

THE FEDERAL CONVENTION (POLS GU4121)

Course plan and readings

The seminar will cover the background and the dynamics of the Federal Convention that proposed the Constitution of the United States in 1787. The basic readings are Vols. I and II of Max Farrand (ed.), *Records of the Federal Convention* (available online, but purchase is recommended), mainly based on the notes that James Madison took during the Convention. The purpose of the seminar is partly to illuminate the nature of constitutions and of constitution-making more generally, and partly to identify causal mechanisms that can explain the choices that were made at the Convention. Theories of collective action, of bargaining, and of deliberation will have a central place. We shall not study the process of ratification of the Constitution, except to the extent that the framers' anticipation of the ratifying conventions shaped their choices. Nor shall we draw heavily on *The Federalist Papers*, except when they illuminate the sometimes cryptic statements in Madison's notes. The requirement for a quality grade is a term paper of at least 20 pages (not counting quotations) on a topic approved by the instructor.

Undergraduates taking the class will be asked to write a 5 page paper on an assigned topic by the end of Week 7. The grade for this paper will count for one third in the final grade.

In addition to the Records of the Convention, required books are J. Rakove (ed.), *The Annotated U. S. Constitution and Declaration of Independence*, Harvard University Press 2009 and C. Rossiter, *1787: the Grand Convention*, Norton 1987. Recommended is also A. Amar, *America's Constitution: A Biography*, Random House 2006.

Classes meet in IAB 501 A, Tuesdays 4.10-6. There will be no class on October 4. A make-up class will be scheduled later.

Office hours by appointment.

Course plan

Week 1: **Constitutions and constitution-making.** Readings: Bellamy and Castiglione; Holmes; Elster (1, 2).

Week 2: **America before 1787.** Readings: Jillson and Wilson, Chs.1 and 2; Rossiter Ch.2; Kruman, Ch. 2 and Ch.5; Adams, Ch.3 and Ch. 14; Elster (3).

Week 3: **The convocation of the Convention.** Readings: “Mount Vernon Compact”; Lerner and Kurland Vol.1, pp. 147-83; Dougherty (1), Ch.3; Dougherty (2); Feer (1969); Grubb; Jillson and Wilson, Ch. 8; Richards (2002), Chs. 6 and 7; Ackerman and Natyal; Elster (4).

Week 4: **Delegates and procedures.** Readings: Rossiter Chs. 5-8; Farrand (1), pp. 1-17; Farrand (3), pp. 557-590; Elster (5), Ch. 4.

Week 5: **Motivations and beliefs of the delegates.** Readings: Rakove; Jillson, Ch. 1; Sajo, Ch. 3; Beard, Ch. V; White, Chs. 6, 7, 8; Wood; Elster (4); McDonald, Chs. 3-4.

Week 6 and Week 7: **Elections to and powers of Congress.** Readings: Rakove; Zagarri, Chs.3-4; Anderson, Ch.4; Amar, Chs.2-3; Kromkowski, Ch.7.

Week 8: **Election and powers of the President.** Readings: Riker; Amar Chs. 4-5; Thach, Ch. IV-V.

Week 9: **Creation of the judiciary.** Amar, Ch. 6; Ferejohn; Kramer, Chs. 2-3.

Week 10: **Slavery at the Convention.** Lynd; Finkelman (1), Amar, pp. 87-98; Fehrenbacher, Ch.2.

Week 11: **Amending the constitution.** Readings: Kyvig, Chs. 3 and 4; Amar, pp. 285-99; Wood (2), p. 536-42;

Week 12: **Two big absences: bill of rights and judicial review.** Readings: Kramer, Chs.2-3; Finkelman (2); Wood (2), p. 536-42.

