

GOV. WELLS VETOES M'ILLAN BILL.

His Reasons for Disapproving of Anti-Compulsion Measure—Will be Acted Upon Tuesday Next.

As was anticipated Governor Wells vetoed the McMillan bill. His message of disapproval was read in the House at 11 o'clock this morning.

The message to the Legislature is very lengthy, giving the Governor's reasons for vetoing the bill, after a careful analysis of the question of vaccination. He has much to say on the subject. He offers a substitute bill, which would grant to state and local boards the power to enforce vaccination or other protective means in case of an epidemic. The text of the governor's veto and his substitute bill are given herewith.

There was but a slim attendance in the House this morning, only 27 out of 40 members being present. After the reading of the Governor's veto Representative Harmon moved that further consideration of the matter be postponed till Tuesday at 2 o'clock.

Mr. Smith urged that the matter be before the House whether or no the McMillan bill should be passed over the Governor's veto, but after some debate it was concluded that nothing effective could be done till a larger representation was present. Mr. Smith was for immediate action, but was overruled. Mr. Astor moved that the matter be referred to the committee on public health, and the motion carried unanimously.

It was ordered that the Governor's message and his substitute bill be printed in the House Journal, and also that 1,000 copies be printed for circulation through the State.

The Senate sent a communication to the effect that the Governor had approved Mr. Allison's Senate bill No. 3, providing for the burial of honorably discharged soldiers and sailors, and for their relief from the payment of poll tax during their lifetime.

THE VETO MESSAGE.
To the House of Representatives: I have the honor to return herewith, without my approval, but with a statement of reasons and an expression of views, which together with my recommendations I trust will commend themselves to you. House bill No. 13, "An act to prevent compulsory vaccination and to prevent vaccination being made a condition precedent to entering the public schools of Utah."

Probably no question of social policy coming before the people of this State has ever attracted so much interest or been so deeply debated as this same question of vaccination during the last few months. From the oldest and most venerable citizen of the commonwealth down through all ages and classes of people to the youngest patriot who toddles off to school for the first time, there is scarcely one who is not familiar with the term and its meaning and scarcely one who has not or who does not think he has, an opinion on the subject. Educators, jurists, clergymen, journalists, physicians—everybody who talks or writes has had something to say upon it. It is not surprising, therefore, that the matter should have received early attention from the law making body, nor that some legislative action should be expected. Under all these circumstances, it is highly important that in the consideration of a subject so mooted and much discussed, there should be the exercise of calmness of judgment in the face of any amount of popular clamor.

In the thought which I have bestowed upon the bill now before me, I have sincerely sought to divest myself of all personal bias, and to proceed with dispassionate judgment, and when unable to reach conclusions from my own knowledge, I have tried to be guided by the lamp of experience and the example of good precedent.

QUOTES FROM HEALTH BOARD ORDER.
It will hardly be disputed that the main object of the bill is to rebuke the State board of health for the promulgation of an order, effective January 1st, 1901, which was couched in the language, and was sent to the health officers of the State in the various localities where smallpox was reported to exist.

In view of the prevalence of smallpox and the danger of its further spread in the State, the State board of health has deemed it necessary to adopt the rule that all unvaccinated children shall be excluded from schools in localities where the disease may exist.

You are therefore ordered to cause all schools, of whatever character, within your jurisdiction, to be closed until children and teachers and janitors have been vaccinated, or until they shall fail to show signs of having been vaccinated, or are otherwise immune to smallpox; the order to be made effective January 1st, 1901.

The health officers shall inspect all pupils, teachers and janitors and furnish them with certificates of successful vaccination or immunity, when they are entitled to the same. Great care shall be exercised that no certificate shall be issued unless there is every reason to believe that the vaccination is still protective.

In many localities this order was promptly complied with, and unvaccinated children were excluded from the schools. In other localities, however, it was warmly resisted, being interpreted as a menace to education. From such localities large petitions were forwarded to the Legislature, representing that the order was an outrage and demanding relief from its enforcement. The Legislature, by its legislative enactment, has now produced and passage of the bill which now awaits executive action was a direct response to this sentiment.

