

# MAINE STATE LEGISLATURE

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June 28, 1963

Austin H. Wilkins, Commissioner

Forestry

Leon V. Walker, Jr., Assistant

Attorney General

**Authority of Wardens**

In your memo of June 6, 1963, you ask whether, during the 90-day waiting period until P.L. 1963, chapter 286 as amended by P.L. 1963, chapter 414, section 141-A becomes law, wardens can only act as complainants under the present anti-littering statute (R.S. ch. 137, s. 30), and also under R.S., ch. 97, s. 35 and s. 37, and R. S. ch. 36, s. 94-A.

The authority of wardens is found in R. S. ch. 36, s. 103, which provides that a chief fire warden shall,

“ . . . enforce all laws relating to forests and forest preservation, arrest all violators thereof, prosecute all offenses against the same, and in this connection shall have the same power to serve criminal processes against such offenders . . . as a sheriff or his deputy. . . .”

Revised Statutes, chapter 36, section 94-A, a part of your forestry statute, is definitely a law which the chief fire wardens may enforce. R. S. ch. 137, s. 30, is just as definitely not such a law. The other two statutes, dealing with throwing cigarettes on public ways and with kindling a fire with intent to injure another, while pertaining to fire prevention, cannot be said without reservation to pertain to forests and forest preservation. Since there is doubt as to these two sections, it would be prudent for you to instruct your wardens not to arrest violators, since a warden making an arrest might be subjected to a suit for false arrest.

Leon V. Walker, Jr.  
Assistant Attorney General

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