

# President Woodrow Wilson



## Woodrow Wilson, Congressional Government

The very men who had resisted with might and main the adoption of the Constitution became, under the new division of parties, its champions, as sticklers for a strict, a rigid, and literal construction.

They were consistent enough in this, because it was quite natural that their one-time fear of a strong central government should pass into a dread of the still further expansion of the power of that government, by a too loose construction of its charter; but what I would emphasize here is not the motives or the policy of the conduct of parties in our early national politics, but **the fact that opposition to the Constitution as a constitution, and even hostile criticism of its provisions, ceased almost immediately upon its adoption; and not only ceased, but gave place to an indiscriminating and almost blind worship of its principles, and of that delicate dual system of sovereignty**, and that complicated scheme of double administration which it established. Admiration of that one-time so much traversed body of law became suddenly all the vogue, and criticism was estopped. From the first, even down to the time immediately preceding the war, the general scheme of the Constitution went unchallenged; ....The conviction that our institutions were the best in the world, nay more, the model to which all civilized states must sooner or later conform, could not be laughed out of us by foreign critics, nor shaken out of us by the roughest jars of the system.

...it is interesting to note is that we of the present generation are in the first season of free, outspoken, unrestrained constitutional criticism. We are the first Americans to hear our own countrymen ask whether the Constitution is still adapted to serve the purposes for which it was intended; the first to entertain any serious doubts about the superiority of our own institutions as compared with the systems of Europe; the first to think of remodeling the administrative machinery of the federal government, and of forcing new forms of responsibility upon Congress.

## Woodrow Wilson, Constitutional Government in the United States

The government of the United States was constructed upon the Whig theory of political dynamics, which was a sort of unconscious copy of the Newtonian theory of the universe. In our own day, whenever we discuss the structure or development of anything, whether in nature or in society, we consciously follow Mr. Darwin; but before Mr. Darwin, they followed Newton.

....

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.

# Post-Civil War Isms

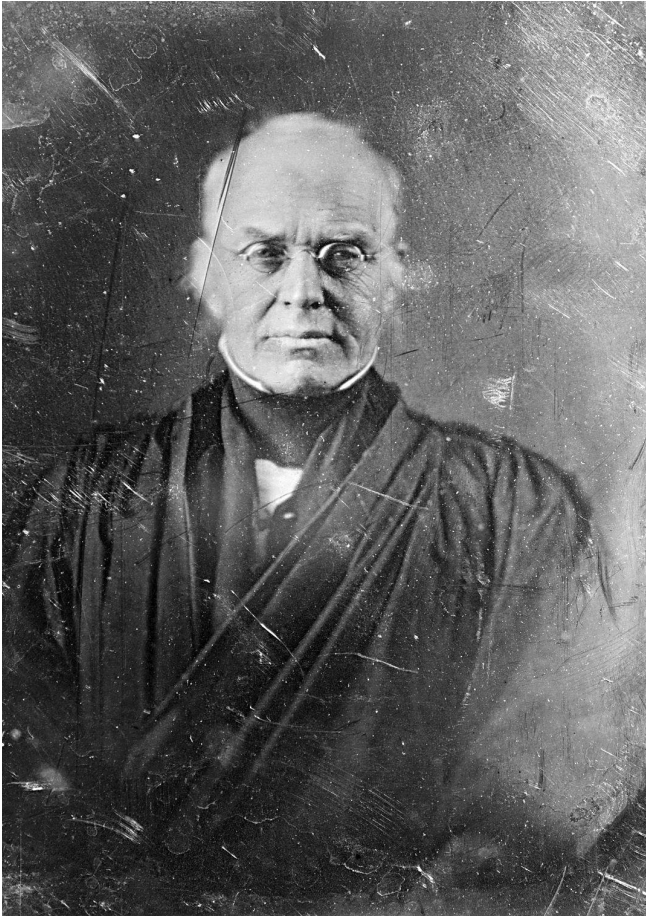
- Positivism
- Social Darwinism
- Progressivism
- Pragmatism
- Moral Relativism

