Summary of "James Madison, Law Student."

Professor Mary Sarah Bilder's upcoming book, <u>Madison's Hand</u>, explores James Madison's role as a note-taker at the Constitutional Convention. In a draft, Professor Bilder discusses Madison's legal background and how that affected the way in which he took notes. The following is a brief summary of that draft.

James Madison never entered the bar nor held a legal office, but Bilder argues that his experience with the law played an important role in how he developed his unique style of note-taking. Often characterized as a "demi-lawyer," the importance of Madison's legal studies is often downplayed because of a lack of evidence: few notes remain and there is no reading list of notable books Madison would have read. Madison undertook an independent reading of law but within two years, he quit. Having dropped law in 1773, Madison committed most of the next decade to politics. In 1983, however, he returned to legal studies. Bilder cites two theories as to why he returned. The first is a failed romance, but she deems this unlikely. Rather, Bilder argues, Madison returned to the study of law out of a need for an income. As mentioned early, Madison left no reading list behind, but there is reason to believe he took many recommendations from Thomas Jefferson. Bilder concludes that, at very least, Madison read Coke on Littleton, which Madison did record, and probably Blackstone and works on Virginia's laws. By 1985, Madison had completed his readings and chose not to enter the bar, though it is highly likely he could have had he so desired. While some suggest that he was concerned about public speaking or had a general dislike for lawyers, Bilder finds that Madison sought "law through legislation," and that politics were his vocation. By 1786, Madison seems to have quit formal law for good. Madison, unlike Jefferson, was not a meticulous recorder or reading lists or preserver of notes. His Constitutional Convention notes, and more importantly, the style in which he took those notes, are based fundamentally in how Madison took law notes. The primary source for examining his technique is based on the notes about William Sakeld's Reports.

Madison's style of note-taking was a unique take on commonplacing. In commonplace style, one arranges case under alphabetical group of common law summaries. Sakeld used this style of organizing cases by subject and then arranging the "proper heads" alphabetically, and Madison followed suit. According to Bilder, Madison's notes show a "preference for questions of textual interpretation." His writings indicate Madison's fascination by questions of language and semantics. As a process, Bilder lists four components of the commonplace note-taking. Firstly, when it came to storing his notes, Madison showed little interest. In fact, Bilder says it is because of luck that his notes exist because they were so poorly bound. Secondly, Madison did not sort his notes and simply copied Sakeld's organization. As for *selecting* his cases, Madison was extremely selective and chose what he wrote about with care. In addition, his selection shows a core of English law. Madison tended to drop heads that he did consider unrelated to postwar America, resulting a sort of conception of "American law." There are notable omissions, says Bilder: questions about why certain outcomes were achieved and his summaries seem acutely affected by Madison's own personal situation and interests, particularly within the context of Virginia. Finally, when it came to summarizing,

Madison's notes are distinguished by their brevity, inconsistencies and occasional errors. Bilder observes that Madison was clearly not a transcriber and that he was unconcerned with the rationale behind cases. What Madison was very much interested in was the linguistics of the cases and their decisions. As Bilder writes, the notes show a "personal and thoroughly idiosyncratic use of Sakeld's *Reports*." The semantics, strict use of definitions and other manipulations of the words fascinated Madison and stand out in his notes. These tendencies are evident in his notes from the Constitutional Convention.