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# OPINION

Dedicated to Truth, Honor and Integrity  
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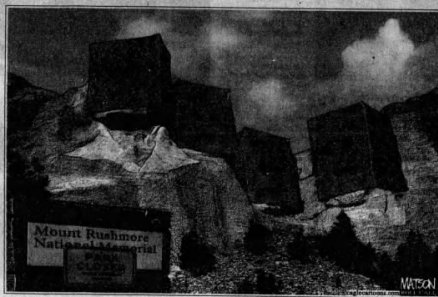
## SECESSIONISTS, NULLIFIERS

# Andy Jackson took on his dad's tea party

As the government shutdown marks its second week, liberal commentators such as The Washington Post's Colbert King have likened the political forces arrayed against the Affordable Care Act to a "New Confederacy," akin to the slaveholding, secessionist Confederate States of America. That's not quite right: The occasion for secession in the 1860s was the election of Abraham Lincoln, not the passage of a bitterly contested federal law.

**STEPHEN MIHM**  
Guest columnist

Instead, it's an earlier political firestorm from the 1850s called the Nullification Crisis, which involved a controversial 1828 law that became known as the "Tariff of Abominations" in the fiery oratory of Jacksonian America, as the "Tariff of Abominations." The debates over Obamacare and the Tariff of Abominations emerge out of the same problem. Despite all the checks and balances embedded in our national government, it is inevitable that Congress will pass laws that are detested by a sizable minority of the populace. When those laws subsequently pass judicial review, as the health care legislation did, the law is here to stay. John C. Calhoun of South Carolina thought otherwise. Even as he served as Andrew Jackson's vice president, Calhoun was a vocal defender of states' rights and a sophisticated exponent of what has become known as the theory of the concurrent majority. This idea predated Calhoun and the 1850s, but it acquired new levels of clarity in his hands. After Congress passed the infamous Tariff of Abominations in 1828, Calhoun devised a system by which a political minority could contest a law that had otherwise passed muster with all three branches of government.



The legislation significantly raised tariffs on imported goods. While the new protectionist duties benefited New England manufacturers, Southerners now had to pay more for textiles to clothe their slaves and for the tools to equip them. At the same time, by upsetting the balance of trade, the tariff lowered demand for cotton, the South's staple crop. In response, Calhoun anonymously wrote the famous "South Carolina Exposition and Protest." In brief, he theorized that individual states that believed a law was unconstitutional could take it on themselves to call a special state-level convention to decide the matter. If a majority of those assembled — the "concurrent majority" — decided that the law was unconstitutional, citizens of the state would no longer be bound by it.

This idea was based in part on an earlier precedent from the 1790s, when Thomas Jefferson and James Madison wrote resolutions passed by both Kentucky and Virginia that effectively made the same claim involving the noxious legislation known as the Alien and Sedition Acts. Calhoun's signal contribution was to devise an elaborate political theory behind nullification, as well as a practical guide for carrying it out on the state level. Needless to say, Calhoun's interest in protecting the rights of a political minority of slaveholders didn't extend to the actual enslaved minorities who labored on his plantation. As the historian Daniel Walker Howe has observed, while Calhoun rightly retains a reputation as a brilliant political theorist, "his tragedy and America's was that he turned his talents to immobilizing the federal government in the service of a slave economy." By 1832, the crisis that Calhoun helped create reached dangerous heights. A convention met in South Carolina and declared the tariffs null and void,

despite a reduction in rates that Congress ratified to pacify the Southerners. The assembled group also summoned 25,000 state militiamen to counter federal forces. Worst of all, the convention vowed to secede if the federal government tried to stop South Carolina from flouting the law. On Dec. 28, 1832, Calhoun resigned as vice president and took a South Carolina Senate seat. It was during this process that nullification went from being an abstract bit of theorizing to an actual threat to the Union. Andrew Jackson would have none of this, particularly coming from his former vice president, whom he had grown to detest. Despite being a slave owner and Southerner himself, the president bluntly declared that the nullifiers were guilty of "treason" and warned that "if one drop of blood be shed there in defiance of the laws of the United States, I will hang the first man... I can get my hands on to the first tree I can find." Jackson wasn't kidding. Memorably, when asked whether he thought Jackson was serious, an ally of the president replied that

