

Thursday, April 16, 2009

An Open Challenge To The States

I'm stunned.

Washington DC and many of the so-called "drive by" media are trying to play off the "Tea Parties" as some sort of right-wing partisan thing.

They're wrong.

I was one of the first to call for mailing Tea Bags to legislators. [Here's the proof:](#)

Therefore, on February 1st, which is more than enough time for Barack Obama to be seated in his chair in the West Wing, I am recommending an act of peaceful, lawful and yet unmistakable protest.

That is, to mail President Obama one teabag. Nothing dangerous, nothing illegal - just one teabag.

Send one to your Congressman and one to each Senator.

Posted on January 20th.

And by the way, I stole it from [Tickerforum](#), where it was suggested.

To those who wish to call me some sort of "right-wing hack" I will simply reply that you have **not** been reading *The Ticker*. I have been an equal-opportunity rabid dog with my mighty Internet Pen, calling on the carpet **both** Democrats and Republicans in their mishandling and outright complicity in this economic mess.

Washington is known for not listening to The States or The People. Proof? 300:1 dissent from *The People* on TARP's passage - they passed it anyway. That 300:1 dissent partially was the reason for President Obama's victory. He didn't give a damn, and not only has continued the bailouts he has **refused to prosecute the thieves**.

Several states have passed "non-binding" resolutions asserting their 10th Amendment rights. A "non-binding" resolution is just a feel-good thing to placate the populace.

But one state - Montana - has gone further.

[Montana has asserted both Second and Tenth Amendment rights](#), and the state did so not with a "non-binding resolution" but **with an actual law that has the force of law and enforcement by the State's right to use force, including, presumptively, The State National Guard!**

What was that law?

Read the summary:

AN ACT EXEMPTING FROM FEDERAL REGULATION UNDER THE COMMERCE CLAUSE OF THE CONSTITUTION OF THE UNITED STATES A FIREARM, A FIREARM ACCESSORY, OR AMMUNITION MANUFACTURED AND RETAINED IN MONTANA; AND PROVIDING AN APPLICABILITY DATE.

How long will it take before every firearms and ammunition manufacturer locates in Montana? 15, maybe 20 minutes?

Washington DC is **not** the Seat of Power in our nation. If you think it is, go read [The Declaration of Independence](#) again - you know, that pesky document that a handful of men were willing to die in order to write and disseminate a couple hundred years ago, and without which **America would not exist?**

The Federal Government has specific enumerated powers, among them the duty to provide for the common defense of the several states. But Social Security, Medicare, Education **and intrastate commerce in all its forms** are not within its purview. Neither is the right or ability to abrogate **The Constitution** except through the lawful process of amendment **as directly provided therein**.

There are many, including some who I used to consider "friends", that have asserted that there is **absolutely no chance** that The States or The People would take back their rights from The Federal Government absent a violent revolution, and some of them, sadly, seem to want to see that day come.

I disagree, have in fact severed contact with former friends over this disagreement, and submit as my evidence **The State of Montana**.

A **peaceful** declaration of both Second and Tenth Amendment Rights occurred yesterday. Not one shot was fired, not one person was murdered.

Instead, **the soapbox and ballot box** prevailed, **exactly as it should**.

I call upon the several states - **all of them** - to similarly assert their 10th **and 2nd** Amendment rights. To follow in Montana's footsteps. To withdraw their consent to unlawful interference in **intrastate** affairs as a means of forcing Washington DC to come to its senses and **prosecute the outrageous fraud and theft** that has been committed against The States and The People by a small group of monied interests that have literally stolen **several trillion dollars** from those States and The People.

If you live in a State that has passed or introduced a "10th Amendment Resolution" (including Texas, Michigan, Wisconsin, North Dakota, Illinois, West Virginia, Ohio, Nevada, Oregon, Alabama, Mississippi, Idaho, New Mexico, South Dakota, Virginia, Kentucky, Alaska, Indiana, Tennessee, Arkansas, Minnesota, South Carolina, Georgia, Kansas, New Hampshire, Missouri, Iowa, Arizona, Washington or Oklahoma) **get on the phone to your state reps and senators and demand that this "resolution" (whether it succeeded or failed) be upgraded to a BILL and passed as a LAW**.

If you live in state that **has not** introduced same, start pestering your representative and senator to introduce one - again, **as a bill and then LAW**, not as a toothless "resolution."

We live in a **Constitutional Republic** folks. Federal Government power is **not** unlimited - it is, in fact, limited specifically to the enumerated powers set forth in The Constitution, with the remainder reserved to The States and The People.

