

Teaching the Texts as Teaching Self-Government: Virtues, Principles, and Practices

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The founding of various civics institutes at prestigious state universities, including the University of Florida, Arizona State University, and Ohio State University, has amplified a discussion of the need for civics education. Core to this discussion is the importance of teaching constitutional texts, especially the core text of the US Constitution.¹ This makes a great deal of sense. The American constitutional tradition is essentially a textual tradition.² Whatever value for civic education there is in the work of great political philosophers, teaching the texts in the American tradition has to include the governing texts, generally written by committee and the product of discussion and compromise.³ They are a reflection of American political practice and contain the substance of American political principles, even if in abbreviated form. The fundamental premise of a textual tradition of popular sovereignty is that it is open to reading and understanding by the people for whom the texts govern.⁴ It was written by them—or by their representatives—and for them in a practical and concrete sense. From this follows that the people the documents govern acquire knowledge of the texts to understand the nature of their constitutional system and to prepare them to participate in a way appropriate to

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this particular tradition. This requires more than merely teaching the texts.

Teaching the texts does not begin with the Declaration of Independence and the US Constitution. The Constitution, our fundamental law, contains the essential organizing principles of our political system: federalism, separation of powers, popular sovereignty, and the like. As the only written constitution in the world at its ratification in 1787, the US Constitution, along with the documents and debates surrounding it, is the great American contribution to our civilization's political theory and political practice. But to teach the Declaration and the Constitution fully requires teaching a variety of documents, including such antecedent covenantal texts of American colonial history as the Mayflower Compact and the Fundamental Orders of Connecticut, which developed the practices and principles of self-government culminating in the maturity of the Constitution of 1787.⁵

This way of teaching American constitutionalism is hardly original. I am certainly not the first to suggest that students read the Mayflower Compact as preparation for teaching the Declaration and Constitution. Many teachers include these texts in their curricula and many more will do so because of the rise of civic centers across the country. Thus it behooves us to consider how we might bridge the gap in the classroom between the technique of textual mastery and the practical knowledge of self-government.⁶ A people that govern themselves through texts must have a set of virtues that molds a particular character to govern and be governed in this way.⁷ The governing texts are reflective of the underlying mores of a people, produced to accommodate their habits and virtues. Teaching the process of textual development is an opportunity for the teacher to take students imaginatively into the practices and virtues of those who developed the texts, "to initiate [students] into the traditions and achievements of their civilization" that they might "enjoy [their] inheritance."⁸ While a complete civics education will go beyond the texts in all sorts of ways, the texts may be approached in such a manner as to go beyond, in Oakeshott's words, the "technique" of textual instruction to the "practical knowledge" of self-government.

The contribution this paper makes is to demonstrate how teaching the texts in this way is an opportunity to teach the virtues necessary to our system of self-government. It provides a sketch for how teaching the constitutional texts and their history may initiate a meditation on the texts to prepare the mind for the practice and the heart for the virtues of self-government. This process is necessary even if not sufficient for an adequate civics education.⁹ Drawing from Donald Lutz's work on the origins of the Constitution of 1787, this paper demonstrates how our teaching the texts of constitutional history provides students an opportunity to learn not only the American constitutional tradition, how it arose and how it guides our politics, but also the virtues that make the American tradition of self-government possible. These virtues must be possessed by both those who made the texts and those who keep them.¹⁰ Teaching the texts is an opportunity to bring these virtues to the fore. While virtues are acquired only through practice, teaching about them while teaching the texts makes explicit what is implicit in the practice of self-government in a system of popular sovereignty.¹¹

The first section of this paper explains seven virtues that arise in this standard pedagogical program—namely, practical wisdom, temperance, sociability, humility, integrity, piety, and gratitude. The list is adequate for our purposes, but not exhaustive. The second section discusses Lutz's analysis of the forms the texts took as covenants, compacts, and charters, the background documents to the constitutions of the eighteenth century. Then the paper turns to three key documents in the seventeenth century to show how these textual traditions shaped the American constitutional experience in the colonial era leading to the Declaration of Independence and the Constitution of 1787. Throughout, I discuss how in each phase of textual development the practices of self-government revealed virtues both incorporated in the construction of the documents and assumed in the way they would enable government of the community.¹² The paper closes with a discussion of Tocqueville's understanding of associations and their relation to self-government to demonstrate how the American penchant for

associations was an application to the social realm of the virtues of textual self-government.

Teaching the Texts as Teaching the Virtues of Constitutional Self-Government

Two premises undergird a textual tradition. First is the importance of the texts themselves, and second is a collection of virtues that respects those texts. The American tradition has tended to develop a single text to include all matters of constitutional importance.¹³ The very method of studying and teaching these texts demonstrates the simple point that texts matter. Words matter. Language matters. Drafters argued over words, excising and adding phrases for reasons they often debated. Consensus was sought to make sure that initial agreement to form the “civil Body Politick” was unanimous.¹⁴ Everyone in that community agreed on the fundamental text. Delegates at the conventions ratified the texts that came to them. We are a people who care about the written word and our governing texts. We always have cared. A textual tradition requires it.¹⁵

A textual tradition of self-government requires several virtues reflected in the very act of making a text and abiding by it; these form a great deal of the unwritten constitution. While the American experience has given testament to the importance of written constitutions, students have the opportunity to learn about the importance of the mores and practices that make republican government possible, especially the virtues necessarily present in citizens for a written text to meaningfully organize a community.¹⁶ The unwritten assumption of a textual tradition is that texts matter and that the people who govern through them will take the texts seriously, will instantiate in themselves the virtues necessary to live under and to govern through the texts they have received.

First among the virtues necessary in a textual tradition is practical reason. There exist few other instances in political history where practical reason is more necessary and more on display than in constitution-making and constitution-keeping. The processes of deliberation and compromise that produce a constitutional text

require the ability to consider both principle and practicality, the demands of circumstance as well as morality. What we see in the proto-constitutional texts is the ability to draw from such existing resources as English parliamentary government and common law and adapt them through the religious covenantal tradition to a working understanding of self-government.

