

THE CHRISTIAN LAWYER®

A PUBLICATION OF THE CHRISTIAN LEGAL SOCIETY

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Spring 2012



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*"For we hold that one
is justified by faith
apart from works of
the law."*

Romans 3:28 (ESV)



CHRISTIAN LEGAL SOCIETY

Seeking Justice with the Love of God

ADVOCACY

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Christian Legal Society, P.O. Box 98000, Washington, DC 20090

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AN ALIEN IN POLITICS

I am not a conservative, nor a liberal. I am neither Republican, nor Democrat, nor Independent. I am a patriot, devoted to my native land, the one into which I was reborn – the Kingdom of God. And so, in these United States, the land of my first birth, I am an alien and a sojourner, serving as an ambassador. Together with you, my Christian brothers and sisters, we are “ambassadors for Christ, God making his appeal through us” (2 Cor. 5:20 (ESV)). How are we to make his appeal in the rough and tumble of American politics? CLS’s 50th anniversary theme, *Great Is Thy Faithfulness – Strength for Today and Hope for Tomorrow: Serving in the Law in Christ’s Name*, provides a helpful framework for contemplating that question.

Serving in the Law in Christ’s Name. Serving in politics is serving in the law, whether in the form of informed voting, advocacy for a candidate or legislative policy, or service as an elected official or governmental staff. Many Christian lawyers are called to serve in politics, and we need to do more to embrace and encourage them, especially those called as legislators. Meanwhile, let us remember that whatever we do in the political realm is part of our calling to serve in the law in Christ’s name. We bear his name and we must take care that all we say and do is worthy of that Name.

Hope for Tomorrow. The prophet Jeremiah, witnessing the devastation of a Jerusalem that had fallen under God’s judgment, said: “This I recall to my mind [literally, “make return to my heart”], therefore have I hope. It is of the Lord’s mercies that we are not consumed, because his compassions fail not. They are new every morning: great is thy faithfulness” (Lam. 3:21-23 (KJV)). Jeremiah was able to recall these truths to his heart because he knew his God. Do you have hope for tomorrow? If so, is it grounded in our God, or is it grounded in a political “solution”? Not only are we, as Christ followers, called to model a life of hope, but to model a hope that relies on the only One, the only Source, worthy of that hope – the Lord Jesus Christ.

Strength for Today. Our hope is not passive. We are called to act – to defend the powerless (Prov. 31:9) and to stand for righteousness. Today, for example, CLS fights to defend rights of conscience for people of all religious faiths. With what strength? “Not by might, nor by power, but by my Spirit, says the Lord of hosts” (Zechariah 4:6 (ESV)). As ambassadors for Christ, our words and actions should demonstrate the fruit of the Spirit (Gal. 5:22-23), the compassion of Christ, and his humility (Phil. 2:1-13). His Spirit provides power, but even more important, wisdom from above. To reap that wisdom, we must take the Bible seriously while remembering that our individual interpretations are not inerrant, nor are the ideologies we are tempted to embrace. We must be on guard against the self-deception of our political affiliations. “All political parties die at last of swallowing their own lies.”¹ As Christians, we must consistently think outside the box of party and ideology, and together do the hard work of discerning what policies and practices are consistent with God’s will and our nature as creatures created in His image yet fallen.

Great Is Thy Faithfulness. We will fail. Repeatedly. Even when we do our utmost to follow Christ’s leading, the results will not be what we desired, nor even what, in the short term, appears to be God’s will. It is then we must remember that His faithfulness is great. He can correct all our mistakes. And He has promised to work all things out for good, for those who love Him and are called according to His purpose (Ro. 8:28-30). Do you want all things to work out well? Love Him, and respond to His call to be conformed to His Son’s image. That is the beginning and the end of the way to follow Christ, in politics as in life.

¹ Fisher Ames, U.S. Congressman, 1789-1797.

Pete Rathbun is General Counsel of the American Bible Society in New York City. A CLS member since 1987, Pete and his wife Peggy believe that God has called CLS to serve and influence in the legal profession “for such a time as this.”

LETTERS TO THE EDITOR

THE
CHRISTIAN LAWYER®

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Readers,

In the last edition of *The Christian Lawyer*, Wayne Grudem contributed an article entitled: *The Governments Role in Market Regulation and Economic Inequality*. If you had the opportunity to read his article you noticed that it ended abruptly. The designers accidentally cut off part of the last paragraph when the article was being designed. The fault is mine, though, because I did not catch the mistake when I approved the final draft. Please accept my apologies for the abrupt end to a good article. In light of the Letter to the Editor below, I would encourage you to go to <http://viewer.zmags.com/publication/3d125222#/3d125222/30> to read the entire article. The last paragraph of the article is found below.

"Governments therefore should encourage the development and profitability of businesses. Such encouragement would include a free market with a functioning price system that guides the allocation of resources, a stable monetary system, effective punishment of crime, enforcement of contracts and patent laws and copyrights, and protection of private property. It would also include a fair court system, relatively low levels of taxation, an effective educational system, and a trustworthy banking system. When governments implement such factors, businesses can grow, thrive, and provide the jobs that alone will lift people permanently out of poverty."

—Editor

Dear Editor,

Wayne Grudem provides a lengthy defense of free-market capitalism (apparently so lengthy that there wasn't enough room to print it all), and I share much of his admiration for markets and the value of work. Still, I worry that too many Christians (and others) have confused the "invisible hand" of Adam Smith for the hand of God. Economist Robert Nelson has spent much of his career exploring this possibility, yielding works such as *Economics as Religion*. Interestingly, the agnostic Nelson sees value in economists taking on a kind of secular priestly role. Christians should see things differently, though, and ever be mindful that good things can turn into idols. This doesn't mean that free markets are not useful, but they may need to be approached more cautiously than the cheerleading Dr. Grudem supposes.

For example, Grudem says, "I cannot find any justification in Scripture for thinking that government, as a matter of policy, should attempt to take from the rich and give to the poor." What of gleaning, a legal command to refrain from maximizing profit so that private property could be transferred to the poor and foreigners (Leviticus 23:22)? And—sounding almost like something from the socialist playbook of Hugo Chavez—what of the year of Jubilee, a massive redistribution and a limitation on the long term accumulation of wealth (Leviticus 25)? I am not arguing that these Old Testament laws provide a direct justification for government actions of today, but they should give us pause before we reflexively declare that the way of the market is the way of Christ.

Surprisingly, Dr. Grudem failed to discuss two very important texts that serve to govern our relationship with free markets and their fruits. First, David declared, "The earth is the LORD's, and everything in it" (Psalm 24:1). Second, Jesus taught, "You cannot serve both God and Money" (Matthew 6:24). These are useful reminders that our property is never really "private" and so we should answer to its true Owner even if His commands are contrary to free-market forces. Indeed, our Lord strongly implies that His will and the will of Mammon will often be in conflict, and when those conflicts inevitably arise we must be clear where our allegiance lies.

John Murdock
Falls Church, Virginia

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The Christian Lawyer welcomes letters, comments and suggestions from our readers. We'd like to hear how God is moving in your life, law practice, CLS chapter or law school. Letters may be edited to suit the format of the magazine. Mail to: Editor, Christian Legal Society, P.O. Box 98000, Washington, DC 20090-8000 or e-mail your submissions to memmin@clsnet.org.

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Why I am a Republican

By Christopher Williams

A classic battle of worldviews is shaping up for 2012. Every election is important, but a presidential election provides a unique opportunity to decide which of two competing worldviews will help decide the major issues our nation must address. As a Republican, my base of understanding begins with the founding documents, particularly the Declaration of Independence (the assertion of liberty) and the Constitution (the framework of liberty). I am grateful to our founding fathers for their collaboration and commitment to our Holy Father, yet mindful of their humanity. They would not want us to lend any reverence to their character, but rather focus on the principles they espoused during that special time in history that led to the birth of this great nation. The moral character of a people molded through faith in God is most essential in a nation where the “people” rule.

I am a Republican because of principles, not personalities or pontifications. Personalities along with their weaknesses come and go, while principles endure the test of time. It is those principles that are expressed in a variety of venues by the Republican Party as common-sense solutions to the policy excesses of “liberal” Democrats. The Republican Party provides a platform for America’s belief in conservative values by promoting the principles of limited government and the practices of virtuous citizenship nationwide. At every opportunity, we must continue to promote our party’s conservative principles of limited government, lower taxes, more individual freedom, and personal responsibility. The fact that our government today appears indifferent to the kind of principles America’s Founders thought vital to preserving liberty suggests that in many ways our government has grown indifferent or even hostile to liberty itself.

Democrats are scheming to fundamentally change almost every aspect of our lives including: healthcare, banking, insurance, living environment, communication



(Internet), and safety/protection. While I may agree on reforming some aspects of healthcare, I do not support a whole scale usurpation of our personal rights by big government, or a “Big Brother” approach to solving personal dilemmas involving a personal choice about one’s own welfare. It reminds me of the benign dictator concept espoused by Jean Jacques Rousseau in his book “The Social Contract”. The President is conducting a dangerous experiment with our basic industries, and we must continue to stand strong against the reckless, irresponsible, and liberal excesses of the current leadership of the Democratic Party. He gives lip service to protecting our freedoms while on a full assault to diminish our personal liberties. This is a dangerous experiment with our economy because it is an experiment that will transform the very way of life for our citizens.

Our founders created a form of government based on a Judeo-Christian ethic, which had no model on the face of the Earth. Government is necessary because men are not angels, but it must be based on consent and not oppression. Under our Constitution, government was to be limited to protecting our rights. So what does it mean to be a Republican?

Sense of Providence

There is a sense of a greater power, which is the source of our “inalienable rights”—rights not revocable by any government or individual. However, take away the notion of a Creator, and what ensues is

a wresting by the state of those cherished rights. This is a principle even our agnostic friends could appreciate and support.

Sense of Humanity

Complementing the sense of providence, Republicans understand the nature and inherent imperfection of humankind. Consequently, taking into account the lessons of history, we readily understand that we must instill self-discipline in every facet of our governmental infrastructure in order to spare ourselves from the abuses of power. An increase in government in virtually any form is an increase in “power.” The greater the government’s power, the less liberty there is for the individual citizen. That is why, as Republicans, we stress limited government, and correspondingly, personal responsibility. Personal responsibility along with personal accountability and personal integrity are at the core of a vibrant republic. Citizens who discipline themselves avoid the need for an overreaching central authority. I was recently informed that the Chinese government in their research (regarding why the American system is so successful) indicated the one special quality of the American system that was missing from their system was that notion of personal responsibility.

Sense of Liberty

I have learned to distinguish liberty from license and legitimate from tyrannical government, and to recognize the connection between rights and duties. These principles were embedded in our founding documents expanding on an understanding of human nature, the rule of law, the separation of powers, federalism, justice, and property rights. Just as the Declaration of Independence declares inalienable rights and the Constitution enumerates them as the right to religious and political speech, the right to self-defense, assembly, and so on, there is a sense and understanding of immutable values, values that grant liberty

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Why I am a Democrat

by Roy Herron

The *Christian Lawyer* asked that I tell you why I am both a Christian and a Democrat. Though honored to share with you, I am mindful of a remark attributed to Thomas Jefferson. President Jefferson reportedly said that the more Jefferson's dinner guest professed his honesty, the more Jefferson counted his silver.

Similarly, the more politicians publicly profess their faith, the more we should "count our silver." So if you are skeptical of elected officials or yours truly, I understand your skepticism. And I encourage it!

But I am honored to share why I am Democrat, though I do so mindful of what the Apostle Paul wrote to the Galatians:

"There is neither Jew nor Greek, there is neither bond nor free, there is neither male nor female: for ye are all one in Christ Jesus."¹

Today Paul might write to the Americans:

"There is neither poor nor rich, there is neither black nor white, there is neither male nor female, there is neither Democrat nor Republican: for you are all one in Christ Jesus."

Jesus exemplified, Paul taught, and the Scriptures proclaim that we are one in Christ Jesus.

I have known unity with dear Republican brothers and sisters as we have worked together through the years. Such unity has been important as we have wrestled with legislation and tried to do right. Unfortunately, today even in Tennessee and certainly in Washington, such unity is, at best, in short supply.

The Word is clear: what divides us is not nearly as important as what unites us. At a time of extreme partisanship, what America needs most from Christians is love. We need Christians who love our fellow Americans more than we hate the other political party.

Preaching "Bad News"

Unfortunately, too many preachers proclaim not the Good News, but the Bad. Some preachers and Sunday School



teachers tell congregations and classes that they cannot be Christians and Democrats. From their pulpit they preach and from their lectern they teach: "Christians cannot be Democrats!" Partisan preachers and some politicians have chosen not the Lord's work, but one party's work. They have made Christians believe that Democrats do *not* believe.

Some preachers offer radical right-wing rhetoric that blesses the rich and damns the poor, which follows atheist Ayn Rand's gospel of selfishness rather than Christ's gospel of sacrifice. That philosophy contradicts the prayerful Republican President Abraham Lincoln while in effect proclaiming principles "with malice for many and charity for few."

But I am a Democrat not *despite* being a Christian, but *because* I am a Christian.

Sacred Scripture

I'm a Democrat because I believe in those first words from America's sacred document, our Constitution, which begins, "We the People."

I'm a Democrat because I believe in Jesus' Golden Rule ("Do unto others as you would have them do unto you"²) instead of the politicians' Golden Rule ("Those with the gold make the rules").

John 3:16 and First John 3:16

I'm a Democrat because I am inspired by John 3:16 which begins: "For God so loved the world..."

"God so loved the *world*"—not just

the Republicans or just the Democrats, not only the rich or the poor, not just the powerful or the powerless, but the whole world. That's who God loves. And that's what John 3:16 teaches.

And I'm a Democrat because I'm inspired not only by John 3:16, but also by verses beginning at *First* John 3:16 and following that teach us this:

"We know love by this, that he laid down his life for us—and we ought to lay down our lives for one another."

"But whoso hath this world's good, and seeth his brother have need, and shutteth up his bowels of compassion from him, how dwelleth the love of God in him?"

"My little children, let us not love in word, neither in tongue; but in deed and in truth."

I'm a Democrat because I believe we are called to act when we see others in need.

Our American Family

- I'm a Democrat because I believe Americans are family and because of what has happened to my family. I know what America has done for those I love and for so many other American families.
- I'm a Democrat because during The Great Depression, when my grandparents, and so many Americans, could not get enough for their crops to pay their bills, President Roosevelt and the Democratic Congress brought the New Deal and farmers finally made enough to save their farms and feed our people.
- I'm a Democrat because when in World War II my father and many other brave warriors were gravely wounded, programs proposed and passed by Democrats saved their lives with medical care, and the GI Bill helped my disabled veteran father rehabilitate himself, go to university, and learn a profession.
- I'm a Democrat because my father, as a judge, taught me that the courts belong not only to the rich but also to the poor,

and that the citizens serving as jurors should not be denied the power to hear cases and do justice. Yet today, Republican politicians limit people's access to the courts, citizen juries and justice. I believe in personal responsibility for all and immunity for none, that wrongdoers should be held accountable, and that my Republican friends are wrong to immunize those who negligently harm victims.

- I'm a Democrat because as the husband of the first woman graduate of Vanderbilt Law and Divinity program and the first woman attorney in private practice in our county, I know Democrats created equal access to opportunities and freedoms for our sisters, wives, and daughters.
- I'm a Democrat because my 95-year-old mother's friends have been sustained during their senior years through Social Security, a program created by Democrats. My mother and other seniors have survived only through the healthcare provided by Medicare, another program created by Democrats.
- I'm a Democrat because I believe in the work my engineer brother, nephew and niece have done on Democratic-sponsored and taxpayer-funded research and development projects that have made America the most advanced, the strongest, and the most secure country on earth.
- I'm a Democrat because I believe in the work that my sister did as a special education teacher with children born in poverty, through no fault of their own, and who too often are left to fend for themselves.

Our Babies

I'm a Democrat because of the education, research, and healthcare programs that Democrats created saved my twin sons. A specialist told us the twins in my wife's womb would not survive and recommended, twice, that we abort. But a high-risk pregnancy specialist named Dr. Sal Lombardi made it possible for our twins' birth day not to be their death day. Dr. Lombardi knew what was possible because this man of faith graduated from public schools, went to college and medical school on federally subsidized student loans, and then developed his extraordinary expertise by

learning from taxpayer-funded teachers, government-funded universities, and hospitals. Each of his opportunities were made possible by Democratic-created programs. Treatment techniques, procedures, and medicines that helped save our babies (and literally hundreds of thousands of others) were developed through the research and programs that Democrats created and funded. Simply put, if not for the wise and compassionate decisions of men and women in government, most of those leaders being Democrats, and for the tax dollars paid by Democrats and Republicans alike, my sons would have died.

