



AMERICAN CONSTITUTIONALISM  
 VOLUME I: STRUCTURES OF GOVERNMENT  
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Supplementary Material

Chapter 5: The Jacksonian Era – Federalism

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*Daniel Webster, Speech on Nullification (1830)*<sup>1</sup>

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Senator Daniel Webster of Massachusetts was a leading nationalist lawyer and politician during the late Early National and Jacksonian Eras. As a lawyer who frequently argued before the Supreme Court, he had helped develop the arguments for expansive federal powers that made their way into John Marshall's opinions. As a politician, he was a tireless advocate of Whig economic policies, the "American System" of protectionist tariffs, internal improvements, a national bank, and a strong federal union.

In 1830, Connecticut senator Samuel Foot proposed a resolution to end surveys of western lands, restricting the land sales that encouraged western migration of laborers (and thereby raising labor costs for northern manufacturers) and were rapidly reducing the federal debt (and thereby increasing pressure to lower tariff rates that were protecting northern manufacturers from international competition). When westerners objected, South Carolina senator Robert Hayne suggested a coalition of southern and western interests, exchanging cheap land in the west for tariff reform. In the process, Hayne accused New England economic interests and politicians of sacrificing the well-being of the other regions of the country to benefit themselves. Webster rose to defend the honor of his region and to change the subject from the possible convergence of western and southern interests to northern support for federal funding of internal improvements (which facilitated the transportation of goods between the north and west and helped justify high tariff rates) and the unpatriotic theory of nullification being espoused in South Carolina, painting an image of "the broken and dishonored fragments of a once glorious Union . . . rent with civil feuds, or drenched, it may be, in fraternal blood!" Against those who toasted "Liberty first and Union afterwards," Webster pledged "Liberty and Union, now and for ever, one and inseparable!"

In 1828, the South Carolina legislature had published the "Exposition and Protest," which had been secretly drafted by John C. Calhoun and which argued that protectionist tariffs were unconstitutional and that a state could properly prevent the execution of unconstitutional federal laws within its territory. Hayne was an articulate advocate of the view that the tariffs were unconstitutional, but he was less well versed in the intricacies of federalism and nullification. With Vice President Calhoun watching silently from his chair as presiding officer of the Senate, the Webster-Hayne debate occupied several days of Senate deliberations, leaving the subject of western lands forgotten. The debate was conducted in front of packed galleries in the Senate, and the speeches were widely reprinted in pamphlets and newspapers, and Webster solidified his reputation as one of the leading political figures of the day.

. . . . This leads, Sir, to the real and wide difference in political opinion between the honorable gentleman [Hayne] and myself. On my part, I look upon all these objects as connected with the common good, fairly embraced in its object and its terms; he, on the contrary, deems them all, if good at all, only local good. . . . Here we differ. I look upon a road over the Alleghenies, a canal round the falls of the Ohio, or a canal or railway from the Atlantic to the Western waters, as being an object large and extensive enough to be fairly said to be for the common benefit. The gentleman thinks otherwise, and this is the key to his construction of the powers of the government. He may well ask what interest has South Carolina in a canal in Ohio. On his system, it is true, she has no interest. On that system, Ohio and Carolina are different governments, and different countries; connected here, it is true, by some slight and ill-defined

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<sup>1</sup> Daniel Webster, "Second Speech on Foot's Resolution, January 26, 1830," in *The Speeches and Writings of Daniel Webster*, vol. 6 (Boston: Little, Brown, 1903), 3.



bond of union, but in all main respects separate and diverse. On that system, Carolina has no more interest in a canal in Ohio than in Mexico. . . .

Sir, we narrow-minded people of New England do not reason thus. Our *notion* of things is entirely different. We look upon the States, not as separated, but as united. We love to dwell on that union, and on the mutual happiness which it has so much promoted, and the common renown which it has so greatly contributed to acquire. In our contemplation, Carolina and Ohio are parts of the same country; States, united under the same general government, having interests, common, associated, intermingled. In whatever is within the proper sphere of the constitutional power of this government, we look upon the States as one. . . .

