

# MESSAGE

— OF —

## GOVERNOR JOHNSON

ACCOMPANYING HIS

VETO OF THE TONNAGE TAX BILL  
AND OTHER FACTS

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STATE OF MINNESOTA,  
EXECUTIVE DEPARTMENT,  
ST. PAUL, April 20, 1909.

*Hon. A. J. Rockne, Speaker of the House of Rep-  
resentatives:*

Sir—I have the honor to return herewith with-  
out my approval—

H. F. No. 227, A bill for an act defining and  
classifying mineral lands and providing for the  
taxation of the same.

Objections to this measure may be summarized  
as follows:

First—Notwithstanding the able and sincere  
labor bestowed upon it by its author, Mr. Bjorge,  
the bill remains, both in principle and administra-  
tive features, a more or less uncertain and ill-di-  
gested experiment, not fully understood even by its  
friends, and intensely feared by the sections of the  
state to which it specially applies, while in appli-  
cation it threatens to violate the fundamental prin-  
ciple of taxation, that of equality, at the same time  
it fails to meet the constitutional requirement of  
uniformity in taxing the same class of subjects.

Second—It is certain that the moral, indus-  
trial and practical effect of the bill, if made a law  
at this time, will be to strike a severe blow at the  
development and prosperity of all the great min-  
eral bearing counties of northeastern and north  
central Minnesota, affecting alike the agricultural,  
manufacturing, commercial, financial and educa-  
tional growth and success, as well as the settle-  
ment of all our northern lands, both public and  
private, and the investment of both home and for-  
eign capital therein.

Third—The passage of the proposed tonnage

11-12-15-11

tax measure at this time, when both its provisions and the principle upon which it is based, are so little understood and indeed so generally misunderstood, has plunged the whole subject of taxation under the new state constitutional amendment into a sea of political and sectional feeling and prejudice, which not only makes a just, efficient and scientific measure impossible of enactment at this time, but threatens sectional hatreds which may disrupt and endanger the future best development of our great Commonwealth, besides making the subject of just state taxation the mere football of partisan and sectional politics.

Fourth—Minnesota is achieving marked success in the assessment and taxation of iron ore lands under the present ad valorem system; so that there is no urgent and vital public need of a measure of this kind at this time, and nothing to prevent the state from taking ample time under the provisions of the new constitutional amendment, and with the aid of the state tax commission to work out a system of taxation on a thoroughly scientific, dispassionate and equitable basis, devoid of political and sectional feeling, and one that will commend itself to the people of Minnesota at large, regardless of section or party, industry or class, for its justice and equality of principle, as well as for its efficient, carefully wrought and thoroughly practical administrative features.

As regards the success of the state in securing revenue from iron ore properties under the present ad valorem system, permit me to cite you to the statistical exhibit of the State Auditor on page XVIII. of his last biennial report. It there appears that the taxable value of iron ore properties in Minnesota has been raised from \$6,000,000 in 1898 to \$180,000,000 in 1908, or increased thirty-fold in ten years, and that the taxes levied to be paid into the state treasury from this source in-

creased from \$18,000 in 1898 to \$600,000 in 1908, increasing thirty-three-fold in the brief period of ten years.

If the revenue now derived from iron mines is not sufficient the state under the present system has the full power and machinery to increase the assessment to a proper and just figure, without plunging any section of the state into panic and arresting its development.

The State Board of Equalization and the State Tax Commission, under the present tax laws, have raised the value of iron ore lands from \$42,000,000 in 1905 to \$180,000,000 last year, thereby increasing the state tax levy for state purposes alone from \$114,000 four years ago to approximately \$600,000 a year at the present time, or adding nearly a half million dollars of revenue annually to the state treasury, and approximately quadrupling the iron ore valuation and taxes in the brief period of four years.

The present scientific and thorough manner of reaching iron ore valuations by the Minnesota Tax Commission is the subject of the admiration and congratulation of the leading tax authorities of the country. Minnesota's success in the taxation of mines is recognized as one of the most marked achievements in the progress of state taxation in recent years. The progress we have made we have the full power to continue to make under present laws and administration. Northern Minnesota is just emerging from the prolonged depression incident to the great industrial strike at the mines, followed by the presidential election and general depression of the iron and steel industry. To plunge this great section again at this time into the uncertainty and depression that are certain to follow the enactment of this bill and the almost endless litigation to which it will give rise, not only is not called for by any present public necessity,

but appears suicidal to the state's progress and prosperity in this critical period of its northern development.

Northern Minnesota claims, with some show of reason, that had its counties a legislative representation based on a just population apportionment, this bill would never have passed. Fifty-five counties of this state receive more money from the state treasury than they pay into it, and it scarcely seems possible that these districts should attempt to impose upon another section of the state a system of taxation based upon an inequality. Such attitude obviously threatens the state with a condition of sectional hatred and prejudice which is ominous to the state's future peace, harmony and progress.

However patriotic and disinterested in purpose the author and a majority of the friends of this measure may be, the fact remains that the people of the northern counties in which our mineral resources are located believe as one man that their section and industry are singled out for tax discrimination and confiscation.

Taxation is not for punishment. The sovereign power of taxation is not conferred by the people upon their representatives for the purpose of punishing any industry, class or section. The foundation theory of taxation is absolute equality and justice to the humblest and mightiest alike.

