

Red River Rationalist

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redriverfreethinkers.org

OLD BOOKS; NEW BOOKS

Davis Cope

[Reviews books or anything else interesting to Cope.]

On 27 November 2002, suit was filed in Federal District Court seeking to have Fargo's Ten Commandments monument moved from its Civic Center Mall on the basis that its presence on public property violated the First Amendment's Establishment Clause. The plaintiffs were four members of Red River Freethinkers (Wes Twombly, Bill Treumann, Lew Lubka, and myself) and Jon Lindgren, former Fargo mayor. The decision, filed 29 September 2005, was against us: the monument stays. In the last newsletter, I passed along the press release stating we plaintiffs would not appeal, and here I will explain why an appeal is not feasible.

Three years ago, when the case was filed, there was a widely used legal test for judging church-state separation issues, based on a Supreme Court decision of 1971. For example, using that test in December 2000, a Seventh Circuit Court of Appeals decision found an Elkhardt, Indiana situation very similar to Fargo's to be a church-state violation. The fact that the Supreme Court declined to hear an appeal of that decision (29 May 2001) was a factor in RRF raising the issue with the Fargo City Commission in August 2001.

Furthermore, at the time our suit was filed here in the Eighth Circuit, another Eighth Circuit case involved such a monument in Plattsmouth, Nebraska. The District Court decision to move that monument was appealed and was heard in January 2003. The appeal decision was finally made in February 2004 and also held that the monument was a violation. However, a somewhat unusual form of appeal, for an "en banc" hearing, an appeal from the customary 3-judge panel to a decision by the entire group of Circuit justices, was granted around September 2004. That en banc decision was apparently postponed pending a Supreme Court decision involving a Texas monument case (Fifth Circuit). The Texas monument case was argued before the Supreme Court on 2 March 2005, and we finally had our day in District Court on 11 March 2005. Our case was therefore one of several monument cases argued and waiting for a Supreme Court decision to provide guidance.

That decision (*Van Orden v. Perry*) was filed 27 June 2005. The Court decided that the previously used 1971 test "is not useful in dealing with [this] sort of passive monument ... ". Applying new criteria, the Court decided a Ten Commandments monument could remain on Texas Capitol grounds. The Eighth Circuit immediately applied that decision to the Plattsmouth, Nebraska case (19 August 2005), finding that a Ten Commandments monument could stay in a public park (overturning the original District and Appeals decisions). And both decisions were immediately applied by the District Court to our case (29 September 2005), finding that the Fargo monument could stay.

That is why an appeal is pointless. Normally, one might appeal a District Court decision to a Circuit Court, arguing, say, that the choice or emphasis or interpretation of precedents used was incorrect. The Circuit Court might then uphold or overturn the decision, and in doing so would clarify the precedent, or perhaps set a new one, for the Circuit. A further appeal to the Supreme Court, if the Court accepted it, would then establish a precedent for all Circuits. But this process of objecting to a decision at a

lower level by appealing to a higher level for resolution cannot be applied in our case. The District Court has applied precedents literally set at both the Circuit and Supreme Court levels within the past few months. Appeal is pointless. The higher level decisions have already been made, and they are against our position.

What does this mean? First, these cases of Ten Commandments monuments on public property are borderline cases. No one disputes that the Ten Commandments represent a religious statement from a particular religious tradition (Judeo-Christian). The question is how to distinguish between settings where such display endorses religion, and is thus an Establishment Clause violation, and where it appears as part of a permissible context. Such cases have sparked a mini-revolution in the 1971 criteria, and the result is a shift in wall of separation criteria to favor the church side. Is this important? One view is that the matter is simply a protest about lawn ornamentation and is obviously trivial. This is the tenor of various irate letters to the editor (and of irate editors). This view confuses issues of financial effect with issues of Constitutional interpretation. I say such Ten Commandments cases are all the more important because the financial or physical effect of a decision is negligible, and the case can therefore concentrate entirely on questions of principle, on the central issue of where the church-state separation boundary is to be drawn.

At first glance, it might also seem that the issue of principle here is minor. We are not talking about denying people the vote on the basis of their religious opinions (or lack of them). I say that is misleading. We do not appreciate how big a role the First Amendment plays in the shaping of our present society because it typically works in very indirect ways. For example, we have a federal trial just finished (with a verdict expected in January) over the science curriculum in the Dover, Pennsylvania high school.

