

HOUSE No. 1349.

[House No. 1307 as passed to be engrossed.]

Commonwealth of Massachusetts.

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

AN ACT

To incorporate the Boston, Quincy and Fall River 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. James F. Shaw, Albert H. Overman,
2 Robert Evans, Oliver O. Howard, Francis W. Breed,
3 Augustus G. Perkins, E. Moody Boynton, L. Edwin
4 Dudley and Edward A. Perkins, their associates and suc-
5 cessors are hereby made a corporation under the name
6 of the Boston, Quincy and Fall River Bicycle Railway
7 Company, to construct and operate an elevated and sur-
8 face bicycle railway for the carriage of passengers but
9 not freight, other than baggage of passengers and United
10 States mails, under the bicycle railroad patents granted
11 to said E. Moody Boynton, beginning at the corner of

12 Dudley street and Harrison avenue in the city of Boston
13 thence to Warren street; thence upon and over Warren
14 street to Blue Hill avenue; thence upon and over Blue
15 Hill avenue to Geneva avenue; thence upon and over
16 Geneva avenue, across Dorchester avenue to Gibson
17 street; thence along and over Gibson street to Adams
18 street; thence along and over Adams street and Nepon-
19 set avenue to the Quincy line, then passing through the
20 city of Quincy, the towns of Braintree and Holbrook,
21 the city of Brockton, the towns of North Easton, Easton
22 and Bridgewater, and the city of Taunton, to any part of
23 Fall River. The above route may be located in any city
24 or town through which it passes, as the mayor and alder-
25 men of the cities, and as the selectmen of the towns, may
26 determine. The capital stock of said corporation shall
27 be not more than five million dollars, divided into shares
28 of one hundred dollars each.

1 SECT. 2. Said company, for the purpose of procuring
2 and constructing its railway and its extensions, branches,
3 sidings, rails, terminals, yards, stations, and other struct-
4 ures, and for procuring engines, cars and other equip-
5 ment, may issue, to an amount not exceeding the amount
6 of its capital stock actually paid in, negotiable bonds,
7 registered or coupon, payable in not more than fifty
8 years from the date of issue, and bearing interest at a
9 rate not exceeding six per cent. per annum, payable
10 semi-annually, as determined by its directors. No stock
11 or bonds shall be issued or otherwise disposed of at less
12 than the fair market value thereof. Only such amounts
13 of capital stock and bonds shall be issued as may, from
14 time to time, upon investigation by the board of railroad
15 commissioners, be deemed and be voted by them to be rea-
16 sonably requisite for the purposes for which such issue of
17 stock or bonds has been authorized. The vote of the board

18 approving such issue shall specify the respective amounts
19 of stock and bonds authorized to be issued and the pur-
20 poses to which the proceeds thereof are to be applied.
21 A certificate setting forth the vote of the board shall,
22 within three days after said vote, be filed in the office
23 of the secretary of the Commonwealth before the certifi-
24 cates of stock or bonds are issued, and said company
25 shall not apply the proceeds of such stock or bonds to
26 any purposes not specified in the vote of the board, and
27 the application of the proceeds of such stock or bonds
28 contrary to the provisions of law shall be punished in
29 the same manner provided by law for the unlawful issue
30 of stock and bonds by railway or railroad companies.
31 Any such decision and vote of the board of railroad com-
32 missioners shall be filed in writing in the office of said
33 board within seven days after the rendering thereof, and
34 shall assign in writing the reasons for the decision.
35 Said company may increase its capital stock, subject to
36 all general laws relating to street railways and steam
37 railroads applicable thereto.

1 SECT. 3. Said company may secure said bonds by
2 mortgage of its property and franchises, and in such
3 mortgage may include property to be thereafter acquired,
4 and the right to sell or dispose of any personal property
5 covered by said mortgage which may become worn or
6 otherwise unfit for use, provided an equivalent in value
7 is substituted therefor.

