



## Episode 1,790: How We're Pushing Back Against the Feds in 2021

Guest: Michael Boldin

**WOODS:** Well, I have no idea what we're talking about.

**BOLDIN:** Exactly, and that's what's going to make it more fun. And I think, especially at this time when we're talking about all the election payoffs and what's going to happen next and I'm hearing talk about mandates and rebanning what they call assault weapons, we should go back to Thomas Jefferson, right? That's probably a good starting point.

**WOODS:** Yeah, I'm all in favor. I would I wish we could go back Tenther Tuesday. Remember the early days of *The Tom Woods Show*?

**BOLDIN:** Yeah, well, we'd literally have to do it every week, though.

**WOODS:** Yeah, I know. And so and then plus, usually I have you on because you're so nice and flexible. When I'm panicked I'm out of episodes, and it's never Tuesday when that happens [laughing].

**BOLDIN:** Well, this is Tenther Tuesday Thursday edition?

**WOODS:** Thursday edition, sure. Yes, starts with a T, close enough.

**BOLDIN:** It works for me. So let's go back to Thomas Jefferson. In his original draft for the Kentucky resolutions of 1798, let me just read this real quick. I think it makes a lot of sense when you hear this. Jefferson said, "In cases of an abuse of the delegated powers, the members of the general government, being chosen by the people, a change by the people would be the constitutional remedy." That's Jefferson's version of saying, when they use the powers delegated to them in a bad way and have bad policy, vote the bums out. But "vote the bums out" is not the strategy for when they're exercising powers outside the Constitution.

And that's where he follows up, and he says, "Where powers are assumed which have not been delegated, a nullification of the act as the rightful remedy." He's not saying it's a good idea. You should maybe first try to vote the bums out and then maybe go to court and then maybe wait two or four or six years for the government to give you permission to be free. He literally says *whensoever*, when they assume powers that have not been delegated to them. And we're living under the largest government in the history of the world. I think it's safe to assume without even much effort — you don't even have to do any research. If you literally just said 9 out of every 10 federal programs you ever hear about are unconstitutional, you'd probably be right almost every single time.

So our approach has to focus away from national elections and closer to home on a state, local, and individual level. And of course, the closer we are to the individual, if our goal is individual liberty, then the more likely we'll have a chance that individual liberty will have a chance of flourishing.

**WOODS:** All right, well you know you're singing from my hymn book of this stuff.

**BOLDIN:** [laughing] Well, I'm just trying to repeat the kind of stuff I learned from you in the first place.

**WOODS:** Okay, yeah, that came out wrong. I didn't mean to say you're just repeating things I've already said. What I meant was, you're saying things that that brighten my day and put a smile on my face.

**BOLDIN:** Singing my tune, right? You know, and we actually traced, and we've got a lot of work in recent years — and I know a lot of people like to focus primarily on Jefferson and Madison regarding nullification and strategy. But as we've been studying this deeper and deeper over the years, myself, Maharrey, and a number of other people who have helped me out at the TAC, we actually traced our nullification lineage actually further back to actually what Rothbard in *Conceived in Liberty* referred to as the people's nullification of the Stamp Act.

And I think if we're talking about taking action on a state level today, or even on a local level because local governments are really political subdivisions of the state — they're part of the state government really — we look at Patrick Henry in his great Virginia Resolves against the Stamp Act, and he's basically saying the same type of thing that Jefferson said some decades later in response to the Alien and Sedition Act. He said, basically, three main points that were widely republished and circulated. It drove the resistance to the Stamp Act.

One, the local government has exclusive authority over internal police and taxation, not the far-off government in London. They said any attempt to do otherwise, he said, was "illegal, unconstitutional and unjust." And the juicy part, this didn't actually pass, but Rothbard pointed out that this actually really was what people thought of, even though it didn't pass in his resolutions. But he said the people are not bound to yield obedience to any law or ordinance whatsoever that actually did attempt to do those things: enact laws that are not authorized that are supposed to be of local interest.

And we can apply that same type of process really today, when it comes to things like the Tenth Amendment. The federal government's authorized to do a certain amount of stuff. Everything else the people are not bound to yield obedience. And we saw that happen throughout the Stamp Act resistance. One of my favorite quotes came from John Hancock. Just a few weeks before the law was supposed to go into effect, he wrote his London agent, Jonathan Barnard, and he said, "The people of this country will never be made slaves of by a submission to the damned act." And this is a different type of attitude, a different type of approach that people had back then, that we don't have nearly enough of today. That is, rather than waiting for government to give us permission to be free, just start acting more free without first getting government approval, without waiting for government to limit its own power. Recognize that when government exercises power that violates your natural rights, they need to be resisted in one way or another.

