

# The Final Round<sup>1</sup>

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## Connecticut Debate Association

### State Finals

### Wilton High School

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**Resolved: All US residents should be required to purchase health insurance.**

## A Note about the Notes

I've reproduced my flow chart for the final round augmented by what I remember from the debate. The notes are limited by how quickly I could write and how well I heard what was said. I'm sure the debaters will read them and exclaim, "That's not what I said!" I apologize for any errors, but I hope debaters will appreciate this insight: what a judge hears may not be what they said or wish they had said.

There are two versions of the notes. The one below is chronological, reproducing each speech in the order in which the arguments were made. It shows how the debate was actually presented. The second is formatted to look more like my written flow chart, with each contention "flowed" across the page as the teams argued back and forth. It's close to the way I actually take notes during the debate.

## The Final Round

The State Championship Round was between the Joel Barlow team of Henry Knight and Sam Torchio on the Affirmative and the Cromwell team of Nicholas Loveland and Brendan Costello on the Negative. The debate was won by the Affirmative team from New Canaan.

### 1) First Affirmative Constructive

- a) Introduction
- b) Statement of the Resolution
- c) Definitions
  - i) "residents"—citizens and legal aliens
  - ii) "purchase"—similar to requirements in the Affordable Care Act
  - iii) "health insurance"—private or government provided
- d) A1<sup>2</sup>: The resolution is constitutional

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<sup>2</sup> "A1" indicates the Affirmative first contention, "N2" the Negative second contention and so forth.

- i) The resolution is permitted under the Commerce Clause (“CC”) of the Constitution
    - (1) CC covers foreign and state transactions
    - (2) Wickard v Filburn let US regulate crops grown for own consumption
    - (3) Gonzalez v Raich in 2005 agreed the US could criminalize the growing and use of marijuana at home
    - (4) This regulates the medical market
    - (5) Uninsured have enormous impact, \$116 billion
  - ii) The resolution is permitted under the Tax Clause
    - (1) The penalty is essentially a tax on all citizens
    - (2) Individuals can opt out of health insurance if they pay
  - iii) State has an interest to protect rights
    - (1) Those with pre-existing conditions will be able to get care
  - e) A2: The resolution is practical and pragmatic
    - i) Quantity
      - (1) By 2019 the resolution will save \$2000 per person per year
      - (2) Insurance rates will be lower because more buyers will spur competition
      - (3) 32 million more people will be covered, including aliens and those with pre-existing conditions
    - ii) Quality
      - (1) Revenue from the penalty will be spent on health care infrastructure so there will be less crowding
      - (2) Pay for more emergency rooms (ER), so cover more patients
- 2) Cross-Ex of First Affirmative**
- a) Should we provide health care in a way that is consistent with our values? Yes
  - b) Aren’t you advocating utility over democracy? Absolutely not
  - c) Didn’t unnecessary ER visits increase in Massachusetts? RomneyCare is not a valid precedent. 88% already had health insurance, and the 400,000 person expansion was small.
  - d) With respect to constitutionality, is there any precedent on regulating lack of commerce? The uninsured have an indelible impact on health care, that is paid for by others.
  - e) How do you know the penalty will go to infrastructure? Any statistics on how much it will buy? ObamaCare is estimated to reduce the deficit by a lot. We can redirect some of the savings under our plan.
- 3) First Negative Constructive**
- a) Intro
  - b) N1: The health care mandate (“HCM”) is unconstitutional and a dangerous precedent
    - i) US has never penalized inactivity, just for being alive
    - ii) CC only applies to activity
    - iii) This would set a new precedent for what gov’t can do
    - iv) Gov’t can set goals but it cannot impose goals
    - v) It may be irresponsible to wait to get sick to buy health insurance, but it is protected under the 5<sup>th</sup> and 10<sup>th</sup> amendments.
  - c) N2: HCM is a misuse of the system and will increase cost

- i) The Patient Protection and Affordable Care Act (“PPACA”) is essentially similar to MassCare
- ii) In Mass, half the ER visits are unnecessary, premiums are up for both healthy and sick
- iii) Free riders have not been deterred by the penalty
- d) N3: HCM will damage free market capitalism (“FCM”) as we know it
  - i) People will leave private insurance for the gov’t program

