

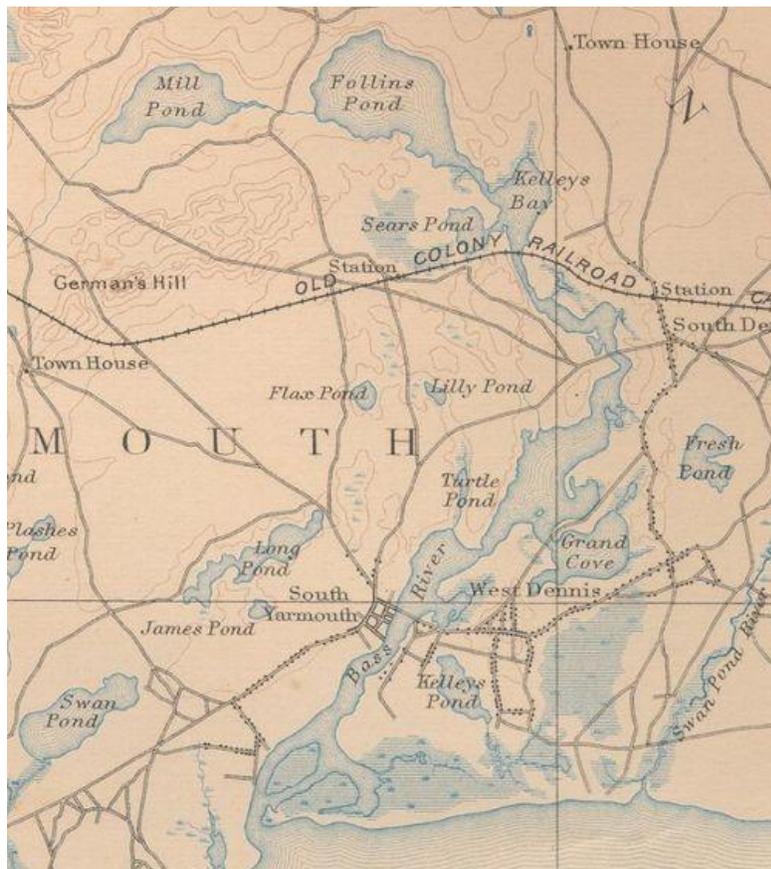
## The End of the Bass River Bridge Corporations

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September 5, 2009

In 1869 there were two carriage bridges running east-west across Cape Cod's Bass River. A lower bridge connected the villages of South Yarmouth and West Dennis where Route 28 crosses the river now; an upper bridge connected South Yarmouth and South Dennis higher up the river, at the location of the current Highbank Bridge. These were both toll bridges built and operated by private corporations created by the state in the early 1830s. They were the only toll bridges on Cape Cod in 1869 (Swift, 1897).

In 1870 the state made Barnstable County, and the towns of Yarmouth, Dennis, and Harwich, responsible for buying out the corporations and maintaining the bridges. Why did it do this after almost 40 years of private operation? Were the benefits of this greater than the costs? Who gained and who lost? I may never be able to answer these questions fully but here is a progress report (here's a pdf version):

Bass River is a tidal inlet running north from the south shore of central Cape Cod for about five miles. The town of Yarmouth lies on its west bank, and the town of Dennis on its east bank. Both towns are in Barnstable County. The following map shows the Bass River area in the late 19th Century. You can see the two carriage bridges; the railroad began to run across the river to South Dennis in 1865 and is part of this story as well.



Bass River in the mid-1880s. Source: [Univ of New Hampshire Dimond Library](#)

## The Bridges

The lower bridge, between South Yarmouth and West Dennis, was built and maintained by a company incorporated by the state in March 1832. The legislature had given the corporation the right to collect tolls for 70 years after it began to operate and had regulated the tolls in some detail in the act. This bridge replaced a ferry operation just to the south. (Reid)

The original cost of the lower bridge was \$4,669.01. The corporation issued 130 shares of stock with a par value of \$35. The average aggregate dividend for the 15 years prior to 1869 was \$814.67, or 17 and 14/15 percent of the par value. In 1869, 82 shares were owned by Yarmouth residents, 24 by Dennis residents, and 24 elsewhere. (*Barnstable Patriot*, 11-30-1869).

