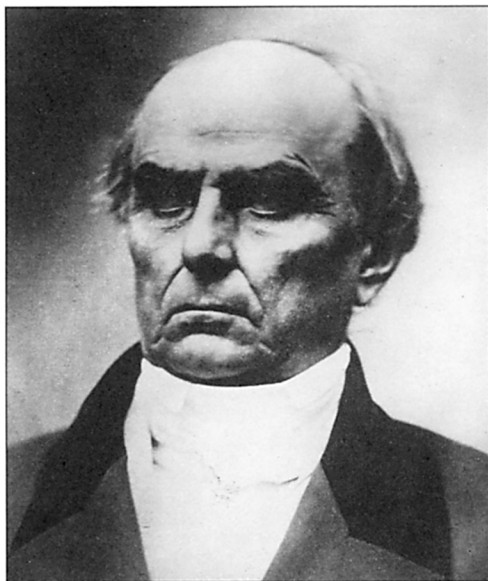


THE WEBSTER-HAYNE DEBATE  
ON THE NATURE OF THE UNION



DANIEL WEBSTER



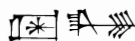
ROBERT Y. HAYNE

# THE WEBSTER-HAYNE DEBATE ON THE NATURE OF THE UNION

*Selected Documents*

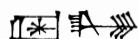
---

EDITED BY HERMAN BELZ



LIBERTY FUND  
INDIANAPOLIS

This book is published by Liberty Fund, Inc., a foundation established to encourage study of the ideal of a society of free and responsible individuals.



The cuneiform inscription that serves as our logo and as the design motif for our endpapers is the earliest-known written appearance of the word “free-dom” (*amagi*), or “liberty.” It is taken from a clay document written about 2300 B.C. in the Sumerian city-state of Lagash.

© 2000 by Liberty Fund, Inc.

All rights reserved

Printed in the United States of America

Portrait of Robert Y. Hayne courtesy of the South Carolina Governor’s Mansion and reprinted with permission.

Portrait of Daniel Webster courtesy of Corbis and used by permission.

### Library of Congress Cataloging-in-Publication Data

Webster, Daniel, 1782–1852.

The Webster-Hayne debate on the nature of the Union: selected documents/Daniel Webster, Robert Y. Hayne; edited by Herman Belz.

p. cm.

Includes bibliographical references.

ISBN 0-86597-272-9 (hc: alk. paper).

ISBN 0-86597-273-7 (pb: alk. paper)

1. United States—Politics and government—1829–1837 Sources.
2. Speeches, addresses, etc., American. 3. Foot’s resolution, 1829. 4. Nullification. I. Hayne, Robert Young, 1791–1839. II. Belz, Herman. III. Title.

E381.W3717 2000

320.473’049—dc21

99-34147

C 10 9 8 7 6 5 4 3 2

P 10 9 8 7 6 5 4

Liberty Fund, Inc.

8335 Allison Pointe Trail, Suite 300

Indianapolis, IN 46250-1684

# CONTENTS

---

FOREWORD vii

NOTE ON THE TEXT xvi

BIBLIOGRAPHY xvi

SPEECH OF ROBERT Y. HAYNE, OF SOUTH CAROLINA,  
*January 19, 1830*

3

SPEECH OF DANIEL WEBSTER, OF MASSACHUSETTS,  
*January 20, 1830*

15

SPEECH OF ROBERT Y. HAYNE, OF SOUTH CAROLINA,  
*January 25, 1830*

35

SPEECH OF DANIEL WEBSTER, OF MASSACHUSETTS,  
*January 26 and 27, 1830*

81

SPEECH OF ROBERT Y. HAYNE, OF SOUTH CAROLINA,  
*January 27, 1830*

155

SPEECH OF THOMAS HART BENTON, OF MISSOURI  
*January 20 and 29, February 1 and 2, 1830*

185

CONTENTS

---

SPEECH OF JOHN ROWAN, OF KENTUCKY,  
*February 4, 1830*

257

SPEECH OF WILLIAM SMITH, OF SOUTH CAROLINA,  
*February 25, 1830*

307

SPEECH OF JOHN M. CLAYTON, OF DELAWARE  
*March 4, 1830*

349

SPEECH OF EDWARD LIVINGSTON, OF LOUISIANA,  
*March 9, 1830*

409

INDEX 483

## FOREWORD

---

**T**HE NATURE AND PURPOSE of the federal government was the fundamental issue in the Constitutional Convention of 1787. Rather than settle the issue, however, the ratification of the Constitution made it central to the structure of American politics. From the beginning of national lawmaking and administration in 1789, the nature of the Union has been a major source of controversy in constitutional law and politics. Responding to the need for constitutional construction in organizing the new government, Federalist and Republican politicians in the 1790s advanced centralizing nationalist and decentralizing states' rights arguments to explain the type of authority conferred on the federal head of the American Union. For more than three decades, these arguments were employed by partisans in all sections of the country seeking to advance local, state, and sectional interests.

