

in their official capacity, but the duty rests upon the county commissioners to make the preliminary preparation which is to be presented to the prosecuting attorney for his use in court. Since it is the duty of the county commissioners to make the investigation necessary for the preparation of a defense in an action instituted against them in their official capacity, and no such duty is imposed by statute upon the prosecuting attorney, and there being no inhibition against such an employment of the prosecuting attorney as an individual, I am of the opinion, therefore, that the county commissioners may make an appropriation from the general fund of the county to pay the expense incurred by the prosecuting attorney in making an investigation and preparing a defense for the county commissioners in a civil suit brought against them in their official capacity.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

609.

PUBLIC PARKS—BUCKEYE LAKE—WHAT COUNTY SHERIFFS MAY ENFORCE TRAFFIC LAWS.

*SYLLABUS:*

*The sheriff of any county, in which a part of Buckeye Lake is located, may enforce the rules prescribed by the Legislature for the government of such park, even though such power has been conferred by the Legislature upon the director of public works.*

COLUMBUS, OHIO, July 11, 1929.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

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

“The unfortunate occurrence at Buckeye Lake Sunday afternoon, resulting in the death of a young man, whose body was recovered Tuesday morning, and reported to have been found by the coroner of Fairfield County to have had his neck, collar-bone and nose broken, indicating that he had been struck by something while on or in the water, brings up the question as to jurisdiction and responsibility for the enforcement of state traffic laws on Buckeye Lake, and other lakes dedicated as public parks.

We would, therefore, ask you to kindly give us your opinion as to who has jurisdiction and the responsibility for the enforcement of state traffic laws, under Rule No. 45, Section 479 of the General Code.

If this jurisdiction rests with, and the responsibility rests upon, the Director of Public Works, can said Director delegate this authority to the sheriff of Fairfield County, over that portion of Buckeye Lake which lies within Fairfield County, or to the sheriff of any county within which a lake or part thereof, having been dedicated as a public park, is located?”

Section 154-40 of the General Code provides that the Department of Public Works shall have all powers and perform all duties vested by law in the Superintendent of Public Works.

Section 154-3 of the General Code provides that the Department of Public Works may be administered by the Superintendent of Public Works, as Director thereof. By virtue of these sections the Director of Public Works is given such power and is required to perform such duties as were formerly vested in the Superintendent of Public Works prior to the enactment of the Administrative Code.

Section 469 of the General Code dedicates and sets apart Buckeye Lake for the use of the public as a public park or pleasure resort.

Section 472 of the General Code provides that the Superintendent of Public Works shall maintain such police regulations and enforce all such rules for the government of the public parks as may be prescribed by law.

Section 479 of the General Code provides as follows:

"The following rules are hereby adopted for the guidance of the superintendent of public works and of the police patrolmen appointed by said superintendent in the discharge of their official duties: \* \* \* "

The Legislature then adopted ninety-two rules and provided by Section 479-1 that any person convicted of violating any of the foregoing rules shall be fined not less than ten dollars nor more than one hundred dollars. Rule 45, as adopted by the Legislature, is as follows:

"Boats running in any canal connected with a reservoir park, shall limit their speed while in the canal to four miles per hour, and parties operating boats, and water craft of all kind, upon any state reservoir, dedicated and set apart as a public park and pleasure resort, shall limit the speed thereof to five miles an hour when passing within 150 feet of the short line of any reservoir, and to a speed of eight miles an hour when operated between lines drawn 150 and 300 feet from the shore line, and the maximum speed on parts of any reservoir, beyond the 300 foot line, shall be limited to fifteen miles per hour."

Since it is the duty of the Director of Public Works to enforce such rules as are prescribed by law for the government of public parks, it is therefore his duty to enforce the rules adopted by the Legislature under the provisions of Section 479 of the General Code and such rules are applicable to Buckeye Lake, which was dedicated as a public park. These rules adopted by the Legislature for a violation of which a penalty is provided, have the same force and effect as other penal statutes, and all officers whose duty it is to enforce the laws of the State of Ohio are required to enforce these rules in the same manner. The sheriff is the chief conservator of the peace and it is his duty to enforce the laws of the State of Ohio in his county. He has authority to arrest and detain any one he finds violating the laws of this state. Likewise, it is his duty to arrest and detain any person he finds violating any rule adopted by the Legislature for the violation of which a penalty is provided. I am of the view that while the statutes confer special police power upon the director of public works to enforce certain rules prescribed by law for the government of public parks and pleasure resorts, such authority does not derogate from the authority of the sheriff to enforce within his county all the penal laws of the State of Ohio, which also includes rules adopted by the Legislature for the violation of which a penalty is provided.

Your attention is directed at this point to Senate Bill No. 131, passed by the 88th General Assembly, which becomes effective July 25, 1929. This act amended Section 472 of the General Code to read in part as follows:

"The conservation council shall maintain such police regulations and en-

force such rules for the government of the public parks as may be prescribed by law.”

While this amendment affects the duties of the Director of Public Works, it has no effect on the duties of the sheriff relative to the enforcement of the rules as to the government of public parks.

Specifically answering your inquiry, I am of the opinion that the sheriff of any county, in which a part of Buckeye Lake is located, may enforce the rules prescribed by the Legislature for the government of such park, even though such power has been conferred by the Legislature upon the Director of Public Works.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

610.

APPROVAL, LEASES TO ABANDONED OHIO CANAL LANDS—WHEELING & LAKE ERIE R. R. COMPANY—PENNSYLVANIA R. R. COMPANY.

COLUMBUS, OHIO, July 11, 1929.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have recently submitted for my examination and approval two leases to the Pennsylvania Railroad Company and one to the Wheeling & Lake Erie Railway Company, in triplicate, executed by you as Superintendent of Public Works, on behalf of the State of Ohio, of certain abandoned Ohio Canal Lands in the city of Massillon, Stark County, Ohio.

The leases referred to are for a term of fifteen years on an annual rental of six per cent of the following sums:

Pennsylvania Railroad Co., Land Lease "A"-----	\$1,000 00
Pennsylvania Railroad Co., Land Lease "B"-----	1,666 67
Wheeling & Lake Erie Ry. Co., Land Lease-----	633 34

An examination of said leases shows that the same are in proper form and in conformity with the provisions of Section 13965 and related sections of the General Code applicable to such kind of leases, and no reason appearing why said leases should not be approved by me, the same are hereby approved.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*