



ARGUMENT
OF
FRED H. WILLIAMS
BEFORE THE
LEGISLATIVE COMMITTEE
ON STREET RAILWAYS,

MARCH 16, 1893,

IN FAVOR OF AN ACT REQUIRING THE CONSENT OF
THE BOARD OF RAILROAD COMMISSIONERS FOR
A STREET RAILWAY USING ELECTRIC POWER,
TO CROSS THE TRACKS OF A STEAM
RAILROAD AT GRADE.



BOSTON :
PRESS OF SAMUEL USHER,
171 DEVONSHIRE STREET.
1893.

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Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Ninety-three.

AN ACT

To amend Chapter One Hundred and Thirteen of the Public Statutes relating to Street Railway Companies.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows :

1 SECTION 1. Section thirty-nine of chapter one
2 hundred and thirteen of the Public Statutes is
3 hereby amended so as to read as follows: A
4 street railway company may use such motive
5 power on its tracks as the board of aldermen of
6 cities or the selectmen of towns through which it
7 is located may from time to time permit, but if it
8 uses electric power it shall not hereafter be
9 constructed across the tracks of any steam railroad
10 at grade without the consent of the railroad
11 commissioners.

1 SEC. 2. This act shall take effect upon its
2 passage.

ARGUMENT.

MR. CHAIRMAN AND GENTLEMEN : —

The policy of the Commonwealth, so far as the matter of crossing railroads at grade is concerned, is well settled. A glance at the legislation already upon our statute books will convince you that a law providing that a majority of a Board of Selectmen of a single municipality may authorize an electric street railway to cross the tracks of a steam railroad at grade is an anomaly. Let me call your attention to the following provisions of law : — First, “That no railroad shall be constructed across another railroad at the same level therewith, without the consent in writing of the Board of Railroad Commissioners” (Pub. Stat. Chap. 112, Sec. 118). Second, That no highway may be laid out across a railroad previously constructed without the consent of the County Commissioners and the Board of Railroad Commissioners (Pub. Stat. Chap. 112, Sec. 125); it being understood, of course, that the approval of the Board of Selectmen or Mayor and Aldermen is also requisite, inasmuch as no highway can be laid out without their action. Third, No railroad can be constructed across a highway without the consent of the County Commissioners and of the Board of Railroad Commissioners (Pub. Stat. Chap. 112, Sec. 94). Fourth, The Legislature of 1890, as a result of investigations by special commissions and a long recognition of great danger to the public from the existence of over 2,200 grade-crossings [that is, where the public way and a railroad cross each other at grade], enacted Chapter 428 providing for the abolition of grade-crossings, whereby the Commonwealth may be

called upon to pay in any one year a sum not exceeding \$500,000, and a total sum not exceeding \$5,000,000. This act provides that all matters relating to a change of grade shall be determined by a special commission, to be appointed by the Superior Court, or in the event of any agreement between the representatives of the municipality and the railroad as to the alterations which are necessary to abolish the grade-crossing, that such alterations shall first be approved by the Board of Railroad Commissioners. Fifth, With the introduction of electricity as a motive-power upon street railways, the tendency of the recent acts of legislation providing for the incorporation of street railways has been to require that such street railways shall not cross steam railroads at grade without the consent and approval of the Railroad Commissioners.

Acts of 1886, Chap. 341, Sec. 3, Incorporation of the Newton Street Railway Company.

Acts of 1887, Chap. 297, Sec. 3, Hull Street Railway Company.

Acts of 1887, Chap. 413, Secs. 4 and 5, West End Street Railway Company.

Acts of 1890, Chap. 182, Sec. 3, Milford & Hopedale Street Railway.

Acts of 1890, Chap. 369, Sec. 1, Meigs System.

Acts of 1891, Chap. 399, Sec. 2, Interstate Street Railway.

Acts of 1892, Chap. 20, Sec. 1, Plymouth & Kingston.

Acts of 1892, Chap. 145, Sec. 2, Newton & Boston Street Railway.

Acts of 1892, Chap. 194, Sec. 5, Extension of the Marlborough Street Railway.

Acts of 1892, Chap. 309, Sec. 4, Quincy & Boston Street Railway.

No new location for a track of the West End Street Railway can be granted in any city or town without the consent and approval of the Board of Railroad Commissioners.

