



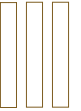
KINDER INSTITUTE  
on CONSTITUTIONAL DEMOCRACY



NEWSLETTER | SPRING 2019



## The COLUMNS



With the exception of Prof. **Dan Mandell's** January 25 Distinguished Visiting Research Fellow Lecture and Prof. **Carli Conklin's** semester-closing book talk, all of our spring events are recapped in this quarter's newsletter. We're also using this issue of *The Columns* as an opportunity to do away with a distinction that has probably run its course. Whereas we used to differentiate lectures from colloquia, colloquia from workshops, and workshops from discussions, we're now classifying all non-conference events under the single header of public talks.

And a quick programming note before we dive into the recaps. Special thanks go out to MU junior **Mary Grace Newman**—a former Kinder Scholar and member of the Society of Fellows—for pinch-hitting for regular reporter **Thomas Kane** on February 22 and providing an excellent synopsis of Prof. **Allen Hertzke's** talk.

*Continued on page 3*



For the second year running, we're using this space to bid farewell to one of our professors, though the direction of said farewell has changed this time around, from southwest to due east. **Christa Dierksheide**, who has been a fixture on the fourth floor of Jesse and the second floor of Read Hall for the past two years, will be heading back to Charlottesville this summer to take a position as the Brockman Foundation Jefferson Scholars Foundation Professor at University of Virginia. This is an amazing opportunity and well-deserved honor for Christa, who did her Ph.D. at UVA and still has deep roots there. But make no mistake: it's also a huge loss for the University of Missouri and Missourians in general. As a decorated scholar of the Jeffersonian era, Christa has raised the intellectual bar at MU for faculty and students alike, and she has likewise been generous, to put it mildly, with her subject-specific and curatorial expertise, giving our capital city's 2019 namesake lecture, leading our Kinder Scholars on tours of Monticello each summer, and offering sage wisdom during the process of putting together the Missouri Humanities Council's traveling "Struggle for Statehood" bicentennial exhibit. Which is all to say that Christa will be missed, and sorely so, but also that we hope everyone who picks up this copy of *The Columns* will join us in wishing her well in this next chapter. We all look forward to watching from the Midwest as what is an already stellar career continues to develop in the shadows of the Blue Ridge Mountains. Christa's, sadly, is not the only fourth floor departure. Their degrees in hand, our two inaugural M.A. Fellows

*Continued on page 2*



# CONTENTS

## CAMPUS & COMMUNITY

### Public Talks

- “The Curious History of U.S. National Security Whistleblowing” ..... 3
- “How the Founders Made the Constitution Their Valentine” ..... 5
- “The Constitutional Roots of American Global Leadership on Religious Freedom” ..... 7
- “Empire Through Birth Rights” ..... 9
- “How to Hide an Empire” ..... 10
- “That Time the Devil Beat Daniel Webster” .. 12

### Scholarly Conferences

- A Fire-Bell in the Past: The Missouri Crisis at 200 ..... 14
- Shawnee Trail Conference on American Politics & Constitutionalism ..... 18
- Graduate Student Conference: “(Re)Building American Identities” ..... 20

## UNDERGRADUATE STUDENTS

- Kinder Scholars D.C. Summer Program ..... 21
- The Journal on Constitutional Democracy* from “Daniel Webster’s Foreign Policy: Controlling Liberalism” ..... 22

## NEWS IN BRIEF



*Continued from page 1*

in Political History will be abandoning the graduate student bullpen in Jesse for graduate bullpens elsewhere. **Edward Green** will be heading to Pennsylvania State University to pursue his Ph.D. in History as a College of Liberal Arts Graduate Scholar, while **Henry Tonks** will be starting in on the same doctoral track at Boston University. And finally, **Aaron Kushner**, a longtime Ph.D. Fellow in Political Science and co-editor of *Starting Points*, has taken a postdoctoral fellowship at Arizona State University’s School of Civic and Economic Thought and Leadership, which will reunite him with **Adam Seagrave**, his former adviser and, to bring things full circle, the Kinder Institute Professor whom we bid farewell to last spring.

Their desks won’t go uninhabited for long, though, and we’ll preview our next wave of graduate fellows, as well as other personnel additions, in the Summer 2019 newsletter.



## PUBLIC TALKS

### *Exposing Secrets: The Curious History of U.S. National Security Whistleblowing*

University of East Anglia Senior Lecturer in American Studies  
Kaeten Mistry

As East Anglia Senior Lecturer in American Studies **Kaeten Mistry** noted in introducing his February 5 back-and-forth with Kinder Institute Chair **Jay Sexton** on the history of whistleblowing, the goal of his current research is both genealogical and corrective: to trace the lineage and evolution of the concept of whistleblowing, but to do so in a way that moves us beyond the familiar hero/traitor binary and toward an understanding of how the phenomenon emerged in tandem with the development of the national security state and the legal regime of state secrecy. So while familiar names certainly factor in—Daniel Ellsberg in the 1970s, for example, and Edward Snowden in post-9/11 America—the narrative Prof. Mistry is crafting begins much earlier in the 20th century, with the rise of overt and covert American power abroad and the implications for state information that came with it. In framing the discussion to come, Prof. Sexton added that there are also exciting methodological questions raised by Prof. Mistry's project: How does one craft a history of something for which there is no pre-existing historiographical literature? How does one tell the story of a term that barely appears in indexes or card catalogues?

To be expected, the conversation itself went on to take a number of twists-and-turns and to pursue tangents at a rate sometimes quicker than notes could be taken (though we did manage to jot down the etymological connection between 'whistleblowing' the term and the Birmingham-produced, English bobby and football referee-endorsed Acme Thunderer). What follows is thus a breakdown of some of the key points on which Profs. Mistry and Sexton happened to linger.

*How does one define whistleblowing, and how is it different from, say, a leak?*

Much of the distinction here comes back to intention and retribution. As Prof. Mistry explained, information leaks (think Deep Throat) are anonymous, highly political, rarely punished, and often personal, though they at least come with the pretense of defending public interest. Whistleblowing, by contrast, is the prosecutable release of private, classified information by an insider who is acting out of a perceived need to shed light on institutional transgression on the part of the state and with the intention of initiating critical reforms in and to democratic society. And it is because of this challenge posed to the status quo that existential hand-wringing over whistleblowing and the aforementioned hero/traitor binary have become so prevalent. Additionally, it is because of the known identity of the person blowing the whistle that the character of the revealer often overtakes the nature of what was revealed in public discourse.



**EXPOSING SECRETS:  
THE CURIOUS HISTORY OF  
U.S. NATIONAL SECURITY  
WHISTLEBLOWING AND  
STATE SECRECY**

Due to C-Span taping  
this event the location  
has moved to 102 Tate

**KAETEN MISTRY**  
SENIOR LECTURER IN AMERICAN STUDIES AT UNIVERSITY OF EAST ANGLIA  
FEBRUARY 5 5:30 PM 102 TATE

Kinder Institute on Constitutional Democracy  
University of Missouri

LOGPORT  
KINDER INSTITUTE ON CONSTITUTIONAL DEMOCRACY



*Where does the history of U.S. national security whistleblowing start, and what have been some of this history's notable inflection points?*

On one hand, Prof. Mistry cited the passage of the 1947 National Security Act and the subsequent creation of the CIA and the bureaucratized national security state as perhaps the most “visible” landmark in the history of whistleblowing in the U.S. But to really get at origins requires going back one world war further, to the 1917 passage of the Espionage Act. A somewhat ad hoc response to the need for a system that would both protect confidential government information *and* uphold the First Amendment and the democratic tradition of open government, the new bill introduced for the first time in the United States a means of classifying information (confidential, secret, top secret). More importantly, the central compromise of the Espionage Act opened up a legal avenue for punishing whistleblowers. While members of the press were free (within the bounds of law) to publish privileged state information that made its way to their desks, the state was likewise able to prosecute those insiders who violated standardized handling methods by placing this information in the press’ hands.

Ultimately, Prof. Mistry showed, the degree to which the Espionage Act hinged on and encouraged executive prerogative can be used to help explain the whistleblowing boom of the 1970s. This was, to be sure, a decade of executive turmoil, and the events underlying this turmoil—Vietnam, Watergate, revelations about CIA operations abroad—are at the heart of the modern narrative of national security whistleblowing. Daniel Ellsberg, he argued, is a textbook case study in this, a figure who released the Pentagon Papers as a result of the violation of public trust that he saw in the gap between the nation’s involvement in Vietnam and what the government said about its involvement.

