

HOUSE No. 205.

Commonwealth of Massachusetts.

To the Honorable the Senate and House of Representatives in General Court Assembled.

The Board of Railroad Commissioners respectfully submit so much of the annual report relating to street railways as has to do with recommendations connected with legislation. The special reports of Prof. George F. Swain relating to bridges and of Mr. Edmund K. Turner relating to the Boston Elevated Railway will accompany the tables and statistics now in the hands of the State Printers, to be ready for distribution at an early date.

NEW LEGISLATION.

The present street railway laws are a patchwork, some sections inoperative, others confusing if not conflicting. This is not surprising, when it is considered that the earlier of these statutes were adapted to a horse-car service. In fact, it is a proof of the strength and elasticity of those laws that they apply as well as they do to the many new and different conditions affecting electric-car service.

We have been urged to recommend a general change in the laws relating to street railways. A partial change was accomplished under chapter 578 of the Acts of 1898, based upon the report of a special commission.

Following this report, the statute of 1898 adopted the fundamental principles that the street railway belongs in, over or under the street, and that the franchise should not be given a fixed tenure, but should remain subject to revocation

whenever the public interests demand. The statute further conforms to the report in establishing a State supervision in certain instances over the action of local boards, and in making a radical change in the method of taxation.

This report furnishes evidence of a thorough investigation. Its conclusions are expressed in clear and forcible language. As to the character of street railway service it says:—

As the modern municipalities expanded, the demand for better facilities of urban, or, as it would be termed in Europe, intramural transportation, made itself increasingly felt. Naturally the street car and the tramway at length suggested themselves as convenient agencies, the street car being nothing more or less than an improved omnibus, and the tramway, a special feature in the pavement of the public way. . . . This is all the street railway was fifty years ago, when first laid; it is all it is now, — an improved line of omnibuses running over a special pavement. If this fact be fairly grasped and borne constantly in mind, the discussion of the principles underlying it are greatly simplified. The analogy throughout is with the omnibus line, and not with the railroad train; with the public thoroughfare, and not with the private right of way.

One reason, then, why a general revision of these laws may be postponed is the fact that a special revision has recently been made by men of distinguished ability, as a result of whose work certain principles have been reaffirmed and certain important changes made in the law. It would be well to let experience keep school awhile longer.

It has been urged that the time has come to give the street railway companies generally the power to carry on a freight business, and to construct and operate their railways outside the highway over private lands. We are not ready to admit that the doctrine that street railways belong in the street, so long held and so emphatically reiterated in the report of the special commission above referred to, should be hastily abandoned. The use of electricity is yet in an experimental stage, and nothing surprisingly new has happened in the last three years to warrant setting aside the conclusions then reached as to the purpose that the street railway serves. We still believe that it should be distinguishable from the railroad, and remain for the present at least one of the new

uses for which the highway in its development under the original design is well suited. Working with, rather than as a substitute for, the railroad, the street railway furnishes travelling facilities that the public cannot well do without. In its useful service of transportation from town to town, as well as from house to house, and from street to street, the large and commodious modern car can be and is safely operated at a reasonable rate of speed over innumerable highways within the State without serious interference with other methods of travel. There is no call for the attempt, too often made, to rival the speed of the railroad train. The modern avenue is constructed in many cases with a view to the presence of the railway, and can usually be readily adapted to it. There are, of course, exceptional instances where in the public interest the railway ought to be permitted to go upon private lands, as an incident of the general use of the highway. The law already permits it for the purpose of avoiding grade crossings.

It has been argued that street railways should do a freight business, and that to do this they must be operated outside of the public highway. A freight service over the streets is incompatible with the conduct of a satisfactory passenger service at the same time, and in itself is objectionable on other grounds. But we do not believe there is any such demand that street railways should do a freight business as to warrant so radical a change in operation as a removal from the streets to private lands. Undoubtedly there are localities in which the conduct of a freight business in part over particular streets or ways, or in part over private lands, may be desirable. We think that these cases should be considered as exceptions to the general rule, and even as such should only be permitted where the communities affected by them approve it.

