

MEMBERS OF THE STATE HIGHWAY PATROL are not entitled to receive rewards for the apprehension of escaped convicts from the Missouri State Penitentiary.

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September 7, 1934.

Honorable J. M. Sanders, Warden
Missouri State Penitentiary
Jefferson City, Missouri



Dear Sir:

This Department is in receipt of your letter of August 14th, wherein you state as follows:

"Will you please advise as to whether or not State Highway Patrolman are entitled to receive a reward for the apprehension of an escaped convict of the Missouri State Penitentiary,"

Laws of Missouri 1931, Section 13, page 234, declares that members of the Missouri State Highway Patrol are officers of the State of Missouri and reads as follows:

"The members of the patrol are hereby declared to be officers of the state of Missouri and shall be so deemed and taken in all courts having jurisdiction of offenses against the laws of this state. The members of the patrol shall have the powers now or hereafter vested by law in peace officers except the serving or execution of civil process. The members of the patrol shall have authority to arrest without writ, rule, order or process any person detected by him in the act of violating any law of the state. When a member of the patrol is in pursuit of a violator or suspected violator and is unable to arrest such violator or suspected violator within the limits of the district or territory over which the jurisdiction of such member of the patrol extends, he shall be and is hereby authorized to continue in pursuit of such violator

or suspected violator into whatever part of this state may be reasonably necessary to effect the apprehension and arrest of the same and to arrest such violator or suspected violator wherever he may be overtaken."

Under the above rules and regulations of the State Highway Patrol the members of the patrol are declared officers of the State and are vested by law with powers possessed by peace officers, except services of civil process. The members of the State Patrol are further given the authority to arrest any person detected by them in the violation of any law of this State.

In the case of *Kick v. Merry*, 23 Mo. 72, 1. c. 76; 66 Am. Dec. 658, our court in holding that an officer may not receive a reward for services required of him as part of his official duties, said:

"The case falls within the mischief of the rule of the common law which prohibits an officer from taking a reward as an inducement to do his duty. He received a stated salary for his services. The services rendered were within the duties of his office. All his energies had been devoted to the service of the city. Under such circumstances, to permit an officer to stipulate for extra compensation for services to which the public was entitled, would lead to great corruption and oppression in office. It would follow that whenever a crime was committed, instead of speedy efforts for the arrest of the offender, there would be a holding back, in the hope that there would be a reward given for his apprehension. If once a habit of taking a reward is introduced, nothing will be done unless the service is previously purchased by extra pay."

Again in the case of *Cornwell v. St. Louis Transit Company*, 73 S. W. 305; 100 Mo. App. 258, 1. c. 262, our court

in holding that a member of a posse who at the time he made the arrest was a peace officer, and, therefore, not entitled to a reward, stated:

"Plaintiff, as a member of the posse, at the time he made the arrest, was a conservator of the peace (R. S. 1899, sec. 6219) and therein was merely discharging his duty as such deputy and temporary officer and would have been debarred from recovering any reward for the performance of such official obligation, for a public officer is not allowed to receive, for performing an official duty, any other compensation than that provided by law. Public policy forbids an officer from claiming a reward for performance of any act which is by law made part of his duty, * * * * *

Wood on Master and Servant (2 Ed.), sec. 170; Gregg v. Pierce, 53 Barb. 387; Reif v. Page, 55 Wis. 496; Morris v. Kassling, 11 L. R. A. 399; Brouenberg v. Coburn, 110 Ind. 174; Thornton v. Railroad, 42 Mo. 58; Hogan v. Stophlet, 179 Ill. 150; Smitha v. Gentry, 42 L. R. A. 302; Lees v. Colgan, 40 L. R. A. 355; St. Louis etc., Ry. Co. v. Grafton, 51 Ark. 504."

As previously stated, members of the State Highway Patrol are public officers of this State. They have the authority to arrest any person, detected by them, in the violation of any law of this State, and it is therefore clearly a part of their official duty to apprehend any escaped convict. The courts in this country are practically unanimous in declaring, and it has been the principle at common law, that a public officer, working for a fixed compensation, or whose fees are prescribed by law, cannot demand or contract for a reward for services rendered in the line or scope of his official duty.

A State Highway Patrolman receives a stated salary for his services, and as said by our courts "to stipulate for extra compensation for services to which the public was entitled,

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would lead to great corruption and oppression in office. It would follow that whenever a crime was committed, instead of speedy efforts for the arrest of the offender, there would be a holding back, in the hope that there would be a reward given for his apprehension."

In view of the foregoing we are of the opinion that since members of the State Highway Patrol are public officers, and since it is part of their official duty to apprehend any escaped convict from the Missouri State Penitentiary, in so doing they are not entitled to extra compensation or reward for such services.

Respectfully submitted,

Wm. ORR SAWYERS
Assistant Attorney General

APPROVED:

ROY McKITTRICK
Attorney General.

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