



Written by [John F. McManus](#) on July 9, 2015

## Supreme Court Overturns Thomas Jefferson. Time to Nullify!

There is no mention in the Constitution of federal power to start a medical care program. Likewise, there is no place in the Constitution authorizing any branch of the federal government to redefine marriage away from its millennia-old assertion that a union is of one man and one woman. But the Supreme Court has just sanctioned these federal power grabs adding both to an already frightening accumulation of federal dominance.



Thomas Jefferson commented on this kind of possibility when he wrote:

When all government, domestic and foreign, in little as in great things, shall be drawn to Washington as the center of all power, it will render powerless the checks provided of one government upon another and will become as venal and oppressive as the government from which we separated.

It is hardly an excess to conclude that these two power grabs are not alone, and that all government is being “drawn to Washington.”

Our nation’s third president looked ahead and worried about such an accumulation of power by the federal courts. In 1821, twelve years after he left the Presidency, Jefferson wrote:

It has long been my opinion ... that the germ of dissolution of our federal government is in the constitution of the federal judiciary ... working like gravity by night and by day, gaining a little today and a little tomorrow, and advancing its noiseless step like a thief over the field of jurisdiction, until all shall be usurped from the States, and the government of all be consolidated into one.

When Congress wrote the Affordable Care Act (that’s the official name for ObamaCare), its text stated that tax credit subsidies were to be given to people living where a marketplace for the insurance, called an exchange, had been “established by the state.” Some sharp eyes noted that the federal government, not the states, was already operating the sites where people could sign up. In other words, the feds were breaking the law that clearly said these exchanges were to be state-run. A suit, known as *King v. Burwell*, went all the way to the Supreme Court. Legal scholars felt correctly that a victory for the plaintiffs would wreck ObamaCare. Fans of federal involvement in the medical industry knew that something had to be done.

And it was done — in a way that even Jefferson himself would likely not have ever imagined. The Court ruled 6 to 3 in an opinion written by Chief Justice John Roberts that those who created the law didn’t mean what they had stated, and that “established by the state” didn’t mean that the exchanges (the insurance marketplaces) had to be under state jurisdiction.

What happened here is a continuation of revolutionary court action: the Supreme Court actually re-



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wrote the law. Justice Scalia's dissent noted that the words "by the state" were removed from the law "seven times." The Supreme Court has no authorization to make law because the Constitution's very first sentence states, "All legislative powers ... shall be vested in Congress." In effect, the current Supreme Court has changed the Constitution's word "all" to mean "some, if we think it's necessary." It has no authority to do so.

So what should be done? States should continue to nullify this clearly unconstitutional law. More and more Americans are [clamoring for the states](#) to stand up to the feds. State legislators should oblige them. Our newest video on nullification demonstrates how nullification works and why it works well.

Also, the Constitution, that still stands and to which each Supreme Court justice and each member of Congress still swears a solemn oath to honor, deals with a potentially rogue court in Article III, Section 2. It states: "The supreme court shall have appellate jurisdiction ... with such exceptions, and under such regulations as the Congress shall make."

In other words, the Congress that has just been insulted by the Supreme Court's arrogance in rewriting its law can pass a measure barring the Supreme Court from having anything to say about the matter. If it followed this path, Thomas Jefferson would rest more easily. And so would all Americans who don't want the federal government to control the medical profession via ObamaCare.

*John F. McManus is president of [The John Birch Society](#) and publisher of The New American. This column appeared originally at the [insideJBS](#) blog and is reprinted here with permission.*



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