Ten Commandments in America (Radio)

The ongoing debate about the posting the Ten Commandments in public places has certainly been controversial for the last few decades. But as we will see this week, there was a time not so long ago when politicians and citizens alike saw the Ten Commandments as the very foundation of our society.

In 1980, the Supreme Court ruled against the posting of the Ten Commandments in the public schools in the case of *Stone v. Graham*. They ruled that the preeminent purpose for posting the Ten Commandments on schoolroom walls is plainly religious in nature.

The justices even worried what would happen if students were to read the Ten Commandments on their classroom wall: If the posted copies of the Ten Commandments are to have any effect at all, it will be to induce the schoolchildren to read, meditate upon, perhaps to venerate and obey, the Commandments. However desirable this might be as a matter of private devotion, it is not a permissible state objective under the Establishment Clause.{1}

In 2005, the Supreme Court revisited this decision because of cases from Kentucky and Texas. A divided court struck down displays in two Kentucky courthouses, but ruled a Ten Commandments monument on state government land in Texas was acceptable. Anyone looking for a clear line of reasoning that provides guidance for future cases will not find them.

In the Kentucky cases, two counties posted copies of the Ten Commandments on the walls of their courthouse. These framed copies of the Ten Commandments hung alongside documents such as the Bill of Rights, the Star-Spangled Banner, and a version of the Congressional Record declaring 1983 the Year of the

Bible. These were considered unconstitutional.

The Texas case involved a six foot granite monument on the grounds of the Texas Capitol. It was deemed acceptable because it is one of seventeen historical displays on the twenty-two-acre lot. Although this was considered constitutional, some justices couldnt even accept that. Justice John Paul Stevens said, The monument is not a work of art and does not refer to any event in the history of the state, he wrote. The message transmitted by Texas chosen display is quite plain: This state endorses the divine code of the Judeo-Christian God.{2}

Other justices noted that one monument among many others is hardly an endorsement of religion. You can stop to read it, you can ignore it, or you can walk around it. Chief Justice William Rehnquist argued that the monuments placement on the grounds among secular monuments was passive, rather than confrontational. Justice Antonin Scalia listed various ways in which higher beings are invoked in public life, from so help me God in inaugural oaths to the prayer that opens the Supreme Courts sessions. He asked, With all of this reality (and much more) staring it in the face, how can the court possibly assert that the First Amendment mandates governmental neutrality?

The framers of the Constitution didnt try to mandate neutrality. They understood that ultimately law must rest upon a moral foundation. One of those foundations was the Ten Commandments.

Ten Commandments in American History

When we look at the Founding Fathers, we see they wereanything but neutral when it came to addressing the influence of the Ten Commandments on our republic. For example, twelve of the original thirteen colonies incorporated the entire Ten Commandments into their civil and criminal codes. {3}

John Quincy Adams stated, The law given from Sinai was a civil and municipal as well as a moral and religious code. These are laws essential to the existence of men in society and most of which have been enacted by every nation which ever professed any code of laws. He added that: Vain indeed would be the search among the writings of [secular history] . . . to find so broad, so complete and so solid a basis of morality as this Decalogue lays down.{4}

John Witherspoon was the president of what later came to be known as Princeton University and was a signer of the Declaration of Independence. He said that the Ten Commandments are the sum of the moral law.{5}

John Jay was one of the authors of *The Federalist Papers*. He later became the first Chief Justice of the U.S. Supreme Court. He said, The moral or natural law, was given by the sovereign of the universe to all mankind.{6}

On September 19, 1796, in his Farewell Address, President George Washington said, Of all the dispositions and habits which lead to political prosperity, Religion and Morality are indispensable supports.{7}

William Holmes McGuffey, considered the Schoolmaster of the Nation, once said, The Ten Commandments and the teachings of Jesus are not only basic but plenary.{8}

The founders of this country also wanted to honor Moses as the deliverer of the Ten Commandments. After separating from England, Thomas Jefferson and Benjamin Franklin were responsible for designing a symbol of this newly formed nation. Franklin proposed Moses lifting his wand and dividing the Red Sea.{9}

In the U.S. Capitol, there are displays of the great lawgivers (Hammurabi, Justinian, John Locke, William Blackstone, etc). All are profiles of the lawgivers except for one. The relief of Moses is full faced rather than in profile and looks

directly down onto the House Speakers rostrum.

Anyone who enters the National Archives to view the Declaration of Independence or the Constitution must first pass by the Ten Commandments embedded in the entry way of the Archives. Likewise, there are a number of depictions of the Ten Commandments. One is on the entry to the Supreme Court Chamber, where it is engraved on the lower half of the two large oak doors.

Another is engraved in the stone above the head of the Chief Justice with the great American eagle protecting them. And Moses is included among the great lawgivers in the sculpture relief on the east portico.

