

## COVID Advisory Regarding Constitutional Issues

### Executive Committee, Assemblies of God, Northern California and Nevada District Council<sup>1</sup>

Pastors and Churches that are thinking about violating a public health order need to study several key issues before making that decision:

1. The theology of faithful disobedience.
2. The constitutional issues arising from or affecting the decision.
3. The effect on the church's witness in the community.
4. The legal issues and liabilities that the church and its leaders may incur.

This advisory is to answer the second of these issues.

---

Recent events in our nation have caused Christian Leaders to wonder whether our government has discriminated against the church and, if so, how the church should respond to this occurrence. We want to point out that the accusation of "discrimination" implies that the government has violated its own laws, not that the Christian is being forced to violate God's laws. This is a legal objection, not a theological one. Nevertheless, it is a factor that church leaders need to consider in making the decision to obey or disobey the government, or in considering how they should appeal or seek redress for discrimination.

The constitutional accusation is that the Governor has violated the First Amendment right to free exercise of religion. Many lawsuits have been filed by churches on this matter. Two of them (one in CA and one in NV) were denied and made their way through the appellate courts until they were heard by the Supreme Court.<sup>2</sup> In both cases, the Supreme Court denied the church's claim. The majority opinion is that 1) the COVID threat justified the restrictions and 2)

---

<sup>1</sup> This opinion is an advisory from the Executive Committee. It is not mandatory that AG ministers and churches agree with this opinion, the Assemblies of God does not dictate a particular stance on this subject. It is understood that self-governing churches are authorized to form their own opinion and make their own decisions on this subject. The Executive Presbytery also hopes that holding an opinion on this subject does not become a cause for division within the Assemblies of God.

<sup>2</sup> Richard Hammar, Legal Counsel for the General Council has written extensively on this subject. It is our intent to merely summarize the matter here and address additional questions. Hammar's paper is available on the AGNCN website under the COVID RESOURCES tab.

## COVID Advisory Regarding Constitutional Issues

that the restrictions on the church were not discriminatory as compared to the restrictions imposed on similar entities. A minority of justices disagreed with the rulings. Nevertheless, at this time, the governor's actions have not been deemed to have violated the constitution.

A more recent suit has been filed alleging that the governor has protected the first amendment right to peaceably assemble (protests) while not protecting the first amendment right to freedom of religion. The distinguishing element of this suit is the allegation of uneven enforcement. This suit is awaiting a hearing, but preliminary injunctions have not been favorable to the church.

Some have unilaterally declared these decisions to be illegitimate and are encouraging civil disobedience, based on the American right to refuse tyranny. It must be acknowledged that American history, philosophy, and government enshrines the right and responsibility of the people to hold the government accountable. American citizens are encouraged to raise their grievances and seek redress against the government. The rights to peaceable assembly, free speech, free press, and the right to sue the government are protected, in part, for this purpose. However, this right does not authorize citizens to unilaterally declare laws to be unlawful or to secede from its authority. This is anarchy. No citizen is excused for violating a law because they believe the law to be illegitimate: it is legitimate until the court or congress says otherwise. One who chooses to violate a law believing it to be illegal is still guilty of a crime. Their opinion about the law is no defense.

If, however, a Christian citizen has a moral objection to the law, then that citizen may be required to claim conscientious objection. Even then, the objector is not excused, but may suffer the legal consequences of their objection.

In view of these facts, we must carefully weigh the decision to defy or emancipate from the state. This country was founded on religious freedom. We recognize that balancing the rights and obligations of different entities and people is difficult, as rights often conflict. While the government may not always do it the way we prefer, we think most would agree that it is still the best government on the Earth.

## **COVID Advisory Regarding Constitutional Issues**

We also recognize that our government confers great benefits and freedoms to the church. Religious freedoms, indemnification, exemption from income taxes and property taxes, tax-deductibility for donations, and more. However, these benefits come with expectation that the church will comply with certain laws and requirements. There may come a day when we defy the state. When that happens, we must be prepared to surrender all of the special protections and benefits this government gives to the church.