

upon such regulations as such board may prescribe in order that the dog warden or deputies, if any, may carry out the duties imposed by law.* The purchase price of such a vehicle must be appropriated out of the general fund of the county in accordance with law."

I am enclosing herewith a copy of this opinion.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1824.

ESTATE—SETTLEMENT WITH ADMINISTRATOR.

COLUMBUS, OHIO, March 7, 1928.

HON. JOSEPH T. TRACY, *Auditor of State, Columbus, Ohio.*

DEAR SIR:—This will acknowledge your recent communication, in which you ask me to advise you whether you have the authority to accept settlement along the lines proposed in a letter which you enclosed. The accompanying letter is from the administrator of an estate and reports the facts pertaining to the estate in question, showing a balance of \$1,590.76 remaining after payment of claims entitled to priority. The claims of general creditors are shown to amount to \$11,256.75. In view of the situation, the administrator offers to pay fourteen per cent in settlement of claims of general creditors; otherwise he will be compelled to have the estate declared insolvent, which will result in further delay and will reduce the amount available for final distribution to each creditor.

Upon further inquiry from you, you supplemented your letter with the following:

"The matter to which we referred pertains to a finding that one of our examiners made against L. M. S., a justice of the peace, at -----, Ohio, who later suicided with an estate which is insolvent. There is now before us a proposal on the part of his executor for us to join with other claimants including county commissioners and township trustees in accepting a settlement of the above claim on a 14% basis. We are advised that otherwise, the estate being declared insolvent, we would probably realize little or nothing."

I have further learned that the aggregate of the finding made by the Bureau of Inspection and Supervision of Public Offices against the officer in question amounted to \$10,551.70, and that the officer had furnished a bond with a surety company as surety in the sum of \$1,000.00, no collection upon the bond having as yet been made.

By virtue of the provisions of Section 286 of the General Code, a finding of this character is furnished to the prosecuting attorney and it is his duty to take such steps as may be necessary to effect collection of the amount represented by the finding. I assume that the matter is referred to me in view of the following language in the section:

"No claim for money or property found in any such report to be due to any public treasury or custodian thereof in any such report shall be abated or

compromised either before or after the filing of civil actions, by any board or officer or by order of any court unless the attorney general shall first give his written approval thereof."

From the facts presented I feel that it would be for the best interests of the state and the subdivisions thereof interested in this matter to accept the proposition of settlement made by the administrator. By virtue of such a settlement practically all of the assets remaining in the hands of the administrator will be applied toward the payment of the shortages, the only portion going elsewhere being fourteen per cent upon approximately \$700.00. While some question might properly be raised as to the state's right to claim priority over general creditors, the amount involved in this instance is so small as to make such a contention not worth while.

At the same time I desire to call your attention to what I have heretofore stated, namely, that no collection has yet been effected upon the bond of the officer. Any settlement which is entered into should be so made as to preserve the right to recover in full upon the bond in question, and the prosecuting attorney is required by Section 286 of the Code to prosecute this claim and effect recovery.

You are accordingly advised that I approve of a settlement with the administrator of the estate of the officer in question on the basis of fourteen per cent of the claim upon the finding in question, provided, however, that the acceptance of this offer is done in such a way as to preserve all existing rights upon the bond of the officer.

Respectfully,

EDWARD C. TURNER,
Attorney General.

1825.

APPROVAL, BONDS OF MONROE COUNTY, OHIO—\$18,000.00.

COLUMBUS, OHIO, March 7, 1928.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

1826.

COUNTY COMMISSIONERS—AUTHORITY TO BIND THEIR SUCCESSORS DISCUSSED—ROAD CONTRACTS DISCUSSED—AUTHORITY OF TOWNSHIP TRUSTEES TO BIND SUCCESSORS.

SYLLABUS:

A board of county commissioners cannot, by entering into a contract with one or more boards of township trustees providing for the improvement of the roads in the county system of highways by widening, grading and graveling or stoning the same,