

It is further agreed that if the party of the Second part leave the employ of the party of the first part By accepting employment elsewhere, without Being released from the conditions of this instrument, or Because of the inability on the part of the party of the first part to make a proper adjustment of Salary, such leaving shall of itself work a forfeit to said party of the first part of all the salary then due to party of the Second part as liquidated damages."

The above agreement was definite as to a salary for one year, and there can be no question but that there was a meeting of the minds as to the essential elements of the contract so far as this first year is concerned. As to the school years of 1933-34 and 1934-35, no salary was fixed in this agreement and no meeting of the minds with respect thereto, other than that an attempt would be made to adjust the matter of salary for those years at some future time. The agreement must be regarded as merely a contract for one year, inasmuch as the essential matters upon which the minds of the parties must meet to constitute a valid contract were fixed and definite for one year only. As to the remaining years which the agreement purported to cover, the minds of the parties did not meet as to the salary. Upon this essential element of a valid contract, the agreement was so indefinite that it cannot be said to constitute a valid and binding contract for more than one year.

However, on June 6, 1933, the board passed the resolution referred to in your letter, fixing the salary for the superintendent for the school years of 1933-34 and 1934-35, and by reference incorporated therein the terms and provisions of the written agreement which had theretofore been executed between the parties, and the terms of this resolution apparently were assented to by Mr. Weaver inasmuch as he continued to serve in the capacity of superintendent in the district in question.

It appears that Mr. Weaver performed services in pursuance of the agreement referred to during the school year 1932-33 and was paid the salary fixed in the agreement for that service, and that he continued to serve during the school year 1933-34 and up to the present time.

I am of the opinion that there now exists between the said board of education and Mr. Weaver a valid and binding contract to employ the said Weaver as supervising principal of the schools in Cass Township Rural School District until June 3, 1935, at a salary of \$1800 per year as provided by the resolution of the board of education adopted June 6, 1933.

Respectfully,

JOHN W. BRICKER,
Attorney General.

2660.

POOR RELIEF—PROCEEDS OF CERTAIN BONDS MAY BE EXPENDED
BY TOWNSHIPS AND MUNICIPAL CORPORATIONS FOR BURIAL
OF INDIGENTS WHEN—

SYLLABUS:

The proceeds of bonds issued by a county under section 7 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, as amended by House Bill No. 7 of the first special session of the 90th General Assembly, and distributed to cities or townships, and the proceeds of such bonds issued by cities may, with the approval of the state relief commission, be expended by such townships or municipal corporations for the burial of the indigent as provided for by section 3495, General Code, but the state relief commission may not authorize the expenditure for such purpose of any of the other funds provided by law to be credited to the county poor relief excise tax fund or to the county emergency relief fund, the expenditure of which is provided by said Amended Senate Bill No. 4, as amended by Senate Bill No. 2 of the second special session of the 89th General Assembly, as amended by said Senate Bill No. 63, as amended by House Bill No. 7 of the first special session of the 90th General Assembly, and as amended by House Bill No. 7, House Bill No. 39, House Bill No. 42 and Substitute Senate Bill No. 85 of the second special session of the 90th General Assembly.

COLUMBUS, OHIO, May 12, 1934.

HON. F. D. HENDERSON, *Chairman, State Relief Commission, Columbus, Ohio.*

DEAR SIR:—I acknowledge receipt of your communication of May 11, which reads as follows:

“An opinion is requested upon the following question:

May the State Relief Commission authorize the expenditure of the proceeds of the taxes provided for in House Bill No. 7, for the purpose of paying for the burial of indigent persons?”

I presume you refer to the so-called cosmetic and admission taxes which are levied by Sections 5443-2 and 5544-2, General Code, which sections were amended by House Bill No. 7 of the first special session of the 90th General Assembly. Since the expenditure of the proceeds of not only these taxes but also the malt and beverage taxes levied by House Bill No. 5 of said first special session and Section 6212-49b, General Code, as amended by House Bill No. 4 of said first special session, as well as the public utility excise tax levied by Amended Senate Bill No. 4 of the first special session of the 89th General Assembly, the balance of which proceeds after defraying administration costs is required to be credited to the county poor relief excise fund, is provided for by said Amended Senate Bill No. 4, as amended, I shall make this opinion apply to the proceeds of all such taxes as well as the proceeds of bonds issued for poor relief under sections 3 and 7 of said Amended Senate Bill No. 4.

Section 5 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 how all revenues required by law to be credited to the county poor relief excise fund shall be allocated to all the counties of the state. Section 6 of said Amended Senate Bill No. 4, as amended by House Bill No. 7 of the second special session of the 90th General Assembly, provides for the distribution of such revenues to the counties. This section also provides that such moneys shall be applied solely to the payment of bonds issued under Section 3 of the Act, or if they exceed the amount required therefore “to other poor relief purposes within the county as defined in this act.” Section 2 of said Amended Senate Bill No. 4, as amended

by House Bill No. 7 of the first special session of the 90th General Assembly, reads 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. In the case of a township, 'poor relief' shall mean the direct relief of the poor as defined in this act; in the case of municipal corporations, 'poor relief' shall mean the direct relief of the poor as defined in this act; in the case of any political subdivision, said term shall include work relief and direct relief of the poor as defined in 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."

