

ESSENTIAL CIVIL WAR CURRICULUM

The Nullification Crisis

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Although it had been simmering for several years, the nullification crisis came to a head in November of 1832 when an assembly of South Carolinians declared the federal tariffs of 1828 and 1832 to be unconstitutional. In the same convention, they forbade the collection of import taxes on foreign goods within the state after February 1, 1833, and warned that any military action to force the collection of duties would cause South Carolina to secede from the Union and form a separate government. President Andrew Jackson and others around the country viewed such action as treason, and regardless of the threat of disunion, Jackson publicly issued a statement announcing that he would, if necessary, invade the Palmetto State to collect the federal tax. As the deadline of February 1 approached, however, both sides realized the possible irreparable harm that could come should violence erupt between South Carolina and the United States government, and they sought a compromise. Kentucky senator Henry Clay, a figure somewhat outside of the conflict, constructed a compromise whereby the tariffs would be gradually reduced over a period of years, and both Jackson and the nullifiers agreed to it. Thus, the Union remained intact.

The American Civil War is the most studied and most familiar conflict between advocates of states' rights and the authority of the federal government, but it was not the only such conflict in the nineteenth century. In fact, the early United States witnessed several disunion movements from a variety of regions, both North and South. The nullification crisis foreshadowed the secession crisis of the early 1860s, and despite being thirty years apart, the two events share several themes. In both cases, radical fire-eaters in South Carolina threatened secession and declared their state's sovereignty, national politicians debated the nature of the Constitution, and the economic differences of the North and South took center stage.¹

However, we should not make the mistake of only viewing the nullification crisis through the lens of the Civil War, as is often the case. South Carolinians at the time had no inkling that civil war was on the horizon. Instead, the decision to nullify the federal tariff was based on their interpretations of the Constitution, the Revolutionary War, and the republican principles of the previous generation of statesmen. Their "vantage point,"

¹ In the North, New England Federalists clamored for disunion during the War of 1812, a movement that would culminate at the Hartford Convention in December 1814.

according to historian Lacy Ford, was “one looking backward...rather than forward to secession and Civil War.” It was a separate conflict over different issues and resulted in a different, less deadly outcome. Violence did not break out in the 1830s, nor did a group of Southern states unite in opposition to the North. Unlike thirty years later, southerners were undecided on their position in the Union. A few were willing to risk secession but the vast majority accepted the authority and sovereignty of the federal government. Nevertheless, the nullification crisis is still a clear manifestation of the sectionalism that grew increasingly more volatile in the United States as the nineteenth century progressed.²

Historians debate the underlying cause of the nullification crisis, but they agree that the most overt reason for South Carolinians’ discontent involved the protective tariffs of the 1820s. In the wake of the War of 1812, Congress hoped to promote American manufacturing and reduce the United States’ dependence on foreign goods, especially those produced in England. Because of their longer period of industrialization, the British could manufacture goods at a lower cost than American domestic businesses, so without tariffs, Americans were more likely to buy the cheaper foreign goods. By taxing imports, Congress hoped that Americans would buy American-made goods because they would be artificially cheaper than those produced abroad.

In theory, the tariffs were supposed to benefit the entire nation, but South Carolinians and many other southerners hated the tariffs, seeing the “protection” of domestic goods as a sectional policy unjustly benefitting the industrial North over the agrarian South. Northern manufacturers’ chief market was within the United States, as they sought to attract Americans to buy their goods. Southern planters’ chief market for their cotton and other agricultural products, however, were the textile mills of the British Isles, and they reasoned that if British exporters had more difficulty selling products in the United States, then southern exports would be similarly taxed in Great Britain. In other words, the South stood to benefit through international free trade, and the North gained with taxation.

Coupled with what they saw as a federally-sanctioned sectional policy, South Carolinians, more than other southern states, experienced a dramatic economic downturn throughout the 1820s. As the War of 1812 drew to a close, the national economy experienced abundant prosperity, and South Carolinians’ staple crops, such as cotton, sold for twice their normal prices. In this context, many planters bought new land and slaves on credit to take advantage of the boom times. The financial bubble burst, however, with the Panic of 1819. Currency grew scarce, and South Carolinians could not pay back their creditors. At the same time, overproduction of agricultural goods flooded the international market, and prices of goods plummeted and would not rise again until 1829. Naturally, this context made South Carolinians even more opposed to any policies, such as protective tariffs, that could further harm their downtrodden economy.