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I understand him to maintain, that the ultimate power of judging of the constitutional extent of its own authority is not lodged exclusively in the general government, or any branch of it; but that, on the contrary, the States may lawfully decide for themselves, and each State for itself, whether, in a given case, the act of the general government transcends its power.

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This is the sum of what I understand from him to be the South Carolina doctrine, and the doctrine which he maintains. . . .

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If the gentleman had intended no more than to assert the right of revolution for justifiable cause, he would have said only what all agree to. But I cannot conceive that there can be a middle course, between submission to the laws, when regularly pronounced constitutional, on the one hand, and open resistance, which is revolution or rebellion, on the other. . . .

This leads us to inquire into the origin of this government and the source of its power. Whose agent is it? Is it the creature of the State legislatures, or the creature of the people? If the government of the United States be the agent of the State governments, then they may control it, provided they can agree in the manner of controlling it; if it be the agent of the people, then the people alone can control it, restrain it, modify, or reform it. . . . It is, Sir, the people's Constitution, the people's government, made for the people, made by the people, and answerable to the people. . . .

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. . . . Is the voice of one State conclusive? It so happens that, at the very moment when South Carolina resolves that the tariff laws are unconstitutional, Pennsylvania and Kentucky resolve exactly the reverse. *They* hold those laws to be both highly proper and strictly constitutional. And now, Sir, how does the honorable member propose to deal with this case? How does he relieve us from this difficulty, upon any principle of his? . . .

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If there be no power to settle such questions, independent of either of the States, is not the whole Union a rope of sand? Are we not thrown back again, precisely, upon the old Confederation?

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. . . . [B]ut the great question was, and always will be in such cases, Who is to decide this? Who is to judge between the people and the government? And, Sir, it is quite plain, that the Constitution of the United States confers on the government itself, to be exercised by its appropriate department, and under its own responsibility to the people, this power of deciding ultimately and conclusively upon the just extent of its own authority. If this had not been done, we should not have advanced a single step beyond the old Confederation.

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For myself, Sir, I do not admit the competency of South Carolina, or any other State, to prescribe my constitutional duty; or to settle, between me and the people, the validity of laws of Congress for which I have voted. I decline her umpirage. I have not sworn to support the Constitution according to her construction of its clauses. I have not stipulated, by my oath of office or otherwise, to come under any responsibility, except to the people, and those whom appointed to pass upon the question, whether laws, supported by my votes, conform to the Constitution of the country. And, Sir, if we look to the general nature of the case, could anything have been more preposterous, than to make a government for the whole Union, and yet leave its powers subject, not to one interpretation, but to thirteen or twenty-four



interpretations? Instead of one tribunal, established by all, responsible to all, with power to decide for all, shall constitutional questions be left to four-and-twenty popular bodies, each at liberty to decide for itself, and none bound to respect the decisions of others,-- and each at liberty, too, to give a new construction on every new election of its own members? Would anything, with such a principle in it, or rather with such a destitution of all principle, be fit to be called a government? No, Sir. It should not be denominated a Constitution. It should be called, rather, a collection of topics for everlasting controversy; heads of debate for a disputatious people. It would not be a government. It would not be adequate to any practical good, or fit for any country to live under.

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I have not allowed myself, Sir, to look beyond the Union, to see what might lie hidden in the dark recess behind. I have not coolly weighed the chances of preserving liberty when the bonds that unite us together shall be broken asunder. I have not accustomed myself to hang over the precipice of disunion, to see whether, with my short sight, I can fathom the depth of the abyss below; nor could I regard him as a safe counselor in the affairs of this government, whose thoughts should be mainly bent on considering, not how the Union may be best preserved, but how tolerable might be the condition of the people when it should be broken up and destroyed. . . .

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