Justice Powell, with whom Justice O'Connor joins, dissenting.

I join the Chief Justice's dissenting opinion, but write separately to record a personal dissent from Justice Stevens' revisionist view of our Nation's history.

Justice Stevens begins his concurring opinion with the startling observation that the Commerce Clause "was the Framers' response to the central problem that gave rise to the Constitution itself." Ante, at 1 (emphasis added). At a subsequent point in his opinion, he observes that "this Court has construed the Commerce Clause to reflect the intent of the Framers . . . to confer a power on the national government adequate to discharge its central mission." Ante, at 3 (emphasis added). Justice Stevens further states that "National League of Cities not only was incorrectly decided, because..."
but also is inconsistent with the central purpose of the Constitution itself . . . ." Ante, at 6 (emphasis added).

No one would deny that removing trade barriers between the States was one of the Constitution’s purposes. I suggest, however, that there were other purposes of equal or greater importance motivating the statesmen who assembled in Philadelphia and the delegates who debated the ratification issue in the state conventions. No doubt there were differences of opinion as to the principal shortcomings of the Articles of Confederation. But one can be reasonably sure that few of the Founding Fathers thought that trade barriers among the States were “the central problem,” or that their elimination was the “central mission” of the Constitutional Convention. Creating a national government within a federal system was far more central than any 18th century concern for interstate commerce.

It is true, of course, that this Court properly has construed the Commerce Clause, and extended its reach, to accommodate the unanticipated and unimaginable changes, particularly in transportation and communication, that have occurred in our country since the Constitution was ratified. If JUSTICE STEVENS had written that the Founders’ intent in adopting the Commerce Clause nearly two centuries ago is of little relevance to the world in which we live today, I would not have disagreed. But his concurring opinion purports to rely on their intent. Ante, at 3. I therefore write—briefly, in view of the scope of the subject—to place the Commerce Clause in proper historical perspective, and further to suggest that even today federalism is not, as JUSTICE STEVENS appears to believe, utterly subservient to that Clause.

II

The Constitution’s central purpose was, as the name implies, to constitute a government. The most important provisions, therefore, are those in the first three Articles relating to the establishment of that government. The system of
checks and balances, for example, is far more central to the larger perspective than any single power conferred on any branch. Indeed, the Virginia Plan, the initial proposal from which the entire Convention began its work, focuses on the framework of the national government without even mentioning the power to regulate commerce.  

Apart from the framework of government itself, the Founders stated their motivating purposes in the Preamble to the Constitution:

“to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty . . .”

These purposes differ little from the concerns motivating the States in the Articles of Confederation: “their common defence, the security of their liberties, and their mutual and general welfare.” Art. III. Although the “general Wel-

1 Whatever may have sparked the Annapolis Convention, see ante, at 1-2, & 2-3 n. 1, it is clear that the focus of attention at the Constitutional Convention in Philadelphia was the formation of a new government. Madison’s report of the proceedings begins, “Monday May 14th 1787 was the day fixed for the meeting of the deputies in Convention for revising the federal system of Government.” 1 M. Farrand, The Records of the Federal Convention of 1787, p. 3 (rev. ed. 1937) (footnote omitted). After dealing with several preliminary matters, see id., at 1-17, the “main business,” id., at 18 (J. Madison), opened on May 29 with Edmund Randolph’s speech proposing the Virginia Plan. Almost all of the Plan’s resolutions dealt with the appropriate structure for the new government. Only the sixth resolution dealt with legislative powers at all. And far from stressing any power to regulate interstate commerce, it simply declared, in relevant part, “that the National Legislature ought to be impowered to enjoy the Legislative Rights vested in Congress by the Confederation & moreover to legislate in all cases to which the separate States are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual Legislation . . . .” Id., at 21. While this language was, no doubt, broad enough to include the power to regulate interstate commerce, there was certainly no emphasis on that particular power.
The power to achieve the purposes identified in the Preamble was not delegated solely to Congress. If, however, one looks at the powers that were so delegated, the position of the Commerce Clause hardly suggests that it was the “central” concern of the patriots who formed our Union. The enumeration of powers in Article I, § 8 begins with the “Power To lay and collect Taxes.” This is followed by the power “to pay the Debts” of the United States. Then, consistent with the Preamble, comes the power to “provide for the common Defence and general Welfare.” See note 3, supra. The power to regulate interstate commerce is only one among nearly a score of other powers that followed. It is evident that the authority to tax and to “provide for the common Defence” loomed larger among the concerns of the Founders than other powers granted Congress. The Commerce Clause was given no place of particular prominence.

