THE REMEDY BY STATE INTERPOSITION, OR NULLIFICATION pdf

1: The Remedy by State Interposition, or Nullification;: www.enganchecubano.com: William Harper: Books

This scarce collection of three major works in South Carolina's call for nullification, a searing constitutional challenge that set the stage for Civil War, contains the first publication of a foundational speechâ€"The Remedy by State Interpositionâ€"by William Joseph Harper, a leading voice for nullification.

Posted on September 16, by forloveofgodandcountry by Diane Rufino, September 16, In , Thomas Jefferson wrote an opinion on the constitutionality of a National Bank. It is an important commentary on the meaning and intent of the US Constitution, in particular the two general clauses â€" the General Welfare Clause and the Necessary and Proper Clause. Not sure if such a bank was a constitutional exercise of government legislative power, Washington asked Hamilton and Jefferson, his Secretary of State, to articulate their positions. And so, on Feb. The clause did not mean Congress could pursue action that was merely convenient or helpful. He argued that the Constitution, in Article I, Section 8, created a legislature not only of specific powers but of implied powers as well. In the end, the House and then the Senate approved a bill establishing a charter for the first National Bank, and President Washington, siding with Hamilton, signed it. The first Bank of the United States was built in Philadelphia. It explains the intended checks and balances on the federal legislature, both horizontal and vertical. The Supreme Court would later find the most important check to be unconstitutional. At the end of his Opinion, Jefferson writes: The right of the Executive. Of the States and State legislatures. The present is the case of a right remaining exclusively with the States, and consequently one of those intended by the Constitution to be placed under its protection. These are the rightful remedies reserved to each State, according to Jefferson when the federal government exceeds its delegated authority under the Constitution and specifically, when it attempts to legislate in areas reserved to the States under the Tenth Amendment. A law passed without constitutional authority is a law is a nullity; it is unenforceable. It is up to the States, as the most important of the Checks and Balances a vertical check to make sure that the people, protected by the Constitution as to the lawful bounds of government, are not subject to unconstitutional laws. Here you have it, from the earliest days of our republic, the clear and simple articulation of the right of Nullification. In the Kentucky Resolves of , Jefferson wrote: That the principle and construction contended for by sundry of the state legislatures, that the general government is the exclusive judge of the extent of the powers delegated to it, stop nothing short of despotism; since the discretion of those who administer the government, and not the constitution, would be the measure of their powers: That the several states who formed that instrument, being sovereign and independent, have the unquestionable right to judge of its infraction; and that a NULLIFICATION, by those sovereignties, of all unauthorized acts done under colour of that instrument, is the rightful remedy: That this commonwealth does upon the most deliberate reconsideration declare, that the said alien and sedition laws, are in their opinion, palpable violations of the said constitution; and however cheerfully it may be disposed to surrender its opinion to a majority of its sister states in matters of ordinary or doubtful policy; yet, in momentous regulations like the present, which so vitally wound the best rights of the citizen, it would consider a silent acquiescence as highly criminal: That although this commonwealth as a party to the federal compact; will bow to the laws of the Union, yet it does at the same time declare, that it will not now, nor ever hereafter, cease to oppose in a constitutional manner, every attempt from what quarter soever offered, to violate that compact.

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2: Nullification (U.S. Constitution) - Wikipedia

The Remedy by State Interposition, or Nullification Explained and Advocated by Chancellor Harper, in His Speech at Columbia, (S. C.) On the 20th September, by William Harper Explained and Advocated by Chancellor Harper, in His Speech at Columbia, (S. C.).

Posted July 25, In the article, I explained that Personhood seeks to ignore Roe v. You can read the chapters at the Related Articles links. I pray that it is the beginning of an awakening in the pro-life movement. Roe is not law and the states under the U. Constitution have both the right and the responsibility to defy federal tyranny. The Narnian Dwarfs, forever to think that they are stuck in a stable. Almost immediately upon entering the stable, the weary and bedraggled soldiers know they are in an extraordinary place. It is a refreshing, exhilarating, and invigorating place. Yet, while some of the Narnians rejoice in their newfound home, the Dwarfs are held captive in a prison of their minds. When Aslan, in all his glorious presence, comes near, the Dwarfs refuse to recognize him for who he is. The reality they could experience is more than they can comprehend, so they choose to remain in the prison of their own minds. If the truth sets us free, then what happens when we believe a lie? Just like the self-absorbed Dwarfs, we are held captive. Satan holds us captive and enslaves us simply by convincing us to believe his lies. This is his primary means of keeping Christians ineffective at following the will of God and advancing His kingdom on Earth. This is a profound truth that applies to all aspects of our Christian walk, but this chapter focuses on a particularly insidious deceit that keeps the pro-life movement captive, misdirected, ineffective, and demoralized. The lie goes like this: In order to end legal abortion, we must elect a Republican president and a Republican majority in the US Senate. Wade â€" the infamous decision that legalized abortion in Let us divide this lie into two beliefs that underlie it. First is the premise that Republican judicial appointments will be pro-life and thus, will vote to overturn Roe. Yet, time and time again, the pro-life community pours out blood, sweat, and tears to get Republicans elected, only to be disappointed. While a Democrat regime is far less likely to appoint pro-life justices, there is no guarantee that a Republican regime will. Six of nine justices on the court that decided Roe were Republican appointees and since Roe, 10 of the 14 new justices on the court are Republican appointees. This is one of the most pernicious lies about our republican form of government. There is nothing beyond its reach. Even when faced with the most outrageous SCOTUS decisions, counsels say we must fall in line like good Americans, advocating for the rule of law. The movement has largely abandoned this strategy, due to ongoing disagreements over whether to include exceptions. A constitutional amendment would provide preborn children equal protection under the law in all states and would be extremely difficult to reverse. However, under our current jurisprudence, even a constitutional amendment would be under threat from a SCOTUS opinion. If SCOTUS is the sole and final interpreter of the Constitution, then what would stop the court from reinterpreting any amendment to fit its political agenda? Here in Alaska this is not just theory. In , Alaskans approved an amendment to the state constitution that recognized marriage between one man and one woman. However, in , the Alaska Supreme Court ruled that the public employee benefits provided for married couples must be provided for same-sex couples because they were equal to married couples. This decision essentially thwarted the marriage amendment, and several subsequent decisions broadened the effect. When discussing the problem of our over-powerful judiciary, I often hear that the framers of our Constitution greatly erred when they created the parameters for the judiciary. Certainly, the founders were sinful human beings and prone, like any, to make mistakes. But do we honestly believe that they gave a few unelected attorneys carte blanche power over our country? Where, then, did this dangerous idea of judicial supremacy emerge? This declaration meant that SCOTUS had power to review any action or inaction the President or Congress took, deem it in violation of the Constitution, and render it null and void. Let us pause for a moment to consider the incredible arrogance of such a declaration. Why do we tolerate it in the halls of government? You seem to consider the judges as the ultimate arbiters of all constitutional questions; a very dangerous doctrine indeed, and one which would place us under the despotism of an oligarchy. Our judges are as honest as other men, and not more so. They have, with others, the same passions for party, for power, and the privilege of their corpsâ€¦

