

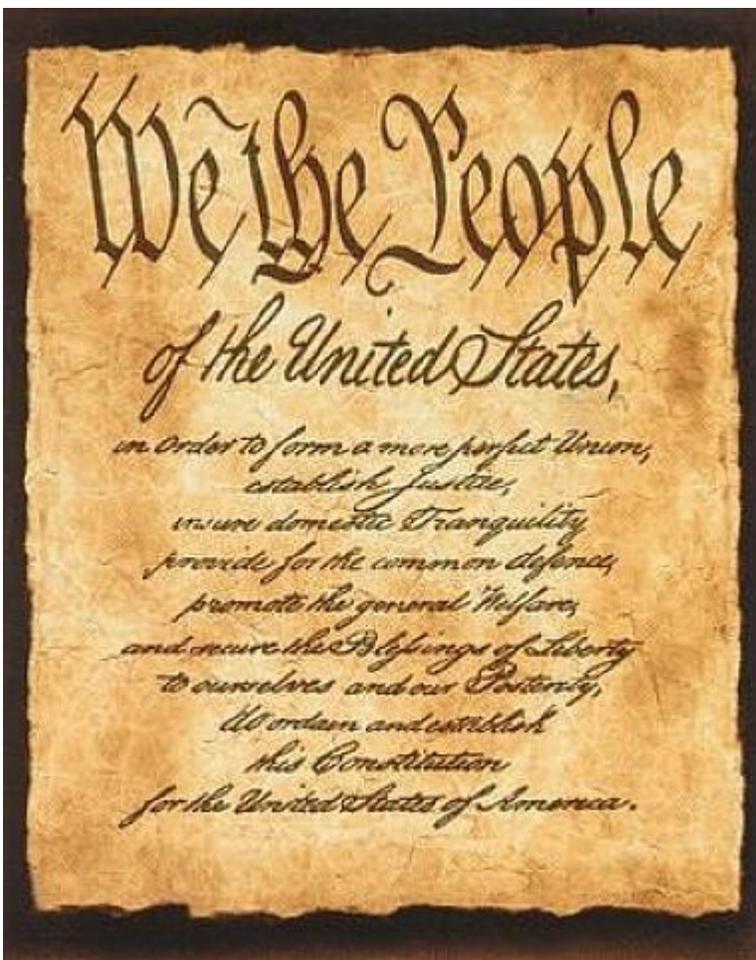
# The Unconstitutional Federal Vaccine Mandate

By Guest Author Bronson Yake

Published October 24, 2021 at 7:03pm

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Many people are objecting to the mandate to get vaccinated and there are a number of lawsuits working through the courts. For the most part, people are arguing for an exemption. The core question should be “Does

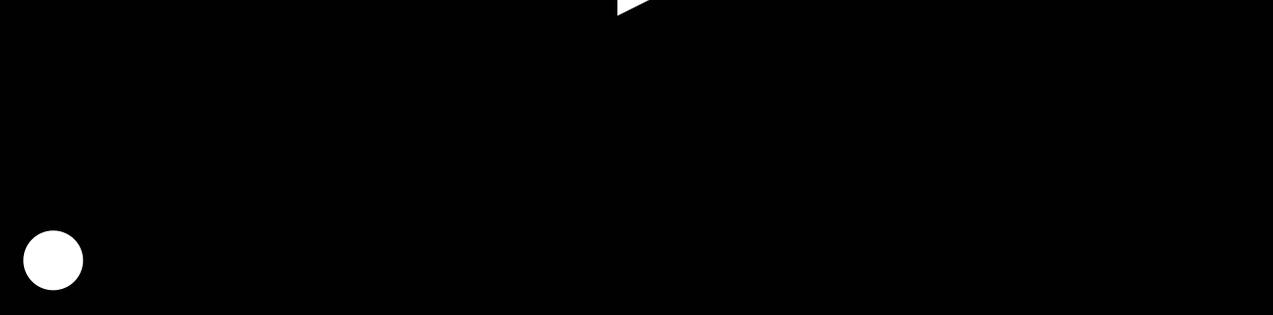
*the Federal Government have the legal authority to issue a vaccine mandate?’ In a word, no.*

### *State Vaccine Mandates Can be Permissible*

The foundational and still-controlling legal authority is ***Jacobson v. Mass, 197 U.S. 11 (1905)***. In that case, the U.S. Supreme Court let stand a vaccine mandate issued by a town. The Court reasoned that the town’s legal authority flowed from the State’s general **police powers**. Massachusetts law empowered local boards of health to mandate vaccines for when a contagious disease has an outbreak. During a Small Pox outbreak, the Cambridge board of health mandated that all adults who were fit candidates had to be vaccinated or pay a \$5 fine. The Supreme Court found that the concern about an outbreak of a deadly and contagious disease justified this use of the state’s police powers.

The Court acknowledged the states’ inherent police power regarding public health and discussed why Massachusetts’ mandatory vaccination law was reasonable. It found the small pox vaccine “strongly tends to prevent the transmission or spread of this disease...” but conceded not everyone believed the vaccine prevented the disease, however it was generally held to have the “decided tendency to prevent the spread of this fearful disease and to render it less dangerous to those who contract it.” *Jacobson at 34* (quoting *Matter of Viemeister v. White*, 88 A.D. 44, 84 N.Y.S. 712 (N.Y. App Div. 1903)<sup>[1]</sup>.





