The Lost Founder: James Wilson

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[0:00:00.4] Julie Silverbrook: From the National Constitution Center in Philadelphia, this is We The People.

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[0:00:08.6] Julie Silverbrook: I'm Julie Silverbrook, Vice President of Civic Education. The National Constitution Center is a nonpartisan nonprofit, chartered by Congress to increase awareness and understanding of the US Constitution among the American people. This week we explore the life of an influential and yet often overlooked founder, James Wilson, whose ideas and influence continue to shape current debates about popular sovereignty, constitutional structure and democratic self government. Joining the conversation are legal scholar Bill Ewald of the University of Pennsylvania and Jesse Wegman of the Brennan Center for Justice. Together, we discuss Wegman's new book, *The Lost Founder: James Wilson and the Forgotten Fight for a People's Constitution*, which explores the life and legacy of this founder and US Supreme Court justice. Jesse, let's start with you. As the title of your book suggests, James Wilson is one of America's forgotten founders. Our audience maybe remembers passing reference to Wilson during high school social studies, but he doesn't feature prominently in the national memory. For those who are less familiar with Wilson, can you paint a brief picture of who he was, what drew you to his story, and why he was so important to the nation's founding?

[0:01:21.3] Jesse Wegman: Sure. And thank you Julie, and to the National Constitution Center for having me on to talk about this book. I've been working on it for the last four years and it's really been a pleasure and an exciting adventure to find out more about Wilson, whom I discovered to my shock about eight years ago. So to give you a quick... As quick as possible, I think, in a setting like this, a summary of James Wilson. Wilson is, I will say, the most important American founder that you don't know. And I think the way I can most clearly elucidate that, is to point out all the mosts that he was. He was the most respected lawyer in America. He was without question the most democratic of the founders. He was the most committed to the idea of popular sovereignty that the people themselves hold ultimate political authority. He was also the most reckless land speculator and by far he was and is the most forgotten of the leading framers of our constitution and our nation. So the book tells his story in full, but I'll give you the short version here. Wilson was born in the Scottish Lowlands in 1742 to a poor, very religious farming family.

[0:02:47.3] Jesse Wegman: His parents wanted him to enter the ministry, but he was too energized and engaged by the political and social revolutions taking place around him to choose that life. So

in his early 20s, he immigrated to America and very quickly became a leading lawyer and political thinker. At the age of 26, he wrote an essay that influenced not only the push toward revolution and independence, but also, quite arguably, the central lines of The Declaration of Independence, we hold these truths to be self-evident. He served in Congress. He wrote a number of the most critical provisions of the Constitution. He was appointed by George Washington as a justice on the first Supreme Court. And he gave a series of lectures on law that would define American law for generations to come. Through it all, he was advocating for this expansive, egalitarian, democratic vision of American government that was centuries ahead of his time and that, I would say, in many ways, we are still trying to catch up with. And also, less than 10 years after the Constitution was ratified, Wilson died in the back room of a tavern in North Carolina, on the run from both his creditors and the authorities, destitute, dressed in rags, raving like a madman until the end.

[0:04:12.4] Jesse Wegman: Within a matter of months, it was as though he had never existed. So, as you can tell, for a journalist looking for stories, this is a good one. I actually discovered Wilson while I was writing my book on the Electoral College, *Let the People Pick the President*, which I also discussed with the National Constitution Center. That book came out in 2020, but it was a couple of years before that while I was researching it, that I was curious about the origins of the Electoral College and the origins of how we chose to pick the president. I was going through Madison, James Madison's notes on the Constitutional Convention, and I keep running into this guy that I hadn't heard of. To my surprise, I went to high school, I went to college, I went to law school. I thought I knew who all the major framers were. And here's this guy Wilson, this Scot with this funny accent, who keeps standing up, talking constantly in the voice of someone two or three centuries ahead of himself. I mean, I just kept being so struck by the egalitarianism that threaded through all of his comments.

[0:05:13.7] Jesse Wegman: He wanted the President to be elected by a popular vote. He thought the Senate was a complete abomination. He wanted people to be represented, not states. He thought they should be represented in accordance with their numbers. You know, all of these things that we think of today largely as being sort of unobjectionable, Wilson was proposing for the first time and in the face of a lot of opposition at the Constitutional Convention, and both before and after. So as I learned more about him and about his ideas, and also about his almost total erasure from American history, I became sort of obsessed. I started asking people, do you know James Wilson? Have you heard of James Wilson? And almost nobody had and the best story about this, which I can just tell briefly, is I was at an event where a Supreme Court sitting at the time, sitting Supreme Court Justice was in attendance, and I cornered the Justice and I said, oh, I'm reading about James Wilson right now. He's first... On the first Supreme Court. I'm so excited by his ideas. And this Justice knew who James Wilson was, of course. But within about 30 seconds of our conversation, it became clear that I knew more. So I thought, okay, I know more than a sitting Supreme Court Justice about one of the most important figures of the American founding. This is a story to tell and that's how I came to this book.

