

**STATE POLICE JURISDICTION
IN THE UNITED STATES**

by

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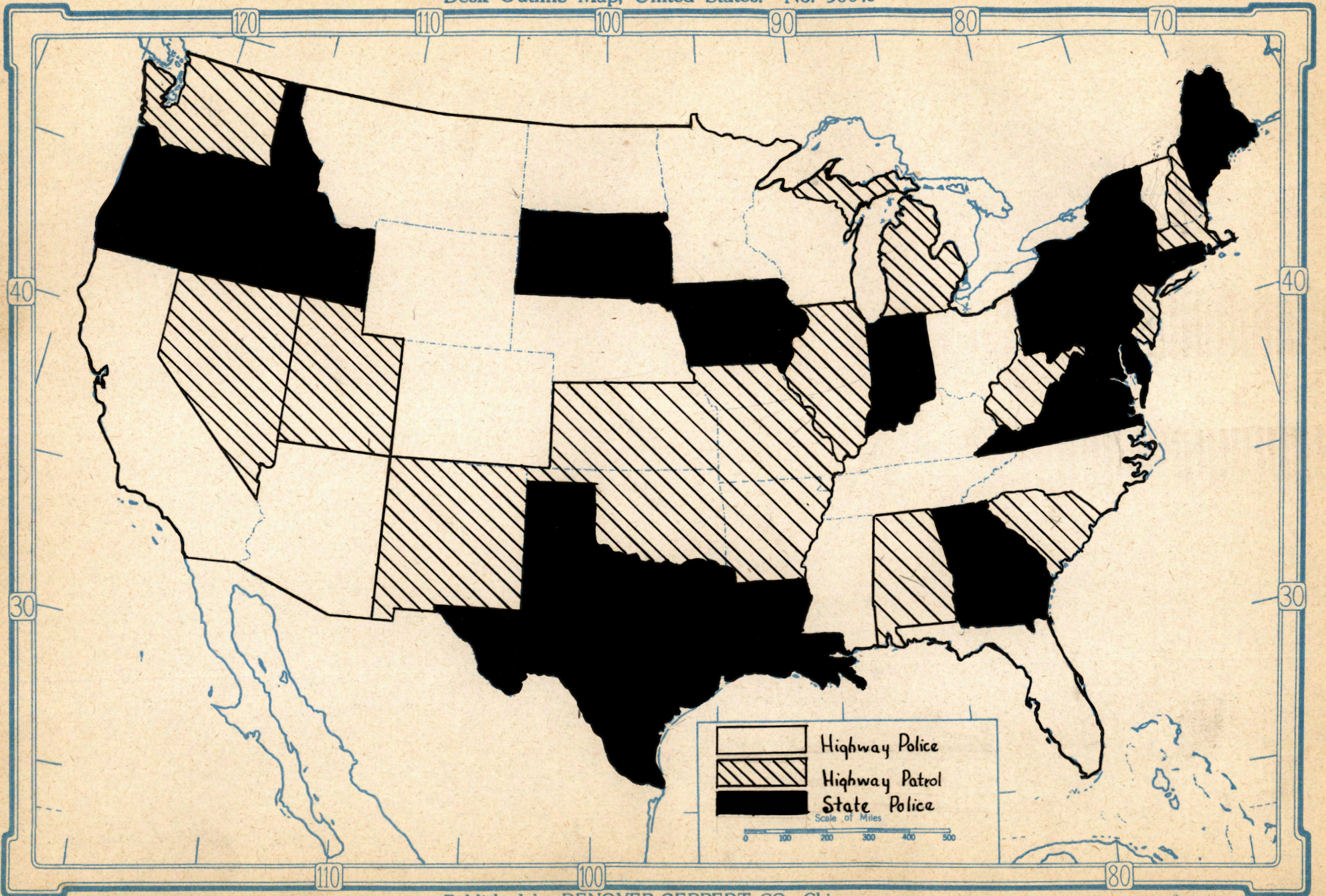
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Desk Outline Map, United States. No. 3001s



CHAPTER I

INTRODUCTION

At the outset of this study of the present jurisdiction of each of the state police organizations of the United States, it will be worthwhile to consider some of the factors which brought the state trooper into the state law enforcement picture. It is also necessary to review briefly the past and present duties of the sheriff. In doing this, it must be remembered that a complete analysis of the authority of the sheriff is beyond the scope of this study, for the intention is to suggest that the present day sheriff, because of the numerous duties imposed on him, could not hope to solve today's law enforcement problem. Since the state police often exercise authority similar to that of the sheriff, the duties of the sheriff as a peace officer require a brief survey.

Several reasons for the rise of the state police have been advanced by the well known writers in this field. Dr. Coates suggests, in the following passage from his article, "Crime Is Local",¹ that law enforcement must, to be effective, move one more step toward complete

1. Albert Coates, "Crime Is Local," The North Carolina Law Review, Vol. 14, No. 4, p. 313, June, 1936.

centralization.

When a felony was committed, in the early days of the common law, and hue and cry was raised after the criminal, the lords of the land were required "to follow with their households . . . Let them follow the track through their own land, and at the end of their own land show it to the lord of the next land, and thus let pursuit be made from land to land with all diligence till the criminals are taken."² Seven hundred years after the appearance of this law the town policeman was tracking the criminal to the end of his own town, the township constable to the end of his own township, the county sheriff to the end of his own county, the state patrolman to the end of his own state, the federal marshal to the end of his own district, and there showing the track to the officers of the adjoining governmental units. . . . The criminal fleeing from the scene of the crime could cross town, township, county, state or federal lines without these constant interruptions and thus hopelessly outdistance his pursuers. These boundary lines said "stop" to the officer and "go" to the criminal. While the officer was in hobbles, the criminal went free. The law was caught in its own toils.

Monroe³ lists the prime cause for the rise of the state police as "the inability of sheriffs and constables to cope with the modern needs." Contributing to this situation are the problems of securing qualified and well-trained personnel, the political pressure which is brought upon law-enforcement officers, and the numerous additional

2. Stephen, History of the Criminal Law (1st ed. 1883) 187, quoting Bracton.

3. David G. Monroe, State and Provincial Police, 1941, Published by The State and Provincial Section, IACP, of the Northwestern University Traffic Institute, Evanston, Ill., pp. 3-4.

duties they are, by historical tradition and current practice, required to perform. For example, the amount of time which is consumed in performing their many civil duties was estimated by various Ohio sheriffs to be from 50 to 75 per cent.⁴ It must also be considered that often the only compensation the sheriff's office receives comes from the fees he collects for serving civil and criminal processes, and for keeping the county jail. Add to these, the personal risk and expense the sheriff assumes in undertaking the apprehension of a criminal and it is easily understood why "the other duties" are more attractive and more assiduously performed. Little wonder that Dr. Heiges found that "the prevention of crime through patrolling was not a sufficiently evident and forceful consideration" to cause great effort to be expended in its behalf.⁵

One of the next reasons which must be considered is the complexity of the crime problem. When the local enforcement officers were created, the crime problem was simple and localized. Today the shifting, multi-racial population of our country is, by its very nature, a source of crime. The ease with which a criminal may

4. R. E. Heiges, The Office of Sheriff in the Rural Counties of Ohio, 1933, Ph. D. Thesis, Columbia University. p. 36.

5. Loc. cit.

travel to the rural areas to commit his crime and then return to the municipality for hiding or to the rural areas to hide when the city police become "too efficient," is apparent to everyone. Smith quotes from the 1932 report of the American Bankers Association to illustrate this point.

. . . 90 percent of these daylight robberies occurred in the suburban or rural districts, where police protection is largely in the hands of constables and sheriffs, whose first duty is to their local community or county. Their work is severely localized and seldom permits of the time or facilities to match the speed of present day highwaymen and their high powered automobiles.⁶

This suggests the third problem, that of the modern highways, a very real reason with today's fast automobiles and not so fast roads. A majority of the states in initiating state police agencies in later years have done so to solve the traffic problem on the highways of the state. The mounting toll of death on the highways prompted this action. Officers who could move with celerity throughout the state, with state-wide jurisdiction, constituted more effective instrumentalities to deal with the traffic law violation problem.

A fourth contributing factor was the lack of uniformity of law enforcement and the lack of coordination

6. Bruce Smith, The State Police, p. 23, quoting The Economic World, October 11, 1924, p. 528.

between the many local groups. The waste and corruption of some of the local officers only aggravated this situation. Just how large a part this played in promoting a statewide organization in each of our states will, of course, never be known. But in effectively handling everyone from the modern criminal to the city tourist, the highways must be policed in a uniform, coordinated manner. The modern criminal can be apprehended only through the use of rapid, efficient means of communication. The modern tourist desires uniform enforcement of the traffic laws, at least throughout a single state.

Finally, the non-existence of centralized law enforcement agency under the control of the chief executive officer of the state was a real impetus behind the enactment of many of the state police laws. This officer had the power and the duty to remedy the aforementioned conditions but no force which he could effectively use to carry out his orders. As Governor Arthur M. Hyde of Missouri reported to 52nd General Assembly of Missouri in 1923,

Nowhere is there any effective agency for enforcement of law and maintenance of order except the National Guard. The state owes an inescapable duty to the public to preserve peace and order. . . . No law can be enforced without the co-operation of three officials, sheriff, prosecuting attorney and court. When one or all of these three fails, anarchy results.

The state government has no power over any of the three. Let it be assumed that in most instances the courts will do their duty. If

the sheriff fails to apprehend or the prosecuting attorney fails to prosecute the people of the county are helpless until the next election. No state authority can either suspend or remove any sheriff, prosecuting attorney or any other local official. No power exists whereby the State can send any of its officials into the county to assist in preserving peace and order. Unless the emergency is grave enough to warrant sending the National Guard, the state and the people are helpless.⁷

Calling out the state militia was the only solution the Governor of Indiana could find when he desired to enforce a statute prohibiting race track gambling.⁸ It is reasonable to suppose that other chief executives found themselves in a situation closely paralleling these two examples. Others may have recommended the passage of the state patrol acts for other reasons. In any case, it is felt that the influence of many governors was instrumental in getting a state police established.

The office of sheriff was started on its long evolution of powers and duties under somewhat similar conditions in eleventh century England. The shire-reeve, or keeper of the shire, was created to provide an officer responsible to the king to enforce the laws decreed by him in the

7. The Missouri Crime Survey, 1926, New York, Macmillan Company, p. 72.

8. Smith, op. cit., p. 35, citing the Annals of American Academy of Political and Social Science, May, 1913, p. 252.

several shires of his country.⁹ His duties continued to increase until, by the time Blackstone's Commentaries were written, they had reached sizable proportions. The United States Supreme Court in the case of South v. State of Maryland¹⁰ summarized the duties of this officer as follows:

The powers and duties of the sheriffs are usually arranged under four distinct classes:

1. In his judicial capacity he formerly held the sheriff's tourn, or county courts, and performed other functions, which need not be enumerated.

2. As king's bailiff, he seized to the king's use all escheats, forfeitures, waifs, wrecks, estrays, etc.

3. As conservator of the peace in his county or bailiwick, he is the representative of the king, or sovereign power of the State for that purpose. He has the care of the county, and, though forbidden by Magna Charta to act as a justice of the peace in trial of criminal cases, he exercises all the authority of that office where the public peace was concerned. He may upon view, without writ or process, commit to prison all persons who break the peace or attempt to break it; he may award process of the peace, and bind anyone in recognizance to keep it. He is bound, ex officio, to pursue and take all traitors, murderers, felons, and other misdoers, and commit them to jail for safe custody. For these purposes he may command the posse comitatus or power of the county; and this summons every one over the age of fifteen years is bound to obey, under pain of fine and imprisonment.

9. W. A. Morris, The Mediaeval English Sheriff to 1300, 1927, Manchester, England, The University Press.

10. South v. State of Maryland, 18 Howard 396.

4. In his ministerial capacity he is bound to execute all processes issuing from courts of justice. He is keeper of the county jail, and answerable for the safe-keeping of prisoners. He summons and returns juries, arrest, imprisons, and executes the sentence of the court, etc., etc., 1 Blackstone's Commentaries 343; 2 Hawk, P. C.C. 8, 4.

By the time the American colonists were ready to establish the office of sheriff as they desired it, some changes had occurred. The governor of the province, now with some assistance from the county commissioners, still selected for the position a man of property. Only in proclaiming the decrees of the governor do we find the "high dignity and impressive ceremony displayed by the English sheriff when publishing royal proclamations or entertaining the assizes."¹¹ His other functions were increasing. Jackson indicates that pioneer conditions were largely responsible for this increase. "The scarcity of population made him an officer of many functions. Since the maintenance of peace is one of the first duties of organized society, around the peace officer was often built the whole structure of government."¹²

The sheriff has today lost his judicial function and much of the pomp and dignity of his English predecessor,

11. Heiges, op. cit., p. 10.

12. William A. Jackson, The Office of Sheriff in Iowa, 1924, Ph. D. Thesis, University of Iowa.

but he has retained practically all of the routine duties. Anderson has summarized the duties of the present day sheriff as follows:

. . . It is not only the power, but the duty, of sheriffs in their various jurisdictions to preserve the peace, enforce the laws and arrest and commit to jail felons and other infractors of statutory or common law, and to execute all process to him directed and attend upon the trial courts of record and to preserve peace and quiet, to execute and carry out the mandates, orders and directions of the courts.

. . . he may command all of the people of his county to attend him; which is called the posse comitatus, or the power of the county; and thus summons, every person above fifteen years old, . . . is bound to attend upon warning under pain of fine and imprisonment. . . the powers and duties of the sheriff are analogous to those imposed by law upon peace officers of modern municipalities, exercised by the sheriff in a larger territory that the lives of the citizens, their persons, property, health, and morals shall be protected and made safe. In the exercise of executive and administrative functions, in conserving the public peace, in vindicating the law, and in preserving the rights of the government, he (the sheriff) represents the sovereignty of the State and he has no superior in his county. When a situation arises calling therefor it becomes the sheriff's right, and it is his duty, to determine what the public safety and tranquillity demand, and to act accordingly.¹³

A perusal of these functions of the present day sheriff shows them to fall roughly into three groups.

13. Walter H. Anderson, A Treatise on the Law of Sheriffs, Vol. I, 1941, Buffalo, N. Y., Dennis and Company, Inc., pp. 4-5.

The sheriff is a servant of the court, a keeper of the jail, and a peace officer.¹⁴ Since the duties and powers of a peace officer are those given, in varying degrees, to the state police, let us briefly examine the judicial interpretation of these powers. What, then, is a peace officer? What powers does he have? Specifically, these duties are difficult to determine. It is possible to draw only a general definition from the court decisions and statutes of the several states. The court in Ex Parte Levy¹⁵ stated that a

conservator of the peace is synonymous with the term Peace Officer . . . /and that they are/ common law officers, and their duties as such were to prevent and arrest for breaches of the peace in their presence, but not to arraign and try the offender.

Again in Martin v. State¹⁶ the court held that "conservator of the peace . . . is a person charged with the duty of keeping the peace." The American Law Institute, summarizing for all of the states, defined the term as follows:

A peace officer is a person designated by public authority, whose duty it is to keep the peace and arrest persons guilty or suspected of crime.¹⁷

14. Jackson, op. cit., p. 7.

15. Ex Parte Levy, 204 Ark. 657, 163 S.W. (2nd) 529.

16. Martin v. State, 190 Miss. 32, 199 So. 98, 100.

17. American Law Institute, Restatement of Torts, Vol. I, 1934, St. Paul, Sect. 114, p. 246.

These sources and the statutes of the states show that while all sheriffs and other policemen are peace officers, or conservators of the peace, not all peace officers have duties equal to those of sheriffs and other policemen. The specific duties of each are usually modified by the laws of the state.

