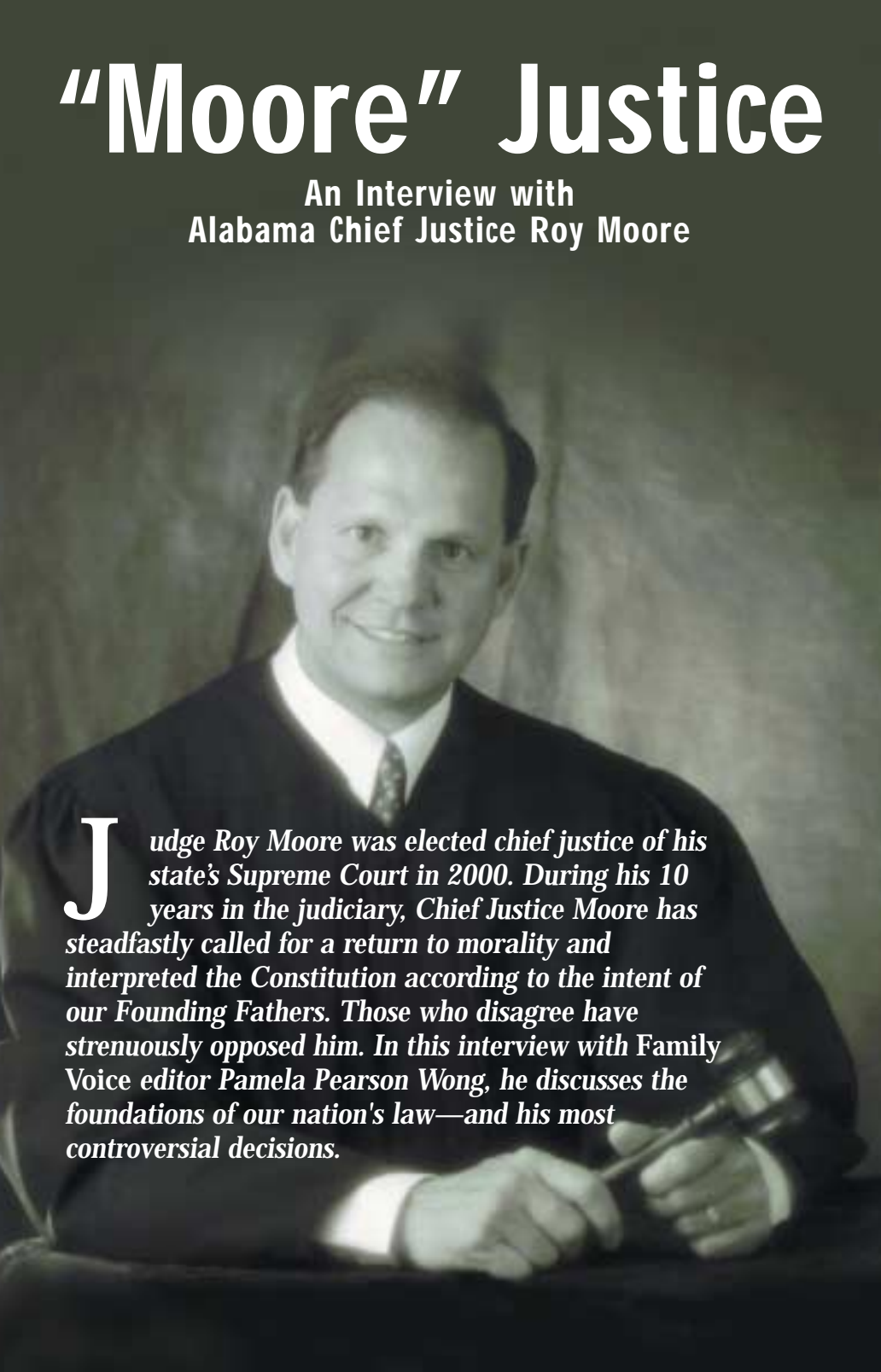


# “Moore” Justice

An Interview with  
Alabama Chief Justice Roy Moore



**J**udge Roy Moore was elected chief justice of his state's Supreme Court in 2000. During his 10 years in the judiciary, Chief Justice Moore has steadfastly called for a return to morality and interpreted the Constitution according to the intent of our Founding Fathers. Those who disagree have strenuously opposed him. In this interview with Family Voice editor Pamela Pearson Wong, he discusses the foundations of our nation's law—and his most controversial decisions.

