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PROCLAMATION

BY ANDREW JACKSON,

President of the United States.

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 a 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 port, or any other act of the Federal Government to coerce the State, shut up her ports, destroy or harass her commerce, or to enforce the said acts otherwise than through the civil tribunals of the country, 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 connexion 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 favour of Heaven, to a state of prosperity at home, and high consideration abroad, rarely, if ever, equalled 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.

Strict duty would require of me nothing more than the exercise of those powers with which I am now, or may hereafter be, invested, for preserving the peace of the Union, and for the execution of the laws. But the imposing aspect which opposition has assumed in this case by clothing itself with State authority, and the deep interest which the people of the United States must all feel in preventing a resort to stronger measures, while there is a hope that any thing will be yielded to reasoning and remonstrance, perhaps demand, and will certainly justify, a full exposition to South Carolina and the nation of the views I entertain of this important question, as well as a distinct enunciation of the course which my sense of duty will require me to pursue.

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 is it 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 favour. 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, any thing 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 any where; for all imposts must be equal. 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 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 non-intercourse 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, & denying supplies for its prosecution. Hardly and unequally as those measures bore upon several members of the Union, to the Legislature of none did this efficient and peaceable remedy, as it is called suggest itself. The discovery of this important feature in our Constitution was reserved to the present day. 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 defence, 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, it can 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? 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 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. 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 veneration 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 defence 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 any 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 entrusted? 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 power to resist them. The sages, whose memory will always be reverenced, 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 defence 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 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. 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.

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 cannot be urged against the laws levying the duty.

These are the allegations contained in the Ordinance. Examine them seriously, my fellow citizens—judge for yourselves. I appeal to you to determine whether they are so clear, so convincing, as to leave no doubt of their correctness: and even if you should come to this conclusion, how far they justify the reckless, destructive course, which you are directed to pursue. Review these objections, and the conclusions drawn from them, once more. What are they? Every law then, for raising revenue according to the S. 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.

In vain have these sages declared that Congress shall have power to lay and collect taxes duties, imposts, and excises—in vain have they provided that they shall have power to pass laws which shall be necessary and proper to carry those powers into execution, that those laws and that Constitution shall be the "supreme law of the land; and that the judges in every State shall be bound thereby, any thing in the Constitution or laws of any State to the contrary notwithstanding." In vain have the people of the several States solemnly enrobed these provisions, made them their paramount law, and individually sworn to support them whenever they were called on to execute any office. Vain provisions! ineffectual restrictions! vile profanation of oaths! miserable mockery of legislation! If a bare majority of the voters in any one State may on a real or supposed knowledge of the intent with which a law has been passed, declare themselves free from its operation—say here it gives too little, there too much and operates unequally—here it suffers articles to be free that ought to be taxed, there it taxes those that ought to be free—in this case the proceeds are intended to be applied to purposes which we do not approve, in that the amount raised is more than is wanted. Congress, it is true, are invested by the Constitution with the right of deciding these questions according to their sound discretion. Congress is composed of the Representatives of all the States and of all the people of all the States; but WE part of the people of one State, to whom the Constitution has given no power on the subject, from whom it has expressly taken it away—*we*, who have solemnly agreed that this Constitution shall be our law—*we*, most of whom have sworn to support it—*we*, now abrogate this law, and swear, and force others to swear, that it shall not be obeyed—and we do this, not because Congress have no right to pass such laws; this we do not allege; but because they have passed them with improper views. They are unconstitutional from the motives of those who passed them, which we can never with certainty know, from their unequal operation; although it is impossible from the nature of things that they should be equal—and from the disposition which we presume may be made of their proceeds, although that disposition has not been declared. This is the plain meaning of the Ordinance in relation to laws which it abrogates for alleged unconstitutionality. But it does not stop there. It repeals, in express terms 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, 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 the 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, cannot from that period possess any right to secede, because such secession does not break a league, but dissolves 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 offence 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 offence. 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 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. 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 cannot 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 offence, by whatever means the constitutional compact may have been formed; and such Government has the right, by the law of self-defence, 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 any thing 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, &

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