

Rural Teacher.

For the purpose of determining whether or not a County Superintendent is authorized to appoint a Clerk under Paragraph 19 of Section 302 of the School Law, a rural teacher would be considered as one teaching in the country as distinguished from one teaching in the city. The determination of this question will depend upon the special circumstances of each case.

April 29th, 1918.

Miss May Trumper,
Superintendent of Public Instruction,
Helena, Montana.

Dear Miss Trumper:

You have requested my opinion upon the question of who are "rural teachers" within the meaning of subdivision 19 of Sec. 302 of the School Law.

This subdivision, as it appears in the codification of 1913, is as follows:

"The county superintendent of counties having fifty or more rural teachers, is authorized to appoint one clerk, and the county superintendent of counties having fewer than fifty rural teachers may, with the permission of the county commissioners, appoint a clerk, at a salary to be fixed by the board of county commissioners."

This subdivision was amended in 1917, Chap. 110, by adding a paragraph relating to the appointment of the County Commissioners of a deputy to the County Superintendent in counties having one hundred or more teachers in districts of the third class. The evident intention of using the number of teachers in "districts of the third class" rather than the number of "rural teachers" in this amendment, was to avoid any difficulty in interpreting the term "rural teacher". But the first paragraph of this subdivision still remained the same as above quoted.

The word "rural" is defined in the Century Dictionary, and also in Webster's New International Dictionary, as "of or pertaining to the country, as distinguished from a city or town; belonging to or characteristic of the country. Pertaining to agriculture or farming". In *People v. Pratt*, 14 N. Y. Supp. 804, 805, it is said, referring to rural, "That word, it is true, commonly means the country, as separated from the city". And in *Stess v. Bergmeier*, 91 Minn. 513, 98 N. W. 648 at 650, the court said: "The distinction between urban property and rural property is well understood. Urban real estate is that situated in a city, or a town resembling a city, while rural real estate is that located in the country, in an agricultural district". In *City of McKeesport v. Soles*, 178 Pa. 363, 35 Atl. 927, the charge of the trial court was in part as follows:

"Whether the particular property in dispute is to be considered 'rural' or 'city', depends largely upon its surroundings, and the character of the property in the neighborhood. If the buildings and improvements in the neighborhood are few and scattered; if they partake of the character of the country, rather than of the city or town, and are occupied by persons engaged in rural pursuits,—the locality should be considered rural. On the other hand, if the houses and improvements partake of the character of the city or town, and are mainly occupied by persons engaged in city pursuits, the locality should be considered as city and not rural."

All of the assignments of error in this charge were dismissed on appeal, the Court saying:

"Generally speaking, the inquiry as to what is rural and what is urban property, within the meaning of the law, is one to which no hard and fast rule can be safely applied. It necessarily depends largely on the special circumstances of each case."

A rural teacher, therefore, would be generally considered as one teaching in the country as distinguished from one teaching in the city. There will be instances in which it will be difficult to determine whether one is a rural or a city teacher. This will depend upon the special circumstances of each case.

If the school is maintained in a small community which is occupied generally by persons engaged in agricultural pursuits, or in a community that would generally be considered rural, such school would be considered a rural school under ordinary circumstances. The fact that the community in which the school is maintained is incorporated as a city or town would not by itself determine that the

school was not a rural school, for we have in Montana many incorporated towns that would be considered more rural than some unincorporated communities. By Section 1500 of the School Law, in districts of the first and second class, the Board of Trustees may appoint a superintendent of schools of the district. You will notice that Chapter XV of the School Law relates to City Superintendent of Schools, and that by Section 1502, the City Superintendent has supervision of the schools of the district under the supervision of the Board of Trustees. Thus, a school in a district having a population of more than 1,000 and having a City Superintendent of Schools could hardly be classed as rural. But it seems to me that, for the purpose of determining whether or not the County Superintendent is authorized to appoint a Clerk under the above mentioned paragraph of Section 302 of the School Law, there would be but very few schools in Montana not under the supervision of a City Superintendent, that could be classed other than as rural. But as mentioned above, the determination of this question must necessarily depend upon the special circumstances of each case.

Respectfully,

S. C. FORD,

Attorney General.