

HOUSE No. 2559

The Commonwealth of Massachusetts.

EXECUTIVE DEPARTMENT, BOSTON, June 11, 1913.

To the Honorable Senate and House of Representatives:—

I return herewith without my approval House Bill 2465, entitled An Act to Provide Better Transportation Facilities for Western Massachusetts.

This act is the last of a series of measures conceived in the interest of the New York, New Haven and Hartford Railroad Company, by which it has been sought to break down the established laws and policy of this Commonwealth. It purports to provide better transportation facilities for Western Massachusetts, but in fact has been skilfully drafted in such manner as to legalize unlawful acts hitherto committed by the Railroad Company without giving any satisfactory assurance that the transportation facilities needed in Western Massachusetts will ever be provided. This measure will merely disappoint the expectations of all who have supported it in good faith, while it carefully confers upon the Railroad Company the precise privileges it has so long sought. That this measure will disappoint the expectations of the people of the western counties can be readily shown by analysis of its provisions.

Section 1 grants to the Berkshire Street Railway Company the power to purchase various street railways, control of which was originally acquired by the New York, New Haven and Hartford Company in defiance of the laws and policies of the Commonwealth. Sections 9 and 10 provide for the financing of the Berkshire Street Railway Company

by the New York, New Haven and Hartford Railroad Company, which now owns and controls that corporation. These sections, if they ever go into effect, will fully legalize the illegal acts originally committed by the New York, New Haven and Hartford Railroad Company, and will consolidate under the control of that company practically all the street railways in the central and western counties of the Commonwealth.

In return for this grant of immunity and monopolistic privilege, Section 2 appears to provide for the construction of a large number of trolley lines by the New York, New Haven and Hartford Railroad, through the agency of the Berkshire Street Railway Company. Some of these lines are those which the hill towns of the Commonwealth desire, but a careful analysis of Section 2 reveals the fact that it authorizes the construction of approximately 292 miles of trolley lines, many of which are not in Western Massachusetts, but are located in the centre of the Commonwealth, reaching to the east as far as Ayer, Clinton, Sterling, West Boylston, Millbury and Grafton. Substantially half of them appear to be east of the Connecticut River and considerably more than one third are in Worcester and Middlesex counties. Berkshire county is allotted only 54 miles, while Worcester county receives 105 miles. Hampshire and Hampden counties together are allotted but 20 miles more than Worcester county. Instead of providing merely for the needs of Western Massachusetts, this measure provides for a complete monopoly of all means of transportation in the very centre of the Commonwealth.

This long list of proposed lines, amounting to 292 miles, is undoubtedly well calculated to enlist support for the measure both within and without the Legislature, but under the provisions of the bill, the greater part of these lines will never be constructed. For Section 2 limits the required expenditure for new railways to the sum of \$5,000,000, and a simple calculation will show that only a fraction of the proposed lines will ever be built. I am informed by the Chairman of the Board of Railroad Commissioners that the cost of constructing and equipping the new lines "would be

likely to be over rather than under \$50,000 per mile." We may estimate, therefore, that the \$5,000,000 provided by this bill would, if honestly and economically expended, build and equip about 100 out of the 292 miles of railway so attractively set forth in Section 2. But if expended by the present New Haven management, under improvident and wasteful contracts such as have been recently exemplified in the construction of the Hampden County Railroad, the \$5,000,000 will build considerably less than 100 miles of trolley lines. If we may judge by the capitalization of the Berkshire Street Railway, at least \$66,000 per mile are necessary to construct and equip a trolley line under the control of the present New York, New Haven and Hartford Management. Upon this basis we might expect that under the five million dollar limitation, something like seventy-five miles of railway would be built out of the 292 miles of extensions which this measure seems to promise. It is evident, therefore, that Section 2 has enlisted support for this measure under gross misconception of the benefits to accrue to the people of the Commonwealth.

