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## DEBATE

ie Senate of the United States during the ession of Congress, relative to the powers the General and State Governments.

CALHOUN'S SPRECH CONCLUDED. aving now said what I intended in tion to my first resolution, both in y to the Senator from Massachus, and in vindication of its correctresolution; that the General Goment is not the exclusive and final

measures of redress. can scarcely be necessary, before tes in their confederative capacity, the latter, that of each State sepaply with a view, of presenting disto prove that the General Govern-

r, if the right be possessed by both, control the other.

suant to the constitution, and thus ing to an authentic copy hereto annexdifficulty, instead of being taken ed, in the words following," &c.

by setting up, on the part of Con-

ed of the constitution, the laws pasequity, so as to be subjects of ju-al discussion, Congress must intersion to pass laws, and in cases ca

nts of the General Government are mended article, the one in question, possess the right of judging, finally and her ratification must be at least reconclusively, of their respective ceived as the highest evidence of its wers, on what principle can the same true meaning and interpretation.

If these views be correct, and I do not be withheld from the state Go.

but parts of the same system. I would further tell the Senator, that if this right be withheld from the State Goverament; if this restraining influence by which the General Government is coerced to its proper sphere, be withdrawn, then that department of the Government from which he has withheld the right of judging of its own powers, (the Executive) will, so far from being | It says: excluded, become the sole interpreter of the powers of the Government. It is the armed interpreter, with powers to execute its own construction, and

without the aid of which, the construction of the other departments will be impotent. But I contend that the States have a

I will now proceed to consider far clearer right to the sole construcconclusions drawn from it in the se- tion of their powers than any of the departments of the Federal Government can have; this power is expressly ree of the extent of the powers dele-d to it, but that the States, as par-to the compact, have a right to se, in the last resort, of the infrac-sof the compact, and of the mode themselves. I will not repeat the arguments which I then offered on this point, and which remain unanswered, alightened a body, to premise, that but I must be permitted to offer strongsystem comprehends two distinct additional proof of the views then taernments-the General and State ken; and which, if I am not mistaken, remments, which, properly considered are conclusive on this point. It is drawn ed. form but one. The former, re- from the ratification of the constitution senting the joint authority of the by Virginia, and is in the following words. Mr. C. then read as follows:

"We, the Delegates of the people of ly, I have premised this fact, Virginia, duly elected in pursuance of a recommendation from the General ly the answer to the argument of Assembly, and now met in Convention, by the Senator from Massachu- having fully and freely investigated and discussed the proceedings of the t has a final and exclusive right to Federal Convention, and being prebut also of those reserved to the liberation hath enabled us to decide tes. That gentleman relies, for his thereon-do, in the name and in behalf n argument, on the assertion, that of the people of Virginia, declare and rernment, which he defines to be an make known, that the powers granted mized body, endowed with both under the constitution, being derived and power, and authority in pro- from the people of the United States, vigore, to execute its purpose, has may be resumed by them, whensoever ht inherently to judge of its pow- the same shall be perverted to their in-It is not my intention to comment jury or oppression, and that every powthe definition of the Senator, er not granted thereby, remains with h it would not be difficult to show them, and at their will; that therefore his ideas of government are not ve- no right of any denomination can be American. My object is to deal cancelled, abridged, restrained, or mothe conclusion and not the defini- diffied by the Congress, by the Senate rers, for which he contends. How department, or officer of the United on the present occasion. will be withhold, upon his own States, except in those instances in But why should I waste words in re- Massachusetts has himself assented, if they may suppose three-fourths of the The Senator appears to be enamour ed to the General Government? If other essential rights, the liberty of ongs to both—and if to both, if they cancelled, shridged, restrained, or mo-er, the veto, so abhorred by the Sci diffied by any authority of the United or, is the necessary result; as nei- States. With these impressions, with a solemn appeal to the Searcher of all hearts, for the purity of our intentions, The Senator felt the force of this ar-nent, and in order to sustain his ever imperfections may exist in the n position, he fell back on that constitution, ought rather to be exame of the constitution, which pro- ined in the mode prescribed therein, es, that " this constitution, and the than to bring the Union in danger by a made in pursuance thereof, shall delay, with the hope of obtaining athe supreme law of the land." mendments previous to the ratificaied that the constitution, and the name and in the behalf of the people of s made in pursuance of it, are of Virginia, do, by these present, assent ment authority. But it is equal- to and ratify the constitution recomundeniable, that laws not made in mended on the Ifth day of September, wance, are not only not of paramount 1787, by the Federal Convention: for pority, but are of no authority what- the Government of the United States, r; being of themselves null and void; hereby announcing to all those whom it ch presents the question who are may concern, that the said constitution judge whether the laws be or be not is binding upon the said people, accord-

