

# FACTS ABOUT THE GAS TRUST.

## The Consolidation Bill Violates the Constitution at the Outset by Its Faulty Title;

## Violates the Constitution in Taking Away the Right of a City to Grant Franchises, and

## Gives the Trust the Right to Charge Three Dollars per 1,000 Feet for Gas.

## Provisions of the Ordinances Granting Franchises to Various Consolidated Companies in This City.

## One of Them Was Forfeited for Non-Compliance with Contract Back in 1892.

## Some Interesting Information Which the City Council Should Call For from Various Officials.

The Gas Trust paid \$250,000 to members of the Fortieth General Assembly of Illinois for a law under which it could rob the people to its heart's content.

But it overlooked a few points that even bribery couldn't cover up.

Section 13 of Article 4 of the Constitution of Illinois declares that no subject not embraced in the title of a bill shall become a law. There are some subjects in the body of the infamous gas-consolidation and frontage bill not embraced in the title. Hence the law is void.

THIS LAW, known as the "GAS CONSOLIDATION ACT," empowered all existing gas companies to consolidate with and merge into a single corporation, "which shall be one of said merging and consolidation corporations," and inasmuch as this ACT, conveying purported authority, grants to all then existing gas companies in the city of Chicago certain exclusive rights and privileges, not contemplated by or given them by any ordinance of the Chicago City Council, and as the right to issue franchises and prescribe terms for privileges granted thereby is expressly reserved to and held to be inherent in the City Council by the State Constitution of 1870, which provides that the State Legislature shall not grant and cannot convey rights and privileges in the streets of cities to corporations or individuals, except by and with the consent of the local authorities (meaning the City Council), it is unconstitutional on that point.

LET US LOOK AT SOME PERTINENT FACTS relating to this point: In ordinances passed by the Chicago City Council, prior to the passage of the "Gas Consolidation Act," and under and by virtue of existence of such ordinances, certain bonds, contracts, privileges and obligations were assumed by certain gas companies, in return for franchises granting them provisional rights in the use and occupancy of the streets, always subject, however, to the reservations held in said ordinances for the benefit and protection of the people comprising the municipality of Chicago, the intent and object of which provisions is apparent and well known, and in such ordinances it is expressly stated, reserved and provided, to wit:

**1. CONSUMERS' GAS, FUEL AND LIGHT COMPANY.**—A perpetual franchise passed April 28, 1882, granting the corporation the right to the use and occupancy of the streets, in return for which the corporation agreed and bound itself by bond and various penalties, to lay all feeders and service pipes at the time of laying main pipes, without subsequent disturbance of the surface or pavements; to extend its main pipes, when ordered by a majority of the City Council, in any block, one-half of which shall be improved by buildings; that the corporation should not extend its pipes beyond the city, or allow any connections to be made with its pipes to supply gas to any consumers outside of the city; that it should not charge more than 25 cents per foot for service pipes, nor charge general consumers of gas more than \$1.75 per 1,000 cubic feet, giving consumers of more than 100,000 cubic feet per year a rebate of 25 cents per 1,000 cubic feet; that said company should be subject to all existing general ordinances concerning gas; that the city should have the right to inspect meters and that the gas supplied should be of the uniform average of 16 sperm candles, burning 120 grains per hour in a 5-foot burner; that the company's rights and privileges provisionally granted should be forfeited unless within three years from date of acceptance of the ordinance it had erected and had in operation works and mains sufficient to distribute ten million cubic feet of gas every thirty days, said works to cost not less than \$500,000; that if said company should directly or indirectly sell, lease or transfer its franchise and privileges to any other gas company or companies, or cease to manufacture and furnish gas for a period of more than ten consecutive days; or if it should fail or refuse to extend its main pipes when requested to do so by a majority of the Council,

its rights and privileges should cease and be of no more effect and that this termination "shall not be required the judgment or decree of any court;" that the price charged for gas should never exceed the rate named in the ordinance and that it would neither sell nor lease its franchise or privileges and would not enter into any combination with any gas company concerning rate or price to be charged for gas and should give bond of \$500,000 to satisfy any damages to the city of Chicago or any consumer of its gas who should suffer through violation of any obligations, or conditions of the ordinance, the liability not to be limited by the amount of the penalty of said bond.