1 SECT. 4. Said company may build its railway in any
2 city or town aforesaid, along and above such streets as
3 the mayor and aldermen of the city or the selectmen of
4 the town shall grant, or through and upon private
5 lands, and the elevated structure of said railway shall be
6 subject to the approval of the board of railroad commis-

7 sioners as to its strength and its height above any public
8 way across or along which it shall be built. In case the
9 mayor and aldermen or selectmen fail within sixty days
10 to make a location that will give a reasonably direct route
11 between Boston and Fall River, said company may apply
12 to the board of county commissioners for the county in
13 which said location is asked for, and they shall, within
14 thirty days, decide upon the location, and their decision
15 shall be conclusive.

16 Whenever said company shall make any excava-
17 tions in or near any public highway or shall set any
18 foundation, pier or post in or near the same, the sur-
19 face of the street, sidewalk or other ground shall be
20 restored as soon as practicable to the condition, as near
21 as may be, in which it was before the excavation was
22 made; and any interference which shall be made with or
23 change in water or gas mains, or pipes, sewers, drains or
24 other subterranean works shall be upon condition that
25 the same shall be immediately restored to a serviceable
26 condition, as good as before such change or interference,
27 and at the sole cost and expense of said company.

1 SECT. 5. Said company shall operate said railway by
2 electricity, and may make such alterations in, above and
3 under streets and highways and public places in which its
4 railway may be built as may be necessary to establish,
5 maintain and operate its railway and the cars thereon.
6 The fare of said railway shall not exceed five cents within
7 the limits of any city or town.

1 SECT. 6. Said company and any officer, person or
2 corporation, for the purpose of carrying out the provi-
3 sions of this act, may enter into and upon any lands, and
4 make surveys and examinations, and place and maintain
5 marks thereon, and may do all other acts thereon inci-

6 dental to such surveys, examinations, and placing and
7 maintaining marks, and may take by purchase or other-
8 wise such lands, to the same extent and in the same
9 manner provided by chapter one hundred and twelve of
10 the Public Statutes and of the acts in amendment there-
11 of and in addition thereto, excepting parks and other
12 public property, as it may deem necessary for its rail-
13 way, its extensions, branches, sidings, terminals, yards,
14 stations and other structures, and all lands thus taken,
15 together with the structures erected thereon, shall be the
16 property of said company: *provided, however*, that the
17 location of said railway outside of public streets and
18 highways shall not exceed fifty feet in width, except for
19 the purposes of stations.

1 SECT. 7. Said company shall pay all damages sus-
2 tained by any person in his property by reason of any
3 taking or other act done under the provisions of section
4 six of this act, and if any such person cannot agree with
5 said company as to his damages, the same may be
6 determined by a jury in the superior court for the county
7 where the property is, in the manner and subject to the
8 rules of law provided for the determining of damages for
9 taking land in laying out highways, on petition of said
10 company or of said person therefor filed in the clerk's
11 office of said court, within one year after such taking, or
12 the building of such structure, and judgment shall be
13 entered upon said determination and costs shall be taxed
14 and execution issued in favor of the prevailing party as
15 in civil cases.

1 SECT. 8. Said company shall upon the filing of any
2 such petition, when required thereto by any justice of
3 the superior court, on application of the person whose
4 land is taken, give security to the satisfaction of said

5 justice for the payment of all damages and costs which
6 may be awarded by a jury on said petition, and if upon
7 said application and notice to said company the security
8 appears to said judge to have become insufficient, said
9 company shall give further security to the satisfaction
10 of said justice, and all the right and authority of said
11 company to enter upon or use the land or other property
12 except for making surveys, shall upon such application
13 be suspended until the security so required is given.

1 SECT. 9. Any person having an estate which abuts
2 upon the location of said railway, which has been dam-
3 aged or diminished in value more than it has been im-
4 proved or increased in value by reason of the location,
5 construction, maintenance or operation of said railway,
6 may, at any time after one year and within three years
7 after the construction of such railway in front of his prem-
8 ises, file in the clerk's office of the superior court for the
9 county where his said estate lies, a petition setting forth
10 his claim and the amount thereof against said corporation.
11 He shall give to said corporation fourteen days' notice of
12 the filing of such petition, and answer thereto shall be
13 filed by said corporation within thirty days after the re-
14 turn day of such notice. Any such petition shall be
15 heard by a jury, if either party claims such right at the
16 time of filing the petition or within ten days after filing
17 the answer thereto; otherwise they shall be determined
18 by the court without a jury.

