? A. No I could not.

Q. Do you remember what was said to Mr. Cambourne? A. Just that we could taste the gas, or the black damp.

Q. Which was it "taste the gas" - "taste the black damp" or what? A. Oh, I could not --

Q. Do try to remember what was said to the deputy. Did you say "We can taste black damp" - "We can taste gas" or what? A. I think it was "Black damp".

Q. What did he say or what did he do? A. He automatically said "Well, we will put a brattice screen to drag, to force air into the shunt".

Q. That is what he said to you. Did you see him do anything of that nature? A. Yes.

Q. What did you see him do? A. He asked us to go and get some brattice and start the screen off.

Q. Would you mind going to the plan and showing where it was you put the brattice? A. (Witness goes to plan) The brattice screen - from just a little bit out of the start of the cut-through and ran along the top line so it would be about 4 to 6 bars in on that shunt.

MR. LEE: Does Your Honor see that?

WITNESS: A continuation of that and went in about six bars.

HIS HONOR: Q. Into the shunt area? A. Yes.

MR. LEE: Q. When you say 6 bars, how far is that? A. About 18 feet - 18 to 19 feet.

Q. How far out? In relation to the centre of A heading where was the brattice put? A. Oh, I would say it would be about two foot six out from the ribs - two foot six to three feet. (Witness returns to the witness box).

Q. After you put the brattice up did you get the taste of whatever it was you had previously tasted, again? A. Yes.

Q. You did? A. Yes.

Q. Whereabouts did you get this taste again? A. On the continuation of No. 2 cut-through.

Q. You told us previously ou got it, in effect, across the shunt area? A. Yes.

Q. You say the continuation of the cut-through. That is the tunnel going out to the face, is it? A. Yes.

Q. Whereabouts in that tunnel did you get this taste? A. About two bars inby of the cut-through.

Q. Two bars? A. Two to three bars.

Q. What period of time elapsed between the occasion when you first got the taste and the occasion you are now speaking of when you tasted it in the tunnel? A. Probably about ten minutes or so, by the time I went out and back again.

Q. What did you do when you got this taste? A. I mentioned it again to another chap and the deputy and I had seen on previous occasions this - I did not know what it was called - this elephant's trunk - as I do now.

Q. You had seen the elephant's trunk on previous occasions? A. On a previous occasion.

Q. Where had you seen that? A. On a heading in similar circumstances.

Q. In this section? A. Yes, in this section.

Q. How long before? A. Oh, I could not - it would be a week or a fortnight or something like that.

Q. When you had seen the elephant's trunk before was it attached to the fan system? A. Yes.

Q. You mentioned that you had seen that elephant's trunk before. Would you tell us why you told us that? A. For the simple reason, because I asked the deputy could we use it on this occasion again.

Q. What did he say or do? A. The next I know it was being put in.

Q. Did you see it being put in or did you just come through and find it there? A. No, I had to stop to allow them to finish it up.

Q. What? A. I had to stop my car to allow them to finish putting it up.

Q. Was it put up on the same day as the compalints you have mentioned or some other day? A. As far as I can recollect it was the same day.

Q. Would you tell me again please when this was in relation to November 9th? That was the day of the fire? A. Tuesday, the day - we started there on afternoon shift.

Q. That was the Tuesday a week before or the day before? A. A week before.

Q. After the elephant's trunk was put up did you taste what you thought was black damp again? A. No.

Q. Just do not answer this question until the gentlemen at the Bar table have had an opportunity to consider it. At any time in the week before November 9th did you hear any other workmen in the area complaining about the presence of gas? (No objection).

HIS HONOR: You may answer the question? A. Yes.

MR. LEE: Q. Who was it? A. Clem Robinson.

Q. What position does Clem Robinson hold there? A. Shuttle car driver.

Q. As far as you can remember when was it in relation to November 9th that you heard him complain? A. It was either Friday or the Monday, or something like that I think it was, to my recollection.

Q. You see, we know the fire took place on November 9th which was a Tuesday. I am not asking you to be absolutely precise but do the best you can? A. That would be roughly, or somewhere in that vicinity, the Friday.

Q. The Friday or the Monday before the 9th? A. Yes.

HIS HONOR: Q. That is the Friday before or the day before? A. The Friday before.

Q. Or the day before? A. Or the day before, yes.

MR. LEE: Q. And what did you hear Robinson say? A. He said he felt squeamish, like not sick, but squeamish from -

Q. From what? (No answer).

MR. REYNOLDS: Well, did he say it?

MR. LEE: Q. That is what I am asking. Is this what Robinson said? (No answer).

HIS HONOR: Q. See whether you can remember his actual words, as best you can? A. Well, as far as I can recollect what he said, he felt squeamish from the gas in there.

MR. LEE: Q. You heard him say that; did you hear him say anything else about the gas, that you can remember? A. Only on one occasion when I drove his car into the shunt with a faulty grille, I think it was, and he asked me could I smell it.

Q. On one occasion you did what? A. Drove his car into the shunt.

Q. He was working No. 40, was he? A. Yes.

Q. You drove it into the shunt? A. And he asked me -(Objected to by Mr. Reynolds).

HIS HONOR: Q. Tell me how soon before or how long before the 9th, the Tuesday, was it that this conversation you are about to tell us took place when he asked you to do this? A. Well, as I said before, it was the Monday or Friday night.

HIS HONOR: I will allow the question subject to it being struck out if I can see it does not assist or on the evidence should be struck out.

MR. LEE: Q. Would you just go on then as to what was said on this occasion when you had driven his shuttle car into the shunt? A. Well, as he stated to me, that is did I smell anything or taste anything, and I said "No", I couldn't because I wasn't down long enough.

HIS HONOR: That is as far as you can take it, Mr. Lee.

MR. LEE: I think so.

Q. And when you say "No I can't" - that is what you said to him, was it? A. Yes.

Q. And you were speaking then of the fact that you at that point of time could smell nothing; is that what you mean? A. Yes.

Q. At any time after the bleeder tube was put in up to November 9th - after the elephant's tube was put in - did you ever taste gas again? A. No.

Q. And were you working continually in that section? A. Yes.

CROSS-EXAMINATION:

MR. MURRAY: I have no questions.

MR. CRANE: No questions.

MR. PARKINSON: Q. How would you describe the grade from the intersection A and No.2 cut-through to the face in No.2 cut-through? A. Very steep.

