Honorable Maurice L. Mendenhall  
Indiana State Senator  
Sheridan, Indiana  

Dear Senator Mendenhall:

You have requested my Official Opinion in respect to the following:

"Would it be possible, under the laws of the State of Indiana, for the town of Sheridan to repair all sidewalks and curbs within the corporate limits of the Town and pay for such repairs out of the parking meter fund?"

The act prescribing disposition and use of fees collected from parking meters in towns is Acts of 1949, Ch. 23, Sec. 3, as found in Burns' (1950 Repl.), Section 48-513, as amended by Acts of 1959, Ch. 322. The act provides that all fees collected from parking meters shall be placed in a special fund and shall be disbursed only for designated purposes, the pertinent one being as follows:

"* * * (c) For the payment of the cost of traffic signal devices used in said cities or towns and also repair and maintenance of any of the public streets and highways where said mechanical parking devices are in use, and all streets connected therewith in said city or town; * * *"

The term "streets" has been defined in its ordinary legal signification as meaning the roadways, the gutters and the sidewalks.

Marion Trust Co. v. City of Indianapolis (1905), 37 Ind. App. 672, 75 N. E. 834, Transfer denied.

Our Supreme Court has in several instances held that when a municipal corporation is authorized to improve streets it may also improve sidewalks, unless the language with which the term "streets" is associated restricts its meaning.
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Wiles v. Hoss (1888), 114 Ind. 371, 16 N. E. 800;

Dooley v. Town of Sullivan (1887), 112 Ind. 451, 14 N. E. 566;

Taber v. Grafmiller (1887), 109 Ind. 206, 9 N. E. 721.

From an examination of the above authorities I must conclude that the town of Sheridan has authority to repair curbs and sidewalks subject to the restrictions of the statute in question. I see no intent in the act to restrict the term “streets” to exclude curbs and sidewalks. Inasmuch as parking meters are installed directly on the sidewalk, it is reasonable to assume that the Legislature intended the fee to be used for their repair. However, Burns' 48-513, supra, contains a limitation in that moneys from the special fund may be used only for the repair and maintenance of streets “where said mechanical parking devices are in use, and all streets connected therewith.” Therefore, repair of curbs and sidewalks would also be limited to such streets.

Therefore, in answer to your question, it is my opinion that the special fund consisting of parking meter fees in the town of Sheridan may be expended for the repair of curbs and sidewalks but this authority is limited to such repair on streets where parking meters are in use and on all streets connected therewith.

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OFFICIAL OPINION NO. 12

May 13, 1959

Mr. John Morris, Commissioner
Indiana Department of State Revenue
141 South Meridian Street
Indianapolis, Indiana

Dear Mr. Morris:

This is in reply to a request of your predecessor, Edwin W. Beaman, former Commissioner, for my Official Opinion in answer to the following question:

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