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Immunity, The Undelegated Fraud: Why Government Cannot Lawfully Exempt Itself from Accountability

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1.0 The Law Before Government and the Source of All Legitimate Authority

Before a single statute was written, before any court convened, and before any officer swore an oath, there was law. This law, referred to by the Founders as the “Laws of Nature and of Nature’s God,” entitled the American people to assume among the powers of the earth a separate and equal station and to form a nation. These laws of nature are supreme. “*Jus naturale est quod apud omnes homines eandem habet potentiam,*” (Natural law has the same force among all men) 7 Coke, *Reports* 12; Blackstone, *Commentaries*, Vol. I, at 41–42.

As William Blackstone affirmed, “*The law of nature being coeval with mankind and dictated by God Himself, is of course superior in obligation to any other. It is binding all over the globe, in all countries, and at all times; no human laws are of any validity if contrary to this; and such of them as are valid derive all their force, and all their authority, mediately and immediately, from this original.*”

From God mankind holds the gift which, as far as we are concerned, contains all others: life, physical, intellectual, and moral. Thomas Paine explained in *Rights of Man* that “*Rights are not gifts from one man to another; nor from one class of men to another... It is impossible to discover any origin of rights other than in the nature of man.*” He who bestowed life entrusted humanity with the duty of supporting it, developing it, and perfecting it. Frédéric Bastiat expressed the same truth in *The Law*, “*Life, liberty, and property do not exist because men have made laws. On the contrary, it was the fact that life, liberty, and property existed beforehand that caused men to make laws in the first place.*” These rights are not creations of the state. They are pre-state, pre-legal, and pre-political. They exist because man exists. They are woven into creation itself.

“*Quod ab initio non valet, in tractu temporis non convalescit,*” (That which is void in the beginning does not become valid by lapse of time) Co. Litt. 327a; 2 Coke, *Institutes* 292; Broom, *Legal Maxims* (10th ed.), at 169

Accordingly, the Founders declared with clarity that “*all men are created equal and endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.*” Because every individual possesses the natural right to defend these endowments, the People may combine their defensive authority into a collective organization of lawful defense: government. Bastiat articulated this relationship precisely: “*If every man has the right of defending, even by force, his person, his liberty, and his property, a number of men have the right to combine together to extend, to organize a common force to provide regularly for this defense.*” He continued, “*Collective right, then, has its principle, its reason for existing, its lawfulness, in individual right; and the common force cannot rationally have any other end, or any other mission, than that of the isolated forces for which it is substituted.*” From this it follows that, just as an individual may not lawfully destroy the life, liberty, or property of another, the collective force may not lawfully be used to do so.

This principle was distilled by Bastiat into a single controlling axiom, “*Law is the collective organization of the individual right to lawful defense.*” From this axiom flows an unavoidable conclusion: government has one, and only one, legitimate purpose, to secure rights that existed before government itself. The moment government exceeds that charge, whether by neglecting the rights it is sworn to protect or by usurping authority never granted, it becomes an instrument of oppression. In this strict constructionist view, the government’s sole legitimate purpose is to protect these pre-existing rights. “*A verbis legis non est recedendum,*” (From the words of the law there must be no departure) 5 Coke, Reports 118; 1 Kent, Commentaries 462

This principle was explicitly codified in the Alabama Constitution, Article I, Section 35, “*That the sole object and only legitimate end of government is to protect the citizen in the enjoyment of life, liberty, and property, and when the government assumes other functions it is usurpation and oppression.*”

Thomas Paine warned that government, even at its best, is “*a necessary evil,*” and becomes intolerable the moment it exceeds its delegated purpose. When government remains within its defensive sphere, society flourishes with minimal friction; when it exceeds that sphere, Bastiat observed that “*the law becomes perverted,*” transformed into an instrument of plunder rather than protection. Thomas Jefferson expressed the same warning: “*The two enemies of the people are criminals and government; so, let us tie the second down with the chains of the Constitution so it will not become the legalized version of the first.*”

This moral and legal reality is the reason the People reduced their will to writing. They bound government to a fixed, public, written contract, the Constitution. Thomas M. Cooley explained in *Constitutional Limitations* (1868) that a constitution “*grants no rights to the people, but is the creature of their power, the instrument of their convenience.*” Designed solely for the protection of rights that existed before it was written, it is “*the framework of the political government,*” and “*a written constitution is in every instance a limitation upon the powers of government in the hands of agents.*”

But even the Constitution is not the highest law. It exists within a superior structure of authority that no government may lawfully breach.

