



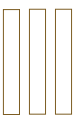
KINDER INSTITUTE
on CONSTITUTIONAL DEMOCRACY



NEWSLETTER | SUMMER 2017



The COLUMNS



CAMPUS & COMMUNITY

Starting in mid-March and extending through mid-August, programming at the Kinder Institute—and at the University as a whole—starts to taper somewhat. ‘To taper,’ though, hardly means ‘to cease.’ In addition to the lectures and colloquia recapped in the following pages, we also hosted a number of smaller spring events both on our home field in Jesse Hall and on the road. Postdoctoral Fellow in History **Billy Coleman’s** *Playing the Past* Community Seminar met twice in Columbia, on April 20, for a performance and discussion of the first of its kind soundtrack

Continued on page 2

Each year it happens like clockwork, and each year it takes some getting used to. After nine months of hive-like activity, students head home for the summer, faculty retreat to work on book projects, and a quiet blankets the MU campus. Still, we find ways to keep things lively around the Kinder Institute offices. With high school teachers from all corners of the state coming our way in June for the Missouri Summer Teachers Academy (see pp. 10-12), and faculty headed to D.C. each week for the Kinder Scholars Program’s “Beltway History & Politics” course (see pp. 18-21), the summer can hardly be described as uneventful.

And then, of course, there’s planning for next year. In the foreground, we have construction crews gearing up to fashion new office space for our Fall 2018 faculty addition, Kinder Institute Assistant Professor of Constitutional Democracy **Alyssa Zuercher Reichardt**, and reading packets on the way out to students for the August summer seminar that kicks off programming for our Society of Fellows. A little further back on the horizon, we’re also starting preparations for our biennial Distinguished Lecture, which will be delivered on November 6 in Columbia by Pulitzer Prize-winning historian **Doris Kearns Goodwin**.

A catalyst for reflection, the past two months of relative quiet have also provided ample opportunity to think thankfully back on a year of programming that never would have been possible without the support of you, our readers. We hope some restful quiet has found its way to you as well and that you enjoy the update that follows.

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PLAYING THE PAST
SLAVERY AT SEA:
TERROR, SEX, AND SICKNESS IN THE MIDDLE PASSAGE

SECTIONS OF A SLAVE SHIP.

THIS SESSION OF PLAYING THE PAST FEATURES **SOWANDE' MUSTAKEEM** (WASHINGTON UNIVERSITY IN ST. LOUIS) AND HER PERCUSSION BAND **AMALGHEMY**, WHO HAVE TOGETHER RECENTLY PRODUCED A FIRST-OF-A-KIND MUSICAL SOUNDTRACK FOR MUSTAKEEM'S CRITICALLY ACCLAIMED BOOK *SLAVERY AT SEA: TERROR, SEX, AND SICKNESS IN THE MIDDLE PASSAGE* (UI PRESS, 2016). IN THIS SPECIAL PERFORMANCE, MUSTAKEEM AND AMALGHEMY WILL PLAY A SELECTION OF PIECES FROM THIS PROJECT AND EXPLORE HOW MUSIC HAS HELPED THEM TO CONNECT READERS AND LISTENERS TO THE FEELINGS, VIBRATIONS, AND IMAGINATIONS OF THE MIDDLE PASSAGE.

SOWANDE' MUSTAKEEM ≈ APRIL 20 ≈ 6:00 PM ≈ 410 JESSE

MISSOURI RIVER CULTURAL CONSERVANCY AND DARREN HELLWEGE

PLAYING THE PAST

THE FALL SESSION OF THE PLAYING THE PAST COMMUNITY TRAILER FEATURES THE MEMORIOUS CIVILIAN CONSERVANCY (CIVIC) CLARKSON FRONT AND POLLEN BEE DRESS ONCE UPON A TIME TO DOCUMENT THE BUILDING, ARCHIVING AND HOTELING AMBUSHES OF THE HISTORIC AND CULTURE OF THE CENTRAL MISSOURI RIVER REGION. BY THE UNIQUE PARTISANSHIP, DARREN HELLWEGE (CHAIRMAN, CIVIC) WILL SHARE THE GROUP LINE (FOR PARTICIPATING VISUAL, AUDIOVISUAL, AND DIGITAL) CONCEPTS AND ARTISTS FROM THE LOCAL AREA AND EXPLORE HOW RELATIONS AND CULTURAL CONSERVANCY CAN BE USED TO RECONNECT THE PAST AND THE PRESENT.

THURSDAY, MAY 4 ≈ 5:30 PM ≈ 410 JESSE

Continued from page 1

to Washington University Associate Professor of History **Sowande' Mustakeem's** recent book, *Slavery at Sea: Terror, Sex, and Sickness in the Middle Passage*, and again on May 4, for local "Morning Edition" host **Darren Hellwege's** presentation on the great work being done by the Missouri River Cultural Conservancy, a non-profit group dedicated to archiving the history and culture of the Central Missouri River Region.

As for away games, Kinder Institute representatives **Allison Smythe** and Professor **Jay Dow** traveled to the St. Louis Club on March 21 for Vanderbilt University Professor of Law **James Ely's** lunch lecture on "The Property-Centered Constitutionalism of the Founding Generation," and a full Kinder cohort headed west on May 10 for **Jay Sexton's** dinner lecture, "U.S. Constitutional Democracy and the World," at the Kansas City Country Club.

And finally, our last two regional conferences of the year took place in April. On the 13th, near-and-far scholars of American political thought, history, development, and institutions descended on Austin, TX, for the Shawnee Trail Conference on American Politics and Constitutionalism (see pp. 8-9 for a full list of papers presented at the Conference). And in what has become a tradition here at the Kinder Institute, regular participants in the Missouri Regional Seminar on Early American History came



to Columbia on April 21 for our annual double-header, first discussing Washington University Professor of History **David Konig's** paper, "Thomas Jefferson: How a Real Estate Lawyer Became a Philosopher of the American Revolution," and then re-convening for a dinner lecture on "Alexander Hamilton's Hidden Life," delivered by Oklahoma University Assistant Professor of Classics & Letters **Andrew Porwancher**.

Looking forward to the coming year, while we're not yet ready to unveil our full

Fall 2017 calendar, there is one event in particular that we're excited to be able to spread word about. On November 6 at 7:00 PM in Jesse Auditorium, Doris Kearns Goodwin, winner of the 1995 Pulitzer Prize in History for *No Ordinary Time: Franklin and Eleanor Roosevelt—The Home Front During World War II*, will deliver our biennial Kinder Institute Distinguished Lecture, giving a talk entitled, "How Did We Get Here: The First Hundred Days of an Unprecedented Presidency."



THE PROPERTY-CENTERED CONSTITUTIONALISM OF THE FOUNDING GENERATION AND ITS CONTINUING VITALITY TODAY

MARCH 21 12:00 PM ST. LOUIS CLUB
REGISTER AT [HTTPS://GOO.GL/0NDMK](https://goo.gl/0nDmK) TICKETS \$25.00
SEATING IS LIMITED SO REGISTER EARLY!

1.0 HOUR OF MISSOURI CLE CREDIT HAS BEEN REQUESTED

James W. Ely, Jr., is the Milton R. Underwood Professor of Law, Emeritus, and Professor of History, Emeritus, at Washington University. He has written about a wide range of topics in legal history and is the author of numerous books, including *The Question of Every Other Right: A Constitutional History of Property Rights* (Oxford University Press, 2014), *2016*, *American Legal History: Cases and Documents* (Oxford University Press, 2014), *2015*, *2016*, *2017*, *2018*, *2019*, *2020*, *2021*, *2022*, *2023*, *2024*, *2025*, *2026*, *2027*, *2028*, *2029*, *2030*, *2031*, *2032*, *2033*, *2034*, *2035*, *2036*, *2037*, *2038*, *2039*, *2040*, *2041*, *2042*, *2043*, *2044*, *2045*, *2046*, *2047*, *2048*, *2049*, *2050*, *2051*, *2052*, *2053*, *2054*, *2055*, *2056*, *2057*, *2058*, *2059*, *2060*, *2061*, *2062*, *2063*, *2064*, *2065*, *2066*, *2067*, *2068*, *2069*, *2070*, *2071*, *2072*, *2073*, *2074*, *2075*, *2076*, *2077*, *2078*, *2079*, *2080*, *2081*, *2082*, *2083*, *2084*, *2085*, *2086*, *2087*, *2088*, *2089*, *2090*, *2091*, *2092*, *2093*, *2094*, *2095*, *2096*, *2097*, *2098*, *2099*, *2100*.