In the face of this established policy of the Commonwealth, we are confronted with this anomaly: that a ma-

majority of a Board of the Selectmen in any town (in most cases two men) have the power to grant a location for a street railway operated by electric power to cross a steam railroad at grade, thus creating, in the minds of those who have given the subject any thought, the most injurious grade-crossing known at the present time.

It may be interesting to consider for the moment how our statutes permit any such condition of affairs. As the Railroad Commissioners in their last report say, the horsecars, which are now rapidly being supplanted by the electric cars, originally succeeded the omnibus; and originally, "the object of horsecar lines was, in all cases, to accommodate the urban and suburban travel, or to connect by short local lines the outlying districts and villages with the centres of business and population, with which they stood in close relations and were in constant communication. Horsecars, like the omnibus, the cab, and the hackney coach, were naturally placed under the control of the city and town officers charged with the care and maintenance of the public ways, who were given power to locate the routes and to regulate the operation of the horsecar lines within their respective municipal limits."

In 1860 there were so few horsecar lines and companies that the entire legislation relating to them was embodied in seven sections at the end of the general railroad act in the General Statutes, published in that year. At that time and down to 1886, it was never contemplated, at least so far as appears in any legislation, that any other power than horse or animal should be used, and in 1886 when the act was passed "To authorize street railway companies to use a cable system as a motive-power" (1886, Chap. 337), it was stated that the provisions of the Public Statutes relating to street railway companies should apply to those "operated in whole or in part by the cable system of motive-power in the same manner as though such street-railway companies were operated by animal power," still showing that electricity as a motive-power was not then contemplated. To-day, elec-

tricity as a motive-power has been in use only four and one-half years, yet during the past year there have been built in Massachusetts 140 miles of new electric railway, 63 miles of horsecar railway have been changed to electric railway, and 99 miles of electric railway were under construction at the close of the year September 30, 1892, making a total of 302 miles built and projected in a single year. The street railways of Massachusetts now have a mileage of 814 miles, of which 492 miles are operated in whole or in part by electric power and represent a financial investment of \$40,000,000. An ordinary horsecar weighs two and one-half tons, an electric car of the same size weighs six tons, and the large 25-foot cars weigh nine and one-half tons. In January, 1892, the total number of crossings of steam railroads by street railways at grade was 116, of which 16 were operated by electricity alone, 10 by both horses and electricity, and 90 by horses. Since that date a large number of those operated only by horses have adopted electricity as a motive-power, and to-day there are 22 crossings of the Old Colony system at grade, by street cars using electricity as a motive-power; there are 40 on the Boston & Maine system, and of these 40 on January 1, 1892, only 5 were operated by electric power alone. The number of new locations which are being granted by the Selectmen is simply surprising, hardly a day passing without a notice of the grant of a new location to a street railway company over the tracks of some railroad. So that the only regulation by law of this immense system of street railways is that which was framed simply with reference to the original system of horsecar transportation, when the conditions of transportation were entirely different from the present.

The statute (Pub. Stat. Chap. 113, Sec. 7) by which a location for a street railway is granted provides that "The Board of Aldermen of a city, or the Selectmen of a town . . . shall give notice to all parties interested by publication in newspapers, *or otherwise, as they may determine*, at least fourteen days before their meeting, of the time and place at

which they will consider such location, and after a hearing they shall pass an order refusing such location or granting the same or any portion thereof under such restrictions as they deem the interests of the public may require."

It has appeared in evidence that in the town of Abington a location was granted to the Rockland & Abington Street Railway July 25, 1892, which provided for the crossing of the tracks of the Old Colony Railroad four times within the space of one mile, and the officials of the Old Colony Railroad never learned of the fact until since these hearings began (March, 1893). The only notice that was given to anybody, so far as we can now learn, was by posting. What better evidence could be produced of the fact that Selectmen, without doubt acting in perfect honesty and with the best intentions, yet do not appreciate the importance of the question upon which they are passing, and what great interests are affected? The same thing took place at Attleborough last summer when, although a notice was published in a local newspaper, the officials of the Old Colony Railroad never learned of the fact of the hearing until a week later, when the location had been granted.