In its practical operation, this bill, as it would affect the great mining corporations, would not, I believe, work out the results designed by the author. Based upon metallic standards entirely it would be of advantage to the mining companies now operating in the Vermilion and Mesaba ranges, and would work a decided disadvantage to the people possessing low-grade ores of the undeveloped properties now in the hands of thousands of settlers in Aitkin, Becker, Beltrami, Cass, Hub-

bard, Itasca, Morrison, Crow Wing, Otter Tail, Todd and Wadena counties. Not only would there be a discrimination in favor of the older and richer section of our mineral area, but it would place an unfair and unjust burden upon their smaller and independent competitors in the newer and less developed section, and in many instances would doubtless result in the latter being compelled to surrender their properties at a sacrifice to that corporation which dominates the steel industry of the United States.

The purpose of taxation is to raise revenue for the expenses of government, and on this theory taxes should be levied on all classes and on all sections as nearly alike as may be. There is no denial of the statement that this section now pays on valuations greater than other classes of real estate in other sections of the state, and while it may be possible and doubtless is true that modifications may be necessary, this can be accomplished, as I have already stated, full as well under the present ad valorem system, under the scientific investigations of the Tax Commission, as under the specific plan proposed in this bill. And the present plan has this very decided advantage to the state, that the revenues are definitely determined and expenditures can be made accordingly, while under the proposed plan there would obtain a flexibility dangerous in its uncertainty, as the revenues would be more or less as the companies mined, much or little.

I believe that the bill, providing as it does a double system of taxation on one class of property, is wrong in principle, and for this and the reasons above recited I herewith return the same.

Very respectfully,

JOHN A. JOHNSON,

Governor.

**TABLE I.**

Table showing total State Taxes for all purposes paid by the several counties into the State Treasury for the year 1908, and the amounts paid by the State to the several counties, during the same period, for Schools, Roads and Bridges.

This table is taken from the last biennial report of the State Auditor, page XXII, except the right hand column, which is taken from other parts of such report.

County.	Received from State for Schools and Roads.	Paid to State as General Taxes.	Net receipts from State.	Net payments to State.	Received from State for State Institutions located in County.
Aitkin ....	\$17,482.80	\$15,445.38	\$ 2,037.42	\$.....	\$.....
Anoka ....	19,372.50	11,355.58	8,016.92	.....	67,213.43
Becker ...	27,269.00	21,305.57	5,963.43	.....	.....
Beltrami ..	18,752.80	21,015.96	.....	2,263.16	.....
Benton ...	17,354.30	8,595.87	8,758.43	.....	.....
Big Stone..	17,393.30	15,107.39	2,285.91	.....	.....
Blue Earth	41,319.20	44,928.22	.....	3,609.02	137,809.14
Brown ....	27,630.70	28,171.80	.....	541.10	.....
Carlton ...	24,484.10	14,694.44	9,789.66	.....	.....
Carver ....	22,821.90	16,897.45	5,924.45	.....	.....
Cass .....	15,529.40	13,187.60	2,341.80	.....	50,693.31
Chippewa .	20,394.80	17,441.44	2,953.36	.....	.....
Chisago ..	21,528.70	12,432.64	9,096.06	.....	.....
Clay .....	26,474.00	30,400.11	.....	3,926.11	118,042.20
Clearwater	10,887.10	5,281.29	5,605.81	.....	.....
Cook .....	2,683.70	5,978.65	.....	3,294.95	.....
Cottonwood	21,448.90	23,965.68	.....	2,516.78	.....
Crow Wing	23,784.90	20,128.24	3,656.66	.....	6,000.00
Dakota ...	34,088.50	31,081.36	3,007.14	.....	119,138.08
Dodge ....	23,868.50	20,438.28	3,430.22	.....	.....
Douglas ...	30,151.10	19,247.92	10,903.18	.....	.....
Faribault .	35,457.70	32,208.86	3,248.84	.....	.....
Fillmore ..	45,168.20	37,101.50	8,066.70	.....	.....
Freeborn .	31,301.50	35,733.74	.....	4,432.24	.....
Goodhue ..	43,783.00	43,785.36	.....	2.36	106,631.07
Grant ....	16,973.10	15,277.12	1,695.98	.....	.....
Hennepin .	245,907.10	630,352.21	.....	384,445.11	1,282,339.70
Houston ..	24,440.30	18,011.99	6,428.31	.....	.....



