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## Commerce Clause

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[Joe Caro](#) · a month ago 🔒

I ask the students to pay special attention to the professor's comments with respect to the commerce clause, THEN ask them to look at two Supreme Court cases.

United States v. Wrightwood Dairy, and Wickard v. Filburn. These are both New Deal era supreme court cases that essentially decided that interstate commerce need NOT be just across state lines, that the feds could involve themselves in purely intrastate commerce should they wish. They are cases that are staples in many law schools.

The first was a Dairy that produced and sold milk ONLY within a state, and the court concluded that they were subject to the new deal federal controls on wheat production. The second is even more egregious (in my opinion) where the court ruled that the farmer who raised wheat only to feed his own animals was also subject to federal wheat controls. That they never sold, moved or had anything to do with any product leaving their state did not matter because somehow, somewhere, their use of any wheat affected wheat somewhere in the U.S., thus they were subject to the law under the interstate commerce clause according to the novel and creative decision by the court.

I will stay silent on my opinion on these and be interested to see what my fellow travelers think about the expansion of federal authority this illustrates.

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[Anthony Watkins](#) · a month ago 🔒

i fully agree that if there is a regulated product, in a global (in this case National) market, the production or consumption of such regulated product is a matter for the entire market.

↑ -2 ↓ · flag

[Jason Jones](#) · a month ago 🔒

I haven't read Wickard v. Filburn in about half a dozen years, but if anyone wants to debate the merits on a separate thread I wouldn't mind participating.

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[+ Comment](#)

Ray Strong · a month ago

Joe. Oh Boy....this clause is a real can of worms.

I am going to hold off and think about it for a while also. The Filburn case is a real can of worms. While I agree with what the govt was trying to do at a Macro level, this case has always struck me as wrongly decided in a specific case.

The Commerce Clause is such a powerful and often contraverial clause, this may be the longest thread of the course before its done!

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Joel Kovarsky · a month ago

You are right about the worms. Prof. Amar was quoted in a March 2012 Bloomberg News review of the clause, within the context of the Affordable Care Act: <http://go.bloomberg.com/health-care-supreme-court/2012-03-21/commerce-clause-jurisprudence-through-t...> . I am interested in the argument (but not my own opinion). There is an online list of SCOTUS cases pertaining to the clause, but it appears incomplete and cuts off in 2000: [http://www.law.cornell.edu/supct/cases/topics/tog\\_commerce\\_clause.html](http://www.law.cornell.edu/supct/cases/topics/tog_commerce_clause.html) .

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Alec D. Rogers · a month ago

Professor Amar's views on the meaning of the original commerce clause are certainly interesting and I look forward to exploring them in more detail.

It strikes me that if you DO equate commerce with just activity generally of any sort, then you need to be careful to be sure that the activity truly does have an interstate component. Otherwise you're really giving Congress a completely plenary authority if "commerce" means "activity" and activity as incidental as Wickard would be substantial enough to constitute "interstate."

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Joe Caro · a month ago

Given the court decisions I referenced, the COURTS seem to have given congress the

authority over anything and everything when they interpreted an expansive definition of INTERSTATE commerce to also include INTRASTATE commerce.

That cannot be what the founding fathers had in mind when writing the constitution as they did. The constitution's and Amar's use of the word "proper" is instructive. We seem to have moved, and are moving even to a more expansive of the definition of "proper" to the point of meaninglessness when it applies to anything the government wants it to mean.

A logical extension of this would be that neither the states nor the individual has any rights that cannot be usurped by the Federal Government if this interpretation stands. Again, I question if this was the writers of the Constitution intent.

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[+ Comment](#)

Jason Jones · a month ago

I wish he had been a bit more clear on why he is offering the more broad interpretation of the term commerce. In the book it is much more clear, as he uses the OED definition of commerce and laid it out much more clearly:

"Without a broad reading of "Commerce" in this clause, it is not entirely clear whence the federal government would derive its needed power to deal with noneconomic international incidents--or for that matter to address the entire range of vexing nonmercantile interactions and altercations that might arise among states."

Then in the footnote to the above:

"Imagine, for example, a situation in which one state's regulation of upstream land created adverse effects for residents of downstream states. Federal power over admiralty jurisdiction would not necessarily cover such a case if the stream were non-navigable."

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Joe Caro · a month ago

The footnote would be instructive IF the government and courts even pretended to follow any intent of the authors.

What happens is that congress has given over legislative responsibility to agencies created by them but run by the executive. The agencies simply redefine terms, in your example, navigatable waters to include any puddle or stream of water that might reach a real navigatable stretch as part of the whole. And presto, anything that has ever gotten damp falls under their jurisdiction. The use of many privately held parcels has been denied the owner in this manner.

The government increasingly uses regulatory overreach to justify its intrusions rather than doing it conditionally via legislation as envisioned by the authors, this being but one example

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Anthony Watkins · a month ago

i do not see an example of overreach in this discussion

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Joe Caro · a month ago

You do not believe that the two cases cited represent overreach with respect to the interstate commerce clause?

Fair enough. Could you elaborate as to why?

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Jason Jones · a month ago

Joe,

I think we should we agree to a separate thread and we can all argue for or against about Wickard v. Filburn.

I think it would be an interesting experiment.

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William Hiebert · a month ago

If you're looking for a third, I'm interested.

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Joe Caro · a month ago

Why establish a separate thread? The principles could just as easily be discussed/debated here. I submit that what these decisions did was to define that ANYTHING can be considered as interstate commerce, whether it transmits between states or not, and the decisions were that the government gets to decide what that is and therefore can regulate anything at all, anything it decides it wishes to regulate, no matter the intent or wording of the constitution.

The essential issue that appears on these discussions is the view of the role of the government, whether it should be able to regulate whatever the current political leaders in

Congress at the time decide is for our own good, or the government should be held to the original intent, that its powers be those expressed and implied in the constitution.

I submit that the authors NEVER implied that the government should have the power over anything they decide they should have the power over, and never intended the courts to justify such a role. I also suggest that those advocating that this is permissible consider what would happen when THEIR politicians no longer hold office and the new regime can tread upon THEIR beliefs and rights, as will inevitably happen. I further submit that neither is a desirable situation and that we are ALL better off by insisting the government be by the rule of law rather than that of the people currently holding the power. History shows that this situation does not end well.

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[Jason Jones](#) · a month ago 🔗

I just thought that it would be easier to keep track of the conversation. Right now if I subscribe to a thread I get every comment posted and I am taking another course on Property and the Law and use this e-mail for my freelance work as well. It would be easier for me to tag the conversation and move it to the front of my reading queue.

