

Liberty Tree

Vol. 22, No. 9 — September 2020

A COMPULSORY JAB OF CROWN POISON* *vs. your inherent right to control your body.*

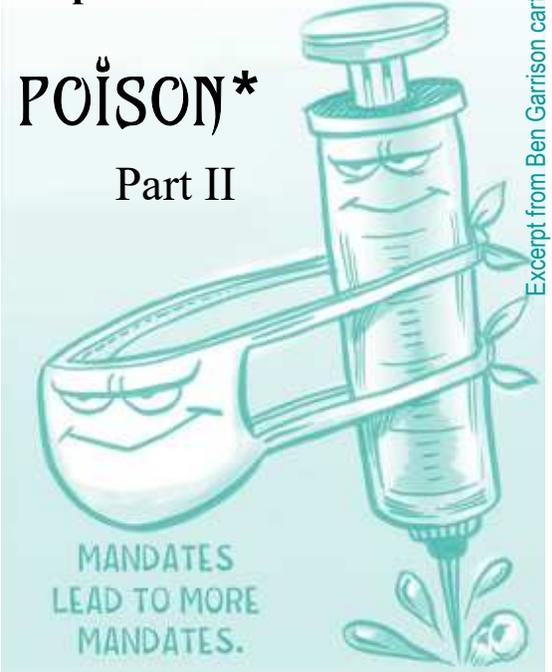
In the last issue of the *Liberty Tree*, the claims of so-called “constitutional scholars” — those favored by our pharma-supported media — that the States can force mandatory immunizations on individuals was seen to depend upon the seminal case *Jacobson v. Massachusetts*, 197 US 11 (1905). Jacobson, a Swedish immigrant and minister, refused to be vaccinated when the Cambridge Board of Health required smallpox vaccinations or a fine of \$5. When Jacobson was brought to trial, the judge excluded any evidence in his defense relating to “alleged injurious or dangerous effects of vaccination,” and refused to instruct the jury that the law deprived persons of rights secured by the U.S. Constitution.

Jacobson appealed his case to the Massachusetts and U.S. supreme courts, insisting that his liberty was invaded by subjection to fine or imprisonment for refusing to be vaccinated. Mandatory vaccination was hostile to the inherent right of every freeman to care for his own body and health in such way as to him seems best, and was an assault on his person.

Justice Harlan of the U.S. Supreme Court ruled that the *general comfort, health, and prosperity of the State* was more important than any violations of Jacobson’s

liberty and bodily integrity, and that the “inherent” police powers of the State can override individual liberty. *In this issue, we will examine the primary ground stated by Harlan for upholding compulsory vaccination.*

United States Supreme Court decisions describing the States’ “police power” and its ability to hinder individual liberty have changed over the years. At bottom, however, all judicial interpretations begin with one of two presumptions: (1) the State has complete power to do anything deemed an inherent power of government, so long as it is not expressly prohibited by the federal or its own State constitution, or (2) the State has only those powers granted to it by the people in the constitution(s). Unfortunately for We the People, the Supreme Court has generally adopted the first view with respect to State governments: the Constitution provides the only limit on State power. This in turn forces the People to depend on the Court’s interpretation of what counts as a fundamental constitutional right. As Justice Charles Evans Hughes once opined, “We are under a Constitution, but the Constitution is what



Excerpt from Ben Garrison cartoon.

Part II

MANDATES
LEAD TO MORE
MANDATES.

judges say it is. . . “¹

James Madison, the “father” of the U.S. Constitution, stated in Federalist #45 that the powers delegated to the national government “are few and defined and those that remain in the States are numerous and indefinite.” This might seem to support the view that the so-called police powers — any laws concerning the public health, safety, morals, and welfare — of the States are vast and indefinite. But the Preamble states the government is established by the People. The Ninth Amendment, that “the enumeration ... of certain rights, shall not be construed to deny or disparage others *retained by the people*,”² and the Tenth Amendment, that “[t]he powers

(Continued on page 3)

* “Crown” is derived from the Anglo-French *corone*, *coroune*, going back to Latin *corōna* “wreath, garland worn on the head as a mark of honor or emblem of majesty.” “Virus” is derived from Latin *vīrus* meaning “venom, poisonous fluid.” Thus coronavirus literally means crown poison.

1. Hughes CE. *Addresses of Charles Evans Hughes, 1906–1916*. 2nd ed. New York, NY: GP Putnam’s Sons; 1916. During his tenure at the Supreme Court, Hughes often joined Oliver Wendell Holmes Jr. in upholding State and federal regulations.
2. All emphasis is added throughout unless otherwise noted.

