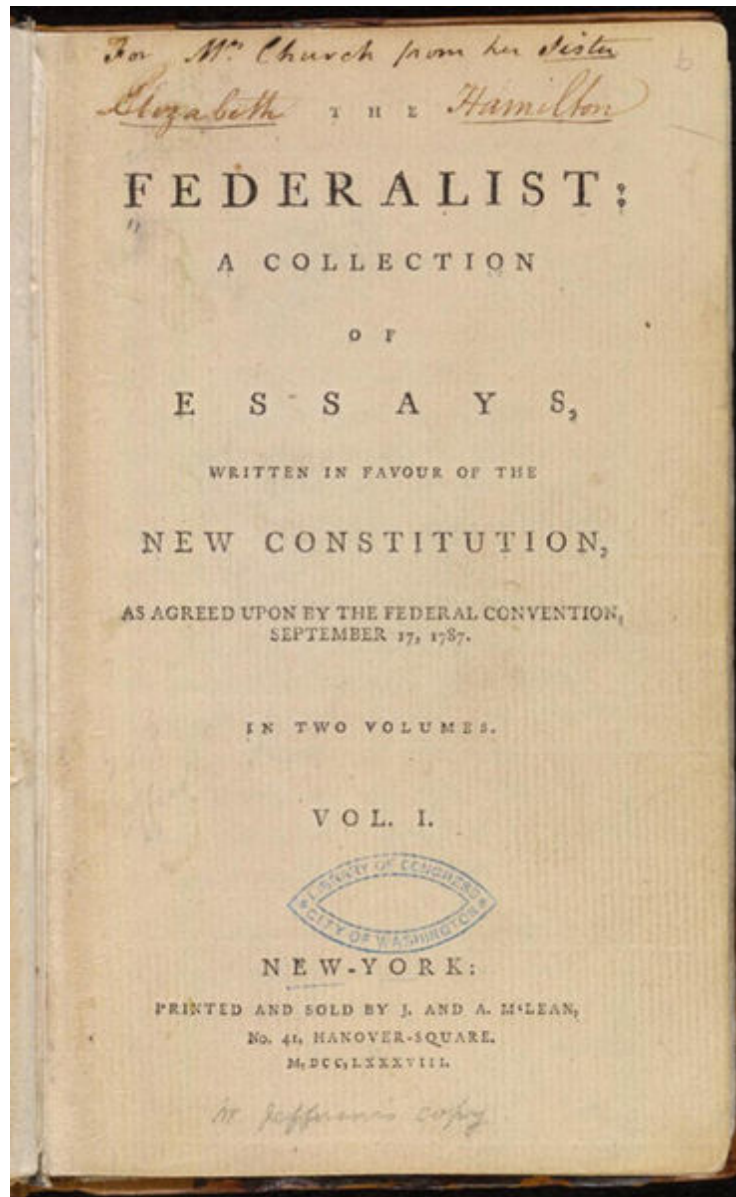


Political Science 393  
Spring 2019  
M-W 11:20-12:50  
DePaul University

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*The Federalist*



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<sup>1</sup> It is best to email me from your depaul.edu account, since emails from other servers are often first delivered to my DePaul junk mailbox.

Much praise has been heaped upon *The Federalist* since it appeared as a series of essays in the New York newspapers in 1787-88. Thomas Jefferson wrote in 1788 that it was “the best commentary on the principles of government, which ever was written.”<sup>2</sup> Alexis de Tocqueville commented in his *Democracy in America*, “*The Federalist* is a fine book, and though it especially concerns America, it should be familiar to statesmen of all countries.”<sup>3</sup> Gottfried Dietze has called it “the outstanding contribution to the literature on constitutional democracy and federalism, a classic of Western political thought.”<sup>4</sup> Clinton Rossiter observed, “*The Federalist* is the most important work in political science that has ever been written, or is likely ever to be written in the United States.”<sup>5</sup> Edward Gaylord Bourne commented, *The Federalist* is “the most important contribution of our country to the literature of political science.”<sup>6</sup> Even critics, such as Charles Beard, have acknowledged that the *Federalist* is a “wonderful piece of argumentation by Hamilton, Madison, and Jay” and “is in fact the finest study in the economic interpretation of politics which exists in any language.”<sup>7</sup>

Although written in great haste for the very practical purpose of seeing to the Constitution’s ratification in New York, commentators are right to point to the essays’ timelessness. Throughout *The Federalist*, one confronts many of the most basic questions of political theory: What is human nature? Is it the job of government to channel human nature or stifle it? What are the purposes of government? What is liberty? What is equality? Should power be divided? Should power be checked? How much of a threat is corruption to good governance? And what does one do to reduce the risks associated with corruption? How much popular input should a constitution solicit? What dangers do the passions pose to good governance? These questions have been asked for well over 2,000 years. That Alexander Hamilton, James Madison, and John Jay had something original to say in answer to them is a testament to their originality and creativity.