## **As a newly elected Alabama circuit judge in 1992, why did you post the Ten Commandments in your courtroom?**

Because I firmly believed that God had placed me in that office. I had run twice before and been barely defeated because of corruption in the political system. When I was nominated [after] a judge died, I prayed that I would not get this job if it were not God's will. So I was convinced that God had placed me there.

I ran across the Ten Commandments that I had carved by hand some 10 years earlier. I would have been quite hypocritical not to acknowledge the One who had placed me in office, so I hung them on the wall. I knew they would be controversial, but I did not suspect this would become a national controversy. Congress has actually passed several resolutions in my support, but I didn't anticipate that. And several states have now started displaying the Ten Commandments.

I became embroiled [over this issue] with the American Civil Liberties Union [ACLU] and the Alabama Free Thought Association, and I began investigating the historical precedent in the law [including works such as] Blackstone's *Commentaries*, which were the foundation for American law; Hillary de Bracton's work in the history of the common law in 1256; John Locke's *Treatise on Civil Government*; the works of Montesquieu and others. I found that God's law was the source of our law and the basis of our Constitution.

## **What was the role of the Ten Commandments in our modern**

## **system of law?**

Washington said in 1796, "Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports." He was talking about religion, the first four commandments, which consist of the duties we owe to God, and morality, the next six commandments, the duties we owe to each other. Washington basically said they form the basis of all political institutions. In fact, I find that the First Amendment to the U.S. Constitution is founded on a belief that we have a duty to worship God.

We take that First Amendment today and preclude any acknowledgement of God in public, and that is completely improper. Joseph Story, who was a Supreme Court justice for some 34 years, said, "It remains a problem to be solved in human affairs whether any free government can be permanent where the public worship of God and the support of religion constitute no part of the policy or duty of the state in any assignable shape."

## **A recent decision of the Alabama Supreme Court not to grant child custody to a lesbian mother has also been controversial. What was the basis for that decision?**

When I took office as chief justice, my pledge was to restore the moral foundation of law, and that requires acknowledging its source: God's law. In Alabama, homosexuality is a declared criminal offense, based on the common law and the statutory law. I simply repeated the law in addressing that issue.

# Politically *Incorrect*

By Thomas L. Jipping, J.D.

There's nothing less Politically Correct than suggesting homosexuality is detrimental or deficient. I remember being spit on in a juvenile law class for suggesting children ought to be raised by heterosexual parents.

I'm in good company. Though he was just doing his job, Alabama Supreme Court Chief Justice Roy Moore is getting spit on for saying the same thing. In a recent case, a divorced mother in California started a lesbian relationship and asked that physical custody of three minor children be given to their father, who had moved to Alabama. Last year, an

Alabama appeals court granted her request to get the children back. The court said that "[n]o evidence indicated that the mother's homosexual relationship ... would have a detrimental effect on the well-being of the children."

The state Supreme Court unanimously reversed that decision. Trial courts are supposed to weigh the evidence and appeals courts may not re-weigh it. They may only make sure trial court decisions are not "plainly and palpably wrong."

Chief Justice Moore explained that the appeals court could not re-weigh the

## **Can you describe the reaction?**

We've heard many positive things and many negative things. Lambda [a gay-rights group] and one of the local legislators filed a complaint with our Judicial Inquiry Commission. And of course I've got federal lawsuits filed on the Ten Commandments by the ACLU, the Americans United for Separation of Church and State, and the Southern Poverty Law Center here in Montgomery.

