

Disputation CCVII

October 10, 2019

Dear Peucinians,

Thanks to your vote last week, these messages have now been **automated**. This should come as no surprise, as entire fields are being swept away by the rising, digital tide. In particular, there is increasingly less ground to stand on in the realm of law. Algorithms can account for more inputs, can systematically reconcile them, and can turn them into outputs far more efficiently than humans can. Before we know it, the chambers of our Supreme Court may be inhabited by deathless supercomputers – such as Justice Ruth Bader GinsBot. Perhaps this is already the case.

This week, we turn to a rather musty piece of parchment. While it may not show any immediate signs of life, it has been provoking frothy, Thanksgiving-dinner-destroying debate for two centuries now. I expect similar excitement as we delve into the particular political issues which make this Thursday evening's resolution so controversial, as well as broader questions about the rule of law itself.

RESOLVED: THE CONSTITUTION IS A LIVING DOCUMENT

Affirmative: Eliezer Wiesel '21

Negative: Aleksandr Solzhenitsyn '21

The times change, and we find that our Constitution must be applied to a whole variety of situations the Founders could never have imagined possible. Many parts of the document have been downright ambiguous from the start. Necessarily, we need a group of experts, well versed in law, precedent, and history, to interpret how its principles must be applied in particular cases. On some level, the individual moral views of judges cannot be eliminated from the process of interpretation and will often be necessary if an interpretation is to be made at all. These judges are accountable to the people insofar as they are appointed by their representatives. Small bodies of expert judges can also be a check on popular self-interest, which might willfully trample the rights and powers which keep our polity functioning and secure.

However, by the very fact that loose interpreters of the Constitution are willing to proclaim “It’s alive!”, we know they make a Frankensteinian bastard of the thing. It is pretty rich that the courts think themselves the ultimate arbiters of constitutionality – given that they created this power, *ex nihilo*, back in 1803. If there arises a critical ambiguity which cannot be resolved, we should leave it to the people and their representatives to decide, rather than permitting unelected judges to make positive law. Undoubtedly, this process will be more gradual than some would like, given the more cumbersome nature of the legislative branch. But we should be mindful of abandoning our democratic principles in favor of hasty progress – for this is the path to tyranny. After all, should we bother with pretending to observe the rule of law if judges are permitted to regularly reinterpret it? If a Constitutional change is required, it should be voted on and laid down in writing.

In a reference to Proverbs, President Abraham Lincoln once famously compared the Declaration of Independence, with all of its abstract principles, to an apple of gold. The Constitution, he said, surrounds and supports it like a framing plate of silver. It is not clear to me which side of our debate is championed by [this thought-provoking construction](#) – so I am excited to hear your thoughts. Grab your pocket Constitutions, this one’s going to be a good one.

Thursday, October 10th, 7:45 PM

Massachusetts Hall, Third Floor
Semi-Formal Attire

Sincerely yours,

Gilgamesh

Pinos Loquentes Semper Habemus