AMERICAN HUMANITIES INSTITUTE Kinder Institute on Constitutional Democracy



SAVE THE DATE!

Doris Kearns Goodwin
November 6, 7:00 PM
Jesse Auditorium

PUBLIC LECTURE & HISTORY COLLOQUIA

The Second Amendment & Slavery: Gun Rights, Gun Control, and the Search for a Usable Constitutional Past

Fordham University Paul and Diane Guenther Chair in American History
Saul Cornell

For the final public lecture of a busy 2016-17 academic year, Fordham University Paul and Diane Guenther Chair in American History **Saul Cornell** came to campus on April 5 for a talk focused on examining the complex set of connections between race, history, contemporary gun culture, and the Second Amendment.

First up, though, was a lunch seminar with Kinder Institute faculty, postdoctoral fellows, and graduate students in which Prof. Cornell unpacked and critiqued the evolution of originalist jurisprudence before briefly looking at its current iteration in the context of the Supreme Court's landmark ruling in the 2008 Second Amendment case, *District of Columbia v. Heller*. Emerging, he argued, as a backlash to the Warren Court, originalism began as a form of judicial restraint that attempted to unearth the Founders' constitutional intentions and apply them to resolving then-contemporary judicial questions. Putting aside the fact that the very act of defining 'Founders' is itself fairly problematic, "Originalism 1.0," as he called it, was intellectually and judicially hamstrung by the impossibly complicated task of identifying singular intentionality within a text that reflects the distinct political visions of and the nuanced compromises reached between multiple voices.

"Originalism 2.0," he explained, doesn't fare much better as a viable judicial philosophy. Framing it as an attack of sorts on the New Deal regulatory state, he described how the second evolution of originalism exchanges judicial restraint for judicial engagement, and intentionality for Founding-era public meaning, as the bases for its jurisprudence. Here, too, he argued, multiplicity complicates matters. Specifically, the idea of a fictive reader on whose behalf the Founders were acting—a notion central to "Originalism 2.0" if already dismissed by literary critics—falters when considered in light of the range of interpretations that are inevitably born when any text travels into, and interacts with individuals within, the public sphere. The shortcomings of public meaning originalism are on display, Prof. Cornell noted in concluding his presentation, in late Justice Antonin Scalia's decision in *Heller*. For one, in a somewhat unprecedented move, Justice Scalia more or less avoided any analysis of the quite important historical context of the Second Amendment's preamble—most notably its reference to "a well regulated militia"—in his decision. Secondly, his interpretation of the late-eighteenth century public meaning of "arms"—particularly his false analogy between arms : guns : handguns—does not stand up to rigorous historical scrutiny, which reveals that handguns, in fact, made up a small and somewhat insignificant fraction of arms owned in post-Revolution America.

This vision of an eighteenth-century gun owner—and how it maps onto contemporary gun debates and cultures—served as something of a starting point for Prof. Cornell's standing room only public lecture later that evening in MU's Mumford Hall. Juxtaposed on his opening slide with a woodcut of a Virginia militiaman, long gun in hand and hatchet on his belt, were photos of a white couple gleefully wielding automatic weapons in a Starbucks and a young African-American male, openly and legally carrying a rifle through the Texas streets moments before being wrongfully detained as a suspect in the July 2016 shooting of five police officers in Dallas.



As Prof. Cornell would go on to show, reading images like these alongside current research on attitudes about gun ownership and gun control reveals the complicated reality of gun culture in contemporary America, generally, and today's problematic relationship between race and the Second Amendment, in particular. On a broad level, the images of guns being publicly brandished encapsulates how wildly disparate regional attitudes about guns and gun rights in the United States have become manifest in equally disparate laws that reflect and serve a divided national constituency. Drilling down further, though, Prof. Cornell explained, we also see how the legislative manifestation of this divide supports highly disturbing trends that relate to race and guns. On one hand, we confront how relatively lax purchase laws in different states and regions map onto gun trafficking into—and thus access to illegal guns in—urban centers plagued by high violent crime rates. Even more alarming, recent scholarship also shows an intensely troubling correlation between racial animosity and likelihood of gun ownership.

And we might turn to history, he added, to identify the roots of the present problem, which dates at least to the adage about the antebellum South being ruled by "the lash and the pistol" and, from there, to the disarmament of freedmen and the rise of paramilitary organizations like the Klan during Reconstruction. This narrative, Prof. Cornell suggested, reflects more than a coming together in the South of two histories: a history of slavery and subsequent forms of institutionalized race-based oppression and a historically permissive regulatory tradition when it comes to guns. From thinly veiled racist rhetoric in NRA literature, to the emergence of gun control in California as a response to black militancy, to the volume of cases cited in the majority opinion in *Heller* that trace back to antebellum Southern judges, the problematic relationship between race and the Second

Amendment by no means ended with legally re-armed black militias bringing stability to the Reconstruction South but, instead, continues to mutate and rear its head today in communities nationwide.

While the problem admittedly won't solve itself over night, Prof. Cornell did identify certain steps that could be taken to begin enacting laws aimed at achieving the greatest common good at the least cost to gun owners, including: accounting for CDC and NIH research during the process of drafting gun legislation; instituting the kind of culture changes that were central to auto fatalities plummeting over the past twenty years; and acknowledging where common sense measures—such as establishing ATF databases for closed gun dealers—are both necessary and easily implementable.

In addition to his lunch talk and public lecture, Prof. Cornell also visited the April 6 meeting of the Kinder Institute's *Journal on Constitutional Democracy* course, as well as a Second Amendment class at the MU Law School later that afternoon, to speak with students about his current research. We would also like to thank our hometown paper, the *Columbia Missourian*, for coming out on the evening of April 5 to cover the lecture.



Rethinking the Rage Militaire: Fervor and Melancholy in the 18th Century British Atlantic World

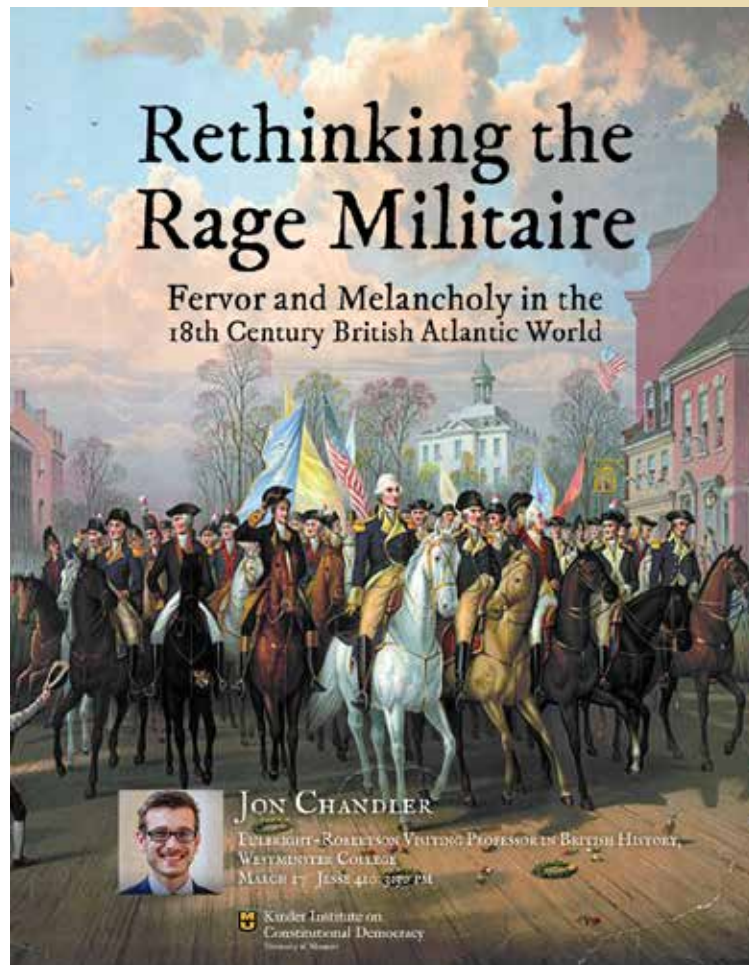
Westminster College Fulbright-Robertson Visiting Professor Jon Chandler



In a letter written to Seven Years' War hero and Crown Governor of Virginia Jeffrey Amherst during the early stages of the American Revolution, a British commander known only as Capt. M personified the colonies as "hurried on" toward war "by a spirit of enthusiasm." As Westminster College Fulbright-Robertson Visiting Professor in British History **Jon Chandler** noted in introducing his March 17 talk at the Kinder Institute, these kinds of primary source descriptions are central to Charles Royster's notion of the *rage militaire*—the popular zeal for war—that animated the not yet United States immediately prior to and throughout the conflict with Great Britain.

