



Written by [Joe Wolverton, II, J.D.](#) on May 8, 2013

Rasmussen Poll Reports Majority of U.S. Support Nullification

In what must be bad news to Attorney General Eric Holder (and his boss in the Oval Office), results of a new Rasmussen poll indicate that 49 percent of respondents believe that the regulation of gun ownership is a state or local issue.

[On May 3-4, 2013, Rasmussen Reports polled](#) the opinions of 1,000 likely voters. The margin of sampling error is +/- 3 percentage points.



What is even less favorable to the administration's program to exalt the federal government above the states is the poll's finding that 44 percent of those who participated in the survey believe states retain the right to nullify any act of the federal government they deem constitutionally invalid.

Simply stated, nullification is the exercise by a state or states of the right to hold as null, void, and of no legal effect any act of the federal government that exceeds the boundaries of the powers given to it by the states in the Constitution.

The issue, while not new, has regained prominence recently as the federal government has enacted ObamaCare and various gun control restrictions. Opponents of these efforts point to the fact that the authority to do neither of these things is granted to the federal government in the Constitution. Therefore, states are flexing their sovereign muscles, nullifying these and other attempts by the federal government to constrict the scope of liberty.

Of more particular interest to those in the liberty movement (especially elected officials looking to communicate with likely supporters) is the Rasmussen report that of "mainstream voters" who participated in the survey, 52 percent say that state governments have the right to refuse to enforce any federal act with which they disagree "on legal grounds."

Read that again: A majority of Americans who vote believe that the federal government does not have the exclusive or the ultimate right to impose its rule on states that regard its acts as unconstitutional or illegal.

And it must be pointed out that nullification is not the right of states to nullify any federal act. Rather, it is the right of states to choose to not enforce any federal act that fails to conform to the constitutionally established limits on the authority of the federal government.

Nullification presupposes that there are myriad (albeit limited) areas over which the Constitution has given purview to the federal government: defense, naturalization, foreign relations, interstate commerce, etc.

When Washington decides to go walkabout, however, and start legislating (or issuing edicts, in the case of President Obama) in areas not within its constitutional boundaries (healthcare, education, gun ownership), the states reserve the right to check that usurpation by refusing to afford such acts the power of law. Conversely, it would be a usurpation on the part of the states should they attempt to



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disregard federal laws that are constitutionally sound.

Americans, it seems, are getting the message that Thomas Jefferson and James Madison sent out over 200 years ago in the Kentucky and Virginia Resolutions.

As Madison wrote in [the Virginia Resolution of 1798](#),

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.

And:

that a spirit has in sundry instances, been manifested by the federal government, to enlarge its powers by forced constructions of the constitutional charter which defines them; and that implications have appeared of a design to expound certain general phrases... so as to destroy the meaning and effect, of the particular enumeration which necessarily explains and limits the general phrases; and so as to consolidate the states by degrees, into one sovereignty, the obvious tendency and inevitable consequence of which would be, to transform the present republican system of the United States, into an absolute, or at best a mixed monarchy.

If they are an accurate measure of public opinion, then, these Rasmussen poll numbers are surely music to the ears of the scores of state lawmakers who have boldly put themselves on record as opposing federal overreach by voting in favor of numerous nullification bills currently wending their way through the legislative process in state capitals nationwide.

Lately, federal wrath has been turned on Topeka as the state legislature passed and the governor signed a law prohibiting the enforcement of federal gun control regulations on guns manufactured and maintained within the state of Kansas.

As [The New American has reported](#), Attorney General Eric Holder recently “reminded” Governor Sam Brownback of Kansas that his state’s attempt to nullify federal gun control statutes was “unconstitutional” and that the Obama administration would “take all appropriate actions” to make sure Kansas toed the federal line.

To his credit, Brownback wrote back to Holder, informing him that he would not bow to federal pressure and would continue to support his state’s constitutional prerogative to nullify unconstitutional federal acts.

In fairness, regardless of the swelling support for nullification in the homes of “mainstream voters,” there remains in academia an almost apoplectic revulsion to the concept.

[Earlier this year](#), several articles and op-ed pieces were published on blogs and in newspapers where the authors labeled nullification as “nuts” and a “bizarre fad.”

To the contrary, the Rasmussen poll results suggest that it is the notion of an all-powerful, always-supreme federal government that is being pushed further and further into the hinterlands of the political landscape.

Joe A. Wolverton, II, J.D. is a correspondent for The New American and travels frequently nationwide speaking on topics of nullification, the NDAA, and the surveillance state. He can be reached at



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jwolverton@thenewamerican.com



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