

MAINE STATE LEGISLATURE

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EIGHTY-THIRD LEGISLATURE

Senate Document

No. 238

In Senate, Mar. 15, 1927.

Tabled by Mr. Carter of Androscoggin pending passage and printing.

ROYDEN V. BROWN, Secretary.

Presented by Senator Holmes of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-SEVEN

It appearing to the Senate of the Eighty-third Legislature that the following is an important question of law and the occasion a solemn one,

Ordered, the justices of the supreme judicial court are hereby requested to give to the Senate, according to the provisions of the constitution in this behalf, their opinion on the following questions, to wit:

Whereas, there is now pending in the Senate a bill entitled "An Act to Obtain the Benefit of Credit Allowed Under Federal Estate Tax," being House Document No. 58, an official copy of which is hereto annexed and made a part hereof.

Question 1. Has the legislature the right and power to enact a revenue law which shall be in form (as stated in section

one of said bill) an estate tax law, but in intent and purpose (as stated in section four of said bill) an act to obtain for this state the benefit of the credit allowed under the provisions of Title III, section three hundred one, sub-section "b" of the Federal Revenue Act of 1926?

Question 2. Has the legislature the right and power to enact a law which shall, by its terms (as stated in section three of this bill) become void and of no effect upon the repeal by the congress of Title III of said Federal Revenue Act or upon the amendment of said federal act by the congress whereby the congress repeals the provisions of said Title III providing for a credit of the taxes paid to the several states of the United States not exceeding eighty percent of the tax now imposed by said Title III?

Question 3. If the justices are of opinion that this bill creates an estate tax, is it a property tax or an excise tax, and if a property tax, is it within the constitutional power of the legislature under Article eight of the constitution as amended by Article thirty-six?