

# SUPREME COURT OF THE UNITED STATES

---

IN THE SUPREME COURT OF THE UNITED STATES

-----  
DONALD J. TRUMP, )  
 )  
 Petitioner, )  
 )  
 v. ) No. 23-719  
 )  
 NORMA ANDERSON, ET AL., )  
 )  
 Respondents. )  
-----

Pages: 1 through 141  
Place: Washington, D.C.  
Date: February 8, 2024

---

**HERITAGE REPORTING CORPORATION**  
*Official Reporters*  
1220 L Street, N.W., Suite 206  
Washington, D.C. 20005  
(202) 628-4888  
[www.hrccourtreporters.com](http://www.hrccourtreporters.com)



1	C O N T E N T S	
2	ORAL ARGUMENT OF:	PAGE:
3	JONATHAN F. MITCHELL, ESQ.	
4	On behalf of the Petitioner	3
5	ORAL ARGUMENT OF:	
6	JASON C. MURRAY, ESQ.	
7	On behalf of Respondents Anderson,	
8	et al.	66
9	ORAL ARGUMENT OF:	
10	SHANNON W. STEVENSON, ESQ.	
11	On behalf of Respondent Griswold	124
12	REBUTTAL ARGUMENT OF:	
13	JONATHAN F. MITCHELL, ESQ.	
14	On behalf of the Petitioner	138
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

P R O C E E D I N G S

(10:08 a.m.)

CHIEF JUSTICE ROBERTS: We'll hear argument  
this morning in Case 23-719, Trump versus Anderson.

Mr. Mitchell.

ORAL ARGUMENT OF JONATHAN F. MITCHELL

ON BEHALF OF THE PETITIONER

MR. MITCHELL: Mr. Chief Justice, and may  
it please the Court:

The Colorado Supreme Court held that  
President Donald J. Trump is constitutionally  
disqualified from serving as president under  
Section 3 of the Fourteenth Amendment. The Colorado  
Supreme Court's decision is wrong and should be  
reversed for numerous independent reasons.

The first reason is that President Trump is  
not covered by Section 3 because the president is not  
"an officer of the United States" as that term is  
used throughout the Constitution. "Officer of the  
United States" refers only to appointed officials,  
and it does not encompass elected individuals, such  
as the President or members of Congress. This is  
clear from the Commissions Clause, the Impeachment  
Clause, and the Appointments Clause, each of which  
uses "officers of the United States" to refer only to

1 appointed and not elected officials.

2 The second reason is that Section 3 cannot  
3 be used to exclude a presidential candidate from the  
4 ballot even if that candidate is disqualified from  
5 serving as president under Section 3 because Congress  
6 can lift that disability after the candidate is  
7 elected but before he takes office. A state cannot  
8 exclude any candidate for federal office from the  
9 ballot on account of Section 3, and any state that  
10 does so is violating the holding of Term Limits by  
11 altering the Constitution's qualifications for  
12 federal office.

13 The Colorado Supreme Court's decision is no  
14 different from a state residency law that requires  
15 members of Congress to inhabit the state prior to  
16 Election Day, when the Constitution requires only  
17 that members of Congress inhabit the state that they  
18 represent when elected.

19 In both situations, a state is accelerating  
20 the deadline to meet a constitutionally imposed  
21 qualification and is thereby violating the holding of  
22 Term Limits. And in this situation, a ruling from  
23 this Court that affirms the decision below would not  
24 only violate Term Limits but take away the votes of  
25 potentially tens of millions of Americans.

1 I welcome the Court's questions.

2 JUSTICE THOMAS: Mr. Mitchell, would you --  
3 you didn't spend much time on your argument with  
4 respect to whether or not Section 3 is  
5 self-executing, so would you address that?

6 And -- and in doing that, your argument is  
7 that it's not self-executing, but then, in that case,  
8 what would the role of the state be, or is it  
9 entirely up to Congress to implement the  
10 disqualification in Section 3?

11 MR. MITCHELL: It is entirely up to  
12 Congress, Justice Thomas. And our argument goes  
13 beyond actually saying that Section 3 is  
14 non-self-executing. We need to say something more  
15 than that because a non-self-executing treaty or a  
16 non-self-executing constitutional provision normally  
17 can still be enforced by a state if it chooses to  
18 enact legislation.

19 The holding of Griffin's Case goes beyond  
20 even that by saying that a state is not allowed to  
21 implement or enforce Section 3 of the Fourteenth  
22 Amendment unless and until Congress enacts  
23 implementing legislation allowing it to do so. So,  
24 under Griffin's Case, which we believe is correctly  
25 decided -- the Anderson litigants disagree with us on

1       that point -- but, if this Court were to adhere to  
2       the holding of Griffin's Case, there would not be any  
3       role for the states in enforcing Section 3 unless  
4       Congress were to enact a statute that gives them that  
5       authority.

6                CHIEF JUSTICE ROBERTS: Counsel, what if  
7       somebody came into a state secretary of state's  
8       office and said, I took the oath specified in Section  
9       3, I participated in an insurrection, and I want to  
10      be on the ballot? Can the -- does the secretary of  
11      state have the authority in that situation to say,  
12      no, you're disqualified?

13               MR. MITCHELL: No, the secretary of state  
14      could not do that, consistent with Term Limits,  
15      because even if the candidate is an admitted  
16      insurrectionist, Section 3 still allows the candidate  
17      to run for office and even win election to office and  
18      then see whether Congress lifts that disability after  
19      the election.

20               This happened frequently in the wake of the  
21      Fourteenth Amendment, where Confederate  
22      insurrectionists were elected to Congress, and  
23      sometimes they obtained a waiver; sometimes they did  
24      not. And each House would determine for itself  
25      whether to seat that elected insurrectionist because

1 each House is the sole judge of the qualifications of  
2 its members.

3 So, if a state banned even an admitted  
4 insurrectionist from the ballot, it would be adding  
5 to and altering the Constitution's qualifications for  
6 office because, under Section 3, the candidate need  
7 only qualify during the time the candidate holds the  
8 office to which he's been elected. And under Your  
9 Honor's hypothetical, the secretary of state would be  
10 demanding essentially that the candidate obtain a  
11 waiver from Congress earlier than the candidate needs  
12 to obtain that waiver.

13 CHIEF JUSTICE ROBERTS: Well, even though  
14 it's pretty unlikely or at least would be difficult  
15 for an individual who says, you know, I -- I am an  
16 insurrectionist and I had taken the oath, that would  
17 require a two-thirds of votes in Congress, right?

18 MR. MITCHELL: Correct.

19 CHIEF JUSTICE ROBERTS: Well, that's a  
20 pretty unlikely scenario.

21 MR. MITCHELL: It may be unlikely, but no  
22 secretary of state is permitted to predict the  
23 likelihood of a waiver because, in doing so, they're  
24 adding a new qualification to the ability to run for  
25 Congress.



1                   And the proper analogy, Mr. Chief Justice,  
2                   is to state residency laws because the Constitution  
3                   says that a member of Congress must inhabit the state  
4                   that he represents when elected. And the lower  
5                   courts have all held, in reliance on Term Limits,  
6                   that a state election official cannot move that  
7                   deadline any earlier by requiring the candidate for  
8                   Congress to inhabit the state --

9                   CHIEF JUSTICE ROBERTS: So even if somebody  
10                  --

11                  MR. MITCHELL: -- before the date of  
12                  election.

13                  CHIEF JUSTICE ROBERTS: -- comes in and  
14                  says, I'm -- I'm a -- a resident of -- to the  
15                  secretary of state's office in Illinois and says, I'm  
16                  a -- a resident of Indiana, I have been all my life,  
17                  I want to run for office in Illinois, the secretary  
18                  of state can't say, no, you can't?

19                  MR. MITCHELL: Well, the question would be  
20                  is that person going to inhabit the state when the  
21                  election is held. So, if the candidate makes clear,  
22                  perhaps through a sworn declaration or through his  
23                  own statements, that he has no intention of  
24                  relocating to that state before Election Day, then  
25                  the secretary of state would be enforcing an extant

1 constitutional qualification rather than enforcing a  
2 new state-imposed qualification.

3 And that's the key under Term Limits: Is  
4 the state in any way altering the criteria for a  
5 federal office, either for Congress or for the  
6 presidency? And in this situation, the Colorado  
7 Supreme Court is going slightly beyond what Section 3  
8 requires because Section 3 on its face bans an  
9 insurrectionist only from holding office.

10 JUSTICE SOTOMAYOR: Counsel, can I stop you  
11 a moment and -- and back up a minute? You admitted  
12 that the concept of self-executing does generally  
13 permit states to provide a cause of action for  
14 breaches of a constitutional provision.

15 MR. MITCHELL: Correct.

16 JUSTICE SOTOMAYOR: In fact, they do it  
17 frequently for takings clauses. Here's -- there's no  
18 debate that Colorado has placed that -- provided that  
19 cause of action. You want to go a step further and  
20 say that this, like the Treaty Clause, requires  
21 implementing legislation to permit the state to  
22 disqualify an insurrectionist --

23 MR. MITCHELL: That's correct. So --

24 JUSTICE SOTOMAYOR: -- under Section 3.

25 MR. MITCHELL: That's right.

1 JUSTICE SOTOMAYOR: So history proves a lot  
2 to me --

3 MR. MITCHELL: Mm-hmm.

4 JUSTICE SOTOMAYOR: -- and to my colleagues  
5 generally. There's a whole lot of examples of states  
6 relying on Section 3 to disqualify insurrectionists  
7 for state offices, and you're basically telling us  
8 that you want us to go two steps further. You want  
9 to -- maybe three.

10 MR. MITCHELL: Mm-hmm.

11 JUSTICE SOTOMAYOR: You want us to say that  
12 self-execution doesn't mean what it generally means.  
13 You want us now to say it means that Congress must  
14 permit states or require states to stop  
15 insurrectionists from taking state office.

16 MR. MITCHELL: Mm-hmm.

17 JUSTICE SOTOMAYOR: And -- and so this is a  
18 complete preemption in a way that's very rare, isn't  
19 it?

20 MR. MITCHELL: Well, that's -- the only  
21 thing I would --

22 JUSTICE SOTOMAYOR: It's rare under the  
23 Fourteenth Amendment.

24 MR. MITCHELL: Oh, of course, it's rare.  
25 This is -- this is a one-off situation. And, Your

1 Honor, the only thing I'm --

2 JUSTICE SOTOMAYOR: Well, it is one-off. I  
3 don't disagree with you. But it's not with -- with  
4 respect to how we've defined "self-executing."

5 MR. MITCHELL: We're not asking this Court  
6 to redefine the concept of non-self-execution. We  
7 were careful in our brief not to rely on that phrase.  
8 And Griffin's Case doesn't --

9 JUSTICE SOTOMAYOR: Right, you are, because  
10 it's not.

11 MR. MITCHELL: That's right.

12 JUSTICE SOTOMAYOR: Okay.

13 MR. MITCHELL: And Griffin's Case --

14 JUSTICE SOTOMAYOR: So now the question is  
15 a very different one --

16 MR. MITCHELL: Mm-hmm.

17 JUSTICE SOTOMAYOR: -- in my mind. I  
18 understand you're relying on Griffin. Let's just be  
19 very clear.

20 MR. MITCHELL: Right.

21 JUSTICE SOTOMAYOR: Griffin was not a  
22 precedential Supreme Court decision.

23 MR. MITCHELL: That's correct.

24 JUSTICE SOTOMAYOR: All right. It was a  
25 circuit court decision by a justice who, when he

1 becomes a justice, writes in the Davis case, he  
2 assumed that Jefferson Davis would be ineligible to  
3 hold any office, particularly the presidency, and  
4 treated -- and this is his words --

5 MR. MITCHELL: Mm-hmm.

6 JUSTICE SOTOMAYOR: -- Section 3 as  
7 executing itself, needing no legislation on the part  
8 of Congress to give it effect.

9 So you're relying on a non-precedential  
10 case by a justice who later takes back what he said.

11 MR. MITCHELL: But the key point with  
12 Griffin's Case and why it's an important precedent,  
13 despite everything Your Honor said, it is not a  
14 precedent of this Court, but Griffin's Case provided  
15 the backdrop against which Congress legislated the  
16 Enforcement Act of 1870 when it first provided an  
17 enforcement mechanism for Section 3.

18 JUSTICE SOTOMAYOR: Yeah. And it did away  
19 with it later.

20 MR. MITCHELL: It did away with it later.  
21 But, as --

22 JUSTICE SOTOMAYOR: But -- but -- but that  
23 has nothing to say with respect to what Section 3  
24 means.

25 Can we get to the issue, which is, I think,

1 one that I go back to that I started with, and -- and  
2 very briefly, what sense does it say that states  
3 can't enforce Section 3 against their own officials?

4 MR. MITCHELL: Because --

5 JUSTICE SOTOMAYOR: And I think, logically,  
6 those are two separate issues in my mind: Can states  
7 enforce the Insurrection Clause against their own  
8 officeholders, or can they enforce it against federal  
9 officials, or can they enforce it against the  
10 president? Those are all three different questions  
11 in my mind.

12 MR. MITCHELL: And the -- the answer to all  
13 three of those questions turns on whether this Court  
14 agrees with the holding of Griffin's Case. If  
15 Griffin's Case is the proper enunciation of the law,  
16 then a state cannot do any of the things Your Honor  
17 suggested unless Congress gives it authority to do so  
18 through implementing legislation. So --

19 JUSTICE SOTOMAYOR: So a non-precedential  
20 decision that relies on policy, doesn't look at the  
21 language, doesn't look at the history, doesn't  
22 analyze anything than the disruption that such a suit  
23 would bring, you want us to credit as precedential?

24 MR. MITCHELL: Because Congress relied on  
25 Griffin's Case when it enacted the Enforcement Act of

1 1870 and established the --

2 JUSTICE KAGAN: So, Mr. Mitchell, if I may  
3 interrupt --

4 MR. MITCHELL: Please.

5 JUSTICE KAGAN: -- but just to clarify, I  
6 mean, this sounds like your reply brief, where it  
7 sounds like you're not making a constitutional  
8 argument, you're really making a statutory preemption  
9 argument. And --

10 MR. MITCHELL: Right.

11 JUSTICE KAGAN: -- is that -- is that what  
12 you're doing here? You're not saying that the  
13 Constitution gives you this rule. It's the kind of  
14 combination of Griffin's Case plus the way Congress  
15 acted after Griffin's Case --

16 MR. MITCHELL: Yes.

17 JUSTICE KAGAN: -- that gives you the rule?

18 MR. MITCHELL: That's exactly right,  
19 Justice Kagan, because we have implementing  
20 legislation, Congress took up the invitation provided  
21 by Griffin's Case and established writs of quo  
22 warranto in the 1870 Enforcement Act, later repealed  
23 them.

24 The only enforcement legislation that's  
25 currently on the books is the insurrection criminal

1 statute, Section 2383. And when Congress made all of  
2 these decisions -- the initial enactment of the  
3 Enforcement Act in 1870, the repeal of the quo  
4 warranto provisions in 1948 -- all of those were made  
5 with Griffin's Case as the backdrop. The under --

6 JUSTICE KAGAN: I -- please.

7 MR. MITCHELL: Well, the understanding was  
8 that these congressionally established remedies would  
9 be exclusive of state court remedies. So there's not  
10 an express statement of preemption in these statutes,  
11 but there didn't need to be because Griffin's Case  
12 provided the backdrop.

13 JUSTICE KAGAN: And if I could just  
14 understand the argument a little bit better, suppose  
15 that we took all of that away. You know, suppose  
16 there were no Griffin's Case and there were no  
17 subsequent congressional enactment. What do you then  
18 think the rule would be?

19 MR. MITCHELL: So in just as a matter of  
20 first principles without Griffin's Case, it's a much  
21 harder argument for us to make because, normally, I  
22 mean, every other provision of the Fourteenth  
23 Amendment has been treated as self-executing.

24 What we would argue in this hypothetical  
25 that Your Honor has suggested is that there are



1 practical considerations unique to Section 3 that  
2 counsel in favor of a rule similar to what Chief  
3 Justice Chase spelled out in Griffin's Case and it  
4 goes to I think the policy concerns he talks about,  
5 where this was a case -- Griffin's Case involved a  
6 convicted criminal who was seeking a writ of habeas  
7 corpus on the ground that the judge who tried his  
8 case was an insurrectionist disqualified under  
9 Section 3, and Chief Justice Chase realizes that if  
10 he enforces Section 3 in this situation, it would  
11 nullify every official act taken not only by this  
12 particular judge but by anyone who is an  
13 insurrectionist or arguably an insurrectionist under  
14 Section 3, and that was --

15 JUSTICE BARRETT: Well, why do you need  
16 those consequential concerns, though? I mean, it  
17 kind of seems to me that what Justice Kagan is  
18 getting at is why don't you have an argument that the  
19 Constitution of its own force, that Section 3 of its  
20 own force, preempts the states' ability not -- not  
21 necessarily, I think, not to enforce Section 3  
22 against its own officers but against federal  
23 officers, like in a Tarble's Case kind of way.

24 MR. MITCHELL: So there could also be an  
25 argument that's more limited. You're suggesting

1       there may be a barrier under the Constitution to a  
2       state legislating an enforcement mechanism for  
3       Section 3 specific to federal officers.

4               We could rely on precedents such as McClung  
5       that says that state courts lack the authority to  
6       issue mandamus relief against federal officials and  
7       extend that principle here.

8               JUSTICE BARRETT: Well, why aren't you  
9       making those arguments?

10              MR. MITCHELL: Because that doesn't get us  
11      -- that -- Griffin's Case --

12              JUSTICE BARRETT: That only gets you out of  
13      state court, it doesn't get you out of federal court?

14              MR. MITCHELL: Right. And also the holding  
15      of Griffin's Case went well beyond that because Chief  
16      Justice Chase said in this opinion, which, again,  
17      provided the backdrop for the congressional  
18      enforcement legislation, that states had no role in  
19      enforcing Section 3 unless Congress was to give them  
20      that authority through a statute that they passed  
21      pursuant to their -- powers.

22              JUSTICE GORSUCH: I -- I --

23              JUSTICE BARRETT: But your argument's --  
24      oh, sorry.

25              JUSTICE GORSUCH: No, please go ahead.

1                   JUSTICE BARRETT: I was just going to add  
2                   one last thing. I think your argument's a little  
3                   broader than that because I think, if we accept your  
4                   position that disqualifying someone from the ballot  
5                   is adding a qualification, really, your position is  
6                   that Congress can't enact a statute that would allow  
7                   Colorado to do what it's done either because then  
8                   Congress would be adding a qualification, which it  
9                   can't do either.

10                   MR. MITCHELL: No, I don't agree with that,  
11                   Justice Barrett. Congress is not bound by the  
12                   holding of Term Limits. Term Limits only prohibits  
13                   the states from adding additional qualifications or  
14                   altering the Constitution's qualifications for  
15                   federal office. It does not purport to restrain  
16                   Congress.

17                   So, if Congress were to enact implementing  
18                   legislation that authorized the states to exclude  
19                   insurrectionists from the ballot, we believe that  
20                   would be valid enforcement legislation under Section  
21                   3 with an important caveat. There has to be  
22                   congruence and proportionality under this Court's  
23                   precedents. So Congress --

24                   JUSTICE ALITO: Well, why would that be an  
25                   important -- why would that be permissible? Because

1 Section 3 refers to the holding of office, not  
2 running for office. And so --

3 MR. MITCHELL: Mm-hmm.

4 JUSTICE ALITO: -- if a state or Congress  
5 were to go further and say that you can't run for the  
6 office, you can't compete in a primary, wouldn't that  
7 be adding an additional qualification for serving for  
8 president? You must have been free from this --  
9 disqualification at an earlier point in time than  
10 Section 3 specifies.

11 MR. MITCHELL: I think the answer to your  
12 question, Justice Alito, depends on how you interpret  
13 the word "enforce" in Section 5. And some members of  
14 this Court, such as Justice Scalia, thought that  
15 "enforce" means you can do nothing more than enact  
16 legislation that mirrors the Fourteenth Amendment's  
17 self-executing requirements and you can't go an inch  
18 beyond that. That's not the current jurisprudence of  
19 this Court --

20 JUSTICE ALITO: No. Well, all right. We  
21 have --

22 MR. MITCHELL: -- the Court allows --

23 JUSTICE ALITO: -- to decide whether it's  
24 congruent and proportional.

25 MR. MITCHELL: Right.

1 JUSTICE ALITO: And we would get into the  
2 question of whether that would be congruent and  
3 proportional.

4 Well, let me shift gear a little bit. I --  
5 I take you to -- to argue -- and I think this is  
6 right -- that the term "self-executing" is a misnomer  
7 as applied here.

8 MR. MITCHELL: Yes, it is.

9 JUSTICE ALITO: Very often, when we use the  
10 term, what we're referring to is the proposition that  
11 a particular provision of the Constitution or a  
12 statute in and of itself creates a private right of  
13 action. That's not what the issue is here.

14 MR. MITCHELL: No, that's not the issue  
15 here. And sometimes the phrase "self-executing" is  
16 used that way. The only thing I would add is  
17 sometimes it's used in a different sense. With  
18 self-executing treaties or non-self-executing  
19 treaties, the issue is whether that treaty has any  
20 force as domestic law whatsoever.

21 JUSTICE ALITO: Right. Right. Well, I  
22 don't see what is gained by using this term which is  
23 used in different contexts rather than directly  
24 addressing what's involved here, which is the  
25 question of who can enforce Section 3 with respect to

1 a presidential candidate.

2 MR. MITCHELL: Mm-hmm.

3 JUSTICE ALITO: The consequences of what  
4 the Colorado Supreme Court did, some people claim,  
5 would be quite severe. Would it not permit -- would  
6 it not lead to the possibility that other states  
7 would say, using their choice-of-law rules and their  
8 rules on -- on collateral estoppel, that there's  
9 non-mutual collateral estoppel against former  
10 President Trump and so the decision of the Colorado  
11 Supreme Court could effectively decide this question  
12 for many other states, perhaps all other states?  
13 Could it not lead to that consequence?

14 MR. MITCHELL: I don't think so because  
15 Colorado law does not recognize non-mutual collateral  
16 estoppel. And I believe the preclusive effect of the  
17 decision would be determined by Colorado law rather  
18 than the law of another state.

19 But I think your question, Justice Alito,  
20 gives rise to an -- an even greater concern because,  
21 if this decision does not have preclusive effect in  
22 other lawsuits, it opens the possibility that a  
23 different factual record could be developed in some  
24 of the litigation that occurs in other states, and  
25 different factual findings could be entered by state

1 trial court judges. They might conclude as a matter  
2 of fact that President Trump did not have any intent  
3 to engage in incitement or make some other finding  
4 that differs from what this trial court judge found.

5 JUSTICE ALITO: Yeah, exactly. So this --  
6 in this decision, the -- the trial court in Colorado  
7 thought that it was proper to admit the January 6th  
8 report, and it also admitted the testimony of an  
9 expert --

10 MR. MITCHELL: Mm-hmm.

11 JUSTICE ALITO: -- who testified about the  
12 meaning of certain words and phrases to people who  
13 communicate with and among extremists, right?

14 MR. MITCHELL: Yes.

15 JUSTICE ALITO: Another -- another state  
16 court could reach an opposite conclusion on both of  
17 those questions.

18 MR. MITCHELL: Certainly. Other states  
19 could conclude that the January 6th report is  
20 inadmissible hearsay. They might also conclude that  
21 statements within the January 6th report were hearsay  
22 even if the report itself is not. And they could  
23 certainly reach a different conclusion with respect  
24 to the expert testimony of Professor Simi. Perhaps  
25 in another state, we would have time to produce our

1 own sociology expert who would contradict Professor  
2 Simi.

3 JUSTICE ALITO: Now should -- should these  
4 considerations be dismissed as simply  
5 consequentialist arguments, or do they support a  
6 structural argument that supports the position that  
7 you're taking here?

8 MR. MITCHELL: I think they all mutually  
9 reinforce each other. We have an argument, we  
10 believe, that is sufficient to dispose of this case  
11 just based on the meaning of "officer of the United  
12 States," as well as the argument we're making based  
13 on Term Limits, but all of the consequentialist  
14 considerations that Your Honor has suggested are  
15 additional reasons to reverse the Colorado Supreme  
16 Court, although we don't think it's necessary to get  
17 into consequences because the law is clearly on our  
18 side.

19 JUSTICE SOTOMAYOR: Can I -- you keep  
20 saying "term limits." There are other presidential  
21 qualifications in the Constitution, age.

22 MR. MITCHELL: Yes.

23 JUSTICE SOTOMAYOR: Citizenship. There's a  
24 separate amendment, the Twenty-Second Amendment, that  
25 doesn't permit anyone to run for a second term.



1           We have a history of states disqualifying  
2           -- not all, but some -- of disqualifying candidates  
3           who won't be of age -- if elected. We have a history  
4           of at least one state disqualifying someone who  
5           wasn't a U.S. citizen.

6           MR. MITCHELL: Right.

7           JUSTICE SOTOMAYOR: Is -- are your  
8           arguments limited to Section 3?

9           MR. MITCHELL: Not quite. The question,  
10          Justice Sotomayor, is whether the state is violating  
11          Term Limits by adding to or altering the extant  
12          qualifications for the presidency in the  
13          Constitution. Now the hypo --

14          JUSTICE SOTOMAYOR: So you want us to say  
15          -- I -- I -- I'm wondering why the term limits  
16          qualification is important to you.

17          MR. MITCHELL: Because it --

18          JUSTICE SOTOMAYOR: Are -- are you setting  
19          up so that if some president runs for a third term,  
20          that a state can't disqualify him from the ballot?

21          MR. MITCHELL: Of course, a state can  
22          disqualify him from the ballot because that is a  
23          qualification that is categorical. It's not  
24          defeasible by Congress. So a state is enforcing the  
25          Constitution when it says you can't appear on our

1 ballot if you've already served two terms as  
2 president.

3 The same goes --

4 JUSTICE SOTOMAYOR: The same if they're  
5 under age when elected and the same if they're not a  
6 U.S. citizen.

7 MR. MITCHELL: The same if they're not --  
8 well, the same if they're not a U.S. citizen for  
9 sure. The age is a little more nuanced because you  
10 can imagine a scenario where the person is 34 years  
11 old at the time of the election, but he turns 35  
12 before Inauguration Day.

13 JUSTICE SOTOMAYOR: Well, then that would  
14 come up --

15 MR. MITCHELL: A state could not --

16 JUSTICE SOTOMAYOR: -- that would probably  
17 come up to us at some point.

18 MR. MITCHELL: But --

19 JUSTICE SOTOMAYOR: The state would make a  
20 decision and say he's ineligible, and we would have  
21 to decide that question then.

22 But my point is so what -- adding  
23 qualifications to what term limit --

24 MR. MITCHELL: You're --

25 JUSTICE SOTOMAYOR: -- is your argument

1 based on?

2 MR. MITCHELL: You're changing --

3 JUSTICE SOTOMAYOR: I'm just confused.

4 MR. MITCHELL: Okay. With respect to the  
5 -- maybe I'll start with the age example.

6 JUSTICE SOTOMAYOR: Mm-hmm.

7 MR. MITCHELL: If a state like Colorado  
8 says you can't appear on our presidential ballot  
9 unless you are 35 years old on the day of the  
10 election, that would be a violation of Term Limits  
11 because there could be a 34-year-old on the day of  
12 the election who turns 35 before Inauguration Day.

13 What Colorado has done here, what their  
14 Supreme Court has done, is similar because, under  
15 Section 3, President Trump needs to qualify during  
16 the time that he would hold office, and the Colorado  
17 Supreme Court is saying to President Trump: You have  
18 to show that you would qualify under Section 3 now,  
19 at the time of the election, or at the time that we,  
20 the state supreme court --

21 JUSTICE SOTOMAYOR: Now I understand.

22 JUSTICE KAGAN: So what -- what --

23 CHIEF JUSTICE ROBERTS: Now just -- just a  
24 point of clarification so we're all on the same page.  
25 When you say "Term Limits," you mean our decision in

1 the Term Limits case --

2 MR. MITCHELL: Yes. I'm sorry.

3 CHIEF JUSTICE ROBERTS: -- not the  
4 constitutional provision governing term limits?

5 MR. MITCHELL: Yes. U.S. Term Limits  
6 against Thornton. Maybe I should call it Thornton  
7 instead of Term Limits.

8 CHIEF JUSTICE ROBERTS: That would be  
9 easier for the Justices --

10 MR. MITCHELL: I'm sorry.

11 JUSTICE JACKSON: And does it have some --

12 JUSTICE SOTOMAYOR: I -- I was confused.

13 JUSTICE JACKSON: So does it have something  
14 --

15 JUSTICE SOTOMAYOR: Thank you.

16 JUSTICE JACKSON: -- to do with the fact  
17 that the particular circumstance that you're talking  
18 about can change? Is that what you mean? I'm trying  
19 to understand --

20 MR. MITCHELL: Yeah.

21 JUSTICE JACKSON: -- the distinction  
22 between the provision in the Constitution that  
23 relates to disqualification on the basis of  
24 insurrection behavior --

25 MR. MITCHELL: Mm-hmm.

1 JUSTICE JACKSON: -- and these other  
2 provisions that Justice Sotomayor points out. They  
3 all seem to me to be extant constitutional  
4 requirements. So -- you -- but you're drawing a  
5 distinction.

6 MR. MITCHELL: Right. I'm drawing a  
7 distinction because some of them are categorical,  
8 such as --

9 JUSTICE JACKSON: What do you mean by  
10 "categorical"? Whether or not you are an  
11 insurrectionist is or is not categorical?

12 MR. MITCHELL: It is not categorical  
13 because --

14 JUSTICE JACKSON: Because?

15 MR. MITCHELL: -- because Congress can lift  
16 the disability by a two-thirds vote. And there is --

17 JUSTICE JACKSON: But -- but why does --  
18 why does that change the initial determination of  
19 whether or not you fall into the category? I don't  
20 understand the fact that you can be excused from  
21 having been in the category -- why does that not make  
22 it a categorical determination?

23 MR. MITCHELL: Because we don't know  
24 whether President Trump will be excused before he's  
25 sworn in, if he wins the election, on January 20th,

1       2025. And a -- and a court that is saying that  
2       President Trump has to show now, today, that he would  
3       qualify under Section 3 is accelerating the deadline  
4       that the Constitution provides for him to obtain a  
5       waiver from Congress.

6               JUSTICE JACKSON: But that's by virtue of  
7       the "hold," right, "hold office." This is --

8               MR. MITCHELL: Correct. Yes.

9               JUSTICE JACKSON: Oh, okay.

10              MR. MITCHELL: Section 3 bans him only from  
11       holding office. It does not --

12              JUSTICE JACKSON: All right. Can I ask you  
13       -- I'm just -- now that I have the floor --

14              MR. MITCHELL: Yes.

15              JUSTICE JACKSON: -- can I ask you to  
16       address your first argument, which is the  
17       office/officer point?

18              JUSTICE KAGAN: Could -- could --

19              JUSTICE JACKSON: Oh, sorry.

20              CHIEF JUSTICE ROBERTS: Yeah, why don't we  
21       --

22              JUSTICE KAGAN: -- could we --

23              JUSTICE JACKSON: Oh.

24              JUSTICE KAGAN: Is -- is -- is that okay if  
25       we do this and then we go to that?

1 JUSTICE JACKSON: Sure. Sure, sure, sure.

2 JUSTICE KAGAN: You know, but --

3 JUSTICE JACKSON: Go ahead.

4 JUSTICE KAGAN: Will there be an  
5 opportunity to do "officer" stuff, or should we --

6 CHIEF JUSTICE ROBERTS: Absolutely.

7 Absolutely.

8 (Laughter.)

9 JUSTICE KAGAN: I -- I just want to  
10 understand. So, on -- on -- on this theory, what is  
11 the sum total of ways that the -- that Section 3 can  
12 be enforced, that -- that -- that -- that -- that  
13 some --

14 MR. MITCHELL: Yeah.

15 JUSTICE KAGAN: -- that somebody out there  
16 can say, yes, there has been a former president who  
17 engaged or led or participated in an insurrection and  
18 so should be disqualified from office, putting aside  
19 the officer argument --

20 MR. MITCHELL: Right.

21 JUSTICE KAGAN: -- what is the sum total of  
22 ways that that enforcement can happen?

23 MR. MITCHELL: Right. So the answer to  
24 that question is going to depend on what Your Honor  
25 thinks of Griffin's Case. So, if this Court were to

1 affirm the rationale of Griffin's Case, then the only  
2 way Section 3 could be enforced is through  
3 congressional legislation that creates a remedy. So  
4 Congress could reinstate the quo warranto provisions  
5 that they initially had in the 1870 --

6 JUSTICE KAGAN: Is that your position?

7 MR. MITCHELL: Yes, because we believe  
8 Griffin's Case is correctly decided and should be  
9 followed --

10 JUSTICE KAGAN: And -- and how does that  
11 fit with -- a lot of the -- the -- the answers to the  
12 questions that we've been giving, you said, well,  
13 Congress has to have the ability by a two-thirds vote  
14 to lift the disqualification.

15 MR. MITCHELL: Right.

16 JUSTICE KAGAN: But so too I would -- I  
17 would think that that provision would -- would --  
18 would be in some tension with what you just said --

19 MR. MITCHELL: There -- there is some,  
20 yeah.

21 JUSTICE KAGAN: -- because, if -- if  
22 Congress has the ability to lift the vote by a  
23 two-thirds majority, then, surely, it can't be right  
24 that one House of Congress can do the exact same  
25 thing by a simple majority.



1           MR. MITCHELL: Yeah, there certainly is  
2           some tension, Justice Kagan, and some commentators  
3           have pointed this out. Professor Baude and Professor  
4           Paulsen criticized Griffin's Case very sharply.

5           JUSTICE KAGAN: Then I must be right.

6           (Laughter.)

7           MR. MITCHELL: Well, we don't think it's --  
8           we don't think this problem is fatal because, to us,  
9           the -- the two-thirds provision that allows Congress  
10          to lift a disability is something akin to a pardon  
11          power, where Congress, through enforcement  
12          legislation, creates a mechanism by which the  
13          insurrectionist issue is to be determined by some  
14          entity, it could be the legislature in the case of an  
15          elected member of Congress, each House has the  
16          ability to judge the qualifications of their members,  
17          or if it's outside the situation of Congress, it  
18          would be whatever Congress enacts.

19          So, when it was the writs of quo warranto,  
20          each federal prosecutor had the authority to bring a  
21          quo warranto writ against an incumbent official and  
22          seek his ouster from office under Section 3, but it  
23          was still subject to that amnesty provision in  
24          Section 3 of the Fourteenth Amendment.

25          So we do acknowledge the tension, but we

1 don't think that's an insurmountable obstacle to our  
2 view of the case.

3 JUSTICE ALITO: I -- I don't even see why  
4 there's -- why there's a tension. If you analogize  
5 the -- the lifting by Congress of the  
6 disqualification by a two-thirds vote to a pardon,  
7 then, surely, one would not argue that the fact that  
8 the president or a governor can pardon someone from a  
9 criminal conviction or a criminal offense means that  
10 the person couldn't be prosecuted in the first place  
11 for the criminal offense.

12 MR. MITCHELL: That's right.

13 JUSTICE ALITO: Right?

14 MR. MITCHELL: Yes.

15 JUSTICE ALITO: So I don't see what the  
16 tension is. They're two separate things. Did the  
17 person engage in this activity which is prohibited,  
18 and second, even if the person did engage in the  
19 activity, are there reasons why the disqualification  
20 or the -- should be lifted or the pardon should be  
21 granted.

22 MR. MITCHELL: That's right. I mean, if --  
23 again, if the Court accepts the holding of Griffin's  
24 Case, that's exactly the regime that we would have,  
25 like the Court described.

1 JUSTICE ALITO: Yeah. I don't see there's  
2 a tension.

3 JUSTICE KAGAN: But I guess I don't --

4 JUSTICE ALITO: But, also, there's a limit  
5 on what one can infer from the mere fact that  
6 Congress can lift the disqualification. You can't  
7 infer from that that it is impermissible to have a  
8 prior determination that the person did engage in the  
9 insurrection. You can't make that inference.

10 MR. MITCHELL: Okay.

11 JUSTICE ALITO: It's not logical.

12 JUSTICE KAGAN: Well, but I think --

13 JUSTICE JACKSON: Yet isn't that what  
14 you're doing?

15 JUSTICE KAGAN: -- what's -- what's --  
16 what's -- what's -- what's in tension is that you  
17 would have the exact same actor and say, look, that  
18 actor can lift --

19 MR. MITCHELL: Right.

20 JUSTICE KAGAN: -- the disqualification by  
21 a two-thirds vote.

22 But you're saying only that actor can put  
23 the disqualification into effect in the first place  
24 and it can do that by far less than two-thirds. It  
25 can do that just by a simple majority of one House.

1           MR. MITCHELL: Or -- or it could do that by  
2 doing nothing at all if -- if the holding of  
3 Griffin's Case is correct because just --

4           JUSTICE KAGAN: Yes, exactly.

5           MR. MITCHELL: -- congressional inaction  
6 would --

7           JUSTICE KAGAN: But that means that there  
8 will --

9           MR. MITCHELL: -- effectively act as a --

10          JUSTICE KAGAN: The only thing it takes --

11          MR. MITCHELL: Yeah.

12          JUSTICE KAGAN: -- to have no action --

13          MR. MITCHELL: Right.

14          JUSTICE KAGAN: -- is -- you know, is, you  
15 know, half plus one saying we don't feel like it.

16          MR. MITCHELL: But that's why we tried to  
17 characterize our Griffin's Case argument the way we  
18 did where we rely on preemption doctrines as well.  
19 So we have --

20          JUSTICE KAVANAUGH: Well, don't -- don't  
21 you think --

22          CHIEF JUSTICE ROBERTS: Why don't we --

23          JUSTICE KAVANAUGH: -- Griffin's Case is  
24 also relevant to trying to figure out what the  
25 original public meaning of Section 3 of the

1 Fourteenth Amendment is? It's by the Chief Justice  
2 of the United States a year after the Fourteenth  
3 Amendment. That seems to me --

4 MR. MITCHELL: Yes.

5 JUSTICE KAVANAUGH: -- highly probative of  
6 what the meaning or understanding of that language,  
7 otherwise elusive language, is.

8 MR. MITCHELL: I do think it's probative,  
9 Justice Kavanaugh. We didn't rely too heavily on the  
10 point that you're making, partly because we have this  
11 other opinion from Justice Chase in the Jefferson  
12 Davis case. So that argument could potentially  
13 boomerang on us, which is why we didn't push it very  
14 hard in our briefing.

15 CHIEF JUSTICE ROBERTS: Thank you.

16 MR. MITCHELL: But I think Your Honor is  
17 right. This is --

18 CHIEF JUSTICE ROBERTS: Why -- why don't  
19 you finish your sentence and then we'll move on.

20 MR. MITCHELL: Just it is -- it is relevant  
21 and probative for sure, but I think there is other  
22 evidence too that might perhaps undercut the  
23 usefulness of trying to characterize Griffin's Case  
24 as completely emblematic of the original  
25 understanding.

1 CHIEF JUSTICE ROBERTS: Then why don't we  
2 move on to the officer point.

3 MR. MITCHELL: Certainly.

4 CHIEF JUSTICE ROBERTS: And, Justice  
5 Jackson, I think you --

6 JUSTICE JACKSON: Yes. So I had a question  
7 about it because you're making a textualist argument.

8 MR. MITCHELL: Mm-hmm.

9 JUSTICE JACKSON: And as I look at Section  
10 3, I see two parts of the first sentence of Section  
11 3.

12 MR. MITCHELL: Mm-hmm.

13 JUSTICE JACKSON: The first is a list of  
14 offices that a disqualified person is barred from  
15 holding, and the second are specific circumstances  
16 that give rise to disqualification.

17 So, first, am I right about seeing that  
18 there are two different things happening in the first  
19 sentence?

20 MR. MITCHELL: Yes, for sure.

21 JUSTICE JACKSON: Okay. So are you arguing  
22 both in this case or just one? Are you arguing both  
23 that the office of the presidency should not be  
24 considered one of the barred offices --

25 MR. MITCHELL: Mm-hmm.

1 JUSTICE JACKSON: -- and that the person --  
2 a person who previously took the presidential oath is  
3 not subject to disqualification?

4 MR. MITCHELL: We are arguing both, Your  
5 Honor.

6 JUSTICE JACKSON: I don't see that in your  
7 brief.

8 MR. MITCHELL: Well --

9 JUSTICE JACKSON: I see a lot of focus on  
10 the second but not on the first.

11 MR. MITCHELL: -- there is definitely more  
12 focus on the second, and we acknowledge that we have  
13 a somewhat heavier lift on the first point just  
14 because --

15 JUSTICE JACKSON: Why?

16 MR. MITCHELL: Well, first --

17 JUSTICE JACKSON: It seems to me that you  
18 have a list and president is not on it.

19 MR. MITCHELL: That -- that's certainly an  
20 argument in our favor, but there are also -- with  
21 respect to "officer of the United States," that's  
22 used repeatedly in the Constitution in the  
23 Commissions Clause, in the Appointments Clause, and  
24 also in the Impeachment Clause, and every time it  
25 appears, it's used in a way that clearly excludes the

1 president.

2 JUSTICE JACKSON: No, I understand.

3 MR. MITCHELL: So we don't --

4 JUSTICE JACKSON: But that's the second  
5 argument.

6 MR. MITCHELL: That is. And the --

7 JUSTICE JACKSON: So the first argument --

8 MR. MITCHELL: Mm-hmm.

9 JUSTICE JACKSON: -- is we have a list of  
10 offices --

11 MR. MITCHELL: Yes.

12 JUSTICE JACKSON: -- that a person is  
13 barred from holding, right --

14 MR. MITCHELL: Yes.

15 JUSTICE JACKSON: -- under your theory or  
16 under the -- the language of --

17 MR. MITCHELL: Mm-hmm.

18 JUSTICE JACKSON: -- and we see it begins  
19 with senator, representative, elector --

20 MR. MITCHELL: Elector.

21 JUSTICE JACKSON: -- of the president and  
22 vice president, and all other civil or military  
23 officers -- offices.

24 MR. MITCHELL: Well, offices under the  
25 United States --



1 JUSTICE JACKSON: Offices under the United  
2 States.

3 MR. MITCHELL: -- is how it's phrased.

4 JUSTICE JACKSON: But the word "president  
5 or vice president" does not in -- appear -- not  
6 appear specifically --

7 MR. MITCHELL: That's right.

8 JUSTICE JACKSON: -- in that list. So I  
9 guess I'm trying to understand, are you giving up  
10 that argument?

11 MR. MITCHELL: No.

12 JUSTICE JACKSON: And, if so, why?

13 MR. MITCHELL: No, we're not giving it up  
14 at all. You're right, the president and the vice  
15 president are not specifically listed, but the  
16 Anderson litigants claim that they are encompassed  
17 within the meaning of the phrase "office under the  
18 United States." And that --

19 JUSTICE JACKSON: And do you agree that --  
20 that -- that -- that the Framers would have put such  
21 a high and significant and important office, sort of  
22 smuggled it in through that catch-all phrase?

