

THE BUFFALO NEWS

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Douglas Turner: Bishops apply pressure, Congress pushes back

Douglas Turner

Updated: December 14, 2009, 11:52 AM /

WASHINGTON — Today's fight with the Catholic bishops over abortion in the health insurance bill is a far cry from a quarter century ago, when they could defeat a constitutional amendment giving equal rights to women and draw scarcely a peep of complaint.

Then-Rep. Geraldine Ferraro, D-Queens, wanted Congress to vote more time for the states to approve ERA. The bishops, here for a meeting, quietly called targeted House members from their D. C. hotel rooms and they stuffed it.

Now Democratic House members are going to the airwaves, the Internet and the floor to denounce the bishops for violating the separation of church and state and even threatening to strip the church of its tax exemptions.

Rep. Louise M. Slaughter, D-Fairport, co-chair of the pro-choice

caucus, complained to a Boston blog that she got a letter from a Catholic bishop asking her to explain her vote against an amendment sponsored by Rep. Bart Stupak, D-Mich.

The Stupak bill, which prevailed, bars any federal funding directly or indirectly for abortions.

"I'm not Catholic," Slaughter said, "but they asked me to explain myself." Slaughter made no threats about the church's tax status but her comments were part of a brush-back that may have contributed to the defeat of a similar Senate bill sponsored by Nebraska Democrat Ben Nelson last week.

Rep. Rosa DeLauro, D-Ct., who received communion from Pope Benedict XVI at Nationals Park last year, has threatened the church's tax exemption. MSNBC commentator Nancy Snyderman also questioned the church's tax status after its successful effort on the House bill three weeks ago.

Could the Internal Revenue Service strip the Catholic Church of its tax-exempt status for sending representatives to Capitol Hill to lobby specifically for Stupak's bill? Would it try to?

The answers to both questions are, probably not, even with the IRS under the control of strongly pro-choice President Obama.

Close reading of the IRS regulations indicate the bishops' efforts on behalf of the Stupak amendment could be viewed as improper. However the regs become enforceable only if the lobbying is out of proportion to everything else a tax-exempt organization does. In the case of the Catholic Church, that IRS yardstick fails.

Even if it didn't, the Constitution trumps regulations every time, said Law Professor Robert Destro of Catholic University. The church is protected by the First Amendment, Destro said. Not necessarily the part about freedom of religion, but the guarantee of freedom to petition the government for redress of grievances.

The Catholic Church, Destro said, has the second-largest health care system in the nation, after the Veterans Affairs Department.

"This isn't just about lobbying," he said, "it's self defense in light of the First Amendment."

Lucinda Finley, the Frank G. Raichle Professor of Law at the University at Buffalo, said the church might be operating "in a gray area." The church may be at some risk, Finley said, lobbying for a bill with a specific number on it like Stupak's instead of expressing a strong general viewpoint, but its efforts have to be weighed on a scale of relative magnitude.

But Finley said she does not agree with Destro's view that the Catholic health system is under attack. "There's nothing in these bills that would force them to do anything against their conscience," she said.

"Because of the politics of it, I don't think they would lose their exemption," Finley said.

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That was then: Conservatives Newt Gingrich and Sarah Palin said they liked President Obama's Oslo speech glorifying preemptive and "just war," but Secretary of State Hillary Rodham Clinton just might be grinding her teeth over it. Obama slammed her 2002 vote for preemptive war on Iraq repeatedly during their primary contest for the Democratic nomination, and, of course, won.

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