[0:06:39.0] Julie Silverbrook: That's great. Bill, I know it's a lengthier story for you, but you are probably the nation's foremost champion of James Wilson and bringing him back into our national memory. So I'll ask a two part question for you, which is, how did you arrive to Wilson? I know we need the SparkNotes version or it will be a full town hall to do the full exploration. And why do you think he's faded from our national memory?

[0:07:06.9] William Ewald: Well, on how I came to Wilson, he was the first professor of law at the University of Pennsylvania, which is where I teach. And speaking of places where he was forgotten, none of my colleagues could tell me anything about this fellow. And after a number of years of being aware that we have his desk sitting inside the law school, when I learned that he was originally from Scotland, that struck me as quite interesting because Scotland is not a common law jurisdiction, it's civil law. And I teach civil law. So I thought, okay, I'll be able to do a nice short 25 page article about James Wilson at the Constitutional Convention. I had no idea what I was letting myself in for. So he turns out to be far more important than I had realized. Jesse's absolutely right about what he says. As for why he's faded from view, Jesse basically gives the right answer, he died in poverty, in disgrace. He was... It's unclear whether he actually went to debtors prison or not. But for a sitting Supreme Court Justice to be hunted down by his creditors, people didn't want to talk about this embarrassing aspect of the founding. Also, his papers got scattered, his correspondence is not particularly interesting. So he disappeared. And then once you disappear from the historical narrative, it's very hard to get back in.

[0:08:47.5] Julie Silverbrook: And Jesse, you talk about this a little bit in your book. He didn't have a champion in the early days like many of the other founders had to really kind of put them in the pantheon of core historical figures for this period of American history. I might say that he hasn't had a champion since the two of you have become his champions, which is quite a long time to go without one.

[0:09:11.9] Jesse Wegman: Well, I don't want to take too much credit for that. Obviously, Bill's been doing this for longer than I have. And then in the early... In the book, I tell the story of a few people who have attempted over the generations to bring him back, to resurrect him, including a biographer named Charles Page Smith in the 1950s, a historian named Bert Konkel in the early 20th century. Everybody has sort of run up against what I think, Bill, identified as the real hurdle of trying to bring someone back from the dead, someone who has been buried in ignominy and forgetfulness and make them sort of put them back in their rightful place. But as Bill said, this really, his death and the nature of his death and the timing of it really, I think, came as a relief to a lot of his colleagues. The Court had been shorthanded for a year by the time he died. They were sitting, but they didn't have one of their members, so it was harder to do their job. And as you say, Julie, this whole legacy building project of the framers was a really big part of their lives. They saw themselves, right?

[0:10:20.3] Jesse Wegman: They understood themselves as world historical figures at the time they lived. They knew they were gonna be remembered. They were right. And they kept their papers. They were extremely, you know, I mean, I think, understandably so, impressed with themselves. And they had people to burnish their legacies, to preserve their papers, to collect them, to tell their stories, to repeat their names. Wilson really didn't have that. He had a son who tried to put together a collection of his writings and speeches, but it just really didn't add up to anything. And as Bill also said, Wilson was a terrible correspondent. You know, we talk about the other founders that everybody knows about, Hamilton, Washington, Adams, Madison, Jefferson. You know, these guys were all incredibly prolific, and we have incredible records of their, you know, I mean, reams of books on them on just their own writings. Wilson, I mean, it's scattered all... You know, it's scattered. It's very minimal compared to them. I have one letter that I found of his where he writes

to one of his dearest friends, and he begins the letter by saying, I'm just writing to tell you I have nothing to say. So he's not the easiest guy to capture through his words, even though those words are really so transformative, both in his era and in ours today.

[0:11:37.5] Julie Silverbrook: We do have a record of some of his thinking in the imprint that he left on the Constitution. And so, Bill, I wanna talk a little bit about your 2008 Law Review on James Wilson and the drafting of the Constitution, where you challenge the idea that James Madison alone deserves the title of father of the Constitution. And you think Wilson has a claim to that title as well. So can you walk us through the role that Wilson played at the 1787 Philadelphia Convention and what the lasting imprint he left on the Constitution was?

[0:12:11.1] William Ewald: Yeah, I would... So I'd put the matter quite differently. So Madison as the sole father of the Constitution, that's clearly mistaken. The primary authority for why it's mistaken is actually Madison himself, who was quite emphatic on the point, and rightly so, and for a couple of reasons. So Madison was well aware that the things that he fought hardest for at the convention and that were dearest to his heart, they got turned down. And he was actually quite unhappy when he left the convention not having gotten exactly what he wanted. But more importantly, Madison was very clear that this was a collaborative effort. You basically had 50 very strong willed people locked in a room for four months arguing with one another. And to try to pick out any single person as the architect of the Constitution, just makes no sense. It also makes no sense for Wilson, by the way. So I don't want to be claiming him as the father of the Constitution.

[0:13:14.5] Julie Silverbrook: So I should say fathers of, you know, it was the collective act of many hands and many minds, right?