23 MR. MITCHELL: No, we don't agree at all.  
24 That's why we're still making the argument that the  
25 presidency is excluded from the covered offices that

1 are listed at the beginning of Section 3.

2 JUSTICE SOTOMAYOR: I -- I'm sorry, your  
3 brief says you didn't take a position on that point.

4 MR. MITCHELL: I'm sorry.

5 JUSTICE SOTOMAYOR: And your brief said --  
6 I don't have the -- the cite, I -- I apologize.

7 MR. MITCHELL: Okay.

8 JUSTICE SOTOMAYOR: You don't affirmatively  
9 argue that point I think is what your brief said.

10 MR. MITCHELL: In the blue brief?

11 JUSTICE SOTOMAYOR: Yes.

12 MR. MITCHELL: Well, we certainly argued it  
13 in the reply brief, and I'll have to look at what we  
14 -- how we phrased it. But we did point out in our  
15 opening brief that there are potential issues if this  
16 Court were to rule on "office under" because that  
17 phrase appears in other parts of the Constitution,  
18 including the Emoluments Clause, the Impeachment  
19 Disqualification Clause, and the Incompatibility  
20 Clause --

21 JUSTICE JACKSON: Would we necessarily have  
22 to say -- I mean, I thought -- I thought the point  
23 was that Section 3 was unique, that there was  
24 something happening with Section 3 that could explain  
25 why certain offices were left off or whatnot.

1           MR. MITCHELL: Perhaps, but there are also  
2           implications from other parts of the Constitution  
3           which really help us on the "officer of the United  
4           States" argument in that second part of Section 3 but  
5           somewhat cut against us when it comes to "office  
6           under the United States."

7           And the Anderson litigants point this out  
8           in Footnote 9 in the red brief where they say, if  
9           this Court were to say the presidency is an excluded  
10          office under the United States, that could imply, for  
11          example, the president is not covered by the  
12          Emoluments --

13          JUSTICE GORSUCH: Mr. -- Mr. Mitchell --

14          MR. MITCHELL: Yes.

15          JUSTICE GORSUCH: -- stepping back on this  
16          --

17          MR. MITCHELL: Mm-hmm.

18          JUSTICE GORSUCH: -- a -- a lot hinges on  
19          the difference between -- in your argument between  
20          the term "office" and "officer."

21          MR. MITCHELL: Yes.

22          JUSTICE GORSUCH: And I -- I -- I guess I'm  
23          wondering what theory do you have from an original  
24          understanding or a textualist perspective --

25          MR. MITCHELL: Mm-hmm.

1 JUSTICE GORSUCH: -- why those two terms so  
2 closely related would carry such different weight?

3 MR. MITCHELL: Because it's clear from the  
4 constitutional text that there are officers that do  
5 not hold offices under the United States, for  
6 example, the Speaker of the House and the President  
7 Pro Tempore. They're described as officers in  
8 Article I who are chosen by the legislature.

9 They also have to be officers if they're  
10 able to be covered by the Presidential Succession Act  
11 because, under the Constitution, only officers can  
12 serve when there's a vacancy in both the presidency  
13 and the vice presidency.

14 So they're officers, but they're not  
15 offices under the United States because of the  
16 Incompatibility Clause, which says that if you're a  
17 member of Congress, you cannot simultaneously hold an  
18 office under the United States. So that provision of  
19 the Constitution clearly demonstrates that --

20 JUSTICE GORSUCH: I -- I --

21 MR. MITCHELL: -- members of Congress can't  
22 hold offices.

23 JUSTICE GORSUCH: -- I -- I appreciate that  
24 --

25 MR. MITCHELL: Yes.

1 JUSTICE GORSUCH: -- response. Is -- is  
2 there anything in the original drafting, history,  
3 discussion that you think illuminates why that  
4 distinction would carry such profound weight?

5 MR. MITCHELL: Not -- not of which we're  
6 aware. So these are textual inferences that we're  
7 drawing --

8 JUSTICE GORSUCH: Yeah.

9 MR. MITCHELL: -- from constitutional  
10 structure, intratextualist analysis.

11 JUSTICE GORSUCH: Yeah.

12 MR. MITCHELL: But we aren't relying  
13 necessarily on the thought processes of the people  
14 who drafted these provisions because they're  
15 unknowable. But, even if they were knowable, we're  
16 not sure they would be relevant in any event because  
17 this language, especially in Section 3, was enacted  
18 as a compromise.

19 There were certainly radical Republicans  
20 who wanted to go much further. If you look at some  
21 of the earlier drafts that were proposed, some people  
22 wanted to ban all insurrectionists from holding  
23 office regardless of whether they previously swore an  
24 oath. Some people wanted to go further and ban them  
25 even from voting. And --

1 CHIEF JUSTICE ROBERTS: Thank you. Thank  
2 you, counsel.

3 I just have one very technical question.  
4 The statute in 1870, if -- if it were still in  
5 effect, would require you to modify your arguments  
6 slightly. It was repealed, as you say, in 1948.

7 Do -- I -- I tried to find it, but I  
8 couldn't. Do you know why it was repealed?

9 MR. MITCHELL: No, I -- we don't know why.  
10 It looks like it was done as part of a reorganization  
11 of the U.S. Code, so it doesn't appear there was any  
12 policy motivation behind that decision. I think a  
13 lot of things got repealed during this 1948 --  
14 decisions that were made.

15 CHIEF JUSTICE ROBERTS: Okay.  
16 Justice Thomas, anything further?  
17 Justice Alito?

18 JUSTICE ALITO: Is there any history of  
19 states using Section 3 as a way to bar federal  
20 officeholders?

21 MR. MITCHELL: Not that I'm aware, Justice  
22 Alito, because of Griffin's Case. I mean, Griffin's  
23 Case has been the law -- I shouldn't say that it's  
24 been the law because it was just a circuit court  
25 decision, but that has been the settled understanding

1 of Section 3 since 1870 when it was decided.

2 JUSTICE ALITO: Thank you.

3 CHIEF JUSTICE ROBERTS: Justice Sotomayor?

4 JUSTICE SOTOMAYOR: I -- I just want to pin  
5 down your principal argument on Section 3. You argue  
6 that even though the president may or may not  
7 qualify -- presidency may or may not qualify as an  
8 office under the United States, your principal  
9 argument is that the president is not an officer of  
10 the United States, correct?

11 MR. MITCHELL: Yeah, I would say it a  
12 little more forcefully than what Your Honor just  
13 described. We believe the presidency is excluded  
14 from "office under the United States," but the  
15 argument we have that he's excluded, the president,  
16 as an officer of the United States is the stronger of  
17 the two textually.

18 JUSTICE SOTOMAYOR: Ah.

19 MR. MITCHELL: It has fewer implications  
20 for other constitutional provisions --

21 JUSTICE SOTOMAYOR: A bit of a  
22 gerrymandered rule, isn't it, designed to benefit  
23 only your client?

24 MR. MITCHELL: I certainly wouldn't call it  
25 gerrymandered. That implies nefarious intent. We're

1 just --

2 JUSTICE SOTOMAYOR: Well, that you didn't  
3 make it up. I know some scholars have been  
4 discussing it. But just so we're clear, under that  
5 reading, only -- only the Petitioner is disqualified  
6 because virtually every other president except  
7 Washington --

8 MR. MITCHELL: Mm-hmm.

9 JUSTICE SOTOMAYOR: -- has taken an oath of  
10 -- to support the Constitution, correct?

11 MR. MITCHELL: That's right. Every  
12 president -- to our knowledge, every other president  
13 -- John Adams might also be excluded because he took  
14 the oath as a vice president, which is not an officer  
15 -- but, yes, President Biden would certainly be  
16 covered. He took the oath as a member of Congress.  
17 And that's true of every previous president.

18 JUSTICE SOTOMAYOR: Would that be true if  
19 we were to hold more narrowly in a reversal that it's  
20 not Section 3 that's at issue but Thornton and others  
21 as to whether Section 3 can be enforced by states  
22 against the president?

23 MR. MITCHELL: That would extend to every  
24 presidential candidate --

25 JUSTICE SOTOMAYOR: Exactly.



1 MR. MITCHELL: -- not just our client.

2 That's correct.

3 JUSTICE SOTOMAYOR: Not just to yours.

4 MR. MITCHELL: Yes.

5 JUSTICE SOTOMAYOR: Okay. Thank you.

6 CHIEF JUSTICE ROBERTS: Justice Kagan?

7 JUSTICE KAGAN: And if I could just  
8 understand, I mean, given that you say you don't have  
9 a lot of evidence that the founding -- or the  
10 generation that we're looking at is really thinking  
11 about "office" versus "officer of the United States,"  
12 I mean, it -- it -- it would suggest that we should  
13 ask what -- is that rule a sensible one? You know,  
14 if they had thought about it, what reason would they  
15 have given for that rule?

16 And it does seem as though there -- there's  
17 no particular reason, and you can think of lots of  
18 reasons for the contrary --

19 MR. MITCHELL: Right.

20 JUSTICE KAGAN: -- to say that the only  
21 people who have engaged in insurrection who are not  
22 disqualified from office are presidents who have not  
23 held high office before. Why would that rule exist?

24 MR. MITCHELL: Yeah. I don't think there  
25 is a good rationale given that this was compromise

1       legislation.  And sometimes this happens with  
2       statutory compromises and even constitutional  
3       compromises.  There's an agreed-upon set of words  
4       that can pass both Houses of Congress, but different  
5       legislators may have had goals and motivations.  They  
6       didn't all get their way.  In a compromise, everyone  
7       goes away miserable.

8                 But this was the text that was settled  
9       upon.  And it does seem odd that President Trump  
10      would fall through the cracks in a sense, but if  
11      "officer of the United States" means appointed  
12      officials, there's just no way he can be covered  
13      under Section 3.  The Court would have to reject our  
14      officer argument to get to that point.

15                JUSTICE KAGAN:  And is there any better  
16      reason, if he -- go to the office argument that  
17      Justice Jackson was suggesting, is there any better  
18      reason for saying that an insurrectionist cannot hold  
19      the whole panoply of offices in the United States,  
20      but we're perfectly fine with that insurrectionist  
21      being president?

22                MR. MITCHELL:  I think that's an even  
23      tougher argument for us to make as a policy matter  
24      because one would think, of all offices, the  
25      presidency would be the one you'd want to keep out

1 the Confederate insurrectionists. That's the  
2 commander-in-chief of the Army. So, again, that's  
3 why we're leaning more on the "officer of" argument  
4 than the "office under."

5 We're not conceding "office under," but we  
6 definitely have the stronger textual case and  
7 structural case on "officer of the United States."

8 JUSTICE KAGAN: Thank you.

9 MR. MITCHELL: Thanks.

10 CHIEF JUSTICE ROBERTS: Justice Gorsuch?

11 JUSTICE GORSUCH: Do you want to respond to  
12 some of the specific textual arguments on the  
13 "officer of" with respect to the Appointments Clause,  
14 the Impeachment Clause, and some of the others?

15 MR. MITCHELL: Yeah. So the way -- let's  
16 start with --

17 JUSTICE GORSUCH: But why --

18 MR. MITCHELL: Well, I'll start with the  
19 Commissions Clause.

20 JUSTICE GORSUCH: The ball has been  
21 bouncing --

22 MR. MITCHELL: Yeah.

23 JUSTICE GORSUCH: -- on that back and  
24 forth, and I wanted to see where you landed today.

25 MR. MITCHELL: There are three textual

1 inferences that could be drawn from each of those  
2 provisions Your Honor just mentioned, but the  
3 Commissions Clause, I think, is the strongest because  
4 it says the president shall, you know, "commission  
5 all the Officers of the United States." "Shall" is  
6 mandatory. "All" is all-encompassing. And the  
7 president doesn't commission himself, and he can't  
8 commission himself. So that's one of the first  
9 problems.

10 I think the Anderson litigants are trying  
11 to say, you know, there's somehow an implied  
12 exception there because the president obviously can't  
13 commission himself, so we should construe that to  
14 mean all officers of the United States besides the  
15 president. But you also have members of Congress who  
16 are not commissioned by the president, and that's  
17 because they're not officers of the United States.

18 So the only sensible distinction that we  
19 can see, given the language of the Commissions  
20 Clause, is that officers of -- of the United States  
21 are appointed officials, and elected officials, such  
22 as members of Congress and the president and the vice  
23 president, are not.

24 And the Impeachment Clause reinforces that.  
25 "The President, [the] Vice President and all civil

1 Officers of the United States shall be removed from  
2 Office [upon] Impeachment for, and Conviction of ...  
3 [all] high Crimes and Misdemeanors." The president  
4 and the vice president are listed separately from  
5 officers of the United States.

6 And then, of course, the Appointments  
7 Clause, we know the president is not appointed  
8 pursuant to Article II. Neither is the vice  
9 president. Neither are members of Congress. So they  
10 can't be officers either.

11 JUSTICE GORSUCH: And how does Article I,  
12 Section 6, fit into this discussion?

13 MR. MITCHELL: And this is about officers  
14 being in the line of succession?

15 JUSTICE GORSUCH: Yes, exactly.

16 MR. MITCHELL: Right. So you have to be an  
17 officer to be in the line of succession. We have a  
18 federal statute that puts the Speaker and the  
19 President Pro Tempore in the line of succession.  
20 They are officers. But they're not officers of the  
21 United States because they're not subject to  
22 impeachment, they're not commissioned by the  
23 president, and they're not appointed pursuant to  
24 Article II.

25 So there is this gap between the term

1 "officer" and the phrase "officers of the United  
2 States," reinforcing the idea that "officers of the  
3 United States" is a term of art that doesn't refer  
4 just to federal officeholders, which is what the  
5 Anderson litigants are claiming, but refers only to  
6 those who are appointed, not to those who are  
7 elected.

8 JUSTICE GORSUCH: Thank you.

9 CHIEF JUSTICE ROBERTS: Justice Kavanaugh?

10 JUSTICE KAVANAUGH: Can I just make sure I  
11 understand how you're using Griffin's Case again?  
12 Section 3 refers to insurrection and raises questions  
13 about who decides what processes are to be used.  
14 That's ratified in 1868. The next year, Chief  
15 Justice Chase opines that states do not have the  
16 authority, that only Congress has the authority to  
17 enforce that. That could be evidence, as you say, of  
18 the original public meaning, at least some evidence.

19 MR. MITCHELL: Mm-hmm.

20 JUSTICE KAVANAUGH: It's a precedent,  
21 although not binding. But your point then is it's  
22 reinforced because Congress itself relies on that  
23 precedent in the Enforcement Act of 1870 and forms  
24 the backdrop against which Congress does legislate.  
25 And then, as Justice Alito says, the historical

1 practice for 155 years has been that that's the way  
2 it's gone. There hasn't -- there haven't been state  
3 attempts to enforce disqualification under Section 3  
4 against federal officers in the years since.

5 MR. MITCHELL: Right.

6 JUSTICE KAVANAUGH: So whether that's a  
7 Federalist 37 liquidation argument, it all reinforces  
8 what happened back in 1868, 1869, and 1870.

9 MR. MITCHELL: Right.

10 JUSTICE KAVANAUGH: Do you want to add to  
11 that, alter that?

12 MR. MITCHELL: No, I think that's exactly  
13 right. And the last part you mentioned, Your Honor,  
14 is crucial to our argument, that Congress relied on  
15 Griffin's Case. It provided the backdrop against  
16 which they legislated, which is why we should read  
17 these extant enforcement mechanisms -- and, right  
18 now, the only one left is the federal insurrection  
19 statute, 2383 -- as exclusive of state court  
20 remedies. It's an -- it's a form of implied  
21 preemption, almost Sea Clammers implicit preemption  
22 of other remedies, because Congress made these  
23 decisions in explicit reliance on Griffin's Case.

24 JUSTICE KAVANAUGH: And if we agree with  
25 you on Griffin's Case and what you've elaborated on

1           there, that's the end of the case, right?

2                   MR. MITCHELL:  It should be, yes, unless  
3           Congress decides to enact a statute, which we can't  
4           --

5                   JUSTICE KAVANAUGH:  A new --

6                   MR. MITCHELL:  -- rule out the possibility.

7                   JUSTICE KAVANAUGH:  -- a new statute in  
8           addition to 2383.  And just to be clear, under 2383,  
9           you agree that someone could be prosecuted for  
10          insurrection by federal prosecutors and, if  
11          convicted, could be or shall be disqualified then  
12          from office?

13                   MR. MITCHELL:  Yes.  But the only caveat  
14          that I would add is that our client is arguing that  
15          he has presidential immunity.  So we would not  
16          concede that he can be prosecuted for what he did on  
17          January 6th under 2383.

18                   JUSTICE KAVANAUGH:  Understood.  Asking if  
19          --

20                   MR. MITCHELL:  Yes.

21                   JUSTICE KAVANAUGH:  -- the question about  
22          the theory of 2383.  Thank you.

23                   MR. MITCHELL:  Thank you.

24                   CHIEF JUSTICE ROBERTS:  Justice Barrett?

25                   JUSTICE BARRETT:  So Griffin's Case was a



1 collateral proceeding, so it's habeas relief.

2 MR. MITCHELL: Yes.

3 JUSTICE BARRETT: Could Griffin have -- so  
4 even if Section 3 is not a basis for collateral  
5 relief in habeas, which was new at the time, could  
6 Griffin have raised at his trial or in direct appeal  
7 the argument that Sheffey, Judge Sheffey, you know,  
8 you can't legitimately sit -- or constitutionally sit  
9 on my case because you're an insurrectionist and  
10 you're disqualified? Could he have won then?

11 MR. MITCHELL: No.

12 JUSTICE BARRETT: Why?

13 MR. MITCHELL: Not if -- not if Griffin's  
14 Case is correct. So a court would have to reject the  
15 rationale of Griffin's Case to accept what Your Honor  
16 was suggesting.

17 JUSTICE BARRETT: Well, why? Like I said,  
18 Griffin's Case -- I mean, I think there's some  
19 language that might be a little bit broad --

20 MR. MITCHELL: Mm-hmm.

21 JUSTICE BARRETT: -- but, at bottom,  
22 Griffin's Case is about a collateral habeas  
23 proceeding. And Griffin had brought his case after  
24 the fact. He needed a cause of action.

25 Why wouldn't it work in a trial for him to

1 challenge Sheffey's constitutional ability to  
2 adjudicate his case?

3 MR. MITCHELL: What Griffin's Case holds is  
4 that only Congress can provide the means of enforcing  
5 Section 3. And under Your Honor's hypothetical,  
6 Congress has not enacted any such statute that would  
7 give Mr. Griffin the right to raise those types of  
8 arguments at his trial. So he would have to await  
9 legislation from Congress.

10 JUSTICE BARRETT: Okay. Let's assume that  
11 I disagree with you about the officer argument, so  
12 Section 3 covers President Trump. Let's say that  
13 Congress enacts a quo warranto provision that would  
14 allow a -- a state or I guess it doesn't really  
15 matter for this purpose, even -- even a federal  
16 prosecutor, to bring such an action against him to  
17 remove him from office --

18 MR. MITCHELL: Mm-hmm.

19 JUSTICE BARRETT: -- in the quo warranto  
20 way.

21 Wouldn't that be in some tension with  
22 impeachment? He would be extracted from office  
23 outside of the process of impeachment. Couldn't then  
24 President Trump simply say, well, the only way to get  
25 me out of office is the impeachment process and not

1 this quo warranto action?

2 MR. MITCHELL: So I don't know how that  
3 would play out because the quo warranto actions that  
4 were brought that I'm aware of under the 1870  
5 Enforcement Act were brought against state officials.  
6 And Your Honor's impeachment hypothetical would apply  
7 not only to the president but any federal --

8 JUSTICE BARRETT: I know.

9 MR. MITCHELL: -- officer of the United  
10 States.

11 JUSTICE BARRETT: I know.

12 MR. MITCHELL: So I don't know how that  
13 played out in the courts and whether anyone ever  
14 tried to argue that impeachment was the exclusive  
15 remedy for removal --

16 JUSTICE BARRETT: Well, I don't think  
17 anybody did argue it. I guess what I'm asking is,  
18 you know, you said it's Congress's exclusive  
19 province.

20 MR. MITCHELL: Yes.

21 JUSTICE BARRETT: And you also said that it  
22 has to apply, you know, after one is holding office,  
23 is elected. And I'm asking whether then the  
24 implication of your argument is that Congress could  
25 not enact such a provision that applied against

1 federal officeholders that were covered by Section 3  
2 as opposed to state ones?

3 MR. MITCHELL: I believe they could. The  
4 Impeachment Clause says that "the President, [the]  
5 Vice President and all civil Officers of the United  
6 States, shall be removed from office [upon]  
7 Impeachment ... and Conviction." But it doesn't say  
8 that's the only way you can remove them.

9 I mean, Congress can defund a position and  
10 effectively, it's not the -- quite the same as formal  
11 removal, but the other relevant precedent is Stuart  
12 against Laird when the Jeffersonians repealed the  
13 Midnight Judges Act and abolished all of these  
14 positions for federal judges. And some people  
15 thought that was unconstitutional because they  
16 thought the only way you could eliminate federal  
17 judges was through impeachment, but Chief Justice  
18 Marshall upheld that statute.

19 So that to me is a relevant precedent  
20 showing that impeachment is not the only way to get  
21 rid of a federal official.

22 JUSTICE BARRETT: Okay. Let me just ask  
23 one question, and this is just a point of  
24 clarification.

25 Does President Trump have any kind of due

1 process right here? I mean, I'm -- I'm wondering,  
2 this kind of goes not to the cause of action point or  
3 the preemption point but more to the question of what  
4 procedures he might have been entitled to. You don't  
5 make the argument that he was entitled to any, nor  
6 did I see the argument that he had any kind of  
7 constitutionally protected right to ballot access so  
8 that he was, you know, constitutionally entitled to  
9 an opportunity to be heard. Is that right?

10 MR. MITCHELL: We -- we made --

11 JUSTICE BARRETT: He had no due process  
12 right?

13 MR. MITCHELL: We made that argument below.  
14 We did not make that in our briefs to this Court for  
15 several reasons. I mean, Your Honor's, I think,  
16 suggesting and this is correct that the proceedings  
17 below, to put it charitably, were highly irregular.

18 JUSTICE BARRETT: Well, I wasn't suggesting  
19 that. I was just asking --

20 MR. MITCHELL: I'm sorry. The question --

21 JUSTICE BARRETT: Yeah.

22 MR. MITCHELL: -- seems to suggest that  
23 there might be due process issues. But we didn't  
24 develop that argument in this Court for several  
25 reasons. Winning on due process doesn't really do as

1 much for our client as the other arguments that we've  
2 made because that would be a ruling specific to this  
3 particular proceeding in the State of Colorado and  
4 would leave the door open for Colorado to continue on  
5 remand to exclude him from the ballot.

6 JUSTICE BARRETT: Okay. Thank you.

7 CHIEF JUSTICE ROBERTS: Justice Jackson?

8 JUSTICE JACKSON: Going back to whether the  
9 presidency is one of the barred offices, I -- I guess  
10 I'm a little surprised at your response to Justice  
11 Kagan because I thought that the history of the  
12 Fourteenth Amendment actually provides the reason for  
13 why the presidency may not be included.

14 And by that, I mean I didn't see any  
15 evidence that the presidency was top of mind for the  
16 Framers when they were drafting Section 3 because  
17 they were actually dealing with a different issue.

18 The pressing concern, at least as I see the  
19 historical record, was actually what was going on at  
20 lower levels of the government, the possible  
21 infiltration and embedding of insurrectionists into  
22 the state government apparatus and the real risk that  
23 former Confederates might return to power in the  
24 South via state-level elections either in local  
25 offices or as representatives of the states in

1 Congress. And that's a very different lens.

2 Your concern is trying to make sure that  
3 these people don't come back through the state  
4 apparatus and control the government in that  
5 direction seems to me very different than the worry  
6 that an insurrectionist will seize control of the  
7 entire national government through the presidency.

8 And so I just am surprised that you would  
9 -- given the text of this -- the -- the provision and  
10 the historical context that seems to demonstrate that  
11 their concern or their focus was not about the  
12 presidency, I just don't understand why you're giving  
13 that argument up.

14 MR. MITCHELL: There -- there is some  
15 evidence to suggest that, Justice Jackson, but --

16 JUSTICE JACKSON: Is there any evidence to  
17 suggest that the presidency was what they were  
18 focused on?

19 MR. MITCHELL: There is some evidence of  
20 that. There were people saying we don't want  
21 Jefferson Davis to be elected president, and there  
22 was also -- one of the drafts of Section 3  
23 specifically mentioned the presidency and the vice  
24 presidency --

25 JUSTICE JACKSON: But it wasn't the --

1 MR. MITCHELL: -- as an office.

2 JUSTICE JACKSON: -- but it wasn't the  
3 final enactment. So where do we --

4 MR. MITCHELL: It -- it wasn't the final --  
5 it wasn't --

6 JUSTICE JACKSON: Right.

7 MR. MITCHELL: Yes. I'm sorry. It wasn't  
8 the final enactment, but it does show that there was  
9 some concern by some people about Confederate  
10 insurrectionists ascending to the presidency.

11 And we didn't want to make a law office  
12 history type argument where we just look at the  
13 historical evidence and pick the evidence that we  
14 like and interpret it tendentiously because the other  
15 side can come back with us and throw this  
16 countervailing evidence back in our face.

17 So we wanted to focus more on the text of  
18 the Constitution because this was ultimately a  
19 compromise provision that was enacted in Section 3,  
20 and --

21 JUSTICE JACKSON: All right. Let me ask  
22 you another question --

23 MR. MITCHELL: Mm-hmm.

24 JUSTICE JACKSON: -- about the states  
25 because you have forcefully made an argument about



1 the states not being able to enforce Section 3.

2 So, if we agree with you on that, what  
3 happens next? I mean, I thought you also wanted us  
4 to end the litigation. So is there a possibility  
5 that this case continues in federal court if that's  
6 our conclusion?

7 MR. MITCHELL: I don't see how it could  
8 unless Congress were to enact a statute in response  
9 to this Court's decision.

10 JUSTICE JACKSON: So your point is that it  
11 would -- we would have to say congressional enacting  
12 legislation is necessary for either state or federal  
13 enforcement?

14 MR. MITCHELL: That's correct.

15 JUSTICE JACKSON: All right. Final  
16 question. The Colorado Supreme Court concluded that  
17 the violent attempts of the Petitioner's supporters  
18 in this case to halt the count on January 6th  
19 qualified as an insurrection as defined by Section 3.

20 And I read your opening brief to accept  
21 that those events counted as an insurrection, but  
22 then your reply seemed to suggest that they were not.

23 So what -- what is your position as to  
24 that?

25 MR. MITCHELL: Oh, we -- we never accepted

1 or conceded in our opening brief that this was an  
2 insurrection. What we said in our opening brief was  
3 President Trump did not engage in any act that can  
4 plausibly be characterized as insurrection because he  
5 did not engage --

6 JUSTICE JACKSON: All right. So why would  
7 this not be an -- what is your argument that it's not  
8 -- your reply brief says that it wasn't because, I  
9 think, you say, it did not involve an organized  
10 attempt to overthrow the government. So --

11 MR. MITCHELL: Right. That's one of many  
12 reasons. But, for an insurrection, there needs to be  
13 an organized, concerted effort to overthrow the  
14 government of the United States through violence.  
15 And this riot that occurred --

16 JUSTICE JACKSON: So your point is that a  
17 chaotic effort to overthrow the government is not an  
18 insurrection?

19 MR. MITCHELL: No, we didn't concede that  
20 it's an effort to overthrow the government either,  
21 Justice Jackson. Right. None of these criteria were  
22 met. This was a riot. It was not an insurrection.  
23 The events were shameful, criminal, violent, all of  
24 those things, but it did not qualify as insurrection  
25 as that term is used in Section 3 --

1 JUSTICE JACKSON: Thank you.

2 MR. MITCHELL: -- because -- thanks.

3 CHIEF JUSTICE ROBERTS: Thank you, counsel.

4 MR. MITCHELL: Thank you.

5 CHIEF JUSTICE ROBERTS: Mr. Murray.

6 ORAL ARGUMENT OF JASON C. MURRAY

7 ON BEHALF OF RESPONDENTS ANDERSON, ET AL.

8 MR. MURRAY: Mr. Chief Justice, and may it  
9 please the Court:

10 We are here because, for the first time  
11 since the War of 1812, our nation's Capitol came  
12 under violent assault. For the first time in  
13 history, the attack was incited by a sitting  
14 president of the United States to disrupt the  
15 peaceful transfer of presidential power.

16 By engaging in insurrection against the  
17 Constitution, President Trump disqualified himself  
18 from public office. As we heard earlier, President  
19 Trump's main argument is that this Court should  
20 create a special exemption to Section 3 that would  
21 apply to him and to him alone. He says Section 3  
22 disqualifies all oath-breaking insurrectionists,  
23 except a former president who never before held other  
24 state or federal office.

25 There is no possible rationale for such an

1 exemption, and the Court should reject the -- the --  
2 the claim that the Framers made an extraordinary  
3 mistake. Section 3 uses deliberately broad language  
4 to cover all positions of federal power requiring an  
5 oath to the Constitution.

6 My friend relies on a claimed difference  
7 between "an office under" and "an officer of the  
8 United States," but this case does not come down to  
9 mere prepositions. The two phrases are two sides of  
10 the same coin, referring to any federal office or to  
11 anyone who holds one.

12 President Trump's other arguments for  
13 reversal ignore the constitutional role of the states  
14 in running presidential elections. Under Article II  
15 and the Tenth Amendment, states have the power to  
16 ensure that their citizens' electoral votes are not  
17 wasted on a candidate who is constitutionally barred  
18 from holding office.

19 States are allowed to safeguard their  
20 ballots by excluding those who are under age,  
21 foreign-born, running for a third presidential term,  
22 or, as here, those who have engaged in insurrection  
23 against the Constitution, in violation of their oath.

24 I welcome the Court's questions.

25 JUSTICE THOMAS: Do you have

1 contemporaneous examples -- and by contemporaneous, I  
2 mean shortly after the adoption of the Fourteenth  
3 Amendment -- where the states disqualified national  
4 candidates, not its own candidates, but national  
5 candidates?

6 MR. MURRAY: The only example I can think  
7 of, Justice Thomas, is the example of governor -- of  
8 -- of Congressman Christy, who was elected in Georgia  
9 in I believe 1868, and the governor of Georgia  
10 refused -- or -- or -- declined to certify the  
11 results of that election because Mr. Christy was  
12 disqualified.

13 But I think it's -- it's not surprising  
14 that there are few examples because we didn't have  
15 ballots in the same way back then. Candidates were.

16 Either write-in or -- or they were party  
17 ballots, so the states didn't run the ballots in the  
18 same way, and there wouldn't have been a process for  
19 determining before an election whether a candidate  
20 was qualified, unlike the processes that we have now  
21 that states have created under their Article I and  
22 Article II powers to run elections.

23 JUSTICE THOMAS: But it would seem that  
24 particularly after Reconstruction and after the  
25 Compromise of 1877 and during the period of Redeemers

1 that you would have that kind of conflict. There  
2 were a plethora of Confederates still around. There  
3 were any number of people who would continue to  
4 either run for state offices or national offices.

5 So it would seem -- it -- that would  
6 suggest that there would at least be a few examples  
7 of national candidates being disqualified if your  
8 reading is correct.

9 MR. MURRAY: Well, there were certainly  
10 national candidates who were disqualified by Congress  
11 refusing to seat them.

12 JUSTICE THOMAS: No, I understand that, but  
13 that's not this case. I'm talking -- did states  
14 disqualify them? That's what we're talking about  
15 here. I understand Congress would not seat them.

16 MR. MURRAY: Other than the example I gave,  
17 no, but, again, Your Honor, that -- that's not  
18 surprising because there wouldn't have been -- states  
19 certainly wouldn't have the authority to remove a  
20 sitting federal officer.

21 JUSTICE THOMAS: So what's the purpose of  
22 the -- what was the purpose of the -- of Section 3?  
23 The states were sending people -- the -- the concern  
24 was that the former Confederate states would continue  
25 being bad actors, and the effort was to prevent them

1 from doing this.

2 And you're saying that, well, this also  
3 authorized states to disqualify candidates. So what  
4 I'm asking you for, if you are right, what are the  
5 examples?

6 MR. MURRAY: Well, Your Honor, the examples  
7 are states excluded many candidates for state office,  
8 individuals holding state offices. We have a number  
9 of published cases of states concerning that.

10 JUSTICE THOMAS: I understand that. I -- I  
11 understand the states controlling state elections and  
12 state positions. What we are talking about here are  
13 national candidates.

14 The -- I understand. You look at Foner or  
15 Foote, Shelby Foote, or McPherson, they all talk  
16 about, of course, the conflict after the Civil War,  
17 and there were people who felt very strongly about  
18 retaliating against the South, the radical  
19 Republicans, but they did not think about authorizing  
20 the South to disqualify national candidates.

21 And that's the argument you're making, and  
22 what I would like to know is you give -- is do you  
23 have any examples of this?

24 MR. MURRAY: Many of those historians have  
25 filed briefs in our support in this case, making the

1 point that the -- the -- the idea of the Fourteenth  
2 Amendment was that both states and the federal  
3 government would ensure rights and that if states  
4 failed to do so, the federal government certainly  
5 would also step in.

6 But I think the reason why there aren't  
7 examples of states doing this is an idiosyncratic one  
8 of the fact that elections worked differently back  
9 then. States have a background power under Article  
10 II and the Tenth Amendment to run presidential  
11 elections. They didn't use that power to police  
12 ballot access until about the 1890s. And by the  
13 1890s, everyone had received amnesty and these issues  
14 had become moot. So I don't think the history tells  
15 us --

16 CHIEF JUSTICE ROBERTS: Counsel, I'd like  
17 to sort of look at Justice Thomas's question sort of  
18 from the 30,000-foot level. I mean, the whole point  
19 of the Fourteenth Amendment was to restrict state  
20 power, right? States shall not abridge privilege of  
21 immunity, they won't deprive people of property  
22 without due process, they won't deny equal  
23 protection. And on the other hand, it augmented  
24 federal power under Section 5. Congress has the  
25 power to enforce it.



1                   So wouldn't that be the last place that  
2                   you'd look for authorization for the states,  
3                   including Confederate states, to enforce --  
4                   implicitly authorize to enforce the presidential  
5                   election process? That -- that seems to be a  
6                   position that is at -- at war with the whole thrust  
7                   of the Fourteenth Amendment and very ahistorical.

8                   MR. MURRAY: No, Your Honor. First, we  
9                   would locate the states' authority to run  
10                  presidential elections not in the Fourteenth  
11                  Amendment but in Article II. And that power is  
12                  nearly plenary to determine the means --

13                  CHIEF JUSTICE ROBERTS: Yeah, but you're  
14                  relying on -- you have no reliance on Section 3, is  
15                  that what you're saying?

16                  MR. MURRAY: No, Your Honor. Certainly, we  
17                  have reliance on Section 3 insofar as Article II  
18                  gives states this broad power to determine how their  
19                  electors are selected, and that broad power implies  
20                  the narrower power to enforce federal constitutional  
21                  qualifications like Section 3.

22                  CHIEF JUSTICE ROBERTS: Well, but the  
23                  narrower power you're looking for is the power of  
24                  disqualification, right? That is a very specific  
25                  power in the Fourteenth Amendment. And you're saying

1 that was implicitly extended to the states under a  
2 clause that doesn't address that at all?

3 MR. MURRAY: We would say that nothing in  
4 the Fourteenth Amendment takes away from the states  
5 their broad and nearly plenary power to determine the  
6 manner of selecting their electors in the manner that  
7 they see fit. As this Court said in Chiafalo, that  
8 power is nearly plenary unless something in the  
9 Constitution tells states they can't do it.

10 And -- and the structure of the Fourteenth  
11 Amendment certainly was intended to expand federal  
12 power and certainly to restrict state power in some  
13 ways, but states are bound to enforce and apply, for  
14 example, Section 1 of the Fourteenth Amendment. And  
15 so it -- it's hard to see why states wouldn't be  
16 similarly bound or at least authorized --

17 JUSTICE KAVANAUGH: But that's -- that's a  
18 --

19 JUSTICE KAGAN: Well, just --

20 JUSTICE KAVANAUGH: -- "greater includes  
21 the lesser" argument. The -- the states have the  
22 power, the legislature has the power to choose  
23 electors. Granted. But just because there's one  
24 authorized means in the Constitution to a particular  
25 end does not mean that there's any means to that end.

1           And so I think you're taking that electors  
2 argument and bringing it into Section 3, where, as  
3 the Chief Justice says, there's just no -- and  
4 Justice Thomas, there's no historical evidence to  
5 support kind of the theory of Section 3, nor the  
6 overall -- to explain the overall structure of -- of  
7 the Fourteenth Amendment.

8           MR. MURRAY: We certainly have a long  
9 history in this country of states using their power  
10 to determine the manner of selecting presidential  
11 electors to enforce other qualifications in the  
12 Constitution. I don't -- I don't take it there's a  
13 great debate about whether or not states are allowed  
14 to exclude underaged or foreign-born candidates or,  
15 if President Bush or Obama wanted to run for a third  
16 term, that they could be excluded under that broad  
17 Article II power.

18           I don't see why Section 3 should be treated  
19 any differently. Section 3 speaks in the same  
20 mandatory terms.

21           JUSTICE KAVANAUGH: Well, when you look at  
22 -- at Section 3, the term "insurrection" jumps out,  
23 and the question is -- the questions are: What does  
24 that mean? How do you define it? Who decides? Who  
25 decides whether someone engaged in it? What

1 processes -- as Justice Barrett alluded to, what  
2 processes are appropriate for figuring out whether  
3 someone did engage in that?

4 And that's all what Chief Justice Chase  
5 focused on a year after the Fourteenth Amendment to  
6 say these are difficult questions and you look right  
7 at Section 5 of the Fourteenth Amendment, as the  
8 Chief Justice said, and that tells you Congress has  
9 the primary role here.

10 I think what's different is -- is the  
11 processes, the definition, who decides questions  
12 really jump out at you when you look at Section 3.

13 MR. MURRAY: Cert --

14 JUSTICE KAVANAUGH: Your response to that?

15 MR. MURRAY: Well, certainly, Justice  
16 Kavanaugh, there has to be some process for  
17 determining those questions, and then the question  
18 becomes, does anything in the Fourteenth Amendment  
19 say that only Congress can create that process? And  
20 -- and Section 5 very clearly is not an exclusive  
21 provision. It says Congress shall have power. And  
22 --

23 JUSTICE KAGAN: But maybe put most baldly,  
24 I think that the question that you have to confront  
25 is why a single state should decide who gets to be

1 president of the United States. In other words, you  
2 know, this question of whether a former president is  
3 disqualified for insurrection to be president again  
4 is, you know, just say it, it sounds awfully national  
5 to me. So whatever means there are to enforce it  
6 would suggest that they have to be federal, national  
7 means.

8           Why does -- you know, if you weren't from  
9 Colorado and you were from Wisconsin or you were from  
10 Michigan and it really -- you know, what the Michigan  
11 secretary of state did is going to make the  
12 difference between, you know, whether Candidate A is  
13 elected or Candidate B is elected, I mean, that seems  
14 quite extraordinary, doesn't it?

15           MR. MURRAY: No, Your Honor, because,  
16 ultimately, it's this Court that's going to decide  
17 that question of federal constitutional eligibility  
18 and settle the issue for the nation. And -- and,  
19 certainly, it's not unusual that questions of  
20 national importance come up through a particular  
21 state.

22           JUSTICE KAGAN: Well, I suppose --

23           JUSTICE BARRETT: Well --

24           JUSTICE KAGAN: -- this Court would be  
25 saying something along the lines of that a state has

1 the power to do it. But I guess I was -- I was  
2 asking you to go a little bit further in saying why  
3 should that be the right rule. Why should a single  
4 state have the ability to make this determination not  
5 only for their own citizens but for the rest of the  
6 nation?

7 MR. MURRAY: Because Article II gives them  
8 the power to -- to appoint their own electors as they  
9 see fit. But, if they're going to use a federal  
10 constitutional qualification as a ballot access  
11 determinant, then it's creating a federal  
12 constitutional question that then this Court decides  
13 and other courts, other states -- if -- if this Court  
14 affirms the decision below, determining that  
15 President Trump is ineligible to be president, other  
16 states would still have to determine what effect that  
17 would have on their own state's law and state  
18 procedure --

19 JUSTICE BARRETT: Well, I mean, if we --

20 MR. MURRAY: -- in terms of ballot access.

21 JUSTICE BARRETT: -- if we affirmed and we  
22 said he was ineligible to be president, yes, maybe  
23 some states would say, well, you know, we're going to  
24 keep him on the ballot anyway, but, I mean, really,  
25 it's going to have, as Justice Kagan said, the effect

1 of Colorado deciding. And it's true, I just want to  
2 push back a little bit on, well, it's a national  
3 thing because this Court will decide it.

4 You say that we have to review Colorado's  
5 factual record with clear error as the standard of  
6 review. So we would be stuck. The first mover  
7 state, here, Colorado, we're stuck with that record.  
8 And, you know, I -- I -- I don't want to get into  
9 whether the -- the record -- I mean, maybe the record  
10 is great, but what if the record wasn't? I mean,  
11 what if it wasn't a fulsome record? What if, you  
12 know, the -- the hearsay rules are, you know,  
13 one-offs? Or what if this is just made by the  
14 secretary of state without much process at all?

15 How do we review those factual findings?  
16 Why should clear error review apply? And doesn't  
17 that just kind of buckle back into this point that  
18 Justice Kagan was making, you know, that -- that we  
19 made with Mr. Mitchell too that it just doesn't seem  
20 like a state call?

21 MR. MURRAY: Three points, Your Honor. The  
22 first is that ordinarily, of course, this Court  
23 reviews factual findings for clear error, but  
24 President Trump made the point in -- in his reply  
25 brief that sometimes on constitutional questions that

1       require a uniform resolution, this Court can do more,  
2       something more like a Bose Corp. style independent  
3       review of the factual record.

4               And we would have no objection to that  
5       given that the record here -- really -- really, the  
6       facts that are disputed here are incredibly narrow.  
7       The essence of our case is President Trump's own  
8       statements that he made in public view for all to  
9       see.

10              JUSTICE BARRETT: But then that's saying  
11       that in this context, which is very high stakes, if  
12       we review the facts essentially de novo, you want us  
13       all to just watch the video of the Ellipse and then  
14       make a decision without any deference to or guidance  
15       from lower court fact finding? That's unusual.

16              MR. MURRAY: Well, ultimately, President  
17       Trump himself urges this Court to decide the merits  
18       of his eligibility on the factual record here at page  
19       2 of his brief. He's never at any point in this  
20       proceeding suggested there was something else that  
21       needed to be in the factual record, any other  
22       witnesses that he wanted to call to present his case.

