tax fell within the Provincial or the State List, the levy would be valid under s. 292 of the Government of India Act and Art. 372 of the Constitution even without the aid of the special provision in s. 143 or Art. 277. In view of these considerations the learned Attorney-General did not address us seriously on this point.

(3) The last point urged was as regards the validity of the increase in the rate of tax to 9 pies per ton effected in 1949, i.e., after the commencement of Government of India Act, 1935. This objection was not even hinted in the petition now before us, and we did not consider it proper to permit petitioners to raise the point.

The result is that the petition fails and is dismissed with costs.

Petition dismissed.

THE CHIEF INSPECTOR OF MINES AND ANOTHER

v.

LALA KARAM CHAND THAPAR ETC.

(B. P. SINHA, C. J., S. K. DAS, K. C. DAS GUPTA, N. RAJAGOPALA AYYANGAR and J. R. MUDHOLKAR, JJ.)

Colliery Company—Violation of Coal Mines Regulations—Prosecution of all directors of company, the managing agents and the manager of company—Legality—Mines Act of 1923 repealed and re-enacted—Regulations made thereunder, if continue in force—'Anyone of directors' meaning of—Indian Coal Mines Regulations, 1926—Mines Act, 1923 (4 of 1923), s. 31(4)—Mines Act, 1952, (35 of 1952), ss. 2(1), 76—General Clauses Act, 1897 (10 of 1897), s. 24—Constitution of India, Art. 20(1).

The directors of a company, which was the owner of a colliery, the directors of the managing agents of the company, and the manager and the agent of colliery were prosecuted for offences under ss. 73 and 74 of the Mines Act, 1952, for violation

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of several regulations out of the Indian Coal Mines Regulations, 1926. They challenged the validity of the prosecution on the grounds, inter alia (1) that as the Indian Coal Mines Regulations, 1926, framed under the provisions of the Mines Act, 1923, had, under s. 31(4) of that Act, effect as if enacted in the Act, and as that Act had been repealed by the Mines Act, 1952, the said Regulations had ceased to have any legal existence long before the date of the alleged violation, and (2) that the Regulations of 1926 were only deemed to be regulations under the Mines Act, 1952, and hence were not laws in force on the date of the alleged contravention, and, therefore, the prosecution in the present case was a violation of Art. 20(1) of the Constitution of India. Two of the directors of the company also raised an objection that the prosecution of all the directors was not permitted by the Mines Act, 1952, in view of s. 76 of the Act, which provided that any one of the directors may be prosecuted. The directors of the managing agents contended that, in any event, as the managing agents were not the owners of the colliery, they could not be prosecuted.

Held: (1) that in view of s. 24 of the General Clauses Act, 1897, by which when an Act is repealed and re-enacted, rules and regulations framed under the repealed Act shall continue in force and be deemed to have been made under the provisions so re-enacted, s. 31(4) of the Mines Act, 1923, which had been repealed, must be construed in such a way that for the purpose of the continuity of existence, the Regulations framed under that Act will not be considered part of the Act. Accordingly, the Indian Coal Mines Regulations, 1926, continued to be in force at the relevant date and must be deemed to be regulations made under the Mines Act, 1952.

Institute of Patent Agents and others v. *Joseph Lockwood*, [1894] A. C. 347 and *State* v. *K. B. Chandra*, (1954) I.L.R. 33 Pat. 507, distinguished.

(2) that the Indian Coal Mines Regulations, 1926, though they became Regulations under the Mines Act, 1952, in consequence of a deeming provision, nonetheless, were "laws in force" within the meaning of Art. 20(1) of the Constitution.

Rao Shiv Bahadur Singh and another v. *The State of Vindhya Pradesh*, [1953] S.C.R. 1188, distinguished.

(3) that the expression "any one of the directors" in s. 76 of the Mines Act, 1952, means "every one of the directors".

Isle of Wight Railway Co. v. *Tahourdin*, (1883) 25 Ch. D. 320, relied on.

(4) that the managing agents of the colliery company were neither the owner of the mine nor the occupier within the meaning of s. 2(1) of the Mines Act, 1952, and, therefore, the prosecution of the directors of the managing agents was not maintainable.

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CRIMINAL APPELLATE JURISDICTION: Criminal Appeals Nos. 98 to 106 of 1959.

Appeals by special leave from the judgment and order dated March 3, 1958, of the Patna High Court in M. J. C. Nos. 475, 476, 479 and 480 of 1956, 180 of 1957 and 475 to 478 of 1956.

N. S. Bindra and *R. H. Dhebar*, for the appellants in Cr. As. Nos. 98 and 101 of 1959.

G. S. Pathak, S. C. Banerjee and *P. K. Chatterjee*, for the appellants in Cr. As. Nos. 102 to 106 of 1959 and respondents in Cr. As. Nos. 98 to 100 of 1959.

R. Ganapathy Iyer and *R. H. Dhebar*, for the respondents in Cr. As. Nos. 102 to 106 of 1959 and appellants in Cr. As. Nos. 99 and 100 of 1959.

1961. February 10. The Judgment of the Court was delivered by

Das Gupta J.

