



ObamaCare: An Introduction

On March 23, President Barack Obama signed into law the Patient Protection and Affordable Care Act. With his signature, the President obliterated the formerly inviolate barricades around state sovereignty, and significantly reduced the circumference of the choice of viable healthcare insurance options. In addition, by making the purchase of medical care insurance compulsory, he has forever changed the notion of the power of government to deprive citizens of their property without due process in violation of their unalienable and constitutional rights. That's quite an accomplishment even for a man as proudly audacious as Barack Obama.



The debates and the votes that preceded the enactment of the bill predictably cleaved along party lines. Republicans unanimously railed against the measure, while Democrats joined together in a chorus of hallelujahs, proclaiming a great victory for the poor and underrepresented.

In fairness, there were a few discordant voices to be heard in the majority party throng. There was Senator Ben Nelson (D-Neb.), a soi-disant immovable foe of federal abortion funding. Throughout the deliberations in the upper chamber, Senator Nelson reiterated his intractable determination to oppose any healthcare bill that didn't absolutely proscribe the use of federal dollars for subsidizing abortion. There was, he declared, no wiggle room on this issue.

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It only took \$100 million dollars to persuade Senator Nelson to suspend his virtuous objections to the various abortion-friendly loopholes yet extant in the healthcare bill. President Obama, Senator Harry Reid (D-Nev.), and their co-conspirators summoned Nelson to the Oval Office, gave him an intoxicating injection of personal attention, then amputated his principles and gave his him state a multiple-million dollar lollipop for being such a good boy.

Senator Nelson wasn't the only holdout to get a spoonful of federal sugar to help the socialized medicine go down. Louisiana Senator Mary Landrieu (D) professed her stern opposition to the legislative package and for her trouble she too was wined and dined by the coterie of Democratic closers and after a \$300 million deposit in Louisiana's Medicaid account, Landrieu fell into formation.

President Obama's last-minute largesse wasn't reserved only for fence-sitters, however. Senator Chris Dodd of Connecticut issued a press release lauding Section 10502(a) of the underlying bill for its funding of a new healthcare facility in his state. This provision allocated \$100 million for the construction of a healthcare facility affiliated with a qualifying academic health center at a public research university located in a state with only one public academic medical and dental school. One state met all those qualifications — Connecticut. Senator Dodd was appropriately effusive with his gratitude, "These provisions will bring millions of dollars to the state so that Connecticut's residents can receive quality, affordable, health care."



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The vague prospect of improved healthcare seems like a paltry exchange for one's freedom, but those are the days in which we live. Bland, populist legislative language is regularly interlaced within grander power grabs enlarging the realm of tyrants. 'Twas ever thus with government and ever thus will be. The receivers are demeaned in direct proportion to how the givers are unscrupulous.

The list of exemptions and compromises that broadened the breach through which the healthcare law passed is long and embarrassing for a nation that has for over two centuries been the palladium of limited republican government and personal liberty. We were once the shining city on the hill and now we are debased and rooting around in the socialist slop with the democratic nations of Europe.

Of all the aspects that will be examined in the forthcoming series of articles on the healthcare law, none is more inimical to the American system of government than the mandate that every American purchase a qualifying health insurance policy. Advocates of the mandate are master social engineers and they can frame an argument better than most of its opponents. They assert that the mandate represents nothing more odious than a perfectly legal and constitutionally sound exercise of Congress's Article 1 taxing power. That argument is baseless and will be refuted in an upcoming piece, but suffice it to say that there is nothing neither constitutional nor legal about this revolutionary revocation of liberty and expansion of congressional and executive power.

More apropos to the present overview is a brief exposition of exactly what the mandate is and what it does.

The legislative expression of the mandate is found in Section 1501 of the Patient Protection and Affordable Care Act (formally codified as Public Law Number 111-148). This section requires every individual legally present in the United States (more on the obvious exception for illegal aliens will be covered later in the series) to purchase a qualifying healthcare insurance policy as defined in Section 5000a(d) of the act. There are a few exceptions, but the act notably exempts those who qualify from paying the penalty for non-compliance, not from compliance itself!

Laughably, the existence of these few exemptions justifies proponents of the overhaul in rejecting the "mandate" label. To paraphrase the Bard, a mandate by any other name would still compel obedience. If an individual fails to comply with the mandates requirements, then the IRS is authorized to audit the offender, deduct the penalty from any tax refund, among other tools for "encouraging" compliance.

To claim, as many supporters have, that the mandate does not restrict the choice of whether or not one buys or does not buy a health insurance policy is facile. By the same logic, one could argue that a red light doesn't compel a driver to stop, but if he is caught, he is undeniably forced to pay the ticket. That is not my idea of a choice. It is, however, commensurate with the Insider's notion of liberty. It is the time-worn Hobson's Choice, one of the go-to gambits of those with designs on the freedom and sovereignty of the United States of America.

Finally, if the lawful exercise of taxing power strategy fails to win the day, the Establishment has its all-time leading scorer sitting on the bench — the Commerce Clause. Article 1, Section 8 of the Constitution empowers Congress to "regulate commerce with foreign nations, and among the several states...." The arguments of President Obama and his acolytes notwithstanding, the Supreme Court has held that there are limits on the scope of this power. In its decisions in the *Morrison* and *Lopez* cases, the Court found that the sphere of Congress's Commerce Clause power has boundaries. In those opinions, the Court declared that if Congress were permitted to regulate any activity it deemed even tangentially related to economic activity, then there would effectively be no limit on the power of the



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federal government.

There is, in light of *Lopez* and *Morrison*, a sliver of hope that the Supreme Court will check the legislative and executive branches in their unconstitutional expansion of their powers. In an earlier case (*Jones & Laughlin*, 301 US 37), for example, the Court held that any interpretation of the Commerce Clause of Article 1, Section 8 "must be considered in the light of our dual system of government and may not be extended as to embrace effects upon interstate commerce so indirect and remote that to embrace them, in view of our complex society, would effectually obliterate the distinction between what is national and what is local and create a completely centralized government."

And that is the ultimate aim of all this who proposed the underlying healthcare bills, of all those who colluded to manipulate pliable parliamentary procedures to subvert the legislative process, and of President Obama whose declared mission it is to change America and do so in an audacious manner. He has successfully recruited a brigade of fellow-travelers to his crusade and they are marching from victory to victory toward economic enslavement of the citizens of the United States and the pulverizing of our sacred Constitution under the grinding heel of absolutism.

Over the next few days, we will illuminate many of the ills afflicting this body of "reforms." Our primary goal, however, is not to add our voice to the chorus of the loyal opposition in crying "Lo, here!" and "Lo, there!" Rather we will keep our focus on the Constitution and the brutal manner in which the healthcare law and its many mandates have pried our founding document from the ancient and firm moorings of balanced, checked, enumerated powers and personal liberty under the law.

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