

sponsibility for the payment of the June taxes when due. In view of this situation, and in view of the further fact that liens for taxes cannot be enforced against the state, it would seem to be unnecessary to require further adjustment of this matter at this time.

As to objection No. 3 relative to special assessments, it appears that there are no special assessments.

It further appears from the data which you have submitted that the oil lease referred to in my former opinion has now expired.

In view of the foregoing, it would appear that when the deed is properly executed and delivered in accordance with my former advice, it will be sufficient to convey a good and sufficient title to said premises to the state.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1406.

COUNTY COMMISSIONERS—AUTHORITY TO BUY LAND FROM AGRICULTURAL SOCIETY AND LEASE SAME TO SUCH SOCIETY IN SINGLE TRANSACTION.

SYLLABUS:

Under the provisions of Section 9887, General Code, the county commissioners may purchase land from an agricultural society and lease the same to the agricultural society and such conditions may be taken into consideration as a part of the purchase price. However, when such a purchase involves an expenditure of more than ten thousand dollars, it is necessary to submit the question to a vote of the people in the manner provided in said section.

COLUMBUS, OHIO, January 14, 1930.

HON. G. H. BIRRELL, *Prosecuting Attorney, Warren, Ohio.*

DEAR SIR:—Acknowledgment is made of your communication, which reads:

“The Trumbull County Agricultural Society, operating under the provisions of Sections 9880 to 9010, has held a so-called ‘County Fair’ in Trumbull County for eighty-four years. It owns its fair ground, of approximately forty acres, which lies within the city limits of the city of Warren in Trumbull County.

For the last few years the society has lost money on its fairs, and also the city of Warren has levied an assessment for sewer construction against the property, and, as a result, the property is encumbered to the extent of perhaps \$25,000.00. The county commissioners have been contributing \$3,300.00 each year for the support of the fair.

On account of the financial conditions of the society, it is suggested that the county commissioners purchase the fair ground, from the society, for the amount of the encumbrances; and on further consideration that the county commissioners lease these grounds back to the society for a period of twenty years, for fair purposes.

QUESTION: Is there authority, under the Statutes of the State of Ohio, for such a procedure; and if so in what manner should they proceed?

Will you kindly give me your opinion on the foregoing question?”

It is believed that a determination of your question depends upon the provisions of Section 9887 of the General Code, as amended in 112 O. L. 84, which section reads:

"In any county in which there is a duly organized county agricultural society, the board of county commissioners is authorized to purchase or lease, for a term of not less than twenty years, real estate whereon to hold fairs under the management and control of the county agricultural society, and may erect thereon suitable buildings and otherwise improve the same.

In counties wherein there is a county agricultural society which has purchased, or leased, real estate for a term of not less than twenty years, a site whereon to hold fairs or where the title to such site is vested in fee in the county, the county commissioners, if they think it is for the best interest of the county, and society, may erect or repair buildings or otherwise improve such site and pay the rental thereof, or contribute to or pay any other form of indebtedness of said society. The commissioners are authorized to appropriate from the general fund such an amount as they deem necessary for any of said purposes. Provided, however, that if the amount appropriated to be expended in the purchase of such real estate or in the erection of buildings or other improvements or payments of rent or other forms of indebtedness of said society shall exceed ten thousand dollars, in any one year, such expenditure shall not be made unless the question of a levy of the tax therefor is submitted to the qualified electors of the county at some general election, a notice of which, specifying the amount to be levied, has been given at least thirty days previous to such election, in one or more newspapers published and of general circulation in the county. The county commissioners shall pass a resolution authorizing the submission of the question to the electors and certify their action to the board of deputy state supervisors of elections of the county who shall prepare and furnish the necessary ballots and other supplies. The form of the ballots cast at such election shall be:

'Agricultural tax—Yes.'

'Agricultural tax—No.'

If a majority of the vote cast be in favor of such tax, it may be levied and collected as other taxes."

It is believed to be clear that the above section authorizes the county commissioners to purchase or lease real estate whereon to hold fairs under the management of the county society. Therefore, it would appear that in the event that the commissioners of your county decided to purchase the real estate for the sum of \$25,000, the general power under said section would seem to exist, if the same is done in pursuance of the provisions thereof. That is to say, Section 9887, *supra*, provides that if the amount appropriated be expended in the purchase of real estate or the payments of other forms of indebtedness of a county society shall exceed ten thousand dollars in any one year, such expenditure shall not be made unless the question of the levy of a tax therefor is submitted to the qualified electors of the county in the manner provided therein. It is believed that the commissioners could purchase lands from an agricultural society the same as it would purchase lands from individuals. Inasmuch as the county lands are in the custody and control of the county commissioners there would seem to be no legal inhibition against leasing the lands to a county agricultural society and undoubtedly such conditions could be incorporated as a part of the consideration for the conveyance by the society to the commissioners. However, as above stated, when the purchase of such land involves an expenditure of more than ten thousand dollars, it would seem that the question must be first submitted to the people in accordance with the provisions of Section 9887 of the General Code.

In specific answer to your inquiry, it is my opinion that under the provisions of

Section 9887, General Code, the county commissioners may purchase land from an agricultural society and lease the same to the agricultural society and such conditions may be taken into consideration as a part of the purchase price. However, when such a purchase involves an expenditure of more than ten thousand dollars, it is necessary to submit the question to a vote of the people in the manner provided in said section.

For your information, I am enclosing herewith a copy of my opinion No. 1361, issued under date of January 3, 1930, which discusses the power of the county commissioners with reference to aiding agricultural societies.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1407.

CRIMINAL LAW—WHEN VILLAGE MAYOR MAY ISSUE WARRANT TO ARREST TO A SHERIFF, DEPUTY SHERIFF OR CONSTABLE—DISPOSITION OF FEES.

SYLLABUS:

1. *By virtue of the provisions of Section 13432-9 of the General Code, the mayor of a village may legally issue a warrant of arrest directed to a sheriff, deputy sheriff or constable if the offense is a violation of the state laws.*

2. *The fees provided by Section 2845 of the General Code for the services of a sheriff and deputy sheriff, and the fees provided in Section 3347 for a constable in serving warrants directed to them by a mayor of a village, in state cases, may be legally taxed and collected from defendants, and such fees may be paid to these officers. However, the fees so collected by a sheriff or deputy sheriff must be paid into the general fund of the county.*

COLUMBUS, OHIO, January 14, 1930.

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

GENTLEMEN:—I am in receipt of your letter of recent date, which is as follows:

“Section 13432-9, 113 O. L., page 141, reads:

‘When an affidavit charging a person with the commission of an offense is filed with a judge, clerk or magistrate, if he has reasonable ground to believe that the offense charged has been committed, he shall issue a warrant for the arrest of the accused; if the offense charged is a violation of the laws of the state, such warrant may be directed to and executed by any officer named in Section 1 of this chapter, but if the offense charged is a violation of the ordinance or regulation of a municipal corporation, such process shall be directed to and executed by the officers of such corporation.’

Question 1. May the mayor of a village legally issue a warrant to arrest to a sheriff, deputy sheriff or constable, in state cases?

Question 2. May the fees provided by statute for the services of such officer, be legally taxed against, and collected from, defendants in state cases, and be legally paid to such peace officer?”

Section 13432-9 of the General Code, quoted by you in your letter, clearly authorizes a magistrate to issue a warrant, if the offense is a violation of the state laws, directed to the officers mentioned in Section 1 of Chapter 11 of the new Code of