

sire intellectual ability and superiority to enable you to mould the minds of millions yet unborn? Do you wish to become the kind of men physically, mentally and morally, through whom the Lord delights to operate to perform His magnificent latter-day work? Would you like to impart joy unutterable to the bosoms of loving and anxious parents? Would you like to experience the exquisite satisfaction which consciousness innocence before God imparts? Do you desire your minds to be holy tablets, upon which the spirit of inspiration shall delight to inscribe the will of Heaven, daily, for the benefit of yourself and all others who may be affected by your counsels and example? Would you be the happy recipients of the choice and inestimable blessings the Lord has promised to those who keep the "Word of Wisdom?" In brief, do you desire to become the strong-bodied, vigorous-minded, pure-hearted men of God—the holy temples in which the third person in the Trinity can dwell and operate for your salvation and that of the salvable of Adam's race—such men as He can use and honor in life and eventually exalt and crown in His celestial kingdom? Then be humble and pure, be prayerful and persevering, be honest and wise, be virtuous and obedient—be all that God desires you to be! And, as an initial, fundamental, and powerful means by which to attain the position and glory of the Highest—be sober! be SOBER! be SOBER!

MORE ON THE SCHOOL LAW.

SALT LAKE CITY, March 15, 1880.

Editors Deseret News:

Sir—Your comments which I have preserved on my letter published in the NEWS of March 14, leads me to state a few more rules of construction.

And first. The courts inform themselves of the previous state of the law. Before our late act was passed another act had been passed on the subject of schools—see Compiled Laws page 243-4. Section 3 of that act, which was approved Feb. 18, 1875, says, "The trustees shall provide suitable school houses and keep the same in repair, employ teachers and furnish fuel, maps, charts and other suitable articles for school purposes; and may at their option collect tuition fees, establish out-houses, play-grounds and other appurtenances." They are also hereby empowered "to assess and collect annually a tax of one-fourth of one per cent. on all taxable property within their districts for school purposes and shall have power to remit taxes, to prescribe the manner in which school shall be conducted."

Section 4 says, "Whenever more than one-fourth of one per cent. per annum shall be necessary to purchase, build, 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 increased to any sum not exceeding three per cent. per annum as shall be decided by a two-thirds majority vote of the qualified voters resident in the district present at a meeting called for that purpose. Provided that except by virtue of the annual tax of one-fourth of one per cent. provided for in section three of this act the property of non-residents shall not be liable to tax for the payment of teachers."

By the revenue act, so-called, of February 22, 1878, see the laws of that session, page 22, section 33, that portion of section 3 above quoted which I have italicized was repealed, and the repeal of that by a necessary implication repealed that portion of section 4 which I have also italicized.

These two acts—the school and revenue law—read together, rendered this power of taxation by the trustees very ambiguous.

You say "the only change made in the wording of that clause was the reduction of the three per cent. to two per cent."

When one reads that clause with the whole act or with only the whole section in which it occurs, a marked change appears by the act of 1878. The trustees, without consulting the voters, could levy a tax of one-fourth of one per cent. on all taxable property in the district, for the purposes prescribed in the act, the payment of teacher among those purposes, but if more was needed, the voters had to be consulted, but even the voters could not levy a tax on the property of non-residents exceeding the one-fourth of one per cent. for

the payment of teachers. The late act omits to say the trustees shall have power to levy a tax of any amount without consulting the voters, thus bringing the trustees within the careful scrutiny of their constituents.

There is another rule of construction to which the courts adhere. It is common sense should prevail over strict grammatical rules. you say:

In the first place, we think his conclusion incorrect, that the newspaper in which publication of notice is to be given for a meeting to vote on a school tax or for the election of trustees, must have general circulation in the "district." The Judge says, "the word therein in said section (section 5) means the district." Not so. It clearly means the county, because it says so. The notice must be given "in some paper published in the county, having general circulation therein," or by posting up notices in three public places in the district.

The word "therein" clearly refers to "the county," and no mention is made of the district as an antecedent to the word "therein." He further advises both publication and notices for the purpose of "clearing the proceedings from doubt." While we have no objection to this where it is possible, we do not see what doubt there can be as to the legality of either method alone, for the law provides for publication or posting; either is sufficient to answer the law's requirement in this particular. But if notices are posted they must be put up in three public places in the district, while the publication must be in some paper published in the county and having general circulation in the county. To use the Judge's own quotation, "plain terms used in a statute, need no construction."

Now the strict grammatical sense of the word therein does refer, as aforesaid, to the county; no doubt about that. It is equally clear that a school district must be in a county; but suppose, and it is certainly a supposable case, that a newspaper had a general circulation in a county, but none in the district. What then? Suppose further, that the notice was published in the newspaper and none posted up. The trustees met, three in number, and voted the tax. Would it stand the test of common sense?