## **Have you received threats or hate mail?**

I've been receiving hate mail since the Ten Commandments went up, because a lot of people on the other side recognize the direct correlation between morality and God. That's something that Christians need to recognize, too.

Washington said in that same speech, "Whatever may be conceded, the influence of refined education on minds of peculiar structure, reason

and experience both forbid us to expect that national morality can prevail at the exclusion of religious principle." Without acknowledging God and recognizing the duties that we owe to Him, morality will fail. We wonder why children are killing themselves in schools, why mothers are killing their babies, why husbands are deserting their wives, why people are molesting children, and at the same time try to maintain this exclusion of God from our lives. It can't be done.

## **Some are saying that it is too late to turn back public opinion on the acceptability of homosexuality. What do you think?**

Thomas Jefferson said in his Bill for Religious Freedom, "The truth is great and will prevail if left to herself. If she is the proper and sufficient antagonist to error, and has nothing to fear in the conflict unless by human

evidence about the impact of the mother's lesbian relationship. Under Alabama law "the homosexual conduct of a parent ... creates a strong presumption of unfitness." And whatever Chief Justice Moore's personal religious beliefs, he based his opinion squarely on the law.

Chief Justice Moore cited the state Constitution, four different state statutes, and nearly a dozen prior decisions by Alabama courts. The same appeals court that said the mother's lesbian relationship would have no detrimental effect had ruled a decade earlier that a mother's lesbian relationship "created an environment in which the minor children should not be reared." The court had ignored its own precedents.

Alabama law includes written law and common law, judicial decisions reflecting the standards and moral views of society developed through the years. In addition to Alabama's written law, the common law has long condemned homosexuality.

Homosexual activists no doubt oppose the result of this decision. They are free to try to change the law of Alabama and the moral standards of its citizens. But the court, and Chief Justice Moore, are sworn to uphold that law so long as it exists. They did exactly what judges are supposed to do.

*By Thomas L. Jipping, J.D., CWA's Senior Fellow for Legal Studies.*

interposition disarmed of her natural weapons: free argument and debate. Error ceases to be dangerous when it is permitted to contradict them." He said that truth will always triumph over error, unless mankind intervenes and cuts off free argument and debate. It doesn't matter how far down the road we have gone.

### **So you are seeing the avenues of debate being squelched across our country?**

Absolutely. I see that the press, and I'm facing this in Alabama, is cutting off truth, and I've seen a lot of church groups and others that have remained silent. "The only thing necessary for evil to triumph," Edmund Burke once said, "is for good men to do nothing." And I see a lot of good men around, but I see them doing nothing.

### **You've written on returning God to the public square. How do we**

### **do that?**

I advise people to read their history books, those that were printed before the 1960s anyway. Read the founding documents. Study what the forefathers stated and what they believed.

We can look as late as 1954, when the U.S. Congress put "under God" in the Pledge of Allegiance. Congress said, "It should be pointed out that the adoption of this legislation in no way runs counter to the First Amendment of the Constitution. This is not an act establishing religion or one interfering with the free exercise of religion. A distinction must be made between existence of religion in an institution and the sovereignty of God." Indeed, government should not establish an institution or a means of worshipping God. But that in no way diminishes our duty to worship God. It's a duty that depends not on the human legislature, and indeed it cannot be prohibited by any legislature.

1992

**Roy Moore is elected judge of Alabama's 16th Judicial Circuit Court. He displays a plaque of the Ten Commandments and allows courtroom prayers.**

1995

**The American Civil Liberties Union (ACLU) files a lawsuit in federal court, alleging that Moore's display of the Ten Commandments and allowance of prayer violate the "separation of church and state."**

1996

**A circuit judge rules that Moore must stop the courtroom prayers.**

1997

**The same judge rules Moore must remove the Ten Commandments replica, or combine them with secular decorations. Moore appeals.**

1998

**The Alabama Supreme Court throws out the ACLU's lawsuit.**

2000

**Judge Moore is elected chief justice of the Alabama Supreme Court.**

2001

**On August 7, Moore unveils a monument featuring the Ten Commandments and quotations from Washington, Jefferson and Madison in the state judicial building. In October, the ACLU and two other groups file a federal lawsuit challenging the display.**

