

The Rise of a Mass Democracy, 1824–1840

I consider, then, the power to annul a law of the United States, assumed by one state, incompatible with the existence of the Union, contradicted expressly by the letter of the Constitution, unauthorized by its spirit, inconsistent with every principle on which it was founded, and destructive of the great object for which it was formed.

Andrew Jackson's South Carolina Nullification Proclamation, 1832

Prologue: The explosive growth of the West, with its oceans of available land, weakened the old property qualifications for voting and stimulated the New Democracy of the “unwashed masses.” General Andrew Jackson, idol and champion of the common people, swept into the presidency in 1828, after having lost a bitterly disputed election to John Quincy Adams four years earlier. Jackson, a frontier ruffian elevated to the White House, typified the freewheeling, entrepreneurial spirit of the age. Meanwhile, southern anger over steadily rising tariffs led to a crisis when South Carolina tried to “nullify” the “Tariff of Abominations” passed in 1828. The classic Webster-Hayne debate of 1830 reflected the clashing sentiments of the opposing sides, and Webster’s eloquent defense of the ideal of the Union touched a deep chord of nationalistic pride. Jackson himself faced down the South Carolina nullifiers, and then defied the monopolistic Bank of the United States, leading to his overwhelming reelection victory over his Whig opponent, Henry Clay, in 1832. Jackson also engineered the brutal uprooting of the southeastern Indian tribes to the western plains. The surging spirit of democracy, stimulated further by the political controversies of Jackson’s presidency, led to the emergence of mass-based, organized political parties (Democrats and Whigs)—something new in American experience, and, indeed, new in the experience of all the modern world. The financial crisis that erupted in 1837 helped the Whigs to elect their first president, William Henry Harrison, in 1840.

A. Background of the New Democracy

I. A Disgusting Spirit of Equality (1807)

Freedom of opportunity in America weakened class barriers and caused the “lower orders” to be freer and easier with their “betters.” Such behavior was highly offensive to English visitors from a class-ridden society, especially to those who came in the 1830s and 1840s. C. W. Janson emigrated to America from England to make his fortune, lost his money, and vented his spleen in an ill-natured book that contained numerous unpleasant truths. What specific American traits did he find annoying, and which one the most annoying? Do universal manhood suffrage and bad manners necessarily go together?

Arrived at your [New England] inn, let me suppose, like myself, you had fallen in with a landlord who at the moment would condescend to take the trouble to procure you refreshment after the family hour. . . . He will sit by your side and enter in the most familiar manner into conversation; which is prefaced, of course, with a demand of your business, and so forth. He will then start a political question (for here every individual is a politician), force your answer, contradict, deny, and, finally, be ripe for a quarrel, should you not acquiesce in all his opinions.

When the homely meal is served up, he will often place himself opposite to you at the table at the same time declaring that “though he thought he had eaten a hearty dinner, yet he will pick a bit with you.”

Thus he will sit, drinking out of your glass, and of the liquor you are to pay for, belching in your face, and committing other excesses still more indelicate and disgusting. Perfectly inattentive to your accommodation, and regardless of your appetite, he will dart his fork into the best of the dish, and leave you to take the next cut.

If you arrive at the dinner hour, you are seated with “mine hostess” and her dirty children, with whom you have often to scramble for a plate, and even the servants of the inn. For liberty and equality level all ranks upon the road, from the host to the hostler.

The children, imitative of their free and polite papa, will also seize your drink, slobber in it, and often snatch a dainty bit from your plate. This is esteemed wit, and consequently provokes a laugh, at the expense of those who are paying for the board. . . .

The arrogance of domestics [servants] in this land of republican liberty and equality is particularly calculated to excite the astonishment of strangers. To call persons of this description servants, or to speak of their master or mistress, is a grievous affront.

Having called one day at the house of a gentleman of my acquaintance, on knocking at the door, it was opened by a servant-maid, whom I had never before seen, as she had not been long in his family. The following is the dialogue, word for word, which took place on this occasion:

“Is your master at home?”

¹C. W. Janson, *The Stranger in America, 1793–1806* (London: J. Cundee, 1807), pp. 85–88.

“I have no master.”
 “Don’t you live here?”
 “I stay here.”
 “And who are you then?”
 “Why, I am Mr. —’s help. I’d have you to know, man, that I am no sarvant. None but negers are sarvants.”

2. A Plea for Nonproperty Suffrage (1841)

Until the days of Jacksonian democracy, property qualifications were generally demanded of all voters. In Virginia, where such restrictions discouraged immigration and encouraged emigration, a memorable convention met at Richmond in 1829–1830 to revise the state constitution. The result was a widening of the suffrage, in accord with the New Democracy, but a retention of certain property qualifications. One of the strongest arguments against change—an argument repeated in other conservative states—was that possession of property provided the surest guarantee of a permanent stake in the community. Grave dangers would presumably be courted if political power were put into the hands of the irresponsible, propertyless “bipeds of the forest.” A popular author, George S. Camp, took sharp issue with the advocates of property qualifications in a long-lived book on democracy. In the light of his argument, is it true that the propertyless have as much of a stake in the community as the propertied?

All should have an equal voice in the public deliberations of the state, however unequal in point of circumstances, since human rights, by virtue of which alone we are entitled to vote at all, are the attributes of the man, not of his circumstances.

Should the right to vote, the characteristic and the highest prerogative of a freeman, be at the mercy of a casualty? I am rich today, worth my hundred thousands. But my wealth consists in stock and merchandise; it may be in storehouses, it may be upon the ocean. I have been unable to effect an insurance, or there is some concealed legal defect in my policy. The fire or the storms devour my wealth in an hour: am I the less competent to vote? Have I less of the capacity of a moral and intelligent being? Am I the less a good citizen? Is it not enough that I have been deprived of my fortune—must I be disfranchised by community?

My having a greater or less amount of property does not alter my rights. Property is merely the subject on which rights are exercised; its amount does not alter rights themselves. If it were otherwise, every one of us would be in some degree subject to some wealthier neighbor. And, if the representation of property were consistently carried out, the affairs of every community, instead of being governed by the majority of rational and intelligent beings, would be governed by a preponderance of houses, lands, stocks, plate, jewelry, merchandise, and money!

It is not true that one man has more at stake in the commonwealth than another. We all have our rights, and no man has anything more. If we look at the subject philosophically, and consider how much superior man is by nature to what

²George S. Camp, *Democracy* (New York: Harper and Brothers, 1841), pp. 145–146.

he is by external condition, how much superior his real attributes are to what he acquires from the accidents of fortune, we shall then view the distinctions of rank and wealth in their true comparative insignificance, and make as little difference on these accounts with the political as with the moral man.

3. Davy Crockett Advises Politicians (1836)

David (Davy) Crockett—notorious Tennessee frontiersman, Indian scout, rifleman, bear hunter, and braggart—was a homespun product of the New Democracy. His scanty six months of schooling led him to scorn both grammar and “book larnin’,” although he became a justice of the peace, an elected militia colonel, and a member of the state legislature. When a joking remark prompted him to campaign for Congress, he overwhelmed his two opponents with a barrage of ridicule and humorous stories. Reelected for two additional terms, he attracted wide attention in Washington with his backwoods dress, racy language, homely wit, shrewd common sense, and presumed naïveté regarding the aristocratic East. Ruggedly independent, he delighted eastern conservatives by refusing to follow President Jackson on all issues. His advice to aspiring politicians, though offered in a jocular vein, reveals the debased tone of the new manhood-suffrage democracy. Which of his recommended devices are still employed by politicians today?

“Attend all public meetings,” says I, “and get some friend to move that you take the chair. If you fail in this attempt, make a push to be appointed secretary. The proceedings of course will be published, and your name is introduced to the public. But should you fail in both undertakings, get two or three acquaintances, over a bottle of whisky, to pass some resolutions, no matter on what subject. Publish them, even if you pay the printer. It will answer the purpose of breaking the ice, which is the main point in these matters.

“Intrigue until you are elected an officer of the militia. This is the second step toward promotion, and can be accomplished with ease, as I know an instance of an election being advertised, and no one attending, the innkeeper at whose house it was to be held, having a military turn, elected himself colonel of his regiment.” Says I, “You may not accomplish your ends with as little difficulty, but do not be discouraged—Rome wasn’t built in a day.

“If your ambition or circumstances compel you to serve your country, and earn three dollars a day, by becoming a member of the legislature, you must first publicly avow that the constitution of the state is a shackle upon free and liberal legislation, and is, therefore, of as little use in the present enlightened age as an old almanac of the year in which the instrument was framed. There is policy in this measure, for by making the constitution a mere dead letter, your headlong proceedings will be attributed to a bold and unshackled mind; whereas, it might otherwise be thought they arose from sheer mulish ignorance. ‘The Government’ has set the example in his [Jackson’s] attack upon the Constitution of the United States, and who should fear to follow where ‘the Government’ leads?

