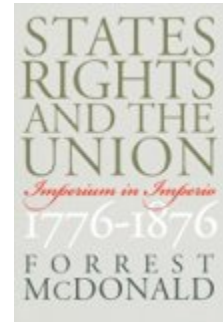


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Forrest McDonald. *State's Rights and the Union: Imperium in Imperio, 1776-1876*. Lawrence: University Press of Kansas, 2000. viii + 296 pp. \$29.95 (cloth), ISBN 978-0-7006-1040-2.

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State's Rights, State's Wrongs

Few American ideas carry as much historical baggage as state's rights. The creed of choice for most slaveholders, secessionists, un-reconstructed "Lost Cause" southerners, segregationists and modern-day neo-Confederates (to name a few), state's rights has often been associated with unsavory causes in American history. Of course, well-respected Americans such as Thomas Jefferson have made eloquent pleas for preserving state autonomy in the face of nationalizing and centralizing tendencies, and (as Forrest McDonald points out), radical abolitionists used state's rights arguments in the 1850s to protect runaway slaves from white Southerners wielding the plenary powers of an odious federal fugitive slave law. But Americans more often remember the disagreeable devotees of state's rights. The phrase conjures a variety of negative images: John C. Calhoun as he mounted a state's rights defense of slavery which resonated through the halls of Congress and his home state of South Carolina; Jefferson Davis, who led the effort to destroy his own country over slavery and state's rights, and who at the end of his life wrote an interminably bad two-volume defense of Southern constitutionalism; and George Wallace, who concocted a poisonous brew of racism, Jim Crow and state's rights in a vain effort to stem the tide of civil rights reform in the 1960s and 1970s. Modern defenders of state's rights, however well-intentioned, are forced to acknowledge the unavoidable (and sometimes unfair) visceral response of many Americans who automatically couple state's rights with the worst angels of our collective nature. In other words, most Americans identify state's rights with a problematic region (the South) and that region's chief problem

(race relations).

Forrest McDonald wishes to provide a corrective to this tendency in his broad overview of American state's rights politics and constitutionalism from the founding through Reconstruction. McDonald's treatment of the subject is gently critical; he sympathizes with the state's rights strain of American constitutional thought and very much wishes to divorce state's rights from its traditional moorings in southern regionalism and American racism. *State's Rights and the Union* tries to resurrect state's rights constitutionalism as a respectable, if occasionally troubled, concept.

The best sections of *State's Rights and the Union* were those dealing with the Revolution, early national and Jacksonian eras, as befitting Professor McDonald's expertise in these areas. He skillfully traces the complex and tangled threads of state's rights constitutionalism, from its inception during the birth of the republic to its fruition as a widely accepted school of constitutional thought during the early national era. McDonald takes issue with Abraham Lincoln and others who argued that the phrase "We the People" in the Constitution's preamble short-circuited a strongly state-centered constitutional philosophy. "This 'nationalist' interpretation, as it has been called, is untenable," McDonald writes, pointing out that there were compelling political reasons for the Framers' failure to place the names of individual states within the Preamble ("in the summer of 1787, no one could predict which states would ratify and which would not") and highlighting various phrases within the nation's found-

ing document that contained plural, not singular references to the United States of America (pp. 9, 22). One could argue that his reading of the evidence here is selective, but it is at least plausible; and it is a legitimate approach, if the reader keeps in mind that McDonald's purpose is to make a case for the legitimacy of state's rights constitutionalism, rather than provide a balanced account of competing localist and nationalist doctrines.

When he turns to the Jacksonian era, McDonald likewise provided a useful narrative of state's rights doctrines during their heyday. Andrew Jackson ascended to the presidency as an outspoken champion of American localism and a passionate critic of nationalist schemes like the national bank. "The course of events during Jackson's tenure was erratic," McDonald writes, "but when his presidency was done, the federal authority was immeasurably weaker, and the states, for practical purposes, were supreme" (p. 98). McDonald is generally sympathetic with these developments, suggesting that state's rights constitutionalism during the Jacksonian era was a useful and necessary counterweight to the possible expansion of federal authority. It was not a brand of incendiarism; it was, rather, sound politics. "The doctrine of state's rights, as embraced by most Americans, was not concerned exclusively or even primarily with state resistance to federal authority," McDonald writes, "rather, it was addressed mainly to keeping federal activity at a bare-bones minimum" (p. 110). McDonald does find much to criticize in the Jacksonians' application of state's rights principles, particularly in the economic policies of the Jackson administration. He also makes the strong but often overlooked point that state's rights, even at its zenith as a constitutional philosophy, did not necessarily mean weak local government. "The idea of states' rights carried with it, in the country at large, the idea of states' duties, and that implied vigorous promotion of economic activity by state governments" (p. 122).

McDonald consistently down plays the role of regionalism, particularly of the southern variety, and he mutes slavery and its influences. For McDonald, state's rights is a utilitarian philosophy, not readily identifiable with any particular region or cause. Indeed, state's rights has its foundation in nothing less than human nature itself. "The localist sentiment that underlay [state's rights] was widespread and deep," McDonald declares, "[p]rogrammed into the human soul is a preference for the near and the familiar and a suspicion of the remote and the abstract" (p. 47). Again, one could take issue with McDonald's rather one-sided reading of the evidence; but generally speaking, he makes cogent and valid

(if polemic) points in his treatment of early nineteenth-century state's rights constitutionalism.

