



Why Did the Founding Fathers Bother with a List of Enumerated Powers if not to Prevent Obamacare?

[Daniel J. Mitchell](#)

I think Obamacare is bad policy because it exacerbates the [main problem with the current healthcare system](#), which is [third-party payer](#). And as a public finance economist, I'm obviously not happy about [the new taxes and additional spending in Obamacare](#).

But those issues are temporarily on the back burner now that the Supreme Court is deciding whether the underlying law is constitutional.

I'm not a lawyer. I don't even play one on TV. But I can read, and when I look at [Article 1, Section 8, of the Constitution](#), I don't see that Congress has the power to coerce me into buying a health insurance policy. Heck, I don't see any role for the federal government in healthcare.

The statistis say that the commerce clause ("To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes") is a blank check for federal intervention, but that's a bastardization of the original meaning and purpose of that passage, which was inserted to prevent states from imposing protectionist barriers.

What matters, though, is how the nine Justices on the Supreme Court interpret that passage. Here's some of [Philip Klein's analysis for the Washington Examiner](#).

...the outcome of the case, and fate of the president's most significant legislative achievement, will likely hinge on how the court views the Commerce Clause. One of the most widely debated parts of the Constitution, the Commerce Clause grants Congress the power "to regulate commerce with foreign nations, and among the several states." And as the size and scope of the federal government has grown throughout the nation's history, the Supreme Court has grappled with how broadly or narrowly to interpret the phrase. ...If the court allows the mandate to stand, opponents claim, it would effectively give the federal government unlimited power to regulate individual behavior.

And here's some of what [Damon Root penned for Reason](#).