

423.

APPROVAL, LEASE TO OFFICE ROOMS IN MASONIC BUILDING,
ZANESVILLE, OHIO, FOR THE USE OF THE DEPARTMENT OF IN-
DUSTRIAL RELATIONS.

COLUMBUS, OHIO, March 30, 1933.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—There has been submitted by you a lease which grants to you, as Superintendent of Public Works, for the use of the Department of Industrial Relations, certain office rooms as follows:

Lease from the Masonic Temple Company of Zanesville, Ohio, for Rooms 418, 419, and 420 on the fourth floor of the Masonic Building, Zanesville, Ohio. This lease is for a term of two years, beginning on the first day of January, 1933, and ending on the thirty-first day of December, 1934, by the terms of which the State will be required to pay four hundred dollars (\$400.00) a year, payable in installments on the last day of each month.

You have submitted encumbrance estimate No. 120 of the Director of Finance, made in pursuance of Section 2288-2, General Code. In addition, a certificate has been submitted showing that the board of directors of the Masonic Temple Company have authorized the president and secretary of the company to enter into this lease.

Finding said lease in proper legal form, I hereby approve it as to form and return it herewith, together with all papers submitted in this connection.

Respectfully,

JOHN W. BRICKER,
Attorney General.

424.

LEGAL SETTLEMENT—SOLDIERS' RELIEF UNDER SECTIONS 2930, ET
SEQ., CONSTITUTE PUBLIC RELIEF.

SYLLABUS:

Soldiers' relief granted under sections 2930, et seq., of the General Code, is relief of the poor within the contemplation of sections 3477 and 3479, defining legal settlement.

COLUMBUS, OHIO, March 31, 1933.

HON. GEORGE N. GRAHAM, *Prosecuting Attorney, Canton, Ohio.*

DEAR SIR:—I have your letter of recent date which reads as follows:

“We should like your opinion upon the following proposition:

Is the relief provided for Soldiers under the statute directing each county to appropriate money for soldiers' relief such relief as is contemplated in Section 3477, General Code of Ohio. In order to make our question clear, I will cite this example:

'A' lives in White Township for five years, and receives soldiers' relief; he then moves to Black Township, where he lives over a year, and receives soldiers' relief, and he sustains himself wholly from such soldiers' relief. Because of lack of funds the soldiers' relief is cut off from him. He then demands that the trustees of White Township give him poor relief, and the question then is—did he gain or did he establish legal settlement in Black Township? He at no time received any other relief while he lived in Black Township except soldiers' relief.

If you can give us your ruling upon the general proposition of whether or not soldiers' relief is such relief as is contemplated by Section 3477, we would appreciate it for we then can apply it to many different state of facts."

Section 3476 of the General Code reads:

"Subject to the conditions, provisions and limitations herein, the trustees of each township or the proper officers of each city therein, respectively, shall afford at the expense of such township or municipal corporation public support or relief to all persons therein who are in condition requiring it. *It is the intent of this act (G. C. §§3476 et seq.) that townships and cities shall furnish relief in their homes to all persons needing temporary or partial relief who are residents of the state, county and township or city as described in sections 3477 and 3479.* Relief to be granted by the county shall be given to those persons who do not have the necessary residence requirements, and to those who are permanently disabled or have become paupers and to such other persons whose peculiar condition is such they can not be satisfactorily cared for except at the county infirmary or under county control. When a city is located within one or more townships, such temporary relief shall be given only by the proper municipal officers, and in such cases the jurisdiction of the township trustees shall be limited to persons who reside outside of such a city." (Italics, the writer's.)

Section 3477 provides:

"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."

Section 3479 is in the following language:

"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 organ-

ization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief. When a person has for a period of more than one year not secured a legal settlement in any county, township or city in the state, he shall be deemed to have a legal settlement in the county, township or city where he last has such settlement."

It appears from section 3476 that the legislature has imposed upon townships the burden of providing temporary relief to those who have a legal settlement in the county and township. Under section 3477, in order to obtain such settlement in a county, a person must have continuously resided and "supported himself" for twelve consecutive months "without relief under the provisions of law for the relief of the poor." Under section 3479, one who has obtained a legal settlement in the county shall be considered as having a legal settlement in the township "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."

