



Written by [Selwyn Duke](#) on February 19, 2011

On Nullification, Just Follow Liberals' Lead

It isn't often that conservatives can learn something from liberals, but I think the current debate over nullification is an exception.

As you may know, nullification is the practice whereby a state or locality identifies a federal law as being unconstitutional and simply refuses to enforce it. It is also a practice that liberals have recently condemned without reservation. And it is something liberals don't have to practice.

They're expert at it.

The unprecedented federal intrusion of recent years has inspired states to consider nullifying a whole host of Uncle Sam's dictates, ranging from gun and health control laws to cap-and-tax schemes. And the Effluent Stream media casts such defiance as unprecedented in modern times, a throwback to antebellum rebellion. And, of course, conservatives do talk about nullification, while liberals don't.

Liberals just do it.

This point was made recently by executive director of the Tenth Amendment Center Michael Boldin. He [writes](#):

When Californians voted to approve Proposition 215 to allow medical marijuana, the word "nullification" was not part of the argument, but it most certainly was the result. Opponents often cited the Constitution's "supremacy clause," saying the state had no authority to violate federal marijuana laws. But, Californians voted to violate those laws by the millions. And, when the Supreme Court ruled in the 2005 *Gonzales v. Raich* case that state-level medical marijuana laws were, in essence, illegal, dispensaries around the state didn't start closing shop.

In fact, by 2005, there were nine other states that had joined California in passing medical marijuana laws. After the supremes told the country that such laws were a big no-no, how many were repealed? Zero. And since then, another five states — most recently, Arizona — have joined up.

Boldin also points out that liberal localities regularly defy federal immigration law as well. In fact, this is so common that such jurisdictions even bear a relevant euphemistic label: sanctuary cities ("treasonous," actually, is more appropriate).

Yet we don't hear about liberals' nullification efforts. And the reason for this is twofold. First, leftists don't bother with an intellectual argument; they don't use the word "nullification" (not many of them even know it). They keep it simple: If they don't like a rule, they just break it.

The second reason is one that explains why it's not as easy for conservatives to break rules. When states or localities defy the feds on immigration or drug law, the media simply ignore it. So little pressure is brought to bear. But if red states even talk about nullifying Washington's unconstitutional





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dictates, we start hearing about how they're "violating the law of the land."

How they're undermining the republic.

How they threaten to rend the very fabric that binds us together.

Oh, the humanity!

The reality is that we should completely ignore what the Left says because what the Left says ignores reality. They're not actually for or against nullification — they don't operate based on any principle. This is why they never worry about their contradictions: There are no double standards in a mind whose only standard is "Whatever works for me."

For instance, even though it was an example not of nullification but duplication — it just mirrored federal legislation — the leftists were razing Arizona after it [enacted](#) its immigration law last year. Another good example is the current story about Alaska's refusal to implement ObamaScare, a move that shouldn't be very controversial. After all, a federal judge in Florida recently ruled the law unconstitutional, and, liberals instruct us, courts are the ultimate arbiter. Despite this, Professor Timothy Jost of the Washington and Lee University School of Law [says](#) "This is one renegade judge that has reached this decision" and that, in rejecting the healthcare law, Alaska is an "outlier" among the states. I wonder, did the good professor call the one judge who struck down "Don't Ask, Don't Tell" a "renegade"? Well, don't ask because Professor Jost won't tell. It's whatever works for him.

This attitude of leftists is why I must part company with Boldin on two points. First, he writes, "If today's [healthcare] nullification proposals follow in the path of the left's nullification of federal drug and immigration laws, it's quite possible we'll see the same kind of results. The feds backing off."

Don't bet the house on it.

The feds have a history of backing off when the nullification is politically correct — not when it's constitutionally correct.

Second, Boldin wonders when advocates for faux marriage, medical marijuana, healthcare freedom, and gun rights will realize that they're all on the same side because they want these issues settled on the local level. The answer is that they won't because they're not.

Liberals don't believe in local control but leftist control. As I said earlier, they don't have principles; they have feelings. And if conservatives ever want to turn the tide in the culture war, they must understand why.

Principles presuppose the existence of moral absolutes. In fact, that they are based on them is the only logical rationale for adhering to principles even when inconvenient, even when it may *feel* right to do otherwise. After all, if principle originated within us as emotion does, there would be no reason to make one the god and the other the guided, one the sage and the other the servant. We only subordinate feelings to principles if we believe the latter have a basis in something transcending us: moral law, or Truth.

Liberals cannot have principles because they don't believe in moral absolutes. They are defined by moral relativism, the belief that there is no moral law, no Truth, and that what sometimes masquerades as such is just a function of man's consensus feelings. This explains why they are so emotion-oriented ("Oh, follow your heart!"): Without moral absolutes to refer to when making decisions, they have only the yardstick of feelings left as master. And this is why they are so flighty, contradicting themselves at every turn: Feelings change with the winds — political or otherwise.



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So know thy enemy. We should pursue nullification, but don't for a second think that any kind of appeal, logical or legal, will sway the Left. Don't expect any principle but the power principle. Should one uphold the Constitution or violate it? Commit violence or abhor it? Practice nullification or condemn it? It's all the same to liberals: The answer is the daughter of the moment.

You cannot expect moral behavior from people who have nullified moral laws in their own minds. All you can expect is the dirtiest of fights — and the ugliest of defeats if you think rules apply. With the Left, it is whatever works for them. And, unfortunately, what works for them definitely does not work for America.



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