In considering the constant evolution of the sheriff's duties and powers, Dr. Heiges has made the following observation:

. . . it should be pointed out that the functions of the sheriff have changed in accordance with the times; in accordance with the duties the government has been compelled to assume; in accordance with the readiness of the office to perform new functions; and finally, in accordance with the division of powers between local and central governments. Even in the general powers of the sheriff, the change has been great and has been continually one of diminution.¹⁸

That the "times" have changed from former days when no paved roads existed and the sheriff's problem of crime control was strictly local is evident when we consider that there are now over one hundred fifty thousand miles of paved state highways spanning the country. The law enforcement duties of government and the separation of governmental powers have also changed, chiefly because these interstate highways are making more centralized control imperative. The sheriff's duty is, as always, to

18. Heiges, op. cit., p. 10.

his community. The task of policing the highways and of providing state-wide enforcement of the criminal code moves through and beyond his jurisdiction. The modern law enforcement function was one which the sheriffs were not prepared to assume nor, after they have performed their civil duties, had they the time to do so. Perhaps the situation was summarized more adequately in the following quotation from the Missouri Crime Survey:

. . . The office of sheriff was not created to cope with crime, even medieval crime; it was an office of a magisterial and judicial character. While its functions have changed somewhat, it is still in general outline much like it was in England nine hundred years ago. Meanwhile the problem of crime in rural communities has kept pace with the development of mechanical invention, and of means of transportation and communication. Crime has become specialized in method and personnel, the good road and the automobile have exposed the most remote rural sections to sudden attacks from the criminal districts of great cities and the increased well being of the farmer has made his home a tempting prey. . . . 19

Regardless of the reasons for the creation of a uniformed state law enforcement officer, what, in general, did the several states hope to accomplish by having the highways patrolled, "both day and night"? A specific answer to this question can only be given as each state is discussed in turn. The broad objectives, closely paralleling the reasons for creating the state police, are to

19. Missouri Crime Survey, op. cit., p. 73-4.

provide state-wide crime repression and traffic law enforcement.²⁰ Some states saw the need of an officer to enforce the criminal code of the state and so made it the duty of the state police. Others, after spending millions of dollars in constructing new highways, desired an officer to detect violations of the traffic laws and gave only these powers to state police officers. And still others apparently desired an officer of the state to enforce all of the laws of the state and almost succeeded in specifically making it the duty of the state police to act in this manner.

Equally interesting in comparing the present jurisdiction as given each state enforcement agency are the various limitations placed on them. Apparently one of the most active groups in removing their activities from the authority of the state police was organized labor. Almost all of the most recent state police acts in the states where labor is an effective political force have placed intervention in strikes and disputes between employer and employee beyond the jurisdiction of the state police.

Some states have separate state detective agencies patterned after the Federal Bureau of Investigation. Usually these are found in the Attorney General's department. Other states, notably Mississippi and

20. Monroe, op. cit., p. 6.

Tennessee, have a "county patrol." These are sometimes uniformed officers but their authority ends, unless in "hot pursuit," with their respective county boundaries. Neither the state "plain clothesman" nor the county patrol officer is considered in this study.

For discussion of the powers and duties of the state police agencies of the various states it is necessary to group them in general classes.

CHAPTER II

STATE POLICE

For the sake of clarity and convenience in presenting this description of the present jurisdiction of the state police agencies, this study classifies them, insofar as the state law permits, as State Police, Highway Patrol or Highway Police. This cannot be an absolute classification. Many states present borderline cases; others have increased the powers of their state police by having them assume the authority of other police officers; and still others, because the authorized administrative orders have never been issued, are not exercising their full authority.

In general, the State Police have both the power and the duty of enforcing the criminal code and the motor vehicle code, or traffic laws, of the state. The extent of their civil duties and powers are stated in the laws of the state and will be discussed as this study proceeds. Although variations will be noted from time to time, the State Police are usually granted powers equal to those granted sheriffs, constables, and other peace officers, but the jurisdiction of the state trooper is made coterminous with the state boundaries.

The states which provide unrestricted criminal law enforcement powers for their uniformed state law enforcement agencies are referred to in this study as having a Highway Patrol. Usually, the reader will find these states have made it the duty of the Patrol to enforce the traffic laws of the state and to promote safety in highway travel. But, by providing only the power and by omitting the clause which makes it the duty and the responsibility to enforce all of the laws of the state, including the criminal code, they have failed to qualify as State Police. Although some of these departments have supplemented the acts creating the state patrol with administrative regulations which virtually convert them into a State Police, the legal basis for such jurisdiction is lacking and thus they are not so recognized in this paper.

The Highway Police find their activities restricted almost completely to the highways of the state. Again, it is customary to find that it is their duty to enforce the laws and regulations governing the highways. These agencies, however, have neither the duty nor the power, with a few exceptions, to enforce any of the other state laws or to assist in their enforcement. The states providing the exception have their power of enforcing other laws increased so that they may do so but only on the

highways.

This is not to say that the following states which have granted their state police sufficient power and have prescribed that it be their duty to enforce the state laws have thus assured themselves of good, statewide law enforcement. Many other factors enter here, not the least of which are the personnel involved and the restrictions written into the law by the legislature. In general, the best enforcement should result when the duty to enforce the law is prescribed and thus should be found in the states presented in this first section.

Connecticut

The Connecticut State Police have one of the best "blanket" grants of power for the performance of its assigned duties of any of the organizations in this class. This police force,

upon its initiative, or, when requested by any person, shall, whenever practical, assist in or assume the investigation, detection, and prosecution of any criminal matter or alleged violation of law.¹

with the exception, however, that the prosecution of crimes in any town, city, or borough in which a court

1. General Statutes of Connecticut, 1930 rev., Ch. 127, Sec. 2295, p. 784.

established by the General Assembly exists, is to be instituted by a prosecuting officer of such court. As is usual, the state police here have in all parts of the state the same criminal law enforcement powers as sheriffs, policemen or constables have in their jurisdictions.²

Apparently full vested authority is exercised by this department, and, while not entering any formal "working agreements" with other law enforcement agencies, full cooperation is extended to all state and federal officers unless a court order has been issued, directing the state police force to assume full responsibility for enforcing the law.³

Delaware

A shorter section provides the power for the operation of the Delaware State Police. This force has the primary duty of compelling the enforcement of all laws relating to the weight, speed and operation of vehicles upon the highways of the state. However, they are further authorized, empowered and directed to suppress all acts of violence and to enforce all laws relating to the safety of

2. Loc. cit.

3. Reply to questionnaire to the Connecticut State Police, February, 1947.

persons and property. The members of this force have the powers of sheriffs, constables, and other peace officers and are conservators of the peace throughout the state.⁴

In exercising the authority granted, the state police of Delaware have apparently, in the interest of state-wide harmony, bowed to the wishes of the Wilmington Police. The State Police do not enter the city to perform any police duties without first notifying the Wilmington Police and then only in cases where the offenses are committed outside the city. If a crime committed inside the city comes to the attention of the State Police, the Wilmington force is informed of the violation and assumes the investigation and prosecution. Full communication cooperation between the police of this state and the state of Maryland exists and relay services are performed between the two as well as between the local police forces throughout the state.⁵

The only present limitation upon the police power resulted from the Attorney General's opinion advising them that they had no power to enforce local ordinances.⁶ The

4. Revised Code of Delaware--1935, Chapter 166, Section 28, p. 1178, as amended by Laws 1945, Chapter 276, Section 28, p. 1034.

5. Reply to questionnaire to Colonel P. W. Haviland, Superintendent, Delaware State Police, February, 1947.

6. Loc. cit.

reasons for this were unobtainable and are, for this reason, not included in this study.

Georgia

The Georgia State Patrol, one division of the Department of Public Safety, receives its powers from a section of the act creating this Department. This state law enforcement group has the primary duty

to patrol the rural and public roads and highways throughout the state, to prevent, detect and apprehend those charged with committing criminal offenses appertaining thereto, and to safeguard the lives and property of the public.⁷

They are then empowered to cooperate fully with all law enforcement agencies of this state, or any division thereof, or of any other state, for the prevention, detection, or apprehension of a violator of the criminal laws of any state, or of the United States.⁸

But then, after endowing their state police with an adequate grant of power, the legislature added the following:

They shall not exercise any power of arrest except for offenses arising for violation of the traffic laws, or laws regulating the use, ownership and control of motor vehicles,

7. Acts of the State of Georgia--1937, Section 14, p. 337.

8. Loc. cit.

or for offenses committed upon the highways of the State. Provided, that upon request of the governing authorities of the municipality, or of the sheriff of any county or of the judge of the Superior Court of any county of this State, the Georgia State Patrol shall be authorized to render such assistance as such authorities may request in any other criminal case.⁹

This paragraph seemingly puts effective law enforcement by the state police under control of the local authorities, and defeats one of the main purposes for creating a state-wide police agency. Depending upon what the judicial interpretation of the term might be, a further potential restriction is placed on this state police by saying that they shall not "usurp" any of the duties or authority of the sheriffs, police of any incorporated village, town, or city, but

they shall have the right to make arrests within the corporate limits of any village, town, or city in this State where the person or persons committing, or suspected of committing a criminal offense is a fugitive or is likely to be a fugitive on account of a crime committed and the assistance of the officers of the municipality cannot be readily obtained before the escape of the fugitive.¹⁰

Another limiting clause, found in many of the more recent acts creating state police, prevents the police from becoming "strike-breakers" by denying them any power

9. Loc. cit.

10. Loc. cit.

to suppress rioting, labor strikes or picketing, as provided by law except upon direction of the Governor acting upon a request made by the governing body of the affected municipality or county.¹¹

Information supplied by Captain H. F. Culberson, Acting Commanding Officer of the Georgia State Patrol, states that the criminal code is enforced only when a request is made by the sheriff of a county, the judge of the courts and the solicitor general, and, in the incorporated cities, by the mayor of the city.¹² Perhaps this is the safe practice, but hardly one in accord with the letter of the law. The state police act clearly states that one of their primary duties is ". . . to prevent, detect and investigate criminal acts. . . ."

Idaho

When it was first created in 1929, the Idaho Department of Law Enforcement, of which the present-day State Police is the uniformed division, was presented with one of the longest, most detailed lists of rights, powers and duties to exercise of any of the states. These included those vested by law in the secretary of the state highway

11. Loc. cit.

12. Reply to questionnaire to Captain H. F. Culberson, Georgia State Patrol, February, 1947.

commission, insofar as his duties relate to the registration of motor vehicles, the state board of medical examiners, the state board of dental examiners, the state board of osteopathic examination and registration, the Idaho state board of examiners in optometry, the board of pharmacy, the state board of examination and registration of graduate nurses, the board of examining surveyors, the Idaho state board of veterinary medical examiners, the state board of accountancy, the state board of examiners of architects, and the state board of health for the examination of embalmers. They were given the universal duty to supervise the registration and licensing of automobiles, motor vehicles and their manufacturers, dealers, and chauffeurs. Finally, this department was given the power

to enforce all of the penal and regulatory laws of the state, to preserve order, and exercise any and all powers, duties and authority of any sheriff or other peace officer anywhere in the State of Idaho in the same manner and with like authority as the sheriff of the counties.¹³

This agency was directed to employ such deputies as the governor of the state deemed necessary to enforce the above stated criminal code. These deputies were to have the power to deputize other persons when necessary, and the department was empowered to call into the police service

13. Idaho Code, 1932, Chapter 28, Section 1, p. 1280.

of the state any peace officer of the state and, when deemed necessary by the governor, to deputize any citizen of the state "to preserve order and enforce the law in any extraordinary emergency," provided the governor has declared in writing that such an emergency exists and has so designated the persons to be called. Anyone refusing to respond to such a call would be guilty of a misdemeanor.¹⁴ This grants a virtual power of "posse comitatus" to the state police.

In 1937, the department was given the power and the duty to institute educational programs, demonstrations, and exhibits; to examine persons and vehicles by written, oral, and physical tests, without compulsion; to employ expert help in the department; to compile accident statistics and disseminate information obtained therefrom; and to cooperate with the federal and state agencies in the elimination of highway accidents and road hazards.¹⁵

In section four of the 1939 session laws we find a summarization of the previously discussed acts. This section, quoted in full below, supplemented but did not, unless in conflict, repeal hitherto existing provisions.

14. Loc. cit.

15. Idaho Regular Session Acts of 1937, Chapter 160, p. 259.

Section 4. The state police shall have power and the duty to:

- a. enforce all of the penal and regulatory laws of the state;
- b. prevent and detect crime and apprehend criminals and maintain order;
- c. require all persons using the highways in the state to do so carefully, safely, and with the exercise of care for the persons, property, and safety of others;
- d. safeguard and protect the surface and other physical portions of the state highways;
- e. enforce all of the laws of the state enacted for the identification, inspection and transportation of livestock and all laws of the state designed to prevent the theft of livestock;
- f. regulate traffic on all highways and roads of the state;
- g. perform all of the duties and exercise all of the powers of peace officers vested in the commissioner of law enforcement;
- h. execute and serve any warrant of arrest or search warrant issued by proper authority of the state, according to the tenor thereof, in any part of the state;
- i. arrest without warrant, any person committing or attempting to commit in their presence or view a breach of the peace or any other violation of the laws of the state;
- j. cooperate with every other department in the government of the state;
- k. respond to the call of the governor at any time and perform such other police duties as shall be assigned to them by the governor.¹⁶

Subsequent sections gave them additional powers to take fingerprints and other identification data and to record and transmit such data as the superintendent may prescribe. They are to cooperate fully with all law enforcement groups, and to cooperate with and coordinate

16. Idaho Session Laws--1939, Chapter 60, Section 4, p. 107.

law enforcement efforts of all sheriffs, police and constables of the state but not to supersede, assume control of, or to have direction over these local officers.

Section 9 directs the persons having charge of the jail, prison, or reformatory serving the area in which the arrest is made to receive prisoners from the state police and to hold them until otherwise directed by a court of competent jurisdiction, or by the superintendent of the state police, and prescribes the penalties for failure to do so. The last section of this act was one so indicative of the "intention of the framers" and so infrequently found in acts establishing state police that it is quoted here in full:

Section 10. This act shall be liberally construed, to the end that the criminal laws may be efficiently enforced and offenders promptly and certainly apprehended.¹⁷

Indiana

The Indiana State Police are vested with full police power to enforce the highway code and may arrest violators without writ if the infraction occurs in their presence. They are further empowered to adopt such rules and regulations for safeguarding travel upon the highways of the state as are not inconsistent with the laws of the state. It is made their duty to enforce the criminal code of the

17. Ibid., Section 10, p. 108.

state and, in so doing, to have in any part of the state the same powers as sheriffs, constables and other peace officers have in their respective jurisdictions. They may execute, in all parts of the state, any warrant of arrest, or search warrant, which is issued by proper authority, without endorsement. They are ever subject to the call of the governor and he may assign additional police duties as the executive department may deem advisable, or necessary, including the duties to arrest, without warrant, any person committing, or attempting, in their presence or view, a breach of the peace or any other violation of the laws of the state of Indiana. Pending orders of the superintendent, they are empowered to cooperate with other state departments and with local authorities.

The authority of this department is restricted by refusing them power to deal with labor disputes which occur, as most of them do, within the limits of a city. Nor may they suppress rioting and disorder except by direction of the governor or upon the request of the mayor of the city with the approval of the governor. Outside the cities, they must keep "hands off" unless otherwise directed by the governor or unless a request is forwarded to the governor by the judge of the circuit court of the county and meets with his approval. The

closing sentence of the section is an interesting one:

The control or direction of the officers or members of the department hereby created shall not be transferred or delegated to any other department, commission, agency or officer of the state or any subdivision thereof.¹⁸

Information from this department indicates that full vested authority is exercised in all except gambling cases. Here they wait for a call to assist local officers unless the violations are observed during routine operations. The rule is followed by this department that a trooper must be in uniform or in the company of a uniformed officer to make an arrest for a traffic violation. Full cooperation is extended to other law enforcement agencies.¹⁹

Iowa

In general, the state police of Iowa are provided with the same duties and powers as the other states in this class. However, they may not exercise these duties within the bounds of any city or town, except

- a. when so ordered by the direction of the governor;
- b. when request is made by the mayor of any city or town, with the approval of the commissioner;

18. Annotated Indiana Statutes--1945, Chapter 8, Sections 47-855, pp. 316-317.

19. Reply to questionnaire and letter from Colonel Robert Rossow, Superintendent Indiana State Police, March 4, 1947.

- c. when request is made by the sheriff or county attorney of any county with the approval of the commissioner;
- d. while in the pursuit of law violators or in investigating law violations;
- e. while making any inspection provided by this chapter, or any additional inspections ordered by the commissioner;
- f. when engaged in the investigating and enforcing of fire and arson laws.²⁰

When any state trooper is acting under any one of the above, his jurisdiction remains state-wide. Nor shall the above limitations have any effect when a public offense is being committed in the presence of the officer.

