

## Chapter 58 - A Famous “Value Of The Union” Senate Debate Touches On The States’ Rights To Slavery

January 18-19, 1830

### A Bill On Federal Sales Of Western Lands Initiates A Debate On State’s Rights

The sectional flare-up over “nullifying” the Tariff re-opens the debate in Congress over the power of the federal government vis a vis the “sovereign” states.

This expands just after Christmas of 1829, when a Connecticut Senator, Samuel Foot, introduces a bill calling for Congress to suspend land sales in the western territories, as a means of slowing speculation.

On January 18, 1830, Senator Thomas Hart Benton of Missouri accuses Foot of “sectionalism,” impeding the growth of the western states on behalf of the interests of New England.

At this point Robert Hayne of South Carolina joins the fray. He is an ally of John C. Calhoun, a bitter critic of the 1828 Tariff, and a particularly articulate and outspoken supporter of the states’ rights to defy burdensome laws proposed by the federal government.

As Hayne launches into his classical attacks, Massachusetts’s Senator Daniel Webster, a rock-ribbed Federalist, is drawn into the ring.

What follows is a twelve day long, punch and counterpunch exchange between the two men that goes down as perhaps the greatest floor debate on any topic in the history of the upper chamber.

Webster stands with men like Washington and Hamilton, who argued for a strong national government focused on the “common good” of all citizens as the best way to insure a lasting Union. For the contract to work, individual states must be ready to surrender their parochial interests on behalf of the whole. Or, as the Pennsylvania delegate, James Wilson, put it:

*If no state will part with any of its sovereignty, it is in vain to talk of a national government.*

Hayne’s position is staunchly anti-Federalist, a throwback to men like Patrick Henry, Sam Adams, Elbridge Gerry, George Clinton, and Thomas Jefferson. Together they feared that surrendering the state’s power to a central government would lead to an American version of the British monarchy. Their opposition led to passage of the Bill of Rights, especially the Tenth Amendment:

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

What makes the Hayne-Webster debate so important is that it surfaces, with great intensity, the growing fear in the South that Northern control of the national government will ultimately lead to regulations on slavery, or even the demand to abolish it entirely.

Such an outcome would undermine the very basis of the South's economy – its single-minded capacity to grow and sell more cotton and slaves.

In January of 1830 Hayne rises as the spokesperson for Southerners who will stand ready to abandon the Union on behalf of their sovereign interests in slavery.

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January 19-20, 1830

### **Senators Hayne And Webster Trade Initial Jabs Over The Implications Of Foot's Bill**

Hayne begins the debate with Webster by arguing over the land covered in Foot's bill, saying that the soil rightfully belongs to the states, not the federal government – and that money derived from the sales should not be handed to Washington.

*Every scheme or contrivance by which rulers are able to procure the command of money by means unknown to, unseen or unfelt by, the people, destroys (their) security.*

*I distrust, therefore, sir, the policy of creating a great permanent national treasury, whether to be derived from public lands or from any other source. It would enable Congress and the Executive to exercise a control over States, as well as over great interests in the country, nay, even over corporations and individuals — utterly destructive of the purity, and fatal to the duration of our institutions.*

But he quickly shifts to the larger issue – the evils which follow when a “consolidated” national government is able to run roughshod over the will of the independent states.

*Sir, I am one of those who believe that the very life of our system is the independence of the States, and that there is no evil more to be deprecated than the consolidation of this Government.*

*It is only by a strict adherence to the limitations imposed by the constitution on the Federal Government, that this system works well, and.. I am opposed, therefore, in any shape, to all unnecessary extension of the powers, or the influence of the Legislature or Executive of the Union over the States, or the people of the States; and, most of all, I am opposed to those partial distributions of favors, whether by legislation or appropriation, which has a direct and powerful tendency to spread corruption through the land; to create an abject spirit of dependence; to sow the seeds of dissolution; to produce jealousy among the different portions of the Union, and finally to sap the very foundations of the Government itself. ...*

It is now Daniel Webster turn to respond to both Benton's narrow criticism of Foot's bill and Hayne's broader attack on the "consolidated government." He begins by asserting that the framers simply saw "consolidation" as the best way to serve the greatest number of citizens – with each state being asked to give a little on behalf of the common good and the Union.

