

Commonwealth of Virginia



JNO. R. SAUNDERS,
ATTORNEY GENERAL
J. D. HANK, JR.
ASST. ATTORNEY GENERAL

LEON M. BAZILE,
SECOND ASST. ATTORNEY GENERAL
MISS ELISE S. FITZWILSON,
SECRETARY

OFFICE OF THE ATTORNEY GENERAL
RICHMOND

July 21, 1922.

Hon. O. L. Emerick,
Superintendent of Schools,
Purcellville, Va.

My dear Mr. Emerick:-

Acknowledgment is made of your letter of recent date with reference to the effect of Chapter 423 of the Acts of 1922 on the town of Leesburg School District.

I have considered this matter for sometime, and have just written a letter to Hon. B. Richards Glascock, Commonwealth's Attorney of Fauquier County, which answers the questions asked in your letter. I am sending you a copy of the same.

Trusting this will give you the desired information, I am

Very truly yours,

Jno. R. Saunders

B:G

Attorney General.

COMMONWEALTH OF VIRGINIA
OFFICE OF
THE ATTORNEY GENERAL
RICHMOND

July 21, 1922.

"The trustees of any town constituting a separate school district shall be members of the county school board; provided, however, that such town shall be entitled to only one (1) vote in July 21, 1922. Nothing in this act shall be construed to affect the present plan of levying district as well as county school taxes nor to affect the obligations of any district for bond issues for school purposes or other

Hon. B. Richards Glascock,
Commonwealth's Attorney,
Warrenton, Va.

My dear Mr. Glascock:-

Acknowledgment is made of your letter of July 1, 1922, and also of your letter of the 18th, with reference to the effect of Chapter 423 on Warrenton School District.

I regret very much that I have been so long in answering your letter, but I have been so busily engaged in the preparation of the briefs for the coming term of the Court of Appeals at Staunton, that I have not had an earlier opportunity of replying to the same.

It appears from your letter that Warrenton School District, which is located in Centre Magisterial District of Fauquier County, which was established by Chapter 242 of the Acts of 1877-78, page 223, embraces within its bounds not only territory in the corporate limits of the town, but certain outlying territory, which otherwise would have been a part of Centre Magisterial District, for school purposes.

You call my attention to Section 4 of Chapter 423 of the Acts of 1922, and request me to advise you as to the status of Warrenton School District under the new law.

Section 4 of Chapter 423 of the Acts of 1922 reads as follows:

"District School boards in counties, and county school boards, other than such boards as are hereby constituted, are hereby abolished, such abolishment to become effective on September first, nineteen hundred and twenty-two, and the terms of office of all members of any local school board in any county existing on September first, nineteen hundred and twenty-two, shall expire on that date. But nothing in this act shall be construed as affecting the administration of the public school system of any city, or in any town now constituting, or which may hereafter be constituted, a separate school division in pursuance of law.

COMMONWEALTH OF VIRGINIA

Hon. B. Richards Glascock, BOARD OF EDUCATION

July 21, 1922.

RICHMOND

July 21, 1922.

STATE OF VIRGINIA
DEPARTMENT OF PUBLIC INSTRUCTION
Supt. O. H. Purcellville, Va.
MEMBER STATISTICIAN

SUBJECT: "The trustees of any town constituting a separate school district shall be members of the county school board; provided, however, that such town shall be entitled to only one (1) vote in said county board. Nothing in this act shall be construed to affect the present plan of levying district as well as county school taxes nor to affect the obligations of any district for bond issues for school purposes or other debts peculiar to that district."

My dear Mr. Glascock:

As you say in your letter, the case is clear that where the school district embraces only the corporate limits of a town, the same is not abolished, but I agree with you that where the school district consists of a town and certain territory outside of the corporate limits of the town, that the effect of Chapter 423 of the Acts of 1922 is to abolish such school district.

You are entirely correct when you say "that the spirit of the new law is to do away as far as possible with small subdivisions in school affairs, to the end that the school money may be more evenly distributed and more fairly and judiciously spent".

