

In The
United States Court of Appeals
For The Sixth Circuit

WILLIAM ANDREW WRIGHT,

Petitioner – Appellant,

v.

STEPHEN SPAULDING, Warden,

Respondent – Appellee.

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OHIO, D. CT. No. 4:17-CV-2097
(HON. CHRISTOPHER A. BOYKO)**

**AMICUS BRIEF OF LAW AND LINGUISTICS RESEARCH TEAM
ON BEHALF OF NEITHER PARTY
THE BRIEF TAKES NO POSITION AS TO
AFFIRMANCE OR REVERSAL**

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TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	ii
INTRODUCTION AND SUMMARY OF ARGUMENT	1
IDENTITY AND INTEREST OF AMICI CURIAE.....	2
ARGUMENT	3
I. The relationship of the doctrine of dicta to Article III.....	3
II. Linguistic analysis of the original meaning of “cases” in Article III	5
CONCLUSION	12
CERTIFICATE OF COMPLIANCE	
CERTIFICATE OF FILING AND SERVICE	

TABLE OF AUTHORITIES

Page(s)

CASES

Asmo v. Keane, Inc.,
471 F.3d 588 (6th Cir. 2006) 4

Cobens v. State of Virginia,
19 U.S. 264 (1821)..... 12

Hill v. Master,
836 F.3d 591 (6th Cir. 2016) 1, 13

Lujan v. Defenders of Wildlife,
112 S. Ct. 2130 (1992) 4

Muskrat v. United States,
219 U.S. 346 (1911)..... 3

Raines v. Byrd,
521 U.S. 811 (1997)..... 4

Spokeo, Inc. v. Robins,
136 S. Ct. 1540 (2016) 4

United States v. Peterman,
249 F.2d 458 (6th Cir. 2001) 1, 13

Wilson v. Safelite Group, Inc.,
No. 18-3408, ___ F.3d ___, 2019 WL 3000995 (6th Cir. July 10, 2019) 3

CONSTITUTIONAL PROVISIONS

U.S. CONST. art. I, § 3, cl. 6..... 12

U.S. CONST. art. III 1, 2, 3, 4, 10, 12, 13

U.S. CONST. art. III, § 2, cl. 3..... 12

STATUTE

28 U.S.C. § 2241 1, 5

OTHER AUTHORITIES

An Act for Opening and Extending the Navigation of Potomac River,
18 October 1794, Founders Online, available at
<https://founders.archives.gov/documents/Washington/04-02-02-0173-0003> 8-9

Richard Beeman, *The Penguin Guide to the United States Constitution* (2010) 6

Brief of Amici Curiae Professor Clark D. Cunningham and
Professor Jesse Egbert on Behalf of Neither Party (4th Cir. Jan. 29, 2019),
In re Trump, No. 18-2486, ___ F.3d ___, 2019 WL 2998602 (4th Cir. July 10, 2019),
available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3334017 3

Corpus of Founding Era American English (COFEA),
<https://lawcorpus.byu.edu> 7, 8

Michael C. Dorf, *Dicta and Article III*, 142 U. Pa. L. Rev. 1997 (1993-94) 3

Max Farrand, *The Framing of the Constitution of the United States* (1913) 5

James E. Pfander, *Standing, Litigable Interests, and Article III’s Case-or-Controversy
Requirement*, 65 UCLA L. Rev. 170 (2018) 5

Robert J. Pushaw, Jr., *Article III’s Case/Controversy Distinction and the Dual
Functions of Federal Courts*, 69 Notre Dame L. Rev. 447 (1994) 4-5

SCALIA SPEAKS
(Christopher J. Scalia & Edward Whelan eds., 2017) 5

John Spurrier, *The Practical Farmer* (1793) 9

The Records of the Federal Convention of 1787 (Max Farrand ed., 1966) 6, 10, 11

Resources on Law & Linguistics, available at www.clarkcunningham.org/Law-Linguistics.html 8

INTRODUCTION AND SUMMARY OF ARGUMENT

Petitioner seeks to challenge his sentence using 28 U.S.C. § 2241. At issue in this appeal is whether it is sufficient for a § 2241 petitioner to show that “his sentence presents an error sufficiently grave to be deemed a miscarriage of justice or a fundamental defect,” *Hill v. Master*, 836 F.3d 591, 595 (6th Cir. 2016) or whether the petitioner must “make a claim of actual innocence,” *United States v. Peterman*, 249 F.2d 458, 462 (6th Cir. 2001). In reaching its decision, the court in *Hill* said it was not bound by any prior precedent, characterizing the “actual innocence” standard stated in *Peterman* as dicta. 836 F.3d at 597. The issue of dicta is central to two related arguments being made by the government in this appeal: (1) *Hill* incorrectly treated the “actual innocence” standard in *Peterman* as dicta; and (2) the “fundamental defect” standard in *Hill* is itself dicta if applied outside of the mandatory-sentencing guidelines context of that case.

On May 28, 2019, following oral argument, this court asked the parties to file supplemental briefs on four issues:

- “1. What is the original meaning of the Article III Cases or Controversies requirement?
2. How does the corpus help inform that determination?
 - a. See <https://lcl.byu.edu/projects/cofea/>.
3. How does that original meaning relate to the distinction between holding and dicta?
4. How does that ultimate determination relate to which test in *Hill* should govern?”

