

CALHOUN WEBSTER: AND TWO VISIONS OF THE FEDERAL UNION

SOUTH CAROLINA SENATOR JOHN C. CALHOUN SAW THE FEDERAL UNION AS A COMPACT OF STATES. MASSACHUSETTS SENATOR DANIEL WEBSTER SAW IT AS A NATION OF ONE PEOPLE. THEIR DIFFERING VISIONS LED TO HISTORIC DEBATES, BUT UNDERLYING THEM ALL WAS THE QUESTION OF SLAVERY.

The intent of the writers of the Constitution was to create a stronger central government than existed under the old Articles of Confederation. During the ratification of the Constitution, many expressed fears the federal government would expand its powers at the expense of the states.

The Bill of Rights, in the form of 10 amendments, was added to the Constitution to further limit the powers of the federal government. The 10th Amendment attempted to address the concerns of those who wanted the states to act as a check on the powers of the federal government:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

As the issue of slavery heated up before the Civil War, John C. Calhoun and Daniel Webster debated the scope of federal government powers and whether states could nullify (veto) laws passed by a majority in Congress. Calhoun championed states' rights while Webster stood for a nation of one people based on majority rule.

'Philosopher of Nullification'

Born in 1782, John C. Calhoun was the son of a well-off South Carolina farmer who owned slaves. Calhoun graduated from Yale and then studied law. He married his wealthy cousin, became a cotton planter, and when he died in 1850, he owned about 200 slaves.

Calhoun also pursued a career in politics. He was elected to the U.S. House of Representatives in 1810 and was the chief deputy of Speaker of the House Henry Clay. Calhoun was a strong nationalist who pushed for war against Britain in 1812.

After the war, Calhoun supported Henry Clay's "American System," which called for Congress to fund roads, canals, ports and other national improvements. In 1816, he voted for a tariff (a tax on foreign imports) that gave an advantage to American manufacturers.

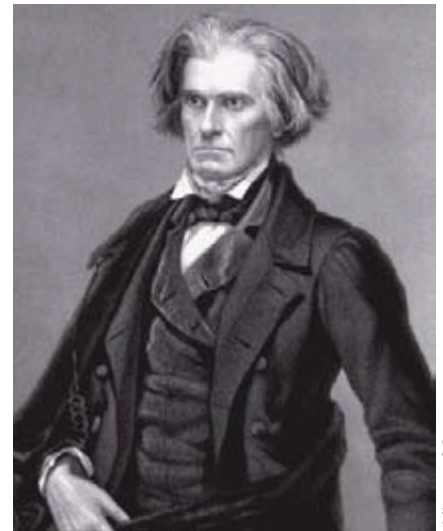
In 1824, Calhoun was elected vice president with John Quincy Adams as president. Calhoun was re-elected vice president in 1828, but this time served with Andrew Jackson, hoping to follow him as president.

As vice president, Calhoun began having second thoughts about his nationalist beliefs. He concluded that Clay's American System and tariffs mainly benefited the North.

Congress increasingly passed "protective tariffs," designed to protect America's new industries in the North from foreign competition. Calhoun realized that they enriched the industrial North, but burdened the agricultural South with high prices.

In 1828, Northern manufacturers persuaded a majority in Congress to pass a new law that sharply increased tariff rates. This further boosted prices on manufactured items needed in the South.

Calhoun and other Southerners were angered. He began to worry that if a Northern majority in Congress could pass a tariff law harmful



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John C. Calhoun (1782-1850), who served as vice president, U.S. senator, and member of Congress in his long political career, was the leading advocate for states' rights.

to the South, such a majority might someday vote to abolish slavery. These developments changed Calhoun from a nationalist to an advocate for states' rights.

In the fall of 1828, Calhoun wrote a report for the South Carolina state legislature on the unfairness of the new tariff law and what the legislators should do about it. In his *South Carolina Exposition and Protest*, Calhoun declared that the 1828 tariff law was "unconstitutional, unequal, and oppressive."

Calhoun agreed that the Constitution granted Congress the power to enact tariffs. But he argued their only purpose could be to raise revenue to run the federal government and pay its debts. He pointed to Article I, Section 8, of the Constitution:

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States

The purpose of the new tariff, he argued, was to protect industries, not to raise revenue. Congress, he continued, had no power in the Constitution to erect protective tariffs that made purchases of many goods in

the South more expensive. “We are the serfs of the system,” he declared.

