

HOUSE No. 1137.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, March 20, 1901.

The committees on Street Railways and Towns, sitting jointly, to whom was referred the petition (with accompanying bill, House, No. 727) of John F. Farrar and others for legislation authorizing special town ways to be laid out by town authorities for the purpose of granting locations therein to street railway companies, report the accompanying bill.

For the Committee,

JOHN F. FARRAR.

Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and One.

AN ACT

To authorize the Town of Lincoln to lay out Special Town Ways for the Use of Street Railway Companies.

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 town of Lincoln may lay out
2 special town ways for railways operated by any
3 motive power except steam. Such ways may
4 cross highways and town ways, at grade or other-
5 wise, and shall be laid out, altered and discon-
6 tinued in the manner provided by law in the case
7 of town ways, except that the selectmen shall
8 exercise the powers conferred on the road com-
9 missioners, if any are chosen by the town, and
10 that there shall be no appeal to the county com-
11 missioners; and the rights and remedies of all
12 persons interested shall be the same, so far as
13 applicable, as those provided in the case of town
14 ways. There may be included in such ways land

15 necessary or convenient for approaches, and for
16 buildings or structures used in the operation of
17 such railways.

1 SECTION 2. The selectmen of the said town
2 may grant locations in such ways to street rail-
3 way companies, subject to the terms, conditions
4 and obligations authorized by law in the case of
5 grants of locations to street railway companies in
6 public streets, and may require any company to
7 which a location is granted to pay for the same
8 such amounts and in such manner as the railroad
9 commissioners shall approve, but no grant of
10 location shall take effect until approved by vote
11 of the town; or the selectmen may, in the name
12 and behalf of the town, lease any such way to
13 one or more street railway companies for a period
14 not exceeding ninety-nine years in any one case,
15 subject to such terms, conditions and obligations
16 as may be agreed upon by the parties and ap-
17 proved by the railroad commissioners and by vote
18 of the town. In granting any location or making
19 any lease, the selectmen may require of the com-
20 pany receiving the same, security to the town by
21 bond or otherwise that the company will perform
22 and observe the terms, conditions and obligations
23 imposed by such grant or provided in such lease.
24 Any street railway company organized under
25 general or special law and having authority to
26 operate a street railway in the town of Lincoln
27 may, if it obtains a location or lease as above pro-
28 vided, construct, maintain and operate its road

29 over such special town ways. The town shall be
30 under no obligation to perform any work of con-
31 struction, but may do such work as it deems
32 expedient.

1 SECTION 3. Such special town ways shall be
2 used only for the purpose stated in the first sec-
3 tion, except that drains, pipes, tubes, and conduits,
4 for water, gas, electric wires, or other like objects,
5 and poles for wires and cables may be laid, erected
6 and maintained therein as in the public streets.
7 Town ways and highways may be laid out, altered
8 or located anew across any special town way at
9 grade or otherwise. The said town shall not be
10 liable for any defect in a special town way, nor
11 obliged to keep the same in repair.

1 SECTION 4. When any person is cut off by a
2 special town way from access to lands owned by
3 such person, the selectmen shall, after due notice to
4 the parties in interest and a hearing, establish a
5 crossing, and shall make from time to time all
6 reasonable orders as to the construction, mainten-
7 ance and use thereof, and shall apportion the
8 expense of construction, and from time to time
9 the expense of maintenance, between such person,
10 the town and the street railway companies using
11 the way, as justice may require. Any such
12 crossing, if it has become unnecessary or incon-
13 venient, may be abolished by the selectmen after
14 due notice to the parties in interest and a hear-
15 ing; but no crossing shall be abolished against

16 the consent of a person who would thereby be cut
17 off from access to his lands, until another crossing
18 established in the manner herein provided is sub-
19 stituted therefor. Any person aggrieved by any
20 action or failure to act on the part of the select-
21 men in relation to such crossing, may appeal to
22 the railroad commissioners by petition filed within
23 one month after the action complained of, or
24 within three months after application is first made
25 to the selectmen if they have failed for two
26 months to take final action thereon, and the rail-
27 road commissioners, after due notice to the par-
28 ties in interest and a hearing, shall make such
29 order as the selectmen might have made. The
30 superior court sitting in equity shall have juris-
31 diction to enforce any order made by the select-
32 men or railroad commissioners as above provided.

1 SECTION 5. For the purpose of paying and
2 discharging all necessary expenses and liabilities
3 incurred under the provisions of this act, the said
4 town of Lincoln shall have authority from time to
5 time to issue bonds to such an amount as shall be
6 approved by the railroad commissioners. The
7 said bonds shall be signed by the treasurer and
8 countersigned by a majority of the selectmen;
9 shall be payable at periods not exceeding thirty
10 years from the date of issue; shall bear interest
11 payable semi-annually at a rate not exceeding
12 four per centum per annum; shall bear on their
13 face the words, "Lincoln Special Town Way
14 Loan;" and may be sold at public auction or

15 private sale. The said town shall annually raise
16 by taxation a sum sufficient to pay the interest on
17 the said loan as it accrues, and shall establish a
18 sinking fund and contribute thereto an amount
19 raised annually by taxation, sufficient with the
20 accumulations thereof to extinguish the said loan
21 at maturity; and the said sinking fund shall be
22 applied to the payment of the principal of the
23 said loan until the same is discharged and paid,
24 and shall be used for no other purpose. The sink-
25 ing fund commissioners of the said town shall be
26 trustees of the said sinking fund, and may invest
27 in said bonds. They shall report the condition of
28 the said sinking fund, and render an account of
29 their doings in relation thereto, annually to the
30 town.

1 SECTION 6. The said town shall each year
2 apply the net income and receipts derived from
3 the said grants of locations and said leases to the
4 payment of the said interest, and the remainder,
5 if any, of such net income and receipts it shall pay
6 into the sinking fund so far as may be necessary
7 to maintain the same, as provided in the preced-
8 ing section, and the amount so applied or paid
9 shall be deducted from the sums which would
10 otherwise be required to be raised by taxation.

1 SECTION 7. Nothing shall be done under this
2 act until it has been accepted at a town meeting
3 called for the purpose. After the town has
4 accepted this act, no grant by the selectmen to a

5 street railway company of a location in any public
6 street in the town shall take effect until approved
7 by vote of the town.

1 SECTION 8. This act shall take effect upon its
2 passage.

