

Locations conferred - 1900 c. 258

AN ACT TO INCORPORATE THE BOSTON ELEVATED RAILWAY COMPANY AND TO PROMOTE RAPID TRANSIT IN THE CITY OF BOSTON AND VICINITY.

Chap. 548

Be it enacted, etc., as follows :

SECTION 1. Joe V. Meigs, Thomas W. Hyde, Willard Howland, Theodore W. Myers, Joseph H. O'Neil, Fred C. Patch, Charles A. Whittier, Abram S. Hewitt, Samuel M. Roosevelt, William S. Butler, George H. Towle, William Spalding and Herman Haupt, their associates and successors, are hereby made a corporation by the name of Boston Elevated Railway Company, subject to all general laws which now are or may hereafter be in force relating to railroad corporations, so far as applicable, except as hereinafter provided, but said corporation shall not transport freight or baggage.

Boston Elevated Railway Company incorporated.

Sec 1  
Ch. 1897 c. 15  
2.7

SECTION 2. The capital stock of said corporation shall be not less than ten million dollars, divided into shares of one hundred dollars each. The capital may be increased from time to time, by vote of said corporation, to an amount not exceeding twenty million dollars in all.

Capital stock.

SECTION 3. Said corporation may issue coupon or registered bonds to an amount which, including that of bonds previously issued, shall not exceed in all the capital stock of the corporation actually paid in at the time. It may issue its bonds to provide means for construction and equipment, and for funding its floating debt, and for the purchase of such real or personal estate as may be necessary or convenient for the operation of its railway and in payment of any debt of said corporation.

May issue bonds, etc.

SECTION 4. Said corporation may mortgage or pledge, as security for payment of its bonds, its franchise and any or all of its real or personal property, and property thereafter acquired by it.

May mortgage its franchise, etc.

Subj. st. 1  
c. 500

SECTION 5. All issues of stock and bonds under the provisions of this act shall be subject to approval and certification by the board of railroad commissioners, in the manner provided in chapter four hundred and sixty-two of the acts of the year eighteen hundred and ninety-four, relative to the issue of stock and bonds by railroad and street railway companies.

Issue of stock and bonds to be approved by railroad commissioners.

SECTION 6. Said corporation may construct lines of elevated railway according to the plans or systems shown in the patents granted to Joe V. Meigs, or according to

System of construction to be approved by railroad commissioners.

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 such other plans or systems, except the system now in use in New York, known as the Manhattan system, as the board of railroad commissioners may approve, upon the following locations, and may equip, maintain and operate engines and cars thereon, to wit:—

Locations.

First. From a point on Main street, near Sullivan square, in that part of Boston called Charlestown, through and over Main street, to and through City square, to and through Warren avenue, to and over any existing bridge or over a new bridge across Charles river, to and through Beverly street, to and through Haymarket square, to and through Union street, to and through Dock square, to and through a new street which shall be built by said city, of the width of eighty feet, and one half of the cost of which shall be paid by said corporation, in the line of Congress street, between State street and Dock square, to and through Congress street and Post Office square, to and through Federal street, to and over Federal street bridge or a new bridge across Fort Point channel, to and through Dorchester avenue to the Milton line.

(a) A branch railway through Alford street, to and over Malden bridge, to and through Main street, Everett, to the Malden line.

(b) A branch railway from Everett square, to and through Chelsea and Ferry streets to the Malden line.

(c) A branch railway from the junction of Broadway and Main street, Everett, to and through Broadway to the Malden line.

(d) A branch railway from said City square to and through Chelsea street, to and over Chelsea bridge or a new bridge across the Mystic river, to and through Broadway, Chelsea, to and through Broadway, Revere, to and through Central avenue, to and through Beach street to Crescent Beach.

(e) A branch railway from Fenno's Corner, Revere, to and through Beach street, to and through Winthrop avenue to Beachmont.

(f) A branch railway from Dorchester avenue to and through West Broadway, to and through Dorchester street, to and through East Second street to City Point at Marine Park. Also a branch railway from Dorchester avenue to Sixth street, thence to D street, D street to Eighth street, Eighth street to L street, L street to Sixth street to City Point and Marine Park.

