founded upon the belief in ''the laws of Nature and Nature's God.'' I climbed the long steps, walked past the huge columns, stepped out of the sunlight and into the presence of a security guard. I introduced myself to the guard who replied, ''I'm Moses and I'll escort you to your seat.'' ''Moses! Moses?'' I responded. The guard smiled and nodded his head. ''There couldn't be a better person to lead me to hear the Ten Commandments cases,'' I said.

Modern day Moses led me to the chambers, through the huge oak double doors, engraved with the Ten Commandments, and to my seat in the chambers. The courtroom was soon full when we all stood to the Supreme Court Marshal's announcement, ''The Honorable Associate Justices of the Supreme Court of the United States. Oyez! Oyez! Oyez! . . . God save the United States and this Honorable Court!'' The justices filed in and were seated. On the frieze above them and to their left, sculpted in stone, stands Moses with the Ten Commandments.

It is a rare privilege to be in the presence of the most powerful and unaccountable shapers of American society that our nation has ever seen. The oral arguments before the Supreme Court in the two cases before it will likely determine if there will be changes in whether and under what circumstances religious displays can be placed on public property. As I listened to the questions and remarks from the justices, I considered the implications of what had become of our Constitutional right to religious freedom and the Constitution itself. A growing uneasiness slowly turned into a sinking feeling in my stomach.

Before I get to the cases at hand, I remind you that the Constitution is written to protect the rights of the minority against the will of the majority and the rights of the majority against the whim of the court. Without the Constitution and the Bill of Rights, the will of the majority would be imposed on the minority. Put simply, a pure democracy is two coyotes and a sheep taking a vote on what's for dinner. The Founders understood this and rejected democracy in favor of their new invention, a Constitutional Republic. Our Republic is a unique design of the carefully balanced executive, legislative, and judicial branches. The three branches of government were not designed to be ''separate but equal'' branches but three carefully balanced branches, the weakest of which is the judicial branch. They were to function together so that the will of the majority could not overturn Constitutional guarantees. The Founders were concerned about the power of an unchecked court so they put limits on its power. The Supreme Court's Constitutional charge is to rule on the letter and the intent of the Constitution, ''with such Exceptions, and under such Regulations as the Congress shall make.'' (Article III, Section 2. United States Constitution)

The question before the court was, ''do the displays of the Ten Commandments violate the ''establishment clause?'' ''Do the displays violate the separation of church and state implied in the Constitution?'' Those of us who came to the Supreme Court expecting to hear profound Constitutional arguments were sadly disappointed. To my ear, no justice referenced the Constitution or quoted from it or asked a question directed to the text of our foundational document. The questions were, ''What is the context of the display?'' ''Was it a religious display, secular, or historical?'' ''What was the intent of those who displayed them? Religious? Secular? Historical?'' ''How would the display be perceived by a reasonable person? Religious? Secular? Historical?'' ''Is anyone offended by the Ten Commandments?'' All pro-religious freedom arguments were carefully and narrowly designed to preserve the two displays in question before the court. One in Texas and one in Kentucky. There was no effort made in oral argument that might have expanded religious freedom by establishing a precedent that would provide for true Constitutional religious freedom. The entirety of the oral arguments before the court and the interest of the justices were focused on issues that cannot be found in the text of the Constitution.

The First Amendment to the Constitution of the United States states, ''Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; . . .'' There are initially only two qualifying questions to be asked of a religious display. One, did Congress. or any of the states (14th amendment), make a law that established a religion? The obvious answer is no. The Constitution has not been violated if Congress has made no law to establish a religion. There is no need to deliberate further. Case closed. For the sake of argument, the second question is, did Congress or any of the states prohibit the free exercise of religion? Again the answer is no. Again the case is closed because no Congressional or state action prohibited the free exercise of religion although the court has done so many times and may well be poised to do so again. Sadly, these two elemental and operative questions were not asked or answered, yet they are the qualifiers that must be met before any religious freedom case can be Constitutionally argued beyond these two points.

Since 1963, in the case of Murray v. Curlett when the Supreme Court ordered prayer out of the public schools, there have been a series of decisions that have diminished religious liberty, one creative, convoluted, extra-constitutional case at a time, until the basis of a ''Constitutional'' decision is distorted beyond the recognition of even those of us who have lived through and with the changes. Imagine how astonished and irate our Founding Fathers would be if they were alive to see the magnitude to which unelected judges have warped our sacred constitutional covenant with their original intent. James Madison, the father of our Constitution, attended church services in the capitol rotunda where regular Sunday church services were held for 60 years. I can hear Madison now, ''We gave you an amendment process! Why didn't you use it? Why would you honor the opinions of appointed judges who dishonor the Constitution?''