1.1 The Unbreakable Hierarchy of Law (The Firewall)

All legitimate governmental action in the American constitutional republic must conform to an immutable hierarchy of law. This hierarchy is not theoretical, nor optional; it is the necessary structure of lawful authority itself. Any act, legislative, executive, or judicial, that violates this order is void from its inception because it lacks a lawful source.

At the apex of this hierarchy stands the law of revelation, the law of God, which is first, supreme, and unchangeable. As Blackstone wrote in his *Commentaries on the Laws of England*, “*The divine law is of infinite authority... the moral precepts which God has given to mankind.*” No human institution possesses authority to amend, suspend, or contradict this law.

Immediately beneath divine law stand the fundamental maxims of law. These maxims are eternal, self-evident, and require no proof. Lord Coke described them as “*Propositions to be of all men confessed and granted without prooffe, argument, or discourse... they are not to be disputed, they are the law of the land.*” (*Institutes*, 67a). These maxims bind all who exercise power and operate as fixed boundaries on governmental authority.

Subordinate to divine law and the maxims are the constitutions of society. A constitution is not a source of rights, but a restraint upon government. Its authority is conditional, existing only so long as it conforms to the higher law above it. As Cooley explained, “*No enactment can rise above the constitution; but the constitution itself must bow to the higher law.*”

At the lowest level of this hierarchy are enactments, statutes, codes, rules, and administrative regulations. These are not the law of the land in themselves, but expressions of legislative will. As Cooley made clear, “*Enactments are not the law of the land; they are but the will of the legislature, subject always to the maxims and to reason.*”

This hierarchy operates as a firewall. No statute may override a constitution. No constitution may override the maxims. No judicial opinion may override natural law. Where a conflict exists, the inferior act must fall.

Emer de Vattel articulated the gravity of violations of this hierarchy in *The Law of Nations*, a work so foundational that Congress was expressly delegated power to punish offenses against it in Article I, Section 8, Clause 10 of the Constitution. Vattel wrote, “*To attack the constitution of the state, and to violate its laws, is a capital crime against society; and if those guilty of it are invested with authority, they add to this crime a perfidious abuse of the power with which they are intrusted.*”

1.2 The Principle of Delegated Power and the Exclusion of Immunity

The sole legitimate purpose of creating government is to combine the individual right of self-defense into a collective organization capable of securing those rights. Because collective authority is derivative, it cannot exceed the lawful power of the individual from whom it is drawn. As Bastiat explained, the common force “*cannot rationally have any other end, or any other mission, than that of the isolated forces for which it is substituted.*”

The People demonstrated that they possessed the power to grant immunity by exercising that power once, and only once, in the Constitution. Article I, Section 6 confers a narrow parliamentary privilege upon members of the legislature for speech and debate. That single, deliberate exception proves that the People knew how to grant immunity when they chose to do so. Their failure to grant it elsewhere was intentional. “*Casus omissus pro omissis habendus est,*” (A case omitted is to be held as intentionally omitted) 4 Coke, *Institutes* 425; Dwaris on Statutes, p. 185.

Under the settled maxim *casus omissus pro omisso habendus est*, what is omitted is excluded. The absence of any constitutional provision granting immunity to executive officers, judges, prosecutors, or administrative agents is conclusive proof that the People reserved the power of accountability to themselves.

1.3 Immunity as Usurpation and Forfeiture of Trust

A claim of immunity is not a policy preference; it is an act of usurpation that violates the fiduciary trust upon which all government legitimacy rests. Officers are trustees. Their authority exists only within the scope of the powers entrusted to them. The moment an officer claims a power the People deliberately refused to grant, the trust is broken.

John Locke explained the consequence with clarity, “*Whensoever therefore the legislative shall transgress this fundamental rule of society... and endeavour to grasp themselves, or put into the hands of any other, an absolute power over the lives, liberties, and estates of the people; by this breach of trust they forfeit the power the people had put into their hands.*” (*Second Treatise*, § 155).

