O/A 2-7-89 12-28

IN THE SUPREME COURT OF THE STATE OF FLORIDA
CASE NO.: 72,697

CHARLES W. KANE, SHERIDAN PLYMALE, PETER WALSON, LISA LYONS, E. CLARK GIBSON, STEWART R. HERSHEY and BETTY WALSON,

Petitioners,

vs.

PEGGY S. ROBBINS, as Supervisor of Elections for Martin County, Florida, and the SCHOOL BOARD OF MARTIN COUNTY, FLORIDA,

Respondents.

_____/

ANSWER BRIEF OF RESPONDENT
PEGGY S. ROBBINS, as Supervisor
of Elections for Martin County, Florida

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PREFACE

Petitioners, as they are members of the Republican Executive Committee of Martin County, are referred to herein as either, collectively, "Petitioner" or "Committee."

STATEMENT OF THE CASE AND FACTS

This Respondent concurs with the statement of the case and facts as set forth in Petitioner's Initial Brief, except for the following areas of disagreement:

In the first paragraph of Petitioner's Statement of the Case and Facts, as well as in other portions of its Brief, Petitioner states that "this Court's decision in this case will decide whether the legislature has the power to pass special laws pertaining to the election, jurisdiction and duties of every school board in the State." In actuality, this Court's holding will affect only special laws as they relate to nonpartisan school board elections in Martin County, Florida. The jurisdiction and duties of every school board in the state will not be affected by this decision at all.

More importantly, Petitioner's rendition of the majority decision of the Fourth District Court of Appeal is somewhat incomplete. The majority opinion, authored by Judge Stone, initially noted that Article IX, §4(a), Fla. Const., provides that school board members shall be chosen by vote of the electors "as provided by law". The majority construed this provision as authorizing the legislature to pass both special and general laws pertaining to the election of school board members.

Kane v. Robbins, 524 So.2d 1048, at p.1049 (Fla. 4th D.C.A 1988). Furthermore, the majority opinion states that certain Florida Statutes which distinguish school boards from other special districts should not be controlling on an issue of constitutional interpretation. The court also made reference to the historical treatment of school districts as special districts, and cited numerous special laws reflecting that fact. The court specifically noted that Petitioner failed to cite any authority which would convince the majority to stray from this historical treatment. Ibid., at p.1050. Finally, the opinion notes that "[a]cts of the legislature are presumed constitutional, and Appellant has failed to meet the heavy burden in asserting otherwise." (citations omitted). Ibid.

SUMMARY OF ARGUMENT

This case is obviously one requiring constitutional interpretation. In order to determine the constitutionality of vel non of Ch 76-432, Laws of Florida (1976), reference must be made primarily to Article III, §11(a)(1), Fla. Const. and Article IX, §4, Fla. Const.

Article III, §11(a)(1) prohibits special laws pertaining to the election of officers, except officers of municipalities, chartered counties, special districts and local governmental agencies. The Martin County School Board is a special district for purposes of this act. The trial court and the Fourth District have both adopted this construction. Petitioner's arguments to the contrary are not persuasive. Petitioner refers primarily to a legislative history which is inconclusive at best, as well statutes and constitional provisions which apparently differentiate between school boards and special districts. As the majority opinion below notes, references to statutes should not be controlling on an issue of constitutional interpretation. Kane at p.1049. Additionally, the constitional provisions cited by Petitioner are related to taxation, are completely unrelated to the election of school board members and

are therefore not persuasive in construing a constitutional provision affecting the election of school board members.

Article IX, §4 states that school board members shall be elected "as provided by law". Constitent with precedent, the Fourth District Court majority opinion concludes that the phrase "by law" emcompasses both general and special acts, lending further support to the conclusion that the special act in question, Ch. 76-432, was enacted in conformity with applicable provisions of the Florida Constitution.

