



In response to increasing intrusions by government in the realm of the church, the LCMS launched its “Free to be Faithful” campaign in September 2012 to educate and move people to take informed action to protect religious freedom and stay informed on the cultural issues that pertain to it: confessing the faith in the public square, marriage, defending the sanctity of human life and related issues affecting religious liberty. Visit lcms.org/freetobefaitful.

A LUTHERAN view of church and state

Harrison’s Letter to Pastors – timely advice in election year

Presidential election years can be confusing and contentious for Lutherans and especially for pastors. This year is certainly no exception, so LCMS President Rev. Dr. Matthew C. Harrison has provided Scripture references, a historical perspective on issues of church and state, an explanation of Luther’s “two kingdoms” doctrine and more in his latest Letter to Pastors.

As the nation now faces many challenges, including the dramatic rise of secularism and the diminishing influence of Christianity in American government, Harrison’s letter provides a distinctly Lutheran view on what can be a touchy topic for Lutherans — especially in 2016.

Excerpts from the letter include:

As Christian pastors, what can we preach during this volatile year? Should we openly support a particular party or candidate in our preaching? Of course not! Should we say, “If you vote for this or that person, you can’t be a Christian?” Certainly not! Our people have individual experiences in life that guide the exercise of their vote as citizens. For one, it might be hassling with the IRS in a small business. For another, it might be trying to work

for better treatment and benefits for factory workers. Another may have grown up in the South under Jim Crow laws. Our people will make their political decisions on the basis of any number of factors that may, at times, mystify us. At times such as these, it is also appropriate, dear pastors (no matter where your particular political propensities lie), to recall that wonderful teaching of Franz Pieper: the “felicitous inconsistency.”

What can we preach? We can urge our people to be politically active and to stand in the public square for what accords with reason and the Ten Commandments. We can preach that we as Christian citizens will join with all people of good will to promote and care for life, from womb to grave; we will support traditional marriage, and we shall oppose laws, courts and governments restricting our God-given rights — rights that were acknowledged by the Bill of Rights as inherent (not granted!). We shall urge our people to be knowledgeable about candidates’ positions on issues that the Bible speaks about and on which the church has taken a stand, and to take these issues into consideration as they make their choices.

- To read the full letter, visit: lcms.org/2016/president-harrison-provides-a-lutheran-view-of-church-and-state.

POLITICAL ACTIVITY: Do’s & Don’ts for Pastors and Congregations

A church’s tax-exempt status under current law limits the amount of political activity in which it may engage. However, this does not prohibit a church from encouraging citizenship, including voter registration and voter turnout.

For more information on permissible and non-permissible activities, visit restoreamerica.org/pastors/legal-dos-donts.

LANDMARK

U.S. Supreme Court 2016

Whole Woman's Health v. Hellerstedt (formerly Cole)

Can the government set standards to protect maternal health without being accused of creating an unconstitutional “undue burden” on an abortion-minded woman?

- Petitioners challenged the Texas law requiring abortion facilities to satisfy the standards set for ambulatory surgical centers and the requirement that physicians performing abortions in clinics have admitting privileges at a hospital within 30 miles of the abortion facility. They claim that the regulations are unnecessary and place an undue burden in the path of a woman's choice to obtain an abortion and therefore are unconstitutional.
- The Texas officials argued that the State has a legitimate government interest in safeguarding maternal health and the stated purpose of the legislation was to raise the standard and quality of care for women

seeking abortions and to protect the health and welfare of women seeking abortions.

- Pro-abortionists argue that if the law is left in place, it will limit access to abortion providers.

Status of the case:

The Supreme Court could rule on this case as early as this summer.

“Texans should have full freedom to prioritize women's health and safety over the bottom line of abortionists. The 5th Circuit was on firm ground to uphold this law, and therefore, the Supreme Court should affirm that decision,” said ADF Senior Counsel Steven H. Aden. “The law's requirements are common-sense protections that ensure the maximum amount of safety for women. Abortionists should not be exempt from medical requirements that everyone else is required to follow.”

For more information, visit adflegal.org.



Zubik v. Burwell

What's at stake:

Should religious-affiliated institutions be forced, in violation of their religious beliefs, to comply with the HHS federal mandate requiring employer health-insurance carriers to subsidize contraception and abortion-inducing drugs for employees or otherwise face significant fines from the IRS?