**TABLE I—Continued.**

County.	Received from State for Schools and Roads.	Paid to State as General Taxes.	Net re- ceipts from State.	Net pay- ments to State.	Received from State for State Institutions located in County.
Hubbard ..	16,317.80	11,795.68	4,522.12	.....	.....
Isanti ....	22,071.00	9,423.81	12,647.19	.....	.....
Itasca ....	15,810.70	67,203.79	.....	51,393.09	7,614.22
Jackson ..	28,147.60	27,993.87	153.73	.....	.....
Kanabec ..	12,246.70	6,171.18	6,075.52	.....	.....
Kandiyohi.	30,131.10	25,805.34	4,325.76	.....	.....
Kittson ...	16,776.70	15,295.31	1,481.39	.....	.....
Koochiching	6,739.50	14,815.87	.....	8,076.37	.....
LacQuiParle	23,970.60	24,666.75	.....	696.15	.....
Lake .....	8,230.20	14,579.74	.....	6,349.54	.....
Le Sueur..	34,772.60	21,833.84	12,938.76	.....	.....
Lincoln ..	17,879.90	13,391.76	4,488.14	.....	.....
Lyon .....	27,109.10	27,898.79	.....	789.69	.....
McLeod ..	29,637.50	23,283.27	6,354.23	.....	.....
Mahnomen	2,236.40	4,149.88	.....	1,913.48	.....
Marshall .	27,221.60	20,382.68	6,838.92	.....	.....
Martin ....	32,139.40	31,684.06	455.34	.....	.....
Meeker ...	25,947.60	22,233.88	3,713.72	.....	.....
Mille Lacs	19,925.50	7,080.10	12,845.40	.....	.....
Morrison .	39,365.60	17,856.69	21,508.91	.....	.....
Mower ...	33,233.00	35,592.65	.....	2,359.65	.....
Murray ...	20,398.20	24,225.20	.....	3,827.00	.....
Nicollet ..	21,136.70	20,179.73	956.97	.....	309,503.31
Nobles ...	25,645.40	29,237.39	.....	3591.99	.....
Norman ..	23,791.10	20,954.77	2,836.33	.....	.....
Olmsted ..	35,356.70	34,008.78	1,347.92	.....	272,468.73
Otter Tail	67,219.60	42,929.57	24,290.03	.....	263,668.27
Pine .....	32,489.30	16,272.96	16,216.34	.....	.....
Pipestone .	19,029.20	15,834.55	3,194.65	.....	.....
Polk .....	52,802.00	37,525.84	15,276.16	.....	66,718.86
Pope .....	19,661.70	16,669.83	2,991.87	.....	12,500.00
Ramsey ..	146,874.10	376,880.10	.....	230,006.00	135,988.05
Red Lake.	26,723.60	11,354.10	15,369.50	.....	.....
Redwood .	38,358.50	36,599.82	1,758.68	.....	.....
Renville ..	39,731.80	37,212.83	2,518.97	.....	.....
Rice .....	32,437.70	30,851.72	1,585.98	.....	451,869.26
Rock .....	16,831.30	19,472.47	.....	2,641.17	.....
Roseau ...	17,582.80	7,737.75	9,845.05	.....	.....
St. Louis .	127,424.90	*815,528.18	.....	688,103.28	51,307.59
Scott .....	22,621.80	15,217.64	7,404.16	.....	.....
Sherburne	13,257.10	7,746.93	5,510.17	.....	.....
Sibley ...	27,136.90	24,276.97	2,859.93	.....	.....

**TABLE I—Continued.**

County.	Received from State for Schools and Roads.	Paid to State as General Taxes.	Net re- ceipts from State.	Net pay- ments to State.	Received from State for State Institutions located in County.
Stearns ..	65,919.30	47,007.89	18,911.41	.....	249,441.21
Steele ....	24,655.80	22,758.31	1,897.49	.....	73,229.94
Stevens ..	16,125.30	15,426.36	698.94	.....	.....
Swift .....	22,220.10	17,481.58	4,738.52	.....	.....
Todd .....	36,726.60	20,896.94	15,829.66	.....	.....
Traverse .	16,867.30	14,363.79	2,503.51	.....	.....
Wabasha .	33,387.30	21,527.39	11,859.91	.....	.....
Wadena ..	14,500.10	9,280.34	5,219.76	.....	.....
Waseca ..	22,350.50	18,159.70	4,190.80	.....	.....
Washington	31,474.70	33,285.67	.....	1,810.97	1,497,963.34
Watsonwan	17,040.60	18,991.60	.....	1,951.00	.....
Wilkin ...	14,446.40	19,264.33	.....	4,817.93	.....
Winona ..	38,188.40	46,642.53	.....	8,454.13	62,117.84
Wright ...	47,376.90	24,175.43	23,201.47	.....	.....
Yel. Med..	25,197.80	25,453.07	.....	255.27	.....

Total \$2,630,218.70 \$3,648,142.65

\*In addition to this, the ore roads of St. Louis County paid into the State Treasury for the year 1907 (later figures are not at hand) 28.2 per cent of the entire gross earnings tax of all the railroads in the State, amounting to slightly more than one million dollars.

The foregoing table shows that St. Louis County now pays in general taxes and exclusive of railroad taxes, \$688,103.28 more than it receives from the State for schools and roads.

The State receives, in general taxes, from all the counties \$1,017,923.95 more than it returns to such counties for schools and roads. This amount is the net general tax received by the State, and St. Louis County pays 67.5 per cent of such net general tax.

**TABLE II.**

Table showing average tax rate in each county of the State for the year 1908, taken from the abstract of the tax lists of the several counties in the State made by the State Auditor.

Average rate for whole state 26.98 mills.

