

The President Vows: No Buddhists on the Bench

by Mister Thorne

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Last week was an interesting one for religion in the news. There was so much talk about religion and the government and public schools and the Constitution. There was talk of veiled images and Crusades, of righteous death threats and school vouchers. There was a presidential vow against Buddhists and Hindus. It was an unusual week of events.

Veils

First we heard about Sultaana Freeman, a former Christian evangelical minister and now a practicing Muslim. She wears a veil over her face, and she won't expose her face to anyone but her family and close friends. She claims the practice is dictated by her latest faith.

Ms. Freeman became news because of her driver's license photo. In the photo, her face is veiled. Only her eyes are exposed. Florida revoked her license after reviewing driver's license files in the wake of Sept 11.

Ms. Freeman took the issue to court; she filed a lawsuit against the state. Ms. Freeman's lawyer claims that Florida's Religious Freedom Restoration Act – a law that requires the state to make reasonable accommodations for religious beliefs – requires the government to give her a license without requiring a full-face photo. The state claims that driving is a privilege, not a fundamental right. In the interest of public safety, Ms. Freeman must have a full-face photo if she wants a license to drive. Last Thursday, a judge ruled that she could proceed with her suit against the state.

Public sentiment was pretty unanimous: "This is silly. If the woman doesn't want to expose her face for the photo, fine. But then she doesn't get a driver's license."

Crusades

Billy Graham was in the news. The aging evangelist brought his religious revival crusade to Cincinnati, Ohio, and the faithful flocked. In three days, the evangelist preached to over 100,000 people.

Before the revival, Graham apologized for anti-semitic remarks he made in 1972 during a conversation with President Nixon. Nixon recorded the conversation, and the recording was made public last March. In the recording, Graham is heard to say that Jewish domination of the media, "has got to be broken, or this country's going down the drain." Nixon agreed.

Graham, now 83, said he did not recall making the comment, but he apologized to a group of local Jewish leaders and told his congregation, "We need to do everything we can to be friends and neighbors to those chosen by God to be his people."

Righteous Death Threats

Federal courts made two very important rulings regarding the Establishment Clause of the Constitution, which says, "Congress shall make no law respecting an establishment of religion." In essence, Congress cannot enact a law if its principal or primary effect is to advance or inhibit religion.

The first ruling was a bomb: the Ninth Circuit Court of Appeals ruled that the Pledge of Allegiance was unconstitutional. In *Newdow v. U.S. Congress*, the court determined that the phrase 'under God,' which was added to the pledge by an act of Congress in 1954, promotes a particular religious belief: monotheism. This violates the Establishment Clause, according to the three-judge panel that reviewed the case.

Public reaction to the ruling was negative, swift, and visceral. The entire 9th Circuit Court was widely condemned by the public, politicians, and religious leaders. Michael Newdow, the plaintiff who brought the case, received death threats from all around the country.

What went largely unnoticed was another case in the 11th Circuit Court. Last Friday, that court heard arguments as to whether Michael Holloman's civil rights were violated when, as a high school senior, he was paddled for giving the black power salute during the pledge.

School Vouchers

The second ruling was another bomb, but it didn't have quite as much bang as the first. In *Zelman v. Simmons-Harris*, the Supreme Court ruled that the use of school vouchers, as in Ohio's Pilot Project Scholarship Program, did not violate the Establishment Clause.

The scholarship program provides financial aid to students in the Cleveland City School District. Of the 57,000 students eligible for the program, about 4,000 receive the aid in the form of school vouchers, and almost all of them use the vouchers to attend Catholic school.

The court determined that the program gave financial aid to the students' families, not directly to private schools. The court reasoned that if those families chose Catholic schools, then that was their choice; the state was not involved in it. Chief Justice Rehnquist, writing the majority opinion, noted that the program did not coerce students to attend religious schools, and therefore did not violate the Establishment Clause. He wrote that the program offered, "true private choice." In her concurring opinion, Justice Sandra Day O'Connor wrote, "Cleveland parents who use vouchers to send their children to religious private schools do so as a result of true private choice."

The 5 to 4 ruling was far from unanimous. Justice Souter, termed the decision "doctrinal bankruptcy," and "a dramatic departure from basic Establishment Clause principle." Justice Breyer wrote that, "parental choice cannot significantly alleviate the constitutional problem."

The Vow

There was one more notable development, but this one barely caused a thud. President Bush announced a new requirement for federal judges: they must be monotheists. "There is a universal God," said the president. "The declaration of God in the Pledge of Allegiance doesn't violate rights. As a matter of fact, it's a confirmation of the fact that we received our rights from God, as proclaimed in our Declaration of Independence."

And then he declared his intent to appoint to the federal bench only those who agreed with his religious beliefs. "We need common-sense judges who understand that our rights were derived from God. Those are the kinds of judges I intend to put on the bench."

So polytheists, such as Buddhists and Hindus, cannot become federal judges because they don't share the president's belief that there's one god, and that god gave us our civil rights.

And Article VI of the Constitution?

Commentary

This week, we celebrate Independence Day: the signing of our Declaration of Independence, a document that proclaims that the rights of Americans come from God. When that declaration was written centuries ago, almost all Americans were Protestants. They knew exactly who God was: their god.

Our religious demographics have changed considerably since then. Now, just over half of us are Protestants. Almost one quarter of us are Catholics. Altogether, over 80% of us belong to a religion that acknowledges the Judeo-Christian god, that single, all-powerful, universe creating and sustaining god who gives Americans their inalienable rights.

But a growing number of Americans don't believe in that god. In the last decade, the number of Judeo-Christians in the U.S. rose by only 5%. In the same time, the number of Muslims more than doubled, as did the number of non-believers and the number of polytheists. The number of Hindus quadrupled, and now more Americans embrace polytheism than Judaism.

In sum, a smaller and smaller percentage of Americans believe in the one god of the founding fathers. A greater number of Americans don't appreciate the 'under god' phrase in the Pledge of Allegiance simply because it – and the entire American Civil Religion – goes against their religious beliefs.

As we become more diverse in our faiths, we can expect to see more and more *Faith v. State* clashes like the one between Ms. Freeman and Florida. And we can expect more Salmon Rushdie style death threats against those who – like Michael Newdow – move against the orthodoxy of the state.

The initial public panic over the Ninth Circuit Court's ruling on the Pledge of Allegiance died down quickly, as newscasters paraded an army of experts on TV proclaiming that this silly and ridiculous ruling would be quickly overruled. When the court stayed its ruling after two days, the public – not up on constitutional law or how courts function – saw this as evidence that the ruling was nothing to be concerned about.

But, who knows? The Ninth Circuit Court could reaffirm its ruling. It could conclude that adding 'under god' to the pledge has no purpose other than to promote monotheism and to inhibit polytheism and atheism: alternative faiths. And, if it does, the Supreme Court might not bother to hear an appeal. In 1993, the court declined to hear an appeal on this very issue.

Last week, many prominent and knowledgeable citizens claimed that since the phrase 'under god' doesn't refer to any particular god (which it certainly does), then it offends no one. Now consider this improbable scenario: suppose Congress changed the phrase in the pledge from 'under god' to 'under the gods.' Suppose they changed the pledge to acknowledge polytheism rather than monotheism. Those same prominent citizens would be screaming and taking their children out of public school faster than they did when busing was the issue.

Heck, if President Bush has his way – a national school voucher program – they could use vouchers to help them do it. And if they decide to fight this in court, they won't have to worry about Buddhists on the bench.

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