

in the case of an office in a county or district, larger than a county and less than the state; and at least five electors of his party in all subdivisions less than a county; and shall pay the fee required by law. * * *."

The balance of the section relates to where the declaration of candidacy shall be filed.

A careful examination of this section discloses that although there is a provision as to how the signers of a petition accompanying a declaration of candidacy must be distributed territorially in case the office sought is to be voted for by the electors of the entire state, there is no requirement as to territorial distribution of signers of petitions accompanying declarations of candidacy for an office to be voted for by a county or district larger than a county and less than the state, nor is there such provision in case the office is to be voted for by a subdivision less than a county, nor do I find such a provision elsewhere in the General Code. I am of the view that the rule of *expressio unius est exclusio alterius* is applicable to your question. It may be perhaps advisable for a candidate seeking an office to be voted for by a district consisting of more than one county to secure signatures to his petition in each county in the district, and the same observation may be made as to the various wards of a city when a municipal office is sought, but the Legislature has apparently prescribed no requirement as to this matter.

Specifically answering your second question, therefore, it is my opinion that signatures to a petition accompanying a declaration of candidacy for an office to be voted for by the electors of a district larger than a county and less than the state may be secured in any one county within such district, since there is no statutory provision as to the territorial distribution of such petitioners.

Respectfully,

GILBERT BETTMAN,

Attorney General.

1764.

COUNTY COMMISSIONERS—CARRYING INSURANCE ON BUILDINGS
OF AGRICULTURAL SOCIETY—PROCEEDS PAYABLE TO SUCH
SOCIETY WHEN LOSS OCCURS.

SYLLABUS:

When county commissioners insure the buildings on the grounds of a county agricultural society by authority of Section 9899, General Code, and a loss occurs, the proceeds of the insurance collected on account of said loss, should be paid directly to the agricultural society for the benefit of whom such insurance had been effected.

COLUMBUS, OHIO, April 11, 1930.

HON. L. M. SOLIDAY, *Prosecuting Attorney, Zanesville, Ohio.*

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

"In about the year of 1915 the Muskingum County Agricultural Society erected on the County Fair Grounds a building at the expense of approximately Three Thousand (\$3,000) Dollars which was paid for by the society. Insurance on this building has been carried by the County Commissioners under and by virtue of Section 9899 of the General Code of Ohio, and sometime last fall this building was totally destroyed by fire. The face of the

insurance policy amounted to Two Thousand (\$2,000) Dollars, and was paid by the Insurance Company to the Board of County Commissioners of Muskingum County, Ohio, who at that time placed this amount to the credit of the General Fund of the county. The Muskingum County Agriculture Society now desires to rebuild, and the question has arisen as to whether or not the Two Thousand Dollars insurance money belongs to the County Commissioners of Muskingum County, or to the Agriculture Society.

Section 9898 of the General Code, provides that the real estate and the improvements thereon on the grounds of the Agricultural Society for which county funds have been expended for such improvement, shall vest in the county only after the dissolution of such Agricultural Society, and Section 9899 of the General Code, provides that the county commissioners shall insure the buildings on the grounds of the County Agriculture Society for the benefit of such society. This year the county commissioners have appropriated the maximum amount for the Agriculture Society.

Will you kindly give me an opinion as to whether or not the two thousand (\$2,000) Dollars insurance money shall be paid by the county commissioners to the Agriculture Society independently of the appropriation, or whether the county commissioners have the right to retain it in the general fund, as a part of the county's money?"

By the terms of Sections 9880 and 9894, General Code, county commissioners are, for the purpose of encouraging agricultural fairs, authorized to extend aid by appropriation from the general fund of the county, to county and independent agricultural societies which own or hold under lease real estate used as sites whereon to hold agricultural fairs.

