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11-27-2012

November 27, 2012: A Compromise on the Contraception Mandate?

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Ledewitz, B. (2012). November 27, 2012: A Compromise on the Contraception Mandate?. Retrieved from <https://dsc.duq.edu/ledewitz-hallowedsecularism/698>

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Date: 2012-11-27T03:16:00.000-05:00

11/27/2012—E.J. Dionne wrote a column in the Washington Post on Sunday that celebrated the Catholic Church's real treasure of compassionate works and human solidarity. He also saw signs of a willingness to compromise on the Affordable Care Act's contraception mandate by the Bishops: "There are also influential bishops who now want to work with the Obama administration to secure a compromise on the contraception mandate under the health-care law. This, too, would be a positive break with the recent past, and the president should seize the opportunity. He can provide contraception coverage while building on the adjustments he has already made in the mandate to accommodate the church's legitimate conscience concerns. And there's nothing that should stop the bishops from cooperating with the administration and other progressives on behalf of immigration reform." Even assuming that the President still seeks a compromise and has not been emboldened by the election, it is hard to see how compromise is now possible. Let's say that the President agrees that all Church-sponsored organizations can be exempt and further, that exemption itself satisfies the Bishops. (a fairly unlikely eventuality itself). What about for-profit businesses owned by Catholics? And what about for-profit businesses that simply claim religious opposition whether Catholic or not, either out of sincere religious commitment or insincere political opposition to government healthcare? They cannot all be exempt unless the commitment to women's healthcare is to be jettisoned. Already some small businesses have won litigation victories under the Religious Freedom Restoration Act. Any large scale retreat by the Administration will also weaken its litigation strategy. Finally, what about large-scale business corporations? The Supreme Court says they have free speech rights. Do they have religious rights too? Compromise over the contraception mandate seems to require a solution to our religious divisions, which will not be achieved anytime soon. I hope Dionne is right, but I have my doubts.