

Oath of Office—Federal Officers—State Officers—Special Fire Wardens.

Federal and state officers designated special fire wardens by statute need not take the oath of office prescribed by the constitution. Public-spirited citizens and members of Montana Forestry Association who serve as such should take the official oath.

Mr. Rutledge Parker,
State Forester,
Missoula, Montana.

September 30, 1932.

My dear Mr. Parker:

I have your request for an opinion. You ask whether fire wardens mentioned in sections 1832 and 2764 and other sections of law pertaining to volunteer, ex-officio fire wardens are required to take an oath of office before entering upon their duties.

Section 1 of article XIX of the state constitution provides:

"Members of the legislative assembly and all officers, executive, ministerial or judicial, shall before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation, * * * (Here follows the oath) all of which has no application whatever to a person designated by statute as a public official and who does not receive any compensation.

Section 1833 permits the state forester to appoint "in such number and localities as he deems wise, public-spirited citizens to act as volunteer fire wardens." It also makes ex-officio fire wardens of any sheriff, under-sheriff, deputy sheriff, game warden and deputy game warden, who are required to serve without additional compensation. These officers would not, of course, be required to take an additional oath. They are already public officers upon whom are imposed additional duties.

This section also provides for supervisors and rangers of the federal forest reserves as follows:

"* * * whenever they accept the duties and responsibilities of fire wardens, may be appointed volunteer fire wardens, and shall have all the powers given to fire wardens by this act."

I doubt whether it is necessary for these federal officers to take an oath as prescribed by the constitution, since they are in the service of the United States.

Section 2764 provides:

"All duly appointed officers of the United States forest service, the northern Montana forestry association, and the United States Indian service are hereby made ex-officio fire wardens, and shall have authority to enforce and carry out the provisions of this act. Said officers are to serve without compensation from the state."

Here also, so far as the federal officers are concerned, there would seem to be no necessity of requiring them to take the oath of office prescribed by the constitution. So far as the Montana forestry association is concerned, in my opinion, they should take the oath of office since they are not public officers of any kind. This would also be true of the public-spirited citizens mentioned in section 1833 where they are appointed by the state forester.

Very truly yours,
L. A. FOOT,
Attorney General.