Written by **Joe Wolverton, II, J.D.** on December 4, 2013

Federal Government Assumes Control of Arizona Forests

The Obama administration is anxious to impose its autocratic, ad hoc, and unconstitutional authority on the population of Arizona — again.

Reason magazine reports:

> State and federal officials in Arizona are fighting just the latest skirmish in a long-running war over just how restrictive rules should be over human use of forest and desert areas. The locals want fewer and uniform restrictions, while their D.C. counterparts like to play "What will we cite people for this week?" with campers, hunters, and pretty much anybody who likes the outdoors. The most recent battle is over a federal rule-switch, requiring hunters to move their camps every 72 hours. Decades-long practice, as the Arizona Game and Fish Department points out, is to allow campers to stay in place for 14 days.

The federal government's arrogance informs everything it does when it comes to relations with the state governments, which it regards as nothing more than its administrative subordinates.

Reason copies a press release issued by the U.S. Forest Service, demonstrating the official disregard for state authority to legislate within its own sovereign boundaries. The announcement reads:

> Flagstaff, Ariz. — The Coconino National Forest is asking all northern Arizona-bound hunters to refrain from leaving their trailers unattended in the forest during the upcoming hunting season. In previous seasons, law enforcement officers have found numerous trailers parked in the forests for the purpose of reserving a location for the entire hunting season and also because the individuals did not want to haul their trailers back and forth.
>
> Parking a trailer in the forest for this purpose violates Forest Service regulations. If trailers are left unattended for more than 72 hours, the Forest Service considers them abandoned property and may remove them from the forest. Violators can also be cited for this action. Enforcing these regulations protects the property and allows recreational users equal access to national forests.
>
> This regulation applies to all national forests in northern Arizona, including the Coconino, Kaibab and Prescott forests.

There's a big problem with this edict, however. It violates the "long-standing policy" of the Grand Canyon State regarding the regulation of camping in its expansive wilderness area.

Arizona's director of Game and Fish tried explaining this to his would-be overlords, in what *Reason* describes as a "very nice letter." State official Larry D. Voyles writes:

> Having worked as a game warden for more than 30 years, I am aware that many hunters are forced to hunt in chunks of days. Keep in mind that some hunters wait for years, if not decades to be drawn for a particular big game tag. There are many times when a hunter may be in camp for a few days, have to leave for work, and then return a few days later to finish his or her hunt.

In a victory for states' rights, "the whole Arizona Sheriffs Association adopted a formal resolution saying its members oppose and won't help the feds enforce their restrictions, including the new 72-hour rule."

As is so often the case, state sheriffs are exercising their historical role as the ultimate defenders of the Constitution and the rights of citizens within their counties to be free from federal tyranny.

This effort by Arizona county lawmen would be strengthened if Arizona state lawmakers would exercise their constitutional check on the federal government by nullifying an act of the latter not specifically authorized by the Constitution.

Nullification, whether through active acts passed by the legislatures or the simple refusal to obey unconstitutional directives, is the "rightful remedy" for the ill of federal usurpation of authority. Americans committed to the Constitution must walk the fences separating the federal and state governments and they must keep the former from crossing into the territory of the latter.

The Virginia and Kentucky Resolutions plainly set forth James Madison's and Thomas Jefferson's understanding of the source of all federal power. Those landmark documents clearly demonstrate what these two agile-minded champions of liberty considered the constitutional delegation of power. Jefferson summed it up very economically in the Kentucky Resolutions:

> The several states who formed that instrument, being sovereign and independent, have the unquestionable right to judge of its infraction; and that a nullification, by those sovereignties, of all unauthorized acts done under colour [sic] of that instrument, is the rightful remedy.

Madison and Jefferson recognized that honest men could and would disagree about the proper interpretation of this or that constitutional provision. Not all of these men would be trying purposefully to enlarge the size and scope of the central government; some would merely be applying their own set of principles to resolving issues of constitutional construction. In these cases, Madison and Jefferson recommended the "Principles of '98" as an accurate lens through which adversaries should view the Constitution.

No serious debate should be entertained as to whether the national authority has repeatedly attempted to break down the boundaries placed by the Constitution around its power. From the beginning, our elected representatives have overstepped the limits drawn around their rightful authority and have passed laws retracting, reversing, and redefining the scope of American liberty and state sovereignty. Our sacred duty is to tirelessly resist such advances and exercise all our natural rights to restrain government and keep it within the limits set by the Constitution.

In his speech on the bank bill delivered in 1791, Madison said, "In controverted cases, the meaning of the parties to the instrument, if collected by reasonable evidence, is a proper guide."

Thomas Jefferson similarly argued that the Constitution should be interpreted "according to the true sense in which it was adopted by the states, that in which it was advocated by its friends, and not that

which its enemies apprehended."

If one were to assume that the Constitution is not an agreement among equals, then one must also accept the corollary that the states are mere subordinates of the federal government without the right to seek a remedy to the wrongs perpetrated by the plutocrats on the Potomac. The states, as dissatisfied children, would have to submit to their parent government, with no more morally acceptable remedy than to complain and to bristle.

However, sovereignty is not an either/or proposition. The states are the possessors of original governing sovereignty (as an aggregation of the popular political will) and they created another government with powers derived from their own. The government of the United States was not created ex nihilo.

The facts of its formation demonstrate that although the government of the United States is a separate entity, it is not — indeed cannot be — superior to the states. Such a suggestion is illogical and there is not a single sentence of support for this supposition in all the annals of the history of the creation of the federal government.

It's that simple. State governments could not create a central authority with any degree of power unless they held that power in at least an equal degree prior to the latter's creation. Put another way, could the states give the central government something they themselves did not already possess?

Should, however, states continue relenting and recognizing a warped concept of federal "supremacy" that is not supported by the Constitution, the federal government will continue its consolidation of all powers, until not a single tree, not to mention an entire forest, will grow free from federal regulation.

Photo of Coconino National Forest in Arizona

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 is the host of The New American Review radio show that is simulcast on YouTube every Monday. Follow him on Twitter @TNAJoeWolverton and he can be reached at jwolverton@thenewamerican.com*