

Statement of

The Honorable Orrin Hatch

United States Senator
Utah
June 8, 2004

"Beyond the Pledge of Allegiance:

Hostility to Religious Expression in the Public Square"

Thank you very much, Senator Cornyn, for holding this important hearing. As many of our panelists today will attest, our legal culture is increasingly hostile to public expressions of religious faith, and this hostility jeopardizes the free exercise rights of religious citizens - religious minorities in particular. In the zeal to erect an artificial barrier between religion and public life, the rights of religious persons to practice their faith have been forgotten. This is a development that demands our attention.

Left to their own devices, I have no doubt that the American people would take a pragmatic approach to balancing a need for separation between church and state with the personal right to free exercise. Unfortunately, judicial activists are attempting to force all remnants of religion from the public square. And this hostility toward religion has had the unintended consequence of undermining the commitment to toleration and respect for fellow citizens on which this country depends.

The judiciary now interprets the First Amendment's establishment clause so broadly that it is driving nearly every expression of religious belief from our public institutions, even such harmless expressions as non-denominational prayer before a high school football game or graduation ceremony. Wittingly or unwittingly, our courts are creating what the Reverend Richard John Neuhaus calls a "naked public square," a secular community devoid of any religious commitments.

But unlike the French Revolution, which succeeded in creating a purely secular state, the doctrine of individual rights that inspired the American Revolution was preached from our fledgling nation's pulpits. When the French government recently prohibited young Muslim girls from wearing their traditional head scarves in public schools, they were merely reaffirming their constitutional traditions. But the American Revolution was not hostile to religious faith, and when a school district in Oklahoma penalizes the same customary garb, it compromises our constitutional traditions by punishing a vulnerable religious minority.

Ours is a nation born of religious dissenters and minorities. When we fail to accommodate the religious exercises of Caribbean faiths, Native Americans, or any other religious minority, we undermine the Constitution. Massachusetts, Pennsylvania, Connecticut, even my own state of Utah--all were born in an effort to harbor persons of diverse faiths. When Catholics succumbed to famine in Ireland, they came to the United States, and their religious beliefs were

accommodated. When Jews fled Eastern Europe and Russia, they came to America and were welcomed as fellow citizens.

Despite this history, activist courts have done their best for this past generation to drive any vestiges of religious belief from public life. It is sad, but unsurprising then that citizens and legislators follow their lead and conclude that even minor expressions of religious faith are unacceptable.

As a committee charged with judicial oversight, it is our obligation to stop this development. It is fitting this week to recall the words of our friend and late President, Ronald Reagan, who recognized the religious underpinning of this country's founders, and the continuing importance of those roots today. He said:

"Americans are a free people living under the law, with faith in our Maker and in our future. I've said before that the most sublime picture in American history is of George Washington on his knees in the snow at Valley Forge. That image personifies a people who know that it's not enough to depend on our own courage and goodness; we must also seek help from God, our Father and Preserver."

President Reagan understood what George Washington and the other Founders already understood. Religion is not hostile to free government. In fact, religious commitments to personal equality and human dignity help to perpetuate free government.

In our hearing today, hopefully we will begin to restore some of that wisdom. I thank Senator Cornyn again for chairing this essential hearing, and I look forward to working on this issue with you.

Thank you.