



THE PULPIT INITIATIVE **EXECUTIVE SUMMARY**

In 1954, the U.S. Congress amended (without debate or analysis) Internal Revenue Code §501(c)(3) to restrict the speech of non-profit tax exempt entities, including churches. Before the amendment was passed, there were no restrictions on what churches could or couldn't do with regard to speech about government and voting, excepting only a 1934 law preventing non-profits from using a substantial part of their resources to lobby for legislation.

The 1954 amendment, offered by then-Senator Lyndon Johnson, stated that non-profit tax-exempt entities could not “participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office.” Since the amendment passed, the IRS has steadfastly maintained that *any* speech by churches about candidates for government office, including sermons from the pulpit, can result in loss of tax exemption.

Historically, churches had frequently and fervently spoken for and against candidates for government office. Such sermons date from the founding of America, including sermons against Thomas Jefferson for being a deist; sermons opposing William Howard Taft as a Unitarian; and sermons opposing Al Smith in the 1928 presidential election. Churches have also been at the forefront of most of the significant societal and governmental changes in our history including ending segregation and child labor and advancing civil rights.

After the amendment, churches faced a choice of speaking Scriptural truth about candidates and risking their tax exemption, or remaining silent and protecting their tax exemption. Unfortunately, many churches have allowed the 1954 Johnson amendment to effectively silence their speech, even from the pulpit. Ironically, fifty years after the amendment passed, and despite the strict IRS interpretation of it, *to date, there is no reported situation where a church has lost its tax exempt status or been directly punished for sermons delivered from the pulpit evaluating candidates for office in light of Scripture.* Nonetheless, the IRS maintains that pulpit sermons comparing candidates' positions with Scriptural truth violate the Internal Revenue Code. Thus, many churches accept the IRS interpretation of the Code and become silent, avoiding these topics altogether.

ADF believes that the Johnson amendment is unconstitutional in restricting the expression of sermons delivered from the pulpits of churches. This initiative is designed to return freedom to the pulpit by allowing pastors to speak out on the profound and important issues of the day.

There are many reasons why the 1954 Johnson amendment violates the Constitution. Here are some of the key reasons why the amendment is unconstitutional:

- The amendment violates the Establishment Clause by requiring the government to

excessively and pervasively monitor the speech of churches to ensure they are not transgressing the restriction in the amendment. The amendment allows the government to determine when truly religious speech becomes impermissibly “political.” The government has no business making such decisions.

- The amendment violates the Free Speech Clause because it requires the government to discriminate against speech based solely on the content of the speech. In other words, some speech is allowed, but other speech is not. The Supreme Court has invalidated this type of speech discrimination for decades.
- The amendment also violates the Free Speech Clause by conditioning the receipt of a tax exemption on refraining from certain speech. Put simply, if a church wants the tax exemption, they cannot speak Scriptural truth when it comes to candidates for governmental office. This is an unconstitutional condition on free speech.
- The amendment violates the Free Exercise Clause because it substantially burdens a church’s exercise of religion. The government does not have a compelling reason to burden religion in this way.

Churches have too long feared the loss of tax exempt status arising from speech in the pulpit about candidates for office. Rather than risk confrontation, pastors have self-censored their speech, ignoring blatant immorality in government and foregoing the opportunities to praise moral government leaders. Pastors who long to be relevant to society, to preach the Gospel in a way that has meaning in modern America, must studiously ignore much that goes on in every tumultuous election season lest they draw attention of the IRS.

ADF believes that the IRS restriction on religious expression from the pulpit – whenever the IRS characterizes a pulpit sermon as “political” – is unconstitutional. After 50 years of threats and intimidation, churches should confront the IRS directly and reclaim the expressive rights guaranteed to them in the United States Constitution. If you are interested in working with ADF to bring a legal challenge to the Johnson amendment, contact ADF today at (800) TELL-ADF to learn how you can stand boldly for the faith this election season.¹

Pulpit Freedom Sunday will occur Sunday, September 28, 2008. On that Sunday, participating pastors will deliver Scripture-based sermons from the pulpits of their churches comparing and contrasting the differing positions of the presidential candidates in light of Scripture. For more information call ADF or visit our website at www.telladf.org/church.

¹ ADF does not endorse or oppose political parties or candidates, nor does it urge allegiance to any political party or candidate. ADF does believe that churches and pastors have the freedom to plainly speak Scriptural truth about the qualifications of candidates for public office regardless of the candidate’s political affiliation.

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