

5-11-2014

New Directions in the Scholarship of the American Revolution

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Recommended Citation

Mary Sarah Bilder. "New Directions in the Scholarship of the American Revolution." (2014).

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Abstract

These brief comments were presented in May 2014 at a panel in honor of the late Professor Pauline Maier (including Mary Beth Norton, Gordon Wood, Bernard Bailyn, Robert Martello, and Mary Sarah Bilder). Professor Bilder proposed three areas for future work in the framing era: (1) reconsidering the conception of the “state”; (2) exploring continuities in governance practices as well as formal constitutional change to explain the rapid embrace of the new constitutional system; (3) relocating American development within a larger global narrative in which 1776 or 1787 do not begin or end the story, and the thirteen colonies are not the northern and southern boundaries.

Colonial Society of Massachusetts

New Directions in the Scholarship of the American Revolution

May 11, 2014

It is a distinct pleasure to be here on this panel in honor of Pauline Maier. I am only going to speak briefly.

I met Pauline through my dear friend, the late Kitty Preyer. Kitty and I had become close friends by the time I met Pauline. There was a funny connection: as some folks know I wear quite proudly the fact that my undergraduate degree is from the University of Wisconsin. Kitty did her graduate training at Wisconsin. Kitty had been a student of Merle Curti’s because Merrill Jensen admired her but wouldn’t take female students. Pauline had been a professor there for one year – I assume part of the effort by the University to hire women in the 1970s. I have a vague recollection of a conversation with Pauline about the topic—but have fortunately forgotten most everything as my memory was that it was not particularly flattering of my alma mater. Perhaps because of this history both were wonderful mentors to women like myself and Susan Lively working in political history.

3 areas for future work – and I’m going to work backwards in time. The first area is one she was interested in exploring;

The second area relates to the significance of her book *Ratification*;

The third area she would have had absolutely no interest working on, but is inspired by one of her great talents as a historian.

1. Several years ago, Pauline gave a talk at Boston College for Constitution Day. She was asked about the bill of rights. Pauline answered by saying that she believed that Justice Marshall was completely wrong in *Barron v. Baltimore* when he wrote that everyone assumed that the rights would not apply to the states. For folks who don’t spend their lives imprisoned in law schools, let me explain that in 1833 – Marshall stated that the bill of rights (5th amendments taking clause) did not apply to the states – and basically no one thought they should. This interpretation required the 14th Amendment and the Court to make the rights relevant to Americans through incorporation.

Pauline’s comment – that Marshall was wrong –and as she told me afterwards – he knew he was making it up – is extraordinary. Goes completely against received wisdom.

More I have puzzled, the more I wonder whether we have imposed backwards onto the 1776-1790 period a conception of the states and of federalism that was far less certain at the time. Although the colonies called themselves “states”— what precisely a “state” was wasn’t as apparent as we may believe– nor how it differed from other subordinate authorities like corporations or counties.

The importance of reconsidering the conception of the “state” lies not only to history but also to modern constitutional law, where recent cases like *Citizens United*, depend foundationally on a perception that the “state” and the “corporation” were fixed ideas rather than shifting conceptions in American politics.

Historians and legal historians should explore the meaning of the idea of the “state”—not so much theoretically the way political scientists might but as historians, on the ground, in terms of the reality and significance to people—in the century between 1765-1835.

2. My second area is raised by her book, *Ratification*. Quite frankly, the book is an extraordinary descriptive account of the process across the states based on the DHRC. The difficulties of telling that story were evident before the work –and the book itself presents those difficulties as inherent to the ratification process itself.

Pauline emphasized the disappointment of Madison and others with the Constitution. She argued that the things people objected to were not the ones that we think to (for example, the most objected to was the direct tax provisions). She emphasizes the close disagreement in places. She writes “In retrospect, it is surprising how readily contestants accepted the Constitution as the basis of reform.” (430)

So then the question becomes why did the thing turn out to work? Why wasn’t one ten years later back in the same place as with the failed Articles of Confederation? What about the structure of the Constitution or the process of ratification or the reality of the new national government that meant the opposition disappeared (or perhaps it didn’t).

The more we have tended to tell a Madisonian story of a country on the brink of disaster in 1785, the more puzzling the rapid embrace of the new government becomes in 1789.

So second, historians should turn their attention to the transition of government from 1776 to 1816 to look as much for continuities in practices as for formal constitutional change.

3. My third area is one that Pauline did not write in. The turn towards the Atlantic world seemed to hold little interest—indeed, as colonial history swiveled outwards, Pauline moved towards the history of the United States itself. Her work was characterized by projects built from the comprehensive texts – she was no microhistorian.

There are great divisions of labor among historians as Professor Bailyn put it to me recently. Some people spend their time in the extant records and the archives, roughing out the lines of the past, sketching the shapes and relationships. Others excel at offering interpretations and explanations, emphasizing a particular line or grouping of these shapes. Still others have a gift for translating to the general reader the most dramatic aspects of the picture.

Pauline's great gift as a historian was being able to write a descriptive and comparative account that allowed one to step back far enough to begin to see the whole thing. When she studied the American corporation, the footnotes testified to the study of as far as I can tell nearly every extant early charter. When she wrote on the Declaration, she examined all documentary precedents. Ratification, she read all the written materials.

She was not necessarily I think particularly interested in coming up with some clever turn of phrase that summed up a period, but she was very good at pulling together into one book a vast geographic expanse.

Early American history – now Atlantic history—and the history of the various areas within the empire—seem somewhat stuck in what I think of as the Thor Heyerdahl thesis. Just because there is fire here and there, doesn't tell you about whether there was transmission and the process of that transmission or the significance of the embrace of fire in different places.

What the colonial period completely lacks at the moment is a modern attempt to tell the story of colonial development across all the British controlled areas – the mainland ones, Canada, the Caribbean, perhaps dare one say it, Ireland and Scotland, and into India. Without a narrative that resituates the mainland colonies within a larger story, we can't explain the development of the United States or larger global questions about settler societies and imperialism.

Why did the Caribbean not become independent? Why does Canada follow a different path? How did the lessons of American independence alter British policies in India and Ireland? Beyond the political structural accounts lie crucial questions about the modern American state. How does American constitutional federalism leave women and women's issues to the control of the states? How does this same constitutional structure encourage and grow American slavery far beyond the time limits of the greater British empire? How does the American constitutional idea of citizenship perpetuate a white male citizen standard?

One of the few advantages of being a historian in a law school is that there are no temporal and geographic boundaries on one's work – in recent years history departments have begun to break down the boundaries that imprisoned American history into a cartoonish narrative of national development. I think the future of understanding the American revolution—is to continue to relocate American development within a larger global narrative in which neither 1776 nor 1787 are the beginning or end of the story, and where the thirteen colonies are no longer the northern and southern boundaries.

Thank you.