No one in the ratification debate doubted that the power to defend the country was essential, and must be given to the central government. See The Federalist No. 41, pp. 269-276 (J. Cooke ed. 1961) (J. Madison). Even under the Articles of Confederation, it was considered necessary to give Congress “the sole and exclusive right and power of determining on peace and war.” Art. IX.

A major weakness of the system created by the Articles of Confederation was the central government’s inability to collect taxes directly. See 1 Farrand, supra n. 2, at 284 (remarks of A. Hamilton). Remedying this defect was thus one of the most important purposes of the Constitutional Convention. See R. Paul, Taxation in the United States 4-5 (1954); The Federalist No. 30 (A. Hamilton).
So much for what the Constitution’s language and structure teach about the Framers’ intent.

III

One would never know from the concurring opinion that the Constitution formed a federal system, comprising a national government with delegated powers and state governments that retained a significant measure of sovereign authority. This is clear from the Constitution itself, from the debates surrounding its adoption and ratification, from the early history of our constitutional development, and from the decisions of this Court. It is impossible to believe that the Constitution would have been recommended by the Convention, much less ratified, if it had been understood that the Commerce Clause embodied the national government’s “central mission,” a mission to be accomplished even at the expense of regulating the personnel practices of state and local governments.

A

The Bill of Rights imposes express limitations on national powers. The Tenth Amendment, in particular, explicitly recognizes the retained power of the States: “The 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.” This limitation was, of course, implicit in the Constitution as originally ratified. Even those who opposed the adoption of a Bill of Rights did not dispute the propriety of such a limitation. Rather, they argued that it was unnecessary, for the Constitution delegated certain powers to the central government, and those not delegated were necessarily retained by the States or the people.  

1 Alexander Hamilton, for example, made this argument in The Federalist No. 84, pp. 578-579 (J. Cooke ed. 1961). See also United States v. Darby, 312 U. S. 100, 124 (1941) (Tenth Amendment “declaratory of the relationship between the national and state governments as it had been es-
thermore, the inherent federal nature of the system is clear from the structure of the national government itself. Mem­
bers of Congress and presidential electors are chosen by States. Representation in the Senate is apportioned by States, regardless of population. The Full Faith and Credit Clause gives particular recognition to the States’ “public Acts, Records, and judicial Proceedings.” Article IV, § 4 re­
quires a republican form of government in each State. The initial ratification of the Constitution was accomplished on a state-by-state basis, and subsequent amendments require ap­
proval by three fourths of the States.

It was also clear from the contemporary debates that the Founding Fathers intended the Constitution to establish a federal system. As James Madison, “the Father of the Con­stitution,” explained to the people of New York:

“The powers delegated by the proposed Constitution to the Federal Government, are few and defined. Those which are to remain in the State Governments are nu­
merous and indefinite. The former will be exercised principally on external objects, as war, peace, negotia­
tion, and foreign commerce . . . . The powers reserved to the several States will extend to all the objects, which, in the ordinary course of affairs, concern the lives, liberties and properties of the people; and the in­
ternal order, improvement, and prosperity of the State.”


