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1-6-2011

### January 6, 2011: So Why Isn't the Food Bill Unconstitutional?

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#### Repository Citation

Ledewitz, B. (2011). January 6, 2011: So Why Isn't the Food Bill Unconstitutional?. Retrieved from <https://dsc.duq.edu/ledewitz-hallowedsecularism/493>

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Title: So Why Isn't the Food Bill Unconstitutional?

Date: 2011-01-06T15:40:00.001-05:00

1/6/11—Allow me to move from religion for a moment to vent about the absurd constitutional theories that are floating around right now concerning the power of the federal government. You have probably heard about an enactment that greatly expands federal government power in pursuit of a police power objective of public health that the Constitution left with the States and that has little or nothing to do with interstate commerce that Congress is permitted to regulate. But I am not talking about Obamacare, which is so controversial. I am talking about the Food Safety Modernization Act, that was signed into law this week, giving the Food and Drug Administration more oversight of the nation's food supply chain. Naturally I have not heard one word of protest from the so-called originalist/states rights people calling this law unconstitutional and urging its repeal. But this law is plainly premised on the protection of the health of the people, which is precisely the police power rationale that one federal judge used in order to judge Obamacare unconstitutional. Indeed federal oversight over farming is much more plainly not regulation of commerce than is regulation of healthcare, which is much closer to interstate activity than the local activity of farming. The reason no one calls this unconstitutional is because it is popular and plainly needed. Well, maybe Obamacare will become popular. It was certainly needed. Or maybe the reason for the different treatment is that rich people can get sick from food poisoning, but such people already have adequate healthcare. The example of the new food law, however, shows that fundamental constitutional reinterpretation is not likely. Most people want a government strong enough to solve our nation's problems.