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MR. CALHOUN'S LETTER
ON NULLIFICATION,
CONCLUDED.

If the views presented be correct, it follows, that on the interposition of a State in favor of the reserved rights, it would be the duty of the General Government to abandon the contested power, or to apply to the States themselves, the source of all political authority, for the power, in one of the two modes prescribed in the Constitution. If the case be a simple one, embracing a single power, and that in its nature easily adjusted, the more ready and appropriate mode would be an amendment in the ordinary form, on a proposition of two thirds of both Houses of Congress, to be ratified by three fourths of the States; but, on the contrary, should the derangement of the system be great, embracing many points difficult to adjust, the States ought to be convened in a general convention, the most august of all assemblies, representing the united sovereignty of the confederated States, and having power and authority to correct every error, and to repair every dilapidation or injury, whether caused by time or accident, or the conflicting movement of the bodies which compose the system.—With institutions every way so fortunate, possessed of means so well calculated to prevent disorders, and so admirable to correct them, when they cannot be prevented, he who would prescribe for our political disease, disunion on the one side, coercion of a State, in the assertion of its right, on the other, would deserve and will receive the execrations of this and all future generations.

I have now finished what I had to say on the subject of this communication, in its immediate connection with the Constitution. In the discussion, I have advanced nothing but on the authority of the Constitution itself, or that of recorded and unquestionable facts, connected with the history of its origin and formation; and have made no deduction, but such as rested on principles which I believe to be unquestionable; but it would be idle to expect, in the present state of the public mind, a favorable reception of the conclusions to which I have been carried.—There are too many misconceptions to encounter, too many prejudices to combat, and, above all, too great a weight of interest to resist. I do not propose to investigate these great impediments to the reception of the truth, though it would be an interesting subject of inquiry to trace them to their cause, and to measure the force of their impending power; but there is one among them of so marked a character, and which operates so extensively, that I cannot conclude without making it the subject of a few remarks, particularly as they will be calculated to throw much light on what has already been said.

Of all the impediments, opposed to a just conception of the nature of our political system, the impression that the right of a State to arrest an unconstitutional act of the General Government, is inconsistent with the great and fundamental principle of all free States, that a majority has the right to govern, is the greatest. Thus regarded, nullification is, without further reflection, denounced as the most dangerous and monstrous of all political heresies, as in truth it would be, were the objection as well founded, as in fact it is destitute of all foundation, as I shall now proceed to show.

Those who make the objection, seem to suppose that the right of a majority to govern is a principle too simple to admit of any distinction; and yet, if I do not mistake, it is susceptible of the most important distinction—entering deeply into the construction of our system, and, I may add, into that of all free States, in proportion to the perfection of their institutions, and is essential to the very existence of liberty.

When, then, it is said, that a majority has the right to govern, there are too modes of estimating the majority, to either of which the expression is applicable. The one in which the whole community is regarded in the aggregate and the majority is estimated in reference to the entire mass. This may be called the majority of the whole, or the absolute majority. The other, in which it is regarded, in reference to its different political interests, whether composed of different classes, of different communities, formed into one general confederated community, and in which the majority is estimated, not in reference to the whole, but to each class or community of which it is composed, the assent of each, taken separately, and the concurrence of all constituting the majority.

A majority thus estimated may be called the concurring majority.

When it is objected to nullification, that it is opposed to the principle that a majority ought to govern, he who makes the objection, must, mean the absolute as distinguished from the concurring. It is only in the sense of the former the objection can be applied. In that of the concurring, it would be absurd, as the concurring assent of all the parts, [with us all the States,] is of the very essence of such majority. Again, it is manifest, that in the sense it would be good against nullification, it would be equally so against the Constitution itself; for, in whatever light that instrument may be regarded, it is clearly, not the work of the absolute, but of the concurring majority. It was formed and ratified by the concurring assent of all the States, and not by the majority of the whole taken in the aggregate, as has already been stated.—Thus the acknowledged right of each State in reference to the Constitution is unquestionably the same right which nullification attributes to each, in reference to the unconstitutional acts of the Government; and, if the latter be opposed to the right of a majority to govern, the former is equally so. I go farther. The objection might with equal truth be applied to all free States that have ever existed, I mean States deserving the name, and excluding of course those which, after a factious and anarchical existence of a few years, have sunk under the yoke of tyranny, or the dominion of some foreign power. There is not, with this exception, a single free State, whose institutions were not based on the principle of the concurring majority—not one, in which the community was not regarded in reference to its different political interests, and which did not, in some form or other, take the assent of each in the operation of the government.