# The Divide between the Founding and Progressivism

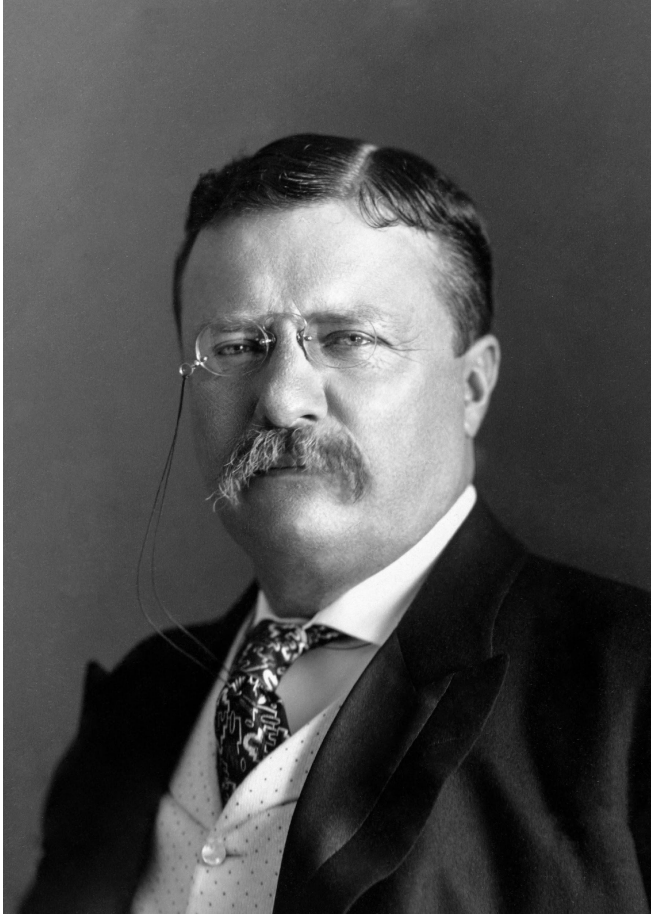
The founders' Constitution vs. The Living Constitution

Justice Joseph Story

Justice Oliver Holmes



President Teddy Roosevelt



President Howard Taft



**AN OUTLINE OF *THE FEDERALIST***

**A. General Part: #1-#51**

**B. Specific Part: #52-#85**



# **The Purpose of Government: to Protect Liberty (Federalist #10 and 51)**

## **1. The Problem with Republicanism: Liberty produces factions, which then threaten Liberty (Federalist #10)**

A. Factions are rooted in the passions inherent in human nature.

B. The Solution: Controlling the effects, not the causes, of factions.

C. The Means to the end of controlling the effects of factions.

1) Dispersing political powers by

a). Multiplying factions in order to prevent one faction from oppressing others, i.e., creating a culture of pluralism in all areas of social and economic life (Fed. #10 and #51);

b). Spreading the population over an extended, commercial, federal republic in order to prevent a single majority. (Fed. #9, #10, #39, and #51).

2). Structuring government to divide, separate and check their powers. (Fed. #9, #47, #48, and #51).

## 2. The Structure of American Constitutionalism, Federal and State

A. FEDERALISM: We the People of The United States, acting as Sovereigns in state ratifying conventions, have assigned some of our powers to a new federal government and have left other powers to the people of each state to assign to their governments through state constitutions. The Constitution creates neither a national, nor a federal government; but a “compound republic.” (Fed. # 23 at p.114 and #39).

1) A government must act directly on individuals and not on the state governments. (Fed. #15)

2), The limited number of powers given to the federal government are the means necessary, without limit, to achieve the principal purposes of the Union. (Fed. # 23, #33, and #45).