Their power [is] the more dangerous as they are in office for life, and not responsible, as the other functionaries are, to the elective control. The Constitution has erected no such single tribunal, knowing that to whatever hands confided, with the corruptions of time and party, its members would become despots. It has more wisely made all the departments co-equal and co-sovereign within themselves. This brings us to the heart of the matter. The reason the judiciary has usurped so much power is because the executive and legislative branches have acquiesced to the demands of a runaway court. It is often easier for politicians to patronize pro-life voters than to do what is necessary and risk the wrath of the abortion lobby. But how far will they take their blind obedience to court opinion? What would the remedy be for such an injustice? Congress could impeach the offending justices, but that would not undo the ruling. Impeachment, appointment of new justices, and Senate confirmation of those justices would take time. The ruling would stand while the process was underway. In the meantime, would state governors, sheriffs, and police officers enforce it? Yet our modern American jurisprudence dictates that the executive branch is duty bound to enforce such a miscarriage of justice, simply because it is the opinion of SCOTUS. Such an outrageous decision is not mere theory. Sandford decision in denied Americans of African descent their rights, creating a second class of human beings in the eyes of the law. The decision has never been overturned by the court. Dred Scott was just the beginning. Priddy claimed Carrie had a mental age of nine and therefore, posed a genetic threat to society. Carrie, one of these children, had been adopted. Carrie was promiscuous, according to Dr. Priddy, evidenced by her giving birth to an illegitimate child. Many of these laws were used against the Black population, particularly in the South in the s, where forced sterilizations were initiated to control the population of welfare recipients, who were predominantly Black. Bell as a defense for forced sterilizations. It is better for all the world if, instead of waiting to execute degenerate offspring for crime or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind. It is important to note that, like Dred Scott, the Buck v. Bell decision was never overturned by the court. This decision was in direct violation of due process in the 5th Amendment. The Korematsu decision was also never overturned. Like the Buck v. Bell and Dred Scott decisions, Korematsu is standing case law. This decision has ushered in the genocide of nearly 60 million preborn Americans. Wade is the law of the land. The President cannot seize complete power because Congress has the law-making authority and holds the purse strings. Congress cannot assume total authority because the President controls the administration and has enforcement power. But what of the judicial branch? What are the checks on the power of an out-of-control Supreme Court? Let us examine some of them. First, let us look at court jurisdiction. In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make [emphasis added]. If Republicans in Congress were serious, they could vote to remove abortion from the jurisdiction of the courts tomorrow, essentially nullifying Roe. Congress could pass a bill granting legal protection to the preborn with a clause that removes the bill from the jurisdiction of the federal courts. Of course, they would have to be serious about ending the killing of the preborn first. Congress has already exercised its power in this way. Let us look at what Alexander Hamilton penned in Federalist Paper 78 regarding the separation of powers: Whoever attentively considers the different departments of power must perceive, that, in a government in which they are separated from each other, the judiciary, from the nature of its functions, will always be the least dangerous to the political rights of the Constitution; because it will be least in a capacity to annoy or injure them. The Executive not only dispenses the honors, but holds the sword of the community. The legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary, on the contrary, has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society; and can take no active resolution whatever. It may truly be said to have neither force nor will, but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments [emphasis added]. In Federalist Paper 81, Hamilton gives us guidance regarding actions the government can take when the courts overstep their limited authority: It may in the last place be observed that the supposed danger of judiciary encroachments on the legislative authority,

which has been upon many occasions reiterated, is in reality a phantom. Particular misconstructions and contraventions of the will of the legislature may now and then happen; but they can never be so extensive as to amount to an inconvenience, or in any sensible degree to affect the order of the political system. This may be inferred with certainty, from the general nature of the judicial power, from the objects to which it relates, from the manner in which it is exercised, from its comparative weakness, and from its total incapacity to support its usurpations by force.