After having observed all of the above restrictions, the Iowa Department of Public Safety must proceed,

- . . . a. to enforce all state laws;
- b. to enforce all laws relating to traffic on the public highways of the state, including those relating to the safe and legal operation of passenger cars, motorcycles, motor trucks and busses; to issue operators' and chauffeurs' licenses; to see that proper safety rules are observed and to give first aid to the injured;
- c. to investigate all fires; to apprehend persons suspected of arson; to enforce all safety measures in connection with the prevention of fires; and to disseminate fire-prevention education;
- d. to collect and classify, and keep at all times available, complete information useful for the detection of crime and the identification and apprehension of criminals. Such information shall be available for all peace officers within the state, under such regulations as the commissioner may prescribe;

20. Code of Iowa, Volume I, 1946, Chapter 80, Section 80.9, p. 168.

e. to operate such radio broadcasting stations as may be necessary in order to disseminate information which will make possible the speedy apprehension of lawbreakers, as well as other information as may be necessary in connection with the duties of this office.²¹

Louisiana

The State of Louisiana provides, in an act closely patterned after that of the State of Maryland, the usual power and duty for her State Police in enforcing the criminal and traffic laws and gives them the same immunities on matters of defense as are available to sheriffs, constables and police officers, in any suit brought against them as a consequence of their governmental employment. Any warrant of arrest issued by any magistrate of the state may be served by a member of this force according to the tenor thereof without endorsement.

The above powers and duties are restricted somewhat by making them subject to the provisions of the following sections:

Section 22. The police employees of the Department shall not be used or called upon for service within any municipality in any industrial dispute unless actual violence has occurred therein and then only either by order of the Governor or on the request of the chief executive officer of the municipality wherein the dispute has occurred, if such request is approved by the Governor.

21. Loc. cit.

The restrictions on the action of the police employes of the Department contained in this Section shall not apply in the case of a municipality which has elected to operate under a contract pursuant to Section 24 hereof.

Section 23. The police employes of the Department shall not act within the limits of any incorporated municipality which maintains a police force except (1) when in hot pursuit of an offender or suspected offender; or (2) when in search of an offender or suspected offender wanted for a crime committed outside of the limits of the municipality or when interviewing or seeking to interview a witness or a supposed witness to such a crime; or (3) when requested to act by the chief executive officer of the municipality in question or its chief police officer, as provided under Section 20; or (4) when ordered by the Governor to act within the municipality within question. The restrictions contained in this section on the actions of police employes of the Department shall not apply in the case of a municipality which has elected to operate under a contract pursuant to Section 24 hereof.²²

Section 24, noted in the above quotations, permits the use of state troopers as local law enforcement officers if the mayor of a municipality or the sheriff of a parish elects to employ their services in enforcing the local and state law instead of appointing officers from their own locale. The superintendent may, at his discretion, refuse their request for "the good of the service," but, if they are used as local officers, they remain under the control of the superintendent. However, when they are so

22. Acts of the Legislature of the State of Louisiana, 1936, pp. 285-286.

assigned as local enforcement officers, it is significant that they are not bound by Sections 22 and 23 quoted above. This could be useful in providing better qualified officers for the various localities electing to make use of them. It could also be used, although the practice is not known to exist, as a means of avoiding the letter of the law as found in Sections 22 and 23 above.

The superintendent is empowered to detail members of his department to protect valuable cargoes in shipment by transportation companies of the state.²³

Maine

The Maine State Police are specifically empowered and it is made their duty to patrol the highways of the state, especially outside the compact portion of the cities and towns, for the purpose of enforcing the laws, rules and regulations affecting motor-driven and horse-drawn vehicles, and of arresting and prosecuting violators of the same. In addition, they are vested with the same powers and duties throughout the several counties as the sheriffs in their respective counties, "to serve criminal processes, to investigate and prosecute violators of any law of the state and to arrest the offenders thereof."²⁴

23. Loc. cit.

24. Revised Statutes of the State of Maine, Volume I, Chapter 13, Section 2, p. 196-197.

They have the same power and duty as a sheriff to arrest without warrant for an attempt or a violation of any of the penal laws of the state. The State Police have the same rights as sheriffs to require aid in executing the duties of their office and "they may serve any subpoenas, notices, and processes issued by the secretary of state or the state highway commission under authority of law."²⁵ The governor may call on them for service for emergency purposes at his discretion. In 1941, the State Police were given the direct responsibility for law enforcement at the state agricultural fairs, and in 1943, their duties were increased to include the licensing, regulation, and supervision of the newly legalized game of "Beano."

The legislature wrote into the state police act the statement calling for cooperation between the several law enforcement agencies in "the detection of crime, the arrest and prosecution of criminals, and the preservation of law and order throughout the state."²⁶ Information supplied by Lawrence C. Upton, Chief of the Maine State Police, indicates that excellent relationships exist between the law enforcement agencies at the various levels of government. He describes the situation existing in Maine as follows:

25. Loc. cit.

26. Loc. cit.

. . . We have local police departments in 50 of our cities and larger towns. These organizations handle the majority of law violations, both motor vehicle and general criminal which occur within their jurisdictions. They may and often do call up the State Police for assistance. Then we have a Sheriff's Department in each of our 16 counties. The Sheriffs' Departments and the State Police have the responsibility of policing the rural areas of the state and some 400 towns where there are no organized police departments. For the most part, the State Police handle the traffic cases and the Sheriffs' Departments the general criminal cases. However, in a great many instances we aid the Sheriffs' Departments in the investigations of major criminal cases. The sheriffs also assist this department with traffic work when the same is necessary.²⁷

Maryland

It shall be the duty for police employes of the Department to prevent and detect crime, to apprehend criminals, to enforce the criminal laws and motor vehicle laws of the state, and to perform such other related duties as may be imposed upon them by the Legislature.²⁸

The remainder of the Maryland State Police law, as has been previously pointed out, was followed closely by the state of Louisiana when a state police was created there some 15 years later. For that reason, only the difference between the two will be noted here.

27. Letter from Lawrence C. Upton, Chief of the Maine State Police, February 28, 1947.

28. Annotated Code of the Public General Laws of Maryland, 1939, Article 88 B, Section 21, p. 3222.

Apparently the duty, first and always, of a Maryland trooper is to enforce the Motor Vehicle Code²⁹ and to this end they are granted all the rights, powers and duties of a motorcycle deputy of the Motor Vehicle Department. The deputies of this department having, before the motorcycle deputies were transferred to the State Police, been granted summary power of arrest without warrant for violations of the Vehicle Code.³⁰

The employees of this department are to enforce the fish, oyster, and game laws of the state. They are the guardians of the forests, woods and other natural resources. In enforcing these laws, they have all the powers, rights and duties possessed by wardens, foresters, or conservation officers of the state.³¹

The State Police Department is further directed to cooperate and exchange information with any other department of the state and with police forces everywhere so that greater success in crime prevention and control may result. The superintendent, upon request of a local officer, is empowered to offer such assistance in

29. Superintendent's Directive to Maryland State Police--
"Duties in Field of Enforcement, p. 3.

30. op. cit.

31. Laws of Maryland, 1939, op. cit., Section 22.

detection and identification of criminals and to detail such employees of the department for this purpose as he may deem fit. Interstate compacts may be negotiated with the proper officials of other states by the superintendent, but the results of his negotiations must be submitted to the governor and the legislature for approval.³²

Section 24 of the Maryland state police law is virtually identical with Section 23 of the Louisiana law, both containing the restrictions appertaining to the jurisdiction of the state police in the municipalities of the state. Another interesting restriction is found in the Maryland law. It in effect says that the State police shall not enforce the criminal code or the fish, game and conservation codes in either Charles or Howard counties nor shall the above mentioned Section 24 apply in these counties.³³ This was apparently done as a matter of policy and was the result of a compromise with the local enforcement officers.

New York

In the New York laws, we find the jurisdiction provided in one of the best, broad statements of authority

32. Ibid., Section 23, p. 3223.

33. Ibid., Section 24.

found in this study. It is almost completely void of petty restrictions usually found in an act creating a state police organization. This section is presented here in its entirety:

Section 97. It shall be the duty of the superintendent of the state police and of members of the state police to prevent and detect crime and apprehend criminals. They shall also be subject to the call of the governor and are empowered to cooperate with any other department of the state or with local authorities. They shall have power to arrest, without warrant, any person committing or attempting to commit within their presence or view a breach of the peace or other violation of law, to serve and execute warrants of arrest or search issued by proper authority and to exercise all other powers of peace officers of the state of New York. Any such warrants issued by any magistrate of the state may be executed by them in any part of the state according to the tenor thereof without endorsement. But they shall not exercise their powers within the limits of any city to suppress rioting and disorder except by direction of the governor or upon the request of the mayor of the city with the approval of the governor.³⁴

No information could be obtained regarding the customary authority exercised by this organization.

Oregon

The Oregon State Police are "charged with the enforcement of all criminal laws," and are authorized and

34. Thompson's Laws of New York--1939, Chapter 23, Section 97, p. 1015.

empowered to prevent crime and to pursue and apprehend offenders. They are to obtain evidence for the conviction of offenders, to institute criminal proceedings, and to execute any lawful warrant for violations of the law of the state. They are ordered to make arrests for violations of law committed in their presence and for all felonies committed, as can all peace officers, and to give first aid to the injured and "to succor the helpless." They are placed at the call of the governor and may, if ordered by the governor, be used as a "posse" in a municipality. It is implied here that they may be used as a "posse" elsewhere in the state at all other times.³⁵

They are further empowered to cooperate with any other department or authority of the state, with counties, municipalities or any locality in preserving law and order throughout the state. This they apparently do, even to the extent of deferring to local officers "in local matters."³⁶

Pennsylvania

In 1923, Pennsylvania changed from a highway patrol with restricted powers to a state police. The present

35. Oregon Compiled Laws Annotated, 1940, Chapter 7, Sections 91-710, p. 363.

36. Reply to questionnaire to H. G. Maison, Superintendent Oregon State Police, February, 1947.

police officers are, subject to any inconsistent provisions contained in the Act, to exercise all of the powers and perform all of the duties previously vested by law in the Department of State Police, the Pennsylvania State Police, the State Highway Patrol and the Pennsylvania Motor Police. Their powers and duties are: to assist the governor in the administration and enforcement of the laws of the state as he requests; to assist any administrative department, board or commission in enforcing the laws appertaining thereto, this meeting with the approval of the governor; to cooperate with cities and counties in enforcing the criminal code and preserving law and order throughout the state; to aid in the enforcement of game, fish, and conservation codes; to collect and make available state police organizations of the state, subject to the regulations issued by the Commissioner of State Police, criminal identification information; to enforce the highway laws and to assist the Department of Revenue in the collection of fees and taxes and in the issuance of titles and licenses.³⁷

They are authorized to make arrests for all violations of law witnessed by them and to serve legally issued warrants. The statute further provides:

37. Laws of Pennsylvania--1943, Section 710, p. 98.

. . . They shall have the powers and prerogatives conferred by law upon members of the police force of cities of the first class, and upon constables of the Commonwealth.³⁸

The State Police are further empowered:

. . . to act as game protectors, and as forest, fish, or fire wardens, and for the better performance of such duties,

(1) Seize all guns, boats, decoys, traps, dogs, game, fish, shooting paraphernalia, or hunting or fishing appliances or devices, used, taken, or had in possession, contrary to the laws of this State. Any article so seized shall be held subject to such disposition as the Commissioner of Fisheries or the Executive Director of the Pennsylvania Game Commission or the Secretary of Forests and Waters may respectively determine.

(2) Seize and take possession of all birds, animals, or fish which have been taken, caught or killed, or had in possession, or under control, or which have been shipped or are about to be shipped contrary to any law of this State.

(3) Search without warrant any boat, conveyance, vehicle, or receptacle when there is good reason to believe that any law has been violated, the enforcement of administration of which is imposed on or vested in the Board of Fish Commissioners or the Pennsylvania Game Commission or in the Department of Forests and Waters.³⁹

According to Commissioner Wilhelm, the full authority

to enforce the provisions of the Motor Vehicle Code on the highways and to enforce the criminal code throughout the state is exercised by his department. Their policy is not

38. Ibid., Section 712, pp. 98-100.

39. Loc. cit.

to interfere in local matters unless "conditions" require it.⁴⁰

Rhode Island

Rhode Island grants the usual state police powers and duties to her organization. The members of the police force may serve any criminal process directed to them.

In addition, it shall be:

. . . the duty of its members to prevent and detect crime, to apprehend and assist in the prosecution of offenders and to assist in the investigation and prosecution of any criminal matters in the state.⁴¹

The governor may command their services in the suppression of riots but these powers shall not be exercised in a city unless the mayor or chief of police of the city initiates the request for such action.

Full enforcement of the state traffic and criminal code is effected only in the rural areas. Inside the cities, the State Police act only in emergencies. This consideration is granted mainly because of the larger number of men on the city forces. The state officers can and do enter cities upon the request of the Attorney

40. Letter from Commissioner C. M. Wilhelm, Pennsylvania State Police, February 19, 1947.

41. General Laws of Rhode Island, 1938, Chapter 8, Section 8, p. 68.

General or the Governor of Rhode Island. Full cooperation is extended to all law enforcement agencies by the department but only on an unwritten, voluntary basis. They use no written agreements.⁴²

South Dakota

South Dakota terms its state police, "the Division of Motor Patrol." This division is entrusted with the enforcement of all traffic laws and it is made their duty to assist in the enforcement of all laws relating to the form, weight, operation, registration and licensing of the vehicles upon the highways of the state; to make arrests for violations of these laws committed in their presence and to take any violator and any vehicle which fails to conform to the regulations to the nearest convenient justice of the peace or municipal court for trial; and

To prevent and detect crime, to apprehend criminals, to enforce the criminal and traffic laws of the state, and to perform such other related duties as may be legally imposed upon them, and to such end such agents, patrolmen, and employees, shall be peace officers and shall have the same powers with respect to the enforcement of law as sheriffs, constables, and police officers. Any warrant of arrest issued by any magistrate may be executed by any of the agents, patrolmen, or employees of

42. Reply to questionnaire to Rhode Island State Police, February, 1947.

such Division in any part of the state according to the tenor thereof without indorsement.⁴³

Although admitting responsibility for enforcing the criminal code, Superintendent Goetz stated, "We are not a state police in this state. . . . The duty of the Motor Patrol is to enforce all highway and motor vehicle laws and to inspect headlight stations." Confirmation for this cannot be found in the statutes of the state. The Bureau of Investigation referred to by the Superintendent as having cognizance of all criminal law enforcement receives its powers from an entirely separate section of the laws of South Dakota. If this Division of Motor Patrol has been relieved of its duty to prevent and detect crime and to apprehend criminals, further research has failed to find the legal basis for such a move. Assistance is given all sheriffs and police departments when it is requested.⁴⁴

Texas

In Texas a rather unique situation exists in the law enforcement field. The Texas Rangers, established in the

43. South Dakota Code of 1939, Chapter 44.06, Section 05, p. 230.

44. Reply to questionnaire to W. J. Goetz, Superintendent, South Dakota Division of Motor Patrol, April, 1947.

days of the Republic, were given the same powers and duties as sheriffs in 1874, with the exception that their jurisdiction was statewide. In 1930, the Highway Patrol was created to provide better statewide traffic law enforcement. The Department of Public Safety was brought into existence in 1935 and both of the previously created law enforcement agencies were brought under this new department.

