

MAINE STATE LEGISLATURE

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STATE OF MAINE



REPORT
OF THE
ATTORNEY GENERAL

for the calendar years
1955 - 1956

October 18, 1956

To W. H. Bradford, Right of Way Engineer, State Highway Commission

Re: Taxes on State-owned Property Rented for Temporary Use Only

You have requested my opinion as to the State's liability for taxes imposed by a town on property acquired by the State for highway purposes, but which property has been leased by the State pending sale or the advantageous use of such property for highway purposes.

The fact that the State is leasing this property has no effect on the question of taxability, since Section 24 (of Chapter 23, R. S. 1954) authorizes the leasing pending a sale or use. In other words, the State is carrying out its duties or executing its rights under the law.

It has long been established law that municipal governments have no power to tax the sovereign unless that right is specifically given.

L. SMITH DUNNACK
Assistant Attorney General

November 1, 1956

To Henry McCabe, Civil Defense and Public Safety

Re: Power of Arrest

We have your request for an opinion as to whether or not auxiliary police are able to enforce arrests for violations during alerts, under the provisions of the State Civil Defense and Public Safety Laws. We gather that such auxiliary police are members of the Civil Defense program of local, state or sheriffs' organizations.

It is our opinion that auxiliary police, if our interpretation of the words "auxiliary police," as used by you, is correct, are included within safety law enforcement officers of local, state and sheriffs' organizations and have the power of arrest only in times of emergency. We draw your attention to Section 9 of Chapter 12, R. S. 1954. L. D. 353 purported to amend said Section 9 and to incorporate as an amendment that paragraph that is now the last paragraph in Section 9:

"Duly appointed civil defense and public safety law enforcement officers of local, state and sheriffs' organizations shall have power to make arrests of persons found in violation of any provisions of this chapter or any rules and regulations promulgated thereunder in times of emergency necessary to carry out the provisions of section 6 of this chapter."

House Amendment "C" was duly adopted and can be seen as paragraph 2 of Section 9. Paragraph 2 of Section 9 relates to the authority of arrest in times of emergency or during authorized alerts, and grants such power to duly appointed law enforcement officers of local, state and sheriffs' organizations.

The last paragraph of Section 9 relates to the power of arrest in times of emergency, and, in addition to those officers mentioned in the second paragraph of Section 9, such power of arrest in times of emergency has been granted to