Patient Protection and Affordable Care Act / Act is unconstitutional

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Position: Act is unconstitutional

This position addresses the topic Patient Protection and Affordable Care Act.

For this position

> A 2,700-page law is not a "law" by any civilized understanding of the term. Law rests on the principle of equality before it. When a bill is 2,700 pages, there's no equality: Instead, there's a hierarchy of privilege microregulated by an unelected, unaccountable, unconstrained, unknown and unnumbered bureaucracy. It's not just that the legislators who legislate it don't know what's in it, nor that the citizens on the receiving end can ever hope to understand it, but that even the nation's most eminent judges acknowledge that it is beyond individual human comprehension.

From Just reading Obamacare cruel and unusual punishment, by Mark Steyn (*The Orange County Register*, March 30, 2012) (view)

> The Obama administration argues, in essence, that a clause in that document -- the "interstate commerce" clause -- is a Trojan horse the authors included so Congress could someday invalidate everything else in the document to seize plenary power. On no level does such an argument make sense. Not legally. Not logically. Not historically. If the founders had intended the federal government to do "most anything" in this country, they would have written something vastly different from our Constitution. And the product of that writing exercise would never have been ratified.

From Obamacare proves hard to defend, by Kevin O'Brien (*The Plain Dealer*, March 29, 2012) (view)

> The government is mandating that everyone buy health insurance specifically, but by this reasoning any economic or personal decisions that touch on health care could be used as a pretext for federal police powers. People who lead healthy lives consume fewer medical services than others, so the government could mandate exercise, a healthy diet, and more. This is power without limit, which is not what the Constitution provides, or what its framers intended, or what the Supreme Court has ever tolerated.

From The ObamaCare Reckoning, by The Wall Street Journal editorial board (*The Wall Street Journal*, March 28, 2012) (view)

> No doubt people who are tired or drowsy are more likely to run through a red light than people who are rested and alert. But does that mean local governments should have the power to order people when to go to bed and get up, because their tiredness can have an effect on the likelihood of their driving through a red light? The power to regulate indirect effects is not a slippery slope. It is the disastrous loss of freedom that lies at the bottom of a slippery slope.

From Obscure Court Decision Gives Government Sweeping Power, by Thomas Sowell (*Investor's Business Daily*, March 26, 2012) (view)

> The federal government has the power to regulate commerce among the states, but that power neither includes nor implies the authority to force individuals to purchase particular products. If it is read to include or imply that authority, then it must surely follow that the federal government may institute a compulsory calisthenic program for all Americans. The administration argues that an individual's decision not to purchase health insurance has an effect, however minute, on health markets nationally, and that such decisions when aggregated have a large effect. But of course the same is true of individuals' decisions to remain sedentary or eat too many sweets.

From The Constitution vs. Obamacare, by National Review editorial board (*National Review*, March 26, 2012) (view)

> The brief, the primary authors of which are the IJ's Elizabeth Price Foley and Steve Simpson, says that Obamacare is the first time Congress has used its power to regulate commerce to produce a law "from which there is no escape." And "coercing commercial transactions" — compelling individuals to sign contracts with insurance companies — "is antithetical to the foundational principle of mutual assent that permeated the common law of contracts at the time of the founding and continues to do so today."

From Obamacare's contract problem, by George F. Will (*The Washington Post*, March 23, 2012) (view)

> Today, it's the Catholic Church whose free-exercise powers are under assault from this cascade of diktats sanctioned by — indeed required by — Obamacare. Tomorrow it will be the turn of other institutions of civil society that dare stand between unfettered state and atomized citizen. Rarely has one law so exemplified the worst of the Leviathan state — grotesque cost, questionable constitutionality and arbitrary bureaucratic coerciveness.

From Obamacare: The reckoning, by Charles Krauthammer (*The Washington Post*, March 22, 2012) (view)

> This is another way of describing plenary police powers—regulations of private behavior to advance public order and welfare. The problem is that with two explicit exceptions (military conscription and jury duty) the Constitution withholds such power from a central government and vests that authority in the states. It is a black-letter axiom: Congress and the President can make rules for actions and objects; states can make rules for citizens.

From Liberty and ObamaCare, by The Wall Street Journal editorial board (*The Wall Street Journal*, March 22, 2012) (view)

> Small businesses will bear the brunt of a health insurance tax totaling $90 billion from 2014 to 2020, and $200 billion to $300 billion from 2021 to 2030. Big businesses, labor unions and governments are exempt. Because companies with more than 50 workers will be required to provide coverage, the law's employer mandate effectively tells small businesses, "Do not hire more than 49 employees."

From Mandate ends vital freedoms, by Dan Danner (*USA Today*, June 28, 2012) (view)

> Attempts to rein in government spending are laudable, but basic decisions about how and where to cut spending properly belong to Congress. In the 225 years of constitutional history, there has been no government entity that violated the separation-of-powers principle like the Independent Payment Advisory Board does.

From An ObamaCare Board Answerable to No One, by David Rivkin, Elizabeth Foley (*The Wall Street Journal*, June 20, 2013) (view)

Against this position

> Just as ironic, perhaps, was that all of the justices and lawyers taking part in this week's oral arguments seemed to agree that a tax could be levied on everyone to set up a single-payer, national health system. Yet somehow critics argue that a health reform law that maintains and builds on our private insurance system is unconstitutional.

