**POSC 630 Topics in U.S. Government**

**American Political Institutions: The Congress, Presidency, and Judiciary**

A course offered through JMU and conducted at

Montpelier’s Robert H. Smith Center for the Constitution

2014

Instructor on Record: Lynn Uzzell ([luzzell@montpelier.org](mailto:luzzell@montpelier.org))

Office hours: Instructor is available at all times via email

Instructor will be available to meet, formally or informally, during all Montpelier modules or email to arrange an appointment

*One of the principal objections inculcated by the more respectable adversaries to the Constitution, is its supposed violation of the political maxim, that the legislative, executive, and judiciary departments ought to be separate and distinct. In the structure of the federal government, no regard, it is said, seems to have been paid to this essential precaution in favor of liberty. The several departments of power are distributed and blended in such a manner as at once to destroy all symmetry and beauty of form, and to expose some of the essential parts of the edifice to the danger of being crushed by the disproportionate weight of other parts.*

*No political truth is certainly of greater intrinsic value, or is stamped with the authority of more enlightened patrons of liberty, than that on which the objection is founded. The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny…. In order to form correct ideas on this important subject, it will be proper to investigate the sense in which the preservation of liberty requires that the three great departments of power should be separate and distinct.*

– James Madison, *Federalist* No. 47

**I. Course Description**

The Framers of the United States Constitution did not invent the idea of separating powers into three distinct branches of government. Instead, they borrowed ideas from some political philosophers (notably Locke and Montesquieu), and they learned from the experiences of other constitutions (especially those of Great Britain and the American states). Armed with this knowledge, they adopted some tried-and-true methods of safeguarding liberty through the separation of powers, and they also innovated in some important ways. This course is designed to provide the student with a robust understanding of the history, purposes, and evolution of the three branches of government, both as they were designed in the United States Constitution and as they have actually operated in practice. The student will learn what the function of each branch is and how its structural design was meant to facilitate its function. The student will also learn how each branch was intended to interact with the other branches. And finally, the student will learn how each branch, as well as the interactions between the branches, has evolved over time.

The instruction begins with an online component, “Constitutional Foundations,” which should be taken as a prerequisite. But the bulk of the instruction takes place in three 3-day modules, focusing on each of the three political institutions, to be held at Montpelier, the bucolic and inspiring home of James Madison, the “Father of the Constitution,” and offered through Montpelier’s Robert H. Smith Center for the Constitution. Top-notch instructors drawn from colleges and universities ranging across the United States will do most of the teaching, but the instructor on record will be on hand at all of the modules; she will take part in some of the teaching; and she will superintend the course as a whole. Descriptions of the three modules are as follows:

**Module 1: The Presidency and the Constitution**

Taught by Ben Kleinerman, from Michigan State University,

and Lynn Uzzell, from James Madison’s Montpelier: July 18–20, 2014

When the Framers drafted the Constitution in 1787, they already had some understanding of what executive power was and how it differed from legislative and judicial power, but they sought to establish an executive that was different from what they had previously known. They wished for an executive power that was neither as formidable as the king of Great Britain nor as weak as the executives that had been established by most of the state constitutions. The office of the presidency that they established was one of the most truly novel features of the new Constitution. In this module, students will focus on the idea of the presidency under the Constitution and how that office has evolved over time. Special attention is placed on early understandings of the presidency and how they differ, sometimes in rather dramatic fashion, from more contemporary ideas regarding the office and the occupant.

**Module 2: The Judiciary and the Constitution**

Taught by the Honorable Susan M. Leeson, Senior Justice, Oregon Supreme Court

and Lynn Uzzell, from James Madison’s Montpelier: October 3–5, 2014

In this module, students will examine the role of “the judiciary” as a separate branch of government, tracing it from its theoretical and historical origins to its practical operations under the Constitution today. The Framers of the Constitution had deliberately designed a judiciary that would uphold not only federal law but also, and more importantly, the Constitution itself. Nonetheless, Article III is silent on many important aspects of the judiciary, such as judicial review, that we take for granted today. The sparsely worded Article III has allowed room for an evolution in the structure and power of the courts, through congressional legislation or simply the Court’s own decisions. Core issues to be examined in this module include: the creation of the judicial branch, the power of judicial review, appellate and original jurisdiction, judicial independence, the evolution of constitutional interpretation, and modern controversies concerning the judiciary.

