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The Nullification Controversy

The nullification crisis of 1832-33 set the state of South Carolina against the federal government of the United States. In 1816 the federal government enacted a tariff on imported manufactured goods in order to protect its infant manufacturing industry which was primarily concentrated in the northern states. The state of South Carolina subsequently attempted to nullify this federal law in 1832 which caused a crisis with the federal government that ended in a reduced tariff and a strengthened stance within the central government against nullification and secession and was a prelude to the positions that would repeat themselves in 1860-61. The reasoning behind why South Carolina saw it necessary to nullify this federal law has long been disputed by historians of the Jacksonian era. The historian David Franklin Houston, in his book *A Critical Study of Nullification in South Carolina* written originally in 1896, argues that the ideologies of South Carolinians were formed by external factors (primarily economic) which transformed the common sentiment of South Carolina's prominent politicians from nationalist to sectionalist. William W. Freehling, in his work on the Nullification Controversy entitled *Prelude to Civil War*, writing during the 1960s, puts more of an emphasis on South Carolinians' opposition to the emerging abolition movement. Finally, a more recent historical work concerning the Nullification Controversy, *The Union at Risk* written in 1987 by historian Richard E. Ellis, argues that the crisis had little to do with states' rights and that Calhoun and other South Carolina politicians in favor of nullification and secession were opportunistically using states' rights as a platform to legitimize their positions and that there was actually factionalism within the states' rights platform (Unionists and Sectionalists). These three historians relate similar

histories of what happened during the Nullification Controversy, but their reasoning as to why the controversy came about is quite different. By looking at the explanations of these three historians, it is possible to arrive close to a consensus about why the legislature of South Carolina voted to nullify a federal law in 1832. The economic situation in South Carolina following the Panic of 1819 and the ever-present question of the peculiar institution of slavery led to an expansion of nullificationist sentiment, based on states' rights principles, in South Carolina culminating with the Nullification Controversy.

The War of 1812 spread a grand sense of Nationalism throughout the country, and South Carolina was no exception. Even the infamous South Carolina proponent of nullification, John C. Calhoun, according to historian David Franklin Houston, was filled with nationalist fervor and was actually in favor of many national government initiatives. "That [Calhoun] did ably, pointedly, and repeatedly advocate governmental aid for the manufacturing interests is as useless for later generations to undertake to deny as it was for himself."¹ Calhoun and other South Carolina politicians often found themselves on the nationalistic side of arguments ranging from internal improvements to even the formation of a national bank. This nationalistic stance would quickly rescind itself after the Panic of 1819 and the succeeding depression. The economic woes of the country were felt especially hard in South Carolina and many blamed these misfortunes on the protective tariffs levied on foreign manufactured goods. The tariff was seen as giving the North, "which could not hold its own against foreign competition without the aid of bounties," a virtual monopoly on Southern raw materials, "which could [be bought] and [sold] more satisfactorily in foreign markets."² South Carolina politician George McDuffie concluded that "the Southern States ... were in very much the same relation to the North as the Colonies were to

¹ David Franklin Houston, *A Critical Study of Nullification in South Carolina* (Gloucester, MA: Peter Smith, 1968) 10.

² Houston 40.

Great Britain.”³ Houston argues that though McDuffie’s arguments on the actual monetary effect of the tariff were fallacious, that the price of cotton was actually falling mainly due to “the opening up and cultivation of fresher lands to the West,” his oratory skills were a central factor in convincing a majority of South Carolina that they were living under the oppression of Northern tyranny.⁴

The economic depression in South Carolina led to a feeling throughout the state that it was being bullied by the majority of the other states. This feeling of isolation created a bolstering of radical states’ rights sentiments throughout the state. South Carolinians were beginning to look at themselves as a sovereign entity within the federation of states. Nullification and secession were two principals that South Carolinians bolstered as their trump cards in case of federal tyranny. Calhoun and other South Carolina politicians attempted to use the Virginia and Kentucky Resolutions, which were drafted in defiance of the Alien and Sedition Act, as proof of a states’ ability to nullify federal law that was deemed unconstitutional. Houston denies this interpretation of the Virginia and Kentucky Resolutions because they were drafted by Jefferson and Madison in order to “check the measures of the general government which they believed to be obnoxious to the majority of the people,” whereas the use of nullification in 1832 was in order to “devise a remedy by which the minority might control the majority.”⁵