It is true, Chandler conceded, that the wartime colonies certainly did not want for expressions of patriotic gusto when it came to the Revolution—though in instances like Israel Putnam throwing aside the plow to take up the sword, we do, perhaps, have to question how blurry the line between circulated myth and reported reality was. That said, even if we take some zeal for granted, Chandler proposed that there are still certain components of the relationship between emotion and social/political change that go unaccounted for in Royster's telling. For one, far from a North American

phenomenon, an "Age of Feeling" had in fact been shaping political decision making in Europe for some time before the rise of revolutionary frenzy in the colonies: there was the tale, for example, of Robert Jenkins producing his severed ear before Parliament as part of a contingent seeking to drum up popular and governmental support for a 1739 war with Spain (affectionately known now as the "War of Jenkins' Ear"). Throughout the eighteenth century, then, interests were very much inseparable from emotion. In addition, Chandler argued that studying the flow of information concerning wartime fervor in the colonies shows that a crucial actor is largely missing from Royster's theory. Specifically, we have to take into consideration how many of the accounts of the *rage militaire*—of a population that had lost control during the act of arming itself—were produced not by colonial revolutionaries but instead by North American loyalists for a mostly British audience. If we do, Chandler explained, we see how these stories of an unregulated people now supported by France were not so much instances of deliberately hawkish wartime correspondence but instead reports from the front that were intentionally designed to help citizens across the Atlantic process the depression that accompanied imperial crisis. Which is all to say, he concluded, that even if we narrow our view to the American Revolution, our analysis of the substantive interconnectedness of emotion and politics cannot be limited to examining colonial enthusiasm but must be broadened to include a study of British melancholy.



The Man Behind the Cane: Preston Brooks and the Coming of the Civil War

Virginia Tech James I. Robertson, Jr. Associate Professor of Civil War Studies
Paul Quigley

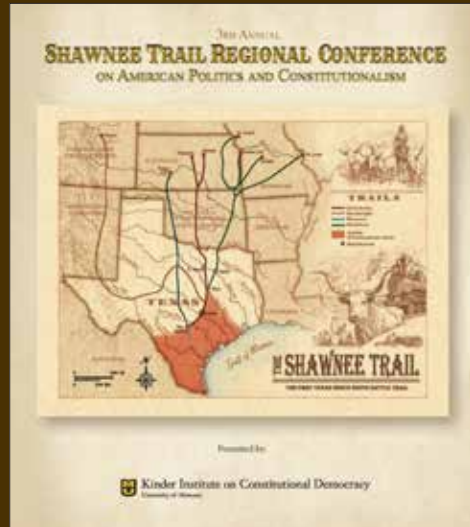
As a history reading public, we know one thing about Preston Brooks for certain (and it is likely the only thing we know): on May 22, 1856, he walked onto the floor of the U.S. Senate and, for roughly a minute, brutally caned Massachusetts Senator Charles Sumner two days after Sumner had delivered "The Crime Against Kansas," a speech in which, among other things, he accused Brooks' second cousin, Senator Andrew Butler, of having taken the "harlot slavery" as a mistress. The one-dimensionality of our understanding of Brooks is limiting for a number of reasons, Virginia Tech Professor of Civil War Studies **Paul Quigley** explained, but perhaps most notably for how it obscures the way in which building out the context surrounding that day in history might help add depth, if not resolution, to ongoing discussions about the coming of the Civil War.

Drawing these kinds of through lines from 1856 to 1861 begins with examining what in many respects seem like expected sectional responses to Brooks' violent attack on Sumner. Brooks was immediately lionized in the South and demonized in the North, and his death a short time after the caning was met with similarly conflicting providential rhetoric: it was evidence of martyrdom below the Mason-Dixon line and of divine retribution above it. These divided responses, Prof. Quigley went on to show, map squarely onto familiar structural arguments regarding the causes of the Civil War. For Northerners, Brooks' attack on Sumner was emblematic of a region whose anti-democratic character had now begun to manifest itself not only in a support of slavery but also in a violent rejection of the humanity and equality of Northern citizens. For Southerners, coming on the heels of the Compromise of 1850 and the Kansas-Nebraska Act (and, going back further, the nullification crisis), the attack was a justified defense of the prerogative of class from invasive Northern interests.

While by no means inaccurate, Prof. Quigley argued that these fundamentalist interpretations of the event perhaps undersell the more intricate ways in which Brooks fits into the causal narrative of the Civil War. In particular, he noted how the Southern response to the caning was not quite as uniform as it is often made out to be. While the action itself was endorsed, Southern voices were less enthusiastic about its nature, extent, site, and implement, a fact made even more interesting when viewed through the lens of Whitfield Brooks' critique of his son as yielding too easily to mortifying expressions of emotion and as generally demonstrating a lack of restraint and spirit of indulgence that were indicative of a dearth of moral energy. Add to this nineteenth-century cultural conventions in the South concerning honor, masculine identity, and familial duty, and the story of Brooks becomes quite complex. Ultimately, Prof. Quigley concluded, incorporating these contingencies of biography and the history of emotions into an analysis of Brooks reveals questions being raised all over the country at the time about the use of violence for political ends and, in this, demands that we think in more broadly binary terms—inward/outward, public/private—when laying out exactly what put the United States on a trajectory toward national crisis.



SHAWNEE TRAIL REGIONAL CONFERENCE



Designed to provide scholars of American politics and constitutionalism with an opportunity to share and discuss research with colleagues from institutions located along (and afield) the former Shawnee Cattle Trail, this year's Shawnee Trail Conference was held on April

13 in Austin, TX, as part of the Southwestern Social Science Association's annual meeting. A total of eleven past and present Kinder faculty and postdocs made the trip south for this year's conference, the complete schedule for which is listed here.

American Constitutionalism and Political Development

Discussants: **Bat Sparrow** (University of Texas at Austin), **Dave Bridge** (Baylor University)

- "Legislative Elections in the Early Republic: 1789-1820," **Jay Dow** (University of Missouri)
- "How music convinced a young man to vote for the first time in 1850," **Billy Coleman** (University of Missouri)
- "Fragmented Citizenship in a Fragmented State: Ideas, Institutions, and the Failure of Reconstruction," **Allen Sumrall** (University of Texas at Austin)
- "Complication #2: The Double Troubled Presidency of Grover Cleveland, 1893-1897," **Curt Nichols** (Baylor University)
- "The Eleventh Bill of Rights: Proposal, Ratification, and Application of the Twenty-Seventh Amendment," **James Endersby** and **Marvin Overby** (University of Missouri)

The Melting Pot or the Wall? Interdisciplinary Perspectives on American National Identity

Discussant: **Adam Seagrave** (University of Missouri)

- "A Mongrel Nation Needs a Founding Moment: Observations on the Origins, Content, and Consequence of America's Conceptual Identity," **Alan Gibson** (California State University-Chico)
- "A Nation with the Soul of a Church: Principles and Practice in American National Identity," **Sarah Houser** (American University)
- "The Democratic Lineage of Trump's Ethnic Nationalism," **Benjamin Park** (Sam Houston State University)
- "American Anthem: An Examination of the Significance of the National Anthem for African American Identity and Nationhood," **Stephanie Shonekan** (University of Missouri)

American Constitutionalism and Public Law

Discussants: **Kevin Pybas** (Missouri State University), **Kevin Stuart** (Austin Institute for Study of Family and Culture)

