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Did Obama step over line with Supreme Court blast?

Barack Obama's health care blast at the Supreme Court is provoking an inquisition into whether a law professor turned president unwisely trashed political and constitutional convention.

Few court watchers can recall a recent precedent for Obama's public warning Monday to the nine top justices in America that his legacy-boosting health reform legislation should stand.

Presidents generally avoid comment on cases before the court, to avoid prejudicing proceedings and infecting the respected body with the polarized political stew swamping the rest of Washington.

But Obama, ex-editor of the Harvard Law Review, said Monday the court would take an "unprecedented" and "extraordinary" step if it overturned a law passed by a strong congressional majority -- a questionable assertion at best.

His passionate intervention, on behalf of the most sweeping social legislation in half a century -- and his trademark political achievement -- sparked a heated debate among scholars.

In lashing the court, it could be that Obama was simply venting frustration, after many commentators interpreted court arguments last week as a sign they will probably strike health reform down.

Or perhaps Obama was launching a calculated gambit to limit political damage to his November reelection bid should the court, which usually leans conservative, throw out the law in a ruling expected in June?

He may have also been trying to fire up his political base, which likes nothing better than a good spat over the Supreme Court.

Another theory is that Obama thought he could throw his weight around and influence judicial deliberations.

Critics argue that Obama infringed legal propriety and convention by dragging the court into a bitter political row.

"(His) attempt to intimidate the Supreme Court falls well beyond distasteful politics; it demonstrates a fundamental lack of respect for our system of checks and balances," said Republican Senate leader Mitch McConnell.

The **Cato Institute's** Ilya Shapiro -- who opposes the law's mandate requiring all

Americans to buy health insurance -- said Obama's intervention was "dangerous."

"I think it threatens the independence of the Supreme Court. I think it could backfire because the justices don't want to seem like they are political pawns," he said.

The Supreme Court was designed by the framers of the US Constitution as one of three separate and co-equal branches of government, including the executive (presidency) and legislature (Congress).

One of its functions, as in the case of Obama's Affordable Care Act, is to judge whether laws passed by Congress infringe the constitution.

Obama's defenders argue that the president is guilty of nothing more than fervent lobbying for a measure which he spent huge political capital to pass, and which has helped millions of people secure health care.

Supporters of the 2010 law are so convinced it falls within the powers of Congress to regulate commerce, that any adverse ruling can only smack of politics.

"Should the Supreme Court overturn this law, it would be so far out of the mainstream that the court would be the most activist in a century," Democratic Senator Chuck Schumer said on NBC's Meet the Press on Sunday.

Others argue that if anyone has politicized the court in recent years, it is the justices themselves, with controversial rulings like the 5-4 verdict in 2000 handing a disputed election to George W. Bush over Al Gore.

More recently, liberals were infuriated by the Citizens United case, in which the court opened the floodgates to a torrent of campaign cash by overturning curbs on spending on behalf of candidates by corporations.

Obama angered several Supreme Court justices by criticizing the ruling in their presence during his 2011 State of the Union address.

Eric Segall, professor of law at Georgia State University, said it was "entirely appropriate" for Obama to make a public case about what the Supreme Court should do, though admitted he held a minority view.

"I think the court is a political institution that makes decisions based on a wide array of reasons -- some of which are legal, many of which are political," he said.

Though judges may not hew to a strict Republican or Democratic line, they do often decide cases based on their own values, Segall said.

The idea that the court is as political as any other branch of the government is also reflected in the process by which a president nominates, and the Senate approves, new justices -- a highly partisan affair.

Many analysts also say the debate over Obama's intervention could be moot, since it is unlikely it will sway closed deliberations by justices closeted in their chambers on Capitol Hill.

But it is certain that the court's decision will detonate with rare explosive power, into the heart of the presidential race later this year.