*Sir, when gentlemen speak of the effects of a common fund, belonging to all the States, as having a tendency to consolidation, what do they mean? The framers tell that, "in all our deliberations on this subject, we kept steadily in our view that which appears to us the greatest interest of every true American — the consolidation of our Union... This important consideration...led each State in the Convention to be less rigid, on points of inferior magnitude, than might have been otherwise expected*

But from there he decides to jab Hayne and others from "his part of the country" for diminishing the value of the Union, by focusing constantly on its failures and evils. The founders felt the Union was essential to prosperity and safety for all; why does the South now feel differently?

*I know that there are some persons in the part of the country from which the honorable member comes, who habitually speak of the Union in terms of indifference...They significantly declare, that it is time to calculate the value of the Union; and their aim seems to be to enumerate...all the evils...which the Government under the Union produces.*

*I deem far otherwise of the Union of the States; and so did the framers of the constitution themselves. What they said I believe; fully and sincerely believe, that the Union of the States is essential to the prosperity and safety of the States.*

Webster then returns to Benton, with a vigorous defense of New England's role from the revolution onward.

*I maintain that, from the day of the cession of the territories by the States to Congress, no portion of the country has acted, either with more liberality or more intelligence, on the subject of the Western lands on the new States, than New England.*

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January 25, 1830

## Hayne Fires Back, Expanding The Debate Into Slavery And Nullification



The Debate Shifts to Slavery

At this point the focus of the debate shifts ominously -- away from land sales to slavery.

Hayne's fires back against Webster's criticism of "his part of the country" -- which he interprets as criticism of the South's for failing to do away with slavery. His response begins by reminding Webster of the North's complicity in fostering slavery in America, then follows with a vigorous defense of the institution.

*The honorable gentleman from Massachusetts...; instead of making up his issue with the gentleman from Missouri, on the charges which he had preferred... goes on to assail the institutions and policy of the South, and calls in question the principles and conduct of the State which I have the honor to represent.*

*Was the significant hint of the weakness of slave-holding States, when contrasted with the superior strength of free States — like the glare of the weapon half drawn from its scabbard — intended to enforce the lessons of prudence and of patriotism, which the gentleman had resolved, out of his abundant generosity, gratuitously to bestow upon us?*

*We are ready to meet the question promptly and fearlessly... We are ready to make up the issue with the gentleman, as to the influence of slavery on individual and national character — on the prosperity and greatness, either of the United States, or of particular States.*

Hayne contends, like Jefferson and others, that "blacks are of an inferior race."

*Sir, when arraigned before the bar of public opinion, on this charge of slavery, we can stand up with conscious rectitude, plead not guilty, and put ourselves upon God and our country. Sir, we will not stop to inquire whether the black man, as some philosophers have contended, is of an inferior race, nor whether his color and condition are the effects of a curse inflicted for the offences of his ancestors.*

He asserts, correctly, that the Northern states played a dominant role in bringing slaves to America in the first place, reaping profits along the way.

*We will not look back to inquire whether our fathers were guiltless in introducing slaves into this country. If an inquiry should ever be instituted in these matters, however, it will be found that the profits of the slave trade were not confined to the South. Southern ships and Southern sailors were not the instruments of bringing slaves to the shores of America, nor did our merchants reap the profits of that "accursed traffic."*

Once the slaves were here, Hayne says the South has done its best to care for them.

*Finding our lot cast among a people, whom God had manifestly committed to our care, we did not sit down to speculate on abstract questions of theoretical liberty. We met it as a practical question of obligation and duty. We resolved to make the best of the situation in which Providence had placed us, and to fulfil the high trust which had developed upon us as the owners of slaves*

He then claims that blacks enslaved in the South are far better off than their free brothers living in wretched conditions in the slums of Philadelphia, Boston and New York.

*What a commentary on the wisdom, justice, and humanity, of the Southern slave owner is presented by the example of certain benevolent associations and charitable individuals elsewhere....Thousands of these deluded victims of fanaticism were seduced into the enjoyment of freedom in our Northern cities. And what has been the consequence? Go to these cities now, and ask the question.*

*Sir, there does not exist, on the face of the whole earth, a population so poor, so wretched, so vile, so loathsome, so utterly destitute of all the comforts, conveniences, and decencies of life, as the unfortunate blacks of Philadelphia, and New York, and Boston.*

This narrative is followed by a plea often to be heard in the years to come – the North should simply let the South alone to deal with the future of slavery.

