

Indiana



by the governor of such State from the senate or house of its legislature or the State at large, respectively, as the case may be; that during such vacancy and during the absence of a delegate from the floor of the convention the delegates present from such State shall be empowered to exercise the vote of the absent delegate or delegates from such State; that the legislature of any State may choose its delegates to such convention, other than hereinabove designated, in which case the delegates so chosen shall be certified to the convention by the secretary of state of such State and shall constitute the delegates of such State at such convention in lieu of the delegates otherwise hereinabove designated.

"3. That such convention shall be limited and restricted specifically to the consideration and proposal of this amendment or such other amendments as may be proposed by the several States of these United States; the choosing of officers and adoption of rules of procedure for the conduct of such convention and the maintenance of order thereat, the determination of any issue respecting the seating of delegates, adjournment from day to day and to a day certain and from place to place within said city as may be convenient, and adjournment sine die; and such convention shall not be held for any other purpose nor have any other power, and the delegates thereto shall have no power other than within the limitations herein prescribed;

"4. That a permanent record shall be made of the proceedings of such convention, which shall be certified by the secretary of the convention, the original of which shall be placed in the Library of Congress and printed copies of which shall be transmitted to the Senate and the House of Representatives of the Congress, to the Secretary of State of the United States, and to each house of the legislature and to the secretary of state of each of the several States;

"5. That the powers of such convention shall be exercisable by the States, represented at such convention by duly constituted delegates thereat, by majority vote of the States present and voting on such proposal, and not otherwise.

"Sec. 5. The State of Indiana requests that this application shall constitute a continuing application for such convention under article V of the Constitution of the United States until the legislatures of two-thirds of the several States shall have made like applications and such convention shall have been called and held in conformity therewith, unless the Congress itself propose such amendment within the time and manner herein provided.

"Sec. 6. The State of Indiana requests that proposal of such amendment by the Congress and its submission for ratification to the legislatures of the several States in the form of the article hereinabove specifically set forth, at any time prior to 60 days after the legislatures of two-thirds of the several States shall have made application for such convention, shall render such convention unnecessary and the same shall not be held; otherwise such convention shall be called and held in conformity with such applications.

"Sec. 7. The State of Indiana requests that as this application under article V of the Constitution of the United States is the exercise of a fundamental power of the sovereign States under the Constitution of the United States, a receipt of this application by the Senate and the House of Representatives of the Congress of the United States be officially noted and duly entered upon their respective records, and that the full context of this resolution be published in the official publication of both the Senate and the House of Representatives of the Congress.

"Sec. 8. Certified copies of this resolution shall be transmitted forthwith to the Senate and the House of Representatives of the

Congress of the United States, to each Senator and Representative in the Congress from this State, and to the Secretary of State of the United States, and to each house of the legislature and to the secretary of state of each of the several States, attesting the adoption of this resolution by the legislature of this State.

"CRAWFORD F. PARKER,
"President of Senate.

"GEORGE S. DIENER,
"Speaker of House of Representatives.
"Approved: March 12, 1957.

"HAROLD W. HANDLEY,
"Governor of the State of Indiana.
"Filed March 12, 1957.

"FRANK A. LENNING,
"Secretary of State of Indiana."

"House Enrolled Concurrent Resolution 9
"A concurrent resolution making application to the Congress of the United States pursuant to article V of the Constitution of the United States for a convention proposing an amendment to the Constitution of the United States

"Be it resolved by the House of Representatives of the General Assembly of the State of Indiana (the Senate concurring)—

"SECTION 1. The General Assembly of the State of Indiana, pursuant to article V of the Constitution of the United States, hereby makes application to the Congress of the United States to call a convention for proposing the following article as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. On or before the 15th day after the beginning of each regular session of the Congress, the President shall transmit to the Congress a budget which shall set forth his estimates of the receipts of the Government, other than trust funds, during the ensuing fiscal year under the laws then existing and his recommendations with respect to expenditures to be made from funds other than trust funds during such ensuing fiscal year, which shall not exceed such estimate of receipts. If the Congress shall authorize expenditures to be made during such ensuing fiscal year in excess of such estimated receipts, it shall not adjourn for more than 3 days at a time until action has been taken necessary to balance the budget for such ensuing fiscal year. In case of war or other grave national emergency, if the President shall so recommend, the Congress by a vote of three-fourths of all the Members of each House may suspend the foregoing provisions for balancing the budget for periods, either successive or otherwise, not exceeding 1 year each.

