



Written by [Selwyn Duke](#) on February 21, 2017

Trump: No Money for California. California: No Money for Feds

Will the Golden State keep its gold in the state? That's the threat, with California seeking ways to withhold funds from Washington after President Trump threatened the state with denial of federal funds.

Reporting on this battle of the bucks, *CBS SFBayArea* [writes](#), "Officials are looking for money that flows through Sacramento to the federal government that could be used to offset the potential loss of billions of dollars' worth of federal funds if President Trump makes good on his threat to punish cities and states that don't cooperate with federal agents' requests to turn over ... [illegal aliens], a senior government source in Sacramento said."



CBS continues, "'California could very well become an organized non-payer,' said Willie Brown, Jr, a former speaker of the state Assembly in an interview recorded Friday for KPIX 5's Sunday morning news. 'They could recommend non-compliance with the federal tax code.'"

California is home to approximately 40 so-called sanctuary cities and counties, a euphemistic term for jurisdictions that aid and abet the criminals known as illegal aliens. Moreover, the Golden State's government actually introduced a "sanctuary state bill" (Senate Bill 54), which "aims to severely restrict how much local law enforcement can work with Immigration and Customs Enforcement," [reports USA Today](#).

Conservatives generally (and quite understandably) react to this story with an attitude stating that California should be brought to heel. And insofar as the state is opposing a legitimate federal power, this is true. Yet there's another point to be made: Conservatives should take this nullification leaf out of the liberals' book.

An irony here is that when advocating state nullification of central-government overreach and addressing the possibility that this could inspire Washington to withhold funds, I've long said that, were I a governor, I'd retaliate by withholding money from the feds. Well, *voila!* Liberals are nothing if not bold — they're walking that walk.

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This is nothing new. When constitutionalists talk of [nullification](#) — the refusal to abide by certain federal-government dictates — the media may scream, "Sedition! It's 1861 all over again!" This doesn't happen when liberals talk about it, partially because *they don't talk about it. They just do it.*

While the Left never frames it as "nullification" and almost always employs it in service of the wrong



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cause, this is precisely what it's doing when establishing "sanctuary cities" or defying federal drug law, just to mention two examples. And being of the "We can make up our own rules" mindset, they not surprisingly oppose federal laws they dislike, whether those laws are constitutional or not.

In contrast, conservatives — being conservative, as in defensive and married to the status quo — generally won't consider nullification even when the federal (or judicial) action is blatantly unconstitutional.

A good example is the Supreme Court's *Obergefell v. Hodges* faux-marriage decision in 2015, which late dissenting justice Antonin Scalia correctly [wrote](#) lacked "even a thin veneer of law." "Conservative" governors across the nation (paging John Kasich), some secretly happy that judges took this contentious issue out of their Jergens-soft hands, rushed to say that the court's ruling was now the "law of the land" (actually, courts don't make laws; they only issue opinions).

Another example is the recent court rulings against Trump's temporary suspension of immigration from seven terrorist-spawning countries. Courts had consistently found, as in the 1994 California Proposition 187 opinion and the 2012 SCOTUS opinion on Arizona's effort to enforce immigration laws ignored by the Obama administration, that states may not infringe upon Uncle Sam's exclusive jurisdiction over immigration matters.

Yet now that this federal power is being used in a way contrary to the leftist agenda, the courts have done a 180-degree about-face.

Pundit Ann Coulter [put it](#) very well recently, analyzing the courts' schizophrenic behavior. Her first point references President Clinton's [decision](#) to send six-year-old Elián González back to Cuba (where he'd undergo communist indoctrination); her second, Obama's changing of our demographics via immigration; and her third, Seattle judge James Robart's unconstitutional decision halting Trump's ban. She writes:

- When the president's immigration policy is to promote international communism: The president wins.
- When the president's immigration policy is to transform America into a different country: The president wins.
- But when the president's immigration policy is to protect Americans: Some p[***]-ant judge announces that his authority exceeds that of the president.

When will conservatives say enough is enough?

Thomas Jefferson called nullification the "rightful remedy" for all federal usurpation of power (this includes by its judiciary); he also stated that allowing the courts to be the ultimate arbiters of law's meaning would make our Constitution a *felo de se* — a "suicide" or "act of self-destruction." Despite this, the only ardent nullifiers extant are the "anti-constitutionalists" among us: the Left.

This is partially because of the natures of conservatism and progressivism. Their only consistent definitions are, respectively, "a desire to preserve the status quo" and "a desire to change the status quo." Thus, conservatives reflexively abide by the status quo of respecting the rule of lawyers, mistaking it for the rule of law; progressives reflexively oppose the status quo when it's inconvenient, even insofar as it is the rule of law.

Conservatives need to stop being conservative and start being bold.



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Anyone believing there's no need for nullification with Trump as president overlooks much. First, there's no guarantee Trump will still be president in four years, and we have to be about movements, not just men and moments.

Second, Trump leads the executive branch, but with the bureaucracy [infested with hard-left statist](#)s bent on undermining him, he doesn't yet control it. If he ever will remains to be seen.

Third, though Trump is an anti-establishment breath of fresh air, he isn't a constitutionalist or socially traditional. For example, he has [called](#) faux marriage a settled issue, accepts *Obergefell* and in the past has said that so-called transgender people should be allowed to use any bathroom they wish. Moreover, with two-thirds of the federal budget involving unconstitutional matters, there's always much for a Constitution-minded state to oppose.

Yet there's another all-important factor. I and others have pointed out that, given the myth of judicial supremacy, Trump could simply ignore the court opinions suspending his immigration ban. Yet this departure from our suicidal status quo could provide the establishment with a pretext for impeaching him. The solution?

States must lead the way. A well-liked traditionalist governor could, for example, announce that his state will not abide by [unconstitutional Obergefell](#) with little fear of impeachment. This could break the ice and spark an anti-judicial supremacy movement, which, once having gained steam, could enable Trump to ignore unconstitutional opinions with relative impunity.

So will some governor stop being "conservative," step up to the plate, and knock some unconstitutional opinions out of the park? On this score thus far, conservatives are batting zero.



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