Name of County.	Average rate of Taxation in Mills.	Mills to be add- ed to bring rate up to average rate in State.
Nicollet .....	17.94	9.04
St. Louis .....	18.59	8.39
Mahnomen .....	18.93	8.05
Dodge .....	20.04	6.94
Sibley .....	20.53	6.45
Murray .....	20.78	6.20
Nobles .....	21.50	5.48
McLeod .....	21.66	5.32
Grant .....	22.00	4.98
Meeker .....	22.06	4.92
Scott .....	22.11	4.87
Renville .....	22.20	4.78
Carver .....	22.30	4.68
Mower .....	22.44	4.54
Steele .....	22.60	4.38
Kandiyohi .....	22.80	4.18
Yellow Medicine .....	22.90	4.08
Goodhue .....	23.04	3.94
Pope .....	23.12	3.86
Lyon .....	23.13	3.85
Cottonwood .....	23.20	3.78
Rock .....	23.20	3.78
Houston .....	23.26	3.72
Douglas .....	23.30	3.68
Waseca .....	23.43	3.55
Fillmore .....	23.60	3.38
Freeborn .....	24.02	2.96
Faribault .....	24.10	2.88
Wright .....	24.24	2.74

**TABLE II—Continued.**

Name of County.	Average rate of Taxation in Mills.	Mills to be add- ed to bring rate up to average rate in State.
Lincoln .....	24.40	2.58
Le Sueur .....	24.69	2.29
Stearns .....	24.80	2.18
Traverse .....	24.80	2.18
Jackson .....	24.83	2.15
Martin .....	24.84	2.14
Watsonwan .....	24.84	2.14
Brown .....	24.96	2.02
Chisago .....	25.05	1.93
Lac qui Parle.....	25.12	1.86
Redwood .....	25.12	1.86
Becker .....	25.17	1.81
Rice .....	25.26	1.72
Swift .....	25.54	1.44
Isanti .....	25.91	1.07
Washington .....	26.40	.58
Blue Earth .....	26.46	.52
Norman .....	26.56	.42
Big Stone .....	26.83	.15
Olmsted .....	27.20	....
Marshall .....	28.00	....
Stevens .....	28.00	....
Wabasha .....	28.31	....
Winona .....	28.55	....
Dakota .....	29.00	....
Pipestone .....	29.02	....
Chippewa .....	29.47	....
Kittson .....	30.11	....
Itasca .....	30.29	....
Wilkin .....	30.30	....
Koochiching .....	31.19	....
Ottertail .....	31.32	....
Clay .....	31.58	....
Wadena .....	31.90	....
Todd .....	32.09	....
Ramsey .....	32.20	....
Hennepin .....	32.30	....
Sherburne .....	33.07	....
Lake .....	33.63	....

**TABLE II—Continued.**

Name of County.	Average rate of Taxation in Mills.	Mills to be add- ed to bring rate up to average rate in State.
Benton .....	33.70	...
Clearwater .....	35.10	...
Anoka .....	36.30	...
Cass .....	36.34	...
Pine .....	36.40	...
Crow Wing .....	37.13	...
Aitkin .....	38.16	...
Cook .....	38.96	...
Morrison .....	39.80	...
Kanabec .....	40.40	...
Hubbard .....	41.14	...
Red Lake .....	42.70	...
Roseau .....	43.49	...
Polk .....	43.50	...
Mille Lacs .....	43.66	...
Beltrami .....	44.60	...
Carlton .....	45.60	...

**A Low Average Tax Rate in Any Locality Should Not  
Increase the State Tax Rate in that Locality.**

The State tax is the same throughout the entire State. Every dollar of taxable property in the State contributes the same amount to this tax as does every other dollar.

The County tax is the same on every dollar of taxable property in the county.

The City tax is the same on every dollar of taxable property in the city.

The amount of the State tax depends upon the needs of the State, but it is the same in every county.

The County tax depends upon the needs of the county, but it is the same in every town, village or city in the county.

The city or town tax depends upon the needs of the city or town, but in each case it is the same throughout the city or town.

Since the needs of the different towns, villages and cities in a given county vary greatly, their taxes vary and their tax rates vary. If a town is a wilderness and has no schools or roads to care for, so that its own tax is nominal, it has only a county and state tax to pay, and therefore has a low tax rate. But that is no reason why a dollar's worth of property in such a town should contribute more to the county tax than a dollar's worth of property in another town which has greater needs and therefore a higher local rate.

So if one town has more valuable property than another town, and consequently has a lower tax rate, that is no reason why a dollar in the rich town should contribute any greater sum to the county treasury than does a dollar in the poor town.

If for any reason the average tax rate in any county is low, such county should not therefore be called upon to contribute any greater sum to the State treasury, in proportion to the assessed value of its property, than is contributed by a county which has a high average tax rate.

All this because every dollar of taxable property in the State contributes to the state treasury equally with every other dollar of such property, and this contribution is made regardless of county lines. The fact that a dollar's worth of property is in one county one year, another county the next year, and still another the third year, does not and should not affect the amount of its contribution to the state treasury, but it does, of course, affect the amount which it contributes each year

to the treasury of the county in which it happens to be.

It has been suggested that because St. Louis County has a low average tax rate, its State taxes should be increased. The following questions suggest themselves.

(1) Why should its state taxes be increased for any such reason. Every dollar of property in St. Louis County now contributes as much to the state treasury as does a dollar of property in any other county.