## 2. The Structure of American Constitutionalism, Federal and State (continued)

### B. SEPARATION OF POWERS:

1). Tyranny necessarily follows if governments fail to separate the legislative, executive, and judicial powers. (Fed. #47).

2) Experience has proven that for the principle of Separation of Powers to function in practice requires more than separation on paper. (Fed. #48).

(a) The three branches are not naturally equal in a republic; the legislative is naturally the strongest.

(b) Bicameralism, with the two branches are organized on different principles, is necessary in order to weaken the Congress. (Fed. #48),

(c) The Executive must be strengthened through its unity, its independence from Congress and its veto power over legislation (Federalist #70, 71, 73, and 74).

(d) The Judiciary must be strengthened through its tenure in office, its independence, and its power to rule on the constitutionality of congressional legislation (Federalist #78 – #84)).

### 3. Constitutional Controls: Factions, Federalism, Separation of Powers, and Rights.

A. Federal and state governments check each other (Fed. #51)

(a) by making the states part of the federal government through representation in the US Senate (Fed. #62, since changed by the 17<sup>th</sup> Amendment); and

(b) by enforcing the Constitution as the Supreme Law of the Land through the federal courts (Fed. #78), rather than through force (Fed. #27 at pp. 134- 35).

B. Courts protect rights by adhering to the Constitution's text; no authority for courts to interpret according to "the spirit" of the Constitution (Fed. #81);

C. Courts are to be controlled by Congress's power to impeach and the ability of the Executive not to enforce court orders. (Fed. #78, p. 402.)

## **Federalist No. 10 and human nature**

## The Outline of Federalist No.10

1. The advantage of a well-constructed Union: controls the violence of faction
2. The definition of faction
3. Possible methods of controlling factions.
4. Sources of faction: human nature.
5. Control of faction cannot be done by a faction itself, nor by “Enlightened Statesmen.”
6. Only way to control faction without destroying liberty is to control the effects of factions.
7. Control of faction not possible in a pure democracy; only in a representative republic.
8. Advantages of a large republic; the proposed Constitution has a balance between the large republic and smaller republics in the states.
9. A large republic has the same advantages over a small republic that a small republic has over a pure democracy.
10. The advantage of a number of states: isolating (quarantining) factious leaders in particular states.

1. The advantage of a well-constructed Union: controls the violence of faction

**Complaints** are every where heard from our most considerate and virtuous citizens, equally the friends of public and private faith, and of public and personal liberty, that our governments are too unstable; that the public good is disregarded in the conflicts of rival parties; and that measures are too often decided, not according to the rules of justice, and the rights of the minor party, but by the superior force of an interested and overbearing majority.

## 2. The definition of faction

By a faction, I understand a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.



### 3. Possible methods of controlling factions

There are two methods of curing the mischiefs of faction: The one, by removing its causes; the other, by controlling its effects.

There are again two methods of removing the causes of faction: The one, by destroying the liberty which is essential to its existence; the other, by giving to every citizen the same opinions, the same passions, and the same interests.

### 3. Possible methods of controlling factions (Continued)

It could never be more truly said, than of the first remedy, that it is worse than the disease. Liberty is to faction, what air is to fire, an aliment, without which it instantly expires...

The second expedient is as impracticable, as the first would be unwise. As long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed.

#### 4. Sources of faction: human nature

The latent causes of faction are thus sown in the nature of man;...A zeal for different opinions concerning religion, concerning government, and many other points, as well of speculation as of practice; an attachment to different leaders, ambitiously contending for pre-eminence and power; or to persons of other descriptions, whose fortunes have been interesting to the human passions, have, in turn, divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other, than to co-operate for their common good.

#### 4. Sources of faction: human nature (continued)

But the most common and durable source of factions, has been the various and unequal distribution of property. Those who hold, and those who are without property, have ever formed distinct interests in society. Those who are creditors, and those who are debtors, fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a monied interest, with many lesser interests, grow up of necessity in civilized nations, and divide them into different classes, actuated by different sentiments and views.