This amicus brief is offered by an interdisciplinary law-linguistics¹ team to help the court address these questions. The team’s preliminary research findings suggest that the current interpretation of “cases” in Article III may be more narrow than the ways the term would have been used and understood by those who drafted and ratified the Constitution, a finding that may raise questions about whether the doctrine of dicta is supported by the text of Article III. This brief is filed in support of neither party and takes no position as to whether the decision of the district court should be affirmed or reversed. The parties have consented to the filing of this brief.

IDENTITY AND INTEREST OF AMICI CURIAE²

Clark D. Cunningham is Professor of Law and the W. Lee Burge Chair in Law & Ethics at the Georgia State University College of Law.³ He received the Association of American Law Schools (AALS) annual scholarly paper award for his application of linguistic theory to interpreting the meaning of “search” in the Fourth Amendment. The U.S. Supreme Court has repeatedly cited his work on applying linguistics to statutory interpretation. He is the chair-elect of the AALS Section on Law and Interpretation.⁴ Jesse A. Egbert received his Ph.D. in Applied Linguistics with

¹ Linguistics is the scientific study of language, and linguists are scientists who apply the scientific method to questions about the nature and function of language.

² This brief was entirely authored by *amici curiae*. No other party or their counsel played any role in its preparation, nor did any party or other person, other than the *amici curiae*, contribute money intended to fund the preparation and submission of this brief.

³ Employers are provided for identification only; this brief is not filed on behalf of any of the identified employers.

⁴ A complete Cunningham CV is available at: <http://www.clarkcunningham.org/>

distinction at Northern Arizona University, where his dissertation chair was the world's leading expert on corpus linguistics, Professor Douglas Biber. He currently serves as a linguistics professor at Northern Arizona University. He is founder and General Editor of the international scholarly journal *Register Studies*. He has authored more than 60 peer reviewed publications and has authored or co-edited three books.⁵ Margaret Wood is a PhD candidate in applied linguistics at Northern Arizona University. Noor Abbady, MA applied linguistics, is Professor of English as a Second Language at the Savannah College of Art & Design. Heather Kuhn is a Data Privacy and Security Consultant, Cox Communications, and a recent law graduate. These lawyers and linguists submit this brief as the Law & Linguistics Research Team (hereinafter “research team.”)⁶

ARGUMENT

I. The relationship of the doctrine of dicta to Article III

The doctrine of dicta has deep common law roots and practical justifications, but, according to Professor Michael Dorf, federal courts also sometimes treat the doctrine as a constitutional imperative. *Dicta and Article III*, 142 U. Pa. L. Rev. 1997, 2000-01 (1993-94). In *Muskrat v. United States*, 219 U.S. 346, 356-57 (1911), the Court

⁵ A complete Egbert CV is available at: <http://oak.ucc.nau.edu/jae89/>

⁶ An amicus brief co-authored by Professors Cunningham and Egbert on the original meaning of “emolument” in the Constitution has been cited by parties on both sides in two recent federal cases litigating this question, and was recently mentioned with approval in *Wilson v. Safelite Group, Inc.*, No. 18-3408, ___ F.3d ___, 2019 WL 3000995, at *15,*16 (6th Cir. July 10, 2019) (Stranch, J., concurring). The brief is available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3334017.

said: “[T]he exercise of the judicial power is limited to ‘cases’ and ‘controversies.’ ... By cases and controversies are intended the claims of litigants ... The term implies the existence of present or possible adverse parties, whose contentions are submitted to the court for adjudication.” The Court has subsequently further specified the meaning of “case” within the meaning of Article III to include the following “essential core”: a plaintiff who has suffered a concrete and particularized injury that is likely to be redressed by a judicial decision. *Lujan v. Defenders of Wildlife*, 112 S. Ct. 2130, 2136 (1992); *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547 (2016) (“Injury in fact is a constitutional requirement.”). Thus, at least in the civil setting, the Court has restricted the meaning of “cases” to adversary litigation initiated by a plaintiff with a personal and concrete injury --- in brief, “injured plaintiff litigation.”

Dicta is defined as a judicial statement “that is unnecessary to the decision in the case,” a mere “advisory opinion,” *Asmo v. Keane, Inc.*, 471 F.3d 588, 599, 600 (6th Cir. 2006). Any judicial statement not necessary to the issue of redressing a plaintiff’s particularized injury could be considered as exceeding the court’s lawful authority under Article III to decide “cases.”

Professor Robert Pushaw has, however, dug deep into 18th Century history to develop a challenge to what it meant in the Founding Era to “decide a case,” asserting that a judge’s primary role in an 18th century “case” was to answer legal questions through exposition rather than decide a dispute between contesting parties. *Article III’s Case/Controversy Distinction and the Dual Functions of Federal Courts*, 69 Notre Dame L. Rev.

447, 447-50 (1994). Professor James Pfander has studied the actual practices of federal courts in the decades after ratification and reached a similar conclusion: “Article III uses the term ‘cases’ to extend jurisdiction in the broadest terms to subjects of federal interest ... encompass[ing] both contentious jurisdiction over criminal and civil matters and noncontentious jurisdiction over claims of federal right.” *Standing, Litigable Interests, and Article III’s Case-or-Controversy Requirement*, 65 UCLA L. Rev. 170, 179 (2018).

