

Court's nuclear decision endangers the economy

This statement was released by the National Democratic Policy Committee April 21.

Not since the infamous *Dred Scott* decision of 1857 has the United States Supreme Court so disgraced the Constitution which it is sworn to uphold. On April 20, the United States Supreme Court ruled unanimously to uphold the enforced California moratorium on the construction of nuclear power plants. The ruling—heralded by opponents of nuclear energy as the death knell of the nuclear industry in the United States—came in the case *Pacific Gas & Electric v. Energy Resources Commission*, No. 81-1945.

Specifically, the Supreme Court ruled that the states have the power to regulate nuclear energy in all areas other than safety and radiation hazards, which were held to be exclusively under federal purview. But with regard to economic issues, such as the need for additional generating capacity, the type of facilities to be licensed, siting, etc., the Court ruled that the states can regulate nuclear plants—even ban them altogether.

By its ruling in the California case, the Supreme Court has set the stage for a dismantling of our national economy and a reversion to the economic chaos of the pre-Constitution period under the Articles of Confederation.

The adoption of our present Constitution was a decisive defeat for the advocates of states' rights who were determined to prevent the emergence of a strong central government. The Constitution was opposed both by persons who were direct British agents-of-influence, and others—like Jefferson—who were misguided patriots imbued with the anti-republican ideology of British liberalism. But nevertheless, the Constitution won, and no government official today—above all those “guardians of the Constitution,” the Supreme Court—can reverse that historic accomplishment.

Need our nation be reminded that the Constitution was established “in order to form a more perfect Union, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity?”

No matter how much the Constitution has been eroded, no matter how much the Commerce Clause has been misinterpreted and diluted over the years, the Justices of the Supreme Court still owe their highest allegiance to the Constitution interpreted in light of the intent of its framers, not to eroding precedents piled up under the corrupting influence of British common law.

The Constitution was established to create a republic under natural law, a republic in which the national government had powers adequate to the task of ensuring the industrial and technological development of the nation. Alexander Hamilton's *Reports on Manufactures, on Public Credit, and on the National Bank*, submitted during the administration of George Washington, set forth the specific economic and financial requisites of carrying out the mandate of the Constitution. The system of protective tariffs and public improvements developed during the early 19th century, grounded upon Hamilton's financial policies, became known as the “American System,” and laid the basis for the United States to emerge as the most powerful and respected nation on earth.

The Atomic Energy Act of 1954, one of the few legislative acts of the modern era which carries fully forward the spirit of the Constitution and the American System, declares that it is the national policy of the United States to develop and use nuclear energy, and that the development and use of nuclear energy shall be directed to improve the general welfare and increase the standard of living. Congress also made formal findings that the development and utilization of nuclear power for military *and all other purposes* are vital to the common defense and security. . . .

In one ruling, the high court has managed to both adopt the ideology of “post-industrial society” and to resuscitate the long-discredited doctrine of states' rights.

This ruling must itself be overruled. . . . All that is necessary is for Congress to explicitly spell out—in language even a judge can understand—what is stated in the Atomic Energy Act and implicit in the Constitution: that the development of nuclear energy is essential to the promotion of the general welfare and ensures the economic strength to maintain our common defense, and that therefore no state may interfere with the implementation of this national policy. There is no “dual regulatory scheme;” there is only one policy—our national policy—and no state may take it upon itself to pull out of this national scheme and go back to the stone age, any more than a state could pull out of the Union in 1861 to try to maintain the slavery system.

The National Democratic Policy Committee calls upon President Reagan to mobilize the country in support of a national policy of nuclear energy, a policy to which he himself is deeply committed. The President's new strategic doctrine, announced March 23, based upon the development of high-technology, directed energy-beam weapons, cannot be carried out in an economy which is shrinking due to dwindling energy production and consumption, and which is abandoning its present technology.