

Chapter 5

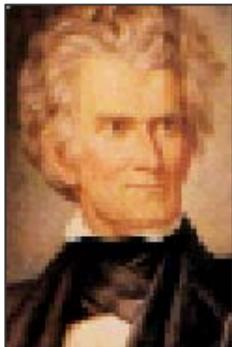
The Crisis of 1833: Tariffs and Nullification

"Our Federal Union – it must be preserved!" (Andrew Jackson)

"The Union – – next to our liberty, most dear." (John C. Calhoun)

Behind this exchange of toasts between President Andrew Jackson and his Vice-President, John C. Calhoun in 1830, lay a division in the U.S. as wide as this nation and as disruptive as a civil war. Although a Southerner and a slave owner, Andrew Jackson's statement reflected a commitment to keeping the country whole. John Calhoun, born and raised in South Carolina, had come to Congress in 1811 as an ardent nationalist. He supported the B.U.S., internal improvements, and the tariff of 1816. But Calhoun's state had moved away from its earlier commitment to nationalism, and the South Carolinian had to choose between allegiance to his state or to his country. While serving as Vice-President in 1828, Calhoun had secretly written a document entitled *The South Carolina Exposition and Protest* which argued that states could nullify laws which they judged to be unconstitutional. Now, in 1830, Calhoun made a public declaration of his sentiments, "the Union – next to our liberty, most dear. May we always remember that it can only be preserved by respecting the rights of the states."²²

In 1830, the feelings for both the nation and for the states were casting long shadows across the land. On the floor of the Senate, champions of these sharply conflicting sentiments, Robert Hayne of South Carolina and Daniel Webster of Massachusetts squared off in a debate of classic proportions.



John Calhoun

Webster, the aggressor, had challenged Hayne to commit himself to the doctrine of nullification. Hayne took the bait, quoted Jefferson's Kentucky resolution and held as sacred a resistance to unauthorized taxation. In a reply that took two days to deliver, Webster attempted to shred the elaborate nullification argument.

The debate over the nature of the Union occupied the Senate for four whole months, though little remained to be said after Webster and Hayne had completed their speeches. The debates were far more than an exercise in oratory. They helped shape public opinion on the crucial issues of nationalism or sectionalism, union or states, national laws or state nullification. Young boys like Abraham Lincoln, reading Webster's Second Reply to Hayne, grew up with a passion to defend the Union. In the South, Hayne's speeches helped plant the seeds which would blossom into secession in 1861. The speeches prepared the minds of the nation for the events to come. But for the immediate future another issue was far more pressing – the tariff.

The Tariff of Abominations

²² Quoted in Lewis Todd and merle Curti, *Rise of the American Nation* (New York: Harcourt Brace and World, 1968), Vol I., p.358.

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In order to frustrate and thus defeat the middle and New England states in their desire to gain more protection for their industries, Southerners deliberately voted higher tariff rates in 1828. They hoped to make the tariff so high that even its supporters would object to it. This high-risk strategy backfired. "Its enemies," Webster commented, "spiced it with whatever they thought would render it distasteful; its friends took it drugged as it was."²³ The result was a tariff with duties averaging forty-five cents for every dollar of imports.

Champions of the tariff were pleased with the protection it offered industries of the North. American manufacturers, it was reasoned, needed protection for less expensive foreign goods produced by cheap labor. Infant American industries, like babies in the cradle, needed protection until big enough to fend for themselves. Those industries and products most in need of protection included cotton textiles, wool, hemp, and flax.

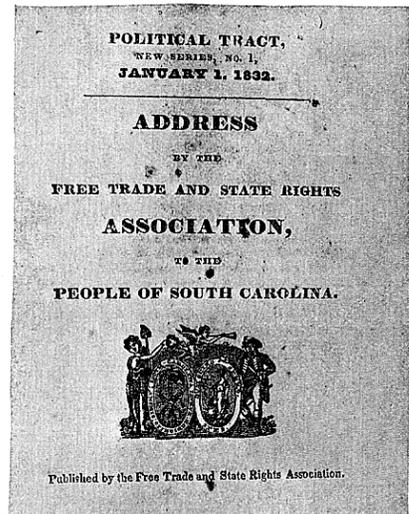
Southerners saw two distinct disadvantages to protection. First, protection would increase the cost of imports. Since the South exported its great crops, such as cotton, rice, and tobacco, it had no need of protection. The tariff, in fact, operated as a tax on the goods bought but not produced by Southerners. Secondly, the tariff hurt the South by making it more difficult for foreigners to buy American products. Without the dollars earned by selling their products in America, Englishmen would be less able to purchase goods produced in the South. Thus the tariff hurt the South by increasing the prices of goods bought while reducing sales to foreign countries.