*On this subject, as in all others, we ask nothing of our Northern brethren but to "let us alone;" leave us to the undisturbed management of our domestic concerns, and the direction of our own industry, and we will ask no more.*

But Hayne is not yet done with Webster. He returns to the 1787 Convention and argues that the founders were intent on "consolidating the Union" not on "consolidating the government."

*In the course of my former remarks, I took occasion to deprecate, as one of the greatest of evils, the consolidation of this Government....The object of the framers of the constitution, as disclosed in that address, was not the consolidation of the Government, but "the consolidation of the Union." It was not to draw power from the States, in order to transfer it to a great National Government, but, in the language of the constitution itself, "to form a more perfect union;" and by what means? By "establishing justice," "promoting domestic tranquillity," and "securing the blessings of liberty to ourselves and our posterity." This is the true reading of the constitution.*

His language turns personal, assuring Webster that he will not get away with “casting the first stone” against the South around the threat of disunion.

*The honorable gentleman from Massachusetts [Mr. Webster] while he exonerates me personally from the charge, intimates that there is a party in the country who are looking to disunion....that gentleman has thought proper, for purposes best known to himself, to strike the South through me,... Sir, when the gentleman provokes me to such a conflict, I meet him at the threshold.*

The “true friend of the Union,” he claims, are those who would deny the boundaries set out by the founders and try to transfer the powers reserved for the states to the consolidated national government.

*Who, then, Mr. President, are the true friends of the Union? Those who would confine the federal government strictly within the limits prescribed by the constitution — who would preserve to the States and the people all powers not expressly delegated — who would make this a federal and not a national Union — and who, administering the government in a spirit of equal justice, would make it a blessing and not a curse. And who are its enemies? Those who are in favor of consolidation; who are constantly stealing power from the States and adding strength to the federal government; who, assuming an unwarrantable jurisdiction over the States and the people, undertake to regulate the whole industry and capital of the country. ...*

Hayne now arrives at his central contention – belief that the Constitution gives a State the right to “nullify” any federal actions it deems threatening to its well-being. He says that, despite Webster’s readiness to mock this belief as the “Carolina doctrine,” it is indeed the only path by which the Union can actually be preserved.

*The Senator from Massachusetts, in denouncing what he is pleased to call the Carolina doctrine, has attempted to throw ridicule upon the idea that a State has any constitutional remedy by the exercise of its sovereign authority against “a gross, palpable, and deliberate violation of the Constitution.” He called it “an idle” or “a ridiculous notion,” or something to that effect; and added, that it would make the Union “a mere rope of sand.”*

*Sir, as to the doctrine that the Federal Government is the exclusive judge of the extent as well as the limitations of its powers, it seems to be utterly subversive of the sovereignty and independence of the States.*

*I have but one word more to add. In all the efforts that have been made by South Carolina to resist the unconstitutional laws which Congress has extended over them, she has kept steadily in view the preservation of the Union, by the only means by which she believes it can be long preserved — a firm, manly, and steady resistance against usurpation. The measures of the Federal Government have, it is true, prostrated her interests, and will soon involve the whole South in irretrievable ruin. ...*

Both the content and the tone of Hayne's speech riles Webster.

He is indeed right in calling nullification the "Carolina doctrine." It is the work of none other than Jackson's Vice-President, John Calhoun, who will spend the final two decades of his life trying to convince the South of the peril it faces from Northern control in Washington. The Massachusetts's man decides that nullification must be met head on, and he calls upon all of his fine legal reasoning to respond to Hayne over the next two days.

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January 26-27, 1830

### Webster's Second Reply To Hayne's Addresses The Meaning And Value Of The Union



Daniel Webster (1782-1852)

Webster's second response to Hayne is generally regarded as one of the greatest speeches ever delivered in the Senate. It reviews in detail the principles that created the Union in the first place, shows why the notion of "nullification" violates the intent of the founders, and ends with an emotional and stirring call on behalf of preserving, at once, both Liberty and Union.

The address begins calmly, with an attempt to exclude personal animus from the dialogue.

*When the honorable member rose, in his first speech, I paid him the respect of attentive listening; and when he sat down...nothing was farther from my intention than to commence any personal warfare:*

It shifts to Hayne's impassioned defense of Southern slavery – with Webster declaring that while he finds the practice to be morally and politically evil, the people of the North have never sought to interfere with it.