QUESTIONS INVOLVED.
The questions involved in the measure seem to me to be thus stated: 1. Is vaccination a preventive of smallpox? 2. Is compulsory vaccination an infringement upon the sacred rights of individuals? 3. Should boards of health be vested with discretion to determine when the public safety demands the enforcement of compulsory measures? 4. With the present laws and regulations on the subject, and under the conditions that now exist, has the State

board of health of this State been over-extended or unreasonable in its requirements?

POSITION OF MEMBERS.
I am cheered by the knowledge that a great many who are in favor of this bill have announced their hearty belief in vaccination itself, but that they are radically opposed to the idea of making it compulsory. The number who will support the bill is the first of the above questions is therefore much smaller than the number of those who believe in this bill. As to whether or not vaccination possesses the efficacy claimed for it, one would naturally seek information from those who have made a study of it, and whose knowledge and experience entitle their words to be received as authority. The knottier or more obscure the question of law which is in need of interpretation, the greater the necessity for consulting the most eminent legal talent in the land. So also as to disputed questions in the science or practice of medicine—the inquirer naturally turns for light to the highest medical authorities to be found in the country and century in which he lives, and he has a right to accept their views as sound and supported by the best wisdom of the age. I shall only refer to one or two such authorities, merely stating the fact, which indeed will hardly be disputed anywhere, that almost the entire fraternity of regular practitioners of any school of medicine in every part of the world are so nearly unanimous in their views on the efficacy of vaccination as to leave only an absurdly insignificant minority to oppose it.

DR. STERNBERG.
Dr. George M. Sternberg occupies the exalted position of surgeon general in the United States army; surely no higher authority on the science of medicine need be quoted. A late public expression of his, dated December, 1899, is as follows: "It is well known that against smallpox, the most deadly of all communicable diseases, vaccination has been the only effective prophylaxis, which has restricted the ravages of this disease within the limits which are left to it by carelessness in regard to the application of this measure, and to prevent vaccination being made a condition precedent to entering the public schools of Utah."

It is now recognized that the protective influence of vaccination is not confined to a permanent character, and children who have been successfully vaccinated in infancy should be re-vaccinated when they reach the age of puberty, or sooner, if smallpox is prevalent in the neighborhood. The operation is so trifling that it is customary to vaccinate old and young, with the exception of those who have been successfully vaccinated within a year or two, and who are at the time of smallpox outbreak. This practice is to be recommended, but when the operation has been performed in a proper manner, with virus which is known to be reliable, it is folly to insist upon a frequent repetition of the vaccination, because "it didn't take." If the first vaccination has been completely successful, a perfect result from revaccination is not usually obtained; and the fact that no result is obtained must be taken as evidence that the person is protected. The prophylactic value of vaccination practiced after exposure to smallpox has been demonstrated, and one who is not vaccinated at intervals, and who has a recent successful vaccination will do well to resort to this important prophylactic measure at once, if he has reason to suspect that he has been exposed to smallpox.

An authority scarcely less eminent, Dr. William Osler, professor of medicine in the Johns Hopkins University, published an article in the New York Sun, January 27, 1901, in which he says: "While not a source of the first rank, like the plague or cholera, at the outset of the century variola was one of the most prevalent and dreaded of all diseases. Few reached adult life without an attack. Today, though outbreaks still occur, it is a disease thoroughly controlled by vaccination. The protective power of the inoculated cowpox is not a fixed and constant quantity. The protection may be for life or it may last only for a year or two. The all-important fact is this: That efficiently vaccinated persons may be exposed with impunity, and among large bodies of men (e. g., the German army), in which revaccination is practiced, smallpox is unknown. Of 100 vaccinated persons exposed to smallpox, possibly one might take the disease in a mild form; of 100 unvaccinated persons so exposed, one alone might escape. To be efficient, vaccination must be carried out systematically, and if all the inhabitants of this country were vaccinated at intervals, smallpox would disappear (as it has from the German army), and the necessity for vaccination would cease. The difficulty arises from the constant presence of an unvaccinated remnant, by whom the disease is kept alive. The Montreal experience in 1855 is an object lesson never to be forgotten."

