

HOUSE No. 400.

[Mr. HOYT, of Athol, proposes this Bill as a substitute for House, No. 353.]

Commonwealth of Massachusetts.

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

AN ACT

To provide for the consolidation of the Fitchburg, Vermont and Massachusetts, and Troy and Boston Railroads.

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 Fitchburg Railroad Company,
2 the Vermont and Massachusetts Railroad Company,
3 the Commonwealth of Massachusetts, by virtue of
4 its interests in the Troy and Greenfield Railroad
5 and Southern Vermont Railroad, and the Troy and
6 Boston Railroad Company, or so many of the said
7 railroads as may vote to do so, in connection with
8 the Commonwealth, are hereby authorized to con-

9 solidate their several railroad interests and to form
10 one railroad corporation in the manner following:

11 The said railroad companies, or any two of them,
12 at meetings duly called to consider the question of
13 consolidation, may, by a vote of a majority in
14 interest of the stockholders present and voting at
15 such meetings, at any time within four months
16 from the passage of this act, agree to consolidate
17 and unite the said companies with each other
18 and with the Commonwealth, subject to the
19 provisions of this act, in the manner and upon
20 the terms to be fixed by three commissioners to
21 be appointed by the supreme judicial court,
22 unless such manner and terms shall be mutually
23 agreed upon by the said companies and by the
24 governor and council as hereinafter provided;
25 and the governor and council, at any time within
26 five months from the passage of this act, may agree
27 to consolidate and unite the said railroad interests
28 of the Commonwealth with the said companies, or
29 with any two of them that may have voted
30 for such consolidation and union, upon the same
31 terms; and such votes so passed by the gov-
32 ernor and council, and by said railroad com-
33 panies, or any two of said railroad companies,
34 shall be effectual to consolidate and unite into one
35 corporation all of the said interests in respect to
36 which such votes shall have been passed, subject,
37 however, to the provisions of this act.

38 In estimating the value of the interest of the
39 Commonwealth in the Troy and Greenfield Rail-
40 road, no addition shall be made for the extra cost
41 of the Hoosac Tunnel over the cost of the con-
42 struction of the same length of the Troy and

43 Greenfield Railroad, but the valuation of the said
44 railroad shall be made with reference to its actual
45 length in miles from Greenfield to the state line of
46 Vermont.

47 If within three months from the passing of such
48 vote by the governor and council, the terms of
49 such consolidation shall not have been mutually
50 agreed upon by the companies voting for such
51 consolidation and by the governor and council, then
52 either of said companies or the governor and
53 council may petition the supreme judicial court for
54 the appointment of three commissioners, to fix the
55 terms of such consolidation, subject, however, to
56 the provisions of this act; and upon such appli-
57 cation and due notice, the court shall appoint such
58 commissioners, the award of whom or a majority
59 of whom, being made to and confirmed by said
60 court, shall be final; and the court shall enter such
61 orders or decrees as may be found needful to carry
62 such award into effect.

63 Said consolidated corporation shall have all the
64 powers and privileges, and be subject to all the
65 duties and liabilities set forth in all general laws
66 that now are or may hereafter be in force relating
67 to railroad corporations, so far as the same are not
68 inconsistent with the provisions of this act.

69 The Commonwealth shall retain the right to
70 control and regulate the use of the Hoosac Tun-
71 nel, and the governor and council may from time
72 to time, establish reasonable rules and regulations
73 for the management thereof, and the running of
74 trains through the same by the said company, so
75 that no discrimination shall ever be allowed against
76 any connecting railroad company in respect to the

77 carrying of freight or passengers through said
78 tunnel. The title to the Hoosac Tunnel shall
79 remain perpetually in the Commonwealth.