In case after case, the courts have ruled against the letter and the intent of the Constitution to the effect of diminishing religious freedom until they have now painted themselves into a legal corner. If their case precedents are to be the path, there is no way out of the room to the door marked ''Constitutional Guarantees'' because of the principle called stare decisis, Latin for: to stand by things that have been settled. Because of their activist arrogance, for the justices, the wet paint of case law precedent never dries, therefore we can't walk back across the paint through the doorway to our guaranteed Constitutional freedoms. Consequently our freedoms are reduced with each stroke of the activist's pen until they are no longer recognizable and the Constitution becomes meaningless.

Last fall, in a small and private meeting, I asked Chief Justice Rehnquist, whom I admire, this question, ''If the Constitution doesn't mean what it says, and as the courts move us further and further from original intent (of the Constitution), what protects the rights of the minority from the will of the majority and what protects the will of the people from the whim of the courts? And, considering the prevalent ''living breathing Constitution'' decisions, hasn't the Constitution just become a transitional document that has guided our nation from 1789 into this 'enlightened' era where judges direct our civilization from the bench? Is the Constitution now an artifact of history?'' The core of Chief Justice Rehnquist's answer was, ''I acknowledge your point.''

To acknowledge my point concedes that the Constitution has become meaningless, become an artifact of history, as far as the courts are concerned. Constitutional law is taught in law schools across the land without teaching the Constitution itself. Constitutional law is too often a course study about how to amend the Constitution through litigation. In fact, we had a law professor before the House Committee on the Judiciary who testified, ''You give me a favorable judge and I will write law for the entire United States of America, in a single courtroom on a single case.''

Our Nation has suffered through more than forty years of activist judges wandering in their anti-religion desert, a desert hostile to Christians and Jews and devoid of Constitutional boundaries. Let my people go! It will take another Moses to lead us out of the desert and back to the Promised Land of our Founding Fathers, a land wisely provided for and abundantly blessed by God.

IN HONOR OF EQUAL PAY DAY

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. HONDA. Mr. Speaker, I rise today in honor of Equal Pay Day.

Today I join the millions of women workers and local advocates across America to fight for justice and fairness in our wages. Today symbolizes the day when women have to work longer hours each week for the same amount of pay that a man would earn in just 5 working days.

It is disappointing to know that it has been 40 years since President John F. Kennedy signed the Equal Pay Act in 1963, yet the wage gap between men and women persists. Forty years ago, women who worked full-time made 59 cents on average for every dollar earned by men. In 2004, women earned 77 cents to the dollar. The wage gap has barely narrowed in these past 40 years, even though women have the same education, skills and experience as men.

The disparity in wages between women of color and white men is even worse. In 2003, Asian Pacific American women earned 80 cents for every dollar that men earned. African American women earned only 66 cents and Hispanic American women earned 59 cents for every dollar that men earned.

Although working women in my home State of California are farther along the road to equal pay than women in many States, the wage gap is still there. In 2000, California's working women earned only 82.5 percent as much per hour as men.

At the current rate of change, working women in California won't have equal pay until 2044. Nationwide, women won't achieve equal pay until 2050.

It is distressing to know that it will take 87 years since the Equal Pay Act before there is pay equity.

Now is the time for our country to fix this problem and to move forward in addressing this issue.

As Chair of the Congressional Asian Pacific American Caucus, I have joined with my colleagues in the Congressional Black Caucus, the Congressional Hispanic Caucus, the Native American Caucus, the Women's Caucus and Democratic Leadership to move forward in addressing this problem by cosponsoring the Paycheck Fairness Act.

The Paycheck Fairness Act, introduced by Congresswoman ROSA DELAURO would take the steps needed to eliminate gender based wage discrimination and ensure that women will finally earn what men earn for doing the same job.

I urge you to join me in cosponsoring this important legislation.

We must remember that equal pay isn't just a women's issue—when women get equal pay, their family incomes rise and the whole family benefits. Equal pay is about fairness.

CONDOLENCES ON THE PASSING OF POPE JOHN PAUL II

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to express my condolences on the passing of Pope John Paul II. For families such as mine, the Pope represented a connection with the larger human community. We felt blessed by his faith, compassion, and the simplicity that he preached in words and deed, As a public figure he not only represented the Roman Catholic Church, but also was a symbol of liberation and strength. Pope John Paul II embodied the spiritual virtue of innocence that allows us, as humans to be loved, respected, and forgiven.

My district, the 47th Congressional District of California, is home to many practicing Catholics who followed and believed in Pope John Paul II, as my family and I did. The Pope was an amazing example of one man who strengthened the hearts and souls of people. John Paul's trust and belief in us, allowed us to trust and believe in others,

John Paul II visited the state of California twice in his life, once in 1976, as Cardinal and the second time in 1987, as Pope. By way of his many travels around the world, he reached out to people, regardless of race, religion, or politics. Pope John Paul II was a leader in uniting nations and people. He believed that through love, we can attain understanding, which can conquer the divisions that still plague the world today. The Pope saw Christian faith as truly Catholic, as truly universal:

". . .Christ is Anglo and Hispanic, Christ is Chinese and black, Christ is Vietnamese and Irish, Christ is Korean and Italian, Christ is Japanese and Filipino, Christ is native American, Croatian, Samoan, and many other ethnic groups. . ."