23              And, again, the essence of our case is his  
24       own statements and -- and -- and, in particular, his  
25       own videotaped statements on the Ellipse --



1 JUSTICE GORSUCH: Mr. Murray, just to  
2 circle back to -- I'm sorry to interrupt. But I  
3 wanted to -- before we left it, I wanted to circle  
4 back to where Justice Kagan was.

5 Do you agree that the state's powers here  
6 over its ballot for federal officer election have to  
7 come from some constitutional authority?

8 MR. MURRAY: Members of this Court have  
9 disagreed about that.

10 JUSTICE GORSUCH: I'm asking you.

11 (Laughter.)

12 MR. MURRAY: The -- the majority of this  
13 Court has said that those powers come from Article  
14 II. But we think that the result is the same whether  
15 the Court locates it in Article II or in a reserved  
16 power under the Tenth Amendment.

17 JUSTICE GORSUCH: Okay. But -- but you  
18 accept that this Court has held, you're not  
19 contesting this or asking us to revisit that decision  
20 in Thornton or Term Limits or whatever you want to  
21 call it that it has to come from some federal  
22 constitutional authority?

23 MR. MURRAY: No, we are not, Your Honor.

24 JUSTICE GORSUCH: Okay. And -- and -- and,  
25 here, we're not talking about the Qualifications

1 Clause, right? Nobody's talking about whether he's  
2 35 years old or a natural born, whatever, right, not  
3 -- not at issue, okay?

4 We're talking about something under the  
5 Fourteenth Amendment and Section 3, so that's where  
6 you have to find your authority, right?

7 MR. MURRAY: We find our authority in  
8 Article II in states' plenary power to run their  
9 elections.

10 JUSTICE GORSUCH: Federal election -- but  
11 this is for a federal office. It has to come from  
12 the Constitution. And you're seeking to enforce  
13 Section 3?

14 MR. MURRAY: We're suggesting that in their  
15 broad power to determine the -- to select  
16 presidential electors in any manner they see fit,  
17 they can take account of Section 3 and apply Section  
18 3 --

19 JUSTICE GORSUCH: Could they do it without  
20 Section 3? Could they disqualify somebody for -- you  
21 -- you know, on whatever basis they wanted outside of  
22 the Qualifications Clause?

23 MR. MURRAY: That would run into Term  
24 Limits, I think, Your Honor.

25 JUSTICE GORSUCH: Yeah, I would think so,

1 right? So it has to come back to Section 3. And if  
2 that's true, how does that work given that Section 3  
3 speaks about holding office, not who may run for  
4 office. It was a point Mr. Mitchell was making  
5 earlier and I just wanted to give you a chance to  
6 respond to it because it seems to me that -- that,  
7 you know, that -- that you're asking to enforce in an  
8 election -- context a provision of the Constitution  
9 that speaks to holding office. So it's different  
10 than the Qualifications Clause, which is all about  
11 who can run and then serve, yeah.

12 MR. MURRAY: I -- I don't know that it is  
13 different.

14 JUSTICE GORSUCH: Okay.

15 MR. MURRAY: Other qualifications for  
16 office similarly talk about eligibility for the  
17 office. There's nothing unconstitutional about a  
18 30-year-old trying to get on the ballot.

19 JUSTICE GORSUCH: Except for this  
20 disability can be removed, right, under Section 3.  
21 That's what's different about it. So thoughts on  
22 that?

23 MR. MURRAY: Well, the fact that there's an  
24 extraordinary provision for removing the disability  
25 does not negate the fact that the disability exists

1 today and it's existed since January 6th, 2021, when  
2 President Trump engaged in insurrection against the  
3 Constitution.

4 JUSTICE GORSUCH: So were his actions after  
5 that date, before he left office, ultra vires? Is  
6 that -- is that the -- where your theory leads?

7 MR. MURRAY: Well, that would raise the  
8 separate question of whether one can collaterally  
9 attack the actions of a de facto officer. And that  
10 may be the one place in Griffin's Case at the very  
11 end where we would agree, which is -- which is when  
12 Justice Chase said, I've talked to my Supreme Court  
13 colleagues and we unanimously agree that you can't  
14 collaterally attack all official actions of an  
15 officer who's holding -- who's, in fact, holding the  
16 position under Section --

17 JUSTICE GORSUCH: All right. But -- but  
18 just circle back to where we started, right? That  
19 this is Section 3. Your authority has to come from  
20 there. And it's about holding office and it's a  
21 particular kind of disability that can be removed by  
22 Congress and it's the only one like that, right?  
23 They can't remove age or citizenship.

24 How should that inform our thoughts about a  
25 state's efforts to regulate the ballot for a federal

1 office?

2 MR. MURRAY: The colloquy that my friend  
3 had with Justice Alito earlier, I think, is  
4 illustrative here. The fact that Congress has an  
5 extraordinary removal power does not negate that the  
6 disability exists today and exists indefinitely into  
7 the future, much like the fact that Congress -- that  
8 the president can pardon somebody for a criminal  
9 conviction doesn't make that conviction somehow --  
10 somehow contingent.

11 And -- and I would note that if President  
12 Trump were appointed to an office today, if he were  
13 appointed as a state judge, he could not hold that  
14 office, which shows that the disability exists now.

15 And -- and the fact that Congress has a  
16 power to remove the disability doesn't negate the  
17 present qualification, nor does it implicitly bestow  
18 on President Trump a constitutional right to run for  
19 offices that he cannot hold in violation of state law  
20 and state procedure under Article II.

21 JUSTICE SOTOMAYOR: In fact, there was a --  
22 a congressional action to permit Confederate officers  
23 or people who supported the Confederacy to hold  
24 office before the Fourteenth Amendment, correct? So  
25 there must have been a thought that there was a -- a

1 preexisting disqualification.

2 MR. MURRAY: That's absolutely right.  
3 There were a flood of amnesty requests even before  
4 Section 3 went into effect because everybody  
5 understood at the time that those people would be  
6 disqualified the moment that Section 3 was enacted  
7 forever unless they received amnesty.

8 JUSTICE JACKSON: Can I --

9 CHIEF JUSTICE ROBERTS: Counsel, what do  
10 you do with the -- what I -- would seem to me to be  
11 plain consequences of your position? If -- if  
12 Colorado's position is upheld, surely, there will be  
13 disqualification proceedings on the other side, and  
14 some of those will succeed.

15 Some of them will have different standards  
16 of proof. Some of them will have different rules  
17 about evidence. Maybe the Senate report won't be  
18 accepted in others because it's hearsay. Maybe it's  
19 beyond a reasonable doubt, whatever.

20 In very quick order, I would expect,  
21 although my predictions have never been correct --

22 (Laughter.)

23 CHIEF JUSTICE ROBERTS: -- I would expect  
24 that, you know, a goodly number of states will say,  
25 whoever the Democratic candidate is, you're off the

1 ballot, and others for the Republican candidate,  
2 you're off the ballot. It'll come down to just a  
3 handful of states that are going to decide the  
4 presidential election. That's a pretty daunting  
5 consequence.

6 MR. MURRAY: Well, certainly, Your Honor,  
7 the fact that there are potential frivolous  
8 applications of a constitutional provision isn't a  
9 reason that would --

10 CHIEF JUSTICE ROBERTS: Well, no, hold on.  
11 I mean, you might think they're frivolous, but the  
12 people who are bringing them may not think they're  
13 frivolous. Insurrection is a broad, broad term, and  
14 if there's some debate about it, I suppose that will  
15 go into the decision and then, eventually, what, we  
16 would be deciding whether it was an insurrection when  
17 one president did something as opposed to when  
18 somebody else did something else? And what do we do?  
19 Do we wait until near the time of counting the  
20 ballots and sort of go through which states are valid  
21 and which states aren't?

22 MR. MURRAY: There's a reason Section 3 has  
23 been dormant for 150 years, and it's because we  
24 haven't seen anything like January 6th since  
25 Reconstruction.

1                   Insurrection against the Constitution is  
2 something extraordinary. And --

3                   CHIEF JUSTICE ROBERTS: It seems to me  
4 you're avoiding the question, which is other states  
5 may have different views about what constitutes  
6 insurrection.

7                   And now you're saying, well, it's all right  
8 because somebody, presumably us, are going to decide,  
9 well, they said they thought that was an  
10 insurrection, but they were wrong. And maybe they  
11 thought it was right. And we'd have to develop rules  
12 for what constitutes an insurrection.

13                   MR. MURRAY: Yes, Your Honor. Just like  
14 this Court interprets other constitutional  
15 provisions, this Court can make clear that an  
16 insurrection against the Constitution is something  
17 extraordinary.

18                   And, in particular, it really requires a  
19 concerted group effort to resist through violence not  
20 some ordinary application of state or federal law but  
21 the functions mandated by the Constitution itself.

22                   JUSTICE KAVANAUGH: On -- on your point  
23 that it's been dormant for 155 years, I think the  
24 other side would say the reason for that is Chief  
25 Justice Chase's opinion in 1869 in Griffin's Case to



1 start, which says that Congress has the authority  
2 here, not the states. That's followed up by the  
3 Enforcement Act of 1870, in which Congress acts upon  
4 that understanding, which is followed -- and there's  
5 no history contrary in that period, as Justice Thomas  
6 pointed out, there's no history contrary in all the  
7 years leading up to this of states exercising such  
8 authority.

9 I think the reason it's been dormant is  
10 because there's been a settled understanding that  
11 Chief Justice Chase, even if not right in every  
12 detail, was essentially right, and the branches of  
13 the government have acted under that settled  
14 understanding for 155 years.

15 And Congress can change that. And Congress  
16 does have Section 2383, of course, the Insurrection  
17 Act, a criminal statute. But Congress could change  
18 it, but they have not in the 155 years in relevant  
19 respects for what you want here today at least.

20 MR. MURRAY: No, Justice Kavanaugh. The  
21 reason why it's been dormant is because, by 1876,  
22 essentially, all former Confederates had received  
23 amnesty. And we haven't seen anything like an  
24 insurrection since then.

25 I'd like to address your point --

1 JUSTICE ALITO: Well, you know, we didn't

2 --

3 JUSTICE SOTOMAYOR: Can I go to that

4 point -- can --

5 JUSTICE ALITO: -- after the --

6 JUSTICE SOTOMAYOR: Sorry.

7 CHIEF JUSTICE ROBERTS: Justice Alito?

8 JUSTICE ALITO: I don't know how much we  
9 can infer from the fact that we haven't seen anything  
10 like this before and therefore conclude that we're  
11 never -- we're not going to see something in the  
12 future.

13 From the time of the impeachment of  
14 President Johnson until the impeachment of President  
15 Clinton more than a hundred years later, there were  
16 no impeachments of presidents, and in fairly short  
17 order, over the last couple of decades, we've had  
18 three. So I -- I don't know how much you can infer  
19 from that.

20 MR. MURRAY: Certainly, but if this Court  
21 affirms, this Court can write an opinion that  
22 emphasizes how extraordinary insurrection against the  
23 Constitution is and how rare that is because it  
24 requires an assault not just on the application of  
25 law but on constitutionally mandated functions

1 themselves, like we saw on January 6th, a coordinated  
2 attempt to -- to disrupt a function mandated by the  
3 Twelfth Amendment and essential to constitutional  
4 transfer of presidential power.

5 JUSTICE ALITO: Well, let me ask you a  
6 question about whether the power that you've  
7 described as plenary really is plenary.

8 Suppose that the outcome of an election for  
9 president comes down to the vote of a single state,  
10 how the electors of the vote of a single state are  
11 going to vote. And suppose that Candidate A gets a  
12 majority of the votes in that state, but the  
13 legislature really doesn't like Candidate A, thinks  
14 Candidate A is an insurrectionist, so the legislature  
15 then passes a law ordering its electors to vote for  
16 the other candidate.

17 Do you think the state has that power?

18 MR. MURRAY: I think there may be  
19 principles that -- that come into play in terms of  
20 after the people have voted that Congress -- that the  
21 state can't change the rules midstream. I'm -- I'm  
22 not sure because I'm not aware of this Court  
23 addressing it. And, certainly, as the --

24 JUSTICE ALITO: Well, let's change it so  
25 that it's not after the election; it's three days

1 before the election based on the fact that the polls  
2 in that state look bad. Can they do it?

3 MR. MURRAY: I think they probably could  
4 under this Court's decision in Chiafalo, where this  
5 Court emphasized that for much of American history,  
6 state legislatures picked their -- their own electors  
7 and assigned their own electors themselves. But, of  
8 course, that would be much more extraordinary than  
9 what we have here, which is simple application of  
10 normal state ballot access principles to say that  
11 we're only going to put on the ballot an individual  
12 who is qualified to assume the office.

13 JUSTICE ALITO: Can I ask you again the  
14 question that Justice Gorsuch asked, and you -- to  
15 which you responded by citing the de facto officer  
16 doctrine. But suppose we look at that going forward  
17 rather than judging the validity of an act committed  
18 between the time when a president allegedly engages  
19 in an insurrection and the time when the president  
20 leaves office.

21 During that interim period, would it be  
22 lawful for military commanders and other officers to  
23 disobey orders of the -- of the -- the president in  
24 question?

25 MR. MURRAY: I'm not sure that anything

1 gives military officers the authority to adjudicate  
2 effectively the -- the -- the legality of the  
3 presidency.

4 JUSTICE GORSUCH: Why -- why -- why -- why  
5 -- why not? You say he's disqualified from the  
6 moment it happens. Now I understand the de facto  
7 officer doctrine might be used to prohibit people  
8 from seeking judicial remedies for decisions that  
9 take place after the date he was disqualified.

10 But, if he is, in fact, disqualified, from  
11 that moment, why would anybody have to obey a  
12 direction from him?

13 MR. MURRAY: Well, ultimately, there still  
14 has to be some kind of procedure in place to  
15 adjudicate the disqualification. Certainly, Congress  
16 could impeach a sitting president, but that's the  
17 only remedy I'm aware of that exists for -- for  
18 removal or otherwise negating the authority of a  
19 sitting president.

20 JUSTICE GORSUCH: Why?

21 MR. MURRAY: Well, the --

22 JUSTICE GORSUCH: On what theory? Because  
23 the -- the -- Section 3 speaks about disqualification  
24 from holding office. You say he is disqualified from  
25 holding office from the moment it happens.

1 MR. MURRAY: Correct. But, nevertheless,  
2 if --

3 JUSTICE GORSUCH: So -- so it operates --  
4 you say there's no -- no legislation necessary -- I  
5 thought that was the whole theory of your case -- and  
6 no procedure -- it happens automatically.

7 MR. MURRAY: Well, certainly, you need a  
8 procedure in order to have any remedy to enforce the  
9 disqualification, which is different --

10 JUSTICE GORSUCH: I -- that's a whole  
11 separate question. That's the de facto -- doesn't  
12 work here, okay? Put that aside.

13 He's disqualified from the moment.  
14 Self-executing, done. And I would think that a  
15 person who would receive a direction from that  
16 person -- president, former president in your view,  
17 would be free to act as he or she wishes without  
18 regard to that individual.

19 MR. MURRAY: I don't think so because I  
20 think, again, the --

21 JUSTICE GORSUCH: Why?

22 MR. MURRAY: -- de facto officer doctrine  
23 would nevertheless come into play to say this is the  
24 --

25 JUSTICE GORSUCH: No, de facto -- that --

1 that doesn't work, Mr. Murray, because de facto  
2 officer is to ratify the conduct that's done  
3 afterwards and -- and -- and insulate it from  
4 judicial review. Put that aside. I'm not going to  
5 say it again. Put it aside, okay?

6 I think Justice Alito is asking a very  
7 different question, a more pointed one and more  
8 difficult one for you, I understand, but I think it  
9 deserves an answer.

10 On your theory, would anything compel a --  
11 a lower official to obey an order from, in your view,  
12 the former president?

13 MR. MURRAY: I -- I'm imagining a situation  
14 where, for example, a former president was -- you  
15 know, a -- a president was elected and they were 25  
16 and they were ineligible to hold office --

17 JUSTICE GORSUCH: No. No.

18 MR. MURRAY: -- but, nevertheless, they  
19 were put into that office --

20 JUSTICE GORSUCH: No. No. We're talking  
21 about Section 3.

22 MR. MURRAY: And --

23 JUSTICE GORSUCH: Please don't change the  
24 hypothetical, okay?

25 MR. MURRAY: I'm --

1 JUSTICE GORSUCH: Please don't change the  
2 hypothetical. I know. I like doing it too, but  
3 please don't do it, okay?

4 MR. MURRAY: Well, the -- the point I'm  
5 trying to make is that --

6 JUSTICE GORSUCH: He's disqualified from  
7 the moment he committed an insurrection, whoever it  
8 is, which -- whichever party. It -- that -- that  
9 happens. Boom. It happened.

10 What would compel -- and I'm not going to  
11 say it again, so just try and answer the question.  
12 If you don't have an answer, fair enough, we'll move  
13 on. What would compel a lower official to obey an  
14 order from that individual?

15 MR. MURRAY: Because, ultimately, we have  
16 -- we have statutes and rules requiring chains of  
17 command. The person is in the office, and even if  
18 they don't have the authority to hold the office, the  
19 only way to get someone out of the office of the  
20 presidency is impeachment, and so I think, if you  
21 interpreted Section 3 in light of other provisions in  
22 the Constitution like impeachment, while they hold  
23 office, impeachment's the only way to validate that  
24 they don't have the ability to hold that office and  
25 should be removed.



1 JUSTICE JACKSON: Mr. Murray, can I -- oh.  
2 Can I just ask you about something -- Justice Kagan  
3 brought up earlier, which is the concern about  
4 uniformity and the lack thereof if states are  
5 permitted to enforce Section 3 in presidential  
6 elections, and I -- I guess I didn't really  
7 understand your argument or your response to her  
8 about that.

9 MR. MURRAY: Well, certainly, if Congress  
10 is concerned about uniformity, they can provide for  
11 legislation and they can preempt state legislation.

12 JUSTICE JACKSON: Yes --

13 MR. MURRAY: But --

14 JUSTICE JACKSON: -- but you say that's not  
15 necessary.

16 MR. MURRAY: But it's not necessary in the  
17 absence of federal enforcement legislation. These  
18 questions come up to this Court in the same way that  
19 other federal questions come up to this Court, which  
20 is that a state adjudicates them. If the state  
21 hasn't provided sufficient process to comport with  
22 due process and notice and opportunity to be heard,  
23 one can make those challenges. But assuming, as  
24 here, we have a full evidentiary record, an  
25 opportunity to present evidence --

1 JUSTICE JACKSON: No, I understand -- I  
2 understand that we could resolve it so that we have a  
3 uniform ultimate ruling on it.

4 I guess my question is why the Framers  
5 would have designed a system that would -- could  
6 result in interim disuniformity in this way, where we  
7 have elections pending and different states suddenly  
8 saying you're eligible, you're not, on the basis of  
9 this kind of thing?

10 MR. MURRAY: Well, what they were concerned  
11 most about was ensuring that insurrectionists and  
12 rebels don't hold office. And so, once one  
13 understands the sort of imperative that they had to  
14 ensure that oath-breakers wouldn't take office, it  
15 would be a little bit odd to say that states can't  
16 enforce it, that only the federal government can  
17 enforce it, and that Congress can essentially rip the  
18 heart out of Section 3 by a simple majority just by  
19 failing to pass enforcement legislation.

20 Federalism creates redundancy. And, here,  
21 the fact that states have the ability to enforce it  
22 as well, absent federal preemption, provides an  
23 additional layer of safeguards around what really  
24 Section 3 --

25 JUSTICE JACKSON: Yeah, and I'll --

1 MR. MURRAY: -- supports.

2 JUSTICE JACKSON: -- ask you about the  
3 history when I get a chance again. Thank you.

4 CHIEF JUSTICE ROBERTS: Thank you, counsel.  
5 Justice Thomas?

6 Justice Alito?

7 JUSTICE ALITO: Suppose there's a country  
8 that proclaims again and again and again that the  
9 United States is its biggest enemy and suppose that  
10 the president of the United States for diplomatic  
11 reasons think that it's in the best interests of the  
12 United States to provide funds or release funds that  
13 -- so that they can be used by that -- by that  
14 country.

15 Could a state determine that that person  
16 has given aid and comfort to the enemy and,  
17 therefore, keep that person off the ballot?

18 MR. MURRAY: No, Your Honor. This Court  
19 has never interpreted the aid and comfort language,  
20 which also is present in the Treason Clause, but  
21 commentators have suggested -- it's been rarely  
22 applied because treason prosecutions are so rare, but  
23 commentators have suggested that, first of all, that  
24 aid and comfort really only applies in the context of  
25 a declared war or at least an adversarial

1 relationship where there is, in fact, a war between  
2 two countries.

3 And -- and, second, the intent standard  
4 would do a lot of work there because, under Section  
5 3, whatever the underlying conduct is, engaging in  
6 insurrection or aid and comfort, has to be done with  
7 the intent to further the unlawful purpose of the  
8 insurrection or -- or to aid the enemies in their  
9 pursuit of war against the United States.

10 JUSTICE ALITO: Now, let me come back to  
11 the question of what we would do if we were -- if  
12 different states had adjudicated the question of  
13 whether former President Trump is an insurrectionist  
14 using a different record, different rulings on the  
15 admissibility of evidence, perhaps different  
16 standards of proof. Then what would we do?

17 MR. MURRAY: Ultimately, this Court would  
18 -- first of all, if there were deficiencies in the  
19 record, the Court could either refuse to hear the  
20 case or it could decide on the basis of deficiencies  
21 of the record.

22 JUSTICE ALITO: Well, would we have to  
23 decide what is the appropriate rule of evidence that  
24 should be applied in this -- in this case? Would we  
25 have to decide what is the appropriate standard of

1 proof? Would we give any deference to these findings  
2 by state court judges, some of whom may be elected?  
3 Would we have to have our own trial?

4 MR. MURRAY: No, Your Honor. This Court  
5 takes the evidentiary record as it -- as it's given.  
6 And, here, we have an evidentiary record that all the  
7 parties agree is sufficient for a decision in -- in  
8 this case.

9 And then, as -- as I discussed earlier,  
10 there's a possibility of a Bose Corp. independent  
11 review of the facts, but, ultimately, what we have  
12 here is an insurrection that was incited in plain  
13 sight for all to see.

14 JUSTICE ALITO: Yeah, but that -- you're  
15 really not answering my question. It's not helpful  
16 if you don't do that.

17 We have -- suppose we have two different  
18 records, two different bodies of evidence, two  
19 different rulings on questions of admissibility, two  
20 different standards of proof, two different sets of  
21 fact findings by two different judges or maybe  
22 multiple judges in multiple states.

23 Then what do we do?

24 MR. MURRAY: Well, first, this Court would  
25 set the legal standard, and then it would decide

1       which view of the record was -- was correct, I think,  
2       under that -- if -- if this Court had two cases --

3               JUSTICE ALITO: Which view of -- which view  
4       of what record?

5               MR. MURRAY: If this Court --

6               JUSTICE ALITO: Of which record?

7               MR. MURRAY: If this Court had two cases  
8       before it and both of the records were sufficient  
9       insofar as both sides had the opportunity to present  
10      their case and -- and the essential facts in the  
11      record that everyone agreed was sufficient for a  
12      decision, then this Court would have to look at  
13      the -- the evidence -- the evidence presented and  
14      decide which -- which holding was correct and then  
15      decide that issue for the country.

16              And, certainly, here, when -- when there is  
17      a complete record, lower courts then will be applying  
18      that decision, and I think it's unlikely that any  
19      court would say we're going to reach a different  
20      decision than the U.S. Supreme Court did,  
21      particularly if the Court relies on the facts, the  
22      indisputable facts, of what President Trump said on  
23      video and in his Twitter feed, which is really the  
24      essence of our case here.

25              JUSTICE ALITO: Well, you had an expert --

1 just take -- let's just take that example -- had an  
2 expert testify about the meaning of what President  
3 Trump said. But do you -- do you think it's possible  
4 that a different state court would apply Daubert  
5 differently and say that this person should not be  
6 allowed to express an expert opinion on that  
7 question? Do you think that's beyond the realm of  
8 imagination?

9 MR. MURRAY: Not -- not at all, Your Honor.  
10 Two points on that. Number one, President Trump  
11 didn't appeal the admission of that evidence in this  
12 case, but -- but, number two, you know, the second  
13 point is that Professor Simi really -- he didn't  
14 opine on the meaning of President Trump's words.

15 He opined on the effect that those words  
16 had on violent extremists, and the essence of his  
17 testimony was built around videotaped statements of  
18 President Trump himself encouraging, inciting, and  
19 praising political violence when --

20 JUSTICE ALITO: Well, I -- I'm not taking a  
21 position one way or the other about whether the  
22 expert's testimony should have been admitted or  
23 anything like that or the meaning of President  
24 Trump's words.

25 I'm just trying to get you to grapple with

1        what some people have seen as the consequences of the  
2        argument that you're advancing, which is that there  
3        will be conflicts in decisions among the states, that  
4        different states will disqualify different  
5        candidates, but I -- I'm not getting a whole lot of  
6        help from you about how this would not be an  
7        unmanageable situation.

8                MR. MURRAY:  If this Court writes an  
9        opinion affirming on the basis of the indisputable  
10       facts of what President Trump said on January 6th and  
11       in the weeks leading up to it and his virtual  
12       confession on Twitter after the fact, then it would  
13       be reversible error for any other state to conclude  
14       otherwise on that question of federal law, or -- or,  
15       at the very least, this Court could address that when  
16       those issues come up, but it seems unlikely.

17               CHIEF JUSTICE ROBERTS:  Justice Sotomayor?

18               JUSTICE SOTOMAYOR:  There's two sides to --  
19       to the other side's position.  The first is that it's  
20       not self-executing.  I want to put that aside.

21               Deal with if we were to hold that states  
22       don't have the right to enforce or create a cause of  
23       action in this situation.  They want the flip to say  
24       that nobody -- even Congress can't do it because they  
25       need implementing legislation.  Address that



1 argument.

2 MR. MURRAY: That -- that --

3 JUSTICE SOTOMAYOR: Because assume we rule  
4 that states don't have it. What would you have us  
5 say for the other side of the argument? One of my  
6 colleagues says you need or what -- what not -- not  
7 then Chief Justice but Circuit Court Justice Chase  
8 said, which is that somehow you need implementing  
9 legislation, like the 1870 Act.

10 You seem to say that's not true because  
11 they could decide not to seat the -- seat a  
12 candidate, et cetera. So I don't know that  
13 legislation's necessary.

14 MR. MURRAY: And, certainly, there are  
15 historical examples of member -- members of Congress  
16 under their Article -- under Congress's Article I  
17 power to judge the qualifications of its members, of  
18 members of Congress refusing to seat ineligible  
19 candidates under Section 3 who have won election.

20 In the context of the presidency, I think  
21 it would create a number of really difficult issues  
22 if the Court says there's no procedure for  
23 determining President Trump's eligibility until after  
24 the election.

25 And then what happens when members of

1 Congress on January 6th, when they count the  
2 electoral votes, say we're not going to count  
3 electoral votes cast for President Trump because he's  
4 disqualified under Section 3 under the Electoral  
5 Count Reform Act.

6 A number of the amicus briefs, such as  
7 those of Professor Ginsberg, Hasen, and Foley, have  
8 made the point that that is kind of a  
9 disenfranchisement and constitutional crisis in the  
10 making and is all the more reason to address those  
11 issues now in a judicial process on a full  
12 evidentiary record so that everybody can have  
13 certainty on those issues before they go to the  
14 polls.

15 CHIEF JUSTICE ROBERTS: Justice Kagan?

16 JUSTICE KAGAN: Mr. Murray, you talked --  
17 you relied on the states' extensive powers under the  
18 Electors Clause. You talked about the states having  
19 a role in enacting, you know, typical ballot access  
20 provisions.

21 I -- I guess -- I guess, you know, it  
22 strikes me that we've put some limits on that, and  
23 I'll just give you Anderson versus Celebrezze as an  
24 example of that, where we said, in fact, states are  
25 limited in who they can take off a ballot, and that

1 was a case about minor party candidates, but the  
2 reason was that one state's decision to take a  
3 candidate off the ballot affects everybody else's  
4 rights.

5 And we talked about the pervasive national  
6 interest in the selection of candidates for national  
7 office. We talked about how an individual state's  
8 decision would have an impact beyond its own borders.  
9 So, if that goes for minor political party  
10 candidates, why doesn't it go a fortiori for the  
11 situation in this case?

12 MR. MURRAY: Well, certainly,  
13 constitutional principles like Section 3 apply to  
14 everybody, but in -- in Celebrezze, the issue there  
15 was a First Amendment question, and, certainly,  
16 there's no doubt that states' exercise of their power  
17 under Article II is constrained by First Amendment  
18 principles.

19 And -- and in -- in that case, the -- the  
20 state law deadlines for when a minor party candidate  
21 got on the ballot just came too soon to be reactive  
22 to what major parties had done and, therefore, risked  
23 disenfranchising people who were disillusioned with  
24 who the major parties had picked, and it raised First  
25 Amendment problems. Here, there's no real First

1 Amendment problem and -- and a state is just trying  
2 to enforce an existing qualification that's baked  
3 into our constitutional fabric.

4 JUSTICE KAGAN: Yeah, I -- I -- I guess,  
5 you know, it -- it did come up in the First  
6 Amendment, but there's a broader principle there and  
7 it's a broader principle about who has power over  
8 certain things in our federal system, and, you know,  
9 within our federal system, states have great power  
10 over many different areas. But that there's some  
11 broader principle about that there are certain  
12 national questions that -- that -- that -- that, you  
13 -- you know, state -- where states are not the  
14 repository of authority. And I took a lot -- First  
15 Amendment, not First Amendment -- a lot of Anderson's  
16 reasoning is really about that. Like, what's a state  
17 doing deciding who gets to -- who other citizens get  
18 to vote for for president?

19 MR. MURRAY: Colorado is not deciding who  
20 other states get to vote for for president. It's  
21 deciding how to assign its own electors under its  
22 Article II power. And the Constitution grants them  
23 that broad power as --

24 JUSTICE KAGAN: Well, but the effect of  
25 that is obvious, yes?

1                   MR. MURRAY: No, Your Honor, because  
2                   different states can have different procedures. Some  
3                   states may allow insurrectionists to be on the  
4                   ballot. They may say we're not looking past the  
5                   papers; we're not going to look into federal  
6                   constitutional questions. It's the sort of -- I --  
7                   even in this election cycle, there are -- there are  
8                   candidates who are on the ballot in some states even  
9                   though they're not natural-born citizens and off the  
10                  ballot in other states. And that's just a function  
11                  of states' power to enforce -- to preserve their own  
12                  electors and avoid disenfranchisement of their own  
13                  citizens.

14                 JUSTICE KAGAN: Thank you.

15                 CHIEF JUSTICE ROBERTS: Justice Gorsuch?

16                 JUSTICE GORSUCH: You haven't had a chance  
17                 to talk about the officer point, and I just want to  
18                 give you an opportunity to do that. Mr. Mitchell  
19                 makes the argument that particularly in the  
20                 Commissions Clause, for example, all officers are to  
21                 be commissioned by the president, seems to be  
22                 all-encompassing, that language. And I'm curious,  
23                 your response to that.

24                 And along the way, if you would, I -- I --  
25                 I -- I poked a little bit at the difference between

1 "office" and "officer" in the earlier discussion, you  
2 may recall, but I -- I think one point your -- your  
3 friends on the other side would make is, well, that's  
4 just how the Constitution uses those terms. So, for  
5 example, we know that the President Pro Tem of the  
6 Senate and the Speaker of the House are officers of  
7 the United States because the Constitution says they  
8 are, but we also know that they don't hold an office  
9 under the United States because of the  
10 Incompatibility Clause that says they can't.

11 So maybe the Constitution to us today, to a  
12 -- a lay reader, might look a little odd in  
13 distinguishing between "office" and "officer," not  
14 prepositions, nouns, a distinction, but maybe that's  
15 exactly how it works. Thoughts?

16 MR. MURRAY: Well, I'd start with the idea  
17 that the -- the meaning of "officer" in the 1780s was  
18 the same meaning that it has today, which is a person  
19 who holds an office. And -- and, certainly, in  
20 particular contexts like the Commissions Clause, it  
21 -- it appears that that's referring -- you know, that  
22 that is referring to a narrower class of officers  
23 because we know that there are --

24 JUSTICE GORSUCH: Except it says "all."

25 MR. MURRAY: Well, we know that there are

1 classes of officers, like the President Pro Tem, who  
2 -- who don't get their commissions from the  
3 president.

4 JUSTICE GORSUCH: Well, that's because the  
5 Constitution elsewhere says that.

6 MR. MURRAY: We know that the Appointments  
7 Clause refers to a class of officers who get their  
8 appointment from the Constitution itself --

9 JUSTICE GORSUCH: Mm-hmm.

10 MR. MURRAY: -- rather than from  
11 presidential appointment. People who get their  
12 commissions from the president himself are not  
13 commissioned by the president. And so, if you read  
14 the Appointments Clause in line with the Commissions  
15 Clause, then the Commissions Clause is really talking  
16 about the president's power. If one needs a  
17 commission, it's the president who grants it.

18 But I think it's important to bring us back  
19 to Section 3 in particular because that was 80 years  
20 --

21 JUSTICE GORSUCH: But, before -- before we  
22 get to that, though, just the distinction between  
23 "office" and "officer," do you -- do you agree that  
24 the Constitution does make that distinction,  
25 particularly with respect to the Speaker and

1 President Pro Tem?

2 MR. MURRAY: The Constitution makes that  
3 distinction, but the -- at least in Section 3, an  
4 officer of the United States is a person who swears  
5 an oath and holds an office. Now the President Pro  
6 Tem and the Speaker of the House, they don't swear a  
7 constitutional oath in that capacity. They swear a  
8 constitutional oath if they are a senator or  
9 representative in Congress in that separate  
10 non-official capacity. But I think that narrow --

11 JUSTICE GORSUCH: You agree they are  
12 officers who don't hold an office?

13 MR. MURRAY: They're officers who -- who  
14 may hold an office but don't swear an oath under  
15 Article VI in that official capacity.

16 JUSTICE GORSUCH: Well, how can they hold  
17 an office? Under the Incompatibility Clause, it says  
18 they can't.

19 MR. MURRAY: Well, I -- I think that's a  
20 fair point, and I think that that may be an exception  
21 to the general rule, and one might consider them  
22 perhaps officers of the House and Senate because they  
23 are appointed by those bodies and preside over those  
24 bodies.

25 JUSTICE GORSUCH: Well, no, the



1 Constitution says they're officers of the United  
2 States -- so -- so there are some instances when you  
3 have an officer but not an office?

4 MR. MURRAY: Those may be an exceptional  
5 circumstance.

6 JUSTICE GORSUCH: Okay. Okay.

7 MR. MURRAY: But I would --

8 JUSTICE GORSUCH: Thank you.

9 MR. MURRAY: You're welcome.

10 CHIEF JUSTICE ROBERTS: Justice Kavanaugh?

11 JUSTICE KAVANAUGH: The concerns of some  
12 questions have been the states having such power over  
13 a national office, other questions about the  
14 different states having different standards of proof,  
15 and they seem underscored by this case, at least the  
16 dissenting opinion below. Justice Samour said,  
17 "[I've] been involved" -- "[I've] been involved in  
18 the justice system for 33 years now, and what took  
19 place here doesn't resemble anything I've seen in a  
20 courtroom" and then added, "What transpired in this  
21 litigation fell woefully short of what due process  
22 demands."

23 Now I don't know whether I agree or not.  
24 I'm not going to take a position on that. But the --  
25 the fact that someone's complaining not about the

1 bottom-line conclusion but about the very processes  
2 that were used in the state would seem to -- and that  
3 that would be permitted seems to underscore the  
4 concerns that have been raised about state power.  
5 Just wanted to give you a chance to address that  
6 because that was powerful language. Again, not  
7 disagreeing about the conclusion but about the very  
8 fairness of the process.

9 MR. MURRAY: Yes, Your Honor, but that  
10 language was, with respect to Justice Samour, just  
11 not correct. President Trump had a five-day trial in  
12 this case. He had the opportunity to call any  
13 witnesses that he wanted. He had the opportunity to  
14 cross-examine our witnesses. He had the opportunity  
15 to testify if he wanted to testify. And, of course,  
16 the process was expedited because ballot access  
17 decisions are always on a fast schedule.

18 But, in this whole case, from the trial  
19 court all the way up to this Court, President Trump  
20 has never identified a single process, other than  
21 expert depositions, that he wanted to have that he  
22 didn't get. He had the opportunity for fact witness  
23 depositions. He had the opportunity to call  
24 witnesses remotely. He didn't use all of his time at  
25 trial. There was ample process here, and this is how

1 ballot access determinations in election cases are  
2 decided all the time.

3 JUSTICE KAVANAUGH: Okay. Second question,  
4 some of the rhetoric of your position -- I don't  
5 think it is your position, but some of the rhetoric  
6 of your position seems to suggest, unless the states  
7 can do this, no one can prevent insurrectionists from  
8 holding federal office. But, obviously, Congress has  
9 enacted statutes, including one still in effect.  
10 Section 2383 of Title 18 prohibits insurrection.  
11 It's a federal criminal statute. And if you're  
12 convicted of that, you are -- it says, "shall be  
13 disqualified" from holding any office.

14 And so there is a federal statute on the  
15 books, but President Trump has not been charged with  
16 that. So what -- what are we to make of that?

17 MR. MURRAY: Two things, Your Honor.  
18 Section 2383 was initially enacted about six years  
19 before Section 3. It wasn't meant as implementing  
20 legislation related to Section 3. And I would  
21 emphasize that by the time that Section 3 was  
22 ratified, most Confederates had already received  
23 criminal pardons.

24 JUSTICE KAVANAUGH: I guess the question is  
25 --

1 MR. MURRAY: So --

2 JUSTICE KAVANAUGH: -- a little bit  
3 different, which is, if the concern you have, which I  
4 understand, is that insurrectionists should not be  
5 able to hold federal office, there is a tool to  
6 ensure that that does not happen, namely, federal  
7 prosecution of insurrectionists. And I -- and if  
8 convicted, Congress made clear you are automatically  
9 barred from holding a federal office. That tool  
10 exists, you agree, and could be used but has not --  
11 could be used against someone who committed  
12 insurrection. You agree with that?

13 MR. MURRAY: That's absolutely right, Your  
14 Honor. But I would just make the point that the  
15 Framers of Section 3 clearly understood that criminal  
16 prosecutions weren't sufficient because oftentimes  
17 insurrectionists go unpunished, as was the case in  
18 the Civil War, and that the least we can do is impose  
19 a civil disqualification penalty so that even if we  
20 don't have the stomach to throw someone in jail --

21 JUSTICE KAVANAUGH: Well, they had the quo  
22 warranto provision that was in effect then from 18 --  
23 1870 until 1948, but then, obviously, that dropped  
24 out and hasn't been seen as necessary since then.

25 Last question. In trying to figure out

1        what Section 3 means and kind of to the extent it's  
2        elusive language or vague language, what about the  
3        idea that we should think about democracy, think  
4        about the right of the people to elect candidates of  
5        their choice, of letting the people decide? Because  
6        your position has the effect of disenfranchising  
7        voters to a significant degree.

8                    And should that be something -- does that  
9        come in when we think about should we read Section 3  
10       this way or read it that way? What about the  
11       background principle, if you agree, of democracy?

12                   MR. MURRAY: I'd like to make three points  
13       on that, Justice Kavanaugh. The first is that  
14       constitutional safeguards are for the purpose of  
15       safeguarding our democracy not just for the next  
16       election cycle but for generations to come.

17                   And -- and, second, Section 3 is designed  
18       to protect our democracy in that very way. The  
19       Framers of Section 3 knew from painful experience  
20       that those who had violently broken their oaths to  
21       the Constitution couldn't be trusted to hold power  
22       again because they could dismantle our constitutional  
23       democracy from within, and so they created a  
24       democratic safety valve. President Trump can go ask  
25       Congress to give him amnesty by a two-thirds vote.

1 But, unless he does that, our Constitution protects  
2 us from insurrectionists.

3 And, third, this case illustrates the  
4 danger of refusing to apply Section 3 as written  
5 because the reason we're here is that President Trump  
6 tried to disenfranchise 80 million Americans who  
7 voted against him, and the Constitution doesn't  
8 require that he be given another chance.

9 JUSTICE KAVANAUGH: Thank you.

10 CHIEF JUSTICE ROBERTS: Justice Barrett?

11 JUSTICE BARRETT: So the general rule is  
12 that, absent rare circumstances, state courts and  
13 federal courts share authority. State courts have  
14 authority to enforce the Constitution, but there are  
15 certain limits to that, certain situations in which  
16 the Constitution itself preempts the states' ability  
17 to resolve constitutional questions.

18 And, you know, Tarble's Case is one. And  
19 you said earlier that once a president is elected,  
20 you accepted that a state couldn't do anything about  
21 that, like you couldn't -- Colorado couldn't enact  
22 its own say quo warranto provision and then use it to  
23 get the secretary of state or the president or anyone  
24 else out of office, and I -- I assume that's because  
25 of this principle of structural preemption.

1 Am I right?

2 MR. MURRAY: Yes, Your Honor.

3 JUSTICE BARRETT: Okay. So I just want to  
4 clarify what that means for your argument. That  
5 means that your eggs are really in the basket of the  
6 Electors Clause, really in the Article I basket,  
7 because you're saying that even though all of the  
8 questions that people have been asking have suggested  
9 that there's a problem with giving a single state the  
10 authority to render a decision that would have an  
11 effect on a national election, but you're saying that  
12 those structural concerns, which might otherwise lead  
13 to the kind of result that you would accept after  
14 someone is in office, are overcome by the Electors  
15 Clause?

16 MR. MURRAY: Absolutely. States run  
17 presidential elections. That's very clear from  
18 Article II. Once states have selected the electors  
19 and the electors have voted, states have no more  
20 power over the -- the candidate who has been then  
21 nominated for president. But, until then, the states  
22 do have the power to adjudicate those issues.

23 JUSTICE BARRETT: Thank you.

24 CHIEF JUSTICE ROBERTS: Justice Jackson?

25 JUSTICE JACKSON: So, when I asked you

1 earlier about the uniformity concern and the  
2 troubling potential disuniformity of having different  
3 states enforce Section 3 with respect to presidential  
4 elections, you seemed to point to history in a  
5 certain way. You said, I think, that the Framers  
6 actually envisioned states enforcing Section 3 at  
7 least in some circumstances where there were  
8 insurgents and Confederates.

9 And I guess, in my view of the history, I'm  
10 wondering really whether presidential elections were  
11 such a circumstance, that the Framers actually  
12 envisioned states enforcing Section 3 with respect to  
13 presidential elections as opposed to senatorial  
14 elections, representatives, the sort of more local  
15 concerns.

16 So can you speak to the argument that  
17 really Section 3 was about preventing the South from  
18 rising again in the context of these sort of local  
19 elections as opposed to focusing on the presidency?

