

18-wheelers as transportation in the carry of goods. And I am not here to cast stones, but I am here to say, Mr. Speaker, we need more safety regulation and enforcement as it relates to 18-wheeler trafficking.

I bring to our attention the tragic story that occurred this past summer, a couple of months ago, to the Lutine family, where this widow now tells a story of losing her husband and three babies because of an 18-wheeler at high speed that turned over on them and caused the truck to explode; the vehicle that the family was riding in, the recreational vehicle that the family was riding in, and caused the husband and the children to be burned alive.

If I can quote the comment from the wife, the wife and mother of the three, these victims, witnessed this sickening event and as she testified she stood at the scene screaming, "My life is over. All my children are dead."

I am hoping that we can come together as Members of the United States Congress and ask that we include a data recorder in all trucks, Mr. Speaker, that would provide factual information to determine how these accidents occurred so that we can prevent these accidents. We will have an opportunity as we move toward H.R. 2669, as I conclude, the Motor Carrier Safety Act of 1999, this week and I hope we can work together to ensure that these tragedies do not happen again.

WHEN HISTORY IS LOOKED AT, THERE IS NO CONSTITUTIONAL SEPARATION OF CHURCH AND STATE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from Pennsylvania (Mr. PITTS) is recognized for 60 minutes as the designee of the majority leader.

Mr. PITTS. Mr. Speaker, tonight several of us are again gathered here in the hall of the House in this legislative body that represents the freedom that we know and love in America to discuss what our Founding Fathers believed about the First Amendment, the freedom of religion, the issue of religious liberty, and the intersection of religion and public life.

Mr. Speaker, there has been a lot said by people of all political ideologies about the role of religion in public life and the extent to which the two should intersect, if at all. Lately we have heard the discussion of issues like charitable choice, graduation prayers, even prayers at football games, opportunity scholarships for children to attend religious schools, government contracting with faith-based institutions, and the posting of the Ten Commandments and other religious symbols on public property.

As we hear this discussion, we often hear the phrase "separation of church and state" time and time again.

Joining me tonight to examine this phrase and this issue and what our First Amendment rights entail are several Members from across this great Nation. I am pleased to be joined by the gentleman from Colorado (Mr. TANCREDO), the gentleman from North Carolina (Mr. JONES), the gentleman from Kentucky (Mr. WHITFIELD), the gentleman from Kansas (Mr. RYUN), and the gentleman from South Carolina (Mr. DEMINT), each of whom will examine the words and the intent of our Founding Fathers.

I would like to begin by examining some of the words of some of our Founders and Framers of the Constitution as we look at the issue of encouraging religion. In debates in this body in recent weeks, some Members have criticized proposed measures to protect public religious expressions or to allow voluntarily participation in faith-based programs.

They tell us that it is not the purpose of government to encourage religion, even if it shows preference to no particular religious faith or group. Interestingly, we hear no criticism when we encourage or cooperate with private industry or with business or any other group. Only when we cooperate with faith institutions do the critics emerge.

Are the programs and endeavors of people of faith below government encouragement? Or do people of faith have some lethal virus which prohibits the government from partnering with them? Certainly not. What then is the problem? We are told that for us to encourage religion would be unconstitutional, that it would violate the Constitution so wisely devised by our Founding Fathers. This is an argument not founded in history or precedent. It is an argument of recent origin. It does not have its roots in our Constitution but rather in the criticisms of numerous revisionists who wish the Constitution said something other than what it actually does. In fact, those who wrote the Constitution thought it was proper for the government to endorse and encourage religion.

As proof, consider the words of John Jay, one of the three authors of the Federalist Papers, and the original chief justice of the United States Supreme Court.

Chief Justice John Jay declared, and I quote, "It is the duty of all wise, free and virtuous governments to countenance and encourage virtue and religion." Chief Justice John Jay was one of America's leading interpreters of the Constitution, and he declared it is the duty of government to encourage virtue and religion.

Consider next the words of Oliver Ellsworth. He was a member of the convention which framed the Constitution. He was the third chief justice of the United States Supreme Court.

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Chief Justice Ellsworth declared, "The primary objects of government are peace, order, and prosperity of society. To the promotion of these objects, good morals are essential. Institutions for the promotion of good morals are therefore objects of legislative provision and support, and among these, religious institutions are eminently useful and important."

Chief Justice Oliver Ellsworth, another of American's leading interpreters of the Constitution, and one who actually helped frame the Constitution, declares that religious institutions are to be encouraged.

Consider, too, the words of Henry Laurens, another member of the constitutional convention. Henry Laurens declared, "I had the honor of being one who framed the Constitution. In order effectually to accomplish these great constitutional ends, it is especially the duty of those who bear rule to promote and encourage respect for God and virtue."

Henry Laurens is a third constitutional expert, one who participated in the drafting of the Constitution and who therefore clearly knows its intent, and he declares that it is the duty of government to encourage respect for God."

Consider also the words of Abraham Baldwin, another of the original drafters of the Constitution, one of its signers. Abraham Baldwin declared, "A free government can only be happy when the public principle and opinions are properly directed by religion and education. It should therefore be among the first objects of those who wish well the national prosperity to encourage and support the principles of religion and morality."

