1 USC 106b

§ 106b. Amendments to Constitution

Whenever official notice is received at the National Archives and Records Administration that any amendment proposed to the Constitution of the United States has been adopted, according to the provisions of the Constitution, the Archivist of the United States shall forthwith cause the amendment to be published, with his certificate, specifying the States by which the same may have been adopted, and that the same has become valid, to all intents and purposes, as a part of the Constitution of the United States.

(Added Oct. 31, 1951, c. 655, § 2(b), 65 Stat. 710, and amended Oct. 19, 1984, Pub.L. 98–497, Title I, § 107(d), 98 Stat. 2291.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1951 Acts. Senate Report No. 1020, see 1951 U.S. Code Cong. and Adm. Service, p. 2578.

1984 Acts. Senate Report No. 98–373 and House Conference Report No. 98–1124, see 1984 U.S. Code Cong. and Adm. News, p. 3865.

Amendments

1984 Amendments. Pub.L. 98–497 substituted "National Archives and Records Administration" and "Archivist of the United States" for "General Services Administration" and "Administrator of General Services", respectively.

Effective and Applicability Provisions

1984 Acts. Amendment by Pub.L. 98–497 effective April 1, 1985, see section 301 of Pub.L. 98–497, set out as a note under section 2102 of Title 44, Public Printing and Documents.

Similar Provisions; Repeal; Savings Clause; Delegation of Functions; Transfer of Property and Personnel

Similar provisions were contained in R.S. § 205; 1950 Reorg. Plan No. 20, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1272. Said R.S. § 205 was repealed by section 56(h) of Act Oct. 31, 1951. Subsec. (*l*) of said section 56 provided that such repeal should not affect any rights or liabilities existing under such repealed statute on the effective date of said repeal (Oct. 31, 1951). For delegation of functions under such repealed statute, and transfer of records, property, personnel, and funds, see sections 3 and 4 of said 1950 Reorg. Plan No. 20, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Publication of certificate in United States Statutes at Large, see 1 USCA § 112.

LIBRARY REFERENCES

American Digest System

Constitutional Law ⚿10.
Key Number System Topic No. 92.

Research References

Encyclopedias

16 Am. Jur. 2d Constitutional Law § 18, Conclusion of Amendatory Process; Notice and Proclamation.

WESTLAW ELECTRONIC RESEARCH

See WESTLAW guide following the Explanation pages of this volume.

Notes of Decisions

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1. Constitutionality

Statute authorizing Secretary of State to certify ratification of Sixteenth Amendment, authorizing assessment and collection of income taxes, and Seventeenth Amendment, providing for direct election of United States senators, was not unconstitutional delegation of legislative power; certification that proposed amendment has been ratified is not act that makes amendment effective, but rather, merely operates to trigger publication process so

that those interested will be informed that proposed amendment has been ratified. U.S. v. Sitka, D.Conn.1987, 666 F.Supp. 19, affirmed 845 F.2d 43, certiorari denied 109 S.Ct. 77, 488 U.S. 827, 102 L.Ed.2d 54. Constitutional Law ⚿ 62(5.1)

2. Conclusiveness of state adoption

Duly authenticated official notice to the Secretary of State [now Administrator of General Services] that certain state legislatures, having power to adopt a resolution ratifying a proposed Amendment to the Federal Constitution, have done so, is conclusive upon him, and, when certified to by his proclamation, is conclusive upon the courts. Leser v. Garnett, U.S.Md.1922, 42 S.Ct. 217, 258 U.S. 130, 66 L.Ed. 505.

Secretary of State's certification under authority of Congress that Sixteenth Amendment had been ratified by requisite number of states and had become part of Constitution was conclusive upon courts. U.S. v. Stahl, C.A.9 (Mont.) 1986, 792 F.2d 1438, certiorari denied 107 S.Ct. 888, 479 U.S. 1036, 93 L.Ed.2d 840. Constitutional Law ⚿ 10

U.S.C.A. Const.Amend. 14, having been submitted to the states of the union after proper passage by both houses of Congress, and having been approved by the sufficient number of states by duly authenticated official notice to Secretary of State [now Administrator of General Services] who certified to ratification by his proclamation, became a part of the Federal Constitution, notwithstanding contention that it was never constitutionally proposed to several of the states listed as ratifying, in that they had been deprived at that time of their equal suffrage in the Senate in contravention of U.S.C.A. Const. Art. 5. U. S. v. Gugel, E.D.Ky. 1954, 119 F.Supp. 897. Constitutional Law ⚿ 10

3. Proclamation affecting validity

The validity of a constitutional amendment does not depend in any wise upon the proclamation of the Secretary of State (now of the Administrator of General Services) under former section 160 of Title 5 for it is the approval of the requisite number of States in accordance with U.S. Const. art. 5, and not the proclamation, that gives vitality to the amendment and makes it a part of the Constitution. U S ex rel Widenmann v. Colby, App.D.C. 1920, 265 F. 998, 49 App.D.C. 358, affirmed 42 S.Ct. 169, 257 U.S. 619, 66 L.Ed. 400.