## 5A. Control of faction cannot be done by a faction itself...

No man is allowed to be a judge in his own cause; because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity. With equal, nay, with greater reason, a body of men are unfit to be both judges and parties, at the same time; yet, what are many of the most important acts of legislation, but so many judicial determinations, not indeed concerning the rights of single persons, but concerning the rights of large bodies of citizens?

5B. nor by “Enlightened Statesmen”

Justice ought to hold the balance between them.

...

It is in vain to say, that enlightened statesmen will be able to adjust these clashing interests, and render them all subservient to the public good.

The inference to which we are brought, is, that the causes of faction cannot be removed; and that relief is only to be sought in the means of controlling its effects.

6. Only way to control faction without destroying liberty is to control the effects of factions

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6. Only way to control faction without destroying liberty is to control the effects of factions (continued)

When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its ruling passion or interest, both the public good and the rights of other citizens. To secure the public good, and private rights, against the danger of such a faction, and at the same time to preserve the spirit and the form of popular government, is then the great object to which our inquiries are directed.



## 6. Only way to control faction without destroying liberty is to control the effects of factions (continued)

By what means is this object attainable? Evidently by one of two only. Either the existence of the same passion or interest in a majority, at the same time, must be prevented; or the majority, having such co-existent passion or interest, must be rendered, by their number and local situation, unable to concert and carry into effect schemes of oppression. If the impulse and the opportunity be suffered to coincide, we well know, that neither moral nor religious motives can be relied on as an adequate control.

7. Control of faction not possible in a pure democracy; only in a representative republic

From this view of the subject, it may be concluded, that a pure democracy, by which I mean, a society consisting of a small number of citizens, who assemble and administer the government in person, can admit of no cure for the mischiefs of faction. A common passion or interest will, in almost every case, be felt by a majority of the whole; a communication and concert, results from the form of government itself; and there is nothing to check the inducements to sacrifice the weaker party, or an obnoxious individual.

7. Control of faction not possible in a pure democracy; only in a representative republic (continued)

Theoretic politicians, who have patronised this species of government, have erroneously supposed, that, by reducing mankind to a perfect equality in their political rights, they would, at the same time, be perfectly equalized and assimilated in their possessions, their opinions, and their passions.



**Anthony Rionda**  
**Florida International**  
**University**

Fed. 10 seems prescient in how it predicts that there would be a rise of those who would seek the “equal division of property” (a few years before France’s revolution and decades before Karl Marx). Highlighting the importance of a system of government that includes a division of power that would protect against potential populist anger.

The antifederalist argument against Madison’s Fed. 10 would include the claim that eventually the individual states would cede power to the federal government, and thus fall into the same circumstances of the small republics. In those small republics, one faction would control the levers of power, and force the individual states to yield to federal power. Then the only remaining protection would be by a bill of rights guaranteeing individual rights.

7. Control of faction not possible in a pure democracy; only in a representative republic (continued)

A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect, and promises the cure for which we are seeking.

...

The two great points of difference, between a democracy and a republic, are, first, the delegation of the government, in the latter, to a small number of citizens elected by the rest; secondly, the greater number of citizens, and greater sphere of country, over which the latter may be extended.

8. Advantages of a large republic; the proposed Constitution has a balance between the large republic and smaller republics in the states

Men of factious tempers, of local prejudices, or of sinister designs, may by intrigue, by corruption, or by other means, first obtain the suffrages, and then betray the interests of the people. The question resulting is, whether small or extensive republics are most favourable to the election of proper guardians of the public weal;

8. Advantages of a large republic; the proposed Constitution has a balance between the large republic and smaller republics in the states (continued)

In the first place, it is to be remarked, that however small the republic may be, the representatives must be raised to a certain number, in order to guard against the cabals of a few; and that, however large it may be, they must be limited to a certain number, in order to guard against the confusion of a multitude.

