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IN OUR VIEW

Ruling outlines limits on D.C.

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In what may be a landmark in American jurisprudence, and perhaps even American history, U.S. District Judge Roger Vinson struck down ObamaCare -- the Patient Protection and Affordable Care Act. In his decision (*Florida v. U.S. Dept. of Health and Human Services*), Vinson brilliantly summarizes what the Constitution says, and why Obama's socialized health overhaul violates it. Here are just a few nuggets from the ruling:

"This case is not about whether the Act is wise or unwise legislation, or whether it will solve or exacerbate the myriad problems in our health care system. In fact, it is not really about our health care system at all. It is principally about our federalist system, and it raises very important issues regarding the Constitutional role of the federal government."

Vinson zeroed in on the law's "individual mandate" -- the requirement that every American must buy government-approved health insurance plans. In other words, government regulation not only of activity but even inactivity -- the refusal to buy insurance. Vinson wrote:

"It would be a radical departure from existing case law to hold that Congress can regulate inactivity under the Commerce Clause. If it has the power to compel an otherwise passive individual into a commercial transaction with a third party merely by asserting ... that compelling the actual transaction is itself 'commercial and economic in nature, and substantially affects interstate commerce,' ... Congress could do almost anything it wanted."

Government lawyers seriously argue that people cannot "opt out" of the health insurance market, because everyone needs health care. Therefore there's nothing wrong with the feds' mandating the purchase of private insurance. Vinson rebutted that:

"After all, there are lots of markets -- especially if defined broadly enough -- that people cannot 'opt out' of. For example, everyone must participate in the food market. Instead of attempting to control wheat supply by regulating the acreage and amount of wheat a farmer could grow, ... under this logic, Congress could more directly raise too low wheat prices merely by increasing demand through mandating that every adult purchase and consume wheat bread daily, rationalized on the grounds that because everyone must participate in the market for food, non-consumers of wheat bread adversely affect prices in the wheat market."

He added:

"Congress could require that people buy and consume broccoli at regular intervals, not only because the required purchases will positively impact interstate commerce, but also because people who eat healthier tend to be healthier, and are thus more productive and put less of a strain on the health care system. Similarly, because virtually no one can be divorced from the transportation market, Congress could require that everyone above a certain income threshold buy a General Motors automobile ... because those who do not buy GM cars (or those who buy foreign cars) are adversely impacting commerce and a taxpayer-subsidized

business."

More than that, the judge's ruling struck at the implications of ObamaCare for a free nation. It read:

"It is difficult to imagine that a nation which began, at least in part, as the result of opposition to a British mandate giving the East India Company a monopoly and imposing a nominal tax on all tea sold in America would have set out to create a government with the power to force people to buy tea in the first place. If Congress can penalize a passive individual for failing to engage in commerce, the enumeration of powers in the Constitution would have been in vain for it would be 'difficult to perceive any limitation on federal power,' and we would have a Constitution in name only."

There is much more to the ruling. The Washington, D.C.-based Cato Institute has a good analysis and a broader selection from it. It's available online at tinyurl.com/CatoVinson.

The entire 78-page ruling is worth reading at tinyurl.com/HeraldVinson. Anyone interested in government, law or American history will find it fascinating.

Meanwhile, what does it all mean for Utah? The Beehive State was one of the plaintiffs in the Florida case. Attorney General Mark Shurtleff recently testified before the U.S. Senate Judiciary Committee that "as Utah Attorney General, it is my legal opinion that, absent a stay of Judge Vinson's order, Utah and the other plaintiff states need not comply with any other mandate contained within the Affordable Care Act."

He's right. Judge Vinson noted the precedent that in such cases no injunction is needed because it is "presumed that federal officers will adhere to the law as declared by the court." His order is the equivalent of an injunction, and Utah is bound to follow it.

State officials in Wisconsin and Florida have already announced that their states will cease ObamaCare activities. Others are likely to follow.

Stay tuned for Act III in the Supreme Court of the United States.