Admiration for the *Federalist* continues, if anything, to grow. The Supreme Court frequently finds occasion to cite the *Federalist* as authoritative in understanding the purpose and meaning of the Constitution, as do both constitutional interpreters on both ends of the political spectrum. *The Federalist* has, in fact, been cited by the Supreme Court with increasing frequency in recent decades. Although it was cited occasionally before 1940, it is almost an expectation that it will be cited in Supreme Court decisions today – on all sides of

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<sup>2</sup> Thomas Jefferson, quoted in Charles R. Kessler, “Introduction” to *The Federalist Papers*, ed. Clinton Rossiter (New York: Signet Classics, 1999), p. ix.

<sup>3</sup> Alexis de Tocqueville, *Democracy in America*, ed. J. P. Mayer (New York: Harper Perennial, 1988), p. 115n8.

<sup>4</sup> Gottfried Dietz, *The Federalist: A Classic on Federalism and Free Government* (Baltimore, MD: Johns Hopkins University Press, [1960] 1999), p. 3.

<sup>5</sup> Clinton Rossiter, “Introduction” to *The Federalist Papers*, ed. Clinton Rossiter (New York: Mentor Books, 1961), p. vii.

<sup>6</sup> Edward Gaylord Bourne, “Introduction” to *The Federalist: A Commentary on the Constitution of the United States* (New York: Tudor Publishing Co. 1947), p. iii.

<sup>7</sup> Charles Beard, *An Economic Interpretation of the Constitution of the United States* (New York: The Free Press, [1913] 1986), p. 153.

the various debates.<sup>8</sup> While the more conservative readers of the Constitution originally led this charge back to *The Federalist*,<sup>9</sup> liberals have likewise sought to reclaim the Framers for validating their own readings of the Constitution.<sup>10</sup>

Finally, *The Federalist* remains a very useful source for understanding American political institutions today. Those frustrated by Congressional gridlock, for example, might take some comfort (or umbrage!) in knowing that the system was set up partly to slow the gears of governance. And those frustrated with recent presidents' extension of executive power in war would have to confront Alexander Hamilton's claim, "The authorities essential to the care of the common defense . . . ought to exist without limitation." Likewise, those frustrated with perceived high taxes might likewise acknowledge Hamilton's argument in the same essay that Congress has "an unlimited discretion" to raise taxes.<sup>11</sup> In some instances, contemporary political pathologies might be traced to the original understanding of the American Constitution. Sometimes they are in direct defiance of this understanding. But by reading these documents, students should have a better understanding of those problems.

In this seminar, we will explore all the issues above, along with the myriad others introduced here and in the noted Anti-Federalist, Brutus, who was a fierce critic of the Constitution.

Because this is designated an "honors seminar," we will be faithful to the spirit of the seminar. This is decidedly *not* a lecture course. The students will carry the responsibility for generating the questions we discuss in class, as well as leading that discussion.

### Aims

By the end of the semester, students should be able to do the following:

- 1) Identify the major questions consuming *The Federalist*.
- 2) Understand both the relative strengths and weaknesses of Hamilton, Madison, and Jay's arguments.
- 3) Develop the capacity to appreciate and critique *The Federalist*.
- 4) Display these skills in written and oral formats.
- 5) Develop the skill of designing one's own research agenda and carrying through to the completion of a 15 to 20-page paper.

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<sup>8</sup> See Pamela C. Corely, J. D. Robert M. Howard, and David C. Nixon, "The Supreme Court and Opinion Content: The Use of the Federalist Papers," *Political Research Quarterly*, Vol. 58, No. 2 (2005): 329-40.

<sup>9</sup> Most notable of these include Robert Bork's *The Tempting of America: The Political Seduction of the Law* (New York: The Free Press, 1986) and Antonin Scalia, *A Matter of Interpretation: Federal Courts and the Law* (Princeton, NJ: Princeton University Press, 1997).