*Thinking in terms of a long view, what does the future hold for whistleblowing?*

Two things to keep in mind: First, spikes in whistleblowing in the 1970s and the past decade were directly tied to long-running military engagements, so there is a natural dampening (or accelerating) factor associated with the phenomenon. In addition, as recent work in the social sciences has shown, whistleblowing actually has very little tangible impact on the state and is a generally unstable form of spurring accountability and change.

That said, Prof. Mistry closed by pointing to issues that we will likely need to resolve when it comes to responsibly and democratically protecting privileged information going forward. With the national security state growing exponentially since the 1950s, two questions in particular have been raised by the dilemma of more people having more access to more information: How to roll back over-classification of information and, resurrecting Eisenhower’s warning about the military industrial complex, how to address the increasingly blurry lines between the state and the private sector.



## How the Founders Made the Constitution Their Valentine

Stanford University Assistant Professor of History Jonathan Gienapp

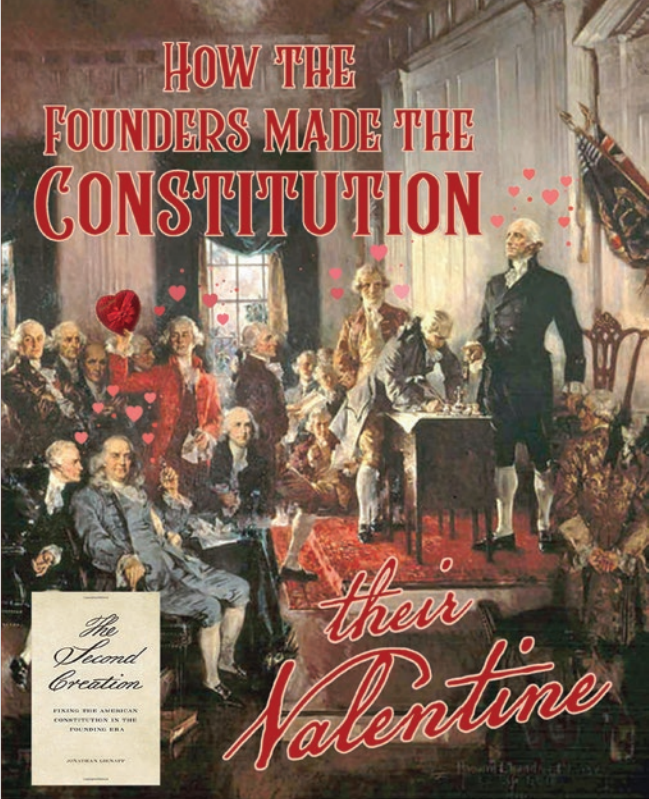
Not to break hearts on Valentine's Day, but Stanford Assistant Professor of History **Jonathan Gienapp** began his February 14 lecture at the Kinder Institute by noting that our present day, almost mythical reverence for the Constitution—as well as for the eternal wisdom of those who framed it—might be rooted in a somewhat misleading narrative. Specifically, this act of enshrinement is predicated on the belief that “inventing” the Constitution ended with the close of the Convention in 1787 and that the document officially ceased taking shape with ratification in 1788. As Prof. Gienapp argues in his new book, and as he laid out in his talk, this version of the constitutional origin story ignores the formative role that leaders played in creating the Constitution in the decade *after* ratification.

*“We are in a wilderness without a single footstep to guide us”*  
—Madison to Jefferson, 30 June 1789

The Constitution, Prof. Gienapp’s “second creation” argument asserts, was born in flux and entered the world shrouded in uncertainty. Questions of how it was to be interpreted and used—questions as fundamental as what, exactly, it was—were both pervasive and divisive in the early republic. Contests over how to justifiably imagine both the character and function of the document thus became a recurring theme in the first Congress, and while these struggles were ultimately lifegiving, Prof. Gienapp would also show how they produced a concept of constitutional fixity that perhaps belies the document’s essential nature.

The first task at hand was working against Americans’ habitual gravitation toward the British construction of a constitution as an un-written system of customs, practices, and traditions and getting them to instead conceive of it as a single, written text. Clearing this hurdle, however, only introduced debates about the problematic—or, at the very least, the fluid—nature of language itself. Anti-Federalists in particular railed against the ambiguity and, in this, the permissibility of the Constitution’s language, contending that it licensed a government to simply do as it pleased. Their Federalist counterparts didn’t wholly disagree. In “Federalist 37,” for example, Madison tied the difficulties that delegates at the Constitutional Convention faced to their flawed medium, an inconvenience that resulted in a necessarily imperfect and unfinished product. Where Anti-Federalists’ logic fell apart for Madison, though, was in the moral they drew from what he considered their fetishization of language. All laws, he and others argued, were by nature ambiguous until their meaning was arranged via adjudication. The ambiguity inherent in what he saw as a constitutional draft was thus evidence not of a catastrophic failure on the part of the framers but rather of the expectation that Congress would complete the work-in-progress before them.

This contest over language (or, perhaps more apt here, its absence) immediately came to a head in congressional debates over who was authorized to remove



**HOW THE FOUNDERS MADE THE CONSTITUTION**  
*their Valentine*

*The Second Creation*  
FIXING THE AMERICAN CONSTITUTION IN THE FOUNDING ERA  
JONATHAN GIENAPP

**JONATHAN GIENAPP**  
ASSISTANT PROFESSOR OF HISTORY, STANFORD  
FEBRUARY 14 3:30 PM 410 JESSE

Kinder Institute on Constitutional Democracy  
University of Missouri

LOGBOAT  
MISSOURI CO.







*Having to choose between a fixed or changing vision of it—a choice that still guides contests between originalists and living constitutionalists—was not a byproduct of the Constitution itself but of how the first generations of leaders imagined (and re-imagined) it.*

executive officers, a question not answered by the text. Many, like South Carolina's William Loughton Smith, balked at the decision to vest this power in the president, but they did so not so much on the basis of the decision itself but rather on the grounds that granting Congress the authority to fill the Constitution's silences would make the document anything and nothing all at once. Opposite Smith were those like Madison, who effectively won the day by claiming that these silences only signaled the additional creative work that any unfinished document calls for and, moreover, that coping with these silences was a key part of Congress' given task of understanding and determining this particular unfinished document's fundamental nature.

Two years later, debates about a Bill of Rights introduced questions not only of what about the Constitution needed to be amended but also of how change was to be integrated into the text. Madison lobbied for direct incorporation, envisioning the Constitution as an organically evolving whole, complete with layers of textual sediment. Countering him, Rodger Sherman successfully lobbied for the creation of a supplemental text that would preserve the essential character of the original document. While it may seem like a quibble over semantics, Prof. Gienapp explained how Sherman's argument actually brought about a profound shift in how the Constitution was understood, making it easier for early Americans to see it as a sacred artifact circumscribed in time—a proto-version of our contemporary reverence.

Going forward, excavating the Constitution's history became central to the practice of litigating how to interpret it. In debates over the national bank, for example, Madison pivoted his anti-bank rhetoric at the last minute to issue an ironic constitutional challenge, citing the intentions of the delegates at the Constitutional Convention to support his stance that Congress' capacities were limited to those un-ambiguously enumerated by the original language of the text; had the delegates wanted to include a power of incorporation among these capacities, he reasoned, they explicitly would have. Fisher Ames likewise summoned early constitutional history to support his pro-bank stance, leaning into the irony of the ordeal by quoting 1788 Madison (from "Federalist 44") in decrying 1791 Madison's argument as "sophistry." The pattern of using the past to resolve questions of the present repeated when the 1796 passage of the Jay Treaty was met with outrage, this time with quotes from the ratifying debates flying across the aisle of Congress. Washington would end this debate in his favor by making the record of the Constitutional Convention public, and with this, referring to the designs of the framers became more or less a default means of addressing indeterminacy. If, in 1788, it was possible to view the Constitution as both fixed in time and still changing, these two "character traits" were now unreconcilably antagonistic. But as Prof. Gienapp noted in closing his talk, there is nothing about the primordial nature of the document that actually necessitated this shift toward denigrating the notion of the Constitution as incomplete. Having to choose between a fixed or changing vision of it—a choice that still guides contests between originalists and living constitutionalists—was not a byproduct of the Constitution itself but of how the first generations of leaders imagined (and re-imagined) it.


