

Pennsylvania Must Reject Any State Health Insurance Exchange

The November 16, 2012 deadline for the States to decide if they will implement a Health Insurance Exchange, required by “The Patient Protection and Affordable Care Act”, or “Obamacare” as it is commonly now known, was extended to December 14, 2012. This extension was given primarily because of a request by the Republican Governors Association (RGA) since their many questions about the Health Insurance Exchanges had not yet been answered by the Obama Administration.

Governor Tom Corbett is on the eight member Executive Committee of the RGA. The RGA’s Chairman Bobby Jindal, the Governor of Louisiana, and Vice-chairman Scott Walker, the Governor of Wisconsin, have already publicly declared that their State will not implement a Health Insurance Exchange or increase Medicaid coverage. As of November 29, 2012, sixteen other State Governors have also declared that their State will not implement a Health Exchange, but rather leave it to the U.S. Government to do so. Ten more States, including Pennsylvania, are currently undecided about this matter. The General Assembly must instruct Governor Corbett to join with his fellow Governors who have explicitly declared that they will not implement a Health Insurance Exchange in their State.

“Obamacare” is and always has been unconstitutional. There is absolutely no lawful authority for those in the government of the United States of America to officially discuss individual health care or health insurance, much less pass legislation or sign into law anything on these two subjects.

Tom Corbett, on March 23, 2010, then as Pennsylvania’s Attorney General, declared that “Obamacare” is unconstitutional when he joined Pennsylvania with the Federal District Court case in Florida. “Obamacare” was unconstitutional then and thus null and void from that day.

Yes, the United States Supreme Court ruled in a 5-4 decision that the mandate in “Obamacare” is constitutional because it is a “tax”. However, any informed and objective natural person understands that this decision is wrong for several reasons. For example, it is inconceivable to rationally think that the framers of the Constitution for the United States of America understood that government, any government, could have authority to tax a natural person for doing nothing or for not purchasing health insurance. Further, the framers clearly did not even remotely intend that the federal government would have any authority concerning an individual’s health care and/or health insurance. According to the 10th Amendment of the “Bill of Rights”, these powers “are reserved to the States respectively, or to the people.” (Prior CSBP documents have addressed this.)

If we accept this Supreme Court decision, then there is absolutely nothing that Congress cannot tax. Further, we would again confirm that there is only one branch of government, the Judicial Branch, and that the other two branches are ultimately irrelevant. This was not the framers intent. The Judiciary was, for good reasons, to be the weakest branch of government. (Federalist Paper #78)

In 1842 Justice Story stated, while speaking for the unanimous Supreme Court of the United States in Swift v. Tyson [16 Peter 1, 18 (1842)], the following concerning case decisions and opinions:

“In the ordinary use of language it will hardly be contended that the decisions of Courts constitute laws. They are, at most, only evidence of what the laws are; and not of themselves laws.”

[This statement was repeated in Erie Railroad Company v. Tompkins, 304 U.S. 64, 83 (1937)]

If a court decision is constitutional, then it is instructive, but not law. A court decision and opinion are only binding on the parties of the case, the facts of the case, and the law of the case.

Judges cannot lawfully make law. Obviously, there is no such thing as “Case Law”!

Governor Tom Corbett, Lieutenant Governor Jim Crowley and other attorneys may believe that they must accept U.S. Supreme Court decisions without question. However, even though attorneys are taught this alleged requirement, it is not true. Everyone in the government of Pennsylvania takes, and/or is bound by, a constitutional “oath of office” to “support, obey and defend the Constitution of

the United States and the Constitution of this Commonwealth and that I will discharge the duties of my office with fidelity.” (Article VI, Section 3, of the Constitution of Pennsylvania) If someone in government is not required to take an “oath of office”, he or she eventually reports to someone who is required to take this “oath” and therefore is equally bound by it.

Governor Tom Corbett’s primary duty is to “take care that the laws be faithfully executed.” (Article IV, Section 2, Duties of Governor; ...) The supreme law of the land to which he is constitutionally bound to “faithfully execute” is first the Constitution of the Commonwealth of Pennsylvania. Only in matters specifically addressed in the lawful Constitution for the United States of America is the Constitution for the United States of America supreme. Governor Corbett is constitutionally required to function at all times as the Governor of Pennsylvania, not as an attorney, while in the office of Governor. Governor Corbett and all others in government must always follow the “oath of office”.

With respect to “Obamacare”, and specifically a State Health Insurance Exchange and the increase of Medicaid coverage in Pennsylvania, Governor Tom Corbett’s constitutional duty is to refuse to implement any provisions of this unconstitutional federal regulatory program. The lawful authority for Governor Corbett and all of those in the General Assembly of Pennsylvania to not implement the Health Insurance Exchange, and the rest of “Obamacare”, is “Nullification”, or as James Madison called it, “Interposition”. In order to protect the rights of the Citizens when the central government exceeds its constitutional authority, the State, each State of the Union, has the constitutional authority and duty to interpose itself between its Citizens and the government of the United States of America.

For those who have been misinformed about “Nullification”, so as to believe that it is not lawful, simply consider the following quotation taken directly from James Madison’s Federalist Paper #51:

“In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself.”

Yes, “the two distinct governments” are those of the State, each State of the Union, and the United States of America. (To learn more, read the many CSBP documents hand-delivered to the office of the Governor, Lt. Governor and each General Assembly member since January 31, 2011.)

“Nullification” does not repeal an alleged law. “Nullification” simply confirms that the unconstitutional “law” shall not be implemented or enforced. However, it is true that “the Constitution strikes with nullity that which does violence to its provisions.” An unconstitutional statute, regulation, code, rule, court decision, etc., is null and void from the time it was made.

The only question that remains is: Who can determine when something is unconstitutional? The answer to this important fundamental question is **not**: “Only the courts, and ultimately the Supreme Court of the United States.” The correct and lawful answer to this important question is: Everyone in government has a constitutional duty and responsibility to determine this before they act and to correct unconstitutional actions of themselves and others. Ultimately, each Citizen, as the sovereign in Pennsylvania and in the United States of America, has the lawful authority to determine what is constitutional or not, while always being responsible for his or her decisions and actions. No, this does not create chaos. It is the essential basis of freedom and liberty in our constitutional republics.

We, Citizens of Pennsylvania, demand that Governor Tom Corbett return the \$34.8 Million grants (bribes) that he already received to implement the Health Insurance Exchange in Pennsylvania. A State Exchange shall not give Pennsylvania control of it and shall cost taxpayer Millions per year.

To protect our rights, freedoms and liberties, Governor Tom Corbett and the General Assembly must now reject any plans to implement a State Health Insurance Exchange in Pennsylvania!