The photograph below shows the lower bridge from West Dennis, looking towards South Yarmouth. A drawbridge on the Yarmouth side made it possible for vessels to get north of the bridge. I don't know the date of this picture or the next; the bridge was heavily renovated in the 1890s and this picture may have been taken after that.



Lower Bridge looking west towards South Yarmouth. Courtesy of the [Dennis Historical Society](#). I think this is a picture of the bridge after it was largely rebuilt in the 1890s. *Images in Time* by the Historical Society of Old Yarmouth has two great photos of the bridge that are probably closer to its appearance at the time the towns took it over. These show the roadbed rising and falling on either side of the drawbridge; in the photo above the roadbed is level near the drawbridge. This picture, and the pictures in *Images*, show that South Yarmouth near the bridge was heavily built up in the late 19<sup>th</sup> Century.

This second picture was taken from the Yarmouth side (apparently 30 to 40 feet from the stern of the large vessel across the river in the picture above). The drawbridge is much clearer in this shot:



Lower Bridge looking east towards Dennis. Source: [Kellscraft](#). The drawbridge is clearly visible here. As I noted above, I think this shows the bridge after major renovations in the 1890s.

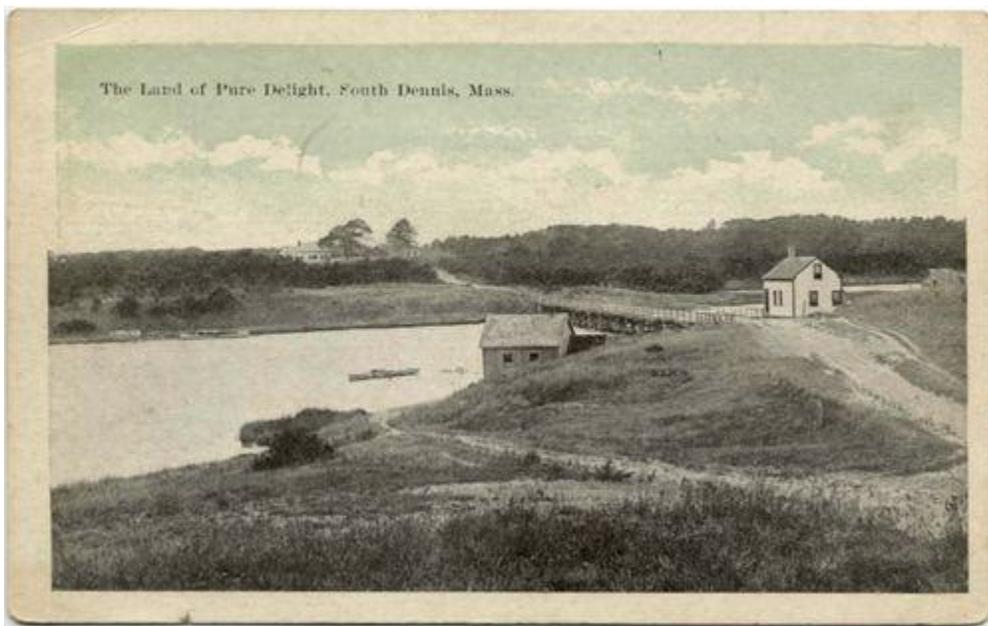
The upper bridge, between South Yarmouth and South Dennis on what is now Highbank Road, was run by a company incorporated by the state in March 1833. This bridge may have replaced a ferry at this spot, and definitely replaced an earlier bridge close to the railroad bridge shown in the map; the corporation bought some of the materials from this earlier bridge for use in the new one. (Reid) The act also gave the corporation the right to collect tolls for 70 years. (Mass. 1833)

This bridge was about 200 feet long and had no drawbridge. The company's books were destroyed by fire in 1851. The upper works of the bridge were substantially renovated, and an abutment was constructed, in 1853 (costing \$634); stockholder income had been small; the new railroad which began to run to South Dennis and beyond hadn't helped business. (Eliot et al.) This railroad, with connecting stations a couple of miles apart in Yarmouth and Dennis, and extending on to Harwich, would have provided an attractive substitute to the road for many purposes; it took the train four minutes to get from the South Yarmouth station to the South Dennis station (Farson).

