

**The Will of Parliament and the Role of Values in
Traditional Statutory Interpretation***

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Introduction

Canadian constitutional scholars continue to grapple with the question of which institutional balance of courts and legislatures should have the ultimate authority to determine the meanings ascribed to the constitution, particularly to Charter rights. Dennis Baker has recently urged constitutional scholars to confront this central issue of interpretive authority (Baker 2003, 1) and I plan to do so in this paper. Rather than dip into the issue by drawing from the terms of the contemporary debate over constitutional “dialogue” in the Charter-era, I offer a reminder that the issue of the relative interpretive authority of courts and legislatures is not a recent concern for constitutional scholars. Even in a regime defined primarily by the legal doctrine of parliamentary rather than constitutional sovereignty, debate over the way in which judges interpret statutes has significance not unlike that of the contemporary Canadian debate over constitutional “dialogue”.

In the first part of the paper I focus on Albert Venn Dicey’s brief comments identifying the approach to statutory interpretation which he argued was the corollary of the doctrine of the sovereignty of parliament. Before doing so, however, it is necessary to identify some common interpretive assumptions regarding Dicey’s motives in offering his doctrine because they will be challenged in this paper. In the third part of the paper, I examine very briefly J. Alex Corry’s views on statutory interpretation to show that although he adopted Dicey’s exposition of the doctrine of parliamentary sovereignty, he arrived at dramatically different conclusions regarding the approach to statutory interpretation appropriate to the doctrine. The point of the comparison is to show that even the legal doctrine of parliamentary sovereignty does not in and of itself resolve the “central issue” of the balance of courts and legislatures in resolving legal-interpretive disputes.

Both Dicey and Corry argued that parliamentary sovereignty prohibits a role for judges in challenging the validity of properly enacted statutes, and both accepted that judges

were nominally obliged to interpret statutes according to the “will of parliament”. At the same time, however, Dicey and Corry came to different conclusions regarding the implications of this approach to statutory interpretation. Dicey focused on the importance of judges interpreting merely the *words* of the statute as the source of legislative intent. This approach was, indeed, consistent with traditional common law canons of statutory interpretation, but Dicey may have accepted it for other reasons as well. He appears to have seen that an approach to statutory interpretation which prescribes a focus on words alone, was a means through which judges could control the meanings ascribed to statutes. In Dicey’s view, judges should use the 19th century laissez-faire liberal values which infused the common law to temper the increasingly interventionist (“collectivist” or “socialist”) policy implications of statutes, particularly those relating to administrative law.

Corry too focused on the words of the statute, but he did so as an occasion to argue that judges should interpret statutes, particularly those pertaining to administrative law, by adopting meanings consistent with the tangible and obvious public-policy purposes of legislatures. Only this way, Corry believed, would judges purge themselves of their deep attachments to precisely those laissez-faire liberal common law values which Dicey had believed should continue to infuse public policy regardless of the policy-aims of parliamentarians. Corry urged judges to exchange laissez-faire liberal common law values for the newer values of parliamentarians which he believed were consistent with the needs of the 20th century administrative state. In Corry’s view, these new values recognized the necessity of state intervention into the private sphere of individual liberty, contract, and property in the name of facilitating the development of individual “personality”. Although Dicey and Corry expected judges to draw from different values associated with different political institutions in interpreting the meaning of statutes, each argued that his approach was consistent with the doctrine of parliamentary sovereignty.

I believe that one lesson to be learned from the examination of Dicey's and Corry's views on the interpretation of statutes is a simple and familiar one. Even if only implicitly, we put our intellectual support behind the balance of courts and legislatures which we believe is most likely to produce the policy outcomes we find acceptable according to the political, social and economic values we accept. Within the context of the scholarly examination of approaches to statutory and constitutional interpretation, we might do well to consider Geoff Hall's reminder that any claim that an approach to statutory or constitutional interpretation is legitimate "must necessarily entail at least an implicit theory about democracy and the role of the courts in relation to a democratically elected legislature, as it constitutes the point at which the courts must confront and ascribe meaning to a product of the legislature whose meaning is contested" (Hall 1998, 44). Although Hall directs this comment to the judges whose task includes the choice of approach to statutory interpretation, it is just as important to consider its implications for scholarly debate over the balance of interpretive authority between courts and legislatures in constitutional debate today.