The promulgation of a constitutional amendment under R.S. § 205 [incorporated in former section 160 of Title 5] is no more essential to its validity than is the promulgation of an act of Congress under the preceding section [former section 159 of Title 5], and the former is no more the beginning of the amendment than the latter is the beginning of the law; for, notwithstanding the requirement for promulgation, it is universally recognized that an act of Congress takes effect and is in force from the date of its passage and approval, and a constitutional amendment is likewise in full force and effect from and after its ratification by the requisite number of states, or other words, the promulgation by the Department of State [now by the Administrator of General Services] only affords prima facie evidence of ratification, and the promulgation, when made, relates back to the last necessary vote by a state Legislature. Ex parte Dillon, D.C.Cal.1920, 262 F. 563, affirmed 41 S.Ct. 510, 256 U.S. 368, 65 L.Ed. 994.

4. Time for ratification

Where Congress has provided no limitation of time for ratification of proposed constitutional amendment, question of what constitutes reasonable time for ratification is an open one for consideration of Congress when in presence of certified ratifications by three-fourths of states, time arrives for promulgation of adoption of amendment. Coleman v. Miller, U.S.Kan.1939, 59 S.Ct. 972, 307 U.S. 433, 83 L.Ed. 1385. Constitutional Law ⚿ 68(2)

5. Judicial review—Generally

The decision by Congress in its control of action of Secretary of State [now the Administrator of General Services] on question of whether amendment to Federal Constitution had been adopted within a reasonable time would not be subject to review by courts. Coleman v. Miller, U.S.Kan.1939, 59 S.Ct. 972, 307 U.S. 433, 83 L.Ed. 1385. Constitutional Law ⚿ 68(2)

6. —— Supreme Court jurisdiction, judicial review

Those members of the Kansas State Senate who voted against ratification of proposed Child Labor Amendment to

Note 6

Federal Constitution, and who claimed that their votes were sufficient to prevent ratification, had such an interest in mandamus proceeding commenced by them and other legislators questioning validity of the legislative action as to give United States Supreme Court jurisdiction to review on certiorari, adverse decision of Kansas Supreme Court, which had treated the legislators' interest as sufficient to justify it in entertaining and deciding federal questions raised. Coleman v. Miller, U.S.Kan.1939, 59 S.Ct. 972, 307 U.S. 433, 83 L.Ed. 1385. Federal Courts ⚿ 504.1

7. —— Direct appeal, judicial review

The remedy by appeal to United States Supreme Court was not available to review the judgment of the Kansas Supreme Court in mandamus proceeding to compel a proper record of action of Kansas Legislature on proposed Child Labor Amendment to the Federal Constitution, where validity of a state statute was not assailed. Coleman v. Miller, U.S.Kan. 1939, 59 S.Ct. 972, 307 U.S. 433, 83 L.Ed. 1385. Federal Courts ⚿ 505

8. —— Federal question, judicial review

The questions raised by mandamus proceeding in Supreme Court of Kansas by members of Kansas Legislature to compel a proper record of legislative action on proposed Child Labor Amendment to the Federal Constitution, constituted "federal questions," as respects legislators' right to have state court's judgment reviewed by the Supreme Court, since those questions arose under federal constitutional provision conferring power to amend. Coleman v. Miller, U.S.Kan.1939, 59 S.Ct. 972, 307 U.S. 433, 83 L.Ed. 1385. Federal Courts ⚿ 504.1

9. —— Political question, judicial review

The failure of Congress to provide any limitation of time for ratification of proposed child labor amendment to Federal Constitution did not warrant determination by court as to whether, ratification by Kansas Legislature nearly 13 years after original proposal was invalid because of lapse of time, since questions upon which such a determination would be based were essentially "political" and not "justiciable." Coleman v. Miller, U.S.Kan.1939, 59 S.Ct. 972, 307 U.S. 433, 83 L.Ed. 1385. Constitutional Law ⚿ 68(2)