y, is removed but one step farther It thus appears that that sagacious This the Senator also felt, and State (I fear, however, that her sagaciattempted to overcome the difficul- ty is not as sharp sighted now as formerly) ratified the Constitution, with ss, and the Judiciary, the final and an explanation as to her reserved powlusive right of judging, both for the ers; that they were powers subject to eral Government and the States, her own will; and reserved against the extent of their powers. That every department of the General Go ay do full justice to the gentleman, vernment, Legislative, Executive, and will give his doctrine in his own Judicial; as it she had a prophetic ds. He states:

knowledge of the attempts now made That there is a supreme law, con- to impair and destroy them; which explanation can be considered in no other a pursuance of it, and the treaties; light than as containing a condition on assuming the shape of cases in law part of the Constitution of the United States, extending as well to the other States as to herself. I am no lawver, the Constitution, so often as it has and it may appear to be presumption in me to lay down the rule of law which le of assuming a judicial shape, the governs in such cases, in a controversy teme Court must be the final inter with so distinguished an advocate as the Senator from Massachusetts; but I Now, passing over this vague and will lay it down as a rule in such cases, e phraseology. I would ask the Se- which I have no fear that the gentle-, upon what principle can be con- man will contradict, that in case of a d from the other. I would also ask not rest the argument simply upon this a, on what principle, if the depart- view; Virginia proposed the tenth a

nments, which, as well as the Genot see how they can be resisted, the
Commenced early, and worked earnestingly to the last, to deprive the States—
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The commenced early, and worked earnestingly to the last, to deprive the States—
which the Senator contends. eral system, and form together, on the most solid foundation, and is too bold an attempt, but indirectly-of of the constitution for which I contend, vernments. A shallow observer would have never known to be before

one delegated authority, as well as by arms, can be prevented. the Executive or the Legislature."

has the right of judging of its any capacity, by the President, or any necessary to add any further remarks right to judge for itself. To the truth The General Government will abstain the restraining or negative power of Go-

cussion, to show that the clause in the constitution be indeed a compact. Constitution which provides that the I have now replied to the arguments

domestic and foreign. I have now, I trust, shown satisfactorily that there is no provision in the States, within the sphere of its reservobject was, to give to Congress the

what reason the declaration by the Ge | we have the strongest evidence that it of the doctrine was in the recent procla at the present day, and in so solemn a Had the attempt to deprive them of is the bitter fruit. this power been directly made, and It is further objected by the Senator attributed so much to the excess of this "On this objection it might be ob failed, every one would have seen and from Massachusetts, and others, against negative power of itself, as to the faciliserved-first, that there may be in felt that it would furnish conclusive this doctrine of State rights, as ty which it afforded to foreign influence stances of usurped power, which the evidence in favor of its existence - maintained in this debate, that if they in controlling its political improveforms of the Constitution would never Now, I would ask, what possible dif- should prevail the peace of the country ments. draw within the control of the judicial ference can it make, in what form this would be destroyed. But what if they I am not surprised that, with the idea department: secondly, that if the deci- attempt was made? Whether by at should not prevail? Would there be of a perfect Government which the sion of the judiciary be raised above tempting to confer on the General Go. peace? Yes, the peace of despotism; that Senator from Massachusetts has formthe authority of the sovereign parties to vertiment a power incompatible with peace which is enforced by the bayonet & ed, a Government of an absolute majorthe Constitution, the decisions of the the exercise of the veto on the part of the sword; the peace of death, where all ity, unchecked and unrestrained, op other departments, not carried by the the States, or by attempting directly to the vital functions of liberty have ceas ating through a representative be cise or sanction dangerous powers be- power by which that system of injustice and electioneering, from which nothing it is of remote origin, and has existed yond the grant of the Constitution; and, against which we have contended for but some such event could rouse it, or consequently, that the ultimate right of more than thirteen years, could be ar- restore those honest and patriotic feelthe parties to the Constitution to judge rested; by which a system of hostile le- ings, which had almost disappeared