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[Michael Blanco](#) · a month ago 🔗

Maybe this topic deserves its own thread, but I'd like to hear more about how the provisions of [The Militia Act of 1792](#) might impact our understanding of the individual mandate of the ACA. Essentially, the act requires members of a militia to "provide himself with a good musket or firelock . . . and so on. The cost has been estimated at around \$2,000 in today's dollars. In one [article](#), the Heritage Foundation dismisses the connection between the individual mandate and the provisions of the Militia Act because "Not every American was required to have these goods, only members of the military." What the article fails to point out is that participation in the militia was mandatory for everyone 18-44. So, if you were 18-44, you had to be in the militia, and if you were in the militia, you had to pony up two large to outfit yourself. Sounds like an individual mandate to me. The other argument I've heard is that because, in the Militia Act, because Congress is acting under its Article I, Section 8 powers to "provide for calling forth the Militia" instead of its Article I, Section 8 powers to "regulate Commerce . . . among the several States," it's OK. In other words, you can require commerce under the Militia Clause, but you can't require commerce under the Commerce Clause. I must have missed the footnote on that point. Anyway, I'd like to hear the opinions of others on this point.

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[clinton mathews](#) · a month ago 🔗

Your post is a good start. However, the Militia Act affected a relatively small segment of the

population (only able bodied men 18-44, no women, children or seniors), where ACA affects everyone. Two, the militia was correctly deemed necessary under the Constitution for the common defense, and there is no basis in the Constitution for universal health care. Three, the able bodied men of 1792 likely already had conforming firearms for hunting, family protection, etc., where the government takeover of the US health care is an unabashed and very clumsy giant step toward redistribution of wealth and socialism. The framers would not be pleased.

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Michael Blanco · a month ago 🔗

OK, but does the scope of a statute impact its constitutionality? Do we say, oh, yeah, that's unconstitutional, but it doesn't affect a lot of people so we can let that pass whereas because this impacts everyone, that's a problem. In my view, if it's unconstitutional, it should go, regardless of how many people it impacts. Of course the militia was deemed necessary for the common defense, but the Commerce Clause was also deemed to be necessary for our economic well being. If Congress under its Commerce Clause powers deems that universal health care is "necessary and proper" for the national well being, they get to do that. It doesn't matter whether they're right or wrong (that's what elections are about), the question is whether they're acting constitutionally or not. Call it unabashed, clumsy, call it redistributing wealth (the graduated income tax does the same thing), but lots of terrible policies are still constitutional. And as far as the Framers being pleased, they would definitely not be pleased by our continuous funding of a standing Army. Over and over again they talk not only about the dangers of a standing army but how it costs a fortune. Maybe they were wrong about the dangers, but they were certainly not wrong about the cost. I personally don't like the ACA for a lot of reasons. But just because you or I don't like it doesn't make it unconstitutional.

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Joe Caro · a month ago 🔗

Clinton's point is to the point, that the militia is indeed a necessary and a specified constitutional function, and congress has the authority to make rules and laws necessary to carry out its authorities. The argument that they used the military authority to promote commerce is tortured logic, but not so much as the argument that the commerce clause cannot be used to require commerce. (Just so you know, it is INTERSTATE commerce that the federal government is given authority over, not commerce.)

When examined, the argument that the Militia Act can be used as a precedent for the ACA falls apart on logical and constitutional grounds. The supremes, if you recall, did NOT invoke "commerce", rather rejected it as an argument for the ACE. Roberts tortured the taxing authority of congress to justify it, despite it having been made clear that the ACA was NOT a tax. Thus, the tortured illogic of one argument was rejected for an arguably equally illogical argument, so we are in the same place either way. (But that is a debate for another time.)

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Michael Blanco · a month ago 

Congress used commerce to promote the militia, not the militia to promote commerce. Bid difference. Everything in Article I, Section 8 is important. The militia doesn't occupy a privileged position simply because it's specified or you or I think it's important. Regulating, yes, interstate commerce was huge in 1788, especially to financial minds like Hamilton. But that's not really the point either. Our personal opinion or even Madison's or Hamilton's personal opinion on what is important and what isn't important in the Constitution is irrelevant as far as constitutional law is concerned. Constitutional law is about what can be allowed, not what is good or bad. Good and bad are political questions, not constitutional questions.

The question is, can Congress require individuals to participate in interstate commerce? In 1792 they certainly did so under their militia powers. Maybe it was a good thing, maybe it was a bad thing, but they did it. Today, Congress has done the same thing with the ACA under its interstate commerce powers. Again, it may be a terrible thing (I personally don't like a lot of things about the ACA). But that's not the point. Were they exceeding their constitutional powers? If you don't think they did in 1792, then I don't think you can do so today.

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Joe Caro · a month ago 

Mike, under your argument there is absolutely NOTHING that the government would be forbidden from doing. All they would have to do is decide for themselves that it is "necessary and proper" and/or even better, for the "general welfare" to do whatever was the action of the moment. There would be NO restraint on the central government under this circumstance.

I am not sure that that is what the intent of the constitutional authors. I further do not believe that is a reasonable interpretation of what they did write. To believe your line of reasoning you would have to believe that it was perfectly acceptable for a central government to control whatever it wanted to control. I submit that the historical record shows that this is the OPPOSITE of their intent.

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Michael Blanco · a month ago 

There's no doubt in my mind that federal powers today exceed anything that the framers might have imagined. However, I think we have John Marshall to thank for that, at least in part. Marshall saw how a weak central government could impact good people at Valley Forge, and I think it followed through to the rest of his life. George Washington was at Valley Forge too, and I think he only appointed Federalist judges. I know Adams only appointed Federalists. Think of how different it would be today but for *McCulloch v. Maryland* and *Gibbons v. Ogden*. The Civil War also set us on a course for expanded government power, as did WW II (the theory before then was keep it small and expand it as necessary). Interestingly, Patrick Henry foresaw all of this. Read his speeches at the Virginia ratification convention. He says over and

over again that we were creating a monster with the Constitution. But, the point is, if Henry saw this back then, maybe it's not necessarily a matter of people "perverting" the Constitution today. Maybe it's part of the structure of the Constitution itself. Just because I don't like a given perspective on the Constitution doesn't mean that perspective is wrong. I personally wish we had term limits for Congress, but we don't. And so, thank God for the Bill of Rights. This is the one area that, for sure, the government cannot tread, at least without violating the Constitution. And, as far as the commerce powers are concerned, if you can tell a farmer that growing wheat for his own consumption is illegal (cf., *Wickard v. Filburn*), then yes, maybe those powers are unlimited. I know that I don't know where to draw the line. Just because we don't like it doesn't make it not so.

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Joel Kovarsky · a month ago

Whatever one's take on the Affordable Care Act, citing the "Framer's intent" in conjunction with respect to our problems is arguably quite disingenuous. Their mouths would drop looking at all the nooks and crannies of modern medicine. They could no more foresee our health care system, science and issues than they could foresee landing a man on the moon or modern air transportation.

