

## The Breakfast Club

### Constitutional Minute for 6 September 2022

#### The Johnson Amendment – Silencing Pastors Across the Nation

To continue with our theme of the “Wall of Separation”, let’s discuss a perfect example of political payback. I just did a quick search on the term “The Johnson Amendment” and only one search return went into the history of how the amendment actually became law:

(<https://www.youtube.com/watch?v=qdnaffMoGGw>). Most other links said it was the greatest thing since sliced bread and gave no history on how it really came about. Here’s how:

In 1954, Senator Lyndon B. Johnson found himself opposed for re-election by two men, neither of them pastors, who formed non-profit organizations in his home state of Texas. Their opposition presented a real threat to Johnson’s re-election. Johnson got his revenge by having inserted into the IRS Code what became known as The Johnson Amendment. The amendment inserted into Section 501(c)(3) the words that non-profit corporations who are exempt from federal income tax cannot:

*“Participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of – or in opposition to – any candidate for public office.” (emphasis added)*

To violate this provision puts at risk the organization’s tax-exempt status, and groups such as Americans United for Separation of Church and State and Freedom From Religion Foundation look fiercely to report violators. Most churches choose to incorporate. Since a church’s tax-exempt status and thus the ability of its members to deduct their donations on their tax return is viewed as precious, few pastors are willing to say anything that touches political topics.

It was not always this way.

For this country’s first 200 years, especially the years leading up to independence, pastors routinely delivered “political” messages from their pulpits. A sermon sampling: *“The True Principles of Civil Government”* (Rev. Samuel Cooke - 1770); *“The Christian Duty of Resistance to Tyrants”* (Rev. William Gordon - 1774); *“The Right of Self-Government is From God”* (Rev. Samuel Langdon - 1775); *“The True Principles of Government”* (Rev. Samuel West - 1776);” and: *“The True Spirit of Liberty”* (Rev. Phillips Payson -1778). There are many, many more examples.

These and similar sermons can be found in: [Political Sermons of the American Founding Era: 1730-1805](#).

Most of these were what was commonly called Election Sermons. Soon after an election, a pastor chosen for the occasion would preach to the new legislature and Governor to tell them what God expected of them as elected officials. The sermon would often also tell the citizens

gathered for the occasion what were their civic duties as Christians. Imagine our doing that today.

To be sure, these sermons did not argue for or against the election of certain individuals, so they would not violate today's Johnson Amendment; but many pastors used these sermons to address the personal traits that an elected official should embody and, of course, they also spoke to the main cultural issues of the day, and they didn't refrain from calling sin a sin.

The election of 1800 took a very different turn.

Incumbent President John Adams, a Federalist, was pitted against his incumbent Vice President, Thomas Jefferson for the top spot. The person gaining the most electoral votes became President, second place became VP. Jefferson's unorthodox views of Christianity were widely known (or at least widely rumored) despite his attempts to only share such views with trusted individuals.

Pastors, particularly those in New England who favored the Federalist party, were not reticent in announcing the end of humanity should Jefferson be elected to the Presidency. Presbyterian minister John Mitchell Mason (1770–1829) published a 17-page tract explaining why it would be "a crime, never to be forgiven" if the people were to elect Jefferson. Dutch Reformed minister William Lind charged that Jefferson disbelieved "the Holy Scriptures" and that his election would "destroy religion, introduce immorality, and loosen all the bonds of society."<sup>i</sup>

It may have been revenge for this "thrashing" from pastors that encouraged Jefferson to think of the relationship between church and states as a "wall." At least some writers think so.

Part of the reticence of today's pastors comes from lack of understand the actual IRS [guidelines](#). The twenty-seven words of the Johnson Amendment have been "interpreted" by the IRS to mean this (taken from the IRS website):

Prohibited activities:

- Contributing financially to political campaigns.
- Making public statements of position (verbal and written) in favor of or in opposition to particular candidates for office.
- Inviting only one candidate in a political campaign to address the congregation. (this prohibition is violated routinely by some churches)
- Distributing voter guides containing questions demonstrating a bias on certain issues.
- Endorsing certain candidates.
- Campaign activities by employees within the context of their employment.
- Failing to "disavow" the campaign activities of persons operating under "apparent authorization" from the church.
- Engaging in fund raising on behalf of a candidate.
- Newspaper ads urging voters to vote for or against a candidate.

- Posting on church web sites information either supporting or opposing candidates for public office.
- Posting on church web sites links to candidate-related material, if the facts and circumstances indicate that one or more candidates are being supported or opposed.

Permitted activities:

- Providing a forum for all candidates in a certain race to address the church.
- Public comments made by ministers and other church employees in connection with political campaigns if not made at church facilities or in church publications, and if accompanied by a statement that the comments are strictly personal and not intended to represent the church.
- Providing an opportunity for a candidate to speak in a non-candidate capacity.
- Distributing a compilation of voting records of all members of Congress on major legislative issues involving a wide range of subjects.
- Neutral voter registration drives.

As you can see, there is wide latitude here for pastors to act and speak “politically.” But aren’t any restrictions at all on ministers an infringement of their First Amendment rights? What happened to that “Wall of Separation” thing? Secularists don’t want government to be influenced in any way by religion, but they certainly don’t mind telling pastors what they can and cannot do. Yes, pastors can be influential, but I suspect Taylor Swift influences more people in a single concert than do most pastors in their lifetime.

The [“Speak Up” movement](#) views any restrictions as decidedly unconstitutional and urges pastors around the country to purposefully violate the guidelines as an act of defiance.

Atheists, of course, [become apoplectic](#) over this. Awhile back, they sued the IRS, arguing that a lack of specific procedures kept the IRS from enforcing the guidelines. The suit was dropped when the IRS promised to become more aggressive.

Even if you accept the IRS prohibitions as valid, there is still much pastors can do to educate and energize their congregations, to encourage them to engage in the political process. To what end? To help preserve a culture that was, at one time, thoroughly Christian in character and to resist cultural trends that are demonstrably anti-Christian. [As former Attorney General Ed Meese put it](#): *“Pastors can lead the way in motivating the faithful to wise stewardship of their citizenship responsibilities.”* You might consider giving a copy of this essay to your pastor.

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<sup>i</sup> Daniel Dreisbach: “Thomas Jefferson and the Wall of Separation Between Church and State.” pp. 19-20,