⁵David Crockett, *Exploits and Adventures in Texas . . .* (1836), pp. 56–59 (a pseudo-autobiography generally ascribed to Richard Penn Smith).

“When the day of election approaches, visit your constituents far and wide. Treat liberally, and drink freely, in order to rise in their estimation, though you fall in your own. True, you may be called a drunken dog by some of the clean-shirt and silk-stocking gentry, but the real roughnecks will style you a jovial fellow. Their votes are certain, and frequently count double.

“Do all you can to appear to advantage in the eyes of the women. That’s easily done. You have but to kiss and slabber [slobber over] their children, wipe their noses, and pat them on the head. This cannot fail to please their mothers, and you may rely on your business being done in that quarter.

“Promise all that is asked,” said I, “and more if you can think of anything. Offer to build a bridge or a church, to divide a county, create a batch of new offices, make a turnpike, or anything they like. Promises cost nothing; therefore, deny nobody who has a vote or sufficient influence to obtain one.

“Get up on all occasions, and sometimes on no occasion at all, and make long-winded speeches, though composed of nothing else than wind. Talk of your devotion to your country, your modesty and disinterestedness, or on any such fanciful subject. Rail against taxes of all kinds, officeholders, and bad harvest weather; and wind up with a flourish about the heroes who fought and bled for our liberties in the times that tried men’s souls. To be sure, you run the risk of being considered a bladder of wind, or an empty barrel. But never mind that; you will find enough of the same fraternity to keep you in countenance.

“If any charity be going forward, be at the top of it, provided it is to be advertised publicly. If not, it isn’t worth your while. None but a fool would place his candle under a bushel on such an occasion.

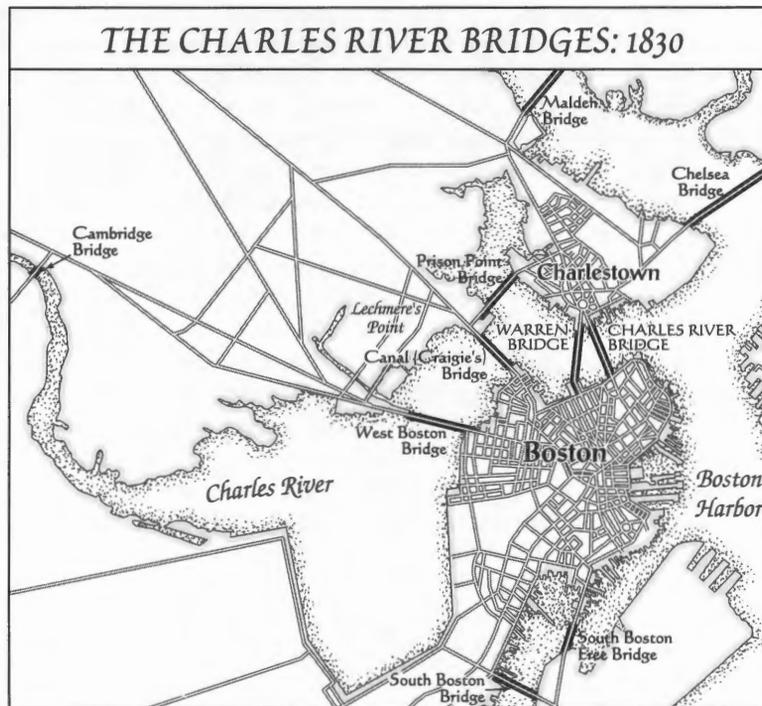
“These few directions,” said I, “if properly attended to, will do your business. And when once elected—why, a fig for the dirty children, the promises, the bridges, the churches, the taxes, the offices, and the subscriptions. For it is absolutely necessary to forget all these before you can become a thoroughgoing politician, and a patriot of the first water.”

B. *The New Spirit of Enterprise in Jacksonian America* _____

I. *Justice Joseph Story Defends the Rights of Contract (1837)*

In 1785 the Massachusetts legislature gave to a corporation called the Proprietors of the Charles River Bridge the right to build a bridge between Boston and Charlestown (see map p. 268). When the legislature in 1828 allowed a group of Charlestown merchants to build the Warren Bridge, the Proprietors of the Charles River Bridge sought an injunction to halt the construction of the new, competing bridge. They alleged that the charter for the Warren Bridge breached their original contract with the state and violated the contracts clause of the Constitution (Art. I, Sec. X, para. 1). Daniel

¹*Charles River Bridge v. Warren Bridge*, 36 U.S. 420, in Richard Peters, *Reports of Cases Argued and Adjudged in the Supreme Court of the United States* (New York: Banks Law Publishing Company, 1903), vol. 11, pp. 451–452.



Webster argued the case for the Proprietors of the Charles River Bridge, charging that the new charter destroyed the vested property right of the original bridge company. A majority of the U.S. Supreme Court eventually ruled in favor of the new bridge company, but in a minority opinion, Justice Joseph Story invoked Webster's arguments to support his dissenting views. What are his principal points?

But it has been argued, and the argument has been pressed in every form which ingenuity could suggest, that if grants of this nature are to be construed liberally, as conferring any exclusive rights on the grantees, it will interpose an effectual barrier against all general improvements of the country. For myself, I profess not to feel the cogency of this argument, either in its general application to the grant of franchises or in its special application to the present grant. This is a subject upon which different minds may well arrive at different conclusions, both as to policy and principle. Men may, and will, complexionally differ upon topics of this sort according to their natural and acquired habits of speculation and opinion. For my own part, I can conceive of no surer plan to arrest all public improvements founded on private capital and enterprise than to make the outlay of that capital uncertain and questionable, both as to security and as to productiveness. No man will hazard his capital in any

enterprise in which, if there be a loss, it must be borne exclusively by himself, and if there be success, he has not the slightest security of enjoying the rewards of that success for a single moment. If the government means to invite its citizens to enlarge the public comforts and conveniences, to establish bridges, or turnpikes, or canals, or railroads, there must be some pledge that the property will be safe, that the enjoyment will be coextensive with the grant, and that success will not be the signal of a general combination to overthrow its rights and to take away its profits. The very agitation of a question of this sort is sufficient to alarm every stockholder in every public enterprise of this sort throughout the whole country. Already, in my native State [Massachusetts], the Legislature has found it necessary expressly to concede the exclusive privilege here contended against in order to insure the accomplishment of a railroad for the benefit of the public. And yet we are told that all such exclusive grants are to the detriment of the public. . . .

2. Chief Justice Roger B. Taney Supports “Creative Destruction” (1837)

Chief Justice Roger B. Taney, a Jackson appointee to the Supreme Court, wrote the majority opinion in the Charles River Bridge case, basing his argument on legal, social, political, and economic principles that contrasted sharply with those of Justice Story. What are their major differences? What is the meaning of Taney’s warning about the old corporations “awakening from their sleep”? Taney’s opinion is often said to have paved the way for the “creative destruction” of old businesses and old technologies. How might it have had that effect?

And what would be the fruits of this doctrine of implied contracts, on the part of the states, and of property in a line of travel, by a corporation, if it would now be sanctioned by this court? To what results would it lead us? If it is to be found in the charter to this bridge, the same process of reasoning must discover it, in the various acts which have been passed, within the last forty years, for turnpike companies. And what is to be the extent of the privileges of exclusion on the different sides of the road? The counsel who have so ably argued this case, have not attempted to define it by any certain boundaries. How far must the new improvement be distant from the old one? How near may you approach, without invading its rights in the privileged line? If this court should establish the principles now contended for, what is to become of the numerous railroads established on the same line of travel with turnpike companies; and which have rendered the franchises of the turnpike corporations of no value? Let it once be understood, that such charters carry with them these implied contracts, and give this unknown and undefined property in a line of travelling; and you will soon find the old turnpike corporations awakening from their sleep, and calling upon this court to put down the improvements which have taken their place. The millions of property which have been invested in railroads and canals, upon

²*Charles River Bridge v. Warren Bridge*, 36 U.S. 420, in Richard Peters, *Reports of Cases Argued and Adjudged in the Supreme Court of the United States* (New York: Banks Law Publishing Company, 1903), vol. 11, pp. 552–553.

lines of travel which had been before occupied by turnpike corporations, will be put in jeopardy. We shall be thrown back to the improvements of the last century, and obliged to stand still, until the claims of the old turnpike corporations shall be satisfied; and they shall consent to permit these states to avail themselves of the lights of modern science, and to partake of the benefit of those improvements which are now adding to the wealth and prosperity, and the convenience and comfort, of every other part of the civilized world. Nor is this all. This court will find itself compelled to fix, by some arbitrary rule, the width of this new kind of property in a line of travel; for if such a right of property exists, we have no lights to guide us in marking out its extent, unless, indeed, we resort to the old feudal grants, and to the exclusive rights of ferries, by prescription, between towns; and are prepared to decide that when a turnpike road from one town to another, had been made, no railroad or canal, between these two points, could afterwards be established. This court are not prepared to sanction principles which must lead to such results. . . .