Bad Government

Many of us feel we have all the government we can stand and more than we can afford. We strongly, instinctively react against politics when we consider waste, fraud, corruption, deception, arrogance, misuse of authority, debt, and burdensome taxes. Many people of faith view government in general, and Democrats in particular, as contributing to these ills. But, if anything, ethical lapses and moral wrongdoing have been areas where both Democrats and Republicans alike deserve blame.

Bad Debt

I'm a Democrat because I believe in paying for what we spend instead of piling trillions in debt on the backs of our children. I've watched in recent decades as Republican administrations (President Reagan and the first President Bush) created the largest deficits in the history of the country. Then, the next Democratic administration (Clinton-Gore) helped this country have record surpluses, only to see the last Republican administration (Bush-Cheney) create new records for the largest deficits in history. It is right to give some blame to the Democrats who went along with the Bush-Cheney administration, but that administration created more national debt than all of the administrations in the history of the country. And they plunged us into the Great Recession, a recession so deep that those deficits have continued far too deeply and far too long in the same sorry course. Now, I watch a Republican House of Representatives refuse to cooperate even with its own Republican leadership, the Republicans in the Senate and Democrats in the White House to fix the

problem of our growing national debt.

Matthew 25

If those of us who profess to be Christians were as faithful and selfless as Jesus calls us to be, we would not need government. If the church were really The Church, then the government could be limited to national defense and a few areas like transportation. But until that time, I am a Democrat because of Jesus' teachings in Matthew 25 in the passage known as "The Judgment of the Nations."

And how are nations to be judged?

By the way we treat those Jesus called "the least of these": the hungry, the thirsty, the stranger, the naked, the sick, and the poor. Democrats have led the way by, not perfectly, but repeatedly, feeding the hungry, cleaning our waters so all God's children can drink, clothing the naked children, and seeing that the sick have health-care.

Class Warfare

Some of my Republican friends will charge—as some Republicans often charge—that Democrats engage in "class warfare." Unfortunately, I'm afraid that far too often Democrats do *not* engage when the super-rich engage in class warfare against working people and children.

Why is it only "class warfare" when Democrats defend working people and children from the crushing debt made more gigantic by huge tax breaks for Republican billionaires? Why is it not "class warfare" when Republican policies promote more wealth for the wealthiest and less for the middle class and vulnerable poor children?

The famous humorist and common sense philosopher Will Rogers once observed, "I am not a member of any organized political party—I'm a Democrat." Similarly, I find myself not always agreeing with the policies of national Democrats. I am more a Southern Democrat. I described myself as a "compassionate conservative" before the second President Bush adopted the term.

I am a Democrat because some people have been kicked around and beaten down, but could yet rise and stand on their own feet if we will but give them not a handout, but a handup.

Continued on page 9

Why I am a Libertarian in Secular America

By Richard F. Duncan



By the waters of Babylon, there we sat down and wept, when we remembered Zion. On the willows there we hung up our lyres. For there our captors required of us songs, and our tormentors, mirth, saying “Sing us one of the songs of Zion!” How shall we sing the LORD’s song in a foreign land? Ps. 137: 1-4 (RSV)

A little over a decade ago I was approached by a friend, Professor Michael W. McConnell, who asked me to contribute a paper on “Christian Libertarianism” for a book he was editing on Christian perspectives on law and government.¹ I told him that although I would not attempt to convince fellow Christians to embrace libertarianism as a political theory or Biblical principle for all times and in all places, I would be happy to write about how Christians living in “Babylon,” that is in contemporary secular America, might consider embracing some version of libertarianism as a pragmatic approach to life in these times and in this place.

By comparing secular America to ancient Babylon, my intention then, as now, was to convey my understanding of what it is like to live as a pilgrim in a postmodern secular state. Just as the Jewish people wandered in exile in ancient Babylon,² Christians wander today in an America that has rejected our God, indeed in an America that often seems to be waging war against our God. This is not the America I was born in some sixty years ago.

Our society is deeply divided over the meaning of good and evil. We tell clashing stories about things that matter a great deal, things such as abortion, marriage and family, education, the role of religion in the public square, and the ethics of human sexuality. If the functions of government were, as Richard Epstein has suggested, “limited to preserving order, protecting property rights and enforcing contracts, as was the Founding Fathers’ intention,”³ people on

both sides of the culture war could live in peace in the ample demilitarized zone of private life. Of course, each side would be free to try to persuade the other about the meaning of the good life, but neither could employ the coercive power of government to impose its values on the private lives and enterprises of the other.

However, we live in the age of Obama, an age in which Big Government exercises great control over our lives and families. My pragmatic proposal for pilgrims in Babylon suggests that we recognize that Babylonian law will typically reflect the morality and values of Babylon, not those of the America of our forefathers. Thus, we need to reduce significantly the size of the state, particularly that part of the state that limits our ability to raise God-fearing children and to pursue happiness in a manner that is pleasing to God. My proposal does not ask Christians to accept libertarianism as the orthodox Biblical theory of government; I am merely suggesting that Christians living in contemporary America might do well to support policies that limit the power of government to control our lives and businesses. In other words, despite our different theological traditions, we ought to be able to agree that a small Babylonian government is better than a large Babylonian government.

Educating Our Children In Babylon

Let me tell you a true story. A number of years ago, I was asked to speak to a large

“young parents” Sunday school class at a church here in Lincoln, Nebraska. The pastor who invited me wanted me to help these Christian parents think through their options for educating their children: public school or home school or Christian school. On the scheduled date, I walked into the room and explained that since I am a law professor I ask questions rather than answer them.

So I asked several questions. First, “how many of you young Christian parents wish to educate your children in a curriculum that reflects the mind of Christ?” Every one of the young parents in the class quickly raised his or her hand. Then I asked my second question: “How many of you believe that the public school curriculum reflects the mind of Christ?” Of course, not one hand was raised in response to this question. My third question cut to the quick: “Why did you invite me here to help you think through this decision,” I asked, “if you have already decided that the public schools are not what you want for your children?” In frustration, several of these young Christian parents exclaimed, “but we cannot afford to send our children to private Christian schools!” There is the rub.

The selective funding of education in secular government schools guarantees religious inequality in America. It imposes on religious parents what even supporters of public schools call a “brutal bargain;”⁴ we must choose between the single largest benefit most families receive from local government and assimilation of our children into a dominant secular culture by means of a governmental institution that exists for the very purpose of inculcating “common” secular values. More than a century ago, John Stuart Mill warned about the danger of allowing government to direct the education of children. In his classic defense of individual freedom, *On Liberty*, Mill explained that government schools are inherently destructive of

religious liberty and freedom of thought:

A general State education is a mere contrivance for moulding people to be exactly like one another: and as the mould in which it casts them is that which pleases the predominant power in the government, whether this be a monarch, a priesthood, an aristocracy, or the majority of the existing generation, in proportion as it is efficient and successful, it establishes a despotism over the mind, leading by natural tendency to one over the body.⁵

Instead of schools run by government, Mill supported what he called “diversity of education” and parental choice.⁶

The public schools are indeed designed to “mould” the minds and hearts of children in the shape of a one-size-fits-all common curriculum, a curriculum that certainly does not reflect the mind or heart of Christ. Kathleen Sullivan argues that a playing field slanted against religious citizens is a good thing and that the Constitution “entails the establishment of a civil order – the culture of liberal democracy – for resolving public moral disputes.”⁷ Thus, “the war of all sects against all”⁸ is ended by a truce which privileges secular factions and relegates religious citizens to the margins of organized society. Sullivan believes the establishment of a strictly secular civil order in public education will produce a lasting peace, a kind of Pax Secularis between otherwise hostile religious sects. But there is no peace, because a secular curriculum is not neutral.

Christians are called to be fools for Christ, but we are not foolish. We understand that the “peace” we are offered in the public schools is Esau’s bargain; and we will not barter the hearts and minds of our children for a bowl of red pottage.⁹ As Michael McConnell has put it so well, “A secular school does not necessarily produce atheists, but it produces young adults who inevitably think of religion as extraneous to the real world of intellectual inquiry, if they think of religion at all.”¹⁰ Gordon H. Clark was even more direct:

[T]he public schools are not, never were, can never be, neutral. Neutrality is impossible. Let one ask what neutrality can possibly mean when God is involved. How does

God judge the school system, which says to him, “O God, we neither deny nor assert thy existence; and O God, we neither obey nor disobey thy commandments; we are strictly neutral. “Let no one fail to see the point: The school system that ignores God teaches its pupils to ignore God; and this is not neutrality. It is the worst form of antagonism, for it judges God to be unimportant and irrelevant in human affairs. This is atheism.”¹¹

Selective funding of education guarantees religious inequality in two respects. Some religious families—the lucky ones who can afford to educate their children in private schools—suffer only an economic penalty by losing a large public benefit when they choose to exit from public schools. A larger class of religious families suffers a far worse fate—the compulsory secularization of their children in strictly secular government schools.

My libertarian proposal to fellow believers living in post-Christian America is to demand that our government let our children go—without penalty. We pay taxes to finance education and our children are entitled to their fair share of these benefits whether they attend public, private, or parochial schools. We should remove our children from government schools and withhold our support from any system of education that does not respect the right of every child to an appropriate elementary and secondary education. And we should give generously to fund scholarships to enable children to attend private Christian schools.

Christians believe that God is real and that the “fear of the LORD is the beginning of knowledge.”¹² Therefore, a secular education does not even begin to transmit true knowledge to students. Philip Johnson has said it best: “If God really does exist, then to lead a rational life a person has to take account of God and his purposes. A person or a society that ignores the Creator is ignoring the most important part of reality, and to ignore reality is to be irrational.”¹³ Johnson is right, and therefore America’s strictly secular public schools cannot teach our children the truth about God’s world and God’s word. It is time that we believers begin to act accordingly.

Religious Freedom in Secular America

We live in the Age of Obamacare and under the shadow of the Fifteen Trillion Dollar National Debt. I believe in 2012 we will vote to choose between two starkly different paths—the path to Europe and a culture of entitlement and redistribution, or the path back to America and the culture of freedom and individual responsibility. As for me and my house, we agree with William Kristol who recently said that “it is better to be a free citizen than a client of the Obama state.”¹⁴

The “ever-expanding reach of government” in Secular America poses a grave threat to Christians and other religious subgroups.¹⁵ Moreover, when you combine a large, activist state with a view of non-establishment that requires religion to retreat as government advances, the state of religious freedom sinks even lower. As Richard Epstein observes, “many of the greatest threats to religious liberty stem from insufficient protection of individual liberty in economic affairs.”¹⁶

What happens in Babylon when the most sacred dogma of secular-progressives, absolute sexual liberation,¹⁷ collides with the First Freedom, religious liberty? In most cases, religious liberty will lose.

For example, we have recently witnessed a federal health insurance mandate that requires all employers (including religious employers) to provide health insurance that includes coverage for contraceptives, abortifacients, and sterilizations.¹⁸ How much longer will it be before Obamacare requires coverage of surgical abortions?

How soon before federal regulations require all hospitals, including hospitals operated as religious ministries, to actually perform surgical abortions? I would never willingly donate money to Planned Parenthood because it performs hundreds of thousands of abortions each year, but government here in Babylon requires me to subsidize that “women’s health” organization with my tax dollars.¹⁹ Are you surprised to learn that a Catholic adoption agency was recently driven from the state of Massachusetts because it would not place children with same-sex “married” couples?²⁰ It should not be surprising. Should we not expect the law of Babylon to reflect the values of Babylon?

Continued on page 9

in their own way. These are the values that Republicans generally understand and hold in high regard: the value of life; the innocence of children; the education of essentials; the value of the individual; the uniqueness of marriage; the freedom to create, to innovate, and to prosper based on one's own individual aspirations and efforts.

Being a Republican today requires courage, but then again, it always has, beginning with the first Republican president, Abraham Lincoln. For those of you who are Republicans, take heart. Republicans have the archives of history and the empirical data of science to support our values and principles. Principles not based on superstitious beliefs, assumptions, thoughts or feelings, but based on facts. For those of you who are not, we welcome you to join our community and "sup" with us. Those of us who cherish liberty innately understand that we have the freedom to disagree knowing that in the end, each of us may have learned something from the other. I personally reject the dehumanizing, discriminatory trend of multicultural diversity, which pits one group against the other competing groups in divisive power struggles. I reject the government's attack on our personal freedoms striving with a broad stroke of the brush to paint all of us with the same banner stamped "US Government." I reject government interference without representation. We have a voice, and our voices will be heard. There is only one race, the "human" race, and we must strive forth together. Yet we understand, in the end we look not to ourselves, but to the principles and values that we hold dear. Remember, the only thing necessary for evil to triumph is for good men to do nothing.



Christopher S. Williams is a Managing Director and Chairman of the Advisor. Since 2008 he has served as Managing Director of Trinity Equity Partners, Inc.. He has over 30 years experience in corporate finance and investment property transactions as well as practicing corporate law, admitted in CA, WA, D.C., and VA. Mr. Williams has a background in investment banking and commercial and securities transactions. He graduated with honors from Brown University with a Bachelor of Arts degree in Economics and obtained his Juris Doctorate from the University of Virginia, School of Law. He also earned an MBA in finance while serving in the United States Navy. Mr. Williams worked as a trial lawyer with an emphasis in international security matters for the United States Navy. As a Commander in the Judge Advocate General's Corps of the Naval Reserve, he served as a Federal Magistrate Initial Review Officer and later served as a Special Criminal Investigator, and Assistant District Attorney, a Municipal Government Attorney and a Law Professor.

I am a Democrat because the Hebrew laws, the eighth century prophets, Jesus' teaching, and the apostles' preaching all require us to seek justice, do mercy, and love our neighbors. Even and especially those who are hurting the most and are the most vulnerable.

I am a Democrat because those of us who have been blessed the most have a special responsibility to serve the least and the last.

My parents taught me that the Democratic Party is the party of the willing and the working, the vulnerable and the valiant, the hurting and the helping. That's why I'm a Democrat. And that's why some of you are, too. And it's why others of you might want to think about joining us.

May your faith be strong, may your love embrace *all* of God's children, may you serve "the least of these," may both our political parties do what God calls us to do, and may God bless America.

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- 1 King James Version. Galatians 3:28.
- 2 Luke 6:31 NIV.



Senator Roy Herron has worked as a minister, an attorney, a businessman, and an author. Roy graduated from Vanderbilt's joint law and divinity program, taught law and ministerial students, and teaches Sunday School. In the Tennessee Senate, Roy has chaired the Senate Democratic Caucus and committees dealing with health issues and children and youth. He has authored dozens of laws ranging from the Crime Victims' Bill of Rights to Tennessee's laws protecting Bible study and prayer in school. Roy has held more than 1,000 listening meetings and in 26 years has missed only one legislative session – the day his youngest son was being born. Roy's books are God and Politics: How Can a Christian Be in Politics?, Tennessee Political Humor: Some of These Jokes You Voted For (with L.H. "Cotton" Ivy), and Things Held Dear: Soul Stories for My Sons. Roy has completed more than 30 marathons and three 140-mile Ironman triathlons. Roy and his wife, Nancy, have three sons who, like Roy, are Eagle Scouts. The Herrons are members of First United Methodist Church in Dresden, Tennessee.



The path to religious freedom in our society lies in an explosion of privatization, in a radical shrinking of the role of government in the lives of its citizens. As government retreats, religion will be free to advance. As government programs are cut and resources are returned to private citizens, we will be free to educate our children as we believe is best, to support causes we believe are right and good, to live our lives in accordance with our understanding of the good life and based upon our own theories of justice.

Although the Night Watchman State is unobtainable in our complex modern society, if we Christians are to be free to live our lives and raise our families in a manner that is pleasing to God, we must make room for ourselves and our lifeways by reducing the power and ubiquitousness of the secular state. In other words, a small Babylonian government should be the goal of Christians who find themselves living by the waters of Babylon here in Secular America.

