INTRODUCTION

FEDERALISM AND THE ECONOMIC ORDER

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> For the efficient management of your common interests in a country so extensive as ours, a government of as much vigor as is consistent with the perfect security of liberty is indispensable. Liberty itself will find in such a government, with powers properly distributed and adjusted, its surest guardian.
>
> —George Washington[1]

Federalism and the Constitution of Liberty

Constitutional rules help shape the economic order. A constitution is a fundamental law and differs significantly from legislation.[2] The rules embodied in the U.S. Constitution reflect the *principles* that underlie the document. The most basic principle underlying the U.S. Constitution is that the primary function of government is to preserve liberty—that is "to maintain all in the secure and tranquil enjoyment of the rights of person and property," as Washington put it in his Farewell Address (1796). American federalism was designed with this principle in mind.

The U.S. Constitution is often referred to as a "charter of freedom"[3]—or, to use F. A. Hayek's expression, a "constitution of liberty" (Hayek 1960) protecting both personal and economic liberties. To secure "a government of as much vigor as is consistent with the perfect security of liberty," the Framers proposed, and the states consented to, a federalist system of government (a system that Washington thought would preserve liberty, provided governmental powers were "properly distributed and adjusted").

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[1]Farewell Address, 17 September 1796.

[2]See, for example, Dicey ([1915] 1982) and Hayek (1960, 1982).

[3]See Dorn (1988, especially section V and the references therein).

The choice of a constitutional democracy and a federalist structure of government was no accident. James Madison, the chief architect of the Constitution and the Bill of Rights, devoted many hours to the study of alternative forms of government. He used his broad knowledge to help convince his fellow delegates and countrymen to adopt a system of government in which governmental powers would be limited, the national government would be unable to interfere with the powers of state governments over a wide range of issues, and individual rights would be safeguarded.

The problem of framing a government was best stated by Madison in *Federalist* No. 51:

> If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable government to control the governed; and in the next place oblige it to control itself.

To resolve the difficulty of framing a system of government that would provide an effective mechanism for governing the people and at the same time govern itself, Madison and the Framers turned to a federalist system or a compound republic. It was thought that a system characterized by decentralization and competition would be conducive to the efficient conduct of governmental affairs. It was also thought that consititutional limitations on governmental powers would effectively check the Leviathan's appetite for ever-greater power.

In contrast to a unitary system of government, therefore, a compound republic was thought to offer added security to individual rights. As Madison wrote (*Federalist* No. 51):

> In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments. Hence a *double security* arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself [emphasis added].

By making it clear that "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" (Tenth Amendment), the Constitution gave life to the federalist principle and to the competitive spirit of government favored by the Framers.

Moreover, the Constitution—by limiting the spending and taxing powers of government (Article I, Sections 8–10; Tenth Amendment),

by maintaining internal free trade (Article 1, Section 8, the commerce clause; Article I, Section 9), by protecting freedom of contract (Article I, Section 10, the contracts clause), by safeguarding property rights (Fifth Amendment, and later the Fourteenth Amendment), and by recognizing the priority of individual rights (First and Ninth Amendments)—enshrined the principle of freedom in the federalist system and provided the basis for a liberal economic order.

Whether or not the Framers intended to create a private market economy, they in fact did so by safeguarding and nurturing the institutions necessary for its existence—namely, a rule of law, private property, and freedom of contract.[4] As Niskanen (1988, p. xii) has argued:

> Any reading of the deliberations that led to the Constitution and the several amendments should lead one to recognize that these rules were specifically designed as part of the larger set of rules to secure individual rights. The Framers may not have shared a common vision about the economic system. There should be no doubt, however, that the Constitution was designed to provide a strong but limited federal role, free trade among the states, and the security of private property—however the intent of the Framers may have been changed by subsequent interpretation.

The connection between federalism and the economic order is the theme of the first seven papers in this issue.[5] In particular, these papers explore the nature of American federalism, how it has changed over time, and the impact of intergovernmental competition on efficiency and economic growth. Before discussing each of these papers, it is useful to examine more carefully the key features of American federalism with an eye toward the role of the judiciary in a fully developed federalist system.

