MOTOR VEHICLES, BUREAU OF: Bus license—where operated within limits of two cities—fee to be paid.

November 1, 1933.

Hon. Frank Finney, Commissioner,
Bureau of Motor Vehicles,
Department of Treasury,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion and presenting the specific question:

"The question has arisen in this department as to the legal fee to be charged for plates in operation of a bus carrying persons for hire under the law providing for licensing and regulation of motor vehicles, Acts of 1925, page 570.

"Where the corporate boundary line only separates two municipalities, there being no intervening territory, such as the case between the cities of South Bend and Mishawaka; and where a bus carrying passengers for hire is registered in South Bend crossing over the boundary line into Mishawaka delivering passengers, should this plate fee be on the basis of $6.00 per person per annum or should we charge the one-tenth of the regular registration fee as provided for in the original act?"

This involves a construction of chapter 213, of the Acts of 1925, (page 570) the pertinent provisions of which are:

"A fee of six dollars ($6.00) per person per annum, at the rated carrying capacity, allowing sixteen (16) inches for each person, exclusive of the driver, shall be paid upon the registration or re-registration, for each calendar year, for each motor bus operated for hire over any of the public highways of the state on a regular schedule of time and rates: Provided, That the fee for motor buses operating wholly within the corporate limits of any city or town shall be one-tenth (1/10) of the regular registration fee for motor buses: Provided, further, That motor vehicles used in the transportation of school children, whether the entire
motor vehicle, including the body and chassis, or the body only, is owned by the school corporation, shall not be classed as motor buses, nor shall such motor vehicles be required to pay the seat fee as hereinbefore provided in this paragraph,"

which is subject to the definition of "public highway" or "auto bus" found at page 571, Acts of 1925, which is:

"'Public highway' shall be construed to include any highway, country road, state road, public street, avenue, alley, park, parkway or public place in any county, city or town, except any speedway which may have been or may be expressly set apart by law for the exclusive use of horses and light carriages.

"'Auto bus' shall be construed to mean any motor vehicle used for the purpose of carrying passengers on a regular schedule of time and rates between termini, either wholly within the corporate limits of a city or between towns or cities." (Our italics.)

These sections seem to recognize two classes of motor buses: those operating between termini (1) wholly within the corporate limits of a city, and (2) between towns or cities.

A bus operating between the cities of South Bend and Mishawaka, and within the corporate limits of both cities, is obviously not "operating wholly within the corporate limits of any city or town," and would therefore be liable for the "regular registration fee."

I am of the opinion that chapter 70, of the Acts of 1933, pertaining to the regulation of motor carriers by the public service commission, requiring such carriers to obtain certificates of convenience, referred to in your letter of inquiry, is inapplicable here for the reason that chapter 70, of the Acts of 1933, does not repeal, expressly or by implication, chapter 213, of the Acts of 1925.