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Book Review

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Should vaccinations be required by law? Why are quarantine decisions made by state governors? What role should the federal government play in public health provision? While these are questions of current importance, they are also issues that the United States has been struggling with since the Revolution. At the heart of these issues lies a set of legal judgements, rooted in the U.S. Constitution, about when and how the state can intervene in order to improve public health.

In *The Pox of Liberty*, the author, Werner Troesken (a Professor at the University of Pittsburgh), sets out to study the complex impact of the U.S. Constitution on health in U.S. history. This is an ambitious book and a useful contribution to work in this area. By focusing on how the Constitution and the legal system influence public health, both directly and through economic growth, *The Pox of Liberty* illuminates a somewhat neglected aspect of public health history. While the author is trained as an economist, he has taken a narrative approach in this book which makes it approachable for a broad audience. This book is likely to be of particular interest to demographers, historians, and economists who would like to gain a better understanding of the way that legal factors influenced public health in the U.S. history.

One of the central messages of this book is that the U.S. was often less healthy than comparable European countries “not *despite* its being rich and free, but *because* it was rich and free” (p. 5). Put another way, Troesken argues that many of the laws that allowed the U.S. to become wealthy, and that promoted personal freedom, also made it more difficult to fight infectious disease. Balanced against this is a feedback mechanism through which economic success improved health, by, for example, providing cities with the money needed to invest in water systems.

The book begins with two preliminary chapters. The first, chapter 2, traces the origin of U.S. public health law to early townships. Following this, chapter 3 provides a review of the key legal issues that influenced public health provision. These chapters provide a useful entry point for those who are less familiar with the channels through which the legal system affects public health.

The core of the book is organized into three chapters, each focusing on a major infectious disease. Chapter 4 studies smallpox, a deadly airborne disease. The development of a vaccine in the late 18th century made this disease a natural focus for public health interventions. To illustrate the role played by the legal system in the fight against smallpox, Troesken compares the U.S. to Germany where, after unification, centralized power allowed the government to rapidly reduce smallpox rates. In contrast, the U.S. legal system’s protection of individual liberties allowed a portion of the population to resist vaccination and as a result, progress against smallpox was much slower. Perhaps the most interesting example is provided by U.S. colonies, such as Cuba and Puerto Rico, where military control allowed the U.S. government to fight smallpox in a much more effective way than was possible within U.S. borders.

Thus, smallpox provides a vivid illustration of how the U.S. legal system, by favoring liberty and individual rights, impeded the implementation of broad public health measures.

The next chapter studies typhoid, a waterborne disease that was a scourge of U.S. cities in the 19th century. Fighting this disease required costly investments in water and sewer systems. Troesken highlights several avenues through which the legal system influenced the fight against typhoid. Because the necessary investments were made at the level of cities or states, the decentralized U.S. political system was better suited for the fight against this disease. Moreover, decentralization allowed experimentation and resulted in competition between municipalities. Troesken also describes how the Contract Clause of the constitution played an important role in allowing cities and states to borrow in order to fund their water-system investments. Also, the author suggests that, by fostering economic growth, the U.S. legal system helped provide the funding needed for these very large investments. Thus, typhoid represents a counter-example to smallpox, one in which the U.S. system appeared to be more effective.

Finally, the book considers the case of yellow fever, a disease spread by mosquitoes that regularly visited trading cities, particularly in the Southern U.S. The natural way to address this disease was by quarantining ships with passengers or crew that showed symptoms. Thus, this example illustrates how the U.S. legal system influenced the effectiveness of quarantine use. The primary conclusion from this discussion is that the decentralized U.S. approach, which vested power with individual states, struggled to effectively implement quarantines. States often failed to share information and to coordinate their quarantine policies. There is also evidence that states used quarantine powers for economic purposes such as redirecting trade from ports in other states. Overall this chapter, while interesting, is not as convincing and focused as the chapters on smallpox and typhoid.

Together, these chapters provide an illuminating set of examples. Most of these suggest that the decentralized U.S. system, with its strong focus on individual rights, private property, and fostering commerce, led the U.S. to lag behind in the provision of public health. The example of typhoid shows, however, that there were important exceptions to this pattern.

For anyone interested in the history of public health, looking for research ideas, or simply hoping to gain a better understanding of the legal origin of modern health debates, this book is a useful starting point. At just 179 pages it is a quick read and full of ideas. While thought-provoking, the nature of the evidence presented means that any conclusions must be tentative. Thus, *The Pox of Liberty* is likely to serve as a point of departure for more comprehensive work on these topics, rather than the final word.