Economic Liberty: An Exploration of the Link Between the Constitution of the United States, Materialism and Basis Freedom

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ECONOMIC LIBERTY: AN EXPLORATION OF THE LINK BETWEEN THE CONSTITUTION OF THE UNITED STATES, MATERIALISM AND BASIC FREEDOM

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I. INTRODUCTION

The Bicentennial of the Constitution gives us a wonderful opportunity to examine our roots and to see whether the greatest experiment in all the world — an experiment designed to "secure the Blessings of Liberty to ourselves and our Posterity"1 — is alive and well as we enter the twenty-first century. The Framers of the Constitution shared a burning desire to establish a republic such as the world had never seen — a republic that would guarantee basic freedoms for all citizens.

Of all the Framers, James Madison and Alexander Hamilton did the most to secure the ratification of the Constitution. In order to garner support for the Constitution, Hamilton and Madison, assisted by John Jay, wrote eighty-five political essays which were published from October 27, 1787, to August 16, 1788, in New York City newspapers. This collection of essays, known as The Federalist Papers, is recognized today as one of the most important political works ever written. The Federalist Papers also provide valuable insight into the ideas and philosophies which motivated the Framers of the Constitution.

The Framers sought to create a strong, energetic union — one which would guarantee religious and political freedom.

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They, however, recognized that moral and religious motives alone were insufficient to attain their objectives. As a result of the extremely unfavorable treatment afforded certain property holders under the Articles of Confederation, the Framers were sensitive to economic liberties and valued the ownership of property as a foremost personal right. Moreover, the Framers were acutely aware of society’s propensity to separate into competing factions, a propensity which, if not properly regulated, could destroy society.

Consequently, with these concerns in mind, Madison and Hamilton were determined to create a commercial republic — a new form of government that would secure the safety and happiness of a strong, unified populace. The purpose of this article is to demonstrate that the protection of individual economic rights and the encouragement of materialism as the lynchpin of basic freedom were the primary motivating forces behind the Framers’ efforts in drafting the Constitution of the United States and structuring the new republic.

II. THE FRAMERS’ INTENT

A. Prevention of Factionalism

The authors of *The Federalist Papers* recognized that factional competition posed the greatest threat to the stability, power and basic viability of their envisioned republic. They believed that a government had to protect and distract the people from such selfish domestic partisanship in order to create a strong, central union.2

As Madison noted in *The Federalist No. 10*, one of the strongest arguments in support of the proposed Constitution was that it established a government capable of controlling the violence and damage caused by factions.3 Madison defined a faction as “a number of citizens . . . who are united and actuated by some common impulse of passion or of interest, adverse to the rights of other citizens.”4 He warned that people have a strong natural tendency to divide into political factions

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4. *Id.* at 57.
and even to fabricate reasons to conflict with one another: "So strong is this propensity of mankind to fall into mutual animosities that, where no substantial occasion presents itself, the most frivolous and fanciful distinctions have been sufficient to kindle their unfriendly passions, and excite their most violent conflicts."  

Hamilton and Madison also foresaw that a majority faction could amass the power to force its "frivolous and fanciful distinctions" upon the other members of society. In order to prevent the majority from usurping power, Hamilton and Madison believed that the republic had to be structured either to avoid the existence of a single, unifying passion or to bar the implementation of the scheme of the majority. That Madison was a proponent of the first of these two alternatives is evidenced by his conviction that the struggle of classes should be replaced by a struggle of interests, because "[c]lass struggle is domestic convulsion; [whereas] the struggle of interests is a safe, even energizing, struggle which is compatible with, or even promotes, the safety and stability of society."  

Madison further explained that, while the formation of a majority political faction in a small democratic society is unavoidable — where the many are divided into only a few trades — such an occurrence can be prevented in a large commercial society:

> [When] you take in a greater variety of parties and interests, you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other.  

Accordingly, Madison's theory holds that in a large commercial republic the majority will not unite as one to make extreme demands upon the few, an event which could destroy society. Rather, the majority will fragment into smaller groups seek immediate advantages for their own narrow and particular interests.

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5. *Id.* at 59.
7. *Id.* at 66.
In other words, fighting for individual interests is a positive economic force which ultimately acts to unite and preserve, rather than fragment, the republic. As Adam Smith wrote — and as Hamilton and Madison believed — by structuring a government so that its citizens could pursue their own self-interests in freedom and security, a framework would be provided by which people would be “led by an invisible hand to promote an end”\(^\text{10}\) beneficial to all of society.

John Locke, whose views were known to virtually every American involved in the forming of the new republic, had taught that ownership of property was a natural right.\(^\text{11}\) Madison, a follower of Locke, perceived that the unequal division of property constituted the most common source of factions. This division and others like it cause the formation of distinct interest groups in a given society. Consequently, “[t]he first object of government,” Madison declared, is the protection of “the diversity in the faculties of men, from which the rights of property originate.”\(^\text{12}\)

Thus, in recognizing that the solution to the problem of factionalism lay in forestalling the dominance of a single interest or class, the Framers were able to conceive of a form of government which, through free enterprise and economic liberty, would guarantee the protection of individual rights. Factionalism could be avoided by directing the people’s energy into commerce.

**B. Protection of Property and Other Fundamental Rights**

It is clear that the Framers did not intend to redistribute property in order to remove a primary source of factions; rather, they sought to create a government which could prevent the unhealthy combination of such interests. The Framers believed that the structure for achieving these goals would be created by the Constitution.\(^\text{13}\)

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13. *Id.* at 10-11.
An examination of the economic situation which existed under the Articles of Confederation sheds further light on why the protection of economic and property interests was of critical importance to the Framers. The central government had no power to regulate commerce or to tax directly. Consequently, the federal government was unable to guarantee that it could secure money to pay the holders of its securities. As a result, those private citizens who had invested in public securities did not receive the interest and principal amount to which they were entitled. Furthermore, state legislatures operated without significant judicial control or restrictions and continually attacked private property rights, particularly those from out of state. The failure of the federal and state governments to protect basic property and other economic rights caused many delegates to attend the Constitutional Convention with a goal of securing strong legal rights in those domains through a strengthened national government.\(^{14}\)

The Framers believed that property rights were intimately related to other fundamental rights. The vast majority of delegates to the Constitutional Convention agreed that the preservation of individual property rights was a primary function of government and that property rights were instrumental in providing freedom, autonomy, and independence for the average citizen. For example, in a speech at the Constitutional Convention, Governor Morris, a prominent and influential delegate from Pennsylvania stated, "[l]ife and liberty were generally said to be of more value than property. An accurate view of the matter would nevertheless prove that property was the main object of Society."\(^{15}\)

The Framers also recognized that a government which is freely able to confiscate privately-owned property possesses enormous power. Such power would certainly dissuade people from criticizing the government out of fear of retribution. On the other hand, a government which is not able to confiscate property arbitrarily would not possess such an inhibiting and overwhelming power.

