Title: Constitutional Fidelity as Economic Security: Re-centering America on Its Supreme Law

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Abstract

The United States Constitution is widely understood as the suprema lex terrae—the supreme law of the land.[1] Less appreciated is its role as an economic constitution, designed to ensure stability, prosperity, and sustainability. This Article argues that deviations from constitutional fidelity constitute not only legal violations but also prima facie economic sabotage.[2] By tolerating governmental overreach, judicially-created doctrines void ab initio,[3] and systemic misuse of federal funds, the United States has undermined the prosperity its constitutional framework was designed to guarantee. A return to strict fidelity—through structural reforms like the American Butterfly Effect (ABE) and Civil Rights Restoration Act (CRRA)—offers both a legal and economic path to renewal.

I. Introduction

The Constitution begins with “We the People,” affirming that sovereignty originates not in the federal or state governments but in the citizenry.[4] Both state and federal governments are artificial corporate entities, endowed with limited powers derived solely from constitutional delegation.[5] As Chief Justice Marshall observed, “the government of the Union…is, emphatically and truly, a government of the people.”[6]

Over time, however, both federal and state governments have exceeded their constitutional boundaries, often cloaking overreach in vague doctrines or fabricated necessity. Judicial creations such as Qualified Immunity (QI), which lack any textual or historical basis in the Constitution,[7] operate ultra vires and enable systemic violations of individual rights.[8] Similarly, misuse of federal funds by states—whether through misapplication of Medicaid allocations, transportation funds, or housing grants—constitutes fraus legis and undermines the People’s welfare.

The consequences of these deviations are profound. Essentials of life such as housing, healthcare, education, transportation, and access to justice have been monopolized and profitized, leaving millions of citizens without the means to flourish.[9] Meanwhile, military spending and enforcement budgets expand unchecked, redirecting funds away from the very people government was created to serve. The Constitution is not only a charter of liberty—it is an economic blueprint for national prosperity. To deviate from it is not only unlawful but economically destructive.

This Article advances three central claims:

1. The Constitution is an economic constitution as much as it is a political one.

2. Deviations from constitutional fidelity are prima facie violations that also constitute economic sabotage.

3. Restoring fidelity through frameworks like ABE/CRRA is necessary for both constitutional integrity and sustainable prosperity.

II. The Constitution as Economic Charter

The Constitution is more than a political framework; it is an economic constitution. Its provisions—particularly those concerning commerce, postal infrastructure, coinage, bankruptcy, and contracts—form the blueprint for prosperity and stability. Any deviation from these provisions is not merely unlawful but constitutes fraus legis and results in economic distortion.

A. The Commerce Clause

The Commerce Clause grants Congress the power "[t]o regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."[1] This clause has long been recognized as a cornerstone of national unity, preventing interstate trade wars and establishing a uniform economic order.

Chief Justice Marshall, in Gibbons v. Ogden,[2] defined "commerce" broadly to include navigation, confirming Congress's supremacy in regulating interstate trade. Yet, this power has limits. In United States v. Lopez,[3] the Court struck down the Gun-Free School Zones Act, holding that mere possession of a firearm in a local school zone bore no substantial relation to interstate commerce. Similarly, in United States v. Morrison,[4] the Court invalidated provisions of the Violence Against Women Act, rejecting attempts to stretch commerce to cover non-economic violent crime.

By contrast, in Wickard v. Filburn,[5] the Court upheld regulation of wheat grown for personal consumption on the theory that, in aggregate, such conduct affected interstate commerce. While expansive, Wickard underscores the danger of conflating private, personal activities with commerce. The principle of expressio unius est exclusio alterius dictates that Congress's enumerated power to regulate commerce does not extend to regulating citizens themselves when acting outside of commerce. Treating private conduct as commerce is ultra vires and void ab initio.

U.S. CONST. art. I, § 8, cl. 3.

Gibbons v. Ogden, 22 U.S. (9 Wheat.) 1 (1824) → commerce is broad, but still bounded.

United States v. Lopez, 514 U.S. 549 (1995).

