

## THE RELEVANCE OF THE FEDERALIST PAPERS TODAY

Day 3, Session 5, Thursday, June 21, 2018 - 9:00 AM to 10:20 AM, Advanced Course

*Hans-Martien ten Napel*

### Lecture description/synopsis

In 2015, renowned progressive legal scholar Sanford Levinson published a book, entitled *An Argument Open to All. Reading the Federalist in the 21<sup>st</sup> Century*. In this lecture, we will look at some of Levinson's findings regarding 'the most important work in political science ever written in the United States', and also ask ourselves the question: where does he go wrong?

### Lecture handout/outline

#### 1. Introduction



'Is The Federalist Relevant to 21st Century Concerns', a roundtable inspired by Sanford Levinson's book *An Argument Open to All: Reading the Federalist in the 21st Century* (2015), with Ran Hirschl, Sanford Levinson, Kim Lane Scheppele, et al., Annual Meeting, American Political Science Association, Philadelphia, PA, September 1-4, 2016

## 2. Why Sanford Levinson's book is an event

'When the country's most prominent critic of the Constitution writes a commentary on the most famous defense of that Constitution, it is an event. When the publication of that commentary comes at a time when the system of government that Constitution provides is, by all accounts, under serious strain, it is an event very much worth noting.'

*Boston Review*, December 29, 2015.

## 3. Think for Yourselves?

'It has been frequently remarked, that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not, of establishing good government from reflection and choice, or whether they are forever destined to depend, for their political constitutions, on accident and force.'

*Federalist 1* (Hamilton)

## 4. The Composition of American Society

'With equal pleasure I have as often taken notice, that Providence has been pleased to give this one connected country, to one united people, a people descended from the same ancestors, speaking the same language, professing the same religion, attached to the same principles of government, very similar in their manners and customs, and who, by their joint counsels, arms and efforts, fighting side by side throughout a long and bloody war, have nobly established their general Liberty and Independence.'

*Federalist 2* (Jay)

## 5. Human Nature

'men are ambitious, vindictive and rapacious.'

*Federalist 6* (Hamilton)

## 6. The Election of President Trump

'To defeat a demagogue like Trump, in other words, one must use the tools that you, Sandy, have repeatedly denounced as making our Constitution undemocratic.'

Sanford Levinson and Jack M. Balkin, 'Democracy and Dysfunction: An Exchange', *Indiana Law Review*, 50 (2016) 282-343, at 342.

## 7. Conclusion: Levinson Our Brother?

'the fiercest battles are those fought between brothers.'

Patrick J. Deneen, 'Conservatism in America? A Response to Sidorsky', in Sanford V. Levinson, Joel Parker and Melissa S. Williams (red.), *American Conservatism*. Nomos LVI (New York: New York University Press, 2016) 155.

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### Recommended Readings

- Argument Open, Dec 15 2015 | Video | C-SPAN.org (<https://www.c-span.org/video/?401572-5/an-argument-open-all>)
- Avalon Project
- The Federalist Papers ([http://avalon.law.yale.edu/subject\\_menus/fed.asp](http://avalon.law.yale.edu/subject_menus/fed.asp))
- Darren Patrick Guerra, 'Is Amending the Constitution Really So Difficult,' First Things, 27 May 2015.
- Hillsdale College Online Course on The Federalist Papers (<https://online.hillsdale.edu/courses/federalist-papers/home/course-schedule>)
- Sanford Levinson, *An Argument Open to All. Reading The Federalist in the 21st Century* (New Haven & London: Yale University Press, 2015).