

Americas 250th Anniversary
Great Things He Has Done!
The United States Constitution
Handout # 7



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Interpreting the United States Constitution – Introduction to Original Intent

“Every word of the Constitution ultimately decides a question between power and liberty.”

James Madison

Judicial _____ vs Judicial _____

Judicial Restraint:

Restraining _____ and _____ role to specifically interpreting the text of the Constitution in light of the framers meaning.

Judicial Activism:

Going beyond the meaning of the _____ and the _____ intent to reach a desired conclusion.

Notes on Interpreting the Constitution:

The “Living Constitution”

- Great deal of rhetorical appeal
- The alternative presumably being a “dead” Constitution

Fundamentally at odds with the notion of a _____ of _____ that protects us from the arbitrary rule of men.

“On every question of construction let us carry ourselves back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, and instead of trying what meaning may be _____ out of the text, or intended against it, _____ to the probable one in which it was passed.”

Thomas Jefferson

When the _____ answers the question...the issue is resolved.

When there is _____...determine original intent.

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Discovering Original Intent

What are the sources for correct interpretation of *Original Intent*?

Primary Sources:

1. _____ Conventions (1787 – 1789)
2. _____ Convention (Philadelphia, 1787)
3. _____ Papers (Madison, Hamilton, & Jay)
 - Series of 85 _____
 - Published in _____ newspapers
 - Madison 29, Hamilton 51, Jay 5
 - Published under the pen name “*Publius*”

Other sources that are deemed somewhat important when determining *Original Intent*?

- Declaration of Independence
- Articles of Confederation
- Actions taken by the _____

Practical Results of Both Viewpoints

_____ interpretations – _____ the role of government

_____ Interpretations – _____ the role of government