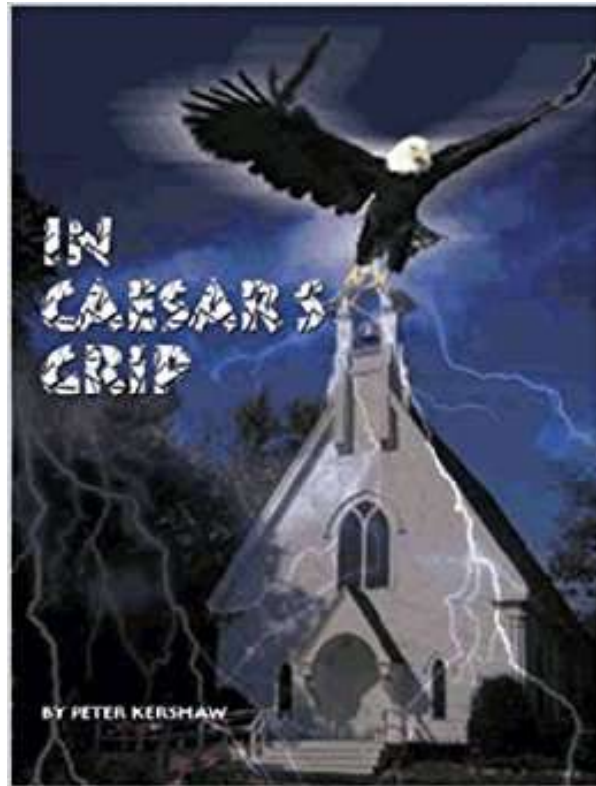


Screenshots are direct quotes from the publicly available document:
“In Caesar’s Grip”

http://icmatthews.org/uploads/5/3/7/7/5377341/in_caesars_grip.pdf



CHAPTER 5 501C3 RELIGION

Most churches are 501(c)(3) organizations.

*Political and Legislative Guidelines for Churches and Pastors,
Focus on the Family, document FX254/4472*

There is little question but that the 501c3 status has become popular with churches and ministries today. Indeed, the 501c3 is the religious *status quo*. But as with the incorporation of churches, the use of the 501c3 by churches and ministries is a very modern trend in our history.

The tax exempt and tax deductible status of "religious organizations" was sanctioned by Congress in 1954 [68 A Stat. 163 ch. 736] and codified in the Internal Revenue Code as Section 501c3. Prior to this time, contributions to churches and religious institutions had been widely recognized to be tax deductible, even though they had not been officially sanctioned by Congress. Furthermore, no church or religious institution could be taxed by any government because the First Amendment barred any such taxing authority. With the ratification of IRC Section 501c3, tax immunity and tax deductibility of religion was converted from a right into a government privilege.

Considerable debate has arisen in recent years over whether or not a church or ministry should have a 501c3 status. While the 501c3 is a serious problem, it still needs to be remembered that it is not *the* problem — incorporation is. The 501c3 is merely a symptom *of* the problem. However, it does make a big problem much worse. While the government has no jurisdiction over any church, it most certainly has jurisdiction over that which it creates. Government, therefore, asserts its prerogative to tax the incorporated church, hence the need for the 501c3. Through this mechanism, the incorporated church goes *with hat in hand* to the government and pleads its case: "We used to be a church and you didn't have any jurisdiction to tax us. But we didn't like being *just* a church and thought it was better to be a corporation. The problem is, now we're under your jurisdiction and you can tax us. So we'd like for you to exempt us

from the tax. Would you do that, please?" The kind and benevolent government responds, "You bet! Step right up here and fill out these forms. We just love giving out these benefits!"

The discussion of tax exemption of churches—at least in modern terms that have reference to corporate income taxation—is just beginning, and thus far it has been rather one-sided. No coherent rationale has hitherto been spelled out on behalf of churches, and they have been somewhat—and **needlessly**—defensive, limited either to appeals to tradition or pleas for indulgence.

Why Churches Should Not Pay Taxes, Dean M. Kelley, p. 5

The above quote comes from the director of the National Council of Churches. Kelley's book, like so many other books and articles that have gone before his, and that have come since, is devoted to convincing the enemies of the church why they should not object to churches and ministries being granted a tax exempt and tax deductible privilege by the government. "The discussion of tax exemption of churches" is no more resolved, nor are the arguments any more convincing today, than when Kelley wrote his book over two decades ago. His defense is gravely flawed, for it rests not upon an absolute and infeasible standard—the First Amendment to the Constitution, but upon "modern terms that have reference to corporate income taxation." When he originally authored his book in 1977, he was serving on the NCC's Committee on Tax Exemption for Churches. Kelley recommended one of his friends to serve on the same committee, a man who has written:

Taxation has come to mean more than revenue-raising for the basic requirements of government. The Keynesian hand has touched our affairs, and we know that taxation can be an instrument for forming the kind of society we desire. Hence, any element in society having power in wealth is a force to contend with and a possible source of funds for public purposes, an agent suspected of holding devices

for good or ill. New taxes for new policies and goals call for a new look at all institutions and all pocketbooks. So obvious a reality as a religious institution could **hardly** escape a new kind of scrutiny. Casual and traditional exemptions are evaluated by a new set of standards. The very fact that religious institutions belong to a tax classification which includes seventeen different categories of exempt organizations, assures that attention will be called to them. All exemptions are increasingly called in question.

Should Churches Be Taxed? D.B. Robertson, pp. 38-9

Many in the National Council of Churches have long advocated that churches pay income and property taxes. It may, therefore, be for good reason that the NCC has been branded an "ecclesiastical octopus." Some have gone as far as to claim that the NCC is a Marxist front organization.

Taxing religion or the church, in any direct manner, is a blatant violation of the First Amendment. Yet, the vast majority of churches today are taxed, and/or they are "receiving all the protection and benefits of Government." Accepting either position is exceedingly dangerous. No church has need of the government "privilege" of a tax-exempt, tax-deductible license. The taking of such a license is admission that government does possess legitimate authority to tax that church, but as an act of "grace," has forgone assessing the tax. As long as a church holds such a license, it is rendered beholden to the government. The licensing authority still retains the power to tax, because it also legislates, adjudicates, regulates and controls the terms of the license. The 501c3 church that fails to toe the government line can be destroyed.

The power to tax is the power to destroy.

McCulloch v. Maryland, 17 US (4 Wheaton) 316 (1819)

If churches had ever fully appreciated the jeopardy they would be placing themselves in, it is improbable they would have ever become 501c3's. How then is it that most churches have become 501c3 organizations? Certainly it is rooted in ignorance of the law; but moreover, they have placed their trust in "church law" attorneys who have sold them a bill of goods.

Churches are not tax exempt merely because they are churches. They are tax exempt

because the law permits them to be exempt providing they meet certain requirements.

The Legal Alert, 3/98, Christian Legal Association, David C. Gibbs, Jr.

Others believe that the federal government is prohibited from taxing churches by the U.S. Constitution... these beliefs are in error and can inadvertently lead to a church's loss of tax-exempt status.

Ibid., 4/98

We will later see that what David Gibbs, and many of his "church law" peers assert, doesn't square with the First Amendment, nor does it even square with what the IRS says.

AND WITH THAT 501C3, YOU EVEN GET A FREE MUZZLE!

Any Christian "activist" who has ever endeavored to organize a church in taking a public stand for some social or moral cause, particularly where that cause crosses the line into the "political" realm, is likely to have experienced some frustrations. Typical examples are ballot initiatives, petition drives or getting the pastor to give up the pulpit for a guest speaker to discuss abortion, sodomy, or some other moral (politically incorrect) issue. In far too many churches these days, Christian social and political activists encounter considerable resistance. Even getting a straight answer for why there is so much resistance is likely to be met with still more resistance! But the persistent activist will eventually discover that fear of government retaliation is the factor that makes church leaders melt like jello on a hot sidewalk. Activists, and non-activists alike, are none-too happy when they discover that their church has taken a license from the government, called the 501c3, that prevents their publicly organizing the church in any meaningful way. Some frustrated activists have equated the 501c3 with government "hushmoney."

If the church will not take a public stand for moral issues, what organized societal institution will? Perhaps it is the church's unholy matrimony to the State which is the single greatest factor in the rapid growth of parachurch ministries. There are thousands of such ministries, operating as autonomous entities that are not submitted to the biblical

authority of any church government. Finding a scriptural justification for their existence is not an easy prospect. However, attempting to integrate many ministries into the church is, likewise, an onerous prospect, as this author well knows from personal experience. The organized church has abandoned many of its responsibilities, and the void is being filled by the parachurch ministry. The church is hemorrhaging, but the best any parachurch ministry can offer is a bandaid. Were parachurch ministries the solution to the problem, one would think their community presence to be a significant asset. Such is usually not the case. As an illustration, no community in the world has a greater concentration of parachurch ministries, literally hundreds of them, than Colorado Springs. From mom and pop ministries that operate out of the garage, to multimillion dollar marvels that would earn the admiration of any Fortune 500 CEO. Yet, per capita, Colorado Springs has just as much violent crime, drug and alcohol abuse, porno shops and strip shows, domestic violence, suicides, abortions, . . . and according to some, certain problems are even worse than many other communities.