- *Little Sisters of the Poor Home for the Aged v. Burwell* was consolidated by the Court with the following related cases, which are now all listed under *Zubik v. Burwell*: *Zubik v. Burwell*; *Priests for Life v. Burwell*; *Southern Nazarene University v. Burwell*; *Geneva College v. Burwell*; *Roman Catholic Archbishop of Washington v. Burwell*; and *East Texas Baptist University v. Burwell*.
- In 2012, the Obama administration required many employee and student health plans to cover “all FDA-approved contraceptives,” including some that can cause abortions. If a plan sponsor refused to comply, it would face substantial fines to be imposed by the IRS.
- A number of religious business owners challenged the mandate and prevailed at the U.S. Supreme Court in *Burwell v. Hobby Lobby* and *Conestoga Wood Specialties v. Burwell* in 2014. The administration created an alternative method of complying with the mandate for nonprofit religious organizations that objected to providing contraceptives and abortion-inducing drugs and devices as part of their employee and student health-care coverage. The administration

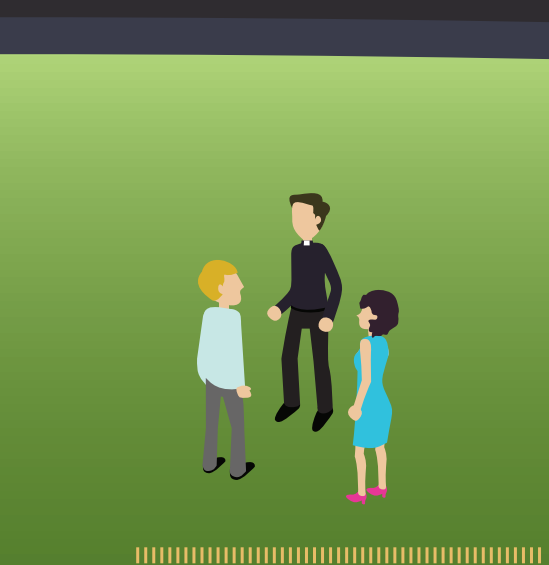
claimed it was addressing religious organizations' objections. The so-called “accommodation” still gives access to objectionable drugs and devices through the employer and third-party administrators — the very thing the object to. And this alternate compliance mechanism requires active participation of religious employers in the selection of abortion pills.

Status of the case:

In March, the Supreme Court ordered both the petitioners and the government to file supplemental briefs that address whether contraceptive coverage may be obtained by petitioners' employers' insurance companies, but in a way that does not involve the involvement of petitioners beyond their own decision to purchase insurance without contraceptive coverage to their employers. The briefs were filed in mid-April. The petitioners in the consolidated cases filed a joint supplemental brief stating: “The answer to the question is clear and simple: Yes.” The brief goes on to explain alternative ways to provide free contraceptive coverage to the petitioners' employees without involving the petitioners and that fully address their objections under the Religious Freedom Restoration Act. The petitioners' joint supplemental brief can be found at beckwith.org/content/uploads/2016/04/Becket-Supplemental-Brief.pdf.

K CASES

The following cases will be heard by the High Court this year – and the implications for religious liberty, as well as for the sanctity of human life, are significant.



Trinity Lutheran Church (LCMS) of Columbia, Mo. v. Pauley

Can a state prohibit churches and church-run organizations from participating in state programs solely because the groups are religious?

- Trinity Preschool was deemed ineligible for a state grant program that provides recycled tire products to surface children’s playgrounds solely because the preschool is operated by a church. The Missouri Department of Natural Resources decided Trinity’s learning center was ineligible for the program — a determination the respondents said was made on an interpretation of a provision in the Missouri Constitution prohibiting government aid to religion.
- Trinity is an LCMS member congregation. The LCMS is not a party to the litigation, but it joined in *amicus* briefs in support of Trinity, both during the petition for *certiorari* and on the merits.

Status of the case:
Trinity filed its opening brief with the U.S. Supreme Court in April.

“Religious neutrality doesn’t mean treating religious organizations worse than everyone else,” said ADF Senior Counsel David Cortman in an April 16 press release. “The state’s categorical exclusion of religious daycare centers and preschools from the Scrap Tire Grant Program is discrimination based on religious status, and that violates the First Amendment. It isn’t neutral for the state to impose special burdens on nonprofit organizations with a religious identity.”

The Supreme Court could rule on this case as early as this summer. For the latest updates, visit adflegal.org.

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Stormans v. Wiesman

What’s at stake:

- Do pharmacists and pharmacy owners have a right to act according to their faith?
- Do Americans have the right to express and live out their faith in the marketplace?
- Do Americans have the right to refrain from participating in the taking of human life?

The Stormans family and pharmacists Margo Thelen and Rhonda Mesler are Christians whose faith forbids them from participating in the destruction of human life, including dispensing abortion-inducing drugs.

