

HHS MANDATE TARGETS CATHOLICS

This year, for the first time in American history, the federal government waged war on the First Amendment rights of Roman Catholics. When the healthcare bill was being considered, the Obama administration said it would respect conscience rights and would not mandate abortion coverage. The United States Conference of Catholic Bishops (USCCB) was encouraged, but very quickly it became apparent that Obama's pledge was empty; the USCCB refused to support any legislation that might jeopardize conscience rights or mandate abortion coverage. The bill passed, over the objection of the bishops, and then came the directive of Secretary of Health and Human Services (HHS) Kathleen Sebelius ordering religious institutions like hospitals and universities to provide coverage for abortifacients, contraception and sterilization. On January 20, Sebelius said that only churches would qualify for an exemption from paying for these services (even then they had to apply for an exemption); all other religious institutions, like hospitals and universities, would have to comply. The latter would be punished because they do not discriminate insofar as they hire and serve both Catholics and non-Catholics.



This unleashed an uproar. Letters of protest from bishops were read in parishes across the country. Three weeks later, on February 10, Obama announced his "accommodation": employers did not have to pay for these services, just their insurance companies. Everyone knew this was a shell game—the insurance premium is paid by Catholic workers and employers. Hence, the call on the part of the bishops, the Catholic League, and others, to stand fast and call for legislation that would secure our First Amendment right to religious liberty.

The Catholic League vociferously and relentlessly defended the

constitutional right to religious freedom not just of all Catholics, but people of all religions. We repeatedly made the point that this was not just a Catholic issue, but an American issue. What follows is a timeline of our response to the Obama mandate, up to and concluding with the U.S. Supreme Court ruling on ObamaCare.

January 20: OBAMA'S CONTEMPT FOR RELIGIOUS LIBERTY

The following was our response to the announcement of the Obama administration's edict mandating coverage of sterilization and contraceptive services in most healthcare plans:

Secretary of HHS Kathleen Sebelius said that aside from houses of worship, all other religious agencies and organizations will be required to provide sterilization and contraceptive services, including abortifacients, in their employee healthcare plans; none will be allowed to charge co-pays or deductibles. The policy goes into effect in August 2013 for these entities.

Sebelius explained how her directive applies to non-church religious entities such as Catholic hospitals and universities: "Employers wishing to take advantage of the additional year must certify that they qualify for the delayed implementation. This additional year will allow these organizations more time and flexibility to adapt to this new rule." She also said, "I believe this proposal strikes the appropriate balance between religious freedom and increasing access to important preventive services."

That this edict was being announced in an election year indicates both contempt for the First Amendment and plain stupidity.

February 3: GAG RULE ON MILITARY CHAPLAINS

On January 26, Archbishop Timothy Broglio joined with his

fellow bishops in issuing a pastoral letter criticizing the Obama administration for violating the conscience rights of Catholics. The only difference was that Broglio's letter, which was to be read from the pulpit by military chaplains, was initially censored.

The Army's Office of the Chief of Chaplains notified Archbishop Broglio that he was not authorized to have his letter read from the pulpit. Broglio shot back saying he stands "firm in the belief, based on legal precedent" that the Army had no right to issue the gag order. He said the attempt to muzzle his free speech violated his rights and "those same rights of all military chaplains and their congregants."

After Archbishop Broglio met with Secretary of the Army John McHugh, a compromise was reached: the letter would be allowed to be read providing that the last sentence, "We cannot, we will not, comply with this unjust law," was excised; the government argued it could be seen as a call to civil disobedience. Still, the damage was done, and once again the Obama administration unnecessarily picked a fight with Catholics.

February 6: SEBELIUS DISRESPECTS CATHOLICISM

In an article entitled "Our Rule Respects Religion," HHS Secretary Kathleen Sebelius wrote in *USA Today* that "we specifically carved out from the [healthcare] policy religious organizations that primarily employ people of their own faith."

