



Written by [Joe Wolverton, II, J.D.](#) on August 9, 2018

## Oregon County Set to Become Second Amendment Sanctuary

Josephine County, Oregon, is set to become a sanctuary for those who value the right to keep and bear arms as protected by the Second Amendment.

An ordinance introduced by County Commissioner Simon Hare and passed unanimously by his colleagues prohibits the use of county funds or personnel for the enforcement of federal firearm regulations.



Specifically, the Josephine County Firearms Ordinance forbids any county resources from being spent “for the purpose of investigating, detecting, apprehending, or incarcerating persons whose only violation of law is that they carry, manufacture, import, possess, purchase, sell or transfer firearms or firearm related items.”

In an extraordinary move, the measure blocks enforcement not only of current federal gun laws and other restrictions, but similar attempts made in the future. State regulations and restrictions on the exercise of the right to keep and bear arms would be voided.

Many detractors claim that efforts like that being made in Josephine County are simply sound and fury signifying nothing. These naysayers point to the fact that states are so financially dependent on federal largesse that when faced with fiscal shortfalls, these laws will be repealed.

While it is true that state governments have sold their citizens into economic slavery to the central government, there is no reason right-thinking lawmakers can't sever this Gordian knot.

And, as Josephine County is demonstrating, governments on smaller levels can protect their people, regardless of state failure to do so.

With the constant danger to unrestricted gun ownership coming from all corners of government, the county commissioners of Josephine County, Oregon, are to be congratulated on their nullification of all those threats, whether they be from the White House or the state House.

The most effective weapon in the war against small and large tyrannical attacks on liberty is *nullification*. Nullification occurs when a state, county, city, or other local entity holds as null, void, and of no legal effect any act of any government body that exceeds the boundaries of its constitutional powers.

As Alexander Hamilton explained in *The Federalist*, 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.



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As the newly enacted ordinance demonstrates, the law of agency — correctly summarized by Hamilton — applies when one party gives another party legal authority to act on the first party's behalf. The first party is called the principal and the second party is called the agent.

The principal may grant the agent as much or as little authority as suits his purpose. That is to say, by simply giving an agent certain powers, that agent is not authorized to act outside of that defined sphere of authority.

Upon its ratification, the states, as principals, gave limited power to the central government to act as their agent in certain matters of common concern: defense, taxation, interstate commerce, and foreign affairs.

The authority of the agent — in this case the federal government — is derived from the agreement that created the principal/agent relationship. Whether the agent is lawfully acting on behalf of the principal is a question of fact. The agent may legally bind the principal only insofar as its actions lie within the contractual boundaries of its power.

Should the agent exceed the scope of its authority, not only is the principal not held accountable for those acts, but the breaching agent is legally liable to the principal (and any affected third parties who acted in reliance on the agent's authority) for that breach.

Under the law of agency, the principal may revoke the agent's authority at will. It would be unreasonable to oblige the principals to honor promises of an agent acting outside the boundaries of its authority as set out in the document that created the agency in the first place.

Imagine the chaos that would be created if principals were legally bound by the acts of an agent that "went rogue" and acted prejudicially to the interests of the principals from whom he derived any power in the first place. It is a fundamental tenet of the law of agency that the agent may lawfully act only for the benefit of the principal.

Inexplicably, this is the position taken by those who argue that the states may not nullify unconstitutional federal acts and refuse to be bound by an agent that repeatedly exceeds its authority.

Not only does this agent (the federal government) habitually breach the agency contract, but it does so in a manner that irreparably harms the principal (the states).

Congress is full of lawyers. Many presidents are lawyers. All federal judges are lawyers. Yet somehow when it comes to the relationship between the federal government and the states, they conveniently forget the basic principles of contract and agency law that are understood by second-year law students.

You don't need a law degree, however, to understand that if the basic principles of the laws of contract and agency are applied to the relationship between states and general government, the states' right of nullification becomes laughably simple and (to borrow another phrase from Jefferson) "self evident."

What we do need, however, is a generation of conscientious Americans committed to repairing the barricades our Founders placed around our God-given rights, including the right to keep and bear arms.

What so many voters in this Oregon county and others around the country seem to understand is that of all our fundamental rights, this particular right is under constant assault, likely because those who would rob us of all our liberty understand that it is the key to protecting the continued enjoyment of the others.

Today we need the millions of constitutionally minded Americans to band together in launching a multi-



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pronged approach to restoring this Republic, specifically the right to keep and bear arms.





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