For an example of the measures to which an electric street-railway company will resort in order to gain a crossing at grade, and of the extent to which a Board of Selectmen will lend its aid in the same direction, I will quote without comment from page 111 of the Railroad Commissioners' Report of 1893:—

"The Interstate Street Railway Company of Rhode Island, for example, obtained a grant from our legislature (Stat. of 1891, Chap. 399) to cross the State line and to build and operate under our general laws an electric street railway in the town of Attleborough and two adjoining towns, with a proviso that its tracks should not cross at grade the tracks of any railroad without the consent of this Board. It obtained from the Selectmen of Attleborough a location on the most important thoroughfare in that part of the State

crossing at grade the trunk line of the Providence Division of the Old Colony Railroad at Hebronville, laid its tracks up to the railroad location on either side, and applied to the Board for consent to cross at grade. For reasons stated in a special report which will be found in the Appendix (same Report, p. 162) consent was not given. With intent to evade the prohibition of the above statute and the decision of the Board, the Interstate ostensibly threw up its location, and the Attleborough, North Attleborough & Wrentham, an allied local company, asked and obtained from the Selectmen, under the general laws, a location in its own name covering the same route on which the tracks of the Interstate were already laid."

It has been suggested by the Honorable Chairman that the Selectmen only consider the necessity of the street railway crossing the tracks of the steam railroad, and that the question of safety for the public is not a matter for their consideration. Let me call your attention again to the words of the statute: "Granting the same or any portion thereof under such restrictions as they deem the interests of the public may require." "The interests of the public" certainly require that the safety of all citizens, both those who travel in a street car and those who travel in the steam cars, should be considered, and fully considered, by the tribunal which grants the location.

Therefore, in the light of the great financial interests involved, the manner in which the power of granting locations is being exercised by the present tribunals, the fact that the law was passed when a different system of transportation prevailed, and finally in view of the importance of protecting the lives of the traveling public, it would seem that the time had arrived when a change in the law regulating the granting of a location should be made, so that the question of the crossing of a steam railroad by an electric railway should be passed upon in whole or in part by an absolutely disinterested tribunal. The progress we are making in civ-

ilization constantly makes necessary changes in the methods of doing business and in the conditions under which we live, and changes in our laws are inevitable.

But a short time since, every landowner drained his own premises; it soon became necessary to put the power in the hands of the Mayor and Aldermen of the city, or the Selectmen or Road Commissioners of a town, to "lay, make, and maintain all such main drains or common sewers as they adjudged to be necessary for the public convenience or the public health, through the land of any persons or corporations" (Pub. Stat. Chap. 50, Sec. 1).

And now in the thickly settled centres of population, where the municipalities are only separated by an arbitrary line, it has become necessary to adopt a Metropolitan System of drainage; an illustration of which is right here at hand, where the sewage and drainage of eighteen cities and towns are being provided for by a Metropolitan Commission.

Now in the matter of a highway crossing a railroad, the Revised Statutes of 1836, Chap. 39, Sec. 69, simply provided that, "If, after the laying out and making of any railroad already granted, or which may be hereafter granted, any turnpike road or other way shall be so laid out as to cross said railroad; the said turnpike road or other way *may* be so made as to pass under or over said railroad, and said turnpike or way shall in all cases be so made as not to obstruct or injure said railroad." But in 1857, Chap. 237, Sec. 1, it was enacted that the "Turnpike road or other way may be so laid out or so cross said railroad whenever the County Commissioners of the County in which said crossing is situated shall so authorize and direct," thus requiring the assent of the County Commissioners in addition to that of the Selectmen. And in 1876, Chap. 93, Sec. 7, it was provided that "No highway or town way shall hereafter be laid out to cross a railroad at level therewith, nor shall any railroad be laid out or constructed to cross a highway or town way at a level therewith, without the consent in writing of the Board of Railroad Commissioners in addition to the Board of County

Commissioners as now required." So by reason of the change in the motive-power used by street railways, and in view of the considerations suggested above, especially as to the safety of human life, we believe this question is now one of the most important that will this year be presented for your consideration or the consideration of the Legislature.

It is important principally because it involves the life and safety of nearly every citizen of the Commonwealth.

With an electric car crossing a steam railroad at grade, there is danger:—

I. On the part of the electric car. (*a*) From the trolley getting off the wire. (*b*) Loss or suspension of electric power. (*c*) Motorman losing control of the car from inexperience, carelessness, or inability to control the power. (*d*) Failure of underground connection. One serious accident has already taken place; namely, at Brockton, on the second of February, 1891, when eight persons were more or less seriously injured, and where there was a collision of a railroad train with an electric car which stopped on the track (Railroad Commissioners' Report, 1890, p. 35). There have also been several narrow escapes from serious accidents due to the causes above assigned; notably, at the Main Street crossing over the Grand Junction Railroad in Cambridge, where a car broke through the gates and stopped on the track; the gateman, however, was fortunately able to stop the approaching freight-train in season to avoid collision (Railroad Commissioners' Report, 1892, p. 36).