The commissioners are also authorized to purchase or lease lands whereon to hold fairs under the management and control of the county agricultural society, and, if they deem it to be for the best interests of the county, to appropriate moneys from the general fund of the county for the erection or repair of buildings upon, or to otherwise improve county fair grounds whether the fee in said grounds is in the county or in a county agricultural society. Such moneys may also be appropriated to pay rentals for such land or to pay any other form of indebtedness of county agricultural societies. Section 9887, General Code. The authority extended in Section 9887, General Code, is in addition to that extended in Sections 9880 and 9894, General Code, and the amount that may be appropriated from the general county fund for any of the purposes mentioned in the above sections is limited, as provided therein.

Somewhat similar laws have been in existence for many years. As early as 1833, the Legislature recognized the importance of promoting the agricultural interests of the State by providing public assistance in some form to agricultural societies, and to that end authorized the organization of agricultural societies and the extension to such societies of public assistance by means of appropriations from county funds to be used by the directors thereof "for the advancement and encouragement of agriculture, horticulture, the raising of the best animals, and the production of such other articles of domestic growth and manufactory as the directors may think proper." 31 O. L. 29.

Subsequent to the Act of the Legislature above referred to, the law with respect to agricultural societies has passed through many and frequent revisions and changes by the Legislature. Later acts specifically encouraged the holding of county fairs by agricultural societies and each of them provided for extending aid to such societies from the county treasury in some form or other to enable them to more successfully carry on such fairs.

For a number of years the law has been such as to enable county agricultural societies to acquire and hold real estate in fee simple in their corporate names for the purpose of holding thereon county fairs; or to lease such lands if the same could not

be bought. Provision has also been made for a number of years authorizing the county commissioners to acquire the necessary land for the holding of county fairs in the name of the county and to improve said land by the erection thereon of suitable buildings and to permit such land to be occupied and used by the county agricultural society for the holding of county fairs.

The first law authorizing county commissioners to insure buildings on county fair grounds was enacted in 1898 (93 O. L. 40). This aforesaid law read as follows:

“That the county commissioners of any county owning agricultural or fair ground property be and are hereby authorized to keep the buildings thereon insured if deemed proper by said commissioners.”

The above law would not in my opinion have permitted county commissioners to pay out public funds for the insuring of buildings on county fair grounds unless the same were owned by the county, and therefore when the grounds were owned by the agricultural society the county commissioners were not authorized to procure insurance for the buildings on said grounds. Such insurance would necessarily have to be provided by the agricultural society itself. Four years later the law was amended to read as follows; (95 O. L. 123):

“That the county commissioners of any county are hereby authorized to keep insured all buildings owned by the county agricultural society or by the county, for the benefit of the county agricultural society or the county as the case may be, if deemed proper by said commission.”

In 1919 the law was again amended, making it the mandatory duty of the county commissioners to insure the buildings on the grounds of the county agricultural society for the benefit of such society. As amended in 1919, being Section 9899, General Code, the statute reads as follows:

“The county commissioners of a county shall insure the buildings on the grounds of the county agricultural society for the benefit of such society.”

Upon consideration of the terms of the above statute in the light of its history, it seems clear that the intention of the Legislature, as expressed in the language used, is that the proceeds of insurance arising from a loss of fair ground property which had been insured by the commissioners for the benefit of the society inure to the benefit of the agricultural society and that those proceeds should be paid directly to the society and should never have been placed in the general fund of the county.

The purpose of this enactment was probably to provide for the agricultural society the means of rebuilding a building destroyed by fire without being put to the necessity of looking to the county commissioners for aid. The commissioners are limited in the amount of aid that may be extended to a county agricultural society in any one year, and if the maximum amount which the law permits to be paid to an agricultural society has been paid in any particular year and it becomes necessary to rebuild a building destroyed by fire the agricultural society would probably be required to borrow money for that purpose unless it could receive the benefit of the insurance money which had been collected on account of the loss and which the statute clearly says shall be for the benefit of the society.

I am therefore of the opinion, in specific answer to your question, that the \$2,000.00 insurance money spoken of by you in your letter, should be paid by the county commissioners to the agricultural society, regardless of whether or not any aid or the maximum aid permitted by statute has been heretofore extended to the said society.

Respectfully,

GILBERT BETTMAN,

Attorney General.