

Proclamation Against the Ordinance of Nullification

by Andrew Jackson

Declaration in response to South Carolina's Ordinance of Nullification

December 10, 1832

Whereas a convention assembled in the State of South Carolina have passed an ordinance by which they declare "that the several acts and parts of acts of the Congress of the United States purporting to be laws for the imposing of duties and imposts on the importation of foreign commodities, and now having actual operation and effect within the United States, and more especially" two acts for the same purposes passed on the 29th of May, 1828, and on the 14th of July, 1832, "are unauthorized by the Constitution of the United States, and violate the true meaning and intent thereof, and are null and void and no law," nor binding on the citizens of that State or its officers; and by the said ordinance it is further declared to be unlawful for any of the constituted authorities of the State or of the United States to enforce the payment of the duties imposed by the said acts within the same State, and that it is the duty of the legislature to pass such laws as may be necessary to give full effect to the said ordinance; and

Whereas by the said ordinance it is further ordained that in no case of law or equity decided in the courts of said State wherein shall be drawn in question the validity of the said ordinance, or of the acts of the legislature that may be passed to give it effect, or of the said laws of the United States, no appeal shall be allowed to the Supreme Court of the United States, nor shall any copy of the record be permitted or allowed for that purpose, and that any person attempting to take such appeal shall be punished as for contempt of court; and, finally, the said ordinance declares that the people of South Carolina will maintain the said ordinance at every hazard, and that they will consider the passage of any act by Congress abolishing or closing the ports of the said State or otherwise obstructing the free ingress or egress of vessels to and from the said ports, or any other act of the Federal Government to coerce the State, shut up her ports, destroy or harass her commerce...and that the people of the said State will thenceforth hold themselves absolved from all further obligation to maintain or preserve their political connection with the people of the other States, and will forthwith proceed to organize a separate government and do all other acts and things which sovereign and independent states may of right do; and

Whereas the said ordinance prescribes to the people of South Carolina a course of conduct in direct violation of their duty as citizens of the United States, contrary to the laws of their country, subversive of its Constitution, and having for its object the destruction of the Union--that Union which, coeval with our political existence, led our fathers, without any other ties to unite them than those of patriotism and a common cause, through a sanguinary struggle to a glorious Independence; that sacred Union, hitherto inviolate, which, perfected by our happy Constitution, has brought us, by the favor of Heaven, to a state of prosperity at home and high consideration abroad rarely, if ever, equaled in the history of nations:

To preserve this bond of our political existence from destruction, to maintain inviolate this state of national honor and prosperity, and to justify the confidence my fellow-citizens have reposed in me, I, Andrew Jackson, President of the United States, have thought proper to issue this my proclamation, stating my views of the Constitution and laws applicable to the measures adopted by the convention of South Carolina and to the reasons they have put forth to sustain them, declaring the course which duty will require me to pursue, and, appealing to the understanding and patriotism of the people, warn them of the consequences that must inevitably result from an observance of the dictates of the convention...

If this doctrine had been established at an earlier day, the Union would have been dissolved in its infancy. The excise law in Pennsylvania, the embargo and nonintercourse law in the Eastern States, the carriage tax in Virginia, were all deemed unconstitutional, and were more unequal in their operation than any of the laws now complained of; but, fortunately, none of those States discovered that they had the right now claimed by South Carolina. The war into which we were forced to support the dignity of the nation and the rights of our citizens might have ended in defeat and disgrace, instead of victory and honor, if the States who supposed it a ruinous and unconstitutional measure had thought they possessed the right of nullifying the act by which it was declared and denying supplies for its prosecution. Hardly and unequally as those measures bore upon several members of the Union, to the legislatures of none did this efficient and peaceable remedy, as it is called, suggest itself... To the statesmen of South Carolina belongs the invention, and upon the citizens of that State will unfortunately fall the evils of reducing it to practice.

If the doctrine of a State veto upon the laws of the Union carries with it internal evidence of its impracticable absurdity, our constitutional history will also afford abundant proof that it would have been repudiated with indignation had it been proposed to form a feature in our Government.

In our colonial state, although dependent on another power, we very early considered ourselves as connected by common interest with each other. Leagues were formed for

common defense, and before the declaration of independence we were known in our aggregate character as the United Colonies of America. That decisive and important step was taken jointly. We declared ourselves a nation by a joint, not by several acts, and when the terms of our Confederation were reduced to form it was in that of a solemn league of several States, by which they agreed that they would collectively form one nation for the purpose of conducting some certain domestic concerns and all foreign relations. In the instrument forming that Union is found an article which declares that "every State shall abide by the determinations of Congress on all questions which by that Confederation should be submitted to them."

