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1. NATIONAL YOUTH ADMINISTRATION — MUNICIPAL CORPORATIONS AND COUNTIES MAY NOT LEGALLY EXPEND PUBLIC FUNDS TO CONTRIBUTE TOWARD ACQUISITION OF BUILDING TO HOUSE WORK PROJECT AND CLAIMS IN VOCATIONAL EDUCATION.
2. BOARD OF EDUCATION MAY SPEND SCHOOL FUNDS TO PURCHASE, CONSTRUCT, ENLARGE, EXTEND, COMPLETE, IMPROVE, EQUIP AND FURNISH BUILDINGS FOR PUBLIC SCHOOL PURPOSES — SECTION 7625 GENERAL CODE.
3. BOARD OF EDUCATION, FUNDS MAY BE EXPENDED TO PURCHASE BUILDING, USE, PLAN FOR EMPLOYES OF NYA TO ACQUIRE VOCATIONAL EDUCATION AND WORK EXPERIENCE UNDER DEFENSE TRAINING PROGRAM — EMPLOYES MAY BE ADULTS WHO RESIDE OUTSIDE SCHOOL DISTRICT.

## SYLLABUS:

1. *Municipal corporations and counties may not legally expend public funds in contributing toward the acquisition of a building to be used for the purpose of housing the youth work project of the National Youth Administration and vocational education training classes in connection therewith.*

2. *Under the provisions of Section 7625, General Code, boards of education may spend school funds in purchasing, constructing, enlarging, extending, completing, improving, equipping and furnishing buildings for public school purposes.*

3. *Funds of a Board of Education may be lawfully expended in contributing to the purchase price of a building, title to which is to vest in said board, where said building is to be used for the purpose of carrying out a plan under which employes of the National Youth Administration are furnished vocational education and work experience under the Defense Training Program, even though such employes may be adults who reside outside of the school district.*

Columbus, Ohio, December 19, 1941.

Bureau of Inspection and Supervision of Public Offices,  
Columbus, Ohio.

Gentlemen:

This will acknowledge receipt of your request for my opinion which reads as follows:

“Do boards of education, counties and municipalities have authority to make cash contributions or to expend public funds in participating in the program of the National Youth Administration?”

May a board of education participate in such program by expenditure of funds from its treasury in the purchase of materials, etc., to be used in the erection of a building, if the title to such building remains with the Federal Government and may be removed by the Federal Government at any time?

May a board of education participate in such program if the said board of education is to receive title to the building erected?”

Under the provisions of Public Law No. 146-77th Congress 1st Session entitled "An Act making appropriations for the Department of Labor, the Federal Security Agency and related independent agencies for the fiscal year ending June 30, 1942, and for other purposes," there is appropriated the sum of \$56,972,000 for the Youth Work Defense Program.

This particular defense program, to be administered by the National Youth Administration under the supervision and direction of the Federal Security Agency, provides for the employment of needy young persons between the ages of seventeen and twenty-four, inclusive, in resident and workshop projects which furnish work experience preparatory to employment in defense occupations. In so providing for the employment of such persons the National Youth Administration is authorized to pay a wage in accordance with schedules established by the National Youth Administrator and approved by the Federal Security Administrator and to purchase materials, equipment and supplies in order to properly foster such workshop projects.

The National Youth Administration is further authorized by Paragraph 1 of the Appropriation Act to construct federal and non-federal buildings. The term "non-federal" is employed to cover situations where title to the building is taken by co-sponsoring agencies. In the case of non-federal construction projects, however, such authorization is limited by Paragraph 6 of the Act which provides that no non-federal construction project costing in excess of five thousand dollars (\$5,000) shall be undertaken or prosecuted unless and until the co-sponsor has made a written agreement to finance such part of the entire cost thereof as the Federal Security Administrator determines, under the circumstances, is an adequate contribution, taking into consideration the financial ability of the co-sponsor.

In carrying out the purposes set forth in the National Youth Administration Appropriation Act for 1942 and in order to expand the scope of work experience in the mechanical fields, the Administration proposes to erect prefabricated metal buildings for the proper housing of its workshop projects and/or related vocational training.

