"We the Citizens?": A Corpus Linguistic Inquiry into the Use of "People" and "Citizens" in the Founding Era

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“WE THE CITIZENS?”:
A CORPUSLINGUISTIC INQUIRY INTO THE USE
OF “PEOPLE” AND “CITIZENS” IN THE
FOUNDING ERA

Abigail Stout, Diana Coetzee, & Ute Römer*

INTRODUCTION

The last Amendment included in the Bill of Rights, the Tenth Amendment, states: “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.”¹ Employed as a tool to invalidate statutes² and also interpreted as a “truism,”³ ultimately the Tenth Amendment has largely been regarded as an Amendment which explicitly secures what the Constitution sets forth in its structural framework: that the United States government is a federalist system, meaning that it is one of shared powers between the national government and state governments. However, a closer examination of the Amendment reveals that a portion of the Tenth Amendment—specifically, its last three words, “to the people”—is conspicuously absent from the Supreme Court’s treatment and analysis of the Amendment. Additionally, people is not the only reference to individuals in the Constitution. The Constitution is written in terms of people and citizens, which generates the question: how were those two words used differently during the Founding Era?

* We would like to express our gratitude to Clark Cunningham for supporting this collaborative research and for his contributory feedback on earlier versions of this article. The research reported in this article was presented at a Workshop on Law & Linguistics, hosted by Georgia State University, Friday, October 18, 2019. The PowerPoint and video from the Georgia State presentation, including comments by William Edmundson, are available at: http://www.clarkcunningham.org/Workshop-Law-Linguistics.html.

¹ U.S. CONST. amend. X.
³ See, e.g., United States v. Darby, 312 U.S. 100, 124 (1941).
This Article addresses the background and historical context of *the people* as used in the Tenth Amendment; prior research on the word *people* as used in the Tenth Amendment and the research question for this Article; the corpus methodology for analyzing this research question; and a comparative analysis of the words *people* and *citizens*.

I. Background and Historical Context

A. Legislative History of the Phrase “to the People” and the Tenth Amendment

The Tenth Amendment’s text provides: “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.”

The Amendment originates from the Articles of Confederation. Although the Articles of Confederation stated, in relevant part, that “[e]ach State retains its Sovereignty, freedom and independence, and every Power, Jurisdiction and right, which is not by this confederation expressly delegated to the United States,” Congress intentionally rejected and omitted the word “expressly” as a qualification of granted powers in the Tenth Amendment.

Additionally, when originally proposed, the Tenth Amendment did not include the phrase “to the people” but concluded with “to the
States respectively.” The phrase “to the people” was added after Daniel Carroll, a delegate from Maryland, proposed the addition on the floor of the House of Representatives. This idea was not completely original to him, however. When an earlier version of the Tenth Amendment was under discussion, Thomas Tudor Tucker, a delegate from South Carolina, “proposed to amend the proposition, by prefixing to it ‘all powers being derived from the people.’ He thought this a better place to make this assertion than the introductory clause [i.e., Preamble] of the constitution, where a similar sentiment was proposed by the committee.” Although Tucker’s addition was ultimately not included in the Tenth Amendment, this sentiment was still achieved through Carroll’s floor amendment, which added the Tenth Amendment’s last three words.

This inclusion of “the people” into the Tenth Amendment was also a nod to what many State constitutions (and thus many United States Senators and Representatives who were in the First Congress crafting the Bill of Rights) acknowledged and understood: that power originates with the people. For example, the preamble of the Georgia Constitution began: “We, therefore, the representatives of the people, from whom all power originates, and for whose benefit

7. Madison Resolution (June 8, 1789), in Creating the Bill of Rights: The Documentary Record from the First Federal Congress 11, 14 (Helen E. Veit et al. eds., 1991). Specifically, James Madison’s original Tenth Amendment proposal stated, “The powers not delegated by this constitution, nor prohibited by it to the states, are reserved to the states respectively.”

   In connection with the offered [T]enth [A]mendment, that, “The powers not delegated by the Constitution nor prohibited to it by the States, are reserved to the States respectively,” Daniel Carroll proposed that there be added “or to the people.” . . . Herein Carroll gave pledge of his belief in states’ rights and his recognition of the people of the states.

Id.
10. Id.
11. See Ga. Const. of 1777 pmbl.; see also N.J. Const. of 1776 pmbl. (“[A]ll the constitutional authority ever possessed by the kings of Great Britain over these colonies, or their other dominions, was, by compact, derived from the people, and held of them, for the common interest of the whole society. . . .”); S.C. Const. of 1776 pmbl. (“[S]ome mode [of government] should be established by common consent, and for the good of the people, the origin and end of all governments . . .”).
all government is intended . . . do ordain and declare . . . .”¹² The inclusion of “the people” indicated that Congress desired to acknowledge the people’s role in the creation of and relationship to government as a whole. However, despite the addition of this language, it has had little to no impact on American jurisprudence.

B. Supreme Court Treatment of the Tenth Amendment

The Supreme Court’s treatment of the Tenth Amendment has been inconsistent, fluctuating between a variety of interpretations.¹³ One interpretation has been that the Tenth Amendment is a mere reminder that Congress may act only if it has express or implied authority.¹⁴ On the other end of the spectrum, the Supreme Court has also interpreted the Tenth Amendment to reserve a zone of activities to the States and prohibit Congress from intruding into this zone, even when it is exercising its legislative power pursuant to Article I of the Constitution.¹⁵

Although, in its early years, the Tenth Amendment was “frequently invoked to curtail powers expressly granted to Congress, notably the powers to regulate commerce, to enforce the Fourteenth Amendment, and to lay and collect taxes,” this view was abandoned in 1937.¹⁶ After 1937, the Tenth Amendment then became a mere “reminder” that Congress may act only if there is express or implied authority.¹⁷ In fact, in stark contrast to its mid-nineteenth to mid-twentieth century reign, “[f]rom 1937 until 1976, not [a] single

¹². GA. CONST. of 1777 pmbl. (emphasis added).
¹⁴. See, e.g., United States v. Sprague, 282 U.S. 716, 733–34 (1931) (“The Tenth Amendment was intended to confirm the understanding of the people at the time the Constitution was adopted, that powers not granted to the United States were reserved to the states or to the people. It added nothing to the instrument as originally ratified . . . .”). These “early years” lasted for approximately a century—from the death of Chief Justice Marshall until 1937. Tenth Amendment, supra note 13.
¹⁵. See, e.g., New York v. United States, 505 U.S. 144, 156 (1992); Tenth Amendment, supra note 13.
¹⁶. GARCIA ET AL., supra note 6, at 1778.
¹⁷. Tenth Amendment, supra note 13.
federal law was declared unconstitutional as violating the [T]enth [A]mendment.”

