Winning the Battle but Losing the War
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The New York Times calls Pennsylvania a “toss up state.” Others have tagged it a “battleground state” and even a “swing state.” Electoral labels aside, Pennsylvania’s 20 electoral votes comprise the second largest prize among the competitive states. Not surprisingly, both presidential campaigns seem to be taking the state seriously despite Barack Obama’s approximate 8-point lead and a string of Democratic victories stretching back to 1988.

But if the Keystone State is in play now, it may not be for long once an impending Supreme Court decision is handed down.

Shortly, the U.S. Supreme Court is expected to announce whether the Affordable Care Act (also known as Obama Care) passes constitutional scrutiny. Most observers expect some or the entire act to be struck down. If this happens the electoral implications will be profound. In fact, striking down all or major portions of the health care law could reshape the ongoing presidential race in ways only now dimly perceived.

Exactly why this is so requires explanation and history provides it. Indeed, American history offers a compelling lesson: in analogous situations to the health care debate: the losing side in major court cases often becomes energized while the winning side often becomes complacent. The nation’s long running legal debate over abortion exemplifies this pattern, although it has existed as far back as ante-bellum Civil War times. Many of the transformative issues of American national life including prohibition, women’s suffrage and even slavery illustrate the principle.

Applying this lesson to health care means a Democratic loss in the Supreme Court could inject a powerful shot of adrenaline into a largely apathetic Democratic Party base. At the same time it would probably undercut the GOP enthusiasm that has been so massively mobilized by opposition to Obama’s healthcare plan.

The converse, while unlikely, is true also. If the Supreme Court does uphold Obama care, it will be Republicans who are energized, with consequences equally as significant for the 2012 election. States now comfortably in Obama’s column could become toss-ups overnight.

How can a single Supreme Court decision hold so much importance to an election? One way to answer this question is to examine the most recent Franklin & Marshall College Poll that asked Pennsylvania voters how they felt about Obama’s health care law.

Statewide, Pennsylvanians are actually divided somewhat evenly on Obama’s healthcare legislation, with about 46% in favor and 48% opposed. But this apparent divided opinion dissolves dramatically when one examines the data along party lines.

Rarely, if ever, is there greater polarization along party lines than exists on this issue. In Pennsylvania eight in
ten Republicans oppose the Affordable Care Act, but only about two in ten Democrats do.

The sharp party polarization in Pennsylvania is roughly mirrored in national statistics. The Pew Research Center estimates that nationally 88% of Republicans disapprove of the law, while only 37% of Democrats disapprove.

Opposition to Obama care has been the GOP’s hot button issue in 2012. Consequently, if the Supreme Court scuttles it, the issue that has animated Republican voters more than any other will be mooted. Taking it off the table inevitably effects Republican turnout and support for Romney. How much is impossible to say. But by winning in the Supreme Court, some of the air goes out of the GOP electoral balloon.

Similarly it is impossible to know how much losing in the Supreme Court will motivate Democratic voters. The now relatively quiescent Democratic base, however, might respond vigorously. Certainly Democratic strategists will have newfound opportunity to castigate Republicans over issues that have been moribund since Obama care was passed, including uninsured voters and lifetime spending limits.

What this means for Pennsylvania is that a race now seen as more and more winnable for Republicans may instead shift decisively toward Obama and the Democrats. What it means nationally is that a tight race gets tighter still.

Winning on health care reform could cost Republicans the presidency, while losing could give Democrats another term in the White House. If it turns out this way, it won’t be the first time in American history that winning a legal battle lost a political war.

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