Jacksonian America was the high point of state's rights constitutionalism; it is also the high point of McDonald's book. His account of the sectional crises, the Civil War and of Reconstruction are disappointing. The coming of the Civil War is a sensitive point for state's rights devotees. State's rights constitutionalism has been the fallback position for Confederate sympathizers and their modern neo-Confederate allies since the days when Alexander Stephens (after his infamous "cornerstone" speech) and Jefferson Davis spent their energies denying that the Confederacy had anything at all to do with slavery or white racism. McDonald is no neo-Confederate, and that is not the kind of company he wants to keep. On the other hand, he consistently downplays slavery throughout the book, and this is apparently what led him to revive an outdated school of thought as a way of explaining the coming of the war: the old "blundering generation" school of James Randall, Avery O. Craven, Charles Ramsdell and others, who argued fifty years ago that Americans fought their bloody civil war in a paroxysm of unfounded fears about slavery's expansion, fed by incompetent or scheming politicians who led with their hearts and not their heads. McDonald rejuvenates this school of thought quite consciously, referencing Randall and Craven and writing that "irrespective of whether the conflict was repressible, clearly a series of colossal blunders, beginning in 1854, set in motion events that proved fatal to the federal Union as the Union had been previously understood." (p. 166) McDonald's antebellum Americans are ruled by their passions; and passion, to paraphrase Benjamin Franklin, does not govern wisely. Yankees are characterized by a "cocksure self-righteousness"; midwestern farmers, "who sought and readily found scapegoats" for the Panic of 1858, are described as "angry"; George Fitzhugh's *Cannibals All! Or, Slaves Without Masters* in McDonald's view "warmed the hearts of slave owners and made them as smug as their Yankee detractors"; In all, McDonald sees "the fissures separating the sections [as] worsened by continuing political blunders" (pp. 165, 181, 185). At root, McDonald's typical antebellum American either had an attitude or a complex and was led by inept politicians pursuing ill-advised policies for devious or simply stupid reasons.

The problems with this point of view—and the reason the blundering generation school died out a long time ago—are manifest. It poses an overly cynical explanation for antebellum Americans' behavior, who seem in this tale to be shoved around by their worst emo-

tional instincts. It smacks of presentism, whereby antebellum American leaders failed to measure up to the more intelligent standards of modern politicians, who apparently would have found a reasonable solution to sectional problems. And it downplays the quite real moral issues involved in the great American debate over slavery. These are shortcomings on a broad level with McDonald's treatment of the antebellum era. There are also relatively minor problems which, taken together, make for a poor account of the sectional crisis. He labels Jefferson Davis (while serving as Pierce's Secretary of War) a "fire-eater," which is an inaccurate characterization, particularly at that point in Davis's career; he had not yet embraced secession except as a last resort, and his political moderation was such that he was an object of distrust by real fire-eaters like Robert Barnwell Rhett. McDonald accuses Charles Sumner of faking the severity of his wounds from the Brooks caning for political purposes, selectively quoting a doctor who testified that Sumner suffered "nothing but flesh wounds" (p. 172). But, as David Donald pointed out, while some of Sumner's political enemies made light of his wounds, they were in fact quite painful and produced severe, lingering effects. [1] More generally, McDonald offered observations about abolitionists in general which were overgeneralized, suggesting for example that "many of them, though opposed to slavery as an institution...were not especially concerned about the plight of the slaves as human beings. Indeed, they probably thought the slaves should be freed and then deported, lest their emancipation further increase the South's voting power" (p. 153).

The narrative recovers somewhat when McDonald address the war itself. He argues that Lincoln expanded national authority in his capacity as commander-in-chief, and he offers a good overview of Confederate constitutionalism and the Davis administration's conduct of the Confederate war effort, which was often at odds with antebellum Southerners' state's rights orthodoxy. "Jefferson Davis was quite as effective in bringing about the necessary centralization [to fight the war] as Lincoln was," McDonald correctly points out (p. 204). His

account of Reconstruction is surprisingly perfunctory (about thirteen pages), and while betraying some overtones of the old Dunning school of thought that demonizes the Radical Republicans and made Andrew Johnson a hero ("Southerners who complained of the 'tyranny' of Jefferson Davis were, when the war ended, to learn what real tyranny was like," McDonald writes), is generally competent (p. 208).

In the end, it's difficult to know quite what to make of *State's Rights and the Union*. The book is a crisp, engaging read, and it contains nuggets of genuine insight, even brilliance. But it also is uneven in the quality of its analysis, with mischaracterizations of major historical figures and a sometimes overly broad and poorly thought-out polemic style that damages McDonald's cause. I suspect that, in the final analysis, how one reacts to McDonald's book will depend a great deal upon one's politics. Readers with a conservative bent will likely find it a refreshing, persuasive defense of state-centered constitutionalism, while readers of a more liberal persuasion will be dismayed by McDonald's dismissal of nationalist arguments and his consistent denigration of the constitutional and moral issues involved in American race relations. McDonald is a valuable and rare commodity in the modern academy, a thinking, thoughtful conservative intellectual who has produced first-rate scholarship. But how persuasive *State's Rights and the Union* might prove in changing liberal and moderate minds on this subject remains to be seen.

NOTES

[1]. Donald, *Charles Sumner and the Coming of the Civil War* (New York: Alfred A. Knopf, 1961): pp. 313-317, 322-323.

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