BOARD OF ACCOUNTS: Second class city, basic population over 35,000 and less than 50,000, does not operate under State Metropolitan Police Law but is controlled by Acts 1933, Chapter 233.

January 23, 1941.

Honorable E. P. Brennan,
State Examiner,
State Board of Accounts,
State House,
Indianapolis, Indiana.

Dear Sir:

You request an official opinion upon facts stated in your letter of January 16th, as follows:

"According to the preliminary figures released by the census bureau, the City of Richmond will pass from a city of the third class to a city of the second class (population in excess of 35,000).

"This city has been operating under a board of Metropolitan Police Department, pursuant to the provisions of Chapter 59, Acts 1897 as amended (48-6301-48-6315, Burns 1933). This particular act applies to cities having 10,000 to 35,000 population.

"Chapter 197, Acts of 1891 (48-6201-48-6215, Burns 1933) provides for the establishment of a Board of Metropolitan police department in cities having 50,000 to 100,000 population.

"I desire your official opinion on the following question:

"Can a city, now having a population in excess of 35,000 and less than 50,000, which has been operating under the provision of a Metropolitan Police Department law, continue to maintain a Board of Police Commissioners, and pay the salaries as set up in the city budget?"

There is no statute in Indiana providing for Metropolitan Police Departments in cities having a population in excess of 35,000 and less than 50,000. For that reason, if the city of Richmond, according to United States census figures, should become a second class city, since having a population in excess
of 35,000, it would operate under the provisions of Chapter 233, Acts of the General Assembly of 1933.

The section of that law relating to officers and employees of a second class city is section 5, being section 48-1215, Burns' Statutes, 1933; as to salaries, for second class cities having a population over 35,000 and less than 50,000, sections 14 and 24, which are respectively sections 48-1226 and 48-1238 of Burns' Statutes, 1933.

MINES AND MINING, DIVISION OF: Whether men may be employed for fire protection while shots are being fired.

January 31, 1941.

Mr. Fred Ferguson, Director,
Bureau of Mines and Mining,
State Capitol,
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your inquiry of January 29th in which you request an official opinion as follows:

"I wish to have your interpretation of Paragraph (d), Sec. 13, page 36 and 37, of the State Mining Laws, which reads as follows:

"(d) The superintendent or mine manager shall not permit the shot firer or firers to do any blasting, exploding of shots, or do any firing whatever, until each and every miner and employee is out of the mine except the shot firer or firers, mine superintendent, mine manager and man or men necessarily engaged in charge of the pumps and stables: Provided, However, That nothing in this section shall be construed to prohibit the employment in such mine of a reasonably necessary number of men, during such time, for the purpose of securing the workings in case of fire therein. (Sec. 46-811, Burns' Indiana Statutes Annotated, 1933, 1940 Replacement.)

"Does this section of the law permit the coal operator to employ a reasonably necessary number of men in the mine while shots are being fired to take care of a fire in case one should start?"