II. Linguistic analysis of the original meaning of “cases” in Article III

This brief explores the original public meaning of “cases” through linguistic analysis of both texts generated through the process of drafting the Constitution and general language usage of the period, consistent with advice given by James Madison: “whatever respect may be thought due to the intention of the Convention, which prepared and proposed the Constitution, *as a presumptive evidence of the general understanding at the time of the language used*, it must be kept in mind that the only authoritative intentions were those of the people of the States, as expressed through the Conventions which ratified the Constitution.”⁷

The Constitution was developed from fifteen resolutions introduced on May 29, 1787, by the Virginia delegation (“the Virginia Plan”). Max Farrand, *The Framing of the Constitution of the United States* 202 (1913). James Madison, the “master builder of the Constitution,” *id.* at 196, played a major role in devising and promoting the Virginia

⁷*Quoted in Original Meaning*, SCALIA SPEAKS 18 (Christopher J. Scalia & Edward Whelan eds. 2017) (emphasis in Madison’s original letter).

Plan. Richard Beeman, *The Penguin Guide to the United States Constitution* 150 (2010).

Resolution 9 addressed the creation of a federal judiciary:

the jurisdiction of the inferior tribunals shall be to hear & determine in the first instance, and of the supreme tribunal to hear and determine in the dernier resort, all piracies & felonies on the high seas, captures from an enemy; cases in which foreigners or citizens of other States applying to such jurisdictions may be interested, or which respect the collection of the National revenue; impeachments of any National officers, and questions which may involve the national peace and harmony. *The Records of the Federal Convention of 1787* (ed. Max Farrand 1966)(hereinafter “*Records*”), vol. I, 21-22.

In this resolution, the judicial power to “hear and determine” applies to four categories that are not described as “cases”: piracies, captures, impeachments, and “questions which may involve the national peace and harmony.” In particular, the last category would seem to include a broader jurisdiction than just “injured plaintiff litigation.”

On July 18, 1787, the Convention unanimously adopted a simplified version of Resolution 9: “the jurisdiction of the national Judiciary shall extend to cases arising under laws passed by the general Legislature, and to *such other* questions as involve the National peace and harmony”. *Records* II, 39 (emphasis added). This brief now turns to linguistic analysis of general language usage in the Founding Era to investigate meaning relationships potentially revealed between “cases arising” and “questions as involve the National peace and harmony” by the addition of the connecting phrase “such other.”

The science of linguistics has made dramatic progress in the past thirty years due to developments in computer technology making it possible to acquire, store, and process large amounts of digitized data representing actual language use. Such a data set

is called a *corpus* (plural: *corpora*). When properly executed, corpus-based linguistic research meets the scientific standards of *generalizability*, *reliability*, and *validity*.

For empirical research into original meaning of the Constitution, the standard of generalizability is met by use of a corpus sufficiently large and varied that it represents – in the words of James Madison -- the “language used by the people of the States” when the state conventions ratified the Constitution. This standard is met by using the publicly-available *Corpus of Founding Era American English (COFEA)*, which contains in digital form over 95,000 texts created between 1760 and 1799, totaling more than 138,800,000 words. <https://lawcorpus.byu.edu>. The texts in *COFEA* come from six sources: the National Archive Founders Online collection of papers of six founding figures (Washington, Franklin, Adams, Jefferson, Hamilton and Madison); legal materials published by HeinOnline; Evans Early American Imprints containing over 3000 books and other publications; Debates in the State Conventions; Records of the Constitutional Convention; and Statutes-at-Large from the first five Congresses.

The reliability standard requires that a research method produce consistent results, allowing a different researcher applying the same method to duplicate the outcome. The results presented in this brief can be replicated by anyone who accesses the free *COFEA* website and uses the computerized search methods herein described.

Validity refers to how well the results from a method reflect real world patterns. Validity was built into the research reported here by beginning with observations of systemic features of real language use in the Founding Era, discovering patterns from

the ground up, with no preconceptions, and subjecting hypotheses to empirical testing using the corpus data.

The research team began by conducting a search of the entire *COFEA* data base for texts that used the same “such other” construction as the July 18 resolution. Using the search query “such other */n (noun)” returned 2,821 examples, dispersed primarily among the *HeinOnline*, *Founders Online*, and *Evans Early American Imprints* sources. While a majority of the hits came from these three sources, the phrase appeared in all the *COFEA* sources. The phrase was also found in all four decades from 1760 – 1799. This frequency and extent of dispersion indicates that the phrase, “*a*...such other *b*”, was commonly used and recognized in the Founding Era. Further, in the *COFEA* data base, the phrase “such other” almost always appears with a noun following “such other.” The research team then moved to an in-depth study of a random sample of 100 occurrences of the phrase drawn from all the *COFEA* sources.⁸ Analysis revealed both regular *syntactic*⁹ and *semantic*¹⁰ features.

In assessing the semantic meaning of the phrase “*a*...such other *b*”, it is clear that *a* is always a type or example of *b*. Consider the following text regarding extending navigation on the Potomac found in the papers of George Washington:

“the said president and directors... shall have full power and authority ... to cut such canals, and erect such locks, and perform such other works as

⁸ A portion of this 100 line sample, along with links to the full texts, is available at *Resources for Law and Linguistics*, www.clarkcunningham.org/Law-Linguistics.html.