20 MR. MURRAY: Well, two points on that,  
21 Justice Jackson. First is that, as I discussed  
22 earlier, there isn't the same history of states  
23 regulating ballot access at this time, so ballot  
24 access rules to restrict presidential candidates  
25 wouldn't have -- wouldn't have existed. They



1 wouldn't have been raised one way or another.

2 JUSTICE JACKSON: Right, but --

3 MR. MURRAY: So --

4 JUSTICE JACKSON: -- I'm not making a --

5 MR. MURRAY: But --

6 JUSTICE JACKSON: -- distinction between  
7 ballot access and --

8 MR. MURRAY: No. My --

9 JUSTICE JACKSON: -- anything else. Yeah.

10 MR. MURRAY: Understood. But the more --

11 JUSTICE JACKSON: Yeah.

12 MR. MURRAY: -- the more broad point I want  
13 to make is that what is very clear from the history  
14 is -- is that the Framers were concerned about  
15 charismatic rebels who might rise through the ranks  
16 up to and including the presidency of the United  
17 States.

18 JUSTICE JACKSON: But then why didn't they  
19 put the word "president" in the very enumerated list  
20 in Section 3? The thing that really is troubling to  
21 me is I totally understand your argument, but they  
22 were listing people that were barred and president is  
23 not there.

24 And so I guess that just makes me worry  
25 that maybe they weren't focusing on the president,

1 and, for example, the fact that electors of vice  
2 president and president are there suggests that  
3 really what they thought was, if we're worried about  
4 the charismatic person, we're going to bar  
5 insurrectionist electors and, therefore, that person  
6 is never going to rise.

7 MR. MURRAY: This came up in the debates in  
8 Congress over Section 3 where Reverdy Johnson said,  
9 why haven't you included president and vice president  
10 in the language? And Senator Moore responds, we  
11 have. Look at the language, "any office under the  
12 United States."

13 JUSTICE JACKSON: Yes. But doesn't that at  
14 least suggest ambiguity? And this sort of ties into  
15 Justice Kavanaugh's point.

16 In other words, we had a -- a person right  
17 there at the time saying what I'm saying, the -- the  
18 language here doesn't seem to include president, why  
19 is that?

20 And so, if there's an ambiguity, why would  
21 we construe it to -- as Justice Kavanaugh pointed  
22 out -- against democracy?

23 MR. MURRAY: Well, Reverdy Johnson came  
24 back and agreed with that reading. "Any office" is  
25 clear, the Constitution says about 20 times that the

1       presidency is an office and --

2                   JUSTICE JACKSON:  No, I don't -- I'm not  
3       going to that.  So let me -- let me -- let me just  
4       say you -- so your point is that it -- that there's  
5       no ambiguity with -- with -- with -- with having a  
6       list and not having "president" in it, with having a  
7       history that suggests that they were really focused  
8       on local concerns in the South, with this  
9       conversation where the legislators actually discussed  
10      what looked like an ambiguity, you're saying there is  
11      no -- ambiguity in Section 3?

12                   MR. MURRAY:  Let me take the point  
13      specifically about electors and senators if I might  
14      because I think that's --

15                   JUSTICE JACKSON:  Yes.

16                   MR. MURRAY:  -- important.  Presidential  
17      electors were not covered because they don't hold an  
18      office.  They vote.  And -- and this Court's decision  
19      --

20                   JUSTICE JACKSON:  No, I'm talking about the  
21      barred office part of this, right?

22                   MR. MURRAY:  Exactly.  So the barred office  
23      is, if you want to include everybody, first, you have  
24      to specify presidential electors because they're not  
25      offices, so they wouldn't fall under any office.

1           Second of all, senators and representatives  
2           don't hold office either. The Constitution tells us  
3           that under the Incompatibility Clause and refers to  
4           them as holding seats, not offices. And so you want  
5           to make sure that there is no doubt that senators and  
6           representatives are covered. Given that the  
7           Constitution suggests otherwise, you have to include  
8           them.

9           The Constitution says the presidency holds  
10          an office, as do members of this Court. And so other  
11          high offices, the president, vice president, members  
12          of this Court --

13          JUSTICE JACKSON: All right. Let me -- let  
14          me ask you -- I -- I -- I appreciate that argument.

15          If we think that the states can't enforce  
16          this provision for whatever reason in this context,  
17          in the presidential context, what happens next in  
18          this case? I mean, are -- is it done?

19          MR. MURRAY: If this Court concludes that  
20          Colorado did not have the authority to exclude  
21          President Trump from the presidential ballot on  
22          procedural grounds, I think -- I think this case  
23          would be done, but I think it could come back with a  
24          vengeance because, ultimately, members of Congress --  
25          may have to make the -- the determination after a

1 presidential election if President Trump wins about  
2 whether or not he is disqualified from office and  
3 whether to count votes cast for him under the  
4 Electoral Count Reform Act.

5 So President Trump himself urges this Court  
6 in the first few pages of his brief to resolve the  
7 issues on the merits, and we think that the Court  
8 should do so as well.

9 JUSTICE JACKSON: And there is no federal  
10 litigation you would say?

11 MR. MURRAY: Well, that's correct, because  
12 there is no federal procedure for deciding these  
13 issues, short of a criminal prosecution.

14 JUSTICE JACKSON: Thank you.

15 CHIEF JUSTICE ROBERTS: Thank you, counsel.  
16 Ms. Stevenson.

17 MS. STEVENSON: Mr. Chief Justice.

18 CHIEF JUSTICE ROBERTS: Ms. Anderson -- no,  
19 Stevenson. That's right. I'm sorry.

20 ORAL ARGUMENT OF SHANNON W. STEVENSON

21 ON BEHALF OF RESPONDENT GRISWOLD

22 MS. STEVENSON: Mr. Chief Justice, and may  
23 it please the Court:

24 Exercising its far-reaching powers under  
25 the Electors Clause, Colorado's legislature

1 specifically directed Colorado's courts to resolve  
2 any challenges to the listing of any candidate on the  
3 presidential primary ballot before Coloradans cast  
4 their votes.

5           Despite this law, Petitioner contends that  
6 Colorado must put him on the ballot because of the  
7 possibility there would be a super majority act of  
8 Congress to remove his legal disability.

9           Under this theory, Colorado and every other  
10 state would have to indulge this possibility not just  
11 for the primary but through the general election and  
12 up to the moment that an ineligible candidate was  
13 sworn into office.

14           Nothing in the Constitution strips the  
15 states of their power to direct presidential  
16 elections in this way. This case was handled capably  
17 and efficiently by the Colorado courts under a  
18 process that we've used to decide ballot challenges  
19 for more than a century. And as everyone agrees, the  
20 Court now has the record that it needs to resolve  
21 these important issues.

22           I welcome your questions.

23           JUSTICE THOMAS: Is there an express  
24 provision with respect to -- that defines what a  
25 qualified candidate is?

1 MS. STEVENSON: No, Your Honor, there's not  
2 an express provision. When the Colorado Supreme  
3 Court looked at this, they looked at the need to be  
4 qualified, plus the fact that the -- this part was --

5 JUSTICE THOMAS: So what does it say then  
6 if -- if it's not express? How do we get to this  
7 issue of qualified candidate?

8 MS. STEVENSON: What the court -- the  
9 Colorado Supreme Court did -- and I -- let me, if I  
10 could have a standing objection, I do want to make  
11 the argument that you shouldn't review the Court's  
12 statutory interpretation.

13 JUSTICE THOMAS: No, I'm just looking at  
14 the statute.

15 MS. STEVENSON: Sure. Right. What the  
16 Court did was to say that we have three important  
17 provisions in this section that show that candidates  
18 have to be qualified. First, it requires that under  
19 12032(a) that a political party that wants to  
20 participate has to have a qualified candidate.

21 It also looked at the fact that the  
22 comparable write-in candidates also had to be  
23 qualified, and --

24 JUSTICE THOMAS: I know, but this isn't a  
25 write-in candidate. So we're actually talking about

1 the participation of a political party, right? We're  
2 not talking about the participation of a -- of a  
3 candidate?

4 MS. STEVENSON: Sure. I think the -- that  
5 the fact that the write-in candidate also had to be  
6 qualified was confirmatory of the fact that the  
7 political party candidate also had to be qualified,  
8 and it would be otherwise incongruous to read those  
9 things differently.

10 JUSTICE THOMAS: So how is Section 3 a  
11 qualification?

12 MS. STEVENSON: Under the reasoning of the  
13 Colorado Supreme Court, a candidate --

14 JUSTICE THOMAS: No, just on the -- on its  
15 face.

16 MS. STEVENSON: A -- a candidate must have  
17 -- meet all the criteria for eligibility. And I  
18 don't perceive any distinction between being --  
19 meeting the --

20 JUSTICE THOMAS: Okay.

21 MS. STEVENSON: -- eligibility criteria and  
22 not being disqualified. There -- I just don't see  
23 any meaningful difference between those two things.

24 JUSTICE THOMAS: Thank you.

25 CHIEF JUSTICE ROBERTS: You -- you



1 represent the secretary of state, right?

2 MS. STEVENSON: That's correct, Your Honor.

3 CHIEF JUSTICE ROBERTS: If you're the  
4 secretary of state somewhere and someone comes in and  
5 says, I think this candidate should be disqualified,  
6 what -- what do you do next?

7 MS. STEVENSON: Administratively and what  
8 the deputy elections director testified to at the  
9 hearing is that if they obtain objective --  
10 objective, knowable information, the secretary can  
11 act on that and inform the candidate --

12 CHIEF JUSTICE ROBERTS: So the secretary at  
13 first decides whether that's objective, knowable  
14 information?

15 MS. STEVENSON: In some instances. In this  
16 case, the challenge was actually brought before the  
17 candidate's paperwork had even been submitted, and  
18 because there had already been a challenge asserted  
19 and -- and put into the proper court procedure, the  
20 secretary didn't even make that determination because  
21 she didn't have the paperwork.

22 CHIEF JUSTICE ROBERTS: Well, what -- in  
23 another case where that wasn't the procedure that was  
24 filed, somebody comes in --

25 MS. STEVENSON: Sure.

1 CHIEF JUSTICE ROBERTS: -- maybe they've  
2 got a stack of papers saying here's why I think this  
3 person is guilty of insurrection, it's not a big  
4 insurrection, something that, you know, happened down  
5 the -- down the street, but they say this is still an  
6 insurrection, I don't know what the standard is for  
7 when it arises to that.

8 MS. STEVENSON: I think anything that even  
9 presented that level of controversy about one person  
10 having a set of facts that they said proved this  
11 would send this case to the 113 procedure that we use  
12 to resolve ballot challenge issues like that, and if  
13 -- if another elector or the individual who brought  
14 the information didn't want to bring it, the  
15 secretary herself could bring that action.

16 CHIEF JUSTICE ROBERTS: Is there a  
17 provision for judicial review of the secretary of  
18 state's action both in Colorado and perhaps what you  
19 know about other states?

20 MS. STEVENSON: Well, certainly, in  
21 Colorado, if -- any action that the secretary takes  
22 that anyone wants to challenge, they can use the 113  
23 process to do so. I think states have varying  
24 degrees of that. There are certainly other states  
25 that allow versions of that, and then I don't know

1       whether there are others that don't. I certainly  
2       know that there are some that do.

3                 JUSTICE ALITO: I think we're told that  
4       there are states that do not provide for any judicial  
5       review of a secretary of state's determination. Is  
6       that incorrect?

7                 MS. STEVENSON: No, no. I think that's  
8       right, and I think there are some states that  
9       actually have no mechanism, to come to, I think,  
10      Justice Kagan's point, or there are some states that  
11      don't have any mechanism to exclude a disqualified  
12      candidate from the ballot at all. And I do want to  
13      speak to that for just a minute about the -- the  
14      actual impact of --

15                JUSTICE ALITO: Well, would that be  
16      constitutional, if the -- the secretary of state's  
17      determination was final?

18                MS. STEVENSON: I think so, under Article  
19      II, the Electors Clause, Your Honor, that that be  
20      would be constitutional. States get very broad  
21      authority to determine how to run their presidential  
22      elections.

23                JUSTICE ALITO: Could a state enact a  
24      statute that provides different rules of evidence and  
25      different rules of procedure and different standards

1 of proof for this type of proceeding than for other  
2 civil proceedings?

3 MS. STEVENSON: Yes, Your Honor, I believe  
4 it could under the same Electors Clause power.

5 JUSTICE SOTOMAYOR: That issue would be  
6 determined under perhaps a different constitutional  
7 provision, like the Due Process Clause, correct?

8 MS. STEVENSON: Correct. The bounds of the  
9 Electors Clause are other constitutional constraints,  
10 which would include due process, equal protection,  
11 First Amendment.

12 JUSTICE BARRETT: What's the due process  
13 right? Does the candidate have a due process right?  
14 What's the liberty interest?

15 MS. STEVENSON: I think it -- it's not very  
16 precisely defined in the case law, but I think there  
17 is a recognition that there is a -- a liberty  
18 interest of a candidate and -- and there is some due  
19 process interest in -- in being able to access the  
20 ballot.

21 JUSTICE BARRETT: I thought that was -- I  
22 thought that was for voters. You -- you think for  
23 the candidate too, that there's -- that it would be  
24 taking something away from the candidate?

25 MS. STEVENSON: Certainly, yes. And I

1 think a lot of times you see that in the First  
2 Amendment context, where candidates can have an issue  
3 about being on the ballot, but it's sort of a hybrid  
4 or oftentimes First Amendment, Fourteenth Amendment,  
5 Qualifications Clause, all discussed together.

6 JUSTICE BARRETT: Let me ask you a question  
7 about -- just follow-up to Justice Alito. You know,  
8 these decisions might be made different ways in  
9 different states. Maybe a secretary of state makes  
10 it in one state with very little process, or a  
11 process more like Colorado's could be followed by  
12 others.

13 Would our standard of review of the record  
14 vary depending on the procedure employed by the  
15 state?

16 MS. STEVENSON: I think this Court has  
17 tremendous discretion to decide its standard of  
18 review, and it might be based on the process that was  
19 employed by an individual state. I think you could  
20 exercise the independent review of Bose Corp. that  
21 Mr. Murray talked about, or you could give deference  
22 where you have a full-blown proceeding like the one  
23 here that had all the protections of Rules of  
24 Evidence and cross-examination and things like that.

25 CHIEF JUSTICE ROBERTS: You -- I'm sorry.

1       You think we should give deference in reviewing the  
2       factual record, the legal conclusions? What -- in  
3       other words, we shouldn't undertake a de novo review?

4               MS. STEVENSON: I don't think the review  
5       should be de novo. However, I'm -- I am amenable to  
6       the suggestion that the Court would do the Bose Corp.  
7       type independent review that might provide greater  
8       certainty to states around the country as to what the  
9       Court's position is on the factual record in this  
10      case.

11             CHIEF JUSTICE ROBERTS: Of course, if it  
12      were not de novo review, we could reach disparate  
13      results even on the same record, right?

14             MS. STEVENSON: I -- I think that's  
15      possible.

16             JUSTICE KAGAN: I -- I take it your  
17      position is that this disqualification is really the  
18      same as any other disqualification, age or residence  
19      or what have you.

20             MS. STEVENSON: That's correct.

21             JUSTICE KAGAN: And -- and -- and what if I  
22      were to push back on that and say, well, this  
23      disqualification, number one, it's in the Fourteenth  
24      Amendment, and the point of the Fourteenth Amendment  
25      was to take away certain powers from the states?

1       Number two, Section 3 itself gives Congress a very  
2       definite role, which Mr. Mitchell says is interfered  
3       with by the ability of states to take somebody off  
4       the ballot? And maybe, number three, it's just more  
5       complicated and more contested and, if you want, more  
6       political? And why don't all of those things make a  
7       difference in our thinking about this qualification  
8       as opposed to any other?

9               MS. STEVENSON: And so, Your Honor, I think  
10       the trouble with the -- categorizing the insurrection  
11       issue as -- as necessarily more difficult is it's  
12       just an assumption that's coming up, I think, because  
13       of this case.

14              And, again, back to the Chief Justice's  
15       point, we could have a very easy case under the  
16       Fourteenth Amendment with an avowed insurrectionist  
17       who, you know, came in and wrote on his paperwork, I  
18       engaged in an insurrection in violation of the  
19       Fourteenth Amendment, and it would be a -- a  
20       open-and-shut case as to whether or not that person  
21       would meet the qualifications to be on the Colorado  
22       ballot.

23              With respect to your other questions about  
24       the Fourteenth Amendment, my positions are based on  
25       the assumption that, under the Fourteenth Amendment,

1 the states have the power to enforce Section 3, just  
2 like they do other presidential qualifications, and I  
3 would defer to the electors arguments on those  
4 points.

5 JUSTICE ALITO: Suppose a state that does  
6 recognize non-mutual collateral estoppel makes a  
7 determination using whatever procedures it decides to  
8 adopt that a particular candidate is an  
9 insurrectionist.

10 Could that have a cascading effect, and so  
11 the decision by a court in one state -- the decision  
12 by a single judge whose factual findings are given  
13 deference, maybe an elected trial judge, would have  
14 potentially an enormous effect on the candidates who  
15 run for president across the country? Is that  
16 something we should be concerned about?

17 MS. STEVENSON: I think you should be  
18 concerned about it, Your Honor, but I think the  
19 concern is not as high as maybe it's made out to be  
20 in -- in particularly some of the amicus briefs.  
21 And, again, under Article II, there is a huge amount  
22 of disparity in the candidates that end up on the  
23 ballot on -- in different states in every election.

24 Just this election, there's a candidate who  
25 Colorado excluded from the primary ballot who is on



1 the ballot in other states even though he is not a  
2 natural-born citizen. And that's just a -- that's a  
3 feature of our process. It's not a bug.

4 And then I think, with respect to the  
5 decision-making and -- and -- you know, we're here so  
6 that this Court can give us nationwide guidance on  
7 some of the legal principles that are involved. I  
8 think that reduces the potential amount of disparity  
9 that would arise between the states.

10 And then, with respect to the factual  
11 record and how that gets issued and implemented, the  
12 states have processes for this, and I think we need  
13 to let that play out and accept that there may be  
14 some messiness of federalism here because that's what  
15 the Electors Clause assumes will happen. And if  
16 different states apply their principles of -- of  
17 collateral estoppel and come to different results,  
18 that's okay. And -- and Congress is -- can -- can  
19 act at any time if -- if it thinks that it's truly  
20 federalism run amok.

21 CHIEF JUSTICE ROBERTS: Justice Thomas,  
22 anything further?

23 Justice Alito?

24 JUSTICE ALITO: Well, just one further  
25 question, and it's along the same lines of a lot of

1 other questions. We have been told that if what  
2 Colorado did here is sustained, other states are  
3 going to retaliate and they are going to potentially  
4 exclude another candidate from the ballot. What  
5 about that situation?

6 MS. STEVENSON: Your Honor, I -- I think we  
7 have to have faith in our system that people will  
8 follow their election process -- processes  
9 appropriately, that they will take realistic views of  
10 what insurrection is under the Fourteenth Amendment.  
11 Courts will review those decisions. This Court may  
12 review some of them.

13 But I don't think that this Court should --  
14 should take those threats too seriously in its  
15 resolution of this case.

16 JUSTICE ALITO: You don't think that's a  
17 serious threat?

18 MS. STEVENSON: I -- I -- I think we have  
19 processes --

20 JUSTICE ALITO: We should proceed on the  
21 assumption that it's not a serious threat?

22 MS. STEVENSON: I think we have  
23 institutions in place to handle those types of  
24 allegations.

25 JUSTICE ALITO: What -- what are those

1 institutions?

2 MS. STEVENSON: Our -- our states, their  
3 own electoral rules, the administrators who enforce  
4 those rules, the courts that will review those  
5 decisions, and up to this Court to ultimately review  
6 that decision.

7 CHIEF JUSTICE ROBERTS: Justice Sotomayor?  
8 Justice Kagan?  
9 Justice Gorsuch?  
10 Justice Kavanaugh?  
11 Justice Jackson, anything further?  
12 Thank you, counsel.

13 MS. STEVENSON: Thank you.

14 CHIEF JUSTICE ROBERTS: Rebuttal, Mr.  
15 Mitchell?

16 REBUTTAL ARGUMENT OF JONATHAN F. MITCHELL  
17 ON BEHALF OF THE PETITIONER

18 MR. MITCHELL: Both Mr. Murray and Ms.  
19 Stevenson rely heavily on the Electors Clause and the  
20 authority that it gives the legislature of each state  
21 to direct the manner of appointing presidential  
22 electors.

23 But that prerogative under Article II must  
24 be exercised in a manner consistent with other  
25 constitutional provisions and restrictions. And

1 Justice Kagan alluded to one of those restrictions  
2 that might be imposed by the First Amendment, but  
3 there are others.

4 A state cannot use its power under Article  
5 II's Electors Clause to instruct its presidential  
6 electors only to vote for white candidates. That  
7 would violate the Equal Protection Clause. But nor  
8 can it exercise its power in a manner that would  
9 violate the constitutional holding of U.S. Term  
10 Limits against Thornton and they cannot use the  
11 Electors Clause as an excuse to impose additional  
12 qualifications for the presidency that go beyond what  
13 the Constitution enumerates in Article II.

14 And the problem with what the Colorado  
15 Supreme Court has done is they have in a way changed  
16 the criteria in Section 3 by making it a requirement  
17 that must be met before the candidate who is seeking  
18 office actually holds the office, effectively moving  
19 forward in time the deadline that the candidate has  
20 for obtaining a congressional waiver.

21 There has still been no answer from the  
22 Anderson litigants on how to distinguish the  
23 congressional residency cases, where the courts of  
24 appeals, not decisions from this Court, but the  
25 courts of appeals in applying this Court 's holding

1 in U.S. Term Limits have unanimously disapproved  
2 state laws requiring congressional candidates to show  
3 that they inhabit the state from which they seek  
4 election prior to Election Day.

5 And there still in our view is no possible  
6 way to distinguish those from the situation below in  
7 the Colorado Supreme Court.

8 Mr. Murray also invoked the de facto  
9 officer doctrine as a possible way to mitigate the  
10 dramatic consequences that would follow from the  
11 decision of this Court that rejects the rationale of  
12 Griffin's Case and that also agrees with Mr. Murray's  
13 contentions that President Trump is disqualified from  
14 holding office on account of the events of January  
15 6th and that he's covered by Section 3 as an officer  
16 of the United States.

17 This Court's recent decisions in Lucia and  
18 Arthrex held that officers who are unconstitutionally  
19 appointed under Article II and that made decisions  
20 under the APA that were attacked as invalid, those  
21 decisions were still vacated and this Court did not  
22 use any variant of the de facto officer doctrine to  
23 salvage the decisions that were made by these  
24 unconstitutionally appointed officers.

25 There is no way to escape the conclusion

1       that if this Court rejects Griffin's Case and also  
2       agrees with Mr. Murray's construction of Section 3  
3       that every executive action taken by the Trump  
4       Administration during its last two weeks in office is  
5       vulnerable to attack under the APA and, further, that  
6       if President Trump is reelected and sworn in as the  
7       next president, that any executive action that he  
8       takes could be attacked in federal court by anyone  
9       who continues to believe that President Trump is  
10      barred from office under Section 3.

11                I'm happy to answer any other questions  
12      that the Court may have.

13                CHIEF JUSTICE ROBERTS: Thank you, counsel.

14                MR. MITCHELL: Thank you.

15                CHIEF JUSTICE ROBERTS: The case is  
16      submitted.

17                (Whereupon, at 12:17 p.m., the case was  
18      submitted.)

19  
20  
21  
22  
23  
24  
25

## Official

<p><b>1</b></p> <p><b>1</b> [1] 73:14  <b>10:08</b> [2] 1:15 3:2  <b>113</b> [2] 129:11,22  <b>12:17</b> [1] 141:17  <b>12032(a)</b> [1] 126:19  <b>124</b> [1] 2:11  <b>138</b> [1] 2:14  <b>150</b> [1] 86:23  <b>155</b> [4] 54:1 87:23 88:14,18  <b>1780s</b> [1] 109:17  <b>18</b> [2] 114:10 115:22  <b>1812</b> [1] 66:11  <b>1868</b> [3] 53:14 54:8 68:9  <b>1869</b> [2] 54:8 87:25  <b>1870</b> [13] 12:16 14:1,22 15:3 31:5 45:4 46:1 53:23 54:8 58:4 88:3 104:9 115:23  <b>1876</b> [1] 88:21  <b>1877</b> [1] 68:25  <b>1890s</b> [2] 71:12,13  <b>1948</b> [4] 15:4 45:6,13 115:23</p>	<p><b>34-year-old</b> [1] 26:11  <b>35</b> [4] 25:11 26:9,12 81:2  <b>37</b> [1] 54:7</p> <p><b>5</b></p> <p><b>5</b> [4] 19:13 71:24 75:7,20</p> <p><b>6</b></p> <p><b>6</b> [1] 52:12  <b>66</b> [1] 2:8  <b>6th</b> [11] 22:7,19,21 55:17  <b>64:18 83:1 86:24 90:1 103:10 105:1 140:15</b></p> <p><b>8</b></p> <p><b>8</b> [1] 1:11  <b>80</b> [2] 110:19 117:6</p> <p><b>9</b></p> <p><b>9</b> [1] 42:8</p> <p><b>A</b></p> <p><b>a.m</b> [2] 1:15 3:2  <b>ability</b> [11] 7:24 16:20 31:13,22 32:16 57:1 77:4 95:24 97:21 117:16 134:3  <b>able</b> [4] 43:10 64:1 115:5 131:19  <b>abolished</b> [1] 59:13  <b>above-entitled</b> [1] 1:13  <b>abridge</b> [1] 71:20  <b>absence</b> [1] 96:17  <b>absent</b> [2] 97:22 117:12  <b>Absolutely</b> [5] 30:6,7 85:2 115:13 118:16  <b>accelerating</b> [2] 4:19 29:3  <b>accept</b> [6] 18:3 56:15 64:20 80:18 118:13 136:13  <b>accepted</b> [3] 64:25 85:18 117:20  <b>accepts</b> [1] 33:23  <b>access</b> [12] 60:7 71:12 77:10,20 91:10 105:19 113:16 114:1 119:23,24 120:7 131:19  <b>account</b> [3] 4:9 81:17 140:14  <b>acknowledge</b> [2] 32:25 38:12  <b>across</b> [1] 135:15  <b>Act</b> [21] 12:16 13:25 14:22 15:3 16:11 35:9 43:10 53:23 58:5 59:13 65:3 88:3, 17 91:17 93:17 104:9 105:5 124:4 125:7 128:11 136:19  <b>acted</b> [2] 14:15 88:13  <b>action</b> [15] 9:13,19 20:13 35:12 56:24 57:16 58:1 60:2 84:22 103:23 129:15,18, 21 141:3,7  <b>actions</b> [4] 58:3 83:4,9,14  <b>activity</b> [2] 33:17,19  <b>actor</b> [3] 34:17,18,22  <b>actors</b> [1] 69:25</p>	<p><b>acts</b> [1] 88:3  <b>actual</b> [1] 130:14  <b>actually</b> [11] 5:13 61:12,17, 19 119:6,11 122:9 126:25 128:16 130:9 139:18  <b>Adams</b> [1] 47:13  <b>add</b> [4] 18:1 20:16 54:10 55:14  <b>added</b> [1] 112:20  <b>adding</b> [8] 7:4,24 18:5,8,13 19:7 24:11 25:22  <b>addition</b> [1] 55:8  <b>additional</b> [5] 18:13 19:7 23:15 97:23 139:11  <b>address</b> [8] 5:5 29:16 73:2 88:25 103:15,25 105:10 113:5  <b>addressing</b> [2] 20:24 90:23  <b>adhere</b> [1] 6:1  <b>adjudicate</b> [4] 57:2 92:1, 15 118:22  <b>adjudicated</b> [1] 99:12  <b>adjudicates</b> [1] 96:20  <b>Administration</b> [1] 141:4  <b>Administratively</b> [1] 128:7  <b>administrators</b> [1] 138:3  <b>admissibility</b> [2] 99:15 100:19  <b>admission</b> [1] 102:11  <b>admit</b> [1] 22:7  <b>admitted</b> [5] 6:15 7:3 9:11 22:8 102:22  <b>adopt</b> [1] 135:8  <b>adoption</b> [1] 68:2  <b>advancing</b> [1] 103:2  <b>adversarial</b> [1] 98:25  <b>affects</b> [1] 106:3  <b>affirm</b> [1] 31:1  <b>affirmatively</b> [1] 41:8  <b>affirmed</b> [1] 77:21  <b>affirming</b> [1] 103:9  <b>affirms</b> [3] 4:23 77:14 89:21  <b>afterwards</b> [1] 94:3  <b>age</b> [8] 23:21 24:3 25:5,9 26:5 67:20 83:23 133:18  <b>agree</b> [16] 18:10 40:19,23 54:24 55:9 64:2 80:5 83:11,13 100:7 110:23 111:11 112:23 115:10,12 116:11  <b>agreed</b> [2] 101:11 121:24  <b>agreed-upon</b> [1] 49:3  <b>agrees</b> [4] 13:14 125:19 140:12 141:2  <b>Ah</b> [1] 46:18  <b>ahead</b> [2] 17:25 30:3  <b>ahistorical</b> [1] 72:7  <b>aid</b> [5] 98:16,19,24 99:6,8  <b>akin</b> [1] 32:10  <b>AL</b> [4] 1:6,21 2:8 66:7  <b>ALITO</b> [53] 18:24 19:4,12, 20,23 20:1,9,21 21:3,19 22:</p>	<p>5,11,15 23:3 33:3,13,15 34:1,4,11 45:17,18,22 46:2 53:25 84:3 89:1,5,7,8 90:5,24 91:13 94:6 98:6,7 99:10, 22 100:14 101:3,6,25 102:20 130:3,15,23 132:7 135:5 136:23,24 137:16,20,25  <b>all-encompassing</b> [2] 51:6 108:22  <b>allegations</b> [1] 137:24  <b>allegedly</b> [1] 91:18  <b>allow</b> [4] 18:6 57:14 108:3 129:25  <b>allowed</b> [4] 5:20 67:19 74:13 102:6  <b>allowing</b> [1] 5:23  <b>allows</b> [3] 6:16 19:22 32:9  <b>alluded</b> [2] 75:1 139:1  <b>almost</b> [1] 54:21  <b>alone</b> [1] 66:21  <b>already</b> [3] 25:1 114:22 128:18  <b>alter</b> [1] 54:11  <b>altering</b> [5] 4:11 7:5 9:4 18:14 24:11  <b>although</b> [3] 23:16 53:21 85:21  <b>ambiguity</b> [5] 121:14,20 122:5,10,11  <b>amenable</b> [1] 133:5  <b>Amendment</b> [49] 3:13 5:22 6:21 10:23 15:23 23:24, 24 32:24 36:1,3 61:12 67:15 68:3 71:2,10,19 72:7,11, 25 73:4,11,14 74:7 75:5,7, 18 80:16 81:5 84:24 90:3 106:15,17,25 107:1,6,15, 15 131:11 132:2,4,4 133:24,24 134:16,19,24,25 137:10 139:2  <b>Amendment's</b> [1] 19:16  <b>American</b> [1] 91:5  <b>Americans</b> [2] 4:25 117:6  <b>amicus</b> [2] 105:6 135:20  <b>amnesty</b> [6] 32:23 71:13 85:3,7 88:23 116:25  <b>amok</b> [1] 136:20  <b>among</b> [2] 22:13 103:3  <b>amount</b> [2] 135:21 136:8  <b>ample</b> [1] 113:25  <b>analogize</b> [1] 33:4  <b>analogy</b> [1] 8:1  <b>analysis</b> [1] 44:10  <b>analyze</b> [1] 13:22  <b>ANDERSON</b> [13] 1:6,21 2:7 3:4 5:25 40:16 42:7 51:10 53:5 66:7 105:23 124:18 139:22  <b>Anderson's</b> [1] 107:15  <b>another</b> [10] 21:18 22:15, 15,25 63:22 117:8 120:1 128:23 129:13 137:4  <b>answer</b> [8] 13:12 19:11 30:23 94:9 95:11,12 139:21</p>	<p>141:11  <b>answering</b> [1] 100:15  <b>answers</b> [1] 31:11  <b>anybody</b> [2] 58:17 92:11  <b>anyway</b> [1] 77:24  <b>APA</b> [2] 140:20 141:5  <b>apologize</b> [1] 41:6  <b>apparatus</b> [2] 61:22 62:4  <b>appeal</b> [2] 56:6 102:11  <b>appeals</b> [2] 139:24,25  <b>appear</b> [5] 24:25 26:8 40:5, 6 45:11  <b>APPEARANCES</b> [1] 1:17  <b>appears</b> [3] 38:25 41:17 109:21  <b>application</b> [3] 87:20 89:24 91:9  <b>applications</b> [1] 86:8  <b>applied</b> [4] 20:7 58:25 98:22 99:24  <b>applies</b> [1] 98:24  <b>apply</b> [10] 58:6,22 66:21 73:13 78:16 81:17 102:4 106:13 117:4 136:16  <b>applying</b> [2] 101:17 139:25  <b>appoint</b> [1] 77:8  <b>appointed</b> [12] 3:20 4:1 49:11 51:21 52:7,23 53:6 84:12,13 111:23 140:19,24  <b>appointing</b> [1] 138:21  <b>appointment</b> [2] 110:8,11  <b>Appointments</b> [6] 3:24 38:23 50:13 52:6 110:6,14  <b>appreciate</b> [2] 43:23 123:14  <b>appropriate</b> [3] 75:2 99:23, 25  <b>appropriately</b> [1] 137:9  <b>areas</b> [1] 107:10  <b>aren't</b> [4] 17:8 44:12 71:6 86:21  <b>arguably</b> [1] 16:13  <b>argue</b> [7] 15:24 20:5 33:7 41:9 46:5 58:14,17  <b>argued</b> [1] 41:12  <b>arguing</b> [4] 37:21,22 38:4 55:14  <b>argument</b> [69] 1:14 2:2,5,9, 12 3:3,6 5:3,6,12 14:8,9 15:14,21 16:18,25 23:6,9, 12 25:25 29:16 30:19 35:17 36:12 37:7 38:20 39:5, 7 40:10,24 42:4,19 46:5,9, 15 49:14,16,23 50:3 54:7, 14 56:7 57:11 58:24 60:5, 6,13,24 62:13 63:12,25 65:7 66:6,19 70:21 73:21 74:2 96:7 103:2 104:1,5 108:19 118:4 119:16 120:21 123:14 124:20 126:11 138:16  <b>argument's</b> [2] 17:23 18:2  <b>arguments</b> [9] 17:9 23:5 24:8 45:5 50:12 57:8 61:1</p>
---	---	--	--	---

## Official

67:12 135:3 <b>arise</b> <sup>[1]</sup> 136:9 <b>arises</b> <sup>[1]</sup> 129:7 <b>Army</b> <sup>[1]</sup> 50:2 <b>around</b> <sup>[4]</sup> 69:2 97:23 102:17 133:8 <b>art</b> <sup>[1]</sup> 53:3 <b>Arthrex</b> <sup>[1]</sup> 140:18 <b>Article</b> <sup>[29]</sup> 43:8 52:8,11,24 67:14 68:21,22 71:9 72:11,17 74:17 77:7 80:13,15 81:8 84:20 104:16,16 106:17 107:22 111:15 118:6,18 130:18 135:21 138:23 139:4,13 140:19 <b>ascending</b> <sup>[1]</sup> 63:10 <b>aside</b> <sup>[5]</sup> 30:18 93:12 94:4,5 103:20 <b>assault</b> <sup>[2]</sup> 66:12 89:24 <b>asserted</b> <sup>[1]</sup> 128:18 <b>assign</b> <sup>[1]</sup> 107:21 <b>assigned</b> <sup>[1]</sup> 91:7 <b>assume</b> <sup>[4]</sup> 57:10 91:12 104:3 117:24 <b>assumed</b> <sup>[1]</sup> 12:2 <b>assumes</b> <sup>[1]</sup> 136:15 <b>assuming</b> <sup>[1]</sup> 96:23 <b>assumption</b> <sup>[3]</sup> 134:12,25 137:21 <b>attack</b> <sup>[4]</sup> 66:13 83:9,14 141:5 <b>attacked</b> <sup>[2]</sup> 140:20 141:8 <b>attempt</b> <sup>[2]</sup> 65:10 90:2 <b>attempts</b> <sup>[2]</sup> 54:3 64:17 <b>augmented</b> <sup>[1]</sup> 71:23 <b>Austin</b> <sup>[1]</sup> 1:18 <b>authority</b> <sup>[27]</sup> 6:5,11 13:17 17:5,20 32:20 53:16,16 69:19 72:9 80:7,22 81:6,7 83:19 88:1,8 92:1,18 95:18 107:14 117:13,14 118:10 123:20 130:21 138:20 <b>authorization</b> <sup>[1]</sup> 72:2 <b>authorize</b> <sup>[1]</sup> 72:4 <b>authorized</b> <sup>[4]</sup> 18:18 70:3 73:16,24 <b>authorizing</b> <sup>[1]</sup> 70:19 <b>automatically</b> <sup>[2]</sup> 93:6 115:8 <b>avoid</b> <sup>[1]</sup> 108:12 <b>avoiding</b> <sup>[1]</sup> 87:4 <b>avowed</b> <sup>[1]</sup> 134:16 <b>await</b> <sup>[1]</sup> 57:8 <b>aware</b> <sup>[5]</sup> 44:6 45:21 58:4 90:22 92:17 <b>away</b> <sup>[8]</sup> 4:24 12:18,20 15:15 49:7 73:4 131:24 133:25 <b>awfully</b> <sup>[1]</sup> 76:4	2,17 80:2,4 82:1 83:18 99:10 110:18 121:24 123:23 133:22 134:14 <b>backdrop</b> <sup>[6]</sup> 12:15 15:5,12 17:17 53:24 54:15 <b>background</b> <sup>[2]</sup> 71:9 116:11 <b>bad</b> <sup>[2]</sup> 69:25 91:2 <b>baked</b> <sup>[1]</sup> 107:2 <b>baldly</b> <sup>[1]</sup> 75:23 <b>ball</b> <sup>[1]</sup> 50:20 <b>ballot</b> <sup>[50]</sup> 4:4,9 6:10 7:4 18:4,19 24:20,22 25:1 26:8 60:7 61:5 71:12 77:10,20,24 80:6 82:18 83:25 86:1,2 91:10,11 98:17 105:19,25 106:3,21 108:4,8,10 113:16 114:1 119:23,23 120:7 123:21 125:3,6,18 129:12 130:12 131:20 132:3 134:4,22 135:23,25 136:1 137:4 <b>ballots</b> <sup>[5]</sup> 67:20 68:15,17,17 86:20 <b>ban</b> <sup>[2]</sup> 44:22,24 <b>banned</b> <sup>[1]</sup> 7:3 <b>bans</b> <sup>[2]</sup> 9:8 29:10 <b>bar</b> <sup>[2]</sup> 45:19 121:4 <b>barred</b> <sup>[10]</sup> 37:14,24 39:13 61:9 67:17 115:9 120:22 122:21,22 141:10 <b>BARRETT</b> <sup>[35]</sup> 16:15 17:8,12,23 18:1,11 55:24,25 56:3,12,17,21 57:10,19 58:8,11,16,21 59:22 60:11,18,21 61:6 75:1 76:23 77:19,21 79:10 117:10,11 118:3,23 131:12,21 132:6 <b>barrier</b> <sup>[1]</sup> 17:1 <b>based</b> <sup>[6]</sup> 23:11,12 26:1 91:1 132:18 134:24 <b>basically</b> <sup>[1]</sup> 10:7 <b>basis</b> <sup>[6]</sup> 27:23 56:4 81:21 97:8 99:20 103:9 <b>basket</b> <sup>[2]</sup> 118:5,6 <b>Baude</b> <sup>[1]</sup> 32:3 <b>become</b> <sup>[1]</sup> 71:14 <b>becomes</b> <sup>[2]</sup> 12:1 75:18 <b>beginning</b> <sup>[1]</sup> 41:1 <b>begins</b> <sup>[1]</sup> 39:18 <b>behalf</b> <sup>[1]</sup> 1:18,20,23 2:4,7,11,14 3:7 66:7 124:21 138:17 <b>behavior</b> <sup>[1]</sup> 27:24 <b>behind</b> <sup>[1]</sup> 45:12 <b>believe</b> <sup>[10]</sup> 5:24 18:19 21:16 23:10 31:7 46:13 59:3 68:9 131:3 141:9 <b>below</b> <sup>[6]</sup> 4:23 60:13,17 77:14 112:16 140:6 <b>benefit</b> <sup>[1]</sup> 46:22 <b>besides</b> <sup>[1]</sup> 51:14 <b>best</b> <sup>[1]</sup> 98:11 <b>bestow</b> <sup>[1]</sup> 84:17	<b>better</b> <sup>[3]</sup> 15:14 49:15,17 <b>between</b> <sup>[15]</sup> 27:22 42:19,19 52:25 67:7 76:12 91:18 99:1 108:25 109:13 110:22 120:6 127:18,23 136:9 <b>beyond</b> <sup>[9]</sup> 5:13,19 9:7 17:15 19:18 85:19 102:7 106:8 139:12 <b>Biden</b> <sup>[1]</sup> 47:15 <b>big</b> <sup>[1]</sup> 129:3 <b>biggest</b> <sup>[1]</sup> 98:9 <b>binding</b> <sup>[1]</sup> 53:21 <b>bit</b> <sup>[9]</sup> 15:14 20:4 46:21 56:19 77:2 78:2 97:15 108:25 115:2 <b>blue</b> <sup>[1]</sup> 41:10 <b>bodies</b> <sup>[3]</sup> 100:18 111:23,24 <b>books</b> <sup>[2]</sup> 14:25 114:15 <b>Boom</b> <sup>[1]</sup> 95:9 <b>boomerang</b> <sup>[1]</sup> 36:13 <b>borders</b> <sup>[1]</sup> 106:8 <b>born</b> <sup>[1]</sup> 81:2 <b>Bose</b> <sup>[4]</sup> 79:2 100:10 132:20 133:6 <b>both</b> <sup>[12]</sup> 4:19 22:16 37:22,22 38:4 43:12 49:4 71:2 101:8,9 129:18 138:18 <b>bottom</b> <sup>[1]</sup> 56:21 <b>bottom-line</b> <sup>[1]</sup> 113:1 <b>bouncing</b> <sup>[1]</sup> 50:21 <b>bound</b> <sup>[3]</sup> 18:11 73:13,16 <b>bounds</b> <sup>[1]</sup> 131:8 <b>branches</b> <sup>[1]</sup> 88:12 <b>breaches</b> <sup>[1]</sup> 9:14 <b>brief</b> <sup>[17]</sup> 11:7 14:6 38:7 41:3,5,9,10,13,15 42:8 64:20 65:1,2,8 78:25 79:19 124:6 <b>briefing</b> <sup>[1]</sup> 36:14 <b>briefly</b> <sup>[1]</sup> 13:2 <b>briefs</b> <sup>[4]</sup> 60:14 70:25 105:6 135:20 <b>bring</b> <sup>[6]</sup> 13:23 32:20 57:16 110:18 129:14,15 <b>bringing</b> <sup>[2]</sup> 74:2 86:12 <b>broad</b> <sup>[12]</sup> 56:19 67:3 72:18,19 73:5 74:16 81:15 86:13,13 107:23 120:12 130:20 <b>broader</b> <sup>[4]</sup> 18:3 107:6,7,11 <b>broken</b> <sup>[1]</sup> 116:20 <b>brought</b> <sup>[6]</sup> 56:23 58:4,5 96:3 128:16 129:13 <b>buckle</b> <sup>[1]</sup> 78:17 <b>bug</b> <sup>[1]</sup> 136:3 <b>built</b> <sup>[1]</sup> 102:17 <b>Bush</b> <sup>[1]</sup> 74:15	<b>106:21 121:7,23 134:17</b> <b>candidate</b> <sup>[51]</sup> 4:3,4,6,8 6:15,16 7:6,7,10,11 8:7,21 21:1 47:24 67:17 68:19 76:12,13 85:25 86:1 90:11,13,14,16 104:12 106:3,20 118:20 125:2,12,25 126:7,20,25 127:3,5,7,13,16 128:5,11 130:12 131:13,18,23,24 135:8,24 137:4 139:17,19 <b>candidate's</b> <sup>[1]</sup> 128:17 <b>candidates</b> <sup>[27]</sup> 24:2 68:4,4,5,15 69:7,10 70:3,7,13,20 74:14 103:5 104:19 106:1,6,10 108:8 116:4 119:24 126:17,22 132:2 135:14,22 139:6 140:2 <b>cannot</b> <sup>[9]</sup> 4:2,7 8:6 13:16 43:17 49:18 84:19 139:4,10 <b>capably</b> <sup>[1]</sup> 125:16 <b>capacity</b> <sup>[3]</sup> 111:7,10,15 <b>Capitol</b> <sup>[1]</sup> 66:11 <b>careful</b> <sup>[1]</sup> 11:7 <b>carry</b> <sup>[2]</sup> 43:2 44:4 <b>cascading</b> <sup>[1]</sup> 135:10 <b>Case</b> <sup>[103]</sup> 3:4 5:7,19,24 6:2 11:8,13 12:1,10,12,14 13:14,15,25 14:14,15,21 15:5,11,16,20 16:3,5,5,8,23 17:11,15 23:10 27:1 30:25 31:1,8 32:4,14 33:2,24 35:3,17,23 36:12,23 37:22 45:22,23 50:6,7 53:11 54:15,23,25 55:1,25 56:9,14,15,18,22,23 57:2,3 64:5,18 67:8 69:13 70:25 79:7,22,23 83:10 87:25 93:5 99:20,24 100:8 101:10,24 102:12 106:1,11,19 112:15 113:12,18 115:17 117:3,18 123:18,22 125:16 128:16,23 129:11 131:16 133:10 134:13,15,20 137:15 140:12 141:1,15,17 <b>cases</b> <sup>[5]</sup> 70:9 101:2,7 114:1 139:23 <b>cast</b> <sup>[3]</sup> 105:3 124:3 125:3 <b>catch-all</b> <sup>[1]</sup> 40:22 <b>categorical</b> <sup>[6]</sup> 24:23 28:7,10,11,12,22 <b>categorizing</b> <sup>[1]</sup> 134:10 <b>category</b> <sup>[2]</sup> 28:19,21 <b>cause</b> <sup>[5]</sup> 9:13,19 56:24 60:2 103:22 <b>caveat</b> <sup>[2]</sup> 18:21 55:13 <b>Celebrezze</b> <sup>[2]</sup> 105:23 106:14 <b>century</b> <sup>[1]</sup> 125:19 <b>Cert</b> <sup>[1]</sup> 75:13 <b>certain</b> <sup>[8]</sup> 22:12 41:25 107:8,11 117:15,15 119:5 133:25 <b>Certainly</b> <sup>[33]</sup> 22:18,23 32:	<b>1 37:3 38:19 41:12 44:19 46:24 47:15 69:9,19 71:4 72:16 73:11,12 74:8 75:15 76:19 86:6 89:20 90:23 92:15 93:7 96:9 101:16 104:14 106:12,15 109:19 129:20,24 130:1 131:25</b> <b>certainty</b> <sup>[2]</sup> 105:13 133:8 <b>certify</b> <sup>[1]</sup> 68:10 <b>cetera</b> <sup>[1]</sup> 104:12 <b>chains</b> <sup>[1]</sup> 95:16 <b>challenge</b> <sup>[5]</sup> 57:1 128:16,18 129:12,22 <b>challenges</b> <sup>[3]</sup> 96:23 125:2,18 <b>chance</b> <sup>[5]</sup> 82:5 98:3 108:16 113:5 117:8 <b>change</b> <sup>[8]</sup> 27:18 28:18 88:15,17 90:21,24 94:23 95:1 <b>changed</b> <sup>[1]</sup> 139:15 <b>changing</b> <sup>[1]</sup> 26:2 <b>chaotic</b> <sup>[1]</sup> 65:17 <b>characterize</b> <sup>[2]</sup> 35:17 36:23 <b>characterized</b> <sup>[1]</sup> 65:4 <b>charged</b> <sup>[1]</sup> 114:15 <b>charismatic</b> <sup>[2]</sup> 120:15 121:4 <b>charitably</b> <sup>[1]</sup> 60:17 <b>Chase</b> <sup>[9]</sup> 16:3,9 17:16 36:11 53:15 75:4 83:12 88:11 104:7 <b>Chase's</b> <sup>[1]</sup> 87:25 <b>Chiafalo</b> <sup>[2]</sup> 73:7 91:4 <b>CHIEF</b> <sup>[74]</sup> 3:3,8 6:6 7:13,19 8:1,9,13 16:2,9 17:15 26:23 27:3,8 29:20 30:6 35:22 36:1,15,18 37:1,4 45:1,15 46:3 48:6 50:10 53:9,14 55:24 59:17 61:7 66:3,5,8 71:16 72:13,22 74:3 75:4,8 85:9,23 86:10 87:3,24 88:11 89:7 98:4 103:17 104:7 105:15 108:15 112:10 117:10 118:24 124:15,17,18,22 127:25 128:3,12,22 129:1,16 132:25 133:11 134:14 136:21 138:7,14 141:13,15 <b>choice</b> <sup>[1]</sup> 116:5 <b>choice-of-law</b> <sup>[1]</sup> 21:7 <b>choose</b> <sup>[1]</sup> 73:22 <b>chooses</b> <sup>[1]</sup> 5:17 <b>chosen</b> <sup>[1]</sup> 43:8 <b>Christy</b> <sup>[2]</sup> 68:8,11 <b>circle</b> <sup>[3]</sup> 80:2,3 83:18 <b>circuit</b> <sup>[3]</sup> 11:25 45:24 104:7 <b>circumstance</b> <sup>[3]</sup> 27:17 112:5 119:11 <b>circumstances</b> <sup>[3]</sup> 37:15 117:12 119:7 <b>cite</b> <sup>[1]</sup> 41:6 <b>citing</b> <sup>[1]</sup> 91:15
<hr/> <b>B</b> <hr/> <b>back</b> <sup>[24]</sup> 9:11 12:10 13:1 42:15 50:23 54:8 61:8 62:3 63:15,16 68:15 71:8 78:	<hr/> <b>C</b> <hr/> <b>call</b> <sup>[7]</sup> 27:6 46:24 78:20 79:22 80:21 113:12,23 <b>came</b> <sup>[7]</sup> 1:13 6:7 66:11			



