Woodrow Wilson-The Light Withdrawn

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[00:00:04.0] Tanaya Tauber: Welcome to live at the National Constitution Center, the podcast sharing live constitutional conversations and debates hosted by the Center in person and online. I'm Tanaya Tauber, the senior Director of Town Hall programs. In this episode, Christopher Cox, political historian and author of the new book, *Woodrow Wilson: The Light Withdrawn*. And Professor Jeffrey Stone of the University of Chicago explores Wilson's presidential legacy constitutional vision, an impact on American democracy. Jeffrey Rosen, president and CEO of the National Constitution Center moderates. Here's Jeff to get the conversation started.

[00:00:47.1] Jeffrey Rosen: Welcome Christopher Cox and Jeffrey Stone. Chris Cox, let's begin with you. This is a time when Woodrow Wilson's legacy is being reexamined, and your book is so timely because it argues that in light of his shameful record on women's suffrage and race in particular, he really deserves rethinking. Tell us about what led you to write about Woodrow Wilson and what you concluded about his legacy in light of your research.

[00:01:17.4] Christopher Cox: Well, it's a great question to try and sum up Woodrow Wilson in light of further exploration of his views on race and gender, as academia has very much been doing for several decades now. It's very difficult because comparing his achievements with his detriments puts you in a position of comparing a lot of apples and oranges and different kinds of moral issues and so on. But to get to the first part of your question and then return to that at the end, what led me into this pursuit of 14 years of research and writing about Woodrow Wilson was an initial impulse to write about the simple, relatively at least straightforward subject of the history of women's voting rights and the constitutional aspects of that.

[00:02:15.7] Christopher Cox: The Wilson piece of it became more and more into focus, though the more research that I did in the final act of the 19th Amendment, Woodrow Wilson is all over it. And the fact that his biographies left this out almost entirely, even though there have been over a thousand books written about Woodrow Wilson in the English language alone, it's really sort of stunning. A giant hole in the Wilson story and in exploring, diving into that hole, I found it was just damn interesting. And so, hence, it turned into what I will say is almost a full-fledged biography of Woodrow Wilson. It certainly covers his entire life.

[00:03:01.5] Christopher Cox: It covers even a significant period before he was born, because the suffrage story surely antedates Woodrow Wilson. It was well on its way by the time he was even born. But I would not say that if someone fell to earth from another galaxy and wanted to learn about Woodrow Wilson that they should start with this book. I would say this would be their second book and they should first get a standard Wilson biography, because this is meant as

a compliment. It's not meant to sum up his entire life. But my interest in writing about women's voting rights actually started in law school.

[00:03:40.1] Christopher Cox: It was the first subject I wrote about for the Harvard Law Review. It was a subject that I discussed as a law student with my grandmother. I foolishly asked her what was the first presidential election she voted in, and she looked at me sort of crosswise and said 1920, the first time we could vote. And I was duly chastened and went on my way to do further research. And then over 17 years in Congress, for 10 of those years, I was in the leadership, which meant that I had to walk back and forth every day from the House floor to the Speaker's conference room, taking me through the rotunda and past the Portrait Monument, which is Susan B. Anthony and Lucretia Mott, Elizabeth Cady Stanton.

[00:04:23.8] Christopher Cox: I recently just did a little arithmetic. How many times did I walk by that thing? Thousands of times. And it just was a constant reminder. And so that, among many reasons, is what impelled me to this story in the first place. Lastly, just let me say that in 2000, at the Millennium, Gallup did a poll. This was while I was in Congress. And they asked people, Americans, they asked a sample of the entire country, what was the most significant event of the 20th century? And over two-thirds said women gained the right to vote. It was just extraordinary. The only thing that beat it out was World War II, but it finished ahead of World War I. It finished ahead of a man on the moon. The fall of the Soviet Union, the collapse of the Berlin Wall. Just amazing that this could have been left out of the Wilson story, since he was such a big piece of it.

[00:05:15.6] Jeffrey Rosen: Fascinating. Much looking forward to digging in on the story you tell about Wilson and suffrage, as well as Wilson on race. Jeff Stone, let me ask you about Wilson and free speech. Chris Cox talks about how, as early as 1915, Wilson called for legislation giving him control over any public expression that brought the authority and good name of the government into contempt. He then founded in 1917 the Creel Committee, which would be an enormous bureaucracy that was devoted to silencing unpatriotic voices. And then the Espionage Act of 1917 notoriously led to more suppression of free speech than anything since the Alien and Sedition Act. Tell us the outlines of the story of Wilson and free speech.