I am of the opinion that it is the intention of the new law to retain as separate school districts only cities and those towns, which within their corporate limits, constitute a separate school district, Section 19 of the Act having repealed all acts, or parts of acts inconsistent with the same.

I have discussed this matter with the Superintendent of Public Instruction and he fully agrees with me as to the conclusion reached in this letter.

Trusting that this gives you the desired information, I am

Yours very truly,

B:G:R

Attorney General.

The new law... nothing in this act shall be construed to affect the administration of the school system in any way... may hereafter be constituted a separate school district. This word "division", from the context of the act, clearly means "school district."

If the town or locality... boundaries coincident with those of the town... the council would appoint three trustees, while trustees would have



COMMONWEALTH OF VIRGINIA
STATE BOARD OF EDUCATION

RICHMOND

July 20, 1922.

HARRIS HART,
SUPT. OF PUBLIC INSTRUCTION

J. N. HILLMAN,
SECRETARY

JOHN CROSBY,
AUDITOR STATISTICIAN

SUBJECT

FILE Loudoun County.

Supt. O. L. Emerick,
Purcellville, Virginia.

My dear Mr. Emerick:

I have your note of July 19th to Mr. Hillman enclosing copy of your letter to the Attorney General of June 14th, his reply of June 16th, and your detailed letter to him of June 20th.

The situation at Leesburg presents to my mind a very interesting case.

As you know, Acts of the Assembly, 1895, created a special school district composed of the town of Leesburg and certain adjacent territory. Section 3 of this act provides that the council shall appoint three trustees; Section 4 provides that such trustees shall have general control of the school property. Section 5 gives the council the power to levy and collect taxes for the support of the schools, and Section 6 stipulates that the trustees shall have a special census taken as the basis for the distribution of school funds.

Acts of the Assembly of 1922 amend this original act by preserving the school district comprising the town of Leesburg and certain outlying territory, but the act of 1922 specifically repeals Sections 3, 4, 5, and 6 of the original act.

It is therefore apparent that the council of the town of Leesburg cannot, under this new act, appoint trustees with the general powers and control as conferred by the original act.

The county unit act provides that in each school district there shall be one trustee, and that for this purpose only, namely, the purpose of distributing school trustees, the magisterial district shall constitute a separate school district.

The same county unit law, Section 4, provides that nothing in this act shall be construed as affecting the administration of the school system in any city or town now constituted or which may hereafter be constituted a separate school division. This word "division", from the context of the act, should clearly read "school district."

If the town of Leesburg were a school district with boundaries coterminous with those of the town, then undoubtedly the council would appoint three trustees, which trustees would have



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SUBJECT

FILE

Supt. O. L. Emerick - #2.

in general terms the same powers as assigned in the original act of 1895. Since, however, the school district is not coterminous with the municipal boundaries but embraces outside territory, then under the former general school law the trustees would have been appointed by the trustee electoral board, except for the express provision in the act of 1895. Since the act of 1922 repeals this particular provision, and since such repeal seems to be in harmony with the general purposes of the new county unit law, then it would seem to my mind to be very clear that one of two things must happen in the case of Leesburg. Either the school district of the town of Leesburg must be coterminous with the boundaries of the town, and thus have three trustees appointed by council, or the town of Leesburg must form a part of the magisterial district, from which one trustee would be appointed by the trustee electoral board to represent the town of Leesburg and the remaining part of the magisterial district on the county school board. The first alternative is clearly impossible under the amended act of 1922. I am therefore forced to the opinion that the only legal representation which may be had on the county school board is one member from the magisterial district selected by the trustee electoral board.

The county unit bill, as you understand, is an administrative and not a financial measure. Therefore, the separate school district as set up by the act of 1922 shall be retained as the basis of school taxation, for the purpose of carrying any indebtedness incurred by this special district and for the purpose of bearing the proportionate expense of schools operated in the district.

I am sending copy of this letter to the Attorney General, with the request that he write you further if he deem it necessary.

With best wishes, I am,

Yours very truly,

Harris Hart

HH/P.

Superintendent of Public Instruction.