In its Brief, Petitioner creates a new argument allegedly in support of its position. Referring to a speck of dictum in the majority opinion of the Fourth District Court of Appeal("There are no public policy issues involved"), Petitioner argues that "the public policy of a uniform system of free public schools" was violated by the majority opinion below. In a somewhat overstated conclusion, Petitioner forsees what amounts to a total breakdown of the Florida public school system stemming from the opinion of the Fourth District Court. Not only is this argument speculative, but it also ignores the well-established interpretation of the constitutional provision calling for "a uniform system of free public schools", supported by case law, which is consitent with the proposition that the decision below does not conflict with the constitutionaly mandated "uniform system".

Finally, as the majority opinion below recognizes, Petitioner, seeking to have a statute overturned on constitional grounds, has to overcome a tremendous burden in doing so. In fact, Petitioner is required to eliminate all reasonable doubt as to the statute's constitutionality. If an interpretation is available to the Court which will allow the Court to uphold the constitionality of the statute, it is compelled to adopt that construction. Petitioner has never been able to overcome this burden, and by failing to do so, Petitioner must likewise fail in its appeal before this Court.

ARGUMENT

CH. 76-432, LAWS OF FLORIDA (1976) DOES NOT VIOLATE THAT SECTION OF THE FLORIDA CONSTITUTION WHICH PROHIBITS SPECIAL LAWS REGARDING THE ELECTION OF CERTAIN OFFICERS, SINCE (A) SCHOOL BOARDS FALL WITHIN THAT PROVISION'S EXCEPTION FOR OFFICERS OF SPECIAL DISTRICTS; AND (B) THIS CONSTRUCTION IS CONSISTENT WITH OTHER CONSTITUTIONAL PROVISIONS GOVERNING THE ELECTION OF SCHOOL BOARD MEMBERS. FURTHERMORE, PETITIONER HAS FAILED TO MEET ITS BURDEN OF PROVING BEYOND A REASONABLE DOUBT THAT CH. 76-432, LAWS OF FLORIDA (1976) IS UNCONSTITUTIONAL: THEREFORE THIS COURT IS BOUND TO UPHOLD THE STATUTE'S CONSTITUTIONALITY. FINALLY, THERE ARE NO ISSUES OF PUBLIC POLICY INVOLVED IN THIS DECISION AND PETITIONER'S ASSERTIONS TO THE CONTRARY ARE INCORRECT AND MISLEADING.

The decision of the majority of the Fourth District panel is based primarily on three matters. First of all, the Court ruled that Article III, §11(a)(1), Fla. Const., is "at best ambiguous with respect to whether or not school board should be considered special districts for purposes of that section". The Court noted, however, that historically school board have been treated as special districts and noted that Petitioner failed to come forward with any convincing evidence indicating that the Framers of the 1968 Constitutional Revision intended that school boards be treated any differently under this constitional provision.

Judge Stone cites Article IX, §4, Fla. Const., as additional support to the special act in question. That clause, which authorized the legislature to provide for the election of school board members "by law" was construed to include both special laws and general laws by the majority of the Fourth District panel, and therfore Ch. 76-432 was found to be consistent with this constitutional provision. Finally, the opinion cites Petitioner's failure to overcome its heavy burden of proof in this case. Each of these issues, plus the "public policy" issue raised Petitioner's Initial Brief, will be explored in more detail below.

A) FOR PURPOSES OF CONSTRUING ARTICLE III, §11(a)(1), FLA. CONST., SCHOOL BOARDS ARE SPECIAL DISTRICTS, AND ARE THEREFORE EXCEPTED FROM THE PROHIBITION AGAINST SPECIAL ACTS REGARDING THE ELECTION OF OFFICERS.

The Fourth District Court of Appeal opinion is centered upon a construction of Article III, §11(a)(1) of the Florida Constitution. As stated earlier, this section prohibits special laws pertaining to the election of officers, except officers of "municipalities, chartered counties, special districts, or local governmental agencies." The question presented to the Court is whether school boards should be considered special districts for purposes of this section.