⁹ Syntax describes how words are arranged to construct a sentence.

¹⁰ Semantics addresses the meaning of words, phrases and sentences.

they shall judge necessary for opening, improving, and extending the navigation of the said river” <https://founders.archives.gov/documents/Washington/04-02-02-0173-0003>

“Cut canals” and “erect locks” are examples of the general category of “works” that can be done to improve navigation on a river.

Phrases using “such other” also have a set syntactic pattern, where the more general term *b* follows the more specific term(s) *a*. Consider the following example:

“The second plowing ...will be turned upwards, and ... may be planted with potatoes or such other vegetables as may best suit the judicious husbandman’s inclination.” John Spurrier, *The Practical Farmer* 5 (1793)

Potatoes (*a*) is a specific example from the general category of vegetables (*b*). The syntax cannot be reordered to say “planted with vegetables and such other potatoes.” The research team carefully examined all 100 texts in the random sample looking for counter-examples that might disconfirm these hypotheses about the semantic and syntactic features of “such other” phrases and found none.

Applying these research findings to the July 18 resolution leads to these conclusions:

- (1) For the members of the Convention who considered and unanimously adopted the July 18 resolution, “cases arising under laws passed by the general Legislature” was a type or example of “questions as involve the National peace and harmony”; and
- (2) “other questions” (*b*) was a more general category of jurisdiction than “cases arising” (*a*).

It is difficult to believe that the Convention Delegates would have spoken of “cases arising under laws” as a type of “question involving the national peace and harmony” if “cases” meant only “injured plaintiff litigation.”

On July 26 the Convention adjourned while a five member “Committee of Detail” drafted a report consolidating all the adopted resolutions into a single document. On August 6 the Convention reconvened to receive the committee’s draft constitution, which included an Article XI that looked much like the enacted Article III:

The Jurisdiction of the Supreme Court shall extend to all cases arising under laws passed by the Legislature of the United States; to all cases affecting Ambassadors, other Public Ministers and Consuls; to the trial of impeachments of Officers of the United States; to all cases of Admiralty and maritime jurisdiction; to controversies between two or more States, (except such as shall regard Territory or Jurisdiction) between a State and Citizens of another State, between Citizens of different States, and between a State or the Citizens thereof and foreign States, citizens or subjects. *Records* II, 186.

Did the Committee of Detail decide to completely reject the Convention’s unanimous position of July 18 that federal court jurisdiction should include a general category of “questions involving the national peace and harmony” or was the replacement of “questions” with a longer list of categories described as either “cases” or “controversies” understood as retaining most if not all of the “questions”?

Madison’s notes of the Convention strongly suggest that “cases” continued to have a broad meaning as drafting proceeded. His notes provide the following report of a motion to change “all cases arising under laws passed by the Legislature” to read “all

cases arising under *this Constitution and* the laws passed by the Legislature”. *Records II* at 160.

Docr. Johnson [William Johnson, who held a Doctor of Laws degree] moved to insert the words ‘this Constitution and the’ before the word ‘laws’. Mr Madison doubted whether it was not going too far to extend the jurisdiction of the Court generally to cases arising Under the Constitution, & whether it ought not to be limited to cases of a Judiciary Nature. The right of expounding the Constitution in cases not of this nature ought not to be given to that Department. The motion of Docr. Johnson was agreed to nem: con: it being generally supposed that the jurisdiction given was constructively limited to cases of a Judiciary nature --- *Records II* 431 (Madison Notes).

This passage provides several notable insights into the meaning of “cases,” at least to Madison. First, Madison thought that “cases” could be interpreted as having such a broad meaning that adding the phrase “cases arising under the Constitution” might go “too far to extend the jurisdiction of the Court.” Second, Madison described “cases” as a general term that could include both “cases of a judiciary nature” and “cases not of a judiciary nature.” Once again, it is difficult to imagine that in speaking this way Madison thought “cases” referred only to “injured plaintiff litigation.” Notably, Madison was apparently comfortable with the possibility that the un-amended phrase “all cases arising under laws” might include “cases not of a judiciary nature” – he only raised an objection that the court’s jurisdiction might be extended too far when the scope of “arising under” would be expanded by Doctor Johnson’s motion to include “arising under the Constitution.”

The text of Article III as finally enacted itself contains direct evidence that the term “cases” can include “cases not of a judiciary nature.” Clause 3 of Section 2 includes this sentence: “The trial of all crimes, except in *Cases of impeachment*, shall be by jury.” U.S. CONST. art. III, § 2, cl. 3 (emphasis added). Cases of impeachment are not “of a judiciary nature” but are a process conducted by the legislative branch. U.S. CONST. art. I, § 3, cl. 6.

CONCLUSION

If “cases arising under this Constitution [and] the laws under the United States” was understood in the Founding Era as an example of “hearing and deciding questions involving the national peace and harmony” – and if “cases” could even include “cases not of a judiciary nature” – then the doctrine of dicta may not be well grounded in the original meaning of Article III.

