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# REPORT FROM THE CAPITAL

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## NewsMakers

◆ **Michael K. Young**, chairman of the U.S. Commission on International Religious Freedom, wrote a letter to Secretary of State Colin Powell on behalf of the 9-member panel urging the administration to promote a political system in Afghanistan that is respectful of religious freedom. "The Commission believes strongly that the United States needs to be laying the groundwork for a future Afghanistan that respects the rights of all persons, including the right to freedom of religion and belief," the letter said.

◆ **Barry Lynn**, executive director of Americans United for Separation of Church and State, warned churches in Virginia to avoid distributing campaign "voter guides" from religious right groups such as the Christian Coalition and American Renewal. Lynn said, "Federal tax law is clear: Houses of worship may not intervene in partisan political campaigns." Virginia's statewide elections were Nov. 6.

◆ **Texas Gov. Rick Perry** said he disagrees with the U.S. Supreme Court's decisions banning organized prayer in public schools. He commented on the court rulings when he was questioned about his participation in a prayer with students at a Texas middle school. Perry wants to make legalizing school prayer an issue in the 2002 governor's race. ▲

## Civil religion flourishes in public square after attacks

Since Sept. 11, routine acts such as waving the flag, pledging "one nation under God" and proclaiming the words "God bless America" have taken on almost worshipful significance.

But what some Americans find unifying and reassuring, others see as divisive and troubling, a blurring of the line between love of country and religion, with woe to those who don't believe.

Derek Davis, director of the J.M. Dawson Institute of Church-State Studies at Baylor University in Waco, Texas, sees the wall between church and state being temporarily lowered.

"At times like this, you almost set aside the First Amendment," said Davis, who serves as special counsel for the Baptist Joint Committee. "The excitement and emotion almost trump everything else."

But Davis warned that "this is not a time to suspend the Constitution. It is a time to be especially vigilant about civil rights, including religious liberty.

"But unfortunately," Davis added, "many are caught up in the heightened religious nationalism and are more prone to set aside First Amendment freedoms."

The fervor that makes patriotism an almost sacred duty goes by a variety of academic labels — civil religion, public religion, even democratic faith. Some scholars distinguish it from authentic spirituality.

"Patriotism sort of becomes a secular religion," said Pauline Maier, author of *American Scripture: Making the Declaration*

*of Independence.*

But others see real religion fusing with civic duty, producing a love of God and country that can't be divided or denied — especially when the nation is at war.

"In World War II, God was on our side," said W. Bruce Johnston, chair of the religious studies and philosophy department at The College of Saint Rose in Albany, N.Y. "Just think of the songs, like 'I'll Be Home for Christmas.' Here you have this religious holiday and there's this great big patriotic war song."

Johnston continued, "Then there's the Civil War. Abraham Lincoln basically tells the North this is a just cause because God is on our side. It's safe to say that wartime is a very good occasion for this type of thing to happen."

*"This is not a time to suspend the Constitution."*

— Derek Davis



Jean Bethke Elshain, professor of social and political ethics at the University of Chicago's Divinity School, was among religious leaders who met with President Bush before his Sept. 20 speech to Congress. Elshain said she and others were deeply moved when, after praying with Bush, the group spontaneously sang "God Bless America" — just as members of Congress had on the steps of the Capitol after the Sept. 11 attacks.

"Expressions such as 'God bless America' shouldn't offend anyone, except atheists or perhaps some New Age people who don't like God," Elshain said. "There's nothing specific

## Suits challenge judge's display of commandments

An Alabama judge who placed a 5,280-pound version of the Ten Commandments in the lobby of the state judicial building could find himself on the other side of the bench after two lawsuits were filed that challenge his action.

Supreme Court Chief Justice Roy Moore first gained national notice when, as a circuit judge, he displayed a copy of the commandments in his Gadsden, Ala., courtroom. He extended the practice when he moved a monument of the holy laws in the middle of the night to the judicial building.

One suit was filed by the Southern Poverty Law Center on behalf of a Montgomery, Ala., attorney who believes the monument should be removed because it represents a state endorsement of religion. The Associated Press reported.

The second case was filed by Americans United for Separation of Church and State and by the American Civil Liberties Union of Alabama, also on behalf of Alabama lawyers regularly doing business in the building.

"As a Christian minister I believe in the Ten Commandments, but I also believe in the separation of religion and government," said the Rev. Barry Lynn, executive director of Americans United. ▲

## High court rejects challenge to minute-of-silence law

The U.S. Supreme Court has declined to hear a case challenging a mandatory "minute of silence" in public schools.

By refusing the case, without comment, the high court left standing a ruling by the 4th U.S. Circuit Court of Appeals that the Virginia law does not violate the separation of church and state.

The year-old law requires teachers and students at public schools to observe a minute of silence at the beginning of each school day. The law specifically lists prayer as one activity in which students may engage during the mandatory time of silence.