Modern doctrines of immunity are precisely such a grasping of absolute power. Locke framed the question directly: whether it is better that the people be “*always exposed to the boundless will of tyranny,*” or that rulers “*be sometimes liable to be opposed when they grow exorbitant in the use of their power.*” (*Second Treatise*, § 229). A system that requires injury first and denies remedy afterward answers that question in favor of tyranny.

This is the condition Locke warned against when he wrote that such a system bids the people “*first be slaves, and then to take care of their liberty.*” (*Second Treatise*, § 220). The People never consented to broad immunity. Any act or judicial opinion that shields officials from the consequences of violating the people’s fundamental rights is void *ab initio*. The servant who claims the power the master refused to grant has dissolved his trust.

The People’s covenant requires accountability. The creature that claims sweeping immunity has already dissolved itself.

2.0 Delegated Authority: The Immutable Rules of Delegation

Any Power Beyond Is Usurpation Against the People’s Sovereignty

The American system of governance is founded upon popular sovereignty. The people are the sole source of legitimate authority. Government power is not a right inherent in office; it is trust conferred by delegation. The Constitution is therefore not a document of inclusion but of exclusion. It does not grant power broadly; it defines power narrowly. As James Madison stated in Federalist No. 45, “*The powers delegated by the proposed Constitution to the federal government are few and defined.*” What is not granted is withheld. What is withheld remains with the people.

This structure is not shared by parliamentary systems. Under British constitutional theory, the legislature is sovereign and may alter or override constitutional principles at discretion. The American system rejects this model entirely. In the United States, unlimited power is unknown. Every legislature is the creature of the Constitution and strictly subordinate to it. Constitutional principles are not advisory norms subject to legislative modification; they are fixed law until altered by the People themselves through the formal amendment process. As the Supreme Court has recognized, such fundamental changes are impossible without constitutional revision, and any attempt to exercise power beyond constitutional limits is void. Bl. Comm. 160; Austin, *Lectures on Jurisprudence*; Fischel, *English Constitution*, bk. VII, ch. VII; *Loan Association v. Topeka*, 87 U.S. (20 Wall.) 655, 663 (1875); *Campbell's Case*, 2 Bland Ch. 209; 20 Am. Dec. 360.

This principle is not aspirational; it is legally binding. "*Actus me invito factus non est meus actus*," (An act done against my will is not my act) Bracton, *De Legibus et Consuetudinibus Angliae*, lib. II, c. 16; 2 Coke, *Institutes* 482. Delegation in the American system is governed by absolute constraints derived from the common law of agency and the foundational rules of political authority. No officer, no branch, and no institution may lawfully act outside those constraints. Where a power is exercised without a valid delegation, the act is void from its inception, and the actor is a usurper.

The controlling rule of delegation was articulated in *Rights of Man* by Thomas Paine with finality, "*All power exercised over a nation must have some beginning. It must either be delegated or assumed. There are no other sources. All delegated power is trust, and all assumed power is usurpation.*" This maxim admits of no exception. It requires strict accounting for every governmental act. Authority must be traced directly to its source in the written charter. Where the trail ends, the power ends.

This requirement is codified in the Constitution itself. The Tenth Amendment declares that "*The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.*" Congress therefore possesses no inherent legislative authority. The executive possesses no inherent enforcement authority. The judiciary possesses no inherent interpretive supremacy. Each branch operates only within the scope of powers expressly delegated to it by the people through the Constitution.

From this follows an unavoidable rule of construction, there is no presumption of governmental authority. There is no implied consent. There is no constructive grant. Every asserted power must be demonstrated, line by line, to arise from an express constitutional delegation. Where such a delegation cannot be shown, power does not exist. Where power is nevertheless exercised, it is not error, policy disagreement, or good-faith interpretation; it is usurpation.

This rule governs all claims of immunity. Because immunity removes accountability, and because accountability is the defining condition of delegated authority, immunity must itself be expressly delegated to be lawful. Where no such delegation exists, the claim is void. Any branch

that asserts immunity and absent constitutional warrant acts against the sovereignty of the people and outside the lawful structure of government.

