

commentary

from our viewpoint...

Observing holiday a somber occasion

The nation will observe a new holiday next Wednesday, remembering the martyrs of Sept. 11, 2001.

It won't be a celebration, at least not in the usual sense. It'll be a somber occasion, marked with speeches and prayer.

Maybe someday, a long time in the future, it'll become a day marked by fireworks and picnics and carrying on, like the Fourth of July.

No one talks much today about the risks the Founding Fathers took. Or the privation endured by Washington's soldiers. All that happened a long time ago.

But the events of Sept. 11, 2001, are far too recent to pass by. We'll hear a lot this year about the sacrifices and the heroes of that day.

There were heroes by the score.

Firemen who climbed up into the Twin Towers, rescuing those who could be saved, fighting the fire that very quickly would end their lives. None of them hesitated at the door.

Police officers who led thousands to safety, only to return to the doomed buildings.

Others who dug night and day through the rubble, looking for the pitiful few survivors left underground.

Passengers and air crew on that doomed flight over Pennsylvania.

Pilots and ground troops who shipped out for Afghanistan and other places unknown, ready to fight the new war against an enemy few understood, in places few had heard of before.

Wednesday's observances likely will focus also on thousands of more or less unsung heroes, the firefighters, police officers, deputies, troopers, emergency medical crews and others who stand ready to help, whether it's a common-variety car wreck, an anthrax attack or another 9-11.

There will be speeches and banners. It will be a lot like the Fourth of July. Politicians who haven't done much sacrificing will praise those who have. They'll talk about grand plans for homeland security, and how they're making life safer for all of us.

Don't believe it. There's still a war going on. Those we are going to honor are going to be called on more than once. And it's likely we'll face yet more insults in the name of some strange and foreign truth. Our own hard-won rights will be threatened at home and abroad.

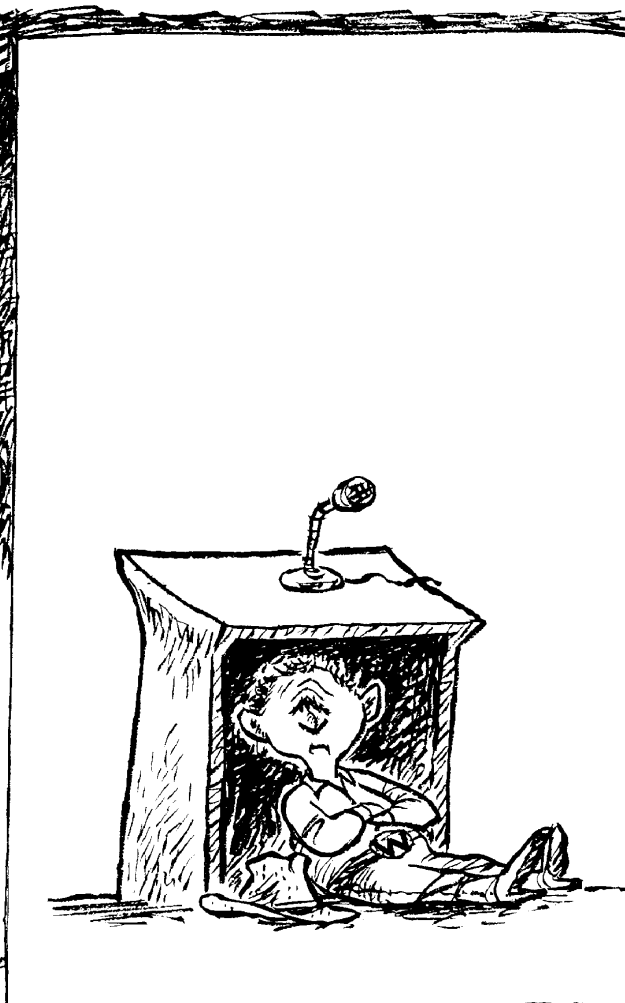
We need to remember we're able to gather next week because other heroes fought for something they believed in, precious freedom to think and live and dream.

And to remember that, because of today's heroes, someday our great-grandchildren may be able to gather on Patriot's Day, or whatever they'll call it then, laugh and joke, eat cold fried chicken — and maybe watch fireworks.

That's why heroes do what they do, and really, it's all they ask. — Steve Haynes



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Wedding goes off without major hitches

The rains stopped.

The sun came out.

They were wed.

The marriage of our daughter, Felicia Mary Pilar Haynes, to Nik Wilets went off without any major hitches.

There were just 13 people at the ceremony, including the judge, the happy couple, parents, grandparents, brother and sisters, all decked out on the rooftop terrace of an old hotel overlooking lovely Augusta, Ga.

But pity the poor bride who has the perfect wedding. She won't remember a thing.

Felicia will have a few memories, although the wedding itself was about as smooth as you could wish.

The morning of the big day, the bride woke up with a big pimple in the middle of her nose. Glasses would have covered it, but makeup would have to do.

Then we girls went to a spa for facials and manicures. There was a small step and I warned mother about it three times before tripping over it myself and sprawling face first onto the floor. Nothing broken, but my ankle was bent a little — not sprained, just bruised.

I also came up with an inch-square red patch beside my left eye. I think it was an allergic reac-



cynthia haynes

• open season

tion to tape I had to use on my face the week before. Makeup covered that one, too.

As the ceremony drew near, the judge arrived and we all got dressed. Son Lacy didn't have any dark socks and the father of the bride came up with one blue and one gray. He wore them and figured no one would notice. He didn't have much choice, really.

The groom ran late but was there when we gathered on the verandah of the beautiful old Partridge Inn for the 6 p.m. ceremony.

