

financial difficulties so that the necessity of closing the institution may be avoided. Section 5655 G. C., as found in 109 O. L., p. 337, provides:

"In anticipation of the collection of current revenues in any fiscal year, the county commissioners of any county, the board of education of any school district or the township trustees of any township may borrow money and issue certificates of indebtedness therefor, but no loans shall be made to exceed the amount estimated to be actually received from taxes and other current revenues for such fiscal year, after deducting all advances. The sums so anticipated shall be deemed appropriated for the payment of such certificates at maturity. The certificates shall not run for a longer period than six months nor bear a greater rate of interest than six per cent. and shall not be sold for less than par with accrued interest."

House Bill 33, under which section 5655 is found, is entitled "An Act to prohibit the creation or incurring of indebtedness of political subdivisions of the state for current expense, to regulate the maturities of such indebtedness * * *."

As the title suggests, this act is an effort to regulate the maturity of current indebtedness and was passed for the relief of such conditions as exist in your county.

It is the opinion of this department that the commissioners may borrow money in anticipation of current revenues for the fiscal year to cover the indebtedness of Clark County for the operation of the tuberculosis hospital.

Respectfully,
C. C. CRABBE,
Attorney General.

460.

BOARD OF HEALTH—NOT NECESSARY TO CERTIFY QUARANTINED PERSONS AS INDIGENT POOR TO COLLECT EXPENSES FROM TOWNSHIP OR MUNICIPALITY—WHETHER SUCH PERSON IS UNABLE TO PAY IS QUESTION OF FACT—SECTION 4436 CONSTRUED.

SYLLABUS:

It is not necessary to certify quarantined persons as indigent poor, as provided for in sections 3476 and 3496, before such expenses can be collected from the township or municipality, as provided for by section 4436.

A municipality is required to pay the bills of a quarantined person residing within such municipality, under section 4436, when such person is unable to pay.

It is the duty of the authority who is to pay such bills to determine whether such quarantined person is able to pay or not. Whether or not the quarantined per-

son is unable to pay is a question of fact which would depend upon the particular circumstances in each case, and such determination should be made at the time the bill is presented for payment.

COLUMBUS, OHIO, June 18, 1923.

HON. DAVIS B. JOHNSON, *Prosecuting Attorney, Wauseon, Ohio.*

DEAR SIR:—I am in receipt of your recent communication as follows:

“Section 4436 of the General Code of the State of Ohio says that the board of health shall provide all persons quarantined with food, fuel and all other necessities of life, including medical attendance, medicine and nurses when necessary. That the expense shall be paid by the quarantined persons, when able to make such payment, and when not, by the municipality or townships in which quarantined.

Section 3476 of the General Code provides that township trustees and municipal officers of *cities* shall furnish relief to indigent poor.

Questions:

No. 1. Is it necessary under section 4436 to certify such quarantined person to the township trustees as indigent poor before bills for necessities can be collected, as is required in sections 3476 to 3496?

No. 2. Under section 3476 township trustees and officers of city municipalities must furnish relief. Can a municipality or a village be required to pay the bills of a quarantined person residing therein when such person is unable to pay such bills under 4436? Or would the township trustees be liable in such case?

No. 3. Who is to determine whether such quarantined person is able to pay such bills and at what time must this be determined?”

Section 3476, General Code of Ohio, provides as follows:

“Subject to the conditions, provisions and limitations herein, the trustees of each township or the proper officers of each city therein, respectively, shall afford at the expense of such township or municipal corporation public support or relief to all persons therein who are in condition requiring it. It is the intent of this act that townships and cities shall furnish relief in their homes to all persons needing temporary or partial relief who are residents of the state, county and township or city as described in sections 3477 and 3479. Relief to be granted by the county shall be given to those persons who do not have the necessary residence requirements, and to those who are permanently disabled or have become paupers and to such other persons whose peculiar condition is such they cannot be satisfactorily cared for except at the county infirmary or under county control. When a city is located within one or more townships, such temporary relief shall be given only by the proper municipal officers, and in such cases the jurisdiction of the township trustees shall be limited to persons who reside outside of such a city.”

Section 4436 of the General Code provides:

“When a house or other place is quarantined on account of contagious diseases, the board of health having jurisdiction shall provide for

all persons confined in such house or place, food, fuel, and all other necessities of life, including medical attendance, medicine and nurses when necessary. The expenses so incurred, except those for disinfection, quarantine or other measures, strictly for the protection of the public health, when properly certified by the president and clerk of the board of health, or health officer where there is no board of health, shall be paid by the person or persons quarantined, when able to make such payment, and when not, by the municipality or townships in which quarantined."

