

*Chap. 296* AN ACT to promote the Public Safety and Convenience, by a Bridge at the intersection of the Boston and Lowell, the Fitchburg and the Grand Junction Railroads, in Somerville.

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

Change in construction of railroads.

SECT. 1. The Fitchburg Railroad Company, and the Grand Junction Railroad and Depot Company, are hereby authorized to lower so much of the surface of their railroads, as is hereinafter indicated, and the Boston and Lowell Railroad Corporation are hereby authorized to raise the surface of their railroad, so that the Fitchburg Railroad and the Grand Junction Railroad may pass under the said Boston and Lowell Railroad, in Somerville, at or near the point where said railroads now cross at grade.

Bridge to be on abutments.

SECT. 2. The bridge required for that purpose shall be supported on abutments of good and substantial stone masonry ; those portions thereof below the present rail surface of the said railroads shall be built and maintained by the Fitchburg Railroad Company ; and those portions of said abutments above said rail surface, as well as the superstructure of said bridge, shall be built and maintained by the Boston and Lowell Railroad Corporation. The said superstructure of said bridge, when completed, shall be, in its lowest part, full five feet four and one-half inches above the present level of the top of the rails at said crossing. It shall also be of such span that the two tracts of the Fitchburg Railroad and the track of the Grand Junction Railroad and Depot Company may pass between the abutments, with a clear space of four feet between each outermost rail and the corresponding abutment. The tracks of the Fitchburg Railroad shall retain their present direction, and a clear space of six feet shall be left between the two tracks of the said Fitchburg Railroad, and a clear space of eight feet six inches between the north track of said Fitchburg Railroad and the track of the Grand Junction Railroad, the last mentioned track to be moved northward for that purpose, so that a line of iron pillars may be erected midway of the last mentioned space, to aid in the support of said bridge superstructure, which shall, in other respects, be supported only at the abutments.

Dimensions of bridge.

Power to change grade, take land, &c.

SECT. 3. For the purposes aforesaid, the said Fitchburg Railroad Company and the Boston and Lowell Railroad Corporation are empowered to make any changes in the grade and construction of their railroads, also to raise, lower, or otherwise change any highways, townways or passage-ways

and connecting tracks, so far as may be necessary for the execution of the above mentioned works, with the consent of the county commissioners of the county of Middlesex. They are also authorized to take any land, or rights in land, for the widening of their embankments or cuttings, or for the construction of temporary side tracks, to prevent the interruption of their business during the progress of said work; they may also take land for drainage or other purposes necessary or incidental: *provided*, that for all land and rights in land thus taken, they shall make compensation according to law, and shall also file a location, according to law, for all land thus taken for permanent occupation. And the Fitchburg Railroad Company is hereby authorized and required to remove so much of the embankment and road bed of the Grand Junction Railroad and Depot Company, as lies within the limits of the land taken by said last named company from the Fitchburg Railroad Company, or within the limits of the land taken from the Boston and Lowell Railroad Corporation, as will make the main track of the railroad of the Grand Junction Railroad and Depot Company correspond in level with those of the Fitchburg Railroad, within said limits; such work, so far as the same shall fall within the limits of the land occupied by the Fitchburg Railroad and Grand Junction Railroad, in juxtaposition or at their intersection, shall be executed by said Fitchburg Railroad Company, under the supervision of a commissioner to be appointed by the governor, as hereinafter provided—by which commissioner, the cost of the same, when completed, including the cost incurred by said Fitchburg Railroad Company in erecting and maintaining their portion of the abutments and other masonry of said bridge, shall be apportioned between said two companies, as shall by him be deemed equitable; and should the award of said commissioner not be promptly paid by the Grand Junction Railroad and Depot Company, the Fitchburg Railroad Company may recover a fair and just proportionate part of the cost incurred by them in lowering said tracks and road beds, and in furnishing materials for and constructing said railroad bridge and its appendages, from said Grand Junction Railroad and Depot Company, with costs, in an action of contract, in the supreme judicial court, in either of the counties of Middlesex or Suffolk; and if the defendants therein shall fail to pay to the plaintiffs the amount of the judgment in said suit, the said court shall, on application of the plaintiffs, grant an injunction to prevent the said defendants, their successors and assigns, from using or running their railroad

Proviso.