Nullification was a very radical platform in South Carolina and took much convincing by prominent politicians before it became an accepted methodology. In 1824, when an increased protective tariff passed through congress, the South Carolina legislature discussed the tariff bill and concluded that nullification was akin to usurpation of the federal government. “It declared that if the tariff bill was in fact a bill to encourage manufacturers at the expense of agriculture, it

³ Houston 42.

⁴ Houston 43-48.

⁵ Houston 24.

would meet with decided disapproval; ‘but whether the act be or be not unconstitutional, has not been decided by the only proper tribunal, the Federal Judiciary.’”⁶ This interpretation of state sovereignty would radically shift during the next decade and in 1832 South Carolina would use its perceived right as a sovereign entity to declare the tariff null and void within the boundaries of South Carolina.

The radicalization of South Carolina politics is difficult, however, to blame entirely on a worsening economic situation. Many other states in the South went through difficult economic troubles following the Panic of 1819 and they were not so touched by the prospect of nullification. William W. Freehling offers an explanation for this radicalization. The slave conspiracies and revolts that occurred in the South during the late 18th and early 19th century, including the Haitian Revolution, Denmark Vesey’s Conspiracy and Nat Turners Rebellion, plagued the minds of South Carolina slave holders and fueled isolationist paranoia over the abolition movement.

The Denmark Vesey Conspiracy of 1822 had a significant impact on the minds of South Carolinians especially because of its proximity, having been perpetrated in the city of Charleston. “The nullification crusade had many heroes” states Freehling. However, “the man most responsible for bringing South Carolina to the boiling point was ... but a lowly Charleston mulatto names Denmark Vesey.”⁷ Vesey’s failed conspiracy to lead a slave rebellion in the city was viewed as being influenced by both abolitionists and rebellious slaves from San Domingo. The fact that slaves could be influenced by outsiders to incite murder and rebellion shocked the sensibilities of the South Carolina slave holding aristocracy. “No Charlestonian could forget the chilling cogency of the rebels’ plan” nor the “treachery of some of the most famous personal

⁶ Houston 30.

⁷ William W. Freehling, *Prelude to Civil War: The Nullification Controversy in South Carolina 1816-1836*, (New York: Harper & Row, Publishers, 1966) 53.

servants in the state.”⁸ The paranoia of slave insurrection was increased by a series of arsons in Charleston in 1826 and then by the Nat Turner Rebellion in 1831. All of this fear was directed not toward the institution of slavery but rather at the perceived external influences which provoked slaves to murder and rebellion.

South Carolina took many radical steps in order to limit this external influence as much as possible. The argument was made that the question of slavery was clearly within the realm of the state government. “Slavery was so clearly within the states’ reserved rights, and the Constitution so explicitly restricted congressional authority to the delegated powers, that if the Constitution was preserved inviolate, Congress could never touch slavery.”⁹ This argument made the states’ rights platform, which argued for a strict constructionist reading of the Constitution and put heavy emphasis on the tenth amendment, very popular in South Carolina. The slave holding aristocracy attempted to use the states’ rights argument in order to stop abolition debates in congress and thereby limit abolitionist influences on their slaves.

Another source of negative influence in the minds of South Carolinians was foreign Negro seamen. These seamen were viewed with contempt and suspicion, especially after the discovery of the Denmark Vesey Conspiracy. In December of 1822, the South Carolina legislature passed a law requiring all Negro seamen to be incarcerated upon their entry into Charleston harbor until the departure of their vessel. This law was clearly in violation of international treaties, but South Carolina continued to imprison Negro seamen by “[relying] on the reserved rights of the states to nullify a federal treaty which they judged interfered with internal safety.”¹⁰ The states’ rights argument is being used here again in order to bypass federal

⁸ Freehling 60.

⁹ Freehling 111.

