

CORPUS LINGUISTICS AND “OFFICERS OF THE UNITED STATES”

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INTRODUCTION

With the Supreme Court's decision in *Lucia v. SEC*¹ this past June, the Court had a chance to revisit the meaning of "Officers of the United States."² However, it largely punted, with only Justice Clarence Thomas seriously engaging with the term's original meaning. In so doing, he relied on recent scholarship by Professor Jenn Mascott that contends that the term's original meaning is much broader, encompassing anyone employed by the government who has a continuing duty.

To arrive at that conclusion, Professor Mascott performed "corpus linguistic-like" analysis on the papers of six founders, covering 1783–1789, a total of about 7.7 million words from 16,000 texts.³ However, by using the new beta version of the Corpus of Founding Era American English ("COFEA"), we take this analysis one step further in several different dimensions. First, by using the entire COFEA, we expand the time period of our inquiry to 1760–1799. Second, across this time period, we look not only at these six Founders' papers, but also other documents in COFEA from the Evans Early American Imprint Series, which contains texts from more ordinary Americans, a wider variety of types of texts, and on a wider variety of subjects than the founders' writings. Finally, we look at legal documents from Hein Online's collection. In all, these three different sources consist of about 150 million words from nearly 120,000 texts. Third, we expand our search beyond just "officer(s)" or "officer(s) of the United States" to include officer within 5 words of the words "public" or "civil"; other "officer(s) of (the) (federal) government"; "officer(s) of (the) (federal) government"; and variations on "publicly employed." We sample approximately 150 instances from each of these four searches, balancing across all three sources (Founders, Evans, and Hein).

1. 138 S. Ct. 2044 (2018).

2. U.S. CONST. art. II, § 2, cl. 2.

3. Specifically, Professor Mascott's data consisted of 7,656,698 words from 16,683 files taken from the National Archive's Founders Online in the fall of 2015. Jennifer L. Mascott, *Who are the "Officers of the United States"?*, 70 STAN. L. REV. 443, 505 (2018).

We find the linguistic landscape to be messy, but more in line with Professor Mascott's proffered definition than the Supreme Court's ahistorical one, though this conclusion is not without some limitations. In so doing, we model how corpus linguistic analysis looks quite different when the question is not which of multiple senses is the most common, but rather what the breadth of the meaning a term encompasses. This application broadens the use of corpus linguistic tools to determining constitutional meaning beyond what it has been used for in the past.

I. BACKGROUND

A. *Lucia v. SEC*

In *Lucia*, the Court was faced with the question whether Securities Exchange Commission administrative law judges ("ALJs") were inferior officers under the Constitution, and thus cannot be appointed, as they have been, by SEC staff members. To answer this question the Court had to answer the long-vexing question of who exactly is an officer of the United States. The case produced four opinions. The dissenting opinions by Justice Breyer and Justice Sotomayor make little to no analysis of the original public meaning of "officers of the United States." In the majority opinion, Justice Kagan acknowledges that the central issue of the case is interpreting the Appointments clause, but she argues that there is no need to further spell out the meaning of the clause because *Lucia* can be resolved by relying on the precedent set by *Freytag v. Commissioner*.⁴ Justice Kagan writes that the ALJs relevant to *Lucia* are "near-carbon copies" of special trial judges of the U.S. Tax Court dealt with in *Freytag*.⁵ The rest of Kagan's majority opinion argues for the parallels between the tax court judges and ALJs. Both hold continued office, exercise significant discretion, and carry out important functions.

Justice Thomas was the only Justice willing to engage with the question of what the original meaning of "officers of the United States" means. In a short concurring opinion, with Jus-

4. 501 U.S. 868 (1991).

5. *Lucia*, 138 S. Ct. at 2052.

tice Gorsuch joining, Justice Thomas agreed that *Lucia* closely parallels *Freytag*, and that for this case alone *Freytag* is sufficient to reach a decision. But he argues that although elaborating on the significant authority test from *Buckley v. Valeo*⁶ may not be necessary to decide this case, doing so would be useful in providing guidance for future cases that do not parallel *Freytag* as closely as *Lucia* does. Justice Thomas argues that the best way to answer this question is by determining the original public meaning of “officers of the United States.” Citing to Federalist 76 and relying heavily on Professor Mascott’s research, Justice Thomas concludes that the original public meaning encompasses all federal civil officials.

According to Justice Thomas, the phrase’s meaning to the founders would include all federal officials “with responsibility for an ongoing statutory duty.”⁷ Thus, to the Founders, the term would “encompass all federal civil officials who perform an ongoing, statutory duty—no matter how important or significant the duty.”⁸ And in Justice Thomas’s view, “[t]he ordinary meaning of ‘officer’ was anyone who performed a continuous public duty.”⁹ So an officer of the United States was “someone in ‘a public charge or employment’ who performed a ‘continuing’ duty.”¹⁰ Justice Thomas again relies on Professor Mascott for evidence that “officers of the United States” is not a term of art, but simply means federal officers, as well as to show that even those with simply “ministerial . . . duties” were also considered officers at the time of the Founding.¹¹

B. Professor Mascott’s Research

In an attempt to provide a test that will yield consistent results across courts, Mascott identified the original meaning of

6. 424 U.S. 1 (1976) (holding that to be an “officer of the United States” one must exercise “significant authority”).

7. *Lucia*, 138 S. Ct. at 2056 (Thomas, J., concurring) (citations omitted).

8. *Id.* (citing Mascott, *supra* note 3, at 454).

9. *Id.* at 2057 (citing Mascott, *supra* note 3, at 484–507).

10. *Id.* (quoting *United States v. Maurice*, 26 F.Cas. 1211, 1214 (C.C.D. Va.1823) (No. 15,747) (citing 8 ANNALS OF U.S. CONG. 2304–05 (1799) (statement of Rep. Harper) (“explaining that the word officer ‘is derived from the Latin word *officium*’ and ‘includes all persons holding posts which require the performance of some public duty’”)).

11. *Id.* (citing Mascott, *supra* note 3, at 484–507).

"officers of the United States," from Article II of the Constitution.¹² Mascott used a research technique called corpus linguistics in addition to canvassing the historical record, allowing her to get an overall sense of what "officer" meant in the 18th century.¹³ Mascott's conclusion challenges the traditional interpretation that the Appointments Clause applies only to those government officials exercising "significant authority."

In contrast to previous legal applications of corpus linguistics, which mainly attempted to decide between a limited number of predetermined senses, Mascott's use of the methodology was more open-ended. She endeavored to answer the broad question of what "officer" meant during the founding era.¹⁴ The results of her analysis point to a much broader interpretation that would include all government employees who have any extended government responsibility.¹⁵

To reach that conclusion, Mascott first showed that "officers of the United States" is indeed ambiguous. She provides evidence that this phrase is not a term of art¹⁶ and that "officer" does not seem to have any special meaning in the Constitution.¹⁷ Therefore, "officer," as used in Article II, should be interpreted according to its ordinary public meaning during the Founding. To understand public meaning, Mascott first turned to dictionaries and corpus linguistics. She used ten Founding-era dictionaries, as well as commentaries and legal dictionaries. The dictionaries suggest that an "officer" was anyone who held some type of public office or government duty.¹⁸ The importance or prestige of the person's office seemed to have no impact on whether or not he was labelled as an officer. Mascott also employed Nathan Bailey's *New Universal Etymological Dictionary of English* as a sort of linguistic corpus, searching the dictionary for every time it used "office(s)" and "officer(s)." Those results suggest that "officer" was also used for less pres-

12. Mascott, *supra* note 3, at 456.

13. *Id.* at 495–96.

14. *Id.*

15. *Id.* at 564.

16. *Id.* at 471.

17. *Id.* at 472–73.

18. *Id.* at 486–490.

tigious jobs like record keepers, assistants, and employees with menial responsibilities.¹⁹

Mascott also performed searches of *Elliot's Debates*, the *Federalist* and *Anti-Federalist Papers*, *Farrand's Records*, and an early version of the Corpus of Founding Era American English. She searched for both "officer" and "officer(s) of the United States." Mascott coded each concordance line neutrally, not trying to fit the meaning of each instance into one of several predetermined senses.²⁰ Rather, she examined the context and noted how the key term was used, especially with regards to power and importance. While there are occasional examples that give evidence for a narrower interpretation of "officer," overall the evidence suggests that "officer" should be given a broader interpretation, one that includes public employees of lower rank. COFEA's collocate searches show that "officer(s)" and "office(s)" frequently co-occur with words that do not denote importance of power of position, such as "auditors," "clerks," and "subordinate."²¹

In addition to dictionary and corpus searches, Mascott also researched the historical record. In particular, she examined the appointments that occurred in the Continental Congress and First Federal Congress, as well as the statutes passed in the relevant time period. Mascott also analyzed the workings of the departments of the executive branch of the federal government, including payroll lists and other documentary records.²² Overall, these inquiries also show that "officer" had a larger scope than only those with "significant authority."

Based on the results of her research, Mascott ultimately concludes that the Supreme Court's understanding of "officers of the United States" is too narrow. The correct interpretation should be anyone with "responsibility for an ongoing statutory duty."²³

19. *Id.* at 492.

20. *Id.* at 496–506.

21. *Id.* at 505–06.

22. *Id.* at 508.

23. *Id.* at 564.

II. CORPUS LINGUISTICS & THE DATA

In this Article, we seek to test Justice Thomas's and Professor Mascott's conclusions by expanding the scope of the corpus linguistic inquiry. First, to get an idea of the attested senses of "officer" at the founding, we survey more dictionaries than she did. Next, we perform corpus analysis on not just papers of six Founders from 1783–1789, but the same Founders' papers from 1760–1799, as well legal materials from this same time period and materials (books, pamphlets, broadsides, etc.) from more common authors covering this same period. In sum, by expanding the number of words analyzed (about twenty times more than Mascott), the types of documents, and the types of authors, we can see if her findings, and thus Justice Thomas's concurrence, hold up more broadly in founding-era American English. First, though, we provide a brief introduction to corpus linguistics and the databases we analyze.

Corpus linguistics may sound enigmatic to the legal ear, but it has very familiar elements to those who have spent their careers comparing various examples of the use of a term, as lawyers and judges often do in sifting through a body (or corpus) of precedent.

A. *The Purpose of Corpus Linguistics*

Corpus linguistics is an empirical study of language that is based on the notion that "the best way to find out about how language works is by analyzing real examples of language as it is actually used."²⁴ Corpus linguistics gets its name from the databases (or bodies) of texts called *corpora* (or *corpus* in the singular) that linguists create to represent the speech community they seek to study.²⁵

Corpus linguistics is founded on the twin ideas that a corpus of texts can be constructed that accurately represents a particular speech community and that one can "empirically describe linguistic patterns of use through analysis of that corpus."²⁶

24. PAUL BAKER, GLOSSARY OF CORPUS LINGUISTICS 65 (2006).

25. See TONY MCENERY & ANDREW HARDIE, CORPUS LINGUISTICS: METHOD, THEORY AND PRACTICE 1–2 (2011).

26. Douglas Biber & Randi Rippen, *Introduction* to THE CAMBRIDGE HANDBOOK OF CORPUS LINGUISTICS 1, 1 (Douglas Biber & Randi Rippen eds., 2015).

Corpus linguistics thus “depends on both quantitative and qualitative analy[sis].”²⁷ And corpus linguistics results “in research findings that have much greater generalizability and validity than would otherwise be feasible.”²⁸ Because “a key goal of corpus linguistics is to aim for replicability of results, data creators have an important duty to discharge in ensuring the data they produce is made available to analysts in the future.”²⁹

B. Tools of Corpus Linguistics

Linguistic corpora have several tools that enable insight into linguistic meaning that is generally not possible “by human linguistic intuition alone.”³⁰ One is *frequency*—seeing how often a word appeared, including over time or across different types of genres or registers³¹ of language use can provide insight into meaning.³² And noting the different frequencies of senses can provide evidence of how a word might have been understood

27. Douglas Biber, *Corpus-Based and Corpus-driven Analyses of Language Variation and Use*, in THE OXFORD HANDBOOK OF LINGUISTIC ANALYSIS 159, 160 (Bernd Heine & Heiko Narrog eds., 2010).

28. *Id.* at 159.

29. MCENERY & HARDIE, *supra* note 25, at 66.

30. *Id.* at 36.

31. There are competing views on the difference between genres and registers. Some linguists use them interchangeably, some stick to one or the other, and some try to draw distinctions. Usually the distinction is that register is the variety of language used for a specific social setting or linguistic context and usually reflects differing levels of formality versus colloquialism (e.g. face-to-face conversation). Genre is the type of written or spoken discourse, and it is culturally and linguistically unique (e.g., story, news article, research paper, business letter). Some linguists take the stance that “a genre is a recognizable communicative event characterized by a set of communicative purpose(s) identified and mutually understood by the members of the professional or academic community in which it regularly occurs.” VIJAY KUMAR BHATIA, *ANALYSING GENRE: LANGUAGE USE IN PROFESSIONAL SETTINGS* 13 (1993); *see also* JOHN M. SWALES, *GENRE ANALYSIS: ENGLISH IN ACADEMIC AND RESEARCH SETTINGS* (1990). Others argue that “a register is a variety associated with a particular situation of use (including particular communicative purposes)” (e.g., face-to-face conversation, academic writing). DOUG BIBER & SUSAN CONRAD, *REGISTER, GENRE, AND STYLE* 6 (2009). Examples given for genre include a business letter or a newspaper article. We to use this distinction too but acknowledge that not all linguists care to distinguish at all.

32. TONY MCENERY & ANDREW WILSON, *CORPUS LINGUISTICS: AN INTRODUCTION* 82 (2d ed. 2001).

in a given context by the speech community represented by the corpus.

Another tool is called *collocation*—the “tendency of words to be biased in the way they co-occur [or co-locate].”³³ We like to think of collocates—the words that collocate with a particular word—as “word neighbors.” This concept was first traced in linguistics to the mid-1950s with the observation that “you shall know a word by the company it keeps,”³⁴ but has been around in the law for much longer under the canon of construction *noscitur a sociis* (“it is known by its associates”).³⁵ Thus, we would not be surprised to see the word *dark* often appear in the same semantic environment as the word *light*, but would not expect *dark* to appear frequently near the word *perfume*. As this example illustrates, just because one word is a collocate of another does not mean the words are synonyms—it just means they have some kind of relationship. Collocation can be examined via raw frequency or by statistics that measure how often a word appears near another compared to how often the word appears in the corpus. While collocation can reveal new patterns in language usage, it tends to be an exploratory tool rather than one that is used to test hypotheses about language.

In addition to collocation, corpus linguistic analysis also “looks at variation in somewhat fixed phrases, which are often referred to as lexical bundles.”³⁶ Generally, lexical bundles are defined as a repeated series or grouping of three or more words.³⁷ In other linguistic circles these lexical bundles are referred to as N-grams or clusters. (For this paper we will refer to these as clusters since this is what they are referred to in the corpus linguistics software used in this study.) For example, “Do you want me to” and “I don’t know what” are two of the most common clusters in conversational English.³⁸ Clusters are

33. See SUSAN HUNSTON, *CORPORA IN APPLIED LINGUISTICS* 78 (2002).

34. JOHN FIRTH, *PAPERS IN LINGUISTICS, 1934–1951*, at 11 (1957).

35. *Noscitur a sociis*, *BLACK’S LAW DICTIONARY* (10th ed. 2014).

