

2531.

COUNTY AGRICULTURAL SOCIETY—RETIRED OFFICER—MAY CREATE OFFICE OF "HONORARY SECRETARY"—SALARY MAY BE PROVIDED WHEN.

SYLLABUS:

In the absence of a by-law prohibiting such a course of action, the board of trustees of a county agricultural society may create the office of "Honorary Secretary" of the society and provide for the payment of a salary to the incumbent of the office.

COLUMBUS, OHIO, November 14, 1930.

HON. R. S. CUNNINGHAM, *Prosecuting Attorney, Lancaster, Ohio.*

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

"The Fairfield County Agricultural Society, organized under Section 9880 of the General Code, and pursuant to Section 9884-3, elected officers in January.

At that time the person who had served the society as secretary for forty-seven years was succeeded by another individual. The society thereupon passed a resolution creating the office of Honorary Secretary which has no duties of any nature connected with it but for which the society pays \$500.00 a year.

We request your opinion as to whether or not under Section 9884-3, such a position and such a salary is a proper action on the part of such society."

For many years, provision has been made by statute for the organization and operation of county agricultural societies. The first act providing for such organizations, was enacted in 1833 (31 O. L., 28). It has been amended in some respects, from time to time, the present law being Section 9880, et seq. of the General Code. The purpose of these enactments was to foster and encourage the pursuit of agriculture and to extend and promote agricultural education. To that end, these societies, under each of the acts pertaining thereto, were authorized to conduct county fairs. When these fairs were properly conducted according to law, and the rules of the State Board of Agriculture, the extension of certain public aid to these societies was authorized. Present Section 9880, General Code, reads as follows:

"When thirty or more persons, residents of a county, organize themselves into a county agricultural society, which adopts a constitution and by-laws, selects the usual and proper officers, and otherwise conducts its affairs in conformity to law, and the rules of the state board of agriculture, and when such society has held an annual exhibition in accordance with Sections 9881, 9882, and 9884 of the General Code, and made proper report to the state board, then upon presentation to the county auditor, of a certificate from the president of the state board attested by the secretary thereof, that the laws of the state and the rules of the board have been complied with, the county auditor of each county wherein such agricultural societies are organized, annually shall draw an order on the treasurer of the county in favor of the president of the county agricultural society for the sum of eight hundred dollars, and the treasurer of the county shall pay it. The total amount

of such order shall not exceed one hundred per cent (100%) of the amount paid in regular class premiums."

There follow in Section 9881, et seq., General Code, certain rules and regulations with respect to the conduct of county fairs by county agricultural societies, the offer and awarding of premiums for exhibits at such fairs, the means of licensing concessionaires at county fairs, the publication of the treasurer's account and the list of awards, and similar matters relating to the conduct of the affairs of the organization. Provision is made in Sections 9884-1, 9884-2 and 9884-3, General Code, with respect to who may be members of such societies and the annual fees of such members, also with respect to the number, terms of office and manner of election of a board of directors. Section 9884-3, General Code, provides, as follows:

"The board of directors shall annually meet not later than the first Saturday of January, and elect a president, vice-president, treasurer, secretary, and such other officers as it may deem proper; the president, vice-president and treasurer to serve one and the secretary not to exceed three years, as the board of directors may determine and until their successors are elected and qualified. The president and vice-president shall be directors. The secretary and treasurer may or may not be directors. Before election of officers the newly elected directors shall qualify by taking oath (or affirmation) before a competent authority; and the board of directors shall conform to the rules and regulations of the state board of agriculture."

By the terms of Section 9885, General Code, county agricultural societies are declared to be bodies corporate and politic and, as such, capable of suing and being sued and of holding in fee simple such real estate as may have been acquired as sites for holding county fairs.

It has been held by former attorneys general, that county agricultural societies are private corporations. In Opinions of the Attorney General for 1922, at page 40, is found an opinion the syllabus of which reads in part, as follows:

"County agricultural societies organized under the provisions of Section 9880 et seq. of the General Code are private corporations, whose officers and directors in the management of the societies' affairs, are governed by the same rules of conduct as those applied to similar officers of private corporations generally."

This subject is more fully discussed in a former opinion found in the Annual Report of the Attorney General for 1913, at page 1253, where a similar holding was made. In the course of the last mentioned opinion, there is quoted from Clark and Marshall, on Private Corporations, page 66, the following:

"A state board of agriculture or agricultural society composed of private individuals and incorporated for the purpose of promoting agriculture, holding agricultural fairs, etc., is not a public corporation, although the state has made an appropriation of money for its benefit."

While it possesses the characteristics of a private corporation—*Dunn vs. Agricultural Society*, 46 O. S., 97; *Markley vs. State of Ohio*, 12 O. C. C., N. S., 83; *Chemical Company vs. Calvert*, 7 O. N. P., N. S., 107—yet in some respects it may be said to be a public institution, designed for public instruction, the advancement of

learning and the cause of agriculture, *State ex rel. vs. Kearns*, 104 O. S., 550. Whether, strictly speaking, these societies are private or public corporations, they are without a doubt, subject to regulation by the Legislature, inasmuch as they are creatures of law, and to a large extent, subject to supervision by the State Board of Agriculture in conformity to the statute authorizing such supervision.

In so far, however, as they are not regulated either by statute or by the rules of the State Board of Agriculture, they have a right to control their internal affairs as may seem best, which may be done to some extent by the adoption of by-laws.

I find nothing in the statutes to prevent a county agricultural society from creating such positions as it may see fit, or of paying such salaries as may seem proper, nor are there any rules of the State Board of Agriculture governing the salaries that may be paid to the president, secretary or other officials, and while the law does not favor sinecures, it seems that inasmuch as no attempt at regulation of the subject is made by law or rule of the State Board of Agriculture, the matter of salaries to be paid to officials and employes of county agricultural societies is left entirely to the society itself.

I am therefore of the opinion that unless the creation of the office of "Honorary Secretary", with a salary attached to the office, is prohibited by a by-law of the society, a county agricultural society may create such an office and provide for the payment of a salary to the person occupying the office.

Respectfully,

GILBERT BETTMAN,
Attorney General.

2532.

APPROVAL, ABSTRACT OF TITLE TO LAND OF CATHERINE GREEN
IN CITY OF COLUMBUS, FRANKLIN COUNTY, OHIO.

COLUMBUS, OHIO, November 14, 1930.

HON. CARL E. STEEB, *Business Manager, Ohio State University, Columbus, Ohio.*

DEAR SIR:—There has been submitted for my examination and approval an abstract of title, warranty deed and encumbrance estimate No. 1157 relating to the proposed purchase by the State of Ohio of a certain lot and parcel of land situated in the city of Columbus, Franklin County, Ohio, which is owned of record by one Catherine Green, widow, and which is more particularly described as being Lot No. 32 of Critchfield and Warden's Subdivision of the south half of the north half of Lot No. 278 of R. P. Woodruff's Agricultural College Addition to the city of Columbus, Ohio, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 4, page 234, Recorder's Office, Franklin County, Ohio.

Upon examination of the abstract of title submitted, I find that said Catherine Green has a good and indefeasible fee simple title to the above described property, free and clear of all encumbrances whatsoever except the taxes on said property for the last half of the year 1929, amounting to \$2.41, and excepting also the taxes for the year 1930, the amount of which is undetermined. These taxes are, of course, a lien upon said property.

Upon examination of the warranty deed tendered by said Catherine Green, I find that the same has been properly executed and acknowledged by her and that the form of said deed is such that it conveys the above described property to the State