United States v. Morrison, 529 U.S. 598 (2000).

Wickard v. Filburn, 317 U.S. 111 (1942) (expansion).

Citizens ≠ commerce (expressio unius est exclusio alterius).

B. The Postal Clause

The Postal Clause empowers Congress "[t]o establish Post Offices and post Roads."[6] Far from being a minor administrative provision, this clause laid the foundation for the nation's commercial infrastructure.

In Ex parte Jackson,[7] the Court affirmed Congress's plenary authority over the postal system, noting its centrality to national commerce. Postal routes became the backbone of interstate exchange, later evolving into railroads, highways, and shipping channels. The continuity of commerce—foreign and domestic—rests on this infrastructure.

Interference with or underfunding of USPS operations constitutes more than administrative neglect; it disrupts the constitutional blueprint for commerce itself. To undermine postal infrastructure is to commit fraus legis—a fraud upon the law—by eroding the economic arteries of the Republic.

U.S. CONST. art. I, § 8, cl. 7.

Ex parte Jackson, 96 U.S. 727 (1878) (federal postal authority).

Postal roads → backbone of commerce (historical commentary).

Commerce disruption = fraus legis.

C. Coinage, Bankruptcy, Contracts Clauses

The framers, informed by the economic chaos under the Articles of Confederation, recognized that a stable and predictable economic system was essential to liberty.

The Coinage Clause grants Congress the exclusive power "[t]o coin Money, regulate the Value thereof, and of foreign Coin."[8] Uniform currency prevents states from undermining economic stability with conflicting tender laws.

The Bankruptcy Clause empowers Congress "[t]o establish…uniform Laws on the subject of Bankruptcies throughout the United States."[9] This was intended to prevent debt bondage and ensure fair treatment of debtors and creditors alike. In Sturges v. Crowninshield,[10] Chief Justice Marshall invalidated a state bankruptcy law that impaired contracts, reaffirming the federal government's exclusive domain in this area.

Finally, the Contracts Clause provides that "No State shall…pass any…Law impairing the Obligation of Contracts."[11] While limited by Home Building & Loan Ass'n v. Blaisdell,[12] which

permitted temporary modification of contracts during economic emergency, the Clause nonetheless anchors private economic relationships in predictability.

Together, these provisions form a self-healing system of economic fidelity: stable currency, uniform bankruptcy rules, and enforceable contracts create the conditions for prosperity. To deviate from them is to destabilize the economy itself.

U.S. CONST. art. I, § 8, cl. 5 (coinage).

U.S. CONST. art. I, § 8, cl. 4 (bankruptcy).

U.S. CONST. art. I, § 10, cl. 1 (contracts).

Sturges v. Crowninshield, 17 U.S. (4 Wheat.) 122 (1819).

Home Bldg. & Loan Ass'n v. Blaisdell, 290 U.S. 398 (1934).

Together = economic fidelity clause system.

III. The Tenth Amendment and the Myth of Broad Police Power

A. Text & Original Intent

The Tenth Amendment provides:

> “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”[1]

This is a rule of reservation, not of expansion.[2] It affirms that federal power is enumerated and limited, while state power is confined within the bounds of the Constitution and subject to the supremacy of federal law. James Madison emphasized this balance in The Federalist No. 45, writing: “The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite.”[3]

However, numerous and indefinite does not mean absolute or unbounded. States retain only those powers not otherwise prohibited and consistent with federal supremacy. They cannot regulate beyond commerce or infringe upon individual rights secured by the Constitution.

U.S. CONST. amend. X.

Reserved powers ≠ new authority.

Madison, The Federalist No. 45.

B. Misuse of Police Power Doctrine

Courts have historically recognized a state’s so-called “police power” as the authority to enact laws promoting health, safety, and welfare. Yet, this power has never been unlimited. In the Slaughter-House Cases,[4] the Court emphasized that states could regulate local matters under their police powers, but those powers were circumscribed by federal rights. The Court warned that expansive readings of state authority could obliterate the privileges and immunities guaranteed to citizens by the Constitution.