For eight or ten years vaccination had been neglected, particularly among the French-Canadians. On February 23, 1855, a Pullman car conductor, who came from Chicago, where the disease had been slightly prevalent, was admitted into the Hotel Dieu. Isolation was not carried out, and on the 1st of April a servant in the hospital died of smallpox. Following her death the authorities of the hospital sent to their homes all patients who presented no symptoms of the disease. Like fire, the dry grass the contagion spread, and within nine months there died of small-

pox 3,194 persons. It ruined the trade of the city for the winter and cost millions of dollars. There are no reasonable objections to vaccination, which is a simple process, by which a mild and harmless disease is introduced. The use of the animal vaccine does away with the possibility of introduction of other disorders, such as syphilis."

I might multiply quotations of a similar character from scores of men who are recognized as being in the front rank of their profession. Their utterances are easily within reach and can be perused with profit by those who may still desire cumulative evidence. Suffice it to say, however, that in answer to the first question stated above, practically the entire scientific world agree, after the widest experience and the fullest investigation that vaccination and revaccination properly performed with reliable virus is a certain preventive of smallpox.

THE AMERICAN CITIZEN.
2. The American citizen is naturally and properly jealous of his rights, and abhors anything that smacks of compulsion. But he is guaranteed no rights which interfere with the rights or conflict with the welfare of others. From the iron-hearted Romans, and through all the ages of thereafter civilization has had a foothold, has come down to us that broad basic principle upon which all communities are built—"The public safety is the supreme law." The right to blow up or tear down a building or a whole block of buildings to stop the progress of a great fire is a plain invasion of property rights. Yet it is justified and even applauded, as an act made necessary by the interest of the public safety. The right to quarantine a person or a family or even a neighborhood that may be affected by or have been exposed to certain diseases is in a sense an invasion, as it certainly is a restraint on the liberty of the individual. Yet no one questions the right. Yet no one who has the public welfare at heart complains of it. In both instances—one the invasion of property rights, the other the restraint of the person, the police power of the State is exercised to a legitimate and proper extent. I believe the same power lawfully and properly extends to this question of vaccination in time of danger. It appears only consistent that if a person may be lawfully restrained from leaving his house, or from traveling, or from going to school, or from working, or from doing anything else, because he is infected with the disease, another may be compelled to do an act which will prevent him from becoming infected. The power is the same, though it may differ in degree; it is

THE PUBLIC SAFETY
which justifies it, which makes it necessary, and which, in my opinion, ought to demand it. Of course such power should only be resorted to when the necessity exists; it should be exercised to great discretion, and with all scrupulousness. And inasmuch as the necessity of the danger determines the necessity of the case, the need is at once apparent for providing some competent authority to declare when the time for extreme measures has come. In this State this discretion resting with the board of health.

3. The third question which I suggested in the outset is partially answered by the foregoing observations. Surely if boards of health, whether State or municipal, are of any value at all, it is when they employ their knowledge and skill and experience in perfecting measures looking to the public safety. They, above all other people, should be entitled to exercise the discretion to declare—and they should be required to do it, too—when compulsory measures ought to be enforced. That these boards are largely composed of physicians is palpably consistent. But the by reason of their training and vocation they are inclined to exaggerate the danger and their own importance, and seek profit unto themselves. I consider an invasion unworthy of them, and altogether too contemptible to be dignified with further notice.

In some States the city councils by ordinance adopt special compulsory or quarantine measures, according to the necessities of the occasion. In other places school boards are vested with authority to impose such regulations as to compulsory vaccination or anything else pertaining to the health of the school population as they may see fit. But in the great majority of States it is to boards of health that is given the power to determine not only when the necessity for extreme measures arises, but also the character of the measures. But in the great majority of States it is to boards of health that is given the power to determine not only when the necessity for extreme measures arises, but also the character of the measures. But in the great majority of States it is to boards of health that is given the power to determine not only when the necessity for extreme measures arises, but also the character of the measures.

