

This part of section 3480 shows the legislative intention as being not to take from the township trustees all duties nor from the township as a whole all its obligations toward the sick poor. This section was undisturbed in the amendment in 108 O. L.

Section 3490 provides in part that:

"The trustees * * * may contract with one or more competent physicians to furnish medical relief and medicines necessary for the persons who come under their charge under the poor laws, but no contract shall extend beyond one year."

Neither was this section affected by the last amendment.

It may be pointed out that the sections last quoted are more special in their relation to the poor than those found in the board of health statutes which are not primarily associated or connected with the idea of charity, but more clearly suggest the idea of the police power of the state to prevent the spread of disease.

The effect of the amendment of section 4410, when considered in connection with its history, is that it is to be construed as carrying into effect pretty much the same idea which it expressed previous to its amendment and that the word "shall," in so far as it relates to the board of health, must be construed as meaning "may," as it is believed that this amendment, which may be termed as a casual or incidental amendment to make it conform to the new Hughes and Griswold acts, was not intended to amend or repeal the poor laws amended at the same time by the same general assembly.

From this it would follow that the opinion of this department is that section 4410, as amended in 108 O. L., 248, does not impose the duty of caring for the sick poor upon the municipal health district board exclusively, nor does it relieve the township trustees of their duties under section 3476, as amended in 108 O. L., 272.

Respectfully,

JOHN G. PRICE,

Attorney-General.

1060.

COUNTY AUDITOR—SEMI-ANNUAL APPORTIONMENT OF FUNDS—
SHALL RETAIN ONE-HALF AMOUNT OF ESTIMATE FOR HEALTH
PURPOSES APPORTIONED TO EACH TOWNSHIP AND MUNICIPALITY.

County auditors, when making their semi-annual apportionment of funds, shall retain at each such semi-annual apportionment one-half the amount of the estimate for health purposes apportioned to each township and municipality, as provided in section 1261-40 G. C. (Griswold act) from the general funds due to such township and municipality.

COLUMBUS, OHIO, March 6, 1920.

HON. W. R. WHITE, *Prosecuting Attorney, Gallipolis, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your recent request for the opinion of this department as follows:

"Is the county auditor compelled, and is it his duty to deduct from the February distribution of taxes, the amount of money assessed against the townships for their share of the expense of the county board of health, under the

Hughes bill, and especially where the deduction so made will leave the townships bankrupt for other necessary funds."

In an opinion under date of September 9, 1919 (No. 610), to Hon. John L. Cable, prosecuting attorney, Lima, Ohio, this department construed section 25 of the Hughes act, which as section 1261-40 in the Griswold act, contains in the matters involved in your inquiry, practically the same provisions. A copy of this opinion is herewith enclosed and it will not be necessary to quote or discuss at length section 1261-40 as it now stands.

One sentence may be quoted:

"The county auditor, when making his semi-annual apportionment of funds, shall retain at each such semi-annual apportionment one-half the amount so apportioned to each township and municipality."

The succeeding sentence provides that such money "shall" be placed in a separate fund. In addition to what has been said of this section in the former opinion, it may be pointed out that in this act the county auditor, as such, has nothing to do with the determination of the amount to be raised or expended for health purposes and that his duties in retaining and segregating the health funds are ministerial. The evident legislative care exercised in this section to insure the availability of funds for health purposes, taken in connection with the mandatory "shall" which occurs repeatedly in this section, in connection with defining the auditor's duties therein, leads to a conclusion which may be stated in practically the language of the statute itself, to-wit:

County auditors, when making their semi-annual apportionment of funds, shall retain at each such semi-annual apportionment one-half the amount of the estimate for health purposes apportioned to each township and municipality, as provided in section 1261-40 G. C. (Griswold act) from the general funds due to such township and municipality.

Respectfully,
JOHN G. PRICE,
Attorney-General.

1061.

REAPPRAISEMENT OF REAL ESTATE—EXPENSES, HOW DEFRAYED—WHEN OFFICIAL DETERMINATION OF REAPPRAISEMENT SHALL BE MADE—MAY INITIATE WORK ONE YEAR AND MAKE RETURNS ON JULY 1ST IN SUCCEEDING YEAR.

The expense of a reappraisal of real estate in the county or in any subdivision thereof under section 5548 G. C. is a charge on the general revenue fund of the county, and may be defrayed out of appropriations therefrom, though no specific levy has been made for the purpose of such reappraisal.

In the event that the commissioners are unable to make an appropriation sufficient in amount to defray such expense out of the general revenue fund, application may be made to the tax commission by the county auditor; such allowance for the hire of clerks and other assistants as the commission may make becomes a charge on the general revenue fund of the county, whether an appropriation is made or not. In that event, should the general revenue fund provide insufficient to pay the charges as they accrue and to provide for the other needs of the county, money may be borrowed under section 5656 G. C. by the county commissioners to pay such charges.