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3: Kentucky and Virginia Resolutions - Wikipedia

*The Remedy by State Interposition, or Nullification: Explained and Advocated by Chancellor Harper, in His Speech at Columbia, (S. C.) on the 20th September, (Classic Reprint) [William Harper] on www.enganchecubano.com *FREE* shipping on qualifying offers.*

The Constitution and the theory of nullification[edit] Provisions of the Constitution[edit] The Constitution does not contain any clause expressly providing that the states have the power to declare federal laws unconstitutional. They have argued that before the Constitution was ratified, the states essentially were separate nations. Under this theory, the Constitution is a contract, or " compact, " among the states by which the states delegated certain powers to the federal government, while reserving all other powers to themselves. The states, as parties to the compact, retained the inherent right to judge compliance with the compact. According to supporters of nullification, if the states determine that the federal government has exceeded its delegated powers, the states may declare federal laws unconstitutional. The courts have rejected the compact theory, finding that the Constitution was not a contract among the states. Rather, the Constitution was established directly by the people, as stated in the preamble: Under the Supremacy Clause of Article VI , the Constitution and federal laws made in pursuance thereof are "the supreme law of the land. Federal laws are valid and are controlling, so long as those laws were adopted in pursuance ofâ€”that is, consistent withâ€”the Constitution. Determining whether a federal law is consistent with the Constitution requires interpretation of the law, which is inherently a judicial function. The federal judicial power granted by Article III of the Constitution gives the federal courts authority over all cases "arising under this Constitution [or] the laws of the United States. The courts therefore have held that the states do not have the power to nullify federal law. On the other hand, the records of the Convention support the idea that the power to declare federal laws unconstitutional lies in the federal courts. At least fifteen Constitutional Convention delegates from nine states spoke about the power of the federal courts to declare federal laws unconstitutional. For example, George Mason said that under the Constitution, federal judges "could declare an unconstitutional law void. Charles Pinckney referred to federal judges as "Umpires between the U. States and the individual States. The records of the state ratifying conventions do not include any assertions that the states would have the power to nullify federal laws. It has been argued that certain statements in the Virginia ratifying convention, although not asserting a right of nullification, articulated a basis for the compact theory. They would declare it void. To what quarter will you look for protection from an infringement on the Constitution, if you will not give the power to the judiciary? There is no other body that can afford such a protection. On the other hand, the records of these conventions support the idea that the power to declare federal laws unconstitutional lies in the federal courts. On the contrary, they say that the power to declare laws unconstitutional concerning is delegated to federal courts, not the states. It explains that under the Constitution, this issue is to be decided by the Supreme Court, not the states: It is true that in controversies relating to the boundary between the two jurisdictions, the tribunal which is ultimately to decide, is to be established under the general [i. Some such tribunal is clearly essential to prevent an appeal to the sword and a dissolution of the compact; and that it ought to be established under the general rather than under the local governments, or, to speak more properly, that it could be safely established under the first alone, is a position not likely to be combated. According to Federalist No. The Kentucky and Virginia Resolutions[edit] Main article: Kentucky and Virginia Resolutions The earliest assertion of the theories of nullification and interposition is found in the Kentucky and Virginia Resolutions of , which were a protest against the Alien and Sedition Acts. In these resolutions, authors Thomas Jefferson and James Madison argued that "the states" have the right to interpret the Constitution and can declare federal laws unconstitutional when the federal government exceeds its delegated powers. These resolutions are considered the foundational documents of the theories of nullification and interposition. The Kentucky Resolutions of , written by Jefferson, asserted that the states formed the Constitution as a compact, delegating certain specified powers to the federal government and reserving all other powers to themselves. Rather, these resolutions declared that Kentucky "will bow to the laws of the Union" but would continue "to oppose in a constitutional

