

SENATE.....No. 79.

Commonwealth of Massachusetts.

IN SENATE, March 10, 1848.

The Joint Standing Committee on Railways and Canals, to whom were referred the petition of the Eastern Railroad Company, for leave to extend their railroad into the city of Boston, and the several petitions in aid of, and remonstrances against, the same, have heard the petitioners and remonstrants, by themselves or their counsel, and submit the following

REPORT:

Immediately on the case being opened by the petitioners' counsel, one member of the committee, Mr. Sargent, of Cambridge, in obedience to his interpretation of the instructions of the city government of Cambridge to the representatives from that city, withdrew from the committee, and appeared before the remaining members to oppose the granting of any authority to erect another bridge over Charles River. Without foreseeing the result, the other six members heard all the testimony and arguments. On consultation, it was found that they were equally divided in opinion, the testimony and arguments furnishing to three of them most satisfactory evidence that the prayer of the petitioners ought to be granted; while, to three of them, the same testimony and arguments furnished equally

satisfactory evidence that leave should be granted to the petitioners to withdraw their petition.

Under these circumstances, it only remains for the committee to ask to be discharged from the further consideration of the subject.

For the committee,

A. D. FOSTER.

Commonwealth of Massachusetts.

IN SENATE, March 10, 1848.

The undersigned, members on the part of the Senate of the Joint Standing Committee on Railways and Canals, having heard and considered the petition of the Eastern Railroad Company, for leave to extend their railroad into the city of Boston, and the remonstrances against the same, are clearly of the opinion that the prayer of the petitioners ought to be granted. They ask leave to submit to the senate a brief statement of the case, as they understand it, and the form of a bill such as they think ought to pass.

By the act incorporating the Eastern Railroad Company, they were required to terminate their road at East Boston, with all the advantages and disadvantages of a ferry. This location gave the road the most direct and the shortest route to Salem, and, in the opinion of many persons, it is the best route. But, ever since the road was opened for travel, complaints have been constant and incessant against "the ferry." Year after year, petitions have been before the legislature, for a route from Salem and Danvers to Boston, which would avoid the obnoxious "ferry." This very year, the committee, of which the undersigned are members, have, in other cases than this, heard much testimony bearing directly or indirectly upon "the ferry." In the hearing of this case, it was in evidence that the Eastern Railroad Company have listened to complaints against "the ferry," until their duty to the public would no longer permit them to rest, without attempting a change. The demand of the public for the change, in their opinion, created an "exigency" for it, and they have reluctantly asked it, at a

probable pecuniary sacrifice, and the certain sacrifice of some pride of opinion.

The undersigned believe that the evidence justifies the petitioners. Some of the witnesses considered the ferry to be only slightly objectionable; others regarded the objections as very serious, particularly for ladies and children. The objections are on account of danger from collision with other vessels, from occasional fogs and ice, and from a frequent rush to and from the boat. Gentlemen of high standing and character, testified before the committee that, in their opinion, founded upon personal knowledge of the ferry, it was the duty of the company to avoid it, by a new location, if authority could be obtained therefor. And it was proved, on the part of the petitioners, that they would feel bound to do this as soon as is practicable, if the legislature grant the liberty and the power.

Objections were made to the grant of this authority by the Boston and Maine Railroad Corporation, on account of the crossing of their road, the nearness to their property of the proposed route, the probable taking of a portion of their land, the injury to a dock of which they are in part owners, and the crowding together, in the same vicinity, of several railroad depots.

It was opposed by the cities of Cambridge and Boston, and by certain wharf-owners, on account of the obstruction of the navigation of Charles River by another bridge.

Each of these objections has its weight. But the crossing of the Boston and Maine Road, as the undersigned believe, will not occasion so much danger as the ferry now does.

If it be proved that public necessity and convenience require the route to pass near or over the property of another corporation, although it may be inconvenient, if it be not an infringement of their charter, it is not perceived how or why they, as a corporation, are to be distinguished, in their ownership, from individuals. The question of damages, and the remedy for them, are open equally to both.

As to crowding, into a near vicinity, several depots, if they are of easy access for ingress and egress, and are sufficiently wide, there does not seem to be much weight in this objection.