This is also true of the way in which our constitutional system incorporates both plurality and unity. Texts matter, but each church, town, and colony had its own text, each considered legitimate and authoritative in its own context. The American written constitutional order is one of profound textual complexity. Vincent Ostrom has called it the “compound republic.”¹⁷ Robert Nisbet has called its type the “plural community,” his term for the *communitas communitatum*, a community of communities.¹⁸ The federal government depends in great part on the states, and the federal Constitution takes for granted the presence of state constitutions, which were organized preexisting political entities whose history predates the Constitution. This same plural structure is what makes possible protection for the institutions of society as distinct from politics, the churches and free associations that abide by their own covenants. The flourishing of civil society is a social reflection of the practice of self-government. Other constitutional systems may be structured differently, but this is a core feature of our political system. Practical reason is necessary at every level to establish appropriate governing texts and then to properly order the relationship between the great variety of these texts and the communities they govern. Under this plural system of overlapping textual covenants, people govern day-to-day, guided by practical reason.¹⁹

Second among the virtues is temperance in the ability to deliberate with others to come to an agreement through compromise, persuasion, and mature deliberation, insisting on principle at times but also conceding points for the sake of comity.²⁰ Self-government is nothing without such self-discipline. Self-government does not just rely on a single moment of deliberation, as one might understand Publius to imply in *Federalist* No. 1, considering “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.”²¹ Rather, self-government is a practice of continuous deliberation, “reflection and choice,” taking place not only between some men in one generation but also between many men over many generations, all of them instantiating the requisite temperance. This is not to say that Publius’s famous statement from *Federalist* No. 1 was false in the fateful summer of 1787. It was true then, but it was also true in 1620, 1637, 1643, and 1776, and students should see that it is still true in the eras between, especially since 1620 and even in 2026. The success of the American experiment from Plymouth onward has depended on a capacity for deliberation that requires the virtue of temperance.²²

Third among the virtues is sociability as the capacity for friendship, a certain amount of which must be present between the persons forming the text.²³ Text-making of this sort is a communal enterprise: It involves persons deliberating together to form a people. Any political society must have “a minimum of peace and harmony amongst persons.”²⁴ But making the text requires something more, something like “the flowering of full friendship.”²⁵ The very act of concrete self-government we find in the early covenantal texts is a process wherein all are considering the good of all.²⁶ This is stated explicitly in the texts, but it is also implicit in the very act of text-making. The act of compacting is unanimous. Each person in the community commits to the original act of covenant, agreeing to work together in perpetuity. Historical evidence points toward the seriousness with which the makers of these texts took their commitments to each other.²⁷ We see this in the matter of balancing the religious authority of the town or colony with the freedom of conscience of the individual and of balancing the authority of the town with that of the colony.²⁸ Such a balancing and willingness to compromise presupposes a degree of friendship among those so compromising.

That originating friendship must continue among those who live under the text. John Finnis writes of the friendship community as “an ongoing state of affairs, a sharing of life or of action or of

interests, an associating or coming-together. Community in this sense is a matter of relationship and interaction.”²⁹ Those who established the text did so to establish or to recognize a community, and thus their interactions prior to the text were captured in the texts but then were presupposed to continue in more or less the same relational state of affairs for those in the community. The entire procedure presupposes a wide distribution and continuing presence of the virtue of sociability.

Fourth among the virtues is humility in the willingness to recognize the fallibility of one’s own vision.³⁰ Compromise defined the text-making process. This humility is directed toward those in the past, the present, and the future. In the past, text-making took account of its predecessors and incorporated their insights in the present text, exhibiting humility toward those who had come before them. While working on the text, they compromised with their contemporaries, “meeting them in the middle,” recognizing potential incompleteness in their own perspective. The introduction of the amendment process was a recognition that the framers’ own vision was incomplete. Even though the framers’ perspective was molded by compromise among those contemporaries who formed the document and took account of what had come before, it still made space for the insights of those who were to come after.³¹ For those who live under the text, there is required humility in recognizing the wisdom that might be embedded in the text because it is the result of compromise and the incorporation of generations of insight.

Fifth among the virtues is integrity in the ability to keep one’s promises, to follow what is required in the text. Words matter. Those writing, debating, and ratifying the texts believed them to be binding, a matter of “sacred honor.” The language of the Mayflower Compact indicates an unbreakable oath, “In the Name of God, Amen.” To break the covenant, to violate the terms of the text, was tantamount to a mortal sin. While explicit reference to God was abandoned over time in the texts, the sacredness of the covenant was not. On this basis, American constitutional republics flourished, in no small part because there was a necessary degree of integrity in those living under the texts.

A number of points follow from this. For the sake of brevity, this paper points out only the implicit legitimacy this grants to some variety of textualism in constitutional interpretation. The text matters. The judiciary ought to begin at least by paying close attention to the text.³² As Kurt Lash has argued, the Bill of Rights ends with an insistence that the people granted limited powers to the federal government. Only what is found in the texts was ratified and approved. Implicit in writing down such grants of power was a “rule of construction” that dictated the text be construed narrowly, granting only what is obvious from the plain meaning of the text.³³

Reinforcing integrity is the sixth virtue, piety. Citizens in a textual tradition must have a certain level of piety as respect for higher law. Edward Corwin famously outlined the presence of higher law in the American constitutional experience, the deep-seated sense that there are boundaries that even the highest power in the land, even the People, may not transgress.³⁴ This higher law tradition has staved off a great deal of political mischief. It is deeply entwined with a textual tradition. The very act of writing down the commitments of the political community is a constraint on those with political power. Implicit within written grants of power are their limitations on the means and ends so described. The objects of piety may differ between those who write the texts and those who keep them. Those who write the texts are attempting to encapsulate some principle or practice and showing piety toward that principle or practice by capturing it in the text. Those who live under the text must respect the text as an instantiation of that principle or practice.