(g) A branch railway from Field's Corner through Neponset avenue to Neponset bridge. Locations.

Second. From a point on Bow street in Somerville, near its junction on Walnut street, through Bow street, to and through Union square, to and through Webster avenue, to and through Cambridge street, to and over Craigie bridge or a new bridge across Charles river to a point on Charles street between Allen and Poplar streets in Boston, through Charles street, to and through Leverett street, to and through Brighton street, to and through Lowell street, to and through Causeway street, to and through Portland street, to and through Merrimac street, to and through Washington street, to and through Dock square, to and through Devonshire street, to and through Franklin street, to and through Arch street, to and through Chauncey street, to and through Harrison avenue, to and through Kneeland street, to and through Washington street to its junction with Hyde Park avenue.

(h) A branch railway from the junction of Washington and Warren streets, through Warren street, to and through Dudley street, to and through Blue Hill avenue to Vaughn street.

Third. From a point [in Brattle square in Cambridge,] through Brattle square, to and through Mount Auburn street, to and through Putnam square and Putnam avenue, to and through Green street, [to and through Western avenue or Central square,] to and through Main street, to and over West Boston bridge, or a new bridge, or from a convenient point of deflection on Main street to and over a new bridge across the Charles river, to and through Charles street in Boston, to and through Park square, to and through Pleasant street, to and through Tremont street, to and through Pyncheon street, to and through Center street to the corner of May street.

(i) A branch railway from Park square to and through Columbus avenue, to and over the location of the Boston and Albany railroad, with the consent of the directors of the Boston and Albany Railroad Company at a height of not less than twenty feet above the road bed of said railroad, or by some other convenient route or way, to and through Huntington avenue, to and through Tremont street, to and through Washington street in Brookline to Village lane.

(j) A branch railway from a point near the junction

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 01500  
 on Merrimac  
 Street and  
 Charles R.  
 in Cambridge  
 Sub. 11  
 "The new one  
 through  
 land at a  
 at or near  
 junction of  
 Merrimac  
 Avenue +  
 street to  
 through  
 Square  
 1897.

Locations.

of River and Main streets in Cambridge, through River street, to and over Cambridge street bridge or a new bridge across Charles river, to Cambridge street in that part of Boston called Brighton, to and through Cambridge street in said Brighton, to and through Washington street to Oak square.

(k) A branch railway from Charles street, to and through Cambridge street, to and through Bowdoin square, to and through Court street, to and through Brattle street to Dock square.

(l) A branch railway from Park square to and through Eliot street to Kneeland street.

Location and plans to be approved, etc., before any work is done.

SECTION 7. . Said corporation shall not do any work in any city or town until the streets through which its railway shall be laid in such city or town shall be approved by the mayor and aldermen of the city or the selectmen of the town, and shall not do any work on any new bridge aforesaid until the location thereof and the plans therefor shall be approved by the board of harbor and land commissioners, and said corporation may vary or alter the locations aforesaid within the limits of a city or town, with the approval of the mayor and aldermen of the city or the selectmen of the town, and may construct such branches, spurs, sidings, turnouts, connections, deflections, switches, extensions and loops in connection with any of its locations as may be authorized by the board of railroad commissioners.

Location, construction, etc., to be an additional servitude, etc.

SECTION 8. The location, construction, maintenance or operation of said lines of railway in any public or private way shall be deemed an additional servitude and entitle lessees, mortgagees and other parties having an estate in such way or in premises which abut thereon, and who are damaged by reason of the location, construction, maintenance and operation of said lines of railway, to recover reasonable compensation in the manner herein provided. Any such person may at any time within three years after the construction of such railway upon or in front of his premises, file in the clerk's office of the superior court for the county where his said premises lie, a petition setting forth his claim and the amount thereof against said corporation. He shall give to said corporation fourteen days' notice of the filing of such petition, and answer thereto shall be filed by said corporation within thirty days after the return day of such notice.

