



The Constitution or Good Ideas?

Let me run through a few good ideas. I think it's a good idea for children to eat healthful, wholesome foods. In the raising of our daughter, before-dinner treats were fresh vegetables, and after-dinner treats were mostly fruits.

I arrive at my gym sometime between 4 a.m. and 5 a.m., at least four times a week, to lift weights and use the treadmill. During the warmer months, the treadmill is substituted by a weekly total of 40 to 60 miles on my bike. My exercise regimen is a good idea. Another good idea is to wear a bike helmet while bike riding and wear a seat belt when driving my car. Among many other good ideas is the enjoyment of two, maybe three, glasses of wine with each evening meal.

You say, "So what, Williams? What's your point?" There's no question that all of those actions, with the possible exception of the last, are indeed good ideas. As evidence that my exercise regimen is a good idea, my doctors tell me that at 78 years of age, I'm in better health and conditioning than most of their male patients many years my junior. My question to you is whether these commonly agreed-upon good ideas should become the law of the land. To be more explicit, should Congress enact a law requiring every able-bodied American to lift weights four times a week and bike 40 to 60 miles each week? Just look at all the benefits of such a law. Americans would be healthier, and that would mean lower health care costs. People would have a longer working life. Men would have the strength to protect their women and children folk from thugs. In a word, there would be no downside to the fitter population that would come from a congressional law mandating physical fitness programs. We might title such a law the "Improving American Health Act." The





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law would impose fines and penalties on any able-bodied person not found to be in compliance. What congressman would have the callousness to vote against such a beneficial measure?

Needless to say, there would be attacks against the Improving American Health Act, launched mostly by libertarians, conservatives and some Republicans. These people would argue that Congress has no constitutional authority to enact such a liberty-intrusive law. Their arguments would be on weak grounds. Our Constitution's Article 1, Section 8 says, "The Congress shall have Power To ... provide for the ... general Welfare of the United States." Our Constitution further empowers Congress to enact the Improving American Health Act by its Article 1, Section 3 — sometimes referred to as the commerce clause — which grants Congress the power "To regulate Commerce ... among the several States." After all, good health lends itself to more efficient interstate commerce and a larger gross domestic product. Sick Americans adversely affect interstate commerce and are a burden on economic activity.

I have no doubt that people who don't want to see a healthier America — again, mostly libertarians, conservatives and Republicans — will bring suit before the U.S. Supreme Court, arguing that Congress has no such authority under either the general welfare clause or the commerce clause. Would you prefer that Chief Justice John Roberts Jr., speaking for a majority, concur by saying, "This court is guided by the U.S. Constitution, and we find no constitutional authority for the Improving American Health Act, despite Congress' nonsense claims alleging authority under the general welfare and commerce clauses"?

Or would you prefer that Justice Roberts, speaking for the majority, engage in mental contortions in which he agrees that forcing people to exercise exceeds congressional authority under both the commerce clause and the general welfare clause but says the Improving American Health Act is indeed constitutional under Congress' taxing authority?

My bottom line question is: Should we be ruled by what are seen as good ideas or by what's permissible by the U.S. Constitution?

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