

for 1927 and use the total aggregate sum in fixing the license fee for 1928. The above section says 'previous year' and the question is, can the commissioners apply only that amount of 1927 or can they add that shortage for 1926? In the event the shortage for 1926 cannot be applied, then that amount will have to remain as a shortage and remain unpaid.

There seems to be no specific provision in the new law relative to such an existing condition to take care of the change from the old law into the new, and of course, this question confronts the commissioners whether or not they might include the shortage for 1926. I do not know whether or not you have rendered an opinion in this matter, but in either event would you kindly consider the matter as expedient as possible because it will soon be time to fix the rate of taxation in order to issue the license tags for 1928."

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 second and third paragraphs of the syllabus of which read as follows:

"2. Section 5652-7a, General Code, is applicable only when, in any year, there is not sufficient money in the dog and kennel fund, after paying the expenses of administration, to pay the claims allowed for live stock injured or destroyed by dogs during that year.

3. 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.*

1355.

DOG AND KENNEL FUND—COUNTY COMMISSIONERS AUTHORIZED TO EXPEND SURPLUS FOR PAYMENT OF CLAIMS ALLOWED IN PRIOR YEARS BUT NOT PAID.

**SYLLABUS:**

*By the provisions of House Bill No. 164 (112 v. 347), a board of county commissioners is authorized to expend a surplus remaining in the dog and kennel fund at the close of the year 1927 for the payment of claims heretofore allowed but unpaid regardless of the year in which such claims were allowed. Such claims should be paid in full in the order in which they have been allowed in so far as such surplus permits.*

COLUMBUS, OHIO, December 14, 1927.

HON. W. S. PAXSON, *Prosecuting Attorney, Washington C. H., Ohio.*

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

"In 1926 at the December session of our county commissioners sheep claims amounting to \$5,937.25 were paid pro rata. The amounts paid to the claimants were a little over forty-three per cent of the claims as allowed. This year, after paying claims as allowed amounting to \$1,900.00, there will remain in the dog and kennel fund about \$400.00 as a surplus. The total amount collected from the registration of dogs and dog kennels was \$3,300.00. Claimants whose claims were allowed in 1926 and paid pro rata are making claim, under Section 5846 of the General Code as it read prior to its amendment by the last legislature, to this surplus. Our county auditor desires a ruling from your department as to the proper disposition of said surplus fund."

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 first paragraph of the syllabus of which reads:

"1. By the provisions of House Bill No. 164, (112 v. 347), a board of county commissioners is authorized to expend a surplus remaining in the dog and kennel fund at the close of the year 1927 for the payment of claims heretofore allowed but unpaid regardless of the year in which such claims were allowed. Such claims should be paid in full in the order in which they have been allowed in so far as such surplus permits."

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.*

1356.

JURISDICTION—PROSECUTION UNDER SECTIONS 5652-14 TO 5652-15,  
GENERAL CODE, IN COUNTIES HAVING NO MUNICIPAL COURT.

*SYLLABUS:*

*In counties of this state which have no Municipal Court, prosecutions charging a violation of Sections 5652-14, 5652-14a, 5652-14b and 5652-15, General Code, should be instituted in the Probate Court upon information and affidavit. The grand jury of such county also may consider such offenses subject, of course, to the provisions of Section 13572, General Code.*

COLUMBUS, OHIO, December 14, 1927.

HON. HOWARD J. SEYMOUR, *Prosecuting Attorney, Ravenna, Ohio.*

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

"Would like your opinion on construction of Section 5652-14 of the General Code relating to the new dog laws as to whether a justice of the peace has jurisdiction to hear and decide cases brought under this section. The old section beginning with the penal clause, reads:

'Shall be fined not more than \$25.00 and the costs of prosecution. The fine recovered shall be paid by the justice of the peace, mayor, or judge of the