

some real and some more imagined, some corporeal and some not; and it is a battleground sadly lacking in heroes.

Thirty-five years ago the left found itself in retreat on campus after campus. Today the left has retreated *to* the campus. Perhaps the account of that sea change will someday be told in a sequel to *No Ivory Tower*. In this companion volume, Schrecker's victims will have transformed themselves into Epstein's tyrants. In it, the purged left of the early fifties will have given way to the entrenched left of the mid-eighties. And in it, there will be stories of victims and opportunities for heroes.

Adolfo Calero and freedom of speech are victims in a way that Ralph Grundlach and freedom of silence were not. So, too, is Joseph Epstein a man of courage in a way that Ralph Flanders was not quite. Granted, Flanders and Epstein both raised their voices against the ideological conformists and witchhunters of their respective generations. But Flanders battled only a United States senator who happened to be a buffoon, a sometimes malevolent buffoon, but a buffoon nonetheless. Epstein, on the other hand, has taken on deadly serious enemies within the professoriat. For that considerable task he will require much praise, not to mention a suit of armor and a sense of humor. After all, the seldom gentle university world is no ivory tower.

**DECISION IN PHILADELPHIA: THE CONSTITUTIONAL CONVENTION OF 1787.** Christopher Collier<sup>1</sup> and James Lincoln Collier.<sup>2</sup> New York, N.Y.: Random House/Reader's Digest Press. 1986. Pp. xvi, 331. \$19.95.

**THE FIRST AMENDMENT: THE LEGACY OF GEORGE MASON.** Edited by T. Daniel Shumate.<sup>3</sup> Fairfax, Va.: George Mason University Press. 1985. Pp. 201. \$15.00.

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The bicentennial celebration of the Constitution will probably not be as trying as the observances in 1976 or the centennial rededication of the Statue of Liberty. Toilet seats emblazoned with the

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sacred text are, one hopes, at least as difficult to market as to imagine. For the most part, documents tend not to lend themselves to commercial iconography.<sup>5</sup> They may be objects of respect—usually of a distant, dimly comprehending sort—but they rarely inspire reverence, except among the people who make careers of studying and interpreting them. A few such acolytes, members of the Commission on the Bicentennial of the United States Constitution, are attempting to spread their faith among the general populace. Whether they can beatify a document that spent much of its history in cellar storage is doubtful, but one can only wish them well.<sup>6</sup>

Whatever the Commission does, the most enduring contribution of the bicentennial will doubtless be literary. The past year has brought the reissue of several classic histories of the Constitutional Convention written for general audiences and the publication of at least one new account of note. The decisions on which ones to republish are sometimes surprising. For example, Carl Van Doren wrote *The Great Rehearsal* in 1948 as a lesson to the United Nations that people of different backgrounds and interests could transcend their differences and work together toward common goals. It appears again this year, although whether for its come-let-us-reason-together message or simply to cash in on the bicentennial is unclear. Fred Rodell's *55 Men* has also been reissued, after lying dormant for half a century. Heavy handed and Beardian when first published in 1936, it reads even more so today.

Doyenne of the republished studies is Catherine Drinker Bowen's *Miracle at Philadelphia*, which first appeared in 1966. Bowen wrote more elegantly than Van Doren or Rodell, and she had the biographer's sense of setting and detail—qualities that made her book the producer's choice for a television mini-series this spring.<sup>7</sup> Her account is also relentlessly whiggish, which comports with the enthusiasm of Warren E. Burger's foreword to the bicentennial edition.<sup>8</sup>

Yet if, as Thomas Jefferson suggested, each generation should

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5. For discouraging intimations of a contrary view—one typified by placemats, ashtrays, belt buckles, and copies of the Constitution in cereal boxes—see Farnsworth, *Corporations Gear Up for Constitution Party*, N.Y. Times, Nov. 17, 1986, at D1, col. 1.

6. The Commission, which is long on prominent names and short on historians, faces many of the same problems that plagued the centennial observance in 1887, plus several of its own making. On the 1887 fiasco, see M. KAMMEN, *A MACHINE THAT WOULD GO OF ITSELF: THE CONSTITUTION IN AMERICAN CULTURE* 127-51 (1986).

