

## SENATE . . . . No. 339.

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### Commonwealth of Massachusetts.

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EXECUTIVE DEPARTMENT, BOSTON, }  
May 31, 1871. }

*To the Honorable Senate and House of Representatives :*

I return herewith without my approval "the bill in relation to alien passengers arriving in regular lines of communication," and indicate my objections thereto.

The bill, upon a fair estimate of expected immigration, withdraws from the treasury the annual sum of from twenty to thirty thousand dollars, without reducing the fares of emigrants to the ports of this State or otherwise contributing to their benefit. The treasury can ill spare this diminution of revenues without being supplied from other sources. The Auditor's estimate, in his annual report of receipts, from this source, was \$30,000, and upon that basis the State tax has been laid. No provision has been made to supply the deficiency which the proposed change would make during the residue of the year. The special grants have also considerable exceeded the estimates which determined the amount of the State tax. It may be stated that the refunding Act of last year effected a withdrawal of over twenty thousand dollars from the treasury, and the withdrawal effected by the bill is in addition thereto.

The bill is, by its terms, partial and unequal in its operation and for the exclusive benefit of regular lines of transportation without giving the same advantage to other carriers, landing

more or less passengers and entitled to equal privileges. It thus puts upon our laws an invidious and unwarrantable discrimination, for which there is no apparent necessity, and no semblance of justice. It is difficult to see why parties, not conducting regular lines, should be compelled to bear charges from which the regular lines, generally more able to bear them, are to be exempted. The regular lines are certainly an important part of our commerce and deserve generous coöperation, but public policy does not admit of according to them peculiar privileges and subsidies.

The bill, while it increases the net profits of foreign transportation companies at a corresponding loss to the Commonwealth, and without involving any reduction in the fares of emigrants, will greatly inconvenience them on their arrival at the port of Boston by obstructing their debarkation. Instead of passing quickly from the vessel on their way to their places of destination, considerable time must be consumed in inquiries necessary to establish their identification in any subsequent suit upon the general bond to be given, thus detaining them, where a steamship is well laden with passengers, the better part of a day for an examination and descriptive record, whereas less than two hours are consumed under existing laws. If the State is to be indemnified hereafter by a general bond instead of a fund in hand, it must have upon record an accurate and complete description; and experience has shown that it cannot rely for this upon the schedule furnished by the companies, but must supplement their statement with inquiries and records of its own. For this delay of the emigrants they are not compensated or relieved by any reduction of fares or other advantage. Their fares are based by a combination of transportation companies upon the cost of bringing them to New York, including, with other items, the head-money paid at that port; and their fares to the port of Boston are made the same, even though a shorter distance is traversed. The companies do not propose, in consideration of the exemption asked for, to charge them less for a passage to Boston than to New York or to repay them a like amount on their arrival at this port. The Act of the last session, refunding the head-money to the carriers in the case of alien passengers leaving the State within forty-eight hours, effected no comparative reduction of fares in favor of Boston, or any

reduction at all, or any repayment of the refunded amount to the emigrant himself. The result is, that while the head-money continues to be collected at New York, the emigrant will pay it as a part of his passage money to this port, equal fare being charged to both ports, and will, if the bill becomes a law, be subjected, together with perhaps the additional charge of an inspection fee, to the further discomforts and delays of a particular examination and record from which at the ports of this State he has hitherto been happily exempt.

The bill substitutes for the present method of securing the Commonwealth, one more uncertain and expensive. A fund is provided by the existing law from which the expense of supporting emigrants who become public charges is paid; but the bill remits the Commonwealth solely, where the carrier elects to give it, to a suit upon a bond, the enforcement of which is likely to involve litigation, more or less prolonged, with difficult questions of identification, and this against sureties who are not required to be residents of the Commonwealth. It has not been found heretofore that such bonds provide any substantial security, and our own experience is confirmed by that of other States.

The bill gives the power, without restriction, to the owners of the steamships and other vessels belonging to the regular lines, or their authorized agent, to terminate their liability for the subsequent expenses of an alien passenger, incurred after notice, who has become a public charge, by conveying him at their own expense to the port from which they brought him. Though he may have lived among us many years and all his kindred may be resident here, the owners cannot be required to pay the expense of his support here if they choose otherwise; and they have impliedly the power to transport him beyond the seas, even though every consideration of humanity forbids his removal. If a qualified power of removal may be properly intrusted to certain public officers acting under a sense of official responsibility, an unrestricted power, of a kind liable to great abuse, ought not to be extended to private parties who have no such responsibility and are resident abroad.

