

HIGHWAY COMMISSION, STATE: Traffic signals on state highways through cities and towns, purchase, control and maintenance.

December 15, 1939.

Mr. T. A. Dicus,
Chairman, State Highway Commission of Indiana,
State House Annex,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of December 9, 1939, which reads as follows:

"A question has arisen in the traffic department of the State Highway Commission of Indiana relative to certain traffic signals in cities and the title and right to control such signals. In the cities of Columbus and Peru especially, those questions have arisen.

"These traffic signals were erected by the cities and then the streets upon which the signals were placed were taken over and made a part of the state system of Indiana. Now, the authorities in these cities desire to remove such signals, which would necessitate the purchase and erection of other signals by the State Highway Commission of Indiana.

"The legislature of 1939 undertook to give title to such traffic signals to the State Highway Commission and thus the commission has maintained that the signals are the property of the State since the enactment of that statute. The attorney for the City of Peru, however, raised the question of the right of the legislature to transfer the title of city property to the State of Indiana.

"There are two sections of the statute that I think govern and will answer the questions I have in mind. Section 2 of chapter 256 of the Acts of the General Assembly of the State of Indiana of 1937, found on page 1201, reads as follows:

'Whenever by this section the State Highway Commission is charged with the maintenance of any such street, said commission may regulate and control parking on such street and may remove all hazards to traffic therein. Said commission may regulate, control and,

when necessary, prohibit "Stop and Go" warning and caution signals on such streets and on any portion of the roadway of such street not maintained nor constructed by the commission.'

"Sub-section (c) of section 31 of chapter 48 of the Acts of the General Assembly of the State of Indiana of 1939 reads as follows:"

'All traffic control signals now in place on the routes of state highways through any city or town, except cities of the first class, shall be investigated by the State Highway Commission. If the commission shall determine, upon the basis of an engineering and traffic investigation, that any traffic control signal is not necessary for the safe, convenient, economical and orderly movement of traffic, such signal shall be removed by the commission and be returned to the authority responsible for its erection. If the commission shall determine, upon the basis of an engineering and traffic investigation, that any traffic control signal now in place is necessary for the safe, convenient, economical and orderly movement of traffic, then such signal shall remain in place, and the commission shall cause to be affixed thereto, a tag, or seal, showing that such signal has been approved by the commission.'

"The questions that I desire answered are:

- "1. What funds were used to purchase these signals?
- "2. Do these signals also control traffic on cross streets?
- "3. Does the legislature have power and did it in this case, transfer the title of the traffic signals from the city to the State?

"Thanking you very kindly for your opinion on these questions, I am,"

In answer to your first question as to what funds were used to purchase these signals, you seem to answer this question yourself in the second paragraph of your request, that the signals were erected by the cities in question out of city funds.

In answer to your second question, it is my opinion that these signals also control traffic on cross streets crossing said State highways.

In answer to your third question, this calls for an interpre-

tation of section 31 of the Acts of 1939, being section 47-1902, Burns Indiana Statutes Annotated 1933, Supplement of 1939, which reads as follows:

“(a) The State Highway Commission shall place and, except as otherwise provided in this section maintain such traffic control devices conforming to its manual and specifications upon all State highways, including the State maintained routes thereof through any incorporated city or town, as it shall deem necessary to indicate and to carry out the provisions of this act, or to regulate, warn, or guide traffic.

“(b) No local authority shall place or maintain any traffic control device upon any highway in the State highway system or the State maintained routes thereof through any incorporated city or town until it has received written permission of the commission, except as otherwise provided in this section.

“(c) All traffic control signals now in place on the routes of State highways through any city or town, except cities of the first class, shall be investigated by the State Highway Commission. If the commission shall determine upon the basis of an engineering and traffic investigation, that any traffic control signal is not necessary for the safe, convenient, economical, and orderly movement of traffic, such signal shall be removed by the commission and be returned to the authority responsible for its erection. If the commission shall determine, upon the basis of an engineering and traffic investigation, that any traffic control signal now in place is necessary for the safe, convenient, economical, and orderly movement of traffic, then such signal shall remain in place, and the commission shall cause to be affixed thereto a tag, or seal, showing that such signal has been approved by the commission.”

Paragraph (a) of the above section provides that such traffic control devices that conform to its manual and specifications upon all State highways included in the State maintained routes thereof through any incorporated city or town, as it shall deem necessary to indicate and to carry out the provisions of this Act, or to regulate, warn or guide traffic, shall be maintained by the State Highway Commission. Paragraph (b) of

the above section provides that the local authorities cannot place or maintain any traffic control devices upon any highway in the State highway system or the state maintained routes thereof through an incorporated city or town until they have received written permission of the State Highway Commission. It is my opinion that such traffic control signals that meet with the approval and specifications of the State Highway Commission that are now installed on State highway routes through incorporated cities and towns, are to be operated and maintained by the State Highway Commission. It is further my opinion that the title to such signals remains in the city and did not pass under the above provisions to the State.

You state in the second paragraph of your request that the authorities of these cities desire to remove certain signals which would necessitate the purchase and erection of other signals by the State Highway Commission of Indiana. It is my opinion that while the cities own the signals, if they meet the specifications and requirements of the State Highway Commission, they could not remove said signals, but the operation and maintenance of said signals comes under the jurisdiction of the State Highway Commission for the purpose of operation, but title to same remains in said cities.

It is my further opinion that there is no conflict between section 2 of chapter 266 of the Acts of the General Assembly of the State of Indiana of 1937 and the above section quoted, being section 31 of the Acts of 1939.

SECRETARY OF STATE: Provision in articles of Not For Profit corporation of insurance agents preventing members from representing companies not belonging thereto not contrary to insurance law.

December 22, 1939.

Hon. James M. Tucker,
Secretary of State,
State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of December 14th, with enclosures, in which you state that an association of insurance agents, heretofore incorporated under the Indiana Not For