¹⁰ Freehling 115.

authority for the sake of a minority of the population. This would be a powerful lesson in the use of strict constructionism as a means of justifying nullification a decade later.

The issue of slavery as illustrated by Freehling can be seen here as following a parallel course to the economic situation described by Houston. Both factors led the state of South Carolina to embrace a radical platform of states' rights and nullificationism. By way of strict constructionalism of the Constitution and justification through the Virginia and Kentucky Resolutions, South Carolina was paving the way to being able to protect itself from perceived threats from the federal government of the United States. According to Freehling, "South Carolina was on the verge of radical action before the Tariff of Abominations was passed" in 1928.¹¹

Justification of nullification through the platform of states' rights, however, is inconsistent with the commonly accepted principles of the time. According to historian Richard E. Ellis, the traditional states' rights policy, of which Andrew Jackson was an ardent proponent, stressed that the union of the states was perpetual and secession and nullification were akin to treason. Jackson was a proponent of states' rights for a much different reason than the South Carolina nullifiers. He viewed the government as necessary but also dangerous because "it could easily come under the control of the greedy and the aggressive and be used to obtain special privileges and monopolies. Therefore, it was best that government to carefully specified powers."¹² The nullifiers were proponents of states right because it was seen as a means to protect their interests by ensuring that the federal government had as little influence in their state as possible. These interests that they were trying to protect were mainly business interests to which the institution of slavery was inexorably linked. Jackson's states' rights platform was

¹¹ Freehling 131.

¹² Richard E. Ellis, *The Union at Risk: Jacksonian Democracy, States' Rights, and the Nullification Crisis*, (New York: Oxford University Press, 1987) 16.

intended to protect the majority of the people from the greed and aggression of the minority while South Carolina's version of states' rights was intended to protect the minority or South Carolina from the majority of the Union.

This fact leads to the inevitable conclusion that South Carolina's version of states' rights wasn't really states' rights at all. An ardent supporter of states' rights all throughout his presidency, opposing federal involvement in internal improvements and the creation of a national bank, Jackson completely rejected the idea of nullification as treason. Ellis suggests that he viewed nullification as synonymous with secession because "one verged almost automatically into the other."¹³ With his track record for rejecting growth of federal government through states' rights principles, one might think that Jackson would be a supporter of nullification on the grounds that it was a check on the federal government at the state level. This, however, is untrue, as the words of Jackson would attest to. He believed that "perpetuity is stamped upon the Constitution by the blood of our Fathers ... which all have sworn to support and in violation of which no state or states have the right to secede."¹⁴ Ellis takes from this argument by Jackson that nullification was not a tenant of the states' rights platform and that South Carolina was using states' right principles as a means of justifying nullification and ultimately secession.

The tariff that South Carolina would eventually nullify was supported by Jackson on the grounds that it would help to free the United States from having to import manufactured goods vital for the national defense from foreign powers by encouraging domestic manufacturers. The income from the tariff would then be used to pay off the national debt which Jackson abhorred. Therefore, "Jackson viewed the tariff as Constitutional" as it would "have the practical benefit of

¹³ Ellis 48.

¹⁴ Ellis 48.

extinguishing the national debt and protecting items necessary for common good and welfare.”¹⁵ He was even in favor of reducing the tariff once the national debt had been sufficiently reduced which is precisely what happened in 1832, the same year that South Carolina nullified it.

Nullification was a trump card that South Carolinians felt that they had the right, under the Constitution, to use in order to check the power of the constitution. This radical view which was contrary to the states rights principles held by many politicians of this period can be seen as having developed from the economic hardships brought on during the depression following the Panic of 1819 and also paranoia that developed because of slave conspiracies and insurrections in the South. Ellis, Freehling and Houston, writing at different periods of time about the same event and using different reasoning to come to their conclusions, all managed to illuminate a piece of the puzzle that made up the reasoning by which the Nullification Controversy began. By critically examining all three of these historians, a more complete picture can be gleaned about this significant historical event which facilitated the mindsets that would perpetuate into the sectionalist conflict of 1860-61 and the American Civil War.

¹⁵ Ellis 45.

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