Judicial Supremacy Strikes in Oklahoma

by Phyllis Schlafly June 18, 2008

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The elected representatives in Oklahoma passed a law to stem the tide of illegal aliens and, faster than you can say "judicial supremacy," a federal judge blocked its enforcement. The court suspended key sections of the law even before it was due to take effect on July 1.

The Oklahoma Taxpayer and Citizen Protection Act was designed to prevent illegal aliens from taking jobs from Americans and from evading taxes by working in the underground economy.

The Oklahoma law passed the State Legislature by overwhelming bipartisan veto-proof majorities (88-9 in the House, 41-1 in the Senate) and was signed by the Democratic Governor. Public opinion polls reported that the law enjoys 88 percent public approval, and it was recognized as a model for other states to copy.

The law required employers who have contracts with the state of Oklahoma to use the Oklahoma Status Verification System to verify the legal status of their employees. The law expanded the definition of "discrimination" to include firing an American while retaining an illegal as an employee.

The penalty for violating this law was requiring the employer to withhold state taxes in a manner to ensure that Oklahoma would receive all proper employment taxes, including taxes for those employees who are not legally in this country. Oklahoma should certainly be able to protect itself against the non-payment by illegals of taxes that Americans pay as a matter of course.

Even though the new Oklahoma law didn't go into effect, it is credited with reducing Oklahoma unemployment significantly below the national average. The bill's sponsor, State Rep. Randy Terrill, said, "Oklahoma is no longer OK for illegal aliens."

The big national news this month is the Department of Labor announcement that U.S. unemployment has surged to 5.5 percent, the sharpest monthly spike in 22 years. The unemployment figures are particularly painful for teenagers; only about one-third of 16- to 19-year-olds are likely to get summer jobs.

The employment picture in Oklahoma is quite different: Oklahoma's unemployment rate is now only 3.1 percent and dropping. That's because after the Citizen Protection Act was passed a year ago, illegal aliens began leaving the state.

The lawsuit to overturn the Oklahoma statute was brought by the leading trade group for large corporations profiting from hiring illegal aliens at the expense of American citizens. The name of the case is Chamber of Commerce of the United States v. Brad Henry.

The judge granted standing to the Chamber of Commerce to sue even though it had not been hurt one iota by the law that had not yet taken effect. The judge, in effect, legislated from the bench by blocking the statute from taking effect, so all its benefits may never be known.

The judge accepted the Chamber's argument that Congress has preempted state laws by federal statutes about immigration. But we all know that the federal government is incapable or unwilling to carry out the necessary enforcement of existing laws that the American people deserve to have enforced.

There is even a federal law called the Tax Injunction Act that prohibits federal courts from interfering with state taxation. The court sidestepped that law, declaring that the federal court could interfere because the Oklahoma statute is more like a regulation than a tax.

Across the country, 43 states have passed more than 182 immigration-related laws. Several leading decisions, such as the federal decision reviewing the ordinance passed in Valley Park, Missouri, have upheld the laws against challenges.

Taxes and jobs are not the only reasons why states need to protect their citizens against illegal aliens. Rep. Terrill says, "Our Bureau of Narcotics here in Oklahoma estimates that something in excess of 40 percent of the drug trafficking through Oklahoma is directly attributable to our illegal alien problem."

The courts should not be interfering with legislative remedies to protect American citizens from losing their jobs to illegal aliens who may not even be paying taxes on their wages. And we certainly should not tolerate drug trafficking coming in from Mexico.

Overturning the massive votes in the Oklahoma legislature and the will of the people makes this new decision one more example of how the courts are trying to

make themselves an elite branch of government whose every pronouncement is accepted as "the law of the land." It's time for Americans to rise up and reject the rule of judges and return to rule by our elected representatives.

Congress can and should withdraw jurisdiction from federal courts to interfere with prudent attempts by states to protect their governments and lawful residents. Congress could simply amend the Tax Injunction Act to clarify that federal courts lack authority to entertain any challenge to a state law that involves the collection of taxes from illegal aliens.