DAS GUPTA, J.—On February 5, 1955, there was a tragic accident in the Amlabad Colliery, in Manbhum District, in the State of Bihar, as a result of which 52 persons lost their lives and one escaped with injuries. The court of enquiry which was appointed to hold an inquiry into the causes of the accident and the circumstances attending the accident submitted its report on September 26, 1955, holding that the accident was due to negligence and non-observance of some of the regulations of the Indian Coal Mines Regulations, 1926. This report was duly published under s. 27 of the Mines Act, 1952. Thereafter, on March 3, 1956, the Government of India informed the manager and the agent of the colliery that a court of enquiry was being constituted under cl. (a) of the Regulation 48 to hold an inquiry into their conduct. Criminal proceedings were also instituted against 14 persons including the manager and the agent of the colliery, all the directors of the company which was the owner of the colliery and the directors of the managing agents of that company. The complaints alleged violation by the 14 accused of several regulations out of the Indian Coal Mines Regulations, 1926. There were two separate complaints in respect of the violation of different

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regulations. It was alleged in one of the complaints that the accused persons had by the violation of the regulations mentioned therein committed offences under s. 73 of the Mines Act, 1952; the other complaint alleged that by the violation of the regulations mentioned therein the accused persons had committed offences under ss. 73 and 74 of the Mines Act, 1952. The Sub-Divisional Magistrate took cognizance of the offences, and issued processes against all the 14 persons on May 23, 1956. Six of the accused persons, Lala Karam Chand Thaper, H. P. Poddar, Jagat Ram Sharma, Kumud Ranjan Dutt, H. V. Varma and U. Mehta filed applications before the High Court of Patna for the issue of appropriate writs or orders for quashing the criminal proceedings. The main ground on which these different applications were based was that the regulations for the alleged violation of which the complaints were lodged had ceased to have any legal existence long before the date of the alleged violation by the repeal of the Mines Act, 1923, under which they had admittedly been made. Another ground taken by all the applicants was that the prosecution was in violation of Art. 20(1) of the Constitution. In the application by two directors of the company owning the mine, Lala Karam Chand Thaper and H. P. Poddar a further point was taken that the prosecution of all the directors was not permitted by the Mines Act, 1952. The directors of the managing agents raised in their applications the point that the managing agents not being owners of the colliery the directors of the managing agents should not be prosecuted.

The High Court rejected the applicants' contention that the Regulations framed under s. 29 of the Mines Act, 1923, ceased to have legal existence after the repeal of that Act. It however accepted the contention of the managing agents' directors that they were not liable to prosecution. The High Court also held on a consideration of the provision of s. 76 of the 1952 Act that all the directors of the company which owned the colliery could not be prosecuted and only one to be chosen by the complainant out of all the directors

could be proceeded against. On these findings the High Court dismissed the applications of the manager and the agent, and allowed the applications of the directors of the managing agents. In the two applications by the two directors of the colliery company (Lala Karam Chand Thaper and H. P. Poddar) it gave a direction requiring the respondents 2 and 3 before it, that is, the Chief Inspector of Mines, and the Regional Inspector of Mines, Dhanbad, "to choose one of the directors of the company for being prosecuted against and to remove the name of the other directors from the category of the accused persons". In the two criminal cases the two directors of the company obtained special leave to appeal against this direction and have, pursuant thereto, filed the two appeals which are now before us as Criminal Appeals Nos. 103 and 104 of 1959. The manager and the agent have also filed appeals against the order rejecting their applications after having obtained special leave from this Court. These two appeals are now numbered as Cr. Appeals Nos. 105 and 106 of 1959. The Chief Inspector of Mines and others who are made respondents in the application under Art. 226 have also filed appeals on special leave granted by this Court against the High Court's order in the applications of the directors of the managing agents allowing the same and also against the High Court's orders in the application of the two directors of the company asking the Chief Inspector of Mines and the Regional Inspector of Mines to choose one only of the directors for prosecution; their appeals in the application of the directors of the managing agents before us have been numbered as Criminal Appeals Nos. 100 and 101. Their appeals in the applications of the directors of the colliery company are numbered 98 and 99 of 1957.

It will be convenient to refer to the appellants in these four appeals as government-appellants.

At about the same time these several applications were made before the High Court, the agent and the manager of the colliery company also made applications to the High Court of Patna for the issue of

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appropriate writs or orders restraining the Commissioner of Chotanagpur who had been appointed to hold the inquiry under Regulation 48, from holding that inquiry. The High Court held that no inquiry could be ordered against the agents. The manager's application was however rejected. Against that order the manager Shri Kumud Ranjan Dutt obtained special leave from this Court to appeal and pursuant thereto has filed the appeal which is now before us as Appeal No. 102 of 1959.