<sup>10</sup> See, for example, Jack M. Balkin's *Living Originalism* (Cambridge, MA: The Belknap Press of Harvard University Press, 2011).

<sup>11</sup> Alexander Hamilton, "Federalist 23," in *The Federalist with Letters of Brutus*, ed. Terence Ball (Cambridge: Cambridge University Press, 2003), p. 106, 107.

## Requirements & Evaluation

**Papers**—There will be one substantial research paper in this class (15-20 pages). You will be asked to develop it in stages, but the final paper will be worth **40% of your final grade**. You will design your own research project, drawing primarily on course materials, but not limited to them. I am open to you writing on any theme addressed in *The Federalist*, whether from the perspective of a theorist, Americanist, comparativist, or legal scholar.

Please also note that late final papers will be penalized at the rate of one full letter grade per day.

Paper grading rubric—Since this is a writing emphasis course, you are entitled to know what it takes in order to get a particular grade on a paper. While no grading rubric can be complete (papers can possess indefinite combinations of attributes), this should provide some general guidance.

Paper grade of “F”. A paper earning this grade will reveal little or no evidence of understanding or engagement with the materials. Plagiarized papers will also receive an “F” (in addition to other sanctions).

Paper grade of “D”. A paper earning this grade will reveal more understanding or engagement with the text than an “F” paper, but not much more. A paper of this type most typically fails to have an argument. Frequent grammatical, spelling, typographical, or factual errors can also drag a paper of generally higher quality to the “D” range, as well.

Paper grade of “C”. A paper earning this grade will most certainly display some comprehension of the materials. What might hold such a paper back, however, would be some combination of spelling/grammatical/typographical errors, muddled or poor argumentation, and factual errors (*e.g.*, attributing something to Aristotle that he did not say).

Paper grade of “B”. A paper earning this grade will display comprehension and argumentation. This paper includes a relatively clear thesis and arguments to support it. Where it is lacking depends on some combination of grammatical/spelling/typographical errors, originality, and style.

Paper grade of “A”. A paper earning this grade will combine several attributes. First, the paper has a clear thesis. Second, it has several arguments clearly linked to the defense of that hypothesis. Third, it engages effectively a consideration of alternative hypotheses. Fourth, the paper effectively integrates textual analysis. Fifth, the paper is almost completely free of grammatical/spelling/typographical errors. Sixth, the style of the paper is sharp and clear. Seventh, the paper provides original insights into the text, rather than simply regurgitating points covered in class.

**Thesis Assignment** – Well in advance of your paper, you will have to submit a thesis statement. I will distribute details in class, as well as post them on D2L. It should be no longer than one page. **The thesis assignment is worth 10% of your final grade**, but can be revised for an improved grade.

**Outline Assignment** – After completing your thesis statement, the next step in developing your paper will be to sketch an outline of your paper. Your outline should spell out the plan for defending your thesis. It should be no longer than two pages. **The outline assignment is worth 10% of your final grade**, but can be revised for an improved grade.

**Discussion Leading**—All students will be responsible for leading discussion once in the term. Responsibility for leading discussion includes: 1) writing up a list of substantive discussion questions – between 12-15 – about the week’s materials, 2) posting those questions on the course D2L site by Saturday evening at 8:00 P.M., 3) reading all the student responses to the questions (see reaction papers below), and 4) leading the class discussion for the week by prompting classmates to develop their answers to your questions. This is worth **10% of your final grade**.

**Reaction Papers**—Each student (with the exception of the discussion leader) is required to write one reaction paper for each week of class. **They will be due in the course D2L by Sunday evening at 8:00 P.M.** You must answer *one* of the questions posed by the discussion leader for that week. These papers must be double-spaced with a regular font and proper margins. They must be limited to one page, and **you must cite the text at least twice in your answer**. Failure to cite the text twice results in no credit for the assignment. Satisfactory completion of the reaction papers earns students a full **20% of the course grade**. **Absolutely no late papers will be accepted**. There will be no grade given on the papers, but the professor recommends that you come in to discuss them periodically, in order to make sure that you understand the materials reasonably well. **Please bring a hard copy of your reaction papers to class so that we can read and discuss them.**

**Attendance, Participation, and Preparation** – The success of this course is very much dependent upon the students’ level of preparation of and enthusiasm for the materials. While there will be occasions for the instructor to lecture, the course will be primarily fueled by the insights which the students are able to generate and share in class. You will be asked repeatedly for your understanding and evaluations of the material. Thus attendance, participation, and preparation will constitute **10% of your overall grade**. Any of the following behaviors will count against your A, P, & P grade: being rude to classmates, sleeping, excessive trips to the bathroom, coming to class late, leaving class early, reading materials in class not immediately relevant to classroom discussion, talking in class, passing notes, and use of unauthorized electronic devices.