Over time, states and courts have stretched “police power” far beyond its original meaning, using it to justify regulations over citizens acting in their private capacity. This is a distortion. Regulation of commerce for public safety—such as ensuring safe meatpacking standards or

bridge construction—is a legitimate state interest. But regulating a private citizen who is not engaged in commerce, such as driving a personal vehicle for private use, exceeds this scope. Such actions are ultra vires and void ab initio, because the state cannot create powers that the Constitution never granted.

The principle of expressio unius est exclusio alterius supports this interpretation: because the Constitution enumerates specific state and federal powers, no broader, unwritten “police power” exists beyond those expressed.

Slaughter-House Cases, 83 U.S. (16 Wall.) 36 (1873).

Limited to commerce/health affecting public welfare.

“Police power” not a blank check.

C. Right to Travel & Private Activity

The Supreme Court has repeatedly affirmed that the right to travel is a fundamental right implicit in the Constitution. In Shapiro v. Thompson,[5] the Court invalidated state laws that imposed residency requirements for welfare benefits, holding that they unconstitutionally penalized interstate travel. Similarly, in Saenz v. Roe,[6] the Court struck down a California statute that limited welfare benefits for new residents, reaffirming that freedom of movement is a basic constitutional guarantee.

If citizens have a constitutional right to travel freely between states, it follows that their private, non-commercial use of public roads cannot be treated as commerce subject to state licensure. Regulating private travel as though it were a commercial privilege is a textbook example of fraus legis—a fraud upon the law—because it cloaks unconstitutional overreach in the guise of “public safety.”

IV. Supremacy Clause and Hierarchy of Sovereignty

A. Constitutional Hierarchy

The Supremacy Clause declares:

> “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”[1]

This clause makes clear that the Constitution and laws enacted pursuant to it are superior to conflicting state law. Alexander Hamilton described the principle in The Federalist No. 33, noting that “a law, by the very meaning of the term, includes supremacy.”[2]

Chief Justice Marshall in Marbury v. Madison affirmed that “an act of the legislature, repugnant to the constitution, is void.”[3] Later, in McCulloch v. Maryland, the Court held that states could not obstruct legitimate federal functions, warning that “the power to tax involves the power to destroy.”[4] Together, these cases enshrine the doctrine that the Constitution reigns as suprema lex terrae—the supreme law of the land—and that federal law is binding upon the states.

U.S. CONST. art. VI, cl. 2.

Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803).

McCulloch v. Maryland, 17 U.S. (4 Wheat.) 316 (1819).

B. States Cannot Nullify Federal Rights

The Civil Rights era cemented the Supremacy Clause’s teeth. In Cooper v. Aaron,[5] the Court unanimously held that states were bound by its interpretation of the Constitution and could not nullify or resist desegregation orders. The Court emphasized that the Constitution is “the fundamental and paramount law of the nation”[6] and rejected the idea of state interposition against federal supremacy.

Any claim that states may “take back” sovereign powers in derogation of the Constitution misunderstands this hierarchy. States exist within the Constitution, not above it. When state laws conflict with constitutional rights or federal law, they are void ab initio.

Cooper v. Aaron, 358 U.S. 1 (1958).

Supremacy = federal law + Constitution > state law.

C. The People as Final Sovereigns

While the Supremacy Clause subordinates states to federal law, it also points to a higher sovereignty: the People themselves. The Constitution begins with “We the People,” establishing that ultimate authority rests not with governments but with citizens.[7] The Tenth Amendment confirms this structure, reserving undelegated powers “to the States respectively, or to the people.”[8]

This clause is not a grant of new powers but a reaffirmation that sovereignty originates with the People. In Locke’s natural law theory, government is a fiduciary trust, created for the protection of life, liberty, and property.[9] When government violates that trust—whether state or federal—it acts ultra vires and loses legitimacy.

Thus, the constitutional hierarchy is tripartite:

1. The People – Sovereign, retaining all rights and powers not delegated.

2. The Federal Government – Delegated, limited, but supreme in its enumerated sphere.

3. The States – Residual, subordinate to the Constitution and federal supremacy.

V. Consequences of Constitutional Deviation

A. Economic Monopolization

Deviation from the Constitution has allowed private monopolization of essential services—healthcare, housing, education, transportation, and even access to justice. The framers understood that liberty is inseparable from economic independence; when monopolies capture life's necessities, citizens are reduced to dependency.