With respect to this particular construction project, the Federal Security Administrator has determined that if the co-sponsor's contribu-

tion amounts to fifteen per cent of the cost, then title to the building will vest in the co-sponsor. If the contribution is less than fifteen per cent, title to the building is to remain in the Federal Government. In addition, the erection of such a prefabricated building is further qualified and subject to the condition that if erected, the co-sponsor having title shall enter into an occupancy agreement by which the National Youth Administration will be permitted to use the building rent free for project purposes.

Interrelated with the Youth Work Defense Program is the Education and Training Program conducted under the direction of the United States Office of Education.

In the Appropriation Act mentioned above (Pub. Law No. 146-77th Cong. 1st Sess.), the sum of ten million dollars is allocated to defray the cost of vocational courses and related or other necessary instruction provided by the states, subdivisions thereof, or other public agencies for young people employed on work projects of the National Youth Administration, such courses and instruction to be provided pursuant to plans submitted by such agencies and approved by the United States Commissioner of Education.

The plan which has heretofore been entered into between the Ohio State Board for Vocational Education and the United States Commissioner of Education and under which the State of Ohio is now operating provides in part as follows:

“III. All vocational courses or related or other necessary instruction for young persons employed on work projects by the N. Y. A. will be under the supervision of the respective state supervisors in the various fields of vocational education employed by the State Board of Vocational Education.

IV(2). The local Board of Education with the advice and counsel of a local advisory committee will be responsible for determining and approving the courses to be offered locally. The local advisory committee will be appointed by the local school administrator and will be composed of representatives or organizations or groups having an interest in the training program. The membership will include an equal representation of employes and employers. Representatives from other groups interested in youth will serve as consultants without a vote. \* \* \*

V(2d). The State Director of Education and the State N. Y. A. Administrator will confer on the program of work projects, including the nature and location of projects, nature of the instruction to be given and the conditions under which the instruction will be given.

V(3a). Programs of instruction will be available to young people employed on N. Y. A. work projects for the entire period of their employment.

(b). Courses may be offered at any time during the twenty-four hours of the day when satisfactory facilities are available.

VI(1e). Funds may be used for rental of additional space when present space available is not sufficient for the effective conduct of the program, if prior approval has been secured from the State Board for Vocational Education or its authorized agent."

Pursuant to the foregoing plan, the National Youth Administration and the Department of Education of the State of Ohio entered into an agreement on the operation of the National Youth Administration and Vocational Education Cooperative Defense Training Program. This agreement is as follows:

"Date: October 6, 1941

Subject: AGREEMENT ON OPERATION OF NYA-VE CO-OPERATIVE DEFENSE TRAINING PROGRAM

The National Youth Administration and the Department of Education of the State of Ohio have agreed upon the following policies to govern the operation of the NYA-VE cooperative defense training programs within the State:

1. That according to Administrative Order No. 97 issued by Leo B. Jacobs, State Administrator of NYA for Ohio, there shall be 100 hours of work production, and in accordance with Miscellaneous 3400 VE-ND Revised July, 1941, (question 38, pages 34 and 35), issued by the U. S. Office of Education 'there shall be at least 60 hours of organized shop and related instruction.' The NYA will make this effective with the beginning of the first payroll period after October 1st, unless specific exemptions are issued. The public schools should make their change in hours as nearly simultaneously as possible, but not later than October 27th.
2. That vocational training for the NYA-VE defense training programs, in the main, will consist of organized instruction given in shops, not in classrooms.
3. That NYA shops will be made available for use by the public schools for organized shop instruction when proper arrangements have been made.

4. That NYA foremen, when properly certified, may be employed by the local Board of Education at its discretion to do organized shop instruction.
5. That organized shop instruction and work experience in the same shop at the same time is not favored. There should be a definite designation of work experience and organized shop instruction time, so that the youth as well as foremen and instructors might have full knowledge of which activity they are engaged in at any given time. Definite schedules, signs, and designating signals are considered desirable. Vocational training and work experience shall proceed uninterruptedly for the full period of hours assigned to each.
6. That NYA will be reimbursed for that proportionate share of operation costs incurred during the time that the NYA shop and facilities are used by the public schools for any type of training. NYA will make no claim for amortization of buildings or equipment. In regard to building operation costs, including janitorial supplies and rent, the method by which the schools will assume their share of these costs has not been fully determined. Other costs will be assumed as follows:

Maintenance and repair of machinery and equipment.