Any discussion of the difference between holding and dicta is likely to begin with Chief Justice Marshall’s opinion in *Cobens v. State of Virginia*, 19 U.S. 264 (1821). However, the reason given in *Cobens* for disregarding dicta is not a constitutional mandate based on the meaning of “cases” in Article III but a pragmatic rationale: “The reason of this maxim is obvious. The question actually before the Court is investigated with care, and considered in its full extent. Other principles ... are considered in their relation to the case decided, but their possible bearing on all other cases is seldom completely investigated.” *Id.* at 399-400.

The treatment of the *Hill* and *Peterman* cases in this appeal might be different if the issue of dicta was treated in this pragmatic way rather than as a constitutional constraint on judicial decision making. For example, even though the “fundamental defect” standard was necessary to the *Hill* decision, the government’s decision in *Hill* not to advocate for the more stringent “actual innocence” standard may have meant the issue was not “investigated with care” as compared with the earlier *Peterman* decision.

The research team has found even further evidence for a broad interpretation of “cases” in: state constitutions adopted prior to the Convention, the Articles of Confederation, interpretations of Article III by President Washington and his cabinet, and legislation by the early Congress. Should the court choose to grant the request in the motion for leave to file amicus brief, requesting an extension to August 29 to file an additional brief, details of this additional evidence can be provided plus results from further linguistic research available by that time.

Respectfully submitted,

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	Link to full text	Context Left (a nouns underlined)	Keyword	Context Right (b noun underlined)
1	https://founders.archives.gov/documents/Hamilton/01-22-02-0353	The Returns & c. accustomed to be made to the War Department: 1. <u>Returns of Ordnance Cloathing and military Stores to the Superintendent of Military Stores</u> , Mr. Hodgdon. 2. <u>Returns of Quarter Master Stores to the Quarter Master General</u> . The Quarter Master General will stand charged for all supplies for his department by the Superintendent of Military Stores. 3. <u>Returns by the Quarter Master General</u> to the Superintendent of Military Stores exhibiting the stores distributed by him & persons chargeable with the same. 4. <u>Return of Troops monthly</u> . 5. <u>Return of Troops</u> on the first of October in every Year, noting the number whose terms will expire in every month. I do not recollect at this moment other returns than what I have just enumerated. It will be necessary in examining this subject and revising the returns accustomed to be made to provide for	such other	<u>returns</u> as will exhibit at what period each soldier receives his Clothing that frauds may be obviated and should any neglect in the Soldier render it necessary to furnish him with any additional article of dress, that a proper deduction may be made out of his pay for the same.
2	https://quod.lib.umich.edu/cgi/t/text/text-idx?c=evans;cc=evans;q1=N20002;rgn=main;view=text;idno=N20002.001.001	The second plowing should be to form the ridges, by which the ashes and lime that were plowed in, will be turned upwards, and after being thoroughly incorporated with the soil by harrowing, may be planted with <u>potatoes</u> or	such other	<u>vegetables</u> as may best suit the judicious husbandman 's inclination.
3	https://founders.archives.gov/documents/Jefferson/01-02-02-0132-0004-0123	if he be in the county, or otherwise to his agent, if any such be known, that at some time appointed in the notice not less than ninety nor more than ninety-six days from the end of the said five days, the said lands, tenements, and hereditaments, will be exposed to sale by auction, <u>on the premises</u> , or at	such other	<u>place</u> , in the same county, as the owner shall, by writing under his hand delivered to the officer, direct.
4	https://founders.archives.gov/documents/Jefferson/01-01-02-0161-0006	Let the Govr., when he is out of office, and all other offenders agt the State either by mal-administration, corruption or other means, by which the safety of the state may be endangered, be impeached by the lower house of assembly, such impeachmt. to be prosecuted by <u>the attny. genl.</u> or	such other	<u>person or persons</u> as the house may appoint, in the supreme court of common law, according to the laws of the land, if found guilty.
5	https://quod.lib.umich.edu/cgi/t/text/text-idx?c=evans;cc=evans;q1=N27382;rgn=main;view=text;idno=N27382.001.001	No person in a fleet, or in a single ship or vessel, shall supply an enemy or rebel with stores, money, victuals, arms, ammunition, or any kind of stores, directly or indirectly, <u>upon pain of death</u> , or	such other	<u>punishment</u> as a court martial shall think fit to impose, and as the nature and degree of the crime shall deserve.
6	https://founders.archives.gov/documents/Washington/05-06-02-0195	I would not let the bow windows, or any other addition to the house, or any of the out buildings be any impediment to your removal, for you will have sufficient Room <u>to stow the furniture</u> (intended for the two large Rooms) in some other parts of the house; and for all those who will accompany you; and by being on the spot you will have it more in your power to <u>provide wood</u> , and make	such other	<u>arrangements</u> as shall be found necessary, than you can do at a distance, besides accomplishing the main point (that is, the removal) before the weather becomes cold and intemperate .
7	https://quod.lib.umich.edu/cgi/t/text/text-idx?c=evans;cc=evans;q1=N24939;rgn=main;view=text;idno=N24939.001.001	The Supreme Court and the several Courts of Common Pleas shall, beside the powers heretofore usually exercised by them, <u>have the powers of a Court of Chancery</u> , so far as relates to the perpetuating testimony, the obtaining of evidence from places not within the State, and the care of the persons and estates of those, who are non-compotes mentis: and the Legislature shall vest, in the said Courts	such other	<u>powers</u> , to grant relief in equity, as shall be found necessary; and may, from time to time enlarge or diminish those powers, or vest them in such other Courts as they shall judge proper, for the due administration of justice
8	https://founders.archives.gov/documents/Washington/05-16-02-0124	Joseph Wilson, to be Consul for the United States of America, at <u>the port of Dublin</u> ; and for	such other	<u>places</u> as shall be nearer to the said port, than to the residence of any other Consul or vice Consul of the United States within the same allegiance

