

University of Montana

## ScholarWorks at University of Montana

---

Undergraduate Theses, Professional Papers, and Capstone Artifacts

---

2023

### **“Principles which constitute the only basis of the Union” : Virginian Beliefs during the Nullification Crisis, 1832-1833**

Sean Elliott Kellogg

University of Montana, Missoula, [sk135736@umconnect.umt.edu](mailto:sk135736@umconnect.umt.edu)

Follow this and additional works at: <https://scholarworks.umt.edu/utpp>



Part of the [Cultural History Commons](#), [Intellectual History Commons](#), [Political History Commons](#), and the [United States History Commons](#)

### Let us know how access to this document benefits you.

---

#### **Recommended Citation**

Kellogg, Sean Elliott, "“Principles which constitute the only basis of the Union” : Virginian Beliefs during the Nullification Crisis, 1832-1833" (2023). *Undergraduate Theses, Professional Papers, and Capstone Artifacts*. 405.

<https://scholarworks.umt.edu/utpp/405>

This Thesis is brought to you for free and open access by ScholarWorks at University of Montana. It has been accepted for inclusion in Undergraduate Theses, Professional Papers, and Capstone Artifacts by an authorized administrator of ScholarWorks at University of Montana. For more information, please contact [scholarworks@mso.umt.edu](mailto:scholarworks@mso.umt.edu).

“Principles which constitute the only basis of the Union”<sup>1</sup>:  
Virginian Beliefs during the Nullification Crisis, 1832-1833

Sean Kellogg

HSTA 427: Freedom, Slavery, and Equality

May 6, 2022

Preceding the American Civil War by three decades, the Nullification Crisis is often overshadowed by that larger conflict. It tends to be thought of only as an event in which the two sides of the war, pro-union and anti-union, coalesced around divisive issues. This perspective obscures the complex ideological loyalties that were in conflict during the crisis. These disagreements were on especially clear display in the influential border state of Virginia, which hosted many different opinions about the relevant issues.<sup>2</sup> The state ultimately chose to steer a middle course. In January 1833, it adopted a set of resolves that rejected nullification and were neither fully supportive of the federal government nor of South Carolina.

These resolves were adopted following extensive debate in the Virginia state legislature, but for months beforehand Virginian newspapers undertook an equally revealing but less well-studied debate about the important issues at play during the crisis. In contrast with previous studies of the Nullification Crisis in Virginia, this paper will use the writings of newspapers to collect Virginian views of the crisis. These newspapers were read by Virginians who were not directly involved in state or national politics, and their writings were relevant to a wide audience. They provide an opportunity to support or challenge existing assumptions about how Virginians thought about the Nullification Crisis using a broader source base.

This paper examines the debate over nullification, federal union, and states' rights from late 1832 through early 1833. It draws on the writings of four prominent Virginian newspapers, the *Richmond Enquirer*, the *Phenix Gazette*, the *Constitutional Whig*, and *The Lynchburg Virginian*. It sheds light on the varying opinions that these newspapers expressed on nullification and the federal union as well as the political beliefs that underwrote these opinions. It argues that these newspapers were loyal to the vision of the federal union and opposed nullification. However, it also argues that they were not in full agreement on other key ideological issues, namely the nature of the federal union, the validity of state sovereignty, the constitutionality of tariffs, and

the right of states to secede from the federal union. This paper further argues that these opinions were linked to and tangibly shaped by loyalty to the Virginia Resolutions of 1798, which contained a firm endorsement of states' rights. The *Enquirer* and the *Whig* strongly affirmed the wisdom of these resolutions and professed that they did not justify nullification. Lastly, this paper argues that the resolves passed by the Virginia legislature reflected this newspaper debate, in that they were shaped by loyalty to the Virginia Resolutions of 1798 and addressed many of the same ideological issues that concerned Virginian newspapers.

### **Overview: The Crisis**

In order to understand the debate in Virginia over the Nullification Crisis, it is first necessary to understand the political context in which the crisis occurred. On November 12, 1832, the South Carolina state legislature passed a law authorizing the election of delegates to a state convention. Within two weeks, this convention passed an Ordinance of Nullification, declaring the tariffs of 1828 and 1832 to be “utterly null and void” and prohibiting their enforcement in the state. The Ordinance backed up this declaration with a threat to secede from the United States of America if the federal government attempted to punish South Carolina.<sup>3</sup> In doing so, South Carolina asserted its sovereignty, exempting itself from certain federal laws while remaining in the union. This is the legal concept known as the doctrine of nullification.<sup>4</sup>

On December 10, President Andrew Jackson fired back with a special Proclamation. In it, he denounced nullification and secession as unconstitutional, argued against the idea that the individual states were sovereign, and implied that he was prepared to use force to prevent secession and collect the tariffs.<sup>5</sup> In response to these escalating tensions, the Virginia state legislature steered a middle course between the federal government and South Carolina. On January 26, 1833, it adopted a set of resolves that called on the South Carolina legislature to rescind its Ordinance of Nullification, the federal government to reduce the tariff, and both sides

to preserve peace.<sup>6</sup> These resolves largely reflected the major issues debated by the newspapers that this paper examines.

### **Virginian Attitudes toward Union and Nullification**

During the Nullification Crisis, Virginian newspapers asserted varying views on the federal union and the extent of its power compared to the states. In doing so, they staked clear positions on the key issues at play during the crisis. One point that Virginian newspapers could agree on was that the federal union of the states was a positive good that was worth defending. Support for the union was most clearly expressed by Alexandria's *Phenix Gazette* in an article published on December 20, 1832. Aptly titled "The Value of the Union," it offered a gloomy evaluation of the severity of the crisis. However, it also praised the United States as the most enlightened government ever to exist and lamented the idea that disunion would bring an end to the greatest experiment in human history.<sup>7</sup> The *Enquirer*, the *Virginian* and the *Whig* were no less fierce in defense of the union.<sup>8</sup> Commenting on President Jackson's Proclamation, the *Virginian* commended it for inspiring citizens to "defend our blessed Union." Dissolving it, the *Virginian* warned, would bring "Revolution, Civil War, Anarchy, Ruin"—a prophetic assertion.<sup>9</sup> This pattern of defending the union and magnifying fears of the consequences of disunion was broadly typical of Virginian newspapers during the crisis.

