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At the time of the Founding, the problem of enumeration was a problem of the sort characteristic of any constitutional founding: ~~what to put in and what to leave out, or, put otherwise, what to list~~

and what not to list. A founding problem is a regime problem in its most elemental sense. While there is much dispute, imprecision, and inconsistency in discussions of just how we identify political and legal



































consult with judges of other countries who are called upon to serve similar domestic duties.<sup>54</sup> If judges internalize this attitude, we will find them in coming years increasingly willing to cite enumerations wherever they may find them. Whether they then use these to announce new rights or to interpret domestic rights in a particular way is neither here nor there. This phenomenon, if it comes to pass, may very well constitute our next enumeration problem. If it does, we will