



Clear constitutional language baffles big-government backers

By Jim Waters

Washington Post blogger Ezra Klein stated on MSNBC's "The Daily Record" that the text of the U.S. Constitution "is confusing because it was written more than 100 years ago, and what people believe it says differs from person to person and differs depending on what they want to get done."

Klein never states what exactly confuses him about the 223-year-old constitution.

This part [seems pretty clear to me](#): "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

So does:

"... the right of the people to keep and bear arms, shall not be infringed."

And this:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, . . ."

I'm sure Klein would not consider these "confusing." After all, what writer would want to change protections rightly afforded the press?

Perhaps he made reference to the text of the Tenth Amendment: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

I can see why that amendment wouldn't sit well with Klein and others who strongly defend the federal government's takeover of the nation's health care system.

Seizing one-seventh of the nation's economy does not appear among the 16 specific authorities granted the federal government by the Constitution — unless you turn to the ["Commerce Clause."](#) Big government backers say that as written the clause is archaic and "confusing," and needs tweaking in order to confirm the right of Congress to interfere in critical, end-of-life decisions or to fine individuals for not purchasing a health insurance policy.

But in case confusion blinds those pushing for government-mandated health care, perhaps Alexander Hamilton's "clear" explanation of the founders' intentions regarding the Constitution's Commerce Clause would suffice.

Hamilton stated in ["The Federalist Papers"](#) that the Constitution limited the Commerce Clause to "the interfering and unneighborly regulations of some States" over commercial activity actually occurring across state lines.

But since Hamilton wrote that between October 1787 and August 1788 — way longer than Klein's 100-year limit, that probably wouldn't matter to him.

How about something a bit more recent?

In his ruling declaring insurance mandates in the federal health care bill unconstitutional, U.S. District Judge Henry Hudson of Virginia addressed using the Commerce Clause to justify federal intrusion.

“Every application of Commerce Clause power found to be constitutionally sound by the Supreme Court involved some form of action, transaction, or deed placed in motion by an individual or legal entity,” Hudson wrote in his decision. “Neither the Supreme Court nor any federal circuit court of appeals has extended the Commerce Clause powers to compel an individual to involuntarily enter the stream of commerce by pushing a commodity in the private market.”

In other words, the federal government cannot use the Commerce Clause to make people buy insurance.

It's not surprising that Klein disagrees.

So while he would have us believe that his problem with the Constitution involves confusing text, it seems that restraints of government cause his chafing.

This reminds me of Mark Twain's quip about another great founding document: “It ain't those parts of the Bible that I can't understand that bother me, it is the parts that I do understand.”

Is it possible that Klein confuses not understanding the Constitution with not liking the restraints that some of it puts on big government?

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