

Book Review

Nullification: How to Resist Tyranny in the 21st Century, by Thomas E. Woods, Jr., hardback, 309 pp, \$24.95, ISBN 978-1-59698-149-2, Washington, D.C., Regnery Publishing, 2010.

“Governments are notoriously difficult to control, even under the best of conditions.”

“There has been no more destructive force in the history of the world than the modern state.... The predatory modern state corrupts everything it touches.”

“Nullification provides a shield between the people of a state and an unconstitutional law from the federal government.”

“In the American system, the sovereigns are the peoples of the various states.”

—**Thomas Woods**

In *Nullification*, the author of the best-seller *Meltdown* addresses the urgent questions: what is to be done if the (federal) government violates the Constitution? What options are available to the people?

He points out that, on the excuse that desperate times call for reckless measures, many destructive measures have been imposed on us, including the North American Free Trade Agreement, the World Trade Organization, the bailout of the Mexican peso, the PATRIOT Act, the Wall Street bailouts, the fiscal stimulus bill of 2009, and the latest and most draconian, the Orwellian Patient Protection and Affordable Care Act. Woods observes that these measures benefit interests other than the public good, and that if political representation ever really meant anything, it surely doesn't today.

We have been taught to believe that the only way to organize society is for an infallible central authority (government) to issue commands. Our ever-growing government justifies its expansion by exploiting one of three constitutional clauses: the General Welfare clause, the Commerce Clause, or the “Necessary and Proper” clause. Woods examines each of these in detail and shows why they can't lawfully be used for this purpose. He observes that they mean nearly the opposite of what politicians and judges have tried to tell us they mean.

He poses the question: how and by whom should an unconstitutional law be declared void and thus not enforced? The Supreme Court cannot do this, as it is a branch of the federal government. The federal government cannot be permitted to hold a monopoly on interpretation of the Constitution because—as history amply shows—in spite of elections, the separation of powers, and other Constitutional limits, the government will continue to grow relentlessly.

Woods concludes that the state governments, each one speaking only for itself, are the logical choice to rein in the federal government. They are the parties to the federal compact and can declare any federal law null and void and refuse to enforce it. This nullification is an unjustly maligned Jeffersonian remedy that is largely unknown today, but it was in the mainstream of Virginian political thought in the late 18th century. It is based on the forbidden idea that a federal law that violates the Constitution is no law at all.

One of the earliest uses of nullification was to oppose the Alien and Sedition Acts of 1798, which, among other things, established fines and jail time for spoken or written criticism of the government. Jefferson's response to them, in modified form, became the Kentucky Resolutions of 1798 and 1799 and the Virginia Resolutions of 1798, known as the “Principles of '98.” The latter stated: The states do not “hold their constitutional rights by the courtesy of Congress.... Congress is the creature of the States and of the people; but neither the States nor the people are the creatures of Congress.”

In subsequent years the Principles of '98 were used at different times to oppose conscription and to support freedom of speech, free trade, and state control of the militia. It is in light of this largely unknown American history that the tradition of nullification makes the most sense and can be most readily defended. Unfortunately, the students in our compulsory government schools are not taught about it. Woods is careful to point out that the Civil War and slavery had nothing to do with nullification.

If the people of the states are determined not to obey a federal law they consider unconstitutional, that law simply will not be enforced. This actually occurred recently, when two dozen states nullified the REAL ID Act of 2005, an unfunded federal mandate imposed on the states.

The movement is spreading. Three states have passed laws, and nearly two dozen others are considering laws, to nullify federal gun laws. The Sheriffs First initiative is a continuing state challenge to federal power that would require any federal law enforcement official to obtain permission from the local sheriff before making an arrest. Another initiative is the Bring the Guard Home movement, which seeks to return control of their National Guard units to the state governors.

Fourteen states currently resist the federal law making the medicinal use of marijuana illegal. An early example was California's Compassionate Use Act of 1996, a popular referendum that became law in defiance of the federal prohibition. Unfortunately, thanks partly to Supreme Court liberals Stephen Breyer and Ruth Bader Ginsburg, the Court ruled against California's law. Yet more than 1,000 dispensaries of marijuana now operate in Los Angeles County alone, in defiance of the federal ban. Other initiatives to nullify different federal laws continue in at least 18 states.

The best source for following the nullification initiatives is the Legislative Tracking page at TenthAmendmentCenter.com. Another source is the author's website TomWoods.com.

Those who oppose the centralized structure of the modern state and who favor nullification will be demonized as cranks who harbor sinister motives. But as Woods points out, none of our public officials are described in this way. Yet, considering the unprecedented barbarism of the state's wars, its totalitarian revolutions, and its genocides, Woods believes the moral presumption should be the other way around.

The author concludes that “the regime in Washington has grown so destructive and parasitic, its activities so inimical to the welfare, liberties, and prosperity of the people, and so remote from any conception of constitutionally limited government that supporters of nullification need not apologize for disrupting its plans.”

As citizens, we have an obligation to understand this potential remedy for the government tyranny that threatens to destroy our Constitutional Republic. Read *Nullification* and recommend it to your friends and colleagues.

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