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Professor Rick Duncan is the Sherman S. Welpton, Jr. Professor of Law at the University of Nebraska College of Law. He is a long-time supporter of The Christian Legal Society.

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FROM THE EXECUTIVE DIRECTOR

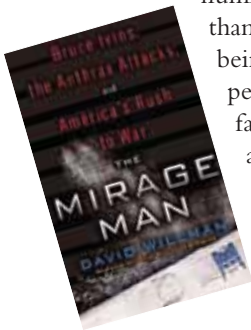
Executive Director Musings

By Fred L. Potter

“FOR NOW WE SEE IN A MIRROR DIMLY”



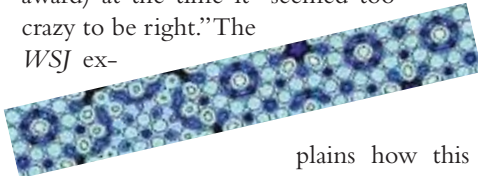
As lawyers/advocates, we are trained to present our client’s view of the facts with clarity and certainty. In both trial preparation and real life, however, we (and our clients) are well served to maintain an element of self-doubt – a little intellectual humility. At best, as less-than-perfect, fallen human beings we have only our perceptions. Those can be fatally flawed and nearly always are distorted by our prejudices.



Moreover, our individual misperceptions can be aggregated through group and cultural pressures into collective misperceptions. David Willman’s meticulously-researched *The Mirage Man* documents how, in the aftermath of the September 11 attacks and in the midst of the Iraq war ramp up, unfounded rash judgments concerning the culpability of biological weapons researcher Dr. Stephen Hatfield became widely accepted as truth. This fascinating study surrounding the Anthrax attacks of 2001 illustrates how even our nation’s most expensive investigations can completely and repeatedly miss the point, however obvious. It also illustrates the importance of defense counsel’s work to protect the falsely accused against the overwhelming force of a government agency desperate for a conviction.

Ironically, while scientific evidence can help alleviate our propensity for error, science itself provides no safety from errors perpetuated by our human prejudices. Back to back Nobel Prize award announcements illustrate this reality. An October 6, 2011 *Wall Street Journal* article reported the award of the Nobel Prize to Dr. Shechtman for his discovery of “a unique mosaic

of atoms called “quasicrystals,” which form mathematical patterns that never actually repeat themselves—a structure that broke all the accepted rules of how a crystal ought to behave.” That the award would come nearly 30 years after Dr. Schechtman’s original discovery in April 1982 is instructive. The *WSJ* reports that “scientists initially were so skeptical about his finding that he was handed a chemistry text book on crystallography and told he ought to reread it. When he persisted, he was asked to leave his research group.” Just the day before this announcement the *WSJ* had reported on the Nobel Prize given for the study of universe expansion. Despite the fact that the discovery was noted by two independent research groups (which shared the 2011 award) at the time it “seemed too crazy to be right.” The *WSJ* ex-



plains how this clue enforces yet another startling scientific reality: that the “universe” on which essentially all scientific study is based is only a tiny part, perhaps 5%, of a *much* larger real universe. At this time, scientists can just speculate that something known as “dark energy” might make up about 75% of the true universe. According to the *WSJ* report, “an additional 20% is believed to be an equally baffling substance dubbed ‘dark matter.’”

So, whether in relationship to matters microscopic to the atomic level or macro to the outer bounds of the universe, what we know is – well – not much. In a strange way, for me that is a bit of a relief – a relief because I do know (and am loved by) the One who knows all things. CLS members convening at the 2012 National Conference in Colorado Springs this October will have the opportunity Friday night to

celebrate this God of Wonders. We will be helped in that by CLS member Richard Hammar, a leading church law expert by day and astronomer by night. His photographs show, for example, that what the ancients may have seen as a tiny speck of light on the horizon is actually an incredibly beautiful galaxy – one that is “on edge” from humankind’s perspective as we stand on planet earth. Rich will relate how his observation of what scientists now understand to be an ever expanding universe has deepened both his faith and his personal walk with Jesus.

Our human limitations, when we fail to place ourselves in the safe hands of our loving, omnipotent Heavenly Father, can tragically leave us short sighted not only as to our physical universe, but also in our relationships with others. 1 Corinthians 13:12 reads (ESV) in its entirety:

For now we see in a mirror dimly, but then face to face. Now I know in part; then I shall know fully, even as I have been fully known.

That our Heavenly Father is forgiving and sees our full potential, despite His complete understanding of our sinful nature, is an incredible gift of grace and mercy. It is a gift we would do well to extend to others, as we are able. I offer the following “Exhibit A” documenting our human shortsightedness in evaluating others: Susan Boyle’s audition for “Britain’s Got Talent.” This piece is inspirational in its content but, more importantly, instructive in reminding us that even the experts among us at best know only “in part” as if “in a mirror dimly”.

May CLS continue to encourage us as we celebrate our God of Wonders and learn, increasingly, how to walk humbly before Him and in community with others.

For Chapter Leaders Resources:
<http://www.clnet.org/musings/2012-May>

Election Year Q & A:

Do's and Don'ts for Churches and Other Nonprofits

By Sally Wagenmaker

The media is abuzz these days about the 2012 presidential election primaries. Is your church pastor allowed to speak about the candidates? What about the many important economic and moral concerns raised in their campaigns? May churches and other nonprofits speak up, and even take positions on the candidates and the hotly debated campaign issues? What are the legal limits for expressing views on politically charged matters?

Since the mid-1950s, churches and certain other nonprofits have been prohibited from “directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for public office.” (See Treas. Reg. § 501(c)(3)-1(c)(3)(iii).) While nonprofits may engage in a very limited amount of legislative lobbying, and their workers may express their own personal views, the election prohibition is absolute. So how can responsible nonprofits act appropriately in compliance with applicable rules? The following questions and answers address these and related questions regarding prohibited political campaign activity.

1. Q: Who is prohibited from engaging in political campaign activity?

A: All nonprofits organized and operated in accordance with Section 501(c)(3) of the Internal Revenue Code are covered by the election activity ban (collectively “section 501(c)(3) organizations”). These organizations include churches, other religious institutions, nonprofit schools, and a wide variety of charitable organizations that enjoy the privilege of receiving tax-deductible contributions. Leaders and other representatives of section 501(c)(3) organizations are likewise barred from engaging in political campaign activity, in their capacities as organizational representatives. Tax-exempt organizations organized under different subsections of Section 501(c), such as clubs and “action” organizations (and therefore not eligible to receive tax-deductible contributions), are not subject to these prohibitions.

2. Q: Who is a “candidate for public office”?

A: The IRS defines this term as anyone who offers himself or herself, or is proposed by others, as a contestant for an elective public office, whether such office is national, state, or local. (See Rev. Rul. 2007-41.)

The timing of when an individual becomes a “candidate” is sometimes difficult to assess, and cannot always be defined simply by an official registration or public announcement.

To illustrate, a nonprofit representative’s statements made several months ago for or against President Obama may not have constituted prohibited campaign activity, since Obama was not then a candidate for public office. Today, however, is a different story, as Obama is most definitely on the campaign trail for reelection. It thus can be challenging to comply with the political activity prescription in terms of who is a candidate.

3. Q: What constitutes unlawful “political campaign activity”?

A: In evaluating any questionable activity, the critical key is whether the section 501(c)(3) organization is seeking to influence an election for public office. Perhaps most obviously, an organization is not allowed to endorse a candidate, contribute to any election campaign, or make public statements for or against a candidate (including its website postings). Consequently, while a church pastor may mention a candidate’s name or speak of an upcoming election during a sermon, he or she may not speak – as a church leader — in favor of a particular candidate or encourage the congregation to vote for or against a candidate. (Moreover, given the diversity of views among church members and the primacy of religious tenets of faith, it may be dangerously presumptive for a religious leader to endorse any candidate.) In addition, it would be unlawful for a nonprofit to make its charitable resources available on a limited basis, such as its mailing list, in order to influence an election.

On the other hand, a nonprofit may allow its facilities to be used as an election forum, so long as it provides equal access to all the candidates. Some readers may remember famed Pastor Rick Warren’s interviews with the 2008 presidential candidates at Saddleback Church. This was entirely legal since the church provided equal opportunities for then-candidates Obama and McCain to appear and speak. While the use of a church as an election forum may have been relatively unusual, no apparent indication existed that Warren’s efforts were intended to sway voters toward or against any candidate.

4. Q: Are a section 501(c)(3) organization’s workers covered by the political campaign prohibition?

A: Yes, in their representative capacities on behalf of their organization, but not personally. In keeping with First Amendment free speech rights, nonprofit leaders, other workers, and volunteers may engage in political campaign activity on their own time. Accordingly, they may speak, write, donate to politicians’ campaigns, and go to campaign events. However, as appropriate, they must make clear that such activities are their own personal words, writings, or actions, and do not reflect the organization’s views.

5. Q: May a section 501(c)(3) organization speak up about the critical moral, economic, and other issues of the current times, which extend far beyond any individual election?

A: Definitely! An organization – itself and through its representatives – may advocate particular positions or viewpoints on public policy issues through the following means: (1) disseminating educational information (i.e., “issue advocacy”); (2) seeking to influence legislation through stirring up the public, such as by urging people to contact their legislators (a/k/a “grass-roots lobbying”);

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and (3) directly contacting lawmakers (not surprisingly, “direct lobbying”). (See Treas. Reg. § 1.501(c)(3)-1(d)(3); IRS Publication 1828 at pp. 6-8).

Unlike with the absolute election prohibition, section 501(c)(3) organizations may engage in a limited amount of lobbying without jeopardizing their tax-exempt status. (The IRS typically measures the extent of permitted lobbying in terms of financial expenditures.) But remember: nonprofits must always remain primarily engaged in furthering their tax-exempt purpose, whether that may be promoting religion, providing charity, or running schools. Notably, the term “lobbying” does not include, among other things, either communications with a legislative body on matters that may affect a nonprofit’s existence, powers, or duties, or communications with a nonprofit’s members on legislation of direct interest to them (so long as no encouragement is given to contact legislators or their staffs). (See IRS Rev. Rul. 78-248; IRS Rev. Rul. 80-282.) Given the complexity of these limitations, and for other legal and practical reasons beyond the scope of this article, nonprofits should proceed very cautiously — and with the benefit of experienced counsel — in connection with any lobbying effort.

Apart from these lobbying restrictions, section 501(c)(3) organizations are free to engage in “issue advocacy” — that is, providing educational or similar informative materials to others on issues of public concern, so long as such materials are not impermissibly intended to influence elections or legislation. For example, permissible issue advocacy may consist of brief and emotionally compelling statements conveyed through signs or bumper stickers. E.g., “Choose Life,” “Go Green,” or “No More Foreign Oil.” In the author’s own experience representing nonprofit clients, some of the most powerful “advocacy” — albeit nonverbal — has been through organized public prayer vigils. (Organizational workers also, of course, have individual First Amendment freedom of expression rights.)

The distinguishing line between permissible issue advocacy and impermissible campaign activity may get extremely thin, however, close to election time. For example, “Choose Life” signage generally would *not* be construed as intended to influence an election. However, just before the 2008 presidential election, in which it was abundantly clear that one candidate was the pro-life groups’ preferred candidate and the other candidate was strongly preferred by the pro-choice groups, such a sign may well have been interpreted as intending to influence the election.

Similar divisive issues that have sharply distinguished the candidates have likewise been raised in this year’s presidential race, such as health care reform, foreign involvement, gay rights issues, and fiscal policy. Accordingly, it may be quite obvious from certain issue advocacy communications that an organization is intending to influence the election (or legislation), and not just seeking to educate the public more generally. On the other hand, when an organization remains focused on its tax-exempt mission and fashions its communications more broadly in the nature of informing others — without regard to current political issues of the day — such communications will much more likely be viewed as permissible issue advocacy, rather than as prohibited election activity or restricted lobbying.

6. Q: What about civic involvement in elections, such as through distributing of voter education materials?

A: Theoretically, a nonprofit organization may distribute voter education guides, and it may sponsor voter registration and get-out-the-vote drives as well. In practice, however, it is all too easy for a voter guide to run afoul of the election prohibition. As with all campaign activity, the key consideration is whether the voter guide evidences any intent to influence election, which of course is forbidden.

Permissible voter guides generally include the following elements: (1) the issues covered are selected solely on the basis of their importance and interest to the electorate as a whole; (2) neither the voter guide nor any underlying questions asked of any candidates (to elicit answers for the guide) evidence any bias or preference with respect to the views of any candidate; (3) no editorial opinions are made; (4) the guide contains no implied approval or disapproval of any candidates or their voting records; (5) no bias towards any issues or candidates is evident; (6) the voter guide is not concentrated on a narrow range of issues; (7) the organization’s own views on the issues addressed is not provided; (8) no comparisons are made among candidates. In short, the more objective and unbiased, the better!

7. Q: May a section 501(c)(3) organization’s website contain links to candidates’ websites or other partisan information?

A: An organization should be wary of allowing such links to appear on its website. According to the IRS, “[l]inks to candidate-related material, by themselves, do not necessarily constitute political campaign intervention.” (See Rev. Rul. 2007-41.) Rather, the test is one of “facts and circumstances,” including the context for the link, whether all candidates’ links are posted, and whether there is any exempt, non-political purpose for the links.

Given the inherent ambiguities underlying this test and the ease with which the IRS can access websites, the most prudent course may be simply to avoid allowing any election-oriented links on a section 501(c)(3) organization’s website. If an organization allows such website links, then it should continually monitor the content of any linked websites to ensure that no improper efforts are being made to influence an election through the organization’s use of links.

8. Q: Our local public official is a well-respected community leader, but he is currently running for re-election. Is our organization prohibited from inviting him to be our featured speaker at our upcoming fundraiser, or even allowing him to attend?

A: Definitely not. The IRS recognizes that candidates for public office may be very much involved in community affairs. Accordingly, they may speak at a nonprofit’s events without violating the campaign prohibition, and they likewise certainly may attend such events. However, careful safeguards should be followed scrupulously to avoid problems resulting from featuring a campaigning politi-

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Political Campaign Activity Policy

Article I – Purpose

The purpose of this Policy is to protect the interest of _____ (“Corporation”) from political activity that could jeopardize the Corporation’s tax-exempt status under IRC § 501(c)(3). It is the Corporation’s intent that all officers, directors, employees, and volunteers of the Corporation annually review this policy and comply with the provisions set forth herein. This Policy does not govern lobbying or other legislative activities conducted by the Corporation.

Article II- Scope of Prohibition

As a tax-exempt organization under IRC § 501(c)(3), the Corporation is absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office. This prohibition applies to any and all campaigns whether at the federal, state, or local level. Since a single transgression into political campaign intervention may lead to a costly challenge to the Corporation’s tax exemption and possible loss of that status, it is absolutely critical that all officers, directors, employees, and volunteers closely adhere to this Policy.

Article III- Individual Actions

All officers, directors, employees, and volunteers of the Corporation are prohibited from engaging in any partisan activity during work hours, and from using any of the Corporation’s resources, including phones, faxes, email, mailing lists, and meeting space for the benefit or opposition of a political party or political candidate. This Policy is not intended to restrict free expression on political matters by individuals speaking for themselves outside the scope of their work for the Corporation. However, when speaking in an individual capacity, great care and effort should be taken to articulate that the actions and/or comments are personal and are not intended to represent the views of the Corporation.

Article IV- Examples of Prohibited Activities

To better understand the scope of this Policy, the following are examples of prohibited activities:

- A. Publicly endorsing or opposing a particular candidate or political party in any printed, written, oral, or electronic publication or correspondence;
- B. Using a Corporation email address to disseminate partisan or candidate information in a biased manner;
- C. Selling a mailing list, leasing office space, accepting paid political advertisements if these goods and/or services are only made available to one candidate, or if they are not made available to the general public;
- D. Creating links on the Corporation’s website to partisan or candidate-related material contained on other websites; or
- E. Funding political-candidates, partisan organizations, or other organized efforts to influence a political election.

For additional examples and information on prohibited activities, individuals are encouraged to review IRS Fact Sheet-2006-17 and IRS. Rev. Ruling 2007-41. Both documents are available at www.irs.gov.

Article V- Board-Approved Activities

This Policy is not intended to prohibit the Corporation from engaging in non-partisan, educational activities related to political elections which are permissible for an IRC §501(c)(3) organization to engage in under federal law. Examples of these activities may include public forums, candidate debates, voter registration initiatives, or other voter-education activities. However, none of these activities shall be conducted unless carefully planned to avoid any actual or perceived bias and shall be expressly pre-approved by the Board of Directors.