In support of this assertion, I might begin with our own government and go back to that of Sparta, and show, conclusively, that there is not one on the list, whose institutions were not organized on the principle of the concurring majority, and in the operation of which, the sense of each great interest was not separately consulted. The various devices which have been contrived for this purpose, with the peculiar operation of each, would be a curious and highly important subject of investigation. I can only allude to some of the most prominent.

The principle of the concurring majority has sometimes been incorporated in the regular and ordinary operation of the government, each interest having a distinct organization, and a combination of the whole forming the government; but still requiring the consent of each, within its proper sphere, to give validity to the measures of government. Of this modification the British and Sparta governments are by far the most memorable and perfect examples. In others, the right of acting—of making and executing the laws—was vested in one interest, and the right of arresting, or nullifying, in another. Of this description the Roman Government is much the most striking instance. In others, the right of originating or introducing projects of laws was in one, and of enacting them in another, as at Athens, where the Areopagus proposed and the General Assembly of the people enacted laws.

These devices were all resorted to with the intentions of consulting the separate interests, of which the several communities were composed; and against all of which the objection to nullification, that it is opposed to the will of a majority, could be raised with equal force—as strongly, and I may say much more so, against the unlimited, unqualified, and uncontroulable veto of a single tribune out of ten, at Rome, on all laws, and the execution of laws, as against the same right of a sovereign State, [one of the twenty four tribunes of this Union,] limited as the right is, to the unconstitutional acts of the General Government, and liable, as in effect it is, to be controlled by three fourths of the co-States; and yet the Roman Republic and the other States to which I have referred, are the renowned among free States, whose examples have diffused the spirit of liberty over the world, and which, if struck from the list, would leave behind but little to be admired or imitated. There indeed would remain one class deserving from us particular notice, as ours belongs to it, I mean confederacies, but, as a class, heretofore far less distinguished for power and prosperity, than those already alluded to; though I trust, with the improvements we have made, destined to be placed at the very head of the illustrious list of States, which have blessed the world with examples of well regulated liberty; and which stand as many oases in the midst of the desert of oppression and despotism which occupy so vast a space in the chart of governments. That such will be the great and glorious destiny of our system, I fell assured, provided we do not permit our Government to degenerate into the worst of all possible forms, a consolidated government, swayed by the will of an absolute majority.—But to proceed.

Viewing a confederated community, as composed of as many distinct political interests as there are States, and as requiring the consent of each to its measures, no government can be conceived, in which the sense of the whole community can be more perfectly taken, and all its interests be more fully represented and protected. But with this great advantage, united with the means of the most just and perfect local administration through the agency of the States, and combined with the capacity of embracing within its limits the greatest extent of territory and variety of interest, it is liable to one almost fatal objection, the tardiness and feebleness of its movements—a defect difficult to be remedied; and when not, so great as to render a form of Government, in other respects so admirable, almost worthless. To overcome this difficulty was the great desideratum in political science, and the most difficult problem within its circle. To us belongs the glory of its solution, if, indeed, our experiment (for such it must yet be called) shall prove, that we have overcome it, as I sincerely believe and hope it will, on account of our own as well as the liberty and happi- of our race.

Our first experiment in Government was on the old form, of a simple confederacy, unmodified, and extending the principle of the concurring majority alike to the Constitution, (the article of Union,) and to the Government which it constituted. It failed, and the present structure was reared in its place, combining for the first time in a confederation, the absolute with the concurring majority; and thus uniting the justice of the one with the energy of the other.

