



How Progressives Rewrote the Constitution

By Richard A. Epstein

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How Progressives Rewrote the Constitution explores the fundamental shift in political and economic thought of the Progressive Era and how the Supreme Court was used to transform the Constitution into one that reflected the ideas of their own time, while undermining America's founding principles. Epstein examines key decisions to demonstrate how Progressives attacked much of the legal precedent and eventually weakened the Court's thinking concerning limited federal powers and the protection of individual rights. Progressives on the Court undermined basic economic principles of freedom and competition, paving the way for the modern redistributive and regulatory state. As Epstein writes, the Progressives, were determined that their vision of the managed economy should take precedent in all areas of life. Although they purported to have great sophistication on economic and social matters, their understanding was primitive. The Progressives and their modern defenders have to live with the stark truth that the noblest innovations of the Progressive Era were its greatest failures. How Progressives Rewrote the Constitution shows that our modern constitutional law, fashioned largely by the New Deal Court in the late 1930s, has its roots in Progressivism, not in our country's founding principles, and how so many of those ideas, however discredited by more recent economic thought, still shape the Court's decisions.

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Editorial Review

From the Back Cover

"Epstein is one of America's most brilliant scholars. In this little book, he is at the top of his form."

--Alan Bock, The Orange County Register

"Epstein provides an astonishingly detailed account of the reformation of the US Constitution in surprisingly few pages. He highlights every major court case that altered the original ideals of the Constitution ever so slightly, but that turned out in the end to land America drastically far from the sound political ideals with which it had begun. Using intricate logic he lays out a strong argument against the Progressives and an equally strong argument for the Old Court. For Americans, this book is a mandatory read"

Economic Affairs

"Just as we are being berated by his Chicago colleague Cass Sunstein for not completing FDR's social-democratic revolution by embracing a New Deal for speech and constitutionalizing welfare rights, here comes Richard Epstein inviting us to wonder whether the New Deal enterprise and the Progressive movement that preceded it were not all a dreadful mistake. This is a challenging and amusing book -- Richard Epstein at the top of his game."

Charles Fried, Professor of Law, Harvard University, Former U.S. Solicitor General

"Epstein clearly explains how the Progressive prescription for curing society's shortcomings has caused untold harm to our polity. We live with their legal legacy today, which hamstring the economy, intrudes unnecessarily into our private affairs and makes our society the most litigious on earth."

Patrick Barron, The Bulletin

About the Author

Richard A. Epstein is Laurence A. Tisch Professor of Law at New York University School of Law, Peter and Kirsten Bedford Senior Fellow at the Hoover Institution, and James Parker Hall Distinguished Service Professor Emeritus of Law and Senior Lecturer at the University of Chicago Law School.

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