[00:06:01.6] Geoffrey Stone: Well, Wilson had no tolerance for dissent. Disloyalty, he said, was not a subject on which there was room for debate. In the 1916 election, he bragged that he had kept us out of World War I, and that was something he was very proud of. But as Germany began to sink US ships headed to England and France because they were bringing supplies that helped England and France in the war, Wilson decided that we should enter the war. And this was not a very popular decision. Many Americans thought that we had no interest in the war, other than enabling capitalists to make money by selling goods and other products to England and France. Recognizing that there was lots of opposition to the war and the draft, Wilson was determined to suppress all dissent. And along those lines, in 1917, he proposed the Espionage Act, which, as drafted by his administration, would have made it a crime for any American to criticize the war or the draft, period. Congress, though, refused to go that far, and they did enact the act, but limited to prohibiting any person to willfully attempt to cause insubordination or refusal to be drafted.

[00:07:32.1] Geoffrey Stone: Thus, mere criticism of the war or the draft was not intended to be unlawful under the statute, despite Wilson's desire to make it unlawful. Unless the government could prove that the defendant specifically intended to cause violation of the law by others. Wilson was furious at Congress's decision not to go as far as he wanted. And most federal judges ultimately interpreted the Espionage Act as making it a crime for any person to criticize the war or the draft, if the person could reasonably have known that the speech might have had that unintended consequence.

[00:08:15.9] Geoffrey Stone: This was ultimately what Wilson wanted the law to do, but Congress didn't refuse to do it. But nonetheless, most federal judges chose to interpret the act much more broadly than it was written. A few judges, though, refused to embrace that understanding of the act and required proof of either specific intent on the part of the defendants to cause others to violate the law, either by refusing induction into the military, or by illegally opposing the war, or if they expressly incited violation. The best example of this was Judge Learned Hand, a federal district court judge, who in the famous Masters case, overturned or refused to convict the editors of the Masters magazine, a highly popular and somewhat radical left-wing magazine at the time, which was critical of the war and the draft.

[00:09:21.5] Geoffrey Stone: And Hand interpreted the statute as saying that only if you could prove that the defendant had specifically intended or at least or even specifically advocated unlawful conduct, that they could be prosecuted, and therefore he refused to allow the conviction. That was overturned on appeal, and Hand's career suffered seriously as a result of that. But during the war, more than 2,000 individuals were convicted, first under the Espionage Act, and then under the Sedition Act of 1918, which Wilson insisted on adopting despite what the courts of appeals had done, to expressly prohibit anyone from criticizing the war and the draft. So any ambiguity that was then in place through decisions like Hand's were now eliminated by this new statute adopted by Congress.

[00:10:18.7] Geoffrey Stone: So as I said, more than 2,000 people were convicted under these laws, often sentenced to prison terms of 10 years or more, and if they were not US citizens, they were often removed from the United States and sent back to their original countries. A classic example of these prosecutions was Eugene Debs. Debs was the head of the Socialist Party of the United States. He ran for president in 1912 and received over a million votes. He was widely known throughout the nation. He'd given a speech in which he basically was positive about an individual who was in prison, not very far away from having criticized the war, and for giving that speech, Debs was prosecuted under the Wilson administration and convicted and sentenced to prison.

[00:11:11.0] Geoffrey Stone: Basically, Wilson brought about the worst suppression of free speech in American history. And after the war, I mean after Wilson's death, the government finally acknowledging the injustice of Wilson's actions eventually released all persons who'd been convicted from prison. But this was fundamentally a horrible violation of our nation's commitment to free speech and of our First Amendment.

[00:11:38.5] Jeffrey Rosen: Wow, the worst violation of free speech in American history and an important and sobering judgment from Jeff Stone. Thank you for that. Chris Cox, let's dig into

the remarkable story you tell about Wilson and women's suffrage. You describe how he was passionately devoted to opposing women's suffrage from his earliest days as a scholar at Princeton University, and then you describe how it became a cornerstone of his policy until the very last minute when he changed his views and endorsed the passage of the 20th Amendment. I wanna begin by asking you, why was Wilson so opposed to women's suffrage? You quote C. Vann Woodward as saying that in the South, the progressive movement had one main ambition, white male supremacy, and C. Vann Woodward said that this was the foundation of progressivism. Why was progressivism so devoted to male supremacy, in addition to the supremacy of white people? And how, and tell us the incredible story about how Wilson really made this a cornerstone of his politics until the very end.

[00:12:48.3] Christopher Cox: Yes, so let's begin with the fact that Woodrow Wilson's views were formed first as a man of the South. He was born in Virginia, moved early on with his family, of course, he was one year old, and moved to Georgia, where he stayed until he was 13, then they moved to South Carolina, then they moved to North Carolina. He didn't really leave the South because he always returned during academic breaks to his family until he was 28 years old. So his formative years were all spent in the South. He was very fond of his father. His father was a Confederate officer who had served as a chaplain. He was a Presbyterian minister who preached that God had a plan, and slavery was part of that divine plan, and that it was good for both the enslaved and the masters.