The pictures below show the upper bridge. The toll house is still there. I don't know the dates for these photos. The current bridge runs parallel to the original just this side of it in the picture.



Upper Bridge looking east towards South Dennis. Courtesy of the [Dennis Historical Society](#).



Upper Bridge looking west towards South Yarmouth. Courtesy of the [Dennis Historical Society](#).

## **The people ask, the legislature acts**

When it was over, an editorial in the *Barnstable Patriot* gave the credit for the takeover to Russell D. Farris of South Yarmouth (Farris advertised in the paper so this could have affected its assessment). (*Patriot*, May 10, 1870) Farris was a South Yarmouth entrepreneur and businessman. He was born in 1818 and would have been in his early 50s when the takeover was completed. He'd begun a harness-making business in 1839, selling the business after 18 years; in 1857 he'd opened a hardware and general

merchandise store. In the years after the public takeover of the bridges he became one of the founders of the Bass River Savings Bank. Farris was also part owner of the schooner Charlotte Brown of Dennis (Deyo; Mass, 1873; U.S.).

Farris's store was almost at the current intersection of Main Street and Route 28. This put him close to the intersection of roads running north to the upper bridge, and east to the lower bridge. The lower bridge was just around the corner and about 800 feet away; the upper bridge was about two miles away. The tolls may have decreased traffic near his store and increased his costs of deliveries to Dennis.



Farris's store in South Yarmouth. Courtesy of the [Historical Society of Old Yarmouth](#).

Farris was obviously an energetic man with many business interests. Was he civic minded, mainly interested in his own business, or both? Who else was involved? There were other businesses in South Yarmouth, and they would have benefited from Farris's efforts. How were public concerns about the tolls articulated and turned into action? What sorts of arguments, cracker barrel debates, and public meetings dealt with this in 1868?

In February 1869 the *Patriot* reported that Farris and others had submitted a petition to the legislature asking for a buyout of the bridge corporations (*Barnstable Patriot*, February 2, 1869). In Dennis a bridge agenda item was tacked on to a February 27 town meeting called for another purpose. The voters chose Joshua C. Howes to look after the town's interest in the elimination of the tolls. (*Barnstable Patriot*, March 9, 1869) In Yarmouth, an apparently poorly attended town meeting discussed the issue, voted 67 to 33 in favor of the petition, and chose Heman B. Chase to look after the town's interest before the legislature. (*Yarmouth Register*, March 5, 1869)

On March 2, the *Patriot* said that George Marston was counsel for the petitioners and that he'd prepared a draft bill to take over the bridges. The bill is quoted at length and is almost the same as the bill finally adopted by the legislature later in the spring. (*Barnstable Patriot*, March 2, 1869). Marston turns up several times in this story: he's counsel for the petitioners, he drafts the legislation that is ultimately adopted, he participates in later hearings on behalf of the lower bridge corporation. A Judge Marston also turns up representing the interests of the town of Dennis in certain issues at a later point.

A George Marston is mentioned in other stories of the period as counsel to local railroad companies (*Patriot*, February 23, 1869). If this is the same man, he would have been familiar with Massachusetts corporate law, rights of way, and so on. A George Marston also turns up as attorney for the county (*Yarmouth Register*, January 8, 1869). If this is also the same man, he would have been familiar with the mechanics of county government and finance. There was a George Marston who practiced law in Barnstable and Bristol Counties in the mid-nineteenth century. This one served as registrar of probate and judge of probate in Barnstable. In 1859 he was elected district attorney for the southern district, and in 1878 he was elected Attorney General of Massachusetts. (Deyo, Bench and Bar).

I still need to get the Marstons straight. I don't know for certain that these are all the same man, or if there are more than one. If there is only one, he represented groups with potentially conflicting interests (the petitioners, one of the bridges, the county - as counsel, and Dennis) during the period.