In January 1830, in a dramatic encounter on the floor of the United States Senate, the debate over the nature of the Union took an alarming turn. The debate moved beyond the exchange of alternative views on how to administer the federal government to accusations and recriminations about the destruction of the federal government and the Union. States' rights and nationalist positions, which previously were adopted without regard to a consistent pattern of sectional identification or alignment, were defined in a way that portended political violence between irreconcilably opposed sections. The event that presented this portent of sectional discord was the debate over the nature of the Union between Daniel Webster of Massachusetts and Robert Y. Hayne of South Carolina.

More than fifty years ago, a study of American political oratory noted that the Webster-Hayne debate had fallen into historical and political neglect. Once regarded as basic texts in the development of American nationality, Webster's speeches were taken out of context and treated as purple patches in teaching declamation to schoolchildren. Hayne's speeches were read even more rarely, and almost never were considered in relation to Webster's.<sup>1</sup> In more recent years, the Webster-Hayne debate has further faded in American memory as social and cultural studies have gained ascendancy in professional historiography. Yet

---

1. Wilbur Samuel Howell and Hoyt Hopewell Hudson, "Daniel Webster," vol. 11 in *A History and Criticism of American Public Address*, ed. William Norwood Brigrance (1943; reprint, New York: Russell and Russell, 1960), 710 in reprint.

if the need for national unity during the Second World War was a reason for ignoring the disunionism of the antebellum period, the more recent rediscovery of federalism has given new relevance to issues raised in the dramatic encounter of 1830. From a historical point of view, the Webster-Hayne debate provides a case study of the tendency inherent in pre-Civil War federal-system politics toward instability and violence. To the extent that it deals generally with the relationship between liberty and governmental sovereignty, the significance of the debate transcends the immediate historical context and addresses a fundamental problem in modern political theory.

In order to understand the issues raised in the Webster-Hayne debate, it is necessary to reconstruct the historical context in which it occurred. The Federal Union established by the Constitution was a novel political experiment that combined features of both a confederation of sovereign states and a sovereign national government. In a practical sense, the structure was held together by a system of political partisanship that began with the start of federal administration in 1789 and continued for over three decades. The party system was unifying in the sense that the two original parties—Federalists and Republicans—found it in their respective interests to employ either the nationalist or the states' rights construction of the Constitution to administer the federal government, or to criticize the other party's administration of it. The practical effect of this party system was to legitimize their constructions as valid theories in constitutional law. However, the system of partisan competition was destabilizing to the extent that it encouraged shifts in constitutional standpoint and strategy motivated by a desire for partisan advantage at the expense of fidelity to basic constitutional principles and values.

The election to the presidency of Andrew Jackson in 1828 had a realigning effect on American politics. By the mid-1820s, the success of the Republican party under Presidents Jefferson, Madison, and Monroe largely eliminated the Federalist party as an effective political opposition. The Republicans were dominant, but territorial expansion and economic development produced class and sectional factionalism within the party. The election of John Quincy Adams as president over rival Republican candidates Henry Clay, William H. Crawford, and Andrew Jackson—in an election that was decided by the House of Representatives in 1824—reflected this dissension. Jackson, the candidate of the National Republican party, gained the support of dissident elements and won the election of 1828 as the head of a new political organization: the Democratic party.



Depending on the perspective of the observer, Jackson's victory over John Quincy Adams offered the promise or the threat of far-reaching changes in American government and politics.