Section 3476 is part of the act which has to do with the indigent poor of the township or municipal corporation, while section 4436 is a part of an act relating to the health conditions of a municipality and especially with the board of health. Section 3476 is rather broad and general in its scope, while section 4436 is specific and limited in its provisions in that it applies to persons who are quarantined for contagious diseases.

It might be well, in order to answer your question, to note the nature of the acts in which sections 3476 and 4436 are a part. Sections 3476 to 3496, inclusive, relate to the indigent poor of the township or municipality and are embodied in Chapter 1, Division 4, Title 11 and Part First. This act was originally passed as found in 73 O. L., 233, and was an act entitled "For the relief of the poor". It dealt with county infirmaries and the duties of the township trustees. Section 11 of said act, which afterwards became section 3476, General Code, provided that the township should afford public support or relief to all persons therein who are in a condition requiring the same. Section 14 thereof, which afterward became section 3480, General Code, provided for medical attention for those who might have need of it. The whole act pertained to indigents or paupers, as they are usually called.

The above act was amended in 93 O. L., 261, entitled "to revise and improve the statutes of Ohio relating to the poor". The section of this act which afterward became section 3476, General Code, was amended so that it included not only the township trustees, but also the "proper officers of each corporation therein". The section of the act which afterward became section 3480, General Code, was also made to include the same provision.

Sections 3476 to 3496, inclusive, of the General Code, furnish a complete scheme for the support of or relief to all persons within a township or municipal corporation who are in such a condition as to require it, whether it be medical or other relief, under general and ordinary conditions.

Sections 4404 to 4476, inclusive, General Code, relate to the board of health of cities and villages. This act is found in Chapter 2, Division 5, Subdivision 2, Title 12, Part First. The general headings of this chapter are:

"Organization and Powers. Nuisances. Dangerous Communicable Diseases. Quarantine Hospitals. Food and supplies. Sanitary Plant."

These headings indicate clearly the underlying principle of the chapter, viz., the preservation of the health of the people of the municipality. The name, board of health, also clearly indicates this. When we consider the chapter in detail, we find that every provision thereof has to do with but one thing, and that is that the board of health is to take such steps and adopt such measures as to prevent the inception of infectious and contagious diseases and the spreading of the same.

In all this there is not one word said relative to the indigent poor of the municipality, nor provision made in reference to them. This was not the object or purpose which the legislature had in mind in enacting the statute in regard to

the board of health. The object and purpose of this chapter is specific and definite and relates entirely to the prevention of the inception of infectious and contagious diseases and the spreading of the same; while, as said before, the object and purpose of the chapter heretofore considered is just as definite and specific, to the effect that it deals entirely and absolutely with measures for relief of the poor, whether this relief be medical or otherwise.

It is held by a former Attorney General in Opinions of the Attorney General for 1918, Vol. 2, page 1509, as follows:

“Section 4436 G. C., and not section 3480, should be made to apply in a case where a resident of a village is quarantined by the board of health of said village and said person so quarantined is in need of medical attention and is unable to pay for the same.”

In answer to your first question, it is my opinion that it is not necessary to certify such quarantined person as indigent poor as provided for in sections 3476 and 3496, before such expenses can be collected from the township or municipality, as provided for by section 4436.

In answer to your second question, I am of the opinion that a municipality or village is required to pay the bills of a quarantined person residing within such municipality or village under section 4436, when such person is unable to pay.

In answer to your third question, I am of the opinion that it is the duty of the authority who is to pay such bills to determine whether such quarantined person is able to pay or not. Whether the quarantined person is able to pay or not is a question of fact which would depend upon the particular circumstances in each case and such determination should be made at the time the bill is presented for payment.

Very respectfully,

C. C. CRABBE,
Attorney General.

461.

TAXATION—CHARITABLE INSTITUTION—SECTION 5334 CONSTRUED.

SYLLABUS:

Where the articles of incorporation state the purpose to be “of erecting and maintaining a hospital and home for old ladies” and “receiving a bequest for that purpose” there is not sufficient in the language of the charter itself to make the institution to be established necessarily one for “purposes only of public charity.”

COLUMBUS, OHIO, August 18, 1923.

The Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—Acknowledgment is made of the receipt of your communication wherein you ask for advice as follows:

“On the 13th day of October, 1922, the Eliza Ramsay Home was organized under the laws of Ohio as a corporation, not for profit. Its objects as expressed in its charter are contained in the third item which reads as follows: