



Episode 489: How the Sheriff Can and Must Protect Against Federal Overreach

Guest: Richard Mack

WOODS: I know I've got a lot of people in this audience who know and love you, but at the same time, I've got a chunk of people who are not familiar with your story at all and who are going to love hearing about it. I want to start off with a story you've probably told a million times, but nevertheless it's really important and interesting. I want to know about that Brady Bill case, your case that went to the Supreme Court, in which you as the sheriff – well, you know what? I don't even want to take away the punch line from you. I want to know what that case was about, how it turned out, and why that matters.

MACK: Well, it matters because it was the only time in American history where a couple of sheriffs sued the federal government, and in this case, it was the Clinton administration, and I always say that I'm the only person in history to sue the Clintons and live to tell about it.

WOODS: (laughing) Indeed.

MACK: But it was an amazing case, because it was the only time that a sheriff sued the federal government, took the case all the way to the United States Supreme Court and won a landmark decision on the issue of state sovereignty and local autonomy, in which the Supreme Court said, yeah, the federal government can't tell sheriffs what to do. As a matter of fact, they can't tell anybody in the states what to do.

And so the Brady Bill was the law, it was the issue at hand, and the Brady Bill was the first time in American history where Congress passed a law – of course signed by the president, obviously – and the law required the sheriffs to work for the federal government for free. In other words, we were their little puppets, supposedly, to enforce the Brady Bill, to enforce the gun control associated with the Brady Bill. And I said I have two problems with that: one, I took an oath where I would uphold and defend the Constitution, and the Second Amendment is still in the Constitution – in fact, a very integral part of the Constitution. Secondly, I don't work for the federal government. And I know that that really kind of makes it messy for the federal government, that they can't just commandeer the sheriffs for federal bidding any time they feel like it.

And so I told them no, and specifically, the BATF was the organization, was the bureaucracy ordered by the Justice Department, Janet Reno at the time, to deliver our marching orders to the sheriffs of Arizona at one of our state conventions, or I should say state conferences; it was just the sheriffs and the county attorneys. And when they did, all of us were simply aghast at the document they handed us telling us that we had to do this for the federal government or we were subject to federal arrest if we failed to comply. Now Tom, I know how crazy it is, and you know as well as I do, truth is stranger than fiction, but a lot of people think I make that up, that the federal government literally threatened to arrest us simply if we didn't comply with their unconstitutional, unfunded, ridiculous mandate.

And so I'm still shocked that every sheriff in the country didn't join this lawsuit, but believe it or not, Tom, only seven did it. And I started the whole thing. Small town sheriff from southern Arizona. And then Sheriff Printz from Montana joined; he was second. And then five other sheriffs joined us. Only one from Texas, which I still wonder about, how that could ever happen. And then Sheriff Printz and I ended up in the Supreme Court in December of 1996, and the Supreme Court ruled in our favor June 27, 1997. And yeah, I was really young at the time, so I guess I just was too naive and young to know any better, but I took on the federal government and actually this is one time I fought the law and the law lost.

WOODS: (laughing) Well, the thing is it just seems so hard for me to get a grip – maybe I need to read the text of the decision myself, because it seems like that's all the federal government does is tell localities and states and individuals what to do. It's what they do all day long.

MACK: It is.

WOODS: So for the Supreme Court – so I mean, what specifically are they saying the federal government can't tell you to do? The federal government really can't tell anybody to do anything?

MACK: Yeah, that's actually what the decision said, believe it or not. I mean, everyone should read it, especially as learned as you are, I would really like to see you read it, because I'd like to hear your comments, because it's the most powerful 10th Amendment decision in the history of our country. It actually says that the states cannot be compelled to enact or administer any federal regulatory program. And it also says that the states are the ones that must create and maintain this healthy balance of power between the states and the federal government if we're to maintain the impotency of the federal government as intended by the Founders within the Constitution.

And it even says that the United States government, Congress was only granted discrete and enumerated powers, which was rendered express by the assertion of the 10th Amendment. And so then you have to ask, just like I asked all of the people, including you, at the Houston event, which was fantastic, who has the lawful authority, who has the legal and lawful Constitutional authorization to enforce the

10th Amendment? Is there any way that enforcing state sovereignty is a purview of the federal government? I mean, how ridiculous can you get?

And so the governors and the state legislatures all have to do what you've been telling us to do for years, and that's why I love your work so much, because it so coincides with mine. And it's absolutely true. The sheriffs and local officials, all local officials, especially governors and legislatures and especially the country commissioners and indeed the sheriff – he is the last line of defense for the people in his country. And I've written several books about that, but the main one is *The Country Sheriff: America's Last Hope*. And it's absolutely true that the sheriff can tell the feds that beyond these bounds, you shall not pass.

And if we're going to stop gun control, if we're going to stop the abuse of the IRS and the FDA and EPA and DEA and FBI and all the hundreds and thousands of other federal bureaucracies, we have to have sheriffs and local officials who know and understand state sovereignty and the principles of nullification. And there you go. And the other principle, of course, that I bring up in my books, in my most recent book, *Are You a David?*, is the principle of interposition, and the sheriff is absolutely the ultimate authority in interposing for his citizens to protect them from being victimized by the federal government.

WOODS: All right, I definitely want to get into that, but just one quick thing: what was the name of the case?

MACK: Mack v. U.S. or Mack-Printz. But if any of your listeners you just Google "Mack v. U.S.," the case will come up, and you'll see the name also Printz, because that's the sheriff that went with me from Montana. So don't be surprised when you see that. And the review that I liked the best was the one from Cornell University, and it gives the comments from all the judges on this case, and it was quite remarkable, quite amazing, including the remarks by Justice Stevens for the minority.

And it was a 5-4 split decision, and his dissenting opinion, I not only find startling, I find it absolutely un-American and his decision basically nullifies the existence of the Supreme Court, because he just said we should just trust Congress with their own estimation of their own power. And every time I read that, I go does this guy even know why they exist or what the Supreme Court is supposed to do?

And so again, it is absolutely the solution and an equation for the solution in keeping the federal government off our backs and out of our states and out of our jurisdictions and off our land. And so it really provides the information that sheriffs and other local officials need if they want to really stand against the incursions of the federal government. And that's even the word that is used in the decision, incursions of the federal government.

WOODS: All right, I'm actually going to link to the case. I'll link to it on today's show notes page, TomWoods.com/489. I want to talk about the CSPOA in a minute. I mentioned that a little bit when I was introducing you.

MACK: And let me add one thing there.

WOODS: Yeah, go ahead.

MACK: They have a little booklet that does the highlights of the case, and it's like a couple of bucks or something, but if any of your listeners go to my website, they'll see the booklet: *The Victory for State Sovereignty*. Now, what I did for that booklet, I took all of the highlights of the decision and put it in a little 16-page pocket booklet, so if you want to really read that and then hand those out, I highly recommend that, because it will absolutely shock people how far-reaching this decision was.

WOODS: All right, I will link to that as well on the show notes page. But before we get to the CSPOA, I want to talk more generally about the subject of nullification. You mentioned at the Houston event that you and I were both at that the concept of nullification generally is thought of as something that is carried out either by a state legislature or by a special state nullification convention or whatever, and is enforced or not enforced as the case may be by the governor. But you were saying there's another perhaps more overlooked method of bringing about nullification, and that is what can be done at the hands of the sheriff. That's what I'd like you to elaborate on.

MACK: My book, *Are You a David?*, talks about numerous incidents in America in recent history where the sheriffs have told the federal government to back off, to leave these people alone. And you've met some of these people, because you were our keynote speaker at our first CSPOA convention. Sheriff —

WOODS: Brad Rogers?

MACK: No, Palmer.

WOODS: Oh.

MACK: Glenn Palmer, sorry. I get some of their names mixed up sometimes. Anyway, Sheriff Glenn Palmer from Grant County, Oregon has been fighting the Forest Service for about 15 years, and so he was our first CSPOA Sheriff of the Year because of the fight that he has waged against the Forest Service in his particular county, protecting his citizens from the ruthless enforcement of the laws by Forest Service agents. So he has stood up against them, and he has done a tremendous job, and he has won most of that, and he gets reelected in landslides because he's been protecting the people so well from the federal criminals.

