

The Nullifiers

by Taylor Stoermer - April 26, 2010

Guesty commentary

...it is important to strengthen the State governments; and as this cannot be done by any change in the Federal Constitution (for the preservation of that is all we need contend for), it must be done by the States themselves... --Thomas Jefferson to Archibald Stuart, December 23, 1791

The curious current trend among a particular group of state officials to invoke Jeffersonian “states’ rights” principles to “nullify” federal laws with which they disagree would be amusing for its sheer misguided quaintness if it was not such a rank misuse of Jefferson’s fundamental hopes for the U.S. Constitution and his vision of the relation of the states to it.



Jefferson’s brief infatuation with nullification was ignited by what he saw as a dagger to the very heart of the young republican government: The Alien and Sedition Acts. To Jefferson, the acts were rank violations of the rights of individuals and of individual states. They appeared as a “rod of iron” that must be “arrested at the threshold” before corrupted Federalists could destroy the fragile constitutional foundation of the young republic and reconstruct on its ruins a despotic monarchy with themselves at the helm. Jefferson’s response, with James Madison’s help, was to call on the people of Kentucky and Virginia in 1798 to rise up against a national government that had clearly forfeited its legitimacy by threatening its fundamental constitutional forms. Jefferson therefore saw nullification as the best way to reestablish the “beautiful equilibrium on which our constitution is founded” by restoring some semblance of balance in the complex system of interlocking levels of government that American state-builders concocted in 1787.

Modern would-be nullifiers appear to stand on less certain historical footing. Officials such as Georgia’s insurance commissioner, a Republican who just happens to be in the midst of a race for governor, base their arguments on articulated opposition to the expansion of federal power and the prospective financial commitment of states to provide health care for their citizens. Leaving aside Jefferson’s insistence that health is a more “desirable” and “lovely” possession than even knowledge, the arguments proffered by today’s states’ rights advocates—which seem to be based primarily on a distasteful blend of bureaucratic inconvenience and partisan posturing—hardly rise to the standard set by Jefferson in the Kentucky Resolutions. To Jefferson, nullification was a resolutely necessary means of redeeming and defending America’s experiment in a

republican empire of liberty, rather than a way to gain short-term political advantage and sidestep the cost of caring for the health of fellow citizens. Far from being the heirs to Jefferson's constitutional principles, the new nullifiers seem more like apostates from them.

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