C. The Debate on Internal Improvements

I. Jackson Vetoes the Maysville Road Bill (1830)

Although Jackson generally looked favorably on internal improvements, he vetoed a bill in 1830 providing for a government subscription of stock, in the amount of \$150,000, in a company that proposed to build a sixty-mile road near Maysville, Kentucky. Jackson's veto message offered some thoughtful commentary on the question of federal-state relationships and on the general role of government in society. His action also stung his political rival Henry Clay, whose home state of Kentucky would have benefited directly from the legislation. In the following excerpt from Jackson's veto message, how does he defend his states' rights philosophy?

May 27, 1830.

To the House of Representatives

Gentlemen: I have maturely considered the bill proposing to authorize "a subscription of stock in the Maysville, Washington, Paris, and Lexington Turnpike Road Company," and now return the same to the House of Representatives, in which it originated, with my objections to its passage. . . .

Although many of the States, with a laudable zeal and under the influence of an enlightened policy, are successfully applying their separate efforts to works of this character, the desire to enlist the aid of the General Government in the construction of such as from their nature ought to devolve upon it, and to which the means of the individual States are inadequate, is both rational and patriotic, and if that desire is not gratified now it does not follow that it never will be. The general intelligence and public spirit of the American people furnish a sure guaranty that at the proper time this policy will be made to prevail under circumstances more auspicious to its successful prosecution than those which now exist. But great as

¹J. D. Richardson, ed., *Messages and Papers of the Presidents* (1897), vol. 3, pp. 1046–1055.

this object undoubtedly is, it is not the only one which demands the fostering care of the Government. The preservation and success of the republican principle rest with us. To elevate its character and extend its influence rank among our most important duties, and the best means to accomplish this desirable end are those which will rivet the attachment of our citizens to the Government of their choice by the comparative lightness of their public burthens and by the attraction which the superior success of its operations will present to the admiration and respect of the world. Through the favor of an overruling and indulgent Providence our country is blessed with general prosperity and our citizens exempted from the pressure of taxation, which other less favored portions of the human family are obliged to bear; yet it is true that many of the taxes collected from our citizens through the medium of imposts have for a considerable period been onerous. In many particulars these taxes have borne severely upon the laboring and less prosperous classes of the community, being imposed on the necessaries of life, and this, too, in cases where the burthen was not relieved by the consciousness that it would ultimately contribute to make us independent of foreign nations for articles of prime necessity by the encouragement of their growth and manufacture at home. They have been cheerfully borne because they were thought to be necessary to the support of Government and the payment of the debts unavoidably incurred in the acquisition and maintenance of our national rights and liberties. But have we a right to calculate on the same cheerful acquiescence when it is known that the necessity for their continuance would cease were it not for irregular, improvident, and unequal appropriations of the public funds? Will not the people demand, as they have a right to do, such a prudent system of expenditure as will pay the debts of the Union and authorize the reduction of every tax to as low a point as the wise observance of the necessity to protect that portion of our manufactures and labor whose prosperity is essential to our national safety and independence will allow? When the national debt is paid, the duties upon those articles which we do not raise may be repealed with safety, and still leave, I trust, without oppression to any section of the country, an accumulating surplus fund, which may be beneficially applied to some well-digested system of improvement.

. . . With the best disposition to aid, as far as I can conscientiously, in furtherance of works of internal improvement, my opinion is that the soundest views of national policy at this time point to such a course. Besides the avoidance of an evil influence upon the local concerns of the country, how solid is the advantage which the Government will reap from it in the elevation of its character! How gratifying the effect of presenting to the world the sublime spectacle of a Republic of more than 12,000,000 happy people, in the fifty-fourth year of her existence, after having passed through two protracted wars—the one for the acquisition and the other for the maintenance of liberty—free from debt and with all her immense resources unfettered! What a salutary influence would not such an exhibition exercise upon the cause of liberal principles and free government throughout the world! Would we not ourselves find in its effect an additional guaranty that our political institutions will be transmitted to the most remote posterity without decay? A course of policy destined to witness events like these can not be benefited by a legislation which tolerates a scramble for appropriations that have no relation to any general system of improvement, and whose good effects must of necessity be very limited. . . .

. . . [I]f it is expected that the people of this country, reckless of their constitutional obligations, will prefer their local interest to the principles of the Union, such expectations will in the end be disappointed; or if it be not so, then indeed has the world but little to hope from the example of free government. When an honest observance of constitutional compacts can not be obtained from communities like ours, it need not be anticipated elsewhere, and the cause in which there has been so much martyrdom, and from which so much was expected by the friends of liberty, may be abandoned, and the degrading truth that man is unfit for self-government admitted. And this will be the case if *expediency* be made a rule of construction in interpreting the Constitution. . . .

Andrew Jackson

2. Clay Protests (1830)

Henry Clay blasted Jackson's veto message in the following speech. What were his principal points? To what extent was his dispute with Jackson a matter of principle, and to what extent was it a matter of politics?

If any thing could be considered as settled under the present Constitution of our Government, I had supposed that it was its authority to construct such internal improvements as may be deemed by Congress necessary and proper to carry into effect the power granted to it. For near twenty-five years the power has been asserted and exercised by the Government. For the last fifteen years it has been often controverted in Congress, but it has been invariably maintained in that body, by repeated decisions, pronounced after full and elaborate debate, and at intervals of time implying the greatest deliberation. Numerous laws attest the existence of the power, and no less than twenty-odd laws have been passed in relation to a single work. This power, necessary to all parts of the Union, is indispensable to the West. Without it, this section can never enjoy any part of the benefit of a regular disbursement of the vast revenues of the United States. . . .

If I could believe that the Executive message which was communicated to Congress, upon the application of the Veto to the Maysville Road, really expressed the opinion of the President of the United States, in consequence of the unfortunate relations which have existed between us, I would forbear to make any observation upon it. It has his name affixed to it: but it is not every paper which bears the name of a distinguished personage, that is his own, or expresses his opinions. . . . It is impossible that the veto message should express the opinions of the President, and I prove it by evidence derived from himself. Not forty days before that message was sent to Congress, he approved a bill embracing appropriations to various objects of internal improvement, and among others, to improve the navigation of Conneaut Creek. Although somewhat acquainted with the geography of our country, I declare I did not know of the existence of such a stream until I read the bill. I have since made it an object of inquiry, and have been told that it rises in one corner of Penn-

²Speech by Henry Clay before the Mechanics' Collation in the Apollonian Garden in Cincinnati, August 3, 1830. Recorded in the *Daily National Intelligencer* (Washington, D.C.), September 1, 1830.

sylvania, and is discharged into Lake Erie, in a corner of the State of Ohio; and that the utmost extent to which its navigation is susceptible of improvement is about seven miles! Is it possible that the President could conceive *that a National* object, and that the improvement of a great thoroughfare on which the mail is transported for some eight or ten States and Territories is not of National consideration? The power to improve the navigation of water courses, no where expressly recognized in the Constitution, is infinitely more doubtful than the establishment of mail roads, which is explicitly authorized in that instrument! . . .

The Veto Message is perfectly irreconcilable with the previous acts, votes, and opinions of General Jackson. It does not express *his* opinions, but those of his advisers and counsellors, and especially those of his Cabinet. . . .

Let us glance at a few only of the reasons, if reasons they can be called, of this piebald Message. The first is, that the exercise of the power has produced discord, and to restore harmony to the National Councils, it should be abandoned, or, which is tantamount, the Constitution must be amended. The President is therefore advised to throw himself into the minority. Well; did that revive harmony?—When the question was taken in the House of the people's Representatives, an obstinate majority still voted for the bill, the objections in the Message notwithstanding. And in the Senate, the Representatives of the States, a refractory majority stood unmoved. But does this Message mean to assert that no great measure about which public sentiment is much divided, ought to be adopted in consequence of that division? Then none can ever be adopted. . . . The principle is nothing more or less than a declaration that the right of the majority to govern, must be yielded to the perseverance, respectability, and numbers, of the minority. It is in keeping with the nullifying doctrines of South Carolina. . . .