[0:13:22.1] William Ewald: Correct, correct. Now that said, if you read through Madison's notes... So look, the framers of the Constitution, there are about 50 of them, I would say 30 are pretty quiet throughout the entire debates. Many of them say nothing at all. A few have hobby horses. There's one delegate who has a particular obsession about lighthouses. But most don't have a whole lot to say. Of the dozen or so who are most active, a lot of them are primarily defending the interests of their states. If you read through the convention notes slowly, there are two people who really emerge as the ones who are most in control of the ideas. They're in control of the arguments. They've got novel things to say on just about every point, extremely insightful, even when their ideas aren't picked up. And those two, I think are Madison and Wilson. There really isn't a third delegate who comes comes close to those two. Gouverneur Morris maybe, but he wasn't there through the entire summer. So for consistently interesting delegates at the convention, I would say it's Wilson and Madison. And there's no particular reason to choose between the two. Now, as for Wilson himself, there are lots of contributions, some one is more pleased about than others.

[0:14:55.4] William Ewald: The greatest contribution to the final document is probably the structure of the presidency. So this is something that Wilson led with at the very beginning of the summer. Almost nobody accepted his view of a single president elected for a short term of office and re-eligible and all the rest of what goes into Article 2. By the end of the summer, essentially the entire convention had come to the position that Wilson led with. So that's long been recognized. If you're looking for the architect of the American presidency, Wilson has a greater claim to that than anybody. Now, there are other things that are more problematic. He was, along with Charles

Pinckney, one of the people who proposed the Three-fifths Compromise on slavery. He was himself anti-slavery. The reason that he did that was to try to break a logjam in the convention where the south and the north were unable to agree on representation in the legislature. And Wilson, Pinckney, came forward. Now this is one strongly anti-slavery delegate, one strongly pro-slavery delegate. They came forward, they said, we've already been using a formula of three-fifths for evaluating taxation. Why don't we use that formula going forward?

[0:16:23.8] William Ewald: So Wilson proposed it. He later apologized for what the Constitution did with slavery. But I think that has to be viewed as a blot on his record. The third thing is the thing that most astonished me when I started working on Wilson, and that is, what was going on in the background of the convention itself. And this is something... There's been a good deal of scholarship in the past 15, 20 years looking at not just the arguments that were made on the floor of the convention, but at the committee work that was going on behind the scenes. So to simplify things, you've got three really significant committees that people had not paid close attention to 'till fairly recently. They meet at three separate stages during the summer. One is a meeting that was held early in the summer between the Pennsylvania and the Virginia delegations that came up essentially with the Virginia plan. The mastermind behind that committee, I think, although it's really hard to be sure, is Madison, which is the traditional view, and I don't see any good reason to question it. At the end of the summer, there's another committee called the Committee of Style, which writes up the final document.

[0:17:48.0] William Ewald: Bill Treanor at Georgetown has written extensively about that and its importance. Because it's a committee, because it's not reflected in Madison's notes, it tended to get simply overlooked. And you have to go back and look really closely and figure out, okay, what exactly did the Committee of Style do? And it's extremely important. The third committee is in the middle of the summer, that is the Committee of Detail. Now, when I started writing my short article on Wilson and I was plotting my way through, I hit this thing called the Committee of Detail and thought, what is this? I've never heard of the Committee of Detail. And the footnote says, the manuscripts are in the handwriting of James Wilson and somebody must have studied this. There's got to be a monograph someplace. I don't know what it is. So it turns out to make a long story short, basically historians have just skipped over the Committee of Detail, not looking at it in... With any kind of attentiveness. If you look closely, you find a couple of things, one is the members of that committee. So this is a five member committee meeting when the rest of the convention is in recess for 10 days in the middle of the summer.

[0:19:06.6] William Ewald: The members of the committee are not the big names. So it's not Washington, not Madison, not Hamilton, but it is Gorham, Ellsworth, Wilson, Randolph and... Randolph and Rutledge. They're names that are known to historians, but they're not the names that you tend first to think of when you think of the Constitutional Convention. Now, it turns out it's an intricate business, to try to reconstruct what happened inside the Committee of Detail. But what's quite clear is, the committee wrote a large segment of the final Constitution, so they were inserting things that were not discussed by the convention as a whole, maybe tangentially, but it's really the committee that puts the language into the Constitution.

[0:20:04.5] William Ewald: And a lot of it goes straight from the committee report into the final text of the Constitution. Main things... So you get the structure of the federal judiciary, you get the

enumeration of congressional powers, you get such things as the Supremacy Clause, the Necessary and Proper Clause. By the way, there's an extraordinary article by John Mikhail at Georgetown on the Necessary and Proper Clause, that he took this work on the Committee of Detail and was able to explain what the legal significance of the way that that clause was drafted is. Okay, there's other things, lesser things, but those matters are kind of core to the structure of the Constitution. And they emerge more from that committee than they did from the Convention as a whole. I should say, there are lots of things that one can't pin down with entire certainty. So you don't know how much discussion was going on between the committee members and other people at the convention about those things.

[0:21:17.5] Julie Silverbrook: And Bill, just for the audience who just might be less familiar with the records of the convention, explaining why we know less from the committee work.