Congress has routinely ignored this fact with the EESA/TARP being the most outrageous example of The Will of The People being ignored in a generation's time.

It is time to take our nation back through lawful and Constitutionally-protected political process.

It begins with you.

Posted by Karl Denninger at 14:37

Saturday, April 11. 2009

Second Amendment Under Fire?

[This sort of thing makes me ill:](#)

CASSELBERRY, Fla. - A central Florida woman who fatally shot her son then killed herself at a shooting range wrote in suicide notes to her boyfriend that she was trying to save her son.

"I'm so sorry," Marie Moore wrote several times. "I had to send my son to heaven and myself to Hell."

The mother in question who did this was ineligible to own a firearm:

Mitchell's father, Charles Moore, told police that Marie Moore had a history of mental illness and had previously attempted suicide and been involuntarily committed to a mental hospital in 2002 under the state's Baker Act.

One of the questions on form 4473 deals specifically with mental incompetence, specifically, whether you have ever been adjudicated mentally incompetent.

Florida's "Baker Act" is the statute under which someone can be involuntarily committed as a risk to themself or others due to mental instability.

It appears that the firearms that were being used had been rented at the range, which is legal (as it should be); this allows one to go to a gun range, rent a few firearms and fire them to test their "fit" to you before you purchase one.

Needless to say random acts of mass-murder are rather tough to commit at a gun range, as everyone there is armed (duh!)

However, this also points out that random acts of single-murder followed by a suicide are impossible to prevent, even if you are in the company of a group of people who are all armed and able to defend themselves.

I would not be surprised to see the NICS (instant background check) system proposed to be extended to ranges as a result of this event if one wants to rent a firearm. Perhaps this is appropriate given that it is not hard to argue that a rental, even within the confines of the range property, is a temporary "transfer" of the firearm to the person involved, and that this "transfer" is occurring in commerce (that is, you typically pay a fee for rental of the firearm to the range, as one would expect given that it has to be purchased and, once you've used it, it must be cleaned and maintained.) That's the definition under which the NICS ("Brady Law") was conceived, even though I personally believe the Brady Law is fatally flawed as every criminal shooting that takes place proves that crooks don't care about and don't adhere to firearms laws just like they don't pay attention to laws against murder, rape, robbery, drug running and carjacking.

I believe the statistics on this point are clear - the more restrictive the firearms laws, **on balance**, the more crime. This is just plain common sense; the "bad guys" would much rather their victims not be armed, as it increases their odds of getting away with their crime. In those states that have gone from restrictive firearms

policies to permissive ones, violent crimes (with and without firearms) have **dropped**, in many cases precipitously so (normed to the rest of the nation), and yet those states that have imposed more restrictive firearms policies have either not seen materially better statistics (normed to the rest of the nation) or have seen their statistics worsen.

The poster child for this is of course Washington DC which (until *Heller*) had the most restrictive gun laws in the nation. This, of course, hasn't prevented the bad guys from both obtaining handguns and using them with disastrous results for the (unarmed, law-abiding) citizens.

20/20 did a "hit piece" on personal firearms ownership the other day, and it was a doozy. Their claim that "packing heat" is worse than worthless belies a few outright lies: first, their "assailant" in the exercises was a trained police officer while the "citizens" were not and second **he was told who was armed before he came into the room.**

If you tell an assailant **in advance** about the **one person** in the room who is armed, you now are devolving the use of defensive force into a debate about quality of training and practice, and little else.

In the real world it doesn't work that way. In the real world the assailant has no clue who is and who is not armed until he barrels into the room and starts firing. If he selects the wrong initial target, he eats a round or two himself **and if he winds up with multiple defensively-armed people that are at disparate angles from his location he must take his eyes off at least one of them to attempt to shoot the other; leaving the first defender with an "uncovered" shot to stop him.**

But even under these contrived, intentionally-designed-to-fail scenarios, one of the "armed citizens" **won**, although 20/20 didn't present it that way. That "armed citizen" scored a groin shot. This was considered a "loss" by 20/20 as it was a "miss" (the intent was to shoot at center-of-mass) **but since the essential purpose of a defensive shooting is to stop the assault - that is, disable the attacker - does anyone here believe that a shot to the groin would not have succeeded in that goal?** If you're a man and have been kicked in the balls, you tell me how much fight you had left in you.

20/20 also apparently couldn't manage to find even **one** successful defensive use of a firearm. This had to be due to willful blindness as I found one [with a glance at the local paper](#):

Rick Crider, 52, killed Reba Crider, 49, on Jan. 25 inside the home in the 10300 block of Aileron Avenue, off West U.S. 98.

"My wife just took a shot at me," Crider told a 911 dispatcher. "I killed her."