From 1937 to 1976, the language in United States v. Darby—that “[t]he amendment states but a truism that all is retained which has not been surrendered”—perhaps best summed up the Court’s view on the Tenth Amendment. However, in 1976, the Court once again invoked the Tenth Amendment in National League of Cities v. Usery to declare a federal law that required state and local governments to pay their employees the minimum wage unconstitutional. However, this reemergence of the Tenth Amendment’s power was short-lived. Approximately a decade later, after the Supreme Court and lower courts struggled to define the content of the Tenth Amendment, the Court expressly overruled National League of Cities in Garcia v. San Antonio Metropolitan Transit Authority, declaring that the Tenth Amendment would not be used as a basis for invalidating federal legislation. The Court reasoned that it had “proven impossible to define a zone of activities reserved to the states and, in addition, the interests of states were adequately protected in the national political process.”

Despite its seemingly settled position, the Supreme Court employed the Tenth Amendment as a basis for declaring a federal law unconstitutional in New York v. United States less than a decade later. In New York, the Court held that the Low Level Radioactive

18. Id.
19. United States v. Darby, 312 U.S. 100, 124 (1941). In full, the Court stated: The amendment states but a truism that all is retained which has not been surrendered. There is nothing in the history of its adoption to suggest that it was more than declaratory of the relationship between the national and state governments as it had been established by the Constitution before the amendment or that its purpose was other than to allay fears that the new national government might seek to exercise powers not granted, and that the states might not be able to exercise fully their reserved powers.

Id.
22. Tenth Amendment, supra note 13.
Waste Disposal Act, a statute that forced States to adopt laws and regulations to clean up nuclear waste or to take title to it, was unconstitutional. It reasoned that Congress violates the Tenth Amendment when it conscripts state governments as its agents and forces them to enact laws or adopt regulations. Notably, however, the Court did not overrule Garcia.

Approximately five years later in Printz v. United States, the Supreme Court held that the Brady Handgun Violence Prevention Act’s interim provision, which commanded the chief law enforcement officer of each local jurisdiction to perform background checks, was unconstitutional. The Court reasoned in part that the constitutional scheme of “dual sovereignty” is a system in which States retain a “residuary and inviolable sovereignty,” although States do surrender many powers to the federal government. The Court also noted that “the power of the Federal Government would be augmented immeasurably if it were able to impress into its service—and at no cost to itself—the police officers of the 50 States.”

In his dissenting opinion in the 2012 Affordable Care Act case, National Federation of Independent Business v. Sebelius, Justice Scalia wrote:

What is absolutely clear, affirmed by the text of the 1789 Constitution, by the Tenth Amendment ratified in 1791, and by innumerable [Supreme Court] cases . . . is that there are structural limits upon federal power—upon what it can

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24. New York, 505 U.S. at 188.
25. Id.; Tenth Amendment, supra note 13.
28. Id. at 918–20.
29. Id. at 922. This reasoning also implicates the “anticommandeering doctrine,” which was pioneered in New York v. United States and is simply one way the Court has represented the recognition of a limit on the federal government or congressional authority. See Murphy v. NCAA, 138 S. Ct. 1461, 1476 (2018). Notably, the anticommandeering doctrine remains silent on the “to the people” portion of Tenth Amendment, focusing strictly on federalism by recognizing the coexisting sovereignty of the federal and State governments without addressing the people’s sovereignty at all. Id.
prescribe with respect to private conduct, and upon what it can impose upon the sovereign States. Whatever may be the conceptual limits upon the Commerce Clause and upon the power to tax and spend, they cannot be such as will enable the Federal Government to regulate all private conduct and to compel the States to function as administrators of federal programs.30

Similarly, in 2018, Murphy v. NCAA recognized that the “legislative powers granted to Congress are sizable, but they are not unlimited. The Constitution confers on Congress not plenary legislative power but only certain enumerated powers. Therefore, all other legislative power is reserved for the States, as the Tenth Amendment confirms.”31

Significantly, in all of the Supreme Court’s inconsistency in applying the Tenth Amendment, it has strictly and exclusively focused on the Tenth Amendment as an instrument for federalism: the relationship between the federal government and the States. It has not engaged in any meaningful analysis of the “to the people” phrase in the Amendment’s text or the seemingly apparent tri-party power structure of the Amendment.

II. Prior Research and Current Research Question

A. Prior Research

This Article originated from a research seminar paper written by Abigail Stout for a course taught by Clark Cunningham at the Georgia State University College of Law in Atlanta, Georgia. Diana Coetzee, then completing an M.A. in Applied Linguistics at Georgia State University,32 was a research and teaching assistant to

31. See Murphy, 138 S. Ct. at 1476.
32. One of the research and teaching foci of the GSU Department of Applied Linguistics and ESL (http://alsl.gsu.edu) is Corpus Linguistics. Four of the graduate faculty members in the department (Viviana Cortes, Scott Crossley, Eric Friginal, and Ute Römer) specialize in this area.
Cunningham and assisted Stout with her linguistic research. We used the *Corpus of Founding Era American English (COFEA)*\(^{33}\) for a majority of the research both in the original paper and this expanded study. *COFEA* includes six sources dating from 1760–1799: Evans Early American Imprints, Founders Online, HeinOnline, Farrand’s Records, United States Statutes at Large, and Elliot’s Debates.\(^{34}\) The corpus consists of over 126,000 texts which make up over 136,800,000 words.\(^{35}\)

Our spring research particularly focused on the linguistic and legal relationship between *power* and *people* in the Tenth Amendment, especially when viewed in light of the political theories that influenced the Framers and the federalism concepts that are embedded in the Constitution. Through this initial research, we discovered that the verb *delegate* was a significant word in the Tenth Amendment because it designated the agent of the power. After delving more deeply into the corpus data, strong patterns emerged. Initial research found that whenever *delegate* (or its inflected forms *delegates* or *delegated*) was used in the context of *the people’s power* or the *power of the people*, it was almost exclusively used in the context of the people delegating power. Significantly, based on *COFEA* data, power was never delegated to *the people*. Oftentimes, this delegation of power from *the people* was to the government for the government’s formation and authority to act. Some examples from the dataset are helpful in illustrating this point. One source recounts:

\(^{33}\) *Corpus of Founding Era American English (COFEA)*, BYU L. CORPUS LINGUISTICS, https://lawcorpus.byu.edu [https://perma.cc/7BSZ-R3D8]. *COFEA* was created by the J. Reuben Law School at Brigham Young University. See Stephanie Frances Ward, *New Web Platform Helps Users Research Meanings of Words Used in Constitution, Supreme Court Opinions*, A.B.A. J. (Sept. 17, 2018, 8:00 AM), http://www.abajournal.com/news/article/new_web_platform_helps_users_research_meanings_of_words_used_in_constitutio [https://perma.cc/MEE5-WPEK]. Both the data in *COFEA* and basic online search tools are freely available at: https://lawncl.byu.edu/. Access to *COFEA* requires registration using a Google or Gmail account to guard against hacking.


