

# MAINE STATE LEGISLATURE

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**PUBLIC DOCUMENTS**

OF THE

**STATE OF MAINE**

BEING THE

**REPORTS**

OF THE VARIOUS

**PUBLIC OFFICERS  
DEPARTMENTS AND  
INSTITUTIONS**

FOR THE TWO YEARS

**JULY 1, 1926 - JUNE 30, 1928**

PUBLIC DOCUMENTS, 1926-28

(Explanatory Note)

Three reports in this volume cover periods in variance with the given biennium. They are as follows:

1. The report of the Attorney General covers the period from 1924 to 1928.
2. The report of the Bangor State Hospital covers the period from 1919 to 1928.
3. The report of the department of Inland Fisheries and Game covers the fiscal year ending June 30, 1928. No printed report was made for the fiscal year ending in 1927.

# STATE OF MAINE

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REPORT

OF THE

# ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

JUNE 30, 1928

country, and having made such designation, may cause the necessary stop signs to be erected.

Yours very truly,

SANFORD L. FOGG,  
*Deputy Attorney General.*

April 5, 1928.

*Hon. J. W. Hanson, Chief, State Highway Police, Augusta, Maine.*

DEAR SIR: This department is in receipt of your inquiry relative to the rights, duties and authority of members of the State Highway Police under Section 2 of Chapter 144, Public Laws of 1925.

The section in question reads as follows:

"The specific duties of the state highway police shall be to patrol the state highways and other important ways, especially outside the compact portion of cities and towns, for the purpose of enforcing the provisions of this act and all laws relating to motor driven and horse drawn vehicles and all rules and regulations in regard thereto, and of arresting all violators thereof and prosecuting all offenders against the same. The chief and members of the state highway police shall have the same power to serve criminal processes against such offenders as sheriffs and also the same power as sheriffs have to arrest without warrant and detain persons found violating or attempting to violate any other penal law of the state until a legal warrant can be obtained. They shall immediately report by telephone or other expeditious means to the proper authorities all information and complaints by them received concerning the commission of any crime, and shall have the same rights as sheriffs to require aid in executing the duties of their office. They may serve any subpoenas, notices and processes issued by the secretary of state or the state highway commission under authority of this act or chapter two hundred and eleven of the public laws of nineteen hundred and twenty-one and acts amendatory thereof. They shall also at all times be subject to the call of the governor for emergency purposes at his discretion.

The state highway police, sheriffs and deputy sheriffs, constables, city marshal and deputy marshals and police officers of cities and towns shall so far as possible cooperate in the detection of crime, the arrest and prosecution of criminals, and the preservation of law and order throughout the state."

A careful examination of this section of the statute makes it apparent that the legislature intended that the state highway police force should be primarily a force to patrol the highways for the purpose of enforcing all laws relating to motor driven and horse drawn vehicles, and so far as the enforcement of provisions of Chapter 211 of the Public Laws of 1921 and acts amendatory thereof, the highway police have full and complete authority.

The second sentence of the section states that the chief and members have the same power to serve criminal processes against such offenders as sheriffs. The last part of the same sentence provides that they have "the same power as sheriffs have to arrest without a warrant and detain persons found violating \* \* \* \* any other penal law," but this portion of the sentence gives the state highway police no further rights than the right possessed by any individual citizen. A citizen may arrest any person that he sees violating a criminal law. The danger, however, to an individual, and the same danger may exist so far as members of the highway police are concerned, is that if a person is arrested for violating some other penal law, and the court afterwards finds that as a matter of fact there was no violation, the individual or the highway police officer might be obliged to respond in damages for false arrest.

That this seems to be the intention of the legislature is made more apparent by the next sentence which provides that they shall report by telephone to the "proper authorities" any information received concerning the commission of any crime.

The situation, of course, is different in the case where a sheriff or deputy sheriff requires aid of the highway police; and it would appear that the only safe way for the members of the highway police force to act in case of violation of any law, other than the motor vehicle law, is to accompany some sheriff, deputy sheriff or police officer.

Trusting that this answers your inquiry, I am,

Yours very truly,

RAYMOND FELLOWS,

*Attorney General.*