3.0 Immunity as a Direct Violation of Delegated Rights

The claim of immunity constitutes a direct and frontal assault on the People's reserved power to enforce the constitutional contract. Accountability is not incidental to delegated authority; it is its defining feature. Any mechanism that obstructs the People's ability to hold their agents answerable operates as a breach of that delegation. "*Ubi jus ibi remedium*," (Where there is a right, there must be a remedy) 1 East 220; 3 Blackstone, *Commentaries* 23. Immunity accomplishes this breach by erecting structural barriers that sever the direct relationship between the sovereign People and those who exercise power in their name.

The People's reserved rights of accountability are neither ambiguous nor implied. They are explicitly declared in constitutional text. "*A verbis legis non est recedendum*," (From the words of the law there must be no departure) 5 Coke, *Reports* 118; 1 Kent, *Commentaries* 462. The Massachusetts Constitution, Part the First, Article V, affirms that all power resides originally in the people and that the several magistrates and officers of government "*are at all times accountable to them*." This language admits of no exception. Accountability is continuous, not conditional, and it applies to every officer without distinction. Article XVIII of the same Declaration of Rights reinforces this principle by securing the People's right to form petitions and remonstrances and to require of their legislators and magistrates "*an exact and constant observance of the laws*." These provisions recognize accountability not as a remedy granted by government, but as a right retained by the People.

The same rule is declared elsewhere. The Maryland Declaration of Rights, Article 6, provides that all persons entrusted with power "*are the trustees of the public, and as such, accountable for their conduct*." Trusteeship is incompatible with immunity. A trustee who cannot be called to account ceases to be a trustee and becomes a sovereign unto himself. Where immunity exists, trust is destroyed.

Despite these express constitutional commands, modern government has constructed layers of insulation designed to obstruct accountability. Commissions, councils, boards, and administrative tribunals are interposed between the People and their agents, transforming what should be a direct fiduciary relationship into an opaque and inaccessible bureaucracy. These structures do not merely regulate accountability; they nullify it. They operate as a structural subversion of constitutional mandates that require officers to remain answerable to the People at all times.

The right retained by the People is simple and absolute: the right to hold their agents accountable at all times. That right is expressly secured by constitutional text. Government's response has been to immunize itself. This act is not a lawful exercise of delegated authority. It is a violation. The granting or claiming of immunity inflicts injury upon the People by conspiracy, as it deprives them of the very mechanism by which delegated power is controlled.

This systematic blockade of accountability explains the condition now described as tyranny. Where the People are prevented from enforcing the law against their own agents, government elevates itself above the law, above the Constitution, and ultimately above the Creator from whom all authority is derived. Where accountability is extinguished, lawful government ceases to exist.

4.0 Historical & Common-Law Precedents Against Immunity

The very foundation of justice rejects the idea that a public servant may be shielded from his own wrongdoing. This principle is not modern, discretionary, or policy based. It arises from the common law itself and rests upon the historical supremacy of the People's Jury as the final guardian of liberty and accountability.

At common law, sheriffs were never immune. They were never intended to be immune. The sheriff was the People's officer, charged with enforcing the law on their behalf and answerable to them for any abuse of that trust. When a sheriff committed a wrong, he was sued in his individual capacity. No doctrine existed to insulate him from liability for unlawful acts. "*Fiducia est stricti juris,*" (A trust is of strict right; strictly construed) Story, *Equity Jurisprudence* § 321; Broom, *Legal Maxims*, at 567

Law enforcement officers were not elevated above this rule. No class of public servants stood beyond the reach of the law. The notion that an officer could violate rights and escape personal accountability is foreign to the common law tradition. "*Commodum ex injuria sua nemo habere debet,*" (No one may profit from his own wrong) 2 Coke, *Institutes* 388; 1 Blackstone, *Commentaries* 135.

The mechanism that preserved this accountability was the jury. The subjugation of the jury's authority is the structural injury that has allowed the modern immunity fraud to flourish. In American jurisprudence, the power to determine guilt was deliberately removed from judges and vested in the People themselves. Juries were not limited to fact-finding alone; they were understood to be judges of both fact and law. This allocation of power ensured that no officer, prosecutor, or judge could be the final arbiter of his own authority. "*Nemo judex in causa sua,*" (No one may be judge in his own cause) 8 Coke, Reports 118a (Dr. Bonham's Case); 1 Blackstone, *Commentaries* 91.

