



Displaying the Ten Commandments in Schools

In recent years, various proposals have emerged across the nation to display copies of the Ten Commandments in public settings, including schools. Many object to such suggestions, believing the Judiciary has determined such displays to be unconstitutional. While this was true over past decades, as a result of recent court decisions, that prohibition no longer exists. With this legal change, a brief overview of the original use of the Decalogue in public settings, its removal during the judicial activism of the 1970s and 1980s, and the new position taken by the Court will be useful.

1. The Current Legal Change

The 1970s was a period of significant judicial upheaval, with the Court rejecting its former traditional role and instead inserting itself into areas previously withheld from it by the Constitution. The result was a substantial increase in federal overreach and a significant reduction of constitutional federalism and the role of states. In the past few years, the Court has made an open public pullback from its philosophy of the 1970s. As a result, it has returned important moral issues to the states, including that of abortion. It has also dramatically backtracked from its previous enforced secularization of the public square. It is now permitting the return of many religious expressions and practices that were constitutional for generations before being struck down in recent decades.

In the 1960s and 70s, the Court began issuing unprecedented ruling banning centuries old traditional public religious practices. This led to scores of additional legal challenges against other religious expressions. As a result of the soaring number of cases in the federal system, in 1971 in the case *Lemon v. Kurtzman* the Court announced its new test for determining the permissibility of public religious expressions.

That new judicial standard (called the “Lemon Test”) stipulated that for a public religious activity to be constitutional, it must: (1) have a primarily secular purpose, (2) not advance religion, and (3) avoid creating any government entanglement with religion. Under this new test, few traditional public religious expressions survived. The original religious protections of the First Amendment were thus dramatically curtailed.

Over seceding years, the *Lemon Test* produced increasingly absurd results. The modern Court has now acknowledged that not only was the test flawed but it held an inherent bias against religion. The Court openly rejected the test in a 2019 decision.

In that case, lower federal courts, following the *Lemon Test*, had required the removal of a 100-year-old World War I memorial erected in Bladensburg, Maryland, by mothers

of deceased soldiers to honor their sons. But the Supreme Court refused to permit the government destruction of that historical landmark. It allowed that cross to remain on public land as a memorial to the fallen soldiers. It also openly castigated the *Lemon Test*.

In its ruling, the Court announced its new test: “*retaining established religiously expressive monuments, symbols, and practices....gives rise to a strong presumption of constitutionality.*”¹ In other words, if something religious has been part of the fabric of American society and culture for a long period of time (such as crosses, invocations, Ten Commandments displays, *et al.*), then they must be presumed to be constitutional. This was a dramatic reversal from the Court’s recent decades of decisions, but a clear return to the Constitution’s original intent.

In two cases three years later, *Shurtleff v. Boston* and *Kennedy v. Bremerton*, the Court again openly rejected the *Lemon Test*. It thus upheld the right of a coach to individually pray after games (which he did, away from the team, offering a private prayer of thanks for the safety of the players). The Court also ruled that religious expressions cannot be singled out for exclusion (as Boston had done by allowing more than 200 different message flags to be flown at city hall but explicitly prohibiting a Christian one). In these decisions, the Court officially announced the *Lemon Test* was dead.

Displays of the Ten Commandments had long been constitutional in public schools until a 1980 decision used the *Lemon Test* to halt that generations-long practice.

In that case, the Ten Commandments were posted on the walls of Kentucky schools, just like other images that adorned school walls. Whether a horse in a pasture, a lighthouse on the seashore, a vase of flowers, or the Ten Commandments, each was a passive display. Nothing was required; students would look at the Commandments only if they wanted to, and read them only if they were interested.

Kentucky, understanding how beneficial it was for students to be exposed to the code that had formed the basis of civil laws in the western world for over 2,000 years, therefore printed at the base of each poster: “*The secular application of the Ten Commandments is clearly seen in its adoption as the fundamental legal code of Western Civilization and the Common Law of the United States.*”² Nonetheless, the *Lemon Test* required the removal of the Commandments poster.

However, with the Court’s renouncement of that test, the Ten Commandments may once again be displayed in schools.

2. The Ten Commandments in American Classrooms

The Ten Commandment were a prominent part of American education for almost 3 centuries before the Court’s 1980 decision. This is affirmed by a brief review of some of America’s most famous textbooks and educators.

The first public school law in America was enacted in 1642 in Massachusetts, and then in 1647 in Connecticut.³ Originally, early American schools relied on textbooks imported from other nations, but in 1690 the first purely American textbook was published by Benjamin Harris in Boston. Called the *New England Primer*, it was the equivalent of a first-grade textbook.

¹ *American Legion v. American Humanist Association*, 588 U.S. ___, 2085 (2019).

² *Stone v. Graham*, 449 U. S. 39 (1980).

³ Code of 1650, pp. 90-92; see also Holy Trinity at 467.

Despite its regional name, it was used throughout the entire United States⁴ and quickly became *the* textbook of American education from which students learned to read. Millions of copies were printed, and it was used in American schools during four different centuries, including the 20th century.⁵ The content remained relatively intact across the centuries—including a section with some 43 questions about the Ten Commandments. Leading Founding Fathers believed this text so important for students that Samuel Adams reprinted it in Massachusetts,⁶ Noah Webster in Connecticut,⁷ and Benjamin Franklin in Pennsylvania.⁸

The Ten Commandments were also included in the works of educator William McGuffey,⁹ a noted university president and professor. His famous *McGuffey Readers*, written in the mid-1800s, became some of the most popular textbooks in the history of American education, selling over 122 million copies in their first 75 years of use¹⁰ (his *Readers* are still in use today¹¹). So profound was McGuffey's influence on American public education that he has been titled "*The Schoolmaster of the Nation.*"

The Ten Commandments also appeared in textbooks published by Noah Webster, known as the "*Schoolmaster to America.*"¹² Not only did he pen America's first comprehensive dictionary (which still bears his name) but he also produced textbooks on spelling, grammar, literature, history, government, and other topics used widely across the nation.

