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A CASE OF TREASONOUS INTERPRETATION*

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The judicial opinion that follows attempts to illustrate four approaches to constitutional interpretation in the context of one of the Constitution's clearest provisions. While I do not agree with all of the views propounded by the honorable justices of the hypothetical court, I hope by this exercise to facilitate an understanding of the variety of legitimate approaches, and their effect on the outcome of even the most clear-cut case.

In the Supreme Court of North Virginia
STATE OF NORTH VIRGINIA
v.
JIM BOND

Justice Thurlow delivers the opinion of the court and is joined by Justice Weed. Justice Whitestone concurs in a separate opinion, and Justices Caskey and Brown dissent and file separate opinions.

Thurlow, Justice:

This is an appeal from a judgment of the Circuit Court of Washington County, without a jury, finding the appellant, Jim Bond, guilty of treason.[1] The issue on appeal is one of constitutional inter-

* The author gratefully acknowledges the assistance of his former law clerk, R. Louis Harrison, Jr., in the preparation of this article. The format employed is not original, and was used most notably in Fuller, *The Case of the Speluncean Explorers*, 62 Harv. L. Rev. 616 (1949).

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[1] While it is admittedly unusual for a treason case to originate in state court, there was no objection from either party, and this court is competent to try the issue. Therefore, we hold that the matter is properly before us. *See* Palmore v. United States, 411 U.S. 389, 407 (1973) (state courts are appropriate forums in which federal questions and federal crimes may at times be tried); Boston Stock Exchange v. State Tax Comm'n, 429 U.S. 318, 320 n.3 (1977) (state courts of general jurisdiction

pretation. After review of the record and the briefs, a majority of this court has voted to affirm.

Jim Bond is a civilian employee at Fort Early in Washington County. For the past year, Mr. Bond has been under surveillance by an agent of the North Virginia Bureau of Investigation ("N.V.B.I.") on the suspicion that he was selling secrets to agents of a foreign power intent on the destruction of the United States. The prosecution's evidence at trial consisted solely of the testimony of the N.V.B.I. agent and video tapes taken by the N.V.B.I. agent which contained remarkably good video and audio recordings of Mr. Bond receiving money in return for blueprints of several types of nuclear weapons. The agent conducted the investigation alone, and he was the only person to witness the crime. The tapes verified his testimony and the evidence left no doubt as to Mr. Bond's guilt. For his defense, Mr. Bond relied on article III, section 3 of the United States Constitution, which provides that treason may be found only by confession or upon the testimony of two witnesss.[2] In this case, we have one witness and the video tapes taken by him. We, therefore, must consider whether the lack of a second witness exonerates Mr. Bond despite overwhelming evidence of his guilt.

I.

> WE THE PEOPLE of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this CONSTITUTION for the United States of America.[3]

The preamble to the United States Constitution lists the lofty goals and aspirations of the men who formed our system of government. The Constitution is the cornerstone of that government and was designed to endure as long as the fledgling nation.[4]

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have power to decide cases involving federal constitutional rights where neither Constitution nor statute withdraws such jurisdiction).

[2] Article III, section 3 of the United States Constitution provides in part that "[n]o Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court." U.S. CONST. art. III, § 3.

[3] U.S. CONST. preamble.

[4] "[The Constitution was intended to endure for ages to come, and consequently, to be adapted to the various crises of human affairs." McCulloch v. Maryland, 17 U.S. (4 Wheat) 316, 415 (1819).

Nevertheless, even men as discerning as the drafters of our Constitution could not see into the future. Realizing this limitation, we cannot expect a document written in 1787 to address precisely the issues we face today. When the drafters wrote of warrantless searches, could they have envisioned X-rays or wiretapping? When they spoke of freedom of religion, could they have considered tax deductions for gifts to a television evangelist building a large amusement park? Would the advent of nuclear weapons have affected their decision on the right to keep and bear arms? What about the effect of submarine-launched ballistic missiles on the authority of Congress to declare war?

The list of developments affecting the ability of an eighteenth century document to govern the United States in the twentieth century is a long one. By their letter, many provisions of the Constitution are antiquated and obsolete. The words alone can no longer be expected to rule the complex society that has evolved from the original thirteen states.

