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TAXATION OF FEDERAL PROPERTY

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Proposed Amendment to Constitution [TOGETHER WITH ARGUMENTS]



TO BE SUBMITTED TO THE ELECTORS OF THE STATE OF CALIFORNIA AT THE

SPECIAL ELECTION, TUESDAY, MAY 16, 1944

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SECRETARY OF STATE

PART I—ARGUMENTS

TAXATION OF FEDERAL PROPERTY. Senate Constitutional Amendment No. 2. Amends Section 1 of Article XIII. Eliminates present exemption of property belonging to the United States, to require taxation of such property, where not exempt under laws of United States. Validates any proceeding for the taxation of such property taken prior to adoption of amendment.	YES	
	NO	

(For full text of measure, see page 1, Part II)

Argument in Favor of Senate Constitutional Amendment No. 2

This proposed constitutional amendment merely eliminates three words from the State Constitution, which prevent the Legislature from passing laws which tax Federal property that may be taxed under Federal laws.

1. The present provision prohibiting taxation of property that belongs to the United States is superfluous. It is a well-established principle of law, adequately supported in the decision of John Marshall in *M'Culloch versus Maryland*, that the States can not tax property of the Federal Government or that owned by instrumentalities of the Federal Government, unless Congress waives the prohibition and allows a State to tax such property.

2. Unless this amendment is passed, California is left at a disadvantage in comparison with other States that can and do tax certain property owned by the Federal Government, and its subsidiary corporations. We pay all Federal taxes that are paid by the citizens of the other States, and thus bear our proportionate share of the tax burden and comparatively we carry a higher burden since we do not permit the taxing of Federal property within the boundaries of the State, while other States do allow and provide for such taxes, thus collecting back a part of the contribution which is paid to the Federal treasury. This disadvantage, and the larger burden which other property must carry because of the exemption of Federal property, rests on the local common property taxpayer. His burden is higher because of this exemption, and yet he pays

[One]

for the governmental services rendered locally to this exempt property.

In short, this amendment is proposed to allow the Legislature to correct a gross injustice where Federally owned property is exempt from State and local taxes. It becomes particularly pertinent at this time, when the growth of Federally owned property in California has been so great that its exemption from taxation threatens the very existence of county and local government in certain counties of this State.

There seems to be no valid arguments against this measure. It should receive overwhelming approval by the people of California.

W. P. RICH, Senator, Tenth District.

Argument in Favor of Senate Constitutional Amendment No. 2

Under our present law, our own Constitution prohibits us taxing Federally owned property, even when the Federal Government consents.

It has already so consented in the case of over 20 Federal agencies, such as RFC, HOLC, Federal Land Banks, etc., realizing the burdensome unfairness of the present situation, where heavy local governmental expense must be met, but where a large part of the property is off the tax roll because of Federal ownership. Over 90 per cent of the area of one county is Federally owned, of another over 85 per cent, of three others over 70 per cent, and of eight others over 50 per cent.

Approval of this measure will permit California to tax property of the Federal Government (with its consent) and to accept over \$6,000,000 per year in taxes from it where consent has already been given. Payments in lieu of taxes will not be terminated hereby.

This measure passed both houses of the Legislature without a dissenting vote, endorsed by the Supervisor's Association, and numerous other groups. Vote Yes.

H. E. DILLINGER,
State Senator and Chairman of Joint
Legislative Tax Study Committee.

Argument Against Senate Constitutional Amendment No. 2

On the surface, this measure appears to seek a benefit for California, whereas a close analysis of its possible consequences indicates a contrary result.

Approval of this measure will lead to: (a) breach of compact with the other States; (b) attempted violation of the act of Congress admitting California into the Union; (c) increased litigation, chaos and confusion resulting from attempts to collect taxes; (d) increased taxes to defray consequent litigation expenses; (e) decreased expenditure of Federal funds in California; (f) reduction in post war employment and economic development in California; and (g) reduction in available taxable property.

Because: (a) California agreed⁽¹⁾ that neither its Legislature, nor its people, would ever levy

⁽¹⁾ Central Pacific R. R. Co. v. Howard, 1877, 52 Cal., 227; People v. Donnelly, 1881, 53 Cal., 144.

[Two]

taxes or assessments of any description on the public domain of the United States; (b) which provision was incorporated in the act of Congress admitting California into the Union; (c) local government units will institute numerous actions seeking to collect taxes from the Federal Government; (d) expenses incurred in connection therewith must be obtained from and paid by California taxpayers; (e) other States, not taxing Federal property, will demand reduction of Federal expenditures in California, if required to pay more Federal taxes; (f) less expenditures mean fewer industrial plants and jobs; (g) fewer industrial plants, mean less property available for post war sale to private individuals, hence, less taxable property.

When you tax the Federal Government, you pay the tax, because five States, including California, pay more than half of all Federal taxes.

