Written by **Joe Wolverton, II, J.D.** on February 5, 2019

Washington State County Sheriff Nullifies State Statute's Gun Grab

Another lawman in the State of Washington has gone on the record refusing to enforce a recently enacted state statute that infringes substantially on the right of the people of that state to keep and bear arms as protected by the Second Amendment.

Grant County Sheriff Tom Jones issued a statement on February 4 regarding his and his department's attitude toward Washington State Initiative 1639. A story in the *Western Journal* chronicling the course this measure has followed since it was proposed in the state legislature summarizes its prohibitions:

> Initiative 1639 was on the ballot this November and made Washington's gun control — at least when it comes to "assault rifles" — some of the strictest in the nation. It raises the age to buy what it describes as "semiautomatic assault rifles" to 21, requires mandatory training and stricter background checks, implements a 10-day waiting period on any purchase of said weapon and levies a purchase fee on such weapons.
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> It also makes it a Class C felony to store a weapon in such a manner where a prohibited person can gain access to it and either display it or commit a crime with it.

Sheriff Jones, following the lead of many of his colleagues in other counties, has publicly reassured the citizens of his county that he and his deputies will neither be the tools of lawmakers to disarm citizens, nor to abridge in any way the rights protected by the Second Amendment. Jones wrote:

> I agree with my other county sheriff colleagues. I am instructing my deputies not to enforce Initiative 1639 in Grant County while the constitutional validity remains in argument at the federal courts level. I swore an oath to defend our citizens and their constitutionally protected rights. I do not believe the popular vote overrules that.
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> If the courts later rule the validity of this new law, at that time I will partner closely with our prosecutor's office to ensure the best plan moving forward. Grant County has a very large voter base of citizens that are pro Second Amendment. They, we, have a right to have this challenge and appeals process play out before moving forward.

To Sheriff Jones, laws made contrary to the Constitution are *prima facie* null, void, and of no legal effect, and if he and his officers were to enforce the new restrictions on the right to keep and bear arms, they would be violating their own oaths of office, as he explained in his press release.

Some readers may agree with Jones in principle, but believe that since the citizens of Washington have spoken, he should recognize their will and carry it out, even if he is personally opposed to it. After all,

according to state election data, nearly 60 percent of those who voted voted to approve Initiative 1639.

The reality is that resisting federal trampling of the Constitution is not only a right of state lawmakers, it is a constitutional obligation. Therefore, the Washington state legislators who voted for Initiative 1639 were in violation of their oaths.

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 (assuming they've taken their oath of office) 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 demanding that the officers of the federal government adhere to constitutional limits on their power.

Perhaps a greater number of these state legislators, attorneys general, and judges would be more inclined to perform their Article VI duty if the people who elected them would sue them and hold them legally accountable for any failures to carry this burden.

Imagine, furthermore, the uproar in state assemblies across the country if, every day the legislators were in session, process servers showed up at their offices armed with lawsuits charging them with dereliction of their constitutional duty!

So, when viewed in the context of the U.S. Constitution, specifically the oath of constitutional fidelity mandated by Article VI on all state legislators, those Washington state representatives and senators should consider themselves lucky that they aren't being impeached for their own perfidy.

In fact, with the constant danger to unrestricted gun ownership coming from all corners of government, Sheriff Jones and those who have similarly signaled their refusal to enforce the initiative until it is upheld by the judiciary should be congratulated on their nullification of all threats to the liberty of the people, 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, also called interposition.

In fact, in the case of the Washington State statute infringing on the right of the people of that state to keep and bear arms and the refusal of state lawmen to enforce its unconstitutional provisions, interposition is perhaps a more accurate word, as that word comes from Latin roots meaning "to stand between."

Sheriff Jones, his fellow law-enforcement officials, and those state legislators who voted against Initiative 1639 have chosen to stand between the state government's goal of disarming the people and the people themselves!

The right of a person to protect himself from anyone attempting to deny him of those rights is unalienable and, as the eminent Founding Father James Otis, Jr. said, the only people who would allow such acts of despotism to be enforced upon them are "idiots and madmen."

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