

Report from the Capital

NEWSLETTER OF THE BAPTIST JOINT COMMITTEE

Court invalidates 'Commandments' display

A federal district court struck down a Ten Commandments display in Alabama's State Judicial Building as a violation of the First Amendment's ban against governmental establishment of religion.

At issue is a 5,280-pound granite monument engraved with the Ten Commandments and other religious references placed in the rotunda of the building by state Supreme Court Chief Justice Roy Moore. U.S. District Judge Myron H. Thompson concluded that Moore's actions were an effort to acknowledge "the Judeo-Christian God as the moral foundation of our laws."

"This court holds that the evidence is overwhelming and the law is clear that the Chief Justice violated the Establishment Clause," Thompson wrote in an opinion announced Nov. 18. Thompson ordered Moore to remove the display within 30 days.

Moore has long touted government displays of the Ten Commandments and other endorsements of religion. As a state circuit judge in the 1990s, he faced legal challenges for displaying a hand-carved plaque of the Ten Commandments in his Gadsden, Ala., courtroom and for inviting clergy to open trials with prayer.

In November 2000, Moore was elected chief justice of the Alabama Supreme Court, after campaigning as the "Ten Commandments Judge." Following his election as chief justice, Moore began designing a monument to depict "the moral foundation of law" and reflect "the sovereignty of

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— K. Hollyn Hollman



God over the affairs of men."

Moore's placement of the display in the judicial building on Aug. 1, 2001, was challenged in U.S. District Court for the Middle District of Alabama by attorneys for the American Civil Liberties Union of Alabama, Americans United for Separation of Church and State and the Southern Poverty Law Center.

In ruling against Moore, Thompson said the display lacked a secular purpose and had a primary effect of advancing religion.

Thompson said Moore's lack of a secular purpose was not only self-evident from his remarks at the monument's unveiling ceremony and in testimony before the court, but also in the monument's design.

"The only way to miss the religious or non-secular appearance of the monument would be to walk through the Alabama State Judicial Building with one's eyes closed," wrote Thompson, who visited the display at the request of parties in the dispute.

A reasonable observer, Thompson wrote, would view Moore's monument in the judicial building as an

endorsement of religion.

He said Moore's display would be unconstitutional even under the views of several justices on the U.S. Supreme Court who have contended that government actions must involve "proselytization" or "coercion," not merely endorsement, to violate the Establishment Clause.

Moore's monument, he said, is "nothing less than 'an obtrusive year-round religious display' installed in the Alabama

State Judicial Building in order to 'place the government's weight behind an obvious effort to proselytize on behalf of a particular religion,' the Chief Justice's religion."

Thompson also rejected Moore's argument that the display could be justified under the Supreme Court's legal reasoning in a 1983 decision upholding the Nebraska legislature's practice of opening each session with a non-sectarian prayer.

K. Hollyn Hollman, general counsel of the Baptist Joint Committee, called Thompson's ruling a victory for advocates of church-state separation.

"This was an extreme case of government seeking to promote a particular religious perspective in violation of the First Amendment," she said. "The statements of Justice Moore and the design and placement of the monument make its religious purpose and effect undeniable."

More than 40 Alabama clergy and leaders from a variety of denominations and faith traditions joined the BJC in a friend-of-the-court brief opposing the monument's placement in the building. Δ

NewsMakers

◆ **President George W. Bush** welcomed dignitaries to the White House on Nov. 7 to mark the beginning of Ramadan and thanked Muslim nations assisting in the war against terrorism. "Our nation is waging a war on a radical network of terrorists, not on a religion and not on a civilization," he said. "America rejects all forms of religious intolerance."

◆ **Aziz Latif**, a Houston Muslim, has sued the Chick-fil-A corporation, alleging managers discriminated against him because he is not a Christian. Latif said he was fired after refusing to pray to Jesus during a training session. The suit, filed Oct. 21, says that just a week before his firing, Aziz had received a performance evaluation from a superior praising him as a "great manager." He is asking for reinstatement of his job, as well as damages.

◆ **U.S. Senate Chaplain Lloyd Ogilvie** has announced plans to retire in March so he can spend time with his wife, who is recovering from an illness. Ogilvie, 73, became the 61st chaplain of the Senate in March 1995. Since that time, he has regularly opened the Senate with prayer, served as a spiritual adviser to Senate members, their families and staffs and led five weekly Bible studies for Senate employees and spouses. △

White House says faith-based measure is dead in Senate

The White House has pronounced President Bush's faith-based initiative dead in the Senate and blamed Democrats for killing the plan because of misplaced civil rights concerns.

The plan's chief Republican sponsor, Sen. Rick Santorum of Pennsylvania, tried to bring the measure to the Senate floor Nov. 14 but was blocked by Sen. Jack Reed, D-R.I., who is concerned that federal money could be used for proselytizing and discrimination.

With senators scheduled to leave town soon for the rest of the year, the faith-based bill was one of many that died for lack of time. The new 108th Congress that convenes in January will have to start again from scratch.

