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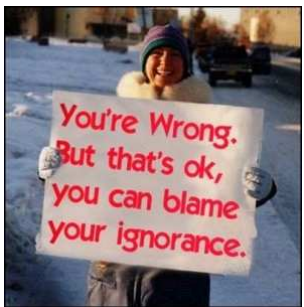
On Federal Education, Think Progress Should Think Harder

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by [Neal McCluskey](http://www.cato.org/people/neal-mccluskey) (<http://www.cato.org/people/neal-mccluskey>), CATO Institute



(<http://www.tenthamentcenter.com/2010/12/10/on-federal-education-think-progress-should-think-harder/>) Over on the Think Progress blog, [lan Millhiser accuses](http://thinkprogress.org/author/lan%20M/) (<http://thinkprogress.org/author/lan%20M/>) Sen. Tom Coburn (R-Okla.) of never having read the Constitution. His grounds for the accusation? Coburn, citing Jefferson, doesn't think that the Constitution gives the federal government authority to provide such things as Pell Grants and student loans.

Writes Millhiser:

Sen. Coburn might want to try actually read the Constitution before he pretends to know what it allows. [Article I](http://topics.law.cornell.edu/constitution/article1) (<http://topics.law.cornell.edu/constitution/article1>) provides that "[t]he Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States," a grant of power that unambiguously empowers Congress to raise funds and spend them on programs that are broadly beneficial to American welfare — such as education.

Moreover, while Coburn's reference to Thomas Jefferson is true in the narrowest sense of the term, it also betrays Coburn's ignorance of constitutional history. During the Washington Administration, Jefferson and James Madison led a minority coalition which believed that Congress' constitutional power to spend money was too narrow to support spending programs such as the [First Bank of the United States](http://en.wikipedia.org/wiki/First_Bank_of_the_United_States) (http://en.wikipedia.org/wiki/First_Bank_of_the_United_States). President Washington, however, [rejected their arguments](http://www.americanprogress.org/issues/2010/07/judicial_extremism.html) (http://www.americanprogress.org/issues/2010/07/judicial_extremism.html). Moreover, while Coburn is correct that President Jefferson briefly referenced his narrow view of the Constitution in his [1806 State of the Union](http://www.infoplease.com/t/his/state-of-the-union/18.html) (<http://www.infoplease.com/t/his/state-of-the-union/18.html>), Jefferson was an extreme outlier by this point in American history. Even Madison [parted ways with Jefferson](http://www.americanprogress.org/issues/2010/07/judicial_extremism.html) (http://www.americanprogress.org/issues/2010/07/judicial_extremism.html) by the time Madison became president in 1809.

This might be a classic pot-kettle situation. At the very least, it is utterly impossible to say that the general welfare clause "unambiguously" empowers Congress to raise funds and spend them — with massive strings attached, of course — on education. Indeed, that the general welfare clause does anything other than introduce the *specific, enumerated powers* that follow it was expressly rejected

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by Madison in [Federalist no. 41](http://www.constitution.org/fed/federa41.htm) (<http://www.constitution.org/fed/federa41.htm>), in which he wrote:

For what purpose could the enumeration of particular powers be inserted, if these and all others were meant to be included in the preceding general power? Nothing is more natural nor common than first to use a general phrase, and then to explain and qualify it by a recital of particulars.

The general welfare clause, quite simply, confers no power — it just explains why the specific powers that follow it were given.

But didn't Alexander Hamilton — who had Washington's ear — reject that notion? Well yes, in his 1791 [Report on Manufactures](http://www.constitution.org/ah/rpt_manufactures.pdf) (http://www.constitution.org/ah/rpt_manufactures.pdf) he suggested that the federal government could do almost anything as long as it was done in the interest of the entire nation. But his report was not only shelved by Congress at the time, Hamilton's argument was quite different from what he wrote in the Federalist Papers. Though speaking specifically of the taxation and "necessary and proper" clauses, in [Federalist no. 33](http://www.constitution.org/fed/federa33.htm) (<http://www.constitution.org/fed/federa33.htm>) Hamilton wrote that seemingly broad powers were given to Congress only to execute "specified powers:"

[I]t may be affirmed with perfect confidence that the constitutional operation of the intended government would be precisely the same, if the clauses were entirely obliterated, as if they were repeated in every article. They are only declaratory of a truth which would have resulted by necessary and unavoidable implication from the very act of constituting a federal government, and vesting it with certain specified powers [italics added]. This is so clear a proposition, that moderation itself can scarcely listen to the railings which have been so copiously vented against this part of the plan, without emotions that disturb its equanimity.

How about the argument that Jefferson's quaint small-government beliefs were way out of date by 1806? Well, they sure weren't on education.

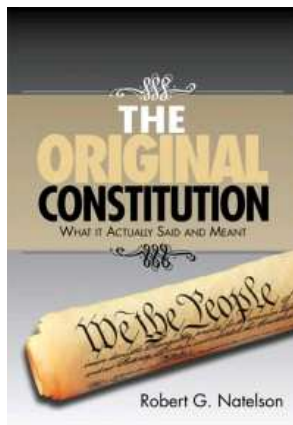
For one thing, it is notable that President Washington probably had a more expansive view of the federal government's role in education than one might expect. He wanted a national university, after all. But he didn't get it — that notion was well out of sync with the limited federal government most Americans wanted.

Next, Coburn was actually quoting Jefferson from *Jefferson's* call for federal involvement in education, an idea that went nowhere because it would have constituted more federal intrusion — not *less* — than most Americans wanted. Indeed, Jefferson was generally on the *big-government* fringe of his time when it came to education. He only got the University of Virginia after four decades of trying, and never got the rudimentary public schooling system he wanted for Virginia. Most people at the time simply didn't think government's role — especially the federal government's — was to run education.

One last bit of information demonstrates just how truly mistaken Millhiser is in his attack on education "tenthers." In 1943 — when Franklin Delano Roosevelt was president — the United States Constitution Sesquicentennial Commission, under the direction of the president, the vice president, and the Speaker of the House, published *The History of the Formation of the Union under the Constitution*. It noted (<http://www.cato-at-liberty.org/education-and-the-constitution/>) in a section titled "Questions and Answers Pertaining to the Constitution:"

Q. *Where, in the Constitution, is there mention of education?*

A. *There is none; education is a matter reserved for the states.*





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Even FDR's people, apparently, didn't find that the Constitution "unambiguously" gave Washington authority to involve itself in education — quite the opposite!

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In light of all this, it is clearly not Mr. Coburn who can reasonably be accused of having never read the Constitution. Indeed, not only has he almost certainly read it, it seems he has even taken the time to understand it.

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Neal McCluskey is the associate director of Cato's [Center for Educational Freedom \(http://www.cato.org/research/education/\)](http://www.cato.org/research/education/). Prior to arriving at Cato, McCluskey served in the U.S. Army, taught high school English, and was a freelance reporter covering municipal government and education in suburban New Jersey. More recently, he was a policy analyst at the Center for Education Reform. McCluskey is the author of the book [Feds in the Classroom: How Big Government Corrupts, Cripples, and Compromises American Education \(http://www.catostore.org/index.asp?fa=ProductDetails&method=&pid=1441355\)](http://www.catostore.org/index.asp?fa=ProductDetails&method=&pid=1441355), and his writings have appeared in such publications as the Wall Street Journal, Baltimore Sun, and Forbes. In addition to his written work, McCluskey has appeared on C-SPAN, CNN, the Fox News Channel, and numerous radio programs. McCluskey holds a master's degree in political science from Rutgers University.

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