

AMSPECBLOG

## Mitt Romney Dances on the Head of a Health Care Pin

By Doug Bandow on 12.15.10 @ 2:20PM

Mitt Romney believes in an individual mandate to buy health insurance. He made such a requirement his signature achievement as Massachusetts governor. He defends that system, despite its obvious and manifold flaws. But he opposes a federal mandate to buy health insurance. That is different, he insists. But how?

Romney's problem came up again in the context of the District Court ruling tossing out the ObamaCare mandate. Reports *National Journal*:

A federal judge in Virginia on Monday said that the linchpin of the new health care law, which imposes a penalty on people who don't obtain insurance, violated the Constitution's commerce clause.

"The court ruling supports Mitt Romney's view that 'Obamacare' is an unconstitutional power grab by Washington," said Romney spokesman Eric Fehrnstrom. "We should repeal the law and return to the states the power to determine their own health care solutions."

In fact, Romney's legal argument is sound. States have "police power," which allows them to regulate most anything if not constrained by their constitutions (or federal Constitution or law). In contrast, the federal government is supposed to be a government of limited, enumerated powers, and Article 1, Section 8 nowhere gives Uncle Sam authority to force people to enter into commerce and buy a private product.

But the substantive point remains. If Mitt Romney likes mandates, how can he criticize ObamaCare as a matter of policy? He can't. And it will be one of his greatest vulnerabilities if he runs for president again.

**Doug Bandow** is a senior fellow at the Cato Institute. A former Special Assistant to President Ronald Reagan, he is the author and editor of several books, including *The Politics of Plunder: Misgovernment in Washington (Transaction)*.