



Written by [Joe Wolverton, II, J.D.](#) on October 17, 2023

COS: State Governments Must Use Article V to Control the Feds

In one of its [latest blog posts](#), the Convention of States (COS) says the Constitution can be boiled down to four words: “If government, which government?”

Those four words were spoken by Republican Utah State Representative Ken Ivory, who spoke at the group’s simulated constitutional convention. Ivory went on to tout the Tenth Amendment and explain its role in restraining the federal government:

We have a sovereign people that did not delegate all power to government. In fact, they delegated very few [powers] to government... ‘If government’—Is that power delegated to any government at all? It’s a critical question that we have to ask ourselves. The second question is: If it was among those very few powers that were delegated to government, which one? Was it delegated to a government far away, less accountable, less transparent? Or was it kept to a government close to home... where the people’s voice really matters?



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The COS blog post author then goes on to answer Ivory’s question:

Of course, Ken Ivory and the Convention of States believe power was intended to be kept as close to home as possible.

Is that so?

It is incredible that within the time it takes to pronounce that paragraph, Ivory clearly reveals the weakness and hypocrisy of the Convention of States organization. Here are the two fatal flaws exposed by Ivory in his advocacy of state governments taking control and reining in the federal government:

First, it is beyond debate that the Founding Fathers intended for the states to retain the lion’s share of power within the federal system established by the Constitution of 1787. One of the principal architects of that system and the document that created it, James Madison, very clearly set out the respective limits of those two governments in *Federalist* 45:



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The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite.

Simple as that.

Now, Ivory and COS claim that they seek to shore up state sovereignty and use that sovereignty to restrain the runaway federal government. Their proposed method for accomplishing that worthwhile goal: use the federal government to rein in the federal government.

That's right. I'm certain the COS leaders are aware of this dissembling, but I'm equally certain that they believe that their supporters won't recognize it as such.

You see, COS fights tooth and nail against the exercise by the states of their retained authority to refuse to enact, enforce, or in any way cooperate with any unconstitutional act of the federal government. Convention of States propaganda denounces this tactic — known sometimes as nullification, though more correctly as interposition — and claims that it is not constitutional and that the Article V amendments convention plan is the only way to accomplish the worthy goal of forcing the federal beast back inside its constitutional cage.

Before we completely pull the curtain away from the COS wizard, consider this full-throated support for state interposition written by James Madison in the Virginia Resolution:

Resolved, that the General Assembly of Virginia . . . doth explicitly and peremptorily declare, that it views the powers of the federal government, as resulting from the compact to which the states are parties; as limited by the plain sense and intention of the instrument constituting that compact; as no farther valid than they are authorised by the grants enumerated in that compact, and that in case of a deliberate, palpable and dangerous exercise of other powers not granted by the said compact, the states who are parties thereto have the right, and are in duty bound, to interpose for arresting the progress of the evil, and for maintaining within their respective limits, the authorities, rights and liberties appertaining to them.

There can be no simpler restatement of the intended constitutional relationship between the state and federal governments than that. Again, for that very reason, COS will never mention it, although they will (falsely) assert that James Madison opposed interposition.

For these reasons, then, the Convention of States' complete rejection of state interposition against unconstitutional acts of the federal government is inexplicable. They claim, as in this latest blog post highlighting Ken Ivory's speech, to appeal to state governments to help rein in the runaway feds, but they insist on turning to Article V — a process which includes a substantial role for Congress — to accomplish that goal.

If COS and those of their stripe sincerely wanted to disgorge the federal leviathan of the unconstitutional power it has accumulated, then they would not turn to Congress to accomplish that — they would look to the states and to the states' retained authority of interposition. They don't do so, thus their true goal must be suspected to be other than the restoration of state sovereignty and constitutional, republican government.

Finally, it should be noted that if patriotic, constitutionally minded Americans would elect state



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legislators committed to enforcing the terms of the Tenth Amendment, then unconstitutional acts of the federal government could be barred from having any effect on the citizens of the states governed by those lawmakers. That could happen at the next election. On the other hand, Mark Meckler, co-founder of COS, recently revealed to his supporters that an amendments convention could take up to “25 years” to come to fruition.

Frankly, I don’t think we have 25 years. It is time to act now and act boldly in defense of the Constitution, and the safest, surest, and speediest way to do that is through state interposition (nullification).





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