The appellate court held that this constitutional provision is "at best ambiguous" on this issue. The court, using its powers of constitutional construction, listed several special acts of the Florida legislature indicating how school boards have historically been treated as special districts in Florida. The court concluded by saying that "[a]ppellant cites to no authority evidencing a contrary intent by the drafters of the 1968 revision of our constitution" when they included "special districts" among the enumerated exceptions to Article III, §11(a)(1). Kane, at p.1050.

This Court's determination in this case revolves around the construction of an ambiguous constitutional provision. As cited in the opinion below, the legislature has on numerous occasions passed special acts which treat school boards as special districts for purposes of Article III, §11(a)(1). Therefore, it is clear that the Florida legislature has adopted an interpretation of Article III, §11(a)(1) which permits special acts such as the one at issue in this case. It is well settled that where a constitutional provision is susceptible to more than one meaning, the meaning adopted by the legislature is conclusive. Vinales v. State, 394 So.2d 993 (Fla. 1981); Gallant v. Stephens, 358 So.2d 536 (Fla. 1978); Greater Loretta Improvement Association v. State, 234 So.2d 665 (Fla. 1970). As evidenced by the number of special acts it has passed which sanction nonpartisan school board elections, the Florida legislature has clearly adopted a construction of Article III, §11(a)(1) favorable to Respondents, this construction is conclusive and this Court is bound to uphold the interpretation adopted by the Florida legislature in this matter.

Interestingly, at the same time the legislature was meeting in 1967 to revise the constitution, two special acts authorizing nonpartisan elections of school board members were considered by the legislature and ultimately passed: Ch. 67-945,

Hillsborough County School Board, and Ch. 67-1310, Duval County School Board. This fact lends further support to the opinion below. In Amos v. Moseley 74 Fla. 555, 77 So. 619, 625 (1917), this Court noted that:

> Where a particular construction has been generally accepted as correct and especially when this has occured contemporaniously with the adoption of the Constitution... it is not to be denied that a strong presumption exists that the construction rightly interprets the intention.

This language was recently cited by this Court with approval in Florida Society of Opthamology v. Florida Optometric Association, 489 So.2d 1118 (Fla. 1986).

The special act in question, Ch. 76-432, Laws of Florida (1976), was passed well after the constitional revision of 1968 and well after the opinion of this Court in Hayek v. Lee County, 231 So.2d 214 (Fla. 1970), upon which Petitioner relies so heavily. Another well settled maxim of statutory construction is that which provides that the legislature is presumed to know the existing law when it enacts a statute and is also presumed to be acquainted with the judicial construction of former laws on the same subject. Williams v. Jones, 326 So.2d 425, 435 (Fla. 1975).

With this rule of construction in mind, one can only conclude that the legislature was aware of the development of the

law construing Article III, §11(a)(1) and its predecessor when it enacted the statute in question, giving further creedence to the assertion that the legislature intended to construe that Article so as to support the constitutionality of Ch. 76-432, and in doing so implicitly recognized that school boards should be treated as special districts for purposes of construing this particular constitutional provision.

The Court below referred to the historical treatment of school boards as special districts. A brief rendition of this history may be instructive. Reference should initially be made to the special acts set forth in the Fourth District opinion regarding the election of school board members. Additionally, a review of Article XII, Fla. Const.(1885) and the history of both general law and special acts enacted over the years regarding the authority, power, duties and responsibilities of school board members and school trustees and other aspects of school districts, leaves little doubt that school boards should be treated as special districts for purposes of construing Article III, §11(a)(1). In his closing arguement at trial, Mr. Sands pointed out that in 1965 there were some 42 special acts passed relative to various school districts in the State of Florida; that was in addition to general law. (R.86) It was with this background that the leglislature undertook to revise Article III, §11(a)(1) in 1968. It should also be noted that, as can clearly be seen by

comparing the 1968 provision with the 1885 provision, the legislature intended to expand the exception contained in Article III, §11(a)(1) which expansion is consistent with the position that school boards fall within the exception set forth therein.

As recently as 1983, Florida's Attorney General stated:

> ...school districts and their governing boards have historically been treated in the same manner as special districts of the state, that is, having only such power and authority as is granted by the Legislature. AGO 83-72, October 18, 1983.

