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DOES THE “GENERAL WELFARE CLAUSE” OF THE U.S CONSTITUTION AUTHORIZE CONGRESS TO FORCE US TO BUY HEALTH INSURANCE?


 Written by: [Leon Moe](#)

Defending The Constitution From It's Domestic Enemies.

By Publius Huldah

CNSNews.com recently posted an article, “Hoyer Says Constitution’s ‘General Welfare’ Clause Empowers Congress to Order Americans to Buy Health Insurance”. In the article, [Steny Hoyer](#) (Democrat House Majority Leader) said Congress has “broad authority” to force Americans to purchase health insurance, so long as it was trying to promote “the general welfare”.

Oh my! Does Steny Hoyer not know that his view was thoroughly examined and soundly rejected by our Founders?

The Truth is that Congress is NOT authorized to pass laws just because a majority in Congress say the laws promote the “general welfare”! As shown below, James Madison, Father of The Constitution, and Alexander Hamilton, author of most of The Federalist Papers, expressly said The Constitution does *not* give a general grant of legislative authority to Congress! Rather, ours is a Constitution of [enumerated powers](#) only. If a power isn’t specifically granted to Congress in The Constitution, Congress doesn’t have the power. It really is that easy – and our beloved Madison and Hamilton prove it.

1. Let us look at the so-called “general welfare” clause: Article I, Sec.8, clause 1, U.S. Constitution, says:

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States...

Immediately thereafter, follows an enumeration of some 15 specific powers which are delegated to Congress. If you will spend 20 minutes carefully reading through the entire Constitution and highlighting the powers delegated to Congress, you will find (depending upon how you count) that only some 21 specific powers were delegated to Congress. This is what is meant when it is said that ours is a Constitution of *enumerated powers*!

2. But Steny Hoyer and his gang of statist claim that the “general welfare” clause is a blank check which gives them power to pass any law *they want* which *they* say promotes the “general welfare”. Further, they claim the power to **FORCE their** view of such on us.

3. Let us analyze this. Since words change meaning throughout time [200 years ago, “nice” meant “precise”], we must learn what the word, “welfare”, meant when the Constitution was ratified. “Welfare”, as used in Art. 1, Sec. 8, clause 1, meant:

Exemption from any unusual evil or calamity; the enjoyment of peace and prosperity, or the ordinary blessings of society and civil govern-ment (Webster’s American Dictionary of the

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English Language, 1828).

But The American Heritage Dictionary of the English Language (1969), gave a new meaning: “Public relief – on welfare. Dependent on public relief”. Do you see how our Constitution is perverted when 20th century meanings are substituted for original meanings? Or when the words of The Constitution are treated as if they have no meaning at all except that which the statist assign to them?

4. Both Madison and Hamilton squarely addressed and expressly rejected the notion that the “general welfare” clause constitutes a general grant of power to Congress. In [Federalist No. 41](#) (last 4 paras), Madison denounced as an “absurd” “misconstruction” the notion that

...the power “to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defense and general welfare of the United States,” amounts to an unlimited commission to exercise every power which may be alleged to be necessary for the common defense or general welfare....

In refuting this “misconstruction”, Madison pointed out that the first paragraph of Art. I, Sec. 8 employs “general terms” which are “immediately” followed by the “enumeration of particular powers” which “explain and qualify”, by a “recital of particulars”, the general terms. Madison also said:

...Nothing is more natural nor common than first to use a general phrase, and then to explain and qualify it by a recital of particulars. But the idea of an enumeration of particulars which neither explain nor qualify the general meaning, and can have no other effect than to confound and mislead, is an absurdity...

Madison was emphatic: He said it was “error” to focus on the “general expressions” and disregard “the specifications which ascertain and limit their import”; and to argue that the general expression provides “an unlimited power” to provide for “the common defense and general welfare”, is “an absurdity”.