## Official

<p><b>citizen</b> <sup>[4]</sup> 24:5 25:6,8 136:2</p> <p><b>citizens</b> <sup>[4]</sup> 77:5 107:17 108:9,13</p> <p><b>citizens'</b> <sup>[1]</sup> 67:16</p> <p><b>Citizenship</b> <sup>[2]</sup> 23:23 83:23</p> <p><b>civil</b> <sup>[7]</sup> 39:22 51:25 59:5 70:16 115:18,19 131:2</p> <p><b>claim</b> <sup>[3]</sup> 21:4 40:16 67:2</p> <p><b>claimed</b> <sup>[1]</sup> 67:6</p> <p><b>claiming</b> <sup>[1]</sup> 53:5</p> <p><b>Clammers</b> <sup>[1]</sup> 54:21</p> <p><b>clarification</b> <sup>[2]</sup> 26:24 59:24</p> <p><b>clarify</b> <sup>[2]</sup> 14:5 118:4</p> <p><b>class</b> <sup>[2]</sup> 109:22 110:7</p> <p><b>classes</b> <sup>[1]</sup> 110:1</p> <p><b>Clause</b> <sup>[48]</sup> 3:23,24,24 9:20 13:7 38:23,23,24 41:18,19,20 43:16 50:13,14,19 51:3,20,24 52:7 59:4 73:2 81:1,22 82:10 98:20 105:18 108:20 109:10,20 110:7,14,15,15 111:17 118:6,15 123:3 124:25 130:19 131:4,7,9 132:5 136:15 138:19 139:5,7,11</p> <p><b>clauses</b> <sup>[1]</sup> 9:17</p> <p><b>clear</b> <sup>[14]</sup> 3:23 8:21 11:19 43:3 47:4 55:8 78:5,16,23 87:15 115:8 118:17 120:13 121:25</p> <p><b>clearly</b> <sup>[5]</sup> 23:17 38:25 43:19 75:20 115:15</p> <p><b>client</b> <sup>[4]</sup> 46:23 48:1 55:14 61:1</p> <p><b>Clinton</b> <sup>[1]</sup> 89:15</p> <p><b>closely</b> <sup>[1]</sup> 43:2</p> <p><b>Code</b> <sup>[1]</sup> 45:11</p> <p><b>coin</b> <sup>[1]</sup> 67:10</p> <p><b>collateral</b> <sup>[8]</sup> 21:8,9,15 56:1,4,22 135:6 136:17</p> <p><b>collaterally</b> <sup>[2]</sup> 83:8,14</p> <p><b>colleagues</b> <sup>[3]</sup> 10:4 83:13 104:6</p> <p><b>colloquy</b> <sup>[1]</sup> 84:2</p> <p><b>Coloradans</b> <sup>[1]</sup> 125:3</p> <p><b>Colorado</b> <sup>[39]</sup> 1:20,23 3:10,13 4:13 9:6,18 18:7 21:4,10,15,17 22:6 23:15 26:7,13,16 61:3,4 64:16 76:9 78:1,7 107:19 117:21 123:20 125:6,9,17 126:2,9 127:13 129:18,21 134:21 135:25 137:2 139:14 140:7</p> <p><b>Colorado's</b> <sup>[5]</sup> 78:4 85:12 124:25 125:1 132:11</p> <p><b>combination</b> <sup>[1]</sup> 14:14</p> <p><b>come</b> <sup>[25]</sup> 25:14,17 62:3 63:15 67:8 76:20 80:7,13,21 81:11 82:1 83:19 86:2 90:19 93:23 96:18,19 99:10 103:16 107:5 116:9,16</p>	<p>123:23 130:9 136:17</p> <p><b>comes</b> <sup>[5]</sup> 8:13 42:5 90:9 128:4,24</p> <p><b>comfort</b> <sup>[4]</sup> 98:16,19,24 99:6</p> <p><b>coming</b> <sup>[1]</sup> 134:12</p> <p><b>command</b> <sup>[1]</sup> 95:17</p> <p><b>commander-in-chief</b> <sup>[1]</sup> 50:2</p> <p><b>commanders</b> <sup>[1]</sup> 91:22</p> <p><b>commentators</b> <sup>[3]</sup> 32:2 98:21,23</p> <p><b>commission</b> <sup>[5]</sup> 51:4,7,8,13 110:17</p> <p><b>commissioned</b> <sup>[4]</sup> 51:16 52:22 108:21 110:13</p> <p><b>Commissions</b> <sup>[1]</sup> 3:23 38:23 50:19 51:3,19 108:20 109:20 110:2,12,14,15</p> <p><b>committed</b> <sup>[3]</sup> 91:17 95:7 115:11</p> <p><b>communicate</b> <sup>[1]</sup> 22:13</p> <p><b>comparable</b> <sup>[1]</sup> 126:22</p> <p><b>compel</b> <sup>[3]</sup> 94:10 95:10,13</p> <p><b>compete</b> <sup>[1]</sup> 19:6</p> <p><b>complaining</b> <sup>[1]</sup> 112:25</p> <p><b>complete</b> <sup>[2]</sup> 10:18 101:17</p> <p><b>completely</b> <sup>[1]</sup> 36:24</p> <p><b>complicated</b> <sup>[1]</sup> 134:5</p> <p><b>comport</b> <sup>[1]</sup> 96:21</p> <p><b>compromise</b> <sup>[5]</sup> 44:18 48:25 49:6 63:19 68:25</p> <p><b>compromises</b> <sup>[2]</sup> 49:2,3</p> <p><b>concede</b> <sup>[2]</sup> 55:16 65:19</p> <p><b>conceded</b> <sup>[1]</sup> 65:1</p> <p><b>conceding</b> <sup>[1]</sup> 50:5</p> <p><b>concept</b> <sup>[2]</sup> 9:12 11:6</p> <p><b>concern</b> <sup>[10]</sup> 21:20 61:18 62:2,11 63:9 69:23 96:3 115:3 119:1 135:19</p> <p><b>concerned</b> <sup>[10]</sup> 96:10 97:10 120:14 135:16,18</p> <p><b>concerning</b> <sup>[1]</sup> 70:9</p> <p><b>concerns</b> <sup>[7]</sup> 16:4,16 112:11 113:4 118:12 119:15 122:8</p> <p><b>concerted</b> <sup>[2]</sup> 65:13 87:19</p> <p><b>conclude</b> <sup>[5]</sup> 22:1,19,20 89:10 103:13</p> <p><b>concluded</b> <sup>[1]</sup> 64:16</p> <p><b>concludes</b> <sup>[1]</sup> 123:19</p> <p><b>conclusion</b> <sup>[6]</sup> 22:16,23 64:6 113:1,7 140:25</p> <p><b>conclusions</b> <sup>[1]</sup> 133:2</p> <p><b>conduct</b> <sup>[2]</sup> 94:2 99:5</p> <p><b>Confederacy</b> <sup>[1]</sup> 84:23</p> <p><b>Confederate</b> <sup>[6]</sup> 6:21 50:1 63:9 69:24 72:3 84:22</p> <p><b>Confederates</b> <sup>[5]</sup> 61:23 69:2 88:22 114:22 119:8</p> <p><b>confession</b> <sup>[1]</sup> 103:12</p> <p><b>confirmatory</b> <sup>[1]</sup> 127:6</p> <p><b>conflict</b> <sup>[2]</sup> 69:1 70:16</p> <p><b>conflicts</b> <sup>[1]</sup> 103:3</p>	<p><b>confront</b> <sup>[1]</sup> 75:24</p> <p><b>confused</b> <sup>[2]</sup> 26:3 27:12</p> <p><b>Congress</b> <sup>[99]</sup> 3:22 4:5,15,17 5:9,12,22 6:4,18,22 7:11,17,25 8:3,8 9:5 10:13 12:8,15 13:17,24 14:14,20 15:1 17:19 18:6,8,11,16,17,23 19:4 24:24 28:15 29:5 31:4,13,22,24 32:9,11,15,17,18 33:5 34:6 43:17,21 47:16 49:4 51:15,22 52:9 53:16,22,24 54:14,22 55:3 57:4,6,9,13 58:24 59:9 62:1 64:8 69:10,15 71:24 75:8,19,21 83:22 84:4,7,15 88:1,3,15,15,17 90:20 92:15 96:9 97:17 103:24 104:15,18 105:1 111:9 114:8 115:8 116:25 121:8 123:24 125:8 134:1 136:18</p> <p><b>Congress's</b> <sup>[2]</sup> 58:18 104:16</p> <p><b>congressional</b> <sup>[9]</sup> 15:17 17:17 31:3 35:5 64:11 84:22 139:20,23 140:2</p> <p><b>congressionally</b> <sup>[1]</sup> 15:8</p> <p><b>Congressman</b> <sup>[1]</sup> 68:8</p> <p><b>congruence</b> <sup>[1]</sup> 18:22</p> <p><b>congruent</b> <sup>[2]</sup> 19:24 20:2</p> <p><b>consequence</b> <sup>[2]</sup> 21:13 86:5</p> <p><b>consequences</b> <sup>[5]</sup> 21:3 23:17 85:11 103:1 140:10</p> <p><b>consequential</b> <sup>[1]</sup> 16:16</p> <p><b>consequentialist</b> <sup>[2]</sup> 23:5,13</p> <p><b>consider</b> <sup>[1]</sup> 111:21</p> <p><b>considerations</b> <sup>[3]</sup> 16:1 23:4,14</p> <p><b>considered</b> <sup>[1]</sup> 37:24</p> <p><b>consistent</b> <sup>[2]</sup> 6:14 138:24</p> <p><b>constitutes</b> <sup>[2]</sup> 87:5,12</p> <p><b>Constitution</b> <sup>[53]</sup> 3:19 4:16 8:2 14:13 16:19 17:1 20:11 23:21 24:13,25 27:22 29:4 38:22 41:17 42:2 43:11,19 47:10 63:18 66:17 67:5,23 73:9,24 74:12 81:12 82:8 83:3 87:1,16,21 89:23 95:22 107:22 109:4,7,11 110:5,8,24 111:2 112:1 116:21 117:1,7,14,16 121:25 123:2,7,9 125:14 139:13</p> <p><b>Constitution's</b> <sup>[3]</sup> 4:11 7:5 18:14</p> <p><b>constitutional</b> <sup>[38]</sup> 5:16 9:1,14 14:7 27:4 28:3 43:4 44:9 46:20 49:2 57:1 67:13 72:20 76:17 77:10,12 78:25 80:7,22 84:18 86:8 87:14 90:3 105:9 106:13 107:3 108:6 111:7,8 116:14,22 117:17 130:16,20</p>	<p>131:6,9 138:25 139:9</p> <p><b>constitutionally</b> <sup>[7]</sup> 3:11 4:20 56:8 60:7,8 67:17 89:25</p> <p><b>constrained</b> <sup>[1]</sup> 106:17</p> <p><b>constraints</b> <sup>[1]</sup> 131:9</p> <p><b>construction</b> <sup>[1]</sup> 141:2</p> <p><b>construe</b> <sup>[2]</sup> 51:13 121:21</p> <p><b>contemporaneous</b> <sup>[2]</sup> 68:1,1</p> <p><b>contends</b> <sup>[1]</sup> 125:5</p> <p><b>contentions</b> <sup>[1]</sup> 140:13</p> <p><b>contested</b> <sup>[1]</sup> 134:5</p> <p><b>contesting</b> <sup>[1]</sup> 80:19</p> <p><b>context</b> <sup>[9]</sup> 62:10 79:11 82:8 98:24 104:20 119:18 123:16,17 132:2</p> <p><b>contexts</b> <sup>[2]</sup> 20:23 109:20</p> <p><b>contingent</b> <sup>[1]</sup> 84:10</p> <p><b>continue</b> <sup>[3]</sup> 61:4 69:3,24</p> <p><b>continues</b> <sup>[2]</sup> 64:5 141:9</p> <p><b>contradict</b> <sup>[1]</sup> 23:1</p> <p><b>contrary</b> <sup>[3]</sup> 48:18 88:5,6</p> <p><b>control</b> <sup>[2]</sup> 62:4,6</p> <p><b>controlling</b> <sup>[1]</sup> 70:11</p> <p><b>controversy</b> <sup>[1]</sup> 129:9</p> <p><b>conversation</b> <sup>[1]</sup> 122:9</p> <p><b>convicted</b> <sup>[4]</sup> 16:6 55:11 114:12 115:8</p> <p><b>conviction</b> <sup>[5]</sup> 33:9 52:2 59:7 84:9,9</p> <p><b>coordinated</b> <sup>[1]</sup> 90:1</p> <p><b>Corp</b> <sup>[4]</sup> 79:2 100:10 132:20 133:6</p> <p><b>corpus</b> <sup>[1]</sup> 16:7</p> <p><b>Correct</b> <sup>[24]</sup> 7:18 9:15,23 11:23 29:8 35:3 46:10 47:10 48:2 56:14 60:16 64:14 69:8 84:24 85:21 93:1 101:1,14 113:11 124:11 128:2 131:7,8 133:20</p> <p><b>correctly</b> <sup>[2]</sup> 5:24 31:8</p> <p><b>couldn't</b> <sup>[7]</sup> 33:10 45:8 57:23 116:21 117:20,21,21</p> <p><b>Counsel</b> <sup>[11]</sup> 6:6 9:10 16:2 45:2 66:3 71:16 85:9 98:4 124:15 138:12 141:13</p> <p><b>count</b> <sup>[6]</sup> 64:18 105:1,2,5 124:3,4</p> <p><b>counted</b> <sup>[1]</sup> 64:21</p> <p><b>countervailing</b> <sup>[1]</sup> 63:16</p> <p><b>counting</b> <sup>[1]</sup> 86:19</p> <p><b>countries</b> <sup>[1]</sup> 99:2</p> <p><b>country</b> <sup>[6]</sup> 74:9 98:7,14 101:15 133:8 135:15</p> <p><b>couple</b> <sup>[1]</sup> 89:17</p> <p><b>course</b> <sup>[9]</sup> 10:24 24:21 52:6 70:16 78:22 88:16 91:8 113:15 133:11</p> <p><b>COURT</b> <sup>[117]</sup> 1:1,14 3:9,10 4:23 6:1 9:7 11:5,22,25 12:14 13:13 15:9 17:13,13 19:14,19,22 21:4,11 22:1,4,6,16 23:16 26:14,17,20 29:1</p>	<p>30:25 33:23,25 41:16 42:9 45:24 49:13 54:19 56:14 60:14,24 64:5,16 66:9,19 67:1 73:7 76:16,24 77:12,13 78:3,22 79:1,15,17 80:8,13,15,18 83:12 87:14,15 89:20,21 90:22 91:5 96:18,19 98:18 99:17,19 100:2,4,24 101:2,5,7,12,19,20,21 102:4 103:8,15 104:7,22 113:19,19 123:10,12,19 124:5,7,23 125:20 126:3,8,9,16 127:13 128:19 132:16 133:6 135:11 136:6 137:11,13 138:5 139:15,24,25 140:7,11,21 141:1,8,12</p> <p><b>Court's</b> <sup>[1]</sup> 3:14 4:13 5:1 18:22 64:9 67:24 91:4 122:18 126:11 133:9 140:17</p> <p><b>courtroom</b> <sup>[1]</sup> 112:20</p> <p><b>courts</b> <sup>[14]</sup> 8:5 17:5 58:13 77:13 101:17 117:12,13,13 125:1,17 137:11 138:4 139:23,25</p> <p><b>cover</b> <sup>[1]</sup> 67:4</p> <p><b>covered</b> <sup>[10]</sup> 3:17 40:25 42:11 43:10 47:16 49:12 59:1 122:17 123:6 140:15</p> <p><b>covers</b> <sup>[1]</sup> 57:12</p> <p><b>cracks</b> <sup>[1]</sup> 49:10</p> <p><b>create</b> <sup>[4]</sup> 66:20 75:19 103:22 104:21</p> <p><b>created</b> <sup>[2]</sup> 68:21 116:23</p> <p><b>creates</b> <sup>[4]</sup> 20:12 31:3 32:12 97:20</p> <p><b>creating</b> <sup>[1]</sup> 77:11</p> <p><b>credit</b> <sup>[1]</sup> 13:23</p> <p><b>Crimes</b> <sup>[1]</sup> 52:3</p> <p><b>criminal</b> <sup>[12]</sup> 14:25 16:6 33:9,9,11 65:23 84:8 88:17 114:11,23 115:15 124:13</p> <p><b>crisis</b> <sup>[1]</sup> 105:9</p> <p><b>criteria</b> <sup>[5]</sup> 9:4 65:21 127:17,21 139:16</p> <p><b>criticized</b> <sup>[1]</sup> 32:4</p> <p><b>cross-examination</b> <sup>[1]</sup> 132:24</p> <p><b>cross-examine</b> <sup>[1]</sup> 113:14</p> <p><b>crucial</b> <sup>[1]</sup> 54:14</p> <p><b>curious</b> <sup>[1]</sup> 108:22</p> <p><b>current</b> <sup>[1]</sup> 19:18</p> <p><b>currently</b> <sup>[1]</sup> 14:25</p> <p><b>cut</b> <sup>[1]</sup> 42:5</p> <p><b>cycle</b> <sup>[2]</sup> 108:7 116:16</p>
<b>D</b>				
<p><b>D.C</b> <sup>[1]</sup> 1:10</p> <p><b>danger</b> <sup>[1]</sup> 117:4</p> <p><b>date</b> <sup>[3]</sup> 8:11 83:5 92:9</p> <p><b>Daubert</b> <sup>[1]</sup> 102:4</p> <p><b>daunting</b> <sup>[1]</sup> 86:4</p> <p><b>Davis</b> <sup>[4]</sup> 12:1,2 36:12 62:21</p> <p><b>Day</b> <sup>[7]</sup> 4:16 8:24 25:12 26:</p>				

## Official

9,11,12 140:4 <b>days</b> [1] 90:25 <b>de</b> [13] 79:12 83:9 91:15 92:6 93:11,22,25 94:1 133:3,5,12 140:8,22 <b>deadline</b> [4] 4:20 8:7 29:3 139:19 <b>deadlines</b> [1] 106:20 <b>Deal</b> [1] 103:21 <b>dealing</b> [1] 61:17 <b>debate</b> [3] 9:18 74:13 86:14 <b>debates</b> [1] 121:7 <b>decades</b> [1] 89:17 <b>decide</b> [19] 19:23 21:11 25:21 75:25 76:16 78:3 79:17 86:3 87:8 99:20,23,25 100:25 101:14,15 104:11 116:5 125:18 132:17 <b>decided</b> [4] 5:25 31:8 46:1 114:2 <b>decides</b> [8] 53:13 55:3 74:24,25 75:11 77:12 128:13 135:7 <b>deciding</b> [6] 78:1 86:16 107:17,19,21 124:12 <b>decision</b> [32] 3:14 4:13,23 11:22,25 13:20 21:10,17,21 22:6 25:20 26:25 45:12,25 64:9 77:14 79:14 80:19 86:15 91:4 100:7 101:12,18,20 106:2,8 118:10 122:18 135:11,11 138:6 140:11 <b>decision-making</b> [1] 136:5 <b>decisions</b> [14] 15:2 45:14 54:23 92:8 103:3 113:17 132:8 137:11 138:5 139:24 140:17,19,21,23 <b>declaration</b> [1] 8:22 <b>declared</b> [1] 98:25 <b>declined</b> [1] 68:10 <b>defeasible</b> [1] 24:24 <b>defer</b> [1] 135:3 <b>deference</b> [5] 79:14 100:1 132:21 133:1 135:13 <b>deficiencies</b> [2] 99:18,20 <b>define</b> [1] 74:24 <b>defined</b> [3] 11:4 64:19 131:16 <b>defines</b> [1] 125:24 <b>definite</b> [1] 134:2 <b>definitely</b> [2] 38:11 50:6 <b>definition</b> [1] 75:11 <b>defund</b> [1] 59:9 <b>degree</b> [1] 116:7 <b>degrees</b> [1] 129:24 <b>deliberately</b> [1] 67:3 <b>demanding</b> [1] 7:10 <b>demands</b> [1] 112:22 <b>democracy</b> [6] 116:3,11,15,18,23 121:22 <b>Democratic</b> [2] 85:25 116:24	<b>demonstrate</b> [1] 62:10 <b>demonstrates</b> [1] 43:19 <b>Denver</b> [2] 1:20,22 <b>deny</b> [1] 71:22 <b>depend</b> [1] 30:24 <b>depending</b> [1] 132:14 <b>depends</b> [1] 19:12 <b>depositions</b> [2] 113:21,23 <b>deprive</b> [1] 71:21 <b>deputy</b> [1] 128:8 <b>described</b> [4] 33:25 43:7 46:13 90:7 <b>deserves</b> [1] 94:9 <b>designed</b> [3] 46:22 97:5 116:17 <b>despite</b> [2] 12:13 125:5 <b>detail</b> [1] 88:12 <b>determinant</b> [1] 77:11 <b>determination</b> [9] 28:18,22 34:8 77:4 123:25 128:20 130:5,17 135:7 <b>determinations</b> [1] 114:1 <b>determine</b> [9] 6:24 72:12,18 73:5 74:10 77:16 81:15 98:15 130:21 <b>determined</b> [3] 21:17 32:13 131:6 <b>determining</b> [4] 68:19 75:17 77:14 104:23 <b>develop</b> [2] 60:24 87:11 <b>developed</b> [1] 21:23 <b>difference</b> [6] 42:19 67:6 76:12 108:25 127:23 134:7 <b>different</b> [54] 4:14 11:15 13:10 20:17,23 21:23,25 22:23 37:18 43:2 49:4 61:17 62:1,5 75:10 82:9,13,21 85:15,16 87:5 93:9 94:7 97:7 99:12,14,14,15 100:17,18,19,20,20,21 101:19 102:4 103:4,4 107:10 108:2,2 112:14,14 115:3 119:2 130:24,25,25 131:6 132:8,9 135:23 136:16,17 <b>differently</b> [4] 71:8 74:19 102:5 127:9 <b>differs</b> [1] 22:4 <b>difficult</b> [5] 7:14 75:6 94:8 104:21 134:11 <b>diplomatic</b> [1] 98:10 <b>direct</b> [3] 56:6 125:15 138:21 <b>directed</b> [1] 125:1 <b>direction</b> [3] 62:5 92:12 93:15 <b>directly</b> [1] 20:23 <b>director</b> [1] 128:8 <b>disability</b> [2] 4:6 6:18 28:16 32:10 82:20,24,25 83:21 84:6,14,16 125:8 <b>disagree</b> [3] 5:25 11:3 57:11 <b>disagreed</b> [1] 80:9	<b>disagreeing</b> [1] 113:7 <b>disapproved</b> [1] 140:1 <b>discretion</b> [1] 132:17 <b>discussed</b> [4] 100:9 119:21 122:9 132:5 <b>discussing</b> [1] 47:4 <b>discussion</b> [3] 44:3 52:12 109:1 <b>disenfranchise</b> [1] 117:6 <b>disenfranchisement</b> [2] 105:9 108:12 <b>disenfranchising</b> [2] 106:23 116:6 <b>disillusioned</b> [1] 106:23 <b>dismantle</b> [1] 116:22 <b>dismissed</b> [1] 23:4 <b>disobey</b> [1] 91:23 <b>disparate</b> [1] 133:12 <b>disparity</b> [2] 135:22 136:8 <b>dispose</b> [1] 23:10 <b>disputed</b> [1] 79:6 <b>disqualification</b> [23] 5:10 19:9 27:23 31:14 33:6,19 34:6,20,23 37:16 38:3 41:19 54:3 72:24 85:1,13 92:15,23 93:9 115:19 133:17,18,23 <b>disqualified</b> [30] 3:12 4:4 6:12 16:8 30:18 37:14 47:5 48:22 55:11 56:10 66:17 68:3,12 69:7,10 76:3 85:6 92:5,9,10,24 93:13 95:6 105:4 114:13 124:2 127:22 128:5 130:11 140:13 <b>disqualifies</b> [1] 66:22 <b>disqualify</b> [9] 9:22 10:6 24:20,22 69:14 70:3,20 81:20 103:4 <b>disqualifying</b> [4] 18:4 24:1,2,4 <b>disrupt</b> [2] 66:14 90:2 <b>disruption</b> [1] 13:22 <b>dissenting</b> [1] 112:16 <b>distinction</b> [11] 27:21 28:5,7 44:4 51:18 109:14 110:22,24 111:3 120:6 127:18 <b>distinguish</b> [2] 139:22 140:6 <b>distinguishing</b> [1] 109:13 <b>disuniformity</b> [2] 97:6 119:2 <b>doctrine</b> [5] 91:16 92:7 93:22 140:9,22 <b>doctrines</b> [1] 35:18 <b>doing</b> [9] 5:6 7:23 14:12 34:14 35:2 70:1 71:7 95:2 107:17 <b>domestic</b> [1] 20:20 <b>DONALD</b> [2] 1:3 3:11 <b>done</b> [11] 18:7 26:13,14 45:10 93:14 94:2 99:6 106:22 123:18,23 139:15 <b>door</b> [1] 61:4 <b>dormant</b> [4] 86:23 87:23	88:9,21 <b>doubt</b> [3] 85:19 106:16 123:5 <b>down</b> [6] 46:5 67:8 86:2 90:9 129:4,5 <b>drafted</b> [1] 44:14 <b>drafting</b> [2] 44:2 61:16 <b>drafts</b> [2] 44:21 62:22 <b>dramatic</b> [1] 140:10 <b>drawing</b> [3] 28:4,6 44:7 <b>drawn</b> [1] 51:1 <b>dropped</b> [1] 115:23 <b>due</b> [12] 59:25 60:11,23,25 71:22 96:22 112:21 131:7,10,12,13,18 <b>during</b> [6] 7:7 26:15 45:13 68:25 91:21 141:4 <hr/> <b>E</b> <hr/> <b>each</b> [8] 3:24 6:24 7:1 23:9 32:15,20 51:1 138:20 <b>earlier</b> [13] 7:11 8:7 19:9 44:21 66:18 82:5 84:3 96:3 100:9 109:1 117:19 119:1,22 <b>easier</b> [1] 27:9 <b>easy</b> [1] 134:15 <b>effect</b> [16] 12:8 21:16,21 34:23 45:5 77:16,25 85:4 102:15 107:24 114:9 115:22 116:6 118:11 135:10,14 <b>effectively</b> [5] 21:11 35:9 59:10 92:2 139:18 <b>efficiently</b> [1] 125:17 <b>effort</b> [5] 65:13,17,20 69:25 87:19 <b>efforts</b> [1] 83:25 <b>eggs</b> [1] 118:5 <b>either</b> [11] 9:5 18:7,9 52:10 61:24 64:12 65:20 68:16 69:4 99:19 123:2 <b>elaborated</b> [1] 54:25 <b>elect</b> [1] 116:4 <b>elected</b> [22] 3:21 4:1,7,18 6:22,25 7:8 8:4 24:3 25:5 32:15 51:21 53:7 58:23 62:21 68:8 76:13,13 94:15 100:2 117:19 135:13 <b>Election</b> [35] 4:16 6:17,19 8:6,12,21,24 25:11 26:10,12,19 28:25 68:11,19 72:5 80:6 81:10 82:8 86:4 90:8,25 91:1 104:19,24 108:7 114:1 116:16 118:11 124:1 125:11 135:23,24 137:8 140:4,4 <b>elections</b> [19] 61:24 67:14 68:22 70:11 71:8,11 72:10 81:9 96:6 97:7 118:17 119:4,10,13,14,19 125:16 128:8 130:22 <b>elector</b> [3] 39:19,20 129:13 <b>electoral</b> [6] 67:16 105:2,3,4 124:4 138:3	<b>electors</b> [34] 72:19 73:6,23 74:1,11 77:8 81:16 90:10,15 91:6,7 105:18 107:21 108:12 118:6,14,18,19 121:1,5 122:13,17,24 124:25 130:19 131:4,9 135:3 136:15 138:19,22 139:5,6,11 <b>eligibility</b> [6] 76:17 79:18 82:16 104:23 127:17,21 <b>eligible</b> [1] 97:8 <b>eliminate</b> [1] 59:16 <b>Ellipse</b> [2] 79:13,25 <b>else's</b> [1] 106:3 <b>elsewhere</b> [1] 110:5 <b>elusive</b> [2] 36:7 116:2 <b>embedding</b> [1] 61:21 <b>emblematic</b> [1] 36:24 <b>Emoluments</b> [2] 41:18 42:12 <b>emphasize</b> [1] 114:21 <b>emphasized</b> [1] 91:5 <b>emphasizes</b> [1] 89:22 <b>employed</b> [2] 132:14,19 <b>enact</b> [10] 5:18 6:4 18:6,17 19:15 55:3 58:25 64:8 117:21 130:23 <b>enacted</b> [7] 13:25 44:17 57:5 6 63:19 85:6 114:9,18 <b>enacting</b> [2] 64:11 105:19 <b>enactment</b> [4] 15:2,17 63:3,8 <b>enacts</b> [3] 5:22 32:18 57:13 <b>encompass</b> [1] 3:21 <b>encompassed</b> [1] 40:16 <b>encouraging</b> [1] 102:18 <b>end</b> [6] 55:1 64:4 73:25,25 83:11 135:22 <b>enemies</b> [1] 99:8 <b>enemy</b> [2] 98:9,16 <b>enforce</b> [34] 5:21 13:3,7,8,9 16:21 19:13,15 20:25 53:17 54:3 64:1 71:25 72:3,4,20 73:13 74:11 76:5 81:12 82:7 93:8 96:5 97:16,17,21 103:22 107:2 108:11 117:14 119:3 123:15 135:1 138:3 <b>enforced</b> [4] 5:17 30:12 31:2 47:21 <b>Enforcement</b> [18] 12:16,17 13:25 14:22,24 15:3 17:2,18 18:20 30:22 32:11 53:23 54:17 58:5 64:13 88:3 96:17 97:19 <b>enforces</b> [1] 16:10 <b>enforcing</b> [8] 6:3 8:25 9:1 17:19 24:24 57:4 119:6,12 <b>engage</b> [7] 22:3 33:17,18 34:8 65:3,5 75:3 <b>engaged</b> [6] 30:17 48:21 67:22 74:25 83:2 134:18 <b>engages</b> [1] 91:18 <b>engaging</b> [2] 66:16 99:5
--	--	--	---	---