Petitioner has chosen to ignore this evidence of legislative intent in its Brief. Instead, Petitioner relies on three items to support its conclusion that school boards are not special districts which are excepted from the constitutional prohibition against special laws. First of all, Petitioner refers to three separate provisions of Article VII, Fla. Const., namely Article VII, §9(a), Article VII, §10, Article VII, §12. Each of these provisions separately mentions "school districts" and "special districts" with respect to local taxes , pledging credit and local bonds. In ascertaining legislative intent, enactments relating to the same subject should be considered by a court. Florida Jai Alai, Inc. v. Lake Howell Water and Reclamation District, 274 So.2d 522 (Fla. 1973). However, the constitutional provisions mentioned by Petitioner in its Brief are completely

unrelated to the issue before this Court, namely a whether a special act related to the election of school board members is or is not constitutional. Constitutional statements on taxation clearly should not be considered in tandem with constitutional statements on elections. On the contrary, as stated above, the legislature on numerous occasions has passed special acts related to the election of school board members and this Respondent submits that this evidence of legislative intent in much more pursuasive than that mentioned by Petitioner in its Brief.

Petitioner goes on to cite "several" Florida Statutes mentioned by Judge Walden in his dissent below which allegedly distingish school boards from special districts. As examples, Petitioner can come up with only two Florida statutes which supposedly support its position. The first, §165.031(5) Fla. Stat., is contained in the chapter of Florida Statutes related to municipalities. The other, §200.001(8)(c), Fla. Stat., is related to a determination of millage. As stated above, these definitions would only be relevant if they related to the same subject as that at issue in the instant case. Clearly, a general statute on municipalities and a statute regarding the determination of millage rates are not in any way related to the election of school board members. Thus, the definitions contained in the chapters cited by Petitioner are inappossite to the issues in this case. Furthermore, constitutions "receive a broader and more liberal

construction than statutes." Florida Society of Opthalmology, at p.1119. Thus, as Judge Stone stated in his opinion below, "the fact that some Florida statutes distinguish school boards from other special districts should not be controlling on an issue of constitutional interpretation" Kane, at page 1049.

Finally, Petitioner once again recites the legislative history of the revision of Article III, §11(a)(1) as contained in Hayek v Lee County in support of its position that the legislature never intended for school boards to be treated as special districts for purposes of this constitutional provision. The court below, recognizing the paucity of convincing information in this legislative history, found Petitioner's assertions in this regard to be unconvincing. This was so because the legislative history is unclear on the issue before this court; namely whether or not school boards are in analagous with special districts for purposes of construing Article III,§11(a)(1). Since the Constitutional Revision Committee made no mention of this, Petitioner concludes that "surely the Constitutional Revision Committee would have been more specific if it had intended to accept school boards from the prohibition against special laws" (Petitioner's Initial Brief at p.15). Again, this conclusion ignores the clear statements of legislative intent as contained in the numerous special acts passed concurrently with and subsequent to the adoption of the 1968 constitution. Petitioner's supposition also ignores the historical treatment of school boards

as special districts as referred to in this Brief and in Judge Stone's opinion.

Petitioner's assertions regarding legislative intent are vague and full of supposition. Respondent's assertions regarding legislative intent are definite and consistent with relevant rules of statutory and constitutional construction. In considering all of the information before it, this Court can not help but conclude that school boards were intended to be treated as special districts by the legislature within the meaning Article III, §11(a)(1) of the Florida Constitution.

B. THE DECISION BELOW IS CONSISTENT WITH ARTICLE IX, §4, OF THE FLORIDA CONSTITUTION.

The pertinent portion of Article IX, §4 reads as follows:

> (A) Each county shall constitute a school district; ... in each school district there shall be a school board composed of five or more members chosen by vote of the electors... as provided by law.

