SCHOOL LAW DECISIONS IN APPEAL CASES; SCHOOL LAW OF IOWA FROM THE CODE 1873

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SCHOOL LAW DECISIONS IN APPEAL CASES; SCHOOL LAW OF IOWA FROM THE CODE 1873

Trieste

School Law Decisions

IN

APPEAL CASES,

BY

THE SECRETARY OF THE BOARD OF EDUCATION AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION.

EDITION OF 1880.

COMPILED FOR THE USE OF SCHOOL OFFICERS

BY

C. W. VON COELLN,

SUPERINTENDENT OF PUBLIC INSTRUCTION.

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PREFACE.

THE former publications of School Law Decisions in 1868, 1872, and 1876, have been great helps in determining cases on appeal.

Being authorized by the legislature to publish another edition of these decisions, I have omitted many of the older ones, which refer to the old laws, and are of little benefit now.

Some have been omitted because they seemed to imply that the judgment of the county superintendent was to be paramount to that of boards.

I take the liberty to make a few general suggestions to county superintendents in this preface, to prevent their falling into errors which frequently cause reversals in this department. Section 1836 says: "Nothing in this chapter shall be so construed as to authorize either "the county or state superintendent to render a judgment for money, "neither shall they be allowed any other compensation than is now "allowed by law. All necessary postage must first be paid by the party "aggrieved."

We understand this to mean that no appeal will lie where the validity of a contract is involved. When a teacher is dismissed, an appeal will lie to determine whether the board of directors had sufficient reason to sustain the charges for which they are dismissed; but the fulfillment of the contract must be enforced by the courts.

Since section 1835 of the Code of 1873 makes the decision of this department final, and since sections 3345–3352 provide for a writ in the nature of *quo warranto* to determine the right and title to office, or the right of a corporation to exist, county superintendents should refuse to entertain any appeal which is prosecuted to determine either of these points.

In such cases, the appeal, if brought, should be dismissed and no further hearing granted, as soon as it becomes known what the object of the appeal is.

When the discretion of the board is the question at issue, the county superintendent should, ordinarily, affirm the action of the board.

We held in a late decision which we do not print in full:

"We consider the action of the board of directors as having the same "force with the finding of a jury, and the decisions of the supreme "court are numerous to the effect that the verdict of a jury cannot be "set aside unless such verdict is contradictory to the evidence, but not "upon a doubtful interpretation of the evidence. See *White v. Clark, "39 Iowa, 338; Harger v. Spofford, 46 Iowa, 11.*

"The school law decisions are full of references to this same subject, "showing that a county superintendent ought to affirm the action of a "board, although he may not agree with the judgment of the board, "unless there is proof of prejudice or malice, violation of law or "manifest injustice. See *Edwards v. District Township of West "Point*, p. 39, School Law Decisions of 1880. The expression, 'manifest "injustice,' should not be construed to mean that the county superin- "tendent may determine in his own mind that a different action would "be more beneficial to the interests of the district than the action of "the board, since the phrase means an absolute neglect of the rights "and privileges of an individual or individuals."

Defects of proceedings may be corrected by amendment, provided such amendment or correction does not injuriously affect the opposite party. No new issue should be allowed to be introduced under the guise of an amendment or correction.

No appeal should be entertained except upon affidavit filed within the thirty days prescribed by law.

Testimony in all cases should be full, and no point should be assumed to be known by the county superintendent, without testimony at the time of hearing, or a statement made in his decision of personal knowledge of the facts.

The attorney-general, in 1867, held that a refusal to grant a certificate and the revocation of a certificate, are proper subjects for appeal. The supreme court, in a late decision, held that courts could not review the discretionary acts of the county superintendent in these matters.

Hence, it is very important that the abuse of discretion, which, to say the least, is possible, should be subject to correction by the right of appeal to this department.

In such cases, the party interested should ask for a rehearing before the county superintendent, when all matters pertinent to the determi-

nation of the question should be put in writing, to be forwarded with the decision to this department for final action on appeal.

The same weight which is to be given by county superintendents to the discretionary acts of boards of directors will, in such cases, be given to the discretionary acts of the county superintendents.

We have left some decisions which refer to old laws, on account of some point or points which are not touched in later decisions, and, in order not to omit the connections, we have left decisions entire. A careful examination will readily show what parts are at present applicable. We hope that this publication will be of benefit to county superintendents and school officers.

One copy will be furnished to each district, to be placed in the hands of the secretary as the custodian of the records, and must be transmitted by him to his successor in office.

I appreciate the aid of my deputy, Mr. Ira C. Kling, and my clerk, Mr. J. B. McGorrisk, in the preparation of this compilation.

C. W. VON COELLN,
Superintendent of Public Instruction.

DES MOINES, May 1, 1880.

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