Appendix 18: Language Study of Stated Judicial Interpretive Philosophy

Case	Justice	Intentionalism - explicit or implicit	Public Understanding or Meaning	Living Constitution
Chisolm v. Georgia, 2 U.S. (2 Dall.) 419 (1793)	Jay			
seriatum	Cushing	x - "That an object of this kind was had in view by the framers of the Constitution, I have no doubt..."		
seriatum	James Wilson		x - "it would not, perhaps, have comported with the delicacy of those, who ordained and established that Constitution. They might have announced themselves 'SOVERIGN' people of the United States" "Is a toast asked? 'The United States,' instead of 'the People of the United States,' is the toast given. This is not politically correct." "In order, ultimately, to discover, whether the	

			people of the United States intended to bind those States by the Judicial power vested by the national Constitution...Did those people intend to bind those states by the Legislative Power vested by that Constitution?"
seriatum	Blair		
dissenting	Iredell	x- "The framers of the Constitution, I presume, must have meant one of two things:"	x - "No part of the Law of Nations can apply to this case, as I apprehend, but that part of which is termed 'the Conventional Law of Nations,' nor can this any otherwise apply than as furnishing rules of interpretation, since unquestionably the people of the United States had a right to form what kind of union, and upon what terms they pleased, without reference to any former examples.
Hylton v. United States, 3	Chase	x - "The great object of the	

U.S. (3 Dall.) 171 (1796)		Constitution was, to give Congress a power to lay taxes, adequate to the exigencies of government." "If the framers of the Constitution did not contemplate other taxes than direct taxes, and duties, imposts, and excises, there is a great innacuracy in their language."
seriatum	Patterson	x - "It was, however, obviously the intention of the framers of the Constitution…." "I never entertained a doubt, that the principal, I will not say, the only, objects that the framers of the Constitution contemplated as falling within the rule of apportionment...."
joining (joining but adding analysis)	Iredell	
Ware v. Hylton, 3 Dall. (3 U.S.) 199 (1796)	Chase	
seriatum	Patterson	

seriatum	Iredell		x - (see ex post quote) "I feel, however, some consolation in differing from an opinion for which so much respect must, and ought to be entertained, by reflecting that though this was the unanimous opinion of Congress, it was not the unanimous opinion of the people of the United States."
seriatum	Wilson		
seriatum	Cushing		
Wiscart v. D'Aucy, 3 U.S. (3 Dall.) 321 (1796)	Ellsworth, CJ		
concurring in part, dissenting in part	James Wilson		
Calder v. Bull, 3 U.S. (3 Dall.) 386 (1798)	Chase	x - "The restraint against making any ex post facto laws was not considered, by the framers of the constitution, as extending to prohibit the depriving a citizen even of a vested right to property…."	x - "The expressions ' ex post facto laws, ' are technical, they had been in use long before the Revolution, by Legislators, Lawyers, and Authors"
seriatum	Paterson		x - "It is obvious from the specification of contracts in

			the last member of the clause, that the framers of the constitution, [sic] did not understand or use the words in the sense contended for on the part of the Plaintiffs in error. They understood and used the words in their known and appropriate signification, as signifying to crimes, pains, and penalties, and no further."
seriatum	Iredell		
Hollingsworth v. Virginia, 3 U.S. (3 Dall.) 378 (1798)	per curiam		
Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803)	J. Marshall	x - "Could it be the intention of those who gave this power that..."	
Hepburn v. Ellzey, 6 U.S. (2 Cranch) 445 (1805)	J. Marshall		
Ex parte Bollman, 8 U.S. (4 Cranch) 75 (1807)	J. Marshall		
dissenting	Johnson		
Owings v. Norwood's Lessee, 9 U.S. (5 Cranch) 344 (1809)	J. Marshall	x - "The reason for inserting that clause in the constitution	

