

HOUSE No. 324.

Commonwealth of Massachusetts.

EXECUTIVE DEPARTMENT,

BOSTON, April 15, 1884.

To the House of Representatives :—

Upon revision of the bill to supply the town of Watertown with water, I deem it my duty to withhold my approval thereof, and therefore I return it, with a statement of my objections, to your honorable body, in which it originated.

The bill authorizes the town by a majority vote to accept the act, and also to incur an indebtedness of two hundred and fifty thousand dollars, payable within thirty years.

The legislature of 1875 expressed in a statute the general judgment of the people in favor of regulating and limiting municipal indebtedness, and the subsequent enactment of the Public Statutes preserved the restrictions in the provisions of section 7 chapter 29, requiring a two-thirds vote for the incurrence of any debt except for temporary loans in anticipation of the taxes of the year in which the debt is incurred and of the year next ensuing. By section 18 of said chapter 29, originally enacted in 1876, a city which at a meeting of its voters has accepted by a vote of two-thirds any act to supply said

city with water may, by a majority vote of each branch of the city council, contract debts and issue bonds for the purposes and to the extent authorized by such act. This is the only amendment affecting the portion now in point made to the original statute; and but two other propositions for a change have been brought to the consideration of the legislature since 1875, and these were rejected without a count. The policy of the Commonwealth is indeed well settled.

I believe that the taxpayers in the towns and cities rely with great confidence on the maintenance of these safeguards against unnecessary and extravagant expenditures, and that if they be ignored or destroyed a most dangerous precedent will be established and serious consequences become probable.

Referring to House document No. 175 of the current session, I find that the committee on the judiciary, having the bill in question under consideration by special reference, advised the House that the general laws, hereinbefore cited, apply to any indebtedness authorized by a special act unless there be express provision to the contrary; and they further informed the House that since the passage of the act of 1875 no exemption from the operation of this general law has been granted to any town.

It is evident that in the opinion of said committee, a town's power to contract permanent debts for water supply purposes depends, not upon the acceptance of the special act in accordance with its terms, whether by a two-thirds vote or by a majority vote, but upon the authority of the general laws applicable thereto, unless otherwise specifically declared in the special act. This view of the law shows clearly that the special acts for Taunton, Hingham and Middleborough, giving original

rights to take water, passed in 1875, 1876 and 1879, respectively, are not in point to prove that the legislature has set aside the general rule. It will be found further, upon examination, that the Hingham Water Company was created in 1879, and given the right to take the same sources that were granted to the town in 1876, and under the later act a two-thirds vote is requisite to enable the town to purchase the company's franchise. A similar course has been taken with the town of Middleborough, as will appear by the terms of chapter 59 of the acts of the present legislature.

My own careful investigation confirms the report made by the committee. More than one hundred special water acts have been passed since 1875, a full proportion of which have become laws during the present session. The statutes conferring upon fire districts, water supply districts and other closely populated communities within towns the power to furnish water, are not affected by the general laws in force and for obvious reasons; but nevertheless, in nearly all these the two-thirds vote is required. So remarkable concurrence of judgment and so repeated affirmations demonstrate that a departure from the approved course is justifiable only upon the clearest proofs of necessity.

I am unable to discover that the circumstances or needs of Watertown are exceptional to that degree that a plain distinction can be made between it and the other towns that have supplied themselves with water in conformity with the existing provisions of law. The committee on the judiciary, to whose report I have called attention, state that from evidence introduced at the hearing the inhabitants of Watertown "are practically unanimous in desiring a water supply, but that they are so divided as to the proper source of such supply that

the act in question would probably prove nugatory unless the town be authorized to accept it by a majority vote."

The plain inference may reasonably be drawn that the plan proposed does not serve the interests of the town, and that within the principle of the act of 1875 indebtedness should not be incurred to carry any such plan into execution. Especially is this apparent when it is considered that under chapter 199 of the Acts of 1875, extended by chapter 239 of the Acts of 1879, the town of Watertown obtained the right to take water from the Charles River at any point within said town, the same source of supply that is set apart in the pending bill, but the required two-thirds vote was not secured in its favor. Besides, it is common knowledge that in many of the towns one scheme after another, requiring an increase of the permanent debt, has been suggested and pressed to the utmost, but failed to receive the necessary support, and subsequently its impracticability or extravagance has been generally admitted. If to avoid a temporary inconvenience in one instance the rule of safety is to be set aside this year, no one can predict how soon it may happen that every safeguard will be broken down and municipal burdens become intolerable.

But it is said that the town, by a vote in the ratio of seven to one, declared in favor of petitioning the legislature to give the majority the power to decide the question, and that by such action the prevailing sentiment is shown. A two-thirds vote is just as naturally to be expected under such circumstances, and may therefore be properly insisted on.

The whole number of voters in Watertown is stated to be eleven hundred and forty-four. From a statement, apparently authentic, which has been laid before me, I discover that the decisions in the various town meetings

upon the several test questions have been made by votes as follows : —

July 27, 1880,	. . . . .	129 affirmative.	70 negative
Nov. 16, 1880,	. . . . .	248	“ 242
Dec. 10, 1880,	. . . . .	195	“ 65
April 1, 1881,	. . . . .	201	“ 137
April 16, 1881,	. . . . .	252	“ 278
July 20, 1881,	. . . . .	223	“ 104
May 29, 1883,	. . . . .	387	“ 291
Nov. 30, 1883,	. . . . .	140	“ 22

Making due allowance for the ordinary indifference, it is apparent that a very large proportion of the voters are not convinced that any of the several measures proposed demand their support.

The town of Watertown is certainly not deprived of all relief if the pending bill shall fail to become a law. A water company may be chartered, as in many cases has been done, with your concurrence of action, and the town be granted the right to take the property and privileges of the company within a given time, when the feasibility of its plan and the sufficiency of its supply and works have been demonstrated by actual test to the satisfaction of the town, and such a result cannot be deemed remote, in view of the reported unanimity of desire on the part of the inhabitants for a supply of water, and their readiness to incur all proper indebtedness therefor. Other practicable measures will be suggested to meet any real exigency.

Upon examination of the papers transmitted to me with the bill, I fail to find in the report of the committee on water supply any statement of facts or reasons pertinent to a full understanding of the questions involved, and diligent investigation of all other sources of information fails to give me a satisfactory basis for agreement with the legislature in the abandonment of the salutary and

conservative regulations heretofore so strictly maintained.

I am constrained, therefore, to lay the bill before the legislature for reconsideration in the light of the objections stated.

GEO. D. ROBINSON,
Governor.

