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The Return of the States

The American Revolution, State Sovereignty, and the American Constitutional Settlement, 1765–1800,
by Aaron N. Coleman. Lexington Books, 272 pages, $46.99

Modern historical research seems to confirm our contemporary American prejudice that the federal government’s gradual triumph over the states—starting with the Revolution, through the Confederation and the Constitution, and finally in the Civil War—was natural, inevitable, and proper. No right-thinking person, inside or outside the academy, could support the old, discredited principle of state sovereignty.

What’s lost in this consensus is just how contested the question of state power was at the beginning. Scholars overlook the fact that advocates on both sides of the national/state divide shared the same revolutionary goals. Aaron Coleman’s The American Revolution, State Sovereignty, and the American Constitutional Settlement, 1765–1800, marks a welcome change in this regard. A valuable contribution to the study of early American political thought, it seeks to rescue the tradition of state sovereignty from the “taint” attached to it.

A constitutional historian at the University of the Cumberlands in Kentucky, Coleman complains that a “teleological” conceit informs too much writing on the founding. Advocates of a consolidated national union are taken as advancing rational arguments based on pure motives, against their Anti-Federalist, and later Republican, opponents, who argued erroneously, ignorantly, and even disingenuously. Stanley Elkins and Eric McKitrick, in The Age of Federalism (1993), for example, assert that James Madison’s use of strict construction to oppose Alexander Hamilton’s economic policy was based on resentment. Strict construction, they claim, “is in a special sense the resort of persons under ideological strain. It represents a willingness to renounce a range of positive opportunities for action in return for a principle which will inhibit government from undertaking a range of things one does not approve of.” In one sweeping passage, an entire viewpoint is peremptorily declared American constitutionalism’s bastard stepchild.

Coleman rebuts such scholarship by making three related points about state sovereignty. First, a version of it was at the very core of Revolutionary thinking: the argument against Parliament’s right to govern internal colonial affairs was explicitly premised on the sovereign right of the colonies to rule themselves, in conjunction with the monarch. Second, state sovereignty was seen as a bulwark of public liberty. Americans thought the states, being in closer proximity to the people, would better reflect their values and interests than a distant and uninterested sovereign. Third, Coleman shows that state sovereignty was widely considered a central value throughout the entire period in question. The primacy of state sovereignty is at the heart of what Coleman calls the “American Constitutional Settlement.”

Still, Coleman oversells his thesis. His understandable frustration with the teleological historical consensus seems to get the better of him. He implies that the Federalists (and later the nationalists) acted in bad faith: they reneged on their corporate promise, made during the ratification period, to limit the expansiveness of the new government. But how could such a collective pledge by the “nationalists” have been made, if the line between the two sides was so fuzzy in the early days? Hamilton was always a Federalist, but Madison and Benjamin Rush moved from the Federalist side to the state sovereignist or Republican camp in a short period. Similarly, Oliver Ellsworth, who was essential in securing the Connecticut Compromise at the Constitutional Convention—a win for state sovereignty—became one of the most vehement Hamiltonians. Massachusetts’ Elbridge Gerry opposed the Constitution, ardently defended Hamilton’s First Report on Public Credit, and later served as James Madison’s vice president. Albert Gallatin—who became the majordomo of the Virginia Dynasty—straddled both sides of the divide during the 1790s, opposing Federalist incursions on civil rights and simultaneously defending the Bank of the United States.

It is not at all clear that there was much of a “settlement” during the period in question, outside a basic commitment to dual sovereignty. Instead, there appears to have been a back-and-forth over the nature of those sovereignties, with each specific determination based on the merits of the case. State equality in the Senate was an easy pill to swallow, as that had been the organization of the Confederation Congress; but that concession was part of an overall revision that shifted power to the national government. By the same token, the Bank of the United States passed through Congress with relatively little fuss, in no small part because the Bank of North America had existed under the Confederation. On the other hand, the establishment of a federal common law was such a radical innovation that it prompted fierce opposition.

The “settlement” continued evolving during the Jeffersonian era. Presidential selection shifted from state legislatures to the people at an early stage, diminishing the ability of state governments to intervene directly in the national government, and furthering the notion that the new government was a union of the people. In his own way, President Thomas Jefferson helped the Federalist cause, by keeping the Bank of the United States, embracing a broad notion of implied power in the Louisiana Purchase, and using a heavy federal hand to enforce the 1807 Embargo Act.

A constitutional settlement implies a resolution of previously outstanding disputes. That does not seem present in this period. Instead, we find two forms of sovereignty existing in tension. It took generations of political haggling to fix the boundaries of this divide. Given that there was no third party to arbitrate the dispute over state and federal power, this was perhaps inevitable.

Despite these reservations, I highly recommend Aaron Coleman’s book—not just as a work of interesting and original research, but as a useful corrective to the bent of those “nationalist” historians who see in this period the inevitable working out of national triumph over state authority. The sovereign authority of the states, Coleman shows, was there at the beginning of Revolutionary thought, and remained an integral part of the national conversation for generations.


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