"when Jackson begins to talk about hanging... look out for ropes!" But Jackson's response was equal parts bombast and crass pragmatism. As he rattled federal sabers, he also moved the collection of tariffs offshore, away from South Carolina ports, lowering the chance of a clash between federal and state forces. He simultaneously sanctioned a face-saving reduction in the tariffs, enabling the nullifiers to declare victory. The most serious constitutional crisis before the Civil War had been averted. The nation faces a crisis sparked by many of the same dynamics. An aggrieved minority hates a federal law and wants to do everything in its power to kill it. And it is within its rights to do so, up to a point. As Bloomberg View columnist Ramesh Ponnuru has rightly observed, it is neither shocking nor surprising that the Republicans have exploited loopholes in the law to delay its passage. While liberals may not like it, Republicans are playing by the rules. But recent threats to shut down the government or, worse, default on the debt represent a revocation of the rules. In its nihilism, the tea party is closer in spirit to the nullifiers of the 1850s, who were willing to put the Union at risk to defeat a national law. "Let never be forgotten," Calhoun once said, that "where the majority rules, the minority is the subject." Perhaps, but nullification and secession, like the tea party tactics of today, elevated the minority into a position of terrifying power. One tyrant simply replaces another. These tactics have long-term costs. If the U.S. defaults on its debt because a handful of Republican legislators don't like a law vetted by all branches of government, the damage will go beyond a much lower credit rating. Something else — a sense that the U.S. is, for all its differences, united — will have been lost. **Stephen Mihm, an associate professor of history at the University of Georgia, is a contributor to The Ticker.**

## LETTERS

# Readers sound off on shutdown, Obamacare, Ted Cruz

It's probably giving U.S. Supreme Court Chief Justice John Roberts too much credit, but his declining fifth vote and the majority opinion he wrote in 2012 upholding the constitutionality of the Affordable Care Act (Obamacare) just might have been a clever ploy. Actually, it might have been a stroke of genius. Roberts has been vilified by conservatives ever since that decision, but he may have the last laugh if the tea party faction in the House can force the GOP's Chicken Littles to stay the course in denying funding for Obamacare. This could well serve a useful purpose: The unpopular Obamacare would sit on the shelf unused until finally thrown out with the other spoilage. Roberts sustained Obamacare by declaring that its individual mandate was a tax, not a penalty, and therefore constitutional under the taxing authority of Congress. Otherwise, as a penalty — as originally intended by Congress and as written into the law — it would have been held unconstitutional. All revenue bills must originate in the House, as provided by the Constitution. Because Obamacare's funding would be a tax levy per the Supreme Court, the House has the constitutional prerogative to provide for its funding or not. As James Madison, father of the Constitution, wrote in the Federalist Papers (No. 58): "The House of Representatives can not only refuse, but they alone can propose, the supplies requisite for the support of government." Did Roberts unwittingly supply the scalpel with which to gut Obamacare? We may never know.

**Sammy McLarty, Waco**

The truly unique shutdown occurred under President Bill Clinton and House Republicans. It lasted 21 days — longest shutdown ever. Both sides fought bitterly about what should be in the budget. Yet both kept offering and counteroffering proposals, each giving up to the other bit by bit. And the shutdown finally ended. So just what's unique? Both sides claimed them and still claim that out of all this "they" were responsible for a balanced budget and welfare reform. Even to this day, Clinton brags about the millions who got jobs, paying taxes instead

of costing taxpayers. Most times, one side wins to the detriment of America. This time, it could be a win for both sides and America. Maybe a long shutdown might be good for America again.

