

HOUSE No. 1359.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, June 2, 1897.

The committee on Rules, to whom was referred the motion to suspend the 12th joint rule, on the accompanying Bill to provide for a highway around Back Bay Fens in the city of Boston, report recommending that said rule be suspended.

For the Committee,

THOMAS W. KENEFICK.

Commonwealth of Massachusetts.

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

AN ACT

To provide for a Highway around the Back Bay Fens in the
City of Boston.

*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. The board of street commissioners of the
2 city of Boston, with the approval of the mayor, shall
3 forthwith except as hereinafter provided, pass an order
4 laying out under the provisions of chapter three hundred
5 and twenty-three of the acts of the year eighteen hundred
6 and ninety-one, and acts in amendment or addition
7 thereto, a highway from such part of Boylston street on
8 the easterly side of the Back Bay Fens to such part of
9 Boylston street on the westerly side of said Back Bay
10 Fens over and under said Fens and any parkway, or
11 other way, and may lay out said highway, and Boylston
12 street from said Fens to Brookline avenue, according to
13 such directions, grades and widths not less than fifty feet
14 in any part, as they shall deem the public convenience
15 may require, and shall not be confined to any plan here-
16 tofore filed of the territory in which such ways or any

17 part thereof are situated, and may hereafter establish a
18 new building line on said ways or any part thereof: *pro-*
19 *vided, however,* that the lines, directions, widths, grades
20 and construction of all parts of said highway lying
21 northerly or easterly of Lansdowne street, so called,
22 and of any bridges over, or forming a part of, said high-
23 way, shall be subject to the approval of the board of
24 park commissioners and the mayor of said city.

1 SECT. 2. Upon the passage of said order, the superin-
2 tendent of streets of said city shall proceed to construct
3 said highway under the provisions of said acts and the
4 other acts relating to the construction of ways laid out
5 under the orders of said board of street commissioners
6 and shall construct any bridge that may be required for
7 a parkway or other public way over said highway.

1 SECT. 3. The expenses incurred in carrying out the
2 provisions of the preceding sections shall be paid from
3 the proceeds of the bonds authorized to be issued by
4 chapter three hundred and nineteen of the acts of the
5 year eighteen hundred and ninety-seven, and so much of
6 the assessable cost of the part of said highway that lies
7 south of the southerly side of Lansdowne street, so
8 called, as said board of street commissioners shall deter-
9 mine, and said mayor shall approve, shall be repaid to
10 the city by the owners only of the estates abutting on
11 said part, as provided in said chapter three hundred and
12 twenty-three and acts in amendment or addition thereto;
13 and so much of the assessable cost of the part of said
14 highway that lies east of said Fens as said board shall
15 determine, and said mayor shall approve, shall be repaid
16 to the city by the owners only of the estates abutting on
17 said part, as provided in said acts, and the remainder of
18 the cost of said highway and bridges shall be assumed by

19 said city, and no part of said remainder shall be assessed
20 upon abutting or other estates.

1 SECT. 4. The West End Street Railway Company
2 when said highway shall be ready for the laying of its
3 tracks therein, shall have a location therein subject to
4 revocation in the same manner as the other locations of
5 said company in said city, and shall construct and oper-
6 ate its railroad by electricity, from a junction with its
7 other tracks on Massachusetts avenue or Boylston street,
8 across Massachusetts avenue, to and upon said Boylston
9 street, to and upon said highway, to and upon said
10 Boylston street, to and upon Brookline avenue, to a
11 junction with the tracks heretofore constructed by said
12 company upon said avenue; and shall place its tracks,
13 turnouts, switches and other structures in said street,
14 highway and avenues, in such places, in such manner
15 and of such construction as said board of park commis-
16 sioners and mayor shall approve: *provided, however,*
17 that if for any reason said new highway is not ready for
18 the laying of the tracks of said company thereon, before
19 the first day of June in the year eighteen hundred and
20 ninety-eight, said railway company shall construct and
21 operate its railroad over Boylston street, Boylston road
22 across said fens and said avenues, as, and subject to the
23 approval, provided for in this section; but when said
24 highway is so ready, said tracks shall be taken up from
25 said Boylston street and road between the termini of
26 said highway and laid in said highway.

1 SECT. 5 If the city council of said city prior to the
2 first day of August in the current year, shall vote that the
3 highway described in section one of this act be constructed
4 at once, said highway shall forthwith thereafter be laid
5 out and constructed as aforesaid; but if said city council

6 prior to said day shall vote that said highway be not con-
7 structed, all proceedings and work of laying out and con-
8 structing said highway shall thereupon cease, and said
9 railway company shall thereupon have a location, subject
10 to revocation as aforesaid except as hereinafter provided,
11 and shall construct and operate its railroad by electricity
12 from a junction with its tracks on Massachusetts avenue
13 or Boylston street, across Massachusetts avenue, to and
14 upon Boylston street, to and upon Boylston road across
15 the Back Bay Fens, to and upon Boylston street, and to
16 and upon Brookline avenue, to a junction with the tracks
17 heretofore constructed by said company upon said avenue ;
18 and said company shall place its tracks, turnouts, switches
19 and other structures in said Boylston street and road
20 and said avenues, in such places, in such manner, and of
21 such construction, and shall use such electrical method
22 and apparatus for propelling its cars in said Boylston
23 street and road between said Massachusetts avenue and
24 the junction with its tracks heretofore laid in Brookline
25 avenue, as said board of park commissioners and mayor
26 shall require.

1 SECT. 6. In case the tracks of said company shall be
2 laid as aforesaid across said fens, whether with or with-
3 out a location as hereinbefore provided, said board of
4 park commissioners, with the approval of the mayor,
5 may at any time after two years from the passage of this
6 act order said company to remove its tracks from said
7 Boylston street and road between the termini of said
8 highway, and thereupon said board of street commis-
9 sioners shall lay out, and said superintendent of streets
10 shall construct said highway, as authorized in sections
11 one to three, inclusive, of this act ; and when said high-
12 way shall be ready for the laying of its tracks therein,
13 and not before, said street railway company shall have a

14 location therein, and shall remove its tracks as so ordered
15 and lay them in said highway as provided in section four
16 of this act, and thereupon any location which may be
17 held by said company in said Boylston street and road
18 between the termini of said highway shall terminate.

1 SECT. 7. Said board of street commissioners, with
2 the approval of the mayor, within six months after the
3 passage of this act may, on the plan of the territory be-
4 tween said Fens, said Brookline avenue and the Boston
5 and Albany railroad made by Pierre Humbert, Jr., and
6 filed in the office of the city surveyor or city engineer of
7 said city, make such changes in the lines, directions,
8 widths, grades and building lines of any streets shown
9 thereon, where they connect with Boylston road or
10 Audubon road as they may deem necessary; and may
11 make such changes in the lines, directions, widths,
12 grades and building lines, or discontinue any building
13 line, or any part of any street leading northwesterly
14 from either of said roads as they deem necessary; and
15 the plan as so changed shall have the same effect and
16 consideration as before the changes were made.

1 SECT. 8. This act shall take effect upon its passage.