[00:13:58.6] Christopher Cox: Wilson wrote about this while he was at Princeton, and you mentioned that he was passionate. He was dispassionate in all of his expressions. So his passion was within. He was very circumspect in the way he spoke and wrote things. It's been observed that he didn't evangelize in favor of racism, he just practiced it. And so perhaps it's appropriate to say that he was passionate. But with women's voting rights, for example, he tried not to talk about it. He was trying to avoid the subject because the status quo was something he was happy with. He didn't want to upset it. And the fundamental reason that he didn't want the Susan B. Anthony Amendment, a federal constitutional amendment, was its Section 2 pattern on the 15th Amendment, which Southern white men hated, and that gave Congress the power to enforce it through appropriate legislation.

[00:15:00.0] Christopher Cox: They had vivid memories of Reconstruction and Grant sending troops. By the way Wilson had these very same memories. His hometown of Columbia, South Carolina, was the locus of Grant's Justice Department prosecutions of all of the leading Klansmen, and that lasted for over a year in the center of town. These were all sources of Wilson family resentment, and he carried this through his life. But ultimately, the reason for, if we wanna call it passion, I suppose we can, but the reason for his continued opposition of the Susan B. Anthony Amendment was his tolerance and I think support for Jim Crow in the South, because that was the pillar on which Democratic Party control rested.

[00:15:52.5] Christopher Cox: He was very comfortable with white men running everything. He believed that they were superior, and he wrote about this. It's worth pointing out that in his textbook, The State, which he wrote at the beginning of his academic career, he classified all the world's governments according to race, and he put Aryans at the top. He had absorbed this at Johns Hopkins, where he was taught by German-trained professors. Aryans were at the top. The

Semitic peoples came below, and below that came primitives and savages who were not worth studying because they were the lowest on the evolutionary scale.

[00:16:33.6] Christopher Cox: And with that wave of the hand, he wrote off most of Asia, Russia, and so on. He had a very racialized view of the world and of history. So that more than anything, I think, ties together Wilson's reasons for the positions that he took on women voting. It's worth mentioning that early in his life and career, he was also very traditional like a Southern white male. Women should be in the home. They should not leave the home. That would ruin family life. They should be responsible for religion in the home, and so on. That was women's special calling.

[00:17:21.9] Christopher Cox: He got off of that entirely in his public statements while he was president. But privately, as late as right at the middle of his two terms, he was saying similar things to visiting house guests in the White House. This was after he said he was in favor of women's suffrage by the state method. If women were to vote, it would ruin family life, and who would do the housework?

[00:17:48.9] Jeffrey Rosen: Absolutely fascinating. As you put it that way, it really was racialized, paternalistic views about white male supremacy rooted in a notion about the superiority of Aryan men to other people. That picks up on a question asked by Josh Gorfinkle. Wilson clearly wasn't anti-Semitic. He put Brandeis on the court. What accounts for his anti-Black racism? Jeff Stone talks to us about Wilson, Brandeis, and James McReynolds, who was his other Supreme Court appointee who was a virulent racist and sexist, unlike Brandeis, one of the greatest defenders of free speech in American history. Where does that great Jeffersonian streak of pro-free speech defense that Brandeis embodied come from? Was it in the Democratic Party, or did Brandeis summon it on his own? More broadly, tell us the story of Brandeis and Holmes and the reaction to the Espionage Act on the court, and what happened next.

[00:18:47.0] Geoffrey Stone: So, Brandeis and Holmes were on the court when the Supreme Court first confronted prosecutions under the Espionage Act. And the court in the spring of 1918, in a series of unanimous decisions written by Oliver Wendell Holmes, upheld the convictions of defendants who had done nothing really other than criticize the war and the draft. And these decisions have been regarded over time as disastrous, but they were unanimous and Holmes wrote them and Brandeis joined them.

[00:19:26.2] Geoffrey Stone: The following summer, Holmes and Brandeis, and with Learned Hand, who I mentioned earlier, had conversations about free speech in the United States and about the errors that the court had made the preceding spring and decided that this was, in fact, not an appropriate way to interpret the First Amendment of the Constitution. And the following fall when the court had a series of other cases involving prosecutions under the Espionage Act, Holmes and Brandeis dissent. And even though the seven members of the majority, again, upheld the convictions of these individuals, Holmes and Brandeis both wrote powerful separate opinions in which they, for the first time in the history of the United States, embraced a strong protection of the freedom of speech and of the press.

[00:20:26.5] Geoffrey Stone: And their arguments were basically that in a free and democratic society, it is essential that individuals be able to criticize the decisions of the government and that unless the speech creates a clear and present danger of grave harm, a test that's almost impossible to satisfy, then the government cannot prosecute them for the speech. And that view did not win a majority at that time, but eventually some 50 years later, the Supreme Court finally embraced that approach. And since 1969, that's been the dominant doctrine in the United States in understanding freedom of speech.