From New health care law should be preserved, by Sander Levin (*The Detroit News*, March 30, 2012) (view)

> Of course, the Supreme Court could reverse decades of its own jurisprudence and fundamentally redefine and limit the power of Congress to regulate interstate commerce. But conservatives should be careful what they wish for. The commerce clause was a response to the chaotic and often conflicting state regulations that hobbled the nation under the Articles of Confederation. Its interpretation over the ensuing two centuries has wisely reflected the growing nationalization and globalization of economic activity and, by doing so, has promoted economic growth.

From Broccoli Mandates and the Commerce Clause, by James B. Stewart (*The New York Times*, March 30, 2012) (view)

> Justice Antonin Scalia compared the purchase of health insurance to the purchase of broccoli, with the implication that if the government can compel you to do the former, it can also compel you to do the latter. That comparison horrified health care experts all across America because health insurance is nothing like broccoli. Why? When people choose not to buy broccoli, they don’t make broccoli unavailable to those who want it. But when people don’t buy health insurance until they get sick — which is what happens in the absence of a mandate — the resulting worsening of the risk pool makes insurance more expensive, and often unaffordable, for those who remain.

From Broccoli and Bad Faith, by Paul Krugman (*The New York Times*, March 30, 2012) (view)

> When it comes to violence against women or guns in schools, states arguably have the will and the resources to respond to these problems. But when it comes to providing insurance guarantees for the uninsured, any state would be worse off if it tried to solve the problem on its own, because it would end up attracting uninsured people from other states seeking to take advantage of its benefits. Because states know this in advance, most don't even try to solve the fundamental problems of health care coverage.

From One Simple Argument Could Have Saved Obamacare. Too Bad Verrilli Didn't Make It., by Jeffrey Rosen (*The New Republic,* March 30, 2012) (view)

> Given those realities, to uphold this law would not give Congress unfettered power to require us to eat granola, purchase electric cars or join health clubs. Participation in the markets for those products is not inevitable, nor does one person's choice not to purchase such products impose substantial and foreseeable costs on others because he will be able to get the product for free even if he doesn't buy it. Upholding the individual mandate would simply establish that where a national market is the victim of such a free-rider problem, Congress may address it as part of its general authority to regulate that market.

From Obamacare: Not Dead Yet, by David Cole (*The Nation*, March 28, 2012) (view)

> On Wednesday, Chief Justice John Roberts sounded like the House whip in discussing whether parts of the law could stand if other parts fell. He noted that without various provisions, Congress "wouldn't have been able to put together, cobble together, the votes to get it through." Tell me again, was this a courtroom or a lobbyist's office? It fell to the court's liberals — the so-called "judicial activists," remember? — to remind their conservative brethren that legislative power is supposed to rest in our government's elected branches.

From Judicial activists in the Supreme Court, by E. J. Dionne (*The Washington Post,* March 28, 2012) (view)

> Yet [the Supreme Court] has upheld Congress's Commerce Clause power to reach individuals who were not obviously involved in commercial activity — most famously, the Depression-era farmer who grew wheat for his own consumption. The court concluded that his decision to grow — rather than purchase — wheat interfered with the government's ability to regulate wheat prices. The same logic should hold true for individuals able but unwilling to buy health insurance: Their absence has a significant impact on the market, especially because it is virtually inevitable that they will need health-care services at some point in their lives.

From Why the individual mandate holds the key to health-care reform, by The Washington Post editorial board (*The Washington Post,* March 26, 2012) (view)

> Besides undermining a comprehensive health care plan that emerged from decades of political debate and negotiation, a ruling that the Affordable Care Act is unconstitutional would require the court to overturn or radically alter legal precedents dating to the early 1800s. The resulting upheaval would invite constitutional challenges to everything from the Environmental Protection Agency to the federal laws guaranteeing occupational safety, food and drug purity, and minority voting rights.

From Uphold affordable health care, by Detroit Free Press editorial board (*Detroit Free Press*, March 25, 2012) (view)

> Congress plainly can tax for the purpose of providing health insurance. It does so already, through Medicare and Medicaid. Had it simply expanded these programs to provide universal care, there would be no question that its actions would be permissible under the taxing power. Similarly, it indisputably could have granted tax credits to those who purchase health care, and withheld them from those who do not. Imposing the tax directly on free riders is no less an exercise of the taxing power.

From Is Health Care Reform Unconstitutional?, by David Cole (*New York Review of Books*, January 29, 2011) (view)

> Since we never know when we might need emergency services, [Roberts] hypothesized, could Congress mandate that everyone buy and carry cellphones? I don't know the answer to that question. But I do know this: Congress can force each of us to buy a gun. The Second Militia Act of 1792, signed by George Washington, required every able-bodied (white) male between the ages of 18 and 45 to purchase a musket and ammunition. It's clear the people who wrote the Constitution thought Congress had the power to compel citizens to purchase certain goods to advance an important national interest.

From Five Supreme Court Justices Put Our Health Care On The Line, by Paul Begala (*The Daily Beast*, April 2, 2012) (view)

> The typical family pays more than $1,000 a year in higher premiums to pay for someone else's care.
> Requiring young, healthy consumers to obtain health insurance -- just as motorists must buy auto insurance and some homeowners must buy flood insurance -- fairly spreads the risk. Sooner or later, they will need health care, and should be expected to pay for it. Personal irresponsibility is not a constitutional right.

From Keep ObamaCare, by Toledo Blade editorial board (*Toledo Blade*, April 1, 2012) (view)

Mixed on this position

No results