

Beck - Constitutionality of S.B. 51

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Governor Guy B. Park
Jefferson City, Missouri

Dear Governor Park:

I have received your communication requesting an opinion as to the constitutionality of Senate Bill No. 51.

The Supreme Court of the United States in the case of State of Rhode Island vs. Palmer, 40 Sup. Ct. Rep. 486 said:

"The first section of the Amendment (18th) - the one embodying the prohibition - is operative throughout the entire territorial limits of the United States, binds all legislative bodies, courts, public officers and individuals within those limits, and of its own force invalidates every legislative act, whether by congress, by state legislature, or by a territorial assembly, which authorizes or sanctions what the sections prohibit."

In view of the foregoing ruling, if the bill is signed and becomes a law prior to the repeal of the 18th amendment, it would sanction that which the 18th amendment prohibits, and therefore would be invalid.

If the bill is signed after the repeal of the 18th amendment becomes effective, it would be a valid law. The syllabus in the case of State ex rel vs. Becker, 45 S. W. (2d) 533, is as follows:

"Bill redistricting state into congressional districts that was vetoed by Governor was not a 'legislative act' * * * because it lacked the concurrence of the Governor, who was part of the law making power of the state."

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The passing of Senate Bill No. 51 by the Senate and the House of Representatives did not give it any legal effect, and it cannot become a "legislative act" until signed by the Governor, and if signed subsequent to the repeal of the 18th amendment, it would not be in violation of any provision of the Constitution of Missouri or of the United States.

Yours respectfully,

Roy McKittrick
Attorney General