By confining juries to the role of determining facts only, while reserving all questions of law exclusively to the judge, the judiciary has systematically neutralized the People's final check on governmental power in the courtroom. This structural inversion permits judges, who are themselves beneficiaries of immunity doctrines, to define the law in a manner that shields their own class from accountability. "*Delegatus non potest delegare,*" (A delegate cannot further delegate) 2 Coke, *Institutes* 597; Story, *Commentaries on the Law of Agency* § 13.

The common law has never tolerated such an arrangement. Its foundational pillars affirm accountability and the People's right to justice without obstruction. Magna Carta declared

unequivocally, “*To no one will we sell, to no one deny, to no one delay justice or right.*” This command admits no exception for office, rank, or function. “*Ubi jus ibi remedium,*” (Where there is a right, there must be a remedy) 1 East 220; 3 Blackstone, *Commentaries* 23

Sir Edward Coke reinforced this principle by declaring that no man may be judge in his own cause, a maxim violated whenever a judge invokes immunity to escape liability for unlawful acts. William Blackstone likewise affirmed that every man is accountable for his own wrongs, without carving out exemptions for public officials. “*A verbis legis non est recedendum,*” (From the words of the law there must be no departure) 5 Coke, *Reports* 118; 1 Kent, *Commentaries* 462.

Emer de Vattel articulated the ultimate boundary, “*The sovereign can make no law which shall destroy that end,*” meaning the preservation of rights for which government exists. A legal doctrine that extinguishes accountability destroys the very purpose of law itself. “*Cessante ratione legis, cessat ipsa lex,*” (When the reason for the law ceases, the law itself ceases) Broom, *Legal Maxims* (10th ed.), at 97; 7 Coke, *Reports* 7a.

Where the jury is reduced, accountability collapses. Where accountability collapses, immunity thrives. And where immunity thrives, the common law has been displaced by a system of privilege incompatible with lawful government.

5.0 Statutory and Judicial Self-Grant of Immunity as Usurpation

The modern doctrines of immunity are not law. They are the product of officials acting outside the scope of delegated authority to shield themselves from accountability. Whether accomplished through statute, administrative architecture, or judicial precedent, immunity is a self-grant of power by agents who possess no lawful authority to bestow it. Such acts constitute usurpation, because no branch of government may lawfully assume powers the People never delegated.

The judiciary’s role in this scheme is uniquely destructive. By constructing doctrines from which it directly benefits, the judiciary acts as a suitor in its own cause, in direct violation of the most fundamental maxims of law. The trust of delegated power is thereby breached, and legitimacy is forfeited. “*Nemo iudex in causa sua,*” (No one may be judge in his own cause) 8 Coke, *Reports* 118a (Dr. Bonham’s Case); 1 Blackstone, *Commentaries* 91.

5.1 Statutory Evasion and Administrative Shielding

Usurpation does not occur solely through judicial opinion. It is reinforced through legislative and executive acts that create layers of insulation between the People and their agents. These mechanisms are designed not to regulate accountability, but to obstruct it.

Title 42 U.S.C. § 1983 does not contain, and cannot supply, delegated authority to immunize public officials from liability for constitutional violations. Congress was never granted power to suspend accountability for rights violations. The statute’s use as a vehicle for immunity doctrine represents an assumption of authority never conferred by the People. “*Delegatus non potest*

delegare,” (A delegate cannot further delegate) 2 Coke, *Institutes* 597; Story, *Commentaries on the Law of Agency* § 13.

The same defect infects the 1986 statutory immunization of vaccine manufacturers. Congress possesses no enumerated power to extinguish liability for private or public actors who cause injury. The authority to destroy remedies for violated rights was never delegated, and its exercise is therefore void.

Beyond statutes, officials construct administrative weapons to shield themselves from direct accountability. Judicial Councils are erected to interpose institutional bodies between the People and the judiciary, diverting complaints, foreclosing redress, and ensuring that judges are never directly answerable to the sovereign. These bodies do not exist to enforce accountability; they exist to prevent it. “*Quod ab initio non valet, in tractu temporis non convalescit,*” (That which is void in the beginning does not become valid by lapse of time) Co. Litt. 327a; 2 Coke, *Institutes* 292; Broom, *Legal Maxims* (10th ed.), at 169.