It was equally typical for Virginian newspapers to denounce nullification as unconstitutional. Even newspapers that espoused broadly different views on other legal issues agreed that nullification was incompatible with the federal union. The *Richmond Enquirer* devoted the most space to extensively debunking nullification. If nullification were a right of states, the *Enquirer* argued, it would render all the powers of the federal government meaningless. One element of government must have supreme power over any given political matter, and nullification would give that power in all matters to the states.<sup>10</sup> The paper argued

further that nullification was fundamentally unfair to the other states in the union. By exempting itself from a law, a state would be claiming membership in the federal union while also claiming the right to ignore the union's laws.<sup>11</sup> Such a practice would make the union both impotent and a burden to those who did choose to submit to it. Other papers were less analytical, but even more vocal in their opposition. Writing retrospectively, the *Phenix Gazette*, for example, denounced nullification as "one of the most false, dangerous, and destructive political doctrines ever broached in this country."<sup>12</sup> The *Lynchburg Virginian* upheld the line that nullification was not a constitutional remedy to federal tyranny, but rather a revolutionary one. In fact, the *Virginian* was so convinced of the revolutionary nature of nullification that it professed to disbelieve that the common people of South Carolina even realized what they were doing.<sup>13</sup> Although this disbelief may have been affected, opposition to nullification was too widespread and recurring across different Virginian newspapers to be discounted as a rhetorical device. None of the four Virginian newspapers attempted to defend nullification in even a roundabout manner. The constitutionality of other issues was debated, but opposition to nullification was categorical.

### **Virginian Interpretations of Key Issues**

While support for the union and opposition to nullification abounded, Virginian newspapers proved less able to agree on some of the finer ideological issues at play during the crisis. The nature of the federal union, the validity of state sovereignty, the constitutionality of tariffs, and the right of states to secede from the union received the most extensive coverage.

While a limited consensus emerged around some of these issues, it was by no means as widespread or uniform as the consensus around the questions of union and nullification.

Regarding the nature of the federal union and the constitutionality of tariffs, not all papers were inclined to take a strong stance. Regarding state sovereignty and the right of secession, there was outright dissent between different papers. The coverage that these four issues received in

Virginian newspapers, and the diversity of opinions that the papers expressed, reveals how central and contentious these issues were to Virginians.

Virginian newspapers that chose to comment on the nature of the federal union advanced the so-called compact theory. This theory was formulated by James Madison and Thomas Jefferson, both Virginians, and held that the union was only an agreement, or compact, between sovereign states. President Jackson referred to it derisively as “the Virginia doctrine.”<sup>14</sup> This was an accurate evaluation considering its Virginian creators and the support it received in Virginia. The *Richmond Enquirer* endorsed this theory. In an article arguing that the states had retained their sovereignty in the federal union, the *Enquirer* used the term “federal compact” to refer to that union.<sup>15</sup> At least some readers of the *Enquirer* concurred. An anonymous commentator, writing to the editor of the paper, called on Virginia to affirm, among other things, that states retained their sovereignty in the federal compact.<sup>16</sup> The *Virginian* was more evasive in its views, noting only that it did not fully agree with President Jackson’s theory of how the federal union originated. However, the *Virginian* also chose to refer to the union as a federal compact.<sup>17</sup> The *Virginian*, along with the *Enquirer*, registered Virginia’s sympathy for the compact theory.

Support for the compact theory corresponded naturally with a strong belief in states’ rights, and even state sovereignty. Two of the Virginian newspapers went to some lengths to defend this belief. When Pennsylvania passed resolutions strongly supporting the federal government, the *Constitutional Whig* of Richmond excoriated it for denying “the Sovereignty of the States.” Going further, the *Whig* insisted that these resolutions were so submissive to the federal government that they might have been dictated by President Jackson.<sup>18</sup> This seems slightly conspiratorial. However, the *Whig*’s fierce critique of states that submitted fully to federal power reveals that the paper was deeply disturbed by the idea of states giving up their sovereign power to the federal government. The *Richmond Enquirer* shared this belief in a strong state prerogative,

claiming that states retained full sovereignty and the right to respond to federal laws. In the event that the federal government overextended its power, the *Enquirer* argued, an individual state had the right and duty to judge for itself the proper response.<sup>19</sup>

While some papers endorsed state sovereignty, others disagreed on the grounds that state sovereignty was ideologically inseparable from nullification. The *Phenix Gazette* in particular explicitly rejected the notion of state sovereignty. Writing in the aftermath of the crisis, it warned that state sovereignty was merely a mask that supporters of nullification could hide behind.<sup>20</sup> However, even the *Gazette* conceded that, at the very least, groups of states retained a degree of control over the federal government. The paper printed an extensive transcript of a speech by Virginia's Senator Rives, a staunch opponent of nullification and defender of federal power. In his remarks, Rives condemned "State Rights Republicans" as nullifiers by another name. Rives staked this comparison on the claim that giving individual sovereign states the power to judge constitutional law essentially gave them power to nullify it. Even while condemning state sovereignty, however, Rives still conceded that a confederation of states might have constitutional authority to oppose federal law in extreme cases.<sup>21</sup>

Virginian newspapers tended to strongly oppose tariffs. Commentators agreed that tariffs were oppressive and not an appropriate use of federal power. However, they also tended to stop short of declaring them to be unconstitutional. Prior to President Jackson's Proclamation, the *Richmond Enquirer* came out in vehement opposition to federal protectionism, stating,