Of course, we have to have good strategy about that, and there are so many different things that we use this type of strategy on. James Madison most famously told us in Federalist 46 that the best way to defeat federal programs was a refusal to cooperate with officers of the Union. And we can cover this on issue by — we could probably do a separate episode on every single issue. But for me, really, and when I got started in this activism back when I was still a dirty commie years ago, my number-one issue as I started learning about things was war. And Madison himself told us, for example, that war was the most dangerous threat to what he called the public liberty. And why? Because it would comprise and develop the germ of every other problem. War gave us armies. Armies gave us debts and taxes. And in Madison's words, "Armies, debts and taxes are the known instruments for putting the many under the domination of the few."

And that's why when we focus on nullification efforts, every year, I'm trying to have a bigger-picture viewpoint of: how does this chip away at the power of the largest government, the largest empire the planet has ever seen? So no matter what we do, whether we're trying to undermine federal gun control, that is also reducing their power and effectiveness. When we try to implement the Defend the Guard Act — you've had the guys on from BringOurTroopsHome.us on the show, right?

**WOODS:** I'm not so sure I have. I don't think I've done —

**BOLDIN:** Oh, man. Dan McKnight is awesome. You've had Pat McKeon on, right?

**WOODS:** yeah, but we were talking about his book on stoicism. We didn't try as much about this.

**BOLDIN:** Well, Pat has been really a leader on introducing legislation that we originally drafted. It's gone through some changes over the years, originally drafted to ban the use of a state's Guard troops for any foreign wars without a declaration of war by Congress, as required by the Constitution. And we know that hasn't happened since World War II. What was it, like Romania and Bulgaria or something like that, 1942ish, was the last time that's happened? So every single foreign conflict, we're talking about the Empire and chipping away at the Empire. Every single one of them, they're using Guard troops on a state level. Taking that away from them chips away at that power. And it's a really, really important thing.

And I know that Dan McKnight, BringOurTroopsHome.us, and a number of other people, they're actually hosting a Q&A session with a number of state legislators next week, I think on December 7th, probably 8th or something like that, where they're going to be doing a roundtable talking about this legislation, how we expect to see it introduced in anywhere from 10 to 20 states by January and February of 2021, and the things that people need to do in their own state to work to get that type of thing passed.

**WOODS:** I don't know if you've been taking lessons from Scott Horton and Gene Epstein or what the heck's going on here, but [laughing] —

**BOLDIN:** [laughing] I just never shut up, that's what it is. My mother told me that all the time. You're in class, your teachers are mad at you, your friends —

**WOODS:** No, this is great. No, I'm not complaining in any way. It's just been a pleasant surprise. Well, let's talk about 2021. As we look to 2021, do you have with the Tenth Amendment Center particular priorities in mind? Or are you just going to take it as it goes?

**BOLDIN:** Well, so the priorities tend to be kind of fluid. I like to set some goals and how we address things and we're ramping up to what we call every year nullification season. And as I've mentioned on previous episodes, we do an annual State of the Nullification Movement report. It's [TenthAmendmentCenter.com/report](https://TenthAmendmentCenter.com/report). It's a free 108-page download that goes over the philosophy, the constitutional structure, the legal basis, and how nullification has been used in history. Like we did an episode talking about nullification by northern states of the Federal Fugitive Slave Act. So we talked about all that. But the second half of the book, I think, is — eh, booklet, report, whatever — is probably just as important if not more. It shows how it's being used on various issues today, whether it's drug war prohibition or opting out of asset forfeiture, surveillance and things like that. So I look each year where things are.

I also look at and I — this is might be an unusual thing for me to say. But in some ways, polarization and hyper-partisanship is something we actually lean on as part of our strategy. So we understand that when one side is in power, let's say, though, the right is in power in Washington, DC, the left is going to be more likely to do things that say like, well, let's do the Tenth Amendment and resist those evil Republicans. And then they switch that, and then that's gone soon as now that we've got a probably a Biden guy in there, and of course, we've got the Democrat House, the left is going to be very unlikely to want to do anything that we want them to do. And I think some of the partisanship plays into our hands strategically.

So as we're looking towards the future in 2021 and beyond, it is much more likely that we'll see more action from Republican-dominated state legislators, which are a vast majority of them, to take action on things like, for example, federal gun control. We know that the feds have only about, I think it's like 3,000 or so, special agents for the entire country. These are their enforcement agents. And they have a capability to investigate and prosecute between 8,000 and 10,000 cases per year.

