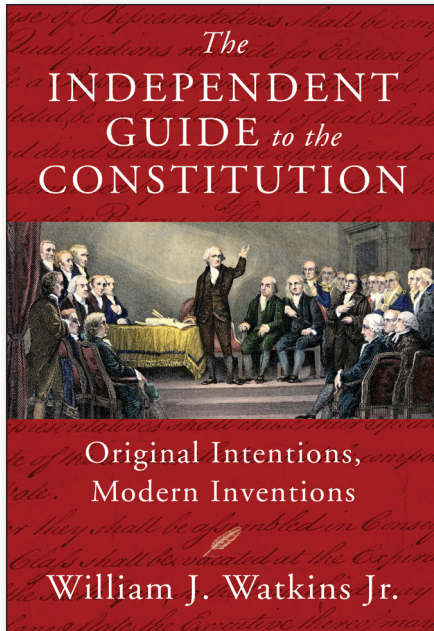


The Independent Guide to the Constitution

Original Intentions, Modern Inventions

BY WILLIAM J. WATKINS JR.



408 Pages
7 x 10 inches | Index
Hardcover: \$34.95
ISBN: 978-1-59813-422-3
Published: February 10, 2026

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Book Highlights

- In a field crowded with abstract theories, William J. Watkins Jr. brings the rare authority of a practicing lawyer—someone who has argued, applied, and lived under constitutional law—to the question of how the Constitution should be read. America's earliest constitutional thinkers offer a "North Star" for interpreting the Constitution. Few dispute the brilliance of the document itself; the great debate concerns how to read it. Watkins, a practicing lawyer and former law clerk in the Fourth Circuit, argues for a return to "strict construction originalism," an interpretive method grounded in the original intent and understanding of the Framers and ratifiers. This approach, exemplified by figures such as Thomas Jefferson, St. George Tucker, and James Madison, treats the Constitution as a genuine grant of limited powers, not an endlessly malleable charter.
- Modern methods of interpretation—especially the influential school of "living constitutionalism" theory—have distorted the Framers' and ratifiers' original intent almost beyond recognition. Watkins identifies three major interpretive traditions: early strict construction originalism, late-twentieth-century modern originalism, and living constitutionalism. Each successive school has grown more flexible in its interpretive method and more willing to expand federal power beyond anything envisioned in the early republic. Watkins argues that living constitutionalism in particular treats the Constitution less as binding law and more as a symbolic text, whose meaning may shift with contemporary values. The result? An unmoored, confused, and increasingly unstable regime.
- The people of the United States are not one single, undifferentiated national mass; rather, the American constitutional order rests on the sovereignty of the people of each state. Watkins shows how and why the Constitution did not convert states into mere administrative arms of the federal government. In matters such as criminal law, domestic relations, and public safety, states originally functioned as fully independent political communities with authority over their own internal affairs. Even the Fourteenth Amendment—rightly interpreted within the framework described by its congressional proponents—did not dissolve this structure or remake the federal government into a national overseer of all state policy. State power was a key for the Founders.
- This book is not a technical, law-school treatise. It is a practical, hands-on road map to constitutional sanity. Watkins walks through the entire



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document, clause by clause, explaining its history, the interpretive distortions that have emerged over time, and concrete proposals for restoring fidelity to the original design. With a clear index, a detailed table of contents, and explanations accessible to nonspecialists, this volume equips every civic-minded American with the tools needed to understand, interpret, and defend the Constitution. Constitutional stewardship, Watkins insists, is the right and responsibility of the *people* themselves—not merely lawyers, judges, or academics.

Synopsis

The Independent Guide to the Constitution: Original Intentions, Modern Inventions cuts through the partisan noise and helps readers reclaim the original, time-tested principles of liberty that America's Framers worked so hard to protect.

