

Commonwealth of Virginia



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OFFICE OF THE ATTORNEY GENERAL  
RICHMOND

May 1, 1926.

Hon. O. L. Emerick,  
Purcellville, Va.

Dear Mr. Emerick:

Your telegram received. I take pleasure in forwarding you copies of the opinions which I have just given Hon. Wilbur C. Hall, as requested by you.

I am With kindest regards and best wishes,

Yours very truly,

*Jno. R. Saunders*

S-A

Attorney General



COMMONWEALTH OF VIRGINIA  
OFFICE OF  
THE ATTORNEY GENERAL  
RICHMOND

April 30, 1926.

Hon. Wilbur C. Hall,  
Attorney at Law,  
Leesburg, Virginia.

My dear Mr. Hall:

Before answering the remaining questions in your letter of April 28, 1926, I would like to have a little more information of the facts in connection with the same. Could you tell me whether the case to which you refer was adjudicated on its merits when the appeal was taken to the circuit court, or whether the proceeding was disposed of for any technical reason? In other words, I would like to know whether the circuit court determined the matter in issue.

You will observe that section 666 of the Code of Virginia, 1924, provides in part that, when an appeal is taken to the circuit court and passed on by the court or judge in vacation, the court or judge "shall decide finally all questions at issue and shall have an order entered in the chancery order book setting forth such decision." It would seem from this section that, if a building site had been selected in the manner prescribed by law and that persons objecting to that site had appealed therefrom, the adjudication of the court would be final.

With reference to the third question asked in your letter, namely, what time must the superintendent approve or disapprove the action of the county school board, under the provisions of section 673 of the Code of Virginia, 1924, you will observe that this section, so far as is applicable to the question here under consideration, provides:

"No school house shall be contracted for or erected until the site, location, plans and specifications therefor shall have been submitted to and approved in writing by the division superintendent of schools, whose action in each case shall be reported by him to the State Board of Education; \* \* \*."

It seems to me that while this section involves a discretionary



duty on the part of the superintendent of schools, it must be read in connection with section 666 of the Code of 1919, as amended. You will see from an examination of the latter section that when a dispute arises over the action of the county school board in any matter from which an appeal may be taken, the division superintendent is required to adjust the same within ten days, or to grant an appeal to the trustee electoral board. It seems to me that this statute contemplates that the division superintendent shall make his decision in matters of this kind within ten days. Certainly it would seem that this is sufficient length of time for the superintendent to act.

Yours very truly,

*Jno. P. Saunders*

Attorney General.

B K R

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