And then we had Sheriff Brad Rogers, as you just mentioned, from Elkhart County, Indiana, and he had an Amish farmer who was being harassed by the FDA, doing spot inspections with no probably cause, no due process. They just come on this farmer's land unannounced and expect to inspect all of his property. And he was of course very Amish about it. He was very passive. If they wanted to come on his land, he said fine. And every time, he passed all their inspections with flying colors. They came back again and took some of his milk and cheese and butter, and they actually took it to a

lab and tested them, and he passed again. Everything was clean. And so the FDA kind of got mad about that. They really expected to have problems, so they created their own problems, and they just kept coming back to this guy and they gave him a summons to appear before a grand jury investigation in Detroit. Well, remember this guy lives in Indiana, and so how's he going to get there? He only uses a horse and buggy. And so now he's tired of it.

And he had been passive long enough, and he called the sheriff and said I'd really like to have you come out and meet with me, because I'm sick and tired of what's going on here. And he says okay; I'll be right out. They had a nice little meeting in Mr. Hostetler's kitchen, and the sheriff investigated it. And after he investigated the whole situation, he found out that the FDA was just pushing their weight around, pushing this very passive American citizen around – and maybe just say an American. He's an American. And he says, well, I'm going to take action against the FDA, and he says this might get hot. And Mr. Hostetler says fine with me. And so he told the FDA not to come back to Mr. Hostetler's property, and if they came back in his county – now get this. Sheriff Brad Rogers told the FDA if you come back in my county without probable cause, due process, or duly signed warrants from judges before you take action against anybody in my county, then I'll arrest you for trespassing. So of course, then, the FDA got their little feelings hurt, and they threatened to arrest Sheriff Rogers.

And so that's when Sheriff Rogers, he's already had my constitutional training for law enforcement, and he called me, and we devised a response, which I probably will email you very soon so you can read it. But we put together a response that we sent to the FDA, and three days later, Mr. Hostetler received a certified letter from the FDA saying that everything against him had been dropped. And the FDA hasn't been back to Sheriff Rogers' county for almost three years now. And these are the types of sheriffs that we're really trying to create and raise within the CSPOA, and that of course is Constitutional Sheriffs and Peace Officers Association.

WOODS: Yeah, let's turn to that now. That is your organization. It's not very old, and what you're trying to do is to educate sheriffs and let them know the authority that they have, the influence that they can have, and the different ways that they can protect citizens who are being harassed by the federal government.

MACK: That's exactly correct. And not only do we teach them how to do that, but we actually show them that it is their responsibility and their sworn oath. And many of them don't like that. They say oh, you know, you can't do that. We've never done that before, and the FBI and FDA and EPA, they have nationwide jurisdiction. Well, they don't have jurisdiction unless we surrender it. And I've asked people before, and I'll ask any sheriff in this country, do you know what year the FBI was even formed? Well, that was 1935. They weren't even allowed to carry guns at first. And so my question to any sheriff or to any FBI agent or any other federal bureaucrat, when was it that the sheriffs turned over authority to you or jurisdiction? What date and time was it? Was there a contract? Was there a ceremony? Was there a band playing? Let me see the contract where that happened, where the sheriff ceded over their jurisdiction to the federal government.

If we read the Constitution, as you have done very well, you see that the federal government has very discrete and enumerate powers and very little jurisdiction outside of the ten miles square of Washington, D.C. They only have some arsenals and stockyards and post offices. And so it's very limited. For instance, New Hampshire is about 2% owned by the federal government, whereas Nevada is 90%. Why the discrepancy and why such a huge difference? It's because, plain and simply, the west has acquiesced and allowed the federal government to take over when they shouldn't have.

And so our whole thing is, sheriffs, it's time to wake up; it's time to take back, and it's time to read my Supreme Court decision that says the states are actually responsible to keep the federal government at bay. And so the states, all state officials, and that includes the sheriffs and especially the sheriffs, because he's the only elected law enforcement officer in his county, and that means the power of the people rests upon the sheriff.

WOODS: I remember, I think the most memorable aspect of that event of yours that I attended back in Las Vegas several years ago was when you gave out the award – you have an award for the Interposer of the Year.