- "Blackstone, Jefferson, and the Improvement and Perfection of the Common Law," **Carli Conklin** (University of Missouri)
- "Turgot and Adams on Modern Constitutionalism," **Tim Burns** (Baylor University)
- "The Judges' Bill, Discretionary Jurisdiction, and the Rights Revolution," **Matt Brogdon** (University of Texas at San Antonio)
- "Informal Judicial Rules and American Constitutionalism," **Roger Abshire** (University of Houston)

American Political Thought

Discussant: **Jeremy Bailey** (University of Houston)

- "Political Science and American Political Thought," **Justin Dyer** (University of Missouri)
- "Horizontal Rights: A Republican Vein in Liberal Constitutionalism," **Christina Bambrick** (University of Texas at Austin)
- "Spiritual Freedom and American Liberalism," **Steven Pittz** (University of Colorado-Colorado Springs)
- "Reading Fukuyama in the Wake of 9/11: The End of History vs. Islamist Fundamentalism," **Georgi Areshidze** (Claremont McKenna College)
- "Natural Law and the Pamphlet Debates," **Kody Cooper** (University of Tennessee-Chattanooga)

The American Founding

Discussants: **Connor Ewing** (University of Virginia), **Alan Gibson** (California State University-Chico)

- "American Nature: From Settlement to the Revolution," **Adam Seagrave** (University of Missouri)
- "Refiguring the Face of Democracy: Sight and Voice in American Separation of Powers," **Thomas Bell** (University of Texas at Austin)
- "George Mason and the Problem of Executive Power," **Jordan Cash** (Baylor University)
- "The Idea of Presidential Representation in the 1780s," **Jeremy Bailey** (University of Houston)
- "Madison and the Disunity of Americans during the War of 1812," **Armin Mattes** and **Nick Drummond** (University of Missouri)



2017 MISSOURI SUMMER TEACHERS ACADEMY

Developed in partnership with our friends at the Missouri Humanities Council, the Missouri Summer Teachers Academy is our most ambitious community outreach initiative to date:

a three-day seminar that brings high school educators from across the state to Columbia to study a theme from U.S. constitutional history alongside Kinder Institute faculty and other scholars from around the region.

After a successful launch in 2016, we expanded the program in 2017, bringing in a greater number of teachers and a more interdisciplinary faculty to take part in the Academy. The theme this year—"The Enduring and Evolving Legacy of the Bill of Rights"—was explored from a variety of perspectives, ranging from seminars that re-examined how the state's high school social studies curriculum approaches teaching the American Founding to sessions that looked at new takes on the nation's Prohibition years. A full rundown of all seminars taught as part of the Academy follows, as well as a list of this year's participants, who descended on Columbia from as far northwest as Hamilton High and as far east as Parkway Central (the two of which are separated by, for now, an Academy record 240 miles).

As soon-to-be Sweet Briar College Assistant Professor of Government (and former Kinder Postdoc) **Nick Drummond** noted in opening his June 13 seminar for the 2017 Missouri



Summer Teachers Academy, to answer the question that the title of his talk poses, one needs to first look at the broader debates that raged during the Constitutional Convention, as they provide a philosophical backdrop for the back-and-forth between Federalists and Anti-Federalists concerning the need for a Bill of

Rights. In fact, he added, one might do well to go back even one step further, to Shays' Rebellion. The pre-Convention rising up of Western Massachusetts farmers against Boston political elites sparked anxiety among certain delegates regarding the levers of power falling into the hands of a majority uninterested in the common good, which in turn led Federalists to believe that an energetic national government might be necessary to quell perilous factionalism. What did the Federalists mean by 'energetic,' exactly? A government that would be empowered to meddle in the domestic policies of states. On the other side of the aisle, it was precisely this perceived license for state-level interference that drove the Anti-Federalists to view the Constitution, as it was presented in 1787, as a pathway to tyranny.

For New York Anti-Federalist judge Robert Yates, who published under the alias of "Brutus," particularly concerning was the Constitution's elastic "necessary and proper" clause, which he felt not only gave Congress unlimited power over the states but also opened up a way to abuse this power through coupling it with other clauses contained in the text: the commerce clause, for example, or taxation, spending, or supremacy. Compounding this potential problem, he argued, was Federalists' practical and philosophical support for a large republic with a strong central government. As he famously hypothesized in "Federalist 10," Madison believed that the sociocultural diversity inherent to large republics might prove

the salvation of the new nation by providing a natural check on the nefarious life of factions. Following Montesquieu's critique of large republics, Yates countered that Madison's vision was unsustainable and would inevitably descend into plutocracy and, eventually, tyranny. Why? For one, representation in a large republic would be imperfect, sequestering power in the hands of the few and thus creating a federal government that was ignorant, if not indifferent, to the interests of many pockets of society. Secondly, the difficulty of monitoring an energetic national government at a distance would, Yates feared, lead to iniquitous professionalism in Washington.

Circling back to where his talk began, Prof. Drummond concluded by showing how this fear of a central government with excessive power and license was the driving force behind Anti-Federalists' call for a Bill of Rights. For their part, Federalists argued that such an annex to the Constitution wasn't necessary, since the powers of the national government had been clearly and carefully enumerated and, by virtue of this, were strictly limited. A Bill of Rights, they added, might actually undermine its own purpose by supporting the skewed perspective that the government's powers *were* unlimited so long as the Bill of Rights remained unviolated. The Anti-Federalists emphatically rejected this line of argumentation on both a textual and philosophical level. In regard to the former, they pointed out that the Constitution already contained safeguards to prevent certain rights violation (suspension of *habeas corpus*, subjection to *ex post facto* laws), a fact that betrayed a latent fear that the central government might extend its authority to include powers beyond those that it had been expressly granted. As for the latter, Agrippa, reiterating a central tenet of Anti-Federalist thought, warned that, without a sacred barrier, the rights of a minority would be trampled by a tyrannical majority, given the way in which the Constitution's ambiguity promoted the corrosive ambition to which he and his compatriots believed humans were naturally given.



Day 2: Wednesday, June 14, 2017

Applications

9:00 – 10:15: What Is Freedom of the Press?

*University of West Florida Associate Professor of Government
David Ramsey*

10:30 – 11:45: How the Bill of Rights Came to be Applied Against the States

*University of Missouri Associate Professor of Political Science
Justin Dyer*

1:00 – 2:15: The Primacy of the 10th Amendment in the Jeffersonian Tradition

Missouri Humanities Council Executive Director Dr. Steve Belko

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

—Amendment X, U.S. Constitution

Picking up on a discussion of the Alien and Sedition Acts from the 9:00 session on June 14, Missouri Humanities Council Executive Director Dr. **Steve Belko** used the controversial 1798 Acts as a springboard for examining the somewhat chameleonic legacy of the Tenth Amendment in American history and politics. Before entering the 1798 fray, though, Dr. Belko laid out the pre-history of the Amendment, tracing its origins back to the Articles of Confederation and then explaining how, during the ratification debates, Anti-Federalists championed it as an absolutely necessary safeguard against the federal government seizing excessive power over state affairs (or, alternately, as a necessary safeguard *for* the perpetuity of a confederated, versus a consolidated, republic). As for the Alien and Sedition Acts themselves, both Madison (in the "Virginia Resolution") and Jefferson (in the "Kentucky Resolution") invoked the language and spirit of the Tenth in declaring the Acts null on the grounds that the Constitution did not expressly "delegate to the United States" a power to limit free press or suspend due process.

Out of Madison and Jefferson's rhetoric, "the Principles of '98" emerged as a battle cry of sorts for those claiming that the federal government had overstepped its delegated bounds. As Dr. Belko went on to show throughout the remainder of his talk, perhaps most interesting about petitions to "the Principles of '98" is what he termed their "shifting locus." On one hand, he noted, we might understand this "shifting locus" in geographical terms. Around the time of the War of 1812, for example, it was New England Federalists, rather than Jeffersonian Virginians, invoking the Tenth Amendment in protest of, among other things, what they perceived as coercive, overreaching national economic policies.

Day 1: Tuesday, June 13, 2017

Origins

9:00 – 10:15: Libel and the First Amendment, English Roots to the American Present

*University of Missouri Enoch H. Crowder Professor of Law
Christina Wells*

10:30 – 11:45: Why Did the Anti-Federalists Want a Bill of Rights?