Simultaneously, the grand jury, the People’s historic prosecutorial instrument, is neutralized. Prosecutors assume exclusive control over grand jury proceedings, draft indictments, and determine outcomes. The grand jury itself is stripped of the power to initiate proceedings against public officials. This inversion ensures that the People’s tribunal can never reach those who wield power. “*Fraus et jus nunquam cohabitant,*” (Fraud and law never dwell together) 3 Coke, *Institutes* 78; Broom, *Legal Maxims* (10th ed.), at 630.

5.2 Judicial Self-Dealing and the Subjugation of the Jury

Judicial immunity is the clearest instance of self-dealing in American governance. Judges invoke doctrines from which they personally benefit, insulating themselves from liability while simultaneously controlling the mechanisms by which the law is interpreted and applied. A judge who benefits from immunity cannot adjudicate its legality. The conflict is absolute and incurable. “*Nemo iudex in causa sua,*” (No one may be judge in his own cause) 8 Coke, Reports 118a (Dr. Bonham’s Case); 1 Blackstone, *Commentaries* 91.

This conflict explains the systematic stripping of the jury’s lawful authority. The jury was never intended to be subordinate to the bench. It was the People’s tribunal, empowered to judge both fact and law as a safeguard against official abuse. John Adams affirmed this understanding, and the Supreme Court recognized it in *Georgia v. Brailsford* (1794), where Chief Justice Jay instructed that jurors “*have a right to take upon yourselves to judge of both, and to determine the law as well as the fact.*”

Modern judicial practice directly contradicts this rule. Judges now instruct jurors, “*You must follow the law as I explain it,*” thereby converting the jury from a constitutional check into a mechanical instrument of judicial will. This command is not an interpretation of law; it is a usurpation of power. “*A verbis legis non est recedendum,*” (From the words of the law there must be no departure) 5 Coke, Reports 118; 1 Kent, *Commentaries* 462.

The betrayal is no longer concealed. The Texas Uniform Jury Handbook (2023), a state-issued document, openly instructs jurors that they must answer questions “based upon the testimony and evidence admitted by the Judge” and that their verdict “must be based solely on...the rules of law provided by the Judge.” This is not subtle erosion. It is the express abolition of *Georgia v. Brailsford* by administrative fiat. “*Actus me invito factus non est meus actus*,” (An act done against my will is not my act) Bracton, *De Legibus et Consuetudinibus Angliae*, lib. II, c. 16; 2 Coke, *Institutes* 482.

By stripping juries of their lawful authority and consolidating power in the bench, judges ensure that no independent body may ever scrutinize the doctrines that shield them. Immunity survives not because it is lawful, but because the institution that benefits from it has dismantled the mechanism designed to stop it.

6.0 The Sovereign Immunity Paradox: Linguistic Fraud and the Inversion of Power

The doctrine commonly described as “sovereign immunity” rests upon a deliberate inversion of political reality. It is sustained not by lawful delegation, but by linguistic manipulation designed to obscure the true locus of sovereignty and to confuse the public as to who possesses ultimate authority within the American constitutional order. Language is weaponized to invert roles, conceal usurpation, and normalize the elevation of servants over their masters.

Government agents routinely deploy the term “*sovereign citizen*” as a pejorative. The phrase is not a legal classification; it is a rhetorical device. It is used to conflate legitimate assertions of popular sovereignty with incoherent or fringe theories, thereby poisoning the well and foreclosing substantive discussion. This tactic serves a single purpose: to prevent the People from examining the foundational truth that sovereignty resides in them and nowhere else.

The irony is unavoidable. One proposition is beyond dispute: the People are sovereign. This is not ideology; it is constitutional fact. Sovereignty does not originate in offices, institutions, or agencies. It originates in the People collectively. As Thomas M. Cooley stated plainly, “*The state is but another name for the people collectively... the sovereignty resides in the people, not in any office.*” This understanding is not optional. It is the cornerstone of American constitutionalism.

If sovereignty resides in the People, then no agent of the People can possess sovereign immunity. An agent cannot be sovereign over the principal. To claim otherwise is to reverse the chain of authority and negate the very theory of delegated power upon which government rests. “*Nemo potest plus juris ad alium transferre quam ipse habet*,” (No one can transfer to another a greater right than he himself possesses) 4 Coke, *Institutes* 206; 1 Blackstone, *Commentaries* 43.

