The American Revolution was a world-historical event, widely recognized as such at the time in Europe as well as North America. In consequence, the process of constitution-making in the American states gave rise to a great deal of discussion in England and on the European continent; and it was in response to this that John Adams penned his three-volume *Defence of the Constitutions of Government of the United States of America* in the late 1780s. It should, then, be no surprise that the news that a convention was to be held in Philadelphia in the summer of 1787 to frame a new constitution for the American confederation stirred even greater interest.

Though stationed abroad as ministers, Thomas Jefferson in Paris and Adams in London faced frequent inquiries. Ill-informed initially concerning the Federal Convention, they were no less attentive to unfolding developments than were their compatriots back home. When Jefferson learned the delegates’ names, he rejoiced, describing the gathering as “an assembly of demigods.” When Adams reflected on the Convention’s achievement a few months after its conclusion, he was in high spirits. “The conception of such an idea,” he wrote, “and the deliberate union of so great and various a people in such a plan, is, without all partiality or prejudice, if not the greatest exertion of human understanding, the greatest single effort of national deliberation that the world has ever seen.”

Alexander Hamilton made the same point in *The Federalist*:

It has been frequently remarked that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force. If there be any truth in the remark, the crisis at which we are arrived may with
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propriety be regarded as the general misfortune of mankind.

James Madison shared the opinion voiced by Adams, Wilson, and Hamilton. In *The Federalist* he noted that "in every case report-ed by ancient history, in which government has been established with deliberation and consent, the task of framing it has not been committed to an assembly of men, but has been performed by some individual citizen of pre-eminent wisdom and approved integrity." Then, after alluding to the tales told regarding Minos, Zaleucus, Theseus, Draco, Solon, Lycurgus, Romulus, Numa, Tullus Hostilius, Servius Tullius, and Brutus, he expressed his admiration for "the improvement made by America on the ancient mode of preparing and establishing regular plans of government."

Madison never changed his mind. He knew better than to suppose that he was himself America's Lycurgus—"the father of the Constitution." He had played an outsized role in rallying support for summoning a convention, in studying ancient and modern confederacies, in ruminating on the American confed-eracy's defects, and in pondering the means for rectifying the situation. In concert with his fellow Virginians, he had managed to set the agenda for the gathering. But, although he had actively participated in the deliberations, his counsel on matters he considered quite important had often been rejected. To his dismay, his fellow delegates had opted to have the Senate chosen by state legislatures and to provide for equal representation in that body from each of the states; they had rejected the institution of a council of legisla-tive revision made up of the executive and select members of the judiciary; and they had denied to the federal government a veto over state legislation.

Despite his disappointment, Madison fought for the instrument's ratification. He had enormous respect for his colleagues, and was even prepared to contemplate the possi-bility that their collective judgment was supe-rior to his own. "There was," he wrote near the end of his long life, "never an assembly of men, charged with a great & arduous trust, who were more pure in their motives, or more exclusively or anxiously devoted to the object committed to them, than were the members of the Federal Convention of 1787, to the object of devising and proposing a constitutional system which would best supply the defects of that which it was to replace, and best secure the permanent liberty and happiness of the country."

If I belabor what ought to be obvious—the significance of the American Constitution—then if I go to what might seem inordinate lengths to show that its significance was widely recognized at the time, it is because Mary Sarah Bilder seems unaware of the latter fact, and her ignorance in this particular leads her astray. Her book, *Madison's Hand: Revising the Constitution*al Convention*, focuses on the rough notes Madison jotted down concerning the deliberations that took place at the Convention and on the stages by which these notes were turned into a polished, published report. As she observes, what we can, in fact, surmise concerning those deliberations we are aware of in large part because of Madison. Others for a time took notes, but their efforts were haphazard. Madison's were anything but. If Bilder badly misjudges the Virginian's aims in this particular, it is because she ignores his testimony and that of his contemporaries with regard to the significance of the constitution-making process.

Like a prosecutor trying to pull a fast one, Bilder simply suppresses the exculpatory evidence fatal to her case.