In case of actual breakage or damage due to negligence, the bill must be assumed by the agency whose representatives were responsible for the shop at the time the damage occurred. In cases where it becomes necessary to repair or replace equipment or parts due to actual use by both services, each agency will bear the proportionate share by payment of separate invoices to the vendor or vendors.

All supplies except janitorial should be purchased by the individual agency on the basis of separate invoices. Tool room worker salary costs will be paid proportionately by the agency for whom service is rendered.

*Leo B. Jacobs (Signed)*  
State Youth Administrator

*Kenneth C. Ray, Director (Signed)*  
State Department of Education"

Under date of November 1, 1941, the foregoing agreement on the operation of the National Youth Administration-Vocational Education Cooperative Defense Training Program was revised. The revision, to be read in connection with the original agreement as to policy, is as follows:

"Subject: REVISED AGREEMENT ON OPERATION OF  
NYA-VE COOPERATIVE DEFENSE TRAINING  
PROGRAM

The National Youth Administration and the Department of Education of the State of Ohio have agreed upon the following revision of policies outlined in the joint letter of October 6, 1941, in the operation of the NYA-VE cooperative defense training programs within the state. This revision has become necessary due to unanticipated budgetary restrictions of the National Youth Administration caused by the need of constructing nine additional work shops from operating funds. In order to effect this operation economy, one of the steps must be the immediate reduction of work experience hours for the remainder of the fiscal year.

1. Paragraph 1 shall be revised to provide for 80 hours of work experience under the direction of the National Youth Administration, and 80 hours of organized shop and related instruction under the direction of the public schools. According to wage orders D-8 and D-9, issued by Leo B. Jacobs, State Administrator of the National Youth Administration for Ohio, this change will be effective for the NYA at the payroll period of each of the projects, which begins on or after November 1, 1941. While it is considered desirable that the public schools make their change in hours as nearly simultaneously as possible, it is agreed that circumstances in particular localities may postpone change by the schools until after the end of the present course term in December.
2. No changes will be made in paragraphs 2, 3, 4, and 5, setting forth the following agreed policies:
  - A. That vocational training for the NYA-VE defense training programs, in the main, will consist of organized instruction given in shops not in classrooms.
  - B. That NYA shops will be made available for use by the public schools for organized shop instruction when proper arrangements have been made.
  - C. That NYA foremen, when properly certified, may be employed by the local Board of Education at its discretion to do organized shop instruction.
  - D. That organized shop instruction and work experience in the same shop at the same time is not favored. There should be a definite designation of work experience and organized shop instruction time, so that the youth as well as foremen and instructors might have full knowledge of which activity they are engaged in at any given time. Definite schedules, signs, and designating signals are considered desirable. Vocational training and work experience shall proceed uninterruptedly for the full period of hours assigned to each.

3. Paragraph 6 shall be extended and revised as follows:  
NYA will be reimbursed for the proportionate share of operation costs incurred during the time that the NYA shop and facilities are used by the public schools for any type of training included in this program. NYA will make no claim for amortization for building or equipment.
  - A. The suggested method of apportioning building operation costs including rent, electricity, gas, coal, heat, water, et cetera, will be that the National Youth Administration and the local schools will enter a lease agreement for the use of the NYA shop including appropriate building operation costs.
    - (1) The following conditions must be considered:
      - a. If the NYA occupies a leased building, permission must be obtained from the lessor in order to sublease as described in Paragraph #4 of U.S. Standard Lease Form No. 2. If the lessor refuses permission or the existing government lease prohibits sub-leasing, the suggested alternate plan indicated under 3 B should be used.
      - b. In order for the public schools to rent space for Vocational Training for Defense Workers, there must be definite evidence that the school does not have sufficient suitable space in which to conduct this type of training. There must also be a demonstrated need for training beyond that which can be supplied by existing training facilities.
      - c. The schools must submit an application for rental of space to the State Director for his consideration on VE-ND Form RS in quadruplicate. A supply of these forms and Miscellaneous 2480 VE-ND, Instructions for Preparation of Request for Rental of Space on VE-ND Form RS will be forwarded to the school authorities on request. Final approval of requests for rental of space rests with the U. S. Office of Education, and no lease agreement can become effective until this approval has been received by the local public school authorities.
      - d. Such services as heat, fuel, light, power, janitorial supplies and services may be included in the rental lease.
    - (2) A lease agreement in a form supplied by the National Youth Administration and approved by the Attorney General of the State of Ohio will be signed by the NYA through the Area Director and the authorized repre-



sentative of the local Board of Education. The terms upon which the lease will be drawn will be determined as follows:

