

DAILY STANDARD

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CONCORD, N. C., MAR. 29, 1900.

COMPULSORY VACCINATION.

Supreme Court Sustains the Action By Counties and Municipalities—Public Good Above Individual Choice.

The Supreme Court has rendered a decision upon a case from Burlington, N. C., involving the right of a county or town to compel citizens to be vaccinated. It fully sustains such action. In this particular case a new trial was ordered on account of ambiguity of verdict.

There is much in Justice Clark's fending that should be read by every one and we give the following salient points omitting the technical, not interesting to those outside the legal profession:

"The authorities of any city or town or the board of county commissioners of any county may make such regulations and provisions for the vaccination of its inhabitants under the direction of the local or county board of health or a committee chosen for the purpose, and impose such penalties as they deem necessary to protect the public health. There is no provision of the constitution which forbids the legislature to enact, and it is indeed an exercise of that governmental police power to legislate for the public welfare, which is inherent in the General Assembly, except when restrained by some express constitutional provision."

"The public welfare is the highest law, is the foundation principle of all civil government. It is the urgent cause why any government is established, for, as Burke says, 'any government is a necessary evil.' It is, however, a much lesser evil than the intolerable state of things which would exist if there were no government to bridle the absolute right of every man to do that which seems right in his own eyes."

"There is an implied assent on the part of every member of society that his own individual welfare shall, in case of necessity, yield to that of the community, and that his property, liberty and life shall under certain circumstances be placed in jeopardy or even sacrificed for the public good."

"It is everyday common sense that if a people can draft or conscript its citizens to defend its borders from invasion it can protect itself from the deadly pestilence that walketh by noonday by such measures as medical science has found most efficacious

for that purpose. We know as an historical fact that prior to the discovery 101 years ago of vaccination by Edward Jenner, smallpox often destroyed a third or more of the population of a country which it attacked, and so futile was every precaution and the most careful seclusion that the greatest sovereigns fell victims to this loathsome disease, which Macaulay has styled 'the most terrible of all ministers of death.' If this was so in days of imperfect communication, the present rapid means of intercourse between most distant points would so spread the disease as to quickly paralyze commerce and all public business, if government could not at once stamp out the disease by compelling all alike, for the public good as much as for their own, to submit to vaccination. Statistics taken by governmental authority show that while 400 out of every 1,000 unvaccinated persons exposed to the contagion are attacked by it, less than two in a thousand take the disease when protected by vaccination within a reasonable period. There are those, notwithstanding these well ascertained facts, who deny the efficacy of vaccination, as there are always some who will deny any other result of human experience, however well established, but the legislature, acting in their best judgment for the public welfare, upon the information before them, has deemed vaccination necessary for public protection, and their decision, being within the scope of their functions, must stand until repealed by the same power.

"The power of the legislature to authorize county and municipal authorities to require compulsory vaccination has been exercised by nearly every State and has been recently sustained by the highest courts of two of our sister States."

"And there are no decisions to the contrary. In reply to the argument that such exercises of power by the Legislature may in some cases infringe upon individual rights, Cobb, J., in the Georgia case, well says: 'No law which infringes upon the natural rights of man can be long enforced.' Under our system of government, the remedy of the people, in that class of cases where the courts are not authorized to interfere, is at the ballot box. Any law which violates reason and is contrary to the popular conception of right and justice, will not remain in operation for any length of time, but courts have no authority to declare it void merely because it does not measure up to their ideas of abstract justice. The motive which doubtless actuated the Legislature in the passage of the act now under consideration was that vaccination was for the public good. In this the General Assembly is sustained by the opinion of a great majority of the men of medical science, both in this country and in Europe."

"But even if we were of opinion with the small number of medical men who contend that vaccination is dangerous to health and not a preventive of disease, the court is not a paternal despotism, gifted with infallible wisdom, whose function is to correct the errors and mistakes of the Legislature. Brodnax vs. Groom, 64 N. C., 250. Our people are self-governing, and themselves correct the mistakes of their representatives. The function of the courts is to construe and apply the laws, and they can hold a statute nugatory only when plainly and clearly violative of some provision of the organic law which has restrained the legislative power. Sutton vs. Phillips, 116 N. C.,

502; White vs. Murray, at this term.

"Nor does section 24 of the act require that the Board of Aldermen shall pass such ordinance in conjunction with the Board of Health (as defendant contends). It merely provides that the execution of the ordinance, i. e., the vaccination, shall be under the direction of the local board of health or a committee appointed by the aldermen.

"While the Legislature has power to authorize municipal bodies to provide compulsory vaccination, and the defendant did not comply with the ordinance enacted by the town of Burlington, in pursuance of such authority, though afforded opportunity to do so, it is true that there may be some condition of a person's health when it would be unsafe to submit to vaccination, and which therefore would be a sufficient excuse for non-compliance, but it does not vitiate the ordinance that such exception is not provided for and specified therein. It is not a defence that a person bona fide believes that it will be dangerous for him to be vaccinated or believes that he is already sufficiently protected by former vaccination; nor would the opinion of his personal physician on either point be conclusive (though it would naturally have weight with the jury), for there may be evidence or circumstances tending to the contrary. Indeed, as to a former vaccination being sufficient protection, the opinion of the official physician supervising the vaccination should be presumptively correct. That which would relieve from a compliance with the ordinance is a matter of defence, the burden of which is upon the defendant, and is a fact to be found by the jury. The special verdict is ambiguous and defective in this particular and is set aside. Let there be a new trial."

"Tod Sloan" Wins.

"Tod Sloan" is the name of a new turf star in London. He won a race today (Thursday) taking the neat little sum of 400 sovereigns (or \$2,000).

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All doctors told Remek Hamilton of West Jefferson, Ohio, after suffering eighteen months from rectal fistula, he would die unless a costly operation was performed; but he cured himself with Bucklen's Arnica Salve, the best in the world. Surest pile cure on earth. Only 25c. a box at Fetzler's drug store.

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For 98 Cents.

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Very Respectfully,

D. J. Bostian.

Mr. J. R. Garrison, cashier of the bank of Thornville, Ohio, had been robbed of health by a serious lung trouble until he tried Dr. King's New Discovery for consumption. Then he wrote: "It is the best medicine I ever used for a severe cold or a bad case of lung trouble. I always keep a bottle on hand." Don't suffer with coughs, colds, or any throat, chest or lung trouble when you can be cured so easily. Only 50c. and \$1.00. Trial bottles free at F. Zer's drug store.

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A Prominent Chicago Woman Speaks

Prof. Roxa Tyler, of Chicago, Vice-President Illinois Woman's Alliance, in speaking of Chamberlain's Cough Remedy, says: "I suffered with a severe cold this winter which threatened to run into pneumonia. I tried different remedies but seemed to grow worse and the medicine upset my stomach. A friend advised me to try Chamberlain's Cough Remedy and I found it was pleasant to take and it relieved me at once. I am now entirely recovered, saved a doctor's bill, time and suffering, and I will never be without this splendid medicine again.—For sale by M. L. Marsh & Co.

Stood Death Off.

E. B. Munday, a lawyer of Henrietta, Tex., once fooled a grave-digger. He says: My brother was very low with malarial and jaundice. I persuaded him to try Electric Bitters, and he was soon much better, but continued their use until he was wholly cured. I am sure Electric Bitters saved his life. This remedy expels malaria, kills the disease germs and purifies the blood, aids digestion, regulates liver, kidney and bowels, cures constipation, dyspepsia, nervous diseases, kidney troubles, female complaints, gives perfect health. Only 50c at Fetzler's drug store.

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