\(^{35}\) *Id.*
In the social compact, or constitution of a nation, the powers of legislation are the first and supreme powers delegated by the people, who are the sovereign, and, of right, have and retain the control of all the powers of government, in society, at pleasure.... So that, in the present case, though the constitution hath vested the president and senate of the United States, with the general power of making treaties; yet this power, at highest, is but a subordinate power and whenever assured or carried beyond the laws of the land, or to the subversion or infringement of the powers, by the people in social compact.  

In the records of The Debates in the Several State Conventions on the Adoption of the Federal Constitution, Edmund Pendleton, a leader at the Convention and later the first Chief Justice of Virginia, stated:

Who shall dare to resist the people? No, we will assemble in Convention; wholly recall our delegated powers, or reform them so as to prevent such abuse; and punish those servants who have perverted powers, designed for our happiness, to their own emolument. We ought to be extremely cautious not to be drawn into dispute with regular government, by faction and turbulence, its natural enemies. Here, then, sir, there is no cause of alarm on this side; but on the other side, rejecting of government, and dissolving of the Union, produce confusion and despotism.

But an objection is made to the form: the expression, We, the people, is thought improper. Permit me to ask the gentleman who made this objection, who but the people can delegate powers? Who but the people have a right to form

government? The expression is a common one, and a favorite one with me. The representatives of the people, by their authority, is a mode wholly inessential. If the objection be, that the Union ought to be not of the people, but of the state governments, then I think the choice of the former very happy and proper.37

An oration in the late 1790s also identifies the most familiar principle of liberty as being “that power originates with the people, and is subject to their modification.” Relevantly, a political disquisition from 1775 states:

ALL lawful authority, legislative, and executive, originates from the people. Power in the people is like light in the sun, native, original, inherent, and unlimited by anything human. In governors, it may be compared to the reflected light of the moon; for it is only borrowed, delegated, and limited by the intention of the people, whose it is, and to whom governors are to consider themselves as responsible, while the people are answerable only to God; themselves being the losers, if they pursue a false scheme of politics. Of which more hereafter.

As the people are the fountain of power, so are they the object of government, in such manner, that where the people are safe, the ends of government are answered, and where the people are sufferers by their governors, those governors have failed of the main design of their institution, and it is of no importance what other ends they may have answered.

As the people are the fountain of power, and object of government, so are they the last resource, when governors betray their trust.\footnote{1 JAMES BURGH, POLITICAL DISQUISITIONS: OR, AN ENQUIRY INTO PUBLIC ERRORS, DEFECTS, AND ABUSES 3–4 (London, E. & C. Dilly 1774) (emphasis added).}

These and other numerous examples, along with distinct patterns in the corpus, provide support for the proposition that whenever people and power appeared near each other, the ultimate governmental-related power resided in the people.

Following these results of the COFEA analysis, which indicated that people were the source and delegators of power, we turned to the inquiry of identifying what specific powers were exclusively reserved to the people, if any.

One such power is the people’s elective power. Many of the COFEA texts seem to suggest that the people’s elective powers are a way to indirectly assert their own sovereign powers and hold their legislators politically accountable. This political accountability appears to be largely aimed at protecting the people’s individual rights, including protecting themselves against an infringement on their individual liberty. For example, James Otis—a famous political activist and Massachusetts legislator—wrote the following in 1764, many years before the Constitutional Convention, expressly invoking famous political philosopher John Locke on the subject:

I shall close this introduction with a passage from Mr. Locke. “[T]hough, says he, in a constituted common wealth, standing upon its own basis, and acting according to its own nature, that is, acting for the preservation of the community, there can be but one supreme power which is the legislative, to which all the rest are and must be subordinate; yet the legislative being only a fiduciary power, to act for certain ends, there remains still, “in the people, a supreme power to remove, or alter, the legislative

\footnote{1 JAMES BURGH, POLITICAL DISQUISITIONS: OR, AN ENQUIRY INTO PUBLIC ERRORS, DEFECTS, AND ABUSES 3–4 (London, E. & C. Dilly 1774) (emphasis added).}
when they find the legislative act contrary to the trust reposed in them.” For all power given, with trust for the attaining an end, limited by that end, whenever that end is manifestly neglected, or opposed, the trust must necessarily be forfeited, and the power devolve into the hands of those who gave it, who may place it anew where they shall think best, for their safety and security. And thus the community perpetually retains a supreme power of saving themselves from the attempts and designs of anybody, even of their legislators whenever they shall be so foolish, or so wicked, as to lay and carry on designs, against the liberties and properties of the subject.39

Another writing from Noah Webster to Thomas Jefferson in 1790 is also illuminating:

That every right claimed by a citizen of a free government is liable to vary with circumstances; except what rest wholly on the moral law; that therefore every right, created by political law, should be always subject to be modified by the power that created it, viz. the will of the state, which is always the will of the delegation. — That in short, the election and organization of the body which is to express the will of the state, is the only power which the people and a convention can exercise, and the only power which an ordinary legislature can not.40

Roger Griswold, a Connecticut Congressman, Governor, and State Supreme Court Justice, recognized in the Fourth Congress:

All laws originate from the people. The laws enacted by the Legislature are nothing more than the expression of their will. And shall not the people have the power to annul, by one agent, those laws, which they have established by other agents? The hands of the people are not tied; the same right which gave them the power to make statutes by a Legislature, gives them the power of repealing those statutes by Treaty, whenever they find it useful so to repeal them.  

Some have argued that this elective power of the people was a better protector of the people's rights than a bill of rights. For example, during the debates surrounding the Constitution’s adoption, Edmond Pendleton stated:

While we are in pursuit of checks, and balances, and proper security in the delegation of power, we ought never to lose sight of the representative character. By this we preserve the great principle of the primary right of power in the people; and should deviations happen from our interest, the spirit of liberty, in future elections, will correct it—a security I esteem far superior to paper bills of rights.

When the bands of our former society were dissolved, and we were under the necessity of forming a new government, we established a constitution founded on the principle of representation, preserving therein frequency of elections, and guarding against inequality of suffrage.

