

SENATE.... No. 205.

[Senate, No. 195, as amended.]

Commonwealth of Massachusetts.

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

AN ACT

To authorize the Formation of Street Railway
Corporations.

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

1 SECT. 1. Any number of persons, not less than
2 fifteen, a majority of them being inhabitants of this
3 state, may associate themselves together by articles
4 in writing, with the intention of forming a corpo-
5 ration for the purpose of locating, constructing,
6 maintaining and operating a street railway for
7 public use in the conveyance of persons; and,

8 upon complying with the provisions of section
9 eight of this act, shall, with their associates and
10 successors, be and remain a corporation, with
11 all the powers and privileges, and subject to all
12 the duties, liabilities and restrictions set forth in
13 all general laws which now are or hereafter may
14 be in force relating to street railway corporations,
15 except as is herein otherwise provided.

1 SECT. 2. The articles of association shall set
2 forth the name of the corporation; the termini of
3 the railway proposed to be built; its length, as
4 near as may be, and the name of each city, town
5 and county through or into which it will extend;
6 the amount of the capital stock of the corporation,
7 which shall not be less than five thousand dollars
8 for each mile; and the names of at least seven
9 persons to act as a board of directors until others
10 are chosen by the corporation. Each associate
11 shall subscribe to the articles his name, residence,
12 post-office address, and the number of shares of
13 stock which he agrees to take; but no subscriber
14 shall be bound to pay beyond ten per cent. of the
15 amount of his subscription, unless a corporation is
16 duly established under the provisions of this act.

1 SECT. 3. The corporate name assumed shall be
2 one not in use by any other street railway corpora-
3 tion in this state, shall contain the words "street
4 railway company" at the end thereof, and shall be
5 changed only by act of the legislature.

1 SECT. 4. The directors shall be subscribers to
2 the articles of association, and a majority of them

3 shall be inhabitants of this state. They shall ap-
4 point a clerk to keep a record of their doings, and
5 a treasurer, who shall hold their respective offices
6 until a clerk and treasurer of the corporation are
7 chosen. The directors shall fill any vacancy in
8 their board, or in the office of clerk or treasurer,
9 caused by resignation, death or other disability.

1 SECT. 5. The directors shall cause a copy of the
2 articles of association to be published in one or
3 more newspapers in each county in which the road
4 is proposed to be located, at least once a week for
5 three successive weeks, before proceeding to fix
6 the route of said road. The sworn certificate of
7 the clerk shall be evidence of the publication.

1 SECT. 6. The board of aldermen of any city,
2 or the selectmen of any town, may, upon the
3 petition of such directors, or a majority thereof,
4 locate the tracks of such proposed corporation
5 within their respective jurisdictions: *provided*, that
6 before proceeding to locate such tracks, they shall
7 give notice to all parties interested, by publication
8 in such newspapers, or otherwise, as they may
9 determine, at least fourteen days before their meet-
10 ing, of the time and place at which they will con-
11 sider such location. After a hearing of all parties
12 interested, they shall pass an order refusing such
13 location, or granting the same, or any portion
14 thereof, under such restrictions as they deem the
15 interests of the public may require, and the location
16 thus granted shall be deemed and taken to be the
17 true location of the tracks of the corporation, if its

18 acceptance thereof in writing is filed with said
19 mayor and aldermen or selectmen within thirty
20 days after receiving notice thereof.

1 SECT. 7. Where the tracks of said proposed
2 corporation would be located within the limits of
3 several cities or towns, and the board of aldermen
4 of any city or the selectmen of any town refuse to
5 approve of the location of such railway, the board
6 of county commissioners, or in the county of Suf-
7 folk, the board of railroad commissioners, may,
8 on the petition in writing of such corporation
9 presented at any regular meeting within one
10 year, proceed to locate the tracks of such cor-
11 poration in the same manner as highways are
12 located under chapter forty-three of the General
13 Statutes.

1 SECT. 8. When the petition of said directors,
2 or a majority of them, has been approved, and the
3 track or tracks of the proposed corporation located
4 as provided in sections six and seven of this act,
5 and when the amount of capital stock named in sec-
6 tion two has been subscribed to the articles of asso-
7 ciation in good faith by responsible parties, and at
8 least ten per cent. of the par value of each and
9 every share thereof actually paid in cash to the
10 treasurer of the association, the directors, clerk
11 and treasurer shall endorse upon the articles of
12 association, or annex thereto, their certificate,
13 setting forth these facts, and that it is intended in
14 good faith to locate, construct, maintain and
15 operate the street railway fixed as aforesaid, and

16 shall also annex to said articles said certificate of
17 publication and the several certificates fixing the
18 route of said street railway, and its approval by
19 the proper boards of aldermen, selectmen or
20 county commissioners, and shall present the same
21 to the railroad commissioners, together with a map
22 of the proposed route on an appropriate scale, with
23 a profile thereof on a vertical scale of ten to one as
24 compared with the horizontal scale; and said map
25 shall be deposited with said commissioners.