Again at the Moody Street crossing of the Fitchburg Railroad in Waltham, September 29, 1892, where the trolley left the wire and the car stopped directly upon the track upon which a freight-train was approaching. "Had not the speed of the train been diminished, an accident would certainly have occurred" (Railroad Commissioners' Report, 1893, pp. 112 and 113). Since these hearings on this subject began, an accident took place at Lynn, of which The Boston Journal of March 4 speaks as follows: "For the third time a Myrtle Street electric car has crashed into the gates at the

Market Street crossing, Lynn. At 12.30 yesterday a car bound for Glenmere, and approaching the crossing with too much speed, carried away one of the arms, the motorman being unable to stop the car, which struck the arm with such force that it broke the iron casting that covers the gearing, and as the cover was badly cracked by the previous accidents, a large piece was taken out of the plate.

“An outward-bound train was on the other side of Pleasant Street and an inward-bound train just starting from the central station. The car ran upon the inward track, but was pushed back just before the train reached the spot. The motorman had partly stopped the car when he reached the gates, but it seemed to get speed on again. It is down-grade at that point, and the rails were slippery, which may have caused the accident. Too much precaution cannot be exercised, as this is the third time the gates have been broken down.”

On the 11th of August, 1892, a serious accident occurred on the Merrimack Valley Street Railway. “Two cars shackled together and packed with passengers, when descending a long down-grade in North Andover, gained such speed and momentum that the brakes could not retard them, and the electric motor was also reversed without effect. Near the foot of the hill was a curve, and on reaching this the forward car left the rails, and was uncoupled from the rear car and overturned, the rear car remaining on the track and being soon brought to a stop. Of the passengers on the overturned car two were fatally hurt, and sixty-six were injured, many of them seriously and others but slightly. This accident was due to wet rails and insufficient brake power to hold the heavily loaded cars after they had been permitted to attain considerable speed on a down-grade.” (Railroad Commissioners’ Report, 1893, p. 88.)

In short, you entrust human life to a motive-power which no human being to-day can absolutely control, and, as the evidence shows, in the opinion of experienced railroad men, the danger of an electric car crossing a steam railroad at

grade is greater than that of two railroads crossing one another at grade.

Again, on the other hand, there is danger : —

II. On the part of the operation of the steam roads. (*a*) The brake may give out and fail to work. (*b*) Some part of the machinery may break. (*c*) The inspector may have failed to properly perform his duty before the train leaves the station. (*d*) The atmosphere may be unfavorable for appliances to work as designed and intended. April 26, 1889, a New York express train from Boston was approaching Springfield, and going at the rate of about forty-five miles an hour on a straight track and on a down-grade. The track was wet with rain. The engineer applied the brakes at the emergency point but was unable to bring his train to a stop, and the train ran a little over a mile, striking the rear of a freight-train, and he was then going at the rate of six miles an hour. (Railroad Commissioners' Report, 1890, p. 40.)

“A rear collision between two passenger-trains occurred opposite the Winchester station on November 25, 1891.

“Although the engineer of the following train, when going, as he estimated, at the rate of thirty miles per hour, saw the danger signal at a distance of at least 1,100 feet from the point of collision, and although the track was level and the rails in good condition, he was unable to stop his train, and was going at the rate of eight or ten miles an hour when he struck the preceding train, which had then just begun to draw out from the station” (Railroad Commissioners' Report, 1892, p. 29).

“In the accident which occurred on the Boston & Albany on October 4, 1888, the engineer, having discovered that his train had parted, and being on a down-grade, was hurrying on to get out of the way of the detached cars when he was flagged to stop for a train ahead of him; and he was going so fast, and the appliances for stopping were so inadequate, that he was unable to avoid a collision, by which a large amount of property was destroyed. Fortunately in this case the trainmen on the detached car in the rear discovered

that the train had broken apart in season to bring their cars to a standstill before they reached the wreck.