10 points = regularly present, attentive, prepared, with thoughtful questions and answers

9 points = same as above, but modest deficiency in attendance, participation, or preparation

8 points = same as above, but greater deficiency in attendance, participation, or preparation

7 points = same as above, but modest deficiency in attendance, participation, or preparation; or perhaps good attendance without much participation or other signs of preparation

6 points = irregular class attendance, lack of class participation, or disruptive tendencies

0-5 points = a combination irregular to no class attendance, no signs of preparation, and / or disruptive tendencies

Grade Summary:

|                         |            |
|-------------------------|------------|
| Paper                   | 40%        |
| Thesis Assignment       | 10%        |
| Outline Assignment      | 10%        |
| Discussion Leading      | 10%        |
| Reaction Papers         | 20%        |
| <u>Attendance/Prep.</u> | <u>10%</u> |

100% (-5 per technology policy violation)

|    |                  |
|----|------------------|
| A  | =92.5% and above |
| A- | =89.5%-92.4%     |
| B+ | =87.5%-89.4%     |
| B  | =82.5%-87.4%     |
| B- | =79.5%-82.4%     |
| C+ | =77.5%-79.4%     |
| C  | =72.5%-77.4%     |
| C- | =69.5%-72.4%     |
| D+ | =67.5%-69.4%     |
| D  | =59.5%-67.4%     |
| F  | =0-59.4%         |

**Text**

There is only one text for this course: Alexander Hamilton, James Madison, and John Jay's *The Federalist' with Letters of Brutus,* ed. Terence Ball (Cambridge: Cambridge University Press, 2003). Although there are many editions of *The Federalist* in print, I insist you to get this one, since it includes all the essays of Brutus, which we will read in their entirety and because it will make life much easier in the classroom when we cite specific passages. Use of other editions will result in one of two inconveniences: 1) you will get lost in class, or 2) the natural flow of discussion will be unduly disturbed while people search for the passages under consideration. Since there is only one book for the entire course and it is not obscenely expensive, you should really be sure to get the designated edition.

**Always bring the book with you to class, as you will find the references useful in discussion.**

**Administrative Policies and Comments**

1. If you have missed class for any reason, it is *your responsibility* to find out what material and/or assignments you have missed.
2. If an emergency or family crisis prevents you from attending what you anticipate to be a significant portion of the semester (*i.e.*, more than one week), inform the instructor of your absence and when you expect to return. If you are unable to do so, have someone else take on this responsibility for you.

3. Turn off all electronic technology upon entering the classroom. This includes – but is not limited to – laptop computers, tablets, cell phones, smart phones, MP3 devices, and anything in this spirit that might be invented during the course of the term. Recent studies reveal that operating electronic technologies while in class results not only in poor performance for the would-be multi-tasker, but even for those within sight of the technologies. Specifically, you can expect to score seventeen points lower in class if you are regularly distracted by others operating technology in the classroom.<sup>12</sup> In concrete terms, “A” students perform like “B-” students. If you have a special personal need for technology (such as a disability), please let me know immediately. **Each violation of this policy will result in a subtraction of five points from your final grade.**
4. **Always bring the readings with you to class.** References will be made frequently in class to important passages. The best way to keep track of them is to bring the reading.
5. Students requiring special accommodations should alert the instructor on the first day of class with proper university documents.
6. All students must check sacred cows at the door. We will discuss sensitive issues in this class—many about which you will already have strong sentiments. All that I ask of you is that you consider all positions seriously. A sincere execution of this task engenders your growth as a student and citizen.

### **Study Suggestions**

Everyone has different ways of studying for courses, but the following is a list of suggestions that should be universally helpful.

