

1357.

DOG AND KENNEL FUND—CLAIMS ALLOWED IN FORMER YEARS, BUT UNPAID, NOT BASIS FOR DETERMINING EXISTENCE OF SURPLUS.

*SYLLABUS:*

*Claims allowed in former years, but unpaid, cannot be considered as a basis for determining whether or not a deficit exists in the dog and kennel fund in any current year. Such claims can be paid only when a surplus exists in the dog and kennel fund after the expenses of administration and the claims allowed for such current year have been paid.*

COLUMBUS, OHIO, December 14, 1927.

HON. FRANK F. COPE, *Prosecuting Attorney, Carrollton, Ohio.*

DEAR SIR:—This will acknowledge receipt of your letter dated December 7, 1927, which reads as follows:

“Under Section 5652-7a, G. C., where a deficit appears in form of unpaid claims, is it possible for the commissioners to make the tax for the coming year sufficient to take care of the deficit of former years?”

To be more explicit, our proposition is that for the years 1923, 1924 and 1925 the county owes to persons losing stock by dogs, the sum of \$2,800.00.

1926 was sufficient to take care of itself and also 1927. Now, under the section above referred to, is it possible to raise this tax sufficient to take care of the deficit of those three years, or how under the new law are these old claims to be paid?”

The question that you present was considered in a recent opinion of this department, being Opinion No. 1351, dated December 12, 1927, Opinions, Attorney General for 1927, the third paragraph of the syllabus of which reads:

“Claims allowed in former years, but unpaid, cannot be considered as a basis for determining whether or not a deficit exists in the dog and kennel fund in any current year. Such claims can be paid only when a surplus exists in the dog and kennel fund after the expenses of administration and the claims allowed for such current year have been paid.”

The above opinion, a copy of which I am herein enclosing, is determinative of the question which you present.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

1358.

TOWNSHIP ROADS—WHEN IMPROVEMENT AMOUNTS TO “NEW CONSTRUCTION” TOWNSHIP TRUSTEES NOT AUTHORIZED TO PROCEED BY FORCE ACCOUNT.

*SYLLABUS:*

*Where the improvement of a township road is of such a nature as to constitute*