Finally, gratitude for the American political tradition as it has arisen is among the virtues required for a textual tradition. This virtue may not be necessary when creating the texts, but it is necessary for those who live under them. The history of the rise of the US Constitution ought to give a sense of the complexity of conditions that must be present for there to be good order at all. Self-government characterized many places in the American colonies and provided a common understanding of the nature of

self-government for what would become the American people at large. Lutz writes,

The gradual convergence of a number of peoples into one is too easily explained by a common language, a common background of English legal and political institutions, and a common enemy in the form of a mother country perceived as having grown too domineering. All these factors played a part, but there are also the Judeo-Christian perspective; the colonial charters, which provided for local self-government of some sort; the difficulties of survival, which all the colonies faced; and a shared interest in economic development.³⁵

Lutz's perspective teaches the tenuous and provisional nature of political development, which should engender gratitude for the good in what emerges. He notes, "The progression [to constitutional self-government], however, is not inevitable. The process could at any time have been derailed, terminated, or moved in a different direction."³⁶

Our appreciation for the fundamental humaneness of self-government should help us realize it could have developed into something else and something worse. Deliberate effort and happy chance had roles in its establishment. It did not and could not appear at once. Many of the features of our system arose piecemeal, not because one single genius or man of virtue thought them up, but because many geniuses and many who instantiated the cited virtues contributed their ideas and experience as well as compromised their principles to reach a settlement that all could agree to. Whatever flaws may manifest, a great many benefits come from our constitutional tradition.

Bringing these virtues to the fore is a way in which to bridge part of the gap between technique and practical knowledge in the classroom. Teaching the texts is teaching the technique, but through our raising the question of instantiated virtues, students may, alongside technical instruction of the texts and their historical

development, enter into a sense for the practical knowledge of self-government.³⁷

**Proto-Constitutional Texts: Donald Lutz's History of Written
Constitutions in America**

Donald Lutz famously explained how documents of self-government drafted before the US Constitution provided the context and framework for the Constitution of 1787. These texts developed the various elements of American self-government eventually culminating in the great charter drafted at the Philadelphia State House. Everything from the Mayflower Compact to the Pilgrim Law Code, to the Fundamental Orders of Connecticut, and to the Massachusetts and Virginia constitutions of the revolutionary period contributed elements to the framework that underlay the Constitution of 1787. The so-called miracle at Philadelphia was a century and a half in the making.³⁸

These texts are significant at a more fundamental level than even developing the structural components of the American system. These texts were acts of political self-creation. Lutz writes, "At some point, if a political system is to endure, a people must constitute themselves as a people by achieving a shared psychological state in which they recognize themselves as engaged in a common enterprise and as bound together by widely held values, interests, and goals. It is this sharing, this basis for their being a people rather than an aggregate of individuals, that constitutes the beginning point for political analysis."³⁹ A people develop symbols to articulate their own self-conception of this shared state.⁴⁰

The American people symbolize themselves to the world through foundation texts. Such documents "evolve over time and tend to elaborate upon what is contained embryonically in earlier documents."⁴¹ These early works are compact in that they contain the potential for multifarious meanings, elaborated on only later through future documents and attempts to describe with greater precision what is present but implicit in the earlier acts of self-definition.⁴² Lutz locates the beginning of this process for the American constitutional system in the early 1600s—namely, in the

Mayflower Compact, the Pilgrim Law Code, the Providence Agreement, and the Fundamental Orders of Connecticut, among other similar colonial documents. These early texts are not quite constitutions. They are better described as proto-constitutional, reflecting aspects of the biblical covenant tradition especially as found in dissenting Protestant practice, but not yet containing the fullness of a constitution as we recognize it in 1787.⁴³

These texts come very quickly to reflect the profound American version of popular sovereignty. Lutz writes, “[Americans] firmly believed that on their own authority they could form themselves into a community, create or replace a government to order their community, select and replace those who hold government office, determine which values bind them as a community and thus which values should guide those in government when making decisions for the community, and replace political institutions at variance with these values.”⁴⁴ We see this manifested very early in the colonial documents, first, as an assumption implicit in the drafting of the texts, but later made explicit in the Declaration of Independence.

Lutz writes of a constitution, “A constitution provides a definition for a way of life. It contains the essential political commitments of a people and is a collective, public expression of particular importance. . . . [It] amounts to a comprehensive picture of a people at a given time.”⁴⁵ This is true of the Constitution of 1787, but also of the proto-constitutional texts we find earlier in American history. Several of these texts stand out as significant and deserve classroom treatment because they uniquely demonstrate the rise of particular features of our constitutional system, among them federalism, separation of powers, and checks and balances, but most important is that in themselves they demonstrate the primary feature of the American constitutional system, written texts. The process of teaching the historical background and practice of these texts reveals the virtues on display in the practice of textual self-government; these are the same virtues assumed for the devised system to work as a mechanism of self-government.

These proto-constitutions take the forms of agreements already familiar to seventeenth-century Englishmen: compacts, covenants,

and charters. These amounted to legal or quasi-legal documents, generally enforceable even if only by that community. A compact is a “mutual agreement or understanding,” a “knitting together” in the literal meaning of the term, that operated as a “standing rule” and “affected the entire community or relations between communities.”⁴⁶ In this way, a compact created a community. By compacting together, the people agreeing to the original compact were agreeing to live in community with each other.

A covenant was an agreement made legal by a seal of the highest authority in that realm, the Crown in secular covenants and God in religious covenants.⁴⁷ It created a community and amounted to an oath by members of that community, which would have enforceability by virtue of being witnessed by God or monarch or both. Often the first thing dissenter Protestants did when they arrived in the colonies was to covenant a church, a religious community, according to the same covenantal form they used in England.⁴⁸ Lutz describes five elements of these covenants:

First, God is called on as a witness to the agreement.

Second, there is an explanation why the agreement is necessary.

Third, it creates a people.

Fourth, it creates a church.