² Lacy K. Ford Jr., *Origins of Southern Radicalism: The South Carolina Upcountry, 1800-1860* (New York: Oxford University Press, 1988), 125.

As their financial future grew bleaker, South Carolinians at every political level began to see nullification as a viable option after Congress passed the tariff of 1828, a law they deemed the “Tariff of Abominations.” Unable to prevent the bill’s passage in either the Senate or House of Representatives, South Carolina’s delegation met once in Washington and again after returning to the Palmetto State to devise some plan to prevent further protection. Concurrently, local radicals held mass meetings across South Carolina, decrying the tariff as unconstitutional and detrimental to the state and the South as a whole. The state legislature had already taken a stand in 1824, approving resolutions that declared protection to be unconstitutional, but the passage of the Tariff of Abominations caused some politicians to clamor for a nullification convention to take place in 1829. Most significantly, a legislative committee privately contacted John C. Calhoun and asked for his opinion on the matter.

During 1828, Calhoun found himself in an awkward position. On the one hand, he was the current vice-president under John Quincy Adams and was also on the ballot as Andrew Jackson’s vice-president in the upcoming election. As a candidate for national office, Calhoun wanted to appeal to the widest number of voters possible and take a neutral stance on the tariff question. On the other hand, South Carolinians already supporting nullification and a radical states rights view of the Union pressured Calhoun to side with them in the ongoing conflict. He responded by anonymously composing resolutions for the South Carolina state legislature.

Known as *The South Carolina Exposition and Protest*, Calhoun used this document to outline his interpretation of the Constitution and provide a logical blueprint for nullification. The tariff issue was significant, and Calhoun repeatedly mentioned the sectional nature of protection. The crux of his argument, however, stemmed from his strict interpretation of the Constitution, and his ideas would become even more important as the crisis worsened. According to Calhoun, the federal government was “one of specifick [*sic*] powers, and it can rightfully exercise only the powers expressly granted [in the Constitution], and those that may be necessary and proper to carry them into effect, all others being reserved expressly to the states.” He admitted that the Constitution did provide the federal government the power to tax imports, but only as a way to generate revenue, “a power in its nature essentially different from that of imposing protective...duties.” The power to tax imports was being “abused” by promoting the interests of the North over those of the South. Calhoun then went on to elaborate in great detail as to how exactly the tariff injured the southern states.³

³ John C. Calhoun, *The South Carolina Exposition and Protest*, in *The Papers of John C. Calhoun*, ed. Clyde Wilson and Edwin Hemphill (Columbia, SC: The University of South Carolina Press, 1977), X, 444. Two versions of *The Exposition and Protest* exist. One was Calhoun’s first draft given to the South Carolina legislative committee. The committee made some minor changes to the document before they presented it to the legislature as a whole, and this edited document is the second copy. Here I have chosen to quote from Calhoun’s original draft, but both can be seen in *The Papers of John C. Calhoun*, X, 442-534.

After outlining all his grievances against protection, he returned to the issue of constitutional interpretation and eventually broached the subject of nullification. Calhoun understood that the federal government and the various state governments shared power, but for him, the nullification crisis could only be resolved “in determining correctly to which [government] the various political powers ought to belong.” Although the federal government and state governments did share some authority, the true power, in Calhoun’s view, resided in the states, as it was the states that originally ratified the Constitution. Therefore, states had the authority to interpret the Constitution as they saw fit, and if a certain state or states deemed an act unconstitutional, then they had the authority, sovereignty, and legal right to nullify it in a convention. Thus, “effectual protection is afforded to the minority against the oppression of the absolute majority.” The South Carolina legislature approved Calhoun’s *Exposition and Protest*, and the document provided nullifiers a basis from which to make a logical legal argument on the constitutionality of the tariff.⁴

