

MAINE STATE LEGISLATURE

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January 31, 1929

To Honorable J. W. Hanson, Chief, State Highway Police
Re: Powers and Duties of the Members

You inquire with reference to the duties and power of the state highway police under Section 2 of Chapter 144, Public Laws of 1925.

I concur in the opinion of my predecessor given to you under date of April 5, 1928*, but am glad to supplement his opinion for your assistance.

Section 2 is in some respects ambiguous particularly in referring in the first sentence to certain specific duties and in the last sentence providing for co-operation in "the preservation of law and order throughout the state".

It is my opinion that the last sentence is incidental to the first. I believe that the duties of the police are limited and defined by the first sentence. All the other sentences are concerned with carrying out the details of this first sentence.

These later sentences, for instance, extend to the police certain powers which sheriffs have. The object of the last sentence is to secure the co-operation between the highway police and other officers in enforcement of laws within their separate provinces. It is not intended to extend the duties of the highway police as defined in the first sentence.

Now what are these duties? Primarily, to patrol in order to enforce laws relating to automobiles and horse-drawn vehicles and rules and regulations relating thereto. These primary duties under the existing law, it seems to me, should be borne in mind at all times and the police should go beyond them only with caution.

Specific interpretation as to the duties of the police in definite cases can better be given as the problem arises. You have suggested some sorts of problem that frequently arise. In general, the following program on some of these problems might be suggested.

An offense under the vehicle laws may properly be investigated by the highway police and prosecuted vigorously.

An offense not directly under the vehicle law but relating to the proper use of the highways under patrol may properly also be investigated and prosecuted. This is not expressly stated but seems a reasonable and natural extension in preserving law and order on these highways.

In circumstances constituting an emergency I should say that the highway police might in a spirit of comity with the local officials co-operate to a reasonable extent. It is difficult to define what action can be taken under these circumstances, but a fairly plain instance might be if one of the patrol should be notified that a fugitive from justice was fleeing through or adjacent to the officer's territory.

*Page 299, 1925-28 Report.

1/31/29

m Except at the expense of some other agency or appropriation than the appropriation for the state highway police, it seems to me that the police should not act as investigators in the detection of crime and the arrest and prosecution of criminals for offenses not specified under the state highway police law or other laws, rules and regulations relating to vehicles.

I do not need to discuss at this time the provision regarding the emergency use of the police at the call of the Governor.

Clement F. Robinson
Attorney General

GFR*LMR