

## SENATE...No. 115.

---

### Commonwealth of Massachusetts.

---

IN SENATE, April 18, 1853.

The Joint Standing Committee on Railways and Canals, to whom was committed the petition of John P. Ober and others, praying to be incorporated for the purpose of constructing a railroad between Roxbury and Boston, and the petitions in aid thereof, and remonstrances against the same, having considered the same, ask leave respectfully to report the accompanying bill.

JOHN J. CLARKE, *Chairman.*

## Commonwealth of Massachusetts.

---

In the Year One Thousand Eight Hundred and Fifty-  
Three.

---

### AN ACT

To Incorporate the Metropolitan Railroad Company.

*Be it enacted by the Senate and House of Representatives  
in General Court assembled, and by the authority of the  
same, as follows :*

1    SECT. 1. John P. Ober, Moses Field Fowler, and  
2 Henry N. Hooper, their associates and successors, are  
3 hereby made a corporation by the name and title of  
4 the Metropolitan Railroad Company, with power to  
5 contract, maintain, and use a railway, or railways,  
6 with convenient single or double tracks, from such  
7 point or points of the city of Roxbury, upon and  
8 over the streets or highways therein, to the line sep-  
9 arating said city from the city of Boston, as shall be  
10 from time to time fixed and determined by vote of the  
11 mayor and aldermen of said city, and assented to in

12 writing by said corporation; and from said line sep-  
13 arating said cities, upon and over such streets and  
14 highways of the city of Boston, to such point or  
15 points in said city as may from time to time be fixed  
16 and determined by vote of the mayor and aldermen of  
17 said city of Boston, and assented to in writing by said  
18 corporation; *provided, however*, that all tracks which  
19 shall be established in any street of either of said  
20 cities, shall be so constructed that in using the same  
21 the cars thereon shall not approach within eight feet  
22 of the sidewalk of such street, except in turning the  
23 corners of streets, unless all the abutters of any street  
24 shall in writing consent to a different mode of con-  
25 struction: *and provided, further*, that said road may  
26 be constructed wholly within the said city of Boston  
27 if said corporation and the mayor and aldermen of  
28 said city shall both so elect; and, the written assent  
29 of said corporation to any vote or votes of the mayor  
30 and aldermen of said cities, prescribing from time to  
31 time the routes of said road, shall be filed with the  
32 respective clerks of said cities, and shall be taken and  
33 deemed locations thereof; and said corporation shall  
34 have power to fix from time to time such rates of  
35 compensation for transporting persons or property  
36 thereon as they may think expedient, and be subject  
37 to all the duties prescribed by the 44th chapter of the  
38 Revised Statutes, so far as the same are not inconsis-  
39 tent with this act.

1     SECT. 2. Said tracks or road shall be operated and  
2 used by said corporation with horse power only; and  
3 the mayor and aldermen of said cities respectively,  
4 shall have power at all times to make all such regu-

5 lations as to the rate of speed and mode of use of said  
6 tracks as the public convenience and safety may re-  
7 quire.

1     SECT. 3. Said corporation shall maintain and keep  
2 in repair such portion of the streets respectively as  
3 shall be occupied by their tracks, and shall be liable  
4 for any loss or injury that any person may sustain by  
5 reason of any carelessness, neglect, or misconduct, of  
6 its agents and servants, in the management, construc-  
7 tion, or use of said tracks, or roads ; and, in case any  
8 recovery shall be had against either of said cities, by  
9 reason of such defect or want of repair, said corpora-  
10 tion shall be liable to pay to said cities respectively any  
11 sums thus recovered against them, together with all  
12 costs and reasonable expenditures incurred by said  
13 cities or either of them in the defence of any such  
14 suit or suits, in which such recovery shall be had ;  
15 and said corporation shall not encumber any portion  
16 of the streets not occupied by the said road or tracks.

1     SECT. 4. If any person shall wilfully and mali-  
2 ciously obstruct said corporation in the use of said  
3 road or tracks, or the passing of the cars or carriages  
4 of said corporation thereon, such persons, and all who  
5 shall be aiding or abetting therein, shall be punished  
6 by a fine not exceeding five hundred dollars, or may  
7 be imprisoned in the common jail for a period not  
8 exceeding three months.

1     SECT. 5. The capital stock of said corporation shall  
2 not exceed the sum of five hundred thousand dollars,  
3 to be divided into shares of fifty dollars each.

1    SECT. 6. Said corporation shall have power to pur-  
2 chase and hold such real estate within said cities, or  
3 either of them, as may be necessary or convenient for  
4 the purposes and management of said road.

1    SECT. 7. The cities of Boston and Roxbury may,  
2 at any time during the continuance of the charter of  
3 said corporation, and after the expiration of ten years  
4 from the opening of any part of said road for use,  
5 purchase of said corporation all the franchise, pro-  
6 perty, rights, and furniture of said corporation, by  
7 paying them therefor such a sum as will reimburse to  
8 each person who may then be a stockholder therein,  
9 the par value of his stock, together with a net profit  
10 of ten per cent. per annum from the time of the trans-  
11 fer of said stock to him on the books of the corpora-  
12 tion, deducting the dividends received by said stock-  
13 holders thereon.

1    SECT. 8. The said road shall be constructed and  
2 maintained in such form and manner, and upon such  
3 grade, and with such guage as the mayor and alder-  
4 men of said cities respectively, may, in their votes,  
5 fixing and determining the routes thereof, as afore-  
6 said, prescribe and direct; and whenever, in the judg-  
7 ment of said railroad corporation, it shall be necessary  
8 to alter the grade of any street so occupied by it, such  
9 alteration may be made at the sole expense of said  
10 corporation: *provided*, the same shall be assented to  
11 by the mayor and aldermen of said cities respectively.

1    SECT. 9. Nothing in this act shall be construed to  
2 prevent the city authorities of either of said cities

3 from taking up any of the public streets traversed by  
4 said railroads, for the purposes for which they may  
5 now lawfully take up the same.

1     SECT. 10. This act shall be void so far as relates  
2 to the right to construct said road, in either of said  
3 cities, unless the same shall be accepted by the city  
4 councils of said cities respectively, and unless the  
5 same shall be accepted by said corporation, and ten  
6 per cent. of the capital stock thereof paid in within  
7 two years from the passage of this act.

1     SECT. 11. The said corporation shall be deemed a  
2 railroad corporation so far as to be subject to make  
3 such annual returns to the legislature as are or may  
4 be prescribed by law, but not to the other general pro-  
5 visions of law in relation to railroad corporations.

1     SECT. 12. The existence of said corporation is  
2 hereby limited to the period of fifty years from the  
3 passage hereof.