Abraham Baldwin is yet a fourth constitutional expert, a signer of the Constitution. He declares that government should encourage religion.

Since the very Founders who prohibited, "an establishment of religion" also said that it was the duty of government to encourage religion, it is clear that they did not equate encouraging religion as an unconstitutional establishment of religion.

Finally, consider the words of Supreme Court Justice Joseph Story, placed on the Court by President James Madison. Justice Story, in his 1833 Commentaries On The Law, which today are still considered authoritative constitutional commentaries, declared this, "The promulgation of the great doctrines of religion, the being and attributes and providence of one Almighty God; the responsibility to Him for all our actions, founded upon moral accountability; a future state of rewards and punishments; the cultivation of all the personal, social, and benevolent virtues, these never can be a matter of indifference in any well-ordered community. It is indeed difficult

to conceive how any civilized society can well exist without them.”

Supreme Court Justice Joseph Story titled *The Father of American Jurisprudence* for his significant contributions to American law declares that government is not to be indifferent to religion.

There are many, many other examples, and they all prove that the current arguments demanding that government not encourage religion or allow participation in faith-based programs are ill-founded. The conflict between those today who argue that the Constitution does not permit us to encourage religion, and the actual framers of the Constitution who assert that we may encourage religion is best expressed by Chief Justice William Rehnquist who declared, “It would come as much of a shock to those who drafted the Bill of Rights to learn that the Constitution prohibits endorsing or encouraging religion. History must judge whether it was those in 1789, or those today who have strayed from the meaning of the Bill of Rights.”

Certainly, clear-thinking Americans know that those who wrote the Constitution understand its meaning better than today’s critics who try to make the Constitution say something that it does not.

It is time for this body to get back to upholding the actual wording of the Constitution, not some substitute wording that constitutional revisionists wish that it had said.

Mr. Speaker, I yield to the gentleman from Colorado Mr. TANCREDO.

Mr. TANCREDO. Mr. Speaker, my colleagues and I rise again tonight, as we have done on one other occasion, to address several myths, to destroy several myths, myths that have worked their way into the fabric of America, especially what people believe about the Constitution and about the role of religion in American life. Perhaps now where do we find a greater accumulation of these myths than in the area of education and religion.

I have had the privilege in Colorado to, several times now, present to the people of the State, through the initiative process, proposals designed to deal with school choice, vouchers, tuition tax credits, and the like.

I have always included in those proposals a provision that would allow a parent to use those dollars in support of an educational experience for their children in any school of their choice, including faith-based institutions. Inevitably, during the debate on those issues, inevitably, more hostility is directed toward that particular part of our amendment than almost anything else.

One wonders what justifies this intense hostility against allowing faith access to the halls of education and the public square. Our opponents tell us that, “our founding principles” require

this hostility, that under our Constitution, public education has always been segregated from any religious influence. They further tell us that this was the intent of the great statesmen who gave us our government.

These, Mr. Speaker, are all myths. Such misinformed claims prove that, evidently, the individuals making them know little or nothing about those who gave us our documents or about the history of American education. However, since I am pro education, I am certainly willing to help educate my misinformed colleagues across the time on this issue.

Many of our early statesmen were great educators. In fact, in the 10 years after the American Revolution, more universities and colleges were started than in the entire 150 years before the Revolution. Our Founders were definitely pro education. They had much to say on the subject, and their profound impact is still felt today.

One influential Founding Father educator was Dr. Benjamin Rush, a signer of the Declaration of Independence, a leader in the ratification of the Constitution, and a member of the administrations of Presidents John Adams, Thomas Jefferson, and James Madison.

The credentials of Dr. Rush are impressive. He helped start five colleges and universities, three of which are still going today. Additionally, he pioneered education for women and for Black Americans, and, along with Benjamin Franklin, was the founder of America’s first abolition society.

Dr. Rush also authored a number of textbooks, held three professorships simultaneously, and, in 1790, became the first Founding Father to call for free public schools under the constitution. Consequently, Benjamin Rush can properly be titled “The Father of Public Schools Under the Constitution.”

Now, what did this gentleman with those kinds of credentials and background say about public education? I will quote, “The only foundation for a useful education in a republic is to be laid in religion. Without religion,” he said “I believe that learning does real mischief to the morals and principles of mankind.”

Clear words about religion and education.

Consider, too, the words of William Samuel Johnson, a signer of the Constitution and a framer of the First Amendment, the very amendment that our opponents wrongly claim excludes religion from the public schools.

Interestingly, in an exercise which we still practice today, Samuel Johnson spoke at a public graduation exercise, and, at it, he told the graduates, “You have received a public education, the purpose whereof hath been to qualify you the better to serve your Creator and your country.”

Then there is the Constitution signer Gouverneur Morris. He was a most ac-

tive member of the Constitutional Convention and was chosen by his colleagues to write the wording of the Constitution. Gouverneur Morris is therefore called “The Penman of the Constitution”. It certainly seems that the man chosen to write the Constitution would know its intent.

Concerning public education, Gouverneur Morris declared “Religion is the only solid basis of good morals; therefore education should teach the precepts of religion and the duties of man towards God.”

