

HOUSE No. 1876

Bill accompanying the petition of the mayor of the city of Boston relative to the repair of highways and bridges by street railway companies. Street Railways. January 26.

The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Fourteen.

AN ACT

Relative to the Repair of Streets, Highways and Bridges by Street Railway Companies.

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

1 SECTION 1. Section seventy-nine of Part III of chap-
2 ter four hundred and sixty-three of the acts of the year
3 nineteen hundred and six is hereby amended by inserting
4 after the word "material", in the seventeenth line of said
5 section the words:— or base of said streets, highways
6 and bridges, — by inserting after the word "material",
7 in the twenty-second line of said section, the words:—
8 or base of said streets, highways and bridges, — by strik-
9 ing out in the twenty-third line of said section the words
10 "which was disturbed", and inserting in place thereof
11 the words:— of the then existing streets, highways and
12 bridges, — and by inserting after the word "surface",

13 in the thirty-first line of said section, the words :— or
14 base, — so that said section as amended will read as fol-
15 lows :— *Section 79.* A street railway company shall
16 not be required to keep any portion of the surface mate-
17 rial of streets, highways and bridges in repair, but it
18 shall remain subject to all legal obligations imposed in
19 original grants of locations, and may, as incident to its
20 corporate franchise, and without being subject to the
21 payment of any fee or to any other condition precedent,
22 open any street, highway or bridge in which any part of
23 its railway is located, for the purpose of making repairs
24 or renewals of the railway, or of any part thereof, and
25 the superintendent of streets or other officer who exer-
26 cises like authority, or the board of aldermen or select-
27 men shall issue the necessary permits therefor in a city or
28 town in which such are required. If during the original
29 construction or subsequent alteration or extension or the
30 making of any such repairs or renewals of any railway
31 or a portion thereof, said surface material or base of said
32 streets, highways and bridges is disturbed, the company
33 which owns or operates such railway shall, at its own cost,
34 except as provided in sections sixty-five and seventy-
35 one, replace to the reasonable satisfaction of the super-
36 intendent of streets, or other officer who exercises like
37 authority, said surface material or base of said streets,
38 highways and bridges with the same form of construction
39 as that of the then existing streets, highways and bridges,
40 or, by first obtaining the approval thereof by such officer,
41 with a different material and form of construction, and
42 shall restore said street, highway or bridge to as good
43 condition as existed at the time of such disturbance. A
44 street railway company shall be liable for any loss or
45 injury which may be sustained by any person in the man-
46 agement and use of its tracks and during the construc-

47 tion, alteration, extension, repair or renewal of its railway,
48 or while replacing the surface or base of any street which
49 may have been disturbed as aforesaid, and which results
50 from the carelessness, neglect or misconduct of its agents
51 or servants who are engaged in the prosecution of such
52 work, if notice of such loss or injury is given to the com-
53 pany and an action therefor is commenced in the manner
54 provided by section twenty of chapter fifty-one of the
55 Revised Laws. The provisions of this section shall not
56 affect the obligations of any street railway company in
57 respect of the construction or maintenance of any bridge
58 or part thereof which any private person or corporation
59 may be liable, in whole or in part, to construct or main-
60 tain.

1 SECTION 2. So much of section one of chapter five
2 hundred and seventy-eight of the acts of the year eighteen
3 hundred and ninety-eight as is inconsistent herewith is
4 hereby repealed.

1 SECTION 3. This act shall take effect upon its passage.