Well, Judge Napolitano a few years ago, actually maybe it was a Fox Business interview that he was on, but he was talking about legislation that we had been pushing, I think this was like 2013, 2014, in places like Missouri and elsewhere to ban the use of state local resources for the enforcement of federal gun control across the books. We can go back all the way to 1934 and anything that they may try to throw at us in the future. And Judge Nap recognized just what James Madison did in Federalist 46, that a refusal to participate with the enforcement of any federal program — and specifically he was talking about federal gun control. Refusal, he said, in one single state — now, Madison said you'd probably need a bunch of states at the same time, but mind you, the federal government was much smaller at that time than it is today. And Judge Nap said a single state doing this, passing this type of legislation would make federal gun control, in his words, "nearly impossible to enforce." Now, of course, I'm going to take *nearly impossible* over what we have today, even though I want 100% impossible. But *nearly impossible* would be a huge step forward.

And we can apply that to almost any issue out there. I think the low-hanging fruit, to be honest with you, is to take actions to opt out of and nullify federal gun control, the federal equitable sharing asset forfeiture program. Because it literally just takes a state saying: we're not going to participate in this. And guess what: I've got a dirty little secret. We learned over the last ten years or so that — and the National Governors Association actually put out a press

release about this a couple of years ago, during one of these fake shutdowns. They said states are partners with the federal government on implementing most federal programs. Well, the dirty little secret is partnerships don't work too well when half the team quits. So all you have to do is follow Madison's advice, follow Judge Napolitano, follow our strategy: opt out of the federal programs, opt out of that enforcement, and that partnership can kill that federal program dead on the spot.

**WOODS:** It really is frustrating, though, how few people really hold this idea on principle, who will stand by the Tenth Amendment Center year after year, no matter what's going on.

**BOLDIN:** No, no, our supporters change with the wind, really.

**WOODS:** Well, I kind of get that. I can see why that would be. It's a lot easier, I think maybe more stable, if you had, let's say, a free market organization, because people who are free market, they're always going to be free market, and they're going to cheer for it and then oppose any restrictions on it. But if there's a guy in the White House they feel like is on their team, well, now's not really a good time to be resisting federal overreach, you know?

**BOLDIN:** And we saw that happen. So we were really ramping up. Of course, when Obama was there, we had tons of states at least consider legislation to nullify federal gun control. We took some small steps in places like Idaho that banned the use of state resources for any federal gun control enacted after I think like 2016. So that includes the bump stock ban that was enacted in 2018. They shouldn't be helping enforce that. We also had a foundation set for this in Tennessee, although we need some work on that as well. But as soon as the Trump administration came in, that changed.

But you know what? Like I said, let's just face facts. A lot of people are really party over principle, and we're going to have to just use our strategy and push our strategy to work with it. I want to focus on the positive. Yeah, that may be a bad thing, and it certainly is frustrating. And I never started out this organization to be anything more than a single blog, so the idea that something had to come easy against the largest government ever never crossed my mind. And I don't mind it at all. I want to just leverage that to do as much good as possible.

Now, what's interesting, though, this Defend the Guard legislation, which I think is the most difficult one to get passed, it's actually primarily being filed over the last couple of years by Republican state legislators. In fact, most of them are Republicans who are war veterans. And in a way that actually says so much. So whether you like the Trump administration's action versus his rhetoric on war or not, what has happened, though, is we are finding more and more state-level Republicans who are taking a stronger antiwar stance and are willing to do more than just talk about it or hope that Bernie Sanders and those people are going to somehow in the wars that they really, really don't want to end in the first place, that maybe they'll sometimes say they do. But we're going to see them working harder and harder on a state level to take action to say, well, you know what? Maybe we can't personally stop war in West Virginia, but we certainly don't have to give them any resources. We don't have to sacrifice any sons or daughters, and we don't have to help them get it done, because it is such a horrible thing that's been happening for so many decades.

**WOODS:** Where have you not just in recent months, but over the course of the Tenth Amendment Center — which I think goes back to 2006?

**BOLDIN:** 2006.

**WOODS:** All right, what issue have you gotten the most traction from?

**BOLDIN:** Oh, man. Well, I mean, it's hard to actually turn a blind eye to the marijuana legalization effort, honestly. Because that's not really us, but we have pushed people in that direction as well. I mean, you're looking at so many states 33, 34, 35 states that are now legalizing something that the federal government prohibits. Now we're also finding a significant amount of traction on small steps to undermine the Federal Reserve's monopoly on money. In recent years, Ron Paul has actually personally come out to lobby in support of legislation to legalize gold and silver as money, which it has always been, but states are doing what they're supposed to.

