Book Review


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I read this book over the seven days that saw the publication of the Chief Medical Officer’s report Getting ahead of the curve, the Government’s response to the Kennedy report on Bristol and the Secretary of State’s speech ‘redefining the NHS’. The proposals for the modernization of public health law, a new regulatory framework for the NHS, changes to the law on medical negligence and new freedoms for Foundation Hospitals all require the kind of legislative changes that will feature in any update of this impressive work. That is, of course, if such a feat would ever be attempted again. The sheer volume of new legislation is reflected in the structure of the book: the whole of the eighteenth century is dealt with in just 10 pages, whereas it takes 100 pages to cover the last 50 years, with five of those devoted to 1999 alone.

Some believe that a comprehensive and detailed knowledge of the past is essential to an understanding of the future. For them this book is required reading. But it is not set out to be an easy read. It is a reference work and both the span and scope are vast. It covers the period from 1066 to 1999 (the creation of the Scottish Parliament and Welsh Assembly) and attempts to include all the parliamentary acts, reports of royal commissions and other publications ‘that have been the bases of intervention by central and local government in the control of factors harmful to health, in the provision of medical care, preventive medical, public health and welfare services, and in the relief of poverty in England, Wales and Scotland’.

Prevention of the spread of infectious diseases was the earliest function of the discipline of public health. The book details how contemporary legal provisions can be traced to their origins in the period of sanitary reform inaugurated in the 1840s by Edwin Chadwick, secretary and intellectual heir to Jeremy Bentham. To a very great extent, this early legislation was successful. The implementation of sanitary reform brought about a decline in the toll of lives lost to infectious disease at a time when more than a third of all deaths were due to this cause.

Deaths from infectious disease fell before the causative organisms were isolated, before the introduction of effective treatment or medical prophylaxis. Perhaps because of this success, features of this nineteenth-century legislation have endured through a series of consolidating acts.

Sadly, the broad remit of this book has left little room for reflection and critical comment. In public health legislation there is a rich vein to be explored. Doctors, generally, have a duty to act in the best interests of their patients. They owe their patients a duty of confidentiality and require their consent before examination or treatment. Yet public health doctors, acting in the broader public interest, have been required to breach their duty of confidentiality and to detain individuals against their wishes. In 1988 the Acheson report commented that ‘the lack of clarity about the role and responsibilities in this field derives from the complexity of the legislation and from a misunderstanding about its interpretation’ – and the situation is now even more uncertain. The legal basis for many of the current powers of investigation and detention of individuals appears to be incompatible with the provisions of the Human Rights Act. The CMO’s proposals for modernization of the law on infectious disease control are welcome but what is required is wholesale reform, not just review and repair. We should not expect that laws designed to combat the threat of cholera in the nineteenth century will adapt to the challenges of new and emerging threats in the twenty first.

This book will be of most value to students of legal and social history but the general public health reader may find some gems of interest. One that particularly appealed, while musing on the development of clinical governance in primary care trusts, was that the first truly national health service, in the Venetian republic, required licensed practitioners to attend monthly meetings to exchange notes on new cases and treatments. That was in 1368.

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