\(^{14}\) C. Beard, An Economic Interpretation of the Constitution of the United States 52-53 (1925) [hereinafter Beard].

\(^{15}\) 1 The Records of the Federal Convention of 1787, at 533 (M. Farrand ed. 1937).
Thus, it is clear that the Framers recognized the ownership of property as a foremost personal right which they actively sought to protect. They also realized that security of property ownership meant that people could work hard and, except for taxes, retain the fruits of their labor for themselves, their families, and their descendants, regardless of their political beliefs. Neither the government, nor anyone else, could take their property without paying for it. Secure in their ownership of property, the people would not have to bow down to political authority. Instead, they could speak their minds and vote their choices without having their property confiscated. Citizens of the republic, now united, would support and fight to defend a government that allowed them to acquire property and that could not take their property without due process of law. Thus, economic liberty was intended to be the foundation for personal liberty.

III. THE FRAMERS' INTENTIONS AS EMBODIED IN THE CONSTITUTION

A. The Basic Structure of the New Republic

Madison formulated a fundamental political theory in which he recognized three central elements: (1) no mere "parchment" separation of the departments of government would be effective; (2) the structure of the government must provide a system of checks and balances; and (3) the structure of the government must protect against the rising of majority factions. This theory was the basis for the original American conception of the balance of powers.

In discussing the structure of his envisioned government, Madison wrote that the only answer lies in "so contriving the interior structure of the government, as that its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places." This is the foun-

17. BEARD, supra note 14, at 159-60.
dation of what has come to be known as the separation of powers doctrine.19

An examination of the government structure created at the Constitutional Convention of 1787 reveals the enormous skill and ingenuity which the Framers utilized in designing the means by which to check the abuse of majority power. As Charles Beard describes:

Their leading idea was to break up the attacking forces at the starting point: the source of political authority for the several branches of the government. This disintegration of positive action at the source was further facilitated by the differentiation in the terms given to the respective departments of the government. And the crowning counterweight to “an interested and overbearing majority,” as Madison phrased it, was secured in the peculiar position assigned to the judiciary, and the use of the sanctity and mystery of the law as a foil to democratic attacks.20

Hamilton expounded on this concept in The Federalist No. 60 when he said, “[t]he dissimilarity in the ingredients, which will compose the national government; and still more in the manner in which they will be brought into action in its various branches must form a powerful obstacle to a concert of views . . . .”21 Hamilton further explained that the people of the republic were of sufficient diversity in the “state of property, in their genius, manners, and habits” as to elicit a significant “diversity of disposition in their representatives towards the different ranks and conditions of society.”22

Although Hamilton suspected that the relationship the representatives would share by virtue of their working together under the same government would “promote a gradual assimilation of temper and sentiment,” he strongly believed that their innate differences would “permanently nourish different propensities and inclinations.”23

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19. As previously discussed herein and as Madison espoused in his political theory, the prevention of majority tyranny was a central factor in designing the structure of the government. Madison believed that the best method for preventing the rise of a dominant majority faction was to extend the territory and thus to draw in a greater variety of interests. Id.

20. BEARD, supra note 14, at 161.


22. Id. at 404-05.

23. Id. at 405.
Thus, it can be seen today that the Framers succeeded in designing the government in such a way that power was fragmented among the various branches, and the citizens of the republic could remain free of majority tyranny. The Framers believed that separation of powers and representative government, especially the former, were crucial elements in the structure of the new republic. As Madison wrote, the separation of powers principle is an "essential precaution in favor of liberty."24


1. The Ex Post Facto Clause and the Contracts Clause

In addition to establishing the basic structure of the federal government, the Framers set out to define the limitations of state and federal powers. A significant concern of the Framers was to limit state authority in commercial matters. In a letter to Thomas Jefferson, dated October, 1787, Madison elaborated on the principle of federal control over state legislation:

The mutability of the laws of the States . . . is found to be [a] serious evil. The injustice of them has been so frequent and so flagrant as to alarm the most steadfast friends of Republicanism. I am persuaded that I do not err in saying that the evils issuing from these sources contributed more to that uneasiness which produced the Convention, and prepared the public mind for a general reform, than those which accrued to our national character and interest from the inadequacy of the Confederation to its immediate objects. A reform, therefore, which does not make provision for private rights must be materially defective.25

In order to place specific limitations upon the economic powers of the states, the Framers drafted the ex post facto clause and the contracts clause.26 Some commentators believe that at the time of the Constitution's ratification the ex post

26. U.S. Const. art. I, § 10, cl. 1 ("No State shall . . . pass any . . . ex post facto Law, or Law impairing the Obligation of Contracts . . . "). Article 1, § 9, cl. 3 contains a similar ex post facto clause which is applicable to the federal government. U.S.
facto clause was intended to apply to both civil and criminal retroactive laws. In 1798, however, the Supreme Court, in Calder v. Bull, limited the application of this clause to criminal laws. Although the Calder holding is still recognized today, it has continued to be the subject of controversy. Those commentators who contend that the Framers intended the ex post facto clause to apply to both civil and criminal matters point out that under their interpretation, the government would be prevented from passing any ex post facto law which deprived individuals of property or other economic benefits which they had previously obtained.

The contracts clause is also important in that it protects not only the obligation of contracts, but also personal security and private rights. Hamilton believed that the contracts clause was one of the most commendable features of the Constitution. In a letter to George Washington, dated May 29, 1790, Hamilton wrote:

This [the contracts clause], to the more enlightened part of the community, was not one of the least recommendations of that Constitution. The too frequent intermeddlings of the state legislatures in relation to private contracts were extensively felt and seriously lamented; and a Constitution which promised a preventative was . . . eagerly embraced.

