Louisiana Law Review

Volume 12 | Number 2
The Work of the Louisiana Supreme Court for the 1950-1951 Term
January 1952

Public Law: Labor Law

Charles A. Reynard

of Louisiana State University and placed them within the jurisdiction and control of the State Board of Education. Plaintiff, relying upon Article IV, Section 14, of the Louisiana Constitution which provides in part that "No educational . . . institution . . . shall be established by the State, except upon a vote of two-thirds of the members elected to each house of the Legislature," pointed to the fact that none of the legislation in question had received a two-thirds majority, contended that the legislation provided for the *establishment* of educational institutions, and hence was void.

Although the trial court had agreed with the plaintiff's view of the matter, the supreme court reversed, choosing to regard the legislation as a permissible adjustment or enlargement of already existing state institutions of learning. It reviewed the physical and legislative history of the two institutions affected, which were appropriately brought into the state's educational system (one having been created, the other adopted as a going concern, both by legislation receiving the required two-thirds majority) and concluded that there was no merit to the plaintiff's contention that this previous legislation did nothing more than create two junior colleges. They properly created state "educational institutions" which are the kind of establishments to which the constitutional provision refers. From that point, the court concluded that the plain and unambiguous language "leaves us convinced that the educational institutions therein contemplated are not limited to the higher institutions of learning but to State educational institutions of any character regardless of how they may be designated." [24] By thus viewing the matter as a simple re-allocation of educational functions and an enlargement of activity of existing institutions, the legislature could be forgiven non-compliance with Article IV, Section 14, which, by its terms, applies only to legislation establishing such institutions. The result seems sound and is reached, as the court itself remarked, without resort to the established principle that courts will not declare acts of legislatures unconstitutional unless it is clearly shown that they contravene applicable provisions of the constitution.

LABOR LAW

*Charles A. Reynard**

In one of its infrequent decisions involving organized labor, the court last term affirmed the dismissal of a suit for damages

24. 219 La. 630, 53 So. 2d 792, 797 (1951).

* Professor of Law, Louisiana State University.

prosecuted against a union by an unsuccessful applicant for membership who alleged that as a result of the union's refusal to accept him he had been dismissed from employment in three instances at its instigation because of his non-membership.[1] The court has traditionally exhibited a reluctance to interfere with the affairs of voluntary associations, including unions, so long as they are created for lawful purposes, conduct their activities in an orderly manner, and are not opposed to the public interest.[2] In the instant case, however, it was unnecessary to invoke this line of jurisprudence since specific legislative enactment supported the action of the union. Plaintiff, a minor of fifteen years of age at all relevant times stated in the petition, alleged that he had been denied membership because of lack of apprenticeship training and further charged that all his efforts to achieve apprenticeship status had been thwarted by the malicious action of the union. The union showed that its action was predicated on the terms of a joint labor-industry agreement to which it was a signatory, entered into under the provisions of Act 364 of 1938,[3] approved by state and federal authorities and establishing a minimum age of eighteen years for apprentices in the plastering industry. The court approved the action of the trial judge in dismissing the petition—a result which seems inescapable under the circumstances. It is probable that the decision, or the statute which dictated it, will be criticized in light of current inclinations to condemn exclusionary devices which some unions impose upon membership. But regardless of the merits of the controversy, the remedy, if there is to be one, must be sought at the hands of the legislature.

LOCAL GOVERNMENT

*Jerome Shestack**

ELECTIONS

Election laws provided the main source of controversy in the local government area. Election law cases, of course, are invariably tied into current political issues and just as invariably demonstrate that political cases do not make good law.

1. Hornsby v. LeBlanc et al., 217 La. 1095, 48 So. 2d 99 (1950).
2. Elfer v. Marine Enginers Beneficial Assn. No. 12, 179 La. 383, 154 So. 32 (1934) and cases cited.
3. La. R.S. (1950) 23:381 et seq.

* Assistant Professor of Law, Louisiana State University; Faculty Editor, LOUISIANA LAW REVIEW.