What breathes life into the Constitution is the spirit captured by the drafters and embodied between the lines of the document. The spirit of the Constitution is reflected in goals enumerated in the preamble,[5] and exhibited throughout the remainder of the document. These goals are as worthy today as they were in 1787. It is this spirit that the founders of our nation intended to govern the United States of the future. It is this spirit that this court should use in applying the Constitution to the complex problems of modern society. We, therefore, should not chain ourselves to the literal language of an antiquated document any more than we should give up modern technological advances and go back to the horse and plow. By using the spirit of the document to interpret its letter, we can adapt the Constitution to govern a changing society.

The United States Supreme Court often expands the Constitution beyond its literal meaning in order to implement its intent. In *Griswold v. Connecticut*,[6] for example, Justice Douglas, for the Court, recognized that the Constitution does not guarantee citizens a "right

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[5] *See e.g.*, Jacobson v. Massachusetts, 197 U.S. 11, 22 (1905).

[6] Griswold v. Connecticut, 381 U.S. 479 (1965).

of privacy" in so many words. The Court nevertheless found such a right, based on the "zone of privacy" created by several fundamental constitutional guarantees in the Bill of Rights.[7] Justice Douglas, in his observation that "specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance,"[8] acknowledged that the spirit of the Constitution, as well as its letter, may be the source of constitutional law.

Those who would advocate interpreting the document strictly by its letter claim that they are protecting the integrity of the original Constitution. In truth, a literal interpretation would destroy the vitality of the document. Its meaning would be limited to the situations that it addresses specifically. In a modern world, these would be increasingly few. The Constitution is analogous to a blueprint for a building. The blueprint shows where the main beams will go, the layout of the building, and other important details necessary to construct the building. The architect does not attempt to show the placement of every brick or the location of every nail. Similarly, the Constitution is the blueprint or master plan of our government. "We do not expect to find in a constitution minute details. It is necessarily brief and comprehensive. It prescribes outlines, leaving the filling up to be deduced from the outlines."[9]

II.

A literal reading of article III, section 3 would require us to release this defendant, whom we know without any doubt to be guilty of treason. The words of article III, section 3 require two witnesses, and only one witness testified. We must look beyond the letter of the Constitution, however, and implement the intent of the framers, who could not have foreseen video tapes. The requirement of two witnesses kept treason from being lightly charged, and ensured that a citizen could not be convicted based on a "swearing match."[10]

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[7] *Id.* at 482-85.

[8] *Id.* at 484.

[9] Knox v. Lee, 79 U.S. (12 Wall.) 547, 532 (1871).

[10] *See generally* Cramer v. United States, 325 U.S. 1, 24, 30 (1945).

In this case, we have the testimony of one witness, supported by video tapes of the acts to which he testified. Together, this evidence accomplishes the founders' goals. The agent's testimony may be tested not only through cross-examination, but also by reference to the tapes. The defendant can challenge the "credibility" of the tapes by having an expert examine them for signs of editing. Modern advances in audio and video recording have preserved Mr. Bond's crime so that the court itself can watch the crime occur. Indeed, in some ways a video tape and one witness provide far more satisfactory evidence than two witnesses.

Mr. Bond's conviction for treason based on the evidence presented offends neither the spirit of article III, section 3 nor its intent. We see no reason, therefore, to reverse the conviction based on a strict reading of the treason provision, and the decision of the Circuit Court of Washington County is affirmed.[11]

Affirmed.

Whitestone, Justice, concurring:

While I agree with my brothers in the majority on the result in this case, I differ on the rationale. From their opinion they seem to believe that the Constitution is so antiquated that the only way to adapt it to modern times is to break the spirit away from the flesh and to rely on the spirit alone. I disagree. "In expounding the Constitution of the United States, every word must have its due force, and appropriate meaning; for it is evident from the whole instrument, that no word was unnecessarily used or needlessly added."[12] The spirit is embodied in the letter and the two need not

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[11] It is true that the Supreme Court traditionally has used the spirit of the Constitution as a vehicle to expand the liberties set out in the document, and not to diminish them. *See, e.g.*, Loving v. Virginia, 388 U.S. 1 (1967) (right to privacy in marriage); Roe v. Wade, 410 U.S. 113 (1973) (right to privacy in context of abortions); Katz v. United States, 389 U.S. 347 (1967) (protection against unreasonable searches). Once it has been resolved that a court may read between the lines of the Constitution, however, the axe can fall both ways. In this case, our reading of the spirit of the document may be seen as restricting the rights of one accused of treason. We do not believe, however, that we have diminished the protection afforded by the rule requiring two (human) witnesses. Our holding should not, therefore, be read as authority for restricting rights expressly granted by the Constitution.

