torial and county taxes, and he shall give to the district school taxpayers the same notices as are required by law to be given to taxpayers of territorial and county taxpayers." See 1916 Comp. Laws of 1888.

It also provides in section 1915: "Whenever it shall be necessary to raise funds to purchase, repair, or furnish school houses, or for other school purposes, an estimate of the approximate cost thereof shall be made by the trustees, and the rate per cent may be fixed at any sum not exceeding two per cent per annum, as shall be decided by a majority vote of the property taxpayers in said district present at a meeting called for that purpose, to be assessed and collected as special tax upon all the taxable property of the district."

By the authority of these statutes, in December, 1889, the trustees of said district, at a meeting called for the purpose, estimated the needs of the district for school purposes, for the coming year, to be the sum of $5500, which was received by the taxpayers at the meeting, and they estimated that one per cent upon the assessment value of the property of the district for 1889 would raise the amount necessary and voted the levy of a tax of one per cent, and the trustees duly certified the same to the county clerk and the county assessor. The assessor and collector extended the tax upon the assessment roll of 1890, instead of upon that of 1889, and upon that roll the tax voted would amount to over $16,000.00, vastly in excess of the amount needed, and the collector is now proceeding to collect the same.

The Legislature of Utah Territory at its session in 1890 passed an act abolishing the twenty-one school districts in Salt Lake City and consolidated them all in one district and provided that the property of the several districts should belong to the consolidated district.

It also appears that the property of the districts is vastly unequal and that some of them have taxes uncollected in large amounts and many of them have no taxes levied and almost no property of any kind.

These facts are alleged in plaintiff's complaint, and they ask that the collection of this tax in District No. 11 be enjoined and for general relief.

To the complaint the defendant interposed a demurrer which was sustained and the appellants appeal and allege;

1—That this tax is void because it operates so unequally in different parts of the city, as the law is that all taxes must be uniform.

It is conceded that the Legislature has authority to abolish these districts and consolidate them into one and apportion the property. How that apportionment should be made is a legislative question and not for the courts. And the Legislature having acted upon that question, it is presumed that it did all that was necessary and the court cannot interfere. Hence this contention is untenable.

Cooley on Taxation, p. 179 and following, and notes.

2—It is claimed by appellants that this tax was not fully levied so as to cover property of the district, before it was abolished. The district went out of existence the last day of June, 1890, and the assessment roll of that year was completed at that time; so that even if the tax was computed upon the assessment roll of that year, it was complete and became a debt due District No. 11.

3—Appellants also contend that this tax was voted and levied upon the assessment roll of the year 1889 and not upon that of the year 1890.

We think this contention is tenable and should be sustained Under the Statute, the trustees of the district made an estimate of the funds needed for school purposes and reported to a meeting called for that purpose that $5500.00 was needed and upon the assessment roll of 1889; the taxpayers computed that a one per cent levy would raise that amount and voted that levy.

They wanted $5500.00 and they intended to levy that amount, and they voted a levy of one per cent because computed on the assessment roll of 1889; that would raise the amount needed. They had not in mind the assessment roll of 1890.

If that intention can be carried out by a reasonable construction of the statute authorizing the law, without doing violence to its wording, we think it ought to be done.

The statute provides the levy is to be made in December; that the trustees are to report the amount needed and the taxpayers are to vote the per cent necessary to raise the amount.

In order to do that, the per cent to be levied must be ascertained from the assessment roll of that year, not from that of the succeeding year; for it has not been made. It seems logically conclusive that the extension and collection of this tax so levied should be upon the assessment roll of the year in which the tax is levied.

