

"A board of county commissioners, not being authorized by statute so to do, may not lawfully purchase land to be used as an airport and may not issue bonds for such purpose."

While that opinion has to do with the purchase of land, rather than the leasing of land as is the situation in the present case, I am nevertheless of the view that this opinion is dispositive of your present question.

It is to be noted that section 3939 of the General Code, relating to the powers of municipal corporations, has a specific provision for the purchase or condemnation of land necessary for landing fields for aircraft and transportation terminals. It would seem to follow that since the legislature has not expressly given the county commissioners authority to purchase or lease lands for landing fields for aircraft that such authority does not exist.

It is therefore my opinion, in specific answer to your question, that a board of county commissioners has no authority to expend public funds for the leasing of a landing field.

Respectfully,
 JOHN W. BRICKER,
Attorney General.

2235.

BONDS—COUNTY COMMISSIONERS UNAUTHORIZED TO EXPEND PROCEEDS OF POOR RELIEF BONDS FOR MATERIALS USED IN COUNTY PUBLIC IMPROVEMENTS—PROPER USE OF SUCH PROCEEDS.

SYLLABUS:

1. *The commissioners of a county are not authorized to expend any portion of the proceeds of bonds issued by such county under authority of section 3 of Amended Senate Bill No. 4 of the First Special Session of the 89th General Assembly, as amended by Senate Bill No. 63 of the 90th General Assembly, or under authority of section 7 of said Amended Senate Bill No. 4, as amended by House Bill No. 7 of the First Special Session of the 90th General Assembly, for the purchase of materials required to carry out public improvements in such county.*

2. *When authorized by the State Relief Commission, the county commissioners may themselves expend any part of such proceeds for furnishing work relief and direct relief to any or all persons in the county who are in a condition requiring it.*

COLUMBUS, OHIO, January 29, 1934.

HON. VERNON L. MARCHAL, *Prosecuting Attorney, Greenville, Ohio.*

DEAR SIR:—I acknowledge receipt of your communication, which reads in part as follows:

"On behalf of the County Commissioners of this County, I would appreciate your opinion on the matter of the use of monies arising from the issuance of bonds for poor relief as provided under Senate Bill No. 63. The question of the County Commissioners is as to whether or not

they would be permitted to expend any money arising from the sale of such bonds in the purchasing of materials to carry out various improvements in the County that have been approved by the Civil Works Program, and on which improvements the Federal Government through the Civil Works Program will pay for the labor.

* * * * *

I also wish to inquire if the County Commissioners would be authorized to expend any of this money directly in the employment of men who are on the poor relief rolls or unemployed—that is, is it necessary for the commissioners to allocate the money to the various townships and cities to be expended by such townships and cities, or would it be possible for the County Commissioners to pay the money directly to the men employed by them?"

Section 3 of Amended Senate Bill No. 4 of the First Special Session of the 89th General Assembly, as amended by Senate Bill No. 63 of the 90th General Assembly, provides for the issuance of bonds by county commissioners for poor relief within the county, the principal and interest of which will not exceed the amount as estimated by the Tax Commission which will probably be allocated to such county under the provisions of section 5 of the act.

Section 7 of said Amended Senate Bill No. 4, as amended by House Bill No. 7 of the First Special Session of the 90th General Assembly, provides for the issuance of bonds for poor relief by a county or city after the county has issued all of the bonds which it is authorized to issue under section 3 of the act.

Section 8 of said Amended Senate Bill No. 4, as amended by Senate Bill No. 63 of the 90th General Assembly, provides that the proceeds of bonds issued by a county under section 3 or section 7 of the act shall be placed in the Emergency Relief Fund of such county and shall be deemed to be appropriated for the purpose only for which the bonds were issued, and that the proceeds of bonds issued by a city under section 7 of the act shall be placed in the Emergency Relief Fund of the city and shall be used only for poor relief.

