

Constitutional Legal Brief and Demand for Executive Reinstatement of Land Governance Under the Northwest Ordinance of 1787

By: Powers, Billie Rene' Frances Lillian Toll and Roll™ 2025 Delegate

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This legal brief outlines the original, legally binding framework of the Northwest Ordinance of 1787 as it pertains to land governance, civil authority, and the preservation of private property rights. It is constructed exclusively from original acts, constitutional provisions, and binding legal precedent—not interpretation or opinion. It also addresses the unlawful expansion of judicial actors into areas of land record control, which were expressly reserved for civil officers appointed by the executive branch.

1. Executive Authority Under the Northwest Ordinance (1787) The Northwest Ordinance of 1787, reaffirmed by the First Congress in 1789 and still binding as federal law, established the foundational governance structure for all U.S. territories. One of its clearest mandates is: “The governor shall appoint such magistrates and other civil officers in each county or township as he shall find necessary for the preservation of the peace and good order in the same.” This provision conferred exclusive authority upon the executive—specifically the territorial governor—to oversee local administration, including land title verification, property dispute resolution, survey recordation, and protection of property rights. It explicitly excluded the judiciary from administrative jurisdiction over land records and title matters.

The term “magistrate” in the legal context of 1787 referred to a neutral, executive-appointed officer who exercised local civil authority in matters of peace, governance, and property oversight. This was not a judicial officer as we understand today. In fact, during the founding era, the term magistrate was often synonymous with civil commissioners, local justices of peace, or appointed recorders—all of whom acted under executive, not judicial, direction.

Over time, the meaning of magistrate was subtly redefined and gradually absorbed into the judicial system. This distortion has contributed to the unlawful expansion of judicial power into land administration—an area explicitly reserved for executive civil oversight. The judicial assumption of magistrate-like authority over land matters—through quiet title actions, probate control, foreclosure rulings, or summary orders—has no lawful basis under the Northwest Ordinance or subsequent land governance statutes.

2. Historical Use and Legal Evolution of “Commissioner” from 1785 to 1800

Beginning with the Land Ordinance of 1785, the office of land commissioner was introduced as a formal executive position responsible for managing:

- Land entry and survey
- Verification of claims
- Title integrity and registration
- Fraud prevention

These officers were fundamental to establishing the Public Land Survey System and protecting lawful ownership in federal territories. They reported to territorial governors or

Congress, never to judges or courts. Their role was not discretionary—it was statutorily mandated to uphold peace, good order, and record accuracy.

In 1796, Congress expanded the civil land administration framework, confirming that these duties were inherently executive. *The commissioner role was a civil authority, empowered to investigate fraudulent claims, verify documents, resolve conflicts, and prepare lawful title conveyances.*

By 1800, the formal establishment of the General Land Office under the Act of May 10, 1800 codified the role of the Commissioner of the General Land Office.

This commissioner was entrusted with:

- Legal oversight of land patents
- Administrative correction of record defects
- Examination of conveyance
- Enforcement of federal land title laws

The commissioner's responsibilities were indistinguishable in substance from the civil officers described in the Northwest Ordinance. He operated outside the judiciary, enforcing federal land statutes through a civil and constitutional channel of authority.

3. Supporting Land Legislation and Civil Officer Roles

- The Land Ordinance of 1785 established the Public Land Survey System and introduced federal oversight of land distribution.

- The Act of May 18, 1796 codified the appointment of surveyors and land officers for management of land sales and claims.
- The Act of May 10, 1800 formally created the General Land Office and named a Commissioner to oversee land titles and patents.

These laws reflect a clear delegation of land-related authority to the executive branch and its appointees—not to the judiciary. No original founding law grants courts the power to oversee or modify land ownership outside of adversarial due process.

4. Judicial Function Was Limited to Publishing Laws

Judges under the Northwest Ordinance of 1787 were granted a singular, limited responsibility that was legislative in nature—not judicial, administrative, or adjudicative.

The Ordinance states unequivocally:

“...the governor and judges, or a majority of them, shall adopt and publish in the district such laws of the original states, criminal and civil...”

This provision conferred no authority for judges to:

- Administer land
- Oversee property records
- Alter title
- Resolve civil ownership disputes

Their sole role was to assist the governor in temporarily selecting applicable laws for newly formed territories—until a legislature could be organized.