Though the *Exposition and Protest* outlined how to go about the process of nullification, Calhoun emphasized in it the need for patience. For even as the South Carolina state legislature debated whether to adopt Calhoun’s resolutions as their own, American voters were pondering whether to keep John Quincy Adams in office or elect the war hero Andrew Jackson to take over the presidency of the United States. As Jackson hailed from the South, nullifiers hoped that “this eminent citizen,” in words of Calhoun’s document, would take their side in the controversy “with a complete restoration of the pure principles of our government.” Jackson did win the election with Calhoun as vice-president. South Carolinians, however, could not have been more mistaken as to Jackson’s view on nullification. As president, he would become directly involved in the conflict and would use his influence to counter nullifiers at every step.⁵

The 1828-1829 South Carolina legislature could come to no immediate conclusion regarding nullification, and the crisis appeared to take a back seat until Congress chose to once again act on the tariff question. The Eaton Affair temporarily distracted the nation from the nullification crisis, and Jackson and Calhoun grew estranged due to questions over Jackson’s role in the 1818 invasion of Florida. Two specific events, though seemingly unrelated to the nullification crisis, further radicalized South Carolina and heightened tensions within the nation as a whole.⁶

The first of these was the Webster-Hayne debate that occupied the U.S. Senate for much of the 1829-1830 legislative session. A series of speeches that took place over eight days in January, the debate pitted Robert Hayne of South Carolina against Daniel

⁴ Ibid., 494, 506.

⁵ Ibid., 530.

⁶ Also known as the Petticoat Affair, the Eaton Affair was a social scandal involving Jackson, his cabinet members, and their wives during 1830-1831. When John Eaton, Jackson’s secretary of war, married newly-widowed Margaret Timberlake, the wives of other cabinet members spurned her because of her scandalous reputation. Jackson attempted to rectify the situation. Ultimately all members of Jackson’s cabinet resigned, and Jackson had to appoint new cabinet members for most of the posts.

Webster of Massachusetts and focused on the question of whether or not the federal government should limit the sale of public land. Westerners wanted to continue land sales to maintain the population explosion that was going on in their states. New Englanders, however, hoped to curtail the surveying of land as a way to prevent the ongoing drain of industrial workers moving west, and Webster was their chief advocate on the senate floor. Although the debate did not directly involve southern interests, Hayne allied himself with the West with a vague hope of moving the federal government's tax policy away from protective tariffs. However, the land sales question faded after Hayne entered the fray, and constitutional interpretation soon took center stage.

Calhoun's anonymous argument against the tariff of 1828 had already somewhat introduced the conflict over the doctrine of nullification into the national political arena. However, the Webster-Hayne debate demonstrated to the entire nation through two of the day's greatest orators the significance of the growing conflict. One senator even went so far as to say that the debate "seems to have metamorphosed the Senate, not only...on the state of the Union, but on the state of the Union in all times past, present, and to come." Hayne continued to maintain the states' rights interpretation of the Constitution that had been promulgated by Calhoun and other nullifiers and argued that a state had the right "to judge of the violations of the Constitution on the part of the Federal Government, and to protect" its citizens "from unconstitutional laws." In opposition, Webster argued that only the Supreme Court had the power to declare laws unconstitutional, and there was no instance, other than revolution, where a state could "interfere and stop the progress of the General Government." Historians and the national political pundits at the time agree that Webster won the debate because he publicly exposed the doctrine of nullification as treasonous and prevented an alliance from forming between the South and West against the industrial North. The debate also served to increase sectional tensions and further isolate South Carolina's radical proponents of nullification from other southerners and westerners that seemingly had a common interest in reducing the tariff.⁷

The Nat Turner slave insurrection was the second event that contributed to the growing national tension over the nullification crisis. In August of 1831, Nat Turner and a posse of other slaves rampaged through Virginia's Southampton County, killing around sixty whites. Though it was relatively small, the rebellion took on enormous importance in the minds of southern white planters because it represented a radical challenge to the institution of slavery and to their personal safety. South Carolinians especially were frightened. Most counties along the Carolina coast contained many more people of color than whites, and if these slaves chose to throw off their masters, then the small white population was in danger. South Carolina Governor James Hamilton, Jr., was so nervous that he personally asked Governor John Floyd of Virginia for more information, presumably as a way to prevent a similar insurrection from occurring in the Palmetto State.