Here is a link I'd placed in another post, regarding systems of constitutional interpretation: <http://www.fas.org/sgp/crs/misc/R41637.pdf> . From that link:

"As noted above, it is unclear whether it is possible to have a unified theory of constitutional interpretation which accounts for the full range of existing constitutional law. In part, this is because different portions of the Constitution, due to their varying levels of generality, may not be

amenable to the same tools of interpretation. Further, because the Anglo-American system of stare decisis makes it less likely that constitutional issues will be constantly reevaluated, different

constitutional issues may, for pragmatic reasons, appear to depart from historical understandings.

Certain tools of interpretation, such as examining documents relevant to the era in which the Constitution was drafted, may be strongly persuasive in some cases. However, in other cases, where it is less clear that the meaning of the constitutional term in question was contemplated or

intended to be fixed in time, the value of such historical documents may be questioned."

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Joe Caro · a month ago

These types of arguments enter the realm of " In order to save the nation we have to destroy it." War powers, the NSA, TARP, Drones, the ACA, Second Amendment, marijuana legalization, DOMA issues, are all examples where government interference into our liberties are issues. Maybe the interference is necessary and proper, maybe not. Most likely people



will think it is so based on their positions on the issues. HOWEVER that is a dangerous position to take. Government role cannot depend on what we personally believe on each issue, it MUST be law based on a consistent principle that we either have liberty or we do not.

If we are to believe that the government can rightly regulate ANYTHING, then we had better be prepared for the consequences of that. Today we might be OK with what it is they choose to regulate, but tomorrow they just may decide to regulate something dear to our hearts and you may oppose THAT.

Then it will be too late because we will have given up our rights. We are usually so ready to regulate the ones we disagree with, and leave US alone to do as we see fit. Well, if you sell out those on the other side of an issue, you have essentially sold yourself out because who will defend YOU when they come for your stuff? Are you OK with the IRS restricting conservative groups non profit status, while you support their allowing the same for lefty organizations? Well, who defends YOUR rights when the next administration comes after YOUR guys? Either all groups get the deal or NONE do, without regard to their opinions, MUST be the standard. Like it or not.

It is way too easy to confuse PRINCIPLE with OPINION. One of these had better be lasting.

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[Michael Blanco](#) · a month ago

Couldn't agree more. Very thorny issues. H.G. Gadamer calls it the historicity of understanding, i.e., all understanding is historically conditioned by the horizons of understanding that we all live within. We can't escape it, and appealing to a "pure and pristine" Constitution won't help. I wish it was simple but it's clearly not.

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[Joe Caro](#) · a month ago

I am referring to enduring principles more than enduring "vocabulary." What was the meaning of the "general welfare" in the day? I submit that the meaning then was quite different than now, although the PRINCIPLE of its use THEN is the same. (An example, maybe not a good one, but I hope I made the point.)

Maybe I would substitute the word INTENDED PRINCIPLE for the word INTENT when referring to the authors.

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[Michael Blanco](#) · a month ago

Just to clarify, in my post above, I was responding to Joel two posts above mine. Joe pushed the Submit button just before I did. Regarding what Joe says immediately above, I don't

necessarily disagree, but my first responsibility is to understand what is and then decide if I like it or not. I don't particularly like the balance of my check book, but to pretend it's got more money in it than it does isn't helpful. My point is that the structural issues with the Constitution go back to its origin and some of the early Court decisions. Patrick Henry saw that and thought the Constitution was a disaster. Argue with him if you like.

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[clinton mathews](#) · a month ago 🔒

I commend the above participants for presenting reasoned logic in their posts. It's clear they are interested in disagreeing without being disagreeable and personally derogatory. Many posts in other threads have gotten off this worthy track.

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[Michael Blanco](#) · a month ago 🔒

Joe - You and I are submitting in such a way that our posts are getting things all out of order, but oh well! In what you say (right now, two posts above on my screen), I think you're correct that it is the enduring principles that count. I think that "general welfare" meant something completely different than it does today. For example, the modern welfare state would have confounded the framers. They never would have thought that government should provide a permanent stipend for everyone beginning at age 65 (or 66 and 3 months, as it is for me, now fewer than 5 years off!). They would have also been confounded to know that it could cost thousands and thousands of dollars to deliver a healthy baby, to say nothing of the potential costs for breaking your leg (one friend of mine had a quarter of a million dollars paid out when it was all said and done - staph infection, rebreak the leg, and so on - back then he would have just died - something that's really cheap to do unless you count untapped economic potential). However, I personally don't think the best answer is to put the genie back into the bottle. Conservatives, elect the right Congress and President and repeal the ACA. That's the way the framers saw it. My own view is that the people themselves have failed as much as our institutions. One third of natural born Americans cannot pass the standard naturalization test, like my father had to do after he fought for a country that he was not a citizen of at that time in WWII. What percentage even vote? It's easy to point the finger at others and forget that 3 are pointing back at you.

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[Ray Strong](#) · a month ago 🔒

Clinton. I agree with perfectly your sentiments above and I am trying to do better in my posts.

However, I just came from another post wherein, what appeared to me an attempt to belittle my simple post that was only a link to a newspaper article, you wrote: "We are now promoting that left-wing rag, The Washington Post"

I am thick-skinned on these matters and didn't take offense and I promise you if I have ever done that to you, I am not going to repeat it. It struck me as odd to go from that post to this one.

I hope we can all take this to heart as I know I will.

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Michael Blanco · a month ago

I completely agree with Clinton above. I learn so much from reading others ideas, trying to construct my own thoughts in response, and proceeding in a manner appreciative to all who contribute their thoughts.

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Joe Caro · a month ago

Michael, you have good points there.

When you venture into the notion that "conservatives, elect the right congress and repeal the ACA" is a point specific to a specific issue. That I disagree with the ACA does not mean I disagree with health care reforms, and the debate on the issue can go on and on, but in another forum. OK< OK, I lost that one for the moment, and it was legislatively and constitutionally passed but I am NOT one who would then ignore the principles of the constitution in order to get this thing tossed. I would fight to do so via Court decisions and re legislating it, all proper and constitutional processes. The early on debate was that "it is passed, it is law and that is that" was not only disingenuous, it was simply NOT true. The law (again I am using it as an example, NOT to argue the merits of it here) can indeed properly be repealed via legislation, as can all laws.

Some here have cited Bush v Gore as evidence of disengenuousness, and I have suggested they look at the decision. Gore lost on constitutional grounds by asking for recounts ONLY in the counties he felt he should have won. The court ruled that this was a violation of one man, one vote and disallowed it. There is thinking that suggests that had the Gore side asked for a total state wide re-count he might have won the decision because all Florida voters would have been treated the same. (The issues about Florida changing their rules midstream, and the Florida State Supreme Court changing the rules in the middle were problematic, and the court ruled against them also, but that is not the decision that the press wanted to focus on..) Not to argue this case here, but to serve as an example to my point, that the PRINCIPLE of one man one vote be preserved was the issue it was decided on.

