



Did Obama just lose Obamacare?

February 19, 2012 by Don Surber

President Obama's order that the Catholic church violate its doctrine and provide contraception free for its employees has many repercussions. I view it as a way to distract the public from his corrupt and failed administration; we spent \$787 billion on a stimulus and unemployment rose by a net loss of 161,000 jobs three years later. Others measure it in public opinion polls as they calculate how many Catholic votes it will cost the president, as he shores up support and enthusiasm from his liberal base. But there is only one man's opinion that matters and methinks that Barack Obama just showed that man just how dangerous Obamacare really is.



Justice Anthony Kennedy is one of 6 Catholics on the Supreme Court. His vote likely decides whether or not Obamacare passed the test of constitutionality. Our wise Latina justice, Sonia Sotomayor is all in on Obamacare. She most likely is part of that large crowd of American Catholics that ignores church doctrine on birth control. The Episcopalian man and the two women of Jewish faith are liberals as well and the overreach of the birth control mandate is lost on them.

On the other side are four Catholic conservative men who are inclined to vote Obamacare down in part or in whole. This edict may nudge them more toward striking Obamacare in whole.

This leaves us with 75-year-old Justice Kennedy who has succeeded Sandra Day O'Connor as the ballast of the court. Likely Chief Justice John Roberts will assign him the duty of writing the final decisions, which will be appended by four concurrences and four dissents. There is a very real divide in this nation between those who want a Republican and those who prefer a socialistic state. The court reflects that divide.

I neither know nor care to know what Justice Kennedy thinks about birth control. He has supported the right of abortion in the past, which means at the very least he puts aside church doctrine when it comes to applying the Constitution to the law. That may hurt Obama in this case. Even if the justice agrees with birth control, the fact that President Obama single-handedly handed down this edict with no input from Congress is chilling. In a column in the New York Post today, Michael Tanner, a senior fellow at the Cato Institute, pointed out just what the problem is with the birth-control mandate. The problem is not the adjective but the noun.

From [Michael Tanner](#):

The problem with the contraceptive mandate is not the contraceptive part — it's the *mandate*. The new health-care law requires every employer with 50 or more employees to provide their workers with health insurance. It also requires every American who doesn't receive health insurance through work or a government program to buy insurance themselves or face a fine. But simply providing or buying insurance is not enough to fulfill the mandate. The insurance must satisfy the government's definition of what qualifies as proper insurance, including a long list of benefits that the government thinks you should have.

In this case, the benefit we are talking about is contraceptives, and it has sparked particular outrage because it will force religious institutions to pay, even indirectly, for a benefit that they find morally repugnant. But it is hardly the only benefit that the new health-care law mandates. Among other benefits, your policy must now include mental health benefits, drug and alcohol rehabilitation, prescription drugs, dental and vision care for children and a host of other services. You may not want those benefits, and they may make your insurance more expensive, but it is no longer your choice. The government will now decide for you. Your choice of deductibles and co-payments will also be restricted.

This debate has nothing to do with access to birth control. Contraceptives are legal. There is nothing that prevents any woman who wants contraceptives from purchasing them. Most insurance plans already do so, and when they don't, women can purchase a rider that provides the additional coverage.

While I share Michael Tanner's frustration with the ability of the president to re-frame the issue as a debate on The Pill — a debate ended about 50 years ago, as I recall — the fact is Justice Kennedy is experienced enough to frame the debate correct. The president got ahead of himself. Obamacare still needs the Seal Of Good Constitutionality from the Supreme Court. The order to the Church shows poor timing that is unusual for liberals. Usually liberals show far more patience in pushing the nation ever leftward. The president may have just made the case for striking down Obamacare as an unconstitutional overreach of the state's power.

We shall see.