

That Troublesome Word: Sovereignty

We need to agree on the meaning of the words we use if we are to communicate effectively. As I read and hear the word “sovereignty”, it becomes evident that we do not all use the same meaning. For example in a recent news letter from the “Tea Party Patriots” the author wrote: “Current choices in Washington D. C. are a grave threat to our *national sovereignty*...”. If sovereignty means absolute power and authority, then one could conclude that the power and authority of the Federal Government is at risk or one might conclude that the nation itself is at risk. What we need to ask is did the United States Constitution establish a **sovereign nation**? In 1886 George Bancroft wrote: “The government of the United States is far, very far removed from the powers of a sovereign state.”¹

A recent magazine article in *The New American* speaks of the “assertion of **state sovereignty** over those powers **not** delegated to the federal government.”² Again we must ask if that means the states did not retain sovereignty or control over the powers they delegated to the federal government in the Constitution. The confusion over the meaning of **state sovereignty** has been used since the beginning to lead our country toward an ever more powerful central government. In order to correctly understand the word “sovereignty,” it is absolutely necessary to understand the situation of the States before the Constitution was adopted.

The American colonies grew up as separate and distinct entities, each with their own customs and culture. The colonies were “the seeds of nations” as William Penn was reported to have proclaimed.³ When they declared their separation from the mother country, thirteen (13) new nations emerged. This was acknowledged by King George III when he signed the Second Treaty of Paris naming each new nation and recognizing each separate entity as “*free, sovereign and independent states*.” These thirteen new nations were equal to other nations of the world in choosing their “separate and equal station.” They assumed their positions “among the powers of the earth” equal to “the State of Great Britain.” The separate nations or countries were called “states” or “republics” because they had chosen a representative form of government.⁴

When the colonies wrested the power from the crown and became “free, sovereign and independent states”, the power passed directly from the king to the people. It passed directly to the people of each colony and not to the people of all the colonies in the aggregate – to thirteen distinct states and not to one.⁵ Some of these states chose to collaborate with the neighboring independent states and voluntarily sent delegates to a “continental congress.” These delegates represented thirteen sovereign nations gathered to discuss common problems and proposed a plan of confederation.⁶ One by one each state voluntarily chose to adopt our first constitution: *The Articles of Confederation*, which declared that “each State retains its sovereignty, freedom and independence...”

Before long it became apparent that government under the confederation needed some improvement. A convention of states was announced and the states voluntarily sent delegates. Rhode Island, as a free, sovereign, and independent nation, chose not to participate. There was

no legal obligation for Rhode Island to participate! A new plan of confederation was proposed and one by one each state at its own ratifying convention adopted the proposed contract between the states and became a member of the new confederation, a *republic of republics*.⁷

A contract between states is called a compact. Because the compact **constitutes** our plan of government, it is called the **Constitution** and because the words confederation and federation were synonymous at that time, the new umbrella government was called the “federal government”.⁸ It was created by compact and it was to act as an agent for the ratifying states. The sovereign states “vested” the federal government with a few specific enumerated powers to execute in their behalf but the states retained ownership. The powers were “vested” but NOT ceded to the federal government. All other powers were reserved to the states or the people.

In 1823 legal scholar, John Taylor of Caroline, believed: “The Constitution was thus a compact among the states, resting on the sovereignty of the people as expressed through their state conventions.”⁹ Noah Webster defined sovereignty as “supreme in power; the possession of the highest power.” Sovereignty is superlative. It cannot be divided. It is a “solecistic absurdity” to speak of dual, divided, delegated or limited sovereignty.¹⁰ Think of the word sovereignty like the word pregnancy. A woman is either pregnant or she isn’t. There is no such thing as limited pregnancy. Likewise there is no such thing as divided sovereignty.

Alexander Hamilton correctly explained at the Convention of States: “Two sovereignties cannot co-exist within the same limits.” He also presented the alarming belief: “[We must establish] a complete sovereignty in the General Government... The general power, whatever may be its form, if it preserves itself, must swallow up the state powers.”¹¹ In 1823 John Taylor of Caroline saw the problem developing and wrote: “The consolidating school contends that we have two sovereignties; but that one is sovereign over the other, Mr. Hamilton, that we have co-ordinate sovereignties, but that one is made superlative.”¹² The general power swallowed up the state powers during the derailment caused by the “war between American sovereignties, in which the (36) nations were divided into two sets of allies.” What the people lost during the Civil War (the Great War of Coercion), we have yet to get back.¹³

Abraham Lincoln correctly defined sovereignty in his speech to Congress on July 4, 1861, as “a political community, without a superior.” He then went on to *incorrectly* declare that “no one of our States, except Texas, ever was a sovereignty. And even Texas gave up the character on coming into the Union... The Union is older than any of the States; and, in fact, it created them as States.” This viewpoint is *not* in harmony with the historical evidence, but does go along with the nationalist/consolidationist position which the 16th president embraced. Acting on this false premise, sovereignty was yanked from the states and they became administrative agencies of an ever more powerful central government. The country was no longer being governed by compact, but instead by conquest.

