

RETHINKING CALHOUN

Majority Rule versus Consensus: The Political Thought of John C. Calhoun
by James H. Read (Lawrence, KS: University Press of Kansas, 2009)

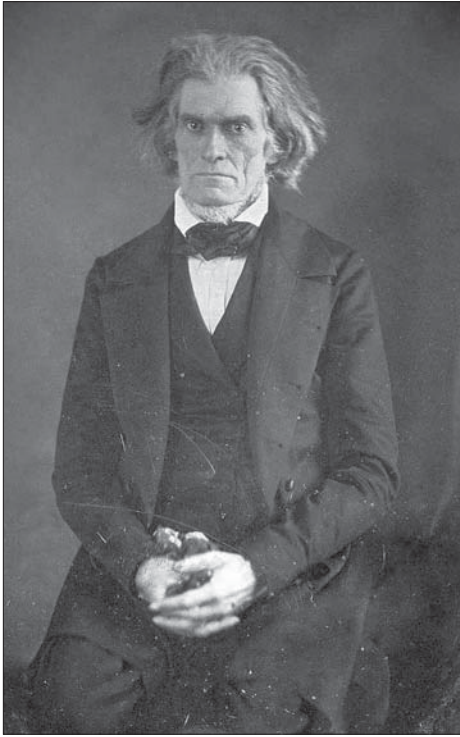
If students of American history have heard of John C. Calhoun at all, they have probably learned of him as the antebellum South Carolina politician and proponent of the constitutional doctrine of nullification. In the late 1820s and early 1830s, Calhoun led a movement in his home state to nullify the federal protective tariff, which he claimed was unconstitutional. When the people of South Carolina nullified the tariff in 1832, President Andrew Jackson threatened to invade. This constitutional crisis is often portrayed as a “prelude to civil war,” to use the title of William Freehling’s book on the subject.

Calhoun, following Thomas Jefferson’s “Kentucky Resolutions” and James Madison’s “Virginia Resolutions” of 1798, pointed out that American federalism had an apparent flaw. The federal government could not be the final judge of its own powers. The people had to be able to defend themselves when national majorities in Congress violated constitutional limits with the complicity of the executive and judicial branches of the national government. Whereas Madison hoped that by extending the republic the occasions for one interest to coalesce and become oppressive would be rare, Calhoun believed that Congress’s tariff legislation had already

proven Madison wrong. A northern majority in Congress had passed a tariff that operated unequally on the states. The Southern states, which relied on exporting agricultural staples and importing manufactured goods, would be harmed severely by economic protectionism while nascent northern manufacturing would thrive. Calhoun believed such protectionism to be unconstitutional.

Based on his understanding of the Founding period, Calhoun reasoned that because the people of the states gave their consent to the Constitution through the state ratification process, they, not the national government, were sovereign. Thus, the people of the states possessed the legal authority to protect both themselves and American liberty by declaring unconstitutional acts of Congress null and void within their respective states. Nullification would precipitate a constitutional crisis that would force the national legislature to compromise. The resulting ethos of consensus and conciliation, rather than federal coercion of large minorities, would allow the United States to endure. Nullification could then be a conservative force, protecting the Union both from the

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*The Contentious Calhoun*

evils of consolidated government and from disunion.

James Read's important book *Majority Rule versus Consensus* attacks Calhoun's theory on almost every point. He begins by comparing Calhoun's writings on nullification with Jefferson's writings and Madison's attack on nullification in the 1830s. Jefferson and Madison served as powerful authorities for Calhoun. But Read finds Calhoun's defense of state sovereignty unconvincing. He concludes that Calhoun "had to torture the language of the Constitution and misrepresent the history of the framing period to adapt it to the needs of his political theory." In other words: Calhoun was a dishonest political hack.

Read's judgment is too harsh, and more context is needed. As several historians, most recently Kevin Gutzman and Richard Ellis, have shown, the states' rights interpretation of the Constitution devel-

oped and spread throughout the nation in the early nineteenth century. The Old Republicans (or *Tertium Quids*), a faction of the Jeffersonian Republican Party, used the Virginia and Kentucky Resolutions as their war cry against those who sought to increase the power of the national government. Calhoun, a congressman during the Madison administration, had been one of their targets when he pressed for war with Great Britain in 1812, internal improvements, and a charter for the Second Bank of the United States in 1816. Many Old Republicans therefore did not trust him.

Ironically, Calhoun by the late 1820s adopted a number of the arguments of his earlier opponents. He took much of his history of the Founding from such sources as the Old Republican John Taylor of Caroline's 1823 *New Views of the Constitution*. Taylor based his interpretation of the Founding on both Luther Martin's *The Genuine Information* and Robert Yates's incomplete set of notes on the Philadelphia Convention, which had become public in 1821. Calhoun's interpretation of the Supremacy Clause in the Constitution, his critique of Madison's *Federalist* 39 concerning divided sovereignty, and his use of Washington's September 17, 1787, letter to the Continental Congress describing the new Constitution as preserving a federal republic were identical to Taylor's positions in *New Views*. Calhoun's theories therefore built on a thirty-year tradition of constitutional and historical interpretation of the Founding period. Read does not examine any of this; his attack on Calhoun's reading of the history of the American Founding is itself unhistorical.

