

AMERICAN CONSTITUTIONALISM
VOLUME II: RIGHTS AND LIBERTIES
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Supplementary Material

Chapter 7: The Republican Era – Foundations/Sources/Constitutions and Amendments/The Living
Constitution

Woodrow Wilson, **What is Progress?** (1913)¹

Woodrow Wilson was one of the most prominent political scientists in the United States during the late nineteenth century. Like many nineteenth-century thinkers, Wilson was influenced by Charles Darwin's theory of evolution. Unlike prominent conservatives and libertarians, who believed government should stay out of the "survival of the fittest," Wilson and other progressives regarded Darwin's work as demonstrating the need for governments and constitutions to adapt to changing economic and political circumstances. In particular, they called for a living constitution whose crucial provisions were interpreted in light of present needs rather than past conceptions of the role of government.

The following excerpt is taken from *The New Freedom*, a book Wilson wrote that served in large part to promote his presidential aspirations. Why does Wilson think that evolutionary theory supports progressivism, rather than laissez-faire? How would he alter American laws in light of political changes? How would he alter inherited constitutional understandings? What principles did Wilson use to interpret the Constitution? What is the point of a constitution that is constantly adjusted to changing political circumstances?

...
That is a parable of progress. The laws of this country have not kept up with the change of economic circumstances in this country; they have not kept up with the change of political circumstances; and, therefore, we are not even where we were when we started. We shall have to run, not until we are out of breath, but until we have caught up with our own conditions, before we shall be where we were when we started; when we started this great experiment which has been the hope and the beacon of the world. And we should have to run twice as fast as any rational program I have seen in order to get anywhere else.

I am, therefore, forced to be a progressive, if for no other reason, because we have not kept up with our changes of conditions, either in the economic field or in the political field. We have not kept up as well as other nations have. We have not kept our practices adjusted to the facts of the case, and until we do, and unless we do, the facts of the case will always have the better of the argument; because if you do not adjust your laws to the facts, so much the worse for the laws, not for the facts, because law trails along after the facts. Only that law is unsafe which runs ahead of the facts and beckons to it and makes it follow the will-o'-the-wisps of imaginative projects.

Business is in a situation in America which it was never in before; it is in a situation to which we have not adjusted our laws. Our laws are still meant for business done by individuals; they have not been satisfactorily adjusted to business done by great combinations, and we have got to adjust them. . . . Laws have never altered the facts; laws have always necessarily expressed the facts; adjusted interests as they have arisen and have changed toward one another.

Politics in America is in a case which sadly requires attention. The system set up by our law and our usage doesn't work,—or at least it can't be depended on; it is made to work only by a most unreasonable expenditure of labor and pains. The government, which was designed for the people, has

¹ Excerpt taken from Woodrow Wilson, *The New Freedom: A Call for the Emancipation of the Generous Energies of a People* (Garden City, NY: Doubleday, Page & Company, 1913), 33–54.

got into the hands of bosses and their employers, the special interests. An invisible empire has been set up above the forms of democracy.

...

I am not one of those who wish to break connection with the past; I am not one of those who wish to change for the mere sake of variety. . . . Change is not worth while unless it is improvement. If I move out of my present house because I do not like it, then I have got to choose a better house, or build a better house, to justify the change.

...

Progress! Did you ever reflect that that word is almost a new one? No word comes more often or more naturally to the lips of modern man, as if the thing it stands for were almost synonymous with life itself, and yet men through many thousand years never talked or thought of progress. They thought in the other direction. Their stories of heroisms and glory were tales of the past. The ancestor wore the heavier armor and carried the larger spear. "There were giants in those days." Now all that has altered. We think of the future, not the past, as the more glorious time in comparison with which the present is nothing. Progress, development—those are modern words. The modern idea is to leave the past and press onward to something new.

But what is progress going to do with the past, and with the present? How is it going to treat them? With ignominy, or respect? Should it break with them altogether, or rise out of them, with its roots still deep in the older time? What attitude shall progressives take toward the existing order, toward those institutions of conservatism, the Constitution, the laws, and the courts?

...