		was, that all persons who have real claims under a treaty should have their causes decided by the national tribunals."	
Fletcher v. Peck, 10 U.S. (6 Cranch) 87 (1810)	J. Marshall	x - "Whatever respect might have been felt for the state sovereignties, it is not to be disguised that the framers of the constitution viewed, with some apprehension, the violent acts which might grow out of the feelings to the moment; and that the people of the United States, in adopting that instrument, have manifested a determination to shield themselves and their property from the effects of the strong passions to which men are exposed."	x - "Whatever respect might have been felt for the state sovereignties, it is not to be disguised that the framers of the constitution viewed, with some apprehension, the violent acts which might grow out of the feelings to the moment; and that the people of the United States, in adopting that instrument, have manifested a determination to shield themselves and their property from the effects of the strong passions to which men are exposed."
dissenting	Johnson	x - "There is reason to believe, from the letters of Publius, which are well-known to	

		be entitled to the highest respect, that the object of the convention was to afford a general protection to individual rights against the acts of state legislatures."	
Aurora v. United States, 11 U.S. (7 Cranch) 382 (1813)	Johnson		
Armitz Brown v. United States, 12 U.S. 110 (1814)	J. Marshall		
dissenting	Story		
Town of Pawlet v. Clark, 13 US. 292 (1815)	Story		
Martin v. Hunter's Lessee, 14 U.S. 304 (1816)	Story	x - "The instrument was not intended" "In respect to the first class, it may well have been the intention of the framers of the constitution imparatively to extend the judicial power in an original or appellate form to all cases."	x - "it did not suit the purposes of the people, in framing this great charter of our liberties" "It is manifest that the constitution has proceeded upon a theory of its own, and given or withheld powers according to the judgment of the American people, by whom it was adopted."

McCullough v. Maryland, 17 U.S. 316 (1819)	J. Marshall	x - "that this idea was entertained by the framers of the American Constitution...." "Can we adopt that construction (unless the words imperiously require it), which would impute to the framers of that instrument, when granting these powers for the public good, the intention of impeding their exercise by withholding a choice of means." "Almost all compositions contain words, which, taken in a their rigorous sense, would convey a meaning different from that which is obviously intended." "If their intention had been, by this clause, to restrain the free use of means which might otherwise have been implied, that intention would have been inserted in another place, and	x - "The government proceeds directly from the people; it is 'ordained and established,' in the name of the people....The assent of the states, in their soverign capacity, is implied, in calling a convention, and thus submitting that instrument to the people. But the people were at perfect liberty to accept or reject it."	"This provision is made in a constitution, intended to endure for ages to come, and consequently, to be adapted to the various crises of human affairs. To have prescribed the means by which government should, in all future time, execute its powers, would have been to change, entirely the character of the instrument, and give it the properties of a legal code. It would have been an unwise attempt to provide, by immutable rules, for exigencies which, if forseen at all, must have been seen dimly, and which can be best provided for as they occur. To have declared, that

		would have been expressed in terms resembling these."		the best means shall not be used, but those alone, without which the power given would be nugatory, would have been to deprive the legislature of the capacity to avail itself of experience, to exercise its reason, and to accomodate its legislatuion to circumstances.
Sturges v. Crowninshield, 17 U.S. 122 (1819)	J. Marshall	x - "had it even been the intention of the framers of the constitution…" "A general dissatisfaction with that lax system of legislation which followed the war of our revolution undoubtedly directed the mind of the convention to this subject."	x - "which will not readily be imputed to the illustrious patriots who framed our constitution, nor to the people who adopted it."	
Houston v. Moore, 18 U.S. 1 (1820)	B. Washington	x - "…and it is presumable, that the framers of the constitution contemplated a full exercise of all these pow-		

		ers."
dissenting	Johnson	
dissenting	Story	
United States v. Smith, 18 U.S. 153 (1820)	Story	
dissenting	Livingston	x - "it must have been the intention of the framers of the constitution to remove, by conferring on the national legislature the power which has been mentioned." "It was well known to the members of the Federal Convention, that in treatises on the law of nations, or in some of them at least, definitions of piracy might be found; l but it must have been as well known to them that there was not such a coincidence on this subject, as to render a reference to that code a desireable or safe mode of proceeding in a criminal, and espekially [sic] in a capital case."
Owings v. Speed, 8 U.S. 420 (1820)	J. Marshall	

