



Lesson 11: What Would Jefferson Do? — Defending Nullification and State Sovereignty

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Introduction

The concept of nullification often faces harsh criticism, with proponents being labeled as radicals or secessionists. However, nullification is rooted in the very principles that the Founders, including Thomas Jefferson and James Madison, championed to protect the union from federal overreach. This lesson explores the historical and logical basis for nullification, refuting the misconceptions that surround it.

Key Concepts:

Nullification: A Defense, Not a Rebellion:

- Nullification is not about undermining the union or rejecting the Constitution; it is about preventing the unconstitutional expansion of federal power.
- The Virginia and Kentucky Resolutions, authored by Madison and Jefferson, were designed to safeguard the union by resisting unconstitutional actions by Congress, not to promote disunion or secession.

The Founders' Intent:

- Jefferson and Madison were deeply committed to preserving the union they helped to create. They recognized that allowing the federal government to exceed its constitutional limits would ultimately lead to tyranny.
- Jefferson argued that if states seceded to form new unions, they would face the same problems, eventually leading to their fragmentation into isolated, weaker entities.

Strengthening the Union Through Constitutional Limits:

- By enforcing the enumerated powers listed in the Constitution, the union is strengthened because it prevents the federal government from overreaching and fraying the bonds between the states.
- If the federal government continues to overstep its bounds, it risks pushing states away, potentially leading to their eventual separation.

The Tenth Amendment and State Sovereignty:

- The Tenth Amendment clearly reserves powers to the states and the people, underscoring the limited nature of federal authority.
- If the states had surrendered all their powers to the federal government during ratification, there would be no need for the Tenth Amendment to exist, as there would be nothing left to reserve.
- The states are not third-party beneficiaries of the Constitution; they are the very creators of the federal government, and thus retain the right to judge the constitutionality of federal actions.

The Homeowners' Association Analogy:

- The relationship between the states and the federal government can be compared to a homeowners' association (HOA). The HOA is created by homeowners (states) to manage specific, enumerated responsibilities.
- If the HOA (federal government) oversteps its bounds—such as by mandating all homeowners purchase a specific car — it is the homeowners who have the right to reject this overreach.

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- In the same way, states have the right and responsibility to nullify any federal act that exceeds the authority granted by the Constitution.

The Need for Consistent Nullification:

- States must consistently nullify every unconstitutional federal act to maintain their sovereignty and protect the liberties of their citizens.
- Failure to do so is akin to the homeowner in the analogy who obediently buys the mandated car, even though the HOA has no authority to demand it.

Jefferson's Legacy and the Modern Implications:

- Jefferson, a fierce advocate for liberty and state sovereignty, would never have complied with unconstitutional mandates from the federal government.
- Following Jefferson's example, modern states should actively resist federal overreach by employing nullification, thereby preserving the union and ensuring the federal government remains within its constitutional boundaries.

Conclusion

Nullification is a constitutional defense mechanism, not an attack on the union. It is rooted in the principles of the Founders, particularly Jefferson and Madison, who sought to protect the states from federal overreach while maintaining the integrity of the union. By understanding and embracing nullification, states can safeguard their sovereignty and prevent the federal government from becoming the very tyrant that the Constitution was designed to restrain. Just as Jefferson would have resisted unconstitutional mandates, so too should modern states stand firm in their defense of liberty and constitutional governance.