Maxims of law like axioms in geometry, need only to be stated to be recognized. I duly considered my remarks on that point when I penned my other letter. Caution, Mr. Editor, is the parent of safety. Wisdom and prudence are profitable to direct. Better act on certainty than risk dubious points.

True it is, the statute does not require the notice to be both published and posted up, nor did I say it did. One will do, but if publication in the paper be resorted to, it must be in one that has a general circulation in

the district. The primary object of the law on that point is to give notice to the voters and taxpayers of what is to be done at the meeting as well as the time and place, which place must be in the district, though neither sections 4 or 5 says so in terms. See sections 2 and 3. Other parts of the act do require it. Legislatures may select such terms to convey their ideas as they choose; they are not obliged to spell or punctuate correctly, nor to use grammatical language. When, therefore, any of these faults appear in a statute, the Courts look to the purview of the act, learn from the act itself its object and intent, and as before stated, if possible so construe it as to give effect to each and every part thereof, and make it consistent and harmonious with other laws upon the same subject, which do or may modify it, or may be modified by it. In short, the Courts recognize the right of the legislatures to legislate and the legislators to be consistent men and only claim the rights to decide consistently. They try to make their decisions consistent with the statute.

There is another rule of constructions of statutes which is, the Courts look to the statute itself to determine its meaning. What should we think if a Justice of the Peace, who is called upon in his official capacity to determine the meaning of statute, was to send for some or all of the members of the Legislature as witnesses, to testify as to what they meant by what they said in the statute? Or further still, what should we think if our Supreme Court should send for the members of Congress to come to Court to testify to them as to what they meant by what they said in an act of Congress? Yet you said, when speaking concerning the intent of the Legislature:

"And that this was 'the intent of the legislature,' which the Judge admits 'must govern,' should be plain to every one who was present during the discussion of the bill, or who has read the published accounts of the debate."

Legislators must say what they mean when they pass a law. Now I should say as you said were I to be governed by what several members of the Legislature who were intelligent and truthful, told me was in the act. Legislatures speak only by their statutes, not by their individual members. The people are governed

by the act, not by the journals of the Legislatures, as to what was done and what was said by their members when the act was passed. I concur with you when you say:

"The law is a good one as far as it goes, and we do not believe there will be any real difficulty in carrying out its provisions. We do not suppose that in many districts there will be any need to assess a tax for the payment of school teachers. There are two sides to every question, and we have endeavored in this case to give both a chance for investigation."

I selected your paper in which to publish my letter for the reason that I knew it had an extensive circulation in the Territory, and I believed the trustees of school districts would all or nearly all heartily co-operate in carrying out the provisions of the law. I further know that yourself, the persons with whom you associate, the legislators among the number were all men who have the interest of the children of the Territory near to the heart. All of them have children, all believe religiously that young children without regard to race, color, condition of servitude or of barbarism are alike to God and that no law ought to be passed which brings them or brings men on unequal grounds, yet that does not and I think ought not to prevent me or others from understanding the provisions of the law.

I go to the act again and notice a few things more which I penned designing to publish it but as no one had asked questions about them I expunged them from the letter before sending it to you.

Sec. 2 and 3 provides for the election of trustees. For the election of trustees the voters must be registered voters. The act does not state that the trustees shall be residents of the district, yet I think they must be. It is better, far better to elect residents. A majority vote of the registered voters is all that the law requires. In my opinion the act by implication requires the trustees to learn authoritatively who in the district are registered voters before the election comes off. This knowledge may be obtained at the Clerk's office of the County, or if the district be exclusive in a city at the City Recorder's office.

Sec. 4 requires the voters, to vote on the rate per cent. to be levied on the property of the district, to be

owners of taxable property in the district. This is a property qualification. Voters, though registered, who have not taxable property in the district cannot vote, and adult persons who own taxable property in the district, though not registered, may vote. This requires two-thirds in number to vote for the tax or rate per cent.

Poll taxpayers are out of this part of the law. The language of the act is the property taxpayers.

Sec. 3 requires the trustees to keep a record. (See the section.) It is important that it follows the law. The law is the guide. Go by it. The trustees are by far the most numerous officers to act under the law. They are the offspring of the law, but the root of the benefits to grow out of it. Hence I write to them first. If they go right, that is follow the law, the duty of the other officers will be easy. The trustees must study and follow the law under which they act.

The trustees and the County and Territorial Superintendent of Schools are the most important officers known to the law. They instruct, they mold, they establish the public mind. If those duties are carefully and wisely performed the youth now in being and those yet to be, will have wealth and morality, wealth of intellectuality and wealth of materiality, such as property, but if not, they become moral paupers, intellectual paupers and paupers in materiality.

Mr. Editor, the consequences flowing from these things are so great that tongue cannot tell, nor the eye see, nor the understanding of man fully perceive the results. Though seemingly on earth only, they may reach to heaven, God's home. Thank God for the little wisdom, the little nerve and the little material wealth He has given to me and to my fellow servants. It is good so far as it goes.

Yours truly, Z. SNOW.

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