The only thing in concrete, and the only thing that SHOULD be in concrete, are the constitutional principles

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Michael Blanco · a month ago

Exactly. The ACA can be repealed through the political processes. If you don't like the ACA, focus on that.

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[+ Comment](#)



Alec D. Rogers · a month ago

I very much doubt that many of those in Philadelphia would have taken issue with Marshall's jurisprudence.

Henry did foresee how the US Constitution created a robust federal government, which he opposed.

He and his side lost.

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[+ Comment](#)

Joel Kovarsky · a month ago

However much contention surrounds the ACA, it is likely no worse than at the beginning of attempts to construct the Social Security and Medicare programs: <http://billmoyers.com/content/deja-vu-all-over-a-look-back-at-some-of-the-tirades-against-social-sec...> . For those who dislike Mr. Moyers for partisan reasons, there are plenty of other places to find discussions of those historically contentious issues.

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Michael Blanco · a month ago

One interesting aside to this conversation is the history of public schooling in America. At its founding, America had no public schools in the conventional sense of that term. The Court has stated that education is not a constitutional right (indeed, the term "education" is not mentioned in the Constitution). Compulsory education is a state interest, not a constitutional right, that families must comply with in some manner (though state, not federal, laws). Jefferson proposed a two-track education system, one for the "laboring" and one for the "learned" that would allow for very few of the "laboring" to advance (i.e., only "geniuses"). Pennsylvania's first public education laws allowed for free public education, but only for the poor. The rich had to pay their own way. Free public schools were opposed by some because they didn't want to pay taxes for it (what a shock!).

The point is, every expansion of government is controversial, but mainly because of political,

not constitutional questions. Constitutionally, government does not have to provide schools, libraries, parks, regulation and inspection of food and drugs, water and sewage, and so on. Government does so to promote the "general welfare." Of course, many of these services are provided by state governments, which have plenary police powers, unlike the federal government, so federalism is certainly a question in all these issues. Because food and drugs cross state lines, the federal government is better suited to this task. Of course, education crosses state lines too. State funding of higher education has reached new lows (as a proportion to the overall cost) largely because of high mobility rates among college graduates. State governments figure why should they support Johnny to get a degree if he's going to go somewhere else to get a job, which often happens. If somehow a movement arose for the federal government to take over public education, the howls of "unconstitutional" would be legion. However, in principle, it would be no less constitutional than the Clean Water Act. Water quality, historically, was regulated by the states until the Cuyahoga River caught on fire and it started to make more sense for the feds to get involved (we all live downstream of somewhere else). The same logic could be applied to education, though I'm not saying it should. It's just that it's a political issue, not a constitutional issue.

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[Joe Caro](#) · a month ago 🔒

Perfect opportunity to reveal the corruption this brings.

The federal government has no authority to involve themselves in education as it was properly left to state and local governments.

I submit that this is a perfect example of the failure to understand the meaning of "general welfare" because government involvement does NOT promote any form of welfare in education. Expansion into education had NOTHING to do with constitutional issues, and everything to do with political issues.

What you cite are the usual excuses for government to involve themselves in a purely local issue. It is the same logic that allows the federal government to regulate a farmer growing a crop on his own land for his own use, claiming that somehow, in some way this affects interstate commerce because he possibly could have by some convoluted reasoning, affected interstate commerce because he MIGHT have purchased some part of a crop grown over state lines from someone else had he NOT grown his own..

Free public schools are the responsibility of the local government. There is nowhere in the constitution a mention of schools because during the olden days the locals took care of their own, providing them the education relevant to them.

States such as California devote over ONE HALF of a massive state budget just to education because they have chosen to do so. The federal contribution to education is minimal yet with the federal money comes so many federal mandates and regulations the schools lose money on the deal. A typical example is the Title One (Chapter One) programs whereby federal

money supposedly goes to poor minority schools. Sounds great right? If the money actually went to the classrooms and to educating the kids it might be, but in reality it goes to an administration of the program, paying for district level people just to handle the program, school level people to handle the administration at the school level, along with assistants. The money actually reaching the classroom goes to "teachers assistants" being paid at some three times minimum wage to relieve the chosen teachers of the burden of taking role and grading student papers.

The education systems have to dip into their own money to pay for the federal money because the federal money will not even pay for the administration of its own programs. The term is UNFUNDED MANDATE. For political reasons schools do not DARE not take the money, so they pay some \$1.50 to receive \$1.00 worth of federal money. An absurd waste and a perfect example of how federal assistance can actually be a drag on whatever it is they purport to help.

And all of this being pumped into a system that cannot educate its students, that graduates barely one third of students entering 9th grade (do not be lied to about graduation rates) and has demonstrated thirty straight years of educational achievement by its students. But no worries folks, because the system keeps the kids locked into a failing system all in the name of providing for the general welfare.

A close examination of the system will reveal to you that the general welfare referred to has nothing to do with the kids and EVERYTHING to do with the adults and guaranteeing them lifetime jobs and benefits, never mind that they are NOT teaching the kids very much.

So yes, the old term welfare has morphed into the modern usage of the term, just that it is for the wrong recipients.

Spoiler alert. This is the field in which I worked for more than 35 years and it is a disgrace, particularly to the 30% of excellent teachers and administrators really trying to do something. But not to worry folks, these people are earning the same as the other 70%.

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Joel Kovarsky · a month ago 🔒

Joe,

You may not like federal involvement, but from a historical perspective your assertions would not hold for quite a few who have dealt with the issue over many years: <http://www.lwv.org/content/role-federal-government-public-education%C2%A0-historical-perspectives> . I understand you worked in the system for many years, but as an analogy a physician with 35 years of experience may have an opinion on how to run the health care system, but that is all it is. This may not change your mind, but there are other perceived justifications.

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Michael Blanco · a month ago

Joe - So, let's apply your criteria more generally. The federal government has no authority to involve themselves in education, fine. Where does it get the authority to involve itself in food and water safety, recreation (national parks), regulating securities, guaranteeing bank deposits, flood insurance, museums (the Smithsonian), labor relations, and so on? In other words, what above qualifies under interstate commerce and what doesn't? Do you think you actually know? I know that I do not. No one occupies the Archimedean point so as to view all things purely and objectively to speak with absolute truth. That's why all of these are political questions that are left to the political branches.

So, do you think the federal government should get out clean water and leave it to the states? Personally, I think the federal government should get out of the flood insurance business. So, in either case, elect representatives who agree and get rid of it legislatively. The big problem is that everyone wants the judicial shortcut, and it's really not there. This is what "legislating from the bench" means.