The Veto Message proceeds to insist that the Maysville and Lexington Road is not a national but a local road of sixty miles in length, and confined within the limits of a particular State. If, as that document also asserts, the power can in *no case* be exercised until it shall have been explained and defined by an amendment of the Constitution, the discrimination of national and local roads would seem to be altogether unnecessary. What is or is not a national road the message supposes may admit of controversy, and is not susceptible of precise definition. The difficulty which its authors imagine, grows out of their attempt to substitute a rule, founded upon the extent and locality of the road, instead of the *use* and *purposes* to which it is applicable. If the road facilitates, in a considerable degree, the transportation of the mail to a considerable portion of the Union, and at the same time promotes internal commerce among the several States, and may tend to accelerate the movements of armies, and the distribution of the munitions of war, it is of national consideration. Tested by this, the true rule, the Maysville Road was undoubtedly national. It connects the largest body, perhaps, of fertile land in the Union, with the navigation of the Ohio and Mississippi rivers, and with the canals of the States of Ohio, Pennsylvania, and New York. It begins on the line which divides the States of Ohio and Kentucky, and of course, quickens trade and intercourse between them. Tested by the character of other works, for which the President, as a Senator, voted, or which were approved by him only about a month before he rejected the Maysville Bill, the road was undoubtedly national.

D. The Nullification Crisis

I. Senator Robert Hayne Advocates Nullification (1830)

The restrictive “Tariff of Abominations” of 1828 had angered the South, especially the South Carolinians, who protested vehemently against an “unconstitutional” tax levied indirectly on them to support “greedy” Yankee manufacturers. An eruption finally occurred in the Senate when Senator Robert Y. Hayne of South Carolina—fluent, skillful, and personally attractive—attacked New England’s inconsistency, greed, and selfishness, notably during the War of 1812. The only way to resist usurpations by the federal government, Hayne insisted, was for the states to nullify unauthorized acts of Congress, as foreshadowed by Jefferson in the Kentucky resolutions of 1798–1799 (see page 213). In this peroration of his impressive speech, is Hayne a disunionist? Was he willing to let the Supreme Court rule on the unconstitutionality of acts of Congress?

Thus it will be seen, Mr. President, that the South Carolina doctrine [of nullification] is the [Jeffersonian] Republican doctrine of 1798; that it was first promulgated by the Fathers of the Faith; that it was maintained by Virginia and Kentucky in the worst of times; that it constituted the very pivot on which the political revolution of that day turned; that it embraces the very principles the triumph of which at that time saved the Constitution at its last gasp, and which New England statesmen were not unwilling to adopt [at Hartford in 1814] when they believed themselves to be the victims of unconstitutional legislation.

Sir, as to the doctrine that the federal government is the exclusive judge of the extent as well as the limitations of its powers, it seems to me to be utterly subversive of the sovereignty and independence of the states. It makes but little difference in my estimation whether Congress or the Supreme Court are invested with this power. If the federal government in all or any of its departments is to prescribe the limits of its own authority, and the states are bound to submit to the decision and are not allowed to examine and decide for themselves when the barriers of the Constitution shall be overleaped, this is practically “a government without limitation of powers.” The states are at once reduced to mere petty corporations and the people are entirely at your mercy.

I have but one word more to add. In all the efforts that have been made by South Carolina to resist the unconstitutional [tariff] laws which Congress has extended over them, she has kept steadily in view the preservation of the Union by the only means by which she believes it can be long preserved—a firm, manly, and steady resistance against usurpation.

The [tariff] measures of the federal government have, it is true, prostrated her interests, and will soon involve the whole South in irretrievable ruin. But even this evil, great as it is, is not the chief ground of our complaints. It is the principle involved in the contest—a principle which, substituting the discretion of Congress

¹*Register of Debates in Congress* (1829–1830), vol. 6, part 1, p. 58 (January 25, 1830).

for the limitations of the Constitution, brings the states and the people to the feet of the federal government and leaves them nothing they can call their own.

Sir, if the measures of the federal government were less oppressive, we should still strive against this usurpation. The South is acting on a principle she has always held sacred—resistance to unauthorized taxation.

These, sir, are the principles which induced the immortal [John] Hampden to resist the payment [in 1637] of a tax of twenty shillings [to the English government]. Would twenty shillings have ruined his fortune? No! but the payment of half twenty shillings on the principle on which it was demanded would have made him a slave.

Sir, if in acting on these high motives, if animated by that ardent love of liberty which has always been the most prominent trait in the Southern character, we should be hurried beyond the bounds of a cold and calculating prudence, who is there with one noble and generous sentiment in his bosom that would not be disposed, in the language of [Edmund] Burke, to exclaim, “You must pardon something to the spirit of liberty!”

2. *Daniel Webster Pleads for the Union (1830)*

Daniel Webster, native son of New Hampshire and adopted son of Massachusetts, sprang to the defense of New England and the Union in a running debate with Hayne that lasted two weeks and ranged over many subjects. The crowded Senate galleries thrilled to the eloquence of the two parliamentary gladiators, as the states' rightism of the South clashed head-on with the buoyant nationalism of the North. Webster's main points were that the people and not the states had formed the Constitution of 1787 (here he was historically shaky); that although the people were sovereign, the national government was supreme in its sphere and the state governments were supreme in their spheres; that if each of the twenty-four states could defy the laws of Congress at will, there would be no Union but only “a rope of sand”; and that there was a better solution than nullification if the people disapproved of their fundamental law. What was it? In Webster's magnificent peroration, memorized by countless nineteenth-century schoolchildren, are liberty and Union mutually incompatible? What objective did Webster and Hayne have in common?

If anything be found in the national Constitution, either by original provision or subsequent interpretation, which ought not to be in it, the people know how to get rid of it. If any construction be established, unacceptable to them, so as to become, practically, a part of the Constitution, they will amend it, at their sovereign pleasure. But while the people choose to maintain it as it is—while they are satisfied with it, and refuse to change it—who has given, or who can give, to the state legislatures a right to alter it, either by interference, construction, or otherwise? . . .

I profess, sir, in my career, hitherto, to have kept steadily in view the prosperity and honor of the whole country, and the preservation of our Federal Union. It is to that Union we owe our safety at home and our consideration and dignity abroad. It

²*The Works of Daniel Webster*, 20th ed. (Boston: Little, Brown and Company, 1890), vol. 3, pp. 340–342 (January 26, 1830).

is to that Union that we are chiefly indebted for whatever makes us most proud of our country.

That Union we reached only by the discipline of our virtues in the severe school of adversity. It had its origin in the necessities of disordered finance, prostrate commerce, and ruined credit. Under its benign influence, these great interests immediately awoke us from the dead and sprang forth with newness of life. Every year of its duration has teemed with fresh proofs of its utility and its blessings; and although our territory has stretched out wider and wider, and our population spread farther and farther, they have not outrun its protection or its benefits. It has been to us all a copious fountain of national, social, and personal happiness.

I have not allowed myself, sir, to look beyond the Union to see what might lie hidden in the dark recess behind. I have not coolly weighed the chances of preserving liberty when the bonds that unite us together shall be broken asunder. I have not accustomed myself to hang over the precipice of disunion to see whether, with my short sight, I can fathom the depth of the abyss below. Nor could I regard him as a safe counselor in the affairs of this government whose thoughts should be mainly bent on considering not how the Union should be best preserved, but how tolerable might be the condition of the people when it shall be broken up and destroyed.

While the Union lasts we have high, exciting, gratifying prospects spread out before us—for us and our children. Beyond that, I seek not to penetrate the veil. God grant that in my day, at least, that curtain may not rise! God grant that, on my vision, never may be opened what lies behind!

When my eyes shall be turned to behold, for the last time, the sun in heaven, may I not see him shining on the broken and dishonored fragments of a once glorious Union; on states dissevered, discordant, belligerent; on a land rent with civil feuds, or drenched, it may be, in fraternal blood! Let their last feeble and lingering glance rather behold the gorgeous ensign of the Republic, now known and honored throughout the earth, still full high advanced, its arms and trophies streaming in their original luster, not a stripe erased or polluted, not a single star obscured, bearing for its motto no such miserable interrogatory as “What is all this worth?” nor those other words of delusion and folly, “Liberty first and Union afterward”; but everywhere, spread all over in characters of living light, blazing on all its ample folds, as they float over the sea and over the land, and in every wind under the whole heavens, that other sentiment, dear to every true American heart—Liberty *and* Union, now and forever, one and inseparable!

3. South Carolina Threatens Secession (1832)

As if detonated by a delayed-action fuse, the tariff issue exploded during the Jackson vs. Clay campaign for the presidency in 1832. The recent tariff act of 1832, though watering down the “abominable” Tariff of 1828, aroused the South Carolinians by its reassertion of the protective principle. Excitedly summoning a special convention in Columbia, they formally declared that the two tariff acts “are unauthorized by the Constitution of the United States, and violate the true meaning and intent thereof.