Secretary Sebelius knows very well that Catholic agencies have a long and distinguished record of hiring and serving non-Catholics, so to say that they can only qualify for an exemption by turning away those who are not Catholic from Catholic schools, hospitals, hospices, orphanages, shelters for battered women, and the like, is a plea for discrimination and an insult to Catholics and non-Catholics alike.

February 7: OBAMA PUSHED US TOO FAR

The Obama administration has made three strategic errors: 1) this issue is first and foremost not about contraception—it is about religious liberty 2) by mandating that Catholic entities provide coverage for abortifacients, the Obama administration has made it clear that its ultimate goal is to demand that all healthcare plans provide for abortion coverage, and 3) it seriously underestimated the clout of the bishops.

February 8: OBAMA SPOKESMEN ARE INSINCERE

We issued a statement on how President Obama's spokesmen are defending his healthcare plan mandating that Catholic institutions provide for services they deem immoral:

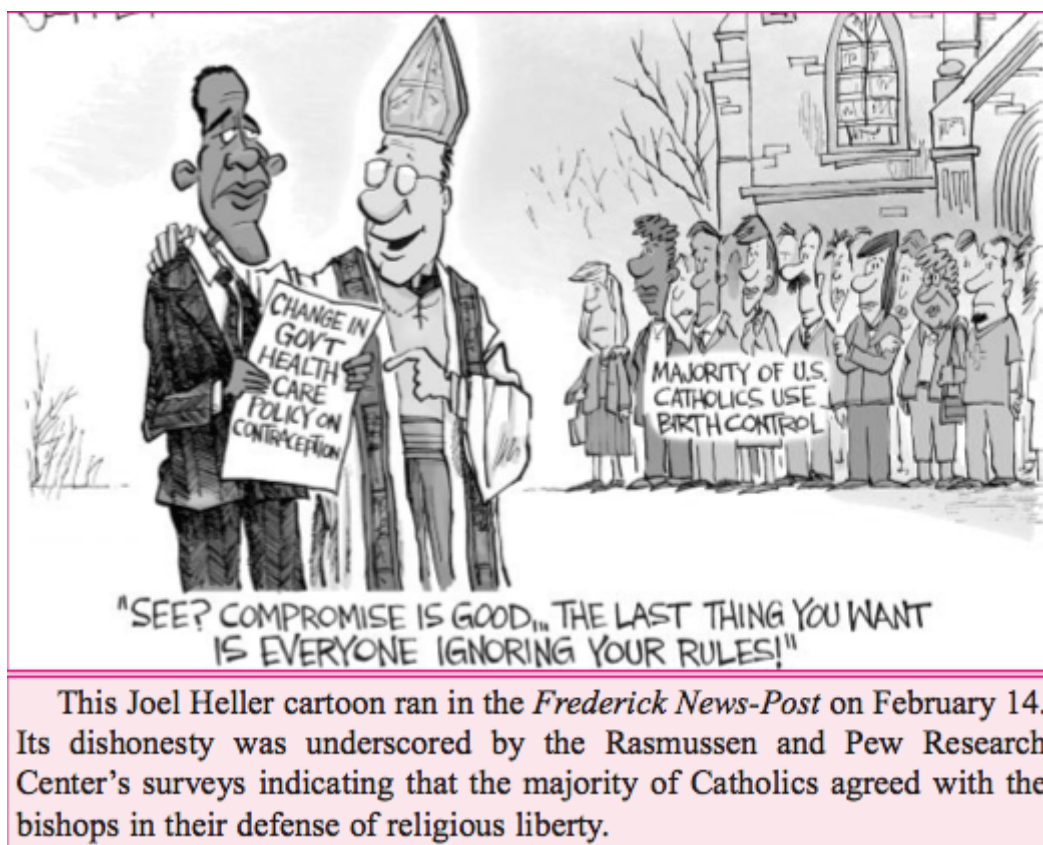
David Axelrod of the Obama campaign said that "We certainly don't want to abridge anyone's religious freedom, so we're going to look for a way to move forward that both provides women with the preventative care that they need and respects the prerogatives of religious institutions." Similarly, White House press secretary Jay Carney said yesterday that "the president is very interested in finding the appropriate balance between religious beliefs and convictions."

