



Written by [Steve Byas](#) on June 10, 2015

President Argues ObamaCare Is Morally Right

Time magazine notes that should the U.S. Supreme Court side with the plaintiffs in the pending case of *King v. Burwell*, “that could invalidate federal subsidies for more than 6 million people if it strikes down provisions of [ObamaCare].”

In preparation for that possibility, President Obama has opened a new front favoring the retention of the law — arguing that government-run healthcare is the *morally correct* position.

As part of that positioning, Obama delivered a speech this week to the Catholic Health Association (CHA), telling the group, “This is now the fabric of how we care for one another.”

In enacting and implementing the controversial healthcare law, Obama has faced withering opposition from religious groups, including the U.S. Catholic bishops, evangelical Christians, and the Orthodox Union, a major Orthodox Jewish group.

However, *Time* reports, “While the United States Conference of Catholic Bishops opposed the Affordable Care Act over its contraception and abortion coverage, the Catholic Health Association broke rank and consistently supported the law for making practical progress on helping working-class families and the poor.” Additionally, the CHA has recently filed an amicus brief defending the healthcare law

In the *King v. Burwell* case, four words in the Affordable Care Act are at issue. In the clear wording of the act (passed without Republican support in 2010), subsidies for lower-income Americans could be used to purchase health insurance, but only through state-created exchanges — “*established by the state.*” The Obama administration argues that policies could also be legally obtained through the federal exchange found on Healthcare.gov.

The problem is that so few states opted to create their own exchanges that should the Supreme Court agree with the plaintiff’s contention (that health insurance subsidies could be used only through state-created exchanges), ObamaCare would be effectively crippled, as more than six million people would lose their subsidies.

The president, defiant in the face of a possible loss in the Supreme Court, claims he is the one on moral high ground. “The rugged individualism that defines America has always been bound by a set of shared values,” he declared, “an enduring sense that we are in this together. That we have an obligation to put ourselves in our neighbor’s shoes, and to see the common humanity in each other.”

This idea that it is the role of the government to take from some (through taxes, which is how the government obtains the money to “give” subsidies) and then give to others is what 19th-century French philosopher Frédéric Bastiat called “legal plunder.” In his classic work, *The Law*, Bastiat contended that though it is a proper role of government to punish and prevent theft, in the case of legal plunder, *it is the government itself that is committing theft.* In the category of legal plunder, Bastiat specifically placed subsidies, either to individuals or businesses.





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Yet Obama steadfastly maintains that legal plunder is the moral position. To give himself this “moral cover,” the president visited Roman Catholic nun Sister Carol Keehan this week, who had supported the initial passage of ObamaCare over the opposition of the Catholic bishops. According to Obama, had it not been for Keehan, who is the chief executive officer of the Catholic Health Association, the Affordable Care Act would have failed. “I just love nuns,” he exclaimed as he hugged Keehan. Because she is the head of the largest group of nonprofit healthcare providers, Keehan’s public support gave Obama a huge boost to diminish the influence of the Catholic bishops.

“Our nation took a giant step forward [with the Affordable Care Act],” Keehan said in a statement in January. “And now if this case is decided wrongly, we’ll take a giant step back.”

One nun who addressed the 2012 Democratic National Convention, Sister Simone Campbell, even claimed this past week that it was “the Holy Spirit” who had brought Keehan and Obama together to support the law.

If the Supreme Court opts to exclude the subsidies in those states without healthcare insurance exchanges, the president is expected to argue that Congress should move quickly to amend the law and provide for the purchase of health insurance, with subsidies, through the federal exchanges, as a matter of morality.

But Senator John Barrasso (R-Wy.), has promised that that will not happen. “Let’s be clear,” Barrasso declared. “If the Supreme Court rules against the administration, Congress will not pass a so-called one-sentence fix.”

Senate Majority Leader Mitch McConnell challenged Obama’s positive picture of the law, observing, “I imagine the families threatened with double-digit premium increases would beg to differ, as would the millions of families who received cancellation notices for the plans they had and wanted to keep.”

Some Republicans claim they will pass legislation to temporarily replace the subsidies for those who lose them, until sometime in 2017. At that point, they are counting on a Republican president, working with a Republican Congress, to repeal the law and replace it with a more “free market” approach. If the Republicans do pass such a “temporary” fix, the president will no doubt veto it, confident that the liberal mainstream media would place the blame on the Republicans.

Why did the Democrat Congress (which passed the law in 2010 over the unanimous objections of the Republicans) not just make all subsidies obtainable through a federal, not a state exchange? Perhaps the bill was just poorly written. Or it could be that the Democrats were playing politics, believing Republican governors and legislatures would feel a need to create state exchanges, so as to make it politically difficult for the Republicans to then attack ObamaCare.

There is also a legitimate concern among limited government constitutionalists that, in the end, Republicans will simply buckle, taking the view that ObamaCare is a done deal and it’s time to live with it.

Historically, though Republicans have sometimes opposed Democrat efforts to expand the welfare state, once those efforts became law and millions began receiving “free” benefits, it became too politically challenging for Republicans to roll back those programs. On the other hand, had the Supreme Court struck down the law as unconstitutional — as it should have in *NFIB vs Sebelius*, before individuals began receiving subsidies — Obama Care would have most likely gone the way of all previous efforts to create a government-run healthcare program, including a proposal by President Theodore Roosevelt.



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But Chief Justice John Roberts, with his infamous decision in *NFIB vs Sebelius*, saved ObamaCare by using a novel interpretation that the healthcare law was constitutional because it was within the federal government's "power to tax." While Roberts and his fellow black-robed justices might actually "get it right" this time, killing the law now will no doubt be difficult.

As former President Ronald Reagan once observed, a federal program is the closest thing to eternal life on this planet.



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