

SENATE No. 316.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Seventy-Four.

AN ACT

To incorporate the Boston and Ontario Railroad Company, the Trustees of the Hoosac Tunnel Railroad, and for other purposes.

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. The governor, with the advice and
2 consent of the council, shall, as soon after the pas-
3 sage of this act as may be convenient, appoint five
4 trustees, citizens of this Commonwealth, who shall,
5 upon their appointment, be and be deemed to be
6 vested in trust with all the property and interest
7 of the Commonwealth in the Southern Vermont
8 Railroad, the Troy and Greenfield Railroad and
9 the Hoosac Tunnel, if it shall then be completed
10 and surrendered by the contractors, and if not,

11 then upon its completion and surrender, which
12 said last named railroad and tunnel shall there-
13 after be known as the Hoosac Tunnel Railroad,
14 and the same shall be held in trust for the purposes
15 hereinafter named. One of said trustees shall
16 hold his office for five years, one for four years,
17 one for three years, one for two years, and one for
18 one year, from the first day of May, eighteen hun-
19 dred and seventy-four. Before the first day of
20 May in each year, one such trustee shall be ap-
21 pointed for the term of five years; upon the occur-
22 rence of a vacancy before the expiration of a term,
23 an appointment shall be made for the remainder of
24 such term.

1 SECT. 2. Said trustees are hereby created a
2 corporation under the name of the Trustees of the
3 Hoosac Tunnel Railroad, and shall have all the
4 powers and privileges, and be subject to the du-
5 ties, restrictions and liabilities set forth in the
6 general laws relating to railroads, so far as the
7 same may be applicable and not inconsistent with
8 the provisions of this act.

1 SECT. 3. Before entering upon their duties,
2 said trustees shall be sworn to the faithful per-
3 formance of the same. They shall organize by the
4 election of a president, treasurer and clerk, and
5 fix their compensations, and they shall prepare
6 by-laws in accordance with which their meetings
7 shall be held.

1 SECT. 4. Said trustees shall have sole charge,
2 direction and control, subject to the provisions of

3 this act, of said Hoosac Tunnel Railroad. They
4 shall appoint such officers and agents as may be
5 required for the operation of the same, define
6 their duties and fix their compensations. They
7 shall make arrangements with connecting railroad
8 corporations for the transportation of their cars,
9 with their passengers and freight, on and over
10 said Hoosac Tunnel Railroad, and establish rates
11 therefor, and to this end may modify, adjust or
12 annul any contracts or agreements concerning the
13 transportation of passengers and freight over the
14 tunnel line of railroads, and they may do all other
15 things, not inconsistent with the provisions of this
16 act and the general laws in relation to railroads,
17 which they may deem necessary for the efficient
18 and economical operation of said Hoosac Tunnel
19 Railroad: *provided, however,* that in the manage-
20 ment and operation of said railroad, other rail-
21 roads connecting therewith, directly or over inter-
22 vening railroads, and offering reciprocal benefits to
23 other railroads connecting with said Hoosac Tunnel
24 Railroad, shall be entitled to running connections
25 and facilities, and no unequal discriminations in
26 rates, freight or facilities, in favor or against such
27 roads, or in favor of or against different persons
28 or places shall be made; and in case of disagree-
29 ment relating thereto, the same shall be deter-
30 mined by the board of railroad commissioners of
31 the Commonwealth upon application of either
32 party, or by arbitrators to be named in such
33 manner as they may agree: *provided, however,*
34 that the terms which may be so awarded to any
35 such connecting railroad shall not be more favor-
36 able than those upon which the Vermont and

37 Massachusetts, the Fitchburg, and Troy and
38 Boston Railroad companies, or either of them,
39 may have connection.

1 SECT. 5. Said trustees shall hold in trust all
2 moneys received from the operating of said rail-
3 road, and all moneys which may be appropriated
4 by the Commonwealth for its completion, exten-
5 sion, improvement and equipment, and shall faith-
6 fully apply the same. They shall annually pay
7 into the treasury of the Commonwealth the net
8 income received from said Hoosac Tunnel Railroad
9 after the payment of the expenses, and the same
10 shall be set apart, under the direction of the gov-
11 ernor and council, and applied in such manner and
12 at such times as they shall direct to either or all
13 of the following purposes: the extinction of any
14 indebtedness, or payment of interest thereon,
15 which the Commonwealth may at any time incur
16 to carry out the purposes of this act, or any act in
17 addition to or amendment thereof, and the extinc-
18 tion of the indebtedness, or payment of interest
19 thereon, which has been or may be incurred in the
20 construction of the Hoosac Tunnel.