Q. Did you at any time ever notice any heating on your particular shuttle car? A. Yes.

Q. Could you explain or did you know what was actually heating in the suttle car itself? A. To the best of my knowledge, yes.

Q. Was the motor of the shuttle car heating? A. Yes.

Q. Did you ever at any time notice any heating of brakes? A. Yes.

MR. McNALLY: Q. Mr. Robinson and yourself only had two conversations about gas in the week before 9th November, is that correct? A. As best I can recollect.

Q. And on these occasions you were driving your shuttle car, is that correct? A. Yes.

Q. And was he driving his on those occasions? A. Yes, as far as I can recollect.

Q. These two complaints that he made to you - you call them complaints - were you the only two people there when he made the complaint? A. No, not on the first occasion.

Q. I am sorry? A. Not on the first occasion.

Q. How many other people were there on the first occasion? A. I could not rightly state. It is an everyday thing that something occurs, you just can't remember.

Q. What is an everyday thing? A. Like the normal procedure of working. It is just something that you can't recollect who was there when you see them every day.

Q. You come across this black damp regularly, doyou? A. Oh, I wouldn't state that.

Q. Have you ever felt squeamish from black damp? A. At any time at all do you mean or -

Q. Yes. A. I have done.

Q. Were the people who were there on this occasion people who were working in the area with you? A. Yes.

Q. Well, can you remember anyone who was there besides you and Mr. Robinson? A. Well, as I said before, there was an electrician, electrical fitter.

Q. What is his name? A. Phil Clarke.

Q. Phil Clarke? A. Phil, not Bill.

Q. He is an electrician, is he? A. Yes.

Q. And he was there on this first occasion whenMr. Robinson mentioned gas, is that correct? A. As far as I can recollect.

Q. Can you remember anyone else who was there? A. Mr. Cambourne, the deputy.

Q. Mr. Cambourne was there, was he? A. Yes, the deputy.

Q. Just whereabouts did this conversation take place? A. In A heading at the entrance of the shunt there.

Q. That is the intersection of A heading and No.2 cut-through? A.Yes.

Q. Can you remember anyone else who was there?A.That would be about all that I could think of who was around there at that particular time.

Q. There were just the four of you there? A. Yes.

Q. Then did Phil, the electrician, say anything on this occasion? A. He may have done, but I can't place it if he did say anything.

Q. You do not remember what was said or what happened? A. No.

Q. The brattice stopping you mentioned that was put there on 2nd November: Do I understand you correctly that that was put not across A heading but parallel to the outside wall of A heading; is that so? A. That is correct.

Q. At some stage the brattice stopping was put across A heading itself, was it not? There was a piece of brattice stopping put across A heading in the shunt area some time after the 2nd; is that the position? A. Are you relating to the piece I am talking about or the piece -

Q. Iwill put it another way: At the time that a brattice was put across that you speak about, was there a brattice stopping in A heading? A. Yes.

Q. Incidentally, the elephant trunk was put into the shunt area; did it go right down onto the ground? A. On the night, the first night it was put in?

Q. Yes. A. Well, I couldn't rightly say because I wasn't - I didn't work on that, doing that job.

Q. But subsequently it was put across the roof of No.2 cut-through? A. Yes.

Q. And then attached to the props on the inby side of A heading? A. Yes.

Q. And then went down - the end of the bleed tube was down on to the ground of No.2 heading, is that correct? A. Yes. I had noticed that there was a tube, but I think that was the night after it had been put up.

MR. REYNOLDS: Perhaps it might be fairer if we see whether Mr. Sullivan has any questions first.

MR. SULLIVAN: Q. Just two questions. You were driving No. 67 and Mr. Robinson was driving No.40, is that right? A. That is correct.

Q. And the system of operations there was that No.40 was the only one that used the shunt, is that right? A. Yes.

MR. REYNOLDS: No questions.

MR. LEE: No further questions.

(Witness retired and excused)

MAXWELL FREDERICK ACKERMAN,
Sworn and examined as under:

MR.LEE: Q. Is your full name Maxwell Frederick Ackerman? A. That is right.

Q. You live at 36 Somerville Street, Bulli? A. I do.

Q. You are employed at the Bulli Colliery? A. That is right.

Q. How long have you worked there? A. Roughly two years.

Q. And what job do you have at the colliery? A. Shift man.

Q. Apart from that two years have you worked anywhere else in a mine? A. About twelve years ago I was at Coalcliff - only for short periods - I was only clipping off and on there at the time, not inside the pit at all.

Q. Did you work in 8 Right Section? A. That is right.

Q. For how long did you work there? A. About six weeks.

Q. What does a shift man do? A. Timbers on the face alongside the miner, brings the props, the bars, down from the bay area and takes them down to the face.

Q. In relation to this area shown on the map, the extension of No. 2 cut-through and that vicinity, did you do anything in that vicinity in your capacity as a shift man? A. Yes.

Q. What did you do there? A. Any - apart from the normal work, I was carrying down props and bars and vent tubes to the face, any small stoppings or extra work to help the production at all, to these conditions- we done that too.

Q. In particular, did you have anything to do with the brattice in that general area I have described? A. Yes, I was across the road where the timber bay was there, from where they put the brattice side piece in.

Q. Will you go over to the plan and show us please what you are talking about? A. (Approaching Exhibit "A") I was here and where they put the small piece of brattice round the side there.

Q. Who is the "they" to whom you are referring, do you know? Did you see it done? A. I think one of the chaps who was there - I am not quite sure of all of them, I think Mr. McGarrity, Clem Robinson may have helped. I am not quite sure of all of them.

Q. Did you play any part in the erection of this brattice yourself? A. I am not quite sure.

Q. You are not quite sure? A. No.

Q. When was it done? A. The first night into that section, on the Tuesday night.

Q. Now in relation to November 9th, do you know to which Tuesday you are referring? A. The Tuesday previous.

Q. Would you return to the witness box please. You say you can't remember if you helped them do this; is that what you say? A. I am not real sure.

Q. Well, at the time that was done was there any other brattice in the immediate vicinity? A. Yes, there was the brattice stopping behind that.

Q. I take it you are referring to A heading and the shunt area? A. Yes.

Q. Had you put that up? A. No.

Q. May I take it that you yourself had worked in the section up to the time this brattice was put up but you are not quite sure whether you helped or not? A. That is right.