## Official

<p><b>enormous</b> <sup>[1]</sup> 135:14  <b>enough</b> <sup>[1]</sup> 95:12  <b>ensure</b> <sup>[4]</sup> 67:16 71:3 97:14 115:6  <b>ensuring</b> <sup>[1]</sup> 97:11  <b>entered</b> <sup>[1]</sup> 21:25  <b>entire</b> <sup>[1]</sup> 62:7  <b>entirely</b> <sup>[2]</sup> 5:9,11  <b>entitled</b> <sup>[3]</sup> 60:4,5,8  <b>entity</b> <sup>[1]</sup> 32:14  <b>enumerated</b> <sup>[1]</sup> 120:19  <b>enumerates</b> <sup>[1]</sup> 139:13  <b>enunciation</b> <sup>[1]</sup> 13:15  <b>envisioned</b> <sup>[2]</sup> 119:6,12  <b>equal</b> <sup>[3]</sup> 71:22 131:10 139:7  <b>error</b> <sup>[4]</sup> 78:5,16,23 103:13  <b>escape</b> <sup>[1]</sup> 140:25  <b>especially</b> <sup>[1]</sup> 44:17  <b>ESQ</b> <sup>[4]</sup> 2:3,6,10,13  <b>ESQUIRE</b> <sup>[2]</sup> 1:18,20  <b>essence</b> <sup>[4]</sup> 79:7,23 101:24 102:16  <b>essential</b> <sup>[2]</sup> 90:3 101:10  <b>essentially</b> <sup>[5]</sup> 7:10 79:12 88:12,22 97:17  <b>established</b> <sup>[3]</sup> 14:1,21 15:8  <b>estoppel</b> <sup>[5]</sup> 21:8,9,16 135:6 136:17  <b>ET</b> <sup>[5]</sup> 1:6,21 2:8 66:7 104:12  <b>even</b> <sup>[32]</sup> 4:4 5:20 6:15,17 7:3,13 8:9 21:20 22:22 33:3,18 44:15,25 46:6 49:2,22 56:4 57:15,15 85:3 88:11 95:17 103:24 108:7,8 115:19 118:7 128:17,20 129:8 133:13 136:1  <b>event</b> <sup>[1]</sup> 44:16  <b>events</b> <sup>[3]</sup> 64:21 65:23 140:14  <b>eventually</b> <sup>[1]</sup> 86:15  <b>everybody</b> <sup>[5]</sup> 85:4 105:12 106:3,14 122:23  <b>everyone</b> <sup>[4]</sup> 49:6 71:13 101:11 125:19  <b>everything</b> <sup>[1]</sup> 12:13  <b>evidence</b> <sup>[22]</sup> 36:22 48:9 53:17,18 61:15 62:15,16,19 63:13,13,16 74:4 85:17 96:25 99:15,23 100:18 101:13,13 102:11 130:24 132:24  <b>evidentiary</b> <sup>[4]</sup> 96:24 100:5,6 105:12  <b>exact</b> <sup>[2]</sup> 31:24 34:17  <b>exactly</b> <sup>[9]</sup> 14:18 22:5 33:24 35:4 47:25 52:15 54:12 109:15 122:22  <b>example</b> <sup>[13]</sup> 26:5 42:11 43:6 68:6,7 69:16 73:14 94:14 102:1 105:24 108:20 109:5 121:1</p>	<p><b>examples</b> <sup>[9]</sup> 10:5 68:1,14 69:6 70:5,6,23 71:7 104:15  <b>except</b> <sup>[4]</sup> 47:6 66:23 82:19 109:24  <b>exception</b> <sup>[2]</sup> 51:12 111:20  <b>exceptional</b> <sup>[1]</sup> 112:4  <b>exclude</b> <sup>[8]</sup> 4:3,8 18:18 61:5 74:14 123:20 130:11 137:4  <b>excluded</b> <sup>[8]</sup> 40:25 42:9 46:13,15 47:13 70:7 74:16 135:25  <b>excludes</b> <sup>[1]</sup> 38:25  <b>excluding</b> <sup>[1]</sup> 67:20  <b>exclusive</b> <sup>[5]</sup> 15:9 54:19 58:14,18 75:20  <b>excuse</b> <sup>[1]</sup> 139:11  <b>excused</b> <sup>[2]</sup> 28:20,24  <b>executing</b> <sup>[1]</sup> 12:7  <b>executive</b> <sup>[2]</sup> 141:3,7  <b>exemption</b> <sup>[2]</sup> 66:20 67:1  <b>exercise</b> <sup>[3]</sup> 106:16 132:20 139:8  <b>exercised</b> <sup>[1]</sup> 138:24  <b>exercising</b> <sup>[2]</sup> 88:7 124:24  <b>exist</b> <sup>[1]</sup> 48:23  <b>existed</b> <sup>[2]</sup> 83:1 119:25  <b>existing</b> <sup>[1]</sup> 107:2  <b>exists</b> <sup>[6]</sup> 82:25 84:6,6,14 92:17 115:10  <b>expand</b> <sup>[1]</sup> 73:11  <b>expect</b> <sup>[2]</sup> 85:20,23  <b>expedited</b> <sup>[1]</sup> 113:16  <b>experience</b> <sup>[1]</sup> 116:19  <b>expert</b> <sup>[7]</sup> 22:9,24 23:1 101:25 102:2,6 113:21  <b>expert's</b> <sup>[1]</sup> 102:22  <b>explain</b> <sup>[2]</sup> 41:24 74:6  <b>explicit</b> <sup>[1]</sup> 54:23  <b>express</b> <sup>[5]</sup> 15:10 102:6 125:23 126:2,6  <b>extant</b> <sup>[4]</sup> 8:25 24:11 28:3 54:17  <b>extend</b> <sup>[2]</sup> 17:7 47:23  <b>extended</b> <sup>[1]</sup> 73:1  <b>extensive</b> <sup>[1]</sup> 105:17  <b>extent</b> <sup>[1]</sup> 116:1  <b>extracted</b> <sup>[1]</sup> 57:22  <b>extraordinary</b> <sup>[8]</sup> 67:2 76:14 82:24 84:5 87:2,17 89:22 91:8  <b>extremists</b> <sup>[2]</sup> 22:13 102:16</p>	<p>12 105:24 112:25 113:22 121:1 126:4,21 127:5,6  <b>facto</b> <sup>[9]</sup> 83:9 91:15 92:6 93:11,22,25 94:1 140:8,22  <b>facts</b> <sup>[8]</sup> 79:6,12 100:11 101:10,21,22 103:10 129:10  <b>factual</b> <sup>[12]</sup> 21:23,25 78:5,15,23 79:3,18,21 133:2,9 135:12 136:10  <b>failed</b> <sup>[1]</sup> 71:4  <b>failing</b> <sup>[1]</sup> 97:19  <b>fair</b> <sup>[2]</sup> 95:12 111:20  <b>fairly</b> <sup>[1]</sup> 89:16  <b>fairness</b> <sup>[1]</sup> 113:8  <b>faith</b> <sup>[1]</sup> 137:7  <b>fall</b> <sup>[3]</sup> 28:19 49:10 122:25  <b>far</b> <sup>[1]</sup> 34:24  <b>far-reaching</b> <sup>[1]</sup> 124:24  <b>fast</b> <sup>[1]</sup> 113:17  <b>fatal</b> <sup>[1]</sup> 32:8  <b>favor</b> <sup>[2]</sup> 16:2 38:20  <b>feature</b> <sup>[1]</sup> 136:3  <b>February</b> <sup>[1]</sup> 1:11  <b>federal</b> <sup>[6]</sup> 4:8,12 9:5 13:8 16:22 17:3,6,13 18:15 32:20 45:19 52:18 53:4 54:4,18 55:10 57:15 58:7 59:1,14,16,21 64:5,12 66:24 67:4,10 69:20 71:2,4,24 72:20 73:11 76:6,17 77:9,11 80:6,21 81:10,11 83:25 87:20 96:17,19 97:16,22 103:14 107:8,9 108:5 114:8,11,14 115:5,6,9 117:13 124:9,12 141:8  <b>Federalism</b> <sup>[3]</sup> 97:20 136:14,20  <b>Federalist</b> <sup>[1]</sup> 54:7  <b>feed</b> <sup>[1]</sup> 101:23  <b>feel</b> <sup>[1]</sup> 35:15  <b>fell</b> <sup>[1]</sup> 112:21  <b>felt</b> <sup>[1]</sup> 70:17  <b>few</b> <sup>[3]</sup> 68:14 69:6 124:6  <b>fewer</b> <sup>[1]</sup> 46:19  <b>figure</b> <sup>[2]</sup> 35:24 115:25  <b>figuring</b> <sup>[1]</sup> 75:2  <b>filed</b> <sup>[2]</sup> 70:25 128:24  <b>final</b> <sup>[6]</sup> 63:3,4,8 64:15 130:17  <b>find</b> <sup>[3]</sup> 45:7 81:6,7  <b>finding</b> <sup>[2]</sup> 22:3 79:15  <b>findings</b> <sup>[6]</sup> 21:25 78:15,23 100:1,21 135:12  <b>fine</b> <sup>[1]</sup> 49:20  <b>finish</b> <sup>[1]</sup> 36:19  <b>first</b> <sup>[4]</sup> 3:16 12:16 15:20 29:16 33:10 34:23 37:10,13,17,18 38:10,13,16 39:7 51:8 66:10,12 72:8 78:6,22 98:23 99:18 100:24 103:19 106:15,17,24,25 107:5,14,15 116:13 119:21 122:23 124:6 126:18 128:</p>	<p>13 131:11 132:1,4 139:2  <b>fit</b> <sup>[5]</sup> 31:11 52:12 73:7 77:9 81:16  <b>five-day</b> <sup>[1]</sup> 113:11  <b>flip</b> <sup>[1]</sup> 103:23  <b>flood</b> <sup>[1]</sup> 85:3  <b>floor</b> <sup>[1]</sup> 29:13  <b>focus</b> <sup>[4]</sup> 38:9,12 62:11 63:17  <b>focused</b> <sup>[3]</sup> 62:18 75:5 122:7  <b>focusing</b> <sup>[2]</sup> 119:19 120:25  <b>Foley</b> <sup>[1]</sup> 105:7  <b>follow</b> <sup>[2]</sup> 137:8 140:10  <b>follow-up</b> <sup>[1]</sup> 132:7  <b>followed</b> <sup>[4]</sup> 31:9 88:2,4 132:11  <b>Foner</b> <sup>[1]</sup> 70:14  <b>Foote</b> <sup>[2]</sup> 70:15,15  <b>Footnote</b> <sup>[1]</sup> 42:8  <b>force</b> <sup>[3]</sup> 16:19,20 20:20  <b>forcefully</b> <sup>[2]</sup> 46:12 63:25  <b>foreign-born</b> <sup>[2]</sup> 67:21 74:14  <b>forever</b> <sup>[1]</sup> 85:7  <b>form</b> <sup>[1]</sup> 54:20  <b>formal</b> <sup>[1]</sup> 59:10  <b>former</b> <sup>[11]</sup> 21:9 30:16 61:23 66:23 69:24 76:2 88:22 93:16 94:12,14 99:13  <b>forms</b> <sup>[1]</sup> 53:23  <b>forth</b> <sup>[1]</sup> 50:24  <b>fortiori</b> <sup>[1]</sup> 106:10  <b>forward</b> <sup>[2]</sup> 91:16 139:19  <b>found</b> <sup>[1]</sup> 22:4  <b>founding</b> <sup>[1]</sup> 48:9  <b>Fourteenth</b> <sup>[33]</sup> 3:13 5:21 6:21 10:23 15:22 19:16 32:24 36:1,2 61:12 68:2 71:1,19 72:7,10,25 73:4,10,14 74:7 75:5,7,18 81:5 84:24 132:4 133:23,24 134:16,19,24,25 137:10  <b>Framers</b> <sup>[9]</sup> 40:20 61:16 67:2 97:4 115:15 116:19 119:5,11 120:14  <b>free</b> <sup>[2]</sup> 19:8 93:17  <b>frequently</b> <sup>[2]</sup> 6:20 9:17  <b>friend</b> <sup>[2]</sup> 67:6 84:2  <b>friends</b> <sup>[1]</sup> 109:3  <b>frivolous</b> <sup>[3]</sup> 86:7,11,13  <b>full</b> <sup>[2]</sup> 96:24 105:11  <b>full-blown</b> <sup>[1]</sup> 132:22  <b>fulsome</b> <sup>[1]</sup> 78:11  <b>function</b> <sup>[2]</sup> 90:2 108:10  <b>functions</b> <sup>[2]</sup> 87:21 89:25  <b>funds</b> <sup>[2]</sup> 98:12,12  <b>further</b> <sup>[12]</sup> 9:19 10:8 19:5 44:20,24 45:16 77:2 99:7 136:22,24 138:11 141:5  <b>future</b> <sup>[2]</sup> 84:7 89:12</p>	<p><b>gained</b> <sup>[1]</sup> 20:22  <b>gap</b> <sup>[1]</sup> 52:25  <b>gave</b> <sup>[1]</sup> 69:16  <b>gear</b> <sup>[1]</sup> 20:4  <b>General</b> <sup>[4]</sup> 1:22 111:21 117:11 125:11  <b>generally</b> <sup>[3]</sup> 9:12 10:5,12  <b>generation</b> <sup>[1]</sup> 48:10  <b>generations</b> <sup>[1]</sup> 116:16  <b>Georgia</b> <sup>[2]</sup> 68:8,9  <b>gerrymandered</b> <sup>[2]</sup> 46:22,25  <b>gets</b> <sup>[5]</sup> 17:12 75:25 90:11 107:17 136:11  <b>getting</b> <sup>[2]</sup> 16:18 103:5  <b>Ginsberg</b> <sup>[1]</sup> 105:7  <b>give</b> <sup>[14]</sup> 12:8 17:19 37:16 57:7 70:22 82:5 100:1 105:23 108:18 113:5 116:25 132:21 133:1 136:6  <b>given</b> <sup>[12]</sup> 48:8,15,25 51:19 62:9 79:5 82:2 98:16 100:5 117:8 123:6 135:12  <b>gives</b> <sup>[10]</sup> 6:4 13:17 14:13,17 21:20 72:18 77:7 92:1 134:1 138:20  <b>giving</b> <sup>[5]</sup> 31:12 40:9,13 62:12 118:9  <b>goals</b> <sup>[1]</sup> 49:5  <b>goodly</b> <sup>[1]</sup> 85:24  <b>GORSUCH</b> <sup>[56]</sup> 17:22,25 42:13,15,18,22 43:1,20,23 44:1,8,11 50:10,11,17,20,23 52:11,15 53:8 80:1,10,17,24 81:10,19,25 82:14,19 83:4,17 91:14 92:4,20,22 93:3,10,21,25 94:17,20,23 95:1,6 108:15,16 109:24 110:4,9,21 111:11,16,25 112:6,8 138:9  <b>got</b> <sup>[3]</sup> 45:13 106:21 129:2  <b>government</b> <sup>[12]</sup> 61:20,22 62:4,7 65:10,14,17,20 71:3,4 88:13 97:16  <b>governor</b> <sup>[3]</sup> 33:8 68:7,9  <b>granted</b> <sup>[2]</sup> 33:21 73:23  <b>grants</b> <sup>[2]</sup> 107:22 110:17  <b>grapple</b> <sup>[1]</sup> 102:25  <b>great</b> <sup>[3]</sup> 74:13 78:10 107:9  <b>greater</b> <sup>[3]</sup> 21:20 73:20 133:7  <b>Griffin</b> <sup>[6]</sup> 11:18,21 56:3,6,23 57:7  <b>Griffin's</b> <sup>[46]</sup> 5:19,24 6:2 11:8,13 12:12,14 13:14,15,25 14:14,15,21 15:5,11,16,20 16:3,5 17:11,15 30:25 31:1,8 32:4 33:23 35:3,17,23 36:23 45:22,22 53:11 54:15,23,25 55:25 56:13,15,18,22 57:3 83:10 87:25 140:12 141:1  <b>Griswold</b> <sup>[3]</sup> 1:23 2:11 124:</p>
<b>F</b>				
<p><b>fabric</b> <sup>[1]</sup> 107:3  <b>face</b> <sup>[3]</sup> 9:8 63:16 127:15  <b>fact</b> <sup>[32]</sup> 9:16 22:2 27:16 28:20 33:7 34:5 56:24 71:8 79:15 82:23,25 83:15 84:4,7,15,21 86:7 89:9 91:1 92:10 97:21 99:1 100:21 103:</p>	<p><b>F</b></p>	<p><b>G</b></p>	<p><b>G</b></p>	<p><b>G</b></p>

## Official

<p>21  <b>ground</b> <sup>[1]</sup> 16:7  <b>grounds</b> <sup>[1]</sup> 123:22  <b>group</b> <sup>[1]</sup> 87:19  <b>guess</b> <sup>[15]</sup> 34:3 40:9 42:22  57:14 58:17 61:9 77:1 96:  6 97:4 105:21,21 107:4  114:24 119:9 120:24  <b>guidance</b> <sup>[2]</sup> 79:14 136:6  <b>guilty</b> <sup>[1]</sup> 129:3</p> <hr/> <p style="text-align: center;"><b>H</b></p> <p><b>habeas</b> <sup>[4]</sup> 16:6 56:1,5,22  <b>half</b> <sup>[1]</sup> 35:15  <b>halt</b> <sup>[1]</sup> 64:18  <b>hand</b> <sup>[1]</sup> 71:23  <b>handful</b> <sup>[1]</sup> 86:3  <b>handle</b> <sup>[1]</sup> 137:23  <b>handled</b> <sup>[1]</sup> 125:16  <b>happen</b> <sup>[3]</sup> 30:22 115:6  136:15  <b>happened</b> <sup>[4]</sup> 6:20 54:8 95:  9 129:4  <b>happening</b> <sup>[2]</sup> 37:18 41:24  <b>happens</b> <sup>[8]</sup> 49:1 64:3 92:  6,25 93:6 95:9 104:25 123:  17  <b>happy</b> <sup>[1]</sup> 141:11  <b>hard</b> <sup>[2]</sup> 36:14 73:15  <b>harder</b> <sup>[1]</sup> 15:21  <b>Hasen</b> <sup>[1]</sup> 105:7  <b>hear</b> <sup>[2]</sup> 3:3 99:19  <b>heard</b> <sup>[3]</sup> 60:9 66:18 96:22  <b>hearing</b> <sup>[1]</sup> 128:9  <b>hearsay</b> <sup>[4]</sup> 22:20,21 78:12  85:18  <b>heart</b> <sup>[1]</sup> 97:18  <b>heavier</b> <sup>[1]</sup> 38:13  <b>heavily</b> <sup>[2]</sup> 36:9 138:19  <b>held</b> <sup>[7]</sup> 3:10 8:5,21 48:23  66:23 80:18 140:18  <b>help</b> <sup>[2]</sup> 42:3 103:6  <b>helpful</b> <sup>[1]</sup> 100:15  <b>herself</b> <sup>[1]</sup> 129:15  <b>high</b> <sup>[6]</sup> 40:21 48:23 52:3  79:11 123:11 135:19  <b>highly</b> <sup>[2]</sup> 36:5 60:17  <b>himself</b> <sup>[8]</sup> 51:7,8,13 66:17  79:17 102:18 110:12 124:  5  <b>hinges</b> <sup>[1]</sup> 42:18  <b>historians</b> <sup>[1]</sup> 70:24  <b>historical</b> <sup>[6]</sup> 53:25 61:19  62:10 63:13 74:4 104:15  <b>history</b> <sup>[20]</sup> 10:1 13:21 24:  1,3 44:2 45:18 61:11 63:  12 66:13 71:14 74:9 88:5,  6 91:5 98:3 119:4,9,22  120:13 122:7  <b>hold</b> <sup>[27]</sup> 12:3 26:16 29:7,7  43:5,17,22 47:19 49:18 84:  13,19,23 86:10 94:16 95:  18,22,24 97:12 103:21 109:  8 111:12,14,16 115:5 116:</p>	<p>21 122:17 123:2  <b>holding</b> <sup>[33]</sup> 4:10,21 5:19 6:  2 9:9 13:14 17:14 18:12  19:1 29:11 33:23 35:2 37:  15 39:13 44:22 58:22 67:  18 70:8 82:3,9 83:15,15,20  92:24,25 101:14 114:8,13  115:9 123:4 139:9,25 140:  14  <b>holds</b> <sup>[7]</sup> 7:7 57:3 67:11  109:19 111:5 123:9 139:  18  <b>Honor</b> <sup>[37]</sup> 11:1 12:13 13:  16 15:25 23:14 30:24 36:  16 38:5 46:12 51:2 54:13  56:15 69:17 70:6 72:8,16  76:15 78:21 80:23 81:24  86:6 87:13 98:18 100:4  102:9 108:1 113:9 114:17  115:14 118:2 126:1 128:2  130:19 131:3 134:9 135:  18 137:6  <b>Honor's</b> <sup>[4]</sup> 7:9 57:5 58:6  60:15  <b>House</b> <sup>[9]</sup> 6:24 7:1 31:24  32:15 34:25 43:6 109:6  111:6,22  <b>Houses</b> <sup>[1]</sup> 49:4  <b>However</b> <sup>[1]</sup> 133:5  <b>huge</b> <sup>[1]</sup> 135:21  <b>hundred</b> <sup>[1]</sup> 89:15  <b>hybrid</b> <sup>[1]</sup> 132:3  <b>hypo</b> <sup>[1]</sup> 24:13  <b>hypothetical</b> <sup>[6]</sup> 7:9 15:24  57:5 58:6 94:24 95:2</p> <hr/> <p style="text-align: center;"><b>I</b></p> <p><b>idea</b> <sup>[4]</sup> 53:2 71:1 109:16  116:3  <b>identified</b> <sup>[1]</sup> 113:20  <b>idiosyncratic</b> <sup>[1]</sup> 71:7  <b>ignore</b> <sup>[1]</sup> 67:13  <b>Il</b> <sup>[21]</sup> 52:8,24 67:14 68:22  71:10 72:11,17 74:17 77:7  80:14,15 81:8 84:20 106:  17 107:22 118:18 130:19  135:21 138:23 139:13 140:  19  <b>Il's</b> <sup>[1]</sup> 139:5  <b>Illinois</b> <sup>[2]</sup> 8:15,17  <b>illuminates</b> <sup>[1]</sup> 44:3  <b>illustrates</b> <sup>[1]</sup> 117:3  <b>illustrative</b> <sup>[1]</sup> 84:4  <b>imagination</b> <sup>[1]</sup> 102:8  <b>imagine</b> <sup>[1]</sup> 25:10  <b>imagining</b> <sup>[1]</sup> 94:13  <b>immunity</b> <sup>[2]</sup> 55:15 71:21  <b>impact</b> <sup>[2]</sup> 106:8 130:14  <b>impeach</b> <sup>[1]</sup> 92:16  <b>Impeachment</b> <sup>[20]</sup> 3:23 38:  24 41:18 50:14 51:24 52:2,  22 57:22,23,25 58:6,14 59:  4,7,17,20 89:13,14 95:20,  22</p>	<p><b>impeachment's</b> <sup>[1]</sup> 95:23  <b>impeachments</b> <sup>[1]</sup> 89:16  <b>imperative</b> <sup>[1]</sup> 97:13  <b>impermissible</b> <sup>[1]</sup> 34:7  <b>implement</b> <sup>[2]</sup> 5:9,21  <b>implemented</b> <sup>[1]</sup> 136:11  <b>implementing</b> <sup>[8]</sup> 5:23 9:  21 13:18 14:19 18:17 103:  25 104:8 114:19  <b>implication</b> <sup>[1]</sup> 58:24  <b>implications</b> <sup>[2]</sup> 42:2 46:  19  <b>implicit</b> <sup>[1]</sup> 54:21  <b>implicitly</b> <sup>[3]</sup> 72:4 73:1 84:  17  <b>implied</b> <sup>[2]</sup> 51:11 54:20  <b>implies</b> <sup>[2]</sup> 46:25 72:19  <b>imply</b> <sup>[1]</sup> 42:10  <b>importance</b> <sup>[1]</sup> 76:20  <b>important</b> <sup>[9]</sup> 12:12 18:21,  25 24:16 40:21 110:18  122:16 125:21 126:16  <b>impose</b> <sup>[2]</sup> 115:18 139:11  <b>imposed</b> <sup>[2]</sup> 4:20 139:2  <b>inaction</b> <sup>[1]</sup> 35:5  <b>inadmissible</b> <sup>[1]</sup> 22:20  <b>Inauguration</b> <sup>[2]</sup> 25:12 26:  12  <b>inch</b> <sup>[1]</sup> 19:17  <b>incited</b> <sup>[2]</sup> 66:13 100:12  <b>incitement</b> <sup>[1]</sup> 22:3  <b>inciting</b> <sup>[1]</sup> 102:18  <b>include</b> <sup>[4]</sup> 121:18 122:23  123:7 131:10  <b>included</b> <sup>[2]</sup> 61:13 121:9  <b>includes</b> <sup>[1]</sup> 73:20  <b>including</b> <sup>[4]</sup> 41:18 72:3  114:9 120:16  <b>Incompatibility</b> <sup>[5]</sup> 41:19  43:16 109:10 111:17 123:  3  <b>incongruous</b> <sup>[1]</sup> 127:8  <b>incorrect</b> <sup>[1]</sup> 130:6  <b>incredibly</b> <sup>[1]</sup> 79:6  <b>incumbent</b> <sup>[1]</sup> 32:21  <b>indefinitely</b> <sup>[1]</sup> 84:6  <b>independent</b> <sup>[5]</sup> 3:15 79:2  100:10 132:20 133:7  <b>Indiana</b> <sup>[1]</sup> 8:16  <b>indisputable</b> <sup>[2]</sup> 101:22  103:9  <b>individual</b> <sup>[7]</sup> 7:15 91:11  93:18 95:14 106:7 129:13  132:19  <b>individuals</b> <sup>[2]</sup> 3:21 70:8  <b>indulge</b> <sup>[1]</sup> 125:10  <b>ineligible</b> <sup>[7]</sup> 12:2 25:20  77:15,22 94:16 104:18  125:12  <b>infer</b> <sup>[4]</sup> 34:5,7 89:9,18  <b>inference</b> <sup>[1]</sup> 34:9  <b>inferences</b> <sup>[2]</sup> 44:6 51:1  <b>infiltration</b> <sup>[1]</sup> 61:21  <b>inform</b> <sup>[2]</sup> 83:24 128:11</p>	<p><b>information</b> <sup>[3]</sup> 128:10,14  129:14  <b>inhabit</b> <sup>[6]</sup> 4:15,17 8:3,8,20  140:3  <b>initial</b> <sup>[2]</sup> 15:2 28:18  <b>initially</b> <sup>[2]</sup> 31:5 114:18  <b>insofar</b> <sup>[2]</sup> 72:17 101:9  <b>instances</b> <sup>[2]</sup> 112:2 128:  15  <b>instead</b> <sup>[1]</sup> 27:7  <b>institutions</b> <sup>[2]</sup> 137:23  138:1  <b>instruct</b> <sup>[1]</sup> 139:5  <b>insulate</b> <sup>[1]</sup> 94:3  <b>insurgents</b> <sup>[1]</sup> 119:8  <b>insurmountable</b> <sup>[1]</sup> 33:1  <b>insurrection</b> <sup>[46]</sup> 6:9 13:7  14:25 27:24 30:17 34:9 48:  21 53:12 54:18 55:10 64:  19,21 65:2,4,12,18,22,24  66:16 67:22 74:22 76:3 83:  2 86:13,16 87:1,6,10,12,16  88:16,24 89:22 91:19 95:7  99:6,8 100:12 114:10 115:  12 129:3,4,6 134:10,18  137:10  <b>insurrectionist</b> <sup>[20]</sup> 6:16,  25 7:4,16 9:9,22 16:8,13,  13 28:11 32:13 49:18,20  56:9 62:6 90:14 99:13 121:  5 134:16 135:9  <b>insurrectionists</b> <sup>[16]</sup> 6:22  10:6,15 18:19 44:22 50:1  61:21 63:10 66:22 97:11  108:3 114:7 115:4,7,17  117:2  <b>intended</b> <sup>[1]</sup> 73:11  <b>intent</b> <sup>[4]</sup> 22:2 46:25 99:3,7  <b>intention</b> <sup>[1]</sup> 8:23  <b>interest</b> <sup>[4]</sup> 106:6 131:14,  18,19  <b>interests</b> <sup>[1]</sup> 98:11  <b>interfered</b> <sup>[1]</sup> 134:2  <b>interim</b> <sup>[2]</sup> 91:21 97:6  <b>interpret</b> <sup>[2]</sup> 19:12 63:14  <b>interpretation</b> <sup>[1]</sup> 126:12  <b>interpreted</b> <sup>[2]</sup> 95:21 98:  19  <b>interprets</b> <sup>[1]</sup> 87:14  <b>interrupt</b> <sup>[2]</sup> 14:3 80:2  <b>intratextualist</b> <sup>[1]</sup> 44:10  <b>invalid</b> <sup>[1]</sup> 140:20  <b>invitation</b> <sup>[1]</sup> 14:20  <b>invoked</b> <sup>[1]</sup> 140:8  <b>involve</b> <sup>[1]</sup> 65:9  <b>involved</b> <sup>[5]</sup> 16:5 20:24  112:17,17 136:7  <b>irregular</b> <sup>[1]</sup> 60:17  <b>isn't</b> <sup>[6]</sup> 10:18 34:13 46:22  86:8 119:22 126:24  <b>issue</b> <sup>[16]</sup> 12:25 17:6 20:13,  14,19 32:13 47:20 61:17  76:18 81:3 101:15 106:14  126:7 131:5 132:2 134:11</p>	<p><b>issued</b> <sup>[1]</sup> 136:11  <b>issues</b> <sup>[13]</sup> 13:6 41:15 60:  23 71:13 103:16 104:21  105:11,13 118:22 124:7,13  125:21 129:12  <b>It'll</b> <sup>[1]</sup> 86:2  <b>itself</b> <sup>[9]</sup> 6:24 12:7 20:12  22:22 53:22 87:21 110:8  117:16 134:1</p> <hr/> <p style="text-align: center;"><b>J</b></p> <p><b>JACKSON</b> <sup>[81]</sup> 27:11,13,  16,21 28:1,9,14,17 29:6,9,  12,15,19,23 30:1,3 34:13  37:5,6,9,13,21 38:1,6,9,15,  17 39:2,4,7,9,12,15,18,21  40:1,4,8,12,19 41:21 49:17  61:7,8 62:15,16,25 63:2,6,  21,24 64:10,15 65:6,16,21  66:1 85:8 96:1,12,14 97:1,  25 98:2 118:24,25 119:21  120:2,4,6,9,11,18 121:13  122:2,15,20 123:13 124:9,  14 138:11  <b>jail</b> <sup>[1]</sup> 115:20  <b>January</b> <sup>[12]</sup> 22:7,19,21 28:  25 55:17 64:18 83:1 86:24  90:1 103:10 105:1 140:14  <b>JASON</b> <sup>[3]</sup> 1:20 2:6 66:6  <b>Jefferson</b> <sup>[3]</sup> 12:2 36:11  62:21  <b>Jeffersonians</b> <sup>[1]</sup> 59:12  <b>John</b> <sup>[1]</sup> 47:13  <b>Johnson</b> <sup>[3]</sup> 89:14 121:8,  23  <b>JONATHAN</b> <sup>[5]</sup> 1:18 2:3,  13 3:6 138:16  <b>judge</b> <sup>[10]</sup> 7:1 16:7,12 22:4  32:16 56:7 84:13 104:17  135:12,13  <b>judges</b> <sup>[7]</sup> 22:1 59:13,14,  17 100:2,21,22  <b>judging</b> <sup>[1]</sup> 91:17  <b>judicial</b> <sup>[5]</sup> 92:8 94:4 105:  11 129:17 130:4  <b>jump</b> <sup>[1]</sup> 75:12  <b>jumps</b> <sup>[1]</sup> 74:22  <b>jurisprudence</b> <sup>[1]</sup> 19:18  <b>JUSTICE</b> <sup>[477]</sup> 3:3,8 5:2,12  6:6 7:13,19 8:1,9,13 9:10,  16,24 10:1,4,11,17,22 11:2,  9,12,14,17,21,24,25 12:1,6,  10,18,22 13:5,19 14:2,5,11,  17,19 15:6,13 16:3,9,15,17  17:8,12,16,22,23,25 18:1,  11,24 19:4,12,14,20,23 20:  1,9,21 21:3,19 22:5,11,15  23:3,19,23 24:7,10,14,18  25:4,13,16,19,25 26:3,6,21,  22,23 27:3,8,11,12,13,15,  16,21 28:1,2,9,14,17 29:6,  9,12,15,18,19,20,22,23,24  30:1,2,3,4,6,9,15,21 31:6,  10,16,21 32:2,5 33:3,13,15</p>
---	---	--	--	--

## Official

<p><b>34</b>:1,3,4,11,12,13,15,20 <b>35</b>:4,7,10,12,14,20,22,23 <b>36</b>:1,5,9,11,15,18 <b>37</b>:1,4,4,6,9,13,21 <b>38</b>:1,6,9,15,17 <b>39</b>:2,4,7,9,12,15,18,21 <b>40</b>:1,4,8,12,19 <b>41</b>:2,5,8,11,21 <b>42</b>:1,3,15,18,22 <b>43</b>:1,20,23 <b>44</b>:1,8,11 <b>45</b>:1,15,16,17,18,21 <b>46</b>:2,3,3,4,18,21 <b>47</b>:2,9,18,25 <b>48</b>:3,5,6,6,7,20 <b>49</b>:15,17 <b>50</b>:8,10,10,11,17,20,23 <b>52</b>:11,15 <b>53</b>:8,9,9,10,15,20,25 <b>54</b>:6,10,24 <b>55</b>:5,7,18,21,24,24,25 <b>56</b>:3,12,17,21 <b>57</b>:10,19 <b>58</b>:8,11,16,21 <b>59</b>:17,22 <b>60</b>:11,18,21 <b>61</b>:6,7,8,10 <b>62</b>:15,16,25 <b>63</b>:2,6,21,24 <b>64</b>:10,15 <b>65</b>:6,16,21 <b>66</b>:1,3,5,8 <b>67</b>:25 <b>68</b>:7,23 <b>69</b>:12,21 <b>70</b>:10 <b>71</b>:16,17 <b>72</b>:13,22 <b>73</b>:17,19,20 <b>74</b>:3,4,21 <b>75</b>:1,4,8,14,15,23 <b>76</b>:22,23,24 <b>77</b>:19,21,25 <b>78</b>:18 <b>79</b>:10 <b>80</b>:1,4,10,17,24 <b>81</b>:10,19,25 <b>82</b>:14,19 <b>83</b>:4,12,17 <b>84</b>:3,21 <b>85</b>:8,9,23 <b>86</b>:10 <b>87</b>:3,22,25 <b>88</b>:5,11,20 <b>89</b>:1,3,5,6,7,7,8 <b>90</b>:5,24 <b>91</b>:13,14 <b>92</b>:4,20,22 <b>93</b>:3,10,21,25 <b>94</b>:6,17,20,23 <b>95</b>:1,6 <b>96</b>:1,2,12,14 <b>97</b>:1,25 <b>98</b>:2,4,5,6,7 <b>99</b>:10,22 <b>100</b>:14 <b>101</b>:3,6,25 <b>102</b>:20 <b>103</b>:17,17,18 <b>104</b>:3,7,7 <b>105</b>:15,15,16 <b>107</b>:4,24 <b>108</b>:14,15,15,16 <b>109</b>:24 <b>110</b>:4,9,21 <b>111</b>:11,16,25 <b>112</b>:6,8,10,10,11,16,18 <b>113</b>:10 <b>114</b>:3,24 <b>115</b>:2,21 <b>116</b>:13 <b>117</b>:9,10,10,11 <b>118</b>:3,23,24,24,25 <b>119</b>:21 <b>120</b>:2,4,6,9,11,18 <b>121</b>:13,15,21 <b>122</b>:2,15,20 <b>123</b>:13 <b>124</b>:9,14,15,17,18,22 <b>125</b>:23 <b>126</b>:5,13,24 <b>127</b>:10,14,20,24,25 <b>128</b>:3,12,22 <b>129</b>:1,16 <b>130</b>:3,10,15,23 <b>131</b>:5,12,21 <b>132</b>:6,7,25 <b>133</b>:11,16,21 <b>135</b>:5 <b>136</b>:21,21,23,24 <b>137</b>:16,20,25 <b>138</b>:7,7,8,9,10,11,14 <b>139</b>:1 <b>141</b>:13,15</p> <p><b>Justice's</b> [1] 134:14 <b>Justices</b> [1] 27:9</p> <hr/> <p><b>K</b></p> <p><b>KAGAN</b> [55] 14:2,5,11,17,19 15:6,13 16:17 26:22 29:18,22,24 30:2,4,9,15,21 31:6,10,16,21 32:2,5 34:3,12,15,20 35:4,7,10,12,14 48:6,7,20 49:15 50:8 61:11 73:19 75:23 76:22,24 77:25 78:18 80:4 96:2 105:15,16 107:4,24 108:14 133:16,21</p>	<p><b>138</b>:8 <b>139</b>:1</p> <p><b>Kagan's</b> [1] 130:10</p> <p><b>KAVANAUGH</b> [31] 35:20,23 36:5,9 53:9,10,20 54:6,10,24 55:5,7,18,21 73:17,20 74:21 75:14,16 87:22 88:20 112:10,11 114:3,24 115:2,21 116:13 117:9 121:21 138:10</p> <p><b>Kavanaugh's</b> [1] 121:15</p> <p><b>keep</b> [4] 23:19 49:25 77:24 98:17</p> <p><b>key</b> [2] 9:3 12:11</p> <p><b>kind</b> [15] 14:13 16:17,23 59:25 60:2,6 69:1 74:5 78:17 83:21 92:14 97:9 105:8 116:1 118:13</p> <p><b>knowable</b> [3] 44:15 128:10,13</p> <p><b>knowledge</b> [1] 47:12</p> <hr/> <p><b>L</b></p> <p><b>lack</b> [2] 17:5 96:4</p> <p><b>Laird</b> [1] 59:12</p> <p><b>landed</b> [1] 50:24</p> <p><b>language</b> [17] 13:21 36:6,7 39:16 44:17 51:19 56:19 67:3 98:19 108:22 113:6,10 116:2,2 121:10,11,18</p> <p><b>last</b> [6] 18:2 54:13 72:1 89:17 115:25 141:4</p> <p><b>later</b> [5] 12:10,19,20 14:22 89:15</p> <p><b>Laughter</b> [4] 30:8 32:6 80:11 85:22</p> <p><b>law</b> [19] 4:14 13:15 20:20 21:15,17,18 23:17 45:23,24 63:11 77:17 84:19 87:20 89:25 90:15 103:14 106:20 125:5 131:16</p> <p><b>lawful</b> [1] 91:22</p> <p><b>laws</b> [2] 8:2 140:2</p> <p><b>lawsuits</b> [1] 21:22</p> <p><b>lay</b> [1] 109:12</p> <p><b>layer</b> [1] 97:23</p> <p><b>lead</b> [3] 21:6,13 118:12</p> <p><b>leading</b> [2] 88:7 103:11</p> <p><b>leads</b> [1] 83:6</p> <p><b>leaning</b> [1] 50:3</p> <p><b>least</b> [14] 7:14 24:4 53:18 61:18 69:6 73:16 88:19 98:25 103:15 111:3 112:15 115:18 119:7 121:14</p> <p><b>leave</b> [1] 61:4</p> <p><b>leaves</b> [1] 91:20</p> <p><b>led</b> [1] 30:17</p> <p><b>left</b> [4] 41:25 54:18 80:3 83:5</p> <p><b>legal</b> [4] 100:25 125:8 133:2 136:7</p> <p><b>legality</b> [1] 92:2</p> <p><b>legislate</b> [1] 53:24</p> <p><b>legislated</b> [2] 12:15 54:16</p> <p><b>legislating</b> [1] 17:2</p>	<p><b>legislation</b> [24] 5:18,23 9:21 12:7 13:18 14:20,24 17:18 18:18,20 19:16 31:3 32:12 49:1 57:9 64:12 93:4 96:11,11,17 97:19 103:25 104:9 114:20</p> <p><b>legislation's</b> [1] 104:13</p> <p><b>legislators</b> [2] 49:5 122:9</p> <p><b>legislature</b> [7] 32:14 43:8 73:22 90:13,14 124:25 138:20</p> <p><b>legislatures</b> [1] 91:6</p> <p><b>legitimately</b> [1] 56:8</p> <p><b>lens</b> [1] 62:1</p> <p><b>less</b> [1] 34:24</p> <p><b>lesser</b> [1] 73:21</p> <p><b>letting</b> [1] 116:5</p> <p><b>level</b> [2] 71:18 129:9</p> <p><b>levels</b> [1] 61:20</p> <p><b>liberty</b> [2] 131:14,17</p> <p><b>life</b> [1] 8:16</p> <p><b>lift</b> [8] 4:6 28:15 31:14,22 32:10 34:6,18 38:13</p> <p><b>lifted</b> [1] 33:20</p> <p><b>lifting</b> [1] 33:5</p> <p><b>lifts</b> [1] 6:18</p> <p><b>light</b> [1] 95:21</p> <p><b>likelihood</b> [1] 7:23</p> <p><b>limit</b> [2] 25:23 34:4</p> <p><b>limited</b> [3] 16:25 24:8 105:25</p> <p><b>Limits</b> [24] 4:10,22,24 6:14 8:5 9:3 18:12,12 23:13,20 24:11,15 26:10,25 27:1,4,5,7 80:20 81:24 105:22 117:15 139:10 140:1</p> <p><b>line</b> [4] 52:14,17,19 110:14</p> <p><b>lines</b> [2] 76:25 136:25</p> <p><b>liquidation</b> [1] 54:7</p> <p><b>list</b> [6] 37:13 38:18 39:9 40:8 120:19 122:6</p> <p><b>listed</b> [3] 40:15 41:1 52:4</p> <p><b>listing</b> [2] 120:22 125:2</p> <p><b>litigants</b> [6] 5:25 40:16 42:7 51:10 53:5 139:22</p> <p><b>litigation</b> [4] 21:24 64:4 112:21 124:10</p> <p><b>little</b> [14] 15:14 18:2 20:4 25:9 46:12 56:19 61:10 77:2 78:2 97:15 108:25 109:12 115:2 132:10</p> <p><b>local</b> [4] 61:24 119:14,18 122:8</p> <p><b>locate</b> [1] 72:9</p> <p><b>locates</b> [1] 80:15</p> <p><b>logical</b> [1] 34:11</p> <p><b>logically</b> [1] 13:5</p> <p><b>long</b> [1] 74:8</p> <p><b>look</b> [19] 13:20,21 34:17 37:9 41:13 44:20 63:12 70:14 71:17 72:2 74:21 75:6,12 91:2,16 101:12 108:5 109:12 121:11</p> <p><b>looked</b> [4] 122:10 126:3,3,</p>	<p>21</p> <p><b>looking</b> [4] 48:10 72:23 108:4 126:13</p> <p><b>looks</b> [1] 45:10</p> <p><b>lot</b> [13] 10:1,5 31:11 38:9 42:18 45:13 48:9 99:4 103:5 107:14,15 132:1 136:25</p> <p><b>lots</b> [1] 48:17</p> <p><b>lower</b> [6] 8:4 61:20 79:15 94:11 95:13 101:17</p> <p><b>Lucia</b> [1] 140:17</p> <hr/> <p><b>M</b></p> <p><b>made</b> [19] 15:1,4 45:14 54:22 60:10,13 61:2 63:25 67:2 78:13,19,24 79:8 105:8 115:8 132:8 135:19 140:19,23</p> <p><b>main</b> [1] 66:19</p> <p><b>major</b> [2] 106:22,24</p> <p><b>majority</b> [7] 31:23,25 34:25 80:12 90:12 97:18 125:7</p> <p><b>mandamus</b> [1] 17:6</p> <p><b>mandated</b> [3] 87:21 89:25 90:2</p> <p><b>mandatory</b> [2] 51:6 74:20</p> <p><b>manner</b> [7] 73:6,6 74:10 81:16 138:21,24 139:8</p> <p><b>many</b> [5] 21:12 65:11 70:7,24 107:10</p> <p><b>Marshall</b> [1] 59:18</p> <p><b>matter</b> [5] 1:13 15:19 22:1 49:23 57:15</p> <p><b>McClung</b> [1] 17:4</p> <p><b>McPherson</b> [1] 70:15</p> <p><b>mean</b> [30] 10:12 14:6 15:22 16:16 26:25 27:18 28:9 33:22 41:22 45:22 48:8,12 51:14 56:18 59:9 60:1,15 61:14 64:3 68:2 71:18 73:25 74:24 76:13 77:19,24 78:9,10 86:11 123:18</p> <p><b>meaning</b> [11] 22:12 23:11 35:25 36:6 40:17 53:18 102:2,14,23 109:17,18</p> <p><b>meaningful</b> [1] 127:23</p> <p><b>means</b> [16] 10:12,13 12:24 19:15 33:9 35:7 49:11 57:4 72:12 73:24,25 76:5,7 116:1 118:4,5</p> <p><b>meant</b> [1] 114:19</p> <p><b>mechanism</b> [5] 12:17 17:2 32:12 130:9,11</p> <p><b>mechanisms</b> [1] 54:17</p> <p><b>meet</b> [3] 4:20 127:17 134:21</p> <p><b>meeting</b> [1] 127:19</p> <p><b>member</b> [5] 8:3 32:15 43:17 47:16 104:15</p> <p><b>members</b> [18] 3:22 4:15,17 7:2 19:13 32:16 43:21 51:15,22 52:9 80:8 104:15,17,18,25 123:10,11,24</p> <p><b>mentioned</b> [3] 51:2 54:13</p>	<p><b>62</b>:23</p> <p><b>mere</b> [2] 34:5 67:9</p> <p><b>merits</b> [2] 79:17 124:7</p> <p><b>messiness</b> [1] 136:14</p> <p><b>met</b> [2] 65:22 139:17</p> <p><b>Michigan</b> [2] 76:10,10</p> <p><b>Midnight</b> [1] 59:13</p> <p><b>midstream</b> [1] 90:21</p> <p><b>might</b> [19] 22:1,20 36:22 47:13 56:19 60:4,23 61:23 86:11 92:7 109:12 111:21 118:12 120:15 122:13 132:8,18 133:7 139:2</p> <p><b>military</b> [3] 39:22 91:22 92:1</p> <p><b>million</b> [1] 117:6</p> <p><b>millions</b> [1] 4:25</p> <p><b>mind</b> [4] 11:17 13:6,11 61:15</p> <p><b>minor</b> [3] 106:1,9,20</p> <p><b>minute</b> [2] 9:11 130:13</p> <p><b>mirrors</b> [1] 19:16</p> <p><b>Misdemeanors</b> [1] 52:3</p> <p><b>miserable</b> [1] 49:7</p> <p><b>misnomer</b> [1] 20:6</p> <p><b>mistake</b> [1] 67:3</p> <p><b>MITCHELL</b> [207] 1:18 2:3,13 3:5,6,8 5:2,11 6:13 7:18,21 8:11,19 9:15,23,25 10:3,10,16,20,24 11:5,11,13,16,20,23 12:5,11,20 13:4,12,24 14:2,4,10,16,18 15:7,19 16:24 17:10,14 18:10 19:3,11,22,25 20:8,14 21:2,14 22:10,14,18 23:8,22 24:6,9,17,21 25:7,15,18,24 26:2,4,7 27:2,5,10,20,25 28:6,12,15,23 29:8,10,14 30:14,20,23 31:7,15,19 32:1,7 33:12,14,22 34:10,19 35:1,5,9,11,13,16 36:4,8,16,20 37:3,8,12,20,25 38:4,8,11,16,19 39:3,6,8,11,14,17,20,24 40:3,7,11,13,23 41:4,7,10,12 42:1,13,14,17,21,25 43:3,21,25 44:5,9,12 45:9,21 46:11,19,24 47:8,11,23 48:1,4,19,24 49:22 50:9,15,18,22,25 52:13,16 53:19 54:5,9,12 55:2,6,13,20,23 56:2,11,13,20 57:3,18 58:2,9,12,20 59:3 60:10,13,20,22 62:14,19 63:1,4,7,23 64:7,14,25 65:11,19 66:2,4 78:19 82:4 108:18 134:2 138:15,16,18 141:14</p> <p><b>mitigate</b> [1] 140:9</p> <p><b>Mrm-hmm</b> [23] 10:3,10,16 11:16 12:5 19:3 21:2 22:10 26:6 27:25 37:8,12,25 39:8,17 42:17,25 47:8 53:19 56:20 57:18 63:23 110:9</p> <p><b>modify</b> [1] 45:5</p>
--	---	---	--	---