The opening of the Twenty-First Congress on December 7, 1829, marked the first meeting of the national legislature following Jackson's inauguration in March of that year. The Webster-Hayne debate, extending from January to May 1830, was the most important event to occur in this legislative session. In the course of the debate, twenty-one of the Senate's forty-eight members, in sixty-five speeches, analyzed, evaluated, and offered predictions concerning the changing political, constitutional, and economic conditions of the country. Senator Levi Woodbury of New Hampshire observed that the encounter between Webster and Hayne "seems to have metamorphosed the Senate, not only into a committee of the whole on the state of the Union, but on the state of the Union in all time past, present, and to come."<sup>2</sup>

Jackson's assumption of the executive office brought into view a cluster of fundamental issues in American government and politics that dominated the attention of the political community in Washington, D.C., and much of the country. Principal subjects discussed in the great debate of 1830 were the nature of the Union; the purpose, extent, and limits of the powers of the federal and state governments; the scope and character of the executive power; the role of political parties in the constitutional system; the significance of geo-political and geo-economic sections as constituent parts of the Union; the allocation of resources through policies dealing with land distribution, taxation, improvements to transportation and communication systems; and public finance. Equally controversial subjects were the nature of constitutional construction and interpretation, the locus of authority for deciding the meaning of the Constitution, the role of the Supreme Court and the federal judiciary in the government of the Union, the place of social contract theory in the American political tradition, the scope and effect of majority rule and minority rights in the government of the Union, the relationship between slavery and republican government, and the status of the Indian tribes in the American system of government. Much like a constituent assembly called to assess the fit between existing institutions and a changing social environment, Senate discussion of these issues—to the surprise of observers—unfolded pursuant to the introduction, on

---

2. *Register of Debates in Congress*, 21st Cong., 1st sess., February 24, 1830, 179.

December 30, 1829, of a resolution by Senator Samuel A. Foot of Connecticut concerning federal land policy.

Foot proposed that the committee on public lands inquire into the expediency of abolishing the office of Surveyor General and temporarily limiting the sale of public lands to those lands already on the market. Western senators viewed the resolution as a hostile measure intended to stop the growth of Western states by keeping Eastern workers from moving west, thus assuring a labor supply for New England manufacturers. Senator Thomas Hart Benton of Missouri immediately attacked Foot's resolution. He attracted the support of Senator Robert Y. Hayne of South Carolina, who, on behalf of Southern interests, saw an opportunity, through cooperation with Western members, to shift federal tax policy away from the high protective duties adopted by Congress in 1828, referred to as the "tariff of abominations." Therefore, on January 19, 1830, Hayne entered the discussion.

Having dealt specifically with the public lands, the debate to this point had been concerned with gauging the effect of the new Democratic administration on existing federal policies. Jackson's election signified repudiation of the centralizing program of federal bank, tariff, and internal improvement policies, known as the American System, enacted by the Adams administration. The constructive work of setting the federal government safely on a states' rights course—the purpose for which Jackson was elected—remained to be accomplished. This objective was complicated by the presence within the Democratic party of conflicting Northern, Western, and Southern interests. Just how complicated and unsettled the political situation was could be seen in the fact that Jackson's vice president, John C. Calhoun of South Carolina, had served as vice president under John Quincy Adams. By rejecting the American System, Calhoun between 1824 and 1828 became a champion of state sovereignty, joined the emerging Democratic coalition, and was reelected as vice president on the Jackson ticket. Thus resulted the extraordinary circumstance which saw Calhoun, the erstwhile colleague of Webster and now a leader with Hayne of the South Carolina antitariff movement, presiding as president of the Senate over the Webster-Hayne debate.

At the outset, the debate on Foot's resolution was between Western and New England senators and concerned the public lands, emigration, and the national debt. The public debt had long been in process of being reduced, and revenues from the sale of public lands, unless curtailed, would help to eliminate it in about four more years. Only to the extent

that states' rights men wanted to pay off the debt and reduce the scope of the federal government, while nationalists wanted to enact spending programs that would maintain the debt and expand the federal government's role, did the discussion have a constitutional dimension.

Hayne's entry into the debate turned the issue of the sale of public lands into a clash between state sovereignty and national sovereignty, and he expounded these sovereignties in terms of rival and irreconcilable theories of constitutional construction and the nature of the federal Union. Although the South Carolina senator earned lasting distinction as a champion of state sovereignty, this rhetorical transformation was Webster's doing, not Hayne's. Webster's political purpose was to defend the sectional interests of New England as the base of the National Republican party and to prevent a Western-Southern alignment in the Democratic opposition. Webster pursued his objective through a rhetorical strategy that ignored Benton, the principal opponent of New England sectionalism, and that provoked Hayne into an exposition and defense of what became the South Carolina doctrine of nullification.

