

Is ObamaCare “Necessary and Proper?”

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In a recent edition of the Cato Daily Podcast Ilya Shapiro considered the [legal challenges to the constitutionality of ObamaCare](#).

Shapiro expects that various lawsuits worth their way through federal courts, the U.S. Supreme Court will issue a ruling in June of 2012. He expects the individual mandate will be struck down, and repeats the saying that the decision will come down to what Justice Anthony Kennedy would have for breakfast on the day the opinion is decision. He also comments that the Cato Institute says the law can be attacked on “necessary and proper clause” grounds. In short, the government claims that the individual mandate is a “necessary and proper” component of regulating insurance. The government is, however, “creating its own necessity,” says Shapiro, and is not taking a “proper” action.

Article I of the U.S. Constitution grants Congress power “to make all laws which shall be necessary and proper for carrying into execution the foregoing powers.”

Meanwhile, the [New York Times](#), offers a far-too-brief review of the legal scene, saying the clause “is taking on greater prominence in briefs and oral arguments” offered up by opponents and defenders of the law.

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