In 2007, pro-abortion groups lobbied the Washington Board of Pharmacy to issue a new regulation requiring pharmacies to dispense abortion-inducing drugs. The regulation also made religiously motivated referrals illegal. The Stormans, Thelen and Mesler challenged the new regulation in federal court. After a 12-day trial in 2012, the court ruled that the state Board of Pharmacy cannot force the family-owned pharmacy and two pharmacists to choose between their professions and their religious beliefs.

The State of Washington and pro-abortion advocates appealed the ruling to the U.S. Court of Appeals for the Ninth Circuit. On July 23, 2015, a three-judge panel reversed the lower court’s decision, upholding the 2007 regulation.

Status of the case:
ADF, the Becket Fund for Religious Freedom and Ellis, Li & McKinstry PLLC filed a petition with the Supreme Court, asking the court to hear the Stormans’ case. The case could be heard later this year. For more information, visit adflegal.org/detailspages/case-details/stormans-v.-wiesman and becketfund.org/stormans-case.

The LCMS has participated in *amicus* briefs for these cases. To read more about each case, visit lcms.org/board/amicusbriefs.

What can Lutherans DO as voices in the public square?

CTCR offers clarification on Luther's 'two kingdoms' doctrine



As some Lutherans might struggle to grasp how to apply Luther's doctrine of the two kingdoms regarding matters of church and state, the staff of the Synod's Commission on Theology and Church Relations (CTCR) offers some clarification:

One God rules the world (1 Tim. 1:17), but in two different ways in two different "realms." This twofold reality

produces tensions for the Christian that are not easily resolved.

- **In His "kingdom of grace,"** where Christ reigns, He uses His Word and Sacraments to bring people to faith without coercion and to glad acceptance of His rule and authority (see John 3:3, 18:36; Col. 1:13-14; 2 Peter 1:11).
- **In His "kingdom of power,"** His temporal or earthly kingdom, God uses governments to maintain order, stability and justice in this

sinful, imperfect world (see Rom. 13:1-5; 1 Peter 2:13-14, 17).

Thus, Jesus Himself tells us to render to Caesar and to God (Matt. 22:21). And, even as Christians honor and obey governing authorities, they must boldly disobey government when it usurps God's authority (Acts 5:29).

In short, just as Christians respect human authority, they are also free to engage with government to prevent governments from acting unjustly.

Religious liberty declining in U.S.: INTOLERANCE TOWARD CHRISTIANS RISING?

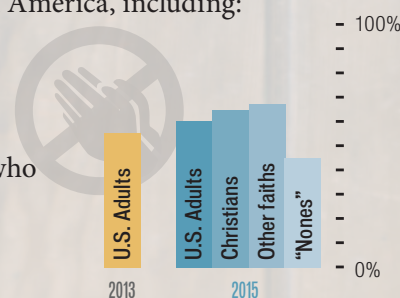
Researchers conducted a random survey of 1,000 Americans in September 2013 and again in September 2015 with a separate randomized group.* According to the results published March 30, 2016:

Source: LifeWay Research (lifewayresearch.com/2016/03/30/religious-liberty-on-decline)

*Those surveyed in 2015 were not the same people as those surveyed in 2013. Survey results reveal with 95 percent confidence the American population would show the same results (+/- 3.6 percent) if surveyed. LifeWay Research is a research program of the Southern Baptist Convention.

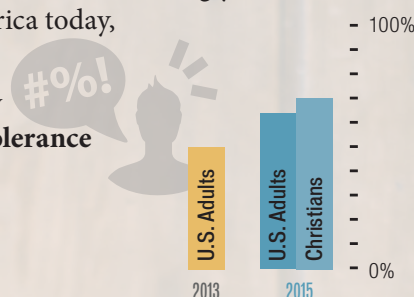
60 percent of U.S. adults agree **religious liberty** is on the decline in America, up from 54 percent in 2013. **64 percent of Christians** agree **religious liberty** is on the decline in America, including:

- 65 percent of people of other faiths, such as Jews, Muslims and other minority religions.
- 46 percent of "nones" — people who claim no religious identity.



63 percent of U.S. adults agree Christians increasingly are confronted by **intolerance** in America today, up from 50 percent in 2013.

70 percent of Christians agree they increasingly are confronted by **intolerance** in America today.



FREE TO BE FAITHFUL on Worldwide KFUO.org



Listen to *KFUO.org* interviews with key attorneys and other experts involved in major issues affecting religious liberty as part of the Synod's "Free to be Faithful" initiative.

KFUO radio host Kip Allen leads the discussion on *KFUO.org* 2:30 p.m. Central time on the third Wednesday of each month.

Listeners may ask questions by email at publicsquare@kfuo.org or telephone at 314-821-0850 or 800-730-2727. Questions may be submitted in advance or during the program.

Previous interviews are available at kfuoam.org/category/free-to-be-faithful.