The powers and duties of the Rangers remained essentially the same. The Highway Patrol's authority was increased to include "all the power and authority which is in this act or otherwise by law given to members of the Texas Ranger Force."⁴⁵ They were also given the authority, throughout the state, to make arrests and to execute criminal processes. They may execute civil processes if they are especially directed to do so by a judge of a court of record. When performing similar duties, their powers and duties are to be regulated and defined as are those of sheriffs. These officers perform in a manner similar to all peace officers in making arrests with warrants and without warrants, as now directed by law. They may also make arrests on the spot if the suspect is travelling on a railroad, in a motor vehicle,

45. Vernon's Texas Statutes--1936, Chapter V, Article 4413 (12) p. 836.

aeroplane or boat. Upon making an arrest, members of this force have the duty to "forthwith" deliver the person accused of the criminal offense to the county in which he is charged and placing him in the care of the proper officer.⁴⁶

But in classifying this uniformed enforcement agency as a state police, it is necessary to look beyond the sections which provide the powers for the Rangers and the Highway Patrol. In providing the duties and powers of the Commission which heads the Department of Public Safety, the legislature directed that they

. . . formulate plans and policies for the enforcement of the criminal laws and of the traffic and safety laws of the State, the prevention of crime, the detection and apprehension of violators of the law, and for the education of the citizens of the State in the promotion of public safety and law observance.⁴⁷

Here, the duty is not given to each officer but rather to a responsible commission of three members to do that which is necessary to enforce all of the laws of the state. They must pass this duty on by proper administrative orders to their state police.

The legislature did not leave cooperation to chance within this state. The local enforcement officers,

46. Ibid., Art. 4413 (11) -- (4) p. 836.

47. Ibid., Art. 4413 (4), p. 835.

sheriffs and constables in the counties, and chiefs of police in the cities, are made associate members of the Department. The Director of the Department is empowered to call upon any police officer in any county or municipality to aid and assist, within the limits of their respective jurisdictions, in the performance of any duty prescribed by the state police act. It is made their duty to comply to the full limit requested. The director is further ordered to put into effect plans and means of cooperating with sheriffs, local police and peace officers for the purpose of preventing and detecting crime, apprehending criminals and promoting public safety.⁴⁸

Full authority for enforcing the criminal code and the laws regulating the highways of the state is exercised. This department has no formal agreement with any police agency but works closely with them all.⁴⁹

Virginia

The director and members of the Virginia State Police are vested with the power of sheriffs, and it is made their duty to use their best efforts in enforcing the

48. Ibid., Arts. 4413 (19)-(20)-(21), p. 837.

49. Letter and Reply to questionnaire from Homer Garrison, Jr., Director Texas Department of Public Safety, February 19, 1947.

criminal laws of the state. They do not, according to law, thereby relieve any sheriff, constable, commissioner or revenue or police officer of his duty to aid in the enforcement of the same. All members of this force are given the authority to administer oaths and take acknowledgments and affidavits incidental to the enforcement of the law creating the state police and all other laws of the traffic code.⁵⁰

This State Police concentrates its attention on enforcing the traffic laws of Virginia. Here, too, deference is given to the local officers in the interests of harmonious law enforcement. Full cooperation, including communications assistance, exists between all the police agencies in the state.⁵¹ City or county ordinances can now be enforced at the discretion of the superintendent or other police officers, if they are in receipt of a warrant or a radio, teletype, or telegraphic message from the local authorities directing them to make such an arrest, even though the offense committed be only a misdemeanor.⁵²

50. Virginia Code of 1936 Annotated, Chapter 90B, Section 2154 (53), pp. 393-4.

51. Reply to questionnaire to Captain W. C. Thomas, Executive Officer, Virginia State Police, February, 1947.

52. Memorandum Number 1947-8 from the Virginia Department of State Police to All State Police, January 29, 1947.

CHAPTER III

HIGHWAY PATROLS

It will be remembered that the states placed in the Highway Patrol class have all of the powers but none the responsibilities of the State Police in criminal law enforcement. Usually the Highway Patrol has the duty to enforce the traffic code. Often they do assume the responsibility for making full use of their authority and do enforce all of the state's laws. But when they have not been placed in a position where they can be held accountable for failure to enforce the traffic and criminal laws, then the discretion is left to the official, or officials, heading the state agency of law enforcement. Fortunately, for the states discussed in this chapter, many of these agencies exercise their powers with the result that good state police work is done.

Alabama

Alabama has the shortest of all the state police acts. The sentence prescribing their jurisdiction gives the members of this organization, when authorized in writing by the governor, all of the powers of peace

officers and permits them to exercise such powers anywhere in the state.¹

Arkansas

It is the duty of the Arkansas State Police to patrol the public highways and to make arrests for violations of the motor vehicle and highway codes. They must also assist in the collection of delinquent motor vehicle, license, gasoline and any other taxes that are now or hereafter required by law. All state property is to be protected by them and persons criminally responsible for injury to such property are to be arrested and brought before "the proper officer" for trial.

These police officers are

conservators of the peace and as such shall have the powers possessed by policemen in cities and sheriffs in counties, except that the Arkansas State Police may exercise such powers anywhere in the State.²

They have the power of the State Fire Marshal and are to assist in the investigation of arson and other offenses

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1. Code of Alabama, 1940, Volume VI, Section 71, p. 300.
 2. Digest of the Statutes of Arkansas, 1937, by Walter L. Pope, Chapter 153, Section 6, pp. 3002-3009, amended and revised by: Act 231, March 20, 1945, of the 55th General Assembly of the State of Arkansas, Section 7.

included in their authority by the Director of the State Police. This force is subject to the call of the circuit courts and the governor of the state.

The act creating this highway patrol further states that it is the "intention of the framers" to assist the regularly constituted peace officers in the enforcement of the criminal laws, not to remove any powers previously granted them.³

The members of this force are directed to cooperate with the regular officers in enforcing the criminal code and apparently do so. Their attention is focused on enforcing the highway laws. The criminal law enforcement usually has to await a request from local officials for assistance.⁴

Illinois

The Illinois Highway Maintenance Police have the power and it is their special duty

. . . to enforce the provisions of the "Motor Vehicle Law;" and "an act in relation to the regulation of traffic;" and "an act in relation to the regulation of the operations of trucks designed or used for transportation of property," enacted by the Sixty-first General Assembly;

3. Loc. cit.

4. Reply to questionnaire to the Arkansas State Police, February, 1947.

and of Article VIII of "an act to revise the law in relation to roads and bridges," approved June 27, 1913, as amended; to patrol the public highways and rural districts to make arrests for violations of the provisions of said acts;⁵

They are made conservators of the peace and are given all powers possessed by policemen and sheriffs. Their jurisdiction ends at the boundaries of the state of Illinois. This highway patrol is ordered to cooperate with local officials in enforcing the laws of the state and in making arrests and recovering property.

It is also their duty to collect delinquent auto license fees. They are given the power to stop and weigh, "acting reasonably," any vehicle which appears to be in excess of the weight permitted by law. It is their duty to determine whenever possible, the persons responsible for the destruction of any hard-surfaced roadway and to arrest such persons and present them for trial. In the process of carrying out this law, the patrol must inspect and report on the condition of all highways weekly.⁶

As a matter of policy, this department directs most of its enforcement activity to the traffic laws.

5. Illinois Revised Statutes, 1945, Chapter 121, Section 311, p. 2937.

6. Loc. cit.

They have the power to render assistance to local officers in criminal enforcement and do so occasionally. The Director of this police force, Mr. T. P. Sullivan, explains the situation thus:

It is our policy not to interfere in local governmental law enforcement but rather to actively take part in local law enforcement only on the request of the local officials. It is because we recognize the duties, responsibilities, and prerogatives of the local law enforcement officials that we have no desire nor intention of usurping their powers or supplanting their activities.⁷

In answering the question as to whether the patrol has the power to serve criminal warrants issued by a justice of the peace and to make arrests pursuant to the command of such warrants, Attorney General Barrett placed the following further limitation on this enforcement group.

. . . your attention is again invited to the provisions of Section 4 of the State Highway Maintenance Police Act, which provides that highway police shall be "conservators of the peace and as such have all powers possessed by policemen in cities and sheriffs, except that the maintenance policemen hereby authorized may exercise such powers anywhere in this State."

From what has been said heretofore, it seems clear that this provision of Section 4 does not confer on highway police the power to serve criminal writs which is possessed by city policemen and sheriffs but only

7. Letter from T. P. Sullivan, Director, Illinois Department of Public Safety, February 19, 1947.

authorizes them to act as "conservators of the peace" and in that capacity to exercise the powers possessed by sheriffs and city policemen when these officers are acting as "conservators of the peace."

There are three exceptions which must be noted to the rule that a State Highway policeman is without independent authority to serve criminal warrants and make arrests thereunder. . . .

. . . a State highway maintenance policeman executes a criminal warrant either (1) for the arrest of a person responsible for the breaking or destruction of any improved hard-surfaced roadway, or (2) pursuant to the order of a judge or justice of the peace, or (3) in cooperation with city policemen or sheriffs and at their request, . . . 3

Kansas

It is the duty of the Kansas Highway Patrol

. . . (a) to execute and enforce the law with reference to inspections now and hereafter required to be made by law of the state corporation commission as to motor vehicles and transportation by motor vehicle;

(b) to execute and enforce the law with reference to inspections now and hereafter required to be made by law by the vehicle commissioner of the state highway commission as to license tags;

(c) to execute and enforce the law relating to drivers' and chauffeurs' licenses;

(d) to execute and enforce the laws relating to safety to life and property upon the state highways;

8. Opinion No. 420, Attorney General George F. Barrett of Illinois, September 27, 1945.

9. Kansas General Statutes Supplement--1945, Section 74-20A02.

and to perform such other duties as are later assigned by law or by the superintendent.

The Kansas troopers have the full authority and power of peace officers in carrying out the provisions of this act. Provided, however,

. . . the members of the patrol have full power and authority as now or hereafter vested by law in peace officers when working with and at the special request of the sheriff of any county or the chief of police of any city, or under the direction of a superintendent or in the arrest of anyone violating any law in their presence or in the apprehension and arrest of any fugitive from justice on any felony violation.¹⁰

The Kansas Supreme Court has placed the following interpretation on these powers:

By the proviso these patrolmen have the power of police officers only under certain circumstances, that is, (1) in enforcing the law with reference to inspections and automobile traffic generally; (2) working with and at the special request of the sheriff of any county or the chief of police of any city; (3) under the direction of the superintendent of the patrol; (4) the arrest of anyone violating the law in their presence; (5) in the apprehension and arrest of any fugitive from justice on any felony violation. The Legislature clearly intended to limit the powers and authority of these patrolmen as peace officers to their acts while performing some one of these functions and no other.¹¹

10. Ibid., Section 74-20A03.

11. State v. Bishop, 160 P. 2d, 660.

All authority permitted by the courts and the legislature is exercised by this department. However, their jurisdiction is quite restricted unless the members of this patrol are working with a sheriff or other police officers. In this regard, Superintendent Read writes that while there are "no agreements, perfect harmony exists and full cooperation is given and received," by the law enforcement groups in Kansas. A recent attempt by the governor to have the present highway patrol promoted to a State Police by increasing their powers and duties failed to meet with legislative approval.¹²

Massachusetts

The highway patrol of the Massachusetts Department of Public Safety is given the power of "constables, police officers and watchmen," throughout the commonwealth. They do not have the authority to serve civil processes. As is customary in many of the earlier state law enforcement groups, they have, upon command of the governor, the power to suppress riots and to preserve the peace. Officers of the Division of Inspection and Division of Fire Prevention are, at the discretion of the Commissioner, to be temporarily detailed to serve with the patrol. The

12. Letter from Lathrop B. Read, Jr., Superintendent Kansas Highway Patrol, April 18, 1947.

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head of the department also has the power to detail special state police officers to serve at his pleasure and to exercise such of the powers of the patrol as he deems fit.¹³

Michigan

The members of the Michigan State Police, in the performance of their duties, are individually vested with the powers and provided with all of the immunities and matters of defense available to conservators of the peace in the performance of their duties.

They may also

. . . apply to any judicial officer of the state for the issuance of search warrants, warrants of arrest or any other criminal process or orders necessary where the institution of criminal proceedings for the discovery or punishment of a felony or a misdemeanor of any degree is ordered in writing by the attorney general of the state of Michigan in any case where the proper prosecuting attorney shall fail or refuse to act or to give his approval thereto.¹⁴

Any member of this patrol has the power to execute all civil and criminal processes, when so directed by the governor or the attorney general, in all matters in which

13. General Laws of the Commonwealth of Massachusetts, Chapter 147, Section 2, p. 1832.

14. Michigan Statutes Annotated, Section 4.436.

the state is a party. The commissioner and all members of his department of law enforcement are under the direction of the governor and subject to call by the attorney general's department for service in any investigation within the jurisdiction of his department.

Reversing the precedence given by law in some of the states previously studied, the Michigan statute directs that--

The commissioner shall have authority, upon the order of the governor, to call upon any sheriff or other police officer of any county, city, township or village, within the limits of their respective jurisdictions, for aid and assistance in the performance of any duty imposed by this act and, upon being notified or called upon for such aid and assistance, it shall be the duty of the officer concerned to comply with such order to the extent requested. Refusal or neglect to comply therewith shall be deemed misfeasance in office and shall subject the officer so refusing or neglecting to removal from office.¹⁵

The commissioner has the further duty of formulating and effecting plans of coordination between the law enforcement agencies at the various levels of government for the purpose of prevention, detection of crimes and apprehension of criminals. It is made the duty of local officials to cooperate in such planning. Every telegraph and telephone company is ordered to give priority to the state police and other police agencies in the state when they are notified that such service is urgent.

15. Loc. cit.

Finally, the members of this department are to

. . . have and exercise all the powers of deputy sheriffs in the execution of the criminal laws of the state and of all laws for the discovery and prevention of crime and shall have authority to make arrests without warrants for all violations of the law committed in their presence including laws designed for the protection of the public in the use of the highways of the state, and to serve and execute all criminal processes. It shall be their duty to cooperate with other state authorities and other local authorities in the detecting of crime, apprehending of criminals, and preserving law and order throughout the state.¹⁶

These patrol officers have the statewide authority to make arrests for the violations of state statutes and the penal code, including traffic and motor vehicle laws. However, as a matter of policy, they do not exercise their power in communities having an organized police department unless it is to assist them in emergencies or in specific cases, as directed by the commissioner. This state police has the added assistance of inter-state compacts in pursuing fleeing felons into adjoining states. Cooperation is extended to all federal law enforcement agencies.¹⁷

Missouri

The Missouri State Highway Patrol has the duty of patrolling the highways which are constructed and main-

16. Loc. cit.

17. Reply to questionnaire to Donald S. Leonard, Commissioner, Michigan State Police, February 18, 1947.

tained by the State Road Commission. In so doing, they are to regulate the movement of traffic, to enforce the laws regarding operation and the use of vehicles on the highways, to see that the laws relating to the size, weight and speed of commercial vehicles are observed.

It is the duty of the patrol, whenever possible,

. . . to determine persons causing or responsible for the breaking, damaging or destruction of any improved hard-surfaced roadway, structure, sign markers, guard rail or any other appurtenance constructed or maintained by the commission and to arrest persons criminally responsible therefor and to bring them before the proper officials for prosecution.¹⁸

It has the additional duty of cooperating with the Secretary of State, the Commissioner of Motor Vehicles and the State Inspector of Oils in collecting registration fees, operators' and chauffeurs' licenses and motor vehicle fuel taxes.