In this case, the undersigned think it has very little weight. It is admitted that another bridge over Charles River will, to some extent, impede its navigation. But the legislation of the last sixty years has established the fact and the principle, that such impediments must be submitted to when, in the opinion of the legislature, the communication from the mainland to the peninsula of Boston requires it. The only question is, whether this is such a case. The undersigned think it is, and that the balance of advantages over disadvantages is in its favor.

The past and prospective rapid increase of the navigation of Boston makes the ferry more and more objectionable, by increasing the danger of collision, and makes another entrance for this road more and more desirable. At the same time, as the necessity for this change grows stronger, the difficulties of effecting it accumulate. If arrangements are not made this year, it will be more difficult to make them next. The change can now be made with less inconvenience to corporations and to individuals, at less expense to the Eastern Railroad Company, and with earlier accommodation to the public, than it can a year hence. Sooner or later, the undersigned do not doubt, it will be made under authority from the legislature. They respectfully submit that it ought to be done at the present session, and that the accompanying form of a bill is such as ought to be passed into a law for that purpose.

ALFRED DWIGHT FOSTER.

CHAS. H. PLUNKETT.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Forty-Eight.

AN ACT

Authorizing the Eastern Railroad Company to extend their Railroad into Boston.

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 Eastern Railroad Company are
2 hereby authorized and empowered to locate, construct,
3 and maintain, a railroad, from some convenient point
4 on the Grand Junction Railroad, and Depot Com-
5 pany's Railroad, after the same crosses the Boston
6 and Maine Railroad, in Somerville; thence on the
7 westerly side of said Boston and Maine Railroad
8 across the Fitchburg Railroad, and the channel of
9 Miller's River, near the westerly side of the island of
10 said Boston and Maine Railroad Company, across

11 Charles River to Causeway Street, in the city of Bos-
12 ton ; said railroad, across the channels of Miller's and
13 Charles Rivers, to be but twenty-six feet wide ; with
14 all the powers and privileges, and subject to all the
15 duties, liabilities, and restrictions, provided in all gen-
16 eral laws which are now, or may be hereafter, in
17 force, relating to railroads, in this Commonwealth.

1 SECT. 2. The said bridges, with two good and
2 sufficient draws and piers, for the safe and convenient
3 passage of vessels, in the channels of Charles and
4 Miller's Rivers, shall be constructed on piles, so as to
5 cause the least obstruction to the flow of the stream,
6 under the direction of a commissioner to be appointed
7 by the governor and council, at the expense of said
8 company, excepting as to the draw in the channel of
9 Miller's River, which shall be constructed under the
10 direction of the mayor and aldermen of Cambridge ;
11 and the said company shall keep the draws in good
12 repair, and open the same, and afford all proper ac-
13 commodation to vessels having occasion to pass the
14 same by day or night.

1 SECT. 3. The said company shall not locate any
2 part of their road on Causeway Street, in said Bos-
3 ton, within fifty feet of the westerly side of the freight-
4 house of the Boston and Maine Railroad Company,
5 without the consent of said company ; and if, in
6 building said bridge near the island of said company,
7 heretofore mentioned, it shall be necessary to put any
8 part of said bridge in the channel, heretofore exca-
9 vated by said Boston and Maine Railroad Company,
10 the said Eastern Railroad Company shall, and they

11 are hereby authorized to, excavate an equal width on
12 the opposite side of said channel, so that the same
13 shall have the same width as at present.

1 SECT. 4. Said company shall observe such rate of
2 speed, and establish and maintain such securities for
3 public safety on their road, and about their depot
4 buildings hereby authorized in the city of Boston, as
5 the mayor and aldermen thereof shall require.

1 SECT. 5. If the said company shall not file the
2 location of so much of the road herein granted, as
3 lies in the county of Middlesex, with the county com-
4 missioners of said county, and so much as lies in the
5 county of Suffolk, with the mayor and aldermen of
6 the city of Boston, within one year from the time this
7 act shall take effect, and if the said road shall not be
8 built in two years from said time, this act shall be
9 void.

1 SECT. 6. For the purposes of this act, the said
2 company are authorized to increase their capital stock
3 by an amount not exceeding three hundred thousand
4 dollars.