⁷ Levi Woodbury, quoted in Herman Belz, "Foreword," in Herman Belz, ed., *The Webster-Hayne Debate on the Nature of the Union* (Indianapolis: Liberty Fund, 2000), ix; Robert Y. Hayne, quoted in *ibid.*, xi; Daniel Webster, quoted in *ibid.*, xii.

The question of nullifying the protective tariffs and this slave uprising may seem unrelated, but the two were closely related in the minds of many antebellum white southerners. Both were examples of northern injuries to the South, and only through nullification could the South deal with them. For several years, northern abolitionists and free people of color had circulated pamphlets and newspapers throughout the South, trying to show that slavery was immoral and should be ended. Some pamphlets, like David Walker's *Appeal to the Coloured Citizens of the World*, even advocated violence, so when Turner massacred Southampton whites, it was only natural that some southerners agreed that the insurrection "had its origin among, and emanated from, the Yankee population." Since these northerners were willing to go so far as promote insurrection, some nullifiers asked themselves what would keep them from passing a federal law that legally prohibited slavery, as they had already passed the tariffs of 1824 and 1828 in spite of southern protest. Thus, if South Carolina could nullify the tariffs, then slavery would be forever protected since the southern states could always declare a law prohibiting slavery unconstitutional and nullify it, as well.⁸

As a whole, 1830 and most of 1831 were discouraging times on both the national and local scene for South Carolinian nullifiers. Webster discredited the states' rights interpretation in early 1830, and support for the doctrine of nullification was even flagging among local South Carolinians in the early months of 1831. Many nullifiers also wanted to know Calhoun's position on the issue. As vice-president and a Carolinian, many hoped that his public support would bolster the nullification cause. Calhoun, however, wanted his support to remain secret. Though his *Exposition and Protest* had become the official doctrine of the South Carolina legislature, no one knew of his support for nullification. For many years Calhoun had sought the presidency, and he understood that support for nullification would alienate potential voters in the North. But after the break with Jackson, Calhoun may have finally realized that he could never become president and he might as well support the doctrine he believed in, or he simply might have thought outright support for nullification would gain southern votes. Whatever the case, Calhoun publicly revealed his stance in July of 1831, and almost overnight, the nullifiers accepted him as the leader of their cause.

Congress's actions in the 1831-1832 session also fueled the fires of nullification. Though nullification had few supporters outside of South Carolina, some Americans, and most southerners in particular, agreed that the current tariff needed modifying. Opponents of protection even held a national "anti-tariff" convention in Philadelphia in October of 1831 where they criticized the tariff but did not declare it to be unconstitutional. These tariff detractors found an unexpected friend in John Quincy Adams. After losing the presidency to Jackson in 1828, Adams returned to Washington in 1831 as a representative from Massachusetts, and although he had championed protection while in the White

⁸ John Floyd to James Hamilton, Jr., November 19, 1831, John Floyd Papers, 1823-1867, Library of Congress, Washington, D.C. For a digital copy of Walker's *Appeal*, see: <https://archive.org/stream/walkersappealinfwalk#page/n9/mode/1up>.

House, Adams worked tirelessly to pass a bill in the House of Representatives that would placate southerners and those opposed to the tariff, while also maintaining protection on some goods. His efforts resulted in the Tariff of 1832, which Congress passed in June. It was a compromise between sectional interests and momentarily removed the tariff question from the national political scene. Adams' tariff did not appease nullifiers, and events in South Carolina would quickly bring the issue back to Washington.

With Calhoun at their head, South Carolina nullifiers campaigned throughout the Palmetto State for popular support. They wanted to hold such a majority in the state legislature that it would allow them to act uninhibited on issues related to nullification. In previous years, unionist and moderate state representatives kept their more radical peers in check, but the 1832-1833 session would be different. In spite of unionists in Charleston and the upcountry's mountainous regions, nullifiers drummed up enough state-wide support in the October elections through stump speeches, economic appeals, and even violence to gain the necessary two-thirds majority. Almost as soon as the results were announced, the new legislature held a special session, and at the behest of Governor Hammond, they passed a law calling for a state convention to be held in November in which they hoped nullification would finally become a reality.

