

HERTOG 2021 SUMMER COURSES

THE FEDERALIST & CONTEMPORARY DEBATES

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The politics of 21st-century America has overflowed with constitutional controversies. In this online seminar, fellows will return to the single largest repository of American political ideas – *The Federalist Papers* – and consider them anew through the lens of current events.

Each session, fellows will read a section of *The Federalist* that discusses a given set of institutions or themes and news accounts of a contemporary issue involving these institutions or themes. **Readings from *The Federalist* are outlined below.** **Contemporary news accounts will be posted on Slack 24 hours before each session.** Fellows will discuss such questions as: What assumptions do the papers/primary sources in question reflect? Do those assumptions still hold in today's America? If so, what does *The Federalist* tell us about the contemporary issue we are discussing? If not, why not, and what difference(s) does that change make for our understanding of American political institutions?

This seminar will meet online from **10 AM to 12 PM ET on June 7–11, 2021.**

Course Materials:

- *The Federalist Papers* by Alexander Hamilton, John Jay, and James Madison, eds. George W. Carey and James McClellan (Liberty Fund: Indianapolis, 2001)

Discussion Papers: Each fellow will be responsible for completing a brief discussion paper (1-2 pages, single spaced). See below for your assignment. **Papers are due the day before your assigned session by 5 PM ET.** They should be posted on the course Slack channel and will be part of the assigned readings for the session. Paper-writers should be ready to briefly present their ideas during the seminar.

Resources:

To learn more about the ideas and figures discussed in this course, we encourage you to explore a project supported by the Hertog Foundation: **The Great Thinkers** (<http://thegreatthinkers.org/>) and **Contemporary Thinkers** (<http://contemporarythinkers.org/>) websites. These sites are aimed at introducing important thinkers in Western thought, with a particular emphasis on politics and philosophy.

Relevant pages include *The Federalist*, Martin Diamond, and Herbert Storing.

Monday, June 7, 2021

10 AM – 12 PM ET

Session I: Powers of National Government

Readings:

- *The Federalist*, Nos. 31, 44, 45, 46

Discussion Questions:

1. What is Publius' case for unlimited powers of national defense and taxation?
2. What assurance does he give us that the powers he proposes will be safely exercised? Have those safeguards held up?
3. Is the "necessary and proper" clause actually necessary? Has it proved to be pernicious?
4. Has Publius turned out to be right that the states are likelier to encroach on the federal government than the other way around? What factors, if any, have changed since his analysis?
5. Does Publius actually care about federalism?

Tuesday, June 8, 2021

10 AM – 12 PM ET

Session II: Separation of Powers

Readings:

- *The Federalist*, Nos. 47, 48, 49, 51

Discussion Questions:

1. Publius makes dire warnings if the separation of powers is not maintained, yet most observers would agree that the mechanisms do not operate as he predicted. Have his warnings come true? Why or why not?
2. What can we learn from Publius about the nature of power? For Publius, is power a phenomenon separate from the person who wields it?
3. Why is Publius more concerned about Congress than the president? What has changed, if anything?

4. Have we achieved Publius' constitutional "veneration"? How does it serve us well and/or poorly?
5. What assumptions lay behind Publius' mechanisms for maintaining the separation of powers? Have those assumptions panned out? Why or why not?

Wednesday, June 9, 2021

10 AM – 12 PM ET Session III: Congress

Readings:

- *The Federalist*, Nos. 55, 57, 62, 63

Discussion Questions:

1. What might Publius say about contemporary debates about increasing the size of the House of Representatives?
2. Publius expresses confidence in the basic capacity of the people for self-government. In what, exactly, is he confident? What are his doubts? How do we see both in his institutional design?
3. What prevents the House from abusing the people? What might undermine or bolster that protection?
4. Does Publius support equal state representation in the Senate? What are the contemporary implications of that equality?
5. What are the ways in which the Senate helps to prevent governmental abuse? Is Publius' case still persuasive today?

Thursday, July 10, 2021

10 AM – 12 PM ET Session IV: The Presidency

Readings:

- *The Federalist*, Nos. 68, 71, 72, 73

Discussion Questions:

1. Does the Electoral College still serve the purposes Publius identifies? Why or why not? Should it be preserved?

2. What does Publius say “the republican principle” tells us about the responsibilities of presidents? Do they still serve this function? Why or why not?
3. What incentives does eligibility for reelection provide? How do those incentives operate similarly and differently today?
4. How does Publius anticipate the veto being used? What can we learn from the differences between what he expects and how the veto is used today?

Friday, July 11, 2021

10 AM – 12 PM ET

Session IV: The Judiciary & Rights

Readings:

- *The Federalist*, Nos. 78, 81, 84

Discussion Questions:

1. On what basis does Publius argue the judiciary cannot be dangerous? Are those reasons still persuasive? Why or why not?
2. What might Publius say about recent proposals to expand the Supreme Court or limit the terms of members?
3. On Publius’ reading, what forces control judges? Do they still work as he predicted?
4. Why does Publius think a Bill of Rights might be dangerous? Are signs of those dangers evident in contemporary politics?