The majority opinion below interpreted the phrase "by law" to include both general and special acts. In doing so, the opinion states that "had the drafters intended to restrict the authority of the Legislature to enactments only by general law, this was the place to impose such a limitation. The Constitution is more specific elsewhere." Kane, at p.1049. (citations omitted). Further support for this conclusion is found in the Supreme Court decision of Ison v Zimmerman, 373 So.2d 431 (Fla. 1979). Among the issues presented in that case was whether the phrase "by law", as contained in Article III, §14 (related to civil service systems for employees of the Sheriff), should construed to mean by general law only. The Court began by recognizing that the phrase "by law" was ambiguous. However, using the established rules of statutory construction, the Court at that time concluded that the phrase "by law" encompasses both general and special laws. The Court therefore held that the special civil service acts involved in that case did not

unconstitutionally restrict the duties of the office of the Sheriff. Ibid, at p.435.

As applied to this case, then, Article IX, §4(a), Fla. Const. authorizes the legislature to pass special acts regarding the election of school board members. Petitioners have offered no evidence whatsoever to refute this construction.

It is also interesting to note that Article VI, §1, Florida Constitution, is also consistent with Respondent's position. That Section reads as follows:

> Regulation of Elections. - All elections by the people shall be by direct and secret vote. General elections shall be determined by plurality of votes cast. Registration and election shall, and political party functions may, be regulated by law (emphasis supplied).

Applying the same rules of construction here as those applied to Article IX, Sect. 4, it is clear that the phrase "by law" includes both general and special laws and that therefore the special law at issue here is consistent with every constitutional provision regarding elections of school board members.

It is important to note the difference between the constitutional provisions cited herein and those set forth in Petitioner's brief. As stated above, the constitutional provisions and statutes mentioned by Petitioner are in no way,

shape or form related to whether or not a special act regarding the election of school board members is or is not constitutional. On the other hand, the constitutional provisions cited herein relate specifically to elections in general and elections of school board members in particular. It is therefore clear that the greater weight of relevant authority supports the conclusion that Chapter 76-432, Laws of Florida (1976) is constitutional.

C. APPELLANTS FAILED TO MEET THEIR BURDEN OF PROVING BEYOND A REASONABLE DOUBT THAT CHAPTER 76-432, LAWS OF FLORIDA, IS UNCONSTITUTIONAL; THEREFORE, THIS COURT IS BOUND TO UPHOLD THE STATUTE'S CONSTITUTIONALITY.

There is a strong presumption in favor of the constitutionality of statutes. State v. Kinner, 398 So.2d 1360 (Fla. 1981); State v. Cormier, 375 So.2d 852 (Fla. 1979). Moreover, a statute's unconstitutionality must appear beyond all reasonable doubt before such a finding can be made. Bonvento v. Board of Public Instruction, 194 So.2d 605 (Fla. 1967). In fact, this Court has the duty to resolve all doubts as to the validity of a statute in favor of its constitutionality and to construe it so as not to conflict with the Constitution. Kinner; Cormier; State v. Gale-Distributors, 349 So. 2d 150 (Fla. 1977). So even if a statute is susceptible to two reasonable interpretations, this Court is bound to accept the interpretation upholding the law's constitutionality. Miami Dolphins, Ltd. v. Metropolitan Dade County, 394 So.2d 981 (Fla. 1981); Perry v. City of Fort Lauderdale, 387 So.2d 518 (Fla. 4th DCA 1980). See generally; State v. Lick, 390 So.2d 52 (Fla. 1980).

A brief look at the trial transcript reveals the paucity of evidence introduced by the Petitioner in support of its position. Only two witnesses were called by the Petitioner. The first, Petitioner Stewart R. Hershey, testified as to the

Committee's desire to elect Republican candidates to the School Board and as to the difference between the partisan and non-partisan elections as far as the Committee was concerned. (R.8-9.) Cross examination brought to light the fact that the Committee may endorse and financially support school board candidates. (R.9-10.) In fact, the Committee has a policy statement in which they reserve the right to endorse candidates in all non-partisan races, except judgeships. (R.11.) As the trial court's order recognized, the "unrefutted" (sic) testimony in the case clearly indicated that the only limitation on the Committee's activity is partisan nomination. (R.192.)

