

221.

Counsel for Plaintiff in Error.

view to representation in Congress was not unconstitutional. Article I, § 4, plainly gives authority to the State to legislate within the limitations therein named. Such legislative action is entirely different from the requirement of the Constitution as to the expression of assent or dissent to a proposed amendment to the Constitution. In such expression no legislative action is authorized or required.

It follows that the court erred in holding that the State had authority to require the submission of the ratification to a referendum under the state constitution, and its judgment is reversed and the cause remanded for further proceedings not inconsistent with this opinion.

*Reversed.*

---

HAWKE v. SMITH, SECRETARY OF STATE OF OHIO. (No. 2.)

ERROR TO THE SUPREME COURT OF THE STATE OF OHIO.

No. 601. Argued April 23, 1920.—Decided June 1, 1920.

The ratification of the proposed Nineteenth Amendment by the legislature of Ohio cannot be referred to the electors of the State; the Ohio constitution in requiring such a referendum is inconsistent with the Constitution of the United States. *Hawke v. Smith*, No. 1, *ante*, 221.

100 Ohio St. 540, reversed.

THE case is stated in the opinion.

*Mr. J. Frank Hanly*, with whom *Mr. George S. Hawke*, *Mr. Arthur Hellen*, *Mr. Charles B. Smith*, *Mr. James Bingham* and *Mr. Remster A. Bingham* were on the brief, for plaintiff in error.

*Mr. Lawrence Maxwell*, with whom *Mr. John G. Price*, Attorney General of the State of Ohio, *Mr. Judson Harmon* and *Mr. B. W. Gearheart* were on the brief, for defendant in error.

*Mr. Wayne B. Wheeler* and *Mr. James A. White*, by leave of court, filed a brief as *amici curiæ*.

*Mr. George Wharton Pepper*, *Mr. Shippen Lewis* and *Mr. William Draper Lewis*, by leave of court, filed a brief as *amici curiæ*.

MR. JUSTICE DAY delivered the opinion of the court.

This case presents the same question as that already decided in No. 582, *ante*, 221, the only difference being that the amendment involved is the proposed Nineteenth Amendment to the Constitution extending the right of suffrage to women. The Supreme Court of Ohio upon the authority of its decision in *Hawke v. Smith* (No. 582) *ante*, 221, held that the constitution of the State requiring such submission by a referendum to the people, did not violate Article V of the Federal Constitution, and for that reason rendered a like judgment as in No. 582.

For the reasons stated in our opinion in No. 582 the judgment of the Supreme Court of Ohio must be

*Reversed.*