



Written by [Joe Wolverton, II, J.D.](#) on July 18, 2016

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The Services of St. George Tucker

Washington, Adams, Madison, Jefferson, Franklin. All of these Founding Fathers are well known and need no first names.

Tucker, however, is a surname of a member of the founding generation that isn't familiar at all and definitely needs a first name, and what a first name it is: St. George!

St. George Tucker is a man whose name has been erased from the collective memory of Americans, and it is a shame. There was a time when his reputation as an able jurist and a staunch defender of states' rights and republican principles was second to none, save only his fellow Virginian, Thomas Jefferson.



He was a Virginian, but not by birth. Tucker was a transplant from more tropical climes — Bermuda. Born in 1752 to a prominent planter family originally from England, Tucker was the youngest of six children who grew up on the estate his family had owned for over 100 years, Grove Plantation.

As a young child, Tucker was curious and studious. His original plan was to study law at one of the prestigious Inns of Law in England, but financial hardship prevented St. George from following that path.

Undaunted, Tucker was determined to seek his fortune elsewhere, and at 19 years old he followed a pattern established by many of his extended family members and emigrated to America, hoping to take up the study of law in the colonies.

Arriving in Virginia, St. George was tutored for a time in natural law and philosophy by the Reverend Thomas Gwatkin before matriculating at the Old Dominion's finest institution of higher learning, the College of William and Mary.

Unfortunately for Tucker, his family was still passing through very tight fiscal straits, and he was unable to finish his education at William and Mary. Still determined to receive the training he needed to hang out his shingle and begin the practice of law, in 1772 Tucker sought out noted legal scholar and "Teacher of Liberty" George Wythe.

Wythe accepted Tucker as a student, where his name was found among other noted future Founding Fathers, including the future author of the Declaration of Independence, Thomas Jefferson.

After two years under Wythe's tutelage, Tucker was admitted to the bar of Virginia, a colony by now edging ever closer to the brink of hostilities with England.

Supplier, Then Soldier

Just prior to the outbreak of the War for Independence, the courts in Virginia were shut down as armed



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resistance to British policies began spreading throughout the colony. This left Tucker without a reliable source of employment, so he returned to his native Bermuda to make a living.

Just before sailing home, Tucker told his old classmate, Thomas Jefferson, that there was an ammunition depot in Bermuda that could be very helpful to the American cause, particularly as ammunition was constantly in short supply in the Continental Army.

Two American ships sailed to Bermuda, took possession of the material, and sailed back to a very grateful George Washington, delivering to the commander-in-chief a much-needed shipment of ammunition. Later in life, Tucker would relate that he himself helped carry the casks full of powder onto the American vessels.

Naturally sympathetic to the American cause of liberty, Tucker started working in his family's trade enterprise, serving as a liaison between his father and representatives of the American war effort. His first and most lucrative contracts called for violating the British ban on trading with her rebellious colonies, by hauling rifles, ammunition, and salt, invaluable commodities to an army on the verge of collapse and conquer.

Not satisfied with simply supplying the American patriots with weapons, Tucker joined the Virginia militia, serving as a major under Nathanael Greene at the Battle of Guilford Courthouse. Tucker received wounds during this historic battle and was promoted to lieutenant colonel. After his wounds had healed sufficiently, Tucker returned to his unit just in time to participate in the siege of Yorktown in 1781. Here, too, Tucker was injured, and his military career came to an early end.

Sheathing the Sword; Unleashing the Pen

Though his war wounds closed the door on his military career, his extraordinary talent for writing opened a window through which would flow some of the most influential and insightful works of his generation.

Undoubtedly the most influential and well-known of Tucker's postwar writings was his "View of the Constitution," published in 1803.

While working as a professor at William and Mary, Tucker wrote "View of the Constitution," which Liberty Fund describes as "the first extended, systematic commentary on the United States Constitution after its ratification and later its amendment by the Bill of Rights."

The essay began merely as a small section of Tucker's magnum opus, a "republicanized" edition of the unparalleled legal treatise, *Commentaries on the Laws of England* by Sir William Blackstone. A thorough study of Blackstone was undoubtedly the *sine qua non* of legal education in America, but after Tucker's version was published, "generations of American law students, lawyers, judges, and statesmen learned their Blackstone — and also their understanding of the Constitution — through Tucker," Liberty Fund explains.

If he was once so very authoritative on the subject of republicanism and the retained sovereignty of the states and the people under the Constitution, why has Tucker been so completely forgotten? Professor Clyde Wilson, in a foreword to the 1999 edition of "View," posits a couple of possible explanations.