8. Advantages of a large republic; the proposed Constitution has a balance between the large republic and smaller republics in the states (continued)

In the next place, as each representative will be chosen by a greater number of citizens in the large than in the small republic, it will be more difficult for unworthy candidates to practise with success the vicious arts, by which elections are too often carried; and the suffrages of the people being more free, will be more likely to centre in men who possess the most attractive merit, and the most diffusive and established characters.



9. A large republic has the same advantages over a small republic that a small republic has over a pure democracy

It must be confessed, that in this, as in most other cases, **there is a mean**, on both sides of which inconveniences will be found to lie. By enlarging too much the number of electors, you render the representative too little acquainted with all their local circumstances and lesser interests; as by reducing it too much, you render him unduly attached to these, and too little fit to comprehend and pursue great and national objects. **The federal constitution forms a happy combination in this respect; the great and aggregate interests, being referred to the national, the local and particular to the state legislatures.**



**Michael Needle**  
**University of Iowa**

“Brutus and the Anti-federalist mention the following:

‘On a careful examination, you will find, that many of its parts, of little moment, are well formed; in these it has a specious resemblance of a free government—but this is not sufficient to justify the adoption of it—the gilded pill, is often found to contain the most deadly poison.’”

Brutus goes on to say: “the representation is merely nominal—a mere burlesque; and that no security is provided against corruption and undue influence.”

This assertion contemplates that whatever structural separation of power is formally acknowledged in the Constitution, the ultimate consequence will be the decline of individual liberty. How would Madison respond to Brutus? If Brutus is correct in thinking that corruption is somewhat inevitable under the proposed Constitution, then how successful can Madison’s plan to contain the effects of faction really be?

9. A large republic has the same advantages over a small republic that a small republic has over a pure democracy (continued)

The other point of difference is, the greater number of citizens, and extent of territory, which may be brought within the compass of republican, than of democratic government; and it is this circumstance principally which renders factious combinations less to be dreaded in the former, than in the latter. The smaller the society, the fewer probably will be the distinct parties and interests composing it; the fewer the distinct parties and interests, the more frequently will a majority be found of the same party; and the smaller the number of individuals composing a majority, and the smaller the compass within which they are placed, the more easily will they concert and execute their plans of oppression.



**Shea Daley**  
**The Ohio State University Moritz**  
**College of Law**

Based on the sentence starting with “The smaller the society, the fewer probably will be the distinct parties...”, it seems the Federalists Papers expressed the desire for a republic of many parties so that it was not easy to “concert and execute their plans of oppression.”

Does our current system dominated by two parties fall within the system they did not want?

9. A large republic has the same advantages over a small republic that a small republic has over a pure democracy (continued)

Hence it clearly appears, that the same advantage, which a republic has over a democracy, in controlling the effects of faction, is enjoyed by a large over a small republic . . . is enjoyed by the union over the states composing it.





**Warren Bloom**  
**The University of Texas**  
**School of Law**

Madison puts forward a strong, if rather elementary, argument about the inevitability of factions and the need to control their effects. But it seems to me that he overlooks the risk that the consolidation of power at the national level would inflame passions and breed interstate resentment. Surely Madison, Hamilton, and Jay acknowledged the need to limit the power of the national government, but self-styled students of human nature should have recognized the likelihood that, over time, Uncle Sam would assume more and more power – treating "local and particular" interests as "great and aggregate interests." It seems to me that the primary driver of partisan resentment is the sense that "Washington" (esp. the President and the many agencies at his control) steamrolls over the "local and particular" interests of the states, imposing top-down its vision for the United States (the country) without due appreciation for the individuality of the 50 united states themselves. I'm left wondering what the Federalists would think of what has become of our large republic and its factions.



**Leo Schlueter**  
**Hillsdale College**

Rather than countering each other, various interests seem to be absorbed into an ideological loyalty to a specific party platform.