36. GENA R. BENNETT, *USING CORPORA IN THE LANGUAGE LEARNING CLASSROOM: CORPUS LINGUISTICS FOR TEACHERS* 9 (2010).

37. *Id.*; see also DOUG BIBER ET AL., *LONGMAN GRAMMAR OF SPOKEN AND WRITTEN ENGLISH* 990 (1999).

38. BIBER ET AL., *supra* note 37, at 994.

“not complete phrases” and “are statistically defined (identified by their overwhelming co-occurrence).”³⁹

The final main tool of a linguistic corpus—what we consider the heart of corpus linguistics analysis—is the concordance line.⁴⁰ Concordance lines are familiar to all who have ever done a search in Google or Westlaw or LexisNexis. They are merely snippets of search results, centered on the word or phrase searched. One can click on a concordance line and see the word or phrase in greater context. And it is the slow and difficult analysis of concordance lines—the qualitative aspect of corpus linguistic analysis—that usually provides the best and most important data in corpus linguistic analysis. It is also very similar to running a search in a legal database that results in 100 cases, and then clicking through and looking at each result to get a sense of what courts are saying or doing in a particular area. The image below shows a display of concordance lines from COFEA.

39. BENNET, *supra* note 36, at 9.

40. Related to concordance lines is the Key Word in Context (“KWIC”), but KWIC is more of an exploratory tool and is merely a way to display concordance lines to quickly scan for patterns.

BYU LAW CORPORA

KEYWORDS: OFFICERS OF THE UNITED STATES, OFFICERS OF THE UNITED STATES

MAX HITS: 50

Sort 1: 1 Right, Sort 2: 2 Right, Sort 3: 3 Right

SEED: 0 (Default), Generate

SOURCE	YEAR	PRIMARY AUTHOR	GENRE	CONTEXT
1 205289	1799	SHAW, WILLIAM SMITH		text have declared it null & void - that a senator is not an officer of the united states
2 254819	1778	WASHINGTON, GEORGE		them , or on parole among us , .. so long as they continue officer of the united states
3 US REPORTS, VOL 3, 191 TO 390				their named in the first and second counts, was the lawful officer of the united states
4 290520	1789	GREGORY, STEPHEN		a may be in my absence occasion for some marine or navy officers of the united states
5 308708	1794	HAMILTON, ALEXANDER		the commissioned officers thereof be appointed as other officers of the united states
6 255447	1778	WASHINGTON, GEORGE		in confinement or on parole , so long as they continue officers of the united states

And by clicking on a search result, one can look at it in its semantic environment—the context of its use (see below). This enables the researcher to qualitatively analyze each occurrence.

BYU LAW CORPORA

COFEA

Matches

Contents

Full Content

Logout

SOURCE 205289

DECADE 1790

YEAR 1799

PRIMARY AUTHOR Shaw, William Smith

AUTHOR TYPE

GENRE

SUB GENRE

SOURCE Adams Papers

FULL CONTEXT

all their time , & neither of the bills have passed the house & it is very doubtful whether the bankrupt bill will pass the house . The Senate after spending nearly a fortnight on Blounts impeachment have declared it null & void -- that a senator is not an **officer of the United States** & therefore unimpeachable . I tremble for my country if it has not energy enough to punish a man " guilty of crimes & misdebeanoars " . The meeting of the president & his son was to me very affecting . He took him in his arms the tears all

C. COFEA

In order to use corpus linguistics to explore how Americans in the late 1700s used language, and thus what they might have understood the Constitution to mean, we need a general, historical corpus that covers the time period and adequately rep-

resents American English usage. For this we turn to the Corpus of Founding-Era American English,⁴¹ which covers 1760–1799—the years ranging from the beginning of the reign of King George III to the death of George Washington.⁴² The Authors have been involved in the creation of COFEA: partially on our own and partially with the aid of computer scientists working at the law school,⁴³ we compiled three distinct corpora to enable this Article’s research. (These corpora form the bulk of COFEA’s underlying data.) We then loaded each corpus into a freely available software designed by Professor Laurence Anthony called AntConc that enables one to apply the tools of linguistic corpora to one’s own dataset—a build-your-own corpus computer program.⁴⁴ Since we conducted this research, COFEA has become publicly available. The same searches we performed could be replicated on the public version and should produce very similar results.

D. This Article’s Three Mini-Corpora

The first corpus we created contained texts from the Evans Early American Imprint Series. Evans consists of “nearly two-thirds of all books, pamphlets, and broadsides known to have been printed in this country between 1640 to 1821.”⁴⁵ These materials, particularly the books, often contain various other types of language usage, including sermons and fiction. Evans also contains works from all types of early American authors, from the famous to the forgotten to the never known. Of the nearly 40,000 titles available in Evans, the University of Michigan’s Text Creation Partnership (TCP) worked with the owners of Evans (NewsBank/Readex Co. and the American Antiquarian Society) “to create 6,000 accurately keyed and fully searcha-

41. Pronounced like “Sophia” with an initial k-sound (koh-fee-uh).

42. CORPUS OF FOUNDING-ERA AM. ENGLISH, <https://lawcorpus.byu.edu> [<https://perma.cc/UW3R-UZ8U>] (last visited Mar. 1, 2019).

43. Thanks to Wayne Schneider and Harrison Fry.

44. *AntConc Homepage*, LAURENCE ANTHONY’S WEBSITE, www.laurenceanthony.net/software/antconc [<https://perma.cc/26JF-YS2X>] (last visited Mar. 1, 2019). We used AntConc 3.5.0, a developmental 64-bit version designed for Windows.

45. *Evans-TCP: Evans Early American Imprints*, TEXT CREATION PARTNERSHIP, <http://www.textcreationpartnership.org/tcp-evans/> [<https://perma.cc/TF6G-G28G>] (last visited Feb. 22, 2019).

ble . . . text editions . . . [that are] fully available to the public.”⁴⁶ All of these texts that fell within the time period of 1760–1799 we used for our Evans Corpus. We could classify this corpus as a general, historical, raw corpus.

The second corpus we created comprises texts from the National Archives Founders Papers Online project.⁴⁷ Founders Online contains the “correspondence and other writings of six major shapers of the United States”: “George Washington, Benjamin Franklin, John Adams (and family), Thomas Jefferson, Alexander Hamilton, and James Madison.”⁴⁸ Besides the writings of these Founders, the collection also contains letters written to them by a variety of Americans, including other Founders and more common folk. Again, we limited the date range to 1760–1799. And because the files were downloaded in the fall of 2015, our corpus does not reflect additional files the National Archives has since added.

Our final corpus contains materials from HeinOnline, which is partnering with BYU in providing its subscription materials for the creation of COFEA. Our Hein Corpus consists of legal materials from 1760–1799: statutes, cases, legal papers, legislative debates and materials, and so on. The table below shows the characteristics of our three corpora:

46. *Id.*

47. FOUNDERS ONLINE, NAT’L ARCHIVES & RECORDS ADMIN., <https://founders.archives.gov/> [<https://perma.cc/42BN-HLHX>] (last visited Feb. 22, 2019).

48. *Id.*

Table 1: This Study's Three Corpora

Source	Material Type	Author Type	Millions of words	# of Texts
Evans American Imprints	Books (of various material, including sermons and fiction), pamphlets, and broadsides	Both "ordinary" people and elites	53.4	2881
Founders On-line	Letters and papers	Mostly six founders, but also other Americans	43.9	115281
Hein Online	Legal (cases, statutes, legislative records, etc.)	Various American government entities	48.6	351

By relying on these three corpora, rather than just one or two, we have more representation of "types" of Americans and "types" of language usage. For instance, Evans provides more "ordinary" types of documents from more "ordinary" Americans. This should provide insight into more general meanings. Hein provides legal documents from a variety of Founding-era American sources and should provide a good view into the legal usage of terms. And Founders give us documents not covered by the other two corpora—letters—as well as a heavy dose of language usage from important founders who either directly framed or at least significantly influenced the Constitution (though with letters from more "ordinary" Americans as well). Together these three corpora—one general, one class-specific (elites), and one topic-specific (legal)—provide a comprehensive picture of language usage during the American founding.⁴⁹

Additionally, these corpora somewhat map onto varying theories of originalism. For those most concerned with how "ordinary" people at the Founding would have understood a word or phrase in the Constitution, the Evans Corpus is the most appropriate. For those most concerned about what the

49. The coverage of our three corpora is not perfect. We would have liked to have a corpus of newspapers from the era. But given that newspapers then were less likely to have a distinctive style of usage, we do not feel the lack of a newspaper corpus changes the results. That, however, is an empirical question for future research to answer.

Founders may have intended, understanding how the Founders used language can provide insight into the intent of specific word choices in the constitutional text, and the Founders Corpus will have most value. Finally, for those most concerned with how American lawyers of the founding era would have understood the Constitution, the Hein Corpus will be of most interest. But since we do not know which type of word *officer(s)* is—ordinary or legal—it is helpful to look at all three corpora.

E. The Limitations of Founding-Era Dictionaries

As has been explained more thoroughly elsewhere,⁵⁰ dictionaries, especially Founding-era dictionaries, have a host of limitations for determining constitutional meaning. For instance, they generally don't define phrases; they tend to be normative rather than descriptive. Founding-era dictionaries tend to be the work of just one mind, making them idiosyncratic. And they tend to plagiarize earlier dictionaries, which creates a false consensus and does not accurately reflect contemporaneous usage, among other problems. Finally, a dictionary is unlikely to answer the question of what types of government positions would count as an officer, even if Founding-era dictionaries did not have the flaws noted above. In short, dictionaries are a good starting place, but they have serious flaws that call into question relying on them for answers to constitutional meaning.

III. FINDINGS

We first survey Founding-era dictionaries, ordinary and legal, to get the linguistic lay of the land as to the possible senses of officer. We next explore frequency data, as well as collocates of and clusters containing officer. Finally, we dig into concordance line analysis.

50. See Thomas R. Lee & James C. Phillips, *Data-Driven Originalism*, 167 U. PA. L. REV. 261, 283–87 (2019).

A. Founding-era Dictionary Definitions

We found thirty Founding-era ordinary dictionaries⁵¹ and three legal dictionaries (we used the term Founding-era loosely as it covered somewhat beyond the time period we are treating as the founding era: 1760–1799). Unfortunately, some of these dictionaries had a definition for neither "officer" nor "office." This left us with the following twenty-four dictionaries (presented in order of publication):

Dictionary	Author(s)	Date	Words
<i>Glossographia</i>	Thomas Blount	1707	office
<i>The New World of Words</i>	Edward Phillips	1720	officer
<i>Dictionarium Britannicum</i>	Nathan Bailey	1736	officer; office
<i>Lingua Britannica Reformata</i>	Benjamin Martin	1749	officer; office
<i>A New Etymological Dictionary</i>	Nathan Bailey & Joseph Scott	1755	office
<i>A New Classical English Dictionary</i>	John Kersey	1757	officer; office
<i>A New Universal English Dictionary</i>	William Rider	1759	officer
<i>A New Complete English Dictionary</i>	Daniel Bellamy	1760	officer
<i>The Royal English Dictionary</i>	Daniel Fenning	1761	officer
<i>A Universal Etymological English Dictionary</i>	Nathan Bailey	1763	officer; office
<i>The New Spelling Dictionary</i>	John Entick	1765	officer
<i>A New and Complete Law Dictionary</i>	T. Cunningham	1771	officer; office
<i>The Complete English</i>	Frederick Barlow	1772	officer

51. Technically one of these dictionaries was not a Founding-era one: *The Oxford English Dictionary*. But because the *Oxford English Dictionary* includes archaic definitions and provides date ranges for when a sense entered (and possibly left) the English lexicon, we included it in this group.

<i>Dictionary</i>			
<i>A New Dictionary of the English Language</i>	William Kennrick	1773	officer
<i>A New Law Dictionary</i>	Giles Jacob et al.	1773	officer
<i>The New and Complete Dictionary of the English Language</i>	John Ash	1775	officer; office
<i>The Royal Standard English Dictionary</i>	William Perry	1775	Officer
<i>A Critical Pronouncing Dictionary</i>	John Walker	1775	Officer
<i>A Complete Dictionary of the English Language</i>	Thomas Sheridan	1780	Officer
<i>A New General English Dictionary</i>	Thomas Dyche & William Pardon	1781	Officer
<i>English Etymology</i>	George Lemon	1783	Office
<i>A New Law Dictionary</i>	Richard & John Burn	1792	Office
<i>A General Pronouncing and Explanatory Dictionary</i>	Stephen Jones	1797	Officer
<i>The Union Dictionary</i>	Thomas Browne	1800	Officer

Sometimes the definitions of *officer* were unhelpful. For instance, many dictionaries proffered some version of the following definition: “one who is in an office.” But some dictionaries put forth more detailed definitions, and those with unhelpful *officer* definitions sometimes had more instructive *office* definitions.

A series of dictionaries⁵² put forth three senses: (1) “a man employed by the public”; (2) “a commander in the army [or navy]”; (3) “one who has the power of apprehending criminals [and arresting debtors].”⁵³ Only the first sense seems relevant

52. Note that these dictionaries may have been plagiarizing each other.

53. See EDWARD PHILLIPS, *THE NEW WORLD OF WORDS* (7th ed. 1720) (providing only the “[o]ne that is in any office” sense and the military sense); WILLIAM RIDER, *A NEW UNIVERSAL ENGLISH DICTIONARY* 600 (1759) (adding “and arresting debtors” to third sense); DANIEL FENNING, *THE ROYAL ENGLISH DICTIONARY* 720 (1761)

to the constitutional debate here since the President appoints all military officers and at the Founding, without a federal police power, there would have been no officers of the United States with the power to apprehend criminals or debtors. We call these three senses the public employment, military, and law enforcement senses of *officer*.

The public employment sense could potentially be quite broad, certainly broader than the "exercising significant authority" definition currently in use by the Supreme Court. Some founding-era dictionaries hint at a broad employment sense of *officer* in their definition of *office*. A 1707 dictionary includes as part of its definition of *office* "a man [that] hath some employment in the affairs of another," seemingly pointing to the reality of both public and private officers.⁵⁴ A 1757 dictionary referred to *office* as "an employment, or the place where any business is managed."⁵⁵ It is not clear whether this dictionary was combining two different senses here, one for a position and one for a physical location, or if the physical location sense of *office* applied to both parts. The use of the punctuation here points toward the latter, though that could be reading too much into a founding-era dictionary. Similarly, a 1749 dictionary included as one of its five senses of *office*: "place, or employment."⁵⁶

A 1775 dictionary, however, distinguished the employment sense from a location-based sense when it provided as a distinct sense of *office* as "a public charge, a public employment," distinguishing this sense from two other senses: "a business, an

(adding "and arresting debtors" to third sense); JOHN ENTICK, *THE NEW SPELLING DICTIONARY* 246 (1765) (providing only the "[o]ne in office" sense and the military sense); 2 FREDERICK BARLOW, *THE COMPLETE ENGLISH DICTIONARY* 217 (1772) (adding "and arresting debtors" to third sense and a fourth sense: "any person in office"); WILLIAM KENRICK, *A NEW DICTIONARY OF THE ENGLISH LANGUAGE* 516 (1773); WILLIAM PERRY, *THE ROYAL STANDARD ENGLISH DICTIONARY* 257 (1775) (providing only the military sense and the "[o]ne in office" sense); JOHN WALKER, *A CRITICAL PRONOUNCING DICTIONARY* (1791); THOMAS SHERIDAN, *A COMPLETE DICTIONARY OF THE ENGLISH LANGUAGE* (1780); STEPHEN JONES, *A GENERAL PRONOUNCING AND EXPLANATORY DICTIONARY* 225 (2nd ed. 1797); THOMAS BROWNE, *THE UNION DICTIONARY* 315 (1800) (providing only the public employment and military senses).

