



Tenth Amendment Initiatives Succeed

Guest: Michael Boldin

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Michael Boldin is founder and executive director of the Tenth Amendment Center.

BOLDIN: Tom, thanks for having me on. Some really exciting stuff happened on Election Day yesterday, but it wasn't in Washington, D.C. It's in the states.

WOODS: That's why I want to talk to you because, of course, we like to have Tenth Tuesday. We're going to have to settle for Tenth Wednesday today as we talk about Tuesday. I'm not as interested in stories about who was elected to what, but I am interested in some of these ballot initiatives that I really didn't think I would live to see, particularly this one in Arizona which apparently passed—Proposition 122—by a razor-thin margin. Tell us about that one.

BOLDIN: Yeah, by a vote of about 51 to 49%, the people of Arizona passed what we would look at as basically a first-step nullification state constitutional amendment. It is now enshrined in the state constitution of Arizona—a mechanism for the people through a ballot measure through legislative efforts or however they want to approach it to reject participation in federal acts. And, Tom, you know as well as I do that when the federal government passes a law, we don't necessarily have to go along with it. Our compliance is what gives it effect, and the state's participation and compliance is what gives it effect. That's why Arizona's Prop 122 can be extremely powerful, whether it's going to be used on Obamacare, on spying issues, on the right to keep and bear arms, federal gun control issues, or anything across the political spectrum.

WOODS: I'm reading here some of the language in it. It says the language amends the state constitution to give Arizona the ability to "exercise its sovereign authority to restrict the actions of its personnel and the use of its financial resources to purposes that are consistent with the Constitution." And then you cite in Federalist #46, James Madison saying, "The disquietude of the people, their repugnance, and perhaps refusal to cooperate with the officers of the Union." And he is going on saying, "These would present obstructions, which the federal government would hardly be willing to encounter." Well, that's exactly what's being contemplated here in Arizona—the refusal to cooperate with the officers of the Union. I don't see why there would be any vote against this. This is America, right? This is James Madison saying you should do this. What would be the reason not to do this? So you're saying it can be used for a wide variety of

reasons. How exactly could it work? What would be an example of how they would actually do this step by step?

BOLDIN: Well, just recently Judge Andrew Napolitano was talking about federal gun control measures and proposals for new efforts, and he talked about how a single state—he used New Jersey as an example, however unlikely this would be—could refuse to help the federal government carry out the enforcement of those federal gun control measures. Well, the judge said if one state did this, it would make those federal gun laws in his words “nearly impossible to enforce within the states.” So maybe there would be like a 2% enforcement rate, but virtually whatever they try to do, if they do not have state participation—because every time the Feds do a raid, whether it’s on a marijuana dispensary or on a gun manufacturer or on a guitar maker, they always have assistance from state and local police, state and local investigators, and state and local resources. The sheriffs block the roads. The local cops knock on the door. They carry all the water while the Feds have one or two agents out there kind of directing the show. So if the states withdraw support, then the federal government does not have the manpower or the resources to do to you what they want to do to you.

WOODS: How did this initiative get started? This doesn’t seem like the sort of thing that John McCain would have favored. Obviously it’s a state level issue, but I can’t imagine that anybody of real influence could have been behind it, and yet it passed anyway. How did it get started? Do you know anything about the background?

BOLDIN: I do. And Tom, you know, as you were basically talking about this, I was chuckling in my head because I am thinking years ago when I first started reading your articles back on LewRockwell.com and learning about a lot of the stuff, I got a lot of my knowledge from you. I couldn’t have imagined a state actually using that type of language referring to state sovereignty in something more than just a non-binding resolution. So this is like a huge revolution. I mean, no pun intended at all, but it’s a revolution in thought and attitude, and it’s happening. The fact that, yes, 49% voted “no,” but 51% said “yes” to state sovereignty and rejecting federal acts, and it really started with one guy—a guy who is a member of us here at the Tenth Amendment Center. His name is Jack Biltis. He’s a businessman who’s been modestly successful, and he just recognized that putting all of your time, money, and effort into federal campaigns, federal candidates, federal elections, federal lawsuits—it doesn’t produce any results. It always ends up with the same result that federal government and federal power always keep growing no matter who wins on the election level. So he recognized that there was something else that could be done. So he mortgaged his house. He put up his own money to the tune of at least a million dollars and went for two rounds—first in 2012 and then again on this effort last year, which ended up on the ballot here in November of 2014. So this is one guy who was able to make a difference by putting his blood and treasure basically on the line, and if more people actually did things like this rather than spent all of their time and money talking about which team was beating which team in Washington, D.C., something positive could happen for liberty.

WOODS: Let's talk about another thing that happened in Arizona. You had a measure, Proposition 303, that passed by a huge margin. Tell us about what that is. It's the Arizona Terminal Patient's Right to Try Referendum. What is it?