## Official

<p><b>moment</b> <sup>[8]</sup> 9:11 <b>85:6 92:6</b>, 11,25 <b>93:13 95:7 125:12</b></p> <p><b>Moore</b> <sup>[1]</sup> 121:10</p> <p><b>moot</b> <sup>[1]</sup> 71:14</p> <p><b>morning</b> <sup>[1]</sup> 3:4</p> <p><b>most</b> <sup>[3]</sup> 75:23 <b>97:11 114:22</b></p> <p><b>motivation</b> <sup>[1]</sup> 45:12</p> <p><b>motivations</b> <sup>[1]</sup> 49:5</p> <p><b>move</b> <sup>[4]</sup> 8:6 <b>36:19 37:2 95:12</b></p> <p><b>mover</b> <sup>[1]</sup> 78:6</p> <p><b>moving</b> <sup>[1]</sup> 139:18</p> <p><b>Ms</b> <sup>[35]</sup> 124:16,17,18,22 <b>126:1,8,15 127:4,12,16,21 128:2,7,15,25 129:8,20 130:7,18 131:3,8,15,25 132:16 133:4,14,20 134:9 135:17 137:6,18,22 138:2,13,18</b></p> <p><b>much</b> <sup>[10]</sup> 5:3 <b>15:20 44:20 61:1 78:14 84:7 89:8,18 91:5,8</b></p> <p><b>multiple</b> <sup>[2]</sup> 100:22,22</p> <p><b>MURRAY</b> <sup>[108]</sup> 1:20 <b>2:6 66:5,6,8 68:6 69:9,16 70:6,24 72:8,16 73:3 74:8 75:13,15 76:15 77:7,20 78:21 79:16 80:1,8,12,23 81:7,14,23 82:12,15,23 83:7 84:2 85:2 86:6,22 87:13 88:20 89:20 90:18 91:3,25 92:13,21 93:1,7,19,22 94:1,13,18,22,25 95:4,15 96:1,9,13,16 97:10 98:1,18 99:17 100:4,24 101:5,7 102:9 103:8 104:2,14 105:16 106:12 107:19 108:1 109:16,25 110:6,10 111:2,13,19 112:4,7,9 113:9 114:17 115:1,13 116:12 118:2,16 119:20 120:3,5,8,10,12 121:7,23 122:12,16,22 123:19 124:11 132:21 138:18 140:8</b></p> <p><b>Murray's</b> <sup>[2]</sup> 140:12 <b>141:2</b></p> <p><b>must</b> <sup>[9]</sup> 8:3 <b>10:13 19:8 32:5 84:25 125:6 127:16 138:23 139:17</b></p> <p><b>mutually</b> <sup>[1]</sup> 23:8</p> <hr/> <p style="text-align: center;"><b>N</b></p> <hr/> <p><b>namely</b> <sup>[1]</sup> 115:6</p> <p><b>narrow</b> <sup>[2]</sup> 79:6 <b>111:10</b></p> <p><b>narrower</b> <sup>[3]</sup> 72:20,23 <b>109:22</b></p> <p><b>narrowly</b> <sup>[1]</sup> 47:19</p> <p><b>nation</b> <sup>[2]</sup> 76:18 <b>77:6</b></p> <p><b>nation's</b> <sup>[1]</sup> 66:11</p> <p><b>national</b> <sup>[17]</sup> 62:7 <b>68:3,4 69:4,7,10 70:13,20 76:4,6,20 78:2 106:5,6 107:12 112:13 118:11</b></p> <p><b>nationwide</b> <sup>[1]</sup> 136:6</p> <p><b>natural</b> <sup>[1]</sup> 81:2</p>	<p><b>natural-born</b> <sup>[2]</sup> 108:9 <b>136:2</b></p> <p><b>near</b> <sup>[1]</sup> 86:19</p> <p><b>nearly</b> <sup>[3]</sup> 72:12 <b>73:5,8</b></p> <p><b>necessarily</b> <sup>[4]</sup> 16:21 <b>41:21 44:13 134:11</b></p> <p><b>necessary</b> <sup>[7]</sup> 23:16 <b>64:12 93:4 96:15,16 104:13 115:24</b></p> <p><b>need</b> <sup>[10]</sup> 5:14 <b>7:6 15:11 16:15 93:7 103:25 104:6,8 126:3 136:12</b></p> <p><b>needed</b> <sup>[2]</sup> 56:24 <b>79:21</b></p> <p><b>needing</b> <sup>[1]</sup> 12:7</p> <p><b>needs</b> <sup>[5]</sup> 7:11 <b>26:15 65:12 110:16 125:20</b></p> <p><b>nefarious</b> <sup>[1]</sup> 46:25</p> <p><b>negate</b> <sup>[3]</sup> 82:25 <b>84:5,16</b></p> <p><b>negating</b> <sup>[1]</sup> 92:18</p> <p><b>Neither</b> <sup>[2]</sup> 52:8,9</p> <p><b>never</b> <sup>[8]</sup> 64:25 <b>66:23 79:19 85:21 89:11 98:19 113:20 121:6</b></p> <p><b>nevertheless</b> <sup>[3]</sup> 93:1,23 <b>94:18</b></p> <p><b>new</b> <sup>[5]</sup> 7:24 <b>9:2 55:5,7 56:5</b></p> <p><b>next</b> <sup>[6]</sup> 53:14 <b>64:3 116:15 123:17 128:6 141:7</b></p> <p><b>nobody</b> <sup>[1]</sup> 103:24</p> <p><b>Nobody's</b> <sup>[1]</sup> 81:1</p> <p><b>nominated</b> <sup>[1]</sup> 118:21</p> <p><b>non-mutual</b> <sup>[3]</sup> 21:9,15 <b>135:6</b></p> <p><b>non-official</b> <sup>[1]</sup> 111:10</p> <p><b>non-precedential</b> <sup>[2]</sup> 12:9 <b>13:19</b></p> <p><b>non-self-executing</b> <sup>[4]</sup> 5:14,15,16 <b>20:18</b></p> <p><b>non-self-execution</b> <sup>[1]</sup> 11:6</p> <p><b>None</b> <sup>[1]</sup> 65:21</p> <p><b>nor</b> <sup>[4]</sup> 60:5 <b>74:5 84:17 139:7</b></p> <p><b>NORMA</b> <sup>[1]</sup> 1:6</p> <p><b>normal</b> <sup>[1]</sup> 91:10</p> <p><b>normally</b> <sup>[2]</sup> 5:16 <b>15:21</b></p> <p><b>note</b> <sup>[1]</sup> 84:11</p> <p><b>nothing</b> <sup>[6]</sup> 12:23 <b>19:15 35:2 73:3 82:17 125:14</b></p> <p><b>notice</b> <sup>[1]</sup> 96:22</p> <p><b>nouns</b> <sup>[1]</sup> 109:14</p> <p><b>novo</b> <sup>[4]</sup> 79:12 <b>133:3,5,12</b></p> <p><b>nuanced</b> <sup>[1]</sup> 25:9</p> <p><b>nullify</b> <sup>[1]</sup> 16:11</p> <p><b>number</b> <sup>[10]</sup> 69:3 <b>70:8 85:24 102:10,12 104:21 105:6 133:23 134:1,4</b></p> <p><b>numerous</b> <sup>[1]</sup> 3:15</p> <hr/> <p style="text-align: center;"><b>O</b></p> <hr/> <p><b>oath</b> <sup>[13]</sup> 6:8 <b>7:16 38:2 44:24 47:9,14,16 67:5,23 111:5,7,8,14</b></p>	<p><b>oath-breakers</b> <sup>[1]</sup> 97:14</p> <p><b>oath-breaking</b> <sup>[1]</sup> 66:22</p> <p><b>oaths</b> <sup>[1]</sup> 116:20</p> <p><b>Obama</b> <sup>[1]</sup> 74:15</p> <p><b>obey</b> <sup>[3]</sup> 92:11 <b>94:11 95:13</b></p> <p><b>objection</b> <sup>[2]</sup> 79:4 <b>126:10</b></p> <p><b>objective</b> <sup>[3]</sup> 128:9,10,13</p> <p><b>obstacle</b> <sup>[1]</sup> 33:1</p> <p><b>obtain</b> <sup>[4]</sup> 7:10,12 <b>29:4 128:9</b></p> <p><b>obtained</b> <sup>[1]</sup> 6:23</p> <p><b>obtaining</b> <sup>[1]</sup> 139:20</p> <p><b>obvious</b> <sup>[1]</sup> 107:25</p> <p><b>obviously</b> <sup>[3]</sup> 51:12 <b>114:8 115:23</b></p> <p><b>occurred</b> <sup>[1]</sup> 65:15</p> <p><b>occurs</b> <sup>[1]</sup> 21:24</p> <p><b>odd</b> <sup>[3]</sup> 49:9 <b>97:15 109:12</b></p> <p><b>offense</b> <sup>[2]</sup> 33:9,11</p> <p><b>office</b> <sup>[114]</sup> 4:7,8,12 <b>6:8,17,17 7:6,8 8:15,17 9:5,9 10:15 12:3 18:15 19:1,2,6 26:16 29:7,11 30:18 32:22 37:20 43:18 44:23 46:8,14 48:11,22,23 49:16 50:4,5 52:2 55:12 57:17,22,25 58:22 59:6 63:1,11 66:18,24 67:7,10,18 70:7 81:11 82:3,4,9,16,17 83:5,20 84:1,12,14,24 91:12,20 92:24,25 94:16,19 95:17,18,19,23,24 97:12,14 106:7 109:1,8,13,19 110:23 111:5,12,14,17 112:3,13 114:8,13 115:5,9 117:24 118:14 121:11,24 122:1,18,21,22,25 123:2,10 124:2 125:13 139:18,18 140:14 141:4,10</b></p> <p><b>office/officer</b> <sup>[1]</sup> 29:17</p> <p><b>officeholders</b> <sup>[4]</sup> 13:8 <b>45:20 53:4 59:1</b></p> <p><b>officer</b> <sup>[41]</sup> 3:18,19 <b>23:11 30:5,19 37:2 38:21 42:3,20 46:9,16 47:14 48:11 49:11,14 50:3,7,13 52:17 53:1 57:11 58:9 67:7 69:20 80:6 83:9,15 91:15 92:7 93:22 94:2 108:17 109:1,13,17 110:23 111:4 112:3 140:9,15,22</b></p> <p><b>officers</b> <sup>[38]</sup> 3:25 <b>16:22,23 17:3 39:23 43:4,7,9,11,14 51:5,14,17,20 52:1,5,10,13,20,20 53:1,2 54:4 59:5 84:22 91:22 92:1 108:20 109:6,22 110:1,7 111:12,13,22 112:1 140:18,24</b></p> <p><b>offices</b> <sup>[23]</sup> 10:7 <b>37:14,24 39:10,23,24 40:1,25 41:25 43:5,15,22 49:19,24 61:9,25 69:4,4 70:8 84:19 122:25 123:4,11</b></p> <p><b>official</b> <sup>[8]</sup> 8:6 <b>16:11 32:21</b></p>	<p><b>59:21 83:14 94:11 95:13 111:15</b></p> <p><b>officials</b> <sup>[9]</sup> 3:20 <b>4:1 13:3,9 17:6 49:12 51:21,21 58:5</b></p> <p><b>often</b> <sup>[1]</sup> 20:9</p> <p><b>oftentimes</b> <sup>[2]</sup> 115:16 <b>132:4</b></p> <p><b>Okay</b> <sup>[26]</sup> 11:12 <b>26:4 29:9,24 34:10 37:21 41:7 45:15 48:5 57:10 59:22 61:6 80:17,24 81:3 82:14 93:12 94:5,24 95:3 112:6,6 114:3 118:3 127:20 136:18</b></p> <p><b>old</b> <sup>[3]</sup> 25:11 <b>26:9 81:2</b></p> <p><b>once</b> <sup>[3]</sup> 97:12 <b>117:19 118:18</b></p> <p><b>one</b> <sup>[51]</sup> 11:15 <b>13:1 18:2 24:4 31:24 33:7 34:5,25 35:15 37:22,24 45:3 48:13 49:24,25 51:8 54:18 58:22 59:23 61:9 62:22 65:11 67:11 71:7 73:23 83:8,10,22 86:17 94:7,8 96:23 97:12 102:10,21 104:5 106:2 109:2 110:16 111:21 114:7,9 117:18 120:1 129:9 132:10,22 133:23 135:11 136:24 139:1</b></p> <p><b>one-off</b> <sup>[2]</sup> 10:25 <b>11:2</b></p> <p><b>one-offs</b> <sup>[1]</sup> 78:13</p> <p><b>ones</b> <sup>[1]</sup> 59:2</p> <p><b>only</b> <sup>[44]</sup> 3:20,25 <b>4:16,24 7:7 9:9 10:20 11:1 14:24 16:11 17:12 18:12 20:16 29:10 31:1 34:22 35:10 43:11 46:23 47:5,5 48:20 51:18 53:5,16 54:18 55:13 57:4,24 58:7 59:8,16,20 68:6 75:19 77:5 83:22 91:11 92:17 95:19,23 97:16 98:24 139:6</b></p> <p><b>open</b> <sup>[1]</sup> 61:4</p> <p><b>open-and-shut</b> <sup>[1]</sup> 134:20</p> <p><b>opening</b> <sup>[4]</sup> 41:15 <b>64:20 65:1,2</b></p> <p><b>opens</b> <sup>[1]</sup> 21:22</p> <p><b>operates</b> <sup>[1]</sup> 93:3</p> <p><b>opine</b> <sup>[1]</sup> 102:14</p> <p><b>opined</b> <sup>[1]</sup> 102:15</p> <p><b>opines</b> <sup>[1]</sup> 53:15</p> <p><b>opinion</b> <sup>[7]</sup> 17:16 <b>36:11 87:25 89:21 102:6 103:9 112:16</b></p> <p><b>opportunity</b> <sup>[11]</sup> 30:5 <b>60:9 96:22,25 101:9 108:18 113:12,13,14,22,23 119:13,19 134:8</b></p> <p><b>opposed</b> <sup>[5]</sup> 59:2 <b>86:17</b></p> <p><b>opposite</b> <sup>[1]</sup> 22:16</p> <p><b>oral</b> <sup>[7]</sup> 1:13 <b>2:2,5,9 3:6 66:6 124:20</b></p> <p><b>order</b> <sup>[5]</sup> 85:20 <b>89:17 93:8 94:11 95:14</b></p> <p><b>ordering</b> <sup>[1]</sup> 90:15</p>	<p><b>orders</b> <sup>[1]</sup> 91:23</p> <p><b>ordinarily</b> <sup>[1]</sup> 78:22</p> <p><b>ordinary</b> <sup>[1]</sup> 87:20</p> <p><b>organized</b> <sup>[2]</sup> 65:9,13</p> <p><b>original</b> <sup>[5]</sup> 35:25 <b>36:24 42:23 44:2 53:18</b></p> <p><b>other</b> <sup>[69]</sup> 15:22 <b>21:6,12,12,22,24 22:3,18 23:9,20 28:1 36:11,21 39:22 41:17 42:2 46:20 47:6,12 54:22 59:11 61:1 63:14 66:23 67:12 69:16 71:23 74:11 76:1 77:13,13,15 79:21 82:15 85:13 87:4,14,24 90:16 91:22 95:21 96:19 102:21 103:13,19 104:5 107:17,20 108:10 109:3 112:13 113:20 121:16 123:10 125:9 129:19,24 131:1,9 133:3,18 134:8,23 135:2 136:1 137:1,2 138:24 141:11</b></p> <p><b>others</b> <sup>[7]</sup> 47:20 <b>50:14 85:18 86:1 130:1 132:12 139:3</b></p> <p><b>otherwise</b> <sup>[6]</sup> 36:7 <b>92:18 103:14 118:12 123:7 127:8</b></p> <p><b>ouster</b> <sup>[1]</sup> 32:22</p> <p><b>out</b> <sup>[26]</sup> 16:3 <b>17:12,13 28:2 30:15 32:3 35:24 41:14 42:7 49:25 55:6 57:25 58:3,13 74:22 75:2,12 88:6 95:19 97:18 115:24,25 117:24 121:22 135:19 136:13</b></p> <p><b>outcome</b> <sup>[1]</sup> 90:8</p> <p><b>outside</b> <sup>[3]</sup> 32:17 <b>57:23 81:21</b></p> <p><b>over</b> <sup>[8]</sup> 80:6 <b>89:17 107:7,10 111:23 112:12 118:20 121:8</b></p> <p><b>overall</b> <sup>[2]</sup> 74:6,6</p> <p><b>overcome</b> <sup>[1]</sup> 118:14</p> <p><b>overthrow</b> <sup>[4]</sup> 65:10,13,17,20</p> <p><b>own</b> <sup>[23]</sup> 8:23 <b>13:3,7 16:19,20,22 23:1 68:4 77:5,8,17 79:7,24,25 91:6,7 100:3 106:8 107:21 108:11,12 117:22 138:3</b></p> <hr/> <p style="text-align: center;"><b>P</b></p> <hr/> <p><b>p.m</b> <sup>[1]</sup> 141:17</p> <p><b>PAGE</b> <sup>[3]</sup> 2:2 <b>26:24 79:18</b></p> <p><b>pages</b> <sup>[1]</sup> 124:6</p> <p><b>painful</b> <sup>[1]</sup> 116:19</p> <p><b>panoply</b> <sup>[1]</sup> 49:19</p> <p><b>papers</b> <sup>[2]</sup> 108:5 <b>129:2</b></p> <p><b>paperwork</b> <sup>[3]</sup> 128:17,21 <b>134:17</b></p> <p><b>pardon</b> <sup>[5]</sup> 32:10 <b>33:6,8,20 84:8</b></p> <p><b>pardons</b> <sup>[1]</sup> 114:23</p> <p><b>part</b> <sup>[6]</sup> 12:7 <b>42:4 45:10 54:13 122:21 126:4</b></p>
---	---	---	--	---

## Official

<p><b>participate</b> <sup>[1]</sup> 126:20  <b>participated</b> <sup>[2]</sup> 6:9 30:17  <b>participation</b> <sup>[2]</sup> 127:1,2  <b>particular</b> <sup>[13]</sup> 16:12 20:11 27:17 48:17 61:3 73:24 76:20 79:24 83:21 87:18 109:20 110:19 135:8  <b>particularly</b> <sup>[6]</sup> 12:3 68:24 101:21 108:19 110:25 135:20  <b>parties</b> <sup>[3]</sup> 100:7 106:22,24  <b>partly</b> <sup>[1]</sup> 36:10  <b>parts</b> <sup>[3]</sup> 37:10 41:17 42:2  <b>party</b> <sup>[8]</sup> 68:16 95:8 106:1,9,20 126:19 127:1,7  <b>pass</b> <sup>[2]</sup> 49:4 97:19  <b>passed</b> <sup>[1]</sup> 17:20  <b>passes</b> <sup>[1]</sup> 90:15  <b>past</b> <sup>[1]</sup> 108:4  <b>Paulsen</b> <sup>[1]</sup> 32:4  <b>peaceful</b> <sup>[1]</sup> 66:15  <b>penalty</b> <sup>[1]</sup> 115:19  <b>pending</b> <sup>[1]</sup> 97:7  <b>people</b> <sup>[27]</sup> 21:4 22:12 44:13,21,24 48:21 59:14 62:3,20 63:9 69:3,23 70:17 71:21 84:23 85:5 86:12 90:20 92:7 103:1 106:23 110:11 116:4,5 118:8 120:22 137:7  <b>perceive</b> <sup>[1]</sup> 127:18  <b>perfectly</b> <sup>[1]</sup> 49:20  <b>perhaps</b> <sup>[9]</sup> 8:22 21:12 22:24 36:22 42:1 99:15 111:22 129:18 131:6  <b>period</b> <sup>[3]</sup> 68:25 88:5 91:21  <b>permissible</b> <sup>[1]</sup> 18:25  <b>permit</b> <sup>[9]</sup> 9:13,21 10:14 21:5 23:25 84:22  <b>permitted</b> <sup>[3]</sup> 7:22 96:5 113:3  <b>person</b> <sup>[24]</sup> 8:20 25:10 33:10,17,18 34:8 37:14 38:1,2 39:12 93:15,16 95:17 98:15,17 102:5 109:18 111:4 121:4,5,16 129:3,9 134:20  <b>perspective</b> <sup>[1]</sup> 42:24  <b>pervasive</b> <sup>[1]</sup> 106:5  <b>Petitioner</b> <sup>[8]</sup> 1:4,19 2:4,14 3:7 47:5 125:5 138:17  <b>Petitioner's</b> <sup>[1]</sup> 64:17  <b>phrase</b> <sup>[6]</sup> 11:7 20:15 40:17,22 41:17 53:1  <b>phrased</b> <sup>[2]</sup> 40:3 41:14  <b>phrases</b> <sup>[2]</sup> 22:12 67:9  <b>pick</b> <sup>[1]</sup> 63:13  <b>picked</b> <sup>[2]</sup> 91:6 106:24  <b>pin</b> <sup>[1]</sup> 46:4  <b>place</b> <sup>[8]</sup> 33:10 34:23 72:1 83:10 92:9,14 112:19 137:23  <b>placed</b> <sup>[1]</sup> 9:18  <b>plain</b> <sup>[2]</sup> 85:11 100:12  <b>plausibly</b> <sup>[1]</sup> 65:4</p>	<p><b>play</b> <sup>[4]</sup> 58:3 90:19 93:23 136:13  <b>played</b> <sup>[1]</sup> 58:13  <b>please</b> <sup>[9]</sup> 3:9 14:4 15:6 17:25 66:9 94:23 95:1,3 124:23  <b>plenary</b> <sup>[6]</sup> 72:12 73:5,8 81:8 90:7,7  <b>plethora</b> <sup>[1]</sup> 69:2  <b>plus</b> <sup>[3]</sup> 14:14 35:15 126:4  <b>point</b> <sup>[46]</sup> 6:1 12:11 19:9 25:17,22 26:24 29:17 36:10 37:2 38:13 41:3,9,14,22 42:7 49:14 53:21 59:23 60:2,3 64:10 65:16 71:1,18 78:17,24 79:19 82:4 87:22 88:25 89:4 95:4 102:13 105:8 108:17 109:2 111:20 115:14 119:4 120:12 121:15 122:4,12 130:10 133:24 134:15  <b>pointed</b> <sup>[4]</sup> 32:3 88:6 94:7 121:21  <b>points</b> <sup>[6]</sup> 28:2 78:21 102:10 116:12 119:20 135:4  <b>poked</b> <sup>[1]</sup> 108:25  <b>police</b> <sup>[1]</sup> 71:11  <b>policy</b> <sup>[4]</sup> 13:20 16:4 45:12 49:23  <b>political</b> <sup>[6]</sup> 102:19 106:9 126:19 127:1,7 134:6  <b>polls</b> <sup>[2]</sup> 91:1 105:14  <b>position</b> <sup>[20]</sup> 18:4,5 23:6 31:6 41:3 59:9 64:23 72:6 83:16 85:11,12 102:21 103:19 112:24 114:4,5,6 116:6 133:9,17  <b>positions</b> <sup>[4]</sup> 59:14 67:4 70:12 134:24  <b>possibility</b> <sup>[7]</sup> 21:6,22 55:6 64:4 100:10 125:7,10  <b>possible</b> <sup>[6]</sup> 61:20 66:25 102:3 133:15 140:5,9  <b>potential</b> <sup>[4]</sup> 41:15 86:7 119:2 136:8  <b>potentially</b> <sup>[4]</sup> 4:25 36:12 135:14 137:3  <b>power</b> <sup>[54]</sup> 32:11 61:23 66:15 67:4,15 71:9,11,20,24,25 72:11,18,19,20,23,23,25 73:5,8,12,12,22,22 74:9,17 75:21 77:1,8 80:16 81:8,15 84:5,16 90:4,6,17 104:17 106:16 107:7,9,22,23 108:11 110:16 112:12 113:4 116:21 118:20,22 125:15 131:4 135:1 139:4,8  <b>powerful</b> <sup>[1]</sup> 113:6  <b>powers</b> <sup>[7]</sup> 17:21 68:22 80:5,13 105:17 124:24 133:25  <b>practical</b> <sup>[1]</sup> 16:1  <b>practice</b> <sup>[1]</sup> 54:1  <b>praising</b> <sup>[1]</sup> 102:19  <b>precedent</b> <sup>[6]</sup> 12:12,14 53:</p>	<p>20,23 59:11,19  <b>precedential</b> <sup>[2]</sup> 11:22 13:23  <b>precedents</b> <sup>[2]</sup> 17:4 18:23  <b>precisely</b> <sup>[1]</sup> 131:16  <b>preclusive</b> <sup>[2]</sup> 21:16,21  <b>predict</b> <sup>[1]</sup> 7:22  <b>predictions</b> <sup>[1]</sup> 85:21  <b>preempt</b> <sup>[1]</sup> 96:11  <b>preemption</b> <sup>[9]</sup> 10:18 14:8 15:10 35:18 54:21,21 60:3 97:22 117:25  <b>preempts</b> <sup>[2]</sup> 16:20 117:16  <b>preexisting</b> <sup>[1]</sup> 85:1  <b>prepositions</b> <sup>[2]</sup> 67:9 109:14  <b>prerogative</b> <sup>[1]</sup> 138:23  <b>present</b> <sup>[5]</sup> 79:22 84:17 96:25 98:20 101:9  <b>presented</b> <sup>[2]</sup> 101:13 129:9  <b>preserve</b> <sup>[1]</sup> 108:11  <b>preside</b> <sup>[1]</sup> 111:23  <b>presidency</b> <sup>[28]</sup> 9:6 12:3 24:12 37:23 40:25 42:9 43:12,13 46:7,13 49:25 61:9,13,15 62:7,12,17,23,24 63:10 92:3 95:20 104:20 119:19 120:16 122:1 123:9 139:12  <b>President</b> <sup>[145]</sup> 3:11,12,16,17,22 4:5 13:10 19:8 21:10 22:2 24:19 25:2 26:15,17 28:24 29:2 30:16 33:8 38:18 39:1,21,22 40:4,5,14,15 42:11 43:6 46:6,9,15 47:6,12,12,14,15,17,22 49:9,21 51:4,7,12,15,16,22,23,25,25 52:3,4,7,9,19,23 57:12,24 58:7 59:4,5,25 62:21 65:3 66:14,17,18,23 67:12 74:15 76:1,2,3 77:15,15,22 78:24 79:7,16 83:2 84:8,11,18 86:17 89:14,14 90:9 91:18,19,23 92:16,19 93:16,16 94:12,14,15 98:10 99:13 101:22 102:2,10,14,18,23 103:10 104:23 105:3 107:18,20 108:21 109:5 110:1,3,12,13,17 111:1,5 113:11,19 114:15 116:24 117:5,19,23 118:21 120:19,22,25 121:2,2,9,9,18 122:6 123:11,11,21 124:1,5 135:15 140:13 141:6,7,9  <b>president's</b> <sup>[1]</sup> 110:16  <b>presidential</b> <sup>[36]</sup> 4:3 21:1 23:20 26:8 38:2 43:10 47:24 55:15 66:15 67:14,21 71:10 72:4,10 74:10 81:16 86:4 90:4 96:5 110:11 118:17 119:3,10,13,24 122:16,24 123:17,21 124:1 125:3,15 130:21 135:2 138:21</p>	<p>139:5  <b>presidents</b> <sup>[2]</sup> 48:22 89:16  <b>pressing</b> <sup>[1]</sup> 61:18  <b>presumably</b> <sup>[1]</sup> 87:8  <b>pretty</b> <sup>[3]</sup> 7:14,20 86:4  <b>prevent</b> <sup>[2]</sup> 69:25 114:7  <b>preventing</b> <sup>[1]</sup> 119:17  <b>previously</b> <sup>[2]</sup> 38:2 44:23  <b>primary</b> <sup>[5]</sup> 19:6 75:9 125:3,11 135:25  <b>principal</b> <sup>[2]</sup> 46:5,8  <b>principle</b> <sup>[6]</sup> 17:7 107:6,7,11 116:11 117:25  <b>principles</b> <sup>[7]</sup> 15:20 90:19 91:10 106:13,18 136:7,16  <b>prior</b> <sup>[3]</sup> 4:15 34:8 140:4  <b>private</b> <sup>[1]</sup> 20:12  <b>privilege</b> <sup>[1]</sup> 71:20  <b>Pro</b> <sup>[6]</sup> 43:7 52:19 109:5 110:1 111:1,5  <b>probably</b> <sup>[2]</sup> 25:16 91:3  <b>probative</b> <sup>[3]</sup> 36:5,8,21  <b>problem</b> <sup>[4]</sup> 32:8 107:1 118:9 139:14  <b>problems</b> <sup>[2]</sup> 51:9 106:25  <b>procedural</b> <sup>[1]</sup> 123:22  <b>procedure</b> <sup>[12]</sup> 77:18 84:20 92:14 93:6,8 104:22 124:12 128:19,23 129:11 130:25 132:14  <b>procedures</b> <sup>[3]</sup> 60:4 108:2 135:7  <b>proceed</b> <sup>[1]</sup> 137:20  <b>proceeding</b> <sup>[6]</sup> 56:1,23 61:3 79:20 131:1 132:22  <b>proceedings</b> <sup>[3]</sup> 60:16 85:13 131:2  <b>process</b> <sup>[32]</sup> 57:23,25 60:1,11,23,25 68:18 71:22 72:5 75:16,19 78:14 96:21,22 105:11 112:21 113:8,16,20,25 125:18 129:23 131:7,10,12,13,19 132:10,11,18 136:3 137:8  <b>processes</b> <sup>[10]</sup> 44:13 53:13 68:20 75:1,2,11 113:1 136:12 137:8,19  <b>proclaims</b> <sup>[1]</sup> 98:8  <b>produce</b> <sup>[1]</sup> 22:25  <b>Professor</b> <sup>[6]</sup> 22:24 23:1 32:3,3 102:13 105:7  <b>profound</b> <sup>[1]</sup> 44:4  <b>prohibit</b> <sup>[1]</sup> 92:7  <b>prohibited</b> <sup>[1]</sup> 33:17  <b>prohibits</b> <sup>[2]</sup> 18:12 114:10  <b>proof</b> <sup>[6]</sup> 85:16 99:16 100:1,20 112:14 131:1  <b>proper</b> <sup>[4]</sup> 8:1 13:15 22:7 128:19  <b>property</b> <sup>[1]</sup> 71:21  <b>proportional</b> <sup>[2]</sup> 19:24 20:3  <b>proportionality</b> <sup>[1]</sup> 18:22</p>	<p><b>proposed</b> <sup>[1]</sup> 44:21  <b>proposition</b> <sup>[1]</sup> 20:10  <b>prosecuted</b> <sup>[3]</sup> 33:10 55:9,16  <b>prosecution</b> <sup>[2]</sup> 115:7 124:13  <b>prosecutions</b> <sup>[2]</sup> 98:22 115:16  <b>prosecutor</b> <sup>[2]</sup> 32:20 57:16  <b>prosecutors</b> <sup>[1]</sup> 55:10  <b>protect</b> <sup>[1]</sup> 116:18  <b>protected</b> <sup>[1]</sup> 60:7  <b>protection</b> <sup>[3]</sup> 71:23 131:10 139:7  <b>protections</b> <sup>[1]</sup> 132:23  <b>protects</b> <sup>[1]</sup> 117:1  <b>proved</b> <sup>[1]</sup> 129:10  <b>proves</b> <sup>[1]</sup> 10:1  <b>provide</b> <sup>[6]</sup> 9:13 57:4 96:10 98:12 130:4 133:7  <b>provided</b> <sup>[8]</sup> 9:18 12:14,16 14:20 15:12 17:17 54:15 96:21  <b>provides</b> <sup>[4]</sup> 29:4 61:12 97:22 130:24  <b>province</b> <sup>[1]</sup> 58:19  <b>provision</b> <sup>[25]</sup> 5:16 9:14 15:22 20:11 27:4,22 31:17 32:9,23 43:18 57:13 58:25 62:9 63:19 75:21 82:8,24 86:8 115:22 117:22 123:16 125:24 126:2 129:17 131:7  <b>provisions</b> <sup>[11]</sup> 15:4 28:2 31:4 44:14 46:20 51:2 87:15 95:21 105:20 126:17 138:25  <b>public</b> <sup>[4]</sup> 35:25 53:18 66:18 79:8  <b>published</b> <sup>[1]</sup> 70:9  <b>purport</b> <sup>[1]</sup> 18:15  <b>purpose</b> <sup>[5]</sup> 57:15 69:21,22 99:7 116:14  <b>pursuant</b> <sup>[3]</sup> 17:21 52:8,23  <b>pursuit</b> <sup>[1]</sup> 99:9  <b>push</b> <sup>[3]</sup> 36:13 78:2 133:22  <b>put</b> <sup>[14]</sup> 34:22 40:20 60:17 75:23 91:11 93:12 94:4,5,19 103:20 105:22 120:19 125:6 128:19  <b>puts</b> <sup>[1]</sup> 52:18  <b>putting</b> <sup>[1]</sup> 30:18</p>
<b>Q</b>				
<p><b>qualification</b> <sup>[14]</sup> 4:21 7:24 9:1,2 18:5,8 19:7 24:16,23 77:10 84:17 107:2 127:11 134:7  <b>qualifications</b> <sup>[20]</sup> 4:11 7:1,5 18:13,14 23:21 24:12 25:23 32:16 72:21 74:11 80:25 81:22 82:10,15 104:17 132:5 134:21 135:2</p>				

## Official

<p>139:12  <b>qualified</b> [11] 64:19 68:20  91:12 125:25 126:4,7,18,  20,23 127:6,7  <b>qualify</b> [7] 7:7 26:15,18 29:  3 46:7,7 65:24  <b>question</b> [45] 8:19 11:14  19:12 20:2,25 21:11,19 24:  9 25:21 30:24 37:6 45:3  55:21 59:23 60:3,20 63:22  64:16 71:17 74:23 75:17,  24 76:2,17 77:12 83:8 87:  4 90:6 91:14,24 93:11 94:  7 95:11 97:4 99:11,12 100:  15 102:7 103:14 106:15  114:3,24 115:25 132:6  136:25  <b>questions</b> [26] 5:1 13:10,  13 22:17 31:12 53:12 67:  24 74:23 75:6,11,17 76:19  78:25 96:18,19 100:19  107:12 108:6 112:12,13  117:17 118:8 125:22 134:  23 137:1 141:11  <b>quick</b> [1] 85:20  <b>quite</b> [4] 21:5 24:9 59:10  76:14  <b>quo</b> [11] 14:21 15:3 31:4 32:  19,21 57:13,19 58:1,3 115:  21 117:22</p> <hr/> <p style="text-align: center;"><b>R</b></p> <p><b>radical</b> [2] 44:19 70:18  <b>raise</b> [2] 57:7 83:7  <b>raised</b> [4] 56:6 106:24 113:  4 120:1  <b>raises</b> [1] 53:12  <b>ranks</b> [1] 120:15  <b>rare</b> [6] 10:18,22,24 89:23  98:22 117:12  <b>rarely</b> [1] 98:21  <b>rather</b> [5] 9:1 20:23 21:17  91:17 110:10  <b>ratified</b> [2] 53:14 114:22  <b>ratify</b> [1] 94:2  <b>rational</b> [5] 31:1 48:25 56:  15 66:25 140:11  <b>reach</b> [4] 22:16,23 101:19  133:12  <b>reactive</b> [1] 106:21  <b>read</b> [6] 54:16 64:20 110:  13 116:9,10 127:8  <b>reader</b> [1] 109:12  <b>reading</b> [3] 47:5 69:8 121:  24  <b>real</b> [2] 61:22 106:25  <b>realistic</b> [1] 137:9  <b>realizes</b> [1] 16:9  <b>really</b> [31] 14:8 18:5 42:3  48:10 57:14 60:25 75:12  76:10 77:24 79:5,5 87:18  90:7,13 96:6 97:23 98:24  100:15 101:23 102:13 104:  21 107:16 110:15 118:5,6</p>	<p>119:10,17 120:20 121:3  122:7 133:17  <b>realm</b> [1] 102:7  <b>reason</b> [17] 3:16 4:2 48:14,  17 49:16,18 61:12 71:6 86:  9,22 87:24 88:9,21 105:10  106:2 117:5 123:16  <b>reasonable</b> [1] 85:19  <b>reasoning</b> [2] 107:16 127:  12  <b>reasons</b> [8] 3:15 23:15 33:  19 48:18 60:15,25 65:12  98:11  <b>rebels</b> [2] 97:12 120:15  <b>REBUTTAL</b> [3] 2:12 138:  14,16  <b>recall</b> [1] 109:2  <b>receive</b> [1] 93:15  <b>received</b> [4] 71:13 85:7 88:  22 114:22  <b>recent</b> [1] 140:17  <b>recognition</b> [1] 131:17  <b>recognize</b> [2] 21:15 135:6  <b>Reconstruction</b> [2] 68:24  86:25  <b>record</b> [30] 21:23 61:19 78:  5,7,9,9,10,11 79:3,5,18,21  96:24 99:14,19,21 100:5,6  101:1,4,6,11,17 105:12  125:20 132:13 133:2,9,13  136:11  <b>records</b> [2] 100:18 101:8  <b>red</b> [1] 42:8  <b>Redeemers</b> [1] 68:25  <b>redefine</b> [1] 11:6  <b>reduces</b> [1] 136:8  <b>redundancy</b> [1] 97:20  <b>reelected</b> [1] 141:6  <b>refer</b> [2] 3:25 53:3  <b>referring</b> [4] 20:10 67:10  109:21,22  <b>refers</b> [6] 3:20 19:1 53:5,12  110:7 123:3  <b>Reform</b> [2] 105:5 124:4  <b>refuse</b> [1] 99:19  <b>refused</b> [1] 68:10  <b>refusing</b> [3] 69:11 104:18  117:4  <b>regard</b> [1] 93:18  <b>regardless</b> [1] 44:23  <b>regime</b> [1] 33:24  <b>regulate</b> [1] 83:25  <b>regulating</b> [1] 119:23  <b>reinforce</b> [1] 23:9  <b>reinforced</b> [1] 53:22  <b>reinforces</b> [2] 51:24 54:7  <b>reinforcing</b> [1] 53:2  <b>reinst</b> [1] 31:4  <b>reject</b> [3] 49:13 56:14 67:1  <b>rejects</b> [2] 140:11 141:1  <b>related</b> [2] 43:2 114:20  <b>relates</b> [1] 27:23  <b>relationship</b> [1] 99:1  <b>release</b> [1] 98:12</p>	<p><b>relevant</b> [6] 35:24 36:20  44:16 59:11,19 88:18  <b>reliance</b> [4] 8:5 54:23 72:  14,17  <b>relied</b> [3] 13:24 54:14 105:  17  <b>relief</b> [3] 17:6 56:1,5  <b>relies</b> [4] 13:20 53:22 67:6  101:21  <b>relocating</b> [1] 8:24  <b>rely</b> [5] 11:7 17:4 35:18 36:  9 138:19  <b>relying</b> [5] 10:6 11:18 12:9  44:12 72:14  <b>remand</b> [1] 61:5  <b>remedies</b> [5] 15:8,9 54:20,  22 92:8  <b>remedy</b> [4] 31:3 58:15 92:  17 93:8  <b>remotely</b> [1] 113:24  <b>removal</b> [4] 58:15 59:11  84:5 92:18  <b>remove</b> [6] 57:17 59:8 69:  19 83:23 84:16 125:8  <b>removed</b> [5] 52:1 59:6 82:  20 83:21 95:25  <b>removing</b> [1] 82:24  <b>render</b> [1] 118:10  <b>reorganization</b> [1] 45:10  <b>repeal</b> [1] 15:3  <b>repealed</b> [5] 14:22 45:6,8,  13 59:12  <b>repeatedly</b> [1] 38:22  <b>reply</b> [5] 14:6 41:13 64:22  65:8 78:24  <b>report</b> [5] 22:8,19,21,22 85:  17  <b>repository</b> [1] 107:14  <b>represent</b> [2] 4:18 128:1  <b>representative</b> [2] 39:19  111:9  <b>representatives</b> [4] 61:25  119:14 123:1,6  <b>represents</b> [1] 8:4  <b>Republican</b> [1] 86:1  <b>Republicans</b> [2] 44:19 70:  19  <b>requests</b> [1] 85:3  <b>require</b> [5] 7:17 10:14 45:5  79:1 117:8  <b>requirement</b> [1] 139:16  <b>requirements</b> [2] 19:17 28:  4  <b>requires</b> [7] 4:14,16 9:8,20  87:18 89:24 126:18  <b>requiring</b> [4] 8:7 67:4 95:  16 140:2  <b>resemble</b> [1] 112:19  <b>reserved</b> [1] 80:15  <b>residence</b> [1] 133:18  <b>residency</b> [3] 4:14 8:2 139:  23  <b>resident</b> [2] 8:14,16  <b>resist</b> [1] 87:19</p>	<p><b>resolution</b> [2] 79:1 137:15  <b>resolve</b> [6] 97:2 117:17  124:6 125:1,20 129:12  <b>respect</b> [16] 5:4 11:4 12:23  20:25 22:23 26:4 38:21 50:  13 110:25 113:10 119:3,12  125:24 134:23 136:4,10  <b>respects</b> [1] 88:19  <b>respond</b> [2] 50:11 82:6  <b>responded</b> [1] 91:15  <b>Respondent</b> [3] 1:23 2:11  124:21  <b>Respondents</b> [4] 1:7,21 2:  7 66:7  <b>responds</b> [1] 121:10  <b>response</b> [6] 44:1 61:10  64:8 75:14 96:7 108:23  <b>rest</b> [1] 77:5  <b>restrain</b> [1] 18:15  <b>restrict</b> [3] 71:19 73:12  119:24  <b>restrictions</b> [2] 138:25  139:1  <b>result</b> [3] 80:14 97:6 118:  13  <b>results</b> [3] 68:11 133:13  136:17  <b>retaliate</b> [1] 137:3  <b>retaliating</b> [1] 70:18  <b>return</b> [1] 61:23  <b>Reverdy</b> [2] 121:8,23  <b>reversal</b> [2] 47:19 67:13  <b>reverse</b> [1] 23:15  <b>reversed</b> [1] 3:15  <b>reversible</b> [1] 103:13  <b>review</b> [22] 78:4,6,15,16 79:  3,12 94:4 100:11 126:11  129:17 130:5 132:13,18,20  133:3,4,7,12 137:11,12  138:4,5  <b>reviewing</b> [1] 133:1  <b>reviews</b> [1] 78:23  <b>revisit</b> [1] 80:19  <b>rhetoric</b> [2] 114:4,5  <b>rid</b> [1] 59:21  <b>rights</b> [2] 71:3 106:4  <b>riot</b> [2] 65:15,22  <b>rip</b> [1] 97:17  <b>rise</b> [4] 21:20 37:16 120:15  121:6  <b>rising</b> [1] 119:18  <b>risk</b> [1] 61:22  <b>risked</b> [1] 106:22  <b>ROBERTS</b> [56] 3:3 6:6 7:  13,19 8:9,13 26:23 27:3,8  29:20 30:6 35:22 36:15,18  37:1,4 45:1,15 46:3 48:6  50:10 53:9 55:24 61:7 66:  3,5 71:16 72:13,22 85:9,23  86:10 87:3 89:7 98:4 103:  17 105:15 108:15 112:10  117:10 118:24 124:15,18  127:25 128:3,12,22 129:1,  16 132:25 133:11 136:21</p>	<p>138:7,14 141:13,15  <b>role</b> [7] 5:8 6:3 17:18 67:13  75:9 105:19 134:2  <b>rule</b> [15] 14:13,17 15:18 16:  2 41:16 46:22 48:13,15,23  55:6 77:3 99:23 104:3 111:  21 117:11  <b>rules</b> [13] 21:7,8 78:12 85:  16 87:11 90:21 95:16 119:  24 130:24,25 132:23 138:3,  4  <b>ruling</b> [3] 4:22 61:2 97:3  <b>rulings</b> [2] 99:14 100:19  <b>run</b> [20] 6:17 7:24 8:17 19:5  23:25 68:17,22 69:4 71:10  72:9 74:15 81:8,23 82:3,  11 84:18 118:16 130:21  135:15 136:20  <b>running</b> [3] 19:2 67:14,21  <b>runs</b> [1] 24:19</p> <hr/> <p style="text-align: center;"><b>S</b></p> <p><b>safeguard</b> [1] 67:19  <b>safeguarding</b> [1] 116:15  <b>safeguards</b> [2] 97:23 116:  14  <b>safety</b> [1] 116:24  <b>salvage</b> [1] 140:23  <b>same</b> [21] 25:3,4,5,7,8 26:  24 31:24 34:17 59:10 67:  10 68:15,18 74:19 80:14  96:18 109:18 119:22 131:  4 133:13,18 136:25  <b>Samour</b> [2] 112:16 113:10  <b>saw</b> [1] 90:1  <b>saying</b> [24] 5:13,20 14:12  23:20 26:17 29:1 34:22 35:  15 49:18 62:20 70:2 72:15,  25 76:25 77:2 79:10 87:7  97:8 118:7,11 121:17,17  122:10 129:2  <b>says</b> [30] 7:15 8:3,14,15 17:  5 24:25 26:8 41:3 43:16  51:4 53:25 59:4 65:8 66:  21 74:3 75:21 88:1 104:6,  22 109:7,10,24 110:5 111:  17 112:1 114:12 121:25  123:9 128:5 134:2  <b>Scalia</b> [1] 19:14  <b>scenario</b> [2] 7:20 25:10  <b>schedule</b> [1] 113:17  <b>scholars</b> [1] 47:3  <b>Sea</b> [1] 54:21  <b>seat</b> [6] 6:25 69:11,15 104:  11,11,18  <b>seats</b> [1] 123:4  <b>second</b> [13] 4:2 23:25 33:  18 37:15 38:10,12 39:4 42:  4 99:3 102:12 114:3 116:  17 123:1  <b>secretary</b> [22] 6:7,10,13 7:  9,22 8:15,17,25 76:11 78:  14 117:23 128:1,4,10,12,  20 129:15,17,21 130:5,16</p>
--	---	--	--	--



