

FOUNDATIONS OF AMERICAN CONSTITUTIONALISM LSHS-520

*James Madison Memorial Fellowship Foundation
Georgetown University*

June 19 -- July 15, 2016

*Dr. Jeffry Morrison (Ph.D., Georgetown), Director
Dr. Daniel Dreisbach (D.Phil., Oxford; J.D., Virginia)
Dr. Terri Halperin (Ph.D., Virginia)
Dr. Kevin Hardwick (Ph.D., Maryland)*

COURSE DESCRIPTION:

Foundations of American Constitutionalism is an intensive, month-long, six-credit graduate course dealing with the political, constitutional, and legal history of the framing and ratification of the Constitution of the United States. It has been administered by the federal government's James Madison Foundation (www.jamesmadison.gov) since 1993, and has been held at Georgetown University, which grants its credit, each summer since 1997. It comprises the Summer Institute on the Constitution referred to in the Foundation's enabling legislation and regulations. Based mainly on primary documentary sources, the course's focus is on fundamental issues and questions concerning the history and nature of early American constitutionalism, the American political tradition, and the rule of law, in keeping with the mission of the Foundation. Congress created the Foundation, whose bipartisan board of trustees is appointed by the president of the United States, in 1986 as part of the commemoration of the bicentennial of the Constitution and for the express purpose of improving teaching about the Constitution in secondary schools. Thus all course students ("Fellows") are present or future middle school and high school teachers enrolled in graduate programs in their home states. The Foundation provides an academically rigorous course based on the highest standards of scholarship and conducted in a spirit of intellectual objectivity, openness, and civility.

Schedule Overview:

The course meets daily from 8:00 AM to approximately 2:00 PM. Daily academic sessions include: lecture from 8:00 AM to 10:00 AM; discussion sections from 10:30 AM to 11:30 AM; lunch with Fellows and professors from 11:30 AM to 12:30 PM; and some afternoon lectures from 1:00 PM to 2:00 PM. (Fellows and faculty lunch together at the University dining hall and use these occasions for collegial discussion of readings, assignments, and vocational matters.) Several mandatory field trips, optional tours, afternoon pedagogical sessions, and events also take place during the month. These include day-long excursions to Monticello/Montpelier and Mount Vernon/Gunston Hall, to Capitol Hill for the annual Board of Trustees meeting, to the Supreme Court, to the White House and White House Historical Association, and afternoon tours in and around Washington, D.C.

Assessment:

The course grade will be determined by three essays (85% total) on assigned topics based on the assigned readings and lectures, plus discussion section participation (15%). The essays will consist of the following: a first, short essay submitted electronically just prior to the Summer Institute (worth 15% of the course grade); and two longer analytical essays (worth 35% each). The first essay will be based solely on Gordon Wood's *American Revolution*. The first essay assignment will be distributed electronically in Spring 2016. The second and third analytical essays will be based on the primary material in the assigned readings, and those essay assignments will be selected by the faculty and distributed during the Institute. Faculty work closely with Fellows and are available for individual conferences informally and by appointment during the Summer Institute.

Discussion sections will rotate weekly so that each Fellow will have one week with each faculty member as discussion section leader. Faculty will submit a letter grade at the end of each week to the Director, who will tally them at the end of the Institute. Faculty will take both quantity and quality of discussion into account when grading.

Thus, the grade calculus will be:

15% First essay
35% Second essay
35% Third essay
15% Discussion section participation

100%

FACULTY:

Jeffry H. Morrison, Ph.D., Director. Dr. Morrison is Director of Academics at the James Madison Foundation and Professor of Government at Regent University. He earned his Ph.D. (with distinction) from Georgetown University, where he was Bradley Research Fellow and Lecturer in the Department of Government. He has also taught at the U. S. Air Force Academy, and at Princeton University. He is the author or co-editor of five books, including *The Political Philosophy of George Washington* (Johns Hopkins University Press, 2009), and numerous chapters and articles on American constitutionalism. He has taught for the Foundation since 2002.