DEFENDS BOARD OF HEALTH.
4. Coming finally to the fourth question, I confidently make reply that in my opinion the State board of health has not exceeded its powers, abused its discretion nor exacted any unreasonable requirements in the order above quoted, and that it is consequently undeserving of the rebuke which this bill conveys. A law on our statute books makes attendance at school obligatory upon all children of what is called school age. They are in one respect the guards of the State. It has an interest in them, and can exercise a control over them, which may not be applied to adults. It is the bounden duty of the State to furnish them not only the best moral training within its power, but also the greatest possible protection against physical injury or disease. In an emergency such as recently arose—an outbreak of smallpox, which has been a board of health, representing the State and in pursuance of its duty to the school children of the State, put forth the order referred to. It does not insist that every child should be vaccinated—it is not a compulsory measure in the sense that many choose to construe it. It says in effect that inasmuch as the State compels the attendance of children at school, it promises to protect them from this disease and from exposure to it while in school if they will but conform to a requirement which promises immunity. To those who will not do this, it makes

NO SUCH PROMISE:
It refuses to accept responsibility for them, and it closes the school doors against them. Allow me to call attention to only one instance out of many where a far greater exercise of authority, under conditions much less menacing, is supported by law and public sentiment: The State of Iowa recently had an outbreak of smallpox. The most vigorous rules were put into force. All persons over one year of age were required to be vaccinated or to furnish satisfactory evidence of protection from the epidemic; while all the sheriffs, constables, marshals and police officers, besides the boards of health were directed to see to the enforcement of the order. Yet Iowa had at the time the report was made, a total of 549 cases of smallpox, while in Utah more than 1,000 cases have been reported in 121 cities and towns and villages of the State.

IN OTHER STATES.
It has been asserted that in no other State in the Union are such powers vested in the board of health as have been here assumed. A contradiction of that statement is furnished in the Iowa instance just quoted. But in order to further ascertain how Utah's attitude on the question agreed with that of other members of the sisterhood, I addressed a telegram to the governor of each State in the Union, asking whether their health authorities had power to exclude unvaccinated children from the public schools. Following are the responses received up to this date:

Dover, Delaware—"Health authorities in Delaware have no authority to exclude unvaccinated children from schools." (Signed) JOHN MUNN, Governor Delaware.

Montgomery, Alabama—"Health authorities of this State have no power to

exclude unvaccinated children from public schools. Reply to your telegram referred to me by Governor Sanford." (Signed) W. H. SANDERS, M. D., State Medical Officer.

Helena, Montana—"The attorney general advises this office that the health authorities have no power to exclude unvaccinated children from public schools." (Signed) JOSEPH K. TOOLE, Governor of Montana.

Hartford, Connecticut—"No; authorities have no power." (Signed) GEORGE F. McLEAN, Governor.

Salem, Oregon—"We have no State law on the subject of vaccination. Individual school districts sometimes adopt and enforce rules governing the subject as to their own schools." (Signed) T. T. GOER, Governor of Oregon.

Madison, Wisconsin—"No statute in Wisconsin. Rule laid down by Supreme court in Adams vs. Burge, volume 95, page 390." (Signed) ROBERT M. LAPOLETTE, Governor of Wisconsin.

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Charleston, West Virginia—"Our law does not make vaccination compulsory, but public school teachers insist on vaccination of pupils and it is generally done." (Signed) G. W. ATKINSON, Governor.

Boise, Idaho—"Idaho statutes do not make vaccination compulsory, but exclude children from infected districts." (Signed) AUNT, Governor.

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Richmond, Virginia—"Statute excludes unvaccinated children but can be suspended by local authorities." (Signed) J. ROBEY TYLER, Governor of Virginia.

St. Paul, Minn—"State and local boards of health in this State have authority to exclude unvaccinated children from public schools only where smallpox exists." (Signed) S. R. VANZANT, Governor.

Augusta, Maine—"Health authorities may exclude them not vaccinated if they deem it expedient." (Signed) JOHN F. HILL, Governor of Maine.

Columbia, South Carolina—"Yes, health authorities have authority to exclude from public schools unvaccinated children and those that have been exposed to other contagious or infectious diseases." (Signed) M. B. SWEENEY, Governor.

Denver, Colorado—"No statutory provision against unvaccinated children. Statute gives board of health authority to make regulations governing attendance." (Signed) JAMES B. ORMAN, Governor.

Annapolis, Maryland—"Under our law no teacher is permitted to receive in school any scholar without certificate of vaccination from physician. If child fails to pay, then county or city pays for vaccination." (Signed) WILFRED BATEMAN, Secretary of State.