The Massachusetts legislature's committee on roads and bridges met in early March 1869 to discuss the petitions. The petitioners, the towns of Yarmouth and Dennis, and the Bass River Lower Bridge Association were all represented. The lower bridge representative appears to have opposed the petition at this hearing ("There was no opposition except from the proprietors of the Lower Bridge."). Representatives of the upper bridge aren't mentioned. (*Barnstable Patriot*, 3-9-69)

By April 3, a Bass River toll bridge act had been passed. Its four sections did several things. They provided that the bridges and their abutments and ways would become public highways on acceptance of the award of commissioners to be named by the Supreme Judicial Court. They provided that, once the bridges were public highways, maintenance would become the responsibility of the towns of Yarmouth and Dennis. Yarmouth and Dennis would be reimbursed by Barnstable County and other towns in the county to an extent to be determined by the Commissioners. Yarmouth and Dennis (and Barnstable and potentially other towns) were to be liable for the costs of damages arising from defects in the bridges. (Massachusetts Special Laws).

The longest section explained how the commission would be set up, and how it would operate. The Supreme Judicial Court would appoint three commissioners on application by either of the bridge corporations, or any ten Barnstable County voters. This part of the act thus anticipated the possibility that one or more of the bridge corporations might have an interest in being bought out. Following a notice and hearing, the commissioners were to determine the amounts to be paid to the owners of each of the bridges, and to determine how much was to be paid by Barnstable County and by each of the towns in the County. The cost of paying for the bridges was to be divided among the county and towns in proportion to their benefits from the takeover. The commissioners were also to determine the shares of the county and towns in the costs of maintaining the bridges. The recommendations would become binding once accepted by the Supreme Judicial Court. The corporations had the right to appeal to a jury for determination of the appropriate reimbursement, assuming they appealed within 30 days of the commissioners' report. (Massachusetts Special Laws.)

## **The Commission**

Farris and others submitted a petition by May 10 (*Patriot*, May 25, 1869). In late June, Judge Ames of the Court appointed a commission that included Thomas D. Eliot and Henry T. Wood of New Bedford, and Alfred Macy of Nantucket (*Patriot*, June 29, 1869).

Who were these men? There was a congressman Thomas D. Eliot from New Bedford. He was a lawyer and Massachusetts politician, serving in Congress in 1854-55 and from 1859 to March 1869, when he resumed his law practice. He died in his early 60s on June 14, 1870 (Wikipedia). Macy could have been

the Nantucket lawyer, general manager for the Life Association of Massachusetts, and Collector of Customs for the Port of Boston for most of the years from 1861 to 1871, who would subsequently serve on the Massachusetts' Governor's Council. (New York Times) Henry T. Wood may have been one of the principals in the lumber firm of Greene & Wood of New Bedford. The firm apparently owned waterfront property at which it accepted deliveries of materials by ship. (New Bedford Board of Trade)

If these men are correctly identified the commissioners had backgrounds that would have been useful in their work: two were lawyers, one was a businessman, two clearly had direct experience working with waterfront infrastructure, two clearly had political connections. None were from the directly affected towns.

They met on August 5, apparently to organize themselves. A public meeting was scheduled for Wednesday, November 17, at the Barnstable Court House. Only one of the commissioners, Eliot, showed up on the 17th (the day before Thanksgiving) and the hearing was postponed until November 22. (*Barnstable Patriot* 11-23-69; Eliot et al.)

On Monday, November 22, the commissioners visited the two bridges. (Eliot et al.) I imagine them meeting at the train station in Barnstable late in the morning and traveling together to South Yarmouth, arriving a little before noon. Maybe officers or representatives of the lower bridge corporation met them at the station in buggies and took them to South Yarmouth. After inspecting the bridge, they may have gone up Bridge St, turned right, passed Farris's store, and continued two miles to inspect the upper bridge in South Dennis. That evening they could have stayed in rented rooms in South Dennis. An early morning train on Tuesday would get them to Barnstable in time for the hearing on the 23rd. Other schedules are also possible.

