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City of Cambridge,

In Presence of Aldermen

~~MAYOR'S OFFICE,~~

July 30th 1862

The Special Committee, to whom were referred the petitions of William A. Brewer & others, of Joel Parker & others, of Arthur Wilkinson & others, of Wm B. Hovey & others, of John M. S. Williams & others, of Henry S. Hills & others, of Edwin Cooke & others, of L. S. Leonard & others, of William Carruthers & others, of M. F. Wood & others, of Geo. H. Griffin & others, of John (-) C. Garnham & others, of Y. M. Boggs & others, of James C. Merrill & others, & of Charles W. Horner & others, generally praying this Board to exercise its power to prevent or prohibit the running of cars upon the Cambridge Horse Railroad on the Sabbath day, have endeavored to give the subject that consideration which its importance, as well as the character & influence of the petitioners demand, & would report:-

The committee have felt it to be their duty in the first instance, to ascer-

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tain ~~on the first instance~~ the facts, and the power of this Board in the premises, & then from these to derive the conclusion to which they ought to come. To this end they requested the Superintendent of the Railroad & several conductors, who had had charge of the cars running upon the Sabbath, and, ~~well as~~ the chief of police, to appear before them. They also invited the petitioners to appear before them, & make any statements, or expression of their views they might desire. The Superintendent of the Railroad ~~Mr~~ Stiles, & several of its conductors appeared before, & were examined by the Committee, & seemed disposed and ready to furnish us with any information in their power. The Chief of Police did the same. At subsequent meetings of the Committee several of the petitioners appeared & presented their views.

The Committee ~~are~~ led to believe that our community were not a little surprised, after the persistent and commendable refusal of the Railroad Company, from the commencement of ~~their railroad~~ ~~their cars~~, to run their ^{cars} on the Sabbath, at the somewhat sudden change of action in this respect. Upon enquiry for its reasons, they are informed, as

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They gather from the agents of the company, that ~~they have~~ ^{there reasons} ~~not~~ ^{that} because the managers of the company have changed their views in regard to the Sabbath, or the undesirability of having the cars run on that day, but because they have felt that there was such a demand from the public in Cambridge that to have them so run, that it could not or ought not longer to be resisted. What evidence of such impulsive demand has been furnished to the Directors of the company the Committee are unable to say. No person appeared before the Committee to ask or advocate the running of the cars on the Sabbath, and ~~as~~ ^{so} far as the Committee can learn their views, (for they did not appear before them) the Directors of the Railroad Company profess to be willing and desirous to stop running their cars on that day.

The facts, as they appeared before the Committee are substantially, that the company commenced running their cars on Sunday, May 4th & have continued to do so to the present time. The number of trips & passengers carried, ~~& in fact the receipts therefrom~~ are shown by the following table furnished by Mr. Stiles.

	No. of Trips	Passengers
May 4	39	2175
11	69	2975

May	18	69	3302	
	25	71	3749	
June	1	75	4052	
	8	84	2010	Very rainy day
	15	97	4922	Receipts \$380.41
	22	114	5368	385
	29	88	3623	218.82
July	6			
	13	106	4843	
	20	92	2923	
	27	103	4647	

These cars commence to run at 8 o'clock
 in the morning, & continue at regular inter-
 vals, less frequently, but otherwise in the
 same manner, as on other days, - with the
 single exception, that the bells are taken
 from the horses. Other than these ~~there~~,
~~is~~ no distinction exists between the cars on
 this & other days. Every body uses them who sees
~~fit. The fare is the same on this as on other~~
~~days. It was also testified to the Superintendent~~
 that the number of ~~the~~ ^{cars} had been ~~was~~ reg-
 ulated by the demand for them by the train on
 that day & the number ~~had been~~ ^{regulator} ~~would be~~
~~regulated~~ regulated by this alone. No attempt
 has been made to run the cars merely at
 the hours of church going, or ~~on~~ ~~any~~ ex-

exclusively or principally for people wishing to use them ^{to go to} church. On the contrary, it was (stated) by the Superintendent & conductors as impracticable so to run them.

The cars are run to all points on the railroad, namely, to Harvard Square, East Cambridge, North Cambridge, West Cambridge, Brighton, Newton, Watertown, & Mt Auburn. All these cars, with the exception of those to & through East Cambridge, pass through Cambridge Port, and all, with the exception of those to Brighton & Newton & part of those to East Cambridge, pass through Harvard Square. There thus passes a car one way or the other, over Main Street in Cambridge Port, & also in & out of Harvard Square, every six or seven minutes through the day, & up to a late hour, Sabbath evening.

