

4196.

COUNTY—UNAUTHORIZED TO EXPEND COUNTY FUNDS FOR OFFICE EXPENSES IN CARRYING ON FEDERAL RELIEF ADMINISTRATION.

SYLLABUS:

There is no authority for non-charter counties to expend county funds for the payment of rent, light, heat, water and other office expenses for the purpose of carrying on the Federal Relief Administration in the county, such Administration at the present time being solely under the control of the Federal Government.

COLUMBUS, OHIO, April 29, 1935.

HON. CLIFTON L. CARYL, *Prosecuting Attorney, Marysville, Ohio.*

DEAR SIR:—I am in receipt of your communication which reads as follows:

“This office desires your opinion upon the following question:

Whether or not Union County can legally pay the expenses, such as rent, light, heat, water, and other office expenses, for the purpose of carrying on the Federal Relief Administration in said county, which administration at the present time is under the control of the Federal Government?”

Since the State Relief Commission by virtue of Senate Bill No. 60 of the regular session of the 90th General Assembly, (115 O. L. 22) was created to serve only until March 1, 1935 and since there has been no supplemental legislation relative to the creation of a new State Relief Commission enacted, the expenditure of federal poor relief funds has been taken over entirely by federal authorities, working exclusively through federal agents, and the county and state officials are not in any way connected with such federal administration, it being solely under the control of the Federal Government.

The Board of County Commissioners has such powers and only those powers as have been granted it expressly by statute or those powers derived by necessary implication therefrom. *Peter vs. Parkinson*, 83 O. S. 36, 49; *Jones, Auditor vs. Commissioners of Lucas County*, 57 O. S. 189; *Elder vs. Smith*, 103 O. S. 369.

As stated in the first paragraph of the syllabus of the case of *Jones, Auditor vs. Commissioners of Lucas County*, supra:

“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.”

A search of the Ohio statutes fails to reveal any authority for the county to expend county funds for the purpose of paying the expenses, such as rent, light, heat, water and other office expenses, for the purpose of carrying on the Federal Relief Administration in the county, which administration is under the sole control of the Federal Government, and consequently it is my opinion that such expenditure would not be lawful. The purpose of such expenditure may seem a laudable one but a laudable purpose is not necessarily a lawful purpose.

However, it should be noted that by virtue of House Bill No. 108, enacted by the Second Special Session of the 90th General Assembly, to be found in 115 O. L. Pt. II, page 248, the Board of County Commissioners of any county or the council or other

legislative body of any municipality has authority to appropriate moneys for the purpose of cooperating with the government of the United States in the operation and maintenance of a National Re-employment Service. In view of this legislation I call your attention to my opinion to be found in Opinions of the Attorney General for 1934, Vol. I, page 799, which held as disclosed by the first branch of the syllabus:

"1. By virtue of House Bill No. 103, enacted by the 90th General Assembly in its second special session, the county commissioners have authority to expend county funds in the providing of quarters for a local Federal Re-employment Office and in equipping such quarters with telephone and other necessary and incidental equipment if money is appropriated by the county commissioners for such purpose."

In specific answer to your inquiry, however, it is my opinion that there is no authority for non-charter counties to expend money for the payment of rent, light, heat, water, and other office expenses for the purpose of carrying on the Federal Relief Administration in the county, such Administration at the present time being solely under the control of the Federal Government.

I am informed that there is a bill, House Bill No. 501, on the general subject of providing for the continuance of emergency poor relief in cooperation with the Federal Emergency Relief Administration and authorizing the issuance of bonds by counties and cities and the expenditure of public moneys for the purpose of cooperating with the Federal Emergency Relief Administration. Although this bill has been passed by the House of Representatives it has not yet passed the Senate. It may be that such bill would have some relevancy with respect to the question you ask, but inasmuch as it is not yet a law I must reserve commenting on its provisions.

Respectfully,

JOHN W. BRICKER,
Attorney General.

4197.

APPROVAL, RESERVOIR LAND LEASE TO LAND AT INDIAN LAKE, LOGAN COUNTY, OHIO—BRUCE B. GAUMER.

COLUMBUS, OHIO, April 29, 1935.

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

DEAR SIR:—This is to acknowledge the receipt of a recent communication over the signature of the Chief of the Bureau of Inland Lakes and Parks, submitting for my examination and approval a reservoir land lease in triplicate, executed by the Conservation Commissioner to one Bruce B. Gaumer of Marysville, Ohio. By this lease, which is one for a stated term of fifteen years and which provides for an annual rental of \$27.00, payable in semiannual installments of \$13.50, there is leased and demised to the lessee above named the right to occupy and use for cottage site and docklanding purposes that portion of the state property including Lot No. 47 of the revised plat of Minnewauken Island in Indian Lake, and being part of Virginia Military Survey No. 12276 in Stokes Township, Logan County, Ohio.