In Lochner v. New York,[1] the Court defended liberty of contract as a constitutional value, though its legacy is controversial. Modern critiques of Lochner are valid in cautioning against judicial overreach, but the case underscores an enduring principle: economic liberty is intertwined with constitutional guarantees. When governments allow or facilitate monopolies over essential services, they subvert the Constitution's economic charter.

The Court has occasionally recognized the danger of monopoly. In Northern Securities Co. v. United States,[2] it struck down a massive railroad trust under the Sherman Antitrust Act, reaffirming that concentrated economic power threatens both markets and liberty. Yet, when government itself enables monopolization of essentials, it acts in direct contradiction to its fiduciary duty under the Constitution.

Healthcare, housing, education → monopolized.

Lochner v. New York, 198 U.S. 45 (1905) (liberty of contract debate).

B. Judicial Invention of Doctrines

Few deviations are more corrosive than judicially created doctrines with no basis in constitutional text or history. Qualified Immunity (QI) is a prime example. Created in Harlow v. Fitzgerald,[3] QI shields government officials from liability unless they violate "clearly established" rights. Yet the Constitution provides no such immunity; rather, 42 U.S.C. § 1983 expressly authorizes civil remedies for constitutional violations under color of law.

As Professor William Baude argues, QI is not merely doctrinally unsound—it is unconstitutional.[4] By nullifying remedies for violations, QI operates as fraus legis, frustrating the enforcement of

constitutional guarantees. It is void ab initio, because it conditions redress on judicially fabricated standards that never existed in the Constitution.

Similarly, the doctrine of Chevron deference—established in Chevron U.S.A., Inc. v. NRDC[5]—permits agencies to interpret ambiguous statutes with near-plenary authority. While efficient, this doctrine cedes interpretive power from courts (the People's check) to unelected bureaucracies. It dilutes separation of powers and undermines the principle of government by consent.

Qualified Immunity: Harlow v. Fitzgerald, 457 U.S. 800 (1982).

Chevron Deference: Chevron U.S.A., Inc. v. NRDC, 467 U.S. 837 (1984).

Doctrines ultra vires, void ab initio.

C. Misallocation of Federal Funds (Fraus Legis)

A further consequence of constitutional deviation is the systemic misallocation of federal funds. Medicaid, housing assistance, transportation funding, and educational grants are routinely diverted, underfunded, or reallocated in ways inconsistent with their statutory purposes. Meanwhile, military and enforcement budgets expand disproportionately.

This constitutes fraus legis—fraud upon the law—because funds appropriated under constitutional authority are used for ends contrary to their purpose. In Train v. City of New York,[6] the Court held that the executive branch could not withhold congressionally allocated funds, underscoring that executive discretion cannot override legislative intent. When governments manipulate appropriations to favor coercive apparatuses over citizen welfare, they commit economic sabotage.

D. Structural Effects: Decline of National Prosperity

The cumulative effect of monopolization, judicial inventions, and fiscal misallocation is a weakened republic. Citizens face rising costs for essentials, declining access to justice, and reduced capacity to exercise fundamental liberties. This is not incidental; it is the predictable result of abandoning the Constitution as the suprema lex terrae.

As Justice Sutherland observed in Carter v. Carter Coal Co.,[7] "commerce is intercourse for the purposes of trade." When the state mistakes citizens for commerce, or when it distorts commerce for political gain, the entire constitutional economy collapses. Deviation is thus not only unconstitutional but destructive of prosperity itself.

Medicaid cuts, military expansion.

Transportation funds misused to regulate citizens.

Commerce blueprint undermined.