The new Government was reared on the foundation of the old, strengthened, but not changed. It stands on the same solid basis of the concurring majority, perfected by the sanction of the people of the States directly given, and not indirectly, through the State Governments, as their representatives, as in the old confederation. With that difference, the authority which made the two Constitutions—which granted their powers, and organized their respective Governments to execute them, is the same. But, in passing from the Constitution to the Government, (the law-making and law-administering powers,) the difference between the two becomes radical and essential. There, in the present, the concurring majority is dropped, and the absolute substituted. In determining, then, what powers ought to be granted, and how the Government appointed for their execution ought to be organized, the separate and concurring voice of the States was required; the Union being regarded, for this purpose, in reference to its various and distinct interests; but in the execution of these powers (delegated only because all the States had a common interest in their exercise) the Union is no longer regarded in reference to its parts, but as forming, to the extent of its delegated powers, one great community, to be governed by a common will, just as the States are in reference to their separate interests, and by a Government organized on principles similar to their's. By this simple, but fortunate arrangement, we have engrafted the absolute on the concurring majority, thereby giving to the administration of the powers of the Government, where they were required, all the energy and promptness belonging to the former, while we have retained in the power granting and organizing authority, (if I may so express myself,) the principle of the concurring majority, and with it, that justice, moderation, and full and perfect representation of all the interests of the community which belongs exclusively to it.

Such is the solidity and beauty of our admirable system, but which, it is perfectly obvious, can only be preserved by maintaining the ascendency of the constitution making authority over the law-making—the concurring over the absolute majority. Nor is it less clear, that this can only be effected by the right of a State to annull the unconstitutional acts of the Government—a right confounded with the idea of a minority governing a majority, but which, so far from being the case, is indispensable to prevent the more energetic, but imperfect majority, which controls the movements of the Government, from usurping the place of that more perfect and just majority which formed the Constitution, and ordained Government to execute its powers.

Nor need we to apprehend this check, as powerful as it is, will prove excessive. This distinction between the Constitution and the law-making powers, so strongly marked in our institutions, may yet be considered as a new and untried experiment. It can scarcely be said to have existed at all, before our system of Government. We have yet much to learn, as to its practical operation, and among other things, if I do not mistake, we are far from realizing the many and great difficulties of holding the latter subordinate to the former, and without which, it is obvious the entire scheme of constitutional government, at least in our sense, must prove abortive. Short as has been our experience, some of these, of a very formidable character, have begun to disclose themselves; particularly between the Constitution and the Government of the Union. The two powers there, represent very different interests; the one, that of all the States taken separately; and the other, that of a majority of the States, as forming a confederated community. Each acting under the impulse of these respective and very different interests, must necessarily strongly tend to come into collision; and in the conflict, the advantage will be found, almost exclusively, on the side of the Government or law-making power. A few remarks will be sufficient to illustrate these positions.

The Constitution, while it grants powers to the Government, at the same time imps restrictions on its action, with the intention of confining it within a limited range of powers and of the means of exerting them. The object of the powers is to protect the rights and promote the interests of all; and of the restrictions, to prevent the majority, or the dominant interests of the Government, from perverting powers intended for the common good into the means of oppressing the minor interests of the community. Thus circumstanced, the dominant interest in possession of the powers of the Government and the minor interests, on whom they are exercised, must regard these restrictions in a very different light; the latter as a protection, and the former as a restraint, and, of course, accompanied with all the impatient feelings, with which restrictions on cupidity and ambition are ever regarded by those passions. Under their influence, the Constitution will be viewed by the majority, not as the source of their authority, as it should be, but as shackles on their power. To them it will have no value as the means of protection. As a majority, they require none. The number and strength, and not the Constitution, are their protection; and, of course, if I may so speak, their instinct will be to weaken and destroy the restrictions in order to enlarge the powers.—He must have a very imperfect knowledge of the human heart, who does not see, in this state of things, an incessant conflict between the Government, or the law-making power, and the Constitution-making power. Nor is it less certain that in the contest, the advantage will be exclusively with the former.

The law-making power is organized and in constant action, having the control of the honors and emoluments of the country, and armed with the power to punish and reward; the other, on the contrary, is organised, lying dormant in the great inert mass of the community, till called into action on extraordinary occasions, and at distant intervals, and then bestowing no honors, exercising no patronage, having neither the faculty to reward nor to punish, but endowed simply with the attribute to grant powers and ordain the authority to execute them.—The result is inevitable. With so strong an instinct on the part of the Government to throw off the restrictions of the Constitution, and to enlarge its powers; and with such powerful faculties to gratify this instinctive impulse, the law-making must necessarily encroach on the Constitution-making power, unless restrained by the most efficient check, at least as strong as that for which we contend. It is worthy of remark, that all other circumstances being equal, the more dissimilar the interests represented by the two, *the more powerful will be this tendency* to encroach; and it is from this among other causes, that is so much stronger between the Government and the Constitution making powers of the Union, where the interests are so very dissimilar, than between the two in the several states.

