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## The Genesis and a Critical Review of John C. Calhoun's Political Theories

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THE GENESIS AND A CRITICAL REVIEW  
OF JOHN C. CALHOUN'S  
POLITICAL THEORIES

BY  
GERALD P. GRACE

A THESIS SUBMITTED IN PARTIAL FULFILMENT OF  
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## VITA AUCTORIS

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## CHAPTER I

### THE ARTICLES OF CONFEDERATION

With Lady Macbeth, John C. Calhoun could well have said, "That which hath made them drunk hath made me bold." Perhaps it is unfair to insinuate that the Great Nullifier had embibed too freely at the Jefferson dinner in April, 1830, but something we feel, must have emboldened him to enter the lists in reply to the sharp challenge of President Andrew Jackson, when a few minutes before Jackson had interrupted the hitherto aimless toasting with, "The Federal Union-It must be preserved." Giddy minds and drooping eyes suddenly became sober and bright. The President's toast had produced a marked tenseness in the banquet hall.

John C. Calhoun, South Carolina's first son, made ready to answer the challenge. Perhaps he had no need of the wine of the evening's previous toasts to empower him to hurl a suitable reply at the grizzled hero of New Orleans, for the reply that he uttered had become part of his very being. Gradually, almost from the very time in 1816, when he had espoused the cause of consolidation and protective tariff, arguments to sustain the opposite opinion had been growing up within him. Circumstances brought Calhoun's ideas swiftly to maturity, and by 1830 he was foremost in the South in the fight against nationalism and high

tariff. As the acknowledged champion of the South, he had no other choice but to meet the challenge of the Chief-Executive. Calhoun had proceeded too far along the nullification trail to turn back now.

The toast that Calhoun proposed in reply to Jackson was an accurate commentary upon the course he had been pursuing since 1816. It was in direct contrast to Jackson's terse, "The Federal Union-It must be preserved." For Andrew Jackson there never had been, and never could be, anything like a middle ground where it was question of the Union, for Jackson loved the Union with a love born of suffering. And to one who would threaten the life of that Union Jackson's treatment would be summary enough: "If a single drop of blood," he said, "shall be shed in opposition to the laws of the United States, I will hang the first man I can lay my hands on engaged in such conduct, upon the first tree that I can reach."<sup>1</sup> On the strength of these words, we might envision the name of "Calhoun" on the hangman's list, heading all the rest, but Calhoun himself would never have admitted that his utterances against nationalism entitled him to so dubious a primacy, for he never tired of insisting that his way would insure an enduring Union. Perhaps his love had less of the emotional and more of the logical than Jackson's

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1 Charles E. Martin, An Introduction to the Study of the American Constitution, Oxford University Press, American Branch, New York, 1926, 129.

but, none the less, it was love, love founded on a firm conviction of the necessity of the Union. The Union, however, that Calhoun wished to save had little in common with the Union espoused by Jackson. To the South Carolinian Jackson's Union was inimical to liberty. The manner in which he took up Jackson's challenge gives clear indication as to the type of Union Calhoun favored: "The Union-next to our liberty the most dear. May we all remember that it can only be preserved by respecting the rights of the States and distributing equally the benefit and the burthen of the Union."<sup>2</sup> Peculiar events and circumstances had forced this view upon Calhoun, and in turn he had bent all the forces of his nature towards the task of establishing it upon a firm constitutional foundation. The Union for which Jackson stood was overshadowed in Calhoun's eyes by the awful spectre of majority rule. It was John Calhoun's lot, then, to save his people, the people of South Carolina, and the people of the whole nation from the horrors of majority rule, from what he thought would amount to virtual slavery. If he was to succeed in this task, he must build up an argument based upon the Constitution, the supreme law of the land. The people whom he sought to save would have salvation under no other guise.

For this reason, then, we must study the Constitution, if

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<sup>2</sup> Van Buren, Autobiography, IV, 99-107, Van Buren Mss., as quoted in J.S. Bassett, The Life of Andrew Jackson, Macmillan Company, New York, 1931, 555.

we are to understand Calhoun. And since any picture of the Constitution would be incomplete without the circumstances which brought it about, we must first turn our attention to the Articles of Confederation.

In considering the Articles of Confederation, I have no desire to heap discredit upon them. That phase of Revolutionary History has already been quite adequately handled. At a time when the Colonists were doubting the wisdom of the revolt from the Mother Country, the Articles of Confederation brought a renewal of faith. For this we must praise them.

Remember, too, that the Articles of Confederation were fashioned after a very definite political mentality. They gave a constitutional form to the political philosophy that inspired the Declaration of Independence.<sup>3</sup> They were the concrete expression of the radical views that nurtured the first seedlings of dissatisfaction into the full bloom of armed revolt. For a people lately bound to a Prince whose character was "marked by every act which may define a tyrant," the Articles of Confederation were a perfectly natural and consistent, if not efficient, instrument of government. In setting up the Articles the people had but invoked their privilege, by which,

whenever any form of Government becomes

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3 M. Jensen, The Articles of Confederation, University of Wisconsin Press, Madison, 1940, 239.



destructive of these ends (namely, certain unalienable rights, among which are life, liberty, and the pursuit of happiness) it is the right of the people to alter or abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall most likely seem to effect their safety and happiness.<sup>4</sup>

The Colonists were irritated by the laws of men in whose election they had no voice. Unbearable to them was a rule whose seat lay far across the sea. No distant government, they determined, would operate upon them as the distant moon controls the tide's ebb and flow. Their's was the power, and consequently, "... magistrates are their servants, and at all times smeanable to them."<sup>5</sup>

Clearly, the Thirteen Colonies mistrusted distant government and the tendency to nationalization. Was it any wonder, then, that the Articles of Confederation reflect these fears? If for the sake of resistance, they had need of forming a unified political body, it would be a body whose members were all of equal importance, and a body whose head was carefully subordinated to its members. Understanding, as we now do, the mind from whose fertility the Articles of Confederation had

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- 4 "Declaration of Independence, " in Documents Illustrating the Formation of the Union of the United States, edited by C. Tansill, Government Printing Office, Washington, D.C., 1927, 22.
- 5 "Virginia Bill of Rights," as quoted in The History of the United States, by Ralph V. Harlow, Syracuse University Press Syracuse, New York, 1932, I, 117.

sprung, we may consider the Articles themselves.

One of the chief characteristics of the Articles of Confederation was the provision for the distribution of power. Congress was to have certain delegated powers and no others. There was nothing in the Articles which Congress might construe as granting to itself hegemony over the individual states. In fact, one of the authors of the Articles, John Dickinson, had attempted to include just such a loophole. Dickinson was stoutly opposed on this point and eventually his proposal was stricken from the pages of the Articles. The instrument was then made to read:

Each state retains its sovereignty, freedom and independence, and every power, jurisdiction, and right which is not by this confederation expressly delegated to the United States in Congress assembled.<sup>6</sup>

Today these powers which Congress received would seem hardly more than enough to warrant its existence. It had authority to declare war and conduct foreign affairs. Congress might control its own coinage and that of the States, but it had no means of regulating the issuance of paper money within the various states. In disputes between the states, Congress was constituted the last court of appeal. The direction of the postal service and the regulation of weights and measures also came under the jurisdiction of Congress. During the periods

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<sup>6</sup> Documents Illustrative of the Formation of the Union, 27.

when the Congress itself was not in session, a committee appointed by Congress was to handle the business of government. These, in general, were the main powers granted to Congress by the states.

With the powers of Congress so very limited under the Articles, we expect the states to possess vast powers. Indeed, checks upon state authority, as the Congress found repeatedly, were few, "and even these tended to be qualified out of existence."<sup>7</sup> A state was bound to consult Congress before making treaties with any foreign power. The duties and imposts of states must not conflict with agreements made by Congress in treaties. But Congress, on the other hand, might not interfere with the right of a state to levy the same taxes on foreigners, as it did on its own citizens. No state could maintain men-of-war or troops without the approval of Congress. No state could undertake hostilities against a foreign power, unless Congress had first given its assent to such a course. But none of these stipulations was a serious interference with state sovereignty.

In respect to each other, states were equal, irrespective of area or population. Each state was required to send two representatives to Congress and no state was to send more than seven. In voting, each state was allowed one vote.

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<sup>7</sup> Jensen, 243.

The Articles of Confederation, then, were the instrument of a truly federative government, that left little or no room for the growth of a strong central power. This form was the result

...of the belief that democracy was possible only with fairly small political units whose electorate had a direct check upon the offices of government. Such a check was impossible where the central government was far removed from the control of the people by distance and by law... The distrust of centralization, of government spread over a great area was the product of both political theory and practical experience.<sup>8</sup>

So far, we have considered the philosophy that animated the Articles of Confederation and the actual content of the Articles. In line with our purpose, we must now consider the effects which the Articles produced. We ask, "Were the Articles successful, or did they fail to accomplish their end?" This question, however, is easier asked than answered. Depending on one's point of view, it could be answered either affirmatively or negatively. Granting that the Articles were of a certain temporary advantage to all, it is sufficient for our purpose to note that the Articles of Confederation were in time displaced, and, more important, to consider the reasons for their displacement.

To render possible the smooth functioning of even the loose

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8 Ibid., 244.

Confederacy intended by the Articles, this instrument would have needed substantial changes. The inherent weaknesses of the Articles of Confederation, coupled with the conditions of the period, worked the complete undoing of the Articles. European powers were loathe to deal with a Congress that had no coercive power over the individual states. They could see no future, for example, in granting financial aid to a group that was without power to enforce any provisions for repayment. With regard to the debts already contracted, Congress could do nothing but recommend that each state pay its share. As a rule, it takes more than the power of suggestion to make a man part with his money and the Revolutionary Colonists were no exception. The debts remained unpaid, and the credit of the United States abroad would hardly have been sufficient to supply tobacco for the members of Congress.

Added to the weakness of the American position in Europe, the financial situation at home was equally infirm. Congress had no satisfactory means of raising money and was entirely dependent on state requisitions. Robert Morris summed up the condition when he wrote:

Imagine the situation of a man who is to direct the finances of a country almost without revenue...surrounded by creditors whose distresses, while they increase their clamors, render it more difficult to appease them; an army ready to disband or mutiny; a government whose sole

authority consists in the power of framing recommendations.<sup>9</sup>

It was impossible now for the harried superintendent of finance to float more paper money. The value of Continental currency had so depreciated, that as early as 1781, \$1000 would bring but one dollar of hard money. To make the outlook still darker, there seemed to be no immediate hope of recovery. It was useless to think of recuperation through beneficial commercial treaties, since Congress could give no assurance that the states would abide by them. In fact, even the most beneficial treaty would be fighting heavy odds, when forced to gain thirteen separate approvals. A case in point was the peace treaty with England, which some states had not even attempted to obey. John Jay could rant and rave till weak with exhaustion that,

when a treaty is constitutionally made and ratified and published by Congress, it immediately becomes binding on the whole nation, and superadded to the laws of the land without the intervention, consent or fiat of state legislature...<sup>10</sup>

But states that could not be forced or coerced in any way would hold nothing sacred, and John Jay's words would never change matters.

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<sup>9</sup> Wharton, "Correspondence of the American Revolution," as quoted in A.C. McLaughlin, A Constitutional History of the United States, D. Appleton, New York, 1935, 145.

<sup>10</sup> "Secrets Journals of the Acts and Proceedings of Congress," as quoted in The Confederation and the Constitution, A.C. McLaughlin, Harpers, New York, 1905, 55.

With the finance of the country so shaky, bickering and disunion between the states was accentuated even to the point where inter-state war could well be feared. Where there was profit to be reaped, the primordial urge of the states to reap it was exceedingly strong, and at such time ties of common suffering and common aims went by the boards. States with commercial advantages were quite willing to make their sister states feel the weight of these advantages. James Madison aptly described this situation when he said that the states,

...having no convenient ports for foreign commerce were subject to be taxed by their neighbors, through whose ports their commerce was carried on. New Jersey, placed between Philadelphia and New York was likened to a cask tapped at both ends; North Carolina, between Virginia and South Carolina, to a patient bleeding at both arms.<sup>11</sup>

Alarming too was a growing sense of lawlessness and irresponsibility among the people. Rioting and violence were becoming more frequent, a natural outgrowth perhaps of a successful revolt, but, none the less, signs of certain ruin for the new nation, were they allowed uninhibited growth. Characteristic of this tendency was the revolt led by Daniel Shays in 1786. A captain in the Revolutionary Army, Daniel Shays led a group of debt ridden and disgruntled farmers in an

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<sup>11</sup> Max Farrand, The Framing of the Constitution of the United States, Yale University Press, New Haven, 1913, 7.

attempt to overthrow the government of Massachusetts. The revolt was squarely met and soon withered away. Futile and inept as this revolt was in itself, it was not without effect upon the country at large. Men who would have lost greatly, if anarchy should rule, were thoroughly alarmed. General Knox voiced this alarm in a letter to Washington which treated of this insurgent spirit:

Their creed is that the property of the United States has been protected from the confiscation of Britain by the joint exertions of all, and therefore ought to be the common property of all; and he that attempts to oppose this creed is an enemy to equity and justice, and ought to be swept from off the face of the earth... They are determined to annihilate all debts, public and private and have agrarian laws...<sup>12</sup>

This sentiment of Knox was that of the outstanding men of the nation. To men like Washington, Hamilton and Madison the Articles of Confederation stood in need of substantial alteration. They had been tried and found wanting. The sun of radical views, the views that fostered the Revolution and inspired the Declaration of Independence, was beginning to set. Now, it was felt, the time had come to make a change. Accordingly, in 1787, a Convention whose membership included some of the outstanding men of the country, met at Philadelphia.

