

Fritz, Christian G.: *American Sovereigns: The People and America's Constitutional Tradition before the Civil War.* (Book review republished by permission of Heldref Publications)

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Fritz, Christian G. *American Sovereigns: The People and America's Constitutional Tradition before the Civil War* New York: Cambridge University Press 427 pp., \$80.00, ISBN 978-0-5218-8188-3 Publication Date: October 2007

American Sovereigns will probably become a primer for all who study the U.S. Constitution. It provides a superb analysis of the legal concepts and politics behind the creation, testing, and modification of that document before 1860. If the book has any weakness, it is the less-than-fulsome coverage of life in the new states under the Articles of Confederation, or the traditional reasons given for the creation of a federal government. Written by a legal scholar, *American Sovereigns* is detailed, yet lively and provocative.

This tome presents constitutional questions and examines the Constitution during the first seventy years of the federal republic. Fritz amply demonstrates the dynamic nature of early federalism and the constitutional system it established. He repeatedly shows how the American people demonstrated their sovereignty, the key element in the constitutional theory brought into practice by the American Revolution, the confederated states, and the republic.

Fritz covers in detail some of the crises of the new republic(s), one under the Articles of Confederation and others under the 1787 Constitution: Massachusetts "Regulators" (Shays' Rebellion), the Whiskey Rebellion, the Rhode Island Crisis, and the Hartford Convention. The author clearly shows how the first crisis had its origin in debts incurred in paper money during the Revolution, to be paid in hard currency after its successful conclusion. The second involved the new federal government's right to tax whiskey. The Hartford Convention dealt with the response of northeastern states to the declaration of war in 1812, and the Rhode Island Crisis had its basis in freehold qualifications necessary to vote, which produced two simultaneously operating state governments.

Regarding the Whiskey Rebellion, Fritz covers some of the same territory as Terry Bouton in *Taming Democracy* (Oxford University Press, 2007), but Fritz surveys a much broader territory during a greater time span. Bouton concentrated principally on the Whiskey Rebellion and his bete noire, Robert Morris, the Pennsylvania hard moneyman.

Fritz is at his best presenting the most lucid and cogent analysis of the Kentucky and Virginia Resolves this reviewer has ever read. The Jefferson/Madison "interposition," as Fritz explains, was the right of the people of the states to point out the errors of federal law and ask for its reversal, which could only be accomplished by the collective

sovereignty of the people expressed in the various states. The resolves called on the "Co-states" to void the Alien and Sedition Acts. They did not. Madison, in later years, repudiated Calhoun's nullification theory, as the latter confused states rights with the right of the people in the states to act collectively, a subtle but significant difference.

The central issue of *American Sovereigns* is the concept of collective sovereignty and how it, in the American practice thereof, according to Fritz, trumped constitutions, state and federal, and the rule of law. In short, Fritz comes right up to the border of Rousseau's general will without crossing over.

American Sovereigns provides an exceptionally fine survey of American constitutional concepts and practices before 1860. It should be a must read for scholars of that era. Fritz enters the modern legal/political fray by pushing a concept of constitutional evolution rather than constitutional tradition. This reader hopes Fritz will next produce a volume on post-1860 concepts of sovereignty, tradition, and American political practice.

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