

The Constitution Study

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May 18, 2020

Governor Bill Lee
State Capitol, 1st Floor
600 Dr. Martin L. King, Jr. Blvd.
Nashville, TN 37243

RE: Open Letter To the Governor and People of the State of Tennessee.

Mr. Lee,

Based on some of your recent executive orders, I feel it is my right and my duty to remind you and the people of Tennessee of the violations of your oath of office.

Every person who shall be chosen or appointed to any office of trust or profit under this Constitution, or any law made in pursuance thereof, shall, before entering on the duties thereof, take an oath to support the Constitution of this state, and of the United States, and an oath of office.

Article X, Section 1, Constitution of the State of Tennessee

Upon assuming the office of Governor, you took an oath to support the constitutions of both the State of Tennessee and the United States. The Constitution of the State of Tennessee lists among your delegated powers:

He shall take care that the laws be faithfully executed.

Article III, Section 10, Constitution of the State of Tennessee

Those laws include the Constitution of the State of Tennessee.

Inherent power

That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; for the advancement of those ends they have at all times, an unalienable and

indefeasible right to alter, reform, or abolish the government in such manner as they may think proper.

Article I, Section 1, Constitution of the State of Tennessee

Your election to the office of Governor does not place you above the people of the state. The people of Tennessee have created the government for the state, including the office you currently hold. The power you exercise belongs to the people, who have delegated some of their power to you to act as an executive for the government they created.

That government being instituted for the common benefit, the doctrine of nonresistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind.

Article I, Section 2, Constitution of the State of Tennessee

This understanding that you work for the people, executing powers delegated by them, explains section 2 of the state's declaration of rights. It is the right of the people to resist arbitrary and oppressive powers. I would go so far as to say it is our duty to resist such attempts to usurp the powers that are inherently in the people.

Emergency Powers

The emergency management powers of the governor (Tenn. Code Ann. § 58-2-107) does give you the authority to take measures concerning the conduct of civilians. However, it does not give you the authority to suspend or infringe on the rights of the people. Neither does it dissolve you of the responsibility to support the Constitutions of both the State of Tennessee and the United States.

Take measures concerning the conduct of civilians, the movement and cessation of movement of pedestrian and vehicular traffic prior to, during, and subsequent to drills and actual or threatened emergencies, the calling of public meetings and gatherings, and the evacuation and reception of civilian population, as provided in the TEMP and political subdivisions thereof;

Tenn. Code Ann. § 58-2-107(e)(11)

In fact, your oath to support the constitutions of the State of Tennessee and the United States requires that you treat the latter as the supreme law of the land. Any law or clause of the state that is in violation of the Constitution of the United States is a violation of that trust.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

Article VI, Clause 2, Constitution of the United States

Liberties

That no man shall be taken or imprisoned, or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty or property, but by the judgment of his peers, or the law of the land.

Article I, Section 8, Constitution of the State of Tennessee

No person shall ... be deprived of life, liberty, or property, without due process of law;...

Amendment V, Constitution of the United States

... No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Amendment XIV, Clause 2, Constitution of the United States

Article I, Section 8 of the Constitution of the State of Tennessee and both Amendments V and XIV of the Constitution of the United States prohibit you, or any member of the government of Tennessee, from depriving people of their liberty or property without due process of law. Due process requires that the rights of the individual be safeguarded.

An established course for judicial proceedings or other governmental activities designed to safeguard the legal rights of the individual.

Due Process, The Free Dictionary

Your executive orders no. 17, 18, 21, 22, 23, 25, 27, 29, 30, 31, 33, and 35 violate all three of the constitutional clauses mentioned above by denying people the liberty to live as they wish without legal processes to protect their rights. Furthermore, you have denied the property rights of many business owners by preventing them from doing business

or by restricting the methods they may use. By targeting specific types of businesses, you have denied them equal protection under the law.

Such actions are not only a violation of the constitution of both the State of Tennessee, but a violation of the United States Constitution (the supreme law of the land as previously quoted from Article VI, Clause 2). As such, you are subject to both Article V of the Constitution and of the State of Tennessee 18 USC §242.

The governor, judges of the Supreme Court, judges of the inferior courts, chancellors, attorneys for the state, treasurer, comptroller, and secretary of state, shall be liable to impeachment, whenever they may, in the opinion of the House of Representatives, commit any crime in their official capacity which may require disqualification but judgment shall only extend to removal from office, and disqualification to fill any office thereafter. The party shall, nevertheless, be liable to indictment, trial, judgment and punishment according to law. The Legislature now has, and shall continue to have, power to relieve from the penalties imposed, any person disqualified from holding office by the judgment of a Court of Impeachment.

Article V, Section 4, Constitution of the State of Tennessee

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

18 USC §242, Deprivation of rights under color of law

As a citizen of the State of Tennessee, it is my responsibility to inform you of these violations of both the law and your oath of office. Not only have you placed yourself in jeopardy of the law, but also all the members of the executive branch who have violated their own oaths to put these illegal executive orders into practice. I do believe you acted in an honest attempt to protect the people of the State of Tennessee, but by failing to take care that the laws be faithfully executed, by violating the oath you swore to those people of the State of Tennessee to support both the Constitution they have put in place and the Constitution of the United States, you have usurped their inherent power and violated the primary purpose of government as stated in the Declaration of Independence: Protecting their rights.

That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,

Declaration of Independence

To The People of Tennessee

To the citizens of the State of Tennessee, I remind you that the actions of a delegated authority contrary to its commission is void.

There is no position which depends on clearer principles, than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this, would be to affirm, that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers, may do not only what their powers do not authorize, but what they forbid.

Alexander Hamilton, Federalist #78

This is not just the opinion of our Founding Fathers, but precedent of the Supreme Court of the United States.

Certainly all those who have framed written Constitutions contemplate them as forming the fundamental and paramount law of the nation, and consequently the theory of every such government must be that an act of the Legislature repugnant to the Constitution is void.

Thus, the particular phraseology of the Constitution of the United States confirms and strengthens the principle, supposed to be essential to all written

Constitutions, that a law repugnant to the Constitution is void, and that courts, as well as other departments, are bound by that instrument.

Chief Justice Marshall – Marbury v. Madison

In a declared state of emergency, the governor's orders have the force of law.

Pursuant to the authority vested in the governor under subdivision (a) (1), the governor may issue executive orders, proclamations, and rules and may amend or rescind them. Such executive orders, proclamations, and rules have the force and effect of law.

TN Code § 58-2-107 (2018)

Since these particular orders are repugnant to the Constitution, they are void, being that courts and other departments are bound to the supreme law of the land. The Legislature of the State of Tennessee cannot grant powers to the Governor that violate the Constitution, the Governor cannot issue executive orders that violate the Constitution, and according to both Alexander Hamilton and SCOTUS, that makes these orders void.

I would request that you engage with the Governor and also your member of the House of Representatives to retrieve your rights to life, liberty, and property, from the man who has usurped them. I would also remind you that Governor Lee will be up for a job review in 2022 (otherwise known as re-election). I hope you will remember what he has done when you give him that review at the ballot box.

Sincerely yours,

A handwritten signature in black ink on a light yellow background. The signature is cursive and appears to read "Paul Engel".

Paul Engel
Founder
The Constitution Study

cc: Representative Pat Marsh, Senator Shane Reeves,
<https://constitutionstudy.com/2020/05/16/open-letter-to-the-governor-and-people-of-the-state-of-tennessee/>