³Daily National Intelligencer (Washington, D.C.), December 7, 1832.

and are null, void, and no law, nor binding upon this State, its officers or citizens." The convention specifically forbade the enforcement of the federal tariff within the borders of the state and bluntly threatened secession if the federal government employed force. Before adjourning, the delegates issued the following public appeal to the American people. Comment critically on the assumption that the other southern states would have to follow South Carolina in dissolving the Union and that the tariff law was unconstitutional. Were the South Carolinians acting in earnest?

If South Carolina should be driven out of the Union, all the other planting states, and some of the Western states, would follow by an almost absolute necessity. Can it be believed that Georgia, Mississippi, Tennessee, and even Kentucky, would continue to pay a tribute of 50 percent upon their consumption to the Northern states, for the privilege of being united to them, when they could receive all their supplies through the ports of South Carolina without paying a single cent for tribute?

The separation of South Carolina would inevitably produce a general dissolution of the Union, and, as a necessary consequence, the protecting system, with all its pecuniary bounties to the Northern states, and its pecuniary burdens upon the Southern states, would be utterly overthrown and demolished, involving the ruin of thousands and hundreds of thousands in the manufacturing states. . . .

With them, it is a question merely of pecuniary interest, connected with no shadow of right, and involving no principle of liberty. With us, it is a question involving our most sacred rights—those very rights which our common ancestors left to us as a common inheritance, purchased by their common toils, and consecrated by their blood. It is a question of liberty on the one hand, and slavery on the other.

If we submit to this system of unconstitutional oppression, we shall voluntarily sink into slavery, and transmit that ignominious inheritance to our children. We will not, we cannot, we dare not submit to this degradation; and our resolve is fixed and unalterable that a protecting tariff shall be no longer enforced within the limits of South Carolina. We stand upon the principles of everlasting justice, and no human power shall drive us from our position.

We have not the slightest apprehension that the General Government will attempt to force this system upon us by military power. We have warned our brethren of the consequences of such an attempt. But if, notwithstanding, such a course of madness should be pursued, we here solemnly declare that this system of oppression shall never prevail in South Carolina, until none but slaves are left to submit to it. We would infinitely prefer that the territory of the state should be the cemetery of freemen than the habitation of slaves. Actuated by these principles, and animated by these sentiments, we will cling to the pillars of the temple of our liberties, and, if it must fall, we will perish amidst the ruins.

4. Andrew Jackson Denounces Nullification (1832)

South Carolina's defiance of the federal government, combined with its feverish military preparations, angered its most famous native son, Commander-in-Chief

General Andrew Jackson. Privately he issued orders to strengthen federal forces in Charleston harbor. Five days after his resounding reelection over Clay, he issued the following proclamation (ghostwritten by Secretary of State Edward Livingston) appealing to the Carolinians to forsake the treacherous paths of nullification and disunion. Is his appeal to practicalities more convincing than that to patriotism? Was he prepared to negotiate with the South Carolinians?

For what would you exchange your share in the advantages and honor of the Union? For the dream of a separate independence—a dream interrupted by bloody conflicts with your neighbors and a vile dependence on a foreign power.

If your leaders could succeed in establishing a separation, what would be your situation? Are you united at home? Are you free from the apprehension of civil discord, with all its fearful consequences? Do our neighboring [Latin American] republics, every day suffering some new revolution or contending with some new insurrection, do they excite your envy?

But the dictates of a high duty oblige me solemnly to announce that you cannot succeed. The laws of the United States must be executed. I have no discretionary power on the subject; my duty is emphatically pronounced in the Constitution. Those who told you that you might peaceably prevent their execution deceived you; they could not have been deceived themselves. They know that a forcible opposition could alone prevent the execution of the laws, and they know that such opposition must be repelled. Their object is disunion.

But be not deceived by names. Disunion by armed force is treason. Are you really ready to incur its guilt? If you are, on the heads of the instigators of the act be the dreadful consequences; on their heads be the dishonor, but on yours may fall the punishment. On your unhappy state will inevitably fall all the evils of the conflict you force upon the government of your country. . . . The consequence must be fearful for you, distressing to your fellow citizens here and to the friends of good government throughout the world.

Its enemies have beheld our prosperity with a vexation they could not conceal. It was a standing refutation of their slavish doctrines, and they will point to our discord with the triumph of malignant joy. It is yet in your power to disappoint them. There is yet time to show that the descendants of the Pinckneys, the Sumters, the Rutledges, and of the thousand other names which adorn the pages of your Revolutionary history will not abandon that Union to support which so many of them fought and bled and died.

I adjure you, as you honor their memory, as you love the cause of freedom, to which they dedicated their lives, as you prize the peace of your country, the lives of its best citizens, and your own fair fame, to retrace your steps. Snatch from the archives of your state the disorganizing edict of its convention; bid its members to reassemble and promulgate the decided expressions of your will to remain in the path which alone can conduct you to safety, prosperity, and honor.

5. Jackson Fumes in Private (1832)

The Unionists of South Carolina, constituting perhaps two-fifths of the adult whites, were branded "submissionists, cowards, and Tories" by the nullifiers. But the Union men, undaunted, hanged John C. Calhoun and Governor James Hamilton, Jr., in effigy, held their own convention, and gathered weapons for their defense. One of their leaders in organizing the militia, Joel R. Poinsett, wrote of his activities to Jackson, even though the post office was infiltrated with nullifiers. The doughty general replied as follows in a letter whose original spelling, punctuation, and capitalization are here preserved as revealing of Jackson and his era. Article III, Section III, para. 1 of the Constitution states: "Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort." Was Jackson correct in branding the actions of the Carolinians treasonous? Was he more bellicose in this private letter than in his recently published proclamation?

Washington, December 9, 1832.

My D'r Sir, Your letters were this moment recd, from the hands of Col. Drayton, read and duly considered, and in haste I reply. The true spirit of patriotism that they breath fills me with pleasure. If the Union party unite with you, heart and hand in the text you have laid down, you will not only preserve the union, but save our native state, from that ruin and disgrace into which her treasonable leaders have attempted to plunge her. All the means in my power, I will employ to enable her own citizens, those faithful patriots, who cling to the Union to put it down.

The proclamation I have this day Issued, and which I inclose you, will give you my views, of the treasonable conduct of the convention and the Governors recommendation to the assembly—it is not merely rebellion, but the act of raising troops, positive treason, and I am assured by all the members of congress with whom I have conversed that I will be sustained by congress. If so, I will meet it at the threshold, and have the leaders arrested and arraigned for treason—I am only waiting to be furnished with the acts of your Legislature, to make a communication to Congress, ask the means necessary to carry my proclamation into compleat affect, and by an exemplary punishment of those leaders for treason so unprovoked, put down this rebellion, and strengthen our happy government both at home and abroad.

My former letter and the communication from the Dept. of War, will have informed you of the arms and equipments having been laid in Deposit subject to your requisition, to aid the civil authority in the due execution of the law, *whenever called on as the posse comitatus*, etc. etc.

The vain threats of resistance by those who have raised the standard of rebellion shew their madness and folly. You may assure those patriots who cling to their country, and this union, which alone secures our liberty prosperity and happiness, that in forty days, I can have within the limits of So. Carolina fifty thousand men, and in forty days more another fifty thousand—However potant the threat of resistance with only a population of 250,000 whites and nearly that double in blacks with our ships in the port to aid in the execution of our laws?—The wickedness, madness

⁵J. S. Bassett, ed., *Correspondence of Andrew Jackson* (Washington, D.C.: The Carnegie Institution, 1929), vol. 4, p. 39 (May 30, 1829). Reprinted by permission of the Carnegie Institution of Washington.

and folly of the leaders and the delusion of their followers in the attempt to destroy themselves and our union has not its paralel in the history of the world. The Union will be preserved. The safety of the republic, the supreme law, which will be promptly obeyed by me.

I will be happy to hear from you often, thro' Col. Mason or his son, if you think the postoffice unsafe I am with sincere respect

yr mo. obdt. servt.

[Jackson's stern words, both public and private, no doubt shook the South Carolinians. Supported by no other state and riven by a Unionist minority, they finally accepted the lower schedules of the compromise Tariff of 1833.]

E. The War on the Bank

I. Jackson Vetoes the Bank Recharter (1832)

The charter of the Second Bank of the United States was due to expire in 1836. Senator Henry Clay, seeking a surefire issue in the presidential campaign of 1832 against Jackson, arranged in Congress for a premature recharter. The assumption was that if the president vetoed the bill, he would incur the wrath of the voters. But Jackson, his ire aroused, wielded the veto pen. He denounced the bank as monopolistic, as the tool of a favored few stockholders, as a gold mine for certain foreign investors, as a citadel of special privilege, as a menace to basic liberties, and as unconstitutional to boot (although John Marshall's Supreme Court had decreed otherwise; see p. 217). Jackson also complained that an incomplete investigation by a House committee had recently uncovered questionable practices that needed further probing. Is Jackson, in this veto message, resorting to electioneering demagoguery? To what extent was he Jeffersonian in his views toward states' rights and the rich?