"Work relief" and "direct relief" are defined as follows by Section 1 of said Amended Senate Bill No. 4, as amended by said House Bill No. 7, as amended by House Bill No. 39 of the second special session of the 90th General Assembly:

"(b) The term 'work relief' shall mean 'relief given in exchange for labor, including the cost of materials and articles of equipment heretofore or hereinafter purchased, and/or cost of administration required for the execution of any project approved by the state relief commission of Ohio as a means of furnishing employment for indigent persons, or required for the execution of any project approved by the federal civil works administration as a civil works project, or any project hereafter approved by the federal civil works administration or federal emergency relief administration.'

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

Certainly, work and direct relief, as defined above, does not include paying for burial of indigent persons, nor can the furnishing by the county of temporary support and medical relief to non-residents be so construed. It therefore follows that poor relief as defined by said Section 2 does not include paying for burial of indigent persons.

Section 9 of said Amended Senate Bill No. 4, as amended by Senate Bill No. 63 of the 90th General Assembly, provides that moneys distributed from the emergency relief fund (into which fund proceeds of bonds issued under Sections 3 and 7 of the act are paid) by counties to cities and townships shall be used for poor relief, "including the renting of land and the purchase of seeds for gardening for the unemployed, and for no other purpose." This section also provides for the payment by counties, with the approval of the state relief commission,

of moneys from the emergency relief fund or the county poor relief excise fund for the relief of school children.

Section 7 of said Amended Senate Bill No. 4, as amended by said Senate Bill No. 63, as amended by House Bill No. 7 of the first special session of the 90th General Assembly, which provides for the issue by counties and cities of bonds for poor relief when such counties and the counties in which such cities are located have issued all the bonds they can issue in anticipation of such taxes under Section 3 of said Amended Senate Bill No. 4, as amended by Senate Bill No. 2 of the second special session of the 89th General Assembly, as amended by said Senate Bill No. 63, as amended by House Bill No. 7 of the second special session of the 90th General Assembly, as amended by House Bill No. 42 of said second special session, and by Substitute Senate Bill No. 85 of said second special session, defines "poor relief" for the purposes of said Section 7 of the act as follows:

"For the purposes 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 1685-2 to 1685-9 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 a township, 'poor relief' shall mean the support and relief of the poor and the burial of the indigent by township trustees, as authorized and required by General Code sections 3476 to 3496, inclusive; in the case of municipal corporations, 'poor relief' shall mean the support and relief of the poor and for the payment of obligations incurred for the support and relief of the poor and the burial of the indigent, as provided by sections 3476 to 3496, inclusive, and 4093 and 4094 of the General Code, or the appropriate provisions of the municipal charter; 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 subdivision, as authorized by law."

The legislature has expressed clearly, definitely and in detail the things for which the county emergency relief fund and the county poor relief excise fund can be expended. There is only one conclusion that can be drawn from the fact that the legislature included the burial of the indigent in cases of township and municipal corporations in the term poor relief for which the proceeds of bonds issued by virtue of Section 7 of the act can be expended and excluded it from the meaning of poor relief for which the other funds, the expenditure of which are provided for in said act, can be expended.

I am of the opinion that the proceeds of bonds issued by a county under Section 7 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, as amended by House Bill No. 7 of the first special session of the 90th General

Assembly, and distributed to cities or townships, and the proceeds of such bonds issued by cities may, with the approval of the state relief commission, be expended by such townships or municipal corporations for the burial of the indigent as provided for by Section 3495, General Code, but the state relief commission may not authorize the expenditure for such purpose of any of the other funds provided by law to be credited to the county poor relief excise tax fund or to the county emergency relief fund, the expenditure of which is provided by said Amended Senate Bill No. 4, as amended by Senate Bill No. 2 of the second special session of the 89th General Assembly, as amended by said Senate Bill No. 63, as amended by House Bill No. 7 of the first special session of the 90th General Assembly, and as amended by House Bill No. 7, House Bill No. 39, House Bill No. 42 and Substitute Senate Bill No. 85 of the second special session of the 90th General Assembly.

Respectfully,

JOHN W. BRICKER,
Attorney General.

2661.

APPROVAL—RESERVOIR LAND LEASE FOR THE RIGHT TO OCCUPY
AND USE FOR BOATHOUSE, DOCKLANDING AND WALKWAY
PURPOSES—MRS. H. A. BRISCOE.

COLUMBUS, OHIO, May 14, 1934.

HON. EARL H. HANEFELD, *Director, Department of Agriculture, Columbus, Ohio*

DEAR SIR:—The chief of the Bureau of Inland Lakes and Parks in the Division of Conservation in your Department has submitted for my examination and approval a reservoir land lease executed by the Conservation Commissioner to one Mrs. H. A. Briscoe of Akron, Ohio. This lease, which is one for a stated term of fifteen years and which calls for an annual rental of six dollars payable semi-annually, gives to the lessee above named the right to occupy and use for boathouse, docklanding and walkway purposes the waterfront and state land in the rear thereof that lies immediately in front of Lot No. 236 of the Sawyer and Haynes Shore Acres Oak Point No. 3 Allotment, as recorded in Plat Book No. 35, page 77, in the office of the County Recorder of Summit County, Ohio.

On examination of this lease, I find that the same has been properly executed by the Conservation Commissioner and by Mrs. H. A. Briscoe, the lessee therein named. I also find, upon examination of the provisions of this lease and of the conditions and restrictions therein contained, that the same are in conformity with Section 471, General Code, and other statutory enactments relating to leases of this kind. I am accordingly approving this lease as to legality and form, as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,

JOHN W. BRICKER,
Attorney General.