“The accident in December, 1888, on the Boston & Albany, was the indirect result of the delay caused by sending back the engine to pick up detached cars which had been dropped some distance behind on an up-grade. When the loss of the cars was discovered, it was unsafe to stop for them, because the train was then on a down-grade” (Railroad Commissioners’ Report, 1889, p. 25).

In the light of these accidents, let me suggest to you the possibility of a freight-train having parted, the engineer rushing ahead to get out of the way of the cars in the rear part of the train, and being confronted with an electric car at a standstill on the track before him. We are not dealing with improbable accidents, but those which are possible, and which are liable to happen in the operation of trains every day. In fact, with an electric car standing on the track, experience goes to show that an emergency stop of a passenger-train going at the rate of thirty-five or forty miles an hour, at 1,000 feet would be an exceptionally good stop; and an emergency stop of a freight-train going at the rate of twenty-five miles an hour, within half a mile would be a good stop. In short, all the passengers on an electric car or on a train on a steam railroad with a crossing at grade are at the mercy of some human agency; for the collision of a railroad train with an electric car weighing from six to ten tons means a derailment and a serious accident, involving not only the possibility of a great loss of life, but certainly great loss of property.

Just imagine for a moment an ordinary New York train made up of six cars of an average weight of 40 tons each and an engine weighing 60 tons, a total of 300 tons (undoubtedly less than the actual weight of the average train), proceeding at the rate of 45 miles an hour. That means $\frac{3}{4}$ of a mile per minute and 66 feet per second. With a five-hour time these trains will undoubtedly run in many places at the rate of 60 miles per hour or one mile per minute and

88 feet per second. But think of the lower rate, 66 feet per second and a train weighing 300 tons striking an electric car weighing 6 to 10 tons. You may imagine passengers inside the electric car or not, and the very thought of such a catastrophe makes one shudder. We have not yet had that horror presented to us in all its reality at our doors, but let the present conditions continue and that terrible disaster is bound to come. Another Revere, another Wollaston, another Bussey Bridge, another Quincy. Shall we wait for such an awful warning and then amend the law or do it now? In this connection, bearing in mind the fact that in the event of an accident the corporation at fault would be liable in damages, I submit that it is worthy of your consideration how many street railway companies would be financially able to respond to the claims which would arise from a serious accident like any of those I have named, if it should be decreed that it was due to the fault of the street railway company. The "interests of the public" demand a consideration of this phase of the question, when locations are granted.

The Board of Railroad Commissioners, composed of disinterested men, selected at large from the State, men dealing with this and kindred problems as a part of their official work, recommend a change in the existing law. They make no specific recommendations, but simply call the attention of the Legislature and of the public to the great dangers which now exist, and recommend that some legislation be enacted. The railroads meet their suggestion by offering this bill, which provides that no street railway using electric power shall cross the tracks of a steam railroad at grade without the consent of the Board of Railroad Commissioners. This board is selected as a tribunal, because, in our opinion, it is the best fitted and composed of men the best equipped by their training, experience, and study to deal with the question involved. Certainly a tribunal which was deemed fit to pass upon the question of a railroad crossing a highway at grade, and upon that of a highway crossing a railroad at

grade, would seem to be competent to pass upon the kindred question of a street railway constructed upon a highway crossing a railroad at grade. The act under which the board was organized (1869, Chap. 408, Sec. 2) provided that "said commissioners shall have the general supervision of all railroads in the commonwealth, whether operated by *steam, horse, or other motive-power*, and shall examine the same, and keep themselves informed as to their condition and the manner in which they are operated, with reference to the security and accommodation of the public, and the compliance of the several railroad corporations with the provisions of their charters and the laws of the Commonwealth," and from the organization of the Board it has always had the supervision of Street Railways as well as of Steam Railroads.

What objections have been offered to our suggestion of the Board of Railroad Commissioners?

1. That the steam railroads fear the competition of the street railways. This certainly is a very narrow view. No man who takes a broad view of the question will ever suggest it. The experience of the past shows that with an increase in the facilities of transportation there follows an increase of travel from which all transportation companies benefit.

Statistics show that during the past ten years there has been an increase in passenger earnings of railroads in Massachusetts from \$20,602,289.13 to \$32,211,733.19, and freight earnings from \$21,033,511.26 to \$30,878,349.99; that there was a gain in the passenger earnings during the past year of \$1,273,678.76, only exceeded in amount by that of two years during the past ten years. (Railroad Commissioners' Report, 1893, p. 71.) The total number of passengers carried by steam railroads has increased during the past ten years from 61,530,747 to 110,915,454; the increase during the past year over the previous was 3,743,612 (Railroad Commissioners' Report, 1893, p. 73).