Finally, Ira Allen, one of the founders of the State of Vermont, stated the following in a Lockean-influenced address to the Vermont General Assembly:

41. 5 ANNALS OF CONG. 478 (1855) (emphasis added).
42. THE DEBATES, supra note 37, at 298.
“That all power being originally inherent in, and consequently derived from the people; therefore all officers of government, whether legislative or executive, are their trustees and servants, and at all times accountable to them. . . .” I readily grant that all governmental power was in the people before they formed any mutual compacts; but by reason of vile and vicious men, it became necessary to have some known rules or form of government, to protect the virtuous, and punish the vicious. In order to form such rules or laws, as people were numerous and scattered, it became necessary to chuse and send representatives, in order to which, individuals must give up to their representatives their natural right of legislation, for such term of time as should be mutually agreed, on such representatives proceeding to form any laws or mode of government, they would act by the authority of the people; and should the people, after the publication of such mode of government or law, by their own voluntary consent, accept of the same, there cannot be the least doubt but that they would be bound by such constitution or law; and in erecting an executive branch of government, the people would give up to such magistrates as they should elect, their natural right of executive power, for the more easy and convenient exercise of the same, and for their common good, for such term of time, and in such manner as should be specified in such constitution or law as they should mutually assent to. It is to be observed that “all officers of government, whether legislative or executive, are their trustees and servants, and at all times accountable to them.”43

These example texts demonstrate the strong sentiment in the Founding Era that the power originates from and ultimately belongs to the people who then relinquish it to the government once a government is established. However, a significant caveat to this relinquishment of power—is one of the people’s seemingly-retained power—their elective power—as manifested through the election process to hold legislators and other government officials accountable to the populous.

B. Current Research Question

Upon an invitation to revise our spring seminar paper and present interdisciplinary approaches to answering legal questions at the Georgia State Law & Linguistics workshop,44 we sought to develop a research question that could build upon the research performed in the spring. It struck us that, unlike typical modern-day speech, the language of the Founding Era captured in COFEA often referred to the people as being the group of individuals electing officials. This is contrary to twenty-first century American rhetoric, which often refers to citizens—rather than people—as those who effectuate the voting.45 In fact, the right to vote is often viewed as one of the most characteristic and basic rights associated with citizenship; the United States Attorney’s Office has called it “one of the defining elements of a representative republic,” and the White House calls it “[o]ne of the most important rights of American citizens.”46 However, the Bill of Rights—widely viewed as the protector of individual rights and

liberties—does not use the word *citizen* or *citizens*.\(^{47}\) Instead, these rights are secured to the *people*, as the term appears in the First, Second, Fourth, Ninth, and Tenth Amendments.\(^{48}\) This divergent use of *people* in some instances and *citizens* in other instances in the Constitution led us to the following research question: During the Founding Era, how were the words *people* and *citizens* used differently, especially in terms of constructs that convey agency?

### III. Methodology

To answer this research question, we conducted a comparative analysis of *people* and *citizens* and their respective linguistic patterns using two corpora. We worked with both the online version of COFEA and a corpus composed of the public papers of James Madison available from Founders Online, consisting of 10,729,712 words. While earlier texts written by James Madison are included in COFEA, the Madison corpus goes beyond COFEA in that it also includes texts from Founders Online that extend into the 1800s.\(^{49}\) Using two corpora enabled us to carry out more detailed analyses of the linguistic patterns around *people* and *citizens*. We normalized the frequencies of all results to 1 million, which allowed us to compare findings across corpora.

We used a combination of corpus-linguistic research methods in this study. First, we determined the frequencies of the words *people* and *citizens*. We then extracted collocations of the search terms (i.e., words that frequently occur in the immediate lexical context of the search terms). We also retrieved lists of fixed recurring phrases (commonly referred to as “n-grams” or “word clusters”) that the search terms often occur in. In a subsequent qualitative analysis,
multiple instances of selected high-frequency clusters containing *people* and *citizens* were studied in their larger textual context in concordances. This concordance analysis allowed us to see how *people* and *citizens* were used in Founding Era texts and what meanings they were associated with.

Initially, we searched COFEA to determine the frequencies of each term. We found that *people* has a frequency of 886.4 per million words (118,325 instances), while *citizens* has a frequency of 199.2 per million words (26,585 instances). To compare these figures to current use, we looked up both items in the 560-million-word *Corpus of Contemporary American English* 50 (COCA). In COCA, *people* has a frequency of 1,743.3 per million words (976,270 instances), whereas *citizens* has a frequency of 65.1 per million words (36,467 instances). This shows that, during both time periods, *people* was used considerably more frequently than *citizens*, although this difference is even more pronounced in contemporary American English than in texts produced by the Founders.

To further compare these two words, we extracted frequency-sorted lists of their collocates (words that occur within five words to the left and to the right of each term). 51 Table 1 shows the ten most frequent collocates of both search terms, *people* and *citizens*. The, of, and, to, by, and their are frequent linguistic neighbors of both terms. In corpus linguistics, a general underlying assumption is that “repeated events are significant” 52 as they capture what is typical in the language (or in a specific subset of it). Frequency in a specialized corpus affords apparent evidence that a form, if repeated, is significant in that corpus of texts. 53

From our previous discussions of agency, we can see that both *people* and *citizens* frequently collocate with the word *by*, which

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could lead us to find what action is conducted by each group. In order to do so, however, we need to look beyond single words that co-occur with our search terms and examine the larger context and longer sequences that contain them, with a particular focus on verbs that specify what is “done” by the people or citizens.

Table 1: Top 10 collocates of “citizens” and “people” in COFEA

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<td>of</td>
<td>76,759</td>
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<td>and</td>
<td>42,089</td>
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<td>to</td>
<td>41,607</td>
<td>311.7</td>
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<td>a</td>
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<td>17,824</td>
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<td>by</td>
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<td>2,973</td>
<td>22.3</td>
<td>1,242</td>
</tr>
<tr>
<td>fellow</td>
<td>2,953</td>
<td>22.1</td>
<td>1,132</td>
</tr>
<tr>
<td>by</td>
<td>2,792</td>
<td>20.9</td>
<td>1,105</td>
</tr>
<tr>
<td>or</td>
<td>2,783</td>
<td>20.9</td>
<td>809</td>
</tr>
</tbody>
</table>

In a next analytic step, we loaded the James Madison corpus from Founders Online into the offline concordance tool AntConc, which allowed us to generate lists of n-grams, or fixed sequences of n words, ranging from three to five words (i.e., 3- to 5-grams), which contain people and citizens in any position (e.g., the people of, citizens of the United States). This process enabled us to observe, within the relevant genre, longer phrases that the search terms people and citizens frequently occur in—something that is not possible in COFEA, which does not have an n-gram tool. The public papers of James Madison were relevant to the search query because Madison has been referred to as the “master builder of the Constitution.”