Judges had:

- No original jurisdiction to adjudicate property matters
- No administrative power to validate or invalidate land documents
- No lawful involvement in probate, foreclosure, guardianship, or title transfer functions

All such powers were expressly reserved to civil officers appointed by the executive. Any judicial encroachment into these areas today is a flagrant violation of the Northwest Ordinance and an abuse of jurisdiction under color of law.

5. Judicial Overreach into Land Disputes: A Timeline of Misconduct

Despite the structural limitations established by the Northwest Ordinance of 1787, modern courts have unlawfully inserted themselves into land governance. Judges now routinely preside over land matters that are, by law, within the exclusive jurisdiction of civil officers appointed by the executive.

This includes:

- Quiet title actions filed without lawful verification of parties or standing.
- Probate seizures executed without lawful administrative review or commissioner oversight.

- Guardianship and conservatorship proceedings used to liquidate estates through court-appointed fiduciaries or guardians ad litem, often under color of law.
- Summary foreclosures initiated based on unverified, robo-signed, or counterfeit documents, without lawful proof of standing or power of attorney.

These actions are not simply procedural violations; they represent a direct encroachment upon administrative land functions that belong exclusively to civil land commissioners. They bypass lawful executive oversight, ignore evidentiary review, and violate constitutional due process. Every such judicial act executed without commissioner validation and lawful referral is a structural breach of founding law and constitutes unlawful governance under color of law.

6. Understanding Unlawful Land Seizure Without Due Process

Due process, as established by the U.S. Constitution and affirmed by the Northwest Ordinance of 1787, requires that no person shall be deprived of property without a formal process that ensures the preservation of justice and lawful authority. This process must include: clear and lawful notice of the action; the right to a public hearing conducted by an impartial civil officer such as an executive-appointed land commissioner; the opportunity to present evidence and confront any claims or documents presented; and a verified controversy between lawful parties with standing. These are the minimum standards necessary to protect property rights under foundational law.

The Northwest Ordinance does not authorize the judiciary to adjudicate land ownership or property title matters as a first line of review. Even in cases of apparent controversy, no action may proceed unless the document trail, parties, and standing are first verified and

lawfully reviewed by a land commissioner. The commissioner is the original and neutral officer designated to safeguard property rights. Judicial entry is prohibited until this administrative review confirms a genuine and lawful dispute, supported by factual record and legal standing. Any judicial ruling on land without such prerequisite review is void ab initio and executed under color of law.

The modern practice of using judges to rubber-stamp foreclosures, quiet title actions, and property seizures—especially when based on incomplete or forged documents—is a direct violation of founding law. These actions strip rightful owners of property without impartial review and without the constitutional safeguards required by the Fifth Amendment and Article IV of the U.S. Constitution. The Northwest Ordinance mandates that land governance remain under executive-appointed civil oversight. The erosion of this structure is a fundamental breach of lawful government and must be reversed.

The presence of judges in administrative land record matters is a direct violation of:

- The Northwest Ordinance of 1787 (executive-only authority over civil officers)
- The Land Ordinance of 1785 and subsequent acts (creation of commissioner and recorder roles)
- U.S. Constitution, Article IV, Section 2 (property protections)
- U.S. Constitution, Fifth Amendment (protection from property deprivation without due process)
- 18 U.S.C. § 242 (deprivation of rights under color of law)

7. Constitutional Limits on Judicial Involvement in Land Matters and the Right to Trial by Jury

Under the legal structure established by the Northwest Ordinance and the United States Constitution, judicial officers do not have original or administrative jurisdiction over land records, title disputes, or property document authenticity. These duties are exclusively reserved for civil officers—specifically land commissioners—appointed by the executive authority to preserve peace and good order through impartial, administrative review of land claims and filings.

Judges may only lawfully enter a land matter in two narrow and constitutionally defined circumstances:

- When criminal charges are filed by law enforcement or a district attorney based on forgery, fraud, or counterfeit filings related to property;
- When a legitimate, unresolved controversy remains following administrative review by the land commissioner, and the matter requires constitutional adjudication.

Even in such rare civil disputes that cannot be resolved administratively, the Constitution mandates that resolution must occur through a trial by jury, not merely by judicial decree or summary ruling.

Constitutional Authority for Jury Trials:

Article III, Section 2 of the U.S. Constitution provides:

- “The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury... and such Trial shall be held in the State where the said Crimes shall have been committed...”
- Seventh Amendment to the U.S. Constitution provides:
- “In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved...”

