

Introduction to Law
Chapter 5 Notes
“Interpreting the Constitution”

Name:
Date:

Interpretation of the U.S. Constitution and federal/state legislation:

People can generally agree on what the text of a _____ or _____ **says**; they often have problems over _____. This is when they cannot reach a _____ on what it **means** in today's _____.

Generally speaking, there are two main ways in which court justices, judges, and legal analysts interpret laws and constitutions:

- A. as a _____ that evolves as the _____ changes
- B. as _____ whose meaning _____ from the time that they were written until now.

I. Interpreting laws and constitutions as “living documents”:

The document's meaning is viewed as _____ to meet the culture's changing _____, _____, and _____. This has been the position of _____ of the justices of the U.S. Supreme Court in recent decades.

II. Interpret laws and constitutions as enduring documents:

This theory of interpretation is often called _____. It interprets a legal document as meaning not what _____ (much less the _____) thinks it ought to mean, but what it meant when it was _____. It requires a judge to apply a _____ or _____ only as it was _____.

The term has a second meaning. It is often loosely used as an umbrella term that covers three slightly different philosophies:

- A. Originalism:** The belief that the meaning of the U.S. Constitution is _____, _____, and _____. It is to be interpreted today in the way in which the authors _____ it. One might look at the _____ of the Framers of the constitution for _____. This is a very popular theory among _____.

B. Textualism: This is the belief that the Constitution's or law's _____ as perceived by _____ living at the time that it was adopted should govern its interpretation _____.

C. Literalism: The belief that a constitution or law should be interpreted according to the _____ of its words at the time the document was authorized. Thus:

"... the contemporary writings of the Framers are _____ to any interpretation of the Constitution. The only thing one needs to interpret the Constitution is a _____ of the words contained therein, with an expert _____ in the 18th century _____ of those words.

Supreme Court Decision-Making: Extra-Legal Influences

1. Judicial Activism -

2. Judicial Restraint -