Canada's Diceyan orthodoxy

In this section of the paper I identify the way Dicey has been interpreted by contemporary Canadian constitutional scholars. In the next section I will offer my own discussion of Dicey's views on statutory interpretation. Albert Venn Dicey famously identified what he believed to be the fundamental principles of the British constitution. Calling the legal doctrine of the sovereignty of parliament the "dominant characteristic" of British political institutions, he argued that Parliament—Queen, Lords, and Commons "acting together"—had the right to "make or unmake any law whatever", and "no person or body is recognized by the law of England as having a right to override or set aside the legislation of Parliament" (1885; 10th 1959, 39-40). What approach to statutory interpretation is implied by the

sovereignty of parliament? Richard Risk suggests that our “ancestral faith” is that judges determine and implement the “intent of the legislature” (Risk 2000, 196; see also Goldsworthy 2002). Risk elaborates on the doctrine by recalling the words of 19th Century British authority Sir Peter Maxwell: “‘Statute law is the will of the Legislature; and the object of all judicial interpretation of it is to determine what intention is either expressly or by implication conveyed by the language used’” (196). Robert Yalden suggests that Maxwell’s approach to statutory interpretation must be understood in the context of his belief that “in a representative democracy, the views of a popularly elected legislature must prevail over those of an appointed judiciary” (Yalden 1988, 141-2). Robin Elliot places Dicey right alongside Maxwell in his similar articulation of the implication of the doctrine of parliamentary sovereignty for statutory interpretation. In Elliot’s view, Dicey “creates the impression that the courts are merely passive actors in the process of determining what the law is” (Elliot 1991, 231). After all, the doctrine speaks to the relationship between courts and legislatures, and “it is Parliament’s view that must ultimately prevail” (234). With this in mind, and recalling Yalden’s and Elliot’s comments, the “intent of the legislature” could be interpreted, crudely, as a manifestation of confidence in the parliamentary process and skepticism regarding the likelihood that judges could be depended upon to protect fundamental rights. Certainly this is how Dicey is viewed by contemporary Charter supporters and opponents alike who draw from Dicey’s work as a proxy for Canada’s pre-Charter constitutional tradition, and proceed either to praise or to condemn the balance of courts and legislatures implied by Dicey’s doctrine of parliamentary sovereignty.

Rainer Knopff and F.L. Morton, for example, take the view that Canadians’ “long tradition of parliamentary supremacy” has been replaced with a constitutional regime that is now verging on “judicial supremacy” (Morton and Knopff 2000, 13). Illuminating their negative view of this development, Knopff and Morton assert that judges have “abandoned

the deference and self-restraint that characterized their pre-Charter jurisprudence and become more active players in the political process”; judges have rejected the “self-discipline” that comes with adherence to the doctrine of parliamentary sovereignty (13). A “deferential” approach to statutory interpretation, in Knopff and Morton’s view, is consistent with their “traditional” or “interpretivist” approach to constitutional interpretation under which judges consult the “intention of the law’s framers”, or, if necessary, traditional understandings of rights, when a literal reading of the text fails to settle the interpretive issue (40).¹ In Knopff and Morton’s estimation, judicial self-restraint is required by the doctrine of parliamentary sovereignty because the doctrine requires judges to concede that the moral authority of legislation is grounded in popular consent. This, Knopff and Morton argue, is the hallmark of the parliamentary process (Knopff and Morton 1985, 157).

Elsewhere Morton argues that an increasing lack of faith in the legislative process is the companion of judicial activism under the Charter: “Today, there is a perception that constitutional questions are too important to be left with politicians”. This view Morton contrasts with the “instinctive confidence” Canadians used to have in the parliamentary process (Morton 2002, 493). Morton reminds us that while Dicey’s doctrine of parliamentary sovereignty appears to be “unlimited” in the scope it gives to parliamentarians to violate the “fundamental freedoms of Englishman”, Dicey himself “made it clear that the political conventions of self-restraint and fair-play, reinforced by public opinion” have prevented their egregious violation (479). Morton reiterates this point by affirming that Dicey preferred the “flexibility” of resting “primary responsibility for the preservation of liberty in an elected, accountable, representative legislatures such as Parliament” (479). Elsewhere Knopff and Morton praise Dicey’s status as one of “liberal democracy’s early constitutionalists” who believed that “representative democracy, not judicialized politics, is mainly how a sovereign

¹ The suggestion that judges used to examine framers’ intentions in interpreting constitutional statutes has been criticized as false by Robin Elliot (2002, 289). See also Beaulac (1998, 302).

people should protect rights” (2000, 151). Again we are led to believe that Dicey’s legal doctrine of parliamentary sovereignty is intimately linked to his confidence in the ability and willingness of parliamentarians to protect rights. We are also led to believe that Dicey holds a skeptical view of judges as defenders of fundamental rights.