THE DEFENDANT ON APPEAL

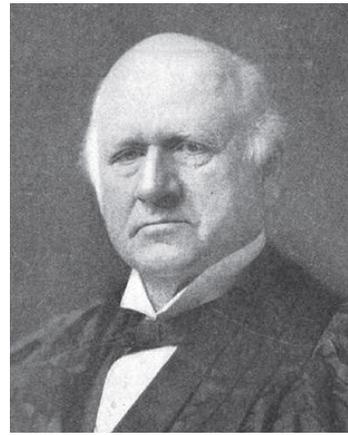


Henning Jacobson (1856-1930) a Swedish immigrant and minister, had been vaccinated when he was six years old in Sweden, and became very ill with “great and extreme suffering.” On March 15, 1902, the chairman of the Cambridge Board of Health, Dr. E. Edwin Spencer, visited Henning Jacobson’s family and informed them the board had voted to declare a smallpox outbreak. All Cambridge residents had to be vaccinated if they hadn’t been in the past five years. Jacobson refused to pay the \$5

fine for refusal. On July 17, 1902, Spencer swore out a criminal complaint against Jacobson, and he was taken to court along with a handful of other Cambridge anti-vaxxers. The conflict between his individual rights and the “common good” went all the way to the U.S. Supreme Court. Justice Harlan sided with the Commonwealth, ruling that it could use its police power to “protect” the public health. Two justices, Peckham and Brewer, dissented in that opinion, but no dissent was recorded.

We have on our statute book a law that compels . . . a man to offer up his body to pollution and filth and disease; that compels him to submit to a barbarous ceremonial of blood-poisoning, and virtually to say to a sick calf, “Thou art my savior: in thee do I trust. . .”
 — Brief of Defendant Jacobson
Commonwealth v. Jacobson, 183 Mass. 242 (1903)

THE WICKED JUDGE



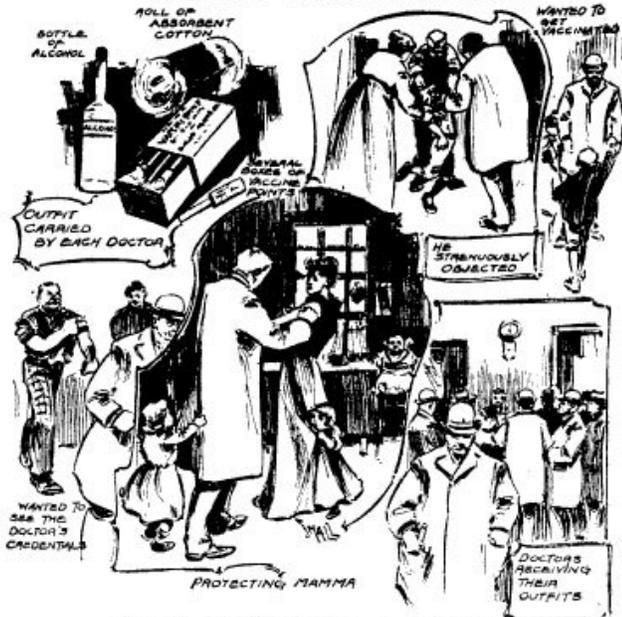
At 20 years old, **Justice John Marshall Harlan** (1833-1911) entered Whig Party politics; when that party disintegrated, he became staunch Unionist and joined the northern army. He did not free his own slaves, however, until the Thirteenth Amendment abolished slavery. He was the lone dissenter in *Plessy v. Ferguson* (1896), which established the “separate but equal doctrine” for racial segregation enforced by the

States. The *Plessy* decision was overturned in *Brown v. Board of Education* (1954). In that most famous dissent, Harlan stated “our Constitution is color-blind,” and held the States wrong to “regulate the enjoyment of citizens’ civil rights solely on the basis of race.” But in *Jacobson v. Massachusetts* (1905), Harlan found discrimination on the basis of religious belief perfectly okay. The State, by relying on a judicial doctrine called “police power” to “protect” public health and safety, can violate a person’s religious liberty for the “common good,” he said. Similarly, in a dissent in *Lochner v. New York* (1905), Harlan refused to view the right to contract as a fundamental right, opining that “All the cases agree that [the police power] extends at least to the protection of the lives, the health and safety of the public against *the injurious exercise by any citizen of his own rights.*” At issue in *Lochner*, however, was a law which could only conceivably affect the health and safety of bakers, not the general public. Still, Harlan claimed that the law had a direct relation with “that protection to health which each State owes to her citizens.” It seem obvious, however, that if domineering busybodies of the legislature are viewed as *patres familias* passing laws to “protect” *each individual citizen’s* health, then those individuals are in reality deprived of the liberty to manage their own well-being.