**Jim Cantrell, Austin**

The nation is witnessing a vivid demonstration of the power of wealth over Congress. Our Canadian-born senator, Ted Cruz, is among those representing the money that elected them rather than the people they were elected to serve. Even though I did not vote for our Republican members of the House or the Senate, they are supposed to represent me and other citizens outside their party membership. We now see the degree of compassion felt by tea party and other ultra-conservative Republicans for the welfare of working-class Americans, and we can measure their concern for the country's economy and reputation by their lack of effort to pass a clean budget resolution. The wealthy of our nation do not have to serve in the military, police the city streets or teach in poor school districts to block any move to levy their income with a tax level comparable to that paid by those who earn their livings by hard work and who suffer immediate financial worries when a crisis arises. It is just time for those elected to the House of Representatives to do the job they were elected to do.

**J.B. Chapman, Hubbard**

Note to Sen. Ted Cruz: Even if you had succeeded in defunding Obamacare (and that likelihood appears to be fast dwindling), it is still a law on the books. While you were busy reading Dr. Seuss and re-reading "Star Wars" and "TV's Duck Dynasty" during your quasi-filibuster, you could have offered helpful ways to improve it rather than just scrapping it. The GOP could have been doing that and not voting 40 times to repeal it. They're just punishing Americans for not electing Mitt Romney by throwing a temper tantrum. This was never about

negotiation — it was all about losing an election.

**Chance Hodde, Waco**

Regarding Barbara Collier's Oct. 4 letter: There are also a lot of people who can't believe there's a guy in the presidency who has not shown firm proof that he was born in this country either. How could he so easily fool people such as Collier into believing the Affordable Care Act is anything other than the biggest Ponzi scheme and betrayal of citizens that this country has ever experienced?

**R.M. Schlemmer, Gibson**

American citizens, now is the time to speak out. If we do not, the United States is headed to hell in a handbasket. Regardless of which party you favor, something has to be done. Voice your feelings, opinions and ideas. Talk to each other wherever you are. Make a sign for your car and home. Send letters to the newspaper and TV stations to flood the news media. Flood offices of your representatives and senators. Do not — I repeat, do not — sit and complain, waiting for someone else to do something.

**Tone Mahon, Belmead**

Since when is it wrong to stand up to a bill that is going to do a lot of harm to the economy than a government shutdown? People are already losing their jobs and companies are resorting to laying off part-time employees to get around Obamacare. The Republicans have told the Democrats they would talk about Obamacare and try to see what changes can be made to make it better.

In truth, our president has already changed this law by making sure big business has another year before implementation of the individual lawmakers are exempt from it. So this is not the original bill that was passed anyway. Yet all refuse to budge, even though the country does not have the money to fund it. I think one reason is because our president's name is associated with this law. But if it goes into effect and it has a

consequence and proves a failure, as it looks like it might, he may well be sorry his name is associated with it. Let's be civil and pray that people with cooler heads and compromising minds can do something to get our country back on track.

**Jerry Willett, Lorena**

Regarding the government shutdown, I didn't know that if the government shuts down, it affects parks at Lake Waco that have no on-site personnel. We now face locks on the gates and have no access to the lake. If they didn't have personnel at the park before the shutdown, why must the park be closed now?

I think the lake was much better back in the 1980s when you could get more access because there were no raiks up around the parks to block entry. And no one told you when or where you could fish.

We are headed more and more to a communist state. We need to vote for more people who are not career politicians and elect more "everyday" people. We also pay politicians way too much. This is just one man's opinion.

**Scott M. Struble, China Spring**

President Obama was elected president of the United States, not president of the Democratic Party. He is my president too. He needs to act like the leader of this nation and bring together both parties and make them sit down and reason together to get the government functioning again.

Both parties have been name-calling and slandering each other, thus preventing any possibility of real dialogue while shaming and embarrassing America before the entire world. Obama needs to hold both parties accountable — they need to sit down and work together with respect for the positions they all hold, even if they do not have respect for each other. They must put aside their pride and selfish ambition for the good of the people they were elected to serve.

If you do not hear us now, we the people will be heard at the upcoming elections.

**Carol Bailey, Waco**