

MAINE STATE LEGISLATURE

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N I N E T Y - F I F T H L E G I S L A T U R E

Legislative Document

No. 1315

H. P. 1775

House of Representatives, April 23, 1951.

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Brown of Wayne.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-ONE

MEMORIAL TO THE CONGRESS OF THE UNITED STATES

To the Honorable Senate and House of Representatives of the United States of America in Congress Assembled:

Joint Resolution Making Application to the Congress of the United States for the Calling of a Convention to Propose an Amendment to the Constitution of the United States.

We, your Memorialists, the Senate and House of Representatives of the State of Maine in the Ninety-fifth Legislative Session assembled, most respectfully present and petition your Honorable Body as follows:

Whereas, Article V of the Constitution of the United States reads in part as follows: "The Congress . . . on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states—"; and

Whereas, the Legislature of the state of Maine, in view of the increasing tax problems of the state, caused in large part by the invasion of tax sources by the federal government, believes that its problems as well as the problems of other states similarly situated, can be solved only by some

restraint upon present unrestrained exercise of the taxing power by the federal government; and

Whereas, the federal government is using and has been using for a number of years the taxing power to produce revenue beyond a legitimate necessity of a federal government, other than defense needs, and has been using the funds so raised to invade the province of legislation of the states and to appropriate in many fields that which amounts to a dole to the states of the money raised therefrom to accomplish many purposes, most of them worthy, but by the described process making the money available only under conditions which result in a control by the federal government from centralized agencies in Washington, in many cases unfit, and in other cases unable to administer the laws according to the local needs because of varying conditions in the country as a whole; resulting in inequities in the administration of the very benefits purported to be granted; and

Whereas, State and local needs are disadvantaged because the people are already taxed far beyond the real need for any purpose other than forcing the centralization of all government in Washington; and

Whereas, the framers of the Constitution of the United States clearly foresaw the possibility of a condition similar to that herein described, and made provision in the Constitution for safeguarding the states against any oppression or invasion of rights by the federal government; therefore be it

Resolved, by the legislature of the state of Maine, that said legislature, hereby and pursuant to Article V of the Constitution of the United States, makes application to the Congress of the United States to call a convention for the proposing of the following amendment to the Constitution of the United States:

ARTICLE —

Section 1. The power to levy taxes and appropriate the revenues therefrom heretofore granted to the Congress by the states in the several articles of this constitution is hereby limited.

Sec. 2. This article shall be in effect except during a state of war, hereafter declared, when it shall be suspended. The suspension thereof shall end upon the termination of the war but not later than 3 months after the cessation of hostilities, whichever shall be earlier. The cessation of hostilities may be declared by proclamation of the President or by concurrent resolution of the Congress or by concurrent action of the legislatures of 32 states.

Sec. 3. Notwithstanding the provisions of Article V, this article may be suspended for a time certain or amended at any time by concurrent action of the legislatures of $\frac{3}{4}$ of the states.

Sec. 4. There shall be set aside in the treasury of the United States a separate fund into which shall be paid 25% of all taxes collected by authority derived from the sixteenth amendment to this constitution, except as provided in section 5, and 25% of all sums collected by the United States from any other tax levied for revenue.

Sec. 5. There shall be set aside in the treasury of the United States a separate fund into which shall be paid all sums received from taxes levied on personal incomes in excess of 50% thereof and from taxes levied on income or profits of corporations in excess of 38% thereof.

Sec. 6. Before paying any sums into the funds created by sections 4 and 5 hereof, the treasurer of the United States shall deduct therefrom 20% which shall be used in payment of the principal of the national debt of the United States.

Sec. 7. No tax shall hereafter be imposed on that portion of the incomes of individuals which does not exceed, in the case of unmarried persons the sum of \$600 per year, and in the case of married persons the sum of \$1,200 per year jointly. A minimum deduction of \$600 per year shall be allowed for each dependent.

Sec. 8. The treasurer of the United States shall once in each year, from the separate fund created by section 4 hereof, pay to each of the several states $\frac{1}{4}$ of 1% of said fund and from the remainder of said fund shall pay to each state a portion of such remainder determined by the population of each state in ratio to the entire population of the several states according to the last federal decennial census or any subsequent general census authorized by law.

Sec. 9. The treasurer of the United States shall, from the separate fund created by section 5 hereof, pay to each state, once in each year, a sum equal to the amount of money in such fund which was collected from persons or corporations within such state.