Under the Confederation, then, no State could legally annul a decision of the Congress or refuse to submit to its execution; but no provision was made to enforce these decisions. Congress made requisitions, but they were not complied with. The Government could not operate on individuals. They had no judiciary, no means of collecting revenue.

But the defects of the Confederation need not be detailed. Under its operation we could scarcely be called a nation. We had neither prosperity at home nor consideration abroad. This state of things could not be endured, and our present happy Constitution was formed, but formed in vain if this fatal doctrine prevails. It was formed for important objects that are announced in the preamble, made in the name and by the authority of the people of the United States, whose delegates framed and whose conventions approved it. The most important among these objects--that which is placed first in rank, on which all the others rest--is "to form a more perfect union." Now, is it possible that even if there were no express provision giving supremacy to the Constitution and laws of the United States over those of the States, can it be conceived that an instrument made for the purpose of "forming a more perfect union" than that of the Confederation could be so constructed by the assembled wisdom of our country as to substitute for that Confederation a form of government dependent for its existence on the local interest, the party spirit, of a State, or of a prevailing faction in a State? Every man of plain, unsophisticated understanding who hears the question will give such an answer as will preserve the Union. Metaphysical subtlety, in pursuit of an impracticable theory, could alone have devised one that is calculated to destroy it.

I consider, then, the power to annul a law of the United States, assumed by one State, incompatible with the existence of the Union, contradicted expressly by the letter of the Constitution, unauthorized by its spirit, inconsistent with every principle on which it was founded, and destructive of the great object for which it was formed.

The preamble rests its justification on these grounds: It assumes as a fact that the obnoxious laws, although they purport to be laws for raising revenue, were in reality

intended for the protection of manufactures, which purpose it asserts to be unconstitutional; that the operation of these laws is unequal; that the amount raised by them is greater than is required by the wants of the Government; and, finally, that the proceeds are to be applied to objects unauthorized by the Constitution. These are the only causes alleged to justify an open opposition to the laws of the country and a threat of seceding from the Union if any attempt should be made to enforce them. The first virtually acknowledges that the law in question was passed under a power expressly given by the Constitution to lay and collect imposts; but its constitutionality is drawn in question from the motives of those who passed it. However apparent this purpose may be in the present case, nothing can be more dangerous than to admit the position that an unconstitutional purpose entertained by the members who assent to a law enacted under a constitutional power shall make that law void. For how is that purpose to be ascertained? Who is to make the scrutiny? How often may bad purposes be falsely imputed, in how many cases are they concealed by false professions, in how many is no declaration of motive made? Admit this doctrine, and you give to the States an uncontrolled right to decide, and every law may be annulled under this pretext. If, therefore, the absurd and dangerous doctrine should be admitted that a State may annul an unconstitutional law, or one that it deems such, it will not apply to the present case...

The wisdom of man never yet contrived a system of taxation that would operate with perfect equality. If the unequal operation of a law makes it unconstitutional, and if all laws of that description may be abrogated by any State for that cause, then, indeed, is the Federal Constitution unworthy of the slightest effort for its preservation. We have hitherto relied on it as the perpetual bond of our Union; we have received it as the work of the assembled wisdom of the nation; we have trusted to it as to the sheet anchor of our safety in the stormy times of conflict with a foreign or domestic foe; we have looked to it with sacred awe as the palladium of our liberties, and with all the solemnities of religion have pledged to each other our lives and fortunes here and our hopes of happiness hereafter in its defense and support. Were we mistaken, my countrymen, in attaching this importance to the Constitution of our country? Was our devotion paid to the wretched, inefficient, clumsy contrivance which this new doctrine would make it? Did we pledge ourselves to the support of an airy nothing -- a bubble that must be blown away by the first breath of disaffection? Was this self-destroying, visionary theory the work of the profound statesmen, the exalted patriots, to whom the task of constitutional reform was intrusted? Did the name of Washington sanction, did the States deliberately ratify, such an anomaly in the history of fundamental legislation? No; we were not mistaken. The letter of this great instrument is free from this radical fault. Its language directly contradicts the imputation; its spirit, its evident intent, contradicts it. No; we did not err. Our Constitution does not contain the absurdity of giving power to make laws and another to resist them. The sages whose

memory will always be revered have given us a practical and, as they hoped, a permanent constitutional compact. The Father of his Country did not affix his revered name to so palpable an absurdity. Nor did the States, when they severally ratified it, do so under the impression that a veto on the laws of the United States was reserved to them or that they could exercise it by implication. Search the debates in all their conventions, examine the speeches of the most zealous opposers of Federal authority, look at the amendments that were proposed; they are all silent, not a syllable uttered, not a vote given, not a motion made to correct the explicit supremacy given to the laws of the Union over those of the States, or to show that implication, as is now contended, could defeat it. No; we have not erred. The Constitution is still the object of our reverence, the bond of our Union, our defense in danger, the source of our prosperity in peace. It shall descend, as we have received it, uncorrupted by sophistical construction, to our posterity; and the sacrifices of local interest, of State prejudices, of personal animosities, that were made to bring it into existence, will again be patriotically offered for its support...