However, in Ogden v. Saunders, an early Supreme Court case involving the contracts clause, the Court addressed the issue of whether a New York bankruptcy law, which was enacted prior to the execution of a promissory note, could affect the obligation of the parties to that note. In a four-to-three decision, the Court upheld the power of the states to pass bankruptcy laws.

\[\text{CON}st. \text{art. I, § 9, cl.3. An ex post facto law is one which makes criminal a prior action that was legal when committed.}\]

27. Siegan, supra note 16, at 111.
28. 3 U.S. (3 Dall.) 386 (1798).
29. Siegan, supra note 16, at 111.
30. As one such commentator points out: "[T]he evidence is persuasive that the framers considered the ex post facto provisions as guarantees against [the confiscation of property]. Despite this probable understanding, the Supreme Court in 1798 construed these provisions as applying only to criminal matters, and removed the protection of ownership from their reach." Siegan, supra note 16, at 30.
The *Ogden* holding severely limited the effectiveness of the contracts clause in protecting individual economic liberty. It is worth noting that in *Ogden*, Chief Justice Marshall — in the only dissent he wrote in a constitutional matter during his thirty-four years as Chief Justice — expressed his belief that the contracts clause was intended to protect an individual’s ability to enter into and make contracts free from state interference, and that any laws which altered the provisions of a contract, whether passed before or after the execution of a contract, impaired the contractual obligations and rights of the parties.\(^4\)\(^5\) Clearly, the regulatory power of the states with regard to individual economic liberty would have been severely limited if Marshall’s interpretation of the contracts clause had prevailed.

Like Marshall, the Framers intended to grant broad power to the federal government and expressly limited the power of the states in order to ensure that the citizens of the new republic would be guaranteed an equal, unbiased stake in a national economy.

2. The Commerce Clause

The Framers believed that lodging strong economic regulatory power in the federal government would also be an effective means of preserving individual liberty. Through the commerce clause, the Framers authorized Congress to “regulate Commerce with foreign Nations, and among the several States.”\(^35\) This power gave Congress the ability to promote the *economic interests* of citizens on a national scale. Rather than limiting the scope of federal power by expressly enumerating specific economic powers, the Framers opted to grant Congress broad power in the area of commerce and to allow such power to evolve gradually through social and economic change.\(^36\)

The commerce clause has played a significant role in determining the scope of federalism and the permissible uses of federal power. In interpreting the commerce clause, the courts

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\(^34\) Id. at 337.
\(^35\) U.S. *Const.* art I, § 8, cl. 3.
have continually striven to define the limitations of state and federal power.\textsuperscript{37} An analysis of the Constitution and the debates surrounding commercial issues at the Constitutional Convention suggests that the Framers envisioned an activist national government in the areas of economic promotion and development.\textsuperscript{38} However, in the area of interstate commerce, the federal laws, policies and court decisions that emerged after the signing of the Constitution varied greatly from the Framers' vision.\textsuperscript{39} Although the Supreme Court originally interpreted the commerce power so as to grant plenary power to Congress with regard to interstate commerce,\textsuperscript{40} the Court retreated from this position for many years. During this period of retrenchment, the Supreme Court often invalidated federal legislation and upheld state legislation in the area of interstate commerce.

Nevertheless, an examination of the circumstances preceding and surrounding the Constitutional Convention of 1787 sheds further light on the Framers' intent to give Congress plenary power over interstate commerce. Under the Articles of Confederation, the Continental Congress — despite having some power over national affairs — had virtually no power over interstate commerce. The individual states were understandably reluctant to relinquish any control over their own state economies. This lack of centralized authority over interstate commerce, coupled with conflicting state interests, led to economic chaos. Individual states began imposing trade barriers and taxes on goods passing through their borders. Many states imposed such a burdensome tax on incoming goods that they effectively foreclosed access to their respective markets. Thus, in large part out of fear of impending economic warfare between the states, the Constitutional Convention was called in an effort to formulate an effective method for dealing with the problems of interstate commerce.\textsuperscript{41} It was in response to


\textsuperscript{40} See Gibbons v. Ogden, 22 U.S. (9 Wheat.) 1 (1824).

\textsuperscript{41} NOWAK, supra note 36, at 144-46.
these problems and concerns that the Framers added the commerce clause.

As Hamilton said in *The Federalist No. 12*, the Constitution envisioned the creation of "one great American system"—a large commercial republic. The Framers of the Constitution were wise enough to let the role of government in regulating commercial enterprise evolve with social and economic change. It was not by accident that article I, section 8 of the Constitution gave Congress the authority to "regulate Commerce with foreign Nations, and among the several States."43

In 1824, when the question arose as to the scope of the commerce clause, Chief Justice John Marshall, in *Gibbons v. Ogden*, defined commerce to include every species of power of Congress over interstate commerce.44 In other words, if a state law in this area collides with a law validly enacted by Congress, the state law must yield to the law of Congress. Only federal regulation of interstate and foreign commerce could guarantee uniformity. The doctrine stimulated an already growing national economy.

In *Gibbons*, Chief Justice Marshall not only defined commerce to include every species of commercial intercourse but he also declared that commerce extended into every state: "Commerce, undoubtedly, is traffic, but it is something more: it is intercourse. It describes the commercial intercourse between nations, and parts of nations, in all its branches, and is regulated by prescribing rules for carrying on that intercourse."46 In construing the commerce clause so as to grant Congress plenary power over interstate commerce, Marshall reflected the intent of the Framers, which was to lodge broad powers in the national government.