[00:21:13.4] Geoffrey Stone: And that was the product of the extraordinary work of Holmes and Brandeis. And one of the things they did that was unique was typically when a judge dissents and he loses, well, then the next time the case arises, he applies the majority law. And Holmes and Brandeis refused to do that. They insisted on repeating their arguments case after case, arguing that the majority had it wrong, that this was fundamentally inconsistent with our First Amendment, and that ultimately they persuaded not only their fellow justices, although it took half a century, but pretty much the United States, that that's the right approach. And this was a remarkable moment in American constitutional history.

[00:22:01.3] Christopher Cox: Yeah, if I might add just a bit of salt and pepper to this, the idea that Wilson was probably not anti-Semitic because he appointed Brandeis seems to stretch that one data point a little too far. He became president of the United States within just a few years of being president of Princeton. And in his last year as president of Princeton, there was a national study undertaken comparing the nation's top universities along the parameters of race, gender, and anti-Semitism. And Princeton under Wilson's leadership was found to be the most anti-Semitic of all of the leading universities in the study. So, this is at a time when he was also making it a stated policy in Princeton that they would never admit any black men and no women. So, he's a complicated man. He placed the grannies right alongside Brandeis and undid a lot of the good so when it came to prejudice. So, I just think there's a little nuance there.

[00:23:14.7] Jeffrey Rosen: That's helpful. Well, Jeff Stone, any more reflections on Wilson and Brandeis? And, of course, it was Brandeis who was responsible for Wilson's most celebrated legacies, including his attack on the curse of bigness in business and government, the regulatory laws like the Federal Trade Commission and the Federal Reserve that are considered the cornerstone of his legacy and his economic policy of the new freedom. Do you wanna say a word for that aspect of Wilson's legacy and Brandeis' role in it?

[00:23:53.4] Geoffrey Stone: I'm actually not an expert on that part of the history. So, I don't think I should offer an opinion on that 'cause I'm not sure I have anything to say that would be helpful. Sorry.

[00:24:03.1] Jeffrey Rosen: Well, maybe another word about the degree to which Wilson gets credit for Brandeis' great civil liberties legacy and despite the complicated personal antisemitism that Chris Cox describes, does that redeem his legacy in any way?

[00:24:19.4] Geoffrey Stone: Well, I think Wilson does get credit for having appointed Brandeis to the court. I don't know whether in doing so, Wilson knew what he was doing in terms of who Brandeis was or what he would do once he was on the court. I don't have any

knowledge about that. I would imagine that he was appalled by Brandeis' decisions in the First Amendment cases that basically argued that the laws that Wilson had supported were clearly violations of the Constitution. So, I can't imagine that Wilson was proud of the fact that he'd appointed Brandeis to the court, given that Brandeis had taken a view that was, at least on that issue, directly incompatible with what Wilson had wanted.

[00:25:00.8] Jeffrey Rosen: Fascinating. I do know that Wilson expressed great pride in his appointment of Brandeis, said it was among his proudest acts and that Brandeis showed a noble intellect that was unmatched in his time. So, at least his personal relations with Brandeis were free of antisemitism, but as you both say, the legacy is complicated. Chris Cox, let us now talk about Wilson and race. His notorious project in re-segregating the federal government at the federal level has led him to have his name removed from universities and schools across the country, from Princeton to many public schools. You tell the story in great detail. What did you learn in your exploration of Wilson's devotion to white supremacism, and how did he enact it throughout the federal government?

[00:25:55.2] Christopher Cox: Well, it's obviously a very sad part of the Wilson story. It came about very early on in his administration, and it came about because of the cabinet that he had selected. This was a cabinet-level decision. The men that he had chosen were almost to a person white supremacists. They shared his views about white male superiority in all civil matters and all government matters. And it was suggested at a cabinet meeting early on in the Wilson administration that we have segregation of the federal government, which would improve life for all of the workers of both black people and everyone else.

[00:26:50.8] Christopher Cox: Wilson's view on this was that he thought that it would reduce the inevitable friction that happens when you attempt to have white people and black people work together, so he blessed it at that same cabinet meeting. And we know this in part from the cabinet diaries of Josephus Daniels, who was very much a white supremacist himself. We also have been the evidence of what transpired subsequently when Wilson was called upon to defend this decision. One of the people who had chosen to support him in his 1912 first attempt at the White House, William Monroe Trotter, had gone to Trenton where Wilson was governor to kick the tires. Wilson had a deplorable record of not doing anything for black people while he was governor of New Jersey, but Trotter was a man of the left. He was unhappy with what he considered the slow pace of Republican gradual appointments of black people to, yes, increasingly more posts, but not the pace of reform that he wanted.