The protectionist argued that the South was not really harmed by the tariff. They pointed out that the tariff was merely a means of getting Americans to buy and sell to other Americans. Southerners would be able to buy the North's manufactured goods, and similarly develop a market for their agricultural products in the North. Certainly, there was some truth to this argument. But the tariff also forced Southerners to pay more for manufactured goods from the North while depriving them of more lucrative markets abroad. Whatever benefits the tariff might provide for the nation would fall primarily to the Northern and the middle states; whatever burden the tariff produced was felt most heavily in the South.

Southern leaders increasingly viewed the tariff as a tax imposed on the South to support industry in the North. What made things worse, of course, was that the proceeds of this tax were often invested in internal improvements; improvements which did not benefit the South. In an anti-tariff meeting in South Carolina, Thomas Cooper reviewed these arguments and challengingly asked his audience:

*Is it worth our while to continue this Union of States, where the North demands to be our masters and we are required to be their tributaries?*²⁴

In South Carolina, after passage of the Tariff of Abominations, the answer to this question was ever more inclined to be a resounding, No!



²³ Quoted in Samuel Eliot Morrison and Henry Steele Commager, *The Growth of the American Republic*, Oxford University Press, New York, 1956, Vol I., p.476

²⁴ *loc. cit.*

The South Carolina Exposition and Protest

To fully understand why South Carolina began to question the value of remaining in the Union, one must look beyond the tariff issue. After 1819, when the Tallmadge Amendment first challenged the continued expansion of slave territory, South Carolina became increasingly sensitive about its 'peculiar institution.' A well-organized slave conspiracy, masterminded by a free Negro named Denmark Vesey, was uncovered in 1822, shortly before the insurrection was about to start. The plan had been five years in the making and involved the coordinated attack of six separate battle units. Free African-Americans and black sailors on shore leave had been enlisted in the plot and were used legislature demanded that Negro seamen be imprisoned for as long as their ships remained in South Carolina ports. This law conflicted with a treaty providing for the free and equal treatment of sailors from both England and America while on the other's shores. Ruling on this case, courts held that the treaty was supreme. While this was being resolved, the Ohio legislature called for the gradual emancipation and exportation of all slaves willing to live in Africa. Eight Northern states eventually supported this suggestion.

Assaulted by what they considered to be hostile forces, South Carolinians began to search for a formula that would protect them from unfriendly national laws. The answer was the nullification doctrine embodied in the South Carolina Exposition and Protest. Secretly authored by John Calhoun in 1828, the Exposition was a direct response to the Tariff of Abominations. But it could be used to nullify any law Southerners judged contrary to their interests.

According to Calhoun the tariff of 1828 was illegal because it was a protective and not a revenue tariff. The Constitution gives Congress the right to impose duties and imposts (tax on imported goods), but does not specifically state that the purpose of the tariff could be to protect industry. Since this purpose was not directly stated in the Constitution, Calhoun claimed it was beyond the powers given by South Carolina to the government of the United States, and therefore the Tariff of 1828 could be declared null and void.

Using arguments that Thomas Jefferson had employed in the Kentucky Resolution thirty years before, Calhoun claimed that the states had written the U.S. Constitution. As the authors of that document, and therefore parties to a mutual compact, the states remained the sole determiners of how much power they had actually surrendered to the National government. If the National government, the agent of the states, overstepped the powers granted it, the state could call a Constitutional Convention. If the convention found that the Federal actions were indeed illegal, they could declare them null and void and without force in that state. Thus an individual state, by its own action, could rule a Federal law unconstitutional. The only recourse for the Federal government would be to have three-fourths of the states amend the Constitution to give it the power declared illegal.* If the state still objected to the law, it would have to succeed from the Union or comply with the unpalatable statute.