First, his view of the federal government as an agent of the sovereign people of the several states, and not as the judge of the extent of its own powers, was buried by the outcome of the Civil War, the ground



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for the triumphant views of Abraham Lincoln having been well prepared by Justice Joseph Story of the Supreme Court, and lawyer, orator, and Senator Daniel Webster. Second, Tucker's constitutional writings were appended as essays to a multivolume, densely annotated edition of Blackstone's *Commentaries* that was never reprinted.

As the saying goes, winners write history, and as St. George Tucker was firmly planted in Southern soil and was a steadfast supporter of the retained authority of states to refuse to obey unconstitutional acts of the federal government, Tucker was on the losing side of the so-called Civil War.

Beyond erasing St. George Tucker's name from the roster of Founding Fathers, another legacy of the Civil War is the spread of the sentiment that "states' rights" is simply a euphemism for "racist apologist for slavery." While this is facile and ignorant, it is a very common and popular theory, thus anyone associated with defending the Southern cause in the Civil War is painted with that same brush, and all right-thinking Americans are obligated to regard the accused as a person unworthy of study.

So it was with St. George Tucker, and so it remains. But what did he actually say? Too often Americans follow one of two predictable patterns when it comes to the proposition of actually reading and analyzing the writings of the target of the *damnatio memoriae*: First, although curious, they avoid the topic, considering it taboo. Second, they actively resist even reading the words of such a disgraced author, regarding it as a relic of a racist past that is best burned on the altar of Progress or Multiculturalism.

To right this wrong and to arm 21st-century patriots with the power that comes from the pen of a forgotten Founder and advocate of limited government and the states' obligation to reject and refuse to enforce any act of the federal government that exceeds the constitutional boundaries of its power, we here present a brief summary of some of St. George Tucker's "View of the Constitution."

First, a simple primer on the text.

Tucker divides the essay into two parts: first, a recitation of the formation of the Constitution and the nature of the confederacy it created; second, a description of the intended allocation of authority between the states and the federal government.

As for how the Constitution was created, Tucker comes down firmly on the side of the "compact theory," explaining, "The constitution of the United States of America, then, is an original, written, federal, and social compact, freely, voluntarily, and solemnly entered into by the several states of North-America, and ratified by the people thereof, respectively; whereby the several states, and the people thereof, respectively, have bound themselves to each other, and to the federal government of the United States; and by which the federal government is bound to the several states, and to every citizen of the United States."

A compact, Tucker explains, is a type of agreement where "the contracting parties, whether considered as states, in their politic capacity and character; or as individuals, are all equal; nor is there any thing granted from one to another: but each stipulates to part with, and to receive the same thing, precisely, without any distinction or difference in favor of any of the parties."

Next, Tucker puts a finer point on the issue, positing that the Constitution is "a federal compact; several sovereign and independent states may unite themselves together by a perpetual confederacy, without each ceasing to be a perfect state."



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Regarding the retention of authority by the states that formed the federal government, Tucker reveals the real, proper relationship between states and the central government:

The state governments not only retain every power, jurisdiction, and right not delegated to the United States, by the constitution, nor prohibited by it to the states, but they are constituent and necessary parts of the federal government; and without their agency in their politic character, there could be neither a senate, nor president of the United States; the choice of the latter depending mediately, and of the former, immediately, upon the legislatures of the several states in the union.

Tucker puts a final touch on the topic, saying, “The powers delegated to the federal government being all positive, and enumerated, according to the ordinary rules of construction, whatever is not enumerated is retained.”

Tucker didn’t view the Constitution through rose-colored glasses. In fact, he recognized that “all governments have a natural tendency towards an increase, and assumption of power.... and the administration of the federal government has too frequently demonstrated that the people of America are not exempt from this vice in their constitution.”

What, then, could keep the people powerful enough to throw off a tyrant who has repeatedly encroached upon the liberty of the people? Tucker had an answer for that one, too, that could not be more contemporarily relevant. Regarding the Second Amendment, Tucker wrote:

This may be considered as the true palladium of liberty.... The right of self defense is the first law of nature: in most governments it has been the study of rulers to confine this right within the narrowest limits possible. Wherever standing armies are kept up, and the right of the people to keep and bear arms is, under any color or pretext whatsoever, prohibited, liberty, if not already annihilated, is on the brink of destruction.

In light of his fearless and historically sound support of the power of states to disregard any act of the federal government that is not clearly granted by the states in the Constitution, it isn’t hard to see why the Powers That Be have scrubbed the name, legacy, and constitutional interpretation of St. George Tucker from the history of the post-Revolutionary era.

Now, however, the effort to hide St. George Tucker’s exemplary scholarship under a bushel is nullified, and Americans are once again familiar with a prolific and persuasive member of the founding generation whose “View of the Constitution” needs to be read, reread, and remembered by those striving to restore constitutional liberty to this Republic.



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