

the amount required for purchase of the land. You say it is impossible to lease the land required and that a purchase is necessary to meet the requirements of the Civil Works Administration.

No exact method of providing for the care and maintenance of the dependent poor of the county is prescribed by statute. Not enough facts are given to enable me to determine whether the method suggested is reasonably suitable or necessary to accomplish this purpose. Will the expenditure of this money for land for an airport result in the employment of the dependent poor, and, if so, to what extent? What would be the comparative result if an amount of money equal to the cost of the land were spent in giving employment in other ways or in furnishing supplies for the dependent poor? If the money spent for such land would result in giving equal or greater employment or in providing an equal amount or more care and maintenance of the dependent poor than could be accomplished by the spending of the same amount of money in other ways and if the expenditure of such sum is actually necessary in order to properly meet the emergency due to unemployment of the dependent poor then it would seem that the power to make such expenditure may be found in Section 4465 R. C. M. 1921 as amended by Chapter 100, Laws of 1931. These are questions of fact, however, which the county commissioners must determine in the exercise of a wise, sound and honest discretion. While the expenditure of this money for this purpose and in this manner is unusual, I am unable to say from the facts before me that the purchase of said land under the circumstances is not legitimately incidental to or necessary for the relief of the poor.

The money spent by the Civil Works Administration is for the purpose of providing relief to the unemployed poor in a national emergency. In a local emergency or in a time of extreme need, a liberal construction, in my opinion, should be given to the statute so that the commissioners may not only cooperate with the Civil Works Administration but also discharge their duty of providing such care and maintenance of the dependent poor in order that they will not suffer for want of the

Opinion No. 439

County Commissioners—Airport, Purchase of Land for—Poor—Poor Fund—Transfer of Funds.

HELD: Whether or not funds from the Poor Fund of a county may be used to purchase land for an airport within the county, to be constructed under the C. W. A., is a question of fact which the county commissioners must determine in the exercise of a wise, sound and honest discretion.

If the county commissioners find such expenditure necessary, no transfer of funds is necessary but same may be spent out of the Poor Fund.

February 2, 1934.

You have inquired whether Sanders County may transfer funds from the poor fund to purchase land upon which an airport may be built at Plains in the said county to meet the requirements of the Civil Works Administration, where the latter is prepared to spend not less than \$5,000 nor more than \$15,000 on the construction of such airport, such sum being several times

necessaries of life. If this can be done by providing work and labor for them and at the same time furnishing an airport which will be an asset to the community, certainly it would be more desirable than merely giving alms. I desire to call attention to the following opinions rendered by this office: No. 378 dated October 31, 1933, No. 423 dated January 23, 1934, this volume.

Since the emergency consists of giving relief to the poor rather than in furnishing air transportation, it is my opinion that if the commissioners find the expenditure of this money is necessary, no transfer of funds is necessary but that the same may be spent out of the poor fund.