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OPINION

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NYT: State AGs lawsuit could end up 'eviscerating' Obamacare

By: **MARK HEMINGWAY**
 Commentary Staff Writer
 05/12/10 1:00 PM EDT

Over at [Cato's excellent blog](#), Michael Cannon flags this [New York Times article](#) noting that notable liberal legal scholars think the lawsuit being brought against the individual mandate in health care reform by 20 state attorney general is persuasive:

Some legal scholars, including some who normally lean to the left, believe the states have identified the law's weak spot and devised a credible theory for eviscerating it...

Jonathan Turley, who teaches at George Washington University Law School, said that if forced to bet, he would predict that the courts would uphold the health care law. But Mr. Turley said that the federal government's case was far from open-and-shut, and that he found the arguments against the mandate compelling.

"There are few cases in the history of the court system that have a more significant assertion of authority by the government," said Mr. Turley, a civil libertarian who acknowledged being strange bedfellows with the conservative theorists behind the lawsuit. "This case, more than any other, may give the court sticker shock in terms of its impact on federalism."

The *Times* article has a substantive discussion of the issues at play, but **be sure and read Michael Cannon's discussion of it**. He identifies a key error in the piece, involving whether or not the penalties for those without insurance are described as excise taxes.

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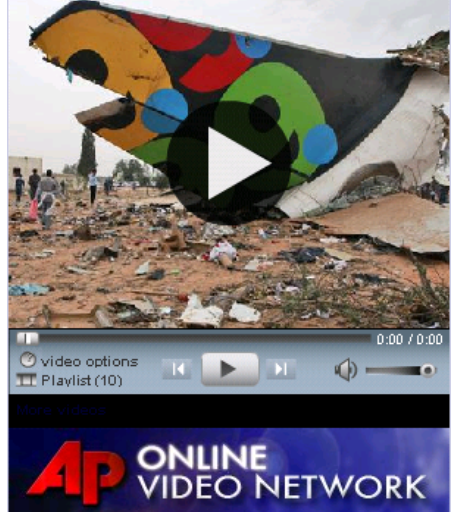
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