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THE COLUMBIAN.

BLOOMSBURG, PA.

HURSDAY, FEBRUARY 14 1907

Entered at the Post Office, Bloomsburg, Pa. as second class matter, March 1, 1888.

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We have arranged to supply some excellent literature at a very low price. They are the following:

- COLUMBIAN and *American Farmer* Regular price \$1.50 \$1.00
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- COLUMBIAN and *Woman's Home Companion* Regular price \$2.00 \$1.50

The latter is a splendid magazine with a circulation of 600,000. In form it is like the *Ladies' Home Journal*, and is fully equal to it in every respect. Take advantage of this unusual offer now. Don't wait.

Calendar pads for 1907 at the COLUMBIAN office. tf.

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Supervisors' Blanks.

We have printed a supply of blanks for Supervisors under the new law, and will keep them in stock. They include order books, tax notices, and daily road reports. Samples sent on application. tf.

Souvenir Post Cards are printed at this office. Half tones supplied. tf.

Paper napkins and doilies at the COLUMBIAN office. tf.

We are prepared to furnish the *Woman's Home Companion* for 50 cents a year when taken with THE COLUMBIAN. The two for only \$1.50. Send in your name while the offer lasts. tf.

Vote for Francis R. Drake for Director of Bloom Poor District. Adv.

Mrs. William Leverett is the guest of her sister, Mrs. Geo. E. Elwell.

C. C. Yetter & Co. have engaged in the real estate business. They will buy and sell real estate, and make loans on mortgages.

Voters, read the last statement of Bloom Poor District, and vote for Drake for Director. He helped save money for the district. Adv.

The Columbia County Medical Society has endorsed Dr. L. B. Kline of Catawissa for the Presidency of the Pennsylvania Medical Society.

It Keeps the Feet Warm and Dry. Ask today for Allen's Foot-Ease, a powder. It cures Chills, Swollen, Sweating, Sore, Aching, Damp feet. At all Druggists and Shoe Stores, etc. 27-1.

F. R. Drake has been a member of the Bloom Poor Board for the past year and a half, and understands the business of the district. Why not retain him for a full term? Adv.

Another wreck occurred on the S. B. & B. R. R. on Tuesday morning caused by the breaking of a truck. Five freight cars were demolished. The wreck happened near Ottawa. The track was blocked the balance of the day.

The following letters remain in the Bloomsburg, Pa. post office: Miss Clara Carpenter, Mr. B. F. Dickson, Mr. Wm. Glover, Mr. W. P. Kline, Mon. Henry Patton, Linn Stilson; Cards: Miss Mary Craw, Mr. E. R. Van Horn (2), Mrs. Lizzie Walters.

Two deaths have occurred from diphtheria in the family of Frank Sterner, of East Eighth street, the second child, aged 2 years, dying on Tuesday morning. The family has been quarantined for some time. The remains were buried in Rosemont the same afternoon, none of the family being able to leave the house to attend the burial.

VACCINATION.

OPINION OF THE SUPREME COURT OF PENNSYLVANIA.

Reaffirming the Validity of the Act of June 18 1895, Which Requires the Exclusion From the Public Schools of Children Who Have Not Been Vaccinated.

The following opinion of the Supreme Court was rendered in a case from Franklin county and was filed in May, 1906. As it discusses a subject that has been more or less agitated in this county, we print it in full. The opinion was filed by Chief Justice Mitchell.

STULL } January, 1906.
v. } No. 63, C. P. Franklin.
REBER } Filed May 7, 1906.

The substantial question in this case is whether the Act of June 18, 1895, P. L. 203, requiring the exclusion from the public schools of children who have not been vaccinated is a valid exercise of the police power of the State. It has been twice so decided by this court.

In *Duffield v. School District of Williamsport*, 162 Pa. 476, a similar regulation not even enacted by the legislature but enforced by the school directors under an ordinance of the city of Williamsport was held valid. And in *Field v. Robinson*, 198 Pa. 638, this very statute of June 18, 1895, was held constitutional. It appears to be thought that because the decision was given in a brief opinion per curiam the subject was not fully considered. But the proper inference is precisely the reverse, that the conclusion was so perfectly clear to the whole court that it did not require any extended argumentative support.