9	https://founders.archives.gov/documents/Washington/04-02-02-0173-0003	IV. And be enacted, That the said president and directors... shall have full power and authority, to agree with any person or persons, on behalf of the said company, <u>to cut such canals, and erect such locks,</u> and perform	such other	<u>works</u> as they shall judge necessary for opening, improving, and extending the navigation of the said river above tide water, to the highest part of the North Branch, to which navigation can be extended
10	https://quod.lib.umich.edu/cgi/t/text/text-idx?c=evans;cc=evans;q1=N09423;rgn=main;view=text;idno=N09423.001.001	Chew and James Tilghman Esquires of the province of Pennsylvania ; the Reverend William Smith , Samuel Auchmuty , and Thomas Bradbury Chandler , Doctors in Divinity ; Myles Cooper , Doctor of Laws ; Richard Peters , William Currie, Richard Charlton , Philip Reading, George Craig , John Ogilvie , Samuel Cook , Samuel Seabury, Thomas Barton, Charles Inglis, William Thomson, Jacob Duché, Leonard Cutting, Alexander Murray, Ephraim Avery, John Beardsley, Jonathan Odell, Samuel Magaw, John Andrews, Abraham Beach, William Ayres, and William Frazer, clerks ; Cortland Skinner, John Lawrence and Daniel Coxe Esquires of our province of NewJersey ; John Tabor Kempe, John Livingston, Elias Desbrosses, James De Lancey, James Van Cortlandt, Isaac Willet , Nicholas Stuyvesant, James Duane , Jacob Le Roy , Benjamin Kissam, Jacob Walton and William Axtell Esquires of our province of NewYork ; Joseph Galloway, John Ross, Richard Hockley, Samuel Johnson, Thomas Willing, Samuel Powell, Francis Hopkinson and William Atlee Esquires and Doctor John Kearsley of the province of Pennsylvania ; and	such other	<u>persons</u> as shall hereafter be elected and admitted members of the corporation erected, and to be erected, by these presents, according to the tenor hereof, and of such by-laws and constitutions, as shall hereafter be made by the said corporation, be, and for ever hereafter shall be, by virtue of these presents, ONE BODY CORPORATE AND POLITIC in deed and in name
11	https://founders.archives.gov/documents/Jefferson/01-02-02-0132-0004-0044	Be it enacted by the General Assembly, that flour, beef, pork, tar, pitch and turpentine, before they be shipped for exportation, or sold, or bartered, shall be inspected, and the vessels containing them shall be stamped, in the manner herein after directed, by one of the persons whom the county courts shall appoint, residing in their respective counties, and not being owners of merchant mills, or employed in them, nor dealing in any of the commodities subject to their examination; which appointment shall be made, with open doors, <u>in August or September, annually,</u> or at	such other	<u>time</u> as it may be necessarily required.
12	https://founders.archives.gov/documents/Adams/06-16-02-0059	The occasion of our addressing you the present is to inform you, that we have to our Consignment a Vessel from New York, named the New York, Thomas Smith Master, which Vessel arrived here in October last, when he discharged some of his hands, & being now, on departure , stands in need of others; which he can get, but as our States at the beginning of the late War published an Ordonance, that no Foreign Vessels should take any <u>other Sailors back, but those with which they came in,</u> or present previously a petition to the Lords of the Admiralty, for taking	such other	<u>hands on board,</u> as they should stand in need off; which occasions a great Charge to the Masters of Vessels, not only for obtaining this permission, but also for Sundry Fees
13	https://quod.lib.umich.edu/cgi/t/text/text-idx?c=evans;cc=evans;q1=N20663;rgn=main;view=text;idno=N20663.001.001	That if Congress shall on or before the first day of July next , renew and again open the subscription to the loan heretofore proposed to the state creditors, or shall in any other manner or upon any other terms provide for the assumption of the nonsubscribed debts owing to such state creditors, the holder or holders of any certificate or certificates, subscribable to the subscription so renewed, or entitled to the benefit of such other provision, shall be entitled to have and receive the nominal value of the said certificate or certificates from the StateTreasurer, upon this condition and not otherwise: that they shall and do subscribe to <u>the loan so renewed,</u> or acquiesce in the terms of	such other	<u>provision,</u> and thereupon , on or before the first day of July next , transfer to the State-Treasurer , for the use of the commonwealth , each and every the certificate and certificates which they shall receive from the United States , in consequence of such subscription , or all and singular the interests and benefits to be derived from such other provision , together with the proper evidences thereof