manner" the Alien and Sedition Acts. The resolutions stated that Kentucky was entering its "solemn protest" against those Acts. The author of the Kentucky Resolutions of is not known with certainty. Rather, they introduced the idea of "interposition. The Virginia Resolutions appealed to the other states for agreement and cooperation in opposing the Alien and Sedition Acts. The Kentucky and Virginia Resolutions did not attempt to prohibit enforcement of the Alien and Sedition Acts within the borders of those states. Rather, these resolutions declared that the legislatures of these states viewed the Alien and Sedition Acts as unconstitutional, called for the repeal of these Acts, and requested the support and cooperation of the other states. The Kentucky and Virginia Resolutions were not accepted by any of the other states. Rather, ten states rejected the Resolutions, with seven states formally transmitting their rejections to Kentucky and Virginia [33] and three other states passing resolutions expressing disapproval. It belongs not to state legislatures to decide on the constitutionality of laws made by the general government; this power being exclusively vested in the judiciary courts of the Union. The Report of affirmed and defended the Virginia Resolutions. The Report of also said that a declaration of unconstitutionality by the states would be only an expression of opinion designed to spur debate, rather than having the authoritative effect of a federal court decision. A plainer contradiction in terms, or a more fatal inlet to anarchy, cannot be imagined. No state supported Pennsylvania. The Pennsylvania legislature backed down and withdrew the militia. The Massachusetts legislature passed a resolution stating that the embargo "is, in the opinion of the legislature, in many respects, unjust, oppressive and unconstitutional, and not legally binding on the citizens of this state. Connecticut passed a resolution declaring that the act was unconstitutional and declaring that state officials would not "assist, or concur in giving effect to the aforesaid unconstitutional act. Neither Massachusetts nor Connecticut attempted to ban enforcement of the act within the state. A federal district court ruled in that the Embargo Act was constitutional. Neither state attempted to block enforcement of the Embargo Act, so nullification did not come to a legal test. The New England states objected to putting their state militias under federal control, arguing that the Constitution did not give the federal government authority over state militias in those circumstances. There was some discussion in New England about making a separate peace with Britain or even seceding from the Union. The final report and resolutions from the Hartford Convention asserted that "acts of Congress in violation of the Constitution are absolutely void" and asserted the right of a state "to interpose its authority" to protect against unconstitutional government action. The final resolutions did not attempt to ban enforcement of any act of Congress. Rather, the resolutions recommended to state legislatures that they protect their citizens from unconstitutional federal action, called on the federal government to fund the defense of New England, and proposed a series of amendments to the Constitution. The end of the war made the issue moot. The Virginia court held that as a matter of state sovereignty, its decisions were final and could not be appealed to the U. The Virginia court found unconstitutional the federal statute providing for Supreme Court review of state court judgments. The Supreme Court held that Article III of the Constitution gives the federal courts jurisdiction in all cases arising under the Constitution or federal law, and gives the Supreme Court final authority in such cases. The Supreme Court stated that the people, by providing in the Constitution that the Supreme Court has final authority in such cases, had chosen to limit the sovereignty of the states. The Supreme Court therefore found that the federal courts, not the states, have the final power to interpret the Constitution. Virginia , 19 U. The question was whether the Supreme Court had authority to hear an appeal in a criminal case decided by a state court based on violation of a state law, where the defense was based on federal law. The Virginia legislature passed resolutions declaring that the Supreme Court had no authority over it due to principles of state sovereignty. Thus, the Supreme Court again found that the final power to interpret federal law lies in the federal courts, not the states. These two cases established the principle that the federal courts, not the states, have the final power to interpret the Constitution and to determine the Constitutional limits of federal power. The Supreme Court already had ruled that such taxes were unconstitutional in McCulloch v. Maryland , 17 U. Bank of the United States , 22 U. The Supreme Court stated: Georgia and the Cherokees[edit] In the s, Georgia passed an act making Georgia state law applicable on all Cherokee lands and declaring all laws of the Cherokee nation void. This contradicted federal treaties with the Cherokees, effectively nullifying those federal treaties. Supreme Court in Worcester v. Georgia , 31 U. The Court held that "according to the settled

principles of our Constitution," authority over Indian affairs is "committed exclusively to the government of the Union. He took no immediate action against Georgia. Before the Supreme Court could hear a request for an order enforcing its judgment, the Nullification Crisis arose in South Carolina. A compromise was brokered under which Georgia repealed the law at issue in Worcester. Ultimately the Cherokees were forced to agree to a treaty of relocation , leading to the Trail of Tears. Nullification Crisis The idea of nullification increasingly became associated with matters pertaining to the sectional conflict and slavery. The best known statement of the theory of nullification during this period, authored by John C. Calhoun , was the South Carolina Exposition and Protest of Calhoun asserted that the Tariff of , which favored the northern manufacturing states and harmed the southern agricultural states, was unconstitutional. Calhoun argued that each state, as "an essential attribute of sovereignty," has the right to judge the extent of its own powers and the allocation of power between the state and the federal government. Calhoun argued that each state therefore necessarily has a "veto," or a "right of interposition," with respect to acts of the federal government that the state believes encroach on its rights. Webster argued that the Supremacy Clause provides that the Constitution and federal laws enacted pursuant thereto are superior to state law, and that Article III gives to the federal judiciary the power to resolve all issues relating to interpretation of the Constitution. Under the Constitution, the federal courts therefore have the last word, said Webster. Webster said that the Constitution does not give the states a power of constitutional interpretation, and that any such power would result in as many conflicting interpretations of the Constitution as there are states. In , South Carolina undertook to nullify the Tariff of and the Tariff of , as well as a subsequent federal act authorizing the use of force to enforce the tariffs. South Carolina purported to prohibit enforcement of these tariff acts within the state, asserting that these acts "are unauthorized by the constitution of the United States, and violate the true meaning and intent thereof and are null, void, and no law, nor binding upon this State, its officers or citizens. James Madison, author of the Virginia Resolution, also weighed in at this time, stating that the Virginia Resolution should not be interpreted to mean that each state has the right to nullify federal law. While the Nullification Crisis arose over a tariff law, it was recognized that the issues at stake had application to the slavery question as well. Several northern states passed personal liberty laws that had the practical effect of undermining the effectiveness of the federal fugitive slave statutes and preventing slave owners from recovering runaways. For example, a Pennsylvania law enacted in made it a crime for any person to forcibly remove a black person from the state with the intention of keeping or selling him as a slave. Pennsylvania , 41 U. However, the Supreme Court implied that states might be able to pass laws denying the assistance of state officials in enforcement of the Fugitive Slave Act, leaving enforcement to federal officials.

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Nullification: How to Resist Federal Tyranny in the 21st Century Thomas Woods A readable, comprehensive treatment of the constitutionality of State interposition and nullification. Should be in the hands of every State legislator.