After these two decisions the question ought to have been considered as closed. But we have it raised again with small variations of facts and considerations none of which are at all material.

On the constitutional question it is said that section 12 of the act contravenes sections 7 and 8 of article 3 of the constitution in that it is local and special legislation, regulating the affairs of school districts. The terms of the act apply expressly to the "several municipalities" of the State and it is argued that they do not include school districts in townships and therefore make an unwarranted distinction in regard to such districts. Whether townships are municipalities within the intent of the act it is not now necessary to consider. Even if not, the separate classification of school districts in cities and boroughs with reference to public health where population is dense and the danger of contagion great, would not be unconstitutional. Sugar Notch Borough, 192 Pa. 349.

But the act is in no proper sense a regulation of school districts. It is an act entitled "for the more effectual protection of the public health in the several municipalities of the Commonwealth" and is a general statute on that subject. What bearing it has on schools and school districts is altogether incidental to them as constituents of the community. The constitutional restrictions on special legislation, not to the incidental operation of statutes constitutional in themselves upon other subjects than those with which they directly deal. Sugar Notch Borough, 192 Pa. 349.

It is further said that section 12 contravenes section 1 of article 10 of the Constitution, requiring the maintenance of an efficient system of public schools wherein all children above the age of six years may be educated. It is sufficient to say that this article like all others must be construed and applied in connection with other fundamental governmental powers. The schools and school children, important as they are, are only fractions of the community and the police power of the commonwealth in the preservation of the public health must, if necessity arises, sacrifice the less to

the greater interest. *Salus populi suprema lex.* It is child manifestly suffering from small-pox in its contagious stage should be excluded from school, it is hardly conceivable that the propriety of such action should be questioned. At what period before or after the outbreak of the disease the right of exclusion should arise is a legislative, not a judicial question. As said by our late brother: *Williams in Duffield v. School District*, 162 Pa. 476, already cited, "It is conceded that the Board might rightfully exclude the plaintiff's son if he was actually sick with, or just recovering from the small-pox. Though he might not be affected by it, yet if another member of the same family was, the right to exclude him notwithstanding he might be in perfect health, would be conceded. How far shall this right to exclude one for the good of many be carried? That is a question addressed to the official discretion of the proper officers; and when that discretion is honestly and impartially exercised the courts will not interfere." These words it should be remembered were written with reference to authority exercised under a city ordinance, and a fortiori when the police power of the state intervenes under the authority of a statute its directions are commands that may not be disputed.

It is further argued that sections 11 and 12 of the act should be read together, and the right under section 12 to exclude unvaccinated children should be confined to the schools in the districts mentioned in section 11, namely those in which small-pox is actually prevalent. But this is manifestly not the legislative intent. Section 11 deals with a present and immediate danger, with persons, dwellings and places where the disease actually prevails, and its prohibition includes adults as well as children, vaccinated or not. Section 12 on the contrary is a cautionary and prospective regulation, having in view not the actual presence of the disease but its appearance in the future. The objects of the two sections are distinctly different.

In this connection the learned judge below found as a fact "that there is not at the time of the filing of this bill, nor has there been for a period of about forty years any person in the said borough of Waynesboro or within many miles thereof, suffering from small-pox (variola or varioloid)," and it is argued that this feature distinguishes the case from those heretofore decided by this court. But the language of the act is general and its intent plain. The legislature may well have had in mind that the good fortune of such a community may not continue indefinitely. Immunity for forty years in the past affords no guaranty of immunity for even forty days in the future if a chance visitor from an infected locality or a borough resident returning from a visit to such locality should bring with him the germ of infection. Section 12 is precautionary and preventive, and it is an old and sound maxim that an ounce of prevention is worth a pound of cure.

There is one hardship in the twelfth section that may deserve consideration with a view to a possible remedy. The court found as a fact "that occasionally it is beyond the power of children of school age as well as adults to be vaccinated, although they may not previously have had the small-pox nor previously been vaccinated; that even repeated attempts to perform the operation of vaccination upon such children or adults is without effect and vaccination will not take. In such cases vaccination is not successful and a physician cannot certify that such child or adult has been successfully vaccinated." The health authorities, state or local might well consider whether they have power to make a regulation as to what should be deemed a successful vaccination or its equivalent; whether the ratio of such immune children is of sufficient importance to justify the exercise of such power if possessed; and whether such regulation would be undesirable as affording opportunity for the evasion of the statute. The latter however are medical and administrative rather than judicial questions.

