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Will Democratic Governor Veto Kentucky Bill Nullifying Federal Gun Regs?

A bill passed by the Kentucky state legislature that would prohibit state and local police from enforcing federal gun regulations now sits on the governor's desk, awaiting his signature or veto. Should Kentucky Governor Andy Beshear decide to veto the bill, state lawmakers have the votes necessary to override that veto and pass this powerful check on federal tyranny.

AP Images
Andy Beshear

The language of the measure — House Bill 153 — presents a primer in preserving not only the natural right to keep and bear arms, but the sovereignty of the states, as well.

First, the authors cite the fact that the right to keep and bear arms is an "inalienable" right possessed by "all men," and that the Second Amendment to the U.S. Constitution simply "guarantees" that right.

Our Founding Fathers understood this fact and never intended that the people would look in dusty parchments for the source of their right to be armed. They understood and they expect that we would understand that government is formed to protect rights, rights that we enjoy as children of God, who is the giver of all rights.

If we read the same books our Founding Fathers read, we'd have a deeper understanding and appreciation of the provenance of the right to protect our lives, liberty, and property, without asking permission from government.

One example of such a book is William Blackstone's *Commentaries on the Laws of England*. In Volume 1 of that book, Blackstone declares "the natural right of resistance and self-preservation, when the sanctions of society and laws are found insufficient to restrain the violence of oppression."

Would anyone in America — or the world, for that matter — argue that the "sanctions of society and laws" are sufficient to "restrain violence" or oppression?

Thus, the people must be armed.

Commenting on Blackstone's *Commentaries*, eminent founding-era jurist and constitutional scholar St. George Tucker put a finer point on the purpose of protecting the natural right of all people to keep and bear arms. He wrote:

> This may be considered as the true palladium of liberty…. The right of self defense is the first law of nature: in most governments it has been the study of rulers to confine this right within the narrowest limits possible. Wherever standing armies are kept up, and the right of the people to keep and bear arms is, under any colour or pretext whatsoever, prohibited,

> liberty, if not already annihilated, is on the brink of destruction.

Maybe such clear and cogent statements are why these books have been erased from our social memory and school curricula.

Next, the Kentucky bill cites the 10th Amendment as evidence that the states retain every power not granted by them to the federal government in the Constitution.

The 10th Amendment draws a boundary between the powers granted to the federal government and those retained by the states:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

It is an irrefutable fact of U.S. constitutional history that the states created the federal government, set the boundaries of its power, and reserved to themselves all other rights not specifically delegated to the new national authority. The contract containing the rights and responsibilities of the parties to this contract that created the federal government is called the Constitution. This act of collective consenting is called a compact.

This element of the creation of the union is precisely where the states derive their power to negative acts of the federal government that exceed its constitutional authority. It is a thread woven inextricably in every strand of sovereignty. It was the sovereign states that ceded the territory of authority which the federal government occupies.

Finally, the sponsors of the Kentucky bill correctly affirm that the states, as creators of the federal government and parties to the contract known as the U.S. Constitution, cannot be commandeered into funding or enforcing federal tyranny.

The bill declares that "the federal government does not have the authority to commandeer local or state agents to enforce federal policy."

This refers to the concept of anti-commandeering.

Put simply, anti-commandeering forbids the federal government from enjoining 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), and was reaffirmed by the United States' highest court in the case of *Printz v. United States* (1997).

Every state legislature should follow the example set by that of Kentucky and immediately prohibit state agents and resources from being used to cooperate with the federal forces in any activity not explicitly enumerated in the U.S. Constitution as being within the territory of federal authority.

In *The Federalist*, No. 46, James Madison described this anti-tyrannical tactic as "refusal to co-operate with the officers of the Union."

Within the next few days we will see if the governor of Kentucky refuses to cooperate with the state legislature and vetoes their effort to protect the right of the people to keep and bear arms, as guaranteed by the Second Amendment.