Thank you for your support! Books Is Davis a Traitor? Albert Taylor Bledsoe, author, Brion McClanahan and Mike Church, editors Published a year after the war, it provides the best argument every assembled in one book for the constitutional right of secession. Everyone interested in the overall design of the Constitution ratified by the several States in should read this book. Essays in Southern History and Culture Clyde Wilson A Collection of insightful essays on how Southerners think of themselves in the light of how they are perceived by outside cultural elites. The Enduring Relevance of Robert E. The Founding Fathers Guide to the Constitution Brion McClanahan An article by article and clause by clause analysis of the Constitution ratified by the founding generation of and , a Constitution quite different from what the political class in Washington understands. The Morality of Everyday Life: Rediscovering An Ancient Alternative to the Liberal Tradition Thomas Fleming Fleming editor of Chronicles, A Magazine of American Culture explains how the morality embedded in the ideology of liberalism leads to the decadence of morality in contemporary American society. In Search of the City on a Hill: The Making and Unmaking of an American Myth Richard Gamble A history of the "city on a hill" metaphor from its Puritan beginnings to its role in American "civil religion" today. How to Resist Federal Tyranny in the 21st Century Thomas Woods A readable, comprehensive treatment of the constitutionality of State interposition and nullification. Should be in the hands of every State legislator. A Constitutional History, James Madison and the Constitutionality of Nullification, W. And he explains how and why republicanism has been suppressed. Rethinking the American Union for the 21st Century Donald Livingston Essays raising the question of whether the United States has become simply too large for self-government and should be divided into a number of Unions of States as Jefferson thought it should. The book is signed by Livingston who wrote the "Introduction" and contributed an essay. Classically educated, deeply religious, and preparing for a career in medicine when his country was invaded, he reluctantly became a fierce warrior. He was wounded several times fighting from the very beginning to the end, in 71 battles. Smith Smith shows how Evangelical revivalism in the colonial South Carolina low country had origins in Roman Catholic mysticism, Huguenot Calvinists and German pietism. This disposition, usually identified only with Evangelicals, touched even high Anglicans and Catholics making possible a bond of low country patriotism in the Revolutionary era. The fiddler is a figure of the traditionalist southern-agrarian artist. DVDs Bourbon and Kentucky: Magnificent portraits and landscapes adorn the production. The hand-stitched silk flag with gold painted stars was borne by the Fifth Company of the Washington Artillery of New Orleans through the Battles of Shiloh and Perryville. The flag was designed and made for the army after the first battle of Manassas as a military necessity and wholly without the authority or even the knowledge of the Confederate government. Beauregard and Joseph E. An American President The first and definitive documentary film on the entire life of patriot and president, Jefferson Davis.

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5: The Remedy by State Interposition, or Nullification

The remedy by state interposition, or nullification - Kindle edition by William Harper. Download it once and read it on your Kindle device, PC, phones or tablets. Use features like bookmarks, note taking and highlighting while reading The remedy by state interposition, or nullification.

Interposition was first suggested in the Virginia Resolution of , written by James Madison , which stated: That this Assembly doth explicitly and peremptorily declare, that it views the powers of the federal government, as resulting from the compact, to which the states are parties; as limited by the plain sense and intention of the instrument constituting the compact; as no further valid that they are authorized by the grants enumerated in that compact; and that in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the states who are parties thereto, have the right, and are in duty bound, to interpose for arresting the progress of the evil, and for maintaining within their respective limits, the authorities, rights and liberties appertaining to them. By this statement, James Madison asserted that the states are "duty bound to interpose" to prevent the harm that would result from a "deliberate, palpable, and dangerous" unconstitutional action by the federal government. Madison did not specify the procedural legal details of how this interposition would be enacted or what result it would have. The Virginia Resolution , unlike the contemporaneous Kentucky Resolutions , did not assert that the states may declare a federal law null and void. The Virginia Resolution thus is sometimes considered to be more tempered than the Kentucky Resolutions, which assert that a state may nullify unconstitutional federal laws. The Kentucky and Virginia Resolutions were not accepted by any of the other states. Seven states formally responded to Kentucky and Virginia by rejecting the resolutions [7] and three other states passed resolutions expressing disapproval. It belongs not to state legislatures to decide on the constitutionality of laws made by the general government; this power being exclusively vested in the judiciary courts of the Union. Madison wrote the Report of Madison affirmed each part of the Virginia Resolution, and again argued that the states have the right to interpose when they believe a federal law is unconstitutional. Rather, when the states interpose and declare a federal law unconstitutional, these declarations "are expressions of opinion, unaccompanied with any other effect than what they may produce on opinion, by exciting reflection. The expositions of the judiciary, on the other hand, are carried into immediate effect by force. Madison said that the states might take various types of joint action to remedy the situation, such as jointly applying to Congress for repeal of the law, instructing their senators to submit a constitutional amendment, or calling a convention to propose constitutional amendments. Madison denied that any single state had the right to unilaterally determine that a federal statute is unconstitutional. Madison wrote, "But it follows, from no view of the subject, that a nullification of a law of the U. A plainer contradiction in terms, or a more fatal inlet to anarchy, cannot be imagined. These states often referred to the Virginia Resolution and used the language of interposition, even though they often were attempting or threatening nullification. None of these interposition attempts was legally upheld. The Supreme Court ruled against various interposition and nullification attempts in a series of cases, starting in Board of Education , which ruled that segregated schools violate the Constitution. Many people in southern states strongly opposed the Brown decision. Kilpatrick, an editor of the Richmond News Leader, wrote a series of editorials urging "massive resistance" to integration of the schools. Kilpatrick revived the idea of interposition by the states as a constitutional basis for resisting federal government action. In the case of Cooper v. Aaron , U. The state of Arkansas passed several laws in an effort to prevent the integration of its schools. The Supreme Court, in a unanimous decision, held that state governments had no power to nullify the Brown decision. Aaron directly held that state attempts to nullify federal law are ineffective. The district court stated: If taken seriously, it is illegal defiance of constitutional authority. However solemn or spirited, interposition resolutions have no legal efficacy. Martin Luther King, Jr. I have a dream that one day down in Alabama with its vicious racists, with its governor having his lips dripping with the words of interposition and nullification, one day right there in Alabama little black boys and black girls will be able to join hands with little white boys and white girls as sisters and brothers. Some legislators argue that the states should use these theories to declare unconstitutional