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<sup>12</sup> Letter of Henry Knox to George Washington, October 23, 1786, as quoted in R.V. Harlow, The Growth of the United States, Henry Holt and Company, New York, 1943, I 225-226.



Edward Randolph, Governor of Virginia, in an opening address voiced the spirit which was common to all the delegates, albeit in varying degrees. "The Confederation," he said, "was made in the infancy of the science of constitutions..." People had been sufficiently naive to think that the power of requisitioning funds from the states would furnish Congress with the ~~where~~withal to conduct a government. They had not known how willing and even eager the states would be to cut at one another's throats to further sectional and local commercial interests. They had no way of foreseeing that the Articles of Confederation would make it possible for a spirit of anarchy and revolt to spread abroad in the land and that these same Articles would make it impossible for the country ever to cancel out its enormous foreign debt. What premonition had they of the poor faith treaties would receive from the different states? Actually the Articles of Confederation were ratified at a time "when nothing better could have been conceded by the states jealous of their sovereignty." But since the days of their inception, Randolph observed, hard experience had taught these lessons to the people of America. The Articles, they must now understand, really afforded very little protection against foreign aggression, since Congress was unable either to prevent or conduct a war. If a state chose to violate a treaty, or some precept of international law, what was Congress to do? Should a quarrel break out among the states, the Congress was impotent to

effect any reconciliation, nor could it even attempt intervention in a state where the citizens were in revolt against the established government. In the face of injurious foreign commercial regulations, Congress had no powers other than those of an oratorical cast which American foreign ministers might chance to possess. And by nature, the Articles seemed incapable, Randolph thought, of ever bringing any improvement in the lamentable condition of national affairs, for:

From the manner in which it has been ratified (i.e., The Articles of Confederation) in many of the states, it cannot be claimed to be paramount to the state constitutions; so that there is a prospect of anarchy from the inherent laxity of the government. As the remedy, the government to be established must have for its basis the republican principle.<sup>13</sup>

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13 George Bancroft, History of the Constitution of the United States, Appleton and Company, New York 1885, II, 10.

## CHAPTER II

### THE CONSTITUTION

With these words of Randolph serving as a summary of what has gone before, we may undertake a study of the Constitution of the United States. Naturally, since the main topic of our discussion is the political theory of John C. Calhoun, our consideration of the Constitution will be limited by this end. We shall search the Constitution, trying all the while to discover just what it contained that made it possible for Calhoun to conceive and bring to final parturition his theory on the Constitution. Just as we could not properly understand the Constitution without some knowledge of what preceded it, so we would find Calhoun difficult to comprehend, unless we first gave some attention to the Constitution.

There is, I believe, a good deal of truth in the statement of Doctor Von Holst that,

Calhoun and his disciples were not the authors of nullification and secession. That question is as old as the constitution itself, and has always been a living one, even when it has not been one of life and death. Its roots lay in the actual circumstances of the time, and the constitution was the living expression of these actual circumstances.<sup>1</sup>

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<sup>1</sup> Von Holst, History of the United States, Chicago, I, 79.

What we have already considered in regard to the Articles of Confederation, gives added acceptability to Von Holst's statement. These Articles were the product of a radical philosophy of government, inspired by a keen regard for the rights and sovereignty of the individual states. They were an instrument designed to secure the states against any repetition of the far away bureaucracy whose power had so recently been destroyed. By the time of the Constitutional Convention no great change had come in these ideas. True, the Articles had certain glaring weaknesses, weaknesses, however, that were generally believed not beyond remedy; and so the Convention of 1787 was called, for the purpose of drawing up amendments to the Articles of Confederation. Almost no one within the Convention had the least inkling of what the final result of the Convention would be; certainly few, if any, outside it could even have dreamed what would transpire at Philadelphia from May to September, 1787.

Writing as we are in this day of the federal government's omnipotence, it is a frightful laboring of the obvious to remark that a group at the Convention felt that the Articles of Confederation were beyond repair. To them, salvation lay in the fashioning of a new instrument. Minds like those of Hamilton, Washington, Madison or Wilson had alway been, or had grown in time, quite out of harmony with the political opinions held by

the common run of men. They had a thorough going mistrust of a democracy that could breed the revolt of Daniel Shays. If the country was to avoid anarchy and ruin, they would have to exceed the limits of the power granted to them. The people had sent them, it was true, for the purpose of amending the Articles of Confederation, but, "The people," as Elbridge Gerry of Massachusetts declared, "do not want virtue, but are the dupes of pretended patriots."<sup>2</sup>

Thus we meet in the Convention an element strongly in favor of disregarding instructions received concerning the nature of the Convention. That the delegates favoring a radical change in the government were well aware of the delicacy of their position, there can be no doubt. In this regard, it is significant that all the members of the Convention were bound to strict secrecy concerning the proceedings of the Convention, in order, as Von Holst says,

...that the questions in controversy might not be dragged immediatly before the forum of an excited and angry people and all prospect of an understanding thus destroyed from the very beginning.<sup>3</sup>

By the untimely wagging of some dissenting tongue, the whole

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2 Madison's Papers, edited by Gilpin, as quoted in Bancroft, II, 17.

3 Von Holst, I, 51.

Convention could have received a death blow. The problem facing these men was tremendous. They could be well nigh certain that failure at this time would mean the loss of all that had been bought so dearly in the Revolution. The words of Gouverneur Morris, spoken in perhaps the darkest hour of the Convention, were only too true: "This country must be united. If persuasion does not unite it, the sword will."<sup>4</sup> Since Congress had been at so great a disadvantage in its relations with the states, it seemed advisable to establish a government which would deal directly with the people.<sup>5</sup> But how could they do this in a manner which the people would understand? Never would the Colonists consent to see their states made tools of a national government. Any new instrument of government must be made to strike a balance of power between state and national government.

The exact manner in which this balance was to be had provided a subject of fierce debate in the Convention. As we have seen, all were in agreement that some change was needed, but as to the extent of this change, there was a very marked disagreement. Some felt that with certain amendments the Articles of Confederation could be retained, thus leaving the balance of

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<sup>4</sup> Madison's Writings, (Hunt's edition,) as quoted in A.C. McLaughlin's, The Confederation and the Constitution, 237.

<sup>5</sup> J. Fiske, The Critical Period of American History, Houghton and Mifflin, Boston, 1897, 233.

power with the states. Still others believed that no quarter should be shown the Articles. In their stead must be erected a government decidedly national in its tone, with powers in excess of those wielded by the states. The ideas of those who favored state power were embodied in the New Jersey, or small state plan, while those who favored some kind of national regime adhered to the Virginia, or large state plan. It is not to our purpose here to treat either one of these plans at any length. It will be well enough merely to review them in broad outline, as a means of better understanding the Constitution as it finally issued from the hands of the Fathers.

The plan, then, presented by William Patterson of New Jersey was intended to revivify the Articles of Confederation. It would provide Congress with the powers without which, as experience had proved, that body was utterly helpless. Congress might now

pass acts for raising a revenue by levying a duty or duties on all goods or merchandise of foreign growth or manufacture, imported into any part of the United States... to be applied to such federal purposes as they shall deem proper and expedient, and make rules and regulations for the collection thereof.<sup>6</sup>

Congress was also granted the power, to "pass Acts for the regulation of trade and commerce as well with foreign nations

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<sup>6</sup> Formation of the Union, (Documents,) 967.

as with each other."7 Congress retained its former authorization to make "requisitions" upon the states, which were to be made in proportion not only to the whole number of white inhabitants but also to

other free citizens and inhabitants of every age sex and condition including those bound to servitude for a term of years & three fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes; that if such requisitions be not complied with, in the time specified therein, to direct the collection thereof in the noncomplying states and for that purpose to devise and pass acts directing and authorizing the same...8

As a further reinforcement for the Articles, a federal executive and judiciary were to be established. Recognizing the need for some check upon the whim of individual states, if any union at all was to survive, the New Jersey Plan, after declaring congressional acts supreme and binding on the states, was willing to level recalcitrant states by force:

...if any State, or any body of men in any State shall oppose or prevent the carrying into execution such acts or treaties, the federal executive shall be authorized to call forth the power of the Confederated States to enforce and compel an obedience to such Acts or an observance of such treaties.9

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7 Ibid., 967.

8 Ibid., 968.

9 Ibid., 969.



The Virginia or large state plan presented by William Randolph, outlined changes more far reaching in their scope. At the outset this plan declared its purpose to be that of enabling the Articles of Confederation "to accomplish the objects proposed by their institution; namely, common defense, security of liberty and general welfare."<sup>10</sup> A bicameral legislature was proposed, in which suffrage "ought to be proportioned to the quotas of contribution, or to the number of free inhabitants, as the one or the other rule may seem best in different cases."<sup>11</sup> This national legislature retained all Congressional power given under the Articles of Confederation. In addition, it was supposed to "legislate in all cases to which the separate states are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation."<sup>12</sup>

Another important concession to the national legislature was the ability to "negative all laws passed by the several states contravening in the opinion of the National Legislature the articles of the Union."<sup>13</sup> A national executive was to be set up who was, "besides a general authority to execute

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10 Ibid., 953.

11 Ibid., 953.

12 Ibid., 954.

13 Ibid., 954.

National laws, ...to enjoy the Executive rights vested in Congress by the Confederation."<sup>14</sup> The institution of a national judiciary was yet another marked departure from the traditional Articles. Among other powers, this tribunal was to have jurisdiction in cases,

in which foreigners or citizens of other states applying to such jurisdiction may be interested, or which respect the collection of the National revenue; impeachments of any National officers, and questions which may involve the national peace and harmony.<sup>15</sup>

Mindful of the almost paralyzing debility of the Articles in retarding undue activity on the part of the states, the Virginia plan enabled Congress effectively to obstruct imperious state demands. To this end was directed the clause which demanded that "the Legislative, Executive and Judiciary powers within the several states ought to be bound by oath to support the articles of Union."<sup>16</sup> In the line of actual physical force, Congress might "call forth the force of the Union against any member of the Union failing to fulfill its duty under the Articles thereof."<sup>17</sup>

Obviously, this system of Randolph contemplated something more than a confederation of the states. Were this plan to receive ratification the states might conceivably have some mis-

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<sup>14</sup> Ibid., 954.

<sup>15</sup> Ibid., 954.

<sup>16</sup> Ibid., 955.

<sup>17</sup> Ibid., 955.

givings over the continued existence of their "sovereignty, freedom and independence." The instrument that eventually was fashioned bore marks of both these plans. It was a patch work of compromise. In the closing pages of this chapter, we shall examine the document that actually did come into being after nearly four months of continued labor.

That we may understand the real character of our government, it will be well to consider the Constitution, as Madison says,

in relation to the foundation on which it is to be established; the sources from which its ordinary powers are to be drawn; to the operation of those powers, to the extent of them; and to the authority by which future changes in the government are to be introduced.<sup>18</sup>

And if we consider the Constitution in relation to the foundation upon which it is established, we find that our Constitution is federal rather than national.<sup>19</sup> The truth of this statement is evident from the mode of ratification. For ratification came not from a majority of individuals composing one entire nation, nor even from a majority of the states, but ratification took place by the unanimous consent of those states which were to become parties to the Constitution. The

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<sup>18</sup> C.A. Beard, The Enduring Federalist, New York, 1948, 165.