[0:21:28.3] William Ewald: Sure. Most of what we know about the convention comes from James Madison's notes. He was very scrupulous. He took detailed notes. They are incomplete. So the convention was meeting for five or six hours a day. For any given day, if you read Madison's notes out loud, it takes about 10 or 15 minutes. So he had to leave a lot out. But if you look at other records for other... For like the Second Continental Congress, Madison's notes are an extraordinary document. He records speeches, arguments, who said what, who was answering whom. But Madison was not in this committee. So the Convention took a 10 day break. Madison went off and did whatever he was doing during those 10 days while the committee met. So you don't get any sort of description of what was the back and forth inside that committee room. You can somewhat piece it together looking at the various... Looking at the delegates, looking at the positions they took elsewhere. And you can say pretty confidently that Wilson was the mastermind of that committee, which doesn't mean that he drew up the documents out of his own head. There are certainly things in there that he disagreed with that he had to put into the committee report.

[0:22:51.9] William Ewald: But no... Okay, so I've lingered on this for a bit. But it was the thing that struck me as really quite surprising that the historiography of the Constitutional Convention had managed not to notice this central event. As soon as you've seen that, there are then two media questions that arise. One is, how could historians have overlooked this? Which... That's something that requires extended discussion. The other is, who is this guy Wilson? Because he's clearly a very central figure in a way that had not previously been seen. Important, yes. But basically he was treated as an adjunct to Madison. So somebody who came along who was helping Madison with Madison's program and that picture, I'm afraid, simply does not work. He's a very different thinker. The personalities are different. The way that he's behaving at the convention is different. There's a lot to admire in both of them. But mushing the two together, I think, does not work.

[0:24:03.2] Julie Silverbrook: Sure. Jesse, in your book, you obviously also talk about Wilson's role in the convention and wanted to give you a chance to talk about your impressions of Wilson's role and the imprint that he left on the document itself.

[0:24:17.7] Jesse Wegman: Yeah, I mean, everything Bill says is, obviously, I learned a lot from Bill's work in writing this book, but I agree that Wilson is clearly at the center of the convention from start to finish. I think he's one of the very few members who's there every single day. And his role, you know, what was exciting for me about discovering Wilson as this central figure wasn't just

that these... The first thing was that... It was that, these ideas that we think of today as being sort of part of our lives, you know, the one person, one vote idea, the idea of basic human equality, they were there at the convention in the guise most clearly of James Wilson, but also what those ideas mean for us today... And you know, we live in a time right now where there's a lot of, I think, discussion over what democracy is, whether we are a democracy, what we will be and should be going forward. And I think we also have this kind of, you know, way of talking about the founding and their ideas and the founders and the, you know, the idea of originalism. Right? Which is, I think, a troubled concept both in its theory and in practice.

[0:25:34.8] Jesse Wegman: But, you know, there is value to it. And I think to the extent that we want to understand the founders, Wilson has been really completely, almost completely ignored in the general public narrative of the founding. So to me, telling that story of his role in the creation of the country, and most specifically at the Constitution, at the Constitutional Convention, where I spend the sort of the heart of my book, is essential. And it's that inerring focus, I would say, on popular self rule, the people themselves are the essence of all and the source of all political authority and his belief in one overarching national government, that makes Wilson unique at the convention. Nobody else puts those two things together. That we're going to have one big country, right? Not a bunch of provincial former colonies that are now battling with each other endlessly over their own interests. But that also the only way that that country is going to work is with deep respect for the authority of the people themselves. And that is something that I think got lost in the sort of retelling of our history and the narratives that have become popular. I really think it's essential that as we tell the story of Wilson, we realize that these threads have been there from the beginning.

[0:26:55.9] Julie Silverbrook: That's great. This year we are, of course, celebrating the 250th anniversary of the Declaration of Independence. And Wilson is unique in that he's one of only six men to sign both the Declaration and the Constitution. And he also continued to treat the Declaration as a guiding principle throughout his career. I'll open this up to either of you. But we do know, Bill, your scholarship has shown this, that Wilson was one of the only founders to invoke the phrase, created equal, during the debates over ratifying the Constitution. Why was Wilson so closely attached to the Declaration other than because he signed it, obviously, therefore believing in it? 'cause he was willing to put his life on the line by doing that. And what does that reveal about his political philosophy? Jesse, why don't we start with you on that one and then we can go to Bill.

[0:27:45.1] Jesse Wegman: I mean, yeah, I would love to hear Bill talk more about this. It was Bill's work, actually, that really opened up the connection between the Declaration and the Constitution for me in Wilson's eyes, as Bill explained through his own research and his own study of what people were actually talking about at the time, in the late 18th century, we think of the Declaration as, you know, the founding words of America, the most important words. We keep it in the archives under bulletproof glass. It's such an essential document, and particularly its Preamble, we hold these truths to be self-evident that all men are created equal. All of that is so embedded in our national psyche. Right? And yet at the time, at the time they were written and in the decades after, almost nobody cited them, it just wasn't something that got talked about, except with the exception of Wilson.

[0:28:36.0] Jesse Wegman: Wilson is the person who sees in the Declaration of Independence and

in its promise of human equality, the essence of the American experiment. Right? This may seem... Again, this may seem obvious to us now, but at the time, he was the only one pushing that. To him, the Declaration superseded the Constitution. The idea of popular sovereignty, of popular self rule was in the Declaration itself. It was the Declaration itself. It was the idea that people have the ultimate control over their government. If they aren't happy with it, they can change it at any time and however they please. This is what Wilson is saying throughout the 1780s, 1790s, until his death. And nobody else really until Abraham Lincoln is saying this out loud in any kind of clear, comprehensive, programmatic way. And so I think there's more to say on this, but I want to let Bill weigh in too, because he's the one who really kind of opened my eyes to this.

