

County Agricultural Fair, Appropriations For.

Under the laws of 1903, page 136, County Commissioners have authority to appropriate one thousand dollars for the

purpose of paying the expenses of the county agricultural fair. It is a public purpose for which an appropriation of public money may be made. The Fair Commissioners appointed may be members of an incorporated county fair association.

Helena, Montana, Feb. 27, 1907,

Hon. John W. James,
County Attorney,
Anaconda, Montana.

Dear Sir.

Your letter of the 21st inst., requesting opinion of this office upon the following proposition received:

"There has been organized an incorporated company called the Deer Lodge County Fair Association, which has issued stock, and is a body corporate. The object of said association being to annually conduct a county fair in such county, and in connection with such fair, races are held and purses given to the winning horse or horses.

Under Chapter LXVII of the Laws of 1903, page 136, the Board of County Commissioners have appropriated One Thousand Dollars of the money belonging to the county in furtherance of and in aid of said Fair."

Under such statement of facts you ask if such appropriations are legal and if such act of the Legislature is not in violation of Section 1. Art 13 of the State Constitution

The money that may be appropriated by the County Commissioners under said law is declared to be for the purpose of paying the expenses of the county agricultural fair: and said law expressly provides that no part of said money shall be used for horse races, contests of speed or shows or amusements of any kind whatever.

In our opinion the Legislature has authority to authorize county commissioners to make appropriations for the purposes mentioned in said law.

In construing an act authorizing an appropriation of money for an agricultural and industrial exhibit at Minneapolis the Supreme Court of that State in the case of City of Minneapolis v. Janney, 86 Minn. 119, said:

"The proposition that expositions of the character of the one now under consideration are so far public in their character and effect as to justify public aid in the form of appropriations, and that by means of these appropriations public funds are not diverted to private purposes, is well settled by these adjudications. Of course it is impossible to distinguish between appropriations for expositions in the state or municipality making the same, and appropriations for expositions in other states or municipalities, for in each case the money is taken from the public treasury for identically the same purpose or object and it must be either a public or private one. But the fact is that the benefits to be anticipated, such as the impetus

to present or future growths, the additional prosperity which it brings at once, or the education of the people, must be much greater where the exposition is to be held in the state or city making the appropriation than where it is to be held elsewhere."

State vs. Robinson, 35 Neb. 401.

Daggett vs. Colgan, 92 Cal. 53.

Norman vs. Ky. Board of Managers, 93 Ky. 537.

The fact that the County Agricultural Fair Commission, appointed by the Board of County Commissioners, may be members of a county fair association for the purpose of holding county fairs, does not change the purpose for which the appropriation by the County Commissioners is made. Such provision was undoubtedly made to prevent a conflict between two different sets of officers or commissioners, or of the necessity of holding separate county fairs. Under said law it is clearly the duty of the Fair Commissioners, appointed by the Board of County Commissioners, to see that whatever part of the money appropriated by the county, that is expended, shall be used only for the purpose of paying the expenses of the county agricultural fair, and that it is not used for paying purses in horse races, or for shows or amusements. The fact that the purposes for which said appropriation may be used are so restricted by the law clearly shows that it is not a donation or grant to any individual, association or corporation so as to be in violation of Section 1. of Art. 13 of the Constitution, for the reason that no interest or profit can be made by any such individual, association or corporation out of the money so appropriated, as it can only be used for the actual expenses of the agricultural department of the County Fair.

You are therefore advised that in our opinion the Act is not unconstitutional, and that the county commissioners in their discretion can make such an appropriation for the specific purposes authorized by said law.

Very truly yours,

ALBERT J. GALEN,

Attorney General.