The paradox reveals the fraud. If the “state” is sovereign, and the state is the People, then sovereign immunity would mean immunity of the People from themselves, an absurdity. If, instead, “sovereign immunity” is claimed by officers, agencies, or branches of government, then sovereignty has been unlawfully relocated from the People to their servants. That relocation has no constitutional warrant.

The Massachusetts Constitution resolves the question definitively. Part the First, Article II declares that all power resides originally in the people. Article V confirms that magistrates and officers are their substitutes and agents and are at all times accountable to them. Accountability and sovereignty are inseparable. Where accountability ends, sovereignty has been stolen. “Qui facit per alium facit per se,” (He who acts through another acts himself) 4 Coke, *Institutes* 317; 1 Blackstone, *Commentaries* 429.

The continued invocation of “sovereign immunity” therefore performs a dual deception. First, it falsely implies that government agents possess inherent sovereignty. Second, it reframes citizens who insist upon constitutional accountability as outsiders or extremists. This inversion allows officials to shield themselves while portraying lawful resistance as illegitimate.

Such manipulation is not accidental. Where language is corrupted, power follows. By redefining sovereignty, government seeks to normalize immunity; by stigmatizing the People, it neutralizes resistance. This is not governance; it is domination through misdefinition. “*Verba chartarum fortius accipiuntur contra proferentem,*” (The words of an instrument are construed most strongly against the one who asserts them) 2 Coke, *Institutes* 36; 2 Blackstone, *Commentaries* 379.

The truth remains unchanged, the People never delegated sovereign immunity. They never consented to it. They never authorized their agents to claim it. A government that asserts sovereign immunity against its own sovereign commits an act of usurpation by definition.

Thus, the paradox resolves itself. Either the People are sovereign, or government officials are. Both cannot be true. The Constitution answers the question. The People are sovereign. Immunity claimed by their agents is therefore void ab initio.

7.0 Landmark Cases: The Creature Self-Immunizes

The history of judicial immunity is not the history of neutral interpretation; it is the history of the servant shielding the servant. The modern doctrine did not arise from constitutional texts, lawful delegation, or common law necessity. It arose from courts acting as suitors in their own cause, constructing exemptions from accountability for themselves and their institutional allies. The following cases do not merely illustrate error; they demonstrate fraud in operation.

In *Stump v. Sparkman* (1978), the Supreme Court held that a judge who authorized the sterilization of a minor without her knowledge or consent was entitled to absolute judicial immunity. The act was not adjudicative in any lawful sense; it was administrative, coercive, and destructive of fundamental rights. Yet the Court insulated the judge from all consequence by declaring the act “judicial” for immunity purposes. In doing so, the Court transformed immunity from a narrow procedural protection into a license for irreversible injury. “*Actus me invito factus non est meus actus,*” (An act done against my will is not my act) Bracton, *De Legibus et Consuetudinibus Angliae*, lib. II, c. 16; 2 Coke, *Institutes* 482. The maxim was ignored. Intent and harm were rendered irrelevant because the actor wore a robe.

In *Imbler v. Pachtman* (1976), the Court extended absolute immunity to prosecutors, even where the prosecutor knowingly suppressed exculpatory evidence and framed an innocent man. The Court acknowledged the injustice but concluded that accountability must yield to institutional convenience. This holding severed the ancient bond between wrongdoing and remedy and elevated prosecutorial office above the law it was sworn to enforce. “*Ubi jus ibi remedium,*” (Where there is a right, there must be a remedy) 1 East 220; 3 Blackstone, *Commentaries* 23. The Court openly abandoned the maxim, admitting the wrong while denying the remedy.

In *Pierson v. Ray* (1967), police officers who arrested ministers under a statute later declared unconstitutional were nevertheless granted immunity. The unconstitutional law provided no lawful authority at the time of arrest, yet immunity was preserved on the theory of “good faith.” This decision severed legality from liability, allowing officers to enforce void laws without consequence so long as they claimed reliance on authority later determined to be unlawful. “*Ignorantia legis neminem excusat,*” (Ignorance of the law excuses no one) 4 Coke, *Institutes* 27; 1 Blackstone, *Commentaries* 44. The maxim was inverted: ignorance excused officials, while citizens remained bound.