1. Read all the assigned material before class every day.
2. Read all the assigned material again. There should not be significant time spent on note taking, so you might allocate time normally spent on note reviewing on re-reading the texts. A second reading always helps to bring the significant points to light.
3. Review course material weekly. The more one re-familiarizes him or herself with the texts, the more likely one is to retain the material. This subsequently makes the papers substantially easier to write.
4. Form regular study groups. One of the best ways to learn this material is to discuss it with others. Make a group of friends, if possible, and arrange to periodically get together and review the pertinent issues in the texts.
5. Don't hesitate to come by the instructor's office hours any time you have a question or simply want to discuss the material.

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<sup>12</sup> See “[The Broader Consequences of Multitasking](#),” *National Public Radio*, August 19, 2013. See also “[To Remember a Lecture Better, Take Notes by Hand](#),” *The New Republic*, May 1, 2014, “[The Case for Banning Laptops in the Classroom](#),” *New Yorker*, June 6, 2014. “[Why a Leading Professor of New Media just Banned Technology use in Class](#),” *The Washington Post*, September 25, 2014.

6. One more point for reading comprehension and general erudition: if you come across a word in the reading and don't know its meaning, look it up in the dictionary.

### Schedule

| <u>Class Meeting</u> | <u>Materials</u>      | <u>Assignment</u>                                |
|----------------------|-----------------------|--|
| April 1              | Introduction          | Articles of Confederation and Constitution       |
| April 3              | Brutus                | Brutus I-VIII                                    |
| April 8              | Brutus/The Federalist | Brutus IX-XVI/ Fed. #1-10                        |
| April 10             | The Federalist        | no new readings                                  |
| April 15             | The Federalist        | Fed. #11-20                                      |
| April 17             | The Federalist        | no new readings                                  |
| April 22             | The Federalist        | Fed. #21-36                                      |
| April 24             | The Federalist        | no new readings                                  |
| April 29             | The Federalist        | Fed. #37-46<br><b>Thesis Assignment Due</b>      |
| May 1                | No Class              |  |
| May 6                | The Federalist        | Fed. #47-61                                      |
| May 8                | The Federalist        | no new readings                                  |
| <u>Class Meeting</u> | <u>Materials</u>      | <u>Assignment</u>                                |
| May 13               | The Federalist        | Fed. #62-70                                      |
| May 15               | The Federalist        | no new readings<br><b>Outline Assignment Due</b> |
| May 20               | The Federalist        | Fed. #71-77                                      |
| May 22               | The Federalist        | no new readings                                  |
| May 27               | No Class/Memorial Day |  |
| May 29               | The Federalist        | Fed. #78-85                                      |



|        |                          |                 |
|--------|--------------------------|-----------------|
| June 3 | The Federalist           | no new readings |
| June 5 | Summary/Paper Discussion | no new readings |

**Final Papers are Due Monday June 10 at 5:00 P.M. in course D2L Drop-Box**

### **Recommended Supplemental Readings**

Students looking for additional insights into the material can find a wealth of excellent secondary works. I list some of these below. Feel free to investigate as you are so moved. The library will have some of these – others may need to be acquired either through interlibrary loan or I-Share borrowing. This list is not meant to be exhaustive – it is rather just a sample of some of the scholarship available.

- 1) Douglass Adair – *Fame and the Founding Fathers* (Indianapolis, IN: Liberty Fund, 1998).
- 2) Mark M. Arkin – “‘The Intractable Principle:’ David Hume, James Madison, Religion, and the Tenth Federalist,” *Journal of the Early Republic*, Vol. 39, No. 2 (1994): 148-76.
- 3) Bernard Bailyn – *To Begin the World Anew: The Genius and Ambiguities of the American Founders* (New York: Vintage Books, 2004).
- 4) Richard Boyd – “The Madisonian Paradox of Freedom of Association,” *Social Philosophy & Policy*, Vol. 25 (2008): 235-62.