**4) Cross-Ex of First Negative**

- a) Do you need property to live? Yes
- b) Water, food, a roof over your head? Yes
- c) Are there taxes on these? Yes
- d) Why not tax health care? Everyone gets sick
- e) You need health care if alive, so tax it? This isn’t a tax, and it’s over reaching.
- f) If you always need a precedent, there would be no change, e.g. slavery in 1860? You should follow precedent
- g) Are you happy to be here? Thrilled
- h) How many debate at Cromwell High School? Just the two of us
- i) How many pay for you to debate? Everyone? Yes
- j) So why shouldn’t the healthy pay so the risk of becoming sick is covered? Many won’t get sick for many years
- k) How much to you value your life? \$16,000? \$20,000? More
- l) So why not pay the penalty?

**5) Second Affirmative Constructive**

- a) Intro
- b) The essence of the argument is the following:
  - i) There is a crisis in healthcare
  - ii) Which side can produce the best result: the status quo or the PPACA
- c) N1: Neg is wrong: this is just a tax on insurance
  - i) In cross-ex they agreed we tax water and food, things we need to live
  - ii) Is the HCM a tax or a penalty? Aff says it’s a tax
    - (1) Now you get a tax break for health insurance
    - (2) Both the CC and the Tax Clause apply
  - iii) Everyone is paying a “tax” now for the uninsured
    - (1) \$117 billion activity
    - (2) HCM will help citizens who abide by the social contract
  - iv) It’s the will of the people
    - (1) If they dislike the law, they should elect new representatives, not claim it’s unconstitutional
    - (2) The Congress has clearly set our goals here
- d) N2, N3: ObamaCare is different from RomneyCare, and we have explained how
  - i) Size is different, 400,000 additional in MA versus 32 million
  - ii) Adding more will lower costs

**6) Cross-Ex of Second Affirmative**

- a) Did you take a civics class in high school? I think so
- b) Did it ignore judicial review? It shouldn’t be declared unconstitutional. If most people want it repealed, they should elect representatives to do it.

- c) How is the ideal of maximizing overall utility relevant? We have statistics. Adding 32 million payers will lower costs
- d) Didn't MassCare insure more? Yes, 400,000.
- e) The percentage covered went from 88% to 92%? Yes
- f) Don't the statistics say it was harder to find physicians? With more covered, primary care providers were in demand. Having more covered is good. The problem with Romney care was there were too few new payers, and most of them had pre-existing conditions. A national program will bring in more healthy people.

**7) Second Negative Constructive**

- a) Intro
- b) N1: We need to respect the Constitution
  - i) Article I Section 8 gives Congress the power to regulate commerce
    - (1) This refers to active commerce, things bought and sold
    - (2) This does not refer to inactivity
    - (3) E.g., you can't tax someone if they refuse to buy healthy food
    - (4) There is no precedent for HCM
  - ii) 5<sup>th</sup> Amendment Taking Clause
    - (1) You have to provide just compensation
    - (2) The income tax was originally found unconstitutional
    - (3) Nothing in the constitution supports HCM
  - iii) 10<sup>th</sup> Amendment Reserve Clause
    - (1) Health care should be a State matter
- c) A2: Quality Argument
  - i) They provided not statistics or examples to show spending on health infrastructure would work
- d) N2: RomneyCare is a valid example
  - i) It provides the only hard facts on how a mandate will work
  - ii) It has been in effect for 3 years
  - iii) Half of all ER visits are unnecessary
  - iv) Required more doctors, leading to higher cost
  - v) 400,000 people is not a small number and shows the larger plan won't work
- e) N3: Separates health care from the free market
  - i) With a free market, people can buy what they want

**8) Cross-Ex of Second Negative**

- a) If 45 million are added to health insurance, do you think 100,000 will choose to pay the penalty? Sounds like an arbitrary number.
- b) Do you think it's reasonable? If you want to use it as an hypothesis
- c) Does a \$4,000 penalty sound reasonable? You never defined what it would be.
- d) So if 100,000 pay a \$4,000 penalty, how much would that be? I'm not good at math
- e) 100,000 pay a \$4,000 penalty, how much would that be? I'm not good at math
- f) Isn't it about \$400 million? But it came from numbers you chose arbitrarily
- g) You can belittle the revenue, but won't some opt out? We'd love to have more hospitals, but the amount won't cover construction costs.
- h) Aren't there laws that provide incentives to buy fuel efficient vehicles? Yes