**2. EQUITABLE GAS LIGHT AND FUEL COMPANY.**—An ordinance granting a perpetual franchise, passed Aug. 10, 1888, authorizing the company to construct, operate and maintain works, lay mains and service pipes, the company agreeing to charge not more than 25 cents per foot for service pipes; to charge not more than \$1.75 per 1,000 cubic feet for gas, with a rebate of 25 cents per 1,000 feet to all users who consumed over 100,000 cubic feet per annum; "any attempt to collect a greater rate would work a forfeiture of all rights and privileges;" that meters and quality of gas shall be subject to inspection and tests; that mains should be extended upon demand by two-thirds vote of the Council in any block three-fourths of which shall be improved by building; that the company should expend \$100,000 within the first twelve months and lay mains and distribute within three years gas to the extent of Ten Million feet every thirty days; that if said company shall at any time enter into any combination directly or indirectly, with any gas company or companies, concerning rate or price for gas, or shall directly or indirectly sell, or transfer its rights and privileges, all its rights and privileges under its franchise, without any judgment or decree of any court, shall fully cease and terminate absolutely, and the company was required before the ordinance became operative to give a bond of \$100,000 as surety to the city or any consumer of its gas for any damage they might sustain by reason of any failure of the company to perform any or single of the obligations imposed by its charter, said bond not to be set up as the limit of liability.

**UNIVERSAL GAS COMPANY.**—An ordinance for a fifty-year franchise, passed by the Council July 23, 1894, which provided expressly that the company should not charge general consumers to exceed \$1 per 1,000 cubic feet, and that upon this charge the Universal should pay the city 10 per cent. of its gross receipts, and if, when the company should reduce the price to 90 cents or less, the company should be released from paying the city any percentage. This company was required to expend \$100,000 upon its works and mains within twelve months, and within three years to have a plant capable of supplying to consumers ten million feet of gas every thirty days; the company was required to deposit \$100,000 in cash with the City Comptroller and give bonds of \$100,000 additional for faithful compliance with all provisions of the ordinance; never to be exceeded; that the company would not enter into any combination with any other gas company; and that its liability for any damage resulting to the city or consumers for any damage resulting to the city or consumers for any infraction of the provisions of its franchise would not be limited by its bond; all upon the express condition that the company should not sell, lease, transfer its privileges or enter into any combination as to price with any other trust or corporation, and the company specifically agrees that for any violation of its obligations to the city or consumers, its plant, machinery, tools and appliances shall revert and belong to the city, without intervention or process of law; and it is expressly provided that the city shall have the right to purchase the plant entire at an appraised value at the end of fifty years.

**OGDEN GAS COMPANY.**—An ordinance passed Feb. 25, 1895, granting a fifty-year franchise, subject to all general ordinances regarding gas companies then in force, the company agreeing to charge a fixed maximum price of 90 cents per 1,000 cubic feet to general consumers and 75 cents to the city, or \$10 per annum for each street lamp consuming four cubic feet per hour, including the labor of lighting and extinguishing the same, the city expressly reserving its requirements of this labor as a part of the consideration for the ordinance; also that the company shall pay the city not less than 3 1/2 per cent. of its gross receipts; make a statement annually on oath of its gross receipts to the Comptroller, who shall have free access to its books at all times; submit its meters to inspection and quality of gas to test, as prescribed; expend on its works at least \$100,000 within twenty-four months from acceptance of ordinance; manufacture and distribute five million feet of gas every thirty days within three years from date of acceptance; and the ordinance prescribes as accepted that the price to consumers shall never exceed the rate prescribed by the ordinance; that the company shall not charge any person for service pipe, but shall lay the same at its own expense, and the company agrees and did give

filed with the ordinances passed and franchise contracts mutually entered into by the city and gas companies, which latter gained valuable rights and privileges thereby, and whose duties and obligations, as well as the rights of the city and of its citizens, are therein specified, reserved and prescribed.

**CAN RAISE THE PRICE.** The INFAMOUS "GAS CONSOLIDATION" ACT provides that after one year the GAS TRUST may charge any rate charged by any company with which merger or consolidation is made, as, for instance, with the PEOPLE'S GAS LIGHT AND COKE COMPANY, which has a perpetual franchise from the State and may charge as much as \$2.75 per 1,000 cubic feet to the city and \$3 per 1,000 feet to general consumers, thenceforth and forever.