Bilder's misjudgment reflects her discipline's narrowly parochial interest in the Convention. A Boston College law professor, she is far less curious about the history of the American Revolution and the early republic than about the role that Madison's notes eventually came to play in constitutional interpretation. Thinking that Madison had the mindset of a 21st-century law professor, she asserts that, in the summer of 1787, he cannot have supposed that he and his fellow delegates were engaged in an endeavor of profound importance worth cataloguing in detail:

Madison did not take his notes because he wanted to have a record of the proceedings of the Convention that wrote the Constitution. This implicit assump-tion that his audience must have been us appears in accounts of the Convention and of the Notes. As a recent introduc-tion explains, "Inspired by a keen sense of history-in-the-making, he decided to keep detailed notes of the entire proceedings." But Madison did not know that they were going to write the Constitution.

From an accurate observation—that no one knew at the time whether their joint enterprise would succeed—Bilder draws a conclusion that does not follow: "The significance of the Con-vention was only obvious in retrospect."

Had Bilder written "full significance," she would have been closer to the truth. But had she carefully qualified her claim in this fashion, she could not have denied that Madison was inspired by the conviction that what he and his colleagues were up to was of great histori-cal importance. Nor could she have asserted that he took his notes first and foremost for his own strategic use as "a legislative diary" or aide-memoire and secondarily as a source of infor-mation for his friend Thomas Jefferson, while firmly denying that the young statesman did so from the outset with an eye to posterity.

At times, especially when she is examining the stages by which Madison's rough notes were revised, Bilder's "biography of the Notes" reads like a scrupulously careful, scholarly attempt to get at the truth. At other times—above all when she tries to chart Madison's aims and to characterize the revisions he made—her book reads like a lawyer's brief. In these circumstances, like a prosecutor trying to pull a fast one, she simply suppresses the exculpatory evidence that is fatal to her case.

Her treatment of Madison's own testimony concerning his aims tells the tale. If scholars have long as-sumed Madison as note-taker was "inspired by a keen sense of history-in-the-making," it is because, in the preface he prepared for the published work, he tells us as much himself:

The curiosity I had felt during my re-searches into the History of the most distinguished Confederacies, particularly those of antiquity, and the deficiency I found in the means of satisfying it more especially in what related to the process, the principles—the reasons, & the ant-icpations, which prevailed in the for-mation of them, determined me to pre-serve as far as I could an exact account of what might pass in the Convention whilst executing its trust, with the mag-nitude of which I was duly impressed, as I was with the gratification promised to future curiosity by an authentic exhibi-tion of the objects, the opinions & the reasonings from which the new System of Gov[ernmen]t was to receive its pecu-liar structure & organization. Nor was I

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unaware of the value of such a contribution to the fund of materials for the History of a Constitution on which would be staked the happiness of a people great even in its infancy, and possibly the cause of Liberty throughout the world.

Bilder never mentions this passage, but she cannot have been blissfully unaware of its existence, for she quotes liberally from the next two paragraphs of Madison's preface, in which he writes:

In pursuance of the task I had assumed I chose a seat in front of the presiding member, with the other members, on my right & left hand. In this favorable position for hearing all that passed, I noted in terms legible & in abbreviations & marks intelligible to myself what was read from the Chair or spoken by the members; and losing not a moment unnecessarily between the adjournment & reassembling of the Convention I was enabled to write out my daily notes during the session or within a few finishing days after its close in the extent and form preserved in my own hand on my files. In the labor and correctness of doing this, I was not a little aided by practice, and by a familiarity with the style and the train of observation and reasoning which characterized the principal speakers. It happened, also, that I was not absent a single day, nor more than a casual fraction of an hour in any day, so that I could not have lost a single speech, unless a very short one.

Bilder's failure to address Madison's forthright statement concerning his purpose is shocking—for, though there were others at the Convention who occasionally kept legislative diaries for their own use, there is not a shred of evidence that this was ever Madison's aim. He had done the like at meetings of his own enterprise, supplied him with copies or outlines of the speeches they had delivered, and he incorporated these in his notes. In the time subsequent to the Convention, this task came to occupy him again when he borrowed and copied the official journals of the Convention and then inserted information from the journals into the semi-polished version of his notes. And it occupied him again later in life when he revised the notes one last time in preparation for their publication. The only plausible justification for engaging in so great an effort is the one Madison provided in his preface; and the fact that others supplied him with pertinent materials suggests that they were fully aware of the historical character of his project. The "biography of the Notes" supplied by Bilder refutes the hypothesis she advances and confirms Madison's own claims regarding his purpose.

