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The Arena

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Driving the Conversation:

On health care law, who's the judicial activist?

Roger Pilon Vice President for Legal Affairs, Cato Institute :

Obama is losing it. How else to explain his contention that the Court's overturning ObamaCare would be "unprecedented" – except if it's meant to be a craven political posture by a man who can read the polls on the subject. The Supreme Court has been overturning congressional acts from its inception. Its job is to ensure that Congress and the president act within their constitutional bounds, not to rubber-stamp whatever they do. That's not "judicial activism." It's upholding the law.

When Obama adds that it's important "to remind people that this is not an abstract argument" and that "**people's lives are affected by the lack of availability of health care** (sic)," he only compounds the problem by encouraging the public to believe that that is a constitutionally relevant consideration.

The irony in this posturing by Obama and others on the Left is rich, of course. They're the ones who've promoted genuine judicial activism for 75 years – first urging the Court to find powers nowhere granted, then to find rights nowhere held or recognized. And now, when the Court looks at last like it may be taking the Constitution seriously, they scream "judicial activism"?! Please.