

SENATE....No. 133.

Commonwealth of Massachusetts.

IN SENATE, March 23, 1865.

The Committee on Mercantile Affairs, to whom was committed the Petition of John Foster and others, report the accompanying Bill.

Per order,

TAPPAN WENTWORTH, *Chairman.*

Commonwealth of Massachusetts.

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

AN ACT

To establish the Fort Hill Corporation.

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. For the purpose of improving that part
2 of the city of Boston mentioned and described in
3 section two, and causing the same to be graded, and
4 new streets to be laid out and constructed over the
5 same, so as better to promote the public interest,
6 John Foster, Franklin King, Hamilton Willis, their
7 associates and successors, be and they are hereby
8 constituted a body corporate, by the name of the Fort
9 Hill Corporation, with all the powers and privileges,
10 and subject to all the duties and liabilities contained
11 in the sixty-eighth chapter of the General Statutes,
12 and all other general laws that have been or may be
13 passed, applicable to such corporations.

1 SECT. 2. Said corporation shall have power to
2 purchase, hold, and possess, in fee simple, or other-
3 wise, any part, or all the land, with the building and
4 other improvements thereon, standing situate in that
5 part of Boston known as Fort Hill, and lying easterly
6 of the estates fronting on Pearl street, between Broad
7 and Milk streets; southerly of estates fronting on
8 Milk street, between Pearl and Batterymarch streets;
9 southerly and westerly of Batterymarch street; south-
10 erly of the estates fronting on Broad street, between
11 Batterymarch and Purchase streets; and westerly and
12 northerly of that part of Broad street, between said
13 Purchase street and its intersection with said Pearl
14 street; and said corporation shall have power to
15 grant, sell, and convey, in fee simple, or otherwise,
16 the said corporate property, or any part thereof, and
17 to lease, mortgage, improve, or otherwise manage the
18 same, in such manner as may be deemed most for the
19 interest of said corporation; and said corporation
20 may hold personal property not to exceed in amount
21 five hundred thousand dollars, and its whole capital
22 stock shall not exceed one million five hundred
23 thousand dollars.

1 SECT. 3. The stock and property of said corpora-
2 tion shall be divided into shares not exceeding fifteen
3 thousand in number, certificates of which shall be
4 issued under the seal of the corporation, and signed
5 by the president and treasurer thereof; and said shares
6 may be transferred by assignment on the back of the
7 certificate, and be recorded by the clerk of said
8 corporation, in a book kept for that purpose.

1 SECT. 4. The business affairs of said corporation
2 shall be conducted by a board of not more than nine,
3 nor less than five directors, to be chosen annually, by
4 ballot. Each shareholder shall be entitled to as many
5 votes as he may hold shares in the corporation; and
6 a majority of the directors so chosen shall be neces-
7 sary to form a quorum for the transaction of
8 business.

1 SECT. 5. The said directors may make such equal
2 assessments, from time to time, as they may deem
3 expedient and necessary for the objects of the corpor-
4 ation; and may direct the same to be paid to the
5 treasurer thereof; and if any proprietor shall neglect
6 or refuse to pay any assessment for the space of thirty
7 days from the time the same shall have been due, the
8 directors may order the treasurer to sell said share or
9 shares at public auction to the highest bidder, after
10 giving due notice thereof, and the same shall be
11 transferred to the purchaser, and the delinquent pro-
12 prietor shall be holden to pay said corporation the
13 balance, if his share or shares shall sell for less than
14 the amount assessed thereon, with the interest and
15 cost of sale; and shall be entitled to the overplus if
16 his share or shares shall sell for more than the assess-
17 ment due, with the interest and cost of sale: *provided,*
18 *however,* that no assessment shall be laid on any share
19 in said corporation of a greater amount in the whole
20 than one hundred dollars on each share.