[0:29:32.9] William Ewald: Yeah, I agree with all of that. The important link is Wilson and the Preamble. Now, there's two aspects to that. One is, so it's been known for about a century that Jefferson very likely had a pamphlet written by Wilson by his side when he was composing the Preamble, and that he took a paragraph from Wilson, rewrote it, Jefferson's a better writer than Wilson. It's more memorable words, but the chain of thought is something that he took from Wilson's pamphlet. Now, Wilson... So Wilson gets credit for being in the background to the Preamble of the Declaration, not to the rest of the document in any particularly close way. He also is the only founder explicitly to connect the Declaration to the Constitution.

[0:30:42.6] William Ewald: And he does it in a couple of places. He does it once in passing at the Constitutional Convention and then more explicitly in the Pennsylvania ratification debates. You can ask, why did he do that? Did he realize that he had himself been the source, so that he was quoting his own, publicizing his own work? That I cannot answer. But it is very striking that none of the other founders attached the importance to the Preamble that Wilson did, or that we do. That really doesn't start to come in until the... Until most of the founders are dying off. So I would say 1820s, 1830s, particularly in the context of the debate over slavery, that's when people really fasten on the phrase, all men are created equal. But prior to that, it did not receive the same degree of attention that the rest of the document did. Different way to put it, the document was viewed primarily as a bill of grievances against Great Britain, rather than a statement of human rights.

[0:31:49.6] Julie Silverbrook: And isn't it interesting that today most people don't pay much attention to the grievances and really spend most of the time focused on the Preamble, which is just a quick plug for the National Constitution Center. We just launched in September an interactive Declaration of Independence, where we do a deep exploration of the full text, including the grievances, which, to your point, were quite significant... A quite significant part of the document, particularly at the time. I want to pivot a little bit. Wilson arrives in America from Scotland in 1765. We've talked about his accent a little bit, leaving an imprint, but let's talk a little bit about how his Scottish upbringing and education shaped his political thinking and his vision for the nation.

[0:32:33.1] William Ewald: So it's a little bit hard to pin down in detail because there's not a whole lot of evidence about just what exactly his formation was in Scotland, apart from having been to university. Now, well, one aspect of this is extremely important. So in the 18th century, the great universities of the Western world were in Scotland. They were not in England. So Oxford and Cambridge, they were comparatively backwaters. But the Scottish universities, Scottish Enlightenment, people like David Hume, Thomas Reid, Adam Smith, they were in the intellectual forefront of thinking about issues of government, philosophy and the like. Of the American

founders, so here I'll put on my philosopher's hat. It seems to me quite clear, Wilson was technically the most highly trained of all the founders. Jefferson, Madison, they knew something about the Scottish Enlightenment, but they did not have the same depth of understanding that Wilson did. Scotland is... As a Presbyterian country, it was more democratically minded than Anglican England, so you don't have the hierarchy of bishops. So it would have been more natural for somebody like Wilson to have democratical ideas than for some of the other framers. But whether you want to say that that's the source of his ideas, I'm not sure.

[0:34:08.2] William Ewald: There's not really any solid evidence that one can point to. There's one other aspect that is extremely important, and it's in fact what got me interested in Wilson in the first place, which is that Scotland is a civil law jurisdiction, meaning it followed in the 18th century Roman law, not the English common law. Why is this important? Well, in Scotland, if you wanted to become a lawyer, Scots lawyers, they tended to be educated on the Continent, so they would go to Leiden, they would go to Paris, they would read the French, German, Dutch natural law thinkers. They had an entirely different approach to the way that you analyze abstract legal questions than the English common law tradition did. Now, that's something that it's clear Wilson was steeped in. He had the education to be able to make use of the natural law tradition. He carried that with him to North America. And there's every reason to think he continued in that tradition. He continued reading the works that were coming out of Scotland. So to that extent, the Scottish background for Wilson is absolutely central, but pinning down exact details, what was he like when he was in his early 20s, and how did that affect the way that he developed in his later career, that's a bit harder to wrinkle out.

[0:35:36.3] Julie Silverbrook: It feels like an undercurrent to the, why is Wilson forgotten? Is if you want to be remembered, you need to write more letters. You need to have people who are willing to preserve those letters, and you need to speak as much as possible in front of note takers. Jesse, anything that you want to share from your research on his Scottish upbringing and education influencing his political thinking?

[0:36:00.6] Jesse Wegman: I mean, just a quick note, Bill and I have both separately been to the farm where Wilson was born. It's still a dairy farm in the Lowlands of Scotland. I was there last summer. I met with the current owner, whose name happens to be James Wilson. He insists that there is no relation, but anyway, it was amazing to just be there. The rubble of Wilson's birthplace, the house in which he was born. The cottage is still there on the property. So that's just a thrilling experience for people like us. And then, you know, I would just... I would add to Bill's point about the sort of relatively democratic nature of the Presbyterian churches that also, you know, Scotland had an incredibly advanced and egalitarian education system. So, you know, one of the outgrowths of the Reformation in Scotland was this sort of, you know, a school in every parish, they said. So they really, they emphasized... This was a country moving from pretty like primitive, you know, times and practices into the modern world with a speed that, you know, was remarkable. And a lot of that came out of an intense focus on education for everybody.