Anne Bayefsky, like Knopff and Morton, identifies Dicey’s exposition of the doctrine of parliamentary sovereignty with the “fundamental tenets of the Canadian constitution”, and proceeds to interpret Dicey’s views as if they represented the pre-Charter constitutional tradition. Unlike Knopff and Morton, however, she identifies Dicey’s views only to argue that they must be transcended. Bayefsky suggests that parliamentary sovereignty has two implications for the protection of human rights, both of which are drawn from the doctrine’s legal-positivist premises (Bayefsky 1983, 240, Ft 9). First, law has no “necessary content” and so there is no legal requirement that law “serve to protect human rights”. Second, the courts are assumed to be unable legitimately to “interpret a law inimical to the security of human rights so as to avoid its clear intent” (241). For these reasons, “emphasis in the protection of human rights is not placed on the judicial role” but rather on the parliamentary majority: “Faith with respect to human rights protection is placed in the workings of democracy” and in the “power of numbers” (241), but not with judges. After all, on Bayefsky’s view, Dicey had a strong “distrust of the judicial function” (241). If they failed to interpret statutes according to the clear views of legislators, judges would pass “beyond the bounds set by the doctrine of parliamentary sovereignty” (243). Such is the “confident” interpretation of Dicey’s doctrine of parliamentary sovereignty.

Dicey on statutory interpretation

The Canadian orthodox view of Dicey as confident in parliamentarians but skeptical of judges may serve the needs of scholars who use him as a rhetorical benchmark in

contemporary constitutional debate. It loses its utility, however, if it is used as an interpretive guide to understanding what Dicey actually said about statutory interpretation. In this section, I reverse the orthodox interpretive guide and assume instead that Dicey had greater confidence in judges than he did in parliamentarians in order to make sense of Dicey's views on statutory interpretation.

According to Dicey, a key implication of the doctrine of parliamentary sovereignty was that the "will of Parliament can be expressed only through an Act of Parliament" (407). The significance of this emphasis on the importance of the expression of Parliament's "will" in *statute* form is better understood if it is born in mind that Dicey was profoundly concerned about the increasing tendency of 19th century British governments to delegate legislative authority to administrative tribunals and agencies. This concerned Dicey for at least two reasons. First such delegations were made by governments in the name of increasing the degree of government intervention into the private sphere. Dicey was suspicious of government activity for any but the most limited of ends; he believed that most government intervention results in the "socialism" and "collectivism" that undermined individual initiative (Hibbits 1994, 9, 12-14, 18). More importantly, the use of executive decrees, ordinances and delegated legislation to facilitate government intervention into the private sphere had the potential to remove such activities from the supervision of the ordinary courts. This was of serious concern to Dicey because he put great faith in the judges of the ordinary courts to protect fundamental rights to individual liberty, property and contract through the application of laissez-faire liberal common law principles to legal disputes. As H.W. Arthurs points out, "Dicey appreciated that to give the last word to the ordinary courts in the evaluation of administrative action was also to accord their distinctive legal values priority over other values, including government effectiveness" (28).