1 SECT. 10. The findings shall be on the following
2 questions, to wit: First. Has the petitioner's estate been
3 damaged more than it has been benefitted or improved in
4 value by reason of the location, construction, mainte-
5 nance or operation of such railway? Second. If so,
6 how much? If the answer to the first question shall be

7 "No," a verdict shall be rendered for the corporation;
8 otherwise a verdict shall be rendered for the petitioner
9 for the amount found in answer to said second question,
10 including interest from the day of filing of the petition.

1 SECT. 11. Said corporation shall, upon the entry of
2 judgment pursuant to findings upon the foregoing provis-
3 ions of section twelve, pay or tender to the judgment
4 creditor the amount of said judgment with costs. If such
5 payment or tender shall not be made within thirty days
6 after the entry of such judgment, the court in which the
7 same has been entered shall issue its execution to compel
8 the payment thereof.

1 SECT. 12. The supreme judicial court and any justice
2 thereof, and the superior court and any justice thereof,
3 shall have jurisdiction in equity, on petition of any party
4 interested, to compel compliance with the provisions of
5 this act, and to enforce any order made under the au-
6 thority of this act, and to prevent violation of any of the
7 provisions hereof.

1 SECT. 13. Said company may make contracts with
2 any person or corporation authorized to produce or
3 manufacture electricity for any purpose, for supply-
4 ing electricity for the motive power of said railway
5 and for other uses, and such person or corporation is
6 hereby authorized to enter into contracts for so supplying
7 electricity. Said company may lease the property and
8 rights of any corporation operating a street railway in
9 any city or town in which the railway of said company
10 may be built, provided that said lease is approved by the
11 board of railroad commissioners.

12 If over any part of the route there is a structure built,
13 or proposed to be built, for the use of cars made under

14 the patents known as the Boynton bicycle company
15 patents, said company may unite with any proposed or
16 existing corporation owning the same in joint building or
17 use of said structure.

1 SECT. 14. The board of railroad commissioners may
2 order the temporary removal of any surface tracks in or
3 on any way or place through or over which said railway,
4 its branches and extensions, terminals and other struct-
5 ures are to be built, and may order the relocation of
6 any tracks, conduits, pipes, wires or poles in any such
7 way or place of any person or corporation which it deems
8 to interfere with the construction or operation of said
9 railway, its branches or extensions, and the person or
10 corporation owning said tracks, wires or other property
11 shall comply with said orders. Any person or corpora-
12 tion using or authorized by law to use wires along the
13 route of said railway may affix them to the elevated
14 structures of said company on such terms as said board
15 may approve. Any expenses attending any removal, re-
16 location or attachment aforesaid, shall be apportioned by
17 said board of railroad commissioners as it deems just
18 and equitable.

1 SECT. 15. Said company shall be deemed a street
2 railway company, and all general laws relating to street
3 railway corporations, and also sections one hundred
4 and six to one hundred and twelve, inclusive; sections
5 one hundred and forty-three to one hundred and forty-
6 seven, inclusive; sections one hundred and seventy to one
7 hundred and seventy-nine, inclusive; sections one hun-
8 dred and ninety-five to one hundred and ninety-seven,
9 inclusive; and sections two hundred and one to two hun-
10 dred and eight, inclusive, of chapter one hundred and
11 twelve of the Public Statutes, shall apply to said com-

12 pany, and the shares of any increase of its capital stock
13 hereafter allowed shall be disposed of in the manner pro-
14 vided in chapter four hundred and seventy-two of the
15 acts of the year eighteen hundred and ninety-four, for
16 disposing of the shares of the increase of capital stock
17 of steam railroad companies.

1 SECT. 16. All rights and privileges granted under
2 this act for the purpose of building a railway between
3 Boston and Fall River shall be forfeited if twenty miles
4 of said railway are not built within two years from the
5 passage of this act. At the expiration of said two years,
6 if twenty miles of said railway have been built and oper-
7 ated, then all rights and privileges under this act shall
8 extend for two years further as to the remainder of the
9 route between Boston and Fall River.

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

HOUSE OF REPRESENTATIVES, May 27, 1897.

Passed to be engrossed.

Sent up for concurrence.

JAMES W. KIMBALL, *Clerk.*

