

PAPER 1

INTERPRETING THE CONSTITUTION

The Constitution of the United States is a fundamental yet necessarily abstract document. Because of its abstract generality, especially as it relates to the Bill of Rights, Justices on the Supreme Court (as well as legal scholars) continue to argue about the proper way to interpret and apply the document. One such controversy centers on whether judges should use the recorded intentions of the Framers to limit the meaning and application of the words in the text **OR** be allowed to assume that the very generality of the language in the Constitution and its amendments was intended to give latitude to historical change. For convenience, let us call the first approach the “strict constructionist approach,” and the latter the “interpretivist approach.”

ASSIGNMENT:

For this first paper, use the readings from Weeks 1-3 to write a 5-6 page essay that argues for one of these two analytical approaches to the Constitution as described by William Rehnquist **OR** Laurence Tribe and Michael Dorf. In your paper, answer **why** one of these approaches is closer to the meaning and logic of the Constitution and **how** this approach is better able to advance the cause of justice. Support your position with specific, cited examples from the founding documents and assigned readings about justice. Include a clear counterargument with supporting points to refute key claims in the alternative approach.

This is not a research paper. Rely on course lectures and readings for evidence. If you cannot resist doing background research, however, remember to cite these and all sources using MLA format.

- Thesis & Plan due in first section Week 3
- Rough Draft due in first section Week 4
- Final Revision & Supporting Documents due in lecture Monday, Week 5 (2/04/08)
- Final paper due online to Turnitin.com before 4:00 p.m. 2/04/08 (more information on Turnitin.com to follow)

THE WRITING PROCESS:

I. Exploring Ideas

Ann Raimos offers a variety of ways to generate ideas for your paper (chapters 1c-d and 4). Remember that your overall purpose in writing your paper is to persuade your reader that your position on how current Supreme Court Justices should read the Constitution is reasonable and based on solid evidence.

Since you have been given a specific topic for your paper, begin with a close reading of the key texts. The Rehnquist and Tribe and Dorf articles identify key terms and claims for “strict constructionist” and “interpretivist” analytical approaches. While reading, note key terms, evidence and reasons given by the authors to support their positions. Creating a map or comprehensive list of the reasoning and evidence will help you clarify these different judicial approaches. After analyzing the Rehnquist and Tribe and Dorf articles, re-read the Week 1 Founding documents and other assigned readings. How are they related to the “strict constructionist” and “interpretivist” approach? Note concrete examples and supporting reasons for each approach. Think about your analysis. Why is one approach closer to the meaning and logic of the Constitution and how is it better able to advance the cause of justice?

II. Drafting a Thesis

Based on your notes from readings, lectures, and discussion, answer questions A-E below. Bring a copy of your notes and thesis to section for peer and TA evaluation.

- A. Will your paper be arguing for a “strict constructionist” or “interpretivist” approach?
- B. In a sentence or two, briefly summarize each approach.
- C. What is the strongest counterargument to the approach that you have chosen? Summarize it briefly along with its key supporting claims.
- D. Raimes offers suggestions for how to acknowledge, refute, and/or incorporate opposing ideas in an argument (chapter 4g). How will you answer the strongest counterargument and claims? What supporting reasons and evidence will you use? For now, briefly state each sub-claim that supports your position and explain how it supports your entire argument. Each sub-claim should clearly refute an opposing sub-claim.
- E. Draft your **working thesis**. Review the key features and examples of a good working thesis in *Keys for Writers* (chapter 1e-f). Using these guidelines, analyze your list of key supporting reasons and evidence, and then draft a thesis that identifies your subject and argues for why specific claims support your position. Conclude your thesis with a forecast statement that briefly maps out your supporting claims.

III. Developing a Plan – 1-2 pages typed, double-spaced, DUE first section Week 3

Based on your working thesis and other notes from A-E above, organize and complete a sentence outline of the key claims in your argument. Raimes again offers guidelines for scratch and formal outlines (1f). Many organizational plans for your argument are possible. Following are two commonly used plans. (Once you have completed the rough draft of your argument, you may make this forecast optional in your final essay.)

Plan A: The assignment guidelines suggest a plan that is often used in debate formats: in the introduction, briefly explain the controversy; then introduce the key counterargument against your position; refute the key counterargument and its related claims with the key reasons and evidence that support your position; conclude your essay by explaining the larger significance of your approach to the Constitution. This organizational plan helps you clarify and focus your argument in response to an opposing view.

Plan B: You can also begin by introducing the controversy, and then explain the key reasons and evidence that support your position; summarize the main counterargument and supporting claims; refute the key claims; conclude your essay by explaining the larger significance of your approach to the Constitution.

IV. Further Help: In addition to the help you can get from your TA, on-line tutor, OASIS, and Ann Raimes’ handbook, the DOC Program has a center for writing assistance in Sequoyah Hall room 125. The writing assistant offers individual and group conferences to address any reading or writing questions. New sign up sheets are posted each Thursday at 2:00 p.m. on the bulletin board outside Sequoyah Hall 125.