



Written by [Joe Wolverton, II, J.D.](#) on November 8, 2012

Voters in Six States Approve Measures Nullifying Federal Acts

Take the coverage of the 2012 elections carried on the three biggest 24-hour news channels (Fox News, MSNBC, and CNN) and you get a very conservative calculation of 72 hours in one day spent talking about the races in the 50 states.

Of those 72 hours of election coverage not one minute was devoted to reporting the results of several ballot initiatives nullifying unconstitutional acts of Congress. None of the highly paid, pancake-powdered pundits spoke a single syllable about the noteworthy and now codified efforts of citizens across the country to stop the encroachment of federal tyranny at the state borders.



At *The New American*, we strive to promote liberty through the publishing of news stories related to the Constitution, and to that end, proceeding from Atlantic to Pacific, we here present a brief rundown of the several nullifying proposals passed by voters in Tuesday's elections.

Massachusetts: A substantial majority of voters (64 percent) in the Bay State voted [in favor of a law](#) "eliminating state criminal and civil penalties related to the medical use of marijuana, allowing patients meeting certain conditions to obtain marijuana produced and distributed by new state-regulated centers or, in specific hardship cases, to grow marijuana for their own use."

Whether one agrees with the morality of smoking marijuana, the irrefutable truth is that there is no constitutional provision granting the federal government power to regulate in this arena. That fact, taken in the conjunction with [the 10th Amendment](#), leaves the power to legislate on this matter in the hands of the states.

Massachusetts is the 18th state to nullify federal statutes criminalizing the growing and use of marijuana.

Alabama: On Tuesday 59 percent of voters in the Heart of Dixie approved [Amendment 6](#), a proposed amendment to the state constitution that would "prohibit any person, employer, or health care provider from being compelled to participate in any health care system." The question was placed on the ballot after the Alabama State Legislature [passed the measure](#) on the last day of the legislative session in 2011.

The practical effect of the amendment is to protect citizens of Alabama from being forced to comply with any federal health insurance mandate, including the provision in the ObamaCare statutes.

With this vote, the people of Alabama and their elected state representatives have proclaimed their intention to protect the sovereignty of their state and to stand as a stalwart bulwark of freedom against the near constant intrusion of Washington into areas outside their constitutional authority.



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Colorado: Citizens in Colorado [voted in favor of Amendment 64](#), a measure “permitting a person twenty-one years of age or older to consume or possess limited amounts of marijuana.”

In 2006, 59 percent of Colorado voters rejected a similar proposal ([Amendment 44](#)), that would have legalized the possession of up to one ounce of marijuana for those 21 or over. The use of marijuana for medical purposes is already legal in Colorado.

The passage of Amendment 64 makes Colorado only the second state (Washington is the other) to have fully legalized the use and growth of marijuana.

Montana: Voters in Big Sky Country joined their countrymen in Alabama and Wyoming (more on that next) in passing an act nullifying the unconstitutional mandates of ObamaCare.

Sixty-five percent of voters in Montana [cast ballots approving LR-122](#), an act “prohibiting the state or federal government from mandating the purchase of health insurance.” Significantly, the new law also forbids imposing “penalties for decisions related to the purchase of health insurance coverage.”

Some opponents of the measure argue that the vote is a no more than a symbolic act as the Supreme Court already ruled that ObamaCare was constitutional.

As [reported by a Billings, Montana, TV station](#), State Representative Chuck Hunter said:

There is going to be nothing that happens anyway because the U.S. Supreme Court has already ruled that the law is constitutional. It is in effect. It is the law of the land. It will go forward in that regard. I think it's time, particularly since the Supreme Court has ruled to move on from that issue, and go about improving the places where the law needs to be improved. That needs to happen at the federal level not the state level.

Hunter's remarks represent a popular misunderstanding of the separation of powers set forth in the Constitution, as well as the rightful position of states in their relationship to the federal government they created.

The history of the drafting and ratification of the Constitution reveals that the highest authority in our government is the collective will of the people acting as states. Time and again in our history, the people have corrected congressional legislative overreaches through the passages of state law reaffirming their sovereignty.

Thomas Jefferson in 1804 wrote that giving the Supreme Court power to declare acts of the legislature or executive unconstitutional “would make the judiciary a despotic branch.” He correctly stated that “nothing in the Constitution” gives the Supreme Court that right.

Wyoming: Tuesday [voters in Wyoming also passed a measure amending the Declaration of Rights](#) in the state constitution. The approved amendment declares, “No federal or state law, rule or administrative decision shall compel, directly or indirectly, any person, employer or health care provider to participate in any health care system.”

Once again, the citizens and lawmakers of a state (the ballot initiative reached voters after passing both houses of the state legislature) have reclaimed their rightful authority and have placed a border of sovereignty around their state, protecting it from federal violations of the Constitution.

Washington: By a margin of 55 percent to 45 percent, [voters in Washington state approved Initiative 502](#), a measure legalizing the production, possession, delivery, and distribution of marijuana. The law will also allow the sale of small amounts of marijuana to people 21 and older.



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Again, although the use of marijuana is considered by many to be inadvisable and immoral, the Constitution does not empower the federal government to make laws governing its use or cultivation. Regardless of one's own feelings on the plant, constitutionalists understand that speaking only of sovereignty, the right to rule in this area belongs to states, despite Supreme Court rulings to the contrary.

Even Abraham Lincoln, the habeas corpus hater himself, recognized the lack of constitutional authority for the Supreme Court's assumption of the role of ultimate arbiter of an act's conformity with the Constitution.

Said Lincoln,

But if the policy of the government upon a vital question affecting the whole people is to be irrevocably fixed by the decisions of the Supreme Court, the moment they are made, the people will have ceased to be their own masters; having to that extent resigned their government into the hands of that eminent tribunal.

Despite this success, voters in four states — Arizona, Arkansas, Oregon, and Florida — failed to pass proposals that would have nullified unconstitutional federal acts.

Nullification is commendable principally because its persistent practice engenders trust between the elected and the electorate and encourages the recognition of reliable patterns of interaction between the state and local authorities and the federal government. By consistently demanding that Washington confine itself to its small sphere of influence, everyone — citizen, state lawmaker, U.S. president, and congressman — knows where they stand and can act knowing they enjoy the good will of those by whom they were chosen to serve.



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