Q. Had you ever tasted or smelt any gas? A. Yes.

Q. You had? A. Yes.

Q. When did you taste or smell it? A. On that particular night.

Q. Which particular night? A. The night the brattice was put up.

Q. Where was it that you tasted it? A. Well, the first instance I had of it I was across the road when I was taking the props out. You would have to pull the bar right across more or less into that cut-through itself.

Q. Would you go across to the plan again and show us where your first experience was? A. The bars being rather long you had to take them out and the first chap out of the bord would more or less head into there or come back this way, whichever the case was.

Q. HIS HONOR: He would be more or less headed into the shunt or his back into No.2 cut-through? A. That is right.

MR. REYNOLDS: They were not shunting there at the time. It may be important later.

HIS HONOR: Q. The area described as shunt area on the map?A.Yes.

MR. LEE: Q.That is so, they were not shunting in that area at the time? A. No.

Q. But the shunt area you refer to is the one in A heading? A. Yes, that is right.

Q. Where was it you got the taste of it? A. Right on the face of it and down a little bit along this rib here.

Q. You are indicating across the entrance? A. That is right.

Q. OF A heading, looking towards the goaf? A. That is right.

Q. And down the extension of No.2 cut-through? A. Yes.

Q. And I think you indicated a couple of inches down the extension from the intersection? A. That is right.

Q. What did you do when you got this taste? A. Just carried on the work.

Q. I will withdraw that question for the moment. Did you get the taste anywhere else at any other time? A. In that week - on that night you are talking about?

Q. At any time from the time you have just spoken about, did you get the taste again? A. Oh yes.

Q. While you are at the map will you tell us where else, what other position you got this taste? A. In the same position at different intervals.

Q. Would you now go back to the box? (A. Witness complies).

HIS HONOR: Q. You said you got the taste when you were working around there with the props or bars? A. Yes.

Q. ANd you got the same taste in the same position at different intervals; up to what time did you continue to get this taste? When was the last time you got this taste? A. I couldn't rightly say exactly the time, Sir. You get the taste of black damp most of the time - like you can't say when it stops and when it begins.

Q. Well, did you get it after that Tuesday? A. I wouldn't swear to it. We were getting a fair bit of black damp at the time and it was just a normal occurrence. You don't keep track of it, whether it is consistently every hour or every night. We were aware of it most nights.

Q. You were aware of it? A. You were aware of black damp at most times.

Q. What was your last time you worked there before the 9th? A. The Friday night.

Q. What about then - did you get any black damp that night? A. I couldn't say.

MR. LEE: Q. When you on the Tuesday night, I think you said you got this taste, and the brattice was put up, after that did you have any conversation with anybody about black damp? A.Yes. There was still gas seeping out of there. Clem. Robinson had mentioned black damp.

Q. To whom - to you? A. To myself, yes - I am not sure in relation to what night it was, whether it was that night or the night after.

Q. I think my question was though whether you discussed it with anybody? A. Yes, with Clem Robinson, and as I said I am not quite sure about the nights but I did discuss it with the deputy.

Q. Which deputy? A. Mr. Cambourne.

Q. What did you say to him? A. I said "There's gas still seeping out of there, black damp." I said, "Is there anything you can do about it?"

Q. When you spoke to Mr. Cambourne, was this soon after the first time you had tested it or had some days elapsed or when? A. Yes, I am pretty sure it was the night after the first night we went into there.

Q. That would be the Wednesday then, would it? A. Yes.

Q. You told him that and what did he say? A. Yes, and he said "Well, I have a concertina trunk up there, a tube. We'll put it on" and I said, "Righto", so Mr. Christoff and myself went up with Mr. Cambourne and brought it back and put the tube on. Mr. Robinson came over and helped us.

Q. Will you just describe where the tube started from and where it finished and how you placed it? A. Well, it was on the corner - from the fan, there were two fans there, and they came down to the corner of the cut-through and then went down towards the heading. Well, we put the tube on the corner there. We had to put a new piece in so that we could erect the tube on.

Q. May I take it that what you are saying you did was to put a new piece in the main tube that was going up to the face? A.Yes.

Q.And that piece you put on consisted of a small section?A.Yes.

Q.Standing up from the main vent tube over which the elephant tube could fit; is that what you did? A. That is right.

Q. Where did you run the elephant tube across the intersection how did you do that? A. Took it straight up to the roof and then tied it to a bar across the heading. It came down nearly square on with the corner of the opposite cut-through across the road, the shunt, and it went in about two prop lengths I think, into the cut-through, into the shuttle car shunt.

Q. It was to the roof at that point? A. No, it was on the floor at that time - this is where it stopped.

Q. When it went on to the floor, was it right to the floor, resting on the ground? A. Well, it was in the rib, it wouldn't be at floor level. It would be rib coal there, so it may have been in relation to the floor level itself, the hard rock floor, it may have been six inches up.

Q. But it was resting on the rock floor, was it? A. No, it was resting on the coal, the rib.

Q. Can you remember when you installed it in which direction the mouth of the bleed tube pointed? A. To the best of my knowledge directly to the brattice stopping.

Q. And how far would you say the mouth - facing the brattice stopping.

HIS HONOR: Q. So the tube would be resting like that (demonstrating), would it? A. Yes, that is right.

Q. How far would that go out from the corner of the brattice stopping, can you tell us? A. Just at a rough guess I would say ten feet.

MR. LEE: Q. As far as you know was the tube in any way at all altered as far as its position, or in any way, from that time on? A. There were some extensions put on. I believe the dog-watch put them on, the following shift coming after us put an extension to the tube up to the brattice itself.

Q. I am asking you what you saw, do you understand that? A. Yes. I saw the extension there afterwards.

Q. You saw that an extension had been put on from the mouth, what I call the mouth of the tube, which took the tube then to where? A. To the brattice stopping.

Q. When you say "To the brattice stopping," right to it, inches off, feet off? A. A couple of inches maybe.

Q. Was it still in the rib? A. Yes.

Q. And was this extension one that lifted the tube up above the extension or did the extension merely go along the coal upon which the mouth had been resting? A. Along the rib as far as I can remember at the floor level, at the rib level.

Q. Did they pick up the mouth and put it up and then drop it down at the end of the extension or did they just make the extension from the mouth to near floor level you have described? A. I wouldn't rightly say - just pushed it in, I would imagine.

HIS HONOR: That would mean it would be lying along the floor.

MR. REYNOLDS: I think he is really saying he doesn't know.

HIS HONOR: We will see about that.

