

MAINE STATE LEGISLATURE

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June 21, 1946

To Harry V. Gilson, Commissioner of Education

Re: Superintending School Committee Hearing relative to the Expulsion
of a Disobedient Pupil

I have your memo of June 21st, stating that a pupil was called before the principal of the high school and was insolent. The principal warned him two or three times to be quiet. The pupil continued to argue loudly and the principal shook him by grasping him by his clothing.

A meeting of the school committee was called to consider the situation. Written statements were secured from two teachers who were present during the altercation. These written statements were presented to the committee, and, basing their action on the boy's past record, statements of his parents to individual members of the committee, and the written statements of the teachers, the committee voted to expel the boy under the provisions of the statute in such cases made and provided, to wit, subsection V of Section 50 of Chapter 37, R. S. of Maine, 1944, which reads as follows:

"The superintending school committee shall perform the following duties

V. Expel any obstinately disobedient and disorderly scholar after a proper investigation of his behavior, if found necessary for the peace and usefulness of the school; and restore him on satisfactory evidence of his repentance and amendment."

You state in your memo that subsequently the boy signed a statement that he was sorry for any and all trouble he had caused and that he wished to be reinstated as a pupil in high school and given a chance to continue his studies; that upon this evidence of his repentance and amendment the superintending school committee re-admitted this student and that he has since been graduated from the high school and was awarded his diploma.

You further state that the parents of this boy threaten to sue the superintending school committee if they do not rescind their vote of expulsion, on the grounds that the investigation was not a proper one, and you ask whether, from the above statements, I would consider that the committee had made a proper investigation of this case.

In the first place I want to state that the expulsion of this pupil from the high school by the superintending school committee, even if wrongful, was no violation of any legal right of the parents that would entitle them to maintain an action therefor.

Our courts have held that if any wrong was committed in the expulsion of a child from school, it is against the child and not the parents; and if the superintending school committee received written statements from those who were present and talked with those who were present upon the action of this boy which caused his expulsion, in my opinion, that would be a proper investigation of his behavior, under the statute, and the facts that the boy signed a statement that he was sorry for the trouble he had caused and that the school board restored him and he graduated from the high school indicate that the case is now closed, as the boy's letter of repentance and amendment, in my opinion, is equivalent to a plea of confession and avoidance in a civil case. The fact that the boy was restored on his own confession would be sufficient to show that the matter is res adjudicata in regard to the opening of the question as to whether or not there was a proper investigation of this pupil's behavior before he was expelled.

Our courts have held that the members of the superintending school committee are public officers, discharging important duties and trusts; and in the exercise of their authority they are invested with quasi-judicial powers. Our courts have further held that a public officer, when acting in good faith, is never to be held liable for an erroneous judgment in a matter submitted to his determination, and that if he were so held for any error of judgment, it would be opposed to all principles of law, justice, and sound policy to hold that officers called upon to exercise judgment are answerable for mistakes in law when their motives are without fraud or malice. This matter has been decided in Maine, New Hampshire, Massachusetts, Tennessee, and other jurisdictions.

Besides, in the present case, the relation of superintending school committee and pupil terminated when the boy graduated from school and was awarded his diploma. The boy's statement that he was sorry for all the trouble he had caused is the strongest evidence that the expulsion by the superintending school committee was justified.

Ralph W. Farris
Attorney General

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