14	https://founders.archives.gov/documents/Washington/03-03-02-0390-0001	I judged It advisable to <u>secure the several heights</u> lest they should attempt to return, and for this purpose have <u>caused a large & strong work to be thrown up on Fort Hill</u> , a post of great importance as It commands the whole Harbour and when fortified, If properly supported, will greatly annoy any Fleet the Enemy may send against the Town, & render the landing of their Troops exceedingly difficult, If not Impracticable — This work is almost done & in a little time will be compleat — And that the communication between the Town & Country may be free & open, I have <u>ordered all the Lines upon the Neck to be immediately destroyed, and the other works on the sides of the Town facing the Country</u> , that the Inhabitants from the latter may not be Impeded, and afforded an easy entrance in case the Enemy should gain possession at any future time — These matters I conceived to be within the Line of my duty, of which I advised the Genl Cour, and recommended to their attention	such other	<u>measures</u> as they might think necessary for securing the Town against the Hostile designs of the Enemy
15	https://founders.archives.gov/documents/Jefferson/01-11-02-0214	Dear Sir I have had within a few days the pleasure to receive your favor of the 13th august. It was received at the office of Foreign affairs in Novr. and has been traveling since southwardly and Northwardly to meet with me. I have been attentive to your other request, and expect I shall be able to send you a few plants of the Dionaea muscipula some time this Spring. Mr. de la Forest who returns to France promises to take charge of them: and a very attentive worthy man is to send me a dozen or more from Wilmington in small earthen pots. I will also send you some of the seed as soon as it is practicable. I shall send you by Mr. de la Forest <u>the little Vocabulary of the Cherokee and Choctaw tongues</u> : and	such other	<u>information</u> as I may receive.
16	https://founders.archives.gov/documents/Washington/03-22-02-0226	Resolved — That it be and it is hereby recommended to the several States that have not already adopted measures for that purpose, to make such further provision for the officers and for the soldiers enlisted for the War to them respectively belonging who shall continue in service 'till the establishment of Peace as shall be an adequate compensation for the many dangers, losses and hardships they have suffered and been exposed to in the course of the present contest, <u>either by granting to their officers half pay for life and proper rewards to their soldiers</u> — or in	such other	<u>manner</u> as may appear most expedient to the legislatures of the several States
17	https://quod.lib.umich.edu/cgi/t/text/text-ext-idx?c=evans;cc=evans;q1=N13928;rgn=main;view=text;idno=N13928.0001.001	And be it further enacted by the Authority aforesaid That if <u>the said President</u> , and	such other	<u>Person or Persons</u> so elected and appointed for the Purpose of examining Candidates as aforesaid , shall obstinately refuse to examine any Candidate so offering himself for Examination as aforesaid , each and every such Person so elected and appointed as aforesaid , shall be subject to a Fine of One Hundred Pounds , to be recovered by the said Candidate , and to his own Use , in any Court within this Commonwealth proper to try the same
18	https://founders.archives.gov/documents/Jefferson/01-04-02-0362	I have sent the due bill by Majr. Read for the deficiency of the half years Cloathing drawn by Majr .Walls, for the officers of the western Battalion. And hope the Executive power will think it reasonable to let us draw as much cloathing as will make up <u>one years allowance including what we have already drawn with</u>	such other	<u>allowances</u> as the laws of our Country intitles us to, or you in your wisdom shall think Necessary.
19	https://quod.lib.umich.edu/cgi/t/text/text-ext-idx?c=evans;cc=evans;q1=N13761;rgn=main;view=text;idno=N13761.0001.001	The governor, when he is out of office, and others offending against the state , either by mal-administration, corruption, or other means, by which the safety of the state may be endangered, shall he impeachable by the house of delegates . Such impeachment to be prosecuted by <u>the attorney-general</u> , or	such other	<u>person or persons</u> as the house may appoint, in the general court, according to the laws of the land
20	https://founders.archives.gov/documents/Adams/99-02-02-2017	Dear Sir I request you take into your immediate consideration, the inclosed original Letter signed and to consult with <u>the Attorney of the District</u> , and	such other	<u>Learned Counsel</u> , as you shall judge proper in confidence and report to me your opinion with theirs upon these questions 1st Whether the Letter is in any and in what parts criminal