The supporters of nullification had justified it as a form of state interposition based on the compact theory of the Union, which embodied the principles of the Kentucky and Virginia Resolutions of 1798. In the view of South Carolina politicians, nullification was a procedure for deciding the constitutionality of federal measures that would preserve the Union. Webster argued, on the contrary, that the logic, tendency, and practical effect of nullification, if permitted to be developed and employed, would be to destroy the Union and foment lawless, revolutionary violence. As a peaceful alternative to the South Carolina doctrine, Webster offered the theory of the Union as a sovereign national government, created by the people of the United States as a whole, with authority to decide on the lawfulness and constitutionality of its actions.

According to Hayne, the fundamental issue in the debate was "the right of a State to judge of the violations of the Constitution on the part of the Federal Government, and to protect her citizens from the operations of unconstitutional laws." Hayne said that Webster's doctrine—that "the Federal Government is the exclusive judge of the extent as well as the limitations of its powers"—was "utterly subversive of the sovereignty and independence of the States" (speech, January 25, 1830). In Webster's view, the fundamental question was: "Whose prerogative is it to decide on the constitutionality or unconstitutionality of the laws?" He held that the Constitution of the United States "confers on the Government itself, to be

exercised by its appropriate Department, and under its responsibility to the People, this power of deciding ultimately and conclusively, upon the just extent of its own authority." The power to decide constitutional disputes was conferred on the "Judicial Tribunals of the United States," headed by the Supreme Court. Webster acknowledged that the people of a state possessed a right of revolution. But, he insisted that no mode existed "in which a State Government, as a member of the Union, can interfere and stop the progress of the General Government, by force of her own laws, under any circumstances whatever" (speech, January 26, 1830).

Hayne gave three speeches and Webster two between January 19 and January 27, 1830. The speeches drew packed galleries to the Senate chamber and attracted national attention. Webster's second reply to Hayne, containing the appeal to "Liberty *and* Union, now and forever, one and inseparable," is regarded in the history of American public address as the most powerful and effective speech ever given in an American legislature. On the strength of this memorable assertion, Webster has often been judged the winner of the debate. However, the practice of verbatim reporting and publication of congressional speeches had not yet begun, and texts were not available for study until several weeks had passed. For this reason, and because partisanship and ideology affected people's views, opinions differed over which speaker actually prevailed. Far from ending discussion, therefore, from a contemporaneous standpoint the effect of the Webster-Hayne encounter was to broaden the debate into a comprehensive review of politics and constitutionalism in the United States since the American Revolution.

From this perspective, it becomes possible to appreciate the importance of the views presented by other senators going beyond the polarizing sectional confrontation between Webster and Hayne. To be sure, Webster secured his immediate objective. By, in effect, accusing Hayne of revolution and treason, Webster isolated South Carolina and blocked the formation of an alliance between the South and West. Webster's masterly parliamentary tactics also removed the onus of disunionist sectionalism from the New England states, where it had lain since the War of 1812, and placed it on the sectional groups constituting the Democratic party. He assured that, for the time being, no significant change would occur in federal policies—especially the protective tariff—of greatest concern to his section.

Yet, by changing the terms of the debate, Webster provoked the responses by other senators that give the debate its landmark significance in

constitutional history. The responses included John M. Clayton's nationalist argument for Supreme Court determination of constitutional conflict between the federal government and the states; John Rowan's rigorous and erudite defense of state sovereignty and interposition; and the searching arguments of Thomas Hart Benton, William Smith, and Edward Livingston, seeking in distinctive ways and to varying degrees to define positions in the middle ground that the logic of Webster's and Hayne's theories excluded. Considered altogether, these speeches demonstrate the responsibility for constitutional construction and commitment to constitutional values that were basic features of legislative practice in the nineteenth century. An ethic of constitutional conviction and intelligence that has no counterpart in modern congressional deliberation is evident in the debate on the public lands.

After the Civil War, the Webster-Hayne debate appeared to many as a prophetic foreshadowing of the bloody trauma through which the American people were destined to pass before they could truly become one nation. In this spirit, Woodrow Wilson wrote that the debate marked "the formal opening of the great controversy between the North and the South concerning the nature of the Constitution which bound them together." For the first time on the floor of Congress, said Wilson, distinct statements were presented of the constitutional principles on which North and South were to divide.<sup>3</sup> Although the Civil War was fought over secession rather than nullification, both doctrines rested on the theory of state sovereignty. The North's victory can therefore be seen as a practical judgment that Webster was right, and that as a matter of constitutional law and theory his argument for federal sovereignty settled the issue of the nature of the Union. So many variables affected the outcome of the Civil War, however—not to mention the difference between secession and nullification as constructions of the Constitution—that an equally plausible case can be made that neither Webster's nor Hayne's arguments settled the question of the nature of the Union.