Week 13: **Student presentations.**

Readings

- Ackerman, N. and Katyal, N., "Our unconventional founding", *University of Chicago Law Review* 62 (1995)
- Amar, A., *America's Constitution: A Biography*, 2005
- Anderson, T., *Creating the Constitution*, 1993.
- Beard, C., *An Economic Interpretation of the Constitution of the United States*, 1913/1986
- Bellamy, R. and Castiglione, D., "Constitutionalism and democracy – political Theory and the American Constitution", *British Journal of Political Science* 27 (1997).
- Dougherty, K. (1), *Collective Action under the Articles of Confederation*, 2001.
- Dougherty, K. (2), "Madison's theory of public goods", in S. Kernell (ed.), *James Madison: Theory and practice of Republican Government*, 2003.
- Elster, J. (1), "Constitutions" (manuscript).
- Elster, J. (2), "The political psychology of constitution-making" (manuscript).
- Elster, J. (3), "America before 1787" (manuscript).
- Elster, J. (4), "Constitution-making and violence", *Journal of Legal Analysis* 4 (2012), 7-39.
- Elster, J. (5), *Securities Against Misrule*, 2013.
- Farrand, M. (ed.), *Records of the Federal Convention*, vols 1-3, 1966.
- Feer, R., "Shay's rebellion and the constitution", *New England Quarterly* 42 (1969).
- Fehrenbacher, D. *The Slaveholding Revolution*, 2001
- Ferejohn, J. "Madisonian separation of powers", in S. Kernell (ed.), *James Madison: Theory and practice of Republican Government*, 2003.
- Finkelman, P. (1), « Slavery and the constitutional convention », in Richard Beeman, Stephen Botein et Edward Carter (eds.), *Beyond Confederation : Origins of the Constitution and American National Identity*, 1987
- Finkelman, P. (2), "James Madison and the Bill of Rights", *Supreme Court Law Review* 1991.
- Grubb, F., "The US Constitution and monetary powers: an analysis of the 1787 constitutional convention and the constitutional transformation of the US monetary system", *Financial History Review* 13 (2006)
- Holmes, S., "Precommitment and the paradox of democracy", in J. Elster and R. Slagstad (eds.), *Constitutionalism and Democracy*, 1999.

Jillson, R. and Wilson, R., *Congressional Dynamics: Structure, Coordination, and Choice in the First American Congress 1774-1789*.

Kramer, L., *The People Themselves*, 2004

Kromkowski, C, *Recreating the American Republic: Rules of Apportionment, Constitutional Change, and American Political Development, 1700-1870*, 2002

Kyvig, D., *Explicit Authentic Acts: Amending the U.S. Constitution 1776-1795*, 1996.

Lerner, R. and Kurland, *The Founders' Constitution*, 1987.

Lynd, S., "The compromise of 1787", *Political Science Quarterly* 81 (1966).

McDonald, F. (2), *We, the People: The Economic Origins of the Constitution*, 1958/1992

McGuire, R., *To Form a More Perfect Union: A New Economic Interpretation of the United States Constitution*, 2003.

« Mount Vernon Compact » in *The Papers of James Madison*, vol.8, 457-61.

Rakove, J., « The Great Compromise: Ideas, interests, and the politics of constitution making », *William and Mary Quarterly* 44 (1987)

Richards, L., *Shays's Rebellion*, 2002.

Riker, W., « The heresthetics of constitution-making: The Presidency in 1787, » *American Political Science Review* 78 (1984).

Rossiter, C. *1787: The Grand Convention*, Norton 1987.

Sajo, A., *Constitutional Sentiments*, Yale University Press 2011.

Thach, C., *The Creation of the Presidency 1775-1789*, 1923/1969

White, M., *Philosophy, The Federalist, and the Constitution*, 1987

Wood, G., *Creating the American Republic*, 1969

FACULTY STATEMENT ON ACADEMIC INTEGRITY

The intellectual venture in which we are all engaged requires of faculty and students alike the highest level of personal and academic integrity. As members of an academic community, each one of us bears the responsibility to participate in scholarly discourse and research in a manner characterized by intellectual honesty and scholarly integrity.

Scholarship, by its very nature, is an iterative process, with ideas and insights building one upon the other. Collaborative scholarship requires the study of other scholars' work, the free discussion of such work, and the explicit acknowledgement of those ideas in any work that inform our own. This exchange of ideas relies upon a mutual trust that sources, opinions, facts, and insights will be properly noted and carefully credited.

In practical terms, this means that, as students, you must be responsible for the full citations of others' ideas in all of your research papers and projects; you must be scrupulously honest when taking your examinations; you must always submit your own work and not that of another student, scholar, or internet agent.

Any breach of this intellectual responsibility is a breach of faith with the rest of our academic community. It undermines our shared intellectual culture, and it cannot be tolerated. Students failing to meet these responsibilities should anticipate being asked to leave Columbia.

For more information on academic integrity at Columbia, students may refer to the *Columbia University Undergraduate Guide to Academic Integrity*: <http://www.college.columbia.edu/academics/academicintegrity>