[00:28:08.1] Christopher Cox: And he wanted to get a Democrat on board and maybe this guy was it, so he went and talked to Wilson. And Wilson was so accommodating in that meeting and so full of promises that when he left Wilson's office in Trenton, he said he was walking on air. And so he supported Wilson in the 1912 election. Then comes his overt segregation of the federal workforce. And by the way, the National Bureau of Economic Research very recently did a study by going through all the civil service records of Wilson's time and found that it wasn't just the Postal Service. It wasn't just the Treasury. It was the entire federal government that was segregated. And so Trotter comes in and brings with him Ida B. Wells, who was at that time in her career already very well known for a number of things, including protesting the works of

Wilson's friend and classmate Thomas Dixon, who wrote about the Ku Klux Klan in glorifying terms.

[00:29:12.3] Christopher Cox: So these two are in the White House meeting with Wilson in 1912 in the fall and they say, you promised. And he tells them he wouldn't have done this if he didn't think it was the best thing for everyone involved and told them that he was going to stick with it. And the newspapers reported this and now the president is on record out front saying against the opposition, I'm sticking with it, which he did.

[00:29:41.7] Geoffrey Stone: I'm curious, to what extent was this at all an issue in the 1916 presidential election?

[00:29:46.1] Christopher Cox: Well, it was very much an issue because Charles Evans Hughes, who had just stepped off the Supreme Court to accept the Republican nomination, campaigned heavily in black churches, he really sought the black vote. He also was foursquare in support of the Susan B. Anthony Amendment, as Teddy Roosevelt had been in 1912, and these were big, sharp contrasts with Wilson. It was a very close election, so it's not clear Wilson politically chose the right side of that. Maybe he didn't have to be as close. He was the incumbent as it was, but as is famously known, it all came down to California, and Wilson won the two-to-one Republican registration state of California by, if memory serves, 4,321 votes, and that was because he kept us out of war, and the West at the time was in flame with peace.

[00:30:43.4] Jeffrey Rosen: Absolutely fascinating. Jeff Stone, why did Holmes and Brandeis change their minds? Zechariah Chafee at Harvard Law School had an important role in the mid-'20s, and his article in the New Republic about free speech helped persuade Holmes and Brandeis to change their minds, but tell us about that intellectual evolution and how they came to repudiate the statism that Wilson represented.

[00:31:10.2] Geoffrey Stone: Well, during the summer after the court handed down its decisions on the World War I cases, Holmes and Brandeis and Learned Hand had a number of conversations about these issues, and Holmes, I think, became very much aware, as you suggest, about both the original understanding of the values of the framers and why free speech mattered, and the opinion he wrote in the first of these cases, in World War I, sounded like it was fairly protective of free speech and used the language clear and present danger for the first time, although it turned out he simply ignored that phrase. It had no meaning. He didn't apply it to the facts of the case and didn't even repeat that phrase in the next two cases that came down the following week, but over that summer, they had a number of very serious discussions about how central free speech is to a democratic society and how dangerous it is for the government to be able to suppress free expression.

[00:32:20.7] Geoffrey Stone: And as a result of those conversations, Holmes and Brandeis came back to the Supreme Court with a very different and much more aggressive view of free speech, and their opinions in that following fall were really brilliant and extremely thoughtful and articulate and powerful in explaining why free speech is so important. Brandeis, in particular, in his concurring opinion in the Whitney case, wrote an extraordinary opinion about what the framers themselves presumably understood about free speech and why the kind of speech that

was being criminally prosecuted during World War I should have been regarded as fully protected by the Constitution, but it was one of those extraordinary moments in American constitutional history in which Holmes and Brandeis, in particular, just essentially came to understand a very different perspective on the importance of this essential First Amendment constitutional provision, and as I said, it ultimately came to dominate the current Supreme Court jurisprudence, and what would have happened had that not happened, we don't know. I mean, had Holmes and Brandeis not that summer changed their minds and written their separate opinions the following fall, who knows where we'd be today in terms of our free speech jurisprudence, but they basically led to the profound shift in how we think about free speech in the United States today.

[00:33:51.1] Jeffrey Rosen: It's an amazing story, and you tell it so well in your book on free speech in wartime. Chris Cox, we've had several questions about whether William Howard Taft favored purges of blacks from federal jobs and how much worse Wilson's devotion to white supremacy was from that of his Democratic and Republican rivals. You argue that this famous cabinet meeting, which included William McAdoo, who was Wilson's son-in-law, who determines to re-segregate the federal government, led to many black people being fired or demoted and led to the imposition of Jim Crow in a way that wouldn't have happened if Wilson had not been so personally devoted to this project. How much does he deserve the blame for this re-segregation, and what was the position of his political rivals?

[00:34:45.8] Christopher Cox: So Taft was known for his black cabinet. He had appointed the men who to date had been the highest ranking black men in the federal government, including at the Department of Justice. The man who held that position was essentially taken out of his job by Woodrow Wilson. They managed to either abolish the position or just not refill it. I don't recall which. Wilson rejected the advice of people in his own administration to appoint black men, for example, as ambassador to Haiti, positions that had traditionally been filled by black men. There's no question that he was, in his appointments as well as in the matter of segregation, taking the government backwards from where it had been. The Republican momentum, which had been enormous at the time of Reconstruction, had dissipated by the turn of the 20th century. But still, Republicans counted on getting almost the entirety of the black vote, or 80% of it, let's say. We don't have great data on all of this, but black voters were still very loyal. They certainly were in the 1920 election to Republican candidates.

