



Written by [Joe Wolverton, II, J.D.](#) on October 3, 2023

# Convention of States: Congress, Not States, to Blame for Big Government

In a recent blog post, the Convention of States (COS) identifies what that organization considers the culprit in the theft of liberty:

What continues to run away and threaten our livelihoods is our runaway Congress. The congressional chaos this past weekend is an appropriate reminder that our state leaders are much more competent and trustworthy.



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This is the recurring tune that COS plays: the “states as victims.” Let’s deconstruct this melody and add some flair.

Convention of States boldly declares on its FAQ page: “Washington, D.C., is a mess. The federal government is draining our finances and snatching our freedoms.”

In that chorus, three key notes ring true. D.C. is undoubtedly in disarray, federal spending can feel like a never-ending fiscal plunge, and our fundamental liberties are under pressure. But here’s the twist: The claim that the federal government is “grabbing power from the states” misses the mark. It paints the states as victims, when they are more like willing dance partners in this constitutional tango.

States, on average, pocket a third of their yearly budget from Uncle Sam’s wallet. Mississippi practically thrives on D.C. funds, followed closely by Louisiana and Arizona. Nobody can deny that governors and state legislators have developed a taste for this “free” federal cash. However, the catch is that it’s not really free, as the Cato Institute’s Tad DeHaven points out. It creates a fiscal illusion, making state taxpayers believe the cost of government is lower than it actually is.

Every dollar sent from Washington to the states comes from taxpayers, with a federal bureaucracy tax on top. This pattern holds whether the funds flow to Indianapolis or Sacramento. Economists have also shown that federal subsidies lead to higher state taxes and spending in the long run, as the federal “seed money” fuels a hunger for more government.

So, when governors cash those million-dollar checks from Congress, it’s not the act of a victim — it’s more like a business transaction where states traded sovereignty for federal support.

At *The New American*, we’ve closely followed how local police have embraced grants from the Department of Homeland Security, exchanging control for funding and military-grade gear. It’s hard to cast them as victims when they eagerly apply for these grants.

If we’re to stay intellectually honest, Convention of States supporters should acknowledge that states have willingly relinquished their sovereignty, not had it stolen. The remedy here is nullification — a historically, legally, and constitutionally sound solution that has proven pragmatic and powerful.



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Oddly enough, COS proponents deny states the power to disregard federal actions that overstep constitutional bounds, even though their plan hinges on states saving us from the federal juggernaut. If states can't muster the will for nullification, why should we believe they'll suddenly protect sovereignty in a convention?

What is revealed by COS's constant clanging of those same couple of keys is that the organization is less interested in restoring liberty than in lining its pockets. To COS, it would seem, ROI is its second-favorite acronym!

The irrefutable fact is that states are successfully stymieing the federal government's regulation of marijuana and, using that same tactic, could likewise stop all unconstitutional acts of the federal government from crossing sovereign state borders.

Without shame, however, COS maintains that nullification won't work and is constitutionally suspect. Is it not more suspect to spend millions to confiscate from the states any weapon in the war against federal tyranny, particularly one as proven potent as nullification?

The COS movement's attitude toward nullification ignores basic tenets of the law of agency, an understanding of which would reveal the proper constitutional relationship between the state governments and the federal authority.

The law of agency applies when one party gives another party legal authority to act on the first party's behalf. The first party is called the *principal* and the second party is called the *agent*. The principal may grant the agent as much or as little authority as suits his purpose. That is to say, by simply giving an agent certain powers, that agent is not authorized to act outside of that defined sphere of authority.

Upon its ratification, the states, as principals, gave limited power to the central government to act as their agent in certain matters of common concern: defense, taxation, interstate commerce, etc.

The authority of the agent — in this case the federal government — is derived from the agreement that created the principal/agent relationship. Whether the agent is lawfully acting on behalf of the principal is a question of fact. The agent may legally bind the principal only insofar as its actions lie within the contractual boundaries of its power. Should the agent exceed the scope of its authority, not only is the principal not held accountable for those acts, but the breaching agent is legally liable to the principal (and any affected third parties who acted in reliance on the agent's authority) for that breach.

Under the law of agency, the principal may revoke the agent's authority at will. It would be unreasonable to oblige the principals to honor promises of an agent acting outside the boundaries of its authority as set out in the document that created the agency in the first place.

Imagine the chaos that would be created if principals were legally bound by the acts of an agent that "went rogue" and acted prejudicially to the interests of the principals from whom he derived any power in the first place. It is a fundamental tenet of the law of agency that the agent may lawfully act only for the benefit of the principal.

Finally, given the economic realities of the political world, it's more likely that state delegates at an Article V Convention would tweak the Constitution to improve their access to the national treasury. To put it plainly: Would you trust a crack addict to punish the pushers?

Constitutionalists see through the smoke and mirrors, recognizing the threats to liberty posed by an Article V Convention. They advocate filling state legislatures with defenders of federalism who won't trade sovereignty for Federal Reserve notes. These legislators are the true guardians of liberty the



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Founders envisioned, unwavering in their commitment to preserving the Constitution and the freedoms it secures.

So, let's start our journey toward that goal by acknowledging that states are not passive victims, but active participants in the federal dance. State legislators, knowingly or unknowingly, trade sovereignty for federal funds, and nullification remains the constitutional beacon for returning power to the states, just as our Founders intended.





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