

240 F.Supp. 743
United States District Court,
W.D. Louisiana,
Shreveport Division.

Ura Bernard LEMON, Sandra Lemon, Brenda
Lemon, William H. Lemon, Jr., Tony Lemon,
Infants, by their parents and next friends, William
H. Lemon and Mrs. Nettie J. Lemon, et al.,
v.
the BOSSIER PARISH SCHOOL BOARD and
Emmett Cope, Superintendent of Schools,
The United States of America, Intervenor.

Civ. A. No. 10687.

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April 28, 1965.

Synopsis

School segregation. After the decision reported at D.C., 240 F.Supp. 709, defendants moved for rehearing and to dismiss for failure to join indispensable party. The District Court, Ben C. Dawkins, Jr., Chief Judge, held that giving full effect to both constitution section making municipal and parish school boards subject to control by and supervision of state board of education and constitution section providing that state board should not control business affairs of parish school boards, the latter controlled and matter of desegregation of schools formed a part of 'business affairs' of parish school board, not subject to control or supervision by state board.

Order accordingly.

Attorneys and Law Firms

*743 Jesse N. Stone, Jr., Shreveport, La., Norman C. Amaker, Jack Greenberg, and John Walker, New York City, for plaintiffs.

J. Bennett Johnston, Jr., Johnston & Johnston, Shreveport, La., Louis H. Padgett, Jr., Dist. Atty., for the 26th Judicial Dist., Bossier City, La., Jack P. F. Gremillion, Atty. Gen., of Louisiana, Baton Rouge, La., William P. Schuler, Asst. Atty. Gen., of Louisiana, Baton Rouge, La., for defendants.

Nicholas de B. Katzenbach, Atty. Gen., Burke Marshall, Asst. Atty. Gen., St. *744 John Barrett, Atty., United States Dept. of Justice, Washington, D. C., Edward L.

Shaheen, U. S. Atty., Edward V. Boagni, Asst. U. S. Atty., Shreveport, La., for intervenor.

Opinion

BEN C. DAWKINS, Jr., Chief Judge.

Defendants have moved for a rehearing herein, based upon Article 12, Section 11 of the Louisiana Constitution of 1921, LSA, which reads:

'Municipal or parish school boards and systems now in existence by virtue of special or local legislative acts are hereby recognized, subject to control by and supervision of the State Board of Education, and the power of the Legislature to further control them by special laws.'

It is argued from this provision that the State Board of Education was an indispensable party defendant in this proceeding; hence that it should be joined before a valid judgment might be rendered. We do not agree.

In the first place, it is so fundamental as to require no citation of authority that Constitutional provisions and statutes in pari materia should be read together, and all sections accorded equal dignity in interpreting their meaning. Wherever possible, all provisions should be given effect, and each interpreted in light of the others, as so to reconcile them, if possible, and to render none nugatory. Particular provisions shall prevail over those of a general nature.

With these principles in mind, we note that Article 12, Section 4 of the Louisiana Constitution provides in pertinent part:

'The Legislature shall prescribe the duties of said (State) Board (of Education) and define its powers; provided, that said Board shall not control the business affairs of Parish School Boards, * * *' etc. (Emphasis added.)

Giving full effect to both Section 11 and Section 4, it is obvious that the latter controls here and that with respect to the matter of desegregation of its schools, this forms a part of the 'business affairs' of the Bossier Parish School Board, not subject to control or supervision by the State

Board. Moreover, whereas Article 12, Section 1 of the Louisiana Constitution formerly required both the State and local boards to maintain segregated schools, this provision was repealed by Act No. 546 of 1962, a constitutional amendment which was duly ratified and adopted by the people of this State on November 6, 1962; and, as noted in our original opinion, all legislative Acts requiring segregation also have been repealed. Consequently, and since operation of segregated schools in Louisiana has been declared to be unconstitutional, *Orleans Parish School Board v. Bush*, 242 F.2d 156 (5 Cir. 1957) cert. denied, 354 U.S. 921, 77 S.Ct. 1380, 1 L.Ed.2d 1436 (see also *Bush v. Orleans Parish School Board*, 188 F.Supp. 916 (E.D.La.1960), aff'd per curiam 365 U.S. 569, 81 S.Ct. 754, 5 L.Ed.2d 806), the State Board here would have no authority whatever to require the Bossier Parish Board to maintain segregation in its schools. In addition, we note that LSA-R.S. 17:81 vests

local school boards with particular authority to manage their own affairs, unfettered by the general provisions of Constitutional Article 12, Section 11.

Finally, except for the delay involved, the presence of the State Board as a party defendant here would have made no difference in the applicable law or the decision we have reached.

For these reasons, therefore, the motion for a rehearing, and its appendant motion to dismiss for failure to join an indispensable party, are hereby denied.

All Citations

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