The Supreme Court has long held that the First Amendment forbids state-sponsored prayer in public schools. In this case, lawyers for the American Civil Liberties Union argued the Virginia law is similar to an Alabama statute struck down by the high court in 1985.

However, attorneys for the state of Virginia and several religious organizations said the law does not require students to pray.

Holly Hollman, general counsel for the Washington-based Baptist Joint Committee on Public Affairs, expressed cautious agreement with the high court's decision.

"Unlike the Alabama statute ... the Virginia moment-of-silence law has a stated secular purpose — to encourage introspection and discourage a perceived increase in violence in schools," Hollman said. "Moreover, Virginia teachers were instructed that the statute not be used to coerce students to engage in prayer or any other permitted activity."

However, Hollman noted that in the delicate task of passing and implementing moment-of-silence laws, the government must remain neutral toward religion. "Neutrality does not allow prayer to be treated as a favored activity," she said.

Hollman said the Alabama statute held unconstitutional in 1985 was passed under circumstances indicating the state's endorsement of prayer and that the high court's ruling against that statute remains good law.

Others endorsed the court's decision.

Jay Sekulow, chief counsel for the American Center for Law and Justice, called the decision "proper and sound."

Ken Connor, president of the Family Research Council, said the moment of silence could benefit students in both secular and religious ways. "Whether it's a

minute kids spend in meditation, prayer or any other silent activity, it should be helpful in setting the right tone for the school day," Connor said. ▲

## White House hires first staffer assigned to Muslim outreach

The White House has hired its first staffer assigned specifically to reach out to American Muslims.

Suhail Khan, a Muslim American who worked for former Rep. Tom Campbell, R-Calif., will work in the Office of Public Liaison, reported "Religion and Ethics NewsWeekly," a PBS television program.

Khan will work with other staffers whose duties involve relating to Christians and Jews.

Muslim leaders are pleased with the development but point out that there are still no Muslims in decision-making positions in the U.S. government, the program reported.

The White House has made significant overtures to the Muslim community in recent months. President Bush has visited the Washington Islamic Center and reiterated that the U.S. military action in Afghanistan is not an assault on Islam. ▲

## Los Angeles County limits area church construction

The Los Angeles County Board of Supervisors has placed a 45-day moratorium on the building of new churches in the community of Rowland Heights.

Planners in the multiethnic suburb about 25 miles east of downtown Los Angeles will spend the period determining how many religious institutions there are in the community and whether or not zoning rules should be changed. The action came after residents complained about a spate of church construction in recent years, The Associated Press reported.

"Nobody is against churches. But there comes a point when they are taking over residential neighborhoods," said Russell Bell, president of the Rowland Heights Coordinating Council, which advises county supervisors. "The traffic and noise is depressing house values and impacting the quality of life."

Critics cautioned that the county could be violating a new federal law prohibiting local zoning regulations that place substantial burdens on religious exercise unless there is a compelling government reason. ▲

# Some responses to terrorism shortchange religious liberty



**K. Hollyn  
Hollman**

General Counsel

One of the most common responses to the events of Sept. 11 and our country's subsequent military action has been an overwhelming desire to do something. After the shock, and in the midst of grief and anger, Americans and their friends abroad have searched for

ways to help the victims, guard against further attacks and show support for our leaders.

Many have responded with prayers and financial contributions for those who lost friends and family members. Some have offered information to assist law enforcement. Others have organized patriotic rallies and displayed Old Glory with pride. Still, we ask, what more can we do to help?

Children in various communities have responded with some of the most creative initiatives, such as sending supplies for rescue workers and even their animals. Unfortunately, many adults, including some prominent political leaders, have offered less imaginative and in some cases blatantly unconstitutional responses. Astonishingly, some have suggested that this is a good time for government-sponsored religion.

During an official visit to a public middle school, Texas Governor Rick Perry participated in a prayer led by a Protestant minister at a school assembly. Not only did he attack the Supreme Court's ban on government-sponsored prayer in schools during this "crisis moment" in our history, he also told reporters that he is ready to make school prayer a campaign issue. Similarly, the Rev. Jesse Jackson led a prayer with students at an assembly of T.C. Williams High School in Alexandria, Va., proving that the lapse in constitutional judgment is not a partisan problem.

Next, Congressman Ernest Istook, R-Okla., the primary sponsor of previous failed attempts to amend the Constitution, began trolling for supporters to renew his effort to pass a school prayer amendment. Reports suggested he thought the events

of Sept. 11 somehow justified the measure. Finally, there have been numerous reports of elected officials in several states seeking to post scripture or religious symbols and slogans in government buildings.

These government efforts to promote religion, even if well intentioned, are severely misguided and unfortunate. Politicians who promote government-sponsored prayer or hastily slap religious symbols on the walls of public buildings should reconsider their response to the tragedy. They are doing what is easy and politically expedient at the expense of values we should treasure and protect.