There can be no doubt that Madison’s contemporaries shared this view. See, e. g., Letter of Roger Sherman & Oliver Ellsworth to the Governor of Connecticut (Sept. 26, 1787),

established by the Constitution before the amendment”); United States v.
Sprague, 282 U. S. 716, 733 (1931) (“The Tenth Amendment was intended to confirm the understanding of the people at the time the Constitution was adopted, that powers not granted to the United States were reserved to the States or to the people. It added nothing to the instrument as origi­
nally ratified . . . “).
During the earliest years of our constitutional development, principles of federalism were not only well recognized, they formed the basis for virtually every State in the Union to assert its rights as a State against the Federal Government. In 1798, for example, Thomas Jefferson drafted the Kentucky Resolutions, which were passed by the Kentucky legislature to protest the unpopular Alien and Sedition Acts, Act of June 18, 1798, c. 54, 1 Stat. 566; Act of June 25, 1798, c. 56, 1 Stat. 570; Act of July 6, 1798, c. 66, 1 Stat. 577; Act of July 14, 1798, c. 74, 1 Stat. 596. At the same time, Madison drafted similar Virginia Resolutions, which were adopted by the Virginia General Assembly. See 4 J. Elliot, Debates on the Federal Constitution 528-529 (2d ed. 1863). In both cases it was clear that the powers reserved to the States were treated as a substantive limitation on the authority of Congress. It was asserted that these powers enabled a State to interpose its will against any action by the National Government. Thirty years later, Jefferson and Madison’s views were expanded by John C. Calhoun in his nullification doctrine—the extreme view that eventually led to the War
The view that the reserved powers of the States limited the delegated powers of the National Government was not confined to the South. The New England States, for example, vehemently opposed the Embargo Act of Dec. 22, 1807, c. 5, 2 Stat. 451, and they turned to their rights as States in defense. In 1809, the Governor of Connecticut, with the support of the legislature, refused to comply with the Act of Jan. 9, 1809, c. 5, 2 Stat. 506, which Congress passed to enforce the embargo. In Massachusetts the story was similar: The legislature denounced the enforcement Act as “un-

In referring to this early and interesting history, I do not suggest that either the doctrine of interposition or that of nullification was constitutionally sound. In any event, they were laid to rest in one of history’s bloodiest fratricides, ending at Appomattox in 1865. The views of these great figures in our history are, however, directly pertinent to the question whether there was ever any intention that the Commerce Clause would empower the Federal Government to intrude expansively upon the sovereign powers reserved to the States. And no power is more “sovereign” than the right of a government to determine the terms and conditions of employment of the officers and employees who constitute the government.

The Governor explained to a special session of the state legislature that “[w]henever our national legislature is led to overleap the prescribed bounds of their [sic] constitutional powers, on the State Legislatures, in great emergencies, devolves the arduous task—it is their right—it becomes their duty, to interpose their protecting shield between the right and liberty of the people, and the assumed power of the General Government.” Speech of Governor Jonathan Trumbull (Feb. 23, 1809), reprinted in H. Ames, State Documents on Federal Relations 40 (1906). The Assembly promptly passed resolutions supporting the Governor’s position and concluding that the embargo legislation was “incompatible with the constitution of the United States, and encroach[ed] upon the immunities of [the] State.” Resolutions of the General Assembly (Feb. 23, 1809), reprinted in Ames, supra, at 41. In view of its duty to support the Constitution, the legislature declined “to assist, or concur in giving effect to the aforesaid unconstitutional act, passed, to enforce the Embargo.” Ibid.
just, oppressive and unconstitutional, and not legally binding on the citizens of this state." Resolutions of the Massachusetts Legislature (Feb. 15, 1809), reprinted in H. Ames, State Documents on Federal Relations 35 (1906). When Congress enacted the Embargo Act of Dec. 17, 1813, c. 1, 3 Stat. 88, the Massachusetts legislature declared it "a manifest... abuse of power" that infringed the "sovereignty reserved to the States" and justified the legislature in "interposing its power" to protect its citizens from "oppression," Resolutions of the Massachusetts Legislature (Feb. 22, 1814), reprinted in Ames, supra, at 71-72. Even Daniel Webster, famous for his defense of the rights of the National Government, recognized that principles of federalism limit Congress's power.10

B

It is clear beyond question that state sovereignty always has been a basic assumption of American political theory. Although its contours have changed over two centuries, state sovereignty remains a fundamental component of our system that this Court has recognized time and time again. Even to refer to the highlights would go far beyond the scope of this dissent. I therefore mention only a few of the decisions from last Term alone in which the Court expressly noted that States retain significant sovereign powers.11 In Community

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1 The legislature explained that the State's sovereignty was reserved, in part, to protect its citizens from excessive federal power. Resolutions of the Massachusetts Legislature (Feb. 22, 1814), reprinted in Ames, supra n. 8, at 71.