*Sweet Briar College Assistant Professor of Government
Nicholas Drummond*

1:00 – 2:15: Black Founders of the United States
*University of Missouri Assistant Professor of Education
LaGarrett King*

As Dr. Belko argued, we also see a trend beginning to form here, with those out of power using the Tenth as a means of obstructing the agendas of those who displaced them.

Continuing to follow the twists and turns of Tenth Amendment history, Dr. Belko then observed how, during the Jacksonian era, the locus expanded to encompass the nation itself and, in doing so, often pitted branches of government against one another. Specifically, he argued that “the Principles of ‘98” evolved into a partisan tool that pro-Jackson states could wield in support of—or to quash opposition to—their federal allies’ stances on contentious issues of the time (the Bank of the United States, internal improvements, etc.). In wrapping up, Dr. Belko noted how things reached a problematic peak in 1832, when Calhoun & Co.—using ‘null’ as a verb, rather than an adjective—unduly “pled the Tenth” in an attempt to free states from otherwise constitutional acts of legislation. What remained constant though, he concluded, was that the Tenth Amendment served as a historically complicated, important, and often self-promoting check on the central government that will continue to gymnastically rise to the surface of American politics so long as sectional and partisan interests remain in play.

Day 3: Thursday, June 15, 2017

Legacies

9:00 – 10:15: We Are Not Children: College Students and Constitutional Rights

University of Missouri Ph.D. Candidate in History and Kinder Institute Graduate Fellow **Craig Forrest**

10:30 – 11:45: President for Life: Simón Bolívar’s Constitutional Vision

University of Missouri Associate Professor of History **Robert Smale**

1:00 – 2:15: Prohibition Blues: New Understandings of America’s Dry Spell

Wilmington College Assistant Professor of History **Keith Orejel**

To kick off the final day of the 2017 Teachers Academy, incoming Kinder Graduate Fellow in Political History **Craig Forrest** brought participants into the twentieth century with a talk on the history of *in loco parentis*—the college acting in place of the parent—a constitutional narrative that Mizzou found itself in the thick of in the 1970s. As Forrest noted in introducing the topic, this narrative began far earlier, in the decades after the Civil War. Specifically, in *Pratt v. Wheaton College* (1866), *Stallard v. White* (1882), and *Gott v. Berea College* (1913), the Supreme Court, siding with the defendant in each case, set a precedent of upholding the constitutionality of colleges’ *in loco parentis* right not only to regulate (or ban) anything from fraternity

membership to off-campus dining but also to punish offenders at their own discretion. What emerged from this precedent seems almost unimaginable by modern standards: campus rules that censored speech, prevented political activism, and imposed curfews on students (and, moreover, that suspended any notion of due process in litigating infractions). When it came to the University of Missouri, the central actor in the tale of the rise and fall of *in loco parentis* was former Dean of Students “Blackjack” Matthews, who, from 1950-1970, handed out punishments ranging from expulsion to rescinding completed credit hours for “crimes” as grave as tardiness and speeding tickets.

At Mizzou (and elsewhere), push back against this system started small, with juvenile transgressions such as the May 1950 publication of a “sex issue” of *Show Me*, a student-run, university-sanctioned magazine at MU. The Cold War era, however, brought with it greater student vigilance. Forrest explained how, as mass culture became more pervasive and accessible during the late 1950s, students increasingly confronted a stark contradiction between the idealized, sitcom vision of the United States and the reality they were seeing on the news of a nation in which violent injustices had long festered and were being addressed on a collective, organized level. As a result, and in defiance of the rules in place, political activism spiked at colleges across the nation, with students becoming vocally and actively involved in the Civil Rights Movement’s push for equality in particular. From this participation in national politics, a revolt against campus politics spun off. At MU, the student rights movement began with planned protests against dress codes and quickly grew to engage with more recognizably constitutional issues. As Forrest noted in bringing his talk to a close, building on new precedents set in *Dixon v. Alabama* (1961) and *Tinker v. Des Moines Independent Community School District* (1969), 1972’s *Papish v. University of Missouri Board of Curators*, which secured college students’ First Amendment right to free speech on campus, effectively nailed the coffin shut on *in loco parentis*, before the ratification of the 26th Amendment put one more nail in, just in case.

The following teachers participated in this year’s Academy: **Cameron Poole** (Parkway Central HS, Chesterfield, MO), **Ben Strauser** (Kingston HS, Cadet, MO), **Andy Hanch** (Center HS, Kansas City, MO), **Lynette Williams** (Odessa HS, Odessa, MO), **Ashley McClain** (Wellington-Napoleon HS, Wellington, MO), **Jacob Sartorius** (Hamilton HS, Hamilton, MO), **Tim Hebron** (Trinity Catholic, St. Louis, MO), **Carrie Homan** (Cole Camp HS, Cole Camp, MO), **Mike Johnson** (Father Tolton Academy, Columbia, MO).

In addition to the seminars listed above, a pair of local lawyers and friends of the Kinder Institute, Missouri Public Defender **Chelsea Mitchell** and Haden & Haden Criminal Lawyer **Brent Haden**, treated Academy participants and faculty to dinner lectures on the 13th and 14th.

FACULTY AND GRADUATE STUDENTS

While additional faculty and graduate student accolades can be found in the “News in Brief” section on the newsletter’s back page, there are a few accomplishments that we did want to highlight here.

Spring 2017 Research & Travel Grants

During our March 2017 research and travel grant award cycle, we funded four projects for scholars who are all frequent and active participants in our various events and programs. Current Postdoctoral Fellow **David Golemboski** and History Ph.D. candidate **Luke Schleif** each received conference travel awards to present at the annual meetings of the Midwest Political Science Association and Society for Historians of American Foreign Relations, respectively. Additionally, Political Science Ph.D. candidate **Laila Farooq** received an award to conduct summer 2017 research in Pakistan on the impact NGO-implemented projects have on social trust and democratic participation, while MU Professor of Economics and Kinder Institute Affiliated Faculty Member **Jeff Milyo** received funding for undergraduate research assistance related to his “Outside Political Spending in Perspective” project.

Faculty Publications

In a piece of news that you will likely hear much more about in the coming months, Kinder Institute Chair in Constitutional Democracy and MU Professor of History **Jay Sexton** has signed on with longtime collaborator **Kristin Hoganson** (University of Illinois) to co-edit the second, nineteenth-century volume of the recently contracted *Cambridge History of America and the World*, an incredibly ambitious scholarly project that “will redefine the study of the complex and varied relations between the United States and foreign nations over the entire course of U.S. history, including the colonial era.” Additionally, MU Political Science Professor and Kinder Institute Faculty Advisory Council Member **Jay Dow’s** *Electing the House: The Adoption and Performance of the U.S. Single-Member District Electoral System* is officially out on University Press of Kansas, and while they are not Kinder Institute faculty per se, University of Colorado-Cororado Springs Prof. **Joseph Postell’s** *Bureaucracy in America* and University of Alaska-Anchorage Prof. **Forrest Nabors’** *From Oligarchy to Republicanism: The Great Task of Reconstruction* are on schedule to be published in June 2017 and December 2017, respectively, as the third and fourth titles in our *Studies in Constitutional Democracy* monograph series with University of Missouri Press.

Job Placement

Continuing our strong track record of job placement, we get to share good news on behalf of four Jesse Hall fourth floor dwellers. Earlier in the spring, 2015-17 Kinder Postdoctoral Fellow in Political Science **Nick Drummond** accepted a tenure-track assistant professorship in the Department of Government at Sweet Briar College in Virginia; 2016-17 Graduate Fellows **Clint Swift** (Political Science) and **Brandon Flint** (History) followed suit shortly thereafter by accepting a visiting assistant professorship at Sewanee and a lectureship at Liaoning Normal University in China, respectively; and just a week or so shy of his successful dissertation defense, 2016-17 Grad Fellow in Political Science **Kenneth Bryant** signed on to join the faculty ranks at University of Texas-Tyler as an Assistant Professor of Political Science.