The Constitution has given, expressly, to Congress the right of raising revenue and of determining the sum the public exigencies will require. The States have no control over the exercise of this right other than that which results from the power of changing the representatives who abuse it, and thus procure redress. Congress may undoubtedly abuse this discretionary power; but the same may be said of others with which they are vested. Yet the discretion must exist somewhere. The Constitution has given it to the representatives of all the people, checked by the representatives of the States and by the Executive power. The South Carolina construction gives it to the legislature or the convention of a single State, where neither the people of the different States, nor the States in their separate capacity, nor the Chief Magistrate elected by the people have any representation. Which is the most discreet disposition of the power? I do not ask you, fellow-citizens, which is the constitutional disposition; that instrument speaks a language not to be misunderstood. But if you were assembled in general convention, which would you think the safest depository of this discretionary power in the last resort? Would you add a clause giving it to each of the States, or would you sanction the wise provisions already made by your Constitution? If this should be the result of your deliberations when providing for the future, are you, can you, be ready to risk all that we hold dear, to establish, for a temporary and a local purpose, that which you must acknowledge to be destructive, and even absurd, as a general provision? Carry out the consequences of this right vested in the different States, and you must perceive that the crisis your conduct presents at this day would recur whenever any law of the United States displeased any of the States, and that we should soon cease to be a nation...

On such expositions and reasonings the ordinance grounds not only an assertion of the right to annul the laws of which it complains, but to enforce it by a threat of seceding from the Union if any attempt is made to execute them.

This right to secede is deduced from the nature of the Constitution, which, they say, is a compact between sovereign States who have preserved their whole sovereignty and therefore are subject to no superior; that because they made the compact they can break it when in their opinion it has been departed from by the other States. Fallacious as this course of reasoning is, it enlists State pride and finds advocates in the honest prejudices of those who have not studied the nature of our Government sufficiently to see the radical error on which it rests.

The people of the United States formed the Constitution, acting through the State legislatures in making the compact, to meet and discuss its provisions, and acting in separate conventions when they ratified those provisions; but the terms used in its construction show it to be a Government in which the people of all the States, collectively, are represented. We are one people in the choice of President and Vice-President. Here the States have no other agency than to direct the mode in which the votes shall be given. The candidates having the majority of all the votes are chosen. The electors of a majority of States may have given their votes for one candidate, and yet another may be chosen. The people, then, and not the States, are represented in the executive branch.

In the House of Representatives there is this difference, that the people of one State do not, as in the case of President and Vice-President, all vote for the same officers. The people of all the States do not vote for all the members, each State electing only its own representatives. But this creates no material distinction. When chosen, they are all representatives of the United States, not representatives of the particular State from which they come. They are paid by the United States, not by the State; nor are they accountable to it for any act done in the performance of their legislative functions; and however they may in practice, as it is their duty to do, consult and prefer the interests of their particular constituents when they come in conflict with any other partial or local interest, yet it is their first and highest duty, as representatives of the United States, to promote the general good.

The Constitution of the United States, then, forms a government, not a league; and whether it be formed by compact between the States or in any other manner, its character is the same. It is a Government in which all the people are represented, which operates directly on the people individually, not upon the States; they retained all the power they did not grant. But each State, having expressly parted with so many powers as to constitute, jointly with the other States, a single nation, can not, from that period, possess any right to secede, because such secession does not break a league,

but destroys the unity of a nation; and any injury to that unity is not only a breach which would result from the contravention of a compact, but it is an offense against the whole Union. To say that any State may at pleasure secede from the Union is to say that the United States are not a nation... Secession, like any other revolutionary act, may be morally justified by the extremity of oppression; but to call it a constitutional right is confounding the meaning of terms, and can only be done through gross error or to deceive those who are willing to assert a right, but would pause before they made a revolution or incur the penalties consequent on a failure.

