



April 5, 2017

The Honorable Paul D. Ryan  
Speaker  
U.S. House of Representatives  
1233 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Mitch McConnell  
Majority Leader  
U.S. Senate  
317 Russell Senate Office Building  
Washington, D.C. 20510

Dear Mr. Speaker and Majority Leader McConnell:

We write to encourage the House of Representatives and Senate to promptly consider and pass the Free Speech Fairness Act, H.R. 781 and S. 264. The act will fully restore the legal right of churches to participate in the political debates of our society by removing a 60-year-old Internal Revenue Code provision — the Johnson Amendment — which threatens churches with the loss of their tax-exempt status if they support or oppose legislation or candidates.<sup>1</sup> We agree with the president that Congress should “totally destroy” the Johnson Amendment.<sup>2</sup>

Throughout our nation’s history, churches have played a significant role in American politics and were the driving forces behind abolitionists of the mid-1800s and the Civil Rights Movement of the 1950s. Churches even played less well-known, but certainly significant, roles in other political discussions, including legislation in the early 1800s to criminalize dueling. We can all agree that while “[c]ommitted followers of the same faith, and even the same local faith community, may disagree on the issues and the candidates who represent them; nonetheless faith has much to say about what they do the first Tuesday of November.”<sup>3</sup> But for 60 years, the Johnson Amendment has thwarted that discussion.

The history of the Johnson Amendment is tainted with political payback. After winning the 1948 election by a mere 87 votes, then-Senator Lyndon Johnson faced a reelection campaign against Texas state senator Dudley Dougherty in 1954. Dougherty adopted an anti-communist platform, and two nonprofit organizations supported him. One was called the Facts Forum and the other was the Committee for Constitutional Government (CCG). Both were prominent anti-communist organizations. Neither organization was religious.

---

<sup>1</sup> 26 U.S.C. § 501(c)(3) (those exempt from taxation are “[c]orporations, and any community chest, fund, or foundation, organized and operated exclusively for religious . . . purposes, . . . no substantial part of the activities of which is . . . attempting, to influence legislation . . . any political campaign on behalf of (or in opposition to) any candidate for public office”).

<sup>2</sup> Abby Phillip, *Trump asks for prayers for Arnold Schwarzenegger’s ratings at National Prayer Breakfast*, WASH. POST, Feb. 2, 2017, at [https://www.washingtonpost.com/news/post-politics/wp/2017/02/02/trump-asks-for-prayers-for-arnold-schwarzeneggers-ratings-at-national-prayer-breakfast/?utm\\_term=.fdd406593de9](https://www.washingtonpost.com/news/post-politics/wp/2017/02/02/trump-asks-for-prayers-for-arnold-schwarzeneggers-ratings-at-national-prayer-breakfast/?utm_term=.fdd406593de9).

<sup>3</sup> Mark Totten, *The Politics of Faith: Rethinking the Prohibition on Political Campaign Intervention*, 18 STAN. L. & POL’Y REV. 298, 313 (2007).

The Honorable Paul Ryan and Mitch McConnell

April 5, 2017

Page 2 of 3

When Senator Johnson discovered that Facts Forum and CCG were actively supporting Dougherty in the 1954 Senate race, he responded by asking the Senate Democratic Policy Committee, the Democratic whip in the House and the IRS commissioner to investigate whether Facts Forum and CCG were violating any election or tax laws. Like the IRS's recent unlawful targeting of Tea Party groups, the IRS at that time investigated the organizations supporting Johnson's opponent.

Then, in the middle of the campaign against Dougherty, Johnson offered an amendment on the Senate floor to a pending tax bill. The Johnson Amendment sought to deny "tax-exempt status to not only those people who influence legislation but also to those who intervene in any political campaign on behalf of any candidate for any public office."<sup>4</sup> Without any debate, the amendment passed and President Eisenhower signed the bill into law.<sup>5</sup> George Reedy, Johnson's chief aide at the time, later stated that Johnson would never have sought to silence churches with his amendment.<sup>6</sup>

Religious liberty is a cornerstone of our republic. From the birth of the nation until passage of the Johnson Amendment, churches and pastors played a vital role in bringing a faith perspective to the pressing political issues of the day. Since the Johnson Amendment, however, churches have been kept on the sidelines of political debate. The Free Speech Fairness Act will correct that and ensure churches may once again freely participate in government.

Thank you for your leadership on this issue.

Very truly yours,



Greg Abbott  
GOVERNOR OF TEXAS



Ken Paxton  
ATTORNEY GENERAL OF TEXAS

cc: The Honorable Jim Banks  
The Honorable Roy Blunt  
The Honorable Bradley Byrne  
The Honorable John Cornyn  
The Honorable Ted Cruz  
The Honorable Jeff Duncan  
The Honorable Blake Farenthold  
The Honorable Matt Gaetz

---

<sup>4</sup> 100 CONG. REC. 9,604 (1954).

<sup>5</sup> Statement by the President Upon Signing Bill Revising the Internal Revenue Code, 199 Pub. Papers 715-17 (Aug. 16, 1954).

<sup>6</sup> Erik W. Stanley, *LBJ, the IRS, and Churches: The Unconstitutionality of the Johnson Amendment in Light of Recent Supreme Court Precedent*, 24 REGENT UNIV. L. REV. 237, 247 (2012).

The Honorable Paul Ryan and Mitch McConnell

April 5, 2017

Page 3 of 3

The Honorable Jody Hice

The Honorable Mike Johnson

The Honorable James Lankford

The Honorable Thomas Massie

The Honorable Kevin McCarthy

The Honorable Tim Murphy

The Honorable Gary Palmer

The Honorable Rand Paul

The Honorable Robert Pittenger

The Honorable James Renacci

The Honorable Mike Rogers

The Honorable Steve Scalise

The Honorable Jason Smith