The remainder of Bilder's argument—that Madison as a reporter of the proceedings was anything but objective and impartial—collapses when one recognizes that his primary aim was not strategic, as Bilder repeatedly asserts, but historical and that from the outset he was genuinely interested, as he claimed, in providing future generations with an accurate record of the deliberations that had given rise to a frame of government for the world's first modern republic.

I do not mean to suggest that Madison never erred. He was not a stenographer who recorded, then reported word for word what was said, and surely, in the heat that beset Philadelphia in the sultry summer of 1787, he sometimes nodded. Moreover, though he may have listened to nearly every speech, he was undoubtedly selective, and he was perfectly prepared to summarize. His aim was not unlike that of Thucydides. In picking and choosing what to report, he attended chiefly to the speeches that mattered the most; he extracted and, in deciding what to omit, he exercised his judgment. The value of his account is like the value of any historical account—a function of the author's attentiveness and discernment. Was there anyone at the Convention who combined these two qualities as well as the young man from Virginia who had played so signal a role in promoting that assembly and in setting its agenda? I think not.

Bilder's favorite example, which has to do with George Washington's election as the Convention's presiding officer, is not persuasive. Here is what Madison recorded:

"[Washington's] nomination came with particular grace from Penna, as Docr. Franklin alone could have been thought of President [illegible words] of obtaining the [illegible word] of Genl. Washington. The Docr. was himself to have the nomination of the Genl. but the season of rain did not permit him to venture to the Convention chamber."

There is nothing catty about this. Franklin was old, obese, and ill. We learn later that he was still able to write our speeches on various topics, but that he did not have the stamina to stand up and deliver them himself (James Wilson did so on his behalf). Madison's account of Washington's selection is not a dismissal of Franklin. It is a nod to him, a gesture of respect, and a gentle indication of the reasons why he could not have presided over such an assembly. The fact that Madison gave Franklin the final word at the Convention is an even more emphatic expression of respect. Towards the great men of the previous generation, the 36-year-old Virginian was more apt to display deference than to play the cat.

The task Madison took on was immense. When he later told a young friend that "the labor of writing out the debates...almost killed" him, he was no doubt exaggerating. But that he found it taxing we need not doubt. During the Convention, it occupied him not only during the sessions but also in his free time. Sometimes others, aware of his enterprise, supplied him with copies or

Given what she learned concerning the process by which Madison distilled the surviving notes from the rough notes he took on the Convention Floor and then polished and rewrote the former for publication, Bilder might have dedicated the remainder of her book to an examination of Madison's final report as a literary composition and to a study of what its author meant to teach us concerning the founding of a republic and the human capacity for rational deliberation. Paul Eidelberg did something of the sort in The Philosophy of the American Constitution (1968), which goes unmentioned in Bilder's bibliography, and the year before Bilder's book came out Gordon Lloyd laid the foundation for further work by publishing Debates in the Federal Convention of 1787 by James Madison, a Member (2014), a careful transcription of the version that Madison himself prepared for publication.

Instead, however, Bilder produced a second lawyer's brief—one designed to persuade her readers that the Virginian had a nasty disposition and was an unscrupulous partisan. Here again her treatment of the evidence leaves much to be desired. She tells us, for example, that in the notes Madison appears "on occasion catty, aggravated, frustrated, annoyed, and even furious." That he experienced disappointment is, indeed, obvious. But that Madison was catty is not at all clear.

In a similar spirit, Bilder tells us that Madison spoke "dismissively" when—after reporting that the delegates from New York and Connecticut sup-
ported the New Jersey Plan for one reason and those from New Jersey and Delaware for another—he observed that Luther Martin of Maryland “made a common cause on different principles.” Here again Madison is simply conveying the truth. Martin, who comes across as a man of considerable intelligence and eloquence in the remarks Madison reports, was a hardcore defender of state sovereignty. The delegates from New Jersey and Delaware were angling for equal representation in the Senate, and those from Connecticut eventually rallied in support of the constitution on which the Convention settled. No one ever supposed that Martin would do the like. Madison was more than capable of treating with respect those with whom he was at odds.

