

land described therein, for the sole purpose of using said land for public fishing grounds, and to that end to improve the waters or water courses passing through and over said land.

Upon examination of the above instrument, I find that the same has been executed and acknowledged by the grantors in the manner provided by law and am accordingly approving the same as to legality and form, as is evidenced by my approval endorsed thereon, which is herewith returned.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

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1247.

COUNTY AGRICULTURAL SOCIETY—FUNDS APPROPRIATED BY COUNTY COMMISSIONERS—MAY NOT BE USED AS GENERAL OPERATING FUND—MAY ONLY BE USED TO PAY PRE-EXISTING INDEBTEDNESS—SECTION 9887, G. C.

*SYLLABUS:*

*The funds appropriated by the county commissioners under the authority of Section 9887, General Code, may only be used for the purpose of paying pre-existing indebtedness of a county agricultural society and may not be used by the society as a general operating fund.*

COLUMBUS, OHIO, September 29, 1939.

HON. R. E. SNEDDEN, *Prosecuting Attorney, Medina, Ohio.*

DEAR SIR: Your request for my opinion reads as follows:

“Request your interpretation of General Code Section 9887, the important part of which is as follows: In part G. C. Sec. 9887:

‘In counties wherein there is a county agricultural society \* \* \* 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 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 such 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, \* \* \*.'

The proposition in this county as it concerns the above statute is this, the directors of the Medina County Agricultural Society have requested the Commissioners of Medina County to submit to the qualified electors of this county the question of a tax levy to run for a period of five years or longer in an amount which would return more than \$10,000.00 per year. This money is to be turned over to the Agricultural Society to be used for the purpose of paying off mortgage indebtedness and to be used for many other purposes which the society thinks advisable. It is the intention of the society to have a free gate to the Fair as the result of having received the sum above mentioned which no doubt in their opinion will tend toward a bigger and better fair and of course a request has been made for an opinion from this office asking whether or not, by virtue of G. C. Sec. 9887 or any other section of the code, could such a procedure be followed. You will note above I have underlined the words 'contribute to', General Code section 9887 contains those words, being the only ones which seem to indicate that the commissioners could contribute to the society without any designation as to the items said contribution is to be spent for. I recognize that further down in the section, where it provides that the amount appropriated is to be expended in the purchase of real estate or the erection of buildings or other improvements or payment of rents or other forms of indebtedness of said society, it does not include a contribution to the society without strings attached.

I recognize also that the various attorney general's opinions which I have examined which tend to touch upon this subject, particularly 1921 A. G. Opinions, Vol. 1, page 157 and various other opinions since that time, seem to indicate that such a levy would be made primarily to purchase real estate, improve the property or pay off indebtedness and does not point to the use of said contribution as an operating fund to pay premiums and other items of like expense."

Your letter presents the question as to whether the proceeds of the tax levy authorized under Section 9887, General Code, may be used by

the county agricultural society as a general operating fund, such to be disbursed by the society as it deems advisable. The pertinent portion of Section 9887, General Code, has been quoted in your letter and will not be repeated herein.

At the outset, it will be noted that the Legislature uses the term "indebtedness" which necessarily means pre-existing indebtedness and not future indebtedness. The word "indebtedness" means a sum of money now due or owing and not a sum which may become due in the future.

The conclusion that such money may be used only in payment of pre-existing indebtedness was announced by a former Attorney General in the 1931 Opinions of the Attorney General, page 882. The first branch of the syllabus reads in part as follows:

"County commissioners may, within the limitations of Section 9887, General Code, appropriate money for the purpose of paying the pre-existing indebtedness of a county society, where said society holds a lease for not less than twenty years upon lands for the purpose of holding fairs."

Further answering your question, it appears that Section 9887, supra, contemplates the choice and designation by the county commissioners of the indebtedness which is to be paid. Whatever indebtedness the society may have would necessarily be definite and certain and when Section 9887, supra, provides for the payment of "any other form of indebtedness", it would seem to contemplate a designation by the county commissioners of the indebtedness in the payment of which such money is to be used. Section 9887, supra, clearly does not contemplate that such money shall be used as an operating fund or for the purpose of paying premiums or other obligations arising in the future. However, it appears that the payment of such items could be made from the funds received by the society by virtue of Section 9894, General Code.

In view of the conclusions above announced and in specific answer to your inquiry, I am of the opinion that funds appropriated by the county commissioners under the authority of Section 9887, General Code, may only be used for the purpose of paying pre-existing indebtedness of a county agricultural society and may not be used by the society as a general operating fund.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*