

COURT OF APPEALS OF KENTUCKY.

JUNE-1-1923.

KENTUCKY BEAVER COLLIERIES, ETC.,

APPELLANTS.

V. APPEAL FROM FLOYD CIRCUIT COURT.

MELLON AND SMITH,

APPELLEES.

OPINION OF THE COURT BY JUDGE MOORMAN-  
AFFIRMING.

In the autumn of 1918 the Evans, McVay & Blair Company of Chicago leased a tract of coal land on Prater Creek in Floyd County from Walter S. Harkins. They organized a corporation known as the Prater Creek Coal Company. On the day that the lease was taken the Blair Company sublet the property to L. V. Rice, and turned over to him the corporate charter of the Prater Creek Coal Company. Rice made preparation to open a coal mine on the lease and employed Richard Vose, an engineer of Chicago, to superintend the project. The appellees were contractors, and on November 11, 1918, they entered into a contract with "L. V. Rice, Trustee for the Prater Creek Coal Company," to construct a railroad siding at the mine "according to plans, profile and section thereof, as prepared by C. G. Evans, Mining Engineer," agreeing to do the work "in a first-class, workmanlike manner," at specified prices