

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:

'Third. Said corporation is formed for the purpose of erecting and maintaining a hospital and home for old ladies, to be located in the village of Clyde, Ohio, and for the purpose of receiving the bequest for that purpose provided for in the last will and testament of Burt Ramsay, deceased, and to use said money so bequeathed for the erection and maintenance of a hospital and home for old ladies as aforesaid.'

Please advise us if this corporation is 'an institution for purposes only of public charity' within the meaning of that language as used in section 5334 of the inheritance tax act."

Section 8625 G. C. provides what the articles of incorporation in this state shall contain, and the third requirement is:

"The purpose for which it is formed."

This is not only for the purpose of formulating a contract of association between the incorporators, but also for the purpose of informing the state.

The articles of incorporation of The Eliza Ramsay Home of Clyde, Ohio, state the purpose of such corporation to be as you have indicated in your communication. The corporation is one not for profit according to its articles. The primary purpose as set forth therein is:

"For the purpose of erecting and maintaining a hospital and home for old ladies * * *, and for the purpose of receiving a bequest for that purpose provided for in the last will and testament of Burt Ramsay * * *."

The provisions of the said will referred to in the charter of the corporation will indicate the purpose of the company and show whether or not it is "an institution for purposes only of public charity" within the meaning of that language as used in section 5334 of the General Code.

There is not sufficient in the language of the charter itself to make the institution to be established thereunder *necessarily* one for "purposes only of public charity." It would be possible for the trustees or other controlling authority to establish such tests for admission as to deprive it of its public character, without risking a judgment of ouster and forfeiture of charter in a proper proceeding.

In the case of O'Brien v. Hospital, 96 O. S., 1, part of the syllabus is as follows:

"A corporation organized not for profit may show by its charter, constitution, and by-laws, or by oral evidence not inconsistent therewith, that it is organized solely for the purpose of administering a public charity, the foundation of which is derived from private donations."

Following the rule there laid down, it is the opinion of this department, that where the purpose of a corporation as set forth in its charter is stated to be the receiving of a bequest under the provisions of a certain will, with which to establish and maintain a home for old ladies, reference may be had to the will for the purpose of ascertaining the character of the institution.

We have not been furnished with a copy of the will in question, but if its provisions are such as to require the home and hospital to be open to applicants

for admission without discriminating tests or restrictions and with the same terms and conditions applicable to all, then it would appear that the corporation would be held to be "an institution for purposes only of public charity" within the meaning of section 5334 G. C., although the charter does not justify such finding when considered by itself.

Respectfully,

C. C. CRABBE,

Attorney General.

462.

WHERE CORONER MAKES TRIPS TO VIEW BODY AND SECOND TRIP IS MADE TO HEAR TESTIMONY—LEGALLY ENTITLED TO MILEAGE FOR SECOND TRIP.

SYLLABUS:

In a case where a coroner makes a trip to view a body, then subpoenas witnesses to appear at the place where the body is found, afterward making a second trip to hear the testimony of the witnesses subpoenaed, the coroner is legally entitled to be paid mileage for the second trip.

COLUMBUS, OHIO, June 18, 1923.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

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

"Section 2866 of the General Code, 109 O. L., 544, provides as follows:

'Coroners shall be allowed the following fees: For view of dead body, three dollars; for drawing all necessary writings, for every one hundred words, ten cents; for traveling each mile, ten cents; * * *'

"In a case where a coroner makes a trip to view the body, then subpoenas witnesses to appear at the place at which the body was found, afterwards making a second trip to hear the testimony of the witnesses subpoenaed, the following question has arisen:

"*QUESTION:* May the coroner in the above instance legally be paid mileage for the second trip?"

Section 2856, General Code, as found in 109 O. L., p. 543, provides:

"When informed that the body of a person whose death is supposed to have been caused by unlawful or suspicious means has been found within the county, the coroner shall appear forthwith at the place where the body is, issue subpoenas for such witnesses as he deems necessary, administer to them the usual oath, and proceed to inquire how the deceased came to his death, whether by violence from any other person or persons, by whom, whether as principals or accessories before or after the fact, and all circumstances relating thereto. The testimony of such witnesses shall be reduced to writing, by them respectively subscribed except when stenographically reported by the official stenographer of the coroner, and, with the finding and recognizances hereinafter mentioned if any, returned by the coroner to the clerk of the court of common pleas of the county. If he