It is important to note that the Constitution does not expressly articulate the boundaries of the commerce power, particularly when Congress has not spoken in the area.47 As

42. See *The Federalist* No. 12 (A. Hamilton) (J. Cooke ed. 1961) [hereinafter *The Federalist* No. 12].
43. U.S. CONST. art. I, § 8, cl. 3.
44. 22 U.S. (9 Wheat.) 1 (1824).
45. See id. at 7.
46. Id. at 5.
47. Nowak, *supra* note 36, at 268.
Marshall recognized in *Gibbons*, the states do have the authority to regulate commerce pursuant to the "dormant" commerce clause, that is, when Congress has not enacted conflicting laws.\(^48\)

It soon became apparent, however, that individual economic liberty and the growth of a national economy would be thwarted if the states could freely and arbitrarily regulate commerce in the absence of congressional action. Accordingly, the Supreme Court was called upon to define the extent to which the states can regulate commerce in the face of congressional silence. The Court has rejected the theory of an exclusive role for Congress in the area of commerce, but has also declined to validate every state law enacted pursuant to the dormant commerce clause,\(^49\) Rather, the Court has selected to middle ground in which it evaluates the state regulation in terms of whether the state's interest in enforcing its regulation outweighs the burden of the regulation on interstate commerce.\(^50\)

Over the years, the Court generally has promoted a national economy and protected individual economic rights by striking down overly burdensome state regulations.\(^51\) Specifically, the Court has usually found that the state's interest in regulating commerce does not outweigh the burden which the particular state law places on interstate commerce and individual liberty.\(^52\)

However, as previously mentioned, where Congress has regulated a particular area of commerce, any conflicting state law is preempted. Accordingly, the Court has also been called


\(^{49}\) See, e.g., *Willson v. Black Bird Creek Marsh Co.*, 27 U.S. (2 Pet.) 244 (1829) (upholding state regulation of interstate commerce as a valid exercise of a state's police power); *Cooley v. Board of Wardens*, 53 U.S. (12 How.) 229 (1851) (upholding state regulation because subject matter of the regulation of a sufficiently local nature as to require different treatment from state to state).

\(^{50}\) *Pike v. Bruce Church, Inc.*, 397 U.S. 337 (1970).


\(^{52}\) See id.
upon to determine whether such federal regulation is a valid exercise of the commerce power. In Gibbons, Marshall interpreted the commerce clause as granting broad power to Congress. Soon after the Gibbons decision, however, the Court retreated from Marshall's position and began to limit the scope of federal power over interstate commerce. Marshall's theory was explicitly recognized again not until 1942.

The retreat from Marshall's broad definition of the commerce clause began with the Supreme Court's formulation of the concept of "dual federalism," a theory under which the tenth amendment was regarded as a limitation on the source of Congressional power. The tenth amendment provides that "[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Under the "dual federalism" theory, the federal government may only regulate the specific, express activities which are not reserved to the States, thus limiting excesses of federal power.

The most noted case in the "dual federalism" period was United States v. E.C. Knight Co. In E.C. Knight, the Court invalidated Congress' application of the Sherman Antitrust Act to a monopoly acquisition of sugar refineries. The Court determined that the regulation of "manufacture" was reserved to the states by the tenth amendment and, therefore, was beyond the scope of the federal commerce power. The E.C. Knight opinion represented an effort by the Court to draw a clear distinction between state and federal powers. As Chief Justice Fuller wrote:

It is vital that the independence of the commercial power and of the police power, and the delimitation between them, however sometimes perplexing, should always be recognized and observed, for while the one furnishes the strongest bond of union, the other is essential to the preservation of the autonomy of the States as required by our dual form of govern-

54. Nowak, supra note 36, at 150.
55. U.S. Const. amend. X.
56. Nowak, supra note 36, at 150.
57. 156 U.S. 1 (1894).
58. Id. at 11-13.
ment; and acknowledged evils, however grave and urgent they may appear to be, had better be borne, than the risk be run, in the effort to suppress them, of more serious consequences by resort to expedients of even doubtful constitutionality. 59

The Supreme Court subsequently shifted from its "dual federalism" theory to a "stream of commerce" theory. Originally stated by Justice Holmes in *Swift v. United States*, 60 the "stream of commerce" theory permitted federal regulation of commerce if a "direct" connection existed between the regulated activity and interstate commerce.

The Court reaffirmed Holmes' "stream of commerce" theory in *Stafford v. Wallace*. 61 Writing for the *Stafford* majority, Chief Justice Taft explained that increased interstate commerce necessitated an increase in commercial regulation: "[S]uch streams of commerce from one part of the country to another which are ever flowing are in their very essence the commerce among the States . . . which historically it was one of the chief purposes of the Constitution to bring under national protection and control." 62

Although the Court was now willing to uphold new federal commercial regulations, it appeared willing to do so only where there existed a demonstrably "direct" impact on interstate commerce, an inherently subjective concept. The Court was still reluctant to follow Marshall's early interpretation in *Gibbons* that the commerce power, "like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the constitution." 63

From 1933 to 1937, although the Court vacillated in the manner in which it dealt with state economic regulation, a majority continued to support strict control over the scope of

59. *Id.* at 13.
60. 196 U.S. 375 (1905). *Swift* upheld the application of the Sherman Act to an agreement of meat dealers regarding their bidding practices at stockyards which fixed the prices of meat. The Court noted that, although the activity took place within a single state, it was only a temporary stop in the interstate sale of cattle. *Id.*
61. 258 U.S. 495 (1922) (holding that Congress could subject meat stockyard dealers to regulation by the Secretary of Agriculture).
62. *Id.* at 519.
federal commercial legislation. The most important decision of this period came in *Carter v. Carter Coal Co.* In *Carter*, the Court struck down Congressional efforts to regulate labor relations in the depressed coal industry as being outside the scope of the federal power. The Court followed tenth amendment analysis and held that the relationship between employers and employees in all production occupations was a purely local activity and, as such, was under the exclusive control of the states.

The *Carter* opinion demonstrated the Court's unwillingness to alter its rigid, narrow position toward federal regulation of commerce, despite the economic depression. However, in *NLRB v. Jones & Laughlin Steel Corp.*, the Court began to retreat from its narrow position and adopted a new, more liberal approach to defining federal commerce power.

As part of its new approach, the Court refused to follow its former theories defining the commerce power. The Court no longer defined the commerce power in terms of tenth amendment restrictions and dismissed the "stream of commerce" theory. Rather, in *Jones & Laughlin*, the Court formulated a "close and substantial relation" test. Under this test, Congress could regulate commercial activities that, although seemingly intrastate in character, "have such a close and substantial relation to interstate commerce that their control is essential ... to protect that commerce from burdens and obstructions." In *Jones & Laughlin*, the Court expanded the concept of federal commerce power for the first time since *Gibbons*. Nevertheless, the Court was cautious not to broaden the power to such an extent as to "embrace effects upon interstate commerce so indirect and remote that to em-

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64. NOWAK, supra note 36, at 157.

65. 298 U.S. 238 (1936). The act in question was the Bituminous Coal Conversion Act of 1935 under which coal producers were required to follow the maximum hour labor terms negotiated between miners and producers of more than two-thirds of the annual tonnage production for the preceding calendar year. Minimum wages for employees were fixed in a similar manner.

