Course plan for POL-406, The American Founding
Spring 2017

Thomas G. West, Hillsdale College


West, Vindicating the Founders, Preface, xi-xv.

The rest of today’s readings are on Blackboard, in “1st day readings”:


OPTIONAL:


Declaration of Independence, 1776 ..................... Packet, p. 6
PA Const., 1776, Preamble ....................................8
GA Const., 1776, Preamble ...................................9
NJ Const., 1776, Preamble ...................................9
Crosskey, Politics and the Constitution, 1953, 1:139-46 ............11
VA Const., 1776, Declaration of Rights, in Founders’ Constitution, vol. 1, pp. 6-7 (hereafter 1-6-7).
MA Const., Preamble and Decl of Rts, in Founders’ Const., 1:11-14.
DE Declaration of Rights, in Founders’ Constitution, 5:6-6.

OPTIONAL:

Hamburger, “Natural Rights, Nat. Law, and Amer. Const.” Blackboard.


Instructions of the Mass. Assembly to Jasper Mauduit, 1762 .......... 10
Adams, Rights of the Colonists, Founders’ Const. 5:394 (1st 5 ¶s only).
Jefferson, Bill for Crimes, Founders’ Const., 5:374 (¶1 only).
Essex Result, in American Political Writing during the Founding, ed.
Hyneman and Lutz, 1:487 only (the paragraph on rights and duties).
Abraham Williams, A Sermon, in Amer. Pol. Writing, 1:3-9 only.
Jefferson to Holmes, 1820, Founders’ Const., 1:575 (wolf by the ears).
Jefferson to John B. Colvin, 20, 1810 .............................. 15
Hamilton, The Vindication, No. III, 1792, selections ........................ 16

1/31. Is the founding Christian? Is it anti-Christian?

Intro. to Founding Fathers and the Debate over Religion, 3-6, 17-23.
Burke, Speech on Conciliation, 1775, Founders’ Const., 5:67 (only the paragraph starting in the middle of the right-hand column of p. 67).
Samuel West, Right to Rebel, in Amer. Pol. Writing, 1:410-17 only.
Walter Berns, “Religion and the Founding Principle” ....................... 18
Mansfield, Intro. to Jefferson, Selected Writing, xiv ........................... 21

OPTIONAL:

Harry Jaffa, “American Founding as the Best Regime.” Blackboard.

2/2. Founding: based on natural rights or the British constitution?

Jefferson, Notes on Virginia, Query 8 ................................. 22
MA resolutions on Stamp Act, 1765, Founders’ Const., 1:629-30.
Congress, Declaration & Resolves, 1774, Founders’ Const., 1:1-3.

2/7. The “amalgam thesis” in recent scholarship.

Pauline Maier, American Scripture, 1998 ................................. 22
 Alan Gibson, Understanding the Founding, 134-49 .......................... 23
Kirk, “A Revolution Not Made but Prevented” ............................... 31
Gordon Wood, Creation of the Amer. Republic, 53-65 .......................... 36

OPTIONAL:

West, “Misunderstanding the Founding: Tocqueville.” Blackboard.
2/9. The arguments for equality, natural rights, and natural law
Review preambles of state constitutions.
Four Official Statements on Equality (MA Council, 1773; PA Committee, 1774; KY Const., 1792; CT Const., 1818) .......... 43
Resolution of Charleston, South Carolina, June 4, 1774 ............. 44
Dickinson, To the Inhabitants of the British Colonies, 1774, Letter IV (happiness and natural rights) .................. 57
Jefferson, Opinion on the French Treaties (moral sense) .......... 71
Otis, Rights of the British Colonies, in Founders’ Const., 1:52-3 (God v. man; solitary state unnatural).
Federalist 51, para. 4 beginning, pp. 318-9 (men are not angels).
Fed. 54, first 5 paragraphs only, pp. 333-5 (unnaturalness of slavery).

2/14. State of nature and the transition to citizenship.
Review West, Right to Rebel, in Amer. Pol. Writing, 1:410-17 only.
Berkshire’s Grievances, 1778, Amer. Pol. Writing, 1:455-70 only.
Samuel Adams, “Valerius Poplicola” (all in a state of nature) .......... 71
Federalist 40, ¶16 (248-49). Legality must yield to law of nature.
Federalist 43, para beginning with “9” to end (275-77).
Fed. 51, reference to state of nature in last paragraph, p. 321.