What, one might well ask, is such an issue doing in the federal courts? Why isn't this being handled at the state or county level? The first thing to understand here is that the choice of curriculum is indeed a local choice, so that a local school board is, in our country, empowered to replace astronomy by astrology, or to enforce an equal-time rule for chemistry and alchemy. They might run into some complaints about meeting state science standards, but that's not a crime. However, we do not run into chemistry-alchemy disputes very often, presumably because our country does not have vast organizations of alchemists and astrologers utilizing TV broadcasting, access to national media coverage, and traveling proselytizers calling for astronomers and chemists to open their closed and wicked minds and include True Science in high school curricula. What we do have is such organizations of creationists making the same appeal to biology teachers and, of course, influencing local school boards. What recourse do local parents have if they wish to support science standards? They can vote out the school board, if they are a majority. If not, they have no local recourse. But they can go to the federal courts and raise a First Amendment issue because so far creationists, even with the help of God Almighty, have not been able to hide their religious agenda (so far). That is why the Dover case is in federal court. (In fact, the Dover school board was voted out, but that was after the case had already gone to the courts.) All this is the first reason the issue is in federal court. The second reason is that the First Amendment only means what the courts say it means, and, thanks to that 1971 precedent, they've been saying pretty much the same thing for over 30 years (with a number of anti-creationist decisions along the way). Now, at least in Ten Commandments cases, the courts are saying something different. The effects of this mini-revolution will now begin to play out, and it will be interesting to watch how *Van Orden v. Perry* is used in the coming years.

*Stupid is forever;
Ignorance can be fixed.*

CRETINISM?

Pity the poor citizens of Dover, Pa. No sooner had they rid themselves of the embarrassment of a school board that tried to write intelligent design into its biology classes than Christian Coalition founder Pat Robertson pronounced a fatwa on the whole town.

Woe to a community that votes out a board that squinted toward creationism and replaces it with a new one.

If some disaster befell Dover, said Robertson on his TV show, "Don't turn to God. You just rejected him from your city." For the lawyers who had been trying to defend Dover's policy in a federal suit by arguing that intelligent design was not creationism and so did not represent an attempt to write religion into the science program, Robertson's statement couldn't have been very helpful. The suit will now probably be moot. But if there's another case challenging intelligent design, Robertson will make a great witness for the plaintiffs.

It was pure coincidence that on the very same day that the Dover board was dumped, the Kansas Board of Education took a big step in the other direction. Not only did it approve new science guidelines that invited challenges to evolution, but it wrote its own definition of science so that it would no longer be limited to natural explanations of natural phenomena. Where is Henry Mencken when we so desperately need him?

The new Kansas guidelines, as expected, came not in the name of religion but of free inquiry. One of the six members voting for the new guidelines said he was pleased to be "on the edge of trying to bring some intellectual honesty and integrity to the science classroom rather than asking students to check their questions at the door because it is a challenge to the sanctity of evolution."

The above is quoted from a column by Peter Schrag (Creationism. It's not just in Kansas anymore) that appeared in the *Sacramento Bee* (November 23, 2005). He goes on to mention several other school districts that are pressing to include "intelligent design" in their science teaching.

submitted by **Ron Fredrickson**

You will have noticed that all these proponents of creationism insist that it has nothing to do with religion. Isn't it interesting though, that Pat Robertson calls down the wrath of God on any who dare to vote against it? CC

Memberships Due for 2006

For most of you, your memberships to Red River Freethinkers for 2006 are due this month. Your contributions are the only source of income for this organization.

Without your continued support, we will no longer be able to continue producing and distributing this newsletter.

Individual Membership \$30/year

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Send dues, along with name, address, phone number, and e-mail address to: Red River Freethinkers, P.O. Box 405, Fargo, ND 58107-0405

_____ **Your membership for 2006 has been paid.**

_____ **You are not yet a member for 2006**

Still at War

The article "We are at War" from the October RRR was expanded slightly and sent to the local newspaper, where it was printed as a Commentary on the Opinion page (*Echo Press*, Nov. 11, 2005).

I personally had positive feedback from several readers and -- as expected -- some negatives were fired back as letters to the editor. The first one (*Echo Press*, Nov. 23) is a classic reinforcement of my comments on the attack on science and education and was captioned "Creation science is the truth." It read, in part, as follows:

Creation science is not just a "religious idea." It is the truth. The Bible says so. Scientific discoveries bear out the fact of how complex our world and bodies are. The orderliness of the universe or its very existence cannot be explained by evolution. I choose to believe God and not Charles Darwin.

Mr. Crane, there is a cultural war on already. The Biblical view of creation and the Bible have always been taught in our schools until the last few decades. There is supposed to be freedom of speech in our country, but it seems this is true for everyone except Christians.

Students are not getting a good basic education when they are denied the right to discuss and be taught an opposing view to the theory of evolution. Many passages in great literature uses phrases from the Bible. Without a knowledge of the Bible, they do not understand.

Jackie Wilken, Miliona, MN

I will respond to this -- not with any hope of changing this person's mind, but because it irks me that the religionists always try to have the last word. Also, I think readers of the paper who are not up to

speed on the "intelligent design" blitz need to hear the other side. The letter above is a textbook example of circular reasoning: "it's true because the Bible says it's true and everything in the Bible is true. How do I know this? Because it says so in the Bible."