On Tuesday the 23rd they continued their hearing at the Court House in Barnstable. The commissioners' report isn't explicit about who was there besides the three commissioners, but the parties listed as attending on the 17th probably were. On the 17th, George Marston represented the lower bridge and one M.W. Nickerson represented the upper bridge. George King was there for the County of Barnstable, Joseph Day for Yarmouth, Jonathan Higgins for Harwich, Judge Marston for Dennis, and Edward Gardner for the town (not the county) of Barnstable. (Eliot et al.) Was anyone else there? Did Russell Farris make it?

The hearing continued "until all the parties who had appeared had been fully heard in proofs and arguments." (Eliot et al.) The *Patriot* reported that the hearing in Barnstable took two days; on the 23rd the commissioners heard evidence about the lower bridge, and on Wednesday the 24th, they heard evidence from the county and towns about the distribution of the costs. (*Patriot*, Nov 30, 1869) At some point, perhaps Tuesday, they must also have heard testimony about the value of the upper bridge.

I don't know how the commissioners worked together after the hearing to prepare their report. Did they reach their main conclusions in the meeting, or in a private discussion among themselves after the hearing? Did one take the lead in preparing the report, soliciting input and review, from the others? The report must have been distributed in December 1869 or January 1870 because the *Register* was able to carry the complete text on January 7, 1870.

It's unclear from the report exactly how the commissioners determined how much to compensate the corporations for the bridges. The legislation said the commission should determine the damages to be paid to the corporations for the laying out of the bridges, the draw on the drawbridge, the bridge abutments, and ways constructed by the corporations (each had been required to construct short roads leading to their bridges). (Mass, 1866-70) This makes it sound like the corporations were to be

compensated for their investments in the bridges. The commissioners described their mission as identifying the “value of the franchise taken under the Act of the Legislature.” (Eliot et al.) This sounds like compensation for the profits the corporations might have earned if they had continued to operate the bridges. However, elsewhere they refer to compensation for the "damages" in the laying out of the infrastructure. (Eliot et al.) This sounds like compensation for the value of the physical infrastructure.

The corporations would have wanted a sum at least equal to the present value of the net income they expected over the remaining lifetimes of their corporate charters (somewhat over 30 years in each case). Of course, this would have been extremely uncertain.

Ultimately, the commissioners chose very different amounts for compensation in the two cases. The lower bridge corporation received \$9,285.69 and the upper bridge corporation received \$538.25 (only about 6% of the amount of compensation offered for the lower bridge). (Eliot et al.)

The payment for the lower bridge equals the present value of a \$674 annual net income through 1902 at a 6.2% interest rate (an estimated real rate of return on equities for the period 1871-1938, see Bernstein). As noted earlier, the commissioners learned that the lower bridge had paid aggregate annual dividends of \$814.67 in recent years. The payment for the upper bridge doesn't even appear to have been enough to cover the replacement cost of the bridge, since it had cost \$634 to renovate just the upper works and abutment of the bridge in the 1850s. The sum paid for the upper bridge implied annual net income of \$39 a year through 1903 using the 6.2% rate of return on equities. That does not seem like a lot of money.

The commission also estimated an appropriate reimbursement for their own costs and the costs incurred by the bridge corporations in the takeover. These came to \$642.75 for the proceedings for the lower bridge, and \$220.46 for the upper bridge. (Eliot et al.) The sum for the two bridges was \$863.21, or about 9% of the assessed value of the two bridges. This is a minimal estimate of the transactions costs involved in the takeover. It does not cover the costs incurred to pay Marston for drafting the legislation, the costs of the town meetings, the costs of action by the Massachusetts legislature, or the costs of the Supreme Judicial Court's involvement.

The cost of the buying out the corporations, and the costs of making the determination, were divided among the county and towns. The statute required a division based on the benefits to each jurisdiction from eliminating the tolls. (Mass, 1866-70) There was some discussion in the hearing about whether the division should be based on the benefits received by towns in their corporate character, or should it be based on the benefits received without this limitation. (Eliot et al.) I don't know what the implications of these alternatives were, but the commission decided against limiting its consideration to benefits received by the towns as corporations.