**Module 3: Congress, the Constitution, and Contemporary Politics**

Taught by Bill Connelly from Washington & Lee University

and John J. Pitney, Jr., Claremont McKenna College: April 10-12, 2015

Article I of the Constitution, constituting almost half the body of the Constitution, delineates the structure and powers of our first branch, Congress. This module will focus on how the Founders intended Congress to function, how our legislature has evolved, and whether it functions effectively today. Is Congress fulfilling its key responsibilities to represent, deliberate, legislate, and exercise oversight? Students will examine congressional elections, bicameralism, and the legislative process, along with the role of party and committee leadership. Students will also consider where Congress fits in our constitutional separation of powers in relation to the presidency and the Courts. Throughout the module, we will examine Congress, then and now. For example, is Congress today the “broken branch” due to polarization, partisanship and gridlock? Is the Senate filibuster constitutional? Do we need to reform Congress?

**II. Objectives of the Course**

By the end of the course, all students should be able to discuss intelligently the theoretical framework of each of the three branches of government, as well as their relationship to the other two. The student should also have a sophisticated knowledge of the development of each branch of government throughout American history. The student will be able to demonstrate a basic competence in the course content through the tests given at the conclusion of each module. But the student’s deeper grasp of the subject will be demonstrated in a research paper which addresses a complex question about one or more of the American political institutions, a paper which analyzes and evaluates both primary and secondary source material to develop and defend its thesis.

**III. Assignments and Grading**

Because this course is based on Montpelier’s module schedule, it is not possible that the requirements for this course can be completed within the usual semester framework. The individual modules are given over the course of the 2014 calendar year. Exams and papers are due as described below, and extensions on these assignments will be granted only for exigent circumstances and with the approval of the instructor on record.

**A. Online Course, Montpelier Modules, and Exams**

The student is required to complete the Constitutional Foundations online course before the first Montpelier module, which can be found at: <http://learn.montpelier.org/courses_and_exercises>. The student must then actively participate in each of the three Montpelier modules. Upon completion of each of the three courses, the student will take an open-book exam from home and send the answers by email to the instructor on record. The completed exam will be due 2 weeks after the completion of each course. Each exam will be worth 10% of the final grade (in other words, the three exams will constitute 30% of the overall grade).

**B. Final Paper**

After completing the module participation requirements, the student will write a scholarly 20-page research paper on a topic approved by the instructor on record. The instructor will provide the student with basic guidelines that delineate what a good essay should look like, as well as suggested paper topics, but students are encouraged to write on a constitutional topic of individual interest. Original paper topics must receive prior approval, but they are cheerfully accepted. The term paper is due four weeks after the completion of the third course. The essay is worth 70% of the final grade.

**A Few Examples of Essay Topics:**

Enlightenment philosophers such as Locke and Montesquieu had opined that the federative power (the authority over foreign affairs) was best exercised by the executive. How did the Framers of the American Constitution differ from them and what reasons did they give for this departure? Is the federative power exercised today as it was envisioned by the Framers? Why or why not? How is the federative power most safely, wisely, or efficiently exercised?

The American separation of powers allows for a “divided government” (wherein the president represents a different party from one or both branches of the legislature). What are the advantages and disadvantages of this system? Would a parliamentary system of government be better? Why or why not?

Are the three branches of government coequal? Were they meant to be equal by the Constitution’s Framers? How have their respective powers been augmented or diminished over this nation’s history? How has this change in the individual branches altered the way that politics is “done” in America?

**IV. Texts**

The online prerequisite for the Institutions Course imbeds its own text within the website, as well as providing primary source documents, video, and interactive activities. The bulk of the reading material, however, will be contained in reading packets to be read in preparation for the on-site modules. Each Montpelier module will provide a separate reading packet, which will be composed chiefly of primary documents, and which will be compiled by the instructor(s) leading that module and distributed to the participants three weeks prior to each module. Below are representative examples of documents that would be required for the course:

* The Declaration of Independence
* The Articles of Confederation
* The Constitution of the United States
* Passages from political philosophers and jurists influential to the American Founding (Locke, Montesquieu, Blackstone, etc.)
* Selections from the notes of the debates during the Constitutional Convention, the ratifying conventions, or sessions of Congress
* Selected essays from *The* *Federalist* and Antifederalist tracts
* Selections from key court cases (such as *Korematsu v. United States* and *Rasul v. Bush*)
* Executive orders, as well as private correspondence and public speeches of American presidents
* 2-3 Additional academic treatments of primary source documents per module to be assigned closer to individual module dates