Another drafter of the Constitution, Henry Laurens, expressed equally clear views on religion in public schools. He explained, “I had the honor of being one among many who framed that Constitution. In order effectually to accomplish these great constitutional goals, it is the duty of rulers to promote and encourage respect for God. The Bible is a book containing the history of all men and of all Nations and is a necessary part of a polite education.”

Consider the next words of Fisher Ames. He was a Member of this body, and according to the records of Congress for 1789, he was a Member of the House, and he was the most responsible for the final wording of the First Amendment.

Did he have anything to say about religion in schools? Definitely. In fact, when he learned that some schools were de-emphasizing the Bible in their curriculum, Fisher Ames exploded, “Why should not the Bible regain the place it once held as a school book.” He said, “Its morals are pure, its examples captivating and noble.”

The man most responsible for drafting the final wording of the First Amendment saw no problem with religion in public schools. In fact, he believed that it was a problem if a public school excluded religion.

There are many, many others, all equally succinct in their declarations. These are no light weights. The Penman of the Constitution, the Father of the Public Schools Under the Constitution, the drafter of the language of the First Amendment, delegates to the Constitutional Convention, signers of the Constitution, and they all agree that public education is not to exclude religion.

Because their opinion about religion and education was so clear, the unanimous decision reached by the U.S. Supreme Court in 1844 came as no surprise. In that case, it was proposed that a government-administered school should exclude all ministers from its campus. It was, thus, feared that religious influences would also be excluded.

Interestingly, the defense attorney, Horace Binney, who was a Member of this body, the plaintiff attorney, Daniel Webster, also a Member of the House, a U.S. Senator, and a Secretary

of State for three Presidents, and the U.S. Supreme Court all agreed that religious influences should not be barred from the school. The decision was delivered by Justice Joseph Story, placed on the Supreme Court by President James Madison.

Story declared, "Why may not the Bible, and especially the New Testament, without note or comment, be read and taught as Divine revelation in the school, its general precepts expounded, its evidences explained and its glorious principles of morality inculcated? Where can the purest principles of morality be learned so clearly or so perfectly as from the New Testament?"

This was a unanimous decision of the Supreme Court. I wonder why our colleagues across the aisle and others are so hostile to the presence of faith in public education, and then they fail to mention this case.

I also wonder why they ignore the numerous signers of the Constitution who said exactly the opposite of what our opponents are advocating.

Very simply, opponents of public religious expression know that their policies which discriminate against millions of people of faith and against thousands of programs of faith are so unacceptable to Americans that additional clout is needed to convince the unwilling public to succumb to their policies.

So where do they get this additional clout? They wrongly make the Constitution and the framers of our documents into unwilling accomplices to their religion-hostile agenda. That is, they blame their religious discrimination on "the Constitution".

Forget the fact that the Constitution does not say what the opponents of religious expression claim that it says. Or they blame their religion-hostile policies on the great founding principles of those who gave us our government. Just ignore the minor technicality that those who did give us our government opposed the very religion-hostile policies that our opponents are now advocating.

The anti-faith policies of those who are opposed to these ideas are just as bad as their history and just as bad as the distortions they fabricate to try and excuse their religious apartheid. There simply is nothing, either in the actual wording of the Constitution or in the precedents of early American history, that requires religion to be segregated from the public square.

So tonight we once again hope to destroy myths and to continue in that process.

Mr. PITTS. Mr. Speaker, I thank the gentleman from Colorado (Mr. TANCREDO), who happens to represent the area, I believe, of Littleton, Colorado, where the great tragedy at Columbine High School occurred. I am sure the prayers of the Nation have been with his constituents this year.

Mr. TANCREDO. Mr. Speaker, I thank the gentleman from Pennsylvania.

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Mr. Speaker, I yield to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Speaker, I want to take just one moment to talk a little bit about how this important discussion came about. On June 29 of this year, the gentlewoman from Idaho introduced House Concurrent Resolution 94 and this body debated that resolution.

It was really a simple resolution. The title of it was Recognizing National Need for Reconciliation and Healing and Recommending a Call for Days of Prayer.

In addition, it specifically said that, "Resolved by the House of Representatives that the Congress urges all Americans to unite in seeking the face of God through humble prayer and fasting persistently, asking God to send spiritual strength and a renewed sense of humility to the Nation so that hate and indifference may be replaced with love and compassion and so that the suffering in the Nation and the world may be healed by the hand of God."

There were a couple of other points that were basically the same, recommending that the leaders and the national, State, and local government and business and clergy appoint and call upon the people they serve to observe a day of prayer and fasting and humiliation before God. A very simple resolution, going back to the very founding of this country on religious principles.

And yet, when that resolution came to a vote on this floor on June 29, it received 270 votes, 270 Members voted yes, 140 Members voted no, and 11 voted present.

Now, normally it would have passed, but this was on a suspension calendar because no one thought it would be controversial. And since it did not receive two-thirds of the vote of those voting that day, it failed.

It is really difficult to imagine that a simple resolution with such traditional values expressing those calling for humility and prayer to help heal this Nation would fail on this floor.

Now, I would also tell my colleagues that of the 140 people who voted no on this floor, 136 of them were Democrats.

Now, I do not question the motives of anyone who voted no. However, the vote demonstrates clearly that a significant number of Members in this body do not want this body to express itself on religious matters. It is also important to remember that this resolution was simply an expression of the House on this issue, it was not a law, it did not have any mandates, it did not have any inner enforcement, but simply an expression of the House. And even if it had passed the House and the

Senate and was signed by the President, it would not have been an enforceable statute, simply an expression of the sense of Congress.