Therefore, if a dispute over land title, ownership, or record administration arises and remains unresolved after review by the land commissioner, the parties must be afforded a trial by jury—not subjected to unilateral judicial orders. Any other procedure violates the constitutional rights of the property owner and bypasses the procedural protections guaranteed under founding law.

Judges acting:

- Without a criminal referral,
- Without land commissioner oversight, and
- Without granting access to a jury trial, they are exercising unlawful authority under the color of law. Such actions must be deemed void ab initio, and the proper constitutional and civil oversight structure must be reinstated.oversight is a structural breach of founding law.

Exhibit 8: Clerk and Recorder Duties Under Founding Law

Modern clerks of court and county recorders often claim that they serve merely a ministerial function—that they are required to file any document submitted in proper

form, regardless of its truth or underlying legality. This interpretation is both historically and legally incorrect.

Under the Northwest Ordinance of 1787, the governor is required to appoint civil officers in every county or township for the preservation of peace and good order. This includes clerks and recorders tasked with managing land and public records. These officers are not exempt from investigating fraud; they are obligated to preserve the public record and prevent unlawful seizure of land through falsified filings.

Clerks and recorders have the following responsibilities under founding law and common law tradition:

- Reject documents that are facially defective (e.g., missing signatures, attachments, or authentication).
- Demand proof of agency or lawful authority (e.g., power of attorney, trustee documents, trust declarations).
- Flag and refuse to record filings that conflict with lawful title records.
- Refer suspicious or disputed documents to executive-appointed land commissioners—not judges—for evidentiary review and civil resolution.

The current practice—where clerks accept all documents, regardless of fraud, and advise injured parties to pursue remedy in court—has created a systemic laundering of fraud into the public record. Judges then rely on those tainted records to dispossess rightful landowners, all without constitutional due process or executive oversight. This is a structural breach of the Northwest Ordinance and the separation of powers.

All clerks and recorders are constitutionally obligated to preserve the integrity of land title records. They cannot disclaim responsibility. If a document lacks authority, completeness, or truth on its face, it must be returned, rejected, or escalated through lawful executive channels.

Any system that requires a judicial ruling to correct a fraudulent filing accepted by a clerk is legally defective and void. Authority over land records resides in civil officers appointed by the executive—not in the judiciary. This exhibit reaffirms that position with clarity and foundational legal support.

Exhibit 9: Duty of Clerks and Recorders – Reinstating Executive Civil Oversight of Land Records

Under the Northwest Ordinance of 1787, the governor is mandated to appoint civil officers responsible for maintaining peace and good order in every county and township. This includes oversight of land records and property title integrity. The authority to manage, reject, or investigate land documentation lies not with the judiciary, but with these civil officers acting under executive direction.

Modern clerks of court and county recorders routinely assert that they have no role in assessing the validity of documents. They claim to serve merely a 'ministerial function,' accepting any document that meets formatting standards. This practice is a manufactured policy, not rooted in law or constitutional duty. Foundational law dictates that civil officers must preserve the accuracy of land records and reject documentation that is facially defective, incomplete, or suspected of fraud.

Clerks and recorders are required to:

- Verify the presence of lawful signatures, notarization, and attachments.
- Demand and record supporting instruments such as powers of attorney, trustee declarations, or proof of agency.
- Escalate any claims of forgery, title dispute, or conflict to an executive land commissioner or designated civil authority.
- Protect the integrity of the record by refusing documents that violate public trust or lawful title.
- Reject documents where the principal is hidden or unverified and where the agent lacks recorded authority.

Judges are often cited as the only authority capable of resolving forged filings. However, under the Northwest Ordinance, the judiciary does not have original or administrative jurisdiction over land governance. The role of reviewing disputed or defective land documents falls to the civil officer, specifically appointed by the executive (i.e., governor) for this task. Courts may only intervene in a valid adversarial process, where two parties present a dispute and both have a full opportunity to be heard.

The current system—where land theft is executed by fraudulent trusts, forged powers of attorney, and document laundering through court clerks—is a violation of the law. Many such takings are enforced using legal fiction, where courts rubber-stamp unverified filings submitted by agents without real standing. Clerks, meanwhile, claim they cannot question a document, even as they embed it into the chain of title.

This exhibit asserts that:

The governor must re-establish the authority of land commissioners.