80 And the Commonwealth shall be entitled to
81 receive from the consolidated company a uniform
82 tariff upon every paying passenger and ton of
83 freight carried through the tunnel, which shall
84 not at any time exceed cents for every
85 passenger and cents for every ton of freight,
86 and within these limits the same may be fixed or
87 altered by the governor and council, from time to
88 time, as in their judgment the public interest
89 may require. The said railroad company, in fix-
90 ing their rates for freight and passengers for
91 connecting railroads shall reckon the tunnel as
92 so many miles of ordinary railroad, and may add
93 thereto the tariffs required to be paid by said
94 company to the Commonwealth under this act
95 and no more. The said railroad company shall
96 keep its books and accounts in such manner as
97 to show clearly the number of passengers and
98 amount of freight carried through the tunnel,
99 and for what railroads the same are carried, and
100 shall at all reasonable times exhibit the same to
101 such officers or agents of the Commonwealth as
102 may be designated by the legislature or by the
103 governor and council, and shall also render a
104 statement thereof under oath once in
105 months to the governor and council, and at the
106 same time pay into the treasury of the Common-
107 wealth the amount which shall be due under the
108 provisions of this act.

109 All ordinary repairs upon the tunnel shall be
110 made by the said company at its own cost, and

111 all extraordinary repairs and alterations therein
112 shall be made by the company, with the approval
113 of the governor and council, but at the cost of
114 the Commonwealth.

1 SECT. 2. If the Fitchburg Railroad Company
2 neglects or refuses to pass said vote to unite and
3 consolidate the said companies with each other
4 and with the Commonwealth, as aforesaid, and a
5 consolidated corporation shall be formed by the
6 other companies above named and the Common-
7 wealth, such consolidated corporation is hereby
8 authorized and required to establish, on or near
9 tide-water in or near the city of Boston, before
10 the first day of May, in the year of our Lord
11 eighteen hundred and seventy-seven, a terminal
12 depot for the accommodation of its merchan-
13 dise and other traffic, with power to take the
14 land necessary therefor; and it is further au-
15 thorized to extend its railroad from a convenient
16 point at or near the present terminus of the line of
17 the Vermont and Massachusetts Railroad in Fitch-
18 burg, by some direct, and feasible route, to said
19 terminal depot; and for these purposes shall have
20 all the powers and privileges, and be subject to all
21 the duties, restrictions and liabilities set forth in
22 all general laws that now are or hereafter may
23 be in force relating to railroad corporations:
24 *provided, however,* that said extension road shall
25 be located within two years from the date of con-
26 solidation, and constructed within four years after
27 date of consolidation.

1 SECT. 3. In place of locating and constructing
2 a new line of railroad from Fitchburg to Boston,

3 as provided in the preceding section, said corpora-
4 tion may within two years purchase the road,
5 property and franchise, or so much of the road and
6 franchise of any railroad company as may be
7 necessary and convenient to form with its own
8 road a first-class continuous line of railroad from
9 Troy to Boston; or said corporation may unite
10 and consolidate its stock with the stock of such
11 company; and any such company may within two
12 years sell a portion of its road and franchise, or
13 the whole of its road, property and franchise to, or
14 unite and consolidate its stock with the stock of
15 said consolidated corporation, upon such terms
16 and conditions as may be agreed upon by a ma-
17 jority in interest of the stockholders of such com-
18 pany present and voting at a meeting duly called
19 for that purpose, and by the directors of said con-
20 solidated corporation appointed as hereinafter
21 provided and approved by the governor and
22 council.

23 But nothing herein contained shall be so con-
24 strued as to authorize any union or consolidation
25 with, or any purchase of any railroad line or fran-
26 chise from the Boston and Albany Railroad Com-
27 pany.

1 SECT. 4. It shall be the duty of the Common-
2 wealth, at its own expense, to complete the Hoosac
3 Tunnel, and lay a track through the same ready
4 for use, substantially as provided in the contract
5 now existing between the Commonwealth and the
6 Messrs. Shanly; and also to lay and finish the
7 Troy and Greenfield Railroad west of the Hoosac

8 Tunnel, so that the same shall be fitted for the
9 passage of through trains.

1 SECT. 5. The amount of the capital stock of
2 the corporation hereby authorized may be fixed by
3 the companies voting for such consolidation, and
4 by the governor and council, not, however, exceed-
5 ing twenty millions of dollars; and such portion
6 thereof as may be agree upon may be set apart for
7 the benefit of such consolidated corporation, and
8 sold at auction, as now provided by law, in case of
9 an increase of the capital stock of railroad corpo-
10 rations; or bonds to such amount as may be agreed
11 upon by said companies and by the governor and
12 council, may be issued by such consolidated cor-
13 poration, and convertible into stock of said con-
14 solidated corporation at any time within ten years;
15 and, in case of the issue of bonds, the whole amount
16 of capital stock and bonds shall not exceed twenty-
17 five millions of dollars.