The division of the costs was slightly different for each bridge. The lower bridge costs were to be divided among the County (7/14th), Yarmouth (3/14th), Dennis (3/14th), and Harwich (1/14th). Upper bridge costs were also divided among the County (8/16), Yarmouth (3/16th), Dennis (3/16th), and Harwich (2/16th). (Eliot et al.) These ratios are expressed as percentages in the table below.

The Commission also made recommendations about the financing of future repairs and maintenance for the bridges. Yarmouth and Dennis were each expected to maintain the bridges and associated structures within their corporate limits. However the County and Harwich were expected to share the costs with Yarmouth and Dennis. The shares for the lower bridge were: County (2/11th), Yarmouth (4/11th), Dennis (4/11th), and Harwich (1/11th). The arrangements for payment of future repairs and maintenance on the upper bridge were divided according to the following formula: the County (4/16th), Yarmouth (5/16th),

Dennis (5/16th), and Harwich (2/16th). (Eliot et al.) These ratios are also expressed as percentages in this table:

		County	Yarmouth	Dennis	Harwich
Lower bridge	Reimbursement	50%	21%	21%	7%
	Maintenance	18%	36%	36%	9%
Upper bridge	Reimbursement	50%	19%	19%	13%
	Maintenance	25%	31%	31%	13%

Without more information from the record, it's not very clear how the commissioners reached most of these conclusions. They did determine that it had been the practice of the County to pay "the land damages for highways," which may account for the larger county proportion for reimbursement than maintenance. Yarmouth and Dennis share both the acquisition and maintenance costs equally. Harwich, the next town to the east of Dennis, apparently was thought to benefit proportionately more from the upper than the lower bridge.

What types of repairs and maintenance would have been needed? Normal wear and tear – loose planks and railings, paint, disposal of accumulating manure or snow on the roadbed, rotting wood – would have to be addressed. Winter ice, marine animals, and occasional storm surges could have damaged the bridges. Maybe larger vessels collided with the lower bridge. The draw on the lower bridge had moving parts - hinges, pulleys, ropes - and these would have worn out and needed replacement. The commissioners don't say anything about responsibility for the operation of the drawbridge. How was this to be handled in the future?

The report refers to responsibilities for future repairs and maintenance of the bridges, but not for replacement. Is this significant? Or does it just reflect the nature of the bridges of the time - ongoing maintenance of wooden structures would eventually result in complete replacement of an existing bridge.

The Supreme Judicial Court accepted the commissioners' recommendations in early May 1870. (*Patriot*, May 10, 1870) Apparently neither of the corporations exercised its right for a jury assessment within 30 days.

How were the corporations and their stockholders paid off? Did each community make a separate payment to the appropriate corporation? Did the corporations pay off their debts and the legal expenses associated with dissolution and distribute the remainder to the stockholders in proportion to their holdings? Was there a formal dissolution process or did the corporations just "fade away?" Do any of the corporate records still exist, or were they burnt in someone's fireplace?

The bridges were now toll-free public ways. The bridges are "henceforth FREE" exulted the *Barnstable Patriot*, singling Russell Farris out for credit. He "set the ball in motion" and "kept it moving until he had accomplished the freedom of the bridges." (*Patriot*, May 10, 1870).

### **Who gained and who paid?**

The *Patriot* would have acknowledged that the bridges were not exactly free. It meant that people would no longer have to pay tolls to cross them. But the bridges themselves still had to be maintained, and would need to be replaced at intervals. These costs now fell on the taxpayers of the towns and county

rather on the people actually using the bridges. The costs had been shifted from one group of people to another.

Once the towns and county had taken over there was no more need for a toll collector, and the toll houses on each bridge could be converted to other uses. I don't see why maintenance or replacement costs would have been changed by the change in control. Management would now be taken care of by county commissioners, town meetings, a road commissioner, or a board of selectman, rather than a board of directors. This could have been more expensive.