In 1866, at the National Union Party convention in Philadelphia, the following declaration was made: “*The insurrection against the supreme authority of the nation has been suppressed... The victory achieved by the National Government has been final and decisive... It has established, beyond all further controversy and by the highest of all human sanction, the absolute supremacy of the National Government...*” Having passed a pivotal point in our

history, the once “free, sovereign, independent states” were now a *unitary republic*; “one nation, indivisible.” *National sovereignty* was secured.¹⁴

The issue of national sovereignty versus state sovereignty was settled first on the field of battle by force of arms (might makes right) and second by pronouncement of the highest court of the land in *Texas v White* 1869: “Perpetual union...it was final.” By foisting upon the states the 14th, 16th and 17th Amendments, the nationalists solidified the superiority of the central government over the states.¹⁵

On April 13, 2010, in *The Charlotte Observer*, Robert Higgs wrote of the federal government’s reach into American society: “What of any consequence remains beyond [Washington’s] reach in the United States today? Not wages, working conditions or labor management relations; not health care; not money, banking or financial services; not personal privacy; not transportation or communication; not education or scientific research; not farming or food supply; not nutrition or food quality; not marriage or divorce; not child care; not provision for retirement; not recreation; not insurance of any kind; not smoking or drinking; not gambling; not political campaign funding or publicity; not real-estate development, home construction, or housing or finance; not 1,000 other areas and aspects of economic and social life.”¹⁶

In conclusion: Sovereignty is the possession of the highest power. It is impossible for both the state and federal governments to possess the highest power at the same time. Try not to confuse “sovereignty” with the powers that the sovereign may delegate. When the sovereign states created the Constitution, they delegated a few enumerated powers to their new agent called the federal government. There was *absolutely no ceding of powers* or granting of sovereignty to the new federal agency

There is an awakening in progress. The **State Sovereignty Movement**, the **Tenth Amendment Center** and the **Patrick Henry Caucus** give us hope. State legislatures across the country are beginning to re-assert the founding principles. The power of **nullification** as a check on an out of control federal government is being applied. Some believe that an amendment to the Constitution would help. This is not likely because the federal government is the biggest transgressor of the Constitution. If a new amendment were passed, can we realistically expect the government to follow the new amendment any better than the rest of the compact, which the legislative, executive and judicial branches continually violate?

We do NOT need to revise the Constitution! The people of each state, working through their state legislatures, need to require that their agent, the federal government, follow the job description specifically enumerated in our Charter of Liberty as originally intended. In addition, if we individually call upon the Author of Liberty, perhaps we can once again “secure the Blessings of Liberty for ourselves and our Posterity.”

END NOTES

1. *A Plea for the Constitution of the United States Wounded in the House of its Guardians*, George Bancroft, 1886
2. *The New American*, “States Should Enforce. Not Revise the Constitution!” December 6, 2010, page 17, www.thenewamerican.com
3. *American History, A Survey*, Eighth Edition, Alan Brinkley, Richard N. Current, Frank Fridel, T. Harry Williams, pages 51, 53
4. See definitions in *Noah Webster Dictionary* of 1828
5. *The Sovereignty of the States*, Walter Neale, an oration, July 21, 1910. The concept is attributed to President Monroe and is footnoted in Neale’s writing.
6. See the *Oxford English Dictionary* for the definition of the word “Congress” in 1774. Also see the meaning of the word “state” as used by Jefferson in 1774. (OED, 1981, Vol. 11, page 853, definition 30c)
7. The phrase “a republic of republics” comes from the book: *The Republic of Republics: A Retrospect of Our Century of Federal Liberty*, Bernard Janin Sage, 1878. The book contains a profound collection of evidence gathered by a skilled researcher. www.confederatereprints.com 2001
8. See *Noah Webster Dictionary* 1828
9. *New Views of the Constitution of the United States*, John Taylor of Caroline, 1823, 2000 Regnery Publishing, page xxvi. Note: This is perceptive writing by a keen and alert mind.
10. Sage: Read the entire section on sovereignty.
11. *The Basic Ideas of Alexander Hamilton*, Richard B. Morris, 1965, pages 120-121
12. John Taylor of Caroline, pages 79-80
13. Neale, pages 117-118 “The proper title of the war that was fought between 1861 and 1865 is, the War between the American States; or, the War between the American Nations. There was no Civil War, there was no War of the rebellion; there was no War between the United States of America and the Confederate States of America; there was no War between the North and the South; but there was a war between American sovereignties, in which the nations were divided into two sets of allies.”
14. Sage, page 322. Note: After reading this quotation in the *Republic of Republics*, I read the entire notes of the National Union Party Convention in 1866. Sage did a good summary.
15. 14th: *Dyett v Turner*, Utah Supreme Court, 1968. See also: *We Hold These Truths: A reverent review of the U. S. Constitution*, Congressman Lawrence Patton McDonald, 1976, Chapter VI, “The Illegal Fourteenth.”
16th: *The Law That Never Was*. Bill Benson and M. J. ‘Red’ Beckman, 1985, Fourth printing 2001
17th: The declared adoption of the Seventeenth Amendment violated the exceptions clause of Article V of the United States Constitution.
16. *Independent Thought: A Digest of Print Media*, January – June 2010, The Independent Institute, page 43, www.independent.org