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clinton mathews · a month ago

You nailed it, Michael. If we consider the current situation a terrible mess, then the answer is to get involved in the political process and attempt to turn the ship of state in the 'right' direction. In reading the posts, I estimate that my 'right' direction is only the right direction for about half the posters. Therefore we have an insoluble political challenge, but at least we are members of a small nation-wide minority attempting to (sometimes) learn from others and to consider the validity of opposing viewpoints. Cheers to you all for that!

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Joe Caro · a month ago

OK guys. Let me address your points. First off, the constitution does not anywhere have a place for federal intervention in the education system. Many writers were intimately involved in education and they did not see fit to have a place for federal intervention in it as it was a local issue to be dealt with by state and local governments or private parties, thus I believe I am on solid footing on this.

Joel, I dealt with federal programs as a teacher, as a person in charge of these programs at the school site level, as the writer for federal grants, and as a school site administrator supervised these programs, so I have seen it as many levels, I acknowledge that there are many who believe these programs are worthwhile but I submit that there are NO studies that demonstrate that the kids were better off for having this federal intrusion. I do not "like" these programs because they are ineffective, creating many bureaucratic positions for educators

and producing no improvements in the children's education. It might make people feel good about them that they did something, but sorry, I am about results and there are none. Just so you know, I originally drank the koolaid and thought the kiddies could not live without this, but the facts were that it was the adults who could not. When I ran these programs I thought I was doing God's work, but the reality was it was ultimately just a scam because the kids did NOT benefit from it. Though I did, in the form of some extra bucks.

Mike, your argument sounds as if it is defending bad behavior by citing other bad behavior. This issue is about federal involvement in education, not water, national parks et al. My position is that each of these involvements should be debated on their merits, whether it is a good idea AND whether there is constitutional justification for federal involvement, or these things are properly left to the state and local governments. Education is pointedly left out as a federal responsibility, and that is the position from which I start on education. I see this as a couple of issues; whether the feds SHOULD get involved in an issue they are authorized by the constitution to get involved in, whether the constitution specifically gives them the power to do so, and whether the constitution forbids it. The powers NOT granted to the central government are reserved to the states or to the people. Thus where the constitution is silent, the power is held by the states or people, NOT the FEDS. They were very clear on that point.

Clinton, I believe it is more than that. There are a couple of issues here. Does the constitution authorize federal government involvement in certain activities, yes or no? THEN, how the heck are they doing in the areas they are supposed to be in? I see it as two areas of mess, one the intrusion of the central government in areas they would NOT be, and the mis handling of the areas they are supposed to be in. Of course if I benefit then it is a justified program, but if I do NOT benefit and you do, then it is waste. Now, the waste, fraud and corruption knows no constitutional boundaries, and that surely is an area that needs cleaning up. Then we have the legislative absurdities of pork, funding programs that were never vetted by congress before voting to fund them, and then outright bribery for votes that is endemic. Now THERE is an area ripe for "we the people" to get involved. Of course one mans pork, fraud, kickback, croney capitalism is anothers good governance. And since they are not spending their own money on this what the hell do they care? So if we do not, these folks will happily spend all of our money plus whatever they can get away with spending to serve their own purposes. But, you see, when we think it serves MY purpose I am all for it, when it serves YOUR purpose, it is fraud waste and abuse. So you see, the right direction depends. So the fraudulent, self serving, corrupt people we see in government are merely reflections of ourselves.

So THAT, in general, is where I am coming from. And I appreciate your comments and the opportunity to explain the basis of my thinking on these issues.

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Michael Blanco · a month ago 

Joe - Go for it then! If "where the Constitution is silent, the power is held by the states, not the Feds," then go all the way! Advocate for striking as unconstitutional the Pure Food and Drug



Act, the Clean Water Act, the Clean Air Act, the FDIC, the National Park Service, Pell Grants, the EPA, the Smithsonian, the FED, the NRC, the NLRB, and so on and so on and so on because none of these are mentioned in the Constitution. If you can't see the connection between education and clean air, then we're at an impasse. Neither are mentioned in the Constitution so neither are required. Public health, like education, is not an explicitly enumerated congressional power so why do we have federal laws that regulate it?

The real question is, are they allowed, and if so, why? Not because one is good and one is bad. Lots of bad things may be constitutional (like some forms of hate speech), and some good things may be unconstitutional (I think term limits for Congress would be a good thing). I have no problem if someone wants to be a "constitutional minimalist," but you don't get to pick and choose, and the Courts don't get to pick and choose. Picking and choosing is left to the political branches, which is why we elect them. I personally believe everything I've mentioned above, including education, is allowed by the Commerce Clause or some other implied power of Congress. I may think education is allowed, but that doesn't mean I think we should handle education on the federal level. But that's my not my decision. It's Congress' decision. On the other hand, you don't think it's allowed constitutionally. That's OK, but the minute you take that position, everything else has to go also.

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Joe Caro · a month ago 🔒

Not about good OR bad, but constitutional and UN-constitutional.

Some things are, some are NOT, so the binary choice you suggest is NOT what this is about, it is about whether the central government has the constitutional power to do it or not. I submit that THAT is the binary choice. It is not an all or nothing proposition, but a issue by issue proposition.

And I am not speaking of a literal translation of the constitution either. The issue is whether or not something is authorized under the constitutional given the powers authorized the central government.

So, yes, education AND clean air have NO CONNECTION because the governments involvement in either one must stand on its own merits, as does each of the items you mention. It is not I who gets to pick and choose, the writers of the constitution picked and chose as to what powers the central government is to have and what are reserved to the states and the individual.

Picking and choosing is not at the whim of the government branches either, that is my point.

They are constrained by the constitution. Nowhere does it give the authority for government to do just anything it pleases if it decides to do so, there must be a constitutional basis for what it is doing.

Clearly there are disagreements as to what these are, but again, the genius of the

constitutions authors provided a framework for dealing with this, for restraining the power of each branch through its checks and balances AND separation of powers. Each branch has its role and authority, each has the ability to restrain the other. That was the point of the whole enterprise, that the power to govern comes FROM the people and NOT the government, and the government does not ever have unchecked power to do whatever it wishes for the good of the people.

If government is not to be limited, what was the revolution, the declaration of independence, and the creation of our republic all about? What would be the point of exchanging a monarch as tyrant for a representative tyrannical government, other than it is OUR tyrant, and not some Brit.? The mere existence of a GROUP of people we select to be our government is no different than a single individual if that government has no constraints upon it. We are supposed to be DIFFERENT which is why the founders placed limits upon our government structure.

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[Michael Blanco](#) · a month ago 🔗

Yep, we're at an impasse. Best wishes.