The **Tenth Amendment**, though often ignored or neglected, explicitly excludes powers to the federal government that are not granted to it in the Constitution (or implied by the powers that are granted), the effect is that the federal government does not have general “police powers”. The legal phrase describing the federal government is that it has “limited and enumerated powers.”

The Tenth Amendment states:

*The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.*

Taken together, the Tenth Amendment and *Jacobson* leave no doubt that the ability to create vaccine mandates belongs to the states. ***The Federal Government has NO authority to issue vaccine mandates.*** A state’s mandates will be upheld as long as it isn’t enacted or enforced in an unreasonable, arbitrary or oppressive manner (*see Jacobson, at 39,40*), so **the Supreme Court’s refusal to stop the Maine mandate** is not surprising.

*The Supremacy Clause Does Not Rescue Biden’s Mandate*

The **Supremacy Clause** makes it crystal clear than in areas where the feds have Constitutional authority, federal law overrides any state or local law to the contrary. Think of it as the inverse of the Tenth Amendment. For a federal law (or regulation or executive order) to be “supreme”, it must first

be Constitutionally permissible. A federal vaccine mandate<sup>[2]</sup> is **void ab initio!**

*Did Biden Issue a Vaccine Mandate?*

Biden knows he doesn't have the legal authority to issue a direct vaccine mandate, so his mandate is masquerading as a work rule to hide it behind the **Interstate Commerce Clause**. Nevertheless, by creating a coercive choice between destitution and submission, there is no way to see his actions as anything other than an attempt to appropriate state powers that are denied to him. If "a rose by any other name would smell as sweet<sup>[3]</sup>," then this is a mandate. This mandate-disguised-as-a-work-rule is such a cynical attempt to "**work around**" the federal government's lack of authority to issue a mandate any federal judge should see through it.

*Jacobson is old, but it is still the law*

*Jacobson* age implies very strong **stare decisis** (think a snowball rolling down a hill). Any change would re-write the relationship between the states and the federal government, and essentially repeal the 10<sup>th</sup> Amendment. Truly, if the federal government can use the Interstate Commerce clause to decide what medicine you have to take if you want to be able to work, there is nothing to stop it from preventing you from being employable if you eat French fries, or drink alcohol, or have unprotected sex, or have too many kids, etc.

*It's Not About the Vaccine, It's about the Unconstitutional Order*

Biden is aware<sup>[4]</sup> the power to issue vaccine mandates rests with the states. There is no COVID exception to the Constitution. At the time the Constitution was drafted, the Founders were well acquainted with plagues and outbreaks of various disease. Such occurrences were a fact of life for

them, and yet they refused to create special “plague” or pandemic powers for the federal government. Since Biden is actively attempting to overreach the limits on his power, and subvert the explicit authority of the states, he has become an active threat to the Constitution.

Biden’s actions violate the Tenth Amendment. Every federal employee (and every lawyer) swears an oath to protect the Constitution. Our obligation is to oppose the mandate and all efforts by this administration to appropriate powers that belong to the states and to coerce the people. The Constitution can’t protect itself.

[1] It makes one wonder, given the vaccine’s poor performance in that it doesn’t prevent people from catching the or spreading the disease, and its ability to mitigate the severity of the disease is questionable, would the *Jacobson* court have found a state COVID-19 vaccine mandate permissible.

[2] Conceivably, a vaccine mandate as part of a national defense situation would likely be permissible, but, unless President Biden is going to declare the pandemic to have been an act of biological warfare, which would endanger his family’s revenue stream, that won’t happen for COVID-19

[3] *Romeo and Juliet*, Act 2 Scene 2, Wm. Shakespeare.

[4] To the extent that he is aware of anything.

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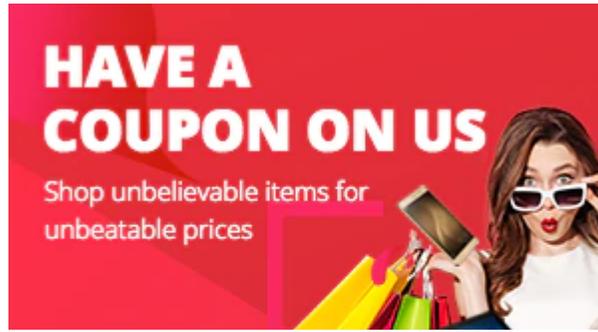
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**Nate Itkin** —

Oct 26

Does Jacobson really apply? Since Jacobson, the US has become a signatory to the Helsinki Final Act and let's not forget the Nuremberg Code. It seems like both set aside Jacobson because both prohibit medical experimentation without informed consent. Not only did the US affirm informed consent twice, but the US literally executed people at Nuremberg (deservedly so) for medical experimentation without it. Would Jacobson really stand after all this? It seems like a stretch to me. Even in Doe v Rumsfeld, the US District Court granted an injunction to stop the military from using the soldiers as guinea pigs without their consent for the

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Reply

**NotSure** ›

Oct 25

The problem is the mandate is only for acquiring federal contractors. Because it is not a population mandate, and is just a requirement to work for the federal government, they can get away with it.

