

GENTLEMEN:—Re: Bonds of Meigs Township School Dist., *Muskingum County, Ohio*, \$800.00.

The transcript relative to the above issue of bonds discloses that these bonds have been authorized for the purpose of "paying rental on heating plant." Under the provisions of Section 2293-2, General Code, which section is part of the Uniform Bond Act, the board of education of a school district is given power to issue the bonds of such district "for the purpose of acquiring or constructing, any permanent improvement which such subdivision is authorized to acquire or construct." Section 2293-1 of the same act defines "permanent improvement" as "any property, asset or improvement with an estimated life or usefulness of five (5) years or more, including land and interests therein, and including reconstructions, enlargements and extensions thereof having an estimated life or usefulness of five years or more." It is obvious that the payment of the rental on a heating plant is not a purpose for which bonds may be issued under the foregoing provisions of the Uniform Bond Act.

The above bonds appear to have been authorized by a township district. The General Code of Ohio no longer contains any provision for such districts. Section 4679, General Code, provides as follows:

"The school districts of the state shall be styled, respectively, city school districts, exempted village school districts, village school districts, rural school districts and county school districts."

It is my opinion that these bonds have not been authorized for a valid purpose and that they do not constitute a valid and binding obligation of the district.

Respectfully,

GILBERT BETTMAN,
Attorney General.

2998.

POLICE POWER—EMPLOYES DESIGNATED BY A BOARD OF PARK COMMISSIONERS TO ENFORCE THEIR BYLAWS, RULES AND REGULATIONS, MAY ARREST WITHOUT A WARRANT WHEN—JURISDICTION LIMITED IN PURSUIT OF OFFENDER—WHEN EMPLOYEE ENTITLED TO COMPENSATION FOR MAKING ARREST.

SYLLABUS:

1. *An employe designated by a board of park commissioners to enforce by-laws, rules and regulations adopted by such board, may arrest a person, without a warrant, found violating the rules and regulations of the board and where an affidavit is filed charging a person with a violation of such rules and regulations, the magistrate may direct a warrant to these employes and they are authorized to execute it. The jurisdiction in which such employes may exercise the authority to make arrests and execute warrants is limited by the provisions of Section 2976-10h to parks, parkways and reservations and adjacent lands under the jurisdiction and control of the board.*

2. *While employes designated by the board of park commissioners to exercise police powers have all the powers of police officers in the enforcement of regulations and rules of the board of park commissioners, and therefore may arrest and execute warrants in the same manner as police officers, yet by reason of their limited jurisdiction as provided in Section 2976-10h, they can not pursue a fugitive in any county in the state, but may only pursue a person accused of violating the*

rules and regulations of a board, who flees from justice or is not found in the county in which the offense was committed, into such part of another county which is adjacent to the park district in which the offense was committed.

3. *Where an employe arrests a person with or without a warrant in the county in which the offense was committed he is not lawfully entitled to compensation for such service. However, if he is directed in a warrant by a magistrate to execute such warrant charging a person with a violation of the rules and regulations of a board of park commissioners in the county in which the park district is located and he is required to pursue the offender into part of another county which is adjacent to the park district in which the offense was committed, such employe is entitled to be paid the necessary expense of such removal and reasonable compensation for his time and trouble, as provided by Section 13432-10 of the General Code.*

COLUMBUS, OHIO, February 26, 1931.

BUREAU OF INSPECTION AND SUPERVISION OF PUBLIC OFFICES, *Columbus, Ohio.*

GENTLEMEN:—I am in receipt of your letter of recent date, which is as follows:

"You are respectfully requested to furnish this department your written opinion upon the following:

Question 1: When employes of the Metropolitan Park Board under the provisions of Section 2976-10h of the General Code are designated by the board to exercise all the powers of police officers within and adjacent to land under the jurisdiction and control of such board, may such employes under their police powers make arrests for the violation of the regulations of the board and in making such arrests pursue the parties anywhere in the county or state?

Question 2. If an affidavit is filed with a magistrate, charging a person with a violation of the rules and regulations of the board, may these employes so designated serve the warrants issued by such magistrate and receive compensation for such services?"