## *The Constitutional Roots of American Global Leadership on Religious Freedom*

University of Oklahoma Professor of Political Science  
Allen Hertzke


The theme of University of Oklahoma David Ross Boyd Professor of Political Science **Allen Hertzke's** February 22 public talk at the Kinder Institute was a “paradox of our age”: the value of religious freedom and yet its ebbing international consensus. However, behind this paradox is a promise, a historic moment to realize (or re-realize) today. Recent events on the ground as well as empirical studies have allowed political scientists and advocates of the inseparable concepts of religious freedom and liberty of conscience to underscore to both the public and governing bodies just how significant this freedom is to pursuing and expressing fundamental dignity. On one hand, the United States is an important part of these contemporary conversations about the global promotion of religious freedom because the U.S. has long been such a crucial actor in this freedom's global protection. Equally important, Prof. Hertzke noted, is remembering how the U.S. became a major champion of religious liberty because of its constitutional heritage. And the historic thread binding the free exercise of religion to American life, he added, is drawn through the stories of people: Mary Dyer, executed in Boston in 1660 for persistently advocating for her right to live and express her Quaker faith; or Roger Williams, who fostered “soul freedom” in the 17th century. Although people have embraced this constitutional heritage in the past, Prof. Hertzke conveyed that, today, this legacy is fraying. What is the great concern stemming from this phenomenon? When the battle for religious freedom is lost in the U.S., the U.S. sacrifices its ability to encourage religious freedom around the world, meaning the cause is down one of its most important allies.

With the context of this legacy of religious freedom and of U.S. involvement in the struggle to protect it set in audience members' minds, Prof. Hertzke then raised the question of “how American constitutional heritage [has] shaped our global role?” He offered his answer in four parts: the American model, the American experience with the Catholic Church, American global leadership, and research, advocacy, and infrastructure.


The U.S. developed its global role in religious freedom, Prof. Hertzke first argued, by establishing and practicing a model for countries to replicate and follow. At its inception, this American model of religious freedom was unprecedented. People looked toward the U.S. and saw something they believed impossible: an institutional framework in which people could shape their own religious lives. Religion and liberty coexisting—and mutually thriving—in the U.S. empowered global activists to share this model with their own countries and nations, and it rippled out to other parts of the world, as the U.S. continued to protect religious liberty at home. For example, in the early 2000s, the American model demonstrated its domestic commitment to religious liberty by protecting Nashala Hearn's right to express her faith.



**THE CONSTITUTIONAL  
ROOTS OF  
AMERICAN GLOBAL LEADERSHIP  
ON RELIGIOUS FREEDOM**



**Allen Hertzke**  
David Ross Boyd Professor of Political Science at University of Oklahoma  
February 22 3:30 p.m. Jesse 410  
[democracy.missouri.edu](http://democracy.missouri.edu)

 Kinder Institute on Constitutional Democracy  
University of Missouri



*...the International Religious Freedom Act, the collaborative legislative work of people from diverse ideologies and religious backgrounds that was passed by Congress in 1998, was similarly instrumental in securing and protecting religious freedom abroad.*



A school district in Oklahoma had prohibited Hearn from wearing a hijab in school, and after she took the district to court, the Justice Department intervened to settle the case so that her constitutional rights were not infringed upon. President Obama would go on to cite Hearn's case and America's promise of religious toleration while speaking in Cairo in 2009, a point of reference, Prof. Hertzke noted, that allowed him to connect more genuinely with his audience about the importance of religious freedom on a global scale.

Decades earlier, the American experience with religious freedom provided a foundation for the U.S. to sway another significant global actor, the Catholic Church, toward religious toleration. John Courtney Murray, a Jesuit priest from the U.S., contributed to the Second Vatican Council in the 1960s by advocating for the Catholic Church to adopt the Council's Declaration on Religious Freedom, and its focus on the dignity of the human person transformed the Catholic Church and, with it, international relations. Before the Second Vatican Council, 70% of Catholic countries were authoritarian. After it, the last great wave of democratization took hold of the world.

Prof. Hertzke then showed how American leaders have likewise influenced the global sustenance of religious freedom by utilizing their voices and platforms to bring people from diverse religious backgrounds together. Before World War II, fascism began eroding religious liberty, a condition that both Franklin and Eleanor Roosevelt used their position and power to fight against. FDR publicly championed the "freedom of every person to worship God in his own way—everywhere in the world." For her part, Eleanor Roosevelt led the United Nations to adopt the *Universal Declaration of Human*

*Rights*, a seminal document which in Article 18 states that "everyone has the right to freedom of thought, conscience and religion." This continued during the Cold War. The Helsinki Accords of 1975 furthered people's commitment to religious liberty; Ronald Reagan and John Paul II worked together during the 1980s to promote this liberty and unseat Soviet communism from Europe and elsewhere; and the International Religious Freedom Act, the collaborative legislative work of people from diverse ideologies and religious backgrounds that was passed by Congress in 1998, was similarly instrumental in securing and protecting religious freedom abroad.

Within Prof. Hertzke's four-pronged argument, the final way that American constitutional heritage has shaped the United States' global role in the fight for religious freedom can be seen in the advocacy networks this heritage has facilitated. Scholarly institutes for international lawyers and researchers have allowed the U.S. to widely assist in the promotion of liberty of conscience, and the American constitutional DNA has similarly led private citizens to travel abroad to protect religious liberty. Additionally, through resources such as



U.S. State Department records and Pew Research Center data, scholars from across the world can now analyze the implications of religious restrictions for other parts of society—women’s rights, economic development, terrorism—to show that freer religious societies lead to the protection and expansion of what Americans consider positive aspects of human dignity.

Although this historical overview may appear a reason for optimism, Prof. Hertzke soon explained the “troubles in the cradle of religious liberty.” Religious liberty may appear fundamental; however, religious restrictions in the U.S. have more than doubled since 2007, a fraying of constitutional heritage that stems from both the secular left and the right. From the left, Prof. Hertzke argued, religious liberty is put “in scare quotes.” From the right, we have seen a rise of ethnic nationalism and attacks on synagogues and mosques, especially in the last few years. This erosion and repression of religious liberty is echoing around the world as well, fueling religious violence and war and creating a global crisis that the U.S. should be concerned with precisely because of how essential religious freedom is to sustaining “democracy and peace.”

### *Empire Through Birth Rights*

Saint Louis University Ph.D. Candidate in History  
Idolina Hernandez

In his 1798 “The Aliens: A Patriotic Poem,” Kentucky Senator-bard and noted Federalist Humphrey Marshall drew a distinction between those non-citizens who were “proper” and those who were “malignant.” The occasion for the poem—it was a response to (and defense of) the recently passed Alien and Sedition Acts—might provide immediate explanation for its content, but as Saint Louis University Ph.D. candidate **Idolina Hernandez** showed in her March 15 presentation at the Kinder Institute, truly understanding Marshall’s verse requires unpacking the much longer and more complex history of integrating or rejecting refugees in British America and the United States.

We might begin exploring this historical narrative in 16th-century France, Hernandez noted, with Protestant Huguenots fleeing violent persecution at the hands of the country’s Catholic majority. These émigrés sought refuge in Switzerland, the Netherlands, and England, and eventually crossed the Atlantic to Great Britain’s North American colonies, most notably landing in Charleston, SC, and the area around New Rochelle, NY. As Hernandez explained, this pattern of immigration gave rise to ‘denization’ as a legal category for refugees that limited the protections they received from the colonial government. Denization granted the right to purchase land, for example, but without *jus solis* (the right to cede land to their heirs). That said, colonial governors and assemblies could grant denizens naturalized citizen-status, and as a result, naturalization became a mutually advantageous imperial tool through which full rights were exchanged for the promotion of industry or for refugees settling lands at the contested fringes of—the contested borders



**EMPIRE THROUGH  
BIRTH RIGHTS:  
NATURALIZATION,  
CITIZENSHIP,  
AND REFUGEES IN  
EARLY AMERICA**

**IDOLINA HERNANDEZ**  
ST. LOUIS UNIVERSITY  
MARCH 15 4:00 PM 410 JESSE

between—empires. This was the case after the Proclamation of 1763, when Great Britain’s government financed emigration and naturalized refugees as a way of populating the territory acquired from France at the conclusion of the Seven Years’ War.

That said, naturalization ultimately remained the prerogative of George III, and as the Declaration of Independence’s grievances reveal, if it was used as a mechanism for integration, it was likewise wielded as a politically expedient and punitive means of obstructing citizenship and land ownership. As Hernandez made clear in wrapping up her talk, manipulating refugee policy based on refugee type didn’t stop with the birth of the American republic. Much like the colonial governors before them, early American legislators used naturalization as a vehicle for territorial expansion. At the same time, who was and who was not deemed acceptable—or, as Marshall put it, proper—was complicated and ultimately determined not only by which side of inter-empire conflicts between Great Britain and France the U.S. happened to fall on but also, as the Alien and Sedition Acts demonstrate, by the partisan implications of immigrant voting patterns.

