

### Review #3

I think that the manuscript contains some important and novel arguments, but that it needs substantial reorganization and revision before it could be published. The idea of connoisseur-ship in particular is extremely interesting, but it's buried in the Epilogue. The material in Chapters 7-10 is also interesting and valuable. In contrast, the critiques of originalism, with which the current manuscript begins, are substantially less so, though not bad. The arguments aren't made in the way that I would make them, but I think they are a contribution to the literature on constitutional interpretation.

What follows are the organizational suggestions I sent the author, so that you can understand why I think the reorganization would help:

(1) I doubt that you need what amounts to a literature review in Chapter 1. To the extent that you think it helpful to situate your argument with reference to other work, you could do so much later in the book. The idea is to get readers engaged with your argument as quickly as possible. (2) For the same reason, I strongly suggest rearranging the manuscript to place the critique of originalism later. Again, I think I understand your instinct, that many of the ideas you develop in the early chapters are important supports for the arguments later on. As I read the manuscript, though, I ended up thinking that the concepts used later in the book were actually reasonably well-developed in those chapters, and didn't benefit all that much from their anticipation earlier.

(3) My main organizational suggestion is that the chapter sequence should get the reader quite quickly to Chapter 9, where your arguments work well and are reasonably easy to understand. I'm pretty sure that you have to have Chapter 8 before that, even though it delays things. And, for myself, I'm inclined to think that Chapter 7 ought to be grouped with 8-10; again, I'm not sure that it's so closely connected to Chapter 6 that it couldn't be relocated. Then, after Chapter 10 and what's now the Epilogue, the critiques of originalism would come -- what is now Chapters 3-6 (or maybe 2-6). As to those chapters, I think it would be helpful for readers for you to say that some of the criticisms have been made, though in other terms, by other scholars (this is particularly true because of the transformation of original intent originalism into original public meaning originalism, which occurred because of difficulties similar to those you identify), but that the vocabulary you've developed in Chapters 7-10 can give readers a deeper understanding of those difficulties. A paragraph explaining why you're criticizing an outdated version (original-intent) to develop a vocabulary to deal with the more current version (original public meaning) would probably help as well.

(I also suggest that in reorganizing, you try to make the material more reader-friendly. Here are a couple of thoughts about that. (a) I suggest simply stripping out all the paragraphs you use to conclude sections -- the ones that begin "Having just...". I think that they slow the reader down without adding anything significant, especially because most of the sections to which they are appended are reasonably short. (b) Although I understand your instinct, I think you should consider reinserting into the footnotes essentially all of the endnotes, or at least all those that contain matters of substance, even

if the substance consists solely to a quotation. Where you're simply citing a source with no substance, then some version of Chicago-style citation would do. I found it distracting to see both footnote calls and endnote calls close to each other, and I suspect others readers will too.)