"Sec. 2. This article shall take effect on the first day of the calendar year next following the ratification of this article."

"Sec. 2. The State of Indiana requests that such amendment shall be valid to all intents and purposes as part of the Constitution of the United States when ratified by the legislatures of three-fourths of the several States.

"Sec. 3. For the reason that the power of the sovereign States to propose amendments to the Constitution of the United States by convention under article V has never been exercised and no precedent exists for the calling or holding of such convention, the State of Indiana hereby declares the following basic principles with respect thereto: That the power of the sovereign States to amend the Constitution of the United States under article V is absolute; that the power of the sovereign States to propose amendments to the Constitution by convention under article V is absolute; that the power of the sovereign States extends over such convention and the scope and control thereof and that it is within their sovereign power to prescribe whether such convention shall be general or shall be limited to the proposal of a specified amendment or of amendments in a

specified field; that the exercise by the sovereign States of their power to require the calling of such convention contemplates that the applications of the several States for such convention shall prescribe the scope thereof and the essential provisions for holding the same; that the scope of such convention and the provisions for holding the same are established in and by the applications therefor by the legislatures of the two-thirds majority of the several States required by article V to call the same, and that it is the duty of the Congress to call such convention in conformity therewith; that such convention is without power to transcend, and the delegates to such convention are without power to act except within, the limitations and provisions so prescribed.

"Sec. 4. The State of Indiana requests that such convention shall be called and held in conformity with the following limitations and provisions, and that the Congress, in the call for such convention, hereby is requested to and shall prescribe:

"1. That such convention shall be held in the city of Philadelphia, in the State of Pennsylvania, on the first Monday of the first December following transmission to the Senate and the House of Representatives of the Congress of the United States of applications for such convention by the legislatures of two-thirds of the several States and, in honor of the Nation's founders and for invocation, shall convene at Constitution Hall, at Independence Square, at the hour of 10 o'clock in the morning of such day, and thereupon adjourn to more commodious quarters within said city for session as the convention shall determine;

"2. That the several States shall have equal suffrage at such convention; that each of the several States shall be entitled to 3 delegates thereat and that each of such delegates shall be entitled to 1 vote; that the delegates to such convention from the several States shall be the highest officer of the senate and the highest officer of the house of representatives of their respective legislatures at the time of such convention, except that in States where the lieutenant governor is president of the senate, the president of the senate pro tempore or other highest officer from the membership of the senate shall be such delegate from the senate and in States having a unicameral legislature the 2 highest officers of its legislature shall be such delegates, which 2 delegates in each of the several States shall jointly designate a citizen of such State at large who shall be the third delegate from such State to such convention; that in case of a vacancy in the office of any delegate during such convention, not otherwise filled pursuant to law or by legislative act or as herein provided, such vacancy shall be filled by the Governor of such State from the senate or house of its legislature or the State at large, respectively, as the case may be; that during such vacancy and during the absence of a delegate from the floor of the convention the delegates present from such State shall be empowered to exercise the vote of the absent delegate or delegates from such State; that the legislature of any State may choose its delegates to such convention, other than hereinabove designated, in which case the delegates so chosen shall be certified to the convention by the secretary of state of such State and shall constitute the delegates of such State at such convention in lieu of the delegates otherwise hereinabove designated;