Dicey's concerns regarding the removal of executive activities from the supervision of the ordinary courts encouraged him to provide the ordinary common law courts with a doctrine which would at once consolidate and legitimize their superior position as well as that of the common law "in the face of governments that might seek to challenge them" (Hibbits 1994, 22). David Schneiderman affirms this point when he notes that Dicey hoped that the common law would play a role in "stemming the transition toward socialism" (1996, 431). Placing emphasis on the legal doctrine of the sovereignty of parliament, then, may have been one way that Dicey tried, however implicitly, to bolster the centrality of judicially protected common law rights. In this vein, Bernard Hibbits argues that Dicey's doctrine of parliamentary sovereignty must be understood in the context of the late 19th century common lawyer's tradition of distrust of government power. In Dicey's view, "[t]he legal expression of Parliament's will, the statute, was contemptuously regarded as a clumsy interloper in the orderly development" of the common law (11). Moreover, his growing "distrust of parliamentary democracy" meant that Dicey's emphasis on the sovereignty of parliament had to be squared with his view that "trusting in a democratic Parliament alone was a recipe not for progress and prosperity, but for political disaster" (14, 15). If Dicey openly proclaimed the sovereignty of parliament to be the "dominant characteristic" of the British constitution (39), then we might wonder whether his acceptance of the doctrine was a pessimistic concession to a political reality he feared but saw as inevitable. Certainly if we take Dicey at his word that his aim in writing his classic text *An Introduction to the Study of the Law of the Constitution* was "neither to attack nor to defend the constitution, but to explain its laws" (3), we might think so. I believe such a conclusion would be hasty.

Returning to Dicey's claim that "Parliament speaks only through an Act of Parliament" (407), it is worth noting that he clarifies its significance by contrasting the command of Parliament, which must take the form of "formal and deliberate legislation", to

the ordinance and decree of the “despotic monarch”, whose actions lay outside the supervision of the ordinary courts. Because the sovereignty of parliament implies government by Act rather than by decree, Dicey noted, we can be assured that government policy “immediately becomes subject to judicial interpretation” (407). Thus we see that Dicey’s doctrine of parliamentary sovereignty can be interpreted as designed to funnel the impact of government intervention on private rights into statute form as a way to ensure that government policy remain under the supervision of judges in the ordinary courts. This point is made clear when Dicey asserts that “[p]owers, however extraordinary, which are conferred or sanctioned by statute, are never really unlimited, for they are confined by the words of the Act itself, and, what is more, by the interpretation put upon the statute by the judges” (413). In fact, Dicey admitted approvingly, the words of an Act often “derive nearly all their real significance from the sense put upon them by the Courts” (1905; 2nd 1962, 362).

It is clear that the approach to statutory interpretation Dicey expected judges to employ centred initially on the text of the statute. English judges, as a matter of course, “have always refused, in principle at least, to interpret an Act of Parliament otherwise than by reference to the words of the enactment” (1959, 407). We cannot, however, draw from this the conclusion that judges were to focus on the words of the Act as a signal to heed the actual views of legislators or public opinion as a guide to interpretation. Dicey affirms this proposition when he suggests that judges “know nothing about any will of the people except insofar as that will is expressed by an Act of Parliament” (73).² Dicey accepted that judges controlled the ascription of meaning to statutes when legal disputes arose, but he also openly conceded that judges often interpreted statutes in a way which “would not commend itself either to a body of officials, or to the Houses of Parliament, if the Houses were called upon to interpret their own enactments” (413-14). Here we see that Dicey knew that judges

² This admission is consistent with a long-standing general prohibition on the examination of legislative history in ascertaining the intent of parliament in statutory interpretation. See Beaulac (1998).

frequently gave statutes meanings different from those which parliamentarians would give them. In fact, Dicey appears to have prescribed that judges focus on the words of a statute in interpreting its meaning precisely *because* he believed judges would bring to the task “the general spirit of the common law” (413). With this spirit came the concomitant “conservative disposition” of the magistrate who was “more likely to be biased by professional habits and feelings than by the popular sentiment of the hour” (1962, 364). Without a doubt, Dicey accepted that the approach to statutory interpretation judges should adopt was appropriately “guided by professional opinions and ways of thinking which are...independent of and possibly opposed to the general tone of public opinion” (363). In fact, Dicey believed that judges had a responsibility to act as “legislators” when they interpreted statutes. Dicey identified the very act of interpreting statutes to be an act of judicial “law-making” (488). Dicey used the term to mean that judges were to apply the “well-known legal principles” of the common law to the “solution of given cases” (364). By using the term “legislator”, Dicey did not intend to suggest the presence of the kind of judicial discretion implied by contemporary scholars of critical legal studies and law and policy more generally. Instead, Dicey meant only to concede that judges, as they use the clearly defined “general spirit of the common law” to interpret the meaning of statutes, tended to “represent the convictions of an earlier era” rather than “the ideas represented by parliamentary legislation” (369). Thus, the act of judicial law-making was to preserve the laissez-faire liberal principles of the common law even if doing so meant altering the policy-effect of the statutes being interpreted.