*I spoke, sir, of the ordinance of 1787, which prohibited slavery, in all future times, northwest of the Ohio, as a measure of great wisdom and foresight...But, the simple expression of this sentiment has led the gentleman, not only into a labored defence of slavery, in the abstract, and on principle, but, also, into a warm accusation against me, as having attacked the system of domestic slavery, now existing in the Southern States. For all this, there was not the slightest foundation, in anything said or intimated by me. I did not utter a single word, which any ingenuity could torture into an attack on the slavery of the South.*

*I know, full well, that it is, and has been, the settled policy of some persons in the South, for years, to represent the people of the North as disposed to interfere with them, in their own exclusive and peculiar concerns....But the feeling is without all adequate cause, and the suspicion which exists wholly groundless. There is not, and never has been, a disposition in the North to interfere with these interests of the South.*

*The gentleman, indeed, argues that slavery, in the abstract, is no evil. Most assuredly, I need not say I differ with him, altogether and most widely, on that point. I regard domestic slavery as one of the greatest of evils, both moral and political.*

*(But) the domestic slavery of the Southern States I leave where I find it, -- in the hands of their own governments. It is their affair, not mine.*

The central issue according to Webster is not about slavery, but about Hayne's questioning the value of the Union. Sarcasm marks his tone, as he compares New England's interest in the "good of the whole" against South Carolina's disregard for anything but its own well-being.

*This leads, sir, to the real and wide difference, in political opinion, between the honorable gentleman and myself. ... "What interest," asks he, "has South Carolina in a canal in Ohio?"*

*Sir, we narrow-minded people of New England do not reason thus. Our notion of things is entirely different. We look upon the States, not as separated, but as united....In our contemplation, Carolina and Ohio are parts of the same country; States, united under the same General Government, having interests, common, associated, intermingled.*

*We who come here, as agents and representatives of these narrow-minded and selfish men of New England, consider ourselves as bound to regard, with equal eye, the good of the whole.*

He then faces directly into Hayne's assertion that individual states have the right to "nullify" any federal laws they deem harmful to their self-interest.

*I understand the honorable gentleman from South Carolina to maintain, that it is a right of the State Legislatures to interfere, whenever, in their judgment, this Government transcends its constitutional limits, and to arrest the operation of its laws.*

*I understand him to insist, that if the exigency of the case, in the opinion of any State Government, require it, such State Government may, by its own sovereign authority, annul an act of the General Government, which it deems plainly and palpably unconstitutional....This is the sum of what I understand from him, to be the South Carolina doctrine.*

Webster says that the Constitution, the supreme law of the land, was set up to make government accountable to the People as a whole, not to the individual whims of any one State.



*This leads us to inquire into the origin of this Government, and the source of its power. Whose agent is it?... This absurdity (for it seems no less) arises from a misconception as to the origin of this Government and its true character. It is, sir, the People's Constitution, the People's Government; made for the People; made by the People; and answerable to the People.*

*The people of the United States have declared that the Constitution shall be the supreme law. We must either admit the proposition, or dispute their authority. The States are, unquestionably, sovereign, so far as their sovereignty is not affected by this supreme law. But the State legislatures, as political bodies, however sovereign, are yet not sovereign over the people. So far as the people have given the power to the general government, so far the grant is unquestionably good, and the government holds of the people, and not of the State governments. We are all agents of the same supreme power, the people."*

Hayne's proposal is nothing more than a throwback to the government that existed under the Articles of Confederation—with State interests able to override the common will of the People. This approach failed before and it would fail again, despite protests to the contrary.

*Sir, the very chief end, the main design, for which the whole Constitution was framed and adopted, was to establish a Government that should not be obliged to act through State agency, or depend on State opinion and State discretion. The People had had quite enough of that kind of Government, under the Confederacy.*

*Finally, sir, the honorable gentleman says, that the States will only interfere, by their power, to preserve the Constitution. They will not destroy it, they will not impair it — they will only save, they will only preserve, they will only strengthen it! Ah! Sir, this is but the old story. All regulated Governments, all free Governments, have been broken up by similar disinterested and well disposed interference! It is the common pretence. But I take leave of the subject.*

After holding the floor for several hours over a two-day period, Webster returns to his main theme – belief that the Union represents America's best chance to simultaneously serve the interests of the people and of the states. That was the insight the founders came to at the Constitutional Convention of 1787, and it must be preserved. To make the point, he dwells momentarily on a prophetic option – bloody disunion.