### *How to Hide an Empire*

Northwestern University Associate Professor of History  
Daniel Immerwahr



# HOW TO HIDE AN EMPIRE

**TELLING THE STORY OF THE  
GREATER UNITED STATES**

Daniel Immerwahr  
Northwestern University  
April 26 3:30 PM 410 Jesse

Kinder Institute on Constitutional Democracy  
University of Missouri

In the final version of Roosevelt’s famous “A Date Which Will Live in Infamy” speech, the President mourns the bombings on “the American island of Oahu,” a turn of phrase significant here for how it consummates FDR’s behind-the-scenes resistance to editorial suggestions that he place equal emphasis on the tragic bombings of the Philippines and Guam, U.S. Territories targeted in the same offensive against the backbone of the Allied Forces’ air defense.

Not long afterward, a group of Michigan 7th graders wrote to Rand McNally, publisher of the wartime atlas they were using to dutifully oblige FDR’s request that the public follow along with the events of WW II, asking why Puerto Rico, Hawaii, and the Philippines were listed in the atlas’ index of “foreign places.” Rand McNally wrote back that these islands belonged to the U.S., yes, but were not integral to the nation, a rejoinder that drew stern pushback not only from the 7th graders but also the Department of the Interior, to whom the aghast students forwarded Rand McNally’s response.

Both the President’s rhetorical choices and the publisher’s specious logic speak to the larger point driving Northwestern Associate Professor of History **Daniel Immerwahr’s** April 26 talk at the Kinder Institute: though we have consistently, often actively, failed to acknowledge it, the United States’ narrative becomes far richer and more candid when the history of its overseas holdings factors into the telling of it. Drawing from his recent book on the subject, *How to Hide an Empire*, Prof. Immerwahr focused on three specific dates in illustrating this thesis.



## 1898: The Treaty of Paris

Post-Gadsden Purchase, the “logo” or mainland map of the U.S. lasted only three years un-amended before the nation began expanding, first into strategically important, uninhabited islands in the Pacific and Caribbean and then into Alaska. Colonial discourse would catch up to colonial ambition in 1898, after the Spanish-American War concluded with the acquisition of Puerto Rico, the Philippines, and Guam as U.S. Territories (this era also saw the annexation of Hawaii and American Samoa). As Prof. Immerwahr showed, this led to cartographical, nomenclatural, and cultural shifts in how the United States’ now openly global identity was represented: maps took on an entirely different nature, highlighting holdings and territories, with one even dividing the mainland not into states but into moments of expansion; writers would cast about for new ways to refer to the U.S. in its adulthood, testing out ‘Greater Republic’ and ‘Greater United States’ before landing on ‘America’ (Teddy Roosevelt would use this term more in two speeches than all previous presidents combined); and following suit, after decades of singing “Hail, Columbia,” “America the Beautiful” and “God Bless America” rose to prominence.

It would be a short-lived fervor. While Great Britain introduced the new celebration of Empire Day, the U.S. introduced Flag Day, a prioritization of nation over empire that was reinforced by the scant, ad hoc federal resources devoted to territorial governance; in 1916, The Office of Territory and Island Possessions had only 10 employees above the level of clerk.

### December 7, 1941: Before and After Pearl Harbor

This emphasis on nation began to become more vivid in the mid-1930s, when the United States did little to build up or prepare its Western Territories as a potential war with Japan loomed, even putting the Philippines on a countdown to independence in 1934 and thus establishing it as a commonwealth that the U.S. no longer had an obligation to protect. This stance became more pronounced during World War II, when the United States’ Europe-first strategy—magnified by its denying the Philippines’ request for expedited independence so it could negotiate on its own behalf—ultimately led to the brutal colonization of the Philippines, as well as Guam, by Japan. The U.S. would eventually re-divert resources to the Pacific Theatre, but the cost on the ground—absorbed almost entirely by residents of the region—would be catastrophic. Liberating (or, alternately, reclaiming) Guam, which was taken in a day, required two weeks of bombing. Liberating Manila—at that point the 6th largest city in the United States—would take twice as long and claim over 100,000 Filipino lives, result in widespread ecological destruction, and decimate huge swaths of the city’s urban landscape and civic infrastructure.

In his research on the liberation of Manila—conducted largely by sifting through diary entries and letters from the time—Prof. Immerwahr un-

*This stance became more pronounced during World War II, when the United States’ Europe-first strategy—magnified by its denying the Philippines’ request for expedited independence so it could negotiate on its own behalf—ultimately led to the brutal colonization of the Philippines, as well as Guam, by Japan.*



earthed a telling exchange. After offering a young Filipino boy chocolate, an American G.I. was surprised when the recipient thanked him in English. The G.I.'s response when he found out that, post-colonization, English was the language of instruction in Filipino schools: "We colonized you?"

### The 2008 Presidential Election

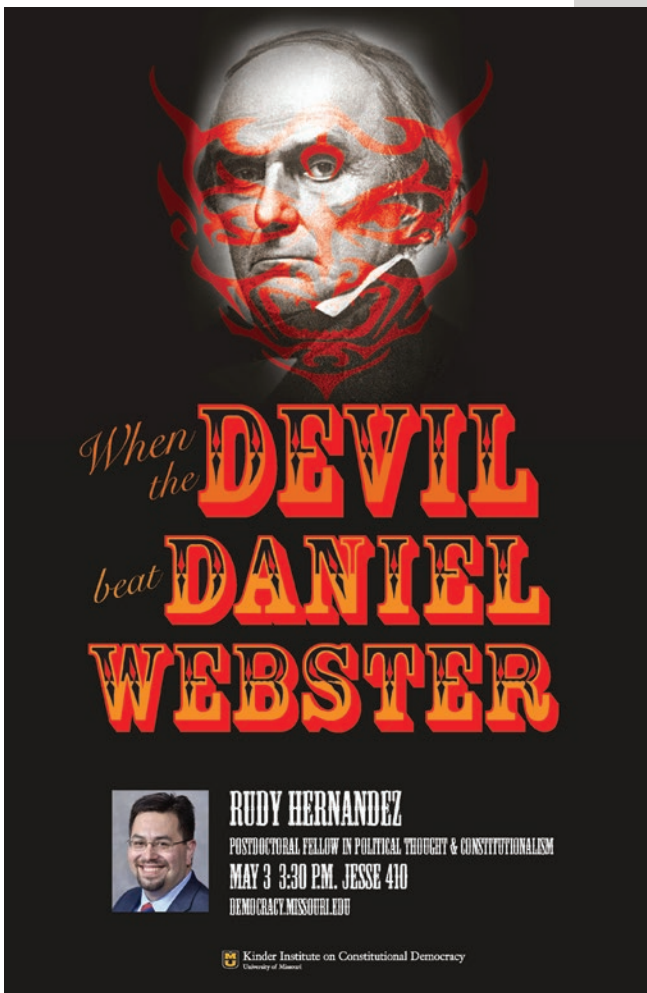
The Philippines would gain independence on July 4, 1946, a development, Prof. Immerwahr noted, that marked a shift in U.S. imperial thinking and tilted its colonial footprint toward the "pointillist empire" of military bases that we see today. But if the United States' colonial approach has changed, the colonial dimensions of political life have in no way vanished. Take, for example, the 2008 presidential election. Republican candidate John McCain was born in the extraconstitutional Panama Canal Zone at a time when the citizenship status of children born there—even if to U.S. parents—was still being sorted out; Republican Vice-Presidential candidate Sarah Palin's husband was affiliated with the Alaskan Independence Party, which has long deemed U.S. annexation of the state illegitimate; and, of course, Barack Obama, whose citizenship has repeatedly (and egregiously) been called into question since the election, was born in Hawaii a year *after* it officially became a U.S. state.

### *That Time the Devil Beat Daniel Webster*

Kinder Institute Postdoctoral Fellow Rudy Hernandez


Famous merchant and War of 1812 creditor Stephen Girard died in 1831 the wealthiest man in Philadelphia and one of the richest in all of the United States. His relatives assumed a payday was coming, but much to their surprise—and chagrin—Girard had earmarked nearly his entire fortune for the creation and endowment of a boarding school (Girard College) for, his will read, "poor, white, male orphans." Girard's relatives hired none other than Daniel Webster to challenge the validity of the bequest, and the case, argued by Nicholas Biddle on the other side, bounced between circuit courts for years before finding its way to the U.S. Supreme Court in 1844.

As Kinder Institute Postdoctoral Fellow **Rudy Hernandez** noted in introducing his May 3 talk, while a disputed will making it to the nation's high court might seem a bit odd, *Vidal et al. v. Girard's Executors* is, in fact, a judicial landmark and a defining moment in church-state history in the U.S. Why? Because of a stipulation in Girard's will—what John Quincy Adams would later term "the infidel clause"—that no one religiously ordained be permitted on the Girard College campus. Girard's logic, Prof. Hernandez outlined, was that banning all clergy would shield the "tender minds" of students from the excitement of clashing sectarian doctrines and allow them to instead devote their energies to the more vocationally useful study of "facts and things"—geography, navigational science, surveying, Spanish and French—and to the cultivation of republican virtue.



