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Book Review: Forrest McDonald's States' Rights and the Union

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Forrest McDonald, professor emeritus of history at the University of Alabama, writes “Of all the problems that beset the United States of America during the century from the Declaration of Independence to the end of Reconstruction, the most pervasive concerned disagreements about the nature of the Union and the line to be drawn between the authority of the general government and that of the several states,” (vii). Despite the importance of this issue, McDonald knows of no comprehensive survey on this subject, which he hopes to rectify with this work.

The key to McDonald’s argument can be found in his subtitle. Roughly translated, *imperium in imperio* means “sovereignty within sovereignty.” To better understand the battle between state and federal government, McDonald believes one must understand this view of divided sovereignty. He succinctly explores the British view of sovereignty under Parliament, which was an unlimited sovereignty, that resulted in an indivisible sovereignty. To do otherwise would destroy sovereignty itself. While a sovereign, whether a monarch or a representative body, such as England’s Parliament, had the ability to delegate certain powers to other representatives or bodies, the power to rule lay ultimately with the sovereign.

American colonists, McDonald argues, saw it differently. The unofficial policy of salutory neglect by the British government ushered in the idea of divided sovereignty. Loyalty to the Crown, not the legislative power of Parliament, held the British Empire together and created sovereignty over some areas of colonial life, but not all. Without direct representation in Parliament, immediate sovereignty over the colonies fell to the various colonial legislatures. After the American Revolution, this idea of divided sovereignty devolved upon the state and national governments, first under the Articles of Confederation, then the Constitution.

McDonald divides the rest of his study roughly along presidential terms in office. He traces the argument between those who favored a strict construction view of the Constitution, which favored the states, and a loose construction view, which favored those who saw the national, or federal, government as having preeminence. What immediately becomes apparent is that this view is extremely fluid. The side upon which one fell in the argument depended upon one’s goals. It was not uncommon for politicians to swing between strict and loose construction. For example, James Madison held to a loose construction interpretation during the Constitutional Convention and when defending the document in *The Federalist*. Yet, just a scant ten years later, he swung over to a strict constructionist view in his authorship of the *Virginia Resolution*. On the other hand, John C. Calhoun early on, was a staunch nationalist, yet when southern slaveholders perceived an attack upon that “peculiar institution,”
he became the champion of states’ rights.

McDonald offers a study that consists largely of secondary, rather than primary sources. By doing so, McDonald’s work is more a general survey than a plowing of furrowed ground. However, this should not be construed as an indictment against this work. Rather, McDonald does an excellent job in using these sources to explain not only the political arguments of the various parties, but also the judicial ones. The main concern with the book is, while devoting the lion’s share to the states’ rights argument from 1776 to 1877, the next 130 years are given short shrift. McDonald devotes only his epilogue, totaling a scant eleven pages, to this time period. A second volume, devoted to the exploration of the states’ rights argument after its major defeat in the Civil War, seems to be warranted. Nevertheless, this offering, which remains true to McDonald’s Neo- Progressive historiography, is an essential addition to the study of the states’ rights argument throughout the years, providing the student with a starting point from which to launch an in-depth look at the subject.

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