Cohens v. Virginia, 19 U.S. 264 (1821)	J. Marshall	x - "However, unimportant this claim might be, however little the commnuity might be interested in its decision, the framers of our consttution thought it necessary for the purposes of justice, to provide a tribunal as superior to influece as possible, in which that claim might be decided." "That they were habitually disregarded, is a fact of universal notoriety. With the knowledge of this fact, and under its full pressure, a convention was assembled to change the system" "The framers of the constitution were, indeed, unable to make any provisions which should protect that instrument against a general combination of the states...but they were able to	x - "under the influence of this opinion, and thus instructed by experince, the American people, in the conventions of their respective States, adopted he present constitution"	"But a constitution is framed for ages to come, and is designed to approach immortality as nearly as human institutions can approach it."

		provide against the operation of measures adopted in any one State, whose tendency might be to arrest the execution of the laws, and this it was the part of true wisdom to attempt. We think they have attempted it." "All acknowledge that they were convened for the purpose of strengthening the confederation by enlarging the powers of the government, and by giving efficacy to those which it before possessed, but could not exercise."	
Johnson and Graham's Lessee v. M'Intosh, 21 U.S. 543 (1823)	J. Marshall		
Gibbons v. Ogden, 22 U.S. 1 (1824)	J. Marshall	x - "the enlightened patriots who framed our constitution, and the people who adopted it, must be understood to have employed words in their natural sense, and to have	x - (same quote) "The word used in the constitution, then, comprehends, and has been always understood to comprehend…"

		intended what they have said." "All America understands, and has uniformly understood, and must have been so understood, when the constitution was framed . . . The convention must have used the word in that sense, because all have understood it in that sense; and the attempt to restrict it comes too late." "But the framers of our constitution forsaw this state, and provided for it, by declaring...."	
concurring	Wm. Johnson	x – "That such was the understanding of the framers of the constitution, is conspicuous from provision contained in that instrument."	"And this opinion is supported by a very remarkable evidence of the general understanding of the whole American people, when the grant was made."
Osborn v. Bank of the United States, 22 U.S. 738 (1824)	J. Marshall	x - "If we examine the constitution of the United States, we find that its framers kept this great po-	

		litical principle in view."	
dissenting	Wm. Johnson		
United States v. Perez, 22 U.S. 579 (1824)	Story		
Brown v. Maryland, 25 U.S. 419 (1827)	J. Marshall	x - "this exception in favor of duties for the support of inspection laws, goes far in proving that the framers of the constitution classed taxes of a similar character with those imposed for the purposes of inspection…."	x - use of lexicons
dissenting	Thompson		
Martin v. Mott, 25 U.S. 19 (1827)	Story		
Craig v. Missouri, 29 U.S. 410 (1830)	J. Marshall		x - "the language of the constitution itself, and the mishief to be prevented, which we know from the history of our country….[provide] the sense in which the the terms have always been understood." "To cut up this mischief by the roots, a mischief which was felt through the United States, and which

			deeply affected the interest and prosperity of all; the people declared in their constitution..."
dissenting	Thompson	x - "The whole history and legislation of the time prove that, by bills of credit, the framers of the constitution meant paper money."	x - (also intent) "The terms, 'bills of credit,' are in themselves vague and general, and, at the present day, almost dismissed from our language. IT is then only by resorting to the nomenclature of the day of the constitution, that we can hope to get an idea which the framers of the constitution attached to it."
dissenting	Johnson		x - "As no precise and technical meaning or interpretation of a bill of credit has been shown, we may with propriety look to the state of things at the adoption of the constitution to ascertain what was probably the