54. *Office*, THOMAS BLOUNT, *GLOSSOGRAPHIA* (1707).

55. *Office*, JOHN KERSEY, *A NEW CLASSICAL ENGLISH DICTIONARY* (7th ed. 1757).

56. *Office*, BENJAMIN MARTIN, *LINGUA BRITANNICA REFORMATA* (1749).

agency” and “a place where business is transacted, a room in a house appropriated to a particular business.”⁵⁷

Some dictionaries also put forth a related, but sometimes distinct duty-based sense. For instance, a 1763 dictionary lumped the employment and duty senses together, adding a third sense (but clearly distinguishing from a place sense): “the part or duty of that which befits, or is to be expected from one; a place or employment; also a good or ill turn.”⁵⁸ A 1736 dictionary by the same author separated the duty sense from a charge or trust sense, though seemingly including a kind of duty sense with the latter: sense 3— “[t]he mutual aid and assistance which mankind owe to each other; also a particular charge or trust, whereby a man is authoriz’d to do something”; sense 2— “duty, or that which virtue and right reason directs mankind to do.”⁵⁹ The reason is unclear. A 1749 dictionary also proffers as one of its five senses of *office* simply “part, or duty.”⁶⁰ Relatedly, a 1781 dictionary provided an appointment sense of *office*: “[i]n general signifies a person that has a particular post or business appointed to him.”⁶¹ Likewise, a 1760 dictionary put forth a post sense of *officer*: “a person possessed of a post or office.”⁶²

While the Oxford English Dictionary (OED) is not a dictionary contemporaneous to the American Founding, it does list senses of words that are now obsolete and includes a date range for such senses, or a date when it has evidence a still extant sense entered the English lexicon. It thus has relevance to our inquiry. The OED has two senses related to the public/civil sense of *officer*. One of them the OED states is now obsolete, indicating that the potential range of usage was from 1390-1669, pre-dating the founding era: “[a] person who performs any duty, service, or function; a minister; an agent.”⁶³ That

57. *Office*, 2 JOHN ASH, THE NEW AND COMPLETE DICTIONARY OF THE ENGLISH LANGUAGE (1775).

58. *Office*, NATHAN BAILEY, A UNIVERSAL ETYMOLOGICAL ENGLISH DICTIONARY (1763) (listing as its fourth sense: “a place where any business is managed”).

59. *Office [in Ethicks] & Office [in a Civil Sense]*, NATHAN BAILEY, DICTIONARIUM BRITANNICUM (1736).

60. *Office*, MARTIN, *supra* note 56.

61. *Officer*, THOMAS DYCHE & WILLIAM PARDON, A NEW GENERAL ENGLISH DICTIONARY (18th ed. 1781).

62. *Officer*, DANIEL BELLAMY, NEW COMPLETE ENGLISH DICTIONARY (1760).

63. *Officer* (3), OXFORD ENGLISH DICTIONARY (3d ed. 2004).

Founding-era dictionaries still sometimes contain a similar sense means one of two things: these dictionaries are plagiarizing older ones that contain this sense, or the OED's ending date for the sense is too early.

The OED also notes a sense of *officer* meaning "[a] person who holds a particular office, post, or place."⁶⁴ And for this sense it lists four sub-senses, though only one is relevant.⁶⁵ Starting at least in 1380 and continuing to the present is the *officer* sense meaning "[a] person who holds a public, civil, or ecclesiastical office or appointment; a servant or minister of the Crown; an appointed or elected functionary in the administration of local government, a public corporation, institution, etc., and in early use esp. in the administration of law or justice."⁶⁶ There is a lot packed into that definition. It includes ecclesiastical officers, judicial and law officers, public and civil officers (which it appears to distinguish), elected or appointed local government officers, government ministers, and officers of public corporations. Some of these are not relevant for understanding the original public meaning of "officers of the United States." For example, we don't have federal ecclesiastical officers in this country. And it is unclear to what degree local government officers map onto the federal government; likewise servants or ministers of the Crown.

Finally, we examined the three legal dictionaries noted above, which did not appear to include any unique sense of *officer* or *office* but did provide some clarification. A 1773 dictionary distinguished between public and private officers.⁶⁷ It defined a public officer as one "who had any duty concerning the public," regardless of whether "his authority is confined to narrow limits." Thus, "it is the duty of his office, and the nature of that duty, which makes him a public officer, and not the extent of his authority." A 1771 legal dictionary observed that "[o]fficers are distinguished into civil and military, according

64. *Id.* at (1).

65. Two are officers of private institutions and one appears to be military-related.

66. OXFORD ENGLISH DICTIONARY, *supra* note 63, at *Officer* (1b).

67. *Officer*, GILES JACOB ET AL., A NEW LAW DICTIONARY (10th ed. 1773).

to the nature of their several trusts.”⁶⁸ It also clarified the potential breadth of the public employment sense of *office*: “[e]very office being an employment; but there are employments which do not come under the denomination of offices; such as an agreement to make hay, plough land, herd a flock, etc. which differ widely from that of a steward of a manor.”⁶⁹ This dictionary appears to claim that *office* is a subset of public employment. It is a little unclear where the line is being drawn. Perhaps it is the temporary nature of these other employments. Or perhaps it is the contract nature (“an agreement to”) of the employment, contrasted with the trust, charge, duty, post, or appointment of an officer. In fact, the definition appears to hint at stewardship as the distinguishing factor.

But it was not the scope of that stewardship that was the distinguishing factor since, according to this legal dictionary:

Every man is a publick officer, who have any duty concerning the publick; and he is not the less a publick officer, where his authority is confined to narrow limits; because it is the duty of his office, and the nature of that duty, which makes him a public officer, and not the extent of his authority.⁷⁰

Admittedly, it is still a bit unclear what “the nature of that duty” is that distinguishes officers from others who are merely publicly employed, though this dictionary is perhaps drawing the distinction between contract labor and a longer-term stewardship.

The final legal dictionary we examined, published in 1792, hints at an even broader definition of *office*, and thus *officer*, when it noted statutory requirements of taking the sacrament applied to

every person admitted into any office, civil or military, or who shall receive any pay by reason of any patent or grant from the king, or shall have any command or place of trust in England, or in the navy, or shall have any service or employment in the king’s household.⁷¹

68. *Officer*, 2 T. CUNNINGHAM, A NEW AND COMPLETE LAW DICTIONARY (2d ed. 1771).

69. *Id.*

70. *Id.*

71. *Office*, 2 RICHARD BURN & JOHN BURN, A NEW LAW DICTIONARY 168 (1792).

While three of these senses of *office* have appeared in other dictionaries, the sense of someone who is paid from a royal patent or grant is new. Further, it appears this legal dictionary also considers as officers "all persons teaching pupils[,] schoolmasters and ushers . . . and practisers of the law."⁷² (It is unclear, however, whether this educator sense of *officer* is a private or public officer.) These last examples of officers, however, are just that—examples rather than definitions.

From this dictionary survey, it appears there are the following broad senses of *officer*:

1. Public/civil officer;
2. Military officer;
3. Law enforcement officer;
4. Ecclesiastical officer;
5. Judicial officer (perhaps also including lawyers);
6. Private officer;
7. College or educational officer.

However, most of these senses are either irrelevant to the constitutional inquiry (ecclesiastical, private, etc.), or not really debated (military officer, etc.). We therefore chose to focus just on the public/civil sense of *officer*.

Parsing dictionary definitions, we could perhaps create three sub-senses for the public/civil sense of *officer*:

1. Appointed to or in a public post, business, charge, trust, office, or place;
2. Performing any authorized public duty, service, function, or stewardship;
3. Hired by the public to do something (of any nature or duration).

However, senses one and two may not be distinct. One may not be able to perform any authorized public duty, service, function or stewardship without first being appointed to or placed in a public post, business, charge, trust, office or place. We will have to explore this more in the corpus data.

72. *Id.*

But it is clear that the Supreme Court's definition does not appear to be a Founding-era one, because our survey of dictionaries did not indicate that a necessary condition of being an officer is to exercise significant authority if significant is to mean anything. (If significant just means government authority, then the word is meaningless in the Court's definition of officer.) Of course, perhaps, given all of the flaws of Founding-era dictionaries, this "exercising significant authority" sense was just missed by eighteenth-century lexicographers, either because it was lumped in with another sense or through error. While unlikely to be completely missed by every dictionary, it certainly is possible, and corpus analysis is necessary.

Finally, thinking through the use of *public employment* as a definition of *officer*, we propose the following ways that term could interact with the definition of an *officer*:

1. If one is publicly employed, i.e., hired by the government to do something, one is also considered an officer;
2. All officers are publicly employed, but not all who are publicly employed (i.e., hired by the government) are officers;
3. *Publicly employed* is a term of art that means officer, and thus those hired by the state who are not officers are not publicly employed;
4. Being publicly employed is different from being an officer.

We note that delineating these possibilities will often be tricky. Options one and three will frequently look the same. And if one is merely referring to an officer being in public employment, it could be one, two, or three. We next turn to the corpus for answers.

B. COFEA and Public Employment

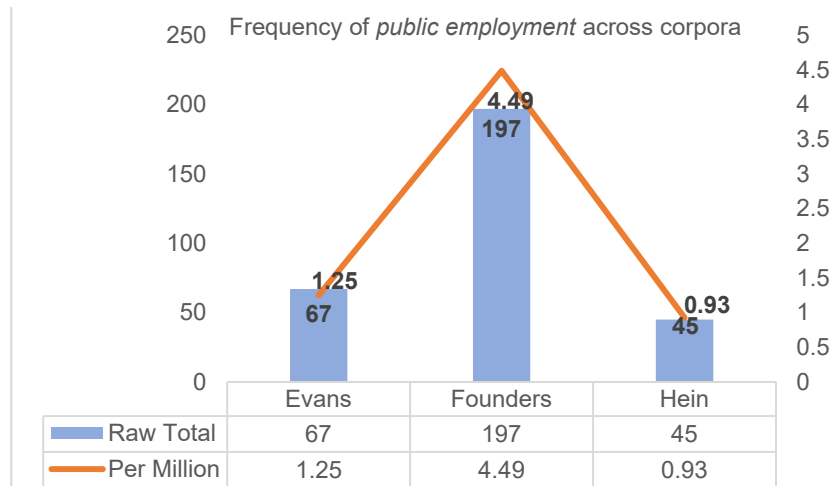
We first turn to *public employment*, including its variations.⁷³ Besides the four possible senses noted above (given the difficulty of delineating some of them) we also added these categories:

5. Either sense 1 or 3 (but can't tell which);

73. "Public(k) employment(s)," "public(k)ly employed," and "public(k) employ."

6. Either senses 1, 2, or 3 (but can't tell which);
7. Other senses.
8. Ambiguous.

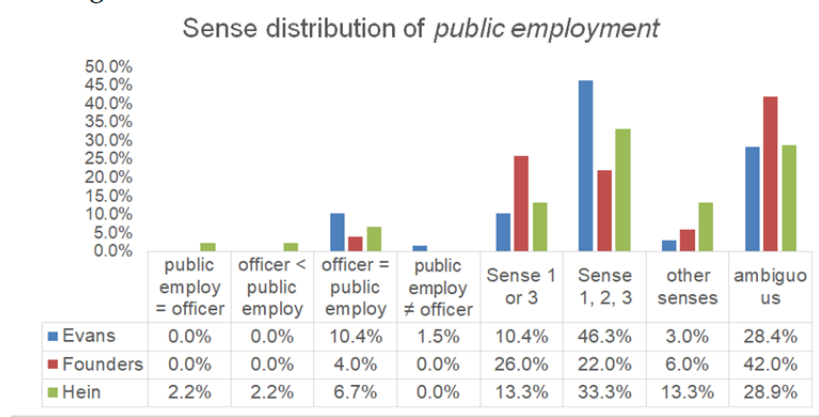
We first report the frequency of *public employment* (and its variations) across the three smaller corpora that make up COFEA. We note both raw totals as well as frequency per million since all three smaller corpora are not exactly the same size.



The term appears 3.6 times more frequently in Founders than Evans, and 4.8 times more often in Founders than Hein. It is perhaps not surprising that the term appears most frequently in the Founders corpus since that corpus consists of papers of men charged with running the government or the military during much of the time period COFEA covers. What is interesting is that the term appears 1.3 times more often in more ordinary writings by more ordinary authors than it does in legal materials, though that difference is not huge. This *could* point towards *public employment* not having a unique legal meaning, but certainly does not prove the point. After all, if there is a legal term-of-art sense of *public employment*, it could just occur mostly in legal materials whereas an ordinary sense of the term could appear mostly in ordinary materials. This frequency disparity across corpora can only point at the possibility of something, not prove it.

To analyze the sense distribution, we sampled fifty instances of *public employment* (and its variations) from the Founders

Corpus but classified each instance from the other two smaller corpora because their totals were so close to 50. Below are our findings:



While it is clear that *public employment* is related to the term *officer* in Founding-era American English, not much more is clear from the sense distribution data. The most common sense of *public employment* is sense three: where *officer* and *public employment* are used interchangeably such that *public employments* is a term of art for *officer* and is not used if one is hired by the state but not an officer. Still, at a frequency ranging from 4–10.4%, the sense does not dominate the data. Of course, when we were unable to distinguish between senses one and three, or between sense one, two, or three, there is a good possibility given how infrequently senses one and two clearly occurred, that in those instances sense three was the operative one. If that's the case, then sense three would occur 67.1% (Evans), 52% (Founders), or 53.3% (Hein) of the time.

What does all of this mean for determining the original meaning of “officers of the United States”? For the cautious it may mean little. After all, most of the time we could not point to a particular sense of *public employment*. For the less cautious, it could mean that not everyone hired by the government is publicly employed and thus an officer. But it does not necessarily tell us where to draw the line between those hired by the government and those publicly employed (*i.e.*, officers).

Perhaps a more qualitative look at the data will shed further light on the relationship between *public employment* and *officer* and thus the meaning of "officers of the United States."⁷⁴ For the first sense—that to be employed by the government was to be an officer—we only found one relatively clear example (from Hein), and it was a U.S. Congressman arguing that senators were publicly employed—"is not a seat in this honorable body 'a public employment'?"—because "every public post, which entitles to receive a compensation, great or small, from the public, is considered, in the proper legal sense, as an office of 'profit.'"⁷⁵ This somewhat begs the question as to what a public post is. Further, this type of linguistic evidence is less helpful since the Senator could be arguing for his meaning because of an end he wants to accomplish rather than because of his linguistic beliefs. There is little evidence, and weak evidence at that, of sense one.

There was similarly only one possible instance of sense two (that *officer* is a subset of *public employment*), likewise an example from Hein. In discussing a claim brought by a landlord against the government because the private building being leased as the War Office burnt down, being "an officer or agent of the Government," which is also referenced as being a government officer or his servants, is labeled as "be[ing] in public employment."⁷⁶ But one instance of this sense is not much.

Likewise, we only found one example of sense four (*public employment* is distinct from being an *officer*). In an example from Evans, a "Mr. Worthy" was described as being "much employed in offices in the town," but as having "modestly de-

74. The following footnotes for the instances of *office* or *officer* reference the name of the individual file in the corpus from which the sample was taken. For files that have official names, we have provided those names. For files without formal names, we have provided the name of the file we gave the file as we designated it while creating the corpora. The files corresponding to the footnotes are available at <https://www.dropbox.com/sh/i8dpum8vmnhy6n4/AACGdIUWSXw033xXxqLXCXyLza?dl=0> [<https://perma.cc/R2E6-N2AY>] and can be accessed for verification purposes. Our coding is available at <https://www.dropbox.com/sh/ngk6mik0undnhoh/AAAdEBAprQlkxZOQ-QLg4COa?dl=0> [<https://perma.cc/R692-879P>].

