

Can conservative justices do something they should abhor?

"Judicial nominations should be treated the same regardless of which party controls the White House or the U.S. Senate. I look forward to reviewing the backgrounds and qualifications of all of the judicial nominees sent to the U.S. Senate for consideration. I believe that these nominees should abide by and apply the rule of law, instead of becoming activist judges who try and create law. I take very seriously the role that the U.S. Senate has when it comes to the Constitutional responsibility of "advise and consent" concerning judicial nominees." (Emphasis mine, from Sen. John Thune's web page, as he states his judicial nominating philosophy).

I am hardly a legal expert. If I lived in Washington, DC, I would be qualified to march on the steps of the Supreme Court building as justices hear arguments from true legal experts on the constitutionality of the Affordable Care Act, better known as Obamacare.

I know how to carry a sign. I could likely even spell all of the words correctly. I do not, however, have the slightest idea of how to mount even the simplest legal challenge.

I prefer to observe. In this case, from afar.

My current grasp of the situation is this – there are many Americans, of all political stripes, who not only don't like Obamacare, but also believe it is unconstitutional.

I'm about to sound a bit like a lawyer. That's because I'm simply repeating something I read in a Huffington Post article that I think explains what is going on using words that you and I can understand.

It's something like this (the wording from the news article is in quotes): "States have plenary authority to legislate on matters of public policy. The national government, however, is a government of limited powers. It cannot constitutionally act unless the Constitution authorizes it to do so."

So, the central question in the case now pending before the Supreme Court is whether the Constitution grants Congress the authority to require individuals to have health insurance. Opponents of the law argue that it exceeds the legitimate authority of the national government.

The government defends the constitutionality of the individual mandate on the basis of the Commerce Clause of the Constitution, which provides in Article I, Section 8, that Congress shall have the power "to regulate Commerce ..."

A lot of the people who don't like Obamacare are conservatives. Our senator, John Thune, doesn't like it. Neither does our member of Congress, Kristi Noem. They cite all sorts of reasons for their dislike of the Affordable Care Act. It's easy to imagine that John and Kristi are hoping the high court will at least find portions of the act to be unconstitutional.

As I sit here in my office, far, far away from the legal wrangling in Washington, I can't help but observe that should the Supreme Court eventually strike down all or

parts of Obamacare, Kristi and John may likely celebrate.

But for such a joyful reaction to occur, Kristi and John will have to hoping with all of their might in the coming weeks that justices do something that they both absolutely abhor.

The justices will have to (cue dramatic music here) "legislate from the bench."

The photos of picketers and protestors marching outside the Supreme Court building this week seem just a bit silly.

But what's truly absurd about the current situation is that the conservative movement in this country, who made Sonia Sotomayor during her confirmation hearing seem like some crazy woman who was only interested in practicing judicial activism from the high court bench, is now wishing with all of its heart (their hearts, whatever) that she will.

Obamacare may be hundreds and hundreds of pages of legislation that most people like me can't begin to understand.

One thing became clear this week. Even to a far away observer. While awaiting the eventual court decision on Obamacare, conservatives will be cheering for their justices to violate what they tell the rest of us is their most fundamental and inviolate jurisprudential principle. (Thank you, thesaurus).

Let's pretend that I understand Obamacare, and with this vast knowledge, I really dislike it, and hope the justices find it unconstitutional. Oh, and let's pretend I'm conservative, too.

I don't think I'd rush out and buy party balloons and noisemakers if the court ruled against the Affordable Care Act.

Because what would have just occurred is five conservative justices legislating from the bench – a violation of a central conservative legal tenet of recent American history. It wouldn't take long for Americans to smell a rat.

Liberals who were never wild about the law (and there are many) would find themselves suddenly angry that it was negated by these five, not to mention furious at the sight of celebrating conservatives.