We are opposed to the abominable tariff system—and we can never acquiesce in its impositions. It is against the genius of our free institutions—the spirit of the Constitution.... To submit to such a system as this, cannot be expected of the citizens of Virginia. We know our countrymen well; and we know that they never will yield their support to such an encroachment as this.<sup>22</sup>



The *Enquirer* would later reaffirm this position, emphasizing that tariffs were not only oppressive but not in the spirit of the Constitution.<sup>23</sup> Such language carries a heavy implication that the *Enquirer* considered tariffs to be outright unconstitutional. However, the paper avoided making any such statement. The *Phenix Gazette* also printed an address from a South Carolinian opponent of nullification who criticized the tariff system. However, he offered this criticism only in the context of holding up the disenfranchisement of white citizens as a greater evil.<sup>24</sup> As such, his statement, and the *Gazette*'s choice to print it, may be interpreted as downplaying the burden of tariffs rather than calling attention to it. In another article, the *Gazette* called for resolving the crisis by gradually reducing the tariff.<sup>25</sup> This proposal echoed similar proposals printed in the *Richmond Enquirer*, although the *Gazette* never endorsed the *Enquirer*'s categorical opposition.<sup>26</sup> The tariff system found little support and plenty of opposition in Virginian newspapers, but no paper would go so far as to openly support South Carolina's position that tariffs were unconstitutional.

The final issue that occupied Virginian newspapers was the constitutionality of secession. This issue was inextricably linked to the issues of the compact theory and state sovereignty. President Jackson had made clear in his Proclamation that he did not recognize any right of states to secede from the Union. Indeed, Jackson's opposition to "the Virginia doctrine" rested primarily on the recognition that, in a compact of sovereign states, each state must have the right to secede from this federal union.<sup>27</sup> As a staunch supporter of the union, Jackson could not support secession. As staunch supporters of state sovereignty, Virginian newspapers could not help but support secession. In the aftermath of Jackson's proclamation, several newspapers affirmed this position at great length. In an article mainly devoted to praising the Proclamation, again the *Richmond Enquirer* specifically states its disagreement with Jackson's position on secession. Secession from the federal union, the *Enquirer* argued, was a valid last resort when a state was confronted by a

tyrannical federal government.<sup>28</sup> The *Enquirer* expanded on its support for secession in a later article, arguing that it was a right that “flows from the very nature of our system.” Here again though, the *Enquirer* emphasized that secession should be used only as a last resort.<sup>29</sup> The *Constitutional Whig* concurred with the *Enquirer* on the constitutionality of secession. In its denunciation of Pennsylvania’s Resolutions, the paper forcefully faulted Pennsylvania for rejecting the right of secession along with nullification.<sup>30</sup>

At first glance, this stance seems paradoxical. The rights of secession and nullification, both advanced by proponents of state sovereignty, seem to be inextricably linked. If nullification was unconstitutional, how could secession, a more extreme measure, be constitutional? In the midst of this seeming contradiction, another article from the *Richmond Enquirer* helps to explain how Virginian newspapers were able to accept secession while rejecting nullification. In an impassioned statement against nullification, the *Enquirer* took a very specific line of reasoning against nullification and in favor of secession. It faulted the doctrine of nullification for attempting to nullify the power of a federal union while keeping the state in the union. If a state rejected the laws of the union, it was outside of the union and could not fairly continue to claim membership.<sup>31</sup> By this logic, secession was not offensive because it involved a state withdrawing formally from the union without continuing to claim membership. Thus Virginian newspapers considered secession to be an appropriate response to federal tyranny, despite its more extreme nature. Even *The Lynchburg Virginian*, which was generally very hostile towards South Carolina during the crisis, refused to denounce secession. Rather, the paper elected not to choose, stating that it was “*on the fence*” about the issue.<sup>32</sup> This was the closest any of the four newspapers would come to denying the right to secede.

## Defending the Resolutions

In order to fully understand the course that Virginia took, it is important to trace these political beliefs back to the sources from which Virginians drew them. From even a cursory observation of Virginian newspapers, one source stands out as the most frequently invoked and the most highly revered: the Virginia Resolutions of 1798. It is clear from the way that the newspapers treated the Virginia Resolutions that they were a well-known topic to newspaper readers, and deeply important to politically-minded Virginians. However, it is also clear that, in the midst of the furor over the federal union and nullification, Virginian newspapers felt pressed to assert the legitimacy of their political claims, not only against those who would denigrate them, but against those who would use them to justify the doctrine of nullification. The writings of Virginia newspapers reveal their concern that supporters of nullification were claiming the Virginia Resolutions as a direct ideological predecessor to their doctrine.

Two the Virginian newspapers, the *Richmond Enquirer* and the *Constitutional Whig*, responded to the nullifiers by defending a pro-union and anti-nullification interpretation of the Resolutions. The primary tenets of this interpretation were that states retained their sovereignty in the federal union and could judge federal laws to be unconstitutional, but could not unilaterally disobey these laws while remaining in the union. Rather, a confederation of states had the power to peacefully petition the federal government to recognize their concerns and remove the offending law. They also stressed that the Resolutions, in spite of their confrontational stance towards federal encroachment, were ultimately born out of Virginia's love for the union, rather than hostility towards it. By this interpretation, the *Enquirer* and the *Whig* argued, the Virginia Resolutions did not endorse the doctrine of nullification, thereby severing any ideological connection between the actions of Virginia in 1798 and the actions of South Carolina.

