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PATROLMEN — APPOINTED BY SUPERINTENDENT OF PUBLIC WORKS — DO NOT POSSESS POWERS OF POLICE OFFICERS — NO AUTHORITY TO MAKE ARRESTS OR CARRY CONCEALED WEAPONS OTHER THAN GRANTS TO CITIZENS GENERALLY — SECTION 420 GENERAL CODE.

## SYLLABUS:

Patrolmen appointed pursuant to Section 420, General Code, by the Superintendent of Public Works do not possess the powers of police officers and have no authority to make arrests or carry concealed weapons other than that possessed by citizens generally.

Columbus, Ohio, January 17, 1942.

Hon. Frank L. Raschig, Director of Public Works,  
Columbus, Ohio.

Dear Sir:

I have your request for my opinion which reads as follows:

“This department is contemplating appointing a number of patrolmen pursuant to Section 420 of the General Code, for the purpose of guarding the banks, locks, lakes and reservoirs forming the canal system in and about the City of Akron and surrounding area within Summit County. This water system provides the water supply for the rubber industries and other plants requiring water in the manufacture of their respective products.

A portion of the expense pertaining to the hiring of these patrolmen will be paid by the industries in this area into a special fund, for which we will ask the Emergency Board to appropriate sufficient money for this special protection under the present national emergency.

We are of the opinion that these patrolmen may be hired under and by virtue of the authority vested in the Superintendent of Public Works, in accordance with Section 420 of the General Code, and that the patrolmen so appointed would have the authority to detain any person committing any act of sabotage and willful damage in and about the premises, and turn such person committing any such unlawful act on the premises owned and controlled by the state of Ohio over to the Sheriff of the County, or other law officer.

A representative of the group of industries who are to make this contribution to this special fund, has made the following query:

‘Is it possible to have the guards clothed with police power, either under the recent law creating the home

guard, which replaces the national guard, or is it possible to make these guards reservoir patrolmen similar to appointments made a number of years ago? After you have been properly advised on this subject by the Attorney General's office, and in the event you are unable to clothe the guards with police power, we are willing to interview our sheriff in order to see if he will be willing to have the guards deputized as deputy sheriffs.'

We propose to place these patrolmen under Bond of \$1000.00 each, payable to the state of Ohio.

May we have your opinion as to the power these patrolmen may have in the performance of their duties."

Section 420, General Code, to which you refer, provides:

"The superintendent of public works of Ohio shall appoint such foremen, patrolmen, lock tenders, inspectors, engineers and all other employes as may be necessary for the improvement, maintenance and operation of the public works. They shall be assigned to duty under the supervision of the superintendent of public works, under rules and regulations prescribed by him. Any such employes, when deemed necessary by the superintendent of public works, shall be required to give proper bond to the state of Ohio, conditioned for the faithful performance of his duties.

The salary and compensation of such employes shall be fixed by the superintendent of public works and paid from money appropriated for the maintenance of canals."

The appointments authorized to be made under this section are such as may be "necessary for the improvement, maintenance and operation of the public works." The section further provides that such employes shall be assigned to duty "under rules and regulations prescribed by" the Superintendent of Public Works. The authority of the Superintendent of Public Works to prescribe rules and regulations is contained in Section 415, General Code, which provides:

"The superintendent of public works of Ohio shall have supervision of the public works of the state and shall make such rules and regulations for the improvement, maintenance and operation of the public works as shall be necessary to the proper conduct of the department."

It will be noted that this section provides that the rules and regulations made and promulgated by the Superintendent of Public Works are also limited to the "improvement, maintenance and operation of the public works."

At no place in either of the quoted sections of the General Code is any language used which gives to the patrolmen appointed by the Super-

intendent of Public Works the powers of police officers nor is anything contained in such sections from which such powers can be implied. The word "patrolmen" is used in association with the words "foremen," "lock tenders," "inspectors" and "engineers." Such designations do not convey the idea of police powers, and, in the ordinary acceptation of these terms, the employes so designated would be expected to perform duties entirely different from those of police officers. The term "patrolmen" is used in close association with these words and, in my opinion, the maxim *noscitur a sociis* applies and such patrolmen have power only to perform duties in connection with the improvement, maintenance and operation of the public works.

It is well settled in Ohio that officers have such powers only as are expressly delegated to them by law and such as are necessarily implied from those so delegated. See 37 O.Jur., 933, 934, Section 74. A fortiori, it would follow that employes have no greater powers than those delegated to them by law or by some delegating authority pursuant to law. There is nothing in the law which delegates to patrolmen appointed pursuant to Section 420, General Code, *supra*, the powers of police officers and I find nothing in any of the laws of this state which would authorize the Superintendent of Public Works to delegate police powers to such patrolmen. It therefore follows that such patrolmen do not possess the powers of police officers and have only the same powers to make arrests and carry concealed weapons as are possessed by citizens generally.

I am therefore of the opinion, in specific answer to your question, that patrolmen appointed pursuant to Section 420, General Code, by the Superintendent of Public Works do not possess the powers of police officers and have no authority to make arrests or carry concealed weapons other than that possessed by citizens generally.

Respectfully,

THOMAS J. HERBERT  
Attorney General.