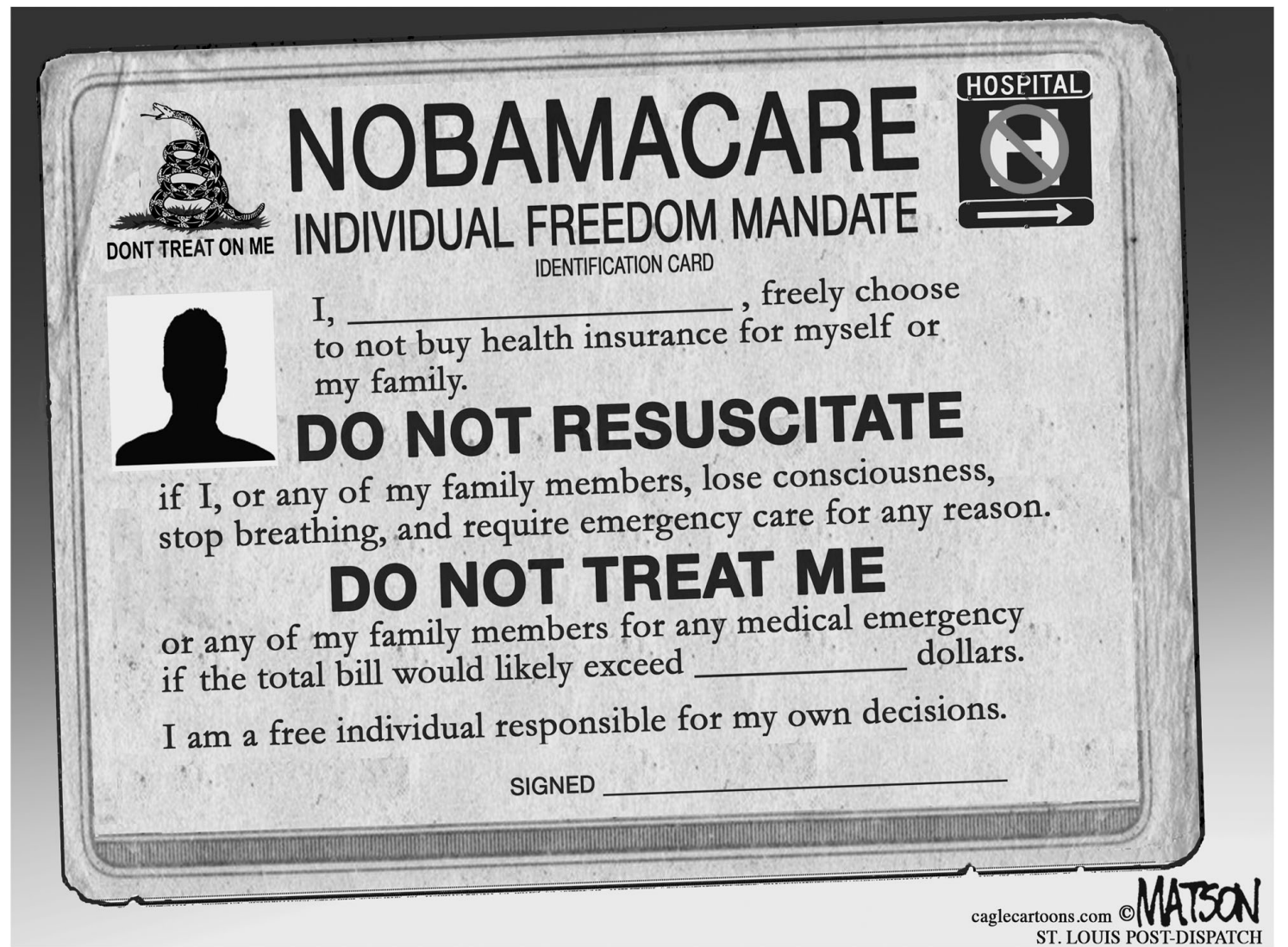
Other Americans who aren't highly political but nonetheless weren't fans of the bill, would likely be told by the president, "OK, Obamacare is gone, but if your 24-year-old daughter gets thrown off your plan, or your spouse gets denied coverage because of a preexisting condition, don't blame me. I bestowed those rights. Some other people took them away."

