Last week President Obama made some rather shocking comments at a press conference regarding the Supreme Court's deliberation on the constitutionality of the Patient Protection and Affordable Care Act, or Obamacare. His comments belie a grasp of constitutional concepts so lacking that perhaps the University of Chicago Law School should offer a refund to any students "taught" constitutional law by then-Professor Obama!

He said, "Ultimately, I'm confident that the Supreme Court will not take what would be an unprecedented, extraordinary step of overturning a law that was passed by a strong majority of a democratically elected Congress." It almost sounds as if he believes the test of constitutionally is whether a majority approves of the bill, as opposed to whether the legislation lies within one of the express powers of the federal government. In fact, the very design of the Constitution, with power split amongst two branches of the legislature which write the laws, an executive who administers the laws, and an independent judiciary which resolves disputes regarding meaning of the laws, was designed to thwart popular will and preserve liberty.

President Obama continued in his comments, "For years, what we've heard is the biggest problem on the bench was judicial activism or a lack of judicial restraint, that an unelected group of people would somehow overturn a duly constituted and passed law. Well, there's a good example, and I'm pretty confident that this court will recognize that and not take that step."

President Obama seems to misunderstand that the criticism of an activist judiciary is not that it is overturning unconstitutional federal laws, but instead that it is usurping the authority to intervene in areas, such as abortion, where the Constitution reserves authority to the states. In fact, upholding clearly unconstitutional laws such as Obamacare because the justices bowed to the "will of the people" or believed the individual mandate was good social policy could be considered an example of judicial activism.

The founders never intended the judiciary to have the last word on whether or not a law is constitutional. The judiciary is equal to the Congress and the President, not superior. Representatives, senators, presidents, and judges all have an independent duty to determine a law's constitutionality. The founders would be horrified by the attitude of many lawmakers that they can pass whatever laws they want and federal judges will then determine whether or not the law is constitutional.

Additionally, state governments have the authority to protect their citizens from federal laws that threaten liberty. If the Supreme Court rules that Obamacare is constitutional, I hope state legislators will exercise their powers to pass legislation allowing their citizens to opt-out of the national health care plan.

Unfortunately, even many of my colleagues who correctly argue Obamacare's unconstitutionality support the President when he asserts the power to send troops into battle without a declaration of war, or have citizens indefinitely detained and even assassinated on little more than his own authority. Other of my colleagues not only cheer the unconstitutional monstrosity of Obamacare, but support the President's actions to defy the Senate's appointment powers, and legislate by executive order.

Even worse, some members will only challenge a President's unconstitutional actions if the President is from a different political party. The defeat of Obamacare in the courts would provide a stark reminder that the limits of government are set by the Constitution, not the will of the President, Congress, or even the Supreme Court. However, the victory would be short lived as long as the legislative branch refuses to do its duty to abide by the Constitutional limits and exercises its powers to ensure the other two branches do likewise.