<sup>19</sup> "Federal" is here used in the sense of a confederation, and should not be confused with our present day meaning, viz., "federal government."

people of the United States were not considered as one nation in which the majority would control the minority. Rather, "each state in ratifying the Constitution, is considered as a sovereign body, independent of all others, and only to be bound by its own voluntary act."<sup>20</sup>

What, we ask, are the sources from which the ordinary powers of our Constitution are drawn? The lower house of Congress has its powers from the people, who are represented in this body, "in the same proportion, and on the same principle as they are in the legislatures of a particular state."<sup>21</sup> These are the tokens of a national rather than a federal government. The upper house, on the other hand, has its members elected by the state legislatures and thus has its power from the individual states.<sup>22</sup> In this respect, then, our government is federal, not national. The executive power of our government is very complex in nature, possessing both federal and national features. In the first instance, the President is elected by the states in their political characters, through a system in which, "the votes allotted to them are in compound ratio, which considers them partly as distinct and coequal societies, partly as unequal members of the same society." In case of a disputed election, the choice

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20 Ibid., 165.

21 Ibid., 166.

22 By amendment, Senators are now elected by the people.

of President "is to be made by that branch of the legislature which consists of the national representatives;" but for the performance of this particular legislative function, "they are to be thrown into the form of individual delegations, from so many distinct and coequal bodies politic." Thus we may see that the executive branch of our government has a very mixed character, "presenting at least as many federal as national features."<sup>23</sup>

In operation our government is national more than federal, since it is designed to act upon citizens in their individual capacities. But in some operations this national designation is not entirely apt, for when a dispute arises between the states, these states must be looked on in their collective and political capacities. This departure from the national character is unavoidable in any plan, and,

...the operation of the government on the people, in their individual capacities, in its ordinary and most essential proceedings may on the whole, designate it, in this relation a national government.<sup>24</sup>

This national stamp, however, fades when we consider the extent of the governmental powers. The idea of a national government usually connotes an unlimited supremacy, keeping, of course, within the bounds of legal action. There is, however,

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<sup>23</sup> Ibid., 166.

<sup>24</sup> Ibid., 166.

no unlimited supremacy for our government, which has only certain enumerated powers, while the individual states take all powers not so enumerated. The fact that disputes relating to the boundary of a certain power are to be settled by a tribunal established under the national government, does not alter the nature of the case. Our government, then, in regard to the extent of its powers is a federal government.

The amending clause in our Constitution reveals both national and federal qualities, though perhaps neither of these predominates. If we reflect that the consent of more than a majority of the states, (not the citizens) is needed to amend the instrument of government, we must acknowledge a federal government; on the other hand, when we see that less than a unanimous state acceptance is sufficient for emendation, we are forced to admit a national element.

We must conclude, therefore, that our government partakes now of a national character, now of a federalist character and is actually a combination of both these types of government. For we have seen, that at its foundation, as Madison says, our government

...is federal not national; in the sources from which the ordinary powers of the government are drawn, it is partly federal and partly national; in the operation of these powers, it is national, not federal; in the extent of them, again, it is federal, not national; and finally,

in the authoritative mode of introducing amendments, it is neither wholly federal nor wholly national.<sup>25</sup>

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<sup>25</sup> Ibid., 167-168.

### CHAPTER III

#### BACKGROUND OF CALHOUN'S THEORY

So far we have been laboring with the purpose of fixing a strong foundation for our work. Now that we have, I think, accomplished a sturdy ground work for our ideas, we may reasonably begin, to retain the metaphor, our super structure.

The doctrine of Calhoun, as we have said, is inextricably bound up with the Constitution of the United States. No one, we think, would be able to grasp the ideas of the Great Nullifier without knowing the Constitutional story and the surroundings in which that story was laid.

Just as heretofore we have considered the more remote origins of Nullification, so now, we will look upon events and conditions that led John C. Calhoun to follow a course that would make him the foremost teacher of political theory in southern politics. John Calhoun's earliest political love was the Union; a far cry from his later passion for the rights of the states. As a young Congressman, he belonged heart and soul to the War Hawks, and as Chairman of the Committee on Foreign Relations he actually introduced the bill for the declaration of War in 1812. During the war his leadership in Congress was so outstanding, as to cause one of his



contemporaries to refer to him as the "young Hercules" who had carried the War on his shoulders.

The threat to union latent in the Hartford Convention caused Calhoun genuine alarm. A disunited America could not, he felt, hope to expand and so fulfill its high destiny among the nations. The means which seemed best suited to check this spirit of narrow sectionalism were to be found in legislation of a national character. This was the legislation which, afterwards, Henry Clay was to christen the "American System."

Calhoun ardently espoused a bill chartering the Second Bank of the United States and proposed using the million and a half dollars, which the charter was to cost the banks, for internal improvements. And, most ironical of all, in view of subsequent events, at a critical point in the discussion on the Tariff of 1816, Calhoun was summoned to speak on its behalf. He saw the Tariff as a means of giving strength to the Union, and so spoke forcefully in its favor.

Quite in keeping with his position as high-priest of nationalism, were his views on the Constitution. Pointing with perfect consistency to his record, he could well say, "I am no advocate for refined arguments on the Constitution. This instrument was not intended as an instrument for the logician to exercise his ingenuity on. It ought to be

construed with plain good common sense."<sup>1</sup> Even as late as 1823 he was to write that "the Supreme Court of the Union performs the highest functions under our system. It is the mediator between sovereigns, the State and General Governments, and (draws) the actual line which separates their authority."<sup>2</sup>

To substantiate his views on the advisability of a strong national government, he invoked the authority of no less a personage than Alexander Hamilton, whose name had become synonymous with nationalism. In a letter to Hamilton's son, he wrote that he had,

...a clear conviction, after much reflection and an entire knowledge and familiarity with the history of our country and the working of our government that his (the elder Hamilton's) policy as developed by the measures of Washington's administration, is the only policy for this country.<sup>3</sup>

As a firm believer in the Union, he could see no particular reason for alarm, when an attempt was made to exclude slavery from Missouri. He was at pains to warn his southern colleagues, that they,

...ought not to assent easily to the be-

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1 J.C. Calhoun, Works, R.K. Cralle, (editor), 6 volumes, New York, 1854, II, 192.

2 Calhoun to Virgil Maxcy, July 11, 1823, Markoe Papers, as quoted in The Journal of Southern History, "Calhoun's Transition from Nationalism," February, 1948, 40.

3 James A. Hamilton, "Reminiscences," as quoted in The Journal of Southern History, February, 1948, 40.

lief that there is a conspiracy either against our property or just weight in the Union....Nothing would lead more directly to dis-union with all its horrors....If we, from such a belief, systematically oppose the North, they must from necessity resort to similar opposition to us.<sup>4</sup>

Expounding, as he did, such impartial and unpartisan views, it was little wonder that Calhoun should find a place in the heart of John Quincy Adams. But still, this was something of an accomplishment, for there were many who honestly doubted whether the frigid New Englander really did possess that vital organ. Adams wrote of Calhoun, that he was "above all sectional and factious prejudices more than any other statesman of this union with whom I have ever acted."<sup>5</sup>

In an effort to reconcile this almost rampant nationalism with Calhoun's later utterances, modern psychology would probably consign the Carolinian to a dual personality and let the matter go. Convenient as this procedure might at times prove, we feel another explanation would bring us nearer the truth. The fact was that the sands of public opinion in South Carolina were beginning to shift. In the early days of the Constitution, South Carolina, like Calhoun himself, had been accustomed to burn incense at the altar of nationalism. Her

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<sup>4</sup> Calhoun to Charles Tait, October 26, 1820, as quoted in The Journal of Southern History, February, 1948, 40.

<sup>5</sup> H. Von Holst, Calhoun, Houghton & Mifflin, 1899, 54.

sons had been outstanding in the crusade to "form a more perfect union." But as time passed, conditions made it expedient for South Carolina to forsake the past with its traditions and look to the security of her position in the present. By 1825 it was apparent to all that South Carolina was undergoing a financial decline. Calhoun, if he wished to prevent a similar decline in his own political career, was faced with the necessity of forsaking the past and lending his talent and energy to the task of arresting the decline of his native state.

There are a number of facts that must come under consideration when we delve into the cause of the economic decay which had come to pass in South Carolina at this time. To assign preeminence to one definite cause is to run serious risk of falling into error, but even if we could arrive at a certain conclusion on this matter, our purpose here, at any rate, would derive little benefit. It will be sufficient for us to examine the palpable results of this decline and then consider the factors which probably brought it about.

In 1825, George McDuffie, a faithful Calhoun man, attempted to fix the blame for the ruin that had befallen South Carolina upon the cheap public lands that were being opened in the West. South Carolina's white population was showing a rate of increase far below that of the rest of the

United States. For the period from 1800 to 1830, the state's white population had an average increase of about one fourth that experienced in the rest of the country for this period.<sup>6</sup> In McDuffie's eyes, though he could at that time have had no knowledge of the actual figures, the West was a strong lure which few South Carolinians seemed able to resist. He pictured the results of the government's land policy in strong terms:

In no part of Europe, he said, will you see the same indications of decay (as in the South.) Deserted villages-houses falling into ruins-impoverished lands thrown out of cultivation. Sir, I believe, that if the public lands had never been sold, the aggregate amount of the national wealth would have been greater at the moment....But, while the Government continues, as it now does, to give them away, they will draw the population of the older States, and will still further increase the effect which is already distressingly felt, and which must go to diminish the value of all those States possess.<sup>7</sup>

To push back McDuffie's argument one step farther, we might ask what it was that gave land in the West its powerful attraction for the people of South Carolina. The constant planting of cotton year after year, with no thought of soil conservation, had robbed the soil of its fertility. When new,

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<sup>6</sup> F. Bancroft, Calhoun and the South Carolina Nullification Movement, The Johns Hopkins Press, Baltimore, 1928, 21.

<sup>7</sup> Congressional Debates, 1824-1825, as quoted in Bancroft, 22.

fertile land could be had in the West almost for the taking, few were content to stay in South Carolina and barely eke out an existence. Besides the depopulation of South Carolina, another evil attended the westward trek to the rich basin of the Mississippi River. The immense productivity of this new land served to put more cotton on the market than ever before. And as this vast increase in the cotton supply was far in excess of the demand for that product, the result was that the price of cotton dropped sharply. A reference to the United State's Treasurer's Report for the years 1855-1856 serves to illustrate this point.<sup>9</sup>

Though perhaps few Southerners would have been disposed to admit it, slavery too played a role in South Carolina's economic tragedy. Because of slavery, South Carolina and all the slave states, were shackled to an agrarian economy. As long as the institution of slavery persisted, the South would

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9 In 1821 the production of cotton in the United States was 124,900,000 pounds and the average price was sixteen cents; in 1832 the production was 322,200,000 pounds and the average price was ten cents. The production had more than doubled, the price had fallen considerably less than one half. In 1823 the production was 173,700,000 pounds, and the average price was twelve cents; in the following year the production was 142,000,000 pounds, and the average price was sixteen cents. (Report of the Secretary of the Treasury, 1855-1856, as quoted in David F. Houston, The Story of Nullification in South Carolina, Longmans, Green and Company, New York, 1896, 44.

never attempt to manufacture on a large scale. This would leave the South always at the mercy of northern manufacturing interests. Admittedly, the South was by nature much less suitable for manufacturing than the North, but the existence of slavery forced the South to put off any sizeable industrial development till long after the Civil War. This trend to industrialization was bound to come, and slavery, which but postponed its arrival, greatly weakened the South. It is noteworthy that even as early as the third decade of the nineteenth century, there were Southerners who understood that the South, to keep its position of equality in the Union, must turn to manufacturing, but in the South, "Cotton was King," and slavery had enthroned it.<sup>10</sup>

In an address to Congress, George McDuffie threatened that, if South Carolina was forced to the factory experiment, her slave labor would soon enable these factories to offer effective competition to northern manufacturers. Within a few years, however, he was of another mind. He "had examined the subject more closely, and had discovered that slavery would prevent an experiment from being made."<sup>11</sup>

But the people of South Carolina were not willing to

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10 C.S. Boucher, The Nullification Controversy in South Carolina, University of Chicago Press, Chicago, 1916, 21.

11 Houston, 41.

attribute their financial distress to the above mentioned conditions. Almost to a man, they considered the Tariff as the implacable foe of their material well being.<sup>12</sup> A memorial presented to the United States Senate by the people of Charleston shows how bitter was the anti-tariff felling:

Against a system...designed to elevate one interest in society to an undue influence and importance; against a system intended to benefit one description of citizens at the expense of every other class; against a system calculated to aggrandize and enrich some states to the injury of others; against a system, under every aspect, partial unequal and unjust, we most solemnly protest.<sup>13</sup>

That the antipathy of South Carolina to the Tariff was in some measure just, there can be no doubt. For by the year 1830, the value attached to the export of the three staple goods of the South, cotton, rice and tobacco, was far in excess of all other exports. Since the South had almost no manufacturing interests, she could not hope to benefit from a Tariff whose objective was to furnish protection to the manufacturing interests. The Tariff, then, was designed to close the American market to European manufactured articles, but in so doing, it also closed the European market to southern staple goods. This left the South dependent on the North for her market, a market totally inadequate to absorb so vast an influx

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12 Many who would have no part with Calhoun and his theory of Nullification were still firm in their conviction that the Tariff was responsible for their misery.