## Official

<p>132:9  <b>Section</b> <sup>[140]</sup> 3:13,17 4:2,5, 9 5:4,10,13,21 6:3,8,16 7: 6 9:7,8,24 10:6 12:6,17,23 13:3 15:1 16:1,9,10,14,19, 21 17:3,19 18:20 19:1,10, 13 20:25 24:8 26:15,18 29: 3,10 30:11 31:2 32:22,24 35:25 37:9,10 41:1,23,24 42:4 44:17 45:19 46:1,5 47:20,21 49:13 52:12 53: 12 54:3 56:4 57:5,12 59:1 61:16 62:22 63:19 64:1,19 65:25 66:20,21 67:3 69:22 71:24 72:14,17,21 73:14 74:2,5,18,19,22 75:7,12,20 81:5,13,17,17,20 82:1,2,20 83:16,19 85:4,6 86:22 88: 16 92:23 94:21 95:21 96:5 97:18,24 99:4 104:19 105: 4 106:13 110:19 111:3 114:10,18,19,20,21 115:15 116:1,9,17,19 117:4 119:3, 6,12,17 120:20 121:8 122: 11 126:17 127:10 134:1 135:1 139:16 140:15 141: 2,10  <b>see</b> <sup>[25]</sup> 6:18 20:22 33:3,15 34:1 37:10 38:6,9 39:18 50:24 51:19 60:6 61:14,18 64:7 73:7,15 74:18 77:9 79:9 81:16 89:11 100:13 127:22 132:1  <b>seeing</b> <sup>[1]</sup> 37:17  <b>seek</b> <sup>[2]</sup> 32:22 140:3  <b>seeking</b> <sup>[4]</sup> 16:6 81:12 92: 8 139:17  <b>seem</b> <sup>[11]</sup> 28:3 48:16 49:9 68:23 69:5 78:19 85:10 104:10 112:15 113:2 121: 18  <b>seemed</b> <sup>[2]</sup> 64:22 119:4  <b>seems</b> <sup>[14]</sup> 16:17 36:3 38: 17 60:22 62:5,10 72:5 76: 13 82:6 87:3 103:16 108: 21 113:3 114:6  <b>seen</b> <sup>[6]</sup> 86:24 88:23 89:9 103:1 112:19 115:24  <b>seize</b> <sup>[1]</sup> 62:6  <b>select</b> <sup>[1]</sup> 81:15  <b>selected</b> <sup>[2]</sup> 72:19 118:18  <b>selecting</b> <sup>[2]</sup> 73:6 74:10  <b>selection</b> <sup>[1]</sup> 106:6  <b>self-executing</b> <sup>[11]</sup> 5:5,7 9:12 11:4 15:23 19:17 20: 6,15,18 93:14 103:20  <b>self-execution</b> <sup>[1]</sup> 10:12  <b>Senate</b> <sup>[3]</sup> 85:17 109:6 111: 22  <b>senator</b> <sup>[3]</sup> 39:19 111:8 121:10  <b>senatorial</b> <sup>[1]</sup> 119:13  <b>senators</b> <sup>[3]</sup> 122:13 123:1, 5</p>	<p><b>send</b> <sup>[1]</sup> 129:11  <b>sending</b> <sup>[1]</sup> 69:23  <b>sense</b> <sup>[3]</sup> 13:2 20:17 49:10  <b>sensible</b> <sup>[2]</sup> 48:13 51:18  <b>sentence</b> <sup>[3]</sup> 36:19 37:10, 19  <b>separate</b> <sup>[6]</sup> 13:6 23:24 33: 16 83:8 93:11 111:9  <b>separately</b> <sup>[1]</sup> 52:4  <b>serious</b> <sup>[2]</sup> 137:17,21  <b>seriously</b> <sup>[1]</sup> 137:14  <b>serve</b> <sup>[2]</sup> 43:12 82:11  <b>served</b> <sup>[1]</sup> 25:1  <b>serving</b> <sup>[3]</sup> 3:12 4:5 19:7  <b>set</b> <sup>[3]</sup> 49:3 100:25 129:10  <b>sets</b> <sup>[1]</sup> 100:20  <b>setting</b> <sup>[1]</sup> 24:18  <b>settle</b> <sup>[1]</sup> 76:18  <b>settled</b> <sup>[4]</sup> 45:25 49:8 88: 10,13  <b>several</b> <sup>[2]</sup> 60:15,24  <b>severe</b> <sup>[1]</sup> 21:5  <b>shall</b> <sup>[8]</sup> 51:4,5 52:1 55:11 59:6 71:20 75:21 114:12  <b>shameful</b> <sup>[1]</sup> 65:23  <b>SHANNON</b> <sup>[3]</sup> 1:22 2:10 124:20  <b>share</b> <sup>[1]</sup> 117:13  <b>sharply</b> <sup>[1]</sup> 32:4  <b>Sheffey</b> <sup>[2]</sup> 56:7,7  <b>Sheffey's</b> <sup>[1]</sup> 57:1  <b>Shelby</b> <sup>[1]</sup> 70:15  <b>shift</b> <sup>[1]</sup> 20:4  <b>short</b> <sup>[3]</sup> 89:16 112:21 124: 13  <b>shortly</b> <sup>[1]</sup> 68:2  <b>shouldn't</b> <sup>[3]</sup> 45:23 126:11 133:3  <b>show</b> <sup>[5]</sup> 26:18 29:2 63:8 126:17 140:2  <b>showing</b> <sup>[1]</sup> 59:20  <b>shows</b> <sup>[1]</sup> 84:14  <b>side</b> <sup>[6]</sup> 23:18 63:15 85:13 87:24 104:5 109:3  <b>side's</b> <sup>[1]</sup> 103:19  <b>sides</b> <sup>[3]</sup> 67:9 101:9 103:18  <b>sight</b> <sup>[1]</sup> 100:13  <b>significant</b> <sup>[2]</sup> 40:21 116:7  <b>Simi</b> <sup>[3]</sup> 22:24 23:2 102:13  <b>similar</b> <sup>[2]</sup> 16:2 26:14  <b>similarly</b> <sup>[2]</sup> 73:16 82:16  <b>simple</b> <sup>[4]</sup> 31:25 34:25 91: 9 97:18  <b>simply</b> <sup>[2]</sup> 23:4 57:24  <b>simultaneously</b> <sup>[1]</sup> 43:17  <b>since</b> <sup>[7]</sup> 46:1 54:4 66:11 83:1 86:24 88:24 115:24  <b>single</b> <sup>[7]</sup> 75:25 77:3 90:9, 10 113:20 118:9 135:12  <b>sit</b> <sup>[2]</sup> 56:8,8  <b>sitting</b> <sup>[4]</sup> 66:13 69:20 92: 16,19  <b>situation</b> <sup>[12]</sup> 4:22 6:11 9:6 10:25 16:10 32:17 94:13</p>	<p>103:7,23 106:11 137:5 140:6  <b>situations</b> <sup>[2]</sup> 4:19 117:15  <b>six</b> <sup>[1]</sup> 114:18  <b>slightly</b> <sup>[2]</sup> 9:7 45:6  <b>smuggled</b> <sup>[1]</sup> 40:22  <b>sociology</b> <sup>[1]</sup> 23:1  <b>sole</b> <sup>[1]</sup> 7:1  <b>Solicitor</b> <sup>[1]</sup> 1:22  <b>somebody</b> <sup>[9]</sup> 6:7 8:9 30: 15 81:20 84:8 86:18 87:8 128:24 134:3  <b>somehow</b> <sup>[4]</sup> 51:11 84:9, 10 104:8  <b>someone</b> <sup>[11]</sup> 18:4 24:4 33: 8 55:9 74:25 75:3 95:19 115:11,20 118:14 128:4  <b>someone's</b> <sup>[1]</sup> 112:25  <b>sometimes</b> <sup>[6]</sup> 6:23,23 20: 15,17 49:1 78:25  <b>somewhat</b> <sup>[2]</sup> 38:13 42:5  <b>somewhere</b> <sup>[1]</sup> 128:4  <b>soon</b> <sup>[1]</sup> 106:21  <b>sorry</b> <sup>[12]</sup> 17:24 27:2,10 29: 19 41:2,4 60:20 63:7 80:2 89:6 124:19 132:25  <b>sort</b> <sup>[10]</sup> 40:21 71:17,17 86: 20 97:13 108:6 119:14,18 121:14 132:3  <b>SOTOMAYOR</b> <sup>[59]</sup> 9:10,16, 24 10:1,4,11,17,22 11:2,9, 12,14,17,21,24 12:6,18,22 13:5,19 23:19,23 24:7,10, 14,18 25:4,13,16,19,25 26: 3,6,21 27:12,15 28:2 41:2, 5,8,11 46:3,4,18,21 47:2,9, 18,25 48:3,5 84:21 89:3,6 103:17,18 104:3 131:5 138:7  <b>sounds</b> <sup>[3]</sup> 14:6,7 76:4  <b>South</b> <sup>[5]</sup> 61:24 70:18,20 119:17 122:8  <b>Speaker</b> <sup>[5]</sup> 43:6 52:18 109:6 110:25 111:6  <b>speaks</b> <sup>[4]</sup> 74:19 82:3,9 92: 23  <b>special</b> <sup>[1]</sup> 66:20  <b>specific</b> <sup>[5]</sup> 17:3 37:15 50: 12 61:2 72:24  <b>specifically</b> <sup>[5]</sup> 40:6,15 62: 23 122:13 125:1  <b>specified</b> <sup>[1]</sup> 6:8  <b>specifies</b> <sup>[1]</sup> 19:10  <b>specify</b> <sup>[1]</sup> 122:24  <b>spelled</b> <sup>[1]</sup> 16:3  <b>spend</b> <sup>[1]</sup> 5:3  <b>stack</b> <sup>[1]</sup> 129:2  <b>stakes</b> <sup>[1]</sup> 79:11  <b>standard</b> <sup>[7]</sup> 78:5 99:3,25 100:25 129:6 132:13,17  <b>standards</b> <sup>[5]</sup> 85:15 99:16 100:20 112:14 130:25  <b>standing</b> <sup>[1]</sup> 126:10  <b>start</b> <sup>[5]</sup> 26:5 50:16,18 88:1</p>	<p>109:16  <b>started</b> <sup>[2]</sup> 13:1 83:18  <b>state</b> <sup>[116]</sup> 4:7,9,14,15,17, 19 5:8,17,20 6:7,11,13 7:3, 9,22 8:2,3,6,8,18,20,24,25 9:4,21 10:7,15 13:16 15:9 17:2,5,13 19:4 21:18,25 22:15,25 24:4,10,20,21,24 25:15,19 26:7,20 54:2,19 57:14 58:5 59:2 61:3,22 62:3 64:12 66:24 69:4 70: 7,8,11,12 71:19 73:12 75: 25 76:11,21,25 77:4,17 78: 7,14,20 84:13,19,20 87:20 90:9,10,12,17,21 91:2,6,10 96:11,20,20 98:15 100:2  <b>102:4 103:13 106:20 107: 1,13,16 113:2,4 117:12,13, 20,23 118:9 125:10 128:1, 4 130:23 132:9,10,15,19 135:5,11 138:20 139:4 140:2,3</b>  <b>state's</b> <sup>[10]</sup> 6:7 8:15 77:17 80:5 83:25 106:2,7 129:18 130:5,16  <b>state-imposed</b> <sup>[1]</sup> 9:2  <b>state-level</b> <sup>[1]</sup> 61:24  <b>statement</b> <sup>[1]</sup> 15:10  <b>statements</b> <sup>[6]</sup> 8:23 22:21 79:8,24,25 102:17  <b>STATES</b> <sup>[164]</sup> 1:1,15 3:18, 20,25 6:3 9:13 10:5,14,14 13:2,6 17:18 18:13,18 21: 6,12,12,24 22:18 23:12 24: 1 36:2 38:21 39:25 40:2, 18 42:4,6,10 43:5,15,18 45: 19 46:8,10,14,16 47:21 48: 11 49:11,19 50:7 51:5,14, 17,20 52:1,5,21 53:2,3,15 58:10 59:6 61:25 63:24 64: 1 65:14 66:14 67:8,13,15, 19 68:3,17,21 69:13,18,23, 24 70:3,7,9,11 71:2,3,7,9, 20 72:2,3,18 73:1,4,9,13, 15,21 74:9,13 76:1 77:13, 16,23 85:24 86:3,20,21 87: 4 88:2,7 96:4 97:7,15,21 98:9,10,12 99:9,12 100:22 103:3,4,21 104:4 105:18, 24 107:9,13,20 108:2,3,8, 10 109:7,9 111:4 112:2,12, 14 114:6 118:16,18,19,21 119:3,6,12,22 120:17 121: 12 123:15 125:15 129:19, 23,24 130:4,8,10,20 132:9 133:8,25 134:3 135:1,23 136:1,9,12,16 137:2 138:2 140:16  <b>states'</b> <sup>[7]</sup> 16:20 72:9 81:8 105:17 106:16 108:11 117: 16  <b>statute</b> <sup>[18]</sup> 6:4 15:1 17:20 18:6 20:12 45:4 52:18 54: 19 55:3,7 57:6 59:18 64:8</p>	<p>88:17 114:11,14 126:14 130:24  <b>statutes</b> <sup>[3]</sup> 15:10 95:16 114:9  <b>statutory</b> <sup>[3]</sup> 14:8 49:2 126: 12  <b>step</b> <sup>[2]</sup> 9:19 71:5  <b>stepping</b> <sup>[1]</sup> 42:15  <b>steps</b> <sup>[1]</sup> 10:8  <b>STEVENSON</b> <sup>[98]</sup> 1:22 2: 10 124:16,17,19,20,22 126: 1,8,15 127:4,12,16,21 128: 2,7,15,25 129:8,20 130:7, 18 131:3,8,15,25 132:16 133:4,14,20 134:9 135:17 137:6,18,22 138:2,13,19  <b>still</b> <sup>[13]</sup> 5:17 6:16 32:23 40: 24 45:4 69:2 77:16 92:13 114:9 129:5 139:21 140:5, 21  <b>stomach</b> <sup>[1]</sup> 115:20  <b>stop</b> <sup>[2]</sup> 9:10 10:14  <b>street</b> <sup>[1]</sup> 129:5  <b>strikes</b> <sup>[1]</sup> 105:22  <b>strips</b> <sup>[1]</sup> 125:14  <b>stronger</b> <sup>[2]</sup> 46:16 50:6  <b>strongest</b> <sup>[1]</sup> 51:3  <b>strongly</b> <sup>[1]</sup> 70:17  <b>structural</b> <sup>[4]</sup> 23:6 50:7 117:25 118:12  <b>structure</b> <sup>[3]</sup> 44:10 73:10 74:6  <b>Stuart</b> <sup>[1]</sup> 59:11  <b>stuck</b> <sup>[2]</sup> 78:6,7  <b>stuff</b> <sup>[1]</sup> 30:5  <b>style</b> <sup>[1]</sup> 79:2  <b>subject</b> <sup>[3]</sup> 32:23 38:3 52: 21  <b>submitted</b> <sup>[3]</sup> 128:17 141: 16,18  <b>subsequent</b> <sup>[1]</sup> 15:17  <b>succeed</b> <sup>[1]</sup> 85:14  <b>Succession</b> <sup>[4]</sup> 43:10 52: 14,17,19  <b>suddenly</b> <sup>[1]</sup> 97:7  <b>sufficient</b> <sup>[6]</sup> 23:10 96:21 100:7 101:8,11 115:16  <b>suggest</b> <sup>[9]</sup> 48:12 60:22 62:15,17 64:22 69:6 76:6 114:6 121:14  <b>suggested</b> <sup>[7]</sup> 13:17 15:25 23:14 79:20 98:21,23 118: 8  <b>suggesting</b> <sup>[6]</sup> 16:25 49: 17 56:16 60:16,18 81:14  <b>suggestion</b> <sup>[1]</sup> 133:6  <b>suggests</b> <sup>[3]</sup> 121:2 122:7 123:7  <b>suit</b> <sup>[1]</sup> 13:22  <b>sum</b> <sup>[2]</sup> 30:11,21  <b>super</b> <sup>[1]</sup> 125:7  <b>support</b> <sup>[4]</sup> 23:5 47:10 70: 25 74:5  <b>supported</b> <sup>[1]</sup> 84:23</p>
---	---	---	---	--

## Official

<p><b>supporters</b> <sup>[1]</sup> 64:17</p> <p><b>supports</b> <sup>[2]</sup> 23:6 98:1</p> <p><b>suppose</b> <sup>[11]</sup> 15:14, 15 76:22 86:14 90:8, 11 91:16 98:7, 9 100:17 135:5</p> <p><b>SUPREME</b> <sup>[21]</sup> 1:1, 14 3:10, 14 4:13 9:7 11:22 21:4, 11 23:15 26:14, 17, 20 64:16 83:12 101:20 126:2, 9 127:13 139:15 140:7</p> <p><b>surely</b> <sup>[3]</sup> 31:23 33:7 85:12</p> <p><b>surprised</b> <sup>[2]</sup> 61:10 62:8</p> <p><b>surprising</b> <sup>[2]</sup> 68:13 69:18</p> <p><b>sustained</b> <sup>[1]</sup> 137:2</p> <p><b>swear</b> <sup>[3]</sup> 111:6, 7, 14</p> <p><b>swears</b> <sup>[1]</sup> 111:4</p> <p><b>swore</b> <sup>[1]</sup> 44:23</p> <p><b>sworn</b> <sup>[4]</sup> 8:22 28:25 125:13 141:6</p> <p><b>system</b> <sup>[5]</sup> 97:5 107:8, 9 112:18 137:7</p> <hr/> <p style="text-align:center"><b>T</b></p> <hr/> <p><b>takings</b> <sup>[1]</sup> 9:17</p> <p><b>talked</b> <sup>[6]</sup> 83:12 105:16, 18 106:5, 7 132:21</p> <p><b>talks</b> <sup>[1]</sup> 16:4</p> <p><b>Tarble's</b> <sup>[2]</sup> 16:23 117:18</p> <p><b>technical</b> <sup>[1]</sup> 45:3</p> <p><b>tells</b> <sup>[4]</sup> 71:14 73:9 75:8 123:2</p> <p><b>Tem</b> <sup>[4]</sup> 109:5 110:1 111:1, 6</p> <p><b>Tempore</b> <sup>[2]</sup> 43:7 52:19</p> <p><b>tendentiously</b> <sup>[1]</sup> 63:14</p> <p><b>tens</b> <sup>[1]</sup> 4:25</p> <p><b>tension</b> <sup>[8]</sup> 31:18 32:2, 25 33:4, 16 34:2, 16 57:21</p> <p><b>Tenth</b> <sup>[3]</sup> 67:15 71:10 80:16</p> <p><b>term</b> <sup>[37]</sup> 3:18 4:10, 22, 24 6:14 8:5 9:3 18:12, 12 20:6, 10, 22 23:13, 20, 25 24:11, 15, 19 25:23 26:10, 25 27:1, 4, 5, 7 42:20 52:25 53:3 65:25 67:21 74:16, 22 80:20 81:23 86:13 139:9 140:1</p> <p><b>terms</b> <sup>[6]</sup> 25:1 43:1 74:20 77:20 90:19 109:4</p> <p><b>testified</b> <sup>[2]</sup> 22:11 128:8</p> <p><b>testify</b> <sup>[3]</sup> 102:2 113:15, 15</p> <p><b>testimony</b> <sup>[4]</sup> 22:8, 24 102:17, 22</p> <p><b>Texas</b> <sup>[1]</sup> 1:18</p> <p><b>text</b> <sup>[4]</sup> 43:4 49:8 62:9 63:17</p> <p><b>textual</b> <sup>[4]</sup> 44:6 50:6, 12, 25</p> <p><b>textualist</b> <sup>[2]</sup> 37:7 42:24</p> <p><b>textually</b> <sup>[1]</sup> 46:17</p> <p><b>Thanks</b> <sup>[2]</sup> 50:9 66:2</p> <p><b>themselves</b> <sup>[2]</sup> 90:1 91:7</p> <p><b>theory</b> <sup>[10]</sup> 30:10 39:15 42:23 55:22 74:5 83:6 92:22 93:5 94:10 125:9</p>	<p><b>there's</b> <sup>[42]</sup> 9:17 10:5 15:9 21:8 23:23 33:4, 4 34:1, 4 43:12 48:16 49:3, 12 51:11 56:18 73:23, 25 74:3, 4, 12 82:17, 23 86:14, 22 88:4, 6, 10 93:4 98:7 100:10 103:18 104:22 106:16, 25 107:6, 10 118:9 121:20 122:4</p> <p><b>126:1</b> 131:23 135:24</p> <p><b>thereby</b> <sup>[1]</sup> 4:21</p> <p><b>therefore</b> <sup>[4]</sup> 89:10 98:17 106:22 121:5</p> <p><b>thereof</b> <sup>[1]</sup> 96:4</p> <p><b>they've</b> <sup>[1]</sup> 129:1</p> <p><b>thinking</b> <sup>[2]</sup> 48:10 134:7</p> <p><b>thinks</b> <sup>[3]</sup> 30:25 90:13 136:19</p> <p><b>third</b> <sup>[4]</sup> 24:19 67:21 74:15 117:3</p> <p><b>THOMAS</b> <sup>[21]</sup> 5:2, 12 45:16 67:25 68:7, 23 69:12, 21 70:10 74:4 88:5 98:5 125:23 126:5, 13, 24 127:10, 14, 20, 24 136:21</p> <p><b>Thomas's</b> <sup>[1]</sup> 71:17</p> <p><b>Thornton</b> <sup>[5]</sup> 27:6, 6 47:20 80:20 139:10</p> <p><b>though</b> <sup>[8]</sup> 7:13 16:16 46:6 48:16 108:9 110:22 118:7 136:1</p> <p><b>thoughts</b> <sup>[3]</sup> 82:21 83:24 109:15</p> <p><b>threat</b> <sup>[2]</sup> 137:17, 21</p> <p><b>threats</b> <sup>[1]</sup> 137:14</p> <p><b>three</b> <sup>[10]</sup> 10:9 13:10, 13 50:25 78:21 89:18 90:25 116:12 126:16 134:4</p> <p><b>throughout</b> <sup>[1]</sup> 3:19</p> <p><b>throw</b> <sup>[2]</sup> 63:15 115:20</p> <p><b>thrust</b> <sup>[1]</sup> 72:6</p> <p><b>Thursday</b> <sup>[1]</sup> 1:11</p> <p><b>ties</b> <sup>[1]</sup> 121:14</p> <p><b>Title</b> <sup>[1]</sup> 114:10</p> <p><b>today</b> <sup>[8]</sup> 29:2 50:24 83:1 84:6, 12 88:19 109:11, 18</p> <p><b>together</b> <sup>[1]</sup> 132:5</p> <p><b>took</b> <sup>[8]</sup> 6:8 14:20 15:15 38:2 47:13, 16 107:14 112:18 120:2 115:5, 9</p> <p><b>top</b> <sup>[1]</sup> 61:15</p> <p><b>total</b> <sup>[2]</sup> 30:11, 21</p> <p><b>totally</b> <sup>[1]</sup> 120:21</p> <p><b>tougher</b> <sup>[1]</sup> 49:23</p> <p><b>transfer</b> <sup>[2]</sup> 66:15 90:4</p> <p><b>transpired</b> <sup>[1]</sup> 112:20</p> <p><b>Treason</b> <sup>[2]</sup> 98:20, 22</p> <p><b>treated</b> <sup>[3]</sup> 12:4 15:23 74:18</p> <p><b>treaties</b> <sup>[2]</sup> 20:18, 19</p> <p><b>treaty</b> <sup>[3]</sup> 5:15 9:20 20:19</p> <p><b>tremendous</b> <sup>[1]</sup> 132:17</p> <p><b>trial</b> <sup>[11]</sup> 22:1, 4, 6 56:6, 25 57:8 100:3 113:11, 18, 25 135:13</p>	<p><b>tried</b> <sup>[5]</sup> 16:7 35:16 45:7 58:14 117:6</p> <p><b>trouble</b> <sup>[1]</sup> 134:10</p> <p><b>troubling</b> <sup>[2]</sup> 119:2 120:20</p> <p><b>true</b> <sup>[5]</sup> 47:17, 18 78:1 82:2 104:10</p> <p><b>truly</b> <sup>[1]</sup> 136:19</p> <p><b>TRUMP</b> <sup>[41]</sup> 1:3 3:4, 11, 16 21:10 22:2 26:15, 17 28:24 29:2 49:9 57:12, 24 59:25 65:3 66:17 77:15 78:24 79:17 83:2 84:12, 18 99:13 101:22 102:3, 10, 18 103:10 105:3 113:11, 19 114:15 116:24 117:5 123:21 124:1, 5 140:13 141:3, 6, 9</p> <p><b>Trump's</b> <sup>[6]</sup> 66:19 67:12 79:7 102:14, 24 104:23</p> <p><b>trusted</b> <sup>[1]</sup> 116:21</p> <p><b>try</b> <sup>[1]</sup> 95:11</p> <p><b>trying</b> <sup>[11]</sup> 27:18 35:24 36:23 40:9 51:10 62:2 82:18 95:5 102:25 107:1 115:25</p> <p><b>turns</b> <sup>[3]</sup> 13:13 25:11 26:12</p> <p><b>Twelfth</b> <sup>[1]</sup> 90:3</p> <p><b>Twenty-Second</b> <sup>[1]</sup> 23:24</p> <p><b>Twitter</b> <sup>[2]</sup> 101:23 103:12</p> <p><b>two</b> <sup>[27]</sup> 10:8 13:6 25:1 33:16 37:10, 18 43:1 46:17 67:9, 9 99:2 100:17, 18, 18, 19, 20, 21 101:2, 7 102:10, 12 103:18 114:17 119:20 127:23 134:1 141:4</p> <p><b>two-thirds</b> <sup>[9]</sup> 7:17 28:16 31:13, 23 32:9 33:6 34:21, 24 116:25</p> <p><b>type</b> <sup>[3]</sup> 63:12 131:1 133:7</p> <p><b>types</b> <sup>[2]</sup> 57:7 137:23</p> <p><b>typical</b> <sup>[1]</sup> 105:19</p> <hr/> <p style="text-align:center"><b>U</b></p> <hr/> <p><b>U.S</b> <sup>[8]</sup> 24:5 25:6, 8 27:5 45:11 101:20 139:9 140:1</p> <p><b>ultimate</b> <sup>[1]</sup> 97:3</p> <p><b>ultimately</b> <sup>[9]</sup> 63:18 76:16 79:16 92:13 95:15 99:17 100:11 123:24 138:5</p> <p><b>ultra</b> <sup>[1]</sup> 83:5</p> <p><b>unanimously</b> <sup>[2]</sup> 83:13 140:1</p> <p><b>unconstitutional</b> <sup>[2]</sup> 59:15 82:17</p> <p><b>unconstitutionally</b> <sup>[2]</sup> 140:18, 24</p> <p><b>under</b> <sup>[93]</sup> 3:12 4:5 5:24 7:6, 8 9:3, 24 10:22 15:5 16:8, 13 17:1 18:20, 22 25:5 26:14, 18 29:3 32:22 39:15, 16, 24 40:1, 17 41:16 42:6, 10 43:5, 11, 15, 18 46:8, 14 47:4 49:13 50:4, 5 54:3 55:8, 17 57:5 58:4 66:12 67:7, 14, 20 68:21 71:9, 24 73:1 74:16 80:16 81:4 82:20 83:16</p>	<p>84:20 88:13 91:4 99:4 101:2 104:16, 16, 19 105:4, 4, 17 106:17 107:21 109:9 111:14, 17 121:11 122:25 123:3 124:3, 24 125:9, 17 126:18 127:12 130:18 131:4, 6 134:15, 25 135:21 137:10 138:23 139:4 140:19, 20 141:5, 10</p> <p><b>underaged</b> <sup>[1]</sup> 74:14</p> <p><b>undercut</b> <sup>[1]</sup> 36:22</p> <p><b>underlying</b> <sup>[1]</sup> 99:5</p> <p><b>underscore</b> <sup>[1]</sup> 113:3</p> <p><b>underscored</b> <sup>[1]</sup> 112:15</p> <p><b>understand</b> <sup>[23]</sup> 11:18 15:14 26:21 27:19 28:20 30:10 39:2 40:9 48:8 53:11 62:12 69:12, 15 70:10, 11, 14 92:6 94:8 96:7 97:1, 2 115:4 120:21</p> <p><b>understanding</b> <sup>[8]</sup> 15:7 36:6, 25 42:24 45:25 88:4, 10, 14</p> <p><b>understands</b> <sup>[1]</sup> 97:13</p> <p><b>Understood</b> <sup>[4]</sup> 55:18 85:5 115:15 120:10</p> <p><b>undertake</b> <sup>[1]</sup> 133:3</p> <p><b>uniform</b> <sup>[2]</sup> 79:1 97:3</p> <p><b>uniformity</b> <sup>[3]</sup> 96:4, 10 119:1</p> <p><b>unique</b> <sup>[2]</sup> 16:1 41:23</p> <p><b>UNITED</b> <sup>[51]</sup> 1:1, 14 3:18, 20, 25 23:11 36:2 38:21 39:25 40:1, 18 42:3, 6, 10 43:5, 15, 18 46:8, 10, 14, 16 48:11 49:11, 19 50:7 51:5, 14, 17, 20 52:1, 5, 21 53:1, 3 58:9 59:5 65:14 66:14 67:8 76:1 98:9, 10, 12 99:9 109:7, 9 111:4 112:1 120:16 121:12 140:16</p> <p><b>unknowable</b> <sup>[1]</sup> 44:15</p> <p><b>unlawful</b> <sup>[1]</sup> 99:7</p> <p><b>unless</b> <sup>[11]</sup> 5:22 6:3 13:17 17:19 26:9 55:2 64:8 73:8 85:7 114:6 117:1</p> <p><b>unlike</b> <sup>[1]</sup> 68:20</p> <p><b>unlikely</b> <sup>[5]</sup> 7:14, 20, 21 101:18 103:16</p> <p><b>unmanageable</b> <sup>[1]</sup> 103:7</p> <p><b>unpunished</b> <sup>[1]</sup> 115:17</p> <p><b>until</b> <sup>[7]</sup> 5:22 71:12 86:19 89:14 104:23 115:23 118:21</p> <p><b>unusual</b> <sup>[2]</sup> 76:19 79:15</p> <p><b>up</b> <sup>[27]</sup> 5:9, 11 9:11 14:20 24:19 25:14, 17 40:9, 13 47:3 62:13 76:20 88:2, 7 96:3, 18, 19 103:11, 16 107:5 113:19 120:16 121:7 125:12 134:12 135:22 138:5</p> <p><b>upheld</b> <sup>[2]</sup> 59:18 85:12</p> <p><b>urges</b> <sup>[2]</sup> 79:17 124:5</p> <p><b>usefulness</b> <sup>[1]</sup> 36:23</p>	<p><b>uses</b> <sup>[3]</sup> 3:25 67:3 109:4</p> <p><b>using</b> <sup>[7]</sup> 20:22 21:7 45:19 53:11 74:9 99:14 135:7</p> <hr/> <p style="text-align:center"><b>V</b></p> <hr/> <p><b>vacancy</b> <sup>[1]</sup> 43:12</p> <p><b>vacated</b> <sup>[1]</sup> 140:21</p> <p><b>vague</b> <sup>[1]</sup> 116:2</p> <p><b>valid</b> <sup>[2]</sup> 18:20 86:20</p> <p><b>validate</b> <sup>[1]</sup> 95:23</p> <p><b>validity</b> <sup>[1]</sup> 91:17</p> <p><b>valve</b> <sup>[1]</sup> 116:24</p> <p><b>variant</b> <sup>[1]</sup> 140:22</p> <p><b>vary</b> <sup>[1]</sup> 132:14</p> <p><b>varying</b> <sup>[1]</sup> 129:23</p> <p><b>vengeance</b> <sup>[1]</sup> 123:24</p> <p><b>versions</b> <sup>[1]</sup> 129:25</p> <p><b>versus</b> <sup>[3]</sup> 3:4 48:11 105:23</p> <p><b>VI</b> <sup>[1]</sup> 111:15</p> <p><b>via</b> <sup>[1]</sup> 61:24</p> <p><b>vice</b> <sup>[14]</sup> 39:22 40:5, 14 43:13 47:14 51:22, 25 52:4, 8 59:5 62:23 121:1, 9 123:11</p> <p><b>video</b> <sup>[2]</sup> 79:13 101:23</p> <p><b>videotaped</b> <sup>[2]</sup> 79:25 102:17</p> <p><b>view</b> <sup>[9]</sup> 33:2 79:8 93:16 94:11 101:1, 3, 3 119:9 140:5</p> <p><b>views</b> <sup>[2]</sup> 87:5 137:9</p> <p><b>violate</b> <sup>[3]</sup> 4:24 139:7, 9</p> <p><b>violating</b> <sup>[3]</sup> 4:10, 21 24:10</p> <p><b>violation</b> <sup>[4]</sup> 26:10 67:23 84:19 134:18</p> <p><b>violence</b> <sup>[3]</sup> 65:14 87:19 102:19</p> <p><b>violent</b> <sup>[4]</sup> 64:17 65:23 66:12 102:16</p> <p><b>violently</b> <sup>[1]</sup> 116:20</p> <p><b>vires</b> <sup>[1]</sup> 83:5</p> <p><b>virtual</b> <sup>[1]</sup> 103:11</p> <p><b>virtually</b> <sup>[1]</sup> 47:6</p> <p><b>virtue</b> <sup>[1]</sup> 29:6</p> <p><b>vote</b> <sup>[14]</sup> 28:16 31:13, 22 33:6 34:21 90:9, 10, 11, 15 107:18, 20 116:25 122:18 139:6</p> <p><b>voted</b> <sup>[3]</sup> 90:20 117:7 118:19</p> <p><b>voters</b> <sup>[2]</sup> 116:7 131:22</p> <p><b>votes</b> <sup>[8]</sup> 4:24 7:17 67:16 90:12 105:2, 3 124:3 125:4</p> <p><b>voting</b> <sup>[1]</sup> 44:25</p> <p><b>vulnerable</b> <sup>[1]</sup> 141:5</p> <hr/> <p style="text-align:center"><b>W</b></p> <hr/> <p><b>wait</b> <sup>[1]</sup> 86:19</p> <p><b>waiver</b> <sup>[6]</sup> 6:23 7:11, 12, 23 29:5 139:20</p> <p><b>wake</b> <sup>[1]</sup> 6:20</p> <p><b>wanted</b> <sup>[16]</sup> 44:20, 22, 24 50:24 63:17 64:3 74:15 79:22 80:3, 3 81:21 82:5 113:5, 13, 15, 21</p> <p><b>wants</b> <sup>[2]</sup> 126:19 129:22</p>
--	--	---	--	---

<p><b>War</b> <sup>[7]</sup> 66:11 70:16 72:6 98:25 99:1,9 115:18 <b>warranto</b> <sup>[11]</sup> 14:22 15:4 31:4 32:19,21 57:13,19 58: 1,3 115:22 117:22 <b>Washington</b> <sup>[2]</sup> 1:10 47:7 <b>wasted</b> <sup>[1]</sup> 67:17 <b>watch</b> <sup>[1]</sup> 79:13 <b>way</b> <sup>[37]</sup> 9:4 10:18 14:14 16: 23 20:16 31:2 35:17 38:25 45:19 49:6,12 50:15 54:1 57:20,24 59:8,16,20 68:15, 18 95:19,23 96:18 97:6 102:21 108:24 113:19 116: 10,10,18 119:5 120:1 125: 16 139:15 140:6,9,25 <b>ways</b> <sup>[4]</sup> 30:11,22 73:13 132:8 <b>weeks</b> <sup>[2]</sup> 103:11 141:4 <b>weight</b> <sup>[2]</sup> 43:2 44:4 <b>welcome</b> <sup>[4]</sup> 5:1 67:24 112: 9 125:22 <b>whatever</b> <sup>[9]</sup> 32:18 76:5 80:20 81:2,21 85:19 99:5 123:16 135:7 <b>whatnot</b> <sup>[1]</sup> 41:25 <b>whatsoever</b> <sup>[1]</sup> 20:20 <b>Whereupon</b> <sup>[1]</sup> 141:17 <b>whether</b> <sup>[38]</sup> 5:4 6:18,25 13:13 19:23 20:2,19 24:10 28:10,19,24 44:23 47:21 54:6 58:13,23 61:8 68:19 74:13,25 75:2 76:2,12 78: 9 80:14 81:1 83:8 86:16 90:6 99:13 102:21 112:23 119:10 124:2,3 128:13 130:1 134:20 <b>whichever</b> <sup>[1]</sup> 95:8 <b>white</b> <sup>[1]</sup> 139:6 <b>who's</b> <sup>[2]</sup> 83:15,15 <b>whoever</b> <sup>[2]</sup> 85:25 95:7 <b>whole</b> <sup>[8]</sup> 10:5 49:19 71:18 72:6 93:5,10 103:5 113:18 <b>whom</b> <sup>[1]</sup> 100:2 <b>will</b> <sup>[19]</sup> 28:24 30:4 35:8 62: 6 78:3 85:12,14,15,16,24 86:14 101:17 103:3,4 136: 15 137:7,9,11 138:4 <b>win</b> <sup>[1]</sup> 6:17 <b>Winning</b> <sup>[1]</sup> 60:25 <b>wins</b> <sup>[2]</sup> 28:25 124:1 <b>Wisconsin</b> <sup>[1]</sup> 76:9 <b>wishes</b> <sup>[1]</sup> 93:17 <b>within</b> <sup>[4]</sup> 22:21 40:17 107: 9 116:23 <b>without</b> <sup>[6]</sup> 15:20 71:22 78: 14 79:14 81:19 93:17 <b>witness</b> <sup>[1]</sup> 113:22 <b>witnesses</b> <sup>[4]</sup> 79:22 113: 13,14,24 <b>woefully</b> <sup>[1]</sup> 112:21 <b>won</b> <sup>[2]</sup> 56:10 104:19 <b>wondering</b> <sup>[4]</sup> 24:15 42:23 60:1 119:10</p>	<p><b>word</b> <sup>[3]</sup> 19:13 40:4 120:19 <b>words</b> <sup>[9]</sup> 12:4 22:12 49:3 76:1 102:14,15,24 121:16 133:3 <b>work</b> <sup>[5]</sup> 56:25 82:2 93:12 94:1 99:4 <b>worked</b> <sup>[1]</sup> 71:8 <b>works</b> <sup>[1]</sup> 109:15 <b>worried</b> <sup>[1]</sup> 121:3 <b>worry</b> <sup>[2]</sup> 62:5 120:24 <b>writ</b> <sup>[2]</sup> 16:6 32:21 <b>write</b> <sup>[1]</sup> 89:21 <b>write-in</b> <sup>[4]</sup> 68:16 126:22, 25 127:5 <b>writes</b> <sup>[2]</sup> 12:1 103:8 <b>writs</b> <sup>[2]</sup> 14:21 32:19 <b>written</b> <sup>[1]</sup> 117:4 <b>wrote</b> <sup>[1]</sup> 134:17</p> <hr/> <p style="text-align: center;"><b>Y</b></p> <hr/> <p><b>year</b> <sup>[3]</sup> 36:2 53:14 75:5 <b>years</b> <sup>[14]</sup> 25:10 26:9 54:1, 4 81:2 86:23 87:23 88:7, 14,18 89:15 110:19 112:18 114:18</p>
--	--