Description:
Money and credit are public institutions that are created by law. As the financial crisis revealed, the way they are configured matters enormously. The authority of the Federal Reserve, for example, apparently includes the ability to make monetary policy decisions that move hundreds of billions of dollars. Similarly, the struggle to make a national money, along with the tax and debt levers used to that end, have shaped “federalism” at a basic level. This 3-credit course will explore a set of constitutional controversies over the shape of money and credit, and consider what impact the outcomes of those controversies had. Our coverage will include the following and similar controversies. 1) The debate over the constitutionality of the Bank of United States, 2) The changing definition of money – including the litigation over the Greenbacks and the legislation identifying government securities as the basis of high-powered money today, 3) \textit{U.S. v. Perry} and the American devaluation of the dollar, 4) The authority of the Federal Reserve as an independent agency.

Course requirements:
Insofar as money creates particular ways to move material resources, it is an institution of governance used by both public and private actors. Our knowledge about money as an institution of governance is, however, comparatively small. The course maps that territory with a focus on U.S. development and dynamics. The course also enlists student participation in illuminating the existing territory.

(1) Course reading and class discussion are integral to that goal. Participation is therefore an essential requirement, and comprises 20% of the course grade. We will generally reach the readings for each class only after a lecture session, and will discuss them the following day. Note that, while the readings below include links to online copies of readings, the class materials include edited versions of the readings. You are only responsible for the reading the edited versions.

(2) The balance of the evaluation is by exam or written submissions, at the option of the student (80% of course grade). The exam -- the default option -- will be an open-book, in-class exam. As an alternative, students can choose instead to make a set of “written submissions” consisting of daily issue sheets (1-2 pages) on the readings paired with a short research essay and bibliography, crafted for sharing on a class website. The essay may be accompanied by a short class presentation, if a student wishes and the
material is relevant to class. It will be eligible for publication on-line, at the
student’s option and with approval of the supervisor.

Course information:
Professor Christine Desan, G410
Teaching Assistant Nadav Orion Peer
Office Hours: Tuesdays 3-5, and by appointment

For appointments, contact: Amanda Cegielski
acegielski@law.harvard.edu
Syllabus: Part I [Final]

I. Money as a Constitutional Project

Class 1: The Disciplinary Divide over Money


Class 2: Money as a Public Resource


Class 3: The Shape of Modern Money


C. Desan, A Note on the Federal Reserve’s Power to Power Money


II. The Great Governance Debates in American History

Class 4: Money as Self-Determination: The Colonial Experience


Class 5: Money, Public Debt, and Nation-building


Alexander Hamilton, Report on the Public Credit (Jan. 14, 1790), at URL


Alexander Hamilton to Edward Carrington, May 16, 1792, at Founders Online, National Archives, at URL

Class 6: Debating Money Creation in the New Republic

U.S. Constitution, Art. I, Secs. 8 & 10

Alexander Hamilton, Report on the Subject of a National Bank, 1-23 (Dec. 13, 1790)

James Madison’s Speech on the Bank Bill 2 February 1791, as reprinted in Lance Banning, ed., Liberty and Order: The First American Party Struggle (Indianapolis: Liberty Fund, 2004), at URL


Thomas Jefferson’s Opinion on the Constitutionality of a National Bank 15 February 1791, as reprinted in Lance Banning, Liberty and Order: The First American Party Struggle (Indianapolis: Liberty Fund, 2004), at URL

James Madison to Thomas Jefferson On Speculative Excess, Summer 1791, reprinted in Lance Banning, Liberty and Order: The First American Party Struggle (Liberty Fund, 2004), at URL

McCulloch v. Maryland, 17 U.S. 316 (1819)
Class 7: Banks, Economic Development, and Politics

Thomas Jefferson to Albert Gallatin, July 12, 1803, from Henry Adams, ed., Albert Gallatin, 1 Writings 129 (Philadelphia 1879)

Terrett v. Taylor, 13 U.S. 43 (1815)

Dartmouth College v. Woodward, 17 U.S. 518 (1819)

People v. Manhattan Company, 9 Wend. 351 (Sup. Ct., NY, 1832)

Class 8: Monetary Federalism: The Struggle over a National Unit of Account

Review: U.S. Constitution, Art. I, Sec. 10

Craig v. Missouri, 29 U.S. 410 (1830)

Briscoe v. Bank of Kentucky, 36 U.S. 257 (1837)

