ployees and, in the case of life insurance, it shall, and in the case of other kinds of insurance, it may, appropriate and pay a part of the cost of such insurance out of its funds available for the payment of salaries and wages of employees, and any such insurance contract shall not be canceled by said public employer during the policy term of such contract.” (Emphasis added.)

Your attention is directed to the word “employees.” This statute does not authorize a municipality to purchase insurance coverage for dependents of firemen and policemen.

This same section authorizes a public employer to pay part of the cost of such insurance out of its funds available for the payment of salaries and wages. Therefore, in answer to your question as to whether a municipality may pay the total cost of health and accident insurance, only a part of that cost may be legally paid by the municipality.

This section does not preclude an employee from paying the difference between the cost of group insurance covering himself only and the cost of group insurance covering his family.

OFFICIAL OPINION NO. 51
October 19, 1965

Mr. Hobert P. Butler
Commissioner of Labor
1013 State Office Building
Indianapolis, Indiana 46204

Dear Mr. Butler:

This is in answer to your request for an Official Opinion on the following question:

“\text{I would like to request an official opinion as to whether the Commissioner of Labor has the statutory authority to make inspections and recommendations for the purpose of preventing accidents in the strip mining}
industry. Further, does the Commissioner of Labor have the duty and authority to adopt rules and regulations prescribing various safeguards for the prevention of accidents in open pit mining and especially strip mining?"

The Ind. Acts of 1937, ch. 34, § 8, as found in Burns IND. STAT. ANN., § 40-2108, placed the Bureau of Mines and Mining under the jurisdiction of the Industrial Board.

The Ind. Acts of 1945, ch. 334, § 4, as found in Burns IND. STAT. ANN., § 40-2133, created a Bureau of Mines and Mining and § 6 of ch. 334, supra, conferred all rights, powers and duties of the Department of Mines and Mining on the Division of Labor.

Neither the Acts of 1937, supra, or the Acts of 1945, defined with specificity the powers, duties and responsibilities of the Bureau of Mines and Mining except to state that that bureau shall have immediate supervision of the mine laws of this state. Indiana Acts of 1945, ch. 334, § 5(a), as found in Burns IND. STAT. ANN., § 40-2105(a).

In addition to creating and placing the Department of Mines and Mining under the general supervision of the Division of Labor, the Ind. Acts of 1955, ch. 168, § 5, as found in Burns IND. STAT. ANN., § 46-110, vested the powers and duties of the Department in a board; § 6 of ch. 168, Acts of 1955, as found in Burns IND. STAT. ANN., § 46-111, specifies the duties of the Department and lists its powers. Sections 17 and 18 of ch. 168, supra, created the office of the Director of the Department, scheduled his qualifications and made provisions for appointment of mine inspectors to assist the director. Section 20 of ch. 168, supra, as found in Burns IND. STAT. ANN., § 46-405, states with particularity the powers and duties of the director and his inspectors with regard to the inspection of mines under this act. Section 15(a) of ch. 168, supra, as found in Burns IND. STAT. ANN., § 46-1909(x), states that the term "mine" as used therein means an underground coal mine. Section 16 of ch. 168, supra, as found in Burns IND. STAT. ANN., § 46-1910, reads as follows: "Unless the context requires otherwise, the Administration provisions, the Health and Safety provisions and the
Miscellaneous provisions of this act apply only to Underground Commercial Coal mines."

The administration provisions of ch. 168, supra, are those concerning the duties of the director and the mine inspector; they were mentioned above.


Acts of 1955, ch. 168, relates exclusively to underground mines; it is specifically stated that the Administration provisions of that act apply only to underground commercial mines, Burns IND. STAT. ANN., § 46-1910, supra. The administration of the act is imposed on the director of mines and since his authority to inspect is specifically limited to underground mines, he is without authority to inspect strip mines. The proposition that statutory officers have only such power as is conferred upon them by law is so fundamental that it does not require citation of authority.

No safety provisions or inspection regulations are contained in the Act relating to the operation of strip mines. Indiana Acts of 1941, ch. 68, as last amended by Acts of 1963, ch. 106, as found in Burns IND. STAT. ANN., §§ 46-1502—46-1507. However, this is not to suggest that strip mines are insulated from inspection and exempted from complying with reasonable safety regulations in their operation.

It is a matter of common knowledge that open pit mines and strip mines are places of employment. With reference to inspection of places of employment by the Commissioner of Labor, the Acts of 1945, ch. 334, § 16, as found in Burns IND. STAT. ANN., (1952), § 40-2145, reads as follows:

"The commissioner of labor and his authorized representative shall have the power and authority to enter any place of employment for the purpose of collecting facts and statistics relating to the employment of workers and of making inspections for the proper en-
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forcement of all of the labor laws of this state. No employer or owner shall refuse to admit the commissioner of labor or his authorized representatives to his place of employment.” (Emphasis added.)

Other legal authority which empowers and imposes a duty on the Commissioner of Labor to inspect all places of employment in the state and to promulgate safety rules and regulations for the protection of employees of those places of employment; Acts of 1945, ch. 334, § 11, as found in Burns IND. STAT. ANN., (1952), § 40-2140, which reads, in part, as follows:

“... the commissioner of labor is hereby authorized and directed:

“(a) To investigate and adopt rules prescribing what safety devices, safeguards or other means of protection shall be adopted for the prevention of accidents in every employment or place of employment, and to determine what suitable devices, safeguards, or other means of protection for the prevention of industrial accidents or occupational diseases shall be adopted or followed in any or all such employments or places of employment, and to adopt, amend or repeal reasonable rules, applicable to either employers or employees, or both, for the prevention of accidents and the prevention of industrial or occupational diseases. ...” (Emphasis added.)

See 1948 O.A.G., p. 364, No. 58, in which it is stated:

“. . . the Commissioner of Labor is authorized and directed to adopt rules prescribing various safeguards in every employment on the purpose of the prevention of industrial accidents. Thus, if any reasonable rule or regulation concerning this subject matter was properly made and promulgated by the Commissioner of Labor, then it would be the duty of the Director of the Bureau of Mines and Mining to see that the same was carried out and properly enforced.”

The question that arises is: May the Commissioner of Labor designate the Director of Mines and Mining and his
inspectors, inspectors for the Division of Labor for the purpose of inspecting strip mines? I think not, since the duties and responsibilities of the Director of Mines and Mining are specifically stated in ch. 168, *supra*, and are therein limited to inspection of underground mines. To appoint the Director of Mines and Mining for the inspection of strip mines would constitute an enlargement of his statutory duties without the necessary statutory power.

In view of the foregoing, it is my opinion that the Commissioner of Labor has the statutory authority to make inspections and promulgate rules and regulations for the purpose of preventing accidents in the strip mining and open pit mining industries.

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OFFICIAL OPINION NO. 52

October 19, 1965

Hon. William E. Wilson
State Superintendent of Public Instruction
227 State House
Indianapolis, Indiana

Dear Mr. Wilson:

I have your letter requesting an Official Opinion, as follows:

"1. Does the General Commission have authority to adopt regulations under the Provisions of Section 1, Chapter 414 of the 1965 Acts, with respect to the School Lunch Accounting, which would supersede the State Board of Accounts order requiring the School Lunch Accounting to become a part of the School Corporation accounts beginning July 1, 1965?"

"2. Does the Commission on General Education have authority under provision of Section 1, Chapter 414 of the 1965 Acts, to adopt regulations in regard to accounting for textbook purchases, and rentals, which would take precedence over the Board of Accounts order covering these activities, effective July 1, 1965?"