BOSTON GLOBE—TUESDAY, JANUARY 28, 1902.

ABOUT 10,000 VACCINATED IN SOUTH BOSTON.

Board of Health Had 115 Physicians at Work—It Intends to Bring Those Who Refuse Into Court.



WITH THE VACCINATION DOCTORS IN SOUTH BOSTON.

COMPULSORY VACCINATIONS IN BOSTON

Left: Boston Globe propaganda on January 28, 1902, supporting mandatory public vaccination. The reality: the police accompanied the vaccinators on their rounds, and people were in fact forcibly vaccinated. The homeless were especially targeted. A reporter for the *Boston Globe* accompanied a squad one night in November 1901 and described the scene: “Every imaginable threat from civil suits to cold-blooded murder when they got an opportunity to commit it, was made by the writhing, cursing, struggling tramps who were operated upon, and a lot of them had to be held down in their cots, one big policeman sitting on their legs, and another on their heads, while the third held the arms, bared for the doctors.” One “fighting tramp,” who “went down in a heap on the floor” from the blow of a policeman’s club, received both vaccination and suturing of his scalp. In hearings on compulsory vaccination, opponents alleged that in Massachusetts, boards of health “in many cases had acted with autocratic power and forcibly assaulted persons to vaccinate them.” Does anyone doubt that mandatory vaccination for any reason today would be as barbarous and invasive?

Source: <https://www.nejm.org/doi/full/10.1056/nejm200102013440511>

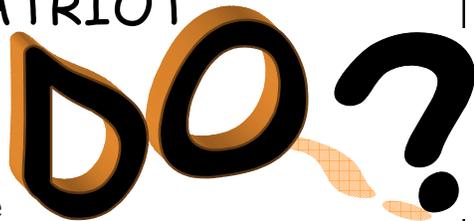
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not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, *or to the people*,” also make it clear that the *People* are the sovereigns, and retain all power, except that which they delegate to the State governments via constitutions established *by* the People *for* the People. Accordingly, it is not the States which have undefined power, but rather the People.

THE STRUGGLE BETWEEN AUTHORITY AND LIBERTY

Sadly, judges reliably uphold the concept of indefinite and vast State police power over the numerous liberties belonging to the People. In his classic essay, *On Liberty* (1859), John Stuart Mill noted that the “struggle between Liberty and Authority” is an

But WHAT CAN SAVE-A-PATRIOT



In 2008, the U.S. District Court in Baltimore permanently enjoined Save A Patriot Fellowship from assisting Fellowship members in writing letters to the IRS, writing letters to third parties with respect to certain IRS matters, and even from disseminating information regarding the income tax laws or maintaining a program in which members can financially assist one another.

So it isn't surprising when members and people who find the Fellowship's website or hear about the Fellowship ask us: What can Save-A-Patriot **DO** for me? **And the answer is — more than you might imagine.**

In fact, Save A Patriot Fellowship stands ready to assist with any state or local taxing problems, citations, tickets, licensing issues — any area where state or local government bureaucrats are interfering with patriots' freedoms or misapplying the law, and where legal research could help clarify the situation. SAPF is also willing to assist with federal matters other than IRS income tax issues, and can help with Freedom of Information Act requests and Privacy Act Requests for information (even from the IRS disclosure office).

Finally, SAPF has years of experience with IRS policies and procedures, and can help you *understand* the methods of the IRS. So please call with your questions and problems. *We are still here* to help save patriots.

ancient one; in earlier times that struggle occurred between subjects and ruling classes dangerous not just to their country's enemies, but to their own subjects. “The aim, therefore, of patriots was to set limits to the power which the ruler should be suffered to exercise over the community; and this limitation was what they meant by liberty.”

Men began to think it “much better that the various magistrates of the State should be their tenants or delegates, revocable at their pleasure. ... rulers should be identified with the people.” Hence, republican forms of government were sought. As “a democratic republic came to occupy a large portion of the earth's surface, and made itself felt as one of the most powerful members of the community of nations,” however:

... It was now perceived that such phrases as “self-government,” and “the power of the people over themselves,” do not express the true state of the case. The “people” who exercise the power are not always the same people with those over whom it is exercised; and the “self-government” spoken of is *not the government of each by himself, but of each by all the rest*. The will of the people, moreover, practically means the will of the most numerous or the most active part of the people; the majority, or those who succeed in making themselves accepted as the majority ... may desire to oppress a part of [the people]; and precautions are as much needed against this as against any other abuse of power. ... “the tyranny of the majority” is now generally included among the evils against which society requires to be on its guard. Like other tyrannies, the tyranny of the majority [chiefly operates] through the acts of the public authorities.”