Section 2976-10g of the General Code provides as follows:

"The board of park commissioners shall have power to adopt such by-laws, rules and regulations as they may deem advisable for the preservation of good order within and adjacent to such parks and reservations of land, and for the protection and preservation of the parks, parkways and other reservations of land under their jurisdiction and control, and of property and natural life therein, and such by-laws, rules and regulations shall be published as provided in case of ordinances of municipal corporations before taking effect. Whoever violates any such by-laws, rules or regulations shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not exceeding one hundred dollars (\$100) for the first offense and not exceeding five hundred dollars (\$500) for a second or further offense. All fines collected for any such violation shall be paid into the treasury of such park board."

Section 2976-10h of the General Code provides as follows:

"Such employes as the board of park commissioners may designate for that purpose shall have and may exercise all the powers of police officers within and adjacent to the lands under the jurisdiction and control of such board. Provided, however, that before exercising such powers,

such employes shall take oath, and give bond to the state of Ohio in such sum as the board shall prescribe, for the proper performance of their duties in such respect."

You will note that Section 2976-10h provides that such employes as the board of park commissioners may designate for the purpose of enforcing by-laws, rules and regulations duly adopted by the board, shall have and may exercise *all* the powers of police officers within and adjacent to the lands under the jurisdiction and control of such board.

The powers of a police officer relative to making arrests without a warrant, executing a warrant, and the issuance of warrants to police officers, are set forth in Sections 13432-1 and 13432-9 of the General Code of Ohio. Section 13432-1 provides that a police officer, among other officers designated therein, shall arrest and detain a person found violating a law of this state, or an ordinance of a city or village, until a warrant can be obtained. Section 13432-9 provides as follows.

"When an affidavit charging a person with the commission of an offense is filed with a judge, clerk or magistrate, if he has reasonable ground to believe that the offense charged has been committed, he shall issue a warrant for the arrest of the accused; if the offense charged is a violation of the laws of the state, such warrant may be directed to and executed by any officer named in Section 1 of this chapter, but if the offense charged is a violation of the ordinance or regulation of a municipal corporation, such process shall be directed to and executed by the officers of such corporation."

Reading Section 2976-10h in connection with Sections 13432-1 and 13432-9 it is apparent that an employe designated by a board of park commissioners to enforce by-laws, rules and regulations adopted by such board, may arrest a person, without a warrant, found violating the rules and regulations of the board and where an affidavit is filed charging a person with a violation of such rules and regulations, the magistrate may direct a warrant to these employes and they are authorized to execute it. The jurisdiction in which such officers may exercise the authority to make arrests and execute warrants is limited by the provisions of Section 2976-10h to parks, parkways and reservations "within and adjacent to the lands under the jurisdiction and control of such board."

Section 13432-10 of the General Code authorizes a police officer holding a warrant to pursue a fugitive in another county, providing as follows:

"If accused flee from justice, or be not found in the county where the warrant was issued, the officer holding the same may pursue and arrest him in any county in this state, and convey him before the magistrate or court of the county having cognizance of the case, except as hereinafter provided.

If such warrant directs the removal of the accused to the county in which the offense was committed, the officer holding the warrant shall deliver the accused to a court or magistrate of such county, to be dealt with according to law.

The necessary expense of such removal and reasonable compensation for his time and trouble, shall be paid to such officer out of the treasury of such county, upon the allowance and order of the county auditor."

While employes designated by the board of park commissioners to exercise

police powers have all the powers of police officers in the enforcement of regulations and rules of the board of park commissioners and therefore may arrest and execute warrants in the same manner as police officers, yet by reason of their limited jurisdiction as provided in Section 2976-10h, they can not pursue a fugitive in any county in the state, but may only pursue a person accused of violating the rules and regulations of a board who flees from justice or is not found in the county in which the offense was committed, into such part of another county which is adjacent to the park district in which the offense was committed. In other words, a park district may be co-extensive with the county lines, but adjacent territory may be in part of another county. In such case the employe has authority to pursue a violator of the rules and regulations of the board into such adjacent territory which is located in another county. Of course, if the offense is committed in the adjacent territory outside of the county in which the park district is located, the employe has authority to arrest the offender and take him before a magistrate in the county in which the adjacent territory is located.

