

Duquesne University

Duquesne Scholarship Collection

Hallowed Secularism

The Collective Works of Bruce Ledewitz, Adrian
Van Kaam C.S.Sp. Endowed Chair in Scholarly
Excellence and Professor of Law

7-1-2012

July 1, 2012: The Significance of the Obamacare Decision

Bruce Ledewitz

Duquesne University, ledewitz@duq.edu

Follow this and additional works at: <https://dsc.duq.edu/ledewitz-hallowedsecularism>



Part of the [Constitutional Law Commons](#), and the [Law and Philosophy Commons](#)

Repository Citation

Ledewitz, B. (2012). July 1, 2012: The Significance of the Obamacare Decision. Retrieved from <https://dsc.duq.edu/ledewitz-hallowedsecularism/656>

This Article is brought to you for free and open access by the The Collective Works of Bruce Ledewitz, Adrian Van Kaam C.S.Sp. Endowed Chair in Scholarly Excellence and Professor of Law at Duquesne Scholarship Collection. It has been accepted for inclusion in Hallowed Secularism by an authorized administrator of Duquesne Scholarship Collection. For more information, please contact beharyr@duq.edu.

Title: The Significance of the Obamacare Decision

Date: 2012-07-01T07:29:00.001-04:00

7/1/2012—Well, it means we get national healthcare, as long as the Medicaid expansion drop-outs don't derail the program. And the conservatives are right to rejoice that the very fact that anyone had to care about the Supreme Court means that the conservative way of thinking about policy, which is outdated, now dominates. That is not the end of the world except that there are people who want to rule the New Deal unconstitutional and some of them are on the Supreme Court—many are in law schools. Now we have to take them seriously. On the other hand, the decision is totally insignificant. Five Justices held that the federal government cannot order you to enter a market. Except of course that they did not do that—you still have to buy insurance if you want to drive. And everything except healthcare is actually like that. So when will this momentous rule be applied again? Probably never. Five Justices also held for the first time that Congress had unconstitutionally coerced the States through its spending power. Well, the Medicaid spending cut was extreme. But some of the Justices will now try to overturn previous spending incentive cases. What is needed is a dramatic expansion of central government power to avoid these constitutional problems. If Congress had just created a single payer system backed by federal taxes, none of these constitutional issues would have arisen. The Obamacare decision is really a blow against mixed systems—States and the federal government and the federal government and the private market. In those terms, the decision may one day have the opposite effect from the one conservatives anticipate.