[00:36:08.6] Christopher Cox: But as I say, many people, including, for example, William Monroe Trotter, believed that Republicans were starting to take the black vote for granted. Progress not only was halted in the Wilson administration, but there was a big reversal. The thing that I think really puts an exclamation point on this was the immediate conference that was held in 1916. This was an extraordinary event that put together in upstate New York leaders of the NAACP, which was new, and also leaders of the women's suffrage movement, both black and white. And they decided that the vote was really the most important thing. They also discussed many other things there. They had a secrecy agreement, and we don't have notes from the conference, but it's possible to infer what the people said because they all had contemporaneous writings on these same subjects. And they all ended up supporting Charles Evans Hughes, even including W. E. B. Du Bois, who had been a socialist and who later on won the Lenin Prize, but he voted for the Republican candidate in 1916.

[00:37:32.0] Jeffrey Rosen: Wow. And that, fissure between Republicans and Democrats only calls into relief Wilson's special devotion to white supremacism, which he pursued so dramatically. Jeff Stone, Brandeis changed his views on women's suffrage because he had previously opposed it, but he came to support it because of the brilliant women he worked with like Josephine Goldmark. By contrast, Brandeis never said much about race. He wasn't, he never expressed open racist remarks, but he also was no champion for racial equality on the court, mirroring the general views about race of the Democratic party of his time. My question is to what degree was this commitment to White supremacism and also opposition to women's suffrage, structurally embedded in the Democratic Party? How did people rise above it? And then how did the Civil Libertarian tradition exemplified by Roger Baldwin, who founded the ACLU come to arise in distinction to this supremacist outlook.

[00:38:35.2] Geoffrey Stone: Well, the Democratic Party, of course, had a great deal of support from the South. And, as a consequence of that, they were very much shaped by southern attitudes about these issues. And I think that that played a major role in what was acceptable if you were affiliated with the Democratic Party. In terms of talking publicly about these questions, I don't know what Brandeis's private views were on these matters. I would imagine that he was not in favor of racial discrimination. I would be surprised if he was not opposed to it, in fact. But I don't know that he took such a position publicly. But, I do think that in part it was because, as a member of the Democratic Party, he felt that he was responsible to be consistent with what the values of the party were. And that shaped it. I don't recall that he or Holmes decided any cases that dealt with major racial discrimination issues during the time they were on the court. I may be forgetting things, Chris might know, but, I can't think of any that they dealt with themselves as justices of the Supreme Court at that time.

[00:39:51.3] Jeffrey Rosen: There's the racial, covenant case where Holmes wrote an unpublished separate opinion that would've upheld the covenants. And Brandeis essentially was silent on racial issues. And neither going further than his colleagues, but also not defending racial equality. And he did support black lawyers working with Charles Hamilton Houston to argue for the briefs that led to Brown, but again, was not a crusader here. And as you say, it was connected to the position of the party. Well, Chris Cox, tell us about why Wilson changed his mind about women's suffrage. Norman Donahue notes that he announced his being in favor of women's suffrage the day after the White House announced his engagement to Egypt. Sorry to Edith, did he ever explain why he changed his view? And at the last minute many more Republicans than Democrats voted for the Anthony Amendment, but why did Wilson come around?

[00:40:55.7] Christopher Cox: So, yeah, that was 1915, when Wilson romanced Edith Galt and married her, or they got engaged very rapidly, but kept it a secret. And his administration, that is to say his closest advisors, including, as you mentioned, his son-in-Law, who was the Treasury Secretary, and also Colonel House, who was his advisor in all things, they worried, and almost everybody in the cabinet we were told, worried that announcing his engagement to a woman that nobody had ever heard of before, so close to the death of his wife, we might not worry about that today they worried about such things then, would be a political liability. And so they wanted him to put it off until after the next election. And so ultimately the compromise was that he would

announce it at the same time that he finally came around on supporting women's suffrage by the state method as governor of New Jersey.

[00:42:09.0] Christopher Cox: Of course, he was a state governor, and he stated outright he was categorically opposed to women voting, because of the disastrous effects it would have on home life. Just a few years later. Now, he's been pressed every year, starting with the day before his own inauguration, on women's suffrage, literally scores of meetings, people conveying, please get on the right side of the Susan B. Anthony Amendment, and he's not doing it. But there's also this possibility that I could support the right of states to do it. And at least, you know, that would give Southern states an out because they could have their white primaries and they could even grant women the right to vote themselves, but as long as it were under their control, without federal enforcement, they wouldn't have to have black people voting. So, even that was a hard decision. The leaders of the National American Woman's Suffrage Association had come to him, earlier in the year in 1915 and said, will you please give us a letter of support for the suffrage initiative in your home state of New Jersey? And he couldn't sidestep this one as easily as he had the other states, because even the governor of New Jersey, after all, it was he, and he was a registered voter there.

