

HOUSE...No. 187.

[Proposed as a substitute for the Report (leave to withdraw) on the Petition
of J. W. F. Hobbs and others.]

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Sixty-
One.

AN ACT

To incorporate the Boston Horse 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 W. F. Hobbs, Joseph Pratt, Moses
2 Clark, Henry C. Prescott, George Eaton, and their
3 associates and successors, are hereby made a corpora-
4 tion by the name of the Boston Railroad Company,
5 with power to construct, maintain and use, with horse-

6 power only, a street railroad, with convenient single
7 or double tracks, from such point or points at or near
8 the line separating the city of Boston from the city
9 of Roxbury, upon and over such streets or highways
10 of said city of Boston, as may, from time to time, be
11 fixed and determined by vote of the board of alder-
12 men thereof, and assented to in writing by said
13 corporation.

1 SECT. 2. The said company, for the purpose of
2 carrying passengers to different parts of the city
3 proper, may have the right to run over with their
4 horses and cars, such portions of the tracks of any
5 other horse railroad located in the streets of Boston,
6 as the board of aldermen may, from time to time,
7 decide the public convenience requires: *provided,*
8 *however,* that this section shall give no right to said
9 company to use any portion of the tracks of the Metro-
10 politan Railroad Company, south of Boylston Street,
11 in said city of Boston, without the consent of said
12 Metropolitan Company; and in case said company
13 shall run over, with their horses and cars, the track
14 of any other company, and shall be unable to agree
15 with said company upon the rates of compensation
16 for such use of said tracks, then such compensation
17 shall be determined by three commissioners, to be
18 appointed by the supreme judicial court, in the same
19 manner and with the same powers as set forth in that
20 part of the sixty-third chapter of the General Statutes
21 of Massachusetts, which provides for the "Relations
22 of connecting Roads."

1 SECT. 3. Any other horse railroad company that
2 now is or that hereafter may be located in the streets

3 of Boston proper, shall have the right to run over,
4 with their cars and horses, such portions of the tracks
5 of the Boston Horse Railroad Company, as the board
6 of aldermen of said city of Boston may, from time to
7 time, adjudicate the convenience of the public requires;
8 and the mode and extent of such use, and the compen-
9 sation therefor, shall be determined in the manner
10 provided in section second.

1 SECT. 4. Before proceeding to locate the track or
2 tracks of said railroad in any of the streets or high-
3 ways of said city of Boston, the board of aldermen
4 thereof shall give notice to the abutters on said streets,
5 by publication in such newspapers as said board of
6 aldermen shall determine, at least fourteen days before
7 such meeting, of the time and place at which they will
8 fix and determine the location and manner of construc-
9 tion of such track or tracks, and such abutters may
10 then and there appear and show cause, if any they
11 have, why said track or tracks should not be so located
12 or constructed.

1 SECT. 5. Said railroad shall be constructed and
2 maintained in such form and manner, and upon such
3 grade, and with such gauge as the board of aldermen
4 of said city, may, by their vote, fixing and determining
5 the route thereof, as aforesaid, prescribe and direct;
6 and whenever, in the judgment of said railroad com-
7 pany, it shall be necessary to alter the grade of any
8 street so occupied by it, such alteration may be made
9 at the sole expense of said corporation; provided the
10 same shall be assented to by the board of aldermen of
11 said city.

1 SECT. 6. The board of aldermen of the city of Boston
2 shall have power at all times, to make such regulations
3 respecting the rate of speed and mode of use of said
4 track or tracks as the public safety and convenience,
5 in their judgment, may require, and shall also have
6 power, at any time after the expiration of one year
7 from the opening for use of the tracks of said railroad
8 in any of the streets in which the same shall be located
9 under this act, by a vote, to determine that the said
10 tracks or any part thereof, shall be discontinued; and
11 thereupon the location, as to such part, shall be
12 deemed to be revoked, and such part thereof shall be
13 forthwith taken up and removed in conformity with
14 such vote, at the expense of said railroad company.

1 SECT. 7. Said corporation shall keep and maintain
2 in repair such portion of the streets respectively as
3 shall be occupied by their tracks, if so required by the
4 board of aldermen, and shall be liable for any loss or
5 injury that any person may sustain by reason of any
6 carelessness, neglect or misconduct of its agents or
7 servants, in the construction, management or use of
8 said tracks or road; and in case any recovery shall be
9 had against said city of Boston, by reason of such
10 defect, want of repair or use, said corporation shall be
11 liable to pay to said city any sum thus recovered
12 against the same, together with all costs and reason-
13 able expenditures incurred by said city in the defence
14 of any such suit or suits in which said recovery shall
15 be had.

1 SECT. 8. The capital stock of said corporation
2 shall not exceed the sum of two hundred and fifty

3 thousand dollars, to be divided into shares of fifty
4 dollars each.

1 SECT. 9. Said corporation shall have power to
2 purchase and hold such real estate within said city of
3 Boston, as may be necessary or convenient for the
4 purposes and management of said railroad.

1 SECT. 10. Nothing in this act shall be construed
2 to prevent the city authorities of said city of Boston
3 from taking up any of the public streets traversed by
4 said railroad, for any purpose for which they may
5 now lawfully take up the same.

1 SECT. 11. If any person shall wilfully or mali-
2 ciously obstruct said corporation, or its agents, in the
3 use of said road or track, or the passing of the cars
4 or carriages of said corporation thereon, such person,
5 and all who shall be aiding or abetting therein, shall
6 be punished by a fine not exceeding five hundred dol-
7 lars, or may be imprisoned in the common jail for a
8 period not exceeding three months. If said corpo-
9 ration, or its agents or servants, shall wilfully and
10 maliciously obstruct any highway, or the passing of
11 any carriages over the same, said corporation shall be
12 punished by a fine not exceeding five hundred dollars.

1 SECT. 12. The city of Boston may at any time
2 during the continuance of the charter of said corpo-
3 ration, and after the expiration of ten years from the
4 opening of said railroad for use, purchase of said cor-
5 poration all the franchise, property, rights and furni-
6 ture of said corporation, by paying them therefor
7 such sum as will reimburse to each person who may

8 be a stockholder therein, the par value of his stock,
9 together with a net profit of ten per cent. per annum,
10 from the time of the transfer of said stock to such
11 person on the books of the corporation, deducting
12 the dividends received by said stockholder thereon.

1 SECT. 13. The passenger fare upon the road of
2 said corporation shall not exceed five cents for a single
3 fare, and the company shall sell tickets at the rate of
4 three cents each for any number of tickets from four
5 upwards.

1 SECT. 14. Said corporation shall have all the
2 powers and privileges, and be subject to all the duties,
3 liabilities and restrictions, set forth in that part of the
4 sixty-eighth chapter of the General Statutes which
5 relates to horse railroads, and shall be deemed a rail-
6 road corporation, so far as to be subject to make such
7 annual returns to the legislature as are or may be pre-
8 scribed by law, and also to all such general provisions
9 of law as are or may be prescribed relative to horse or
10 street railroads.

1 SECT. 15. This act shall be void so far as relates to
2 right to construct said railroad in said city of Boston,
3 unless the same shall be accepted by said corporation,
4 and by the city council of said city, and unless said
5 railroad shall be constructed within three years from
6 the passage of this act; and this act shall be void if
7 said corporators shall sell or in any manner dispose of
8 their charter to any other corporation or persons.

1 SECT. 16. This act shall take effect from and after
2 its passage.