

Freedom's Best Day

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Judges Hammer ObamaCare

Taking stock of ObamaCare, and the challenges thereto — particularly oral arguments in the appellate phase of a lawsuit brought by 26 states — the Cato Institute's [Ilya Shapiro](#) called Wednesday "the best day yet for individual freedom." Mr. Shapiro did not engage in hyperbole.

A three-judge panel of the [11th Circuit Court of Appeals](#) was none too shy in probing the limits of federal power over the lives of Americans. Cutting to the heart of the matter, [Chief Judge Joel Dubina](#) asked, "If we uphold the individual mandate [requiring all Americans to purchase health insurance], are there any limits on congressional power?"

There, in a nutshell, is the issue surrounding ObamaCare. Acting U.S. Solicitor General Neal Katyal could talk all he wanted — and he did — on the duty of Congress to regulate commerce if said commerce (purchase of health care) exerts a substantive effect on the national economy. But even that, rock-bottom as it seems, is not the issue.

Rather the issue is freedom — and what effect the sweeping ObamaCare law, with its individual mandate, has on that foundational commodity. In other words, if Congress can make an American citizen do something — in this case, buy health insurance — simply as a matter of living and breathing, then is there anything Congress can't do? The answer is "No."

That's what has Americans steamed up about this law. As Mr. Shapiro, [echoing the three judges](#), observed, "[N]ever in history has Congress tried to compel people to engage in commerce as a means of regulating commerce." Not only does this represent a huge stretch in interpreting the Constitution, but also, on an even deeper level (if that's possible), runs contrary to this nation's origins, its reason for being.

Thus, no matter what Vice President Joe Biden might have said, this is a "big deal" — and not because, [to quote Mr. Shapiro](#), "we're dealing with a huge reorganization of the health care industry, but because our most fundamental first principle is at stake: We limit government power so people can live their lives the way they want."

Thus, as the writer [aptly added](#), this "legal process" is no mere "academic exercise" to determine the limits of the Commerce Clause, or even an examination of this nation's commitment to federalism. No, he says, all such rhetorical endeavors, worthy as they seem, "are just means to achieve the goal of maximizing human freedom and flourishing. Indeed, that is the very reason the government exists in the first place."

Precisely, and that's why the judges' persistent questioning offers reason for hope. For, as Mr. Shapiro concluded, "[W]hile we should never read too much into an oral argument, I'm more optimistic about this case now than any other."

So are we, because the judges looked at all the thorny issues and reduced them to a bare essence. Not health care so much as freedom. It was a good day for the latter.