13 H.C. Hockett, Constitutional History, MacMillan, 1939, 32.



of produce.<sup>14</sup> Previous to the Tariff, the South had received European manufactured goods in exchange for her staple products but a high Tariff made this exchange impossible and so the South was forced to purchase the more costly products of northern industry.<sup>15</sup> Thus, "one cannot wonder at southern antagonism to a protective system under which planters did the exporting, paid the import duty, and bought goods of northern make at a price artificially maintained by the Tariff."<sup>16</sup>

Yet, genuine as this grievance was, there were, as we have seen, other influences equally as destructive as this one. The general tendency, however, was to disregard all else but the Tariff, and upon the Tariff alone was put the blame for all the misfortunes that had befallen South Carolina. Calmer heads, while willing to admit the unfairness of the Tariff, were able to see the unreality of laying all evils at its door. Hugh S. Legare, a prominent member of the South Carolina Legislature voiced this opinion, when he said, that "...it is owing to this policy (of protection) that the Government had to bear the blame of whatever evils befall the people from natural or

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<sup>14</sup> J.G. VanDeusen, Economic Bases of Disunion in South Carolina Columbia University Press, New York, 1928, 35.

<sup>15</sup> Ibid., 32.

<sup>16</sup> McLaughlin, Constitutional History, 432.

accidental causes...." In their eagerness to lay hold of a scapegoat, the first thought of the people was the Government. It was the Government's fault that southern costal lands were becoming barren and unproductive, that the price of cotton and other staple goods had fallen so sharply, that slave labor was not so profitable as it had been, and it was useless to attempt any alteration of southern public opinion on this point. But Legare, in spite of the public mind, was forced to admit, "... that there is no sort of connection (or an exceedingly slight one) between these unquestionable facts and the operation of the tariff law...."17

As frequently happens in human affairs, more moderate opinions are "put by the boards," and those of a more violent nature adhered to. So it was in South Carolina. Calhoun's constituents were drifting towards disunion and he must follow after them or be lost politically. In their hatred for the Tariff, they would attack it as unconsitiutional, and Calhoun, taking up this attack, hesitatingly at first, in the end would become its greates leader and hero.

This change in attitude, which South Carolina was undergoing, was to be rendered more acceptable to Calhoun by reason of a turn in the fortunes of his own political career. If

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17 Frederick Bancroft, 24.

any man was fired with ambition, it was John C. Calhoun. This ambition which knew but one satisfaction, the Presidency of the United States, burned brightest in 1824, but for the next twenty years it was to lie smouldering within him, never completely extinguished. Calhoun is often misrepresented in his desire for the Presidency. By many he has been styled a "poor loser." They say his failure to become Chief-Executive in 1824 filled him with a maniacal passion to disrupt the Union. Had Calhoun gained the White House, perhaps he would never have suffered his nationalistic views to be altered, but this is no reason for saying that he changed them in defeat. The fact that his chances were less bright after 1824 only made him more prone to undertake the leadership of his constituents in their attack on the constitutionality of the Tariff. Deprived, as he was, for the moment of all chance for national honor, it was but natural that he turn to his home state and consider the situation. There he found that people were beginning to calculate the value of the Union, as a matter of course, Calhoun, their representative, was drawn into calculation with them. But to say that all of Calhoun's waking hours after his presidential frustration in 1824 were spent in throwing acid on the chains of union, is a rank injustice. If Calhoun had been fully determined to destroy the Union after 1824, he might have made an open avowal of his anti-national views, thus securing the solid backing of his home state. Instead, he

concealed his authorship of the South Carolina Exposition till 1831, three years after it was written, and this in order to keep himself available should the national political scene again become favorable for him.

Another factor that must have increased Calhoun's sense of disappointment and made his loss of the Presidency even more bitter, was his break with Andrew Jackson. Calhoun had joined Jackson's party after the election of 1824 in hope that he might become the heir apparent of the Jackson dynasty. This was an unnatural union, one that could not long endure, for Calhoun and Andrew Jackson were in all things save their common humanity, totally unlike. Jackson's crude, domineering habits could never have charmed the cultured Calhoun.

As if this natural disinclination was not enough to make a breach between the two, human agents took care that the ties of this expedient friendship should be burst asunder. Followers of Martin Van Buren were determined that he and not Calhoun should sit at Jackson's right hand in the kingdom that was coming. Calhoun himself had incurred the presidential wrath by refusing the amenities to Peggy O'Neal Eaton, but this tempest subsided in time.

There was a sin, however, for which there was no forgiveness, and Calhoun had committed it. For years, since the "Seminole Affair" had taken place, Jackson believed that

Calhoun, as Secretary of War in Adams' administration, saved him from court martial. When Jackson had created an international crisis by invading Florida, cabinet members began crying for his blood, and Jackson thought Calhoun had shielded him from destruction at this time. For this reason he had come to favor the young man from South Carolina. But the time came when Calhoun seemed definitely to be outstripping Van Buren in the contest for presidential favor. It was at that moment that the truth of the Seminole incident was made known to Jackson. It was revealed that Calhoun had cried longer and louder than all the rest for the blood of Jackson. Because deceit shut up the bowels of the old man's mercy more tightly than anything else, and because Jackson felt that Calhoun had acted deceitfully in his regard, for these reasons, then, there was no longer a mansion for Calhoun in the kingdom of Jackson.

With his fall from grace, Calhoun had either to return to South Carolina and enlist in the cause of state's rights, or retire to the life of a southern planter. The history of the United States for the next thirty years gives ample proof that Calhoun must have felt little desire to be with the "Old Folks at Home." The thought of Jackson with his authoritarian ways, and the unscrupulous politicians who sat in his kitchen, must have added zest to the task which Calhoun undertook at this time. Thus, by 1831 Calhoun's presidential hopes were blotted out. If he was ever to realize his ambition, it would be with

the backing of a united Southland. To gain this unity he would lead the South in her fight against the North; he would build up a constitutional theory that would enable the South to resist the northern aggression. Just what this theory was with which he would oppose the North and which would produce forensic battles that rivaled Gettysburg in their fierceness, will form the next division of our study.

## CHAPTER IV

### CALHOUN'S POLITICAL THEORIES

In reviewing John Calhoun's ideas on the Constitution up to the year 1832, it will be well, first of all, to say something of his approach to the whole matter. His approach was a medicinal one. By this I would convey that Calhoun felt the United States Government was diseased, and in applying a remedy to this disease, he desired to use the instrument at hand, the Constitution of the United States, for he felt that the disease had been brought on by a misuse of the instrument. He would effect a return to a balanced use, and so restore the diseased government to health. Calhoun's strength lay in showing that his was the orthodox teaching demanded by the Constitution. Those who opposed him, he contended, were not in harmony with the Constitution. If his opponents were allowed to prevail, the result would ruin the Union. What Calhoun himself proposed was really a means, he said, of insuring the continuance of this Union. "To preserve our Union on the fair basis of equality, on which alone it can stand, and to transmit the blessings of liberty to the remotest posterity is the first object of all my exertions."<sup>1</sup>

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<sup>1</sup> H. Von Holst, John C. Calhoun, 168.

That this was a wise course there can be no doubt. Had he preached his doctrine as something revolutionary, it is quite conceivable that Andrew Jackson, in fulfillment of his threat, would have caused Calhoun to hang as a rebel. More than likely, however, Jackson would have been preceded in this action, for the people themselves would have disposed of Calhoun, had he posed as an enemy of the Constitution. The people had long since lost all aversion to the Constitution; they no longer believed that it was a make shift affair, "a patchwork of compromise." The Fathers of the Constitution were considered by them "as an isolated historical phenomenon of purity of motive and political wisdom."<sup>2</sup> In American minds the Constitution had taken on a sacredness that only the Bible could rival. "Whoever desired their favor dared not touch the idol of theirs, and could scarcely ignore it unpunished."<sup>3</sup>

Calhoun, then, respecting this popular predilection, was careful to paint a picture that gave prominence to the Constitution. The immediate occasion of Calhoun's struggle was the Tariff, which he portrayed as an instrument of oppression. In defiance of the Constitution, it did harm to the weak in the interests of the strong. The North, Calhoun charged, was

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<sup>2</sup> Von Holst, Constitutional History, 70.

<sup>3</sup> Ibid., 75.



using the Tariff to strip the South of the blessings bestowed upon her by nature and was converting these blessings to her own advantage.

If the people allowed this desecration of the Constitution to continue, Calhoun prophesied the destruction of all their political liberty. The very essence of liberty demanded that those who exercised power be made to feel the burden of their responsibility. It was unthinkable to him that the Constitution had provided no safeguard against this oppression of the weak by the strong. For, "no government based on the naked principle that the majority ought to govern, however true the maxim in its proper sense, and under proper restriction, can preserve its liberty even for a single generation."<sup>4</sup> To show just what safeguard the Constitution had provided, was the task to which Calhoun, with perhaps the keenest and subtlest mind since Alexander Hamilton, devoted himself. Calhoun was a master logician and with his superb power of argumentation, by beginning with a few seemingly innocuous assumptions, he was able to construct a theory of government which few of his time could even comprehend, much less refute.

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<sup>4</sup> Calhoun, Works, VI, 33.

Because Calhoun was building his edifice—we had almost said his house of cards—upon a Constitutional basis—albeit a basis formed by his own particular conception of that Constitution—we must first turn to Calhoun's ideas on the origin of the Constitution.<sup>5</sup> As a prelude to his views on the Constitution's origin, Calhoun deemed it of the utmost importance to determine "who are the real authors of the Constitution of the United States—whose power created it—whose voice clothed it with authority; and whose agent the government it formed really is."<sup>6</sup>

This question concerning the true authorship of the Constitution had fostered widespread confusion in the American political mind. No one, Calhoun averred, seems to be really certain who it was that made the Constitution. Calhoun traced much of this confusion to a lack of consistency in the use of two very important words. In general, Calhoun believed people had failed to make any qualifications when they said the

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- 5 It is not absolutely necessary to make this our first consideration. Calhoun's doctrines are set down in his works without particular attention to logical sequence. This was often unnecessary because of the purpose or audience for which a particular speech was intended. Here we will have to invent a sequence for the sake of clarity and order.
- 6 Calhoun, Works, 145.

Constitution was made by the "States," or when they said it was made by the "people." To Calhoun a state could mean either the government of the state, or its people, regarded as forming a separate and independent community. Also the people could denote "...either the American people taken collectively as forming one great community, or as the people of the several States, forming, as above stated, separate and independent communities."<sup>7</sup>

Upon the proper understanding of these words the whole force of Calhoun's argument hinges. For if by the word "people," we understand the American people taken collectively, and assert that they were responsible for the ratification of the Constitution, then Calhoun is finished. An individual state would have as much right to oppose the Tariff Laws of the United States Government, as a country has to undermine the authority of another country. He himself admits that, "viewing the American people collectively as a source of political power, the rights of States would be mere concessions-concessions from the common majority, and to be revoked by them with the same facility that they were granted."<sup>8</sup>

Calhoun, however, would never admit that such was the case. The Constitution was not, could not be said to have

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<sup>7</sup> Ibid., 147.

<sup>8</sup> Ibid., 148.

been empowered by a grant of the American people taken collectively. In fact, he said, "so far from the Constitution being the work of the American people collectively, no such politi-body now exists or ever did exist."<sup>9</sup> To Calhoun's mind, the people of the United States had never acted in a body, but always as members of distinct political communities. When under Britain, they were distinct colonies. In declaring themselves no longer bound to the Mother Country, they desired henceforward to be recognized by all men as free and independent states. Later, the Constitution was submitted for ratification to each individual state, and as each state accepted the new instrument, it thereby bound its own citizens. Hence he felt the conclusion inevitable that,

...the Constitution is the work of the people of the states considered as separate and independent political communities; that they are its authors-their power created it, their voice clothed it with authority; that the government formed is, in reality, their agent; and that the Union, of which the Constitution is the bond, is a union of states, and not of individuals.<sup>10</sup>

In Calhoun's system certain important results follow immediately upon this conclusion. He views the relation between the General Government and the people as being made possible by the action of the state. Without the ratification

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<sup>9</sup> Ibid., 147.

<sup>10</sup> Ibid., 148.