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Columbus, Ohio—"School board of each school district may make rules which would exclude unvaccinated children from public schools. Mailed laws today." (Signed) GEO. K. NASH, Governor.

State House, Topeka, Kansas—"Vaccination not compulsory by statute in Kansas. Municipalities have authority by statute to pass ordinance to prevent spread of contagious diseases and under this may require children to be vaccinated or exclude them from public schools. Question is now in Supreme court awaiting its decision." (Signed) W. E. STANLEY, Governor.

Sacramento, California—"Under statute, February twentieth, 1899, trustees and boards of public school government have such power and must annually report to state board of health number of vaccinated and unvaccinated children between five and seventeen years. Provision made for free vaccination." (Signed) HENRY T. GAGE, Governor.

Jefferson City, Missouri—"School boards have power to exclude unvaccinated children from public schools when deemed necessary. Sec. 62, Mo. (app.) report." (Signed) A. M. DOCKERY, Governor.

Little Rock, Arkansas—"Health authorities in this State have power to exclude unvaccinated children from public schools." (Signed) JEFFERSON DAVIS, Governor.

Boston, Mass—"The school authorities have power to exclude unvaccinated children from public schools." (Signed) W. M. CRANE, Governor.

Lansing, Michigan—"Health board, no; health officer only. If exposed to

smallpox, school board yes probably." (Signed) A. T. BLISS, Governor of Michigan.

Austin, Texas—"Telegram received. Authorities have control of the public schools within its limits have power to exclude unvaccinated children from public school. Report of state health officer mailed you today." (Signed) J. H. SAYERS, Governor.

Indianapolis, Indiana—"Indiana authorities exclude unvaccinated children from public schools. See Blue vs. Beach lawyers' reports annotated." (Signed) CHARLES E. WILSON, Secretary to Governor.

Frankfort, Kentucky—"The answer to question in your telegram is yes." (Signed) J. C. W. DECKARD, Governor, Ky.

Pierre, South Dakota—"Yes." (Signed) CHAS. D. HERRIARD, Governor.

Olympia, Washington—"All boards of education throughout the State of Washington are empowered under the law to exclude unvaccinated children from public schools." (Signed) J. R. ROGERS, Governor, Washington.

Tallahassee, Florida—"Answering yours, am advised that Florida health authorities have power and do exclude unvaccinated children from public schools." (Signed) W. S. JENNING, Governor, Fla.

Concord, New Hampshire—"Our statute says no child shall attend any public school unless he has been vaccinated or has had smallpox."

Atlanta, Georgia—"In country schools, no. In city schools, yes." (Signed) A. D. CHANDLER, Governor, Ga.

Harrisburg, Pennsylvania—"Principals or other persons in charge of schools have power to exclude unvaccinated children from public schools. Copy of school laws mailed today." (Signed) WM. A. STONE, Governor of Penn.

Carson, Nevada—"The State board of health has power to exclude children not vaccinated, or make such regulations as are necessary." (Signed) REINHOLD SADDLER, Governor.

Des Moines, Iowa—"Attorney general holds that health authorities may exclude unvaccinated children from the schools." (Signed) L. M. SHAW, Governor.

Raleigh, North Carolina—"Health authorities North Carolina have authority to exclude unvaccinated children from schools but have never exercised it." (Signed) CHARLES B. AYCOCK, Governor.

Providence, Rhode Island—"No pupil can attend public school without certificate of vaccination." (Signed) WILLIAM GREGORY, Governor.

Lincoln, Nebraska—"Under general powers the board of health in cities and villages have authority to exclude unvaccinated children from public schools. No special laws on subject." (Signed) C. H. DIETRICH, Governor.

STANDING OF THE STATES.
It is thus disclosed that out of the forty-one States from which responses have been received, there are ten in which there is no specific authority by statute for excluding unvaccinated children, though in two of these the legislatures are at present considering such a measure; in another it is conceded that unvaccinated children are usually excluded and in still another such a law has been declared unconstitutional. In the remaining thirty-one, there is ample authority in one way or another to close the public schools to unvaccinated children in case of epidemic. I venture further to assert that in not one of the ten above referred to, nor in either of the three from which no reply has been received, has there been any such attempt as this bill contemplates, to rob the board of health of the authority previously conferred and to cripple in so vital a respect the power of the State.