Although some contemporaneous observers believed that the conflict of sectional interests and constitutional philosophies posed in the Webster-Hayne debate could be resolved only by force, most lawmakers and politicians resisted this conclusion. As seen particularly in the speeches of Edward Livingston and Thomas Hart Benton, ambiguity

---

3. Woodrow Wilson, *Division and Reunion 1829-1889* (New York: Longmans, Green, and Co., 1897), 43-44.

about the nature of the Union could also serve as an incentive to find a constitutional middle ground between the extreme conclusions to which the doctrines of state sovereignty and national consolidation could be taken. In this connection, it is pertinent to consider the factual question of whether the country was in a state of crisis at the time of the Webster-Hayne debate. Professing alarm at South Carolina's actions, Webster claimed that the mere assertion of the doctrine of nullification created a crisis of the Union. Benton and Hayne, objecting to what they viewed as Webster's tactic of wrapping the defense of New England sectional interests in the rhetoric of Unionism, denied that a crisis existed. With stark clarity, the debate revealed that the tension between states' rights and federal authority—a tension inherent in the design of the Constitution—could encourage a multiplicity of political responses.

In an expanding pluralistic society, the federal structure of government created opportunities for bargaining and negotiation between the sections, states, and economic interests that constituted the American political system. Yet, though federalism created a distinctive kind of politics, it did not change the nature of politics. As seen in the Webster-Hayne debate, partisans of rival sections and philosophies of government confronted each other convinced of the legitimacy of their respective interests, the justness of their respective causes, and the correctness of their constitutional arguments. On the one hand, the ambiguity of power relations in the federal Union encouraged bargaining and compromise between the constituent parts of the system because much political history could be cited in support of the belief that compromise was the price of union. On the other hand, should issues arise not amenable to compromise, partisans might conclude, contrary to the official theory of American federalism, that sovereignty could not in fact be divided between the states and the general government. In this view, sovereignty must either be consolidated in the nation or be exercised by the several states. Elevated to the level of constitutional principle, this perception could lead to polarization between the parts of the federal system. Yet if a strategy of polarization were pursued to its logical conclusion, resulting in the violent confrontation anticipated in Webster's second reply to Hayne, there could be no predicting the outcome. As never before, the peril inherent in the structure of federal politics—along with the opportunity and need for responsible statesmanship—appeared in the great debate of 1830.

Senators who spoke after the personal encounter between Webster and Hayne had been concluded were conscious of the historical signifi-

cance of the debate. Edward Livingston expressed the purpose of the extraordinary deliberation in observing: "The publication of what has been said, will spread useful information on topics highly proper to be understood in the community at large. The recurrence which has been had to first principles is of incalculable use. The nature, form, history, and changes of our Government, imperceptible or disregarded at the time of their occurrence, are remarked; abuses are pointed out; and the people are brought to reflect on the past, and provide for the future."

Profound changes have occurred in American society since the early nineteenth century. Yet, to a remarkable extent, the issues raised in the Webster-Hayne debate remain relevant and controversial in American government and politics. A record of the deliberations of early Republican statements on these issues at a critical moment in the development of the American political tradition has practical worth for Americans today as they reflect on the meaning of republican liberty.

HERMAN BELZ

*University of Maryland*  
1998

## NOTE ON THE TEXT

---

The speeches reprinted in this volume are taken from the edition published by the firm of Joseph Gales and William M. Seaton under the title *Debate on the Subject of the Public Lands: Daniel Webster and Robert Hayne. Original Printings of Webster and Hayne's Speeches of January 20, 21, 26, and 27, 1830*, followed by speeches of five others. Gales and Seaton did not print Hayne's speech of January 19, 1830. I have included it because, according to Webster's account, it was this speech that caused him to take part in a debate he previously had had no intention of entering. Gales and Seaton was a Washington printing firm. Joseph Gales was the editor of the *National Intelligencer* and a close friend of Daniel Webster. Although he had other reporters who covered congressional speeches, Gales, at Webster's request, personally reported the second reply to Hayne. Webster and his political advisors made extensive revisions in the text, and the speech was first printed in the *National Intelligencer*, February 23, 1830. It achieved instant fame, owing in part to Webster's systematic effort to influence public opinion by distributing the speech. Gales and Seaton printed 40,000 copies of it by May, and it is estimated that 100,000 copies had been circulated by the end of the year. The entire record of 65 speeches given in the course of the debate on the public lands can be found in the *Register of Debates in Congress*, published by Gales and Seaton.

