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**Mining—Minors.**

*Mines and mining—Minors—Age limit—Colliery defined—  
Acts of 1905 and 1909.*

The act of May 1, 1909, P. L. 375, providing for the health and safety of minors under the age of fourteen years in bituminous coal mines and anthracite collieries and breakers repeals in toto the act of 1905.

The act of 1909 provides a comprehensive system to regulate child labor in coal mines, and the word "colliery" is held to include the "whole operation."

Minors under the age of sixteen years and over the age of fourteen years, otherwise qualified, can be employed inside of anthracite mines under the act of 1909, which reduces the age to which minors may work from sixteen, as provided in the act of 1905, to fourteen years.

Request of Chief of Department of Mines Roderick for opinion.

HARGEST, Assistant Deputy Attorney-General, Feb. 7, 1910.  
—Your favor of Jan. 18, 1910, is at hand.

The substantial question you ask is whether or not minors under the age of sixteen years, and over the age of fourteen years, otherwise qualified, can be employed inside of anthracite mines. The question requires a construction of the act of May 1, 1909, P. L. 375. This act is entitled "An act to provide for the health and safety of minors in bituminous coal mines and anthracite collieries or breakers, by regulating the ages at which said minors may be employed, their hours of employment, and to prescribe rules for obtaining employment certificates and providing penalties for the violation of the provisions thereof."

It provides, in § 1, "that from and after the passage of this act no minor under the age of fourteen years shall be employed, permitted or suffered to work in, about or for any bituminous coal mine or anthracite colliery or breaker."

Do the words "anthracite colliery or breaker" used in the act of 1909 include the mine proper? If they do, the effect of the act of 1909 is to reduce the age at which minors may be employed inside of an anthracite coal mine from sixteen years, fixed by the act of 1905, to fourteen years, fixed by the act of 1909.

The act of May 2, 1905, P. L. 344, is entitled "An act regulating the employment of minor children in or about any anthracite coal mine or colliery; prohibiting the employment of any child under the age of sixteen years inside of any anthracite coal mine; prohibiting the employment of any child under fourteen years of age in or about any anthracite coal breaker or colliery, or the outside workings thereof; prohibiting the employment of any minor child," etc., without a certificate.

Section 1 of this act provides that "it shall be unlawful . . . to employ any minor child, under the age of sixteen

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years, inside of any anthracite coal mine, or to employ any minor child, under the age of fourteen years, in any anthracite coal breaker or colliery, or around the outside workings of any anthracite coal mine."

It is contended that the act of 1905 is not repealed so far as it relates to the age at which minors may be employed inside of an anthracite coal mine.

In interpreting an act of assembly words are used in their ordinary acceptation, unless it is clear that they are used in some other sense. It becomes necessary to understand the meaning of the term "colliery." It is defined in the Century Dictionary as "a place where coal is dug; a coal mine or pit with the requisite apparatus for working it." It is defined by Webster as "the place where coal is dug; a coal mine, and the buildings, etc., belonging to it." It has also been defined by the courts; "Mr. Justice Sharswood, in *Carey v. Bright*, 58 Pa. 85, says: "According to the most approved lexicographers, to whose works courts must resort for the meaning of words which have no settled legal construction, a 'colliery' is 'a place where coals are dug.'"

In *Springside Coal Mining Co. v. Grogan*, 53 Ill. Appeals, 60, 65, it is said: "Lexicographers define a mine to be a pit or excavation in the earth from which ores or mineral substances are taken by digging. A colliery is defined by the same lexicographers to be a mine, pit or place where coals are dug, together with the machinery used in discharging and raising of coal."

In the case of *Com. ex rel. Stein v. Brookwood Coal Co.*, 25 Pa. C. C. 55, the court of Schuylkill county, after giving the definitions, said: "It is evident from these definitions that the term 'colliery' is more comprehensive than the term 'mine.' 'Colliery' appears to include 'mine' and other or additional works, appliances, buildings, etc., used in and about the preparation of coal. . . . An examination of these definitions, and the statutory definitions given us, will show that they are practically identical, and the term 'colliery' simply covers the whole operation."