Article VI- Procedures for Addressing Potential Abuses

Any actual or possible actions that may violate this Policy shall be reported immediately in writing to the Secretary of the Corporation for review by the Board of Directors. If the Board has reasonable cause to believe that the action does violate this Policy, corrections shall be made and the individual shall be subject to disciplinary procedures which may include, but not be limited to, warnings, suspension, or termination.

If any officer, director, employee, or volunteer has a specific question regarding the scope of this Policy, appropriate legal counsel should be timely sought in accordance with proper Board-approval.

Attest: _____
Secretary

Date: _____

cian as speaker. Before handing over the microphone to a candidate, make sure to address the following areas:

The person should be chosen to speak for reasons unrelated to his or her candidacy, such as that the candidate has been a long-time supporter of the nonprofit. A nonprofit would be wise to document such reasons, and to communicate them to the attendees in the introductory remarks.

The candidate may speak only in a non-candidate capacity, with clear and thorough instructions beforehand.

No mention of the person’s candidacy or election may be made at the event.

No campaign activity whatsoever may occur at the event.

The event itself should have an entirely non-partisan tone.

Appropriate clarity is evident throughout the event regarding the person’s appearance in his or her non-candidate capacity. (E.g., as an expert on a pertinent topic, as a community leader, or as featuring some other leadership attribute.)

9. Q: What could happen to organizations that violate the campaign activity prohibition?

A: Organizations that violate the political campaign activity prohibition are subject to losing their tax-exempt status under 501(c)(3). That is a serious punishment, indeed, but one that has been rarely meted out as addressed more fully in Herb Grey’s companion article. Less drastically, organizations may be assessed excise taxes, based on the amount of funds used for improper election activity. Specifically, an excise tax of 10% of the expenditure may be imposed, which jumps to 100% for uncorrected violations. In addition, organizational leaders who “knowingly” engage in such violations are subject to individual penalties. (See I.R.C. § 4955.)

Most typically, as churches and other nonprofits occasionally run into problems (e.g., inappropriate links to obviously partisan materials, guest speakers who go “rogue,” inappropriate sermons), the IRS generally will issue a notice to the offending nonprofit and expect appropriate remedial measures to be taken. It likely will also be helpful to show that the organization has taken the IRS notice seriously by (a) hiring a knowledgeable attorney who can advise its leaders about legal compliance, and (b) adopting a written political campaign activity policy (see below).

Historically, the IRS has investigated only a small fraction of nonprofit organizations for prohibited campaign activities, and only a handful of churches. Accordingly, while a nonprofit may not want the IRS to come knocking on its doors regarding this issue, it would be exceedingly unusual for it to be investigated. Nonprofits may nevertheless want to steer well clear of unintended legal troubles that could derail their missions, create tax liabilities, and damage their reputation as well-operated organizations.

Since the political campaign activity prohibition was enacted in 1954, many attorneys, scholars, and others have questioned its constitutionality, particularly for churches and other religious institutions as explained in Herb Grey’s companion article. The IRS has echoed these voices of doubt by its general reluctance to investigate religious institutions involved in questionable activity.

10. Q: What preventive steps should a section 501(c) organization take to maintain compliance with the IRS’ prohibition against political campaign activity?

A: Organizational leaders should ensure that all incoming board members, staff leaders, and other workers involved with communications – including volunteers – are fully aware of the political campaign prohibition and its multifaceted applications. A good place to start is to use this article or similar guidance for board, staff, and volunteer training.

In addition, churches and other section 501(c)(3) organizations should seriously consider adopting a political activity policy, such as the sample policy following this article. In doing so, the organization should make sure that its leaders and other responsible workers understand the policy and are supervised as needed. The organization should also monitor its communications, particularly its website, to make sure that they are legally compliant.

As Christians, individually and corporately, we must be continually careful with our tongues. (E.g., Proverbs 21:23: “Those who guard their mouths and their tongues keep themselves from calamity.”) But we are also called to speak up! (E.g., Proverbs 31:8-9.)

So what are Christians to do in connection with politically intertwined issues, as participants and leaders of churches and other section 501(c)(3) organizations? First, obey the Lord above all, as the supreme authority. (Matt. 28:18) Second, proceed carefully in relation to election-related activities per the above legal guidance. (E.g., Prov. 2:11: “Discretion will protect you, and understanding will guard you.”) Third, take ample comfort in understanding what is legally allowed. Within such parameters, Christians may engage vigorously in the moral, economic, and other critical issues of our times, as we walk with Him always. (Micah 6:8)



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Limitations on Political Expression for Churches & Religious Organizations: Are They Constitutional?

By Herb Grey

The First Amendment rights of churches and religious organizations have in recent years been front-page news to a degree not usually seen except among constitutional scholars. One need not look far to see religious organizations—which often shun political involvement, and are even thought by some to be *disqualified* from political involvement—ironically being thrust into the middle of public controversies and regulatory enforcement when government has come a-calling. Government challenges to conscience and religious teachings (Obamacare mandates for contraception coverage), social welfare ministries (Catholic Charities in several states being forced to close down to avoid state requirements to adopt children to homosexual couples), church autonomy in the selection of staff (*Hosanna-Tabor Evangelical Lutheran Church & School v. EEOC*, 132 US 694 (2012)), church use of public facilities (*Bronx Household of Faith v. Board of Education*, 650 F3d 30, *cert.den.* 132 US 816 (2d Cir 2011)), and preserving the right to choose their own leaders (*CLS v. Martinez*, 130 S Ct 2971 (2010) and its progeny) all reflect interactions of government regulation and religious rights that may, intentionally or otherwise, cause a biblically-minded ministry to run afoul of limitations on expression imposed by its own tax-exempt status.

So should churches and other religious organizations run and hide? The words of Abraham to God (“Far be it from Thee!” in Gen 18:25) and the Apostle Paul (“May it never be!” in Rom 3:4, 6) come to mind. In truth, the list of protective First Amendment and other constitutional rights is long, and the reach of the Internal Revenue Service is short – or at least shorter than many think it is. Many familiar with the infamous “neutral law of general applicability”, rational basis standard of *Employment Division v. Smith*, 494 US 892 (1990), may be inclined to capitulate to the IRS’ raw exercise of regulatory power as a logical, albeit unfair, reality. I take the contrary view, believing *Smith* is not so limiting as is commonly assumed, and questioning whether the IRS truly possesses authority to inhibit religious organizations from exercising their constitutional rights under the so-called “Johnson Amendment.” See Treas. Reg. §501(c)(3)-1(c)(3)(iii). That the IRS has often chosen to avoid litigating these questions should tell us something; the average pastor should also derive sufficient encouragement not to break out in a cold sweat (albeit in a Christ-like manner) when one of his flock suggests a timely word on an issue or a candidate.

Lest we get ahead of ourselves, it is worth noting that churches don’t even need the IRS’s blessing to be considered tax-exempt. Reminiscent of the priestly exemption in Ezra 7:24, churches are not even required to apply for tax exemption (See 26 USC §508(a)-(c); Reg. §1.508-1(a)(3)), but the underlying historical tradition runs much deeper than these statutes and regulations. The primary reason churches seek tax-exempt status is to assure

donors their contributions will be deductible. 26 USC §508(c)(1)(A). Rev. Proc. 82-39 §2.03. It’s a different story for *other religious organizations*, which must endure the slings and arrows of the Form 1023 application and its regulatory baggage to assure their donors of deductible contributions.

Forms of Political Activity

As noted in Sally Wagenmaker’s companion article, the IRS regulates three forms of political expression to varying degrees, and the constitutional issues are different for each: (1) moral issues with political overtones, or pending legislation; (2) voter education efforts, such as voter guides, candidate forums and voter registration; and (3) participation or involvement in candidate campaigns for political office.

Issues. There is *no* apparent limitation on a pastor’s or leader’s prophetic voice to speak about current *moral issues* of the day with political policy implications, despite what many believe – if they will only do so. Regulations concerning *legislative* issues are more complex and are addressed in Sally Wagenmaker’s companion article.

Voter education. Religious entities may create or distribute voter guides, conduct voter registration drives and conduct candidate forums as long as they do so in a “fair and impartial”, “nonpartisan” manner. Rev. Rul. 2007-41. Rev. Rul. 86-95. See also Rev. Rul. 78-248; Rev. Rul. 80-282; IRS Publ. 1828, pp. 8-9; FS-2006-17. The IRS accepts “The presentation of public forums or debates [as] a recognized method of educating the public” (Rev. Rul. 2007-41. Rev. Rul. 66-256) and further acknowledges that “Providing a forum for candidates is not, in and of itself, prohibited political activity.” Rev. Rul. 2007-41. Rev. Rul. 74-574. Rev. Rul. 2007-41 is particularly helpful in providing 21 factual scenarios to enlighten the faithful lawyer for a religious organization. See Situations 5, 9, 21 pertaining to churches.

In Oregon, where I practice, I represented several churches following the 2004 and 2006 elections which faced IRS inquiries for nothing more than *allowing* placement of Christian voter guides on a table in their lobby. The IRS claimed that the content and availability of *another organization’s* voter guide (which included both issues questions and candidate positions for all candidates in certain races) constituted *church* participation or involvement in a political campaign because the guide was “partisan” or “biased”. However, when pressed for defined standards of what was “partisan” or “biased”, even the IRS’s regional counsel could not point to *any* authority beyond his staff’s own *ad hoc* personal perceptions. The ultimate answer given as the IRS brought its inquiries to a close: “The churches didn’t do anything wrong, but they shouldn’t do it again.”

Candidate Political Campaigns. The real constitutional questions arise when the IRS invokes the “Johnson Amend-

ment” to prohibit religious tax-exempt entities from “directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for public office.” Treas. Reg. §501(c)(3)-1(c)(3)(iii). As noted above, it can be surprising for a church to be accused of “participation or invention” in a candidate’s campaign solely for making available a voter guide the IRS doesn’t approve of. Since this article focuses on constitutional considerations, I leave it to the reader to consider whether it’s even wise for a pastor or leader to advocate for or against a candidate. To understand the constitutional issues, it is important to know the correct standard of review, as well as the rights themselves.

Strict Scrutiny Generally Applies

We must not forget that the standard of review for infringement – or even more chilling – of First Amendment and other rights remains, in most cases, strict scrutiny. Under *Employment Division v. Smith*, 494 US 872 (1990), even a facially neutral regulation may offend constitutional neutrality if it unduly burdens free exercise of religion (especially if such burden impacts “hybrid” or multiple rights). See also *Wisconsin v. Yoder*, 406 US 205 (1972). The relevant standard is whether the government has substantially burdened religious belief or practice in the least restrictive manner, and if so, whether a compelling governmental interest justifies that burden. *Employment Division v. Smith*, 494 US at 905 (requiring “clear and compelling interests of the highest order”). Similarly, the Religious Freedom Restoration Act (RFRA), 42 USC §2000bb, reinforces application of strict scrutiny when federal law is involved (“Government shall not substantially burden a person’s exercise of religion in the absence of a compelling government interest that is furthered by the least restrictive means”).

So how does the “Johnson Amendment” hold up in the face of strict scrutiny? In my judgment, the IRS has a tough job identifying *any* compelling governmental interest. After all, the “Johnson Amendment” passed in 1954 when then-Speaker Lyndon Johnson sought to silence his tax-exempt critics during his 1954 campaign – hardly a compelling argument for a compelling government interest to begin with. Even armed with additional publications and rulings – not new statutes or regulations, but *publications and rulings* – in recent years, the IRS has consistently backed down when facing determined opposition rather than impose sanctions. It is noteworthy that *only one* church or religious entity has *ever* lost its tax-exempt status over political involvement in the 58 years since the enactment of the “Johnson Amendment.”

Branch Ministries v. Rosotti, 211 F3d 137 (DC Cir. 2000) represents the IRS’s only successful revocation of a church’s tax-exempt status – and the church’s wound was self-inflicted. Branch Ministries took out full page ads in two newspapers urging citizens not to vote for presidential candidate Bill Clinton because of his stands on certain moral issues. While the court upheld IRS revocation of the church’s tax exempt status, it also noted the limited effect of such a revocation on churches:

...the impact of the revocation is likely to be more symbolic than sub-

stantial. As the IRS confirmed at oral argument, if the Church does not intervene in future political campaigns, it may hold itself out as a 26 USC §501(c)(3) organization and receive all the benefits of that status. All that will have been lost, in that event, is the advance assurance of deductibility in the event a donor should be audited. [Citation omitted]...Nor does the revocation necessarily make the Church liable for the payment of taxes. As the IRS explicitly represented in its brief and reiterated at oral argument, the revocation of the exemption does not convert *bona fide* donations into income taxable to the Church.”

Branch Ministries v. Rosotti, 211 F3d at 142-143 (emphasis added). Ultimately, the DC Circuit determined the church had failed to demonstrate a substantial burden on its free exercise rights and never reached questions of compelling government interest or least restrictive means of furthering that interest. *Id.* at 144. The court also rejected the church’s viewpoint discrimination claim. *Id.* The takeaway here: little harm was done to the church, and the main constitutional issues were never litigated.

Some may say the time has come to throw off the muzzle of government regulations from the *Employment Division v. Smith* era after the Supreme Court’s recent decision in *Hosanna-Tabor Evangelical Lutheran Church & School v. EEOC*, 132 US 694 (2012), which upheld the vitality of the ministerial exemption and church autonomy in the face of generally-applicable non-discrimination requirements concerning employment decisions. See also *Spencer v. World Vision*, 619 F3d 1109 (9th Cir. 2010). There may be a brewing conflict between the “government hands off” holdings of *Hosanna-Tabor* and *World Vision* and the presumptive “neutral law of general applicability” standard giving government great latitude, as in *Smith*. However, I suspect it is premature to argue that *Hosanna-Tabor* offers greater protection for spiritual leaders and their flocks to speak out about political candidates than already exists under the strict scrutiny standards of *Smith* and RFRA.

The Rights at Stake

First Amendment. Religious speech is not a First Amendment orphan, but enjoys broad protection under the First Amendment. See *Lovell v. City of Griffin*, 303 US 444 (1938). Poignantly stated:

[I]n Anglo-American history, at least, government suppression of speech has so commonly been directed precisely at religious speech that a free-speech clause without religion would be Hamlet without the prince.”

Capitol Square Review & Advisory Board v. Pinette, 515 US 753, 761 (1995). Content-based restrictions on speech violate the free speech clause and equal protection clause for churches, just as they do for other speakers. See *Police Dept. v. Mosely*, 408 US 92 (1972); *Walz v. Tax Commission*, 397 US 664 (1969).

Churches and other religious organizations also enjoy free exercise of religion, freedom of association, freedom of assembly and freedom to petition the government for redress of grievances. These rights afford additional protection for any religious organization willing to understand and utilize them (with the help of the CLS member in their midst, of course). Of course, the *Branch Ministries* case above demonstrates the po-

tential chilling effect of even modest IRS sanctions on churches and religious organizations who might otherwise exercise these substantial First Amendment rights. No pastor or leader wants to be remembered as the one who “lost” the group’s tax-exempt status, even when prospects for loss of tax exemption or other sanction are limited; understandably, it is easier to remain silent.

“Excessive entanglement.” Some perceive tax exemption causing increasing levels of entanglement that may become “excessive” under the Establishment Clause test in *Lemon v. Kurtzman*, 403 US 602 (1971). See *Walz v. Tax Commission*, 397 US 664 (1970). While there is already a significant level of entanglement for religious organizations, the Supreme Court remains fairly protective against increasing invasive government inquiry into religious practices or motivations. See *Texas Monthly, Inc. v. Bullcock*, 489 US 1 (1989).

Importantly, conferring property tax exemptions (and thus presumably income tax exemption) upon religious organizations does not, in itself, constitute an establishment of religion for First Amendment purposes. *Walz v. Tax Commission*, 397 US at 672-673.

Fifth and Fourteenth Amendments. Religious organizations are also protected by Fifth and Fourteenth Amendment equal protection and due process rights. Three constitutional questions come to mind: (1) selective enforcement raising equal protection concerns; (2) vague and ambiguous statutes and regulations raising due process concerns; and (3) being required to exhaust administrative remedies before the IRS rather than litigating constitutional rights in federal court, as is typically allowed. Although the DC Circuit made short work of equal protection based on selective enforcement in *Branch Ministries v. Rosotti*, 211 F3d 137, 144-145, my experience and the comparative lack of authority in other areas suggest the IRS may be vulnerable.