"3. That such convention shall be limited and restricted specifically to the consideration and proposal of this amendment or such other amendments as may be proposed by the several States of these United States; the choosing of officers and adoption of rules of procedure for the conduct of such convention and the maintenance of order

thereat, the determination of any issue respecting the seating of delegates, adjournment from day to day and to a day certain and from place to place within said city as may be convenient, and adjournment sine die; and such convention shall not be held for any other purpose nor have any other power, and the delegates thereto shall have no power other than within the limitations herein prescribed;

"4. That a permanent record shall be made of the proceedings of such convention, which shall be certified by the secretary of the convention, the original of which shall be placed in the Library of Congress and printed copies of which shall be transmitted to the Senate and the House of Representatives of the Congress, to the Secretary of State of the United States, and to each house of the legislature and to the secretary of state of each of the several States;

"5. That the powers of such convention shall be exercisable by the States, represented at such convention by duly constituted delegates thereat, by majority vote of the States present and voting on such proposal, and not otherwise.

"Sec. 5. The State of Indiana requests that this application shall constitute a continuing application for such convention under article V of the Constitution of the United States until the legislatures of two-thirds of the several States shall have made like applications and such convention shall have been called and held in conformity therewith, unless the Congress itself propose such amendment within the time and the manner herein provided.

"Sec. 6. The State of Indiana requests that proposal of such amendment by the Congress and its submission for ratification to the legislatures of the several States in the form of the article hereinabove specifically set forth, at any time prior to 60 days after the legislatures of two-thirds of the several States shall have made application for such convention, shall render such convention unnecessary and the same shall not be held; otherwise such convention shall be called and held in conformity with such applications.

"Sec. 7. The State of Indiana requests that as this application under article V of the Constitution of the United States is the exercise of a fundamental power of the sovereign States under the Constitution of the United States, a receipt of this application by the Senate and the House of Representatives of the Congress of the United States be officially noted and duly entered upon their respective records, and that the full context of this resolution be published in the official publication of both the Senate and the House of Representatives of the Congress.

"Sec. 8. Certified copies of this resolution shall be transmitted forthwith to the Senate and the House of Representatives of the Congress of the United States, to each Senator and Representative in the Congress from this State, and to the Secretary of State of the United States, and to each house of the legislature and to the secretary of state of each of the several States, attesting the adoption of this resolution by the legislature of this State.

"CRAWFORD F. PARKER,
"President of Senate.

"GEORGE S. DIENER,

"Speaker of House of Representatives.
"Approved: March 12, 1957.

"HAROLD W. HANDLEY,

"Governor of the State of Indiana.
"Filed March 12, 1957.

"FRANK A. LENNING,

"Secretary of State of Indiana."

A concurrent resolution of the Legislature of the State of Florida: to the Committee on the Judiciary.

"House Concurrent Resolution 174

"A resolution to declare the United States Supreme Court decisions usurping the powers reserved to the States and relating to education, labor, criminal procedure, treason and subversion to be null, void, and of no effect; to declare that a contest of powers has arisen between the State of Florida and the Supreme Court of the United States; to invoke the doctrine of interposition; and for other purposes

"Be it resolved by the House of Representatives of the State of Florida (the Senate concurring). That the Legislature of Florida doth hereby unequivocally express a firm and determined resolution to maintain and defend the Constitution of the United States, and the constitution of this State against every attempt, whether foreign or domestic, to undermine and destroy the fundamental principles, embodied in our basic law, by which the liberty of the people and the sovereignty of the States, in their proper spheres, have been long protected and assured;

"That the Legislature of Florida doth explicitly and preemptorily declare that it views the powers of the Federal Government as resulting solely from the compact, to which the States are parties, as limited by the plain sense and intention of the instrument creating that compact;

"That the Legislature of Florida asserts that the powers of the Federal Government are valid only to the extent that these powers have been enumerated in the compact to which the various States assented originally and to which the States have assented in subsequent amendments validly adopted and ratified;

"That the very nature of this basic compact, apparent upon its face, is that the ratifying States, parties thereto, have agreed voluntarily to surrender certain of their sovereign rights, but only certain of these sovereign rights, to a Federal Government thus constituted; and that all powers not delegated to the United States by the Constitution, nor prohibited by it to the States, have been reserved to the States respectively, or to the people;

