

ton lying south of the Crow river in the county of Meeker and State of Minnesota.

S. F. No. 196, An act to prohibit the catching or destruction of fish in Rice Lake in the town of Foster in the county of Faribault, Minnesota.

And

S. F. No. 69, A bill to punish willful violations and omissions of duty and gross negligence of duty on the part of railway employes, And have deposited the same in the office of the Secretary of State.

L. F. HUBBARD,

Governor.

STATE OF MINNESOTA, EXECUTIVE OFFICE.

St. Paul, February 23, 1883.

HON. C. A. GILMAN,

Lieutenant Governor.

SIR:—I herewith return without my approval to the house in which it originated

S. F. No. 28, A bill to change the rate of interest upon the sale of public lands from seven (7) to five (5) per cent., being an amendment to section seven (7) of chapter thirty-eight (38) of general statutes of one thousand eight hundred and seventy-eight (1878).

I withhold my approval upon the advice of the attorney general, that the proviso at the end of section one thereof is, if not in conflict with the strict letter, at least opposed to the spirit of that part of the constitution relating to school funds. By section 2, of article 8 of the constitution, it is provided that, the principal of all funds arising from all sales or other disposition of lands or other property, granted or entrusted to this State in each township for educational purposes, shall forever be preserved inviolate and undiminished, and the income arising from the lease or sale of such school land shall be distributed to the different townships throughout the State, in proportion to the number of scholars in each township, between the ages of five and twenty-one years, and shall be faithfully applied to the specific objects of the original grants or appropriations.

It will be seen by this section, that not only is the principal of the so-called school fund to remain inviolate, but the income arising from such fund is disposed of in a particular manner, and for a specific purpose. Being so disposed of by the organic act itself, such income at least, as soon as it occurs, if not before, is as much beyond the control of the legislature as the principal is; and it can make no difference, as it seems to me whether such accrued income has or has not reached the State treasury. In either case, it is beyond the power of disposal of the legislature.

The proviso under consideration, does, by its terms, attempt to dispose of two per cent. of the accrued interest on all outstanding school land certificates. It says, "that on sales of such lands heretofore made upon which any part of the purchase money thereof, shall remain unpaid at the passage of this act, interest upon such purchase money shall only be collected at the rate of five per cent. per annum." Had it added, "from the date of the passage of this act," it would not be open to the objection I am now considering.

But aside from the foregoing considerations, which, so far as the amount of money involved is concerned, is of but small moment, it occurs to me that this entire proviso is at least opposed to the manifest spirit of this constitutional provision.

The state school fund now holds land certificates, the principal of which amounts to \$2,900,000 in round numbers. The past year has been an unusually prosperous one, and by reason thereof the payment on account of principal by these certificate holders has been exceptionally large, amounting, as I am informed by the State auditor, to \$200,000. Assuming that the next fourteen years are equally prosperous and that by reason thereof the same amount will be paid in on the same account during each of these years, the loss to the revenue of this fund will be, in round numbers, \$452,000.

By this proviso, therefore, there is given away, or attempted to be given away a large amount of the future income to accrue on account of a part of the principal of this fund. Can this be done without violence to the spirit and intention of these constitutional restrictions? If it can, I can see nothing to prevent the legislature from providing that the State shall only pay to this fund on account of interest on the railroad adjustment lands held by it interest at two per centum; or, shall not pay any interest at all.

Could it be claimed that the legislature have the right (without at least a violation of the spirit of these provisions) to appropriate any part of the interest to accrue from the securities held by this fund to any other purpose than that named in the constitution? Could it be claimed that it has the power (without such violation) to provide that two per centum of all interest hereafter paid on account of these certificates shall be returned to the party so paying the same?

If not, how can it be said that the legislature has the authority to make a *donation in advance* of such per centum? Is it possible that the State may give away funds which she has no right to use for her own benefit? That she may in advance donate a part of the income of a trust fund she holds, which income, when paid, is beyond her control? It seems to me not.

This reasoning of attorney general Hahn accords with that of attorney general Wilson on the same subject in 1878.

Very respectfully, your obedient servant,

L. F. HUBBARD,
Governor.

Mr. Doran moved that

S. F. No 28

Pass notwithstanding the veto of the Governor.

And the roll being called, there were yeas 11, and nays 28, as follows:

Those who voted in the affirmative were—

Messrs Doran, Goodrich, Hickman, Langdon, Rice, Sackett, Van Hoesen, Waite, Ward, Welch, and Wilson.

Those who voted in the negative were—

Messrs. Ackerman, Billson, Blake, Buckman, Castle, Chandler, Christensen, Clarke, Clement, Craig, Crosby, Fletcher, Gilfillan J B, Greenleaf, Griggs, Hollister, Houlton, Knudson, Lawrence, Morrison, O'Brien, Peck, Pillsbury, Sergeant, Steemerson, Truax, Vollmer and Wheat.

So the bill was lost.

Mr. Clark introduced—

S. F. No. 419, A bill to change the rate of interest on the sale of public lands from 7 to 5 per cent.,

Which was read the first time.

Mr. Clarke moved that the rules be suspended and

S. F. Nos. 419

Be read the second and third times and put upon its final passage.