Chief Justice Warren Burger noted the irony of this in theU.S. Supreme Court decision of *Lynch v. Donnelly*. The very chamber in which oral arguments on this case were heard is decorated with a notable and permanentnot seasonalsymbol of religion: Moses with the Ten Commandments.{10}

The Commandments in Civil Law

Let's see how the Ten Commandments were expressed inAmerican civil law. It may surprise you to find out that all of the commandments were written into law in some way.{11}

These illustrations are descriptive, not normative. I am not arguing that we must return to these legal formulations in every case cited. We may certainly disagree to what extent the Ten Commandments should be part of our legal structure. But there should be no disagreement that at one time the Ten Commandments were the very foundation of the civil laws of America.

The Ten Commandments can be summarized in this way: (1) Have no other gods, (2) Have no idols, (3) Honor Gods name, (4) Honor the Sabbath, (5) Honor your parents, (6) Do not murder,

(7) Do not commit adultery, (8) Do not steal, (9) Do not commit perjury, (10) Do not covet. The Ten Commandments might be called rules of (1) religion, (2) worship, (3) reverence, (4) time, (5) authority, (6) life, (7) purity, (8) property, (9) tongue, and (10) contentment.

The first commandment is: You shall have no other gods before Me (Ex. 20:3). There were a number of early colonial laws that addressed this command.

A law passed in 1610 in the Virginia colony declared thatsince we owe our highest and supreme duty, our greatest and all our allegiance to Him from whom all power and authority is derived . . . I do strictly command and charge all Captains and Officers . . . to have a care that the Almighty God be duly and daily served.{12}

A 1641 Massachusetts law stated: If any man after legal conviction shall have or worship any other god but the Lord God, he shall be put to death. Deut. 13:6,10; Deut 17:2,6; Ex. 22:20.{13}

The second commandment is: You shall not make for yourself an idol (Ex. 20:4). A 1680 New Hampshire law declared: It is enacted by ye ssembly and ye authority thereof, yet if any person having had the knowledge of the true God openly and manifestly have or worship any other gods but the Lord God, he shall be put to death. Ex. 22:20; Deut. 13:6 and 10.{14}

The third commandment is: You shall not take the name of the Lord your God in vain (Ex. 20:7). Laws to obey this commandment came in two forms. Some were laws prohibiting blasphemy and others were laws against profanity. Noah Webster discussed both of these categories in relation to the third commandment in one of his letters:

> *When in obedience to the third commandment of the Decalogue*

> *you would avoid profane swearing, you are to remember that this alone is not a full compliance with the prohibition which [also] comprehends all irrelevant words or action and whatever tends to cast contempt on the Supreme Being or on His word and ordinances.{15}*

Nearly all of the colonies had anti-blasphemy laws. This includes Connecticut, New Hampshire, Pennsylvania, Virginia, North Carolina, and South Carolina.

As Commander-in-Chief, George Washington issued numerous military orders during the American Revolution that prohibited swearing. This is one of his orders issued on July 4, 1775:

> *The General most earnestly requires and expects a due observance of those articles of war established for the government of the army which forbid profane cursing, swearing, and drunkenness; and in like manner requires and expects of all officers and soldiers not engaged on actual duty, a punctual attendance on Divine Service to implore the blessings of Heaven upon the means used for our safety and defense.{16}*

After the Declaration of Independence, George Washington issued similar orders to his troops during the Revolutionary War. And similar prohibitions against blasphemy and profanity were issued throughout the rest of the Eighteenth century and into the Nineteenth century.

The fourth commandment is: Remember the Sabbath day, to keep it holy (Ex. 20:8). Each of the colonies and states had laws dealing with the Sabbath. Even the U.S. Constitution has a provision stipulating that the president has 10 days to sign a law, Sundays excepted. This clause was found in state constitutions and thus incorporated into the U.S. Constitution.

An 1830 New York law declared that: Civil process cannot, by statute, be executed on Sunday, and a service of such process on Sunday is utterly void and subjects the officer to damages.{17} Many other states had similar laws.

During the American Revolution, George Washington issued military orders directing that the Sabbath be observed. Here is his order of May 2, 1778 at Valley Forge:

> *The Commander in Chief directs that Divine Service be performed every Sunday at 11 oclock in those brigades to which there are chaplains; those which have none to attend the places of worship nearest to them. It is expected that officers of all ranks will by their attendance set an example to their men.{18}*

The fifth commandment is: Honor your father and your mother (Ex. 20:12). A 1642 Connecticut law dealt with this commandment and cited additional verses:

> *If any child or children above sixteen years old, and of sufficient understanding shall curse or smite their normal father or mother, he or they shall be put to death; unless it can be sufficiently testified that the parents have been very unchristianly negligent in the education of such children or so provoke them by extreme and cruel correction that they have been forced thereunto to preserve themselves from death [or] maiming. Ex. 21:17, Lev. 20, Ex. 20:15.{19}*

The sixth commandment is: You shall not murder (Ex. 20:13). The earliest laws in America illustrate that punishment for murder was rooted in the Ten Commandments. A 1641 Massachusetts law declared:

> *4. Ex. 21:12, Numb. 35:13-14, 30-31. If any person commit any willful murder, which is manslaughter committed upon*