The Appeals Nos. 100 and 101 need not detain us long. For whatever be the controversy on other questions as regards the Regulations of 1926 being in force after the repeal of the Mines Act of 1923 and as regards the alleged violation of Art. 20(1) of the Constitution, there is no manner of doubt that the High Court is right in holding that the managing agents of the colliery company are neither the "owner" of the coal mines nor the "manager" nor "agent" thereof. It was not even suggested before us that the managing agents are either managers or agents. "Agent" has been defined in the Act as the representative of the owner in respect of the management, control and direction of the mines and managing agent of the company in no sense falls within this definition. "Manager" is not defined, but s. 17 of the Act provides that every mine shall be under one manager who shall have the prescribed qualifications and shall be responsible for the control, management, supervision and directions of the mines, and the owner and agent of every mine shall appoint himself or some other person having such qualifications to be such manager. In the Amlabad Colliery Mr. Kumud Ranjan Dutt was admittedly appointed the manager and it was on that basis that proceedings were commenced against him. The managing agent of the company was not and could not be the manager of the Amlabad Colliery. It was urged however that the managing agents of the colliery company are in occupation of the mines and thus fall within the definition of the word "owner" in s. 2(l) of the Act. The relevant portion of the definition of owner in s. 2(l) runs thus: " "Owner" when

used in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof". The argument is that the managing agents exercise, by reason of their being managing agents of the colliery company, possession over the mine; and so "occupy" the mine. Though the word "occupier" is not defined in the Act it is patently absurd to suppose that any and every person exercising possession over the mine, is an "occupier" and thus an owner of the mine, for the purpose of the Mines Act. From the very collocation of the words "immediate proprietor, or lessee or occupier of the mine", it is abundantly clear that only a person whose occupation is of the same character, that is, occupation by a proprietor or a lessee—by way of possession on his behalf and not on behalf of somebody else is meant by the word "occupier" in the definition. Thus, a trespasser in wrongful possession to the exclusion of the rightful owner would be an occupier of the mine, and so be an "owner" for the purposes of the Act. When however a servant or agent of the proprietor or lessee of a mine is in possession of a mine, he is in possession on behalf of his master or his principal, and not on his own behalf. It would be unreasonable to think that the legislature intended such servants or agents liable and responsible as "owner" of the mine. If possession on behalf of another was sufficient to make a person "occupier" within the meaning of s. 2(l), every manager would be an occupier and thus have all the responsibilities of an "owner". Many "agents" of the proprietors or lessee of the mine would similarly be "occupier" and therefore "owner". If that had been the intention of the legislature it would have been unnecessary and indeed meaningless to mention "agent" and "manager" in addition to the word "owner" in s. 18 of the Act, in the important provision as to who will be responsible for the proper carrying on of operations in the mine in regard to the provisions of the Act and Regulations and bye-laws and orders made thereunder.

It would have been similarly unnecessary to mention "agent" and "manager" in addition to the word

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"owner" in s. 22 which gives the Chief Inspector or Inspector power to give special directions for the removal of certain defects or in s. 61 providing for the framing of bye-laws. The very fact that in ss. 18, 22 and 61 owner, agent and manager have been separately made responsible clearly shows that the legislature did not think that agent or manager would come within the definition of "owner" in s. 2(l). That must be because possession on behalf of somebody else was not in the contemplation of the legislature such "occupation" as to make the person in possession an "occupier" within the meaning of s. 2(l). Whatever possession, the managing agents of a colliery company exercise in and over a mine is exercised on behalf of the colliery company and not on their own behalf and so such managing agents are not occupier of the mine within the meaning of s. 2(k).

The managing agent company, not being either agent or manager, or owner of the mine, no question of contravention by that company or any of its directors of the Coal Mines Regulations can arise. The High Court has therefore rightly quashed the criminal proceedings against the directors of the managing agent company. Appeals Nos. 100 and 101 are accordingly dismissed.

The main controversy common to the other seven appeals is whether the Mines Regulations, 1926, framed as they were under s. 29 of the Mines Act, 1923, survived the repeal of the Mines Act, 1923, by the Mines Act, 1952. For a proper appreciation of the question involved it is necessary to have regard on the one hand to the provisions of s. 31 of the Mines Act, 1923, and on the other to the provisions of s. 24 of the General Clauses Act, 1897. The first sub-section of s. 31 provides that the power to make regulations and rules conferred by ss. 29, 30 and 30A is subject to the condition of the regulation and rules being made after previous publication. The fourth sub-section of that section lays down that regulations and rules shall be published in the official gazette and on such publication shall have effect "as if enacted in this Act". The regulations, which are alleged to have

been contravened were all made under s. 29 of the 1923 Act, and admittedly they were duly published in the official gazette. As a result of such publication, these regulations from the date of the publication, commenced having "effect as if enacted" in the Mines Act, 1923. The question we have to answer is: Did the regulations stand repealed, when the Mines Act, 1923, was repealed? Before endeavouring to answer the question, we have to take note of s. 24 of the General Clauses Act. The relevant portion of this clause is in these words:—

> "When any Central Act is after the commencement of this Act repealed and re-enacted with or without modification, then, unless it is otherwise expressly provided, any.....rule.....made or issued under the repealed Act shall so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been made or issued under the provisions so re-enacted unless and until it is superseded by any.....rule.....made or issued under the provisions so re-enacted".

It is convenient at this stage to state that a regulation is indisputably a rule within the meaning of these provisions.

The present is a case, where the Mines Act, 1923, was repealed, and was re-enacted with modifications as the Mines Act, 1952: Section 29 of the 1923 Act empowering the Central Government to make regulations consistent with the Act for specified purposes was re-enacted in the 1952 Act as s. 57: regulations were made in 1926 under s. 29 of the 1923 Act, but at the relevant date, in 1955, no regulations had been made under s. 57 of the 1952 Act, so that in 1955 the Mines Regulations, 1926, had not been superseded by any regulations made under the re-enacted provisions of s. 57 of the 1952 Act: Therefore if s. 24 of the General Clauses Act is operative the Mines Regulations, 1926, were in force at the relevant date in 1955, and shall be deemed to have been made under s. 57 of the 1952 Act, as there is no provision express or otherwise, in the later Act to the contrary, and the regulations are not inconsistent with the re-enacted provisions.