As the [Bank] charter had yet four years to run, and as a renewal now was not necessary to the successful prosecution of its business, it was to have been expected that the Bank itself, conscious of its purity and proud of its character, would have withdrawn its application for the present, and demanded the severest scrutiny into all its transactions. . . .

The Bank is professedly established as an agent of the Executive Branch of the government, and its constitutionality is maintained on that ground. Neither upon the propriety of present action nor upon the provisions of this act was the Executive consulted. It has had no opportunity to say that it neither ends nor wants an agent clothed with such powers and favored by such exemptions. There is nothing in its legitimate functions which makes it necessary or proper. Whatever interest or influence, whether public or private, has given birth to this act, it cannot be found either

¹J. D. Richardson, ed., *Messages and Papers of the Presidents* (1896), vol. 2, pp. 589–590 (July 10, 1832).

in the wishes or necessities of the Executive Department, by which present action is deemed premature, and the powers conferred upon its agent not only unnecessary but dangerous to the government and country.

It is to be regretted that the rich and powerful too often bend the acts of government to their selfish purposes. Distinctions in society will always exist under every just government. Equality of talents, of education, or of wealth cannot be produced by human institutions. In the full enjoyment of the gifts of heaven and the fruits of superior industry, economy, and virtue, every man is equally entitled to protection by law.

But when the laws undertake to add to these natural and just advantages artificial distinctions, to grant titles, gratuities, and exclusive privileges, to make the rich richer and the potent more powerful, the humble members of society—the farmers, mechanics, and laborers—who have neither the time nor the means of securing like favors to themselves, have a right to complain of the injustice of their government.

There are no necessary evils in government. Its evils exist only in its abuses. If it would confine itself to equal protection, and, as heaven does its rains, shower its favors alike on the high and the low, the rich and the poor, it would be an unqualified blessing. In the act before me there seems to be a wide and unnecessary departure from these just principles.

Nor is our government to be maintained or our Union preserved by invasions of the rights and powers of the several states. In thus attempting to make our General Government strong, we make it weak. Its true strength consists of leaving individuals and states as much as possible to themselves—in making itself felt, not in its power, but in its beneficence; not in its control, but in its protection; not in binding the states more closely to the center, but leaving each to move unobstructed in its proper orbit.

Experience should teach us wisdom. Most of the difficulties our government now encounters, and most of the dangers which impend over our Union, have sprung from an abandonment of the legitimate objects of government by our national legislation, and the adoption of such principles as are embodied in this act. Many of our rich men have not been content with equal protection and equal benefits, but have besought us to make them richer by act of Congress. By attempting to gratify their desires we have in the results of our legislation arrayed section against section, interest against interest, and man against man, in a fearful commotion which threatens to shake the foundations of our Union.

2. *A Boston Journal Attacks Jackson (1832)*

The Bank of the United States, as Jackson charged, had undoubtedly wielded its vast power ruthlessly, arrogantly, and at times unscrupulously. Its numerous "loans" to public men had often resembled bribes. The pro-Jackson men hated it as a despotism of wealth. The pro-bank men suspected, especially after the veto message, that Jackson was trying to establish a despotism of the masses, with himself as chief despot. Senator Daniel Webster, a paid counsel for the bank, shared these fears. The Boston Daily Atlas, a pro-Webster journal that was rapidly becoming the most influential

²*Boston Daily Atlas*, quoted in the *Daily National Intelligencer* (Washington, D.C.), August 9, 1832.

Whig newspaper in New England, reacted with the following counterblast against Jackson's veto message. Which charge in this editorial would be most likely to arouse the anti-Jackson Whigs in the campaign then being fought between the Democrat Jackson and the Whig Clay?

The Bank veto . . . is the most wholly radical and basely Jesuitical document that ever emanated from any administration, in any country.

It violates all our established notions and feelings. It arraigns Congress for not asking permission of the Executive before daring to legislate on the matter, and fairly intimates a design to save the two Houses in future from all such trouble.

It impudently asserts that Congress have acted prematurely, blindly, and without sufficient examination.

It falsely and wickedly alleges that the rich and powerful throughout the country are waging a war of oppression against the poor and the weak; and attempts to justify the President on the ground of its being his duty thus to protect the humble when so assailed.

Finally, it unblushingly denies that the Supreme Court is the proper tribunal to decide upon the constitutionality of the laws!!

The whole paper is a most thoroughgoing electioneering missile, intended to secure the madcaps of the South, and as such deserves the execration of all who love their country or its welfare.

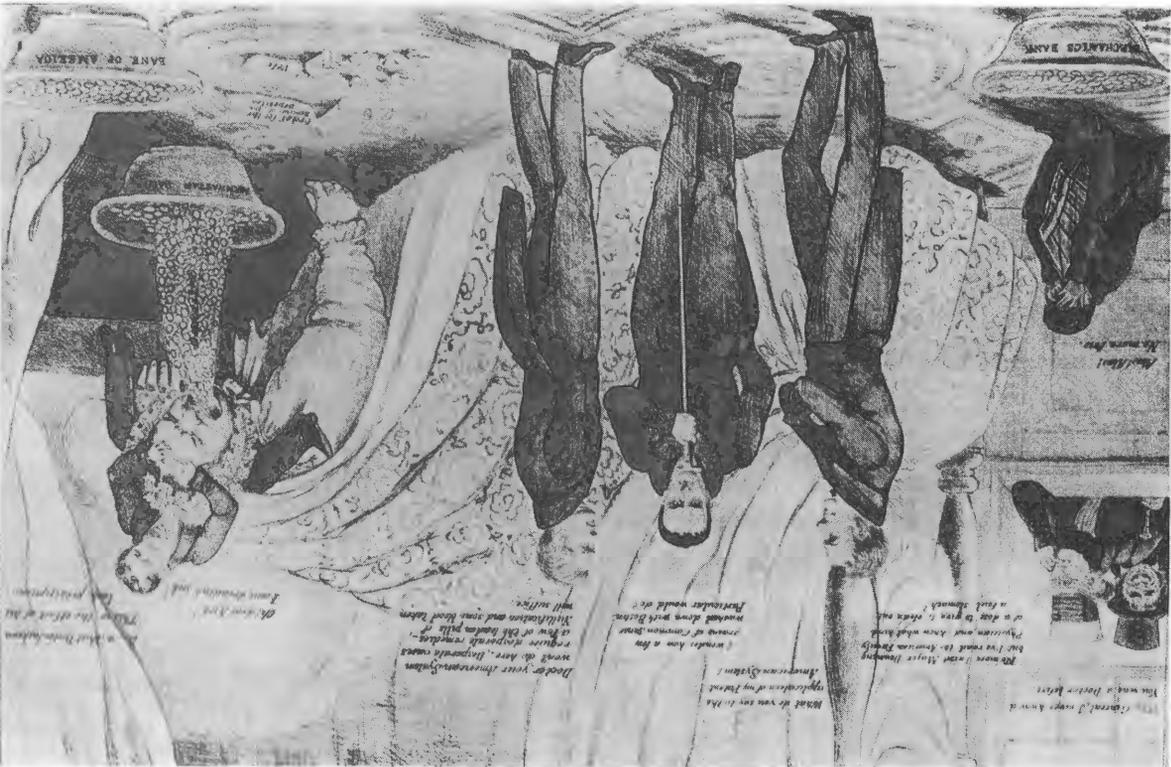
This veto seems to be the production of the whole Kitchen Cabinet [an informal group of advisors to Jackson]—of hypocrisy and arrogance; of imbecility and talent; of cunning, falsehood, and corruption—a very firebrand, intended to destroy their opponents, but which now, thanks to Him who can bring good out of evil, bids fair to light up a flame that shall consume its vile authors.

If the doctrines avowed in this document do not arouse the nation, we shall despair that anything will, until the iron hand of despotism has swept our fair land, and this glorious Republic, if not wholly annihilated, shall have been fiercely shaken to its very foundations.

