

Coal Mines, Equipment of Escapement Shaft.

Under the terms of Section 55, Chapter 120, Laws of 1911, it is required that all coal mines shall be equipped with either a stairway or a cage in the escapement shaft. Where the escapement shaft exceeds 100 ft. in vertical depth, a cage for hoisting the men may be installed in place and stead of a stairway.

Overruling opinion of April 11th, 1911.

May 19, 1911.

Hon. Jos. B. McDermott,
State Coal Mine Inspector,
Helena, Montana.

Dear Sir:

I desire to again direct your attention to my opinion addressed you on April 11th, 1911, construing the provisions of Section 55, Chapter 120, Session Laws of 1911, relative to the provisions of a stairway or cage in the escapement shaft of coal mines,—the question by you submitted for opinion being the following:

“Where the escapement shaft exceeds 100 ft., in vertical depth, is it optional or obligatory upon the part of the mine operator to equip the escapement shaft with cage or cages for the purpose of hoisting workmen out of the mine in case of danger?”

I have had occasion to further consider said section, and as a result do hereby modify my former opinion upon the subject. In examining the section to determine legislative intent, it seems to me clear that it was intended by the law makers that in coal mines where the escapement shaft exceeds 100 ft., in vertical depth, the mine may be equipped with a cage in place of a stairway. In support of this view of the proper construction of said statute, you will notice the use of

the language, "in place of the stairway it may be equipped with a cage, etc." If such a mine may be equipped with a cage instead of a stairway, this would appear to be nothing more than a substitute permitted by the statute, and particularly so in view of the fact that the stairway escapement is considered the better of the two.

"In place of" means a substitution:

22 CYC 1065;

Nat'l Cew. Mach. Co. v. Wilcox-Gibbs S. M. Co., 74 Fed. 557;

Irwin v. McDowell, 34 Pac. (Cal.) 708.

In determining legislative intent, it must be presumed that at the time of enacting the law the legislature had before it the facts concerning the subject, and intended to enact a just and reasonable law to correct existing danger or evil, and before any such statute could be enforced by application of its provisions, it would have to be found reasonable in its terms and general in its application. If, as has been stated by yourself and others, the stairway escapement is generally considered the best and safest, then it seems quite clear that the legislature must have intended that a mine such as is referred to in said Section 55 should be equipped either with a stairway or the character of cage therein mentioned.

Respectfully submitted,

ALBERT J. GALEN,

Attorney General.