

MAINE STATE LEGISLATURE

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September 7, 1972

Fred E. Holt, Deputy Commissioner

Forestry

Charles R. Larouche, Assistant

Attorney General

Maine Forestry District, fines; disposition re Court's ruling on fines.

This replies to your memo of August 15, 1972 to Lee Schepps, Assistant Attorney General, on this subject.

Enclosed for your information is a xerox copy of a memo from Chief Judge Robert L. Browne to Gevena L. Desjardins, Clerk Pro Tem, dated July 24, 1972, on fines.

You ask whether or not 12 M.R.S.A. § 1652 should be read to refer to fines only under Section 1652 or to include all fines under Chapter 215, both of Title 12. The amended section 1652 refers to "all prosecutions under this Chapter," i.e., Chapter 215. The last paragraph of Section 1652 reads:

"All fines, penalties and all other moneys collected by the court shall be paid to the Treasurer of State and credited to the Maine Forestry District for forest fire purposes."

Accordingly, I conclude that all fines, penalties and all other moneys collected by the Court in connection with all prosecutions under Chapter 215 should be credited to the Maine Forestry District.

12 M.R.S.A. § 1456-A which provides a penalty concerning spark arrest~~er~~ equipment is silent as to crediting of the penalty. Section 1456-A is within Chapter 215, and that section makes no specific provision for crediting of such penalty. Therefore, I further conclude that penalties under 12 M.R.S.A. § 1456-A ought to be credited to the Maine Forestry District, as required by the general provision therefor in 12 M.R.S.A. § 1652.

I recognize that apparently Chief Judge Browne came to a different conclusion as indicated in his memo above-referenced and hereto attached. However, it may be that he considered solely 12 M.R.S.A. § 1456-A and that his attention was not called to the general provision in 12 M.R.S.A. § 1652. Perhaps a conference between your Department and the Office of the Chief Judge might satisfactorily resolve this matter. If a satisfactory resolution is not thereby achieved, then you should consider a legislative amendment to clarify such seeming ambiguity.

CHARLES R. LAROCHE
Assistant Attorney General

CRL:mfe

enc.

NOT A FORMAL OPINION