Now, the sad thing is people on this body do not want the House of Representatives expressing a view on religion, and yet nearly 200 religious resolutions have been passed by this body over the history of this Congress and many of them passed at the request of Founding Fathers like George Washington, John Adams, James Madison, and others.

Now, members from the other party objected to this body doing what scores of former congressmen had constitutionally done. Why? Well, they made it very clear that day in June that they voted against it because they said to encourage a day of prayer and fasting would be unconstitutional.

Now, why did they say that? I want to quote from their statements taken from the CONGRESSIONAL RECORD. One of them said, "Congress has no business giving its official endorsement to religion. This resolution is an official endorsement of religion and thus constitutes an establishment of religion."

One of them said, "To even suggest prayer should be a government dictated, necessary duty demeans the very sanctity of prayer."

Another one said, "No matter how this resolution is dressed up, it is an official endorsement of religion and of particular religious beliefs and activities and constitutes an establishment of religion."

Well, I found that difficult to believe after having read this resolution three and four and five times. There is nothing in here about dictating anything. It does not establish any religion whatsoever. And I wanted to touch on that briefly.

One example of the definition of "establishment" came from this very body. In 1854, an investigation was conducted by the House Committee on the Judiciary about what is an establishment of religion. After a year of hearings and investigations on what constituted an establishment of religion, the House Committee on the Judiciary emphatically reported.

What is an establishment of religion? It must have a creed defining what a man must believe. It must have rights and ordinances which believers must observe. It must have ministers of defined qualifications to teach the doctrines and administer the rights. It must have tests for the believers and penalties for the nonbelievers. There cannot be an established religion without these.

We know that this simple resolution on this floor on June 9, 1999, did not come close to any of those. And yet most of those opposed said that it established religion.

In addition to that, the Senate Committee on the Judiciary reported the

same thing, that it must have a creed defining what a man must believe. It must have rights and ordinances which believers must observe. It must have ministers of defined qualifications. It must have tests for believers, penalties for the non-conformists.

So from these clear definitions of this body itself, from the Senate judiciary, from the House judiciary, this resolution was not an establishment of religion under any definition.

Further proof that it was not, Justice Joseph Story, a legal expert appointed by the Supreme Court by President James Madison and who was called the Father of American Jurisprudence, was very clear on what the word "establishment" meant in the First Amendment.

In his commentaries on the Constitution of the United States, a work which is still cited regularly in this body, Justice Story began by declaring that government should not only endorse but should encourage religion. And then he would explain that "the promulgation of the great doctrines of religion, the being and attributes and providence of one almighty God, the responsibility to him for all our actions founded upon moral freedom and accountability, a future state of rewards and punishments, the cultivation of all the personal social and benevolent virtues, these never can be a matter of indifference in any well-ordered community."

He went on to say that "The real object of the First Amendment was to prevent any national ecclesiastical establishment by the government, and without that there is no establishment of religion."

I, for one, and I think others here tonight refuse to submit to the popularity of political correctness that states that elected representatives of the people should not pass resolutions expressing the sense of Congress on religious matters. I do not advocate nor does anyone here advocate the establishment of any religion as defined. We do not want to mandate Hinduism. We do not want to mandate Buddhism. We do not want to mandate Christianity, Jewish religion, Islamic religion.

So we do not advocate the establishment of any religion. But we recognize the inseparability of the religious principles from humanity. And if this body cannot discuss it, if this body cannot pass resolutions expressing its view on religion, then who in America can?

Mr. PITTS. Mr. Speaker, I thank the gentleman for that very formative discussion of the issue of religious liberty and intent of our Founders.

Mr. Speaker, I yield to the gentleman from Kansas (Mr. RYUN).

Mr. RYUN of Kansas. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. PITTS) for his leadership on this most important issue.

Mr. Speaker, in recent weeks in this chamber, we have debated so many

issues related to religious liberties. Opponents of public religious expression from across the aisle were very vocal in their opposition. It was difficult to listen to them rewrite history and the Constitution.

Consider, for example, the assertions that they made when we were debating the Juvenile Justice bill shortly after the Littleton tragedy. One of the amendments to that bill offered by the gentleman that we just heard from recently who represents Littleton allowed the schools to erect memorials in honor of the slain and permitted religious symbols or sayings to be included in these memorials if desired by the citizens.

That identical amendment, I want to say that again, this particular identical amendment already passed the Senate by an overwhelming majority of 85-13. That amendment contained Congressional findings stating, based on our investigation of the issue, that to include a religious symbol or saying in a public display would not violate the Constitutional prohibition against the establishment of religion.

This Congressional finding caused opponents on the other side of the aisle to set forth a startling, dangerous document. They said, "It is the Supreme Court that interprets the Constitution and says what the Constitution means. It is not the province of Congress."

This is a very dangerous doctrine. If this doctrine is true, then this body is no longer an independent branch of Government, it has become a sub-branch of the Judiciary. In fact, if this doctrine is true, we should pass no law until we get prior approval from those who are apparently our bosses, the Judiciary.