In order to understand why the Virginia Resolutions were implicated in the Nullification Crisis, it is first necessary to understand their contents and the circumstances that led the Virginia state legislature to adopt them. In 1798, at the behest of Thomas Jefferson and in response to the Alien and Sedition Acts, the Virginia state assembly passed a series of resolutions. The thrust of these acts, made famous as the Virginian Resolutions of 1798, was an assertion of the federal union as a compact between sovereign states, each of which, according to William G. Shade, maintained the right “to judge the constitutionality of federal law.”<sup>33</sup> Moreover, the Virginia Resolutions asserted that the states, as sovereign governments, bore the ultimate duty to defend their citizens from unconstitutional acts of the federal government. To that end, the Virginia Resolutions deemed the Alien and Sedition Acts to be “utterly void.”<sup>34</sup> The Virginia Resolutions, in short, constituted a strong statement by the Virginia state assembly that the states were individually sovereign and had some standing to oppose federal laws. In doing so, they walked a thin line between asserting a degree of states’ rights and outright endorsing state sovereignty over federal law. The natural conclusion of the latter path was the doctrine of nullification.

Such content left the Virginia Resolutions open to interpretation and invocation by many different ideological parties, including nullifiers. During the Nullification Crisis, nullifiers argued that the Resolutions constituted an early form of their doctrine, and provided a precedent for South Carolina’s nullification of the tariffs. Virginian newspapers acknowledged these claims early on in the crisis, even as they sought to debunk them. In late August of 1832, several months before the confrontation between the federal government and South Carolina swelled to crisis levels, the *Enquirer* published a lengthy article by an anonymous commentator. This commentator took the pen name “Agricola,” Latin for “farmer”—a telling appeal to Virginia’s self-image as a republic of independent, yeomen agriculturalists. The title of this article, “The Virginia Doctrines, Not Nullification,” is equally telling. In it, Agricola laid out a complete

analysis of the proposed relationship between the Virginia Resolutions and the doctrine of nullification. At the root of Agricola's argument was the claim that nullification had no place in Virginia's political principles. Agricola did not state directly that these principles were those of the Virginia Resolutions, nor did he openly accuse nullifiers of originating this comparison. However, since his analysis consisted largely of comparing the Virginia Resolutions to nullification, the principles of the Resolutions were the most likely object of his concern.<sup>35</sup>

Later in the crisis, other authors confirmed more directly that nullifiers were attempting to link the Virginia Resolutions to nullification. Responding to South Carolina Governor Hayne's defense of nullification, the *Richmond Enquirer* complained that "He bolsters himself up by the precedent of '98-'99—the doctrines of Jefferson and Madison".<sup>36</sup> In common parlance, this is a direct reference to the Virginia Resolutions, as well as, most likely, the related Kentucky Resolutions of 1799. In a third article, the *Enquirer* confirmed in still clearer terms that nullifiers were interpreting the Virginia Resolutions for their own ends:

In what manner Virginia interpreted her own resolution, we appeal to her own acts at that period.—Those, who wish to understand them, must go, not to the version which South Carolina pleases to make of them, but to the Nos. of Agricola.<sup>37</sup>

The *Constitutional Whig* joined the *Enquirer* in acknowledging the comparisons between nullification and the Virginia Resolutions. It also hinted at the possibility that such comparisons might be gaining credence among opponents of nullification as well, to the detriment of the Virginia Resolutions. Discussing potential outcomes of the crisis, the *Whig* referenced "the principles of Virginia, supposed to be dangerously jammed between Executive prerogative and Federal encroachment on the one side, and South Carolina extremes, on the other."<sup>38</sup> This statement speaks to the *Whig's* belief that neither the actions of the federal government or of South Carolina during the Nullification Crisis were in full agreement with the Virginia

Resolutions. However, “dangerously jammed” is also likely a reference to the possibility that some association between the actions of South Carolinian nullifiers and the principles of the Virginia Resolutions would be “supposed”. Such an association was undesirable, and even fearful, to Virginian newspapers.

In contrast to the nullifiers’ interpretation, Virginian newspapers offered their own perspective on the implications of the Virginia Resolutions. One of the most salient points that they affirmed was that the Virginia Resolutions supported the compact theory of the federal union. The compact theory was especially prominent in the *Richmond Enquirer*’s publications. While addressing Governor Hayne’s interpretation of the origins of the union, the *Enquirer* quoted Hayne as describing the federal union as a “*compact, to which the States are parties*”.<sup>39</sup> This text was italicized, likely by the *Enquirer* itself rather than by Hayne, identifying it as the most significant portion of his statement. In contrast with the rest of his argument, which it roundly excoriated, the *Enquirer* noted approvingly that his views on the origins of the union were, in fact, in agreement with Virginia’s 3<sup>rd</sup> Resolution of 1798.<sup>40</sup> In fact, the *Enquirer* found Hayne’s support for the compact theory preferable to the views of President Jackson.<sup>41</sup> In a separate article, the *Enquirer* provided incontrovertible evidence to support the claim that the compact theory was rooted in the Virginia Resolutions, in the form of a quotation from the Virginia Resolutions themselves. The quotation stated “That [the Virginia] Assembly doth explicitly and peremptorily declare, that it views the powers of the Federal Government, as resulting from *the compact to which the states are parties*”.<sup>42</sup> Hayne’s statement in support of the compact theory was, with the addition of a comma, a direct quotation from the Virginia Resolutions. In this article, it is also notable that the *Enquirer* referenced the Virginia Resolutions’ support for the compact theory in the context of challenging President Jackson’s contrasting theory of the origins of the union. This juxtaposition strongly suggests that Virginian

newspapers' endorsement of the compact theory, as previously elaborated, was rooted in their fidelity to the Virginia Resolutions.