NEW FACULTY Q & A

After a decade-plus in Charlottesville, with the last eleven years spent at Monticello's Robert H. Smith International Center for Jefferson Studies, **Christa Dierksheide** will join the Kinder Institute faculty in August as an Assistant Professor of Constitutional Democracy. The author of *Amelioration and Empire: Progress and Slavery in Plantation America, 1770-1840* (University of Virginia Press, 2014) and *The Sun Never Set on Jefferson's Empire: Race, Family, and Fortune in America, 1820-1880* (Yale University Press, forthcoming), Prof. Dierksheide was kind enough to field a few questions from Kinder Institute Communications Associate **Thomas Kane** before embarking on the westward trek to Columbia.

Four Questions with Kinder Institute Professor Christa Dierksheide

Thomas Kane: *I was wondering if you might be able to fill out the C.V. that we have on file with a little bit more of the "educational awakening"-to-Ph.D. in History-to Monticello Historian back story—what first pulled you into the world of history/what prompted the shameful [Ed. Note: The unapologetic editorializing of an English Ph.D.] abandonment of literature as a course of study; the draw of UVa for graduate work; what led to sticking around Charlottesville; etc.*

Christa Dierksheide: I always knew I would study literature because I loved words. I loved language. But in college I became less interested in literary theory and more interested in the historical contexts of the works I was reading. That was when I shifted my attention over to history. But I haven't given up on language. My first book was about a single word: "amelioration"!

My college English professors encouraged me to get a PhD in literature, or an MFA. But I wanted to go the history route. I liked British imperial history. I had my sights set on Johns Hopkins. But I was wait-listed there. I was crestfallen, but a graduate student at UVa told me I should meet a professor there named Peter Onuf. I asked him why, since I didn't even like Thomas Jefferson (Onuf was the Thomas Jefferson Professor at the time). But I met with Onuf anyway, and it was one of the best things I've ever done in my life. He was the best mentor in the world—and still is, in addition to being a close and wonderful friend.

I didn't mean to work on Jefferson. It was serendipitous. A guy hired me as his research assistant for a book on Jefferson when I was a poor graduate student. I spent hours each week in front of the microfilm machine, reading TJ's letters. I really was seduced by him in this way, reading his words. I found the man to have the most creative intellect—one that really knew no bounds. I still find his mind endlessly fascinating, even if I cannot forgive him for owning hundreds of people.

I didn't really make a decision to work for Monticello. One day when I was in my office—as a dissertation fellow at the Robert H. Smith International Center for Jefferson Studies—the Assistant Curator walked in and asked whether I'd like to do some work on some new exhibitions. I said yes. That's when it started, in 2006. Then I stayed eleven years. I think I'll always be drawn to Monticello. It's one of the most beautiful places in the world—and also one of the most fraught.

TK: *As someone coming off a stint as a historian at Monticello, can you talk a little bit about your work's relationship with Jefferson—where it fits in the massive historical orbit that surrounds him? what it pushes back against? what new avenues it works to open up? Or, maybe a different way to ask a similar thing, can you talk a little bit about the figures and narratives and, more broadly, the ideas and connections that animate your own research.*

CD: I really like being a historian who does a lot of against the grain scholarship. I like doing what's not trendy, or fashionable. In the world of Jefferson, it's popular to either put him on a pedestal or to vilify him. I want to do neither. I want to understand him, because I don't think we understand him well enough. To a certain extent, I think understanding Jefferson (the good and the bad) is a way of better understanding ourselves—and our collective past—as a people.

And increasingly, I'm convinced that the best way to understand Jefferson is to get outside of him. Get outside the world he constructed, the self he constructed. I think it's crucial to look at him through an outside lens. Currently, I'm trying to look at Jefferson—and his legacy—through the lens of his white and mixed-race grandchildren.

TK: *I'm contractually obliged to ask, "what was the draw of the Kinder Institute," so...what was the draw of the Kinder Institute?*

CD: Well, a good reason is that Jefferson's tombstone is here at Jesse Hall. The original tombstone. There is a replica at Monticello. Being at a place with the real thing—I think that's auspicious.

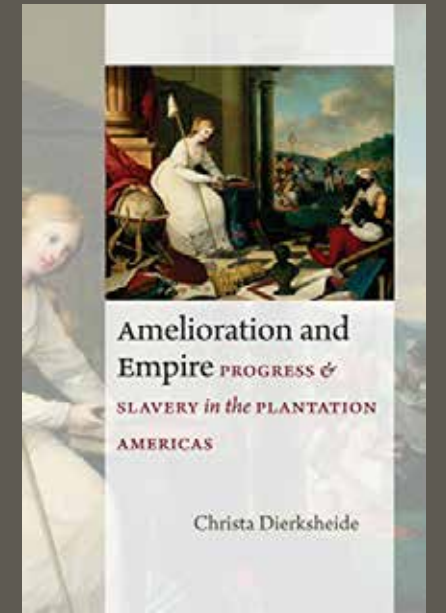
And Jay Sexton was very persuasive.

I also think the Kinder Institute's mission is important and novel. I cannot think of any other interdisciplinary institute committed to bringing together academic historians, students (undergrad, grad, post-grad), and the wider community to better understand the Founding Era. Seems like a pretty necessary endeavor to me.

TK: *I saw that you're signed on to teach the public history course next spring, a field that I think people have, at best, an un-nuanced grasp of. Especially when it comes to undergraduate learning, what are some innovations/aspects of the field that might help people better understand what placing that adjective 'public' before the umbrella of 'history' does (or doesn't) mean?*

CD: A big theme that the undergraduates will touch on in the public history course is "who is the public?" and "whose history is it?" I want to get them to think more about how our own national history has informed how we memorialize, interpret, and preserve sites and museums across America. I'm really looking forward to spending more time with the students, to being back in the classroom. It was the worst day in the world for me when I had to leave school, when I got my PhD. I'm glad that I am now able to return to it, to try to give back to my own students hopefully at least a portion of what my own teachers imparted to me.

Note: The Q & A has been excerpted in places for length



UNDERGRADUATE PROGRAMS

It's always with hearts both heavy and lifted up that we pen the undergraduate section of our summer newsletter. On one hand, three of our most exciting undergraduate programs are in full swing: we're on the verge of officially inaugurating our new class of Fellows (see p. 17 for details); we're in the final stages of editing the third volume of our undergraduate-run *Journal on Constitutional Democracy* (see pp. 22-23 for a teaser from recent MU graduate **Peyton Rosencrants'** article on journalistic ethics and fair jury trials); and we're receiving weekly cables from students in the capital detailing their summer working and studying in D.C. (see pp. 18-21 for all things Kinder Scholars-related).

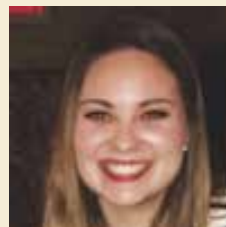
On the other hand, though, we're still in the midst of what is usually a summer-long process of saying goodbye to Fellows and Kinder Scholars past, who walked through the columns as undergrads for the last time in May. We're sad to see them go, of course, but we're also excited about the post-graduate paths that they've already begun blazing, some of which are listed below and all of which we hope to bring you news about in future issues of *The Columns*.



Tom Groeller
(Economics & Political Science):
University of Southern California Law School



Hunter Norton
(Political Science):
University of Virginia Law School



Jordan Pellerito
(History & Political Science):
University of Missouri Graduate School (M.A., History)



Derek Van Becelaere
(History):
Washington University Law School



Aryn Williams-Vann
(Psychology & Sociology):
University of Missouri Law School

2017-18 SOCIETY OF FELLOWS

On Wednesday, April 26, we announced the fourth class of our undergraduate Society of Fellows at a reception in the Kinder Institute seminar room in Jesse Hall. Chosen from a record number of applications, the 2017-18 Fellows class is comprised of majors from eleven different academic departments at MU (listed in parentheses below), with an additional eight disciplines represented in students' minors. The Fellows program will officially commence on Tuesday, August 8, with the kickoff reception for our annual summer seminar at the Tiger Hotel in downtown Columbia, a recap of which will follow in our AY 2016-17 annual report due out in early-November.