[00:43:27.8] Christopher Cox: So he's gotta take a position, and yet he put it off until the very last moment, so late in the campaign that it could have no effect. He had promised he would do it earlier and did not. And they announced it ultimately on the same day that they announced his engagement to Edith Galt. Those two things were paired on the front page of most nations, most of the nation's newspapers, and it worked like a charm. And in fact, people suspected that it was Edith Who convinced him to change his mind. And the joke was, not even close. She was more against women voting than he was.

[00:44:07.8] Jeffrey Rosen: Huh, wow.

[00:44:07.9] Christopher Cox: What he did then in 1915 was to support it by the state method, which ultimately, you know, became his stasis. That's what he was gonna stick with permanently. When he came around to support the Anthony Amendment, it was literally the night before two thirds of the House of Representatives voted to approve it, and they were gonna do it without him. And a group of democratic congressmen came over to see him the night before and said, you gotta state a position, you gotta help us out here. They believed at the time that they were gonna win by a dozen votes, and they were wrong about that. Their whip counts were not very accurate, and they ended up winning by one vote. But Wilson managed to step in front of that parade. He did it though in the most limited way possible. He refused to put out a statement in support of the Anthony Amendment. The White House put out no statement on his behalf. The official bulletin, which was the newspaper, the national newspaper that the CPI had created said nothing about it. It was just silence. And he said nothing about it for months.

[00:45:15.4] Christopher Cox: And instead he ghost wrote a few sentences that he gave to the visiting congressman, as if they had written it. And it said, we asked the president, and he said, and then when the Democrats, who had been in that meeting with him, worked with the DNC to put out a press release to describe the conversation they'd had with Wilson for over an hour, Wilson said, I shall not be quoted on this. And he really just did not wanna get involved with it.

He managed to stay, as it were, friendly to all, to both people opposed to women's suffrage and people in support of it for a very long time in this way.

[00:45:50.8] Jeffrey Rosen: Did he not wanna get involved in it because of political reasons, because he personally was opposed to it or ambivalent about it?

[00:45:58.1] Christopher Cox: It's a great question. And he certainly had a growing ambivalence, and ultimately I would say where he landed was that he was comfortable with white women voting. His views on white women moderated over time. He became more of a man of the 20th century. The longer he lived, got away from some of those really paternalistic, southern white democratic views that he grew up with, when it came to women. And he always appreciated intelligent women. He just didn't like the suffragist feminist kind and was very blunt in saying that in his private conversations and so on. But when it came to the southern states that might have tipped and lost democratic control were it for were black people allowed to vote without restraint there's no question that he didn't wanna see that happen.

[00:46:58.7] Christopher Cox: And I think you, you have to also put in the balance that he had a conversation with Nancy Saunders toy, who was one of his very intelligent white women friends. There's no question that he appreciated intelligent women. She was a progressive. She was in favor of women's suffrage. She was a friend of his daughter Margaret and so on. And she wrote in her diary that she had met with him right in the middle of his presidency, I think it was 1915, that he said that he did not want women to vote because who would do the housework.

[00:47:41.9] Jeffrey Rosen: Wow.

[00:47:42.2] Geoffrey Stone: Wow. Right.

[00:47:43.6] Jeffrey Rosen: Well, it's time to begin to sum up this really important discussion. Chris Cox in a enthusiastic, review of your book in the Washington Post, George will writes the following, although the term fascism is more frequently bandied than defined it fits Wilson's amalgamation of racism, statism and wartime censorship and prosecutions dissent was disloyalty deserving a firm hand of repression, and he both contrasts Mussolini and Wilson's statement. Wilson, I'm perfectly sure the state has got to control everything that everybody needs and uses. Do you agree with will that the illiberal aspect of Wilson that we've been talking about his racism, his sexism, and his devotion to strong executive authority are united by a common devotion to authoritarianism and at a time, this is a question that's come up from several of our common haters that universities and schools from Princeton to high schools throughout the country are removing Wilson's name. Are they right to do so?

[00:48:52.7] Christopher Cox: Yeah, so that last is a particularly complicated question there. Whether or not you take a statute down, whether or not you rename something, Princeton obviously has done so with one of its schools. So, as a university trustee myself at the University of Southern California, we took the name of one of our former presidents off of a main building in the campus because he had been associated fairly heavily with eugenics. These are very situational decisions. I think the worst thing you can do is put somebody down the memory hole and we lose the history altogether. We don't wanna forget the bad things we don't like, we need

to learn about them, but as has been pointed out frequently they can be contextualized. But how precisely to do that, where that means leaving a name up or down or what have you, and it's all very fact dependent.