Table 2 lists the thirty-five most frequent n-grams containing *people* and *citizens* in the James Madison corpus. We see that both *by the people* and *by the citizens* are among the most frequently used phrases in this corpus and that, with 262 instances, *by the people* is considerably more frequent than *by the citizens* which occurs fifty-three times in this COFEA subcorpus. We then searched for both phrases in the entire COFEA and found that *by the people* has a frequency of 2,882 (21.06 per million words), whereas *by the citizens* only occurs 417 times (3.05 per million words).

Table 2: Top 35 n-grams with “people” and “citizens” in COFEA

<table>
<thead>
<tr>
<th>People</th>
<th></th>
<th></th>
<th>Citizens</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Frequency</strong></td>
<td><strong>Per Mio</strong></td>
<td><strong>Range</strong></td>
<td><strong>n-gram</strong></td>
<td><strong>Frequency</strong></td>
<td><strong>Per Mio</strong></td>
</tr>
<tr>
<td>1555</td>
<td>144.9</td>
<td>1034</td>
<td>of the people</td>
<td>694</td>
<td>64.7</td>
</tr>
<tr>
<td>940</td>
<td>87.6</td>
<td>717</td>
<td>the people of</td>
<td>537</td>
<td>50.0</td>
</tr>
<tr>
<td>423</td>
<td>39.4</td>
<td>348</td>
<td>to the people</td>
<td>391</td>
<td>36.4</td>
</tr>
<tr>
<td>380</td>
<td>35.4</td>
<td>300</td>
<td>people of the</td>
<td>389</td>
<td>36.3</td>
</tr>
<tr>
<td>318</td>
<td>29.6</td>
<td>260</td>
<td>the people of the</td>
<td>326</td>
<td>30.4</td>
</tr>
<tr>
<td>262</td>
<td>24.4</td>
<td>189</td>
<td>by the people</td>
<td>259</td>
<td>24.1</td>
</tr>
<tr>
<td>259</td>
<td>24.1</td>
<td>220</td>
<td>of the people of</td>
<td>236</td>
<td>21.9</td>
</tr>
<tr>
<td>206</td>
<td>19.2</td>
<td>187</td>
<td>that the people</td>
<td>162</td>
<td>15.1</td>
</tr>
<tr>
<td>196</td>
<td>18.3</td>
<td>185</td>
<td>the people in</td>
<td>156</td>
<td>14.5</td>
</tr>
<tr>
<td>173</td>
<td>16.1</td>
<td>154</td>
<td>people of this</td>
<td>144</td>
<td>13.4</td>
</tr>
<tr>
<td>156</td>
<td>14.5</td>
<td>142</td>
<td>the people of this</td>
<td>138</td>
<td>12.9</td>
</tr>
<tr>
<td>139</td>
<td>12.9</td>
<td>127</td>
<td>to the people of</td>
<td>136</td>
<td>12.7</td>
</tr>
<tr>
<td>133</td>
<td>12.4</td>
<td>124</td>
<td>the people are</td>
<td>123</td>
<td>11.5</td>
</tr>
<tr>
<td>Page</td>
<td>Line</td>
<td>Group</td>
<td>Word</td>
<td>Line</td>
<td>Group</td>
</tr>
<tr>
<td>------</td>
<td>------</td>
<td>-------</td>
<td>------</td>
<td>------</td>
<td>-------</td>
</tr>
<tr>
<td>128</td>
<td>11.9</td>
<td>123</td>
<td>the people to</td>
<td>118</td>
<td>10.9</td>
</tr>
<tr>
<td>125</td>
<td>11.6</td>
<td>109</td>
<td>the American people</td>
<td>99</td>
<td>9.2</td>
</tr>
<tr>
<td>119</td>
<td>11.1</td>
<td>99</td>
<td>the people at</td>
<td>86</td>
<td>8.1</td>
</tr>
<tr>
<td>117</td>
<td>10.9</td>
<td>99</td>
<td>people of the United</td>
<td>79</td>
<td>7.4</td>
</tr>
<tr>
<td>114</td>
<td>10.6</td>
<td>97</td>
<td>people of the United states</td>
<td>76</td>
<td>7.1</td>
</tr>
<tr>
<td>111</td>
<td>10.3</td>
<td>99</td>
<td>the people, and</td>
<td>75</td>
<td>7.0</td>
</tr>
<tr>
<td>101</td>
<td>9.4</td>
<td>84</td>
<td>people at large</td>
<td>74</td>
<td>6.9</td>
</tr>
<tr>
<td>101</td>
<td>9.4</td>
<td>89</td>
<td>the people of the United</td>
<td>73</td>
<td>6.8</td>
</tr>
<tr>
<td>98</td>
<td>9.1</td>
<td>81</td>
<td>the people at large</td>
<td>72</td>
<td>6.7</td>
</tr>
<tr>
<td>93</td>
<td>8.7</td>
<td>91</td>
<td>of the people in</td>
<td>70</td>
<td>6.5</td>
</tr>
<tr>
<td>90</td>
<td>8.4</td>
<td>82</td>
<td>among the people</td>
<td>66</td>
<td>6.2</td>
</tr>
<tr>
<td>89</td>
<td>8.3</td>
<td>77</td>
<td>of the people of the</td>
<td>66</td>
<td>6.2</td>
</tr>
<tr>
<td>88</td>
<td>8.2</td>
<td>73</td>
<td>people of America</td>
<td>64</td>
<td>5.9</td>
</tr>
<tr>
<td>82</td>
<td>7.6</td>
<td>76</td>
<td>and the people</td>
<td>60</td>
<td>5.6</td>
</tr>
<tr>
<td>81</td>
<td>7.5</td>
<td>78</td>
<td>people in the</td>
<td>59</td>
<td>5.5</td>
</tr>
<tr>
<td>80</td>
<td>7.4</td>
<td>66</td>
<td>the people of America</td>
<td>59</td>
<td>5.5</td>
</tr>
<tr>
<td>78</td>
<td>7.3</td>
<td>72</td>
<td>body of the people</td>
<td>58</td>
<td>5.4</td>
</tr>
<tr>
<td>78</td>
<td>7.3</td>
<td>74</td>
<td>that the people of</td>
<td>57</td>
<td>5.3</td>
</tr>
<tr>
<td>75</td>
<td>7.0</td>
<td>64</td>
<td>on the people</td>
<td>56</td>
<td>5.2</td>
</tr>
</tbody>
</table>
Subsequently, these phrases, *by the people* and *by the citizens*, underwent an even closer examination. We first extracted verb collocates that occur in the left-hand context of both n-grams from COFEA. The top twenty-five verb collocates, in a context span of up to six words to the left (6L) of each phrase, are listed in Table 3 below. They include all words in this collocate span that are labeled as verbs or verb forms in COFEA.

