

**Officers, Concealed Weapons May Be Carried by Certain.
Concealed Weapons, May Be Carried by Certain Officers.
Forestry Officials, May Carry Concealed Weapons.**

Under the provisions of an act of congress giving persons in the forest reserve and national park service authority to make arrests, it follows that such persons are authorized to carry arms. There is no provision conferring upon officers and employes of the reclamation service the power to make arrests, and they are therefore not entitled to carry arms. Superintendents and guardians of military parks, by virtue of their authority to arrest, are entitled to carry arms.

October 27th, 1913.

Hon. J. L. De Hart,
State Game and Fish Warden,
Helena, Montana.

Dear Sir:

I am in receipt of your favor of the 24th instant, asking for my opinion

“As to who under the federal law is clothed with the authority of general peace officers? And who may be designated as proper persons clothed with authority to carry concealed weapons?”

With particular attention to the question as regards employes of the reclamation service and the forestry service. The term “peace officer” is rather broad in its meaning, and would include all United States marshals and their deputies, bailiffs, etc., generally, any person clothed with authority to enforce the laws of the United States, civil and criminal. In regard to officers and employes of the forestry service, it was held by the attorney general of the United States that it was doubtful if forest supervisors and rangers had any authority to arrest. And he suggested that relief must be had through congressional action.

22, Opinions of Attorney General, 512.

In pursuance to this suggestion, congress did pass an act authorizing members of the forest service to make arrests, this enactment being found in 33 St. at L., p. 700, and is as follows:

"That all persons employed in the forest reserve and national park service of the United States shall have authority to make arrests for the violation of the laws and regulations relating to the forest reserve and national parks."

This language is very broad and inclusive, and would seem to include almost every person actually employed in the services mentioned. A grant of the power to arrest most strongly implies the authority to provide oneself with the means necessary to make an arrest and to enforce such arrest after it was made. It would, I think, necessarily imply authority to carry firearms.

A careful search of the law in relation to the reclamation service has failed to reveal any very definite provisions in regard to the authority of the officer connected therewith. Sec. 10 of the act, in regard to reclamation projects, 32 St. at L., p. 388, provides that the secretary of the interior is authorized to perform any acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of this act into force and effect. The act of March 3rd, 1875, Ch. 151, 18 St. at L., p. 481, provides for the protection of trees, monuments, fences, walls, etc., on lands reserved or purchased by the United States for public use, excepting from the operations of the act, however, unsurveyed lands and lands subjected to preemption and homestead, and subject to use under the mining laws of the United States, and it does not name any specific officers in the case of such lands who may make arrests. This duty naturally would fall then upon the United States marshal or his deputy in the district where trespass had happened to be committed.

The act of March 3rd, 1897, Chap. 372, 29 St. at L., p. 629, authorizes the arrest, by any superintendent or guardian of such park, of any person hunting or shooting in such parks. This act was concerned wholly with the establishment of certain military parks within the United States, and Sec. 5 of the act makes the provision thereof applicable only to military parks.

You are, therefore, advised that in my opinion all forestry officials, superintendents and rangers are authorized to carry arms, in as much as they are given power to make arrests for violation of the rules and regulations of their department, relating to the forest reserves and national parks, and that there is no authority, so far as I am aware, which gives to any members of the reclamation service any power to make arrests or carry weapons; that within military parks the superintendent or guardian would have authority by virtue of his power to arrest, to carry arms.

Yours very truly,

D. M. KELLY,
Attorney General.