Americans enjoy a freedom of religion that is unique. We exercise our faith according to the dictates of our conscience, not the dictates of government. We worship according to our chosen religious traditions, not an imposed tradition of the majority. The First Amendment, which guarantees our religious freedom, has served us well. This is no time to take it for granted and certainly not to rewrite it.

It is inevitable that religious expression, including public displays of faith by our leaders, would become more prevalent in the wake of terrorist attacks that affected so many lives. Many public acts of prayer, as well as acts of patriotism, have been spontaneous and have provided a temporary sense of unity. Such acts, however, should not be legislatively imposed.

Those who hold the public trust should not seek political gain by pandering to a religious majority. Instead, during this war against religiously motivated terrorists and a repressive theocratic regime, when our temptation to assert religious unity is so strong, we should defend our religious freedom and church-state separation even more vigorously.

While searching for appropriate responses to this crisis, we should remain thankful for the freedom God gives us and respect the Constitution that protects our religious liberty. ▲

## Judge forces Episcopal priest out of pulpit

A federal judge has ordered a Maryland Episcopal priest out of his disputed pulpit and given Washington Bishop Jane Holmes Dixon the right to determine who is qualified to serve as a priest in her diocese.

In a major victory for Dixon, U.S. District Judge Peter J. Messitte ordered the Rev. Samuel Edwards to leave the rectory of Christ Church in Accokeek, Md., within 10 days and said his call to serve the church is "invalid, null and void, unenforceable and without effect."

Edwards' lawyer, Charles Nalls, said he will appeal the decision to the 4th U.S. Circuit Court of Appeals and will ask the court to allow Edwards to stay in the rectory and not "throw him and his family out on the street." Nalls said he was "extremely disappointed" with the "quite far-reaching" decision.

The ruling caps months of legal wrangling between the liberal-leaning bishop and Edwards, a former conservative leader who called the Episcopal Church the "unchurch" and "hell-bound." It also marks a major defeat for church conservatives who rallied around Edwards and lambasted Dixon for bringing suit against Edwards and the congregation. ▲

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#### REPORT FROM THE CAPITAL

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about Christianity, Judaism or Islam in that. God is the term people use to describe a power beyond human beings."

Historically, the United States has been one of the world's most religious nations. In a May Gallup Poll, 90 percent of respondents said they believed in God, 7 percent were not sure, 2 percent did not believe and only 1 percent had no opinion.

In battles over public expressions of religious sentiment, the believing and non-believing camps can generate passions of similar intensity.

After the attacks, a secretary in Rocklin, Calif., put the words "God Bless America" on a marquee at Breen Elementary School, prompting a national controversy.

A California chapter of the American Civil Liberties Union sent a letter to the school calling the sign unconstitutional, "hurtful," "divisive" and an affront to children of minority faiths. The school, with public support, defied the ACLU, which appears to be backing down.

In a similar case in Broken Arrow, Okla., parents' complaints about "God Bless America" on a school sign resulted in temporary removal of "God," leaving just "Bless America." The *Daily Oklahoman* newspaper, outraged, labeled the complainers "cranks who never suspend their rabid secular fundamentalism."

The incidents helped prompt the House of Representatives to vote 404-0 for a resolution urging public schools to display "God Bless America" in a gesture of national support.

The national ACLU, normally outspoken on such matters, would not comment, except to call the California case a local decision.

Marc Stern, a constitutional attorney for the New York-based American Jewish

Congress and an ACLU ally, said that groups defending separation of church and state see the current climate as no-win and are taking a lower profile.

"Constitutional rights and privileges are a precious coin," Stern said. "You don't expend that coin in ways that are going to be futile, with relatively little at stake, as is the case here, or when the motive for doing so will be mistaken and converted into something else."

In general, courts have ruled that some seemingly religious expressions of government, such as the national motto, "One Nation Under God," and the words "In God We Trust" on currency, are in reality "ceremonial deism." The expressions have been seen as devoid of significant religious meaning because of their rote repetition.

"We should all give each other some breathing space for a time and not overreact," advised Charles Haynes, a senior scholar at the Freedom Forum First Amendment Center. "On one side, people should realize that this outpouring of patriotism and concern is understandable and you shouldn't fight everything you don't like.

"On the other side, I'm suggesting that people who want to put 'God bless America' everywhere, that our public schools are places that are quite diverse. We have people of many faiths and no faith and they shouldn't use this as an opportunity to impose something that in ordinary times they wouldn't be able to do."

Haynes said, "there isn't a judge in the land that would strike down" a temporary "God bless America" sign. But, if a district used the phrase as "a long-term expression" required in its schools, "that may be unconstitutional." ▲

— RNS and staff reports



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