



The Case of the Speluncean Explorers

Philosophy of Law, Spring 2015

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Facts of the Case

Prezi presentation

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

How Would You Rule?

Principles of Judicial Interpretation

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.

The Text of the Law Is Clear

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.

Clemency

In a case like this the principle of executive clemency seems admirably suited to mitigate the rigors of the law...

There is every reason to believe that these requests for clemency will be heeded, coming as they do from those who have studied the case and had an opportunity to become thoroughly acquainted with all its circumstances.

It is highly improbable that the Chief Executive would deny these requests ...

I think we may therefore assume that some form of clemency will be extended to these defendants.

If this is done, then justice will be accomplished without impairing either the letter or spirit of our statutes and without offering any encouragement for the disregard of law.

Judge Foster

First Ground

(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.

Addenda

Human life has no absolute value. Neither does life have absolute 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

Second Ground

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).