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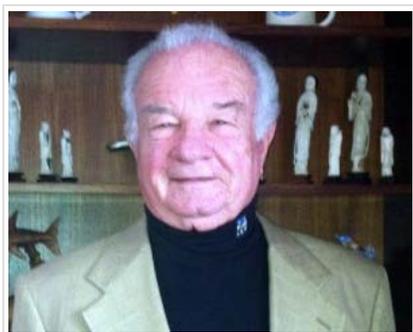


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## Hemphill: ObamaCare unlikely to survive political arena

By Allen Hemphill

The approval of ObamaCare as constitutional was a political victory for the president, but whether it can ever be implemented is another question.



Allen Hemphill

I care almost nothing about ObamaCare, I wanted Wickard v. Filburn reduced, overturned, defeated, destroyed...call it what you want. The Supreme Court did place limits on the Commerce Clause, which has been the fountainhead of great political mischief for decades.

Now, the president must admit to raising taxes!

Readers of my columns over 32 years know that I have always believed that the Wickard v. Filburn ruling was the absolutely worst Supreme Court decision among a host of really bad decisions, and the Supreme Court now has an unmatched opportunity to at least degrade and possibly overturn that stupid decision. I would drive a stake through its heart if I could, because it has spawned really bad decisions.

You may recall that Wickard v. Filburn ruled that a farmer who raised wheat to be used only on his farm for silage and family use, was thereby involved in "Interstate Commerce." Because he had not planted excess wheat, he might have had to purchase wheat which might have come across a state line. Such a tortured Supreme Court decision was matched, in my opinion, only by the Roe v. Wade decision, which was based not on "abortion" (which was not an enumerated power under the Constitution) but on a "right to privacy" — which is also not in the Constitution!

(I happen to favor a woman's right to abort right up to the time there is a cognitive brain wave on the fetus, but my reading of the Constitution says this whole subject is a right of the various states under the 10th Amendment to the Constitution.)

The Supreme Court on June 28 reined in the absolutely insane power of the federal government claimed under recent interpretations of the Interstate Commerce Clause.

As I wrote decades ago, under the current Wickard v. Filburn interpretation, you are subject to the power of the federal government because the fillings in your teeth, and the salt on your dinner table came across state lines.

The purpose of the Constitution was to limit the power of the central federal government, but broad interpretation has expanded those powers to "no limits." There are always questions about "Original Intent" of the Founders, but those questions are simply designed to obfuscate because the Founders wrote absolute reams about what they intended. In speeches, letters and the Federalist Papers they clarified darn near every sentence of a short document that was written in plain English.

Now ObamaCare is approved in the legal arena, and is thrown into the political arena where it is roundly disapproved, as demonstrated both in the polls and in

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the election results of the 2010.

It is unlikely to survive. Democrats will shrink from raising "taxes" now that the term is officially defined, and states do not have the threat of reduction of federal funding should they not expand Medicare under ObamaCare.

ObamaCare is on very shaky economic and political grounds. The fight continues.

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Back on February 20 Allen predicted on this site that the SCOTUS would hold the Affordable Care Act unconstitutional (despite his having no cognizable training, education or experience in Constitutional law). Though wrong, I believe that prediction was far more likely to have been true than those in this article. Though not perfect, the ACA is a substantial improvement, and is better than nothing (which is what Republicans are proposing). The only real unpopular component is the requirement (first proposed by Republicans and reluctantly agreed to by Democrats in the spirit of compromise) that wealthy freeloaders, who elect not to pay for insurance but still must be treated if they get sick or injured, thus raising the costs for the rest of us, must begin to kick in. Chief Justice Roberts and the majority for whom he wrote called that a tax, others call it a penalty; I call it requiring mooches and freeloaders to contribute at least a small amount of what they take out.

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