

# SCHOOL *of* LAW

THE  
UNIVERSITY  
OF  
GEORGIA

**The 101st John A. Sibley Lecture -  
“There Is No Textualist Position: Why a Text Can Only  
Mean What Its Author Intends”**

by

**Stanley Fish**

*Davidson-Kahn Distinguished University Professor of  
Humanities and Law*

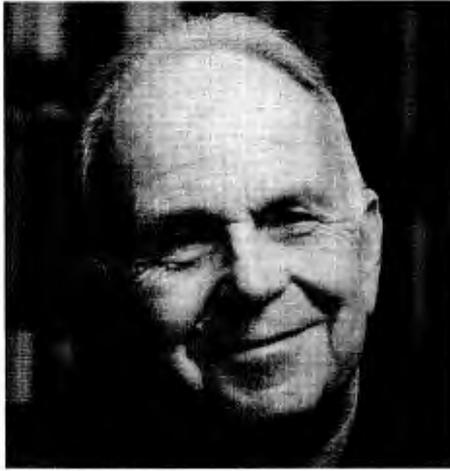
**Florida International University**

**Hatton Lovejoy Courtroom, School of Law**

**March 8, 2006**

**4:30 p.m.**

## Stanley Fish



Stanley Fish serves as Florida International University's Davidson-Kahn Distinguished University Professor of Humanities and Law, maintaining a principal appointment in the College of Law and a lecturer role in the College of Arts and Sciences. He earned his bachelor's degree from the University of Pennsylvania and both his master's and doctorate degrees from Yale University. Considered one of the foremost authorities on English poet John Milton, he has taught English at the University of California at Berkeley, Johns Hopkins University and Duke University, where he also served as a law professor and as the executive director of Duke University Press. In 1999, he became dean of the College of Liberal Arts and Sciences at the University of Illinois at Chicago and, in 2004, assumed his current position at Florida International University.

Fish has appeared on many national television shows and has published a dozen books and hundreds of scholarly articles in the areas of literature and law, as well as regularly lectures on these topics at universities across the country. A prolific author, he has written for national publications such as *The New York Times* and *The Chronicle of Higher Education* as well as some of the country's leading law journals, including the *Stanford Law Review*, *Duke Law Journal*, *Yale Law Journal*, *University of Chicago Law Review*, *Columbia Law Review* and *Texas Law Review*.

## The 101st John A. Sibley Lecture

*Welcome to Sibley Lecture*

**Paul M. Kurtz**

*Associate Dean and J. Alton Hosch Professor of Law,  
School of Law*

*Introduction of Sibley Lecturer*

**Paul J. Heald**

*Allen Post Professor of Law,  
School of Law*

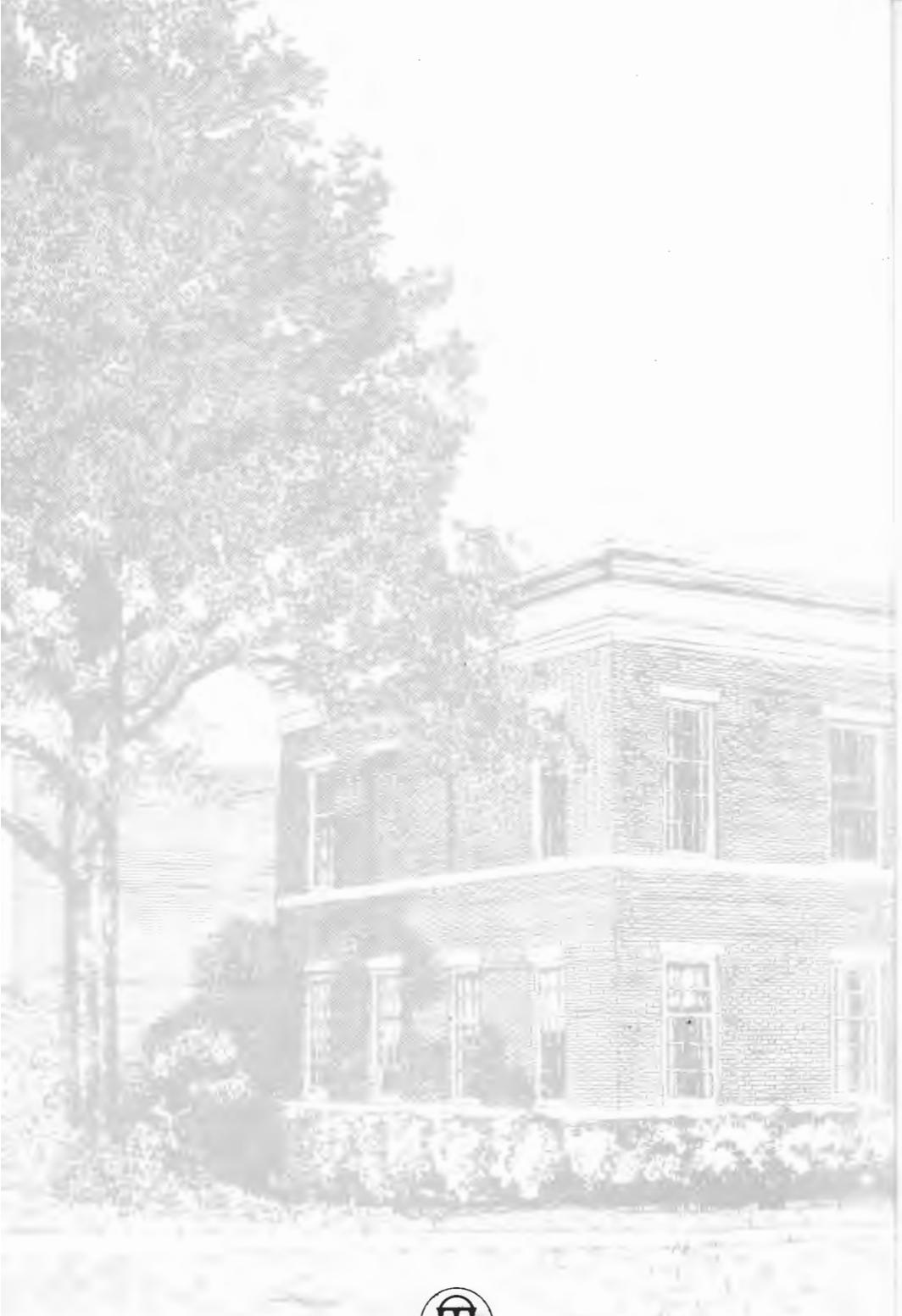
*Sibley Lecture - "There Is No Textualist Position: Why a  
Text Can Only Mean What Its Author Intends"*