When I was in Colorado Springs earlier this year, I noted that the city was home to Focus on the Family, 70 different Christian ministries, and more than 400 churches. Yet El Paso County (in which Colorado Springs is located) has the highest divorce rate along the Colorado Front Range.

"Become a Manage Saver," Michael J. McManus, Focus on the Family Magazine, p. 7 (July, 1996)

This is not to slam parachurch ministries. It is to say that they are an inadequate solution to the breakdown of the family and society. They can only be a stopgap measure to the failure of the organized church, until we can stop the hemorrhaging. A para-church is not *the* church, nor will it ever be.

The church has exchanged the keys of the Kingdom for a mess of State-licensed pottage. America's Founders fought and gave their very lives to prevent the civil government from meddling in the church; but now, at the church's invitation to the IRS, it is thoroughly entangled with the worldly affairs of State bureaucracy.

No man that warreth entangleth himself with the affairs of this life; that he may please him who hath chosen him to be a soldier.

2 Timothy 2:4

Nevertheless, the attorneys keep a straight face and talk of all the wonderful "benefits" of being a 501c3—"The benefits outweigh the risks." Again, we will list the most commonly-heard excuses the "church law" practitioners use to bait churches into becoming 501c3, and then provide a rebuttal:

PRO: Charitable Organization: contributions are tax deductible for income tax purposes.

CON: Whether licensed by the government or not, any contributions made to a church are automatically qualified as a tax write-off, pursuant to Publication 557 and IRC § 170(c)(2)(B). A church does not have to be a nonprofit charitable corporation to be tax deductible, nor does it need an IRS license. The only conceivable "benefit" of the 501c3 license is that such an organization may issue tax receipts to contributors (an unlicensed church can issue a "Thank you" letter, instead of a tax receipt). However, IRS practices have in recent years shown an abusive pattern of refusing the admissibility of such receipts, during routine taxpayer audits. When this occurs, the contributor must substantiate the contribution through some other means, and quite generally, the only acceptable proof is a cancelled check. Tax-deductible receipts are, at best, a placebo.

PRO: Federal Tax Exemption: government exemption from federal income taxes.

CON: According to IRS Publication 557, as well as IRC § 508, churches are "exempt automatically." Application for an exempt status is not only completely unnecessary, but to do so becomes a grant of jurisdiction by a church to the IRS. Churches in America have always been nontaxable, because the government lacks the jurisdiction necessary to tax the church. Our government has no more jurisdiction over our churches than does the government of Canada (or the United Nations, for that matter). It would be as much a form of tyranny for the government in America to tax the church, as it would be for the Canadian government to tax churches in America. Most churches' only

source of financial support are the tithes and gifts of the congregation. Can you imagine the ramifications of government exacting a tax on God's tithe? Why would a church want to voluntarily reduce its status from one of being nontaxable to that of a government-granted exemption? A tax exemption has been determined by the courts to be a "subsidy" and there are always strings attached. What are the terms of this IOU?

PRO: State and Local Tax Exemption: exempt from taxes on real and personal property, etc.

CON: Section 501(a), the preamble to 501c3, reads:

(a) Exemption from taxation.

An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle...

The "this subtitle" being referred to is Subtitle A, which is specifically the federal income tax. Many church leaders have been under the assumption that the 501c3 is an exemption from all forms of taxation, but that is simply not so. While many municipalities, counties and state governments have often extended additional exemptions to 501c3 "religious organizations," including exemptions from taxes on real and personal property, they are in no way obligated to do so, unless other local or state laws compel them to. The long-standing tradition of exempting church properties from taxation is eroding in many communities across the country. The 501c3 does not specifically exempt any organization from a tax on property, or any other tax for that matter, just income tax. Since the exemption is only for income taxes, and since churches typically don't have "income," one has to wonder what tangible benefit such an exemption affords. Sovereign churches have no such issues to contend with, as government may not impose a tax on church property, anyway.

PRO: Charitable Organization Status: exempt from sales tax, special mail rates, etc.

CON: The icing on the cake for many churches to become 501c3's are the special *goodies* the government offers, and this is another excellent example of the attorney's marketing ploy: "The

benefits outweigh the risks." The prevalence of the *something for nothing* mentality in America is exactly why fast-food restaurants package special kiddie meals. The food itself is of questionable nutritional value, and the child consumer may not necessarily find it particularly palatable, either. What sells the *Kiddie Meal* is the free surprise toy he knows he will find hidden within the colorful meal box. The cost of the packaging and the toy are only pennies, but the marketing success of such programs is phenomenal. Children remember the free toys they see advertised on TV, and when they are in the car, driving by the golden arches at lunch time, mom is bound to hear of little Johnnie's meal preference.

The government benefits offered to 501c3 churches are not so much a direct result of having a 501c3 license, as they are of being incorporated under the broad category of "nonprofit charitable organizations." There are many fine charitable organizations that are established to fulfill a "public purpose," including The Red Cross, Habitat For Humanity, orphanages, etc. Churches are also able to organize as charitable organizations, as long as they fulfill a "public purpose." Various levels of government subsidize the operation of "public charities" by offering certain benefits, because charitable organizations are deemed to provide "social services" [397 US at 674]. Charitable religious organizations can receive these same benefits because the "social welfare programs" they administer, "contribute to the well-being of the community in a variety of nonreligious ways, and thereby bear burdens that would otherwise either have to be met by the general taxation, or be left undone to the detriment of the community" (*supra* at 687). Some of the government benefits offered to nonprofit charitable organizations have been classified as "subsidies" by the courts, and some are not considered a subsidy. However, there is no question but that they are all "benefits."

Such government benefits are never automatic, nor do they come by general legal right. The benefit must be applied for as a special privilege, which is granted only to nonprofit organizations. While charitable organizations, in general, may not be adversely affected by receiving certain benefits, the ramifications to a church are quite onerous, particularly where it is clearly a subsidy. While the taking of a

general U.S. Postal Service mailing permit, or a bulk mail permit, does not create a jurisdictional problem for a church, accepting a non-profit organization mailing permit could open a bureaucratic Pandora's box. It is clearly a government subsidy. While a sales tax exemption does not necessarily convey a government subsidy, nevertheless, it is a government benefit, clouding the sovereign status of a church. Sales taxes (excises) are indirect taxes, and therefore, do not directly tax any church. With a little know-how, churches can legally avoid many excises, particularly on substantial purchases, without having to go to the government and asking for the benefit of a tax exempt letter, permit, or identification number.

WHEN THE WICKED BEARETH RULE, THE PEOPLE MOURN

The Internal Revenue Code (IRC) Section 501c3 exempts qualified organizations from taxation on income. Among these are "religious organizations," however, the broad scope of other organizations that qualify will place "religious organizations" in very sordid company. Included among the organizations that have successfully obtained 501c3 status are satanists, sodomites, pedophiles, pornographers, hedonists, abortionists, atheists, Darwinists, New Agers and pagans. This is not to say that all 501c3 organizations are evil; many, indeed, are very honorable organizations. However, we need to point out that morality is not a prerequisite for 501c3 acceptance. The 501c3 has not served to advance morality, so much as it has immorality. Not unlike the corporate status, the 501c3 has gravely undermined Christianity in American culture. The only organizations expressly prevented from obtaining 501c3 status are "Communist-controlled organizations" (IRC § 501(n)).

IRC Section 501c3 reads as follows:

Sec. 501. Exemption from tax on corporations, certain trusts, etc.

(c) List of exempt organizations —

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, liter-

ary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

IRC § 501(c)(3)

Our civil government has never been given any ability to tax religion, anyway. To do so would first require establishing tax laws specific to religion, which the First Amendment precludes. It is, therefore, absurd to suppose that the visible institutions of the Christian religion—churches and ministries, are "tax exempt." Christianity is nontaxable, and as such, may not be assessed any tax.

Exempt. To release, discharge, waive, relieve from liability. To relieve, excuse, or set free from a **duty** or service imposed upon the general class to which the individual exempted belongs.

Black's Law Dictionary, 6th Ed.

Non-assessable. That on which no assessment can be legally levied for any purpose.

Cyclopedic Law Dictionary, 3d edition (1940)

The distinction between "exempt" and "non-assessable" may appear slight, yet it is most significant. Churches are non-assessable because of the First Amendment and the "wall of separation between church and state." That which cannot be assessed cannot be taxed. Being non-assessable presupposes that the government does not have jurisdiction over the church—that it is sovereign and autonomous from the government. That which the government has no jurisdiction over cannot be regulated or taxed. The element of total freedom, as expressed in a non-assessable legal status, is irrevocable, because it is an unalienable God-given

right. Government cannot lawfully take away that which God has given.

Churches only become tax exempt when they apply to the government for the "privilege" of a tax exempt license. The exemption presupposes that the government has acquired the jurisdiction necessary to tax the church, and therefore, has the authority to grant an exemption from the taxation that would ostensibly be otherwise due. A tax exemption is treated at law as a government privilege and benefit, and under recent case law, as a "subsidy." A church cannot maintain both a non-assessable and a tax exempt status; they are mutually exclusive. Once a church acquires an exempt status, it voluntarily waives its sovereignty and places itself under government jurisdiction.

In 1969, Congress ratified Public Law 91-172, a portion of which was codified as IRC Section 508. In so doing, Congress sent a loud and clear message to every church and ministry in America—they have no need to apply for a 501c3 determination letter from the IRS.

