Written by Joe Wolverton, II, J.D. on November 22, 2014

Texas Rep. Introduces Bill Nullifying All Federal Gun Control Regulations

Earlier this month, Texas state representative Tim Kleinschmidt (shown) introduced a nullification bill that would block the enforcement of unconstitutional federal gun control measures within the sovereign borders of the Lone Star State.

House Bill 176, the Second Amendment Preservation Act, invalidates all attempts by Washington, D.C., to restrict the right to keep and bear arms, as protected by the Second Amendment to the Constitution.

Western Journalism reports that Kleinschmidt's legislation specifically voids any federal regulation that:

> Imposes a tax, fee, or stamp on a firearm, firearm accessory, or firearm ammunition that is not common to all other goods and services and may be reasonably expected to create a chilling effect on the purchase or ownership of those items by a law-abiding citizen;
>
> Requires the registration or tracking of a firearm, firearm accessory, or firearm ammunition or the owners of those items that may be reasonably expected to create a chilling effect on the purchase or ownership of those items by a law-abiding citizen;
>
> Prohibits the possession, ownership, use or transfer of a firearm, firearm accessory, or firearm ammunition by a law-abiding citizen;
>
> Orders the confiscation of a firearm, firearm accessory, or firearm ammunition from a law-abiding citizen.

In the opening paragraphs of the measure, applicable articles from the U.S. and Texas Constitutions are invoked. The bill reads:

> A federal law, including a statute, an executive, administrative, or court order, or a rule, that infringes on a law-abiding citizen's right to keep and bear arms under the Second Amendment to the United States Constitution or Section 23, Article I, Texas Constitution, is invalid and not enforceable in this state.

HB 176 is another example of a state legislator understanding the role that state lawmakers and governors must play in the effort to maintain the federal behemoth chained securely by the bonds of the Constitution. There is, furthermore, a constitutional mandate that state legislators uphold the Constitution.

Article VI, Clause 3 of the U.S. Constitution reads:

> The Senators and Representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

Simply put, this clause puts all state legislators under a legally binding obligation to "support the Constitution." There is no better way, it would seem, for these elected state representatives of the people to show support for the Constitution than by resisting every attempt by officers of the federal government to exceed the constitutional limits on their power.

James Madison, writing in the *Federalist Papers*, recommended that state legislators, in order to prevent federal abridgment of fundamental liberties, should refuse "to co-operate with the officers of the Union."

Speaking during the War of 1812, Daniel Webster said:

> The operation of measures thus unconstitutional and illegal ought to be prevented by a resort to other measures which are both constitutional and legal. It will be the solemn duty of the State governments to protect their own authority over their own militia, and to interpose between their citizens and arbitrary power. These are among the objects for which the State governments exist.

In the Kentucky Resolution of 1798, Thomas Jefferson wrote:

> That the several States composing the United States of America, are not united on the principle of unlimited submission to their general government; but that, by a compact under the style and title of a Constitution for the United States, and of amendments thereto, they constituted a general government for special purposes — delegated to that government certain definite powers, reserving, each State to itself, the residuary mass of right to their own self-government; and that whensoever the general government assumes undelegated powers, its acts are unauthoritative, void, and of no force.

Without authority, void, and of no force. As state Representative Kleinschmidt apparently understands, state governments have the power to take this tack with regard to unconstitutional acts of the federal government. Madison and Jefferson's fellow Founders agreed.

In *The Federalist*, No. 33, Alexander Hamilton wrote:

> But it will not follow from this doctrine that acts of the large society which are not pursuant to its constitutional powers, but which are invasions of the residuary authorities of the smaller societies, will become the supreme law of the land. These will be merely acts of usurpation, and will deserve to be treated as such.

He restated that principle in a later letter, No. 78:

> There is no position which depends on clearer principles, than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this, would be to affirm, that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers, may do not only what their powers do not authorize, but what they forbid.

Federal exercise of power, as understood by Madison, Jefferson, Hamilton, et al., is legitimate only if those powers were granted to the government by the people and listed specifically in the Constitution.

Madison identified any attempt by the federal government to act outside the boundaries of its constitutional powers as a "dangerous exercise," and said that the states were "duty bound, to interpose for arresting the progress of the evil."

There can be no misunderstanding of the plain language of the Second Amendment. The right of the people to keep and bear arms “shall not be infringed.” There is no provision for the temporary infringement of this right or for its infringement in the name of safety or protection of children.

In the United States, however, few people know their rights or are disposed to protect them from being alienated by an all-powerful central government. And, for the federal government’s part, they are determined to keep Americans “stupid,” ignorant of their rights and the true source thereof.

As Benjamin Franklin wrote, “A nation of well-informed men who have been taught to know and prize the rights which God has given them cannot be enslaved. It is in the region of ignorance that tyranny begins.”

Tyranny has begun and the weapons of resistance are being targeted by the would-be despots. In Texas, however, there are those willing to push back against the constant drive to deny the people of their right to repel the invasion of their liberty.

HB 176 has a long row to hoe before it becomes the law in Texas. Citizens of that state are encouraged to contact their state representatives and remind them of their duty to support the Constitution and of their power to restore federalism and self-government in this Republic.

Photo: State Rep. Tim Kleinschmidt; Texas state flag

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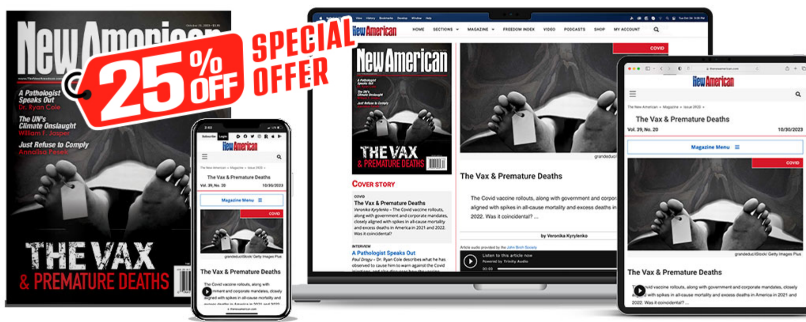

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