

Current Events and the Constitution: Health Care and the Supreme Court



Answer Key:

- 1) What are the facts in the case? What are the constitutional questions?

Twenty-six states are challenging the constitutionality of the Patient Protection and Affordable Healthcare Act. The Supreme Court is deciding on three major issues relating to the Act: 1) whether or not the Court can rule on a law that has not yet taken effect; 2) whether or not Congress overstepped its powers in enacting the law; 3) whether or not the law infringes upon the principles of federalism and state sovereignty.

- 2) What is the "Individual Mandate"?

The "Individual Mandate" requires that all citizens purchase health insurance by 2014 or pay a fine.

- 3) What is the Anti-Injunction Act of 1867? Should it apply to this case?

The Anti-Injunction Act states that courts cannot rule on tax laws that have not yet gone into effect. Students who accept the argument that the penalty for those who do not purchase insurance is a "tax" may say that the Act applies to this case. Students who do not accept this argument may say it does not apply.

- 4) What is federalism? Should it apply to this case?

Federalism is a system of dual sovereignty: the system of divided power between state governments and the federal government. Certain powers are delegated to the national government in the Constitution, and, as affirmed in the Tenth Amendment, those powers not delegated to the national government are retained by the states and the people. In this case, twenty-six states are arguing that the federal government is overstepping its powers.

- 5) What is the Commerce Clause? How does the Solicitor General, arguing in favor of the constitutionality of the law, say it should be interpreted to apply this case? How do the states argue it should be interpreted to apply to this case?

The Commerce Clause, in Article I, Section 8 of the Constitution, grants Congress the power "To regulate commerce with foreign nations, and among the several states, and with the Indian tribes." The solicitor general argues that citizens' decisions not to buy health insurance substantially affects interstate commerce by shifting costs to others, placing the market within Congress's domain to regulate. Further, the health care market is one which people often enter involuntarily. The states argue that not purchasing health insurance is not "interstate

commerce” and that if the federal government is one of enumerated powers, the law must be struck down.

6) Listen to the oral arguments. Which arguments do you find most persuasive, and why?

Accept reasoned answers

7) Why do you think people approve or disapprove of the Affordable Health Care Act?

Accept reasoned answers

8) Do you agree that the Supreme Court should not allow cameras in the courtroom? Why or why not?

Accept reasoned answers