Section 9 of said Amended Senate Bill No. 4, as amended by Senate Bill No. 63 of the 90th General Assembly, reads as follows:

"No disbursement of any part of the emergency relief fund shall be made by the county commissioners or the council or other legislative body of any city of any county until the budget of such county or city for relief expenditures has been approved by the state relief commission. At any time after such approval and in accordance therewith and prior to the first day of March, * * * 1935, the county commissioners of any county shall, from time to time, distribute such portion of said fund to any or all of the cities (whether charter cities or otherwise) and townships of such county, according to their relative needs for poor relief as determined by such county and as set out in such approved budget; such moneys so distributed to any city or township shall be expended for poor relief in such city or township, including the renting of land and the purchase of seeds for gardening for the unemployed, and for no other purpose.

The county commissioners of any county, at any time prior to the first day of March, * * * 1935, upon the request of any board of educa-

tion other than the county board of education in such county, and upon proof to their satisfaction that such board is without funds available for the relief of school children, may supply such board with funds as approved by the state relief commission in any amount, which funds may be paid out of the emergency relief fund, or from the county poor relief excise fund, and shall be expended by such board of education for the relief of school children, and for no other purpose.

At any time prior to the first day of March, * * * 1935, the county commissioners of any county may, when authorized by the state relief commission expend any part of the emergency relief fund or the county poor relief excise fund of such county for furnishing work relief and direct relief as defined in this act, to any or all persons in such county who are in a condition requiring it, anything in sections 3476 to 3496, both inclusive, of the General Code, to the contrary notwithstanding."

Section 1 of said Amended Senate Bill No. 4, as amended by House Bill No. 7 of the First Special Session of the 90th General Assembly, defines work relief and direct relief as follows:

"b. The term 'work relief' shall mean 'relief given in exchange for labor.'

c. The term 'direct relief' shall mean * * * the furnishing of food, clothing, shelter, fuel and medical attention in the home."

Section 2 of said Amended Senate Bill No. 4, as amended by said House Bill No. 7, reads in part as follows:

"Funds raised under this act by the issue of bonds shall be used for poor relief. Any subdivision administering funds raised under this act shall require labor in exchange for relief given to any family where there is a wage earner or wage earners, except in cases which may be exempted in accordance with rulings that may be made by the state relief commission. 'Poor relief,' in the case of a county, shall mean the furnishing of temporary support and medical relief to non-residents, pursuant to sections 3476 and 3484-2 of the General Code * * *, and the furnishing of direct and work relief by county commissioners under the provisions of section 9 of this act. * * * Under the provisions of this act, it shall be permissible for a county, city or township, to give relief to needy unemployed who cannot be termed 'indigent' under section 3476."

Section 7 of said act, as amended by said House Bill No. 7, reads in part as follows:

"For the purpose of this section 'poor relief' in the case of a county, shall mean the payment of mothers' pensions allowed, or to be allowed, by the juvenile court, under sections 1683-2 to 1683-9 inclusive, of the General Code; soldiers' relief as provided in sections 2930 to 2941, inclusive, of the General Code; the furnishing of temporary support and medical relief to non-residents, pursuant to sections 3476 and 3484-2 of

the General Code; and the maintenance of a county home and the children's home, and the expense of placing children in private homes incurred, pursuant to sections 3095 and 3096 of the General Code; and the furnishing of direct and work relief by the county commissioners under the provisions of section 9 of this act. * * * in the case of any political subdivision, said term shall include work relief, direct relief and the maintenance of a hospital belonging to the political subdivision or the making of payments by the political subdivision to hospitals otherwise owned, for the care of the indigent, sick, or disabled of the political subdivisions, as authorized by law."

The act in question clearly provides what uses may be made by a county of the proceeds of bonds issued by it under said act. In brief, these uses include the furnishing of temporary support and medical relief to non-residents pursuant to sections 3476 and 3484-2, General Code, the furnishing of funds to boards of education for the relief of school children and the furnishing of work relief and direct relief to any and all persons in the county who are in a condition requiring it; and with reference to the proceeds of section 7 bonds, such uses also include mothers' pensions, soldiers' relief, maintenance of a county home and the children's home, and the expense of placing children in private homes.