I believe, for one, that you cannot tear up ancient rootages and safely plant the tree of liberty in soil which is not native to it. I believe that the ancient traditions of a people are its ballast; you cannot make a tabula rasa upon which to write a political program. You cannot take a new sheet of paper and determine what your life shall be tomorrow. You must knit the new into the old. You cannot put a new patch on an old garment without ruining it; it must be not a patch, but something woven into the old fabric, of practically the same pattern, of the same texture and intention. If I did not believe that to be progressive was to preserve the essentials of our institutions, I for one could not be a progressive.

...

[T]he Constitution of the United States had been made under the dominion of the Newtonian Theory. You have only to read the papers of *The Federalist* to see that fact written on every page. They speak of the "checks and balances" of the Constitution, and use to express their idea the simile of the organization of the universe, and particularly of the solar system,—how by the attraction of gravitation the various parts are held in their orbits; and then they proceed to represent Congress, the Judiciary, and the President as a sort of imitation of the solar system.

...

The trouble with the theory is that government is not a machine, but a living thing. It falls, not under the theory of the universe, but under the theory of organic life. It is accountable to Darwin, not to Newton. It is modified by its environment, necessitated by its tasks, shaped to its functions by the sheer pressure of life. No living thing can have its organs offset against each other, as checks, and live. On the contrary, its life is dependent upon their quick co-operation, their ready response to the commands of instinct or intelligence, their amicable community of purpose. Government is not a body of blind forces; it is a body of men, with highly differentiated functions, no doubt, in our modern day, of specialization, with a common task and purpose. Their co-operation is indispensable, their warfare fatal. There can be no successful government without the intimate, instinctive co-ordination of the organs of life and action. This is not theory, but fact, and displays its force as fact, whatever theories may be thrown across its track. Living political constitutions must be Darwinian in structure and in practice. Society is a living organism and must obey the laws of life, not of mechanics; it must develop.

All that progressives ask or desire is permission—in an era when "development," "evolution," is the scientific word—to interpret the Constitution according to the Darwinian principle; all they ask is recognition of the fact that a nation is a living thing and not a machine.

Some citizens of this country have never got beyond the Declaration of Independence, signed in Philadelphia, July 4th, 1776. Their bosoms swell against George III, but they have no consciousness of the war for freedom that is going on today.

The Declaration of Independence did not mention the questions of our day. It is of no consequence to us unless we can translate its general terms into examples of the present day and substitute them in some vital way for the examples it itself gives, so concrete, so intimately involved in the circumstances of the day in which it was conceived and written. It is an eminently practical document, meant for the use of practical men; not a thesis for philosophers, but a whip for tyrants; not a theory of government, but a program of action. Unless we can translate it into the questions of our own day, we are not worthy of it, we are not the sons of the sires who acted in response to its challenge.

...

By tyranny, as we now fight it, we mean control of the law, of legislation and adjudication, by organizations which do not represent the people, by means which are private and selfish. We mean, specifically, the conduct of our affairs and the shaping of our legislation in the interest of special bodies of capital and those who organize their use. We mean the alliance, for this purpose, of political machines with selfish business. We mean the exploitation of the people by legal and political means. We have seen many of our governments under these influences cease to be representative governments, cease to be governments representative of the people, and become governments representative of special interests, controlled by machines, which in their turn are not controlled by the people.

...

Well, we are architects in our time, and our architects are also engineers. We don't have to stop using a railroad terminal because a new station is being built. We don't have to stop any of the processes of our lives because we are rearranging the structures in which we conduct those processes. What we have to undertake is to systematize the foundations of the house, then to thread all the old parts of the structure with the steel which will be laced together in modern fashion, accommodated to all the modern knowledge of structural strength and elasticity, and then slowly change the partitions, relay the walls, let in the light through new apertures, improve the ventilation; until finally, a generation or two from now, the scaffolding will be taken away, and there will be the family in a great building whose noble architecture will at last be disclosed, where men can live as a single community, co-operative as in a perfected, co-ordinated beehive, not afraid of any storm of nature, not afraid of any artificial storm, any imitation of thunder and lightning, knowing that the foundations go down to the bedrock of principle, and knowing that whenever they please they can change that plan again and accommodate it as they please to the altering necessities of their lives.

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