



We the People
THE CITIZEN AND THE CONSTITUTION

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National Academy for Civics and Government 2015
POLITICAL AND CONSTITUTIONAL THEORY FOR CITIZENS

A We the People Summer Institute
Of the National Endowment for the Humanities
Offered by the Center for Civic Education

Los Angeles, California
July 11–August 1, 2015

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University of Pennsylvania

Academic Director of the National Academy / Summer Institute

COURSE OUTLINE

Readings (to be completed before arriving at the Summer Institute/National Academy):

The Declaration of Independence. [*Please read this as if you have never read it before -- slowly, back and forth, sideways if possible. Try to make the text seem strange. Then read it as if you were its author, revising where you would. Read it again, as an editor. Change your roles with the text, thinking about what printed, published, archived texts allow you to do. But also, thinking about this text, as it permanently is, given what happens when you might try to change it.*]

The "Preamble" of the United States Constitution. [*Please read as you have never read it before.*]

The Federalist, Nos. 1–2; 14–15; 37, 39. [*Please read these as pairs, very carefully.*]

Aristotle, *Politics*: Book I, Chaps. 1 and 2 (pp. 7–12); Book III, Chaps. 1–18 (pp. 84–132; Book IV, Chaps. 1–16 (pp. 133–177); Book VII, Chaps. 1–3, 13–15 (pp. 251–260, 279–289).

Cicero, *The Republic*, Book 6, "The Dream of Scipio" (pp. 85–94).

ARRIVAL Sat., July 11

Readings (to be completed by Sunday):

Marbury v. Madison and *McCulloch v. Maryland*, pp. 211–218 and 413–426 in
Walter F. Murphy, James E. Fleming, and William F. Harris II (eds.),
American Constitutional Interpretation (1st ed., 1986).

COLOR THEMES:

A. THE COMPLEMENTARY BACKGROUND POLARITIES

of **Deep Red/White** and **Pure Black/White**
(against Gray neutrality)

**Wholeness, Order; Diagonal (CIRCLE), Horizontal/Vertical
(RECTANGLE)**

Principles of Creation

Light and **Life** as the two artifacts of Creation
The Spectrum or the Color Wheel as a Picture of
Ordered Wholeness

B. THE PRIMARY COLORS

Why are there Four? **GREEN** as Primary and Secondary.

Two phases here:

The civic base colors (**GREEN** and **YELLOW**), in sequence;
and the most politically active colors (**RED** and **BLUE**), in
contrast

I. POLITICAL THEORY: *The Nature of Political Order*

Additional Readings (to be completed on opening Sunday, and Monday of the first week, along with a review of the Aristotle sections previously read):

M. Tullius Cicero, *The Republic* and *The Laws* (in addition to pp. 85-94), pp. 3-33, 56-58, 68-74, 97-120.

I. Political Theory:

GREEN — Cicero (Plato), Thomas Jefferson

YELLOW — Aristotle (including later, the Scottish Enlightenment, Adam Smith, moving toward James Madison)

Lectures:

- [1] Sun., July 12 — Opening Lecture:
"Reading Theoretical Texts"
The Declaration [of Independence] as a Word Picture"
- [2] Mon., July 13 — Introduction
"The Intellectual Map of the Summer Institute"
"The Concept of *Politics* and the Concept of *Constitution*"
- [3] Tues., July 14
"The Connection between Political Order and Human Intellect"
"The Consonance of the Natural Order and Political Order"
- [4] Wed., July 15
"The Relationship between Human Nature and Civic Life"
"*Negative and Positive* as the Fundamental Grammar of Political Order:
Distortion and Partiality in Contrast with "Proportionality (Order) and
Comprehensiveness (Wholeness)"
- [5] Thurs., July 16 (morning session with Justice Sue Leeson)
"Disjunction versus Continuity between the Ancient and Modern Political
Theorists"
- [6] Thurs., July 16 (afternoon session with Will Harris)
"'Constitutional Government' and 'Polity'"
"The Evolutionary Character of the History of Political Theorizing"

II. DEMOCRATIC THEORY: *The Character of Popular Self-Government*

Readings (to be completed on Tuesday, Wednesday, Thursday, and Saturday of the first week):

Thomas Hobbes, *Leviathan*: Dedication (p. 3); The First Part, Introduction and Chaps. 1–5, 7–10, 13–17 (pp. 7–33, 42–65, 82–115); The Second Part, Chaps. 17 and 21 (pp. 111–115 and 139–148).

John Locke, *Two Treatises of Government*: "The Second Treatise of Government: An Essay Concerning the True Original, Extent, and End of Civil Government," Chaps. 1–4; Chap. 5, secs. 23–37, 49–51; Chap. 7, secs. 77, 87–94; Chap. 8, secs. 95–102, 112–122; Chaps. 9–11; Chap. 12, secs. 143–148; Chap. 13, secs. 149–158; Chap. 14, secs. 159–168; Chap. 15, secs. 169–174; Chap. 18, secs. 199–210; Chap. 19, secs. 211–232, 240–243.

