

AMERICAN CONSTITUTIONALISM
VOLUME II: RIGHTS AND LIBERTIES
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Supplementary Material

Chapter 4: The Early National Era – Equality/Gender

James Wilson, **Lectures on Law** (1790–91)¹

James Wilson (1742–98) signed the Declaration of Independence, actively participated in the Philadelphia drafting convention, led the ratification forces in Pennsylvania, became one of the original justices on the Supreme Court, and was the most prominent legal thinker in the United States during the 1790s. His Lectures of Law, given in Philadelphia, were the first systemic effort to describe the American legal and constitutional order.

The Lectures on Law championed the emerging conception of “separate spheres.” Women attended Wilson’s talks and he insisted that they were equal republican citizens. Nevertheless, Wilson maintained that equal republican citizens did not enjoy the same rights. How does Wilson believe men and women differ? How do these differences explain differences in the rights and responsibilities of men and women?

...

Methinks I hear one of the female part of my audience exclaim—What is all this to us? We have heard much of societies, of states, of governments, of laws, and of a law education. Is everything made for your sex? Why should not we have a share? Is our sex less honest, or less virtuous, or less wise than yours?

...

Your sex is neither less honest, nor less virtuous, nor less wise than ours. With regard to the two first of these qualities, superiority, on our part, will not be pretended; with regard to the last, a pretension of superiority cannot be supported.

...

[Nevertheless,] I doubt much, whether it would be proper that you should undertake the management of public affairs. You have, indeed, heard much of public government and public law: but these things were not made for themselves: they were made for something better; and of that something better, you form the better part—I mean society—I mean particularly domestic society: there the lovely and accomplished woman shines with superior luster.

By some politicians, society has been considered as only the scaffolding of government; very improperly, in my judgment. In the just order of things, government is the scaffolding of society: and if society could be built and kept entire without government, the scaffolding might be thrown down, without the last inconvenience or cause of regret.

Government is, indeed, highly necessary; but it is highly necessary to a fallen state. Had man continued innocent, society, without the aids of government, would have shed its benign influence even over the bowers of Paradise.

For those bowers, how finely was your sex adapted! . . .

If nature evinces her designs by her works; you were destined to embellish, to refine, and to exalt the pleasures and virtues of social life.

To protect and to improve social life, is, as we have seen, the end of government and law. If therefore, you have no share in the formation, you have a most intimate connection with the effects, of a good system of law and government.

¹ Excerpted from James Wilson, *The Works of the Honourable James Wilson, L.L.D.*, ed., Bird Wilson (Philadelphia, PA: Lorenzo Press, 1804), 33–40.

That plan of education, which will produce, or promote, or preserve such a system, is, consequently, an object to you peculiarly important.

But if you would see such a plan carried into complete effect, you must, my amiable hearers, give it your powerful assistance. The pleasing task of forming your daughters is almost solely yours. In my plan of education for your sons, I must solicit you to co-operate. Their virtues, in a certain proportion—the refinement of their virtues, in a much greater proportion, must be moulded on your example.

In your sex, too, there is a natural, an easy, and, often, a pure flow of diction, which lays the best foundation for that eloquence, which, in a free country, is so important to ours.

The style of some of the finest orators of antiquity was originally formed on that of their mothers, or of other ladies, to whose acquaintance they had the honor of being introduced.

...

You see now, my fair and amiable hearers, how deeply and nearly interested you are in a proper plan of law education. By some of you, whom I know to be well qualified for taking in it the share, which I have described, that share will be taken. By the younger part of you, the good effects of such a plan will, I hope, be participated: for those of my pupils, who themselves shall become most estimable, will treat you with the highest degree of estimation.



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