Most recently, in *Trump v. United States* (2024), the Court declared that a President enjoys absolute immunity for “official acts,” even where those acts may involve grave constitutional violations, while refusing to define with precision what constitutes an “official act.” This deliberate ambiguity confers immunity first and invites abuse later. By divorcing immunity from clear constitutional boundaries, the Court effectively placed the executive beyond judicial reach for any conduct plausibly characterized as official. “*Certum est quod certum reddi potest,*” (That is certain which can be made certain) Co. Litt. 96b; Broom, *Legal Maxims* (10th ed.), at 99. The Court refused certainty precisely where certainty is required to restrain power.

Taken together, these cases reveal a consistent pattern. Judges define their own acts as judicial. Prosecutors define their misconduct as advocacy. Officers define unconstitutional enforcement as good faith. Executives define power as official. In every instance, the beneficiary of immunity is the one who declares its scope. “*Nemo judex in causa sua,*” (No one may be judge in his own cause) 8 Coke, *Reports* 118a (Dr. Bonham’s Case); 1 Blackstone, *Commentaries* 91. The maxim is not merely violated; it is nullified.

These cases do not interpret the Constitution. They amend it by decision. They convert delegated authority into assumed supremacy and replace accountability with institutional self-preservation. The result is not lawful government, but a closed system in which the People may be injured without remedy and power answers only to itself.

The doctrine of immunity, as revealed through these landmark cases, is therefore not law. It is a structural fraud, one that inverts sovereignty, dissolves trust and elevates the creature above the Creator. Any system that permits such results has departed from constitutional government and entered the domain of usurpation.

Quod ab initio non valet, in tractu temporis non conualescit,” (That which is void in the beginning does not become valid by lapse of time) Co. Litt. 327a; 2 Coke, *Institutes* 292; Broom, *Legal Maxims* (10th ed.), at 169.

8.0 Analogy to Seal the Argument: The Employer–Agent Relationship

The fraud of immunity may be understood plainly through a simple and universally recognized relationship: that of employer and agent. Government officials are agents. The People are the principals. This is not metaphorical; it is the express constitutional structure of delegated power.

To grant immunity to a government official is the equivalent of allowing an employee to immunize himself against accountability for acts committed in the course of his employment. It would permit the agent to declare that, regardless of misconduct, whether negligence, abuse, or intentional harm, he cannot be called to account by the one who entrusted him with authority. No rational system of agency permits such an arrangement. An employee who steals from his employer, abuses his position, or violates the terms of his trust does not escape liability by virtue of employment. Employment aggravates responsibility; it does not extinguish it.

Yet this is precisely what immunity accomplishes. It allows government agents to insulate themselves from the consequences of violating rights that they were specifically entrusted to protect. The agent does not merely breach trust; he claims supremacy over the principal. Such a claim does not arise from delegation. It is assumed. And all assumed power is usurpation.

No lawful system can survive where agents may redefine the limits of their own accountability. Where the servant decides whether he may be judged, the master has already been displaced.

9.0 Conclusion: Creature Greater Than Creator Is Void *Ab Initio*

The fundamental threat posed by immunity is not limited to individual injustice. It is structural. Immunity destroys the constitutional order by reversing the direction of sovereignty. It elevates the creature above the Creator, the agent above the principal, the servant above the People.

In the American constitutional system, sovereignty never departed from the People. It was never surrendered. It was only delegated, narrowly and conditionally, for the sole purpose of securing pre-existing rights. When government agents claim immunity from accountability for violating those rights, they do not exercise delegated authority, they repudiate it.

The remedy for this condition is not rebellion. It is restoration. Restoration of the original constitutional relationship. Restoration of accountability. Restoration of the rule that no man is above the law, and no office may exempt itself from judgment.

Any act, legislative, executive, or judicial, that grants or enforces immunity shielding officials from the consequences of violating a citizen’s fundamental rights is void *ab initio*. It lacks lawful origin, violates the trust of delegation, and stands in direct opposition to the Constitution, the common law, and the immutable maxims that govern all lawful authority.

Where immunity ends, accountability returns. Where accountability returns, lawful government is restored. The chains imposed by usurpation fall away, not because the People seized power, but because they never lost it.

The People act again as free men under law.