"* * * and in case of tracks it shall be the duty of such owner or owners to pave the portion of such street between the rails of said tracks, and eighteen inches on the outside thereof."

Here we find an affirmative duty of the railroad companies to only pave the portion of a street between the rails of the track and eighteen inches on the outside thereof. The legislature has here said specifically and clearly what the railroad company shall do and nothing more. It would, therefore, appear that the legislature by the Act of 1937 intended to and did relieve the railroad companies of the duty of constructing, maintaining and improving the space between two or more tracks and the only duty of the companies is to improve and maintain the space between the rails of the track or tracks and eighteen inches on the outside of each track.

There can be no question but that the Acts of 1933 and 1937, as to the provisions herein discussed, are in conflict and section 22 of the Acts of 1937 provides that:

"Any part of any law in conflict herewith is hereby repealed to the extent of such conflict."

The aforesaid provisions being in conflict, the provisions of the Act of 1933 are repealed by the Act of 1937.

I am of the opinion, therefore, that the Street Railway Company is not legally required to make the improvement, or pay for the same, designated by the blue coloring.


May 17, 1939.

Hon. T. A. Gottschalk, Administrator,
State Department of Public Welfare,
141 South Meridian Street,
Indianapolis, Indiana.

Dear Sir:

I have your request of May 17, 1939, for an official opinion regarding the construction of House Bill No. 190, which will be chapter 123 of the Acts of 1939 as passed by the General Assembly of the State of Indiana at its recent session.
You ask whether this bill will affect the public assistance program in this State as to our State plans for assistance to the aged, blind and dependent children, under the provisions of the Welfare Act of 1936 as amended.

Section 2 of chapter 123 (House Bill No. 190) is as follows:

"Sec. 2. Nothing contained in this Act shall be construed to be amendatory of or to supersede or repeal any existing laws, neither shall this Act apply to any of the punishable offenses regarding which provision is made in chapter 3 of the Acts of the General Assembly of Indiana of 1936, section 116, page 12 or of any Act amendatory or supplemental thereto."

The punishable offenses to which reference is made in the above section are as follows:

"Whoever obtains, or attempts to obtain, or aids, or abets any person to obtain, by means of a wilfully false statement or representation, or by impersonation, or by other fraudulent means:

(a) Assistance, services or treatment to which he is not entitled;

(b) Assistance, services or treatment greater than that to which he is justly entitled;

(c) Payment of any forfeited installment grant; or, with intent to defraud, aids or abets in buying or in any way disposing of the property of a recipient of assistance without the consent of the county department shall be deemed guilty of a misdemeanor, "*


Specific punishment is thus provided for obtaining fraudulent assistance or doing other fraudulent practices in connection with the granting of assistance. Accordingly, chapter 123, Acts of 1939 (House Bill No. 190) is not applicable, and will not affect the administration of the public assistance program in this State.

Answering your question as written, it is my opinion that House Bill No. 190, which will be chapter 123 of the Acts of the General Assembly of Indiana of 1939, will not affect the public assistance program in this State, as to State plans for assistance to the aged, blind and dependent children under the Welfare Act of 1936 as amended.