certain acts of Congress, especially including the Patient Protection and Affordable Care Act of Interposition or nullification bills have been introduced in several state legislatures. Opponents respond that interposition is not a valid constitutional doctrine and has been discredited. Orleans Parish School Board , F. The legislatures of the states might have made a direct representation to Congress, with a view to obtain a rescinding of the two offensive acts; or, they might have represented to their respective senators in Congress their wish, that two-thirds thereof would propose an explanatory amendment to the Constitution; or two-thirds of themselves, if such had been their option, might, by an application to Congress, have obtained a convention for the same object.

They argued that the Constitution was a " compact " or agreement among the states. Therefore, the federal government had no right to exercise powers not specifically delegated to it. If the federal government assumed such powers, its acts could be declared unconstitutional by the states. So, states could decide the constitutionality of laws passed by Congress. A key provision of the Kentucky Resolutions was Resolution 2, which denied Congress more than a few penal powers by arguing that Congress had no authority to punish crimes other than those specifically named in the Constitution. The Alien and Sedition Acts were asserted to be unconstitutional, and therefore void, because they dealt with crimes not mentioned in the Constitution: The Virginia Resolution of also relied on the compact theory and asserted that the states have the right to determine whether actions of the federal government exceed constitutional limits. The Virginia Resolution introduced the idea that the states may "interpose" when the federal government acts unconstitutionally, in their opinion: That this Assembly doth explicitly and peremptorily declare, that it views the powers of the federal government as resulting from the compact to which the states are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no further valid than they are authorized by the grants enumerated in that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the states, who are parties thereto, have the right, and are in duty bound, to interpose, for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights and liberties, appertaining to them. History of the Resolutions[edit] There were two sets of Kentucky Resolutions. The Kentucky state legislature passed the first resolution on November 16, and the second on December 3, Jefferson wrote the Resolutions. The author of the Resolutions is not known with certainty. The Virginia state legislature passed it on December 24, The Kentucky Resolutions of stated that acts of the national government beyond the scope of its constitutional powers are "unauthoritative, void, and of no force". Rather than purporting to nullify the Alien and Sedition Acts, the Resolutions called on the other states to join Kentucky "in declaring these acts void and of no force" and "in requesting their repeal at the next session of Congress". Jefferson at one point drafted a threat for Kentucky to secede, but dropped it from the text. Rather, the Resolutions declared that Kentucky "will bow to the laws of the Union" but would continue "to oppose in a constitutional manner" the Alien and Sedition Acts. The Resolutions concluded by stating that Kentucky was entering its "solemn protest" against those Acts. The Virginia Resolution did not refer to "nullification", but instead used the idea of " interposition " by the states. The Resolution stated that when the national government acts beyond the scope of the Constitution, the states "have the right, and are in duty bound, to interpose, for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights and liberties, appertaining to them". The Virginia Resolution did not indicate what form this "interposition" might take or what effect it would have. The Virginia Resolutions appealed to the other states for agreement and cooperation. Numerous scholars including Koch and Ammon have noted that Madison had the words "void, and of no force or effect" excised from the Virginia Resolutions before adoption. Madison later explained that he did this because an individual state does not have the right to declare a federal law null and void. Rather, Madison explained that "interposition" involved a collective action of the states, not a refusal by an individual state to enforce federal law, and that the deletion of the words "void, and of no force or effect" was intended to make clear that no individual state could nullify federal law. Rather, nullification was described as an action to be taken by "the several states" who formed the Constitution. The Kentucky Resolutions thus ended up proposing joint action, as did the Virginia Resolution. As they had been shepherded to passage in the Virginia House of Delegates by John Taylor of Caroline , [8] they became part of the heritage of the " Old Republicans ". Future Virginia Governor and U. Madison himself strongly denied this reading of the Resolution. Responses of other states[edit] The resolutions were submitted to the other states for approval, but with no success. Seven states formally responded to Kentucky and Virginia by rejecting the Resolutions [10] and three other states passed resolutions expressing disapproval, [11] with the other four