66. Id. at 304.

67. 301 U.S. 1 (1937) (upholding the National Labor Relation Act and the Board's orders against interference by employers with union activities).

68. Id. at 37.
brace them . . . would effectually obliterate the distinction between what is national and what is local."  

In 1942, the Court moved further toward the recognition of a plenary federal commerce power based on economic theory. In *Wickard v. Filburn*, the Court held that particular intrastate activities of a very small scale could be subject to federal regulation if such activities affected interstate commerce when placed in combination with similar small-scale activities. Justice Jackson wrote:

> [E]ven if appellee's activity be local and though it may not be regarded as commerce, it may still, whatever its nature, be reached by Congress if it exerts a substantial economic effect on interstate commerce, and this irrespective of whether such effect is what might at some earlier time have been defined as "direct" or "indirect."  

The *Wickard* opinion demonstrates an explicit return by the Court to Justice Marshall's original definition of commerce as commercial intercourse that affects more than one state. In *Wickard*, the Court expressed a willingness to permit federal regulation of virtually any economic activity, so long as such activity arguably could have some impact on interstate commerce. As Justice Jackson noted:

> The commerce power is not confined in its exercise to the regulation of commerce among the states. It extends to those activities intrastate which so affect interstate commerce, or the exertion of the power of Congress over it, as to make regulation of them appropriate means to the attainment of a legitimate end, the effective execution of the granted power to regulate interstate commerce . . . .

In returning to Marshall's interpretation of the commerce power, the Supreme Court adopted a position which was wholly consistent with the Framers' intentions when they incorporated the commerce clause into the Constitution. The Court had now come full circle to a position of strong nationalism. Under this position, preserving broad powers in the

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69. *Jones & Laughlin*, 301 U.S. at 37.

70. 317 U.S. 111 (1942) (upholding the application of a marketing quota for wheat to a farmer who grew a small amount of wheat only for his own consumption).

71. *Id.* at 125.

72. *Id.* at 124 (quoting United States v. Wrightwood Dairy Co., 315 U.S. 110, 119 (1942)).
hands of the national government was seen as a means of securing individual economic liberty.

In accordance with this view, the Court upheld various federal regulations of state economic activities within the scope of the federal commerce power. The Court continued to hold this view until 1976, during which time it upheld, *inter alia*, the application of federal statutes regulating state-owned railroad companies. In 1968, the Supreme Court, in *Maryland v. Wirtz*, upheld the application of federal minimum wage requirements to employees of state and local governments. The Court held that the Constitution did not exempt state and local government employment practices from the reach of the federal commerce power and opined that the federal government, in acting to achieve proper goals, may override important state interests. However, the Court did caution Congress that it could not engage in the "utter destruction of the State as a sovereign political entity."

In 1976, however, the Court again retreated from its position of favoring the exercise of broad federal commerce power and renewed the Court’s tenth amendment theory regarding the protection of state power in the area of commerce. In *National League of Cities v. Usery*, the Supreme Court, in a five to four decision, held that minimum wage and overtime pay requirements of the Fair Labor Standards Act were not applicable to the employees of state governments. *National League of Cities* overruled *Wirtz* and held the tenth amendment to be a specific check on the power of Congress to regulate certain economic activities of state and local governments.

It is important to note that *National League of Cities* left undisturbed the modern test for finding relationships between intrastate and interstate commerce; the Court continued to maintain the position that Congress acted within its powers when it regulated intrastate activities that “affected com-

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75. 392 U.S. 183 (1968).
76. *Id.* at 195-96.
77. *Id.* at 196.
79. *Id.* at 852-55.
merce.” However, in *National League of Cities*, the Court found in the tenth amendment a guarantee that Congress could not abrogate a state’s plenary authority over matters essential to the state’s separate and independent existence and that the tenth amendment barred Congress from exercising the power to regulate traditional state governmental activities.

The issue of regulation of state and local governments was revisited by the Court in 1985, this time with a result contrary to *National League of Cities*. In *Garcia v. San Antonio Metro. Transit Auth.*, the Supreme Court overruled its decision in *National League of Cities* and returned plenary commerce power to the federal government. In overruling its prior decision, the Court determined that *National League of Cities* “tried to repair what did not need repair.” As Justice Blackmun explained, the Court tried to “articulate affirmative limits on the Commerce Clause power in terms of . . . fundamental attributes of state sovereignty.” This approach was unnecessary, Blackmun wrote, because the “principal and basic limit on the federal commerce power is that inherent in all congressional action — the built-in restraints that our system provides through state participation in federal governmental action.”

*Garcia* appears to express clearly the Court’s desire to maintain state sovereignty and to act in a manner consistent with the Framers’ intent. The Framers expressly intended that the structure of the federal system itself was to be the principal means for defining the role of the states in the system. As Justice Blackmun wrote:

> [T]he Framers chose to rely on a federal system in which special restraints on federal power over the States inhere principally in the workings of the National Government itself, rather than in discrete limitations on the objects of federal authority. State sovereign interests, then, are more

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80. *Id.* at 852.
81. *Id.*
82. 469 U.S. 528 (1985).
83. *Id.* at 557.
84. *Id.* at 556.
85. *Id.*
properly protected by procedural safeguards inherent in the structure of the federal system than by judicially created limitations on federal power. 87

As demonstrated previously, the Framers clearly expressed their intention to grant the federal government broad power to promote the economic interests of its citizens. The Supreme Court, however, has repeatedly altered its position in defining the scope of the federal commerce power. In Garcia, the Supreme Court reaffirmed the Framers' intentions and found perhaps the most effective method of maintaining individual economic rights. The Court decided to remove most judicially created limitations on the federal commerce power and to rely instead on the very structure of the republic to strike a proper balance between state and federal powers.

