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**Constitutional Interpretation and Original Meaning**

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[In the following excerpt, a contemporary philosopher of law defends a modern analogue of Spooner's approach to legal interpretation.]

Imagine that you and I disagree about the substantive requirements of social justice. We then differ as to how the concept of justice applies; we differ, that is, about the principles of justice. This is possible if the concept of justice admits of different interpretations, or competing conceptions. ...

Now consider a constitutional example. ... [A] court applying the just compensation clause would not necessarily decide a case as the original authors would have done .... Instead, a court would understand the Constitution to mean precisely what it says and thus to require *just compensation*. A court would need to defend a particular conception of just compensation (that is, it would need to defend principles of justice appropriate to compensation) against the most plausible alternatives. It would then apply that conception to the case ....

Contested concepts do not seem confined to morality and law. Their properties are at any rate similar to those of concepts referring to natural substances or phenomena, such as water and heat. On a plausible understanding of the development of science, for example, the caloric and kinetic theories of heat are (or at one time were) competing conceptions of the concept heat. ... If, as most people would agree, 'heat' refers to a determinate physical phenomenon, there can be, in principle, a best theory of heat. This implies that there can be a best conception of a contested concept. This suggests, in turn, that contested concepts in the Constitution might have best interpretations. ...

Now if the idea that the Constitution includes contested concepts is correct, then to apply the Constitution in terms of their best interpretation is, in effect, to apply doctrines whose application is called for by the original Constitution. But, just as interpretation of the concept heat requires more than mere reflection, any interpretation of this type inevitably draws upon resources that are neither implicit in the text nor purely linguistic. ... [It] requires that courts applying 'vague clauses' of the Constitution interpret 'contested concepts,' which requires reasoning about moral or political principles. ...