Calhoun's contemporary political opponents as well as modern scholars also remember him for his vigorous defense of slavery. Read concludes that Calhoun's "life work was a sustained effort to build a foundation upon which *both* slavery

and the Union could be preserved, and civil war avoided.” Read demonstrates the importance of slavery in Calhoun’s thought and traces the ways in which it influenced his thinking. For example, Calhoun’s theory of consensus rule required that different interests possess veto rights for their protection. But Read points out that Calhoun did not identify *which* interests should possess veto rights. Calhoun’s view of interests was static, deeply influenced by South Carolina’s slave society, and he recognized only a small number of interests as legitimate. Calhoun, Read shows, assumed that politicians would create a homogeneity of interests in their societies and then use their political power to shield their constituents from unjust legislation. But the case of slavery immediately comes to mind. Would politicians protect slaves from unjust treatment? No. For Calhoun, free blacks or slaves were not considered as legitimate interests, thus excluding a large segment of South Carolina’s population from his theoretical proposal. Also, Read notes, “The effect of Calhoun’s relative homogeneity and shield arguments is to delegitimize from the outset any *national* action to protect an *internal* minority against a state-level majority.”

Obviously, Calhoun’s fulsome defense of the South’s “peculiar institution” severely taints him in our modern eyes. Still, Read’s analysis of Calhoun’s position on slavery needs clarification. It is true that, even in his own time, Calhoun became infamous for his assertion during a Senate debate in 1837 that slavery was a “positive good” for the South. When he called slavery a positive good, however, he was not making a claim for the abstract moral goodness of slavery. Rather, he was, as he explained to William Cabell Rives in an exchange Read quotes, discussing the actual, practical results of slavery in the United States.

Slavery, Calhoun maintained, had not resulted in the horrors the abolitionists claimed. Slavery had been a force for good for whites and blacks, he asserted. Indeed, Calhoun insisted that slavery was the best relationship between blacks and whites in the United States and was necessary to maintain social order. Slavery for Calhoun was a practical good because it maintained peace between the races, and to speak in abstract terms about the morality of slavery was only to invite slave revolts. His critics remained unconvinced, but Calhoun articulated the concerns of many slaveholders frightened by the 1831 Nat Turner slave revolt in Virginia. As Read points out, Calhoun’s views here were also shaped by the Haitian Revolution, which had “culminated in the abolition of slavery and a violent race war.”

Read rightly observes that Calhoun’s position moved away from earlier Southern views that were critical of the practices of slavery. He conflates, however, Calhoun’s discussion of the practical effects of slavery with abstract moral claims, linking Calhoun’s intransigence on slavery to a biological theory of racial inferiority. But Read’s evidence, while suggestive, is inconclusive and unpersuasive.

When placed in broader context, Calhoun’s argument regarding slavery functioned in a similar fashion to his argument for nullification—as a mean between extremes. On the one hand, earlier anti-slavery positions in the South, as historian Joanne Pope Melish has shown, used Lockean environmentalism to argue that African Americans would prosper once freed from the restrictions of slavery. On the other hand, a new biological theory of race emerged in antebellum America, positing the biological inferiority of Africans and thus justifying their enslavement or subservient position in society. Calhoun tried to locate himself between both posi-

tions by arguing that slavery had produced good effects while not claiming that blacks were biologically inferior to whites. This was an instance of a politician positioning himself to attract the most support in a society in which slavery and race were major economic and political concerns.

Read's *Majority Rule versus Consensus* ultimately finds Calhoun's argumentation unsatisfying and unhelpful for modern political problems. In the last chapter Read provides numerous examples of the difficulties in applying Calhoun's consensus model to republican systems elsewhere in the world, particularly in South Africa, Yugoslavia, and Northern Ireland. He concludes: "Constitutional checks and institutional design can only do so much to limit the diseases to which democracy is subject. Beyond that point, the health of democracy depends upon the leaders we elect and the politics we ourselves practice." In finding Calhoun's theory lacking, Read leaves

the reader in a dilemma Calhoun himself feared. Neither the party system nor the Madisonian extended republic combined with a supreme national government has protected American liberty (as understood by the Founding generation) adequately. Two solutions might be considered. First, the problem of scale, as philosopher Donald Livingston calls it, might indicate that the current republic is simply too large. Second, state sovereignty could be asserted more aggressively against claims of national sovereignty. And indeed, we have recently witnessed facets of such a politics in reaction to certain policies of the Obama administration. Yet both solutions led to secession once before in American history. Even with the tensions that Read identifies, Calhoun's theoretical efforts, shorn of the connection to slavery and race, might still be instructive for those who value both union and liberty.

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