

*Testimony of
Most Reverend William E. Lori
Bishop of Bridgeport*

*On behalf of the
United States Conference of Catholic Bishops*

*Before the
Committee on Oversight and Government Reform
United States House of Representatives*

February 16, 2012

Thank you, Mr. Chairman and distinguished members of the Committee, for the opportunity to testify today.

For my testimony today, I would like to tell a story. Let's call it, "The Parable of the Kosher Deli."

Once upon a time, a new law is proposed, so that any business that serves food must serve pork. There is a narrow exception for kosher catering halls attached to synagogues, since they serve mostly members of that synagogue, but kosher delicatessens are still subject to the mandate.

The Orthodox Jewish community—whose members run kosher delis and many other restaurants and grocers besides—expresses its outrage at the new government mandate. And they are joined by others who have no problem eating pork—not just the many Jews who eat pork, but people of all faiths—because these others recognize the threat to the principle of religious liberty. They recognize as well the practical impact of the damage to that principle. They know that, if the mandate stands, they might be the next ones forced—under threat of severe government sanction—to violate their most deeply held beliefs, especially their unpopular beliefs.

Meanwhile, those who support the mandate respond, "But pork is good for you. It is, after all, the other white meat." Other supporters add, "So many Jews eat pork, and those who don't should just get with the times." Still others say, "Those Orthodox are just trying to impose their beliefs on everyone else."

But in our hypothetical, those arguments fail in the public debate, because people widely recognize the following.

First, although people may reasonably debate whether pork is good for you, that's not the question posed by the nationwide pork mandate. Instead, the mandate generates the question whether people who believe—even if they believe in error—that pork is not good for you, should be forced by government to serve pork within their very own institutions. In a nation committed to religious liberty and diversity, the answer, of course, is no.

Second, the fact that some (or even most) Jews eat pork is simply irrelevant. The fact remains that some Jews do not—and they do not out of their most deeply held religious convictions. Does the fact that large majorities in society—even large majorities within the protesting religious community—reject a particular religious belief make it permissible for the government to weigh in on one side of

that dispute? Does it allow government to punish that minority belief with its coercive power? In a nation committed to religious liberty and diversity, the answer, of course, is no.

Third, the charge that the Orthodox Jews are imposing their beliefs on others has it exactly backwards. Again, the question generated by a government mandate is whether the government will impose its belief that eating pork is good on objecting Orthodox Jews. Meanwhile, there is no imposition at all on the freedom of those who want to eat pork. That is, they are subject to no government interference at all in their choice to eat pork, and pork is ubiquitous and cheap, available at the overwhelming majority of restaurants and grocers. Indeed, some pork producers and retailers, and even the government itself, are so eager to promote the eating of pork, that they sometimes give pork away for free.

In this context, the question is this: can a customer come to a kosher deli, demand to be served a ham sandwich, and if refused, bring down severe government sanction on the deli. In a nation committed to religious liberty and diversity, the answer, of course, is no.

So in our hypothetical story, because the hypothetical nation is indeed committed to religious liberty and diversity, these arguments carry the day.

In response, those proposing the new law claim to hear and understand the concerns of kosher deli owners, and offer them a new “accommodation.” You are free to call yourself a kosher deli; you are free not to place ham sandwiches on your menu; you are free not to be the person to prepare the sandwich and hand it over the counter to the customer. But we will force your meat supplier to set up a kiosk on your premises, and to offer, prepare, and serve ham sandwiches to all of your customers, free of charge to them. And when you get your monthly bill from your meat supplier, it will include the cost of any of the “free” ham sandwiches that your customers may accept. And you will, of course, be required to pay that bill.

Some who supported the deli owners initially began to celebrate the fact that ham sandwiches didn’t need to be on the menu, and didn’t need to be prepared or served by the deli itself. But on closer examination, they noticed three troubling things. First, all kosher delis will still be forced to pay for the ham sandwiches. Second, many of the kosher delis’ meat suppliers, themselves, are forbidden in conscience from offering, preparing, or serving pork to anyone. Third, there are many kosher delis that are their own meat supplier, so the mandate to offer, prepare, and serve the ham sandwich still falls on them.

This story has a happy ending. The government recognized that it is absurd for someone to come into a kosher deli and demand a ham sandwich; that it is beyond absurd for that private demand to be backed with the coercive power of the state; that it is downright surreal to apply this coercive power when the customer can get the same sandwich cheaply, or even free, just a few doors down.

The question before the United States government—right now—is whether the story of our own Church institutions that serve the public, and that are threatened by the HHS mandate, will end happily too. Will our nation continue to be one committed to religious liberty and diversity? We urge, in the strongest possible terms, that the answer must be yes. We urge you, in the strongest possible terms, to answer the same way.

Thank you for your attention.