

The ACA Decision

1. The individual mandate is unconstitutional under the Commerce Clause! Commerce does not give Congress the power to force people to engage in commerce.
2. Nevertheless, it IS Constitutional as a “tax” on people who do not purchase health insurance under Congress Article I, Section 8, Clause 1 power to tax and spend for the general welfare.
3. Still, the Supreme Court did strike down the part forcing all states to opt into the ACA or lose all federal Medicaid funding on federalism grounds (like New York v. United States and the Printz case discussed back in class 1).

The DISSENT would have ruled:

1. The individual mandate is unconstitutional
2. The ACA is non-severable and so the whole ACA would have been thrown out!

The Dormant Commerce Clause

- This involves preventing states from interfering with interstate commerce, not with allowing federal power over interstate commerce

3 rules:

1) Pre-emption:

If Congress has regulated a field so extensively that it demonstrates an intent to “occupy the entire field,” the states cannot regulate the field (much wider than the supremacy clause)

2) Where the state law affects interstate commerce but does not discriminate against out-of-staters, the regulation is okay if:

- a) rationally related to a legitimate state concern and
- b) the burden on interstate commerce is outweighed by the state’s benefit.

The Dormant Commerce Clause (cont.)

3) Where state law discriminates against out of staters, the state law will be struck down UNLESS:

- the state law is **necessary** to achieve an important state goal; also the means used by the state must be the only or best way to achieve that goal
- the state is acting as a “market participant”
- the state has Congress’ authorization for the discriminatory regulation

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QUIZ TIME!

Article I Section 8 sources of power (cont.)

1. 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.
2. To borrow money on the credit of the United States
3. Coin money and to regulate the value thereof
4. Establish post offices and post roads
5. To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;
6. To Constitute lower federal courts

Article I Section 8 sources of power

1. To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations; To borrow money on the credit of the United States
2. To raise and support armies (and a navy)
3. To govern the District of Columbia

The "Necessary and Proper Clause"

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Enforcement Clauses of the Amendments

13th Amendment

No slavery (and no “badges” of slavery)

14th Amendment

Equal Protection and Due Process

15th Amendment

No denying the right to vote based on race

19th Amendment

No denying the right to vote based on gender

24th Amendment

No denying the right to vote based on a poll tax

26th Amendment

No denying the right to vote based on age for those over 18