The specific objections to the bill are not likely to be compensated by any general benefit to the community. There is no reasonable prospect that it will attract immigration to the country or divert it from the ports of other States to our own.

The refunding Act, passed at the last session of the legislature, was expected by its promoters to increase the numbers arriving at this port; but during the twelve months of its operation they have been less by over four thousand than during the corresponding period preceding its enactment. Nor can this decrease be accounted for by the war between France and Germany; for during the operation of the refunding Act the emigration from the Continent of Europe has but slightly decreased, while the main decrease has been in the arrivals from Great Britain and her North American Provinces which were unaffected by the war. The refunding provision, which was first enacted in 1853 and then repealed in 1865, had likewise no effect in that first period of its operation in increasing immigration, as appears by the official statistics, and was therefore repealed. If the modification last year of the then existing system did not have the promised effect, there is no reason to suppose that further legislation in the same direction will realize the expected advantage. Immigration does not appear to be determined by such provisions, but by the higher considerations which make a permanent residence in one country more desirable than in another.

It is claimed for the bill that it will promote the commerce of Boston. It is difficult to see how it can produce this result to any appreciable extent. The most that it can do is to distribute among the different carriers the amount of head-money to be remitted. This is too small an item in the aggregate of receipts to attract vessels or lines of transportation to this port which would not otherwise make it their terminus, particularly where the company lades with freight as well as passengers, and makes the port of New York a terminus as well as this. When the refunding Act of the last session was passed, the assurance was given that the measure would keep the Inman line at this port; but it was discontinued before the close of the year for want, it is understood, of sufficient patronage in the way of freight. During the discussions which followed the withdrawal of the Cunard line in 1867 and the public-spirited efforts of our merchants at a later date to establish an American line of steamships running between the ports of Boston and Liverpool, it was not suggested that the head-money interfered with our mercantile interests, but the want of adequate freight was the

controlling consideration urged. If there had been any substantial interference of the head-money with the desired object, it would not have been likely to have escaped the attention of the parties interested or of the public generally. It should be the pride and duty of the State to encourage and protect, as far as may be, the commerce of our first city, but the pending bill does not appear to have any direct relation to it.

The present laws in relation to alien passengers are, in their essential features, of long standing in this Commonwealth. Twenty years ago, after a decision of the supreme court of the United States, they were put substantially in their present shape. They have been approved by able lawyers, and have passed unquestioned in our courts, State and national; and those courts are still open to all suitors who desire to contest them. By the Acts of 1852 and 1854 the sum of six thousand dollars is reserved from the fund derived from this source to constitute a sinking fund for the redemption of the scrip issued for the building and furnishing of the State almshouses. Other seaboard States have similar legislation. While the law of this State allows the bond to be commuted by the payment of two dollars, that of the State of New York has required two dollars and a half. The State of New York, which has no refunding provision, has recently reduced the commutation charge to a dollar and fifty cents; while our own, by the operation of the refunding Act, has been practically reduced on an average to one dollar for each European passenger. Bills presented in Congress with the view of uniform legislation have proposed similar charges.

It is claimed that the law as it stands, requiring of the company either a bond or the commutation money on account of all passengers, is unjust to emigrants, inasmuch as the money is often paid on account of such as never prove a public charge. But the inequality suggested is rather fancied than real. A bond or the money instead is required on account of all, because it cannot be determined in advance who may become paupers. They can all rely upon public provision in case of need, just as all passengers paying equal fare may, whether falling sick or not, rely during the voyage on the surgeon's care and medical supplies of the ship. The system does not appear to be in this respect unequal or exceptional. As far as known the emigrants

themselves have not complained of it or asked for its discontinuance. And I shall be slow to believe that our Commonwealth has, during a great part of her history, been practising systematic injustice on persons of foreign nativity, who have sought her jurisdiction in order to better their condition and to enjoy the blessings of liberty. I am unable to find that such injustice has been visited upon emigrants, who have ever met with a generous welcome from us, who have found abundant relief in our private as well as public charities, and who, in consequence of the unequal laws and unjust social arrangements of the countries of their birth, have required, without fault of their own, a much larger proportion of aid than others of our citizens. The laws concerning alien passengers may from time to time need revision, but I am constrained to regard the present bill as injuriously affecting the finances and security of the State without realizing a beneficent change in favor of the emigrant himself.

WILLIAM CLAFLIN.