The largest number of passengers carried to any one ^{point} was to Mt Auburn, & the cars to & from, & passing this point are usually full, & at times crowded, so that extra cars have to be run. The Superintendent says they have been

"exceedingly full & overflowing."

Of the persons using the cars, only a ^{very} small portion use them to go to church. The Superintendent thinks about one quarter part so use them. Mr Hummell, one of the conductors, said that he ran one of the cars through Sunday, from 8 o'clock in the morning till 8 o'clock in the evening; that of all the passengers carried he saw but one, he knew was going to church, & that a lady, who went from Cambridge to Cambridge Port; that he didn't ^{think} there were a great many going to church; "I thought there were very few; not more than one quarter". Mr ~~Banks~~ another Hummell ran on a car from Huron Square to Boston. Mr Banks, another conductor, ran on the car from Watertown & Mt Auburn. He states that on the first sabbath he carried at least a hundred each trip, & that the cars run on other sabbaths by him were very full; that on this first sabbath he saw but one who said he was going to church, & that he "would not be surprised if that was only one who rode with him that day who

ment to church; that the class of travel carried on Sunday was different from that carried on other days, & partook more of the class of holiday travel; she knew no reason why it would not continue of that character. Wm. Horn, who, when he appeared before the Committee, had run four sabbaths on the cars from Beacon Square, stated that he had no means of knowing how many of the passengers went to church; that he had in mind only two who said they were going; that judging by the people & hour he supposed many were going to church; that he thought the travel on Sunday would increase through the summer, & that through the middle of the day & fore part of the evening the cars would have to be run as often as on other days. ¶ All the conductors examined concurred in this opinion that the travel would increase, and all seemed to agree that, if the cars ran at all on Sunday, they must run for everybody who wished to ride, & enough must be run to accommodate everybody who desired to ride. The Chief of Police stated, that he had observed the cars on Sunday, & that very few of

those riding went to church; of those from
 old Cambridge "certainly not over one in
 twenty five"; that there had not been any
 disorder in the cars; that since they had
 been running on Sunday, he had seen fe-
 males of bad character walking about, which
 he had never seen before on a Sunday; that
 the first Sabbath the cars run, they
 brought out some 40 persons, who went out
 to Strawberry Hill in Belmont, & there had
 "first, a dog fight, & then a prize fight"; that
 the conductor told him they came on the
 cars; that he requested to be notified if any
 such crowd came out again. ~~to be~~ I was
 assured by Mr. Stiles he should be; that if
 in future time the cars continued to run.
 parts of Cambridge needs require an extra
 police on Sunday.

All the conductors stated that the
 travel thus far on Sunday had been quite
 orderly. All agreed also that, at least, one
 half the travel consisted of people, who came
 from Boston out to Cambridge, & had nothing
 to do with any churches.

It appeared by the statement of ~~Sam~~ Henry J. Hills that the running of the cars by the Baptist Church in East Cambridge was very annoying to the worshippers there. Mr. Hood, Superintendent of the ~~Mass~~ ^{City} of the Sabbath School, at the corner of Main & Cherry Streets, ~~stated~~ that that Sabbath School suspended their exercises to let the cars ^{pass} as they went by - during their exercises.

Several highly respectable & influential gentlemen, clergymen & others, from the petitioners, appeared before the Committee, & stated that, in their judgment, there was no call from among the citizens for the cars to be run on Sunday; that such running was unnecessary & detrimental to the best interests of the city, & that it was the duty of this Board to stop it.