American Federalism and the Judiciary

In his classic study *The Law of the Constitution,* A. V. Dicey [1915] 1982, p. 77) listed the three key features of a fully developed federalist system, such as existed in the United States: (1) "the

[4]See Lee (1987) who argues that it is largely immaterial whether the framers intended to promote a capitalist economic order. What is important is that they sought to limit the coercive power of government, and in so doing set the basis for a viable market order.

[5]These papers were first presented at the Sixth Annual Critical Issues Symposium—"Competition among Governments, Efficiency, and Economic Growth"—sponsored by the **Florida State University Policy Sciences Program** and the **James Madison Institute,** 8–10 March 1990. Special thanks go to James D. Gwartney for organizing the symposium and for suggesting that selected papers be used in the *Cato Journal.*

supremacy of the constitution," (2) "the distribution among bodies with limited and co-ordinate authority of the different powers of government," and (3) "the authority of the Courts to act as interpreters of the constitution."

The U.S. Constitution is "the supreme Law of the Land" (Article VI); it distributes and limits the powers of government so that the rights of persons and property are secure. As Dicey (p. 84) notes:

> The United States Constitution prohibits both to Congress and to the separate states the passing of a bill of attainder or an *ex post facto* law, the granting of any title of nobility, or in effect the laying of any tax on articles exported from any State, enjoins that full faith shall be given to the public acts and judicial proceedings of every other State, hinders any State from passing any law impairing the obligation of contracts, and prevents every State from entering into any treaty, alliance, or confederation; thus it provides that the elementary principles of justice, freedom of trade, and the rights of individual property shall be absolutely respected throughout the length and breadth of the Union

Because the U.S. Constitution is the supreme Law of the Land, "Judges in every State shall be bound thereby" (Article VI); and, in a federal system, the Supreme Court necessarily becomes "the final interpreter of the Constitution" (Dicey, p. 89). Thus, Dicey (p. 91) writes: "To the judiciary in short are due the maintenance of justice, the existence of internal free trade, and the general respect for the rights of property."

The Supreme Court's role as "final arbiter" places it in a precarious position; for if the Court succumbs to political pressure, it may end up losing its moral authority as guardian of the Framers' Constitution of liberty. And if the Consitution as a charter of freedom is eroded, either with regard to personal freedom or economic liberty, American federalism will also fail as a limit on the coercive power of government.

It was with this danger in mind that Dicey (p. 101) warned against the politicization of the judiciary and pointed to *Munn v. Illinois* as an indication that

> the most honest judges are after all only honest men, and when set to determine matters of policy and statemanship will necessarily be swayed by political feeling and by reasons of state. But the moment that this bias becomes obvious a Court loses its moral authority, and decisions which might be justified on grounds of policy excite natural indignation and suspicion when they are seen not to be fully justified on grounds of law.

The *Munn* decision (94 U.S. 113 [1877]) is of special importance because with it the Court established the so-called public interest

doctrine, which extended the police powers of the states over economic life. As a result, private property rights and freedom of contract were less secure and the legislative door was opened to the rise of the redistributive state. In *The Birth of a Transfer Society*, Anderson and Hill (1980, p. 63) explain the significance of *Munn*:

> Under the doctrine of police power, the Supreme Court had previously upheld the power of the states to regulate economic activity incidentally. But the idea that private property used in the public interest was subject to public regulation gave a broad new authority to the government to interfere with contracts and private property. Such authority raised the returns to transfer activity by giving nonowners the potential to affect resource allocation.

In his dissenting opinion, Justice Field recognized the threat *Munn* and the public interest doctrine posed for the survival of American federalism and private property rights. Echoing the Framers' constitutional principles and and their original understanding of federalism and its link to economic liberty, Field (at 140) stated:

> If this be sound law, if there be no protection, either in the principles upon which our republican government is founded, or in the prohibitions of the Constitution against such invasion of private rights, all property and all business in the State are held at the mercy of a majority of its legislature.

State regulation over economic life continued with the decision in *Mugler v. Kansas* (123 U.S. 623 [1887]), where the Court upheld a state ban against the sale of liquor. However, in rendering his opinion, Justice Harlan reflected on the limitations of the police powers and paved the way for extending substantive due process protection to economic liberties via the Fourteenth Amendment.[6] According to Justice Harlan (at 661):

> There are, of necessity, limits beyond which legislation cannot rightfully go. [T]he courts must . . . upon their own responsibility, determine whether, in any particular case, these limits have been passed. . . . If, therefore, a statute purporting to have been enacted to protect the public health, the public morals, or the public safety has no real or substantial relation to those objects, *or is a palpable invasion of rights secured by the fundamental law*, it is the duty of the courts to so adjudge, and thereby to give effect to the Constitution [emphasis added].