South Carolinians assembled at the Nullification Convention, as this South Carolina convention would come to be known, nullified the tariffs of 1828 and 1832. They declared that tariffs were “unauthorized by the Constitution of the United States, and violate[d] the true meaning and intent thereof, and are null, void, and no law, nor binding upon this State...” There was some disagreement over when nullification would take effect. Radicals hoped for immediate nullification, while moderates argued that Congress deserved one more chance to eliminate the tariff. The groups compromised and set February 1, 1833, as the date South Carolina would no longer enforce the tax on imported goods. The two sides also agreed that if the federal government attempted to collect the import tax by force that it would be “inconsistent with the longer continuance of South Carolina in the Union” and would result in the state forming a “separate Government” from that of the United States. Thus not only did the convention delegates act on their theory of nullification, they also threatened secession.⁹

Nullification endangered the sovereignty of the federal government, and as president of the United States, Andrew Jackson had a decision to make. Should he allow these radical nullifiers in South Carolina to threaten the integrity of the Union by taking no action or should he march into South Carolina at the head of an army and hang

⁹ “An Ordinance, to Nullify certain Acts of the Congress of the United States, purporting to be Laws laying Duties and Imposts on the Importation of Foreign Commodities,” in *State Papers on Nullification: Including the Public Acts of the Convention of the People of South Carolina, Assembled at Columbia, November 19, 1832 and March 11, 1833; The Proclamation of the President of the United States, and the Proceedings of the Several State Legislatures which have Acted on the Subject* (Boston: Dutton and Wentworth, 1834), 29, 31. This source can be found online at http://avalon.law.yale.edu/19th_century/ordnull.asp.

Calhoun and his compatriots? Jackson had been somewhat equivocal on the tariff question while in office, and no one knew the course he would choose to take.

Throughout his presidency, the tariff question had perplexed Jackson. He was a southern planter, and it was in his personal financial interest to lower the tariff. Because of their shared livelihood, radical nullifiers hoped the Tennessean would use his influence to lower the tariff once he took office. But Jackson also fought the British in the War of 1812, where he recognized the need for a national economy independent of the manipulation of European powers, and he privately admitted that the effects of the 1828 tariff were “doubtless overrated, both in its evils and its advantages.” When he did speak publicly on the issue, Jackson usually advocated for compromise, and he initially tried to convince nullifiers and proponents of protection to see to the good of the Union as a whole, not just to their section, when enacting policies related to the tariff. Understanding the elimination of the public debt as the primary function of the tariff, Jackson also vowed that he would take no action on the tariff until all debt was eliminated, which would occur in 1833 at the earliest.¹⁰

As undecided as he was on the usefulness of the tariff, Jackson publicly maintained that the tariff was constitutional, and he abhorred nullification. He argued that the states, when adopting the Constitution, “delegated their whole authority over imports to the General Government without limitation or restriction.” This reflected his overall view that the majority rule was best for the country. Similarly, Jackson’s vehemence toward nullification was also due partly to his devotion to the principle of majority rule. Nullifiers in one small state did not have the authority or power to counteract laws passed by the representatives of the American people in Washington. Jackson also took issue with nullifiers because of their insistence on secession as a viable course of action if tariff laws were not reformed. The Union existed in perpetuity, and any attempt to break it up would result in violence. For Jackson, nullification equaled “Treason against our Government.”¹¹

After South Carolinians nullified the tariff in their November 1832 convention, the nation waited with baited breath for Old Hickory’s response. Initially, the president seemed to take the nullifiers’ side in his annual message to Congress on December 4, highlighting his agrarian values and recommending a gradual reduction of the tariff. Six days later, however, Jackson issued his Nullification Proclamation, in which he called the nullifiers’ notion that the Constitution’s authority was derived from the states an “impractical absurdity.” He then went on to warn South Carolinians that he would not sit idly by as they committed what he considered treason but would use his authority as president to ensure that duties were collected on imports, even if it meant using military force. Old Hickory continued to demonstrate hostility towards nullification in his Force Bill Message, sent to Congress on January 16, 1833. While he had only warned of

¹⁰ Andrew Jackson quoted in Richard E. Ellis, *The Union at Risk: Jacksonian Democracy, States’ Rights and the Nullification Crisis* (New York: Oxford University Press, 1987), 43.

