

The Clough Center Report

Fall 2011

THE CLOUGH CENTER FOR THE STUDY OF CONSTITUTIONAL DEMOCRACY

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From the Director:

The arts are probably not the first thing that comes to mind for those thinking about studying constitutional democracy, but the Clough Center has been engaging quite a bit lately with the arts. On a recent visit to Boston’s Institute for Contemporary Art, I toured an exhibit of photographs by the California-based artist Catherine Opie which included a series of striking photos of Tea Party rallies (and other protests and political gatherings). I thought that these photos would interest Brendan Benedict, a BC senior who is writing his political science honors thesis on how Tea Party ideology in the New Hampshire legislature corresponds to that of mainstream Americans, and what role anger or issues of perception have in determining policy preferences. The Clough Center funded Brendan’s summer research on this project, under the supervision of my political science department colleague R. Shep Melnick, the Thomas P. O’Neill Professor of Political Science. Brendan suggested that the two of

us attend a gallery talk at the ICA by Timothy McCarthy, the Director of the Human Rights and Social Movements Program at Harvard’s Kennedy School of Government, which not only deepened both of our understandings of the Opie show, but helped Brendan make a personal connection to a prominent scholar currently writing on the Tea Party.

Last spring, the Clough Center undertook its first joint event with BC’s film studies department by co-sponsoring a screening of acclaimed documentary filmmaker Frederick Wiseman’s “State Legislature.” The event was a rare opportunity to engage one-on-one with a MacArthur Award-winning artist, whose work was the subject of a year-long retrospective at New York’s Museum of Modern Art (MOMA) in 2010. The event, moreover, is leading to further collaboration between the Clough Center and the co-Director of BC’s film studies department, John Michalczyk. The Center has awarded a grant to Michalczyk, an Emmy-nominated documentary filmmaker,



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*“From the Director”**Continued from page 1*

to help him complete his film on conflict resolution in post-election Kenya, which will be shown in the fall at both the Museum of Fine Arts, Boston and at BC, and will ultimately be screened on PBS. In addition, this fall the Center will undertake its first collaboration with BC’s McMullen Museum of Art, in conjunction with the Museum’s show “Making History: Antiquaries in Britain,” exhibiting items from the collection of the Society of Antiquaries of London. Among the items being exhibited will be a manuscript of Magna Carta from 1225. Working the McMullen Director Nancy Netzer, the Center will sponsor both student tours of the BC exhibit, and a lecture on Magna Carta to be delivered at BC by the Hon. Margaret Marshall, former Chief Justice of the Supreme Judicial Court of Massachusetts.

As you can see from these recent Clough Center initiatives, we are far from idiosyncratic in our conviction that the arts can enrich our understandings of democracy and constitutional government, and deepen our reflections on the principles and practice of politics.



Ken I. Kersch

News from 10 Stone Ave



JARED HARDESTY
GRADUATE ASSISTANT

Greetings and welcome to our new section of the Clough Center’s biannual newsletter. While most of our newsletter is a retrospective on the previous semester’s events, the purpose of this short piece is to give our readers an insider’s view of what goes on at the Clough Center and to preview our upcoming events.

As you have already noticed, the author of this piece is an unfamiliar name to most of you. After giving the Clough Center three years of hard work and dedication, Hillary Thompson graduated last May with her Ph.D. in Political Science. Although Hillary left some big shoes to fill, I look forward to working at the Clough Center. Unlike Dr. Kersch and Hillary, I am a historian working on my Ph.D. in Boston College’s History Department. I study the colonial and revolutionary periods of American history with a focus on slavery, labor, and political development. By bringing a historian on staff, I believe that the Clough Center further fulfills its mission as an interdisciplinary research institute and that all disciplines make important contributions to the study of constitutional democracy.