When the Court gives effect to the Framers' Constitution of liberty, it also gives effect to American federalism—both as a procedure for competitive government and as a doctrine of substantive limits on

[6]See, for example, Lockhart, Kamisar, and Choper (1970, p. 455).

governmental powers. The federalist system was designed not merely to decentralize governmental functions but to restrict both federal and state powers so that the sanctity of individual rights would be maintained.[7]

The *structure* of U.S. federalism is the distribution of powers, but the *substance* of federalism is freedom. If the Court fails to protect the substance of federalism, mere decentralization will not be sufficient to protect the rights of individuals. And if economic freedom is not afforded the same protection as personal freedom, the market order will weaken as federalism is undermined by an expansion of the police powers both at the national level and at the state level.

Applying substantive due process to both civil and economic liberties is entirely consistent with the Framers' view of federalism and with the principles underlying the Constitution as fundamental law.[8] Whether they like it or not, judges must interpret the Constitution. Their decisions will spell the difference between a federalism consistent with a liberal economic order and a federalism that upsets the spontaneous market process by interfering with the property right—broadly defined in the Madisonian tradition as "every thing to which a man may attach a value and have a right: and *which leaves to everyone else the like advantage*" (Madison [1792] 1906, p. 101).

Under the rubric of property, Madison would include an individual's right to "the safety and liberty of his person" as well as an individual's rights to "the free use of his faculties and free choice of the objects on which to employ them" (Madison, p. 101). Since the function of the judiciary, in Madison's view, is to protect individual rights, it should act as "an impenetrable bulwark against every assumption of power in the Legislative or Executive" branch (*Annals* 1: 439). "The Federal judiciary," wrote Madison ([1833] 1865, pp. 296–97), "is the only defensive armour of the Federal government, or, rather, for the Constitution and laws of the United States. Strip it of that armour, and the door is wide open for nullification, anarchy, and convulsion." In short, the judiciary is the main pillar upon which American federalism stands or falls.

[7]In this sense, fiscal federalism is only a subset of federalism as originally understood by the Framers. Moreover, as Bish (1987, pp. 386–87) points out, fiscal federalism, by focusing on problems of scale and ignoring the monopoly problem, runs the risk of losing the competitive character that distinguishes it from a decentralized *unitary* system of government.

[8]See, for example, Siegan (1980) and the essays in Dorn and Manne (1987); also see Dorn (1988).

Erosion of Economic Liberties and Transformation of Federalism

With the termination of substantive due process protection for economic liberties in the late 1930s and the Court's broad interpretation of the commerce clause (to encompass federal regulation of almost any economic activity whether or not it was specifically related to interstate commerce), the original conception of American federalism was turned on its head.[9] As *Peter H. Aranson* shows in his paper, federalism was transformed through a series of Court decisions from meaning a legal doctrine of "constitutional decentralization" to meaning "contingent decentralization"—with the presumption that Congress would decide the distribution of powers, regardless of the impact on private rights.

Thus, instead of being driven by the Framers' vision of a national government limited to those powers enumerated in the Constitution, American federalism has become dominated by the modern vision of a national government that defines its own powers. In the process, the redistributive state has risen to occupy the territory that was once governed by a more limited state. Moreover, as *Aaron Wildavsky* points out, the modern vision of egalitarianism has tended to crowd out the Framers' vision of a self-regulating system of competitive federalism. In his view, egalitarianism and competition are ultimately irreconcilable.

Constitutional Decentralization versus Contingent Decentralization

Aranson traces the process by which American federalism, as a doctrine limiting the overall powers of government and protecting individual rights, has been undermined by judicial decisions that have lost touch with the Framers' principled approach to federalism and its grounding in a Constitution of liberty. Specificially, he shows how, paradoxically, the Court's broad interpretation of the commerce clause has allowed the federal government to regulate *intra*state trade while at the same time allowing states to interfere with *inter*state commerce. In effect, the Court has widened both federal and state regulatory powers and has eroded the economic Constitution of liberty without any formal amendment process.[10]

Unlike "constitutional decentralization," in which decentralization of powers is strictly limited by the Constitution as a charter

[9]The demise of substantive economic due process is discussed in Siegan (1980). The Court's treatment of the commerce clause is discussed in Epstein (1987).