**SUPREME COURT AGAINST THEM.** The Illinois Supreme Court has held and decided that an ordinance granting franchise privileges is a contract by mutual consent, and the rights and privileges so granted are considerations in the same, and evasion or repudiation of the spirit and letter of the contract or any change therefrom unless by consent constitutes a forfeiture of rights, and, as it has always been held a proposition in both English and American law that "ACTS conferring

lease, and shall not increase the price charged by it for gas of the quality furnished to consumers during ANY PART OF THE YEAR IMMEDIATELY PRECEDING SUCH PURCHASE OR LEASE, OR SUCH CONSOLIDATION," under penalty (section 12) of Liability IN DAMAGES THEREFOR to the PERSON AGGRIEVED, and shall, for each offense, forfeit two hundred dollars, in an action for debt, in the name of the people of the State of Illinois, or by any person who may sue for the same, and such company shall also be liable to proceedings QUO WARRANTO for violation of either of said provisions, and if adjudged guilty the court may give judgment of ouster from its franchise. UNLESS THE COMPANY SHALL CEASE AND DISCONTINUE such violation, as and when determined by the court," thereby attempting in the last paragraph to destroy any recourse by the city or by the people as to continuous intermittent violations of franchise restrictions and requirements as to price, quality and inspection of gas.

The City Council should ask for the following information:

1. The Comptroller should be directed to report forthwith to the Council, at its next regular meeting, what, if any, receipts have come to the city from gas companies under the provisions of any of the gas ordinances; what, if any, street lamps are being supplied with gas by the Ogden Gas Company; capacity of the plant, and if said company or any other is performing the labor of lighting and extinguishing said lamps, and what, if any, contracts have been let to gas companies for supplying the city with gas, together with the name, or names, of said company, or companies, and the amount of which said contracts have been let, and by what authority.

2. The Corporation Counsel and the Comptroller should be instructed to report forthwith to the Council whether, in accordance with the provisions and requirements of the resolution of Feb. 20, 1892, the franchise of the Economic Gas Company was duly forfeited and its pipes and equipment recovered to the city, and whether any permit has been issued granting any other company the use of said pipes, and also whether any measures have been taken to recover to the city its rights and interest in the pipes and equipment of other gas companies, which, by evasion and infraction of their ordinance and franchise contracts, have forfeited said franchise and their plant and equipment to the city, and what, if any, measures have been taken by the city to recover penal sums on bonds filed by any of the above named companies as surety and guarantee for the performance of their obligations to the city and to gas consumers in general, under the terms of any franchise which any of said companies through evasion or non-compliance with all the terms and requirements of said franchise have forfeited.

3. The city gas inspector should be instructed to report forthwith, direct to the Council, what, if any, tests have been made during the past year of the power and illuminating quality of gas, as required by the various gas ordinances, provisionally granting street and other privileges to gas companies, and if such required tests have been made, to state for what company, or companies said gas was inspected, examined and tested, and where and by what process said gas was manufactured.

4. The Comptroller, the Corporation Counsel, the City Gas Inspector and the Commissioner of Public Works should be severally instructed to report forthwith to the Council, in what, if any, respect any of the gas companies granted ordinances and franchises by this Council have violated said ordinances and have hereby become liable to forfeiture of their franchise rights and privileges back to the city.

5. The Corporation Counsel should be directed to communicate with the Attorney General of the State and to request his co-operation and support in the inauguration on behalf of the city of Chicago of proceedings in QUO WARRANTO, for the purpose of discovering the present condition and system of operation and responsibility under their ordinances and franchises of the various gas companies and the consolidation of these companies known as the GAS TRUST, which are operating under the provisional ordinances and franchises granted them by the Council, with the view of determining in a court of law resort whether the said companies, or the said GAS TRUST are legally fulfilling their duties and obligations to the city and its citizens.

Two hundred years ago the richest man in New York was a German, and from that day to this the representatives of that race in America have been noted for success in business. In the purely speculative methods of acquiring wealth they do not figure prominently; there are few "Napoleons of finance" among them. But where legitimate enterprise is the game there will they be found among the winners.

**VALUABLE INFORMATION.**

Location of Chicago Depots and the Various Roads which Leave Each Station.

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Chicago and Erie.  
Monon Route.  
Wabash.  
**GRAND CENTRAL—Harrison St. & Ft. St. Ave.**  
Chicago and Northern Pacific.  
Chicago and Great Western.  
Wisconsin Central.  
Baltimore and Ohio.  
**UNION DEPOT—Cass & Adams Streets.**  
Chicago, Milwaukee and St. Paul.  
Chicago, Burlington and Quincy.  
Pennsylvania Lines.  
Chicago and Alton.  
Pan Handle.  
**CENTRAL STATION—3rd & Park Sts.**  
C. C. C. and St. Louis (Big 4 Route).  
Chicago and West Michigan.  
Michigan Central.  
Illinois Central.  
**ROCK ISLAND DEPOT—Van Buren St. & Pacific Ave.**  
Lake Shore and Michigan Southern.  
Chicago, Rock Island and Pacific.  
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bond of \$100,000 as surety that all the provisions of the ordinance shall be faithfully carried out, under unlimited liability for damages, and that at the expiration of the life of the ordinance the city shall have the right of franchise at an agreed appraised value.