Are my colleagues proposing we should consult the Judiciary before we waste time passing a law with which they might disagree?

Incredibly, this doctrine was set forth in the 1930s and 1940s by Charles Evans Hughes, who is the Chief Justice of the United States Supreme Court. Chief Justice Hughes declared, "We are under a Constitution, but the Constitution is what the judges say that it is." Let me say that again. "We are under a Constitution, but the Constitution is what the judges say that it is."

His statement properly raised a fire storm at the time and was soundly refuted. It is no less dangerous today simply because it has been revived by those across the aisle. It is unbelievable to me that any Member of this body would support that particular doctrine.

If the doctrine reported by those on the other side of the aisle is true that only 940 individuals in the Judiciary can understand and interpret the Constitution, then we should replace the teaching of the Constitution in our schools with the teaching of the decisions of the Judiciary. And although I

say this facetiously, regrettably, this is already happening.

A former member of this body out of the State of Georgia was shocked to find that the Government textbooks used in his State published by one of the national curriculum publishers had actually replaced the original words of the Bill of Rights with the court's interpretation of the Bill of Rights.

If those on the other side of the aisle are right and only the Judiciary can understand and interpret the meaning of the Constitution, then the recommendations by Founding Father John Jay should be considered subversive.

John Jay, coauthor of the Federalist Papers and who has been mentioned many times this evening already, who was one of the three men most responsible for the adoption of the Constitution, and the other original chief justices of the Supreme Court, he admonished America and he said, "Every citizen ought to diligently read and study the Constitution of his country. By knowing their rights, they will sooner perceive when they are violated and be the better prepared to defend and assert them."

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Interestingly, this dangerous doctrine is not a new doctrine. Two hundred years ago, it was rejected by every one of the early statesmen who gave us this government. In fact, those who wrote the Constitution declared the doctrine exactly the opposite of what our opposing colleagues are setting forth.

For example, they taught that the opinion of Congress was more important than the opinion of the Judiciary. For example, in the Federalist Papers, Federalist Paper 51, it declares this, under the Constitution, and I quote: The Legislative authority necessarily predominates."

Let me read from the Federalist Paper 78. It declares this, and I quote: "The Judiciary is beyond comparison the weakest of the three departments of power."

These declarations in the Federalist Papers were representative of the widespread feeling of those who gave us the Constitution. As an even further example at the Constitutional Convention, delegate Luther Martin declared, and I quote again, "Knowledge cannot be presumed to belong in a higher degree to the judges than to the legislature."

There are many more examples, but the point is established: the authors of the Constitution believed, and taught, that Congress had a responsibility to interpret the meaning of the Constitution for itself.

So where did our learned colleagues on the other side of the aisle come up with this radical doctrine that only unelected attorneys are capable of correctly interpreting the Constitution?

They said, and I quote, "Everybody learns this the first week in constitutional law in law school or college."

Great. Our law schools. Foxes guarding the henhouse. Should we really trust lawyers who teach students that only other lawyers, and especially lawyers that are on the Federal court, can interpret the Constitution?

While the doctrine proposed by those on the other side of the aisle is a startlingly dangerous doctrine, I can understand why they propose it. It is evident in our recent debates on religious liberties. Some clearly do not like the plain, unambiguous words of the Constitution that guarantees the free exercise of religion. They do like, however, the decisions reached by a judiciary that has become increasingly hostile towards students and citizens and communities who simply want to express their religious faith. Many on the other side of the aisle are simply choosing the source with whom they agree, and, unfortunately, it is not the Constitution.

For my part, I will continue to read and study and interpret the actual document and when the Constitution explicitly declares that citizens are guaranteed the free exercise of religion, I will support those citizens' rights to express their religious faith publicly. I choose to support the Constitution the way it was written rather than the way a bunch of constitutional revisionists want it to read.

Mr. PITTS. I thank the gentleman from Kansas for his very informative and timely explanation of the principles of religious freedom as regards to our courts versus the Congress.

Mr. Speaker, I yield to the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. I thank the gentleman from Pennsylvania for yielding. I am picking up on the same theme as my distinguished colleague from Kansas.

I, too, was shocked to hear the claim that this body is incapable of interpreting the Constitution for itself. Unfortunately, those across the aisle did not like the interpretation of the Constitution reached by the majority of this body and instead preferred the interpretation of the Constitution reached by unelected lawyers. So, in an effort to impose the will of those judges with whom they agree on this body with whom they disagree, they tell us that we in this body have no right to interpret the Constitution for ourselves.

This is an amazing doctrine to set forth because they disagree with the free exercise of religion explicitly guaranteed by the Constitution. Contrary to their ill-educated claims, Congress does have not only the right but also the authority and the responsibility to interpret the Constitution for itself. We are here to use every tool at our disposal to preserve for the people of

the United States the rights guaranteed by that document, including their right of public religious expression, even when the judiciary disagrees with that constitutionally guaranteed right.

Interestingly, in the course of our debates on religious liberties, our opponents across the aisle have frequently cited two Founding Fathers, James Madison and Thomas Jefferson. Since they have such a high esteem and veneration for these two, I felt sure they would want to know what Madison and Jefferson said about the right of Congress to read and interpret the Constitution for itself.

