and thereafter graduated from that school, is qualified to take
the examination provided by the Board for a certificate of
registration to practice as an apprentice. The law specifically
states that each of the above persons is entitled to take the
examination to practice as an apprentice without regard to
the standing of the school as set out in Section 3 of the Act.

HIGHWAY COMMISSION, STATE: Pole and pipe lines,
right of utility to construct in state highways.

April 14, 1936.

Hon. James D. Adams,
Chairman, State Highway
Commission of Indiana,
State House Annex,
Indianapolis, Indiana.

Dear Sir:

This is in response to your letter of April 7th requesting
an opinion on the following questions:

"1. Does a public service corporation have the right
to construct a pole line or install a pipe line, or under-
ground conduits within the right of way limits of any
state highway without permission from the State High-
way Commission of Indiana?

"2. Assuming that a public service corporation has
acquired the grant of an easement from the owner of
the servient estate as to real estate for use of real es-
tate within the limits of a state highway, has such
utility corporation a right to construct pole lines, pipe
lines or underground conduits within the said right of
way without the consent of the State Highway Com-
mission of Indiana, assuming that the State of Indi-
ana had a lawful easement for highway purposes
therein?

"3. Assuming that said public service corporation
had the right or privilege to construct such pole lines
within the right of way limits of a state highway,
does the State Highway Commission of Indiana have
the right to designate the location thereof?"
“4. If a public service corporation has constructed a pipe line within the right of way of a state highway, by permission of the State Highway Commission of Indiana, has the State Highway Commission the right to require said public service corporation to move said pipe line at the public service corporation’s expense if said Commission shall find such removal necessary for its uses of the real estate for highway purposes?

“5. Where the State Highway Commission of Indiana has constructed a state highway on and over lands by virtue of the grant of an easement from the servient owner, has the State Highway Commission the right to trim or cut trees outside of the construction limits and within the right of way limits of such state highway, without the consent of the owner of the servient estate?”

Questions numbered 1 and 2 are answered in the negative. Question numbered 3 is answered in the affirmative.

The problem involved in question numbered 4 depends upon the particular contract or arrangements under which the pipe lines have been allowed to occupy the highway. Each case will have to be determined on its own merits. This office heretofore held that the Highway Commission could require a traction line to change its tracks from one location to another in the highway at the traction company’s own expense. That ruling, however, was an interpretation of Section 26 of Chapter 53 of the State Highway Commission Act of 1919. The opinion was put upon the ground that inasmuch as the traction company’s franchise had been granted by the state, the traction company was therefore subject to regulation by the state.

Opinions of Attorney General, 1925, p. 423.

Question numbered 5 depends somewhat on the title held by the state in the particular tract of land, but in the absence of some express limitation in the grant, it is my opinion that the State Highway Commission may lawfully cut or trim trees anywhere within the limits of the highway right of way.

In connection with this opinion, I refer also to my former opinions to you dated July 25 and November 18, 1935, and also an opinion dated January 29, 1936, on rural electrification pole lines.