**MEMORIAL DAY 2020 PART 2**

COUNTRY BIBLE CHURCH

Pastor Mike Smith

May 26, 2020

It seems that a freedom destroying fog has settled over the land of the free and the home of the brave. Over time the vigor and independent spirit of the American people have been diminished from the constant drumbeat of the Marxist lie that we owe government unconditional submission. Whatever they say goes and there is nothing we can do about it.

Ignorance and apathy have crippled us to the point that most Americans actually believe such an outlandish and bodacious lie. There is a long list of people and organiza- tions responsible for this calamity and at the top of the list you would find pastors who are either too afraid or too ignorant to teach the whole realm of Bible doctrine.

Believers are instructed by the Scriptures to pray for those in government, *1 Timothy 2:1-2.* But nowhere in Scripture does God command us to voluntarily submit to abuse from government officials who are required by God to be ministers of God for good to the people (*Romans 13:4*).

Perhaps the first step in untangling the lie of uncondi- tional submission to government is to recognize that any law, ordinance, statute, order, or rule from govern-ment that is unconstitutional is NULL and VOID.

***“All laws which are repugnant to the Constitution are null and void.”***Marbury vs. Madison, 5 US (2 Cranch) 137, 174, 176, (1803)

***“An unconstitutional act is not law: it confers no rights: it imposes no duties; affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed.*** Norton vs Shelby County, 118 US 425 p. 442

The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void… “***No one is bound to obey an unconstitutional law and no courts are bound to enforce it.***” 16 Am Jur 2d. Sec 177

Another fact that should stimulate the resolve of we the People is that our form of government derives its just powers from the consent of the governed. In a free society people do not require constitutional authority to act. Government does.

So what is the remedy to restore our sacred liberty when every effort (petitioning, protesting, voting the bums out of office and relying on the courts) hasn’t worked?

In Memorial Day 2020 Part 1 we find the following statement:

*However, there is a remedy that is activated when the People finally understand that no legislative act or executive act or court decision that is contrary to the Constitution is valid*. [They are totally null and void.]

This remedy was demonstrated by the Apostle Paul which shows what Christians should do when govern- ment exceeds its God-given delegated authority:

***Acts 5:29 – We should obey God rather than men.***

In his draft of the Kentucky Resolution of 1798, Thomas Jefferson introduced the term “NULLIFICATION” into the American political discourse which is descriptive of our remedy to tyranny and the sentiment behind Paul’s words and the Constitution.

[Nullification is] *an idea that may strike us as radical today was well within the mainstream of Virginia political thought when Jefferson introduced it.*

*Nullification begins with the axiomatic point that a federal law that violates the Constitution is no law at all. It is void and of no effect. Nullification simply pushes the uncontroversial point a step further: if a law is of no effect, it is up to the states, the parties for the federal compact, to declare it so and thus refuse to enforce it. It would be foolish and vain to wait for the federal government or a branch thereof to condemn its own law. Nullification provides a shield between the people of a state and an unconstitutional law from the federal government. Thomas E. Woods, Nullification, How to Resist Federal Tyranny in the 21st Century, p. 3*

Pastor Mike’s letter to Governor Greg Abbott:

July 9, 2015

Dear Governor Abbott,

I am a native Texan man with great appreciation for all those who suffered and gave their lives to establish freedom here. However, I am very concerned and angered over the recent unconstitutional and immoral decisions of the United States Supreme Court concerning the Affordable Care Act, and same-sex marriage.

They have broken their oath to uphold and defend the United States Constitution.

• They have denied the States the rights that the

Constitution guarantees them in the 10th Amendment.

• They have no right or authority to ignore the

State Constitutions that were lawfully amended

to include the traditional definition of marriage.

• They failed to interpret the law the way that it

was written but, instead, changed the obvious

meaning of words in order to promote their liberal

agenda.

• They have arrogantly changed the definition of

marriage which has always been a covenant

between one man and one women from the

beginning of time.

• They have officially declared that an immoral

perversion is now a new Constitutional right.

• They have defied the Almighty God by approving

what He has condemned.

I am aware that the justices’ decisions were made taking into consideration the 14th Amendment to the U.S. Constitution. I assume that you are aware of the well-documented fact that the 14th Amendment was neither properly approved nor ratified which makes it null and void. And the fact that it has been used to abuse the States and the People over time does not make it valid nor does it provide an excuse to continue its use.

I also assume that you are aware that decisions from the SCOTUS are not law, but are opinions relating to a particular case under specific circumstances. Article 1 Section 1 of the United States Constitution says that Congress and only Congress has the authority to make laws so SCOTUS opinions cannot become the law of the land.

According to Article 6 Section 2 of the United States Constitution, the supreme law of the land is the Constitution, not the opinions from the Supreme Court. If the House of Representatives, the Senate, the President or the Supreme Court do anything that violates the Constitution, it is null and void.