Sec. 10. Any sums paid hereunder to the several states shall be available for appropriation only by the legislatures thereof. The legislatures may appropriate therefrom for any purpose not forbidden by the constitutions of the respective states and may appropriate therefrom for expenditures within the state for any purpose for which appropriations have

heretofore made by the Congress except such purposes as are specifically reserved by this constitution for the exclusive power of the Congress. The people of each state may limit the expenditures of funds herein made available to the legislature, but shall not direct the appropriation thereof.

Sec. 11. Each legislature shall have power by rule or resolution to provide for the assembly thereof in special sessions for the purpose of considering amendments to, the suspension of or the ratification of amendments proposed to this article.

Sec. 12. Each legislature shall have power to elect one or more persons to represent such legislature in any council or convention of states created by concurrent action of the legislatures of 32 states for the purpose of obtaining uniform action by the legislatures of the several states in any matters connected with the amendment of this article.

Sec. 13. The Congress shall not create, admit or form new states from the territory of the several states as constituted on the first day of January, 1951, and shall not create, form or admit more than 3 states from the territories and insular possessions under the jurisdiction of the United States on the 1st day of January, 1951, or from territory thereafter acquired without the express consent of the legislatures of $\frac{3}{4}$ of the several states.

Sec. 14. On and after January 1, 1951, the dollar shall be the unit of the currency. The gold content of the dollar as fixed on January 1, 1951, shall not be decreased.

Sec. 15. Concurrent action of the legislatures of the several states as used herein shall mean the adoption of the same resolution by the required number of legislatures. A limit of time may be fixed by such resolution within which such concurrent action shall be taken. No legislature shall revoke the affirmative action of a preceding legislature taken therein.

Sec. 16. During any period when this article is in effect the Congress may, by concurrent resolution adopted by $\frac{2}{3}$ of both houses wherein declaration is made that additional funds are necessary for the defense of the nation, limit the amount of money required by this article to be returned to the several states. Such limitation shall continue until terminated by the Congress or by concurrent action of a majority of the legislatures of the several states. Upon termination of any such limitation the Congress may not thereafter impose a limitation without the express consent by concurrent action of a majority of the legislatures of the several states.

Sec. 17. This article is declared to be self-executing. And be it further

Resolved, That attested copies of this concurrent resolution be sent to the presiding officers of each House of the Congress and to each member of the Maine delegation in Congress, and that printed copies thereof, showing that said concurrent resolution was adopted by the legislature of Maine, be sent to each House of each legislature of each state of the United States; and be it further

Resolved, That this application hereby made by the legislature of the state of Maine shall constitute a continuing application in accordance with Article V, of the Constitution of the United States until at least $\frac{2}{3}$ of the legislatures of the several states shall have made similar applications pursuant to said Article V; and be it further

Resolved, That since this is an exercise by a state of the United States of a power granted to it under the Constitution, the request is hereby made that the official journals and Record of both Houses of Congress, shall include the resolution or a notice of its receipt by the Congress, together with similar applications from other states, so that the Congress and the various states shall be apprised of the time when the necessary number of states shall have so exercised their power under Article V of the Constitution; and be it further

Resolved, That since this method of proposing amendments to the Constitution has never been completed to the point of calling a convention and no interpretation of the power of the states in the exercise of this right has ever been made by any court or any qualified tribunal, if there be such, and since the exercise of the power is a matter of basic sovereign rights and the interpretation thereof is primarily in the sovereign government making such exercise and since the power to use such right in full also carries the power to use such right in part the legislature of the state of Maine interprets Article V to mean that if $\frac{2}{3}$ of the states make application for a convention to propose an identical amendment to the Constitution for ratification with a limitation that such amendment be the only matter before it, that such convention would have power only to propose the specified amendment and would be limited to such proposal and would not have power to vary the text thereof nor would it have power to propose other amendments on the same or different propositions; and be it further

Resolved, That the legislature of the state of Maine does not, by this exercise of its power under Article V, authorize the Congress to call a convention for any purpose other than the proposing of the specific amendment which is a part hereof; nor does it authorize any representative of the

state of Maine who may participate in such convention to consider or to agree to the proposing of any amendment other than the one made a part hereof ; and be it further

Resolved, That by its actions in these premises, the legislature of the state of Maine does not in any way limit in any other proceeding its right to exercise its power to the full extent ; and be it further

Resolved, That the Congress, in exercising its power of decision as to the method of ratification of the proposed article by the legislatures or by conventions, is hereby requested to require that the ratification be by the legislatures.