The Senate bill would have created \$10.4 billion in incentives for charitable giving and would have enabled religious groups to compete for funds even if they had religious names or displayed religious symbols. A much stronger version passed the House last year, but was criticized for provisions that allowed pervasively religious groups to receive government funds and skirt local anti-discrimination laws.

"The legislation had billions of dollars in new money for charities and the people they serve, and now that money has just single-handedly been thrown in the trash," said Jim Towey, the White House director for faith-based and community initiatives.

Senate Majority Leader Tom Daschle of South Dakota said he would not schedule a floor vote unless Reed's concerns could be addressed first. The Senate did not have time for a long floor debate, he said.

The faith-based bill may face a brighter future in the new Republican-controlled Senate, but its chief Democratic sponsor, Sen. Joseph Lieberman of Connecticut, said he will not support anything that resembles the Bush-backed House bill.

"We're optimistic that we can pick up where we left off and pass a bill early next year," said Lieberman spokesman Dan Gerstein, who called the bill's death a "lost opportunity."

Towey said the Lieberman-Santorum compromise was designed to sidestep the controversial church-state issues raised in the House bill.

Greg McCarthy, a spokesman for Reed, denied that Reed ever "wanted to see the bill dead," but only wanted a chance to make changes. "We want to see the bill on

the floor with a full and fair debate and a chance to offer our amendments," McCarthy said.

Church-state watchdog groups, meanwhile, celebrated the bill's defeat. Critics, led by Americans United for Separation of Church and State, said any plan that funnels government money to religious organizations is patently unconstitutional.

"I frankly don't think they can pick up where they left off in either house," said the group's executive director, the Rev. Barry Lynn.

Baptist Joint Committee General Counsel K. Hollyn Hollman said that "as long as proponents of this bill continue to duck the difficult issues of discrimination and proselytization, they will face intense opposition — and they should not be surprised by it." △

Protestants, Catholics at odds over French church-state law

Roughly a century after France passed watershed laws separating church and state, the country's Roman Catholic and Protestant communities are divided over whether the legislation should be revised.

The Protestant Federation of France has been lobbying for changes in the laws of 1901 and 1905, which define religious associations and generally forbid the state from financing them.

In a recent interview with *Le Monde* newspaper, Federation President Jean-Arnaud de Clermont argued the legislation no longer reflects France's modern religious landscape — in part because it was drafted at a time when Islam and other religions newer to France were not officially recognized.

The Protestant Federation also wants to relax restrictions on the sale of religious books inside houses of worship and collections for religious charities, among other issues. After a meeting with Catholic leaders last year, de Clermont said, "Seventy percent of our worries are the same."

But during their annual meeting in the city of Lourdes last week, the Council of French Bishops announced it would not seek changes in the 1905 law.

"We don't wish for a revision nor a tinkering of the law of 1905," declared Cardinal Jean-Marie Lustiger, the archbishop of Paris.

The 1905 legislation ended the once-close relations between the Roman Catholic Church and the French government, institutionalized under Napoleon Bonaparte. △

Faith's influence undermined, not helped, by Alabama display

Judge Myron Thompson of the U.S. District Court for the Middle District of Alabama recently handled one of the trickiest jobs in America. This federal judge had the unenviable task of presiding over a lawsuit filed by the ACLU, Americans United for Separation of Church and State and the Southern Poverty Law Center, against Alabama's Supreme Court Chief Justice Roy Moore and his display of the Ten Commandments on the grounds of the state courthouse.

In a ruling announced Nov. 18, Judge Thompson said "the evidence is overwhelming and the law is clear" that Justice Moore's action violated the Establishment Clause. Judge Thompson's ruling is certain to draw the ire of a segment of the faith community who want the monument left in place. Using words from Justice Moore's testimony during the trial, there are believers who think the state should "acknowledge the Sovereign God" of the commandments.

It is unfortunate that the debate over faith and its role in a free society has come to this. It is unfortunate that some in the faith community believe judicial sanction and the leveraging of secular government is the best way to express their religious commitments. In allowing this to happen, Justice Moore, the defendant, is guilty of a serious breach of trust. It is an indication of how Moore and those who support him have drifted from their authentic identity as members of a worshiping and praying community.

I understand the underlying motivation. These are difficult and troubling times. There is a sense that a moral vacuum is at work in our culture, sucking away all that is good and wholesome and hopeful. People of faith believe God can do something about this situation — that a relationship with God can bring healing and hope. To use Justice Moore's words again, that God is capable of returning to us "the moral foundation of law."

But like so much of American culture, people of faith can fall prey to the lure of a quick and easy fix. Rather than spend-

ing hours in prayer and spiritual formation, rather than spending years rebuilding broken families and impoverished communities, we want something that can be done in a hurry, or better yet, something someone else can do. So here comes Justice Moore, ready to provide the remedy for his fellow Alabamians — or at

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least the hope of one. Simple and easy is what he offers. All that is needed to restore the moral foundation of law is a monument to the Ten Commandments.