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For the management-appellant, Mr. Pathak contends however that s. 24 of the General Clauses Act can have no operation in respect of these regulations, as they stood repealed along with the repeal of the Mines Act, 1923. His argument is simple. Section 31(4) of the 1923 Act says, these regulations shall have effect as if enacted in that Act. The consequence of this provision is that the regulations became part of the Act: the entire Act was repealed by s. 88 of the 1952 Act: the 1926 Regulations as part of the Act thus stood repealed. So, on the very day the 1952 Act came into force, the Regulations of 1926 ceased to have legal existence. So, s. 24 of the General Clauses Act had nothing to operate upon.

The whole foundation of the argument is the assumption that the necessary consequence of s. 31(4) of the 1923 Act is that the regulations, on publication, shall have effect as if enacted in the Act is that the Regulations became part and parcel of the Act. Is that assumption justified?

In attempting to answer this question, it will be profitable to remember that the purpose of the General Clauses Act is to place in one single statute different provisions as regards interpretations of words and legal principles which would otherwise have to be specified separately in many different acts and regulations. Whatever the General Clauses Act says, whether as regards the meanings of words or as regards legal principles, has to be read into every statute to which it applies. The Mines Act, 1923, being a Central Act, s. 24 of the General Clauses Act, 1897, applies to it, so that we have to read in the Mines Act, 1923, an additional provision embodying the words of s. 24 of the General Clauses Act. The result is that we have in this Mines Act of 1923 on the one hand the provision that the regulations made under s. 29 of the Act will have effect as if enacted in the Act and on the other, the further provision, that regulations made under s. 29 shall continue to remain in force when this Act is repealed and re-enacted and be deemed to have been made under the re-enacted provisions, it is otherwise expressly provided, unless and

until superseded by regulations made under the re-enacted provisions.

If the words of s. 31(4) are construed to mean that the regulations became part of the Act to the extent that when the Act is repealed, the regulations also stand repealed, a conflict at once arises between s. 31 (4) and the provisions of s. 24 of the General Clauses Act. In other words, the Mines Act, 1923, while saying in s. 31(4) that the repeal of the Act will result in the repeal of the regulations, will be saying, in the provisions of s. 24 of the General Clauses Act as read into it, that on the repeal of the Act, when the Act is repealed and re-enacted, the regulations will not stand repealed but will continue in force till superseded by regulations made under the re-enacted Act. To solve this conflict the courts must apply the rule of harmonious construction. According to Mr. Pathak we have perfect harmony if it is held that the provisions of s. 24 of the General Clauses Act will have effect only if the regulations are such as survive the repeal of the parent Act and at the same time, construe s. 31(4) to mean that the regulations became for all purposes part and parcel of the Act. To harmonise is not however to destroy. The so-called harmony on the learned counsel's argument is achieved by making the provisions of s. 24 of the General Clauses Act nugatory and in effect destroying them in relation to the Mines Act, 1923. We have to seek therefore some other means of harmonising the two provisions. The reasonable way of harmonising that obviously suggests itself is to construe s. 31(4) to mean that the regulations on publication shall have for some purposes, say, for example, the purpose of deciding the validity of the regulations, the same effect as if they were part of the Act, but for the purpose of the continuity of existence, they will not be considered part of the Act, so that even though the Act is repealed, the regulations will continue to exist, in accordance with the provisions of s. 24 of the General Clauses Act. This construction will give reasonable effect to s. 31(4) of the Mines Act, 1923 and at the same time not frustrate the very salutary object of

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s. 24 of the General Clauses Act. One may pause here to remember that regulations framed under an Act are of the very greatest importance. Such regulations are framed for the successful operation of the Act. Without proper regulations, a statute will often be worse than useless. When an Act is repealed, but re-enacted, it is almost inevitable that there will be some time lag between the re-enacted statute coming into force, and regulations being framed under the re-enacted statute. However efficient the rule making authority may be it is impossible to avoid some hiatus between the coming into force of the re-enacted statute and the simultaneous repeal of the old Act and the making of regulations. Often, the time lag would be considerable. Is it conceivable that any legislature, in providing that regulations made under its statute will have effect as if enacted in the Act, could have intended by those words to say that if ever the Act is repealed and re-enacted, (as is more than likely to happen sooner or later), the regulations will have no existence for the purpose of the re-enacted statute, and thus the re-enacted statute, for some time at least, will be in many respects, a dead letter. The answer must be in the negative. Whatever the purpose be which induced the draftsmen to adopt this legislative form as regards the rules and regulations that they will have effect "as if enacted in the Act", it will be strange indeed if the result of the language used, be that by becoming part of the Act, they would stand repealed, when the Act is repealed. One can be certain that that could not have been the intention of the legislature. It is satisfactory that the words used do not produce that result. For, if we apply the rule of harmonious construction, as has been pointed out above, s. 31(4) does not stand in the way of the operation of s. 24 of the General Clauses Act.

