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POLICING FAIR GROUNDS, COUNTY AGRICULTURAL SOCIETY, DURING ANNUAL FAIR — COUNTY COMMISSIONERS NOT PROHIBITED FROM APPROPRIATING FUNDS TO SHERIFF TO PAY NECESSARY EXPENSES — SECTIONS 9912, 9913 G.C.

SYLLABUS:

Sections 9912 and 9913, General Code, do not prohibit the county commissioners from appropriating funds to the sheriff for the purpose of paying necessary expenses incurred in policing the fair grounds of a county agricultural society during its annual fair.

Columbus, Ohio, March 28, 1941.

Hon. A. Ross Siverling, Prosecuting Attorney,
Ashland, Ohio.

Dear Sir:

This will acknowledge receipt of your request for my opinion as follows:

“Ashland County owns fair grounds located in a township in the county outside of any municipality, which grounds are supervised by the Ashland County Agriculture Society, created by virtue of G. C. 9880, et seq.

The Fair Board has requested the County Commissioners to appropriate necessary funds to the Sheriff to cover necessary expenses of policing the fair grounds during the annual fair of the society.

I respectfully request your opinion of the following question, concerning the above facts: Does G. C. 9912 and 9913 prohibit the Commissioners from appropriating funds to the Sheriff for the above stated purpose?”

Sections 9912 and 9913, General Code, to which you refer in your communication, provide as follows:

Section 9912, General Code:

“On the application of a state, county, township or independent agricultural society, or industrial association, or other association or meeting of citizens for the purpose of promoting social or literary intercourse, a justice of the peace may appoint a suitable number of special constables to assist in keeping the peace during the time when such society or assembly is holding its annual fair or meeting. He shall make an entry in his docket of the number and names of all such persons so appointed.”

Section 9913, General Code:

“Constables so appointed shall have all the power of constables to suppress riots, disturbances, and breaches of the peace. Upon view they may arrest any person guilty of a violation of any law of the state, and pursue and arrest any person fleeing from justice in any part of the state. They also may apprehend any person in the act of committing an offense, and, on reasonable information, supported by affidavit, procure process for the

arrest of any person charged with a breach of the peace, forthwith bring him before a competent authority, and enforce all the laws for the preservation of good order.”

It will be noted that upon the request of an agricultural society a justice of the peace may appoint special constables to assist in keeping the peace during the annual fair of such society. There is nothing contained in said sections which can be construed to prohibit the county sheriff from carrying out his statutory duties. Such duties are defined in Section 2833, General Code, which section provides in part as follows:

“Each sheriff shall preserve the public peace and cause all persons guilty of breach thereof, within his knowledge or view, to enter into recognizance with sureties to keep the peace and to appear at the succeeding term of the common pleas court of the proper county and commit them to jail in case of refusal. * * * ”

With reference to the territorial authority of the sheriff, it is said in 36 O.J. 645:

“Since the sheriff is a county officer, his jurisdiction is co-extensive with the county, including all municipalities and townships therein. He is the chief law enforcement officer of the county, and this means that he shall enforce all state laws within his county, including the laws against gambling. In municipalities the sheriff and the mayor stand on an equality as law enforcement officers so far as state laws are concerned, and neither is permitted to cast the burden of action on the other. Failure or refusal of the mayor to act would not reduce or excuse the responsibility of the sheriff.”

It appears that the foregoing discussion is applicable to the situation presented in your inquiry. The mere fact that the mayor of a municipality is charged with the enforcement of all laws within the territorial limits of such city or village in no way affects or limits the jurisdiction of the sheriff within such territorial limits. In like manner, the fact that a justice of the peace may appoint special constables to police the grounds of an agricultural society during its annual fair in no way limits the jurisdiction of the sheriff on such grounds. It, therefore, follows that the county commissioners may appropriate funds to the sheriff for the purpose of paying necessary expenses incurred in policing such grounds.

In specific answer to your inquiry, I am of the opinion that Sections 9912 and 9913, General Code, do not prohibit the county commissioners

from appropriating funds to the sheriff for the purpose of paying necessary expenses incurred in policing the fair grounds of a county agricultural society during its annual fair.

Respectfully,

THOMAS J. HERBERT,

Attorney General.