

9.87

Clyde 11 October 1880

The County Engineer
Clyde

Sir

The County v Chinese Miners at New
Wardens Court Cromwell

I have to report that the Warden on Friday
last 8th inst gave judgment in favour of Defendants and
in doing so he remarked to the following effect

There were several non-issuic points raised but he
would deal with the evidence first - He was of opinion
the Defendants had not been shown to be trespassers
within the Regulations - the road like others in the District
being left at convenience of travellers as originally formed
by traffic - It was formally notified to be a road by
the County notice and its width stated at one chain
Crombie occupied part of this width Defendants became
possessed of same land and made it a mining claim

The evidence of Colclough & McConachie did not prove
to his satisfaction that Defendants were working within
five feet (as a track) and he therefore must give judgment
for Defendants with 23/ expenses

I have the honor to be

Sir
Your obedient servant
F. J. Wilson

Clyde 16 October 1880

The County Chairman
Clyde

Sir

Referring to the case lately brought by the County against Chinese miners for mining near New's Bridge

I would remark that the case is one in which I cannot predicate the result of an appeal - If one were made it should take the form of a rehearing

One great difficulty in this case is to define where the centre of an unmade roadway is to be found

another is that unless the Warden were to grant an injunction till hearing of appeal the work may be continued and the Chinese disappear before appeal heard - An injunction can only be granted on notice in this case

It might be held that the only remedy in this case is to sue for a penalty on an information for breach of regulations and I am inclined to advise that in lieu of an appeal this course should be taken at any future date if found necessary and the past proceedings will not interfere or be an hindrance to such a step

I have the honor to be

Sir

Your obedient servant

F. J. Wilson

See Letter to Birmingham 20 Jan 1881

Memorandum Oct. 18th 1870

From

County Engineer

To

County Chairman

Mr. Wilson will not
take upon himself
to advise any further
action in this matter
on account of the
uncertainty of the result,
but recognizes the want
of further protection
than is given in the
present Mines and
P. W. Act.

J. H. Thompson
County Eng.