Sec. 508. Special rules with respect to section 501(c)(3) organizations.

(a) New organizations must notify secretary that they are applying for recognition of section 501(c)(3) status.

(c) Exceptions.

(1) Mandatory exceptions. Subsections (a) and (b) shall not apply to—

(A) churches, their integrated auxiliaries, and conventions or associations of churches.

IRC § 508(c)(1)

Applying for 501c3 recognition is accomplished by filling out and filing IRS Form 1023. Interestingly enough, even the IRS has openly admitted, since the inception of the 501c3, that churches and church ministries have no need to apply.

Some organizations are not required to file Form 1023. These include:

Churches, interchurch organizations of local units of a church, conventions or associations of churches, or integrated auxiliaries of a church, such as a men's or women's organization, religious school, mission society, or

youth group. These organizations are exempt automatically if they meet the requirements of section 501(c)(3).

IRS Publication 557, p. 15 (1999)

Churches are far more than merely "exempt automatically" (although this is still a significant admission). Churches are non-taxable. Why then do they still apply? This author has had numerous phone conversations with the IRS Exempt Organizations Office, and spoken with virtually every Agent in that office. None of them have any idea why churches apply for a 501c3. It's certainly not because the IRS is actively encouraging it. But there are those who do:

Churches are not required by law to apply to the Internal Revenue Service for tax-exempt status in order to receive that privilege. They should file anyway.

The reason is simple. Money. IRS concurrence that a religious organization is indeed a church is the best protection for a donor that his or her contribution to the church is tax-deductible and will not be challenged in an audit. This knowledge makes a church's fundraising efforts much easier.

Protect Your Contributions, Michael Chitwood

This is a sorry basis for the "church law" practitioners to be maneuvering churches into "voluntarily compliance," but neither Chitwood, nor any of his peers, have come up with anything better. For that matter, neither has the IRS.

If the organization wants to establish its exemption with the IRS and receive a ruling or determination letter recognizing its exempt status, it should file Form 1023. By establishing its exemption, potential contributors are assured by the IRS that contributions will be deductible.

Op. Cit., Pub. 557

This is the one and only so-called "benefit" a church gets from the 501c3—contributors know that their contributions are tax deductible because the IRS puts its stamp of approval on that church. Church leaders should rethink the ramifications of this. By Chitwood's own admission, it really all comes down to money and making "fundraising efforts much easier."

A church is not made tax-deductible because it has a 501c3 determination letter, and is listed in IRS Publication 78. It is tax-deductible because it is a church, and the IRS admits as much.

Organizations That Qualify To Receive Deductible Contributions

You can deduct your contributions only if you make them to a qualified organization. To become a qualified organization, most organizations other than churches and governments, as described below, must apply to the IRS.

IRS Publication 526, (emphasis author's) p. 2

Contributions to government, such as to a local public school district, are tax deductible (why anyone would want to do so is hard to fathom, but it occasionally happens). The IRS would never challenge such a contribution, even though school districts are rarely ever 501c3. It is interesting to note that publication 526 acknowledges that churches are on the same footing as governments by not needing to apply for a 501c3 in order to be treated as tax-deductible. In practice, one can be confident when making a contribution to a free-church that it will be tax-deductible. The fact is, even during audit, IRS auditors never even bother to pull out publication 78 to see if a church, that contributions were made to, is listed as a 501c3.

Much could be said regarding the theological ramifications of a church being motivated to establish itself as a 501c3, because it anticipates that contributions will go up thereby. All I will say, however, is that perhaps more emphasis should be placed on expository preaching on the subjects of tithes and gifts, rather than on contributing for the sake of tax deductibility.

By applying for and receiving a 501c3 recognition letter, a church converts a God-given right into a government-granted benefit. Since an exemption is, for a church, a dramatically inferior legal status, and may be modified or revoked by the government, why would a church want it? The government offers the church privileges and benefits, but the church's sovereignty and independence from the government must first be waived. What if, at some time in the future, Congress elects to eliminate certain exemptions? Your 501c3 church is still going to be euphemistically called "tax-exempt;"

it's just not exempt from all taxes. Congress has already done just that and will, no doubt, do it again. In 1984, 501c3 churches were required to reclassify all church workers and ministers as "employees" and start paying Social Security tax. The church corporation, just like any other corporation, has employees. As such, they are now liable for not only Social Security contributions, but all other employee taxes and withholdings, including income taxes, unemployment taxes and workman's comp. If we seek to identify the legal terms "employer and employee," the origin of those terms, as well as their legal standing and status, here is what we discover:

EMPLOYER AND EMPLOYEE: Employment (this index)

EMPLOYMENT: Generally, Master and Servant (this index)

Am Jur 2d, General Index, D-1, p. 413

Many are surprised when they discover that their legal standing of "employee" has reduced their status to that of a servant. We in America have long had a repugnance toward personal servitude, and it is for this very reason that the lexicographers developed these new, far more palatable terms.

In law, the term "master and servant" indicates the relationship which exists when one person who employs another to do certain work exercises the right of control over the performance of the work to the extent of prescribing the manner in which it is to be executed. The employer is the master, and the person employed is the servant. The words "employer" and "employee" are the outgrowth of the old terms "master" and "servant."

53 Am Jur 2d, Master and Servant, § 1, Definitions, p. 81

Your employment to a corporation is viewed by the government, not as a right, but as a privilege. There are at least 38 biblical references that command the Christian to give and tithe to the LORD from the "firstfruits" of his labor. That is simply impossible when our status is reduced to that of a servant, and we are laboring for a State-created entity. Our firstfruits are extracted from our wages by the corporation who, by statute, serves as the "withholding agent" for the government. The most bazaar status of all though, are the millions of

sole proprietors that declare themselves to be "self-employed," i.e. they work as a *servant* of the very business that they founded, and the business that they claim to own. So, who *owns* whom? The ramifications of this are truly astounding, when we contemplate what happens to the minister who is employed by an incorporated church, or when he declares, by *special* provision of the IRS, that he is a "self-employed" minister of an incorporated church. Attorneys and CPAs tout this as another wonderful "benefit." Oh, really?

Because of the Social Security Reform Act, what the 501c3 church found "advantageous" in 1983 suddenly became most disadvantageous in 1984 (a rather *Orwellian* year). This egregious legislation should have unleashed a torrent of outrage against Congress, and against President Reagan who signed it, from thousands of churches all across America. Instead, there was barely a peep. Congress had little cause for concern over a potential backlash, as most churches had long before been silenced by the 501c3. Here's the quandary 501c3 religious organizations face: How are 501c3 churches to petition and lobby Congress, regarding changes in the Tax Code which affect them, when the terms and conditions of the 501c3 preclude their doing so? How are they capable of effectively governing and planning church affairs, when they have agreed in advance to comply with all future tax laws that Congress will hand down, without even having the vaguest notion of how those statutes will impact their churches?

He who answers a matter before he hears, to him it is **folly** and shame.

Proverbs 18:13

Churches that retained their sovereignty and non-taxable legal status had no such problem to contend with, because statutes like the Social Security Reform Act, which specifically targeted 501c3's, don't apply to free churches. Free churches have ministers and ministry workers, not employees.

501c3 religious organizations have numerous and broad sweeping restrictions placed upon them. Yet, the board members of many 501c3's are so ill-informed of their legal obligations and liabilities that they may routinely violate those restrictions. Such violations can carry onerous consequences, not only to the church, but to individual officers

and directors. An exemption is invariably conditional and granted with stipulations made as to its revocability. The tax-exempt status can be modified, amended, or revoked for any number of reasons. The exemption is granted as a matter of administrative procedure, not legislative or judicial, meaning that it is a bureaucrat who bestows it. A bureaucrat can likewise take it away without any due process of law. Furthermore, the IRS does not necessarily need to demonstrate that a 501c3 organization has violated any specific laws. The IRS has been given considerable latitude by Congress to create its own enforcement regulations. These often go considerably beyond both the letter and spirit of the tax code.

Sec. 7805. Rules and regulations.

(a) Authorization

Except where such authority is expressly given by this title to any person other than an officer or employee of the Treasury Department, the Secretary shall prescribe all needful rules and regulations for the enforcement of this title, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

The IRS views its own rules and regulations as "law," and tragically, the courts have, in far too many cases, treated them in the same manner. The IRS may also concoct "temporary regulations" (§ 7805(e)) and it may arbitrarily make rules to apply in certain cases, which it is not obligated to apply uniformly in other like cases. If an exempt organization objects to an IRS ruling, it is left with no other recourse than to seek due process of law through a protracted and costly legal battle in the courts. One of the IRS' primary strategies is to wear down the "taxpayer" through the expenditure of enormous time and resources, not to mention the outrageous legal costs of litigating a tax case through the appellate court process. The IRS has the strategic advantage of unlimited resources at its disposal. There are no restrictions on how many attorneys they may retain, how many hours they spend prosecuting a given case, and the public monies they squander. Few "taxpayers" can compete, and the IRS well knows this and will seek to overwhelm their opposition. Many an IRS tax battle has been won this way.

Even though 501c3's are tax-exempt, the IRS, interestingly enough, still classifies them as "taxpayers", and so do the courts (see *Christian Echoes National Ministry, Inc.* at page 117). Non-taxpayers are called "nonfilers," but because most 501c3's file tax forms, they are classified as taxpayers. This is the case even of most 501c3 churches, because they typically file W2, 940, 941, and often other tax forms, thereby making themselves not only "filers", and therefore, "taxpayers" but, worse yet, "withholding agents."

