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EMPLOYMENT IN OR AROUND MINE—MAY NOT BE ENGAGED IN BY PERSON UNDER 18 YEARS OF AGE—OFFICE EMPLOYMENT—SUCH MINOR MAY NOT BE EMPLOYED TO DO “STRICTLY OFFICE WORK”—SECTIONS 898-139, 898-1 GENERAL CODE.

SYLLABUS:

*Employment in or around a mine which, under the provisions of Section 898-139, General Code, may not be engaged in by a person under 18 years of age, includes office employment, and therefore a person under such age may not lawfully be employed to do “strictly office work” in or near a mine as that term is defined in Section 898-1, General Code.*

Columbus, Ohio, December 4, 1941.

Mr. Marcus Kerr, Chief,  
Division of Mines, Department of Industrial Relations,  
Columbus, Ohio.

Dear Sir:

This will acknowledge receipt of your recent communication, which reads as follows:

"I should like to have from your office an opinion on Section 898-139 of the General Code, which corresponds to Section 140 of the Amended Senate Bill No. 326. This section reads as follows: 'No person shall be employed in or around a mine until he has attained the age of eighteen (18) years.'

The question which arises is whether a lad under eighteen, doing strictly office work in connection with the coal mine, would be forbidden to work by this section."

Section 898-139, General Code, to which you refer in your letter, reads as follows:

"No person shall be employed in or around a mine until he has attained the age of eighteen (18) years.

Any person who wilfully refuses or neglects to comply with the provisions of this section shall, upon conviction thereof, be fined not less than ten dollars, nor more than twenty dollars."

As stated in your letter, this section was enacted in Amended Senate Bill No. 326, passed by the 94th General Assembly, filed in the office of the Secretary of State on June 3, 1941, and effective September 2, 1941. The title of this act is "An Act — to revise, consolidate and codify the mining laws of Ohio; to enact supplemental section 486-10a; to amend section 2250; and to repeal sections 898-1 to 898-307, both inclusive, of the General Code of Ohio."

The first two paragraphs of Section 898-1, General Code, which among other things define a "Shaft", a "Slope", a "Drift", "Excavations and workings", etc., read as follows:

"The following terms as used in this act (G.C. §§898 to 898-202) and in the statutes relating to the mining law shall have the meaning herein defined unless other meaning is clearly apparent in the language and context:

1. 'Mine' means an underground or surface excavation or development with or without shafts, slopes, drifts or tunnels for the extraction of coal, gypsum, asphalt, rock or other materials (excluding natural gas and petroleum) containing the same with hoisting or haulage equipment and appliances for the extraction of coal, gypsum, asphalt, rock or other materials containing the same; and shall embrace any and all of the land or property of the mining plant, and the surface and underground, that is used or contributes directly or indirectly to the mining properties, concentration or handling of coal, gypsum, asphalt, rock or other materials containing the same. \* \* \*

It is manifest that the provisions of Section 898-139 of the General Code are so plain and unambiguous as to require no interpretation or construction. The language, no "person shall be employed in or around a mine until" he shall have become eighteen years of age, could scarce be plainer. The word "around", which as a preposition means *inter alia* "somewhere in or near", must of course be read in connection with and in the light of the word "in" with which it is associated. That is to say, associated words explain and limit each other. Black on Interpretation of Laws, page 194.

In so far as the necessity or propriety of the interpretation or construction of an unambiguous statute by the courts is concerned, it is said as follows in 37 O. Jur. 514 to 517, inclusive (the text being more than amply supported by the long list of Ohio cases cited in the footnotes):

"The rights of the court to interpret a duly enacted statute is based upon some apparent uncertainty of meaning, some apparent ambiguity of terms, or some apparent conflict of provisions. Where the language of a statute is plain and unambiguous and conveys a clear and definite meaning, there is no occasion for resorting to the rules of statutory interpretation. To interpret what is already plain is not interpretation, but legislation, which is not the function of the courts, but of the general assembly."

Moreover, it is not difficult to understand the reason for the enactment of Section 898-139 and cognate sections of the General Code. It is a matter of common knowledge that mining coal is an occupation of more than ordinary hazards, requiring laborious and wearisome efforts of a marked degree. To guard the youthful worker against such hazards and to prevent such a worker from having his mind or body, or both, so injured as to prevent him from becoming an able-bodied citizen of the State, mentally and physically capable of rendering to the State and its people those things which are their due, are quite obviously the wrongs against which the Legislature attempted to guard. In addition, the

Legislature must have indeed also had in mind the general welfare of the youthful individual under eighteen years of age.

As stated in 37 O. Jur., pages 657 to 661, inclusive, it is a cardinal rule of construction and interpretation that:

“Statutes are to be given a fair and reasonable construction in conformity to their general object, *in order to effectuate such object and purpose, and should not be given such an interpretation as would thwart that purpose.* If the words and language are susceptible of two constructions, one of which will carry out, and the other defeat, such manifest object and purpose, they should receive the former construction. *Accordingly, it is not surprising to find the courts frequently referring to the legislature’s purpose, or plan, or aim, or end, or motive.*” (Emphasis mine).

Or, as set forth at pages 247 to 249 of Crawford’s Statutory Construction and Interpretation of Laws:

“Naturally, the legislative purpose is the reason why the particular enactment was passed by the legislature. Perhaps the reason was to remedy some existing evil, or to correct some defect in existing law, or to create a new right or a new remedy. Consequently, in seeking to ascertain the legislative purpose, the court will resort, among other things, to the circumstances existing at the time of the law’s enactment, to the necessity for the law and the evil intended to be cured by it, to the intended remedy, to the law prior to the new enactment, and to the consequences of the construction urged. \* \* \*

*Consequently, when construing a statute, the reason for its enactment should be kept in mind, and the statute should be construed with reference to the intended scope and purpose.* \* \* \* ” (Emphasis mine.)

It seems to me quite patent that “the ascertained purpose” of Section 898-139, and the act in which it was contained, clearly corroborate and confirm the interpretation and construction here adopted.

I am, of course, not unmindful of the fact that “strictly office work” in or around a mine may not of necessity expose a youthful worker to risks different from that kind of work done elsewhere. Yet, certain it is that any kind of work in such a location cannot but expose him to the same dangers to life or limb or to the physical injuries as are hazarded by any and all other employes whose duties require them to be in or near a working of the kind here under consideration. And in this connection

your attention is directed to the fact that the Legislature has, in paragraph 1, Section 898-1. *supra*, expressly defined in a comprehensive manner the meaning of the word "mine", which definition would seem to require no interpretation, construction or discussion.

Before concluding, I deem it proper to point out that your request asks "whether a lad under eighteen, doing strictly office work *in connection* with the coal mine, would be forbidden to work by this section" (Sec. 898-139, *supra*). As you shall have noted, this opinion has proceeded on the premise that you were concerned with "strictly office work" in or near a "mine" as that term is defined in paragraph 1, Section 898-1, General Code, and nothing herein said should be construed as passing on the legality of the kind of employment with which we are here concerned elsewhere, that is, at a place away or removed from a mine.

In view of the foregoing, it is my opinion that:

Employment in or around a mine which, under the provisions of Section 898-139, General Code, may not be engaged in by a person under 18 years of age, includes office employment, and therefore a person under such age may not lawfully be employed to do "strictly office work" in or near a mine as that term is defined in Section 898-1, General Code.

Respectfully,

THOMAS J. HERBERT,  
Attorney General.