That the framers of the Constitution were aware of the danger which I have described, we have conclusive proof, in the provision to which I have so frequently alluded, I mean that which provides for amendments to the Constitution.

I have already remarked on that portion of this provision, which with the view of strengthening the confederated power conceded to three fourths of the States a right to amend, which otherwise could only have been exercised by the unanimous consent of all. It is remarkable, that while this provision thus strengthened the amending power, as it regards the States, it imposed impediments on it, as far as the Government was concerned. The power of acting as a general rule is invested in the majority of Congress, but instead of permitting a majority to propose amendments, the provision requires, for that purpose, two thirds of both houses, clearly with a view of interposing a barrier against this strong instinctive appetite of the Government for the acquisition of power. But it would have been folly in the extreme thus carefully to guard the passage to the direct acquisition, had the wide door of construction been left open to it indirectly and hence, in the same spirit in which two thirds of both houses were required to propose amendments, the convention that framed the Constitution rejected the many propositions which were moved in the body, with the intention of divesting the States of the right of interposing, and thereby of the only effectual means of preventing the enlargement of the powers of the Government by construction.

It is thus that the Constitution-making power has fortified itself against the law-making; and that so effectually, that however strong the disposition and capacity of the latter to encroach, the means of resistance on the part of the former is not less powerful. If indeed encroachments have been made, the fault is not in the system, but in the inattention and neglect of those whose interests and duty it was to interpose the ample means of protection afforded by the Constitution.

To sum up in a few words in conclusion what appears to me to be the entire philosophy of government in reference to the subject of this communication.

Two powers are necessary to the existence and preservation of free States; a power on the part of the ruled to prevent rulers from abusing their authority, by compelling them to be faithful to their constituents, and which is effected through the right of suffrage; and a power to *compel* the parts of society to be just to one another, by compelling them to consult the interest of each other, which can only be affected, whatever may be the device for the purpose, by requiring the concurring assent of all the great and distinct interests of the community to the measures of the Government. This result is the sum total of all the contrivances adopted by free States to preserve their liberty, by preventing the conflicts between the several classes, or parts of the community. Both powers are indispensable. The one as much so as the other. The rulers are not more disposed to encroach on the ruled, than the different interests of the community on one another; nor would they more certainly convert their powers from the just and legitimate objects for which governments are instituted, into an instrument of aggrandizement, at the expense of the ruled, unless made responsible to their constituents than would the stronger interests theirs, at the expense of the weaker, unless compelled to consult them, in the measures of the government, by taking their separate and concurring assent. The same cause operates in both cases. The constitution of our nature which would impel the rulers to oppress the ruled, unless prevented, would in like manner, and with equal force, impel the stronger to oppress the weaker interest. To vest the right of Government in the absolute majority, would be, in fact, but to embody the will of the stronger interest, in the operations of the government, and not the will of the whole community, and to leave the others unprotected, a prey to its ambition and cupidity, just as would be the case between the rulers and ruled, if the right to govern was vested exclusively in the hands of the former. They would both be in reality, absolute and despotic governments; the one as much so as the other.