It is apparent from these citations that the ordinary meaning of the word "colliery" includes as well the inside workings of the mine as the outside appurtenances to a mine.

But it is argued that this construction is not the sense in which the legislature of 1909 used the term, and that the legislature of 1909 did not intend to repeal the act of 1905

so far as it referred to the employment of minors inside of any anthracite coal mine. This contention is based upon the proposition that the phrase in the act of 1905, "anthracite coal breaker or colliery," has a distinct legislative meaning, and refers only to the mining operations above ground, as distinguished from the mine under ground; that the legislature intended to further protect and safeguard the health and welfare of minors in the employment in and about mines, and a construction which would lower the age at which a minor might be employed in the mine proper from sixteen to fourteen years would do violence to the legislative intention.

Legislative intention must be gathered from the language which the legislature uses, and it is true that the history of any particular legislation is helpful in arriving at the proper construction of any uncertain or ambiguous terms.

Bearing this in mind, we find that the thing the legislature considered in the passage of the act of 1909 was a comprehensive system to regulate child labor in both the bituminous and anthracite mines of the state. The act of 1909 contains such complete system, and repeals all acts or parts of acts inconsistent with its provisions. Can it be said that when the legislature used the term "anthracite colliery" it did not know what the common acceptation of the term "colliery" was as the dictionaries and the courts of our own state had theretofore defined it? By turning to the act of 1901, amending the act of 1891, providing for the health and safety of persons employed in and about the anthracite coal mines of Pennsylvania, it will be seen that the legislature of that year, at least, construed the word "colliery" to include, as Judge Bechtel says, "the whole operation."

In Art. II, Sec. 12, of the act of 1901, P. L. 535, defining the duties of inspectors, it is provided: "It shall be the duty of said inspectors . . . to inspect such collieries as come under the act . . . in such manner and at such times as is required by law, and the inspectors inspecting said collieries shall make and include in his return a due report of said inspection."

In § 15, "He shall examine all the collieries in his district at least once every two months; . . . he shall every three months make a report of the condition of each working face in each colliery . . . designating the gangway in which the working is situated," etc., and in case of accident "he shall

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visit the scene of the accident . . . and make an annual report of his proceedings . . . enumerating all the accidents in and about the collieries in his district."

In the act of 1891, P. L. 207, in defining the terms, the legislature of that year said: "The term 'coal mine or colliery' includes every operation and work, both underground and above ground, used or to be used for the purpose of mining and preparing coal. The term 'mine' includes all underground workings and excavations and shafts, tunnels and other ways and openings."

It cannot be doubted that the term "colliery" as used both in the act of 1891 and the act of 1901 by the legislatures of those years was understood to mean the entire operation.

The language of the act of 1905 itself indicates that the legislature of that year understood the necessity of particularizing concerning the age limit for the employment of children inside of any anthracite coal mine. If the contention that the act of 1905 is in force and not repealed by the act of 1909 as to employment of minors inside of any anthracite coal mine, then it follows that the act of 1909, although intending to establish a comprehensive system, has repealed all of the act of 1905 except as to minors between the ages of fourteen and sixteen years. If the act of 1909 had raised the general age limit to eighteen years instead of lowering it to fourteen years, then it would follow that the act of 1905 would be in force as to minors employed inside of mines between the ages of sixteen and eighteen, and that those minors would have to procure the certificates prescribed by the act of 1905, although the employment of all other minors in the state is regulated by the act of 1909. In other words, such construction means that although the legislature intended to establish a complete system regulating child labor, it failed to do so, and issued the word "colliery" in an unusual sense to bring about such failure. It would have been easy, if the word "colliery" was not to have been used in its usual sense, for the draughtsman or the legislature to have limited it, as was done in the act of 1905. The act of 1905 made a clear distinction between the age limit for working inside and outside of mines. If the legislature of 1909 had intended to have preserved that distinction it would have been easy to have done so.

This department is therefore reluctantly forced to the opinion, and I so advise you, that the act of 1909 repeals in toto

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the act of 1905, notwithstanding it has the unfortunate effect of reducing the age at which minors may work in an anthracite coal mine from sixteen to fourteen years.

From Paul A. Kunkel, Esq., Harrisburg, Pa.

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