

"1. The charity extended by a county in caring for and maintaining children in the County Children's Home constitutes public support and relief within the meaning of the law for the relief of the poor.

2. Public support and relief of the children constitutes public support and relief of the person who is the head and sole support of the family.

3. So long as public support or relief is being given to a person by any county of the state in which such person has a legal settlement, such person cannot acquire a legal settlement in a second county of the state wherein such person has resided for one year even though public support or relief has not been furnished by the second county.

4. Where father was adjudged insane and mother removed to second county where she resided for more than a year, *held*, nevertheless, no legal settlement was acquired in second county because during part of the twelve month period her children were being supported by the first county, and after such support ceased she did not reside in the second county twelve months before receiving relief from a charitable organization."

Under the facts presented by your inquiry, it is my opinion that inasmuch as the illegitimate child, J. W. N., did not obtain a legal settlement in Allen County by virtue of the marriage of P. N. to K., and inasmuch as the mother did not obtain a legal settlement in Marion County and the child was not released to her until October 3, 1933, the child, J. W. N., retained its legal settlement in Vinton County by virtue of Section 3479, General Code, and is a proper charge for poor relief purposes upon Vinton County.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

2488.

HORSE RACING—COUNTY FAIR GROUNDS MAY BE LEASED FOR HORSE RACING IF LICENSED BY STATE RACING COMMISSION WHEN.

*SYLLABUS:*

1. *The grounds owned, controlled or used by a county agricultural society for county fair purposes, may be leased for a horse racing meeting at which pari-mutuel or certificate form of wagering is allowed by virtue of a license issued by the State Racing Commission.*

2. *A lease for the use of grounds managed and controlled by a county agricultural society, the title of which is in the name of the county commissioners, must be executed in the name of the county agricultural society.*

COLUMBUS, OHIO, April 11, 1934.

HON. LOUIS J. SCHNEIDER, *Prosecuting Attorney, Cincinnati, Ohio.*

DEAR SIR:—This will acknowledge receipt of your letter which reads as follows:

"The County Commissioners of this County desire to know whether they may rent the Hamilton County Fair Grounds for the purpose of conducting a race meeting to be held under the jurisdiction of the Ohio State Racing Commission. Since this question has state-wide application, we would appreciate your opinion in the matter.

As it appears to us the proposition involves three distinct questions:

First, Can the County Fair Grounds, which were purchased by The Hamilton County Agricultural Society for the purpose of holding Fairs, be leased for any other purpose even though it will not interfere with the conducting of the annual Fair?

Second, Is Section 9884-4 of the General Code, which says that County Agricultural Societies shall not permit gambling of any kind anywhere on their Fair Grounds at any time, affected by the recently enacted provisions regarding horse racing? and

Third, Assuming that the grounds may be leased for this purpose, by whom should the lease be executed in view of the fact that the grounds are recorded in the name of the County Commissioners and in view of Sections 9900 and 9906 of the General Code, which provide for the leasing and control of said grounds?"

There is no provision in the chapter of the General Code relating to county agricultural societies which prevents in any way the leasing or the using of any grounds owned, controlled or used by a county agricultural society, for the racing of horses.

The only inhibition contained in the General Code as to the use of such grounds is that contained in section 9884-4, General Code, which reads in part:

"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, in or about any building or anywhere on its fairgrounds, at any time."

Section 9884-4, General Code, and the provisions of the "Horse Racing Act" (sections 1079-1, et seq., General Code) were considered in Opinion No. 1082, rendered by this office on July 24, 1933. The second paragraph of the syllabus reads:

"The provisions of section 9884-4, General Code, prohibiting games of chance or gambling at county agricultural fairs, do not apply to pari-mutuel or the certificate form of wagering on horse races conducted under the provisions of the so-called 'Horse Racing Act,' as enacted by the 90th General Assembly in Amended Substitute Senate Bill No. 372."

That the grounds owned, controlled or used by a county agricultural society may be leased for the racing of horses, is apparent from a reading of that part of section 9906, General Code, which provides:

"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, \* \* \*."

Section 9906, General Code, is pertinent and dispositive of your third inquiry and reads:

"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."

It is obvious from a reading of that section that the leasing of lands controlled by an agricultural society must be in the name of the county agricultural society, even though the title to the land may be in the county commissioners.

That conclusion also finds support in Opinion No. 1600, rendered by this office on September 22, 1933. The fourth paragraph of the syllabus reads:

"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."

Summarizing, it is my opinion that:

1. The grounds owned, controlled or used by a county agricultural society for county fair purposes, may be leased for a horse racing meeting at which pari-mutuel or certificate form of wagering is allowed by virtue of a license issued by the State Racing Commission.

2. A lease for the use of grounds managed and controlled by a county agricultural society, the title of which is in the name of the county commissioners, must be executed in the name of the county agricultural society.

Respectfully,

JOHN W. BRICKER,

*Attorney General.*