

March 29th, 1939.

Harold G. Dean, Esq.
County Attorney
County of Sanders
Thompson Falls, Montana

My Dear Mr. Dean:

You have submitted the following:

"Sub-section A of Section 10 of Senate Bill No. 127 uses the term assessed taxable valuation. Will you kindly give me your opinion as to the legislative intent on this as to whether it is assessed valuation or taxable valuation?"

Sub-section (a) of Section 10 of Chapter 158 (Senate Bill No. 127) of the Laws of 1939 reads:

"(a) A Junior College shall be established in any county or school district only when the assessed taxable valuation of such county or school district exceeds \$3,000,000."

The phrase "assessed taxable valuation" is a hybrid if that term may be applied to language. As far as meaning goes it is almost sterile. The phrase "assessed valuation" means full cash value (Section 2001 of the Revised Codes of Montana, 1935). "Taxable value" means that percentage of the assessed value prescribed by the scale given in Section 2000, R. C. M., 1935. See also *State ex rel. Judd v. Cooney, et al.*, 97 Mont. 75, 32 Pac. (2nd) 851. We have been unable to find the phrase "assessed taxable valuation" defined by our Court or any other Court nor do we find any other language in the act itself which would aid us in determining the intention of the Legislature.

The Legislature must have intended that either the "assessed" or the "taxable" valuation as defined by statute and our Court should govern, not both. The drafters of the bill have stated that they intended that the taxable value should be the test but the Court will not inquire into the intention of the draftsmen in order to determine the intention of the Legislature. (59 C. J. 1017, Section 604.) We are advised that an attempt was made to amend the bill by striking out the word "taxable" but it is also the rule that amendments offered, but not finally incorporated in the statute, cannot

Opinion No. 37.

Schools and School Districts—Junior
Colleges—Statutes—Construction
Chapter 158 (Senate Bill No.
127), Laws of 1939.

HELD: The phrase "assessed taxable valuation" as used in Chapter 158, (Senate Bill No. 127) of the Laws of 1939 means "taxable value."

be considered. (Id., Section 1019.) We do not have any debates or reports of the committees available.

This act providing for the establishment of Junior Colleges in high schools and in school districts is in the nature of an experiment. It is natural that the Legislature would proceed cautiously and conservatively in order to determine the success of the venture. The establishment of Junior Colleges in every school district having an assessed valuation of three million dollars or a taxable valuation of about one million dollars is not presently demanded and would result in increased demands upon the taxpayer, particularly if such colleges met, as they should, the standards required for accredited colleges. We must assume that the Legislature intended to act with prudence and caution and it is our opinion, therefore, that the Legislature intended "taxable value" when they used the phrase "assessed taxable valuation." Even so, most of the counties in the state could show a taxable valuation of three million dollars or sufficient to permit the establishment of a Junior College.