Table 3: Top 25 verb collocates to the left of the phrases “by the people” and “by the citizens” in COFEA

<table>
<thead>
<tr>
<th>Collocate</th>
<th>Frequency</th>
<th>Per Mio</th>
<th>Range</th>
<th>Collocate</th>
<th>Frequency</th>
<th>Per Mio</th>
<th>Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>be</td>
<td>621</td>
<td>4.7</td>
<td>396</td>
<td>be</td>
<td>110</td>
<td>0.82</td>
<td>75</td>
</tr>
<tr>
<td>chosen</td>
<td>470</td>
<td>3.5</td>
<td>285</td>
<td>chosen</td>
<td>29</td>
<td>0.22</td>
<td>19</td>
</tr>
<tr>
<td>was</td>
<td>263</td>
<td>2.0</td>
<td>182</td>
<td>is</td>
<td>29</td>
<td>0.22</td>
<td>29</td>
</tr>
<tr>
<td>elected</td>
<td>224</td>
<td>1.7</td>
<td>162</td>
<td>was</td>
<td>26</td>
<td>0.19</td>
<td>26</td>
</tr>
<tr>
<td>is</td>
<td>205</td>
<td>1.5</td>
<td>159</td>
<td>are</td>
<td>22</td>
<td>0.16</td>
<td>20</td>
</tr>
<tr>
<td>are</td>
<td>190</td>
<td>1.4</td>
<td>141</td>
<td>been</td>
<td>15</td>
<td>0.11</td>
<td>15</td>
</tr>
<tr>
<td>been</td>
<td>183</td>
<td>1.4</td>
<td>145</td>
<td>held</td>
<td>15</td>
<td>0.11</td>
<td>13</td>
</tr>
<tr>
<td>were</td>
<td>162</td>
<td>1.2</td>
<td>127</td>
<td>enjoyed</td>
<td>14</td>
<td>0.10</td>
<td>13</td>
</tr>
<tr>
<td>made</td>
<td>83</td>
<td>0.60</td>
<td>71</td>
<td>sustained</td>
<td>14</td>
<td>0.10</td>
<td>12</td>
</tr>
<tr>
<td>appointed</td>
<td>82</td>
<td>0.60</td>
<td>69</td>
<td>made</td>
<td>12</td>
<td>0.09</td>
<td>11</td>
</tr>
<tr>
<td>being</td>
<td>80</td>
<td>0.59</td>
<td>69</td>
<td>paid</td>
<td>11</td>
<td>0.08</td>
<td>9</td>
</tr>
<tr>
<td>had</td>
<td>73</td>
<td>0.55</td>
<td>64</td>
<td>owned</td>
<td>10</td>
<td>0.08</td>
<td>9</td>
</tr>
<tr>
<td>paid</td>
<td>51</td>
<td>0.38</td>
<td>40</td>
<td>exercised</td>
<td>9</td>
<td>0.07</td>
<td>9</td>
</tr>
<tr>
<td>given</td>
<td>43</td>
<td>0.32</td>
<td>37</td>
<td>appointed</td>
<td>8</td>
<td>0.06</td>
<td>6</td>
</tr>
<tr>
<td>has</td>
<td>36</td>
<td>0.27</td>
<td>35</td>
<td>being</td>
<td>8</td>
<td>0.06</td>
<td>8</td>
</tr>
</tbody>
</table>
The verbs listed in Table 3 include various forms of the verb *to be* in both the *by the people* and *by the citizens* lists. Through a closer examination of concordance lines, we found that this prevalence of *to be* was largely due to the use of passive constructions *to be* + *past participle* + *by the people/citizens*, as illustrated by “now to be elected by the people” \(^55\) and “should be nominated by the citizens.” \(^56\) Forms of the verb *have* were also found in passive constructions (e.g., *have* + *been* + *past participle* + *by the people/citizens*), though these were in the perfect aspect, which expresses a completed action. Overall, a passive construction is often used when the action should be highlighted, instead of the doer or agent.

Further overlaps in the top verb collocates of both phrases *by the people* and *by the citizens* included the lexical verb forms *chosen, made, held, elected, appointed, paid, given, and received*. These verbs provide insights into what it is that is typically done by both people and citizens. Exclusive to *by the people* were the verbs *supported, enacted, approved, established, taken, considered, and delegated*, which was the verb of interest in our initial work on the topic. On the other hand, the verb forms *enjoyed, sustained, owned,*

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\(^56\). 1 MARY WOLLSTONECRAFT, AN HISTORICAL AND MORAL VIEW OF THE ORIGIN AND PROGRESS OF THE FRENCH REVOLUTION; AND THE EFFECT IT HAS PRODUCED IN EUROPE 481 (London, 1794).
exercised, carried, recovered, led, and regarded appeared only in the top twenty-five collocate list for *by the citizens*. These results on dominant verb collocations for *by the people* and *by the citizens* prompted us to further inspect the concordance lines and legal contexts of some of the verbs that occurred in both lists.

**IV. Analysis: Verb Case Studies**

Out of the top twenty-five verb forms listed in Table 3, we qualitatively analyzed elected, chosen, and made because they were frequent collocates of both *by the people* and *by the citizens*. In the following sections, we discuss the results of this more detailed contextual analysis.

**A. Verb Case Study I: Elected**

As indicated in Table 3, elected frequently appears within six words to the left of the phrases *by the people* and *by the citizens*. There were only five search results for the exact phrase elected by the citizens. In contrast, the phrase elected by the people yielded 153 search results, making it over thirty times more frequent than elected by the citizens. This indicates that elected by the people was more commonly used than elected by the citizens in the Founding Era. The five search results for the phrase elected by the citizens, with abbreviated concordance line context to the left and right, are summarized in the chart below.