In a report released Thursday, **Assistant State Attorney David Rimmer concluded that Reba Crider, who was outside, fired a single shot through a kitchen window in her husband's direction.**

He returned five shots in self-defense, using a gun he kept atop his refrigerator, according to Rimmer. She was struck in her chest, right hand and right arm.

The rest of the article makes clear that this wasn't exactly a "friendly marriage", but when you shoot into someone's home **from the outside** it is rather clear what your intent is; the DA has investigated and found wanting any cause for prosecution. Of course without a firearm, the husband would have been defending against his wife's bullets with his bare hands.

Nor do we have to look far to find **non-firearms** killings. How about "beer and cars"?

Joseph Stewart said he drank three beers as he played a round of golf at Tiger Point Golf Club, an investigator testified Wednesday at a Santa Rosa County detention hearing.

Within 20 minutes after he left the course on April 1 to go home, Stewart had two crashes.

The second crash left 25-year-old Bartholomew Cole of Gulf Breeze dead and two passengers injured. Stewart is charged with DUI manslaughter, DUI with serious bodily injury, DUI with property damage and vehicular manslaughter.

If you look in your local rag you can likely find several similar incidents, none of which involve firearms.

Yet nobody is (seriously) calling for banning either beer or cars.

There have been a number of recent shootings, and one must wonder if the incidence is related to the current set of economic conditions, in that stress levels have, in general, been high and rising across the board.

But when I sadly count the rounds and the dead, I am left with the same inescapable conclusions that I have every other time I've looked at this issue over the years:

- The majority of the shootings are committed by people who are ineligible to own firearms due to some (legitimate) legal disability. **We simply refuse to enforce existing law**, although this **has** improved. NICS checks in many places now take place "online" via the encoding on a purchaser's driver license, and I've heard reports of NICS inquiries being routed to the mobile data terminals in squad cars if the intended purchaser has outstanding wants or warrants. That's what I call "**a good thing.**"

- There are some 14,000 homicides (and a similar number of suicides) committed with firearms a year in the United States. However, [**there are somewhere between 800,000 and 2.5 million defensive uses of firearms annually**](#). These aren't the numbers from either a "gun banning" or "gun advocacy" group (e.g. The Brady folks or the NRA) - they are an estimate from the Department of Justice.

- Even the **most critical** "study", one which focused only on actual victims of crimes (that is, resulting in a police report) and which would trap someone into admitting to possession of a firearm where it might not be lawful (e.g. in the City of Chicago) came up with an estimate of over 100,000 annual defensive uses. Yet most defensive uses of firearms result in no police report as no shots are fired, the intended felony is not completed, and in the majority of these cases either no or nearly no property damage takes place (e.g. a single broken window); ergo, these criminal attempts often go unreported.

There is also the Second Amendment issue. *Heller* was the first direct ruling on the Second Amendment by the United States Supreme Court in a very, very long time; the previous ruling is the famous *US .v. Miller* (1939) which is often **MIS-cited**.

See, Miller in fact held two things:

- It was lawful for the government to prohibit the ownership of a shotgun with a barrel of less than 18 inches.

- **That the term "militia", in historical context, meant all males physically capable of acting in concert for the common defense, and further that when called for service these men were expected to appear bearing arms supplied by themselves and of the kind in common use at the time.**

It is obviously impossible for *Miller* to thus be interpreted as somehow conferring only a "collective" right to bear arms (e.g. as part of The National Guard or similar), since the second point above could not be true in

such a circumstance.

What those who wish to write about firearms and their regulation conveniently forget is that The Second Amendment is not about defensive use of firearms to prevent crimes, or even about hunting.

Those two uses are both convenient side effects that benefit society tremendously. The prevention or cessation of over 1 million felonies a year is certainly a tremendous benefit to society, and the management of game populations by lawful hunting activity is **necessary** to promote and protect the health of various animals that otherwise lack sufficient natural predatory pressure (that lack, by the way, is also mostly of our doing!)

No, *The Second Amendment*, if one bothers to read *The Federalist* and *The Antifederalist*, is clear in intention.

The Second Amendment exists as the final check and balance on government against the usurpation of the other nine Amendments in The Bill of Rights, along with the text of the Constitution itself.

In fact, it is the precise existence of *The Second Amendment*, standing as originally written, that is our best guarantee that **it will never need to be used.**

Each time we permit The Second Amendment to be diluted, chipped away at or otherwise tampered with we come closer to the day in which we will need it and not have it.

