

# MAINE STATE LEGISLATURE

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August 9, 1930

To State Highway Commission

Re: Roping off a section of highway for a street dance.

Answering your recent oral request for an opinion concerning the above matter, I beg to inform you that one of the selectmen of a town has no power to act for the town in such a case as mentioned. The general rule governing the temporary occupation or obstruction of a street is as follows:

"A temporary occupation of a street, or highway, by persons engaged in building, or in receiving or delivering goods from stores, or warehouses, is lawful from the necessities of the case, while a persistent and continuous obstruction of a street beyond what is required for the reasonable use of it, even for such purposes, is unjustifiable.

"The general doctrine with reference to the use of public highways is, that each person has an equal right to their use. What constitutes reasonable use depends upon circumstances of each particular case; and no positive rule of law can be laid down to define and regulate such use, with entire precision, so various are the subjects and occasions for it and so diversified the relations of parties therein interested.

"In determining the question of reasonable use regard must be had to the subject matter of the use, the occasion and manner of its application, its object, extent, necessity and duration."

I do not know of any provision of law that would permit a through thoroughfare to be obstructed for the purpose mentioned in said letter to you, unless there was another reasonably safe thoroughfare provided for the traveling public. . . .

Sanford L. Fogg  
Deputy Attorney General

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