

JAMES WILSON (1742–1798)

The happiness of the society is the first law of every government.

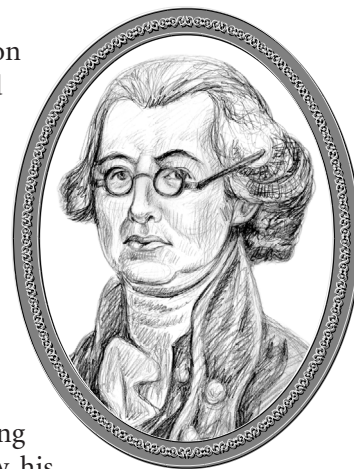
—James Wilson (1774)



The six-foot tall, bespectacled delegate to the Constitutional Convention returned to his home state of Pennsylvania and faced the gathering crowd in the State House yard. The group that gathered to hear his remarks was larger than he anticipated. Having just returned from helping draft the new nation's Constitution, James Wilson knew it would be his job to respond to criticisms of the proposed new government.

Wilson was a staunch supporter of the new Constitution. He was sure of himself and his opinions about the document. He also knew his strong opinions had gotten him into trouble in the past. Wilson had been recalled from Congress ten years earlier for forcefully opposing some features of the proposed Pennsylvania state constitution.

He had served his state well at the Constitutional Convention, putting his well-known analytical skills to work. And ultimately, Wilson knew his audience realized he would tell them the truth, without mincing words or hedging his ideas. He drew in his breath and began his speech.



Background

James Wilson was born near St. Andrews, Scotland, in 1742. He immigrated to America in 1765 and settled in Pennsylvania. He worked briefly as a tutor at the College of Philadelphia (now The University of Pennsylvania) before joining the law firm of John Dickinson. Dickinson was a respected lawmaker in Pennsylvania and early opponent of British policies in the colonies.

Wilson gained knowledge and skill during his time at Dickinson's office. In 1768 he began his own practice in Reading, Pennsylvania. He married Rachel Bird in 1771 and they would have six children together. Wilson's law practice enjoyed success. However, the newlywed lawyer saw a chance to make money in land speculation. He borrowed money to buy land, hoping to sell it later at a higher price.

Wilson's standing grew over the next few years as he became more involved in politics. In 1774, he became chairman of the Carlisle Committee of Correspondence. This group served as an underground forum for anti-British discussion. In 1774, Wilson published *Considerations on the Nature and Extent of the Legislative Authority of the British Parliament*. He argued that Parliament had no power over colonial activities—especially taxation—without representation. A wide audience read the essay and James Wilson was established as a Patriot leader in Pennsylvania. He served in the Second Continental Congress and signed the Declaration of Independence.

Radical Ideas: Power to the People

Wilson reached the height of his career at the Constitutional Convention in 1787. The strong-willed leader campaigned for the popular election of the president. The opposition, however, wanted the state governments to control the process.

During the Constitutional Convention, Wilson spoke out for popular sovereignty in all areas of the new government. His emphasis was on the development of the executive office, the election process, and fair representation. He argued that, with the signing of

the Declaration of Independence, the states gave up their power to the people. Wilson's defense of popular sovereignty set him apart from some of the more reserved advocates of republican government in the United States.

Wilson's position that the new national government should be based on popular sovereignty and not state sovereignty represented a significant shift from the situation that existed under the Articles of Confederation. Some major figures from the Founding period, such as Patrick Henry and Thomas Jefferson, disagreed with Wilson and continued to argue long after the Convention that substantial power should be reserved to the individual states.

Wilson is credited with forcing a compromise that resulted in the creation of the Electoral College. This system combined state selection of representatives and proportionate representation. The Electoral College thereby made sure that state governments would not have complete or direct control over elections.

Once the Constitution was proposed, Wilson returned to his home state to assist in the process of ratification. Wilson addressed several issues surrounding the Constitution in his State House speech in October 1787. Opponents of the Constitution complained that the document lacked a bill of rights. Wilson argued that a bill of rights was not needed because the people kept powers not clearly granted to the government.

He confessed that the Constitution was not exactly as he would like it. He asserted, however, that the document, taken as a whole, was as close to perfect as possible. He said, "I am satisfied that anything nearer to perfection could not have been accomplished." In part because of his support, Pennsylvania became the second state to approve the new Constitution.

The influence of his words was not limited to his home state. His 1787 speech was published and read widely in the new nation. Historians call it one of the most influential documents of the ratification debate.

Justice Wilson and Popular Sovereignty

In 1789, President George Washington appointed Wilson Associate Justice of the first Supreme Court. The forty-seven-year-old Wilson had lobbied for the position of Chief Justice. However, Washington gave that honor to John Jay. The new president believed Wilson to be an excellent lawyer and statesman, but a lack of tact and consistent bad investments had stained his reputation.

Wilson rendered his most influential opinion in *Chisholm v. Georgia* in 1793. He established that a citizen of one state could sue the government of another state. In 1795, however, the Eleventh Amendment overturned the decision.

Professor of Law

During the same time period, Wilson served as the University of Pennsylvania's first professor of law (1790–1791). He lectured on the basic principles of what would become the American system of jurisprudence. Through these lectures, Wilson continued to stress the sovereign power of the people. He used the symbol of a pyramid to illustrate his point. A nation that puts government before the people (reversing the pyramid) will surely collapse.

Wilson also lectured on cruel and unusual punishment as set forth in the Eighth Amendment. Wilson affirmed that, while unpleasant to consider or enforce, criminal law prevents crime. He listed three qualities of effective punishment: moderation,

speediness, and certainty. He believed that a humane and civilized nation must treat criminals in humane and civilized ways.

Debt and Death

Wilson's legal profession thrived, but he fell further into debt with each land speculation. He experienced tragedy in his personal life. His wife passed away in 1786. He remarried and had one son who died in infancy. By the 1790s he had made too many bad investments. His creditors demanded repayment of hundreds of thousands of dollars in loans. While still serving on the Supreme Court he spent time in debtor's prison, from which he escaped twice. Distraught over the state of his finances and fatigued by two decades of labors on behalf of the new republic, he passed away in 1798 in Edenton, North Carolina.



Reading Comprehension Questions

1. What argument did Wilson present about the Constitution to the Pennsylvania State House in 1787?
2. What compromise is Wilson credited with regarding presidential election procedure?
3. What judicial appointment did President Washington give James Wilson? Was this the office Wilson truly desired?

Critical Thinking Questions

4. Why was Wilson's philosophy of popular sovereignty a radical idea?
5. At the time of the Founding and perhaps into the twentieth century, Americans tended to think of themselves as citizens of their individual state. Do you think of yourself as, for example, a "Texan," a "Floridian," or as an "American"? Or as both? Neither? Explain your reasoning.