

depleted. However, the county commissioners may abuse such discretion and in all probability if a person is in such circumstances that he can properly afford to pay for such treatments, it would be an abuse of discretion on the part of the county commissioners to furnish said service free. It further appears that the whole act contemplates the furnishing of treatment in some hospital or other institution in the state. While in many instances it may be advisable to take the person afflicted from the state, in order to have a change of climate, inasmuch as funds may not be drawn from the public treasury except in pursuance of express provisions of law, and the law has not as yet authorized the sending of a patient from the state at the expense of the county treasury, I am constrained to hold that the same may not be done.

In specific answer to your inquiry, it is my opinion :

1. The primary purpose of Section 3143 of the General Code is to provide for relief to persons who are inmates of the county infirmary suffering from tuberculosis, or other residents of the county in a similar status. However, the statute gives some discretion to the county commissioners as to what charges are to be made and this discretion will not be disturbed unless their action in a given case amounts to abuse of such discretion. While it is not believed the law contemplates that a person must actually be a pauper before such relief could be granted, if the commissioners would furnish such relief free to one who is fully able to pay, such action undoubtedly would amount to an abuse of discretion.

2. County commissioners have no authority to contribute to the expense of maintaining a tubercular resident of the county in a hospital outside the state, irrespective of whether such person is indigent or otherwise.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1199.

APPROVAL, CONTRACT FOR SIDE TRACK AT WILBERFORCE UNIVERSITY.

COLUMBUS, OHIO, November 15, 1929.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the Pennsylvania Railroad Company, operating the Columbus & Xenia Railroad and the Combined Normal and Industrial Department of Wilberforce University, covering the construction by said railroad company of an extension of its side track No. 3, at Wilberforce, for a distance of 700 feet, to serve as a switch-back from which a side or switch-back connection will be made to the new Power House of Wilberforce University. Such contract calls for an estimated expenditure of five thousand dollars (\$5,000.00) on the part of the State.

I have carefully examined the provisions of said contract, and subject to the signing of two of the copies by the railroad company, find the same correct in form and legal and am approving same.

Respectfully,
GILBERT BETTMAN,
Attorney General.