

AUTHOR: Daniel Webster

TITLE: Liberty and Union

DATE: January 26, 1830

5 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 maintain this right, as a right existing under the Constitution, not as a right to overthrow it on the ground of extreme necessity, such as would justify violent revolution.

10 I understand him to maintain an authority, on the part of the States, thus to interfere, for the purpose of correcting the exercise of power by the general government, of checking it, and of compelling it to conform to their opinion of the extent of its powers. I understand him to maintain that the ultimate power of judging of the constitutional extent of its own authority is not lodged exclusively in the general government, or any branch of it; but that, on the contrary, 15 the States may lawfully decide for themselves, and each State for itself, whether, in a given case, the act of the general government transcends its power.

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.

20 This is the sum of what I understand from him to be the South Carolina doctrine, and the doctrine which he maintains. I propose to consider it, and compare it with the Constitution. Allow me to say, as a preliminary remark, that I call this the South Carolina doctrine only because the gentleman himself has so denominated it. I do not feel at liberty to say that South Carolina, as a State, has ever advanced these sentiments. I hope she has not, and never may.

25 That a great majority of her people are opposed to the tariff laws is doubtless true. That a majority, somewhat less than that just mentioned, conscientiously believe these laws unconstitutional may probably also be true. But that any majority holds to the right of direct State interference at State discretion, the right of nullifying acts of Congress by acts of State legislation, is more than I know, and what I shall be slow to believe. . .

30 We all know that civil institutions are established for the public benefit, and that when they cease to answer the ends of their existence they may be changed. But I do not understand the doctrine now contended for to be that which, for the sake of distinction, we may call the right of revolution. I understand the gentleman to maintain that it is constitutional to interrupt the administration of the Constitution itself, in the hands of those who are chosen and sworn to
35 administer it, by the direct interference, in form of law, of the States, in virtue of their sovereign capacity. The inherent right in the people to reform their government I do not deny; and they have another right, and that is to resist unconstitutional laws, without overturning the government. It is no doctrine of mine that unconstitutional laws bind the people. The great question is, Whose prerogative is it to decide on the constitutionality or unconstitutionality of
40 the laws? On that the main debate hinges.

The proposition that in case of a supposed violation of the Constitution by Congress the States have a constitutional right to interfere and annul the law of Congress, is the proposition of the gentleman. I do not admit it. If the gentleman had intended no more than to assert the right of revolution for justifiable cause, he would have said only what all agree to. But I can not
45 conceive that there can be a middle course, between submission to the laws when regularly pronounced constitutional, on the one hand, and open resistance (which is revolution or rebellion) on the other.

This leads us to inquire into the origin of this government and the source of its power. Whose agent is it? Is it the creature of the State Legislatures, or the creature of the people? If the
50 government of the United States be the agent of the State governments, then they may control it, provided they can agree in the manner of controlling it; if it be the agent of the people, then the people alone can control it, restrain it, modify, or reform it. It is observable enough that the doctrine for which the honorable gentleman contends leads him to the necessity of maintaining, not only that this general government is the creature of the States, but that it is
55 the creature of each of the States severally, so that each may assert the power for itself of determining whether it acts within the limits of its authority. It is the servant of four-and-twenty masters, of different wills and different purposes, and yet bound to obey all. 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
60 the people, made by the people, and answerable to the people. The people of the United States
have declared that this 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 the
supreme law. But the State Legislatures, as political bodies, however sovereign, are yet not
65 sovereign over the people. So far as the people have given 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. The general
government and the State governments derive their authority from the same source. Neither
can, in relation to the other, be called primary, tho[ugh] one is definite and restricted, and the
70 other general and residuary. The national government possesses those powers which it can be
shown the people have conferred on it, and no more. All the rest belongs to the State
governments, or to the people themselves. So far as the people have restrained State
sovereignty, by the expression of their will, in the Constitution of the United States, so far, it
must be admitted, State sovereignty is effectually controlled. I do not contend that it is, or
75 ought to be, controlled farther. . .

I must now beg to ask, sir, Whence is this supposed right of the States derived? Where do they
find the power to interfere with the laws of the Union? Sir, the opinion which the honorable
gentleman maintains is a notion founded on a total misapprehension, in my judgment, of the
origin of this government, and of the foundation on which it stands. I hold it to be a popular
80 government, erected by the people; those who administer it responsible to the people; and
itself capable of being amended and modified, just as the people may choose it should be. It is
as popular, just as truly emanating from the people, as the State governments. It is created for
one purpose; the State governments for another. It has its own powers; they have theirs. There
is no more authority with them to arrest the operation of a law of Congress, than with Congress
85 to arrest the operation of their laws.

We are here to administer a Constitution emanating immediately from the people, and trusted
by them to our administration. It is not the creature of the State governments. . .

This government, sir, is the independent offspring of the popular will. It is not the creature of State Legislatures; nay, more, if the whole truth must be told, the people brought it into
90 existence, established it, and have hitherto supported it, for the very purpose, among others, of imposing certain salutary restraints on State sovereignties. The States can not now make war; they can not contract alliances; they can not make, each for itself, separate regulations of commerce; they can not lay imposts; they can not coin money. If this Constitution, sir, be the creature of State Legislatures, it must be admitted that it has obtained a strange control over
95 the volitions of its creators. . . .

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
100 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! 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
105 obscured, bearing for its motto no such miserable interrogatory as, "What is all this worth?" nor those other words of delusion and folly, "Liberty first and Union afterward"; but everywhere, spread all over in characters of living light, blazing on all its ample folds, as they float over the sea and over the land, and in every wind under the whole heavens, that other sentiment, dear to every true American heart—Liberty and Union, now and for ever, one and
110 inseparable!