↑ 0 ↓ · flag

[Joel Kovarsky](#) · a month ago 🔗

Joe,

1. I readily acknowledge that your general experience with these programs exceeds mine, and many here. But I have seen experienced professionals in many areas (and a lot of teachers) become jaded.
2. We have, as a nation, been shouting "crisis" in education for over a century.
3. There are many who agree with you that past federal programs have been ineffectual, but not all have given up on the idea. One contention has been that not enough has been spent, and that much more emphasis must be placed on early childhood (and attendant socioeconomic disadvantage)--if you wait, it is too late.
4. As to wasted money in large federal programs, well...
5. I suspect (and many others with better background opine more strongly) that leaving this to the states will not improve the situation with respect to funding, but they can serve as laboratories for better models, if those models can be generalized. [Note: If you left health care to the individual states, you would have a colossal mess. Fortunately, I do not think I will be around to see anything like this.]

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[Joel Kovarsky](#) · a month ago 🔗

Although I find it impossible to accept a purely "originalist" (whatever that is) take on the

Constitution, there is evidence of what Thomas Jefferson thought:

"Every government degenerates when trusted to the rulers of the people alone. The people themselves therefore are its only safe depositories. And to render even them safe their minds must be improved to a certain degree...An amendment of our constitution must here come in aid of the public education. The influence over government must be shared among all the people. If every individual which composes their mass participates of the ultimate authority, the government will be safe." from *Notes on the State of Virginia*, query XIV, 1787 (<http://xroads.virginia.edu/~hyper/jefferson/ch14.html>)

"...Education is here placed among the articles of public care, not that it would be proposed to take its ordinary branches out of the hands of private enterprise, which manages so much better all the concerns to which it is equal...I suppose an amendment to the Constitution, by consent of the states, necessary, because the objects now recommended are not among those enumerated in the Constitution, and to which it permits the public moneys to be applied...The present consideration of a national establishment for education particularly is rendered proper by this circumstance also, that if Congress, approving the proposition, shall yet think it more eligible to found it on a donation of lands, they have it now in their power to endow it with those which will be among the earliest to produce the necessary income." from 2nd State of the Union address, Dec. 1806 (<http://founders.archives.gov/documents/Jefferson/99-01-02-4615>)

Given the formal establishment of the Federal Office of Education in 1867, all this makes it very hard to believe any argument asserting that federal funding for public education is unconstitutional or out of line with varied Founder's views (Hamilton was against it): [http://minnieapolis.newsvine.com/\\_news/2011/09/11/7717017-founding-fathers-on-the-importance-of-publ...](http://minnieapolis.newsvine.com/_news/2011/09/11/7717017-founding-fathers-on-the-importance-of-publ...)

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Joe Caro · a month ago

Joel, my outlining my experience was merely to explain the background for my current reasoning and not to be a fancy pants.. Before having this background I was a supporter of federal funding of education because INTUITIVELY it sounds reasonable and helpful.

Indeed ,we have been shouting crisis in education at least since the late 60's, have thrown massive amounts of money at it, yet our educational performance has steadily eroded since then. (Check out what state and local governments allocate to education.) Again, at the start of my career I believed throwing money at education had to be the solution. Having seen the results it is clear to me that the money is NOT the issue, and extensive reform of HOW we deliver education coupled with vigorous performance, learning, teaching, content and academic standards are the only hope. The current education establishment will NOT allow that to happen and simply call for more money

Your notion that the states and local governments can serve as models and a laboratory for

new ways is outstanding, and I argue that this IS the way it should be done. Let's see what actually works and what is a waste. It is what we should have been doing for two centuries.

HOWEVER, federal funding creates the opposite situation because with it, even though it is a relatively minor part of the education budget, comes an array of federal regulations that must be applied to the ENTIRE system. Yes, they pay for, say 10%, but impose their demands on 100%. To me this is counter productive, AND a good reason to keep the feds away from our children. (This is aside from my belief they should not constitutionally be involved in local education.)

On your second posting, it brings up interesting thoughts. But consider this, that amendment NEVER happened. AND I submit that the creation of the Federal Office of Education in 1867 to gather statistics and information on diverse educational programs across the nation, does not mean we should have accepted expansion by the establishment of the Chapter One/ Title One shoveling of federal money out the door to local districts, and exacerbation of the error when Carter made it a Cabinet position and extending its power from gathering and disseminating information about education to calling the education shots for state and local schools .

It is instructive to review what the original office was created to do (I had to look it up) which was to gather statistics and information on diverse education facilities, make available this information, as well as manage the Indian school system. All very reasonable and CONSTITUTIONAL goals. I might suggest that what we see here is a classic example of government control creep, from a benign agency with a useful function to one that dictates education policy to the locals.

Now it is true that the locals do not have to accept the money, but that is not a politically viable position. In any event all this would accomplish is that some minor regs would go away but the feds would still have a major say in local policy because of the little understood scam of UNFUNDED MANDATES. Should the feds have NO say? I am NOT saying that as there are areas of federal responsibility that do involve the schools as part of the larger picture and arguably that is proper. What I am saying is that specific interference in local schools is not authorized.

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[clinton mathews](#) · a month ago 🔗

Joe, Your positions have my full support. Education is the tip of the iceberg when we consider all the things the central government now exercises extensive control over that they should not. The saying goes "We're here from the Government and we're here to help". Michael and Joel can argue all they want about the wonderful things the central government does, but it grows like a cancer and spends not only our tax money, but our children's and our grandchildren's money as well. We can argue back and forth about the constitutionality about the actions, but it is an undeniable fact that we are moving rapidly down the road to socialism and that makes me concerned and saddened. Socialism has been tried in many forms and it doesn't work.

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Stanley H Kelley · a month ago

The Federal Role in education began in 1867. There have been many Acts of Congress about education beginning with the creation of the Office of Education, extending through the 2nd Morrill Act in 1890 (land grant colleges), the GI Bill after WWII, the Elementary and Secondary Education Act of 1965 (which really integrated the schools in the South) to the creation of the Department of Education in 1980. Many Congresses with the cooperation of many Presidents have come and gone since 1867. They all seem to have thought that what they were doing was constitutional. So far as I know no court has ever ruled that Federal involvement in education is unconstitutional. This has gone on through Congresses and Presidents of both Parties. Therefore, I think it has been firmly established that Federal involvement in education is constitutional according to all the relevant authorities. What the Federal role in education should be is a political question not a constitutional one.

If you are opposed to every form of socialism then you would have to favor abolishing all forms of public education. I await the person running for office on that program.

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Joe Caro · a month ago

Stanley, your opinion is, of course yours to hold. History does indeed show the central government's involvement and interference in LOCAL education. If you believe that the Feds intervening in local school districts with money and policy is supported by the constitution, that certainly is your right. You might consider converse of your argument might be the accurate one, that the central governments involvement in local education is a POLITICAL one, just not a constitutional one.

Your concluding sentence is, however, falls apart, lacking in any form of logic in trying to sell the notion that if one is opposed to socialism he should also be opposed to ANY form of public education. That statement is fallacious on several levels, not the least making a statement that NO ONE here has said with respect to public education. You change the metrics of the discussion here from one of federal/central involvement, and then establish a false position as a strawman.