When the **DEVIL** beat **DANIEL WEBSTER**

**RUDY HERNANDEZ**  
POSTDOCTORAL FELLOW IN POLITICAL THOUGHT & CONSTITUTIONALISM  
MAY 3 3:30 P.M. JESSE 410  
DEMOCRACY.MISSOURI.EDU

 Kinder Institute on Constitutional Democracy  
University of Missouri



Emblematic of Girard's devotion to French Enlightenment thought (and also of his freemasonry), the infidel clause was at direct odds both with the "Nursing Fathers" belief that republican government required the promotion of religion and with the commonly held position that Christianity was part of the common law. The latter, Prof. Hernandez showed, was true, as Christian doctrine had found its way into common law case history via mid-17th-century blasphemy trials in Great Britain. Webster leaned on this. Though he cited only two cases in his arguments—one of which even held that non-conformity was not tantamount to blasphemy—he repeatedly stressed the central place of custom in common law in staking out his anti-Christian claims against Girard, contending that religious education was customary to living in Pennsylvania; that answers to the fundamental questions of ordered life customarily came from religion; that it had become custom for one to learn accommodation through witnessing the interactions of multiple sects; and ultimately that denying students access to religion until they were 18 would ill-prepare them for the customs of adult life.

Chief Justice Joseph Story, however, was unconvinced. Even in conceding that, yes, Christianity *had* been part of the common law tradition in Pennsylvania, he raised the question of what positive law one might point to in order to prove that the infidel clause was, as Webster was arguing, openly and illegally hostile to Christianity. Story's answer: No such law existed. For one, religious liberty accommodated disbelief. More important for Story, though, was the fact that banning clergy from campus did not ban Christianity from campus. The *Bible* could still be taught, and the purest Christian form of morality still be pursued. This textualist reading of the will, Prof. Hernandez suggested in closing, was a loss of sorts for Girard, whose more radical intent was tempered by it, a clear loss for Webster, and more or less the end of legal arguments built around Christianity and the common law.

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## CONFERENCES

### *A Fire-Bell in the Past*

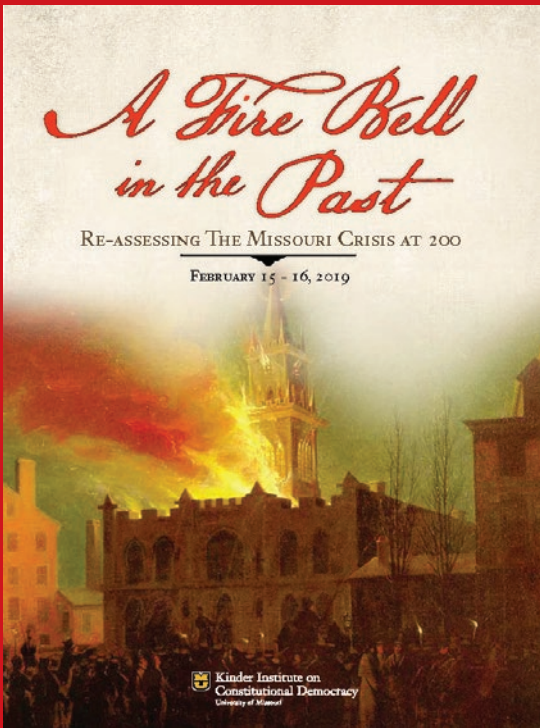
#### *Reassessing the Missouri Crisis at 200*

A rousing success, if we do say so ourselves, the February 15-16 conference reassessing the Missouri Crisis on the eve of its 200th anniversary brought together scholars from as far away as Gothenburg and as close as MU's Tate Hall to discuss the whirlwind of events surrounding Missouri's contentious application for statehood. A full conference schedule can be found in our Winter 2019 Newsletter, and a not-to-be-missed "live recording" of the conference can be found on the @MO\_Crisis200 Twitter account, thanks to the dexterity of History M.A. candidate **Jordan Pellerito**, but what follows are brief synopses of some of the extraordinary presentations that we were lucky enough to have made it out for during the busy weekend.

**Bobby Lee**, 2017-2020 Harvard University Junior Fellow, "The Boon's Lick Land Rush and the Coming of the Missouri Crisis"

In an attempt to block Missouri's entrance into the union, New York Senator Rufus King pegged the territory's population in 1820 at around 11,000, well below the threshold necessary for admission. At the center of Dr. Lee's talk was not only just how willfully wrong King's estimate was but also the population boom that made it so. As Lee explained, while the Tallmadge Amendment might have been the spark for the Missouri Crisis, the Amendment never would have come to be had tens of thousands of settlers not "pour[ed] like a flood" and "crash[ed] like an avalanche" into present day Howard County, MO—just 45 minutes north and west from the conference site—between 1815 and 1820.

As is so often the case, the history of Boon's Lick, ground zero for the explosive demographic change that the Missouri territory experienced in the eighteen-teens, was one of craven, unjust dispossession. The land around Boon's Lick was ideal for settlement: fertile, rich with game and timber, and river-accessible. It was also Ioway and Sac and Fox land that settlers had for some time been occupying illegally. However, on the fabricated grounds that the land had already been ceded to the U.S. in a treaty with the Osage, Indian title was revoked in 1815, leading to a 1700% surge in Howard County's population in the five years after (making it the fastest





growing county in the United States during this period). By 1820, Missouri as a whole boasted over 66,000 residents, more than enough to qualify for statehood and, with this, give rise to the debates over the extension of slavery into western territories that much of the conference was devoted to examining. As Dr. Lee noted in closing, the story of Boon's Lick isn't necessarily an isolated one, and we would do well to remember that land, and not gold, served as the single strongest magnet for immigration and migration throughout nineteenth-century United States history.

**Diane Mutti-Burke**, University of Missouri-Kansas City Professor of History, "Jefferson's Fire-Bell: Slavery in the American Borderlands"

Slavery in Missouri, Prof. Mutti-Burke noted at the outset of her presentation, was not identical to slavery in the deep south. As she would show in the course of giving an overview of her conference paper—and as William Wells Brown likewise made clear in his *Narrative*—though perhaps different "when compared with the cotton, sugar, and rice growing states," slavery in Missouri was no less brutal or inhumane.

The primary distinguishing factor between slavery in the Missouri borderlands and slavery in the cotton belt was one of scale. The vast majority of farms in Missouri were owned by proprietors who held ten or fewer slaves, and the entire number of enslaved persons never exceeded 18% of the state's total population. This difference in scale created differences in practice. For example, because of close quarters on the small farms, there was a much higher degree of day-to-day personal interaction, leading on one hand to a new form of resistance for enslaved persons—exploiting intimate knowledge—but on the other hand to even more unchecked abuse on the part of slaveholders. In addition, issues related to labor shortage and to the variable nature of seasonal demands in a diverse agricultural economy were addressed by inter-farm hiring networks which placed a particular burden on the nuclear family. Abroad marriages became a norm in Missouri, with enslaved men often living miles, if not counties, away from their wives and children. While this produced more liberal policies regarding the mobility of enslaved people, as well as greater familiarity and interaction within the slave community as a whole, the work frolics and church services in which enslaved persons took part always came with both greater oversight and the consequences thereof.

**Matthew White**, Ph.D. Candidate in History at The Ohio State University, "Pennsylvania's Missouri Crisis and the Viability of Anti-Slavery Politics"





**Sarah L.H. Gronningsater**, University of Pennsylvania Assistant Professor of History, “The New Yorkers? What Were They Thinking? The Origins of the Tallmadge Amendment” (Paper delivered by CUNY-Graduate Center Professor of History **David Waldstreicher**)

When asked by Jefferson Davis in an 1850 letter whether he had, in fact, been present at an 1819 anti-slavery meeting in Lancaster, PA, James Buchanan responded that he had but quickly added that he was merely “under the influence of the excitement then universal.” As White argued in his talk, the anti-slavery excitement to which Buchanan referred was in large part the end result of a steady, post-1812 economic decline in Pennsylvania that crescendoed with the Panic of 1819 crippling Philadelphia’s textile manufacturers. The violence—political

and physical—that ensued revealed fissures that had in actuality been forming for some time, namely those between pro-bank Family Party Pennsylvanians and the state’s Independent Republicans, anti-bank anti-federalists with deep ideological and participatory ties to the American Revolution. In 1819, however, the latter party’s ire became outward- and southward-facing. At nominating conventions across the state, including the one in question in Davis’ letter to Buchanan, anti-tariff, pro-slavery, and anti-Tallmadge/anti-restriction positions were folded both into one another and into a single historical memory, coming to be collectively demonized by Independent Republicans as betraying and profaning the Revolution’s promise to extend freedom into prosperity. As the Missouri Crisis heated up, a rhetoric of disunion heated up with it, though White noted in closing that radical Pennsylvanians would back away from the precipice of imagining an “American Flanders,” ultimately concluding that while it could be a component of a party platform, anti-slavery sentiment could not itself drive one.

