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# Opposition to Health Law Is Steeped in Tradition

By DAVID LEONHARDT

“We are against forcing all citizens, regardless of need, into a compulsory government program,” said one prominent critic of the new health care law. It is socialized medicine, he argued. If it stands, [he said](#), “one of these days, you and I are going to spend our sunset years telling our children, and our children’s children, what it once was like in America when men were free.”

The health care law in question was [Medicare](#), and the critic was [Ronald Reagan](#). He made the leap from actor to political activist, almost 50 years ago, in part by opposing government-run [health insurance](#) for the elderly.

Today, the supposed threat to free enterprise is a law that’s broader, if less radical, than Medicare: the bill Congress passed this year to create a system of privately run health insurance for everyone. On Monday, a federal judge ruled part of the law to be unconstitutional, and the [Supreme Court](#) will probably need to settle the matter in the end.

We’ve lived through a version of this story before, and not just with Medicare. Nearly every time this country has expanded its social safety net or tried to guarantee civil rights, passionate opposition has followed.

The opposition stems from the tension between two competing traditions in the American economy. One is the laissez-faire tradition that celebrates individuality and risk-taking. The other is the progressive tradition that says people have a right to a minimum standard of living — time off from work, education and the like.

Both traditions have been crucial to creating the most prosperous economy and the largest middle class the world has ever known. Laissez-faire conservatism has helped make the United States a nation of entrepreneurs, while progressivism has helped make prosperity a mass-market phenomenon.

Yet the two traditions have never quite reconciled themselves. In particular, conservatives have often viewed any expansion of government protections as a threat to capitalism.

The federal income tax, a senator from New York said a century ago, might mean the end of “our distinctively American experiment of individual freedom.” [Social Security](#) was actually a plan “to Sovietize America,” a previous head of the Chamber of Commerce [said in 1935](#). The minimum wage and mandated overtime pay were steps “in the direction of Communism, Bolshevism, fascism and Nazism,” the [National Association of Manufacturers charged in 1938](#).

After *Brown v. Board of Education* outlawed school segregation in 1954, 101 members of Congress [signed a statement](#) calling the ruling an instance of “naked judicial power” that would sow “chaos and confusion” and diminish American greatness. A decade later, The Wall Street Journal editorial board described civil rights marchers as “asking for trouble” and civil rights laws as being on “the outer edge of constitutionality, if not more.”

This year’s health care overhaul has now joined the list.

On the most basic level, the law will ensure that people can get health insurance, and thus medical care, even if they are not insured by their employer or their spouse’s employer. Today, many can’t.

The people who try to buy policies in the individual market are disproportionately those who have reason to think they or their children will need medical care. Healthy people, on the other hand, often

go without coverage — until they think they need it. So insurance companies charge sky-high prices for individual policies, to cover the high average costs of care.

The new law takes two steps to solve the problem. First, it prohibits insurers from denying coverage or charging more because of a person's health. Second, the law requires individuals to have insurance, spreading the costs of care among the sick and the healthy.

Two federal **judges upheld** the individual mandate this year, saying that it fell under Congress's power to regulate commerce. But Judge Henry Hudson, of a Federal District Court in Virginia, **ruled on Monday** that Congress had overstepped by prohibiting a form of inactivity — that is, *not* buying insurance. And as Reagan did with Medicare, Judge Hudson argued that the mandate had a larger meaning: he said it “would invite unbridled exercise of federal police powers.”

In truth, the law is **quite moderate**. It is more conservative than President **Bill Clinton's** 1993 plan or President **Richard Nixon's** 1974 plan (in which the federal government would have covered anyone who wasn't insured through an employer). It's much more conservative than expanding Medicare to cover everyone. It is clearly one of the least radical ways for the United States to end its status as the only rich country with millions and millions of uninsured.

But the law depends to a significant degree on the mandate. Without it, some healthy people **will wait** to buy coverage until they get sick — which, of course, is not an insurance system at all. It's free-riding.

Without the mandate, the cost of insurance in the individual market would rise, perhaps sharply, because some healthy people would not be paying their share. Just look at Massachusetts. In 1996, it barred insurers from setting rates based on a person's health but did not mandate that individuals sign up for insurance. Premiums **then spiked**. Since the state added a mandate in 2006, more people have signed up, and premiums **have dropped** an average of 40 percent.

It's easy to look at the current debate and see an unavoidable trade-off between this country's two economic traditions — risk-taking and security. But I don't think that's quite right. I think it is

ultimately as misplaced as those worries about Social Security and Medicare equaling Bolshevism.

Guaranteeing people a decent retirement and decent health care does more than smooth out the rough edges of capitalism. Those guarantees give people the freedom to **take risks**. If you know that professional failure won't leave you penniless and won't prevent your child from receiving needed medical care, you can leave the comfort of a large corporation and take a chance on your own idea. You can take a shot at becoming the next great American entrepreneur.

With every previous major expansion of the safety net, history has had a chance to prove the naysayers wrong. It may yet in the case of universal health coverage. But the decision now seems to rest with the nine members of the Supreme Court.

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