			understanding of the convention by this limitations on the power...."
dissenting	McLean	x - "the spirit of that provision was to protect the citizens of the states against the evils of a debased currency…" "constitution was intended"	
Parsons v. Bedford, 28 U.S. 433 (1830)	Story		x - "…this distinction was present to the minds of the framers of the amendment. By common law, they meant what the constitution denominated…"
dissenting	McLean		
United States v. Wilson, 32 U.S. 150 (1833)	J. Marshall		
Barron v. Baltimore, 32 U.S. 243 (1833)	J. Marshall	x - "framers of these amendments intended them to…"	
Holmes v. Jennison, 39 U.S. 540 (1840)	Taney	x - "and shown the high talent, the caution, and the foresight of the illustrious men who framed it." "these words could not have been idly or superfluously used by the framers of the constitution"	

"After reading these extracts, we can be at no loss to comprehend the intention of the framers of the Constitution in using the words, 'treaty,' 'compact,' 'agreement.' And the use of all these terms, 'treaty,' 'agreement,' compact,' show that it was the intention of the framers of the Constitution to use the broadest and most comprehensive terms; and that they anxiously desired to be cut off all connection or communication between a state and a foreign power." "The framers of the Constitution manifestly believed that any intercourse...." "Such, certainly was not the intention of the framers of the Constitution" "was intended" "against which the framers of the Constitution have so

		anxiously endeavored to guard." "the foresight of the framers of the Constitution have provided the way for doing it."	
dissenting	Barbour		
dissenting	Catron		
Prigg v. Pennsylvania, 41 U.S. 539 (1842)	Story	x - "historically, it is well known, that the object of the clause" "[Congressional act of 1793] is founded in a just construction of the Constitution; independent of the vast influence which it ought to have as a contemporaneous exposition of the provisions, by those who were its immediate framers, or intimately connected wtih its adoption."	"the safest rule of interpretation after all will be found to be to look to the nature and objects of the particular powers, duties, and rights, with all the lights and aids of contemporary history; and to give to the words of each just such operation and force, consistent with their legitimate meaning, as may fairly secure and attain the ends proposed." "[Congressional act of 1793] is founded in a just construction of the Constitution; independent of the vast influence which it ought to have as a

			contemporaneous exposition of the provisions, by those who were its immediate framers, or intimately connected wtih its adoption." "This Court [in previous cases]...rel[ied] upon contemporaneous expositions of the Constitution, and long acquiescence to it, with great confidence..."
concurring	Taney		
concurring	Thompson	x - "We know, historically, that this provision was the result of a compromise between the slave-holding and non-slave-holding states; and it is the indispensable duty of all to carry it faithfully into execution, according to its real object and intention"	
concurring	Wayne	x - "Certainly, such an interest as the constitution was intended to	

		secure, we may well think the framers of the constitution intended to provide for by a uniform law." "This was not anticipated by the representatives of the slave-holding states in the convention, nor could it have been intended by the framers of the constitution." "The framers of the constitution did not act upon such narrow grounds; they were engaged in forming a government for all of the states; by concessions of soverign rights from all, without impairing the actual sovereignity of any one...."
concurring	Daniel	
concurring	McLean	
Pollard v. Hagan, 44 U.S. 212 (1845)	McKinley	
dissenting	Catron	
Searight v. Stokes, 44 U.S. 151 (1845)	Taney	
dissenting	McLean	
dissenting	Daniel	
Fox v. Ohio, 46	Daniel	

U.S. 410 (1847)			
dissenting	McLean		
Reeside v. Walker, 52 U.S. 272 (1850)	Woodbury		
United States v. Reid, 53 U.S. 361 (1851)	Taney		x - "It was the people of these thirteen states which formed the Constitution of the United States, and incrafted on it the provision which secures the trial by jury, and abolishes the old common-law proceeding which had so often been used for the purposes of oppression."
Murray v. Hoboken Land Co., 59 U.S. 272 (1855)	Curtis		
Dynes v. Hoover, 61 U.S. 65 (1857)	Wayne		
In re The Brig Amy Warwick, 67 U.S. 635 (1862) ("The Prize Cases")	Grier		
dissenting	Nelson	x - "The framers of the Constitution fully comprehended this question, and provided for the contingency."	
Pervear v. Commonwealth,	Chase		