**CHICAGO ECONOMIC FUEL GAS COMPANY.**—An ordinance passed July 31, 1891, conveying a franchise for fifty years for the supply of both manufactured and natural gas, upon the same general provisions and requirements governing the other companies, especially the provision of Section 12, which provides that in case the said company should at any time in any manner enter into a combination directly or indirectly with any other gas company, its ordinance and privileges should become null and void and all rights revert to the city without reference to any court or legal appeal. The company agreed to charge for illuminating gas \$1.10 per 1,000 cubic feet, with 10 cents reduction per 1,000 feet for prompt payment, and 60 cents per 1,000 for natural and fuel gas, with 10 cents reduction for prompt payment; agreeing and contracting also to pay the city 3 per cent. on gross receipts from illuminating gas and 5 per cent. on gross receipts from sale of natural or manufactured fuel gas, and to furnish gas to the city for \$17.50 per street lamp post per year.

**ON THE 29TH DAY OF FEBRUARY, 1892,** a preamble and resolution was passed by the City Council, repealing the above Chicago Economic Fuel Gas Company ordinance, and declaring all pipes and connections in the streets of the city to be city property. In accordance with the provisions of the ordinance regarding forfeiture, and upon the ground that a majority of the stock of said company had passed into the hands of the Gas Trust.

**THE OGDEN.** It is now currently reported, and there are grounds for belief, that the Ogden Gas Company has entered upon a contract with the Gas Trust agreeing not to extend its plant or pipes any further for a period of three years.

**ALL EVADE THE LAW.** All of the above companies and corporations have evaded the plain letter and legal requirements of their franchises and by the terms of said franchises have forfeited every right and privilege contracted for with the city and conveyed provisionally by ordinance.

special privileges upon or granting public property to private individuals or corporations are construed strictly against the grantees and in favor of the State" or the municipality.

**MENACE TO ALL.** Section 9 of the GAS CONSOLIDATION ACT is retroactive, and provides that "any corporation purchasing or leasing the property of any other company shall be subject to and perform for each of the companies so entering into said agreement the legal OBLIGATIONS now resting upon each of them respectively under their charters and ordinances." \* \* \* "in the same manner and to the same extent as if the companies had retained individual and distinct," and, providing, however, "that nothing in this act shall be construed as extinguishing said companies entering into the agreement or agreements mentioned, or annulling or impairing any of their respective franchises, licenses or privileges, but that they shall severally be regarded as still subsisting, so far as their continuance for the purpose of upholding any right, title or interest, power, privilege or immunity ever exercised or enjoyed by any of them, may be necessary for the protection of their respective creditors or mortgagees, or any of them"—and SECTION 10, of the ACT, which is a violation of the letter of the Constitution, in that it attempts to supersede the rights expressly vested in the City Council by the Constitution, in relation to grant privileges in the streets of the city, and would destroy the vested rights and property interests of the city and liabilities and obligations to the city and its citizens assumed by the gas companies, under their ordinances and franchise contracts, by providing that "the purchase and sale or lease, or consolidation and merger shall not be held or construed as a violation of the provision of any ordinance or bond given thereunder," thereby endeavoring to protect the evasive and dishonest gas companies at the expense of the legal and equitable rights of the city and its citizens.

**READ AND PONDER.** This same CONSOLIDATION ACT, in SECTION 10, provides that "if the property sold, or leased, or acquired through consolidation or merger, is subject to mortgage OR OTHER LIEN, such mortgage or other lien shall be maintained a lien upon ALL PROPERTY so sold, purchased, leased or ACQUIRED, so that the same shall be liable for and respond (to the payment) of such mortgage or other lien existing at the time of such sale or lease," and "Any corporation purchasing or leasing the real estate and personal property of any other company or companies \* \* \* shall PAY AND DISCHARGE all debts and LIABILITIES of each of the companies, \* \* \* and actions may be brought and maintained and recovery had therefore against the company so purchasing or leasing, or against such consolidated corporation," and in SECTION 11 it is provided that the consolidated corporation, or GAS TRUST, "shall furnish gas to consumers as good in quality as it furnished previous to such purchase or

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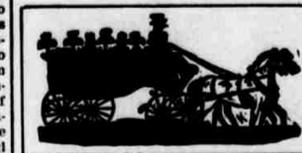
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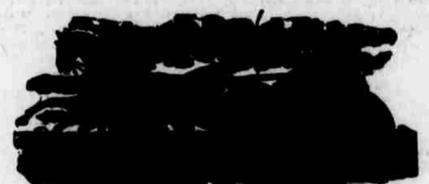
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