[00:49:50.8] Christopher Cox: With respect to the review in the Washington Post, and I will say other reviews as well, what I've inferred from reading the reviews, which are all meant to be positive, is that Wilson is a Rorschach test for a lot of people and their own views of Woodrow Wilson tend to come out even more than describing what's in my book. My book is about Wilson measured against two parameters, race and gender, which have been left out of the Wilson biographies as we've discussed. And as I say, it's a very complicated thing then to take those two things now that we have got them in sharper focus and sharper relief and say, here's how that compares with creating the Federal Reserve, or here's how that compares with evangelizing for the League of Nations. All sorts of apples and oranges kinds of things. And I have made no attempt in the book, even after 14 years of walking around the block on this question, to say he should be moved to right here in the rankings. This is so subjective. I think it's just better to take it for what it's worth and to infer lessons. The Mussolini comparison might be over the top.

[00:51:16.2] Christopher Cox: But interestingly Colonel House, who was Wilson's closest advisor on domestic and foreign matters for almost the entirety of his presidency wrote an article after Wilson died in which he said the headline on the article was Is it Time for a Dictator? And he had written a novel about a benign dictator, even before he met Woodrow Wilson. And he praised Mussolini in this article, but he warned against people like Lennon. So this was an interesting time in history and there are easy parallels that you can draw between authoritarianism as it later developed in the '30s and so on, and what was fermenting in the 1910s, and before. But I think we have to be careful with those labels too. So the book speaks for itself. It doesn't say those things, but I understand that a lot of people love Wilson for this and hate him for that. And it varies across the political spectrum. I just think it's an extraordinarily interesting and important part of our history.

[00:52:30.5] Jeffrey Rosen: It is indeed. And you've brought that extraordinarily interesting nature of it to life in your great new book. Jeff Stone last word in this discussion is to you, in 2015 when Princeton was first thinking of removing Wilson's name, you wrote a piece for the Huffington Post saying, I don't really care one way or the other, whether Princeton erases Woodrow Wilson from its history, except to the extent that such an action would inevitably invite an endless array of similar claims that would fundamentally distort the realities of our history and distract attention from the real issues of deeply rooted injustice in our contemporary society. Do you still feel that way? And how do you wanna end up this great discussion about whether or not Wilson should be removed from public places?

[00:53:12.3] Geoffrey Stone: Well, I think that that's a very complicated question. On the one hand one of the reasons for removing his name is because people have made an issue of it and it's become politicized, and therefore the institution feels under pressure to act in response to the criticisms of, in this case, Wilson but it could be anyone. And at some point, an institution doesn't want to be seen as being that controversial particularly in support of someone whose views today are regarded as inappropriate and wrongheaded. On the other hand, you don't wanna be put in a position, as you suggest, where you can be bullied in that way. And if people can get

Wilson taken down and who else can they get taken down? And just invites further protests and demands along those lines.

[00:54:12.8] Geoffrey Stone: So it's a very complicated situation for an institution. I mean, my own view, particularly after reading Christopher's extraordinary book, is that if someone asked Princeton today if they would want to honor Wilson by putting up his statue given what we now know about his views on a whole range of issues, the answer would clearly be no. And I think that would be the right decision not so much for political reasons, but because, even though he had admirable qualities, he was not someone who an institution like Princeton should want to admire or want its students to admire given everything that he was about.

[00:54:51.8] Jeffrey Rosen: Thank you so much, Chris Cox and Jeff Stone for a superb, illuminating and deep discussion of the incredibly important question of the constitutional legacy of Woodrow Wilson. And thank you friends for taking an hour out in the middle of your day to learn about this important question. Thanksgiving is approaching and I'm so grateful for the incredible honor of the opportunity to learn with all of you and with all my great colleagues at the National Constitution Center, so that together we can dig deep into American history, learn from its errors, and hopefully achieve its best ideals. Thank you again, Chris and Jeff. Happy Thanksgiving to all. We'll see you after the break.

[00:55:32.3] Geoffrey Stone: Thank you, Jeff. Thanks Chris.

[00:55:33.8] Christopher Cox: Thank you, Jeff. And Geoff.

[00:55:37.6] Tanaya Tauber: This episode was produced by Lana Ulrich, Samson Mostashari, Bill Pollock, and me Tanaya Tauber. It was engineered by Kevin Kilbourne and Bill Pollock. Research was provided by Samson Mostashari, Cooper Smith, Gyuha Lee and Yara Daraiseh. Check out our full lineup of exciting programs at constitutioncenter.org/townhall. There you can register to join us in person or online. As always, we'll publish these programs on the podcast, so stay tuned here as well. Or watch the videos. They're available in our media library at constitutioncenter.org/medialibrary. Please rate, review, and subscribe to live at the National Constitution Center on Apple Podcasts, or follow us on Spotify. On behalf of the National Constitution Center, I'm Tanaya Tauber.