The Framers incorporated flexibility into the Constitution by establishing a role for government in regulating commercial enterprise that could evolve with social and economic change. The commerce clause was selected as the primary vehicle through which Congress could regulate commerce to preserve individual economic liberties. In the words of Justice Jackson:

Our system, fostered by the Commerce Clause, is that every farmer and every craftsman shall be encouraged to produce by the certainty that he will have free access to every market in the Nation, that no home embargoes will withhold his exports, and no foreign state will by customs, duties or regulations exclude them. Likewise, every consumer may look to the free competition from every producing area in the Nation to protect him from exploitation by any. Such was the vision of the Founders; such has been the doctrine of this Court which has given it reality. 88

As foreseen by the Framers, there are many special interest groups in America: rich and poor, commercial and non-commercial, large states and small states, manufacturing and farming. The Framers felt that the increased competition resulting from the development of various economic interests would result in citizens enjoying a higher degree of personal liberty. The Framers also recognized, however, that it was the

87. Garcia, 469 U.S. at 552.
role of government to regulate those interests for the common good. The Framers saw broad federal power under the commerce clause as a means for preserving those personal liberties within a national economy.

As previously stated, Hamilton indicated in *The Federalist No. 12*, that the Framers of the Constitution envisioned the creation of "one great American system," a large commercial republic, intended to ensure the freedom to work and, by the dignity of one's own labor, the opportunity to accumulate wealth and prosperity. Today, the Supreme Court, as reflected in its *Garcia* decision, once again appears willing to embrace the Framers' vision of utilizing plenary federal commerce power to ensure that all citizens throughout the nation be treated with dignity and have the opportunity to pursue their economic self-interests.

IV. PROTECTION OF THE INDIVIDUAL ECONOMIC LIBERTIES OF THE AMERICAN WORKER: THE FRAMERS' SYSTEM AT WORK

Economic freedom of all individuals is crucial to the success of a republic based on free enterprise. Without regulation, however, a system based on free enterprise can lead to an imbalance of power between groups such as employers and employees. A strong central government was necessary, Madison and Hamilton concluded, to regulate and preserve the role of special interest groups. The Framers' intent in this regard as far as employees were concerned was largely ignored by the courts until the mid-1800's when the American labor movement became a genuine force in national politics.

A. Early Hostility Toward Employee Interests

In the early years of the new republic, the rights of workers were generally left unprotected by Congress and the courts. The first recorded labor case in the United States, *Commonwealth v. Pullis*, took place in Pennsylvania at the beginning of the nineteenth century. *Pullis*, commonly known as the *Philadelphia Cordwainers* case, arose when a group of

89. See *The Federalist No. 12*, supra note 42.
boot and shoemakers went on strike in Philadelphia because their wages were cut. Eight of the employees were charged with, and convicted of, the crime of "combin[ing] and conspir[ing] to raise their wages." The Philadelphia Cordwainers decision typified the lack of protection which the courts provided to concerted employee efforts in pursuit of higher wages and better working conditions — efforts to obtain for themselves a larger share of the wealth they helped to produce.  

Despite the early judicial bias against labor organizations, employees still attempted to organize for the improvement of their economic conditions. In the mid-1800's, a change occurred as reflected in Commonwealth v. Hunt, a Massachusetts Supreme Court case. There, the court formulated an "ends and means" test which basically held that criminal liability could not be imposed on a union without specific consideration of the legality of the union's objectives and its means of attaining them. The Hunt decision was an important step in the development of employee rights in the United States. As one commentator has noted, "coming in the early period of union development and made by Chief Justice [Lemuel] Shaw, who enjoyed great prestige in the legal profession, [the Hunt decision] has gone far to discourage the use of the criminal conspiracy doctrine in labor cases."  

After Hunt, labor unions were better able to increase their membership and to pursue their policy of advancing the economic interests of the workers. On November 15, 1881, the Federation of Organized Trades and Labor Unions, the predecessor of the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), was established in Pittsburgh. Item one of the Federation's platform called upon state legislatures and Congress to give workers "the right to

91. Id.
93. Id. at 16.
94. 45 Mass. (4 Met.) 111 (1842).
95. See id.
the protection of their property in like manner as the property of all other persons and societies."

While including demands for social legislation, the new Federation also sought adoption of laws to give "every American industry full protection from the cheap labor of foreign countries." The Federation pledged "to use all honorable measures" to achieve its goals. In 1893, Samuel Gompers, president of the American Federation of Labor, succinctly stated: "What does labor want? We want more schoolhouses and less jails; more books and less arsenals; more learning and less vice; more constant work and less crime; more leisure and less greed; more justice and less revenge."

In the latter part of the nineteenth century, and in the early years of the twentieth century, the courts continued to treat certain labor activities with a degree of hostility through the use of civil injunctions against strikes, picketing and boycotts. The use of the injunction began to wane, ironically, when the Supreme Court, in In re Debs, upheld the use of an injunction against the American Railway Union. Although the decision appeared unfavorable to unions, it had a long-term beneficial impact upon the labor movement as it focused national attention on the use of the injunction, and generated considerable political support for labor's demand that the courts stop intervening in labor-management conflicts.

The civil law of torts was also sometimes used to frustrate union interests. Based on highly subjective reasoning, the courts often would enjoin unions from using their most effective devices for gaining recognition, that is, strikes, picket lines and boycotts, holding such activities to be inherently intimidating and violent, or to have economic goals which were

98. Id.
99. Id.
100. Murphy, The Commercial Republic and the Dignity of Work, NATIONAL FORUM 51 (Fall 1984).
101. 158 U.S. 564 (1895).
antisocial or unfairly restrictive of the rights of others. A double standard was followed by the courts in that means or objectives which were deemed perfectly lawful when pursued by others were enjoined as tortious civil actions when pursued by an organization of employees.

B. The Legislature’s Struggle to Guarantee Employee Rights

In *Loewe v. Lawlor*, the Supreme Court sustained the applicability of the Sherman Act of 1890 to unions and union activities. The Court determined that union activities were within the scope of the Act’s ban on “any combination whatever to secure action which essentially obstructs the free flow of commerce between the States, or restricts . . . the liberty of a trader to engage in business.” However, six years after *Loewe*, due to widespread public resentment against the Court’s application of the Sherman Act to union activities, Congress adopted the Clayton Act, which appeared to place union activities outside the reach of the antitrust laws; for example, Section 6 of the Clayton Act provides that:

> The labor of a human being is not a commodity or article of commerce. Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor . . . organizations, instituted for the purposes of mutual help . . . or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade, under the antitrust laws.