Since the Supreme Court cannot make laws, since the justices’ opinions are pertinent only to specific cases brought before them, since the 14th Amendment is null and void, and since both the United States Constitution and the Texas Constitution can only be amended by the amendment process specifically stated in each Constitution, what authority does the Supreme Court have to change the traditional meaning of marriage or to nullify the traditional marriage amendment in the Constitution of Texas?

You sir, took a solemn oath before God and the People of Texas to uphold and defend both the Constitution for the United States and the Constitution for Texas. So my question to you is this: Considering all that is stated above, are you going to abide by your oath and nullify the unconstitutional and immoral efforts of the federal government to enforce the Affordable Care Act and the same-sex decision upon the people of Texas?

I would also like to remind you that even if the majority of the People of Texas do not hold you accountable should you break your oath by failing to interpose between the tyranny of the federal govern- ment and the People of Texas, God certainly will.

His Servant,

Mike Smith

*Joseph Desha, governor of Kentucky, concluded that it is “believed to be the right, as it may hereafter become the duty of State governments, to protect themselves from encroachments, and their citizens form oppression, by refusing obedience” to “unconsti- tutional mandates.”*

*Once we accept the underlying premise that an uncon- stitutional law is “ipso facto” void, it is not a long way to Jefferson’s commonsense conclusion that someone ought to protect the people from the enforcement of such law, and that the state governments, each one speaking only for itself, are the logical choice to do so.*

*Ibid p. 7*

Our State and Federal Constitutions were granted only a few specific powers by we the people and they cannot be changed by adding to or reduced in anyway apart from the amending process in which the people have the last say.

We the people have chosen to be governed only by the powers we ceded to the States and Federal Government and we will not be governed or promise to submit to any other.

*The federal government, which the states themselves created, cannot hold a monopoly on constitutional interpretation and cannot decide for itself what the extent of its powers are. That would mean the people were governed by the mere discretion of their rulers rather than by the Constitution.*

*The federal government, either as a whole or in its branches, is not or cannot be an impartial arbiter of disputes between itself and the states of which it composed. It is up to each state’s own judgment to decide when the Constitution has been violated and how that violation is to be addressed. Ibid p. 48*

*When the federal government passes laws that extend beyond its constitutional powers, the people at the state level ought to make a legislative declaration that, being unconstitutional, they are therefore void and of no effect. Ibid p. 48*

*It would be evidently absurd, that the creature (Congress) should exclusively construe the instrument of its own existence (the Constitution).*

*Congressman Edward Livingston of New York declared in the House of Representatives:*

*If regardless of our duty as citizens, and our solemn obligation as representatives; regardless of the rights of our constituents; regardless of every sanction, human and divine, we are ready to violate the Constitu-tion we have sworn to defend – will the people submit to our unauthorized Acts? Will the states sanction our usurped power? Sir, they ought not to submit – they would deserve the chains which these measures are forging for them, if they did not resist. Ibid p. 53*

*The Virginia and Kentucky Resolutions of 1798 along with the follow-up report of 1800 and the Kentucky Resolution of 1799, held that (1) the federal gov. had been created when sovereign states granted it a few enumerated powers; (2) any powers not so delegated remained with the states and the people, a point expressly stated in the Tenth Amendment; and (3) should the federal gov. exercise a power it had not been delegated, the states ought to interpose – that is, they ought to stand between their own people on the one side and the federal government’s unconsti- tutional law on the other. Ibid p. 56*

**MEMORIAL DAY 2020 PART 3**

COUNTRY BIBLE CHURCH

Pastor Mike Smith

May 28, 2020

Tyrannical government officials are able to oppress the people only when people are willing to obey their dictates which pose as laws, but are unconstitutional and there- fore totally null and void.

Nor can they oppress the people unless law enforcement officers are willing to break their oath to the Constitu- tion in order to execute dictatorial unconstitutional orders. They become pawns of maniacal usurpers and in doing so, they become just as evil as those who issue the freedom destroying orders. Same on them!

Why would anyone obey a “law” or enforce a “law” that destroys our God-given rights which has inevitably been voided and nullified? Three reasons come to mind:

(1) Fear (2) Ignorance (3) Apathy. No nation can remain free when these three enemies of freedom prevail.

One does not need to hire an attorney to determine if a right enshrined in the Bill of Rights has been disregard- ed. We know when our right to exercise our religion, or our right to speak our mind, or our right to peaceably assemble, or our right to keep and bear arms has been ignored.

When no one in the chain of command in government is willing to interpose themselves between tyrannical acts and the people, then people have the right to nullify those dictatorial acts by refusing to obey them.