It is furthermore evident that when a selection is made of the lines to be built there is a strong probability that only the more profitable lines will be constructed. This will be, of course, greatly to the interest of the railroad company, and it would seem to be the result contemplated by Section 16 of this bill, for that section provides that the Railroad Commission must certify that the Berkshire Company and the New York, New Haven and Hartford Railroad "are financially able to comply with the provisions of this act." It is evident, then, that the people of our hill towns, under the provisions of Section 2, are doomed to bitter disappointment, and will never secure the railway facilities this bill purports to offer as the consideration which the railroad gives the Commonwealth in return for the grant of immunity and monopolistic privilege. I find, therefore, that if Sections 1 and 2 of this bill ever go into operation, their effect will be to legalize the past illegal acts of the New York, New Haven and Hartford Railroad, consolidate under its monopolistic control all the trolley lines in the central and western

part of Massachusetts, and permit it to construct some 75 miles of extensions in presumably the most profitable territory. Of the construction of unprofitable lines in the small hill towns the bill affords only the remotest possible prospect.

Quite in keeping are the provisions of Section 4, which purports to provide for the construction of additional extensions to the lines described in Section 2. This section seems to require the Berkshire Company to build such extensions as may be designated by the Board of Railroad Commissioners, but it contains the significant proviso that the Board may not order such extensions until it can certify that the Berkshire Company has earned in the preceding fiscal year a reasonable return upon its property over and above all expenses of operation, interest, taxes, rentals and other lawful charges, including "a reasonable amount for depreciation." Now it is a matter of common notoriety that the street railways of the State are not able, even in the sections where traffic is greatest, to make any considerable allowance for depreciation; and it is certain that if they were required to do more than maintain their property in its existing state of efficiency few companies, if any, would be able to pay a dividend. It is obvious, therefore, that Section 4 makes the construction of the additional extensions by the Berkshire Railway conditional upon a requirement which the most prosperous street railway in the Commonwealth would find it difficult to meet. Clearly this proviso is cleverly contrived to deprive the western counties of the whole amount of additional construction which Section 4 purports to require.

But the greatest objection against the bill is that Section 1 provides that the Berkshire Company may purchase and hold the capital stock of the Attleborough Branch Railroad Company, the Interstate Consolidated Street Railway Company, and "any of the companies whose railways are leased or operated as aforesaid." Thus the bill explicitly authorizes the holding of stocks in corporations located in the southeastern portion of the Commonwealth as a part of this plan of providing transportation facilities in Western Massachusetts. It also makes this power extend to any street railways

leased or operated by the Springfield, Worcester and other railway companies mentioned in lines 5 to 9 of this section. While it may limit such stock ownership to lines now in existence, or lines now leased and operated, it does not limit the future expansion of those lines to any extent that may be desired, so that for all practical purposes it opens the door to an indefinite extension of the operations of the Berkshire Street Railway Company. Thus this bill creates the basis for a complete monopoly of street railway transportation in eastern, as well as western Massachusetts.

Here, then, we come to the chief purpose of House Bill No. 2465. The measure purports to provide for the construction of needed railway facilities in Western Massachusetts, but by Sections 2 and 4 it skilfully withdraws from the public a large part of the consideration promised in return for validating the illegal acts of the New York, New Haven and Hartford Railroad Company. It then provides for the creation of a holding company which is given all the authority necessary to extend the New Haven Railroad's control over street railways into any and every portion of the Commonwealth. The authorization of the holding company is not necessary for any of the purposes the act professes to contemplate, and these provisions have no natural or logical place in the measure. They discredit the entire bill; and I cannot doubt that, with their purpose revealed, the Legislature will defeat this attempt of the New York, New Haven and Hartford Railroad to complete its monopoly of all means of transportation in the Commonwealth. But, in any event, I should fall short of my duty if I failed to make clear to the people of Massachusetts the real purpose of this measure, which, skilfully contrived to foist upon the Commonwealth a gigantic transportation monopoly, will disappoint all the expectations of the people of our Western counties.

Even if this bill provided in good faith for the construction of the trolley lines our hill towns need, and did not authorize a gigantic transportation monopoly, it would be a serious question whether the Commonwealth could afford, for a pecuniary consideration, to depart from its established

policy and legalize acts which the New Haven Railroad sought originally to do in violation of the law. In my opinion the Railroad long ago should have divested itself of even an indirect interest in the trolley lines it illegally acquired, and not until it does so can it regain the confidence of this Commonwealth. But this bill offers only a pretence of a consideration in exchange for the favors sought, and under it very few trolley lines need ever be built in the counties which expect to benefit by the bargain.

EUGENE N. FOSS.