Those familiar with due process know that abuse of government authority in applying vague, overbroad or non-existent criteria, or exercising unfettered discretion, concerning religiously-motivated expression is disfavored. See *Forsyth County v. Nationalist Movement*, 505 US 123 (1992); *City of Lakewood v. Plain Dealer Publ.*, 486 US 750 (1988); *Board of Airport Comm’rs v. Jews for Jesus*, 482 US 569 (1987). In this respect, the IRS is on thin ice – and should know it. Imprecise terms such as “directly or indirectly” participating or intervening in political campaigns are scant legal standards for a church or religious organization that may be merely trying to engage in voter education (as my Oregon churches were). See Reg. §501(c)(3)-1(c)(3)(iii). The “Johnson Amendment” regulation demonstrates the problem:

Activities which constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to, the publication or distribution of written or printed statements or the making of oral statements on behalf of or in opposition to such a candidate.

Id. (emphasis added). The regulation on its face clearly bans distribution of any written or printed statements that may pertain to a candidate. Threatening a church’s tax exemption due to distribution of voter guides or other materials later found to be “biased” or “partisan”, without more definitive evidence, is at least Monday-morning quarterbacking, if not constitutional

overreaching. So far, the IRS has wisely chosen not to force a battle over such vague and overbroad standards in the face of determined resistance.

As to the exhaustion question, the IRC prohibits litigating in an outside forum before exhausting administrative remedies (26 USC §7428(2)), which include an “inquiry”, often followed by an “examination.” 26 USC §7611. See also *Branch Ministries v. Rosotti*, 211 F3d at 140. Nonetheless, the IRS reserves for itself the right to seek a district court injunction in the case of “flagrant political expenditures of section 501(c)(3) organizations.” 26 USC §7409.

While exhaustion of administrative remedies is not uncommon, exhaustion is *not* generally required before bringing a 1983 claim to vindicate constitutional rights. See *Patsy v. Board of Regents*, 457 US 496 (1982). Accordingly, it is reasonable to question the propriety of the IRS’s exhaustion requirements when constitutional and civil rights of religious entities are at issue— especially when the IRS creates an exception for itself.

What Churches and Religious Organizations Can Do

Ultimately, most ministry leaders expect and deserve clear guidance in how to be true to their Bibles and their mission without running afoul of the law as they know it. In that spirit, I offer the following recommendations:

(1) They should seek legal counsel for a clear explanation and understanding of the limitations imposed under §501(c)(3) rules rather than succumbing to the temptation to rely on “street knowledge”, as many presently do. Whether that advice comes from their friendly CLS lawyer in the pew or on the board or from public interest law firms with special knowledge and experience, resources abound to address these questions;

(2) They should adopt bylaws or policies that make clear their position on political involvement and express their intention to comply with the law to the extent their values and their conscience allow. See draft policy in related article. This is a critical part of educating their parishioners or supporters and making sure there is broad agreement on the importance of preserving and exercising their constitutional liberties for the glory of God and the best interests of our nation; and

(3) They should not shrink from exercising their prophetic voice out of a fear of largely imagined consequences because “Greater is He who is in you than he who is in the world.” I John 4:4.

May we all remember that “God has not given us a spirit of timidity, but of power and love and discipline.” II Tim 1:7.



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ATTORNEY MINISTRIES



A Christian's Hope Must be in Jesus Christ not Politics

By Brady Tarr

In case you've been on a many month journey in the wilderness with no access to TV, radio, or other people, you know we are in an election year, and that politics is in the air. Depending on your personal thoughts and convictions about politics, you might describe the last three and a half years as either being a fruitful and productive Spring or a very cold and harsh Winter.

I live in Washington D.C., five blocks away from the Capitol building, so I am literally surrounded by politics. Yes, it is a bit unique living in such a political hotbed during an election year, but in light of the reality that political issues consume TV, radio, and social media, I think it is safe to say that we are all being inundated with politics whether we like it or not.

The speech and actions of some people seem to suggest that their only hope lies in whoever is elected in November. I do believe that is true for many people. That belief is literally of the devil because it is reflective of the non-Christian mindset which espouses that true hope and change for individuals and for the country are dependent on human efforts rather than on God's work through the gospel of Jesus Christ.

Reasons You Should Hope in Jesus Christ and Not Politics

First, you are going to die. The Bible compares our life on earth to that of a vapor (James 4:14). A vapor appears for an instant and then vanishes. In a similar way, a person's lifetime in light of eternity is infinitesimally brief. Since our life on earth is so brief, are you using your time and energy wisely? Are you living your life in

light of eternity or are you nearsighted and consumed with what is taking place today. A good question to ask yourself to help clarify your own perspective is, "Is what I am doing today going to matter five years from now? Ten years? In eternity?"

For a Christian, 20/20 vision is to be farsighted. Christians are to be farsighted because a Christian who is farsighted looks forward to the return of Christ and has a future focus of being with Christ that directs the things they do and do not do now. If the desires of your heart, your focus, and your perceived happiness are wrapped up in a certain candidate being elected, you are sinfully nearsighted.

We need to fight the tendency we all have to be nearsighted, or consumed with the here and now, by being intentional in pursuing Jesus Christ through reading and studying the Bible and through prayer. Change on the grand scale begins with the change that takes place in the hearts and minds of individuals who are transformed by God's Word. When we apply that same farsighted principle to the Christian life where we fix our eyes on Jesus Christ the author and perfecter of our faith (instead of on our immediate desires or comforts), we will be able to conduct ourselves in a manner that is worthy of the gospel no matter what happens in the next election.

Second, God is sovereign. Thankfully, God is in control of all things and nothing happens that is outside of His will (Dan. 4:35, I Cor. 5:27, Daniel 2:20-23, Gen. 50:20). He has in the past, is now, and will continue to accomplish His good plan to glorify Himself whether we fully understand (or agree with) exactly how He carries out His plan. God promises that He

causes all things to work together for good *for those who love Him and are called according to His purpose* (Rom. 8:28). God in His sovereignty is working things out in such a way that will bring Him the most glory.

Scripture also teaches that we are responsible for our actions. In every area of our life, we should be actively striving to live in such a way that brings God glory. Therefore, Christians *should* seek to bring about change through the political process that is, as best as we can discern, reflective of Scripture.

That looks different for every Christian. For some this simply means placing a vote for the candidate who seems to best reflect biblical principles on issues that include the preservation of the life of unborn babies as well as the aged (Jer. 1:4-5, Ps. 139:13-16, Philosophical Arguments Defending the Unborn, Five Bad Ways to Argue about Abortion), God's design for marriage being between one man and one woman (Gen. 2:18-25), and the issues surrounding money and the economy. Christian politicians and those who work for the government will hopefully spend a more significant portion of their time working to bring about God glorifying change in the government. At the very least, every Christian must obey God by praying for the president and for the others in authority (1 Timothy 2:1-2).

Christians must understand that who we are as believers is to shape every aspect of our lives. A person is not a politician and a Christian or a lawyer and a Christian, but rather a Christian should see himself/herself as a Christian politician or a Christian lawyer. A person's faith in Christ must always be the determining factor in what

he/she does or does not do in politics and every other decision in life for that matter. Are you conducting yourself in a manner that is worthy of the gospel in every aspect of your life whether at work, at home, or when you are alone?

We should not consider ourselves followers of any specific candidate, but followers of Jesus Christ. Our voting should reflect that fact as much as possible. Christians must be biblical when we are deciding who we should vote for. We must have biblical reasons for who we do and do not support with our time, money, and vote.

Third, God is immutable or unchanging. While God is eternally trustworthy and cannot lie (Heb. 6:18), many politicians are willing to revise the promises that they make (aka. lie) or relax their convictions on certain issues whenever it is politically expedient for them to do so. We are often disgusted and feel betrayed when that happens, but politicians are no different than the rest of us in that they have a sinful heart that is inclined toward evil. That fact should give us all the more reason to pray for God to help those in authority to act in such a way that is reflective of a fear of God instead of a fear of man.

If your hope is in a future president to fix the current moral and ethical disregard in this country and to fix all the issues with the economy, taxes, and national debt, you will be constantly discouraged and need to reexamine whether your faith is in the sovereign God of the Bible or in something else. A Christian's hope is only satisfied in Jesus Christ.

How Can We Fight Our Sin and Grow in Our Hope in Christ

The first thing that Christians should do to fight sin and to increase their hope in Christ is to join a local church that submits to the Bible as the inerrant and authoritative Word of God (See also Video 1 and Video 2). God's good plan for Christians is that they gather as members of a local church who are covenanted together (Heb. 10:25). The covenant community of a local church provides a place for fellowship and accountability among the members who are to spur one another on to love and good deeds (Heb. 10:24). As has already been mentioned, Christians should *not* neglect to seek to influence politics to be more in line with biblical principles, but

we should be much more focused on investing our time and money into the ministries of the local church to which we belong. The work that is accomplished in and through healthy local churches is literally eternally more significant and important than what is being or can be accomplished through politics.

The second step is to pursue a greater understanding of who God is and how we are to live as Christians. The way that is done is to make it a priority each day to incorporate the spiritual disciplines of reading the Bible, memorization, and prayer into your daily life. Do you read the Bible regularly? If not, why not? We have the incredible privilege to be fed and nourished by studying and committing to memory God's Word. However, it is often the case that when professing Christians are asked if they have ever read the entire Bible the answer is no! Have you ever read the entire Bible? If not, why not? It does not make sense that it is often the case that a Christian, a follower of Christ, has not taken advantage of the incredible opportunity that he/she has to read the entire Bible. The whole Bible points to Christ so it is a prudent goal for every Christian to be familiar with what it says in its entirety in order to most effectively be able to give a defense for the hope that you have in Jesus Christ (1 Peter 3:15-16).

If professing Christians were to begin to faithfully and carefully read the Bible some important things might happen. **First**, a person who has grown up in the church and was baptized at some point might realize that he/she is really not a Christian. Those who think that they are a Christian or have had their sins forgiven *because* they "grew up going to church" or because they were "baptized" or because they "prayed a prayer" may be living under the deception that their sins are forgiven and they are going to heaven. Going to church, baptism, and praying a prayer mean nothing *unless* a person *genuinely* repents and believes that his/her salvation is by grace alone, through faith alone, and in Christ alone (John 14:6). Good works have *nothing* to do with a person's salvation at the moment of conversion (Eph. 2:8-9, Rom. 3:28-30, Rom. 4:1-6, Rom. 5:1, Gal. 2:16, Gal. 3:24, Matt. 7:21-23). As the previous verses support, the belief that good works are required at the moment of conversion in order for a

person to be saved is a belief that is irreconcilable with Scripture. Good works are the fruit of or are the *result of a person's salvation by faith alone* (Eph. 2:8-10; The role of faith and works in salvation).

Good works must be evident in a person's life after they are saved (Matt. 7:15-20, Eph. 2:10, James 2:14-26), but good works are *not required to be present at the initial moment of conversion when someone becomes a Christian and is justified* (Luke 18:9-14, Luke 23:39-43, Phil. 3:9). Salvation is caused by God (1 Peter 1:3) when he gives a depraved sinner the gifts of faith in Jesus Christ (Eph. 2:8-9) and repentance (2 Tim. 2:25, Acts 11:18). All of those who are given God's gracious gifts of faith and repentance freely choose to exercise their faith in Christ by genuinely repenting of their sin and putting their faith in Christ. From that moment on, the salvation from their sin is a permanent reality because of the finished work that Christ accomplished on the cross by dying as a substitute for all those who would trust in him for their salvation. Jesus did not stay dead! He rose from the dead three days later victorious over sin and death!

Second, asking the Holy Spirit to teach us as we read the Bible (John 14:26) will help reduce the number of people who call themselves Christians, but live a lifestyle no different than an unbeliever. Each one of us must regularly consider his/her own sinful heart and mind and strive to live a life pleasing to the Lord (1 Peter 2:12). And if we have a friend who is a professing Christian but is living a life that is consistently hypocritical to his/her claim to know Christ, then we need to (after prayerful reflection of your own sin and motives behind confronting your friend (Matt. 7:1-5, Titus 2:7-8)) lovingly confront him/her (Matt. 18:15-17; see also <http://www.clsnet.org/sslpage.aspx?pid=776>).

Third, our intimacy with God and the fellowship we have with other believers will increase as we grow in our understanding of and love for God and what he has done for us through Christ. As we read and are reminded of the truths of the gospel, we will realize how much we have to be thankful for in light of God's provision and care for us now, and our longing for Christ's return will intensify when we consider that joyful day. We can wait for Christ

Continued on page 25

THE GLORY OF THE LAW

by Dallas Willard¹

Part 1 of 3 — God's Gift of the Law

INTRODUCTION by Forrest Latta

The comments by Dallas Willard in this 3-part series speak well for themselves. It may be useful, however, to highlight some perspectives which were a blessing to me and which affected my own thinking about the calling of a Christian lawyer.

In this first essay, Dr. Willard explains how the law is a gift to mankind of peace and order and goodness. The foundation of Law was not laid by man in solitary detachment from God. To the contrary, the starting point to understanding the law is God himself. It was God who intended and created man to be “very good.” And it was God who, after our rebellion, gave mankind the Law so that we may live in peace and avoid our own self-destruction in this chaotic world to which we have been exiled. To the extent God's foundation of Law has been built upon by man's self-assertion of additional laws, they are by nature imperfect. Can a greater case be made, then, for the world's need of a community of Christian lawyers who in our own imperfection at least bring to the process a sense of God's authorship and purpose in the law?

As Dr. Willard will further explain in Parts 2 and 3, the law exists for the additional purpose of reminding us that our evil past is not irrelevant. The law, in what it is for man and does for man, ultimately points the way to the Savior. And only in the Savior do we find grace to discover new life and new freedom. We as ministers of the law, therefore, are ministers of His peace and grace. That does not mean we avoid entanglement in everyday disputes over the law, but rather even when we participate in helping others resolve conflicts it is toward a far higher aim. Such conflicts may be personally challenging and even discouraging at times, but until we die God does not expect perfection from us, only that we rise after each fall and not grow weary, recognizing that in Christ we are made perfect and holy in God's eyes. And whether we rise or grow weary depends on our resources — whether we have taken into our lives the spirit of God and the word of God — by the exercise of spiritual disciplines.

The purpose, therefore, of Christian lawyers and judges is not merely to interpret and apply a set of man's rules but a calling to partner with God in recognizing the “Glory of the Law” as His gift to mankind — a gift of peace and love — which we are called upon to administer in partnership with Him by means of His grace.

Ed. Note: This essay is the first in a 3-part series adapted from comments by Dallas Willard to attendees at the CLS Annual Meeting in 2002. They appear verbatim, edited only for length by CLS member Forrest Latta with accompanying introduction.

It might be that, even as Christians, you have not heard anyone talk about the glory of the law. We live in a culture that does not glorify the law. We are a people born in rebellion, and a people who lived on frontiers, and when we needed to run we could run. Someone once jokingly said “the Australians are the ones who got caught, and the Americans are the ones who got away.” And there is something to that. We do not glorify the law.

It perhaps needs to be said, right up front, that the law is one of the greatest manifestations of the grace of God. The law is a gift from God. We don't know that, because we think of the law as simply a human device — a way we engineer our way through the world.

One of the greatest curses of the human race is the arrogance of mind that says, “I know what to do on my own.” That is the basic nature of the temptation of evil. Take for example, Adam & Eve. They knew what the law was. The tempter says, has God really said that? And so St. Augustine observed that the fundamental nature of sin is *pride* — the lifting up of one's self into the position of saying, “I am sufficient.” And we are not.

It is amazing to me how people think they can trust their own mind to direct them in the way they ought to go. The human enterprise does not run on its own, and the moment it starts to run on its own, it goes bad, in some degree, better or worse, because it departs from the vision of the good. And the gift of God is a revelation of reality, and of God, and who we are, and of what we are supposed to do. And that is why people in the ancient world in general, but above all the Jews who received the revelation of God, were able to form a world around them because of God's presence with them.