They would both become mere instruments of cupidity and ambition in the hands of those who wielded them. No one doubts that such would be the case, were the Government placed under the control of irresponsible rulers; but, unfortunately for the cause of liberty, it is not seen, with equal clearness, that it must as necessarily be so when controlled by an absolute majority; and yet, the former is not more certain than the latter. To this we may attribute the mistake so often and so fatally repeated, that, to expel a despot is to establish liberty—a mistake to which we may trace the failure of many noble and generous efforts in favour of liberty. The error consists in considering communities as formed of interests strictly identical throughout, instead of being composed, as they in reality are, of as many distinct interests as there are individuals. The interests of no two persons are the same, regarded in reference to each other; though they may be, viewed in relation to the rest of the community. It is this diversity, which the several portions of the community bear to each other, in reference to the whole, that renders the principle of the concurring majority necessary to preserve liberty. Place the power in the hands of the absolute majority, and the strongest of these would certainly pervert the Government from the object for which it was instituted, the equal protection of the rights of all, into an instrument of advancing itself, at the expense of the rest of the community. Against this abuse of power no remedy can be devised but that of the concurring majority. Neither the right of suffrage nor public opinion can possibly check it. They, in fact, but tend to aggravate the disease. It seems really surprising, that truths so obvious should be so imperfectly understood. There would appear, indeed, a feebleness in our intellectual powers on political subjects, when directed to large masses. We readily see why a single individual, as a ruler, would, if not prevented, oppress the rest of the community; but we are at a loss to understand why 7 millions would, if not also prevented, oppress 6 millions, as if the relative numbers on each side could, in the least degree vary the principle.

In stating what I have, I have but repeated the experiences of ages, comprehending all free governments preceding ours, and ours as far as it has progressed. The *practical* operation of ours has been substantially on the principle of the *absolute* majority. We have acted, with some exceptions, as if the general government had a right to interpret its own powers, without limitation, or check; and, though many circumstances have favoured us, and greatly impeded the national progress of events under such an operation of the system, yet we already see in whatever direction we turn our eyes, the growing symptoms of disorder and decay—the growth of faction, cupidity, and corruption; and the decay of patriotism, integrity, and disinterestedness. In the midst of youth, we see the flushed cheek and the short and feverish breath, that marks the approach of the fatal hour; and come it will, unless there be a speedy and radical change—a return to the great conservative principle, which brought the Republican party into authority, but which with the possession of power and prosperity, it has long since ceased to remember.

I have now finished the task which your request imposed. If I have been so fortunate as to add to your fund, a single new illustration of this great conservative principle of our government, or to furnish an additional argument calculated to sustain the state in her noble and patriotic struggle to revive and maintain it, and in which you have acted a part long to be remembered by the friends of freedom, I shall feel amply compensated for the time occupied in so long a communication. I believe the cause to be the cause of truth and justice, of union, liberty, and the Constitution, before which the ordinary party struggles of the day sink into perfect insignificance; and that it will be so regarded by the most distant posterity, I have not the slightest doubt.

With great and sincere regard, I am yours,
JOHN C. CALHOUN.

His Ex: James Hamilton, Jr. Gov. S. C.

OFFICIAL DOCUMENTS
Accompanying the Message of the President to both Houses of Congress.

REPORT
OF THE SECRETARY OF THE NAVY.

NAVY DEPARTMENT, Dec. 3, 1832.

To the President of the U. States:

SIR:—It is a source of much gratification to be able to lay before you an exposition of the transactions of this Department the past year, evincing great prosperity.

New evidences have been furnished of the importance of our Navy in sustaining the American character abroad, and in extending and protecting some of our most valuable interests.

Besides the ordinary aid given to commerce by the presence of a respectable force on each of our foreign stations, the cruising grounds of some of our squadrons have been enlarged; convoy, and relief in distress, have been occasionally afforded; threatened aggressions have, in some cases, been deterred, and, in others, the commission of actual injuries has been seasonably investigated and stopped.

In the performance of these duties, frequently very delicate and difficult, our officers have, in general, displayed commendable prudence, and always their accustomed promptitude, zeal and bravery.

Connected with the Mediterranean station, the only collision that has arisen between any part of our squadron and other powers took place at Madeira between the Constellation and the blockading vessels of Donna Maria. The commander of the Constellation, under instructions to show entire impartiality towards the contending claimants to the throne of Portugal, and at the same time to respect in all places, the actual government, found, on his arrival at that Island, the force employed in its blockade apparently insufficient for the due investment of the place, and partial in its indulgencies towards the flags of other nations. Under these impressions as to the facts, and under his order for the efficient protection of our commerce, he came to a conclusion, very fortunate for these interested in the trade to Madeira, that while such a state of things continued, he was justified in extending assistance to our merchantmen to enter the port of their destination with their perishable cargoes.

