

find out if this applied to judges. He instituted a suit against the then Comptroller, Mr. Gordy, to test it out. When that case got to the Court of Appeals, the Court of Appeals of Maryland relied upon the Supreme Court case and ruled that it was a diminution of the judge's salary in violation of his constitutional rights. Whereupon the people rose up and said wherefore is he any different from the rest of us? They passed this constitutional amendment which I just read and said that it was all right to apply this tax literally to everybody who is in the proper classification.

Thereafter, as sometimes happens, the Supreme Court in a later decision ruled that what the Maryland amendment said was really law anyway in the case of *O'Malley v. Woodrough* in 307 US 277 and they expressly overruled the earlier case of *Evans v. Gore*.

That left us then in this situation. You are not reducing a judge's salary or any other fixed salary of a state official by this kind of tax. You do not need a constitutional provision to say that this is so because this is the law. It is applicable to everybody and since the Maryland Court of Appeals had relied on this case, which the Supreme Court later overruled, we reached the conclusion, which we do not find to be one even in the gray area, that we do not need this provision in the Constitution.

However, for fear that if we left it out, somebody might raise the point and say this Convention met, considered the matter, and left it out because they did not think that such salary should be so reduced, we offer this report to make it perfectly clear that it is our intention not in any way to upset the present prevailing law. Everybody is going to be treated alike where these taxes are concerned, whether your salaries are fixed, whether they are not subject to diminution, taxes are taxes, and all will have to pay them within the requirements of the law.

What we are asking is that this report be accepted and adopted and filed in the records of this Convention.

I so move, Mr. Chairman.

THE CHAIRMAN: Are there any questions for purposes of clarification? Is there a second to the motion? This is a committee report and needs no second. Is there any further question or discussion?

(There was no response.)

Are you ready for the question?

(Call for the question.)

The question arises on the motion to approve Committee Report SF-1. A vote Aye is a vote in favor of the approval of the report. A vote No, against. All in favor, signify by saying Aye; contrary, No. The Ayes have it. It is so ordered. Thank you, Delegate Sherbow.

DELEGATE SHERBOW: Thank you, Mr. Chairman.

THE CHAIRMAN: The Chair recognizes Delegate Powers.

DELEGATE POWERS: Mr. Chairman, I move the Committee of the Whole rise and report to the Convention with respect to its action concerning Committee Recommendation SF-1 and Committee Report SF-1.

THE CHAIRMAN: Is there a second?

(The motion was duly seconded.)

THE CHAIRMAN: The question arises on the motion to rise and report to the Convention, that the Committee of the Whole has considered Committee Recommendation SF-1 and recommends its adoption with amendments and that the Committee of the Whole has considered Committee Report SF-1 and recommends its adoption by the Convention. All in favor, signify by saying Aye; contrary, No. The Ayes have it. It is so ordered.

(Whereupon, at 3:00 P.M. the Committee of the Whole rose, and the Convention reconvened.)

(The mace was replaced by the Sergeant-at-Arms.)

PLENARY SESSION

NOVEMBER 3, 1967—3:00 P.M.

PRESIDENT H. VERNON ENEY,
PRESIDING

THE PRESIDENT: The Convention will now come to order. On behalf of the Committee of the Whole, I report to the Convention that the Committee of the Whole has had under consideration Committee Recommendation SF-1 and recommends that it be adopted with amendments and that the Committee of the Whole has had under consideration Committee Report SF-1 and recommends that it be adopted.