

odd to have one group write assembly instructions but then to take the symbols the group used and “interpret” those symbols as if they had been produced by some other group with different intended meanings. Why should we read the Canadian Charter or the United States Constitution as if they were written in English if we do not care about the intended meanings of their actual authors? Why not imagine that the marks on the pages are not English but are in some special code that means what we would like it to mean? No mark or sound has any inherent meaning. Marks, sounds, and other symbols used by someone or some group to communicate their ideas to others have only the meanings that those who produce them intend them to convey. And although for any set of symbols produced by one author with a given intended meaning, we can always treat those symbols as if they were produced by a different author with a different intended meaning, doing so with constitutional provisions makes the whole process of authoring them and adopting them bizarre. When I read assembly instructions for a toy or gadget, I try to discern what those who wrote them intended, not what someone else might have intended by those symbols, much less what I would have intended. Looking for the authors’ originally intended meaning is the only thing that makes sense when it comes to constitutions’ structural provisions. Someone might object that I have overstated my case. They might argue that interpretation of structural constitutional rules can properly depart from the authors’ intended meaning so long as the symbols in the constitution can bear an alternative meaning. But this is a confusion on several levels.

First, to repeat, giving some people the job of coming up with structural rules but then disregarding the meanings they intended their chosen symbols to convey seems quite bizarre and verges on unintelligibility.

Second, it is a mistake to imagine that a given set of symbols can bear only a limited number of meanings. Any symbol can convey an indefinite number of meanings. Even if we artificially decree that a certain set of symbols must be treated as if it were English (and no set of symbols itself declares what standard language, if any, it is in), words and phrases in English can bear an indefinite number of meanings, again depending on the intentions of their users and the understandings of those intentions by the audience. At some point in time, the word “bad” came to convey the meaning “good,” as in, “That’s a really bad car you’re driving.” At some point in time, “He’s a really cool cat” came to refer not only to the tabby by the air conditioner but to a jazz musician in sweltering New Orleans. Symbols, languages, codes, idiolects—they can convey any meaning so long as the intended meaning is understood by its audience.

Moreover, it is only the intended meaning of its authors that gives a constitutional text its unity, so that the Canadian or American constitution reprinted in one book is the same constitution as that in another book, and the same as that in the national archives. What I mean is this: If a constitution contains an ambiguous word or phrase, and we can resolve the ambiguity either by reference to the authors’ intended meaning or by reference to other possible meanings (meanings someone other than the authors could have intended to convey), then the different possible interpretations represent different constitutions. For suppose the ambiguous word or phrase in English has no counterpart in, say, Italian. Rather, there is a separate Italian word for each of the possible meanings. In that case, when translators translate the constitution into Italian, if they resolve the ambiguity differently from one another, they will produce Italian versions that are symbolically different one from another. The only thing that makes a given set of symbols the same text as a different set of symbols is that they have the same authorially intended meaning.