Remember the words of Moses in Deuteronomy, “Observe these laws carefully, for this will show your wisdom and understanding to the nations, who will hear about all these decrees and say, What other nation is so great as to have their gods near them the way the Lord our God is near us whenever we pray to him? And what other nation is so great as to have such righteous decrees and laws as this body of laws?”²

One of the first things you learn from this passage is that the law always comes with the presence of God. God never intended it to be any other way. And so when we seek God and His law we begin to understand the true glory of the law. And the true glory of the law is tied to the fact that it reveals the heart of God and the will of God, and the nature of the world that God has made.

Now imagine for a moment that all of the nations of the world looked at America and said, “What a great nation this is, because God is so near them.” Suppose the nations that we are now engaged in a struggle with over terrorism thought of us that way. But of course, we realize that America is not a nation that gives that impression. Now imagine if people looked at you and me, where we live, and thought about us

this way — “What an amazing person, the presence of God is always with them,” or “What an amazing law they have to live by, how great it is.” You see, that is the glory of the law — knowing what to do and finding it right, and finding God with us.

Now we need to think carefully about the law and the question, **“What is law?”**

First of all: Laws of nature are *regularities* among things and events, principles which always hold true. They represent God’s will for how nature is supposed to behave. And all the regularities of nature are like that. It has been pointed out many times in recent decades that science itself would not have evolved except on the faith in a God who made reality in such a way that it runs on a regular basis. I mean, the reason why science only developed in the western world is because only in the western world was there a view of a God who made a creation like that. So laws of nature are “regularities of things and events.” You can count on them, like, “water runs downhill.”

Laws of science are statements *about* the laws of nature. We must never confuse the regularity of reality with a statement *about* it.

Laws of society are public directives for human actions as to what is good and what is right. And that is why your calling in the law is so tremendously important. There are intended to be laws that direct us as to what is good and right. You walk in those ways and they are the ways of peace and flourishing and goodness.

Laws of morals are regularities in the lives of good persons. Unfortunately today, if presented at all, they are presented as oddities. But the moral life is an amazingly regular area. If you want to walk in the commandments of God and follow Jesus Christ and trust him, you will find that you can count on the blessing of God in that. And the moral person is precisely the person who finds the demands of the moral life to be easy and blessed, because he knows the *strength* that is in them.

Now there is great confusion on this today because we have departed from the tradition of law that is in the Bible, especially as it came to a head in Jesus Christ. Two days after 9-11 I was sitting in my office at U.S.C. and someone called from the newspaper and asked me this question: “What is evil?” Now you have to think about it

to appreciate that a reporter with a metropolitan newspaper would need to call someone and ask “what is evil.” The reason evil has disappeared from the consciousness of people is because “what is good” has disappeared. They go together. And as a teacher and writer in philosophy, one has to recognize the fact that moral theory in our world does not deal with evil.

So what is the morally good person? The *morally good* person is a person who is intent upon advancing the various goods of human life with which they are effectively in contact in a manner that respects their relative degree of importance and the extent to which the actions of the person in question can actually promote the existence and maintenance of those goods. And of course Jesus gives us this word, “Love the lord your God with all your heart, and with all your soul, and with all your mind, and with all your strength. The second is, love your neighbor as yourself. There is no greater commandment than these.”³ In other words if we do these things, we will be a morally good person.

That is another thing we don’t say much about in our culture today, and unfortunately in our churches as well. The problem we are addressing, when we think of the condition of the world today, the blame lies primarily at the feet of Christians and teachers and leaders of Christians. Because we have not taught these things, we have not led them. This is a great tragedy because we can raise a fuss about having the Ten Commandments posted somewhere, but we don’t have them posted in our own homes. And we don’t have them posted in our hearts. And that is what Jesus was talking about.

If you look at Psalm 19 ask yourself, why does the Psalmist say such wonderful things about the scripture, about the word, about the law? He says, “Your word is sweeter to me than honeycomb.”⁴ How sweet is honeycomb? Actually if you are a beekeeper you know that honey fresh from the honeycomb is at its sweetest. Now imagine, for a moment, the law of God being as sweet as that. Imagine taking the commandments and turning them over in your heart until the sweetness suffuses your whole being. The Psalmist says, “I meditate on the law day and night.” Why does he do that? He doesn’t do it because he thinks he is doing God a favor, or because he is

digging up something for Sunday School. The man who meditates on the law day and night is the person who delights in it, and loves it, and is thrilled by it.

The enemy of law is always unrestrained human desire, whatever it may be. And if you think about how our culture runs today, you will notice that it runs by feeling. Feeling dominates. All you have to do is watch advertisements, automobile advertisements, advertisements for anything. They are all based on feeling. And feeling, instead of law and reason and truth, is what governs our society today. But the person who cannot tell the difference is the person who is locked into their feelings and is governed by those instead of by truth and the law of God.

Human law is always in some degree reflective of human finitude, ignorance and perversity. In its formulation in legislation and interpretation and in practice, it will reflect those same kinds of things. That is in great contrast to the law of God.

So what are we to do? First of all, let us adore the law. Do we in our heart love the law of God? That is something each of us can answer by asking God to help us to understand what our attitudes are. Then let us live in accordance with it — by the grace of God, and for the glory of God. And then let us clearly present it. Let us without embarrassment say what is true, and explain it, and put it in its proper context of life under grace and in the kingdom of God. And when we do so, then God will make the beauty of it stand forth, as He intended.

REFERENCES

- 1 Dr. Willard is a professor of philosophy at the University of Southern California. He is the author of numerous books including *Knowing Christ Today* (2009), *The Great Omission* (2006), *Renovation of the Heart* (2002), *Hearing God* (2009), *The Divine Conspiracy* (1998), and *The Spirit of the Disciplines* (1988). Visit the author online at www.dwillard.org.
- 2 Deuteronomy 4:7-8
- 3 Mark 12:30-31
- 4 Psalms 19:10



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The Lamb's AGENDA

By Rev. Samuel Rodriguez

The obituary of American Christianity in the 21st century already permeates both church and society. Scholars and leaders from inside and outside the church have arrived at the inevitable conclusion that Christianity in America will not survive this century in any viable or sustainable manner. I disagree. I believe the people living in the 21st Century stand poised to experience the greatest transformative Christian movement in our history. This movement will affirm biblical orthodoxy, reform the culture, transform our political discourse and usher in a New Awakening.

Yet this movement will be different from anything we have ever seen before. First, it will reconcile the agendas of Billy Graham and Dr. Martin Luther King Jr. Second, it will activate the ethnic church as the proverbial firewall of righteousness and justice. Third, it will serve as the platform for an activist generation disconnected from the church but seeking to serve a cause greater than itself. For at the end of the day, this will not be a political campaign driven by expediency and the agendas of man but a prophetic movement driven by the impetus of the cross. What is the agenda for this new movement; it is not the agenda of the donkey or the agenda of the elephant. This movement stands driven by nothing other than the Agenda of the Lamb.

The Lamb's Agenda is both Vertical and Horizontal

The Agenda of the Lamb stems from the facilitative platform of the cross. Jesus said, "If anyone would come after me, let him deny himself and take up his cross and follow me" in Matthew 16:24. No other symbol incorporates passion and promise like the cross. A simple symbol depicting two pieces of wood, one vertical and the other horizontal, successfully represented the Eternal Hope of Glory to all human-

kind. Madison avenue and multi-million dollar campaigns have not been able to reproduce the loyalty, commitment and even multi-generational allegiance to a message conveyed via the humble conduit of a brand, not imprinted on the wood but incarnated in the spirit of what it represents, grace and eternal life.

That universal Christian symbol powerfully and with unbridled persuasion not only conveys a message of what is to come, but also, what life truly is; a cross. The cross is both vertical and horizontal. Vertically, we stand connected to God, His kingdom, eternal life, spiritual truths, divine principles, and Glory. Horizontally, to our left and to our right, we exist in relationship with community, family, culture and society.

Simply stated, the cross is both vertical and horizontal, redemption and relationship, covenant and community, and kingdom and society. For too long, people have lived either vertically or horizontally but few, even in Christian leadership, have succeeded in living, speaking, equipping, leading and ministering from both the vertical and horizontal planes of the cross. In order to fulfill the mandate of our Lord and in order to bring hope to a pathetic time, we must stand and operate not from the fringes of either right or left but from the strongest part of the cross, where the vertical and horizontal intersect, the center, the nexus of grace and hope. We need a church committed to saving the lost and transforming our communities, addressing sin and confronting injustice. It's not either or; it's both and.

Historically, white evangelicals focused on two major issues, life and family. Meanwhile, ethnic Christians focused on the social justice elements of the gospel message from Luke 4 and Matthew 25 such as poverty, education, racism, and justice. The Lamb's Agenda calls for the conver-

gence of both righteousness and justice imperatives committed to life and poverty alleviation, salvation through Christ and the transformation of our communities, redemption and reformation, defending religious liberty and ending human trafficking, pro-family activities and commitment to protecting God's creation. It is no longer either or; it is both and.

The Lamb's Agenda stands committed to frame a narrative that reconciles both the vertical and horizontal elements of the cross, a platform of righteousness and justice. In other words, it is the Christian nexus of a kingdom culture ethos and a transformational missional directive that is not either or but both and. The place where conviction marries compassion, and truth joins hands with mercy. The next great transformative and prophetic movement in our nation must stand committed to the vertical and horizontal planes of the Christian cross.

The Lamb's Agenda Applies Kingdom Optics

For that matter, this next great vertical and horizontal righteousness and justice movement will not be a white, black or brown movement but rather a kingdom culture multi-ethnic movement. Notice how I did not say multi-cultural but multi-ethnic. I believe the greatest celebration and affirmation of our diversity is created as we coalesce in the life giving and sustainable enrichment of God's kingdom culture.

The corresponding application of a kingdom culture lens will enable us to view the world not primarily via the optics of my earthly cultural context but more importantly through the compassionate lens of my kingdom citizenship.

In other words, when I wake up in the morning what I see first is not that I am Hispanic, Black, White or Asian, but rather, I am, first and foremost, a child of the living God. My vertical identity empowers my horizontal reality.

In that respect, Pentecost, my friends, stands as the quintessential marker of the cross cultural multi-lingual spiritual movement. The Holy Spirit fell and the nations, the ethnos, the cultures heard the good news of the gospel. We need a new Pentecost in America. We need the Lord to help us effectively speak the truth of the gospel to the communities around us. Not in the

spirit of political correctness but rather in the Spirit of biblical correctness.

The Lamb's Agenda and the Hispanic Factor

This cross movement carries a definitive Hispanic factor. For without a doubt, the most powerful force transforming the narrative of 21st Century American Evangelicalism is embedded in the fabric of a critical domestic public policy debate with ramifications reaching the corridors of Washington D. C., immigration. These immigrants, particularly Hispanic immigrants, stand poised to change the Christian experience by broadening the evangelical agenda, incorporating a transformational missiology, reigniting a prophetic socio/political movement, and globally serving as ambassadors of a kingdom culture ethos that promotes righteousness and justice.

The recent debate succeeded in removing the grave clothes from an entire segment of our population, thus opening an unprecedented opportunity for outreach and evangelism that will help grow Christianity in America. From Wall St. and Madison Ave. to Washington D.C., American corporations, politicians, and leaders understand the potential embedded within the thriving Hispanic American community. While corporate America engages Hispanic consumers, and political operatives recruit Hispanic voters, the body of Christ stands ready to reap a Hispanic harvest.

Historical suppositions that limited the necessity for outreach and partnership to and with the Hispanic population exclusively to ministries and churches in California, Texas, Florida, New York, and the Southwest, no longer apply. Today, Hispanics participate in communities from North Dakota to Wyoming, from Maine to Alabama, literally, from sea to shining sea.

As a result, any church or ministry committed to a viable 21st Century growth matrix would be wise to include a Hispanic outreach strategy. For the American Church to most effectively in the 21st century, it must equip, train, collaborate with, and engage Hispanic American believers.

Respectively, and more importantly, I stand convinced that the Hispanic community and our prophetic role is defined in the very construct of the term Hispanic. First, it begins with His, capital H. Second, it continues with panic. HIS-Panic; HIS-PANIC. Amigos, we are not here to teach

America the Macarena, salsa or the chacha. We are not here to increase the dividend portfolios of those that have diversified by investing in Taco Bell. We are not here to make you press 1 for English or 2 For Spanish. We are here to bring panic to the kingdom of darkness in the Name of Jesus.

As a matter of fact, at the end of the day when history books write about 21st Century America they will write about a new awakening, a 21st Century revival but this time the name will not be limited to Edwards or Whitefield but this time names will include Garcia, Rivera, Miranda, Morales and Sanchez.

For, as you well know, our current landscape demands diversity, not in the context of political correctness but rather in the Spirit of Pentecost. Hispanics are not a race but rather an ethno cultural group of various races coalescing around a common language and shared values. We are part of a multi-ethnic church, rapidly becoming multi-lingual and committed to a kingdom culture presentation of the gospel. Hispanic evangelicals, in essence, represent the United Nations of Christianity - modern day Samaritans. Hence, we must engage Latinos and others in order for the American church to truly reflect the Church of Jesus Christ.

The Lamb's Agenda Metrics

Finally, my friends, it's important to outline the metrics of this movement. How do we measure effectiveness? How do we determine success? Permit me to lay out some of the potential outcomes.

First, a kingdom culture cross movement will result in the resurrection of sola scripturas VERITAS, or in other words, biblical truth. This movement may be labeled as archaic or old fashioned, but we are convicted that there is power in the Name of Jesus! We still believe that Matthew 24:35 stands true: "The heavens and earth shall pass away but God's word will never pass away."

Second, this directive will contextualize a holiness thread which presents a clear picture of a loving God who repudiates sin while loving the sinner. Without a doubt, a fresh holiness movement needs to begin without the vestiges of legalism but with a commitment to addressing a sin tolerant culture and church by incorporating into our lives the eternal truth "Be Holy for I

am Holy saith the Lord" (1 Peter 1:16; see also Hebrews 12:14).

Third, this multi-ethnic, multi-generational movement will result in cultural reformation not just cultural engagement. We desire to offer a counter culture narrative where biblical truth confronts moral relativism on multiple platforms: digital, relational and cross cultural.

Fourth, this movement will create a firewall of righteousness and justice against moral relativism, spiritual apathy and cultural decay. We will engage in prophetic witness addressing lukewarmness in the church while simultaneously confronting injustice in society.

Finally, the Agenda: This movement will emerge and provoke the evangelical, Bible believing church to stand on a platform independent of political manipulation from either political ideology. We will rise up and declare that as a community we will not be married to the agenda of the elephant or the donkey but rather to the Agenda of the Lamb. Recently, I was asked on CNN what I thought about the Tea Party movement and I replied, "The only problem I have with the Tea Party is that any party without Chips and Salsa is not a party at all." For we understand that the kingdom of God is not red state or blue state, liberal or conservative, Democrat or Republican but righteousness, peace and joy in the Holy Ghost.

With the cross and in the kingdom culture spirit of Pentecost, we approach the proverbial gate called Beautiful. Before us lies a crippled and paralyzed world begging for substance, begging for change. And from the center of the cross we tell those in the barrio and Beverly hills and those in San Diego and Seattle "We may not have silver, we may not have gold but what we have we give unto thee, in the Name of Jesus Christ, rise up and walk."



Rev. Samuel Rodriguez is the President of the National Hispanic Christian Leadership Conference, the Hispanic Evangelical Association, America's largest Hispanic faith organization serving 34,218 member churches and 16 million constituents by reconciling the vertical and horizontal messages of the Christian faith.



The Informed Christian Voter

By Dan Kim

Do you consider yourself a “values voter?” Perhaps you proudly consider yourself one of the many solid bricks that make up the “evangelical base.” Or maybe, more likely, you warily gather with those that resist labels altogether and hope only that the electoral season pass quickly and without too much noise? Not too long ago, I considered myself a part of this last group. My emotional investment was middling at best and cynical at worst during the electoral process. This vacillation between apathy and antipathy was rooted in the simple notion that as a believer I thought it a bit unseemly to be so “invested” in the outcome of the quagmire of politics.

Over the years however, I was blessed with great friends and mentors who guided me through the muddy waters of politics, helped me get over my discomfort and prejudice, and, most importantly, were great examples of thoughtful and passionate voters, advocating for both issues and candidates in a winsome and gracious manner. This article however, is not about how I came to shed my discomfort. Instead, I will share some ways we can be gracious with fellow believers who do not share our deeply held political beliefs by encouraging and challenging them through graciously sharing our views but also listening to their opinions.