The Bill of Rights was passed to protect the fundamental liberty of the minority from the tyranny of the majority. All acts passed by the legislature, the people's representatives, are deemed the acts of the majority by definition, and thus constitutional prohibitions to the legislative power are meant to protect the rights of individuals against the majority opinion. In this light, it is clear that Justice Harlan, who authored the *Jacobson* opinion, heartily approved of majority tyranny without restriction. He stated that where smallpox is prevalent in a city or town, a minority may not “defy the will of the constituted authorities, acting in good faith for all, under the legislative sanction of the State.” If a single individual could do so, he reasoned, then all individuals could do so, and then the welfare and safety of the whole population would be subjected to the whims of such individuals.

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Harlan stated:

We are unwilling to hold it to be an element in the liberty secured by the Constitution of the United States that one person, or a minority of persons, residing in any community and enjoying the benefits of its local government, should have the power thus to dominate the majority when supported in their action by the authority of the State. *Jacobson*, at 187 U.S. 38.

CONTROL OVER ONE'S OWN BODY AND MIND

What are the liberties of the People which can be asserted against the tyranny of public authorities? Mill said the entire object of his essay was to assert a simple principle to “govern absolutely the dealings of society with the individual in the way of compulsion and control”:

That principle is, that the sole end for which mankind are warranted, individually or *collectively*, in interfering with the liberty of action of any of their number, is *self-protection*. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to *prevent harm to others*. ... In the part which merely concerns [an individual] himself, his independence is, of right, absolute. ***Over himself, over his own body and mind, the individual is sovereign.***”

“trespass” is an invasion of a person, their property, or their rights. Without the object of self-protection, then, forced vaccination is simply a trespass on the integrity and security of a person’s body.³ In order to justify the “immunization,” the State must show that without it, the person it intends to compel *cannot be prevented from harming others*. Put another way, what harm is visited on another person if the individual’s body is not invaded? Neither the Massachusetts nor the United States justices could be bothered to answer this question. Instead, they mouthed the general belief that vaccination prevents spread of a disease for the “common good.”

At trial, Jacobson offered defensive proofs which were excluded by the judge. The Supreme Judicial Court of Massachusetts held the trial judge correct in excluding his defense. Anything offered to show his personal opinion or religious beliefs could not be “taken as correct ... merely because he made it a

3. Note that the law which allowed the trespass of Jacobson’s person could be avoided if he paid the authorities a \$5 fine. So instead of outright forcing its victims to get vaccinated, the law *extorted* them; it obtained money by threatening victims with a bodily trespass. They could also be sentenced to imprisonment for 15 days.



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ground of refusal.” Further, all offers of proof related to dangerous effects of vaccination “cannot be stated as a truth, otherwise than as a matter of opinion,” and:

The only ‘competent evidence’ that could be presented to the court to prove [the dangers] was the testimony of experts, giving their opinions. [The Judge] would have considered this testimony of experts in connection with the facts, that for nearly a century, most of the members of the medical profession have regarded vaccination ... as a preventive of smallpox; that, while they have recognized the possibility of injury to an individual ... they generally have considered the risk of such an injury too small to be seriously weighed as against the benefits ... and that not only the medical profession and the people generally have for a long time entertained these opinions, but legislatures and courts have acted upon them with general unanimity. If the defendant had been permitted to introduce such expert testimony as he had in support of [vaccine injuries], it could not have ... justified the court in holding that the legislature had transcended its power in enacting this statute on their judgment of what the welfare of the people demands. *Commonwealth v. Jacobson*, 183 Massachusetts 242. *Jacobson*, at 24. [internal citations omitted]

In short, testimony that vaccination was injurious would be discarded as mere *opinion* in favor of the majority *opinion* that any injury is outweighed by the preventive good sought. Jacobson’s religious beliefs, his considered opinion that vaccination would endanger him as it had when he was a child of six, would not be considered at all, much less be held to outweigh the opinion of the majority that he ought to be injured for *their* good! Nakedly stated: the majority may harm your body whenever those in “authority” declare it is benefits the health of all.

In a future issue, we will discuss how developments and judicial opinions *since* the decision made in *Jacobson* highlight the absurdity of forced vaccination. *Stay tuned.*