Both men are insincere. We know that there was division in the Obama administration when the Obama edict was being contemplated, and that the president sided with extremists like HHS Secretary Kathleen Sebelius (anyone who raises money for a man dedicated to performing partial-birth abortions is obviously an extremist; she did so for Dr. George Tiller). So they had plenty of time to figure out a way not to punish Catholics, and they still decided to drop the hammer.

White House supporters of Obama's edict are pointing to a poll that shows a slight majority of Catholics supporting Obama's plan. But the poll is flawed. As always, the question affects the outcome. The poll never mentioned that the federal government would place sanctions on Catholic institutions if

they did not comply, and that ultimately it could lead to pulling federal funds to Catholic hospitals, effectively shutting them down. Nor did the poll mention that the Obama plan mandates that Catholic entities provide abortion-inducing drugs. In short, the question was dishonest. Just wait until all Catholics find out what's really at stake.

What Obama is doing is just an opening for mandating abortion coverage in every healthcare plan.



February 10: OBAMA'S PLOY ADDS INSULT TO INJURY

The following was our statement on President Obama's revised healthcare plan as it affects Catholic institutions:

President Obama's latest ploy just adds insult to injury. If the insurance plan of a Catholic institution must cover services it deems immoral, then such a healthcare plan is offensive, plain and simple.

The Catholic League, for example, uses Christian Brothers as

its insurance carrier. So if a future employee of ours were to demand free abortion-inducing drugs, and if she is allowed to request free drugs from Christian Brothers, then the rest of us would, in effect, be subsidizing her abortion. This is outrageous and will not stand judicial scrutiny.

When it comes to the First Amendment, there is no such thing as a half loaf. We want now, and in the future, the same rights we have enjoyed since the beginning of the republic.

The Obama ploy is also cynical: its effect is to peel off liberal Catholic opposition to ObamaCare. In other words, the old divide and conquer strategy is in play. But it won't work as nicely as they think: there are too many practicing Catholics who will only be impelled to revolt.

Obama has decided to turn up the heat. He'll soon see how hot things get when Catholics team with Protestants, Jews, Mormons, and others to recapture their First Amendment rights. Indeed, President Obama will now be remembered as the president who brought the culture war to a boil.

February 16: OBAMA MANDATE NEVER SCRUTINIZED

Following her February 15 testimony before the Senate Finance Committee, HHS Secretary Kathleen Sebelius was asked whether she spoke to the bishops about the controversial mandate she is pushing. She admitted she did not. Then she said, "I know that the president has spoken to the bishops on several occasions."

Sebelius is wrong. Bishop William Lori [now Archbishop of Baltimore], who heads the bishops' *Ad Hoc Committee for Religious Liberty*, said that administration officials should have sat down with the bishops. "That certainly did not happen," he said. Archbishop Timothy Dolan, who heads the bishops' conference, met once with the president, and that was three months ago; the two phone calls he has had since were to inform him that the bishops' religious liberty concerns would

not be honored.

Under questioning from Sen. Orrin Hatch, Sebelius further admitted that HHS never subjected the religious liberty issues to a legal analysis, as requested by 27 senators. She also admitted that she never asked the Justice Department to consider this issue.

It gets worse. *The New York Times* reported on February 16 that the administration announced the Obama mandate “before it had figured out how to address one conspicuous point: Like most large employers, many religiously affiliated organizations choose to insure themselves rather than hire an outside company to assume the risk.” As the *Times* points out, this is not a slight issue: 60 percent of all workers with health insurance are covered by a self-funded plan, and the figure jumps to 82 percent for large companies. And no one bothered to address this?