1 SECT. 9. Whenever it is shown to the satisfac-
2 tion of the board of railroad commissioners that
3 the requirements of this act preliminary to the
4 establishment of the corporation have been com-
5 plied with, the clerk of said board, upon their
6 order, shall endorse upon the articles of associa-
7 tion or annex thereto, a certificate, setting forth
8 the fact that the requirements of the law appear to
9 have been complied with. The directors shall
10 thereupon file the articles of association, with all
11 the certificates endorsed thereon or annexed
12 thereto, in the office of the secretary of the Com-
13 monwealth; who, upon the payment to him of fifty
14 dollars, shall record the same in a book to be kept
15 for that purpose, and shall issue a certificate sub-
16 stantially in the following form:—

COMMONWEALTH OF MASSACHUSETTS.

17 Be it known that whereas [names of the subscribers to the
18 articles of association] have associated themselves with the
19 intention of forming a corporation under the name of the
20 [name of the corporation] for the purpose of locating, construct-
21 ing, maintaining and operating a street railway [description of
22 the road as in the articles of association] and have complied

23 with the statutes of this Commonwealth in such cases made and
24 provided; now, therefore, I, [name of the secretary] secretary
25 of the Commonwealth of Massachusetts, do hereby certify that
26 the persons aforesaid, their associates and successors, are legally
27 established as a corporation, under the name of the [name of
28 corporation], with all the powers and privileges, and subject to
29 all the duties, liabilities and restrictions set forth in all general
30 laws which now are or hereafter may be in force relating to
31 street railway corporations.

32 In witness whereof, I have hereunto subscribed my official
33 signature, and affixed the seal of said Commonwealth, this
34 day of in the year [Day, month and year.]

35 The certificate, so executed, shall be recorded
36 with the articles of association; and the original
37 certificate, or a duly certified copy of the record
38 thereof, shall be conclusive evidence of the estab-
39 lishment of the corporation at the date of such
40 certificate. All moneys received by the secretary
41 under this section, shall be included in his quarterly
42 returns of fees, and paid into the treasury.

1 SECT. 10. The first meeting of the corporation
2 shall be called by a notice signed by a majority of
3 the directors, stating the time, place and purpose
4 of such meeting; and the clerk shall, seven days
5 at least before the day appointed therefor, deliver
6 to each subscriber, or leave at his usual place of
7 business or residence, or deposit in the post-office,
8 prepaid, and directed to him at his post-office
9 address, a copy of such notice. The clerk shall
10 make an affidavit of his doings in regard thereto,
11 which shall be recorded with the records of the
12 corporation.

1 SECT. 11. Any street railway corporation de-
2 siring to extend its location, may petition the board

3 of aldermen of any city, or the selectmen of any
4 town within whose limits such proposed extension
5 shall lie, and upon such petition the same proceed-
6 ings shall be had as are provided for in sections
7 six and seven of this act, and the provisions of
8 said sections six and seven shall apply in all
9 respects to such petitions.

1 SECT. 12. A horse railway corporation may
2 enter upon and use the tracks of any other horse
3 railway corporation which it may meet or cross:
4 *provided*, that after due notice and hearing, it shall
5 be decided that the public necessity and conven-
6 ence require such entry and use by the award of
7 a board of commissioners, or a major part of them,
8 which shall consist of the members of the board
9 of railroad commissioners for the time being, and
10 of two additional commissioners, one to be ap-
11 pointed by the corporation whose track is to be
12 entered upon, and the other by the corporation
13 desiring to enter upon and use such tracks, but
14 neither of whom shall have any pecuniary or offi-
15 cial interest in the question involved.

1 SECT. 13. Whenever any corporation is duly
2 authorized, either itself or by its lessees or assigns,
3 to enter upon and use the tracks, or any portion
4 thereof, of another corporation, and the corpora-
5 tions cannot agree upon the manner and conditions
6 of such entry and use, or the compensation to
7 be paid therefor, a board of commissioners consti-
8 tuted in the manner prescribed in the foregoing
9 section, after due notice and hearing of the parties
10 interested, shall determine the rate of compensa-

11 tion to be paid for future use, and, if desired by
12 either party, for past use, as well as all other ques-
13 tions relating to such entry or use, and the award
14 of the commissioners, or a major part of them,
15 shall be binding upon the respective corporations
16 interested therein: *provided, however,* that no such
17 award shall apply to any period of time covered
18 by any previous award of commissioners or by
19 agreement of parties.

1 SECT. 14. No other street railway corporation
2 shall subscribe for, take or hold any stock or bonds
3 of any street railway corporation organized under
4 this act, whether directly or indirectly, unless spe-
5 cially authorized by the legislature.

1 SECT. 15. All existing street railway compa-
2 nies shall have the powers and privileges, and be
3 subject to the duties, liabilities, restrictions and
4 provisions contained in this act, which, so far as
5 inconsistent with their several charters, shall be
6 deemed and taken to be in alteration and amend-
7 ment thereof.

1 SECT. 16. Sections fourteen and thirty-eight of
2 chapter three hundred and eighty-one of the acts
3 of one thousand eight hundred and seventy-one
4 are hereby repealed, and section thirty-nine is
5 amended by striking out the word "railroad"
6 from the words "board of railroad commissioners"
7 in said section, so that the same shall read "board
8 of commissioners."

1 SECT. 17. This act shall take effect upon its
2 passage.