If new ideas as to the ordinary method of operation of the street railway are to be seriously considered, it would be wise to experiment with them in some individual case before making a general change in the laws to carry them into effect. The continuance of a body of laws that lacks symmetry and perfection is less productive of evil than frequent changes in important provisions.

While, therefore, we cannot now recommend any general revision, on the other hand, there is need of certain specific changes in the statutes. It does not matter so much that the law as to compulsory joint use of tracks applies only to horse-cars, of which there is but one relic left; but it is important that, if the Board is to regulate fares, it should be given full opportunity to exercise this power. Under section 23, chapter 578, Acts of 1898, reductions in fares are limited to the average fare charged by other companies rendering similar service. The difficulty of establishing in any given case just what is a similar service has seriously embarrassed parties who have sought a regulation of fares under this section. The theory that fares should depend upon what the companies themselves establish and practise, either with or without agreement, is clearly untenable. If the authority to recommend changes which the Board has under its general power of supervision over railways needs to be strengthened in relation to fares, the additional authority given should be without restriction other than the requirement that action be based upon what is reasonable under all the circumstances.

We further suggest that the law be changed so as to require the road-bed, tracks and structures of newly organized companies to be inspected by the Board before the railway is opened to travel, as is the case with railroads. The heavier cars and higher speed characteristic of the present service demand more careful construction of road-bed and the use of heavier rails than were formerly necessary. Wherever the single track is in use by cars running in opposite directions, some simple but effective signal system should be required.

ANTI-STOCK-WATERING LAWS.

The wisdom of the legislation known as the "Anti-stock-watering laws," restricting original issues of street railway securities to the amount requisite for cost of construction and equipment, forbidding additional issues where the capital or assets have become impaired until such impairment is made good or provided for in some way, and prohibiting the issue of bonds unless the physical assets of the company are

equal to its aggregate outstanding indebtedness, is now generally acknowledged. Under the administration of these laws the public are protected from evils of over-capitalization, and street railway securities have, in the interest of both the public and the company, been greatly strengthened. The freedom with which investments are made and money loaned is proof of this assertion.

During the year ending Dec. 31, 1900, the Board, after examination into the property and financial standing of the several companies, has approved issues of stock aggregating at par \$14,538,600 and of bonds aggregating \$4,085,000, as against \$15,360,500 in stock and \$4,204,000 in bonds for which approval was asked. The investigations made by the Board during this year in connection with petitions for issue of stocks and bonds have shown impairment of capital or assets in five cases. The companies have in every instance, at the suggestion of the Board, made this impairment good as a condition precedent to approval of issue by cash payments to the full amount, aggregating in all \$203,921.15.

We would respectfully suggest that special statutes exempting companies from these wholesome laws be enacted only where upon careful examination unusual conditions call for them, and that such exemption be not indirectly conferred in laws that do not grant it in express words.

CONSOLIDATION.

Through purchase and sale thirteen street railway consolidations have been effected during the year. In each case this has been accompanied by specific reductions in fare and extensions of rights of transfer. These consolidations tend also to afford larger opportunity for equalization of fares, improvement in service and the exercise of supervision over operation. There must, however, be a limit to the extent to which it is advisable that street railways should be brought under one management. Having this in mind, there is no reason to doubt the beneficial effects of the union thus far made, without increase of capitalization, of several smaller companies into stronger systems, with less expensive methods of operation and larger facilities for the conduct of a satisfactory public service.

NEW INSPECTOR.

The additional duties imposed under chapter 376, Acts of 1897, upon the three inspectors appointed by the Board under chapter 535, Acts of 1894, owing to the large extension in street railway systems, made it necessary, in the judgment of the Board, to exercise its authority to appoint an additional inspector. Accordingly, Mr. Lewellyn H. McLain, then superintendent of the Newton & Boston Street Railway Company, was appointed and assumed the duties of inspector upon the first day of October last. The selection was governed by the belief that the new official should be one specially qualified by training and experience to examine into street railway property and conditions of operation, and the services rendered have justified this action.

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GEORGE W. BISHOP,
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Commissioners.