So they refused to consult with the bishops; they refused to weigh the First Amendment religious liberty concerns; and they refused to study how the mandate might impact self-insured companies. In other words, with characteristic arrogance, they just “winged it.” Wait until the Supreme Court hears all of this.

February 17: SEBELIUS SMEARS CATHOLIC INSURERS

On February 15, HHS Secretary Kathleen Sebelius said Catholic insurance carriers will not be given an exemption from the mandate requiring insurance companies to provide for contraceptive, abortifacient, and sterilization services. She explained, “Religious insurance companies don’t really design the plans they sell based on their own religious tenets.” This is an outrageous smear.

In January, *Our Sunday Visitor* ran a splendid article on this subject titled, “Investing with a Clear Conscience.” It listed the following companies as following Catholic investment

principles: Ave Maria Mutual Funds; Christian Brothers Investment Services; Epiphany Funds; First Affirmative Financial Network; Investing for Catholics; LKCM Aquinas Funds; Prosperitas Wealth Management; and Trinity Fiduciary Partners.

The article also listed the six investment principles as laid out in the bishops' 1991 statement on socially responsible investing (it was revised in 2003): Protecting Human Life; Promoting Human Dignity; Reducing Arms Production; Pursuing Economic Justice; Protecting the Environment; and Encouraging Corporate Responsibility.

Sebelius, of course, is a champion of partial-birth abortion, so she obviously fails the bishops' test. That is her business. But she has no business misinforming the public about the honorable role played by many Catholic insurance companies.

March 14: RELIGIOUS RIGHTS DEMANDED; BISHOPS REFUSE TO BUDGE

On March 14, the USCCB Administrative Committee released a statement, "United for Religious Freedom," that is the clearest exposition of contemporary Catholic thought on religious liberty in America. It is also the definitive response to attempts by the Obama administration to force Catholic institutions to violate their beliefs.

The statement yielded nothing to Church critics. The product of a two-day meeting in Washington that was attended by over 40 bishops, it speaks directly to the HHS mandate that seeks to force Catholic non-profits to cover services it deems objectionable in its insurance plans. Mincing no words, the document declares the HHS edict to be "unjust and illegal."

The bishops debunked many myths about this issue: it is not about contraception; it is not just about Catholic religious rights; it is not about the Catholic Church trying to impose its will on others—it is about the federal government trying

to impose its agenda on us; it is not about opposition to universal health care (the Church has long championed this right); and it is not about choosing political sides. It is about religious liberty.

Most important, the statement argues that the HHS mandate seeks to create a new class of citizens' rights: those who work for religious institutions that hire and serve mostly people of other religions deserve fewer constitutional protections than those which discriminate against men and women of other faiths. This is perverse. Moreover, employers of secular entities who nonetheless object on religious grounds to funding immoral insurance plans would constitute another class of citizens.

April 4: OBAMA ENLISTS ACLU TO WAR ON CATHOLICS

After the Catholic News Service published a story on an internal memo from the bishops on ObamaCare, we issued the following statement:

The more the bishops study this issue, the more resolved they are in opposing ObamaCare. At the heart of the bishops' objections is the contrived and unjust way the Obama administration defines a religious organization; it grants an exemption only to what it deems is a religious entity. In point of fact, it is the ACLU that is really dictating to Catholics what passes as a religious institution.

In 2000, the California Contraceptive Equity Law was passed. In it there is a provision defining what qualifies as a religious employer, and it was written by the ACLU. Besides noting that the institution must be a non-profit, the exact qualifying language is as follows:

- "The inculcation of religious values is the purpose of the entity"
- "The entity primarily employs persons who share the religious tenets of the entity"

- “The entity serves primarily persons who share the religious tenets of the entity”

The HHS edict forcing Catholic institutions to provide for abortion-inducing drugs in their insurance coverage also allows an exemption for groups it deems religious. Besides noting the non-profit status, the exact qualifying language is as follows:

- “Has the inculcation of religious values as its purpose”
- “Primarily employs persons who share its religious tenets”
- “Primarily serves persons who share its religious tenets”

May 16: OBAMACARE vs. CATHOLIC CHURCH

Two recent developments offer new evidence that the confrontation between the Catholic Church and the Obama administration is reaching collision course dimensions: on May 15, attorneys for the USCCB made plain their objections to the alleged “accommodations” offered by the Department of HHS; and on May 16 the Franciscan University of Steubenville announced that as a result of the HHS mandate it would drop student health care insurance programs starting in the next academic year.