(2) If the state tax in St. Louis County is to be increased because of its low average tax rate, why should not the state tax in Nicollet County be also increased, as it has a lower average tax rate than St. Louis County?

(3) Why should not the state tax be increased in the other forty-six counties whose average tax rate is less than that of the average rate for the whole state, to-wit, 26.98 mills.

(4) If the counties having a low average tax rate are to have their state tax increased for that reason, why should not the counties having a high average tax rate have their state tax decreased for the same reason? Why should such counties as Roseau, Beltrami and Carlton, with their high average tax rates, pay any state tax?

(5) How is it constitutionally possible to make the state tax rate higher in one county than in another?

**TABLE III.**

**Table showing Tax Rate in certain Municipalities in St. Louis County in which Iron Mines are situate:**

Municipality	Tax Rate in Mills.	Percentage of Taxes Paid by Mineral Property.
Eveleth .....	73.1	83.1
Ely .....	47.1	92.4
Hibbing .....	14.1	98.7
Mesaba .....	21.4	88.6
Virginia .....	22.5	94.8
Chisholm .....	22.	99.2

**TABLE IV.**

**Table showing Tax Rate in certain Municipalities in St. Louis County in which no Iron Mines are situate:**

Municipality.	Tax Rate in Mills.
Duluth .....	33.7
Tower .....	27.3
Fall Lake .....	41.3
Brookston .....	31.9
Castin .....	7.8
*Proctor .....	34.7

(\*The tax rate in this village would have been 130 mills had not the railroad donated three-fifths of the village expenses.)



**TABLE V.**

Table showing tax rate in certain towns in St. Louis county in which mines are situate:

Towns.	Tax Rate in Mills.
Mesaba . . . . .	20.6
Stuntz . . . . .	9.3
Fayal . . . . .	14.7
Great Scott . . . . .	13.7
Biwabik . . . . .	29.8
Missabe Mountain . . . . .	12.6
Nichols . . . . .	9.
White . . . . .	18.1

**TABLE VI.**

Table showing tax rate in certain towns in St. Louis county in which no mines are situate:

Towns.	Tax Rate in Mills.
Pike . . . . .	44.2
Sturgeon . . . . .	41.5
St. Louis . . . . .	9.9
Tp. 56, R. 21, Tp. 59, R. 20 and 21. . . . .	8.5
Tp. 57, R. 12 and 13, Tp. 58, R. 12. . . . .	8.9

An examination of these tables and the County Auditor's books from which they are taken, disclose the following facts:

- (1) That the average tax rates in the muni-

cipalities of St. Louis County are as high as the average tax rate of the state, whether such municipalities contain iron mines or not.

(2) That the low average tax rate of St. Louis County is the result of two causes.

(a) Towns like St. Louis or Tp. 56, R. 21 are situate in the wilderness and need no funds for local purposes, and therefore practically pay only county and state taxes.

(b) There runs across the county a strip of land about a mile wide containing iron ore.

This land is of great value, and where it is located outside of a municipality, this value, together with the limited local needs, results in a tax levy below the average tax levy in the other townships and municipalities in the county.

It is these few towns, especially the towns of Stuntz, Missabe Mountain and Nichols, which make the low average tax rate for St. Louis County.

Is there any reason why the village of Castin, which has been recently organized and therefore has had no local taxes and consequently has the low tax rate of 7.8 mills, should pay a greater tax rate to the state than does St. Paul?

The town of Nichols is in the wilderness and therefore does not require the art galleries, libraries, parks and pavements which Minneapolis has, but is that any reason why a mine in that town should pay a greater state tax rate than do the water powers or mills of Minneapolis?

The town of St. Louis has no mines and not much other property, but since it is in the wilderness it does not want the luxuries of civilization, and consequently has the low tax rate of 9.9 mills.

Should it be penalized because it is poor and lives cheaply, by having its state tax rate increased?

Every dollar of unexempt property in the state is required to contribute equally with every other dollar to the state's needs, regardless of the needs of the municipality or county in which it is situate. Why should a dollar in the form of iron ore be required to contribute more than a dollar of other property, because it is situate in a place where the local needs are light? If such property is to be taxed more heavily than other property, let the excess taxes be used in St. Louis County, which needs them far more than does the State.

The following is a table of lands in St. Louis County exempt from taxation:

**TABLE VII.**

	Acres.	Acres.
State Lands .....		303,000
Railroad Lands .....		485,000
(Subject to Entry.....)	300,000	
Govt. Lands (Withdrawn from Entry.....)	225,000	
(Homestead Entries .....	300,000	825,000
Total.....		1,613,000

There are 2,440,349 acres in St. Louis County: therefore 66 per cent of its area is exempt from taxation. It is because of this that schools in the wilderness have been closed this winter for lack of funds. The settlers cannot get out from their homesteads for lack of roads. Yet in the last two years St. Louis County has paid the State for State Road purposes \$177,979.23, and has received back from the State for roads \$13,700. Surely if it is right to

tax the mines excessively, no one has so good a claim to such extra taxes as does St. Louis County.

The State lands in this county are sold for the benefit of the whole State, and the County of St. Louis builds roads to them to make them saleable.

The swamp land granted to railroads aided in the development of other parts of the State. They now contribute nothing to develop the county in which they are situate.