[12] Holmes v. Jennison, 39 U.S. (14 Pet.) 540, 570-71 (1840).

be severed in this case when they can be reconciled through construction.

Over the years courts have developed canons of construction which help determine the meaning of ambiguous provisions. Words should be used in their natural sense;[13] construed with the Constitution's purpose in mind;[14] read in connection with other provisions of the Constitution covering the same subject;[15] and harmonized with seemingly conflicting parts.[16] Later provisions should control over earlier ones[17] and specific provisions over general ones.[18] Words and clauses should be construed broadly, rather than narrowly.[19] These rules of construction are common sense guidelines which can be summarized in one word: reasonable. As long as we interpret the words of the Constitution in a reasonable fashion, taking into account the inevitable changes in the nation it created, the document will be a viable, useful tool.

The majority erred in concluding that it must ignore the language of the Constitution in order to interpret its spirit. Is it reasonable to interpret a document governing today as if the date were 1787? Of course not. Had the majority taken a reasonable approach, using the appropriate canons of construction, there would have been no need to disregard the Constitution's language.

The Constitution states that there must be two witnesses to the crime of treason. The majority hastily assumed that only one human being was present, and, therefore, there were not two witnesses. A witness is "one who, being present, personally sees or perceives a thing. . . [and] one who testifies to what he has seen, heard, or otherwise observed."[20] Thus, a witness must satisfy two requirements. He must be present and able to see or perceive, and he must be able to testify.

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[13] *See, e.g.*, Martin v. Hunter's Leessee, 14 U.S. (1 Wheat) 304, 326 (1816).

[14] *See, e.g.*, Gibbons v. Ogden, 22 U.S. (9 Wheat) 1 (1824).

[15] *See* Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803).

[16] *See, e.g.*, State *ex rel.* Nelson v. Jordan, 104 Ariz. 193, 196, 450 P.2d 383, 386 (1969).

[17] Schick v. United States, 195 U.S. 65, 68-89 (1904).

[18] City of Tulsa v. Southwestern Bell Tel. Co., 75 F.2d 343, 351, *cert. denied*, 295 U.S. 744 (1935).

[19] *See In Re* Strauss, 197 U.S. 324, 330 (1905).

[20] BLACK'S LAW DICTIONARY 1438 (5th ed. 1979).

In the eighteenth century there was only one mechanism on earth that could see and testify, and that was a human being. The twentieth century has changed that. Video cameras are able to see, hear, and, most importantly, testify. Video tapes can be examined by experts for tampering or distortion, fulfilling the need for a check on credibility. A tape allows the judge or jury to see the crime in a way that is clearer than any image a witness could possibly convey, no matter how skillful his command of the language. I see no reason, therefore, why the term "witness" in article III, section 3 cannot be construed to include a video tape.

The definitions of several constitutional phrases have changed over time. "Equal protection" once was read to mean "separate but equal."[21] As a society we have long since discarded that notion.[22] The "unreasonable searches and seizures" prohibited by the fourth amendment originally encompassed only searches of places.[23] With the advent of wiretapping and ultra-sensitive microphones, however, the Supreme Court has read the fourth amendment to protect people also.[24] The phrase which has undergone perhaps the greatest metamorphosis is "cruel and unusual punishment." Methods of punishment routinely employed at the time the Constitution was ratified would shock even the most severe sentencing judge today. As late as 1878, the Supreme Court upheld a ruling sentencing a man to be publicly shot under a Utah statute that authorized punishment by shooting, hanging, or beheading.[25] Today the Court reads the eighth amendment to prohibit punishments which "'involve the unnecessary and wanton infliction of pain,' or are grossly disproportionate to the severity of the crime,"[26] as well as punishments that are physically barbarous.[27] For example, within the last thirty years, the Supreme Court has declared as cruel and unusual Arkansas prison

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[21] *See* Plessy v. Ferguson, 163 U.S. 537 (1896).

[22] *See* Brown v. Bd. of Educ., 347 U.S. 483 (1954).

[23] *See* Olmstead v. United States, 277 U.S. 438 (1928).

[24] *See* Katz v. United States, 389 U.S. 347 (1967).

