

Neat Stuff We Learn About the Constitution When We Go Beyond The Federalist Papers

If you want to know more about the Constitution, don't rely exclusively—or even primarily—on the *Federalist Papers*.

For a good illustration of what other authors can teach us, read on.

During the 1787-90 ratification debates over the Constitution, much more than *The Federalist* was written to illustrate the document's meaning.

True, *The Federalist* is among the greatest works of political science ever composed. But *The Federalist* represents the views only of three (admittedly very influential) authors among the scores, perhaps hundreds, who published on the Constitution.

The Federalist would not even be my first choice for introducing students to the Constitution's meaning. (That would be the essays of Tench Coxe.) People found *The Federalist* hard going, which limited its influence. *The Federalist* may have been more important as a “talking points” manual for the Constitution's advocates than for its direct influence on the ratifying public.

Also, you can learn a lot by reading other things. Consider the “Letters from New York” that appeared in the *Connecticut Journal* newspaper on October 24 and 31, 1787, just as Connecticut was considering whether to ratify. The writer, whose identity is unknown, was promoting ratification. His or her two letters explain his or her view of the philosophy behind the Constitution and the meaning of important clauses.

I've provided a copy of the letters [here](#). They are taken from the third volume of the Wisconsin Historical Society's *Documentary History of the Ratification of the Constitution*. Following are four of the author's insights:

First: The author accepts that the Constitution is a direct grant of power from the people to the new federal government, rather than a compact among the states. (As I explain in my book, [The Original Constitution](#), this was the dominant, although not universal, view at the time.) Thus, in discussing the difference between the prior regime and the Constitution, the author writes:

There is not a single power granted to the Congress, by this Constitution, but what the people have ever granted to the assemblies of the states, and there is no privilege held by the people, with respect to the choice of their legislature and executive authority, but what is secured to them by this Constitution. The whole of the difference consists in this: part of the power granted by the people to the governor and assemblies of the states will be, by this Constitution, taken out of their hands and placed in the President of the United States and the Congress. The sole question, therefore, is which would answer the purposes of the people of the United States the best?

Second: As did James Madison in *The Federalist*, the author assures the public that the powers of the federal government are sharply delineated: “The legislative and executive powers prescribed by this Constitution are clearly defined, judiciously limited and constitutionally settled.”

This conflicts with the claims of many modern liberals (such as Justice Ginsburg, in the Obamacare case) that the



Constitution's Commerce Power granted the vague and expansive authority that would have been granted under the Virginia Plan. It also conflicts with the claims of many conservatives and some liberals that the President's "executive power" is limited only by exceptions carved into it by Article II. (For a discussion of this subject, see my article [here](#).)

Third: The "Letters from New York" re-affirm that the "militia"—and by implication the right to keep and bear arms—is very broad. The author writes, "The militia comprehends all the male inhabitants from sixteen to sixty years of age. . . ."

Fourth: The Letters confirm another point I make in *The Original Constitution*: That the nine-state threshold for adopting (and proposing amendments to) the Constitution was based on the belief that even the smallest nine states would contain a majority of the people:

Omitting many other excellent parts of this Constitution, I will just make one observation on the 7th Article, which says: "The ratification of nine states shall be sufficient for the establishment of this constitution, between the states so ratifying the same," which I do not think by any means incompatible with the 13th Article of our Confederation. The will of a majority of the people hath always been considered by the people of this country as sufficient to determine and bind the minority; and upon this principle the article alluded to ought to be construed.

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