California taxpayers receive untold millions of dollars in income each year from the expenditures of Federal funds, providing for the employment of thousands of its citizens; maintenance of its navigable streams; protection and maintenance of water, homestead, mine, timber and other rights; also, maintenance of forest areas, alone, has developed an extensive tourist trade, as well as preservation of vacation lands for our citizens.

Originally the majority of property in California belonged to the Federal Government; less than 43 per cent in area and 10 per cent in value is now so owned. Nearly a third of such property is located in one California county, and one half in four counties, and consists largely of oil lands, public buildings, hospitals and army and navy bases.

Repeatedly, the United States Supreme Court has held⁽²⁾ that no State can tax the instrumentalities of the Federal Government. States taxing Federal property do so with the consent of Congress, whereas even if Congress authorized California to tax Federal property, such taxation would be in violation of the compact with the States under which California entered the Union;⁽³⁾ also, the amount of any possible taxes from this source would be less than 1 per cent of all State and local taxes required.

Let's keep our word and perform our agreements, rather than foment and encourage additional political strife, confusion and chaos.

Vote NO on S. C. A. No. 2.

Respectfully submitted.

ROBERT H. FOUKE,
Attorney, and President of the Young
Voters League of California.

⁽²⁾ McCulloch v. Maryland, 17 U. S. 316, 4 Wheat. 316, 4 L. Ed. 579; Brown v. Maryland, 25 U. S. 419, 12 Wheat. 419, 6 L. Ed. 678; Van Allen v. The Assessors, 70 U. S. 573, 3 Wall. 573, 18 L. Ed. 229; Thomson v. Union Pacific R. Co., 78 U. S. 579, 9 Wall. 579, 19 L. Ed. 792; Collector v. Day, 78 U. S. 113, 11 Wall. 113, 20 L. Ed. 122; Van Brocklin v. Anderson, 117 U. S. 151, 6 S. Ct. 670, 29 L. Ed. 845; SEE ALSO: U. S. v. Jones, 109 U. S. 513, and Withers v. Buckley, 1857, 61 U. S. 85, denying right to tax where property taken for "public uses".

⁽³⁾ Fort Leavenworth R. Co. v. Lowe, 114 U. S. 525, 29 L. Ed. 263; Irwin v. Wright, (Arizona), 258 U. S. 219, 42 S. Ct. 293, 66 L. Ed. 573.

PART II—APPENDIX

TAXATION OF FEDERAL PROPERTY. Senate Constitutional Amendment No. 2. Amends Section 1 of Article XIII. Eliminates present exemption of property belonging to the United States, to require taxation of such property, where not exempt under laws of United States. Validates any proceeding for the taxation of such property taken prior to adoption of amendment.

YES	
NO	

Senate Constitutional Amendment No. 2—A resolution to propose to the people of the State of California an amendment to the Constitution of said State, by amending Section 1 of Article XIII thereof, relating to revenue and taxation.

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California, in Extraordinary Session commencing on the twenty-seventh day of January, 1944, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that Section 1 of Article XIII of the Constitution of the State be amended to read:

(This proposed amendment expressly amends an existing section of the Constitution; therefore, EXISTING PROVISIONS proposed to be DELETED are printed in STRIKE-OUT TYPE; and NEW PROVISIONS proposed to be INSERTED are printed in BLACK-FACED TYPE.)

PROPOSED AMENDMENT TO THE CONSTITUTION

SECTION 1. All property in the State except as otherwise in this Constitution provided, not exempt under the laws of the United States, shall be taxed in proportion to its value, to be ascertained as provided by law, or as hereinafter provided. The word "property," as used in this article and section, is hereby declared to include moneys, credits, bonds, stocks, dues, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership; provided, that a mortgage, deed of trust, contract, or other obligation by which a debt is secured when land is pledged as security for the payment thereof, together

with the money represented by such debt, shall not be considered property subject to taxation; and further provided, that property used for free public libraries and free museums, growing crops, property used exclusively for public schools, and such as may belong to the United States, this State, or to any county, city and county, or municipal corporation within this State shall be exempt from taxation, except such lands and the improvements thereon located outside of the county, city and county or municipal corporation owning the same as were subject to taxation at the time of the acquisition of the same by said county, city and county, or municipal corporation; provided, that no improvements of any character whatever constructed by any county, city and county or municipal corporation shall be subject to taxation. All lands or improvements thereon, belonging to any county, city and county or municipal corporation, not exempt from taxation, shall be assessed by the assessor of the county, city and county or municipal corporation in which said lands or improvements are located, and said assessment shall be subject to review, equalization and adjustment by the State Board of Equalization. The Legislature may provide, except in the case of credits secured by mortgage or trust deed, for a deduction from credits of debts due to bona fide residents of this State.

Every act heretofore done and proceeding heretofore taken by this State or any taxing agency in the State in respect to the taxation of property belonging to the United States, is hereby validated and made legally effective from the date thereof, to the extent it would have been valid and legally effective if done or taken after the adoption of this amendment.