states taking no action. No other state affirmed the resolutions. At least six states responded to the Resolutions by taking the position that the constitutionality of acts of Congress is a question for the federal courts, not the state legislatures. Resolved, That the legislature of New Hampshire unequivocally express a firm resolution to maintain and defend the Constitution of the United States, and the Constitution of this state, against every aggression, either foreign or domestic, and that they will support the government of the United States in all measures warranted by the former. That the state legislatures are not the proper tribunals to determine the constitutionality of the laws of the general government; that the duty of such decision is properly and exclusively confided to the judicial department. Measures would be taken, Hamilton hinted to an ally in Congress, "to act upon the laws and put Virginia to the Test of resistance". The Report of reviewed and affirmed each part of the Virginia Resolution, affirming that the states have the right to declare that a federal action is unconstitutional. The Report went on to assert that a declaration of unconstitutionality by a state would be an expression of opinion, without legal effect. The purpose of such a declaration, said Madison, was to mobilize public opinion and to elicit cooperation from other states. Madison indicated that the power to make binding constitutional determinations remained in the federal courts: It has been said, that it belongs to the judiciary of the United States, and not the state legislatures, to declare the meaning of the Federal Constitution. The expositions of the judiciary, on the other hand, are carried into immediate effect by force. The former may lead to a change in the legislative expression of the general will; possibly to a change in the opinion of the judiciary; the latter enforces the general will, whilst that will and that opinion continue unchanged. However, in the same document Madison explicitly argued that the states retain the ultimate power to decide about the constitutionality of the federal laws, in "extreme cases" such as the Alien and Sedition Act. The Supreme Court can decide in the last resort only in those cases which pertain to the acts of other branches of the federal government, but cannot takeover the ultimate decision making power from the states which are the "sovereign parties" in the Constitutional compact. According to Madison states could override not only the Congressional acts, but also the decisions of the Supreme Court: The resolution supposes that dangerous powers, not delegated, may not only be usurped and executed by the other departments, but that the judicial department, also, may exercise or sanction dangerous powers beyond the grant of the Constitution; and, consequently, that the ultimate right of the parties to the Constitution, to judge whether the compact has been dangerously violated, must extend to violations by one delegated authority as well as by another--by the judiciary as well as by the executive, or the legislature. However true, therefore, it may be, that the judicial department is, in all questions submitted to it by the forms of the Constitution, to decide in the last resort, this resort must necessarily be deemed the last in relation to the authorities of the other departments of the government; not in relation to the rights of the parties to the constitutional compact, from which the judicial, as well as the other departments, hold their delegated trusts. On any other hypothesis, the delegation of judicial power would annul the authority delegating it; and the concurrence of this department with the others in usurped powers, might subvert forever, and beyond the possible reach of any rightful remedy, the very Constitution which all were instituted to preserve. Rhode Island justified its position on the embargo act based on the explicit language of interposition. However, none of these states actually passed a resolution nullifying the Embargo Act. Instead, they challenged it in court, appealed to Congress for its repeal, and proposed several constitutional amendments. Several years later, Massachusetts and Connecticut asserted their right to test constitutionality when instructed to send their militias to defend the coast during the War of Connecticut and Massachusetts questioned another embargo passed in Both states objected, including this statement from the Massachusetts legislature, or General Court: A power to regulate commerce is abused, when employed to destroy it; and a manifest and voluntary abuse of power sanctions the right of resistance, as much as a direct and palpable usurpation. The sovereignty reserved to the states, was reserved to protect the citizens from acts of violence by the United States, as well as for purposes of domestic regulation. We spurn the idea that the free, sovereign and independent State of Massachusetts is reduced to a mere municipal corporation, without power to protect its people, and to defend them from oppression, from whatever quarter it comes. Whenever the national compact is violated, and the citizens of this State are oppressed by cruel and unauthorized laws, this Legislature is bound to interpose its power, and wrest from the oppressor its victim.

But the statement did not attempt to nullify federal law. Rather, it made an appeal to Congress to provide for the defense of New England and proposed several constitutional amendments. The Nullification Crisis[edit] During the " nullification crisis " of â€”, South Carolina passed an Ordinance of Nullification purporting to nullify two federal tariff laws. South Carolina asserted that the Tariff of and the Tariff of were beyond the authority of the Constitution, and therefore were "null, void, and no law, nor binding upon this State, its officers or citizens". Andrew Jackson issued a proclamation against the doctrine of nullification, stating: Madison argued that he had never intended his Virginia Resolution to suggest that each individual state had the power to nullify an act of Congress. A plainer contradiction in terms, or a more fatal inlet to anarchy, cannot be imagined. The compact theory[edit] The Supreme Court rejected the compact theory in several nineteenth century cases, undermining the basis for the Kentucky and Virginia resolutions. In cases such as Martin v. Maryland , [21] and Texas v. White , [22] the Court asserted that the Constitution was established directly by the people, rather than being a compact among the states. Abraham Lincoln also rejected the compact theory saying the Constitution was a binding contract among the states and no contract can be changed unilaterally by one party. School desegregation[edit] In , the Supreme Court decided Brown v. Board of Education , which ruled that segregated schools violate the Constitution. Many people in southern states strongly opposed the Brown decision. Kilpatrick , an editor of the Richmond News Leader, wrote a series of editorials urging "massive resistance" to integration of the schools. Kilpatrick, relying on the Virginia Resolution, revived the idea of interposition by the states as a constitutional basis for resisting federal government action. In the case of Cooper v. The Supreme Court held that under the Supremacy Clause , federal law was controlling and the states did not have the power to evade the application of federal law. Orleans Parish School Board, [25] the Supreme Court affirmed the decision of a federal district court that rejected interposition. The district court stated: If taken seriously, it is illegal defiance of constitutional authority. Called forth by oppressive legislation of the national government, notably the Alien and Sedition Laws, they represented a vigorous defense of the principles of freedom and self-government under the United States Constitution. But since the defense involved an appeal to principles of state rights, the resolutions struck a line of argument potentially as dangerous to the Union as were the odious laws to the freedom with which it was identified. One hysteria tended to produce another. A crisis of freedom threatened to become a crisis of Union. The latter was deferred in , but it would return, and when it did the principles Jefferson had invoked against the Alien and Sedition Laws would sustain delusions of state sovereignty fully as violent as the Federalist delusions he had combated. An Essay in Historical Retrieval", 80 Virginia Law Review at the Virginia resolutions "did not in fact license any legally significant action by an individual state. The authority of the states over the Constitution and its interpretation was collective and could be exercised only in concert through the electoral process or by a quasi-revolutionary act of the people themselves". See Elliot, Jonathan []. Anderson, Frank Maloy State of Vermont ". The other states taking the position that the constitutionality of federal laws is a question for the federal courts, not the states, were New York, Massachusetts, Rhode Island, New Hampshire, and Pennsylvania. The Governor of Delaware also took this position.