2 During a debate in Congress on a conscription bill and a bill for the enlistment of minors, Webster declared that if these measures were enacted it would be "the solemn duty of the State Governments" to interpose their authority to prevent enforcement. In his view, this was "among the objects for which the State Governments exist." Speech on the Conscription Bill (Dec. 9, 1814), reprinted in 14 The Writings and Speeches of Daniel Webster 55, 68 (1903).

3 See, e.g., Rivera-Rodriguez v. Popular Democratic Party, — U.S.
Communications Co. v. City of Boulder, 455 U. S. 40 (1982), we considered the state action exemption from the antitrust laws. Since "under the Constitution, the states are sovereign, save only as Congress may constitutionally subtract from their authority," id., at 49 (quoting Parker v. Brown, 317 U. S. 341, 351 (1943)), we had previously recognized an antitrust exemption for States acting "in the exercise of [their] sovereign powers," id., at 48. We held that this exemption does not extend to cities, but in so doing we repeatedly stressed the sovereign nature of States. See id., at 48–54. In United Transportation Union v. Long Island R. Co., 455 U. S. 678 (1982), we unanimously upheld the application of the Railway Labor Act to a state-owned railroad. We reached this conclusion, however, only by finding that operation of the railroad was not one of the State’s "constitutionally preserved sovereign function[s]." Id., at 685. And in Federal Energy Regulatory Comm’n v. Mississippi, — U. S. — (1982), we considered whether parts of the Public Utility Regulatory Policies Act "constituted an invasion of state sovereignty in violation of the Tenth Amendment," id., at —. Although the Court upheld the statute, it was clear —. — (1982) ("Puerto Rico, like a State, is an autonomous political entity, sovereign over matters not ruled by the Constitution.") (quoting Calero-Toledo v. Pearson Yacht Leasing Co., 416 U. S. 669, 672 (1974); Insurance Corp. of Ireland, Ltd. v. Compagnie des Bauxites de Guinea, — U. S. —, —, n. 10 (1982) (States are "coequal sovereigns in a federal system") (quoting World-Wide Volkswagen Corp. v. Woodson, 444 U. S. 286, 292 (1980); Engle v. Isaac, — U. S. —, — (1982) (discussing "the States’ sovereign power to punish offenders"); Underwriters National Assurance Co. v. North Carolina Life & Accident & Health Ins. Guaranty Assn., 455 U. S. 691, 704 (1982) (recognizing "the structure of our Nation as a union of States, each possessing equal sovereign powers"); Cabell v. Chavez-Salido, 454 U. S. 432, 444–447 (1982) (relying on State’s "sovereign" police powers); Fair Assessment in Real Estate Assn. v. McNary, 454 U. S. 100, 108 (1981) ("state courts are those of a different, though paramount sovereignty") (quoting Matthews v. Rodgers, 284 U. S. 521, 535 (1922)).
that state sovereignty was an essential element to be considered in reaching that conclusion. See id., at -- -- --.

In sum, all of the evidence reminds us of the importance of the principles of federalism in our constitutional system. The Founding Fathers, and those who participated in the earliest phases of constitutional development, understood the States' reserved powers to be a limitation on Congress's power—including its power under the Commerce Clause. And the Court has recognized and accepted this fact for almost 200 years. 12

IV

JUSTICE STEVENS' concurring opinion recognizes no limitation on the ability of Congress to override state sovereignty in exercising its powers under the Commerce Clause. His opinion does not mention explicitly either federalism or state sovereignty. Instead it declares that "[t]he only basis for questioning the federal statute at issue here is the pure judicial fiat found in this Court's opinion in National League of Cities v. Usery." Ante, at 5 (emphasis added). Under this view it is not easy to think of any state function—however sovereign—that could not be preempted. 13

12 Of course I do not denigrate the importance of the Commerce Clause. It is essential to the functioning of our National Government. It is, however, only one provision of a Constitution that embodies strong principles of federalism.