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103. See, e.g., George Jones Glass Co. v. Glass Bottle Blowers Ass'n, 77 N.J. Eq. 219, 79 A. 262 (1911) (the court held that both picketing and boycotting of an employer by its employees was tortious interference and subject to injunction); Plant v. Woods, 176 Mass. 492, 57 N.E. 1011 (1900) (the court held that “recognition” or “organizational” picketing is tortious and subject to injunction); Vegelahn v. Guntner, 167 Mass. 92, 44 N.E. 1077 (1896) (the court held that a work stoppage which was legal for one person became illegal when carried out by a combination of workers).

104. 208 U.S. 274 (1908).

105. Id. at 293 (emphasis added).

Further, section 20 of the Clayton Act prohibits the federal courts from issuing restraining orders or injunctions in labor disputes against certain concerted activities.\(^{107}\)

On its face, the Clayton Act appeared to exempt from the scope of antitrust laws all collective bargaining and peaceful concerted activities. Despite the apparent broad applicability of the Clayton Act, the Court has interpreted it in a narrow manner,\(^ {108}\) limiting the scope of legitimate union activities protected by the Clayton Act.

During World War I, railroads were subjected to government operation and standards. When the war ended, control over railroad employment was returned to private management which was less sympathetic than was government to the rights of employees. As a result, the rights of these workers became a hot topic of post-war public debate.\(^ {109}\)

Meanwhile, Congress was continuing its search for a constitutional method to regulate labor-management conflicts in the railroad industry. In 1926, Congress enacted the Railway Labor Act\(^ {110}\) in an effort to override the Supreme Court's interpretations of previous labor regulations.\(^ {111}\) The Railway Labor Act repudiated \textit{Adair v. United States}\(^ {112}\) which had constitutionalized an employer's right to discharge employees solely because of their union affiliations. The Railway Labor Act gave both employees and employers the right to designate

107. Section 20 of the Clayton Act provides in relevant part:

\begin{quote}
[No] restraining order or injunction shall prohibit any person or persons, whether singly or in concert, from terminating any relation of employment . . . ceasing to perform any work or labor . . . recommending, advising, or persuading others by peaceful means so to do . . . attending at any place . . . for the purpose of peacefully obtaining or communicating information . . . peacefully persuading any person to work or to abstain from working . . . ceasing to patronize . . . any party to such dispute, or . . . recommending, advising, or persuading others by peaceful and lawful means so to do . . . .
\end{quote}


108. See Duplex Printing Press Co. v. Deering, 254 U.S. 443 (1921). The Court upheld an injunction against the Machinist Union whose members, while working for newspaper publishers in New York, engaged in a secondary boycott in support of an attempt by machinists in Michigan to unionize a major national printing press. \textit{Id.}

109. A. Goldman, \textit{supra} note 102, at 32.


111. A. Goldman, \textit{supra} note 102, at 32.

112. 208 U.S. 161 (1908).
bargaining representatives "without interference, influence or coercion." \(^{113}\)

In 1930, in *Texas & N.O.R.R. Co. v. Brotherhood of Ry. & S.S. Clerks*,\(^ {114}\) the Supreme Court surprisingly rejected a challenge to the constitutionality of the Railway Labor Act, when a railroad discharged a number of its employees for their union activities. The Supreme Court dismissed the *Adair* case as "inapplicable"\(^ {115}\) and held that the Railway Labor Act should be construed to empower the courts to enjoin employers from discharging employees for their union activities. The Court also held that such interference with employer action was not unconstitutional.\(^ {116}\) Thus, the Court set the stage for the constitutionality of similar statutes protecting the rights of workers. For example, in 1932, Congress enacted the Norris-La Guardia Act which afforded greater protection to employees than previously existed.\(^ {117}\)

Shortly after the enactment of the Norris-La Guardia Act, President Franklin D. Roosevelt took office together with House and Senate Democratic majorities. The Roosevelt Administration successfully pushed through Congress the National Industrial Recovery Act (NIRA), Section 7 of which guaranteed employees the right to unionize free from employer interference,\(^ {118}\) thus encouraging labor unions to increase their organizational efforts. Union activity, under the protection of the NIRA, however, was met with great resistance by management. Ultimately, in 1935, the Act was held unconstitutional in *A.L.A. Schechter Poultry Corp. v. United States*.\(^ {119}\)


\(^{114}\). 281 U.S. 548 (1930).

\(^{115}\). *Id.* at 570-71.

\(^{116}\). *Id.* at 571.

\(^{117}\). The Norris-La Guardia Act forbade the issuance of injunctions by federal courts in certain types of labor disputes and contained a declaration of policy proclaiming the equity of the employee right of self-organization to governmental protection of capital, collectively organized into corporations and business associations; it also strictly confined procedures, required courts to satisfy specific standards of proof, and entitled those not in a direct employment relationship with a given employer to the benefit of insurance coverage. 29 U.S.C. §§ 101-115 (1982).

\(^{118}\). See supra note 117 and accompanying text.

\(^{119}\). 295 U.S. 495 (1935).
In the landmark National Labor Relations Act of 1935 (the Wagner Act), Congress announced a new affirmative government role in labor-management disputes. The Wagner Act established substantive rules of labor law, the National Labor Relations Board (NLRB) to administer such rules, and gave the NLRB the power to determine any question of representation and "to prevent any person from engaging in any unfair labor practice." The Act represented a public policy decision to encourage unionization, collective bargaining and the free flow of commerce, thus equitably balancing the economic interests of employers and employees.

Congress rightly perceived that social and economic changes required legislative action to preserve the dignity and economic freedom of the labor force in America. In other words, through the Wagner Act, Congress affirmed the Framers' belief that, in order for society to attain its highest degree of freedom and power, every individual's interest in his or her own economic well-being had to be fostered and encouraged. By so allowing — and encouraging — the right of workers to organize, Congress ensured that each worker would feel that he or she had a genuine economic stake in the republic and an opportunity to share in the wealth that he or she helped to produce.

Nevertheless, constitutional challenges were raised against the Wagner Act based on the proposition that the Constitution does not specifically empower Congress to regulate labor relations between employers and employees. In NLRB v. Jones & Laughlin Steel Corp., the Supreme Court revolutionized labor relations in the United States when it upheld the constitutionality of the Wagner Act. For the first time, explicit positive rights for labor unions were judicially recognized. Jones & Laughlin involved an attempt by the NLRB to prevent a large integrated steel producer from engaging in "unfair labor practices," that is, the alleged discriminatory firing of employees for union activity. The Court held, first,

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124. 301 U.S. 1 (1937).
125. Id. at 22-29.
that the employer's unfair practices provisions of the Wagner Act did not constitute a denial of due process with respect to individual employee's liberty to contract; and second, that Congress' power under the commerce clause extended to the interstate business of the steel manufacturer.

