Written by **Joe Wolverton, II, J.D.** on April 24, 2015

Tennessee Set to Stop Cooperating With Federal Disarmament Efforts

On April 20, a bill nullifying all federal gun control efforts landed on the desk of Governor Bill Haslam of Tennessee (shown on right) for his signature or veto. On April 13, the Tennessee House and Senate passed a bill blocking state agencies and employees from enforcing federal acts aimed at unconstitutionally infringing on the right to keep and bear arms as protected by the U.S. and Tennessee constitutions.

The bill passed the state senate unanimously (30-0), while the vote in the state house of representatives was a less impressive, though overwhelming 74 lawmakers in favor and 20 opposed.

State senator Richard Briggs was the prime sponsor of the measure — SB 1110 — which if enacted would prohibit state or local public funds, personnel, or resources from being used for the "implementation, regulation, or enforcement of any federal law, executive order, rule or regulation regulating the ownership, use, or possession of firearms, ammunition, or firearm accessories" if such participation would "result in the violation of Tennessee statutory or common law or the Constitution of Tennessee."

A grassroots activist organization known as Shall Not (shallnot.org) is keeping tabs on the efforts in Tennessee and sister states to nullify every federal attempt to exceed its constitutionally defined prerogatives, particularly when they affect the right to keep and bear arms.

The group's take on the climate of disarmament in Washington, D.C. is spot on:

> It seems hardly a day passes that we don't hear about a new proposal coming out of Washington D.C. that will violate your right to keep and bear arms. From assault weapon bans to limits on magazine size, federal politicians and bureaucrats seem able to come up with an infinite number of ways to limit your ability to defend yourself and your family. But there is hope, and a path to victory.

To assist committed constitutionalists in thwarting these plans, Shall Not has published a handbook filled with useful information and blueprints for activists interested in carrying on the fight in their home states.

In the Volunteer State, the fight began with a bill sponsored by state representative Terri Lynn Weaver. Weaver's take on the philosophy behind the bill is quoted in a story authored by Tenth Amendment Center founder, Michael Boldin. Boldin writes:

> "I'm from the cut that there is no need for Washington D.C. to be the end all and be all with regards to the regulatory world," said Weaver. "We should respect our 10th Amendment and shift the power back to the states and that's what House Bill 1341 does."

Weaver is right. If only there were more men and women in state governments across the country willing to push back forcefully against the federal assault.

State lawmakers are not left defenseless in the battle to fight the cancer of consolidation. There is a remedy — a "rightful remedy" — that can immediately retrench the federal government's constant overreaching. This antidote can stop the poison of all unconstitutional federal acts and executive orders at the state borders and prevent them from working on the people.

The remedy for federal tyranny is nullification, and applying it liberally will leave our states and our nation healthier and happier.

In fact, if nullification is to be successfully deployed and defended, states must remember that the Constitution is a creature of the states and that the federal government was given very few and very limited powers over objects of national importance. Any act of Congress, the courts, or the president that exceeds that small scope is null, void, and of no legal effect. No exceptions. James Madison said it best in *Federalist* No. 45, "The powers delegated by the proposed Constitution to the federal government, are few and defined. Those which are to remain in the State governments are numerous and indefinite."

That our Founders understood this principle is demonstrated by Alexander Hamilton 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.

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

Founding era jurist Joseph Story described the Second Amendment's critical check on tyranny: "The right of the citizens to keep and bear arms has justly been considered, as the palladium of the liberties of a republic; since it offers a strong moral check against the usurpation and arbitrary power of rulers; and will generally, even if these are successful in the first instance, enable the people to resist and triumph over them."

Tennessee's measure not only nullifies unconstitutional acts (past, present, and future) of the federal government in the arena of gun control, but it prohibits state agents from cooperating with the federal forces of disarmament. This constitutionally sound strategy is known as anti-commandeering.

Put simply, anti-commandeering prohibits the federal government from forcing states to participate in any federal program that does not concern "international and interstate matters."

While this expression of federalism ("dual sovereignty," as it was named by Justice Antonin Scalia) was first set forth in the case of *New York v. United States* (1992); most recently it was reaffirmed by the high court in the case of *Mack and Printz v. United States* (1997).

Former Arizona Sheriff Richard Mack was one of the named plaintiffs in the latter landmark case, and on the website of his organization, the Constitutional Sheriffs and Peace Officers Association, he recounts the basic facts of the case:

> The *Mack/Printz* case was the case that set Sheriff Mack on a path of nationwide renown as he and

> Sheriff Printz sued the Clinton administration over unconstitutional gun control measures, were eventually joined by other sheriffs for a total of seven, went all the way to the Supreme Court and won.
>
> There is much more "ammo" in this historic and liberty-saving Supreme Court ruling. We have been trying to get state and local officials from all over the country to read and study this most amazing ruling for almost two decades. Please get a copy of it today and pass it around to your legislators, county commissioners, city councils, state reps, even governors!
>
> The *Mack/Printz* ruling makes it clear that the states do not have to accept orders from the feds.

Writing for the majority in the *Printz* decision, Justice Antonin Scalia explained:

> As Madison expressed it: "The local or municipal authorities form distinct and independent portions of the supremacy, no more subject, within their respective spheres, to the general authority than the general authority is subject to them, within its own sphere." *The Federalist* No. 39, at 245. [n.11]
>
> This separation of the two spheres is one of the Constitution's structural protections of liberty. "Just as the separation and independence of the coordinate branches of the Federal Government serve to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front."

According to the state constitution, if Tennessee Governor Bill Haslam doesn't sign or veto the bill within 10 days of receiving it (excluding Sunday), it becomes law without his approval.