Fifth, it defines the kind of people they wish to become.⁴⁹

Covenants and compacts were similar in that “[b]oth were based upon the consent of those involved, created a community of some sort, and implied a relationship that was stronger, deeper, and more comprehensive than that established by a contract.”⁵⁰ Contracts ensured that one party kept a particular promise to another. The legal and moral obligations of contracts were narrow and defined; for compacts they were broad and encompassing. Despite nuance between covenants and compacts, in the American documents the terms *to covenant* and *to compact* are used interchangeably with each other and with synonyms like “to agree.”⁵¹

They all mean the same thing: These people are joined together in community. It is also true that some early American documents of this sort lack any reference to the king or God, which indicates the extraordinary idea that “legitimacy rested upon the authority of the people” forming the covenant.⁵² What bound the people together was their agreement to do so. There is an assumption implicit in these documents that a higher authority, whether religious or secular, was not necessary for the agreement to be binding on those making the agreement.

Charters were legal documents that confirmed a transaction such as a grant or contract. Charters were used when the sovereign granted “privileges or, recognize[d] the rights of, an entire people, a certain class, or specific individuals.”⁵³ As such, charters were the legal instrument for creating corporations, including boroughs, universities, and the like.⁵⁴ As a linguistic matter, *charter* was a synonym for “privilege, immunity, or publicly conceded right.”⁵⁵ These instruments established responsibilities between the grantor of the charter and the grantee, what each owed to the other and what powers and privileges were accorded from one to the other. Charters have an essential and salutary role in English constitutional history. The most famous example is Magna Carta, a thirteenth-century charter of privileges for the English barons describing rights and responsibilities of Crown, barons, and freemen.

Creation of the grantee in a charter was like the creation of a people in a compact.⁵⁶ When the king issued a charter, he was creating a people or identifying a people whom the charter authorized to act within certain prescribed limits.⁵⁷ The charter served as higher law, simultaneously granting and limiting the authority of the grantee. The grantee may act in certain ways, but only toward certain ends or only in a certain geographical area. Charters, while empowering, are by their nature fundamentally limiting. They outline the limits by enumerating the very powers they grant.

Finally, the term *constitution* is derived from its root “to constitute,” which means “to establish, ordain, or appoint in legal form and status.”⁵⁸ Like charters, they are limiting by their very nature.

The Constitutions of Clarendon, for example, established certain understandings of royal and ecclesiastical jurisdictions, which is to say, their respective limits.⁵⁹ The term *constitution* comes to be the catch-all term for a single document containing many of the elements of covenants, compacts, and charters.

Teaching the Texts as Teaching Popular Sovereignty

Consider now the early compacts and covenants of the seventeenth century to understand how the pieces of the American constitutional order come together—and what virtues were required to bring them together. There are many of these, among them the Agreement of the Settlers at Exeter in New Hampshire, the Salem Covenants of 1629, the Watertown Covenant of 1630, the Providence Agreement, the Government of Pocasset, and the Newport Agreement.⁶⁰ As Lutz writes, “When it came time for these Protestants to order themselves politically as their charters allowed and as circumstances required, they turned to the covenant form.”⁶¹ To demonstrate the point, this paper considers three of these agreements: the Mayflower Compact, the Pilgrim Law Code, and the Fundamental Orders of Connecticut. These are arguably the most famous, and they capture the features of American self-government: covenantal popular sovereignty, federalism, and the importance of government institutions as building on the fundamental compact forming the community.

The Mayflower Compact, as it came to be called, is the first political compact and sets the tone for the practice of self-government through texts.⁶² In a single paragraph, the Mayflower Compact clearly displays the five elements of a covenant. The first line is an appeal to authority, “In the Name of God, Amen.” God is witness to the covenant and therefore lends it his authority. Quickly an account of the reasons for the compact are given, “to plant the first colony in the northern Parts of Virginia.” Third, it creates a people. The pilgrims had journeyed together, but now they would be a people, “We, whose name are under-written,” and the documents ends with a list of forty-one names, the persons who “Covenant and Combine our selves together.” Fourth, it creates a

“civil Body Politick.” This new people bind together in a particular type of community, a political community, rather than a church. Fifth, the compact states the type of people that this new people will be. They are Christians, they dedicate their community to “the Glory of God,” but they are also faithful subjects of the English king.⁶³

The Mayflower Compact demonstrates the link between making the text and keeping the text. In the text, the people it constitutes unanimously agree to govern themselves in the future. What this means is they are agreeing to practice sociability by remaining one people. To make agreements, they know that they must exercise practical wisdom, temperance, and humility. The very fact that they are making this agreement assumes their integrity and piety toward the founding agreement. Eventually, gratitude for this structure will emerge.

The Pilgrim Law Code follows a decade and a half later as a codification of the laws of the Plymouth colony and the towns surrounding it. It also lays out the governing institutions and values of the political community. The first act of the meeting is to read the Mayflower Compact and the king’s charter for the colony, in that order, as statements of legitimacy and values: This is a self-governing people who are acting under the rightful patent of their king. Furthermore, they are a free, law-abiding people, such that “no imposition, law, or ordinance be made or imposed upon us by ourselves or others at present or to come but such as shall be made or imposed by consent, according to the free liberties of the state and kingdom of England and no otherwise.”⁶⁴ Then the document proceeds to describe the offices of governor, freemen, assistants, constables, and the like, along with their respective oaths and responsibilities.