<table>
<thead>
<tr>
<th>Context Left</th>
<th>Elected by the citizens</th>
<th>Context Right</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) These officers, it is true, are elected by the citizens</td>
<td>, but they must by law be elected, as well as the deputies to the biennial parliament or junta general</td>
<td></td>
</tr>
</tbody>
</table>
The deputies Elected by the citizens of Mecklenburg Lunenburg, Brunswick and Greensville to report to the President of the United States their Opinions of the Treaty

The Senators are to be chosen by eight electors, four whereof to be elected by the citizens of the Eastern, and four by the citizens of the Western precinct, which electors shall have the same qualifications as…

As seen in the chart above, some of the entities that were associated with elected by the citizens included officers and deputies as in “[t]hese officers . . . elected by the citizens” and “[t]he deputies Elected by the Citizens.” Another example in this search


was: “To George Washington President of the United States Sir We the Deputies of the District of Brunswick elected by the Citizens thereof for this express purpose, do respectfully report the Opinions of our Constituents as follow . . . .”59 These three examples—concordance lines (1), (2), and (5) from the chart above—provide a few instances in which elected by the citizens was used in an explicitly government-related context. However, at least in these search results, elected by the citizens does not emphasize a governmental or political theme. In several of the concordance lines—such as concordance lines (3) and (4), for example—elected seems to be used in the sense of “making a choice,” rather than in reference to a formal, organized method of voting an official into office. For example, the “deputies Elected by the Citizens”—referred to above—appear to denote a context of being chosen to perform a task (namely, choosing to report their “Opinions” on a certain treaty to the President of the United States) rather than a context of the deputies being elected in a true election.60 Then, in another concordance line, it appears the same deputies are referred to and described—in light of being “elected by the Citizens . . . for this express purpose”—as fulfilling that task and giving their opinions on the treaty to the President.61 Any mention of federal or local officials

59. Id. (emphasis added).

60. Id. The concordance line specifically reads:

61. Id. The concordance line specifically reads:
To George Washington President of the United States Sir We the Deputies of the District of Brunswick elected by the Citizens thereof for this express purpose, do respectfully report the Opinions of our Constituents as follow, that at a time when a Matter of Great and public Concern is under consideration, they deem it their Right, and in this Instance their Duty, to express their Sentiments thereupon[.]
like members of Congress, the President of the United States, or state elected officials, which a twenty-first century American might expect to appear in the context of an election by the citizens, is noticeably absent from the concordance lines.

In contrast, a reference to officials like the President, members of Congress, state governors, and state legislatures being elected by the people appeared at least once in approximately 71 out of the total 153 concordance lines examined. For example, James Monroe, a member of the Virginia Convention for the ratification of the Constitution and later the fifth President of the United States, when providing observations on the Constitution, wrote:

But although the legislative branch shall be elected by the people, and amenable to them alone for their conduct, yet as the state sovereignties though qualified, will still remain, and of course the state spirit, in contradistinction to a federal one, from necessity be more or less influential in its councils, we should turn our attention to the other branches of the government, as our firm resource.\(^{62}\)

In the Virginia ratification debates, Monroe further stated: “Let us begin with the House of Representatives, which is the most democratic part; The representatives are elected by the people; but what is the responsibility? At the expiration of the time for which they are elected, the people may discontinue them[.]”\(^{63}\) Robert Goodloe Harper, a South Carolina congressman and then a Maryland


63. The Debates, supra note 37, at 219; see also Charles Inglis, Letter IX: To the People of North America, in Letters of Papinian 107, 121 (New York, Hugh Gaine 1779), https://quod.lib.umich.edu/cgi/t/text/text-idx?c=evans;cc=evans;view=text;idno=N12895.0001.001;rgn =div1;node=N12895.0001.001:15 [https://perma.cc/XS3S-YT7B] (“If it should be urged—that the members of the Congress are elected by the people—that their fears become vacant after a short term; and that this is a sufficient security for the liberties of America. I answer, it is by no means a sufficient security. When the members of the Congress are once elected, they become invested with absolute unrestrained [power].”).
senator, delivered the following speech: “To this I answer, Mr. Chairman, in the first place, that we have a security in the responsibility of the President. He is elected by the people, and elected every four years.”\(^{64}\)

Further, James Madison, an active participant in the Constitutional Convention and fourth President of the United States, wrote in a letter that the legislature should

“consist of two branches: the first elected by the people of the several States, the second by the first of a number nominated by the State Legislatures[.]” ([A] mode of forming a Senate regarded as more just to the large States, than the equality which was yielded to the small States by the compromise with them but not material in any other view.[])\(^{65}\)

A stark contrast from the way elected by the citizens was used in the concordance lines, elected by the people occurs much more frequently in the context of an actual election setting. In addition to the frequency of its use in this setting—especially in contrast to the infrequency that elected by the citizens is used in an actual election setting—the type of official referred to as being elected in the context of these two phrases greatly differs as well. While the citizens were referred to as electing officers and deputies, the people were electing the President and members of Congress.

**B. Verb Case Study II: Chosen**

Another verb form that frequently appeared in the context (6L) of the n-grams by the people and by the citizens was chosen. The exact phrase chosen by the people yielded in 266 search results while chosen by the citizens resulted in 11 search results. Although chosen

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64. 7 ANNALS OF CONGRESS 1167 (1851) (emphasis added).
65. 3 THE RECORDS OF THE FEDERAL CONVENTION OF 1787, app. at 525 (Max Farrand ed., 1911) (emphasis added).
by the citizens did include phrases that refer to “councilmen . . . chosen by the citizens”;66 “the establishment of Constitutions chosen by the citizens of the respective Colonies” after “[t]he dissolution of the Colonial governments, at the time of the declaration of Independence”; 67 and “Sheriffs and Coroners shall, at the times and places of elections of Representatives, be chosen by the citizens of each county.”68 these usages are fewer when compared to the numerous instances and characteristic way the phrase chosen by the people appears to be used. For instance, elected officials are regularly referred to as being chosen by the people. For example, one source wrote the following circa 1798:

[T]hat in cases of an abuse of the delegated powers, the members of the General Government, being chosen by the people, a change by the people would be the constitutional remedy; but, where powers are assumed which have not been delegated, a nullification of the act is the rightful remedy.[69]


67. ELISHA LEE, AN ORATION DELIVERED AT LENOX, THE 4TH JULY, 1793, THE ANNIVERSARY OF AMERICAN INDEPENDENCE. BY ELISHA LEE, ESQ. 14 (Stockbridge, Loring Andrews 1793), https://quod.lib.umich.edu/cgi/t/text/text-idx?c=evans;cc=evans;q1=N19690;rgn=main;view=text;idno=N19690.0001.001 [https://perma.cc/8HU3-5ZTF].

68. THE CONSTITUTIONS OF THE SIXTEEN STATES WHICH COMPOSE THE CONFEDERATED REPUBLIC OF AMERICA, ACCORDING TO THE LATEST AMENDMENTS. TO WHICH ARE PREFIXED, THE DECLARATION OF INDEPENDENCE; ARTICLES OF CONFEDERATION; THE DEFINITIVE TREATY OF PEACE WITH GREAT-BRITAIN; AND THE CONSTITUTION OF THE UNITED STATES, WITH ALL THE AMENDMENTS. 164 (Boston, Manning & Loring 1797), https://quod.lib.umich.edu/cgi/t/text/text-idx?c=evans;cc=evans;q1=N24939;rgn=main;view=text;idno=N24939.0001.001 [https://perma.cc/KS49-SJTM] (emphasis added).