- a. A committee composed of a representative of NYA, a representative of the schools and an impartial, competent engineer will propose the amount of costs by courses, which should be assumed by the public schools based upon the amount of time, space, and type of service which the schools will use for each course contemplated. A copy of these proposals by items will be attached to the lease agreement.
- (3) NYA will forward a copy of the lease when completed to the State NYA Office, and also advise the State NYA Office at the time notification is received from the schools that the lease is effective.
  - (4) In addition to the lease agreement with NYA, the school authorities must complete application Form VE-ND RS as described in 3A(1)c. When VE-ND Form RS is submitted to the State Director of Vocational Training for Defense Workers, two copies of the lease and the basis for the proposed reimbursement will be included.
  - (5) Monthly the local NYA will submit an invoice in triplicate to the local school authorities for the amount of the lease. A check drawn to the 'Treasurer of the United States' for the amount of the invoice will be issued by the local school authorities and forwarded to the NYA Area Office. These checks will be forwarded by the NYA with the amounts of the checks to be credited to each project number to the State NYA Office of Finance and Statistics.
- B. An alternate method of proportioning building operation costs including heat, light, power, janitor service, et cetera, but *excluding rent*, will be as follows:
- (1) A committee composed of a representative of the schools, a representative of NYA and an impartial competent engineer will determine the proportion of costs to be assumed by each agency for each item of these costs. For purposes of the Board of Education, the costs to be assumed by the schools will be further divided to determine the cost of each item chargeable to each contemplated course. This further division shall be reported by the schools on the monthly financial report in the appropriate line and column.
  - (2) All janitorial supplies shall be purchased by the individual agencies on the basis of separate invoices.

- (3) An agreement or signed contract will be entered into by the local NYA and the Board of Education to the effect that the schools will reimburse NYA for these costs on the basis of proportions determined by the authorities referred to above. In addition to the percentage proportions, this agreement shall include the estimated actual amounts. The signature and qualifications of the authorities making these estimates shall be included with the agreement. Copies of this agreement will be forwarded as follows: two to the Office of Vocational Training for Defense Workers, State Department of Education, and two to the State Office of the National Youth Administration, a copy will also be kept by each of the signatories. This agreement will be effective for bills covering obligations incurred on and after November 1st, and shall remain in effect until rescinded by either one or both agencies which are signatories thereto.
  - (4) When vendors submit invoices for the items in the agreement to the Procurement Office, arrangements will be made by the NYA Area Office to have two additional copies made and forwarded to the Area Office. NYA will pay the full amount of the bill.
  - (5) NYA will forward the two additional copies of the bill to the local Board of Education.
  - (6) A check drawn to the Treasurer of the United States for the agreed proportionate amounts of the bills will be issued by the local Board of Education and forwarded to the NYA Area Office. These will be forwarded with the amounts of the check to be credited to each project number, to the State Office of Finance & Statistics.
- C. Maintenance and repair of machinery and equipment.
- In case of actual breakage or damage due to negligence, the bill must be assumed by the agency whose representatives were responsible for the shop at the time the damage occurred. In cases where it becomes necessary to repair or replace equipment or parts, due to actual use by both services, each agency will bear the proportionate share by payment of separate invoices to the vendor or vendors.
- D. Tool room workers salary costs will be paid proportionately by the agency for whom the service is rendered.
- E. Instructional supplies shall be purchased by the schools and kept in a separately locked space. All supplies

for work projects shall be purchased by NYA and be kept in a separately locked space. Each agency will secure separate invoices for supplies purchased by them.

