

*In the Supreme Court of the United States*

OCTOBER TERM, 1937

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No. 796

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ROLLA W. COLEMAN, W. A. BARRON, CLAUDE C.  
BRADNEY, ET AL., PETITIONERS,

*v.*

CLARENCE W. MILLER, AS SECRETARY OF THE SENATE  
OF THE STATE OF KANSAS, ET AL.

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*ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME  
COURT OF KANSAS*

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**MEMORANDUM FOR THE UNITED STATES AS AMICUS  
CURIAE**

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The petition for certiorari herein seeks review of the decision of the Supreme Court of Kansas holding ineffective the ratification by the legislature of Kansas of the proposed Child Labor Amendment to the Federal Constitution submitted to the States by the Congress on June 2, 1924. The questions presented by the petition are: (1) whether the Lieutenant-Governor of Kansas was entitled to cast the deciding vote in the State sen-

ate on the concurrent resolution ratifying the proposed Amendment; (2) whether the legislature of Kansas could effectively ratify the proposed Amendment in view of the fact that it had previously voted to reject the Amendment and that more than one-fourth of the States have at some previous time since the submission of the Amendment likewise voted to reject it; and (3) whether the passage of time since the date of submission of the Amendment has rendered it no longer susceptible of ratification. The Supreme Court of Kansas determined each of the questions in favor of the validity of the ratification. It is believed that the conclusion reached by the court below is sound.

The first of the questions presented appears to depend solely upon a construction of the State constitution, as to which it is assumed that the decision below is conclusive. The remaining questions, however, involve issues of Federal law which are of outstanding public interest, inasmuch as they are of controlling importance in determining whether the proposed Child Labor Amendment may now be ratified. Until these questions are determined, there necessarily will be uncertainty on the part of the Congress and the States alike, particularly since a decision in conflict with that of the Supreme Court of Kansas has recently been rendered by the Court of Errors and Appeals of Kentucky. *Wise v. Chandler*, 270 Ky. 1.

Requests have been made on behalf of the States of Arkansas, California, Illinois, Indiana, Minnesota, New Mexico, Oregon, Utah, Wisconsin and Wyoming, through their respective Governors or Attorneys General, that appropriate steps be taken if possible toward securing an authoritative decision in the present case clarifying the status of the proposed Amendment.

In view of the national public interest and the importance of the constitutional questions involved, the Government, with the permission of the Court, desires to submit a brief as *amicus curiae* in support of the decision of the Supreme Court of Kansas if certiorari is granted.

It is recognized that a question exists concerning the standing of the petitioners to raise the constitutional issues in this Court. Since, however, both petitioners and respondents are officers of the State, and since the State court took jurisdiction and passed upon the merits, a discussion of the standing of petitioners would not seem to be appropriate in this memorandum on behalf of the United States as *amicus curiae*.

Respectfully submitted.

HOMER CUMMINGS,  
*Attorney General.*

MARCH 1938.