Writing for the bishops, Anthony R. Picarello, Jr. and Michael F. Moses listed six objections to the HHS mandate that would force Catholic non-profits to pay for morally objectionable services in their insurance plans. One central objection was the “unprecedented” attempt to redefine religious employers as entities that hire and serve mostly people of their own religion; it would effectively nullify the religious exemption traditionally afforded such institutions as Catholic social service agencies, hospitals and colleges.

Another major point, one which speaks directly to the concerns of Franciscan University, is that it mandates such organizations to “either drop out of the health insurance marketplace” or “provide coverage that violates their deeply-

held convictions.” Fr. Terence Henry, the courageous president of the university, will not be bullied.

Both the crabbed redefinition of a religious institution, and the either/or conditions it offers Catholic non-profits, are classic Catch-22 politics. The goal, which is to punish Catholic organizations if they don’t bow to the secular edicts of the Obama administration, couldn’t be more transparent.

May 21: CATHOLIC REBELLION HAS BEGUN

Forty-three institutions filed lawsuits against the Obama administration challenging the constitutionality of the HHS edict seeking to force Catholic non-profits to pay for abortion-inducing drugs, contraceptive services and sterilization in their insurance plans. We issued the following statement:

This is a great day for those who believe in religious liberty. Suing the Obama administration for seeking to trash the First Amendment rights of Catholics are 43 Catholic dioceses and institutions from all over the nation.

Among those filing suit are: the Archdiocese of New York; the Archdiocese of Washington, D.C.; the Archdiocese of St. Louis; the Diocese of Rockville Centre; the Diocese of Dallas; the Diocese of Fort Worth; the Diocese of Pittsburgh; the Diocese of Fort Wayne-South Bend; the Michigan Catholic Conference (which represents all seven dioceses in the state); Catholic University of America; Franciscan University of Steubenville; and the University of Notre Dame. Entities ranging from retirement homes to publishing houses joined the lawsuits.

There will be more. And depending on how the U.S. Supreme Court rules next month on the constitutionality of ObamaCare, this may just be the beginning.

Catholics are sending an unmistakable sign to President Obama, Kathleen Sebelius, et al. that we will not be obedient. We

will not do as we are told. Instead, we will do what is just. The Catholic rebellion has begun.

June 28: OBAMACARE RULING AND CATHOLIC RIGHTS

The only way Catholic non-profits could have survived the encroachment of the federal government on their right not to buy insurance for services they deem immoral was if the entire ObamaCare legislation had been struck down. That did not happen.

The Supreme Court did not rule today on the constitutionality of the right of the Obama administration to force Catholic non-profits to pay for abortion-inducing drugs, contraception, and sterilization in their insurance plans; this Health and Human Services (HHS) edict was issued after the high court accepted the ObamaCare bill. Eventually, this particular issue will reach the Supreme Court.

It is important to note that in the high court ruling, Supreme Court Justice Ruth Bader Ginsberg said that enforcing this law must not trespass on the constitutional right to religious liberty. She seemed to signal to the Obama administration that they dare not tread on Catholic rights.

If the Supreme Court decision lacks clarity, the Catholic response will be anything but ambiguous: the battle lines between the bishops and the Obama administration are now brighter than ever. Fortunately, not only do practicing Catholics overwhelmingly support the bishops, tens of millions of non-Catholics also do.