BOLDIN: Yeah, taking a page out of what happened here in California in 1996, the people of Arizona, by a vote of 78 to 22—this is unbelievable how this passed—in essence nullified a narrow section of FDA power. Now the FDA shouldn't even exist if we're looking at the Constitution the way it was originally written, and they make it impossible for people who are extremely ill to choose, if they want to, experimental drugs that could potentially save their lives. They basically say, no, you can't have it. And I don't know if this is a corporate backscratching thing, or if it's really they're just evil and horrible. I don't know. I mean, I guess the end result is probably the same, but they block all kinds of medications from coming to fruition for people, and people who are ready to die maybe want to try something, and so while the FDA blocks this, the state of Arizona by passing this ballot initiative—this new state statute—people can start trying those within the state of Arizona. And like I said, this takes a page out of what happened here in California, allowing the use of something that's prohibited on a federal level for terminally or very sick people on a state level.

WOODS: Now, given that practically the whole world supports something like this, it seems that it would be hard for the federal government to try to enforce its will here. I can't imagine that they would go out of their way to pick a fight over this. I would think especially now they want to pick their battles, and this would not be one, if I were anywhere near the White House, that I would want to pick.

BOLDIN: Well, that's certainly the truth. These people want to stay in power, and I believe that the federal government really is a house of cards. So if they were going to be wild enough and try to, let's say, attack an old man dying in his home or an old woman dying in her home trying some type of experimental medication and saying, no, you can't have this, you need to die, that's going to create a lot of problems for them. So this is a very smart move strategically. It's very positive for the people who need the help, and I hope that other states will follow the lead. From my understanding, two other states already passed this type of thing as a measure. I think it's Colorado and Louisiana. So we've got three states doing this, and I think there should be more to come in the near future.

WOODS: Let's switch to Oregon now and talk about Measure 91, which has two parts to it. Measure 91 passed by a substantial margin. Tell us about the two parts.

BOLDIN: Well, there's two things that the people of Oregon passed yesterday. I think the final vote was 55 to 45%. This is the recreational marijuana measure allowing people to, in defiance of federal prohibition on the same, purchase, buy, sell, have commerce in a plant that's naturally occurring. Not only did they pass that for people 21 and over, but they also allowed the farming and production and sale of industrial hemp. Now, when I go get granola from Whole Foods down the street here, I often get a hemp granola. But because the federal

government doesn't allow farmers in the United States to produce this product, the U.S. is the number one importer in the world of hemp—of raw, just farmed hemp. And the number one and two exporters are China and Canada. So what does the federal government do when the economy is bad? They always make things worse. They ban people from doing things that they could earn a living. FDR did this when they were burning wheat in the 1930s, and they have been doing it all along by preventing people from growing a very productive resource, something that can be used for food products, oils, ropes, clothing—all kinds of stuff. It was a big part of the war effort in World War II. You'd think they'd swear by this thing because they love their wars, but they certainly like their control and making sure that other industries are propped up and the status quo is kept the same. So the people of Oregon, along with the people of Arizona, are rejecting major parts of federal power, and I think this is going to potentially create a domino effect. Now, that's not a guarantee, but if people actually start recognizing that these things work and have a practical effect, this is the impetus that's needed.

WOODS: Before we get to Alaska, there were some ballot initiatives that you and I would have favored that were unsuccessful. I understand Florida refused to approve by the necessary margin a measure that would have legalized medical marijuana there, which is a much more limited type of measure. Can you tell us anything about initiatives that were unsuccessful?

BOLDIN: That's the only one that I think of off the top of my head that I would have spent time supporting. That was Amendment 2 in Florida. I think it got 57%, but in the state there, they need 60% to pass the state constitutional amendment. In July it was polling at 88% in favor, but big-money Sheldon Adelson, the neocon war hawk guy from Nevada, started pouring tons of money into it. Now, while I wouldn't blame Sheldon for being anything more than a bad guy, the people of Florida did choose the wrong choice. They made the wrong choice. They decided to keep the status quo, which is bad for liberty, it's bad for the Constitution, and hopefully the people who will support this effort will give it another go in the future.

WOODS: All right, so let's turn our attention to Alaska for a minute. We had a similar measure. There's no hemp aspect to it, but we had a similar measure in Alaska that was also successful last night. What are the details there?

BOLDIN: This is Ballot Measure 2 in Alaska, which also provides for the legalization of marijuana stores. Now, if you think about this, in Colorado, where this first passed in 2012, there are now approximately 400 retail stores openly defying Washington, D.C., selling a product that the federal government says is not allowed. And, you know, when the news hits that there's been a raid or that somebody's been shut down in Denver, they make a big deal out of it, but I think the headlines are wrong. Instead of saying that the federal government is cracking down on marijuana dispensaries, the headline should really read the federal government—the best they can muster is shutting down less than 1% of stores. So when the market is given an open door, when the market is blocked less than it was previously, the market can win. I believe markets are stronger than governments, and if you just give them a chance to do what they need to do, they will make it happen. Alaska is now the fourth state to fully legalize marijuana for

recreational purposes, and if people don't necessarily support that particular issue, although I think they should, they should look at this as a blueprint. If you believe that the federal government should have no say over the right to keep and bear arms, look at what's happening in these four states. They are just saying, we don't care what the federal government is doing. We don't care if they prohibit it. We are going to do it anyway. And when enough people have that type of mentality, when enough people have that attitude, and when enough people actually start doing it, it actually changes the course of history.