Such were the facts substantially as they appeared before your Committee. The next enquiry of the Committee

us as to the power of this Board in the
 premises. We do not find that ~~any~~ ^{either} of the
 act incorporating the Railroad Company, or
 any of the Supplementary Acts, or any general
 or Special law, gives this Board any control
 whatever over the times when the cars shall
 run. Nor do your Committee ^{find that the Board have} any such direct
 control, express or implied. This Board
 undoubtedly have the right, at any time, to
 revoke the location of the Railroad or any
 part ^{of it}, or, what is the same thing, to order the
 rails on all ~~or~~ any part of the streets to be
 taken up. If they believe the cars, at any
 time, are so run as to warrant & demand this
 exercise of power, they can thus control them,
 by stopping ^{their running} over any street altogether. Such
 action would ^{effectually} stop the cars on all days; and
 the Committee do not think an exigency has
 yet arisen, or that such ^a state of things
 now exists, as demands or makes necessary a
 resort to so stringent a measure, ~~some~~
 which for a time at least, ^{must} prove so in-
 jurious to our citizens, who are dependent
 on the cars daily, to ^{so great an} extent. ~~They however~~

Nor do the Committee think any course should be threatened, which the Board will not entirely carry out.

Whether, if the Railroad Company persists in using the privileges granted them, for a purpose which large portions of our citizens believe to be wrong, as well as violating the spirit, if not the letter of the laws of the Commonwealth, ~~that~~ ^{they} ought to be allowed ~~such~~ ^{these} exclusive privileges, ~~as will~~ ^{so exclusively as to} enable them to compel such ^{objectioning} citizens to give ~~them~~ ^{it} their patronage & support, is quite another question. If the Company disregard the wishes of the citizens as to observing the Sabbath, and sets at naught objections to ~~its~~ ^{its} course, conventionally entertained, whether it can be allowed to avail itself of the dependence of these citizens upon ~~them~~ ^{it} for accommodation on other days, to compel them to acquiesce in ~~their~~ ^{its} running ~~these~~ ^{lets} cars on Sunday is a question well worth the attention of the Company, & deserving the careful consideration of this Board. If such citizens seek a railroad, which will give them the accommodation they need on other days, ~~it~~ ^{it} on the Sabbath,

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at least so far as the statute requires,
it would be somewhat extraordinary to say that
the existing company had any such exclusive
right in the streets, that they could make
either equitable or reasonable objection to the
grant of such a railroad.
But the committee do not pursue these en-
quiries further, because they understand the
Railroad Company to avow their determination
to yield at once to the wishes of the citizens
in this matter, whenever they can ascertain
them.

It is urged by the petitioners that al-
though the Board have no power of directly pro-
hibition of the running of the cars on the Sab-
bath, still that such running is a violation
of the statutes for the observance of that day,
& that the Board ought to take special meas-
ures to have this law enforced against ^{Railroad Company} them.
The General Statutes, ch. 84, § 1 & 2, provide that
"Whoever keeps open his shop, warehouse, or
work ~~house~~, or does any manner of labor, busi-
ness, or work, except works of necessity & charity,
or is present at any dancing or public diversion,
show or entertainment, or takes part in any
sport, game, or play, on the Lord's day, shall

be punished by a fine not exceeding ten dollars for every offence."

"But 7. Whoever travels on the Lord's day, except from necessity or charity, shall be punished by fine not exceeding ten dollars for every offence."

Section 8th provides that "all Sheriffs, grand jurors, and constables shall inquire into & inform of all offences against the preceding sections & cause the same to be carried into effect."

Section 12 provides that the Lord's day shall include the time from Midnight to Midnight. #

The Committee have not felt it necessary to examine so carefully as they otherwise might these provisions, & because they think their rigid enforcement in regard to travelling on the Sabbath would not attain the end of securing the Sabbath from desecration, unless such enforcement was sustained by a preponderant public sentiment. And the Rail

road company, ~~profess~~ so far as they are concerned, if such sentiment exists, at once to yield to it, without compulsion of law.

These provisions of law have in substance existed ever since our Commonwealth has existed. The courts have made numerous decisions sustaining them in their full extent, & in all deductions to be made from them. A contract made on Sunday is void. A party travelling on the highway on that day, & not for necessity or charity, can recover nothing if he is injured by a defect in the way. Direct prosecutions ~~in~~ indictments under these laws have been frequently sustained. Nor are these provisions of law peculiar to Massachusetts or New England. They exist in most of the states. And they clearly & explicitly recognize & establish the Christian Sabbath, as a legal Sabbath, to which, to the extent of & under the law, every person is entitled. And it is with such a Sabbath that the Committee conceive they have to do. With the Sabbath, in its relations to the conscience & to the religious views & opinions existing in the community, deep & earnest as ~~may be~~ ^{our} ~~the~~ views

feelings, & fixed as may be ~~their~~^{our} own opinions, ~~they~~^{we}
 do not apprehend ~~they~~^{we} are now dealing. While
 we believe it the duty of every man to give his influence,
 by both precept & example, to secure the sacred-
 character & observance of the Sabbath as a divine
 institution, ~~sponsored~~^{involved} ~~with~~ⁱⁿ the preservation of which
 are the best interests of society, yet when legis-
 lating or acting to effect the consciences & actions
 of others, we can only look at the Sabbath in
 the lower point of view, as it exists under our
 statutes.