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PRESIDENT OBAMA'S WAR ON RELIGION

Bill Donohue wrote about the Health and Human Services abortifacient mandate in his four-part essay on President Obama's war on religion that appeared on Newsmax.com in

September. The following is an excerpt from the final installment:

On Jan. 20, Health and Human Services (HHS) Secretary Kathleen Sebelius rolled out what would come to be known as the HHS mandate: Catholic institutions would be required to pay for contraception, sterilization and abortion-inducing drugs in their healthcare plans for employees.

The inclusion of abortion-inducing drugs was striking. The administration could have settled for contraception, but instead it sought to stick the camel's nose in the tent. Its real long-term interest was plain: eventually, as broached by FOCA [the Freedom of Choice Act], Catholic hospitals would be required to perform abortions.

On Jan. 31, Press Secretary Jay Carney stunned even Obama supporters when he said, "I don't believe there are any constitutional rights issues here." No one was buying it, especially not the bishops.

After Catholics pushed back, a new version was introduced three weeks later. But it was a distinction without a difference: It mandated that the insurance carrier of Catholic non-profits must pay for these services.

This was just a shell game. In reality, many Catholic non-profits are self-insured (for example, the Archdiocese of Washington is self-insured). Then there is the issue of Catholic entities that are not self-insured: Why should they have to pay their insurance company for services they deem immoral? Another issue that won't go away is the right of Catholic business owners not to pay for services that violate their conscience.

It is important to acknowledge that Catholics are not asking for special rights—they are simply asking the Obama administration to respect the status quo. The administration won't budge, saying the best it will do is exempt Catholic

churches.

So what about Catholic non-profits?

Without doubt, the most contentious, and frankly diabolical, demand of the Obama administration is the proviso that only Catholic institutions that hire and serve mostly people of their own religion are entitled to an exemption. In practice, this means that Mother Teresa's worldwide health and social service programs that serve people of all religions, as well as non-believers, would not qualify for a religious exemption.

Obama officials arrived at this conclusion by following the thinking of the ACLU (as I have recounted in two books on the organization, the ACLU has never been a religion-friendly institution).

In 2000, ACLU lawyers helped devise legislation in California that took a novel view of what constitutes a religious institution. It argued that a truly religious entity had to employ and serve mostly people of its own faith.

By adopting the ACLU rule, the Obama administration essentially sought to punish Catholic universities, hospitals, and social service agencies because they do not discriminate against non-Catholics. In other words, if these institutions were to display signs saying, "No Jews Allowed," they would be just fine.

Catholic bishops, led by New York Archbishop Timothy Cardinal Dolan, president of the United States Conference of Catholic Bishops, have made their objections known loud and clear. So have non-Catholics.

Evangelical Protestants, in particular, have joined with their Catholic brothers in registering their outrage. It is apparent to everyone that Obama's war on religion has reached a new level of opposition.

