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Although the president's power to pardon is limited by the Constitution, the framers anticipated... a presidential pardon for a crime committed while president. *Id.* 1147-1149, 1151-1153, 1159 (2000) (explaining that "pardon" is subject to interpretation). [83] See also, e.g., 1 J. Story, *Commentaries on the Constitution of the United States* § 675, at 712 (1833) ("[A]ll criminal prosecutions..., though pending, would be abandoned, and the offender would go unpunished if the courts could be closed.... The people, it is evident, would be much inclined to adopt such a measure, if the power of pardon were exercised without any limitation.... It has been observed, also, that this may be a good remedy, because it is not in the power of the legislature to pardon any crime, for which punishment has been imposed by the courts." (emphasis added)); E. Chafee, *Free Enters the Bondsmaid: The Supreme Court, the Constitution and Presidential Pardons* (1957) ("It has not been decided, even by so authoritative an interpreter as Mr. Justice Frankfurter, whether the pardon power itself is reserved to the executive, and if so,

in what constitutional terms.”); I. Ware, Presidential Pardons and the Constitution, in 58 Am. J. Int’l L. 474, 477-478 (1964) (“It may be inferred that the framers, in limiting the pardon power of the executive to any case in which a sentence of death or imprisonment for life had been imposed, meant to include cases in which the sentence had been imposed during the tenure of the president.”). The policy of proportionality is the most important limitation on the pardon power. Proportionality considers the nature and gravity of a crime and the circumstances in which it was committed. See Letter from John Locke to Thomas Holles, Earl of Clarendon (June 23, 1764), in 9 The Works of John Locke 139-140 (J. Yolton ed. 1976). Under the proportionality principle, a pardon cannot eliminate punishment that is prescribed by law, including the punishment for a crime committed while the president is in office. See *United States v. Wilson*, --- U.S. ---, 130 82157476af

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