

HOUSE No. 1348.

[Mr. St. JOHN of Haverhill gives notice that he will move to substitute this bill for Senate, No. 214]

Commonwealth of Massachusetts.

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

AN ACT

To incorporate the Boston and Brockton Bicycle Railway Company.

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. Eben Moody Boynton, Hugh H.
2 Mawhinney, James Bell, Robert D. Evans, Edward
3 L. Sanborn, Fred S. Pearson, Harlan P. Conant,
4 Albert Conant, Charles F. Conant, George A.
5 Bruce, L. Edwin Dudley, Oliver O. Howard,
6 William A. Stevens, Francis W. Breed, Isaac B.
7 Newcombe, Albert H. Overman, Henry W. Moul-
8 ton, Albert W. Greenleaf, John F. Merrow, Wil-
9 liam H. Boynton, David C. Reusch, Henry L.
10 Bartlett, Andrew Washburn, their associates and

2 BOSTON & BROCKTON BICYCLE RY CO. [May,
11 successors, are hereby made a corporation under
12 the name of the Boston and Lowell Bicycle Rail-
13 way Company, with all the powers and privileges
14 and subject to all the duties and conditions and
15 restrictions set forth in all general laws that now
16 are or hereafter may be in force relating to street
17 railway companies, except as hereinafter provided.

1 SECT. 2. Said company is hereby authorized to
2 construct and operate an elevated or surface rail-
3 way under the patents known as the Boynton
4 Bicycle Railway Company patents, the roads to
5 be elevated within cities, with one or more tracks,
6 as may be required, and with convenient turn-outs
7 and switches, in part upon private land, and over
8 and upon any streets and highways, over the fol-
9 lowing described route, to wit: —

10 Beginning at Quincy Market, Boston, or at
11 such other point in the city of Boston as may be
12 decided upon by the mayor and aldermen of said
13 city, as a terminal station, passing through Com-
14 mercial and India streets, along Atlantic avenue,
15 Federal street, Dorchester avenue, Adams street,
16 Neponset avenue, Hancock street, Quincy along
17 Hancock and Franklin streets and Independence
18 avenue, Quincy to Washington street, Braintree;
19 thence along Washington street through Hol-
20 brook, along Franklin street to, into and along any
21 part of Brockton. In case the mayor and alder-
22 men of the city of Boston change the location of
23 the terminal station in their city, they shall also
24 change the route of said road within such city to

25 conform thereto. The above route may be changed
26 between terminals in any city or town through
27 which it passes, as the mayor and aldermen of the
28 cities, and as the selectmen of the towns, may
29 determine.

1 SECT. 3. If over any part of the above route
2 there is a structure built, or proposed to be built,
3 for the use of cars made under the patents known
4 as the Boynton Bicycle Railway Company patents,
5 said company may unite with any proposed or ex-
6 isting corporation owning the same in joint build-
7 ing or use of said structure.

1 SECT. 4. The fares on said railway shall not
2 exceed five cents within the city limits or within
3 five miles of the city hall of Boston.

1 SECT. 5. Said railway shall consist of one or
2 more tracks, each track consisting of a single rail;
3 the structure on the elevated portion of said rail-
4 way shall be of steel and wood, fourteen feet
5 above the street on steel posts; except in crossing
6 high grades it may be twelve feet from the pave-
7 ment in the clear. The posts may be placed at or
8 within the curbing of the streets or highways as
9 shall be located by the authorities of the cities;
10 shall, where practicable, be single, not exceeding
11 sixteen inches in diameter, and if double not
12 exceeding twelve inches in diameter at a point
13 three feet above the pavement, and shall be, if
14 practicable, located in the middle of the streets.

4 BOSTON & BROCKTON BICYCLE R'Y CO. [May,
15 The strength of the structures shall be computed
16 as five-fold the loads proposed to be carried
17 thereon, as a safety factor.