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Remedy by State Interposition, or Nullification. Even if the peop1e of those states were not benefited by the American System, as I believe, they are to an immense extent, they would not permit the interests of a large class of their fellow citizens to be utterly prostrated and destroyed What do their representatives tell us of the desolation that would overspread them if the system should be abandoned? It is no exaggerated picture. If the unnecessary expenditures of the Government and the bounties on manufactures, amounting to millions, were withdrawn, the suffering would be as severe as can be conceived in a country where there is not a want of the physical necessaries of life. Will men voluntarily reduce themselves to such a situation? The majority will give up their policy when they must, and not before I should perhaps be more disposed to delay and wait upon events, if I thought, as many seem to do, that disunion and civil war were likely to be the consquences of any course of action that is likely to be pursuedâ€”nay, if I did not believe, as I most fully do, that there is more danger in the delay than in the strongest measures that will probably be adopted. I speak as a lover of peace and of the Union; and I know that I speak the sentiments of those who concur with me as to the course to be pursued. Are these professions sincere? Are we false friends to the Union? Have we covert designs which we dare not avow? Are the distinguished men who are foremost in exciting us to action, whose honors are connected with the General Government, or who have refused its honors, implicated in such designs? The measure at present under consideration is, the calling of a Convention of the people of this state. There are advantages in this measure, whatever course such a body mav pursue. A wider selection of the talent, information and experience of the state may be made than for the legislative body. It will satisfy the scruples of those who belive that only legislative powers relative to the internal concerns of the state have been committed by the Constitution to the Legislature; that to determine any thing which respects our relations with the General Government, does not come within this class of powers, though clearly appertaining to the sovereign authority of the state, which will be represented in Convention. It does not follow, that the Convention will act promptlyâ€”it can hardly be supposed that it will act rashly. It will not, in all probability, meet until the adjournment of the ensuing session of Congress. If the hopes which are held out to us shall appear to have brightened, it may have power to adjourn to a more distant day. In the mean time, it may communicate with the General Government, or with our sister states of the south and certainly will not take any decisive step till it shall become inevitable. Those who oppose a Convention, do so because it will be nugatory unless it shall result in a nullification as it is called, and this they think equivate tto a secession from the Union, and fear civil war will follow. I will not effect to disguise my own opinion.

8: Full text of "The remedy by state interposition, or nullification;"

Full text of "The remedy by state interposition, or nullification;" See other formats 1^ It-' jr i,.,,,J JANUARY THE REMEDY By BTAT^ I^TI3HPOSITSON, OR EXPLAINED AND ADVOCATED CHANCELLOR HARFER, IN HIS SPEECH AT COLUMBIA, (S. C.) ON THE '/'At/e ;sÂ»i!-f danger in the delay than in the stfongesl mtasiive'fi ' k will probiibhj be adopted.

9: Interposition - Wikipedia

Nullification is an act of an individual state, while interposition was conceived as an action that would be undertaken by states acting jointly. Nullification is a declaration by a state that a federal law is unconstitutional accompanied by a declaration that the law is void and may not be enforced in the state.

THE REMEDY BY STATE INTERPOSITION, OR NULLIFICATION pdf

Sociology, 62, 165-171. Fishermens Tales of Adventure Signor Topsy-Turvys wonderful magic lantern, or, The world turned upside down Build a telescope 6th grade science American policy and global economic stability Stephen D. Krasner XXIX. That he who undertakes these exercises feels and loves more than he sees or understands 126 Owls in the family novel study Females and Autonomy Theories of cognitive development. Every Drop for Sale Annual report, fiscal years 2001 and 2002 The nonfermentative gram-negative bacilli Sermon on the Mount : 9 Billy goat gruff story Promising democracy. Pesticide safety: a reference manual for private applicators Best practices of academic library information technology directors Hume, belief, and personal identity Justin Broakes What we can learn from the missing airline passengers Management of pleural effusion Quran pak urdu translation kanzul iman The English dance of death, from the designs of Thomas Rowlandson Industry and Ideology The chemistry of food additives and preservatives Spontaneous remission Sound Like Thunder Secondary Teachers Guide to Free Curriculum Materials Mallory on Board (Mallory) Improving productivity and effectiveness Adventure Guide to the Virgin Islands (Caribbean Guides Series) The Boy Named 27091 Dark souls 3 strategy guide maps Catalyst of Sorrows (Star Trek: The Lost Era, 2360) Wordsworth dictionary of foreign words in English AIMING FOR THE STARS EBK Mcat practice test and answers Definition of data analysis in qualitative research Loves bitter-sweet Preserving the Structure of the Use-Case Model Publication. [Vol. 29 Twenty-Third Annual Meeting of the Illinois State Historical Society, Springfield,