An interesting contribution, though.

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Stanley H Kelley · a month ago

My point is that this question has been settled for a long time and that appears that your position is unlikely to prevail any time soon. Perhaps you could bring a suit to try to have the entire Federal educational establishment declared unconstitutional. I would be willing to make

a side bet that it would fail.

I will also point out that the States and localities do not have to take the money offered by the Federal government, but by and large they do. So we can add them to the lists of those who think Federal involvement in education is constitutional.

My comment about public education being socialist was in response to Clinton Matthews' comment just above mine. If any level of government taxes everyone to provide an education available to all children then it seems to me to be a socialist enterprise. The government owns the schools, makes the rules for maintaining them, specifies what qualifications are necessary to teach in them, etc. Just as are road systems, police departments, fire departments etc. That it is done by State and local governments rather than the Federal government makes no real difference.

My final point here is that there are many genuine areas where there is real controversy about the meaning of the Constitution such as the proper interpretation of the commerce clause, the powers of Congress to ensure the right to vote, the subject of same sex marriage and whether if persons married in one State must be recognized as married in all the other States under the full faith and credit clause of Article IV, Section 1. There we can have productive discussions. Much more than on whether Federal involvement in education is Constitutional or whether States have the power to secede from the Union which was settled by the Union Army in 1865.

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Joe Caro · a month ago

Interesting point.

But your side makes that point all the time, "it is settled." And I do not doubt for a second that in your mind you believe that is true. Well "settled" is total crap, and I suggest that if someone is not able to defend their position and use the "settled" position as support for their position has a losing position. It is a losing one because of the unwillingness or inability to defend it because the use of "settled" tries to scuttle any further discussion. Do not fall into that trap.

The counter point is that you folks should be careful using that line of reasoning, because it is NOT a valid one that because we have been doing it all the time it must be so. I submit that ten times the WRONG thing does NOT equal a right thing, it equals the wrong thing times ten.

Settled? This is used to justify belief rather than issues. Climate change, nee global warming settled? The use of a privacy creation by the Supreme Court to sustain abortion, settled?

Plessey v. Ferguson, settled? Korematsu v. the United States, settled? Dred Scott v Sanford, settled?

What the claim of "settled" gives us is the HOPE that the issue will not be further discussed lest that discussion lead to a questioning of the basis of the arguments for utter nonsense. It is a lazy mans game, and a game for those who realize they cannot defend their positions.

Sooo, just called it "settled" and move on. Well, NOTHING is truly settled and every attempt to suggest it is is an attempt to stifle debate.

Your notion that whether something is done by state or local governments or the central government makes no difference is a complete mistake. Think it through man. If you truly believe that then you must believe that local knowledge has no value, that local rule is pointless because the central government knows better because.....why? Fill in THAT blank and you have the best argument for centralized planning we will see. If you really believe that then you believe that the federal government planning is the best way to proceed at every level. I suggest that even those who believe as you do cannot make a claim that that is true. You may believe that you can find one or two things you believe is well done, so please, offer up the wisdom of central planning so we may debate it.

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Stanley H Kelley · a month ago

Well we get to where these things often get, anger, attributing to me thoughts that I never expressed, vulgarity and ad hominem argument. Good night and good luck.

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[+ Comment](#)

Navtej Singh Khandpur · a month ago


Not to take this thread in a different direction, but since many of the posts above talk about the Federal role in education...

I went through an educational system where we had national standards for school curricula; in fact we even had nationwide examinations at the High School level and everyone got to take the same exams and was graded within the same cohort. Upon coming to the US I was surprised at how splintered and diverse the school system is; school districts, regional authorities, state education departments, school boards, PTAs etc. What really surprised me was that every locality pretty much gets to do its own thing (barring the mandates being discussed above). Different states get to decide what goes into textbooks. And there's tremendous push-back on involvement by anyone outside the locality. Look at all the heated debate about NCLB and Common Core.

The most common explanation I've heard for this is "we want our community to decide what we teach our kids". Fair enough. But in this day and age, what are some real examples of curriculum differences between localities that truly reflect local community standards? Is this a net benefit in a global economy?

I'm not posting this to create any controversy--I just want to be better informed and it appears there are many on this thread with knowledge and expertise and opinions in this area.

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Joe Caro · a month ago 

Not at all. Create a controversy because it is necessary for us. Despite my "keep the government out of it" stance on education, I am a hypocrite on the very issue you bring to light.

There is a desperate need in the U.S. for STANDARDS. I believe there needs to be a core of learning, skills and ability among our students not necessarily to benefit a global community, but to benefit THEM to prepare them to enter the global community. Once this is achieved, then the locals can go about their business.

Our problem is the political fraud perpetrated in the name of kids. The locals demand local control as they should, the left demands government intervention. In each case though, neither does their job. The locals will not establish standards leaving the left to demand the feds step in to do so. Then the feds step in to much fanfare and political speechmaking and fail to deliver also. What is the point of giving up your principles for NO RESULT. If you are going to sell out at least do it on principle, the principle of educational standards. My point is that NO ONE is doing their job on this, believing that their job is to espouse what they believe the people will buy rather than actually establishing the standards they talk about. It is as if they believe if saying it makes it so. They will talk, but no one is willing to do the work..

It is the best interest of the STUDENTS, which is what education is all about. OUR system claims this is so, but it really is all about the ADULTS, satisfying political agendas, the jobs of teachers and those of politicians. We REALLY do not give a crap about the kids in general.

There are a handful who do. A HANDFUL, but the movers of education have no interest in them, they have an interest in preserving their own livelihoods.

The kids are collateral damage. Luckily for the smart ones, they can achieve despite the system, and the occasional effective educator they are lucky enough to encounter. Well, we simply cannot depend on LUCK.

Local governments are singularly reluctant to get into this because of the influence of the education lobby in this country, which means the teacher's unions and their apologists. Not to belabor my experience, but it became apparent to me that teachers were doing whatever they pleased in their classrooms. At BEST they were making decisions about what they believed their students needed to know about the subject and taught that way. These are the good teachers.

Usually, however, the teachers decided what political position they wished to sell their students and taught to that, and most of the teachers were socialist bent, to be blunt about it.

These, however, are the second best teachers around. MOST just turn on a film, and/or have the kids work out of the text book, turn in written work to keep the kids busy and never grade it. I am not really exaggerating. The shame of our system is that we pay these teachers the same as the ten to 15 percent who take education seriously and work hard to educate their students.



