



Lesson 7: Nullification in Practice

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Introduction

Nullification is a practical and constitutional method by which states can push back against federal overreach without dissolving the Union. It allows states to refuse to enforce or recognize federal laws or actions that exceed the powers granted to the federal government by the Constitution.

Key Concepts:

The Constitution as a Compact and the Role of States:

- The Constitution is a compact among the states, not a contract between the federal government and the states.
- The federal government often acts as though it has unlimited power, assuming citizens and states will not challenge this overreach. Historically, this assumption has been correct, but it need not remain so.

Nullification as a Remedy:

- Nullification is a remedy available to states when the federal government exceeds its constitutional authority. It allows states to invalidate federal actions that violate the terms of the constitutional compact.
- This approach has several benefits:
- **Preservation of the Union:** Nullification allows states to address federal overreach without resorting to secession, thus maintaining the Union.
- **Demonstration of Allegiance:** It shows that states are committed to the principles of freedom that the Constitution was designed to protect.
- **Less Radical than Secession:** Nullification is a measured response to specific violations, rather than a drastic measure like secession.

Secession as a Last Resort:

- While nullification is preferable, secession remains a legitimate option if the federal government becomes too oppressive.
- Secession is similar to leaving a political party that no longer represents one's values—there is nothing in law or reason that can compel continued association with an organization that has betrayed its founding principles.

Historical Support for Nullification and Secession:

- Abraham Lincoln, before becoming president, argued for the right of people to “shake off” a government that no longer serves their interests.
- The laws of nature and the principles of popular sovereignty support the idea that a people, or a portion of them, can withdraw from a political union if it becomes tyrannical.

Conditions for Nullification:

- Before a state nullifies a federal act, two key questions must be answered:

1. **Does the Act Violate the Constitution's Enumerated Powers?**
2. **Has Every Attempt at Redress Been Made?**

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- These questions should be answered by state legislatures, as they are constitutionally responsible for protecting the sovereignty of their states.

The Federal Government's Encroachment:

- The federal government has consistently encroached on state sovereignty, and history shows that once power is assumed by a central authority, it rarely relinquishes it.
- States must resist these encroachments by asserting their constitutional right to nullify federal actions that exceed the powers granted by the Constitution.

The Role of the Supreme Court:

- Some argue that once the Supreme Court has ruled on the constitutionality of a federal act, nullification is no longer an option. However, this view is challenged by historical figures like Thomas Jefferson, who warned against the judiciary becoming a "despotic branch" with unchecked power.
- The ultimate authority on constitutional matters lies with the people acting through their states, not with the federal judiciary.

The Importance of Nullification:

- Nullification should be a routine practice by states to keep the federal government within its constitutional limits.
- By regularly nullifying unconstitutional federal acts, states can reduce the number and intensity of conflicts with the federal government and clarify the boundaries of state and federal power.

The Threat of Federal Overreach:

- If states fail to assert their rights through nullification, they risk becoming mere administrative arms of the federal government, losing their sovereignty and the liberty of their citizens.
- The checks and balances of the Constitution are meant to protect against tyranny, but the final safeguard is the action of the states and the people in resisting unconstitutional federal laws.

Conclusion

Nullification is not an act of rebellion or secession; it is a constitutional tool that states can use to protect their sovereignty and the liberties of their citizens. By routinely nullifying unconstitutional federal actions, states can preserve the union while ensuring that the federal government remains within the boundaries set by the Constitution. States must remember that sovereignty is not secession, rejection is not revolution, and nullification is not a negation of the Union, but a defense of it.