- Clerks must no longer accept all documents blindly.
- Evidence of fraud must halt recording and trigger a review by a commissioner, not a judge.
- Municipal actors who collude to strip land under color of law are violating founding and statutory law.
- Land governance must return to executive civil control as mandated under federal law and reaffirmed in 1789 by Congress.

This reinstatement of executive land oversight is not optional. It is the lawful structure upon which the Republic is built and to which all public officers remain bound.

Exhibit 10: Criminal Referral Process for Land Document Fraud – Executive and Law Enforcement Duties

When evidence of forgery, counterfeit filings, or fraudulent documentation arises in connection to property, the issue is not civil—it is criminal. According to the Northwest Ordinance and foundational legal structure, land commissioners appointed by the governor must be empowered to evaluate such evidence. If the documents appear forged or unlawfully executed, the commissioner must refer the matter to the proper criminal authorities—not the judiciary.

Clerks and recorders who accept documents without verification enable criminality. They cannot disclaim responsibility or shift the burden to the courts. Law enforcement and district attorneys are the rightful recipients of land fraud complaints. Judges are not to

resolve land ownership claims based on tainted documents—especially in the absence of proper criminal referral and evidentiary hearing.

Correct Chain of Action:

- Commissioner investigates or receives evidence of land record fraud.
- Clerk refuses to record or flag disputed documents.
- Matter is referred to the sheriff or local/state law enforcement.
- District Attorney reviews and prosecutes as a criminal offense.
- Judicial authority enters only after criminal charges are filed under law.

The modern bypass—where judges validate unlawful filings or dismiss clear fraud as 'civil'—violates the foundational separation of powers and deprives the People of lawful remedy. Civil officers, not judges, were designated as the impartial authority for first-level land oversight and criminal referral under founding law.

Certified Exhibits – Supporting the Northwest Ordinance Legal Brief

Exhibit 1: Northwest Ordinance of 1787 (Ratified July 13, 1787)

Relevant Clause:

*“The governor **shall appoint** such magistrates and other civil officers in each county or township as he shall find necessary for the preservation of the peace and good order in the same.”*

This clause establishes that only the executive branch has the authority to appoint civil officers responsible for local governance, including land records and dispute oversight.

Exhibit 2: Land Ordinance of 1785

This ordinance created the Public Land Survey System and introduced the federal land division and sale system. It is the legal basis for township and range systems and was administered by executive-appointed surveyors and recorders, not judicial officials.

Exhibit 3: Act of May 18, 1796 (1 Stat. 464)

This Act expanded federal administration over land sales and confirmed the appointment of civil officers to administer claims, title issuance, and land records under executive supervision.

Exhibit 4: Act of May 10, 1800 (2 Stat. 73)

This Act formally established the General Land Office and named a federal Commissioner to manage public land records, land patents, and resolve disputes. This role served as the original model for land record commissioners, explicitly under federal executive authority.

Exhibit 5: U.S. Constitution – Due Process and Property Protections

- Article IV, Section 2: Protects the property rights of citizens across states.
- Article VI: Affirms that the Constitution and federal laws are the supreme law of the land.
- Fifth Amendment: No person shall “be deprived of life, liberty, or property, without due process of law...”

Exhibit 6: Federal Criminal Statutes for Civil Rights Protection

- 18 U.S.C. § 241: Conspiracy against rights – criminalizes efforts to oppress citizens from exercising constitutional rights.
- 18 U.S.C. § 242: Deprivation of rights under color of law – prohibits officials from infringing on rights under the guise of authority.

Exhibit 7: Misuse of Judicial Precedent to Override Founding Law

Over time, courts have increasingly relied on precedent—prior judicial rulings—as the basis for decisions regarding land disputes, title transfers, foreclosures, and probate rulings. While precedent plays a role in the common law system, it cannot lawfully override or replace founding statutory law. When case law departs from the original legal framework established by documents such as the Northwest Ordinance or U.S. Constitution, such rulings are legally invalid and enforce rights violations under color of law.

Many judicial rulings now cited as precedent were issued in proceedings that lacked due process, ignored constitutional protections, or relied on fabricated documentation—particularly in the realm of non-adversarial foreclosures, unlawful probate rulings, and land takings. These decisions do not derive their legitimacy from the Constitution or founding statutes and are therefore void ab initio when they conflict with established legal structure.

It must be emphasized:

- Judicial precedent cannot replace binding statutory law.