While a few places might be selected where the electric lines have in a measure affected the earnings of the steam roads, yet taking the State as a whole their presence is not felt so far as earnings are concerned. Moreover it is a well-recognized fact among railroad managers that no money is made in "short hauls," but in the "long hauls." Each class of roads has its sphere, and neither need fear the other, but, properly conducted, they will be of mutual help.

The railroads have no apprehension from electric lines on the score of competition, although they undoubtedly do apprehend financial loss through the liability and possibility of accidents and damage to property if the electric lines are permitted to cross their tracks at random and at grade.

2. That such a provision as is suggested would retard the building and construction of new electric lines. I can suggest no better answer than that presented in the "Report of the Special Commission on gradual abolition of the crossing of Highways by Railroads," made to the Legislature January 31, 1889. This Commission consisted of Augustus W. Locke, William O. Webber, and George A. Kimball, and on page 10 they say: "It will doubtless be said that the building of new lines and branches will be retarded by the strict enforcement of a law absolutely forbidding any new grade-crossings and forcing a separation of grades when new railroads intersect highways; but we do not agree with this view. The law now requires safety switches and brakes on cars, but that does not appear to stand in the way of new construction, neither does the law requiring railroads to be fenced.

"These and the various other laws prohibiting inferior methods of construction or equipment have been very successfully applied, and, far from interfering with business, have met with the support and approval of the railroad companies. The addition of a few thousand dollars to the cost of a railroad will not stop it, if there is a good reason for its being built. And, further, one or more persons must

be killed or hurt at about every grade-crossing, sooner or later. Their lives and limbs are entitled to some consideration.

“The argument that new lines may be built with grade-crossings, because they generally run through rural districts, where the highways are only country roads, little traveled, is not a weighty one. A new railroad built through cheap land can be easily varied in line or grade, and grade-crossings can oftentimes be avoided with but trifling additional expense. The extra cost of building the road without them is much less than the cost of removing them afterward.”

The passage of the law proposed would undoubtedly reduce the number of such crossings at grade; but if in the opinion of a disinterested tribunal, after a consideration of the interests of all parties, a grade-crossing is not a proper one, and an electric railway company either has not sufficient capital or does not see sufficient business ahead to warrant the incurring of the necessary expense involved in a change of grade, will any disinterested person say it were better to cross at grade? Had not the line better remain unbuilt than incur the risk of a serious accident and have a bankrupt treasury for maimed citizens or the guardians of orphaned children to proceed against?

3. The most serious opposition arises from the Selectmen in the various towns, who have been aroused by the circulars of George L. Almeder, employed by Robert A. Southworth, Esq., representing the Massachusetts Street Railway Association. No matter how their interest has been aroused, they are here and their influence against the measure is already being felt. The impression has been encouraged by the opposition that the right of the people to control their highways is being taken away. The citizens of a town to-day have no voice in the granting of a location to a street railway. They pass upon the laying out of a highway in town meeting, but once laid out and constructed, a majority of a Board of Selectmen can immediately locate a

street railway over its entire length, including a grade-crossing of a railroad, and the citizens' only remedy is at the next town election.

You have seen how the Selectmen cannot lay out a highway over a railroad without the consent of the County Commissioners and of the Board of Railroad Commissioners. Will any sane person claim that the question of allowing a street railway to cross a railroad at grade is of any less importance than that of allowing the highway itself to cross the railroad at grade? On the contrary, I believe all will admit it is a question involving greater interests and affecting the safety and lives of a far greater number of people.

When the Selectmen insist upon retaining this power of granting a location at grade, they are in effect claiming the power to lay out one highway in another, for the track of a railroad is nothing more or less than a highway for public travel, but differs from the ordinary highway in that it is not controlled, kept in repair nor maintained by the town.