Daniel L. Dreisbach, J.D., D.Phil. Dr. Dreisbach is Professor in the School of Public Affairs at American University. He completed a Doctor of Philosophy degree at Oxford University, where he

studied as a Rhodes Scholar, and a Juris Doctor degree at the University of Virginia School of Law. He has authored or edited eight books, including *Thomas Jefferson and the Wall of Separation between Church and State* (2002). He has published numerous book chapters, reviews, and articles in scholarly journals, including *American Journal of Legal History*, *Constitutional Commentary*, *Journal of Church and State*, *Politics and Religion*, and *William and Mary Quarterly*. Professor Dreisbach is a past recipient of American University's highest faculty award, "Scholar/Teacher of the Year."

Terri D. Halperin, Ph.D. Dr. Halperin is a member of the history faculty at the University of Richmond, where she has taught since 2000. A graduate (B.A., with honors) of Wesleyan University, she subsequently earned an M.A. and Ph.D. in American history from the University of Virginia, with an emphasis on the history of the Early Republic. During graduate school she also worked as a project archivist at the Virginia Historical Society. Her book *The Alien and Sedition Acts of 1798: Testing the Constitution*, was published by the Johns Hopkins University Press in 2016. Prior to her academic career, Dr. Halperin served in the offices of two U.S. Representatives in Washington, DC, including two years as legislative assistant.

Kevin R. Hardwick, Ph.D. Dr. Hardwick is Associate Professor of History at James Madison University. He earned his B.A. from Swarthmore College and his M.A. and Ph.D. in history from the University of Maryland at College Park. He directs the Summer Institute for Teachers at Stratford Hall, serves on the Board of Directors of Preservation Virginia, and has consulted for historic sites throughout Virginia. He is the author of books and essays on 17th and 18th century Virginia history, and was a co-editor of *Classics of American Political and Constitutional Thought* (2007). Dr. Hardwick was the Margaret Henry Dabney Penick Scholar in Residence, Smithsonian Libraries, in 2011, where he began work on a book-length study of the Virginia Ratifying Convention of 1788.

COURSE TEXTS:

Jack P. Greene, ed., *Colonies to Nation 1763-1789* (W. W. Norton, 1975).

A. Hamilton, J. Jay, and J. Madison, *The Federalist*, ed. Carey and McClellan (Liberty Fund, 2001).

JMF Summer Institute Course Packet ("[CP]") (2015).

James Madison, *Notes of Debates in the Federal Convention of 1787* (Ohio University Press, 1966).

Herbert Storing, ed., *The Anti-Federalist* (University of Chicago, 1985).

Gordon S. Wood, *The American Revolution: A History* (Modern Library, 2002).

SCHEDULE OF LECTURES:

[1.] *Monday, June 20:*

Lecture: “Early American Constitutionalism,” Dr. Morrison

8:00 AM - 10:00 AM (2 hrs.)

Readings:

Wood, *The American Revolution*.

Belz, “Constitutionalism and the American Founding” [CP].

Cicero, Selections [CP].

Burke, “Speech on Conciliation with the Colonies” [CP].

Montesquieu, *Spirit of the Laws* (selections) [CP].

Hume, *Of the Original Contract* (selections) [CP].

Discussion Sections: Drs. Dreisbach, Halperin, Hardwick, & Morrison

10:30 AM - 11:30 AM (1 hr.)

Lecture: “Founders, Famous and Forgotten,” Dr. Dreisbach

1:00 PM - 2:00 PM (1 hr.)

Readings: None.

Arlington National Cemetery Tour (optional)

2:00 PM - 6:00 PM (4 hrs.)

[2.] *Tuesday, June 21:*

Lecture: “Common Law & the American Legal Tradition,” Dr. Dreisbach

8:00 AM - 10:00 AM (2 hrs.)