[10]On the erosion of the economic Constitution, see Niskanen (1988).

of freedom, "contingent decentralization" allows purely utilitarian calculus and majoritarianism to determine the distribution of powers as well as the scope of government action. As such, the true nature of federalism is destroyed and with it the benefits of intergovernmental competition that flow from limited government and a proper distribution of powers.

Aranson's message is that contingent decentralization alone is insufficient to prevent political forces from leading to the recentralization of governmental power. What is necessary is that the judiciary fulfill its role as guardian of the Framers' Constitution and ultimately that the people retain the liberal republican virtues that were evident at the founding of our compound republic.[11]

Competitive Federalism versus Egalitarianism

Until the mid-1930s, the United States remained largely a protective rather than a redistributive state. The limitation of the government's redistributive function was in line with a strict interpretation of the enumerated powers of the federal government, which, as Niskanen (1985, p. 2) notes, provide "*no* explicit authority for federal welfare programs."

The termination of substantive economic due process after 1936, the Court's ruling in *United States v. Butler* (297 U.S. 1 [1936])[12] that effectively removed constitutional constraints on the scope of federal spending by adopting a so-called public-purpose test, the change in popular sentiment toward redistribution as a by-product of the Great Depression, and the rise of modern "democratic liberalism" all helped spur the rise of the redistributive state or what Anderson and Hill (1980) have called the "transfer society."[13]

The transition to the modern welfare state has been accompanied by a transition from a rule-of-law approach to equality—that is, a concern with ensuring equal protection under just laws without

[11]For Madison, liberal republicanism essentially meant the establishment of "the efficacy of popular charters, in defending liberty against power . . . and in keeping every portion of power within its proper limits" (as discussed in his essay "Charters" [1792]).

The spirit of Madison's liberal republicanism is captured in the following passage from John O'Sullivan, who in 1837 wrote:

> The best government is that which governs least. . . . [Legislation] should be confined to the administration of justice, for the protection of the natural equal rights of the citizen, and the preservation of the social order. In all other respects, the voluntary principle, the principle of freedom . . . affords the true golden rule [in Vernier 1987, pp. 12–13].

[12]For a discussion of this case and its implications for the welfare state, see Niskanen (1985, p. 6).

[13]For a general discussion of the transfer society and the conditions surrounding its rise since the 1930s, see Dorn (1986).

regard to outcomes—to a purely political approach to equality in which legislation is used to alter the "rules of the game" to achieve more equal outcomes. Whether the agenda of rent-seeking groups interferes with private property rights is of secondary importance to the partisans of the welfare state, whose declared aim is "social justice" (defined as some desired income distribution, not as a state of affairs consistent with the rule of law).[14]

What are the implications of this change in the concept of equality for American federalism? According to Wildavsky, the shift toward the redistributive state spells the demise of federalism as a system of intergovernmental competition designed to encourge experimentation and to test alternative arrangements for the provision of public goods and services.

Competition means diversity. As such, it is inconsistent with egalitarianism, argues Wildavsky. One of the main benefits of intergovernmental competition is the increased efficiency resulting from the closer link between taxpayer preferences and governmental response. The benefits from increased efficiency, however, will be dissipated if "equity" considerations (in the sense of redistributive justice) become predominant.

Thus Wildavsky warns that the emergence of the modern welfare state, with its focus on equal outcomes, has tended to preclude competitive federalism. Moreover, with the increasing centralization of governmental functions at the federal level, the "double security" that Madison spoke of has also been weakened, with adverse consequences for private rights. What concerns Wildavsky is not simply the change in federal-state relations but rather the weakening of "the self-regulatory principles" that constitute the essence of Madisonian federalism.

Intergovernmental Competition, Collusion, and Economic Growth

The papers by *Thomas R. Dye*, *Bruce L. Benson*, and *Richard Vedder* discuss various facets of competitive federalism: the ability of intergovernmental competition to satisfy taxpayer-consumer preferences for efficiency and equity, the incentive for governments to collude in order to increase their revenues, and the importance of differences in state tax rates for economic growth.