13 This case illustrates how far the Federal Government, with the Court's approval, has departed from the principles upon which our federal union was formed. The authority relied upon today is a provision of the Constitution giving Congress the power to "regulate Commerce . . . among the several States . . ." The perceived "Commerce," incredible as it would have seemed even a few years ago, is the effect on trade among the States of Wyoming's requirement that its game wardens retire at age 65 rather than 70.
To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Rehnquist
Justice Stevens
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From: Justice Powell

I join the Chief Justice's dissenting opinion, but write separately to record a personal dissent from Justice Stevens' revisionist view of our Nation's history.

Justice Stevens begins his concurring opinion with the startling observation that the Commerce Clause "was the Framers' response to the central problem that gave rise to the Constitution itself." Ante, at 1 (emphasis added). At a subsequent point in his opinion, he observes that "this Court has construed the Commerce Clause to reflect the intent of the Framers . . . to confer a power on the national government adequate to discharge its central mission." Ante, at 3-4 (emphasis added). Justice Stevens further states that "National League of Cities not only was incorrectly de-

The authority on which Justice Stevens primarily relies is an extra-judicial lecture delivered by Justice Rutledge in 1946. Ante, at 1-2. Justice Rutledge declared that the "proximate cause of our national existence" was not the desire to assure the great "democratic freedoms"; rather it was the need "to secure freedom of trade" within the former colonies. W. Rutledge, A Declaration of Legal Faith 25 (1947).
ceded, but also is inconsistent with the central purpose of the Constitution itself . . . " Ante, at 6 (emphasis added).

No one would deny that removing trade barriers between the States was one of the Constitution's purposes. I suggest, however, that there were other purposes of equal or greater importance motivating the statesmen who assembled in Philadelphia and the delegates who debated the ratification issue in the state conventions. No doubt there were differences of opinion as to the principal shortcomings of the Articles of Confederation. But one can be reasonably sure that few of the Founding Fathers thought that trade barriers among the States were "the central problem," or that their elimination was the "central mission" of the Constitutional Convention. Creating a national government within a federal system was far more central than any 18th century concern for interstate commerce.

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checks and balances, for example, is far more central to the larger perspective than any single power conferred on any branch. Indeed, the Virginia Plan, the initial proposal from which the entire Convention began its work, focuses on the framework of the national government without even mentioning the power to regulate commerce. Apart from the framework of government itself, the Founders stated their motivating purposes in the Preamble to the Constitution:

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No one in the ratification debate doubted that the power to defend the country was essential, and must be given to the central government. See The Federalist No. 41, pp. 269-276 (J. Cooke ed. 1961) (J. Madison). Even under the Articles of Confederation, it was considered necessary to give Congress “the sole and exclusive right and power of determining on peace and war.” Art. IX.

A major weakness of the system created by the Articles of Confederation was the central government’s inability to collect taxes directly. See 1 Farrand, supra n. 2, at 284 (remarks of A. Hamilton). Remediying this defect was thus one of the most important purposes of the Constitutional Convention. See R. Paul, Taxation in the United States 4-5 (1954); The Federalist No. 39 (A. Hamilton).
So much for what the Constitution's language and structure teach about the Framers' intent.