Isaac Baker (Secondary Education)

Tyler Brumfield (Political Science)

Dylan Cain (Political Science)

Zeb Charlton (Physics, Political Science)

Bailey Conard (Journalism, English)

Joe Davis (Finance)

Megan Dollar (Investigative Journalism)

Claire Jacobs (Political Science)

Anna Jaoudi (Political Science)

Carley Johansson (Interdisciplinary Studies/Women's and Gender Studies)

Sarah Jolley (History, English)

Abigail Kielty (History, Political Science)

Gabriela Martinez (Journalism, Political Science)

Riley Messer (Political Science)

Matt Orf (History, Political Science)

Nathan Owens (History)

Raymond Rhatican (Political Science)

George Roberson (Political Science)

Faramola Shonekan (History)

Heath Snider (Classics)

Greer Wetherington (Psychology, English)

Rylie White (Biochemistry)

Full bios for all members of the fourth class of our Society of Fellows will be up soon on the Kinder Institute website, democracy.missouri.edu.



2017 KINDER SCHOLARS D.C. SUMMER PROGRAM

Each year, a crew of 20 of Mizzou's emerging academic stars spend June and July living, working, studying, and exploring in the nation's capital as part of our Kinder Scholars D.C. Summer Program. Combining classroom and experiential learning, the program requires that all participants enroll in the three-credit hour "Beltway History & Politics" course and intern at least 30 hours per week at an organization in the capital whose mission relates to their academic and professional interests, as well as their coursework on the United States' constitutional history and principles. Ranging from think tanks, to bi-weekly papers devoted to raising public awareness about issues related to homelessness and poverty, to offices on Capitol Hill, below is a complete list of where our Kinder Scholars will be spending their workdays this summer. Following that, you'll get a brief glimpse into the first few weeks of class and, on pp. 20-21, some early notes and pictures from the students themselves that capture the high points of their time in D.C. so far.

Emilie Bridges (Political Communication): Let America Vote
Tom Coulter (History & Journalism): *Street Sense*
Cole Edwards (Agribusiness Management): Monsanto
Natalie Fitts (Journalism): SurvJustice
Cheyenne Garrett (Political Science): Senator Claire McCaskill's Office
Katie Graves (Strategic Communication): The Federalist Society
Jane Kielhofner (Health Sciences): Congressman Sam Graves' Office
Nicholas Knoth (History & Political Science): Congressman Blaine Luetkemeyer's Office
Kiara Lewis (International Business): Polsinelli
Noelle Mack (Communication & Political Science): The Humane Society Legislative Fund
Logan Malach (History, Political Science, & Educational Studies): Let America Vote
Abas Pauti (Journalism): Congressman Steven Cohen's Office
Allison Pecorin (Journalism): NBC D.C.
Hughes Ransom (Journalism & Political Science): Congressman Sam Graves' Office
Claire Reiling (Anthropology & Spanish): The Person Project
Ray Rhatigan (Political Science): D.C. Superior Court
Tim Riordan (Accounting): Smithsonian Woman's Committee
George Roberson (Political Science): Victory Fund
Lauren Russ (International Studies): Congressman Emanuel Cleaver's Office
Tricia Swartz (Political Science): Congresswoman Vicky Hartzler's Office
Spencer Tauchen (Philosophy, Political Science & Sociology): US Citizen & Immigration Services
Greer Wetherington (Psychology): National Governors Association

Beltway History & Politics

The component that we believe truly separates the Kinder Scholars Program from others like it, the "Beltway History & Politics" seminar guides participants through a close inquiry into the historical, philosophical, and cultural development of American democracy, starting before the Revolution and going deep into the twentieth century. And not only are students examining the events, actors, and texts that shaped our national narrative. Through the seminar's weekly field trips, they're also experiencing U.S. constitutional history in the places where it happened.



By the time this newsletter reaches you, the 2017 Kinder Scholars will be more than a century into their study of the American democratic experience, having explored: the ideas and architecture of the United States' Founding era (Week 1, with Kinder Institute Professor **Carli Conklin** and Kinder Institute Director **Justin Dyer**); the connections between natural law philosophy and African American political thought (Week 2, with Kinder Institute Professor **Adam Seagrave**); the issues of slavery and empire in Jefferson's United States (Week 3, with new Kinder Institute hire Professor **Christa Dierksheide**); and political life and culture in D.C. during the early republic (Week 4, with Kinder Institute Associate Director **Jeff Pasley**). Outside of the classroom—or, rather, in the classroom outside of the classroom—they will have wandered the “Hall of Presidents” at the National Portrait Gallery, toured the



sites in and around D.C. where Civil War and Civil Rights history unfolded, and spent a day on the grounds of Jefferson's Monticello.

And for anyone interested in catching up on what they've missed so far—or anyone who's interested in skipping ahead on the syllabus—below is a list of a few “must read” works from the teachers who assigned them.

from Profs. Conklin & Dyer: Kenneth Fletcher (in *Smithsonian* mag), “A Brief History of Pierre L'Enfant and Washington, D.C.: How one Frenchman's vision became our capital city”

from Prof. Seagrave: Frederick Douglass, “What to the Slave Is the Fourth of July”

from Prof. Pasley: Selections from the family letters of Margaret Bayard Smith—“an early D.C. society matron and wife of

the editor of Jefferson's ‘spokespaper,’ the *National Intelligencer*”—on topics including Jefferson's election, the burning of D.C. during the War of 1812, and Jackson's inauguration

from Prof. John Wigger (Week 8, “Religion in American Life”): John Winthrop, “A Modell of Christian Charity”

Links to PDF copies of these and other course readings are available on the front page of the Kinder Institute website, democracy.missouri.edu.

Notes from the Capital

At various points over the course of the summer, Kinder Scholars participants are kind enough to take time out of their busy schedules to write in with news about their time in D.C. A handful of longer profiles of individual students will be up soon on the Kinder Institute website, but for now, here are some tidbits from the first installment of our “Notes from the Capital” update series.

On why they chose the Kinder Scholars Program...

Tricia Swartz (Junior, Political Science): In the past, when I've asked other people about their experiences in D.C., I was never given the exact same answer—some people love the environment in D.C., and others believe D.C. is not the right place for them. I figured it would be best for me to experience the city myself, and then from there, I could decide if D.C. is something I want to pursue after graduating college.

On internships...

Kiara Lewis (Senior, International Business Marketing): Internship is going great! I'm with the Polsinelli Law Firm's public policy group, and their main focus right now is the healthcare bill. A lot of their clients represent nurses, and my job is to attend hearings and write memos. So I'm not in the office all day; I get to go back and forth to the Capitol even though I'm not technically working on the Hill. They are giving me actual and important tasks with deadlines and standards. I love it here!

Katie Graves (Sophomore, Strategic Communication): At the Federalist Society, I've been a part of the external relations team, mainly focusing on state courts. I've helped the team compile data for a new website and interactive map on State Attorneys General that we plan to launch next week, and I've been revising another website on State Supreme Courts. My internship has also encouraged me and the other interns to attend as many events in D.C. as possible. We had the opportunity to witness Comey's Senate hearing a few weeks ago, and we went to the Supreme Court to hear them hand down landmark decisions on June 19.

On the “Beltway History & Politics” Seminar...

Katie Graves: I especially enjoyed learning about the architectural design and layout of Washington, D.C. I love the landscape here, and it's so incredible to see how intentionally everything was constructed. It's also been amazing to take what I am learning from my internship into the class discussions and to take what I am learning in class into my experiences throughout the city. Each part of this “holy trinity” [*Ed. Note: The program components of living, studying, and working in D.C.*] has informed where I want to be after I graduate from law school and what kind of law I plan to study.

On life in the Capital City...

Kiara Lewis: So far I've made it around to the Shaw neighborhood where Howard University is, which was a really cool place, and I've come to trust the Metro for wherever I need to go. And I'll also be starting dance lessons again at the Dance Institute of Washington.

Tricia Swartz: I have been keeping an eye out for any well-known figures in politics. One night at LiLLiEs Restaurant, which is right down the street from our WISH housing, I and a few other Kinder Scholars saw Kellyanne Conway eating dinner with her husband. You never know who you may run into!

Katie Graves: I've started a bucket list to ensure that I get to see and do as much as possible in D.C., and my roommate is creating an interactive map of all the coffee shops we go to. And I've been amazed at how many restaurants there are for just salad—do people here really love salad that much?



