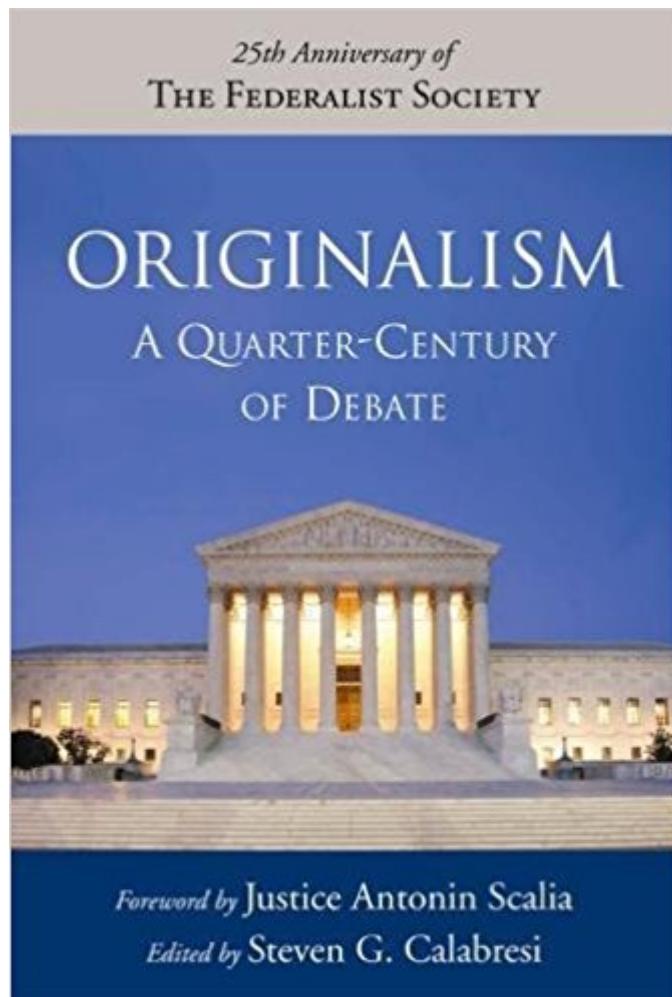


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# Originalism: A Quarter-Century Of Debate



## Synopsis

What did the Constitution mean at the time it was adopted? How should we interpret today the words used by the Founding Fathers? In **ORIGINALISM: A QUARTER-CENTURY OF DEBATE**, these questions are explained and dissected by the very people who continue to shape the legal structure of our country. Inside you'll find: \*A foreword by Justice Antonin Scalia and speeches by former attorney general Edwin Meese III, Justice William Brennan, Judge Robert H. Bork, and President Ronald Reagan \*Transcripts from panel discussions and debates engaging some of the brightest legal minds of our time in frank, open discussions about the original meaning of the Constitution of the United States and its impact on the rule of law in our country \*A debate on the original meaning of the Commerce, Spending, and Necessary and Proper Clauses \*Concluding thoughts by Theodore Olson, forty-second solicitor general of the United States and a fellow at both the American College of Trial Lawyers and the American Academy of Appellate Lawyers.

**ORIGINALISM: A QUARTER-CENTURY OF DEBATE** is a lively and fascinating discussion of an issue that has occupied the greatest legal minds in America, and one that continues to elicit strong reactions from both those who support and those who oppose the rule of law. Steven G. Calabresi, co-founder of the Federalist Society and professor of law at Northwestern University School of Law, has compiled an impressive collection of speeches, panel discussions, and debates from some of the greatest and most prominent legal experts of the last twenty-five years.

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## Customer Reviews

What did the Constitution mean at the time it was adopted? How should we interpret today the words used by the Founding Fathers? In ORIGINALISM: A QUARTER-CENTURY OF DEBATE, these questions are explained and dissected by the very people who continue to shape the legal structure of our country. Inside you'll find: \*A foreword by Justice Antonin Scalia and speeches by former attorney general Edwin Meese III, Justice William Brennan, Judge Robert H. Bork, and President Ronald Reagan \*Transcripts from panel discussions and debates engaging some of the brightest legal minds of our time in frank, open discussions about the original meaning of the Constitution of the United States and its impact on the rule of law in our country \*A debate on the original meaning of the Commerce, Spending, and Necessary and Proper Clauses \*Concluding thoughts by Theodore Olson, forty-second solicitor general of the United States and a fellow at both the American College of Trial Lawyers and the American Academy of Appellate Lawyers.

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STEVEN G. CALABRESI is a co-founder of the Federalist Society, chairman of the Society's Board of Directors, and professor of law at Northwestern University. His published work has appeared in all the major law reviews and addresses such subjects as presidential powers, federalism, the separation of powers, federal jurisdiction, and comparative constitutional law. Professor Calabresi lives in Providence, Rhode Island, with his wife Mimi and their four children.

Very good book. More of a commentary of speeches than a book on Originalism but a very nice inside look at the great mind of Scalia.

I have been a lawyer in California and Oregon for thirty years and this is the first time I have read a series of debates that clarify the real issues we face in interpreting the United States Constitution. While the Supreme Court has been going the right way (Heller, McDonald v. Chicago) the current administration and the left would ignore and even destroy the Constitution our alleged leaders have sworn to defend. This book is a little deep given that it is about serious legal scholarship but it is worth it.

