

A DISCOURSE ON THE CONSTITUTION AND GOVERNMENT OF THE UNITED STATES

John C. Calhoun

(introduction by Jon Roland)

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Calhoun served as U.S. senator from South Carolina, secretary of war, secretary of state, and twice as vice-president, and was a dominant figure, alongside such men as Henry Clay and Daniel Webster.

Calhoun's Disquisition on Government has been called a "deep look at the nature of man and government". Calhoun saw himself as the heir of Thomas Jefferson and the Republican tradition, but he rejected both the Lockean view of natural rights and the optimistic Enlightenment view of human nature and human societies. According to Calhoun, man is by nature selfish, arrogant, jealous, and vengeful, and these tendencies must be controlled by the state. There are no natural rights. Liberty is a reward and, inevitably, based upon the subjection or slavery of others. Calhoun went further, arguing that the United States was not a nation, but a confederation of nations, and attacked the key founding doctrines expounded by Alexander Hamilton, James Madison, and John Jay in the Federalist Papers. In the Disquisition, he challenges Federalist #1's assumption that institutions can be a product of reflection and reason; #10's theory of the compound republic; #22's doctrine of the numerical majority; and #51's separation of powers. According to Calhoun, numerical majorities were as selfish and rapacious as individual men when it came to trampling on minority interests. His proposed solution was the concurrent majority, essentially a constitutional method of enabling minorities to block the actions of majorities that might threaten the rights of the minority, making them, in essence, veto groups.

We may reject Calhoun's racist views, and the inconsistency of his advocacy of constitutional reforms to protect the minority he represented, while oppressing another minority, but his discussion of the problem of protecting the rights of a minority against a persistent majority, and how the problem might be solved constitutionally, is relevant today as special interests combine to exceed the constitutional limits on powers originally intended by the Founders, and in seeking benefits for themselves, operate to infringe the rights of others.

OURS is a system of governments, compounded of the separate governments of the several States composing the Union, and of one common government of all its members, called the Government of the United States. The former preceded the latter, which was created by their agency. Each was framed by written constitutions; those of the several States by the people of each, acting separately, and in their sovereign character; and that of the United States, by the same, acting in the same character—but jointly instead of separately. All were formed on the same model. They all divide the powers of government into legislative, executive, and judicial; and are founded on the great principle of the responsibility of the rulers to the ruled. The entire powers of government are divided between the two; those of a more general character being specifically delegated to the United States; and all others not delegated, being reserved to the several States in their separate character. Each, within its appropriate sphere, possesses all the attributes, and performs all the functions of government. Neither is perfect without the other. The two combined, form one entire and perfect government. With these preliminary remarks, I shall proceed to the consideration of the immediate subject of this discourse.

The Government of the United States was formed by the Constitution of the United States—and ours is a democratic, federal republic.

It is democratic, in contradistinction to aristocracy and monarchy. It excludes classes, orders, and all artificial distinctions. To guard against their introduction, the constitution prohibits the granting of any title of nobility by the United States, or by any State. The whole system is, indeed, democratic throughout. It has for its fundamental principle, the great cardinal maxim, that the people are the source of all power; that the governments of the several States and of the United States were created by them, and for them; that the powers conferred on them are not surrendered, but delegated; and, as such, are held in trust, and not absolutely; and can be rightfully exercised only in furtherance of the objects for which they were delegated.

It is federal as well as democratic. *Federal*, on the one hand, in contradistinction to *national*, and, on the other, to a *confederacy*. In showing this, I shall begin with the former.

It is federal, because it is the government of States united in political union, in contradistinction to a government of individuals socially united; that is, by what is usually called, a social compact. To express it more concisely, it is federal and not national, because it is the government of a community of States, and not the government of a single State or nation.

That it is federal and not national, we have the high authority of the convention which framed it. General Washington, as its organ, in his letter submitting the plan to the consideration of the Congress of the then confederacy, calls it, in one place—"the general government of the Union"—and in another—"the federal government of these States." Taken together, the plain meaning is, that the government proposed would be, if adopted, the government of the States adopting it, in their united character as members of a common Union; and, as such, would be a federal government. These expressions were not used without due consideration, and an accurate and full knowledge of their true import. The subject was not a novel one. The convention was familiar with it. It was much agitated in their deliberations. They divided, in reference to it, in the early stages of their proceedings. At first, one party was in favor of a national and the other of a federal government. The former, in the beginning, prevailed; and in the plans which they proposed, the constitution and government are styled "National." But, finally, the latter gained the ascendancy, when the term "National" was superseded, and "*United States*" substituted in its place. The constitution was accordingly styled—"The constitution of the United States of America"—and the government—"The government of the United States" leaving out "America," for the sake of brevity. It cannot admit of a doubt, that the Convention, by the expression "United States," meant the States united in a federal Union; for in no other sense could they, with propriety, call the government, "*the federal government of these States*"—and "*the general government of the Union*"—as they did in the letter referred to. It is thus clear, that the Convention regarded the different expressions—"the federal government of the United States"—"the general government of the Union"—and—"government of the United States"—as meaning the same thing—a federal, in contradistinction to a national government.

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It is not an uncommon impression, that the government of the United States is a government based simply on population; that numbers are its only element, and a numerical majority its only controlling power. In brief, that it is an absolute democracy. No opinion can be more erroneous. So far from being true, it is, in all the aspects in which it can be regarded, preeminently a government of the concurrent majority: with an organization, more complex and refined, indeed, but far better calculated to express the sense of the whole (in the only mode by which this can be fully and truly done—to wit, by ascertaining the sense of all its parts) than any government ever formed, ancient or modern. Instead of population, mere numbers, being the sole element, the numerical majority is, strictly speaking, excluded, even as one of its elements; as I shall proceed to establish, by an appeal to figures; beginning with the formation of the constitution, regarded as the fundamental law which ordained and established the government; and closing with the organization of the government itself, regarded as the agent or trustee to carry its powers into effect.