

SENATE No. 251

The Commonwealth of Massachusetts.

REPORT OF THE ATTORNEY-GENERAL AS TO WHETHER THE OPERATION OF CERTAIN LAWS OF THE COMMONWEALTH TEND TO THE CREATING OF MONOPOLIES.

DEPARTMENT OF THE ATTORNEY-GENERAL,
BOSTON, Jan. 9, 1919.

To the Honorable Senate and House of Representatives.

I have the honor to report the result of my investigation made under the authority of Res. 1918, c. 66, which is as follows:—

Resolved, That the attorney-general be directed to investigate whether and to what extent recent building, fire prevention and similar legislation, and the rules and regulations made thereunder, have resulted in a forced or artificial demand for apparatus, appliances or devices, which, because of patent rights or other reasons, are sold or marketed by monopolies, or in the absence of competition. The provisions of chapter three hundred and eighteen of the General Acts of nineteen hundred and seventeen are hereby made applicable to this investigation. The attorney-general shall report the result of his investigation, with such recommendations as he may deem advisable, to the general court on or before the first Wednesday in January, nineteen hundred and nineteen, and may expend in carrying out the provisions of this resolve a sum not exceeding two thousand dollars, subject to the approval of the governor and council, to be paid out of the miscellaneous expenses of the attorney-general's department.

The resolve is the outgrowth of Senate Bill No. 168, which called for a commission to make similar investigation. The proponent of that bill and a number of other persons suggested by him were requested to furnish this department

with such information pertinent to the inquiry as they possessed. Additional evidence was secured from other persons connected with the manufacture of fire prevention devices and with the National Board of Fire Underwriters.

The only complaint in relation to the subject-matter covered by the resolve had to do with the provisions of law which authorize the Fire Prevention Commissioner to require the installation of automatic sprinklers in certain types of buildings in the metropolitan district. These provisions of law are to be found in St. 1914, c. 795, §§ 10 and 11, and are as follows:—

SECTION 10. Any building within the metropolitan district used in whole or in part for the business of woodworking, or for the business of manufacturing or working upon wooden, basket, rattan or cane goods or articles, or tow, shavings, excelsior, oakum, rope, twine, string, thread, bagging, paper, paper stock, cardboard, rags, cotton or linen, or cotton or linen garments or goods, or rubber, feathers, paint, grease, soap, oil, varnish, petroleum, gasoline, kerosene, benzine, naphtha, or other inflammable fluids, and any building in the metropolitan district used in whole or in part for the business of keeping or storing any of such goods or articles, except in such small quantities as are usual for domestic use, or for use in connection with and as incident to some business other than such keeping or storing, shall, upon the order of the commissioner, be equipped with automatic sprinklers: *provided, however,* that no such order shall apply to any building unless four or more persons live or are usually employed therein above the second floor.

SECTION 11. The basements of any buildings within the limits of the metropolitan district shall, upon notice in writing by the commissioner to the owners of the buildings, be equipped with such dry pipes with outside connections as the commissioner may prescribe.

Said chapter 795 took effect in August, 1914, and under its provisions the Fire Prevention Commissioner has required the installation of automatic sprinklers in many buildings in the metropolitan district.

Automatic sprinkler systems consist of lines of pipe connecting with sprinkler heads. These heads are generally near the ceilings of the rooms to be protected from fire, and are so adjusted that an excessive amount of heat in their vicinity causes a soldering compound to melt, which releases certain other parts, and the sprinkler head thus becomes

wide open. The pipe lines are either directly attached to water mains or are separated only by a device known as the dry valve. In either case, when the sprinkler head operates the water gushes forth and generally extinguishes or retards the blaze.

When properly installed the efficiency of the sprinkler system has been established beyond doubt, and insurance companies admit this to be so by almost invariably reducing insurance rates wherever such a system is installed. It is this reduction in insurance rates which has been the prime factor in causing nearly all the factories and mercantile establishments throughout the country to be equipped with sprinklers.

It is doubtless true that the Fire Prevention Commissioner, acting under the statute above quoted, has created a certain demand for sprinkler devices, as he has required their installation in certain types of buildings where the reduction in insurance rates would not be sufficient to warrant the outlay required merely as a business proposition. This is the case in congested districts where the value of the buildings and contents is not particularly high but where the fire hazard is very great. As the jurisdiction of the Fire Prevention Commissioner is practically limited to the metropolitan district, it is improbable that the demand for sprinkler devices by reason of his activities has had any appreciable effect upon the price of sprinkler systems throughout the country.

Assuming, however, that to some extent he has created a forced or artificial demand for sprinkler devices, I take up the next part of the resolve, namely, whether such appliances or devices are sold or marketed by monopolies or in the absence of competition. There are some six sprinkler concerns, excluding subsidiary companies, doing business in the Commonwealth, and not more than nine operating in the country. Each company has its particular devices, sprinkler heads and dry valves, and most of these appliances are covered by unexpired patents. The types of devices have all been tested for efficiency by the Underwriters Laboratories of Chicago, operating under the direc-

tion of the National Board of Fire Underwriters, and have received the official approval of the latter organization. Provision is also made by the Laboratories for the inspection of the factory practices under which the devices are made. Until fire prevention devices are thus tested and approved, insurance companies generally refuse the benefit of reduced rates of insurance where the same are installed. Thus it is not ordinarily profitable to install sprinklers which have not been so approved.

There is evidence that the cost of sprinkler systems has increased between sixty and one hundred per cent. during the last two years. It has also been claimed, and not denied, that whereas formerly many sprinkler concerns sold their devices to contractors and plumbers, that custom has been discontinued. Each company now installs its own appliances and refuses to sell sprinkler heads or parts to independent concerns. This has brought many complaints from those who formerly purchased sprinkler devices and installed them. But the companies argue that they are interested in the proper operation of their own devices, and that therefore they are justified in taking measures to control their installation.

This department ascertained that during the year 1917 there were certain practices by the companies doing business in Massachusetts which tended to eliminate competition. A central office was maintained and reports of all estimates and bids from any one company were immediately transmitted to all other competing companies. This practice, it was claimed, was for the purpose of preventing destructive competition. But whatever its purpose, it apparently was given up more than a year ago. At all events, the central office was abolished and the system of reports was discontinued.

As the result of the investigation, I do not find that there is no competition between sprinkler concerns. It is obvious that there is no destructive competition, but that there has always been some competitive bidding seems to be true.

We are advised by the Fire Prevention Commissioner that he does not order the installation of approved devices when

he requires the installation of sprinkler systems. While to his knowledge only the so-called approved devices have been installed, he stands ready to approve other types if satisfactory assurances are given to him of their efficiency. In other words, his department does not demand a particular device but merely something that will operate properly in time of need. Hence, it is fair to assume that, if there are other devices which are workable, they may be installed in the metropolitan district whenever such appliances are approved by the Fire Prevention Commissioner.

To sum up, the results of the investigation are as follows: The Fire Prevention Commissioner requires the installation of sprinkler systems in certain types of buildings which but for his order would not be so equipped. Sprinkler systems which are approved by the Chicago Laboratories are controlled by about six companies operating in this Commonwealth. While it is true that the price of sprinkler devices has increased greatly during the past few months, I am unable to say that there is no competition between these concerns.

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Attorney-General.