- 5) Charles Beard – *An Economic Interpretation of the Constitution of the United States* (New York: The Free Press, [1913] 1986).
- 6) George W. Carey – *The Federalist: Design for a Constitutional Republic* (Urbana, IL: University of Illinois Press, 1989).
- 7) Ron Chernow – *Alexander Hamilton* (New York: Penguin Books, 2004).
- 8) Saul Cornell – *The Other Founders: Anti-Federalism and the Dissenting Tradition in America, 1788-1828* (Chapel Hill, NC: University of North Carolina Press, 1999).
- 9) Edwin S. Corwin – *The 'Higher Law' Background of American Constitutional Law* (Ithaca, NY: Cornell University Press, [1928] 1955).
- 10) Martin Diamond – “Democracy and the Federalist: A Reconsideration of the Framers’ Intent,” *American Political Science Review*, Vol. 53, No. 1 (1953): 52-68.
- 11) Martin Diamond – “The Federalist,” in *History of Political Philosophy*, 3<sup>rd</sup> edition, ed. Leo Strauss and Joseph Cropsey (Chicago: University of Chicago Press, 1987), 659-79.
- 12) Paul R. DeHart – *Uncovering the Constitution’s Moral Design* (Columbia, MO: The University of Missouri Press, 2007).
- 13) Gottfried Dietze – *The Federalist: A Classic on Federalism and Free Government* (Baltimore, MD: Johns Hopkins University Press, 1960).
- 14) David F. Epstein – *The Political Theory of the Federalist* (Chicago: University of Chicago Press, 1984).
- 15) Michael P. Federici – *The Political Philosophy of Alexander Hamilton* (Baltimore: The Johns Hopkins University Press, 2012).
- 16) Robert H. Horwitz, ed. – *The Moral Foundations of the American Republic* (Charlottesville, VA: The University of Virginia Press, 1986).
- 17) Ralph Ketcham – *James Madison: A Biography* (Charlottesville, VA: The University of Virginia Press, 1971).
- 18) Stephen K. Knot – *Alexander Hamilton and the Persistence of Myth* (Lawrence, KS: The University of Kansas Press, 2005).
- 19) Robert W. T. Martin, ed. – *The Many Faces of Alexander Hamilton: The Life and Legacy of America’s Most Elusive Founding Father* (New York: NYU Press, 2006).
- 20) Joshua Miller – “The Ghostly Body Politic: The Federalist Papers and Popular Sovereignty,” *Political Theory*, Vol. 16, No. 1 (1988): 99-119.
- 21) Thomas L. Pangle – *The Spirit of Modern Republicanism: The Moral Vision of the American Founders and the Philosophy of Locke* (Chicago: University of Chicago Press, 1988).
- 22) J. G. A. Pocock – *The Machiavellian Moment: Florentine Political Thought and the Atlantic Political Tradition* (Princeton: Princeton University Press, 1975), ch. 15.
- 23) Jack N. Rakove – *Original Meanings: Politics and Ideas in the Making of the Constitution* (New York: Alfred A. Knopf, 1996).
- 24) Carl J. Richard – *Greeks & Romans Bearing Gifts: How the Ancients Inspired the Founding Fathers* (Lanham, MD: Rowman & Littlefield, 2009).
- 25) Patrick Riley – “Martin Diamond’s View of the Federalist,” *Publius*, Vol. 8, No. 3 (Summer 1978): 71-101.
- 26) Alan Ryan – *On Politics, Book II: Hobbes to the Present* (New York: Liveright Books, 2012), ch. 16.
- 27) Garrett Ward Sheldon – *The Political Philosophy of James Madison* (Baltimore: The Johns Hopkins University Press, 2002).
- 28) David Siemers – *Ratifying the Republic: Antifederalists and Federalists in Constitutional Time* (Palo Alto, CA: Stanford University Press, 2002).

- 29) Maynard Smith – “Reason, Passion, and Political Freedom in the Federalist,” *Journal of Politics*, Vol. 22, No. 3 (1960): 525-44.
- 30) Walter Stahr – *John Jay: Founding Father* (London: Continuum, 2006).
- 31) Herbert Storing – *What the Anti-Federalists Were For* (Chicago: University of Chicago Press, 1981).
- 32) Jeffrey K. Tulis – *The Rhetorical Presidency* (Princeton: Princeton University Press, 1987), ch. 2.
- 33) Morton White – *Philosophy, ‘The Federalist,’ and the Constitution* (Oxford: Oxford University Press, 1984).
- 34) Gordon S. Wood – *The Creation of the American Republic, 1776-87* (Chapel Hill, NC: University of North Carolina Press, [1969] 1998).
- 35) John Wood – “The ‘Constitution of Man’: Reflections on Human Nature from the Federalist Papers to Behavioral Law and Economics,” *New York University Journal of Law and Liberty*, (2013): 184-220.