The IRS also takes it upon itself to "interpret" court decisions in the best interests of the IRS. For example:

The explanations and examples in the publication reflect the interpretation by the Internal Revenue Service of:

- Tax laws enacted by Congress, and
- Treasury regulations, and
- Court decisions.

The publication covers some subjects on which a court may have taken a position more favorable to taxpayers than the position of the Service. Until these differing interpretations are resolved by higher court decisions or in some other way, this publication will continue to present the viewpoint of the Service.

IRS Publication 334

In other words, the IRS is a law unto itself! What the IRS acknowledges in the above publication is no isolated incident. The IRS regularly thumbs its nose at Congress and the courts. Cooperation with this scourge of humanity, by "voluntary compliance," is a blueprint for disaster.

Who would believe the ironic truth that the cooperative taxpayer fares much worse than the individual who relies upon his constitutional rights.

United States v. Dickerson, 413 F.2d 1117 (1969)

The IRS has a long history of tyranny and criminal activity. It is regularly used as a club with which to beat and terrorize political foes. There is likely only one other agency of the U.S. Government which can match the nefarious activities of the IRS—the CIA.

Woe to those who decree unjust statutes and to those who continually record unjust deci-

sions, to deprive the needy of justice, and to rob the poor of My people of their rights.

Isaiah 10:1-2

THE RELIGION OF PUBLIC POLICY

In order to qualify as a 501c3, the organization must first meet the criteria of having a "charitable purpose."

Charitable Purpose. Term as used for purpose of tax exemption has as its common element the accomplishment of objectives which are beneficial to community or area, and usually recognized charitable purposes, not otherwise limited by statute, are generally classified as: relief of poverty; advancement of education; advancement of religion; protection of health; governmental or municipal purposes; and other varied purposes the accomplishment of which is beneficial to community.

Black's Law Dictionary, 6th Ed.

As if being regulated under the myriad of corporate state statutes weren't problematic enough for an incorporated church, if it becomes a 501c3 it even further diminishes its status into a "public charitable organization" and becomes subject to all the rules and regulations governing such entities.

In Revenue Ruling 71-447, the IRS formalized the policy, first announced in 1970, that § 170 and § 501(c)(3) embrace the common-law "charity" concept. Under that view, to qualify for a tax exemption pursuant to § 501(c)(3), an institution must show, first, that it falls within one of the eight categories expressly set forth in that section, and second, that its activity is not contrary to settled public policy.

Bob Jones University v. United States, 461 US 574 at 585 (1983)

Government-licensed charitable organizations are subject to regulation under what is termed "public policy." This is because an incorporated tax-exempt organization is at law termed a "quasi-public corporation" [397 US 664, 25 L Ed 2d 704].

Public policy. Community common sense and common conscience, extended and applied throughout the state to matters of

public morals, health, safety, welfare, and the like; it is that general and well-settled public opinion relating to man's plain, palpable duty to his fellowmen, having due regard to all circumstances of each particular relation and situation.

Black's Law Dictionary, 6th Ed.

Public policy, being that it is based upon "public opinion," is anything but "well-settled." The term "public policy" did not always purport such a flimsy and indefinite meaning, and the above definition is a fairly recent innovation. It is thoroughly humanistic, and an accurate portrayal of the modernist philosophy of situational ethics. The above definition is fraught with problems for the Christian. For example, while we should all aspire to the use of "common sense," just what is "common conscience"? As Christians, our conscience is not derived from the socialist doctrine of *common* conscience, but from the divine revelation of God's written Word and the convicting work of His Holy Spirit. Christians will often find their consciences at odds with that of their community. Moreover, as a socialist doctrine, "community common conscience" is no more than government policy dressed up in the garb of "democracy," to make it appear as though it is actually "the will of the people," gathered through polling statistics.

We must all shudder whenever our federal government argues that a public policy can override such constitutional rights as religious liberty and private property. An unwritten public policy is nothing more than what the federal government believes the law ought to be.

The New Tyranny, John Whitehead, p. 12

These government policies are, in turn, "extended and applied throughout the state". No exceptions are made for 501c3 churches, because qualifying as a charitable organization presupposes that they agree, and will comply, with all public policy. "Public morals" are used here in the same sense as "common conscience." It is in the name of "health, safety and welfare," that the State has declared abortion to not only be legal, but to be "morally expedient." None of the Founding Documents promulgate the statist notion of "health, safety and welfare," nor do any of the writings of the Founders. This is socialist ideology straight out

of the Communist Manifesto. Our Founding Documents only speak of protection and preservation of "life, liberty and property." Humanists cannot speak of such things because it flies in the face of "common sense" to slaughter 1.5 million babies every year, and then quote the preamble to the Constitution.

The care of human life and happiness, and not their destruction, is the first and only legitimate object of good government.

To Maryland Citizens (1809), The Writings of Thomas Jefferson, Washington ed., vol. VIII, p. 165

Public policy is allegedly determined upon "man's plain, palpable duty to his fellowmen". The definition contains no provision for man's duty to his Maker, and this for good reason. Public policy is a purely humanist doctrine, and as such, God simply does not enter into the picture. For obvious reasons, neither would His Laws. Public policy is an integral component of the statist systems found in totalitarian regimes, such as communist dictatorships and socialist autocracies. If public policy were based upon some fixed standard of law, then we would know where we stand, with respect to how church doctrine lines up with public policy. Such is not the case. Public policy is completely malleable and rather arbitrary in nature.

Public policy has the ring of permanence. Yet where is it to be found? The answer, of course, is that we citizens are to find it in the latest statement of those in power. By its very definition, then, there is no such thing as the official public policy of the United States, nor has there ever been.

Therein lies the real monstrosity of the Jones case. If our religious beliefs displease the current public policy of our masters, we will be punished. One can be safe in his religious beliefs only if he reads the morning papers to keep in tune with today's public policy. So much for subjecting religious principles to the arbitrary and changing policies of the mighty IRS.

To Harass Our People, Congressman George Hansen, p. SS9

Not only must a charitable organization, such as a 501c3 church, be in complete harmony with public policy, it must fulfill a useful "public purpose"

in order to qualify for and maintain its charitable, tax exempt, and tax deductible status.

...in enacting both § 170 and § 501(c)(3), Congress sought to provide tax benefits to charitable organizations, to encourage the development of private institutions that serve a useful public purpose or supplement or take the place of public institutions of the same kind.

Tax exemptions for certain institutions thought beneficial to the social order of the country as a whole, or to a particular community, are deeply rooted in our history...

Bob Jones University, supra at 587-8

Contained in all public policy is a public purpose. The use by the Supreme Court of the term "public purpose," as quoted above, is just one of many available examples. Just what is public purpose?

Public purpose. The term is synonymous with **governmental purpose**.

Black's Law Dictionary, 6th Ed.

The licensed professionals that dupe churches into converting their status into charitable organizations will never address this issue; and for obvious reason. How is a church to function according to "governmental purpose" when that government has such a propensity for abrogating the Laws of the One that ordained the church to begin with? What we are left with is a schizophrenic church, or what the Scriptures refer to as being "double-minded (Jam 1:8; 4:8).

In the Bob Jones case, the IRS issued Revenue Ruling 71-447 and changed public policy. The IRS is a division of the Treasury Department, and falls under the Executive branch of government. As such, it has no lawmaking authority, whatsoever. Many in Congress were carefully observing this case, and objected vehemently to what they viewed as a blatant usurpation of legislative powers. Congress holds the IRS' *purse strings*. As such, there was concern within the IRS about potential congressional retaliation for the IRS' use of Revenue Rulings to change public policy, as it applied to BJU. So the IRS backed down.

After the Court granted certiorari, the Government [IRS] filed a motion to dismiss, informing the Court that the Department of

the Treasury intended to revoke Revenue Ruling 71-447 and other pertinent rulings and to recognize § 501(c)(3) exemptions for petitioners. The Government suggested that these actions were therefore moot. Before this Court ruled on that motion, however, the United States Court of Appeals for the District of Columbia Circuit enjoined the Government from granting § 501(c)(3) tax-exempt status...

Bob Jones University, 76 L.Ed2d 157, note 9

Not only does the IRS establish public policy, as do many other bureaucratic agencies of government which have no legislative authority whatsoever, but certainly our courts have waged war on the Constitution, as well, by the use of public policy. The courts have taken it upon themselves to daily engage in social engineering, to rule not according to law, but according to the "community common conscience." In the BJU case, the IRS announced that it was revoking the Revenue Ruling upon which its entire case was based. Therefore, they no longer had a case to prosecute. Rather than permitting the case to be dismissed, the Circuit Court of Appeals stepped in, and in effect, became the prosecutor!

We must all shudder whenever our federal government argues that a public **policy** can override such constitutional rights as religious liberty and private property. An unwritten public **policy** is nothing more than what the federal government believes the law ought to be.

The New Tyranny, John Whitehead, p. 12

This is the sort of precarious position that 501c3 churches and ministries place themselves in. As public policy continues to become more hostile toward Christian values, the church will become more and more the target of various social engineering pet projects. The conversion of the church into a charitable organization renders it easy prey for judicial chicanery. The lessons from the Bob Jones University case are many, yet few have shouted a warning, and in the decade since the decision, many thousands more churches and ministries have "made covenant with the heathen."