Who knows? Maybe President Obama would be better off politically by losing this case. Why do I have this feeling, however, that our country would not be better off?

BETWEEN THE LINES



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A Review: I am in love with another...

...man's poetry.
That's not to say my husband's poetry isn't wonderful. It is.

It's just that, well, as much as my husband's lyrics charm and delight, quadruple that for the poetry of Ted Kooser.

He is none other than Poet Laureate of the United States. Since he is a local, living outside Lincoln, Neb., you've probably heard of him or have read a poem or two of his. Maybe you've been fortunate enough to attend one of his readings.

Where do I begin? There's so much that's wonderful and beautiful about how Kooser romantically twists and turns everyday subjects: a cat, bridge club, a funeral, Grandfather's cap, wheat country, the apple orchard.

My heart first fixed on Ted, as I like to call him, some years ago at a poetry reading in Sioux City. He had recently been named Poet Laureate, and his coming packed the Klinger Neil Theatre at Morningside College.

The place was overflowing with young and old alike. Not an empty seat in the house with people stooped in the aisles, seated around the stage with extra folding chairs lined around him – two, three rows deep.

Those spilling into the vestibule and out the door on tip-toes, straining to see and hear his word-paintings soulfully grow arms and legs, pliable, aching, yearned and then gently creating satiny meanings and memories. I was smitten; still am, mainly because there's nothing dormant, stuffy or untouchable about Kooser's writing.

His knack for turning a discarded beer bottle into a work of art makes me feel found, awakened, and perhaps even reborn as he intimately engages life with all of its subtleties, as in this poem...

Beer Bottle By Ted Kooser

In the burned-out highway ditch the throw-away beer

MY STORY YOUR STORY



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miracle.

From Flying at Night, University of Pittsburgh Press

F. Scott Fitzgerald once said, "All good writing is swimming under water and holding your breath," and I admit I still haven't come up for air. A week doesn't go by that I don't drink in Kooser's work. His personification of inanimate objects nourishes, swooning me.

Take, for example, "A Fencerow in Early March." Here the poet reimagines a quintessential knobby old landscape fixture – one I have become blind to for the monotony of never-ending blankets of corn, beans, alfalfa and sorghum. Kooser's fluency in resuscitating discarded bones of life allows me to experience them again.

A Fencerow in Early March By Ted Kooser

The last snowdrifts have drawn themselves up out of the light clinging to winter. Beyond them, a muddy stubble field has sponged up all the darkness-- the February nights, the iron stoves, the ink of every letter written in longing. And the fencerow

bottle lands standing up

unbroken, like a cat thrown off

of a roof to kill it, landing hard

and dazzled in the sun right side up;

sort of a

goes on, up and over the next low rise and the next, casting a cold, white shadow, each gate still closed to spring.

From Flying at Night, University of Pittsburgh Press

Toward the end of Ted's reading, he invited each audience members to write our name and mailing address on a small piece of paper and hand them to him personally after the reading.

Responding obediently, I scrounged for a piece in my purse and filed into a very long line that had quickly formed leading to the podium. There, the Poet Laureate gently plucked each little paper, smiling, his eyes twinkling, as he said, "Thank you." I was toward the end of the dwindling line, and with my heart bounding in gratitude, my turn had come. I handed Ted my little piece of paper and, well, the rest is history.

From that moment on, my ties with this poet have been inextricably linked, as I am forever and always on his mailing list.

Years later, I still read Ted's poetry. When I do, it's as though he has asked me for the last dance, as he gently takes my hand, leading me onto the floor where wonder and grace envelope me. Believingly I follow him, traversing from line to line, stanza to stanza, poem to poem; I am thirsty, not wanting the music to ever stop.

The second time I met Ted Kooser was at Christmastime in Johnson, Neb. (To be continued...)