Calhoun insisted that the federal government (including the Supreme Court) should not decide disputes over what constitutional powers it possessed. Instead, he asserted that each state held the 10th Amendment power to nullify an unconstitutional federal law. Calhoun stated that this nullification power prevented the U.S. government from invading states’ rights.

Finally, Calhoun explained that the ultimate judgment on a federal law nullified by a state would rest with a convention of all the states. The convention would consider a constitutional amendment, requiring a three-fourths vote of the states. This would resolve the matter one way or the other. A nullifying state that refused to accept an amendment adopted by three-fourths of the states would have no choice but to secede from the federal union.

Calhoun’s “Carolina Doctrine” provided nullification as a states’ rights defense against what he called “the oppression of the majority.” Before long, many called him the “Philosopher of Nullification.”

‘Godlike Daniel’

Daniel Webster was born the same year as Calhoun. Webster’s father was a New Hampshire farmer, state legislator, and judge.

Webster graduated from Dartmouth College where he excelled at public speaking. He studied law and became a wealthy Massachusetts lawyer who represented Boston businesses in court and argued cases before the U.S. Supreme Court. He married a minister’s daughter, and after she died, he married a second time.

Like Calhoun, Webster entered politics and had ambitions to become president. He was elected to the House of Representatives in 1812 as a nationalist who supported policies encouraging commerce.

Webster reversed his nationalist course, however, when he opposed

the War of 1812 because it interrupted New England’s trade with Britain. He voted against war taxes and a military draft bill. He argued that states had a duty to stand between their citizens and the “arbitrary power” of the federal government.

After the war, Webster voted against protective tariffs that harmed New England’s shipping industry. But by the 1820s, New England was booming with factories and producing manufactured goods.

In November 1832, South Carolina held a state convention and voted to nullify the tariffs of 1828 and 1832.

Webster therefore changed course again and became a firm advocate for protective tariffs. After his election as a U.S. senator from Massachusetts, he voted for the tariff of 1828 that so distressed Calhoun. (At this time, U.S. senators were elected by state legislatures.)

In January 1830, Webster found himself in a historic Senate debate over Calhoun’s Carolina Doctrine of nullification. The Senate galleries, even the stairways, were crowded with onlookers. Webster’s debate opponent was not Calhoun, but Senator Robert Y. Hayne of South Carolina. Vice President Calhoun, as president of the Senate, chaired the debate.

Hayne followed Calhoun’s arguments that the states could check the power of the federal government by nullification. By some accounts, Calhoun sent notes to Hayne during the debate to help him.

Many already called Webster “Godlike Daniel” because his power-

ful voice had a hypnotic effect on his listeners. Webster countered Hayne by arguing that “the people’s Constitution” and the laws passed by its government, not the states, were the supreme law of the land. He stated that under the Constitution, the U.S. Supreme Court had the “last appeal” in disputes between the federal government and the states.

Webster also asserted that the federal union was “founded on the principle of one nation.” He denied that the U.S. was a league of independent states that possessed the right to secede from the union.

Webster said if a state nullified a federal law, it would have to back this up with military force. “To resist by force the execution of a law,” he warned, “is treason.”

Webster concluded by listing the blessings of the federal union. He prayed that he would never see the union “rent with civil feuds, or drenched, it may be, in fraternal blood!” He denounced those who cried “Liberty first and Union afterwards.” He exclaimed, “Liberty and Union, now and forever, one and inseparable!”

At a banquet a few months later, President Andrew Jackson made this toast: “Our Federal Union: It must be preserved.” Vice President Calhoun also made a toast: “The Union: [After] our Liberty the most dear.”

The Nullification Crisis

In 1832, Congress passed another protective tariff. An angry Calhoun proclaimed, “The question is no longer one of free trade, but of liberty and despotism.” Talk of secession spread across the South.

Calhoun defined the federal union as a “compact of states,” each holding sovereignty (supreme political power). He believed that if a federal law threatened the interests of a state, that state could challenge it — not by going to federal court, but by asking other states to rule on it. The law would be upheld only if a three-fourths majority of the states agreed. Under this system of ►

“concurrent majorities,” a minority of states could block majority rule in Congress. Calhoun saw this as necessary to preserve the federal union.

