

AGRICULTURAL SOCIETY, COUNTY—POWERS AND DUTIES OF COUNTY COMMISSIONERS—ANY BUILDING ERECTED PURSUANT TO SECTION 9887 G. C. MUST BE PLACED UNDER CONTROL AND MANAGEMENT OF DULY ORGANIZED AGRICULTURAL SOCIETY.

SYLLABUS:

Any building erected pursuant to Section 9887 of the General Code must be placed under the control and management of the duly organized agricultural society.

Columbus, Ohio, June 28, 1949

Hon. Forrest E. Sidener, Jr., Prosecuting Attorney  
Madison County, London, Ohio

Dear Sir:

This is to acknowledge receipt of your letter requesting my opinion, which reads as follows:

“The Madison County Commissioners through their clerk have forwarded to me the following letter:

‘London, Ohio

April 11, 1949

Forrest E. Sidener, Jr.  
Prosecuting Attorney  
Madison County, London, Ohio

Dear Sir:

This board needs your advice in connection with a new building to be erected on the Madison County Fairgrounds. At the general election held in November of 1946, the electorate approved a one mill tax levy as an “Agriculture Tax” under Section 9887, General Code, for the calendar years 1947, 1948, 1949, 1950 and 1951, which according to estimates should produce not less than \$150,000.00, and it was understood that the building when erected would be used for “youth activities” and that the Board of County Commissioners would enlist the assistance of a Committee to help direct the operations and activities of and in the building.

'We have in this county a duly organized County Agricultural Society which Society has had control of the Fairgrounds and buildings situated thereon, excepting a few highway buildings, and appropriations for the said County Agricultural Society have been made each year under the following sections of law, to wit :

- (a) Section 9887 G. C. Improvements
- (b) Section 9894 G. C. Conducting Fairs
- (c) Section 9880-2 G. C. Four H Club Work
- (d) Section 9880 G. C. Premiums

The following questions are presented :

'(1) Can a Board of County Commissioners operate a Youth building erected as the result of a vote and tax levy under Section 9887 of the General Code of Ohio as an educational and recreational center or must the building, upon completion, be turned over to an organized County Agricultural Society for management?

'(2) Can a Board of County Commissioners operate such a building with county general funds other than those funds or appropriations provided for under Agriculture laws aforementioned or must specific appropriations be made under the Agriculture laws?

'(3) May the Board of County Commissioners enlist the assistance of a "special committee" from among youth group organizations to act in conducting or managing such a building and/or activities?

'An early reply to the aforementioned questions would be greatly appreciated.

Yours respectfully,

Madison County Commissioners'

"I am writing to ask if you would be so kind as to give me an opinion upon the aforementioned legal questions."

Boards of county commissioners are creatures of statute and have only such powers as are specifically granted to them by law and such as may necessarily be implied therefrom.

Section 9887, General Code, at the time of holding the election, read 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.”

Section 9893, General Code, provides that :

“When money has been raised by taxation in a county for the purpose of leasing lands for county fairs, or of erecting buildings for county fair purposes, or for making improvements on county fair grounds, or any purpose connected with the use of county fair grounds or the management thereof by a county agricultural society, it shall be used for such purpose only, notwithstanding the law under which the money was so raised has expired by limitation. Such moneys shall be used for the purposes intended by the act under which they were levied and collected by taxation.”

In Section 9906, General Code, it is further provided :

“When the title to grounds and improvements occupied by agricultural societies is in the county commissioners, the control and management of such lands and improvements shall be vested

in the board of directors of such society so long as they are occupied and used by it for holding agricultural fairs. Moneys realized by the society in holding county fairs and derived from renting or leasing the grounds and buildings, or portions thereof, in the conduct of fairs or otherwise, over and above the necessary expenses thereof, shall be paid into the county treasury of the society, to be used as a fund for keeping such grounds and buildings in good order and repair, and in making other improvements from time to time deemed necessary by its directors."

The above cited statutes are in *pari materia* and, as such, must be construed together as having one object and one system and policy.

I am unable to find any authority of law giving the county commissioners the active control of the powers and duties of the officers of the county agricultural society, and, in the absence of such authority, to exercise control of same the county commissioners would be exceeding their authority, and as such would be usurping the powers and duties by law conferred upon said agricultural society. Furthermore, the statutes, *supra*, confer upon the county commissioners the powers and duties only incident and necessary to the submission to the electors of an agricultural tax levy, and had the legislature intended that the powers and duties of the county commissioners should extend to the control of funds thus raised, it would no doubt have specifically made such a provision.

Upon examination, therefore, of these closely related sections of the General Code pertaining to an agricultural tax levy, it is my opinion that any building erected pursuant thereto must be placed under the control and management of the duly organized agricultural society.

Since my reply to your first question is in the negative, it therefore becomes unnecessary to consider other questions herewith submitted.

Respectfully,

HERBERT S. DUFFY,  
Attorney General.