These statutes in their application to the
 Railroad Companies are not free from difficulties.
 They were framed when travel was mainly in
 private vehicles, and ~~altho~~^{altho} revised some have
 not been substantially changed. So far as they
 relate to travel on the Sabbath, they provide, not
 that the person furnishing the vehicle, but who-
 ever travels shall be punished. Again, if they
 applied to the former, if he furnished the vehicle
 for a proper purpose, & parties used it for an
 improper, he would not be liable - but those
 misusing it. If one furnishes a carriage to take parties
 to church, & they or others use it for secular purposes

The parties using would be liable - but not those furnishing. If a car is honestly run to carry people to church, those running it would not be liable, because persons used it to ride to other places. Persons travelling for other purposes, ~~those~~ ^{under their statutes} not for necessity or charity, would be liable. But how is the ~~car~~ ^{man}, travelling in the car to Mt Auburn or Fresh Pond, on Sunday, to be distinguished in this respect from the man who does the same thing in his carriage or ~~chaire~~? Whether an indiscriminate prosecution of all persons travelling in a through ~~carriage~~ ^{car} on the Sabbath, who may be supposed not to be travelling for necessity or charity would be wise, or tend to promote a regard for the Sabbath, may be doubted.

If the Railroad Company run their cars ~~really~~ generally on the Sabbath as on other days, & for the same purposes, ~~whether~~ ^{as agents seem to be} they or their agents ~~do not make themselves~~ ^{may be} liable under the provisions of the first section, ~~may be~~ of the statutes. But in that case the prosecution specially would fall on the conductors, agents, or drivers, who do the unnecessary work, rather than ^{directly on} the company ~~directly~~ who order it.

The Committee thus in brief allude to their statutes, & the difficulties attending their

enforcement. But they have given them left consideration, because they trust that so far as the Railroad company is concerned, there will be no occasion to resort to those ~~laws~~.

The Committee are decidedly & unanimously of opinion that the cars ought not to be run as they now are for all serving purpose on the Sabbath, & precisely as they are on other days, except that the number of passengers thus far carried, has ~~only~~ required a ~~less~~ ^{less} ~~number~~. ~~He thinks~~ ~~is not to the end that it is to be left to the company to decide~~ ~~My I think~~ ~~this wrong~~ - on unnecessary violation of the Sabbath, offensive to the consciences of many of our people, disturbing the quiet of the day, & detrimental to the best interests of the community. At the same time ~~the~~ Committee see no objections to a car running for purposes of necessity or charity, which do not apply to omnibuses or carriages, provided such car is substantially limited to such purpose. While therefore, ^{the Committee} feel that it is desirable that all citizens residing among ^{us} should have and attend ^a church here, & give their aid & influence to the denominations to which they belong among us, they still feel that this is a matter every one has the right to settle for himself, and that

each citizen among us has a claim to be placed
 on an equality as to ^{opportunity to select & patronize} ~~select~~ his place of worship.
 If, therefore, ^{cars} can be run at hours only which will
 accommodate people going to church, & limited sub-
 stantially to ~~such~~ ^{just} hours & purposes, as the om-
 nibuses formerly were, the committee think
 no objection exists to it, ~~as~~ But if such cars
 cannot be ^{so} run, & they must be run as they
 now are, or not at all, the committee are
 all of opinion they ought not to run at all.
 And the committee conclude by suggesting, whether
 this does not bring us to the practical distinction
 existing between carriages or omnibuses, and
^{public} ~~the~~ cars upon a line of public railroad,
 namely, that the former can only be run for
 a special purpose, while the latter cannot.

The committee recommend the adoption of
 the accompanying resolutions -

All which is respectfully submitted.

Chas. Th. Russell

J. M. M. M. M.

Wm. H. Saunders

J. T. M. M.

Artis Davis

Committee

Report of Comm.
Sunday Cars. 17
July 30. 1862