National Standards for Civics and Government, selections from the Grade 10–12 standards.

II. Democratic Theory:

RED — Thomas Hobbes

BLUE — John Locke, Thomas Jefferson

Lectures:

[7] Fri., July 17

"Making Distinctions: Civic and Private Life; Politics and Government"

[8] Mon., July 20

"The Roots of Government by the People in the Classics of Political Theory"

[10] Tues., July 21

"Representation as the Modeling of the People in Governmental Form"

"Liberty and Security."

III. CONSTITUTIONAL THEORY: *The Design of a Good Polity*

Readings (to be completed on Sunday, Monday, Tuesday, Wednesday, Thursday, and Saturday of the second week)

The King James Bible (Authorized Version), *Deuteronomy*.

Charles H. McIlwain, *Constitutionalism: Ancient and Modern*.

Thomas Kuhn, *The Structure of Scientific Revolution*: Introduction and Chaps. 3, 5, 7, 8, 9, 10, 11.

Gordon Wood, *The Creation of the American Republic: 1776–1787*: Chap. XV.

The Federalist, Nos. 1–15, 18, 23, 25, 31, 37, 39–41, 47, 49–51, 78, 84–85.

*The Antifederalists*I, selections to be made available as photocopies.

Edward Corwin, "The Higher-Law Background of American Constitutional Law."

The Constitution of the United States.

III. Constitutional Theory:

C. THE SECONDARY COLORS

ORANGE — *Deuteronomy*, Charles H. McIlwain, Edward Corwin

PURPLE — James Madison, Alexander Hamilton

Lectures:

[11] Wed., July 22

"Constitutionalism as an Independent Theory of Political Order"

[12] Thurs., July 23

"The Relationship between the Declaration and the Constitution"

"Constituting Polity by Definition, Limitation, Constraint, and/or Purpose"

[13] Fri., July 24

"The Federalist and Antifederalist Conceptions of a 'Constitution' as a Means of Ordering Politics: Modeling versus Defining"
"Pivotal Shifts in the Logic of American Constitution-Making: Power, Scale, and Virtue"

[14] Mon., July 27

"Making versus Reflecting: The Two Paradigms of Political Order"
"People, Polity, Government: Covenant, Constitution, Contract"

[15] Tues., July 28

"American Constitutional (Federalist-Antifederalist) Democracy"

IV. INTERPRETIVE THEORY: *The Inquiry into Constitutional Meaning*

Readings (to be completed on Sunday, Monday, Tuesday, Wednesday, and Thursday of the third week):

John Hart Ely, *Democracy and Distrust*, Chaps. 1–2, 4–5.

Murphy, Fleming, and Harris, *American Constitutional Interpretation*, edited cases made available as photocopies: *Trop v. Dulles*; *Lochner v. New York*; *West Coast Hotel v. Parrish*; *Home Building & Loan Association v. Blaisdell*; James Bradley Thayer, "Origins of the American Doctrine of Judicial Review"; *United States v. Carolene Products*.

Edward Corwin, "The Constitution as Instrument and Symbol" (photocopied)

Sanford Levinson, *Constitutional Faith*, Chaps. 1, 3–4.

William F. Harris II, *The Interpretable Constitution*, Preface and Chap. 3 (photocopied).

Murphy, Fleming, and Harris, *American Constitutional Interpretation*, photocopies: *Calder v. Bull*; *Griswold v. Connecticut*; *Poe v. Ullman* (John Marshall Harlan's and William O. Douglas's dissenting opinions); *Rochin v. California*; *Wisconsin v. Yoder*; *Oregon v. Smith*; *Minersville School District v. Gobitis*; *West Virginia v. Barnette*; Senate Debates of 1801–02; *Eakin v. Raub*.

RES PUBLICA: An International Framework for Education in Democracy (2006 draft).

National Standards for Civics and Government, Part V of the Grade 10–12 standards.

IV. Interpretive Theory:

D. THE TERTIARY COLOR

BROWN — *RES PUBLICA: An International Framework for Education in Democracy*

Lectures:

- [16] Wed., July 29 (morning session with Will Harris)
"Constitutional Citizenship: Authorizing and Interpreting the Fundamental Principles of a Democratic Polity"
- [17] Wed., July 29 (afternoon session with Kevin Ryan)
"American Citizenship as Constitutional Patriotism"
- [18] Thurs., July 30
"The Democratic Character of American Constitutional Interpretation"
"Systematic Interpretation as a Reflection of a Comprehensive Constitution"

CONCLUSION

Lecture:

- [19] Fri., July 31
"Interpretation at the Juncture of Constitutional Knowing and Making"
"Educating Citizens and Founders"

DEPARTURE Sat., Aug. 1