Reply

**Wanda Smith** —

**NotSure** Oct 26

Nope. Nursing homes aren't contractors. The money to pay the nursing home bill for the resident who is indigent is the

residents money. We are a private business. If the resident qualifies for Medicaid, all well and good. But where they get their funding to live there has nothing to do with us. They qualify because of their income level and resources. THATS THE PROMISE THE G'MENT MADE TO THEM WHEN THEY APPROVED THEIR MEDICAID FUNDING. I SO WANT TO SEE THIS FIGHT HAPPEN,!

Reply

**Nate Itkin** —

**NotSure** Oct 26

The scumbags have tried these types of shenanigans before and that's mainly how we got the Civil Rights Act of 1964. For one, they cannot simply cast the Civil Rights Act into the ocean simply because it's good for big pharma profits. It gives all Americans extremely strong protection against choosing between a job and their religion. Secondly, even in Doe versus Rumsfeld involving the military (where enlistees sign away most of their rights), the US District Court granted an injunction against the DoD using the soldiers as guinea pigs for the experimental anthrax vax. Just like the anthrax vax, the cv19 vax has not been approved. This is the most illegal thing I've seen since the too big to fail bank debacle in 2008. It's mostly a mind game and you must stand your ground.

Reply

**Khadaffi Duck** —

Oct 25 Edited

The best defense is religious. Title VII Civil Rights Act of 1964. God told me not to do it, speaking to me through the Holy Spirit. I don't care what my pastor says or what other people in my church are doing. The Holy Spirit told me so. God also told me no tests and no masks. I need to breathe in the Holy Spirit's essences through the air, so no mask.

3

Reply

**Khadaffi Duck** —

Oct 25

I'd go one farther and say the 9th Amendment protects my right to make my own medical decisions. The Supreme Court erred in Jacobson v. Mass. Mandatory vaccination has nothing to do with police powers.

Reply

**Nate Itkin** —**Khadaffi Duck** Oct 26

Yes they did err and see my comment about this for more.

Reply

**stpaulchuck** ≡

Oct 25

under federal and international law it is illegal to force anyone to take an experimental drug, which all of these covid jab are by definition.

2

Reply

**Kaffrum** »**stpaulchuck** Oct 26

Since we are no longer a Constitutional Republic, federal law isn't going to do us much good...and international law is never going to do much good other than for someone's political gain. With no Constitution, what manner of defense do we have?

Reply

**Am.Citizen** »**Kaffrum** Oct 26 Edited

WeThePeople can still enforce OUR 1st and 2nd amendments if necessary, we as a free thinking people have to make that choice when the time comes.

Reply

**Tom Paine** **Kaffrum** Oct 26

Civil disobedience.

1

Reply

[Show 2 more replies](#)**GA Native** 

Oct 25

Tell that to the federal employees and military who have already been forced to get the jab.

1 1

Reply

**Wanda Smith** **GA Native** Oct 27

The people who have been threatened are jumping too fast. Let the federal government fire you for not being vaccinated with the jab. You will have a sure win lawsuit against the government. they can't fire you for not taking the jab and they can't make you take the jab. Biden knows this, which is why he is trying to push OSHA out on the limb. I don't think OSHA is going to bite.

Reply

**Am.Citizen** **GA Native** Oct 26 Edited

The Tyrants are ATTEMPTING to enforce they're ILLEGAL Mandates WE have the Constitutional Right to Protect our Self, Family and/or Third Person/Party when Life threatening Injuries or Dangers are present.

Reply

**Roberto Santana** 

Oct 25

Even if they DO base it on the 1905 case, wouldn't they have

to PROVE the virus is a Real pandemic level deadly virus?  
Smallpox is at least 100 times deadlier than covid.

3 Reply

**Wanda Smith** >

**Roberto Santana** Oct 27

Yes, they should already be having to prove this is a real pandemic. It's not. The numbers were manipulated and are still being manipulated. The vaccine isn't a vaccine either. To be a vaccine, the vaccine must maintain a 50 % efficacy. Pfizer is already down to 42%.

1 Reply

**Am.Citizen** »

**Roberto Santana** Oct 26

Yes, and they can not prove it existed. This deadly bug is totally controlled Political and Media Hype.

1 Reply

**jn obfan** >

**Roberto Santana** Oct 25

They can do anything they want. Neither the GOP or the press will stop them

5 Reply

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**Advance the Line** »

Oct 25

If you want to know what life is like once something like a "COVID pass" exists, look no further than Lithuania:

[threadreaderapp \(dot\) com / thread / 1451714806721957891](https://threadreaderapp.com/thread/1451714806721957891)

2 Reply

**xsnake** >

Oct 25

They can only get away with, what gop pols let them get away with.

6

Reply

**Tom Paine** ☰

**xsnake** Oct 26

No what we the people let them get away with grow some courage.

Look what the founders did look at what Gandhi and MLK



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