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BY GEORGE HOWARD,

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LEGISLATIVE.

SPEECH OF MR. POTTS,

On the Anti-Nullification Resolutions.

MR. SPEAKER: As a member of the committee who reported the resolution upon your table, I ask the indulgence of the House, while I say a few words in its support. And in doing so, I cannot allow myself to hope, that any thing that I may or can say, will influence the opinion of an individual present. But, sir, I am desirous of acquitting myself before you, before this House and before the world, for the vote I shall give upon this subject. For if there ever was a period in our history, when our acts were more calculated than at another, to influence our moral no less than our political destinies, it is the present. If we were ever called upon to legislate for posterity, it is now. And, if the grand experiment we have instituted is to fail, and man is destined ever to show himself incapable of self-government, no part of the censure of those who are to succeed us, shall be mine.

Sir, when we recollect the important considerations involved in the questions before us—and the no less important consequences that may result from our decision—when we recollect that the character of our country, and the stability of its government may be not remotely connected with that decision, gentlemen might well be pardoned for the utmost latitude of debate. In the few remarks it is my purpose to submit to you, I shall endeavor to circumscribe myself as much as possible, and will content myself with stating a few of the reasons that have conducted me to my conclusions.

I am opposed, sir, to the principle to which your resolution alludes. I am opposed to it because I believe it, in the sincerity of my heart, to be dangerous and subversive of the only good government on earth. And if I were disposed to recognize the correctness of the abstract principle, I should deprecate its application at this time, because the situation of the country is not such, as to warrant the resort to a remedy of so harsh, so disorganizing a character.

However satisfactorily to myself, I may have been able to investigate this subject, and arrive at conclusions upon which my own mind confidently rests, I fear I shall not with equal facility, make myself intelligible to others. And here allow me to remark, that not the least of the difficulties I have encountered in examining this subject, has been the different expositions that have been given of the doctrine. From one source we learn that it is so mild in its character and so salutary in its operation, that the harmony of the country cannot possibly be disturbed. Nay, sir, they go further and aver, that it affords the only means of giving value and durability to our institutions. From another source, entitled to equal respect, indeed from one of the high priests in the great sanctuary of nullification, we learn that it is revolutionary and that it is only on that account that it is embraced.

Now, sir, the only method by which the truth of any proposition in politics, no less than in philosophy, can be ascertained, is to inquire into its nature—to subject it to a strict and rigid analysis. Let us submit nullification to this test—let us

examine into the practical effect—the "modus operandi," as we say in phisic, of this panacea, this catholicon which is to cure all the diseases of the body politic.

Nullification, sir, what is it? It is the assumption, the exclusive assumption, by one party, of a right which the very first principle of the doctrine ascribes to both parties to the constitutional compact. Suppose one State, being one party, in the exercise of this right, arrests the action of a general law by pronouncing it unconstitutional—will the other States, who constitute the other party, and of course, by the same principle have an equal right to interpret the law, acquiesce in the decision? Each party has the equal right to judge of infractions—each the same right to insist upon its own construction, and to determine the means by which that construction shall be enforced; and if they cannot agree—if each party insists upon its rights, it resolves itself into a mere question of force. The strong arm must decide it.

To state the case perhaps more clearly—a State believing any law of Congress to be violative of the federal compact, to which she is a party, declares the law to be null and void. The Tariff, as it has originated the doctrine, will best serve for purposes of illustration. By the act of nullification, the ports of the nullifying State are of course thrown open, and her citizens released from the duties that have been imposed by the national Legislature. The consequences of this state of things must be obvious. The advantages held out by the ports thus made free must, of necessity, invite importations. Hence a sensible diminution, perhaps an entire suspension of the general revenue might result. In other sections of the Union, a depression too of business of every kind will ensue—a depression corresponding to, and commensurate with the activity and energy that had been temporarily imparted to the nullifying State. And, sir, while the same principle that grants to one party the right to nullify, would give to the other party the right of protecting itself against the evil consequences of such act of nullification, of determining whether the exercise of such right did not involve a violation of the terms of the compact, would not the suffering party exercise the right, and even sustain that right by force? I do not say, sir, that they would—or that they ought. But I repeat, that the same principle that gives one State, being one party, the right to determine and act for herself, gives to the other States, constituting the other party, the equal right to determine and act for themselves. If this is not so, the principle is worth nothing. It is in fact no principle at all.

But, sir, there is another objection to nullification. It involves the palpable absurdity of giving to a small minority of States, the power to prescribe the Constitution to the larger majority. It gives to any number of States more than one-fourth, the power of saying to the remainder what shall be the legitimate construction of that instrument. It reverses the wholesome and established rule, that the majority is most likely to be right, and proceeds upon the assumption, that the minority must be so. Sir, the framers of the Constitution wisely adapted it to the times in which they lived, and the people for whose benefit it was intended; and being aware that experience might develop defects in their system, they made provision for such amendments, as time and circumstances might render necessary. To my apprehension, this provision was as much intended for the purpose of curtailing a granted power, or correcting its abuse, as of delegating such new, ungranted power as subsequent experience might show to be necessary. Nullification, sir, subverts the basis upon which this constitutional provision rests, and

gives to a single State, instead of three-fourths as the Constitution provides, the power in fact of amendment—in effect of stopping the entire machinery of the government. As a general proposition it may be confidently affirmed and safely maintained, that it is better, and more consonant with all our ideas of republican governments, that the power, which the Constitution ascribes to three-fourths, should be exercised by a majority than by a minority of States—much less than by a single member of the confederacy. True, they would both be violations of the principles of our confederation—but the first would not be so likely to result in practical evil as the last, for the simple reason, that under it, the interest of all would be more regarded than where a single State or a minority of States could control the legislation, and consequently the interests of the whole country. But, sir, it is the part of patriotism—nay, it is the duty of every lover of constitutional liberty to resist encroachment and usurpation of every kind—no matter whether it involves an invasion of the rights of the States, or a resumption, a breaking down of that authority, which, for purposes of mutual defence and protection, has been granted to the general government. By this means only can the proper balance—the equipoise of our system be preserved. By this means only can we avoid anarchy and confusion on the one hand, and consolidation and oppression on the other.