The proper construction of a legislative provision as regards rules or regulations made under an Act having effect as if enacted in the Act, fell to be considered in several English and Indian decisions and from one of these—the earliest case in which the

question appears to have been considered—Mr. Pathak sought assistance. That is the case of *Institute of Patent Agents and others* v. *Joseph Lockwood* (1). There, a declaration was sought against Lockwood that he was not registered as a patent agent in pursuance of the Patents, Design and Trade Marks Act, 1888 and was not entitled to describe himself as a patent agent; and consequential relief was asked for. While the first section of the Act required such a registration, the Act itself did not provide "for the manner in which the register is to be formed, who is to be the Registrar, the formalities requisite for the registration, or any particulars in relation to it". The Act left to the Board of Trade to make such general rules as were required for giving effect to the first section. Among the rules made by the Board, was one requiring certain fee to be paid on first registration, and also an annual fee, non payment of which shall be a ground for cancelling the registration. The question arose whether the rules with reference to fees were intra vires or ultra vires. The House of Lords held that the rules were intra vires; but dealt also with a contention raised on behalf of the appellants that in view of the provisions in the Act that the rules "shall be of the same effect as if they were contained in this Act" the question whether the rules were intra vires or ultra vires could not at all be canvassed in the courts. Speaking about the effect of the above provisions, Lord Herschell, L. C., said:—"I own I feel very great difficulty in giving to this provision that they 'shall have of the same effect as if they were contained in the Act' any other meaning than this, that you shall for all purposes of construction, or obligation or otherwise, treat them, as if they were in the Act". Mr. Pathak fastens on the phrase "for all purposes of construction, or obligation or otherwise" and submits that this is a good authority for holding that for the purpose of deciding whether the rules were part of the Act, so as to attract the consequence of repeal, along with the repeal of the Act, the rules should be treated "as if they were in the Act" and so stood

(1) [1894] A.C. 347.

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repealed. We are bound however to take notice of the fact that the question whether the rules were to be treated as part of the Act to ascertain the effect on them of the repeal of the Act was not even remotely before the House of Lords. The sole question before them was how far, if at all, the courts could consider the question of validity of the rules, in view of the above provisions as regards their having "the same effect as if they were contained in the Act". That the Lord Chancellor was not concerning himself with the effect of this provision in other aspects is further clear from what he said immediately after the observations quoted above:—

> "No doubt", said he, "there might be some conflict between a rule and a provision of the Act. Well there is a conflict sometimes between two sections to be found in the same Act. You have to try and reconcile them as best as you may. If you cannot, you have to determine which is the leading provision and which is the subordinate provision, and which must give way to the other. That would be so with regard to enactments and with regard to rules which are to be treated as if within the enactment. In that case probably the enactment itself would be treated as the governing consideration and the rule as subordinate to it".

Not only was the question now before us not for decision in *Lockwood's Case* (1), but it is quite clear that the learned Lord Chancellor had no intention of dealing with questions like this, when he used the words on which Mr. Pathak has tried to rely.

In our opinion, *Lockwood's Case* (1) is no authority in favour of the construction urged by the learned counsel for acceptance.

In a later case of *Ministry of Health* v. *The King (on the prosecution of Yaffe)* (2) the House of Lords considered the question how far the principle laid down in *Lockwood's Case* went. But there also, the question was as regards the soundness of a plea that the validity of a scheme which, on confirmation, had effect as if it was contained in the Act, could not be

(1) [1894] A.C. 347. (2) [1931] A.C. 494.

questioned in the courts and the question now before us did not even remotely come up for consideration.

The question which was considered by the Patna High Court in *State* v. *K. B. Chandra* (1) was also entirely different from the question now before us. The contention there was that the Mines Creche Rules and Coal Mines Pithead Bath Rules, 1946—which the respondent Chandra had been accused of violating—should be deemed as part of the Mines Act, 1923, and any question as to their validity could not be canvassed in the courts. The contention was rejected, and it was held that whether the rules were consistent with the Act can be a matter of judicial consideration. In that case contravention of the rules took place before the Act of 1952 had come into force, and so the Court was not called upon to consider the question of the continued existence of the rules after the 1923 Act was repealed.

None of the cases cited at the bar is therefore of any assistance for the decision of our present question.

The true position appears to be that the Rules and regulations do not lose their character as rules and regulations, even though they are to be of the same effect as if contained in the Act. They continue to be rules subordinate to the Act, and though for certain purposes, including the purpose of construction, they are to be treated as if contained in the Act, their true nature as subordinate rule is not lost. Therefore, with regard to the effect of a repeal of the Act, they continue to be subject to the operation of s. 24 of the General Clauses Act.

For the reasons given above, we have no hesitation in holding that the provisions of s. 31, sub-s. 4, of the Mines Act, 1923, do not stand in the way of the full operation of s. 24 of the General Clauses Act, 1897, and that in consequence of these provisions the Coal Mines Regulations, 1926, continued to be in force at the relevant date and have to be deemed to be regulations made under the Mines Act, 1952.

Mention has to be made here of an argument rather

(1) (1954) I.L.R. 33 Patna 507.

