

# Forbes

## *Where Was the Catholic Church When the Obamacare Mandate Was Being Debated?*

By Jim Powell

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It's heartening to see Cardinal Timothy Dolan speak candidly about President Obama's apparent betrayal. In November 2011, Obama had a face-to-face White House meeting with Dolan and promised that the Church's charitable activities wouldn't be subject to the Obamacare mandate. Just two months later, in January 2012, Obama called him to say that the Church must obey the law like everyone else, and employees of Catholic charities would have to be provided with health care packages that included contraception and abortion services. Obama subsequently suggested that an insurance company could handle the matter, though the Catholic Church would still have to pay for contraception and abortion services through its insurance premiums.

The experience must have reminded many people of the occasions when President Richard Nixon's Watergate lies were exposed, and White House press secretary Ron Ziegler famously remarked that Nixon's past statements were "inoperative."

Maybe Catholic protests will remind Supreme Court justices that infringements on economic liberty tend to undermine other liberties. Freedom of religion is impossible unless churches are private property – sanctuaries where people may gather peacefully without interference and without being forced to violate their core teachings. Freedom of speech is impossible unless there are privately-owned homes, halls and other places where people may speak without fear of reprisal. Freedom of the press is impossible unless presses, paper, ink, telecommunications and so on are privately-owned, and people may publish their findings and their views. Freedom of contract vanishes when it's forced. Arbitrary government power always implies a threat that the economic means of exercising such freedoms could be denied whenever it might serve a ruler's self-interest.

Discussions at the Supreme Court made clear that Obamacare doesn't have a limiting principle. Justices repeatedly asked about that, but the attorney representing the Justice Department couldn't provide a credible answer. There's nothing in the approximately

2,700 pages of the Obamacare law to indicate that Congress intends only to force people to buy health insurance and not anything else. So, the mandate, if upheld, would set a precedent for a potentially unlimited expansion of federal power over people's lives.

While the Catholic Church could be a formidable foe of the Obamacare mandate, one might wonder where the Church has been during the last three years when the mandate was being debated.

Why didn't Church officials take a principled position against the mandate that infringed on economic liberty and therefore could threaten religious liberty?

How is it that a group of Catholic nuns, representing 22 religious organizations, filed an amicus brief supporting the Obamacare mandate?

The short answer, of course, is that as long as Church officials thought they would be exempted from the mandate via a religious carve-out, they didn't expect to gain by venturing into controversy.

One might try to defend the Church's apparent lack of concern by saying that it has a long-standing policy of generally minimizing high profile political activity in the United States. Unlike the situation in Europe or Latin America, there has never been a Catholic political party here. The first major party Catholic presidential candidate, Al Smith (1928), lost partly because many Americans feared that the Pope might dictate his policies. Catholic officials tried to maintain a low political profile in 1960 when a second Catholic politician – John F. Kennedy – was running for president. In recent years, Catholic officials have spoken out on only a few controversial social issues like abortion and gay marriage.

The Church has achieved amazing longevity by trying to avoid fights with rulers. In an 1840 essay, the eloquent English historian Thomas Babington Macaulay marveled that the Catholic Church “saw the commencement of all the governments and of all the ecclesiastical establishments that now exist in the world, and she might be destined to see the end of them all. She was great and respected before the Saxon had set foot on Britain, before the Frank had passed the Rhine, when Grecian eloquence still flourished at Antioch, when idols were still worshipped in the temple of Mecca. And she may still exist in undiminished vigor when some traveler from New Zealand shall take his stand on a broken arch of London Bridge to sketch the ruins of St. Paul's.”

In an effort to get along, however, the Catholic Church often has accepted or remained silent about a government's prevailing policies. That practice has led to some of the lowest points in the Church's history.

Common teachings of the Church tolerated or approved of slavery for some 1,400 years.

Churchmen have been of two minds about slavery. Historian Dale Johnson explained, that “one, emphasizing obedience of slaves to masters, supported the institution of

slavery, while the other, emphasizing the oneness of all who are in Christ, promoted emancipation.”