The members of the Patrol have the legal power of police officers except in serving civil writs and processes. All courts having jurisdiction of the laws of the state are to recognize them as officers of the state. An officer of this enforcement group can make arrests for violations detected by him, without writ, rule, order or process. The jurisdiction of the Patrol is automatically extended from their respective districts to the boundaries

18. Laws of Missouri--1931, Section 12, p. 234.

of the state when they are in pursuit of a violator or suspected violator of the laws of the state if this is "reasonably necessary" to effect the apprehension and arrest.¹⁹

After the opinion written by W. J. Burke of the Attorney General's office in August, 1941, in which he held the Patrol's activities in criminal law enforcement to be illegal as long as the entire appropriation came from the State Road Fund, the Missouri General Assembly added the following powers:

The members of the State Highway Patrol shall have full power and authority as now are hereafter vested by law in peace officers when working with and at the special request of the sheriff of any county or the chief of police of any city, or under the direction of the superintendent of the State Highway Patrol, or in the arrest of anyone violating any law in their presence or in the apprehension or arrest of any fugitive from justice on any felony violation. The members of the State Highway Patrol shall have full power and authority to make investigations connected with any crime of any nature. The expense for the patrol's operation under this section shall be paid monthly by the state treasurer chargeable to the General Revenue Fund, provided, however, the amount appropriated from the General Revenue Fund shall not exceed ten per cent (10%) of the total amount appropriated for the Missouri State Highway Patrol.²⁰

This placed the Patrol's powers beyond the legal question previously raised and made them truly a state highway

19. Ibid., Section 13.

20. Laws of Missouri--1943, Section 8358a.

patrol with unrestricted powers.

The expanding authority exercised by the Missouri Patrol has been fully treated by Dr. J. G. Heinberg and Dr. A. C. Breckenridge in their pamphlet, "Law Enforcement in Missouri."²¹ Suffice it to say that full powers are exercised and that excellent cooperation exists between the law enforcement officers in the state.

Nevada

Nevada, another of the states giving their highway patrol unrestricted powers, provides that the members of their police force shall have the power,

. . . when executing the orders of the governor, or when called into active service for the preservation of order, the protection of life or property, or the maintenance of peace:

(a) To make arrests, with or without warrant, of any and all persons charged with crime, or of violating any law of this state, or of the United States; to arrest and detain all persons suspected of the commission of any felony, and shall bring such prisoners as may be apprehended forthwith before the proper tribunal for examination and trial in the county where such offense was committed;

. . . 22

21. "Law Enforcement in Missouri, Heinberg and Breckenridge, University of Missouri Studies, Vol. XVII, No. 1.

22. Statutes of Nevada--1943, Chapter 157, Section 6, pp. 221-22.

They are given the power to enlist the assistance of all peace officers and to command other citizens of the state in suppressing all "riots, routs, affrays, or disturbances of any kind." Anyone participating in or assisting such a disturbance may be arrested by the police officers or citizens who are members of any "posse" so formed. The members of this organization have the power to serve any criminal process issued by a court of the state. All of the duties of peace officers are theirs except the serving of a civil process. They have the power, but not the duty, of enforcing the motor vehicle laws and promoting safety in highway travel, "all in conjunction with and as an aid to all other law enforcement officers."²³

Cooperation with local authorities in detecting crime and apprehending criminals is permitted by law. "Mutual assistance" is thus effected in the State of Nevada.²⁴

New Hampshire

The New Hampshire State Police are ex-officio constables throughout the state and have the duty of patrolling the highways of the state to enforce the

23. Loc. cit.

24. Loc. cit.

traffic laws and regulations and the motor vehicle laws which relate to the highways. They have the power to enforce all criminal laws and to make arrests, "under proper warrants", in all counties. They can serve criminal but not civil processes. None of these patrol officers have the authority to act or be called for service within any town "in any industrial dispute unless actual violence has occurred therein, and then only upon order of the governor." Whenever a member of this organization apprehends a person who has committed or attempted to commit a felony, the superintendent is directed to immediately report that fact to the solicitor and to the sheriff of the county concerned and they are to investigate and prosecute the case, with continued cooperation from the state police officers.²⁵

The practice of this state patrol in giving "special attention to areas outside the limits of towns and cities having organized police forces" is quite common. There are, as has been previously pointed out, numerous reasons for this, not the least of which is that of providing the best statewide law coverage for the men and finances made available. Cooperation between the local and state officers and between the agencies of other

25. Revised Laws of New Hampshire--1942, Chapter 145, Section 12, p. 596.

states and of the federal government is ordered by law and includes the sending of information and personnel as the superintendent deems proper.²⁶

New Jersey

The members of the New Jersey Department of State Police are, primarily, to furnish adequate police protection to the rural areas, and, in so doing, are to be peace officers of the state and to have the powers and authorities of police officers and constables. They are subject to the call of the governor. They are given the power to prevent crime, pursue and apprehend offenders, and to obtain such legal evidence as is legally necessary to insure conviction of offenders in the courts. This police agency has the authority to execute any lawful warrant or order of arrest against any person. Like all peace officers, they are to make arrests for violations of law committed in their presence and for all felonies committed.²⁷

This state patrol is authorized to cooperate with other enforcement groups to carry out the powers given

26. Reply to questionnaire to Colonel Ralph W. Caswell, Superintendent New Hampshire State Police, February, 1947.

27. Cumulative Supplement--1940 to the Revised Statutes of New Jersey, Title 53, Chapter 2, Section 1, p. 546.

them, but they are not to be used as a posse in any municipality unless the governor has approved of a request for such action which was initiated by the governing body of that city. The superintendent of this police agency is directed to assign officers and troopers, not to exceed fifteen in number, to aid the superintendent of elections of any county on election day in enforcing the election laws of the state. The superintendent of elections of this county must request such assistance before it can be given. These police officers are given the additional power to act as inspectors of motor vehicles and as wardens for the protection of forests, fish and game of the state.²⁸

This patrol has the duty

. . . upon the request of the issuing body or the representatives of the issuing body, shall serve and execute, or assist in serving and executing, any summons, subpoena, warrant, commitment, attachment, order of arrest, or other process of any kind that may be issued by or by order of the senate, the general assembly, or by the senate and the general assembly concurrently, jointly or in joint session, or by any committee of the senate or of the general assembly, or any joint committee of the senate and general assembly.²⁹

28. Loc. cit.

29. Revised Statutes of New Jersey--1937, Volume II, Title 53, Chapter 2, Section 2, p. 5.

The New Jersey State Police exercise full vested authority only in the rural areas of the state. They cooperate fully with the organized police groups in the small communities. However, although their jurisdiction is legally statewide, many of the municipal agencies have called attention to the "primarily employed in the rural areas" clause in the state police act and have, in the past, refused friendly cooperation. Suffice it to say, jurisdictional disputes are diminishing and better law enforcement is in prospect. Coordination of effort in the improved policing of the state is the end desired by the State Police.³⁰

New Mexico

The members of the New Mexico State Police are conservators of the peace and have full power to apprehend, arrest and bring before the proper court all law violators within the state. They are

. . . ex-officio deputies and agents of all the officers and departments of revenue and of the officers and departments within the state of New Mexico charged with the registration of motor vehicles, the issuance of licenses to operators of motor vehicles, and of the officers and departments of the state of New Mexico charged with the regulation and control of motor vehicles operated upon

30. Reply to Questionnaire to Charles H. Schoeffel, Superintendent New Jersey State Police, February, 1947.

the public highways for hire in the transportation of either passengers or property.³¹

These troopers have the duty of enforcing all the laws of the state regulating the use of the highways.

The state police board is empowered to detail temporarily one or more members of the state police to enforce any law of the state, provided the officer or agency charged with the enforcement of such law initiate the request for such action. By using this provision, it would be possible to convert this highway patrol into a state police agency. But, as previously pointed out, the duty to enforce all of the state's laws is not prescribed in the law and therefore the requirements of a State Police are not filled.³²

This may be the reason for the statement by the New Mexico agency that they have the responsibility of enforcing the criminal code. No other reason for such a statement could be found. They do cooperate, by mutual understanding, with local and county officers when their assistance is requested. The violations of the Federal law are reported to the proper Federal agency.³³

31. New Mexico Statutes, 1941 Annotated, Volume III, Chapter 40, Section 217 (b), p. 218.

32. Ibid., Section 217 (d).

33. Reply to questionnaire to H. W. Beasley, Chief of the New Mexico State Police, February, 1947.

Oklahoma

Most of the prescribed jurisdiction of the Division of Highway Patrol, Oklahoma Department of Public Safety, deals only with the highways. They have the power of peace officers in carrying out the provisions of the state police act or any other law relating to the use of the highways. They can be directed to enforce any other law of the state by the governor.

Their traffic law enforcement activities are prescribed as follows:

(3) At all times to direct all traffic in conformance with law and in the event of a fire, or other emergency, or to expedite traffic, or to insure safety, to direct traffic as conditions may require, notwithstanding the provisions of law. Any patrolman shall have the authority, and it shall be his duty, to require satisfactory proof of ownership of the contents of any motor vehicle as defined in this Act; including livestock, poultry or the carcasses thereof. In the event that the proof of ownership is not satisfactory, it shall be the duty of the patrolman to take the motor vehicle, driver, and the contents of the motor vehicle into custody and deliver same to the sheriff of the county wherein the cargo, motor vehicle and driver is taken into custody.

(4) When on duty, upon reasonable belief that any vehicle is being operated in violation of any provisions of this Act, or any other law regulating the operation of vehicles, to require the driver thereof to stop and exhibit his driver's license and the registration plates and registration card thereon or to any inspection and test of the equipment of such vehicle.

(5) To inspect any vehicle of a type required to be registered hereunder in any public garage or repair shop or any place where such vehicles are held for sale or wrecking, for the purpose of locating stolen vehicles and investigating the title and registration thereof.

(6) To serve all warrants, relating to the enforcement of the laws regulating the operation of vehicles or the use of the highways.³⁴

In the criminal enforcement field, the Patrol has the power to arrest without writ, rule, order or process any person detected in the act of violating any law of the state. The clause extending the jurisdiction of any member of the patrol beyond his own district when he is in hot pursuit of a criminal or suspected criminal is identical with the similar clause in the Missouri law, enacted six years earlier.³⁵

The Patrol is somewhat limited in making their powers and duties subordinate to and in no way a limitation on those of sheriffs or other peace officers of the state. The state troopers cannot execute a civil process.

The full authority given this patrol is exercised, even to the extent of accepting voluntarily the

34. Oklahoma Statutes Annotated--1937, Title 47, Chapter 10, Section 366, p. 150.

35. Loc. cit.

responsibility for enforcing the criminal code.³⁶

South Carolina

The Highway Patrol of South Carolina is "authorized, directed and required" to enforce the laws relating to the use of the highways, and to this end shall patrol the highways of the state. Their powers are equal to those of sheriffs in their respective counties in the serving of criminal processes against offenders; in arresting without warrants and in detaining persons "found violating or attempting to violate any motor vehicle laws . . . , until a legal warrant can be obtained"; and in requiring aid in executing the duties of their office.³⁷

In the interest of better statewide law enforcement, the governors of South Carolina have, with one exception, commissioned the members of the Highway Patrol as State Constables ever since the creation of the South Carolina Highway Patrol in 1930. The section of the laws of South Carolina which provided the powers of these constables and which empowered the governor to make these appointments is quoted in full:

36. Reply to questionnaire to J. M. Gentry, Commissioner, Oklahoma Department of Public Safety, February, 1947.

37. Code of Laws of South Carolina--1942, Volume 3, Chapter 128, Section 6004, p. 999.

It shall be the duty of the sheriffs, and their deputies, magistrates, constables, rural police, city and town officials and all peace officers to enforce the provisions of all the criminal laws of this State, and the Governor may, at his discretion, appoint such deputies, constables, detectives, as he may deem necessary to assist in detection of crime and the enforcement of any criminal laws of this State, the salaries and expenses of such deputies, constables and detectives appointed to be paid as now or hereafter provided for by law: provided, that appointments by the Governor may be made hereunder without compensation from the State, and that any appointments made hereunder may be revoked by the Governor at his pleasure, whether appointee be paid by the State or not: provided, that all appointments under the provisions of this section shall expire sixty days after the expiration of the term of the Governor making said appointment.³⁸

This practice was recognized in the case of *State v. Luster*³⁹ in which the highest court of appeals in South Carolina held that a highway patrolman, being also a state constable, had the right to arrest anywhere, without a warrant, a person committing a misdemeanor in his presence. However,

. . . in view of the decision by our Attorney General that the commissioning of Patrolmen as State Constables created dual office holding in violation of our Constitution, our present Governor refused to issue the Commissions.⁴⁰

38. *Ibid.*, Volume 2, Section 3096, p. 730.

39. *State v. Luster*, 178 S. C. 199, 182 S.E. 427.

40. Letter from W. L. Hardeman, Director, South Carolina Highway Patrol, July 2, 1947.

The 1947 legislature immediately remedied this situation by increasing the powers of the patrolmen. They now have all of the power and authority as now held by the Deputy Sheriffs in enforcing the criminal code.⁴¹

Section 3493 of the 1942 Code provides that

The said deputies shall have authority for any suspected freshly committed crime, whether upon view or upon prompt information or complaint, to arrest without warrant, and in pursuit of the criminal or suspected criminal, to enter houses or break and enter the same, whether in their own county or in an adjoining county, and they shall have the right and authority to summon the posse comitatus to assist in enforcing the laws and in arresting violators or suspected violators thereof; and any citizen who shall fail to respond and render assistance when so summoned or called upon shall be guilty of a misdemeanor, and, upon conviction, shall be punished by imprisonment for thirty days, or by a fine of not less than thirty dollars nor more than one hundred dollars. When an arrest is made without warrant the person so arrested shall be forthwith carried before a magistrate and a warrant of arrest procured and disposed of as the magistrate shall direct.⁴²

Thus we see that while the powers specifically allotted to the Highway Patrol, when it was created, were restricted, it has always possessed full authority to enforce all of the laws of South Carolina by the adaptation of another of the governor's powers.

41. Acts of South Carolina, 1947, No. 354, Section 2.

42. Laws of South Carolina, op. cit., Section 3493.

The powers of this Patrol were clarified and somewhat limited in the case of *Yongue v. National Surety Corporation et al.*,⁴³ in which it was held that they are not authorized to make arrests without warrant for misdemeanors which are not committed in their presence.

Section 4 of the new state patrol act orders that upon request, assistance is to be given any sheriff "in the solution of any crime and the apprehension of any law violator."⁴⁴ This provides a sound legal basis for the mutual cooperation which has existed. Reciprocal agreements have, in fact, existed between this department and those of most of the other states for some time.⁴⁵

Utah

The Utah Highway Patrol has the duty to enforce the laws, rules and regulations governing the use of the state highways. They are to regulate traffic on all roads of the state. This law enforcement agency also has the duty to

43. *Yongue v. National Surety Corporation et al.*, 190 S. C. 421, 3 S. E. (2nd) 198.

44. Acts of South Carolina, 1947, Number 354, Section 4.

45. Reply to questionnaire to W. L. Hardeman, Director, South Carolina Highway Patrol, February, 1947.

. . . (c) Respond to the call of the governor for emergency or other purposes at his discretion and respond to the call of the liquor control commission in an emergency to enforce the liquor laws of the state.⁴⁶

Each member of this police force has power of peace officers throughout the state. They are authorized to serve criminal but not civil processes. Their powers include those of arresting and prosecuting violators of any state law and, in so doing, to require aid in executing their duties, as can all peace officers. But these powers and duties shall be supplementary to and not a limitation on those of other peace officers.⁴⁷

Evidence cannot be found to support Superintendent Dow's statement that his Patrol had the responsibility for enforcing the traffic and criminal laws of the state. They are apparently primarily concerned with traffic control. Just how much the jurisdiction is extended by cooperation cannot be deduced from the statement that "this department attempts to cooperate to the fullest extent with all other law enforcement agencies."⁴⁷

Washington

The officers of the Washington State Patrol have the

46. Laws of Utah, 1941, Chapter 14, Section 5, p. 42.

47. Ibid., Section 6.

48. Reply to questionnaire to P. L. Dow, Superintendent, Utah Highway Patrol, February, 1947.

duty and the power of enforcing the traffic code. They also have, subject to the direction and control of the chief of the Patrol, the police powers and duties which are vested in sheriffs and peace officers generally.⁴⁹ More specifically, the responsibilities of this Patrol, as interpreted by the executive department of Washington, are as follows:

The first of these and the primary one in the Patrol's work is that of controlling movement of traffic on the rural highways of the state, to the end that vehicular and pedestrian movements are carried on with the greatest degree of efficiency and safety.