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faintly made by Mr. Pathak that even if the regulations are deemed to be regulations made under the Mines Act of 1952, s. 73 or s. 74 of that Act can have no application. He pointed out that what these sections made punishable is a contravention of a provision of the Act or of any regulations, rules or bye-laws or any other order made thereunder. They do not, he contends, make punishable contravention of regulations deemed to be made under the 1952 Act; and so assuming that his clients have contravened the Mines Regulations, 1926, as alleged no offence under s. 73 or s. 74 has been committed. Learned Counsel has drawn our attention in this connection to the definition of "regulations" in s. 2(o) of the 1952 Act according to which regulations mean "regulations made under this Act". If it was intended, the argument is, that any contravention of the regulations deemed to be made under the Act should also be punishable, the legislature would have defined regulations to include not only regulations made under the Act but regulations deemed to have been made under the Act. This argument is not even plausible. The effect of a deeming provision, it need hardly be pointed out, is to attract to what is deemed to be something all the legal consequences of that something. In other words, when A is deemed to be B, compliance with A is in law compliance with B, contravention of A is in law contravention of B. As soon as we reach the conclusion that in consequence of s. 24 of the General Clauses Act, the Coal Mines Regulations, 1926, had at the alleged date of contravention, to be deemed to be regulations made under the Mines Act, 1952, the conclusion is inevitable that contravention of the Mines Regulations, 1926, amounted to contravention of regulations made under the 1952 Act, so that the contravener was guilty of an offence under s. 73, or 74, as the case might be.

Equally untenable is Mr. Pathak's next contention that the contravention of the Indian Coal Mines Regulations, 1926, which were at the date of contravention "deemed" to be regulations under the 1952 Act, was not a violation of a law in force on such date, so that

Art. 20(1) is a bar to the conviction of his clients. The relevant portion of Art. 20(1) lays down that no person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence. The result of this is that if at the date of the commission of an act, such commission was not prohibited by a law then in force, no future legislation prohibiting that act with retrospective effect will justify a conviction for such commission. In other words, if an act is not an offence at the date of commission, no future law can make it an offence. But how, on the facts of this case the accused can claim benefit of this principle embodied in Art. 20(1) it is difficult to see. They are being charged under s. 73 and s. 74 of the Mines Act, 1952, for the contravention of some regulations. Were these regulations in force on the alleged date of contravention? Certainly, they were, in consequence of the provisions of s. 24 of the General Clauses Act. The fact that these regulations were deemed to be regulations made under the 1952 Act does not in any way affect the position that they were laws in force on the alleged date of contravention. The argument that as they were "regulations" under the 1952 Act in consequence of a deeming provision, they were not laws in force on the alleged date of contravention is entirely misconceived.

Equally misconceived is the submission that this Court's decision in *Shiv Bahadur Singh's Case* (1) supports the argument. In that case, dealing with a suggestion that as the Vindhya Pradesh Ordinance 48 of 1949 though enacted on September 11, 1947, i.e., after the alleged offences were committed, was in terms made retrospective by s. 2 which says that the Ordinance shall be deemed to have been in force in Vindhya Pradesh from August 9, 1949, the Oridinance was a law in force on or from August 9, 1949, this Court said:—

> "This however would be to import a somewhat technical meaning into the phrase law in force used

(1) [1953] S.C.R. 1188.

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in Art. 20. Law in force referred to therein must be taken to relate not to a law "deemed to be in force", and thus brought into force, but the law factually in operation at the time or what may be called the then existing law.....It cannot therefore be doubted that the phrase "law in force" as used in Art. 20 must be understood in its natural sense as being the law in fact in existence and in operation at the time of the commission of the offence as distinct from the law "deemed" to have become operative by virtue of power of legislature to pass retrospective laws."

As the Court clearly pointed out, it was considering only the question whether a law made after the alleged act, can by providing for its retrospective operation, make itself the "law in force", for the purpose of Art. 20; and it held that this could not be done. The words "law in force referred to therein must be taken to relate not to a law 'deemed to be in force'", in this judgment should not be taken apart from its context. In the words that immediately follow the Court was saying that "law in force relates to a law factually in operation at the time, or what may be called the then existing law". The question to be asked is: Was the law said to have been violated in operation at the alleged date of violation? The answer, in the cases before us, must be that it was. Art. 20(1) has therefore no application.

No other point has been raised before us in the appeals by the Manager and the Agent. These appeals (Appeals Nos. 102, 105 and 106) are therefore dismissed.

The other four appeals raise a difficult question about the interpretation of the word "any one of the directors" in s. 76 Section 76 is in these words:—

> "*Determination of owner in certain cases:*—Where the owner of a mine is a firm or other association of individuals, any one of the partners or members thereof or where the owner of a mine is a public company, any one of the directors thereof, or where the owner of a mine is a private company, any one of the shareholders thereof, may be prosecuted and

punished under this Act for any offence for which the owner of a mine is punishable:—

Provided that where a firm, association or company has given notice in writing to the Chief Inspector that it has nominated,

(a) in the case of a firm, any of its partners,

(b) in the case of an association, any of its members,

(c) in the case of a public company, any of its directors, or

(d) in the case of a private company, any of its shareholders,

who is resident in each case in any place to which this Act extends to assume the responsibilities of the owner of the mine for the purposes of this Act, such partner, member, director or shareholder as the case may be, shall so long as he continues to be the owner of the mine for the purpose of this Act, unless notice in writing cancelling his nomination or stating that he has ceased to be a partner, member, director or shareholder, as the case may be, is received by the Chief Inspector".