SECTION 9. Any such petition shall be heard before a jury, if either party claims such right at the time of the filing of the petition or within ten days after the filing of the answer thereto; otherwise the same shall be heard before the court without a jury. The finding shall be on the following questions, to wit: First. Has the petitioner's estate been damaged more than it has been benefited or improved in value by reason of the location, construction, maintenance or operation of such railway? Second. If so, how much? If the answer to the first question shall be "No", a verdict shall be rendered for the corporation; otherwise a verdict shall be rendered for the petitioner for the amount found in answer to said second question, including interest from the day of the filing of the petition.

Proceedings relative to damages.

SECTION 10. Said corporation may locate stations at convenient points, with suitable exits and approaches to and from the streets and stations; but the same, except platforms and approaches thereto from buildings, shall not be located in any public way sixty feet or less in width, nor shall the same be located in any other public way or place unless approved by the mayor and aldermen or selectmen.

May locate stations at convenient points.

See 1897c  
2. 20

SECTION 11. Said corporation may lease, purchase or otherwise take the fee of land, outside of limits of public ways, parks and other public lands, for the purpose of constructing its railway, buildings, shops, stations, engine and car houses, and for any purpose necessary for the construction or convenient use by said corporation or the public of its said railway, and for such purposes may take any private property in the manner in which land may be taken for the construction of railroads as set forth in sections ninety-five, ninety-six and ninety-seven of chapter one hundred and twelve of the Public Statutes. Said corporation shall pay all damages occasioned by the taking of such land or private property in accordance with the provisions of this section, and such damages on the application of either party shall be estimated and determined in the manner provided in reference to the assessment of damages occasioned by the laying out of highways.

May take certain lands, etc.

See St. 1897c, 25

SECTION 12. Said corporation shall, upon the entry of judgment pursuant to findings upon the foregoing provisions of section nine, pay or tender to the judgment creditor the amount of such judgment with costs. If such payment or tender shall not be made within thirty days

Payment of damages.

after the entry of such judgment, the court in which the same has been so entered shall issue its execution to compel the payment thereof.

Deposit to be made with treasurer of the Commonwealth, etc.

SECTION 13. Said corporation before it shall begin the construction of any line of railway under this act shall deposit with the treasurer of the Commonwealth two hundred thousand dollars in cash or securities satisfactory to said treasurer, which, together with the three hundred thousand dollars required by the provisions of section nineteen of this act, shall be in the hands of said treasurer a fund out of which any execution issued pursuant to the provisions of the preceding section shall be paid by said treasurer. When said fund shall have been reduced to three hundred thousand dollars the said treasurer shall notify said corporation of the amount then in said fund, and said corporation shall within ten days thereafter pay to said treasurer such sum as shall restore said fund to the amount of five hundred thousand dollars.

Deposit to be returned when not required for purposes of this act.

SECTION 14. The supreme judicial court may at any time, on application of said corporation, when it shall satisfy said court that there is no longer occasion for said fund for the purposes of this act, order the said treasurer to pay the same to said corporation or its assigns.

Highways, etc., to be restored to good condition, etc.

SECTION 15. Whenever said corporation shall make any excavations in or near any public highway, or shall set any foundation, pier or post in or near the same, the surface of the street, sidewalk or other ground shall be restored as soon as practicable to the condition, as near as may be, in which it was before the excavation was made; and any interference which shall be made with or change in water or gas mains or pipes, sewers, drains or other subterranean works shall be upon condition that the same shall be immediately restored to a serviceable condition, as good as before such change or interference, and at the sole cost and expense of said corporation. The said corporation shall, at its own expense, strengthen any bridge over which its railway shall pass, in such manner as the board of railroad commissioners shall determine.

Subject to taxation.