Another principle that the *Richmond Enquirer* and the *Constitutional Whig* drew from the Virginia Resolutions was that the states had retained their sovereignty in the federal union. In its article on Governor Hayne, the *Enquirer* quoted from him that South Carolina had acted as “a sovereign State” in nullifying the tariffs.<sup>43</sup> The *Enquirer* devoted the rest of the article to destroying Hayne’s claim that nullification was rooted in the Virginia Resolutions, but passed over his claim that the Virginia Resolutions endorsed state sovereignty. Given that the *Enquirer*’s frequently argued in favor of state sovereignty, this silence strongly indicates that the paper approved of Hayne’s claim that the Virginia Resolutions endorsed this theory. The *Whig* also believed that the Resolutions endorsed state sovereignty. In its article critiquing Pennsylvania for uncritically supporting President Jackson’s position, the *Whig* noted that Pennsylvania had abandoned a number of “principles for which she contended in 1798, shoulder to shoulder with Virginia”.<sup>44</sup> This can only be a reference to the Virginia Resolutions, the principles of which were commonly referenced independently in Virginian newspapers. Among the principles that the *Whig* listed was “the Sovereignty of the States”.<sup>45</sup> Like the *Enquirer*, the *Whig* identified the Virginia Resolutions as supporting state sovereignty.

Besides the compact theory and the principal of state sovereignty, Virginian newspapers also cited the Virginia Resolutions in defense of specific powers of the states, among which was the right of states to declare laws to be unconstitutional. A defense of this power featured prominently in Agricola’s August 28, 1832 article in the *Richmond Enquirer*. Agricola noted that, in the Resolutions, the Virginia state assembly had declared the Alien and Sedition Acts to be unconstitutional, an act which Agricola held to be a strictly constitutional and proper action of a state against the federal government. They asserted that “In the example given by the State, of

declaring the Alien and Sedition Acts to be unconstitutional, and of communicating the declaration to the other States, no trace of improper means has appeared.”<sup>46</sup> Although they declined to offer a justification for this position, Agricola’s discourse hinged on the distinction between constitutional and unconstitutional means of resistance to federal power.<sup>47</sup> Apparently, Agricola considered the mere act of declaring an act of the federal government to be unconstitutional, apart from any more concrete means of resistance, to be a self-evident right of states. By their analysis, this right was grounded firmly in the Virginia Resolutions of 1798.

The editors of the *Richmond Enquirer* were in full agreement with their guest commentator on this issue. In the course of attacking Governor Hayne for invoking the Virginia Resolutions, the *Enquirer* noted that “[The Virginia Resolutions] merely *declare* the laws unconstitutional; but they took *no measures* to arrest their execution in Virginia.”<sup>48</sup> Like Agricola, the editors of the *Enquirer* did not believe that the constitutionality of this argument, coming from Resolutions that they unequivocally defended, merited further discussion. The *Whig* joined the *Enquirer* in arguing that the right of states to judge the constitutionality of federal law was rooted in the Virginia Resolutions. In its article criticizing Pennsylvania, the *Whig* named Pennsylvania’s denial of its own right as a sovereign state to judge the constitutionality of acts of the United States Congress as one of its departures from the Virginia Resolutions.<sup>49</sup> To the *Enquirer* and the *Whig*, the Virginia Resolutions clearly condoned the power of states to at least declare that the federal government had transgressed the Constitution.

While this position allowed for limited resistance to federal power, it left unanswered the question of whether or not states could go further in resisting federal power. On this issue, only the *Richmond Enquirer* offered opinions that were explicitly rooted in the Virginia Resolutions. Its answer was firmly in the negative, as it denied that the Resolutions gave any state the right to unilaterally disobey federal law. Writing in the *Enquirer*, Agricola made this case through a direct



quotation from the Report of 1799 on the Virginia Resolutions, which stated that “the declarations... are expressions of opinion, unaccompanied with any other effect than what they may produce on opinion, by exciting reflection.”<sup>50</sup> For Agricola, a state declaring federal law unconstitutional was an act of symbolic resistance, rather than a prelude to outright disobedience. The *Enquirer* printed other articles backing up this view. In one article, it argued that the Virginia Resolutions had declared the Alien and Sedition Acts unconstitutional, but also noted in the same sentence that “they took *no measures* to arrest their execution in Virginia.”<sup>51</sup> In another, it faulted South Carolina for failing to pursue any of a number of means of resistance for which the Virginia Resolutions provided, drawing a clear distinction between these measures, which it deemed to be constitutional, and the act of unilateral disobedience, which, it implied, was unconstitutional.<sup>52</sup>

The arguments that the *Richmond Enquirer* presented in this article provide another perspective on the relationship between states’ rights and federal power in the Virginia Resolutions. In this perspective, states had the power to do more than declare federal law unconstitutional, although they still had no right to disobey federal law. According to the *Enquirer*, groups of states could act in conjunction with each other to pursue limited resistance to federal law. Agricola, in his article, expanded on what forms of resistance were endorsed by the Virginia Resolutions. According to Agricola, the Resolutions asserted that when a state considered a federal law to be unconstitutional, it should prepare a declaration to that effect and transmit it to other states, calling on them to join the state in declaring the unconstitutionality of the law. From there, the confederated states might send a delegation to petition Congress to repeal the offending law, or call on their representatives to introduce an amendment to the Constitution to similar effect. Agricola held that each of these measures was constitutional, since they were either explicitly provided for by the United States Constitution or a natural outgrowth of the right

of a state to declare a federal law unconstitutional.<sup>53</sup> The *Enquirer*, in another article, printed a statement from an anonymous Congressman who also argued for the propriety of such measures. He argued that “if [South Carolina] had depended on public opinion and the justice and patriotism of the Republicans of the northern, middle and western states, we should have accomplished [reduction of the tariffs] almost without a struggle.”<sup>54</sup> This was a clear appeal to the necessity of taking multilateral, non-forcible action to oppose unconstitutional or burdensome federal laws, rather than disobeying them. Its suggestion of influencing public opinion and cooperating with likeminded states reflects Agricola’s interpretation of the constitutional means of resistance suggested in the Virginia Resolutions.

