



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
Joel W. Solomon United States Courthouse
900 Georgia Avenue
Chattanooga, Tennessee 37402

**FREEDOM AND LIBERTY – WATCHWORDS OF OUR INDEPENDENCE,
PROTECTED BY THE FEDERAL COURTS**

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Two closely related words that animated the call for independence from Great Britain were liberty and freedom. Those two words called not only for independence from the then-governing power but also for individual liberty and freedom for the colonists. And by that, they meant the liberty and freedom to live their lives without undue government intrusion or interference.

Although personal liberty and freedom were prime objectives, the Founders understood that without some degree of government to ensure order, personal liberty and freedom would devolve into chaos in which only the strongest would enjoy the benefits of liberty and freedom. This would have been contrary to their goal. And they also knew that order without freedom could quickly slide into tyranny.

BALANCING PERSONAL FREEDOM AND ORDERED LIBERTY.

Balancing these two competing objectives was the basic challenge the Founders faced in drafting the Constitution. On the one hand, if everyone was free to do whatever they wanted, whenever they wanted, then the rights of others would be infringed. The powerful would be in a position to take advantage of the powerless, and larger or majority groups would be in a position to oppress smaller or minority groups. So some limitations on personal freedom were necessary. As James Madison warned in Federalist Paper No. 10 about the dangers of a pure democracy: “the majority, having such coexistent passion or interest, must be rendered . . . unable to concert and carry into effect schemes of oppression.”

On the other hand, a system that overly restricted personal freedom would be akin to tyranny. Tyranny was exactly what the Founders felt they had escaped in breaking with Great Britain.

The Founders thus sought a system that allowed the majority the freedom to rule while also protecting the personal liberty of the individual, even when the individual was not in the majority. The system of checks and balances set out in the Constitution ensures that the rule of the majority never completely extinguishes the rights of the individual.

THE ROLE OF THE FEDERAL COURTS IN THE DELICATE BALANCE.

The balance struck in the Constitution provides for a well-functioning government that gives order and stability for the populace. It fulfills the wishes of the majority and ensures that people can live their lives the way they wish, with personal freedom and liberty. In keeping these two competing interests in balance, our federal courts play an indispensable role. They protect personal liberties that might otherwise be swept aside by popular and passing sentiment, and they give structure to freedom by applying the law evenhandedly. The courts ensure that the majority's will is respected, so long as it operates within constitutional bounds, while also safeguarding the rights that belong to all, regardless of political or economic power or social status.

In doing so, the judiciary respects the legitimate functions of democratic governance. Courts do not legislate; they interpret. They do not impose their own will; they uphold the people's laws, the laws passed by the people's representatives, provided those laws do not violate the Constitution. It is the delicate balance between individual liberty and collective decision-making that has allowed our system to thrive over the years.

FEDERAL COURTS ARE A STABILIZING FORCE.

In moments of deep national discord and disagreement, the courts serve as a stabilizing force. They are where passions cool, arguments are tested, and the rule of law prevails over the rule of individuals. They provide reasoned judgment where passion and fleeting sentiment might otherwise prevail. They remind us that freedom is not a license to do whatever one wishes, but rather the right to live in an ordered society under laws that treat everyone with equal dignity.

In the end, the genius of our founding lies not merely in the promise of liberty, but also in the mechanisms that preserve it. One of those mechanisms, the impartial and independent federal courts, ensures that our nation's great experiment in self-government remains true to its first principles—that liberty and justice belong to all, and that freedom, though contested, always finds its safeguard in the law.

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