1 SECT. 6. There shall be a board of directors of
2 the said consolidated corporation, who, until after
3 the completion of the Hoosac Tunnel and the elec-
4 tion of directors thereafter, as provided for in sec-
5 tion nine, shall be appointed as follows: The
6 governor and council shall appoint two, one of
7 whom shall hold office for one year, and one for
8 two years, and the times when said terms expire
9 shall be in the month of January; and as often as
10 a vacancy shall occur from expiration of a term of
11 office or other cause, the same shall be filled by the
12 governor and council. And the directors of the
13 Vermont and Massachusetts and Troy and Boston

14 Railroad Companies, if they shall have voted for
15 consolidation, shall annually appoint three mem-
16 bers of their respective boards of directors to act
17 as directors of the consolidated corporation during
18 the term for which they have been chosen by said
19 companies, and until their successors are chosen.
20 And the five directors of the Fitchburg Railroad
21 Company, if the same shall have voted for consoli-
22 dation, shall also act as directors of said con-
23 solidated corporation.

1 SECT. 7. After the appointment of a board of
2 directors of said consolidated corporation, as pro-
3 vided in the preceding section, all alterations in
4 the line of the railroad, and all permanent im-
5 provements or additions except ordinary or neces-
6 sary repairs or additions, shall be made with the
7 consent and under the discretion of said board;
8 and all such alterations, improvements and addi-
9 tions so made shall be deemed to be for the benefit
10 and at the expense of said consolidated corpora-
11 tion; and the cost thereof, with interest, if paid in
12 the first instance by either of said corporations
13 now existing, or by the Commonwealth, shall be
14 chargeable to and assumed by said consolidated
15 corporation, after its full and final organization, as
16 herein provided.

17 And the determination of said board as to the
18 alterations, improvements and additions which
19 shall be deemed to be for the benefit and at the
20 expense of said consolidated corporation, and as
21 to the cost thereof which shall be chargeable to
22 and assumed by the same, shall be final.

1 SECT. 8. The consolidation herein provided for
2 shall not affect the running of trains, or the con-
3 ducting of the business of said several railroad
4 companies until after the completion of the Hoosac
5 Tunnel and track through the same, and of the
6 railroad west of the tunnel, as provided in section
7 four, and until the holding of the first meeting of
8 said consolidated corporation after such comple-
9 tion, and the election of directors as provided in
10 section nine; but until then each of the said sev-
11 eral railroad companies shall manage and conduct
12 its own business as at present, keeping up its road
13 and equipment, however, to such a standard as
14 shall be specified by the terms of consolidation
15 agreed upon, or by award of the commissioners.

1 SECT. 9. After the completion of the Hoosac
2 Tunnel and track through the same, and of the
3 railroad from the west end of the tunnel to North
4 Adams, as provided in section four, the board of
5 directors of said consolidated corporation shall
6 call a meeting of said corporation, to be held in
7 the city of Boston, and shall give ten days' notice
8 of the time and place of such meeting by publica-
9 tion in two newspapers in the city of Boston, one
10 in each of the towns of Fitchburg, Greenfield and
11 Adams, and two in the city of Troy, in the state
12 of New York; and at said meeting persons hold-
13 ing stock in either of said railroad companies now
14 existing, which shall have voted for such consoli-
15 dation, shall be entitled to vote in like manner as
16 they would have been had these railroad com-
17 panies been separately convened, and shall jointly

18 choose the same number of directors allowed for
19 all of said railroad companies in section six.

