

1871.

AGRICULTURAL SOCIETY, COUNTY—COUNTY COMMISSIONERS MAY CONTRIBUTE TO OR PAY INDEBTEDNESS OF SUCH SOCIETY INCURRED IN OPERATION OF FAIRS—SECTION 9887 G. C.—PROVISO, WHERE SOCIETY PURCHASED OR LEASED REAL ESTATE FOR TERM NOT LESS THAN TWENTY YEARS, SITE TO HOLD FAIRS—TITLE VESTED IN FEE IN COUNTY.

SYLLABUS:

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 contribute to or pay indebtedness of the society incurred in the operation of fairs, in accordance with the provisions and requirements of Section 9887, General Code.

Columbus, Ohio, February 19, 1940.

Hon. Martin E. Hoeffel, Prosecuting Attorney,
Napoleon, Ohio.

Dear Sir:

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

“Section 9887 of the General Code provides that the County Commissioners can make appropriations to Agricultural Societies. Line nine of the second paragraph of that section is worded as follows: ‘or contribute to or pay any other form of indebtedness of said Society.’

I would greatly appreciate your opinion as to whether or not the line above mentioned in said section of the Code gives the Commissioners authority to appropriate money to the Agricultural Societies for an indebtedness existing incurred from the losses in operation of the 1939 Fair and fairs for prior years or if the said wording merely gives the County Commissioners authority to appropriate money for indebtedness incurred by the purchase of real estate or construction and repair of buildings on real estate owned by the Societies.”

Section 9887, General Code, to which you refer in your letter, provides as follows:

“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."

By virtue of the above section, county commissioners, under certain circumstances, 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 last purpose is broad and, unless restrained by the *ejusdem generis* rule, must be construed to permit contribution to or payment of *any* kind of indebtedness owed by the society.

In 37 O. J. at pages 779 and 780, the *ejusdem generis* rule is stated as follows:

"In accordance with what is commonly known as the rule of *ejusdem generis*, where, in a statute, general words follow a designation of particular subjects or classes of persons, the meaning of the general words will ordinarily be construed as restricted by the particular designation and as including only things or persons of the same kind, class, or nature as those specifically enumerated, unless there is a clear manifestation of a contrary purpose. An explanation which has been given for the principle is that if the legislature had meant the general words to be applied without restriction it would have used only one compendious term. In accordance with the rules of *ejusdem generis*, such terms as 'other,' 'other thing,' 'others,' or 'any other,' when preceded by a specific enumeration, are commonly given a restricted meaning and limited to articles of the same nature as those previously described."

An examination of Section 9887, *supra*, reveals that the reason for the *ejusdem generis* rule fails in the instant situation. In the ordinary situation, where this rule is adopted and applied, the general words are broad enough to include the particular enumeration. In Section 9887, *supra*, such is not the case. Clearly the words "other form of indebtedness" do not include the particular subjects preceding them and should not, therefore, be given a limited

or restricted meaning. It would, therefore, appear that the rule could have no application in the instant situation.

As above stated, there is a wide difference between the particular enumeration of things and the general words used and, therefore, the Legislature intended to authorize contribution to or payment of *any* type of indebtedness rather than indebtedness relating to the site on which the fairs are conducted.

In Black on Interpretation of Laws, Second Edition, at page 218, it is stated with reference to the *ejusdem generis* rule:

“Care must also be taken, in applying the rule under consideration, to see that the words supposed to be particular or specific, and which precede the general term or terms, really are an enumeration of individual things; for if the preceding term is general, as well as that which follows, there is no place for this rule to apply. An example of this is found in a statute relating to cheating by means of ‘any false token or writing, or by any other false pretense.’ Here the last clause is not to be limited by that which precedes, because ‘false token’ and ‘false writing’ are generic terms, not specific, and the statute does not attempt to enumerate the pretenses which shall be held to be criminal.”

It appears that the wording of Section 9887, *supra*, falls squarely within the principles announced in the last quotation. The phraseology which precedes the words “contribute to or pay any other form of indebtedness” is general in itself. The words “erect or repair buildings” and “otherwise improve such site” are general in scope and clearly there has been no attempt to specifically enumerate the purposes for which contribution may be made.

Consequently, it appears that the *ejusdem generis* rule does not apply and, under the circumstances set out in Section 9887, *supra*, the county commissioners may contribute to or pay any indebtedness of the society.

In view of the above, I am of the opinion that 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 contribute to or pay indebtedness of the society incurred in the operation of fairs, in accordance with the provisions and requirements of Section 9887, General Code.

Respectfully,

THOMAS J. HERBERT,
Attorney General.