

Citizens for Limited Government and Constitutional Integrity, Inc.

PREAMBLE

When times of uncertainty come suddenly upon a people there must be a foundation upon which we stand that shall remain immovable, permanent, and secure. Since the birth of our nation, that foundation has always been God. And from that Fountain of authority, we acknowledged certain inalienable rights existing outside of any government as they are God-given, pre-political, and absolute and as such we determined to give legitimacy to any form of government only by the consent of the people over which it governs.

Our Tennessee Constitution acknowledges these absolute rights and further secures them by way of a Declaration of Rights which are “excepted out of the general powers of the government, and shall forever remain inviolate.” As such, our Constitution stands as a bulwark for liberty and a reminder to all generations of Tennesseans and all who have and shall serve as elected representatives of this State that our liberties are at no time up for negotiation. They shall be forever retained by the People.

It is for the preservation of liberty to our posterity that we now make this resolution.

THE RESOLUTION

The emergency powers of the Governor of the State of Tennessee per TCA §58-2-107 do not extend beyond the powers given him per the Tennessee Constitution Article III and the distribution of powers found in Article II, Section 2.

SECTION 1

WHEREAS, on March 12, 2020, Governor Bill Lee began to take executive action pertaining to the state’s response to the COVID-19 virus per the emergency powers delegated to him by the General Assembly in TCA §58-2-107; and

WHEREAS, on March 22, 2020, Governor Bill Lee issued Executive Order No. 17 restricting the social gathering of individuals across the state to no more than ten (10) persons, restricted restaurants, bars, nightclubs, and other similar establishments to serving food and drink by carry-out option only, forced the closure of gyms, fitness centers, and other similar businesses, and declared this activity to be in accordance with the President's Coronavirus Guidelines for America and guidance from the CDC; and

WHEREAS, on March 30, 2020, Governor Bill Lee issued Executive Order No. 21, amending Executive Order No. 17 to begin the process of declaring businesses “essential” or “non-essential” and as such per state order, which businesses could remain open and those which would need to close; and

WHEREAS, on March 30, 2020, Governor Bill Lee issued Executive Order No. 22 and began declaring the message that people were “safer at home,” mandated the closure of all “non-essential” businesses, limited the activity of “essential” businesses, and defined “essential activity” and “essential travel” for citizens of the state of Tennessee, but did not *mandate* a stay-at-home order “because protecting personal liberty is deeply important;” and

WHEREAS, on April 2, 2020, personal liberty was no longer so important, Governor Bill Lee issued Executive Order No. 23, amending Executive Order No. 22 by “requiring” citizens by order to stay home; and

WHEREAS, on April 13, 2020, Governor Bill Lee extended Executive Order Nos. 17, 21, 22, and 23 to be effective through April 30, 2020 at 11:59PM CDT; and

WHEREAS, on May 22, 2020, Governor Bill Lee issued Executive Order No. 38 introducing the Tennessee Pledge and “allowing” Tennesseans to get back to work and putting in place safety guidelines for businesses to follow for both staff and guests and issued these guidelines for 89 of Tennessee’s 95 counties, delegating further authority to the six (6) metro county health departments to issue their own guidelines and/or regulations as to how businesses would open or remain limited and/or closed per local authorities; and

WHEREAS, on July 6, 2020, Governor Bill Lee issued Executive Order No. 54 delegating authority to county mayors across the state of Tennessee to issue mask mandates in their counties within the guidelines stipulated within the order and enforceable by law pursuant to TCA §58-2-120 with a violation resulting in a Class A misdemeanor; and

WHEREAS, on July 31, 2020, Governor Bill Lee issued Executive Order No. 55, extending Executive Order No. 54 through August 29, 2020 and thereby extending the authority of county mayors to issue mask mandates in their respective counties, and “strongly encouraged” school districts to mandate the wearing of masks for all staff and students returning to school; and

SECTION 2

WHEREAS, the U.S. Constitution in the 10th Amendment gives powers to the States not delegated to the federal government from where we derive the States’ policing powers and further give to the States authority to exercise emergency powers to provide for the safety and common benefit of all citizens; and

WHEREAS, the Tennessee Constitution first drafted in 1796 serves to further secure the rights and liberties of all Tennesseans and was seen by Thomas Jefferson to be the “least imperfect” and the “most republican” of all state constitutions; and

WHEREAS, the Tennessee Constitution is the supreme document of this state in terms of ascribing powers to the Governor, the General Assembly, the Judiciary, and in addition, how powers are to be distributed and delegated amongst those divisions of government and given to county and municipal authorities; and