⁴ Stephanie Schnorbus, "Calvin and Locke: Dueling Epistemologies in *The New England Primer*, 1720–1790," *Early American Studies*, 8 (Spring 2010): 250–287; Paul Leicester Ford, *The New England Primer: A History of its Origin and Development* (New York: Dodd, Mead, and Co., 1897), 19.

⁵ *The New England Primer* was first published around 1690: "New-England Primer," *Dictionary of American History*, ed. James Truslow Adams (New York: Charles Scribner's Sons, 1940), IV:100; Paul Leicester Ford, *The New England Primer: A History of its Origin and Development* (New York: Dodd, Mead, and Co., 1897), 16-17. This work continued to be used in schools through the early 20th century: Paul Leicester Ford, *The New England Primer: A History of its Origin and Development* (New York: Dodd, Mead, and Co., 1897), 16-19, 300; George Littlefield, *Early Boston Booksellers, 1642-1711* (Boston: The Club of Odd Volumes, 1900), 158; *The New-England Primer: A Reprint of the Earliest Known Edition*, ed. Paul Leicester Ford (New York: Dodd, Mead and Company, 1899); *The New England Primer: Twentieth Century Reprint* (Ginn & Company, 1900); Paul L. Ford, *New England Primer* (Teachers College Press, 1962).

⁶ Paul Leicester Ford, *The New England Primer: A History of its Origin and Development* (New York: Dodd, Mead, and Co., 1897), plate xxiv, following 300.

⁷ Emily Ellsworth Fowler Ford, *Notes on the Life of Noah Webster* (New York: Privately Printed, 1912), 2:532.

⁸ Paul Leicester Ford, *The New England Primer: A History of its Origin and Development* (New York: Dodd, Mead, and Co., 1897), 310, 313.

⁹ The Ten Commandments can be found in the *McGuffey Second Reader*, Lesson LXIII (63), including the editions from 1836-1853, and in the 1983 reprint.

¹⁰ Encyclopedia.com, "McGuffey's Readers" (at <https://www.encyclopedia.com/history/dictionaries-thesauruses-pictures-and-press-releases/mcgu ffey-readers>); William H. McGuffey, *The First Reader For Young Children* (Cincinnati: Truman and Smith, 1983), Introduction.

¹¹ Textbook.com, "The McGuffey Readers" (at http://www.textbookx.com/product_detail.php?affiliate=bizrate&detail_isbn=0312177666), and Amazon.com, "The McGuffey Readers" (at <http://www.amazon.com/exec/obidos/ASIN/0312177666/bizrate-5k114-20/002-2617697-5390462>).

¹² Harry R. Warfeel, *Noah Webster: Schoolmaster to America* (New York: The MacMillan Company, 1936).

Webster included sections on the Ten Commandments, showing their application in day to day life. As an example, referencing its command against stealing, his *History of the United States* showed students that under this command was included the importance of paying one's debts, of not producing inferior or substandard products, and even of not taking insignificant items from others. It explained

The command of God, "*Thou shalt not steal,*" is very comprehensive, extending to the prohibition of every species of fraud. Stealing is the taking of something from the possession of another clandestinely for one's own use. This may be done by entering the house of another at night, and taking his property; or by taking goods from a shop secretly or by entering upon another's land and taking his horse or his sheep. These customary modes of stealing are punishable by law. But, there are many other ways of taking other men's property secretly, which are not so liable to be detected. If a stone is put into a bag of cotton intended for a distant market, it increases the weight, and the purchaser of that bag who pays for it at its weight buys a stone instead of its weight in cotton. In this case, the man who first sells the bag knowing it to contain a stone takes from the purchaser by fraud as much money as the weight of the stone produces, that is, as much as the same weight of cotton is worth. This is as criminal as it would be to enter his house and steal so much money. If butter or lard is to put up for a foreign or distant market, it should be put up in a good state, and the real quality should be as it appears to be. If any deception is practiced by covering that which is bad by that which is good or by other means, all the price of the article which it brings beyond the real worth is so much money taken from the purchaser by fraud, which falls within the criminality of stealing. If a buyer of the article in Europe or the West Indies is thus defrauded, he may never be able to know who has done the wrong; but God knows and will punish the wrong doer. It is as immoral to cheat a foreigner as to cheat a neighbor. Not only property in money and goods is to be respected but the property in fruit growing in orchards and gardens. A man's apples, pears, peaches, and melons are as entirely his own as his goods or his coin. Every person who climbs over a fence or enters by a gate into another's enclosure without permission is a trespasser; and if he takes fruit secretly, he is a thief. It makes no difference that a pear or an apple or a melon is of small value; a man has an exclusive right to a cent or a melon as he has to a dollar, a dime, or an eagle.¹³

In another Noah Webster work, *Letters to a Young Gentlemen Commencing His Education*, he again mentions specific portions of the Ten Commandments:

The duties of men are summarily comprised in the Ten Commandments, consisting of two tables. One comprehending the duties which we owe immediately to God — the other, the duties we owe to our fellow men. Christ himself has reduced these commandments under two general precepts, which enjoin upon us, to love the Lord our God with all our heart, with all our soul, with all our mind and with all our strength — and to love our neighbor as ourselves.

¹³ Noah Webster, "Advice to the Young," *History of the United States; to Which is Prefixed a Brief Historical Account of our Ancestors, from the Dispersion at Babel, to their Migration to America; and of the Conquest of South America, by the Spaniards* (New-Haven: Durrie & Peck, 1832), 21-22, 26-28, 30, 37-38.

On these two commandments hang all the law and the prophets — that is, they comprehend the substance of all the doctrines and precepts of the Bible, or the whole of religion....

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 comprehends all irreverent words or actions and whatever tends to cast contempt on the Supreme Being, or on his word and ordinances.

When you abstain from secular employments, on the sabbath, and attend public worship, you must not suppose that you fully comply with the requisitions of the fourth Commandment, unless you devote the whole day to religious improvement....

The command to honor your father and mother comprehends not only due respect and obedience to your parents ; but all due respect to other superiors....

In obedience to the sixth command you are not merely to avoid direct homicide, but you are to avoid every thing that may indirectly or consequentially impair your own health, or injure that of others....

From your education and principles, it is presumed that there is little need of cautioning you against a violation of the eighth commandment, by a felonious taking of the property of another, in a manner to incur the penalties of human laws. But the prohibition covers much broader ground— -it extends to every species of fraud or deception by which the property of another is taken or withheld from him.¹⁴

Thus, three of the most widely-used texts in America—works that span 4 centuries of American educational history—all taught the Ten Commandments to students in public school. Countless hundreds of millions of Americans across the generations (except in the most recent ones) were taught, and largely lived by, the central precepts of the Ten Commandments.

3. Erecting Ten Commandments Monuments

In 1946, Minnesota Judge E.J. Ruegemer began a national movement to emphasize more strongly the Ten Commandments in schools. A troubled young man came before him in court. He had stolen a vehicle and while driving it, struck and injured a priest. During the pre-sentencing investigation, the judge learned the teen came from a broken home, had no friends, and also had hearing and vision problems that kept him from learning in school.

Rather than sending the boy to a juvenile detention facility, Judge Ruegemer instead sentenced him to learn and live by the Ten Commandments. When the young man said he did not know what the Ten Commandments were, the judge connected him with a local pastor who instructed him accordingly. The young man learned them, lived by them, and his life was changed.

That incident motivated Judge Ruegemer to start a campaign placing thousands of copies of the Ten Commandments in public venues across the country. At the time, he chairman of the National Youth Guidance Commission of the philanthropic civic

¹⁴ Noah Webster, "Letter I," *Letters to a Young Gentleman Commencing His Education: To Which is Subjoined A Brief History of the United States* (New Haven: S. Converse, 1823), 7-9.

organization known as the Fraternal Order of Eagles (FOE). Begun in 1898, it had nearly 1,000,000 members nationwide involved with charitable community works.

The Eagles became a non-partisan, non-religious force for placing printed copies of the Ten Commandments in schools across the nation. Ruegemaer assembled a rabbi, a priest, and a ministerial alliance to agree on the specific wording to be used,¹⁵ and then in 1954, 10,000 copies were printed, distributed, and placed in schools.¹⁶

Legendary Hollywood leader Cecil B. DeMille contacted Judge Ruegemaer. DeMille (founder of Paramount movie studios and winner of multiple academy awards) had recently finished the Oscar-winning movie *The Ten Commandments*. A blockbuster of mammoth proportions, it shattered all existing box-office records. (Even today, some 70 years later, *The Ten Commandments* still ranks #7 on the all-time list of gross income for movies.¹⁷)

DeMille wanted to join and expand Judge Ruegemaer's efforts. Both agreed that while posters of the Commandments in schools were good, something more permanent was needed elsewhere. The judge recommended granite monuments, and DeMille concurred.

They began donating and erecting large stone Ten Commandments at State capitols, government buildings, and other public places across the country. The movie's stars, such as Charlton Heston (who played Moses), Yul Brynner (who played Pharaoh), and Martha Scott (who played Moses' mother) were present at various dedications.¹⁸ Some 180 of those large monuments were eventually erected.¹⁹

In 1961, one of those monuments was erected at the Texas State Capitol. Charlton Heston helped dedicate that monument, which was upheld by the US Supreme Court in 2005.²⁰

¹⁵ One of the arguments critics raise against displaying the Ten Commandments is that there are too many versions, which engender confusion among the people. (This ridiculous argument was actually cited by Justice John Paul Stevens in his minority opposition to the Court's decision to uphold Ten Commandments display at the Texas Capitol in 2005. *Van Orden v. Perry*, 545 U.S. 677, n16 (2005).)

It is true that the Lutherans have a version, as do the Jewish, Catholic, and Orthodox faiths—and the Protestants have several different versions. Critics thus argue that a display will always invoke a “*deep theological dispute*” and therefore should be avoided. But this claim is absurd.

What distinguishes the various “versions” is not the substance of their content but rather primarily the different ways in which they are numbered. In the original Hebrew text, the Ten Commandments appear only in paragraph form, with no numbers or verse. As the Hebrew text was translated into subsequent texts, various faiths and branches of Christianity chose to number them, and they sometimes were numbered differently. (For example, the first command in the Jewish version is usually the prologue in most Protestant versions; yet both contain the same content). The different numberings are merely superficial man-made contrivances for ease of identification; all versions cover the identical subject matter.

Regardless of how the various commands are numbered, each has found direct application in American laws and courts.

¹⁶ Warren Wolfe, “Ten Commandments: Different state, different judge, different time,” *Star Tribune* (August 30, 2003).

¹⁷ “Biography,” *Cecil B. Demille.com*, accessed July 30, 2024, <https://www.cecilbdemille.com/biography/>.

¹⁸ Warren Wolfe, “Ten Commandments: Different state, different judge, different time,” *Star Tribune* (August 30, 2003).

¹⁹ “Fraternal Order of Eagles Ten Commandments Monuments Project (1951-2010),” *Jefferson Madison Center*, accessed on April 20, 2022.

²⁰ *Van Orden v. Perry*, 545 U.S. 677 (2005).

4. Current Ten Commandments Displays in Public Buildings

Several justices on the original *Lemon* Court had objected to the new test as anti-historical and anti-constitutional. One such critic was the Court's own Chief Justice, Warren Burger. In a 1984 decision on a seasonal nativity display, he hearkened back to the Court's decision four years earlier striking down Ten Commandments displays in schools. He pointed out the irony of that decision, noting:

The very chamber in which oral arguments on this case were heard is decorated with a notable and permanent—not seasonal—symbol of religion: Moses with the Ten Commandments.²¹

In addition to the Ten Commandments mentioned by Chief-Justice Burger (which appears in a frieze above the Justices' heads around the top of the Chamber, in the back of the room facing the Justices were two large oak doors, with the Ten Commandments also engraved on the lower half of those doors.

The next Chief-Justice, William Rehnquist, also pointed to American governmental architecture as more evidence as to why the anti-Ten Commandments were absurd:

We need only look within our own Courtroom. Since 1935 [when the Supreme Court building was built], Moses has stood, holding two tablets that reveal portions of the Ten Commandments written in Hebrew, among other lawgivers in the south frieze. Representations of the Ten Commandments adorn the metal gates lining the north and south sides of the Courtroom as well as the doors leading into the Courtroom. Moses also sits on the exterior east facade of the building holding the Ten Commandments tablets. Similar acknowledgments can be seen throughout a visitor's tour of our Nation's Capital. For example, a large statue of Moses holding the Ten Commandments, alongside a statue of the Apostle Paul, has overlooked the rotunda of the Library of Congress' Jefferson Building since 1897. And the Jefferson Building's Great Reading Room contains a sculpture of a woman beside the Ten Commandments with a quote above her from the Old Testament (Micah 6:8). A medallion with two tablets depicting the Ten Commandments decorates the floor of the National Archives. Inside the Department of Justice, a statue entitled "The Spirit of Law" has two tablets representing the Ten Commandments lying at its feet. In front of the Ronald Reagan Building is another sculpture that includes a depiction of the Ten Commandments. So, too, a 24-foot-tall sculpture, depicting, among other things, the Ten Commandments and a cross, stands outside the federal courthouse that houses both the Court of Appeals and the District Court for the District of Columbia. Moses is also prominently featured in the Chamber of the United States House of Representatives.²²

Rehnquist's reference to "*representations of the Ten Commandments [that] adorn the metal gates lining the north and south sides of the Courtroom*" refers to more than 50 individual depictions of the Ten Commandments that adorn the interlaced brazen grid designating the section where Supreme Court attorneys may sit and observe cases.

²¹ *Lynch v. Donnelly*, 465 U. S. 668, 677 (1984).

²² *Van Orden v. Perry*, 545 U.S. 677 (2005).

And Rehnquist's reference to the "*Chamber of the United States House of Representatives*" is also worthy of special note. Because the Halls of Congress are closed to visitors, few Americans today know that "*Moses is...prominently featured*" in America's federal law-making body. But adorning the top of the walls around the House Chamber are reliefs of 23 great lawgivers, including Hammurabi, Justinian, John Locke, Thomas Jefferson, William Blackstone, Hugo Grotius, George Mason, and 16 others. Significantly, 22 of the 23 reliefs are side-profiles, and the only one 23 that is honored full face is that of Moses, the lawgiver who delivered the Ten Commandments to mankind. Placed where he looks directly down onto the House Speaker's rostrum, he symbolically oversees the proceedings of the federal lawmakers.

Rehnquist's reference to the National Archives also deserves some explanation. Every visitor who enters that building to view the original Constitution and Declaration of Independence (and other documents of American government) must first go by the Ten Commandments embedded in the entryway to the Archives. Visitors must literally pass over depictions of the Decalogue to see America's governing documents.

So important were the Ten Commandments to America that before the *Lemon Test* (1971), it was usually easier to find a copy of the Ten Commandments in a civic setting than a religious one. It is ironic that even though there are literally dozens of depictions of the Ten Commandments in the US Supreme Court alone, the *Lemon* Court held it unconstitutional for students in public schools to see what appears so frequently in the Court and also in other public government structures across the nation, especially in Washington DC.

5. The Ten Commandments as a Foundational American Legal Document

The Ten Commandments have been cited in a favorable manner in over 500 court cases, and the nation's heavy reliance upon the Decalogue is easily documentable.

When the Commandments were removed from public arenas, it was on the flawed premise that since it was of Divine origin, it was inapplicable in so-called "secular" arenas. Yet when that same topic was broached centuries ago in America, the conclusion then was inescapable that many Divinely-inspired laws had direct beneficial and invaluable application in the civil and governmental arenas.

This point was made by Noah Webster. A leading American educator, he was also an attorney and a judge, having directly influenced the wording of the US Constitution. Webster observed:

The opinion that human reason left without the constant control of Divine laws and commands will...give duration to a popular [elective] government is as chimerical as the most extravagant ideas that enter the head of a maniac....Where will you find any code of laws among civilized men in which the commands and prohibitions are not founded on Christian principles? I need not specify the prohibition of murder, robbery, theft, [and] trespass.²³

Society does not reject laws against murder, theft, perjury, and other behaviors simply because their prohibitions have religious origins. Obeying Divine commands lead to

²³ Noah Webster, *Letters of Noah Webster*; Harry R. Warfel, editor (New York: Library Publishers, 1953), 453-454, to David McClure on October 25, 1836.

human happiness for nations as much as for individuals. As Founding Father Samuel Adams affirmed:

Government is an ordinance of Heaven, designed by the all-benevolent Creator, for the general happiness of his rational creature, man.²⁴

As a matter of civil concern, it matters not if my neighbor is an atheist or infidel, but if he or she will govern their behavior by basic human values such as those in the Ten Commandments—if they will refrain from killing me, stealing my property, or committing perjury against me—that person will make a good citizen, regardless of whether or not they hold any religious beliefs. The fact that particular values may be derived from the Bible does not make them theological, nor those who support them theocrats, Dominionists, or Christian Nationalists.

In 1875, US Supreme Court Justice William Strong explained:

[T]he civil law punishes many offenses which are condemned by Divine Law and which the church also condemns and punishes. Many offenses against civil society are acts prohibited by the Decalogue and by all churches. False swearing, theft, adultery, and murder are violations of municipal law, and persons guilty of them are punished by authority of the states not because the offenses are violations of Divine Law or the law of the church but because they are infractions of the rules which civil society has found it necessary to establish for its own protection. . . . It would be a mistake to regard such enactments as church recognitions.²⁵

Nearly a century later (in 1961), the US Supreme Court affirmed:

[The Constitution] does not ban federal or state regulation of conduct whose reason or effect merely happens to coincide or harmonize with the tenets of some or all religions. In many instances, the Congress or state legislatures conclude that the general welfare of society—wholly apart from any religious consideration—demands such regulation. Thus, for temporal purposes, murder is illegal. And the fact that this agrees with the dictates of the Judeo-Christian religions while it may disagree with others does not invalidate the regulation. So too with the questions of adultery and polygamy. The same could be said of theft, fraud, etc., because those offenses were also proscribed in the Decalogue [Ten Commandments].²⁶

Courts even acknowledge the Decalogue to be the source of civil laws that many today might not immediately connect to those Commandments. For example, a 1904 court recognized that “*Thou shalt not steal*” not only covered prohibitions against theft and burglary but also was the basis of election integrity laws.²⁷ Similarly, a 1914 federal court

²⁴ Samuel Adams, *The Writings of Samuel Adams* (Harry Alonzo Cushing ed., New York: G. P. Putnam’s Sons 1908), 1:269, Article Signed “Vindex,” December 19, 1768.

²⁵ William Strong, *Two Lectures Upon the Relation of Civil Law to Church Polity, Discipline, and Property* (New York: Dodd and Mead Publishers, 1875), 30.

²⁶ *McGowan v. Maryland*, 366 U.S. 420, 366 U. S. 442 (1961).

²⁷ *Doll v. Bender*, 47 S.E. 293, 300 (W.Va. 1904) (Dent, J. concurring).

acknowledged that the Constitution’s “*takings clause*” prohibiting government seizure of private property was an embodiment of the Decalogue’s Eighth Commandment.²⁸

And the Decalogue’s prohibition that “*Thou shalt not covet*” was cited by the California Supreme Court in 1895 as the basis of civil laws against DEFAMATION.²⁹ In 1904, the Court of Appeals in West Virginia cited it as the basis of laws preventing ELECTION FRAUD.³⁰ In 1951, the Oregon Supreme Court cited this part of the Decalogue as the basis of civil laws against modern forms of CATTLE RUSTLING.³¹ And in 1958, a Florida appeals court cited it as the basis of laws targeting WHITE-COLLAR CRIME.³²

There are numerous other examples affirming that the commandments of the Decalogue had a substantial beneficial influence on countless civil laws.

6. What about the “Religious” Parts of the Ten Commandments

Much opposition to the Decalogue in recent decades stemmed from the claim that the first four Commandments were solely religious in nature and had no secular societal application—that they were purely theological and thus inappropriate for display in general public settings. That claim is fatally flawed and easily disprovable.

Significantly, without an exposure to the first four commandments of the Decalogue, citizens will be deprived of a knowledge about specific provisions in both the US Constitution and the Declaration of Independence built on those commands.

For instance, the Decalogue’s provision on keeping a sabbath is specifically reflected in the US Constitution’s Article I, Section 7, ¶ 2, clause stipulating that the president has 10 days to sign a law, “*Sundays excepted.*” The historical understanding of the “*Sundays excepted*” Clause was summarized in 1912 by the Supreme Court of Missouri:

The framers of the Constitution, then, recognized Sunday as a day to be observed, acting themselves under a law which exacted a compulsive observance of it. If a compulsive observance of the Lord’s Day as a day of rest had been deemed inconsistent with the principles contained in the Constitution, can anything be clearer than, as the matter was so plainly and palpably before the Convention, a specific condemnation of the Sunday law would have been engrafted upon it? So far from it, Sunday was recognized as a day of rest.³³

The states themselves went to impressive lengths to observe this part of the Decalogue, with Vermont enacting a 10-part law to preserve the Sabbath in 1787,³⁴ in 1791, Massachusetts enacted an 11-part law;³⁵ in 1792, Virginia enacted an extensive 8-part

²⁸ *Pennsylvania Co. v. United States*, 214 F. 445, 455 (W.D.Pa. 1914).

²⁹ *Weinstock, Lubin & Co. v. Marks*, 42 P. 142, 145 (Cal. 1895).

³⁰ *Doll v. Bender*, 47 S.E. 293, 300-01 (W.Va. 1904) (Dent, J. concurring).

³¹ *Swift & Co. v. Peterson*, 233 P.2d 216, 231 (Or. 1951).

³² *Chisman v. Moylan*, 105 So.2d 186, 189 (Fla. Dist. Ct. App. 1958).

³³ *State v. Chicago, B. & Q. R. Co.*, 143 S.W. 785, 803 (Mo. 1912).

³⁴ *Statutes of the State of Vermont* (1791), 155-157, “An Act for the Due Observation of the Sabbath,” passed March 9, 1787.

³⁵ *The Revised Statutes of the Commonwealth of Massachusetts, Passed November 4, 1835* (1836), 385-386, “Of the Observance of the Lord’s Day and the Prevention and Punishment of Immorality.”

law³⁶—a law written by Thomas Jefferson and sponsored by James Madison;³⁷ in 1798, New Jersey enacted a 21-part law,³⁸ in 1799, New Hampshire enacted a 14-part law,³⁹ in 1821, Maine enacted a 13-part law,⁴⁰ etc.⁴¹ Significantly, Sabbath laws still remain constitutional today,⁴² and some communities still practice and enforce such laws (often called Blue Laws, stipulating specific items that may not be sold on the Sabbath).

Although Sunday was often specifically recognized as the Christian Sabbath, various Christian groups observed a Saturday Sabbath instead, and other religions also observed different days. As the Supreme Court of California affirmed in 1858, the Sabbath observed by various religions included “*the Friday of the Mohammedan, the Saturday of the Israelite, or the Sunday of the Christian.*”⁴³

While accommodations were made for individuals to observe a day of rest other than Sunday according to the dictates of their own religious beliefs, at the national level (and as recognized in the Constitution), Sunday was officially set aside as a day of government rest, thus conforming to the Decalogue’s directive to observe one day of rest each week. Thus, if there is no knowledge of the first four commands of the Decalogue, then there will be no understanding of the “*Sundays Excepted*” Clause of the US Constitution.

In 1922, the Iowa Supreme Court (and did dozens of other courts before and since that time) specifically rejected the modern assertion that only one side of the Decalogue (that is, the six so-called “non-religious” commands) was important to American law, declaring:

The observance of Sunday is one of our established customs. It has come down to us from the same Decalogue that prohibited murder, adultery, perjury, and theft. It is more ancient than our common law or our form of government. It is recognized by Constitutions and legislative enactments, both State and federal. On this day Legislatures adjourn, courts cease to function, business is suspended, and nationwide our citizens cease from labor.⁴⁴

³⁶ *The Revised Code of the Laws of Virginia* (1819), I: 554-556, “An Act for the Effectual Suppression of Vice, and Punishing the Disturbers of Religious Worship, and Sabbath Breakers,” passed December 26, 1792; see also *A Digest of the Laws of Virginia* (1823), 453-454.

³⁷ James Madison, *The Papers of James Madison*, Robert A. Rutland, editor (Chicago: University of Chicago Press, 1973), VIII: 391-396, “Bills for a Revised State Code of Laws,” and Thomas Jefferson, *The Papers of Thomas Jefferson*, Julian P. Boyd, editor (Princeton: Princeton University Press, 1950), II:322, “The Revisal of the Laws, 1776-1786.”

³⁸ *Laws of the State of New Jersey* (1800), 329-333, “An Act for Suppressing Vice and Immorality,” passed March 16, 1798.

³⁹ *Constitution and Laws of the State of New Hampshire* (1805), 290-293, “An Act for the Better Observation of the Lord’s Day, and for Repealing All the Laws Heretofore Made for that Purpose,” passed December 24, 1799.

⁴⁰ *Laws of the State of Maine* (1822), 67-71, “An Act Providing for the Due Observation of the Lord’s Day.”

⁴¹ See, for example, William Waller Hening, *The Virginia Justice, Comprising the Office and Authority of the Justice of the Peace in the Commonwealth of Virginia* (Richmond: Shepherd & Pollard, 1825), 612, “Sabbath Breakers”; see also Coffield, *The Tennessee Justices’ Manual* (1834), 427-428; see also Edwards, *Justices of the Peace...in the State of New York* (1836), 386-387; etc.

⁴² *McGowan v. Maryland*, 366 U.S. 420 (1961).

⁴³ *Ex parte Newman*, 9 Cal. 502, 509 (1858).

⁴⁴ *City of Ames v. Gerbracht*, 189 N.W. 729, 733 (Iowa 1922).

Another part of the first 4 commands of the Decalogue that found enshrinement in American Founding documents is its pronouncement that there is a Supreme Creator God Whose laws we are to recognize and observe.

The Declaration of Independence, our national birth certificate, set forth the immutable principles of American government in its opening clauses, specifically noting:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness, that to secure these rights, governments are instituted among men.

Thus, the official American philosophy of government holds that (1) there is a Creator God; (2) that Creator God endowed every individual with certain inalienable rights that come from Him and not government; and (3) governments are established first and foremost for the purpose of protecting inalienable rights the Creator has given to every individual. Significantly, it is the opening commands of the Decalogue that establish the existence of the Creator God embodied in the American philosophy of government set forth in the Declaration.

An awareness of the first part of the Decalogue is therefore necessary to properly understand both the Declaration as well as specific clauses within the US Constitution. Even today, more than two centuries after its writing, the Constitution still cannot be properly interpreted or correctly applied apart from the philosophy of the Declaration.

As affirmed by John Quincy Adams:

The Declaration of Independence and the Constitution of the United States are parts of one consistent whole, founded upon one and the same theory of government.⁴⁵

So clear was the interdependent relationship between these two documents that the Supreme Court affirmed:

The latter [the Constitution] is but the body and the letter of which the former [the Declaration of Independence] is the thought and the spirit, and it is always safe to read the letter of the Constitution in the spirit of the Declaration of Independence.⁴⁶

Significantly, the Decalogue—including its first four Commandments—provided seminal foundational precepts for both documents. As the Florida Supreme Court affirmed in 1950:

A people unschooled about the sovereignty of God, the Ten Commandments, and the ethics of Jesus, could never have evolved the Bill of Rights, the Declaration of Independence, and the Constitution. There is not one solitary fundamental principle of our democratic policy that did not stem directly from the basic moral concepts as embodied in the Decalogue.⁴⁷

⁴⁵ John Quincy Adams, *The Jubilee of the Constitution* (New York: Samuel Colman 1839), 40.

⁴⁶ *Gulf, Colorado and Santa Fe Ry. Co. v. Ellis*, 165 U. S. 150, 160 (1897).

⁴⁷ *State v. City of Tampa*, 48 So.2d 78, 79 (Fla. 1950).

In 1917, the Supreme Court of North Carolina had likewise affirmed:

Our laws are founded upon the Decalogue, not that every case can be exactly decided according to what is there enjoined, but we can never safely depart from this short, but great, declaration of moral principles, without founding the law upon the sand instead of upon the eternal rock of justice and equity.⁴⁸

The fact that some today may not agree with all of the Commandments in the Decalogue does not mean it should be prohibited from display any more than does the fact that because not everyone agrees with all of the protections in the Bill of Rights requires that it should not be displayed—or that because not everyone agrees with what the American flag represents requires it should not be displayed.

To prohibit the display of the Decalogue simply because the first four Commandments are more religious in nature than are the other six is like presenting George Washington’s “Farewell Address,” Patrick Henry’s “Liberty or Death” speech, or the “Mayflower Compact”—but only after each document is stripped of its religious portions. The display of any of the aforementioned historical works is not for the advocacy of religion but rather is a recognition that a significant historical contribution had been made to America by religion and it was an integral part of American life and culture.

Perhaps the logical solution for easily-offended individuals in philosophical minorities who object to the Decalogue is the same as it is for any other individual in a similar situation: turn your head. As one judge noted: “*No one is required to read or recite the Ten Commandments; instead, an offended observer can easily avert his or her eyes from the offensive Decalogue.*”⁴⁹

The reality is that all ten of the Commandments had a unique, distinct, and significant impact on American law and jurisprudence. Aside from the Declaration, Constitution, and Bill of Rights, it is difficult to argue that there is any single work that has had a greater or more far-reaching influence on four centuries of American life, law, and culture than the Decalogue. For this reason alone, it merits display.



Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness – these firmest props of the duties of men and citizens....And let us with caution indulge the supposition that morality can be maintained without religion.

Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.⁵⁰

PRESIDENT GEORGE WASHINGTON

⁴⁸ *Commissioners of Johnston County v. Lacy*, 93 S.E. 482, 487 (N.C. 1917).

⁴⁹ *ACLU of Kentucky v. Mercer County, Kentucky* (2002) No. Civ.A. 01-480-KSF.

⁵⁰ George Washington, *Address of George Washington, President of the United States...Preparatory to His Declination* (Baltimore: George and Henry S. Keatinge, 1796), 22-23.

Appendix:

National Leaders Affirm the Importance of the Ten Commandments

The importance of the Ten Commandments was taught to Americans for generations. Not only did courts repeatedly affirm its importance⁵¹ but our presidents and Founding Fathers did so as well. Here are some of those public endorsements:

The moment the idea is admitted into society that property is not as sacred as the laws of God, and that there is not a force of law and public justice to protect it, anarchy and tyranny commence. If “Thou shalt not covet” [Exodus 20:17] and “Thou shalt not steal” [Exodus 20:15] were not Commandments of Heaven, they must be made inviolable precepts in every society before it can be civilized or made free.⁵² **PRESIDENT JOHN ADAMS**

The law given from [Mount] Sinai was a civil and municipal as well as a moral and religious code; it contained many statutes...of universal application—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...Vain, indeed, would be the search among the writings of profane antiquity...to find so broad, so complete and so solid a basis for morality as this Decalogue [the Ten Commandments] lays down.⁵³ **PRESIDENT JOHN QUINCY ADAMS**

The Decalogue and the Golden Rule must stand as the foundation of every successful effort to better either our social or our political life. “*Fear the Lord and walk in his ways*” and “*Love thy neighbor as thyself*”; when we practice these two precepts, the reign of social and civic righteousness will be close at hand.⁵⁴
PRESIDENT THEODORE ROOSEVELT

⁵¹ See, for example, *Hardin v. State*, 46 S.W. 803, 808 (Tex. Crim. App. 1898); *Stollenwerck v. State*, 77 So. 52, 54 (Ala. Ct. App. 1917) (Brown, P. J. concurring); *Commissioners of Johnston County v. Lacy*, 93 S.E. 482, 487 (N.C. 1917); *State v. Mockus*, 14 ALR 871, 874 (Maine Sup. Jud. Ct., 1921); *Watts v. Gerking*, 228 P. 135, 141 (Or. 1924); *Gillooley v. Vaughn*, 110 So. 653, 655 (Fla. 1926), citing *Theisen v. McDavid*, 16 So. 321, 323 (Fla. 1894), citing cases in Oregon and Kentucky; *Young v. Commonwealth*, 53 S.W. 963, 966 (Ky. Ct. App. 1932); *Ruiz v. Clancy*, 157 So. 737, 738 (La. Ct. App. 1934), citing *Caldwell v. Henmen*, 5 Rob. 20; *Rogers v. State*, 4 S.E.2d 918, 919 (Ga. Ct. App. 1939); *Hollywood Motion Picture Equipment Co. v. Furer*, 105 P.2d 299, 301 (Cal. 1940); *Cason v. Baskin*, 20 So.2d 243, 247 (Fla. 1944) (en banc); *State v. City of Tampa*, 48 So.2d 78, 79 (Fla. 1950); *Paramount-Richards Theatres v. City of Hattiesburg*, 49 So.2d 574, 577 (Miss. 1950); *Succession of Onorato*, 51 So.2d 804, 810 (La. 1951); *Beaty v. McGoldrick*, 121 N.Y.S.2d 431, 432 (N.Y. Sup. Ct. 1953); *Schreifels v. Schreifels*, 287 P.2d 1001, 1005 (Wash. 1955); *Mileski v. Locker*, 178 N.Y.S.2d 911, 916 (N.Y. Sup. Ct. 1958); *People v. Rubenstein*, 182 N.Y.S.2d 548, 550 (N.Y. Ct. Sp. Sess. 1959); *Jaqueth v. Town of Guilford School District*, 189 A.2d 558, 563 (Vt. 1963), (Shangraw, J. dissenting); *Bertera's Hopewell Foodland, Inc. v. Masters*, 236 A.2d 197, 200-201 (Pa. 1967); *Pierce v. Yerkovich*, 363 N.Y.S.2d 403, 414 (N.Y. Fam. Ct. 1974); *Sumpter v. State*, 261 Ind. 471, 306 N.E.2d 95, 101 (Ind. 1974); *Lynch v. Donnelly*, 465 U.S. 668, 677 (1984); *Hosford v. State*, 525 So.2d 789, 799 (Miss. 1988); *State v. Schultz*, 582 N.W.2d 113, 117 (Wis. Ct. App. 1998); etc.

⁵² John Adams, *The Works of John Adams, Second President of the United States*, ed. Charles Francis Adams (Boston: Charles C. Little and James Brown, 1851), VI:9, “A Defense of the Constitutions of Government of the United States of America.”

⁵³ John Quincy Adams, *Letters of John Quincy Adams, to His Son, on the Bible and Its Teachings* (Auburn: James M. Alden, 1850), 61, 70-71.

⁵⁴ Theodore Roosevelt, *American Ideals, The Strenuous Life, Realizable Ideals* (New York: Charles Scribner's Sons, 1926), 498-499.

The fundamental basis of this Nation's law was given to Moses on the Mount. The fundamental basis of our Bill of Rights comes from the teachings which we get from Exodus and St. Matthew, from Isaiah and St. Paul. I don't think we emphasize that enough these days. If we don't have a proper fundamental moral background, we will finally end up with a totalitarian government which does not believe in rights for anybody except for the State.⁵⁵ **PRESIDENT HARRY TRUMAN**

The blessings of life and the freedoms all of us enjoy in this land today are based in no small measure on the Ten Commandments, which have been handed down to us by the religious teachers of the Jewish faith. These Commandments of God provide endless opportunities for fruitful service, and they are a stronghold of moral purpose for men everywhere.⁵⁶ **PRESIDENT DWIGHT EISENHOWER**

We passed thousands and thousands of laws in our two centuries as a nation—millions, maybe—and yet if we simply adhere to the Ten Commandments that Moses brought down from the mountains—and he didn't just bring down 10 suggestions—and the admonition of the Man from Galilee [i.e., Jesus] to "*do unto others as you would have them do unto you*" [Mathew 7:12, i.e., the Golden Rule], we could solve an awful lot of problems with a lot less government.⁵⁷ **PRESIDENT RONALD REAGAN**

⁵⁵ Harry S. Truman, "Address Before the Attorney General's Conference on Law Enforcement Problems," February 15, 1950, *Public Papers of the Presidents of the United States: Harry S. Truman 1950* (Washington DC: United States Government Printing Office, 1962), 157.

⁵⁶ Dwight D. Eisenhower, "Statement by the President on the Occasion of the Jewish High Holy Days," September 26, 1957, *Public Papers of the Presidents of the United States: Dwight D. Eisenhower 1957* (Washington DC: United States Government Printing Office, 1958), 695.

⁵⁷ Ronald Reagan, "Remarks at Kansas State University at the Alfred M. Landon Lecture Series on Public Issues," September 9, 1982, *The American Presidency Project*, <https://www.presidency.ucsb.edu/node/246434>.