Just north of Philadelphia, anti-slavery fervor (and reticence) would likewise shape many New Yorkers’ thoughts about the Crisis. Or, as Prof. Gronningsater’s paper explored, it was not at all happenstance that the Tallmadge Amendment emerged from the pen of a New York representative. While the state had as many slaves as Georgia in the 1780s, abolition would begin in and continue throughout the 1790s and early 1800s, with former slaves in New York not only gaining freedom but also (at least for men) the franchise. There was, of course, backlash to this, particularly when it became clear that the support of once enslaved men was sizable enough to sway elections, and the certificate of freedom requirement passed in 1811 was un-subtly designed to suppress the black vote. It would be another decade, though, until an insidious disenfranchisement scheme actually worked, and the pre-1821 protection of the rights of former slaves in New York suggested a broader understanding of citizenship at the state level that mapped directly onto the debate over Missouri at the national level. While Martin Van Buren and his bucktails might have abstained from voting on how New Yorkers would collectively respond to the Missouri question, DeWitt Clinton and others were openly and adamantly against the expansion of slavery into Missouri or any other new state, arguing for constitutional recognition of the fact that citizens of New York should

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be recognized as citizens of all states and that safeguarding the rights of black New Yorkers in Missouri thus required the wholesale ouster of slavery in new lands.

Stepping out of his role as a medium for Sarah Gronningsater, Prof. Waldstreicher added that the story of New York might be used to re-orient the Missouri Crisis' place within the larger narrative of nineteenth-century U.S. history, positioning it not as the early tremors of the Civil War but instead as the waning moments of the first wave of emancipation that brought questions of race, voting, and democracy to the national stage and introduced new forms and magnitudes of partisan strategizing.

**Chris Childers**, Pittsburg State University Assistant Professor of History, "The Missouri Crisis and the Uncontested Reelection of James Monroe"

Such partisan strategizing reappeared in full force during Saturday afternoon's presentation on the uncontested reelection of James Monroe. In an 1819 letter to Jefferson, Prof. Childers began, John Adams described how "clouds, black and thick" loomed over the nation and the 1820 election, though Adams immediately qualified his dire empyreal symbolism by noting that he expected the president and vice-president to be brought back into office by a great majority. And indeed they were; only three states showed even half-hearted resistance to Monroe's reelection.

As the talk laid out, however, the 1820 election results reflected neither the obstacles Monroe faced on the path back to the presidency nor how these obstacles cast doubt on just how good the feelings were in the "era of good feelings." Monroe's relationship with the old guard in his own state is a case study in this un-heralded electoral obstruction and how the Missouri Crisis was in the middle of it all. Though Monroe initially spoke out against the restriction of slavery in Missouri, he rankled Virginia politicians by gravitating toward compromise on the issue. Virginia's democratic-republican establishment firmly believed compromise on the issue to be a threat to state sovereignty and to the union in general, and they responded to what they saw as Monroe's wavering by making noise in state nominating caucuses about whether or not he was a candidate fit to resolve the Missouri question. Monroe's response? He and his associates sent a to-be-leaked letter to *Richmond Enquirer* Editor Thomas Ritchie, the contents of which: deflected all compromise attention onto New York Federalist (and overall conference punching bag) Rufus King; hinted at an already-penned presidential veto of any congressional compromise bill; and reiterated Monroe's constitutional support for opening new states to slavery.

Mollified, the Virginians fell back into line, but they would not be Monroe's only opponents. Pro-restriction Northerners, especially DeWitt Clinton in New York, also posed a brief roadblock to Monroe's second term. In the case of Clinton, Monroe merely drew on patronage politics to quash the challenge, confirming the shifting partisan landscape that Prof. Waldstreicher summoned in closing out his reading of Prof. Gronningsater's paper.



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5TH ANNUAL  
**SHAWNEE TRAIL REGIONAL CONFERENCE**  
ON AMERICAN POLITICS AND CONSTITUTIONALISM

Back in Columbia for its fifth year, the Shawnee Trail Regional Conference on American Politics & Constitutionalism kicked off with a new wrinkle: a March 7 roundtable discussion on “Locke, Liberalism, and the American Revolution,” through which scholars here-and-far provided feedback on each other’s works in progress. To start things off, Kinder Institute Postdoctoral Fellow **Rodolfo Hernandez** offered comments on University of Texas Ph.D. candidate **Christina Bambrick’s** paper, “Considering the Possibility (and Desirability) of Liberal Virtues.” Specifically, he raised the question of whether a society built around such virtues—for example, autonomy, moderation, and tolerance—suffers from lack of a singular definition of “the good life” or, alternately, whether a movement away from this classical, Aristotelian virtue might cultivate free and open debate about what constitutes a comprehensive, consensus doctrine of human good. Returning the favor, Bambrick looked at Prof. Hernandez’s work on *Vidal v. Girard’s Executors* (1844), a somewhat curious Supreme Court case surrounding the constitutionality of wealthy merchant and freemason Stephen Girard’s establishment of a school for orphans from which clergy of all sects were banned. The implications of the case, Bambrick noted, were many—for religious liberty; for how the Framers understood the relationship between Christianity and the common law; for republican education and citizenship; and for Daniel Webster’s presidential aspirations—and for more on this, turn to pp. 12-13 for a recap of Prof. Hernandez’s May 3 colloquium on “That Time the Devil Beat Daniel Webster.”

As MU History Ph.D. Candidate **Travis Eakin** noted in commenting on Kinder Institute Postdoctoral Fellow **Luke Perez** and Kinder Institute Graduate Fellow **Aaron Kushner’s** co-authored paper on “John Locke and the Natural Right to Immigration,” answering the question suggested by the paper’s title means attending to a distinction between related verbs. Within the Lockean construction of the right to self-preservation, a government violating the social contract implies the citizen’s right to depart said government/breach said contract—i.e., it implies the right to emigrate. In so far as the emigrant cannot, per Locke’s logic, return to the chaotic state of nature and thus must enter or immigrate to a new civil society, a transitive question emerges: Is the government of this new civil society duty-bound to protect the natural rights of the immigrant? And, for Locke, the answer is yes. Kushner and Dr. Perez likewise zeroed in on a binary at the heart of Eakin’s paper on Friedrich Gentz’s work on the American and French Revolutions: legal vs. illegal. As they pointed out, in

parsing Gentz’s reasoning for why the revolutions in question fell on one or the other side of this binary, geography matters deeply. The Atlantic’s worth of ocean between them and the crown trained North American colonists in the intricacies and practice of self-government, thus legitimizing the American Revolution, for Gentz, on the grounds that participants in it sought pre-existing vs. invented rights.

Day one of the conference concluded with a graduate development workshop, with Cornell Law Professor **Josh Chafetz** (who also gave the conference’s keynote lecture) commenting on University of Texas Ph.D. Candidate **Thomas Bell’s** dissertation, as well as a pair of book symposia for Boston University Law School Professor and Paul M. Siskind Research Fellow **Linda C. McClain’s** *Bigotry, Conscience, and Marriage: Past and Present Controversies* and BU Honorable Paul J. Liacos Professor of Law **James E. Fleming’s** *Constructing Basic Liberties: A Defence of Substantive Due Process*.

Day two of the conference opened with a panel on American Political Thought that situated attendees squarely within the early republic. Baylor Professor of Political Science **Lee Ward** discussed how Jefferson’s shifting thoughts on the conditions conducive to republicanism (and the French Revolution’s role in this shift) might be used to trace his gravitation away from supporting balanced constitutionalism and toward the idea that popular control over government might better resolve social, political, and economic inequality. Brown University Visiting Fellow **Glory Liu** then answered the question of why Adam Smith was so popular among early American leaders, showing how it wasn’t because he was an “apostle of free trade” but because of how his arguments in *Theory of Moral Sentiments* and *Wealth of Nations* could be re-purposed for various elements of statecraft (for Hamilton, in support of the national bank, for example, and for Adams as a warning against a psychology that values wealth over virtue). Following Dr. Liu, Black Hills State University Assistant Professor and former Kinder Institute Postdoc **Nicholas Drummond** explored the “split personality of Publius thesis,” ultimately landing on Hamilton’s work on Washington’s Farewell Address as evidence of his and Madison’s contradictory opinions on the extended republic argument in “Federalist 10.” To wrap up the panel, Prof. **Adam Seagrave**—formerly of the Kinder Institute and currently Associate Director of Arizona State’s School of Civic and Economic Thought and Leadership—made the case that revisiting acclaimed political theorist Michael Zuckert’s work on Locke, natural rights, and the American experiment



might address the contemporary problem of polarization by reminding us of how the United States is the lone nation founded on an ideal basis for just politics.

