



Written by [Joe Wolverton, II, J.D.](#) on October 23, 2013

## Sen. Rand Paul's Constitutional Amendment Requires Congress Obey Laws

On October 21, Senator Rand Paul (R-Ky.), shown on left, [announced his introduction of S.J. Res. 25](#), a constitutional amendment that would prevent Congress from exempting themselves from the mandates they impose on their constituents.

Paul's proposed amendment states: "Congress shall make no law applicable to a citizen of the United States that is not equally applicable to Congress." Under applicable provisions of the measure, the executive and judicial branches of the federal government would likewise be subject to all laws passed by the legislature.



Revelations of the subsidies granted to Congress under ObamaCare are the obvious impetus for Paul's proposal.

As has been widely reported, ObamaCare requires federal officials to enter the healthcare exchanges created under the Affordable Care Act, but offsets the cost of these medical insurance plans by the continuing contribution of the federal government to the purchase of the policies.

When laws do not apply to the lawmakers, we have entered an era of despotism. The choking grip of this type of tyranny is tightened when the people are forced to pay for the lawmakers' exemptions.

This is the situation facing citizens of the United States of America in the age of ObamaCare. Federal employees — be they congressmen or judges — are to be spared the economic ravages of the president's hallmark healthcare act. Each of these "public servants" will receive subsidies aimed at offsetting the cost of complying with the myriad mandates of ObamaCare.

After these subsidies were made known, Senator David Vitter (R-La.) offered a bill that would have eliminated these exemptions. Vitter is pursuing several options to enact his effort to make congressmen live under the laws they pass.

"This is really about fairness, making sure that Washington is forced to live under the same train wreck of Obamacare that is forced on the rest of America," [Vitter said in a press release](#). "It will take the policy makers in Washington walking in the same shoes as the millions of Americans to actually make real policy changes, and clean up the train wreck."

Senator Paul is carrying the cause into new territory by trying to alter the Constitution.

"My amendment says basically that everybody including Justice Roberts — who seems to be such a fan of ObamaCare — gets it too," [Paul told the online Daily Caller](#) during a phone interview from Michigan, where, the article reports, he recently won a 2016 presidential straw poll.

"See, right now, Justice Roberts is still continuing to have federal employee health insurance subsidized by the taxpayer," Paul said. "And if he likes ObamaCare so much, I'm going to give him an amendment



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that gives ObamaCare to Justice Roberts.”

When asked by the Daily Caller what he thought of Vitter’s effort, Paul said, “I support any effort to make all laws applicable to Congress that we pass.” He supports the bill, but thinks his own effort is the stronger medicine the country needs to cure itself of at least one of the many ObamaCare diseases.

“I think mine is a little more inclusive,” Paul explained. “Mine — compared to Vitter’s — would include all federal employees, and save billions of dollars.... Why don’t we do it for all federal employees? And mine would save quite a bit more money,” Paul explained.

Senate Majority Leader Harry Reid (D-Nev.) sees nothing wrong with adding to the tax burdens of middle-class Americans so that federal employees can get cheap healthcare. “That’s what the law says, and we’ll be part of that,” Reid declared, as quoted in the Daily Caller piece. “We’ll be treated like the rest of the federal employees,” Reid said. “It’s nothing unique that employers help pay for health care.”

There’s also nothing unique about the federal government behaving in every particular like an elected aristocracy, believing themselves entitled to bloating themselves on feasts funded by the American people. Then, when the table is set, they demand that we, the people, serve them and then feed ourselves on whatever scraps fall from the tables of the privileged.

While Senator Paul is to be commended for his commitment to denying Washington the welfare they are so fond of, the use of a constitutional amendment to accomplish this worthwhile goal seems unnecessary for a few key reasons.

First, although many enemies of the Constitution frame any debate on the constitutionality of an issue by arguing that the Constitution doesn’t forbid this or that act, that approach is the reverse of that intended by our Founders.

The Constitution does not catalog restrictions on power. That is to say, the Constitution was not designed to be a list of all the things the federal government cannot do, rather, it was written to contain an exhaustive, all-inclusive list of the authority granted to the federal government by the states that created it.

As James Madison explained in [Federalist, no. 45](#), “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.”

So, rather than argue about whether a power is or is not restricted by the Constitution, we should examine the document to discover if a particular power is granted therein. If the power isn’t explicitly given to the federal government in the Constitution, then the debate stops there, without need to entertain legalistic arguments about the “constitutionality” of the topic.

Next, in a related vein, there is no need to add an amendment to the Constitution forbidding Congress from doing something that it isn’t allowed to do in the first place.

Regarding ObamaCare, the Constitution gives Congress neither the power to force Americans to purchase health insurance, nor to exempt itself from that mandate. Therefore, the Paul amendment is moot.

Imagine, furthermore, the never-ending list of amendments that would be necessary to attach to the Constitution were we to set about enumerating all the things Congress cannot do! Congress and the people would have time to do little else than to vote on these proposals.



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Finally, consider the following words of Alexander Hamilton from the *Federalist Papers*. In [this essay](#), Hamilton was arguing against the inclusion of a bill of rights in the Constitution, but the principles he puts forth apply to the question of a constitutional amendment forbidding Congress from exempting itself from laws.

For why declare that things shall not be done which there is no power to do? Why, for instance, should it be said that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed? I will not contend that such a provision would confer a regulating power; but it is evident that it would furnish, to men disposed to usurp, a plausible pretense for claiming that power. They might urge with a semblance of reason, that the Constitution ought not to be charged with the absurdity of providing against the abuse of an authority which was not given, and that the provision against restraining the liberty of the press afforded a clear implication, that a power to prescribe proper regulations concerning it was intended to be vested in the national government. This may serve as a specimen of the numerous handles which would be given to the doctrine of constructive powers, by the indulgence of an injudicious zeal for bills of rights.

Although Senator Paul's sense of justice is correct and commendable, his choice of a constitutional amendment to accomplish that end is questionable and potentially very problematic.

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