The Constitution is one of the most studied—and most willfully misunderstood—documents in American life. It is the oldest written constitution still in use in the world, and its longevity rightly compels our admiration and examination. But now more than ever, Americans need an objective, thorough, and clearheaded analysis of what our Founders meant when they wrote it . . . and perhaps even more important, what they *didn't* mean.

In America today, the president can send armed forces abroad without even a nod to the legislature. The Supreme

Court micromanages all manner of state policy decisions, from Christmas decorations, public health measures, and criminal penalties. And as of this writing, nearly \$40 trillion of national debt is ultimately the taxpayers' responsibility to pay back—\$120,000 for every American, nearly half a million dollars for a family of four, plus interest, for benefits that are long gone.

Is this what the Founders intended? Does this sound like the “few and defined” national powers James Madison delegated to the federal government?

Of course not.

This state of affairs—called “living constitutionalism” by some, “tyranny” by others—has not brought political peace. Clearly, something has to change. But how should we confront the distortions layered onto the Constitution over generations? Especially when those distortions continue to shape (and misshape) American life today?

Enter **William J. Watkins Jr.** Drawing on a lifetime of experience in the law—as prosecutor, defense attorney, and constitutional scholar—Watkins offers a bold, independent examination of the most important legal document in modern history. His book provides a meticulous, clause-by-clause analysis of America's founding charter, revealing both the Framers' original intentions and the modern interpretations that have reshaped constitutional governance—not always for the better. Clearly and rigorously, he explores how the Consti-

tution was designed to secure liberty and limit power—and how its meaning continues to spark debate today.

Expertly researched, fascinating, and urgent as ever, this book is the authoritative road map for laymen and scholars alike to reclaim the Constitution.

Popular Sovereignty

Popular sovereignty, as envisioned by the Framers and ratifiers of the Constitution and as defined by Watkins, means that the individual people of a republic (or, in the case of the states, thirteen republics) possess ultimate political authority. All government actors are but agents of these sovereign people. Individuals themselves are the creators and modifiers of the fundamental laws of the land.

At the time of the founding, this was a significant departure from the British system, in which Parliament—not the people—retained ultimate authority. But today, Watkins argues, the administrative state and federal judiciary have effectively replicated Parliament's usurpation of the people's voice. “Experts” within the political bureaucracy regularly issue edicts that are treated as binding law, even though they were never elected and are not accountable to the American people.

This is a problem. In 1822, John Taylor of Caroline warned how popular sovereignty, the pillar of the American experiment, could be turned on its head. Watkins cites him at length: “By our political theory,” Taylor wrote, “the people are supposed to be the patrons

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of the government, and not the government the patron of the people.” A reversal of this tenet, Taylor warned, will mark an “advance toward tyranny,” with the government dictating constitutional regulations to the people and distributing their money and property to favored “individuals or combinations.” Today, with over half of Americans receiving federal subsidies, entitlement payments, or both, and with interest costs on national debt rivaling national defense spending, Taylor would surely agree with Watkins that the “advance toward tyranny” is complete.

Balancing State and National Government

Maintaining a proper federalist balance between the states and the national government is at the heart of strict construction originalism. Federalism, as defined by Watkins, is a system dividing power between the national and state governments. Each is independent in its own sphere, but powers are limited by fundamental laws (federal and state constitutions) as established by the people.

The Founders’ Constitution aimed to allow diverse and differing interests to coexist, but key to this coexistence was a demand of unity—in certain limited cases. For example, congressional regulation of foreign commerce (such as imposing high duties on the goods from countries having no commercial treaty with the United States) would be undermined unless all members of the union adhered to the national policy. Such external matters, requiring the states to speak with one voice, were (and still are) obvious and few.

In matters *not* implicating uniformity in dealing with the outside world, however, the Founders believed the

states must be left to serve as laboratories of democracy. If they were not allowed to do so, they argued, Americans would remain at one another’s throats—as they seem to be today.