The second responsibility is that of testing all drivers in the State before they are granted a Washington state license and of issuing all renewals on drivers licenses.

The third major activity is that of the Load Control operation which concerns itself with the enforcement of all laws and rules and regulations governing the size and weight of trucks and like vehicles which travel on rural highways.

The fourth in this list of responsibilities is that of Vehicle Safety Inspection. This division is concerned with the operation of vehicle testing lanes for the purpose of determining the safety of vehicle equipment of all vehicles operating in the state and also with carrying out semi-annual inspections of all school busses operating in the state.

Another responsibility which has recently been given to the Patrol is handled by the Commercial Motor Vehicle Safety Division. This Division's

49. Remington's Revised Statutes of Washington, Volume 7A, Chapter XIX, Section 6362-60, p. 245.

problem is that of furthering safe operation on commercial type vehicles throughout the state and of recommending changes in our laws, in the laws of neighboring states and in Federal laws which will bring about a greater uniformity of operation for this type of vehicle.⁵⁰

The Bureau of Identification has the duty of collecting criminal identification material from this and other states for the use of police agencies in Washington.

The full police power given to the officers of the Patrol has never been used to a great extent. General criminal law enforcement is left to the county sheriffs and local police chiefs. Assistance has been given when requested by these officers.⁵¹

West Virginia

The officers of the West Virginia Department of Public Safety (West Virginia State Police) are authorized

. . . to make arrests anywhere within the confines of the state of any and all persons charged with the violation of any law of this state, or of the United States, and when a witness to the perpetration of any offense or crime, or to the violation of any law of this state, or of the United States, may arrest without warrant; to arrest and detain any and all persons suspected of the commission of any felony or misdemeanor whenever complaint is made and a warrant is issued thereon for such arrest, and any and

50. "The Washington State Patrol", Executive Department Information Pamphlet, pp. 1-2.

51. Ibid., p. 1.

all persons so arrested shall be forthwith brought before the proper tribunal for examination and trial in the county where the offense for which any such arrest has been made was committed;⁵²

They are empowered to serve criminal processes issued by any court or justice of the peace in the state.

The members of this Department of Public Safety are also forest patrolmen, game and fish wardens and deputy prohibition officers. They are to perform the duties and exercise the powers of such officers within the confines of the state. The commissioner of prohibition calls for their assistance, if needed, in apprehending persons violating the prohibition laws of the state. In this connection, they are authorized to serve and execute warrants of arrest and warrants for the search of any premises, if properly issued, and to exercise all powers except those of civil nature, conferred by law on sheriffs, constables or other peace officers of the state.⁵³ In addition

. . . Any member of the department of public safety knowing or having reason to believe that anyone has violated the law may make complaint in writing before any court having jurisdiction and procure a warrant for such offender, execute the same and bring such person before the proper tribunal having jurisdiction.⁵⁴

52. West Virginia Code of 1943, Annotated, Volume I, Chapter 15, Section 1247 (11).

53. Loc. cit.

54. Loc. cit.

They may serve summons or processes, issued by the proper court, requiring the attendance of witnesses in the same manner as sheriffs.

This agency is authorized to cooperate with local authorities in enforcing the criminal laws of the state of West Virginia, or of the United States, or of any ordinance of any municipality of the state.⁵⁵ This forms the legal basis for the actual cooperation which the present officials of the State Police believe to be "remarkably good."⁵⁶ There is every reason to believe that it should be excellent when the following section is considered:

. . . Each member of the department of public safety, when called by the sheriff of any county, or when the governor by proclamation so directs, shall have full power and authority within such county, or within the territory defined by the governor, to direct and command absolutely the assistance of any sheriff, deputy sheriff, constable, chief of police, policeman, town marshal, game and fish warden, deputy prohibition officer and any and every peace officer of the state, or of any county or municipality therein, or of any able bodied citizen of the United States to assist and aid in accomplishing the purposes expressed in this article. When so called, any officer or person shall, during the time his assistance is required, be and be considered to be, for all purposes, a member of the department of public safety force and subject to all the provisions of this article.⁵⁷

55. Loc. cit.

56. Reply to questionnaire to the West Virginia State Police, February, 1947.

57. West Virginia Code, op. cit.

The present statutory limitations on this State

Police are:

- (1) They may not serve civil processes,
- (2) No member may be active in any political contest, committee, primary, assembly or convention, or in any general or special election except to cast his vote,
- (3) No member may be detailed or ordered to duty at or near any voting precinct except to cast his vote,
- (4) No member may be quartered on the property of an employer of twenty-five or more persons, and
- (5) Members shall not, in any labor dispute aid or assist either party thereto, but shall in such cases see that the statutes and laws of the state of West Virginia are enforced in a legal way and manner.⁵⁸

58. Questionnaire, op. cit.

CHAPTER IV

HIGHWAY POLICE

The states whose law enforcement groups remain to be discussed in this chapter have failed to give extensive criminal law enforcement powers to their state police agency. To them, the state uniformed police are traffic officers and are to be used almost entirely for the apprehension of traffic law violators. Five of the states discussed in this chapter, California, Minnesota, Mississippi, Montana and Ohio, do, it is true, have full authority to enforce all of the laws of the state but they have such authority only on the highways, or when in hot pursuit of a person who has committed an offense on the highway.

Arizona

In the state of Arizona, the authority is prescribed as follows:

The superintendent shall have the authority to require the patrol division of the Arizona state highway department to assist in the enforcement of the provisions of this act, and said highway patrol division shall have full authority in the enforcement of the provisions of the act.¹

1. Arizona Code Annotated--1939, Chapter 66, Section 528, p. 199.

In addition to enforcing the provisions of the state highway act, they also have full authority for enforcement of the motor fuel act.² These patrolmen are vested with the power of peace officers in enforcing the laws relating to the use of the highways and the operation of vehicles thereon. It is made their duty to patrol the highways of the state, day and night, and to enforce the highway code. They are to investigate all accidents occurring on the highways and procure the driver's name, the description and the license number of the motor vehicles involved. This report of the accident is to be forwarded to the vehicle superintendent.³

The only statutory limitation, beyond being confined to traffic law enforcement, is the familiar clause forbidding to these troopers the power to act as peace officers in connection with any strike or labor dispute.

The Arizona Code confines this agency to their practice of holding "strictly to the highways, and also enforcing laws pertaining to the Motor Vehicle Division."⁴ They exercise full powers and work in harmony with such

2. Ibid., Section 325.

3. Ibid., Section 701, 704.

4. Reply to questionnaire to Arizona State Highway Patrol, April, 1947.

city, county and federal enforcement agencies as are available.

California

The officers of the California Highway Patrol are given the powers of peace officers but are not to exercise these powers except when enforcing the traffic code, when in pursuit of an offender, or when making arrests for crimes or offenses committed in their presence or on the highways. It is made their primary duty to enforce the highway code and all acts relating to the use or operation of vehicles upon the highways. They are to direct traffic in accordance with the provisions of law and, in the event of a fire or other emergency, to expedite traffic and to insure its safety, regardless of the provisions of law. When they are on duty, the members of this force are empowered to stop any vehicle for inspection of the vehicle, the equipment, license plates or registration card if they suspect that it is being operated in violation of the highway laws. In locating stolen automobiles and trucks, they are authorized to stop vehicles on the highway or to enter any garage or repair shop to inspect any vehicle required to be registered by the highway code. They are to serve all warrants which relate to the enforcement of the traffic laws. They have the further authority

. . . To stop any vehicle in or on which is being transported on any highway any timber products, live stock, poultry, or farm produce and inspect the bills of lading, shipping or delivery papers or other evidence to determine that the operator thereof is in legal possession of the load and upon reasonable belief that the operator of such vehicle is not in legal possession thereof shall take custody of such vehicle and load and turn the same over into the custody of the sheriff of the county wherein such timber products, live stock poultry, farm produce, or any part thereof is apprehended.⁵

All sheriffs are directed to receive such stolen property and to immediately proceed, in cooperation with the Patrol, with the investigation and legal disposition of these confiscated goods.

In 1935, this highway police group was provided with

. . . the power to investigate accidents resulting in personal injuries or death and to gather evidence for the purpose of prosecuting the person or persons guilty of any violation of the law contributing to the happening of such accident.⁶

They were given the duty to report any fence damaged by traffic accident to "the owner, lessee, occupant or person in charge" or to the Patrol's headquarters.⁷

They cooperate with other agencies as far as possible.⁸ This department follows the practice of

5. Deering's California Codes--1943, Chapter II, Section 135, pp. 27-29.

6. Loc. cit.

7. Loc. cit.

8. Reply to questionnaire to E. Raymond Gato, Chief, California Highway Patrol, February, 1947.

enforcing only the vehicle code unless violations of other laws occur in their presence or upon the highways.

Colorado

The patrol officers of Colorado have the power to make arrests for violations of

. . . any law of this state regulating the operation of vehicles and the use of the highways of concerning motor vehicle license and taxes, motor fuel tax, highway compensation taxes, or any inspection laws of this state and to enforce the automobile theft act and auto camp and auto tourist camp act . . .⁹

They have the power to inspect, examine, investigate, impound or hold any vehicle for any of the aforementioned violations. A warrant must be used if the violation was not witnessed by them. If they have reasonable belief that any vehicle is being operated contrary to the laws regulating the use of the highways, they are empowered to stop the vehicle, examine the driver's license and registration card and make a complete inspection of the vehicle. They have the usual power to enter garages, repair shops, parking lots or any other public place for the purpose of locating stolen vehicles or parts thereof. These patrolmen are authorized to serve warrants, notices, summons or other processes relating to the enforcement of

9. Colorado Statutes Annotated, 1945 Cumulative Supplement, Chapter 143, Section 135 (9), p. 179.

the highway laws. They are to investigate traffic accidents and make reports thereon. Reported thefts of vehicles are investigated and stolen vehicles are held for legal disposition.

They have powers similar to those of the California Patrol which permit them to stop any truck and examine its cargo or the title thereof. In this regard they are empowered to make arrests for the violation of any Colorado law relating to livestock larceny and the transportation thereof. They are to assist the State Board of Stock Inspection Commissioners in the enforcement of any law within the jurisdiction of this board.

The supervisor and each officer have it as their primary duty

. . . to promote safety, protect human life and preserve the highways of the state of Colorado by the intelligent, courteous and strict enforcement of the laws and regulations of this state relating to highways and the traffic on such highways and to enforce the collections of motor vehicle licenses and taxes, motor fuel taxes, highway compensation taxes and all other laws of this state concerning inspection, registration and regulation of all vehicles and the cargoes transported therein.¹⁰

These highway police officers cannot be used by any authority in the state to enforce any law of the state other than those specifically provided in this act, nor

10. Loc. cit.

can they be "deputized as deputy sheriffs or other peace officers by local or state authority." They are not to be required to serve on "strike duty, riots, lockouts or other labor disputes" nor to serve as are the national or home guard.¹¹

In practice, also, they restrict their activities to promotion of safety and the protection of life and property on the highways of Colorado. They cooperate in any way possible with all local, Federal and other state organizations.¹²

Florida

It is the duty of all officers of the Florida Highway Patrol

To patrol the public highways and to enforce all State laws now in effect, or hereinafter enacted, regulating and governing traffic, travel and public safety upon the public highways, and providing penalties for violations thereof, including the operation, regulation and licensing of motor vehicles and drivers thereof, and other vehicles thereon, with full police power to bear arms and to arrest persons violating said laws; provided, however, said Patrol Officer shall not be required to patrol city streets, but nothing is intended hereby to prevent them, if necessary in enforcing

11. Loc. cit.

12. Reply to questionnaire to J. J. Marsh, Chief, Colorado State Patrol, February, 1947.

said State traffic laws, from making arrests within the limits of incorporated cities and towns.¹³

They are to assume the duties of weight inspectors, formerly in the State Road Department. In this connection, the Director of the Patrol is ordered "to put into effect plans and to make appropriate rules and regulations" to insure the fullest cooperation, efficiency and economy.

In all cases where arrests are made by the Patrol, the person is either to be "immediately conducted" to the sheriff of the county wherein the arrest is made and delivered to him, or is to be required to give sufficient bond to insure his appearance in court. The sheriffs are protected in this state by having all fees for these arrests delivered to them. Furthermore,

. . . nothing herein contained in this Section shall be construed in any wise a limitation upon the existing powers and duties of Sheriffs, police officers or other law enforcement officers.¹⁴

These patrolmen, except as authorized in this highway patrol act, are not to perform the duties and functions of sheriffs, constables or other peace officers.

This Patrol confines its activities to traffic law enforcement and does not exercise full police powers, nor

13. General Acts and Resolutions of Florida, Volume I, 1941, Chapter 20451, Section 5, p 756.

14. Loc. cit.

do they have any formal understanding or "working agreement" with any other law enforcement group.¹⁵

Kentucky

The Kentucky Highway Patrol is a division of the Highway Department. As such, its powers and duties are rather difficult to determine. Section 281.380 which authorizes the commissioning of the employees of the Department of Revenue and the Division of Motor Transportation as highway policemen, provides that such employees

. . . have all the powers of peace officers in respect of the enforcement of this chapter /Highway Code/ and of all the laws relating to motor vehicles, and particularly the powers . . . in KRS 281.370 granted to other officers.¹⁶

The section referred to makes it their duty to enforce the highway laws and to make arrests for violations of these laws. These arrests may be made without warrant if the violation occurs within their view, and with warrant or summons if the offense committed is not observed. Pursuit is to continue beyond the limits of each patrolman's jurisdiction for an offense committed in his district.¹⁷

15. Reply to questionnaire to Florida Department of Public Safety, March, 1947.

16. Kentucky Revised Statutes--1944, Chapter 281, Section 281.380, p. 2110.

17. Ibid., Section 281.370.

In practice, only the motor laws are enforced. No "working agreements" or formal understanding exists between this agency and others within or without the state, nor are any of them contemplated.¹⁸

Minnesota

The Minnesota Highway Patrol has, upon the highways of the state

. . . the same powers with respect to the enforcement of laws relating to crimes, as sheriffs, constables, and police officers have within their respective jurisdictions. . . .¹⁹

insofar as is necessary to protect life and property on the highways. Their jurisdiction is automatically extended to all roads and highways of the state when they are in pursuit of an offender for an offense committed thereon. They have the power to enforce the laws relating to the protection and use of the highways. These officers are enjoined from exercising any power or authority "in connection with strikes or industrial disputes."²⁰

18. Reply to questionnaire to Kentucky Highway Patrol, April, 1947.

19. Session Laws of the State of Minnesota, Fifty-Second Session--1941. Chapter 175, Section 2554, pp. 357-68.

20. Loc. cit.

They are authorized, under the specific instructions and regulations of the commissioner of highways, to cooperate with the sheriffs and other police officers. In so doing, they are to exercise the full powers previously restricted to the highways.