But the statutes say, "The collector shall collect this tax at the same time and in the same manner, etc., as the Territorial and County taxes are collected;" and it is said that this provision makes it conclusive that this tax should be computed upon the assessment roll of the succeeding year. Collecting this tax at the same time can as well be done computed upon the assessment roll of 1889 as upon that of 1890, and collecting it in the same manner only has reference to the mode of collection—as by district, suit or the sale of property--and does not in any way determine how the amount of the tax is to be computed. Therefore no violence is done to the terms of the statute if the amount of this tax is computed upon the assessment roll of 1889. We think that was the intention of the Legislature and certainly it was that of the taxpayers. If the amount of the tax is computed upon the assessment roll of 1890 the levy exceeds over $11,000 the amount intended to be voted by the taxpayers, and makes the amount to be collected over $16,000—a pretty large amount for one school district to pay.

If this district had not been abolished this excess of collection would have been for its benefit in the future, but now if collected it goes for educational purposes outside the district which pays it. This district ought to be protected, and the courts ought to find a remedy. The statute is capable of two interpretations—one that the tax levied should be computed, and the amount ascertained to be collected on the assessment roll of 1889, and the other on the assessment roll of 1890. One interpretation collects the tax that was voted and intended to be levied; the other raises $11,000 more than was intended and compels this district to pay over $11,000 more than was intended, and under the law as it now stands this amount will go for the support of all the schools in the city, and the taxpayers of that district will pay that much more than their share of the school expenses of the city. Can any one claim that such was the intention of the Legislature.

Courts, unless compelled by the express wording of statutes, should interpret them so as to do good and not evil, so as to work out equity and justice and not wrong and oppression.

We conclude therefrom that it is the duty of the collector in collecting this tax to compute the amount to be collected upon the assessment roll of 1889.

This case is reversed and remanded for further proceedings, in accordance with opinion.

The same question is involved in the case of Edward Ashton et. al. vs. L. G. Hardy et. al. It is therefore reversed and remanded.

The same principles are also in question in the case of B. G. Raybould et. al. vs. L. G. Hardy et. al.

But the complaint does not raise the particular question upon which the forgoing decision turns. It is therefore reversed and remanded, with leave to the plaintiffs to amend their complaint.

I concur in the result

MINER, J.

ZANE, C. J., dissents.

OBITUARY.

The aged veteran, James Moses, departed this life on Saturday morning April 4, 1891, at about 10 o'clock, at his residence in Big Cottonwood. His final sickness, which was bronchitis and la grippe, was not of long duration, he having excellent health until about two weeks before his death.

James Moses was the son of Jesse and Esther Brown Moses, and was born in Norfolk, Litchfield County, Connecticut, Feb. 28, 1806, and was consequently eighty five years of age. He followed the occupation of farmer in his native State, until he heard the sound of the Gospel, which he embraced, being baptized by Gladden Bishop in 1834, and soon after gathered with his co-religionists to Kirtland, Ohio. Here he became intimately associated with many leading men of the Church, including the Prophet Joseph, to whom he proved a true friend and for whom he always cherished feelings of love and reverence. On one occasion, when the Prophet was in great need of money he and his brother Julian lent him a large sum. For this generosity and confidence Joseph was very grateful, and in laying out Adam-ondi-ahman and Nauvoo, he gave them very choice lots.

He shared the persecutions, losses and hardships incident to the Saints at that time. At Far West his wife, Roxy Ferry, died, leaving two small children. During the first general conference held in Nauvoo he was married to Eliza Spencer, by whom he had eight children, four of whom are now living. He was driven from Nauvoo with the rest of the Saints and went to Winter Quarters, where he was ordained a Seventy and set apart as one of the Presidents of the Thirty second quorum. From Winter Quarters he went to Council Bluffs, where he lived until 1853, when he returned to Connecticut to fulfil a promise made to his aged father that he would take care of him until his death. He remained there until 1861, when his father died and he came to Utah. In December, 1874, his second wife died, since which time he has lived at his home with his children.

Brother James Moses was a plain, honest, industrious man—a typical New England farmer of the old Puritan stock—who had many friend, and few enemies. He passed away peacefully retaining his mental faculties until the very last.