1 SECT. 10. Upon the election of directors, as
2 provided in the preceding section, the con-
3 solidated corporation shall have, hold and pos-
4 sess and enjoy all the estate and interest of
5 the Commonwealth in the Troy and Green-
6 field Railroad and Southern Vermont Railroad,
7 and all the property, real or personal, of the
8 Commonwealth, held, used or enjoyed in con-
9 nection therewith, subject however to the pro-
10 visions of this act, and shall have all the pow-
11 ers, privileges, rights, franchises, property, claims,
12 demands and estates which at the time of such
13 union may be held and enjoyed by either of the
14 said existing railroad companies which shall have
15 voted for consolidation, and be subject to all
16 the duties, restrictions, obligations, debts and lia-
17 bilities to which, at the time of the union, either is
18 subject to in severalty; and all suits at law or in
19 equity, and all proceedings before any tribunal
20 which may be pending, to which either of said
21 railroad companies shall be a party, may be prose-
22 cuted and defended by the corporation hereby au-
23 thorized in the same name, in like manner and with
24 the same effect as might have been done had such
25 union not been formed. All claims, contracts,
26 rights and causes of action, of or against either of
27 said railroad companies, at law or in equity, may
28 be enforced by suit or action, to be commenced or
29 prosecuted by or against the corporation formed as
30 aforesaid.

31 And the said existing railroad companies shall

32 continue corporations for the purpose of prosecut-
33 ing or defending any suit or proceeding at law or
34 in equity, or otherwise, now pending, or which may
35 hereafter be brought by or against either of them
36 out of this Commonwealth.

1 SECT. 11. Each of the said existing railroad
2 companies, which shall have voted for consoli-
3 dation, shall also continue a separate corpora-
4 tion for the purpose of perfecting such union, and
5 of doing all such acts and things as are herein
6 provided for or contemplated to be done by them
7 separately; and, after the election of directors, as
8 provided in section nine, shall execute all such
9 transfers, assignments and conveyances as said
10 consolidated corporation may deem necessary or
11 expedient to vest in itself any property, estates,
12 contracts, rights or claims, if any there be, which
13 do not vest in it by virtue or authority of this act.

1 SECT. 12. In fixing the terms of the consolida-
2 tion and union authorized by this act, whether the
3 same is done by agreement or by a board of com-
4 missioners, the value of the several interests con-
5 solidated, and the amount of capital stock which
6 shall be apportioned to represent each of said in-
7 terests, shall be fixed with reference to the time
8 when the election of directors, as provided for in
9 section nine, can first be had; and if such appor-
10 tionment of stock cannot otherwise be conveniently
11 and justly made, then a sum in money may be
12 agreed upon or awarded to be paid out of the
13 funds of said consolidated corporation to either of
14 the original parties composing the same (and in

15 such case the same may be distributed among the
16 stockholders of the railroad company or companies
17 receiving the same), or by either of said original
18 parties to said consolidated corporation.

1 SECT. 13. The corporation formed as aforesaid
2 shall be called the Hoosac Tunnel Railroad Company,
3 and shall have power, within five years from the
4 passage of this act, to take and hold additional
5 lands necessary for the enlargement of its depot
6 accommodations, or for straightening its line and
7 for making the alterations, improvements and addi-
8 tions herein authorized, compensation therefor to
9 be determined by law.

1 SECT. 14. The time and place of the annual
2 meeting of the consolidated corporation authorized
3 by this act shall be fixed by the by-laws. The
4 number of directors shall not exceed thirteen, of
5 whom two shall be appointed in behalf of the state
6 in the manner provided in section six.

1 SECT. 15. The said consolidated corporation is
2 also authorized to purchase the railroad property
3 of the Cheshire Railroad, at any time within two
4 years from the passage of this act, upon terms to
5 be agreed upon by a vote of the majority in inter-
6 est of the stockholders of said Cheshire Railroad
7 present and voting at a meeting duly called for
8 that purpose, and by the directors of said consoli-
9 dated corporation, and approved by the governor
10 and council; and, in case of such purchase, to issue
11 stock or bonds in payment thereof, and to increase
12 the capital stock to the amount of such purchase:

13 *provided, however,* that the consent of the legisla-
14 ture of New Hampshire is first obtained to such
15 purchase.

1 SECT. 16. The Vermont and Massachusetts
2 Railroad Company is authorized to sell and con-
3 vey that portion of its franchise and railroad from
4 Miller's Falls to Brattleboro' upon terms to be
5 agreed upon by a vote of a majority in interest of
6 the stockholders of said company present and vot-
7 ing at a meeting duly called for that purpose.
8 And any corporation established under the laws
9 of this Commonwealth is authorized to purchase
10 the same upon terms to be agreed upon by a
11 similar vote.

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