2/16. Four kinds of consent: (1) the social compact; (2) forming a government; (3) in the legislative body, and (4) right to revolution.
Diamond, “Amer. Idea of Equality,” As Far as, 242-7 ............... 72
Michael Zuckert, Natural Rights Republic, 16-31 .................. 75
Bradburn, Citizenship Revolution, 12-13, 30-38, 104-7.

West, Vindicating the Founders, ch. 3 (“Women and the Vote”).
Lee to Hannah Corbin, 3/17/1778, Founders’ Constitution 1:396.
Bradburn, Citizenship Revolution, review 42-8 and add 49-60.

2/23. Consent and voting rights.
West, Vindicating the Founders, ch. 5.
MA Const, on rt to vote and serve in office, Founders’ Const., 1:14-17.
Madison, Note on Suffrage, 1829, Founders’ Constitution 1:603.
Federalist 35 (read from 5th paragraph to end, 210-13).
Fed. 51, last paragraph (on Rhode Island); Fed. 55, last paragraph.
Fed. 57, ¶12-13 (from “I will add” to “anything but liberty”).

2/28. The problem of slavery and race
West, Vindicating the Founders, ch. 1, “Slavery.”
Review Federalist 54, first 5 paragraphs only, pp. 333-5.
West, Vindicating, 166-171 (race in immig. & naturalization law).
Hamilton to Jay, arming and freeing slaves, Founders’ Const. 1:527.
Jefferson, Notes on Va., Q. 14, 18, Founders’ Const. 1:534-37.
Madison, Memo on African Colony, 1789, Founders’ Const. 1:552.
Madison to Rush on SC & GA congressmen, Founders’ Const. 1:555.
Lincoln, Address on Colonization to a Deputation of Negroes ........ 83
Merriam, Hist. of Amer. Pol Theories, 311-15 (race and liberty) .... 86

3/2. Race and citizenship
Bradburn, Citizenship Rev., 235-71 (ch. 7, on white and black citizenship).

3/7. Institutional structure: federal and state powers
U.S. Const., all. Focus on Article I, sections 8, 9, 10, and 14th amdts.
West, “Federal and State Government Powers in the Constitution” .... 89
West, “Presidential powers in the Constitution” .................... 90
Review VA and MA Decl. of Rights.
Fed. 44, ¶4-8 (277-80). Coins, paper money ban, contract clause.
3/9. Institutional structure: separation of powers and rule of law

Hamilton, comment on Madison’s argument in Fed. 10. .................. 91
Federalist 9 (first 4 paragraphs only), pp. 66-8.
Federalist 10 (all), pp. 71-9.
Federalist 47 (¶1-3 only), pp. 297-8.
Federalist 48 (¶1-6 only), pp. 305-7.
Federalist 51 (all), pp. 317-22.
Federalist 62 and 63, pp. 374-88.

3/9, 5:00pm. MIDTERM EXAM DUE.

3/21. Natural rights and public policy

Review state preambles and declarations of rights (on rule of law, protection of life, liberty, property, and reputation, etc.).
Jefferson, Bill for Crimes, Founders’ Const., 5:374 (¶1-4 only).
Federalist 2, ¶2 (alienable rights).
Bradburn, Citizenship Rev., 22-30 again; 217-23 (freedom of assn).
Butterfield, Making of Tocqueville’s Amer., 21-6, 29-37, 63-71 ...... 92

3/23. Foreign policy

Review Decl. of Independence .................................................. 6
Review Hamilton, Vindication, No. III ................................. 16
MA Preamble; ch. 2, sec. 1, art. 7, Founders’ Const., 1:11, 1:17-18.
Washington, Farewell Address, Founders’ Const., 1:684-5 (for. pol.).
Federalist 3, ¶3, 6, 7, 10 (36-8). Purpose and moral basis of for. pol.
Federalist 6, ¶1-3, ¶8-9, ¶18-20 (pp. 48-9, 50-51, 53-4).
Federalist 11, last paragraph, pp. 85-6 (proto-Monroe Doctrine).
Federalist 37 (para 6 only, “Among the difficulties . . .”).
Federalist 43, last paragraph, pp. 276-7.
Walter Lippmann, “Isolation and Expansion” ............................. 105
Grant, “Taft on America and the Philippines,” 121-9 ......... 111
George Hoar et al., Senate debate on the Philippines, 1899-1902 ....... 116

OPTIONAL:
Lincoln and Douglas on manifest destiny. Blackboard.