The corporations would no longer pay dividends to stockholders, but the elimination of these means the end of a transfer payment from one group of people to another, and not a change in the use of real resources. The corporations would no longer pay property taxes (had they? and if they had, had they been significant?). This would also end a transfer payment and would not change real resource use.

It's not clear what arrangements were made for ongoing operation of the drawbridge on the lower bridge. Would this have been left to the crews of vessels using the drawbridge? Would the town have contracted with nearby business owners to help with the drawbridge when necessary? Was someone kept on to operate it?

The price to cross the bridges dropped to zero. This should have increased the use of the bridge, although the change in use may or may not have been large in any practical sense. It would be desirable to charge each user a price that was equal to the cost of supplying them the service. If the bridge was not congested, if use increased significantly, and if each additional user imposed minimal wear and tear, the reduction in prices might have increased valuable use of the bridge.

If the bridge increased traffic in certain business districts, it may have increased business profitability for a while. However, increased profitability is likely to have attracted new competitors which would have driven profits back down. People who owned the land near routes that saw more traffic would have seen an increase in their property values as businesses bid for good locations. Oddly, future property owners wouldn't have enjoyed this benefit: they would have had to pay the original landowners more for the property because of its increased value.

The cost of any potential benefits was the cost of taking over the bridges. Time was invested in carrying around petitions; Yarmouth apparently held a town meeting just for this issue, Dennis tacked a discussion of it onto a meeting called for another purpose. George Marston, an eminent local attorney, invested time in drafting the bill. Lobbyists worked with legislators, the legislature held a public hearing and took action. Lobbyists would have worked with the Supreme Judicial Court and its commission. Action by the commission and certain expenses incurred by the bridge corporations apparently came to about \$860. The corporations may have incurred costs to close out their businesses.

Presumably property taxes would be used to pay for the bridges in the future. If the new expenses were large enough to alter the property tax assessment noticeably, it might have tended to reduce property values somewhat, community wide. My instinct is that this was probably a small impact. On the other hand, the lower cost of going over the bridges might have added something to the values of properties whose owners might have been expected to use the bridges. As noted above, only the owners at the time the bridges became public would have benefited.

Some information suggests that the stockholders in the lower bridge may have been undercompensated for their interest, and that the stockholders in the upper bridge may have been relieved of a burden.

It doesn't appear that town or county voters were ever formally involved in the decisions to buy out the corporations and take over the bridges. The legislature created a process, and the Supreme Judicial Court made a decision based on the recommendations of its commission. If the corporations had protested, they had a right to a jury assessment of their reimbursement. The towns and county didn't have a similar right.

The shift from private operation of the bridges under state-granted corporate charters to local government operation was consistent with broad trends in 19th Century infrastructure development. From 1790 to the early 1840s, state governments used their power of granting corporate charters, and their own investments, to encourage the construction of roads, canals, railroads, and navigation improvements. After the early 1840s, local governments, exploiting their access to property taxes, began to dominate construction and maintenance of transportation infrastructure. (Wallis)

## Thanks

Burt Derick of the Dennis Historical Society, Maureen Rukstalis and Duncan Oliver of the Historical Society of Old Yarmouth, and Meg Hall at the Barnstable County Law Library have helped with documents and made suggestions about other sources. I've used the [Sturgis Library](#)'s on-line, searchable, files of the Barnstable Patriot and the Yarmouthport Library's Yarmouth Register microfiche. Jeff Hartman of Juneau and I have talked over some of this. Jeannine S. Missaoui has shared some information about Russell Farris and his family. David Kew's [web page on Cape Cod history](#) has been very helpful. All the errors here are mine.

**Edits and notes: July 9** - minor proofreading edits. Also, "Russell Farris" is often spelled "Russel" (with one "l"). I've modified it to spell it "Russell" everywhere, but I don't know for sure which spelling is correct. A third carriage bridge - within Dennis - had been built by the county across the entrance to Grand Cove in 1854 (Reid). I revised the first paragraph to make it clear that I'm not talking about this bridge. **July 15** - added reference to David Kew's web page. **July 21**: corrected Duncan Oliver's name. **Sep 5** - Modified captions for photos of the lower bridge and added *Images in Time* to references.

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