Lastly it is argued that construing section 12 as we have done, it authorizes a trespass upon the reserved rights of the individual which are beyond the reach of even the police power. Vaccination, it is said, is the infliction of a disease, cowpox, on the subject and if that can be done irrespective of his consent then the next step may be to require submission to inoculation with antitoxin or serum for diphtheria, tuberculosis, cancer, etc., and we have rather a dismal picture of the possible consequences. It will be time enough to consider such matters when they arise. At present the vast preponderance of opinion among intelligent and educated

people, under the guidance of the best medical authority is that vaccination is a highly useful ameliorative if not always a preventative of one of the greatest scourges that have in past times afflicted humanity, and that the regulation of it by statute is not only a justifiable but a wise and beneficent exertion of police power over the public health. When the legislature goes beyond that into new or more debatable fields, it will be time enough to consider the limits of its power.

One expression in the opinion of the court below, and in some of the cases cited in the argument requires a passing note. The act is not a penal statute. It is a broad general act relating to the health of the whole population of the Commonwealth. It is not therefore to be construed or administered by the rigid technical rules applicable to penal laws, but fairly according to its intent, neither narrowing it to the letter, to the exclusion of cases clearly within such intent, nor stretching it beyond its legitimate scope to cover matters not clearly meant to be included. It is an act touching very closely common rights and privileges and therefore specially requiring a common sense administration.

Decree affirmed.

To the Voters of Bloomsburg.

I am a candidate for a second term as School Director. I trust I have discharged my duties faithfully, and of this I am willing that the teachers and patrons of the schools shall be the judges. If elected to succeed myself, I shall do my utmost to advance the cause of education in our schools. Feeling I have earned a second term, I respectfully solicit your votes.

FRED B. HARTMAN

Governor Stuart has a pointed James A. Stranahan, of Harrisburg, and James Scarlet, of Danville as counsel in the investigation of the new capitol alleged crookedness. Auditors are now at work examining the records as to the cost of the building, and upon their conclusion counsel will have something to start on.

Wellington Risewick, who for many years was a resident of this town, died at Nanticoke last Friday, aged 68 years. His wife who survives him, was Miss Rachel Long, of Bloomsburg. He was engaged here in the livery business with his brother, George Risewick, who conducted the livery now owned by R. C. Backalew. The funeral took place on Tuesday.

Milton Yorks who has been seriously ill with typhoid fever for the past three weeks, is slowly improving, and his ultimate recovery is now more than a possibility, providing no unforeseen complication sets in. For several days during the past week his case seemed hopeless. The many friends of the family rejoice with them at the brightening prospect of his recovery.

Mrs. S. C. Keller died at her home on Iron street last Friday after an illness of only one week, from grippe. She was born here and spent her whole life here. She was a daughter of Enoch Cadman, and was an earnest member of the Baptist church from girlhood. Her husband, and the following children survive her: Mrs. Barton Pursell, Lizzie, George, and Alice, all of town. The funeral was held on Monday.

To Mothers in This Town.

Children who are delicate, feverish and cross will get immediate relief from Mother Gray's Sweet Powders for Children. They cleanse the stomach, act on the liver, making a sticky child strong and healthy. A certain cure for worms. Sold by all druggists, etc. Sample mailed FREE. Address, Allen S. Gimsted, 10 Roy, N. Y. 87-64

Frank P. Dildine was found dead in a chair at the pumping station of the McHenry Distilling Co., at Benton, by his wife, on Friday morning. He was a well known resident of Benton. He was employed at the pumping house, and failing to come home at the usual time, his wife went for him, and found him as above stated.

The funeral was held on Sunday afternoon in the Benton Presbyterian church.

J. F. Fox died at the Soldiers' Home at Erie, on Tuesday morning. He went there last August, and his death was probably sudden, as the family had no information that he was ill. He was a veteran of the civil war, and was aged 76 years. For many years he was engaged in the bakery and confectionery business, and lived in Bloomsburg most of his life. His surviving children are Margaret, Annie, and John, of Bloomsburg, and Mrs. J. S. Gilbert, of Mt. Holly, N. J.

CASORIA.

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