In writing the Exposition, Calhoun had created a formula which he felt would protect South Carolina from unwarranted exercises of Federal power. He had sought and found answers to balance majority rule with the protection of minority rights. It remained to be seen, however, whether this formula would be accepted by other states.

President Jackson's Dilemma

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President Jackson

After passing the Exposition and Protest, the nullifiers in South Carolina waited to see President Jackson's reaction. Jackson had been elected in 1828 and had not yet committed himself on the tariff. The President made no reference to tariff reform in his inaugural address in 1829. South Carolina worked hard to obtain the repeal of the hated tariff, but made no progress in either 1830 or 1831. Finally, in 1832, the tariff was lowered slightly, but not enough to suit South Carolina. Convinced that she would always be saddled with this burdensome tax, South Carolina took action. In the hotly contested 1832 state elections, the South Carolina nullifiers won an overwhelming victory and immediately called for a Constitutional Convention. By large majorities, the convention passed the Ordinance of Nullification, declaring the Tariffs of 1828 and 1832 null, void, and of no effect in South Carolina as of February 1, 1833. In doing so, the state presented the National government with the strongest threat to its authority to date. During a similar crisis in 1794, George Washington had marched 15,000 Federal troops into Pennsylvania. But the Whiskey Rebellion was only an uprising by a discontented minority within one state. The Nullification Ordinance questioned the Federal Government's authority to enforce any law opposed by the majority of citizens in a state.

President Jackson had several courses of action open to him. He could compromise on the tariff issue, hoping that a reduction of tariff schedule would be followed by South Carolina's repeal of her nullification proclamation. A second alternative was to follow George Washington's example in the Whiskey Rebellion and demonstrate his willingness to use Federal troops to enforce the law in the hopes that the threat of force would compel South Carolina to submit. Finally, Jackson could ignore the challenge to Federal supremacy and permit South Carolina to nullify the tariff, thus assuring all states that the Federal government would not force them to obey all laws they considered unconstitutional. The decision would be one of the most difficult that Jackson would have to make.

Suggested Student Exercises:

1. Act as an advisor to President Jackson and advocate a course of action that would be the wisest for him to take. Your advice should take the following into account:

- a. Was the tariff fair to the South?
- b. Should the states have the power to nullify laws?
- c. What effect would the President's actions have on the Union?

or

2. As your teacher directs, divide into three groups, pro-tariff and anti-nullification North; anti-tariff and pro nullification South; and undecided West. North and South should spend 10 minutes preparing its position, and 5 presenting it to the class, and attempt to get the support of the West.

Epilogue: Resolution of the Tariff Issue

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Andrew Jackson's strategy in dealing with the nullification crisis contained three elements. First, he avoided a direct clash with South Carolina officials by moving the Customs House out of Charleston to Federal property on a harbor island. Second, Jackson affirmed the principle of Federal supremacy. Adopting Webster's view of the Union, Jackson gave a strong speech denouncing nullification "as incompatible with the existence of the Union, contradicted expressly by the letter of the Constitution, inconsistent with every principle on which it was founded, and destructive to the great object for which it was formed."²⁵ Jackson followed his speech with a recommendation that Congress pass the Force Bill, authorizing the President to call out the United States Army and the state militia in this emergency. Finally, Jackson offered an olive branch. He asked Congress to reduce the tariff because "protection tended to beget in the minds of a large proportion of our countrymen a spirit of discontent and jealousy dangerous to the stability of the Union."²⁶

After much posturing and debate and with the help of Henry Clay of Kentucky a final agreement was crafted based on Jackson's proposals. The offending tariff was lowered to an average rate of 20% over the next ten years, with most of the reduction scheduled for the years 1840-42. A Force Act, authorizing the Chief Executive to use the US Army to enforce the law was passed and remained on the books long enough for President Lincoln to use it in 1861 when he faced a crisis even more serious than the one of 1828-33. Finally, South Carolina repealed its Ordinance of Nullification, but ever defiant, nullified the Force Act.

²⁵ Quoted in Henry Steele Commager, ed., *Documents of American History*, Prentice-Hall, Inc. Englewood Cliffs: 1973, p. 264

²⁶ Quoted in William Freeling, *Prelude to the Civil War, The Nullification Controversy in South Carolina, 1816-36*, Harper and Row Publishers, New York, 1966, p. 266-67.