**Stanley Fish**

*Davidson-Kahn Distinguished University  
Professor of Humanities and Law,  
Florida International University*

*There will be a reception immediately following the lecture in the  
Hirsch Hall Rotunda.*

The Sibley Lecture Series, established in 1964 by the Charles Lorigans Foundation of Atlanta in tribute to the late John A. Sibley, is designed to attract outstanding legal scholars of national prominence to Georgia Law. Sibley was a 1911 graduate of the law school.



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Chama, Colorado 81750



January 19, 2005  
Northwestern Law School  
Stanley Fish

1. "Fish's account cannot tell us what the law is and is thus without any practical decision-making importance."
2. "Words do have meanings that we all agree upon."
3. "A law is not a good law if it does not communicate anything to the public."
4. "Fish's deconstruction intimates that interpreters are radically free to apply whatever context they may choose. The idea of a true or correct interpretation falls into the infinite regress of the infinite contexts in which a text can be placed."
5. "The question Fish should be asking is not 'Did the interpreter seek the author's intent?' but rather 'did the interpreter come up with the best interpretation of the text?'"
6. "Fish's position begs the question of whether judges ought to analyze the legislative history or whether they ought to strictly adhere to the text when they interpret what a text means."
7. "As the creator of these words, my conception of their meaning, my intent behind writing them, requires the existence of 'the other.'"
8. "Can my intended meaning be shaped by imperfections of communication as I understand them?"
9. "In other eras and in other cultures, religious painters did not sign their works of art. They did not consider themselves the creators but merely the conduit."
10. "May readers make assumptions about the author's intent and thereby circumvent the need to have the author readily available to answer questions?"
11. "Fish argues that in order to communicate, the author intended the symbols to have society's agreed upon meaning."
12. "In literary works, authors have freedom to 'say' and 'not say' at their whim. Legal authors do not have the same freedom."
13. "Suppose that I write  $1 + 1 = 2$ . Perhaps I meant to write this as an explanation of what I ate for breakfast. As a rational actor, I know that my intentions will not be conveyed through this expression."
14. "The starting point of his anti-textualist position is the inherent ambiguity of language."
15. "Fish notes that the initial statement, literally construed, means one thing while his father's purpose was something else."

16. "Fish's theory would allow one to make the very sexy critical move of saying that we do not have one constitution, we have many constitutions."
17. "Fish may be right, but we must pretend that he is wrong. Legal scholars and practitioners should agree to treat text as though it does hold meaning in itself. If everyone assumes, even incorrectly, that meaning is to be found within statutory texts, legislators are encouraged to draft statutes in clear language."
18. "Fish argues that legal interpretation should focus on the intention of the author rather than on the plain meaning of the words alone."
19. "In objective reality, there is only one text of *Hamlet*, and it is the result of a variety of intentions. Scholars can parse the language and argue that certain speeches were not penned by the same author of the rest of the text, and in objective reality this may be true. But that does not detract from the fact that *Hamlet* as a whole is a single unified text with its own 'meaning.' So it is with legislation."
20. "If Fish means to say that whenever a text has multiple authors whose meanings diverge, there are really multiple texts to be interpreted, judges are going to be upset. This would mean a single statute is actually many different texts, and Fish does not provide an answer as to which text a judge should apply."
21. "The legislature takes much more care with the drafting of legislation than it does with every day conversation, precisely to eliminate the kind of ambiguity that the writer illustrates with this example."
22. "If the purpose of codifying law is to give the citizens an opportunity to conform their behavior, then this statute does not come close to doing so. It functions more as a subsidy to the legal profession."
23. "There is not practical application of the position put forth in this paper."
24. "May an interpreter act consistently with the intentionalist position by only considering the dictionary definition and the intention a reasonable person would associate with the words?"
25. "I maintain that the strict use of criteria to ascertain intent is not inconsistent with the intentionalist position. The most convincing evidence of intent may be the words themselves, and the intentions that most commonly correspond to those words."
26. "If an intentionalist may look to objective criteria in ascertaining intent, the textualist and the intentionalist appear to be applying the same interpretive process, and probably reaching the same results. All that is requested of Fish is a brief statement as to whether or not the sole use of objective evidence of intent is consistent with the intentionalist position."