We have an exciting line-up for this fall (see the back page for a calendar of our events), but two events in particular stand out. First, we are excited to host Jack Rakove as Boston College’s Constitution Day speaker. Prof. Rakove is a professor of History at Stanford University and one of the nation’s foremost authorities on the origins and creation of the American Constitution. His talk, “Beyond Belief: The Radical Significance of the Free Exercise of Religion,” is sure to foster debate and reflection amongst those in attendance. Second, we are working with the McMullen Museum of Art on an exhibit of English antiquities, which includes a manuscript copy of Magna Carta. We are incredibly excited about this event because not only does it give the Center an opportunity to engage with the Boston College community, but also other institutions. The Massachusetts Historical Society will have an exhibit on the ratification of the Constitution in Massachusetts and the Center will sponsor trips for BC students and other joint events. It is events like these that allow us to engage a larger audience and give us an opportunity to reflect on the meanings of constitutional democracy.

Clough Center Hosts Panel “Is Partisanship a Bad Thing?”

CHRISTOPHER FITZPATRICK
UNDERGRADUATE STAFF

In modern politics, the rise of the cable news personality has changed the nation’s political discourse, adding a new level of negative dialogue and public attention. While vitriolic political discussion dates back to the founding fathers, it has seemingly taken on a life of its own in the struggle for both voters and television ratings.



NANCY ROSENBLUM

At the root of this discourse lies partisan politics, which many political commentators argue has reached an unprecedented level. The Clough Center hosted a group of scholars with a particular expertise in this phenomenon – Professor Nancy Rosenblum of Harvard University, Professor Russell Muirhead of Dartmouth College, and Professor Shep Melnick of Boston College. Speaking before a large crowd in the Murray Function Room, they presented a case in favor of partisan politics, arguing that it plays a crucial role in our process of government.

Professor Melnick began by answering the question of whether partisanship is a bad thing with a resounding “no.” Stating that “party government is absolutely essential to liberal democracy,” Melnick argued that party contention serves to aggregate interests in politics, promote political stability, recruit and socialize new leaders, and establish barriers against elected tyranny. He also noted that the perception of partisanship as a bad thing stems from the public’s paradoxical love for the political system but dislike for politicians.

With the 2012 presidential election on the horizon, partisanship will likely be an omnipresent aspect of political life in the near future. Hopefully the electorate will come to view this aspect of our government in a positive light as have Professors Rosenblum, Muirhead, and Melnick, allowing for the possibility of smooth political transition in troubling times.

Spotlight on Clough Center-Funded Research



Jonathan Laurence, Associate Professor of Political Science at Boston College, traveled to Turkey, conducted research on Turks living abroad, and (pictured above) presented at a newly created bureau designed by the Turkish Prime Minister to aid Turks abroad.



Amy Limoncelli (pictured above), Ph.D. Candidate in History at Boston College, traveled to London to conduct research on Great Britain’s accession to the European Economic Community in 1973.

Paul Solman: “The Business Life and the Kingdom of Heaven: Does a Camel have an Easier Time with the Needle?”

JAMES SASSO
UNDERGRADUATE STAFF

In coming to Boston College to address “The Business Life and the Kingdom of Heaven,” Paul Solman discussed whether there was a clash between capitalism and Catholic doctrine—a topic relevant to BC students and alumni. Charles Clough, benefactor of the Clough Center and a deacon of the Church, joined Paul Solman, an Emmy award winning economics correspondent for the NewsHour on PBS. According to Mr. Solman, Clough is the prime example of a man who has to live in this “dilemma” of money and faith.

The event began with the question if tension exists between money and faith in Christianity and if modern Catholics acknowledge it. Solman, who is Jewish, recalled the story of when he first worked up the courage to go into Emanuel Church in Boston and heard a Catholic mass. Fascinated, Mr. Solman began to read the New Testament in which he “came across many passages almost bemoaning the idea of wealth.” These numerous references include the famous line “it is easier for a camel to get through the eye of a needle than a rich man to get into

heaven.” To Mr. Solman the idea of wealth seems so detested in the New Testament that one could come to believe that he cannot be a good Catholic if he is rich. At this the conversation turned to Mr. Clough, who did not feel any tension between his Catholicism and wealth.