*I have not accustomed myself to hang over the precipice of disunion to see whether, with my short sight, I can fathom the depth of the abyss below; nor could I regard him as a safe counselor in the affairs of this Government, whose thoughts should be mainly bent on considering not how the Union should be best preserved, but how tolerable might be the condition of the people when it shall be broken up and destroyed.*

*While the Union lasts we have high, exciting, gratifying prospects spread out before us, for us and our children. Beyond that I seek not to penetrate the veil. God grant that in my day, at least, that curtain may not rise. God grant that, on my vision, never may be opened what lies behind. When my eyes shall be turned to behold, for the last time, the*

*sun in heaven, may I not see him shining on the broken and dishonored fragments of a once glorious Union; on States dissevered, discordant, belligerent; on a land rent with civil feuds, or drenched, it may be, in fraternal blood!*

He then closes with the soaring line – “Liberty and Union, now and forever, one and inseparable” – for which the address is forever remembered.

*Let their last feeble and lingering glance rather behold the gorgeous ensign of the republic, now known and honored throughout the earth, still full high advanced, its arms and trophies streaming in their original luster, not a stripe erased or polluted, nor a single star obscured, bearing for its motto no such miserable interrogatory as, “What is it all worth?” or those other words of delusion and folly, “Liberty first and union afterwards”; but ” everywhere spread all over in characters of living light, blazing on all its ample folds, as they float over the sea and over land, and in every wind under the whole heavens, that other sentiment, dear to every true American heart—Liberty and Union, now and forever, one and inseparable!”*

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January 27, 1830

### **Hayne Offers A Final Rejoinder**

The fact that Hayne pushes back one last time against Webster signals that the State’s Rights advocates of the South are not about to surrender.

What Webster calls the “Carolina doctrine” is no more than an assertion of the guarantees in the Tenth Amendment of the 1787 Constitution.

*Here it will be necessary to go back to the origin of the Federal Government. It cannot be doubted, and is not denied, that before the formation of the constitution, each State was an independent sovereignty, possessing all the rights and powers appertaining to independent nations; nor can it be denied that, after the constitution was formed, they remained equally sovereign and independent, as to all powers, not expressly delegated to the Federal Government. This would have been the case even if no positive provision to that effect had been inserted in that instrument. But to remove all doubt it is expressly declared, by the 10<sup>th</sup> article of the amendment of the constitution, “that the powers not delegated to the States, by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”...*

*No doubt can exist, that, before the States entered into the compact, they possessed the right to the fullest extent, of determining the limits of their own powers — it is incident to all sovereignty. Now, have they given away that right, or agreed to limit or restrict it in any respect? Assuredly not. They have agreed, that certain specific powers shall be exercised by the Federal Government; but the moment that Government steps beyond the limits of its charter, the right of the States “to interpose for arresting the progress of the*

*evil, and for maintaining within their respective limits the authorities, rights, and liberties, appertaining to them,” is as full and complete as it was before the Constitution was formed.*

The issue, he says, has never been about “love of the Union.”

*A State will be restrained by a sincere love of the Union. The People of the United States cherish a devotion to the Union, so pure, so ardent, that nothing short of intolerable oppression, can ever tempt them to do anything that may possibly endanger it. The gentleman has made an eloquent appeal to our hearts in favor of union. Sir, I cordially respond to that appeal. I will yield to no gentleman here in sincere attachment to the Union.*

Instead it has been about embracing a Union that lives up to the rules laid out in the Constitution, which honor the rights of the States vs. the “consolidated government.”

*— But it is a Union founded on the Constitution, and not such a Union as that gentleman would give us, that is dear to my heart. If this is to become one great “consolidated government,” swallowing up the rights of the States, and the liberties of the citizen, “riding and ruling over the plundered ploughman, and beggared yeomanry,” the Union will not be worth preserving. Sir it is because South Carolina loves the Union, and would preserve it forever, that she is opposing now, while there is hope, those usurpations of the Federal Government, which, once established, will, sooner or later, tear this Union into fragments. ...*

The exchanges between the two great orators are riveting for all who witness them in the Senate – but the implications extend far beyond mere theater.

Hayne announces the South’s growing fear that the federal government may try to impede the future growth of slavery – along with a warning that any such action will be met with resistance that could “tear the Union into fragments.”

Webster makes it clear that all attempts by the South to “nullify” federal laws will fail.

Here indeed is an impasse, and ten weeks later it spills over to a sharp exchange within the Executive branch.