MACK: Yes.

WOODS: And that was the year that Sheriff Brad Rogers, our mutual friend, got that. And I told you just this last weekend, I'm just glad to be alive in a time when there is such an award being given out. It's a wonderful thing. But CSPOA is something that of course you want the sheriff to be part of, but you were making an appeal this weekend for just ordinary laymen to join it. Now, what does an ordinary laymen get out of being in CSPOA?

MACK: Well, first of all, they're joining the group that's really boots on the ground, solution-oriented to do exactly this. And we need your help. We have got to have you involved. And what we do is we train you, the layperson, the citizen, we train you to make sure that you have a relationship with your sheriff. And yet you must remember he works for you. And if we don't have his employers on board with what we're doing, these sheriffs aren't just going to listen to me. I'm not their constituent, and they don't work for me. The only sheriff that works for me is Sheriff Arpaio, and I've talked to him a lot about these sorts of things.

But you know, it's easy for these other sheriffs – you know, who's Sheriff Mack? He doesn't live here. And you know, he's just a has-been sheriff; he hasn't been a sheriff for about 18 years, so what do we care? And there's a lot of truth to that. And these sheriffs will continue to make excuses until they hear from you, the citizen. And so of course we want you to know what we're doing; we want you to be well versed and well trained in what we're doing, so that you can talk intelligently with your sheriff about these principles and about my books. And in fact, you ought to take him one of our books, and then you ought to be ready to help us get local officials trained. And that's really where you come in.

And we've had lots of people that have set up training seminars for us. I just finished up one a couple of months ago in Greene County, Virginia, where Sheriff Smith had us teach his entire department about the Constitution for law enforcement officers and about the oath of office and about our obligation to uphold and defend the Constitution and to enforce it within our counties and to make sure that all enemies of our Constitution and of our peaceful society know that they will not be welcome in our counties if they continue to violate the Constitution.

It's an amazing process, and that's why we need all your listeners to join CSPOA. It's a very minimal amount; it's like \$35 a year — that's not even \$3 a month. So become a member. Get these books. These books on my website are all tools for liberty, and everyone will not only enjoy them, but become better off because they've read these and be well equipped and have the ammunition necessary to help you sheriffs and other local officials stand against the incursions of the federal government.

WOODS: All right, before I go on, I just want to let people know, again, it's CSPOA.org. We're going to link to that at TomWoods.com/489, where we'll also be linking to the Supreme Court case that we mentioned. And I'm also going to embed the video of my own talk at your event, because that's one of my favorite talks on nullification that I've ever given.

MACK: Actually that's one of the best talks ever at any of our conventions.

WOODS: Oh, thank you very much. That's very good of you to say. All right, let me raise an objection that I bet a lot of people are thinking about here.

MACK: Okay.

WOODS: No matter what the rights and wrongs of the situation happen to be — I mean, you may well say, and you may be right, that the sheriff is absolutely within his rights to interpose his authority between the federal government and his people, that he may absolutely be within his right to do that, but the federal government is not known for being scrupulous about who's exactly in the right, and they think in terms of who has the power. So couldn't they just bring all their force to bear against some hapless sheriff somewhere who follows your advice?

MACK: Well, they haven't done it yet. And I can honestly tell you, in the eight years that I was sheriff and the many times that we had dealings with the different federal agencies — I'd say the one I had the most was the FBI — I can guarantee you that they do not want to fight with the sheriffs. And even if they did want to, if we had hundreds of sheriffs doing these sorts of things, there would be no stopping it. There would not be enough federal agents to try to take on 5 or 6 or 700 sheriffs. And you know, there would literally be no stopping us. And that's why we're hoping to unite the sheriffs in this effort. We don't want there to be the lone range sheriffs, where there are just one or two sheriffs doing this. We want hundreds and hundreds doing this, and the FBI and the other federal agents will just have to simply say there's too many; we can't do anything about it.

And so even if they could do something about it, we still have to have the courage to try this, because compromising liberty because of fear that the federal agents might do something to us, I don't care. I mean, I got a lot of threats when I sued the Clinton administration and we had some attacks go our way and towards our family. You know what? Those are going to happen. And we still have to stand for freedom.