In November 1832, South Carolina held a state convention and voted to nullify the tariffs of 1828 and 1832. The delegates also called for a convention of all states to decide the constitutionality of protective tariffs. The South Carolinians threatened to secede from the United States if the federal government used the military to enforce the tariff laws.

At first, President Jackson responded by proposing reduced tariff rates. But after the other Southern states rejected South Carolina’s action as too extreme, Jackson issued a proclamation, attacking nullification and secession.

Jackson declared that the Constitution was not a compact of states, and no state had the right to secede because it would destroy a nation of “one people.” He warned, “Disunion by armed force is treason.”

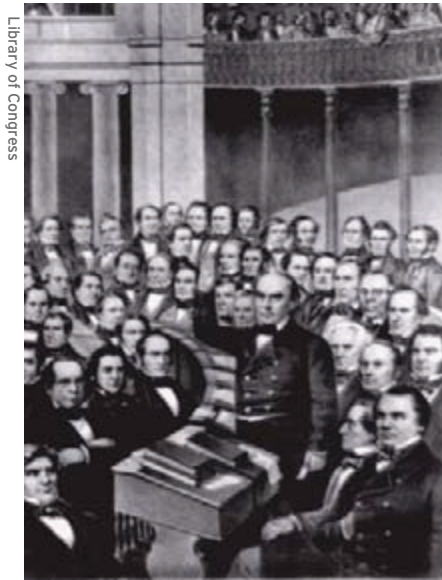
Calhoun resigned as vice president. The South Carolina state legislature elected Senator Hayne as governor and replaced him in the U.S. Senate with Calhoun.

In February 1833, Jackson asked Congress for authority to use the military if necessary to enforce the tariff laws in South Carolina. Calhoun and Webster went head-to-head in a Senate debate on Jackson’s “Force Bill.”

Calhoun called this “Bloody Bill” an unconstitutional declaration of war against a sovereign state. He proclaimed that the Constitution “was made by the states,” which “still retain their sovereignty.”

Webster replied that the supreme law of the land was the Constitution made by “one people” not the states. Therefore, he argued, state nullification and secession were constitutionally impossible. Furthermore, he said that nullification violated the first principle of a republic: “The majority must rule.”

Meanwhile, Henry Clay worked



Daniel Webster (1782-1852) stands on the Senate floor to debate the Compromise of 1850.

up a compromise bill that gradually abolished protective tariffs over a 10-year period. Both Clay’s compromise tariff and the Force Bill were enacted into law.

Calhoun traveled to South Carolina to persuade the state convention delegates to accept the compromise tariff and repeal their acts of nullification. They did this, but also nullified the Force Act even though it was no longer relevant.

The Compromise of 1850

By 1835, the abolitionist movement in the North had gained strength. On the Senate floor, Calhoun defended slavery in the South as “a good — a great good.” He said it was necessary for the economic survival of the South. He attacked the abolitionists for undermining the federal union. “Abolition and the Union cannot coexist,” he declared.

A new constitutional crisis loomed in 1846 when the U.S. went to war with Mexico, which both Calhoun and Webster opposed. Anti-slavery forces pushed for a law that would ban slavery in any lands acquired from Mexico.

Calhoun feared that if new free states were carved out of territories

in the West, the Southern states would become a permanent minority. Sooner or later the anti-slavery majority would abolish slavery.

Calhoun added a new element to his concurrent majorities idea. He wanted the U.S. to elect a president from the North and another from the South, each with veto power over acts of Congress.

Things came to a head following the end of the Mexican War when California applied for admission to the United States as a free state. Also at stake was the slave status of future states formed from the Utah and New Mexico territories.

In 1850, Henry Clay again stepped in with a compromise. Clay argued there was no need to ban slavery in the Western territories. Slavery had already been abolished under Mexican rule, he said, and the climate was not suitable for plantation agriculture. Thus, any new states would be free of slavery. To soothe Southerners, Clay proposed that Congress strengthen enforcement of the federal law that required states to return fugitive (escaped) slaves to their owners.

In March 1850, Calhoun and Webster debated for the last time. Although Calhoun was present, he was too ill to speak, so he had another senator deliver his words.