So for example, he flew out to Phoenix a couple of years ago to testify in committee — these are like these hearings with five or seven state-level politicians, usually 10 to 15 people in the audience, and then Ron Paul. I mean, when I was watching the livestream of this, I was almost in tears, because to me that has so much impact, when a guy like Ron Paul, the man that everyone probably should credit for efforts to end the Fed, to point out the problems of the Federal Reserve, and fiat central banking, is now saying, not all the time, but he's now saying, like, *Look, go on a state level and do what the Constitution says. Legalize the Constitution, Article 1, Section 10. Make gold and silver legal tender. Treat it like money. Stop taxing it.*

We've seen already, for example, in Utah and Texas, you basically have an outside-the-Federal-Reserve-System gold and silver type bank. And in Utah, the United Precious Metals Association — they recharged it. I think it's called like Alpine Money Metals or something like that. But basically, you can get a debit card and do gold and silver transactions in e-commerce now. And to me that in and of itself, this is human action. When people have an option to do something other than what the federal government is forcing down their throats, I think you can learn and see how things play out much better than just talking about it philosophically.

**WOODS:** Obviously, you've at least thought about scenarios for 2021 involving the virus and where it may go.

**BOLDIN:** Yeah.

**WOODS:** And, of course, it's not completely impossible that at the federal level, there could be some interventions. But in general, it seems likely that most stuff will be carried out at the state level. In fact, when I first read about a potential Biden mask mandate —

**BOLDIN:** Yes.

**WOODS:** — the article was saying that he wouldn't do it — now, I'm not saying that he wouldn't maybe change his mind, but at least according to this article, he wasn't planning to say, *All right, everybody, you have to wear masks, and I declare that by executive order.* It was rather that he was going to appeal to the governors, and if there were recalcitrant governors, he'd go to the mayors and he'd go down to the whatever local level he could, to try to in

effect get a patchwork mask mandate put into effect. So does that leave any room for the Tenth Amendment Center to do anything in this area?

**BOLDIN:** Yeah, it's a tough one to wrap my head around, but in general, what happens in those type of situations is the federal government either provides guidance or they want to tie it to some kind of funding. And the closest analogy and I've actually got an example of something happening, a legislation dealing with COVID mandates in Kentucky that I can mention just briefly in a moment.

But in general, the way I think about this is kind of like the 1033 program. This is the program from the Pentagon that takes weapons of war, stuff that's been used in Iraq, and actually a significant amount of time, somewhere — I forget the number — somewhere between 20 and 40% of the time, they take brand-new military hardware and hand it off directly to local law enforcement. And the way to get out of that is literally just to ban participation in that grant program. So should he try to use a kind of an arm twisting of, well, we'll hand you some kind of grant money, then the response from states needs to be: we're not going to take that grant money. That is a very difficult proposition, though, because so many people are on board with this type of thing and that is not going to be easy. So I think it really is going to be: we have to wait and see.

But in the meantime, there's a piece of legislation that was just pre-filed in Kentucky. We reported on it just yesterday. And it's a bill in the Kentucky Statehouse. It doesn't even have a bill number yet. It's a bill request 301. It's called the Ensuring Bodily Autonomy and Informed Consent Act. What it would do would actually remove from current state code any ability for the state to implement a vaccine mandate. And I think if anything, more than a mask mandate, it is probably much more likely that we're going to see vaccine mandates. And my understanding of how the CDC has actually gone this direction in recent years is generally they're not the ones saying there's going to be a mandate. They say it should happen, and here's some pressure on the states to do so.

So Kentucky, at least this piece of legislation, it was pre-filed by five or six state-level Republicans there, would kind of just preempt that type of thing, saying, well, the state's just not going to do it. Then if you get down with a number of states taking that action, that really kind of makes it all fall apart, because the CDC doesn't have a goon squad to go out there and do it. Now, some people, of course, will tell me now you're just going to encourage them to do that. But the more layers of difficulty we give them in pushing these types of mandates down our throats, I think the better off we are. Even if we do kick the can down the road a little bit, it gives us a little breathing room to actually take stronger measures in the future.

**WOODS:** I just had Cliff Maloney from Young Americans for Liberty on.

**BOLDIN:** Oh, yeah, and they're actually really helpful on the Defend the Guard situation. In fact, the conference call — and I'll send you a link, so if you want to, you can include it in the show notes — the meeting that they're hosting next week, one of the Young Americans for Liberty state chairs is actually going to be participating and answering some questions on that as well. But YAL has actually been really good on that particular issue. I know Maharrey was talking with Cliff Maloney recently, and Cliff said he's fully on board and really, really wants to activate in support of that effort. But I'm sorry to interrupt, but go ahead.