The Senator also relies upon the au- ers, in the last resort, on higher grounds by the iron arm of the Government. necessary to repeat the argument which cession and nullification, which he con-I offered when the bill was under dis- ceded would necessarily follow, if the

judicial power shall extend to all cases of the Senator from Massachusetts, so in law and equity, arising under this far as they directly apply to the resolu-Constitution, and to the laws and trea- tions, and will, in conclusion, notice ties made under its authority, has no some of his general and detached rebearing on the point in controvery; and marks. To prove that ours is a conthat even the boasted power of the Su- solidated Government, and that there is preme Court to decide a law to be un- an immediate connexion between the constitutional, so far from being de- Government and the citizens, he relies rived from this or any other portion of on the fact, that the laws act directly the Constitution, results from the ne on individuals. That such is the case, cessity of the case; where two rules of I will not deny; but I am very far from unequal authority come in conflict, and conceding the point, that it affords the is a power belonging to all courts, su- decisive proof, or even any proof at all perior and inferior, State and general; of the position which the Senator wishes to maintain. I hold it to be perfectly within the competency of two or more States to subject their citizens, in constitution to authorize the General certain cases, to the direct action of Government, through any of its depart | each other, without surrendering or imments, to control the action of the pairing their sovereignty. I recollect, while I was a member of Mr. Monroe's ed powers, and that of course, accord. Cabinet, a proposition was submitted by ing to the principle laid down by the the British Government, to permit a Senator from Massachusetts himself, mutual right of search and seizure, on the government of the States, as well the part of each Government, of the cias the General Government, has the tizens of the other, on board of vessels right to determine the extent of their engaged in the slave trade, and to estabrespective powers, without the right on lish a joint tribunal for their trial and the part of either to control the other .- punishment. The proposition was de-The necessary result is, the veto, to clined, not because it would impair the which he so much objects, and to get sovereignty of either, but on the ground in cases coming before Congress, which she ratified, and, in fact, making clear of which, he informs us, was the of the general expediency, and because object for which the present constitu- it would be incompatible with the protion-was formed. I know not whence visions of the constitution, which estab he has derived his information, but my lish the judicial power, which must be impression is very different, as to the appointed by the President and Senate. immediate motives which led to the If I am not mistaken, propositions of formation of that instrument. I have the same kind were made and acceded always understood that the principal to by some of the continental powers.

With the same view, the Senator power, to regulate commerce, to lay cited the suability the States, as eviimpost duties, and to raise a revenue dence of their want of sovereignty; at for the payment of the public debt and which I must express my surprise, comthe expenses of the Government, and the expenses of the Government, and the expenses of the Government, and the expenses of the expenses of the Government, and the expenses of the expenses of the Government, and the expenses of the Government, and the expenses of the expens had been to get clear of the vete of the States, as the Senator states, the Convention certainly performed their work. States may be sued in certain land priate representatives of the one powin a most bungling manner. There cases. If the provision in the constituter, and the Senate of the other, each syth.) I had supposed it was imposed. was unquestionably a large party in tion on this point proves any thing, it possessed of the authority of checking that one of his experience and sagacily that body, headed by men of distinguished talents and influence, who which the right of suing a State is perpartments of the Government, as supgerous direction which this controvers

