

New Church-State Challenges Crawl Out from Under a Rock

by Anne Lyster

beneath the cover of darkness in the wee morning hours of August 1, 2001, Roy Moore, chief justice of the Alabama Supreme Court, had a 2.5 ton granite Ten Commandments monument the size of a washing machine moved into the rotunda of the Alabama Judicial Building. He then defied authorities who tried to take it away. A federal district court subsequently ruled the monument an unconstitutional government endorsement of religion and ordered it removed. Moore appealed that decision to the U.S. 11th Circuit Court of Appeals but lost. Because he refused to dismantle the monument by the court's deadline, Moore was suspended as Alabama's chief justice. Furthermore, the eight associate justices of the Alabama Supreme Court unanimously ordered compliance with the federal court decision. "Roy's Rock" (as it had come to be called) was finally hauled from public view by an out-of-state moving company on August 27, 2003.

But the saga continues. After the removal, the Reverend Rob Schenk, president of the National Clergy Council, and the Reverend Patrick J. Mahoney, director of the Christian Defense Coalition, organized a five state "Save the Commandments Caravan" to protest recent court decisions against this and similar Ten Commandments displays elsewhere in the country and to promote religious symbols on federal and public property. Moore himself accompanied part of the caravan road show, which featured the styrofoam mold used to create the monument, and offered the original rock to Congress for exhibit in Washington, D.C. The caravan arrived at the nation's capital on October 5, with demonstrators and counter demonstrators staging media events.

Beneath the surface of this circus, however, lie the real dangers to church-state separation: two related bills have emerged in Congress. Representative Robert Aderholt (Republican, Alabama) and Senator Wayne Allard (Republican, Colorado) have introduced legislation aimed at limiting the authority of federal judges to make decisions about religious expression. The Ten Commandments Defense Act (HR-2045) would allow state legislatures to decide whether the Ten Commandments can be displayed in federal and public spaces. The act has eighty-five cosponsors

in the House of Representatives and has been referred to the House Subcommittee on the Constitution. Meanwhile, the Religious Liberties Restoration Act (S-1558), currently under consideration in the Senate Judiciary Committee, would restrict federal review of the Ten Commandments, the motto "In God We Trust," and the Pledge of Allegiance.

That isn't all. In an effort to return broad latitude to religious leaders, Representative Wayne Jones (Republican, North Carolina) has introduced the Houses of Worship Free Speech Restoration Act (HR-235). This bill would repeal then-Senator Lyndon B. Johnson's 1954 amendment to the federal tax code providing that nonprofit organizations with 501(c)(3) status be barred from endorsing or opposing any political candidate. Though it is unknown if Johnson's motivation was to target political opponents with nonprofit status or also religious institutions, the amendment was passed unanimously at the time.

The amendment is now being tested in South Central Los Angeles, California. On September 14, 2003, the First African Episcopal Church hosted a political rally supporting Governor Gray Davis in the California recall election. While speaking at the rally, former President Bill Clinton encouraged the congregation to vote against the effort to recall the governor. Americans United for Separation of Church and State recognized this as a violation of the 1954 amendment and has urged the Internal Revenue Service to conduct an investigation.

The Christian Coalition of America, arguing for both expanded religious expression across the nation and the repeal of the 1954 amendment, held a press conference on Capitol Hill October 1, 2003, promoting their current "Let's Take America Back" campaign. Its goal is to present one million signatures to Congress in January 2004 to show support for overruling Ten Commandments decisions. Christian Coalition President Roberta Combs declared, "Since the 1960s, secular fundamentalists have been using the media and our nation's court system in an effort to erase all evidence that America was founded by Christians." She added that the Christian Coalition is "here to say that this anti-Christian bigotry has no place in this great country."

If all this weren't furor enough, however, the U.S. Supreme Court recently announced that in December 2003 it would hear *Locke v. Davey*, a case from Washington state that challenges a state regulation making theology majors ineligible for scholarships. So the culture war over government expression of majority religious concepts shows no signs of dying down for the foreseeable future.

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