It is a well settled rule that the compensation of a public officer must be fixed by statute and where there is a failure upon the part of the legislature to fix the compensation of an officer, he is required to perform his services without compensation. There is no statute which fixes compensation for the employes exercising police power in making arrests or serving warrants in the county in which the violation was committed. However, it will be noted that Section 13432-10 provides that in cases where a person accused of an offense flees from justice or can not be found in the county where the warrant was issued, an officer holding the warrant may arrest in another county and if the warrant directs the removal of the accused to the county where the offense was committed the officer may deliver the accused to the court in such county. The last sentence of this section makes provision for the payment of reasonable expense and compensation for such removal, providing as follows:

“The necessary expense of such removal and reasonable compensation for his time and trouble, shall be paid to such officer out of the treasury of such county, upon the allowance and order of the county auditor.”

It appears to me that by virtue of this provision quoted above, if an employe is directed by a magistrate to execute a warrant charging a person with a violation of the rules and regulations of a board of park commissioners in the county in which the park district is located and such employe is required to pursue the offender into part of another county which is adjacent to the park district in which the offense was committed, the employe is entitled to compensation as provided in Section 13432-10 of the General Code.

In specific answer to your inquiries, I am of the opinion:

1. An employe designated by a board of park commissioners to enforce by-laws, rules and regulations adopted by such board, may arrest a person, without a warrant, found violating the rules and regulations of the board and where an affidavit is filed charging a person with a violation of such rules and regulations, the magistrate may direct a warrant to these employes and they are authorized to execute it. The jurisdiction in which such employes may exercise the authority to make arrests and execute warrants is limited by the provisions of Section 2976-10h to parks, parkways and reservations and adjacent lands under the jurisdiction and control of the board.

2. While employes designated by the board of park commissioners to exer-

cise police powers have all the powers of police officers in the enforcement of regulations and rules of the board of park commissioners, and therefore may arrest and execute warrants in the same manner as police officers, yet by reason of their limited jurisdiction as provided in Section 2976-10h, they can not pursue a fugitive in any county in the state, but may only pursue a person accused of violating the rules and regulations of a board, who flees from justice or is not found in the county in which the offense was committed, into such part of another county which is adjacent to the park district in which the offense was committed.

3. Where an employe arrests a person with or without a warrant in the county in which the offense was committed he is not lawfully entitled to compensation for such service. However, if he is directed in a warrant by a magistrate to execute such warrant charging a person with a violation of the rules and regulations of a board of park commissioners in the county in which the park district is located and he is required to pursue the offender into part of another county which is adjacent to the park district in which the offense was committed, such employe is entitled to be paid the necessary expense of such removal and reasonable compensation for his time and trouble, as provided by Section 13432-10 of the General Code.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2999.

DISTRICT HEALTH COMMISSIONER—PHYSICIAN WHO HAS BEEN A MEMBER OF THE DISTRICT BOARD OF HEALTH MAY BE APPOINTED COMMISSIONER WHEN—DISTRICT HEALTH COMMISSIONER AND PHYSICIAN FOR OHIO REFORMATORY FOR WOMEN COMPATIBLE—EXCEPTION.

SYLLABUS:

1. *A physician who has heretofore been a member of the district board of health may be appointed by such board as district health commissioner, providing such physician resigned as a member of the district board of health before any action was taken as to his appointment.*

2. *The office of district health commissioner and physician for the Ohio Reformatory for Women may be held by one and the same person except in cases wherein the contract of employment for either office is so drawn as to require the devotion of full time to the duties of either office which would result in it not being possible to perform the duties of the other office.*

COLUMBUS, OHIO, February 26, 1931.

HON. GWYNN SANDERS, *Prosecuting Attorney, Marysville, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

“Hereto attached you will find a written statement of facts numbers 1 and 2, upon which I would like a written opinion.”

Attached to your communication are the following statements of facts and inquiries:

“Dr. S. of Marysville, Ohio, was the County Health Commissioner of Union County prior to his appointment as State Health Commissioner. Dr. M. of Marysville, Ohio, was a member of the County Board or