When James Madison heard it proposed that only judges, and not the Congress, were capable of interpreting the Constitution, he forcefully rejected that suggestion. He declared, and I quote:

The argument is that the Legislature itself has no right to expound the Constitution; that wherever its meaning is doubtful, you must leave it to take its course until the Judiciary is called upon to declare its meaning. I beg to know upon what principle it can be contended that one department draws from the Constitution greater powers than another. Nothing has yet been offered to invalidate the doctrine that the meaning of the Constitution may as well be ascertained by the Legislative as by the Judiciary authority.

And distinguished Founding Father John Randolph, a member of this body for nearly three decades who served with James Madison, reaffirmed this doctrine explaining, and I quote:

The decision of a constitutional question must rest somewhere. Shall it be confided to men immediately responsible to the people or to those who are irresponsible?

At that point he was talking about the Congress and judges.

I further quote:

With all the deference to their talents, is not Congress as capable of forming a correct opinion as they are?

That again I think is an important quote to share with the colleagues here tonight as well as to those who are not here.

The other favorite Founding Father of our distinguished colleagues across the aisle is Thomas Jefferson, the founder of their party. Thomas Jefferson was equally clear on this issue. He declared:

Each of the three departments has equally the right to decide for itself what is its duty under the Constitution without any regard to what the others may have decided for themselves under a similar question.

The doctrine that only the judiciary can interpret the Constitution is a radical and dangerous doctrine.

And in a second statement by Jefferson, he continued the same thing, declaring:

To consider the judges as the ultimate arbiters of all constitutional questions is a very dangerous doctrine indeed, and one which would place us under the despotism of an oligarchy. Our judges are as honest as

other men and not more so. They have, with others, the same passions for party, for power, and the privilege of their corps. And their power the more dangerous as they are in office for life and not responsible, as the other functionaries are, to the elective control. The Constitution has erected no such single tribunal.

The other founder of the Democratic Party is Andrew Jackson. Maybe those from across the aisle would be interested in what he said on this same issue. Jackson emphatically declared, and I quote:

Each public officer who takes an oath to support the Constitution swears that he will support it as he understands it and not as it is understood by others. The opinion of the judges has no more authority over the Congress than the opinion of Congress has over the judges. The authority of the Supreme Court must not, therefore, be permitted to control the Congress.

On our side of the aisle, the one we claim as the founder of our party, Abraham Lincoln, was also clear about this issue. In his inaugural address, President Lincoln declared, and I quote:

I do not forget the position assumed by some that constitutional questions are to be decided by the Supreme Court. At the same time, the candid citizen must confess that if the policy of the government is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made the people will have ceased to be their own rulers, having resigned their government into the hands of that eminent tribunal.

Interestingly, one of the things on which both Republicans and Democrats long agreed was rejecting the doctrine that Congress could not interpret the Constitution. But now those from across the aisle want to abandon the wisdom of the past two centuries and look solely to the judiciary as being the interpreters of the Constitution.

Do they really believe the judiciary to be infallible? Need I remind them that it was the judiciary who declared that black Americans were property and not people? Or that it was the judiciary who instituted the separate but equal doctrine; and that when the judiciary finally struck down that position in *Brown v. Board of Education* that it was only reversing its own policy that it had established in *Plessey v. Ferguson*? Does not experience teach that the court is fallible and that Congress in its interpretation of the Constitution has been correct more often?

I choose to agree with America's leading statesman and legal experts from both the Democrat and Republican parties over the past two centuries that Congress does have both the right and the obligation to interpret the Constitution for itself. Our oath of loyalty is not to the judiciary's opinions but rather is to the Constitution itself. Or, as President Andrew Jackson so accurately explained, and I quote, "Each public officer who takes an oath to support the Constitution swears

that he will support it as he understands it and not as it is understood by others.”

Mr. Speaker, before yielding to the gentleman from Pennsylvania, I would like to say that this country was founded on Judeo-Christian principles and those of us who serve in the United States Congress have a responsibility to remember that this Nation was founded on Judeo-Christian principles.

Mr. PITTS. I thank the gentleman from North Carolina for that continuing explanation of the right of Congress to read and interpret the Constitution for itself, and not just rely on the courts.

Indeed, there is nothing sacrosanct about a Supreme Court decision. The Supreme Court has reversed itself over 100 times since our Nation's founding.

At this time, battling cleanup, I yield to the gentleman from South Carolina (Mr. DEMINT) to talk about one of the more controversial issues that we face this session, the Ten Commandments posting.

Mr. DEMINT. I thank the gentleman from Pennsylvania for his leadership and for yielding.

Mr. Speaker, this House of Representatives recently passed a bill sponsored by the gentleman from Alabama (Mr. ADERHOLT) which was related to the Ten Commandments. This measure is now part of the juvenile justice bill that along with other value-focused provisions will make our schools safer and our communities better places to live for everyone.

Surprisingly, several misguided objections about the Ten Commandments bill were raised by some of my colleagues here in the House, objections which were clearly based on a misunderstanding of the bill and of the Constitution. Tonight, I would like to set the record straight.

