

SENATE... No. 154.†

Commonwealth of Massachusetts.

EXECUTIVE DEPARTMENT, COUNCIL CHAMBER, }
BOSTON, April 4, 1860. }

To the President of the Senate :

SIR,—I have received from the Senate, a Bill entitled “An Act for supplying the city of Charlestown with pure water.” The object of the Bill is sufficiently indicated by its title. It is to supply the city of Charlestown with pure water. To this no valid objection can be made. In many respects it is one of the most important and necessary measures for promoting the public welfare of a prosperous and enterprising city.

The details of the Bill, so far as they relate to the execution of the powers conferred, and the protection of private and local interests, so far as I am able to judge, are unobjectionable. There is, however, an incidental effect, which may possibly result from the execution of this enterprise, not contemplated nor desired by its friends, which calls for more careful consideration than is given to ordinary subjects of legislation. I allude to its effect upon the harbor of Boston.

It is well known that from encroachments of the sea, and other causes, changes are gradually occurring in the harbor of Boston, which may seriously impair its facilities for navigation, and render the ship channels less capacious and secure than heretofore, for vessels of deep draught.

The true cause of such changes, so much to be deprecated, and so injuriously affecting the commercial interest and prosperity of the Commonwealth, can only be ascertained by minute and thorough scientific investigation, of the different results which have been produced in different portions of the harbor, by restricting the flowage, and lessening the volume of river and tidal waters; by reducing the water area of the harbor, and by changes in the positions of prominent islands and headlands, or by deviations in the direction and character of the main channels.

This work will necessarily be one of slow progress, of great labor, and of considerable expense. It will require the co-operation and aid of the government of the United States to make it effective, both as to the survey and the measures, hereafter to be adopted, for removing defects that may be found to exist, and in the general work of preserving and improving the harbor.

The president of the United States has ordered three of the most competent officers attached to the Bureau of Engineers and Coast Survey Department to make thorough scientific and practical surveys during the present year. A preliminary report, developing the general plan of operations, has already been made, and active field work will commence as early as the season will admit.

In tracing the history of the changes in the condition of the harbor, as exhibited by the various surveys that have been made from 1817 to the present time, this commission will be able to determine, by practical and scientific investigation, the extent, character, and tendencies, of the alterations that have taken place, both in the inner and outer harbors.

After a careful consideration of the work assigned them, the commissioners recommend, in a communication addressed to the mayor of the city of Boston, dated January 23, 1860, that no changes be made which will affect either the bed of the rivers emptying into Boston harbor, or its reservoirs, until they shall have had opportunity for further investigation, and additional means for a more detailed report; and they add, that they have no satisfactory information that the case of Mystic River and Mystic Pond can be safely made an exception to this recommendation. In a subsequent report, to which reference has

been made, the commissioners repeat their recommendation, "that the existing water area should be preserved until some principles and plans are recognized and adopted, by which private interests may be subserved without the sacrifice of the public good.

It would seem to be of the highest importance that any measure which may ultimately or materially affect the channels of commerce, or the harbor, should be deferred until the commission appointed to investigate the subject, may be able to ascertain its probable effect, unless an imperative public exigency demands immediate action. No such pressing public exigency seems to be presented in this case.

We can hardly claim or expect the hearty co-operation of the government of the United States in the preservation and improvement of the harbor, which can only be effected by large expenditures of public money, if without sufficient reason, and for the advantage of local improvements merely, we adopt measures whose probable tendency is to impair existing commercial facilities, and increase the obstructions to navigation.

The seventeenth section of the Bill provides for the appointment of a commission to direct the manner in which the works shall be constructed, which are to shut out the flow of tide water into Mystic Pond. This will of course require the erection of a dam across Mystic River, at some point below the Pond. It cannot possibly be said that such a structure can be erected without affecting, in some manner and to some extent, the harbor itself. In my own judgment, the immediate and unavoidable influence will be injurious. The harbor exists chiefly through its estuaries, reservoirs and rivers. It is estimated that nearly a seventh part of the original water area has already been cut off by legislation at different periods.

It is undoubtedly true that the shrinkage of the water area may not have produced a positive injury, but its tendency is in that direction, and it suggests forcibly the inquiry, whether a further, immediate and most important reduction of the area and flowage power which yet remains, is justifiable? My own opinion is, that it is not. Others may well entertain a different opinion, or propose compensations in the form of excavations and artificial streams, in place of natural rivers, to make good the reduced area, and the scouring force of incoming and out-

going tidal waters. But so much doubt must exist in the mind of every person who carefully examines the subject, and weighs the evidence of competent authorities, as to the probable and possible effects of cutting off the tidal waters from Mystic Pond, by Mystic River, as to justify at least the postponement of the execution of this local enterprise until another legislature shall assemble.

If it shall appear, upon full investigation, that cutting off the flow of tidal and fresh waters from Mystic Pond and Mystic River, by a dam across the stream, inflicts a palpable injury upon the harbor, as to its capacities for commercial intercourse between states and nations, an important constitutional question may hereafter arise involving a conflict of jurisdiction between the State and Federal governments.

For the reasons I have suggested, I return the Bill to the senate, without executive approval.

NATH'L P. BANKS.