properly speaking, but one Govern- | good against every department of the the veto. The good sense of the Con- it is said they are novel. I hold this to perceive in such an organization, noth-This was a favorite idea of a General Government; and the Judicia- vention, however, put down every ef- be a great mistake. The novelty is not ing but the perpetual source of anarchy. man, for whose wisdom I have a respect, increasing with my experience, ference with the reserved powers, as and whom I have frequently heard say the Legislative or Executive departthat most of the misconceptions and errors, in relation to our system, originated in forgetting that they were Mr. Madison, in the Federalist, to very instructive lesson. It is sufficient to give the misconceptions and ments. To prove the opposite, the history of these various and unsuccess recent growth. It is not the doctrine of and reason teaches that this power was full and the doctrine of derived from the very circumstance and unsuccess recent growth. It is not the doctrine of derived from the very circumstance and unsuccess recent growth. It is not the doctrine of derived from the very circumstance and unsuccess recent growth. It is not the doctrine of derived from the very circumstance and unsuccess recent growth. It is not the doctrine of derived from the very circumstance and unsuccess recent growth. It is not the doctrine of derived from the very circumstance and unsuccess recent growth. It is not the doctrine of derived from the very circumstance and unsuccess recent growth. It is not the doctrine of derived from the very circumstance and unsuccess recent growth. It is not the doctrine of derived from the very circumstance and unsuccess recent growth. It is not the doctrine of derived from the very circumstance and unsuccess recent growth. It is not the doctrine of derived from the very circumstance and unsuccess recent growth. It is not the doctrine of derived from the very circumstance and the very circumstanc prove that it was intended to invest the to say, that it was attempted by pro- of whom strenuously maintained the fed- the cause of weakness. I will venture Court with the power in question. In posing to give to Congress power to erative character of the constitution, an assertion which may be considered reply, I will meet Mr. Madison with annul the acts of the States, which they though they were accused of supporting extravagant, but in which history will his own opinion, given on a most so might deem inconsistent with the con a system of policy, which would neces fully bear me out, that we have no lemn occasion, and backed by the sa-gacious Commonwealth of Virginia.— power of appointing the Governors of disclosure of that doctrine was in the power of arresting the improper acts The opinion to which I allude will be the States, with a view of vetoing State case of McCulloh, in which the Su- of the Government, or what may be calfound in the celebrated report of 1799, laws through his authority; and, finally, preme Court held the doctrine, though led the negative power of Government, of which Mr. Madison was the author, to give to the judiciary the power to wrapt up in language somewhat indis was too strong, except Poland, where decide controversies between the States tinct and ambiguous. The next and every freeman possessed a veto; but But it is objected, that the Juni and the General Government; all of more open avowal was by the Senator of even there, although it existed in so exciat. AUTHORITY is to be regarded as which failed—fortunately for the lithe sole expositor of the Constitution in berty of the country-utterly and en- years ago, in the debate on Pout's reso the highest and most lufty attachment the last resort; and it may be asked for tirely failed; and, in their failure, lution. The first official annunciation to liberty, and the most heroic courage neral Assembly, supposing it to be was not the intention of the Convention mation of the President, of which the Europe from the domination of the cretheoretically true, could be required to deprive the States of the veto power, bill that has recently passed this body scent and cimetar. It is worthy of re-

of this proposition, the Senator from from the exercise of any power in which vernment may be called.

and the head of the confederacy. confederation. I regard the assertion bayonet, from the brave and the free. only as evidence of that extravagance of declamation, in which, from excite- is intended to decide this great conence, the difference between a feeble and illy contrived confederation, and the restrained energy of a federal sys-

Of the same character is the objection. source of strength, without taking into have taken issue, the estimate the operation of moral Toe Senator from Massachusetts has causes, such would appear to be the struggled hard to sustain his cause; but fact; but if we take into the estimate the the load was too heavy for him to bear, latter, you will find that those Govern- I am not surprised at the arder and ments have the greatest strength in zeal with which he has entered into the which power has been most efficiently controversy. It is a great struggle checked. The Government of Rome between power and liberty-power on partments of the Government, as sup- gerous direction which this controvers posed by the Senator from Massachu setts, but as independent powers-as have heard an ominous reference to much so as the State and General Go- provision in the Constitution, w

-qualities that more than once saved mark that the fate of Poland is not to be

forms of the Constitution before the ju deprive them of the right of exercising ed. It is this peace which the doctrine that he should be so much shocked diciary, must be equally authoritative it. We have thus direct and strong of State sovereignty may disturb by that with what he is pleased to call the and last with decisions of the depart- proof, that in the opinion of the Concondict, which, in every free State, if absurdity of State veto. But let me ment. But the proper answer to this vention, the States, unless deprised of properly, preganized, necessarily exists tell him, that his scheme of a perfect objection is, that the resolution of the it, possess the veto power; or, what is between liberty and power; but which, government, as beautiful as he con-General Assembly relates to those another name for the same thing, the if restrained within proper limits, is a ceives it to be, though often tried, great and extraordinary cases, in which right of nullification. I know that salutary exercise to our moral and in, has invariably failed, and has always all the forms of the Constitution may there is a diversity of opinion among tellectual faculties. In the case of Caro run, whenever tried, through the same prove ineffectual against infractions the friends of State rights, in regard to lina, which has caused all this discus- uniform process of faction, corruption, dangerous to the essential rights of the this power, which I regret; as I cannot ston, who does not see, if the effusion of anarchy, and despotism. He considers parties to it. The resolution supposes but consider it as a power essential to blood be prevented, that the excite-the representative principle as the that dangerous powers, not delegated, the protection of the minor interests of ment, the agitation, and the inquiry great modern improvement in legislamay not only be usurped and executed the community, and the liberty and the which it has caused, will be followed by tion, and of itself sufficient to secure by the other departments, but that the union of the country. It was the very the most beneficial consequences. The liberty. I cannot regard it in the light judicial departments, also, may exer shield of State rights; and the only country had sunk into avarice, intrigue, in which he does. Instead of modern, in greater or less perfection, in every free State from the remotest antiquity Nor do I consider it as of itself sufwhether the compact was dangerously gislation, of plundering by law, which under their baneful influence. What ficient to secure liberty, though I reviolated, must extend to violations by must necessarily lead to a conflict of one delegated authority, as well as by arms, can be prevented.

