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Federal overreach tempts a counterrevolution

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By THE WASHINGTON TIMES - The Washington Times

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The Supreme Court affirmed on Thursday what the White House never wanted to hear: Obamacare constitutes the largest and most regressive tax in American history.

From the start of the health care debate in 2009, the order was given for Democrats to deny that President Obama's signature piece of legislation would be funded by new taxes. This was a purely political calculation since they knew they would pay a price if the multitrillion-dollar behemoth was called a tax bill. Mr. Obama swore he wouldn't raise taxes on the middle class, and he wanted to at least appear to be making good on the pledge. He maintained his health care law was "absolutely not a tax increase," even though millions of Americans would be compelled to pay it and the IRS had to [hire](#) [16,000](#) agents to enforce it.

This left liberal lawmakers the awkward problem of trying to explain the constitutional basis of their power to enforce Obamacare if it wasn't a tax. Rep. John Conyers, Michigan Democrat, attributed it to a nonexistent "Good and Welfare" clause in the Constitution. Sen. Patrick Leahy, Vermont Democrat, erroneously claimed it came from the same source as the federal power to regulate [speed](#) [limits](#) on interstate highways. The "mandate" rationale, which liberals attempted to justify under the Article I Commerce Clause, represented an unprecedented and dangerous expansion of government power.

When challenges to the law arose in the summer of 2010, the Justice Department said it would defend Obamacare as a "valid exercise" of Congress' power to "lay and collect taxes." This contradictory position was painfully reflected in oral arguments before the court when U.S. Solicitor General Donald Verrilli struggled to explain that Mr. Obama "said it wasn't a tax increase because it ought to be understood as an incentive to get people to have insurance. I don't think it's fair to infer from that anything about whether that is an exercise of the tax power or not." When Chief Justice John Roberts asked about this blatant twisting of words and logic for purely political purposes, Mr. Verrilli stammered, "Well, I - you know, I don't - there is nothing that I know of that - that illuminates that, but certainly ..." before Justice Sonia Sotomayor rescued him with another question. That was the moment when the case was decided.

After the decision, Mr. Obama doggedly stuck to his implausible line that Obamacare wasn't a tax bill. His unpopular law was upheld in the worst way possible politically. The decision handed the issue to Republican challenger Mitt Romney and fired up the conservative base in a way that wouldn't have happened had the law been partially or wholly overturned. Obamacare now stands as a highly regressive tax on middle- and lower-income families, a tax on [jobs](#) [tax](#), a tax on youth, a tax on health, a tax on freedom of choice. In his decision, Justice Roberts wrote, "It is not our job to protect the people from the consequences of their political choices." This includes Mr. Obama and the congressional Democrats who voted for the Obamacare tax increase.

The Washington Times