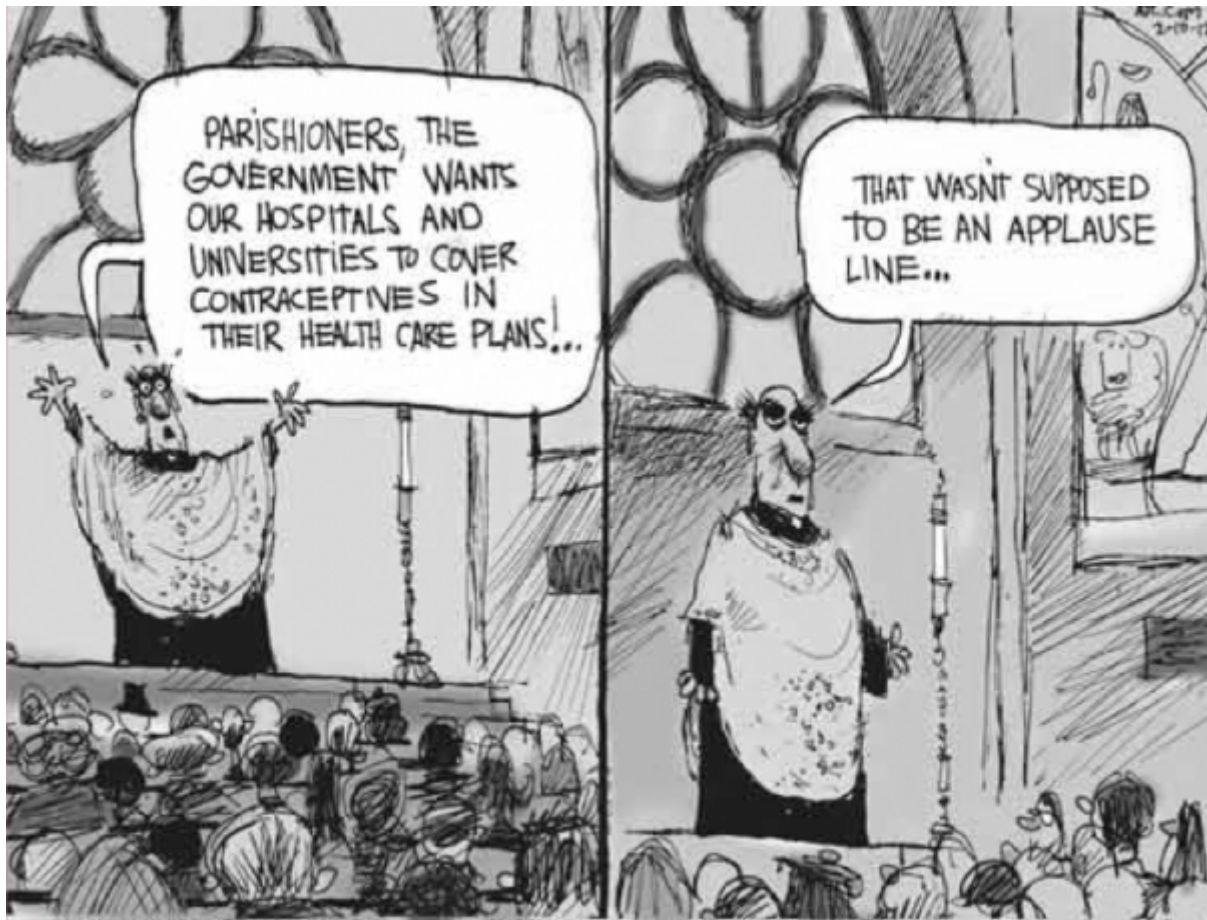
The determination of Obama officials to push forward led them to attack another First Amendment right: the right to free speech. The archbishop of the military services, Thomas Broglio, joined with his fellow bishops in issuing a pastoral letter criticizing the Obama administration for violating the conscience rights of Catholics. He got into trouble with the Army's Office of the Chief of Chaplains when he asked military chaplains to read the letter from the pulpit. The Obama team initially ordered the letter censored, but eventually modified its position after a compromise was met.

The U.S. Supreme Court ruled ObamaCare constitutional in June, although it did not rule on the constitutionality of the HHS mandate (it was not promulgated until after the high court agreed to decide the fate of ObamaCare).

It is still hard to get the president and his administration to speak truthfully about this issue. In August, President Obama told a crowd at the University of Denver that "We worked with the Catholic hospitals and universities to find a solution that protects both religious liberty and a woman's health."

Yet as recently as February, Bishop William Lori, who chairs the bishops' Committee for Religious Liberty, said point blank that "no one from this administration has approached the United States Conference of Catholic Bishops for discussions on this matter of a possible 'compromise.'" He also made it clear that only after the original HHS mandate was revised did the White House contact Archbishop Dolan.

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This Mike Luckovich cartoon ran in the *New Haven Register* on February 16. The cartoon was an attack on the parish letters on the threat to religious liberty posed by the Health and Human Services abortifacient mandate. It suggests that Catholic opposition to the mandate is nonexistent.

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