

some or in all respects a like interest with electors of the township outside the city limits, and are entitled to a vote in choice of them. * * * "

* * *

* * *

* * *

Specifically answering your questions, I am of the opinion that:

1. Under Sections 3476 et seq., General Code, the trustees of Marion Township are not responsible for the care of the indigent poor having a legal settlement in that part of the city of Delphos which is within Marion Township, Allen County.

2. Under Section 5625-5, General Code, tax levies made by Marion Township for the relief of the poor should be included in the township general levy for current expenses upon all taxable property lying within the township including that part of the city of Delphos which is within such township.

3. Electors living in that part of the city of Delphos which is located in Marion Township, Allen County, have the right to vote for the Marion Township offices such as the offices of township trustees, clerk, treasurer, justices of the peace and constables, and all other such offices in which the city electors have some or in all respects a like interest with electors of the townships outside the city limits.

Respectfully,

JOHN W. BRICKER,

Attorney General.

1600.

COUNTY FAIR—GAMES OF CHANCE PROHIBITED THEREAT—
ENFORCEMENT OF LAWS RELATING THERETO DUTY OF SHERIFF,
PROSECUTING ATTORNEY AND DIRECTOR OF AGRICULTURE.

SYLLABUS:

1. *The County Agricultural Societies or Independent Agricultural Societies do not have the right to permit paddle wheels, pool selling, corn games and other games of chance to be operated during the time they are conducting their fair.*

2. *Even though a County Agricultural Society does not ask for state aid under Section 9880, General Code, they are not permitted to allow the above mentioned games to operate on the fair grounds during the time they are conducting their fair.*

3. *Under Section 9884-9, General Code, it is the duty of the Director of Agriculture to enforce all the provisions of the act (G. C. Sec. 9884-5 to 9884-11). It is also the duty of the Sheriff and the Prosecuting Attorney to enforce Section 9884-11, General Code.*

4. *In the event the County Agricultural Society leases their fair grounds owned by the County to an individual, firm or corporation for the purpose of conducting a street fair or carnival, these laws (G. C. Sec. 9884-5 to 9884-11, inclusive) do not apply to the lessee, but the provisions of Sections 13062 et seq. of the Criminal Code, with regard to gambling, should be enforced by the Sheriff and the Prosecuting Attorney, at such fairs and carnivals.*

COLUMBUS, OHIO, September 22, 1933.

HON. EARL H. HANEFELD, *Director, Department of Agriculture, Columbus, Ohio.*

DEAR SIR:—I have your letter of recent date which reads as follows:

“There have been a few requests made by officers of the County Agricultural Societies in the State for the privilege of conducting paddle wheels, pool selling, corn games and other games of chance, which are not licensed by the Department of Agriculture. They state in their request that they do not want to participate in the per-capita tax as is provided in Section 9880 of the General Code, but that they want to be granted the privilege of deciding for themselves the kind of concessions they will permit to operate on the grounds.

Does a County Agricultural Society or an Independent Agricultural Society have the right to permit paddle wheels, pool selling, corn games and other games of chance to be operated during the time they are conducting their fair?

If a County Agricultural Society does not ask for State Aid under Section 9880, are they permitted to allow the above mentioned games to operate on the fair grounds during the time they are conducting their fair?

What officers are charged with the enforcement of the laws governing the County Agricultural Societies?

In the event a County Agricultural Society leases their fair grounds owned by the County to an individual, firm, or corporation for the purpose of conducting a street fair or carnival, do the laws which provide for the regulations of the County Agricultural Society apply to the parties having the lease and operating the fair?

Will you kindly furnish me your opinion?”

Section 9880, General Code, provides for the organization of County Agricultural Societies and Section 9880-1, General Code, provides for the organization of Independent Agricultural Societies. It is necessary for me to point out the other Code Sections which are relevant to your inquiries.

“Section 9884-4. County agricultural societies shall not sell or grant to any person or persons, or permit in any manner, the privilege of selling, dealing, or bartering in spirituous, vinous or malt liquors, allow, or tolerate immoral shows, lottery devices, games of chance, or gambling of any kind, *including pool selling and paddle wheels, on or about any build- ing or anywhere on its fairgrounds, at any time.*

If it be shown from the report of any county agricultural society, from witnesses or otherwise, that the annual exhibition held by such society was not conducted along moral or agricultural lines or was not of sufficient educational value to justify the expenditure of the per capita tax as provided by Section 9880 of the General Code, the certificate of such financial aid may be withheld by the state board of agriculture.”

“Section 9884-5. It shall be unlawful for any person to conduct or operate *any side show, amusement, game, device,* or to offer for sale at auction, or solicitation, any novelty, *at any county or independent agri-*

cultural society fair without first obtaining from the Director of Agriculture, a license so to do."