1 SECT. 6. Said trustees shall make a semi-
2 annual report to the governor and council of their
3 doings during the six months next preceding, and
4 of their receipts and expenditures, and shall make
5 an annual report to the board of railroad commis-
6 sioners in the manner and form and at the time
7 prescribed for railroad corporations.

1 SECT. 7. Said trustees shall receive such sums
2 in full compensation for their services as trustees

3 as the governor and council may determine, which
4 sums shall be charged to operating expenses, and
5 no trustee shall be elected or appointed to any
6 office of profit in their employ, except that of
7 president.

1 SECT. 8. Said trustees are hereby authorized
2 to re-locate, where they deem necessary, the tracks
3 of said Troy and Greenfield Railroad, taking land
4 therefor in the method prescribed by law for the
5 taking of land by railroad corporations, and to
6 complete, extend and improve the construction
7 and equipment of said railroad and tunnel, and to
8 prepare the same in all respects for the reception
9 of the traffic of a through line: *provided, however,*
10 that they shall not purchase or procure any cars
11 for the transportation of passengers or freight; nor
12 shall they make any contracts for any such trans-
13 portation except as provided in section four of this
14 act.

1 SECT. 9. No act of the legislature hereafter
2 passed shall apply to the corporation hereby created
3 unless this corporation be specifically referred to
4 in said act.

1 SECT. 10. In order that a through line may be
2 established and brought into use at the earliest
3 practicable time, the Fitchburg Railroad Company
4 is hereby authorized to consolidate its railroad
5 interests with the railroad interests of the Troy
6 and Boston Railroad Company, and to form one
7 railroad corporation, by the name of the Boston
8 and Ontario Railroad Company, in the manner

9 following: The said railroad companies, at meet-
10 ings duly called to consider the question of con-
11 solidation, may, by a vote of a majority in interest
12 of the stockholders present and voting at such
13 meetings, at any time after the passage of this
14 act, agree to consolidate and unite the said rail-
15 road companies with each other, subject to the
16 provisions of this act, in the manner and upon
17 the terms to be fixed by three commissioners to be
18 appointed by the supreme judicial court, unless
19 such manner and terms shall be mutually agreed
20 upon by the said railroad companies; and such
21 votes so passed by said railroad companies shall
22 be effectual to consolidate and unite into one cor-
23 poration all of the said interests in respect to which
24 such votes shall have been passed; subject, how-
25 ever, to the provisions of this act.

26 If within three months from the passing of such
27 votes the terms of such consolidation shall not
28 have been mutually agreed upon, then either of
29 said railroad companies may apply to the supreme
30 judicial court for the appointment of three com-
31 missioners, to fix the terms of such consolidation,
32 subject, however, to the provisions of this act; and
33 upon such application and due notice, the court
34 shall appoint such commissioners, the award of
35 whom, or a majority of whom, being made to and
36 confirmed by said court, shall be final; and the
37 court shall enter such orders or decrees as may be
38 found needful to carry such award into effect.

39 Said consolidated corporation shall have all the
40 powers and privileges, and be subject to all the
41 duties and liabilities set forth in all general laws
42 that now are or may hereafter be in force relating

43 to railroad corporations, so far as the same are not
44 inconsistent with the provisions of this act.

1 SECT. 11. The capital stock of the consoli-
2 dated corporation shall not exceed the aggregate
3 appraised value of the three component roads, and
4 such other roads as may be consolidated therewith
5 or purchased thereby under the provisions of
6 this act, to be appraised by three commissioners
7 appointed by the supreme court, and to be con-
8 firmed thereby, and such additional amounts as
9 shall actually be hereafter expended by said cor-
10 poration for equipment, tracks and terminal
11 facilities.