Q. Ten feet away from the brattice stopping, the extension would go a distance of nearly ten feet, and that extension, unless lifted up, would be lying on the floor? A. That is correct.

Q. Is that what you recall seeing? A. Yes.

Q. You recall seeing it? A. Yes.

MR. LEE: Q. Were you in the area near the brattice? A. Yes.

Q. Frequently or only on some odd occasions in the week prior? A. About twice a night.

Q. Coming to the extension that was put on, was it the same type of tubing? A. No, a little bit bigger.

Q. Would you describe how the mouth of the bleed tube with the extension on it, the ultimate mouth, how that lay or was placed in relation to the brattice and the floor? A. I would

not be positive about it, I did not take a great deal of notice about that.

Q. Was it in a position that it could be moved about, or was likely to be moved about? A. It was not a fixture, it was a flexible tube. It could have been shifted, yes. Not a great distance, I don't think.
Q. You have got no real memory at all of what the set up of the mouth of the bleed tube as extended was in relation to the brattice? A. No.

Q. I think you had an accident on the Friday night before the Tuesday of the fire? A. Yes.

Q. You could not go to work, or did not go to work on the Monday? A.That is correct.

Q. Or the Tuesday of the accident? A. Yes.

HIS HONOR:Q. Were you supposed to be on that shift when the fire happened? A. No, I was on the following shift, the afternoon shift.

Q. You would not have been on that shift anyway? A. No

MR.LEE: Q. Had you seen this bleed tube connected to the fan in any other part of the mine? I do not mean this particular bleed tube but a bleed tube connected to a fan? A. Not to the best of my knowledge.

CROSS-EXAMINATION:

MR. PARKINSON: Q. During the course of your job as a shift man are you called upon at any time to work within close proximity to the face itself? A. Yes.

Q. Were you at any time given any instructions what you had to do in the event of a particular work place holing into the goaf?A.Yes.

Q. What were those instructions you were given? A. That the minute we holed into the goaf, to move back as fast as possible to let the fan draw out as much gas from the goaf as it possibly could.

Q. Who gave you those instructions? A. The deputy.

MR. MURRAY: Q. I think Mr. Lee put it to you you did not know exactly what the set up was re the mouth of the bleed tube in relation to the brattice? A. That is right.

Q. There was no doubt in your mind the extension tube extended to within two inches of the brattice itself? A. I would not say it was to exactly two inches - within inches.

Q. Within inches? A. I never measured it.

Q. As close as six inches? A. I do not take a great deal of notice, like, as a rule you just notice it is close to the brattice. It was not feet away, it was inches away.

Q. And it was fairly close to the floor? A. Yes.

Q. And in a position therefore that it was able to suck air through the brattice as well as under it? A. I would say so. I don't know how much pressure they pull, I would not know whether they would be able to suck air through the brattice or not.I don't know. If it had enough force behind it it would.

Q. Certainly in a position to pull air from under the brattice? A. Yes, possibly.

Q. It was on the rib side? A. I don't know if that brattice was exactly to the floor in relation to where the fan was sitting or not.

Q. Certainly it was close to the rib on the wall side, close to the coal? A.Yes.

Q. And therefore close to the edge of the brattice? A.Yes, not far away.

Q. And close to the bottom of the brattice? A. About the same distance from the rib as it would be from the floor.

Q. So it is a matter of inches or feet? A. Yes.

Q. Well, what was it? A. Inches.

MR.McNALLY: Q. This elephant trunk was installed on the Tuesday,; is that correct? A. No, I say if it was that week it was the Wednesday or the Thursday.

Q. You worked on Friday? A. Yes.

Q. You worked there after the elephant's trunk was installed? A. Yes.

Q. I don't think you smelt gas after it was installed, did you? A. As I said before, you get used to it. I would not like to say it was there consistently but you do smell it most nights.

Q. You do smell it? A. Most nights. I would not like to say I smelt it after - it would be unusual if I did not.

Q. When you say you smell it most nights has this been the position in the two years you have worked at the mine? A. No, only - Ihave had only one case before I went up to 8 Right where I smelt it .

Q. How long were you in 8 Right? A. About six weeks.

Q. During that time did you smell it every night? A. Most nights.

Q. On the occasions you smelt it did you do anything? A. Just made the normal comment that it was there.

Q. To any particular person? A. Anybody that was handy round.

Q. You are quite sure what you smelt was what you call black damp? A. It was the only - the name given to the gas of the smell that was there, that used to make you dizzy and cough a little bit at times when you were down near the floor putting a prop in.

Q. On the occasions you noticed it when it did not make you dizzy or cough and you were down the floor? A. You could smell and taste it but it never had a great deal of effect on you, generally.

Q. Did you become "squarmy"? A. Yes, nauseated.

Q. Did you? A. Only on two occasions, that was the heading further back near the goaf, where the goaf area is now - in there.

Q. But not in this area around A heading No. 2 cut-through? A. No.

MR. SULLIVAN: No questions.

MR. LEE: I have nothing further, Your Honor.

HIS HONOR: I will make the ruling as to your witness' expenses that I made earlier. That applies from today.

(Witness retired).

MR. LEE: I propose to call an inspector. This is one of the inspectors who went down very soon after the fire was in progress and unless my learned friends indicate to the contrary I propose to read extensively because the inspector, naturally, in his official capacity, was obliged to and did look at a great number of things and covered fairly compendiously in his report the results. It would take a long time if it was to be done in any other way. I imagine the gentlemen at the Bar table will have no objection to him stating what he saw and what tests he made. I have not got enough copies of his report to pass around. That is what I will do, if I may, and if my friends, or any of them, wish to object at any point they will understand I have given notice of this intention and we can deal with the objection as it comes up.

HIS HONOR: Is the remainder of your evidence mainly of a technical nature?

MR. LEE: Yes. There is another witness Mr. Sullivan referred me to. I have not seen him. Mr. Sullivan has given me a statement. I feel I should put him in the witness box.

HIS HONOR: Is he available?

MR. LEE: I understand he is not here. If he is here I will do it now.

MR. SULLIVAN: I am informed he has not arrived yet, Your Honor. The Court will be notified as soon as he arrives.

HIS HONOR: After Mr. Lee stated he was going to call a lot of technical evidence the question arose as to the convenience of those witnesses who are not local witnesses.

MR. LEE: Virtually one can say they are all Sydney witnesses.

