

2473.

POOR RELIEF—WORK UNDER THE PWA OR CWA NOT “UPON RELIEF” WITHIN PURVIEW OF SECTIONS 3477 AND 3479, GENERAL CODE—CIVIL WORKS SERVICE EXCEPTION.

*SYLLABUS:*

1. *Work under the PWA or CWA projects, as distinguished from Civil Works Service projects, does not constitute “relief under the provisions of law for the relief of the poor or relief from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief”, within the purview of Sections 3477 and 3479 of the General Code.*

2. *Workers or recipients of relief under Civil Works Service projects do receive “relief under the provisions of law for the relief of the poor or relief from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief”, within the purview of Sections 3477 and 3479 of the Ohio General Code.*

COLUMBUS, OHIO, April 7, 1934.

HON. LYMAN R. CRITCHFIELD, JR., *Prosecuting Attorney, Wooster, Ohio.*

DEAR SIR:—I am in receipt of your communication requesting my opinion upon the following matter:

“Section 3477 of the Ohio General Code provides that a person may obtain a legal settlement after supporting himself or herself for twelve consecutive months ‘without relief under the provisions of law for the relief of the poor’.

The specific question is, does work under the CWA or PWA constitute relief as defined in this Section which would serve to prevent a person from obtaining a legal settlement if he had not resided a sufficient length of time without relief as defined, prior to the time of the employment.”

Section 3477, General Code, defines “legal settlement”, as follows:

“Each person shall be considered to have obtained a legal settlement in any county in this state in which he or she has continuously resided and supported himself or herself for twelve consecutive months, *without relief under the provisions of law for the relief of the poor, or relief from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief.*” (Italics the writer’s.)

Section 3479, General Code, provides the manner of securing a legal settlement in a new township or municipality of a county other than that in which the indigent already has a legal settlement, and reads in part as follows:

“A person having a legal settlement in any county in the state shall be considered as having a legal settlement in the township, or

municipal corporation therein, in which he has last resided continuously and supported himself for three consecutive months *without relief, under the provisions of law for the relief of the poor, or from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief.*" \* \* \* (Italics the writer's.)

Your question specifically is whether or not a CWA or PWA employee is receiving "relief under the provisions of law for the relief of the poor", or relief "from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief" within the contemplation of the above Ohio statutes.

The origin of both PWA and CWA projects and employment on such is traced to Title II of the "National Industrial Recovery Act" (H. R. 5755, enacted by the 73rd Congress) which is entitled, "Public Works and Construction Projects." This Section of the Act provides in substance for the expenditure of large sums of money on the highways and other public works for the stated object of hastening business improvement by giving jobs or positions to those who would otherwise be unemployed.

Section 1 of the National Industrial Recovery Act declares the policy of the Act and reads in part as follows:

"A national emergency productive of widespread unemployment and disorganization of industry, which burdens interstate and foreign commerce, affects the public welfare, and undermines the standards of living of the American people, is hereby declared to exist. It is hereby declared to be the policy of Congress \* \* \* to increase the consumption of industrial and agricultural products by increasing purchasing power, *to reduce and relieve unemployment*, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources." (Italics the writer's.)

In the "Rules and Regulations of the Federal Emergency Administration of Public Works," under Title II of the National Industrial Recovery Act, Article II, Section 1, with respect to the labor policy, states:

"(1) Opportunities for employment on projects authorized under the Emergency Administration of Public Works shall be equitably distributed among the *qualified workers who are unemployed*, not among those who merely wish to change one good job for another. (2) These work opportunities shall be distributed, geographically, as widely and as equitably as may be practicable. (3) Qualified workers who, under the law, are entitled to preference shall secure such preference. (4) The wasteful cost and personal disappointments due to excessive increase of labor in the vicinity of work projects shall be avoided. (5) *Local labor required for such projects and appropriately to be secured through employment services, shall, as far as practicable, be selected from lists of qualified workers submitted by local employment agencies designated by the United States Employment Service.* Highly skilled or organized labor shall not be required to register for work at such local employment

agencies, but shall be secured in the customary ways through recognized trade-union locals. In the event such highly skilled organized workers are not furnished by such locals within 48 hours after request is filed with them, then such workers shall be obtained through local employment agencies designated by the United States Employment Service." (Italics the writer's.)