A draft of the 1776 Virginia Constitution wrote: “The... house of Representatives shall be composed of persons chosen by the people annually on the [1’st day of October] and shall meet in General assembly on the [15’th day of November] following.”

Additionally, the following was written in the First Congress:

The President and members of Congress are all chosen by the people. The Government is theirs, and in their hands, as clay is in the hands of the potter[.]

The Constitution, as had already been observed, places the power in the House of originating money bills. The principal reason why the Constitution had made this distinction was, because they were chosen by the people, and supposed to be best acquainted with their interests and ability. In order to make them more particularly acquainted with these objects, the democratic branch of the Legislature consisted of a greater number, and were chosen for a shorter period, so that they might revert more frequently to the mass of the People.

George Nicholas, a member of the Virginia Ratification Convention stated: “Their numbers will weigh in choosing the President, as he is elected by electors chosen by the people in proportion to their numbers.”

Thus, although both chosen by the people and chosen by the citizens appear in political, governmental, or even elected official type contexts, chosen by the people appears to be the dominant choice in this context based on the frequencies of the two phrases in

71. 7 ANNALS OF CONG. 1206 (1851) (emphasis added).
72. 1 ANNALS OF CONG. 361 (1789) (Joseph Gales ed., 1834) (emphasis added).
73. THE DEBATES, supra note 37, at 359 (emphasis added).
the corpus. Although they may be used in similar contexts, their frequencies indicate what the actual preferred language or use of the phrase might have been in the Founding Era. This also supports a broader view of the meaning of citizen or citizenship and suggests that the meaning of citizenship was not so closely tied to officials being chosen or elected by the citizens but rather the word people was predominantly used in those contexts.

C. Verb Case Study III: Made

Finally, made was another verb form that collocated (6L) with by the people and by the citizens. The exact phrase made by the people resulted in thirty-nine search results while made by the citizens occurred together seven times. The following chart summarizes all of the “items” that are in the phrase made by the citizens:

<table>
<thead>
<tr>
<th>Left Context: “Item” being made by the citizens</th>
<th>Made by the Citizens</th>
<th>Right Context</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) A noble stand</td>
<td>was made by the citizens</td>
<td>of Dublin</td>
</tr>
<tr>
<td>(2) The captures of our vessels</td>
<td>was made by the citizens</td>
<td>of France</td>
</tr>
<tr>
<td>(3) No small tumult</td>
<td>[was] made by the citizens</td>
<td>of the order of the twelve</td>
</tr>
<tr>
<td>(4) The contracts”</td>
<td>were made by the citizens</td>
<td>of their own free will, and if the French government never . . .</td>
</tr>
<tr>
<td>(5) That the [election] of [electors], for the purpose of choosing the president and vice-president of the United States</td>
<td>will] be made by the citizens</td>
<td>of this (late, qualified to vote for members of the houses of delegates)</td>
</tr>
</tbody>
</table>
That . . . [election] of representatives . . . in the [Congress] of the United States [shall be] made by the citizens of this Rate qualified to vote for [members] of the house of delegates.

If the same declarations and assurances are made by you, which it is required should be made by the citizens to be assembled at Redstone.

The left column provides the object or item being referred to as made by the citizens. The right column completes the thrust of the sentence or idea around the made by the citizens phrase to provide further context for the left column. As exhibited by the left column, two objects or nouns out of the seven search results are government-related.74 Thus, this government-related category constitutes approximately 28.5% of the total instances that the exact phrase made by the citizens is used.

Turning to the other relevant phrase, made by the people refers to a government-related concept in eleven out of the thirty-nine search results. Notably, this represents roughly 28% of the total instances in which the phrase made by the people is used. An election that is made by the people appears six times in the search results; the Constitution is referred to as made by the people twice in the search results; the government is referred to as made by the people once; laws are referred to in the context of being made by the people once; and “the choice of the [Governor]” was referred to as being made by the people once in the search results. For example, James Madison was of the opinion that the appointment of the Members to the first branch of the national Legislature ought to be made by the people for two reasons,—one was that it would

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74. Specifically, “That the [election] of [electors], for the purpose of choosing the president and vice-president of the United States” and “That . . . [election] of representatives . . . in the [Congress] of the United States.”
inspire confidence, and the other that it would induce the Government to sympathize with the people.\textsuperscript{75}

Although the frequencies of the two phrases are different—with made by the people occurring more frequently than made by the citizens—the contexts in which the two phrases were used are comparable.\textsuperscript{76} Additionally, the share with which each phrase was used in a government-related context was strikingly similar, with both representing approximately 28% of the search results for each word. Although these observations may indicate that the two phrases—and, in turn, words—are similar to each other, this does not necessarily mean that the two words can be used interchangeably. The more expansive and diverse government-related words that appeared with the phrase made by the people in the concordance lines would indicate that it was a more frequently used phrase and that it constituted a more all-encompassing phrase than made by the citizens.\textsuperscript{77}

**Conclusion**

Our findings indicate that, ultimately, the word people predominates over citizens in terms of governing in the Founding Era. Although these findings are limited to our narrow inquiry and analysis into some of the verbs that appeared with one particular type of phrase (by the people and by the citizens), it appears that the actions of the citizens—especially actions such as electing, choosing, and making—were of a lesser scope and frequency than the actions

\textsuperscript{75} 3 THE RECORDS OF THE FEDERAL CONVENTION OF 1787, supra note 65, at 57 (emphasis added).

\textsuperscript{76} For example, each one included an “election” as an object that was made by the citizens or people.

\textsuperscript{77} Specifically, while the government-related noun that appeared in the concordance lines with the phrase made by the citizens was “election”—which appeared twice—the following were government-related items that appeared in the concordance lines with the phrase made by the people: (1) an “election” (appearing six times in the search results); (2) the “Constitution” (appearing twice in the search results); (3) the “government” (appearing once in the search results); (4) “laws” (appearing once in the search results); and (5) “the choice of the [Governor]” (appearing once in the search result).
of the people associated with the same verb constructs. Our earlier research established that in the Founding Era, the people are a ground up source of power. The research in this Article further supports that proposition. This comports with political philosophies that were influential in the Founding Era, like the social compact theory, which posits that the people are the ones who establish the Constitution and consensually give up their inherent power to form and participate in an organized civil government. Once that government is formed, the people become citizens and are subject to the government’s power. In essence, the people create the government, and the government creates the citizens. However, the people remain the ultimate source of power. These “roles” are thus reflected in the Constitution’s governmental structure through how the Framers used terms like people and citizens. This background provides insight into how these two terms were used differently in the Founding Era, shedding light on why “We the People”—rather than “We the Citizens”—“do ordain and establish this Constitution for the United States of America.”

78. U.S. CONST. pmbl.