Mr. Clough has never had “an emotional, philosophical or intellectual conflict between religion and commerce.” Instead, he argued that in order to build a good society three things are necessary: 1) The recognition of the human spirit of aspiration; 2) Investment (in the sense that a surplus allows society to grow); and 3) Christian principles of living. “Jesus was not glorifying poverty,” Clough said.

The conversation then opened up to the room of professors and students who were in attendance. It migrated from professors like Robert Faulkner, who wondered if following a path towards doing what one loves could be hampered by one’s economic situation, and Susan Shell who asked “if the modern form of making money was not in line with Catholic teaching?” A number of students present also voiced their opinions. Some claimed to feel a serious tension in

their aspirations to make money while living within the Catholic faith.

Throughout the debate Paul Solman presented questions that made the participants question their own beliefs about the tension between money and religion. After lunch he introduced the “Ultimatum Game” which sought to show that within every person lies a tension to cooperate or compete with the people around them for success. As Mr. Clough stated, a society can only improve if there is recognition of aspiration, which does tend to breed competition, but at the same time finds a way to breed cooperation so

“Jesus was not glorifying poverty.”

that people do not destroy one another. “There is, and has to be, some kind of stable tension between the impulse to compete and the impulse to cooperate,” within people and society said Mr. Solman.

Is it possible to find this stability between wealth, acquired through competition, and Catholic doctrine, which preaches cooperation, in the face of almost blatantly aggressive ‘anti-money’ messages within the Bible? Although the question never found an answer, the room tended to agree that Catholics who make money need to balance accruing wealth with helping the world.



PAUL SOLMAN AND CHARLES CLOUGH

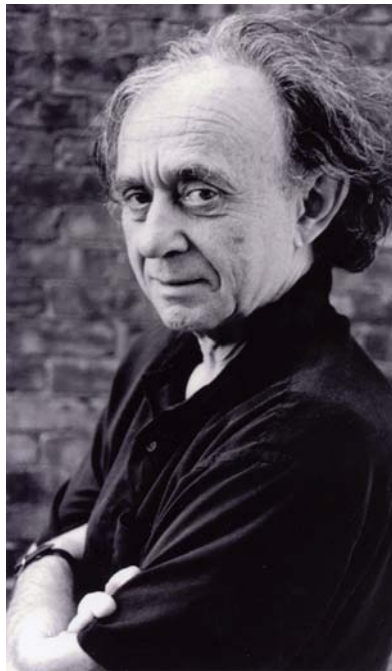
Clough Center Sponsors Screening of Frederick Wiseman's Film *State Legislature*

JOHN LOUIS
GRADUATE STAFF

In April the Clough Center, the Institute for Liberal Arts, and the Department of Fine Arts and Film Studies had the pleasure of welcoming renowned documentary film maker Frederick Wiseman to campus for a screening of his film *State Legislature* (2006). A Boston native, Wiseman has enjoyed a prolific career producing over 35 films, and winning numerous awards, including the Guggenheim and MacArthur fellowships.

Wiseman is most well known for his style of observational cinema, and his films often explore social institutions. For the film, Wiseman collected over 150 hours of live footage, which he edited down into a little over 3 hours of run-time in the final version. Wiseman's choice of sequence and events provides his viewers with powerful insights into the day-to-day operations of legislative government in Idaho.

State Legislature begins with the Speaker of the House giving a tour of the capital to a group of high school students. The Speaker muses, "I used to think being a legislator was a big deal, but when I got here I realized that I was just 1 of 105 people... any-



FREDERICK WISEMAN

one can do what we are doing." The Idaho legislature meets for only three months out of the year, and few if any of its members consider governing to be a full-time job. Wiseman's film gives us a chance to fully consider the Speaker's assertion that anyone can make laws.