As defined above, work relief means relief given in exchange for labor and direct relief means the furnishing of food, clothing, shelter, fuel and medical attention in the home. There is nothing in this act which would authorize county commissioners to expend the proceeds of bonds issued under said act for the purchase of any materials, except those of the classes expressly mentioned, such as food, clothing, fuel and medicines.

Section 9 of the act, as amended by Senate Bill No. 63 of the 90th General Assembly, is, in my opinion, clearly dispositive of your second inquiry. This section reads in part as follows:

"At any time prior to the first day of March, 1935, the county commissioners of any county may, when authorized by the state relief commission expend any part of the emergency relief fund or the county poor relief excise fund of such county for furnishing work relief and direct relief as defined in this act, to any or all persons in such county who are in a condition requiring it, anything in sections 3476 to 3496, both inclusive, of the General Code, to the contrary notwithstanding."

Specifically answering your questions, therefore, I am of the opinion that:

1. The commissioners of a county are not authorized to expend any portion of the proceeds of bonds issued by such county under authority of section 3 of Amended Senate Bill No. 4 of the First Special Session of the 89th General Assembly, as amended by Senate Bill No. 63 of the 90th General Assembly, or under authority of section 7 of said Amended Senate Bill No. 4, as amended by House Bill No. 7 of the First Special Session of the 90th General Assembly, for the purchase of materials required to carry out public improvements in such county.

2. When authorized by the State Relief Commission, the county commissioners may themselves expend any part of such proceeds for furnishing work

relief and direct relief to any or all persons in the county who are in a condition requiring it.

Respectfully,
JOHN W. BRICKER,
Attorney General.

2236.

APPROVAL, WARRANTY DEED TO LAND SITUATED IN WINDSOR
TOWNSHIP, MORGAN COUNTY, OHIO, EXECUTED BY EN-
FIELD BROKAW.

COLUMBUS, OHIO, January 29, 1934.

The Ohio State Archaeological and Historical Society, Columbus, Ohio.

GENTLEMEN:—This is to acknowledge the receipt of your recent communication, submitting for my examination and approval, a Warranty Deed, executed by one Enfield Brokaw, by which there is conveyed to The Ohio State Archaeological and Historical Society, a small parcel of real estate situated in Windsor Township, Morgan County, Ohio, which parcel of land is in Town 8, Range 11, and is more particularly described as follows:

“A triangular parcel of land situate, lying and being in Town 8, Range 11, Morgan County, Ohio; bounded and described as follows:

Beginning at the most easterly corner of The Big Bottom State Park, thence extending the southeasterly boundary line of said Park, North 38 degrees and one minute East 29 feet more or less to an intersection with the West right-of-way line of State Highway No. 266. Thence North 43 degrees 23 minutes West, following said right-of-way line 172 feet more or less to a point of intersection with the easterly boundary line of said Big Bottom State Park; thence South 34 degrees 30 minutes East following said easterly boundary line 178.1 feet more or less to the point of beginning, containing 0.057 acres more or less and being more fully shown on the map attached hereto and made a part hereof.”

It is evident from this deed and from the plat which is made a part thereof, as well as from your communication, that the tract of land here in question is being acquired by your society as an addition to Big Bottom State Park which, I assume, is under your control. In this view, your authority to acquire this additional tract of land is given to you by Section 10198-1, General Code, as amended in and by House Bill No. 277, enacted by the 90th General Assembly, under date of March 30, 1933, 150 O. L. 207.

Upon examination of this deed, I find that the same has been properly executed and acknowledged by the grantor, and that the form of this deed is such that it is effective to convey this property to your society by fee simple title, so long as no buildings are erected upon this parcel of land and the same is used and maintained as a part of said park.