**NO TONNAGE TAX IS POSSIBLE UNDER THE  
PRESENT STATE CONSTITUTION.**

William W. Billson.                      Chester A. Congdon  
Law Offices  
**BILLSON & CONGDON.**  
807 Lonsdale Building,

Duluth, Minn., Apr. 23rd, 1909.

Mr. H. V. Eva,  
Secretary, Duluth Commercial Club,  
Duluth, Minn.

Dear Sir:—In reply to your letter of this date inquiring whether the legislature has the power, under the Constitution, to enact a tonnage tax, we say:

The power of the legislature in the matter of taxation, is limited in the constitutional amendment adopted in 1906. This amendment is found in Sec. 1, Chap. 168 of the General Laws of 1905. It reads as follows:

“Section 1. The power of taxation shall never be surrendered, suspended or contracted away. Taxes shall be uniform upon the same class of subjects, and shall be levied and collected for public purposes, but public burying grounds, public school houses, public hospitals, academies, colleges, universities, and all seminaries of learning, all churches, church property, and houses of worship, institutions of purely public charity, and public property used exclusively for any public purpose, shall be exempt from taxation, and there may be exempted from taxation personal property not exceeding in value \$200, for each household, individual or head of a family, as the legislature may determine: **Provided**, that the legislature may authorize municipal corporations to levy and collect assessments for local improvements upon property benefited thereby with-

out regard to a cash valuation, and, **provided further**, that nothing herein contained shall be construed to affect, modify or repeal any existing law providing for the taxation of the gross earnings of railroads.”

This amendment in another place expressly repeals Secs. 1, 2, 3, 4 and 17 of Article Nine of the State Constitution, but leaves unaffected Sec. 32-a, Art. 4, relating to railroad taxes and laws thereunder.

The repealed Sections required all taxes throughout the State to be as nearly equal as may be and to be uniform on the basis of the cash value of the subject taxed, except:

(a) The subjects expressly exempted from taxation by Sec. 3, which are substantially the same as those exempted by the above amendment.

(b) Assessments for local improvements, which could be levied according to benefits or frontage, without regard to cash value.

(c) The inheritance tax, which could be uniform, or graded above the amount exempted from taxation, and was limited to five per cent.

(d) The taxes on the property of sleeping and other car companies; telegraph and telephone companies; express companies; insurance companies; mine owners; boom owners; shipbuilders and owners.

The taxes on property in the classes found in (d) could be graded or progressive or both, and could be based upon the earnings or quantity of production of the property taxed; or the legislature could impose such tax *“in such other manner or by such other method as the legislature may determine”*; but every tax was required to be *“as uniform as reasonably may be with the taxes imposed upon similar property in said state.”*

It is of course apparent that, before the con-

stitution was amended in 1906, the legislature had a free hand in taxing the classes of property described in (d); the only limitation being that taxes on mining property were required to be distributed in the same manner as taxes on other real property were distributed, and the tax was required to be reasonably uniform with taxes imposed on similar property in the state.

Under the old constitution, the property described in (d) was the only property in the State which the legislature could tax "in such manner" or "by such method" as it might determine. Part of the taxable in (c) could be exempt, and graded taxes imposed on the balance. The taxes on all other property were required to be uniform throughout the state in regard to the cash value of the article taxed, except railroad property, which by Sec. 32-a of Article 4 is taxed upon its gross earnings, and except assessments for local improvements.

A casual reading of the amendment shows a marked change in that the constitution itself does not classify property for taxation, as did the old constitution, save by the two exceptions withdrawn from the operation of the general rule.

The whole subject of legislative power of taxation is covered by the one section constituting the amendment. It can be analyzed as follows:

(a) The first sentence forbids any legislative disposition of the power of taxation.

(b) The next sentence declares:

(1) That taxes shall be uniform upon the same class of subjects, save that the constitutional uniformity thereby required shall not apply to assessments for local improvements nor to taxes on railroad property.

(2) That taxes shall be collected only for public purposes.

(3) That certain property therein described is exempt from taxation.

All property save railroad and that assessed for local improvements is governed by the same rule, which is as follows: "Taxes shall be uniform upon the same class of subjects."

This rule applies to *all* taxes.

*Stinson vs. Smith*, 8 Minn. 326 (Gil.)

*Drew vs. Tift*, 79 Minn., 182.

If there were any doubt upon this question, it is conclusively settled by the fact that two kinds of taxes are withdrawn from the operation of the rule, to-wit: assessments for local improvements and taxes on railroads.

To give the two provisos or exceptions any meaning or force whatever, it must be held that the rule of uniformity includes these two classes of taxes, and that these two exceptions were necessary to withdraw such taxes from the operation of the rule applicable to all other taxes, since it is a familiar rule of construction that an enactment must be so construed that no word, clause or sentence shall be superfluous or void.

*State vs. St. Paul*, 36 Minn., 530.

It follows of course, that taxes upon all property, save the two excepted classes, are governed by one rule, to-wit: "taxes shall be uniform upon the same class of subjects."

