

The Volokh Conspiracy

[My Speech at Cato on the the Good, the Bad and the Ugly of the Obamacare Decision](#)

[Randy Barnett](#) • July 7, 2012 9:01 am

Here is my speech at the Cato on Monday, where I ask whether the decision last week might be the prelude to our 1937. (My talk starts at 3:50 and ends around 18:00. I have much to say about the tax power after the others speak.)



When I refer to 1935, I am actually referring to the 1936 Due Process case of *West Coast Hotel* that was decided 5-4, a theme I got from David Bernstein's blog post, "[Is this 1936?](#)" What is weird about this mistake is that I looked it up immediately beforehand to be sure I was right about the vote count. Prior to that I was considering referring to the 1935 Commerce Clause case of *Schechter Poultry*, but which was not a 5-4 decision. Hence the silly transposition. Other than this, everything I said was 100% correct.