The rain, which had started that afternoon, stopped for about the half an hour needed for the ceremony.

It was a quick wedding. There were no candles, no attendants, no music. The only flowers were the bride's bouquet, which she had put together herself that afternoon.

After they said I do, exchanged rings (their dads served as ring bearers) and the judge pronounced

them married, we all went inside and had supper. It started to pour before we had finished our salads.

The next day, it was still raining as the men struggled to put up a tent in the back yard and the women prepared food for the 50 or so friends expected for a barbecue. The rain never stopped but the party went forward and everyone seemed to have a good time. The guys were drenched, but the burgers were dry.

After we had returned to the hotel, we received a frantic call from Felicia. She had lost a cloisonné box that had belonged to her grandmother Haynes. Inside the box was a string of pearls, also from her grandmother, that she had worn during the wedding. The pearls were not as valuable as the Hope Diamond, but were real and valuable in terms of both money and sentiment.

It was midnight, and the hotel's lost and found was closed.

Felicia was in tears and neither her father nor her husband could comfort her.

Finding the box and pearls in with her shoes did the trick, though.

Come Thanksgiving, the kids will go on their honeymoon to Italy.

I suspect there will be more memories created on the Continent but, thank the Lord, Steve and I won't be there to worry about them.

Letter Policy

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Who watches the secret court?

The secret court overseeing the Foreign Intelligence Surveillance Act recently made headlines by refusing Attorney General John Ashcroft's request for broad new surveillance and investigative powers that, in part, circumvent the Fourth Amendment's due-process standard.

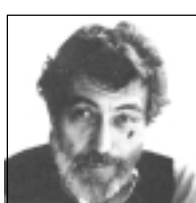
FISA Court, composed of rotating federal judges from around the country, had never in its 24-year history released a public report on any of its rulings — until May 17. We, the citizenry, knew nothing of that report until Sens. Patrick Leahy (D-Vt.), Charles Grassley (R-Iowa) and Arlen Specter (R-Penn.) released it on Aug. 22. The Justice Department had opposed releasing it, but the three senators — who've been at odds with the attorney general about his secrecy — asked the court for special permission to release it publicly.

FISA Court emphasized in its report that the FBI had previously submitted more than 75 inaccurate and sometimes downright false information to the secret court in its applications for search warrants and wiretaps.

These abuses of its trust by the FBI did not take place under Ashcroft's watch. The misuse of its powers occurred while Janet Reno was attorney general and Louis Freeh headed the FBI. In early 2000, the Justice Department discovered these erroneous submissions and reported them to the FISA Court. Ashcroft began an investigation, not yet completed, as to whom was responsible.

The Justice Department says it's appealing the FISA Court's denial of the new authority Ashcroft asked for in March because it needs these new powers in the war against terrorism. The appeal goes to a FISA appellate court, which has never before been convened. Any further appeal goes directly to the Supreme Court.

What's at stake in the constitutional conflict between the Justice Department and the FISA Court is our national identity — whether this country can secure its liberties against terrorism without compromising them. Established by Congress in 1978, the court allows the FBI to conduct electronic surveillance and physical searches in gathering foreign intelligence on terrorism and espionage. But, unlike regular court warrants for criminal investigations, FISA doesn't require the FBI,



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in these secret operations, to show probably cause — a high Fourth Amendment standard — that a crime is being committed to obtain a warrant. Targets can be anyone in the United States, including citizens.

FISA rules are that the primary purpose of the FBI in these wiretaps and other searches is to collect foreign intelligence, and not information to be used in regular criminal prosecutions. But, in March, John Ashcroft told the FISA Court that he wants — as Georgetown University law professor Jonathan Turley reported in the Aug. 26 Los Angeles Times — to use the FISA searches "primarily for a law enforcement purpose" by prosecutors in criminal investigations, making secondary "its original foreign intelligence-gathering purposes."

This would allow prosecutors to help direct FISA searches, under these lower constitutional standards, thereby bypassing the Fourth Amendment privacy protections of American citizens in future secret searches not primarily for foreign intelligence. The FISA Court states it wants to prevent that.

However, the FISA Court has approved about 1,000 secret warrants every year since 1978, and never rejected any. What are its own criteria for granting such wholesale secret surveillance and physical searches?

Furthermore — and this is all the more troubling — in the Washington Post's Aug. 23 story on the FISA Court's strong criticisms of the FBI, Dan Eggen and Susan Schmidt report that: "A senior Justice Department official said that the FISA Court has not curtailed any investigation that involved misrepresentation or erroneous information (from the FBI). Nor has any court suppressed evidence in any related criminal case" where the FBI investigation was authorized by the FISA Court under these illegal representations.

While publicizing the rejection of the Ashcroft request is important, the FISA Court should explain why it has never rejected any FBI surveillance requests.

As Supreme Court Justice William O. Douglas said, "The history of liberty is the history of due process." Due process means the justice system has to be fair, and accountable when the system breaks down, as it did in the failure of the FBI to adhere to the rule of law, and the failure of the FISA Court to hold the FBI accountable for so long.

Worse yet is the failure of Congress to exercise its oversight power over the FBI and the Justice Department while all this was going on.

Finally, both the Senate and the House judiciary committees are now insisting that Attorney General Ashcroft answer a long list of questions on his implementation of his counterterrorism policies — very much including the shadowy provisions of the USA Patriot Act that endanger the very freedoms we are fighting to protect against terrorism.

As every schoolchild learns, the Constitution insists on the separation of powers so that no one branch of our government becomes imperious. Congress must also ask some searching questions of the Foreign Intelligence Surveillance Court, whose secrecy should not be absolute.

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