VI. Case Studies

A. Domestic Troop Deployment

The deployment of armed U.S. military forces on American streets without clear constitutional or statutory authorization raises profound separation of powers concerns. The Posse Comitatus Act prohibits use of the Army and Air Force in civilian law enforcement absent express authorization from Congress.[1] While the President may deploy the National Guard under the Insurrection Act,[2] such authority requires an actual insurrection, domestic violence, or obstruction of federal law—conditions not met merely by the presence of immigrants or peaceful protest.

In Youngstown Sheet & Tube Co. v. Sawyer,[3] the Supreme Court invalidated President Truman's seizure of steel mills during the Korean War, holding that the President lacked inherent authority to act absent congressional approval. Justice Jackson's famous concurrence established the tripartite framework of executive power, warning against expansions of presidential authority at the expense of Congress and the People.

By analogy, unilateral domestic military deployment absent congressional authorization is ultra vires and void ab initio. It represents not national security but usurpation. The military's compliance with unconstitutional orders risks violating their oath under 5 U.S.C. § 3331, which binds all officers to "support and defend the Constitution of the United States."

Posse Comitatus Act, 18 U.S.C. § 1385.

National Guard vs. federal troops distinction.

Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579 (1952) (executive limits).

B. Healthcare & Big Pharma

Healthcare illustrates the economic sabotage of constitutional deviation. The Constitution provides for the "general Welfare"[4]—not the enrichment of monopolistic pharmaceutical companies. Yet, by permitting the healthcare system to become profit-driven rather than citizen-centered, government has inverted constitutional priorities.

The dangers of unchecked medical monopolization echo FTC v. Actavis, Inc.,[5] where the Court scrutinized "pay-for-delay" agreements between pharmaceutical companies that stifled

competition and kept drug prices artificially high. By allowing exorbitant drug pricing and underfunding of Medicaid and public health programs, government commits fraus legis—using public funds contrary to their intended constitutional and statutory purposes.

The economic blueprint of the Constitution demands that essential life-sustaining services remain accessible. By treating healthcare as a profit center rather than a public trust, the state violates both equal protection and due process guarantees under the Fifth and Fourteenth Amendments.

Medicare/Medicaid fraud patterns.

Profitization = deviation from economic charter.

C. Transportation & Licensing

Transportation regulation highlights another deviation. States commonly require drivers' licenses and vehicle registrations for all persons operating on public roads, treating every driver as if engaged in commerce. Yet the constitutional distinction is clear: regulation of commerce is distinct from the liberty of private citizens to travel.

In Saenz v. Roe,[6] the Court reaffirmed the right to travel as a fundamental constitutional guarantee. When states impose commercial regulatory frameworks upon private, non-commercial travel, they commit fraus legis, cloaking unconstitutional regulation in the guise of "public safety."

The Slaughter-House Cases[7] make clear that while states may regulate commerce in the name of public health and safety, this authority does not extend to treating private conduct as commercial. A citizen driving to the grocery store is not engaging in "commerce among the several States" under Article I, § 8. To pretend otherwise is void ab initio.

D. Structural Parallels Across Contexts

These three case studies—domestic troop deployment, healthcare monopolization, and transportation overregulation—illustrate a single pattern:

1. Government exceeds its enumerated authority.

2. Judiciary legitimizes deviation through invented doctrines or deference.

3. Citizens bear economic and liberty harms.

In each instance, constitutional fidelity would have produced the opposite result: protection of liberty, strengthening of prosperity, and adherence to suprema lex terrae.

Licensing schemes → regulating non-commerce.

Fraus legis in treating private citizens as commercial actors.

VII. The ABE/CRRA Framework as Remedy

A. Principles

The ABE (American Blueprint for Equity) and CRRA (Citizens Rights Restoration Act) are designed as self-correcting mechanisms for systemic disparities. Rather than requiring new funding streams, ABE/CRRA redirect existing misallocated resources back into constitutional channels.

The framework rests on three principles:

1. Fidelity to Federal Law and the Constitution. Every measure must operate within existing constitutional text and statutory authority, ensuring compliance with suprema lex terrae.

2. Restoration, Not Expansion, of Power. The framework does not seek to enlarge government power, but to realign existing powers with their original purpose.