The addition to the Mediterranean squadron, of the frigates Constellation and United States, and the return of the Ontario, are the only material changes in it since my last annual report. The Delaware has been prepared for sea with a view to that station; but it was deemed expedient not to despatch her, unless some emergency occurred, until she could undergo a thorough examination in one of our dry docks. The Brandywine, Boston, and Concord, being expected home the present winter, their places will probably, in a few months be supplied by the Delaware.

The chastisement inflicted by the frigate Potomac on the practical Malays in February last, is the sole occurrence of importance among our vessels that compose the squadron in the Pacific. The orders given to her commander required him to ascertain, by careful inquiries, that the information received here before his sailing, concerning the plunder and massacre committed on board the ship Friendship, was not exaggerated. He was further directed to satisfy himself that those outrages were not provoked by any misconduct on the part of the Americans; and that the offenders were, as represented and believed to be true, a race of a character so lawless and savage as not to come within the scope of regular diplomatic intercourse. He was also instructed, if practicable, first to demand and obtain indemnity for the injury committed, and the punishment of those most conspicuous in these barbarous atrocities. It has been gratifying to learn by accounts from that quarter of the world, subsequent to the visit of the Potomac to Sumatra, that the result of that visit has been to silence all exultations and menaces of further violence from those sea robbers; to draw from them acknowledgments of past errors, and promises of future forbearance from like offences, and to insure, as yet a scrupulous fulfilment of those promises. But to guard against their perfidy orders were given that the Potomac should be followed by a detachment from the Brazilian squadron, part of which detachment has since sailed, and has instructions to touch not only at Sumatra, but such places in India, China, and on the eastern coast of Africa, as may be conducive to the security and prosperity of our important commercial interests in those regions.

The stop put to the seizure of our vessels at the Falkland Islands, in January last, was effected by a Brazilian squadron, under general instructions from this deprrtment to take all proper measures for the effectual security of our commerce and fisheries. Special orders on that subject had been principally prepared and forwarded by this Department; but they had not arrived at the time of the prompt and successful interference by the Lexington. Our commerce and fisheries have not been molested in that quarter since that occurrence. The Boxer, another vessel of the same squadron, after visiting Liberia in Africa, has, at a critical moment extended our naval protection to the neighborhood of Para and Maranham. The schooner Enterprise, in the late disturbances at Montevideo, was also placed in a position of much delicacy, and succeeded in furnishing very opportune assistance, not only to our own merchants, but to the constituted authorities of the country. Nothing else of interest connected with the Brazilian station, has occurred since my last annual report. But the unsettled condition of South America, and the security of our commerce in India, have led to an increase of our force on that station, by the addition of the Peacock, Boxer, and Enterprise.

The West India squadron has been employed in an active and useful manner; and particularly so while on the coast of Mexico. During the commotions in that country the past season, this squadron yielded very efficient protection to our own citizens, and was, on some occasions, fortunately enabled to profer security to the residents from other nations. The recent seizure of the Montezuma, a vessel belonging to Santa Anna, was made by the Grampus without any special instructions from this department: but on the facts reported to her commander, the seizure was deemed by him both necessary and proper in the execution of his general orders to shield our flag, our citizens, and their property, from unlawful aggressions. A part of this squadron has recently been detached to visit the Western Islands, the Cape de Verds, and if necessary, the coast of Africa, in pursuit of a piratical vessel which in September last, robbed the American merchant brig Mexican of a large amount of property near the Azores. This measure, aided by instructions to the commanders of vessels to return from the Mediterranean, and to those now in the West Indies, as well as to our consuls at Madeira, Lisbon, and Gibraltar, to use all practical vigilance in the detection and punishment of the authors of this wanton outrage, will, it is hoped, terminate successfully; and, in any event, will tend to prevent any other attempts of a like character, from the increased impracticability of escape with impunity. The only changes in the vessels of this squadron have been the withdrawal of the Fairfield, Vincennes and Erie, for repairs, and the substitution of the St. Louis and Vandalia.

For reasons suggested in the last annual report, it has been my endeavour to keep one of our vessels in commission remaining constantly on some portion of our own coast. The schooner Experiment, after sundry trials of her qualities, which proved in a great degree satisfactory, and after a visit, during the past season, to most of our home stations, is still retained on our Atlantic seaboard ready to be despatched to such quarter of the world as

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