75. 8 ANNALS OF U.S. CONG. 2307 (1798) (statement of Rep. Harper).

76. 1 AMERICAN STATE PAPERS: CLAIMS 440 (1814).

clined all public employment, and public offices.”⁷⁷ Admittedly, the language used here is a bit tough to decipher. To be “employed in offices in the town” is neither to be publicly employed nor to be in public office. Granted, perhaps being employed in an office is referring to the location where one works. Mr. Worthy could have worked in private offices in town, or he could have been employed in a state office but not have had his employment raised to the level of being publicly employed or holding public office. Likewise, the phrase “all public employment, and public offices” seems to imply the two are distinct. Though it is possible to read the two senses as synonyms. In the end, the evidence for sense four is scarce and weak.

As already quantitatively noted, the evidence is stronger for sense three (*public employment* means *officer*, and not all hired by the government are considered publicly employed). The 1780 Massachusetts Constitution, in the context of the “frame of government” the people had adopted “caus[ing] their public officers to return to private life” and the need “to fill up vacant places, by certain and regular elections and appointments,” declared that “all the [legally qualified] inhabitants of this Commonwealth . . . have an equal right to elect officers, and to be elected, for public employments.”⁷⁸ This language also implies that one obtains public employment through either election or appointment, rather than perhaps just merely being hired. Similarly, Robert Morris, referring to his elected position in the Pennsylvania state legislature, treated such office as synonymous with “public employment” and “seats of authority.”⁷⁹ Likewise, “[p]ublic employments” was elsewhere used interchangeably with the public’s “rulers.”⁸⁰

A congressional debate during the second Washington term equated public employments with offices in the context of a debate over officer salaries:

77. ENOS HITCHCOCK, *THE FARMER’S FRIEND, OR THE HISTORY OF MR. CHARLES WORTHY* 270 (1793).

78. MASS. CONST. art. VIII; *id.* art. IX.

79. ROBERT MORRIS, *TO THE CITIZENS OF PENNSYLVANIA* 2 (Philadelphia, Hall & Sellers 1779).

80. JAMES DANA, *A SERMON, PREACHED BEFORE THE GENERAL ASSEMBLY OF THE STATE OF CONNECTICUT, AT HARTFORD, ON THE DAY OF THE ANNIVERSARY ELECTION, MAY 13, 1779*, at 20 (Hartford, Hudson and Goodwin 1779).

[I]t was for the common interest of the people that persons selected for office should be fit and proper to fill their respective offices. And it was a fact, that from the dispersedness of the population of the country, and from other circumstances, there was great difficulty in finding suitable persons to fill the offices of Government. In other countries, Mr. A. said, where their Governments had been of long standing, persons were trained up with a view to public employments; but in this country this had not been the case, and, therefore, the [President] found the circle from which to select proper characters for office was very confined. It was, therefore, the more necessary that such an allowance should be made to officers of Government as should induce fit persons to accept of them; such as (to use a vulgar but strong expression) would *command the market*. Five hundred dollars, more or less, was nothing when compared with fitness for office.⁸¹

A 1792 letter by one Tobias Lear, declining an “appointment” and “post[] of honor” offered to him, equated such with “public employment.”⁸² Further, a later American discussion of a 1689 debate in the House of Commons about whether to exclude “placemen” (political appointees to public office) from that house, noted that placemen should not be excluded “because otherwise the fittest persons for public employments would remain excluded.”⁸³ Similarly, an eighteenth-century American recounting of an ancient Greek debate equated “public employments” with governing.⁸⁴ Another discussion of ancient practices treated being “admitted to important stations,” “public employment,” and “place[s],” and “offices” as synonymous.⁸⁵

81. 6 ANNALS OF U.S. CONG. 2004 (1797).

82. Letter from Tobias Lear to George Washington (Apr. 5, 1792), in FOUNDERS ONLINE, NAT’L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Washington/05-10-02-0125> [https://perma.cc/JUM4-LLTR] (last visited Feb. 22, 2019).

83. 2 JAMES BURGH, POLITICAL DISQUISITIONS OR, AN ENQUIRY INTO PUBLIC ERRORS, DEFECTS, AND ABUSES 175 (1774).

84. CHEVALIER (ANDREW MICHAEL) RAMSAY, THE TRAVELS OF CYRUS. TO WHICH IS ANNEXED, A DISCOURSE UPON THE THEOLOGY AND MYTHOLOGY OF THE PAGANS (Burlington [N.J.], Isaac Neale 1793).

85. 2 BURGH, *supra* note 83, at 80–82.

A 1786 sermon by a preacher in Massachusetts, which had an established state church, noted that the listeners' ancestors "as soon as the abilities of the country would permit, . . . established larger seminaries, in which youth might be trained up for publick employments, especially for the ministry, that this important office might not become useless and contemptible by falling into the hands of illiterate men."⁸⁶ A discussion of the Bank of England observed that Parliament, in contrast to private banks, had "given an unequivocal proof of their viewing the direction of the bank in the light of a public employment, for they required by their act that the directors should be regularly sworn into office, and permitted them to serve in parliament by a special dispensation . . ."⁸⁷

In sum, it is not crystal clear what *public employment* meant in the Founding era in relation to *officer* since the data can often be read to cover multiple senses. The one sense that is the most common (and arguably the only sense that occurs considering that the three other senses only occur once, if that often) is the sense that *public employment* was a synonym for *officer*, and thus did not apply to those hired by the government who were not officers. But we can only confidently classify *public employment* as falling under that sense 4–10% of the time.

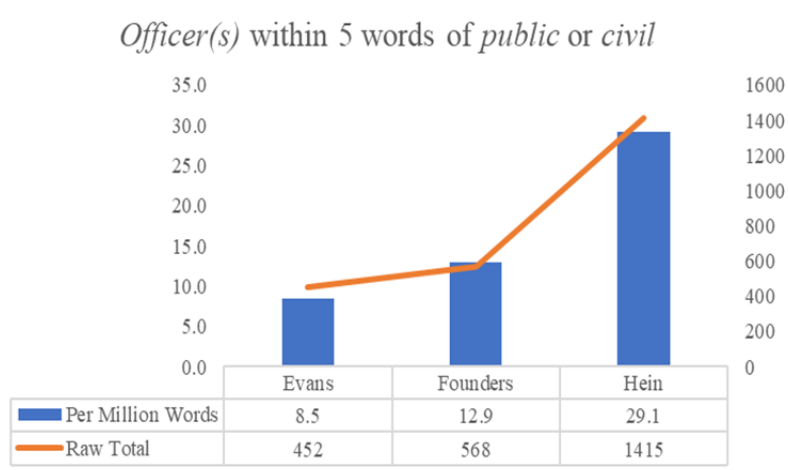
C. *Public or Civil Officers*

Because a search for *officer(s)* within COFEA resulted in so few results that were of the public/civil sense (the majority were of the military sense), we searched for *officer(s)* within 5 words of *civil* or *public* within each of the smaller corpora that make up COFEA.⁸⁸ Here are the frequency results (per million) compared to *officer(s)*:

86. JOSEPH LATHROP, A SERMON, PREACHED IN THE FIRST PARISH IN WEST-SPRINGFIELD, DECEMBER 14, MDCCLXXXVI: BEING THE DAY APPOINTED BY AUTHORITY FOR A PUBLICK THANKSGIVING 11 (Springfield, John Russell 1787).

87. TENCH COXE, THOUGHTS CONCERNING THE BANK OF NORTH AMERICA, WITH SOME FACTS RELATING TO SUCH ESTABLISHMENTS IN OTHER COUNTRIES, RESPECTFULLY SUBMITTED TO THE HONORABLE THE GENERAL ASSEMBLY OF PENNSYLVANIA, BY ONE OF THEIR CONSTITUENTS 5 (Philadelphia, s.n. 1787).

88. This included various spellings of *public* and *civil*.



Whereas *public employment* appeared about five times more in the Founders Corpus than in the other two, *officer(s)* used within five words of *public* or *civil* appeared the most in Hein, where it appeared about two-and-a-half times more than in Founders and about three-and-a-half times more than in Evans.

We randomly sampled fifty results from each of the three smaller corpora. Unfortunately, we were not able to consistently and confidently classify the various public/civil senses of *officer* that we had identified from dictionary definitions due to overlap among the senses or insufficient information. Instead we fell back on the second-best option: noting the specific officers referenced.

This method has some drawbacks. Factual frequency is not the same as sense frequency. For instance, factual frequency can be driven by factors unrelated to the scope of a sense. Prestigious officers, such as the President, a governor, or cabinet secretaries, will be referred to more often than will less prestigious officers. It thus would be a shaky inference to determine that officers only applied to those wielding significant government authority, just as it would be shaky inference to conclude that the predominant sense of *bird* was an animal who flew because robins and canaries appeared more often in a corpus than emus or penguins. In fact, it may be a better use of factual types of a word to expand the scope of the sense to include all found types. It is admittedly a tricky question. With that caveat in mind, below is a list of the various types of officers we found listed in the public/civil search samples, separated by mini-

corpus. While our sample consisted of 150 results, most of the time a specific officer was not mentioned (and occasionally the sense of officer was not of the public or civil variety).

EVANS	FOUNDERS	HEIN
Mayor ⁸⁹	Treasurer ⁹⁰	Judges ⁹¹
Waggon-master ⁹²	President ⁹³	State Delegates ⁹⁴
Public Register ⁹⁵	Department Secretaries ⁹⁶	Trustee for Indian Lands ⁹⁷
Surveyor ⁹⁸	Tax Collector ⁹⁹	Land Recorder ¹⁰⁰

89. GR. BRIT. COURT OF COMMON PLEAS., AN AUTHENTICK ACCOUNT OF THE PROCEEDINGS AGAINST JOHN WILKES, ESQ; MEMBER OF PARLIAMENT FOR AYLESBURY, AND LATE COLONEL OF THE BUCKINGHAMSHIRE MILITIA. (Boston, Richard Draper et al. 1763).

90. Letter from Timothy Pickering to John Adams (Sept. 5, 1797), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Adams/99-02-02-2123> [<https://perma.cc/8A6Y-58VY>] (last visited Feb. 22, 2019).

91. 25 JOURNALS OF THE CONTINENTAL CONGRESS 729–928 (1783).

92. Also included generally “officers in the civil departments of the army.” THOMAS CONDIE, BIOGRAPHICAL MEMOIRS OF THE ILLUSTRIOUS GEN. GEO: WASHINGTON, LATE PRESIDENT OF THE UNITED STATES OF AMERICA, &C. &C. : CONTAINING, HISTORY OF THE PRINCIPAL EVENTS OF HIS LIFE, WITH EXTRACTS FROM HIS JOURNALS, SPEECHES TO CONGRESS, AND PUBLIC ADDRESSES: — ALSO— A SKETCH OF HIS PRIVATE LIFE (Philadelphia, Charless & Ralston 1800).

93. Letter from George Washington to Alexander White (Mar. 25, 1798), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Washington/06-02-02-0136> [<https://perma.cc/U5BB-NYMH>] (last visited Feb. 22, 2019).

94. 25 JOURNALS OF THE CONTINENTAL CONGRESS 729–928 (1783).

95. SAMUEL SMITH, THE HISTORY OF THE COLONY OF NOVA-CAESARIA, OR NEW-JERSEY: CONTAINING, AN ACCOUNT OF ITS FIRST SETTLEMENT, PROGRESSIVE IMPROVEMENTS, THE ORIGINAL AND PRESENT CONSTITUTION, AND OTHER EVENTS, TO THE YEAR 1721. WITH SOME PARTICULARS SINCE; AND A SHORT VIEW OF ITS PRESENT STATE. (Burlington [N.J.], James Parker, 1765) [hereinafter HISTORY OF NEW-JERSEY].

96. Letter from George Washington to Alexander White, *supra* note 93.

97. Session Laws of New Hampshire (text file in Hein corpus, *see supra* note 74).

98. SMITH, *supra* note 95.

99. Letter from George Washington to Charles Mynn Thruston (Aug. 10, 1794), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Washington/05-16-02-0376> [<https://perma.cc/956Z-VJ9K>] (last visited Feb. 22, 2019).

Impost Collector ¹⁰¹	Treasury Secretary ¹⁰²	Ministers ¹⁰³
Notary Public ¹⁰⁴	Loan Commissioners ¹⁰⁵	Surveyor General ¹⁰⁶
Magistrate ¹⁰⁷	Customs Inspectors ¹⁰⁸	Loan Officer ¹⁰⁹
Governor ¹¹⁰	Ship Captain (public vessel) ¹¹¹	Mint Officer ¹¹²

100. 1 LAWS OF THE STATE OF NEW YORK COMPRISING THE CONSTITUTION AND THE ACTS OF THE LEGISLATURE, SINCE THE REVOLUTION, FROM THE FIRST TO THE FIFTEENTH SESSION, INCLUSIVE (1792).

101. 7 ANNALS OF U.S. CONG. (1797–1798); THOMAS HUTCHINSON, THE HISTORY OF THE PROVINCE OF MASSACHUSETTS-BAY, FROM THE CHARTER OF KING WILLIAM AND QUEEN MARY, IN 1691, UNTIL THE YEAR 1750. (Boston, Thomas & John Fleet, 1767).

102. Letter from Tench Coxe to Alexander Hamilton (Jan. 2, 1795), *in* FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Hamilton/01-18-02-0004> [<https://perma.cc/3NU8-DABN>] (last visited Feb. 22, 2019).

103. 1 AMERICAN STATE PAPERS: CLAIMS 5 (1789–1823).

104. HUTCHINSON, *supra* note 101; A COMPLETE BODY OF THE LAWS OF MARYLAND (Annapolis, Thomas Reading 1700).

105. THOMAS CONDIE & RICHARD FOLWELL, HISTORY OF THE PESTILENCE, COMMONLY CALLED YELLOW FEVER, WHICH ALMOST DESOLATED PHILADELPHIA, IN THE MONTHS OF AUGUST, SEPTEMBER & OCTOBER, 1798. (Philadelphia, Richard Folwell, 1799); JOHN MITCHELL MASON, THE VOICE OF WARNING, TO CHRISTIANS, ON THE ENSUING ELECTION OF A PRESIDENT OF THE UNITED STATES (New York, G. F. Hopkins 1800); NARRATIVE OF THE LIFE, AND DYING SPEECH, OF JOHN RYER: WHO WAS EXECUTED AT WHITE-PLAINS, IN THE COUNTY OF WESTCHESTER, STATE OF NEW-YORK, ON THE SECOND DAY OF OCTOBER, 1793, FOR THE MURDER OF DR. ISAAC SMITH, DEPUTY-SHERIFF OF THAT COUNTY 4 (Danbury, Nathan Douglas 1793).

106. 3 ANNALS OF U.S. CONG. (1791–1793); 7 ANNALS OF U.S. CONG. (1797–1798).

107. CONDIE & FOLWELL, *supra* note 105; MASON, *supra* note 105; NARRATIVE OF THE LIFE, AND DYING SPEECH, OF JOHN RYER, *supra* note 105.

108. Report on the Petition of Robert Oliver and Hugh Thompson (Feb. 2, 1795), *in* NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Hamilton/01-18-02-0147> [<https://perma.cc/4Y6R-3DP6>] (last visited Feb. 22, 2019).

