

# HOUSE . . . . No. 1385.

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## Commonwealth of Massachusetts.

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COMMONWEALTH OF MASSACHUSETTS,  
EXECUTIVE DEPARTMENT, BOSTON, June 2, 1896.

*To the Honorable Senate and House of Representatives.*

I return herewith "An Act to incorporate the Massachusetts Pipe Line Company," with my objections thereto in writing,

The powers and privileges granted to the corporation are far more extensive than the title of the act would indicate. It is not a pipe line company merely; it is a gas company with privileges more far reaching than have ever heretofore been granted to a Massachusetts corporation. The six persons named, their associates and successors, are granted a charter with a capital which may be indefinitely increased. They may engage in the business of manufacturing gas for all purposes, of all kinds, by any method and in all parts of the Commonwealth. Under this bill they may establish gas works in every city and town in the State. They may lay pipe lines for the conveyance of gas in every highway. Their right to lay such pipe lines, not only from town to town but within the same town wherever they see fit to connect one pipe line with another or with a distributing system, is absolute, and not subject to the prohibition or control of any authority whatever, excepting as to the mere details of location. They may, with the approval of the municipal authorities or the Board of Gas Commissioners, engage in the business of selling gas to private

consumers and lay pipes therefor in any town or city in the State. Although under the well-settled policy of the Commonwealth a municipality may not engage in the business of furnishing gas to consumers without purchasing plants already established within its borders, this company is under no such obligation to purchase. It is relieved from certain of the restrictions of existing laws as to the quality of the gas which it may supply. Finally, it is given the power to acquire by purchase or lease the property of all the gas companies in the State.

It is obvious that this bill is a radical departure from the well-settled policy of legislation in Massachusetts. Heretofore, not only the organization of companies for the manufacture and sale of gas, but the business carried on by them, have been carefully regulated by general laws applicable to all persons and companies alike. The limit of capital is fixed. The location and extension of pipes, involving the right of digging up public ways, are to be obtained only by permission of the local authorities; the quality and price of the gas manufactured are under the immediate control of the Commonwealth. The purchase or leasing of a gas plant by another company is practically prohibited. In compensation for this strictness of control, the right of competition, so far as it authorizes two or more distributing systems to encumber the streets of the same municipality, has been carefully restricted, and the assurance thus held out to promoters of such enterprises that if their business be well conducted and the quality and price of their gas satisfactory they should be protected from destructive competition. Upon the faith of this policy of the Commonwealth, a policy repeatedly declared by the Legislature, many millions of dollars have been invested in the business of making and distributing gas.

By this bill no one of these regulations is removed from existing companies, except that they may sell or lease their plants to the Massachusetts Pipe Line Company. The established policy of the Commonwealth as to other gas companies remains unchanged. But the bill gives to this company a charter empowering it to compete through-

out the State with existing companies, handicapped as those companies necessarily would be by restrictions and regulations in force as to them, but from many of which these incorporators are exempt.

I feel justified in saying that rights and privileges so exceptional should not be granted to any body of men without the clearest assurance of benefit to the public. It is a fundamental principle of the organic law of Massachusetts that "no man, nor corporation or association of men, have any other title to obtain advantages or particular and exclusive privileges distinct from those of the community than what arises from the consideration of services rendered the public." The only ground upon which this bill can stand is that by its passage the price of gas will be made cheaper to the public. But upon examination of its provisions I find no such assurance. The only provisions which relate to the price of gas are: First, that when the company purchases an existing plant it shall not increase the price of gas; second, that when it engages in the business of selling gas to the consumer on its own account its prices shall be subject to the jurisdiction of the Gas Commissioners, as those of existing companies now are; and third, that when it sells gas to a corporation or municipality the price of gas delivered to the holder or distributing system of such company or municipality shall not exceed thirty-five cents per thousand cubic feet.

It is obvious that the two provisions first named do not insure cheaper gas to the consumer. There is no promise of reduction of price in case of purchase of another plant; and there is no obligation on the company, in case it sells gas to the consumer on its own account, to sell at any cheaper rate than do existing companies. Indeed, the petitioners, as I am informed, have expressly disclaimed any such assurance. When an amendment was adopted in the House of Representatives limiting the price of gas to consumers at fifty cents, it was frankly stated by the friends of the bill that a charter with that provision would be of no benefit to the promoters. Even a proposition which was made in the Senate, to limit the price to con-

sumers at ninety cents, a sum not greatly less than the present average price of gas to consumers in this State, was defeated by the friends of the bill.