However, there are different types of service to which CWA funds are distributed. In the Rules and Regulations of the Federal Civil Works Administration No. 10, I find the following:

"B. *Civil Works Service.*

\* \* \*

2. Wages, expenses, and payments for materials on Civil Works Service projects shall be paid from available relief funds. The maintenance of maximum identity of Civil Works and Civil Works Service employees is essential, while maintaining at the same time the necessary distinction as to source of funds.

3. *All persons employed on Civil Works Service projects must be drawn from persons eligible for relief.*

*Determination of eligibility for relief* may be made in made in co-operation with professional organizations through the appointment of professional committees to present the needs of applicants for Civil Works Service positions.

Where there are no organizations of the profession concerned it is possible to use the advice of groups to which the applicant belongs. In the case of school teachers, the Superintendent's Council, a committee of Principals or some other committee of teachers or school people already existing, should be used. In the case of architects and engineers in small towns where no committee may be available for consideration of the problem, any organization to which the applicant belongs may advise. In the case of nurses the public health officials and heads of hospitals may often advise as to need. In the case of sales people and office workers the employment offices, business colleges and high school authorities can often refer eligible people.

The essence and spirit of this method is that, as to clerical and professional people employed on Civil Works Service projects, definite evidence of need shall be presented, but there shall be a minimum of individual case investigation and maximum of follow-up in the home of the individual." (Italics the writer's.)

It is clear from the foregoing provisions that employment on PWA and CWA projects, as distinguished from recipients of CWA funds under the "Civil Works Service", is not relief "under the provisions of law for the relief of the poor", the terms employed in Sections 3477 and 3479 of the Ohio General Code, but it is simply a method employed by the Federal Government to provide jobs for those who are unemployed because of the current general business depression with the stated object in mind to hasten business improvement. Such employees receive monetary remuneration for their services rendered and consequently, it can be stated that they are working for their living and supporting themselves without relief under the provisions of law for the relief of the poor. This is also an adequate answer

to any contention that such employment is "relief from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief".

However, a reading of the Federal Civil Works Administration Rules and Regulations No. 10, referred to supra, shows that persons receiving CWA funds on Civil Works Service projects are receiving "relief."

Specifically answering your inquiry, it is my opinion that work under the PWA or CWA projects, as distinguished from Civil Works Service projects, does not constitute "relief under the provisions of law for relief of the poor or relief from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief", within the purview of Sections 3477 and 3479 of the Ohio General Code, but workers or recipients of relief under Civil Works Service projects do receive "relief under the provisions of law for the relief of the poor or relief from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief", within the purview of Sections 3477 and 3479 of the Ohio General Code.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

2474.

BOARD OF EDUCATION—SALE OF PROPERTY AS PRESCRIBED BY  
SECTION 4756, GENERAL CODE, MANDATORY—PROPERTY MAY  
BE SOLD AT PRIVATE SALE WHEN.

*SYLLABUS:*

1. *The terms of Section 4756, General Code, with respect to the manner of selling property held by a board of education in its corporate capacity, are mandatory.*

2. *A board of education is without power to sell real estate or personal property held by it in its corporate capacity exceeding in value \$300.00, at private sale, until after an attempt has been made to sell the same at public auction in the manner provided by Section 4756, General Code, and a failure to sell the property in that manner, unless such property is sold to a municipality or to the board of trustees of the school district library in which such real estate is situated.*

COLUMBUS, OHIO, April 7, 1934.

HON. C. DONALD DILATUSH, *Prosecuting Attorney, Warren County, Lebanon, Ohio.*

DEAR SIR:—This will acknowledge your request for my opinion, which reads as follows:

"Situate in the Village of Franklin, Warren County, Ohio, is an abandoned school house located upon a sizeable lot along the main street of said village.