

# MAINE STATE LEGISLATURE

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May 5, 1982

Kenneth G. Stratton, Director  
Department of Conservation  
Maine Forest Service  
Mailing Station #22  
Augusta, Maine 04333

Dear Director Stratton:

Inquiries have been made by Representative Michaud and by Mr. John Cummings 1/ as to whether forest rangers have the authority to require private citizens to assist in the control and suppression of forest fires. Based upon our reading of the relevant state statutes, it would appear that forest rangers do possess this authority.

The obligation of private citizens to aid and assist public officers in the preservation of the peace is grounded in the common law concept of the posse comitatus. 80 C.J.S., Sheriffs & Constables, § 34; see State v. Goodman, 449 S.W.2d 656, 661 (Mo. 1970). There are some duties which society may compel its private citizenry to perform. Pollock v. Williams, 322 U.S. 4, 17-18 (1944). Thus, a state has the inherent power to enforce those obligations which individuals owe to the state, such as militia, jury and even road building duties. Butler v. Perry, 240 U.S. 328, 330, 333 (1916). Such requirements to serve the greater public good constitute neither involuntary servitude nor a deprivation of property without due process. Id.

Turning to the specific problem, state law provides that within municipalities not members of the Maine Forestry District, established by 12 M.R.S.A. §1201, forest rangers and town forest

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1/ These inquiries apparently arise out of an incident in which a forest ranger impressed several of Mr. Cummins' employees into service to control a forest fire.

fire wardens "may employ any person considered necessary to assist in fighting fires. All called and employed for assistance shall proceed to help control forest fires as directed. . . ." 12 M.R.S.A. § 9202. All such persons shall, upon application, receive compensation. 12 M.R.S.A. § 9203. While the use of the word "employ" may raise some doubt as to whether the person may be compelled to render assistance, we believe that the statutory language, when read in its totality, leads to that conclusion.

Forest rangers also appear to have the authority to require private citizens to assist in the suppression of fires within the Maine Forestry District. However, the relevant language is not as clear as that with respect to municipalities outside the District. The applicable provision reads as follows:

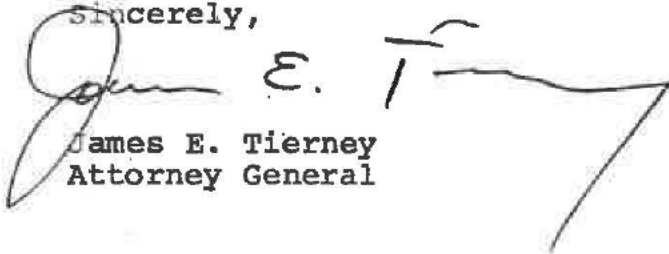
"Forest rangers, for the purpose of enforcing forest and forest preservation laws, shall have law enforcement powers equivalent to a sheriff or sheriff's deputy, including the right to . . . require aid in executing forest ranger duties and deputize temporary aides." 12 M.R.S.A. § 8901(3).

Since one of the duties of a forest ranger is on-site authority and responsibility for the control of forest fires, 12 M.R.S.A. § 8901(2)(B), it would appear from the language quoted above that a forest ranger could require a private citizen to aid in the suppression of forest fires.

To conclude, it would appear that forest rangers have the authority to require the aid of private citizens in the suppression of fires within and outside the Maine Forestry District. The statutes conveying this authority are not, however, without further implications. Thus, should the Bureau wish its rangers to utilize this power, it should seek legislation which would address the unresolved issues of the liability of the State for injuries suffered by private citizens, to themselves and to others, while assisting in the control of forest fires.

I hope this information is helpful.

Sincerely,

  
James E. Tierney  
Attorney General

JET/kc

cc: Hon. Michael H. Michaud

Albert C. Willis, Maine Forest Service