

ferent degrees of the same offense, such as murder in the first degree or murder in the second degree, or manslaughter, etc., where the rule might be otherwise.

In view of the foregoing and answering your question specifically I am of the opinion that:

1. The plea of former jeopardy, under the Ohio Constitution, is limited by the constitution to the "same offense."

2. Where one is tried upon an affidavit charging petit larceny, under Section 12447, General Code, and is convicted therefor, and thereafter is indicted under Section 12619-1, General Code, and interposes a plea of former jeopardy to the indictment, such plea, upon demurrer of the state, should be overruled.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1131.

APPROVAL, BONDS OF DENNISON CITY SCHOOL DISTRICT, TUSCARAWAS COUNTY, OHIO—\$24,000.00.

COLUMBUS, OHIO, October 10, 1927.

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

1132.

COUNTY DOG WARDENS—MAY GO INTO ADJOINING COUNTIES TO INVESTIGATE.

SYLLABUS:

County dog wardens and their deputies may go into an adjoining county or counties to investigate claims for damages to live stock inflicted by dogs.

COLUMBUS, OHIO, October 10, 1927.

HON. RALPH E. HOSKOT, *Prosecuting Attorney, Dayton, Ohio.*

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

"We respectfully request your opinion upon the following question:

Section 5652-7 of the General Code has been amended by House Bill No. 164, passed on April 21, 1927, in one of the following particulars, to-wit:

'They (County Dog Wardens) shall also investigate all claims for damages to live stock, inflicted by dogs.'

Our specific question is this:

Live stock in Montgomery County is believed to have been destroyed by dogs residing in Greene County. Does this section give the Montgomery County Dog Warden authority to cross the Greene County line and inspect certain suspected dogs in Greene County to ascertain whether or not said dogs were the destroyers of the live stock in Montgomery County?

Also, have you any pamphlets containing a regime of laws pertaining to the duties of a Dog Warden?"

The 87th General Assembly on April 21, 1927, (112 O. L. 347) passed an act entitled:

"An Act—To amend Sections 5662, 5652-1, 5652-7, 5652-8, 5652-9, 5652-10, 5652-11, 5652-12, 5652-13, 5652-14, 5652-15, 5653, 5840, 5846, 5851, and 5852 and to enact supplemental Sections 5652-7a, 5652-7b, 5652-7c, 5652-14b and 5652-16 of the General Code, relative to the licensing and regulation of dogs and providing for the payment of damages to live stock caused by dogs,"

which act became effective August 10, 1927.

Section 5652-7, General Code, provides in part as follows:

"County commissioners shall appoint or employ a county dog warden and deputies to such number, for such periods of time, and at such compensation, as such county commissioners shall deem necessary to enforce the provisions of the General Code relative to the licensing of dogs, the impounding and destruction of unlicensed dogs, and the payment of compensation for damages to live stock inflicted by dogs. Such county dog warden and deputies shall each give bond in a sum not less than five hundred dollars and not more than two thousand dollars conditioned for the faithful performance of their duties. * * * *They shall also investigate all claims for damages to live stock inflicted by dogs. They shall make weekly reports, in writing, to the county commissioners of their respective counties of all dogs seized, impounded, redeemed and destroyed, also, all claims for damage to live stock inflicted by dogs. * * **" (Italics the writer's.)

Section 5652-14b, General Code, reads as follows:

"The county dog warden of any county who wilfully fails to perform his duties under Section 5652-7 or other duties required of dog wardens by law shall upon conviction thereof be fined not less than twenty-five dollars nor more than fifty dollars."

By the terms of Section 5652-7, supra, it is the mandatory duty of county dog wardens and deputies to *investigate all claims* for damages to live stock inflicted by dogs and to make weekly reports, in writing, to the county commissioners of their respective counties of all claims for damages to live stock inflicted by dogs. The language of such section is plain and unambiguous. If the proper performance of such duty necessitates going from their respective counties into an adjoining county or

counties in order that an investigation may be made, I know of no statutory inhibition to prevent such a course of action. In those cases where the claimant resides on or near a county line the normal requirements of investigation of such claims would often necessitate the county dog warden or deputies to go into the adjoining county or counties properly to perform their duties as prescribed by law.

Answering your question specifically it is my opinion that inasmuch as Section 5652-7, General Code, imposes the duty on county dog wardens and deputies to investigate all claims for damages to live stock inflicted by dogs such officers may go into an adjoining county or counties in furtherance of such duty.

I know of no printed pamphlets that contain the laws pertaining to the duties of a county dog warden other than the loose leaf copies of House Bill No. 164 of the 87th General Assembly. Copies thereof may be obtained from the office of the Secretary of State.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1133.

FRATERNITY—DEFINITION UNDER SECTION 12906, GENERAL CODE—
BOARD OF EDUCATION EMPOWERED TO MAKE DISCIPLINARY
RULES.

SYLLABUS:

1. *Section 12906, General Code, being a criminal statute, must be strictly construed. A pupil of the public schools who organizes, joins or belongs to a fraternity, sorority or other like society composed or made up, in whole or in part, of persons other than pupils of the public schools, cannot be subjected to the penalty imposed by the statute.*

2. *Boards of education are empowered to make such reasonable disciplinary rules as they may deem necessary to curb the evils attendant upon, or growing out of, the affiliation with fraternities or secret societies, of pupils attending the public schools under their jurisdiction, and enforce the same by the same penalties as might be inflicted for the violation of any other proper disciplinary rule or regulation, including suspension from school or from certain school activities, provided, of course, that such fraternities or societies or the activities of such fraternities or societies are so connected with or related to the public schools, or the pupils attending the same, as to be subject to control or regulation by such boards of education.*

3. *The words fraternity, sorority or other like society, as used in Section 12906, General Code, should be held to mean only such organizations whose deliberations and activities are secret.*

COLUMBUS, OHIO, October 10, 1927.

HON. J. L. CLIFTON, *Director of Education, Columbus, Ohio.*

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

“The question frequently arises and we would be glad to have an opinion whether a pupil who joins, or is a member of, a fraternity or sorority which includes persons who are not in high school as well as pupils in high school,