3. Economic Security through Citizen Investment. National prosperity is inseparable from citizen well-being; by investing in communities, the framework honors both the general Welfare Clause and equal protection guarantees.

Redirect misused funds.

Investment in housing, jobs, healthcare.

B. Legal Basis

1. Constitutional Foundations

The Preamble commits government to promote the "general Welfare."[1] The Spending Clause further authorizes Congress to allocate funds for the nation's common good.[2] Courts have consistently upheld broad congressional discretion in spending for the general welfare, from United States v. Butler[3] to South Dakota v. Dole.[4]

Thus, redirecting federal funds from coercive apparatuses (military overfunding, monopolistic subsidies) to citizen investment is not only permissible but constitutionally mandated.

2. Statutory Compatibility

Existing federal statutes provide authority for community reinvestment, economic restoration, and reparations initiatives. For example, the Community Reinvestment Act (CRA),[5] while limited, already establishes the principle of redirecting financial resources toward underserved populations. The CRRA expands this concept, aligning it explicitly with constitutional principles of equal protection and due process.

Moreover, under the False Claims Act and other fiscal accountability statutes,[6] federal funds misused contrary to statutory intent can and must be reclaimed. This ensures that ABE/CRRA operate within existing remedial frameworks rather than requiring new constitutional amendments.

C. Reparations as Constitutional Fidelity

The CRRA's reparations model is not radical; it is restorative. By addressing harms caused by government overreach—mass incarceration, discriminatory housing policy, economic disenfranchisement—it fulfills the Constitution's guarantees of due process and equal protection.

As the Court recognized in Brown v. Board of Education,[7] systemic harm requires systemic remedy. CRRA provides that remedy, structured as a two-year implementation timeline to:

Release individuals whose liberty has been unconstitutionally seized;

Provide reparative housing, healthcare, and economic access;

Reinstate trust in the fidelity of government to its oath-bound obligations.

D. Self-Healing Through Economic Blueprint

By redirecting existing funds, the framework creates a self-healing economic system. Once disparities are reduced, citizen productivity and economic participation increase, which in turn reduces reliance on state programs. This feedback loop is precisely what the framers envisioned when constructing an economy of liberty: prosperity secured through freedom, not dependency.

This model embodies aequitas sequitur legem—equity follows the law. By restoring constitutional fidelity, ABE/CRRA transform equity from a rhetorical aspiration into a legal, enforceable mandate.

VIII. Conclusion

The Constitution of the United States is more than a legal document; it is the suprema lex terrae, the supreme law of the land, and an economic blueprint for prosperity. Each clause—whether regulating commerce, establishing postal infrastructure, or guaranteeing due process—was designed to balance liberty with sustainability. To deviate from this blueprint is not merely unlawful. It is prima facie economic sabotage.

The consequences of constitutional deviation are evident: monopolization of essentials, judicial invention of doctrines without textual basis, misallocation of federal funds, and executive overreach into areas reserved for Congress and the People. Each deviation distorts the careful equilibrium of liberty and order, producing systemic inequality and decline.

Yet, the Constitution also provides the path of restoration. By returning to its text, structure, and purpose, we recover a self-correcting framework. The ABE/CRRA model demonstrates that realignment is not only possible but necessary. By redirecting existing funds into citizen investment, the nation can simultaneously honor its constitutional obligations and rebuild economic security.

The Supremacy Clause reminds us that all state and federal actors are subordinate to the Constitution, while the Preamble reminds us that sovereignty rests with We the People. Governments are corporations, not living beings. They hold only the powers delegated to them, nothing more. To exceed those limits is to act ultra vires, and such acts are void ab initio.

The choice before the nation is stark: fidelity or sabotage. Constitutional fidelity secures liberty, prosperity, and equity. Constitutional deviation ensures division, monopoly, and decline.

As Justice Jackson warned in Youngstown, the Constitution is not a suicide pact—but neither is it a blank check.[1] It is a blueprint. To follow it is to flourish; to abandon it is to perish.

Section VIII Footnote (Bluebook Style)

1. Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 646 (1952) (Jackson, J., concurring).

It is time to set the nation back on the right path.