It's not us versus them

I am a Christian, but also a devout Boston Red Sox fan. Every day, I stuff into my brain every bit of information about the team I can lay my eyes on, even about their farm system. I can talk for hours about the merits of a variety of possible lineups, their likely win total for this season, and what they possibly may need to add to win it all this year. They

are my team. I have often even used the plural first person pronoun in conversation: “I like what the front office did this past off season but we probably need a little more middle relief help.” This identification with the team has shown me how emotionally invested I’ve become. But, as much as I can get emotionally high and low with each great win or loss, I am not on the team. I don’t get paid to play, nor do these wins and losses really have any effect on my life. My identity is fully in Christ.

It’s easy though to attach yourself to something other than Christ, especially if that something or someone represents a set of ideals that you strive for, advocates a position that you passionately believe in, or is just a person that you would like to be similar to one day. While politics has much more heft in terms of real-world consequences than baseball, the need for understanding how to prevent a full identity immersion is equally important. Even if you believe that the candidate you support is the best man or woman for the job, has great integrity, and even professes Christ (!), while the other candidate is obviously (to you of course) an incompetent cad, keep in mind that our identity is with Christ the man-God and not God-created man and act accordingly. The importance of this obvious truth cannot be emphasized enough. What do I mean? First, we must never too closely identify with any candidate we are touting and so not take personally (or as a personal attack) anyone who plans on voting and campaigning against him or her. We should remind ourselves that anyone we are voting for is necessarily a flawed individual. Second, we should not write off another person’s opposition as a character flaw or sign of spiritual immaturity. That ungracious attitude is not much better

than if I chose to be suspicious of a person because he or she is a Yankees fan. Last, choose to humbly disagree yet respect the other as that can go a long way to having your opinion ruminate in a person’s brain (and theirs in yours).

Avoid the ridiculous rhetorical

If your goal is to have your opinions go in and out of your audience’s brain with nary a rattling, nothing shuts down conversation like a whiff of condescension. It does not do wonders for your reputation, either, if your go-to line in debate or conversation is similar to one of the following: “Why wouldn’t you?” “How could you?” These questions have a strong, off putting odor. And it is not much better to depersonalize the question by adding the ignorant strawman named “anyone” or “someone,” as in “How could anyone believe such and such?” The person still thinks you are referring to them. And you are. These questions place the questioner upon artificial intellectual or moral high ground that only makes the listener want to push them off. Thus, rhetorical questions such as these are just plain ridiculous and should be avoided.

If you don't have anything nice to say, ask questions and listen

When do you engage in conversations with those who advocate an opposing view or candidate, allow yourself to listen. It may not be well thought out, logical, or even based much on reason, and you may even feel dumber as a result, but this serves two purposes. First, it helps you remember that the exchange of ideas is not just a game of point-counterpoint, but rather, it is an opportunity to get to know a person and understand why he or she believes what they believe. For example, many of

“WHEN YOU DO ENGAGE IN CONVERSATIONS WITH THOSE WHO ADVOCATE AN OPPOSING VIEW OR CANDIDATE, ALLOW YOURSELF TO LISTEN.”

my brothers and sisters in Christ do not yet understand how so many of their fellow believers helped Senator Obama become President Obama and many of my other fellow believers do not understand how President George W. Bush was a two term president. Those two realities would not be so unfathomable if each group had just asked why the other made the choices they did. Second, it may open up a chance to be personal without taking things personally. In other words, listening and asking often helps the other person to trust you and desire to hear your opinions. Possibly he or she might even consider why you believe what you do. Not so surprisingly, this may even lead you to be more informed and considerate. If we do indeed passionately believe what we do, it is incumbent on us not only to communicate competently, but also to do so in a manner that will be more likely to be considered. Often that means listening and asking more than talking.

How this applies to law students

Law students are often among the most logical, informed, and opinionated of people. And while the ability to ask questions (good ones, not irrelevant hypotheticals) is not hard to find among law students (after all, good questions lead to good answers!), the ability to listen effectively is not all that common. And that makes sense. After



all, listening is not something law schools present as an important skill. From the first semester on, the pressure is on students to answer their professor's questions, to show their competence. It is not to get to know one another or the reasoning in a case beyond how it affected the holding. That expectation naturally cultivates in students a deep desire to be right and have the right answers, but if they are not held accountable, it can wrap them in a cloak of arrogance

Your education will be a great amplifier. It may amplify your intellect and hard work, but it may also magnify your lack of maturity and ungraciousness. Therefore, law students must strive to hold each other accountable to always find their identity in Christ, which should always lead them to seek to remain humble. You may advocate

for a position or person after careful and exhaustive research, and your duty as a fully informed voter may end there, but your duties as a believer do not. You may very well be right, but preaching to the choir will not get many to come inside your church.

As election time draws near, let us keep Christ the center of how we approach our brothers and sisters in Christ, as well as those who do not know Him. Our love, patience, and humility should reflect His and in this way compel others to have a proper perspective on delicate topics like politics and politicians and just may influence not just those who disagree but those who like me just avoided the conversation all together. After all, Christ is our redeemer, shouldn't our goal be to reflect this truth, not just in our views, but in our manner of presenting them?



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ATTORNEY MINISTRIES — HOPE IN JESUS CHRIST NOT POLITICS *from page 19*

to return with joyful expectation no matter what trials we face because of the present hope we have in Him. Joy is a reality for a Christian because of what God has done in the past (Justification/Salvation), what he is doing in the present (Sanctification), and what he will do in the future when Christ returns (Glorification).

When Christ returns and frees us from our sinful flesh, our joy in him will reach an eternal climax because, for the first time, our understanding of God and fellowship with Him will not be distorted by our sin-

ful flesh (1 Cor. 13:8-12). I do not know about you, but I am excited about the day of His return when I will no longer be an exile subject to the frustrations of politics in a fallen world. Because on that day, my faith will become sight as I behold the glory and majesty of my risen Savior, Jesus Christ. In the meantime, may our cry be “Come, Lord Jesus, come!”

The contents of this article are reflective of the views of the author and are not necessarily the views of the Christian Legal Society.



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An Advocate for Religious Freedom

World Evangelical Alliance – Religious Liberty Commission

By Godfrey Yogarajah
Executive Director, WEA, RLC



“What a wonderful privilege it will be to die a martyr for Christ.”

These were the very words Pastor Anil* use to say to his wife Malini.* Perhaps she never took his words seriously until the night of 17th February 2008. Pastor Anil was shot and killed in a village in Sri Lanka where they lived, while Malini suffered several bullet wounds while shielding their baby son of two years. Their only crime for which they were judged by the gun that night was being faithful servants of the Gospel. Pastor Anil made the supreme sacrifice while Malini recovered from her injuries to continue her calling serve the Gospel of Christ. Their lives are testimonies to the saying: “if one perishes, one perishes; but the Gospel lives on.”

The Religious Liberty Commission of the World Evangelical Alliance (WEA) has been in operation for over 2 decades assisting the persecuted church worldwide.



The beginning . . .

The genesis of this commission of WEA goes back to 1988 where the ground work was laid for the establishment of the commission. The first step was a survey conducted among WEA members and the broader international Evangelical community to document the extent of religious liberty violations to ascertain if a formal effort by WEA to address these challenges could be achieved. The results of the survey revealed significant religious liberty concerns among the evangelical church worldwide and overwhelming support for a WEA intervention.

A two year development process of determining proposed commission projects, personnel, structure and internationally representative membership in the commission was the next step. This also included identifying funding sources and organizations that can be consulted for advice on specialized areas such as legal issues.

In June 1992, a consultation was held in the Philippines during which the significant issues within the context of religious liberty were discussed and advice was given to the commission leadership on how WEA should or should not respond to these issues. Around thirty representatives

from all over the world participated in this consultation. The Religious Liberty Commission (RLC) was formally launched by the WEA General Assembly which followed, and Advocates International serves as its General Counsel.

What we do now . . .

And so the commission has grown over the years and now monitors the religious liberty situation in more than 100 nations, defending persecuted brothers and sisters, informing the global church, challenging the church to pray and provide for those who are suffering for their faith. The RLC

“WE HAVE LOST EVERYTHING EXCEPT OUR FAITH. WE ONLY WANT TO SEE OUR CHILDREN GROWING IN THE FAITH OF THEIR FATHER.”

also engages in advocacy, with fact finding visits and meetings with leaders of governments and ambassadors, speaking up for the persecuted. The WEA RLC also has special consultative status with United Nations and the RLC reports on religious liberty issues and arranges special hearings at the UN for Christians from countries under persecution.

As a commission we seek to promote freedom of religion for all people worldwide as defined by Article 18 of the United Nations Declaration on Human Rights and in accordance with the Scripture. (II Timothy 3:12, Hebrews 13:3, 1 Peter 2:13-17, Hebrews 10: 32-39)

WEA RLC is involved mainly in three areas,

1. **Educate** – Trainings/Workshops/ Consultation/Research and Analysis
2. **Expose** – Advocacy/Lobbying
3. **Engage** – Practical Assistance/Legal Aid/ Medical aid/ etc.

These efforts are aimed at strengthening the body of Christ worldwide, to promote an environment in which Christians are free to fulfill their biblical mandate and to equip the church to withstand and respond to persecution.

1. EDUCATE

The RLC, carried out training programs for Christian leaders in restricted nations on subjects such as the biblical theology of persecution and practical advocacy. Two such seminars have been held in the past in Sri Lanka and Thailand, respectively, with the aim of educating and equipping persecuted Churches in Asia. The seminar on Advocacy in Thailand in 2010 brought together 24 participants from 11 restricted nations across Asia.

WEA RLC Research and Analysis reports highlight issues of religious freedom in countries around the world. These bi-weekly reports are quoted by worldwide news agencies and WEA RLC has earned a position of credibility as a source of accurate information and good analysis. In



2011 the commission published reports highlighting incidents in Belarus, Indonesia, Iraq, Nepal, Pakistan, Laos, India Algeria, Egypt, Uzbekistan, Kazakhstan, Somalia, Maldives, Tunisia, the Middle East and Iran.

2. EXPOSE

Over the years the RLC has been an active advocate, lobbying for the rights of the discriminated and being a voice for the suffering Church. The commission constructively engages with governments in restricted nations and enters into dialogue with the hope of resolving issues of religious freedom. The RLC was part of such dialogue in China and presently is very much involved in Nepal and Bhutan where constitutional amendments that restrict freedom of religion are causing evangelicals in these nations to fear state approved oppression.

In 2009 Christians in Orissa were subjected to one of the worst waves of persecution in modern history which left more than 500 Christians dead. The WEA RLC visited the mob ravaged state in the aftermath of the anti-Christian riots and met with victims, religious and political leaders.

During the past year the commission also held meetings with members of the UK and EU Parliaments in London and Brussels to advocate for religious freedom. Through these visits the commission was able to draw the attention of international communities and urge pressure on countries such as Pakistan, Sri Lanka, Nepal and

Bhutan with regard to religious freedom.

The commission also issues statements and press releases as methods of exposing religious liberty issues, which also raise awareness and urge international pressure on countries that restrict freedom of religion.

3. ENGAGE

In Orissa, WEA RLC supported efforts for the victims to seek justice before the law. The words of a widow from Orissa whom we met touched our hearts and brought new meaning to the work we do; “We have lost everything except our faith. We only want to see our children growing in the faith of their father.” It was our privilege to be of help to these amazing women of faith.

WEA RLC also works in partnership with the National Christian Evangelical Alliance of Sri Lanka (NCEASL) to advocate the rights of refugees fleeing religious persecution, particularly from Pakistan and other countries where blasphemy laws and apostasy laws operate and provide them with practical assistance. *Fathima** a Pakistani woman falsely accused of blasphemy was one such victim assisted through the NCEASL in Sri Lanka.

The RLC releases bi weekly prayer newsletters encouraging prayer for the persecuted church.

Prayer has been a vital element of the RLC framework as we truly believe battles can be fought and won on our knees. Hence

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The Value of Legal Aid Ministries

By Craig Shultz

Possibly the most meaningful ministry sponsored and encouraged by CLS is carried out through providing legal services to the poor and needy. There are thousands of lawyers who commit time to obey God's clear biblical command to do just that. But following an afternoon session of hearing about problems for which there is sometimes no easy answer, how often do you suppose those lawyers leave disheartened, knowing that there seems to have been little that could be done to really help? It can indeed be discouraging! But then, just when you wonder what good it does, somebody reminds you. I don't know the name of the person who was the subject of the letter copied here, and frankly I don't need to know. This letter tells me enough to remind me that what we do has value beyond what we may see. It could and should be an encouragement to all of our clinics around the country.

It is an amazing thing how even the simple things in life, like giving our time, may often be the most powerful. They make the most difference. Our listening ear, our prayers, and maybe even some legal advice can mean so much to those who have no voice and nowhere to turn. It is as though we are listening to Jesus Himself - through the least of these! How often do we take time to listen to Jesus in this way? Providing that listening ear and caring and showing, as best we can, the compassion of God often helps restore value to people who are downtrodden and emotionally drained. And what would Jesus say about that? Can you hear Him? Have you thought about what you can do to help? More importantly, have you decided what you will do?

Robert and Linda Stevenson

WORLD IMPACT - WICHITA

3701 E. 13th St N
Wichita, KS 67208
(316) 682-4075

November 1, 2011

Dear Family and Friends,

They came through the door, clutching sheaves of paper close. One, two, three...there were no more chairs, so I sent them down the hall to the dining room to wait as they filled out the paperwork. Four, five, six, more chairs filled up.

A woman stood near the front door, shifting her weight from one foot to another, "Would you like to sit down? Would you like some water?" She shook her head no, trouble etched in her eyes. Soon the lawyers arrived and called the first client in, a smile and handshake greeting anxiety wrapped in a housecoat. He ushered her into the room with dignity.

The others wait one-by-one to have their turn, share their story, and glean a bit of help in a world of trouble. Twice a month, attorneys come, taking turns in a rotation which forms the Legal Aid Clinic in Wichita. People who have nowhere else to turn can call and make an appointment to come to our office; they are often in tears and at the end of hope.

Sitting at my desk I welcome them in--a parade of faces as they come and go, some leaving with relief and others slumped under burdens they can no longer carry. At the end of one especially-difficult afternoon, two attorneys gather their things and start to head out the door. One stops, his hand on the doorframe as he turns to ask a few questions about the ministry. I tell them about the church plants in Wichita, TUMI, and the dental clinic expansion going on across the street. After listening for a while he says, "Well, at least you can really help. A dental clinic can pull a tooth and make a difference."

I look at him, who had just given his afternoon to counsel seven people whom he did not know, one of whom was fighting for the rights to her children. "Sir," I tell him, "I've worked with the poor for 15 years; if there's one thing I've learned it's that they very seldom feel that they have a voice, that there is someone to listen. Today you listened, and *that* makes a difference."

There is a quiet minute before he says, "I needed to hear that." I watch as he walks out to his car.

"The King will answer and say to them, 'Truly I say to you, to the extent that you did it to one of these brothers of Mine, even the least of them, you did it to Me'" (Matthew 25:40).

In Him--with you,

Bob and Linda Stevenson

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Religious Liberty Spring?

By Kim Colby

Spring 2012 may be America's "Religious Liberty Spring." Citizens have begun to demand a renewed respect for religious liberty in the face of unreasonable demands by officials who pay lip service to religious liberty while repressing it. Four situations may be the harbingers of this spring.

The Supreme Court's Decision in *Hosanna-Tabor*

On January 11, 2012, the Supreme Court unanimously ruled that nondiscrimination laws could not prohibit a church school from firing a teacher whom it deemed a "minister." Relying on free exercise and nonestablishment principles, the masterful opinion in *Hosanna-Tabor v. EEOC*, 132 S. Ct. 694 (2012), secures a church's right to decide who its leaders will be without governmental interference.¹

The Court condemned the Obama Administration's argument that the First Amendment does *not* provide any special protection to churches' employment decisions. Describing the Administration's position as "untenable" and "hard to square with the text of the First Amendment itself," the Court rejected the "remarkable view that the Religion Clauses have nothing to say about a religious organization's freedom to select its own ministers." The ruling revitalizes some religious exercise rights that were damaged two decades ago in *Employment Division v. Smith*, 494 U.S. 872 (1990), and has borne immediate fruit for New York City churches in the *Bronx Household* case.

