

385.

COAL MINE DRAINAGE—WATER-CARRIED WASTE—INDUSTRIAL WASTE—NATURAL RESOURCE—SECTION 1240-1 G. C.

*SYLLABUS:*

*Coal mine drainage is a water-carried waste resulting from the development of a natural resource and as such is included within the definition of industrial waste, as set forth in section 1240-1, General Code.*

COLUMBUS, OHIO, April 5, 1939.

DR. R. H. MARKWITH, *Director, Department of Health, Columbus, Ohio.*

DEAR SIR: This will acknowledge receipt of your predecessor's request for my opinion, which reads as follows:

"This department desires to have an opinion as to whether Section 1240-1 of the General Code, which applies to stream pollution caused by industrial waste, may be construed to include stream pollution caused by acid drainage from coal mines. The drainage from coal mines is a water-carried waste which consists of dissolved iron and mineral acids. This waste is produced as a result of the oxidation of iron sulphides contained in the coal measures and in the shales overlying them and in the solution of the oxidized iron salts in the water which percolates into the mine through the ground from rainfall. The waste when discharged to a stream kills all life contained in the stream water and destroys the usability of the stream for any purpose.

The definition of an industrial waste contained in Section 1240-1 is as follows:

'For the purposes of this act industrial waste shall be construed to mean a water-carried or a liquid waste resulting from any process of industry, manufacture, trade or business, or development of any natural resource.'

We desire to know whether this definition applies to coal mine drainage and whether the coal mining industry comes within the provisions of Section 1240-1 of the General Code."

Section 1240-1, General Code, in so far as its provisions are pertinent to your question, provides as follows:

"No city, village, county, public institution, corporation or officer or employe thereof or other person shall establish as pro-

prietor, agent, employe, lessee, or tenant, any garbage disposal plant, shop, factory, mill, industrial establishment, process, trade or business, in the operation of which an industrial waste is produced, or make a change in or enlargement of a garbage disposal plant, shop, factory, mill, industrial establishment, process, trade or business, whereby an industrial waste is produced or materially increased or changed in character, or install works for the treatment of disposal of any such waste until the plans for the disposal of such waste have been submitted to and approved by the state department of health. For the purposes of this act industrial waste shall be construed to mean a water-carried or a liquid waste resulting from any process of industry, manufacture, trade or business, or development of any natural resource. In granting an approval authorized by this section the state department of health may stipulate such modifications, conditions and regulations as the public health may require.”

As explained above, coal mine drainage is a water-carried solution consisting of dissolved iron and mineral acids. This solution is produced as a result of the oxidation of iron sulphides contained in the coal measures, and in the shales overlying them, and the solution of oxidized iron salts in the water which percolates into the mine through the ground from rainfall. It is obvious such drainage is a waste as that term is ordinarily understood. The discharge of this drainage or waste into the streams results from operations incident to the mining of coal.

Whether or not such drainage is “industrial waste” depends entirely upon the statutory definition. Once the Legislature has defined a particular word or phrase, such definition is controlling. The paragraph in 37 O. Jur., section 283, page 536, which reads as follows, is in point :

“The lawmaking body’s own construction of its language, by means of definitions of the terms employed, should be followed in the interpretation of the act or section to which it relates and is intended to apply. Indeed, there is no better way to determine the intent and purpose of the legislature than by its own definition of the language used. Accordingly, any provision in a statute which declares its meaning is authoritative and in many cases will have controlling weight.”

Courts have universally held that once the Legislature has spoken in clear unambiguous terms there is no need to interpret or construe those terms. It remains only to apply them to the case at hand.

It will be noted that section 1240-1, General Code, provides that industrial waste must result, among other things, from the “development

of any natural resource." In connection therewith I refer you to 37 O. Jur., page 542, wherein it is said:

"As a general rule, words of a statute, in common use or other than terms of art or science, will be construed in their ordinary acceptation and significance and with the meaning commonly attributed to them. Indeed, the intention of the legislature to use statutory phraseology in such manner has even been presumed. Ordinarily, such words are to be given their natural, literal, and full meaning. These rules are applicable unless such an interpretation would be repugnant to the intention of the legislature, as plainly appears from a construction of the entire statute."

In view of this general rule, it may be concluded that the Legislature intended to include coal mining in the phrase, "development of any natural resource." Such conclusion is in accord with the meaning ordinarily attributed to that phrase. The purpose of section 1240-1, General Code, is to regulate the disposition of industrial waste in the interest of the public health. Discharge of coal mine drainage into a stream pollutes it, kills all life therein contained, and renders the stream unfit for any normal use. To exclude such drainage from the regulatory provisions of section 1240-1, General Code, would defeat the obvious intent of the Legislature.

In conclusion, it is my opinion that coal mine drainage is a water-carried waste resulting from the development of a natural resource and as such is included within the definition of industrial waste, as set forth in section 1240-1, General Code.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*