Appendix

Section II Footnotes

1. U.S. CONST. art. I, § 8, cl. 3.

2. Gibbons v. Ogden, 22 U.S. (9 Wheat.) 1, 189–90 (1824).

3. United States v. Lopez, 514 U.S. 549, 561 (1995).

4. United States v. Morrison, 529 U.S. 598, 617 (2000).

5. Wickard v. Filburn, 317 U.S. 111, 125–29 (1942).

6. U.S. CONST. art. I, § 8, cl. 7.

7. Ex parte Jackson, 96 U.S. 727, 732–33 (1878).

8. U.S. CONST. art. I, § 8, cl. 5.

9. Id. § 8, cl. 4.

10. Sturges v. Crowninshield, 17 U.S. (4 Wheat.) 122, 200–01 (1819).

11. U.S. CONST. art. I, § 10, cl. 1.

12. Home Bldg. & Loan Ass'n v. Blaisdell, 290 U.S. 398, 426–29 (1934).

Section III Footnotes

1. U.S. CONST. amend. X.

2. United States v. Darby, 312 U.S. 100, 124 (1941) (“The amendment states but a truism that all is retained which has not been surrendered.”).

3. THE FEDERALIST NO. 45, at 292 (James Madison) (Clinton Rossiter ed., 1961).

4. Slaughter-House Cases, 83 U.S. (16 Wall.) 36, 62–63 (1873).

5. Shapiro v. Thompson, 394 U.S. 618, 629–31 (1969).

6. Saenz v. Roe, 526 U.S. 489, 500–04 (1999).

Section IV Footnotes

1. U.S. CONST. art. VI, cl. 2.

2. THE FEDERALIST NO. 33, at 207 (Alexander Hamilton) (Clinton Rossiter ed., 1961).

3. Marbury v. Madison, 5 U.S. (1 Cranch) 137, 177 (1803).

4. McCulloch v. Maryland, 17 U.S. (4 Wheat.) 316, 431 (1819).

5. Cooper v. Aaron, 358 U.S. 1, 17 (1958).

6. Id. at 18.

7. U.S. CONST. pmbl.

8. U.S. CONST. amend. X.

9. JOHN LOCKE, SECOND TREATISE OF GOVERNMENT § 149 (C.B. Macpherson ed., Hackett Publ'g Co. 1980) (1690).

Section V Footnotes

1. Lochner v. New York, 198 U.S. 45, 57 (1905).

2. N. Sec. Co. v. United States, 193 U.S. 197, 327–28 (1904).

3. Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982).

4. William Baude, Is Qualified Immunity Unlawful?, 106 CALIF. L. REV. 45, 55–56 (2018).

5. Chevron U.S.A., Inc. v. Nat. Res. Def. Council, Inc., 467 U.S. 837, 842–44 (1984).

6. Train v. City of New York, 420 U.S. 35, 44–46 (1975).

7. Carter v. Carter Coal Co., 298 U.S. 238, 297 (1936).

Section VI Footnotes

1. 18 U.S.C. § 1385 (2021).

2. 10 U.S.C. §§ 251–255 (Insurrection Act).

3. Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 587–89 (1952).

4. U.S. CONST. pmbl.

5. FTC v. Actavis, Inc., 570 U.S. 136, 140–42 (2013).

6. Saenz v. Roe, 526 U.S. 489, 500–04 (1999).

7. Slaughter-House Cases, 83 U.S. (16 Wall.) 36, 62–63 (1873).

Section VII Footnotes

1. U.S. CONST. pmbl.

2. U.S. CONST. art. I, § 8, cl. 1.

3. United States v. Butler, 297 U.S. 1, 65–67 (1936).

4. S.D. v. Dole, 483 U.S. 203, 206–07 (1987).

5. Community Reinvestment Act of 1977, 12 U.S.C. §§ 2901–2908.

6. False Claims Act, 31 U.S.C. §§ 3729–3733.

7. Brown v. Bd. of Educ., 347 U.S. 483, 495 (1954).

Section VIII Footnote

1. Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 646 (1952) (Jackson, J., concurring).