Just a few years later, in 1639, the Fundamental Orders of Connecticut was written at a meeting of delegates from the towns of Hartford, Windsor, and Wethersfield. The result was the colony of Connecticut, which would grow as more towns joined the agreement over the next several decades. The beginning of the document contains the elements of covenant, including an appeal to

God, reasons for the covenant (“there should be an orderly and decent Gouvernement”), the creation of a people (“we the inhabitants and residents of Windsor, Harteford and Wethersfield”), the creation of a political community (“conioyne our selues to be one Publike State or Commonwelth”), and a statement of the type of people they will be (those devoted to “the liberty and purity of the gospel of our Lord Jesus”).⁶⁵ This document further outlines the institutions that would govern the colony and provides directions for their election. The town covenants—and the people each has created—remain entirely intact. Each citizen of the town is a citizen of the town insofar as that person has voted on town matters and ruled the town and each is a citizen of the colony insofar as that person has voted for delegates to the Connecticut legislature. We see here the principle of what would come to be called federalism. There is a true political community, a people compacted together at the colony level as well as a true political community formed by compact at the town level—the same structure that would dominate the United States at the end of the next century.⁶⁶

What sort of people would participate in these acts of self-government? First, they must have had practical reason in spades. They considered their circumstances, thought about what was required, and committed themselves to each other in the name of God. The Fundamental Orders of Connecticut especially demonstrates this virtue. The towns already exist, and the Fundamental Orders does not impose on them but takes them for granted, crafting a federal order for the good of each of the towns and of all the towns together. In the process, the document invents the concept of federalism. Citizens of each town will remain citizens of the town while also being citizens of the Connecticut colony. In addition, they are temperate. We get no sense of millenarianism, but only that they are a people who desire to live under God, as no doubt many other peoples did.⁶⁷ Along with this is sociability. We get the sense that in the discussion to form these compacts, they are considering and doing what is good for all and considering the needs of each and committing themselves to doing good by all in perpetuity. The only enforcement mechanism is the oath “in the

Name of God.” Implicit in such an oath is the assumption that it will be kept, which itself assumes the signers’ unassailable integrity. Furthermore, this whole structure indicates a sort of piety and gratitude for the order that exists, neither undermining the higher authority of the British Empire nor overpowering the lower authorities of the towns. Along the way, it assumes that in perpetuity representatives of the towns will exercise practical reason, temperance, sociability, and humility in how they interact with each other. Indeed, just a few months later, they would draft another document and do just that.⁶⁸

Teaching the Texts: The Declaration of Independence and the US Constitution

This historical experience of the Mayflower Compact, the Pilgrim Law Code, the Fundamental Orders of Connecticut, and similar documents established a certain frame for self-government. There was a legitimizing form of community—it could be the charter or the compact—that created or identified a people, and then there was the creation of the governing apparatus. The king could grant the authority to the colony to be a colony and then authorize the colony to create its own legislature, or the people could unanimously compact to form a people and then create governing institutions and law codes.⁶⁹ The Fundamental Orders begins by identifying the people of the towns as the people of Connecticut, who are covenanting together in a new way, and then proceeds to explain the institutional arrangement to govern the colony. This two-step procedure plays out regarding the primary documents of the American constitutional system, the Declaration of Independence and the United States Constitution. These two documents together contain the five elements of a compact, recognizable from the texts developed and implemented in acts of self-government in the 1620s and 1630s but adapted through the decades to include governing institutions.

The Declaration instantiates the first three elements of the colonial compact: It creates a people, explains why the compact is necessary, and defines the type of people they will be.⁷⁰ The

creation of a people is established in the first paragraph when the Declaration describes the act of “one people dissolve[ing] the political bands which have connected them with another.” The creation of this “one people” is done in a way that recognizes the federal reality of the newly minted United States. The last paragraph references the “good People of these Colonies” as well as the “Free and Independent States.” Like the Fundamental Orders of Connecticut, the Declaration creates a people but does not abolish the peoples of the thirteen colonies already existing, already living under governing processes and procedures established through compacts and charters. The signatories likewise do not sign the document by state delegation but are randomly assorted, apparently representing the people at large. “[T]he Declaration simultaneously create[ed] independent states and a combination of these states.”⁷¹

The reasons given for the necessity of the document are the tyrannical actions of Great Britain, alluded to in the first paragraph and then detailed in the list of grievances later in the document. King George III’s various acts of oppression made it necessary for the people living in the colonies to separate themselves from the people governed under the English king, to thereby become a separate people, to forge their colonies into states and at the same time into the United States. Finally, the Declaration defines the type of people this new people will be, one that is devoted to certain self-evident truths and the practice of self-government as “Free and Independent States.”

Like the Mayflower Compact, the Declaration does not establish a government. The Articles of Confederation does that first, and work on the Articles begins immediately with the establishment of a “civil Body Politick.” When this document is found inadequate to the challenges facing the United States in the 1780s, the Convention of 1787 is called and a new US Constitution drafted. The new Constitution reflects the compact background, already established, already ratified. “We the People,” the same as declared in 1776, now operate in the Constitution as the grantors of power, a sovereign people replacing a sovereign king, creating

and naming the grantee, the US government, and outlining the powers delegated to the grantee—namely, specific legislative powers, as well as requisite executive and judicial power.⁷² The Preamble likewise contains reasons for the compact and describes the type of self-governing people we are. The text outlines the institutions of the new government, those that would wield the granted power, and how the constituent parts, the people and the states, would choose representatives to the new government and also the processes for decision-making. All these elements of constitutional self-government were present and concrete even if more compact in American practice in the seventeenth century.

Here, too, the virtues of self-government are present in spades. Practical reason guides the drafting of the Declaration, appealing carefully to a variety of issues that would resonate with the self-governing peoples in each colony and to the British peoples accustomed to various common law rights and protections.⁷³ The Constitution likewise takes account of the failure of the Articles, while incorporating a great deal from them into the Constitution proper.⁷⁴ The great compromise proposed by Roger Sherman of the Connecticut delegation combines the concerns of small states with large ones by adapting the wisdom of Connecticut's own federal system to that of the country at large. Temperance likewise suffuses these developments, a capacity and willingness to compromise for the sake of comity. James Madison, the "Father of the Constitution," was defeated more than he prevailed at the Constitutional Convention.⁷⁵ A picture of practical reason and temperance, he ably defended the Constitution in *The Federalist Papers* nonetheless. In addition, there is sociability, a willingness to accommodate the concerns of states very different in makeup, size, and interests from one's own. Despite talk of the uselessness of "parchment barriers," there is an assumption of integrity, that what is agreed to when the Constitution is ratified is what will be followed. The very premise of *Federalist* No. 51's famous assertion of the "dependence on the people . . . [as] the primary control on the government" makes sense only insofar as the people possess a multitude of virtues.⁷⁶

Not only are these virtues manifest in the framers of the Constitution, but the framers assumed future generations of Americans would have them. For example, Article V of the Constitution outlines an amendment process. The underlying assumption is that the “experiment in self-government” has flaws unknown to and unseen by the founders. Over time, subsequent generations would need to identify and fix those flaws. This assumption exhibits the framers’ humility and their belief that practical reason would guide future generations in that task as they carefully identified problems and sought to solve them. Future generations would be imbued with temperance, integrity, and piety. Why outline amendment procedures unless the expectation was for that procedure to be followed? Along the way, future generations would exhibit sociability, taking account of the needs of their fellow citizens. The nature of the procedures was precisely to let these virtues manifest, to slow down the process of change so that practical reason, temperance, and the like could come to the fore against the passions of the hour. The founders were not assuming that future generations would lack virtues but stacking the deck in their favor.

