

HOUSE No. 1406.

Commonwealth of Massachusetts.

VIEWS OF A MINORITY OF THE COMMITTEE ON MANUFACTURES ON THE ORDER INSTRUCTING SAID COMMITTEE TO INVESTIGATE THE PRICE AT WHICH GAS IS SOLD IN THE CITY OF BOSTON.

The undersigned members of the committee on Manufactures, to whom was referred the following order:—

Ordered, That the committee on Manufactures be instructed to investigate forthwith the expediency of reducing the price at which gas for heating and illuminating purposes is sold to the consumer in the city of Boston, and that said committee report the gross and the net cost of the production and distribution of such gas, together with all details showing how such cost and prices are arrived at, and also copies of all contracts made by any and every corporation or association engaged in the production or distribution of such gas with any other such corporation or association, and also whether there has been any violation of any of the laws of this Commonwealth by any such corporation or association, and if so, what violations and what measures have been taken to punish or restrain the offenders, together with its recommendations, to the General Court on or before the first day of April in the year 1900. All hearings by said committee under this order shall be public, and said committee shall have power to summon persons and papers.

Submit the following report:—

1. *Relative to the reduction in the price of gas.*

We believe it unwise to recommend this year any reduction in the price of gas to the consumers of the city of Boston, and make this recommendation believing that the

expert testimony offered by Mr. Walter R. Addicks and others (though not disinterested) is more reliable than mere deductions unaccompanied by the testimony of a competent expert.

2. *Relative to the gross and net cost of the production and distribution of gas.*

We submit and refer to the returns of the gas companies, which show the actual cost of gas at the holder. These returns cover the fiscal year ending July 1, 1899, and since that time it has been admitted by all parties that the cost of gas has been increased at least 15 cents a thousand cubic feet.

3. *Relative to contracts made by companies and associations.*

We submit herewith in exhibits marked, "1," "2" and "3," respectively, copies of all contracts, exhibit 2 being a specimen copy of contracts made by the Pipe Line Company with several of the gas companies of Boston.

4. *Relative to violations of law.*

There have been three alleged violations of law about which much testimony has been taken.

(a) It has been alleged that sales of gas by the Pipe Line Company at a price in excess of 25 cents is in violation of law. By chapter 537 of the Acts of 1896, the Pipe Line Company is made amenable to all laws applicable to gas companies. We are not of the opinion that these sales of gas at a price in excess of 25 cents, where the gas is of a higher candle than that required by statute, is a violation of the law, but we think that if this is a violation of the law, the Board of Gas and Electric Light Commissioners may at any time order a reduction. If the Board believes that the law has been violated here, it has absolute control of the premises, and may order a reduction in the price, or recommend a repeal of the charter. This, we believe, is distinctly a matter which calls for action by the Board rather than by the Legislature.

(b) It has been alleged that the Boston and Brookline contract as it now stands is in violation of the law, and that any payment by the Boston company is gratuitous and ultra

vires. We are of the opinion that there was a valid consideration for this contract, and that even now this contract serves a good purpose, viz.: The prevention of the competition which existed prior to the execution of the contract.

(c) It has been alleged that the organization and operation of the New England Gas & Coke Company is in violation of law. We do not believe that this is so. The coke company organized as a voluntary association of individuals for the purpose of manufacturing coke, tar, ammonia and gas, the gas which it manufactures being sold to the pipe line company, and are at present doing a large business with a plant at Everett. We believe this enterprise to be of advantage to the community and to deserve encouragement. We believe that the amount of securities issued by this voluntary association is immaterial to the public, provided the price of gas is not thereby affected, and we do not believe that this association can or will in any way raise the price of gas, but rather that it will lower the price. The Board of Gas and Electric Light Commissioners have abundant control over the pipe line company, and by means of this, control over the price of gas.

Furthermore, we think that the Legislature has no constitutional authority to regulate this association, because,

First, The New England Gas and Coke Company has no franchise from the State and no occupancy of any highway, and

Second, While the method and manner of the manufacture of a dangerous article such as gas may be regulated under the police power, no decision has as yet gone so far as to say that the price at which a dangerous commodity once manufactured can be sold is within the police power.

As regards the New England Gas and Coke Company, therefore, we think that there is neither need nor right for supervision by the State. As a small part of its business the coke company sells to the pipe line company a commodity which cannot be used in this State as gas until it has been purified and enriched by the pipe line company. To supervise the coke company would be as unreasonable as to

supervise a company which sold to gas companies meters or pipes. Supervision is impracticable, unnecessary and unconstitutional.

It has been said that if the company goes on with its development, the time may come when it will produce sufficient gas for supplying, through the pipe line company and the various local companies, all the gas consumed in Boston and in communities within a reasonable distance of Everett, and that this condition of affairs would be dangerous to the Commonwealth.

We entertain no such fear, for the companies furnishing gas to the consumer could not, in the light of public opinion and subject as they now are to the Board of Gas and Electric Light Commissioners, make any arrangement which would involve paying more for their gas than the cost of manufacture thereof.

In order, however, to prevent the companies from entering into any contract or arrangement whereby they would agree to pay more for their gas than they could manufacture it for, we report the following bill, and recommend the passage thereof: —

AN ACT RELATIVE TO CONTRACTS FOR THE PURCHASE OF
GAS BY GAS COMPANIES.

Be it enacted, etc., as follows: —

1 SECTION 1. Whenever, in the opinion of the Board
2 of Gas and Electric Light Commissioners, any contract
3 or arrangement hereafter made for the purchase of gas
4 by a gas company of any corporation or association pro-
5 vided for the purchase of gas at a price greater than the
6 cost of manufacture thereof, if manufactured by the pur-
7 chasing company, including in said cost a fair rate of
8 interest on the cost of the works required for such man-
9 ufacture; said Board, may, after notice and hearing,
10 order such contract or arrangement to be annulled, and
11 such order shall annul such contract or arrangement;
12 but either or any of the parties to said contract or

13 arrangement shall have and may take an appeal from
14 such order to the supreme judicial court within thirty
15 days thereafter.

1 SECTION 2. Any court having jurisdiction in equity
2 may, on application of such Board, by any suitable
3 process or decree in equity, enforce the lawful orders
4 of said Board made under section one of this act. It shall
5 be the duty of the attorney-general on request of said
6 Board to institute proceedings to enforce the provisions
7 of this act.

1 SECTION 3. This act shall take effect upon its passage.

B. HERBERT WOODSUM.

(Rights reserved in part.)

WILLIAM H. LOTT.

FRANCIS A. HARRINGTON.

ALBERT S. APSEY.

M. W. BURLIN.

JAMES HOWELL.

WILLIAM L. MOONEY.