- Courts that exceed their authority undermine lawful governance.
- Any case, ruling, or administrative action executed in violation of constitutional due process and statutory land oversight is unlawful.
- State executives, especially governors, have a constitutional duty to ensure their state complies with founding law—including land oversight requirements established by federal ordinances ratified by Congress.

The misuse of precedent has allowed widespread property theft and the unlawful expansion of judicial power. This exhibit serves to document and reject that practice in favor of restoring lawful land governance as designed by the founding generation.

Exhibit 8: Clarifying the Historical Meaning of 'Civil' in Land Governance

It is crucial to distinguish the original, founding-era definition of 'civil' from its modern usage, particularly in the context of magistrates and land governance. The semantic evolution of this term has enabled a significant jurisdictional shift—unlawfully drawing judicial power into areas originally reserved for executive officers.

In the 1787–1789 context, the term 'civil' referred to local, non-military, non-ecclesiastical, and notably ****non-judicial**** executive authority. Civil officers such as magistrates were appointed by the territorial governor to maintain peace, oversee public records, verify land claims, and address fraud in an administrative—not judicial—capacity.

This authority was embedded in the Northwest Ordinance itself: 'The governor shall appoint such magistrates and other civil officers in each county or township as he shall

find necessary for the preservation of the peace and good order in the same.' The officers described—justices of the peace, commissioners, recorders—were neutral public servants operating under executive command. They were the gatekeepers of lawful land governance, not judicial actors.

Contrast this with the modern usage of the term 'civil,' which now broadly refers to judicially managed lawsuits, including civil court proceedings such as probate, quiet title, and foreclosure. This modern application of 'civil' masks the original administrative function of land oversight and has enabled judges to unlawfully claim first jurisdiction over property matters.

This morphing of language amounts to legal subterfuge. By redefining 'civil' to suggest court authority rather than executive administration, the separation of powers intended by the founders has been severely undermined. It has allowed courts to intrude where only executive oversight was authorized by law.

This legal brief rejects such semantic distortions and reaffirms that land governance belongs under civil executive authority, not judicial decree. Any judicial exercise of authority in land record matters—without administrative review by a civil commissioner and without valid adversarial standing—is void ab initio and executed under color of law.

This understanding is reflected directly in the Northwest Ordinance itself: 'The governor shall appoint such magistrates and other civil officers in each county or township as he shall find necessary for the preservation of the peace and good order in the same.' These civil officers—justices of the peace, commissioners, and recorders—were appointed

under executive command to preserve lawful governance and land record integrity. They were not court officers and held no judicial authority.

Founding legal dictionaries reinforce this distinction. Bouvier's Law Dictionary (1856) and Webster's 1828 Dictionary both define 'civil officer' as one who holds public office under civil government and not a judicial or military role. Magistrates were similarly defined as public civil officers charged with enforcing laws, distinct from court judges.

This lawful separation is further supported by the U.S. Constitution. Article II identifies 'Officers of the United States' as executive civil agents, not judges. Article II, Section 4's reference to impeachment of 'civil officers' refers to executive officeholders, affirming their distinct role from the judiciary.

Moreover, the Land Ordinance of 1785, the Act of May 18, 1796, and the Act of May 10, 1800 all created executive land roles such as commissioners and surveyors—none of which were judicial. These officers were mandated to administer land titles, verify claims, and protect against fraud through civil executive oversight, not court litigation.

The modern conflation of 'civil' authority with 'civil' judicial proceedings is a semantic distortion that has led to unlawful judicial encroachment on land matters. True civil governance, under the founding structure, was administrative and protective—not adversarial or judicial.

Therefore, this legal brief affirms that land governance belongs under civil executive authority, not judicial decree. Any judicial exercise of authority in land record matters—without administrative review by a civil commissioner and without valid adversarial standing—is void ab initio and executed under color of law.

Certification Statement

I hereby certify that the above Exhibits are based on original historical and statutory law as preserved by the U.S. Congress, Library of Congress, U.S. Statutes at Large, and Constitution of the United States. These documents are presented as factual support to the accompanying legal brief titled 'The Northwest Ordinance of 1787 – Executive Authority Over Land Records and Judicial Overreach.'

Respectfully and lawfully submitted in defense of the Constitution and the People,

/s/Powers, Billie Rene' Frances Lillian

Toll and Roll™ 2025 Delegate

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