



A Chance for the Court to Rein In Federal Power

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As we eagerly await the Supreme Court's decision on the constitutionality of the Patient Protection and Affordable Care Act, a.k.a. Obamacare, expected shortly after 10 a.m. Thursday morning, much of the political Left remains mystified by the health-care law's continued unpopularity.

According to an Associated Press/GfK poll released last week, 47 percent of Americans oppose the health-care law, while just 33 percent support it. Similarly, a Rasmussen presidential-election poll released just this week found that 54 percent of likely voters want the law repealed. And even more devastating, a New York Times/CBS News poll, which traditionally skews Democratic, found that fully two-thirds of Americans wanted either the individual mandate or the entire law to be found unconstitutional.

In the face of this ongoing opposition, the media has trotted out the usual excuses. First, the public doesn't understand all the good things the health-care bill will supposedly do for them. As Chris Cillizza said on MSNBC, "People don't know what they want." They point to surveys showing that Americans express confusion about what the law would or would not do. Other surveys show that some benefits of the law, such as allowing children to stay on their parents' policy until age 26 or guaranteeing coverage for individuals with preexisting conditions, are quite popular, even if the overall bill is not.

Thus, the Left continues to cling to the idea that the health-care law will eventually become popular once the public figures it all out. True, they originally thought that the bill would "become more popular after passage than it was before passage," as Ezra Klein suggested. Then, they thought that it would become popular once some of the reforms took effect. "I think that health care, over time, is going to become more popular," David Axelrod told us. Now, bizarrely, Washington Post columnist E. J. Dionne claims that the bill will actually become more popular if the Court strikes it down.

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Of course, focusing on just television advertising ignores the many other avenues that supporters have used to sell their message, such as HHS mailings to seniors. There is also the virtually unending stream of pro-Obamacare stories in the mainstream media. And, there

was the president himself, who has given at least 144 speeches, talks, or press conferences devoted to the bill.

This is roughly the same argument that liberals fell back on after they failed to recall Wisconsin governor Scott Walker. Their message didn't lose on the merits; it was defeated unfairly by evil corporate interests who pulled the wool over voters' eyes. (Ignore the fact that big corporate interests such as the pharmaceutical industry were recruited by the Obama administration to support the health-care bill.) If the Court tosses out all or part of the health-care law, expect to hear the same litany of villains: Citizens United, the Koch brothers, Karl Rove . . .

But the American people aren't really dumb. And they haven't been deluded by 30-second television ads.

Of course, Americans respond positively to parts of the law that appear to give them more benefits or that help the disadvantaged, especially when those provisions are presented to them as nearly cost-free. But Americans are also aware of the bill's many failings: It increases federal spending, taxes, and debt. It adds new burdens to struggling businesses, making it harder for them to grow and hire new workers. It drives up the cost of health insurance, especially for the young and healthy, while putting in place structures that will almost inevitably lead to the rationing of care.

The average American adds up the costs and benefits and decides that, on the whole, they don't want the law. It's not bad marketing; it's bad law.

But there is a much deeper reason why so many Americans reject Obamacare. They see it as an enormous expansion of federal power, contrary to the Constitution, American historical tradition, and their own innate dislike of big government. There is a reason why the individual mandate is the most unpopular aspect of the law.

If the Court upholds the government's power to force you to buy health insurance, is there any limit to this power? Is there anything the government can't require you to do? That is why the analogy of a "broccoli mandate," while pooh-pooed by liberal legal experts, struck such a chord. It's not that the public expects the broccoli police to appear on their doorstep anytime soon, but they understand that unrestrained and unlimited government power is a thing to be feared. Indeed, Gallup has found that nearly two-thirds of Americans believe that big government is the biggest threat to the future of this country, far more than either big business (26 percent) or big labor (8 percent).

That's a dimension of the American character missed by those on the left who see government as nothing more than a benevolent force that goes about dispensing goodies and righting wrongs. The essence of the Obama administration is about the accumulation of government power, first by the federal government itself, and secondarily by the president himself. This desire for power explains not only the president's policies but also his distaste for the democratic process, particularly when it stands in the way of his doing what he thinks must be done.

In a way, the health-care bill is typical of the entire Obama presidency. It asserts the power of government over individuals, and the power of the federal government over the states.

That is why Thursday's Supreme Court decision is about far more than just one bad health-care law. If the bill — or at least the individual mandate — is struck down, the Court will have said that the power of government over our lives is not unlimited. There are some lines that government cannot cross, even when well-intentioned.

That would be a decision that the American people will cheer.

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