- i) Can't we use the penalty funds for construction since they law is not explicit?  
People buy the cars, they aren't taxed for not purchasing them.
- j) Aren't there 40 million people without health insurance a problem? Yes
- k) Can you do better than this plan? Your plan isn't the solution

#### **9) First Negative Rebuttal**

- a) Intro
- b) This is a controversial issue. The Supreme Court is planning to spend 15 days on it.
- c) Neg has used case law and examples to make its points
  - i) The debate is not Obamacare vs RomneyCare, but RomneyCare is a useful example
- d) We see three issues.
- e) What are the benefits to society?
  - i) Aff plan perpetuates irresponsibility
  - ii) There is no precedent for the mandate
    - (1) America is based on consensus
    - (2) Mandate attacks the free market
- f) Is it economically feasible?
  - i) The Aff takes utilitarianism too far
  - ii) They fail to compare ObamaCare to RomneyCare
- g) Is it constitutional?
  - i) They can't pick one part of the Constitution and ignore the others

#### **10) First Affirmative Rebuttal**

- a) Let's review the Negative framework
- b) There are benefits to the people
  - i) They say it perpetuates irresponsibility, e.g. unnecessary visits to the ER
    - (1) The statistics say only half were unnecessary under RomneyCare
    - (2) RomneyCare is not entirely on point, as we have explained
  - ii) Aff plan lets people opt out, but the problem under the Neg today is they can't opt in
    - (1) So Aff will provide better benefits to more people
    - (2) Benefits will be provided for those with pre-existing conditions
    - (3) Benefits will be available to college students to age 26
  - iii) Penalty will pay for better infrastructure
- c) Economic feasibility
  - i) We explained why RomneyCare is not relevant
    - (1) Few uninsured were added
    - (2) Most of those had pre-existing conditions
  - ii) ObamaCare adds many more, and most of them healthy
  - iii) The Neg can't use statistics from RomneyCare but ignore the details of the program that explain them
- d) Constitutionality: Neg misses all the reasons in A1
  - i) Commerce Clause rational basis argument
  - ii) Tax power argument works even if the commerce clause doesn't

#### **11) Second Negative Rebuttal**

- a) Judicial review is the basis of the Constitution

- i) If a law is okay under one provision but violates three other, it's unconstitutional
- ii) This isn't justified under the Commerce Clause
- iii) Health Care is not a Federal responsibility
- b) Benefits declared by the Aff are subjective
  - i) You can't use made up statistics
  - ii) There is no precedent besides RomneyCare
    - (1) This "sample" supports the Neg
    - (2) ObamaCare will increase costs
    - (3) No evidence it is sustainable
- c) Status quo is flawed, but the Aff plan is worse
  - i) Not the best and it is not sustainable
- d) We've presented three pieces of evidence saying its unconstitutional
- e) You have to consider the costs vs the benefits, insurance vs liberty

## 12) Second Affirmative Rebuttal

- a) We have more accurately shown the Aff plan is constitutional (A1) and economically feasible (A2)
- b) Constitutionality
  - i) It is Commerce
    - (1) It occurs across state lines
    - (2) The uninsured leave \$116 Bn in expenses for others to pay
  - ii) Rational basis
    - (1) This is a tool to judge constitutionality
    - (2) The plan provides for public well-being, and that justifies sacrificing some rights
- c) Costs
  - i) RomneyCare statistics were used by the Neg
    - (1) In Mass, 86% were already insured
    - (2) The other 14% mostly had pre-existing conditions
    - (3) This led to the rise in costs
  - ii) Nationally, the uninsured are more healthy
  - iii) You have to look at the reasons behind the statistics
- d) Quality
  - i) It is a question of supply and demand, if there is more demand, quality will improve
  - ii) With more citizens covered, they will have an incentive to demand better quality care
  - iii) If we try and do this state-by-state, then it would be RomneyCare, which the Neg claims it hates
- e) Quantity
  - i) Aff will cover 32 million more people