In [Federalist No. 83](#) (7th para), Hamilton said:

...The plan of the [constitutional] convention declares that the power of Congress...shall extend to certain enumerated cases. This specification of particulars evidently excludes all pretension to a general legislative authority, because an affirmative grant of special powers would be absurd, as well as useless, if a general authority was intended... [italics added]

5. So! It is clear from Madison and Hamilton that The Constitution does not bestow any general or unlimited grant of legislative power to Congress! And what else did Madison and Hamilton say about the “enumerated” powers of the federal government? In [Federalist No. 45](#) (9th para), Madison said:

The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people... [emphasis added]

Madison said it again in [Federalist No. 39](#) (3rd para from end):

...the proposed government cannot be deemed a national one; since its jurisdiction extends to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects....” [emphasis added]

In [Federalist No. 14](#) (8th para), Madison said:

... the general [federal] government is not to be charged with the whole power of making and administering laws. Its jurisdiction is limited to certain enumerated objects... [emphasis added]

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In [Federalist No. 27](#) (last para), Hamilton said:

...It merits particular attention in this place, that the laws of the Confederacy [the federal government], as to the ENUMERATED and LEGITIMATE objects of its jurisdiction, will become the SUPREME LAW of the land... Thus the legislatures, courts, and magistrates, of the respective members, will be incorporated into the operations of the national government AS FAR AS ITS JUST AND CONSTITUTIONAL AUTHORITY EXTENDS...[caps in original]

6. Now, let's look at the 10th Amendment:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Now, we can understand the true meaning of the "general welfare" clause: **OUR FOUNDERS UNDERSTOOD that the "general Welfare", i.e., the enjoyment of peace and prosperity, and the enjoyment of the ordinary blessings of society and civil government, was possible *only* with a civil government which was strictly limited and restricted in what it was given power to do!**

7. So! How did we get to the point where the federal government claims the power to regulate every aspect of our lives, including **forcing** us to buy health insurance? Consider Prohibition: During **1919, everyone understood that the Constitution did not give Congress authority to simply "pass a law" banning alcoholic beverages!** So the Constitution was amended to prohibit alcoholic beverages, and to authorize Congress to make laws to enforce the prohibition (18th Amdt.).

But with Franklin D. Roosevelt (FDR), the federal government abandoned our Constitution: FDR proposed "New Deal" schemes; Congress passed them. At first, the Supreme Court opined (generally 5 to 4) that "New Deal" programs were unconstitutional as outside the powers granted to Congress. But when FDR threatened to "pack the court" by adding judges who would do his bidding, one judge flipped to the liberal side, and the Court started approving New Deal programs (generally 5 to 4).

Since then, law schools don't teach the Constitution. Instead, they teach Supreme Court opinions which purport to explain why Congress has the power to regulate anything it pleases. The law schools thus produced generations of constitutionally illiterate lawyers and judges who have been wrongly taught that the "general welfare" clause, along with the "interstate commerce" and the "necessary and proper" clauses, permit Congress to do whatever it wants!

[Roger Pilon](#) of the Cato Institute *nailed* it in his recent post on Politico.com:

Is it unconstitutional for Congress to mandate that individuals buy health insurance or be taxed if they don't? Absolutely – if we lived under the Constitution. But we don't. Today we live under something called "constitutional law" – an accumulation of 220 years of Supreme Court opinions – and that "law" reflects the Constitution only occasionally.

Now you see how the statist justifies the totalitarian dictatorship they are attempting to foist upon the American People. The statist and the brainwashed products of our law schools *go by* U.S. Supreme Court opinions which **reject** Our Constitution! (But Publius Huldah goes by *The Constitution as explained by The Federalist Papers*).

8. But is the Supreme Court the ultimate authority on the meaning of our Constitution? **NO!** Hamilton said **the people are "the natural guardians of the Constitution"**, and he called upon **us** to become "enlightened enough to distinguish between a legal exercise and an illegal usurpation of authority." ([Federalist No.16](#), next to last para). Madison (or Hamilton) said that breaches of our Constitution can be corrected by "...**the people themselves, who, as the grantors of the commission [The Constitution], can alone declare its true meaning, and enforce its observance**" ([Federalist No. 49](#), 3rd Para).

Folks! Your duty is clear: Study The Declaration of Independence, The Constitution, and The Federalist Papers. Live up to the expectations of Hamilton and Madison; and throw off the chains which the usurpers are forging for you and Our Posterity.

Find more from this author at: <http://publiushuldah.wordpress.com/>

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EDITOR'S NOTE: The views expressed in the above post are those of the individual author only. The article is presented here to foster discussion, and does not necessarily represent the views or positions of the national [Tenth Amendment Center](#).

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