Because the Union was formed by a compact, it is said the parties to that compact may, when they feel themselves aggrieved, depart from it; but it is precisely because it is a compact that they can not. A compact is an agreement or binding obligation. It may by its terms have a sanction or penalty for its breach, or it may not. If it contains no sanction, it may be broken with no other consequence than moral guilt; if it have a sanction, then the breach incurs the designated or implied penalty. A league between independent nations generally has no sanction other than a moral one; or if it should contain a penalty, as there is no common superior it can not be enforced. A government, on the contrary, always has a sanction, express or implied; and in our case it is both necessarily implied and expressly given. An attempt, by force of arms, to destroy a government is an offense, by whatever means the constitutional compact may have been formed; and such government has the right by the law of self-defense to pass acts for punishing the offender, unless that right is modified, restrained, or resumed by the constitutional act. In our system, although it is modified in the case of treason, yet authority is expressly given to pass all laws necessary to carry its powers into effect, and under this grant provision has been made for punishing acts which obstruct the due administration of the laws.

It would seem superfluous to add anything to show the nature of that union which connects us, but as erroneous opinions on this subject are the foundation of doctrines the most destructive to our peace, I must give some further development to my views on this subject. No one, fellow-citizens, has a higher reverence for the reserved rights of the States than the Magistrate who now addresses you. No one would make greater personal sacrifices or official exertions to defend them from violation; but equal care must be taken to prevent, on their part, an improper interference with or resumption of the rights they have vested in the nation. The line has not been so distinctly drawn as to avoid doubts in some cases of the exercise of power. Men of the best intentions and soundest views may differ in their construction of some parts of the Constitution; but there are others on which dispassionate reflection can leave no doubt. Of this nature appears to be the assumed right of secession. It rests, as we have seen, on the alleged undivided sovereignty of the States and on their having formed in this sovereign capacity a compact which is called the Constitution, from which, because they made

it, they have the right to secede. Both of these positions are erroneous, and some of the arguments to prove them so have been anticipated.

The States severally have not retained their entire sovereignty. It has been shown that in becoming parts of a nation, not members of a league, they surrendered many of their essential parts of sovereignty. The right to make treaties, declare war, levy taxes, exercise exclusive judicial and legislative powers, were all of them functions of sovereign power. The States, then, for all these important purposes were no longer sovereign. The allegiance of their citizens was transferred, in the first instance, to the Government of the United States; they became American citizens and owed obedience to the Constitution of the United States and to laws made in conformity with the powers it vested in Congress. This last position has not been and can not be denied. How, then, can that State be said to be sovereign and independent whose citizens owe obedience to laws not made by it and whose magistrates are sworn to disregard those laws when they come in conflict with those passed by another?...

The unity of our political character (as has been shown for another purpose) commenced with its very existence. Under the royal Government we had no separate character; our opposition to its oppressions began as united colonies. We were the United States under the Confederation, and the name was perpetuated and the Union rendered more perfect by the Federal Constitution. In none of these stages did we consider ourselves in any other light than as forming one nation. Treaties and alliances were made in the name of all. Troops were raised for the joint defense. How, then, with all these proofs that under all changes of our position we had, for designated purposes and with defined powers, created national governments, how is it that the most perfect of those several modes of union should now be considered as a mere league that may be dissolved at pleasure? It is from an abuse of terms. Compact is used as synonymous with league, although the true term is not employed, because it would at once show the fallacy of the reasoning. It would not do to say that our Constitution was only a league, but it is labored to prove it a compact (which in one sense it is) and then to argue that as a league is a compact every compact between nations must of course be a league, and that from such an engagement every sovereign power has a right to secede. But it has been shown that in this sense the States are not sovereign, and that even if they were, and the national Constitution had been formed by compact, there would be no right in any one State to exonerate itself from its obligations.

So obvious are the reasons which forbid this secession that it is necessary only to allude to them. The Union was formed for the benefit of all. It was produced by mutual sacrifices of interests and opinions. Can those sacrifices be recalled? Can the States who magnanimously surrendered their title to the territories of the West recall the grant? Will the inhabitants of the inland States agree to pay the duties that may be

imposed without their assent by those on the Atlantic or the Gulf for their own benefit? Shall there be a free port in one State and onerous duties in another? No one believes that any right exists in a single State to involve all the others in these and countless other evils contrary to engagements solemnly made. Everyone must see that the other States, in self-defense, must oppose it at all hazards...