[14]On the inconsistency of redistributive or social justice with a free market order and a rule of law, see Hayek (1982, chaps. 8–9). On the changing concept of equality, see Dorn (1990).

Policy Outcomes under Intergovernmental Competition

Under a fully developed system of federalism, state and local governments must compete for their customers—the taxpayer-consumers who have the option of "voting with their feet" (see Tiebout 1956). Voters, however, are interested in both efficiency and equity—with equity being viewed in terms of end-states rather than in terms of just procedures or processes.[15] Thus, as Dye points out, taxpayer-consumers may wish to trade off some additional wealth for greater equality of income.

In the real world of politics, policy preferences will help shape constitutional interpretation. For this reason Dye argues that "debates over federalism are only lightly camouflaged debates over policy." While Wildavsky is concerned with the adverse effect of egalitarianism on the federalist principle of self-regulation and on the social benefits flowing from competition among governments, Dye notes that if taxpayer-consumers have a preference for the redistributive function of government (in addition to allocative efficiency), then policymakers will respond to that preference in a politically motivated federalist system.

In short, "Competitive federalism ensures responsiveness to redistributional preferences, as well as other policy preferences," writes Dye. The problem, of course, is that adherence to federalism as contingent decentralization jeopardizes the Framers' original understanding of federalism as constitutional decentralization, to use Aranson's terminolgy,

The Incentive to Collude

Individuals in both the private sector and in the public sector have an incentive to collude. Collusion, however, is unlikely to be successful unless the parties to the agreement can be effectively monitored and the collusive agreement enforced. In the private sector, such collusion is often accomplished by government grants of privilege in the form of licenses, quotas, and other restrictive policy measures. In the public sector, collusion among state governments to mute the effects of tax competition is often fostered by federal assistance in the form of deductibility of state and local taxes and by revenue sharing. But as Benson shows, the benefits gained by politicians from lessening tax rate competition are dissipated, in part, by resorting to non-tax competition. "Incentives to compete," writes

[15]For a discussion of the difference between end-state and procedural justice or equity, see Nozick (1974, especially pp. 149–82).

Benson, "do not disappear in the face of a lessening of the effectiveness of one particular avenue of competition."

Federalism, Tax Competition, and Growth

The tax regime is an important part of any economic order or regime. Under a federalist structure of government, taxpayer-consumers have greater freedom to respond to tax increases than under a unitary system of government. This greater freedom of choice stems from the fact that under federalism taxpayer-consumers have two options: the "exit" option and the "voice" option.[16] If state A increases tax rates relative to state B, then at the margin some individuals may decide to leave state A and enter state B, while others may voice their objections to the higher tax rates and use the democratic process to restore the lower rates. Together, both voice and exit options provide taxpayer-consumers with greater protection against the tyranny of government than exists in a unitary system in which only the voice option exists (unless one wishes to leave the country, a very high-cost option).

Given the options to exit a high-tax state and to voice opposition through the voting machine in a federalist system, two questions come to mind: (1) Are people responsive to tax-rate changes? (2) Do states with higher tax rates have relatively lower growth rates than low-tax states, assuming other things remain constant?

Vedder addresses these questions and finds that as taxes increase, people become more sensitive to further tax increases. He also finds that tax-rate differentials do matter in determining differences in interstate growth rates.

The Regulatory State

If liberty is to be preserved in a federalist system, property rights must be respected and enforced. A primary function of government is the safeguarding of private property rights, so that the market process rather than the political process can regulate economic life. As government moves away from protecting property rights to redistributing rights via direct takings as well as through the regulatory process, respect for private property will lessen. The resulting uncertainty, in turn, will hamper the rational use of resources.

The politicization of property rights and the misdirection of resources that occurs when the government fails in its primary function—that is, "to maintain all in the secure and tranquil enjoyment

[16]The terms "exit" and "voice" were first used by Hirschman (1970). For a discussion of their significance in a federalist system, see Rasmussen (1987, pp. 397–98).

of the rights of person and property"—is nowhere better exemplified than in the spread of statewide limits on private economic development and state land use regulations.

The papers by *Randall G. Holcombe* and *Bernard H. Siegan* examine the regulatory state in its attempts to control the development process and to restrict the private use of land. They provide further evidence that regulations aimed at the public good often end up violating private rights, impeding economic progress, and having exactly the opposite effects of those intended when the regulations were enacted.