There is no question that Americans today are deeply divided. Many question whether the United States can survive as a nation. Watkins quotes *Time* magazine’s Ian Bremmer: “There is no advanced industrial democracy in the world more politically divided, or politically dysfunctional, than the United States today.” Properly balancing state and federal power, Watkins argues, would help cool tempers and move Americans toward a much-needed unity.

The Fourteenth Amendment

The Fourteenth Amendment overruled the *Dred Scott* decision, which held that blacks were not citizens of the United States. In connection with the establishment of national citizenship, the Fourteenth Amendment commands that all individuals—regardless of color—be treated the same under the law. Though unobjectionable when interpreted through the originalist framework, this amendment has been distorted to disastrous effect.

One notable distortion has been the fashionable demand for equal racial outcomes (instead of equal racial opportunity) in American institutions, from higher education to corporate America to the judiciary itself. Watkins gives the example of Justice Sonia Sotomayor pointing to “systemic inequities” (not modern state-sanctioned discrimination) stacked against minorities as justification for her continued endorsement of discrimination against white students in

college admissions. Indeed, much of the diversity, equity, and inclusion regime hinged on distortions of the Fourteenth Amendment. The Founders would not have agreed with Sotomayor’s logic for a multitude of reasons, and neither would the authors of the Fourteenth Amendment itself.

Watkins argues we must return to the originalist understanding of the Fourteenth Amendment. Laymen and experts alike must understand that while it wisely prohibits state and local government from racial discrimination, it leaves the federal system’s structural bones in place. That is how the amendment was offered to the people of the North: as affording freedmen protection in enjoying basic rights, yet otherwise leaving the states that fought to save the union to govern themselves, as they always had. Self-governance was the animating spirit behind the entire Constitution; the Fourteenth Amendment was no exception.

“Man Cannot be Governed but by a Rod of Iron”

At the time of the founding, Jefferson reminded Americans that their experiment rejected the old presumption “that man cannot be governed but by a rod of iron.” The Framers understood the people of each of the thirteen states to be sovereign, and that recognition remains essential to preserving constitutional limits on federal authority and genuine self-government.

To interpret the Constitution faithfully and correctly, one must understand the exalted place of the people of the states. Only the people—not judges, legislators, or executives—can grant powers to their servants in government. These servants are mere agents of the political power, not the source. Watkins defines “agency” as

“a fiduciary relationship in which the principal appoints an agent to conduct designated business. The agent is subject to the principal’s ultimate control and must account for his actions. The principal, then, is superior to the agent.”

In Watkins’s view—and the Founders’ view, too—the people are the principal. Not an amalgamated, abstract mass of “humanity,” but the specific, individual people of the states.

It was their consent—not Washington’s—on which the Constitution rested. It was their liberty—not the prerogatives of distant officials—that the document was crafted to protect. And it is their vigilance today that must restore the boundaries that have eroded under generations of bureaucratic expansion and judicial invention.

Reclaiming the Constitution therefore begins where the Consti-

tution itself began: with ordinary citizens confident in their own dignity and authority. Watkins invites readers to see themselves not as subjects of an overpowering national bureaucracy, but as heirs of a political tradition built on trust in free people. His message is clear: the Constitution still belongs to us. And if we have the courage to understand it—and to insist on its limits—we may yet recover the liberty it was designed to secure.

About the Author



William J. Watkins Jr. is a practicing defense attorney and constitutional scholar, a research fellow at Independent Institute, and an adjunct instructor at Wofford College. He received his B.A. in history and German summa cum laude from Clemson University, his J.D. cum laude from the University of South Carolina School of Law, and his LL.M. with merit from the University of London. Mr. Watkins is a former law clerk to Judge William B. Traxler Jr. of the U.S. Court of Appeals for the Fourth Circuit. He has served as a prosecutor and defense lawyer, and has practiced in various state and federal courts. He is author of the book *Crossroads for Liberty: Recovering the Anti-Federalist Values of America’s First Constitution*.

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