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## EDITORIAL: Unlimited power

### Liberal justices: Congress can do anything

Ironically, in a week when Kentucky U.S. Senate candidate Rand Paul seemed to capture a national small-government groundswell, declaring that Tea Party activists are "unhappy" with the status quo and want to see a government "once again restrained by the Constitution," the U.S. Supreme Court took a contrary step described by Roger Pilon, vice president of the libertarian Cato Institute, as "a breathtaking expansion of federal power."

The justices, voting 7-2, upheld a law allowing federal authorities to indefinitely imprison inmates considered "sexually dangerous."

The high court 13 years ago approved state laws allowing dangerous sexual offenders to be held beyond the expiration of their prison sentences. But the federal government's police, court and prison powers were once believed to be restricted to uniquely federal crimes -- counterfeiting, piracy, treason and the like -- while the handling of local crime was deemed the exclusive domain of the states.

No more.

In the ruling, authored by Justice Stephen Breyer, the court essentially threw the 10th Amendment -- the founding doctrine that there are areas of jurisdiction reserved exclusively to the states -- right out the window.

The Constitution may not specifically authorize Congress to create crimes or set up prisons, Justice Breyer reasons. But it does empower Congress to regulate interstate commerce. The Congress can therefore create "drug crimes," since said drugs move in interstate commerce. And -- given that the "choice of means" to carry out its responsibilities are left "primarily ... to the judgment of Congress" -- Congress can also erect federal prisons, send criminals there, and hold them there indefinitely if they're judged to be dangerous.

Wow. It's no longer merely rhetorical to ask if there's anything the federal government can't empower itself to do.

Such a ruling "could pave the way for the court to find that Congress has the power, with Obamacare, to order individuals to buy health insurance from private vendors," Mr. Pilon told the Los Angeles Times.

Pathetically, only Justices Clarence Thomas and Antonin Scalia insisted that Congress has only those "powers enumerated in the Constitution."

But beyond the implications of the majority's absurd rationale for a charter of unlimited government, there's also a localized concern: Once a defendant has paid his debt to society, it's a dangerous precedent to allow any branch of government to refuse him release.

If the voters do indeed speak strongly for limited government between now and November, then hosing out from the high court's Augean stables this gang of facilitators for unlimited power has to rank high on the national agenda.

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