

Quarantine Regulations, Enforcement Of—Vaccination, City Ordinance Compelling Same.

A Sheriff, or Deputy Sheriff, has the right to make arrest for an attempted breach of proper quarantine regulations, promulgated by the State Board of Health, as it constitutes a public offense.

It is within the proper exercise of the police power of a city to enact an ordinance requiring compulsory vaccination of its inhabitants to enact an ordinance and requiring persons who have not complied therewith to keep off the streets until vaccinated during an epidemic of small pox.

January 21, 1905.

Thomas D. Tuttle, M. D., Secretary, State Board of Health, Billings, Montana.

Dear Sir:—I am in receipt of your favor of the 19th, presenting two questions for official opinion by this office. Your first question is: "A man leaves Billings by buggy and goes to Laurel where he attempts to

take train, he has no clean bill of health; has a deputy sheriff the right to arrest him for breaking quarantine?" In answer to this question I give you as my opinion that a deputy sheriff has the right to make such arrest and that the arrest may be made without warrant if the attempted breach of quarantine is made in his presence, (Section 1632, Penal Code), and this for the reason that the breaking of proper quarantine regulations constitutes a public offense, namely a misdemeanor under the provisions of House Bill No. 104, Laws of 1901, p. 80. And in this connection I would say that you should guard the city by proper pickets so as to effectually prevent the breaking of quarantine.

As to your second question, which is: "Has a city in the State of Montana the right to pass a compulsory vaccination ordinance requiring people who are not or have not been vaccinated to keep off the streets until vaccinated during an epidemic of small pox?"

In answer to this question I will say: That the city, in the exercise of its unfathomable police powers, may properly make such regulation for the protection of the general public. Any police regulation for the good of the public, as a general rule, is within the absolute power, authority and control of the city, and certainly a compulsory vaccination ordinance for the good of the public health is a proper exercise of police power by a city.

Hoping that this opinion will meet with your approval and that it fully covers the questions presented, I remain,

Yours respectfully,

ALBERT J. GALEN,

Attorney General.