Up to his final days, through his great personal suffering, he maintained his dignity. The passing of Pope John Paul II is a great loss to the global community. He will be missed and his memory will be kept sacred in our hearts.

TRIBUTE TO JAY CUTLER

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise today to pay tribute to the life of Jay B. Cutler—a dedicated advocate of mental health parity, a talented attorney, and a dear friend. Jay passed away on March 4, 2005 at the age of 74. He was a passionate and skillful advocate of the causes he believed in and was recognized as such by all his peers.

A native of New York, Jay graduated from New York University, as a business major, and Brooklyn Law School. He served in the Korean War in Army Intelligence before moving to Washington, DC, where he dedicated his life to improving the treatment for persons suffering from mental illness and substance abuse. He began his career in Public Service Television production and for the former U.S. Senator Jacob Javits as Staff Director of the Senate's Human Resources Committee. He was the lead Senate staff member in the drafting, introduction and passage of the landmark Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616) that established the National Institute on Alcohol Abuse and Alcoholism.

Jay joined the American Psychiatric Association in 1978, to begin a 25–year career as Director of Government Relations. He helped broaden Medicare coverage for the treatment of mental illness and blocked government efforts to steer mentally ill patients towards cheaper and less effective medications. Recognized for his remarkable dedication to the education about and destigmatization of mental illness not only to legislators, but also to the public, Jay's involvement helped to change the view of such issues in the public. Thanks to people like him, the Nation has made a remarkable transition from the long-held and destructive view that mental illness and substance abuse are character flaws. He advocated the idea that they are diseases which can and should receive the best treatment that medical sciences can provide. His commitment has been at the core of a profound shift in public awareness and understanding of these disorders.

As an APA lobbyist, Jay had direct impact on virtually every major bill on health policy and mental illness and substance abuse treatment legislation over more than 25 years. The expansion of the Community Mental Health Centers Program, the exemption of psychiatric hospitals and units from the Medicare prospective payment methodology, ensuring their fiscal viability for nearly 20 years, and the increased funding for veterans', children's and Indian mental health services are among the numerous legislative achievements Jay carried on in his career. His role in passing mental health legislation was well depicted in Eric Redman's book, The Dance of Legislation, which followed the development of the National Health Service Corps. It featured Jay as one of its subjects and it makes clear with regards to this major legislation that a great deal would not have happened without his dedication.

Over the years, Jay Cutler became synonymous with the cause of mental health parity and was well known by many Members of Congress. By combining his tremendous experience with a charm and wit that he generously shared with all whom he encountered, Jay was extremely effective. Because of his relentless efforts, millions of Americans received better care. His commitment to protecting patient confidentiality and broadening coverage for psychiatric and substance abuse treatment make him a role model for others to emulate.

Jay was not only a committed and effective advocate; he was an excellent teacher. It was my great privilege to work closely with Jay on numerous occasions and learn from his immense knowledge. He taught me a great deal about mental health policy and the history of behavioral health. And I can assure you that every lesson from Jay Cutler, just like every encounter of any kind with Jay Cutler, was a joy.

While being always at the forefront of efforts to eliminate discrimination against mental illness, Jay remained a loving husband and father. He understood the importance of being a doting father and grandfather, as well as a devoted husband. As in his professional activity, Jay Cutler was respected and appreciated by his friends and relatives.

I ask my colleagues to join me in expressing condolences to Jay's wife, Randy, his two daughters, Hollie S. Cutler and Perri E. Cutler, and his granddaughter, Makayla Lipsetts. We are deeply saddened by his death, and we are warmed by the memory of his remarkable life.

IN HONOR AND RECOGNITION OF ROBERT H. MCKINNEY

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. CARSON. Mr. Speaker, on the occasion of his retirement from the position of Chairman of First Indiana Corporation, I rise today to commend Robert H. McKinney for his distinguished career of service to our country and his and my hometown community.

First Indiana Corporation is a publicly traded holding company that operates the First Indiana Bank, the largest homegrown bank in Indianapolis. It was established in 1915 by Mr. McKinney's father, the highly respected E. Kirk McKinney.

It is entirely and delightfully fitting that tribute be paid to Robert McKinney and his illustrious career as a devoted national and local public servant who is truly an inspiring community leader.

His achievements are breathtaking.

A graduate of the United States Naval Academy, the Naval Justice School, and the Indiana University School of Law, Mr. McKinney served in the Pacific during World War II and the Korean War. He has received Honorary Doctorates of Law from Marian College and Butler University. He has served as a member of the Indiana University Board of Trustees.

Bob McKinney has served as chairman of the Federal Home Loan Bank Board, the Federal Home Loan Mortgage Corporation, the