The misinformation promoted by the critics of the Ten Commandments bill includes the false idea that the bill would force schools to post the Ten Commandments. It does not. The bill will only transfer power away from the Federal Government and back to the State governments where it belongs. It simply allows each State and their schools to decide for themselves whether or not they wish to display the Commandments. This measure wisely corrects the failed one-size-fits-all Federal Government restrictions on religious freedoms. Furthermore, the bill does not violate Thomas Jefferson's separation of church and state as a few Members have charged. Rather, it complies totally with Thomas Jefferson's intent. Jefferson believed that this issue belongs to the States, not the Federal Government.

Jefferson forcefully argued, and I quote, “No power to proscribe any religious exercise or to assume authority in religious discipline has been delegated to the Federal Government. It must, then, rest with the States.”

Jefferson repeated this argument on numerous other occasions, explaining that the issue belongs to the States, not the Federal Government. For example, in 1798 he declared, and I quote, “No power over the freedom of religion is delegated to the Federal Government by the Constitution.” And in his second inaugural address in 1805 he declared, “The free exercise of religion is independent of the powers of the Federal Government.”

Very simply, according to Jefferson, the purpose of the first amendment was to keep religious issues from being micromanaged at the Federal level. As Jefferson explained to Supreme Court Justice William Johnson, and I quote, “Taking from the States the moral rule of their citizens and subordinating it to the Federal Government would break up the foundations of the Union. I believe the States can best govern our domestic concerns and the Federal Government our foreign ones.”

The Bill of Rights was specifically designed to leave decisions on things like posting the Ten Commandments in the hands of the States. Consequently, the Ten Commandments bill passed by the House does not violate Jefferson's separation of church and state concept. Rather, it confirms Jefferson's clearly stated design.

□ 2115

However, even if some were to assert that the decisions on the display of the Ten Commandments should be a Federal issue, we can still strongly defend the people's freedom to display the commandments. Consider the words of President John Adams who signed the Bill of Rights as he links the Ten Commandments with our laws protecting individual rights, and I quote: “The moment the idea is admitted into society that property is not as sacred as the laws of God and that there is no force of law in public justice to protect it, anarchy and tyranny commence. If ‘thou shall not covet’ and ‘thou shall not steal’ are not commandments of heaven, they must be made inviolable precepts in every society before it can be civilized or made free.”

And President John Quincy Adams, a legislator and legal scholar whose famous cases before the Supreme Court are well known, also declared about the Ten Commandments: “The law given from Sinai was a civil and municipal code as well as a moral and religious code. These are laws essential to the existence of men in society and most of which have been enacted by every Nation which ever professed any code of laws. Vain indeed would be the search among the writings of secular history to find so broad, so complete and so solid a basis of morality as the Ten Commandments lay down.”

And Noah Webster, an attorney and constitutional expert declared, and I quote: “The opinion that human reason

left without the constant control of divine law and commands will give duration to a popular government is as unlikely as the most extravagant ideas that enter the head of a maniac. Where will you find any code of laws among civilized men in which commands and prohibitions are not founded on divine principles?” end quote.

Clearly, those present at the formation of our government saw no problem with the public use of the Ten Commandments. In fact, they saw grave consequences of any country that did not follow them. Nevertheless, despite what some Members and some in the media have claimed, the bill would not force anyone to display the Ten Commandments. The bill simply transfers the decisions on voluntary posting of the Ten Commandments back to the States and communities where the decisions properly belong.

Those who argue that the Constitution says otherwise need to recheck the wording of the Constitution for themselves, rather than simply embracing the arguments of the constitutional revisionist who wished the Constitution said something other than what it really says. This House has taken a commendable step toward securing the future for every American by returning more decisions and freedoms back to the States and back to our schools. I urge my colleagues to support the juvenile justice conference report that includes the Ten Commandments provisions when it comes to a vote.

Mr. PITTS. Mr. Speaker, I thank the gentleman for that excellent discussion of the original intent of our framers regarding religious liberty and the Ten Commandments posting debate that we have had recently with the juvenile justice bill.

I want to say a final thank you to all of the participating Members tonight. It has been most informative to listen to each of my colleagues as they have shared the very words of our Founding Fathers. And as we have listened to these words, it becomes crystal clear that, to the extent that the First Amendment addresses the interaction between public life and religious belief, it is this: that the only thing that the First Amendment prohibited was the Federal establishment of a national denomination. The freedom of religion, therefore, is to be protected from encroachment by the State, not the other way around.

Mr. Speaker, with the words of our Founding Fathers, and they are many, from George Washington to John Adams to John Jay, Benjamin Rush, John Quincy Adams, Fisher Ames, Daniel Webster, Abraham Lincoln, Thomas Jefferson and others cited tonight, each one of these men was fully committed to the primary role that religion played in public life and in private life, yet without the establishment of one particular denomination.

So, Mr. Speaker, as we continue to consider the many policies that lie before us, from charitable choice to opportunity scholarships to attend religious schools, to governmental contracting with faith-based institutions, even to the posting of the Ten Commandments on public property, let us do so with a true intention of the framers in mind, and that intention was to allow and encourage religion, both to flourish and to inform public life, yet still without naming a particular state religion or denomination at the Federal level.

That is fully possible.

Instead of shutting it out and denying even the purely practical solution that it offers, let us not be afraid of the good that religion can and does bring to public life. Indeed, it is one of the reasons that we have such a great country called America.