[25] *See* Wilkerson v. Utah, 99 U.S. 130, 132, 136-37 (1878).

[26] Rhodes v. Chapman, 452 U.S. 337, 346 (1981) (*quoting* Gregg v. Georgia, 428 U.S. 153, 173 (1976)).

[27] *Id.* (citing Coker v. Georgia, 433 U.S. 584, 592 (1977) (plurality opinion)).

conditions,[28] the denial of medical care,[29] and the denaturalization of an army soldier.[30]

The Supreme Court, in eighth amendment cases, has authorized expressly a modern as opposed to a historical interpretation of the Constitution, noting that the eighth amendment "is not fastened to the obsolete, but may acquire meaning as public opinion becomes enlightened by a humane justice."[31] It "draw[s] its meaning from the evolving standards of decency that mark the progress of a maturing society."[32] Likewise the meaning of "witness" can change by virtue of modern technological advances.

Many will argue that broadening the language of the Constitution in this way was not the intent of the framers. They will argue that the drafters could not possibly have intended the term "witnesses" to include video cameras, because such cameras did not exist in the eighteenth century. This argument illustrates why the specific intent of the framers should be no more than a secondary tool in constitutional interpretation. In most cases the circumstances have changed so much that the framers, in truth, had no intent regarding modern issues. To try to use the original intent of the framers freezes the law in the 1700's and, as the majority stated, antiquates the entire document.

Interpreting the language of the Constitution broadly to reflect changes in the world around us results in a reasonable interpretation of the treason provision. I would hold that a video camera can be a witness under article III, section 3 of the United States Constitution. There being one human witness present and one mechanical witness present, the requirements of the Constitution are satisfied in this case, and I would affirm Mr. Bond's conviction.

Caskey, Justice, dissenting:

I must respectfully dissent from the opinion of the majority in this case because I do not believe it gave due deference to the opin-

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[28] Hutto v. Finney, 437 U.S. 678, 685 (1978).
[29] Estelle v. Gamble, 429 U.S. 97, 103 (1976).
[30] Trop v. Dulles, 356 U.S. 86, 101 (1958).
[31] Weems v. United States, 217 U.S. 349, 378 (1910).
[32] *Trop*, 356 U.S. at 101.

ions of the Supreme Court of the United States. The Constitution provides that the judicial power of the United States shall be vested in the Supreme Court.[33] The judicial power is the power to hear cases[34] and interpret law. It is the power to declare what the law is.[35] Thus, the Supreme Court, being established in the Constitution as the the highest court having the judicial power,[36] is the supreme interpreter of federal law. The Constitution itself is, of course, federal law.[37] Interpretations of law are not new law, but clearer statements of existing law.[38] Therefore, interpretations of the Constitution by the United States Supreme Court are the clearest statements of the Constitution.

The importance of the Supreme Court's decisions interpreting the Constitution cannot be overestimated. The decisions of the Supreme Court put flesh on the document's bony frame. They bring additional meaning to the document and energize the words so that they are as viable today as they were in 1787. For example, the Court decided in *Roe v. Wade*,[39] that prohibiting abortions may be unconstitutional. The Supreme Court did not interpret a specific constitional provision that prevents a state from prohibiting abortions. There is no such provision. It relied instead on the right of personal privacy based on the fourteenth amendment, among others.[40] Thus, although the Constitution provides neither an express right of personal privacy nor the inclusion therein of the abortion decision, we all acknowledge that the Constitution protects a woman's right to seek an abortion during the first trimester of her pregnancy.[41]

There are may who feel that *Roe v. Wade* was a bad decision. Error it may have been, but no lower court and no other branch

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[33] *See* U.S. CONST. art. III, § 1.

[34] See Muskrat v. United States, 219 U.S. 346, 356 (1911).

[35] *Marbury*, 5 U.S. (1 Cranch) 137.

[36] *See* U.S. CONST. art. III, § 1.

[37] *See id.* art. VI.

[38] *Cf.* Ming v. Pratt, 22 Mont. 262, 265, 56 P. 279, 280 (1899) (interpretation makes intelligible what was previously unclear).

[39] Roe v. Wade, 410 U.S 113 (1973).

[40] *Id.* at 153-55.

[41] *See id.* at 163-64.

of government may overrule the Supreme Court's decision. If the case before us concerned abortion, we would not be free to look to the Constitution and conclude, however rationally, that it does not address the subject of abortions. By the same token, I believe that the majority's relegation of *Cramer v. United States*[42] to a footnote improperly ignored controlling precendent in this case.