By embracing this quick fix solution, the faith community loses credibility and abandons its own legitimate contribution to our nation's problems. After all, it is not as courthouse decoration that Scripture has its effect: it is in living out the meaning of the words that their power is demonstrated.

It is also troubling to see how the actions of Justice Moore and the legal proceedings that accompany them diminish the language and symbols of faith. By offering up the Ten Commandments for public debate in the hopes of gaining secular approval, Justice Moore and those who support him allow the symbols and language of their faith to be stripped of their sacredness. They are content to have Scripture added to the public record, losing all distinctiveness and holiness.

That is a high price for low visibility. If people of faith really understood the profound influence that they already possess, influence that flows naturally from authentic worship and service, they would realize the futility of Justice Moore's monument. In fact, they may even find on the monument words that condemn its use. △

James L. Evans is pastor of Crosscreek Baptist Church in Pelham, Ala., and is president of the Alabama chapter of the Interfaith Alliance. Evans joined a group of Alabama clergy and religious leaders who filed a friend-of-the-court brief challenging the display. An earlier version of this column appeared in Sightings, a publication of the Martin Marty Center at the University of Chicago.

Bush distances himself from anti-Islamic comments

Without naming names, President Bush has distanced himself from some critical comments about Islam and has reiterated that it is a "peaceful religion."

"Some of the comments that have been uttered about Islam do not reflect the sentiments of my government or the sentiments of most Americans," the president said in an appearance at the Oval Office on Nov. 13 with United Nations Secretary General Kofi Annan.

"Islam, as practiced by the vast majority of people, is a peaceful religion, a religion that respects others. Ours is a country based upon tolerance, Mr. Secretary General, and we respect the faith and we welcome people of all faiths in America."

Bush did not mention the names of those who have made the "comments," but his remarks came two days after religious broadcaster Pat Robertson said Muslims "are worse than the Nazis."

Other remarks by conservative Christian leaders include those of evangelist Franklin Graham, who has said Islam is a "very evil and wicked religion," and former Southern Baptist Convention president Jerry Vines, who called Islam's Prophet Muhammad "a demon-possessed pedophile." Jerry Falwell called Muhammad a "terrorist" but later apologized for his remarks. △

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When Religion Becomes Evil

Charles Kimball. HarperCollins Publishers: New York, New York, 2002; 256 pp.



Charles Kimball's new work, *When Religion Becomes Evil*, contains both in-depth analysis and pragmatic reflection for Christians living in a religiously diverse and increasingly globalized society. Kimball provides tools for understanding the phenomenon of violence in the name of God, as well as direction for involvement as a person of faith in a pluralistic world.

Kimball articulates that all authentic religions posit the values of relationship with God (or the transcendent) and relationship with others in the world. When these two corresponding principles are severed, and in particular, when allegiance to God takes precedence over a concern for neighbor, religion ceases to be true to its heart and can become dangerous.

Kimball insists that every religious tradition has the capacity for both good and evil, especially among one another. He cites Hindu-Muslim violence in India, the ongoing violent enmity between Palestinians and Israelis, war crimes perpetrated by Serbian Christians against Bosnian Muslims, and fundamentalist Christians attacking and sometimes murdering doctors who work at U.S. abortion clinics as just a few examples reported in daily news accounts. Kimball decries comparing the good of one religion to the evil of another as an unproductive strategy for dealing with the vast challenge of the contemporary scene. Rather, Kimball presents a catalog of factors that have led all major religions to transgress their core values and do immense harm in the name

of the ultimate reality they serve. Kimball's five preludes to religious corruption are: absolute truth claims, blind obedience, the establishment of the "ideal" time, the idea that the end justifies any means and the declaration of holy war.

In the final chapter, "An Inclusive Faith Rooted in a Tradition," Kimball moves beyond "predicting" what causes religions to initiate evil to his vision for "how religion can remain true to its authentic sources and a force for positive change." Kimball asserts the need for every religious tradition to assess its doctrine and reform itself in response to changing social climates and relationships. He sees openness to reform as a key antidote to fundamentalist interpretations that lead to aggression. As people of faith we can both affirm our own precious held religious principles, while acknowledging that we cannot know the full scope of God's intention for humanity. From within this framework, Kimball offers Christians three perspectives for relating to other religions: exclusivism, inclusivism and pluralism.

Perhaps Kimball's greatest achievement is taking extremely complicated historical, political, religious and social conflicts in the Middle East and presenting them in comprehensible bits. Because he has done extensive work in the area of Christian-Jewish-Muslim relations, Kimball is able to explain the intricacies of the current climate in the Middle East with the savvy of a foreign affairs correspondent, the depth of a religious scholar and the conviction of a person of faith. *When Religion Becomes Evil* is a must read for anyone who is serious about religious dialogue in a post-September 11 world.

— Stephanie Wyatt
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