NATIONAL CATHOLIC REPORTER
Published on *National Catholic Reporter* (http://ncronline.org)

Partisanship in the pulpit, then and now

Michael Sean Winters | Dec. 28, 2011

Pastor Robert Jeffress introduces Texas Gov. Rick Perry at the Values Voter Summit Oct. 7 in Washington. (Newscom/Jeff Malet)

ANALYSIS

In October, at the Values Voter Summit in Washington, sponsored by a host of conservative, mostly Christian groups, including the Family Research Council, Liberty University and the Heritage Foundation, Pastor Robert Jeffress stirred up a hornet?s nest when he called Mormonism a ?cult? and said that Christians had an obligation to prefer a coreligionist to a non-Christian, all other issues being equal. Jeffress? comments raised the immediate issue of anti-Mormon bigotry, but they also raised another issue: What should be the role of clergy in campaigns?

Americans tend to conflate nostalgia with history, which produces a highly conservative understanding of the large variety of ways our forebears confronted complicated questions. The way things were done in our youth is, we assume, the way things have always been done.

The prohibition against partisanship in the pulpit, however, is of very recent vintage. In 1954, Congress passed a law that prohibited any partisan activity by certain nonprofits recognized under the tax code, including churches. If you think a law with such momentous constitutional implications must have been the subject of intense political debate and discussion, you would be wrong. The change was made in a floor amendment that had received no hearings and entailed little or no debate.

The amendment was put forward by then-Minority Leader Sen. Lyndon Johnson, and according to research by Patrick O?Daniel published in the *Boston College Law Review* in 2001, the amendment was not aimed primarily at churches, but at some of Johnson?s political opponents in Texas. In fact, the two principal targets of Johnson?s ire and his amendment were entirely secular in nature: Dallas millionaire H.L. Hunt?s ?Facts Forum,? which had tarred Johnson with being soft on communism, and the Committee for Constitutional Government, another right-wing organization that was part of the McCarthyist fervor of those years. There is no evidence that Johnson?s amendment was targeted at the Catholic or any other church.

Until the law was changed in 1954, American churches and their pastors had a long history of explicitly political

and partisan involvement. In colonial times, legislatures usually began their sessions with a sermon and the first instance of ?partisanship? came not from rival political ideologies, but from rival religious ones: In the wake of the ?Great Awakening,? in the 1740s, the ?New Light? pastors, those imbued with the evangelical spirit of the Awakening, fought for the right to give the legislative sermon against the ?Old Light? pastors.

In the early federal period, the Congregational church was still established in most New England states. (Connecticut ended its established church in 1818, Massachusetts retained an established church until the early 1830s, and it was only after the Civil War that the First Amendment?s prohibition against an established religion extended to the states.) The New England pulpits were keen to champion the Federalist Party in the early years of the Republic, especially in the 1800 election. Thomas Jefferson was regularly denounced as an atheist.

During the Civil War, pulpits either side of the Mason-Dixon Line supplied religious sanction to the political efforts of their neighbors. At century?s end, Protestant pulpits regularly proclaimed support for the Spanish-American War, and organized missionaries to ?bring the Gospel? to the newly acquired territories after the war, despite the fact that, for example, Puerto Rico had been evangelized -- albeit by Catholics -- since Columbus? arrival 1493 and Juan Ponce de León?s settlement in 1508.

As late as the 1930s, pastors regularly took explicitly partisan positions. Chicago?s Cardinal George Mundelein was a frequent visitor to the White House and Hyde Park during the presidency of Franklin Delano Roosevelt. When Mundelein was registering to vote in 1936, he gave an interview to the press that fell just shy of an endorsement of the president?s re-election bid, saying that the American people should be grateful for ?the prosperity, the happiness and the freedom now abroad in our land.?

The next month, Msgr. John A. Ryan gave a full-fledged and explicit endorsement of Roosevelt. Ryan was then a professor at The Catholic University of America in Washington and the head of the Social Action Department at the bishops? conference. On Oct. 8, 1936, Ryan gave a nationwide radio broadcast that was paid for by the Democratic National Committee. ?In this critical hour, I urge you to use every effort at your command among your relatives, friends and acquaintances in support of Franklin D. Roosevelt,? Ryan said.

The Johnson amendment may not have barred Ryan from making his address: He was in a CBS studio, not in a pulpit. And politicians have employed creative ways to get around the prohibitions. For example, pastors are permitted to address issues, including those being put to a referendum, from the pulpit. In 2004, Republicans in Ohio backed a referendum on gay marriage. This allowed evangelical pastors to speak week in and week out against gay marriage and about the need to turn out the vote. Karl Rove, President George W. Bush?s chief strategist, knew that if those conservative evangelicals turned out to vote against gay marriage, they would be unlikely to vote for Sen. John Kerry at the same time.

Nonetheless, the Johnson amendment is still the law of the land and, as University of Notre Dame Law Professor Lloyd Hitoshi Mayer wrote in 2009, ?since its enactment, there has not been a single court case addressing the significant constitutional and statutory issues raised by the application of the prohibition to religious leaders speaking to their congregations. Instead, the only court decisions concerning the prohibition?s

application to churches or religious ministries involve communications with the public about candidates.?

This quietude of the courts could well change. The conservative Alliance Defense Fund recruited a group of more than 30 pastors to preach explicitly on the moral qualities of the candidates on Sunday, Sept. 28, 2008, which they deemed ?Pulpit Freedom Sunday.? As Mayer notes, the group ?then made a list of the participating pastors and churches public, in effect daring the IRS to investigate them.? The Internal Revenue Service may be reluctant to get into a clash with a church, but at some point, the government must enforce its own laws, and a challenge to the constitutionality of the proscription on partisanship in the pulpits may come before the courts.

It is doubtful whether or not the courts would uphold restricting political activity as a requirement for tax-exempt status. It is shocking that the requirement received so little attention when it was added to the federal code. As Notre Dame Law Professor Richard Garnett wrote in a 2001 article in the *Boston College Law Review*, ?The administration of the churches? conditional tax exemption embroils government in the difficult business of distinguishing worship and ministry from electioneering and political advocacy. In marking these boundaries, government sends the message and reinforces the belief that religion is a private matter, of private import, for the private sphere. And, eventually, religion embraces and incorporates this view.?

Should the prohibition against explicit partisan speech in our pulpits be rescinded, the real challenge might not be what effect such a change would have on the nation?s politics, but what change it could make in our churches, already rent by divisions. The danger is the clerics of a variety of political stripes who would turn the pulpit into a soapbox on political matters without recognizing the dangers of such political proselytizing.

But this may be the price that must be paid if America is to move beyond the privatized view of religion that is so at odds with the Catholic vision of faith as a public witness.

[Michael Sean Winters writes about religion and politics on his Distinctly Catholic blog on the *NCR* website, at NCRonline.org/blogs/distinctly-catholic.]

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