JOURNAL ON CONSTITUTIONAL DEMOCRACY

Balancing a Suspect's Right to a Fair Trial with the Public's Right to Know

by Peyton Rosencrants

The full essence of a jury trial is both not at all and quite difficult to capture. In the Fifth and Sixth Amendments, the U.S. Constitution describes jury trials in a way that can be generally understood, yet certain elements remain elusive.

No person shall be...deprived of life, liberty, or property, without due process of law.¹

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed.²

In regards to citizens' understanding of jury trials, "speedy" and "public" are familiar enough concepts, and "innocent until proven guilty" provides a functionally colloquial frame of reference for arguably the most imperative component of trials: impartiality leading up to a verdict. The more complex element is what exactly the "process" component of "due process" entails. On one hand, a total understanding of due process by the general public is not essential; after all, we have to put some degree of trust in professionals and elected officials in the legal community to ensure this element. However, it is still incumbent on the public to have a broad understanding of how integral due process is to preserving impartiality. Ironically, it is in "learning" more about the former that our grasp of the latter loosens. Specifically, as the public increasingly relies on various forms of media to learn about jury trials and legal procedures, the misinformation

about the legal process that these sources trade in ultimately obstructs the maintenance of impartiality, particularly for defendants.

Take, for instance, the long-running *Law and Order* series. In 2012, a blogger created a spreadsheet of the outcomes of all 20 seasons of the show, which adds up to 450 different judicial storylines.³ He found that 80 percent of the episodes ended in wins for the prosecution—either an outright or implied guilty verdict, or a plea bargain. By the final season in 2010, 0 percent of the cases ended in "not guilty" verdicts. Like most procedural dramas, *Law and Order* and its numerous spin-offs are relentlessly and problematically formulaic. In essence, the flawed equation is this: The police chase down a winding trail of leads that eventually brings them to the real perpetrator. After a brutal interrogation, the investigators get the damning piece of evidence needed to send the defendant to a quickly approaching trial. The prosecution, always a beacon of justice, manages to overcome a laundry list of obstacles to ensure that justice is served. (Of course, the dedicated viewer already knew that Prosecutor Jack McCoy or District Attorney Adam Schiff would win the day.) On the other hand, the soon-to-be-found-guilty defendant is represented either by a bumbling,

over-matched public defender, who nobly strains to grasp even the rudiments of legal procedure, or an expensive, amoral defense attorney who attempts at every turn to circumvent justice. In the end, whether we get to see it or not, that bombshell the prosecution uncovered in the middle of the trial is always enough to persuade the unbiased, representative jury. All of this adds up to a show, like so many other crime dramas, that misrepresents process in a way that creates a strong correlation between arrest and guilt that is not at all reflective of reality. And when this misrepresentation is shown hundreds of times to millions of viewers, it eventually has the potential to create and reinforce a bias that compromises impartiality.

Of course, we tell ourselves, these portrayals are only fictional. And while this often inaccurate and nearly always pro-prosecution depiction of the criminal justice system can perhaps be expected from entertainment television, we should expect much more from "respectable" news outlets like mainstream print and broadcast journalism. Unfortunately, mainstream media oftentimes present various aspects of the legal process in ways that similarly compromise impartiality in the audience.

The purpose of this article is to show the failings of mainstream media in crime reporting, specifically. To demonstrate that failure, I first will discuss how many Americans get their news and provide brief context for how news acquisition relates to the overall issue that this paper is examining. Next, I will provide an overview of the Society of Professional Journalists' Code of Ethics, which governs the work of journalists, and then use the Code of Ethics to analyze the language, structure, and extent of crime coverage to expose both the failings of the mainstream media in regards to meeting these standards as well as these failings' ultimate consequences for the viewing public's (mis)understanding of process. Finally, I will consider how journalists can avoid these ethical failings and, instead, promote the due process and impartiality provisions of the Constitution by reporting on crime in a way that upholds the requirement that journalists be both transparent and accountable.

How we get our news

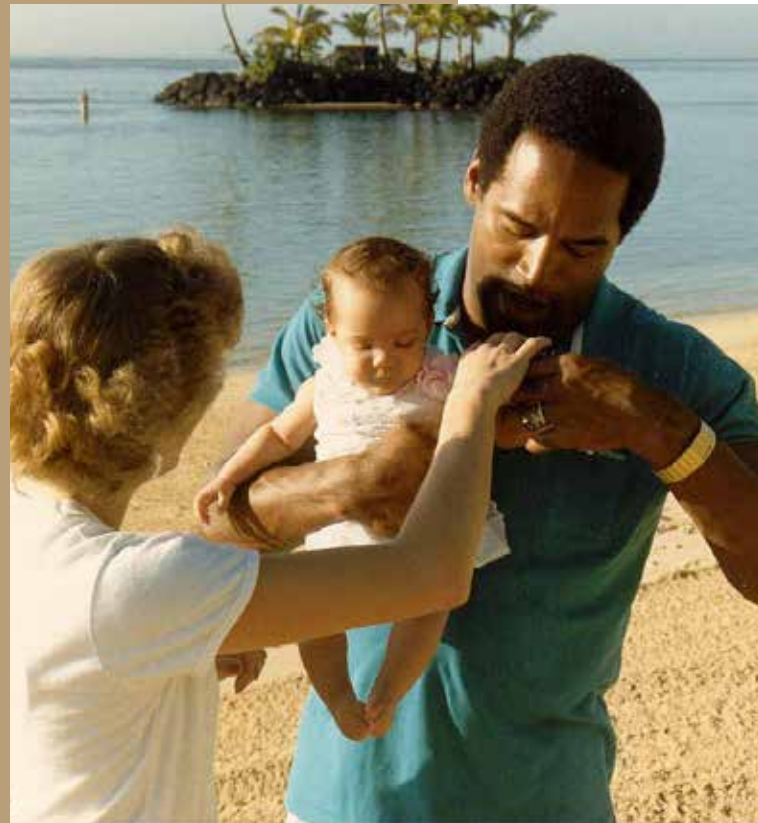
In 2016, television continues to be the most widely used news platform, with 57 percent of adults getting their news from TV "often,"⁴ a statistic that presents itself as problematic only when we take into account how frequently the content of the news still looks like it did during the trial of Pamela Smart...

¹U.S. Constitution. Art./Amend. V.

²U.S. Constitution. Art./Amend. VI

³Matthew Belinkie. "The Law and Order Database: All 20 Seasons." *Overthinking It*. Accessed 13 November 2012. <https://www.overthinkingit.com/2012/11/13/the-law-and-order-database-all-20-seasons/> Accessed 15 October 2016.

⁴Amy Mitchell, Jeffrey Gottfried, Michael Barthel and Elisa Shearer. "The Modern News Consumer: News attitudes and practices in the digital era." *Pew Research Center: Journalism & Media*. 7 July 2016. <http://www.journalism.org/2016/07/07/pathways-to-news/> Accessed 1 October 2016.



NEWS IN BRIEF

Former undergrad Fellow and Kinder Scholar **Sam Franks** accepts a yearlong fellowship position at the American Constitution Society . . . **Kate Hargis**, just back from a spring semester at the Hague (after a fall semester with the Society of Fellows), returns to Columbia to coordinate state auditor Nicole Galloway's re-election campaign . . . Congratulations to Prof. **Jay Dow** on being named the 2017-2020 Frederick A. Middlebush Chair in Political Science . . . and to Kinder Institute Director **Justin Dyer** for his 2017 MU Faculty-Alumni Award . . . Too many names to list here, but let's just say that Kinder Institute undergrads did quite well at the 35th Annual Political Science Department Awards Ceremony . . . Current Fellow **Hunter Norton** took home an honorable mention in the 2017 Undergraduate Research Forum's Social & Behavioral Sciences category . . . Check out the most recent volume of *Politics & Religion* for **Justin Dyer** and former postdoc **Kody Cooper's** co-authored "Thomas Jefferson, Nature's God, and the Theological Foundations of Natural-Rights Republicanism"



Steven Chaffin, Taylor Cofield, Morgan Corder, Alison Bonner, Dylan Cain, Tricia Swartz, Cheyenne Garrett

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For more information about contributing to the Kinder Institute, please feel free to contact Director Justin Dyer, DyerJB@missouri.edu



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