The second and final witness called by the Committee was Respondent Peggy S. Robbins, who was asked merely if she conducts and will continue to conduct non-partisan school board elections pursuant to Chapter 76-432, Laws of Fla. (R.17.) She, of course, responded in the affirmative. (R.17.)

Appellant relies almost entirely upon the legislative history of Article III, Section 11(a)(1), Fla. Const., and Hayek v. Lee County, 231 So.2d 214 (Fla. 1970), which thoroughly discusses that history. As discussed above, the legislative history is hardly conclusive, and certainly is not so persuasive that it eliminates all doubt as to the constitutionally of Chapter 76-432, Laws of Fla.

Finally, appellant in its brief presumes to substitute its judgment for that of the Florida Legislature and the Florida

Supreme Court. On page 15 of the Initial Brief, Petitioner in discussing the legislative history of Article III, Section 11(a)(1), concluded that "surely the Constitutional Revison Committee would have been more specific if it intended to except school board members from the prohibition against special laws." This conclusive statement ignores the possibility that, by referring to bodies "such as" port authorities and hospital boards, the Interim Committee intended to leave the door open for subsequent judicial interpretation of Article III, Section 11(a)(1).

Secondly, in analyzing School Board of Escambia County v. State, 353 So.2d 834 (Fla. 1977), Petitioners clearly misconstrues the holding in that case regarding Article III, Section 11(a)(1), Fla. Const. The Petitioner states in its Brief that the Supreme Court "implicity" decided that school board members were subject to Article III, Section 11(a)(1), but the effect of the legislation was so incidental to their election as to not violate this provision. Petitioner's initial Brief, p. 10. The Petitioner, in another conclusive assumption, goes on to say that the Supreme Court implicity approved the trial court's decision regarding nonpartiasan school board elections. A close reading of the decision indicates that the Court never had to reach this question. In fact, contrary to Petitioner's reading of this case, the Court specifically held that the effect of reducing

the salary of school board members to $200.00 a month, by special act, upon the election of school board members "is so incidental and tenuous as to not be cognizable by the prohibition of Article III, Section 11(a)(1), Florida Constitution." (Emphasis added) School Board of Escambia County, at p. 839. Nowhere did the Court mention that school boards were subject to that constitutional prohibition.

This analysis of Petitioner's case clearly shows that the Petitioner failed to eliminate every reasonable doubt in favor of the constitutionality of Chapter 76-432, Laws of Fla. The availability of a reasonable interpretation supporting the statute's constitutionality requires this Court to affirm the Fourth District's order. The burden is on the party challenging the constitutionality of a statute to establish its invalidity beyond a reasonable doubt. Kinner; Peoples Bank of Indian River County v State, 395 So.2d 521 (Fla. 1981). The Petitioner has clearly fallen far short of meeting its heavy burden of proof in this case. It has presented no conclusive evidence favoring an unconstitutional construction of Ch. 76-432, Laws of Fla. Therefore, the trial court's order upholding the special act's constitutionality should be affirmed.

D) THERE ARE NO PUBLIC POLICY ISSUES INVOLVED IN THIS CASE AND THE FOURTH DISTRICT DECISION DOES NOT CONFLICT WITH THE "UNIFORMITY" REQUIREMENT OF ARTICLE IX OF THE FLORIDA CONSTITUTION.

The Escambia County case, mentioned supra, notes that there is "a dearth of authority construing the significance of the phrase "uniform system of free public schools" as appears in Article IX, §1 of the Florida Constitution. Escambia County, at p.836. That case goes on to discuss the only four cases that could be found which dealt with that provision. Only two shed any light on the issues raised in this case.