72 U.S. 475 (1866)			
Paul v. Virginia, 75 U.S. 168 (1868)	Field	x - refers to intent of language, not of creators, "the clause of the Constitution could never have intended to give citizens…" "It was not intended by the provision…"	
Texas v. White, 74 U.S. 700 (1868)	Chase		
Collector v. Day, 78 U.S. 113 (1870)	Nelson		
dissenting	Bradley		
Butchers' Benevolent Assn. of New Orleans v. The Crescent City Live-stock Landing & Slaughter-house Co., 83 U.S. 36 (1872) ("The Slaughterhouse Cases")	Miller	x - "in any fair and just construction of any section or phrase of these amendments, it is necessary to look to the purpose which we have said was the pervading spirit of them all, the evil which they were designed to remedy…."	x - "It was very well understood that in the form of apprentiship for long terms, as it had been practiced in the West India Islands, on the abolition of slavery by the English government, or by reducing the slaves to the condition of serfs attached to the plantation, the purposes of the article might have been evaded, if only the word slavery had been used."

			"We are convinced that no such results wer intended by the Congress which proposed these amendments, nor by the legislatures of the States which ratified them."
dissenting	Field	"The abolition of slavery and involuntary servitude was intended to make every one born in the country a freeman…."	
dissenting	Bradley		
dissenting	Swayne		
Minor v. Happersett, 88 U.S. 162 (1874)	Waite	x - "In this condition of the law in respect to suffrage in the several States it cannot for a moment be doubted that if it had been intended to make all citizens of the United Staets voters, the framers of the Constitution would not have left it to implication."	
Insurance Co. v. Morse, 87 U.S. 445 (1874)	Hunt		
dissenting	Waite		
Reynolds v.	Waite	x – "it is impos-	

United States, 98 U.S. 145 (1878)		sible to believe that the constitutional guaranty of religious freedom was intended to prohibit legislation in respect to this most important feature of social life."
United States v. Germaine, 99 U.S. 508 (1878)	Miller	
United States v. Steffens, 100 U.S. 82 (1879) ("The Trademark Cases")	Miller	
United States v. Stanley, 109 U.S. 3 (1883) ("The Civil Rights Cases")	Bradley	
dissenting	J.M. Harlan	x - "the court has departed from the familiar rule requiring, in the interpretation of constitutional provisions, that full effect be given to the intent with which they were adopted." "Those who framed it were not ignorant of the discussion, covered many years of the country's history, as to the constitutional power of con-

		gress to enact the fugitive slave laws of 1783 and 1850."	
Edye v. Robertson, 112 U.S.580 (1884)	Miller		
Hurtado v. California, 110 U.S. 516 (1884)	Matthews	X - "The natural and obvious inference is that, in the sense of the Constitution, 'due process of law' was not meant or intended to include..the institution and procedure of a grand jury in any case."	
Fort Leavenworth R. Co. v. Lowe, 114 U.S. 525 (1885)	Field		
Turpin v. Burgess, 117 U.S. 504 (1886)	Bradley		
De Geofroy v. Riggs, 133 U.S. 258 (1890)	Field		
Huntington v. Attrill, 146 U.S. 657 (1892)	Gray		
dissenting	Fuller		
United States v. Ballin, 144 U.S. 1 (1892)	Brewer		
McPherson v. Blacker, 146 U.S. 1 (1892)	Fuller		x - "Therefore, on reference to contemporaneous and subsequent action under the clause, we should expect to find, as we