7. See McDowell, *Once Again, 1966 Work is Book Club's Selection*, N.Y. Times, Sept. 17, 1986, at C19, col. 5.

8. Another member of the bicentennial commission, Charles Alan Wright, wrote the foreword to the new edition of Rodell's book, which presents a rather different assessment of the framers than Bowen's.

write its own history, do we really want Rodell's or Bowen's vision of 1787 to be ours? Although republished in 1986, they speak from rather different times. Of course, few books are "timeless" in any literal sense. Changes in perception and advances in scholarship tend to make most of them artifacts of the times in which they were written or with which their authors most identified. Rodell's crude, class-baiting economic determinism and Bowen's blithe equation of poverty with sloth and idleness reflect more on their worlds than on those of the framers.

It may be that the choice of the Constitutional Convention as a topic—rather than, say, the era of the Constitution—encourages presentist interpretations. After all, as Michael Kammen recently observed, the Constitution attracts the most attention when there is the greatest disagreement over its meaning.<sup>9</sup> What the Constitution "means" is an abiding and, for most people, insoluble question. Since it is usually posed by lawyers and judges for particular current purposes, the answers typically take as their starting point the statements of the framers. Hence they focus on the Convention as a kind of legislative history. But the Convention itself is a rather narrow focus. Historians, in fact, tend not to dwell on the Convention—not because it was unimportant but because the ideas and experiences that shaped the framers' discussions about government had long histories that antedated the summer of 1787. For historians, therefore, the Constitution and constitutionalism are larger, more complex topics than the events that occurred at the Convention.

Writers for lay audiences, however, view the Convention differently. It was, after all, an event. Not just any event, but a gathering of extraordinarily talented and wise men—the likes of whom have never assembled since—who labored to produce a document that continues to govern us two centuries later. With such a distinguished cast gathered in one place for a limited period of time, the Convention had the trappings of drama and portent that encourage inspirational retelling. Yet, because James Madison's notes of the debates comprise virtually the sole contemporaneous account of what transpired in Philadelphia, all narratives of the Convention perforce cover the same ground, even to the same quotations and anecdotes.

## I

### *Decision in Philadelphia: The Constitutional Convention of*

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9. See M. KAMMEN, *supra* note 6, at 3-39.

1787 aspires to be different. The authors, Christopher Collier and James Lincoln Collier, have, like all chroniclers of the Convention, a didactic purpose—to explain “how the Constitution, that rock on which American freedom was built, works, what it means, and why it was put together the way it was.” But they have tried to accomplish more than the already difficult task of telling a good story well. For that more limited narrative purpose, the brothers Collier—one an historian, the other a writer—are amply qualified. Together, they write historical fiction for children, most notably *My Brother Sam Is Dead*, a superb book that evokes what *Johnny Tremain* might have been had Esther Forbes been a better historian with a deeper sense of moral ambiguity.

The Colliers’s larger purpose, however, is to offer a new interpretation of the Convention. Their reading in the secondary literature is extensive, and their efforts to discuss recent scholarship within a popular narrative framework are admirable. Where the Colliers attempt to leave their historiographic mark is in their argument that the delegates

were moved not only by economics, sectional loyalties, theories of government, and ideas about life in general, but also by springs and designs hidden deep in their personalities. . . . We believe that to understand how the American constitution came to be we must know how these men *felt* about such things as power, liberty, nature, truth, God, and life itself. (Emphasis in original.)

Theirs is not a psychohistory, but where others see only anecdotal coloring, the Colliers find explanatory significance—Madison’s shyness and fear of rejection and domination, the pragmatism of Roger Sherman and William Paterson, Elbridge Gerry’s ambivalent fear of both power and chaos, George Mason’s suspicious and misanthropic nature.