The Minnesota Patrol informs us that there are two branches of the patrol having full police power on the highways. Full "sheriffs' authority" is exercised throughout the state by the Bureau of Criminal Apprehension.²¹

Mississippi

The Mississippi Highway Safety Patrol has the power and duty to enforce the state traffic laws, rules and regulations upon the highways of the state and rights-of-way of such highways. If any person commits an offense upon the highways, the members of this Patrol are empowered to pursue and apprehend such an offender upon any of the public roads of the state or to any other place to which he may flee. They are to enforce all of the legally promulgated rules and regulations of the commissioner of the Patrol. They are to enforce any law of the state upon any of the highways or public roads, if they are so

21. Reply to questionnaire to the Minnesota Highway Patrol, April, 1947.

directed by the governor. If the motor vehicle comptroller requests their assistance and if the governor approves of the request, they have the power

. . . to enforce all of the provisions of law with reference to the registration, license and taxation of vehicles using the highways of this state, and relative to the sizes, weight and load limits of such vehicles, and to enforce the provisions of all other laws administered by the motor vehicle comptroller upon any of the highways or public roads of this state; and for such purpose the highway safety patrol shall have the authority to collect and receive all taxes which may be due under any of such laws, and to report and remit same to the comptroller in the manner required by law, or the rules and regulations of the comptroller.²²

When the state highway commission or public service commission requests assistance, the commissioner of this highway police orders aid to be given these agencies in enforcing all laws which such agencies are authorized or required to enforce.²³

This department of enforcement exercises full police powers on the highways only. Insofar as their authority permits, they aid all law enforcement groups within and without the state. Commissioner Bradley further reports

22. Laws of the State of Mississippi--1946, Chapter 420, Section 8082.

23. Loc. cit.

that there are no jurisdictional conflicts within the state between the law enforcement groups.²⁴

Montana

Montana is the fourth state to provide her highway police with the increase in power necessary for them to enforce laws other than those found in the highway code. This Highway Patrol is empowered to make arrests for the crimes of murder, assault with a deadly weapon, arson, burglary, larceny, kidnapping, illegal transportation of narcotics, or violation of the Dyer Act regarding the transportation of stolen automobiles, when these offenses are committed in their presence, in a rural district if assistance is requested by a peace officer, or in a city or town of less than twenty-five hundred inhabitants if they are requested to give aid by the mayor or by a peace officer. These patrolmen have the power of

. . . police officers in making arrests in all offenses occurring on the highways and in the use of motor vehicles or the registration thereof, and for the purpose of serving warrants of arrest in connection with such violations.²⁵

24. Reply to questionnaire to G. R. Bradley, Commissioner, Mississippi Highway Patrol, February, 1947.

25. Laws of the State of Montana--1943, Chapter 199, Section 8, p. 378.

They have the further authority to examine persons operating a motor vehicle who are repeated violators of the traffic violations or who appear to be mentally or physically deficient, to determine their fitness to drive a vehicle. If it appears to this department that such a person is incapable of driving, they are to recommend that the justice or district court issue an order revoking the driver's license. When this is done, the registrar of motor vehicles repossesses this license and refuses to reissue the license until they receive instructions from the Patrol that a satisfactory examination has been passed.²⁶

This enforcement group can also stop any truck or motor vehicle in which livestock or livestock products are being transported and ascertain whether the driver is rightfully in possession of such cargo. If the rightful ownership is doubted, these patrol officers are to take possession and to deliver these products to the custody of a sheriff until the actual ownership can be determined.²⁷ It is presumed that other stolen or illegally possessed goods found in such a search and seizure could be used as evidence in prosecuting other law violations.

26. Loc. cit.

27. Loc. cit.

This police force is also prevented from making arrests in labor disputes or in preventing violence in connection with strikes, and . . . [from] any duties whatsoever in connection with labor disputes, strikes or boycotts, and shall not be permitted to congregate or act as a unit in one county to suppress riots or preserve the peace.²⁸

Information received from the Montana Highway Patrol indicates that they recognize their full authority and responsibility for enforcing the laws regulating the highways and that they serve warrants for such infractions. They use the power to make arrests for felonies and misdemeanors committed in their presence but do not serve warrants for these cases. They do assist peace officers upon request.²⁹

Nebraska

The Nebraska State Highway Patrol is to be used primarily to enforce the motor vehicle and traffic laws and to direct traffic within the state. However, the superintendent, with the approval of the governor, is authorized to "designate such personnel of the Nebraska safety patrol to qualify and act as his deputies or investigators to assist him in the enforcement of the laws

28. Loc. cit.

29. Reply to questionnaire to the Montana Highway Patrol, February, 1947.

of the state relating to felonies."³⁰ The detailed enumeration of their duties in enforcing the laws relating to the use of the highways and the operation of vehicles thereon, follows closely those provided in the previously discussed sections of the North Dakota statute and need not be repeated here.

Assistance is given the local authorities in enforcing the criminal laws when it is requested. Further extension in criminal law enforcement is described by Captain C. J. Sanders as follows:

As stated in our code, only 15% of the total personnel may act as crime investigators wearing plain clothes, however each officer in the Patrol is a state deputy sheriff, which gives him full power to enforce both the criminal and traffic laws of the state, upon viewing an act committed, [and] will, where he is requested to, assist local law enforcement in the investigation of a crime committed.³¹

In Nebraska, the Superintendent of Law Enforcement is appointed State Sheriff by the Governor. He in turn "appoints such deputies as he deems necessary in the enforcement of the laws,"³² this number including the state patrol. There has never been a court decision or

30. Revised Statutes of Nebraska--1943, Chapter 60, Section 434, p. 1807.

31. Letter from Captain C. J. Sanders, Nebraska State Highway Patrol, February, 15, 1947.

32. Letter from Captain C. J. Sanders, Nebraska State Highway Patrol, July 9, 1947.

an opinion of the Attorney General to modify this practice in Nebraska.

North Carolina

The Highway Patrol of North Carolina has the power of peace officers in enforcing the motor vehicle code of the state. They make arrests without warrant for violations of this vehicle code which occur in their presence. A member of this police group has the power to direct traffic according to law or, if a fire or other emergency exists, in the interest of safety, to direct traffic notwithstanding any provisions of law. These troopers have the authority

. . . When on duty, upon reasonable belief that any vehicle is being operated in violation of any provision of this article or of any other law regulating the operation of vehicles to require the driver thereof to stop and exhibit his driver's license and the registration card issued for the vehicle, and submit to an inspection of such vehicle, the registration plates and registration card thereon or to an inspection and test of the equipment of such vehicle.³³

In attempting to locate stolen vehicles, they can enter any public garage or repair shop and inspect any vehicle which is required to be registered under the motor vehicle act, its title or registration. They are permitted to

33. General Statutes of North Carolina--1943, Volume I, Chapter 20, Section 49, p. 815.

serve warrants which relate to the enforcement of the laws regulating the operation of vehicles or use of the highways. Finally, they have the power necessary to investigate traffic accidents and secure testimony of witnesses and persons involved.³⁴

Full traffic authority is exercised by this department and full cooperation is extended to other agencies.³⁵

North Dakota

The highway police of North Dakota and North Carolina, although created seven years apart, have a virtually identical section on powers and duties. Since a full description of the jurisdiction of the North Carolina Patrol has been given, only a summary of the duties and powers of the North Dakota agency will be given here.

These officers have the power of a peace officer in enforcing the highway code; to make arrests upon view and, when committed their presence for violation of the highway code; when on duty, upon reasonable belief that a vehicle is being operated contrary to the provisions of the highway code, to require the driver to stop and submit to a search and inspection; to enter any public place and to

34. Loc. cit.

35. Reply to questionnaire to North Carolina Highway Patrol, February, 1947.

inspect any vehicle required by law to be registered; to serve warrants relating to the enforcement of the highway code; to investigate traffic accidents and secure testimony; to investigate reported thefts of motor vehicles and trailers; and "to take applications for operators' licenses without making a charge therefor."³⁶

Information from the North Dakota Patrol states that, while only the traffic laws are enforced, help is given "the local Police and county Sheriffs in the investigation and apprehension of all crimes."³⁷ While it might be possible to give assistance by merely patrolling the highways, the legal basis for any effective aid is certainly not to be found in the section prescribing their authority.

Ohio

It is the duty of the Ohio State Highway Patrol . . . to enforce the laws of the state relating to the registration and licensing of motor vehicles; to enforce, on all roads and highways outside of municipal corporations, the laws relating to the operation and use of vehicles on the highways; to enforce and prevent, on the roads of the state highway system, the violation

36. North Dakota Revised Code of 1943, Chapter 39-03, Section 39-0309, p. 2663.

37. Reply to questionnaire to North Dakota Highway Patrol, February, 1947.

of the laws relating to the size, weight, and speed of commercial motor vehicles and all laws designed for the protection of the highway pavements and structures on such highways; to investigate and report to the public utilities commission violation of its rules and regulations and the laws governing the transportation companies and all other motor carriers for hire; to investigate and report violations of all laws relating to the collection of excise taxes on motor vehicle fuels; and to regulate the movement of traffic on the roads and highways of the state outside of incorporated municipalities. . . . whenever possible to determine persons causing or responsible for the breaking, damaging or destruction of any improved surfaced roadway, structure, sign, marker, guard rail, or any other appurtenance constructed or maintained by the department of highways and to arrest persons responsible therefor and to bring them before the proper officials for prosecution. . . . [and] to investigate and report all motor vehicle accidents on all roads and highways outside of incorporated municipalities.³⁸

In addition, the superintendent or any member of the Patrol has the same power as a peace officer to arrest, without warrant, any driver or passenger in any vehicle "operated or standing on a state highway" whom he has reason to believe has committed a felony.

The patrolmen must "forthwith" take anyone arrested by them before a court or magistrate having jurisdiction of the offense charged, "there to be dealt with according to law."

These patrolmen have the authorized power of search and seizure only in removing deadly or dangerous weapons

38. Throckmorton's Ohio Code Annotated--1946, Chapter 18, Section 1181-3.

from persons under arrest or about to be arrested. They are not to be ordered by any state official to perform any duty or service not authorized by law. The Patrol's powers and duties are only to supplement those of sheriffs and other peace officers.³⁹

This department exercises fully its authority to enforce the traffic laws of the state and to enforce the criminal laws on the highways. Full cooperation, within the limits prescribed by law, is extended all law enforcement groups of Ohio and of the United States.⁴⁰

The quoted portion of Section 1181-3 has been the subject of some controversy between the state and municipal authorities. Four questions of interpretation were forwarded by Colonel Lynn Black, the Superintendent of the Patrol in 1941, to the Attorney General's office:

. . . 1. Does the Highway Patrol have any jurisdiction or authority within incorporated municipalities?

2. Do the duties and authority given the Highway Patrol, with respect to commercial vehicles, extend to all roads and highways within municipalities?

3. What is the extent of our authority and jurisdiction relative to the registration and licensing of motor vehicles?

39. Loc. cit.

40. Reply to questionnaire to Colonel George Mingle, Superintendent, Ohio State Highway Patrol, February, 1947.

4. Does the Uniform Traffic Act, as passed by the recent session of the legislature, enlarge or limit our powers or jurisdiction? We are not inquiring as to the specific duties given us under this Act, but we desire to know if anything contained therein enlarges or limits our powers or jurisdiction as conferred in Section 1182-2 and 1182-3.⁴¹

Attorney General Thomas J. Herbert gave the following as his opinion of the Patrol's jurisdiction:

. . . 1. The highway patrol may exercise the authority conferred on it by Section 1181-3, General Code, on all roads and highways including the streets of a municipal corporation, unless the territorial limits are otherwise specified in such section.

2. The highway patrol has authority to enforce the laws relating to the size, weight and speed of commercial vehicles on the roads and highways of the state highway system including state routes inside municipal corporations.

3. The highway patrol has authority to enforce the laws relating to the registration and licensing of motor vehicles including commercial vehicles on all roads and highways in the State.

4. The provisions of the Uniform Traffic Act (S.B. 29, effective September 6, 1941) do not enlarge or limit the powers and jurisdiction of the highway patrol, and since such Act governs the operation and use of motor vehicles on the highway, the highway patrol, under Section 1181-3, General Code, has authority to enforce the provisions of such Act on the roads and highways outside municipal corporations.⁴²

41. Opinion No. 4034, Office of the Attorney General, State of Ohio.

42. Loc. cit.

Tennessee

The Tennessee Highway Patrol exercises their authority under the direction of the Commissioner of Finance and Taxation. The officers of this highway police force have the duty

. . . to patrol the state highways and to enforce all laws, and all rules and regulations of the department of highways and public works regulating traffic on the use of said highways; and under the direction of the commissioner of finance and taxation to assist him and the county court clerks of the state in the collection of all taxes and revenue going to the state, and in the enforcement of all laws relating to the same.⁴³

They also have the authority and it is made their duty to enforce the laws requiring operators of vehicles for hire to apply to the Railroad and Public Utilities Commission of Tennessee for a certificate of convenience and necessity before they can lawfully operate on the highways. These officers are empowered to make arrests for violations of these laws or any other traffic law of the state.⁴⁴

This law enforcement agency is provided with "all such necessary police powers" as are needed to perform

43. Michie's Tennessee Code of 1932, Chapter 4, Section 11462, p. 1696.

44. Ibid., Section 11462 (1).

their duties, including the right to serve criminal processes and subpoenas for witnesses.⁴⁵

The Local Option Liquor Law passed by the 1939 legislature added to their authority and made it their duty

. . . to assist the county and municipal police authorities to enforce the provisions of the chapter, and any other act relating to the manufacture, sale or distribution of alcoholic beverages, as herein defined, in any county or municipality failing to adopt the rights granted under the various provisions of this chapter.⁴⁶

This agency exercises full vested authority in enforcing the traffic laws and the intoxicating liquor regulations in the dry counties. They have "working agreements" with all law enforcement groups, "especially in the exchange of information."⁴⁷

The only court decision affecting the authority of this police agency increased their powers. In *Vickers v. State*,⁴⁸ it was held that the right to secure search warrants was one of the "necessary police powers" to enable them to properly perform their duty.

45. Ibid., Section 11463.

46. Tennessee Public Acts--1939, Chapter 45, Section 5735 (41).

47. Reply to questionnaire to the Tennessee Department of Safety, February, 1947.

48. *Vickers v. State*, 176 Tennessee 415, 142 S. W. (2nd) 188.

Vermont

The Vermont highway police have the duty of enforcing all statutes, rules and regulations which relate to motor vehicles, the laws of the highways, and the proper display of lights by vehicles. In so doing they are to concentrate on the highways of the rural areas and other places where local traffic or police officers are not regularly employed.⁴⁹

They have the power to stop, "at all times, with or without process," any motor vehicle and to examine such vehicle for identification numbers and marks thereon. They can demand and inspect the driver's licenses, registration certificate and permits. They have the power to search any public building, parking place and public garage where vehicles are stored or kept. They check the equipment of a motor vehicle to ascertain whether it complies with the requirements of law.⁵⁰

These officers are authorized to

. . . control and direct motor vehicle traffic; arrest violators of the motor vehicle laws and the laws relative to lights on teams, on view without process, and take such persons before a court having jurisdiction of the offense;⁵¹

49. Laws of Vermont--1941, Section 5011, p. 113.

50. Public Laws of Vermont--1933, Chapter 208, Section 5012, p. 825.

51. Laws of Vermont--1939, Section 5013, p. 142.

They are further empowered to exercise such control and direction as is necessary to clear roadways congested with traffic. A person can be arrested without warrant for committing a criminal offense in their presence or within their view.⁵²

Information from the Vermont Patrol analyzes the situation in that state as follows:

There is no state police organization in this state at the present time. Authority and responsibility for enforcing the laws regulating the Highways and the Motor Vehicle Code are delegated to the Commissioner of Motor Vehicles and by him to the Motor Vehicle Highway Patrol.⁵³

Wisconsin

Wisconsin, the last state to create a statewide law enforcement agency, provides the usual highway police authority. The detailed laws these traffic officers are to enforce, under each of the powers given them, are found in Chapter 85-Laws of the Road, Chapter 110-Motor Vehicle Department and Chapter 194-Motor Vehicle Transportation Act. In enforcing these chapters, these officers have the powers of sheriffs, They have the authority to enter any place where vehicles are stored or parked, to examine those vehicles and to make arrests for any violation detected.

