



# The Speluncean Explorers and Judicial Interpretation

Legal Reasoning, Fall 2015

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# Facts of the Case

Prezi presentation

<https://prezi.com/zdgx5fdcodz2/speluncean-explorers/>

How Would You Rule?

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# Principles of Judicial Interpretation

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Text

History

Tradition

Precedent

Purpose

Consequence

Justices Breyer and Scalia  
[https://www.youtube.com/  
watch?v=VXeUfVhDVUM](https://www.youtube.com/watch?v=VXeUfVhDVUM)

Pay Attention to the Principles of Interpretation Used by the Judges

*Chief Judge Trueppenny.*

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# The Text of the Law Is Clear

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*The language of our statute is well known: "Whoever shall willfully take the life of another shall be punished by death." N. C. S. A. (N. S.) § 12-A.*

*This statute permits of no exception applicable to this case, however our sympathies may incline us to make allowance for the tragic situation in which these men found themselves.*

Judge Foster



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# First Ground

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(1) The positive law does not apply here.

*Why?* Because the positive law only applies when men are coexisting in society, and our explorers were not.

(2) What law applies? The agreement the explorers reached is the law in this case.

*Why an agreement?* Because even our positive law is based on an original agreement. (There is no other source of the law.)

So, since (1) the positive law does not apply to the case and (2) the agreement allowed for murder, no crime was committed.

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# Addenda

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Human life has no absolute value. Neither does life have absolute value in the circumstances the explorers found themselves in nor does it have absolute value in ordinary circumstances.

*We knowingly sacrifice the lives of construction workers, technicians, miners etc. every day. The ordinary functioning of our society rests on utilitarian calculations, i.e. — *it rests on sacrificing the lives of few people for the expected progress of society as a whole.**

If we don't convict the owners of construction companies and the like, why should we convict the explorers?

What is the difference between

(a) Killing a specific construction worker?

(b) Running a construction company and knowing that someone will surely be killed?

Why is (a) a crime, while (b) is not?

# Back to Foster's Decision

For the Sake of Argument, Let Us  
Hypothetically Reject the First Ground

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# Second Ground

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1. We should interpret the text of the law the according to the *spirit*, not according to the letter of the law.
  2. The spirit of the law is determined by its *purpose*.
  3. The purpose of the law is *detering* future undesired actions.
  4. A law punishing the explorers does not deter other explorers from killing for survival in the future (just as a law punishing people for killing in self-defense does not deter other people from killing in self-defense).
  5. A law punishing the explorers does not deter and thus has no purpose (by 3). So, punishing the explorers cannot be the spirit of the law (by 2).
- C. Conviction isn't the correct interpretation of the text of the law here (by 1).

# Judge Tatting

## **Against Foster's FIRST GROUND**

- When did the “law of nature” (expressed in the mutual agreement between the explorers) come into effect?
- How can this court decide about the state of nature without being a Court of Nature?
- If the the agreement is the binding law in the case, what about Whetmore's temporary refusal to enter the agreement at the last minute?



## Against Foster's SECOND GROUND

- The purpose of the law is not only deterrence, but also retribution or rehabilitation.
- The rationale for the self-defense justification for murder is not only that punishing self-defense would have no deterrent effect. Another rationale is that killing in self-defense is not a “willful” act.
- Punishing the explorers might have some deterrent effect for people in similar circumstances.
- Precedent (*Commonwealth v. Valjean*) determined that hunger was not a justification for theft. How can there be a justification for murder?