HIS HONOR: I was wondering about the future hearing. I feel this inquiry should be conducted at Bulli. At the same time one must look to the convenience of others and when it comes to a number of technical witnesses all of whom have to come from Sydney day after day, and some have to stay here I suppose, I must consider their convenience. Has anybody any views as to whether this matter could be properly adjourned to Sydney for the hearing of that evidence?

MR. SULLIVAN: I understand my friend is going to call the inspectors down here.

MR. LEE: This one is in fact an Appin man but the others are Sydney men.

MR. SULLIVAN: You are going to call another inspector here as well?

MR.LEE: Yes, another local man.

MR. SULLIVAN: Then are you calling other inspectors in Sydney?

MR. LEE: Yes, that is so.

MR. SULLIVAN: In relation to purely technical evidence in the sense of chemists and things of that nature I agree with Your Honor, that they may more properly be called in Sydney . We feel, however, in view of the interests of our members in this case and its location in Bulli as many inspectors as possible should be called at Bulli.

HIS HONOR: Certain evidence will be called from the doctor who examined the body and also a member of the Police Force who inspected certain things and took possession of certain things. I propose that they should be called at ten o'clock tomorrow even if they have to be interposed in other evidence.

MR. PARKINSON: I want to support Mr. Sullivan in his submissions. I feel from the point of view of my organisation as far as possible evidence in connection with this inquiry should be taken and finalised in this particular Court. While I have full regard for the convenience of some chemists or some technical witnesses I am in complete support of Mr. Sullivan on this question.

HIS HONOR: I have already stated at the commencement of the inquiry that I think this inquiry should be held at Bulli. I do not resile from that at all. Whatever happens to the evidence I think counsel's addresses and argument and so on should take place in this Court and, of course, the final decision in this Court at Bulli. Let there be no mistake about that. It is the usual course to go to places where witnesses of a technical nature, involving any Departmental chemists and so on are located. That is a usual matter but the main inquiry is here. The colliery is only just across the road, as it were and this is where the inquiry should be held.

MR. MURRAY: Concerning the leading of the evidence, as far as my clients are concerned we are anxious that all the material be put but also that it be put in whatever is the most convenient form. I would be quite happy to have Mr. Lee read, or have his junior, read the report made by this witness. Copies could be made available to assist in cross-examination.

MR. REYNOLDS: I do not agree with that course, Your Honor.

ALBERT LONGWORTH,
Sworn examined as under:

MR. LEE: Q. Is your name Albert Longworth? A. Correct.

Q. You reside at Kennedy Street, Appin? A. Yes.

Q. You are the District Inspector of Collieries in charge of the inspection district in which the Bulli Colliery is situated? A. Yes.

Q. You have been District Inspector for two years? A. Yes.

Q. Prior to that you were a Colliery Manager at Nebo Colliery? A. Yes.

Q. An Australian Iron & Steel Colliery, located where? A. Unanderra - Kembla Heights - Unanderra.

Q. You were in that position for eighteen months? A. Yes.

Q. Prior to that you were Assistant Manager in Nebo for twelve months? A. Yes.

Q. And then Assistant Under Manager prior to that at Bulli? A. Yes.

Q. For six months? A. Yes.

Q. And then Manager, prior to that, of a Tasmanian Colliery for two years? A. Yes.

Q. You had been Manager of a colliery in West Africa for two years? A.Yes.

Q. And, was it manager of one colliery or more in England? A. One.

Q. That was for a period of five years? A. Yes.

Q. In those places you have mentioned, over the period you had been in those places, had you seen all activities connected with coal mining, in your experience? A.Yes.

Q. You had seen all types of coal mining, had you not? A. Yes.

Q. You are a member of the Institute of Mining Engineers? A. Correct.

Q. You hold a Colliery Manager's Certificate? A. Yes.

Q. You have actually been Inspector of this mine, Bulli Colliery, since November 1964? A. Yes.

Q. In those positions you have held, in the places where you have held them, have you become familiar with the ventilation systems used in mines? A. Yes.

Q. Are you familiar with the tests made for gas? A. Yes.

Q. All types of gas? A. Yes.

Q. Are you familiar with the formation and significance of goafs in mines? A. Yes.

Q. On 29th June 1965 did you go to Bulli Colliery in the course of your duties as an Inspector? A. Yes.

Q. I think you went there to investigate some small fire that had occurred in the drive belt on a ratio feeder installed in the conveyor system? A. Yes.

Q. At that time were you accompanied on the investigation of that small fire byMr. Stone, the Manager, and the Under-Manager, Mr. Puddle? A. Yes.

Q. That was the reason you went to the mine on that occasion? A. Yes.

Q. But whilst you were there did you go into 8 Right Section with Mr. Stone? A. Yes.

Q. This fire was not in that section, was it? A. No.

Q. You looked around in there, did you not? A. Yes.

Q. Did you note the district there was working solids and that the coal was being loaded in the mine cars at the loading point? A. Yes.

Q. That the grades were against the load and that the wheeling conditions were rather severe? A.Yes.

Q.

Q. Did you note that the conditions at the face were in fact dusty but that the dust was being cleared away by the fan ducting? A.Yes.

Q. A fan had been installed? A.Yes.

Q. In a position to draw air from the face, where the face was at that point? A. Yes.

Q. And that appeared to be clearing the dust reasonably well? A. Yes.

Q. How far had they got with the development of 8 Right Section? A. It was further in than is shown on the plan but they had not then begun pillar work.

Q. When you say it was further in what do you mean? A. THere are three pillars shown there. There would possibly be another two further in. They were driving out to form the panel before beginning pillar extraction.

Q. Did they have the three heading system? Was that clearly in evidence? A.Yes.

Q. It went out in effect on the plan to the right of the plan? A.Yes.

Q. Did you observe at that point of time the ventilating system, the flow of the air? A.Yes.

Q. What was it? A. It was satisfactory.

Q. Which way did it come in and go out? A. It went in along C and B headings and returned along A heading.

Q. There was no goaf there at all at that point of time? A. No.

Q. The fan that was there, it was a fan and not two fans? A. No.

Q. How far from the face was the fan placed, do you remember? A. No - about two pillars, I would think.

Q. Did you make some tests for the presence of inflammable gas with a safety lamp? A. Yes.

Q. You made those tests at the face during and after mining and could find no methane registering? A. Yes.

Q. You noted the conditions of the roof and sides to be safe and the standard of roof support was satisfactory? A. Yes.

Q. I think you have said already the ventilating system and the auxiliary fans were doing a satisfactory job? A. Yes.

Q. On 9th November I think you were at the Nattai-Bulli Colliery when at about 11.30 you were notified that a fire had occurred and you then came to Bulli Colliery and I think you got there about 1.10 p.m.? A. Yes.