The validation of the Wagner Act unleashed the energies of the organized labor movement. Not only did Commerce Clause jurisprudence shift in the direction of a national economy, as envisioned by the Framers, but also workers received the Supreme Court's stamp of approval regarding their lawful union activities. Workers were guaranteed rights concerning the terms of their work employment and were afforded that level of dignity in their work which the Framers had in mind when they created the republic.

 Soon after the Jones & Laughlin decision, jurisdictional strikes between different unions became common and unions utilized secondary boycotts in support of their demands. Such tactics affected the status of labor unions in public esteem. In 1947, growing public concern motivated Congress to amend the Wagner Act by passing the Taft-Hartley Act. Although formally entitled the Labor Management Relations Act of 1947, the scope of the Taft-Hartley Act reaches beyond labor-management relations and provides for the regulation of union/member relations and union political activities. The basic philosophy behind the Taft-Hartley Act, however, was to reaffirm policies in favor of the commercial benefits of collective bargaining and in favor of employee dignity through equal bargaining power.

Congress recognized that certain labor union practices could burden or obstruct the uninhibited pursuit of material self-interest. Accordingly, the Taft-Hartley Act prohibited various union activities as unfair labor practices and added to employee rights the right to refrain from any and all union activities. The Taft-Hartley Act also placed unions under the same sort of responsibility as employers with the duty to

126. Id. at 43-49.
127. Id. at 34-41.
128. A. Goldman, supra note 102, at 35.
bargain in good faith, and restricted the use of secondary boycott pressure by giving the NLRB authority to seek injunctive relief.\textsuperscript{131} The Taft-Hartley Act added other provisions to the NLRA which dealt with jurisdictional disputes,\textsuperscript{132} certain union procedures\textsuperscript{133} and certain internal union policies.\textsuperscript{134}

Thus, over the years Congress and the Supreme Court have gradually reaffirmed the Framers' vision by sanctioning a national economy which provides everyone with the opportunity to participate. Federal labor regulation has maintained the ideal that each and every citizen should have the right to choose his or her own way in the national economy. By removing the monopolistic bargaining power which employers at one time enjoyed over employees, and by ensuring that union leadership does not dominate and overwhelm the rights of individual employees, Congress and the Supreme Court have preserved the Framers' intention that the republic actively promote a national free economy for the benefit of all its individual citizens. In addition, federal labor regulation is consistent with the Framers' vision in that they conceived of a system which would promote the pursuit of self-interest by all segments of society, including management, unions and the individual members of both groups, thus preventing the evils of dominance by a majority faction.

Congress and the Supreme Court have adapted over the years to reflect the Framers' vision that basic human dignity and the right to pursue one's own material interests enhance freedom and that individual rights can only be protected by the guarantee of economic liberty.

The principal aim of federal regulation in the United States has been, and is, to protect individual rights through uniform regulation. The primary philosophy underlyingle the Constitution is that all individuals are guaranteed the opportunity to receive an individual stake in the national economy. The Constitution provides an incentive for employers and employees to prosper, as they are confident that they will be able to retain the fruits of their investment and labor. This, in

\begin{thebibliography}{9}
\bibitem{132} 29 U.S.C. §§ 160(k), 164 (1982).
\bibitem{133} 29 U.S.C. §§ 159-162, 165-166 (1982).
\bibitem{134} 29 U.S.C. § 158 (1982).
\end{thebibliography}
turn, encourages economic and material progress which benefits the entire society. In the United States, where all individuals are provided with the opportunity to receive a stake in the national economy, we have seen enormous growth as individual freedom has unleashed awesome amounts of creative energy.  

It is clear that one of the key factors that distinguishes the United States from other countries, and that makes our Constitution exceptional, is the protection and encouragement of individual economic rights. Indeed, there is no historical evidence of any society that successfully guaranteed personal freedom without guaranteeing economic freedom. The Framers clearly envisioned that materialism would be inextricably intertwined with freedom, and that without material security personal freedom would become nonexistent. Ours is a system which is premised upon preserving the dignity of the individual and is designed so that every individual will be motivated to pursue his or her own economic self-interests in a national marketplace.

As we celebrate the Bicentennial of our Constitution, we cannot help but marvel at the overwhelming ingenuity which the Framers possessed in drafting the Constitution. The Constitution and our system of government have endured because the American people are continually striving to achieve their own chosen goals, by which they benefit themselves, society, and all of mankind.

As President Ronald Reagan said in his State of the Union address on January 27, 1987:

The U.S. Constitution is the impassioned vehicle by which we travel through history. It grew out of the most fundamental inspiration of our existence . . . that living free releases in us the noblest of impulses and the best of our abilities. That we would use these gifts and generous pur-

136. In 1987, we celebrate the two hundredth anniversary of the signing of the Constitution; in 1988, its ratification; in 1989, the first Chief Executive in Congress; in 1990, the establishment of our independent federal judiciary; and in 1991, the Bicentennial of the Bill of Rights.
poses and would secure them not just for ourselves, and for our children, but for all mankind.\textsuperscript{137}

V. CONCLUSION

So far the Constitution and the Commercial Republic have met all challenges involving the safety and prosperity of the country. The Framers believed in freedom of political and religious thought, freedom of economic opportunity, patriotism, due process, family and more. These values of the past — which made our country great — must be preserved in the years ahead.

What higher tribute could we pay to the Framers of the Constitution than to make this a decade devoted to constitutional literacy! It would honor our past and guarantee our future. For our society cannot remain free unless its citizens understand the document which guarantees our freedom.

Hamilton and Madison dreamed of far more for this nation than just economic success. They wanted a populace nurtured on the principles of freedom and sound government. The Constitution they championed has endured.

And so, as we move more and more into high technology in the changing workplace, we must ensure that all citizens of this great land have the opportunity to obtain their economic stake, that the climate enables businesses to grow and create new jobs, and that opportunities abound.

The Commercial Republic is still — as it was 200 years ago — the best system by which men and women, of whatever skills and abilities, can live peacefully, prosper, and work to find their own american dream.

\textsuperscript{137} Address by President Ronald Reagan on the State of the Union (Jan. 27, 1987).