[0:37:21.4] Jesse Wegman: So even a poor farmer's son from the Lowlands like James Wilson, starting at age five or six, was getting as good an education as anyone else in the country. And this, I think, was another kind of influence on his democratic mindset. Right? The church and the school were giving him this idea that people are equal. They are fundamentally possessed of the same

capacity for knowing truth and understanding the world, no matter where they started, no matter what their work is as a grown up. And I think that is one of the other ways in which Wilson stands out among the framers, many of whom were themselves, you know, born into a more elite class and lived among the elites throughout their lives.

[0:38:05.2] Julie Silverbrook: And, of course, Wilson does consider himself a champion of the common man, and yet he was not always a popular figure, particularly in Pennsylvania. [laughter] In 1779, his Philadelphia home was besieged during what we now call the Fort Wilson riot. Years later, he was burned in effigy in Carlisle, Pennsylvania. Can you help our audiences better understand these events and also explain why Wilson was so controversial amongst his fellow citizens, particularly in Pennsylvania?

[0:38:36.1] Jesse Wegman: Sure. I mean, this, in some ways, is the most kind of... This is what drove me to do the book. I spoke at the beginning about how exciting Wilson's ideas were to me, and that's absolutely the case. But when I started thinking about, you know, what makes this guy tick and why am I so drawn to him, it's really the Fort Wilson riot I keep coming back to. The Fort Wilson riot happened on October 4th of 1779, as you say, there was a mob that went to a local bar, got themselves pretty well juiced, and then came out. It was dozens or hundreds of people, depending on the account. They were armed. They started marching around the city of Philadelphia, the center of the city, looking for people they considered to be traitors to the cause of the Revolution. You know, this is in the middle of the Revolutionary War. The declaration has been signed three years earlier, but the country is still trying to find its footing amid ongoing fighting. Philadelphia is in a major crisis at this moment. Price... You know, prices are out of control. People are suffering, they can't afford food. People are getting mad.

[0:39:38.4] Jesse Wegman: And they're looking for people to blame. And they're going after the merchants, the elites of the city. Wilson, by this time is a very accomplished, a very well paid and a very respected lawyer. He's one of the most respected in the country, as I said at the beginning. He lives in this house on the corner of Walnut and South third streets in Philadelphia. It's a very nice house. It's a big brick house, I think three stories, maybe four stories. And he's well known as one of the members of the city's elite. So this mob comes looking for... They start... They pick up a few other guys on the way, but they are headed to Wilson's house. Wilson gets word that they're headed to his house. They come, they attack his house, there... So he cordons himself off in the house with a group of his peers, about two dozen of them. They lock the doors, but then someone opens the window on the second floor, leans out, yells at the crowd. A gun is fired. That man, Captain Campbell is his name, gets shot and killed. The fighting begins. They knock down the doors. There's people charging up the stairs trying to grab Wilson, pull him down.

[0:40:48.0] Jesse Wegman: I mean, he's basically on the edge of being pulled out and killed. He manages to escape. He leaves the city for several days. He doesn't return. His family... He's already moved his family out. Robert Morris, one of the other nation's founders, has taken his family to a country house to just keep them safe. He has, I think three or four children by this point, with his wife, Rachel. But what was shocking to me about this whole incident is that this is the most shocking attack of the founding era. I mean, the founders are truly shaken by this. Right? This is several years before Shays' Rebellion, which is one of the triggers of the Constitutional Convention. And I think they were just so startled by the intensity and the ferocity of the attack, they didn't quite

know what to make of it. What was amazing to me about this is Wilson is a guy who comes into this, as we talked about now, quite a bit, as the primary promoter and advocate of the popular rule, popular self rule, the people's power, the fact that regular people should have all the power to decide what happens, how government runs, who serves in government, all of this.

[0:41:56.6] Jesse Wegman: You could very easily see Wilson coming out of a near death experience at the hands of an angry mob and saying, you know what? Enough of it, I'm done. Like that's... I was wrong. That is not the right way to build a government. Certainly many of his peers thought that from the start, right? They did not trust the people. There's a lot of mistrust of regular people threaded through the founders' writings and their speeches. Wilson comes out of the Fort Wilson riot, shakes the dust off and says, bring it on. He wants more. He doubles down on his commitment to popular sovereignty and democratic self rule. At the Constitutional Convention, as Bill has explained and as I have explained, Wilson is the foremost advocate for popular self rule and popular sovereignty. And that I think was what really drew me to his story. I was like, why is this guy who is so, you know, so commit... How is this guy so committed to popular self rule even after he nearly loses his life to a mob? And you know, I think some of it has to do with the fact that he lived so much in his head.

