

Fritz, Christian G. *American Sovereigns: The People and America's Constitutional Tradition Before the Civil War*. Cambridge: Cambridge University Press, 2008. 427 p. Cloth. ISBN: 978-0-521-88188-3. \$80.00.

American Sovereigns explores the development of constitutional theory in the United States from the time of the nation's independence until the Civil War. Christian Fritz dispels the myth that constitutional theory has survived unchanged from the day it was first implemented. Instead, he shows in stunning detail how the people's understanding of constitutionalism began before the 1787 convention and continued to evolve through numerous events over the course of the next half century. The founding principle of the constitution is the belief that the power of the government was endowed to the people, also known as the "collective sovereign". Few at the time of our nation's independence in 1776 would argue with this, but there were differences of opinions as to what scale the government operates by the permissive will of the people. There were those, including Thomas Jefferson, who believed solidly in a government that operates at the discretion of its citizens but others, including George Washington and Alexander Hamilton, who distrusted the common people with this kind of power. Washington and Hamilton believed that there should be some filter to the rule of the collective sovereign to avoid anarchy and allow the government to function effectively.

Fritz points out that there were numerous state constitutions that were drafted around 1776 to coincide with our nation's independence from British control. This is important because it shows that the debate that took place during the U.S. Constitutional Convention and the resulting document were based on numerous ideas that had already been debated extensively, and as such the framers were well versed in these principles. The people in the new republic were able to construct their own constitutions through conventions as state democracies would replace the old colonial regimes. Experiments with new states in framing their constitutions would set forth the proposals that would later become a part of the U.S. constitutional convention. The levels of participation of the people as well as their ability to alter their government or constitution were consistently among the most important issues debated. While everyone agreed that these state governments operated at the will of the collective sovereign not everyone agreed as to the method or what checks and balances if any should be placed.

The power of the sovereign would remain a disputed issue throughout much of the early nineteenth century as several states were redrafting their constitutions. Much of the debate centered on the procedures to change the constitution whether by conventions, amendments, or by methods outside of any procedure. Most believed that the government existed at the will of the people and if the government was acting outside of the boundaries set by the constitution, then actions could be taken to alter or abolish the constitution regardless of the requirements, if any, established by the current document.

Christian Fritz covers several historical events that tested and tempered the nation's attitude toward allowing the removal of their current governments either at the state or national level. These episodes reflected interposition where certain parties can intervene when the government abuses its power. Earlier tests included the Whiskey Rebellion and more notably the response to the Alien and Sedition acts by the Virginia and Kentucky state legislatures that objected to these laws and issued resolutions declaring the acts unconstitutional.

The next major test would arrive when during the war of 1812 President James Madison decided to nationalize the state militias. Many of the federalist dominated New England states were enraged, and the Hartford Convention was convened to challenge the federal government's actions. At this convention delegates from several New England states issued resolutions that would at least provide them with reimbursement for the use of the state militias by the federal government as well as a number of constitutional amendments to improve the region's influence in national affairs. The true test of the sovereign's right to alter the constitution would come to a head along with the security of the union when South Carolina considered using nullification to declare unconstitutional tariffs that were believed to be designed to transfer wealth to the northern states at the expense of the southern states.

Thomas Wilson Dorr would push the power of the collective sovereign to its limits when he attempted to change the government in Rhode Island by establishing the "People's Convention" to draft resolutions to replace Rhode Island's colonial charter constitution that would eventually expand the suffrage to all white males. The resolutions that were passed were approved by a majority of the citizens in the state but his efforts to actually replace the current government failed. The vote was not approved by the state legislature or any procedure in the Rhode Island Charter. Eventually a convention would be called by the state legislature that would result in a new constitution for Rhode Island but the argument of the people's ability to change the government at any time with or without specified procedures or actions by the state legislature would be debated for many years afterward. Despite eventually being tried and imprisoned for treason Dorr would eventually be released and exonerated. However, this did little to settle the debate.

Over the course of early American history prior to the Civil War the prevailing belief was that the government derived its authority by the permissible will of the people. Most agreed that there were situations that justified the revolution and overthrow of the government, but many differed on the requirements and whether changes should be sought through procedures provided by a constitution or simply by a movement. The major rebellions especially the South Carolina nullification and Dorr's revolution in Rhode Island would result in a gradual shift from the idea that the sovereign has the absolute ability to use interposition to change the government.

James Madison, who would be a major player in many of these events including the South Carolina nullification, would find himself clarifying positions in his Report of 1800 where he supported the power to nullify a law deemed unconstitutional. There were two main views with regard to those who had the power to change a tyrannical government through interposition: First, the collective sovereign operating nationally as a people; Second, the sovereign states themselves individually without regard to the people. Madison did not agree with either of these perspectives but instead believed that only the collective sovereign through an individual state acting in concert with people in other states could justify the interposition imposed by the South Carolina nullification.

"He considered the people of the states the ultimate judge of the constitutionality of acts of the government. This involved the ultimate constitutional authority to render national laws void or

give constitutional text final meaning. It required the participation of a majority of the collective sovereign." (p. 233)

As the new nation moved toward the period of the mid-nineteenth century the belief that the government operated by permission of the people would take a back seat to the preservation of the union. Each rebellion that would test the limits of the permissible will of the "collective sovereign" would also be viewed as an endangerment to the nation itself. Hence Americans became dedicated to preserving the union and the concept of correcting the government's action through interposition faded away.

I was very pleased with *American Sovereigns* and would recommend it not only to those who have an interest in constitutional law or theory but for those who generally love American history. Fritz gives the reader a new perspective of how the early founders viewed government power and the people's right to remove that power. The author is very knowledgeable of the events that took place during the period covered in his book and effectively uses them to make his points. I was impressed with how much detail the author provides, especially with respect to statements from notable figures ranging from the famous, including James Madison, to relative unknowns such as a specific convention delegate or state senator. Fritz also gives plenty of background information on key events and analyzes how they impacted constitution theory. This level of detail shows the depth of research used to compile this book and effectively demonstrates how the constitution was tried and tested, as well as the general public's understanding of how constitutional theory worked. A substantial amount of notes organized by chapter along with credits and an index are included.

—Christopher C. Dykes
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