Readings:

Blackstone, “Of the Laws of England,” in St. George Tucker, *Blackstone’s Commentaries*, I, 62-92 [CP].

Discussion Sections: Drs. Dreisbach, Halperin, Hardwick, & Morrison

10:30 AM - 11:30 AM (1 hr.)

Lecture: “The Revolutionary War & the Origins of American Constitutionalism,” Dr. Jack Warren, Society of the Cincinnati.

1:00 PM - 3:00 PM (2 hrs.)

Readings: TBD.

[3.] *Wednesday, June 22:*

Lecture: “Gender & the Founding,” Dr. Rosemarie Zagarri, George Mason University

8:00 AM - 10:00 AM (2 hrs.)

Readings:

Women and the Founding (ONLINE ONLY - COURSESITES: June 22).

Discussion Sections: Drs. Dreisbach, Halperin, Hardwick, & Morrison

10:30 AM - 11:30 AM (1 hr.)

Federal Courtroom Simulation

2:00 - 5:00 PM (3 hrs.)

[4.] Thursday, June 23:

Lecture: 17th Century English Constitutionalism, Dr. Hardwick

Readings:

Petition of Right (1628) [CP].

Charles I, *Propositions Made by Both Houses of Parliament . . . with His Majesties Answer Thereunto* (1642) [CP].

“The Agreement of the People” (January 15, 1648/49) [CP].

Sir Henry Vane, “A Healing Question” (1656) [CP].

Sir Robert Filmer, *Patriarcha, or the Natural Power of Kings* (1680) [CP].

English Bill of Rights (1688) [CP].

John Locke, “Second Treatise of Civil Government,” Chap. VI. Of Paternal Power (1690) [CP].

Discussion Sections: Drs. Dreisbach, Halperin, Hardwick, & Morrison

10:30 AM - 11:30 AM (1 hr.)

Lecture: “English Colonization,” Dr. Hardwick

1:00 PM - 2:00 PM (1 hr.)

Readings:

The Third Virginia Charter (March 12, 1612) [CP].

The Charter of Maryland (June 20, 1632) [CP].

Mayflower Compact (Nov. 11, 1620) [CP].

Fundamental Orders of Connecticut (Jan. 14, 1639) [CP].

Representation of ye affairs of N England by Mr. Randolph (May 6, 1677) [CP].

Commission of Sir Edmund Andros for the Dominion of New England (Apr. 7, 1688) [CP].

The Charter of Massachusetts Bay (1691) [CP].

Pedagogical Session #1: Claire Griffin

2:00 PM - 3:00 PM (1 hr.)

[5.] Friday, June 24:

Day trip to Monticello and Montpelier

8:00 AM - 5:00 PM (7 total hrs.)

Monticello House and Grounds Tour

8:00 AM - 11:30 AM (3.5 hrs.)

Montpelier House and Grounds Tour

1:00 PM - 2:30 PM (1.5 hrs.)

Lecture (at Montpelier): “Madison & Jefferson: On Liberty,” Dr. Morrison

3:30 PM - 5:00 PM (1.5 hrs.)

Readings: None.

[6.] Monday, June 27:

Lecture: “Civil & Religious Sources of Resistance to Tyranny,” Dr. Dreisbach

8:00 AM - 10:00 AM (2 hrs.)

Readings:

Bible: *Romans*, verses 13:1-7; *Acts of the Apostles*, verses 5:12-42, esp. verse 29 [CP].

“Brutus,” “Vindiciae contra tyrannos” in *Constitutionalism and Resistance in the Sixteenth Century*, ed. J. H. Franklin, 141-61, 180-186 [CP].

Jonathan Mayhew, “A Discourse concerning Unlimited Submission” [CP].

Recommended reading: Jonathan Boucher, “On Civil Liberty; Passive Obedience, and Non-Resistance” (ONLINE ONLY).