Your question is whether soldiers' relief granted under sections 2930 to 2941, inclusive, to "all needy soldiers, sailors and marines," as provided in section 2934, is "relief under the provisions of law for the relief of the poor." It appears self-evident that a provision of law for the relief of "needy" persons is one for the relief of the poor. It seems to me immaterial that section 2934 concerns needy soldiers rather than all needy persons, or needy persons of some other class. In an opinion reported in Opinions of the Attorney General for 1919, Vol. I, page 53, one of my predecessors held that the blind relief statute (as amended, 103 O. L. 60) was a provision of law for the relief of the poor under section 3477. In another opinion of this office, reported in Opinions of the Attorney General for 1928, Vol. III, page 2227, it was held that aid furnished by the State Division of Charities to a mother for the care of her children constituted relief of the kind mentioned in section 3477. I see no material distinction between a law providing for the relief of needy blind persons or needy children and one for the relief of soldiers who require assistance.

I am therefore of the opinion that, although one has continuously resided in a county for twelve consecutive months and in a township therein for three consecutive months, if during that time he has been receiving soldier's relief under sections 2930, et seq., he has not established a legal settlement under sections 3477 and 3479. It follows that in the hypothetical case stated by you, "A" did not establish a legal settlement in Black Township. It is not clear from your letter whether or not "A" obtained a legal settlement in White Township. It does not appear that he resided, unaided by soldiers' relief, in the county in which White Township is located and in that township for the respective periods necessary for a legal settlement. It is therefore impossible for me to express an opinion as to his right to relief from White Township.

Section 3476 provides that the county shall grant relief to those persons who do not have the residence requirements for relief from a township or municipality. Section 3479 provides that when a person has for a period of more than one year not secured a legal settlement in any county, township or city in the state, he shall be deemed to have a legal settlement in the county, township or city where he last had such settlement. See Opinions of the Attorney General for 1927, Vol. II, page 1214.

Thus it appears that the legislature has provided that some one of its sub-divisions shall provide for residents of Ohio who are in need of temporary poor relief.

Respectfully,
JOHN W. BRICKER,
Attorney General.

425.

TRUSTEES OF PUBLIC AFFAIRS—AUTHORIZED TO ENTER INTO CONTRACT FOR CONSTRUCTION OF LIGHT PLANT WHERE SUM IS IN EXCESS OF \$500—TRUSTEES MUST COMPLY WITH ORDINANCE OF VILLAGE COUNCIL AUTHORIZING SUCH CONTRACT.

SYLLABUS:

1. *The board of trustees of public affairs has sole authority to enter into contracts involving more than five hundred dollars for the construction of a light plant when same has been authorized by a village council.*

2. *When a village council has passed an ordinance authorizing the construction of a light plant, it is mandatory that the board of trustees of public affairs of a village comply therewith.*

COLUMBUS, OHIO, March 31, 1933.

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

GENTLEMEN:—Your recent request for my opinion reads as follows:

“At the request of the solicitor for the village of Columbiana, Columbiana County, Ohio, we are submitting the following questions for your opinion, and are also inclosing the solicitor’s letter to this Department.

1. May a village council proceed to have plans, specifications, estimates and profiles prepared, advertise and let a contract for the installation of the necessary machinery and equipment for the manufacture of electric current, or is the council obliged to depend upon the board of trustees of public affairs to perform these services?

2. If council can not legally proceed in the above manner, but passes an ordinance directing the board of public affairs to proceed to prepare plans and construct a light plant, is it mandatory that the board comply with the provisions of such ordinance?

In connection with these questions, we call your attention to an opinion of your predecessor, No. 1323, found on page 2391 of the Opinions of the Attorney General for 1927.”

The right of a municipality to construct, own, lease and operate a light plant cannot be questioned for it is specifically provided for in Article XVIII, Section 4 of the Ohio Constitution. It has the power under Section 2618, General Code, to establish, maintain and operate municipal lighting, power and heating plants. Section 3990 of the General Code provides that “the council of a municipality may, when it is deemed expedient and for the public good, erect gas works or electric works at the expense of the corporation, * * *.”