Hence, sir, I feel authorised to assume it as demonstrated, that nullification, so far from being a peaceable, still less a constitutional remedy, has a direct tendency to bring the parties into collision; and if both parties insist upon their rights, why, sir, according to the very basis of the doctrine itself, the law of the strongest must prevail. The appeal must be to the bloody arbitrament of the sword. Such being the character and tendency of nullification, I for one had rather endure evils, which wise and prudent counsels are rapidly dissipating, than resort to an expedient, which has nothing to recommend it, but the ingenuity and sophistry with which it has been maintained.

I will now, sir, comply with the request made by the gentleman from Edenton at an earlier period of this discussion, and endeavor to show to this House that nullification is not the doctrine maintained by Mr. Jefferson and those who co-operated with him in effecting, what has with propriety been called the civil revolution of 1801. That such is not the fact—that they differ "toto cœlo," is abundantly shown by the action of Virginia and Kentucky upon the alien and sedition laws, and by all the subsequent writings and conduct of Mr. Jefferson and Mr. Madison.

I presume, sir, it will not be contended that the Tariff involves a more direct and dangerous violation of the Constitution of the United States, than did the alien and sedition laws, which the Virginia and Kentucky resolutions were intended to counteract. They asserted a broad principle which, if recognized, would at once have broken down the safe guards that had been thrown around the rights of the citizen, and have proved in effect an entire and total abandonment of those great principles of free government, for the security and maintenance of which, ours had been established. If ever a case should occur, when resort should have been had to this mode of redress, it was then: when the very fathers of the Constitution saw their handiwork about being sacrificed to lawless and unlimited construction—and when attempts were making to rend the sacred mantle that had been thrown around "the first born of the revolution." But, sir, how were these encroachments met? No clubs were organised to agitate and inflame the public mind—no banners were displayed

emblazoned with emblems of resistance. No, sir, it was reserved for this period of unprecedented national prosperity and happiness, that these things should be done—that disunion should become as common as a household word—and that the "Palmetto and the single Star" should occupy the place where the broad flag of our country had waved its ample folds, and floated so gallantly to the breeze. The mere fact, then, of no resort being had to this mode of redress, at such a time and in such a crisis, furnishes a strong presumption, that nullification, as understood in South Carolina, was not regarded the rightful remedy.

To meet the emergency, which the enactment and enforcement of the alien and sedition laws presented, the celebrated Virginia and Kentucky resolutions were passed. And, sir, the object of these resolutions was attained, in the change which they effected in public opinion, and in the corresponding change, in the measure and policy of the government. By reference to the debates in the Virginia Legislature, originating from these resolutions, it will be seen, that the republicans of that day never dreamed of resorting to force or violence or disunion. The appeal was to the public understanding, and the appeal was successful. They affirmed, it is true, the right of ultimate State interposition. Indeed this cannot be denied by any who admit the fact, the historical fact, that our government was formed by a confederation of sovereign States. But it was distinctly recognized as a natural right—a right inherent in all political communities to throw off any form of government, when its acts are oppressive and subversive of those ends for which such government may have been instituted. I say, sir, it was recognized as a natural right—and the exercise of a natural right necessarily presupposes, that the party exercising it has resumed, and is acting upon those rights that had been surrendered upon the creation of the compact.

I have said that the subsequent writings of Mr. Jefferson go far to confirm the correctness of my position. To prove this, I beg leave to refer gentlemen to a letter to John Taylor of Caroline. He says, "If on a temporary superiority of one party, the other is to resort to a secession of the Union, no Federal government can ever exist. A little patience and we shall see the evils dispelled and the people recovering their true sight, restoring the government to its true principles. It is true, that in the mean time, we are suffering deeply in spirit, and incurring the horrors of a war and long oppressions of enormous public debt. But who can say what would be the evils of a secession, and when and where they would end? Better keep together as we are—haul off from Europe as soon as we can; and from all attachments to any portion of it; and if they show their power just sufficiently to hoop us together, it will be the happiest situation in which we can exist."

To Mr. Pendleton (in February, 1799) he remarks: "any thing like force would check the progress of public opinion, and rally it around the government. This is not the kind of opposition the American people will permit. But keep away all show of force, and they will bear down the evil propensities of the government by the constitutional means of election and petition."

In a letter to Mr. Giles (in 1825) he holds this language: "Are we then to stand to our arms with the hot headed Georgians? No. That must be the last resource—and not to be thought of until much longer and greater sufferings. If every infraction of a compact of so many parties, is to be resisted at once—as a dissolution of it, none can ever be formed which will last one year. We must have patience and longer endurance with our brethren while under the delusion; give