President Jackson's Proclamation Regarding Nullification, December 10, 1832

Web Version*: http://www.yale.edu/lawweb/avalon/presiden/proclamations/jack01.htm*

…the State of South Carolina…declare[s] that the several acts and parts of acts of the Congress of the United States…are unauthorized by the Constitution…and are null and void, and no law," nor binding on the citizens of that State or its officers, and…it is further declared to be unlawful for…the United States to enforce the payment of the duties…and that it is the duty of the legislature to pass such laws as may be necessary to give full effect to the said ordinances: …it is further ordained that…in the courts of said State, [there will be no questioning of] the validity of the [South Carolina] ordinance, or of the acts of the legislature…[and] no appeal shall be allowed to the Supreme Court of the United States…and that any person attempting to take such appeal, shall be punished as for a contempt of court:

….[the South Carolina legislature also] 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…or any other act of the Federal Government to coerce [South Carolina]…to enforce the [tariff] acts…as inconsistent with the longer continuance of South Carolina in the Union; 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.

…[this]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…I…[must] 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…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…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…our social compact…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." And it may be asserted, without fear of refutation, that no federative government could exist without a similar provision.

Look, for a moment, to the consequence. If South Carolina considers the revenue laws unconstitutional, and has a right to prevent their execution in the port of Charleston, there would be a clear constitutional objection to their collection in every other port, and no revenue could be collected anywhere…It is no answer to repeat that an unconstitutional law is no law, so long as the question of its legality is to be decided by the State itself, for every law operating injuriously upon any local interest will be perhaps thought, and certainly represented, as unconstitutional, and, as has been shown, there is no appeal.

…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.

...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.*

…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.

…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 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…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.

…Every law, then, for raising revenue, according to the South Carolina ordinance, may be rightfully annulled, unless it be so framed as no law ever will or can be framed. Congress have a right to pass laws for raising revenue, and each State has a right to oppose their execution-two rights directly opposed to each other; and yet is this absurdity supposed to be contained in an instrument drawn for the express purpose of avoiding collisions between the States and the general government, by an assembly of the most enlightened statesmen and purest patriots ever embodied for a similar purpose.

…But it does not stop here. It repeals…an important part of the Constitution itself, and of laws passed to give it effect, which have never been alleged to be unconstitutional. 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…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 States have no other agency than to direct the mode in which the vote shall be given. The candidates having the majority of all the votes are chosen…

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 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 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 ale 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, cannot 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 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 upon a failure.

Because the Union was formed by 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 cannot. A compact is an agreement or binding obligation…A government…always has a sanction…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…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 assumed right of secession…rests…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…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 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 vested in Congress.

…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 he 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.