Rosa Parks, when she stood for freedom, I bring her up all the time, and she's in my books. I absolutely love the example that Rosa Parks set in standing against stupid laws. We need to do the same today, and we need thousands and thousands of Rosa Parks standing today, and that we would protect the rights of the landowner and the ranch owner and the farmer and the gun owner and the tax protestor and people who just want to be left alone. We have an obligation as sheriffs to make sure that their pursuit of happiness, however that might be pursued, that it's protected and that we do our ultimate best to keep our oath of office to protect life, liberty, and property or the pursuit of happiness of the people who elected us.

WOODS: It's not directly related to what we've been talking about, but there's one more thing I want to raise with you before I let you go. It's there's a trend that's been at work really since you – during the 18-year period since you stopped being sheriff. I'm sure it was already going on, but it seems to have accelerated, this process of militarization of the police, where we're seeing, for example, in New Hampshire of all places, they claimed that the threat of domestic terrorism – and they cited the totally innocuous Free State people as an example –

MACK: Yes.

WOODS: – means that we need to have a bearcat tank sort of thing, and they wound up getting it. What is your reaction to all that?

MACK: Well, I actually had one sheriff who said that he got it, he got an MRAP, because he said if the federal government were to have a confrontation with citizens in his county like they did in Bunkerville, Nevada in Clark County, that he would drive that vehicle right in between the two.

WOODS: All right, that's the only good reason I can think of.

MACK: I know. I had to finally agree with a sheriff who got one, you know? And this particular sheriff was in Utah. But most of the others really concern me, because if they really feel a necessity to have military equipment against their own citizens, then something is drastically wrong. And I know the people in that Free State Project, and they are not promoting violence of any kind, nor do we at the CSPOA. You already know that. You know who we are; you've been to our conferences. We do not promote violence of any kind, and in fact, this is a peaceful solution to a very horrible situation in America.

And my dear friends, let me tell you right now, if you want to help keep this movement peaceful for freedom and restore our Constitution as the supreme law of

the land, and you want the federal government to have some legitimate check and balance on its authority and on its overreach, then you want to join the CSPOA today. We need you; we want you, and again, this is the only peaceful solution that we really have left.

WOODS: Well, I want people definitely to visit CSPOA.org, and at TomWoods.com/489, I'm going to link to that; I'm going to link to your personal site; I'll link to all the books; I'll link to the court case; I'll embed my video. It's going to be the clearing house for this episode. All the Sheriff Mack you could possibly want and more at TomWoods.com/489. Well, obviously we could go on for quite some time —

MACK: No kidding.

WOODS: — so let's talk again some time in the future about what else you guys are up to, and let's keep this conversation going.

MACK: All right. And one other sheriff that's our CSPOA sheriff — most people will know him — of 2013 was Sheriff David A. Clarke, Jr. of Milwaukee, and he is somebody who promoted CSPOA and also promotes the holy cause of liberty, and that's just another example of one of our CSPOA sheriffs.

WOODS: Give me a 30-second overview of why he won.

MACK: Well, the reason he won is because he, as a Democrat in Milwaukee, he stood for the people and stood for the right to keep and bear arms, and he asked all of them to be armed, and they finally decided that he's right, that an unarmed society does not help fight crime, but an armed one does. And boy, all those gun grabbers, including Bloomberg, really went after this great sheriff. One of the best statesmen in American history is Sheriff Clarke, and we were proud to stand with him, and of course the NRA and Gun Owners of America and a lot of people who believe in this nullification movement have stood with Sheriff Clarke. And boy, we're proud to be associated with him.

WOODS: All right, very good. As I say, I'm going to have everything people could want at TomWoods.com/489. I really hope, folks, that you will check this out. Plus, I spend a lot of time on these show notes pages. Check them out. TomWoods.com/489's going to have all kinds of interesting things, especially — I mean, if you've enjoyed this conversation, you're going to want to follow up on it and find out more. Sheriff Mack, always a pleasure talking to you. Thanks for your time today.

MACK: Thanks, Tom; we'll see you soon.