

Chandler Vs. Wise

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Court : US Supreme Court

Decided On : Jun-05-1939

Appeal No. : 307 U.S. 474

Appellant : Chandler

Respondent : Wise

Judgement :

Chandler v. Wise - 307 U.S. 474 (1939)

U.S. Supreme Court Chandler v. Wise, 307 U.S. 474 (1939)

Chandler v. Wise

No. 14

Argued October 10, 11, 1938

Reargued April 18, 1939

Decided June 5, 1939

307 U.S. 474

CERTIORARI TO THE COURT OF APPEALS OF KENTUCKY

SYLLABUS

Suit was brought in a state court to restrain the Governor and other state officials from sending to the Secretary of the United States a certified copy of a resolution enacted by the state legislature purporting to ratify the proposed Child Labor Amendment

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to the Federal Constitution, it being alleged that such attempted ratification was illegal and void.

HELD

That, although the state court had jurisdiction *in limine*, the act of the Governor in forwarding the certification to the federal Secretary of State after the beginning of the suit and after a restraining order and summons had been issued, but before actual service and without knowledge of the pendency of the proceeding, had left no controversy susceptible of judicial determination, and that a writ of certiorari from this Court to review the final judgment should therefore be dismissed.

271 Ky. 252, 111 S.W.2d 633, dismissed.

Certiorari, 303 U.S. 634, to review the affirmance by the court below of a judgment entered pursuant to its opinion on an earlier review, 270 Ky. 1. The suit was brought by individuals -- citizens, taxpayers, and voters in Kentucky -- to restrain the Governor and officers of the General Assembly from sending to the Secretary of the United States a certified copy of a resolution of the legislature purporting to ratify the proposed Child Labor Amendment, and for a judgment declaring the legislative Act to be illegal and void because of a rejection of the same proposed amendment by an earlier legislature of the State, as well as by more than a majority of the legislatures of the several States, and further because more than a reasonable time for ratification had elapsed since the amendment was first proposed.

MR. CHIEF JUSTICE HUGHES delivered the opinion of the Court.

In January, 1937, the legislature of Kentucky adopted a resolution purporting to ratify the constitutional amendment proposed by the Congress in 1924 and known as the "Child Labor Amendment." *

Respondents, citizens, taxpayers, and voters in Kentucky brought this suit in the state court to restrain the Governor of the Commonwealth and the officers of the General Assembly from sending certified copies of the resolution to the Secretary of the United States and the presiding officers of the Senate and House of Representatives, and for a judgment declaring the action of the General Assembly to be illegal and void. The complaint stated that, in 1926, the proposed amendment had been rejected by the General Assembly of the Commonwealth and also by more than a majority of the legislatures of the States, and that the General Assembly could not thereafter legally reconsider and adopt the amendment; and, further, that its action was not taken within a reasonable time after the amendment was proposed.

Upon the filing of the petition, a restraining order was granted and summons was issued. On the same day, but before the Governor was actually served with a copy of the restraining order or summons, he forwarded by mail a certified copy of the resolution to the Secretary of State. It is not claimed that the Governor then knew of the pendency of the proceeding.

Plaintiffs then filed an amended petition setting forth the action taken by the Governor and sought a mandatory

injunction to require him to notify the Secretary of the pendency of the suit and that the notice which he had sent was void and should be disregarded. That action was not taken. Defendants filed a general demurrer which was sustained in the Circuit Court, but its judgment was reversed by the Court of Appeals. 270 Ky. 1, 108

S.W.2d 1024.

The court gave opportunity on the remand to the Circuit Court, with directions to overrule the demurrer, for such further proceedings as were not inconsistent with its views. Upon that remand, the defendants declined to plead further, and judgment was entered in accordance with the opinion of the Court of Appeals. The judgment so entered set forth (1) that an actual controversy existed between the parties, that the plaintiffs had the right to maintain the suit and the court had jurisdiction; (2) that the resolution of the legislature purporting to ratify the proposed amendment was void, not having been ratified according to the provisions of the Constitution of the United States; (3) that the notice given by the Governor to the Secretary of State was of no effect; (4) that the clerk of the court should give official notice to the Department of State that the resolution purporting to ratify the amendment was invalid, that it had not been ratified according to the provisions of the Constitution of the United States, and that the notice given by the Governor was of no effect. The clerk was further directed to send a duly authenticated copy of the judgment to the Secretary of State by registered mail.

On appeal, that judgment was affirmed by the Court of Appeals. We granted certiorari. 303 U.S. 634.

We think that, while the state court had jurisdiction *in limine*, the writ of certiorari should be dismissed upon the ground that, after the Governor of Kentucky had forwarded the certification of the ratification of the amendment to the Secretary of the United States, there

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was no longer a controversy susceptible of judicial determination.

Dismissed.

MR. JUSTICE Mc REYNOLDS and MR. JUSTICE BUTLER think that the judgment of the Court of Appeals of Kentucky should be affirmed on the authority of *Dillon v. Gloss*, [256 U. S. 368](#) , and for the reasons stated in the dissenting

opinion in *Coleman v. Miller, ante*, p. [307 U. S. 433](#) .

* 43 Stat. 670.

MR. JUSTICE BLACK and MR. JUSTICE DOUGLAS, concurring.

For the reasons stated in concurring opinion in *Coleman v. Miller, ante*, p. [307 U. S. 433](#) , we do not believe that State or Federal courts have any jurisdiction to interfere with the amending process.

We therefore concur in the dismissal.

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