

‘Public health can supersede individual rights’: Government mandated vaccinations are not violations of personal liberty, courts determined a century ago

[A]s [millions of Americans get vaccinated](#) voluntarily against [the coronavirus](#) and society starts to reopen, questions loom about how far businesses and government can go to ensure safety. Can airlines, concert venues and other businesses refuse service to anyone who chooses not to get vaccinated?

...

Since 1827, Boston schoolchildren had been required to show proof of [smallpox vaccination](#) to attend public school... By the turn of the century, 13 other states required proof of vaccination for schoolchildren, and 11 had compulsory vaccination laws for adults.

Though a pastor, [Henning] Jacobson’s objection to being vaccinated was not religious but personal; he had been vaccinated for smallpox back in Sweden when he was 6 and had a bad reaction. He didn’t want to go through that again.

...

Instead of paying [a] fine, Jacobson and a handful of other vaccine refusers appealed to a higher court, where they caught the attention and support of anti-vaccination societies. Those societies provided Jacobson with powerful attorneys, who argued the case all the way to the Supreme Court.

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The Supreme Court handed down its decision in February 1905; in a 7-2 opinion, Justice John Marshall Harlan — a former Kentucky enslaver who fought for the Union in the Civil War and wrote a blistering dissent against [Plessy v. Ferguson](#) — said public health could supersede individual rights.

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