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# The Journal of American History

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## Book Review

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*American Sovereigns: The People and America's Constitutional Tradition before the Civil War.* By Christian G. Fritz. (Cambridge: Cambridge University Press, 2008. xii, 427 pp. \$80.00, ISBN 978-0-521-88188-3.)

*American Sovereigns*, by the legal scholar Christian G. Fritz, is an able contribution to the growing literature on "popular constitutionalism," a body of scholarship contending that early Americans believed "the people" had the right to shape and interpret constitutions and laws through methods outside formal political and legal systems. This scholarship calls into question traditional legal history and theory that confines constitutionalism to the arena of courts and judicial opinion. Here, Fritz acts both as practitioner and critic, attempting to historicize popular constitutionalism more precisely and correct the static models posited by other legal scholars.

1

2  
Most of *American Sovereigns* focuses on illuminating a shared belief among the revolutionary generation that the constitutional authority of "the people" was not limited to polling stations, legislative halls, or courtrooms. Fritz argues that revolutionary-era Americans believed that "the majority of 'the people' could express their will directly" through protest, civil disobedience, and even violence if they thought governments opposed the public will (p. 20). Throughout the book, Fritz presents a diverse set of case studies in which thousands of people united to put popular constitutionalism into action. His examples include the Massachusetts Regulation of the 1780s, the uprisings in Pennsylvania in the 1790s, the Virginia and Kentucky resolutions, the Hartford Convention, the nullification crisis of the 1830s, and the Dorr Rebellion of the 1840s. In each case, Fritz shows that "although normally quiet and acquiescent, the people could, when they desired, act directly and independently of the existing government, or of constitutional procedures, to manifest their will" (*ibid.*).

3  
Such beliefs did not go unchallenged, especially by elite leaders. In each instance, Fritz presents the objections of those who wished to assign "the people a passive role in making and altering constitutions" and who "emphasized deference to elected leaders" (p. 4). He shows how advocates of this "constrained" version of popular constitutionalism believed that "the people" were indeed sovereign, but that "after creating governments based on their authority as the sovereign, the people henceforth were bound by their constitutions" (p. 20). Proponents of this view pushed "the people" to act through existing legal channels and worked to delegitimize and even criminalize extralegal constitutionalism.

4  
And yet, as Fritz masterfully demonstrates, the conflicts were seldom cut and dried. In fact, many people (especially elites) changed sides on popular constitutionalism—shifting their stances when governments or courts opposed policies they supported. For example, Federalists, who spent most of their time trying to establish the more constrained view, began their reign by circumventing formal procedure to dispatch the Articles of Confederation and ended it at the Hartford Convention, where they argued for a popular right to change the Constitution and declare federal laws unconstitutional.

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One wishes Fritz had expounded more on how courts or legal theorists might apply his findings. Nonetheless, he carries the day in his attempt to complicate our understanding of popular constitutionalism by showing its unsettled, conflicting usage and its endurance deep into the nineteenth century.

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