Thomas Jefferson said that nullification is the rightful remedy for tyrannical government officials. Some recoil at the notion of disobeying the “law”. Remember, if it is unconstitutional, it’s not a law. Nullification is logically, constitutionally, and morally the rightful remedy.

Those who accuse people who would employ nullification to preserve their freedoms say that they are rebelling.

No, they are not rebelling, they still submit to legitimate laws, they are actually taking action to stop rebellion of rogue government officials.

Submitting when submission leads to further tyranny doesn’t count as a moral act. In fact, submission leading to the perpetuation of tyranny is an immoral act. It is those who refuse to submit to injustice that are moral.

Nullification has been used successfully many times to halt the execution of unconstitutional laws and acts:

Two dozen states nullified the **REAL ID ACT of 2005**, legislation which aroused the opposition. Resistance was so widespread that although the law is still on the books, the federal government has, in effect, given up trying to enforce it.

One of the most successful examples of modern-day nullification involves the medicinal use of marijuana, which is illegal under federal law. Fourteen states are openly resisting the federal government’s policy.

Another example of a state challenge to federal power is the **Sheriffs First Initiative**, whereby, with a few exceptions, it would be a state crime for a federal law enforcement official to make an arrest or engage in a search and seizure without first receiving permission from the local sheriff.

**CSPOA Advisory Board Member Michael Peroutka Intervenes for Liberty in Washington State**

America has weathered many storms in our history, brought on both by nature and by enemies of the Constitution, and this current pandemic is no different.Though it is a real virus like many others of the past, government’s response has been dramatically different.

The overreach has been treacherous and often tyrannical, violating fundamental individual rights in the name of safety.

**There is no 'except for emergencies' clause in the Bill of Rights.**Separation of Powers cannot be abrogated by a single member of one branch of government.  The fear-mongering and panic has pushed liberty to the back burner.  No longer.

Here, **Michael Peroutka**, attorney and member of our CSPOA Advisory Board, intervenes in a specific state (Washington) and sets forth the law….the Supreme Law of the Land.  This clearly written and easily understood explanation of that law could well serve for similar circumstances in every state in the Union.

The following is a response to the legal opinion provided by **John F Driscoll, Jr.**, Chief Civil Deputy Prosecuting Attorney for Spokane County in an April 30, 2020 letter to the Commissioners of Spokane County, Washington.

**Mr. Driscoll’s** letter contains a legal opinion. The subject of the opinion is the Governor’s purported emergency powers and the question posed by the Commissioners is this:

“What ARE the governor’s emergency powers during the present COVID-19 pandemic, including enforcement of any orders issued by the governor during that time?”

The April 30th letter (the opinion) contains one paragraph which is titled **SHORT ANSWER** and then 5 pages titled **ANALYSIS** which includes text taken from the State Code.

**RESPONSE** [from **Michael Peroutka –** CSPOA]

We respectfully disagree with the substance of the short answer and with the body of analysis for the reasons herein:

**Short answer Section**:

The opinion begins by making the following statement:

“*The Governor derives his power both constitutionally and statutorily*.”

This is true but begs the question as to the lawful source and limits of that power. The remaining sentences in this section recite the penalties for disobeying the governor and asserts that the orders of local health officers also must be obeyed so as to avoid fines and punishments. We can find no discussion in the opinion documenting the constitutional source of authority for health officials to MAKE law.

**Analysis Section**:

This section begins with the statement that the governor’s power to make law is initially derived from Article X of the Bill of Rights to the United States Constitution commonly known as the Tenth Amendment which 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”***

After citing the Tenth Amendment the opinion concludes, “*This basically allows the state, through its executive, to decide state matters.”*

This is not an accurate summation of the nature, purpose and effect of the Tenth Amendment. Under the terms of the United States Constitution ONLY certain powers are delegated to the national government by the states. In addition, the language of Article I, Section 10, prohibits the states from certain other things, i.e. treaties and coining money.

The Tenth Amendment clarifies that, but for these powers, powers that previously belonged to the states continue to rest with them. At the same time, powers that previously belonged to the people are similarly reserved to them.

The Tenth Amendment, then, is not a grant of plenary (full, complete, absolute) power which devolves to the executive of the state. It is simply an acknowledgment that powers, other than those affected by the terms of the Constitution of the United States, remain as status quo ante. That is, whatever powers resided in the state government still exist. In like manner, whatever powers resided in the people still reside there.

This last point is salient (prominent, very clear) because Article I, Section 1 of the Washington State Constitu- tion acknowledges that all governmental authority comes from the people and is authorized by virtue of their consent:

**ARTICLE I**

***Section 1: All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights.***

Nothing in the 10th amendment operates, then, to subtract in any way from the authority of the people, or to give the governor of Washington State any power or authority which is not specifically delegated to him by the people under the terms of the Washington State Constitution.