SECTION 16. Said corporation shall be annually assessed, and shall pay taxes in the same manner as though it were a street railway company. Said corporation may establish for its sole benefit a toll or fare which shall not exceed upon the routes fixed by the provisions of this act the sum of five cents for a single passage between the ter-

May establish rates or tolls.

mini of said routes, and this sum shall not be reduced by the legislature during a period of twenty years from the passage of this act. And transfer checks shall be issued or transfers made on demand, without additional payment, which shall entitle a passenger to a continuous ride from any station to any other station on the system.

Shall issue transfers.

SECTION 17. Said corporation may lease, purchase, own and operate any lines of street or elevated railway which may be or become tributary to its lines, and enjoy all the rights and privileges enjoyed by those owning or operating such street or elevated railways, but no such lease or purchase shall be made or shall be valid if made, unless the railroad commissioners shall first decide that the public interests would not be thereby injuriously affected. Any such lease or purchase shall be subject to the provisions of an act of the current year entitled "An act relating to leases and consolidations of railroad and street railway companies."

May acquire and operate other lines of railway, etc.

*1897c, 500*

SECTION 18. When said elevated railway has been constructed or any portion thereof, but before the same shall be opened for public use, it shall, upon application of said corporation, be examined by the board of railroad commissioners, and if it appears to be in a safe condition for operation then said board shall give a certificate to said corporation to that effect, which certificate shall be filed in the office of the secretary of the Commonwealth, and thereupon said corporation shall be authorized to operate said railway. Said corporation may at any time appeal from any decision of the board of railroad commissioners upon any question to the superior court, where issues of fact shall be framed, and tried before a jury if either party claims such right. Said court shall enter such judgment or decree in the premises as justice shall require, and shall have power to enforce the same by appropriate process.

Construction to be approved by railroad commissioners.

Appeals.

SECTION 19. Said corporation shall, on or before the expiration of six months from the date of the acceptance of this act, as provided in section forty of this act, apply for a route of not less than five miles of track in the city of Boston and shall, on or before the first day of February in the year eighteen hundred and ninety-five, or within thirty days after the approval of such route by the mayor and aldermen, if such approval is not made until after the first day of January of said year, deposit with the treasurer of the Commonwealth the sum of three hun-

Shall apply for route within six months from date of acceptance, etc.

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*1897c*

dred thousand dollars in cash or securities satisfactory to said treasurer, and the same or such portion of the sum remaining after the payment of all executions under the provisions of section thirteen of this act shall be forfeited to the Commonwealth if said corporation shall negligently fail to construct at least five miles of its railway on such route so approved within two years from the date of the approval of such route as provided in this act.

Enforcement,  
etc., of provi-  
sions.

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7c. 150. 2. 16

SECTION 20. The supreme judicial court and any justice thereof, and the superior court and any justice thereof, shall have jurisdiction in equity, on petition of any party interested, to compel compliance with the provisions of this act, and to enforce any order made under the authority of this act, and to prevent violations of any of the provisions hereof; and if it shall be found, on complaint of any city or town in which said corporation is authorized by this act to build a railway, or any party interested, that said corporation has negligently failed to comply with the provisions of this act, said court may order the removal of the structure or pass such other order or decree as it may deem proper in the premises, and may declare its charter forfeited and dissolve the corporation: *provided, however*, that no petition in equity shall be filed for damages for which an action is given by this act until payment thereof has been refused on execution issued as provided in section twelve.

Proviso.

Franchise tax to  
be imposed on  
and after the  
year 1907, etc.

7c. 500.

SECTION 21. On and after the first day of January in the year nineteen hundred and seven such franchise tax of not less than one per cent. nor more than five per cent. of the gross earnings of said corporation, as the board of approval provided for in section sixty-two of chapter thirteen of the Public Statutes shall annually determine, shall be imposed upon said corporation. Said tax shall be paid into the treasury of the Commonwealth and distributed to the different cities and towns in proportion to the mileage of said railway in operation therein.

Boston Common  
and certain  
streets and ways  
not to be occu-  
pied, except, etc.

SECTION 22. Nothing in this act contained shall be construed to permit the occupation of any other part of Boston Common for any of the purposes named in this act, or of Washington street between Dock square and Eliot street, or of Tremont street between Scollay square and Eliot street, or of Copley square in the city of Boston, except as specifically mentioned in this act. Nothing herein contained shall authorize, except by purchase, the taking of land of any railroad company.