[0:43:07.4] Jesse Wegman: Wilson is a... Wilson was a complicated guy and a difficult guy. I think he was an awkward, somewhat aloof figure. He was not politically savvy in the way some of the other founders were. And I think that also contributed to the lack of his appeal. People didn't really get to know him, they didn't really like him when they met him. And I think these are the things that are swirling around as the attack happens and then the aftermath. But Wilson is really someone who is so committed in his mind to the right way to design a government that not even a brutal attack like the Fort Wilson riot is gonna stop him. But I will say that the last point I will make is, Wilson did oppose certain things about the way that people would try to design government that I think didn't endear him to those people. So the most obvious example of this is the Pennsylvania Constitution of 1776. Right at the same time that the Declaration is being drafted and voted on in the states or in the colonies at the time, you have Pennsylvania drafting what became the most democratic constitution of that era or of any era.

[0:44:24.0] Jesse Wegman: And it's famous for its emphasis on democracy on, you know, it has only a single unicameral legislature, it has essentially no executive, it has very weak courts. Wilson was horrified by this. As someone who actually did believe in popular sovereignty, he saw the Pennsylvania's Constitution as being actually a threat to popular sovereignty. He saw it as being a doorway to tyranny. And so he fought very aggressively against it. His vision was one rooted in popular self rule, but the people saw it at the time as, oh, he's not really a Democrat, he doesn't... He's not one of us. If anything, he's a Tory sympathizer. He's secretly protecting the British from independence. And so I think he did things like that that you can understand today, we can understand today as very much a part of his larger vision. But at the time, it did not work in his favor as a man of the people.

[0:45:26.7] Julie Silverbrook: Will, is there anything you want to add to that episode or his unpopularity?

[0:45:32.7] William Ewald: No, I think that pretty much sums it up. He was the populist who

almost got himself lynched, and he also... He was quite aloof. And I think people looked at him, they said, well, he's rich. He must be on the side of the rich and against the people. And that didn't begin to change, really, until he worked with the more populous members of Pennsylvania politics on the 1790 Pennsylvania Constitution. And they sort of looked at one another and said, oh, Wilson, he doesn't believe what we thought he believed. And he becomes much more accepted than he had been previously. At any rate, the attempts of burning him in effigy or lynching him, those receded into the background.

[0:46:20.8] Julie Silverbrook: So don't judge a founder by his nice brick house, I guess, is the takeaway for that portion of his life. We've talked a lot about Wilson as a statesman and a political theorist. But, Jesse, you open your book and you talked about this a little bit at the outset, with Wilson in a very different position toward the end of his life, where he's on the run from creditors, he's living in a shabby tavern, he's very far from Philadelphia. How did a founding father and a Supreme Court Justice end up there? And what led to such a dramatic reversal of fortune? And I do feel like when I read the opening of your book, just that narratively, people love gossip and difficult endings and that that in and of itself should make people want to learn more about Wilson, because what a kind of crazy way to end an otherwise pretty illustrious career.

[0:47:19.8] Jesse Wegman: Yeah. And that was widely noted at the time by his exhausted peers, who were, as I said earlier on, I think, if anything, relieved that he was now out of the picture. The reason Wilson was hiding in the back room of a tavern in Coastal North Carolina in the... For the last year of his life with his wife tending to him, is that he was in, he was essentially bankrupt. He was in massive debt. And the reason he was in massive debt was because he was a compulsive land speculator. You know, he... Land speculation was a very common practice among the... In the founding era. Many of the other founders, George Washington included, engaged in it. Nobody engaged in it with the tenacity or the sort of boldness of Wilson. Wilson at one point owned as many as four million acres of land, that is the size of modern day Connecticut. It is a lot of land in the early republic. And Wilson himself was just... Today he would be diagnosed as a compulsive gambler. He was so addicted to the selling and buying of land to... He was so over leveraged that he basically got himself into a debt that he could not climb out of.

[0:48:37.1] Jesse Wegman: And with the economic crisis of the mid-1790s, creditors came calling and Wilson did not have the money to pay. He was thrown in jail at least twice, once in Philadelphia, again in New Jersey, and then possibly again in North Carolina, although that's less clear from the record. He had to write his son beseeching him to bail him out. This is a sitting Supreme Court Justice, by the way, the only Supreme Court Justice who's ever gone to jail. And his son had to come and bail him out and bring him clothes because he didn't have anything. And so this is why Wilson through the 1790s, while he is a Justice on the Supreme Court, while he's delivering this remarkable set of law lectures, is digging himself in a hole that he can never get out of. And Wilson's sort of attachment to that life of land speculation, of growing his own empire, even as he is developing this new nation, it seems kind of contradictory to us maybe, but I think there's an interesting case to be made and some scholars have made it, that it's sort of intertwined. It all connects back to his Scottish upbringing and to sort of Enlightenment, Scottish Enlightenment beliefs that virtue, the sort of democratic virtue that we need to be citizens in a self governing republic and sort of the commerce, right, the back and forth of commerce and of... And business, those two things are... Go together.