1 SECT. 12. The said consolidated corporation
2 may purchase, lease or consolidate with the Ver-
3 mont and Massachusetts Railroad and any rail-
4 road or railroads chartered or built between the
5 intersection of the Troy and Greenfield Railroad
6 with the state line of Massachusetts and Lake
7 Ontario, or Lewiston on the Niagara River, or on
8 the route thereto, and may operate and maintain
9 the same, and may from time to time within
10 five years from the passage of this act take
11 and hold such additional lands as it may deem
12 necessary for the enlargement of its depot accom-
13 modations, or for straightening its line, or for
14 making any necessary alterations, improvements
15 and additions, compensation therefor to be deter-
16 mined by law.

1 SECT. 13. The officers respectively of the said
2 railroad companies shall continue to exercise, in

3 behalf of the consolidated corporation, all the
4 rights and powers which they before exercised,
5 till the consolidated corporation shall be organized;
6 and after the organization of the corporation formed
7 as aforesaid, each of the railroad companies com-
8 posing the corporation shall continue, for the pur-
9 pose of perfecting the said union, and doing all
10 such acts and things, if any, as may be necessary
11 therefor, and shall execute all such transfers,
12 assignments and conveyances as the corporation,
13 formed as aforesaid, may deem necessary or ex-
14 pedient to vest in itself any property, estates, con-
15 tracts, rights or claims, if any there be, which do
16 not vest in it by virtue of this act; and this consoli-
17 dated corporation, subject to the provisions of this
18 act, shall have all the powers, privileges, rights,
19 franchises, property, claims, demands and estates
20 which at the time of such union may be held and
21 enjoyed by each of the said railroad companies
22 composing the consolidated corporation, and be
23 subject to all the duties, restrictions, obligations,
24 debts and liabilities to which, at the time of the
25 consolidation, each may be subject to in severalty;
26 and all suits at law or in equity, and all proceed-
27 ings before any tribunal which may be pending, to
28 which either of said railroad companies shall be a
29 party, may be prosecuted and defended by the cor-
30 poration hereby authorized, in the same name, in
31 like manner and with the same effect as might have
32 been done had such union not been formed. All
33 claims, contracts, rights and causes of action, of
34 or against either of said railroad companies, at law
35 or in equity, may be enforced by suit or action, to

36 be commenced or prosecuted by or against the
37 corporation formed as aforesaid.

38 And the said railroad companies shall continue
39 corporations for the purpose of prosecuting or
40 defending any suit or proceeding at law or in
41 equity, or otherwise, now pending, or which may
42 hereafter be brought by or against either of them
43 out of this Commonwealth.

1 SECT. 14. The Commonwealth, or any corpora-
2 tion authorized by the Commonwealth, may at any
3 time after six months' notice in writing of its
4 intention so to do, take and possess, with power to
5 dispose of, the road, franchise, property, rights
6 and privileges of the said consolidated corporation.
7 In case of such taking, but subsequent thereto,
8 the stockholders of the corporation shall receive,
9 as compensation in full for each and every share of
10 its capital stock by them individually surrendered,
11 such sum of money as may be awarded by three
12 commissioners, who shall be appointed by the su-
13 preme judicial court, on petition of any party in
14 interest, and duly sworn to appraise the same ac-
15 cording to its true value at the time of such
16 taking. The award of the commissioners or a
17 majority thereof shall be rendered to the supreme
18 court within one year after their appointment,
19 and shall not be for a sum less than the par value
20 per share of such stock; nor, in case the true value
21 of such stock at the time such intention to take is
22 notified shall exceed the par value, shall said
23 award be for an amount in excess of the sum of
24 ten dollars per share over and above the highest
25 average market value of such stock at *bona fide*

26 cash sales made during any consecutive month
27 within one year immediately previous to the notice
28 of such intention to take; and said award being
29 confirmed by said court shall be final. Pending the
30 publication of said award, and until the surrender
31 of the capital stock of the corporation, or the expira-
32 tion of two months after the tender by the Common-
33 wealth, or corporation authorized to take, through
34 a notice published in a newspaper in the city of
35 Boston, of the sum fixed by said award as the value
36 of such capital stock, the holders thereof shall be
37 entitled to receive, upon the first days of each
38 April and October, or upon the usual semi-annual
39 dividend days of said corporation, an amount equal
40 to the average semi-annual dividend paid by said
41 corporation during the two years immediately pre-
42 ceding such taking, and in the same proportion for
43 any time less than six months, and for the payment
44 of said award and amount the credit of the Com-
45 monwealth shall be pledged.

1 SECT. 15. This act shall take effect upon its
2 passage.