**Panel 2: “Constitutional Politics/Constitutional Law”**

(Discussant: Boston College’s **Ken Kersch**)

- **Ben Johnson** (Penn State Law), “Cases or Questions: Implementing the Supreme Court’s Appellate Jurisdiction”
- **Laura Erika Jenkins** (Syracuse University), “Paradise Lost: The Effects of Judicial Review on Commerce Clause Grounds on Congressional Debate”
- **Calvin TerBeek** (University of Chicago), “The Constitution as Political Program: The Republican Party and Originalism, 1977-1998”

**Panel 3: “The Presidency in the Constitutional Order”**

(Discussant: Baylor University’s **Curt Nichols**)

- **Sarah Burns** (Rochester Institute of Technology), “The National Security State: Nationalizing the Response to Threats and Concentrating Power in the Executive”
- **Jordan Cash** (University of Virginia), “For the President Who Has Everything: Constitutional Limitations on Presidential Power”
- **John Dearborn** (Yale University), “The Political Efficacy of Ideas: Budgeting versus National Security Reform in the Development of the Modern Presidency”
- **Tobias Gibson** (Westminster College), “Modern Presidents and American Constitutionalism”

**Panel 4: Constitutional Politics**

(Discussant: MU’s **Jay Dow**)

- **Jordan Michaela Butcher** and **Aric Gooch** (University of Missouri), “The Case of Term Limits in the Continental Congress, 1774-1789”
- **Adam Myers** (Providence College), “The Federalism Debate in the New Deal Era: America’s Democratic Governors Speak”
- **Joseph Postell** (University of Colorado-Colorado Springs), “The Politics of Legislative Delegation to Administrative Agencies”
- **Charles Zug** (University of Texas), “A Proper Object for the Care of Government’: The Obamacare Precedents Debate Revisited”



A special thanks to **Connor Ewing**, longtime Shawnee Trail attendee and currently an Assistant Professor at the University of Toronto, for shouldering logistics for this year’s conference.

## *(Re)Building American Identities*

Hatched at a Fall 2018 meeting of the Kinder Institute Subcommittee on Processes and nursed along throughout the Spring 2019 semester by a tireless group of scholars at the Kinder Institute and in the MU History and Political Science Departments, the idea for our first ever graduate student conference finally came to fruition on April 27 in Jesse Hall 410. While it was a truly team effort, a special shout out should go to Postdoctoral Fellow in Political History **John Suval** and Kinder Institute Graduate Fellow in Political Science **Aaron Kushner**, both of whom saw the project through from beginning to end. The all-day affair, panels for which are detailed briefly to the right, included a lunch hour job market presentation by Drs. **Sarah Beth** and **John Kitch** and concluded with Kinder Institute and MU Law Associate Professor **Carli Conklin's** keynote address, "Not only by what they receive, but what they reject also': The Drafting of American Identity/ies in the *Declaration of Independence*."



### Panel 1, 10:00-11:30am, Chair: **Luke Perez**

- "Legislation before Litigation: The Process of Desegregating MU," **Mary Beth Brown** (History)
- "A Revised Calculus of Voting: Political Information Costs and Voter Turnout," **Gidong Kim** (Political Science), co-authored with Professor **James Endersby**
- "Claude M. Lightfoot's 'Period of Persecutions': Trials of a Black Community, 1954-1964," **Mike Olson** (History)

### Panel 2, 12:45-2:15pm, Chair: **Zachary Dowdle**

- "Here Comes the Neighborhood: American Liberal Politics and the Revival of Communitarianism in the 80s and 90s," **Henry Tonks** (History)
- "Party Development in the Early Republic," **Aric Gooch** (Political Science)
- "Creating a Community: Tenant Activism in the Pruitt-Igoe Housing Complex," **Andrew Olden** (History)

### Panel 3, 2:30-4:00pm, Chair: **John Suval**

- "Measuring the Impact of Court-Mandated Redistricting on Policy Outcomes," **Michael Wales** (Political Science)
- "'The right of pre-emption has become a subject of great importance': Squatters, Public Lands, and Constituency Building in the Missouri Territory, 1810-1820," **Joseph Ross** (History)
- "Before They Vanished: The Native American Visual Aesthetic of the Early Republic as Depicted by Artists George Catlin and George Winter," **Sawyer Young** (History)

### Panel 4, 4:15-5:45pm, Chair: **Rudy Hernandez**

- "The Longue Durée of Choctaw Removal, 1800-1860," **Edward Green** (History)
- "Marginalized Memories: Native Americans, Lafayette, and the Revolution's Legacies," **Jordan Pellerito** (History)
- "Cherokee Citizenship and American Political Development," **Aaron Kushner** (Political Science)



## UNDERGRADUATE STUDENTS

The undergraduate section of our spring newsletter is traditionally an occasion for listing, and this year is no different. On this page you'll find lists of places in D.C. where our Kinder Scholars will be interning this summer; lists of summer field trips and seminar topics; and, just below, a list of advanced degrees and other opportunities that some of our recently graduated seniors will be pursuing next year.

**Tyler Brumfield:** Obama Foundation

**Katie Graves and Claire Reiling:** University of Virginia Law School

**Anna Jaoudi:** Villanova University Law School

**Luke Mouton:** Oxford University, MSc in Criminology and Criminal Justice

**Matt Orf:** Oxford University, MA in Global History

Not featured here is our Oxford program, but rest assured that once the majesty of 16th-century architecture has worn off and the students are ready to field questions about their time abroad, we'll provide readers with a full update on both the March 2019 spring break trip and our 2019-20 Oxford Fellow, who will spend next year at Corpus Christi College studying, researching, and deciding whether or not to try bread sauce (see our Winter 2019 newsletter for more details about that delicacy).



## KINDER SCHOLARS

This news will continue to roll in up until the beginning of the Kinder Scholars Program in June, so a full list of internship sites—along with reports back from the front lines in D.C.—will be published in our next newsletter. But for now, here are the majority of the places in (and around) the capital city where our students will be spending their 9-to-5s this summer.

**Karlee Adler:** Smithsonian Women's Committee

**Aaron Carter:** Washington Report on Middle East Affairs

**Madeline Clarke:** The Eleanor Roosevelt Papers Project at George Washington University

**Christian Cmehil-Warn:** The White House Transition Project

**Siobhan Conners:** The FCC

**Maxx Cook:** George Washington University's Regulatory Studies Center (via the Charles Koch Institute)

**Ashley Dorf:** National Archives

**Josh Eagan:** Study for Terrorism and Response to Terrorism, University of Maryland

**Kate Griese:** International Conservation Caucus Foundation

**Alex Hackworth:** KRG-US

**Xavier Lukasek:** State Department Office of European Affairs

**Jennifer Marx:** National Disability Rights Network

**Riley Messer:** American Oversight

**Laura Murgatroyd:** Sightline Media Group

**Andrew Pogue:** Customs and Border Patrol

**Ariana Santilli:** PAI

**Claire Smrt:** NASA History Division

**Sidney Steele:** *Street Sense* Media

**Lauren Wilcox:** The Office of California Representative Lou Correa

On the faculty side, students will be joined this time around by Kinder Institute Postdoc and Interim Kinder Scholars Program Director **Luke Perez**, Kinder Institute Chair and Professor of History **Jay Sexton**, former Kinder Postdoc **Armin Mattes** (now of UVA) and current MU History Ph.D. candidate **Caitlin Lawrence**, History Chair **Catherine Rymph**, Professor of Political Science **Jay Dow**, Kinder Institute Associate Director and Professor of History **Jeff Pasley**, Professor of Political Science **Marvin Overby**, and Kinder Institute and Political Science Assistant Professor **Jen Selin**.

The usual round-up of topics will be covered—from the first Congressional election to the rise of the administrative state—and field trips will include Mt. Vernon, Monticello, the Women's Suffrage Museum, Antietam, and the CIA.

