



Written by [Joe Wolverton, II, J.D.](#) on July 3, 2015

Did Rand Paul Meet With Cliven Bundy? Bundy Says Yes; Paul Camp: No

Good thing for Rand Paul (shown) that he hasn't hired the *Washington Post* to manage his campaign. Taking that paper's recent advice could alienate a lot of constitutionalists who otherwise might support the senator.



On July 1, the paper published an article by Amber Phillips criticizing the Republican presidential hopeful's alleged meeting with Cliven Bundy, the embattled Nevada rancher whose face-off with federal agents drew worldwide attention last year.

I say *alleged* meeting because according to the Associated Press, Paul's campaign denies his having spent 45 minutes meeting with the constitutionally minded cattle rancher. Bundy, however, told a Nevada-based AP reporter that he spent about 45 minutes with Paul during the latter's visit to Mesquite. "In general, I think we're in tune with each other," Bundy purportedly told the AP's Riley Snyder.

Paul's trip to Mesquite was part of a tour of the Silver State.

While in Mesquite, Paul fielded questions from the public, including one about attempts by the federal government to assert ownership of the state's rural land.

"I think almost all land use issues and animal issues, endangered species issues, ought to be handled at the state level," Paul told the AP. "I think that the government shouldn't interfere with state decisions, so if a state decides to have medical marijuana or something like that, it should be respected as a state decision."

Paul's position is constitutionally sound on both counts: state ownership of land and state authority over all but a short list of enumerated powers assigned to the federal government in the Constitution.

Taking the last first, James Madison famously wrote in *Federalist*, No. 45:

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. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State.

Notice Madison's recognition of the retention by the states over the areas that concern the "lives, liberties, and properties" of the people.

As for the property located within a state, the federal government may not legally assert any aspect of



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ownership, unless that property is of the types put under federal control in Article I, Section 8 of the Constitution. That provision reads:

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of Particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings.

It seems unlikely that the Bureau of Land Management could sustain an assertion that Cliven Bundy's land — land his family has worked for generations — falls somewhere within that limited list of lands over which the states gave the feds control.

That's not to say that a federal agency could never take ownership or possessory control of state land. The constitutional article sets out the process the feds would have to follow to make such an acquisition.

First, they'd have to "purchase" the land; and, second, they (the federal government or agency thereof) would have to get such a purchase approved by the legislature of the state where the land is located.

Rand Paul gets this, and that's probably why the *Washington Post* wants to warn him off of holding meetings with pro-Bundy crowds. The *Post* reports that someone at the Mesquite gathering asked Paul: "There's simply no place in the U.S. Constitution that allows the federal government to hold land. Period. What are you going to do about it?"

What did Rand Paul respond? Again, from the *Post*: "I'd either sell or turn over all land management to the states."

The paper reports that answer elicited a "wow" and applause from the crowd.

In the case of Bundy's land (or the lands owned by the dozens of other ranchers who gave in to the pressure and ceded their family homesteads to the federal government), the constitutionally mandated method of ownership has not been followed by the feds.

Why, then, the interest in this patch of desert?

Cliven Bundy's family has lived on this land for nearly 140 years. The Bundys have settled and improved this property since Cliven's ancestor accompanied Edward Bunker and a company of Church of Jesus Christ of Latter-day Saints members who settled on the Virgin River, a few miles west of the Nevada-Arizona border in 1877.

In nearly every way, Bundy's life and liberty are connected inextricably to this property — property the family has preemptive rights to and has worked for years before the federal government realized there was gold — black gold — in them thar hills.

The BLM makes millions by leasing land such as that worked by Cliven Bundy to energy companies dedicated to fracking operations. A [2007 map](#) produced by the Nevada Bureau of Mines and Geology shows oil exploration being conducted on the land surrounding Bundy's spread. Some drilling operations in the area are already successfully siphoning oil from the wells in Bundy's backyard.

Oh, that's why they ignored the Constitution.

The second point Paul made in Mesquite is also correct. That is, states are sovereign and their sovereignty not only predates that of the feds, but it was an exercise of that sovereignty that created



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the federal government in the first place.

The states created the federal government and reserve the right to resist the exercise by Congress of any powers not specifically granted to it by the states in the Constitution.

The documents sent by the states to Congress announcing their ratification of the Constitution provide additional evidence of the founding generation's appreciation of the states' and federal government's respective roles as creator and creation. In nearly every one of these letters, the state legislature or ratifying convention delegation explicitly remind Congress that the consent of the states formed the federal government.

The ratifying conventions called throughout the 13 states understood that the delegates sent to Philadelphia in the summer of 1787 created a general government of limited power, retaining for themselves nearly the full panoply of powers they had exercised successfully for over a century.

Neither history nor the Constitution seems to matter to the *Washington Post*, a paper whose role in the Establishment's media harem is coveted.

For its part, the *Post* advises Paul that "there's absolutely no good political reason for Paul to cater to folks like Bundy."

Of course, if more Americans understand the concepts of federalism, enumerated power, and state sovereignty as well as Cliven Bundy, no one would need to look to Washington, D.C. for protection of our fundamental rights, including the right to own property free from federal interference.

Cliven Bundy said it best, as reported in the AP story about Paul's (alleged) visit with the rancher:

"I don't think we need to ask Washington, D.C. for this land. It's our land."

Photo of Sen. Rand Paul: AP Images



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