**WOODS:** But of course, that's just your classic — that's Michael Boldin as Scott Horton going on here. That's perfectly fine.

**BOLDIN:** I wish. If only, man. Yeah, that's someone I really have a —

**WOODS:** Yeah, take this level of intensity and sustain it for three hours. Then we'll talk.

**BOLDIN:** And then a ten-minute break, and then another three hours.

**WOODS:** Right, right. I mentioned Cliff because the topic of our conversation was their effort that they made to get a lot of sympathetic state legislators elected, and apparently they got well over 100 of them elected. So I'm just wondering, do you follow those types of elections in order to get a handle on where you might have sympathizers around the country?

**BOLDIN:** Yes and no. My hands are so full doing research, putting together legislation, tracking bills, covering reports, and just kind of doing coordination stuff. And I'm not nonvoter, not that I wouldn't vote; I just have never been motivated enough other than to try for Ron Paul once, but they threw my vote out a couple months later. So I don't really follow the elections. But I do follow Cliff on Twitter, and I see — like, last election season, I think they had like between 35 and 50, and when they were posting, I think was like 130 or something like that. That's actually really, really positive.

Now, of course, not every single one of these is like a Rothbardian ancap by any stretch of the imagination, but they're certainly sympathetic, just like you said, towards the principles of liberty, towards decentralization as the Tenth Amendment and Constitution requires. And then of course, if Cliff is saying we're endorsing these people, he's pretty solid on a lot of this stuff, so Maharrey has been working with them a little more closely. And then we'll see how things come in the next couple of weeks, but I expect that they're actually going to be pushing a lot of these things, just independently of our efforts here. We try to communicate as much as possible, though.

**WOODS:** How do people support the Tenth Amendment Center?

**BOLDIN:** Just by listening. You want to talk money, though?

**WOODS:** I'm talking about money, yeah [laughing].

**BOLDIN:** [laughing] Oh, I'm always so weird about asking for money. But yeah, so we have two different ways. Some people want to be members of our organization. We make that super cheap. It's two bucks a month. [TenthAmendmentCenter.com/members](http://TenthAmendmentCenter.com/members). For people who don't want their name associated with anything — we don't dox anybody, of course, but for people want to just give a one-time donation, of course every penny counts. We make it go a long, long way. It's [TenthAmendmentCenter.com/donate](http://TenthAmendmentCenter.com/donate). Thank you so much for mentioning that. I really, really appreciate that.

**WOODS:** Yeah, sure, of course. Now, I want to say a little something about this. I support the Tenth Amendment Center. By the way, you and I need to talk, because the card — I think you haven't filed — it just expired. I just got a new card. It's the same number, just new expiration date, new code on the back, so let's work that out.



**BOLDIN:** Done.

**WOODS:** But I'm going to tell people — I don't know if I've ever said the amount, but I donate \$200 a month to the Tenth Amendment Center.

**BOLDIN:** It's juicy, and I'm very grateful to you, Tom.

**WOODS:** I don't know how long I've been doing it, but long enough that I can't remember how long I've been doing it.

**BOLDIN:** It's a long time.

**WOODS:** [laughing] I probably should bump it up, because probably the value of \$200 has gone down, it's been so darn long. But anyway, I do that because I know Michael Boldin, and I know that he runs it on a shoestring, and he's not extravagant in his expenditures, to put it mildly. And for a guy and a handful of helpers, he has an enormous reach and influence. It does a lot of good in the world. That's exactly where I want my dollars to go. If I were a billionaire, maybe I would give to some established institutions and have a library named after me or something. But if I if I send \$25 to some multimillion-dollar operation, they're not even going to notice it. But Michael will notice it. The Tenth Amendment Center will notice it, and good things will happen because of your donation on whatever scale you can manage. So definitely check that out. That'll be linked at [TomWoods.com/1790](http://TomWoods.com/1790). The website is just [TentAmendmentCenter.com](http://TentAmendmentCenter.com). And then of course, /donate if you want to join me in helping out an excellent cause.

Well, we're going to leave it there, unless like Scott Horton, you have three more things you want to say that are going to take another hour and a half.

**BOLDIN:** I've got another hour and a half, but let's just leave it there and we'll be hungry for another episode. I'm so grateful for the time to be able to just share some thoughts, share the things that we're doing. I'm grateful for the support that you've given. And yeah, this is awesome. Thanks a lot.

**WOODS:** All right, great. Well, especially as the year is ending, and we're supposed to be in a generous mood, right? You know, ho, ho, ho, right/ You might think: where should I send some dough? Well, here's your answer: Tenth Amendment Center. All right, thanks a lot, Michael. Talk again soon.

**BOLDIN:** You rule. Thank you.