Wiseman presents several issues at various stages in the legislative process. His camera is present at committee meetings, debates on the floor, lunch conversations, and even back-room meetings with lobbyists. His

camera watches as legislators grapple with issues as diverse as water usage, teachers' salaries, drivers licenses for immigrants, telephone deregulation, gay marriage, contractor licensing, and the building of an American history monument.

At times, Wiseman shows the mundane details of legislative procedure that constrain the actions of individual legislators, like when he provides significant detail of a committee meeting regarding the right to speak at public hearings for water facilities. At other times, Wiseman envelops us in ideological drama, as politicians make impassioned speeches on the floor. At all times, Wiseman focuses not on one individual, but contrasts the individual with their situational setting.

As politicians delivery fiery rhetoric, the camera pans to the uninterested faces and closed eyes of other legislators. Away from the floor, where the conversation is less impassioned, but more detailed, we often see less emotional debate but more attentive participation. From this contrast, we are invited to ponder the role of committees in the legislative process.

Key political figures, such as the Speaker of the House, the President of the Senate, and committee chairs play a disproportionate role in the narrative structure of the film. In particular, committee chairs have the power to control which potential pieces of legislation get put to a vote. The contrast between those members of the

MANY EVENTS FEATURED IN THE CLOUGH REPORT ARE AVAILABLE ON BC'S FRONTROW MULTIMEDIA SITE. LINKS ARE AVAILABLE ON THE CLOUGH CENTER WEBSITE.

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Pauline Maier: “Citizen Founders: Americans Debate the Constitution, 1787-1788”

JOHN LOUIS
GRADUATE STAFF

In February, Pauline Maier, William R. Kenan, Jr. Professor of American History at MIT, visited Boston College and gave a lecture regarding the use of history in constitutional interpretation. Maier began by citing a statement from James Madison foreswearing the federal constitutional convention as “an oracular guide” and insisting instead that the Constitution was “nothing but a dead letter, until life and vitality were breathed into it by the people speaking through the several state conventions.” Taking Madison’s advice, Maier urged her audience to contemplate the meaning of the Constitution not from the understanding brought forth in the Philadelphia convention of 1787, but from the ratification conventions of the 13 states in 1788-89.

Examining the history of the American Founding, Maier finds ample evidence to deny the belief that the founders’ intent is easily discernible in the present. Expressing suspicion of those who would treat the Consti-

tution with “sanctimonious reverence,” she cautioned the audience to consider Jefferson’s warning not to “ascribe to men of the preceding age wisdom more than human.”

Why did Madison believe the state ratification conventions to be a superior guide for constitutional interpretation? From an empirical standpoint, Maier argued, the state conventions kept better records. The debates in Virginia alone comprised over 600 pages of documents. Maier demonstrated that the state conventions provide a better description of what the states believed themselves to be accepting when adopting the federal Constitution.

For most of the 20th century, Maier noted that new scholarship into the actual proceedings of the founding moment was relatively limited. Most scholars still relied on Jonathan Elliot’s 1827 collection of *The Debates in the Several State Conventions on the Adoption of the Federal Constitution*. Luckily, Maier noted, the history of the founding has been

greatly aided in recent years by an ambitious collaborative historical project organized by the University of Wisconsin to compile the *Documentary History of the Ratification of the Constitution* (DHRC).

The DHRC includes 21 volumes containing official records supplemented by various fragmentary sources such as private correspondence and newspaper articles. Maier demonstrated that the DHRC gives historians and jurists a new tool for coming to terms with the Constitution’s original meaning. Applying her theoretical understanding of the proper use of history to the substance of contemporary constitutional law, Maier examined the 2008 Supreme Court decision *D.C. v Heller* with respect to the meaning of the 2nd amendment as she found it to be understood in the state ratification conventions.

