President Jackson's Nullification Proclamation (1832)

President Jackson was not about to let South Carolina impose its interpretation of the Constitution upon the national government or to empower its sister states by example. The old duellist fired back at the state, first with a moderate charge in his annual message on 4 December 1832, and then with a full explosive charge in a proclamation on 10 December.

* * *

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.

* * *

The ordinance is founded, not on the indefeasible right of resisting acts which are plainly unconstitutional and too oppressive to be endured, but on the strange position that any one State may not only declare an act of Congress void, but prohibit its execution; that they may do this consistently with the Constitution; that the true construction of that instrument permits a State to retain its place in the Union and yet be bound by no other of its laws than those it may choose to consider as constitutional. It is true, they add, that to justify this abrogation of a law it must be palpably contrary to the Constitution: but it is evident that to give the right of resisting laws of that description, coupled with the uncontrolled right to decide what laws deserve that character, is to give the power of resisting all laws; for as by the theory there is no appeal, the reasons alleged by the State, good or bad, must prevail. If it should be said that public opinion is a sufficient check against the abuse of this power, it may be asked why it is not deemed a sufficient guard against the passage of an unconstitutional act by Congress? There is, however, a restraint in this last case which makes the assumed power of a State more indefensible, and which does not exist in the other. There are two appeals from an unconstitutional act passed by Congress—one to the judiciary, the other to the people and the States. There is no appeal from the State decision in theory, and the practical illustration shows that the courts are closed against an application to review it, both judges and jurors being sworn to decide in its favor. But reasoning on this subject is superfluous when our social compact, in express terms, declares that the laws of the United States, its Constitution, and treaties made under it are the supreme law of the land, and, for greater caution, adds "that the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding." . . .

* * *

. . . [T]he 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.

After this general view of the leading principle, we must examine the particular application of it
which is made in the ordinance.

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? . . .

The next objection is that the laws in question operate unequally. This objection may be made
with truth to every law that has been or can be passed. 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. . . .
The two remaining objections made by the ordinance to these laws are that the sums intended to be raised by them are greater than are required and that the proceeds will be unconstitutionally employed.

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. . . .

The ordinance, with the same knowledge of the future that characterizes a former objection, tells you that the proceeds of the tax will be unconstitutionally applied. If this could be ascertained with certainty, the objection would with more propriety be reserved for the law so applying the proceeds, but surely can not be urged against the laws levying the duty.

* * *

The Constitution declares that the judicial powers of the United States extend to cases arising under the laws of the United States, and that such laws, the Constitution, and treaties shall be paramount to the State constitutions and laws. The judiciary act prescribes the mode by which the case may be brought before a court of the United States by appeal when a State tribunal shall decide against this provision of the Constitution. The ordinance declares there shall be no appeal—makes the State law paramount to the Constitution and laws of the United States, forces judges and jurors to swear that they will disregard their provisions, and even makes it penal in a suitor to attempt relief by appeal. It further declares that it shall not be lawful for the authorities of the United States or of that State to enforce the payment of duties imposed by the revenue laws within its limits.

Here is a law of the United States, not even pretended to be unconstitutional, repealed by the authority of a small majority of the voters of a single State. Here is a provision of the Constitution which is solemnly abrogated by the same authority.

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, because it would be a solecism to contend that any part of a nation might dissolve its connection with the other parts, to their injury or ruin, without committing any offense. Secession, like any other revolutionary act, may be morally justified by the extremity of oppression; but to call it a constitutional right is confusing 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.

* * *

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? What shows conclusively that the States can not be said to have reserved an undivided sovereignty is that they expressly ceded the right to punish treason—not treason against their separate power, but treason against the United States. Treason is an offense against sovereignty, and sovereignty must reside with the power to punish it.

* * *

These are the alternatives that are presented by the convention—a repeal of all the acts for raising revenue, leaving the Government without the means of support, or an acquiescence in the dissolution of our Union by the secession of one of its members. When the first was proposed, it was known that it could not be listened to for a moment. It was known, if force was applied to oppose the execution of the laws, that it must be repelled by force; that Congress could not, without involving itself in disgrace and the country in ruin, accede to the proposition; and yet if this is not done in a given day, or if any attempt is made to execute the laws, the State is by the ordinance declared to be out of the Union. The majority of a convention assembled for the purpose have dictated these terms, or rather this rejection of all terms, in the name of the people of South Carolina. It is true that the governor of the State speaks of the submission of their grievances to a convention of all the States, which, he says, they "sincerely and anxiously seek and desire." Yet this obvious and constitutional mode of obtaining the sense of the other States on the construction of the federal compact, and amending it if necessary, has never been attempted by those who have urged the State on to this destructive measure. . . . If the legislature of South Carolina "anxiously desire" a general convention to consider their complaints, why have they not made application for it in the way the Constitution points out? The assertion that they "earnestly seek" it is completely negatived by the omission.

This, then, is the position in which we stand: A small majority of the citizens of one State in the Union have elected delegates to a State convention; that convention has ordained that all the revenue laws of the United States must be repealed, or that they are no longer a member of the Union. The governor of that State has recommended to the legislature the raising of an army to carry the secession into effect, and that he may be empowered to give clearances to vessels in the
name of the State. No act of violent opposition to the laws has yet been committed, but such a state of things is hourly apprehended. And it is the intent of this instrument to proclaim, not only that the duty imposed on me by the Constitution "to take care that the laws be faithfully executed" shall be performed to the extent of the powers already vested in me by law, or of such others as the wisdom of Congress shall devise and intrust to me for that purpose, but to warn the citizens of South Carolina who have been deluded into an opposition to the laws of the danger they will incur by obedience to the illegal and disorganizing ordinance of the convention; to exhort those who have refused to support it to persevere in their determination to uphold the Constitution and laws of their country; and to point out to all the perilous situation into which the good people of that State have been led, and that the course they are urged to pursue is one of ruin and disgrace to the very State whose rights they affect to support.

* * *

I have urged you [South Carolinians] to look back to the means that were used to hurry you on to the position you have now assumed and forward to the consequences it will produce. Something more is necessary. 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, protecting their commerce, securing their literature and their arts, facilitating their intercommunication, defending their frontiers, and making their name respected in the remotest parts of the earth. . . . 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. . . .

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. . . . Having the fullest confidence in the justness of the legal and constitutional opinion of my duties which has been expressed, 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.

May the Great Ruler of Nations grant that the signal blessings with which He has favored ours
may not, by the madness of party or personal ambition, be disregarded and lost; and may His
wise providence bring those who have produced this crisis to see the folly before they feel the
misery of civil strife, and inspire a returning veneration for that Union which, if we may dare to
penetrate His designs, He has chosen as the only means of attaining the high destinies to which
we may reasonably aspire.

* * *

[From James D. Richardson, comp. A Compilation of the Messages and Papers of the Presidents,
insertions appear in square brackets—Ed.]]