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JUSTICE STEVENS' citation of Gibbons v. Ogden, 22 U. S. (9 Wheat.) 1 (1824), in support of his position, see ante, at 5--6, n. 8, is essentially irrelevant, for Chief Justice Marshall was not concerned with a State's sovereign power. Gibbons carried passengers between New Jersey and New York on two steamboats licensed under an Act of Congress, while Ogden claimed the benefit of a New York law granting an exclusive right to navigate steamboats on New York waters. The power to grant such a monopoly clearly is not one of a State's traditional sovereign powers. On the contrary, it is part of the power to regulate interstate navigation that lies within the very core of the Commerce Clause. I certainly do not suggest that principles of federalism should prevent Congress from regulating navigation. The present case, however, concerns the power to determine the terms and conditions of employment for the officers and employees who constitute a State's government. This is as sovereign a power as any that a State possesses, and it is far removed from the original concerns of the Commerce Clause. Indeed, this case illustrates how far the Federal Government, with the Court's approval, has departed from the principles upon which our federal union was formed. The "commerce" at issue, incredible as it would have seemed even a few years ago, let alone in Chief Justice Marshall's day, is the effect on trade among the States of Wyoming's re-
The Bill of Rights imposes express limitations on national powers. The Tenth Amendment, in particular, explicitly recognizes the retained power of the States: "The 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." This limitation was, of course, implicit in the Constitution as originally ratified. Even those who opposed the adoption of a Bill of Rights did not dispute the propriety of such a limitation. Rather, they argued that it was unnecessary, for the Constitution delegated certain powers to the central government, and those not delegated were necessarily retained by the States or the people. Furthermore, the inherent federal nature of the system is clear from the structure of the national government itself. Members of Congress and presidential electors are chosen by States. Representation in the Senate is apportioned by States, regardless of population. The Full Faith and Credit Clause gives particular recognition to the States' "public Acts, Records, and judicial Proceedings." Article IV, § 4 requires a republican form of government in each State. The initial ratification of the Constitution was accomplished on a state-by-state basis, and subsequent amendments require approval by three fourths of the States.

It was also clear from the contemporary debates that the requirement that its game wardens retire at age 65 rather than 70.

4 Alexander Hamilton, for example, made this argument in The Federalist No. 84, pp. 378-379 (J. Cooke ed. 1961). See also United States v. Darby, 312 U. S. 100, 124 (1941) (Tenth Amendment "declaratory of the relationship between the national and state governments as it had been established by the Constitution before the amendment"); United States v. Sprague, 282 U. S. 716, 733 (1931) ("The Tenth Amendment was intended to confirm the understanding of the people at the time the Constitution was adopted, that powers not granted to the United States were reserved to the States or to the people. It added nothing to the instrument as originally ratified..." ).
Founding Fathers intended the Constitution to establish a federal system. As James Madison, “the Father of the Constitution,” explained to the people of New York:

“The powers delegated by the proposed Constitution to the Federal Government, are few and defined. Those which are to remain in the State Governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce . . . . The powers reserved to the several States will extend to all the objects, which, in the ordinary course of affairs, concern the lives, liberties and properties of the people; and the internal order, improvement, and prosperity of the State.”


There can be no doubt that Madison’s contemporaries shared this view. See, e.g., Letter of Roger Sherman & Oliver Ellsworth to the Governor of Connecticut (Sept. 26, 1787), reprinted in 3 Farrand, supra, at 99 (description of proposed Constitution) (The “powers [vested in Congress] extend only to matters respecting the common interests of the union, and are specially defined, so that the particular states retain their sovereignty in all other matters.”).

During the earliest years of our constitutional development, principles of federalism were not only well recognized, they formed the basis for virtually every State in the Union to assert its rights as a State against the Federal Government. In 1788, for example, Thomas Jefferson drafted the Kentucky Resolutions, which were passed by the Kentucky

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In the first resolution, Jefferson explained “that the several states composing the United States of America are not united on the principle of unlimited submission to their general government; but that, by compact, under the style and title of a Constitution for the United States, and of amendments thereto, they constituted a general government for special purposes, delegated to that government certain definite powers, reserving, each state to itself, the residuary mass of right
legislature to protest the unpopular Alien and Sedition Acts, Act of June 18, 1798, c. 64, 1 Stat. 566; Act of June 25, 1798, c. 55, 1 Stat. 570; Act of July 6, 1798, c. 66, 1 Stat. 577; Act of July 14, 1798, c. 74, 1 Stat. 596. At the same time, Madison drafted similar Virginia Resolutions, which were adopted by the Virginia General Assembly. See 4 J. Elliot, Debates on the Federal Constitution 528–529 (2d ed. 1860). In both cases it was clear that the powers reserved to the States were treated as a substantive limitation on the authority of Congress. It was asserted that these powers enabled a State to interpose its will against any action by the National Government. Thirty years later, Jefferson and Madison’s views were expanded by John C. Calhoun in his nullification doctrine—the extreme view that eventually led to the War Between the States. See 6 The Works of John C. Calhoun 1–57 (R. Cralle ed. 1859) (original draft of South Carolina Exposition of 1828).