The Church benefited from slavery and serfdom. Since medieval monks were so successful at convincing lords they should bequeath their estates to the Catholic Church, it became the biggest landowner in Europe, with more serfs than anyone else. Church canon law had specific provisions against freeing slaves, and the Church even profited from the death of serfs: the lord had the right to take a deceased serf’s best farm animal, and the local priest could take the second-best animal.

In 1452, Pope Nicholas V officially approved Portugal’s efforts to enslave heathens. In 1488, Spain’s King Ferdinand gave a hundred Moorish slaves to Pope Innocent VIII who, in turn, gave some to his favorite cardinals. On the other hand, in 1435, Pope Eugene IV issued the papal bull *Sicut Dudum* that declared any Catholic who engaged in the slave trade would be excommunicated.

The Spanish historian and Dominican friar Bartolomé de Las Casas (1484?-1566) was a principal figure in the first great debate about slavery. He had enslaved indigenous people of the Americas on his estate in Hispaniola until 1514 when, following a crisis of conscience, he began speaking out against the practice. But four years later, he suggested that African slaves would be better able to handle the work in tropical heat. Eventually he acknowledged that enslaving Africans was wrong, but he wasn’t known to have expressed that view publicly. Meanwhile, in 1537 Pope Paul III denounced the enslavement of indigenous people. All this was a slow beginning.

In fairness, I should say that Protestant churches had gone along with slavery, too. Neither Martin Luther nor John Calvin, who led the Protestant Reformation, ever said slavery was wrong. The first American “Great Awakening” movement was started in 1740 by Jonathan Edwards, a Massachusetts Congregational preacher who owned slaves and defended slavery. In the American South, authors like Albert Taylor Bledsoe, a Kentucky lawyer and Episcopal clergyman, used religious arguments for slavery. He declared that “the very best men, like Abraham, whose lives are recorded in the Old Testament, were the owners and holders of slaves.”

Although notable Quakers like William Penn and Benjamin Franklin had some slaves, Quakers became increasingly uneasy about the violence involved in capturing, shipping and owning slaves. The first Quaker meeting to approve a critique of slavery was in 1733. By 1761, Quakers in both America and England became the first to adopt a religious view that slavery was wrong. Later, Quakers played an important role in the American abolitionist movement, while more respectable Protestants like the Congregationalist minister Lyman Beecher denounced William Lloyd Garrison and other abolitionists.

During the 20th century, Catholic officials have tried to protect the Church by compromising with dictators as they had compromised with kings. For example, Benito Mussolini resented the power of the Catholic Church, but after he became Italy’s dictator in 1922, he decided to work with the Church, and Church officials decided to work with

him. They did it even though as historian R.J.B. Bosworth explained, the Fascist government promoted “a personality cult in which Mussolini was elevated into an all seeing and all-knowing god, a Man who, Italians were assured, radiated a divine light and possessed an omniscient intuition. As the basic regime slogan went, ‘Mussolini is always right.’”

In 1929, Mussolini and Pope Pius XI negotiated a pact. Mussolini wanted the pope to recognize him as supreme on his turf (politics), and the pope wanted Mussolini to recognize him as supreme on his turf (religion and education). The pact, Bosworth wrote, “marked the embrace of Fascist totalitarianism...Wedlock, or at least cohabitation, is a good way to understand official Church-State relations under Fascist rule.” During one conversation the two men had, the pope said that he recited an Angelus Dei (prayer) each morning and evening for Mussolini’s guardian angel.

The relationship between Mussolini and Pope Pius XI seemed to flourish during the 1930s. The pope was glad to see Mussolini maintaining police surveillance of Protestant missionaries in Italy. Mussolini cracked down on abortionists in an effort to help increase Italy’s population and power. He celebrated “births for the nation” by handing out bronze, silver and gold medals to parents with six, eight and 10 children respectively. The pope was pleased. In 1936, Fascist Italy and the Catholic Church were on the same side of the Spanish Civil War, along with Adolf Hitler, backing Francisco Franco who emerged as Spain’s dictator. Both Mussolini and the pope agreed on the importance of keeping women in their place, though the pope might not have been comfortable with Mussolini’s crude way of phrasing the issue – “Either children or beatings.”