The point is that we have not had serious standards for students OR teachers in this country, and have a desperate need to do so. If the locals will not do it, not establish a standard of information kids need, a level of skills they must achieve, basically learning standards and the commensurate teaching standards necessary, then I must confess that I am OK with the feds stepping in to do this for them. When Bush began the "No child left behind" program in the early 2000's every educator hated it but I say the need for it is crucial. There were many flaws in it, but there was, and is, a need to establish levels of student competence, and something it did not address, levels of teacher competence and if the locals will not do it it leaves room for the feds to take up the slack.. No longer should teachers be able to teach whatever they wish in a history classroom. There must be specific topics, events and movements mastered by the students along with writing, comprehensive and reasoning skills. It has NEVER been acceptable for teachers to decide they should teach socialism in a U.S. history class. In a class about socialism, fine, But we were and are sending our students into the world totally unprepared with the basis fundamental knowledge of our nation (for example.) (I choose to discuss history for this purpose because it is my field, but the same principle applies to every basic subject..

IF the locals will not do it, I am OK with the central government establishing a national set of educational standards. It should appropriately be a "suggested" regimen without federal sanctions for non compliance, It should rightly be the states that enforce at least the basis standards and hopefully ADD to them according to their local needs. In a perfect world this should not be necessary, but in the painfully self serving political world which we have created for ourselves this needs to happen. (And truthfully, if the feds were to stick it to those who continued to inadequately educate their students I can live with that.) Somebody has to make the local sissies live up to their obligations at some point, and then move out. The problem with feds is that they NEVER move out, and take signs of weakness to expand central control. But since federal involvement comes with money the locals sell out every time for surprisingly low prices.

So navtej, you may not want to start a controversy over this, but I am happy to. I am even willing to surrender some of my principles in order to correct our embarrassingly inadequate education system, a totally unacceptable situation in the most developed of developed nations. May I stress to you that you do everything you can to keep YOUR system of education and eschew ours.

This probably should probably have its own discussion, and in some ways I engaged in this only as an example since it is my field, but the issues are really an example of the larger fundamental problems and conflicts with government.

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Navtej Singh Khandpur · a month ago

Thanks Joe. So I gather then that you don't think there's enough 'local content' to justify having such a

system. Is there anyone on this thread who thinks otherwise? Why is local control essential?

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Joe Caro · a month ago

Not so much that, as there is too much political posturing in this country that gets in the way of sound educational policy.

Don't get me wrong, I am not advocating a federal take over of education, what I am suggesting is LEADERSHIP on the issue to establish fundamental standards of education in the sense that there be essential subject topics that should be covered, such as the the 13 colonies, the revolution, the principles of the Declaration of Independence and the Constitution ( using my field of U.S. History as an example) Discussion of the issues of the day, such as the institution of slavery, what led to the Civil War, and on and on. Too often the classroom teacher chooses what to cover and I am suggesting that it not be left to the teacher to decide this, but that there be things they MUST teach in an objective manner. There are academic skills that must be taught the students, such as, say writing a coherent paragraph, being able to describe, evaluate, argue for a position, research, and such skills not specifically intrinsic to the specific subject, but necessary for overall education.

Teachers complain that this leaves them no room for what they want to do, but I have two responses to that, the first is that they are NOT BEING paid to teach what they want, but what the kids need, and second, there is room, if they are competent, to get into areas that interest them ONLY AFTER they competently cover the standards,

Thus we need standards for not only the kids, but also the teachers, with sanctions available to deal with those teachers unwilling and/or incapable of doing their jobs. This is another area that education will not take responsibility for,

There is room for local input on such things as student conduct, the school day, school activities, and subjects offered beyond the standards. The standards must be taught because the students need them in the classic major areas of English, History, Mathematics, Science. (Personally I would require a foreign language also, but that could easily be decided by the locals.) The rest be decided by the locals. And the HOW the standards are covered could easily be a local decision. The local element is necessary because in a country as diverse as this one there are local needs and interests. BUT, in a global competitive world there are universal demands that the school system should be responsible for, and that is where I am going with this.

What we are sorely lacking is EDUCATIONAL LEADERSHIP that will exhibit courage and not the POLITICALLY oriented leadership that characterizes education at the moment.

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Navtej Singh Khandpur · a month ago

*The standards must be taught because the students need them in the classic major areas of English, History, Mathematics, Science.*

Funny you should say that. The system I went through had us take English, History, Geography, Math, Chemistry and Biology as mandatory subjects, and up to 4 electives. Things have changed since then, but you can get the idea from here: [http://en.wikipedia.org/wiki/West\\_African\\_Senior\\_School\\_Certificate\\_Examination](http://en.wikipedia.org/wiki/West_African_Senior_School_Certificate_Examination)

And as a history teacher you may appreciate this: <http://olusegun-fapohunda-calculator.googlecode.com/svn/justnaira/wAEC%20sYLLABUS/HISTORY%20WAEc.pdf>

I took a look at a sample exam in Math, and I have to confess I had to think hard about some of the questions!

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Joe Caro · a month ago

There are excellent schools that are doing what I suggest to offer a comprehensive and competent education for their students, do not get me wrong. But sadly these are few and most kids do not have access to them.

My other point is that the standards and quality of the education varies greatly such that a high school diploma from a school or district has n predictive value on its face as to the quality of education received.

Where this shows up the most dramatically, in my opinion, is in schools in poor areas, minority areas, and areas with undocumented immigrants. I worked my career in such schools, and we had a handful of excellent teachers such that I would have no problem with having my kids attend these classes. But once we get past those five or six, it is a wasteland. We get graduation rates "officially" of 60%, which is terrible enough, but those numbers are cooked.

The REAL rates are likely half that because what is done is to NOT count the number of students entering the 9th grade and see how many of THESE graduate, but to count the number starting grade 12 and getting a diploma. A vastly different calculation. The point is that even the few who actually graduate are rarely competent in the basic subjects.

The urgency of reform is great because, assuming it takes 5 years to reform (a ridiculous goal impossible to meet) that means that NOT ONE kid entering a high school today will see any benefit and we pass on yet another class of illiterate students. This is shameful. Under the current regime we have the handful who do graduate unable to read anywhere NEAR grade level. A graduate now reading at the 8th grade level would be a success. A highly motivated, hard working student can rise above this mess to be sure, and they do (which is why I give

such a student high marks) but even then, they lack many of the fundamentals assumed a high school graduate has. Thus we have massive remediation classes in college to try to bring them up to standard, What a terrible waste. Why not do this in high school were it belongs?

The mantra is that the parents need to get involved and demand more. And that is true. But again, my experience was in schools where parents were non existent, and/or not involved in students activities for the most part for any number of reasons. So what we get is the handful of students with interested and informed parents getting their kids the hell out of incompetent schools into better quality ones. But where does that leave the rest? Who advocates for those?

I submit that the system must serve this role by establishing standards such that a child's education does not HAVE TO RELY on an informed and interested parent but depends on the competence of the education system itself to at least achieve a minimum standard.

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[+ Comment](#)

### New post

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