

TESTIMONY OF ED MULHOLLAND
GOVERNMENT OVERSIGHT COMMITTEE
OHIO HOUSE
COLUMBUS, OHIO
LEGISLATIVE HEARING ON HJR-2

Chair Hall, Vice Chair Ferguson, Ranking Member Humphrey, members of the committee.
My name is Ed Mulholland, I'm from Zanesville, Ohio, House District 97.

The Declaration of Independence was an announcement to the world that the colonists could and would manage their own affairs. It was a statement establishing the right of individual liberty and local sovereignty. The Constitution followed, securing the liberty of the people by granting the federal government only 27 enumerated powers. James Madison, an author of the Constitution and fourth president of the United States, said it this way, Quote:

“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.”

This division of power is called federalism, and it is critically important! As the power of the federal government expands, so expands the necessary regulation and control which steals the very liberties the federal government is supposed to protect.

We know the federal government is too big and too powerful. By 2019 there were already well over 1 million regulatory restrictions placed on us by the federal government.ⁱ

This expansion of the powers of the federal government was never intended by the founders. For that, we can thank a series of Supreme Court decisions that have interpreted the Constitution in ways unimaginable to the original intent.

The General Welfare Clause was never meant to give government unlimited power to pass laws or spend money on whatever it deemed beneficial. Likewise, the Commerce Clause was never intended to give the federal government power over local economic activity.

Unfortunately, decisions like *US v. Butler*ⁱⁱ in 1936 and *Wickard v. Filburn*ⁱⁱⁱ in 1942 re-interpreted both clauses giving virtually unlimited power to the federal government. HJR-2 empowers States to propose amendments that would limit the power and jurisdiction of the federal government. States, through their chosen delegates, could propose amendments to reclaim federalism, shifting authority away from faceless, unelected federal bureaucrats back to state governments to better serve local needs and bring governance closer to citizens.

How can amendments to the Constitution constrain the federal government? Let's imagine some possibilities.

Perhaps an amendment that would clarify the meaning of the Commerce clause, limiting federal authority to only commerce between States, and leaving States in control of commerce within their states. This would restore States rights and allow for more diverse and local solutions rather than the one-size-fits-all regulations coming out of the federal government.

Perhaps an amendment addressing the exponential growth of federal regulations? How about an amendment that requires Congress to approve by majority vote, any regulation deemed to have a significant financial impact?

Perhaps an amendment locking the Supreme Court at nine justices? We have had several presidents threaten to stack the Supreme Court:^{iv} a hostile take-over of one branch of government by another. This kind of attempted power grab could be prevented with an amendment limiting the Supreme Court to nine justices.

Over the past few months, we've witnessed absurd levels of waste, fraud and inefficiency of the federal government. Here are a few examples:

The IRS spends about \$3.5 billion per year on about 8,000 IT employees to accomplish what a mid-sized bank could do with 200 employees on a budget of about \$20 million.^v 3.5 billion and they are still using an antiquated computer system from the early 1990s.

Federal employee retirements are processed by 700 employees using paper, by hand, in a mine in Pennsylvania.^{vi} Records are stored in manila envelopes and cardboard boxes.

\$312 million in loans were granted by the federal government to children age 11 or younger during the COVID pandemic.^{vii}

Imagine an amendment to the Constitution that requires federal agencies and departments to undergo an independent financial and operational audit on an annual basis. Public sharing of results could be mandatory to ensure transparency and accountability.

These are just examples of potential amendments that could be considered at an Article V Convention of States. I'm sure you can imagine many more. HJR-2 gives States the opportunity to at least discuss these important issues.

In 2013, Ohio passed, with bipartisan support, a resolution calling for an Article V convention to discuss a balanced budget. You have another proposal calling for an article V convention to discuss term limits. HJR-2 includes both of these topic areas and a critical third leg of the stool;

limiting the power and jurisdiction of the federal government. All three are necessary to restore federalism and position our country for another 100 years of liberty.

Alexander Hamilton who helped write the US Constitution wrote in Federalist 85:

“By the fifth article of the plan...we may safely rely on the disposition of the State legislatures to erect barriers against the encroachments of the national authority.”

Ronald Reagan, another great American said this regarding Article V;

“The Constitution provides for both methods and the convention is a safety valve giving the people a chance to act if Congress refuses”.

Representatives; congress has refused to act! The time for States to take action is now! I urge you to support HJR-2

ⁱ Quantgov.com

ⁱⁱ In *United States v. Butler*, 297 U.S. 1 (1936), the U.S. Supreme Court established that Congress possesses broad authority under the General Welfare Clause (U.S. Const. art. I, § 8, cl. 1) to levy taxes and allocate funds for purposes serving the general welfare. While the Court invalidated the Agricultural Adjustment Act as an overreach into state powers, it affirmed that the federal government's taxing and spending power is not limited to enumerated powers, provided the expenditure promotes the public interest and does not violate other constitutional constraints. This ruling laid the foundation for expansive federal taxing and spending programs.

ⁱⁱⁱ In *Wickard v. Filburn*, 317 U.S. 111 (1942), the U.S. Supreme Court significantly expanded the scope of the Commerce Clause (U.S. Const. art. I, § 8, cl. 3) by upholding federal regulation of wheat production on a private farm. The Court ruled that Congress could regulate activities with a substantial effect on interstate commerce, even if the activity, such as growing wheat for personal use, was local and indirect. This decision broadened federal authority to regulate economic activities under the Commerce Clause, enabling extensive federal oversight of commerce-related matters.

^{iv} Efforts to "stack" the Supreme Court, or expand its size to influence its ideological balance, are most notably associated with President Franklin D. Roosevelt's Judicial Procedures Reform Bill of 1937. Frustrated by the Court's repeated invalidation of New Deal legislation, such as in *United States v. Butler*, 297 U.S. 1 (1936), Roosevelt proposed adding up to six justices for each sitting justice over age 70, potentially increasing the Court to 15 members. This "court-packing" plan, introduced in February 1937, aimed to secure a pro-New Deal majority but faced widespread criticism as a threat to judicial independence and was rejected by Congress. No other U.S. president has attempted such a direct restructuring of the Court, though debates over appointing ideologically aligned justices or proposing term limits have persisted, as seen in discussions during the Trump and Biden administrations.

^v <https://www.foxnews.com/video/6370300545112>

^{vi} <https://www.foxnews.com/politics/wasteful-dangerous-doges-top-5-most-shocking-revelations>

^{vii} <https://www.foxnews.com/politics/doge-says-312m-loans-given-children-covid-pandemic>