1 SECT. 6. The board of aldermen of the city of
2 Boston shall determine and prescribe in what manner
3 said corporation may dig down and lower the grade

4 of said hill, and what street of said city may be used
5 in removing the earth, and the mode and manner of
6 using the same. Said board shall lay out such new
7 streets, and alter and discontinue such of the old
8 streets, courts and places, upon and across said hill,
9 as they shall determine to be for the common con-
10 venience and necessity, having due reference to the
11 reasonable accommodation of said corporation, the
12 damages occasioned thereby to any persons in their
13 property to be assessed in the same manner in all
14 respects as in other cases of laying out, altering and
15 discontinuing streets and ways: *provided*, that nothing
16 in this act shall be so construed as to authorize said
17 corporation to take any land belonging to any person
18 without the consent of the owner thereof.

1 SECT. 7. The said board of aldermen may make
2 such disposition, by sale, exchange, or otherwise, of
3 the interest of said city in any land in any street,
4 place or court which may be discontinued under
5 the provisions of this act, and in Washington
6 square, and of any other property of said city upon
7 said hill or embraced within the limits of the bound-
8 aries specified in the second section of this act, and
9 may make such agreement with said corporation for
10 an exchange of the same or any part thereof for other
11 land within said bounds, which may be needed for
12 new streets, courts and places, and for other purposes,
13 as said board may deem best for the public interest.

1 SECT. 8. Before said corporation shall do any work
2 in lowering said hill, which would require the said
3 board of aldermen in their judgment to lay out, alter
4 or discontinue any street, said board shall determine

5 whether the whole, or any and what portion of the
6 damage for which said city would be liable by reason
7 of such laying out, alteration or discontinuance shall
8 be borne by said corporation, for the benefit which
9 said laying out, alteration or discontinuance may be
10 to said corporation ; and if said corporation shall, after
11 such determination, proceed with said work of lower-
12 ing said hill, then they shall be liable to and shall
13 pay the city such an amount of the damages which
14 said city may have to pay by reason of such laying
15 out, alteration or discontinuance, as shall have been
16 so determined by said board ; and before proceeding
17 with said work they shall give a bond to the said city,
18 satisfactory to said board, to pay into the city treasury
19 all damages which by the determination of said board,
20 made as aforesaid, they are to pay on account of the
21 damages occasioned by such laying out, alteration or
22 discontinuance. Said board of aldermen may also
23 require of said corporation a bond, with such condi-
24 tions as said board may prescribe, in relation to the
25 expense of providing sewers and drains required by
26 the lowering of said hill and the laying out, altering
27 or discontinuing of any street under the provisions
28 of this act.

1 SECT. 9. This act shall be void at the expiration of
2 three years from the date thereof, unless the said cor-
3 poration shall within that period expend a sum not
4 less than two hundred thousand dollars upon the
5 objects herein set forth.

1 SECT. 10. Nothing in this act shall in any way
2 limit, restrain, or abridge the right which the city of

3 Boston now have in and to the open space or com-
4 mon, on the summit of the said Fort Hill, called
5 Washington square.

1 SECT. 11. Nothing in this act contained shall
2 prevent the board of aldermen, or other proper
3 authorities of the city of Boston from laying out any
4 new streets, or from altering, widening, or lowering
5 the grade of any old street upon and over the terri-
6 tory embraced in this act, under and in pursuance of
7 any power they now or may hereafter have; neither
8 shall any of the provisions of this act exempt any
9 real estate of said corporation from the operation of
10 any law which may now or hereafter be in force,
11 affecting the rights of owners of real estate within
12 the bounds set out in the second section of this act.

1 SECT. 12. This act shall be void and of no effect
2 unless the same shall be accepted by the city council
3 of Boston within one year from the date thereof.

8. Boston now lays in and to the open space a sum
 4. not in the amount of the said Fort Hill, called
 6. 7. Boston now.

1. Section 11. Nothing in this act contained shall
 2. prevent the board of aldermen, or other proper
 3. authorities of the city of Boston from laying out any
 4. new streets or from altering, widening, or lowering
 5. the grade of any old street upon and over the lands
 6. it may be owned in this act right not in preference of
 7. any power they now or may hereafter have, whether
 8. a shall any of the jurisdiction of this act except any
 9. and where of such jurisdiction from the operation of
 10. any law which may now or hereafter be in force,
 11. in so far as the rights of owners of real estate within
 12. the bounds set out in the several sections of this act.

1. Section 12. This act shall be read and of no effect
 2. unless the same shall be passed by the city council
 3. of Boston within one year from the date thereof.