In *Cramer*, the Supreme Court stated that "[e]very act, movement, deed, and word of the defendant charged to constitute treason must be supported by the testimony of two witnesses."[43] The Court in *Cramer* explained that once the two-witness requirement is met, the prosecution can present "corroborative or cumulative evidence of any admissible character either to strenghten a direct case or to rebut the testimony or inferences on behalf of defendant."[44] That the two-witness rule requires testimony by two humans is implicit in the distinction the Court made between the satisfaction of the two-witness requirement by the testimony of two witnesses, and once that requirement is met, the admission of corroborative or cumulative evidence of any admissible character. I believe that the video tapes in this case, although admissible, constitute corroborative or cumulative evidence and do not constitute a witness for purposes of satisfying article III, section 3.

The issue in this case is within scope of *Cramer's* interpretation of the constitutional provision, and therfore this court is not free to re-examine its meaning. For this reason, I note my dissent.

Brown, Justice, dissenting:

Our founding fathers, when drafting the Constitution, were not able to put the Constitution into effect immediately at the end of the convention. They did not have the power. The power to ratify the Constitution rested always in the people. The Constitution was a contract made by the residents of this country, giving their linited permission to be governed under a certain set of rules. The Con-

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[42] Cramer v. United States, 325 U.S. 1 (1945).

[43] *Id.* at 34-35; *see also* Kawakita v. United States, 343 U.S. 717, 736 (1952) ("Two witnesses are required not to the disloyal and treacherous intention but to the same overt act.").

[44] *Cramer*, 325 U.S. at 35.

stitution was the offer. The acceptance was ratification by the people, through their appointed representives. The consideration was a limited surrender of power by the people in exchange for more efficient system of government. The result was a social contract which would be the ultimate source of all power residing in the new government. We should interpret this social contract with the respect that it deserves. Unfortunately, the majority has not.

The majority calls the words of the Constitution antiquated. It fails to note that most of the Constitution works quite well without heroic methods of interpretation. Of course, there parts of the document which have been made obsolete by the passage of time. Nevertheless, the power to amend the Constitution was not given to the courts by the people. Only the people, through the amendment process, can approve any changes in the Constitution, no matter how desperately changes are needed.[45] In his dissenting opinion in *Griswold v. Connecticut*, Justice Black stated:

> I realize that many good and able man have eloquently spoken and written, sometimes in rhapsodical strains, about the duty of this Court to keep Constitution in tune with the times. The idea is that the Constitution must be changed from time to time and that this Court is charged with a duty to make those changes. For myself, I must with all deference reject that philosophy. The Constitution makers knew the need for change and provided for it. Amendments suggested by the people's elected representatives can be submitted to the people or their selected agents for ratification. That method of change was good for our Fathers, and being somewhat old-fashioned I must add it is good enough for me.[46]

The majority, in the guise of interpreting the Constitution's spirit, usurps a great deal of power that the people specifically reserved to themselves, *i.e.*, the power to amend.[47]

The concurring opinion is little better. Instead of breaking away from the language, it tortures the language, bending it into new shapes never conceived by the founders. The words of the Constitution, like the words of contract, should be given their obvious and ordinary meaning. No amount of creative interpretation will convince me that "witnesses" means anything other than people.

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[45] *See* U.S. CONST. art. V.
[46] Griswold v. Connecticut, 381 U.S. 479, 522 (1965) (Black J., dissenting).
[47] *See* U.S. CONST. art. V.

. This is not to say that a court has no power to interpret the Constitution. There are certain places in the document where a court may properly roam. The fourth amendment talks about "unreasonable" searches and seizures. The fourteenth amendment prohibits any state from depriving any citizens of life, liberty, or property without "due process" of law. The eight amendment proscribes "cruel and unusual" punishment.[48] These phrases are imprecise and capable of being interpreted differently over time. Article III, section 3, however, is not such a passage. In this case, the majority artificially creates an ambiguity. The text speaks of two witnesses, obviously meaning human witnesses. We should accept this clear mandate. If modern technological advances have rendered the two-witness requirement unnecessary, it is up to the people, through their representatives, to amend the provision.

