

The Power to Destroy

JOHN ROBERTS' MASQUERADE

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Why did U.S. Supreme Court Chief Justice John Roberts do what he did?

(Jun. 30, 2012) — “The power to tax involves the power to destroy.” — *M’Culloch v. State of Maryland*, 17 U.S. 316, 431 (1819) (Chief Justice John Marshall).

There are a couple of ways to view and analyze what happened on June 28, 2012, when a badly fractured Supreme Court narrowly upheld the “individual mandate” of the woefully misnamed “Patient Protection and Affordable Care Act,” aka Obamacare (and the lower case “o” is not a typo...). One way is to look on the bright side and indulge in the Tooth Fairy fantasy that the majority opinion, written by Chief Justice John Roberts, “... [is not all bad](#).”

After all, by upholding the individual mandate as a “tax” rather than, as the law calls it, a “penalty,” this line of thought takes solace in the limitations seemingly placed on the Congress to regulate people’s actions and behavior – as well as inaction or behavior – under the Commerce Clause.

Even normally conservative and respected columnists offer up that Roberts has “finessed” a difficult issue by finding a “narrow definitional dodge” to [uphold](#) the law. Charles Krauthammer is a talented intellect and his explanation for Roberts’ action, while plausible, does not make it right. The Supreme Court is supposed to decide matters of this gravity on principle; the only principle properly associated with a “dodge” is

expediency. Expediency and dodging are for lobbyists, not Chief Justices of the Supreme Court.

The other perspective, adverted to by the dissenters, is that the majority decision is an unprincipled concoction designed to reverse-engineer a predetermined result – validation of the constitutionality of the individual mandate no matter what – by rewriting the plain words of a law to mean something different than those not only carefully originally selected by the drafters, but selected in a way which permits the narcissist-in-chief to claim, with a straight face yet and both [before](#) the decision as well as [after](#) the decision, that the mandate was NOT a tax.

Since a “penalty” is, by definition, an imposition seeking to punish for disallowed or bad behavior, while a “tax” is a generalized imposition to compensate the government for providing services and protections to its citizens (and, under the current regime, its non-citizens as well), the individual mandate was only a modest, but necessarily punitive mechanism to discipline persons without insurance if they did not purchase it.

Not any more. Despite the plain words of the statute, the mandate is now a “tax” rather than a “penalty” and thus is within the power of the Congress to enact without running afoul of the Constitution. Time will tell which of the two interpretations ends up being the correct one, but for anyone paying any attention whatsoever to what has happened in this country since January 19, 2009, the future does not look that promising.

Other respected columnists coming down on the side of the dissenters correctly note that a monstrous bait-and-switch has now been retroactively ratified and validated by a [majority](#) of the Court. Prior to the decision, a bait-and-switch scheme on the magnitude of one-sixth of the U.S. economy and proven up in court would get you life in prison without eligibility for parole. There’s that “eligibility” word again....

The majority opinion of the Court is not only wrong: it is dangerously wrong. If, as some have argued, Roberts was trying to preserve the stature and impartiality of the Supreme Court by siding with the liberal wing of the Court to avoid another *Bush v. Gore* disaster... he failed.

In 1819, Supreme Court Justice John Marshall observed in *M’Culloch v. State of Maryland*, 17 U.S. 316 (1819), that “... the power to tax involves the power to destroy.” Justice Oliver Wendell Holmes noted (dissenting) a century later in *Panhandle Oil Co. v. Mississippi, ex rel., Knox*, 277 U.S. 218 (1928) that “... the power to tax is not the power to destroy while this Court sits.” Eighty-four years later, on June 28, 2012, Chief Justice John Roberts has now said in *National Federation of Independent Business v. Sibelius*, in effect, “Marshall was right and Holmes must have gone off his medications.... of *course* the power to tax is the power to destroy, you boobs, and if you doubt it, here... watch *this*....”

Does anyone really believe that those now piloting the regime in charge give one solitary, certified rip whether the individual mandate is upheld as being a “penalty” or a “tax” or a

“refrigerator?” Of course not. They are collectivists. When someone mentions M&Ms, they think the reference is to their icons, Marx and Machiavelli. Words don’t matter to these folks. What matters is that a new weapon – the “do-what-I-say-or-I-will-tax-you-to-death” gun – has been given to them, one that can, indeed, destroy a lot of things. Like jobs. Like businesses. Like dreams of better times. And, in extreme cases, like nations.