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<sup>9</sup> Ibid., 147.

<sup>10</sup> Ibid., 148.

of their state, the people of that state would never have come under the control of the General Government; as regards the General Government they would bear the same relation as do citizens of a foreign country. This means, Calhoun continued, that the act of ratification binds the state as a community and not the citizens as individuals. It was to Calhoun the most elementary logic to declare that, since the state was instrumental in putting its citizens under obligation to the General Government, it has also the right to declare to its citizens the extent of this obligation. This declaration by the state of the extent of its obligation to the General Government would, Calhoun concluded, be binding on the people.

This, then, was Calhoun's response to the important question concerning the ratification of the Constitution. We are now ready to make a closer examination of the system of government which Calhoun deemed the Constitution had authorized. Since, as we have seen, he held that individual states were not bound by the Constitution till they themselves wished it, Calhoun could rightfully describe the states as acting in their sovereign capacities, that is, they possessed the power of complete self determination and they exercised this power in ratifying the Constitution. By recalling the attitude taken by the various states in ratifying the Constitution, Calhoun asserted that the states had no

intention of relinquishing this power of self determination, their sovereignty. He denied that by their act of ratification the states united themselves into a single political body, which then became the possessor of the sovereignty formerly possessed by the states. For, "...from the beginning and in all the changes of political existence through which we have passed, the people of the United States have been united as forming political communities, and not as individuals."<sup>11</sup> Because the states acted separately in ratifying the Constitution, the product of this separate action is to Calhoun merely an agreement between the states. Their action as separate states in setting up a central government did not destroy their existence as separate sovereignties.

With admirable foresight, Calhoun perceived that some, while admitting his position on the retention of sovereignty by the states after ratification, would, never the less, maintain that the states actually delivered up a portion of this sovereignty to the new government. But to Calhoun such an opinion was utter nonsense, for he believed in an undivided sovereignty, and that

to separate sovereignty is to destroy it; sovereignty must be one, or it is not at all. There can be no state partly sovereign and partly non-sovereign; there can be no association composed of half sovereign states on the one hand and a half sovereign

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<sup>11</sup> Ibid., VI, 147.

government on the other. The vital principle of the state, its life and spirit, cannot be sundered; it must remain one and indivisible. All compromise is rejected, and the doctrine of the indivisibility of sovereignty is presented in its clearest and most striking light.<sup>12</sup>

In Calhoun's eyes, those who contended for a division of sovereignty were thoroughly deluded. They had failed to distinguish between the actual possession of sovereignty and the exercise of a grant of sovereign power. Were it true that a division of sovereignty had taken place, the states would be degraded "...from the high and sovereign condition which they have held under every form of their existence, to be mere subordinate and dependent corporations of the Government of their own creation."<sup>13</sup> Calhoun would readily admit that a sovereign may apportion his power to as many agents as he sees fit and with any limitations that he deems necessary, but for him "...to surrender any portion of his sovereignty to another is to annihilate the whole."<sup>14</sup>

That the General Government established by the Constitution has exercised certain powers, Calhoun never for a minute doubted. However, by reason of the indivisibility of

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<sup>12</sup> C.E. Merriam, The Political Philosophy of John C. Calhoun, Columbia University Press, New York, 1914, 331.

<sup>13</sup> Calhoun, Works, VI, 154.

<sup>14</sup> Ibid., II, 232.



sovereignty, to which Calhoun had given his placet, the General Government does not share in the sovereignty possessed by the states. Sovereignty resided in the states alone, but the Constitution, which the states ratified, bestows certain enumerated powers upon the General Government, and all powers not so granted are reserved to the states. What, then, is the relation between state and General Government in Calhoun's system? Broadly speaking, Calhoun thought it correct to conceive of the General Government as,

...the agent of the States, constituted to execute their joint will, as expressed in the constitution....It (the General Government) is as truly and properly a government as are the State governments themselves....Indeed according to our theory, governments are in their nature but trusts, and those appointed to administer them, trustees or agents to execute trust powers.<sup>15</sup>

Since the General Government is the agent of the States, Calhoun would not allow that the Government could exercise and maintain a power which any of the states might see fit to dispute. He denied the existence of any contract in human life, in which the agent has the right to enforce his contention against the veto of one of the contracting parties. In the case under dispute, the General Government is the joint agent of the twenty four sovereign states. In the light of the principle already asserted by Calhoun, nothing could be

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<sup>15</sup> Ibid., VI, 151.

clearer, than that the General Government must never be permitted to contest the possession of a power with the states. This would have been, in effect, to fly in the face of right reason. No, where there is contest over the exercise of a power between agent and principle, between the General Government and the States, Calhoun would have the Government submit the question to the decision of the states, and then, if the states see fit, they may grant the power in question to the General Government. Calhoun conceived this right which the states have to judge in a contest over power, as an essential attribute of sovereignty. If this right were denied the states, they would be deprived of sovereignty itself:

In fact, to divide power, and to give to one of the parties the exclusive right of judging of the portion allotted to each, is, in reality, not to divide at all; and to reserve such exclusive right to the General Government (it matters not by what department it is to be exercised,) is to convert it, in fact, into a great consolidated government with unlimited powers, and to divest the States, in reality, of all their rights.<sup>16</sup>

Calhoun was aware that some might be troubled by the apparent debilitation state sovereignty works upon the General Government. If the General Government must lay its claim to power before the judgment seat of the states, what

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<sup>16</sup> Ibid., VI, 46.

would become of the Union? Calhoun was quick to calm these timid souls and chided them for their lack of faith in the Constitution. The delicate system of checks and balances which is our Constitution has provided against this danger by means of the amending power.

Each state, by assenting to the Constitution ...has modified its original right as a sovereign, of making its individual consent necessary to any change in its political condition; and, by becoming a member of the Union, has placed this important power in the hands of three fourths of the States.<sup>17</sup>

Without this modification in state authority the above mentioned danger might well have assumed alarming proportions. But by reason of this modification, it was no longer possible for a single state effectively to checkmate the action of the General Government. The amending power really prevents this danger. In virtue of the provisions which it contains, the decision of a state concerning power disputed with the General Government will not be effective, unless the state be sustained by one fourth of its co-states.<sup>18</sup>

And yet, in spite of this assurance, Calhoun knew that many would still doubt the efficacy of the amending power to protect the General Government. They would say that according

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<sup>17</sup> Ibid., VI, 37.

<sup>18</sup> Ibid., VI, 175.

to this provision, one more than one fourth of the states may now work all the mischief that was formerly worked by one state with its "original right as sovereign." There would be a very real danger, that under the amending power so stated this very small minority of the states will not only be able to prevent the General Government from receiving the grant of additional powers, but also that right of amendment "...may be abused, and, thereby, powers be resumed which were, in fact, delegated; and it is also true, if sustained by one fourth of the co-states, such resumption may be successfully and permanently made by the States."<sup>19</sup> Calhoun was able to reduce this objection to very simple elements. So reduced, it becomes a question as to the lesser of two evils. Without this ability of one more than one fourth of the states to hold down effectively the natural tendency of the General Government to assume more power, state sovereignty would be a mere chimera; on the other hand, as we noted above, the states may abuse this power and completely denude the Central Government of the last vestige of its delegated power. Through recourse to what he had already laid down as the fundamental principle of our governmental system, Calhoun did not despair of adequately cushioning at least one horn of this dilemma. Though presently modified, he announced the fundamental

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<sup>19</sup> Ibid., VI, 177.

principle in our system to be that original power which the states possessed to govern themselves completely. Accordingly, a single state, at its own disgression, might withhold a power from the General Government. Arguing in the light of this principle, Calhoun preferred that the states resume powers which they had already delegated, than that the General Government usurp powers which had never been intended for its use. "For in the later case the usurpation would be against the fundamental principle of our system-the original right of the states to self government-; while in the former, if it be usurpation at all, it would be, if so bold an expression may be used, a usurpation in the spirit of the Constitution itself."<sup>20</sup>

Before we go on to consider another point in the Constitutional system advocated by Calhoun, let us, briefly, review what we have already seen. At the outset, Calhoun endeavored to establish the Constitution as the work of the people of the individual states. Each state by its acts of ratification bound itself, so to speak, to the Constitution and this act Calhoun viewed as an exercise of sovereignty on the part of the state. By analyzing Revolutionary History, Calhoun reached the conclusion that the ratifying states did not intend to deliver up this ability to exercise their sovereignty to the

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20 Ibid., VI, 177.

Government of the Constitution. Since they did not deliver up this sovereignty, they retained all of it, because sovereignty in Calhoun's system was something that would admit of no division. This retention of sovereignty on the part of each individual state made the established General Government the agent of the States, and agent which had been allowed the exercise of certain powers by the sovereign states. In order to prevent the agent Government from becoming a useless puppet, subject to the whim of any of the sovereign states, the amending power was introduced. As Calhoun expounded it, the amending power enabled three fourths of the states to uphold the agent Government in a dispute with a single state. However, this amending power, as Calhoun proceeded to illustrate, has another phase, in which a state that secures the consent of one more than one fourth of the states, may successfully encounter the agent Government. By so doing, it cannot only prevent the agent from receiving new powers, but could also deprive it of old ones. This, to Calhoun, was the lesser of two evils. It appeared better to him and more in keeping with the original conception of the Constitutional system, that the states should harass the agent which they first empowered, than that the agent should be able to turn and ravage them.

To this point we have watched the development of Calhoun's system along positive lines. Now we may note some change in his manner of attack. In order to bring out in bolder relief

an important point of his own doctrine, Calhoun adopts a negative approach and brands as false a common political opinion of the day.

It was commonly held in Calhoun's day that the most fundamental principle of constitutional government was that of majority rule. Its importance was judged to eclipse the very sovereignty of the states themselves. In fact, the right of a state to resist an attack on its sovereignty was considered inconsistent with the principle of majority rule. We gain the impression from what he said that Calhoun had a very low estimate of public opinion in this matter, for he charged that "...of all the impediments opposed to a just conception of the nature of our political system...this is the greatest."

In order to remove this impediment, Calhoun first brings forth a clear statement of the meaning which he attached to the phrase "majority rule." It is not, as many believe, a principle too simple to admit of any distinction, but rather, it is a

...principle susceptible of the most important distinction-entering deeply into the construction of our system, and, I may add, into that of all free states in proportion to the perfection of their institutions-and is essential to the very existence of liberty.<sup>21</sup>

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<sup>21</sup> Ibid., VI, 181.

Calhoun arrived at this distinction by asserting that there were two modes of estimating the majority. By one mode, "...the whole community is regarded in the aggregate, and the majority is estimated in reference to the entire mass."<sup>22</sup> To this Calhoun affixed the name "absolute majority." What, then, was Calhoun's second way of determining the majority? The majority, he declared, may also be estimated by considering separately each interest of the community,

...which may be unequally and injuriously affected by the action of the government, separately, through its own majority, or in some other way, by which its voice may be fairly expressed; and to require the consent of each interest, either to put or to keep the government in action.<sup>23</sup>

The will of the majority in such a system is reached through the concurrence of all the variant interestes. The majority so estimated is called the concurrent majority.

Calhoun saw the government which the people of the sovereign states erected as resting upon the firm foundation of the concurring majority. But to Calhoun the marvelous fact about the Government of the United States was not so much that it was founded on the principle of the concurrent majority, but that it had been able to combine in an admirable harmony both the absolute and the concurrent majorities.

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22 Ibid., VI, 181.

23 Ibid., I, 25.



In order to decide what powers ought to be granted and how the Government (the law-making and the law-administering powers) which executes these powers ought to be organized, Calhoun held that, "...the separate and concurring voice of the States was required-the union being regarded, for the purpose, in reference to its various and distinct interests."<sup>24</sup> Calhoun saw clearly, however, that in regard to the execution of the powers of government the principle of the absolute majority had been introduced. "The Union," he said, "is no longer regarded in reference to all its parts, but as forming, to the extent of its delegated powers one great community-to be governed by a common will...."<sup>25</sup> In this way Calhoun felt the first Fathers made use of the good points in both the absolute and concurrent majorities. The absolute majority gives energy and dispatch to the Government in the exercise of its powers, while the concurrent majority assures the people of the various groups in the community (from whom the power to rule actually comes) a vigorous share in the Government.

The delicate balance between the concurrent and absolute majorities was, indeed, for Calhoun, the heart of the American constitutional system. To work for the destruction of this

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<sup>24</sup> Ibid., VI, 185.