3. Cartooning the Banking Crisis (1833, 1837)

Andrew Jackson believed that the Bank of the United States was a corrupt pillar of privilege that must be destroyed. Yet when a national depression occurred shortly after the charter of the bank was revoked, many observers blamed Jackson's bank policy. In the top image on p. 283, Nicholas Biddle, ex-president of the Bank of the United States and president of the Bank of Pennsylvania, is shown holding the head of a violently ill "Mother Bank," while supporters of the bank—Clay, Calhoun, and Webster—consult in the sickroom, and Jackson peers in through the window. Where are the cartoonist's sympathies? The bottom image, The Times, was created during the height of the financial panic of 1837. What does it portray as the worst effects of the panic? What views of the causes and consequences of Jackson's bank policies do these images provide?

³The Granger Collection, New York; Library of Congress, #USZ62-8844.



F. Transplanting the Tribes

I. Jackson Endorses the Indian Removal (1829)

By the 1820s the once “inexhaustible” land east of the Mississippi was filling up with white people, and the luckless Native Americans were being elbowed aside. In response to pressure to transplant the native tribes to a “permanent” home beyond the Mississippi River, Congress took under consideration the Indian Removal Bill. President Jackson threw his powerful weight behind the movement in the following section of his first annual message to Congress. What attitude toward Indians does Jackson’s speech reveal?

The condition and ulterior destiny of the Indian tribes within the limits of some of our states have become objects of much interest and importance. It has long been the policy of government to introduce among them the arts of civilization, in the hope of gradually reclaiming them from a wandering life. This policy has, however, been coupled with another wholly incompatible with its success. Professing a desire to civilize and settle them, we have at the same time lost no opportunity to purchase their lands and thrust them farther into the wilderness. By this means they have not only been kept in a wandering state, but been led to look upon us as unjust and indifferent to their fate. . . .

Our conduct toward these people is deeply interesting to our national character. Their present condition, contrasted with what they once were, makes a most powerful appeal to our sympathies. Our ancestors found them the uncontrolled possessors of these vast regions. By persuasion and force they have been made to retire from river to river and from mountain to mountain, until some of the tribes have become extinct and others have left but remnants to preserve for awhile their once terrible names. Surrounded by the whites with their arts of civilization, which, by destroying the resources of the savage, doom him to weakness and decay, the fate of the Mohegan, the Narragansett, and the Delaware is fast overtaking the Choctaw, the Cherokee, and the Creek. That this fate surely awaits them if they remain within the limits of the states does not admit of a doubt. Humanity and national honor demand that every effort should be made to avert so great a calamity. . . .

As a means of effecting this end, I suggest for your consideration the propriety of setting apart an ample district west of the Mississippi, and without [outside] the limits of any state or territory now formed, to be guaranteed to the Indian tribes as long as they shall occupy it, each tribe having a distinct control over the portion designated for its use. There they may be secured in the enjoyment of governments of their own choice, subject to no other control from the United States than such as may be necessary to preserve peace on the frontier and between the several tribes. There the benevolent may endeavor to teach them the arts of civilization, and, by promoting union and harmony among them, to raise up an interesting commonwealth, destined to perpetuate the race and to attest the humanity and justice of this government.

¹J. D. Richardson, ed., *Messages and Papers of the Presidents* (1896), vol. 2, pp. 456–459 (December 8, 1829).

This emigration should be voluntary, for it would be as cruel as unjust to compel the aborigines to abandon the graves of their fathers and seek a home in a distant land. But they should be distinctly informed that if they remain within the limits of the states they must be subject to their laws.

2. *Theodore Frelinghuysen Champions Justice (1830)*

Senator Theodore Frelinghuysen, a distinguished New Jersey lawyer and later president of Rutgers College, shone so prominently as a lay leader as to be dubbed "the Christian statesman." Respected by both Whigs and Democrats in Congress, he gained nationwide recognition as a result of his magnificent six-hour speech opposing the Indian removal. To what extent were his arguments valid insofar as they related to law, justice, and humanity? Why did they not prevail?

I now proceed to the discussion of those principles which, in my humble judgment, fully and clearly sustain the claims of the Indians to all their political and civil rights, as by them asserted. And here I insist that, by immemorial possession, as the original tenants of the soil, they hold a title beyond and superior to the British Crown and her colonies, and to all adverse pretensions of our Confederation and subsequent Union. God, in his Providence, planted these tribes on this western continent, so far as we know, before Great Britain herself had a political existence. . . .

In the light of natural law, can a reason for a distinction exist in the mode of enjoying that which is my own? If I use it for hunting, may another take it because he needs it for agriculture? I am aware that some writers have, by a system of artificial reasoning, endeavored to justify, or rather excuse, the encroachments made upon Indian territory; and they denominate these abstractions the law of nations, and in this ready way the question is despatched. Sir, as we trace the sources of this law, we find its authority to depend either upon the conventions or common consent of nations. And when, permit me to inquire, were the Indian tribes ever consulted on the establishment of such a law? . . .

Our ancestors found these people, far removed from the commotions of Europe, exercising all the rights and enjoying the privileges of free and independent sovereigns of this new world. . . . The white men, the authors of all their wrongs, approached them as friends . . . and, being then a feeble colony and at the mercy of the native tenants of the soil, by presents and profession propitiated their good will.

The Indian yielded a slow but substantial confidence; granted to the colonists an abiding place; and suffered them to grow up to man's estate beside him. He never raised the claim of elder title; as the white man's wants increased, he opened the hand of his bounty wider and wider.

By and by conditions are changed. His people melt away; his lands are constantly coveted; millions after millions [of acres] are ceded. The Indian bears it all meekly. He complains, indeed, as well he may, but suffers on. And now he finds that this neighbor, whom his kindness had nourished, has spread an adverse title over the last remains of his patrimony, barely adequate to his wants, and turns upon him

²*Register of Debates in Congress*, 21st Congress, 1st session, vol. 6, part 1, pp. 311–312, 318.

and says, “Away! we cannot endure you so near us! These forests and rivers, these groves of your fathers, these firesides and hunting grounds are ours by the right of power and the force of numbers.”

Sir, . . . I ask who is the injured and who is the aggressor? Let conscience answer, and I fear not the result. . . . Do the obligations of justice change with the color of the skin? Is it one of the prerogatives of the white man that he may disregard the dictates of moral principles when an Indian shall be concerned? No, sir. . . .

Sir, . . . if the contending parties were to exchange positions; place the white man where the Indian stands; load him with all these wrongs; and what path would his outraged feelings strike out for his career? . . . A few pence of duty on tea—that invaded no fireside, excited no fears, disturbed no substantial interest whatever—awakened in the American colonies a spirit of firm resistance. And how was the tea tax met, sir? Just as it should be. . . . We successfully and triumphantly contended for the very rights and privileges that our Indian neighbors now implore us to protect and to preserve to them.

Sir, this thought invests the subject under debate with most singular and momentous interest. We, whom God has exalted to the very summit of prosperity—whose brief career forms the brightest page in history; the wonder and praise of the world; freedom’s hope and her consolation—we, about to turn traitors to our principles and our fame, about to become the oppressors of the feeble and to cast away our birthright! Sir, I hope for better things. . . .

The end, however, is to justify the means. “The removal of the Indian tribes to the west of the Mississippi is demanded by the dictates of humanity.” This is a word of conciliating import. But it often makes its way to the heart under very doubtful titles, and its present claims deserve to be rigidly questioned. Who urges this plea? They who covet the Indian lands—who wish to rid themselves of a neighbor that they despise, and whose state pride is enlisted in rounding off their territories.

[The Indian Removal Bill passed Congress in 1830. The sequel was a sorry tale of greed, force, and fraud. Thousands of Indians of all ages and both sexes died on the tragic trek—perhaps as many as one-quarter of the sixty thousand from the South. Hostile tribes in the West often did not welcome the newcomers, and the new home lost its “permanency” as soon as unscrupulous whites found the land worth grabbing.]

G. The Emergence of Mass Political Parties

I. James Fenimore Cooper Castigates Parties (1838)

The Jacksonian Democrats, heirs of the manhood-suffrage New Democracy, had hurrahed Jackson and Martin Van Buren into the presidential chair with frothy, slogan-filled campaigns. The more aristocratic Whigs, finally stealing the thunder of

¹James F. Cooper, *The American Democrat* (Cooperstown, N.Y.: H. & E. Phinney, 1838), pp. 180–181.

the Jacksonites, hurrahed Van Buren out of the presidential chair and William Henry Harrison into it in the frothy hard-cider campaign of 1840. The political boss had now come into his own, and the national nominating conventions had become his to manipulate. The famed author of the Leatherstocking Tales, James Fenimore Cooper, after an extended sojourn abroad, returned to the United States and was shocked by what he found. The following blast, which he published in 1838, two years before the hard-cider campaign, illustrates the bitterness that involved him in protracted public controversy, including numerous libel suits. How much of his indictment seems sound? How much of it is true today?