109. 7 ANNALS OF U.S. CONG. (1797–1798).

110. ZACHARIAH COX, AN ESTIMATE OF COMMERCIAL ADVANTAGES, BY WAY OF THE MISSISSIPPI AND MOBILE RIVERS, TO THE WESTERN COUNTRY. PRINCIPLES OF A COMMERCIAL SYSTEM, AND THE COMMENCEMENT AND PROGRESS OF A SETTLEMENT ON THE OHIO RIVER, TO FACILITATE THE SAME; WITH A STATEMENT OF FACTS (Nashville, J. McLaughlin 1799).

111. Letter from Timothy Pickering to George Washington (July 21, 1796), *in* FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Washington/99-01-02-00760> [<https://perma.cc/KJV6-UAVD>] (Feb. 22, 2019).

Tax Collector ¹¹³	City Commissioners ¹¹⁴	Attorney General ¹¹⁵
Deputies and Agents ¹¹⁶	Superintendent of the Works ¹¹⁷	Indian Agents ¹¹⁸
Judges ¹¹⁹		Agents for the Protection of Seamen ¹²⁰
Congressmen ¹²¹		Postmasters ¹²²
President ¹²³		
Secretary of State ¹²⁴		

Some of the officers are unsurprising: Presidents, mayors, governors, etc. They are those who exercise significant government authority. Others, though, seem to fall outside of the Supreme Court's current definition of *officer*: postmasters,

112. 7 ANNALS OF U.S. CONG. (1797–1798).

113. *Id.*; Thomas JOHNSON, REMARKS ON SOME PRINCIPLES CONTAINED IN THE PRESBYTERIAN SYSTEM, OR CONFESSION OF FAITH: LIKEWISE, REMARKS ON THE NECESSITY OF SUPPORTING GOSPEL MINISTERS, ACCORDING TO GOSPEL RULES. (Northampton [Mass.], William Butler, 1799).

114. Letter from Thomas Law to George Washington (Oct. 6, 1796), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Washington/99-01-02-01001> [<https://perma.cc/92DK-R25N>] (Feb. 22, 2019).

115. 7 ANNALS OF U.S. CONG. (1797–1798).

116. TIMOTHY PICKERING, MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, ACCOMPANYING A REPORT OF THE SECRETARY OF STATE, CONTAINING OBSERVATIONS ON SOME OF THE DOCUMENTS, COMMUNICATED BY THE PRESIDENT, ON THE EIGHTEENTH INSTANT. (Philadelphia, John Ward Fenno 1798) (These officers were tasked with deciding whether prize vessels could be kept).

117. Letter from Thomas Law to George Washington, *supra* note 114.

118. 7 ANNALS OF U.S. CONG. (1797–1798).

119. MASON LOCKE WEEMS, THE PHILANTHROPIST; OR, A GOOD TWELVE CENTS WORTH OF POLITICAL LOVE POWDER, FOR THE FAIR DAUGHTERS AND PATRIOTIC SONS OF AMERICA (1799).

120. 7 ANNALS OF U.S. CONG. (1797–1798).

121. *Id.*

122. *Id.*

123. *Id.*; DAVID OSGOOD, A DISCOURSE, DELIVERED DECEMBER 29, 1799, THE LORD'S-DAY IMMEDIATELY FOLLOWING THE MELANCHOLY TIDINGS OF THE LOSS SUSTAINED BY THE NATION IN THE DEATH OF ITS MOST EMINENT CITIZEN, GEORGE WASHINGTON, WHO DEPARTED THIS LIFE ON THE 14TH INSTANT, AETAT 68. (Boston, Samuel Hall 1800).

124. JOHN WARD FENNO, DESULTORY REFLECTIONS ON THE NEW POLITICAL ASPECTS OF PUBLIC AFFAIRS IN THE UNITED STATES OF AMERICA, SINCE THE COMMENCEMENT OF THE YEAR 1799. (1800).

waggon-master, tax collector, notary public, surveyor, public register, loan commissioner, customs inspector, etc. While certainly exercising government authority in some degree, it is not clear that a notary public or a surveyor, for example, could be said to be exercising significant government authority.

D. *And Other Officers*

We next continued our investigation into specific types of public/civil officers mentioned in the founding era to get leverage on what the scope of the sense of *officer* might be by looking at the phrase: "other officer(s) of (the) (federal) government." This phrase was usually preceded by the naming of at least one specific officer. We were unable to sample 50 instances of the phrase from each smaller corpus because only Hein had at least 50 (61 total), while Evans (22) and Founders (23) contained significantly less, for a combined total of 105 results. As before, we did not include non-public/civil senses of *officer* (i.e., military sense), and did not include when the Constitution was being quoted. Below are the types of officers we found:

EVANS	FOUNDERS	HEIN
Colonial Commissioners ¹²⁵	Governor ¹²⁶	Superintendent of Purchases ¹²⁷
Governor ¹²⁸	City "Councillors" ¹²⁹	Auditor of

125. SMITH, *supra* note 95.

126. Letter from Anonymous to John Adams (May 3, 1797), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Adams/99-02-02-1959> [https://perma.cc/8SKV-QADC] (last visited Feb. 22, 2019); Letter from Anonymous to John Adams (May 3, 1797) [hereinafter Letter from Anonymous to John Adams (No. 1961)], in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Adams/99-02-02-1961> [https://perma.cc/P62D-DPA7]; Letter from St. George Tucker to George Washington, (Oct. 26, 1781), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Washington/99-01-02-07283> [https://perma.cc/Y354-FMSE] (same); Letter from William Franklin to Benjamin Franklin (Sep. 3, 1771) (incomplete), in Founders Online, NATIONAL ARCHIVES, <http://founders.archives.gov/documents/Franklin/01-18-02-0138> [https://perma.cc/6N5Q-F35N] (same).

127. PETER WILSON (Compiler), ACTS OF THE GENERAL ASSEMBLY OF THE STATE OF NEW-JERSEY (1784).

128. MATHEW CAREY, A SHORT ACCOUNT OF THE MALIGNANT FEVER, LATELY PREVALENT IN PHILADELPHIA: WITH A STATEMENT OF THE PROCEEDINGS THAT

		Accounts ¹³⁰
Privy Council Members ¹³¹	Secretary of State ¹³²	Cabinet Secretaries ¹³³
Land Commissioners ¹³⁴	Attorney General ¹³⁵	Attorney General ¹³⁶
Comptroller-General ¹³⁷	Postmaster-General ¹³⁸	Treasury Comptroller ¹³⁹

TOOK PLACE ON THE SUBJECT IN DIFFERENT PARTS OF THE UNITED STATES (1793); THOMAS HUTCHINSON, *THE HISTORY OF THE PROVINCE OF MASSACHUSETTS-BAY, FROM THE CHARTER OF KING WILLIAM AND QUEEN MARY, IN 1691, UNTIL THE YEAR 1750.* (1767); ALEXANDER CONTEE HANSON, *CONSIDERATIONS ON THE PROPOSED REMOVAL OF THE SEAT OF GOVERNMENT, ADDRESSED TO THE CITIZENS OF MARYLAND* (1786); SMITH, *supra* note 95.

129. Letter from Edward Carrington to George Washington (June 4, 1798), in *FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN.*, <http://founders.archives.gov/documents/Washington/06-02-02-0238> [<https://perma.cc/JA27-BPEL>] (last visited Feb. 22, 2019).

130. WILSON, *supra* note 127.

131. ALEXANDER CONTEE HANSON, *REMARKS ON THE PROPOSED PLAN OF A FEDERAL GOVERNMENT, ADDRESSED TO THE CITIZENS OF THE UNITED STATES OF AMERICA, AND PARTICULARLY TO THE PEOPLE OF MARYLAND* (1788); HUTCHINSON, *supra* note 128; SMITH, *supra* note 95.

132. Letter from George Washington to Thomas Jefferson (Aug. 23, 1792), in *FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN.*, <http://founders.archives.gov/documents/Washington/05-11-02-0009> (last visited Feb. 22, 2019); Letter from John M. Pintard to John Adams (Dec. 27, 1799), in *FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN.*, <http://founders.archives.gov/documents/Adams/99-02-02-4109> [<https://perma.cc/47SQ-CU87>] (last visited Feb. 22, 2019).

133. 6 *ANNALS OF U.S. CONG.* (1796–1797); 7 *ANNALS OF U.S. CONG.* (1797–1798); 1759–1776 *N.H. TEMPORARY ACTS AND LAWS*; BENJAMIN PERLEY POORE (Compiler), *FEDERAL AND STATE CONSTITUTIONS, COLONIAL CHARTERS, AND OTHER ORGANIC LAWS OF THE UNITED STATES 1270–1309* (1877); 2 THOMAS CARPENTER, *THE AMERICAN SENATOR. OR A COPIOUS AND IMPARTIAL REPORT OF THE DEBATES IN THE CONGRESS OF THE UNITED STATES: INCLUDING ALL TREATIES, ADDRESSES, PROCLAMATIONS, &C. WHICH OCCUR DURING THE PRESENT SESSION, BEING THE SECOND OF THE FOURTH CONGRESS 201–366* (1797); *Session Laws of New Hampshire*, *supra* note 74.

134. SMITH, *supra* note 95. (“[C]ommissioners to lay out land”).

135. Letter from John M. Pintard to John Adams, *supra* note 132.

136. 6 *ANNALS OF U.S. CONG.* (1796–1797); POORE *supra* note 133; 1759–1776 *N.H. TEMPORARY ACTS AND LAWS*; CARPENTER, *supra* note 133 at 201–366; *Session Laws of New Hampshire*, *supra* note 74.

137. 1 FRANCIS HOPKINSON, *THE PENNSYLVANIA STATE TRIALS: CONTAINING THE IMPEACHMENT, TRIAL, AND ACQUITTAL OF FRANCIS HOPKINSON, AND JOHN NICHOLSON, ESQUIRES. THE FORMER BEING JUDGE OF THE COURT OF ADMIRALTY, AND THE LATTER, THE COMPTROLLER-GENERAL OF THE COMMONWEALTH OF PENNSYLVANIA.* (1795).

Register-General ¹⁴⁰	Privy Counsellors ¹⁴¹	Commissioner of Revenue ¹⁴²
State Treasurer ¹⁴³	Supreme Court Judges ¹⁴⁴	Auditor ¹⁴⁵
President ¹⁴⁶	Assistant Secretary of Treasury ¹⁴⁷	Register ¹⁴⁸
Prime Minister ¹⁴⁹	Printer of the United States ¹⁵⁰	Assistant Postmaster General ¹⁵¹
Congressmen ¹⁵²	Inferior Court	Postmaster

138. Letter from John M. Pintard to John Adams (Dec. 27, 1799), *supra* note 132.

139. 7 ANNALS OF U.S. CONG. (1797–98); 2 CARPENTER, *supra* note 133, at 201–366.

140. 1 HOPKINSON, *supra* note 137.

141. IV. The Plan of Government as Originally Drawn by George Mason (June 8–10, 1776) [hereinafter Plan of Government], in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <https://founders.archives.gov/documents/Jefferson/01-01-02-0161-0005> [<https://perma.cc/CN6P-3RUB>] (last visited Feb. 22, 2019).

142. 2 CARPENTER, *supra* note 133, at 201–366.

143. 1 HOPKINSON, *supra* note 137.

144. Plan of Government, *supra* note 141.

145. 7 ANNALS OF U.S. CONG. (1797–1798) ("Treasury Auditor"); 2 CARPENTER, *supra* note 133, at 201–366.

146. ALEXANDER ADDISON, A DISCUSSION OF THE QUESTION LATELY AGITATED IN THE CONGRESS OF THE UNITED STATES, WITH REGARD TO THE OBLIGATION OF TREATIES, CONCLUDED BY THE PRESIDENT AND SENATE, AND THE UNQUALIFIED DUTY OF THE HOUSE OF REPRESENTATIVES TO CARRY THEM INTO EXECUTION, SO FAR AS ANY ACT OF THEIRS, MAY BE NECESSARY FOR THAT PURPOSE. (1796); CAREY, *supra* note 128; HANSON, *supra* note 131; JAMES THOMSON CALLENDER, THE HISTORY OF THE UNITED STATES FOR 1796: INCLUDING A VARIETY OF INTERESTING PARTICULARS RELATIVE TO THE FEDERAL GOVERNMENT PREVIOUS TO THAT PERIOD. (1797).

147. Letter from Tench Coxe to Alexander Hamilton, *supra* note 102.

148. 7 ANNALS OF U.S. CONG. (1797–1798) ("Treasury Register"); 2 CARPENTER, *supra* note 133 at 201–366.

149. JAMES WILSON STEVENS, AN HISTORICAL AND GEOGRAPHICAL ACCOUNT OF ALGIERS: COMPREHENDING A NOVEL AND INTERESTING DETAIL OF EVENTS RELATIVE TO THE AMERICAN CAPTIVES. (1797).

150. Letter from James McHenry to John Adams (Apr. 29, 1800), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Adams/99-02-02-4286> [<https://perma.cc/Q4ML-Z6XB>] (last visited Feb. 22, 2019).

151. 2 CARPENTER, *supra* note 133, at 201–366.

152. DANA HYDE, RUSSEL FITCH & ABEL DUNCAN, A COPY OF THE PETITION OF DOCTORS HYDE AND FITCH TO THE GENERAL ASSEMBLY OF THE STATE OF VERMONT: PRAYING FOR A MEDICAL LOTTERY. UNTO WHICH ARE ANNEXED, THE RECOMMENDATIONS OF SUNDRY GENTLEMEN: AND DOCTOR DUNCAN'S REASONS WHY THE PRAYER OF SAID PETITION OUGHT TO BE GRANTED. (1800).

	Judges ¹⁵³	General ¹⁵⁴
Judges (federal) ¹⁵⁵	Chief Coiner of the Mint ¹⁵⁶	State Loan Officer ¹⁵⁷
Attorneys ¹⁵⁸	Secretary of Treasury ¹⁵⁹	Foreign Ministers ¹⁶⁰ and Diplomats ¹⁶¹
Lieutenant Governor ¹⁶²		President of Congress ¹⁶³
Diplomatic Agents ¹⁶⁴		Senators ¹⁶⁵
		Congressmen ¹⁶⁶

153. Letter from the United States Supreme Court Justices to George Washington (Sept. 13, 1790), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Washington/05-06-02-0207> [<https://perma.cc/Q5G9-RGW5>] (last visited Feb. 22, 2019).

154. 2 CARPENTER, *supra* note 133, at 201–366.

155. ADDISON, *supra* note 146; HYDE ET AL., *supra* note 152; HUTCHINSON, *supra* note 128.

156. Edmund Randolph, *Opinion on Recess Appointments* (July 7, 1792), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Jefferson/01-24-02-0176> [<https://perma.cc/9TYT-KDLQ>] (last visited Feb. 22, 2019).

157. 2 CARPENTER, *supra* note 133, at 201–366.

158. HYDE ET AL., *supra* note 152.

159. Letter from George Washington to Alexander Hamilton (Aug. 26, 1792) FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Hamilton/01-12-02-0206> [<https://perma.cc/EZ7C-VZBX>] (last visited Feb. 22, 2019).

160. 6 ANNALS OF U.S. CONG. (1796–1797); 24 JOURNALS OF THE CONTINENTAL CONGRESS (1783); 3 CARPENTER, *supra* note 133, at 561–760.

161. 4 ANNALS OF U.S. CONG. (1793–1795).

