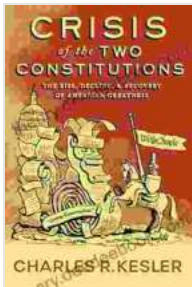


# The Crisis of the Two Constitutions: A Longstanding Conflict in American Politics

The United States Constitution is a remarkable document that has served as the foundation of American government for over two centuries. However, it is not a static document. The meaning of the Constitution has been constantly debated and contested, leading to the emergence of two competing interpretations: the originalist view and the living Constitution view.



## Crisis of the Two Constitutions: The Rise, Decline, and Recovery of American Greatness by Charles R. Kesler

★★★★☆ 4.5 out of 5

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Screen Reader	: Supported
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Originalists believe that the Constitution should be interpreted according to its original meaning, as understood by the Framers at the time it was written. They argue that the Constitution is a fixed document that should not be changed to reflect changing societal values or political beliefs. In contrast, proponents of the living Constitution view believe that the Constitution is a living document that should be interpreted in light of

contemporary circumstances and evolving social norms. They argue that the Constitution must be constantly reinterpreted to remain relevant and responsive to the needs of the present day.

The conflict between these two views has been a source of tension in American politics and jurisprudence for decades. Originalists and living Constitution proponents have clashed over a wide range of issues, including the scope of federal power, the rights of individuals, and the role of the judiciary in interpreting the Constitution.

The originalist view has been championed by conservative judges and scholars, who argue that it is the only way to ensure that the Constitution retains its original meaning and intent. They believe that living Constitution proponents are essentially judicial activists who are willing to rewrite the Constitution to suit their own political beliefs. Living Constitution proponents, on the other hand, argue that originalism is too rigid and inflexible, and that it fails to take into account the changing nature of American society. They believe that the Constitution must be interpreted in a way that is responsive to the needs of the present day.

The conflict between these two views is likely to continue for many years to come. It is a fundamental debate about the nature of the Constitution and its role in American society. The outcome of this debate will have a profound impact on the future of American law and politics.

## **Historical Origins of the Two Constitutions**

The origins of the two constitutions can be traced back to the founding of the United States. The Framers of the Constitution were deeply divided over the issue of constitutional interpretation. Some, like Alexander

Hamilton, believed that the Constitution should be interpreted strictly according to its original meaning. Others, like Thomas Jefferson, believed that the Constitution should be interpreted more flexibly, to reflect the changing needs of the nation.

This debate continued throughout the 19th century. In the early 20th century, the Supreme Court began to adopt a more originalist approach to constitutional interpretation. This approach was championed by Justice Antonin Scalia, who argued that the Constitution should be interpreted according to its "plain meaning" as understood by the Framers.

In recent years, there has been a resurgence of interest in the living Constitution view. This view has been championed by scholars like Akhil Amar and Cass Sunstein, who argue that the Constitution is a living document that must be interpreted in light of contemporary circumstances.

## **Philosophical Underpinnings of the Two Constitutions**

The originalist view is based on the belief that the Constitution is a fixed document that should not be changed to reflect changing societal values or political beliefs. Originalists believe that the Constitution is a contract between the people and the government, and that it should be interpreted according to its original meaning, as understood by the Framers at the time it was written.

The living Constitution view, on the other hand, is based on the belief that the Constitution is a living document that should be interpreted in light of contemporary circumstances and evolving social norms. Living Constitution proponents believe that the Constitution is a framework for government,

and that it should be interpreted in a way that is responsive to the needs of the present day.

## **Real-World Implications of the Two Constitutions**

The conflict between the originalist view and the living Constitution view has real-world implications for a wide range of issues, including the scope of federal power, the rights of individuals, and the role of the judiciary in interpreting the Constitution.

For example, originalists have argued that the Constitution does not give the federal government the power to regulate gun ownership, while living Constitution proponents have argued that the Constitution does give the federal government the power to regulate gun ownership in order to protect public safety.

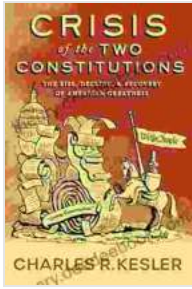
Another example is the issue of abortion. Originalists have argued that the Constitution does not protect the right to abortion, while living Constitution proponents have argued that the Constitution does protect the right to abortion based on the right to privacy.

The conflict between the originalist view and the living Constitution view is likely to continue for many years to come. It is a fundamental debate about the nature of the Constitution and its role in American society. The outcome of this debate will have a profound impact on the future of American law and politics.

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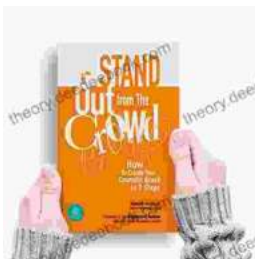


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