SECTION 23. The governor shall appoint, with the advice and consent of the executive council, two discreet persons, who, together with the commissioners appointed under the provisions of chapter four hundred and seventy-eight of the acts of the year eighteen hundred and ninety-three, shall constitute a board to be known as the Boston Transit Commission, and shall hold office for the term of five years from the date of the passage of this act. Any vacancy in said commission shall be filled by the mayor of said city, subject to the approval of the board of aldermen, as in the case of officers in charge of the departments in said city, or by the governor of the Commonwealth, with the advice and consent of the executive council, according as said vacancy occurs among the members originally appointed by the mayor of said city or by the governor, respectively. Each of said commissioners shall receive an annual salary of five thousand dollars or such other sum as the city council shall by ordinance provide.

Boston Transit Commission, appointment of members of.

Vacancy.

Salary.

SECTION 24. Said commission shall organize by the choice of a chairman, and may from time to time choose a secretary and such engineers, clerks, agents, officers, assistants and other employees, not of their number, as it may deem necessary; may determine the duties and compensation of such employees, and may remove the same at pleasure; shall at all times keep accurate accounts of all expenditures made under this act, and shall make an annual report of its doings, containing an abstract of said accounts, to the city council of Boston.

Organization of commission.

Duties and compensation of employees.

SECTION 25. Said commission may construct in the city of Boston a subway or subways of sufficient size for four railway tracks, with approaches, entrances, sidings, stations and connections therefor, and for the running of railway cars thereon, through and under Tremont street and the adjoining mall of Boston Common, or other public or private lands adjoining or near said street, from a point or points within one thousand feet of the junction of Tremont street and Shawmut avenue to, through, and under Scollay square; thence through and under Hanover street and Washington street, Cornhill, Brattle and Washington streets or other streets, or public or private lands, to a point or points on Washington street, or between Scollay square and Causeway street. Said commission may discontinue as public ways Travers street between Canal street and Haverhill street, and such streets or por-

Subways may be constructed, etc.

tions of streets between Eliot street and the Boston and Albany railroad as it may deem necessary for said subways or for entrances, approaches or inclines thereto.

Tunnel may be constructed to East Boston.

SECTION 26. Said commission may construct a tunnel or tunnels of sufficient size for two railway tracks, with approaches, entrances, sidings, stations and connections therefor, and for the running of railway cars therein, from a point on or near Scollay square in the city of Boston, where a suitable connection may be made with the subway or subways provided for by this act, to a point on or near Maverick square, in that part of Boston called East Boston, where a suitable connection with surface tracks may be made.

Additional subways may be constructed.

SECTION 27. Said commission may also construct subways, to be used for the same purposes as said other subways, but which may be made of sufficient width for two tracks only, as follows: from Tremont street through and under Boylston street and the adjoining mall of Boston Common, or other public or private lands adjoining said street, to a point on or near Boylston street where a suitable connection with surface tracks may be made; from Boylston street through and under Park square and Columbus avenue, or other lands adjoining said square and avenue, to a point on or near Columbus avenue, where a suitable connection with surface tracks may be made, and from Tremont street through and under Park street and the adjoining mall of Boston Common, Temple street, and Staniford street, or other public or private lands adjoining said streets, to a point on or near Staniford street or Merrimac square, where a suitable connection with surface tracks may be made.

Work not to be commenced until plan is filed.

SECTION 28. Said commission shall not begin the work of constructing any of said subways until it has filed in the office of the city surveyor of said city a plan signed by said commission showing the route or location of the part of a subway which it proposes to construct. Any such plan so filed may be altered at any time by a new plan signed and filed in like manner.

Location and construction of subways, etc., to be at discretion of commission, except, etc.