It has been asked, Have not the Selectmen of a town the interests of the people of that town at heart? Unquestionably; and without doubt in a great majority of cases they act in the best of faith and with the utmost honesty of purpose. But when we find two of the Selectmen of a town joining in a petition to this Legislature for an act of incorporation as a Street Railway Company to operate a street railway running through their own town, and this committee is asked to report a bill granting the petitioners a charter, wherein it is provided that the company is authorized to exercise the right of eminent domain and construct its tracks over such highways as the Selectmen of the town shall fix and determine, are we not justified in suggesting that an independent and disinterested tribunal should pass upon this important question, and may not all parties properly stop and query in how many cases the Selectmen or their friends or their business associates are interested, and to what extent the temptation may be

offered for them to act hastily and without full consideration of all the interests involved? The Selectmen to whom I have referred live in the town of Stoneham and the bill is House No. 186, "An Act to incorporate the Malden, Melrose, and Stoneham Street Railway Company." Without now discussing the feature of eminent domain, this Legislature in the absence of remonstrants and upon the presentation of the usual evidence would undoubtedly give the petitioners the ordinary charter, just as I understand this Committee, no serious opposition appearing, once voted to report the bill, but have now reopened the case; and we should then have presented to our view the spectacle of two incorporators constituting a majority of a Board of Selectmen petitioning their own Board for a location for a Street Railway in the highways of their own town. Can you conceive of a refusal under such circumstances? Undoubtedly, as I say, the Selectmen as a rule do try to consider the interests of the citizens of their respective towns; but this is a broad question, and involves the interests not only of the citizens of a particular town, but also of every citizen of the Commonwealth and of every person who travels within the borders of our Commonwealth. To-day every traveler on an electric or railroad car incurs an additional peril at every grade-crossing of the tracks of these two lines. Every time the question of one of these grade-crossings arises, you and I, Mr. Chairman, and every man who rides in a railroad train is vitally interested, and not simply the people who may have occasion to go over in an electric car the specific crossing under consideration.

In the light of these considerations, the petitioners, and we believe every disinterested person, will say that a tribunal which will take into consideration all the interests involved should pass upon these important questions. As we said above, the changed conditions of transportation, especially the introduction of this new motive-power, make necessary a change in the law regulating the granting of locations. Doubtless other changes will follow. The

consideration of this question has necessarily called forth a discussion of other remedies than a separation of grades. The testimony of Mr. D. W. Sanborn, Superintendent of the Boston & Maine system, and of Mr. E. G. Allen, Superintendent of the Central Division of the Old Colony system, must convince every one that the only safe device which can be used at these grade-crossings is a system of Interlocking Signals. That not only involves great expense, but introduces the question of practicability. It means the possibility of a stop by any express or other passenger-train at every such crossing (there are 23 such crossings on the Eastern Division of the Boston & Maine Railroad in Massachusetts), innumerable delays, and changes in the running-time of all railroad trains. The traveling public is constantly demanding quicker transit over long distances; e.g., five-hour trains to New York and three-hour trains to Portland. With safe crossings made so by Interlocking Signals, this time becomes absolutely impossible, so that if we attain safety for the public by this system, rapid transit over long distances is out of the question.

Frogs are suggested. While they are undoubtedly safe for the passengers in the electric car and reduce the possibility of the trolley leaving the wire, they offer no solution of the problem. The great dangers continue to exist and new ones are added. The difficulty of keeping so many pieces of iron in repair, the danger of their breaking, the necessary slowing down of the railroad trains, and the increased liability of derailment with the fact that, outside of reducing the danger of the trolley leaving the wire, all the other dangers above suggested still exist, and some in an increased degree, render frogs impracticable so far as a substantial remedy for existing danger and evils is concerned.

In our judgment this whole question should be left in the hands of a disinterested and competent tribunal, which shall pass upon the question of a grade-crossing, and if in the judgment of such a tribunal a grade-crossing is proper, then that tribunal shall determine the manner of crossing

and what appliances, if any, are necessary for the safety of all the people and the protection of all interests. We ask for an independent tribunal, and have suggested the Board of Railroad Commissioners. If a better tribunal can be suggested, we welcome the suggestion. If, as one Selectman suggested, an appeal should be allowed, we take no exception, but we do urgently ask for a change from the present law as set forth in Section 7 of Chapter 113 of the Public Statutes.

The Railroad Commissioners have set forth the necessity of new legislation. Your petitioners have offered this bill and urge its passage. The responsibility now rests with you and the Legislature whose representatives you are. If in your judgment no legislation is necessary, may the accident we fear never come, and may you thus be spared a painful recollection of the responsibility you take in not acting at the present time.