Very nice picture of a concept of constitutional interpretation.

Thank you! Great read!

In spite of the outwardly partial banner on the book cover - "25th Anniversary of the Federalist Society" and with its president, Steven Calabresi editing it, as well as having a foreword by the current self-anointed leader of originalism on the Supreme Court, Justice Antonin Scalia, "Originalism: A Quarter Century of Debate" is a useful book; it presents the case for originalism at its best, and was written by some of its staunchest supporters. More importantly, in keeping with the slightly misleading format of a "debate", it also has the views of opponents of originalism. It is slightly misleading because the case for originalism is cast in stronger light mainly by depriving the reader of some of the clearer and stronger views in opposition. However, this is not to say that originalism is a weaker or inferior principle to purposive interpretation, or vice versa. The reader will be enriched by this book, but he should probe beyond what the proponents are arguing here. Posner might not be the most popular judge or writer, and his views might have been unfairly dismissed in this book, but he has strong forceful points that should be considered. So too, Justice Breyer, whose judicial attitude to constitutional interpretation is sharply expressed in his book, "Active Interpretation". Ultimately, the reader should ask himself whether words of the past, however wise, are utterly unalterable and we must continue to apply the same meaning to them as they first bore, notwithstanding that time might have changed the context such that the meaning of those words ought also to change. This is the crux of the debate. It is certainly worth asking whether words crafted in the distant past are no longer capable of bearing their original meaning, and must be interpreted afresh to keep them alive. In the process, we should be mindful not to "assume the familiar to be necessary" (Justice Brandeis).

A good book to understand Scalia's judicial philosophy. One that I happen to dislike

I found this to be a very valuable book to read. Anyone who dismisses the book because it is published by Regnery or is a product of the Federalist Society is being foolish and cheating himself of a valuable debate on Originalism. Frankly, everyone should read this book carefully. The book begins with an introductory paper by the Federalist Society's founder, Steven Calabresi and provides background for all the articles in the book and some of his own thoughts on Originalism.

There is also a very brief forward by Justice Antonin Scalia. The core of the book is a series of speeches and panel discussions on key issues of Originalism that were kicked off decades back when then Attorney General Edwin Meese III gave a speech on the subject before the American Bar Association on July 9, 1985. However, the speech might have drifted into the mists of history but for the countering speech given by Justice William Brennan, Jr. at Georgetown University on October 12, 1985. Ed Meese replied on November 15, 1985 before the Federalist Society. The rest of Part I provides important speeches on Originalism and the Constitution by Robert Bork, President Ronald Reagan (when swearing in Chief Justice Rehnquist and Justice Antonin Scalia) and another speech by Ed Meese from 1986. Part II consists of five panel discussions (strangely, without their dates). The first is on "Originalism and Unenumerated Constitutional Rights" with Professor Suzanna Sherry, Professor Walter Dellinger, Professor John Harrison, Professor Lino Graglia, and Judge Michael McConnell. Each participant gives some remarks and then the panel discussion was moderated by Diane Wood. The second panel is on "Originalism and Pragmatism" with Dean Larry Kramer, Judge Frank Easterbrook, Professors John McGinnis & Michael Rappaport, Professor Jeffrey Rosen, with the discussion moderated by Douglass Ginsburg. The third is on "Originalism and Precedent" with Professor Steven Calabresi, Professor Akhil Amar, Professor David Strauss, Professor Thomas Merrill, Justice Stephen Markman, with the discussion moderated by Steven Calabresi. The fourth is on "Original Meaning of the Commerce, Spending, and Necessary and Proper Clauses" with Professor Michael Stokes Paulsen, Professor Randy Barnett and the moderator Barrington Parker, Jr. The fifth is on "Radicals in Robes" between Professor Cass Sunstein and Mr. Charles J. Cooper and moderated by Steven G. Calabresi. The book concludes with a 2005 speech by Edwin Meese and concluding thoughts from Theodore Olson. Frankly, I found everything in the book fascinating. There is such a range of opinion, argument, and debate that I was left with a great deal to think about. I did find one kind of non-argument quite tedious and disappointing when coming from professors who should do better. Folks, you aren't making an argument when you declare that the other side is just too ignorant to take seriously. You don't win your case by saying you know the history and the other side doesn't. Nor do you impress anyone when you point out that the other side is simply making an exclamation rather than an argument. What you should do is help the other side make the very best case and then show why it is still inadequate (that was done a couple of times and was always interesting). You need to show your strength rather than simply declaring the other side weak. However, the panels consisted of liberal, conservatives, practitioners, and academics. I did find that the near monopolization of Constitutional debate by lawyers to be a great sign of cultural decay. When the Constitution was written and

ratified, yes, lawyers played a big part but many of our founders were also merchants, physicians, farmers, bankers, investors, and so forth. As you read the kinds of word manipulation the lawyers here engage in to strengthen their argument and weaken the other side you will likely feel as frustrated as I felt. But this is what that kind of creature does. A terrific and valuable book despite its requiring us to sit with so many lawyers without any other balancing elements of society. Reviewed by Craig Matteson, Ann Arbor, MI also recommend that you look at The Heritage Guide to the Constitution: The Heritage Guide to the Constitution

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