



Written by [Raven Clabough](#) on December 17, 2010

Judge Hints at Ruling Against Health Law

The [New York Times](#) reports, “In a three-hour hearing, the judge, Roger Vinson of Federal District Court, said the law’s requirement that most Americans obtain insurance, a provision that takes effect in 2014, would constitute ‘a giant expansion’ of the court’s traditional application of the Commerce Clause of the Constitution.”

The hearing was in response to requests for a summary judgment in a lawsuit launched by state attorneys general and governors from 20 states. The *NYT* explains that this particular lawsuit has “political weight” among the nearly two dozen challenges to the law because of the plaintiffs involved.



Judge Roger Vinson, a senior judge appointed by President Reagan, states, “People have always exercised the freedom to choose whether to buy or not buy a commercial product.” Plaintiffs assert that the individual mandate unconstitutionally requires citizens to purchase a commercial product, in this case health insurance. Of course, if the government can mandate that citizens must buy health insurance, then what is to stop government from mandating that we must buy anything else?

ObamaCare supporters argue that the Constitution’s Commerce Clause provides constitutional authority for the individual mandate. The clause states that Congress has the power to “regulate Commerce with foreign Nations, and among the several States, and with Indian Tribes.” This power was intended by the Founding Fathers to be negative in nature — that is, to prevent interference with the free flow of goods within the United States. It was not intended to empower government to manage the economy. As James Madison, known to history as the “Father of the Constitution,” [explained](#) in a 1829 letter: “It is very certain that [the Commerce Clause] grew out of the abuse of the power by the importing States in taxing the non-importing, and was intended as a negative and preventive provision against injustice among the States themselves, rather than as a power to be used for the positive purposes of the General Government.”

Over the years, federal courts have stretched the meaning of the Commerce Clause — but not to the point of telling the American people what commercial products they must buy.

Ian H. Gershengorn, deputy assistant attorney general who is defending the law, claims that the individual mandate is needed because without it medical costs may be shifted to others.

Those representing the state officials, however, contend that the individual mandate is simply unconstitutional. David Rivkin Jr. says the health law “would leave more constitutional devastation in its wake than any statute in our history.”

Similar sentiments were voiced by [Judge Henry E. Hudson](#) of Richmond, Virginia, who ruled on Monday that the health law provided the federal government with virtually unlimited authority.

Unlike Judge Hudson, however, Judge Vinson reportedly believes that the “entire health care law should



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fall if the insurance mandate is unconstitutional,” the *New York Times* writes.

According to the *Times*, “He said the act was analogous to a watch with interlocking and interdependent wheels.”

Judge Vinson remarked, “It’s also been compared to a Rube Goldberg invention.” He added that he would rule “as quickly as possible.”



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