

MAINE STATE LEGISLATURE

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September 21, 1933

State Highway Commission
Augusta, Maine

Gentlemen:

In response to your letter of September 3 relative to the expense of repaving that part of a street in various cities in the state which is ordinarily taken care of by the street railway companies, I beg to inform you that Section 13 of Chapter 28 of the Revised Statutes provides,--

"The funds for construction derived from any bond issue shall be expended on any highway within the compact portions of any town, except in towns of less than five thousand inhabitants, such compact portions to be determined by the commission."

Section 3 of Chapter 65 of the Revised Statutes relative to street railroads, provides that,--

"The municipal officers of any city or town may make at all times, such regulations and requirements as to the mode of use of tracks of any street railroad, the paving, resurfacing, and reconstruction of the streets or roads upon which said tracks may be located ***** as the public safety and convenience may require."

It has been held that the street railway company must at all times keep the portion of the street occupied by its tracks in such a condition as not to endanger the safety of the traveling public, and that it must make its rails and roadbed conform to the level of the street or highway. In case the street railway will conform to such requirements I do not know of any legal reason why the state highway commission cannot use available state funds, exclusive of funds derived from a bond issue, for the purpose of paving up to and between the rails of such railroad.

Very truly yours,

SLF H

Deputy Attorney General