> *premeditated malice, hatred, or cruelty, not in a mans necessary and just defense nor by mere casualty against his will, he shall be put to death.*
>
> *5. Numb. 25:20-21, Lev. 24:17. If any person slayeth another suddenly in his anger or cruelty of passion, he shall be put to death.*
>
> *6. Ex. 21:14. If any person shall slay another through guile, either by poisoning or other such devilish practice, he shall be put to death.{20}*

The seventh commandment is: You shall not commit adultery (Ex. 20:14). Most colonies and states had laws against adultery. Even in the late Nineteenth century, the highest criminal court in the state of Texas declared that its laws came from the Ten Commandments:

> *The accused would insist upon the defense that the female consented. The state would reply that she could not consent. Why? Because the law prohibits, with a penalty, the completed act. Thou shalt not commit adultery is our law as well as the law of the Bible.{21}*

The eighth commandment is: You shall not steal (Ex. 20:15). All colonies and states had laws against stealing based upon the Ten Commandments. In 1940, the Supreme Court of California acknowledged:

> *Defendant did not acknowledge the dominance of a fundamental precept of honesty and fair dealing enjoined by the Decalogue and supported by moral concepts. Thou shalt not steal applies with equal force and propriety to the industrialist of a complex civilization as to the simple herdsman of ancient Israel.{22}*

The Louisiana Supreme Court in 1951 also acknowledged: In the

Ten Commandments, the basic law of all Christian countries, is found the admonition Thou shalt not steal.

The ninth commandment is: You shall not bear false witness against your neighbor (Ex. 20:16). The colonies and states had laws against perjury and bearing false witness. In modern times, the Oregon Supreme Court declared that: No official is above the law. Thou shalt not bear false witness is a command of the Decalogue, and that forbidden act is denounced by statute as a felony.{23}

The tenth commandment is: You shall not covet (Ex. 20:17). Many of the founders and framers saw this commandment as a foundation for others. William Penn of Pennsylvania declared that he that covets can no more be a moral man than he that steals since he does so in his mind.{24} John Adams argued that: If Thou shalt not covet and Thou shalt not steal were not commandments of Heaven, they must be made inviolable precepts in every society before it can be civilized or made free.{25}

Notes

1. *Stone v. Graham*, 449 U.S. 39 (1980).
2. John Paul Stevens, dissenting, Van Orden v. Perry, 545 U.S. __ (2005).
3. Matthew Staver, "The Ten Commandments Battle Continues To Gain Steam," *National Liberty Journal*, December 2001.
4. John Quincy Adams, *Letters of John Quincy Adams, to His Son, on the Bible and Its Teachings* (Auburn: James M. Alden, 1850), 61.
5. John Witherspoon, *The Works of John Witherspoon* (Edinburgh: J. Ogle, 1815), 95.
6. John Jay, *The Correspondence and Public Papers of John Jay* (NY: G. P. Putnam's Sons, 1893), 403.
7. George Washington, Farewell Address (Philadelphia), September 17, 1796.
8. William Holmes McGuffey, *Eclectic Reader* in D. James

Kennedy, “What’s Happening to American Education” in Robert Flood, *The Rebirth of America* (Philadelphia: Arthur S. DeMoss Foundation, 1986), 122.
9. John Adams, *Letters of John Adams Addressed to His Wife* (Boston: Little and Brown, 1841), 152.
10. *Lynch v. Donnelly*, 465 U.S. 677 (1984).
11. The primary document for the following material can be found at: http://tinyurl.com/lkxnv
12. “Articles, Laws, and Orders, Divine, Politic and Martial for the Colony of Virginia,” *Colonial Origins* (1610-1611), 315-316.
13. “Massachusetts Body of Liberties,” *Colonial Origins* (1641), 83.
14. “General Laws and Liberties of New Hampshire, *Colonial Origins* (1680), 6.
15. Noah Webster, *Letters to a Young Gentleman*, 8.
16. George Washington, *The Writings of George Washington* (Washington, DC: U.S. Government Printing Office, 1931), Vol. III, 309.
17. George C. Edwards, *Treatise of the Powers and Duties of the Justices of the Peace and the Town Officers in the State of New York* (Nashville: J.C. Mitchell and C.C. Norvell, 1834), 38, “General Rules Applicable to a Summons, Warrants of Attachment,” Rev. Stat. 675.
18. George Washington, *The Writings of George Washington, Vol. III*, 342.
19. “Capital Laws of Connecticut,” *Colonial Origins* (1642), 230.
20. Ibid.
21. *Hardin v. State*, 46 S.W. 803, 808 (Tex. Crim. App. 1898).
22. *Hollywood Motion Picture Equipment Co. v. Furer*, 105 P.2d. 299, 301 (Cal. 1940).
23. *Watts v. Gerking*, 228 P. 135, 141 (Oregon 1924).
24. William Penn, *Fruits of Solitude, In Reflections and Maxims Relating To The Conduct of Human Life* (London: James Phillips, 1790), 132.
25. *The Works of John Adams, Second President of the United*

States (Boston: Charles C. Little and James Brown, 1851), Vol. Vi, 9.

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