162. HUTCHINSON, *supra* note 128.

163. 3 CARPENTER, *supra* note 133, at 561–760; 6 ANNALS OF U.S. CONG. (1796–1797).

164. Albert Gallatin, *The Speech of Albert Gallatin, Delivered in the House of Representatives of the United States, on the First of March, 1798, upon the Foreign Inter-course Bill* (Mar. 1, 1798), in EVANS EARLY AM. IMPRINT COLLECTION, <https://quod.lib.umich.edu/cgi/t/text/textidx?c=evans;cc=evans;q1=N25454;rgn=main;view=text;idno=N25454.0001.001> [<https://perma.cc/KX29-H3ZA>] (last visited Mar. 11, 2019).

165. 7 ANNALS OF U.S. CONG. (1797–1798); 1759–1776 N.H. TEMPORARY ACTS AND LAWS; Session Laws of New Hampshire, *supra* note 74. *But see* 9 ANNALS OF U.S. CONG. (1798–1799) (arguing that Senators are not officers).

166. 1 ANNALS OF U.S. CONG. (1789–1790); 3 ANNALS OF U.S. CONG. (1791–93); 4 ANNALS OF U.S. CONG. (1793–1795); 5 ANNALS OF U.S. CONG. (1795–1796); 1759–1776 N.H. TEMPORARY ACTS AND LAWS; Session Laws of New Hampshire, *supra* note 74.

		Vice President ¹⁶⁷
		Congressional Delegates ¹⁶⁸
		Judges of the Revenue Superior Court ¹⁶⁹
		(State) President ¹⁷⁰
		Privy Council Member ¹⁷¹
		Judges ¹⁷²
		Inspector of Revenue ¹⁷³
		Register of the Treasury ¹⁷⁴
		Treasury Treasurer ¹⁷⁵
		Ambassadors and Other Diplomatic Agents ¹⁷⁶
		Commissaries ¹⁷⁷
		Superintendent of Military Stores ¹⁷⁸
		Purveyor of Public Supplies ¹⁷⁹

167. 6 ANNALS OF U.S. CONG. (1796–1797).

168. 1759–1776 N.H. TEMPORARY ACTS AND LAWS; Session Laws of New Hampshire, *supra* note 74.

169. 1759–1776 N.H. TEMPORARY ACTS AND LAWS; Session Laws of New Hampshire, *supra* note 74.

170. 1759–1776 N.H. TEMPORARY ACTS AND LAWS; Session Laws of New Hampshire, *supra* note 74.

171. 1759–1776 N.H. TEMPORARY ACTS AND LAWS; Session Laws of New Hampshire, *supra* note 74.

172. 9 ANNALS OF U.S. CONG. (1798–1799); 2 BUSHROD WASHINGTON, REPORTS OF CASES ARGUED AND DETERMINED IN THE COURT OF APPEALS OF VIRGINIA (1799).

173. 6 ANNALS OF U.S. CONG. (1796–97); 1 JAMES RICHARDSON, COMPILATION OF THE MESSAGES AND PAPERS OF THE PRESIDENTS (1896) (George Washington); American State Papers – Misc. (text file in Hein corpus, *see supra* note 74).

174. 7 ANNALS OF THE U.S. CONG. (1797–1798).

175. *Id.*

176. *Id.*

177. 2 ANNALS OF U.S. CONG. (1790–1791).

178. 8 ANNALS OF U.S. CONG. (1798–1799).

179. *Id.*

		Officers of the Mint ¹⁸⁰
		Customs Collectors ¹⁸¹
		Governor ¹⁸²

These officers tend to be those of higher rank than when looking at the public/civil search done previously. But that is not surprising, when a phrase of “[some officer] and other officers” is used, it would be odd to have the only named officer be a minor one. Still, some of the officers listed here do not seem to fit the significant exercise of authority sense adopted by the Supreme Court: attorneys, commissaries, customs collectors, loan officers, and auditors. These officers do exercise some government authority, but they seem to fall outside the modern Supreme Court definition.

E. Officers of Government

To try to avoid the way a search for “other officers” might bias the results towards more preeminent officers, we also sampled 50 results from every mini-corpus for the phrase “officers of (the) (federal) government.” Not surprisingly, we had more than double the hits from Hein than we had from the other mini-corpora.¹⁸³

EVANS	FOUNDERS	HEIN
Prime Minister ¹⁸⁴	President ¹⁸⁵	State Land Tax Collector ¹⁸⁶

180. *Id.*

181. *Id.*; American State Papers – Misc., *supra* note 173.

182. SAMUEL ALLINSON, ACTS OF THE GENERAL ASSEMBLY OF THE PROVINCE OF NEW-JERSEY, 1702–1776 (1776).

183. These were the results we found from each mini-corpus: Evans (155), Founders (206), and Hein (587).

184. STEVENS, *supra* note 149.

185. Letter from Alexander Hamilton to the Speaker of the House of Representatives (Frederick Muhlenberg) (July 20, 1790), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Hamilton/01-06-02-0408> [https://perma.cc/UYW5-2324] (last visited Feb. 22, 2019).

186. 4 ANNALS OF U.S. CONG. (1793–1795).

There were over 2,000 of this type of officer mentioned in this source: Mr. Fitz[sim]ions knew a time when the land tax of Pennsylvania cost thirty

Register General ¹⁸⁷	Vice President ¹⁸⁸	Cabinet Secretaries ¹⁸⁹
Members of House of Representatives ¹⁹⁰	Clerk of the Supreme Court ¹⁹¹	Assistant Postmaster General ¹⁹²
President ¹⁹³	Surveyor General ¹⁹⁴	Attorney General ¹⁹⁵
Magistrate ¹⁹⁶	Governor ¹⁹⁷	Comptroller of the Treasury ¹⁹⁸
Secretary of State ¹⁹⁹	Secretary of War ²⁰⁰	Treasurer ²⁰¹

per cent. in collecting it; and, at the same time, the officers employed were more numerous than all the revenue officers of the Federal Government at this day, put together. Mr. F. stated the former to have been about two thousand.

Id. at 631.

187. 1 HOPKINSON, *supra* note 137.

188. Letter from Alexander Hamilton to the Speaker of the House of Representatives, *supra* note 185.

189. 9 ANNALS OF U.S. CONG. (1798–1799) (referred to as principal officers).

190. Israel Evans, *A Sermon, Delivered at Concord, Before the Hon. General Court of the State of Newhampshire, at the Annual Election, Holden on the First Wednesday in June, M.DCC.XCI.* (June 1, 1791), in EVANS EARLY AM. IMPRINT COLLECTION <https://quod.lib.umich.edu/cgi/t/text/text-idx?c=evans;cc=evans;q1=N18031;rgn=div1;rgn1=citation;view=text;idno=N18031.0001.001;node=N18031.0001.001:3> [<https://perma.cc/3AEG-NU4F>] (Mar. 11, 2019).

191. Letter from Alexander Hamilton to the Speaker of the House of Representatives, *supra* note 185.

192. 9 ANNALS OF U.S. CONG. (1798–1799) (referred to as a principal officer).

193. CAREY, *supra* note 128.

194. Letter from Alexander Hamilton to the Speaker of the House of Representatives, *supra* note 185.

195. 9 ANNALS OF U.S. CONG. (1798–1799) (grouped with principal officers); 1703–1786 N.J. LAWS; Session Laws of New Hampshire, *supra* note 74.

196. *The Annual register, and Virginian repository, for the year 1800.*, in EVANS EARLY AM. IMPRINT COLLECTION (2008–2009), <http://name.umdl.umich.edu/N26403.0001.001> [<https://perma.cc/2DUK-4YUJ>]. This usage may better correspond to the law enforcement sense of *officer*.

197. Letter from Anonymous to John Adams (No. 1961), *supra* note 126.

198. 9 ANNALS OF U.S. CONG. (1798–99).

199. Samuel Harrison Smith, *Remarks on education: illustrating the close connection between virtue and wisdom.: To which is annexed, a system of liberal education. Which, having received the premium awarded by the American Philosophical Society, December 15th, 1797, is now published by their order.*, in EVANS EARLY AM. IMPRINT COLLECTION (2008–2009), <http://name.umdl.umich.edu/N25985.0001.001> [<https://perma.cc/V9W2-TBJB>].

200. Letter from Thomas Mifflin to Thomas Jefferson (July 7, 1793), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Jefferson/01-26-02-0392> [<https://perma.cc/52S9-ERNK>] (last visited Feb. 22, 2019).

Governor ²⁰²	Territorial Secretary ²⁰³	Auditor of the Treasury ²⁰⁴
Colonial Council ²⁰⁵	Territorial Judges ²⁰⁶	Commissioner of the Revenue ²⁰⁷
Colony Secretary ²⁰⁸	Attorney General ²⁰⁹	Register of the Treasury ²¹⁰
Judges ²¹¹		Accountant of the War Department ²¹²
Attorney General ²¹³		Accountant of the Navy Department ²¹⁴
Comptroller-General ²¹⁵		Postmaster General ²¹⁶
Secretary of the Treasury ²¹⁷		Governor ²¹⁸
Secretary of		Deputy Governor/

201. 9 ANNALS OF U.S. CONG. (1798–1799) (grouped with principal officers); 1703–1786 N.J. LAWS.

202. 1 HOPKINSON, *supra* note 137; HUTCHINSON, *supra* note 101; JAMES OTIS, A VINDICATION OF THE CONDUCT OF THE HOUSE OF REPRESENTATIVES OF THE PROVINCE OF THE MASSACHUSETTS-BAY: MORE PARTICULARLY, IN THE LAST SESSION OF THE GENERAL ASSEMBLY (1762), *reprinted in* EVANS EARLY AM. IMPRINT COLLECTION (2009–2010), <http://name.umdl.umich.edu/N07231.0001.001> [<https://perma.cc/JJL9-M7KG>]; SMITH, *supra* note 199.

203. Letter from Alexander Hamilton to Israel Ludlow (Nov. 25, 1792), *in* FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN. (Jan. 18, 2019), <http://founders.archives.gov/documents/Hamilton/01-13-02-0092> [<https://perma.cc/BQ9B-J3EL>] (last visited Feb. 22, 2019).

204. 9 ANNALS OF U.S. CONG. (1798–1799) (grouped with principal officers).

205. Otis, *supra* note 202.

206. Letter from Alexander Hamilton to Israel Ludlow, *supra* note 203.

207. 9 ANNALS OF U.S. CONG. (1798–99) (grouped with principal officers).

208. SMITH, *supra* note 95.

209. Letter from George Washington to Charles Lee (Nov. 14, 1796), *in* FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN. (Jan. 18, 2019), <http://founders.archives.gov/documents/Washington/99-01-02-00002> [<https://perma.cc/9RBK-8RVN>].

210. 9 ANNALS OF U.S. CONG. (1798–1799) (grouped with principal officers).

211. 1 HOPKINSON, *supra* note 137.

212. 9 ANNALS OF U.S. CONG. (1798–1799) (grouped with principal officers).

213. 1 HOPKINSON, *supra* note 137.

214. 9 ANNALS OF U.S. CONG. (1798–1799) (grouped with principal officers).

215. 1 HOPKINSON, *supra* note 137.

216. 9 ANNALS OF U.S. CONG. (1798–1799) (grouped with principal officers).

217. 1 HOPKINSON, *supra* note 137.

218. 1703–1786 N.J. LAWS; Session Laws of New Hampshire, *supra* note 74.

Commonwealth ²¹⁹		Lieutenant Governor ²²⁰
		Secretary of the Colony ²²¹
		Colonial Treasurer ²²²
		Stewards for the Public Affairs of the Country ²²³
		Assistants ²²⁴
		Colonial Commissioners ²²⁵
		President of the Privy Council ²²⁶
		Clerk of the Privy Council ²²⁷
		Speaker of the House ²²⁸
		Clerk of the House ²²⁹
		Supreme Court Justices ²³⁰
		State Auditor ²³¹
		Mayor ²³²
		Government Land Surveyors ²³³

219. 1 HOPKINSON, *supra* note 137.

220. Session Laws of New Hampshire, *supra* note 74.

221. *Id.*

222. *Id.*

223. *Id.* This is a colonial position.

224. *Id.* It is unclear who these officers were assistants to—perhaps the colonial privy council. There were thirty six in total.

225. *Id.* This included Commissioners in Reserve.

226. *Id.*

227. *Id.*

228. *Id.*

229. *Id.*

230. 1703–1786 N.J. LAWS.

231. *Id.*

232. 1786 VT. LAWS.

233. JOURNALS OF THE CONTINENTAL CONGRESS (1788–1789).

Perhaps even more so than the “other officers” search, this search produced named officers that seemed to exercise significant authority. But there were a few exceptions: the over two thousand state land tax collectors,²³⁴ the three dozen assistants listed as officers in the Colony of New Hampshire,²³⁵ and accountants of the War and Navy Departments.²³⁶

Interestingly, sometimes officers were contrasted with those who are sometimes referred to as officers: members of Congress,²³⁷ state legislatures,²³⁸ or the courts.²³⁹ Once, we found an officer being contrasted with a special agent—“Wherever an object of public business is likely to be permanent, it is more fit that it should be transacted by an officer of the Government regularly constituted, than by the agent of a Department specially intrusted.”²⁴⁰

F. Officer(s) Clusters

We next explored the *office* related clusters. Below are the most common words that follow *office/officer/officers of*, ranked by frequency and mutual information score:

Rank	Office(r)(s) of ____	FREQ.	Office(r)(s) of ____	MIS
1	THE	13,591	DISCOUNT	9.83
2	A	802	INSPECTION	9.62
3	GOVERNMENT	629	DISTRIBUTOR	9.61

234. 3–5 ANNALS OF U.S. CONG. (1793–95).

235. 1759 N.H LAWS.

236. 7–10 ANNALS OF U.S. CONG. (1798–99).

237. JOURNALS OF THE CONTINENTAL CONGRESS (1774–1789).

238. 3 CARPENTER, *supra* note 133, at i–560; The American Peace Commissioners to the President of Congress (Sept. 10, 1783), in FOUNDERS ONLINE, NAT’L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Adams/06-15-02-0133> [https://perma.cc/9RLP-C9MZ] (last visited Feb. 22, 2019).

239. Letter from Thomas Jefferson to John Garland Jefferson (Apr. 26, 1794), in FOUNDERS ONLINE, NAT’L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Jefferson/01-28-02-0058> [https://perma.cc/YH4-4JLY] (last visited Feb. 22, 2019).

240. Letter from Alexander Hamilton to George Washington, (December 1794), FOUNDERS ONLINE, NAT’L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Hamilton/01-17-02-0396> [https://perma.cc/TMP5-R6DX] (last visited Feb. 22, 2019).