1 SECT. 6. Said company shall maintain and
2 operate said railway by electricity or any other
3 approved motive power other than steam, and
4 with the consent of the authorities of the cities
5 and towns through which said railway passes,
6 may make such underground alterations in such
7 streets and highways as may be necessary to
8 establish and maintain said railway.

1 SECT. 7. The capital stock of said company
2 shall not exceed two hundred and fifty thousand
3 dollars, nor be less than one hundred thousand
4 dollars per mile, except that outside of large cities
5 said minimum sum may be reduced to not less than
6 ten thousand dollars per mile, and excepting that
7 said company may increase its capital stock sub-
8 ject to all general laws applicable to said increase.

1 SECT. 8. Said company may, from time to
2 time, by the vote of the majority in interest of the
3 stockholders, issue coupon or registered bonds to
4 an amount not exceeding one hundred and twenty-
5 five thousand dollars per mile, for a term not ex-
6 ceeding thirty years from the date thereof,
7 and bearing interest at a rate not exceeding six per
8 cent. per annum: *provided*, that no issue of bonds
9 shall be made unless there shall have been actually
10 paid in an amount of the capital stock equal to

11 the amount of said increase. To secure payment
12 of such bonds, with interest thereon, said company
13 may make a mortgage of its railway and franchise
14 and any part or all of its other property, and may
15 include in such mortgage franchises and other
16 property acquired subsequent to the mortgage.
17 All bonds so issued shall first be approved by
18 some person appointed by the company for that
19 purpose, who shall certify upon each bond that
20 it is properly issued and recorded.

1 SECT. 9. Said company may, by its directors,
2 sell, or otherwise dispose of property which may
3 become worn, damaged, or unsuitable for use in
4 the operation of its railways: *provided*, an equiva-
5 lent in value is substituted therefor; the proceeds
6 arising therefrom may be used for any other pur-
7 pose.

1 SECT. 10. No stocks or bonds shall be issued
2 or otherwise disposed of at less than fair market
3 value thereof. All issues of stock or bonds by
4 this corporation shall be subject to the provisions
5 of chapter four hundred and sixty-two of the acts
6 of the year eighteen hundred and ninety-four,
7 except as hereinafter provided. If the decision
8 of said commissioners upon any application of
9 said company for a certificate that a proposed
10 issue of stock or bonds is reasonably necessary, is
11 adverse to said company, it shall have the right
12 to petition the supreme judicial court for a hear-
13 ing, and if said court is satisfied that such pro-

14 posed issue of stock or bonds is reasonably
15 requisite for the purpose for which it is to be
16 issued it shall enter an order approving such
17 issue of stocks or bonds and the issue may then
18 be made.

1 SECT. 11. Said company may make a prelimi-
2 nary survey of its route and submit maps and
3 plans showing the same, together with an applica-
4 tion for a location to the mayor and aldermen of
5 cities, and the selectmen of the towns within
6 which it is proposed to build any part of said
7 road, showing the streets along and above which
8 it is proposed to build said road, and said
9 mayor and aldermen or selectmen shall within
10 thirty days thereafter grant said company a loca-
11 tion along and above streets and highways or
12 through private lands as near the route proposed
13 by said company as they shall deem best.

1 SECT. 12. Should the mayor and aldermen or
2 selectmen of two adjoining municipalities fail to
3 make a location that will give a reasonably direct
4 route between Boston and Brockton, said company
5 may apply to the board of county commissioners,
6 and they shall, within thirty days, decide upon
7 the location, and their decision shall be conclusive.

1 SECT. 13. Whenever said corporation shall
2 make any excavations in or near any public high-
3 way, or shall set any foundation, pier or post in
4 or near the same, the surface of the street, side-

5 walk or other ground, it shall restore the same as
6 soon as practicable to the condition, as near as
7 may be, in which it was before the excavation was
8 made; and wherever it shall interfere with any
9 water or gas mains, or pipes, sewers, drains or
10 other subterranean works, it shall immediately re-
11 store the same to a serviceable condition as good
12 as before such change or interference, and at its
13 sole cost.