This leads to a question: the writers of the constitution were no stranger to the idea of countering perverse human tendencies by creating a constitutional structure to restrain them. Does it seem practically viable (let alone politically) to effect a top-down structure (similar to checks and balances) which would be able to control and restrain the collapse of political interests into large party systems?

10. The advantage of a number of states: isolating (quarantining) factious leaders in particular states

The influence of factious leaders may kindle a flame within their particular states, but will be unable to spread a general conflagration through the other states: a religious sect may degenerate into a political faction in a part of the confederacy; but the variety of sects dispersed over the entire face of it, must secure the national councils against any danger from that source: a rage for paper money, for an abolition of debts, for an equal division of property, or for any other improper or wicked project, will be less apt to pervade the whole body of the union, than a particular member of it; in the same proportion as such a malady is more likely to taint a particular county or district, than an entire state.



# Oxford English Dictionary | The definitive record of the English language

## socialism, *n.*

**Pronunciation:** <sup>ⓘ</sup> Brit. /'səʊʃəlɪz(ə)m/, /'səʊʃlɪz(ə)m/,

U.S. /'soʊʃə,lɪz(ə)m/

**Frequency (in current use):**

**Origin:** Formed within English, by derivation. **Etymons:** SOCIAL *adj.*, -ISM *suffix*.

**Etymology:** < SOCIAL *adj.* + -ISM *suffix*, after SOCIALIST *n.* Compare French *socialisme* ...

†1. The theory of social organization under the social contract (SOCIAL CONTRACT *n.* 2). Cf. SOCIALIST *n.* 1. *Obsolete*.

1801 *Weekly Wanderer* (Randolph, Vermont) 27 June How often has this little word [sc. -ism] In genteel arguments occur'd, As tho' the soul of *socialism* Must be transmitted thro' a *prism*... High in the front see *atheism*, And next in rank stands *Tom Paineism*.

2. Frequently with capital initial. A theory or system of social organization based on state or collective ownership and regulation of the means of production, distribution, and exchange for the common benefit of all members of society; advocacy or practice of such a system, esp. as a political movement. Now also: any of various systems of liberal social democracy which retain a commitment to social justice and social reform, or feature some degree of state intervention in the running of the economy.

The range of application of the term is broad. It is typically understood to involve the elevation of the social position and interests of the working class, esp. through redistribution of land or wealth, nationalization of industry and services, and the creation of workers' cooperatives. It is sometimes used synonymously with (esp. Soviet) Communism, although in some Marxist contexts it is used specifically to denote a transitional stage between the overthrow of capitalism and the realization of Communism.

*African, champagne, democratic, market, state socialism, etc.*: see the first element.

1833 J. E. SMITH in *Crisis* 28 Dec. 142 If we have not this spirit, we are mere pretenders to unity and *socialism*, and will become the laughing-stock of society.

1840 *Q. Rev.* Dec. 180 The two great demons in morals and politics, *Socialism* and Chartism.

1881 R. L. STEVENSON *Virginibus Puerisque* 89 I do not greatly pride myself on having outlived my belief in the fairy tales of Socialism.

1908 *Polit. Sci. Q.* 23 670 *Socialism*..will step into its heritage when capitalism..has created a thoroughly proletarianized, class-conscious and revolutionary population.

1949 'G. ORWELL' *Let.* 16 June in *Coll. Ess.* (1968) IV. 502 My recent novel is *not* intended as an attack on *Socialism*..but as a show-up of the perversions to which a centralised economy is liable.

1950 *Russian Rev.* 9 175 The new Party line maintained that Stalin had worked out a complete theory of Soviet society during the transitional period from Socialism to Communism.

1954 *Ann. Amer. Acad. Polit. & Social Sci.* 293 171/1 He was carried away by the current wave of *socialism* and seemed to think that a 'planned economy' could settle all the ills of man in society.