*Kenneth C. Ray, Director (signed)*  
State Department of Education

*Leo B. Jacobs (signed)*  
State Youth Administrator”

Also pertinent to the inquiry is the following excerpt taken from a federal document known as Misc. 3400 VE-ND, said excerpt being based on Regulation Sec. 305 of the Federal Security Agency:

“When there is a demonstrated need for training beyond the existing training facilities, local school boards may make application for rental of space through the State Board for Vocational Education on form RS furnished by the United States Office of Education. \* \* \* If approved by the State director, the application will then be sent to the director for consideration and, if approved, the director will authorize the state director to approve the use of federal funds to rent such space as has been approved. However, a local school board will not be authorized to rent additional space until all available facilities of the school have been used.”

Upon analyzing the various aspects of the National Youth Administration and Vocational Education Defense Training Program with respect to the erection and use of prefabricated shop buildings, it is evident that the parties to the plan contemplate that said shop buildings will be utilized in part by boards of education in providing organized shop instruction to the National Youth Administration employees engaged in work production. In fact, under the agreement above set forth, it further is contemplated that shop instruction and work production will be conducted under the supervision of one foreman or instructor and that the status of the youths, as employees or students will be controlled by a pre-arranged schedule or signal device. Moreover, the training and educational program for youth employed by the National Youth Administration on work projects is to be under the control and supervision of the State Board for Vocational Education and is to be paid for out of appropriations made to the United States Office of Education. The local boards of education are to be responsible for determining and approving the courses to be offered locally and such boards, under the agreement, are required to reimburse the National Youth Administration for the proportionate share of operation costs incurred during the time that the

National Youth Administration shop and facilities are used by the public schools.

This reimbursement feature of the cooperative program whereby the National Youth Administration is to be paid for that proportionate share of operation costs incurred during the time that the shop and facilities are used by the public schools in providing organized shop instruction amounts to a mere matter of form and can have no bearing on the question concerning the authority of boards of education to participate in the program. The funds for said reimbursement are to be federal funds, the expenditure of which is to be authorized by the United States Office of Education. In effect, therefore, the use of the National Youth Administration shop facilities by the local boards of education is not conditioned upon the payment of rent by the boards of education but, to the contrary, a bookkeeping arrangement is contemplated so that the funds appropriated to the United States Office of Education and the National Youth Administration will be properly channelized. Although the local boards of education are ostensibly paying rent and sharing operation costs, in reality they are simply assuming the position of a trustee with respect to federal funds and transferring these funds to the National Youth Administration in accordance with the provisions of the trust. In fact, no school funds, as such, are utilized.

In this regard Misc. 3400 VE-ND at page 11 provides:

“The recipient receives such funds as trustee and is responsible for the proper custody thereof, for the disbursement thereof upon properly executed requisition of the State Board for Vocational Education, for accounting for the interest earned thereon, if any, and shall cooperate in such audits as may be necessary. The recipient shall also, at such times as requested by the State Board for Vocational Education, submit an affidavit setting forth the amount of interest, if any, earned on such funds. He shall promptly, on request of the Director, return any undisbursed part of such funds through the Office of Education to the United States Treasury.”

From the foregoing analysis it is clear that the prefabricated buildings in question to be erected in connection with the program of the National Youth Administration are to be used for the joint purpose of facilitating the National Youth Administration work projects and the organized shop training plan of the Department of Education.

Whether boards of education, counties or municipalities may financially participate in the program as above interpreted, by expending public funds in the first instance by co-sponsoring the erection of the prefabricated buildings, is a matter depending solely on constitutional or statutory authorization. The fact that the program may be of an emergency character in connection with defense has no bearing on the question. Courts strictly adhere to the formula that while an emergency may furnish the occasion for the exercise of a power, an emergency does not create power, or increase granted power, or remove or diminish the restrictions upon power granted.

In considering whether there is any such authorization, it should be borne in mind that the extent of financial participation is an important factor for the reason that title to the building will vest in the local co-sponsor if there is a fifteen per cent contribution. In dollars and cents it means that a local subdivision is procuring an \$85,000 building for the sum of \$12,750.

Boards of education are created by statute and have only such powers as are expressly granted or clearly implied. This principle is zealously applied in situations involving the expenditure of money or the acquisition and holding of property. In the case of Perkins, et al. Board of Education, v. Bright, 109 O.S., 14, 21, it was said by the Supreme Court of Ohio:

“Boards of education are creations of statute, and their duties and authority are marked by legislation, \* \* \*”

And again in the more recent case of Schwing v. McClure, 120 O.S., 335, the principle was propounded in the following manner:

“Members of a board of education of a school district are public officers, whose duties are prescribed by law. Their contractual powers are defined by the statutory limitations existing thereon, and they have no power except such as is expressly given, or such as is necessarily implied from the powers that are expressly given.”

