

MAINE STATE LEGISLATURE

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May 22, 1964

Austin H. Wilkins, Commissioner

Forest Service

George C. West, Deputy

Attorney General

Chief Forest Fire Wardens - Fees in Criminal Cases

FACTS:

Chief fire wardens are hired by the State at pay established by the Forest Commissioner and approved by the Governor and Council. Among the duties are investigating causes of forest fires, enforcing all laws relating to forests and forest preservation, arrest all violators and prosecute all offenses. They are given powers of sheriff to serve criminal processes in such cases and allowed the same fees.

QUESTION NO. 1:

What fees are applicable to forest fire wardens?

ANSWER NO. 1:

See opinion for answer.

OPINION:

The question is raised by the provisions of Revised Statutes chapter 36, section 103, wherein it says in part:

"He shall investigate and gather evidence regarding the causes of forest fires, 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 and shall be allowed the same fee as a sheriff or his deputy for like services, and shall have and enjoy the same right as a sheriff to require aid in executing the duties of his office."

The fees applicable are among those listed in R.S. c. 89, § 150, as amended. The fees applicable here are for serving criminal processes and, where proper, serving as witness in prosecution of forestry offenses.

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Generally, the applicable fees would be those set forth in section 150, subsections XII and XIV. An aid appointed by the warden would be paid as stated in subsection XIII. Actually, the courts know the schedule of fees allowed and as the fees are put on the officer's return and list of costs the warden can ask the clerk the proper amount to record.

QUESTION NO. 2:

Does the fee accrue to the individual warden or to the Maine Forestry District?

ANSWER NO. 2:

To the Maine Forestry District.

OPINION:

The salary established by the Forest Commissioner and approved by the Council is intended to cover all work performed by forest wardens. They would not be entitled to additional compensation in the form of fees for work for which they are already compensated.

George C. West
Deputy Attorney General

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