The constitution to judge rested, by which a system of nostine to the conflict of under their baneful influence. What ficient to secure liberty, though I reviolated, must extend to violations by must necessarily lead to a conflict of and distinction without such conflicts? The means of securing the Peaanother; by the Judiciary as well as by But I rest the right of a State to Look at the degraded state of all those ple against the tyranny and oppression the Executive or the Legislature." Judge of the extent of its reserved powanother means is still necessary, the thority of Luther Martin to the same —that the constitution is a compact to I, for my part, have no fear of any means of securing the different porpoint, to which I have already replied which the States are parties, in their dangerous conflict, under the fullest ac tions of society against the injustice so fully, on another occasion, (in an- sovereign capacity; and that, as in all kowledgment of States sovereignty; the and oppression of each other, which can the conclusion and not the definidified by the Congress, by the Senate swer to the Senator from Delaware, other cases of compact between parties very fact that the States may interpose only be effected by veto, interposition, Admit, then, that the Govern or House of Representatives, acting in Mr. Clayton,) that I do not deem it having no common umpire, each has a will produce moderation and justice.

iple, the right of judging from the which power is given by the constitution of a consolidated en it has been so clearly established that it is, I have shown, I trust, beyond the other hand, the States will not inter. Government, and avows himself to be that the rights of the States are reserve the possibility of doubt. Having es- pose but on conviction that they will prepared, seeking no lead, to rush in elongs to one, on his principle, it conscience, and of the press, cannot be ed against all and every department of tablished that point, I now claim, as I be supported by one found, of their co its defence to the front rank, where the Government; that no authority in stated I would do in the course of the States. Moderation and justice will the blows fall heaviest and thickest. opposition can possibly shake a position discussion, the admissions of the Sena-so well established. Nor do I think it tor, and, among them, the right of seoffer most powerful barriers against the opposite ranks, under the flag of liberty. excess of conflicts between the States spirits as gallant as his owa; and that experience will teach him, that it is in-But we are told that, should the doc- finitely easier to carry on the war of trine prevail, the present system would legislative exaction by bills and enactbe as pad, if not worse, than the old ments, than to extort by sword and

> ment of feeling, we so often indulge, troversy between that view of our Go Admit the power, and still the present vernment, entertained by the Senato system would be as far removed from and those who act with him, and that the weakness of the old confederation as supported on our side. It has merged it would be from the lawless and des- the tariff, and all other questions conpotic violence of consolidation. So far nected with it, in the higher and direct from being the same, the difference be- issue, which it presents between the tween the confederation and the pre- Federal system of Government and sent constitution would still be most Consolidation. I consider the bill as strongly marked. If there were no far worse and more dangerous to liother distinction, the fact that the former berty than the tariff. It has been most required the concurrence of the States wantonly passed, when its avowed ob-to execute its acts, and the latter the ject no longer justified it. I consider act of a State to arrest its acts, would it as chains forged and fitted to the make a distinction as broad as the limbs of the States, and hung up to be ocean; in the former, the vis inertia of used when occasion may require. We our nature was in opposision to the ac- are told, in order to justify the passage tion of the system. Not to act, was to of this fatal measure, that it was neces defeat. In the latter, the same princi- sary to present the olive branch with ple is on the opposite side; action is re- one hand and the sword with the other. quired to defeat. He who understands We scorn the alternative. You have human vature, will see in this differ- no right to present the sword. The in your hands to be employed against a State; and as to the olive branch, whether we receive it or not, will not depend on your menace, but on our own that the doctrine will be the source of estmate of what is due to ourselves and weakness. If we look to mere organi- the rest of the community, in reference zation and physical power as the only to the difficult subject, on which we

is about to take. For the first time,