Location filed.

Work to be done under supervision of commissioner.

Proceedings if failure to pay award.

in Somerville, south or west of the estate of Elizabeth Joy, until said judgment shall be paid, without prejudice to the other remedies of the plaintiffs.

Costs, &c., in case of connection with other roads.

SECT. 4. In case the Grand Junction Railroad and Depot Company shall require a connection between the Boston and Lowell Railroad and the Grand Junction Railroad and the Fitchburg Railroad, or either of them, to be maintained near said bridge, the cost of maintaining a connection shall be included in the cost of making said bridge, and the work above the present rail surface shall be performed by the Boston and Lowell Railroad, and the work beneath such surface shall be performed by the Fitchburg Railroad Company in the manner herein before stated; and the cost of performing the same and providing materials therefor shall be added to the cost of doing the work and providing materials for said bridge to be incurred by said Fitchburg Railroad Company, and shall be included in said award; and if said award be not paid, a just and fair proportion of such cost may be recovered by them in said action from said Grand Junction Railroad and Depot Company. And said last named company are hereby authorized to take any land on the northerly side of their present location, that may be required for altering their side track and switches, paying for said land, and filing a location thereof according to law: and the cost thereof shall constitute a part of the cost of said bridge, and be credited to the party taking the same.

May use each other's tracks.

SECT. 5. The Fitchburg Railroad Company is hereby authorized to make use of the track of the Grand Junction Railroad, for the passage of trains, whenever its own track is obstructed during the progress of the said work; and the said Grand Junction Railroad and Depot Company may, also, under like circumstances, and during said period and no longer, make use of so much of the tracks of the Fitchburg Railroad, for the passage of trains, as lie between the west end of Prison Point Bridge and Milk Street, in Somerville; and each party shall be allowed by the other a fair compensation for such use.

Former acts defined.

SECT. 6. And it is hereby expressly declared that it was not the intention of any act prior to this act to authorize, nor did it authorize the Grand Junction Railroad and Depot Company, or the companies which composed it, to take or hold either of the main tracks of the Fitchburg Railroad in said Somerville, or the land required for running trains thereon. And the said Fitchburg Railroad Company shall

retain both of their said main tracks in said Somerville, for the exclusive use of their said company, and of all other railroad companies that have been or shall be expressly authorized to enter upon and use the same according to law; and may include the said main tracks and land in the new location of their railroad and branches which they are empowered to make by law. And the location of the Grand Junction Railroad and Depot Company in said Somerville, so far as it lies on the northerly side of the northerly track of said Fitchburg Railroad and of the strip of land required for running trains thereon, and so far as it intersects in crossing the main tracks of said Fitchburg Railroad with a width not exceeding twenty-four feet in crossing, is hereby confirmed; subject, however, to the changes herein authorized, and subject to all claims for damages caused by the location and construction of said Grand Junction Railroad; and said Grand Junction Railroad and Depot Company shall have no power to use either of said main tracks of the Fitchburg Railroad Company except as provided for in section five of this act.

SECT. 7. Nothing herein shall be so construed as to authorize either of said companies to take any additional land from the estate of Elizabeth Joy. Restriction.

SECT. 8. For the supervision and apportionment contemplated in the third section of this act, a commissioner shall be appointed by the governor, with the advice of his council, on application of any two of said three companies, the compensation of which commissioners shall be a part of the cost of said work. Commissioner appointed on application, &c.

SECT. 9. This act shall take effect from and after its passage. [*Approved by the Governor, June 6, 1856.*]

AN ACT in addition to an Act concerning Lines in Boston Harbor.

Chap. 297

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

The act of the year of our Lord one thousand eight hundred and fifty-five, chapter three hundred and ten, is hereby revived, and shall take effect from and after the passage of this present act, and the fifth section of said act shall be extended two years. [*Approved by the Governor, June 6, 1856.*] Act revived and extended.