History is replete with examples; Hitler's Third Reich began with the mandatory registration of all firearms, which was readily agreed to by the citizens "for the common protection." **That was shortly followed by confiscation, literally door-to-door, with a few resisters being publicly shot.** Having secured essentially all of the civilian firearms Hitler was then of course free to commit the rest of his evil deeds with little chance of the people rising up against him (they tried anyway, many times, all of which were failures and most of which led to death by summary execution of the protagonists.)

Nor is it always The State that takes advantage when firearms are confiscated; a more recent example is in Australia, where a lunatic in 1995 shot 35 people. The uproar resulted in a complete ban of all semi-automatic weapons, leading to their confiscation and destruction.

Unfortunately violent crime increased; within 12 months of enactment of that law armed robberies were up a whopping 44 percent, and there was a 300% increase in homicides in one Australian State (Victoria.) Two years later, in 1998, South Australia had recorded a 60% increase in robberies **with a firearm.**

So much for gun bans actually managing to decrease the number of bad guys with guns!

The logic here folks should be obvious:

*If I am willing to commit a violent felony, whether it be rape, robbery or murder, I have already decided to ignore the law prohibiting this conduct and inflict intentional harm on other people. As such we are now reduced to one simple question: **do the intended victims of these crimes have a right to fight back with the only device known to man that equalizes the strength of assailant and defending citizen, or are the intended victims of such a criminal expected to simply "lie down and take it"?***

*If it is **your** wife, daughter, grandmother or niece that is the intended victim of a 250lb drug-crazed rapist are **you** willing to tell her that she is **prohibited by the law** from defending herself with **the only device** known to man that will render her 120lb mind and body **the precise equal** of that assailant?*

Note that this decision - one that would be hers and hers alone - does not mean she will win in such a confrontation. Rather, it is a question of **basic human rights** - do you, or do you not, have a personal right of self-defense against a felonious thug who intends you great bodily harm (or worse.)

Yet this question - one that should be at the forefront of your cognitive process in this debate - is a **secondary beneficial side effect** to the very reason we have a Second Amendment.

The **primary** reason The Second Amendment exists is to prevent Auschwitz, and all that came with it, from happening **here**, and the unfortunate truth is that the annals of recorded history prove that it is **only** a right of personal arms possession that prevents it. If you doubt this see Switzerland - both in terms of it's violent crime rate and history through two World Wars.

I rest my case.

Posted by Karl Denninger at 12:52

Sunday, April 5, 2009

The Constitution Dies - To Thunderous Applause

Gee, you folks who thought [Obama was the be-all and end-all to "solve" violations of The Constitution](#) under President Bush:

A pair of bills introduced in the U.S. Senate would grant the White House sweeping new powers to access private online data, regulate the cybersecurity industry and even shut down Internet traffic during a declared "cyber emergency."

Senate bills No. 773 and 778, introduced by Sen. Jay Rockefeller, D-W.V., are both part of what's being called the Cybersecurity Act of 2009, which would create a new Office of the National Cybersecurity Advisor, reportable directly to the president and charged with defending the country from cyber attack.

This **sounds** reasonable, at first blush.

But I've read [the actual draft bill](#) that allegedly was proffered, and while most of the time what is published on WND is about as diametrically opposed politically to my views, this isn't one of those times.

On page 21 and 22 it is established not only certification of "security professionals" in the computer field but **mandatory licensing** for anyone performing compute security services not only to the government **but also to any "critical infrastructure system or network."**

This would immediately make part of what I do - selling spam-interdiction software **to state and local public safety organizations such as police departments** - unlawful unless I went through whatever "process" the government sets forth.

Got that? As a guy who has been writing spam **filtering** software for more than a decade, as the guy who first offered it to his ISP customers back in the 1990s as part of our service to **every** user, what I did in the 1990s would be made illegal (since we had literally thousands of accounts billed to a government agency of one form or another) and my provision and support of that software ("Spamblock-Sys") would be unlawful **going forward** unless I submitted to whatever licensing criteria the government set forth in the future.

Might I be willing to submit to that? Maybe. Will it dramatically increase the cost of that software? Absolutely. Who's going to pay for it? You are, in higher taxes.

Second, page 40 has some truly frightening implications, among them granting The Department of Commerce **plenary authority to invade networks and access the data therein irrespective of Constitutional or legal restrictions against that action.**

Finally, there is a provision within this draft allowing The President to order disconnection of any "critically important" infrastructure - but it does not define what that is, once again, granting **effective plenary authority** to The President to silence communications irrespective of Constitutional protections regarding Free Speech.

First Amendment?

What First Amendment?

Gee, I wonder if the Second Amendment means anything these days, and whether we'll defend **that** if we won't defend The First!

Posted by Karl Denninger at 13:21