do, that various modes of choosing the electors were pursued." "It is seen that from the formation of the government until now the practical construction of the clause has conceded plenary power to the state legislatures in the manner of the appointment of electors " (in part acquiescence) "while public opinion had graudally brought all the states as a matter of fact to the pursuit of a uniform system of popular election by general ticket, that fact does not tend to weaken the force of contemporaneous and long-continued previous practice." "The construction to which we have referred has prevailed too long...." "the original expectation

		may be said to have been frustrated" "If, because it happened, at the time of the adoption of the fourteenth amendment, that those who exercised the elective franchise in the State of Michigan were entitled to vote for all the presidential electors, this right was rendered permanent by that amendment, then the second clause of article 2 has been so amended that the states can no longer appoint in such manner as the legislatures therof may direct; and yet no such result is indicated by the language used, nor are the amendments necessarily consistent with that clause."
Marshall Field & Co. v. Clark, 143 U.S. 649	J.M. Harlan	

(1892)			
dissenting	J.Q.C. Lamar		
Virginia v. Tennessee, 148 U.S. 503 (1893)	Field		
Sparf v. United States, 156 U.S. 51 (1895)	J.M. Harlan	x - "It was evidently the intention of the constitution"	
dissenting	Gray		
In re Debs, 158 U.S. 564 (1895)	Brewer		
Mattox v. United States, 156 U.S. 237 (1895)	Brown		
dissenting	Shiras		
Beavers v. Haubert, 198 U.S. 77 (1905)	McKenna		
Millard v. Roberts, 202 U.S. 429 (1906)	McKenna		
Williamson v. United States, 207 U.S. 425 (1908)	E.D. White	x - "when the framers of the Constitution adopted the phrase in question they necessarily must be held to have intended that it should receive its well-understood and accepted meaning." "The presence of the exact words of the exception as now found in the Constitution...without discussion, in all the proceedings of the convention relating to the	x - "Before, therefore, coming to elucidate the text by the ordinary principles of interpretation, we proceed to trace the origin of the phrase 'treason, felony, and breach of the peace,' as applied to parliamentary privilege, and to fix the meaning of those words as understood in this country and in England prior to

		subject of the privileges of members of Congress, demonstrate that those words were then well known as applied to parliamentary privilege, and had a general and well understood meaning, which it was intended that they should continue to have."	and at the time of the adoption of the Constitution."
Arver v. United States, 245 U.S. 366 (1918)	E.D. White		x - "And upon this understanding of the two powers the legislative and executive authority has been asserted from the beginning."
Rhode Island v. Palmer, 253 U.S. 350 (1920)	Van Devanter		
concurring	E.D. White	x - "It is true indeed that the mere words of the second section tend to these results, but if they be read in the light of the cardinal rule which compels a consideration of the context in which the amendment deald and the	

		purpose which it was intended to accomplish, the confusion will be seen to be only apparent."	
concurring	McReynolds		
dissenting	McKenna		x - "If,however, such neglect was to be apprehended, it is strange that the framers of section 2, with the whole vocabulary of the language to draw upon, selected words that expressed the opposite of what the framers meant."
dissenting	Clarke		
Myers v. United States, 272 U.S. 52 (1926)	Taft	x - extensive analysis of legislative history - "its meaning was not doubted, even by those who questioned its soundness." "The debates in the Constitutional Convention indicated an intention to create a strong executive, and after a controversial discussion…"; "We ought always	

		to consider the Constitution with an eye to the principles upon which it was founded."	
dissenting	McReynolds		x - "Moreover, it is the fixed rule that debates are not relied upon when seeking the meaning or effect of statutes."
dissenting	Brandeis		
dissenting	O.W. Holmes		
Massachusetts State Grange v. Benton, 272 U.S. 525 (1926)	O.W. Holmes		
Okanogan Indians v. United States, 279 U.S. 655 (1929) ("The Pocket Veto Case")	Sanford		x - "No light is thrown on the meaning of the constitutional provision in the proceedings and debates of the Constitutional Convention."
Stromberg v. California, 283 U.S. 359 (1931)	Hughes		
dissenting	Butler		
Hagner v. United States, 285 U.S. 427 (1932)	Sutherland		
Powell v. Alabama, 287 U.S. 45 (1932)	Sutherland		x - "It thus appears that in the least twelve of the thirteen colonies the rule of the English

