

HOUSE No. 1456.

[Senate, No. 226, as it would read if amended as moved by Mr. Turtle
of Pittsfield.]

Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred.

AN ACT

To authorize the Lease of the Boston and Albany
Railroad to the New York Central and Hudson
River Railroad 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. Subject to the conditions herein-
2 after mentioned, the consent of the Commonwealth
3 is hereby given to the contract and lease of the
4 railroad, franchises and property of the Boston
5 and Albany Railroad Company and to a supple-
6 mental contract in connection therewith for the
7 sale of certain of its assets, which contracts were
8 made and entered into between the directors of

9 the Boston and Albany Railroad Company and
10 the directors of the New York Central and Hudson
11 River Railroad Company on the fifteenth day of
12 November in the year eighteen hundred and ninety-
13 nine, and which were severally approved and
14 adopted by the votes of stockholders owning more
15 than two-thirds of the stock of each of said cor-
16 porations which was represented and voted upon
17 in person or by proxy at special meetings called
18 separately for that purpose.

1 SECTION 2. By giving the consent aforesaid
2 the Commonwealth does not waive or release any
3 rights or privileges which it may now have, but,
4 on the contrary, hereby expressly reserves and
5 retains such rights, including the right to reduce
6 rates and fares, to compel service, to impose re-
7 strictions, and any and all other rights which it
8 now has or may hereafter have by law, or under
9 the charter of the Boston and Albany Railroad
10 Company, or under the charters of its constituent
11 or leased lines or under amendments of said
12 charters.

1 SECTION 3. The consent and authority herein
2 given by the Commonwealth is given for the con-
3 sideration and upon the express condition that
4 the New York Central and Hudson River Rail-
5 road Company will agree to perform and abide
6 by, and will perform and abide by the provisions
7 of this and the following sections of this act; and
8 the entry by the said railroad company upon the

9 demised premises for the purpose of operating
10 said railway, under said lease shall be taken to
11 signify the acceptance by the said railroad com-
12 pany of the conditions hereby imposed and its
13 agreement to perform and abide by the provisions
14 of the following sections.

1 SECTION 4. The New York Central and Hud-
2 son River Railroad Company shall not, at any
3 time during the term of said lease, charge, demand
4 or receive, or be entitled to charge, demand or
5 receive, a greater sum for transportation by it of
6 freight from any point of origin, to the port of
7 Boston for export to foreign countries, than is at
8 the time received by it for transportation of the
9 like class and quantity of freight from the same
10 point to the port of New York for export to
11 foreign countries; or charge, demand or receive,
12 or be entitled to charge, demand or receive, a
13 greater sum for transportation from the port of
14 Boston of freight from foreign countries through
15 said port to any point, than is at the time received
16 by it for transportation of the like class or quan-
17 tity of freight through the port of New York to
18 the same point: *provided, however*, that if the
19 aforesaid provisions of this section shall conflict
20 with any regulations made by act of congress,
21 this section shall be null and void so far as it
22 conflicts therewith. The said railroad company,
23 during the term of said lease, shall not diminish
24 or allow to be diminished the facilities for travel
25 and business over the Boston and Albany railroad
26 or any part thereof.

1 SECTION 5. The lessee so long as it has pos-
2 session of the said railroad under said lease shall
3 so far as the operation of said railroad is con-
4 cerned, be subject to the provisions of all laws
5 now in force or which hereafter may be enacted
6 concerning railroad corporations incorporated
7 within this Commonwealth.

1 SECTION 6. The New York Central and Hud-
2 son River Railroad Company shall expend out of
3 the earnings of the Boston and Albany Railroad
4 Company, or from the proceeds of the issue and
5 sale of the bonds of the Boston and Albany Rail-
6 road Company under the provisions of said lease,
7 not less than the sum of two hundred and fifty
8 thousand dollars in each year, beginning not later
9 than the first day of July, in the year nineteen hun-
10 dred and one, until the full sum of two million five
11 hundred thousand dollars has been expended in
12 extending, enlarging, improving and developing
13 the terminal facilities of the lessor in that part of
14 Boston called East Boston and upon the Grand
15 Junction railroad from its connection with the
16 main line at Cottage Farm to the wharves and
17 warehouses of the lessor at East Boston and for
18 approaches to the property taken by the Com-
19 monwealth at East Boston for the purpose of
20 constructing thereon wharves and docks: *pro-*
21 *vided, however,* that no more than five hundred
22 thousand dollars of said sum shall be expended in
23 double tracking said Grand Junction railroad and
24 in the elimination of grade crossings thereon, and

25 the board of railroad commissioners, on proper
26 application shall approve the issue of such bonds
27 in an amount not exceeding two million five hun-
28 dred thousand dollars for the purposes aforesaid.

1 SECTION 7. All reports, returns, statements
2 and other acts required by the laws of this Com-
3 monwealth to be made, executed or performed by
4 domestic railroad corporations shall be made,
5 executed or performed by the New York Central
6 and Hudson River Railroad Company in respect
7 to its operation of the Boston and Albany rail-
8 road so long as said lease continues in force; and
9 if at any time said New York Central and Hud-
10 son River Railroad Company shall neglect to
11 make such returns, reports or statements, it shall
12 be subject to the same penalties as domestic rail-
13 road corporations are subject to for the like
14 neglect.

1 SECTION 8. No change, modification, or amend-
2 ment of said lease shall be valid unless and until
3 it is approved by the legislature of said Common-
4 wealth.

1 SECTION 9. Whenever in the opinion of the
2 railroad commissioners of this Commonwealth the
3 provisions of this act or any other act applicable
4 to the lessee are not performed by the lessee,
5 they shall transmit a statement to this effect to
6 the attorney general, who shall have the power
7 and shall thereupon institute legal proceedings

8 to compel the observance of the provisions alleged
9 to be violated; and in any case where there exists
10 no provision of law sufficient to compel the per-
11 formance of the provisions set forth in this act,
12 the same may be enforced by petition brought by
13 the attorney general as aforesaid.

1 SECTION 10. The supreme judicial court of this
2 Commonwealth shall have exclusive jurisdiction
3 of all proceedings and petitions brought by the
4 attorney general as aforesaid, and may enforce
5 the performance thereof, and its decrees and man-
6 dates may be served upon or take effect upon any
7 agent or any property of the lessee found within
8 the jurisdiction of this Commonwealth.

1 SECTION 11. Upon any failure to comply with
2 and observe the final decrees and mandates of
3 the supreme judicial court of this Commonwealth,
4 provided for in the foregoing sections of this act,
5 or of any federal court of competent jurisdiction,
6 the consent and authority herein given may be
7 revoked and annulled at any time by the gen-
8 eral court, notwithstanding any prior failure to
9 observe and comply with any decree or mandate
10 aforesaid. The remedies provided in this and
11 the preceding section shall be in addition to and
12 shall not repeal any remedies already existing.

1 SECTION 12. This act shall take effect upon
2 its passage.