Teaching the Texts as Teaching the Master Science of Association

The Mayflower Compact sets the tone for American self-government in important ways even beyond what we find in the Constitution proper. Understanding this is also an important aspect of civic education. While the Mayflower Compact sets the pattern of self-government in the political realm by forming a “civil Body Politick” through compact, it also sets the pattern for self-government in the associational realm.⁷⁷

For various reasons, following the War for Independence voluntary associations exploded in number and activity. Kevin Butterfield writes, “[M]en and women at all levels of social standing, white and black, and in communities large and small, embraced voluntarism and self-created, relatively formal organizations as the very best means to improve society and their own lives.”⁷⁸ In the 1830s, Alexis de Tocqueville would visit the United States and

observe this American penchant for association. He marveled at the remarkable practice of Americans coming together, we might say compacting, for a great variety of purposes. Where in the Mayflower Compact, we get a civil body politic, the associations that Tocqueville observed are a sort of *social* body politic, similarly compacted but for a more limited purpose and in many multifarious directions. He writes,

Americans of all ages, of all conditions, of all minds, constantly unite. Not only do they have commercial and industrial associations in which they all take part, but also they have a thousand other kinds: religious, moral, [intellectual], serious ones, useless ones, very general and very particular ones, immense and very small ones; Americans associate to celebrate holidays, establish seminaries, build inns, erect churches, distribute books, send missionaries to the Antipodes; in this way they create hospitals, prisons, schools. If, finally, it is a matter of bringing a truth to light or of developing a sentiment with the support of a good example, they associate. Wherever, at the head of a new undertaking, you see in France the government, and in England, a great lord, count on seeing in the United States, an association.⁷⁹

The American practice of self-government through self-created communities continued in the realm of civil society with the creation of associations for nearly any imaginable purpose.⁸⁰ Instead of forming a single body politic in each of these situations, Americans formed a plethora of associations around particular ends under the umbrella of the civil body politic already compacted into townships, states, and the United States. The freedom to compact in the townships and colonies in the 1630s and beyond encouraged Americans to see in such associating “the universal and, so to speak, unique means that men can use to attain the various ends that they propose.”⁸¹ In a manner similar to that of the proto-constitutions of the Mayflower Compact and the Fundamental

Orders of Connecticut, these associations were governed by constitutions with bylaws and purpose statements, the same sort of pattern in operation in the town covenants, colonial compacts, and state constitutions.

Tocqueville connected political association with civic associations. He writes, “[M]en united for great enterprises, and the advantage that they gain from association in important affairs teaches them, in a practical way, the interest that they have in helping each other in the least affairs.”⁸² Two centuries of success in founding towns and colonies, then states and a nation taught Americans the value of association in self-government. Tocqueville called it the “art of association” and referred to it as the “master science.” He thought it essential to democratic government that people not only be free to associate but also know *how* to associate. The practice of self-government is indeed a *practice*, a skill, and like any skill it must be exercised to remain operative. Constant practice of association in the civil realm is essential to maintain our political systems of self-government.

What Tocqueville observed in American association is the practice of practical reason, temperance, sociability, and all the rest of the virtues as Americans practiced self-government in associations toward specific ends. Tocqueville writes, “[The] spirit [of association] is found in all the actions of social life. An obstruction occurs on a public road; the way is interrupted; traffic stops; the neighbors soon get together as a deliberative body; out of this improvised assembly will come an executive power that will remedy the difficulty, before the idea of an authority pre-dating that of those interested has occurred to anyone’s imagination.”⁸³ Thus when a problem becomes apparent, Americans associate to develop a solution and then act on it. This is the exercise of practical reason. The ability to discuss and come to a solution requires temperance. Paying attention to a communal need requires sociability. The willingness to do this according to the practices of free association, compacting for a limited time to limited ends, requires integrity and piety, adhering to the process and following self-imposed rules.⁸⁴

Conclusion

The virtues necessary for self-government outlined here are not exhaustive. Others have gone unmentioned. Courage, for example, is necessary for a people to hold the leaders they have entrusted with government power to their prescribed limits.⁸⁵ Furthermore, while the practice of virtues is necessary, other influences may dampen them. The decline of associations, for example, indicates that they are not self-perpetuating. A plethora of social, technological, and political factors may derail or redirect the practices that perpetuate the virtues of self-government.⁸⁶ Teaching the texts is not alone adequate to preserve the constitutional tradition arranged around texts, but it is a necessary component. Practices outside the classroom reinforce these virtues beyond the practice of voting, attending town meetings, and the like, but that is beyond the scope of this paper and much of what can be done in the classroom. What can be done in the classroom is to read the texts with the virtues in mind and thus come to understand the necessity of practical reason and temperance in crafting the texts and making decisions under them, of sociability and humility in compromising to do what is good for all, and of integrity and piety in preserving what has been passed to us. At the end of this study, we ought to be left with gratitude that such virtues have for so long in some degree prevailed in such a way as to preserve self-government.