Discussion Sections: Drs. Dreisbach, Halperin, Hardwick, & Morrison

10:30 AM - 11:30 AM (1 hr.)

Lecture: Political Weapons: Satire & Cartoons, Dr. Halperin

2:00 PM - 3:00 PM (1 hr.)

Readings: none.

[7.] Tuesday, June 28:

Lecture: “The American Revolution as Imperial Crisis,” Dr. Hardwick

8:00 AM - 10:00 AM (2 hrs.)

Readings:

Greene, *Colonies to Nation*, 8-12, 26-39, 45-59, 63-65, 68-72, 78-84, 121-36, 182-88, 220-38, 297-301.

Discussion Sections: Drs. Dreisbach, Halperin, Hardwick, & Morrison

10:30 AM - 11:30 AM (1 hr.)

Lecture: "Religion & the American Revolution," Dr. Morrison

1:00 PM - 3:00 PM (2 hrs.)

Readings:

Greene, *Colonies to Nation*, 298-301.

Witherspoon, "Dominion of Providence over the Passions of Men" [CP].

West, "On the Right to Rebel against Governors" [CP].

Rev. Samuel Cooper, "Sermon on the Day of Commencement of the [Massachusetts] Constitution" [CP].

Image: "An Attempt to Land a Bishop" (1769) [CP].

[8.] Wednesday, June 29:

Lecture: "Race and American Constitutionalism," Dr. Halperin

1:00 PM - 3:00 PM (2 hrs.)

Readings:

Madison, *Notes of Debates in the Philadelphia Convention of 1787*, 98-103, 224-25, 259-60, 268-69, 274-76, 277-81, 355, 409-10, 411-13, 502-03, 503-08, 522, 530-32, 610, 545-46, 552.

Madison, Hamilton, and Jay, *Federalist* No. 54.

"Brutus," Storing, *Anti-Federalist*, 123-24.

Treaty Ending the Third Anglo-Powhatan War (1646) [CP].

Articles of Peace or Treaty of Middle Plantation (1677) [CP].

An Act to Discriminate Between Africans and Others in Maryland [CP].

Virginia Law October (1705) [CP].

A Dangerous Precedent for the Future (1640) [CP].

Preservation of Indian Rights and Property (1674) [CP]

The Poor and Distressed Remnant of Chickahominy Indians (1689) [CP]

Unkind and Unjust Usage by English (1699) [CP]

Release Us Out of Cruel Bondage (1723) [CP]

Suggested: John Kaminski, "Slavery and the Constitution," Constitutional Conversations @ <https://www.youtube.com/watch?v=erPTt8rwGso>.

Discussion Sections: Drs. Dreisbach, Halperin, Hardwick, & Morrison

10:30 AM - 11:30 AM (1 hr.)

Pedagogical Session #2: Claire Griffin

1:00 PM - 2:00 PM (1 hr.)

[9.] Thursday, June 30:

Board of Trustees Meeting, Capitol Hill: Conducted by Sens. John Cornyn (R, TX) and Ben Cardin (D, MD)

8:30 AM - 11:00 AM (2.5 hrs.)

Lecture: “State Constitutions,” Dr. Halperin

1:00 - 3:00 (2 hrs.)

Readings:

Greene, *Colonies to Nation*, 304-325, 332-348, 352-374.

Pennsylvania Constitution of 1776, Declaration of Rights [CP].

Massachusetts Constitution of 1780, Part I, A Declaration of Rights [CP].

[10.] Friday, July 1:

Full day trip to Mt. Vernon and Gunston Hall

8:00 AM - 5:00 PM (7 total hrs.)

Mt. Vernon House and Grounds Tour

8:00 AM - 9:00 AM (1 hr.)

Lecture (at Mt. Vernon): “George Washington & American Union,” Dr. Morrison

9:00 AM - 10:30 AM (1.5 hrs.)

Readings:

Morrison, *The Political Philosophy of George Washington*, 1-18 [CP].