SECTION 29. Said commission may locate and construct said subways, tunnels, approaches, tracks, sidings, stations, entrances and connections where it deems best within the limits aforesaid, and may place the entrances to the portions of said subways and tunnels intended for one railway, at points along the aforesaid routes distinct

and different from the entrances to the portions intended for another railway, but shall not permanently occupy above the surface of the ground for any purpose any part of said Common except so much of the Tremont and Boylston street malls as may be necessary for stairways to stations and coverings therefor; shall not between Boylston street and Park street, occupy or disturb any part of the surface of Tremont street east of the westerly track of the West End Street Railway Company as at present located; and shall so conduct the work of construction that all streets and places under or near which a subway is constructed shall be open for traffic between eight o'clock in the forenoon and six o'clock in the afternoon.

SECTION 30. Said commission shall construct a bridge over Charles river, having regard to its use for railway purposes, between the present Charles river bridge and the Fitchburg railroad bridge; and may, in its discretion, reconstruct Warren bridge with a width not exceeding one hundred feet; and shall make the draws in said bridge so built or reconstructed of such width as the board of harbor and land commissioners shall approve; and no compensation shall be required for occupation of lands of the Commonwealth, or displacement of tide water, but in all other respects the provisions of chapter nineteen of the Public Statutes and acts in amendment thereof or in addition thereto shall apply to such building or reconstruction. Said commission may make approaches to said bridges not exceeding one hundred feet in width, and may discontinue the present Charles river bridge; and after such discontinuance the approaches thereto shall be kept open for landing places or other public uses.

SECTION 31. Said commission may, for the purposes of this act, which it is required or authorized to carry out, use public ways and lands subject to the limitations herein contained; may take for the city of Boston, by purchase or otherwise in fee, any part or the whole of the property bounded by Haymarket square, Canal, Causeway and Haverhill streets, and any other lands, including the buildings thereon, which said commission may deem necessary for said purposes; may take for said city, by purchase or otherwise, easements or estates or rights in lands, including the right to go under the surface thereof or through or under buildings or parts of buildings thereon; and any such taking in fee or otherwise may be made whether the

May construct  
bridge over  
Charles river,  
etc.

May take and  
use certain pub-  
lic ways, etc.

lands taken or otherwise affected are held under or by title derived under eminent domain, or otherwise. A taking under this section of an easement or other estate or right in a given parcel of real estate, whether such parcel consists of unimproved land or of land and buildings, may be confined to a portion or section of such parcel fixed by horizontal planes of division, below or above, or at the surface of the soil, and in such case no taking need be made of upper or lower portions or sections except of such easements therein as said commission may deem necessary.

Description of land taken by right of eminent domain to be recorded, etc.

SECTION 32. Said commission, to make any taking by right of eminent domain, shall cause to be recorded in the registry of deeds for the county of Suffolk a description of the lands, easements, estates or rights to be taken, as certain as is required in a common conveyance of land, with a statement that the same are taken under the authority of this act, which description and statement shall be signed by said commission, and the lands, easements, estates or rights described in said description shall upon such recording be taken for, and shall vest in, said city.

May remove buildings from lands taken, etc.

SECTION 33. Said commission may remove the buildings from any and all lands taken by it, and may sell or lease for improvement or otherwise any part of, or estate or interest in, any lands or rights so taken, whenever the same shall in the opinion of said commission cease to be required for the purposes of this act. And any person or corporation acting under authority of this act may enter into and upon any lands, and make surveys and examinations and place and maintain marks therein, and may do all other acts thereon incidental to such surveys, examinations, and placing and maintaining marks.

Damages.

SECTION 34. Said commission shall determine all damages sustained by any person whose property is injured by it under authority of section twenty-seven, or is taken by it, and if any such person cannot agree with said commission as to the damages so sustained, such damages may be determined by a jury in the superior court for the county of Suffolk, on petition therefor of said commission or of said person against said city, filed in the clerk's office of said court within one year after such taking, or the property is so injured, and judgment shall be entered upon the determination of such jury, and costs shall be taxed and execution issued in favor of the prevailing party as in civil cases.