Party is known to encourage prejudice, and to lead men astray in the judgment of character. Thus it is we see one half the nation extolling those that the other half condemns, and condemning those that the other half extols. Both cannot be right, and as passions, interests, and prejudices are all enlisted on such occasions, it would be nearer the truth to say that both are wrong.

Party is an instrument of error, by pledging men to support its policy instead of supporting the policy of the state. Thus we see party-measures almost always in extremes, the resistance of opponents inducing the leaders to ask for more than is necessary.

Party leads to vicious, corrupt, and unprofitable legislation, for the sole purpose of defeating party. Thus have we seen those territorial divisions and regulations which ought to be permanent, as well as other useful laws, altered [gerrymandered], for no other end than to influence an election. . . .

The discipline and organization of party are expedients to defeat the intention of the institutions, by putting managers in the place of the people; it being of little avail that a majority elect, when the nomination rests in the hands of a few. . . .

Party pledges the representative to the support of the Executive, right or wrong, when the institutions intend that he shall be pledged only to justice, expediency, and the right, under the restrictions of the Constitution.

When party rules, the people do not rule, but merely such a portion of the people as can manage to get the control of party. The only method by which the people can completely control the country is by electing representatives known to prize and understand the institutions; and who, so far from being pledged to support an administration, are pledged to support nothing but the right, and whose characters are guarantees that this pledge will be respected.

The effect of party is always to supplant established power. In a monarchy it checks the king; in a democracy it controls the people.

Party, by feeding the passions and exciting personal interests, overshadows truth, justice, patriotism, and every other public virtue, completely reversing the order of a democracy by putting unworthy motives in the place of reason.

It is a very different thing to be a democrat, and to be a member of what is called a Democratic Party; for the first insists on his independence and an entire freedom of opinion, while the last is incompatible with either.

The great body of the nation has no real interest in party. Every local election should be absolutely independent of great party divisions, and until this be done, the intentions of the American institutions will never be carried out, in their excellence. . . .

No freeman who really loves liberty and who has a just perception of its dignity, character, action, and objects will ever become a mere party man. He may have his preferences as to measures and men, may act in concert with those who think with himself, on occasions that require concert. But it will be his earnest endeavor to hold himself a free agent, and most of all to keep his mind untrammelled by the prejudices, frauds, and tyranny of factions.

2. Alexis de Tocqueville Defends Parties (1830s)

Permanently organized political parties were a novelty in the early-nineteenth-century Western world. This was especially true of the mass-based parties based on universal manhood suffrage that emerged in the United States. Cooper was not alone in regarding parties as dangerously disruptive of the consensus and harmony presumably essential to an orderly society. But Alexis de Tocqueville (1805–1859), among the shrewdest of all students of American democracy, appraised parties differently—especially in the American context of the 1830s. What did he identify as the beneficial effects of parties? What factors in the American setting did he portray as mitigating the possibly harmful effects of parties?

It must be admitted that unlimited freedom of association in the political sphere has not yet produced in America the fatal results that one might anticipate from it elsewhere. The right of association is of English origin and always existed in America. Use of this right is now an accepted part of customs and of mores.

In our own day freedom of association has become a necessary guarantee against the tyranny of the majority. In the United States, once a party has become predominant, all public power passes into its hands; its close supporters occupy all offices and have control of all organized forces. The most distinguished men of the opposite party, unable to cross the barrier keeping them from power, must be able to establish themselves outside it; the minority must use the whole of its moral authority to oppose the physical power oppressing it. Thus the one danger has to be balanced against a more formidable one.

The omnipotence of the majority seems to me such a danger to the American republics that the dangerous expedient used to curb it is actually something good.

Here I would repeat something which I have put in other words when speaking of municipal freedom: no countries need associations more—to prevent either despotism of parties or the arbitrary rule of a prince—than those with a democratic social state. In aristocratic nations secondary bodies form natural associations which hold abuses of power in check. In countries where such associations do not exist, if private people did not artificially and temporarily create something like them, I see no other dike to hold back tyranny of whatever sort, and a great nation might with impunity be oppressed by some tiny faction or by a single man.

²Pages 192–194 from *Democracy in America* by Alexis de Tocqueville, edited by J. P. Mayer and Max Lerner. Translated by George Lawrence. English translation, copyright © 1965 by Harper & Row, Publishers, Inc. Reprinted by permission of HarperCollins Publishers, Inc.

The meeting of a great political convention (for conventions are of all kinds), though it may often be a necessary measure, is always, even in America, a serious event and one that good patriots cannot envisage without alarm.

That came out clearly during the convention of 1831, when all the men of distinction taking part therein tried to moderate its language and limit its objective. Probably the convention of 1831 did greatly influence the attitude of the malcontents and prepared them for the open revolt of 1832 against the commercial laws of the Union.

One must not shut one's eyes to the fact that unlimited freedom of association for political ends is, of all forms of liberty, the last that a nation can sustain. While it may not actually lead it into anarchy, it does constantly bring it to the verge thereof. But this form of freedom, howsoever dangerous, does provide guarantees in one direction; in countries where associations are free, secret societies are unknown. There are factions in America, but no conspirators. . . .

The most natural right of man, after that of acting on his own, is that of combining his efforts with those of his fellows and acting together. Therefore the right of association seems to me by nature almost as inalienable as individual liberty. Short of attacking society itself, no lawgiver can wish to abolish it. However, though for some nations freedom to unite is purely beneficial and a source of prosperity, there are other nations who pervert it by their excesses and turn a fount of life into a cause of destruction. So I think it will be thoroughly useful both for governments and for political parties if I make a comparison between the different ways in which associations are used in those nations that understand what freedom is and in those where this freedom turns into license.

Most Europeans still regard association as a weapon of war to be hastily improvised and used at once on the field of battle.

An association may be formed for the purpose of discussion, but everybody's mind is preoccupied by the thought of impending action. An association is an army; talk is needed to count numbers and build up courage, but after that they march against the enemy. Its members regard legal measures as possible means, but they are never the only possible means of success.

The right of association is not understood like that in the United States. In America the citizens who form the minority associate in the first place to show their numbers and to lessen the moral authority of the majority, and secondly, by stimulating competition, to discover the arguments most likely to make an impression on the majority, for they always hope to draw the majority over to their side and then to exercise power in its name.

Political associations in the United States are therefore peaceful in their objects and legal in the means used; and when they say that they only wish to prevail legally, in general they are telling the truth.

There are several reasons for this difference between the Americans and ourselves. In Europe there are parties differing so much from the majority that they can never hope to win its support, and yet these parties believe themselves strong enough to struggle against it on their own. When such a party forms an association it intends not to convince but to fight. In America those whose opinions make a wide gap between them and the majority can do nothing to oppose its power; all others hope to win it over.

So the exercise of the right of association becomes dangerous when great parties see no possibility of becoming the majority. In a country like the United States, where differences of view are only matters of nuance, the right of association can remain, so to say, without limits.

It is our inexperience of liberty in action which still leads us to regard freedom of association as no more than a right to make war on the government. The first idea which comes into a party's mind, as into that of an individual, when it gains some strength is that of violence; the thought of persuasion only comes later, for it is born of experience. . . .

But perhaps universal suffrage is the most powerful of all the elements tending to moderate the violence of political associations in the United States. In a country with universal suffrage the majority is never in doubt, because no party can reasonably claim to represent those who have not voted at all. Therefore associations know, and everyone knows, that they do not represent the majority. The very fact of their existence proves this, for if they did represent the majority, they themselves would change the law instead of demanding reforms.

Thereby the moral strength of the government they attack is greatly increased and their own correspondingly weakened.

Thought Provokers

1. Is it true that the coming of universal manhood suffrage made for better government? Comment. Macaulay said, "The only way in which to fit a people for self-government is to entrust them with self-government." Comment. Metternich said, "Ten million ignorances do not constitute one knowledge." Comment.
2. In what ways did Justice Taney's decision in the *Charles River Bridge* case reflect the economic philosophy of Jacksonian democracy?
3. Southern nullification did not succeed in the 1830s, yet it has been noted that informal nullification of unpopular federal laws, amendments, and court decisions has been going on for generations. Illustrate. What better or other safeguards have a minority of the states instituted against the "tyranny of the majority"? Should Jackson have taken a stronger position in public against South Carolina?
4. Why did Jackson's veto of the bank recharter appeal so strongly to the masses? Was Jackson right? Should foreigners have been allowed to hold stock in the bank? Is it better to have aristocratically controlled financial institutions that are sound than democratically controlled financial institutions that are less sound?
5. Explain why the Indians and the whites appeared unable to live peacefully side by side. What are the moral implications of the argument that the Indians were not putting their land to good use?
6. Are political parties necessary in a democracy? How did the Republic get along without them from approximately 1815 until the 1830s? Why did they emerge when they did?