

SENATE....No. 130.

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Commonwealth of Massachusetts.

IN SENATE, March 24, 1870.

The Committee on Roads and Bridges, to whom was committed the petition of William Whiting and others for a free bridge across the Connecticut River between the towns of Holyoke and South Hadley, report the accompanying Bill.

Per order,

W. W. JENNESS.

## Commonwealth of Massachusetts.

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In the Year One Thousand Eight Hundred and Seventy.

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### AN ACT

In relation to a Free Bridge across the Connecticut River between Holyoke and South Hadley.

*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 county commissioners of the counties  
2 of Hampden and Hampshire are hereby authorized  
3 and directed to lay out and construct a public high-  
4 way and bridge, with suitable approaches, across the  
5 Connecticut River, in the towns of Holyoke and  
6 South Hadley, at such place as they shall deem most  
7 expedient, between the dam of the Holyoke Water  
8 Power Company and the southern boundary of the  
9 county of Hampshire.

1    SECT. 2.   Said county commissioners may, if they  
2 deem it expedient in constructing said bridge, pro-  
3 vide for the use of any portion thereof for horse  
4 railroad purposes, and shall at all times after the

5 completion of said bridge determine upon what  
6 terms and under what conditions horse railroads may  
7 pass, on, over 'or across said bridge: *provided*, the  
8 authority granted by this section shall not be exer-  
9 cised unless the parties in interest shall give good  
10 and sufficient sureties to said commissioners that they  
11 will pay whatever additional cost is made by so con-  
12 structing said bridge, which shall be determined by  
13 said commissioners.

1     SECT. 3. All expenses incurred under this act,  
2 including all expenses of maintaining and keeping  
3 in repair said bridge when completed, shall be borne  
4 and paid by the counties of Hampden and Hamp-  
5 shire, and such towns in said counties, in such pro-  
6 portion and in such manner, as shall be determined  
7 under the following provisions.

1     SECT. 4. In case the commissioners of the two  
2 counties shall after a reasonable time fail to agree  
3 upon the site and location of said highway and  
4 bridge, or upon the plan and mode of constructing  
5 said bridge, the supreme judicial court, upon appli-  
6 cation of any party interested in the same, may  
7 appoint a committee, consisting of three disinterested  
8 persons, who shall, after duly notifying and hearing  
9 the parties, determine the location of said bridge  
10 and highway and the plan and mode of constructing  
11 the same, and make a report in writing to the clerk  
12 of said court for the county of Hampden, and their  
13 determination, so reported, shall be binding upon all  
14 parties.

1   SECT. 5. When such highway and bridge are  
2 completed, and as soon as their full cost is ascertained,  
3 said county commissioners shall file their report of  
4 the facts, together with the amount of such cost in  
5 the office of the clerk of the supreme judicial court  
6 for the county of Hampden; whereupon, and upon  
7 the application of said county commissioners or any  
8 party interested, and after such notice as the court  
9 may order, said court shall appoint a board of three  
10 commissioners, who shall be sworn to the faithful  
11 discharge of their duties hereunder, and who, after  
12 proper notice to and a full hearing of all parties in-  
13 terested, shall award and determine what proportional  
14 amount of the cost so reported, and what proportional  
15 amount of all expenses of maintaining and keeping in  
16 repair said bridge, and all other expenses incurred under  
17 this act shall be borne and paid by the counties of  
18 Hampden and Hampshire respectively, and by such  
19 towns in the several counties of Hampden and Hamp-  
20 shire as they shall award and determine will be  
21 specially benefited by said bridge; and they shall  
22 also award and determine how and by and to whom  
23 such proportional amounts shall be paid.

1   SECT. 6. The determination and award of said  
2 commissioners, or the majority of them, shall be by  
3 them reported in writing to the supreme judicial  
4 court for the county of Hampden, and upon accept-  
5 ance by said court, and judgment and decree entered  
6 thereon, shall be binding upon all parties named  
7 therein, and such proceedings may be had upon such  
8 judgment or decree to enforce and carry into effect  
9 the same, as is provided by law in civil cases in said

10 court. The compensation and expense of said com-  
11 mission shall be paid in such manner as they shall  
12 determine, subject to the approval of the supreme  
13 judicial court; and all matters and things provided  
14 by this act to be done in or by the supreme judicial  
15 court, except the appointment of the board of com-  
16 missioners and final judgment or decree, may be done  
17 by any justice of said court as well in vacation as  
18 term time.

1     SECT. 7. In case the commissioners of either of  
2 the aforesaid counties of Hampden and Hampshire  
3 shall, on application of any party interested, and for  
4 ten days, neglect or refuse to act upon the authority  
5 granted in this act, the commissioners of the other  
6 aforesaid counties are hereby authorized and em-  
7 powered to lay out and construct such highway and  
8 bridge, and to report their doings and expenditures  
9 therefor to the supreme judicial court, as herein pro-  
10 vided, and in every other particular to have and  
11 exercise the authority herein previously granted the  
12 commissioners of said counties of Hampden and  
13 Hampshire jointly, save after entry of the final judg-  
14 ment or decree herein before mentioned by the supreme  
15 judicial court, the commissioners of both of said  
16 counties shall have joint control over said bridge.

1     SECT. 8. In case the commissioners of one of said  
2 counties shall lay out and construct such highway  
3 and bridge and report their doings and expenditures  
4 as in the last section provided, said supreme judicial  
5 court shall appoint commissioners, receive their re-

6 port, enter judgment or decree thereon in the same  
7 manner as previously provided.

1     SECT. 9. The selectmen of the towns of Holyoke  
2 and South Hadley, after the completion of said bridge,  
3 shall have the care and superintendence of said bridge,  
4 its abutments and piers, and cause them to be kept in  
5 good repair and safe and convenient for travel; the  
6 cost of the repairs, care and superintendence of said  
7 bridge to be borne by such parties as the board of  
8 commissioners shall determine under authority herein  
9 before granted.

1     SECT. 10. Liability for defects in the bridge, its  
2 abutments and piers shall exist on the part of the  
3 towns of Holyoke and South Hadley in such propor-  
4 tions as the county commissioners of the counties of  
5 Hampden and Hampshire shall determine.

1     SECT. 11. The county commissioners of the  
2 counties of Hampden and Hampshire are hereby  
3 authorized to borrow upon the credit of said counties,  
4 a sum not exceeding one hundred and fifty thousand  
5 dollars for the purpose of carrying into effect the  
6 the authority granted in this act.

1     SECT. 12. There may be allowed and paid as ex-  
2 penses under section three to the owners of the swing  
3 ferry now operating immediately below the proposed  
4 bridge, such sum as the commissioners shall consider  
5 a fair and legal compensation to said owners for the  
6 injury done them by the erection of said bridge.

1     SECT. 13. This act shall take effect upon its pas-  
2 sage.