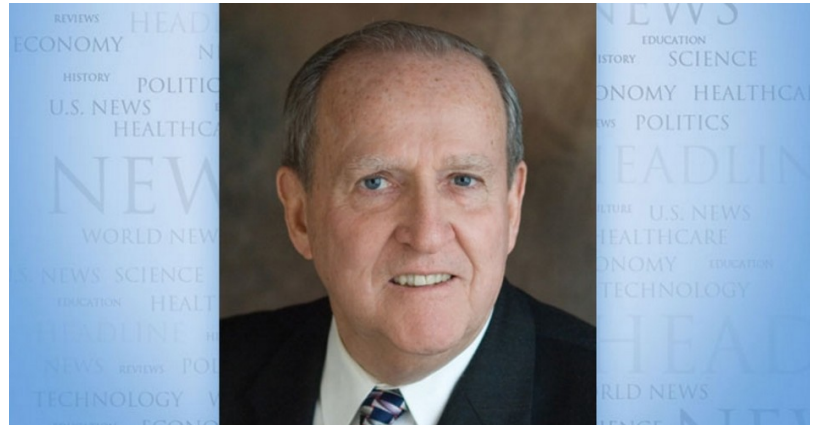




Written by [John F. McManus](#) on July 18, 2018

Danger Lurks in the Claim to “Interpret” the Constitution

When President Trump announced his choice of Judge Brett Kavanaugh to fill the vacancy on the Supreme Court, he employed the phrase “interpret the Constitution” to indicate what he expected of the judge. Trump did maintain that any interpretation should refer back to the Constitution “as it was originally understood by our Founders.” That clarification was most welcome.



Judge Kavanaugh followed the president’s announcement with his promise to “interpret the Constitution as written.” He followed that assertion with: “A judge must interpret the law, not make the law.” Within the context of basing the interpretation on the law as written and the intent of the lawgiver, this is well and good.

But although the president and the judge both said what is needed, we wish they had relied on a term other than “interpret.” Why not “obey” or “adhere to” or “abide by”? My dictionary defines the word interpret as follows: “to give or provide the meaning of; explain; explicate; elucidate.” Accordingly, one who interprets can put his own meaning on what he is dealing with. That amounts to creating a loophole regularly relied upon by jurists and legislators who place an entirely new meaning on selected portions of the Constitution.

All judges and elected officials swear a solemn oath to the Constitution. That oath is similar in many ways to the signing of a business agreement, something done regularly throughout the planet. There is no way to escape the provisions of such an agreement by claiming power to “interpret” its meaning. Each party is expected to obey, abide by, and adhere to what the agreement says and what its words meant at the time it was signed.

Thomas Jefferson certainly understood this. He wanted on reliance the Constitution “according to the safe and honest meaning contemplated by the plain understanding of the people of the United States at the time of its adoption.” He also stated: “On every question of construction [let us] carry ourselves back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, and instead of trying what meaning may be squeezed out of the text, or invented against it, conform to the probable one in which it was passed.”

Our nation’s third president additionally said that we Americans were fortunate to “possess a written Constitution. Let us not make it a blank paper by construction.” Or by “interpretation”!

Interpretation has paved the way for our nation’s high courts and legislative bodies to approve abortion, same-sex “marriage,” ObamaCare, and other clearly unconstitutional outrages. It has invited the repeated bypassing of the Tenth Amendment. It has helped mightily to enshrine the attitude that the government can do anything not expressly prohibited by the Constitution. From these distortions of the



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true meaning of the Constitution, we have arrived at federal meddling and near dominance in education, energy, transportation, medicine, environment, and more. We go to war without any formal declaration by Congress, spend billions in foreign aid, and submit to numerous requirements mandated in foreign entanglements such as the United Nations. None of this can be shown to be constitutionally sound.

In many cases, relying on power to “interpret” the Constitution isn’t obvious. But it’s there and can be claimed when needed. How much better if the requirement to abide, adhere, or obey the document were the proper test of judicial or legislative power. Using the word “interpret” has done a great deal of harm and should be banned.

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