"Section 9884-6. No officer, agent, or employee of a county or independent agricultural society, shall grant a privilege or concession to any person, who does not hold a license issued by the Director of Agriculture under the provisions of this act (G. C. Sec. 9884-5 to 9884-11), to conduct or operate any side show, amusement, game, device, or to offer for sale at auction, or solicitation, any novelty at a county or independent agricultural society fair." (Italics the writer's.)

Section 9884-7, General Code, provides that licenses to conduct or operate any side show, amusement, game, device, etc., are to be granted by the Director of Agriculture.

Three other sections of the General Code, which are pertinent to your inquiry are:

"Section 9884-8. Any person holding a license issued to him under the provisions of this act (G. C. Sec. 9884-5 to 9884-11), who permits or tolerates, at any place on the fair grounds where his concession is in operation, any immoral show, lottery device, *game of chance or gambling of any kind, including pool selling and paddle wheels*, or who violates in any way, the provisions and terms of the license issued to him, shall forfeit his license, and the Director of Agriculture shall not issue any other license to said person until after a period of two years."

"Section 9884-9. It shall be the duty of the Director of Agriculture to enforce all the provisions of this act (G. C. Sec. 9884-5 to 9884-11) and to make all rules and regulations, not otherwise herein provided, necessary for the enforcement of the same, and shall, after giving notice to such licensee, if he finds the provisions of this act have been violated, revoke said license."

"Section 9884-11. Whoever violates any of the provisions of this act (G. C. Sec. 9884-5 to 9884-11) shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than \$100.00 or more than \$500.00." (Italics the writer's.)

In answer to your first question a reading of Sections 9884-4 et seq., General Code, supra, clearly shows that a County Agricultural Society or an Independent Agricultural Society have no right to permit paddle wheels, pool selling, corn games, and other games of chance to be operated during the time the fair is being conducted. The latter part of Section 9884-4, General Code, providing for the withholding of financial aid to county agricultural societies if such gambling takes place on the fair grounds during the period of the fair, does not permit such gambling if no state aid is requested. This withholding of state aid is in addition to the penalty provided by Section 9884-11, for the violation of any of the provisions of the act (G. C. Sec. 9884-5 to 9884-11).

Answering your third question with regard to what officers are charged with the enforcement of the law governing the agricultural societies, a reading of Section 9884-9, General Code, supra, shows it to be the duty of the Director of Agriculture to enforce all the provisions of the laws (G. C. Sec. 9884-5 to 9884-11), governing the county agricultural societies. In addition it is the duty of the Sheriff and the Prosecuting Attorney to enforce Section 9884-11, which

makes it a misdemeanor for any person to violate any provisions of the act (G. C. Sec. 9884-5 to 9884-11).

Sections 9884-5 to 9884-11, inclusive, were enacted by Amended Senate Bill No. 260 in the year of 1923 (110 O. L. 454). The title of such act reads:

“To license concessionaries at County and Independent Fairs for the purpose of preventing immoral exhibitions, lottery devices, games of chance and gambling *at said fairs.*” (Italics the writer’s.)

In the event a county agricultural society leases their fair grounds owned by the county to an individual, firm or corporation for the purpose of conducting a street fair or carnival, it is my opinion from a reading of the title and the provisions of the act, given supra, that these laws which provide for the regulation of county agricultural societies do not apply to the parties having a lease and operating street carnivals, etc. Consequently the lessee under such an arrangement does not have to obtain a license from the Director of Agriculture. However, if he permits such games as you describe above, it is the duty of the Sheriff and the Prosecuting Attorney to prosecute such lessee for violation of the general criminal statutes, Sections 13062 to 13067, inclusive.

Specifically answering your inquiries, it is my opinion that:

1. The County Agricultural Societies or Independent Agricultural Societies do not have the right to permit paddle wheels, pool selling, corn games and other games of chance to be operated during the time they are conducting their fair.

2. Even though a County Agricultural Society does not ask for state aid under Section 9880, General Code, they are not permitted to allow the above mentioned games to operate on the fair grounds during the time they are conducting their fair.

3. Under Section 9884-9, General Code, it is the duty of the Director of Agriculture to enforce all the provisions of the act (G. C. Sec. 9884-5 to 9884-11). It is also the duty of the Sheriff and the Prosecuting Attorney to enforce Section 9884-11, General Code.

4. In the event the County Agricultural Society leases their fair grounds owned by the County to an individual, firm, or corporation for the purpose of conducting a street fair or carnival, these laws (G. C. Sec. 9884-5 to 9884-11, inclusive), do not apply to the lessees, but the provisions of Sections 13062 et seq., of the Criminal Code, with regard to gambling, should be enforced by the Sheriff and the Prosecuting Attorney, at such fairs and carnivals.

Respectfully,

JOHN W. BRICKER,
Attorney General.

1601.

APPROVAL, PAYMENT OF VOUCHERS FOR EQUIPMENT OF CONCESSION STAND IN NEW STATE OFFICE BUILDING.

COLUMBUS, OHIO, September 22, 1933.

HON. JOSEPH T. TRACY, *Auditor of State, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your communication which reads as follows: