

Vetting possible ambassadors to the Holy See

John L. Allen Jr. | Dec. 5, 2008 All Things Catholic

One hallmark of emotional maturity is a capacity to distinguish between the satisfying thing to do, and the smart thing to do. The clamor in some circles for the Vatican to exercise its prerogative under international law to say "no, thanks," should President-elect Barak Obama try to name Pepperdine University law professor Douglas Kmiec as his ambassador to the Holy See, offers a case in point.

Such a gesture might be gratifying on a gut level to ardently pro-life Catholics, for whom Kmiec's support of Obama during the '08 elections made him something of a Judas figure, but it could also set a precedent with damaging consequences for Vatican diplomacy.

For reasons I sketch below, such speculation is likely premature: There are compelling reasons why Kmiec is not a slam-dunk for the job. For the sake of argument, however, let's assume he gets the nod, and let's grant two other debated points:

- First, that his line during the campaign -- that a Catholic could vote for Obama despite his pro-choice stance, because his social policies stand a better chance of bringing down the abortion rate -- is at least arguably at odds with the church's pro-life position.
- Second, that his appointment would be unwelcome in important sectors of American Catholic opinion.

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Even given those premises, it's far from clear that rejecting him would be good statecraft. Americans concerned with protecting the Vatican's global influence would do well not to try to box the Holy See into such a choice, whether it's Kmiec or anyone else.

The drumbeat about a possible veto was stoked last week by a Catholic News Agency report, quoting an anonymous official in the Vatican's Secretariat of State to the effect that Kmiec would "never" get Vatican approval. The appointment would be opposed, this official said, by American prelates in Rome such as Cardinal Francis Stafford and Archbishop Raymond Burke, and by Catholic organizations in the States such as the Knights of Columbus.

Under the 1961 Vienna Convention on Diplomatic Relations, a host government can reject a proposed ambassador without specifying a reason. Over the years, the Vatican has generally used that right to veto nominees who flunk what might be called its "morals clause." Two prospective French ambassadors were shot

down last year, one living in a civil union with a same-sex partner and another who's divorced and civilly remarried. Argentina ran into a similar problem when it proposed a divorced Catholic with a live-in partner.

What's being floated in Kmiec's case, however, is a different standard. It's concerned not with his personal morality (for the record, he's married with five children), but rather his policy positions and his image in his own national Catholic community. That's a troubling prospect, for three reasons.

First, governments try to be restrained in spurning proposed ambassadors in order to avoid a tit-for-tat cycle in which we turn down your guy to make a political point, so you turn down ours, and round and round we go. Such a practice could slow down nominations, produce a chilling effect in diplomatic relations, and perhaps even prompt some states to wonder why they bother sending ambassadors to the Vatican at all.

Second, to reject a nominee on the basis of his public positions is, in effect, to insist that ambassadors must agree with the church rather than the governments they allegedly represent. Not only would that turn the traditional role of an ambassador on its head, but it would also seem to ensure that such people -- should they ever be found -- would be of questionable value as go-betweens, since they wouldn't really have the confidence of the leader who sent them. That could hamper the effectiveness of Vatican diplomacy, especially where it's needed the most.

Third, the Vatican has waged titanic battles over the centuries to assert its independence, not just from secular powers, but also from undue influence by national churches. That was partly the point, for example, of struggles in the 18th century against Gallicanism in France, Febronianism in Germany, and so on. Assigning a veto power over the Vatican's approval of prospective ambassadors to local Catholic sentiment, however well-motivated in a given case, could undercut this bedrock principle.

For these reasons, the Vatican would be wise not to indulge a heat-of-the-moment instinct to settle scores from the election in evaluating potential ambassadors, whoever the nominee turns out to be. This is a situation in which the Vatican's legendary distance from local passions would serve it well.

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Having said all that, the smart move for Obama would be not to force the Vatican's hand.

The primary function of an ambassador is to promote good relations between the two parties, so it's never wise to make an appointment destined to cause heartburn on the other side. (Consider, for example, international reaction when Bush tapped John Bolton as his ambassador to the United Nations.) In this sense, whether or not the Vatican would veto Kmiec isn't the point; the mere fact of the debate is an indication that such a nomination would probably not get things off on the right foot.

I spoke to a senior Vatican diplomat myself this week about the possible appointment of Kmiec. He declined to speculate about whether the Holy See would demur, but his basic reaction was: "I think Obama is revealing himself to be wiser than that."

The early days of the Obama administration are likely to be filled with flashpoints in relations with the Vatican, and with "faith and values" constituencies generally. For example, among the new president's first actions is likely to be an executive order liberalizing federal funding for embryonic stem cell research; meanwhile, the Vatican's Congregation for the Doctrine of the Faith is set to issue a new document on bioethics next week expected to reassert the church's teaching that such research is gravely immoral.

Especially in that climate, it would not be good diplomacy to send up a nomination that, fairly or unfairly, would be taken by many in the Vatican as flinging down a gauntlet - especially by the Americans, with whom any U.S. ambassador to the Holy See has to cultivate good working relationships. Given Obama's track record so far of reaching out to former foes through his senior appointments, it would seem more consistent to select an ambassador who could calm, rather than agitate, the diplomatic waters.

A brief footnote about timing: Since full diplomatic relations between the United States and the Holy See were launched in 1984, there have been eight ambassadors. Only twice has an ambassador been appointed following a transition from one party to the other in the White House - in 1993, when Clinton took over from the first Bush, and in 2001, when the second Bush succeeded Clinton. In both cases, the new ambassador was named in mid-spring and confirmed over the summer. (In 1993, Ambassador Raymond Flynn arrived in Rome in July, because Pope John Paul II was coming to the United States that August for World Youth Day. In 2001, lacking the same sense of urgency, Ambassador James Nicholson presented his credentials to John Paul in September - as fate would have it, just two days after the 9/11 terrorist attacks.)

If things hold to form this time around, it will likely be at least three months before a new ambassador is named. Before that happens, the State Department will have to seek what's known in French, the language of international diplomacy, as the *agrement* from the Vatican, meaning its consent.

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As a final thought, all this offers an illustration of why it might be worthwhile for the Obama people to "think outside the box" and consider a non-Catholic.

Since 1984, the American tradition has been to name a Catholic as ambassador to the Holy See. Going deeper into history, however, there's precedent for an alternative. When Franklin Roosevelt named a personal representative to Pope Pius XII at the outbreak of the Second World War, for example, he turned to Myron Taylor, a lawyer and former executive of U.S. Steel, and a prominent Episcopalian.

At the time, Roosevelt's logic was to blunt Protestant criticism. Ironically, the more compelling motive now would be to short-circuit Catholic blowback.

One insight in this regard cropped up during the recent meeting of the U.S. bishops, during discussion of a statement from Cardinal Francis George of Chicago, president of the conference, on abortion and politics. The draft made an indirect reference to Catholic politicians, prompting Archbishop John Nienstedt of St. Paul-Minneapolis to suggest that it also include "an invitation to non-Catholic politicians and to all men and women of good will."

George's reply was instructive.

"We have a different relationship with non-Catholics than with baptized Catholics who bring themselves to communion," George said. "Our relationship with [Catholics] is one of authority, and that's the word that drives people up the wall."

Whatever one makes of that, it's a reminder that Catholics in public life walk a tightrope in their relationship with the hierarchy. There are plenty of jobs, of course, where a Catholic pol can basically steer clear of the hierarchy, but ambassador to the Holy See isn't one of them. It might be less complicated for everyone to name someone not caught in this bind.

The e-mail address for John L. Allen Jr. is jallen@ncronline.org [1]

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