Present Moment:
A Zen Reflection on Indian Law Doctrine

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The Supreme Court should formulate a dormant Indian Commerce Clause doctrine because it would require the Court itself to hue more fully to the texture and origins of the Constitution in constraining state authority with regard to the tribal sovereign. Such a doctrine would replace the (operational but unarticulated) dormant plenary power doctrine that has permitted the Supreme Court to depart the Constitution, improperly advance state authority in Indian country, and create an unprincipled approach in Indian law where the governing rule is what 'policy' appeals to the Court rather than what the Constitution requires.

Simple and direct, but difficult without practice.¹

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¹ Well known zen adage. See, e.g., Jakusho Kwong, No Beginning, No End (2003).