Fellow-citizens of my native State, let me not only admonish you, as the First Magistrate of our common country, not to incur the penalty of its laws, but use the influence that a father would over his children whom he saw rushing to certain ruin. In that paternal language, with that paternal feeling, let me tell you, my countrymen, that you are deluded by men who are either deceived themselves or wish to deceive you. Mark under what pretenses you have been led on to the brink of insurrection and treason on which you stand. First, a diminution of the value of your staple commodity, lowered by overproduction in other quarters, and the consequent diminution in the value of your lands were the sole effect of the tariff laws. The effect of those laws was confessedly injurious, but the evil was greatly exaggerated by the unfounded theory you were taught to believe, that its burthens were in proportion to your exports, not to your consumption of imported articles. Your pride was roused by the assertion that a submission to those laws was a state of vassalage and that resistance to them was equal in patriotic merit to the opposition our fathers offered to the oppressive laws of Great Britain... Look back to the arts which have brought you to this state; look forward to the consequences to which it must inevitably lead! Look back to what was first told you as an inducement to enter into this dangerous course. The great political truth was repeated to you that you had the revolutionary right of resisting all laws that were palpably unconstitutional and intolerably oppressive. It was added that the right to nullify a law rested on the same principle, but that it was a peaceable remedy. This character which was given to it made you receive with too much confidence the assertions that were made of the unconstitutionality of the law and its oppressive effects... Let those among your leaders who once approved and advocated the principle of protective duties answer the question; and let them choose whether they will be considered as incapable then of perceiving that which must have been apparent to every man of common understanding, or as imposing upon your confidence and endeavoring to mislead you now. In either case they are unsafe guides in the perilous path they urge you to tread. Ponder well on this circumstance, and you will know how to appreciate the exaggerated language they address to you. They are not champions of liberty, emulating the fame of our Revolutionary fathers, nor are you an oppressed people, contending, as they repeat to you, against worse than colonial vassalage. You are free members of a flourishing and happy Union...

Contemplate the condition of that country of which you still form an important part. Consider its Government, uniting in one bond of common interest and general

protection so many different States, giving to all their inhabitants the proud title of American citizen... See education spreading the lights of religion, morality, and general information into every cottage in this wide extent of our Territories and States. Behold it as the asylum where the wretched and the oppressed find a refuge and support. Look on this picture of happiness and honor and say, We too are citizens of America... For what do you throw away these inestimable blessings? For what would you exchange your share in the advantages and honor of the Union? For the dream of a separate independence, a dream interrupted by bloody conflicts with your neighbors and a vile dependence on a foreign power? If your leaders could succeed in establishing a separation, what would be your situation? Are you united at home? Are you free from the apprehension of civil discord, with all its fearful consequences? Do our neighboring republics, every day suffering some new revolution or contending with some new insurrection, do they excite your envy? But the dictates of a high duty oblige me solemnly to announce that you can not succeed. The laws of the United States must be executed. I have no discretionary power on the subject; my duty is emphatically pronounced in the Constitution. Those who told you that you might peaceably prevent their execution deceived you; they could not have been deceived themselves. They know that a forcible opposition could alone prevent the execution of the laws, and they know that such opposition must be repelled. Their object is disunion. But be not deceived by names. Disunion by armed force is treason. Are you really ready to incur its guilt? If you are, on the heads of the instigators of the act be the dreadful consequences; on their heads be the dishonor, but on yours may fall the punishment. On your unhappy State will inevitably fall all the evils of the conflict you force upon the Government of your country. It can not accede to the mad project of disunion, of which you would be the first victims. Its First Magistrate can not, if he would, avoid the performance of his duty...

Fellow-citizens of the United States, the threat of unhallowed disunion, the names of those once respected by whom it is uttered, the array of military force to support it, denote the approach of a crisis in our affairs on which the continuance of our unexampled prosperity, our political existence, and perhaps that of all free governments may depend... I rely with equal confidence on your undivided support in my determination to execute the laws, to preserve the Union by all constitutional means, to arrest, if possible, by moderate and firm measures the necessity of a recourse to force; and if it be the will of Heaven that the recurrence of its primeval curse on man for the shedding of a brother's blood should fall upon our land, that it be not called down by any offensive act on the part of the United States.

Fellow-citizens, the momentous case is before you. On your undivided support of your Government depends the decision of the great question it involves -- whether your sacred Union will be preserved and the blessing it secures to us as one people

shall be perpetuated. No one can doubt that the unanimity with which that decision will be expressed will be such as to inspire new confidence in republican institutions, and that the prudence, the wisdom, and the courage which it will bring to their defense will transmit them unimpaired and invigorated to our children...

In testimony whereof I have caused the seal of the United States to be hereunto affixed, having signed the same with my hand.

[Seal] Done at the city of Washington, this 10th day of December, A. D. 1832, and of the Independence of the United States the fifty-seventh.

Andrew Jackson, by the President: Edw. Livingston, Secretary of State.