Although I am pleased to be joined by another dissenter, I feel compelled also to qualify Justice Caskey's view of the Supreme Court as sole arbiter of what the Constitution means. Decisions of the United States Supreme Court cannot transcend the provisions of the Constitution itself. The Constitution established the Supreme Court. Where the two conflict, the Constitution is superior. Supporters of the Supreme Court assert that when the Court interprets the Constitution, its interpretations are merely clearer statements of the document itself. I disagree. Interpretations *should be* clearer statements of the document interpreted. Interpretations are sometimes wrong. The Supreme Court, like any other branch of government, is capable of usurping power not granted to it by the Constitution. Every political entity will stretch its powers until it is checked. Recognizing this, the framers of the Constitution set up a system of checks and balances among three separate branches.

The Supreme Court has the power to decide cases. It can neither enact laws nor enforce them.[49] It often must consider cases in which an act of Congress or an administrative action appears to conflict with the Constitution. In such cases, the Court gives great deference

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[48] These ambiguities are places where the framers made no attempt to set out specifics, but intentionally gave the courts discretion to "fill in" the law.

[49] *See* THE FEDERALIST No. 78 at 99 (A. Hamilton) (M. W. Dunne ed. 1901).

to the decisions of other governmental entities.[50] Nevertheless, if the conflict is clear, the Court must enforce the Constitution.[51] Thus, even though the Court itself is not superior to the other branches of government, its interpretation of the Constitution acts as a check on the executive and legislative branches.

The situation is reversed when the President or Congress is faced with a possible conflict between a Supreme Court opinion and the Constitution. Each should give due deference to the Court, recognizing its traditional role as the guardian of the Constitution. The President and the members of Congress took an oath to support the Constitution, however, not the Supreme Court. If, therefore, a Supreme Court decision violates the Constitution, the other branches of government must disregard it.[52] There are those who claim that acknowledging the ability of Congress or the President to defy an unconstitutional Supreme Court decision would render the Court's opinions meaningless, because no decision would be final. That position is no more tenable than saying that executive and legislative decisions are meaningless because they are subject to judicial review.[53] In fact, the power of review of judicial decisions has been exercised on rare occasion, and it has not destroyed the power of the Court.[54]

We are faced with the unpleasant prospect of releasing a man unquestionably guilty of treason, because of what many would call

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[50] *See* United States v. Nixon, 418 U.S. 683, 704 (1974).

[51] *See* Powell v. McCormack, 395 U.S. 486, 549 (1969).

[52] In a letter to John Adams' wife, Abigail, explaining why he had pardoned many people who had been convicted under the Sedition Act for libeling John Adams, Thomas Jefferson wrote:

> [T]he executive, believing the law to be unconstitutional, were bound to remit the execution of it because that power had been confined to them by the Constitution. That instrument meant that its coordinate branches should be checks on each other. But the opinion which gives to the judges the right to decide what laws are constitutional and what are not, not only for themselves in their own sphere of action, but for the legislature and executive also in their spheres, would make the judiciary a despotic branch.

F. MURPHY, J. FLEMING, W. HARNS, AMERICAN CONSTITUTIONAL INTERPRETATION 190 (1986).

[53] The power of judicial review has been accepted ever since Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803).

[54] President Andrew Jackson refused to enforce an order of the Supreme Court in the famous Cherokee Indian case of Worcester v. Georgia, 31 U.S. (6 Pet.) 515 (1832). Jackson's attitude was "John Marshall has made his decision, now let him enforce it." *See* Burke, *The Cherokee Cases: A Study of Law, Politics and Morality*, 21 STAN. L. REV. 500, 525 (1969). Despite the action, the judiciary remained a powerful branch of government.

an outdated requirement of the Constitution. Nevertheless, it is better to let one treasonous citizen go free than to torture the Constitution with strained interpretations. I believe Mr. Bond must be freed, and I therefore note my dissent.

Epilogue

For two hundred years judges on courts throughout the United States have advocated different constructions of the same constitutional language. That the original document has survived countless interpretations, with very few amendments, and has continued to function as the ultimate source of law in a major world power is testimony both to the foresight of its drafters and to the flexibility they built into many constitutional provisions.

Interpretational debates such as the one engaged in by the Supreme Court of North Virginia will continue. This is desirable and in fact essential for the continued vitality of the United States Constitution. As long as both the courts and "we the people" continue our efforts to interpret the words written by the members of the Constitutional Convention of 1787, the United States Constitution will stand as the cornerstone of our government.