In arguing for this interpretation of the Virginia Resolutions, Virginian newspapers made a strong case that nullification was unconstitutional, and a bridge too far for states attempting to resist federal law. However, a legitimate question remains of whether or not the anti-union spirit of nullification was also present in the Virginia Resolutions. Demonstrating such a connection would have allowed nullifiers to argue that their doctrine was in the spirit of the Virginia Resolutions, if not in the letter. Virginian newspapers not only made the case that nullification was not among the means of resistance proposed by the Virginia Resolutions, they also argued that the Resolutions expressed a love for and devotion to the union that was fundamentally incompatible with nullification.

Virginian newspapers took two lines of reasoning to show that nullification was not in the spirit of the Virginia Resolutions. The first was that the Virginia Resolutions never intended to justify any unconstitutional actions on the part of the states. Writing in the *Richmond Enquirer*, Agricola argued that the assembly fully believed in the constitutionality of the remedies that it proposed, including declaring federal laws unconstitutional and calling on other states to join them in doing the same.<sup>55</sup> Taken at face value, this point seems somewhat weak. Supporters of

nullification would surely also have argued that their doctrine was a constitutional measure. However, Agricola cited specific elements of the Resolutions which, he claimed, showed that nullification of federal law was never the goal of the Virginia assembly. Rather, Virginia intended to pressure the federal government through “the agency of public opinion”.<sup>56</sup> Agricola also noted the variety of more forceful acts of state resistance to federal law proposed by the Report of 1799 on the Virginia Resolutions, which included petitioning Congress to repeal objectionable laws and amending the Constitution to clarify that they were unconstitutional.<sup>57</sup> Each of these actions, Agricola noted, was a well-accepted constitutional right of states. Agricola intended to show through their analysis that the principles of the Virginia Resolutions were fundamentally different from nullification, both in the sense that they did not justify disobeying federal law and that they were careful, first and foremost, to propose only constitutional responses to federal overreach.

Agricola also made the case that the Virginia state assembly which drafted the Virginia Resolutions was motivated to do so by love and respect for the federal union, rather than by mistrust and hostility towards it. To support this claim, Agricola quoted from the Report of 1799 on the Virginia Resolutions:

In their next resolution, the General Assembly most solemnly declares a warm attachment to the Union of the States, to maintain which, it pledges all its powers; and that for this end, it is their duty to watch over and oppose every infraction of those principles which constitute the only basis of the Union, because a faithful observance of them can alone secure its existence and the public happiness.<sup>58</sup>

This quotation provides powerful evidence that the authors of the Virginia Resolutions, and the subsequent Report, did make at least make a concerted effort to cast the Virginia Resolutions as a pro-union document. Through the simple but brilliant argument that federal tyranny posed the greatest threat to the United States Constitution’s vision of the federal union, the Virginia state

legislature had sought to transform the image of the Virginia Resolutions from an attack on the union to a defense of it. Whether the Report's claim was accurate or not, Agricola chose to accept it as fact, stating that "the Legislature who passed [the Virginia Resolutions], evinced through their whole proceedings a sincere and ardent attachment to the Union and Constitution of the United States."<sup>59</sup> The editors of the *Richmond Enquirer* concurred. Rebutting Governor Hayne's attempt to connect the doctrine of nullification to the Virginia Resolutions, they quoted from Thomas Jefferson, one of the authors of the Resolutions. Writing on the Report of 1799, Jefferson advised that the Report should express "our warm attachment to union with our sister States".<sup>60</sup> The *Enquirer* clearly took this belief in cooperation with other states seriously, as it faulted Hayne largely for resorting to extreme measures before seeking cooperation with other states.<sup>61</sup>

### **Resolving the Virginian Perspective**

Alarmed by the increasing tension between President Jackson and South Carolina following Jackson's Proclamation, Virginia found that it had to take a stand. On December 13, 1832, the Virginia House of Delegates convened a Committee on Federal Relations.<sup>62</sup> The legislative process this set in motion culminated on January 26, 1833, when the state legislature adopted its final resolves concerning the crisis.<sup>63</sup> The contents of these resolves closely resembled the issues that Virginian newspapers had debated.

In explaining the purpose of the resolves, the legislature claimed that it was motivated to speak out by deep concern for the future of the union. In the resolve calling for peace, the legislature named disunion as one of the worst outcomes of violence between South Carolina and the federal government. Opposition to nullification was also given a prominent place, as the very first resolve called on South Carolina to rescind the Ordinance of Nullification. Perhaps out of a fear of provoking conflict, the Virginia legislature did not frame its opposition to nullification as a direct denunciation of the doctrine. However, Virginia's rejection of nullification was nonetheless

made clear. Likewise, the resolves did not denounce the federal government for imposing tariffs, nor did they declare tariffs to be unconstitutional. Rather, they called on Congress to lower the tariff so that it only brought in the revenue necessary to support the government. In adopting them, Virginia acknowledged that tariffs placed a great burden on states, and the federal government had a duty to provide a constitutional remedy.<sup>64</sup>

The last major point made in the resolves was that Virginia would defend “the doctrines of State Sovereignty and State Rights, as set forth in the Resolutions of 1798, and sustained by the report thereon of 1799, as a true interpretation of the Constitution of the United States.” Here again, the resolves clarified that these doctrines did not justify nullification.<sup>65</sup> The Virginia legislature did not choose to elaborate on what it believed state sovereignty entailed. However, in a struggle between state and federal power, the invocation of that politically charged term can only be interpreted as an expression of support for the states.

Conspicuously absent from the resolves was any mention of theories about the nature of the union. Virginian newspapers had given extensive support to the compact theory, but the Virginia legislature avoided mentioning it. The resolves did, however, claim opposition to some of “the principles assumed by the President in his said Proclamation”.<sup>66</sup> In the Proclamation, Jackson had advanced a theory that the union had arisen from individual citizens, not from a compact among states.<sup>67</sup> This rebuttal of Jackson’s Proclamation may thus be interpreted as a condemnation of his theory of the origins of the union, and a defense of the compact theory.