Florida's Growth Management Policy

Holcombe discusses Florida's 1985 Growth Management Act and its lessons for the national economy. The 1985 Act attenuated the land use rights of private owners and tended to shift decisionmaking authority for land use from local governments to the state government. As Holcombe notes, Florida's move toward *statewide* land use planning parallels the trend occurring in other states.

What Holcombe finds is that Florida's attenuation of private land use rights and the centralization of land use decisions have politicized the development process in Florida and resulted in inefficient land use. Because some of the private owner's land use rights now become part of the public domain, these rights are treated as common property. As such, politics rather than economics will drive the development process. One should therefore expect less-efficient use of resources once private property rights become subject to the hand of the state. Moreover, if owners expect their future land use rights to be less secure under Florida's Growth Management Act, they will have an incentive to accelerate development—pushing to complete projects now rather than to wait and have their plans frustrated by state planners.

The lesson of Holcombe's analysis is clear: The rational use of resources requires well-defined *private* property rights. When the state lessens the discipline of market forces on development, one should not expect political forces to produce a superior outcome in terms of either efficiency or justice (in the sense of protection of private rights). As experience with the Growth Management Act indicates, the results of regulation are often very different from those intended.

The Case of Zoning

The general implications of Holcombe's study of Florida's growth management practices for efficiency and justice apply equally to the

case of zoning, as Siegan shows in his paper. Drawing on a comparison of Houston (a zoning-free city) with Dallas (where zoning laws are enforced), Siegan presents evidence indicating the superiority of the zoning-free approach to urban development. Like Holcombe, he points to how the zoning process politicizes land use and urban development and leads to an inferior use of scarce land compared to a market-driven approach.

In Siegan's view, moving zoning and land use decisions to the federal level would only worsen the inefficiency already experienced at the state and local levels. As the title of his paper indicates, Siegan believes that "land use regulations should preserve only vital and pressing governmental interests." Thus, the presumption in decisions about land use and development should be in favor of open, competitive markets and against master planning and political decisionmaking. "The great lesson of our times," writes Siegan, "is that the forces of production, conservation, and creativity rest principally in the marketplace and not in government."

The Future of Federalism and the Market Order

In his Farewell Address, Washington stated:

> If in the opinion of the people the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this in one instance may be the instrument of good, it is the customary weapon by which free governments are destroyed.

Without using the formal amendment process, the path of federalism in the United States has been changed. Instead of adhering to a well-defined path directed toward the preservation of liberty and property as the guiding principle for government action, American federalism has moved to a new path, one mapped out by utilitarian considerations with little regard for the effects of government action on the proper distribution of powers or their limitations and on individual rights.

The move from constitutional decentralization to contingent decentralization has been facilitated, in large part, by a judiciary that has lost sight of the inseparability of liberty and property. As the Supreme Court has deferred to legislative activism in the field of property rights and economic regulation, there has been an increased use of both federal and state police powers to directly and indirectly take private property whenever politically feasible—whether or not it is for a legitimate public use. The contracts clause and the com-

merce clause have suffered fates similar to the takings clause of the Fifth and Fourteenth Amendments. In particular, the Court has turned the commerce clause on its head so that there are virtually no limits to federal control of state economic activity, and states are engaged in taxing and regulatory acts that impede interstate trade. These changes have altered the Framers' conception of federalism and upset the liberal economic order, which depends on the protection of private property rights and freedom of contract.

The future of federalism in the United States will depend on the restoration of the Framers' Constitution of liberty as the supreme Law of the Land, the reestablishment of the *proper* distribution of powers, and the will of the Court to provide the same protection for property rights as for other civil liberties.

The collapse of communism and central planning has vividly illustrated the close connection between political reform and economic reform or, more specifically, between the political/constitutional order and the economic order. If the liberal market order is to survive, private property and freedom of contract must also survive.

Experience has shown that the federalist system of government, limiting the overall power of government and distributing power so as to enlarge taxpayer-consumer choice and protect individual rights, is an important part of the environment necessary for freedom and prosperity. Most important, U.S. experience with federalism shows that the demise of a truly federalist system is likely to be accompanied by an erosion of the liberal economic order.

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