NYC's Assault on Religious Liberty

The "Methuselah" of religious liberty litigation, *Bronx Household* has been the subject of four opinions by the Second

Circuit over sixteen years. The Board of Education rents school facilities to hundreds of groups on weekends and evenings. But the Board has created policies to exclude churches, despite numerous Supreme Court decisions requiring government to grant religious groups equal access.

Conceding that religious speech, instruction, discussion, and worship cannot be banned from public property, the Board policy's latest iteration excludes only "religious worship services." The Second Circuit upheld the policy in *Bronx Household v. Board of Education*, 650 F.3d 30 (2d Cir. 2011).

After the Supreme Court denied review in December 2011, the curtain seemed to fall for the last time on this perennial lawsuit. But NYC churches did not accept defeat and instead held several peaceful street protests throughout the City.

When the Supreme Court issued *Hosanna-Tabor*, *Bronx Household* seized upon its free exercise lifeline. Previously, the courts had ruled on the church's free speech, but not free exercise, claim. In mid-February, the district court issued a preliminary injunction prohibiting enforcement of the policy because it violated the church's religious exercise. After a ruling on a permanent injunction, expected by mid-June, the case will likely return to the Second Circuit.²

Vanderbilt's Ban on Leaders' "Personal Commitment to Jesus Christ"

In April 2011, Vanderbilt University administrators denied recognition to four religious student groups who required their leaders to agree with their core religious beliefs. The Administration informed the CLS student chapter that its registration was deferred because its constitution provided that "[e]ach officer is expected

to lead Bible studies, prayer, and worship at Chapter meetings." The Administration wrote: "This would seem to indicate that officers are expected to hold certain beliefs. Again, Vanderbilt policies do not allow this expectation/qualification for officers."³

This academic year, the leaders of 13 religious groups repeatedly met with school administrators to explain why a Christian group must be led by Christians. They sent letters to the Board of Trust. Hundreds attended a "town hall" meeting where the students patiently explained why it is common sense, not discrimination, for religious groups to expect their leaders to agree with their religious beliefs. The students held respectful rallies, worship services, and prayer walks.

On March 9, 2012, Vanderbilt announced a new, facially self-contradictory, policy. First, Vanderbilt states that *all* groups must accept any student as a leader. But in the next breath, Vanderbilt explicitly allows fraternities and sororities to continue to discriminate in their leadership and membership selection. Thus, Vanderbilt grants the Greek groups a broad exemption (membership and leadership) while denying the religious groups a narrow exemption (leadership).

On March 16, the Vanderbilt Catholic student organization announced it could not stay on campus because its leaders must be Catholic. In response, the Administration demanded that it delete "Vanderbilt" from its name. On April 9, 11 evangelical student groups, calling themselves "Solidarity," announced that they would request recognition with religious leadership requirements. Official denials have not yet been received.

On April 17, the Administration withdrew recognition from a small Christian group, which had not joined the Soli-

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clarity groups. Instead this group had met with two university officials who assured it that its constitution was fine. But on April 17, the Administration ordered the group to remove the requirement that its leaders have a “personal commitment to Jesus Christ.” The group has chosen to leave campus rather than deny its commitment to Jesus Christ.

The HHS Mandate

The Center is nonpartisan in its work to defend religious liberty. Within that context, it seems clear that the Obama Administration has chosen to adopt a policy detrimental to religious liberty, by refusing to change, in any meaningful way, the Health and Human Services mandate that religious employers provide insurance coverage for contraceptives in violation of their religious convictions.

The 2010 health care law required employers’ insurance plans to provide certain preventive services to be unveiled in future regulations. In July 2011, HHS announced these services included all FDA-approved contraceptives, including some that many believe induce abortions.

In August 2011, HHS announced that an exemption would be given only to reli-

gious employers who met an exceedingly narrow definition. To qualify, a religious organization, whose primary purpose is to inculcate religious values, must primarily employ *and serve* only members of its faith. The Administration has been quite clear that the definition is intended to cover churches (although it is questionable whether all churches can meet this definition) but not religious schools, hospitals, or other ministries.

Unprecedented in federal law, the narrow exemption was defended by the Administration as derived from California’s and New York’s contraceptive mandates. Catholic charities had lost state court challenges to those mandates. In other words, the Administration chose an exemption knowing Catholic social ministries could not qualify and would object.⁴

CLS joined Catholic, Jewish, and Evangelical religious groups in two letters to the Administration, asking it not to finalize, but to broaden, the narrow exemption.⁵ In February, while claiming the Administration would work on a broader accommodation, the President finalized the narrow exemption as law.

The controversy has continued unabated. A week before the Supreme Court

held oral arguments regarding the overall constitutionality of the health care law, the Administration announced it would take several months (presumably past the election) to contemplate broader protection for religious groups.

It’s been a spring to remember. Whether a fruitful summer or a long winter will follow remains to be seen. Pray for summer.

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- 1 The Center’s *amicus curiae* brief is at <http://www.clsnet.org/document.doc?id=244>.
- 2 The Center’s *amicus curiae* briefs in both courts are at <https://www.clsnet.org/document.doc?id=348&erid=190698> and <https://www.clsnet.org/document.doc?id=287&erid=190698>.
- 3 Materials regarding Vanderbilt’s treatment of the CLS chapter and other religious groups are at <http://www.clsnet.org/page.aspx?pid=746>.
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Kim Colby is Senior Legal Counsel at the Center for Law and Religious Freedom. She is a graduate of Harvard Law School.

the RLC prayer network is handled with great diligence and continues to grow day by day.

The International Day of Prayer (IDOP) for the Persecuted Church, which is an integral part of the commission’s prayer network, is an initiative that dates back to 1996. It is held on the first two Sunday’s in November of each year and is set apart to remember thousands of Christian brothers and sisters from around the world who suffer persecution. IDOP 2011 held last November brought together 50,000 churches in over 100 countries, with over 4 million Christians gathering to pray. This was truly remarkable and we thank the Lord for His amazing provision.

The Future...

We look forward to another year with a great deal of work still to be carried out. Some of the commission plans for 2012 are as follows;

- Advocacy and lobbying for restricted nations
- Advocacy training programs for restricted nations
- The release of bi-weekly Research and Analysis reports and Prayer newsletters
- IDOP in November 2012
- Religious Liberty Publications

All these planned efforts could only be made possible through the generous contributions made by donors. So we ask you to come join us in our efforts to reach out to the suffering body of Christ. Your help will surely enable us to help them.

For information on how to donate to WEA RLC’s ministry, please contact us through our e-mail address, wearlc@clsnet.lk

But above all we ask you to uphold the ministry of WEA RLC in your prayers. Pray for us and remember the persecuted.

May God Bless you!

**Names of individuals appearing in the article have been changed to protect their identities.*



Godfrey Yogarajah, a vigorous campaigner for religious freedom and human rights, is presently the Executive Director of the Religious Liberty Commission of the World Evangelical Alliance. He is a graduate of the Union Biblical Seminary in Pune, India with a B.Th and a B.D. Mr. Yogarajah was awarded the “Good Samaritan” award by Advocates International in 2004, in recognition of his contribution to promoting religious freedom. In 2005, he was awarded the “Pro Fide” award by the Friends of Martyrs Finland for his tireless work on behalf of religious freedom and minority rights. He resides in Colombo, Sri Lanka.

**“IF ONE PERISHES,
ONE PERISHES;
BUT THE GOSPEL
LIVES ON.”**

EXEMPTIONS UNDER EXAMINATION

MUNICIPALITIES, CHURCHES OFTEN CLASH IN COURT OVER PROPERTY TAXES

by Richard Hammar, LL.M., CPA

Each year, I review and categorize about 12,000 published and unpublished rulings by state appellate and federal courts pertaining to religious organizations and clergy.

This research is laborious, but it provides invaluable data on the reasons that churches and clergy end up in court. It also can guide the decision-making and risk management planning for thousands of church pastors and leaders nationwide, as well as the attorneys who work with them.

This fall, I have the distinct privilege of speaking at the Christian Legal Society's annual conference, where I'll present the top five reasons churches wound up in court in 2011. Leading up to this appearance, I collaborated with *The Christian Lawyer* for an article series. In this issue, I explore the seventh-most common reason, followed up in the next issue with the sixth-most common reason. After my in-depth conference presentation, I'll briefly recap the top five in the November issue.

It's my prayer this information enlightens and informs members and supporters of CLS the same way that it has blessed me in my work serving local churches with the *Church Law & Tax Report* newsletter and numerous resources.

A Familiar Theme

The seventh-most common basis for church litigation in 2011 pertained to property tax exemptions. It's not surprising. I have seen an inverse relationship between economic conditions and the number of cases addressing the application of property tax exemptions to property owned by religious organizations. As tax revenues decline amidst recessionary pressures, tax assessors look for additional revenue by more narrowly construing tax exemptions. Often, churches are caught in the crosshairs.

Little doubt exists regarding the exemption of buildings used exclusively for religious worship. Every state exempts such buildings from taxation. Questions, however, may arise, and exemption statutes

may not address them, leading to confusion and even litigation. Those and other issues are addressed below.

1. Effect of rental income

Churches occasionally rent a portion of their property. How does this affect the exempt status of the property? Consider three scenarios.

(1) the partial exemption rule

Under this rule, recognized by many states, property partially used for exclusively religious purposes is entitled to a partial exemption based on the percentage of use or occupancy that is devoted to an exempt use. The rule is based on statute in some states and upon judicial decisions in others. However, a few courts have ruled that if any part of a building is used for commercial purposes, the entire facility is subject to tax.

(2) rental of church property to another charity

Many churches operate preschool programs. Some allow outside contractors to create and staff a nonprofit program on church premises for a monthly rental fee. Some courts have ruled that the exemption is not affected if the contractor is a nonprofit corporation, since in such a case the property continues to be used for exempt purposes. To illustrate, the Nebraska Supreme Court ruled that a portion of a church's property that it leased to a public school was entitled to exemption from property taxes.¹

(3) use of rental income for exempt purposes

Some church leaders assume that church property retains its exempt status even when rented to an outside group, so long as the rental income is used by the church for its exempt purposes. This is incorrect.

Several courts have ruled that the nature of the rental activity, not the use of rental income, determines the tax status of church property.

2. Property under construction

Unfortunately, few property tax exemption statutes directly address whether a church building under construction is exempt from property taxes. One statute specifies that "all grounds and buildings used or *under construction* by . . . religious institutions and societies" (emphasis added) are exempt from tax.² Another statute specifies:

[Church property] from which no revenue is derived shall be exempt though not in actual use therefore by reason of the absence of suitable buildings or improvements thereon if (a) the construction of such buildings or improvements is in progress or is in good faith contemplated by such corporation or association or (b) such real property is held by such corporation or association upon condition that the title thereto shall revert in case any building not intended and suitable for one or more such purposes shall be erected upon such premises or some part thereof.³

Case study. *A church purchased property that it was renovating for church use. The Nebraska Supreme Court ruled that the property was not entitled to exemption.*⁴

3. Leased property

Does the fact that a church leases the property it uses qualify the property for exemption from tax? Most property tax exemption statutes only apply to property that is *owned* by a church or other specified charity. The fact that a church leases property does not ordinarily render the property exempt from tax.

Some statutes refer to property that is

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used for religious purposes. Property leased by a church for religious purposes may qualify for exemption under such a statute.

4. Parsonages

A parsonage is a church-owned property used as a residence by a minister. Many states exempt such properties from taxation, while some impose restrictions. For example, a few states exempt parsonages only up to a specified dollar value, exempt only one parsonage for each church, or exempt the grounds surrounding a parsonage only up to a specified area. The exemption does not extend to residences owned by ministers themselves.

Generally, the courts have concluded that a church is not limited to one parsonage. As a result, unless the state property tax law specifies otherwise, a church having two or more full-time ministers may provide a tax-free parsonage to each.⁵

5. Vacant land

Churches often acquire vacant, unencumbered land for future expansion. The tax status such a property has presented a difficult, but common, problem for the courts. Several courts have affirmed the exemption of such a property.

Case study. The Kentucky Supreme Court ruled that a 10-acre tract of largely vacant property that a church had acquired for future expansion was exempt from property taxation due to its occasional use for church purposes.⁶

A number of courts have held that vacant land ordinarily is not used exclusively for religious purposes and does not qualify for exemption. That almost always will be the result if the land is used for commercial purposes (such as farming) or if no religious or charitable activities occur on the land or such uses are insignificant.

Case study. The Minnesota Tax Court ruled that there was insufficient support for the exemption of three church-owned wooded lots from property taxation to grant the

church's motion for summary judgment in its favor.⁷

6. Application for exemption

The fact that a religious organization has received a determination letter from the IRS acknowledging that it is exempt from federal income taxation as an organization described in section 501(c)(3) of the tax code does not necessarily entitle the organization to a property tax exemption. In most states, an exemption application must be filed with local tax authorities. Failure to do so will result in loss of exemption, at least for the current year.

Case study. The Nebraska Supreme Court ruled that a church can be denied an exemption from real estate taxes as a result of its failure to file an application for exemption.⁸

In most states, property acquired by a church after the tax assessment date is not entitled to exemption for the current year, even though it is used exclusively for religious purposes. A few courts have reached the opposite conclusion based on the wording of the exemption statute.

7. Fees and special assessments

Does a state or local government have the authority to assess a fee or special assessment against church property in lieu of a direct tax? A few courts have addressed this question, with conflicting results.

Case study. A Florida appeals court ruled that churches can be required to pay special assessments only if their property is directly benefited.⁹ A county ordinance imposed special assessments against various property owners, including churches, to pay for fire and rescue services as well as storm-water management services. A group of churches protested, claiming that they were exempt from property taxes. A state appeals court ruled the churches weren't exempt from special assessments. However, it acknowledged that the distinction between a property tax and a special assessment often is difficult to make. It noted that a property tax does not necessarily

provide any direct benefit to the property it taxes, while a special assessment always does.

Case study. A Wisconsin court ruled that a city could assess a fee against all utility customers, including churches, to pay for the cost of providing water in the event of a fire.¹⁰ It concluded that the additional charge added to utility customers' bills was a fee rather than a tax.

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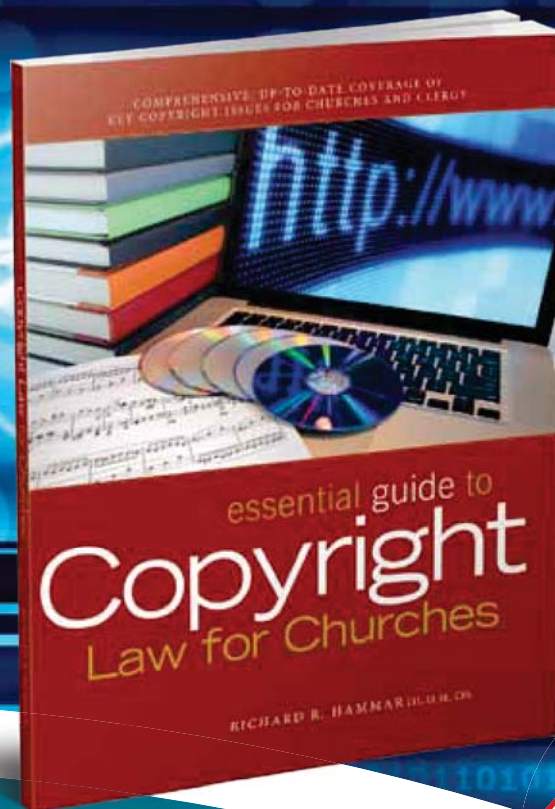
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Richard R. Hammar is an attorney, CPA, and author specializing in legal and tax issues for churches and clergy. He is a graduate of Harvard Law School, and attended Harvard Divinity School. He is the author of several books published by Christianity Today, including Pastor, Church & Law, the annual Church and Clergy Tax Guide, Reducing the Risk, the biannual Compensation Handbook for Church Staff and the Essential Guide to Copyright Law for Churches. He also is senior editor of Christianity Today's Church Law & Tax Report and accompanying website ChurchLawAndTax.com, a bimonthly newsletter reviewing significant legal and tax developments for churches and clergy, and Church Finance Today, a monthly newsletter for church treasurers.

Need more information? Property taxes are addressed in chapter 12 of Richard Hammar's 2012 Church & Clergy Tax Guide available at YourChurchResources.com.

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