Written by **Joe Wolverton, II, J.D.** on December 13, 2012

South Carolina Representative Joins Fight to Nullify ObamaCare

South Carolina may soon join the ranks of states struggling to reclaim their constitutional sovereignty stolen from them by the federal government.

On December 11, South Carolina State Representative William Chumley pre-filed a bill in the South Carolina General Assembly that would prevent the enforcement of ObamaCare within the borders of the Palmetto State.

Using language that would prohibit state officials from participating in the implementation of state healthcare exchanges or from enforcing the individual mandate that are key elements of ObamaCare, Chumley's measure — the South Carolina Freedom of Health Care Protection Act — requires state lawmakers to "prevent the enforcement of the "Patient Protection and Affordable Care Act" [ObamaCare] within the limits of this state."

South Carolina, a state with a long history of resisting federal despotism, joins three other states currently considering bills nullifying ObamaCare. The state legislatures of Maine, New Jersey, and Oklahoma have also had bills introduced aimed at stopping ObamaCare at the state border.

Simply stated, nullification is a concept of constitutional law that recognizes the right of each state to nullify, or invalidate, any federal measure that exceeds the few and defined powers allowed the federal government as enumerated in the Constitution. Nullification is founded on the assertion that the sovereign states formed the union, and as creators of the compact, they hold ultimate authority as to the limits of the power of the central government to enact laws that are applicable to the states and the citizens thereof.

In the wake of the Supreme Court's ObamaCare decision, state legislators and governors are boldly asserting their right to restrain the federal government, and are accordingly considering bills that will stop ObamaCare's multitude of mandates at the state border.

As quoted in a story published by the Tenth Amendment Center, Chumley said he will offer this bill (H 3101) "because of federal over-reach" and because following the Constitution "is the right thing to do."

Chumley references both the creation and the construction of the Constitution in the text of his bill nullifying ObamaCare:

> Whereas, 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; and
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> Whereas, the Tenth Amendment 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; and
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> Whereas, Article I, Section 1 of the United States Constitution provides in pertinent part that "All

> legislative powers herein granted shall be vested in a Congress of the United States"; and
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> Whereas, the judicial decision of the United States Supreme Court upholding the constitutionality of the "Patient Protection and Affordable Care Act" directly contravenes Article I, Section 1 of the United States Constitution because, in upholding the law by recharacterizing the Act as a tax even though Congress specifically refused to identify it as a tax, the United States Supreme Court legislated new law in violation of Article I, Section 1 of the United States Constitution; and
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> Whereas, 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 South Carolina to regulate health care as they see fit and makes a mockery of James Madison's assurance in *Federalist* #45 that the "powers delegated" to the federal government are "few and defined," while those of the states are "numerous and indefinite."

Joining Chumley in the fight to prevent the federal government from reducing the states to mere administrative units of the central government, Maine State Representative Aaron Libby (R-North Waterboro) "will sponsor a bill in the 2013 legislative session declaring the PPACA [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…." reported the Tenth Amendment Center.

In New Jersey, Assemblywoman Alison McHose (R-Morris, Sussex, and Warren) will reintroduce a meaure nullifying 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."

Another state representative is having to combat not only federal tyranny, but resistance to nullification from state government officials, as well. Oklahoma State Representative (and doctor) Mike Ritze 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 healthcare power grab.

In an e-mail 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 therefore is NOT the supreme law of the land.

Undaunted, Ritze insists that he is not persuaded by Wyrick's reasoning and will reintroduce 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 had believed that the government they were creating would become the instrument of tyranny that it has become.

Hope remains, however.

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.

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.

Tonight, December 13, citizens of South Carolina can hear Representative Chumley talk about his bill and the threat to sovereignty posed by ObamaCare during an appearance at a town hall event in Fort Mill, South Carolina. The event is sponsored by The John Birch Society.

Photo of South Carolina State House in Columbia, S.C.: AP Images