"That the State of Florida has at no time surrendered to the General Government its right to exercise its powers in the field of labor, criminal procedure, and public education, and to maintain racially separate public schools and other public facilities;

"That the State of Florida, in ratifying the 14th amendment to the Constitution, did not agree, nor did the other States ratifying the 14th amendment agree, that the power to regulate labor, criminal proceedings, public education, and to operate racially separate public schools and other facilities was to be prohibited to them thereby;

"And as evidence of such understanding as to the inherent power and authority of the States to regulate public education and the maintenance of racially separate public schools, the Legislature of Florida notes that the very Congress that submitted the 14th amendment for ratification established separate schools in the District of Columbia and that in more than one instance the same State legislatures that ratified the 14th amendment also provided for systems of racially separate public schools;

"That the Legislature of Florida denies that the Supreme Court of the United States had the right which it asserted in the school cases decided by it on May 17, 1954, the labor-union case decided on May 21, 1956, the cases relating to criminal proceedings decided on April 28, 1956, and January 16, 1956, the antiseditious case decided on April 2, 1956, and the case relating to teacher requirements decided on April 9, 1956, to enlarge the language and meaning of the compact by the States in an effort to withdraw from the States powers reserved to them and as daily exercised by them for almost a century;

"That a question of contested power has arisen; the Supreme Court of the United States asserts, for its part, that the States did in fact prohibit unto themselves the power to regulate labor matters, criminal proceedings, and public education, and to maintain racially separate public institutions and the State of Florida, for its part, asserts that it and its sister States have never surrendered such rights;

"That these assertions upon the part of the Supreme Court of the United States, accompanied by threats of coercion and compulsion against the sovereign States of this Union, constitute a deliberate, palpable, and dangerous attempt by the Court to prohibit to the States certain rights and powers never surrendered by them;

"That the Legislature of Florida asserts that whenever the General Government attempts to engage in the deliberate, palpable, and dangerous exercise of powers not granted to it, the States who are parties to the compact have the right, and are in duty bound, to interpose for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights, and liberties appertaining to them;

"That failure on the part of this State thus to assert its clear rights would be construed as acquiescence in the surrender thereof; and that such submissive acquiescence to the seizure of one right would in the end lead to the surrender of all rights, and inevitably to the consolidation of the States into one sovereignty, contrary to the sacred compact by which this Union of States was created;

"That the question of contested power asserted in this resolution is not within the province of the Court to determine because the Court itself seeks to usurp the powers which have been reserved to the States, and, therefore, under these circumstances, the judgment of all of the parties to the compact must be sought to resolve the question. The Supreme Court is not a party to the compact, but a creature of the compact and the question of contested power should not be settled by the creature seeking to usurp the power, but by the parties to the compact who are the people of the respective States in whom ultimate sovereignty finally reposes;

"That the constitution of the State of Florida provides for full benefits to all its citizens with reference to educational facilities and under the laws of Florida enacted by the legislature through the minimum foundation program its citizens under States' rights, all are being educated under the same general law and all teachers are being employed under identical educational qualifications and all are certified by the State Board of Education alike, which enables the people, themselves, in Florida to provide an educational establishment serviceable and satisfactory and in keeping with the social structure of the State. The people of Florida do not consent to changing State precedents and their rights by having doctrines thrust upon them by naked force alone, as promulgated in the school cases of May 17, 1954, and May 31, 1955;

"That the doctrines of said decisions and other decisions denying to the States the right to have laws of their own dealing with subversion or espionage, and criminal proceedings, and denying the States the right to dismiss individuals from public employment who refuse to answer questions concerning their connections with communism by invoking the fifth amendment, and denying the States the right to provide for protective 'right to work' laws, should not be forced upon the citizens of this State for the Court was without jurisdiction, power or authority to interfere with the sovereign powers of the State in such spheres of activity.

"That the Court in its decisions relating to public education was without jurisdiction