Probably more has been written about Eugenio Pacelli – who became Pope Pius XII in 1939 – than has been written about any other pontiff. This is because during World War II, he never publicly denounced Nazi violence against Jews. His first reference to the Holocaust was a brief, vague mention in his Christmas 1942 message, expressing sympathy for “the hundreds of thousands who, without personal guilt, are doomed to death or to a progressive deterioration of their condition.” The pope reportedly brushed aside pleas from Polish Catholic officials to condemn Nazi atrocities there. Some Vatican officials were said to have helped escaping Nazi war criminals. After the war, Pope Pius XII refused to disavow the Church’s long-standing anti-Judaism – something his successors John XXIII and John Paul II did much later.

It’s also true that Pope Pius XII encouraged local Catholic churches in Hungary, Romania and Slovakia to help Jews. Historian Antony Polonsky reported that “with the support of the Vatican, priests, monks and nuns participated in the rescue of Jews and hid them in their monasteries, parish houses and private homes. Many lay Catholics in France, the Netherlands and Belgium, as well as in Italy and Poland, acted in a similar fashion, which helped save many Jewish lives, although certainly not the 700,000 claimed by some papal apologists. In addition, the church interceded on behalf of Jewish converts to Catholicism and, rather more rarely, of actual Jews.” When the Nazis occupied Rome, Polonsky noted, “the pope issued no protest against the forcible deportation to their deaths of nearly 1,000 Roman Jews, but he did organize the hiding of what some have estimated as another

4,000.”

The best explanation for the pope’s silence is that the Vatican was militarily helpless, and the pope was afraid to provoke a Nazi attack that could have devastated the Church as well as large numbers of individual Catholics. One journalist defended the pope by saying that he was in a seriously conflicted situation, because almost all European Catholics were in Nazi-controlled territory, and the major Nazi adversaries included Protestant England, Protestant America and atheistic Soviet mass murderers. Even so, it’s hard to describe the pope’s silence as anything other than a failure of moral leadership.

Obviously, the Obamacare mandate cannot be compared with these colossal calamities, but liberty is seldom lost all at once. Liberty tends to be lost as political power expands in many, often unforeseen steps. The mandate is one step. The dramatic expansion of the Commerce Clause, a constitutional rationale for the mandate, involved many steps. Sometimes the movement from one step to the next occurs so slowly – seven decades, in the case of the Commerce Clause — that most people don’t notice until it’s far along. By that time, it can be politically almost impossible to stop.

During a war, revolution or other emergency, governments expand their power rapidly, and things happen that were unimaginable not long before. Government spending during the Civil War, World War I and World War II surged by about a factor of 10. World War I was the smallest of these for Americans, but it had an impact nobody seems to have foreseen. Historians Samuel Eliot Morison, Henry Steele Commager and William E. Leuchtenburg explained that the war led to an awesome proliferation of government bureaucracies. For example, “The production of some 30,000 articles came under the minute supervision of the War Industries Board. Baby carriages were standardized, traveling salesmen were limited to two trunks, and the length of uppers on shoes was cut down. It was such a regimentation of the economy as had never before been known, and it later served as the model for the New Deal mobilization.”

Rather than seeming to ignore the Obamacare mandate until it turned against them, Catholic Church officials might have been wiser to recall a great Catholic who was a distinguished historian and a keen observer of political power — John Emerich Edward Dalberg-Acton. He knew that political power must be limited, because there’s no reliable way of keeping bad or incompetent people away from it. On April 5, 1887, he wrote a memorable letter to Mandell Creighton, a bishop of the Church of England. In part, Lord Acton said: “I cannot accept your view that we are to judge pope and king unlike other men, with a favorable presumption that they did no wrong. If there is any presumption, it is the other way against holders of power, increasing as the power increases. Power tends to corrupt, and absolute power corrupts absolutely.”

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