In her assessment of the *Heller* decision, Maier condemned Justice Scalia for selectively using history to interpret a fundamental right to possess and carry weapons into the Constitution. Looking at the state ratification conventions, Maier determined an individual right of gun ownership was not an issue at the debates. At the time, Maier argued that our founding politicians, concerned with protecting their states from a Congressional army, did not foresee restriction on property ownership falling under the regulatory purview



PAULINE MAIER

THE CLOUGH CENTER OFFERS SUMMER FUNDING FOR FACULTY, GRADUATE STUDENTS AND UNDERGRADUATE STUDENTS. FOR MORE INFORMATION ON CLOUGH CENTER FACULTY RESEARCH ASSISTANTSHIPS, GRADUATE AND UNDERGRADUATE RESEARCH GRANTS AND CIVIC INTERNSHIPS, PLEASE SEE THE CENTER’S WEBSITE AT: [BC.EDU/CENTERS/CLOUGHCENTER/RESOURCE](http://bc.edu/centers/cloughcenter/resource)

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legislature playing a minor role, and others able to exert substantial influence leads us to reexamine the film’s opening claim.

In one scene, the Speaker of the House is portrayed in a private conversation asking a lobbyist, “How do we sell this to the public?” In another scene, an official presents findings from a study declaring that 64% of the public believes legislators make policy decisions based on campaign contributions. Both the official and the legislators seem genuinely disturbed by what they feel to be a public misconception.

After the film, Wiseman took time for a question and answer session. In summing up his observations, Wiseman remarked that he was amazed by the “pervasive role of the legislature in our lives,” and surprised

by, “the wide range of issues about which they had to be informed.” He seemed shocked by the pervasiveness of American apathy exclaiming, “these people have enormous control over us and we don’t pay any attention to them.”

Despite cynical expectations, Wiseman does not discover rampant corruption on the part of Idaho’s public officials. *State Legislature* displays politicians, not just concerned with maintaining their power, but also aware of the gravity of their responsibility. *State Legislature* demonstrates the often bewildering complexity of demands on modern government. Wiseman does not paint Idaho’s elected officials as powerful manipulators of the public, but rather depicts a government of the people, by the people, for the people.

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of what they considered to be a circumscribed national government of limited powers.

Maier concluded that the Constitution emerged as a product of compromise. Far from being perfect in its original form, America’s most sacred text was rather “the best they could get at the time, possibly to be replaced in the future.” If we look to the state ratification debates as our guide, then originalism, according to Maier, presupposes living constitutionalism. The intent of the founders, Maier argued, was not to permanently bind Americans to an 18th century understanding of constitu-

tional government, but rather to create a regime capable of sustained and continuing development in response to the experiences of the present.

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SPRING 2012:

“WOODROW WILSON’S HEIRS FROM THE COLD WAR TO THE ARAB SPRING: AMERICAN SCHOOLS OF THOUGHT IN DEMOCRACY PROMOTION”

DETAILS AT: [BC.EDU/CENTERS/
CLOUGHCENTER/EVENTS.HTML](http://BC.EDU/CENTERS/CLOUGHCENTER/EVENTS.HTML)

CLOUGH CENTER FALL 2011 EVENTS

**September 15, 2011
4:30 pm**

Jack Rakove, "Beyond Belief:
The Radical Significance of
the Free Exercise of Religion,"
Constitution Day lecture

October 13-14, 2011

Conference: Secularism, Islam,
and Democracy: Constitutional
Tensions and Accommodations

**October 27, 2011
4:30 pm**

Book Panel on Gerard Maglioc-
ca's "The Tragedy of William
Jennings Bryan: Constitutional
Law and the Politics of Back-
lash"

**November 15, 2011
4:30 pm**

Hon. Margaret Marshall, "To
No One Deny or Delay Right or
Justice:" Magna Carta, Imper-
fect Constitutions, Imperfect
Courts, and the Ideal of Justice

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For more information on Clough Center events, please see the Center's website.

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