I will try to point out (again) that I have no objections to children learning about religion and the Bible in social studies, history, literature, art, music, etc., but that it does not belong in the science curriculum. Does this person think that we should use the Bible as a science text? (And, in our diverse culture, shouldn't we also include the Koran, the Book of Mormon, the Talmud, the Vedas, and other holy books?) Would she have us teach students that the world is flat? That the sun revolves around the earth? That the whale is a fish? That insects have four legs and that bats are fowl?

Recent polls show our students are falling behind most other developed countries in math and science and that scientific knowledge in the U.S. is poor. It probably is not a coincidence that, among the world's developed nations, the U.S. has by far the most religious population. But, I think I'm preaching to the choir here.

The next response in the paper was from a man I know quite well. He's a nice fellow, but an old-school Catholic and he thinks George W. Bush is the world's most wonderful human being. This gentleman's name is Jim Korkowski and he has a commentary in the Nov. 25 *Echo Press*. I'm not going to print any of that here, but anyone interested can read it on the internet. Just go to www.echopress.com and click on "archives," then enter the date and writer's name and choose the "opinion" section. I can't really respond to this (the paper won't accept letters from one individual more than once each 30 days). Besides, I try not to get into peeing contests with skunks. I would really appreciate it if any of the RRR readers would care to reply to Mr. K. Letters to the editor may be e-mailed to echopress.com.

Jim starts off by "scratching his head in disbelief" that anyone can think like I do. He then pretends to believe that I come out against science, civil liberties, education, etc., when instead I am accusing the Bushites of this. Well, take a look and you'll see what I mean. I hope some of you will be inspired to respond to his views.

- **Chuck Crane**

Dictionary of Republicanisms

creationism n. Pseudoscience that claims George W. Bush's resemblance to a chimpanzee is totally coincidental.

faith n. The stubborn belief that God approves of Republican moral values despite the preponderance of textual evidence to the contrary.

honesty n. Lies told in simple declarative sentences.

neoconservatives n. Nerds with Napoleonic complexes.

pro-life adj. Valuing human life up until birth.

staying the course interj. Saying and doing the same stupid thing over and over regardless of the result.

woman n. 1. Person who can be trusted to bear a child but can't be trusted to decide whether or not she wishes to have the child. 2. Person who must have all decisions regarding her reproductive functions made by men with whom she wouldn't want to have sex in the first place.

The above are from the book, *Dictionary of Republicanisms* (Nation Books). *Note to our Republican friends: these do not apply to you, unless you are a neocon; if you are a neocon, you are only reading this to make yourself mad anyway.* ed.

The **Red River Freethinkers** is organized by freethinkers to be a nonprofit educational organization.

We are a group of nonreligious people skeptical of religious dogma.

We advocate Intellectual Freedom and the use of Reason.

Articles and letters in this newsletter present ideas and opinions of individual writers and do not necessarily reflect those of the **Red River Freethinkers** organization.

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Red River Freethinkers Calendar

Regularly scheduled meetings are held at 2:30 p.m. on the third Sunday of each month at the Fargo Unitarian Universalist Church at 121 9th Street South in Fargo.

Sunday, December 18 is the **Winter Solstice Party** and will be an unhosted potluck at **1:30 to 3:30 p.m.** at the Unitarian Universalist Church.

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"The radical religious right has succeeded in taking over one of American's great political parties -- the country is not yet a theocracy but the Republican party is -- and they are driving American politics, using God as a battering ram on almost every issue: crime and punishment, foreign policy, health care, taxation, energy, regulation, social services, and so on."

- **Bill Moyers**

Bible Verse

Another in our series of limericks to help make Bible study more fun:

*We all know Eve let Satan prevail,
When, in Eden, the snake made his sale;
But the Lord fixed his wagon --
And his butt is sure draggin' --
He can't talk now nor hop on his tail.*

(Genesis 3:1-14)

For readers who don't have their Bible handy, the appropriate Bible passages are herewith appended:

(In Gen. 3:1-12, the serpent talked Eve into eating the apple, then she gave Adam a bite. Later, the Lord took a stroll in the garden and saw them hiding their nakedness).

3:13 And the Lord God said unto the woman, What is this that thou hast done? And the woman said, the serpent beguiled me, and I did eat.

3:14 And the Lord God said unto the serpent, Because thou hast done this, thou art cursed above all cattle, and above every beast of the

field; upon thy belly shalt thou go, and dust shalt thou eat all the days of thy life.

Readers of RRR are encouraged to submit their own favorite passages from the Bible (preferably KJV) in the form of a limerick.

* * * * *

"The corporate, political and religious right have converged, led by a president who, in his own disdain for science, reason and knowledge, is the most powerful fundamentalist in American history."

- Bill Moyers

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