Q. In due course you went into the mine and you arrived in the panel I think, at 2.40 p.m. at No. 67 shuttle car in No.2 cut-through? A. Correct.

Q. There was a body of men in the section at that time? A. Yes.

Q. They were engaged in various activities connected with the fire? A. Yes.

Q. You took readings of the intake area outby the fire area?
A. Correct.

Q. Just show, if you would, where these readings which I am mentioning in your report were taken. Perhaps you might stay over at the plan. You took a reading of the intake area outby the fire area? A. That was here. (indicates).

Q. You are indicating the intersection of B heading and No.2 cut-through? A.Yes.

Q. Your reading there was 0.25% methane?A.Yes.

Q. And the hygrometer readings, 95°F. - 80 degrees F.

Q. I think the position at that point of time was 20,000 cumins - what is that? A. Cubic feet of air per minute.

Q. 20,000 cubic feet of air per minute was entering the district in C heading outby of No.1 cut-through; is that right? A.Yes.

Q. You now are indicating C. heading?A. Along the road.

Q. You indicate the area to the right of the words "corner on C"? A.Yes. (indicates).

Q. As I understand it no other inspectors prior to you had got any carbon monoxide reading. At 3.10 p.m. did you take some readings at the cross sticks and get results, 0.30% methane? A.Yes.

Q. No carbon monoxide, and the hygrometer readings of 97 degrees Fahrenheit - 80 degrees Fahrenheit? A.Yes.

Q. By this time the roof had fallen in?A.Yes, prior to my arrival in this heading here had fallen.

Q. That was prior to your arrival? A.Yes.

Q. At the time we are speaking of now were you aware of the condition of the brattice in C heading at the end?A. C heading, yes.

Q. Did you know there was brattice there? A. Yes, and there was one here.

Q. Some brattice had been erected? A.Yes.

Q. In those two areas you mentioned?A.Yes.

Q. In No. 1 cut-through between B and C? A. Yes.

Q. And where else? A. There and there (indicates).

Q. Also behind - in B heading in the position of the word, approximately, "L.T. cable"? A. Yes.

Q. At 3.15 a rescue team attempted to pass through the rigi seal stopping in No.1 cut-through between A and B headings? A.Yes. (indicates).

Q. To determine the area of fire? A. Yes, the area of fire here.

Q. In A heading? A.Yes.

Q. The team returned at 3.50 and reported having made a hole in the stopping but that they could not see for smoke. The

stopping was repaired. The team returned bringing five crib bags which had been found in the crib room in B heading? (Witness indicates).

Q. By 3.20 p.m. the rescue te had entre legged and supported the roof for a distance of 10 yards over the fall inby of B heading intersection?A. Yes.

Q. The fire was being attacked with hoses from this position? A. Yes.

Q. Additional timber was also being erected by shift men in the area outby the rescue team in fresh air conditions? A. The rescue team were here (indicates) and the air that was going along this heading was sufficient, clear enough, for it to be done.

Q. So fresh air conditions were prevailing near the intersection of B heading and No. 1 cut-through?A. Yes.

Q. I am sorry, No.2 cut-through? A. Yes.

Q. At 4.05 p.m. further readings were taken in No. 2 cut-through between A and B headings as follows: 0.25% methane? A.Yes.

Q. Hygrometer 95 degrees F. and 80 degrees F. on the intake side of No.2 cut-through? A.Yes.

Q. Were these readings taken with a Toka? A.Yes.

Q. What is that? A. A device to detect the presence of methane.

Q. So far when you are speaking about methane at what position have your tests been taken - floor level, a little up or up in the roof? A. At the roof.

Q. So all the tests we are speaking about so far as roof tests. At 4.15 you noted the wings of the brick stopping which was being constructed to seal the district in case of emergency were now built on both sides of the transport road in C heading outby No.1 cut-through? A. Yes (indicates).

Q. You point to in the vicinity of the word "compressor" at C heading? A.Yes.

Q. The work of timbering the fall area continued and by five o'clock the hoses were being directed on the corner of A heading and No.2 cut-through?A.Yes.

Q. At 5.30 p.m. in company with Mr. Ryan, the Assistant Superintendent, you went to investigate the goaf area lying behind the cross stids in B heading and around the corner of the pillar towards A heading? A.Yes.

Q. Investigation showed that it was possible to pass around the end of the pillar by reason of the partial support offered by a fender lift on the last extraction list?A.Yes (indicates on plan).

Q. You are indicating there a tear-shaped item on the right-hand side of the plan away from thelast pillar? A. Yes.

Q. You could get through there, could you? A. Yes.

Q. You were able to pass along the edge of the goaf fall to the edge of A heading on the inby side of the fire?A. There (indicates).

Q. You got to there?A. Yes.

(Short adjournment)

Q. Having got to the position along the edge of the goaf fall you indicated you were able to see the shuttle car in the heading near the junction of No.2 cut-through?A.Yes, here (indicates).

Q. You could clearly see the fire burning on both rib sides alongside the car? A.Yes.

Q. Having discovered that entry to the scene of the fire I think the information was conveyed to Mr. Martin who took the South Bulli rescue team at seven minutes past five under oxygen conditions to the shuttle car in question?A. Yes.

Q. And they attacked the fire from there? A.Yes.

Q. Shortly afterwards they returned to No.2 cut-through with one body which had been discovered lying near the rear of the shuttle car?A.Yes, there (indicates).

Q. That body was badly burnt?A.Yes.

Q. The position of two other bodies you had observed near the shuttle car? A.Yes.

Q. What position?A. Alongside. Here (indicates).

Q. Alongside? A. Alongside that there - heads towards the goaf.

Q. They could not be moved due to the close proximity of the fire and heat at that time?A.Yes.

Q. Arrangements were made to couple together lengths of fire hoses to direct water on the inby end of the shuttle car in A heading, the hoses being taken to this point via the route you discovered around the edge of the goaf?A. Yes.

Q. There is one thing I wanted to ask you: It was quite apparent there was no brattice behind or in the vicinity of the shuttle car at this point of time? A. No.