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T. 1895c. 440



the name and behalf of said city, to an amount not exceeding seven millions of dollars, and such further amount for said Charlestown bridge and its approaches, in addition to the seven hundred and fifty thousand dollars heretofore appropriated therefor by the city council of said city, as may be necessary for the completion of said bridge and approaches. Said bonds, including said seven hundred and fifty thousand dollars, shall be designated on their face, Rapid Transit Loan, shall be for the term of forty years, and at rates of interest not exceeding four per cent. per annum, as said treasurer shall determine, payable semi-annually. The debt incurred under the provisions of this section, except the seven hundred and fifty thousand dollars aforesaid, shall not be included in determining the limit of indebtedness of said city. The proceeds of said bonds shall be used to meet all damages, costs, and expenses incurred in carrying out the provisions of this act by said commission and all expenses heretofore incurred for the purposes specified in chapter four hundred and seventy-eight of the acts of eighteen hundred and ninety-three.

Sinking fund.

SECTION 38. The board of commissioners of sinking funds for the city of Boston shall establish a sinking fund for the payment of the bonds issued under this act. All premiums received from the sale of said bonds, all moneys or securities deposited with the treasurer of said city under the provisions of this act and forfeited to said city, and all proceeds from any sale of lands or rights taken under authority of this act, shall be paid into said sinking fund. All rents, percentages, or other annual compensation received from any person or corporation for any use of any of said subways, tunnels or adjacent locations or for any use of any lands or rights taken under authority of this act shall be annually used by the said treasurer, first, to meet any deficiency in the sinking fund requirements for said bonds, after the payments hereinbefore provided for have been made; second, to meet the interest on said bonds, and the surplus, if any, as a part of the general revenue of said city for the maintenance of its public parks.

Certain lands may be taken for purposes of an elevated railway, etc.

SECTION 39. Said commission may take in fee, by purchase, or otherwise, a strip of land from the southern entrance of said subway, at or near the junction of Tremont street and Shawmut avenue, to Franklin park in said

city. Said strip shall be taken in and along and across public ways or lands, or through private property, and shall not be less than twenty-five feet nor more than thirty-five feet in width. Said strip of land from Pleasant street to Dudley street shall be taken between Tremont and Washington streets; and from Dudley street to Franklin park between Warren street and Blue Hill avenue. Said commission may also take in fee, by purchase, or otherwise, a strip of land not less than twenty-five nor more than thirty-five feet in width, from the said entrance to said subway on or near Columbus avenue to a point on said first mentioned strip of land. Said strip or strips of land shall be used for an elevated railway, and for such other public purposes as said commission shall determine.

SECTION 40. This act shall take effect upon its passage; but said railroad corporation shall not do any work in any public way or place, or take any land under the right of eminent domain, nor shall said Boston Transit Commission take any land or commence the construction of any subway or tunnel until this act shall be accepted by a majority of the voters of said city voting at some special election called by the mayor of said city or at some state or municipal election designated by said mayor, such election to be held during the year eighteen hundred and ninety-four.

When to take effect.

*Approved July 2, 1894.*

AN ACT MAKING AN APPROPRIATION FOR EXPENSES OF COMMITTEES OF THE PRESENT LEGISLATURE.

*Chap. 549*

*Be it enacted, etc., as follows:*

SECTION 1. The sum of two thousand dollars is hereby appropriated, to be paid out of the treasury of the Commonwealth from the ordinary revenue, for the payment of certain bills incurred by committees of the present legislature, the same to be in addition to the amounts heretofore appropriated for the same purpose.

Expenses of legislative committees.

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

*Approved July 2, 1894.*

AN ACT TO INCORPORATE THE BOSTON AND LOWELL BICYCLE RAILWAY COMPANY.

*Chap. 550*

*Be it enacted, etc., as follows:*

SECTION 1. Eben Moody Boynton, James B. Bell, Hugh H. Mawhinney, Robert D. Evans, Edward L. Sanborn, Fred S. Pearson, Harlan P. Conant, Albert Conant,

Boston and Lowell Bicycle Railway Company incorporated