<sup>25</sup> Ibid., VI, 185.

balance, would be to crush out the political life that had so marvelously prospered since the days of its inception at the Constitutional Convention. To insure the preservance of this balance, Calhoun advised that the fundamental principle of the system be retained. No one, then, was to forget that his Government was founded and empowered by the concurring majority. The combination of this majority with the absolute majority, Calhoun reminds us, was a measure of expediency to facilitate the operation of the Government. "The ascendancy of the constitution-making authority over the law-making-the concurring over the absolute majority..." must be maintained, unless harmony be destroyed and discord and oppression replace it.<sup>26</sup>

The problem which next confronted Calhoun was, how to maintain this ascendancy once it had been established. In part the question had already been answered. We have seen, that in Calhoun's opinion the law making authority was freed from complete subordination to the individual states by the amending power. Three fourths of the states were enabled to uphold the law making authority, brought into existence, remember, by the separate consent of each state to the Constitution, against the enactments of a single state. Lest the law making authority over-reach itself, one more than one fourth of the states might still completely control the

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26 Ibid., VI, 186.

actions of the law making authority. In this manner, Calhoun assures us, the passage to the direct acquisition of power by the law making or absolute majority was most carefully guarded.

"But," Calhoun tells us, "it would have been folly in the extreme thus carefully to guard the passage to the direct acquisition, (of power) had the wide door of construction been left open to its direct (acquisition.)"<sup>27</sup> To guard the door of construction and indirect acquisition of power, Calhoun demanded for the states the right of interposition or nullification, and he expressed the belief that this right was

indispensable to prevent the more energetic but imperfect majority which controls the movements of the Government from usurping the place of that more perfect and just majority which formed the Constitution and ordained Government to execute its powers.<sup>28</sup>

Further, Calhoun continues, the right of nullification is an attribute of every sovereign state, and the state cannot give over to another authority outside itself the power of setting limits to its sovereignty. To do this, Calhoun reasons, would be tantamount to delivering up sovereignty itself. What, from Calhoun's point of view, the states actually had done, was to share certain powers with the General Government, while retaining complete sovereignty within themselves. And

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<sup>27</sup> Ibid., 189.

<sup>28</sup> Ibid., 186.

thus the states alone should have the "...right of deciding on the infractions of their powers and the proper remedy to be applied for their correction."<sup>29</sup> In order to decide whether the General Government has transgressed in assuming a certain power, Calhoun would have the dissenting state meet in a special convention.

When convened, it will belong to the Convention itself to determine authoritatively, whether the acts of which we complain (Calhoun is here speaking of the Tariff) be unconstitutional; and if so, whether they constitute a violation so deliberate, palpable and dangerous, as to justify the interposition of the state to protect its rights.<sup>30</sup>

If the Convention should decide against the General Government, Calhoun concluded with irresistible logic, that the power assumed by the Government should have no effect within that state. The General Government would then be faced with the alternative of relinquishing all claim to the disputed power, or of securing the power directly through an amendment to the Constitution. Calhoun had based this decision to nullify an act of the General Government on the particular state's rights as a member of the Union. And hence he felt free to dictate that the act of nullification would be "...obligatory not only on her own citizens, but on the General Government, itself; and thus places the violated

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29 Ibid., VI, 41.

30 Ibid., VI, 45.

rights of the States under the shield of the Constitution."31

Calhoun next proceeds to sketch the results which nullification would produce. One result of nullification would be to make the General Government extremely cautious in the use of doubtful powers. Careful consideration for the probable reaction of a state to a certain measure would become inherent in the General Government. Calhoun could behold in nullification a feeling of conscious security for the states and this, added to the moderation and kindness, which nullification would tend to produce in the General Government, would, he felt, "...effectually put down animosity, and thus give scope to the natural attachment to our institutions, to expand and grow into the full maturity of patriotism."32

Calhoun refused to concede that nullification might become the result of momentary hysteria in a state. The delay in assembling a convention, the extraordinary nature of the convention itself, the great number of those concerned, all these, he felt, would militate against undue haste. Also, the nullifying state would have to consider the attitude of the other states. Should her action be purely sectional and

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31 Ibid., VI, 45.

32 Ibid., VI, 49.

selfish, Calhoun relied on the strong force of public opinion, which would be brought against her, to provide an effective deterrent. As another safeguard, Calhoun had recourse to the political minorities within the states themselves, which would make the irresponsible use of nullification extremely difficult. So powerful, he concluded, "...are these difficulties that nothing but truth and a deep sense of oppression on the part of the people of the State, will ever sustain the exercise of the power...."<sup>33</sup>

Calhoun was careful to propound nullification as an assertion of moral force and not of military force. He pictured the sovereign state as merely exercising its lawful prerogative by invoking nullification. Granting his contention that the state was sovereign, then, of course, the Government could not legally enforce the nullified act within the limits of that state. By the use of military force, the Government would truly be acting in defiance of the Constitution. Actually, as Calhoun grasped the situation, there would be no one against whom the Government might invoke force. Force could only be used where there was resistance to law, and surely, no one would call the refusal of a court within a sovereign state to exact a fine, or the failure of state courts to render judgment in conformity with the wishes

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33 Ibid., 48.

of the General Government, resistance to the law. There was, then,

...no insurrection to suppress; no armed force to reduce; not a sword unsheathed; not a bayonet raised; none, absolutely none, on whom force could be used, except it be on the unarmed citizens engaged peacefully and quietly in their daily occupations.<sup>34</sup>

This idea of peaceful nullification was typical of Calhoun. It was the point he must get across, if he was to win a hearing for his doctrine. Always, he was at pains to stress the fact that he was adhering to the Constitution. In all the points of Calhoun's doctrine treated in this chapter, the idea of constitutionality, of legality, has been basic. Without this note of propriety, of conformity to established tradition, Calhoun's cause would have been hopelessly lost. Those who did not share his opinions were, he maintained, obviously subverting the Constitution. His way was calculated to save the Constitution. He began, we saw, by asserting that each state possessed undivided sovereignty. None of this sovereignty had been transferred to the General Government. In order to insure the safety and well being of this sovereign power, Calhoun advances the idea of the concurrent majority. This concurrent majority is designed to prevent an oppression of the minority by the majority. Without some

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<sup>34</sup> Ibid., VI, 164.

method of enforcement, however, the use of the concurrent majority could not be depended on to conserve minority interests. Nullification was the weapon by which the theory of the concurrent majority could be put into operation effectively. These, then, are the key points of John C. Calhoun's political theories. The note of observance for the law, of reverence for the Constitution formed the setting, as it were, in which these doctrines were presented to the American people. Thus briefly having reviewed the basic political tenets of John Calhoun, we turn to the task of presenting an evaluation of his ideas.



## CHAPTER V

### A CRITICAL STUDY OF CALHOUN'S THEORY

In this chapter, a critique of Calhoun's doctrines, no claim is made to finality. The discussion which John Calhoun began still continues in certain respects. Untill the time of Abraham Lincoln, no one gave a convincing answer to the problem proposed by Calhoun. And Lincoln gave his answer not in the halls of Congress but through northern artillery at Vicksburg, at Shiloe and before Richmond. So, however convincing and conclusive in the physical order his arguments may have been, they need not be so in the intellectual. It would, then be presumptuous for us to attempt to settle definitively a question which has plagued even great minds. We can only criticize Calhoun in the light of the authorities at our disposal. On some points, perhaps, we may endeavor to strike out on our own, but never with the idea that Calhoun is writhing under the inescapable blows of our logic. We feel it will be sufficient to point out some of the places where Calhoun's arguments might be impunged. That there are a number of such places, I feel sure, because, however much Calhoun maintained the correctness of his theories, no evidence was put forward, either by him or anyone else, to prove his writings inspired!

Fundamental to all Calhoun's thinking was the idea of sovereignty. He believed that the Colonies from the very beginning had been distinct political entities. From that time forward, he held they retained this separate identity. There never was a time when they acted in any other character. In breaking away from England they asserted their individual sovereignty and at no time thereafter did they suffer the loss of even the slightest measure of this sovereignty. By examining the significance of the word "sovereignty" we may at least cast some doubt upon the correctness of Calhoun's position.

First, what is the common meaning attached to the word "sovereignty?" It is looked upon as the "...supreme absolute and uncontrollable power by which any independent state is governed."<sup>1</sup> This is certainly the sense in which Calhoun oftentimes used the word. He speaks repeatedly of the sovereign states having the "absolute and uncontrollable power" in regard to the ratification of the Constitution. Since Calhoun also maintained the indivisibility of sovereignty, we may be sure that a state which was sovereign in respect to ratification would be sovereign in every other regard.

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1 Thomas M. Colley, Principles of Constitutional Law, Little, Brown and Company, Boston, 1898, 16.

Certain facts, however, can be brought forward which render Calhoun's position extremely weak, for these seem to indicate that the states were never really possessed of that sovereignty which Calhoun claimed for them. It is true enough, that the earliest official documents of our country refer to the states as sovereign. "But they were always, in respect to some of the higher powers of sovereignty, subject to the control of some common authority, and were never really recognized or known as members of the family of nations."<sup>2</sup> Later, when the Colonists revolted, they were subject in some measure at least to the Revolutionary Congress, and with the formation of the Articles of Confederation, the Congress of the Confederation held power over the states. Finally under our present Constitution, the National Government is designed to control the states. Though the powers of these several bodies over the states differed greatly, there was still one point of control which they all exercised, namely, no colony or state under the four governments ever had the right to make war or to carry on commercial or political intercourse with a foreign nation. This phase of political life was always cared for by a body outside the colony or state itself, the sole exception being North Carolina and Rhode Island, who by failing to ratify the Constitution, took on the status of

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2 Ibid., 16.

foreign nations. But so short lived was their existence in this fashion, that their sovereignty was neither asserted by them, nor recognized by foreign countries.

As is evident, conclusive proof that the states were never completely sovereign would tend greatly to dissipate the force of Calhoun's argument. For if the states were not sovereign before they ratified the Constitution, there seems little ground for asserting that ratification made **them** so. It is doubtful, though, that conclusive proof could be furnished. Could it not always be argued that the original colonies, or later the states, refrained from war or foreign agreements merely for the sake of expediency; that they really possessed the sovereign power necessary to do so, but thought it wiser to refrain from its use?

Another point upon which Calhoun's doctrine is not universally accepted, is his theory of undivided sovereignty. Just as the sovereignty of the states before ratification is essential to Calhoun's theory, so the principle of undivided sovereignty must be held in order to support his theory after the states actually did ratify the Constitution. For it would be just as fatal to his argument to prove that the states could give over a part of their sovereignty in ratifying the Constitution, as it would to prove that the states before ratification were never really sovereign states.

As we have seen, the necessity of an indivisible sovereignty is vital to Calhoun's theory of government. Because sovereignty cannot be divided, the states never lost the power of sovereign action. When they accepted the Constitution, Calhoun saw the state as merely making an agreement which bound them only as long as they cared to be bound. In the event that one of the states felt it was being unfairly treated by the General Government, it could in full justice interpose its sovereignty and so prevent any further action on the part of the Government. This, of course, is the process of nullification, which we presented in the previous chapter. The cornerstone of this system of nullification which Calhoun erected was the indivisibility of sovereignty. It made impossible the formation of any new body with power above that of the individual states, which could effectively hold the states to the agreement which they had made. As far as the states were concerned, there was no sufficient reason why they should be bound fast to the agreement which they had made. They could only be bound by a superior power, but since they still possessed complete and undivided sovereignty, where was there a power superior to them?

At this point it may be useful to indulge in a little theorizing. I see no reason why we cannot apply the test of the "adequate concept" to the notion of sovereignty. It

seems unthinkable that this dry bone of metaphysics could be resurrected and made to be of some service, but perhaps it can be.

As a rule, by adequate concept we mean one which is essentially and completely determined in itself and contains characteristics of no other concept.<sup>3</sup> Calhoun maintained all along that while retaining sovereignty, the states delegate certain powers which they possess in virtue of this sovereignty. Now the question becomes, just what is contained under the adequate concept of sovereignty? We answer from our experience. When we speak of a state or a government being sovereign, we intend to convey that it has perfect freedom of action. In the language of our Constitution, sovereignty means the ability to make war, execute treaties, levy duties, raise taxes, and, in general, promote the common welfare. These, remember, are the delegated powers of which Calhoun speaks, and they are what constitute sovereignty in the fullest sense of the word. They are the concrete expression of the abstract idea of sovereignty. Without one of these constitutive powers the idea of sovereignty is stripped of its full meaning. Since we know for sure that the Government does possess the exercise of certain of these powers, we must say that the Government

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3 T.P. Byrne, Metaphysica Generalis, Collegium Badense Occidentale, 1943, 29.

is sovereign. But since it does not possess complete sovereign power, because the states retain those powers not expressly delegated, the General Government is only partially sovereign. And since the states too possess sovereign power, they, like the General Government, are partially sovereign. Thus our argument based on the adequate concept leads us to contradict Calhoun when he asserts the indivisibility of sovereignty. Once some of the constitutive elements of sovereignty have been relinquished, complete sovereignty no longer exists. As we know too, the states have given over certain powers of action to the General Government, so we must admit that the states no longer possess absolute sovereignty. In effect, sovereignty has been divided. The states now possess an incomplete sovereignty; the General Government now possesses an incomplete sovereignty.

