

112TH CONGRESS
1ST SESSION

H. CON. RES. 68

Expressing the sense of Congress that the President should ensure that the United States does not default on its debt by making every effort to negotiate passage of an increase in the statutory debt ceiling or, all such efforts failing, should use his authority under section 4 of the 14th Amendment to the United States Constitution to pay all debts of the United States as they come due.

IN THE HOUSE OF REPRESENTATIVES

JULY 30, 2011

Mr. NADLER (for himself, Mr. JOHNSON of Georgia, Mr. ENGEL, Mr. ELLISON, Mr. GRIJALVA, and Mr. GARAMENDI) submitted the following concurrent resolution; which was referred to the Committee on Ways and Means

CONCURRENT RESOLUTION

Expressing the sense of Congress that the President should ensure that the United States does not default on its debt by making every effort to negotiate passage of an increase in the statutory debt ceiling or, all such efforts failing, should use his authority under section 4 of the 14th Amendment to the United States Constitution to pay all debts of the United States as they come due.

Whereas the obligations of the United States will exceed the current statutory debt ceiling by August 2, 2011;

Whereas unless Congress sends to the President legislation that would increase statutory borrowing authority, the United States will default on its debts;

Whereas since its founding, the United States has never defaulted on its debts;

Whereas the consequences of a default by the United States on its obligations, or even the growing concern in the world markets about the risk of such a default, could be catastrophic;

Whereas Moody's Investors Service warned that it might soon downgrade the credit rating of the United States because of mounting concerns that the government will default on its obligations. Moody's stated, "The heightened polarization over the debt limit has increased the odds of a short-lived default";

Whereas Budget Committee Chairman Paul Ryan said "If a bondholder misses a payment for a day or two or three or four—what is more important is you are putting the government in a materially better position to better pay its bills going forward" demonstrating that Republican leaders in Congress may be willing to allow a default on our public debt, notwithstanding the catastrophic economic impact of such a default;

Whereas predicating an increase in the debt ceiling on Congressional passage of a balanced budget amendment to the United States Constitution all but ensures default;

Whereas in 1790, Alexander Hamilton wrote, "For when the credit of a country is in any degree questionable, it never fails to give an extravagant premium, in one shape or another, upon all the loans it has occasion to make. Nor does the evil end here; the same disadvantage must be

sustained upon whatever is to be bought on terms of future payment.”;

Whereas at Hamilton’s urging, the United States paid all revolutionary war debts at face value and assumed all of the debts owed by the States;

Whereas following the Civil War, the United States adopted the 14th Amendment to the United States Constitution, section 4 of which reads, “The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned.”;

Whereas in the depths of the depression, the Supreme Court said “The Constitution gives to the Congress the power to borrow money on the credit of the United States. . . . Having this power to authorize the issue of definite obligations for the payment of money borrowed, the Congress has not been vested with authority to alter or destroy those obligations.” *Perry v. United States*, 294 U.S. 330, 353 (1935);

Whereas failure to raise the debt ceiling, and allowing the United States to default, would violate the clear command of section 4 of the 14th Amendment; and

Whereas the President is obligated by his Oath of Office and his duty “take Care that the Laws be faithfully executed” to prevent a default on the debts of the United States notwithstanding the failure of Congress to do so: Now, therefore, be it

- 1 *Resolved by the House of Representatives (the Senate*
- 2 *concurring)*, That it is the sense of Congress that the
- 3 President should—

1 (1) work with the Congress to secure passage of
2 an increase in the statutory debt ceiling;

3 (2) make clear that under no circumstances will
4 the United States fail to pay its debts on time and
5 in full;

6 (3) make clear that, all other efforts failing, he
7 will use his authority under the 4th clause of section
8 3 of article I, to uphold section 4 of the 14th
9 Amendment to the United States Constitution to en-
10 sure payment of all debts of the United States on
11 time and in full; and

12 (4) take any and all actions necessary to pre-
13 serve the full faith and credit of the United States.

○