Notes

1. The public documents discussed here are only one category of texts to study, but certainly among the most essential. See Donald Lutz, *A Preface to American Political Theory* (University Press of Kansas, 1992), 33–34.
2. Content is an oft-overlooked aspect of civic education. See E. D. Hirsch Jr., *How to Educate a Citizen: The Power of Shared Knowledge to Unify a Nation* (Harper, 2020).
3. Lutz, *Preface*, 27.
4. Lutz, *Preface*, 31.
5. This is not to say completion. See Donald S. Lutz, *The Origins of American Constitutionalism* (Louisiana State University Press, 1988), 167–70. This would also include the state constitutions, which

- the federal Constitution takes for granted, documents in English constitutional history, and so on. For application to religion clauses, see Vincent Phillip Munoz, "Church and State in Founding-Era State Constitutions," *American Political Thought* 4, no. 1 (2015): 2, <https://doi.org/10.1086/679322>.
6. See Michael Oakeshott, "Rationalism in Politics," in *"Rationalism in Politics" and Other Essays* (Liberty Fund, 1962/1991), 12–17. I am indebted to a reviewer who reminded me of Oakeshott's framing of political thought in terms of the distinction between technique and practical knowledge and expressed concern that my recommendations failed to pay heed to Oakeshott's distinction.
 7. Lutz, *Preface*, 148–49.
 8. Oakeshott, "Rationalism in Politics," 7.
 9. Consult other articles in this PSR issue that discuss a wide range of issues beyond teaching the texts.
 10. Compromise was not just required in making the texts but expected of the institutions created by the texts. See Yuval Levin, *American Covenant: How the Constitution Unified Our Nation—and Could Again* (Basic Books, 2024), 23.
 11. This analysis depends in part on Donald Lutz's discussion of the nuances of political thought and political theory and ways in which they bridge the gap between practical knowledge and what Oakeshott called training in technique. See note 6 above and Lutz, *Preface*, 7–17.
 12. Levin connects the Constitution (and constitutional texts) to a political framework to make life of the community possible. Levin, *American Covenant*, 27.
 13. Lutz, *Origins*, 9.
 14. Unanimity conferred legitimacy. Lutz, *Origins*, 117.
 15. Lutz, *Preface*, 34–39.
 16. "[W]hile virtue did not essentially rise from government, self-government was dependent on its presence." Richard Vetterli and Gary Bryner, *In Search of the Republic: Public Virtue and the Roots of American Government*, rev. ed. (Rowman & Littlefield, 1996), xiv.
 17. Vincent Ostrom, *The Political Theory of a Compound Republic: Designing the American Experiment*, 3rd ed., rev. & enlarged (Lexington Books, 2008).
 18. Robert Nisbet, *The Social Philosophers: Community and Conflict in Western Thought* (American Philosophical Society Press, 2025; originally published in 1973 by Thomas Y. Crowell), 344–96.
 19. Levin, *American Covenant*, 50–58.

20. That the delegates to the Constitutional Convention exercised moderation and had an ability to compromise were good reasons to ratify, according to Publius. See *Federalist* No. 37, in George W. Carey and James McClellan, eds., *The Federalist* (Liberty Fund, 2001), 179–85.
21. *Federalist* No. 1, in Carey and McClellan, *The Federalist*, 1.
22. *Federalist* No. 37 lays out the series of compromises achieved at the Constitutional Convention. See Carey and McClellan, *The Federalist*, 181–85.
23. John Finnis describes sociability as one of seven basic human goods. The others are life, knowledge, play, aesthetic experience, practical reasonableness, and “religion.” I’m using the term here as a virtue, as a capacity to develop friendships and to live in friendship with others. John Finnis, *Natural Law & Natural Rights*, 2nd ed. (Oxford University Press, 2011), 88, 135–44.
24. Finnis, *Natural Law*, 88.
25. Finnis, *Natural Law*, 88.
26. Vetterli, and Bryner, *Republic*, 207. The appeal here is to Cotton Mather’s “A Christian and His Calling,” in Isaac Kramnick and Theodore J. Lowi, *American Political Thought* (Norton, 2019), 42. “God hath made man a *Sociable* Creature. . . . *Humane* Society should Receive Benefits from *Us*” (emphasis in original).
27. Barry Alan Shain, *The Myth of American Individualism: The Protestant Origins of American Political Thought* (Princeton University Press, 1994).
28. See, e.g., the “Fundamental Articles of New Haven, June 4–14, 1639,” “Fundamental Orders of Connecticut, January 14, 1639,” and “Structure of Town Governments, October 10, 1639,” in Donald S. Lutz, ed., *Colonial Origins of the American Constitution: A Documentary History* (Liberty Fund, 1998), 221–26, 210–15, and 217–20. The “Fundamental Orders of Connecticut” is discussed below.
29. Finnis, *Natural Law*, 135–36.
30. *Federalist* No. 37, in Carey and McClellan, *The Federalist*, 180.
31. Lutz, *Origins*, 109–10.
32. See Elena Kagan, “2015 Scalia Lecture: A Dialogue with Justice Elena Kagan on the Reading of Statutes,” November 18, 2025, at Harvard Law School, posted November 25, 2025, by Harvard Law School, YouTube, 1:01:12, <https://www.youtube.com/watch?v=dpEtszFT0Tg>. Also see Antonin Scalia, “Common-Law Courts in a Civil-Law System: The Role of the United States Federal Courts in Interpreting the Constitution and Laws,” in *A Matter of Interpretation* (Princeton University Press, 1997),