This means that the legislature can classify property for the purpose of taxation, and when so classified, each tax must be uniform upon every subject in any class. In making such classification it is not sufficient that taxes shall be uniform upon all the subjects in any class, as such classification would be arbitrary and unreasonable, as for example, that the property of one legged men



should be taxed double the rate of similar property owned by two legged men, or that the tax rate on horses in St. Paul should be different from that on all other horses in the state; or that a bushel of wheat in an elevator should be taxed one-tenth of a mill, while all other wheat is taxed in proportion to its value. In every classification, regard must be had to the object sought to be accomplished by the legislation, and the common characteristics selected as the basis of classification must be such as will afford a reasonable ground for, and justify, the classification.

*Nichols vs. Walter*, 37 Minn., 270.

It follows that a classification on one basis may be appropriate for one purpose, but entirely inappropriate for another purpose.

*State vs. Ritt*, 76 Minn., 534.

*State vs. Justus*, 90 Minn., 474.

*Hjelm vs. Patterson*, 105 Minn., 256.

The object of all taxation is to compel contribution to the public expense.

It is a fundamental principle of justice, observed in all free states, regardless of their constitutions, that every citizen should contribute to the public expense in proportion to his ability. Therefore a classification of property for the purpose of taxation should be so made as to accomplish this end.

Judge Cooley has said, that the fundamental principles of taxation require uniformity and equality, and our own Supreme Court has well said, that while perfect equality in taxation cannot be attained, all tax laws should have that object in view.

Since a classification of subjects for taxation is a step in the collection of taxes, it follows that

such classification should be so made as to secure uniformity and equality in taxpaying, and that a classification producing inequality in the payment of taxes would be contrary to the fundamental principles of justice and therefore beyond the power of the legislature to enact.

When the legislature has properly classified property for the purpose of taxation, then every tax must "be uniform upon the same class of subjects."

The meaning of "uniform" as here used, defines and limits the power of the legislature in the imposition of every tax save those for local improvements and those on railroads.

When two or more objects are "uniform," it is because they have some common characteristic. There are no two things in the world that are in every respect identical, therefore when several subjects are put into one class, the characteristic which is selected as the basis of classification, is found in every subject of the class, and such class is said to be uniform in respect to the basic characteristic. Upon what basis, or in what respect, does the present constitution require taxes to be uniform upon the same class of subjects? Fortunately the constitution itself answers the question. After promulgating a rule for the taxation of all property, it excepts therefrom assessments for local improvements in the following language: "provided that the legislature may authorize municipal corporations to levy and collect assessments for local improvements upon property benefited thereby *without regard to a cash valuation*".

This proviso is not mandatory but permissive. It does not say that assessments for local improvements *shall be* without regard to cash valuation of the property taxed, but that the legislature *may* authorize such taxes without regard to cash value. The uniformity required by the first part

of the section must still be had, but it may be based on some characteristic other than value, for example, frontage or benefits. Since the proviso relieves the legislature of the obligation of making this particular tax uniform on the basis of value, it follows that in the absence of this proviso such obligation would have existed; and that is true only because the word "uniform" as used in the second line of the section, means uniform in respect to cash value.

To repeat: the proviso is an express declaration, that the uniformity required by the general rule is a uniformity in respect to the cash value of the different taxables in a given class, because it says that as to this particular class of taxes the cash value of the taxables may be disregarded. There would be no need of withdrawing this class of taxes from the general rule unless that rule made the cash value of the things taxed the basis of the required uniformity, because if mere uniformity on *some* basis were all that is required, it could be obtained in the case of local assessments by basing it on the frontage of the property taxed, or the benefits accruing from the improvement to the property taxed. Consequently the exception of local assessments from the general rule of uniformity is meaningless and mere surplusage, unless the uniformity required is that based on the cash value of the taxables. It is an elementary rule of statutory construction that every word and sentence must be given a meaning if possible. In this case there is not even any ambiguity.

Therefore the first exception to the general rule of uniformity is a demonstration that the uniformity required by such rule is that based on the cash value of the thing taxed.

The second exception of the taxes on railroads proves the same thing, because such taxes were,

when the amendment was adopted, and now are, uniform in respect to the earnings of the railroads. So railroad property also was excepted from the general rule of uniformity enunciated in the amendment, in order that it might continue to be taxed, not in proportion to its value, but in proportion to its earnings; that is, that such taxes shall remain uniform on the basis of the earning capacity of the taxables.

That the proviso was intended to withdraw the taxes therein described from the general rule, is proven by the construction given to a similar proviso in Sec. 17, Article 9 of the Constitution, now repealed, by the court in

*State vs. Twin City Telephone Co.*,  
104 Minn. 287.

Mr. Justice Brown said:

“Provisos of this character are not intended to impair or destroy the main purpose, nor to enlarge the meaning or effect, of the statute to which they are added, but, on the contrary, to exclude from the operation thereof something that might otherwise come within its scope \* \* \* Such was the purpose of this proviso. \* \* \* To make that end plain, and to preclude a possible ground of misinterpretation of the scope and purpose of the amendment, was the sole office of the proviso.”

This construction of the word “uniform” accords with every principle of just taxation. As our Tax Commission has well said, “the golden rule of taxation is that every man shall pay taxes in proportion to his ability.” And as our Supreme Court said in *State vs. Canda Cattle Co.*, 85 Minn. 461:

“Perfect equality in taxation is, perhaps, impossible. \* \* \* But all laws providing for their (taxes) assessment and collection shall have that object in view.

