

Everts, Graves, Haven, Hutchins, Lindall, Meagher, Meighen, Nelson, Nicols, Noble, Peterson, Pillsbury, Railson, Ruckholt, Stevens, Stone, Thompson, Ward, White and Whittemore.

So the bill passed and its title was agreed to.

Mr. Waste, from the committee on corporations, to whom was referred

S. F. No. 137, A bill to amend sections two and three of title two, and section seven of title three, of the general reciprocal insurance law of this State, approved February twenty-ninth, one thousand eight hundred and seventy-two,

Reports the same back recommending that it pass as amended.

The committee on federal relations, to whom was referred

H. F. No. 22, A joint resolution relating to the planting and cultivation of trees upon prairie land,

Reports the same back recommending that it pass.

Adopted.

Mr. E. Rice, from the special committee, to whom was referred

S. F. No. 180, A bill to amend an act granting a charter to the Fort Snelling Bridge Company,

Reports the same back recommending its passage.

Adopted.

Mr. Cutts reports that he has compared

S. F. No. 136, A bill in relation to the board of county commissioners of the county of Hennepin,

S. F. No. 140, A bill to appropriate money to assist in building a bridge across Long Prairie River in Douglas county,

And

S. F. No. 142, A bill to amend section twenty-four, chapter sixty-six, general statutes,

And finds the same correctly engrossed.

The following communication was received from his Excellency the Governor:

STATE OF MINNESOTA,

EXECUTIVE DEPARTMENT,

ST. PAUL, February 24, 1873. }

*Hon. Wm. H. Yale, President of the Senate:*

SIR:—I return herewith to the Senate in which it originated, Senate File No. 126, entitled "An act to authorize the village of Kasson, in the county of Dodge, and State of Minnesota, to issue bonds in aid of building a steam flouring mill within that village," the same not meeting my approval.

My objection to the act is that it contemplates and provides for the exercise of the power of taxation in aid of a purpose or enterprise not public in its nature, but for the benefit of a strictly private party, corporation or company, and for that reason is an infringement of the fundamental law of the State.

In my late annual message, addressed to the Legislature at its present session, I took occasion to examine the policy of authorizing donations or loans on the part of towns or other municipal corporations to aid and encourage the establishment and maintenance of mechanical and manufacturing enterprises, expressing myself as not hostile to such

a policy, provided the necessary safeguards and limitations could be thrown around the privilege, and suggesting that it might be well to take the sense of the people upon the proposition by submitting to them an amendment to the constitution, permitting the Legislature to authorize a municipal indebtedness, and the exercise of the power of taxation for such purposes.

I did not suppose that it was an open question, whether the constitution, as it now stands, would permit the Legislature to authorize a municipal corporation to contract an indebtedness for a strictly private purpose, but deemed it well settled that it had no such authority. But the passage of this act, and, as I understand, by almost, if not quite, a universal vote of both houses, and that, without deeming it worth while to take the sense of the judiciary committee of either branch upon the measure, leads me to the conclusions that so many able lawyers as are to be found among the members of the two houses could not thus vote without differing from me widely upon this question. For this reason I have myself reconsidered the matter, but without being able to change my conclusions, and therefore deemed it my duty to require the opinion of the Attorney General upon the question, which I herewith submit for the consideration of the Legislature, and ask to have considered as a further statement of my reasons for returning the act without my approval.

It is true that the line, as drawn and established by the courts, between private and public purposes—between those objects for which a tax cannot be legally enforced, and those for which it may be—seems, in some points, to be shadowy and not well defined, if not indeed arbitrary. For instance, it seems to be well established by judicial decisions that a railroad car shop for the manufacture of cars exclusively, even though owned by a railroad company, is not a purpose so public in its nature as to authorize the condemnation of lands for its site, or the enforcement of a tax to enable a town or city to donate lands, money or bonds to secure its construction, while if the shop is to provide the means for the company to do its own repairing, though it may manufacture as well, yet it is considered by the courts a public enterprise, and placed precisely on the same grounds as the building of the road itself.

The reasoning seems to be that railroads can readily supply themselves with new cars by purchase, and have no right to go into the business of manufacturing while only chartered to build and operate a road for transportation purposes, but the possession of repair shops along the line of their road and under their exclusive control, is essential to the efficient and economical management of it. However, the act now under consideration does not require us to draw any fine distinctions in order to its classification, but, it seems to me to be clearly outside of all those public purposes for which the taxing power can be invoked.

Very Respectfully submitted,

HORACE AUSTIN,

Governor.