As to the exact worth of the argument just proposed, it would be difficult to say. In view of the fact that it is not an argument commonly invoked it would be extremely rash to claim for it any great measure of finality or conclusiveness. It is, in the last analysis, pretty much a matter of the interpretation one chooses to place upon the word "sovereignty." Since the meaning of this word is subject to alteration by reason of time and circumstance, any argument based on its meaning cannot be entirely satisfying.

One thing, however, we may note with full certainty concerning Calhoun's doctrine on the indivisibility of sovereignty: It was not a doctrine commonly held at the time the Constitution was written. True, there are some things which were said in the Constitutional Convention that are not inconsistent with the idea of an undivided sovereignty. But in an overall consideration of the Convention, one cannot escape the notion that its members were of the mind "...that compelling legal authority was to be exercised within given fields; one field was to belong to the national government, one to the states."<sup>4</sup>

This fact, we believe, renders Calhoun's position extremely precarious. He was imposing an interpretation upon the Constitution, which its authors had never intended it to bear. Is this procedure just? It seems only fair that a document should be studied by the light of the ideas in which it was written. Madison, too, evidently felt the unfairness of Calhoun's position when he wrote in the closing years of his life to defend opinions expressed many years before. Madison remarks that hitherto sovereignty had always been considered a thing capable of division. In fact, he says, as the "...in their highest sovereign character were competent to surrender the whole sovereignty and form them-

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<sup>4</sup> McLaughlin, Constitutional History of the United States, 136.



selves into a consolidated state, so they might surrender a part and retain, as they have done, the other part." However, since the time of the Convention, Madison continues, another theory on the nature of sovereignty had come into vogue. This theory holds that sovereignty is indivisible, and that consequently the states when they formed the constitutional compact were incapable of delivering up any portion of this sovereignty. For this reason, then, the states today are as absolutely sovereign as they were before they undertook to ratify the Constitution. "In settling the claim between these rival claims of power," Madison thought it proper, "to keep in mind that all power is derived from compact in a just and free government."<sup>5</sup>

These last words of Madison suggest what was perhaps the chief difficulty underlying the whole Calhoun controversy. Calhoun based his argument on a philosophy of government which was little known in 1787. By Calhoun's time the compact theory of John Locke had begun to lose its preeminence, and a new theory had gained favor. Calhoun was in this respect a child of his times. He followed the new doctrine and allowed the compact theory to fall into disuse. Whether Calhoun was perfectly conscious of the new course his politi-

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<sup>5</sup> A.C. McLaughlin, The Courts, the Constitution and Parties, The University of Chicago Press, Chicago, 1912, 229.

cal theory was following, is debatable. His works show traces of both theories, and this makes an exact appraisal of his opinions difficult; but on the whole, it can be said that Calhoun was following a philosophy which rose from nineteenth century civilization and which "...was first decisively manifested in Hegel and given full expression by the more modern political philosophers...."<sup>6</sup>

In order to see how thoroughly Calhoun had departed from Revolutionary thought, it will be well to review the main ideas which held sway at the Constitutional Convention. Foremost among the political tenets of the time, was the belief that the right to govern came from the consent of the governed. People could, by giving their consent, erect a permanent form of government. It was believed that the people could, their consent having been given, form themselves into a single political body. Disparate groups, then, could by their own consent combine into a political unit. There was no need of a higher force to bind men, for, by giving consent, they could bind themselves. Laws, though they did not emanate from a higher authority, commanded obedience and respect because the individual had acquiesced in their conception. By his original agreement, a man had done away with his right to

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<sup>6</sup> Ibid., 235.

repudiate these laws at will, and was, in fact, indissolubly bound by them. The idea that sovereignty could be divided was also prevalent at the Constitutional Convention. There was nothing in the compact theory that denied that "...a body of men could surrender a portion of its rights of self-control and could be bound by its voluntary agreement, thus limiting and confining its power of self determination."<sup>7</sup>

A pamphlet written by Pelatiah Webster in 1783 is a good example of political thought with which men in the closing years of the eighteenth century were most thoroughly conversant. In the course of this pamphlet Webster traces with unmistakable clearness the general outline of the compact theory. He was firmly convinced that all talk of unity was the most idle chatter, unless the sovereign states were willing to transfer at least a part of their sovereignty to some superior body, which would then be able to render the ends of union effectual. If the states insisted on retaining their sovereignty intact, then, Webster said, "...their confederation will be a cask without hoops, that may and probably will fall to pieces as soon as it is put to any exercise of strength." Webster goes on to liken the states in a confederation or union to a member of civil society, who

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7 Ibid., 237.

"...parts with many of his natural rights, that he may enioy the rest in greater security under the protection of society."<sup>8</sup>

Speaking in the Pennsylvania Convention on behalf of the new Constitution, James Wilson comes out clearly in terms of the compact philosophy:

When a single government is instituted, the individuals of which it is composed surrender to it a part of their natural independence, which they enjoyed before as men. When a confederated republic is instituted, the communities in which it is composed surrender to it a part of their political independence which they formerly enjoyed.<sup>9</sup>

Many more instances could be cited in which it is evident that the Fathers of the Constitution were thinking in terms of the compact philosophy. But one more will suffice, namely the letter which accompanied the Constitution when it was presented to the Congress of the Confederation. This letter says that the framers had kept steadily in mind the consolidation of the union upon which so much depended. The letter shows unmistakably that the members of the Convention believed in the creation of a new body, which would be superior to the states which had created it. This was really the essence of the compact philosophy, the ability of parties through agree-

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8 Ibid., 201.

9 Ibid., 208.

ment to create a power superior to themselves.

It is obviously impractical, in the federal government of these states, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all. Individuals entering into society must give up a share of liberty to secure the rest.<sup>10</sup>

From what we have already said it is evident that Calhoun's theories were the antithesis of the compact philosophy. He had taken his ideals from a different source, from the organic philosophy of the nineteenth century, which did not admit that a new and indissoluble union could be the result of agreement. Separate political bodies entering into a compact could not be said to create a new political body with powers exceeding those of its creator. For the exponents of this new philosophy no law could be binding unless it was the will of a preexisting superior. To them the idea of a divided sovereignty was an absurdity, for sovereignty was by nature indivisible.<sup>11</sup>

With this starting point, it is little wonder that Calhoun reached a doctrine in which the states, the original sovereigns, were all, and the government of their union nothing. Calhoun had forgotten the faith of his Fathers. In

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<sup>10</sup> Ibid., 207.

<sup>11</sup> Ibid., 198.

his enthusiasm for this new creed, which allowed him to reach such felicitous conclusions, he neglected the compact philosophy and failed to remember that men who were thinking in its terms, "...could believe in the establishment of a permanent and indissoluble body politic as the result of agreement between hitherto separate bodies; that they could believe in the permanent binding effect of a law which had its origin in consent."<sup>12</sup>

In treating of Calhoun's departure from the compact philosophy of the Fathers, we have, very likely, tended towards over simplification. In honesty, we must admit that the line of separation between the two were probably much thinner than we have here made them out to be. The reason is, I believe, very much as Professor McLaughlin says, that:

No one who has studied the primary material will be ready to assert that men consistently and invariably acted upon a single principle, that they were altogether conscious of the nature and import of what was being done, and that they constantly spoke with logical accuracy of the process. Such consistency and philosophic knowledge do not appear in the affairs of statesmen.<sup>13</sup>

This idea has already been hinted at in the foregoing pages. We mentioned there that the holders of the compact

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<sup>12</sup> Ibid., 222.

<sup>13</sup> Ibid., 200.

philosophy differed among themselves. In some of their utterances we find traces of the new organic philosophy. On the other hand, as we have also mentioned before, Calhoun was not completely free from the influence of days gone by. At times some of his ideas and his terminology bear traces of the older theory of government. Yet, on the whole, we believe the analysis presented in the foregoing pages is essentially true. Calhoun had rested his political opinions upon a philosophic foundation whose soundness was not generally admitted forty years before. In fact, it is difficult to imagine any other explanation which would account half so well for the irreconcilable character of the opinions on the nature of our government fostered in Calhoun's times.

A glance at the tenor of the opposition with which Calhoun's doctrine met in the four years from 1828 to 1832 will serve to show how fundamental this divergency of thought really was. Andrew Jackson as President of the United States rejected utterly the doctrine espoused by Calhoun. His Proclamation, issued in 1832, stating his views "...of the Constitution and laws applicable to the measures adopted by the Convention of South Carolina..." is the foremost state paper of his administration. The Proclamation adheres strongly to the old compact theory. For Jackson, the idea that the Constitution "is a compact between sovereignties,

who have preserved their whole sovereignty, and therefore, are subject to no superior; that because they made the compact, they can break it when, in their opinion, it has been departed from by the other states," was an idea resting upon a "radical error." Jackson points out that Calhoun had abused the term "compact." By using "compact" as synonymous with "league" the advocates of nullification have given it a significance which it was never meant to have. It is argued that our Constitution is a compact and that every compact between sovereign powers is a league and "...that from such an engagement every sovereign power has a right to secede." To Jackson the meaning of the word "compact" was something entirely different. A party to a compact may not absolve itself from the compact whenever it feels aggrieved. "It is precisely because it is a compact they cannot do so. A compact is an agreement or binding obligation."

Furthermore, Jackson held that the states by ratifying the Constitution formed themselves into a single nation. The United States was not merely a league between the different states. "But each state having expressly parted with so many powers as to constitute, jointly with the other states, a single nation, cannot, from that period, possess any right to secede, because such secession does not break a league, but destroys the unity of a nation." Obviously, Jackson believed



that agreement could produce a new political body.

Again the Proclamation held that undivided sovereignty, which we have repeatedly seen as pivotal in Calhoun's argumentation, was in opposition to facts. "The States severally have not retained entire sovereignty...", for as they had transferred many of the essential elements of sovereignty, they could no longer be called sovereign.

The allegiance of their citizens was transferred, in the first instance, to the government of the United States; they became American citizens, and owed obedience to the Constitution of the United States, and to law made in conformity with the powers vested in Congress.<sup>14</sup>

The reaction of the other states to Calhoun's doctrine was without exception unfavorable, for their views, like Jackson's were basically the opposite of Calhoun's. Massachusetts in particular was outspoken against the principles of nullification. In the report of the Senate committee of that state, an accurate analysis of Calhoun's doctrine is given: "The states were independent of each other at the time when they formed the Constitution; therefore they are independent of each other now." In Calhoun's system this assertion was equivalent to saying that the states

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<sup>14</sup> E.P. Powell, Nullification and Secession in the United States, 1897, Appendix, 308.

were independent after they adopted the Constitution. The answer of the Massachusetts committee is significant for its clear cut enunciation of compact principles. It was no more preposterous for independent states to form themselves into a body politic, than for individuals to become members of society. The argument that the states were free and independent before the framing of the Constitution and should, therefore, be so afterwards was untenable, for, it said, such an argument means that two parties to a marriage contract, single before its conclusion, must needs be so afterwards. "The rights," the committee declared, "and obligations of the parties to a contract are determined by its nature and terms, and not by their condition previously to its conclusion."<sup>15</sup>

As we have seen, after he had firmly established the doctrine of undivided state sovereignty, Calhoun endeavored to reenforce it with the doctrine of the concurrent majority, in order to insure the vigorous and unimpeded existence of the sovereignty of the states. As a great obstacle to good government, Calhoun denounced the prevalent idea that the majority should rule. If the **numerical** majority were allowed to work its will, the liberty of the minority could not long endure. To **safeguard** minority rights, Calhoun proposed to

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<sup>15</sup> McLaughlin, The Courts, The Constitution and Parties, 234.

give "each division or interest, through its appropriate organ either a concurrent voice in making and executing laws, or a veto on their execution." This idea that the various interests of the community should be considered, if, indeed, this is really what Calhoun meant by the concurrent majority, is not without its difficulties. Unless there be some other phase which we are overlooking, this doctrine does not, on the face of it, harmonize with what Calhoun has said concerning the absolute sovereignty of a state in its own affairs. For if all interests in a state must constantly be considered, there would be little room for the exercise of sovereignty. Calhoun was at pains to show that the people were bound to the Constitution by the absolute will of their sovereign states. Could there have been any absolute will where all conflicting interests had to be conciliated? At best, we must say that there seems to be little logical connection between the ideas of absolute state control in its own affairs, on the one hand, and the concurrent majority, on the other.