The elements of this attack are quite simple. First, the defendant is small. Bob Jones University is an unaffiliated school without the

backing of a large religious community, like the Catholics or the Lutherans. This is a crucial element in the plan. Government forces have no intention of awakening the giants of the religious community to what they are doing until it is too late to mount a defense.

Equally important, the issue must be one which can be framed in a way which mutes opposition. In the Jones case, that issue was race. Bob Jones University is a religious school to which admission is open to all races. The authorities at the school, however, hold it as part of their religious faith that interracial dating and interracial marriage are forbidden by God. It is here that the IRS found its weapon.

Op. Cit., Hansen, pp. SS7-8

CARRYING OUT GOVERNMENTALLY APPROVED POLICIES

In a concurring opinion in the Bob Jones cases, justice Powell made the following statement:

The Court asserts that an exempt organization must "demonstrably serve and be in harmony with the public interest," must have a purpose that comports with "the common community conscience," and must not act in a manner "affirmatively at odds with [the] declared position of the whole Government." Taken together, these passages suggest that the primary function of a tax-exempt organization is to act on behalf of the Government in carrying out governmentally approved policies.

Bob Jones University, supra at 184-5

Did you catch that? The U.S. Supreme Court believes "that the primary function of a tax-exempt organization is to act on behalf of the Government in carrying out governmentally approved policies." Did your attorney warn you of this before he helped your church become a 501c3? If not (and I have yet to meet an attorney who has), he is hardly competent to recommend that churches become 501c3's, let alone assist them in doing so.

BJU was branded by the government as a "racist" institution and the media had a field day. Tragically, many Christian media sources parroted the

establishment's line. They failed to state that BJU admitted all races, but that their policy was to forbid interracial marriage, and that this was based upon a sincerely-held religious conviction, supported by biblical law and common law, which forbids miscegenation. However, the government has been licensing intermarriage for a number of years and, as such, the public policy now sanctions miscegenation (and not surprisingly, so do most Christians). By public policy the common law has been abrogated, and no 501c3, like BJU, is free to promulgate beliefs and practices which are contrary to that policy.

This Court has long held the Free Exercise Clause of the First Amendment to be an absolute prohibition against governmental regulation of religious beliefs. As interpreted by this Court, moreover, the Free Exercise Clause provides substantial protection for lawful conduct grounded in religious belief. However, "Not all burdens on religion are unconstitutional... The state may justify a limitation on religious liberty by showing that it is essential to accomplish an overriding governmental interest." *United States v. Lee, 455 US 252.*

Bob Jones University, supra at 603

Many a Christian attorney has howled when reading the above statement. They see it as contradictory for the Court to say that it is not infringing upon the First Amendment, when it penalizes religious organizations which violate public policy. However, it should be noted that nowhere did the Court forbid BJU from practicing its "sincerely-held religious beliefs."

Denial of tax benefits will inevitably have a substantial impact on the operation of private religious schools, but will not prevent those schools from observing their religious tenets.

Bob Jones University, supra at 603-4

Indeed, by all accounts, BJU has fared reasonably well, in spite of having lost its 501c3. In spite of its heavy tax burden, it's in a better financial position today than it has ever been. Had BJU been properly structured to begin with, and had it relied on the protections of the First Amendment, none of these problems would have ever come about, and it would not be paying taxes today.

The Supreme Court declared that BJU *should* not compel its students to obey the common law, with respect to miscegenation. It also made a monumental leap when it said that the forbidding of miscegenation is "racial discrimination." How was BJU guilty of discrimination when it admitted people of all races? The questions every pastor and minister needs to be asking are:

- **What issue is next on the "public policy" agenda?**
- **What will be the "overriding governmental interest" used to justify it?**
- **Will I be the next target?**

The humanists are carefully setting the stage to further entrap the church. Homosexuality is now widely accepted in the workplace, where it is protected by bureaucracies like the EEOC. Homosexuals (referred to herein by the biblical term, "sodomites") are a politically protected class, pandered to by many a politician, judge and bureaucrat; and little wonder. A number of our politicians, judges and bureaucrats, are themselves, sodomites (e.g. Rep. Barney Frank). Clinton's "don't ask, don't tell" policy radically overthrows centuries of military custom. Many major businesses, such as IBM, Microsoft, AT&T, Sprint and MCI openly support and endorse sodomy, by granting medical and spousal benefits to "cohabiting gay couples," and/or they contribute millions of dollars to militant sodomite organizations. Various sodomite organizations have publicly announced that the church is *the* major target of their depraved agenda.

The "community conscience" is now such that should a 501c3 church fire an employee because he/she "comes out of the closet," they face a very real possibility of a legal nightmare. Businesses have already been successfully sued for this, and also because they refused to provide the same benefits to cohabiting sodomites, that married couples receive. 501c3 churches need to take these matters very seriously. The ways in which a 501c3 church can be set up for a fall are only limited by the creativity of a devious mind; and just like in the BJU (and Tilton) case, many a Christian will likely stand on the sidelines and point the accusatory finger and call you names, right alongside the humanists and establishment media.

SUBSIDIZING RELIGION

Because that for His name's sake they went forth, taking nothing of the Gentiles.

[1]John 7

One of the objections raised by humanists over exempting the church from taxation, is that government tax exemptions for religion create an "excessive entanglement" between church and state. They also argue that a tax exemption is a form of government subsidy. The basis of this understanding goes back at least to the time that the Internal Revenue Code was first ratified, which included a provision for exempting certain "charitable organizations."

The exemption from taxation of money or property devoted to charitable and other purposes is based upon the theory that the Government is compensated for the loss of revenue by its relief from financial burdens which would otherwise have to be met by appropriations from other public funds, and by the benefits resulting from the promotion of the general welfare.

HR Report No. 1860, 75th Congress, 3d Session, 19 (1938)

It isn't a big step to go from the above to the position that government is subsidizing all charities, because of its *magnanimity* in electing not to tax public charities. The government could easily view this tax savings to charities as a subsidy. Christian attorneys have, by and large, vehemently denied this, in spite of the fact that the evidence supporting the humanist's logic is now overwhelming.

Both tax exemptions and tax deductibility are a form of subsidy that is administered through the tax system. A tax exemption has much the same effect as a cash grant to the organization of the amount of tax it would have to pay on its income. Deductible contributions are similar to cash grants of the amount of a portion of the individual's contributions.

Regan v. Taxation With Representation, 461 US 540 at 544 (1983)

The Regan decision was handed down just one day prior to the BJU decision. No one believes this to be merely coincidental. For those who hold to a political philosophy that *conservative=good* and

liberal=evil, think again. Regan v. TWR was a unanimous decision, and the Court's opinion was written by none other than William H. Rehnquist. Rehnquist was a Nixon appointee (1971), and when Chief Justice Burger retired in 1986, President Reagan later appointed him Chief Justice. Not only is Rehnquist commonly termed a conservative, he is perhaps the most conservative of the Court's Justices, and some would say "ultraconservative." Further dispelling the hackneyed stereotype of *conservative=good* and *liberal=evil*, the following opinion was written by Justice William J. Brennan, often termed an "ultraliberal."

Tax exemptions and general subsidies, however, are qualitatively different. Though both provide economic assistance, they do so in fundamentally different ways. A subsidy involves the direct transfer of public monies to the subsidized enterprise and uses resources exacted from taxpayers as a whole. An exemption, on the other hand, involves no such transfer. It assists the exempted enterprise only passively, by relieving a privately funded venture of the burden of paying taxes.

Walz v. Tax Commissioner, 397 US 664 at 690 (1970)

There is clearly a dramatic difference of opinion, expressed in these two decisions. It's time for many Christians to get beyond their simplistic belief that liberal judges consistently render evil decisions and conservatives render good decisions. Quite often, just the opposite has been the case. In another religious free exercise case, the ultraliberal William O. Douglas rendered the following remarkable dissenting opinion:

But when a legislature undertakes to proscribe the exercise of a citizen's constitutional right to free speech, it acts lawlessly; and the citizen can take matters in his own hands and proceed on the basis that such a law is no law at all. The reason is the preferred position granted freedom of speech, freedom of press, freedom of assembly, and freedom of religion by the First Amendment... No matter what the legislature may say, a man has the right to make his speech, print his handbill, compose his newspaper and deliver his sermon without asking *anyone's* permission...

Those who wrote the First Amendment conceived of the right to free speech as wholly

independent of the prior restraint of anyone. The judiciary was not granted a privilege of restraint withheld from other officials. For history proved that judges too were sometimes tyrants.

Poulos v. New Hampshire, 345 US 395 at 423, 426 (1953)

Truth is neither *left* nor *right*. Even the most liberal judge has rendered sound decisions and even the most conservative "judges too were sometimes tyrants." In the *Walz* decision, the liberal Brennan did an impressive job articulating much in the way of law and American history to substantiate his position, going all the way back to the Colonial era. Rehnquist's ("conservative" opinion in the *Regan* decision is remarkably lacking in legal and historical support. With the opinion expressed by Brennan in the 1970 *Walz* decision, 501c3 churches didn't look like they were at much risk. In light of the 1983 *Regan* decision, and Rehnquist's view that tax exemptions and tax deductions are government subsidies, there are only a few Christian attorneys who happen to recognize the peril that 501c3 churches now face.