WHEREAS, the Tennessee Constitution, not in violation of the U.S. Constitution, is the supreme law of the State of Tennessee by which all laws made by the General Assembly of this state are subject to and inferior to, and the Tennessee Constitution may only be amended by a majority vote of the citizens and voters of the State of Tennessee; and

WHEREAS, we find TCA §58-2-107(a)(2), “...Such executive orders, proclamations, and rules have the force and effect of law” to be a violation of the Tennessee Constitution as Article II gives *only* the Legislative Department the power to make laws in the state of Tennessee, and Article III gives no law-making power to the Executive Department but in Section 10 gives power to the governor only to “take care that the laws be faithfully executed,” and Article II, Section 2 clearly states that “No person or persons belonging to one of these departments shall exercise any of the powers properly belonging to either of the others;” and

WHEREAS, we find TCA §58-2-107(a)(1), “...The governor is authorized to delegate such powers as the governor may deem prudent” to be a violation of the Tennessee Constitution as Article VII, Section 1 which states that the duties of the county executive may only be prescribed by the General Assembly and therefore find that the Governor has no constitutional authority to delegate powers to county mayors in the State of Tennessee; and

WHEREAS, Article I, Section 20 of the Tennessee Constitution states, “That no retrospective law, or law impairing the obligations of contracts, shall be made” secures the rights of all citizens and business entities to enter into contractual obligations such as leases, mortgages, supplier agreements, employment contracts, so on and so forth, with the expectation that government shall not impair their ability to perform on those duties; and

WHEREAS, Article I, Section 8 of the Tennessee Constitution states, “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” and thereby as the *law of the land* can only be instituted by an action of the General Assembly per this constitution, we find all business closures, mask mandates and stay-at-home orders to be a direct violation of the Declaration of Rights of Article I of the Tennessee Constitution; and

WHEREAS, on July 24, 2020, Tennessee Attorney General Herbert Slatery issued an opinion on the constitutionality of orders to wear masks in the state of Tennessee and found such orders justifiable based on the Jacobson test of Jacobson v Massachusetts (1905) where the U.S. Supreme Court upheld the police powers of the state to mandate a smallpox vaccine by a full act of the Massachusetts legislature; and

WHEREAS, a basic understanding of law and civics can clearly delineate the difference between a law made by a legitimate act of a legislature versus an order given by executive fiat without any legislative action whatsoever, should lead one to conclude that the Jacobson test does not serve as a precedent for the executive actions being taken by Governor Bill Lee; and

WHEREAS, Article XI, Section 16 of the Tennessee Constitution states, “The declaration of rights hereto prefixed is declared to be a part of the Constitution of the state, and shall never be violated on any pretense whatever. And to guard against transgression of the high powers we have delegated, we declare that everything in the bill of rights contained, is excepted out of the general powers of the government, and shall forever remain inviolate,” and thereby fully and entirely secures all rights contained and expressed in Article I of the Tennessee Constitution to be absolute and free from any violation whatsoever, including a declared emergency and an execution of emergency powers as these rights have been “excepted out of the general powers of the government.”

NOW, THEREFORE, BE IT RESOLVED BY THE CITIZENS OF THE STATE OF TENNESSEE STANDING ALONGSIDE THE CITIZENS FOR LIMITED GOVERNMENT AND CONSTITUTIONAL INTEGRITY, do hereby not only urge, but demand Governor Bill Lee cease and desist from continuing to execute orders with a supposed force of law as these actions are expressly prohibited by our Tennessee Constitution and therefore a direct violation of the Oath of Office signed on January 19, 2019 stating, “I, William Byron Lee, do solemnly swear that as Governor of the State of Tennessee, I will support the Constitution of the State of Tennessee and the Constitution of the United States, and that I will perform with fidelity and faithfully execute the duties of the office of Governor to which I have been elected and which I am about to assume, to the best of my skill and ability. **So help me God.**”

Additionally, we demand that county mayors, health departments, and county school boards cease and desist from continuing to issue unconstitutional orders and/or regulations based on illegitimate delegated authority and restrain themselves to performing their lawful duties as prescribed by the Tennessee General Assembly per Article VII, Section 1 of the Tennessee Constitution.

We do hereby intend to enforce these demands by any and all necessary legal actions, protest, civil disobedience and all lawful actions afforded to citizens of the State of Tennessee by our Tennessee Constitution and the U.S. Constitution in efforts to preserve the dignity, rights, and liberties of the people of this State.

Citizens of the State of Tennessee