“ ‘In an exercise of the power to tax, the purpose

always is, that a common burden shall be sustained by common contributions, regulated by some fixed general rule and apportioned by the law according to some uniform ratio of equality. The power is not therefore arbitrary, but rests upon fixed principles of justice, which have for their object the protection of the taxpayer against exceptional and invidious exactions, and it is to have effect through established rules operating impartially.' Cooley Taxation 2."

There is no reason in justice, logic or morals why one dollar in the form of wheat or pine trees or water power should pay any greater tax than is paid by one dollar in the form of railroads, or iron ore or horses.

Nor is there any reason why one dollar in the form of a cow on the farm should pay any less tax than one dollar in the form of a cow in the city. Nor why one dollar owned by a white man should pay less than a dollar owned by a black man. Nor why any dollar, in whatever form or wherever found, or by whomsoever owned, should pay any different tax than every other dollar in the same taxing district. Otherwise there will not be attained that perfect equality in taxation which should be the object of all tax laws, as our Supreme Court has so well said.

If some property were taxed according to the weight of its product, for example an iron mine, and other property according to its earnings, for example a telephone company, and other property according to its location, for example wheat in an elevator, and other property according to its horsepower, for example a water power, it is self evident that while each subject in each of such classes might pay taxes on a basis uniform with all other subjects in the same class, there would, nevertheless, be no uniformity of burden bearing between the different classes. Nor for that matter, between subjects of the same class. The burden to be borne

is the contribution of cash. The weight of output is a very poor measure of ability to make such contribution. The mine producing its last hundred thousand tons might have to pay the same tax as the mine producing its first hundred thousand tons. Location is a poor measure of taxpaying ability. A bushel of wheat in a country elevator would have to pay the same tax as a bushel in a terminal elevator though worth fifteen cents less. A hundred developed horse power in Minneapolis, where the market is unlimited, is worth many times a like developed horse power in Northern Minnesota, where there is only one saw-mill to consume it.

In measuring any number of things for the purpose of determining their relation to each other, it is of course necessary to apply the same measure to all, else the result of the measuring tells nothing. What is being measured is the ability of each taxpayer to contribute cash to the support of the government. That of course depends upon the *value* of what he has, not its weight or size or location, although these three characteristics may affect the value. Since the cash value of the property of the taxpayer best measures his ability to contribute to the public burden, the framers of our present constitution, in clear and unequivocal language, adopted it, with the two exceptions noted, as the best and practically the only just measure of the taxpayer's ability.

This question is already settled by our Supreme Court in its construction of the amendment of 1906 in the case of

*Mutual Benefit Ins. Co. vs. Martin  
County*, 104 Minn. 179.

That case involved the constitutionality of the mortgage registry tax. The court held that the tax was on the security and not on the debt secured by the mortgage, and that the security was the same

whether the debt was payable in one or ten years, and that consequently the tax was uniform upon all such securities.

It was argued that the tax was not uniform, because the act provided that when the mortgage covered any real estate outside the state, the tax should be measured by such proportion of the whole debt as the value of the mortgaged real property in the state bears to the value of the whole real estate described in the mortgage. The court said that this "instead of being a ground of objection to the statute, is in fact made necessary by the requirement of uniformity. As the tax is imposed upon the security, and not the debt, there would have been an absence of uniformity if the statute had not provided for the reduction of the tax in proportion to the value of the foreign security not taxable in this state." This settles the law of this state to be, that the uniformity in taxes of subjects of the same class, required by the constitution, is a uniformity in proportion to or based on the value of the thing taxed.

It therefore follows that the legislature has no power to impose taxes in disregard of the value of the thing taxed, save only the two taxes excepted from the general rule, viz: assessments for local improvements and those on railroad property.

Since the amendment of 1906 repealed those provisions of the constitution which authorized the taxes described in (c) and (d) *supra*, it necessarily repealed the laws authorizing such taxes unless such laws conform to the new amendment. The inheritance tax law does not so conform. It is settled that this tax is not on property but the right of succession, though the tax is measured by the amount of property inherited.

*State vs. Bazille*, 97 Minn. 11.

Part of this right is exempted from taxation,

although the present constitution does not allow any such exemption. Again, a graded or progressive tax is imposed on this right. The present constitution does not permit any graded tax. Every tax must be uniform on each class. In each instance the tax is on a single right exercised by a single individual, and there is nothing in our present constitution authorizing a graded tax on a single entity. On the contrary the tax must be uniform in proportion to the value of the thing taxed, just as was required in the case of the mortgage security. We therefore have no inheritance tax laws now.

All the taxes described in (d) *supra*, are without reference to the value of the thing taxed. They do not fall within the two exceptions of the present constitution, and they are therefore forbidden by the constitution, and consequently are void.

The so-called tonnage tax ignores the value of the mines and ore which it seeks to tax, and we therefore have no hesitation whatever in advising you that the legislature has no power under the present constitution to impose any such tax.

We are well aware that popular opinion is to the contrary, but this is due to the fact that the law of the stump is rarely if ever in accord with that of the forum.

The only "wide open" tax amendment which this state has ever adopted was that of 1896, not that of 1906.

Yours truly,  
BILLSON & CONGDON.