Historians, of course, are not oblivious to the influences of character traits on human actions. Biographers are particularly sensitive to such connections. So in one sense what the Colliers propose is not unusual. What is unusual, however, is their attention to the personalities of men who, because of their exalted position in the American pantheon, are generally portrayed as two-dimensional characters—virtuous, to be sure, but still two-dimensional. It is useful to recapture some of the humanity of the framers.

Most narratives of the Convention recount the deliberations day-by-day. But the delegates did not discuss each issue sequentially or completely. They skipped from one point to another and back again randomly and repeatedly. The Colliers make a significant contribution to clarity by recognizing this and structuring their narrative around one issue at a time. This allows them to see more

clearly than other writers the nature of the horse-trading alliance between Connecticut and South Carolina that was instrumental in forging compromises on slavery and foreign trade. Here, they take their inspiration from Staughton Lynd's intriguing but nonetheless speculative argument that key delegates to the Convention and the Continental Congress, which was sitting in New York, worked a deal to exclude slavery from the Northwest Territory but leave it unimpeded elsewhere.<sup>10</sup>

With the emphasis on personalities, it was perhaps inevitable that favorites would emerge. James Madison usually dominates accounts of the Convention for reasons that rest as much on his position as principal interpreter—through his notes and *The Federalist*—as on his role at the Convention. The Colliers, however, would modify Madison's traditional status as "Father of the Constitution," in part because the Convention rejected so many of Madison's basic ideas, but also because of their reproof of Madison for "improving" his notes for publication and, one suspects, to give more due to two favorites, Roger Sherman and Charles Pinckney, important figures who have suffered undeserved neglect.

The inevitable effect of the Colliers's attention to personalities is to demythologize the framers. Not completely, of course, but certainly far more than Catherine Drinker Bowen would have tolerated. Yet it is clear that the Colliers are reluctant demythologizers. They regard the Constitution as the bedrock of American liberty and the system of government it created as basically good. The delegates to the Convention were not ordinary men, and the Colliers repeatedly disavow any implication that they were, however often they demonstrate that these extraordinary men were subject to ordinary impulses.

The Colliers's recognition of the strengths and weaknesses of the framers allows them to concede the strengths and weaknesses of the Constitution—the problems solved as well as the problems bequeathed to future generations. In that recognition lies a respectful realism that makes *Decision in Philadelphia* a more honest offering to the public than the standard hagiography. The Colliers have done an excellent job of presenting the complexities of the Constitution and constitution making to a general audience. The book bears some marks of haste by the publisher, and one may question a facile reliance on modern assumptions of human behavior, but it is well researched and well written. One could do far worse, and in this bicentennial year we undoubtedly will.

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10. See S. LYND, *CLASS CONFLICT, SLAVERY, AND THE UNITED STATES CONSTITUTION: TEN ESSAYS* (1967).

## II

George Mason—whom the Colliers in their personality parade describe as “prickly,” “testy,” “bristly,” “crusty,” and “misanthropic”—is the inspiration for a collection of lectures on the first amendment given at George Mason University. The university is in the middle of a ten-year series of lectures, of which *The First Amendment: The Legacy of George Mason* is the second installment, on the intellectual influence of its namesake. Mason, of course, drafted the Virginia Declaration of Rights, which served as the model for the federal Bill of Rights, the omission of which moved Mason to withhold his signature from the Constitution.

Collections are often uneven, and lectures tend not to travel well in their journey to the printed page. Half of the volume is a lengthy introduction by the editor in the form of a derivative and not terribly useful history of the first amendment. The lectures that follow include one by Robert Rutland, professor of history at the University of Virginia and editor of *The Papers of George Mason*, who argues that the primary purpose of the first amendment is to protect political freedoms rather than personal ones; a rambling discourse by Rosemary Keller of Garrett-Evangelical Theological Seminary on religious freedom and the “founding mothers”; a discussion by Frederick Schauer, now of the University of Michigan, on the philosophical roots of free speech, which provides a useful summary of his other work on the subject; and a curious contribution by the editor of *Foreign Policy*, Charles William Maynes, on American foreign policy and human rights. If the volume has any lessons for the bicentennial, it is that the path from the spoken word to the printed page should be longer and less well travelled.