Boards of education are expressly authorized by statute to expend school funds in purchasing buildings. This authority is contained in Section 7625, General Code, which reads as follows:

“The taxing authority of any school district in addition to other powers conferred by law shall have power to purchase, construct, enlarge, extend, complete, improve, equip and furnish buildings and playgrounds for public school purposes, and acquire real estate with or without buildings thereon, and easements, for such purpose.”

Upon examination of the foregoing section, it is at once evident that the authority to purchase buildings is qualified by the requirement that such buildings shall be for public school purposes.

It is therefore necessary to determine whether or not the proposed plan of operation is in furtherance of school purposes.

Vocational education or shop training courses are by statute recognized as proper school functions. In this regard, Section 7722, General Code, provides:

“Any board of education may establish and maintain manual training, domestic science, and commercial departments; agricultural, industrial, vocational and trades schools, also kindergartens, in connection with the public school system; and pay the expenses of establishing and maintaining such schools from the public school funds, as other school expenses are paid.”

The fact that adults will be the recipients of the training does not render the purpose devoid of a public school aspect. In Section 7622-4, General Code, it is declared that boards may provide for further education of adult persons in the community.

In Opinions of the Attorney General for the year 1920, Opinion No. 1227, Volume I, page 539, it was held as evidenced by the syllabus that:

“A city board of education may establish and maintain vocational schools to which adults may be admitted and may erect and equip suitable buildings or set apart and use buildings under the control of the board of education for such purposes in the same manner and within the same limitations as it establishes and maintains buildings for other school purposes.  
\* \* \*”

In concluding that a board of education has authority to participate in the youth work defense program conducted by the National Youth

Administration by expending public funds in order to procure the title to a building, the contemplated use of which is for public school purposes, I am not unmindful of the fact that the plan as contemplated will admit as pupils persons who may not be residents of the school district. This same problem arose in connection with the administration of the Smith-Hughes law. In Opinions of the Attorney General for the year 1920, Opinion No. 1616, Volume II, page 1031, the then Attorney General ruled that "A board of education can conduct its vocational classes outside the limits of the school district and can use its educational funds in the conduct of such classes."

The fact that persons not residing in the school district may receive vocational education training loses import, however, in view of the fact that the expenses for such training are to be paid from federal funds rather than school funds.

From the foregoing it will be noted that the authority to participate in the first instance by the expenditure of school funds is drawn from the statute which empowers boards of education to purchase buildings for public school purposes. Where this is not the case, for example, where the expenditure is less than fifteen per cent and title to the building remains in the Federal Government, authority to participate financially is lacking.

Proceeding to the next question posed in your inquiry, to wit, whether counties have authority to make cash contributions or to expend public funds in participating in the Youth Work Defense Program of the National Youth Administration, the rule applicable to boards of education is similarly applicable to the board of county commissioners. In the case of *Peter v. Parkinson*, Treasurer, 83 O.S. 36, 49, the court stated:

"\* \* \* While in a sense the board of commissioners is the representative and financial agent of the county, its authority is limited to the exercise of such powers only as are conferred upon it by law. \* \* \*"

And in the case of *State, ex rel. Locher v. Menning*, 95 O.S., 97, 99, the following statement with respect to the powers of county commissioners appears:

"The legal principle is settled in this state that county

commissioners, in their financial transactions, are invested only with limited powers, and that they represent the county only in such transactions as they may be expressly authorized so to do by statute. The authority to act in financial transactions must be clear and distinctly granted, and, if such authority is of doubtful import, the doubt is resolved against its exercise in all cases where a financial obligation is sought to be imposed upon the county.”

To the same effect is the holding in the case of *Jones, Auditor, v. Commissioners of Lucas County*, 57 O.S., 189, wherein the court in the first paragraph of the syllabus stated:

“The board of county commissioners represents the county, in respect to its financial affairs, only so far as authority is given to it by statute. \* \* \*”

Under the provisions of Section 2433, General Code, counties are authorized by statute to purchase buildings; such authorization, however, is confined to certain enumerated types and does not include within its terms prefabricated buildings to be used for the joint purpose of facilitating the National Youth Administration work projects and the Department of Education’s organized shop training plan.

