

In the case of *City of Portsmouth vs. Milstead*, the syllabus reads:

“The provisions of section 1536-633 (known as section 126 of the Municipal Code) requiring ‘that all fees pertaining to any office shall be paid into the city treasury’ has reference to municipal fees solely, or such fees as may be fixed by municipal authority.

“Said section does not authorize cities to interfere with the fees of mayors or chiefs of police in state criminal cases; whether such authority can be delegated to municipalities, *Quære?*”

This case was affirmed, without report, in 76 Ohio St. 597.

From the language of the Court in the above two cases, it is apparent that fees taxed for a mayor, marshal or chief of police in state cases are not governed by sections 4213, General Code, 4219, General Code, or 4270, General Code, but should be paid to such mayor, marshal or chief of police, respectively, for their personal use.

This is in accord with the interpretation of section 4270 General Code, by the Supreme Court in the *Nolle* case.

Respectfully,
C. C. CRABBE,
Attorney-General.

2141.

COUNTY AGRICULTURAL SOCIETY—SECTION 9887 G. C. CONSTRUED.

SYLLABUS:

County commissioners may not legally pay out money for the payment of the rental on a lease held by a county agricultural society unless the county society has expended a like amount for lease or improvement of such site.

COLUMBUS, OHIO, January 12, 1925.

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

GENTLEMEN:—You have requested my opinion on the following:

“When a county agricultural society has leased real estate whereon to hold fairs for a term of twenty years, may the county commissioners legally pay out of the county treasury the annual rental provided for in the lease without any payment whatever on the part of the agricultural society? The rental so paid by the county is in addition to the amount contributed to the agricultural society under the provisions of section 9894 G. C., and also in addition to the contribution provided for in section 9880 G. C.”

Section 9887, which seems to be the only authority authorizing county commissioners to expend money for the purchase or lease of grounds for the agricultural society, provides:

“When a county society has purchased, or leased real estate whereon to hold fairs for a term of not less than twenty years, or the title to the grounds is vested in fee in the county, but the society has the control and management of the lands and buildings; if they think it for the interests of the county, and society, the county commissioners may pay out of the county treasury the same amount of money for the purchase or lease and improvement of such site as is paid by such society or individuals for that purpose, and may levy

a tax upon all the taxable property of the county sufficient to meet such payment."

You state that in the case you have in mind the rentals so paid are in addition to funds provided in sections 9880 and 9894. While the sections relating to the powers of agricultural societies and the power of the commissioners to assist them are somewhat loosely drawn and difficult of interpretation in many respects, I have found no provision in the statutes that would seem to authorize the expending of money for a lease, except in the section heretofore quoted. The plain provisions of such section are that if the commissioners think it for the interest of the county and society, they may pay out of the treasury *the same amount of money for the purchase or lease and the improvement of such site as is paid by the society.*

It is suggested that under this section in cases wherein the agricultural society has made no expenditure it would be improper for the commissioners to make any expenditures. However, it is possible that the commissioners are not limited to providing funds for a specific purpose mentioned in said section; that is, supposing that the yearly rental is \$2,000 and the society has made improvements in the amount of \$2,000 under such circumstances it may be that the commissioners would be within their power to pay the lease money because it would be within the general provisions of the statute.

In view of the foregoing, in specific answer to your inquiry you are advised that the county commissioners may not legally pay out money for the payment of the rental on a lease held by a county agricultural society unless the county society has expended a like amount for lease or improvement of such site.

Respectfully,
C. C. CRABBE,
Attorney-General.

2142.

APPROVAL, FINAL RESOLUTION, ROAD IMPROVEMENT IN BUTLER COUNTY.

COLUMBUS, OHIO, January 12, 1925.

Department of Highways and Public Works, Division of Highways, Columbus, Ohio.

2143.

APPROVAL, BONDS OF VILLAGE OF NEW LEXINGTON, PERRY COUNTY,
\$6,000.00.

COLUMBUS, OHIO, January 12, 1925.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.