Q. Later on you looked and you could see where the brattice had been fixed?A.Yes.

Q. I think it was obvious to you from that, the position the brattice was in, and from the position of the shuttle car, that the shuttle car had gone through the brattice a short distance? A. Yes.

Q. Portion of it had gone through?A.Yes, about three feet.

Q. The rescue operations by Mr. Martin and his South Bulli rescue team continued and then you yourself made some tests at the goaf edge at the entry of A heading, the tests being of the intake air passing the side of the pillar? A.Yes,there(indicates). We also went round here and tested our way in here, when the rescue team was here with the hose, I took tests.

Q. The tests at the goaf edge were made at the roof? A.Yes.

Q. You tested and got methane 0.25% and carbon dioxide nil?A.Yes.

Q. I think in the illumination of the fire at this time, about 5.32, you could see the shuttle car anchor point fastened to the top of a prop on the left hand side of the car looking outby? A.Yes,that is there (indicates).

Q. Having taken the tests you returned to the intersection in B heading, No. 2 cut-through? A.Yes, there (indicates).

Q. At 5.45 p.m. the two bodies you had observed were brought out from A heading on stretchers? A.Yes.

HIS HONOR: Q. Pausing there, you have indicated you found a route through at the back - it is at the front of the goaf - it is in the goaf, up through the goaf at the back of those crossed sticks? A. Yes.

Q. In other words you could go - you went down - B heading at the back of the area that bears the words "shuttle car No.40"? A.Yes, that is there (indicates).

Q. And there was a route through that corner? A. Yes.

Q. That would take you into the shunt area, at the back of the shunt area? A.Yes.

Q. But no way through the remainder of the goaf at the back of that long pillar? A. No. (indicates).

Q. These bodies were in fact found in the shunt area? A. Yes (indicates) behind and beside the shuttle car.

Q. There was one at the rear of the shuttle car? A. Yes.

Q. In other words, no body was beyond where the brattice stopping had been. You told me the shuttle car had gone three feet into the brattice? A.Yes.

Q. Past the line of the brattice stopping? A. Yes.

Q. This body was still in there? A.Yes.

Q. Beyond where the brattice had been? A.Yes.

Q. Two bodies were found beside the shuttle car? A.Yes.

Q. Where were they? A. On that side there (indicates).

Q. They were in fact in front of where the brattice stopping had been? A.Yes.

Q. This route you found through at the back, in fact it could have been an egress from the back of the shunt area?A.Yes.

Q. Into a safe place at the time? A.Yes, although at the time the area would have been filled with smoke.

Q. When you went in there did you observe any signs of charring? A. No.

Q. Did you examine the place for any charring?A.Yes, the fire was in this area here (indicates) and the shuttle car here - there was no fire down here.

Q. How far back - are you able to tell me how far back there were signs of charring, take charring of roof timbers and props. Could you tell me how far back the fire had gone? A. The charring was in the near vicinity of the back of the car.

Q. Beyond the fire? A. The fire had not spread.

Q. There was an area there which was untouched by fire?A.Yes.

Q. Putting the same proposition another way - ? A. Yes.

Q. You say that area would have been filled by smoke? A. Yes.

Q. Did you see any signs after you got in there of where the smoke had been, for example deposits of soot or anything like that? A. Yes.

Q. How far did they go back? A. About half way down there (indicates).

Q. Would there have been an area beyond there where there was no smoke or very little smoke? A. I would not be sure, Your Honor.

Q. Certainly, on the aftersigns there was an area where there was very little in the way of deposits of soot? A. Yes.

q. Which you would expect, would you not? A. Yes. There was evidence of soot and smoke back here after the fire.

Q. Where is that? A. Back in this area here.

Q. That is the area you are describing beyond No. 1 outby from No. 1 cut-through? A. From there - you could see evidence of smoke having been from there inby.

Q. You are pointing to an area outby from No. 1 cut-through? A. Yes.

Q. And inby from that point? A. Yes.

Q. Was this escape area - I will call it that - the route there - escape area may not be the right term in this connection - was this clearly visible from the back of the shunt? A. No.

Q. What was its appearance at the bottom of the shunt? There is the stopping, of course? A. Looking from here down you could see the goaf, that is all. You would have to go out there.

Q. If you got up to the end of the pillar? A. Yes, then you could see the space there.

Q. You could see a space through there? A. Yes.

Q. MR. LEE. At the point where you can come through from behind the shunt area into the goaf the roof of the goaf is fallen in now? A. Yes.

Q. A very substantial quantity of rock lies from the edge back into the goaf? A. Yes.

Q. To get through there is quite a narrow but nonethe less passable passage,? A. Yes.

Q. Past that fall of rock? A. Yes.

HIS HONOR. Q. Have you seen that since the fire? A. Yes.

Q. How long ago is it since you last saw it? A. I saw it last week when I was in the pit.

Q. Had it changed at all? A. No.

HIS HONOR. We have seen the area and I am seeking to find whether it had altered.

WITNESS. No.

MR. LEE. Your Honor was able to walk up through it?

HIS HONOR. I don't know that I actually did. I obviously could.

MR. LEE. Q. To continue with the circumstances immediately following the fire; I think a report was made of the position to Senior Inspector Menzies and he said the return airway at No. 1 cut-through should be examined in case the fire had travelled out-by of this point? A. Yes (indicates)

Q. You are indicating the return airway? A. Yes.

Q. That was discussed with the other gentlemen concerned at the time and arrangements were made for a rescue team to investigate the area and to use a hose through the stopping into the return to cool the area? A. Yes.

Q. That is, through the ridgi-seal stopping in No. 1 cut-through? A. Yes.

Q. The foam plug machine which had been set up in position in No. 2 cut-through earlier in the afternoon was brought into action? A. Yes.

Q. What does the foam plug machine do? A. That is a machine which comprises a fan and a mixing unit , it is a foam solution and it is mixed and it creates a foam like soap suds which is discharged through a flexible pipe or plastic tubing to the seat , in this case, the seat of the fire.

Q. That was brought into operation at 6.40p.m. and then after a short period it was stopped, or there was a blockage in the machine that was attended to and the machine was restored to its full efficiency and it was put back into use with very effective and immediate results? A. The foam was taken down here and blown into the area (indicates)

Q. Blown through No. 2 cut-through area into the fan area? A. Yes

Q. At seven o'clock smoke was noticed to begin to recirculate at roof level back over the fall of roof in No. 2 cut-through from A to B headings? A. Yes, back this way (indicates).