If it is the privilege of younger commonwealths to profit by the experiences gained and the precedents established by their seniors, certainly in this exhibit we can find that

which should induce us to pause. To place among our statutes such a bill as this which lies before me would be, in my judgment, a step backward, a step, too, which will be disastrous in its consequences. Already there is a suggestion from a neighboring State of a general quarantine against Utah. Even from beyond the sea are reports, well authenticated, of cases of the contagion and directly to visitors from this city. It is easy to imagine how serious would be the effect upon a community which travels as much as we do, and from one important element of which large numbers of young men go out annually to all parts of the world, if the idea should go abroad that we were tearing down, rather than strengthening the best-known safeguards against the epidemic. Such an impression will assuredly be the result of such legislation as this. I cannot believe that the representatives of the people of this State will on second thought desire to commit an act so calamitous in its effects. Utah enjoys the credit of taking the initiative in some of the most useful of recent legislation. Those who represent her people, while always conservative, have ever been alert to accept that which is in line with the best and most advanced thought of the age. I entreat them in this crisis to preserve this reputation by refusing to place upon the books a statute which in effect would look like an advertisement that Utah is an unsafe place for children to dwell in.

Holding the views thus expressed, I cannot approve House bill No. 13, but suggest, as a definition of the powers of boards of health, and in one important respect, a limitation of the same, the enactment of the substitute measure which accompanies this message. I have the honor to be, Very respectfully, HEBER M. WELLS, Governor.

THE SUBSTITUTE BILL.
The Governor offers the following substitute bill:
A bill for an act authorizing the State and local boards of health to make and enforce rules and regulations to protect the inhabitants of the State against

infectious diseases, and providing a penalty for the violation of this act or the rules of the said boards made in pursuance thereof.

Be it enacted by the Legislature of the State of Utah:

Section 1. Whenever upon investigation by the State or local boards of health said boards are of the opinion that any malignant contagious, infectious or noxious disease is epidemic in this State, or that the health or sanitary conditions of the State or any part of it are such that any of said diseases are liable to become epidemic in the near future, said boards are hereby authorized, and it shall be its duty to at once make and enforce such rules and regulations and adopt such measures as shall by vaccination or other preventive means protect so far as possible the inhabitants of the State and every part thereof, against the introduction or spread of any of said diseases; and all sheriffs, constables and police officers throughout the State are hereby charged with the duty of carrying out the orders of the said boards of health in the enforcement of said rules and regulations; Provided that the said boards shall not have the power or authority to exclude from school unvaccinated children in school districts where smallpox does not exist.

Section 2. Every person who shall violate any of the provisions of the preceding section or any of the rules and regulations of the State or local boards of health made in accordance therewith, shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine in any sum not to exceed \$20, or imprisonment in the county jail not exceeding sixty days, or by both said fine and imprisonment.

EXCURSION TO OGDEN
via
Rio Grande Western Railway.
On Sunday next, on special train at 2:30 p. m., round trip rate of \$1.50, will apply via R. G. W. only. Return special train leaves Ogden after the Banquet of the Eagles.

For a Cold in the Head
Laxative Bromo-Quinine Tablets.

ROYAL Baking Powder
Makes the bread more healthful.
Safeguards the food against alum.
Alum baking powders are the greatest menaces to health of the present day.

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Austin, Texas—"Telegram received. Authorities have control of the public schools within its limits have power to exclude unvaccinated children from public school. Report of state health officer mailed you today." (Signed) J. H. SAYERS, Governor.

Indianapolis, Indiana—"Indiana authorities exclude unvaccinated children from public schools. See Blue vs. Beach lawyers' reports annotated." (Signed) CHARLES E. WILSON, Secretary to Governor.

Frankfort, Kentucky—"The answer to question in your telegram is yes." (Signed) J. C. W. DECKARD, Governor, Ky.

Pierre, South Dakota—"Yes." (Signed) CHAS. D. HERRIARD, Governor.

Olympia, Washington—"All boards of education throughout the State of Washington are empowered under the law