WOODS: What is the Tenth Amendment Center going to do now as we approach 2015? There have been some legislative victories. Where do you see the lowest hanging fruit? You don't necessarily always just try to pursue the lowest hanging fruit, but what's your agenda in light of the successes that we've seen so far?

BOLDIN: Tom, our agenda is very long-term focused. Running the organization, I have a very odd focus and dedication, recognizing that 100-150 years of growth of federal power is not going to be turned around by one ballot measure. It's not going to be turned around by one campaign. It's not going to be turned around by one anything. If you want to see liberty advance, it takes a lot of work. It's not a spectator sport. And we're going to continue doing more of the same. We're going to expand our work on various issues. We formed single-issue campaigns on the right to keep and bear arms, on stopping NSA spying, on stopping prohibition of marijuana and hemp, on stopping Obamacare, and we recognize that while most people don't agree with us across the spectrum, we can always find people who are focused on one particular issue, and we are going to work in as many coalitions as possible to change things issue by issue and state by state.

WOODS: Well, I agree with you across the board, if that matters.

BOLDIN: (laughs) Well, we don't always. Maybe musical choices—we have a few things that are different.

WOODS: Well, that's true. That's right. But that's not an official, institutional stance of the Tenth Amendment Center. If it is, I may have to reconsider my donation level. But all the same, though, I'm glad about what we've seen. I'm glad that you guys are still out there fighting. I know that the legislative sessions will be getting started early next year, and that's really when things I suppose get busy around the Tenth Amendment Center?

BOLDIN: Certainly. We've already had commitments from about 15 states. It'll potentially be higher to where legislators are telling us they are going to be introducing one piece of our legislative suite or another against NSA spying and the entire surveillance state. And this is very early for this kind of thing, because even before the election we had pretty good commitments from legislators in 15 states. We expect to see at least that many taking on things like drones, turning off resources to the NSA, and in fact on November 19th there's a hearing in Utah on the bill that representative Mark Roberts introduced this last year to turn off the water to the Bluffdale, Utah NSA data center. So this is something that if people go out there and show

support there in Utah at the state capitol, then it's very likely that that bill will get out of committee and continue to move forward. So we'll see that type of activity on a state level against NSA spying. We also expect to see at least 10 to 12 states introducing bills taking the first step towards nullifying federal gun control efforts, and of course, the marijuana issue I think is huge because it shows the practical effect immediately of how this is happening. This is a 15 to 20-year effort that people have been working on. They've been tireless on it, and I think it provides a great blueprint for whatever issue may be important to you.

WOODS: That NSA thing, though, I think really is history making. It is so significant. If Utah goes along with that, if that thing gets passed and signed, then those state legislators can say to themselves: we won't just be asterisks and footnotes. We will actually have made history. This is the sort of thing that will be in the textbooks if they do it, and they have to ask themselves: do I want to do something that will be remembered someday, or am I too scared? Am I too concerned about, you know, maybe I'm doing things that are a little bit unusual that are outside the mainstream? Well, what has the so-called mainstream gotten us except one fiasco after another? We have to be bold enough to step outside that, and this is your opportunity to take your place in history.

When I was in Utah earlier this year, I pitched it that way to the legislators there and to a gubernatorial candidate, or likely gubernatorial candidate in the future there, basically to appeal to their vanity, not that that's the only thing that motivates people. We have a lot of great people in Utah, but I want every conceivable aspect of human nature working on the side of that initiative.

BOLDIN: Well, if you think about it, Tom, you are absolutely correct because it would be a total game changer, basically shutting down the ability of a federal agency to carry out what it wants to do. This has actually happened, surprisingly enough, little known fact. This has happened in modern times. The State of Nevada passed a law just after 2000, saying that they will not allow water to the Department of Energy for building the Yucca Mountain nuclear waste facility, and that was about an eight or nine-year back and forth, and even a federal judge ruled or held that you can't just discount a Western state's water rights, and that this actually shut down the project. So this could be applied to the NSA absolutely, not just in Utah, in Texas, in Georgia, in Tennessee, in West Virginia, Washington state, Hawaii, and really, it should be introduced in every state in the country because you know what? We don't want them to get the idea that, okay, well, maybe we'll shut down in Utah, but we'll just move over next door to Idaho or Colorado or somewhere else. Every state should start pulling the rug out from under the NSA, box them in, and shut them down, and I think this approach should be used on everything.