

3697.

AGRICULTURAL SOCIETY—CONSTRUCTION OF RULE FIVE OF DEPARTMENT OF AGRICULTURE—MEMBER OF BOARD OF DIRECTORS OF SUCH SOCIETY CANNOT ALSO ACT AS SUPERINTENDENT OF EXHIBITS AT FAIR—A DIRECTOR MAY ALSO RECEIVE COMPENSATION FOR LABOR PERFORMED UPON FAIR GROUNDS.

1. *A member of the board of directors of an agricultural society is limited by rule five of the Department of Agriculture to \$4.00 and mileage in attending each meeting and conducting the affairs of the society, with the maximum number of twelve meetings per year. Such a member acting as superintendent of exhibits at a fair held by the board is engaged in conducting the affairs of the society, as referred to in said rule.*

2. *Rule five above referred to, does not inhibit a member of the board of directors from receiving compensation for labor performed upon the fair grounds in addition to the other compensation therein provided for.*

COLUMBUS, OHIO, November 1, 1922.

HON. JOHN L. LOTT, *Prosecuting Attorney, Tiffin, Ohio.*

DEAR SIR:—Receipt is acknowledged of your communication of recent date reading as follows:

“The Seneca County Agricultural Society, during fair week, has employed as superintendents of some of the departments of the exhibits, some members of the board of directors of the society. For their services as superintendents, they have been paid \$3.00 per day for each day the annual fair is held.

The Attica Agricultural Society of Attica, in this county, has likewise employed some of the members of the board of directors of the Society as such superintendents and paid them a like compensation for such services.

Some of the members of the board of directors of the latter Society, in addition have performed labor upon the fair grounds of the Society, in preparing the grounds for the annual Fair, and have been paid by the Society for such services.

The examiner for the auditor of state in auditing the accounts of these two societies has held that members of the board of directors of an agricultural society are not entitled to compensation for any service other than the compensation allowed for attending the meetings of the board, and he bases his ruling upon Rule Five of the Rules of the State Board of Agriculture for the management of county agricultural societies, which reads as follows:

‘Directors, other than the treasurer, shall receive an amount not exceeding \$4.00 and mileage of five cents per mile one way in attending each meeting and conducting the affairs of the society. No allowance shall be made to exceed twelve meetings each year, nor shall any funds, accumulations, profits or property of the society, or any portion or part thereof, be in any manner, except as above, used, expended, delivered to or for, the individual benefit of any member or officer of the board of directors, or any other person or persons, as a share, gift or dividend in the proceeds or property of the society.

The board may appropriate such funds as may be deemed reasonable to cover actual expenses of board members or officers in furthering the interests of the society.

The treasurer, secretary and chairman of the Grounds Committee who may be a member of the board, may receive compensation for their services.'

The questions submitted for your answer are:

1. Does Rule 5, above quoted, prohibit the payment of compensation to a member of the board of directors of an agricultural society for services rendered during a Fair as a superintendent of a class of exhibits?

2. Does that rule prohibit the payment of compensation to a member of the board of directors for work and labor performed upon the fair grounds of the society in preparing the grounds for holding an agricultural Fair?"

In analyzing the rule of the Department of Agriculture which you quote, and which must determine the question you present, it is observed that the first sentence which relates to the fees and mileage that a member of the board of directors may receive, specifically refers to two things; first, the attendance at board meetings; and second, "conducting the affairs of the society." The second sentence of the first paragraph of said rule evidently refers to funds other than the fees mentioned in the first sentence which are used "as a share, gift or dividend" which might be distributed to members of the society. If the first sentence as above discussed were limited to the payment of fees and salaries for attendance at a board meeting, the conclusion in reference to your inquiry might be different. However, it seems necessary under the well known rule of statutory construction to give consideration to all of the language used. In view of this rule it would seem that the Department of Agriculture in the adoption of this rule had in mind something in addition to the board meetings relative to the conducting of the affairs of the society, and applying this rule to the state of facts which you present it would seem reasonably clear that supervising the exhibits at the fair would be conducting the affairs of the society. In fact, the supervision of such exhibits is one of the chief purposes for which a society exists. The last paragraph of Rule Five as above quoted, shows that an exception was made in the establishing of this rule in reference to the treasurer, secretary and chairman, which indicates that it was in the mind of the drafter of the rule that these mentioned officers were the only members of the society who were to be permitted to receive funds other than the \$4.00 and mileage in the first sentence. In other words, the effect of this rule seems to be that no members of the board of directors are permitted to receive more than \$4.00 and mileage for each meeting, with the maximum limitation of twelve meetings per year, other than the treasurer, secretary and chairman, for the purpose of supervising and conducting the affairs of the society.

Therefore, in specific answer to your first inquiry you are advised that it is the opinion of this department that a member of the society in attending board meetings or supervising exhibits, or otherwise acting in conducting the affairs of the society, is limited to \$4.00 and mileage for each meeting, with the maximum limitation of twelve meetings per annum.

In considering your second question relative to the compensation of a member of the board of directors for work and labor performed upon the fair grounds in preparing the grounds for holding an agricultural fair, it is believed necessary to contradistinguish the services of a member who might be acting in a supervisory

capacity in conducting the affairs of the society from one who is employed as a laborer in the preparation of the grounds. In the first instance, the member occupies a managerial capacity, requiring supervisory and executive ability, and in the second instance there is no supervisory or managerial requirements. Such an employe undoubtedly would take orders and directions from some authority of the board authorized to direct such work.

In view of this situation, it is my opinion that a laborer employed under the state of facts you present, would not be included within the first sentence of the rule about which you inquire, and would not come within the class of those conducting the affairs of the society. Inasmuch as the remainder of the section specifically says that no fees or expenses other than the sums mentioned in the first sentence shall be paid any member "as a share, gift or dividend," I am inclined to believe that there is no inhibition in said rule which prohibits the employing of a laborer who is a member of the board of directors for the preparation of the grounds.

Therefore, your second question is answered in the negative.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

3698.

SCHOOLS—TRANSFER OF CENTRALIZED SCHOOL TERRITORY—WHEN SAID TRANSFER BECOMES EFFECTIVE—SECTIONS 4727 AND 4692 G. C. CONSIDERED—EFFECT OF SECTION 4727 G. C. (108 O. L. 235).

1. *The transfer of centralized school territory authorized under section 4727 G. C. becomes effective in the manner mentioned in section 4692 G. C. where the transfer is in the same county, that is, within thirty days after the filing of the map unless during that period a written remonstrance signed by a majority of the qualified electors residing in the territory to be transferred is filed against such proposed transfer.*

2. *The effect of section 4727 G. C. as amended in 108 O. L., Part 1 (p. 235) is to extend over centralized school territory the general powers of transferring school territory vested in a county board of education by sections 4692 and 4696 G. C., as the case may be.*

HON. JONATHAN E. LADD, *Prosecuting Attorney, Bowling Green, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your letter in which you request the opinion of this department upon the question as to whether a remonstrance will lie in the matter of a proposed transfer of centralized school territory within the county school district.

You indicate that a petition was presented to the county board of education of Wood County signed by more than two-thirds of the qualified electors residing in the territory petitioning for transfer, such territory being the Bloom Township Centralized Rural School District. The transfer desired was to the Cygnet Village School District and under authority of section 4727 G. C. such petition was granted.