Q. That re-circulation indicated as far as you could see, that the ridgi-seal stopping which had been removed to enable the rescue team to direct water into A heading was allowing too much air to be short-circuited? A. Yes.

Q. The stopping was re-erected and the re-circulation of smoke ceased? Water from the hoses was still being played at the intersection of A heading and No. 2 cut-through? A. Yes.

Q. At 708 p.m. a Rescue team went through the ridgi seal stopping in No. 1 cut-through between A and B headings and erected a brattice stopping at the rib side of A heading? A. Yes. Here.

Q. Just under the words'A heading' ? A. Yes.

Q. That water was again played across A heading intersection from that point? A. Yes.

Q. The team reported that even though the return was full of smoke no fire or glow could be distinguished in the area immedi--ately adjacent to the intersection? A. "There (indicating)

Q. You, then, I think, while this was going on were taking tests for carbon monoxide near No. 2 cut-through? A. Yes - I think that should be near here (indicates).

Q. You indicate the edge of the goaf? A. Yes.

Q. Near the tear shaped piece on the plan? A. Yes.

Q. Your readings at that area showed 0.02 percent carbon monoxide? A. Yes. That was down here.

Q. It was at the end of A heading? A. Yes, near the floor.

Q. The rescue and fire fighting operators made an attack on the fire from both sides? From hoses directed from the intake and return sides? A. Yes.

Q. I think one of the teams was positioned on the inby end of the shuttle car and they were directing the hose over the car onto the fire at the intersection? A. Yes.

Q. The second team opened one side of the brattice stopping which had been erected at the rib side of A heading and No. 1 cut-through? A. There (indicates).

Q. With the use of a brattice screen and tight side ventilation they proceeded inby A heading towards the fire? A. Went that way. (indicates)

Q. That action of containing the fire in A heading by the use of water under pressure from the hoses continued? You and the other inspector there with you continued to make observations and tests. I think you were relieved at 10.30p.m. A. Yes.

Q. You returned to the Colliery on 10th November and went under-ground with another inspector and the Superintendent of the Southern District Rescue Station. You arrived at the fresh air base at approximately 7.56 and you were told by Inspector Boslen that the fire had been extinguished at that point of time.? A. Well, it was under control, yes.

Q. However , several points of heating were still evident and fire hoses were being used at those points? A. Yes.

Q. You were also told I think that a search had been made for the fourth body by Mr. Wells under oxygen conditions but the body had not been located? A. It was down there.

Q. A search had been made in the working face? A. Yes.

Q. I think the theory at that point of time was that the body could possibly be under the roof fall? A. There (indicates)

Q. You and Mr. Griffiths then proceeded to inspect the fire area? You entered A heading by No. 1 cut-through and noticed the arrangement of the brattice cloth used by the teams during the night in advancing on the fire in A heading from the return side? A. Yes.

Q. You arrived at the auxiliary fans and a sketch was made of the position of the fans and the spare ventillation ducts lying in the vicinity? A. Yes.

Q. The position of the fans as shown on that map is the position in which you found them? A. Yes.

Q. You found that all supports in the fan area were badly burnt and charred? A. Yes.

Q. Additional timber had been erected during the previous shift? A. Yes.

Q. The entrance to the miner working place was inspected? A. Yes.

Q. It was noted that the effects of the fire had been limited to the area within the first four bars under the lip? A. Yes.

Q. You indicate what we have called the extension to No. 2 cut-through and the mouth of that? A. Yes.

Q. Shiftmen were engaged hosing --

HIS HONOR. Q. Coming back. A. That would be about 12 feet back.

Q. About twelve feet back from the intersection? A. No, the lip edge of the fall was on a line like that and then four bars underneath that. That would be about twelve feet or so.

MR. LEE. Perhpas I may tender for the Court's consideration a block of photographs, four in all, on a convenient piece of brown paper keeping them together and an enlarged one. I can give some of my learned friends copies of what is shown in these pictures. The second picture is an enlargement of the roof area as shown in the block of four pictures (four photographs marked EXHIBIT H.1. Photograph marked Exhibit H.2)

MR. LEE. Your Honor sees by way of description of those photographs there is the vent tubes and the timber supports around it showing extensive charring on the right hand side.

Q. That is the vent tube leading out to the face , is it not? A. Yes.

Q. Then you have one of the shuttle cars showing the extensive burns and charring of the wood above the shuttle car, and then one of the roof itself showing where the roof has fallen onto the floor exposing the bolts and soforth of the roof itself. What is the final one? What area is that? A. That is No. 1 shuttle car looking down from the top of the fall - No. 40 shuttle car I am sorry.

Q. Looking down from the top of the fall? A. Yes.

Q. You were standing on the fall at that stage? A. Yes.

HIS HONOR. The last photograph is an enlargement of one of the others.

MR. LEE. Of the area of the roof in the vicinity of the fall, showing the fall underneath.

HIS HONOR. It is an enlargement of this one.

MR. LEE. That is right Your Honor.

Q. By way of description would you just describe the area over which the fire had been, that is, going down the extension of the cut-through into the gan area and so forth? A. When I first arrived in the mine --

Q. I am not so much concerned about when you first arrived there your ultimate result? A. The fire had extended from roughly here (indicates)

Q. Could you indicate in feet from the intersection? A. About ten or twelve feet I would think.

Q. From the intersection of B heading in No. 2 cut-through. Yes back up the cut-through? A. Back down the fan area it had been blazing on the right, on either side of the shuttle car, and to the left in the vicinity of the fans.

Q. What about into the extension itself, the extension of No. 2 cut-through? A. No it hadn't gone under there. The timber was

charred which was limited to the first four bars.

Q. It was learned at this point a double lift had been made in the working place? A. Yes.

Q. With a small fender between each lift? A. Yes.

Q. That was the information you had? A. Yes.

Q. Having regard to the amount of water which had and was still collecting in the miner working place and the danger of roof falls it was decided that a further investigation should be made with another rescue team immediately? A. Yes.

Q. The team was prepared then with oxygen and whilst that was happening you supervised the erecting of timber on top of the fall at the lip edge? A. Yes, there.

Q. That is the intersection? A. The roof was dangerous.

Q. Tests for carbon monoxide were made and revealed a reading of 0.01 carbon monoxide under the lip over the vent tube? A.Yes.

Q. You indicate opposite the word "flexible"? A. Yes.