Next, we find that tax exemption is treated as a *subsidy*... Never before had the Court expressed such a view. In fact, in 1970, the Court said that government, in refraining from taxation, "does not transfer a part of its revenues to churches but merely abstains from demanding that the church support the state." But the Court now appears to hold that every church in the U.S.A. is governmentally subsidized. That fact must be pondered in terms of **governmental** control of churches, since government may certainly control what government subsidizes.

William Bentley Ball, Esq. in *The Bomb and Its Fallout*, Bob Jones University, p. 16

While the above opinion is an accurate assessment of the Court's decision, as it would apply to 501c3 churches, it is also over-broad. It does not apply to "every church in the U.S.A." because not every church is a 501c3. Those that are face some very hostile forces, and that hostility is only all the more reinforced by various statements of the Court.

When the Government grants exemptions or allows deductions all taxpayers are affected; the very fact of the exemption or deduction

for the donor means that other taxpayers can be said to be indirect and vicarious "donors."

Bob Jones University, supra at 591

THE GREAT HODGEPODGE THAT IS TODAY'S INTERNAL REVENUE CODE

The Internal Revenue Code, as ratified by Congress, is codified as Title 26, and contained within the United States Code. Title 26 is divided into the following Subtitles:

- A. Income taxes, § 1-1564.
- B. Estate and gift taxes, § 2001-2524.
- C. Employment taxes and collections of income tax at source, § 3101-3510.
- D. Miscellaneous excise taxes, § 4001-5000.
- E. Alcohol, tobacco, and certain other excise taxes, § 5001-5881.
- F. Procedure and administration, § 6001-7872.
- G. The Joint Committee on Taxation, § 8001-8023.
- H. Financing of Presidential Election Campaign, § 9001-9042.
- I. Establishment of Trust Funds, § 9501-9722.

Anyone who has ever, of necessity, had the misfortune of perusing Subtitle A and F of the Income Tax Code, may have also been baffled if they compared the language to some of the other Subtitles. Where they deem fit, Congress and the IRS are more than capable of drafting tax code that is clear, concise and unambiguous. For example, Subtitle E, dealing with excise taxes on alcohol, tobacco and firearms, reads like a dull textbook; not particularly stimulating, but at least comprehensible. But of Subtitles A and F, the income tax and its procedural administration, former IRS Commissioner Roscoe Egger, Jr. stated to an audience in Baltimore on November 30, 1984:

"Any tax practitioner, any tax administrator, any taxpayer who has worked with the Internal Revenue Code knows that it is probably the biggest 'mishmash' of statutes imaginable.

Congress, various Administrations and all the special interest groups have tinkered with it over the years, and now a huge assortment of special interest and pet economic theories have been woven into the great 'hodgepodge' that is today's Internal Revenue Code."

"Income Tax Code; Not a Science, But Voodoo!" *Economic Solutions*, Peter Kershaw, p. 18

IRC § 501c3 stipulates:

...no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

This particular code section has been the source of considerable confusion, in thousands of churches and parachurch ministries. The confusion stems from the use of ambiguous and indefinite language. Tax attorneys and tax accountants are all too familiar with the IRS' aptitude for obfuscation; although, they are wont to toe the line for the "Service" (it's a job security thing). The absolute ban against electioneering is quite clear. What is ambiguous is the apparent margin left for insubstantial legislative activity.

Curiously, no one knows what the word "substantial" means in this context. It is not defined in Treasury regulations spelling out the effect of this section, nor is there any ruling by the Internal Revenue Service to guide public charities in knowing whether their activities in regard to legislation are "substantial" or not.

There is one court decision to the effect that an organization which expended 5% of its annual budget on lobbying was not engaged to a "substantial" degree, [*Seasongood v. Commissioner*, 227 F.2d 907 (1955)] and this figure of 5% has been widely supposed to be a magic number or "rule-of-thumb" employed by the Internal Revenue Service, but there is no written evidence that such is the case, nor even that the test of substantiality is proportionate on or refers to expenditures. In fact,

another court has used words that do not imply arithmetical considerations at all. [Christian Echoes National Ministry, Inc. v. U.S., 470 F2d 849(1972)]

Why Churches Should Not Pay Taxes, Dean M. Kelley,
(citations added) pp. 71-2

Numerous Christian attorneys, as well as several prominent ministries, regularly encourage 501c3 churches to get more politically involved. They argue that while there is an absolute ban on electioneering for 501c3's, the ban on political involvement is not an absolute one. True, 501c3's could certainly do more politically than absolutely nothing (which is what most of them today do—nothing), without necessarily jeopardizing their tax exempt status. However, no one has any clear understanding of how much is acceptable or how much is too much.

The undefined word "substantial" thus stands as an enigmatic threat to any public charity contemplating action on any legislative issue, and often has the "chilling effect" of persuading it that the only really safe course is to refrain from such activity entirely. It serves to muzzle, immobilize, or emasculate public charities with respect to affecting public policy... Thus the vague and undefined word "substantial" has become a weapon in the hands of those who wish to keep the public charities **quiescent—which** may be precisely what some legislators want.

Ibid., pp. 72-3

The arbitrary nature of the "substantial part" clause leaves the door wide open to IRS prying and meddling. IRS scrutinizing of 501c3 organizations invariably means an audit, the expressed purpose of which is to determine if the IRS will permit the organization to retain its 501c3. Where revocations have occurred, in many cases the 501c3 has been revoked retroactively, pursuant to IRC § 7805(b), and the courts have generally upheld the IRS' authority to do so. The tax consequences can be enormous. The threat of revocation is the big stick that keeps 501c3's docile and compliant; but even the mere threat of an audit is equally potent. The IRS has often investigated and audited 501c3 organizations in a highly selective manner, based on political bias. The IRS has long ignored the high profile political activities of politically cor-

rect 501c3's, while they target politically incorrect 501c3's whose political activities are often considerably less "substantial" than many politically correct 501c3's.

If Mrs. Clinton were upset about the politicizing of religion, she'd be criticizing Rev. Floyd Flake, who last Sunday endorsed Al Gore for president from his pulpit in New York City, a clear violation of the church-state separation and probably the IRS code. But don't look for the IRS to revoke the nonprofit status of Mr. Flake's church.

Cal Thomas, *World Magazine* 22/6/2000, p. 38

The IRS has always engaged in selective enforcement. The fact that they choose not to target other equally politically active 501c3's is not viewed by the courts as IRS prejudice, nor a violation of equal protection or due process [368 US 448]. The most effective means the IRS has of destroying an organization, is to use the donor records they receive during an audit, and subsequently commence audits of that organization's donors, as well. It won't take long for the donors to get the connection, and their loyalty for that organization will quickly evaporate. No minister is eager to endure being put under the IRS microscope, or risk subjecting his donors to IRS scrutiny.

The threat of an audit can be a powerful weapon for an administration to use in silencing opposition and suppressing free speech.

"Power Tends to Corrupt," Gary Bauer, *Washington Watch*,
February 14, 1997

Few preachers will acknowledge that they have been silenced by their 501c3. But these are usually the same preachers who hardly ever speak to the vital issues of our day. Those who are speaking out will acknowledge, sometimes even publicly, that the 501c3 is a huge handicap to their church, and prohibits their speaking as candidly and forcefully as they would like, including D. James Kennedy:

Kennedy: We are not saved by government or politics, and my basic press toward government is not to get them to save America, but to get them out of the way. The federal government has proved a tremendous impediment to the ongoing **work of** Christians. In all the laws that they have passed against Christian schools, gagging the church, taxa-

tion, and all kinds of things that **they** have done, **they** have made it harder for the church to exercise its prerogatives and to preach the **gospel**... The government today is doing its very best to block that advancement in so many ways. I want the government out of the way, that's all.

WORLD: But you sit there as a man who doesn't look like he is bound and gagged. You've got a **big** voice in this country. What do you mean by gagging the church?

Kennedy: Take the last presidential election. There were numbers of **things** that I knew that I was never able to say from the pulpit because if you advance the cause of one candidate or impede the cause of the other you can lose your tax exemption. That would have been disastrous not only for the church, but for our school and our seminary, everything. So you are gagged. You cannot do that. The IRS, a branch of our government, has succeeded in gagging Christians.

If All Begins In the Pulpit, D. James Kennedy interview, World Magazine 4/2/96

Those who have heard Kennedy believe he is speaking out. However, he knows, and he admits, that he has been gagged. What he says, and what he would like to say, are very different things. Too bad he doesn't seem to comprehend that the gag is self-imposed. No one forced his church to become a 501c3, and nothing prevents his opting out (other than the advice of his attorneys).

Although the 501c3's "substantial part" clause is indefinite and arbitrary, the term "influencing legislation" has been clearly defined, and there is no question as to its meaning. An organization will be regarded as attempting to influence legislation, if it:

(a) Contacts, or urges the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation; or

(b) Advocates the adoption or rejection of legislation.