The resolves were even more reluctant to make a statement on the right of secession, the compact theory’s problematic child. Despite the strong support that this right had received in Virginian newspapers, the legislature did not include a resolve supporting it. The word secession was never even written in the resolves. However, the specter of secession was implicated when the resolves pleaded with South Carolina not to dissolve the union.<sup>68</sup> Under the circumstances of

the crisis, the Virginia legislature's choice not to affirm the right of secession is understandable. With South Carolina already threatening to secede and President Jackson threatening to use force, a Virginian endorsement of this idea might have had a disastrous effect. The Virginia legislature chose caution, opting to leave the implication of its compact theory and belief in statesovereignty unspoken. Its decision to do so should not be construed as a rejection of secession.

The resolves also included an explicit endorsement of the constitutionality of the Virginia Resolutions of 1798. While the resolves did not enumerate all of the implications that the *Richmond Enquirer* and the *Constitutional Whig* had discussed, it did include several key points. The first, and most important, was that the Virginia Resolutions did not justify South Carolina's Ordinance of Nullification.<sup>69</sup> Here the Virginia state assembly echoed the primary concern of Virginia newspapers that nullifiers would succeed in linking the Virginia Resolutions to their doctrine. If Agricola could not convince onlookers that there was no connection between them, Virginia could at least deny the charge. However, the resolves also asserted that the Virginia Resolutions conflicted with some of "the principles assumed by the President in his said Proclamation."<sup>70</sup> The resolves did not state exactly which of these principles disagreed with the Virginia Resolution. However, they were most likely President Jackson's denial of the compact theory and the validity of state sovereignty. These were positions that Virginian newspapers had formerly taken issue with, and the compact theory and state sovereignty were two of the primary doctrines that Virginia newspapers drew from their interpretation of the Virginia Resolutions. The resolves did not make so comprehensive a defense of the Virginia Resolutions as Agricola, but they still affirmed many of the important points that Virginian newspapers had made in this debate.

## Conclusion

With the passage of these resolves, Virginia had given its final statement on the key issues of the Nullification Crisis. With the exceptions of the compact theory and secession, the issues that the state assembly chose to address were the same that preoccupied the four Virginian newspapers. Broadly, the assembly's conclusions on these issues also matched the consensuses reached by the newspapers. These strong links between the arguments of the newspapers and the actions of the state assembly provide ample basis for two conclusions. First, they demonstrate that Virginia's actions during the crisis, which have so often been analyzed through the perspective of elite politicians, aligned well with the beliefs and concerns of the state's broader political community. The writings of the newspapers capture voices from this community, revealing them to be broadly in harmony, at least in this moment in history, with the voice of the Virginia state assembly, as expressed in the resolves. Second, these links provide some evidence that Virginian newspapers exercised a degree of influence over the proceedings of the Virginia state assembly. Further research is necessary to adequately demonstrate a link between their writings and the votes of Virginian politicians, opening up a promising avenue for future exploration of this mode of mass participation in antebellum Virginia's limited democracy. However, it would be difficult to justify a claim that these writings had no role in shaping resolves that mirrored them so perfectly. Whether their function in Virginia's actions was one of agreement or influence, the writings of the four Virginian newspapers speak to a degree of unity among Virginians on key political beliefs during the Nullification Crisis.

## Notes

---

<sup>1</sup> Agricola, "The Virginia Doctrines, Not Nullification," *Richmond Enquirer*, August 24, 1832.

<sup>2</sup> For more information about Virginia's importance during the crisis, see Richard E. Ellis, "Virginia and the Nullification Crisis," in *The Union at Risk: Jacksonian Democracy, States' Rights, and the Nullification Crisis* (New York, NY: Oxford University Press, 1989), 123-140.

<sup>3</sup> Richard E. Ellis, *The Union at Risk: Jacksonian Democracy, States' Rights, and the Nullification Crisis* (New York: Oxford University Press, 1989), 75-76.

<sup>4</sup> Ellis, *The Union at Risk*, 7-8.

<sup>5</sup> Ellis, *The Union at Risk*, 83-84.

<sup>6</sup> "Resolves of the Legislature of Virginia," in *State Papers on Nullification, Including the Public Acts of the Convention of the People of South Carolina (1832-33), The Proclamation of the President of the United States, and the Proceedings of the Several State Legislatures Which Have Acted on the Subject*, ed. Leonard W. Levy (New York, NY: Da Capo Press, 1970), 196.

<sup>7</sup> "The Value of the Union," *Phenix Gazette*, December 20, 1832.

<sup>8</sup> "The Crisis!!," *Richmond Enquirer*, December 4, 1832; "The Proclamation," *Lynchburg Virginian*, December 20, 1832; "The Crisis," *Constitutional Whig*, December 18, 1832.

<sup>9</sup> "The Proclamation—South Carolina," *Lynchburg Virginian*, December 17, 1832.

<sup>10</sup> "Hear Both Sides," *Richmond Enquirer*, December 28, 1832.

<sup>11</sup> "The Crisis," *Richmond Enquirer*, December 13, 1832.

<sup>12</sup> "The Prospect Before Us," *Phenix Gazette*, July 17, 1833.

<sup>13</sup> "The Proclamation—South Carolina."

<sup>14</sup> Ellis, *The Union at Risk*, 87.

<sup>15</sup> "The Crisis," *Richmond Enquirer*.

<sup>16</sup> "To the Editors of the Richmond Enquirer," *Richmond Enquirer*, December 20, 1832.

<sup>17</sup> "The Proclamation."