Calhoun rejected Clay’s compromise and presented a list of Southern demands to restore the balance between North and South. He wanted to open the West to slavery, enforce the fugitive slave law, and pass a constitutional amendment along the lines of his concurrent majorities system.

Three days later, “Godlike Daniel” replied to Calhoun and spoke for Clay’s compromise. “I wish to speak today,” he began, “not as a Massachusetts man, nor as a Northern man, but as an American . . . I speak for the preservation of the Union.” Webster blamed both the North and South for endangering the federal union.

Webster said “Slavery is an

evil,” but he shocked many when he supported Clay’s compromise provision for a stronger fugitive slave law. Webster reminded his fellow Northerners that they had a duty under the Constitution to return runaway slaves. (Art. 4, Sec. 2)

Most, even in the South, praised Webster’s plea for compromise to save the federal union. But abolitionists attacked him for putting the preservation of the union above the suffering of the slaves.

Calhoun died on March 31. In his last letter, he wrote that it was “difficult to see how two peoples so different and hostile can exist together in one common Union.”

Clay’s compromise became law and was hailed as the final settlement of the slave question. The new harsh fugitive slave law, however, kept the slavery question burning.

In a final twist, the South de-

pendent on the federal government to enforce the return of escaped slaves while the North appealed to states’ rights to avoid doing this. Only the bloody Civil War settled the slave question and the clashing visions of the federal union held by Calhoun and Webster.

For Discussion and Writing

1. How did Calhoun and Webster view the federal union differently? Which vision do you agree with more? Why?
2. Compare Calhoun’s proposal for concurrent majorities with Webster’s defense of majority rule. Which do you think was better for the United States at the time? Why?
3. Why did Webster decide to support a stronger federal fugitive slave law? Do you agree with his decision? Why?

Suggested Answers to Canon Law Activity

How the Canonists Resolved the Dilemmas

- A. The Poor Parents Dilemma.** The man should try to fulfill both obligations by keeping his vow to enter the monastery and then do good works to help his parents. If this cannot be done, the lesser evil is to keep his vow.
- B. The Madman’s Sword Dilemma.** The safe keeper should hold on to the sword until the madman regains his sanity, or perhaps hand it over to a relative. In this case, the owner of the sword being in his right mind is a righteous requirement for fulfilling the oath.
- C. The Usurer’s Money Dilemma.** The lesser evil is to return the money. There is no telling whether the usurer will use this money to continue sinning or will see the error of his ways.
- D. The Latrine of the Devil Dilemma.** The lesser evil is for the priest to offer the Eucharist to the sinner to avoid violating the secrecy of her confession and publicly exposing her. Christ gave the Eucharist to Judas at the Last Supper.
- E. The Hiding Fugitive Dilemma.** The third party should give no answer at all. There is no sin if the one demanding where his enemy is hiding assumes something from silence. Gratian usually did not offer a resolution to the moral dilemmas he discussed. But in this one he commented that betrayal was a mortal, or grave sin, while lying was a venial or lesser sin.

ACTIVITY

National Powers vs. States’ Rights

Daniel Webster emphasized the national powers of the federal government, John C. Calhoun defended states’ rights, and Henry Clay worked for compromise. While the issues they struggled with have long been settled, disputes over national powers versus states’ rights continue today.

One current controversy concerns school curriculum and testing. In the U.S., what is taught and how it is tested is a matter for each of the 50 states to decide. Most other nations in the world, however, have one national curriculum and testing program for all public schools. Which approach is better?

1. Form small groups. In each group, one or two students will take the role of a nationalist, a states’ righter, and a compromiser.
2. The nationalists and states’ righters should prepare arguments to debate their approaches to school curriculum and testing before the compromisers.
3. The compromisers should try to work something out to satisfy both sides.
4. Each group should then report the main debate points and what the compromisers proposed.

About Constitutional Rights Foundation

Constitutional Rights Foundation is a non-profit, non-partisan educational organization committed to helping our nation’s young people to become active citizens and to understand the rule of law, the legal process, and their constitutional heritage. Established in 1962, CRF is guided by a dedicated board of directors drawn from the worlds of law, business, government, education, and the media. CRF’s program areas include the California State Mock Trial, youth internship programs, youth leadership and civic participation programs, youth conferences, teacher professional development, and publications and curriculum materials.

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