Dicey did not shy away from confronting the potential contradiction between his exposition of the doctrine of the sovereignty of parliament and his use of the term “judicial legislator”. Dicey argued that no contradiction existed because English judges “do not claim or exercise any power to repeal a Statute, whilst Acts of Parliament may override and constantly do override the law of the judges” (1959, 60). This concession, however, does not

mean that Dicey expected judges to play no role in determining the policy-effects of statutes. Although judges could not “set a statute aside”, Dicey freely accepted that they may “by a process of interpretation, indirectly limit or possibly extend the operation of a statute” (1962, 488). In fact, Dicey criticized the courts for not always exercising the “sound logic and good sense” to ensure that a “sound principle” of the common law cover a case “to which it was never meant to apply”. For Dicey, this is symptomatic of the fact that judges “have felt themselves less at liberty, in modern times at least, with regard to the interpretation of statutes”. For Dicey, the disturbing consequence of such feelings on the part of the judiciary was that they were “apt to pay more attention to the words than to the spirit of an Act of Parliament” (489). This spirit, of course, was to be drawn from the principles of the common law and not the increasingly “collectivist” values of parliamentarians (Risk 2000, 197).

Dicey made short order of another potential challenge to his exposition of the doctrine of parliamentary sovereignty coming from supporters of Blackstone who supposed that a statute contrary to fundamental moral principles was invalid.³ Such claims, Dicey asserted, lack “legal basis” (1959, 62). Judges have no authority under the principles of the British constitution to challenge the validity of properly enacted statutes. Again, however, this was not the end of the matter. In fact, Dicey *was* willing to offer a “very qualified interpretation” of Blackstone’s claim:

[J]udges, when attempting to ascertain what is the meaning to be affixed to an Act of Parliament, will presume that Parliament did not intend to violate the ordinary rules of morality...and will therefore, whenever possible, give such an interpretation to a statutory enactment as may be consistent with the doctrines both of private and of international morality. (62-3)

Again we can see the extent to which Dicey “did not intend judges to be...self-effacing” within his doctrine of parliamentary sovereignty (Arthurs 1979, 15).

³ Blackstone may not have meant to suggest that judges could declare statutes contrary to the dictates of private or public morality *legally* invalid. Mark D. Walters (2001) offers an interesting discussion.

In his discussion of contemporary American constitutional scholarship, Dicey noted that American scholars interpreted their constitutional document using an approach that was “exactly similar” to the approach prescribed by the “received canons of legal interpretation” in America. This approach, moreover, was familiar to all Anglo-American common lawyers. Here judges were to be guided by the rules of grammar, knowledge of the common law, the historical context, and by the conclusions to be deduced from a careful study of judicial decisions. In short, statutory interpretation, whether “constitutional” in the American sense or not, “was the explanation of a definitive legal document in accordance with the received canons of legal interpretation” (1959, 5). For Dicey these canons, it would seem, were to guide judges to an interpretation of statutes which ensured that their meaning remained within the boundaries set by traditional common law understandings of fundamental rights regardless of the actual intent of parliamentarians. Bernard Hibbits offers an eloquent synopsis of this interpretation when he calls the whole of Dicey’s constitutional scholarship “a plea that England’s democratized Parliament to cease and desist in the first place from meddling with England’s fundamental political, economic and social structure and disturbing the essential values which underlay that” (Hibbits 1994, 27).

Corry on statutory interpretation

In 1954, repeating views penned during the Depression, Canadian constitutional scholar Alex Corry offered his own exposition of the doctrine of parliamentary sovereignty. The sovereign, Corry wrote, “is a representative legislature which speaks for the community. Rules are binding because they emanate from the will of the legislature, and so we are inevitably preoccupied with the intention of Parliament” (1954, 625). Consistent, perhaps, with his neglect of Senate and Crown in his short definition, Corry went on to add to this “theory of law” a concise statement of his adherence to “political democracy”. This implied

that the “imperative character of law” must be attributed to the actual “will and intention of Parliament” (625). In fact, Corry’s explicit consideration of political democracy as a principle of legitimacy for the doctrine of parliamentary sovereignty is consistent with the views of many of his contemporaries. J.R. Mallory, for example, indicated that the “supremacy of will of parliament involved in the notion of parliamentary sovereignty presumes...the superiority of legislation over the will of the courts” (1944, 511).

