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Statutory Interpretation—Substitution of Words

STATUTORY INTERPRETATION—SUBSTITUTION OF WORDS.—A statute was passed by the Florida legislature authorizing the Board of County Commissioners to issue and sell bonds for building roads. The bonds were to bear interest at 6 per cent. per annum, payable semi-annually and should "mature not more than thirty days after date at such time or times as said board may determine by resolution." Bonds were issued by virtue of this statute, but were to mature within thirty years despite the wording of the act. The obvious intent of the legislators was that thirty years should be the period of time instead of thirty days. *Held,* that the word "years" could not be substituted for the word "days" in order to validate the bonds. *Osborne et al. v. Simpson,* 114 So. 543 (Fla., 1928).

This case involves the old question as to the extent of a court's power in interpreting legislative enactments. Here the Florida court refused to strike out a word of plain, definite meaning and substitute therefor a different word to make it conform to what seemed to the court to be the intent of the legislature. This same view was expressed in *Fine v. Moran,* 74 Fla. 417, 77 So. 533, which the principal case follows. The prevailing rule seems to be that courts are bound to follow the plain words of a statute as to which there is no room for construction, regardless of consequences. *Commissioners of Immigration v. Gottlieb,* 265 U. S. 310, 68 L. Ed. 1031, 44 Sup. Ct. 528; *Dusold v. U. S.,* 270 Fed. 574. Yet in *Dorsey Land and Lumber Co. v. Board of Directors of Garland Levee Dist.,* 136 Ark. 524, 203 S. W. 33, affirmed 249 U. S. 618, the court construed the number 20 as number 29 in a statutory description of land, since 29 was the only section answering the description. This indicates a much more liberal view than that expressed in the principal case. The Arkansas courts seem to hold that where there is an obvious error it is the court's duty to discard the error and accept the obvious meaning of the framers of the statute. It is contended that this is not reading into the statute something which is not there and that it does not constitute judicial usurpation for the court to correct mistakes of the legislature. The Arkansas courts proceed on the theory that mere interpretation of the language used by the legislators so as to ascertain the true intention, without reading anything into it except that which was obviously meant, does not amount to judicial legislation. *Bowman v. State,* 93 Ark. 168, 129 S. W. 80.

From the two lines of argument pursued in these conflicting cases, the decisive factor would appear to depend upon just what constitutes objectionable judicial legislation. As to just what constitutes objectionable judicial legislation the courts are not in accord. Much will depend upon whether the court is inclined to follow the strict, logical application of *Osborne v. Simpson* or the liberal and more practical rule adopted in *Dorsey Land and Lumber Co. v. Board of Directors of Garland Levee Dist.* While logic and the trend of present authorities support the rule laid down in the principal case, the results of a more liberal rule in effecting the true intent of the legislature call in question the soundness of the prevailing rule. However, in spite of the hardship caused at times by the refusal of the courts to read into statutes words that are not there or to strike out words which fail to express the legislative intent, sound public policy supports the holding in *Osborne v. Simpson* in leaving the legislature responsible for its own errors and in not thrusting upon the court the task of wording statutes so as to express the intent of the legislature. On principle it is submitted that when the words used are plain and unambiguous, the court should accept them without question, insofar as no need for interpretation exists.

E. T. C., '28.

TAXES—INTEREST ON GOVERNMENT BONDS.—Suit by insurance company to recover excess taxes for five years. The taxes were exacted under 76.34 Wisconsin Statutes 1923 which required domestic companies to pay 3 per cent of