President Andrew Jackson’s Veto Message Regarding the Bank of the United States, July 10, 1832

Class 9: The Attempt at Divorce: The Debate over the Public Funds, the Independent Treasury and Free Banking


Calomiris and Haber, Fragile by Design, supra, 169-175


Class 10: The Civil War as a Monetary Drama

The Legal Tender Cases
Hepburn v. Griswold, 75 U.S. 603 (1870)
Knox v. Lee, 79 U.S. 457 (1871)
Parker v. Davis, ____________

Julliard v. Greenman, 110 U.S. 421 (1884)
Class 11: Money and the Gilded Age


Samples of “call loan” agreements:


For in-class reference (no need to read beforehand):


III. The Structural Aspects of a Finance-Based Monetary System

Class 12: The Argument over Credit Allocation


The Ocala Platform, Report of the Committee on Demands, Dec. 1890, as reprinted in Tindall, ed., supra

**Class 13: Contract and the Modern Market**


*Embrey v. Jemison*, 131 U.S. 336 (1889)

*Chicago Board of Trade v. Christie Grain & Stock Co.*, 198 U.S. 236 (1905)

**Class 14: Monetary Abundance and Discipline**


W. H. Harvey, *Coin’s Financial School* (Coin Publishing Company, 1894)

William Jennings Bryan, Speech before the Democratic National Convention, 1896

**Class 15: Instability – Booms, Busts, and Panics**


Jackson & Dyson, *Modernizing Money*, supra, pp. 115-139

**IV. Modern Money and Money Markets**
A. Crisis and Experimentation

Class 16: The Strange and Unexpected Debate That Gave Birth to the Fed

Glossary for Banking Practice under the Early Fed

Excerpts from the Federal Reserve Act [URL] (*kindly read §§13 and 19; the balance is for in-class and later reference*)

The Act from a Democrat’s perspective:

The Act from a country banker’s perspective:
Excerpts from the Senate Hearings on the 1913 Fed Act [URL], “Hearings before the Committee on Banking and Currency, United States Senate, Sixty-third Congress, First Session, on H.R. 7837 (S. 2639), a Bill to Provide for the Establishment of Federal Reserve Banks . . . ”

Statement of Edward B. Weils, of Minneapolis, Minn, Vol. I, [URL]

Statement of Justin E. Varney, Vice President and Cashier Bay State National Bank, Lawrence, Mass, Vol. I, [URL]

Statement of Festus J. Wade, President of the Mercantile Trust Co. St. Louis Mo., Vol.I

Statement of Samuel Untermeyer, New York City, N.Y. (Key Democrat proponent of the bill), Vol. I

The Act from an investment banker’s perspective:
Excerpts from the Senate Hearings on the 1913 Fed Act [URL],

Statement of Frank Vanderlip, President of National City Bank New York, N.Y., Vol. III, (excerpts) [URL]

Paul Warburg, American and European Banking Methods and Bank Legislation Compared. 121-151 (excerpts) in “The Currency Problem and the present financial situation: a series of addresses delivered at Columbia University, 1907-8” (1908) [URL]

Class 17: The Remaking of the Fed

Tenth Annual Report of the Federal Reserve Board 29-39 (1924)
Letter from the Board of the Federal Reserve to the Member Banks (Feb. 2, 1929)

_Raichle v. Federal Reserve Bank of N.Y.,_ 84 F.2d 910 (2d Cir., 1929)

Memorandum from Adolf Berle, Assistant Secretary of State, to Ronald Ransom, Vice Chairman, Board of Governors, Federal Reserve (April 1, 1938)

**Class 18: Sovereign Money and Monetary Policy: the US and shades of Argentina**


**B. The Neo-Liberal Monetary Regime**

**Class 19: The Invention of a Dealer System**

Address of Marriner S. Eccles, Chairman of the Board of Governors of the Federal Reserve System, to the National Tax Association, Oct. 14, 1941


**Class 20: The Federal Reserve as an Independent Agency**


Class 21: Securitization


Adam B. Ashcroft and Til Schuerman, “Understanding the Securitization of Subprime Mortgage Credit.” Federal Reserve Bank of NY, Staff Report No. 318, March 2008

Class 22: The Financial Crisis


Class 23: Central Banks as a Governance Challenge


Class 24: Dreams about Money

Class research cameos – to be distributed