4	THIS	593	JUDGE-ADVOCATE	8.8
5	INSPECTION	451	INFPEAION	8.63
6	EACH	403	FINANCE	8.54
7	HIS	399	DISC	8.4
8	THAT	300	REFINER	8.11
9	FINANCE	249	PURVEYOR	8.02
10	SECRETARY	244	PROFIT	7.64
11	ANY	242	GONFALONIER	7.55
12	PRESIDENT	238	INLAND	7.49
13	REGIMENTS	238	BRIGADES	7.48
14	THEIR	238	SEARCHER	7.47
15	SUCH	228	PODEFTA	7.35
16	STATE	209	HIGH-PRIEST	7.28
17	PROFIT	189	REGIMENTS	7.25
18	ARTILLERY	187	REGTS	7.23
19	FOREIGN	184	ARTILLERY	7.17
20	EVERY	183	ADJUTANT	7.16
21	DISCOUNT	153	ADJT	7.14
22	SAID	152	ACCOUNTANT	7.08
23	YOUR	152	THEOPHILUS	7.07
24	JUSTICE	145	SUPERVISOR	6.96
25	OUR	142	MARINES	6.88
26	TRUST	141	GEOGRAPHER	6.87
27	COLLECTOR	130	COLLECTOR	6.85
28	SHERIFF	125	INSPECTOR	6.82
29	EQUAL	118	GOVERNMT	6.8
30	CORPS	112	SURVEYOR	6.78
31	INDIAN	102	POLICE	6.69
32	THOSE	96	INFPEGOR	6.67
33	COMMISSIONER	94	PRECEPTOR	6.6
34	ALL	93	MARSHAL	6.57
35	SURVEYOR	93	COMPTROLLER	6.51
36	TREASURER	93	INFPE	6.33
37	CHIEF	91	SHERIFF	6.27

38	MY	90	INFERIOUR	6.27
39	AN	86	CONSTABLE	6.25
40	JUDGE	86	ASSESSOR	6.25
41	RANK	83	SUPERINTEND- ANT	6.24
42	CONSUL	77	MUSTERS	6.22
43	INSPECTOR	74	CLOATHIER	6.15
44	CLERK	70	CONSUL	6.13
45	COMPANIES	70	SECY	6.09
46	GOVERNOR	67	ENGINEERS	6.09
47	ONE	66	COMMISSIONER	6.01
48	HIGH	64	CONFLABLE	6
49	ADJUTANT	63	DEACONS	6
50	BOTH	62	CAVALRY	5.98
51	BRIGADES	61	COLLEAOR	5.96
52	GREAT	59	RECEIVER	5.92
53	MILITIA	59	VICE-PRESIDENT	5.9
54	NEW	57	PROVOST	5.86
55	CONGRESS	54	COMPANIES	5.84
56	IT	52	CORPS	5.83
57	DEPUTY	50	MARSHALL	5.82
58	PENNSYLVANIA	48	BATTALIONS	5.77
59	COMMISSARY	47	CHANCELLOR	5.77
60	DISTRICT	46	KENT	5.69
61	HONOR	46	MEDIATOR	5.6
62	COMPROLLER	43	THERIFF	5.57
63	INLAND	41	FIATE	5.56
64	THESE	41	QUARtermas- TER	5.49
65	WHICH	41	DIRECTOR	5.43
66	COLONEL	40	TRUST	5.42
67	DIFFERENT	40	TRUSTEE	5.29
68	MERIT	39	EXCISE	5.29
69	ATTORNEY	38	MAGISTRACY	5.28
70	HUMANITY	38	RANK	5.24

71	FRIENDSHIP	37	SUSSEX	5.23
72	SOME	36	DEACON	5.22
73	CAVALRY	35	PAYMASTER	5.16
74	MARSHAL	34	GOVERNMENT	5.16
75	COLO.	33	ARTIFICERS	5.15
76	PUBLIC	32	SENATOR	5.15
77	RELIGION	32	CARLISLE	5.14
78	VIRGINIA	32	DEPUTY	5.13
79	DISTINCTION	31	INFANTRY	5.13
80	HONOUR	31	COMMISSARY	5.13
81	MINISTER	31	JUFFICE	5.1
82	SUPERINTEND- ANT	31	CORONER	5.05
83	CHRIST	29	CIVILITY	5.01
84	REGISTER	29	DRAGOONS	5
85	ARMY	28	HUMANITY	4.99
86	KENT	28	OVERSEER	4.98
87	INFERIOR	27	DISTINCTION	4.98
88	CIVIL	26	FOREIGN	4.97
89	CONSTABLE	26	ASSISTANT	4.97
90	SECY	26	TREASURER	4.96
91	INFANTRY	25	POSTMASTER	4.91
92	OURS	25	SECRETARY	4.84
93	SLATE	25	OURS	4.81
94	FRANCE	24	EACH	4.71
95	MARSHALL	24	REGISTER	4.66
96	POLICE	24	EQUAL	4.65
97	ASSISTANT	23	INFERIOR	4.62
98	EXCISE	23	ENGINEER	4.6
99	LOVE	22	HAZEN	4.6
100	MASSACHU- SETTS	22	AUDITOR	4.6

These data point to some further areas to explore, particularly when *the, a, this, each, that, any, such, and all* follow the cluster

office(r)(s) of. We just present the results of *office(r)(s) of the* ____ below:

Rank	<i>Office(r)(s) of the</i> ____	FRQ.	<i>Office(r)(s) of the</i> ____	MIS
1	TREASURY	807	CUFFOMS	11.2
2	ARMY	763	CUFLOMS	10.98
3	UNITED	701	ADMIRALTIES	10.95
4	SECRETARY	613	CUSTOMS	10.48
5	CUSTOMS	551	SOLICITOR	9.89
6	REGIMENT	448	INSPECTOSHIP	9.87
7	SAID	414	PROTHONO-TARY	9.61
8	MILITIA	291	ACCOUNTANT	8.87
9	STATE	264	PICQUET	8.63
10	DAY	240	REGIMENT	8.11
11	GOVERNMENT	234	DIFIRID	7.99
12	REVENUE	180	TREASURY	7.91
13	COUNTY	179	NAVY	7.89
14	LATE	173	MINT	7.67
15	CLERK	172	STAFF	7.64
16	LINE	162	INQUISITION	7.5
17	TROOPS	152	ADMIRALTY	7.46
18	COMPANY	148	BATTALION	7.46
19	COURT	145	ARMY	7.44
20	SEVERAL	142	CUS	7.4
21	NAVY	133	COMPTRROLLER	7.35
22	DEPARTMENT	127	REVENUE	7.31
23	SAME	127	RECORDER	7.31
24	PORT	117	SECRETARY	7.26
25	VIRGINIA	107	MILITIA	7.25
26	CONTINENTAL	106	BRIGADE	7.22
27	COMMISSIONER	98	REVOLUTION-ARY	7.21
28	AMERICAN	91	AUDITOR	7.18
29	CORPS	88	COMMISSION-ER	7.16

30	CROWN	84	CLERK	6.96
31	BRIGADE	83	HOSPITAL	6.86
32	DISTRICT	73	VIRGA	6.85
33	FIRST	66	LEGION	6.77
34	FRENCH	64	CAVALRY	6.74
35	SOUTHERN	63	REGT	6.74
36	ADMIRALTY	62	REGISTER	6.72
37	REGIMENTS	61	BELLIGERENT	6.71
38	GUARD	59	CORPS	6.58
39	REGISTER	57	ALLIANCE	6.57
40	HOSPITAL	56	TROOP	6.57
41	BRITISH	55	DIFTRIA	6.56
42	ALLIANCE	48	CROWN	6.42
43	CONVENTION	48	REGIMENTS	6.38
44	MINT	47	REFPEAIVE	6.38
45	PRINCIPAL	46	POLICE	6.37
46	AUDITOR	45	SOUTHERN	6.32
47	FAME	45	REGENCY	6.24
48	RESPECTIVE	44	PORT	6.22
49	DIFFERENT	43	MEDICAL	6.2
50	FEDERAL	43	GARRISON	6.15
51	SOLICITOR	43	CUTTER	6.13
52	ARTILLERY	41	REGULARS	6.09
53	GENERAL	40	JUDICIAL	6.07
54	MASSACHUSETTS	40	ARTILLERY	6.07
55	NEW	40	SECY	6.07
56	PLACE	40	DETACHMENT	6.05
57	CHURCH	38	GUARDS	6.04
58	CITY	38	SUPERINTEN- DENT	6.02
59	SHIP	38	FEDERAL	6.02
60	BATTALION	37	GUARD	6
61	LAND	37	MARINES	5.97
62	COMMISSIONERS	36	DEPARTMENT	5.95
63	COMPTRROLLER	36	MARINE	5.91

64	TWO	36	INVALID	5.89
65	REGT	34	MESSIAH	5.84
66	TOWN	34	INFANTRY	5.83
67	GARRISON	33	UNITED	5.81
68	OTHER	33	LINE	5.8
69	PENNSYLVANIA	31	TREA	5.77
70	SECOND	31	ADJUTANT	5.73
71	COUNTRY	30	TROOPS	5.71
72	COURTS	30	COMPANY	5.69
73	JUDICIAL	30	ARTIFICERS	5.66
74	COMMONWEALTH	29	PACKET	5.6
75	HOUSE	29	DISTRICT	5.6
76	STAFF	29	CONTINENTAL	5.59
77	CAVALRY	28	LATE	5.53
78	ACCOUNTANT	26	POSTMASTER	5.51
79	JERSEY	26	REVENUES	5.5
80	POST	26	GERMAN	5.34
81	DETACHMENT	25	VIRGINIA	5.33
82	DIVISION	24	HOSPITALS	5.27
83	SENATE	24	RESPECTIVE	5.26
84	BOARD	23	DRAGOONS	5.25
85	KING	23	CORPORATION	5.23
86	MARYLAND	23	FLYING	5.21
87	MILITARY	23	CONVENTION	5.21
88	PROTHONOTARY	23	AUDITORS	5.2
89	THIRD	23	PENNSYLVANIA	5.18
90	CONNECTICUT	22	DIVISION	5.16
91	FOUR	22	SQUADRON	5.14
92	MARINE	22	MINISTERIAL	5.1
93	NAVAL	22	NAVAL	5.06
94	REGULAR	22	SURVEYOR	5.03
95	REVOLUTIONARY	22	MASSACHU- SETTS	5
96	EXECUTIVE	21	FRIGATE	4.96
97	GUARDS	21	AMERICAN	4.93

98	PROVINCE	21	REGULAR	4.87
99	RANK	21	BATTALIONS	4.86
100	STATES	21	EXCISE	4.86

The *office(r)(s) of (the) clerk* is an interesting cluster given the question of whether clerks are generally officers. We will explore that more below.

G. Officer(s) of the United States

One of the advantages of using a corpus for analysis, as opposed to a dictionary, is the ability to drill down on the most relevant context. We thus searched for every instance of the phrase *officer(s) of the United States*.²⁴¹ The phrase appeared about twice as often in Hein and Founders as in the Evans Corpus.²⁴² We then looked for the specific officer being mentioned, if any, in a sample of fifty from Hein and Founders, and all of the results from Evans, since the phrase occurred fewer than fifty times there.

EVANS	FOUNDERS	HEIN
Congressmen ²⁴³	President ²⁴⁴	Loan Officers ²⁴⁵

241. This included alternative spelling of *United States*, such as *U. States* or *U.S.*

242. Number of occurrences: Evans (48), Founders (113), and Hein (98).

243. JAMES MONROE, OBSERVATIONS UPON THE PROPOSED PLAN OF FEDERAL GOVERNMENT. WITH AN ATTEMPT TO ANSWER SOME OF THE PRINCIPAL OBJECTIONS THAT HAVE BEEN MADE TO IT. / BY A NATIVE OF VIRGINIA (1788), reprinted in EVANS EARLY AM. IMPRINT COLLECTION, quod.lib.umich.edu/e/evans?type=bib&q1=N16547&rgn1=citation&Submit=Search [https://perma.cc/A9XT-EQJH] (last visited Mar. 9, 2019); JOEL BARLOW, JOEL BARLOW TO HIS FELLOW CITIZENS, OF THE UNITED STATES OF AMERICA. A LETTER ON THE SYSTEM OF POLICY HITHERTO PURSUED BY THEIR GOVERNMENT (Philadelphia, William Duane 1800) (1799), reprinted in EVANS EARLY AM. IMPRINT COLLECTION, quod.lib.umich.edu/e/evans?type=bib&q1=N27679&rgn1=citation&Submit=Search [https://perma.cc/4KRZ-M6WB] (last visited Mar. 9, 2019); CONDIE, *supra* note 92. *But see* JAMES THOMSON CALLENDER, SKETCHES OF THE HISTORY OF AMERICA (1798), reprinted in EVANS EARLY AM. IMPRINT COLLECTION, quod.lib.umich.edu/e/evans?type=bib&q1=N25270&rgn1=citation&Submit=Search [https://perma.cc/J767-9U5B] (last visited Mar. 9, 2019) (seemingly excluding senators from officers of the United States by stating “[t]he governors, senators, and all officers of the United States to be liable to impeachment for mal and corrupt conduct; and, upon conviction, to be removed from office, and disqualified for holding any place of trust and profit”).

Elected Officers ²⁴⁶	Marshalls ²⁴⁷	Marshalls ²⁴⁸
Comptroller General ²⁴⁹	Governor ²⁵⁰	Ambassadors ²⁵¹
Judges/Judicial Officers ²⁵²	Attorney ²⁵³	Ministers ²⁵⁴

244. Letter from James Leander Cathcart to John Adams, (Mar. 25, 1797), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Adams/99-02-02-1908> [[https://perma.cc/ES5J-BB\]W](https://perma.cc/ES5J-BB]W)] (last visited Feb. 22, 2019); Edmund Randolph's Notes on the Common Law (ca. Sept. 1799), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Madison/01-17-02-0170> [<https://perma.cc/JTM6-32TH>] (last visited Feb. 22, 2019)

245. 27 JOURNALS OF THE CONTINENTAL CONGRESS 365–564 (1784).

246. TENCH COXE, A VIEW OF THE UNITED STATES OF AMERICA, IN A SERIES OF PAPERS, WRITTEN AT VARIOUS TIMES, BETWEEN THE YEARS 1787 AND 1794 (Ann Arbor, 1794), reprinted in EVANS EARLY AM. IMPRINT COLLECTION quod.lib.umich.edu/e/evans?type=bib&q1=N20452&rgn1=citation&Submit=Search [<https://perma.cc/9YFR-JH6A>].

247. Letter from Timothy Pickering to John Adams (May 1, 1797), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Adams/99-02-02-1955> [<https://perma.cc/24CJ-H4NX>] (last visited Feb. 22, 2019).

248. 8–9 ANNALS OF U.S. CONG. (1798–1799).

249. JOHN MASON, SELF KNOWLEDGE: A TREATISE, SHEWING THE NATURE AND BENEFIT OF THAT IMPORTANT SCIENCE, AND THE WAY TO ATTAIN IT. : INTERMIXED WITH VARIOUS REFLECTIONS AND OBSERVATIONS ON HUMAN NATURE (1793), reprinted in EVANS EARLY AMERICAN IMPRINT COLLECTION quod.lib.umich.edu/e/evans?type=bib&q1=N19727&rgn1=citation&Submit=Search [<https://perma.cc/68NC-QYM7>] (last visited Mar. 9, 2019).

250. Letter from Henry Lee to Thomas Jefferson (Oct. 24, 1792), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Jefferson/01-24-02-0487> [<https://perma.cc/7FN9-YD47>] (last visited Feb. 22, 2019).

251. H. TUCKNISS, AMERICAN REMEMBRANCER; OR, AN IMPARTIAL COLLECTION OF ESSAYS, RESOLVES, SPEECHES, &C. RELATIVE, OR HAVING AFFINITY, TO THE TREATY WITH GREAT BRITAIN (1795).

