

Interpretation

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Thomas West is a talented political theorist with wide-ranging interests. He has written fine translations and interpretations of works by leading philosophers, ancient and modern, in the canon of Western thought. Yet West has also taken a special interest in a political theory, or perhaps a political morality, that I will call here natural rights republicanism. By natural rights republicanism I mean a doctrine incorporating the main tenets of the Declaration of Independence: “all men are created equal[,] they are endowed by their Creator with certain unalienable Rights,” and they are entitled to be governed under laws and institutions established with their consent.

The American Founding is West’s second book-length account of natural rights republicanism; it comes twenty years after his first account, in *Vindicating the Founders*.¹ *Vindicating* was written primarily for intelligent lay readers and high-school students and educators; *The American Founding* seems aimed primarily at college students, graduate students, and professors interested in American political theory and/or the canon of Western political theory. In addition, *The American Founding* makes a narrower argument than *Vindicating* did. The argument of *Vindicating* was normative; the book justified and rehabilitated natural rights republicanism from criticisms familiar from modern politics and scholarship. *The American Founding* is

¹ Thomas G. West, *Vindicating the Founders: Race, Sex, Class, and Justice in the Origins of America* (Lanham, MD: Rowman and Littlefield, 1997).

descriptive; after he saw how *Vindicating* had been received, West concluded that “there [was] a more pressing need for explanation than vindicating” (3).

Accordingly, *The American Founding* is primarily a work of explanatory political theory, or of intellectual history. The book explains the basic tenets of natural rights republicanism. It shows how Americans who subscribed to those tenets justified them and tried to implement them in practice. *The American Founding* does not present natural rights republicanism as the only morality influential in American political practice; West recognizes and draws due contrasts between natural rights republicanism and views held by British loyalists, proslavery southerners, Progressives, and modern thought leaders who find appeals to natural rights unbelievable. Even so, the book does show that, from the beginning of the eighteenth century through at least the early twentieth century, natural rights republican principles were subscribed to by a wide range of thought leaders and implemented in American practice.

Part 1 of *The American Founding* supplies an overview of natural rights republicanism. Chapter 1 interprets the Declaration of Independence and other fundamental sources to explain key concepts. People are political equals in that they are equally “individuals who are neither the masters nor the slaves of other people” (25); they have and deserve “inalienable” or natural rights understood as nonconventional freedoms to pursue their own reasonable life goals in different spheres of life—self-preservation, liberty, property, free religious exercise, and the pursuit of happiness (25–42). West then refutes (in chapter 2) contemporary impressions whereby natural rights republicanism constitutes an incoherent “amalgam” (43) of disparate British, Roman, Christian, and rights-based philosophical sources, and contrasts (in chapter 3) natural rights equality (equality of opportunity) with welfare-state equality (equality in distribution of resources). West proceeds to explain (in chapter 4) in what sense and why nature supplies a foundation for equal and natural rights, what the state of nature is and means (chapter 5), and why equality and natural rights require government with the consent of the governed (chapter 6). Chapter 7 closes part 1 by sketching the main goals, in foreign and domestic policy, that follow from the fundamental principles discussed throughout part 1.

To show how natural rights principles relate to policy, parts 2 and 3 study two different fields of policy. Part 2 focuses on public morality. Citing *The Federalist Papers*, state constitutions, and legal treatises, chapter 8 explains why a political regime dedicated to individual freedom might justifiably restrict freedom to protect and reinforce public morals. Chapters 9 and 11

identify the main institutions maintaining such morals: organized religion, public education affirming and teaching the natural bases of morality, public laws prohibiting immorality, and social opinions praising the virtues and blaming the vices. Chapter 10 studies family law and policy as a case study: both to channel sexual passions and to ensure the begetting and formation of children, government may and should restrict sexual activity to conjugal sex within heterosexual marriages. West then surveys (in chapters 12 and 13) the virtues emphasized in a republican community—the “social” virtues, such as justice, moderation, temperance, industry, and frugality.

Part 3 studies the relation between natural rights political principles and economic policy. Chapter 14 explains natural property rights, rights of exclusive use protecting people’s free exercise of their faculties to acquire the resources necessary for survival or rational improvement. Chapter 15 traces the main policy implications that follow: to give ownership clear meaning in positive law; to facilitate ownership; to define the kinds of property uses that noxiously harm neighbors; and to define and prohibit nuisances. West then traces the justifications for freedom of contract and markets (chapter 16) and for sound money (chapter 17). In chapter 18, he studies the Founding Era debate between Jefferson and Hamilton about whether American government policy should be set primarily to promote the interests of farmers or of bankers and manufacturers.

The American Founding is an excellent resource for any college- or graduate-level course on the history or the politics of the United States from the colonial period up to the New Deal. To show how natural rights republicanism was understood, West cites and quotes extensively from state constitutions, laws enacted by colonial and state legislatures, judicial opinions, executive policies, legal treatises, election pamphlets, and religious sermons. Very few history or political-theory books cite source materials this far-ranging; no book explains the political principles informing those source materials more effectively than *The American Founding* does.

