James Wilson, one of the most formidable minds among the American Founders, was born in Scotland in 1742 and landed in America in 1765, at the time of the crisis over the Stamp Act. By that point he had already been to the university at St. Andrews. And there he would absorb deeply the writings of Thomas Reid and the school that marked the “Scottish Enlightenment.” The references to Reid would later form a critical thread in Wilson’s elegant Lectures on the Law, woven in with references in Greek. He was, at that time, a member of the first Supreme Court, and in these lectures he truly took his students back to “first things,” to the first principles of political life and a regime of law.

Wilson understood, along with Aristotle, that only a certain kind of creature was fitted by nature for political life, the life marked by the presence of law. Law was binding; it created an obligation to obey. But only one kind of creature could understand what it meant to bear an obligation. Whether it was an obligation to keep a promise or a contract, it meant a willingness to honor a rule, or respect an agreement, even if one did not find it congenial or convenient. Only one kind of creature could frame propositions, articulate “principles,” and give and understand reasons over matters of right and wrong.

In his lecture on “Evidence,” Wilson began to unfold for us nothing less than a democratic “epistemology.” For he managed to show, layer by layer, what had to be understood by that ordinary man, that biped who conjugated verbs, who put himself under the rule of law. Laws often required trials, with accusers and defendants, and verdicts would depend on “evidence.” But what was “evident” in turn depended on what that ordinary man was able to understand.

Wilson drew us back to a sense of “natural” knowledge and natural language. Wherever humans are, they can tell the difference between the looks of approval, joy, approbation, and the looks of disapproval, anger, threat. It became plausible to ask: When the actor Robert Blake heard that his wife had been murdered, had his face reflected shock, despair — or indifference? There was an interesting disposition on the part of humans to testify to what they had seen and heard — and to speak the truth. We stop to ask directions, and it’s almost always the case that the people offering the directions tell the truth. They may misdirect us, but they almost never betray a malicious willingness to mislead.
It is also one of the most enduring – and overlooked – parts of our nature that we seek the guidance of people who know more than we do, and we have reason to defer to their authority. The English writer, Anthony Daniels, recalls a conversation, on a plane, with a woman who professed to reject the authority of the Church because she rejected authority in principle. "So you don't mind," he said, "if I now go to the cockpit of this aircraft and take over the controls." She protested that there was a difference, for the authority of the pilot was based on experience and proper certification. "And who," asked Daniels, "certified his knowledge and experience?" Who, if not people we thought competent to make that judgment?

We think we know that Napoleon was defeated at Waterloo even though none of us was there to see it happen. We trust the documentary record composed by those who did see it and who confirmed, in different ways, the truth of what occurred. The legendary Samuel Johnson curiously moved along the same path in a conversation with his gifted young friend, James Boswell. The Seven Years War had just ended, in 1763, and Johnson imagined a man who denied that the British had taken Canada. After all, the French were more numerous – why should he believe that they were defeated in Canada? The government reported that the British forces had prevailed in Canada, but the war was expensive, and the ministry might wish to pretend that "we have got something for our money." Thousands of men fought in America, but they may tell tales, and they don't want us to believe that the French got the better of them. "Yet," said Johnson, "notwithstanding all these plausible objections, we have no doubt that Canada is really ours. Such is the weight of the common testimony. How much stronger are the evidences of the Christian religion."

That eminent lawyer, Robert Bork, once remarked with his lawyer's eye that the critical point was whether Jesus died and yet came back from the dead. If that happened, as Bork put it with a telling understatement, implications do flow from that point. When Jesus appeared again after he was buried, he elicited doubt even among the faithful. As James Wilson noted, he invited Thomas to seek the evidence of his senses by touching his wounds. The followers of Jesus, men anchored in the world of work with their hands, were not exactly a credulous lot. And yet, what they saw jolted them, and their lives would never be the same. It was the most direct evidence, the evidence of the senses, joined to the powers of inference; and from that point, grounded in things so elementary and true, the implications began to unfold, as they are unfolding even now.

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