



The Missouri Compromise and the Nullification Crisis

Student Name _____ Date _____

The South Carolina Ordinance of Nullification, November 24, 1832:

<http://www.yale.edu/lawweb/avalon/states/sc/ordnull.htm>

Question	Answer	Citation
How, according to the Ordinance, has Congress acted unconstitutionally?		
What, exactly, is being nullified by the state of South Carolina?		
Where is "any appeal" not permitted to be taken?		
What will be the result of any attempt to coerce the state into submission to having the tariffs collected? What is South Carolina stating that it will do, without actually using the word?		

Excerpts from President Jackson's Proclamation Regarding Nullification (December 10, 1832):
<http://www.yale.edu/lawweb/avalon/presiden/proclamations/jack01.htm>

Paragraph 6

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 it is 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 favor. 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, anything in the Constitution or laws of any State to the contrary notwithstanding." And it may be asserted, without fear of refutation, that no federative government could exist without a similar provision. Look, for a moment, to the consequence. If South Carolina considers the revenue laws unconstitutional, and has a right to prevent their execution in the port of Charleston, there would be a clear constitutional objection to their collection in every other port, and no revenue could be collected anywhere; 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.

Paragraph 27

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 destroys the unity of a nation, and any injury to that unity is not only a breach which would result from the contravention of a compact, but it is an offense against the whole Union. To say that any State may at pleasure secede from the Union, is to say that the United States are not a nation

Paragraph 28

because it would be a solecism to contend that any part of a nation might dissolve its connection with the other parts, to their injury or ruin, without committing any offense. Secession, like any other revolutionary act, may be morally justified by the extremity of oppression; but to call it a constitutional

right, is confounding the meaning of terms, and can only be done through gross error, or to deceive those who are willing to assert a right, but would pause before they made a revolution, or incur the penalties consequent upon a failure.

Paragraph 29

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 offense, by whatever means the constitutional compact may have been formed; and such government has the right, by the law of self-defense, to pass acts for punishing the offender, 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.

Paragraph 32

The States severally have not retained their entire sovereignty. It has been shown that in becoming parts of a nation, not members of a league, they surrendered many of their essential parts of sovereignty. The right to make treaties, declare war, levy taxes, exercise exclusive judicial and legislative powers, were all functions of sovereign power. The States, then, for all these important purposes, were no longer sovereign. The allegiance of their citizens was transferred in the first instance to the government of the United States; they became American citizens, and owed obedience to the Constitution of the United States, and to laws made in conformity with the powers vested in Congress. This last position has not been, and cannot be, denied. How then, can that State be said to be sovereign and independent whose citizens owe obedience to laws not made by it, and whose magistrates are sworn to disregard those laws, when they come in conflict with those passed by another? What shows conclusively that the States cannot be said to have reserved an undivided sovereignty, is that they expressly ceded the right to punish treason--not treason against their separate power, but treason against the United States. Treason is an offense against sovereignty, and sovereignty must reside with the power to punish it. But the reserved rights of the States are not less sacred because they have for their common interest made the general government the depository of these powers. The unity of our political character (as has been shown for another purpose) commenced with its very existence. Under the royal government we had no separate character; our opposition to its oppression began as UNITED COLONIES. We were the UNITED STATES under the Confederation, and the name was perpetuated and the Union rendered more perfect by the federal Constitution. In none of these stages did we consider ourselves in any other light than as forming one nation. Treaties and alliances were made in the name of all. Troops were raised for the joint defense. How, then, with all these proofs, that under all changes of our position we had, for designated purposes and with defined powers, created national governments--how is it that the most perfect of these several modes of union should now be considered as a mere league that may be dissolved at pleasure? It is from an abuse of terms. Compact is used as synonymous with league, although the true term is not employed, because it would at once show the fallacy of the reasoning. It would not do to say that our Constitution was only a league, but it is labored to prove it a compact (which, in one sense, it is), and then to argue that as a league is a compact, every compact between nations must, of course, be a league, and that from such an engagement every sovereign power has a right to recede. But it has been shown

that in this sense the States are not sovereign, and that even if they were, and the national Constitution had been formed by compact, there would be no right in any one State to exonerate itself from the obligation.

Question	Answer	Citation
<p>What reasons does Jackson give for not believing a state possesses the authority to resist federal laws according to that state's own assessment?</p>		
<p>Why does Jackson admit that secession may be a “revolutionary act” but not a “constitutional right”?</p>		
<p>Jackson argues that the constitution of the United States formed a “government” and not a “league.” What is the difference between them? Why does this difference make the action of South Carolina an “offense” that the federal government can punish “by the law of self-defense”?</p>		
<p>What “essential parts of sovereignty” does Jackson argue that South Carolina, along with the rest of the states of the American union, surrender to the federal government?</p>		