

of the Lieutenant Governor is perhaps invalid under the Tucker case.

Your eighth question is:

“Does the State Fair Board have the right to hire their own Secretary-Treasurer and other office help and Superintendent of grounds subject to approval of the Governor?”

It seems to me that the Board would have the right to so hire its own Secretary-Treasurer and immediate office help to enable it to function as a Board, but, if I understand the case of Tucker v. State, *supra*, the Governor would have the right to appoint the Superintendent of grounds. Note the following from Tucker v. State, 218 Ind. 614 at page 681.

“\* \* \* The legislature does not have general authority over the property of the state, and that it has such general authority has never elsewhere been asserted to our knowledge. The management of the state's property is an executive function. The General Assembly may legislate concerning the state's property, the courts may adjudicate concerning it, but the Governor, vested with the executive power, must manage the state's property. \* \* \*”

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**GENERAL ASSEMBLY: Whether Chapter 130 of Acts of 1935 applies to “strip mining”.**

**MINING: Whether Chapter 130 of Acts of 1935 applies to “strip mining”.**

February 10, 1943.

Mr. Timothy C. O'Connor, Member,  
House of Representatives,  
State of Indiana,  
Indianapolis, Indiana.

My dear Mr. O'Connor:

This is in response to your request for an opinion as to whether the provisions of Chapter 130 of the Acts of 1935,

which require certain safety measures in mining operation, apply to "strip coal mining."

The title to that statute is as follows:

"An act concerning the safety and protection of employees engaged in industries that remove their products from under the surface of the earth."

The body of the statute makes it the duty of "every owner or operator who is engaged, within this State, in the business of removing any material in the commercial operation of mines or quarries from underneath the surface of the earth, to keep on hand, readily accessible and near the entrance of the place where such excavations are being carried on, a properly constructed and comfortable stretcher; a woolen and water proof blanket; rolls of bandages of different widths \* \* \*"; and there are other safety provisions which this statute requires in mining operations. (Burns' 1933, Sec. 46-1401 to 46-1409.)

I believe the language used in the title and also the body of the Act indicates that it applies only to shaft, slope or tunnel mining, where the operation by the miners, in digging coal, is carried on under the surface of the earth.

In construing a statute, the entire Act must be considered. There are provisions in this law about tipples and the use of combustion engines and ventilation devices and shafts which obviously apply to shaft mines, rather than to strip mines.

"Strip mining" is a term used to distinguish that type of coal mining operation where the surface, or over burden of earth, is first removed and then the coal is dug from an open pit.

Webster's New International (2d Edition) Dictionary defines the word "strip" in mining terms, as "to remove the over burden from the mineral deposit."

The Indiana Legislature in 1941 passed an Act placing the authority over certain features connected with strip mining under the Department of Conservation. That statute of 1941 defines the term strip mining to mean the "mining of coal by uncovering therefrom the surface soil above coal deposits." (Ch. 68, Acts of 1941, Burns' 1933, 46-1501, 46-1513.)

Chapter 170 of the Acts of 1923, Burns' 1933, 46-701, under which the Bureau of Mines and Mining supervises the

mining of coal in Indiana defines the term "mine" as used in that Act to "include the working of every shaft, slope or drift which is used—in the mining or removing of coal from beneath the surface of the ground." The Bureau of Mines and Mining confines its activities to mines as defined in this 1923 Statute.

It is my opinion, from a review of the Acts of 1935 and of the other mining laws referred to above, that the provisions of Chapter 130 of the Acts of 1935 do not apply to strip coal mining.

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**GENERAL ASSEMBLY: Validity of House Bill 431, to establish standard time.**

**TIME: Whether State may establish Standard Time.**

February 11, 1943.

Hon. A. B. Thompson,  
House of Representatives,  
State House,  
Indianapolis, Indiana.

Dear Mr. Thompson:

In your letter of February 9, you have asked for my opinion upon the following question:

"As the author of House Bill No. 431, which is now in our Public Safety Committee, we would appreciate a decision from you regarding the constitutionality of such a bill declaring central standard time to be the standard of time in Indiana."

The answer to your inquiry depends upon the force and exclusiveness of two federal statutes relating to standard time.

The first, passed March 19, 1918 (it will be noted that this was during wartime) and now codified as Sec. 261 and following of Title 15 of the U. S. Code (40 Statutes at Large 451) provides for the establishment of "standard time of the United States." The second, passed and approved January 20, 1942, reads in part: