Written by **Joe Wolverton, II, J.D.** on August 27, 2018

New Florida Law: "In God We Trust" Must Be Placed in All Public Schools

Public schools in Florida must now display the motto, "In God We Trust," per provisions of a state law passed in March and now brought to full effect with the opening of the new academic year.

Title XLVIII, Chapter 1003 of the state law has been amended to read: "Each district school board shall adopt rules to require, in all of the schools of the district and in each building used by the district school board, the display of the state motto, "In God We Trust" … in a conspicuous place."

Local media reports that the state government has in at least a few cases e-mailed signs with the motto printed on them for use by the school districts in their schools and other district buildings. Other school districts around the state report having been given signs bearing the legally required motto.

Florida's enactment of such a statute has drawn more media attention to the act than other states who've passed similar laws, such as Tennessee and Arkansas.

The heightened scrutiny of the motto's placement in school buildings in Florida is likely attributable to the global coverage of the deadly assault carried out by a gunman at the Marjory Stoneman Douglas High School in Parkland, Florida, earlier this year.

As would be expected in this day of intolerance, there are opponents of the law and its mandated mounting of the state motto ("In God We Trust" was made the official state motto in 2006).

In a statement regarding the recently enacted law, the Freedom From Religion Foundation called the Constitution as a witness for its claims: "These godly postings exclude and alienate the one-in-five students in our public schools who do not believe in god. And they're meant to," the foundation's statement reads. "These laws are not about patriotism, they're about turning believers into insiders, and nonbelievers into outsiders. There's nothing patriotic in undermining our nation's secular Constitution."

I'll let go by the comment — historically untenable in the extreme — that our country's constitution is "secular," but the idea that because there are "nonbelievers," all "believers" must confine their worship to their homes is typical of the intolerance displayed by those claiming to be victims of discrimination by Christians.

There is one question that would seem to clear up the controversy without relying on anyone to abandon his beliefs, or lack of belief.

If one does not believe in the Christian God or in Jesus Christ as a resurrected being, wouldn't that person be about as threatened by a plaque declaring trust in God as he would if a similar sign promised

faith in Zeus or Odin?

Finally, most of the opposition to posting the motto in public-school buildings has invoked the First Amendment, specifically that amendment's provision prohibiting the establishment of religion.

With all respect due to the folks at the Freedom From Religion Foundation, the Constitution — specifically the First Amendment — most certainly does not prohibit the state of Florida from requiring schools to post a plaque reading "In God We Trust."

The First Amendment reads, in relevant part:

"Congress shall make no law respecting an establishment of religion."

While the last three words of that clause are well-worn, the first five words are either ignored or re-interpreted according to the opinion of this or that Supreme Court majority.

Read closely, that phrase not only prohibits the federal legislature from establishing a religion, but it forbids it from making any law "respecting" such an establishment.

This language not only keeps Congress out of the business of establishing a national religion, but it places a wall of separation, if you will, between the states and their establishment of religion and the interference of the federal government.

As noted law professor and constitutional scholar Akhil Reed Amar explains, Congress is prohibited by the Establishment Clause from "trying to *disestablish* churches established by state and local governments." (Emphasis in original.)

Joseph Story, in his *Commentaries on the Constitution of the United States*, agrees, declaring plainly, "Thus, the whole power over the subject of religion is left exclusively to the state governments, to be acted upon according to their own sense of justice, and the state constitutions."

Amar points out that were the Establishment Clause to be applied to the states (a practice known as "incorporation" and seemingly required by the 14th Amendment), this would "eliminate its [the state's] right to choose whether to establish a religion — a right explicitly confirmed by the Establishment Clause itself!"

The states, in forming the federal government for the purpose of administering an enumeration of "few and defined" powers, reserved for themselves the full panoply of "numerous and indefinite" powers that lay beyond those boundaries.

One of these powers is most certainly the power to establish a state religion. The Constitution, by specifically setting this prerogative outside the fence of federal authority, protects the power of the states to legislate as its people and their representatives deem fit for themselves.

Admittedly, this analysis will seem strange to most Americans who for generations have been indoctrinated to believe that the application of the First Amendment to the states, particularly when it comes to protecting the practice or non-practice of religious faith, is according to the dictates of one's own conscience.

Regarding the distinct constitutional limits on the establishment of religion, Thomas Jefferson, as president, offered the following explanation of how he was able to defend his refusal to declare a national day of religious thanksgiving as president and his declaration of just such a celebration while serving as the governor of Virginia. In 1808, Jefferson wrote to the Reverend Samuel Miller: "I am aware that the practice of my [presidential] predecessors may be quoted. But I have ever believed that

the example of state executives led to the assumption of that authority by the general government, without due examination, which would have discovered that what might be a right in a state government, was a violation of that right when assumed by another."

The subject could not be clearer. Considering Jefferson's familiarity with and devotion to the history of ancient Greece, one is reminded of the following observation of Thucydides, regarding the lack of "due examination" suggested by Jefferson.

"The way that most men deal with traditions, even traditions of their own country, is to receive them all alike as they are delivered, without applying any critical test whatever," he wrote, condemning the failure of the people to study the history of their own country.

James Madison, Jefferson's constant collaborator and fast friend, placed the establishment of religion beyond the bailiwick of the general government (that which we call the "federal government"), but safely inside the bounds of state sovereignty.

During debate on the national bank, on February 2, 1791, Madison remarked, as recorded in the annals of Congress: "The defense against the charge founded on the want of a bill of rights presupposed, he said, that the powers not given were retained; and those not given were not to be extended by remote implications. On any other supposition, the power of Congress to abridge the freedom of the press, or the rights of conscience, etc., could not have been disproved."

With this recitation of history and constitutional construction in mind, perhaps the members of the Freedom from Religion Foundation and those who share their angst over a plaque may come to see that their ado makes it seem that they likely care less for the defense of religious liberty than for its denial to those who dare worship God and choose to put their trust in Him.

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