

## Case Discussion Example

National Federation of Independent Businesses et al. v. Sebelius, 567 U.S. \_\_\_, 132 S.Ct. 2566 (2012)  
<http://www.supremecourt.gov/opinions/11pdf/11-393c3a2.pdf>

### **Excerpt:**

The States ... contend that the Medicaid expansion exceeds Congress's authority under the Spending Clause. They claim that Congress is coercing the States to adopt the changes it wants by threatening to withhold all of a State's Medicaid grants, unless the State accepts the new expanded funding and complies with the conditions that come with it. This, they argue, violates the basic principle that the "Federal Government may not compel the States to enact or administer a federal regulatory program."...

...

The Spending Clause grants Congress the power "to pay the Debts and provide for the . . . general Welfare of the United States." U. S. Const., Art. I, §8, cl. 1. We have long recognized that Congress may use this power to grant federal funds to the States, and may condition such a grant upon the States' "taking certain actions that Congress could not require them to take." .... Such measures "encourage a State to regulate in a particular way, [and] influenc[e] a State's policy choices." .... The conditions imposed by Congress ensure that the funds are used by the States to "provide for the . . . general Welfare" in the manner Congress intended.

At the same time, our cases have recognized limits on Congress's power under the Spending Clause to secure state compliance with federal objectives. "We have repeatedly characterized . . . Spending Clause legislation as 'much in the nature of a contract.' " .... The legitimacy of Congress's exercise of the spending power "thus rests on whether the State voluntarily and knowingly accepts the terms of the 'contract.' "

...

Congress may use its spending power to create incentives for States to act in accordance with federal policies. But when "pressure turns into compulsion," ... the legislation runs contrary to our system of federalism.

...

[The States] object that Congress has "crossed the line distinguishing encouragement from coercion," ... in the way it has structured the funding: Instead of simply refusing to grant the new funds to States that will not accept the new conditions, Congress has also threatened to withhold those States' existing Medicaid funds. The States claim that this threat serves no purpose other than to force unwilling States to sign up for the dramatic expansion in health care coverage effected by the Act.

Given the nature of the threat and the programs at issue here, we must agree. ...

In this case, the financial "inducement" Congress has chosen is much more than "relatively mild encouragement"—it is a gun to the head. ...

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