The authority of the county to act as a contributing co-sponsor in consideration of the establishment of a National Youth Administration workshop project within the county is also lacking.

Coming to the final question raised by your inquiry concerning the power of municipalities to expend public money, this determination calls for an examination of the statutory and charter provisions in order to ascertain whether such an expenditure is authorized.

That statutory or charter authorization is necessary is evidenced by the decision in the case of *State, ex rel. v. Semple*, 112 O.S., 559, 560, wherein the court said:

“It does not follow, from the broad powers of local self-government conferred by Article XVIII of the Constitution of the state, that a municipal council may expend public funds indiscriminately and for any purpose it may desire. \* \* \* Without considering the validity of such a provision, it must be conceded that there is no express provision of the charter of the city of Cleveland relative to the contribution from the treasury



of the city to a fund made up of contributions of various municipalities for the purposes enumerated in the constitution of the 'Conference of Ohio Municipalities,' and no general provision from which authority may be inferred to expend the funds of the city to assist in creating and maintaining an organization with offices and officers entirely separate from those of the city, selected by representatives of various municipalities of the state, with salaries and expenses also fixed by them."

And in the case of *Markley v. Village of Mineral City*, 58 O.S., 430, it was held that in the absence of statutory authority, the funds of a municipal corporation cannot be expended for the purchase of land for the purpose of donating the same to persons or companies who will agree to construct and operate manufacturing plants thereon, even though such transaction would be beneficial to the inhabitants of the municipality.

And in the case of *City of Cleveland v. Artl*, 62 O.App., 210, 214, the court stated:

"Municipal corporations in their public capacity, when they act in respect to the expenditure of moneys raised by taxation, possess only such powers as are expressly granted them by constitutional provision or legislative acts, and only such implied powers as are necessary to carry into effect powers which are expressly granted."

While the courts intimate that charter authorization alone is sufficient to validate the expenditure of municipal funds, it is of course obvious that such is the case only when the purpose of the expenditure is within "the powers of local self-government".

This being so, we may exclude from consideration any charter authorization, if there be any existent, for in view of the nature and field of operation of the functions to be performed by the National Youth Administration, they may not be classed as local and municipal in character.

As for statutory authorization, suffice it to say that the legislature of the State of Ohio has not by express provision or by implication conferred upon municipal corporations the power to expend public funds for the purpose of participating in the Youth Work Defense Program of the National Youth Administration.

While it is true that the legislature under the provisions of Section 3391-10, General Code, has expressly empowered local relief authorities to expend poor relief funds for the purpose of sponsoring federal work projects, such authorization has no effect on the powers of the municipal corporations as such. The mere fact that the boundaries of the local relief area are coextensive with the boundaries of a municipality and that the local relief authority is the proper board or officer of the city does not constitute the area a unit of the municipal corporation.

In Opinion No. 3530, rendered by me March 5, 1941, it was stated:

“A study of the statutes \* \* \* reveals that the state director is the executive and administrative head in the administration of poor relief in this state and that the legislature has seen fit to bestow upon him very broad powers and authority in that regard.

A reading of the above statute impels the conclusion that the legislature created the local relief area, not as a unit of local government having corporate and quasi corporate powers, but as a unit of administration for the sole purpose of establishing and conducting a uniform, coordinated and efficient system of poor relief.”

In view of the foregoing and in specific answer to your inquiry, it is my opinion that:

1. Municipal corporations and counties may not legally expend public funds in contributing toward the acquisition of a building to be used for the purpose of housing the youth work project of the National Youth Administration and vocational education training classes in connection therewith.

2. Under the provisions of Section 7625, General Code, boards of education may spend school funds in purchasing, constructing, enlarging, extending, completing, improving, equipping and furnishing buildings for public school purposes.

3. Funds of a board of education may be lawfully expended in contributing to the purchase price of a building, title to which is to vest in said board, where said building is to be used for the purpose of carrying out a plan under which employes of the National Youth Administra-

tion are furnished vocational education and work experience under the Defense Training Program, even though such employes may be adults who reside outside of the school district.

Respectfully,

THOMAS J. HERBERT,

Attorney General.