Bilder also accuses Madison of outright dishonesty. Madison recorded his semi-polished notes on fine paper produced by the English papermaker James Whorman, which he appears to have acquired in the aftermath of the abortive Annapolis Commercial Convention. Interspersed among these bifolia are a handful of sheets of paper of a different provenance which Madison appears to have made use of after he borrowed and copied the journals of the Convention. On these interspersed sheets, Madison recorded a number of the more important speeches that he had himself delivered at the Convention. Bilder regards this as highly suspicious. She treats the sheets inserted as replacement sheets, and she draws attention to discrepancies between what others who took notes on particular days record Madison as saying and what he himself records. It is her claim that he falsely attributed to himself arguments better suited to the partisan political atmosphere of the 1790s than were in the speeches he actually delivered.

This assertion, like Bilder’s other more provocative claims, does not stand up to scrutiny. Had Madison really wanted to downplay the distrust of state governments he displayed at the Convention, he would certainly have done so in a more systematic fashion. No one who reads his semi-polished notes can fail to discern the gulf that separated the man who, at the Convention, favored giving the federal government a veto over all state legislation from the man who drafted the Virginia Resolutions in 1798.

Any case, Madison was too busy speaking on the floor of the Convention to be able to make rough notes of what he himself said at the time. In the pertinent cases, he may well have outlined his talk before he delivered it; and, under the pressure of time, he may have simply retained the outline (which would be clearer and more substantial than his rough notes), intending to copy it out more fully later and then to insert it (as he did). The fact that no such outlines survive means nothing. Once copied, they would have been discarded—as were Madison’s rough notes.

The notes taken by Robert Yates, William Pierce, Rufus King, James McHenry, John Lansing, and the like regarding particular speeches were nearly always shorter than the versions recorded by their more diligent colleague. With regard to Madison’s speeches, the discrepancies are apt to reflect a lack of interest on their part in much of what the Virginian said or an interest in passing remarks he regarded as inconsequential. One cannot properly say, as Bilder does, that King and McHenry did not “hear” Madison say something in a speech that the Virginian records when King’s account of what was purportedly a long disquisition consists of a single paragraph and McHenry summarized the Virginian’s intervention by appending the following to his report of another speech delivered by Gouverneur Morris: “Mr. Maddison supported similar sentiments.” In short, it is not Madison who merits distrust. It is the author of Madison’s Hand.

Bilder’s account of the stages in which Madison’s report gradually took shape may well be accurate, and she is surely right in supposing that he sometimes stumbled. For example, the speech he claimed to have given on June 6, 1787 was almost certainly a conflation of speeches he delivered on June 4 and 6. Historians seeking to understand what happened at the Convention will want to continue doing what they have long done—which is to read Max Farrand’s classic edition of The Records of the Federal Convention and the supplemental volume added some years back by James Hutson, and to compare Madison’s notes with those taken by others the same day on the presumption that none of the reports is all-inclusive and that something can be gleaned from each and every one of them.

Bilder’s indictment of Madison should be regarded with extreme skepticism. Her judgment of the Virginian’s aims is clearly wrong; she persistently mischaracterizes his tone in what he says regarding his fellow delegates; and the charge of dishonesty that she directs at him is not supported by the evidence she cites. One is left wondering whether any of the suspicions that she voices when she resorts to words such as “perhaps,” “likely,” and “may have” is worthy of consideration. No one should cite as authoritative any controversial claim advanced within this book without closely examining the pertinent evidence.

This is a great shame and a tremendous waste. Bilder is obviously talented, and her investigation has opened up a question of real importance. What, we must ask, are we to make of Madison’s revisions? The posing of this question is an opportunity for a fair-minded scholar blessed with discernment and a literary disposition. My guess, based on passing observations made by Bilder that are in no way related to the various charges she tries to justify, is that we will eventually learn that, as he repeatedly revised his notes, James Madison rendered his colleagues more reasonable and less obstreperous than they really were by separating the wheat from the chaff and focusing on the more compelling of their arguments. If that is what he did, it was a service of sorts—to them, of course, but to us as well. What we would most like to have from the Federal Convention is not a stenographic record of every silly word uttered but what Madison himself claims he strove to provide: “an authentic exhibition of the objects, the opinions, & the reasonings from which the new System of Gov[ernmen]t was to receive its peculiar structure & organization.”

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