

Title: This Date in Safety History: May 9, 1992–The Westray Mine Explosion



At 5:20 AM on May 9, 1992, an explosion tore through the Westray underground coal mine in Plymouth, Nova Scotia. Fires started. The air filled with toxic gases. The ground above collapsed. By the time it was over, none of the 26 miners working inside the mine came out alive.

The so-called Westray affair was one of the worst workplace disasters in Canadian history. What made it especially appalling was that it was not only preventable but utterly foreseeable. The mine operators knew that combustible methane gases were building up inside the mines but didn't provide necessary ventilation or take other steps to abate the problem. Worse, the officials failed to warn the miners of the danger. They just kept sending them down the mines with indifference to their peril.

What produced the spark that set off the all but inevitable explosion was never found. But it was probably one of the cutting machines used in the mine.

Westray was charged with 52 OHS violations, 34 of which were later dismissed by the court. In 1993, the remaining safety charges were dismissed by prosecutors so as to pave the way for the upcoming criminal trial where justice would finally be done. Two of the mine's managers were charged with 26 counts

of manslaughter and criminal negligence causing death.

But a not so funny thing happened on the way to justice. On February 27, 1995—almost 4 years after the explosion—the charges were stayed by the trial judge because prosecutors had deliberately failed to disclose key evidence to the defence. The Nova Scotia Court of Appeal ordered a new trial, which was upheld by the Supreme Court of Canada. However, prosecutors opted not to pursue the criminal charges because they decided there wasn't enough evidence to secure convictions.

That the Westray operators were able to walk away scot-free was a clear sign that something about the current Canadian OHS regulatory system was very wrong. The Nova Scotia government conducted a Royal Commission of Inquiry into the Westray disaster and the related safety issues. The inquiry's 1998 report included numerous recommendations covering topics from training and ventilation to dealing with methane and coal dust as well as mine rescue procedures. A key recommendation: "The province of Nova Scotia should review its occupational health and safety legislation and take whatever steps necessary to ensure that officers and directors of corporations doing business in this province are held properly accountable for the failure of the corporation to secure and maintain a safe workplace."

The [Westray disaster](#) and subsequent miscarriage of justice produced a public outcry and a demand for tougher laws. The result was a new national law amending the Canadian *Criminal Code* which took effect in 2004. That law, still referred to by its Bill number, [C-45](#), is designed to ensure that if, heaven forbid, another disaster like Westray were to occur, companies and their officials would be held accountable. Among other things, C-45 created a new duty of persons in charge of work to protect persons doing the work and making them liable for criminal negligence if they fail to do so and where the failure to protect was the result of wanton or reckless disregard for life or safety and causes death or serious

bodily harm to the worker or a person affected by the work.

A Timeline of Key Events in the Westray Tragedy

- **September 11, 1991:** The mine officially opens.
- **October 2, 1991:** The effort to unionize the miners officially begins.
- **Spring 1992:** The union drive succeeds, although certification doesn't take place until after the explosion.
- **April 29, 1992:** A government inspector gives Westray oral and written orders to clean up and treat coal dust immediately and to produce stonedusting and dust sampling plans.
- **May 6, 1992:** The inspector revisits the mine but doesn't follow up on his prior orders.
- **May 9, 1992:** The explosion occurs, killing 26 miners.
- **May 15, 1992:** Justice K. Peter Richard is appointed to head the Royal Commission of Inquiry's investigation of the incident.
- **March 1993:** OHS violations against the mining company are dropped to protect the integrity of pending criminal charges.
- **February 1995:** Two Westray mine managers go on trial for criminal negligence and manslaughter.
- **March 1997:** The Supreme Court of Canada orders a new trial due to the prosecution's failure to disclose certain evidence.
- **June 30, 1997:** The prosecution drops criminal charges due to lack of evidence to convict.
- **1998:** The Royal Commission's releases its report.

- **March 31, 2004:** Bill C-45 takes effect.