THE REPUBLICAN MAJORITY IS NOT LISTENING TO THE AMERICAN PEOPLE

The SPEAKER pro tempore (Mr. OSE). Under the Speaker's announced policy of January 6, 1999, the gentleman from New York (Mr. OWENS) is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, we are, I hope, nearing the end of the first session of the 106th Congress, and there are some people who say that probably the end of October we might end the session; but from what I hear today, it may be close to Thanksgiving before we get out of here. Either way, it is a most regrettable session; it is a tragic comedy that ought to end as soon as possible.

One of the most regretful parts of this session is that the Republican majority that is in charge of the Congress is not listening to the American people. We as politicians always are accused of holding our fingers in the air to see which way the wind is blowing and shaping our actions and our policies in accordance with public opinion. It is very interesting that this is a year when, in very important areas, we are not listening to the people when we should be.

I am not saying that we should always follow public opinion; I think a representative government means that they expect some judgment to be exercised by those who are elected and sometimes their conscience and their knowledge and their vision may conflict with the opinion of the masses; but in general, we should always be listening. And when there is a conflict, we should certainly try to work towards some kind of compromise, some kind of merging of our own opinions with those of the majority. We pay a lot of money for polls and both parties and individuals rely heavily on focus groups and all kinds of devices to find out what people are thinking.

But we have a situation now where it is quite clear on several major issues exactly where people are, where the majority is, and this Republican majority refuses to listen. Of course I am told that if the Republican majority wants to shipwreck that first session of the 106th Congress, or maybe the next session too, and we come to a situation where their conflict with the majority of Americans is so great until the democratic process will go into action, and it will throw them out of office. We should not worry as Democrats; we should be happy that there is such confusion and such day-to-day trivializing of the processes of the Congress.

Everyday we have stupid bills that really do not mean very much and are a waste of time. In our committees, instead of meeting issues head on, we are dancing around them and camouflaging the real intent of the majority on these bills. Currently we have a situation of that kind in the Committee on Education and the Workforce as we seek to reauthorize the Title I portion of the Elementary and Secondary Education Assistance Act. I am sure many other committees are finding the same tactics where we do not address reality, we trivialize the process by playing around the edges and we are proud of not doing anything. This is a no-commitment Congress.

Some people have often used the joke that when Congress is out of session, the Republicans say it is good for us not to be around because we only do harm when we are here. Well, I think that worse than doing harm is to not address the issues at hand and to do nothing, sins of omission are the sins of the 106th Congress. It is a shipwreck Congress as we come closer to the close of this first year. It seems that matters are growing worse each day, not better.

We might say that maybe we had a high point last week where we did vote on the HMO Patients' Bill of Rights, the Patients' Bill of Rights that would allow people to have some kind of leveraging as they deal with the health maintenance organizations. Well, we finally came to a point where we got a vote on the floor. We got a long debate, and there were attempts to poison the bill with substitutes and even now, there are attachments to the bill which place the HMO Patients' Bill of Rights bill in some jeopardy, but at least it has been accomplished, finally.

But what took so long when so many Americans have made it quite clear that they wanted something done about reining in the HMOs. They wanted this Patients' Bill of Rights very badly. Do we always have to reach the point where 80 percent of the people are for something before we can get some action by the Republican majority here in the House? Why must it take 80 percent before they realize that there are political dangers in not doing anything, so finally they yielded and we

were able to get a Patients' Bill of Rights, flawed as it may be, passed out of the House and it is now going into the conference process with the other body, and the other body has a bill which is quite different and weaker, and we must watch closely to see that the Patients' Bill of Rights, the heart of the matter, is not sabotaged and rendered impotent.

It is very important that with all of the kinds of experiences that we now have, all of the anecdotes that can be told on either side, both Republicans and Democrats, if one is a Congressman, one is constantly being assailed with stories of the HMOs and our failure to do anything to combat the abuses that HMOs are guilty of.

So it is something that had to be done. The focus groups told us, the polls told us; but it took us a long time to get there. I am happy to see that in certain places there is movement ahead of the Congress and we will have to run to catch up, but I think that there is such a strong impetus to have justice in the area of health care that we are going to get it by and by. It just takes too long. The democratic process should not take so long.

I understand that California, in California today or yesterday, the governor signed a bill where California now has a standard, a fixed standard for nurse and patient ratios. In nursing homes and hospitals, we have to have a certain number of nurses in ratio to the patients that is reasonable so that the patients will get a reasonable amount of care. Governor Gray Davis, Democratic governor of California signed that bill. I want to congratulate the people of California, congratulate the legislators out there for moving forward on correcting a major abuse that HMOs have caused as a pressure to bring down the cost of health care, the amount of money that they pay the hospitals for health care. They have forced hospitals into situations where they have cut back on personnel, often personnel that is vital to the health and safety of the patients.

□ 2130

We should not tolerate that. There are elements in the Norwood-Dingell bill which deal with standards, deal with protection, access to services, emergency care; a number of very direct approaches which rein in abuses that are known to have been practiced by the health maintenance organizations.

Most important in the Norwood-Dingell bill is the provision for the suing of HMOs. We can take an HMO to court and sue, which nobody is recommending a large number of court suits. But if the power to sue is there, then it establishes a whole different environment that patients operate in, and it is very important to keep that provision in there.