## BIBLIOGRAPHY

---

Anonymous. "The Several Speeches Made during the Debate in the Senate of the United States on Mr. Foot's Resolution, by Mr. Hayne of South Carolina and Mr. Webster of Massachusetts." *Southern Review* 6 (August 1830): 140-98.

Baxter, Maurice G. *One and Inseparable: Daniel Webster and the Union*. Cambridge: Harvard University Press, 1984.

Benton, Thomas Hart. *Thirty Years' View*. 2 vols. New York: D. Appleton, 1859.

Current, Richard N. *Daniel Webster and the Rise of National Conservatism*. Boston: Little, Brown, 1955.

Curtis, George Ticknor. *Life of Daniel Webster*. 2 vols. New York: D. Appleton, 1872.

Ferguson, Robert A. *Law and Letters in American Culture*. Cambridge: Harvard University Press, 1984.



Fields, Wayne. "The Reply to Hayne: Daniel Webster and the Rhetoric of Stewardship." *Political Theory* 2 (1983): 5-28.

Freehling, William W. *Prelude to Civil War: The Nullification Controversy in South Carolina 1816-1836*. New York: Harper & Row, 1965.

Fuess, Claude Moore. *Daniel Webster*. 2 vols. Boston: Little, Brown, 1930.

Jervey, Theodore D. *Robert Y. Hayne and His Times*. New York: Macmillan, 1909.

Hockett, Homer Carey. *The Constitutional History of the United States 1826-1876*. New York: Macmillan, 1939.

Howell, Samuel Wilbur, and Hoyt Hopewell Hudson. "Daniel Webster." Edited by William Norwood Brigance. Vol. 11 of *A History and Criticism of American Public Address*. 1943. Reprint, New York: Russell and Russell, 1960. 665-733 in reprint.

MacDonald, William. *Jacksonian Democracy 1829-1837*. New York: Harper & Brothers, 1906.

McLaughlin, Andrew C. *A Constitutional History of the United States*. New York: D. Appleton-Century, 1935.

Peterson, Merrill D. *The Great Triumvirate: Webster, Clay, and Calhoun*. New York: Oxford University Press, 1987.

Sheidley, Harlow W. "The Webster-Hayne Debate: Recasting New England's Sectionalism." *New England Quarterly* 67 (1994): 5-29.

Smith, Craig R. *Defender of the Union: The Oratory of Daniel Webster*. Westport, Conn.: Greenwood Press, 1989.

Smith, Elbert B. *Magnificent Missourian: The Life of Thomas Hart Benton*. 1958. Reprint, Westport, Conn.: Greenwood Press, 1973.

Weaver, Richard M. "Two Orators." In *The Southern Essays of Richard M. Weaver*, edited by George M. Curtis III and James J. Thompson, Jr. Indianapolis: Liberty Fund, 1987. 104-33.

Wilson, Woodrow. *Division and Reunion 1829-1889*. New York: Longmans, Green, 1897.

Wiltse, Charles M. *John C. Calhoun: Nullifier. 1829-1839*. Indianapolis: Bobbs-Merrill, 1949.



THE WEBSTER-HAYNE DEBATE  
ON THE NATURE OF THE UNION

## ROBERT Y. HAYNE

---

Robert Y. Hayne was born in South Carolina in 1791 and educated in Charleston. He studied law and was admitted to the bar in 1812. During the War of 1812, he served as an officer in the Third South Carolina Regiment. A member of the State House of Representatives from 1814 to 1818, Hayne was State Attorney General from 1820 to 1822, when he was elected as a Republican to the United States Senate. He was reelected in 1828. Hayne was aligned with John C. Calhoun as a nationalist in the Republican party in South Carolina, and in winning election to the Senate he defeated William Smith, the leader of the radical states' rights Jeffersonian Republicans in South Carolina politics. With Calhoun, his opposition to the protective tariff led him to become a radical advocate of state sovereignty. Hayne was a member of the South Carolina convention that passed the Ordinance of Nullification in 1832. He resigned from the Senate and was elected governor from 1832 to 1834. In the nullification crisis, he commanded a force of 25,000 South Carolina volunteers with caution and restraint. Hayne was mayor of Charleston from 1835 to 1837, and he was president of the Louisville, Cincinnati & Charleston Railroad at the time of his death in 1839.