Written by **Joe Wolverton, II, J.D.** on November 1, 2012

Legislators in 3 States Set to Introduce ObamaCare Nullification Bills



On June 28, 2012, the Supreme Court in a 5-4 decision upheld ObamaCare — the joint venture of the President and Congress to force every American, regardless of ability or desire, to purchase a qualifying health care insurance plan by 2014 or face a tax penalty for failure to comply.

Fortunately, there remain yet a few state legislators willing to stand up to this tyranny and exercise the states' constitutional obligation to check the power of the federal government.

The Tenth Amendment Center is reporting that Maine State Representative Aaron Libby (R-North Waterboro, above, left) "will sponsor a bill in the 2013 legislative session declaring the [ObamaCare] unconstitutional and void in the Pine Tree State. If passed, the bill would set the stage for blocking implementation of the mandatory federal health care system in Maine…."

Notably, Libby also sponsored a resolution calling on the president and Congress to clarify provisions of the National Defense Authorization Act (NDAA) infringing on the constitutional requirement of due process.

Maine citizen and Tenth Amendment state chapter coordinator, Chris Dixon is quoted on in the Tenth Amendment Center story explaining the philosophy behind Libby's laudable legislative effort:

"Obamacare is an unconstitutional encroachment on the rights of the people of the states. While healthcare legislation may be well-intentioned, the feds are hardly effective managers of services. This is why the framers of the Constitution did not enumerate this kind of power to them. Maine understands this and is not afraid to stand up for what is right. We did it leading opposition to Bush's REAL ID Act…."

The story lists New Jersey and Oklahoma as two states where similar sovereignty-protecting bills will be proposed in the next legislative session.

In New Jersey, Assemblywoman Alison McHose (R-Morris, Sussex, and Warren, above, center) will re-introduce her bill to nullify ObamaCare in the Garden State.

Her bill, A 861, declares that Obamacare is "null and void and of no force and effect in the State of New Jersey." McHose's measure basis this declaration on the following sound constitutional principles:

> The people of the several states comprising the United States of America created the federal government to be their agent for certain enumerated purposes, and nothing more;
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> Amendment X to the United States Constitution defines the total scope of federal power as being that which has been delegated by the people of the several states to the federal government, and all power not delegated to the federal government in the Constitution of the United States is reserved to the states respectively, or to the people themselves;

> The assumption of power that the federal government has made by enacting the "Patient Protection and Affordable Care Act" interferes with the right of the people of the State of New Jersey to regulate health care as they see fit, and makes a mockery of James Madison's assurance in Number 45 of the Federalist Papers that the "powers delegated" to the federal government are "few and defined," while those of the states are "numerous and indefinite"; and
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> The federal act is not authorized by the Constitution of the United States and violates its true meaning and intent as given by its founders and ratifiers, and is hereby declared to be invalid in this State….

"Americans were always misguided to trust the good intentions of the unelected Court — the Court being the fail-safe of the establishment," McHose is quoted as saying in the Tenth Amendment Center report.

In the wake of the Supreme Court's ruling purporting to establish the constitutionality of ObamaCare, Oklahoma State Representative (and doctor) Mike Ritze (above, right) is finding increased reluctance on the part of state officials to heed the express wishes of the citizens of the Sooner State to nullify the federal health care power grab.
In an email to this author, Representative Ritze reports that in response to a letter sent by him to Oklahoma Attorney General Scott Pruitt, Oklahoma Solicitor General Patrick Wyrick claims that "it should be noted that the Sebelius court [in the ObamaCare decision] held that while the federal government cannot mandate Americans to buy health insurance, it can tax those who do not." [Emphasis in original]

Wyrick goes on in his response to Ritze to claim that the section of the Oklahoma Constitution nullifying ObamaCare is void, citing the so-called Supreme Clause of the Constitution (Article VI)

In response to Representative Ritze's request to this author for a comment on the Solicitor General's claims, I wrote:

> First, the Supremacy Clause (as some wrongly call it) of Article VI does not declare that the Constitution is the supreme law of the land period. What it says is that the Constitution "and laws of the United States made in pursuance thereof" are the supreme law of the land.
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> In PURSUANCE thereof, not in VIOLATION thereof. The Obamacare "tax" is not permissible under any enumerated power given to Congress in the Constitution, therefore it was not made in pursuance of the Constitution and therefor is NOT the supreme law of the land.
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> AG Pruitt's interpretation of Article VI and the taxing power is wrong.
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> Furthermore, he also doesn't understand the principle of federalism.
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> The Constitution of the United States was created by the states and given a very few powers over objects of national importance. As James Madison said in Federalist 45:
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> The powers delegated by the proposed Constitution to the federal government, are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State.

> Nowhere in the Supreme Court decision nor in the "law" itself does Obamacare purport to be an object of "war, peace, negotiation, or foreign commerce." In fact, in the "law" and in its supporters' defense thereof, it is always described as something that "concerns the lives" of all Americans. Legislating in such a matter certainly is a power retained by the states under the principle of federalism and a plain reading of the 9th and 10th Amendments.

Ritze insists that he is not persuaded by Wyrick's reasoning and will re-introduce a nullifying bill in the next session of the Oklahoma legislature.

The irrefutable truth is that not a single one of our Founding Fathers, not even the most ardent advocate of a powerful central government, would have remained a single day at the Philadelphia Convention if they believed that the government they were creating would become the instrument of tyranny that it has become.

In their dissent to the ObamaCare decision, four Supreme Court justices expressed this same sad description of America in 2012:

> The case is easy and straightforward, however, in another respect. What is absolutely clear, affirmed by the text of the 1789 Constitution, by the Tenth Amendment ratified in 1791, and by innumerable cases of ours in the 220 years since, is that there are structural limits upon federal power — upon what it can prescribe with respect to private conduct, and upon what it can impose upon the sovereign States. Whatever may be the conceptual limits upon the Commerce Clause and upon the power to tax and spend, they cannot be such as will enable the Federal Government to regulate all private conduct and to compel the States to function as administrators of federal programs.

How has our Republic become an elected tyranny? Sadly, the states and the people have sat idly by as if in a stupor while those who would destroy freedom and our Constitution have passed one after the other law exceeding the boundaries of power set in our founding document.

The saddest fact, however, is that not only has Congress passed unconstitutional laws, the president issued despotic edicts, and the Courts upheld every unimaginable expansion of federal power, but the states have obeyed these orders as if heeding their master's voice.

The states have become mere administrative units of the federal government. They have allowed themselves to become such. They may occasionally pull at the leash or nip at the hand that feeds them, but they slaver over the scraps handed them by their federal masters.

As the states have become servants, they may yet regain their proper role as masters. In this there is hope, in fact.

The states, through the exercise of the Tenth Amendment and their natural right to rule as sovereign entities, may stop ObamaCare at the state borders by enacting state statutes nullifying the healthcare law and criminalizing state participation in administering or executing the unconstitutional provisions thereof.

Nullification is the "rightful remedy" and is a much more constitutionally sound method of checking federal usurpation and is quicker and less complicated than an attempt to have the law repealed by Congress or overturned by a future federal bench more respectful of the Constitution. That said, there is no reason that concerned citizens should not use every weapon in the Constitutional arsenal, including working to convince Congress to repeal this offensive act.

The Supreme Court's ratification of ObamaCare's individual mandate can be seen as a mandate of

another sort. Election Day is less than one week away and Americans should focus their electoral efforts on removing from office every congressman who voted in favor of the "law" and on electing those candidates for state office who will commit themselves to boldly asserting the sovereignty of the states and forcing the raging bull of the federal government back within the small and well-defined corral built by our Founding Fathers.