The first is State v. Holbrook, 129 Fla. 241, 176 So. 99 (1937). At issue in Holbrook was whether or not a special act establishing tenure of employment for teachers in Orange County violated among other things the uniformity provision of the Constitution. In ruling that the special act did not violate the uniformity provision of Article XII, §1, Fla. Const. (1885), (Article IX's predecessor), a majority of the Court determined that the system of free public schools established by general law was not in any way interfered with by the passage of the special act in question, that there was nothing in the special act which conflicted with the provisions of the general law, that the same system of school government in effect in the other counties or the state would remain in effect in Orange County regardless of the existence of the special act, and that an act relating to the

tenure of employment of teachers in the public schools of Orange County did not depart from the intent and purpose of the uniformity clause. It is interesting to note that the special act involved in the Holbrook case also withstood scrutiny under the predecessor to Article III, §11(a)(1), the Court holding that if the main purpose of a local or special act is valid and constitutional, and where the effect of said act upon the jurisdiction or duties of state or county officers is merely incidental to such main purpose, the act will not be held to be in violation of the provision of the constitution prohibiting the passage of special acts regulating the jurisdiction and duties of certain officers.

In State v. Board of Public Instruction of Pasco County, 176 So.2d 337 (Fla. 1965), this Court upheld the constitutionality of a special act creating a special school taxing district within Pasco County, against an attack that the act had violated the provisions of the 1885 version of Article IX, §1, Fla. Const. The critical portion of that opinion reads as follows:

> Thus, the act can not be said to affect the uniformity of the system of schools. The counties and school districts are school governing bodies which provide for the uniform system of public schools. The same system of school government will obtain, although it is hoped more effectively with improved facilities provided for by the statute. See State ex rel. Glover v. Holbrook 129 Fla. 241, 176 So.99 (1937).

Pasco County, at p.338.

The Escambia County case itself concluded that the special act therein considered did not violate the uniformity provision of Article IX, §1, Fla. Const. In so doing, the Court held that "by definition, then, a uniform system results when the constituent parts, although unequal in number, operates subject to a common plan or serve a common purpose." Ibid. at p.838.

The crux of these decisions is clear. The uniformity of the system of free public schools in the state of Florida is maintained by the actions of school board members once they are elected. In other words, the administration of public schools by both county school districts and the State Board of Education is critical in maintaining the uniformity of the public school system throughout the state. However, the means of electing members of the county school district have nothing whatsoever to do with uniformity of the public school system. The rules governing the activities of school board members once they are elected, as set down by general law, special law, or by the rules of the state Department of Education, apply to and govern the activities of school board members whether they are elected in partisan or nonpartisan elections. Uniformity in the constitutional sense is therefore maintained regardless of how a school board member becomes a school board member.

Petitioner's prophesy of "the dismemberment of the uniform system" is exagerated to say the least. Petitioner goes on to say that no reasonable person could conclude that the dismemberment of the uniform system is the intent of the Florida Constitution or general law. Petitioner's Initial Brief at p.17. Respondent agrees completely with this statement. And in deed no reasonable person could conclude that a special act allowing for nonpartisan school board elections in Martin County will lead to the dismemberment in the uniform system of public schools in Florida. The chances of the legislature passing a special act resulting in "the dismemberment of the uniform system" are probably the same as the chances of the legislature passing a general law with the same result. In other words, Petitioner's forecast of impending doom for the state school system as a result of the Fourth Districts decision is ludicrous.

The key point, however, is that as a threshold matter, the special act in question is completely unrelated to the uniformity mandate of the Florida Constitution. Petitioner makes no rational factual argument, nor does it cite any legal precedent, in support of its position.

CONCLUSION

For the reasons stated herein, Respondent Peggy S. Robbins, as Supervisor of Elections for Martin County, respectfully requests that this honorable Court affirm the decision of the Fourth District Court of Appeal.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by mail this 3rd day of December, 1988, to: NOREEN S. DREYER, County Attorney, 2401 S. E. Monterey Road, Stuart, Florida 34996, DOUGLAS K. SANDS, P.A., Attorney for Respondent, The School Board of Martin County, Post Office Box 287, Stuart, Florida 33495, and THOMAS E. WARNER, WARNER, FOX, SEELEY AND DUNGEY, P.A., Attorney for Petitioner, 1000 South Federal Highway, Post Office Drawer 6, Stuart, Florida 34995.

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