Review relevant parts of state and federal constitutions.
Hamilton, The Examination, no. 7, ¶3 only (on equal protection) .... 121
Campbell v. Morris, Maryland General Court, 1797 .................. 124
Corfield v. Coryell, U.S. Circuit Court case, 1823 .................. 124
Paragraph on privileges of citizenship in Dred Scott .................. 125
Christopher Green, “Original Sense of Equal Protection,” 1-3, 32-6, 39-44, 49-51, 61-3 ......... 126

OPTIONAL:
Sherry, “Founders’ Unwritten Constitutionalism.” Some court cases on civil rights were resolved with a view to natural law. Blackboard.


Review Butterfield, Making of Tocque’s America, 29-37 ...... 95-9 only
Review Mansfield, Intro. to Jefferson, Selected Writings, xiv ...... 21
Review Congress to Quebec, Amer. Pol. Writing, 1:231-9 (on relig.).
State Constitutions: VA, DE, MD, NJ, NC, PA (Founders’ Const. 5:70-71), NY, VT, SC (75-6), MA (77), NH (81), VT 1786 (85). Also NY Const., Art. 40 (42-3).
Boston, Rights of the Colonists, on religion, Founders’ Const. 5:60.
Congress to the People of Great Britain, 1774, Founders’ Const., 5:61.
NW Ordinance, Founders’ Const., sec. 13, art. 1, and art. 3 only, 1:28.
Jefferson, in Founding Fathers and the Debate, VA bill (71-6), first inaugural (127-8), Danbury Baptists and fast days (149-55).
Madison, Memorial and Remonstrance, Founding Fathers, 62-71.
John Carroll, Gazette of the U.S. and Columbian Magazine; on Georgetown University; Catholic letter to Washington; Washington’s reply; sermon; prayer for civil authorities .................. 162
Washington to Quakers ........................................ 170
Religious tests: Founding Fathers and the Debate, 41 (PA), 47-8 (VT), 49 (MD), 58-9 (Franklin), 81-2 (L. Martin), 88-96 (Ellsworth, Williams).

OPTIONAL:
Other selections in Founders’ Constitution, vol. 5.
McConnell, “Origins and Historical Understanding of Free Exercise.” This article, and Hamburger’s response, were the basis of the Scalia and O’Connor opinions in the Boerne case. Blackboard.
4/4. Should government support religion?
  Review selections from Hamburger, “Equality and Diversity” ......149
  MD Act on Vice, Founding Fathers and the Debate, 74-8.
  Jefferson, Notes on Va., Q. 18, Founders’ Const. 1:537 (quote on God).
  Jefferson, Notes on Virginia, Query 17, Founders’ Const. 5:79-80.
  Washington, Thanksgiving Proclamation, Founders’ Const., 5:94.
  Supreme Ct. of NH, Muzzy v. Wilkins, 1802 (estab. of religion) .......171
  Supreme Ct. of MA, Barnes v. First Parish, 1810 (estab.) .........174
  Thomas Pangle, Spirit of Modern Republicanism, 1988, 78-85 ......178
  Federalist 49, ¶6-7 only (need for prejudice and passion).
  OPTIONAL:
  Madison, Detached Memoranda, 1817, Founders’ Const. 5:103-5.
  Leland: Baptists against establishment, Founding Fathers, 140-49.

4/6. NO CLASS.

4/9. PAPER DUE.

4/11. Immigration and character.
  West, Vindicating the Founders, ch. 7, “Immigration and Citizenship”
  Federalist 2, ¶2, ¶5-6 (31-3).
  Review Jefferson, Notes on Virginia, Query 8 (immigration) ..........22
  Hamilton, The Examination, Number 7 and 8, 1802 .............121

  Abigail and John Adams, Founders’ Const. 1:518-20.
  Witherspoon, “Queries, and Answers, on Marriage,” 1788 ..........182
  James Wilson, Lectures on Law, 1791, on the family ..........183
  Webster, An American Selection, virtues of men and women .......187
  Joseph Story, “Natural Law,” 1836, discussion of the family ......196
  West, Political Theory, 219-43 - sex and marriage. Blackboard.
  OPTIONAL:

4/18. Virtue and education.
  Review readings assigned for “Should government support religion?”
  Review NW Ordinance, Founders’ Const., art. 3 only, 1:28.
  Review Provisions in state declarations of rights on virtue, in Founders’
  Const.: VA (1:6-7), MA art. 18 (1:13), PA art. 14 (5:7). Also MA
  provision on education, ch. 5, sec. 1-2 (1:20-21).
  Review Zuckert, Natural Rights Republic, 26-7 only .......... p. 80 only
  Jefferson, Notes on Va., Q. 14, in Founders’ Const., 1:673-4 only.
  Federalist 12, second-last paragraph only (taxing liquor).
  Federalist 55, final paragraph, pp. 342-3.
  Federalist 85, 3rd paragraph only (“prostration of morals”).