The American Founding also brings to light features of natural rights republicanism overlooked in other accounts of the American Founding or of various classical liberal theories. Many contemporary scholars pigeon-hole theories of politics by whether they are libertarian or communitarian.² Natural rights republicanism is a little of both. As parts 1 and 3 show, such republicanism is libertarian in its dedication to equality and natural rights.

² Or, whether such theories are liberal or republican. See 44–46, 166–69.

But as part 2 shows, it is communitarian in that it justifies vigorous protection of the public morals—provided that those morals inculcate respect for equality and natural rights.

The American Founding also provides instructive lessons about the roles that prudence and practical reason play in theories of natural rights. As West explains, when natural rights principles supply the basic goals for a political regime, they “do not dictate answers to all questions of policy, law and government structure”; “the more one descends from the laws of nature and natural rights into policy details, the more the prudence of politicians will be needed” (7). West’s portrait of the Jefferson vs. Hamilton debate is representative; notwithstanding their disagreements, the two leaders “were really fighting over means, not ends” (374).

Although *The American Founding* is an important book, it is not without limitations. Throughout, there are many comparisons between the common approach West sees in the founders’ views and the political theories of Plato, Aristotle, Locke, Nietzsche, Leo Strauss, and many others. These comparisons may be engaging for political theorists who (like West) are familiar with the canon of great political philosophers. For many readers, however, such comparisons will seem distracting. Such readers can simply skip these side discussions, and focus on the passages of the book most focused on West’s explanatory claims.

There is another and more important limitation in *The American Founding*: as much as West tries to focus on explaining, on more than one occasion he engages in a little vindicating. The challenge West faces is familiar and understandable. West is trying to describe a common political morality as a value-neutral social scientist would, but it is extremely difficult to separate the “is” and the “ought” when studying such a morality or any other shared normative enterprise.³ For example, even when actors agree on the basic tenets of such a morality, they may disagree on the precise justifications for those tenets. It may then be hard for the social scientist to synthesize their views as one common view. West faces this problem in chapter 4, when he presents the grounds on which various founders believed that nature can and does supply a standard for evaluating human action. West recounts from the sources several different possible bases for natural standards. Among others: God made nature such a standard (82–87); conscience gives people an

³ See, for example, John Finnis, *Natural Law and Natural Rights*, 2nd ed. (Oxford: Oxford University Press, 2011), 1–19; Leo Strauss, *Natural Right and History*, rev. ed. (Chicago: University of Chicago Press, 1999), 35–80.

innate or natural moral sense (87–89); and natural equality and rights follow from people’s capacities for rational happiness (92–94). West suggests that the last ground, rational happiness, “is probably the one that appears most often” (92) in the source materials. That suggestion states a descriptive conclusion. Before arriving at that conclusion, however, West dismisses appeals to an innate moral sense, on the ground that “even those founders who spoke of the moral sense were half-consciously aware of the insufficiency of their own argument” (89). Similarly, West downplays appeals to religion, because it seems to him “striking how little evidence is provided for . . . assertions” that natural rights and equality have divine support (86). In each case, West purports to be making an assessment about how often founders appealed to specific natural standards of evaluation. In each case, however, West seems to be dismissing appeals that founders did in fact make on the ground that those appeals do not seem convincing. In each case, a judgment about an “ought” seems to be shaping an explanatory conclusion about an “is.”

Here is another challenge for an explanatory social science project like *The American Founding*: even when such a project describes a common morality successfully, the description is bound to suggest normative implications. Logically, of course, an explanation of a political morality and practice does not imply an endorsement of either the morality or the practice. And in *The American Founding*, West does announce that he means to explain without endorsing. Nevertheless, when a descriptive project shows that a community’s practice is more structured and coherent than commonly thought, such a demonstration legitimates the practice described. West notes how James Madison (in *Federalist*, No. 49) predicted that the Constitution would gradually acquire authority as it became old and acquired “that veneration, which time bestows on everything” (263). From time to time, *The American Founding* seems to suggest that similar veneration should be bestowed on the principles and practices West explains. For example, when West examines marriage and family policy in chapter 10, his explanation of why earlier American leaders believed no-fault divorce was problematic (237–41) seems to drift into normative criticism of divorce-tolerant contemporary attitudes and policies.

Again, however, these challenges are unavoidable when describing a common political morality or any other shared normative enterprise. And a serious political scientist *should* seek to describe and make political phenomena understandable—for the purpose of evaluating and criticizing later. In *The American Founding*, West does not prove that natural rights republicanism is useful or true. But he is quite right to suggest, as he does in closing,

that such republicanism “might continue to prove useful [and] might even be true” (410). And by instructing readers how a morality of natural rights and republicanism has operated in practice, West enables us all to evaluate whether such a morality is useful, true, and even worthy of recovery.