2002

**On February 15, the Alabama Supreme Court unanimously denies custody to a lesbian who surrendered her three children to her ex-husband when she left the family for another woman. The ruling reverses the Court of Civil Appeals.**

**The gay-rights group Lambda Legal Defense files a formal complaint and calls for a full investigation, saying Moore is "unfit because of his shockingly prejudiced statements against gay people in recent legal opinion."**

**On March 21, a judicial panel dismisses Lambda's complaint of bias against Justice Moore.**

## **Why is our country's judicial system so adverse to returning God to the public square?**

"Because that, when they knew God, they glorified him not as God, neither were thankful; but became vain in their imaginations, and their foolish hearts were darkened, professing themselves to be wise, they became fools, and changed the glory of the incorruptible God into an image made like to corruptible man, and to birds ... and creeping things" [Romans 1:21-23]. We've become too wise in our own eyes to recognize that there is a wiser, sovereign power. We want to do what we want, whether in the sexual or material realm.

## **You've commented, too, on the reinterpretation of the Constitution. Can you give some examples?**

When the First Amendment was proposed and written, it certainly didn't preclude an acknowledgement of God. The words haven't been changed; man's view has been substituted for a view of God. That's one example; you can look at virtually every aspect of our Constitution.

The Constitution served a valuable purpose to delineate the powers of the branches of our government, so that no one branch could become supreme. And today we have three branches doing what the other branches are supposed to do. Courts are making law, or what has the authority of law. We're allowing the president [instead of Congress] to declare wars. We're giving up our national sovereignty to the United Nations. We've forgotten what our Constitution is all about.

The Constitution was founded on

fixed principles, in order that man's power could be curtailed, that there would be no abuse of power. Thomas Jefferson said, "In questions of power then let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution." We've loosened the chains.

### How is judicial activism affecting our culture?

Judicial activism includes doing something that is not the judge's right to do. It is not the court's right to make law. So when courts actually make the law, make the rules that govern our society, they become judicial activists. [Current U.S. Supreme Court] Justice Antonin Scalia once wrote in *Harper v. Virginia Department of Taxation*: "Some justices see their role under the Constitution to say what the law shall be, not what it is." We're not supposed to, as judges, envision society and try to transform it into what we would like it to be.


When we start saying that man's nature is changing, then we can change the rules all we want. But man's nature never changes. Sure we have computers, space technology, more advanced medicine and engineering. But man's nature hasn't changed—only our knowledge of scientific facts has grown.

### Where do you get the strength to go against the tide and withstand the criticism and attacks?

From God. The Scripture says, "Blessed are you when men shall revile you and persecute you and say all manner of evil against you falsely for

my sake. Rejoice and be exceeding glad for your reward is in heaven, for so persecuted they the prophets who were before you." [Matthew 5: 11-12]

### Does it get discouraging?

The enemy is relentless, and you must deal with your own human nature to want to find some peaceful corner and retire. But memories of my heritage always come back, and hope for the future for my children. I remember what I was taught at the U.S. Military Academy [West Point]—"duty, honor and country"—and I see our honor forsaken, our duty neglected. I gave an oath to support the Constitution of the United States. The way I can do that is to acknowledge its foundation and the principles upon which it is predicated. 

*For an easy-to-read explanation of the U.S. court system, order your free copy of CWA's paper, "Understanding American Courts." Call 1-800-323-2200, use the coupon on page 38, or read it at <http://fv.cwfa.org/courts>.*

## HOW YOU CAN HELP

- PRAY** that God will grant Chief Justice Moore wisdom and understanding of God's will, and the strength and courage to do it.
- PRAISE** God for judges who are faithfully upholding—instead of attempting to make—the law.
- ACT** Express your support: Chief Justice Roy Moore, Alabama Supreme Court, 300 Dexter Ave., Montgomery AL 36104.