The Supreme Court, or at least five of its current members, can now be viewed as being on a par with any D.C. “K” Street lobbyist: the end justifies the means. Marshall was right. Machiavelli was right. The majority opinion in the case simply rewrote the word “penalty” to mean “tax” and, *voilà*, that which is unconstitutional under the Commerce Clause becomes perfectly fine as an exercise of Congress’s power to tax. As noted above, the Court once observed that the power to tax is the power to destroy. Now, a majority of the Court gives an ominous new meaning to that observation.

A megalomaniac believes that he can do no wrong; a narcissistic megalomaniac believes he has an obligation, because he can do no wrong, to subjugate to his will all within his reach; a narcissistic megalomaniacal sociopath will allow nothing to stand in his way to accomplish his goals. If among the impediments to those goals is the shredding of a constitution... so be it. If among those goals is the elimination of opposition through intimidation, threats and worse... so be it. And having a cadre of fawning media sycophants out beyond the teleprompters can’t hurt either. Hey, they put one of ours in the hospital; we put one of theirs in the morgue. “Chicago, Chicago, it’s a wonderful town....”

Whether a nation can survive two “Days of Infamy” some seventy years apart remains to be seen. But with the recent ruling from the Supreme Court, the nation is now much closer to being on a trajectory to becoming the Greece of North America, if not the North Korea of North America. Only three things now can prevent the “Greece effect” here: (1) removal of the putative president from the office he holds, (2) retention of the House by the Republicans, and (3) retaking of the Senate by Republicans. Nothing short of that will suffice to ensure the repeal of this monstrous law masquerading as governmental benevolence. Nothing.

Moreover, it would be a serious error to underestimate the peril now faced by the nation. Apart from the lunacy of reverse-engineering a decision in order to uphold a wildly unpopular law, this ruling can only embolden the amateur at 1600 to continue “changing” the United States into something even the most liberal of the Founding Fathers would never have imagined. Change can sometimes be a good thing; metastasis is *never* a good thing.

If the person now occupying the White House is not removed from office, either through his resignation or his defeat in November, the United States of America as we have known it since 1789 will cease to exist. Anyone who thinks that the “Affordable Care Act” is the end of the collectivist power grab by this guy in a second term – unless, of course, suspension of the Twenty-second Amendment by executive order takes place, and we get a “Glorious Leader / President for Life” – needs a double shot of espresso.

Nothing remains safe: the Bill of Rights is in peril; the Constitution itself is in peril; the nation is in peril.

Does anyone out there really believe that the guy at 1600, now stroked into bliss by the Supreme Court's recent intellectual belch, will be anything other than emboldened to put the "pedal to the metal" if he gets re-elected? Does anyone think that the Hahvahd-educated lecturer who assured the voters and the Congress that the "individual mandate" was not and could not be a "tax" would hesitate more than two nanoseconds to hail the ruling, no matter its unprincipled rationale? Oh, wait..., that's right: if the individual mandate is now a tax resting upon an unprincipled foundation, how could it possibly *lack* irresistible appeal to the current Oval Office occupant?

There are those who would contend that the destruction of the free enterprise capitalism system that has, up to now, created the most successful and powerful nation in the history of the world, is *exactly* what has been in the crosshairs of the regime from the get-go. Flood the struggling economy with dollars that are increasingly worth less (two words); pile more debt upon future generations in one term than in virtually all preceding terms combined; suspend border enforcement cooperation with a sovereign state of the union now being inundated by illegal aliens and now, provide a weapon with which to deliver the *coup de grâce*, and you have a recipe for the cataclysmic collapse of the United States of America.

Will it happen? Who knows? Has the likelihood of it happening increased or decreased under the current regime? Hint: it has not decreased.

If the Supreme Court has abandoned the people; if the Congress has abandoned the people; if the presidency has been hijacked at the expense of the people... then what is left? The answer is: the people. We, the people, retain the power to alter the path of the nation... unless, of course, martial law is declared and the November general election is "postponed" because of "civil unrest." And if you are naïve enough to believe it just couldn't happen here, read up on what was taking place in Russia in 1917. Or Germany in 1933.

Any efforts to alter the trajectory of the United States must come to a head on November 6, 2012. And let us hope the efforts are so successful that there will be no need for intervention (as in 2000, with the Bush-Gore debacle) by the Supreme Court. That branch of the government has just kneecapped itself and might not be the best place to try to fix the problems now facing the nation. The courts won't fix them; a dysfunctional Congress can't fix them; the ingénue on Pennsylvania Avenue refuses to fix them and seeks only to make them worse.

Leaving us to fix them. Are you in?