In his eagerness to upbraid the northern majority for its wanton attitude towards the rights of the southern minority, it seems Calhoun had forgotten to remove the moat from his own eye. Even in the state of South Carolina, there was a large minority whose views were receiving very little consideration. This group was the Unionists, who had never been

able to reconcile themselves to the ideas with which Calhoun had won over the South Carolina majority. They opposed nullification with all their strength, but to no avail. They were left crying in the wilderness, while majority rule led their state along the high road to disunion.

It is conceivable that, under different circumstances, Calhoun would not quite so readily have done away with the principle of majority rule. His doctrine on the concurrent majority was, curiously enough, very timely for the situation which South Carolina was facing. It would act as a strong rampart about South Carolina's beleaguered economic system. Slavery, the source of South Carolina's affluence was becoming increasingly unpopular in the North and southern planters were growing under the disapproving glance of northern liberation societies. With this state of affairs, it is little wonder that the people of South Carolina sought for some check against the ominous shadow of the northern majority that was falling everywhere around them. Calhoun must have felt sorely this trial of his people. If he had not thought so before, this change in South Carolina's fortunes must have made it easy for him to gain the sincerest conviction that majority rule was inimicable to southern interests.

In mistrusting majority rule, Calhoun had ample precedent in the words and writings of the Constitutional Fathers

before him. The words of Adams, Hamilton and Madison could be brought forward to assure this point, but let the words of Adams suffice to show the mind of all three.

The people when unchecked have been as barbarous, unjust, tyrannical, brutal, and cruel as any king or senate possessed of uncontrollable power; the majority has eternally and without exception usurped over the rights of the minority.<sup>16</sup>

What, then, shall we say of Calhoun's means for protecting minority rights. In a sense, his analysis of our government was perfectly correct on this point. The Fathers had not intended to make the will of the majority supreme in every respect, but, "...in this matter, as in others, Calhoun shrewdly and ably used fundamentally sound notions to build up his extensive and complex theories...."<sup>17</sup> His zeal for the minority cause as it was embodied in South Carolina, drove him to embrace an evil equally as great majority rule. For in his system, majority rule was to be replaced by minority rule. There is evidence that Calhoun himself was conscious of the direction in which his espousal of the concurrent majority was leading him, for he denied the charge of minority rule. But in spite of his denial, we think he is hardly convincing in his attempt at vindication. In the "Exposition,"

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<sup>16</sup> C.E. Martin, Introduction to the American Constitution, 229

<sup>17</sup> McLaughlin, Constitutional History, 442.

Calhoun admits the danger of allowing a single state to exercise too vital a control in national affairs. The Constitution however, makes adequate provision on this point, Calhoun reminds us. By the amending clause, an individual state, a minority, must be subject to the will of three fourths of the states, a majority. This, he feels, will eliminate all possibility of minority ascendancy.

Did the matter end there with the expression of the will of three fourths of the states, we might admit Calhoun's claim, but in his system, a state need not accept this expression of the will of the majority. Her sovereignty left her the alternative of secession.<sup>18</sup> An agreement between sovereign states could not be binding. What was to prevent a disallusioned state from severing her connections with the Union?

Had the pressure of circumstance not pushed so mightily against Calhoun, we feel he might have manifested more patience with the principle of majority rule. Most certainly it was a principle beset by danger; its misuse could well end in the grossest tyranny. And Calhoun was right "...when he insisted that human ingenuity must contrive safeguards for the minority. But the evils of majority rule can never

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18 Calhoun, Works, VI, 55.

be cured by turning the control of the government over to the minority."<sup>19</sup> Actually, the safeguards which Calhoun desired had been furnished by the Constitution, but they were safeguards not particularly well adapted for preventing the evils of which Calhoun's constituents complained. Seeing, as he did, all things in the light of South Carolina's misfortunes, Calhoun could admit no safeguard which allowed any quarter to majority rule. This, however, as Lincoln brought out later, was exactly the kind of safeguard the Constitutional Fathers had provided:

A majority held in restraint by constitutional checks and limitations, and always changing easily with deliberate changes of public opinions and sentiments, is the only true sovereign of a free people....Unanimity is impossible; the rule of a minority is wholly inadmissible; so that, rejecting the majority principle, anarchy or despotism in some form is all that is left.<sup>20</sup>

The idea of diversity of interest between North and South must have preyed upon Calhoun's mind, and he dwelt at great length on this point in his speeches and writings. In vivid words he showed that the South could no more lie down with the North, than could the lamb with the lion. Again, we must remember Calhoun's peculiar position. He was confronted on all sides with the picture of South Carolina's

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19 W.S. Carpenter, Development of American Political Thought, Princeton, New Jersey, 1930, 163.

20 A. Lincoln, Works, as quoted in Carpenter, 163.

economic distress, and his vision, for want of variety, must necessarily have become drawn and narrow. He could hardly have been expected to see the forces of unity that were at work. Granting that the balance in Calhoun's day moved heavily toward the side of sectional diversity, it must still be admitted that the side of common interest was not altogether without its pull. Unbiased reflection, had this been possible to Calhoun in those trying times, might have revealed this fact to him. He would have seen that a thoroughly weakened and impoverished South, would in time have produced like misery in the North. Eventually he could have understood that a majority, whenever it is capable of looking after its own interests, may also be worthily entrusted with the protection of minority interests. We reason thus, because, first of all, the major issues with which the lesser body is concerned will be comprehended in those of the larger body. Secondly, "...parties in a republic-the only form of government in which the terms majority and minority are legitimate expressions-do not occupy the same fixed position which they have in a monarchy and an aristocracy...." But rather, "...in a country where free institutions exist, all the great interests of the minority will be enclosed in those of the majority."<sup>21</sup>

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<sup>21</sup> Carpenter, 163.



As is evident, there are many points in Calhoun's doctrine with which we might cavil. Yet, even if every point of his theory stood up perfectly to all the criticism that was ever leveled at it, there is still one instance, I believe, in which it would fail utterly. Calhoun, for all his argumentative genius, was not a very practical man. His theory bears the imprint of his impracticability. In constructing his system, he showed a marked inability to come to grips with and to master trends and conditions other than those which immediately confronted him. In a statesman this would probably be labeled lack of vision or foresight. And this, I believe, is a severe criticism to make of a statesman, yet, it is one of which Calhoun is not entirely undeserving.

By this I would not deny the incontestable strength of Calhoun's doctrine on some points. In regard to certain facts of history, it was quite unassailable. His estimation of the popular mind in 1789 was accurate enough. No one could contradict him when he asserted that sovereignty was a thing few if any of the thirteen states would willingly have parted with. A people so recently free of one tyranny, were little inclined to risk establishing another by setting up a strong national government. In the chapter on the Articles of Confederation, we saw how the states

mistrusted any power outside their own borders. The Constitutional Convention was intended merely to alter the Articles. Bitter controversy ensued when the idea was put forward, that the Articles of Confederation should be replaced by a new instrument of government, and the Convention was split by two contradictory opinions. One group held out for the superiority of the individual states; another desired to make the states subject to a national government in certain paramount issues. The result was the Constitution, a great compromise; in some respects upholding the primacy of the states, while giving supremacy in other matters to the national government. The course of events proved it to be an instrument more favorable to national power than to state power, but this was by no means generally known in 1787. True, a number of passages in the Constitution give the impression of national superiority, but Calhoun and his theory are sufficient proof that the matter was never definitively settled. Circumstances would have made it unwise for the members of the Convention to assert without reservation the supremacy of the national government. As we have noted before, the people were not yet ready for such a declaration and had they been generally appraised of the nationalist trappings that our government would take on, it is not difficult to believe that the Constitution would

never have been ratified.<sup>22</sup>

Quite as correct as Calhoun's appraisal of the popular mind in 1787, was his conviction that the Constitution of the United States had been ratified by the individual states. For, "...if anything is clear beyond peradventure in the history of the United States, it is that the Constitution was established by the states...."<sup>23</sup> With these two facts for a foundation, Calhoun went on to build up the governmental system which we have already reviewed.

However, in spite of the validity of Calhoun's historical arguments, there is still room for the charge of impracticality that we have made against him. Calhoun seems to have made no allowances for the difficulties with which the Constitutional Convention was faced. The men of the Convention were charged with the difficult task of arresting the country in its bolt towards anarchy. Their days had seen unmistakable signs of this awful spectre in the states. The action that was taken at Philadelphia that summer, was probably the only thing that could have saved the states. By insisting so strenuously on adherence to the popular mind of 1787, Calhoun was, in reality, giving approval to majority

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22 W. MacDonald, Jacksonian Democracy, Harpers, New York 1906, 107.

23 Ibid., 109.

rule in its worst form. Is it too much to say that experienced and patriotic leaders understood better than the mass of the people, what was best for the country? After all, the men of the Convention did not intend to sell the states into bondage! The states were merely being saved from themselves. By yielding some of their rights, they were receiving in return peace and prosperity. Could anyone honestly maintain that a blacksmith in New York, or a planter in Georgia, or a farmer in Pennsylvania was better qualified to remedy the evils of America in that day than a Washington, a Hamilton, or a Madison? Is not this very point, the rule of the uneducated, one of the major shortcomings of democracy? These were all practical considerations which escaped Calhoun. Had he been less fettered by circumstances, less hampered by the needs of his native state, Calhoun might have lent his attention to these facts, which, while they tend to weaken his argument, are, none the less, of great moment.

From the time when the Constitution had first been given the force of law, a broad trend was followed in its interpretation. This was the trend which John Marshall, more than any other man, had helped to establish. The decisions of Marshall were written in bold letters across the horizons of American political life:

Let the end, he said, be legitimate, let

it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional.<sup>24</sup>

Would not ignorance on so general a point have been impossible for a man of public affairs like Calhoun? Surely, then, he showed little practicality in kicking against the goad as he insisted upon doing.

Granting, as we do, that Calhoun was sincere in the conviction that he upheld, we cannot for this reason avoid calling his plans to set aside the laws of the United States visionary. Calhoun's theories, however legal and authentic their historical foundations, would have destroyed the Union. "Self preservation and the nature of things, accordingly, if nothing else, will lead the central government to resort to force to uphold its authority."<sup>25</sup>

Weighed down by narrow sectional interests, Calhoun failed to behold the dangers to which he was subjecting the rest of the nation. If any state, on any issue, was qualified to countermand the authority of the national government, who can say where the practice would have ended.

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<sup>24</sup> Martin, 107.

<sup>25</sup> MacDonald, 110.

What a nice checker-board the United States might have become, if the exercise of this right (nullification and secession) should get to be the fashion! Suppose the States at the mouths of the great streams, and four or five others commanding part of their navigable waters, should secede, what a pretty picture the map of the United States would present!<sup>26</sup>

With mention, then, of the impracticality of Calhoun and the system he advocated, we may close our study of the political theories of John C. Calhoun. But first, let us summarize briefly the study we have made. To gain a better understanding of the Constitution, we reviewed the Articles of Confederation and the principles that animated them. Our purpose in analyzing the Constitution was the attainment of a better understanding of what Calhoun was later to make of this instrument. We were interested in finding what particular aspect of the Constitution enabled Calhoun to spin out the theories that he did. Then, before turning to his doctrines themselves, we studied the conditions and circumstances from which these theories took their rise. Undivided state sovereignty, the concurrent majority, and nullification, we saw, were the cardinal points in Calhoun's system. Finally, we attempted to evaluate the ideas which Calhoun had propounded. We saw that his notion of sovereignty

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<sup>26</sup> H. Von Holst, John C. Calhoun, Houghton, Mifflin and Company, Boston, 1899, 101.

was based on a foundation, that without any too great exertion could be made to totter dangerously. Then, in holding out for a type of sovereignty that was indivisible, Calhoun was rejecting the compact ideas of the Constitutional Convention. We admitted with Calhoun that there is need of a check upon majority rule, but we could see no purpose in having that check consist merely in substituting minority for majority rule. Lastly, we felt compelled to label the right of nullification that Calhoun so longed to see in the hands of the states, as something visionary and quite unworthy of a mind that should have been taken up with the practical affairs of government.

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The thesis submitted by Gerald P. Grace, S.J.  
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The final copies have been examined by the director of the thesis and the signature which appears below verifies the fact that any necessary changes have been incorporated, and that the thesis is now given final approval with reference to content, form, and mechanical accuracy.

The thesis is therefore accepted in partial fulfillment of the requirements for the degree of Master of Arts.

July 2, 1949  
Date

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