Letter to George Mason (1769) [CP].

Letters to Bryan Fairfax (1774) [CP].

Circular to the States (1783) [CP].

Farewell Address (1796) [CP].

Mt. Vernon Education Center and Museum Tour

10:30 AM - 2:30 PM (4 hrs.)

Lecture (at Gunston Hall): “George Mason,” Dr. Dreisbach

3:00 PM - 4:00 PM (1 hr.)

Readings: none.

Gunston Hall House and Grounds Tour

4:00 PM - 5:30 PM (1.5 hrs.)

[11.] Monday, July 4:

Lecture: “Visualizing Liberty,” Dr. Dreisbach

8:00 AM - 9:00 AM (1 hr.)

Readings: None.

Lecture: “Declaration of Independence,” Dr. Halperin

9:00 AM – 10:00 AM (1 hr.)

Readings:

Declaration of Independence with changes (1776) [CP].

[12.] Tuesday, July 5:

Requested tours: White House and White House Historical Association

8:00 AM - 11:30 AM (3.5 hrs.)

**Lecture: “The Philadelphia Convention/Teaching American History,” Dr. Gordon Lloyd
(Ashbrook Center, Pepperdine University)**

1:00 PM - 3:00 PM (2 hrs.)

Readings:

Teaching American History Website on the Federal Convention
(www.teachingamericanhistory.org/convention).

[13.] Wednesday, July 6:

Possible tour: Supreme Court of the United States

8:00 AM - 11:30 AM (3.5 hrs.)

**Lecture: “Ratification of the Constitution/Teaching American History,” Dr. Gordon Lloyd
(Ashbrook Center, Pepperdine University)**

1:00 PM - 3:00 PM (2 hrs.)

Readings:

Teaching American History Website on Ratification
(www.teachingamericanhistory.org/ratification).

[14.] Thursday, July 7:

Lecture: “The Philadelphia Convention,” Dr. Hardwick

8:00 AM - 10:00 AM (2 hrs.)

Readings:

Madison, *Notes of Debates in the Philadelphia Convention of 1787*, 27-38, 73-81, 81-88, 93-106, 112-154, 193-201, 203-211, 219-231, 231-237, 288-313, 341-355, 385-396, 472-485, 512-521, 546-562, 573-594, 616-632, 642-659.

Discussion Sections: Drs. Dreisbach, Halperin, Hardwick, & Morrison

10:30 AM - 11:30 AM (1 hr.)

Pedagogical Session #3: Claire Griffin

1:00 PM - 2:00 PM (1 hr.)

[15.] Friday, July 8:

Lecture: “Ratification of the Constitution,” Dr. Hardwick

8:00 AM - 10:00 AM (2 hrs.)

Readings:

Hamilton, Madison and Jay, *Federalist* Nos. 1-3, 5, 7, 9-10, 15, 23, 30, 39, 41, 44, 47-48, 51, 55, 62-63, 70, 78, 84.

Storing, *The Anti-Federalist*, 108-72, 182-87, 332-47, 352-56, 23-101.

Supplemental: *Federalist* Nos. 21-22, 31, 38, 44, 56, 68, 80; *Anti-Federalist*, 23-101.

Discussion Sections: Drs. Dreisbach, Halperin, Hardwick, & Morrison

10:30 AM - 11:30 AM (1 hr.)

Annual James Madison Lecture: “George Washington: First Entrepreneur,” Prof. Edward Lengel, University of Virginia

1:30 PM - 4:30 PM (3 hrs.)

[16.] Monday, July 11:

Lecture: “The Federalist,” Dr. Morrison

8:00 AM - 10:00 AM (2 hrs.)

Readings:

Hamilton, Madison and Jay, *Federalist* Nos. 4, 6, 10, 15, 17, 24, 37-38, 51, 55, 85.

Discussion Sections: Drs. Dreisbach, Halperin, Hardwick, & Morrison

10:30 AM - 11:30 AM (1 hr.)