  Diamond, “Democracy and The Federalist,” 64-8 ................. 197
  Washington, First Inaugural Address, 1789 ....................... 200
  Washington, First Annual Message, 1790 ......................... 200
  Review Washington, Farewell Address, on religion and morality, in
  Founders’ Const., 1:684 (left column only).
  Congress, Causes of Taking Up Arms, 1775 (honor, posterity) .......201
  Washington, General Orders, 7/2/1776 (warlike virtues) ...........201
  John Adams to Mably (towns, churches, schools, guns) ..........201
  Respublica v. Oswald, Pa., 1788, Founders’ Const. 5:126-7.
  Updegraph, 1824, Founders’ Constitution 5:170-75 (mainly 170 and 172).
  Congress to Quebec, Amer Pol Writing, 1:233-4 (para on free speech).
  OPTIONAL:

  Review U.N. Universal Declaration of Human Rights; Hillary Clinton,
  Human Rights Agenda; Roosevelt, New Nationalism; in “1st day
  readings.” Blackboard.
  West, Vindicating the Founders, ch. 6, “Poverty and Welfare.”
  West, Political Theory, 393-400 - welfare. Blackboard.
4/27. The founders on property and economics.
West, “The Economic Principles of America’s Founders” 203
Review Resolution of Charleston, SC, 1774 44
Review provisions on property, commerce, etc., in state Declarations of
Rights, NW Ordinance, and U.S. Const.
James Wilson, “On the History of Property,” 1791 217
Vanhorne’s Lessee, Founders’ Const., 1:599 (this page only).

5/2. Property and economic policy, continued.
OPTIONAL:

COURSE REQUIREMENTS
Midterm exam, due March 9. Counts about 25%. Details to be announced.
Paper, due April 9. Counts about 25% of the grade. Details later.
Final examination, about 25% of the grade.
Attendance, participation, preparation, “comments.” About 25%. More
than 3 unexcused absences will affect this part of the grade. So also will
failure to answer questions or otherwise show that you have understood the
main points of the readings.
“Comments.” Once a week, students are required to hand in a printed short
“comment” at the beginning of class. Length: between 1/2 and one page,
double-spaced, with normal margins. Half the students’ comments will have
a Tuesday due date, and the other half Thursday. The quality of the
“comments,” and how many of them are missing, will be a factor in the
grade. I do not accept late comments. No comments are due during the first
or last week. In the remaining 13 full weeks of class, you may skip up to 4
comments without penalty. The total number of comments due is therefore 9.
The point of the comment is to say something informative and insightful
about the main point(s) of the readings assigned for that day. For your
comment topic, you can sometimes get help from the course plan, which
mentions some of the themes of each day’s reading. If there are contrasting
views presented or suggested in the readings, it can be useful to compare
them. Interpretive difficulties are also an appropriate topic.

We will typically begin to discuss the readings on the day they are
assigned and continue on the class day after that. Therefore, for any class
day, students should prepare not only the readings assigned for that day, but
also review the readings assigned for the previous class day.

TO CONTACT THE INSTRUCTOR:
Email: twest@hillsdale.edu. Cell phone 972-849-8515, 8:00am to
10:00pm. Leave a message or text. Office hours (Kendall 313): TuTh 11:00-11:15, 1:00-2:15, 3:45-4:00. I am often in the office at other times. Knock if
the door is closed or if I am talking.

OTHER MATTERS
Computers and other electronic devices must be silenced and put away.
Explanation: http://pss.sagepub.com/content/25/6/1159 (“Advantages of
Longhand Over Laptop Note Taking”). Food and drinks are permitted if
consumed silently and cleaned up afterward. Reasonable disability
accommodations will be granted with appropriate documentation.
Blackboard files are on my Sugarsync site at tinyurl.com/founding17s

BOOKS REQUIRED:
Bradburn, Douglas. The Citizenship Revolution: Politics and the Creation
of the American Union, 1774-1804. Charlottesville: University of Virginia
Hamilton, Alexander, et al. The Federalist. Any edition will do. I will be
Harris, Matthew and Thomas Kidd, ed. The Founding Fathers and the
Debate over Religion in Revolutionary America: A History in Documents.
Hyneman, Charles S. and Donald S. Lutz, ed. American Political Writing
Kurland, Philip B. and Ralph Lerner, ed. The Founders’ Constitution,
Kurland, Philip B. and Ralph Lerner, ed. The Founders’ Constitution,