¹¹ Andrew Jackson, quoted in *ibid.*, 43, 48.

military intervention before, Jackson used this message to explicitly request that Congress revise militia laws so that he could legally assemble a force and march on South Carolina with the full backing of the federal government.¹²

The militancy of Jackson's actions alienated many of his southern supporters who, though critical of nullification, were nevertheless opposed to military intervention, and nullifiers initially gained some popular support. But as the February 1 deadline approached, nullifiers grew wary. They know that Old Hickory, the hero of the War of 1812, was a man of action, so few doubted that he did mean to invade South Carolina. But they also realized that they presently had the upper hand in the conflict after recently gaining external sympathy from those citizens who shared a firm states' rights perspective. Therefore, at a group meeting in Charleston on January 21, nullifiers voted to suspend the nullification of the tariff until Congress adjourned later in the spring. In what historian William W. Freehling called a "strategic retreat," their decision essentially forced Congress to either reduce the tariff, ending the crisis, or pass the Force Bill in spite of southern opposition, a decision that in nullifiers' minds would finally cause the entire South to side with them. Although radical South Carolinians had sparked it and President Jackson had further inflamed it, the resolution to the nullification crisis fell on the shoulders of members of Congress.¹³

With his influence slipping due to his militancy on the question, Jackson's Force Bill Message had little chance in Congress. His supporters in the Senate Judiciary Committee did bring a draft to the Senate floor, and the Senate immediately voted to debate the bill. But as senators on both sides of the bill grew to understand the implication of its passage, essentially authorizing the use of military force, support for the bill waned. Calhoun played a role in the debate, as well. He had resigned from the vice presidency in December and South Carolinians sent him back to Washington as their state's senator, a post that would allow him to be the chief advocate of nullification in the national spotlight. Thus in the Force Bill debate, Calhoun was able to evoke some sympathy for the South Carolina cause. In the House of Representatives, Jackson's proposal fared even worse, as the bill did not make it out of committee. The Force Bill appeared dead.

Although Jackson's bill stalled in both houses, Congress had yet to side with South Carolinians in the confrontation. In the midst of the Force Bill debate, New York Jacksonian Gulian C. Verplanck introduced a bill in the House that would slash tariff rates in half over a period of several years. Jackson and his administration publicly supported Verplanck's measure in order to win back support from southerners and show them he was willing to compromise. Although it did quiet southern critics, the Verplanck bill had little chance. Pro-tariff representatives could not stand for such a drastic reduction, and South Carolinians and their sympathizers in Congress refused to back a

¹² Andrew Jackson, quoted in *ibid.*, 83.

¹³ William W. Freehling, *Prelude to Civil War: The Nullification Controversy in South Carolina, 1816-1836* (New York: Harper, 1965), 289. Most resolutions of southern state legislatures related to the nullification crisis can be found in *State Papers on Nullification*.

bill that would give some credit to the president. The situation was simply too volatile for either nullifiers or the administration to successfully enact a compromise.

Outside of the conflict, Henry Clay was the perfect person to devise a compromise. Clay had long been a supporter of high protective tariffs, but the Kentuckian was also a political enemy of Jackson through his leadership of the National-Republican Party. Throughout the nullification crisis, Clay had remained aloof, but as the situation worsened, he saw the need to create a policy that would “prevent civil war and save us from the danger of entrusting to Andrew Jackson large armies.” Their mutual hatred for Jackson drew Clay together with Calhoun, and the Kentuckian drafted a tariff reduction bill that would be acceptable for Calhoun and the more moderate wing of the nullifier party. Like Verplank’s proposal, it slashed protection gradually, but did so at a much faster rate. Not to be ignored, Clay recognized the necessity of Jackson’s support for a successful compromise, as well, so to please the president, Clay convinced enough congressmen to drop opposition to the Force Bill. Thus on March 1, 1832, both the Force Bill and Clay’s tariff became law. Ten days later, South Carolina delegates to the Nullification Convention reconvened in Columbia and rescinded their Nullification Ordinance. Civil war was avoided, if only temporarily.¹⁴

¹⁴ Henry Clay to Peter B. Porter, February 16, 1833, in *The Papers of Henry Clay*, Robert Seager, Jr., and Melba Porter Hay, eds. 10 vols. (Lexington, KY: The University Press of Kentucky, 1984-1991), 8:624.