[0:50:05.5] Jesse Wegman: They are not opposed as a lot of earlier thinkers believed. They are actually connected. And so you can see a way in which Wilson saw this all as part of the same project. He would do good by doing well. And I think that is really what the story becomes in the last decade of his life. It wasn't just about his bank account. It was also about the collapse of his entire... His integrity. This is a guy who designed the nation, was central to designing the nation. And yet as a Supreme Court Justice, he's petitioning Congress on behalf of land companies, that he has a major stake in. Right. This is... I mean, even putting aside the ethical questions of Justices on the court today, this is a... Just completely shocking thing for a Justice of the Supreme Court to do. And yet Wilson was so wrapped up in his own, you know, in his own compulsion that he couldn't stop doing it. So it's really a sad ending to this story. And it's really, as Bill said earlier, the major reason why Wilson is not part of our narrative today.

[0:51:11.1] Julie Silverbrook: Bill, is there anything you want to reflect on about his last chapter? And I don't want to end on Wilson's last chapter because I think it's a part of the reason why we don't focus enough on him. I want to lift us up a little bit before we end.

[0:51:23.9] William Ewald: Yeah. I'd add one observation. So the principal creditor who was chasing him to ground in North Carolina was also a delegate at the Constitutional Convention. Pierce Butler from South Carolina. Pierce Butler was the architect of the Fugitive Slave Clause. He was the most ferocious defender of slavery. This whole episode seems to me a useful warning against romanticizing the American legal system of the 18th century, is there were two things. If you look at Wilson's death, there were kind of two things that the American legal system was really concerned with. One was, tracking down Pierce Butler's runaway slaves. The other was, throwing Wilson into prison for debt. So anybody who wants to return to the 18th century ought to reflect on the way in which one of the principal architects of the Constitution was treated by the system.

[0:52:30.5] Julie Silverbrook: Well, I want to end with one, I... We should definitely, you should definitely want to check out Wilson because he has a somewhat salacious and interesting story and worth reading for that. But I want to end on a higher note and talk a little bit about Wilson's life and legacy, particularly as we're celebrating the nation's 250th. I'll start with you, Jesse. What does Wilson's... What do Wilson's ideas teach us about the challenges and possibilities facing American democracy today? And then, Bill, I'll pose that same question to you.

[0:53:07.4] Jesse Wegman: Yeah. So I wrote this book from a place of wanting both to understand the nation's origins better and more fully and to think ahead to how do we now move into our second quarter millennium, especially at this really, I think, tense and fraught moment for democracy. And the book, by the way, I hope you will buy it and read it. It comes out June 23rd, just in time for the Sesquicentennial observances on July 4. But the story of James Wilson that I tell in the book and that I want to kind of, to weigh with... To sit with people here is, is a story of what America might have been and what it still could be. It's a lesson in, I think, how much we miss by erasing someone like him and his ideas.

[0:54:05.3] Jesse Wegman: We are in this really, I think, difficult period where we're debating whether we are still or could ever be a democracy. And this idea that the people are the ultimate sovereign, that is at the heart of James Wilson's vision for America, a directly elected president,

directly elected Senate, a Congress based on proportional representation. These are the things that I think he saw as essential to having a functional republic. And we have not really achieved many of them. So I think Wilson still holds out the promise of what we could be, and that is a democracy. To those who say, well, we're a republic, not a democracy, including members of Congress who should know better. Wilson's life story and his ideas are, to me, the answer. As I said, we're talking about the founding of the country and we're talking about the future of the country. And to me, Wilson ties those two things together in a way that none of the other founders is able to do.

[0:55:06.5] Julie Silverbrook: Bill, same question for you to close us out.

[0:55:09.3] William Ewald: I think Jesse just gave a perfect answer, which I cannot in any way improve. So that is where I would end it.

[0:55:17.8] Julie Silverbrook: Perfect. You can do what my husband does when I speak, which is to just say ditto and we'll end it there. Well, thank you so much, Bill and Jesse, for joining us today. Please do read Jesse's excellent book, *The Lost Founder: James Wilson and the Forgotten Fight for a People's Constitution*, which comes out in June. Studying figures like Wilson who have been overlooked is really critical, I think, to deepening our understanding of the Constitution itself and who we are as a self governing people. And so I hope as you mark America's 250th anniversary with us, you'll return to these figures, to the debates over our constitutional system of government, and hopefully see our constitutional tradition today with greater clarity and humility and with a deeper commitment to the next 250 years as we celebrate the last. So thank you all so much and Bill and Jesse, we hope to have you guys both again as we continue our Semiquincentennial celebrations. Thanks so much.

[0:56:16.3] William Ewald: Thank you.

[0:56:17.1] Jesse Wegman: Thank you.

[music]

[0:56:22.9] Julie Silverbrook: This program was live streamed on January 20, 2026 as a part of the America's Town Hall Series. This episode was produced by Bill Pollock with production support from Scott Bomboy and Lisa Marie Patzer. Research was provided by Anna Salvatore, Trey Sullivan, and Tristan Worsham. Please follow, rate and review, We The People, wherever your listen. Sign up for our newsletter at constitutioncenter.org/connect. The National Constitution Center is a private nonprofit. We rely on your generosity, passion and engagement for all of our programming. Please consider donating at constitutioncenter.org/donate. On behalf of the National Constitution Center, I'm Julie Silverbrook.