Pedagogical Session #4: Claire Griffin

1:00 PM - 2:00 PM (1 hr.)

Society of the Cincinnati Tour (optional), Washington, DC

2:30-4:00 PM (1.5 hrs.)

[17.] Tuesday, July 12:

Lecture: “A Republic in a World of Monarchies,” Dr. Halperin

8:00 AM - 10:00 AM (2 hrs.)

Readings:

Greene, *Colonies to Nation*, 466-80.

United Indian Nations, “Speech at the Confederate Council,” Nov. 28 and Dec. 18, 1786 [American State Papers, Indian Affairs (Washington DC, 1832), 1: 8-9; in Colin G. Calloway, *The World Turned Upside Down* (New York: Bedford Books, 1994), 175-7] [CP].

“Proposal to Maintain Indian Lands,” 1793 [in Colin G. Calloway, *The World Turned Upside Down* (New York: Bedford Books, 1994), 181-3] [CP].

“Jefferson and Madison on Republican Political Economy,” in *Liberty and Order*, ed. Lance Banning (Indianapolis: Liberty Fund, 2004), 89-94 [CP].

“An Old French Soldier,” Aug. 27, 1793 General Advertiser (Philadelphia), in *Liberty and Order*, ed. Lance Banning (Indianapolis: Liberty Fund, 2004), 141-2. [CP].

Discussion Sections: Drs. Dreisbach, Halperin, Hardwick, & Morrison

10:30 AM - 11:30 AM (1 hr.)

[18.] Wednesday, July 13:

Lecture: “Framing the Bill of Rights,” Dr. Dreisbach

8:00 AM - 10:00 AM (2 hrs.)

Readings:

Speeches and vote on bill of rights, Sept. 12, 1787, in Madison, *Notes of Debates*, 630.

Storing, *The Anti-Federalist*, 79-86 (letter from the Federal Farmer), 117-22 (Essay of Brutus).

The Federalist Papers, No. 84 (Hamilton).

James Madison, Speech in U.S. House of Representatives, June 8, 1789, in *Annals of Congress*, 1st Cong., 1st sess., secs. 448-59 [CP].

Recommended reading: letter from Madison to Jefferson, Oct. 17, 1788 [CP].

Discussion Sections: Drs. Dreisbach, Halperin, Hardwick, & Morrison

10:30 AM - 11:30 AM (1 hr.)

[19.] Thursday, July 14:

Lecture: “The Constitution in Peril?: Roils & Rebellions of the 1790’s,” Dr. Halperin

8:00 AM - 10:00 AM (2 hrs.)

Readings:

Washington's Views of the Democratic Societies and the Whiskey Rebellion, (1794) [CP].

Jefferson on Washington, the Democratic Societies and the Whiskey Rebellion (Jefferson to Madison, Dec. 28, 1794) [CP].

Excerpts from 1798 (Sedition Act, Kentucky Resolutions, Virginia Resolutions) [CP].

Henry Lee, Report of the Minority on the Virginia Resolutions, (1799) [CP].

Jefferson, First Inaugural Address, March 4, 1801 [CP].

Discussion Sections: Drs. Dreisbach, Halperin, Hardwick, & Morrison

10:30 AM - 11:30 AM (1 hr.)

Lecture: "James Madison," Dr. Hardwick

1:00 PM - 2:00 PM (1 hr.)

Readings:

James Madison to Edmund Randolph (Apr. 8, 1787) [CP].

James Madison to George Washington (Apr. 16, 1787) [CP].

James Madison to Thomas Jefferson (Oct. 24, 1787) [CP].

James Madison to Caleb Wallace (Aug. 23, 1785) [CP].

[20.] Friday, July 15:

Concluding roundtable discussion on the Constitution, Drs. Dreisbach, Halperin, Hardwick, & Morrison

8:00 AM - 10:00 AM (2 hrs.)