Treasury Regulation 1.501(c)(3)-1(c)(3)(ii)

PROPAGANDA IN THE CHURCH

One should approach the study of the income tax code with a great deal of suspicion. Every word of it is a potential booby-trap. Of concern to this author is the prohibition against 501c3's "carrying on propaganda." It should immediately raise suspicion when the IRS uses such questionable vernacular. No organization in America, with the possible exception of the CIA, has ever rivaled the IRS in the tactical use of crafty propaganda. It certainly bears further investigation when the IRS mandates that, in order to maintain its good standing with the government, a "religious organization" cannot make use of "propaganda." It becomes even more suspect when it is determined that there is no legal definition for the word "propaganda." It leaves us in quite a quandary when researching tax law, to discover that the IRS periodically uses words which have no legal definition. We must, therefore, look elsewhere to gain some insight.

Just what exactly is propaganda? Most people, Christians included, would answer such a question: *Propaganda is any sophisticated mechanism of communicating misinformation, distortions, lies, half-truths, or the use of dialectics, for the purpose of indoctrinating large elements of a society, and thereby, getting them to believe things they wouldn't ordinarily hold to.* Then we must ask: Who most typically are propagandists? The likely response is: *Most propagandists are Communists, Socialists, evil and unscrupulous men; subversive types.* To this, many Christians and political conservatives would add to the list: *The news media, liberal political extremists, etc.* Needless to say, the word "propaganda" conjures up negative stereotypes. Prior to his appointment to the U.S. Supreme Court, Judge Learned Hand stated:

Political agitation as such is outside the statute, however innocent the aim, though it adds nothing to dub it "propaganda," a polemical word used to decry the publicity of the other side.

Slee v. Commissioner of Internal Revenue, 42 F.2d 184 (1930)

The term "propagandist" is pejorative, and no one wants to be so branded. Perhaps this is why church leaders so willingly overlook the limitation of not being able to engage in propaganda, when they become a 501c3. But should they? Earlier we

addressed how historical revisionists have "interpreted" history with an antichrist worldview. Their agenda did not end with merely rewriting history. Semantic revisionists have done precisely the same thing to our language, and the very definitions of words. Thousands of words have been omitted from recently published dictionaries, and hundreds more new words have been contrived which exemplify the humanist worldview. Many of our most cherished words, particularly those of a Christian origin, have been redefined and twisted to mean something just the opposite of what they really are: "Woe unto them that call evil good, and good evil; that put darkness for light, and light for darkness; that put bitter for sweet, and sweet for bitter!" (Is 5:20). Such is the case of the word "propaganda." Its etymology is distinctly religious, if not wholly Christian.

One of the earliest uses of the word propaganda was in connection with religious missionary activity. A notable propagandist was St. Paul, who established the first Christian churches in Asia Minor, Greece, and Italy. Christianity was spread beyond the Roman world by such evangelists as St. Augustine, the first archbishop of Canterbury, who introduced it into Britain, and by St. Boniface, who converted Germanic tribes. In modern times Roman Catholic missionary activity has been conducted by several well-known religious orders, notably the Society of Jesus. By skillful propaganda the Jesuits were able in the 17th century to reclaim for the church large areas of central Europe that had been lost to Protestantism during the Reformation. In 1622 Pope Gregory XV (1554-1623) established the **Congregation of Propaganda** to direct these activities of the Roman Catholic church. Protestants have been equally zealous in spreading their doctrines. The Protestant reformers of the 16th century were effective propagandists, and missionaries have carried the Protestant faith to every part of the world. (See also Missionary Movements)

"Propaganda", Funk and Wagnalls Encyclopedia

It should not surprise us to see that "propaganda" has come to have such a negative connotation, in our post-Christian society, given that its origin is rooted in "propagating the faith of Jesus Christ." What is surprising is that Christians use the word

just the same as heathens do—as an epithet, certainly not as a compliment. The same can be said of other malicious epithets which have a religious origin, such as "puritanical." The Puritans were responsible for purging England of the blight of her political and religious despots. Puritan theology established, and staunchly defended, Christian liberty in America. We owe much to the Puritans and their "puritanical" worldview.

We must picture these Puritans as the very opposite of those who bear that name today: as young, fierce, progressive intellectuals, very fashionable and up-to-date. They were not teetotalers; bishops, not beer, were their special aversion.

C.S. Lewis, *Credenda Agenda*, vol. 8, no. 3

Christians ought to be far more prudent in the use of contemporary language. It is also troubling, and potentially quite problematic, that thousands of churches have entered into a contractual relationship with the government to not engage in propaganda, the very purpose for which Christ established His church—to propagate the gospel.

Propaganda. The Congregation of the Roman Curia that has authority in the matter of preaching the gospel and of establishing the Church in non-Christian countries, and of administering Church missions in territories where there is no properly organized hierarchy. [Italian, short for the New Latin title *Sacra Congregatio de Propaganda Fide*, Sacred Congregation for Propagating the Faith... to PROPAGATE]

American Heritage Dictionary (1969)

Church propaganda resulted in American independence, and church propaganda made America great. Church propaganda is inextricably intertwined with the church's prophetic role in society, and it is little wonder that the muting of the church's prophetic voice has had such a devastating consequence upon our society.

The most powerful social institution in eighteenth-century America was the church, and it, of all, could be the most effective in the dissemination of propaganda.

Propaganda and the American Revolution, Philip Davidson, p. 83

RELIGIOUS ORGANIZATIONS AND POLITICS DON'T MIX

IRC Section 501c3 continues:

...or otherwise attempting, to influence legislation...

The 501c3 church may not freely support or oppose ballot initiatives, nor may it support or organize petition drives, letter writing campaigns, telephone trees, etc. It may not freely produce or distribute political materials which attempt to affect a political change through the legislative process. It may not freely support seminars or educational programs which promote a lobbying effort. All such matters are restricted, controlled and severely limited by the 501c3.

On the 1996 Colorado ballot, Amendment 11 loomed large in the minds of thousands of church and ministry leaders. If passed, it could have posed monumental financial problems for many of them. Potentially hundreds of churches and ministries, whose budgets were already strained to the limit, would have been forced to close their doors. The ballot initiative stated:

Shall there be an amendment to the Colorado Constitution concerning property tax exemptions, and, in connection therewith, eliminating any property tax exemptions for real property for religious purposes, real property used for for-profit schools, real property used for charitable purposes other than for community correction facilities, orphanages, for housing the low-income elderly, disabled, homeless or abused persons, and real property used for non-profit cemeteries; continuing the property tax exemptions for real property used for non-profit schools, community corrections facilities, orphanages, and housing low income elderly, disabled, homeless or abused persons unless otherwise provided by general law; continuing the property tax exemptions for personal property used for religious worship or strictly charitable purposes, unless otherwise provided by general law; and decreasing the property tax rate to prevent a net gain to any taxing entity as a result of the elimination of exemptions, unless otherwise provided by general law?

Arguments raised by some who opposed the initiative, although presumably well-meaning, were often gravely flawed. They lacked an understanding of the lessons of history, not to mention constitutional law. These included: "Tax exemption is the legal mechanism that serves as the wall of separation between church and state." Nothing could be further from the truth! Raising such fallacious arguments only serves to give a strategic advantage to the church's enemies. Many believe that tax exemptions are a virtual "sacred God-given unalienable right." Judges and bureaucrats laugh at such ignorance. Exemptions are not God-given rights, they are government-granted privileges. The fact is that tax exemptions are a powerful legal mechanism used by the civil government to break down the wall of separation and seize control of the church and silence it. Colorado's Amendment 11 should serve to remind and warn ministers all across America, that tax-exempt religious organizations are exempt only from those taxes which the voters choose to continue subsidizing. Furthermore, the courts are unlikely to intervene in such voter decisions.

And while I believe that "hostility, not neutrality, would characterize the refusal to provide [the exemptions]..., I do not say that government *must* provide [them], or that the courts should intercede if it fails to do so."

Walz, supra, 25 L. Ed 2d at 715, footnote 12 (Justice Brennan concurring, emphasis in original)

Amendment 11 placed Colorado's government-501c3 churches and parachurch ministries on the horns of a dilemma. Under the terms of the 501c3, they could not organize to oppose this initiative, nor could they provide financial support to help defeat it. They had to stand mute while ignorant or hostile voters decided their fate. Sponsors of the initiative did not mince words over who it was they were targeting.

If passed by voters, the initiative would make Colorado the first state to assess churches property taxes. In an article by Virginia Culver, "Property tax proposal irks churches," appearing in the Dec. 4 Denver Post, clergy called the proposal an "outrage." [John Patrick Michael] Murphy, a Colorado Springs attorney who hosts a weekly radio talkshow, "Murphy's Law," told Culver: "This is not a

crackpot thing. I'm very serious about this. It is time that churches pay their fair share of taxes to save an additional \$70 million annually for Colorado taxpayers," he said, "thereby reducing the amount of property taxes businesses and homeowners now pay."

http://www.infidels.org/org/ffrf/ftoday/jan_feb96/tax_church.html

The above appeared on the Internet Infidels world wide web site, which is affiliated with the Freedom From Religion Foundation. Numerous other self-professed "atheist" organizations were also very actively involved in promoting the initiative. Although many churches and ministries breathed a sigh of relief when the decision of the voters was announced, the mere fact that Amendment 11 was defeated is little cause for celebration. It is certainly no cause for taking a sabbatical. We can expect this issue to be raised in other states, and on a bigger scale, by the next election season. The future is looking bleaker all the time for 501c3 churches, while it is looking brighter for unlicensed churches and ministries.