1 SECT. 14. If, in the opinion of the mayor and
2 aldermen of any city, or the selectmen of any
3 town, through which said railway may be built,
4 the widening, strengthening or rebuilding of any
5 bridge or the rebuilding of any street or high-
6 way in such city or town is at any time rendered
7 necessary by the location, construction or opera-
8 tion of said railway upon said street, highway or
9 bridge, application may be made by such mayor
10 and aldermen or selectmen to the supreme judicial
11 court or the superior court sitting in equity, and
12 said court shall, after notice, hear the parties and
13 apportion the amount which shall be paid by such
14 city or town and by said company on account of
15 such widening, strengthening or rebuilding of
16 such bridge, street or highway, said court shall
17 make such order as it may deem necessary in the
18 premises and enforce the same by injunction or
19 other appropriate remedies.

1 SECT. 15. The elevated structure of said rail-
2 way shall be subject to the approval of the board

3 of railroad commissioners as to its strength and
4 its height above any public way across or along
5 which it shall be built.

1 SECT. 16. Said company and any officer, or
2 agent thereof, for the purpose of carrying out the
3 provisions of this act, may enter into and upon
4 any lands, and make surveys and examinations,
5 and place and maintain marks thereon, and may
6 do all other acts thereon incidental to such sur-
7 veys, examinations, and placing and maintaining
8 marks.

1 SECT. 17. Said company may take such lands
2 as it may deem necessary for its railway, its ex-
3 tensions, branches, sidings, terminals, yards, sta-
4 tions and other structures in the manner and
5 subject to the regulations, restrictions and liabil-
6 ities prescribed by law when land is taken by a
7 railroad company by right of eminent domain:
8 *provided, further*, that no present location or land
9 of any railroad corporation shall be taken other-
10 wise than by purchase. But nothing herein con-
11 tained shall be construed to prevent the crossing
12 of any railroad above the grade thereof.

1 SECT. 18. Any person having an estate which
2 abuts upon the location of said railway, which
3 has been damaged or diminished in value more
4 than it has been improved or increased in value
5 by reason of the location, construction, mainten-
6 ance or operation of said railway, may, at any
7 time, one year and within three years, after the

8 construction of such railway in front of his prem-
9 ises, file in the clerk's office of the superior court
10 for the county where his said estate lies, a petition
11 for the determination of such damages, and after
12 such notice as the court shall order the petition
13 shall be determined by a jury, if either party
14 claims such right at the time of filing the petition
15 or within ten days after filing the answer thereto;
16 otherwise they shall be determined by the court
17 without a jury.

1 SECT. 19. The finding shall be on the follow-
2 ing questions, to wit: First. Has the petitioner's
3 estate been damaged more than it has been bene-
4 fitted or improved in value by reason of the loca-
5 tion, construction, maintenance or operation of
6 such railway? Second. If so, how much? If
7 the answer to the first question shall be "No," a
8 verdict shall be rendered for the corporation;
9 otherwise a verdict shall be rendered for the
10 petitioner for the amount found in answer to said
11 second question, including interest from the day
12 of filing of the petition.

1 SECT. 20. Said corporation shall, upon the
2 entry of judgment pursuant to findings upon
3 the foregoing provisions of section twelve, pay or
4 tender to the judgment creditor the amount of
5 said judgment with costs. If such payment or
6 tender shall be made within thirty days after
7 the entry of such judgment, the court in which
8 the same has been entered shall issue its execu-
9 tion to compel the payment thereof.

1 SECT. 21. The supreme judicial court and
2 any justice thereof, and the superior court and
3 any justice thereof, shall have jurisdiction in
4 equity, on petition of any party interested, to
5 compel compliance with the provisions of this
6 act, and to enforce any order made under the
7 authority of this act, and to prevent violation of
8 any of the provisions hereof.

1 SECT. 22. Said company shall be deemed a
2 street railway company, and all general laws
3 relating to railroad and street railway corpora-
4 tions, so far as applicable, shall apply to said
5 company.

1 SECT. 23. This act shall take effect upon its
2 passage.