## JOURNAL ON CONSTITUTIONAL DEMOCRACY

### *Daniel Webster's Foreign Policy: Controlling Liberalism*

by Isaac Baker

Three Americans during the early nineteenth century stand out for their leadership despite never ascending to the office of presidency: Henry Clay, John C. Calhoun, and Daniel Webster. They all served at one point in their careers as representatives, senators, and secretaries of state under different administrations, coming to collectively be known as the Great Triumvirate. The focus of this paper, Daniel Webster, represented New England as an exemplary Federalist and highly regarded courtroom lawyer (in popular culture, he has been assigned the role of the lawyer one picks to argue against the devil for the return of one's soul). He was born in 1788 in New Hampshire and grew up on a farm in the Merrimack Valley. An exceedingly poor farmhand, his lack of both size and strength left him better suited for intellectual labor, rather than physical work.<sup>1</sup> He would eventually attend Dartmouth and be admitted to the bar in 1805, after learning law in Boston.<sup>2</sup> By 1812, Webster had also established himself as a great orator, notably delivering a speech that year to the Federalist-friendly Washington Benevolent Society and contributing to the Rockingham Memorial (a written rebuke to the declaration of war in 1812), speaking out in both about the immediate dangers and long-term detriments of conflict with Britain.

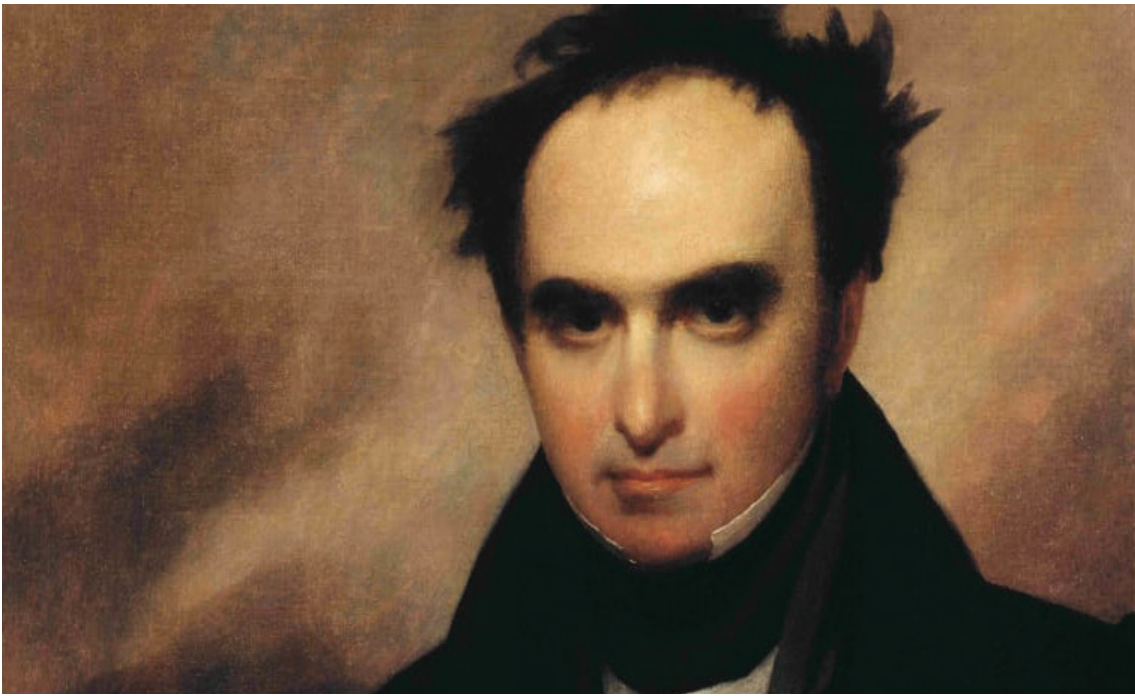
These remarks served as a springboard for a political career which spanned the rest of Webster's life and included stops as U.S. Representative for New Hampshire and Massachusetts, Senator to the latter, and two different tenures as U.S. Secretary of State, under William Henry Harrison and Millard Fillmore. Particularly in regard to the argument being made here, and when viewed in the greater context of Webster's whole career, the Benevolent Society speech and Rockingham Memorial contributions demonstrate his ability to posture himself in accordance with whatever was most beneficial: when necessary, he could present himself as a nationalist, fighting to promote the spread of the United States' principles throughout the world; alternately, he could present himself as a transatlantic-minded man whose sights were set only on making sure the U.S. had amicable relations with Great Britain in particular. Occasionally, Webster would come off as disingenuous in these stances, an unintended result of his shrewd political flexibility. Ultimately, though, this ability to move from one perspective to the other, and to sometimes hold multiple perspectives at once, allowed him not only to support American expansion and global integration but also to ensure (or at least work to ensure) that the United States exerted some control over the areas into which it was integrating itself.

In a sense, and as I will argue, Daniel Webster was constructing a foreign policy strategy of controlled liberalism to advance U.S. interests, with liberalism in this essay defined in the classical sense of promoting rule of law, individual liberties, and, most importantly, laissez-faire economics. For Webster, this strategy revolved specifically around building friendly relationships based on shared identity, with the larger goals of using these relationships to gain Americans access to foreign markets and, in some cases, to promote American influence abroad in a way that revealed the nation's early imperialist ambitions. This foreign policy tactic of finding states—and occasionally supporting the creation of states—similar to the U.S. was not limited to Webster's early-nineteenth-century plan but also became a goal of the American imperial age as a whole, Wilsonian foreign policies, American efforts to stop the spread of communism during the Cold War, and even the state-building project started by President George W. Bush after the toppling of Saddam Hussein.

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Webster's War of 1812 writings reflect the extent to which some degree of commonality was central to his particular notion of controlled (or controlling) liberalism. In order to open one nation up to another, he reasoned, some sort of identity must be shared, almost as collateral on a loan. The more that





was shared, the better the chances an alliance would hold, an outcome that had important, cascading consequences for American interest. Namely, a strong alliance could mean increased trade between the states involved, opening up the possibility of ever-closer, more nuanced, and more profitable relations (for Webster, the richer the market, the more desirable the alliance). History has often proven Webster's general thinking correct. Throughout the Cold War, for example, capitalist or communist ideology was used as collateral for the loans of empire building, much as a shared language, religion, and economic and political identity were used as the collateral for Webster.

In terms of how this question of collateral and commonality relates specifically to Webster's thinking about the War of 1812, the North American extension of the Napoleonic Wars, we might begin by noting that the British and American identities were only a generation removed from being intertwined, and Britain, not unlike the young United States, was a largely Protestant and a rapidly expanding liberal empire; France, on the other hand, was a largely Catholic, conservative European power, led by a military dictator. Add to all of these similarities and differences the lucrative size of the British Empire, and they, rather than France, looked the better and more natural ally to Webster. However, from the Jefferson administration until the outbreak of war in 1812 under the Madison administration, a multitude of complications vexed both Anglo-American and Franco-American relations, especially Jefferson's failed Embargo Act of 1807, which banned trade with both Britain and France while they engaged in war and resulted only in hurting American commerce.

Later, contingent deals such as the Non-Intercourse Act and Macon's Bill No. 2 attempted to make reopening trade with Great Britain or France dependent on their respect for American sovereignty, though neither the British nor the French rushed to pay this price. With the United States having proven herself too weak to dictate the terms of her foreign affairs, reopening trade would thus hinge on choosing between the Napoleonic Wars' belligerent sides...<sup>3</sup>

<sup>1</sup>Rakestraw, Donald, A. Daniel Webster Defender of Peace. Lanham, Maryland, U.S.A.: Rowman & Littlefield, 2018.

<sup>2</sup>Ibid

<sup>3</sup>Ibid

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## NEWS IN BRIEF

We’re quite late to the game on this, but a belated congratulations to **Mary Grace Newman** on being selected as one of the MU Honors College’s inaugural Founders’ Memorial Scholars . . . But a quite timely congratulations to 2018-19 Fellow **Sonia Clark** and 2017-18 Fellow, 2018 Kinder Scholar, and Fall 2018 Oxford Fellow **Sarah Jolley** for receiving Awards for Undergraduate Distinction, which were celebrated at a reception on May 5 . . . Throw a stone and you’ll find a publication in which KICD Chair **Jay Sexton** is pushing back against National Security Adviser John Bolton’s invocation of the Monroe Doctrine (but for recent commentary see *The Washington Post* and *The Well*) . . . Before she left town (see p. 1), Prof. **Christa Dierksheide** delivered Jefferson City’s namesake lecture on “Jefferson and Generations” in the Capitol Rotunda . . . A huge congratulations to Kinder Institute Affiliate Faculty Member and MU Professor of Classical Studies Dennis Trout on being named a 2019-20 Fellow at the National Humanities Center, where he’ll work on his new manuscript, *Monumental Verse: Poetry, Cityscape, and Authority in Late Ancient Rome* . . . Finally, we were excited to open the *Wall Street Journal* (okay, to go to the WSJ website) on April 18 and find a glowing review of Andrew Browning’s *The Panic of 1819*, published in March as part of our *Studies in Constitutional Democracy* monograph series with MU Press