252. ALEXANDER JAMES DALLAS, FEATURES OF MR. JAY'S TREATY. TO WHICH IS ANNEXED A VIEW OF THE COMMERCE OF THE UNITED STATES, AS IT STANDS AT PRESENT, AND AS IT IS FIXED BY MR. JAY'S TREATY (1795), reprinted in EVANS EARLY AM. IMPRINT COLLECTION quod.lib.umich.edu/e/evans?type=bib&q1=N21681&rgn1=citation&Submit=Search [<https://perma.cc/25MT-LFBS>] (last visited Mar. 9, 2019); IMPORTANT DOCUMENTS AND DISPATCHES, WHICH ACCOMPANIED THE MESSAGE OF THE PRESIDENT OF THE UNITED STATES, TO BOTH HOUSES OF CONGRESS (1798), reprinted in EVANS EARLY AM. IMPRINT COLLECTION, quod.lib.umich.edu/e/evans?type=bib&q1=N26194&rgn1=citation&Submit=Search

Marshall ²⁵⁵	Loan Officer ²⁵⁶	Judges ²⁵⁷
Attorney ²⁵⁸	Treasurer ²⁵⁹	Accountant ²⁶⁰
Surveyor of the Revenue ²⁶¹	Receiver of Taxes ²⁶²	Commissioner ²⁶³
Commissioner of Loans ²⁶⁴	Customs Officers ²⁶⁵	Cabinet Secretaries ²⁶⁶
	Treaty	Attorney General ²⁶⁸

[<https://perma.cc/TM2C-MBGF>] (last visited Mar. 9, 2019); THE ANNUAL REGISTER, AND VIRGINIAN REPOSITORY, FOR THE YEAR 1800 (1799), reprinted in EVANS EARLY AM. IMPRINT COLLECTION, quod.lib.umich.edu/e/evans?type=bib&q1=N26403&rqn1=citation&Submit=Search [<https://perma.cc/6MEN-NB6W>] (last visited Mar. 9, 2019).

253. Edmund Randolph, *Opinion on the Theft of Slaves from Martinique* (Nov. 1, 1792), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Jefferson/01-24-02-0508> [<https://perma.cc/436Z-N75Z>] (last visited Feb. 22, 2019).

254. TUCKNISS, *supra* note 251.

255. IMPORTANT DOCUMENTS AND DISPATCHES, WHICH ACCOMPANIED THE MESSAGE OF THE PRESIDENT OF THE UNITED STATES, TO BOTH HOUSES OF CONGRESS, *supra* note 252.

256. Letter from Henry Lee to Alexander Hamilton (Apr. 12, 1793), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Hamilton/01-14-02-0204> [<https://perma.cc/32FR-6ACH>] (Feb. 22, 2019).

257. American Remembrancer, *supra* note 252.

258. THE ANNUAL REGISTER, AND VIRGINIAN REPOSITORY, FOR THE YEAR 1800, *supra* note 252 (from a list of "Officers of the United States for North Carolina," so arguably the U.S. Attorney for the District of North Carolina). [<https://perma.cc/D7JY-38DK>].

259. Letter from Andrew G. Fraunces to Alexander Hamilton (June 10, 1793), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Hamilton/01-14-02-0364> [<https://perma.cc/B8YJ-3BT7>] (last visited Feb. 22, 2019).

260. 34 JOURNALS OF CONTINENTAL CONGRESS 201–400 (1788–1789).

261. THE ANNUAL REGISTER, AND VIRGINIAN REPOSITORY, FOR THE YEAR 1800, *supra* note 252.

262. Letter from Andrew G. Fraunces to Alexander Hamilton, *supra* note 259.

263. 3 U.S. (3 Dall.) 191–390 (1796–1798).

264. THE ANNUAL REGISTER, AND VIRGINIAN REPOSITORY, FOR THE YEAR 1800, *supra* note 252.

265. Letter from Alexander Hamilton to Robert Purviance (Aug. 22, 1794), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Hamilton/01-17-02-0098> [<https://perma.cc/FTG7-WUL7>] (last visited Feb. 22, 2019).

266. 1 CARPENTER, *supra* note 133, at 201–352 (addressing secretaries of state, treasury, and war).

	Commissioners ²⁶⁷	
	Territorial Superintendent of Indian Affairs ²⁶⁹	Postmaster General ²⁷⁰
		Treasurer ²⁷¹
		Comptroller of the Treasury ²⁷²
		Commissioner of the Revenue ²⁷³
		Auditor ²⁷⁴
		Register ²⁷⁵
		Assistant Postmaster ²⁷⁶
		Keeper of Military Stores ²⁷⁷
		Foreign Diplomats ²⁷⁸
		Personal Secretaries to Foreign Diplomats ²⁷⁹
		Foreign Ministers ²⁸⁰
		Treasury Board Members ²⁸¹
		Deputy Auditor

267. *Id.*

268. Camillus, *The Defence No. XXXVII* (Jan. 6, 1796), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Hamilton/01-20-02-0006> [<https://perma.cc/4PBD-MTH4>] (last visited Feb. 22, 2019).

269. Letter from Timothy Pickering, Sec'y of State, to George Washington, President (May 9, 1796), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Washington/99-01-02-00505> [<https://perma.cc/34FK-XCEF>] (last visited Feb. 22, 2019).

270. 1 CARPENTER, *supra* note 133, at 201–352.

271. *Id.*

272. *Id.*

273. *Id.*

274. *Id.*; 10 JOURNALS OF THE CONTINENTAL CONGRESS 207–406 (1778).

275. 1 CARPENTER, *supra* note 133, at 201–352.

276. *Id.*

277. *Id.*

278. 22 JOURNALS OF THE CONTINENTAL CONGRESS 1–200 (1782).

279. *Id.*

280. 24 *id.* at 1–200 (1783).

281. 10 *id.* at 207–406 (1778).

		General ²⁸²
		Clerks ²⁸³
		Geographer ²⁸⁴
		Revenue Officer ²⁸⁵

The majority of the specific officers named in the context of *officer(s) of the United States* were officers who seemed to exercise significant government authority. But some did not appear to fit that definition, such as loan officers, clerks, and personal secretaries to foreign diplomats.

H. Officers and Clerks

One way to get leverage on the scope of the term *officer* in the Founding era would be to see whether clerks were considered officers. We first looked at what the *office of clerk*²⁸⁶ referred to, reporting also a few instances that are not of the public/civil sense of *officer*:

Office(s) of clerk
unknown ²⁸⁷
to/of a/the Court ²⁸⁸

282. *Id.*

283. *Id.*

284. 32 *id.* at 201–384 (1787); U.S. SENATE, 1 DOCUMENTS LEGISLATIVE AND EXECUTIVE OF THE CONGRESS OF THE UNITED STATES, IN RELATION TO THE PUBLIC LANDS (1834).

285. 1798 R.I. PUB. LAWS.

286. Doing the same kind of search with *office of the clerk* returned very similar results.

287. 1786–1799 MASS. ACTS AND LAWS (“Any person being chosen and [us]ually serving one whole year, in the office of Clerk, Treasurer, Selediman, Overseer of the Poor, A[ss]e[s]sor, Constable, or Collector of taxes”); 1791 N.C. LAWS; PETER LONGUEVILLE, THE HERMIT: OR THE UNPARALLELED SUFFERINGS AND SURPRISING ADVENTURES OF PHILIP QUARLL, AN ENGLISHMAN (1795), *reprinted in* EVANS EARLY AM. IMPRINT COLLECTION, quod.lib.umich.edu/e/evans?type=bib&q1=N21527&rgn1=citation&Submit=Search [<https://perma.cc/H9B6-NEDZ>]; 1780–1782 MA. LAWS; Letter from Thomas Boylston Adams to William Cranch (July 15, 1799), *in* FOUNDERS ONLINE, NATIONAL ARCHIVES, <http://founders.archives.gov/documents/Adams/99-03-02-0425> [<https://perma.cc/35FT-DPEL>] (last visited Feb. 22, 2019).

288. 2 U.S. (2 Dall.) 1–198 (1781–1793); 1692–1788 MD. LAWS; 1770–1776 MA. LAWS; 1 THOMAS GREENLEAF, LAWS OF THE STATE OF NEW YORK COMPRISING THE

of the Supreme Court ²⁸⁹
of the County ²⁹⁰
of the quarter Sessions ²⁹¹
of the Orphans Court ²⁹²
of the peace ²⁹³
of the checque (or paymaster) ²⁹⁴
of the legislature ²⁹⁵
of the market ²⁹⁶
of the Court of Common Pleas ²⁹⁷
to the secretary of foreign affairs ²⁹⁸

CONSTITUTION AND THE ACTS OF THE LEGISLATURE, SINCE THE REVOLUTION, FROM THE FIRST TO THE FIFTEENTH SESSION, INCLUSIVE (1792); Reports of Cases Adjudged 1798; Kentucky 5 ("Kentucky 5" is the name of text a file in the Hein corpus, *see supra* note 74).

289. Letter from Abigail Smith Adams to Mary Smith Cranch (Feb. 12, 1800), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Adams/99-03-02-0578> [<https://perma.cc/P2NX-HDSU>] (last visited Feb. 22, 2019).

290. Letter from Gideon Granger to Thomas Jefferson (June 4, 1800), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Jefferson/01-32-02-0003> [<https://perma.cc/9583-VG4V>] (last visited Feb. 22, 2019).

291. *Id.*

292. *Id.*

293. ACTS OF GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA (1782).

294. Letter from Jean Claude de La Métherie to Thomas Jefferson (May, 12 1789), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Jefferson/01-15-02-0125> [<https://perma.cc/7DA7-7J35>] (last visited Feb. 22, 2019).

295. 4 ANNALS OF U.S. CONG. (1793–1795); 1792 LAWS PASSED IN THE TERRITORY OF THE U.S. NORTH-WEST OF THE RIVER OHIO; 1794 LAWS OF THE TERRITORY OF THE UNITED STATES NORTH-WEST OF THE OHIO; 1799 LAWS OF THE MISS. TERRITORY; American State Papers – Misc., *supra* note 173.

296. 1776 DEL. SESSION LAWS; 2 LAWS OF THE STATE OF DEL. (1797); 1788–1799 MD. LAWS; 1 LAWS OF THE STATE OF N.Y. (1792); Letter from George Washington to Brigadier General John Sullivan (Jan. 20, 1776), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Washington/03-03-02-0108> [<https://perma.cc/2PPW-MWTT>] (last visited Feb. 22, 2019).

297. 1786–1799 MASS. ACTS AND LAWS; Letter from George Hazard Peckham to George Washington (July 29, 1790), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Washington/05-06-02-0066> [<https://perma.cc/UR8Q-3A3E>] (last visited Feb. 22, 2019).

298. Letter from David Stuart to George Washington (July 14, 1789), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN.,

of the house of representatives ²⁹⁹
of any superior court ³⁰⁰
of county courts ³⁰¹
of the vestry ³⁰²
of the provincial court ³⁰³
of the city ³⁰⁴
for the congregation ³⁰⁵
of the district court ³⁰⁶
of the circuits ³⁰⁷
of the elections ³⁰⁸
of the military company ³⁰⁹

Clearly sometimes a clerk can be an officer, though the patterns here indicate that when referring to the office of a clerk, it

<http://founders.archives.gov/documents/Washington/05-03-02-0105>
[<https://perma.cc/CY56-BRVS>] (last visited Feb. 22, 2019).

299. Letter from Richard Cranch to Abigail Smith Adams (Nov. 10, 1800), *in* FOUNDERS ONLINE, NAT’L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Adams/99-03-02-0788> [<https://perma.cc/58KA-XVFM>] (last visited Feb. 22, 2019); American State Papers – Misc., *supra* note 173.

300. JAMES DAVIS, COMPLETE REVISAL OF ALL THE ACTS OF ASSEMBLY, OF THE PROVINCE OF NORTH-CAROLINA NOW IN FORCE AND USE (1773).

301. THOMAS NICOLSON & WILLIAM PRENTIS, COLLECTION OF ALL SUCH PUBLIC ACTS OF THE GENERAL ASSEMBLY, AND ORDINANCES OF THE CONVENTIONS OF VIRGINIA, PASSED SINCE THE YEAR 1768, AS ARE NOW IN FORCE (1785); 1792 ACTS PASSED AT THE GEN. ASSEMB. FOR THE COMM. OF KY.

302. DAVIS, *supra* note 300.

303. 1692–1788 MD. LAWS.

304. 1776–1779 CONN. ACTS AND LAWS.

305. Subscription to Support a Clerk of the Congregation in Charlottesville (Feb. 1777), *in* FOUNDERS ONLINE, NAT’L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Jefferson/01-02-02-0005> [<https://perma.cc/T86E-L9QD>] (last visited Feb. 22, 2019).

306. 1 AMERICAN STATE PAPERS: CLAIMS 5 (1789–1823).

307. 1796 N.Y. LAWS 267, 509.

308. AT A SESSION OF THE GENERAL ASSEMBLY OF MARYLAND, BEGUN AND HELD AT THE CITY OF ANNAPOLIS, ON MONDAY, THE 6TH OF NOVEMBER IN THE YEAR OF OUR LORD 1786, AND ENDED THE 20TH DAY OF JANUARY, 1787, THE FOLLOWING LAWS WERE ENACTED; 1788–1799 MD. GEN. ASSEMB.

309. An Act for Forming and Regulating the Militia; and for encouragement of military skill, for the better defence of this State (1779), *in* VERMONT STATE PAPERS 305, 307 (1823).

is usually a singular, specific clerk being referenced, as opposed to clerks generally.

We also came across instances where clerks were contrasted with or referred to distinctly from officers. For instance, in discussing a 1787 bill in New York that would negate all ballots in a district if there was found to be even one extra vote, the bill was condemned because “it was in the power of the clerk or any officer, by putting in an additional ballot, to set aside the votes of 500 persons.”³¹⁰ Yet sometimes clerks were generally referred to as a type of officer. For instance, the Continental Congress required that

each Member of the Board of Treasury, the Auditor, and Deputy Auditor General and Clerks before entering upon their office, shall respectively take an Oath, to be administered to the Board by the president of Congress, and to the other officers by some one or more of the Members of the Board.³¹¹

In sum, sometimes a clerk was an officer. Sometimes not. The most we can say based on the evidence we have seen is that.

IV. CAVEATS

There are limits to the analysis we have conducted above. First, as previously noted, frequency of references to actual officers is not as good as sense frequency, which we were mostly unable to do (except somewhat in the case of *public employment*). Such frequency data can be overread to create a narrower sense—e.g., birds can fly—than is accurate. We view factual instances of a sense to better be used to create a complete, composite picture of the sense.

Additionally, we sampled the search results rather than examining them all. Certainly, that means one can miss things. So future research could look at all of the results COFEA produces. Finally, secondary tools of a corpus, such as collocates, clusters, and raw frequency data, are only weak evidence at best of

310. N.Y. Assembly, *Motion on an Act for Regulating Elections* (January, 24 1787), in FOUNDERS ONLINE, NAT'L ARCHIVES & RECORDS ADMIN., <http://founders.archives.gov/documents/Hamilton/01-04-02-0010> [<https://perma.cc/ET78-GG2K>] (last visited Feb. 22, 2019).

311. 10 JOURNALS OF THE CONTINENTAL CONGRESS 351 (1778).

meaning. These tools are more exploratory than confirmatory, and should not be overread. Still, they have some value to the extent they provide stark patterns.

V. CONCLUSION

We explored the potential meaning of *officers of the United States* in the Constitution using the full Corpus of Founding-Era American English, which had not been fully used by previous scholarship. Our findings are muddy. But we believe they undermine the Supreme Court's narrow definition of officer as one exercising significant government authority. There are enough instances of people called officers who would seem to fall outside of the Supreme Court's definition that a broader definition is warranted. Where exactly to draw the line, however, was not made clear by the data, other than to say that it does not appear that everyone hired by the government is an officer. Thus, based on the murkiness of our results, the best we can say is that an *officer of the United States* should be defined more broadly than one exercising significant government authority, but not as broadly as everyone working for the government. Future research will have to come up with a more precise definition.