

By: Representative Clark

To: Rules

HOUSE CONCURRENT RESOLUTION NO. 174

1 A CONCURRENT RESOLUTION MEMORIALIZING THE UNITED STATES
2 CONGRESS TO PROPOSE AND SUBMIT TO THE SEVERAL STATES AN AMENDMENT
3 TO THE CONSTITUTION OF THE UNITED STATES PROVIDING THAT NO COURT
4 SHALL HAVE THE POWER TO LEVY OR INCREASE TAXES.

5 WHEREAS, in a five-to-four decision on April 18, 1990, the
6 United States Supreme Court extended the power of the judicial
7 branch of government beyond any defensible bounds; and

8 WHEREAS, in Missouri v. Jenkins (495 U.S. 33, 110 Sup. Ct.
9 1691 (1990)), the United States Supreme Court held that a federal
10 court had the power to order an increase in state and local taxes;
11 and

12 WHEREAS, this unprecedented decision by the court in Missouri
13 v. Jenkins violates the fundamental tenet of separation of powers:
14 that members of the federal judiciary, who serve for life and who
15 are answerable to no one, should not have control over the power
16 of the purse; and

17 WHEREAS, Section 8 of Article I of the Constitution of the
18 United States vests with the legislative branch of government
19 alone the extraordinary power to "lay and collect Taxes, Duties,
20 Imposts and Excises, to pay the Debts and provide for the common
21 defence and general Welfare of the United States"; and

22 WHEREAS, the courts' actions are an intrusion into a
23 legitimate political debate over state spending priorities and not
24 a response to a constitutional directive; and

25 WHEREAS, Justice Kennedy observed in his dissent in Missouri
26 v. Jenkins that "this assertion of judicial power in one of the
27 most sensitive of policy areas, that involving taxation, begins a

28 process that over time could threaten fundamental alteration of
29 the form of government our Constitution embodies"; and

30 WHEREAS, it is a well established maxim that whosoever
31 controls the purse strings ultimately controls power, the ability
32 of government to function and the direction it shall go; and

33 WHEREAS, since 1990, when the Supreme Court declared in
34 Missouri v. Jenkins that the federal courts have the authority and
35 power to levy and increase taxes, Congress has chosen not to
36 intercede on behalf of the people to protect the democratic
37 process which has been corrupted by the unconstitutional authority
38 and power to tax which the federal courts have exercised; and

39 WHEREAS, the time has come for the people of this great
40 nation, and their duly elected representatives in state
41 government, to reaffirm, in no uncertain terms, that the authority
42 to tax under the Constitution of the United States is retained by
43 the people who, by their consent alone, do delegate such power to
44 tax explicitly to those duly elected representatives in the
45 legislative branch of government who they choose, such
46 representatives being directly responsible and accountable to
47 those who have elected them:

48 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
49 REPRESENTATIVES OF THE STATE OF MISSISSIPPI, THE SENATE CONCURRING
50 THEREIN, That application be hereby made pursuant to Article V of
51 the United States Constitution for an amendment to the
52 Constitution, which amendment shall read substantially as follows:

53 "Neither the Supreme Court nor any inferior court of the United
54 States shall have the power to instruct or order a state or
55 political subdivision thereof, or an official of such state or
56 political subdivision, to levy or increase taxes."

57 BE IT FURTHER RESOLVED, That effective upon passage of this
58 resolution, this petition shall constitute a continuing
59 application in accordance with Article V of the Constitution of
60 the United States.

61 BE IT FURTHER RESOLVED, That this legislative body requests
62 the legislatures of the several states comprising the Union to
63 make similar application to Congress for the purpose of proposing
64 such an amendment to the United States Constitution.

65 BE IT FURTHER RESOLVED, That a duly attested copy of this
66 resolution immediately be transmitted to the President and Vice
67 President of the United States, to the Secretary of the United
68 States Senate, to the Clerk of the United States House of
69 Representatives, to the presiding officer and minority party
70 leader in each house of the legislature of the several states
71 comprising the Union, and to each member of the Mississippi
72 delegation to the United States Congress.