It is on the basis of this section, that prosecution has been launched against all the directors. If "any one" in the section is interpreted to mean "every one" —as was unsuccessfully contended on behalf of the Government-appellant in the High Court—the section justifies the prosecution of all the directors. If however, "any one of the directors" must be interpreted to mean "one only of the directors, it does not matter which one" as was contended by the appellants in Appeals Nos. 103 and 104, the two directors—and as held by the High Court, it would be necessary to consider their further contention that the section contravenes Art. 14 of the Constitution, and is therefore void, so that the High Court's order directing the Inspector of Mines to select one of the directors for the prosecution cannot be sustained. For, on the interpretation that "any one of the directors", means "only one of the directors" the authorities have got the right to proceed against one of the directors, out of the several, and it might be argued that the exercise of

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this discretion is wholly unfettered and unguided and the High Court could not in law, ask the authorities to exercise this discriminatory provision of law. The important question that arises for decision therefore is how the words "any one of the directors" should be interpreted.

It is quite clear and indeed not disputed that in some contexts, "any one" means "one only it matters not which one"; the phrase "any of the directors" is therefore quite capable of meaning "one only of the directors, it does not matter which one". Is the phrase however capable of no other meaning? If it is not, the courts cannot look further, and must interpret these words in that meaning only, irrespective of what the intention of the legislature might be believed to have been. If however the phrase is capable of another meaning, as suggested, viz., "every one of the directors" it will be necessary to decide which of the two meanings was intended by the legislature.

If one examines the use of the words "any one" in common conversation or literature, there can be no doubt that they are not infrequently used to mean "every one"—not one, but all. Thus we say "any one can see that this is wrong", to mean "everyone can see that this is wrong". "Any one may enter" does not mean that "only one person may enter", but that all may enter. It is permissible and indeed profitable to turn in this connection to the Oxford English Dictionary, at p. 378 of which, we find the meaning of "any" given thus: "In affirmative sentences, it asserts, concerning a being or thing of the sort named, without limitation as to which, and thus collectively of every one of them". One of the illustration given is—"I challenge anyone to contradict my assertions." Certainly, this does not mean that one only is challenged; but that all are challenged. It is abundantly clear therefore that "any one" is not infrequently used to mean "every one".

But, argues Mr. Pathak, granting that this is so, it must be held that when the phrase "any one" is used with the preposition "of", followed by a word denoting a number of persons, it never means "every one".

The extract from the Oxford Dictionary, it is interesting to notice, speaks of an assertion "concerning a being or thing of the sort named"; it is not unreasonable to say that, the word "of" followed by a word denoting a number of persons or things is just such "naming of a sort" as mentioned there. Suppose, the illustration "I challenge any one to contradict my assertions" was changed to "I challenge any one of my opponents to contradict my assertion." "Any one of my opponents" here would mean "all my opponents"—not one only of the opponents.

While the phrase "any one of them" or any similar phrase consisting of "any one", followed by "of" which is followed in its turn by words denoting a number of persons or things, does not appear to have fallen for judicial construction, in our courts or in England—the phrase "any of the present directors" had to be interpreted in an old English case, *Isle of Wight Railway Co.* v. *Tahourdin* (1). A number of shareholders required the directors to call a meeting of the company for two objects. One of the objects was mentioned as "To remove, if deemed necessary or expedient any of the present directors, and to elect directors, to fill any vacancy on the Board". The directors issued a notice to convene a meeting for the other object and held the meeting. Then the shareholders, under the Companies Clauses Act, 1845, issued a notice of their own convening a meeting for both the objects in the original requisition. In an action by the directors to restrain the requisitionists, from holding the meeting, the Court of Appeal held that a notice to remove "any of the present directors" would justify a resolution for removing all who are directors at the present time. "Any", Cotton, L. J., pointed out, would involve "all".

It is true that the language there was "any of the present directors" and not "any one of the present directors" and it is urged that the word "one", in the latter phrase makes all the difference. We think it will be wrong to put too much emphasis on the word "one" here. It may be pointed out in this connection

(1) (1883) 25 Ch. D. 320.

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that the Permanent Edition of the Words and Phrases (1), mentions an American case *Front & Hintingdon Building & Loan Association* v. *Berzinski*, where the words "any of them" were held to be the equivalent of "any one of them".

After giving the matter full and anxious consideration, we have come to the conclusion that the words "any one of the directors" is ambiguous; in some contexts, it means "only one of the directors, does not matter which one", but in other contexts, it is capable of meaning "every one of the directors". Which of these two meanings was intended by the legislature in any particular statutory phrase has to be decided by the courts on a consideration of the context in which the words appear, and in particular, the scheme and object of the legislation.