			common law, in the respect now under consideration, had been definitely rejected and the right to counsel fully recognised in all criminal prosecutions, save that in one or two instances the right was limited to capital offenses or to the more serious crimes."
dissenting	Butler		
United States v. Butler, 197 U.S. 1 (1936)	O.J. Roberts		
dissenting	H.F. Stone		
State Board of Equalization of California v. Young's Market Co., 299 U.S. 59 (1936)	Brandeis		
Breedlove v. Suttles, 302 U.S. 277 (1937)	Butler	x – "The Nineteenth amendment...its purpose is not to regulate the levy or collection of taxes."	
Coleman v. Miller, 307 U.S. 433 (1939)	Hughes		
concurring	Black		
dissenting	Butler		
Hague v. Committee for Industrial Organization, 307 U.S. 496			

(1939)		
"an opinion"	O.J. Roberts	
concurring	Stone	
dissenting	McReynolds	
dissenting	Butler	
United States v. Classic, 313 U.S. 299 (1941)	H.F. Stone	x - "Hence we read [the Constitution's] words, not as we read legislative codes which are subject to continuous revision with the changing course of events, but as the revelation of the great purposes which were intended to be achieved by the Constitution as a continuing instrument of government." "To decide [the Constitutional question] we turn to the words of the Constitution read in their historical setting as revealing the purpose of its framers, and in search for admissible meanings of its words which, in the circumstances of their application, will effectuate those purposes." "There is no historical

		warrant for supposing that the framers were under the illusion that the method of effecting the choice...would never change."	
Johnson v. United States, 333 U.S. 10 (1948)	R.H. Jackson		
dissenting	Vinson, Black, Reed, Burton		
Youngstown Sheet & Tube v. Sawyer, 343 U.S. 579 (1952)	Black		
concurring	Frankfurter		
concurring	R.H. Jackson	x - "If that be true, it is difficult to see why the forefathers bothered to add several specific items, including some trifling ones."	x - "Some clauses could be made almost unworkable, as well as immutable, by refusal to indulge some latitude of interpretation for changing times." "The Constitution does not disclose the measure of the actual controls wielded by the modern presidential office. That instrument must be understood as an Eighteenth-Century

				sketch of a government hoped for, not as a blueprint of the Government that is. Vast accretions of federal power, eroded from that reserved by the States, have magnified the scope of presidential activity. Subtle shifts take place in the centers of real power that do not show on the face of the Constitution."
concurring	Burton			
concurring	T.C. Clark			
concurring	Douglas			
concurring	Frankfurter			
dissenting	Vinson			
Ray v. Blair, 343 U.S. 214 (1952)	Reed	x - "The intention of the Founders was that those electors should exercise their judgment in voting for Presiudent and Vice-President."		
dissenting	R.H. Jackson	x - "No one faithful to our history can deny that the plan originally contemplated, what is implicit	x - contemporary understanding of electors' discretion	

		in its text, that electors would be free agents, to exercise an independent and nonpartisan judgment…."	
Mapp v. Ohio, 367 U.S. 643 (1961)	T.C. Clark		
concurring	Black		
concurring	W.O. Douglas		
dissenting	J.M. Harlan II		
Baker v. Carr, 369 U.S. 186 (1962)	Brennan		
concurring	W.O. Douglass		
concurring	T.C. Clark		
concurring	Stewart		
dissenting	Frankfurter		x - "However desirable and however desired by some among the great political thinkers and framers of our government, it has never been generally practiced, today or in the past."
dissenting	J.M. Harlan II	x - "no intention to fix immutably the means of selecting representatives for state governments could have been in the minds of either the founders or the	