The view that the reserved powers of the States limited the delegated powers of the National Government was not confined to the South. The New England States, for example, vehemently opposed the Embargo Act of Dec. 22, 1807, c. 5, 2 Stat. 451, and they turned to their rights as States in defense. In 1809, the Governor of Connecticut, with the support of the legislature, refused to comply with the Act of Jan. 9, 1809, c. 5, 2 Stat. 506, which Congress passed to en-
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10 The legislature explained that the State's sovereignly was reserved, in part, to protect its citizens from excessive federal power. Resolutions of the Massachusetts Legislature (Feb. 22, 1814), reprinted in Ames, supra n. 9, at 71.

11 During a debate in Congress on a conscription bill and a bill for the enlistment of minors, Webster declared that if these measures were enacted it would be "the solemn duty of the State Governments" to interpose their authority to prevent enforcement. In his view, this was "among the
It is clear beyond question that state sovereignty always has been a basic assumption of American political theory. Although its contours have changed over two centuries, state sovereignty remains a fundamental component of our system that this Court has recognized time and time again. Even to refer to the highlights would go far beyond the scope of this dissent. I therefore mention only a few of the decisions from last Term alone in which the Court expressly noted that States retain significant sovereign powers.\(^\text{12}\) In *Community Communications Co. v. City of Boulder*, 455 U. S. 40 (1982), we considered the state action exemption from the antitrust laws. Since “under the Constitution, the states are sovereign, save only as Congress may constitutionally subtract from their authority,” id., at 49 (quoting *Parker v. Brown*, 317 U. S. 341, 351 (1943)), we had previously recognized an antitrust exemption for States acting “in the exercise of objects for which the State Governments exist.” Speech on the Conscription Bill (Dec. 9, 1814), reprinted in 14 The Writings and Speeches of Daniel Webster 55, 68 (1850).

[their] sovereign powers," id., at 48. We held that this exemption does not extend to cities, but in so doing we repeatedly stressed the sovereign nature of States. See id., at 48-54. In United Transportation Union v. Long Island R. Co., 455 U. S. 678 (1982), we unanimously upheld the application of the Railway Labor Act to a state-owned railroad. We reached this conclusion, however, only by finding that operation of the railroad was not one of the State’s “constitutionally preserved sovereign function[s].” Id., at 683. And in Federal Energy Regulatory Comm’n v. Mississippi, ___ U. S. ___ (1982), we considered whether parts of the Public Utility Regulatory Policies Act “constituted an invasion of state sovereignty in violation of the Tenth Amendment,” id., at ____. Although the Court upheld the statute, it was clear that state sovereignty was an essential element to be considered in reaching that conclusion. See id., at ____. In sum, all of the evidence reminds us of the importance of the principles of federalism in our constitutional system. The Founding Fathers, and those who participated in the earliest phases of constitutional development, understood the States’ reserved powers to be a limitation on Congress’s power—including its power under the Commerce Clause. And the Court has recognized and accepted this fact for almost 200 years.13

IV

JUSTICE STEVENS’ concurring opinion recognizes no limitation on the ability of Congress to override state sovereignty in exercising its powers under the Commerce Clause. His opinion does not mention explicitly either federalism or state sovereignty. Instead it declares that “[t]he only basis for

13Of course I do not denigrate the importance of the Commerce Clause. It is essential to the functioning of our National Government. It is, however, only one provision of a Constitution that embodies strong principles of federalism.
questioning the federal statute at issue here is the pure judicial fiat found in this Court's opinion in National League of Cities v. Usery." Ante, at 5 (emphasis added). Under this view it is not easy to think of any state function—however sovereign—that could not be preempted.