The general rule, as promulgated by the attorneys who specialize in "church law," is that if a 501c3 church keeps their opinions within their own four walls, even if it be contrary to public policy, they're free to say and do whatever they want. But that's not accurate either. Even within the four walls, there are numerous restraints. However, constraints on electioneering and political speeches are *selectively* enforced; the righteous are muzzled while the wicked are granted indulgence. No church need fear government retaliation for the appearance of Jesse Jackson or his ilk in their pulpit, but they may want to think twice about permitting a pro-life activist to speak; it wouldn't be *politically correct*.

Credit for having proposed and sponsored the final portion of IRC § 501c3 goes to Senator Lyndon B. Johnson, and it reads:

...which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

A 501c3 church is not free to lend its support to a political candidate, in any way whatsoever, regard-

less of how closely that candidate's religious views and agenda follow that of the church's. The government's rationale is based upon the fact that the "tax-exempt religious organization" receives tax-deductible contributions, which are to be used exclusively for "religious purposes." No such contribution may ever be diverted for "political purposes," and certainly not for campaign purposes, because campaign contributions are never tax-deductible. A 501c3 church is not free to invite a political candidate to come and speak, because the church building where such a meeting takes place is financed with tax-deductible contributions.

At one time the church exerted tremendous influence over the political process in America, especially in elections. Personal and public morality were imperative character attributes to the political success of any candidate, and no office holder could long-maintain his office, without due attention to his scruples. As a potent moral institution, the church was a formidable foe of the scalawag and a great friend to the Christian statesman. It was quite common for churches to have political candidates address their congregations. Unlicensed churches are still free to do so, but it doesn't appear that there are many of those left. The 501c3 has emasculated and rendered the church impotent and powerless to oppose government wickedness. America has paid an incalculable price for the disenfranchisement of the church from the political process.

THE PUBLICAN CHURCH

Zacchaeus, the "wee little man" who "climbed up in a sycamore tree" to see the Messiah pass by, was a procurator of the Roman government. His title was "Publican." Feared and hated, the tax collector was the most despised man in society; and for good reason. No profession was more corrupt or prone to graft. The Romans referred to them as "tax farmers." Like the tenant farmer, they paid the *landlord* an annual fee, and any excess *crop* they raised was theirs to keep. In the case of tax farming, the up-front fee was quite exorbitant, which limited tax farming to all but the most wealthy. Publicans often formed corporations which functioned as joint-stock companies, pooling their financial resources with their wealthy cohorts to acquire the rights to additional *farms* (districts and

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provinces). Contracts for tax farms were sold in five year increments, to the highest bidder.

These publicans were encouraged by their superior in vexatious and even fraudulent exactions, and remedy was almost impossible. They overcharged (Luke 3:13), brought false charges of smuggling in the hope of extorting hush-money (19:8).

The Roman taxation, which bore upon Israel with such crushing weight, was systematic, cruel, relentless, and utterly regardless.

Unger's Bible Dictionary, pp. 899, 1073

So extreme was the people's hatred of the publican, that it was deemed inadequate to identify them along with common heathens and sinners. Typical hedonists, such as prostitutes, sodomites, idolaters, and such, were simply called "sinners." Publicans, on the other hand, were invariably natives of the province in which they were employed. Equivalent to a government-sanctioned *mafia*, publicans were viewed as traitors for extorting Caesar's taxes from their own kinsmen. The Gospels make numerous references to "publicans and sinners," as though the sin of being a tax collector is so reprehensible as to deserve its own separate and distinct category. Christ also acknowledged their extreme degeneracy, by identifying them as distinct from the "heathen" (Mat 18:17).

The Romans were shrewd operators and often sent others to do their dirty work for them. Today, they are called "agents." The IRS is no less shrewd, as they enlist others, whenever feasible, to do their tax collecting. Between income withholding tax and Social Security tax, corporations are by far the biggest tax collection agents for the IRS in the country. Particularly since the Social Security Reform Act of 1984, 501c3 churches have taken their place, right alongside the other publicans. Tax farming under the Roman tyranny, however, almost appears like an honest enterprise, in comparison to the ongoing corruption within the IRS. For example, in 1996 GAO audits determined that over \$13 billion of the taxes that the IRS had collected could not be accounted for. The money vanished! Little wonder some IRS personnel consider theirs to be an especially rewarding career.

Zacchaeus sold his soul for Mammon to his Roman masters. He collected their taxes, kept gov-

ernment records, and informed on his brethren. Zacchaeus made a lot of money plying his trade, but he waived all his rights, including his right to privacy. The 501c3 church is no different, and you should be aware that any documentable financial transactions made with a 501c3 church may become a matter of public record. Some churches account for donations with donor SSNs, as many donor accounting software programs are set up this way. When such a church is audited, this makes it a simple process for the IRS to audit donors, as well. Furthermore, corporations cannot refuse to turn over their accounting records and membership lists for government inspection.

The state by its authorized officers has the undoubted right to require full information as to all the business of a private corporation created by it or which it has permitted to come into the state, for the state has the right to know what its creature or one of another sovereignty which it permits to come into the state is doing.

18 Am Jur 2d, Corporations; Duty to furnish information to state, § 15

The sovereign reserves to itself the right of what is termed "visitation." The state may inspect an incorporated church's books, with or without notice, and no court order is necessary. Furthermore, a 501c3 church places itself under the IRS' jurisdiction, and is, likewise, liable for IRS "visitation" and audit. The licensed professionals like to assert that the tax code protects 501c3 churches from IRS visitation (§7611), but the language of this section, in reality, is of little value.

"The IRS, for many years has had the right to examine church records, because churches have been collecting taxes for many years for the government. The churches, therefore, hold in trust that which belongs to the government. We have a right to examine church records to see if the churches are handling government funds properly."

Roscoe Egger, former IRS Commissioner, The Modern Church; Divine Institution Or Counterfeit? Peter Kershaw, p. 8

Mr. Egger speaks the truth! Well, most of what he says is the truth, anyway. As is typical of many bureaucrats, he isn't capable of being entirely factual. It has not been "for many years" that the IRS has had this alleged "right." It has only been within

the last fifty years, and it only pertains to 501c3 churches.

Oh, and Zacchaeus? That story has a happy ending—he repented (as did another prominent publican, Christ's disciple, Matthew).

FOREGOING CONSTITUTIONAL RIGHTS TO QUALIFY FOR STATUTORY BENEFIT

Most church denominations have long recognized at least some of the serious problems posed by the constraints implicit in the language of the 501c3. The obvious solution is to abandon its use and return to the protections afforded them viz. the First Amendment. Rather than doing so, they have embarked upon numerous studies, impaneled various commissions, ratified resolutions, and sent letters to Congress addressing their concerns. On October 7, 1975 the Baptist Joint Committee on Public Affairs (encompassing nine Baptist conventions) ratified the following resolution, which it sent to Congress:

WHEREAS, Section 501(c)3 of the federal Internal Revenue Code establishes a category of religious and nonreligious public charities which are exempt from federal income taxation, and...

WHEREAS, many religious organizations hold that a part of their religious mission is to give witness to their religious beliefs as they affect or are affected by public policy, and

WHEREAS, the state has never had constitutional power to determine, direct, or limit religious programming for churches, associations of churches or conventions of churches but currently is authorized to do so indirectly through the substantiality test of the 501(c)3, and

WHEREAS, the First Amendment puts religion in a unique and specially protected category, and

WHEREAS, it is an accepted legal doctrine that the state may not require an individual or an organization to forego a constitutional right to qualify for the statutory benefit, and

WHEREAS, churches have not accepted and

cannot accept the substantiality test without violating deep religious beliefs...

Religion and Public Policy; Baptist Joint Committee on Public Affairs

This resolution "respectfully requested" that Congress exempt churches from the "substantiality test of the 501c3." Needless to say, Congress made no effort to do so, nor did it even seriously consider it. It is interesting to note that, although the substantiality test allegedly violates the "deep religious beliefs" of these Baptist church denominations, those beliefs must actually be rather shallow, because none of them have, to date, rescinded their 501c3 status. The above resolution is not only unconvincing, its arguments are gravely flawed. Take for example the argument that "the state may not require an individual or an organization to forego a constitutional right to qualify for the statutory benefit." This is patently absurd, and no case law can be cited to support such a position. The 13th amendment abolished slavery and involuntary servitude. It did not abolish voluntary servitude. 501c3 churches have voluntarily waived their rights, and many have done so eagerly. It is disingenuous to charge that the government "required" them to do so.

In light of the fact that tax exemption is a privilege, a matter of grace rather than right, we hold that the limitations contained in Section 501(c)(3) withholding exemption from nonprofit corporations do not deprive Christian Echoes of its constitutionally guaranteed right of free speech. The taxpayer may engage in all such activities without restraint, subject, however, to withholding of the exemption or, in the alternative, the taxpayer may refrain from such activities and obtain the privilege of exemption.

Christian Echoes National Ministry, Inc., v. United States, 470 F.2d 849 at 857 (10th Cir. 1972) cert. denied, 414 US 864 (1973)

Notice that the court refers to the privilege of tax exemptions for religious corporations as "a matter of grace rather than right." It would be naive to suppose that the courts have been anything but deliberate in applying the word "grace" to churches and ministries which obtain a 501c3. Other courts have held the same opinion:

We believe it is constitutionally permissible to tax the income of religious organizations. In