

HOUSE...No. 290.

Commonwealth of Massachusetts.

EXECUTIVE DEPARTMENT,
Council Chamber, April 30, 1855. }

To the Speaker of the House of Representatives :—

I have carefully considered the Bill returned herewith, entitled "An Act to aid the Vermont and Massachusetts Railroad Company," which proposes to loan to that corporation the credit of the State for one million dollars.

The authority to loan the State credit is nowhere expressly granted in the Constitution, and, under its most liberal construction, can only properly be exercised when demanded by a great public exigency. Even then the power is an implied one only.

It is proper, therefore, to inquire whether such a public exigency exists in the case under consideration.

The Committee who report the Bill state the petitioners ask the loan for the following reasons. (House Document, 188.)

- 1st. The road "is an ample security for the debt."
- 2d. "Their railway is of the most permanent and enduring character, entirely finished."
- 3d. "It connects several important counties, gives great

local accommodation, and is an important link in the most direct and level route between Boston and the West."

4th. "While the Western Railway, a public beneficiary, accommodates the southern section of the State, this line has been carried by private enterprise over mountain summits, and through deep ravines, opening to commerce and industry our northern valleys, without receiving any assistance from the State."

5th. "A grant of the public credit will rescue this line from brokers and usurers, who will require a large discount and brokerage in the renewal of its bonds."

6th. "It will ease the general money market of Massachusetts, by drawing funds at five per cent. from London or Holland."

7th. "And, finally, the aid of the State will relieve a large body of meritorious citizens along the line of the railway, who will thus be enabled to realize upon stocks and bonds, and invest their means in mills and manufactures, and thus add to the resources of the line and to the wealth of Massachusetts."

While earnestly desirous to aid, by every proper and constitutional means, in developing the resources and promoting the welfare of the citizens in all portions of Massachusetts, these reasons,—and these are all that are given,—seem to me wholly insufficient to make out a case of public exigency. There is not one of them, excepting in the points of compass and geographical direction, that will not apply to every railroad in our State. No doubt nearly every one of these railroads would be glad of this very loan; and, should the exigency be considered established in this case, nearly all of them will very probably believe they have an equal claim upon the bounty of the State. Should it be granted now, it will be difficult to give just reasons for refusing many others hereafter.

Already have applications been made at this session for a loan of the State credit to the amount of about four millions of dollars. It has been publicly stated by some of the later applicants, as an apology for not seeking the grant earlier in the session, that "they had no idea State aid of this kind would be granted till they saw the report of the Committee in another case."

The credit of Massachusetts is such now as to excite the

just pride of her citizens and the confidence of the commercial world. It is our duty to see that no unconstitutional and illegal perversions of it are made that would justly weaken that confidence.

If the reasons for asking this loan are examined separately, their inherent weakness is still more apparent.

The first reason, that the road furnishes ample security to the State, seems to conflict with the fifth, that "a grant of the public credit will rescue the line from brokers and usurers, who will require a large discount and brokerage in the renewal of its bonds." If the road is "ample security" for this debt, why cannot its bonds be sold without "a large discount" to "rescue it from brokers and usurers"? Massachusetts citizens have invested very many millions of dollars in railways west of the Hudson River. A single railroad in the new State of Illinois has procured five millions of dollars on its own bonds in Europe. Most certainly "ample security" should be able to obtain without difficulty, at home or abroad, a loan in this case, as it has in others.

The second reason, because "their railway is of the most permanent and enduring character, *entirely finished*," furnishes in its two concluding words a fatal objection to its object. Our State wisely has loaned its credit in a number of instances where new fields of industry and new markets were to be opened by the construction of new railways and a great benefit was to be conferred upon the public, but where natural difficulties or want of confidence in the early days of the system prevented private capital from completing desirable enterprises. This furnished the "public exigency" necessary. But never has the State credit yet been loaned to railways "*entirely finished*," and in my judgment it cannot be without overstepping the constitutional powers granted the government.

The third reason, "that it connects important counties, gives great local accommodation, and is an important link in the most direct and level route between Boston and the West," this railroad has in common with all others, (saving the precise points of connection,) and presents no feature that makes out a "public exigency" for the loan from the State.

The fourth reason requires no remark, unless it be that the State *has* granted its aid to the Troy and Greenfield Road,

which is "a link" in this same "route between Boston and the West." The fact, however, that this particular corporation has *not* received any aid from the State, does not prove that it *should*, without also proving that assistance should be granted every other also which has not yet received it.

The fifth and sixth reasons certainly have no weight in influencing my judgment in favor of the necessity of the grant. Most assuredly there is no constitutional power in the government to lend its aid for the purpose of "rescuing this road from brokers and usurers," or "to ease the general money market, by drawing funds from London or Holland at five per cent."

The last reason for the grant excites the best wishes of us all as individuals. We should be glad to see any portions of our citizens "enabled to realize upon stocks and bonds," that they "may invest their means in mills and manufactures," if they desire so to do; but it may be safely asserted that the custodians of the public credit cannot legitimately loan the indorsement of the State for any such purposes.

It must be borne in mind that this policy, if carried out, inaugurates an entirely new era in the practice of the Commonwealth—new, inasmuch as it is granted to a road entirely completed, and for purposes that may be truly characterized as personal accommodation to its bond and stockholders. Believing, then, that the State can only loan its credit in cases demanded by imperative and extraordinary public exigency—that such exigency does not exist in the present case—that this loan has no parallel in the past legislation of Massachusetts—that it would be unjust to the property and business of the State to involve them in such vast liabilities, dangerous as a precedent for future action, and deeply to be deprecated as overstepping our constitutional powers, I withhold my signature from the bill.

HENRY J. GARDNER.