<sup>18</sup> "Pennsylvania—Abandonment of Republican Principles," *Constitutional Whig*, December 18, 1832.



- 
- <sup>19</sup> “To the Editors of the Richmond Enquirer.”
- <sup>20</sup> “The Prospect Before Us.”
- <sup>21</sup> “Senator Rives,” *Phenix Gazette*, September 16, 1833.
- <sup>22</sup> “The Crisis!!”
- <sup>23</sup> “Doctrines,” *Richmond Enquirer*, December 20, 1832.
- <sup>24</sup> “Political Excitement in the South,” *Phenix Gazette*, September 28, 1832.
- <sup>25</sup> “The Value of the Union.”
- <sup>26</sup> “The Crisis!!”; “Doctrines.”
- <sup>27</sup> Ellis, *The Union at Risk*, 87.
- <sup>28</sup> “The Crisis,” *Richmond Enquirer*.
- <sup>29</sup> “Doctrines.”
- <sup>30</sup> “Pennsylvania—Abandonment of Republican Principles.”
- <sup>31</sup> “The Crisis,” *Richmond Enquirer*.
- <sup>32</sup> “The Proclamation.”
- <sup>33</sup> William G. Shade, *Democratizing the Old Dominion: Virginia and the Second Party System, 1824-1861* (Charlottesville: University of Virginia Press, 1996), 225.
- <sup>34</sup> Shade, *Democratizing the Old Dominion*, 225.
- <sup>35</sup> Agricola, “The Virginia Doctrines, Not Nullification.”
- <sup>36</sup> “Hear Both Sides.”
- <sup>37</sup> “The Crisis,” *Richmond Enquirer*.
- <sup>38</sup> “The Crisis,” *Constitutional Whig*.
- <sup>39</sup> “Hear Both Sides.”
- <sup>40</sup> “Hear Both Sides.”

---

<sup>41</sup> “Hear Both Sides.”

<sup>42</sup> “The Crisis,” *Richmond Enquirer*.

<sup>43</sup> “Hear Both Sides.”

<sup>44</sup> “Pennsylvania—Abandonment of Republican Principles.”

<sup>45</sup> “Pennsylvania—Abandonment of Republican Principles.”

<sup>46</sup> Agricola, “The Virginia Doctrines, Not Nullification.”

<sup>47</sup> Agricola, “The Virginia Doctrines, Not Nullification.”

<sup>48</sup> “Hear Both Sides.”

<sup>49</sup> “Pennsylvania—Abandonment of Republican Principles.”

<sup>50</sup> Agricola, “The Virginia Doctrines, Not Nullification.”

<sup>51</sup> “Hear Both Sides.”

<sup>52</sup> “The Crisis!!”

<sup>53</sup> Agricola, “The Virginia Doctrines, Not Nullification.”

<sup>54</sup> “Political Views,” *Richmond Enquirer*, December 28, 1832.

<sup>55</sup> Agricola, “The Virginia Doctrines, Not Nullification.”

<sup>56</sup> Agricola, “The Virginia Doctrines, Not Nullification.”

<sup>57</sup> Agricola, “The Virginia Doctrines, Not Nullification.”

<sup>58</sup> Agricola, “The Virginia Doctrines, Not Nullification.”

<sup>59</sup> Agricola, “The Virginia Doctrines, Not Nullification.”

<sup>60</sup> “Hear Both Sides.”

<sup>61</sup> “Hear Both Sides.”

<sup>62</sup> Ellis, *The Union at Risk*, 133-134.

<sup>63</sup> “Resolves of the Legislature of Virginia,” in *State Papers on Nullification*, ed. Leonard

---

W. Levy (New York, NY: Da Capo Press, 1970), 197.

<sup>64</sup> “Resolves of the Legislature of Virginia,” in *State Papers on Nullification*, ed. Leonard W. Levy (New York, NY: Da Capo Press, 1970), 195-196.

<sup>65</sup> “Resolves of the Legislature of Virginia,” in *State Papers on Nullification*, ed. Leonard W. Levy (New York, NY: Da Capo Press, 1970), 196-197.

<sup>66</sup> “Resolves of the Legislature of Virginia,” in *State Papers on Nullification*, ed. Leonard W. Levy (New York, NY: Da Capo Press, 1970), 197.

<sup>67</sup> Richard E. Ellis, *The Union at Risk: Jacksonian Democracy, States' Rights, and the Nullification Crisis* (New York: Oxford University Press, 1989), 84.

<sup>68</sup> “Resolves of the Legislature of Virginia,” in *State Papers on Nullification*, ed. Leonard W. Levy (New York, NY: Da Capo Press, 1970), 195.

<sup>69</sup> “Resolves of the Legislature of Virginia,” in *State Papers on Nullification*, ed. Leonard W. Levy (New York, NY: Da Capo Press, 1970), 196-197.

<sup>70</sup> “Resolves of the Legislature of Virginia,” in *State Papers on Nullification*, ed. Leonard W. Levy (New York, NY: Da Capo Press, 1970), 197.

## Bibliography

*Constitutional Whig*, (Richmond, VA).

Ellis, Richard E. *The Union at Risk: Jacksonian Democracy, States' Rights, and the Nullification Crisis*. New York, NY: Oxford University Press, 1989.

*Lynchburg Virginian*, (Lynchburg, VA).

*Phenix Gazette*, (Alexandria, VA).

*Richmond Enquirer*, (Richmond, VA).

Shade, William G. *Democratizing the Old Dominion: Virginia and the Second Party System, 1824-1861*. Charlottesville, VA: University Press of Virginia, 1996.

*State Papers on Nullification, Including the Public Acts of the Convention of the People of South Carolina (1832-33), The Proclamation of the President of the United States, and the Proceedings of the Several State Legislatures Which Have Acted on the Subject*. Edited by Leonard W. Levy. New York, NY: Da Capo Press, 1970.