21	https://quod.lib.umich.edu/cgi/t/text/text-ext-idx?c=evans;cc=evans;q1=N26055;rgn=main;view=text;idno=N26055.001.001	A large kitchen, with a large eating-room adjoining it, and a commodious bake-house, were added to the buildings; and work-shops for <u>carpenters, smiths, turners</u> , and	such other	<u>mechanics</u> as were constantly wanted in the manufactory for making and repairing the machinery, were established, and furnished with tools
22	https://founders.archives.gov/documents/Washington/03-07-02-0411	We took Two Brass Feild peices but for want of Horses could not bring them away. We also took some Blankets — Shoes — and a few other trifling Articles — burnt the <u>Hay</u> & destroyed	such other	<u>things</u> as the shortness of the time would admit of.
23	https://founders.archives.gov/documents/Franklin/01-33-02-0123	The Port of Charlestown will then be open, the Produce of the Country may then be exported, and by that means your Money be remitted to you. Your Correspondent may then if you Order it, sell your Stock in the Funds, and vest the Money in <u>Indigo</u> or	such other	<u>Commodities</u> as you may direct.
24	https://founders.archives.gov/documents/Adams/99-02-02-0718	Dear Sir Although I have had frequent occasions to solicit in Favour of <u>my Friends</u> (or	such other	<u>Characters</u>) as I have thought might be usefully employed in public business...
25	https://founders.archives.gov/documents/Washington/03-07-02-0256	It may be convenient to send the Prisoners in this State from the several Towns where they are kept under Guard of the Troops of our four new raised Battalions , who are to continue in Service till the 15th of March next — Parties from those several Towns , going on to their Service, may very conveniently do it , and the Prisoners going in such small parties will not be dangerous — and it may be so concerted that they arrive at the place appointed, near at the same time — I have sent forward Mr Alden with this, who will wait on you for <u>your Answer & advice for my future Conduct</u> herein, with	such other	<u>Intelligence</u> as you may think convenient to transmit me
26	https://quod.lib.umich.edu/cgi/t/text/text-ext-idx?c=evans;cc=evans;q1=N11163;rgn=main;view=text;idno=N11163.001.001	In order to maintain and preserve our chastity, the following things seem necessary and useful: [...] 4.) To be much in reading <u>the scriptures</u> , and	such other	<u>books</u> , as tend to purify the mind, and inspire chaste and holy thoughts
27	https://founders.archives.gov/documents/Jefferson/01-11-02-0595	Unfortunately for me, when at Lorient, on <u>his</u> return to Paris, <u>he</u> found it more adviseable to proceed directly to America; so that I have lost this opportunity of having my account settled. I shall either do it with <u>him</u> on his return, if <u>he</u> returns soon, or with	such other	<u>person</u> here as you shall point out, or I will transmit it, with copies of my vouchers, to be settled by you, or do whatever else with it you shall please to direct
28	https://founders.archives.gov/documents/Jefferson/01-10-02-0043	The monopoly of the purchase of tobacco for this country which had been obtained by Robert Morris had thrown the commerce of that article into agonies. He had been able to reduce the price in America from 40 / to 22/6 lawful the hundred weight, and all other merchants being deprived of that medium of remittance the commerce between America and this country, so far as it depended on that article, which was very capitally too, was absolutely ceasing. An order has been obtained obliging the farmers <u>general to purchase from</u>	such other	<u>merchants</u> as shall offer, 15,000 hogsheads of tobacco at 34, 36, and 38 livres the hundred according to the quality, and to grant to the sellers in other respects the same terms as they had granted to Robert Morris.
29	https://founders.archives.gov/documents/Washington/05-13-02-0058	It is of great importance that this Government should <u>be fully informed of the Spanish force in the Floridas — The number of their Posts — and the strength & situation of each</u> ; together with	such other	<u>circumstances</u> as would enable it to adopt correspondent measures in case we should, in spite of our endeavors to avoid it, get embroiled in a dispute with that Nation.

30	https://quod.lib.umich.edu/cgi/t/text/text-idx?c=evans;cc=evans;q1=N26586;rgn=main;view=text;idno=N26586.001.001	As an officer in the service of the United States and one attached to its interest, I conceive it my duty to inform you in your office capacity of <u>the arrival of Zachariah Cox</u> in this place an hour or two since. <u>of his having been confined by his excellency Governor Sergeant</u> in August last at Natchez, <u>of his escape from confinement</u> &	such other	<u>circumstances</u> attending those different actions as have come within my knowledge
31	https://quod.lib.umich.edu/cgi/t/text/text-idx?c=evans;cc=evans;q1=N19030;rgn=main;view=text;idno=N19030.001.001	From the influence which culture has upon forest and other trees, it has been supposed, that by transplanting <u>the Sugar Maple tree</u> into a garden, or by destroying	such other	<u>trees</u> as shelter it from the rays of the Sun , the quantity of the sap might be increased, and its quality much improved .
32	https://founders.archives.gov/documents/Washington/99-01-02-08948	I am to desire <u>your Excellency's Passport</u> for Chief Justice Frederick Smith Esqr. and his Servant or Servants to attend your Excellency with the Minutes of the Court Martial on the Trial of Richard Lippencot for the Murder of Joshua Huddy, together with	such other	<u>Documents</u> relative to the matter as I may find proper to transmit therewith, and who will be enabled to offer such further Explanations, as I doubt not will give the fullest Satisfaction
33	https://founders.archives.gov/documents/Adams/01-01-02-0005-0005	And Q. also, whether, the said Right Heirs have the Property of <u>the feed and the Apples</u> , and	such other	<u>fruits</u> as the Earth produces spontaneously, or at least without any immediate Expence and Industry
34	https://quod.lib.umich.edu/cgi/t/text/text-idx?c=evans;cc=evans;q1=N09379;rgn=main;view=text;idno=N09379.001.001	The following TABLE contains the <u>names of places, their latitudes and longitudes</u> , and	such other	<u>requisites</u> as enter into the comparisons for deduceing the Sun 's parallax from the observations.
35	https://quod.lib.umich.edu/cgi/t/text/text-idx?c=evans;cc=evans;q1=N25332;rgn=main;view=text;idno=N25332.001.001	The Select and Common Councils authorise the Mayor to borrow 10,000 dollars, in anticipation of the taxes of the present year, to be applied to the purposes of <u>watching and watering the city</u> , and	such other	<u>objects</u> as the Mayor shall deem necessary for the general protection of the city during the present calamity.