

Differing Interpretations of the Constitution

	Original Intent (strict or literalist view)	Living Document (loose or activist)	Marxist	States Rights
<i>Understanding of the Constitution</i>	Views the Constitution as instructions that are to be followed to a “t”. Whatever the Constitution says, is to be done; if the terminology is unclear, then we are to read commentaries and writings of the Founding Fathers, to better understand what was meant.	Views the Constitution as a set of principles (instead of unchanging rules) that need to be, and are, defined for every generation. Some terms in the Constitution (specifically, the Bill of Rights) are very vague: what is <i>due process</i> ? What is <i>cruel and unusual punishment</i> ? These terms have to be defined by us, and by every generation.	Views the Constitution as an economic document, which provided political power to bankers and merchants, over the masses of small farmers. Sees it as justifying the dominance of this class over others, and as being reinterpreted anew, every generation, to justify the dominance of ruling classes over others.	Saw Constitution as an agreement among sovereign states. If the national government did something unconstitutional, the states had the right to stop this.
<i>Criticism of the viewpoint</i>	Misguided--how do we know what the intent was? Whose intent should be final— Alexander Hamilton? Thomas Jefferson? Additionally, how do we know that the intent was constitutional? Many of that first generation had no problem with the Alien and Sedition Acts.	Can make the Constitution out to be whatever one wants it to be. Without roots in traditional understandings, people can define terms (and thus the Constitution itself) however they want them to mean.	The supposed “oppressed classes” (i.e., the small farmers) enthusiastically voted for this document, and received solid benefits from it.	It gave each state a way to avoid any federal decision that it didn’t like. Originally used to protest violations of the Bill of Rights and unpopular embargoes, it has since been used to defend slavery and segregation, and is no longer considered a mainstream view.