52. Loc. cit.

53. Reply to questionnaire to Vermont Motor Vehicle Highway Patrol, February, 1947.

It is made the duty of all

. . . justices of the peace, judges, district attorneys and law enforcement officers to assist in enforcing the provisions of chapters 85, 110 and 194, and orders, rules or regulations issued pursuant thereto, and law enforcement officers shall report to the motor vehicle department all arrests and disposition of court cases involving the aforementioned statutes.⁵⁴

These highway police officers are to be used as a "traffic patrol to assist local enforcement officers whenever possible in the regulation of traffic and the prevention of accidents upon the public highways."⁵⁵

They are restricted from being used in any "dispute or controversy between employer and employee concerning wages, hours, labor or working conditions." These officers do not have the authority to serve civil processes.⁵⁶

Wyoming

Sections 3 and 4 of the Wyoming Laws, in providing the authority for the Wyoming Highway Patrol, present many possibilities for extending the jurisdiction of this agency. Section 3 makes it their duty to enforce all the

54. Wisconsin Statutes, 1943, Chapter 110, Section 110.07, pp. 1720-21.

55. Loc. cit.

56. Loc. cit.

motor vehicle laws of the state. They are also to perform such other duties as are assigned to them by the State Highway Superintendent and (or) by the governor of the state. In addition, the governor may call on them "for emergency purposes at his discretion."⁵⁷

While they are not permitted to serve civil processes, the members of this highway police force

. . . during the time they are actually engaged in the performance of their duties as such, or while the members of said State Highway Patrol are acting pursuant to orders and instructions of the Governor, shall have and exercise all the powers invested in peace officers, . . . ⁵⁸

In an attempt to determine the jurisdictional limits of his organization, Captain William R. Bradley forwarded the following question to the office of the Attorney General:

This organization would like an opinion as to just what are our duties and powers. If we are just a tax collection agency and our operations are confined only to traffic laws, and if we have the right to apprehend criminals wanted by other states, and if we are permitted to work with other enforcement agencies, such as sheriff's officers, F.B.I., etc.⁵⁹

57. Session Laws of Wyoming--1937, Chapter 89, Section 3, p. 149.

58. Ibid., section 4.

59. Letter from Captain William R. Bradley, Wyoming Highway Patrol, to the Attorney General of Wyoming, March 26, 1945.

Deputy Attorney General Hal E. Morris found it difficult to give specific rules for all cases but returned an opinion which is quoted here in part:

. . . Section 4, above quoted, gives the Highway Patrol, under the circumstances mentioned, powers like those of sheriffs and constables, who are generally authorized to make arrests when they have a legal warrant of arrest, as well as when any such officer has reasonable grounds to believe and does believe a felony has been committed, or is about to be committed by the person so arrested, and have the further power to arrest and take any person found violating the law of this state, until a legal warrant can be obtained. . . .

The statutes give the Highway Patrol the power, "during the time they are actually engaged in the performance of their duties as such", to act as peace officers in the respects above mentioned, and their duties as peace officers, under such circumstances, certainly would include cooperation with other enforcement agencies such as sheriffs and their deputies, or undersheriffs, as well as with the officers of the Federal Bureau of Investigation in enforcing the laws of this state, particularly with reference to the motor vehicle laws. . . .

Thus it would appear that although the primary duties of the Highway Patrol are to enforce the motor vehicle laws and such other duties as are assigned by the Highway Superintendent and/or the Governor, nevertheless, while or during the time the Highway Patrol is engaged in such duties, those duties are not such as to compel an officer to stand idly by or to ignore the circumstances while a crime is being or is about to be committed in his presence, nor does the fact that powers of peace officers are given to Highway Patrolmen during the time they are engaged in their primary duties, authorize them to go outside of the scope of their statutory duties and those assigned by the Superintendent and/or the

Governor, to enforce other laws of this state.⁶⁰

The above opinion was probably the basis for the information from Captain Bradley indicating that this Patrol had the authority and the responsibility for enforcing the highway laws and the criminal laws of the state. They do exercise the full jurisdiction given them by the legislature of the state. Cooperation by mutual agreement marks the relations of the law enforcement agencies of the state.

60. Letter from Hal E. Morris, Deputy Attorney General, State of Wyoming, to Captain William R. Bradley, Wyoming Highway Patrol, March 29, 1945.

CHAPTER V

SUMMARY AND CONCLUSION

As was evident throughout this study, the state police have generally been provided with the powers of sheriffs, constables, municipal police or peace officers. The extent to which the state officer has been able to use these powers varies from state to state. Thirty-two of the states have provided unrestricted powers for their state law enforcement officers. Half of these states have made it the duty of the state police to enforce all of the laws of the state and have thus created a full state police organization. The remainder of the states have restricted the criminal law enforcement activities of the state trooper to the highways and, in so doing, have greatly limited the potential use of this officer.¹

Answers to the many questions which arise in determining the extent to which the state police may exercise their authority must be given by the courts. So far, few of these questions have found their way into the courts. Where court decisions were available, they have been cited in this study. Some indication of how the courts might

1. See Table I, Appendix.

decide certain disputed sections has been given in the opinions of the Attorney Generals of the states. While these opinions do not provide a final answer to questions regarding the jurisdiction of the state police, they are used as tentative interpretation in many instances by the local and state officials.

The one grant of authority given to every state police organization and the one duty they all accept and exercise fully is that of patrolling the highways of the rural areas and enforcing the traffic laws. In the states which established a state police force before extensive road improvements were made, the grant of power is usually one to enforce all of the laws of the state. The majority of the states which have created state police since 1930 have been more interested in traffic law enforcement, and have provided only the powers necessary to police the highways. All of the state police agencies report that primary emphasis is given to traffic law enforcement. These agencies are practically the only ones available to pursue and to apprehend persons violating the laws governing the operation and use of the highways. The state police are also the only available police force for combatting the fast-moving and roving criminal. The service rendered by state officers in making the highways a questionable avenue of escape cannot be over-emphasized. As the modern highways

provided today's criminal with advantages over the sheriff, the creation of the modern, well-trained highway patrolman has provided the state an effective instrument for combating the criminal.

The state police which have been given the authority to enforce the criminal code of the state have not always engaged in the enforcement of all criminal laws. Even the state policemen who have the duty of enforcing all of the laws of the state admittedly do not exercise their full authority. The reasons usually given for this are the shortage of personnel, insufficient appropriations, and the respect paid to the prerogatives of the local enforcement officers. The often repeated fear that state police would replace the sheriff as a peace officer has not materialized in any state where the state police have effectively enforced the criminal code.

The power of search and seizure has been given several of the state patrols. This usually includes the authority to stop any motor vehicle, examine the contents, and seize any vehicle or contents which the patrol has reason to suspect is illegally possessed. The authority for such search without warrant has been upheld by the Texas Supreme Court in the case of *New Way Lumber v. Smith*.²

2. *New Way Lumber Company v. Smith* 96 S. W. (2d) 282 citing *Carroll v. United States* 267 U. S. 132.

In this case the court held that the immunity from search and seizure does not apply when the object to be searched can be moved quickly out of the jurisdiction in which the warrant must be obtained.

In studying the sections of the state police acts which prescribe their authority, an increasing tendency to make the laws more detailed was noted. This practice has been censured by some of the well informed writers in this field. The state police act published by the Public Administration Service has commented unfavorably on this method of defining the limits of the patrol's jurisdiction too closely.³ However inadvisable as this practice may be, many of the legislatures have inserted not only detailed statements of policy but also clauses which limit the authority of the state police. Each of these limitations will be discussed briefly.

The first of these limitations resulted from the ability of the labor groups to have certain of their activities removed from the jurisdiction of the state police in eleven of the states.⁴ Vollmer has pointed out the error on the part of labor interests in removing activity during

3. A State Police Act, Published by the Consulting and Research Division, Public Administration Service, February, 1935, pp. 8-9.

4. Georgia, Indian, Louisiana, Minnesota, Montana, New Hampshire, New York, Rhode Island, Wisconsin, and Wyoming.

strikes, riots and other disputes between employer and employee from the authority of the only law enforcement group which has treated them without prejudice.⁵ Regardless of this consideration, however, it seems reasonable to question whether such restriction is a serious one. It is true that these clauses may only indicate the policy of the state not to use the patrol in stopping peaceful picketing. If violence breaks out, as it often does, and a serious violation of the law occurs, would this supposed limitation prevent the patrol from enforcing the criminal laws of the state? This interpretation seems unlikely, but the question has not, as yet, been answered by the courts.

Some diversity of opinion existed when the state police laws were being written in regard to the serving of civil and criminal processes. Eighteen of the states specifically empowered the state patrol to serve criminal processes.⁶ Colorado, Montana and North Dakota provide that they may serve any duly authorized warrant for violations of the highway laws. Nine other states enacted the

5. Vollmer and Parker, Crime and the State Police, Berkeley, California: University of California Press, 1935. p. 146.

6. Kentucky, Louisiana, Maine, Michigan, Missouri, Nevada, New Hampshire, New Jersey, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, and West Virginia.

clause denying the state police power to serve civil processes.⁷ Only seven states have authorized the state policemen to serve both civil and criminal processes.⁸ Other state police groups have and exercise the authority to serve processes of both types.

Another limitation was placed on a majority of the state police agencies by denying them the authority to enter any incorporated municipality unless some responsible officer requests their assistance. Smith suggests the "fact that American communities are inclined to resent the use of outside forces for the suppression of local disturbances"⁹ as the reason for this restriction. This limitation has made it necessary to work out a plan of mutual cooperation to prevent friction between the two law enforcement groups.

Many state police statutes include a clause giving the state police full power to arrest without warrant for offenses committed in their view. The common law, unless altered by statutes, would authorize a peace officer to

7. Massachusetts, Missouri, Nevada, New Hampshire, Oklahoma, Utah, West Virginia, Wisconsin, and Wyoming.

8. Louisiana, Michigan, New Jersey, New York, Oregon, Pennsylvania, and Texas.

9. Bruce Smith, Police Systems in the United States. New York: Harper and Brothers Publishers, 1940. p. 194.

make arrests for all offenses committed in his view and would give any citizen the power to arrest for all felonies and to prevent a breach of the peace when these occur in his presence.¹⁰ It was noted that in a majority of these laws that the state police had already been given the full power of peace officers. Inclusion of this power of arrest is considered superfluous by the "model" state police act because "the powers of a peace officer fully cover the subject."¹¹ The courts have held that the officer making the arrest need not have personal knowledge of the facts.¹² The arrest may be made if, after examination of the place where the offense was committed, the patrolman "has reasonable and probable cause to believe that an offense has been committed by the person named in the affidavit."¹³

Many special duties have been added to those which are performed during the regular patrol of the state highways. Only a few of these duties will be noted here. Several of the states use state patrolmen for collecting delinquent motor vehicle license fees and fuel taxes.

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10. Opinion of the Attorney General of Missouri to Governor Forrest C. Donnell, September 19, 1941, pp. 10-12, quoting 6 C.J. S., Section 8, p. 606.
 11. A State Police Act, op. cit., p. 9.
 12. Miller v. The State, 2 O.L.A. 488.
 13. Opinion No. 3632, Office of the Attorney General, State of Ohio.

Others require them to assist the state liquor commissioner in enforcing the liquor laws. They are used to enforce the game, fish and forestry codes in several states but they are to exercise these powers only in the performance of the regularly assigned duties. There has been a tendency to add to these special duties throughout the rise of the state police, the theory being, it is supposed, that they can continue their usual good job with no loss of effort.

Some states have increased the powers of the state police by adopting the powers of other state officers for their use. Nebraska and, for a time, South Carolina, automatically extended the authority of their highway police by making them state deputy sheriffs and state constables respectively. There may be other states which follow similar practices. The state police act of only one state, Colorado, specifically denies permission to use this method of increasing the usefulness of the highway police.

Information from several states indicates that the duty of enforcing the criminal code is not performed in practice. The Maine State Police, for example, have been given the duty to enforce the criminal laws and yet they usually leave such enforcement to the local police departments and to the sheriffs. The state of Georgia, as has been pointed out, fails to exercise a similar duty. The

prevalence of this manner of "arranging" the relations between state and local enforcement officers is not known, but other examples could very likely be found. Such practices are adopted without benefit of statutes. The responsibility for the remedy of this failure to perform an assigned duty, if one is to be effected, lies with the governor of the state. The superintendent or director heading the state police is appointed either by the governor, by the governor with the consent of the state senate, or by a council or commission which has been previously appointed by the governor. In any case, the governor is influential in making the appointment. In the removal of the head of the state police, the governor's influence is more strongly felt. The governor may either remove this officer at his pleasure or, by preferring charges and having a full hearing, may remove him for misconduct, malfeasance or incompetence in office. In other words, the governor has the responsibility for executing and enforcing the laws of the state. He has under his control an officer who has been given the duty of enforcing certain of the state's laws. If the head of the state police does not perform this duty, it is not necessary for the governor to resort to court action. The state executive may remove this officer by a relatively short and inexpensive procedure. This shows clearly the advantage of a state police over a highway patrol. Both have the power to enforce the laws,

but the one in which the duty of enforcing the law is prescribed has the advantage if good law enforcement is desired. In the states having a highway patrol, the extent and manner of law enforcement will depend, unless the malfeasance is flagrant, upon the superintendent of the patrol. The governor, although able to measure the efficiency of the patrol, will have difficulty in finding a valid reason for removing the superintendent.

Two definite trends seem to be continuing. The first is the attempt by the state law enforcement agencies to have their powers and duties increased to give them the legal basis for extending their authority, and, in general, to enable them to do a better job. In May, 1947, South Carolina provided her Patrol with unrestricted powers. Kansas unsuccessfully attempted to do the same. It has been indicated that such an increase in power was desired in other states.

The second trend concerns the cooperation between the state police and the local police agencies. The sheriffs have generally recognized their inability to enforce the highway code and their need for assistance in apprehending criminals. Incorporated towns and cities, however, have frequently exhibited hostility toward the state trooper. Some of the states have prevented the state trooper from entering a municipality in the exercise of his duty unless

his assistance has been requested by a peace officer of the governing body of the city concerned. At this time, only two states, Florida and Kentucky, reported that no cooperation was given or received by their highway police force. New Jersey, one of the states where the relations between the state and municipal agencies could be improved, reported better feeling existed now than at any previous time. This trend is vital to the future of good statewide law enforcement, and to the full use of the present jurisdiction by the state police.

The question may be raised as to public opinion regarding the use of the present law enforcement officers. Does the average citizen really wish to have efficient, impartial law enforcement? At present, the sheriff has the duty to apprehend all criminals. The state police were created to answer a need for a more mobile law officer with wider jurisdiction and with equipment for coping with the modern law violator. We now have two officers whose jurisdiction, in most states, overlaps and who have and will come in conflict with the municipal police force. The sheriff has shown little of the antagonism of his city brother toward the state trooper. Nor has the state trooper always shown proper regard for the local interests. In our democratic system, does the final answer to the present overlapping jurisdiction lie in the state police

assisting the county and city law officers in local matters and then assuming full responsibility for apprehending criminals in all activities which occur outside or which move beyond the local or county jurisdiction? To recall the idea expressed earlier by Smith, American communities will for some time resent the use of an outside force to handle a local matter.¹⁴ The solution may lie in an adjustment between the present intra-state agencies similar to that now existing between the state and federal law enforcement groups.

The recommendation, if it may be so termed, of this paper is that all of the uniformed law enforcement agencies be provided with a clear and complete grant of power, unfettered by petty restrictions, to do legally and completely a job which many of them have been forced to do "in the course of other duties" and that the "arrangements" between state and local enforcement officer be made by law. The present "working agreements", without benefit of statute, are makeshifts which permit neither state officers nor local ones to know and live up to their respective fields of responsibility.

14. Smith, op. cit., p. 194.

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A P P E N D I X

Table I

State Police Jurisdiction with the Date of Origin in Each State

State Police		Highway Patrols		Highway Police	
State	Date	State	Date	State	Date
Connecticut	1903	Alabama	1939	Arizona	1931
Delaware	1923	Arkansas	1935	California	1929
Georgia	1937	Illinois	1923	Colorado	1935
Idaho	1929	Kansas	1937	Florida	1939
Indiana	1935	Massachusetts	1921	Kentucky	1932
Iowa	1935	Michigan	1917	Minnesota	1929
Louisiana	1936	Missouri	1931	Mississippi	1938
Maine	1925	Nevada	1923	Montana	1935
Maryland	1921	New Hampshire	1937	Nebraska	1937
New York	1917	New Jersey	1921	North Carolina	1927
Oregon	1931	New Mexico	1933	North Dakota	1935
Pennsylvania	1905	Oklahoma	1937	Ohio	1933
Rhode Island	1925	South Carolina	1930	Tennessee	1930
South Dakota	1935	Utah	1925	Vermont	1919
Texas	1930	Washington	1921	Wisconsin	1939
Virginia	1932	West Virginia	1919	Wyoming	1933

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