The plain object of s. 76 of the Mines Act is to ensure that no lacuna remains in the application of the provisions in the Act to owners of mines, in the cases where the mine is owned not by an individual, but by a firm or other association of individuals, or a public company or a private company. It provides that where the owner of the mine is a firm or other association of individuals, any one of the partners or members thereof may be punished; where the owner is a private company, any one of the shareholders may be prosecuted and punished and where the owner is a public company not "any one of the shareholders" but any one of the directors may be prosecuted and punished. There is a proviso under which on notice being given of nomination of "any" of the partners of the firm, or in the case of association any of the members; in the case of the public company any of its directors, and in the case of a private company any of its shareholders, the ownership of the mine shall be determined only in accordance with the nomination. There can be no question that where a mine is owned by one individual A—the one and complete owner—would be liable to all penalties which ownership entails. When the legislature thought it desirable to make special provision where the mine

(1) Vol. 3A.

is owned by a firm, or an association of individuals, or a company, it does not stand to reason that it would ordinarily permit all the partners except one, all the members of the association except one, all the shareholders of the private company except one and all the directors of the public company except one to escape the penalties. The purpose of the Act is to secure safety and proper conditions of work for labour. To enforce the provisions of the Act and the rules, regulations and bye-laws under it, designed to achieve this purpose, the legislature, makes in its 18th section, the manager, the agent, and the owner, responsible for their proper observance. Contravention is made punishable by fine or imprisonment. In this scheme of things, it is reasonable to expect that the legislature, would take particular care to see that everybody performing the function which an individual owner is expected to perform, would be treated in the same way as an individual owner. In the case of a firm this position is filled by all the partners; in the case of other association of individuals this position is filled by all the members; in the case of a private company this position is filled by all the shareholders thereof while in the case of a public company the position is filled by all the directors together. It is to be expected therefore that all the partners in the case of a firm, all the shareholders in the case of a private company and all the directors in the case of a public company should be subjected to prosecution and punishment in the same way as an individual owner of a mine. When we find in this background the legislature using the words "any one of the directors, any one of the partners, any one of the members, any one of the shareholders.....may be prosecuted and punished", words which are capable of meaning "all the directors, all the members, all the shareholders and all the partners, as also the other meaning "only one of the directors, only one of the partners", only one of the members, only one of the shareholders," we have no doubt at all that the legislature used the words in the former and not in the latter sense.

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But, argues Mr. Pathak, you must not forget the special rule of interpretation for "penal statute" that if the language is ambiguous, the interpretation in favour of the accused should ordinarily be adopted. If you interpret "any one" in the sense suggested by him, the legislation he suggests is void and so the accused escapes. One of the two possible constructions, thus being in favour of the accused, should therefore be adopted. In our opinion, there is no substance in this contention. The rule of strict interpretation of penal statutes in favour of the accused is not of universal application, and must be considered along with other well established rules of interpretation. We have already seen that the scheme and object of the statute makes it reasonable to think that the legisluture intended to subject all the directors of a company owning coal mines to prosecution and penalties, and not one only of the directors. In the face of these considerations there is no scope here of the application of the rule for strict interpretation of penal statutes in favour of the accused.

The High Court appears to have been greatly impressed by the fact that in other statutes where the legislature wanted to make every one out of a group or a class of persons liable it used clear language expressing the intention; and that the phrase "any one" has not been used in any other statute in this country to express "every one". It will be unreasonable, in our opinion, to attach too much weight to this circumstance; and as for the reasons mentioned above, we think the phrase "any one of the directors" is capable of meaninig "every one of the directors", the fact that in other statutes, different words were used to express a similar meaning is not of any significance.

We have, on all these considerations come to the conclusion that the words "any one of the directors" has been used in s. 76 to mean "every one of the directors", and that the contrary interpretation given by the High Court is not correct.

On the interpretation that "any one of the directors" means "every one of the directors", no question of violation of Art. 14 of the Constitution arises.

We, therefore, allow the Appeals Nos. 98 and 99, set aside the orders of the High Court in Writ Petitions Nos. 475 and 476 of 1956 and order that these writ petitions be rejected. Appeals Nos. 103 and 104 are dismissed.

Appeals Nos. 98 and 99 allowed.

Appeals Nos. 100 to 106 dismissed.

BANWARILAL AGARWALLA

v.

THE STATE OF BIHAR AND OTHERS

(B. P. SINHA, C. J., S. K. DAS, K. C. DAS GUPTA, N. RAJAGOPALA AYYANGAR and J. R. MUDHOLKAR, JJ.)

Coal Mines—Colliery company—Contravention of coal mines regulations—Prosecution of directors of private company—Legality—Regulations not referred to Mining Board—Effect—Coal Mines Regulations, 1957—Mines Act, 1923 (4 of 1923), s. 10—Mines Act, 1952 (35 of 1952), ss. 59(3), 76—Constitution of India, Art. 14.

Section 76 of the Mines Act, 1952, provides that where the owner of a mine is a private company any one of the shareholders thereof may be prosecuted and punished under this Act for any offence for which the owner of the mine is punishable. The appellant who was a shareholder and a director of a private company owning a colliery, was prosecuted for an offence under s. 74 of the Act for contravention of Regulations 107 and 127 of the Coal Mines Regulations, 1957. He challenged the validity of the prosecution on the grounds (1) that s. 76 of the Act in pursuance of which he who was not himself the owner of the colliery but only one of the directors and shareholders had been prosecuted, was void as it violated Art. 14 of the Constitution of India, and (2) that the Coal Mines Regulations, 1957, were invalid as they had been framed in contravention of s. 59 (3) of the Act, inasmuch as there was no consultation with a Mining Board before they were published as required by that sub-section. It was not disputed that when the Regulations were framed, no Mining Board as required under s. 12 of the Act had been constituted, and so there had been no reference to any such Board,