The only possible ground upon which it can be claimed that the bill affords any assurance of cheaper gas is the clause which limits the price to thirty-five cents per thousand feet when delivered to the holder or distributing system of a city or town or of another company. But this limitation does not necessarily reach the consumer. It is matter of common knowledge that a very considerable portion of the expense of gas to the consumer is in the distribution; and it is asserted that the average cost of gas of standard illuminating power in the holder does not greatly exceed thirty-five cents, and that, if the restrictions as to illuminating power were removed, as is permitted to this company, a much cheaper price in the holder might be obtained. Moreover, many of the extraordinary privileges granted by this bill, such as the right to purchase or lease the property of companies already established, and the roving commission to engage in the gas business throughout the Commonwealth in competition with existing companies, have no necessary relation to the pipe line business, to which alone this limit of price applies.

I am aware that the statement is made that it is hoped and expected by the promoters that by the introduction of a kind of coal not now in general use and by some projected improvements in methods of manufacture the company will be able to furnish cheap coke and cheaper gas for illuminating purposes, and especially to reduce largely the price of gas for fuel purposes. These claims, however, are merely prospective, — they are not in the bill. It is not necessary, in order to establish the truth of such claims, that a company be granted extraordinary privileges. It is matter of common knowledge that this franchise is sought by men of wealth and enterprise, who have already under their control the largest distributing system in the Commonwealth, wherever facility it afforded for the production of cheap gas both for fuel and illuminating purposes, even to the extent of a double line of distributing pipes in many of the streets of the territory which it covers.

I refer to the densely populated area now covered by the Boston Gas Light Company and the Brookline Gas Company.

All the claims of these promoters can be verified and established upon the systems now within their control. It will be time enough, in my judgment, to grant the exceptional privileges of this bill when, in the field now controlled by them, they shall have been able to verify the claims upon the mere promise of which they ask for this bill.

Nor can I lose sight of the fact that this bill is a grave menace to existing companies, in which the money of the citizens of Massachusetts has been largely invested. Massachusetts owes much of her prosperity to the safeguards she has imposed upon her corporate investments. To this wise policy, under which the rights of the public and the rights of capital are both assured, she is largely indebted for her present high position. The Commonwealth stands pledged to the proposition that those who have risked their money in public-service corporations, so long as they serve the public well and cheaply, shall not be exposed to destructive competition. I am well aware that these considerations of regard for vested interests should have no weight when they are opposed to the welfare of the public.

It is far more important that the citizens of Massachusetts should have gas for illuminating and fuel purposes at the cheapest possible price than that the investments of shareholders in gas companies should be protected. Any measure in the interest of cheap gas is of the highest possible public benefit, and other considerations must yield to the advantage thus gained to the public. Corporate interests cannot stand against the welfare of the community.

But the only way in which this bill, otherwise than through its pipe line features, to which I have referred, can justly claim to be for the benefit of the public is in the privilege of competition it affords to the corporation it creates. That this competition may be destructive of vested rights it is not difficult to foresee. This is not

alone because the promoters of this bill are men of means and enterprise, nor is it pretended that they are the exclusive possessors of any new invention or patented method, which they alone can employ. The bill itself, through the exceptional privileges it grants and which are denied to its competitors, gives to this company an undue advantage. Experience has demonstrated that unrestricted competition by public-service corporations, although the temporary results may be to make cheaper prices to the public, seldom accomplish any permanent good. The public must eventually pay the bills.

I can see no permanent advantage to the community in arming this company with a club by which it may strike down those already in the field. Temporarily it may cheapen prices; indeed, it must do so or promise to do so, that it may strike them down; but the history of such competition demonstrates that eventually it is the public that suffers.

If the wise policy of Massachusetts, long established and maintained as to its public-service corporations, is to be changed, the change should be made not for the benefit of one body of men, but for all alike. If better results can be obtained for the public by competition, then it is but simple justice that the restrictions which have been established should be removed from all citizens and all corporations alike. In my opinion, it is not justice to vested rights, nor sound business policy, nor for the interests of the public to authorize the discriminations which this bill proposes to establish, especially without assurance by actual demonstration or sufficient guaranty that the public benefit which could alone justify them must ensue.

If the bill were limited to a pipe line charter, that is, a charter granting authority to lay pipe lines for the conveyance of gas from town to town, with the privilege of selling the product to the municipality or to existing companies or even to consumers, if no distributing system is in the field, with suitable restrictions as to price and quality, many if not all the objections which I have stated to the existing bill would be removed. Indeed, from the arguments and claims of the promoters of the enterprise,

which have been put in my hands for perusal, the establishment of a pipe line system appears to have been the essence of their petition ; but this bill does not stop with such a system ; it had added such exceptional, unnecessary, and, in my judgment, injurious, privileges and powers, that in its present form I cannot give it my approval.

ROGER WOLCOTT.

