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Pro-Con | Is it constitutional to require Americans to buy health insurance?

YES

Does Congress have constitutional power to require Americans to carry health insurance? Undoubtedly yes.

According to many Supreme Court rulings, Congress has broad power to enact programs to deal with economic issues of national magnitude. Health care surely rises to that level. Consuming more than 17 percent of the economy and rising, health-care costs create human tragedies and the potential for national economic disaster.

The power of Congress to deal with the issue comprehensively is grounded in seven decades of Supreme Court decisions.

Congress already mandates a major health insurance program: Medicare. Americans effectively prepay their retirement health insurance through taxes. Taxpayers also must contribute to Social Security, and those funds pay for both retirement benefits and relief to the disabled.

In concept, the insurance mandates before Congress are nothing different from lowering the age of Medicare eligibility to birth, paid for by taxes.

Stewart Jay, University of Washington law professor

NO

Obamacare flunks the first test of any potential federal law: It is not constitutional. Congress lacks the power to force Americans to buy anything, especially health insurance they wisely or foolishly may not want.

Congress' legitimate power to regulate interstate commerce has been stretched like saltwater taffy. "It is one thing, however, for Congress to regulate economic activity in which individuals choose to engage; it is another to require that individuals engage in such activity," Sen. Orrin Hatch, the Utah Republican, observed in a Wall Street Journal piece.

Robert Lewy, senior fellow for constitutional studies at the Cato Institute, said, "Without precedent, Congress is attempting to punish the non-purchase of a private product. That would be an intolerable affront to the Constitution and personal autonomy."

One of the most compelling arguments against Obamacare is that it is self-defeatingly unconstitutional. That is yet another reason why this menacing monster must be silenced.

Deroy Murdock, NationalReview.com