

Contagious Diseases, Company Liable for Care of Persons in Crew Affected With. Small Pox Patients, Liability for Care of. Employer, Liable for Care of Persons in Crew Afflicted With Disease.

A person or company employing a crew of men and moving them from place to place within the State of Montana, is liable for the care, maintenance and quarantine of all persons in such

crew who may be afflicted with any contagious disease. Neither a county nor a city is required to extend its charity work to persons amply able to supply themselves.

April 2nd, 1913.

Hon. W. F. Cogswell,
Department of Public Health,
Helena, Montana.

Dear Sir:

I am in receipt of a letter addressed to you by chief surgeon of the Chicago, Milwaukee & Puget Sound Railway Company, making inquiry as to whether there is any requirement or rule to the effect that the company shall care for smallpox patients amongst its crew, when operating in the State of Montana. This question is somewhat a matter of administration, and we have heretofore held that any person or corporation bringing or causing to be brought into this state, or moving from place to place within the state, any person afflicted with any of the contagious diseases which under the state law are required to be quarantined, is responsible for the costs incurred by such quarantine and care, otherwise it would be within the power of any individual or corporation employing a large body of men to concentrate them when so afflicted, thereby causing an enormous expense to the county or state. It is within the power of the employer to know of the physical condition of the men employed or moved by him from place to place, and it seems to be reasonable to say that it is his duty to obtain such knowledge rather than to be "safely negligent" and to act upon the presumption that he is in no case liable for the damage occasioned. We have heretofore held that while it is the duty of the cities and counties as a matter of protection to the public to maintain persons afflicted with any of the contagious diseases named in the statute, yet this quarantine and care of such persons is for the protection of the public, and that where it goes beyond such protection it is a matter of charity to the individual, and that neither any county or any city is required to extend its charity work to persons who are amply able to supply themselves.

This matter is discussed to some extent in an opinion addressed to the Hon. T. D. Tuttle, secretary of the state board of health, under date of December 28, 1908, and reported in Opinions of Attorney General for 1908-10, p. 13.

Very truly yours,

D. M. KELLY,
Attorney General.