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A resident of Southeast South Dakota, Paula Bosco Damon is a national award-winning columnist. Her writing has won first-place in competitions of the National Federation of Press Women, South Dakota Press Women and Iowa Press Women. In the 2009, 2010 and 2011 South Dakota Press Women Communications Contests, her columns have earned eight first-place awards. To contact Paula, email boscodamon.paula@gmail.com, follow her blog at my-story-your-story.blogspot.com and find her on Facebook.

S.D. EDITORIAL ROUNDUP

The Associated Press

Rapid City Journal: March 22, 2012 Daugaard's vetoes come through

The power of Gov. Dennis Daugaard's veto pen was shown recently as the Legislature failed to override his vetoes of three bills: a ban on digital billboard bans, concealed carry permits and wind energy tax rebates.

The bill on outdoor advertising had particular interest in Rapid City as it was aimed directly at overturning the city's citizen-initiated ordinances to regulate off-premise outdoor advertising and ban new digital billboards. Even proponents of Senate Bill 157 openly acknowledged that the law was intended to reverse Rapid City's digital sign ordinance.

While the Senate voted to override the veto, the House failed to win the 47 votes needed and Daugaard's veto of SB157 was sustained.

Daugaard's veto message noted that Rapid City's digital billboard ordinance was being challenged in court and he believed the matter was a local issue that "should be resolved in the court of competent jurisdiction."

The issue of outdoor advertising technology will come up again, but

Daugaard was correct to veto the proposed law before the courts had decided the extent of existing law.

The issue of regulating outdoor advertising should be resolved through legal arguments in a court of law and not through lobbyists paid to influence political decisions.

House Bill 1248, which would have done away with the requirement for a concealed weapons permit, lost 23 votes in the House when lawmakers returned to consider Daugaard's veto. The bill originally passed with 52 votes, but only 27 lawmakers held firm in a recent vote.

Daugaard called HB1248 a "solution searching for a problem." He noted that the state's carry permit process was simple and did not take much time to complete. "The current process preserves Second Amendment rights while respecting concerns for public safety, in particular the safety of law enforcement officers who put themselves at risk to protect us," Daugaard wrote.

Many lawmakers agreed with the governors' reasoning and changed their votes to sustain his veto.

The veto does not change South Dakota's 25-year-old concealed carry permit system and does not threaten the state's lowest-in-the-nation crime rate.

The wind energy tax rebate was vetoed by Daugaard because it only affected large wind energy projects of more than \$50 million. Smaller projects, such as the proposed wind farm north of Belle Fourche, were excluded. The project by Renewable Solutions of Minneapolis has an estimated cost of \$38 million and would create 20 megawatts of electricity when completed.

Daugaard's veto message persuaded eight House legislators to switch their votes to sustain the veto.

Daugaard used his veto sparingly and judiciously. And in the case of the billboard law, it proved to be a real game changer.

Argus Leader, Sioux Falls: March 18, 2012 Teen smoking drop good news for S.D.

It's encouraging news to see teen smoking rates in South Dakota drop so dramatically since the 1990s.

Whether increased prices and a higher cigarette tax have helped or societal views are helping to prevent young people from starting to smoke is unclear. What is clear is that the longer kids go without that first smoke, the more likely it is that they won't start the cigarette habit. Almost no one starts

smoking after age 25, health experts say.

Latest statistics for South Dakota show that the number of high school students who smoked at least once in the past month is less than half of what it was in the 1990s, according to the Youth Risk Behavior Survey by the Center for Disease Control. The daily cigarette habit has fallen by two-thirds. High school students who have smoked 20 of the past 30 days dropped from 24 percent to 9 percent, for example. The CDC will be coming out with its 2011 smoking survey results in the next two months.

While South Dakota numbers have been falling, nationwide the decline in teen smoking has stalled. Progress has been made in our state, and we'd hate to see the numbers of teen smokers increase again.

Several agencies, groups, schools, government bodies and families contribute to tobacco use education and prevention. Those efforts have shown to be important and will continue to be valuable in discouraging tobacco use among teens.

By reducing the number of teen smokers, important steps have been made toward preventing chronic disease and other health risks. Let's not take steps backward in the future.

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