		draftsmen of the Fourteenth Amendment"	
Griswold v. Connecticut, 381 U.S. 479 (1965)	W.O. Douglas		
concurring	Goldberg		x - "(collective) conscience of our people"
concurring	J.M. Harlan II		
concurring	B. White		
dissenting	Black	x - "And [Bolling] merely recognized what had been the understanding from the beginning of the country, an understanding shared by many of the draftsmen of the Fourteenth Amendment, that the whole Bill of Rights, including the Due Process Clause of the Fifth Amendment, was a guarantee that all persons would receive equal treatment under the law." ""to find that the Framers vested in this Court any such awesome veto powers over lawmaking...." "it was not given by the Framers"	x - "And [Bolling] merely recognized what had been the understanding from the beginning of the country, an understanding shared by many of the draftsmen of the Fourteenth Amendment, that the whole Bill of Rights, including the Due Process Clause of the Fifth Amendment, was a guarantee that all persons would receive equal treatment under the law." ""to find that the Framers vested in this Court any such awesome veto powers over lawmaking...." "it was not given by

			the Framers"
	Stewart		x - "framed by Madison and adopted by the States"
United States v. Johnson, 383 U.S. 169 (1966)	J.M. Harlan II		
dissenting in part, concurring in constitutional construction	Warren		
Katzenback v. Morgan, 384 U.S. 641 (1966)	Brennan	x - "This statement of section 5's purpose is not questioned by anyone in the course of the debate."	
Powell v. McCormack, 395 U.S. 486 (1969)	Warren	x - "Had the intent of the Framers emerged from these materials with less clarity"	
concurring	W.O. Douglass		
dissenting	Stewart		
Schlesinger v. Reservists Committee to Stop the War, 418 U.S. 208 (1974)	Burger		
dissenting	W.O. Douglas		
United States v. Will, 449 U.S. 200 (1980)	Burger	x - "The relationship of judges' compensation to their independence was by no means a new idea initiated by the authors of the	

		Constitution." "Thus, when the Framers met in Philadelphia 1787 to draft our organic law, they made certain that in the judicial articles both the tenure and the compensation of judges would be protected from one of the evils that had brought on the Revolution and separation."
INS v. Chadha, 462 U.S. 919 (1983)	Burger	x - "the profound conviction of the Framers" "Framers' intent" "but it is crystal clear from the records of the Convention, contemporaneous writings and debates, that the Framers ranked higher values than efficiency."
concurring	Powell	x - "framers' concern"
dissenting	White	x - "an endeavor far beyond the contemplation of the Framers." "the Framers saw fit to divide and balance the

		powers of government"	
Nixon v. United States, 506 U.S. 224 (1993)	Rehnquist	x - "These limitations are quite precise, and their nature suggests that the Framers did not intend to impose additional limitations…." "we must presume that the Committee's reorganization or rephrasing accurately captured what the Framers meant in their unadorned language." framers' "intent" "The Framers labored" "the Framers 'doubted'" "the Framers believed" "Framers recognised" "the Framers deliberately separated"	x - on use of dictionaries, "the word 'try,' both in 1787 and later, has considerably broader meanings than those to which petitioner would limit it." "history and contemporary understanding of the impeachment provisions"
concurring	Stevens	x - "Framers decided"	
concurring	White	x - "The Framers' sparing use of 'sole,'" "the Framers, following English practice, were very much concerned to separate the prosecutorial from the adjudicative aspects of impeach-	

		ment." "The framers were concerned" "the framers came to the view" "What the relevant history mainly reveals is deep ambivalence among many of the Framers over the very institution of impechment" "The Framers' conferred" "the Framers' insistence" "the Framers' careful design" "the word 'try' was not meant by the Framers to constitute a limitation" "the Framers employed" "the Framers used 'try'"
concurring	Souter	
Franklin v. Massachusetts, 505 U.S. 788 (1992)	O'Connor	
dissenting to const. construction	Stevens	
concurring in part	Scalia	