

Who Could Possibly Support Nullification?

Donald Trump's new interim Attorney General, Matthew Whitaker, was recently criticized by CNN for holding to the proper, legitimate, and constitutional position that states have a right and a duty to interpose and nullify unconstitutional federal laws, policies, or court opinions.

Now Black's Law Dictionary defines Interposition, as "the action of a State while exercising its sovereignty in rejecting a federal mandate that it believes is Unconstitutional or over-reaching." Similarly, Nullification is defined as "The act of making something void; the action of a State in abrogating a federal law on the basis of State sovereignty."

In a 2013 campaign speech Whitaker stated about nullification: "Now we need to remember that the states set up the federal government and not vice versa. And so the question is, do we have the political courage in the state of Iowa or some other state to nullify Obamacare and pay the consequences for that?"

He went on to add: "But do I believe in nullification? I think our founding fathers believed in nullification. There's no doubt about that."

Mr. Whitaker of course is correct, both nullification and interposition were used by our founders in 1776 being documented in the Declaration of Independence wherein are written the words, "When in the Course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them... such is now the necessity which constrains them to alter their

former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations.”

Nullification was also the tool of anti-slavery abolitionists who used it as much as possible, especially against the abominable Fugitive Slave Act. Almost every northern state passed what were known as personal liberty laws meant to thwart the unconstitutional Act.

Now opponents of our founding fathers, like CNN contributor Stephen Vladeck, believe concepts like nullification are “...irreconcilable not only with the structure of the Constitution, but with its text, especially the text of the Supremacy Clause of Article VI—which not only makes federal law supreme, but expressly binds state courts to apply it.”

Tragically the average ignorant American will believe Vladeck but if they would just read Article VI of the Constitution, they would realize that Vladeck’s assertions are utterly false. What Article VI does *not* make supreme are “federal laws,” what it does make supreme is the “Constitution.”

Another calamitous view many Americans have, is that whatever the federal courts rule as “constitutional” is what is “constitutional.” This is known as judicial supremacy – and judicial supremacy is also a misinterpretation of the Constitution.

What we all must understand is that all federal laws and Supreme Court opinions must comport with the Constitution – and if it doesn’t the states must interpose, challenge, and nullify.

Schedule an event or learn more about your Constitution with Jake MacAulay and the Institute on the Constitution and receive your [free gift](#).

E-Mail Jake MacAulay: Jake@TheAmericanView.com