- 3–48; and Antonin Scalia, “Originalism: The Lesser Evil,” *University of Cincinnati Law Review* 57, no. 3 (1989): 849–66.
33. Kurt Lash, “The Lost Jurisprudence of the Ninth Amendment,” *Texas Law Review* 83, no. 3 (February 2005): 597–716.
34. See, generally, Edward S. Corwin, *The “Higher Law” Background of American Constitutional Law* (Liberty Fund, 1955).
35. Lutz, *Origins*, 7.
36. Lutz, *Origins*, 3.
37. Oakeshott, “Rationalism,” 12–13. The framers of the Constitution were quick to point out that it indeed had flaws. See *Federalist* No. 85, in Carey and McClellan, *The Federalist*, 455.
38. Catherine Drinker Bowen, *Miracle At Philadelphia: The Story of the Constitutional Convention May-September 1787* (Little, Brown Paperbacks, 1986).
39. Lutz, *Origins*, 6. Lutz draws this analysis from Eric Voegelin’s discussion of symbolization and political order. See Eric Voegelin, *Order and History: Israel and Revelation* (Louisiana State University Press, 1958); and Eric Voegelin, *The New Science of Politics* (University of Chicago Press, 1952/1987).
40. The most famous statement of this Voegelinian interpretation is Willmoore Kendall and George Carey, *The Basic Symbols of the American Political Tradition* (Catholic University of America Press, 1970/1995). Lutz takes his point of departure from the same place in Voegelin’s thought that Kendall and Carey do. Compare, Kendall and Carey, *Basic Symbols*, 18, and Lutz, *Origins*, 6. Although Lutz interprets the Declaration of Independence in terms of a textual compact (see below), where Kendall and Carey interpret it more narrowly as a mere statement of independence for thirteen “free and independent states.” Kendall and Carey, *Basic Symbols*, 75–76.
41. Lutz, *Origins*, 3.
42. Luke C. Sheahan, “‘The People’ of the Tenth Amendment: A Constitutional Theory of Town and Civil Society,” *American Political Thought* 13, no. 3 (2024): 312, <https://doi.org/10.1086/730929>; Lutz, *Origins*, 12.
43. Lutz, *Origins*, 7.
44. Lutz, *Origins*, 10.
45. Lutz, *Origins*, 3.
46. Lutz, *Origins*, 17.
47. Lutz, *Origins*, 17.
48. Lutz, *Origins*, 24–25.

49. Quoted from Lutz, *Origins*, 25.
50. Lutz, *Origins*, 18.
51. Lutz, *Origins*, 19.
52. Lutz, *Origins*, 18.
53. Lutz, *Origins*, 20.
54. Lutz, *Origins*, 20.
55. Lutz, *Origins*, 20 (italics deleted).
56. Lutz, *Origins*, 37.
57. Lutz, *Origins*, 38.
58. Lutz, *Origins*, 21.
59. Lutz, *Origins*, 21.
60. See Lutz, *Colonial Origins*, for the texts of these and dozens of other town and colonial covenants.
61. Lutz, *Origins*, 25–26.
62. Kendall and Carey also begin with the Mayflower Compact. See Kendall and Carey, *Basic Symbols*, 30–42.
63. Lutz, *Colonial Origins*, 32.
64. “Pilgrim Law Code, November 15, 1636,” in Lutz, *Colonial Origins*, 62.
65. “Fundamental Orders,” in Lutz, *Colonial Origins*, 211.
66. The Fundamental Orders of Connecticut was not entirely unique. Such federal compacts were formed between towns in a variety of ways in New Hampshire, Rhode Island, and Massachusetts as well. The New Haven Colony was likewise formed by a federal compact the same year but later merged with the colony of Connecticut.
67. Kendall and Carey point to the “spirit of *moderation*” that suffuses the document. See Kendall and Carey, *Basic Symbols*, 40–41.
68. “Structure of Town Governments,” in Lutz, *Colonial Origins*, 217–20.
69. Lutz, *Origins*, 36–38.
70. Lutz, *Origins*, 115.
71. Lutz, *Origins*, 116; Levin, *American Covenant*, 33.
72. Lutz, *Origins*, 152.
73. As Kody Cooper and Justin Dyer argue, the Declaration was drafted “to be compatible with the Congregationalist, Episcopalian, Catholic, Quaker, and Presbyterian traditions represented by the members of the Continental Congress and thus [was] an ecumenical expression of theistic belief.” Kody W. Cooper and Justin Buckley Dyer, *The Classical and Christian Origins of American Politics: Political Theology, Natural Law, and the American Founding* (Cambridge University Press, 2022), 75.
74. Lutz claims that “from one-half to two-thirds of what was in the Articles showed up in the 1787 document.” Lutz, *Origins*, 133.

75. Forrest McDonald, *Novus Ordo Seclorum: The Intellectual Origins of the Constitution* (University Press of Kansas, 1985), 205–9; Lutz, *Origins*, 136–37n1.
76. *Federalist* No. 51, in Carey and McClellan, *The Federalist*, 269; Vetterli and Bryner, *Republic*, 187.
77. Levin discusses this in terms of the constitutional system shaping how we conduct ourselves in all sorts of ways political and nonpolitical. See Levin, *American Covenant*, 65–66.
78. Kevin Butterfield, *The Making of Tocqueville's America* (University of Chicago Press, 2015), 3.
79. Alexis de Tocqueville, *Democracy in America* (repr. Liberty Fund, 1835/2010), 896.
80. “[T]here is scarcely so small an enterprise for which the Americans do not unite.” Tocqueville, *Democracy in America*, 897.
81. Tocqueville, *Democracy in America*, 914.
82. Tocqueville, *Democracy in America*, 913.
83. Tocqueville, *Democracy in America*, 303; Ostrom, *Compound Republic*, 141.
84. Tocqueville, *Democracy in America*, writes that just like adults, “children, even in their games, submit to their own rules and punish their own infractions,” 84; Tocqueville, *Democracy in America*, 302–3.
85. Vetterli and Bryner, *Republic*, 3–4 (general discussion of the cardinal virtues in political thought). Yuval Levin argues that we should include the virtue of hope. See Levin, *American Covenant*, 1.
86. Regarding the decline of associations, Robert Putnam famously described the social factors, Jean Twinge explained technological factors (namely, the smartphone), and Robert Nisbet described political factors. See Robert Putnam, *Bowling Alone: The Collapse and Revival of American Community* (Simon & Schuster, 2000); Jean Twinge, *iGen: Why Today's Super-Connected Kids Are Growing Up Less Rebellious, More Tolerant, Less Happy—and Completely Unprepared for Adulthood and What That Means for the Rest of Us* (Atria Books, 2017); and Robert Nisbet, *The Quest for Community: A Study in the Ethics of Order and Freedom* (Oxford University Press, 1953; ISI Books, 2010).