JOINT RESOLUTIONS AS AIDS TO STATUTORY INTERPRETATION

In June 1947 the Illinois General Assembly passed a Congressional reapportionment statute[1] designed to correct the malignant political condition existing under the districting act of 1901.[2] Before the Governor signed the bill, however, it was discovered that the draftsmen had inadvertently used the words "Village of Stickney" instead of "Township of Stickney" in the description of the Fifth Congressional District, thereby ostensibly disfranchising five thousand people. A joint resolution[3] was therefore passed stating that the word "Village" was intended to mean and was to be construed to mean "Township." In upholding the constitutionality of the Act, the Illinois Supreme Court held that the statute, read as a whole, disclosed the legislative intent to include the entire Township of Stickney in the Fifth Congressional District. *People ex rel. Barrett v. Anderson.*[4]

The most noteworthy aspect of this attempt to garb a solution dictated by common sense in the respectable raiment of legal reasoning and citation of authority is the court's failure to mention the declaration of intent in the joint resolution. How far, in the process of express judicial legislation, have the courts permitted themselves to use such resolutions as an aid in construing statutes?

On two occasions the Illinois Supreme Court has declared that although a joint resolution does not have the force of law because it does not comply with the constitutional requirements of form, it is still an expression of the "legislative will."[5] On the other hand, the Michigan Supreme Court, while paying lip service to the doctrine of the "legislative will" by offering a joint resolution "respectful consideration,"[6] has felt compelled to construe statutes strictly and to ignore the announced intent of the legislature.[7] The Michigan cases can be distinguished from the instant case, however, on the nature of the ambiguity of the statutes involved. While a literal interpretation of the statute considered in the Michigan cases would have led to results not completely in accord with legislative desires, it could hardly be said that the consequences of such literal interpretation were absurd. The Michigan court apparently refused to enlarge the scope of the statutes because it believed that the legislature had failed to anticipate all aspects of the problem under consideration. Whether a joint resolution may be used in determining legislative intent where, as in the *Anderson* case, by mistake or misadventure a word was misused, is still an open question.

[1] Ill. Rev. Stat. (1947) c. 46, § 156a et seq.

[2] Ill. Rev. Stat. (1945) c. 46, §§ 154–56.

[3] Ill. Sen. J. Res. 43, 65th Assemb. (June 25, 1947).

[4] 76 N.E. 2d 733 (Ill., 1947).

[5] People ex rel. Burritt v. Commissioners, 120 Ill. 322, 11 N.E. 180 (1887); Chicago Sanitary District v. Adam, 179 Ill. 406, 53 N.E. 743 (1899).

[6] Becker v. Detroit Savings Bank, 269 Mich. 432, 436, 257 N.W. 853, 854 (1934).

[7] Becker v. Detroit Savings Bank, 269 Mich. 432, 257 N.W. 853 (1934); Boyer-Campbell Co. v. Fry, 271 Mich. 282, 260 N.W. 165 (1935).

The courts have uniformly held that where the local constitution requires enactment of all laws by bill, a joint resolution does not have the force of law. Thus, where joint resolutions are used not merely to promulgate legislative addenda or explanatory notes, but to ratify an appointment by the governor,[8] to authorize the purchase of supplies,[9] to repeal a law,[10] or to ratify a deed,[11] the courts have rejected them as not binding. In the present case, therefore, one way of talking about the joint resolution might be to say that it was not meant to have the force of a statute, but merely to express in definite terms a specific legislative purpose in a previous statute.

Analogy to other extrinsic aids to statutory construction supports the view that a joint resolution is a competent expression of legislative desires. The Illinois courts, for example, have approved the use of a declaration within an act,[12] an amendment to an act,[13] committee reports,[14] public official documents and records,[15] journals of the state legislature,[16] the "title of the act, the objects to be accomplished, the other provisions found in connection with those under special consideration, the provisions and arrangement of the statutes which were amended, the mode in which the embarrassment was introduced, as shown by the journals and records, and the history of the legislation. . ."[17]

While the legislative declaration in the present case was not contained within the Act itself, it was virtually contemporaneous with the Act[18] and was made with the purpose of meeting, not contravening, constitutional requirements. Even though a joint resolution may not have the formality of an amendment, a resolution expressly passed to clarify a statute as originally enacted can hardly be ignored by a court willing to recognize where the express legislative power of the community is vested. Certainly the joint resolution is at least on a par with committee reports and legislative journals.

The court, in failing in the instant case to allude to an express aid to statutory interpretation, passed up a striking opportunity to elucidate a rarely litigated problem.

[8] Mullan v. State, 114 Cal. 578, 46 Pac. 670 (1896).

[9] People ex rel. Burritt v. Commissioners, 120 Ill. 322, 11 N.E. 180 (1887).

[10] Moran v. LaGuardia, 270 N.Y. 450, 1 N.E. 2d 961 (1936).

[11] Cleveland T. & V.R. Co. v. State, 85 Ohio St. 251, 97 N.E. 967 (1912).

[12] Smith v. Bell, 70 Ill. App. 490 (1896).

[13] Domarek v. Bates Motor Transport Lines, 93 F. 2d 522 (C.C.A. 7th, 1937).

[14] Moran v. Bowley, 347 Ill. 148, 179 N.E. 526 (1932).

[15] Boshuizen v. Thompson and Taylor Co., 360 Ill. 160, 195 N.E. 625 (1935).

[16] People ex rel. Sergel v. Brundage, 296 Ill. 197, 129 N.E. 500 (1921).

[17] People v. Lloyd, 304 Ill. 23, 101, 136 N.E. 505, 535 (1922). Accord: People v. Graves, 224 Ill. App. 235 (1922), aff'd 304 Ill. 20, 136 N.E. 542 (1922); People ex rel. Fyfe v. Barnett, 319 Ill. 403, 150 N.E. 290 (1925).

[18] The legislature adopted the Act on June 17, 1947. The joint resolution was passed on June 25, 1947, eight days after the legislature adopted the Act and one day before the Governor signed it.