

"Writing the truth  
as I see it;  
trying not to  
offend  
those who will  
disagree."

# The truth as I see it™

Idaho Common Sense™



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## It's our Constitution

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Contrary to the wishes of Congress, the Supreme Court and the lower courts, "we the people" in our capacity as jurors and state legislators have the power to nullify laws we find unconstitutional.

Did the founding fathers opine on this power? In 1790, James Wilson, one of the signers of the Declaration of Independence and one of the original six Supreme Court justices said, "Suppose . . . a difference of sentiment takes place between the judges and the jury with regard to a point of law . . . . What must the jury do? The jury must do their duty . . . . They must decide the law as well as the fact."

In 1794, the Supreme Court agreed with Wilson, when John Jay, the first chief justice, clarified the juror's duty saying, "You (have) a right to take upon yourselves to judge of both, and to determine the law as well as the fact in controversy . . . . Both objects are lawfully within your power of decision."

Once again, a law degree is not needed to understand these words. Unfortunately, in 1895, the Supreme Court ruled that even though jurors had the "physical power" to nullify, a trial judge does not have to tell them about their power. In essence, the court told judges to lie to jurors, omitting what they did not want them to know. This is the ethic of our Supreme Court?

But in the courtroom "we the people," the jurors, judge not only the case, but the law. The judge may offer directions to the jury; but the judge is just another witness, testifying as to the law. It is the jury that decides what to accept and what to reject. John Adams, second

president of the United States, summarized: "It is not only (the juror's) right, but his duty . . . to find the verdict according to his own best understanding, judgment, and conscience, though in direct opposition to the direction of the court."

Can "we the people" use nullification to prevent the United States Congress from enforcing unconstitutional law, and the Supreme Court from illegally "interpreting" the Constitution? Absolutely.

Nullification is alive and well and flourishing, not only in jury rooms, but in state legislatures across America. "We the people" are fed up with the federal government unconstitutionally placing itself above the states, using extortion to coerce the states into doing its bidding.

As early as 1798, the Virginia Resolution said, "that in the 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 . . . ." Further, in 1799, the Kentucky resolutions also identified the states' right to nullify federal law they found unconstitutional.

Today, the state of Montana has nullified federal ammunition and firearm laws with about 15 states following its lead. Several states, by their actions and statutes, have nullified federal marijuana laws. Nearly half the states have resolutions nullifying the Bush-era federal "real ID" law. More states than not are passing "10th Amendment" resolutions, serving "notice and demand" to the federal government to

"cease and desist" activities beyond its constitutional powers. Some states are even preparing laws to nullify nationalized health care, should it happen.

This country belongs to "we the people," not "we the Justices of the Supreme Court," not "we the United States Congress." The Supreme Court and Congress have supplanted the Constitution, but we can take it back. Congress may refuse to put forth a constitutional amendment, but we do not need Congress. The legislatures of two-thirds of the states can bypass Congress and propose a constitutional amendment, which would then need approval of three-fourths of the states to become law. Further, state legislatures can continue nullifying federal law they find unconstitutional.

The only caution? Those working to return the sanctity of the United States Constitution must not adopt the methods of the Supreme Court and Congress, dismissing and violating the very Constitution they swore to protect. Rather, they need to continue the difficult, slow, cumbersome, awkward process of returning this country to the Constitution peacefully and legally—one nullification at a time, one state at a time, one amendment at a time.

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