Turning then to the Washington State constitution, the opinion cites Article III, Sections 2 and 5 as follows:

**ARTICLE III**

**SECTION 2 GOVERNOR, TERM OF OFFICE**. The supreme executive power of this state shall be vested in a governor, who shall hold his office for a term of four years, and until his successor is elected and qualified.

**SECTION 5 GENERAL DUTIES OF GOVERNOR**. The governor may require information in writing from the officers of the state upon any subject relating to the duties of their respective offices, and shall see that the laws are faithfully executed....**NOT MADE**...!

The opinion then states:

“*This basically allows the governor to enforce state laws, including orders or proclamations he may issue under those laws.”*

We respectfully disagree. This is not an accurate statement. Pursuant to article III, Section 2 the governor is not “allowed” but is required to faithfully execute state laws. But there is nothing in the constitution that authorizes or permits him to make laws or to issue orders or proclamations that pretend to be law or (carry the weight of law=if you disobey, punishment follows) In fact, all authority to make law is reserved to the legislative branch under Article II, Section 1.

**ARTICLE II**

**SECTION 1** **LEGISLATIVE POWERS, WHERE VESTED**. The legislative authority of the state of Washington shall be **vested in the legislature**, consisting of a senate and house of representa- tives, which shall be called the legislature of the state of Washington, but the people reserve to themselves the power to propose bills, laws, and to enact or reject the same at the polls, independent of the legislature, and also reserve power, at their own option, to approve or reject at the polls any act, item, section, or part of any bill, act, or law passed by the legislature.

Therefore, any proclamation issued by the Governor must be executory in nature (executing existing law) and not legislative (pretending to make law). And since valid executive orders only apply to those who are under the authority of the executive, no executive order is binding on anyone outside the executive branch of government. The opinion’s reference to Article III, Section 5 above is consistent with the idea that the Governor may impose requirements on those in the executive branch, that is, those already under his authority, but NOT on anyone else. (See Addendum 2 for separate discussion regarding executive orders generally).

Moreover, **Article II, Section 18**, confirms this point by stating plainly that no laws shall be enacted except by bill (not by order, mandate, directive or edict.)

ISSUE EDICTS ARE WHAT DICTATORS HAVE ALWAYS DONE, WHETHER THEY BE CALLED Pharoah, King, Queen, Emporer, Caesar, Czar, Tzar, Führer, Supreme Leader, Comandante, Imam, Pope, Governor or President, one person decided what everyone in their realm could or could not do... and if they didn't do exactly what the dictator said, they were punished in some way and, more often than not, off came their head!

**ARTICLE II**

**SECTION 18 STYLE OF LAWS**. The style of the laws of the state shall be:

"Be it enacted by the Legislature of the State of Washington." And no laws shall be enacted except by bill.

Finally, and in any event, no executive order or pretended legislation is lawful which contravenes or violates the God-given constitutionally protected rights of the people as particularly described in Article I, Sections 2,3,4,5 and 11, as well as many other sections of the Washington State Constitution:

**ARTICLE I**

**SECTION 2** SUPREME LAW OF THE LAND. The Constitution of the United States is the supreme law of the land.

**SECTION 3** PERSONAL RIGHTS. No person shall be deprived of life, liberty, or property, without due process of law.

**SECTION 4** RIGHT OF PETITION AND ASSEMBLAGE. The right of petition and of the people peaceably to assemble for the common good shall never be abridged.

**SECTION 5** FREEDOM OF SPEECH. Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that right.

**SECTION 11** RELIGIOUS FREEDOM. Absolute freedom of conscience in all matters of religious sentiment, belief and worship, shall be guaranteed to every individual, and no one shall be molested or disturbed in person or property on account of religion…until or unless they commit MURDER 'in the name of their god' in which case they will be prosecuted to the full extent of the law!

The dangerous situation in which we find ourselves was contemplated and provided for by the Founders and the necessity for civil officials to exercise fidelity to the rule of law has been rearticulated by courts throughout the American political experience.

For example, in Federalist 51, James Madison ('father of the US Constitution") observed that when one level or branch of government gets out of its lane, another level and/or branch will **interpose** itself to defend the people from tyranny.

"Hence, a double security arises to the rights of the people. The different governments will control each other at the same time that each will be controlled by itself. (Federalist 51, at 323)"

More recently, Justice Scalia observed: "*But the Constitution protects us from our own best intentions. It divides power among sovereigns and among branches of government precisely so that we may resist the temptation to concentrate power in one location as an expedient solution to the crisis of the day*.”

For these reasons we believe that the analysis in the opinion should be revisited and reconsidered. The circumstances of the “current crisis” (aka COVID-19) can never be used to justify lawless- ness, either on the part of individuals or government officials or institutions.

Respectfully submitted,

Michael Anthony Peroutka, Attorney at Law

Co-Founder, Institute on the Constitution