

officer of such corporation. In criminal proceedings before a mayor of a city, Section 4534, General Code, provides that process shall be directed to the chief of police or to a police officer of the municipality designated by him, while in like proceedings before the mayor of a village, Section 4542, General Code, directs that the marshal shall "execute and return all writs and process to him directed by the mayor."

By virtue of the provisions of Section 1579-381, *supra*, it is my opinion that the act creating the Municipal Court of Newark specifically makes it the duty of such Municipal Court to direct its warrants to the bailiff or to a police officer of the City of Newark. Such court is without authority to issue warrants directed to the sheriff of Licking County, Ohio.

In this connection your attention is directed to an opinion of this office which appears in Opinions, Attorney General for 1925, at page 550, the syllabus of which reads:

"The Municipal Court of Portsmouth may not legally issue warrants directed to the sheriff of the county or constable of a township. Such warrants should be issued to the bailiff or a deputy bailiff provided for said court."

Although to determine to what officers process issued by the several Municipal Courts shall be directed requires an examination of each act creating such court, the pertinent language of the acts creating the Municipal Court of Portsmouth and the Municipal Court of Newark, in so far as the question you present, is practically identical in form and substance. In other words, as regards the question you present, a like conclusion must be reached in so far as these two Municipal Courts are concerned.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1930.

DOGS—CLAIMS FOR DAMAGES—AUTHORITY OF COUNTY COMMISSIONERS TO ALLOW CLAIMS, DISCUSSED.

SYLLABUS:

1. *By the terms of Section 5840, General Code, in order to entitle any owner of horses, sheep, cattle, swine, mules and goats, which have been injured or killed by a dog not belonging to such owner, or harbored on his premises, to enter a claim for damages, such owner must notify a county commissioner in person or by registered mail within forty-eight hours after such loss or injury has been discovered.*

2. *A board of county commissioners is without authority to allow a claim for damages, presented under the provisions of Section 5840, General Code, unless the claimant notifies a county commissioner in person or by registered mail within forty-eight hours after the loss or injury has been discovered.*

COLUMBUS, OHIO, April 2, 1928.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—This will acknowledge your letter dated March 30, 1928, which reads:

"We respectfully request that you render this department your written opinion upon the following matter :

Section 5840, G. C., as amended, 112 O. L. 353, provides that any owner of horses, sheep, cattle, swine, mules and goats which have been injured or killed by a dog not belonging to him or harbored on his premises, in order to be entitled to enter a claim for damages must notify a county commissioner in person or by registered mail within forty-eight hours after such loss or injury has been discovered.

Question : In the event of the failure to notify the county commissioners as required to do by this act, may the county commissioners legally make any allowance for damages to animals, that is, if the notice is given after forty-eight hours, may the county commissioners legally make an allowance?"

Section 5840, General Code, as amended April 21, 1927, (112 v. 353), in so far as pertinent, reads :

"Any owner of horses, sheep, cattle, swine, mules and goats which have been injured or killed by a dog not belonging to him or harbored on his premises, *in order to be entitled to enter a claim for damages must notify a county commissioner in person or by registered mail within forty-eight hours after such loss or injury has been discovered*, and such commissioner shall immediately notify the dog warden or other enforcing officer of such loss or injury, whose duty it shall be to have the facts of such loss or injury investigated at once. The owner of such horses, sheep, cattle, swine, mules or goats, may present to the township trustees of the township in which such loss or injury occurred, within sixty days a detailed statement of such loss or injury done, supported by his affidavit that it is a true account of such loss or injury. A duplicate of such statement shall be presented to the county commissioners of the county in which such loss or injury occurred. If such statements are not filed within sixty days after the discovery of such loss or injury no compensation shall be made therefor. Such statement shall set forth the kind, grade, quality and value of the horses, sheep, cattle, swine, mules and goats so killed or injured, and the nature and amount of the loss or injury complained of, the place where such loss or injury occurred, and all other facts in the possession of the claimant which would enable the dog warden to fix the responsibility for such loss or injury. * * * " (Italics the writer's.)

By the plain and unambiguous language used in Section 5840, supra, the Legislature has expressed its intent that, in order for any owner of horses, sheep, cattle, swine, mules and goats injured or killed by a dog not belonging to him, or harbored on his premises, to be entitled to enter a claim for the damage incurred, the claimant *must* notify a county commissioner in person or by registered mail within forty-eight hours after such loss or injury has been discovered.

It is elementary that boards created by statute, such as boards of county commissioners, have only such powers as are expressly given by statute and those necessarily implied to carry into effect the powers expressly granted. This principle is especially applicable with reference to the financial affairs of a county and the powers and duties of county commissioners with respect thereto. Public monies and public property, whether in the custody of public officers or otherwise, constitute a public trust fund, which can only be disbursed by clear authority of law.

The notification within the time expressly provided for, in Section 5840, supra,

is a condition precedent, which must be complied with in order to entitle a claimant to enter his claim for damages. The reasons for such notice are obvious, the purpose being to enable the county commissioners to have an investigation of the damage sustained made by the proper officer without delay, and I deem it unnecessary to comment upon the same herein.

Answering your question specifically, it is my opinion that, by the terms of Section 5840, General Code, in order to entitle any owner of horses, sheep, cattle, swine, mules and goats, which have been injured or killed by a dog not belonging to such owner or harbored on his premises, to enter a claim for the damages sustained, such owner must notify a county commissioner in person or by registered mail within forty-eight hours after such loss or injury has been discovered. A board of county commissioners is without authority to allow a claim for damages, presented under the provisions of Section 5840, General Code, unless the claimant notifies a county commissioner in person or by registered mail within forty-eight hours after such loss or injury has been discovered.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1931.

SUPERINTENDENT OF SCHOOLS—NOT ELIGIBLE TO APPOINTMENT
ON COUNTY BOARD OF SCHOOL EXAMINERS.

SYLLABUS:

A superintendent of schools appointed under authority of Section 4740, General Code, is not eligible to appointment on a county board of school examiners as a representative of the class designated as "one other competent teacher."

COLUMBUS, OHIO, April 3, 1928.

HON. PAUL V. WADDELL, *Prosecuting Attorney, Saint Clairsville, Ohio.*

DEAR SIR:—This will acknowledge receipt of your communication as follows:

"At the direction of the Belmont County Board of Education I am submitting to you the following question: Under the provisions of Section 7811, General Code, is a superintendent of a 4740 district, (so-called) teaching more than half time, eligible to appointment as a member of the county board of examiners when the other two members of the board consist of the county superintendent and one assistant county superintendent?"

Section 4740 and 7811, General Code, read as follows:

Section 4740. "Any village or wholly centralized rural school district or union of school districts for high school purposes which maintains a first grade high school and which employs a superintendent upon the nomination of the county superintendent shall upon application to the county board of education before June first of any year be placed under the supervision of the county superintendent. Such superintendents shall be employed by