Despite his assertion that our “dominant theory of law requires us to find sanction for a new law in the will of the legislature” (1954, 637), Corry viewed the “will of the legislature” as a fiction: there was *no* “unified intention of its members” (625). Traditional canons of statutory interpretation allowed judges to grapple with this fact by using “the words deliberately and formally adopted by a majority in Parliament as embodying the will and intention of Parliament” (625), but the canons could not counter the influence of the “personality” of the judge whose “political and constitutional theories” actually determined the meaning ascribed to a statute (1936, 26; 1983, 252). Dicey had prescribed the use of the traditional common law canons of statutory interpretation so that judges would interpret the words of a statute to temper the policy-effects of increasingly interventionist governments; Corry, too, recognized that judges were possessed of a “lack of sympathy” (Corry 1933, 193) with the policy aims of governments. For this reason, Corry emphasized that a “literal” interpretation of the words of a statute could not, by itself, provide an “automatic solution” (1983, 254-5) to a statute’s meaning: “words do not have clear, fixed and unalterable meanings” (1954, 626). Because he shared the new “collectivist” values emerging in Canadian legislatures in the 1930’s, Corry argued that judges should adopt *them* when they interpreted statutes. This meant that judges should not be guided by a strict focus on the words of a statute when they interpret the intent of a legislature.

During the Depression, Corry became “convinced that political and economic events” demanded that parliamentary constitutions “accommodate themselves to an increasing measure of administrative discretion” (Corry 1933 190-1). As Corry pointed out, intellectual and then political “[a]ssaults on *laissez faire* began early in the 20th century with the emphasis in political aim shifting from freedom to equality, or more correctly, to the substantial reduction of inequality through use of the power of the state” (1963, 15). Various regulatory and welfare policies were a manifestation of the new interventionist or “collectivist” political aims of Canadian governments, and, again, Corry put his intellectual support behind their attempts to achieve the reduction of social and economic inequality through the use of the tools of the administrative state.

As judges continued to obstruct the emergence of the administrative state in Canada by drawing from *laissez-faire* common law principles in interpreting statutes (Brown 2000, 67), Corry solidified his view that “consciously or unconsciously, law is always the handmaiden of a policy, always serving the objects of a particular political and social regime, whether the latter be fully established or merely in the making” (Corry 1959, 10). When judges interpret the “expressed intent” of a legislature (Cronkite and Corry 1939, 511), they should refrain from drawing upon, and further developing, the principles of the common law. After all, Corry argued:

These rules were developed to interpret statutory changes in the Common Law in an age which was agreed on the primacy of individual rights. To-day, the great bulk of statutes have to do with the creation or modification of administrative machinery designed to protect certain paramount public interests. The world will not wait while we misconstrue these provisions by placing them against a background of the Common Law instead of reading them in the light of the social and economic life with which they deal (1934, 64).

Corry made the point succinctly when he urged judges to treat statutes as a means to an end, with the end “determined by the social forces which brought it about and not by choice of the

judge” (1936; 1983, 255). Though the actual intention of the legislature is a fiction, “the purpose or object of the legislature is very real” (255). Statutes are always passed in order to serve a purpose, and it should be the duty of judges to seek it out as they interpret statutes. Perhaps constitutional scholars today have lost confidence in the ease of ascertaining the general social purposes that lie behind legislation. For Corry, however, such purposes were obvious and could be found by judicial inquiry into the social context of the statute, and by the “common knowledge of those who give close attention to public affairs” (1954, 627).

Conclusion

In this paper I have tried to show that there is no *one* approach to statutory interpretation which is logically required by the legal doctrine of parliamentary sovereignty. Albert Venn Dicey and J. Alex Corry each offered an approach to statutory interpretation which is rationally defensible regardless of their personal motives for choosing it. At the same time, and more interestingly, their respective choice appears to be explainable according to their judgments regarding the role judges can and should play in achieving the political, social, and economic values preferred by each scholar. We know that judges’ political, social and economic commitments cannot but influence their interpretation of ordinary and constitutional statutes alike. I believe that this situation is no different for constitutional scholars. We would do well to keep this in mind as we proceed to argue over which balance of courts and legislatures does and should control the interpretation of constitutional meanings.

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