

HOUSE No. 834.

Bill accompanying the petition of Philip A. Kiely for further legislation relative to the location of elevated railways and railroads. Street Railways. January 23.

Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Seven.

AN ACT

Relative to Damages to Abutters on Locations of Elevated Railways and Railroads.

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

1 Chapter four hundred and sixty-three of the acts of
2 nineteen hundred and six is hereby amended by adding
3 the following sections after section one hundred in part
4 two of said chapter:—
5 *Section 100a.* The location, construction, maintenance
6 or operation of said lines of railway in any public or
7 private way shall be deemed an additional servitude, and
8 entitle lessees, mortgagees and other parties having an
9 estate in such way or in premises which abut thereon,
10 and who are damaged by reason of the location, con-

11 struction, maintenance and operation of said lines of rail-
12 way, to recover reasonable compensation in the manner
13 herein provided. Any such person may, at any time
14 within three years after the construction of such railway
15 upon or in front of his premises, file in the clerk's office
16 of the superior court for the county where his said prem-
17 ises lie, a petition setting forth his claim and the amount
18 thereof against said corporation. He shall give to said
19 corporation fourteen days' notice of the filing of such
20 petition, and answer thereto shall be filed by said cor-
21 poration within thirty days after the return day of such
22 notice.

23 *Section 100b.* Any such petition shall be heard before
24 a jury, if either party claims such right at the time of
25 the filing of the petition, or within ten days after the
26 filing of the answer thereto; otherwise, the same shall be
27 heard before the court without a jury. The finding shall
28 be on the following questions, to wit: first, has the peti-
29 tioner's estate been damaged more than it has been benefited
30 or improved in value by reason of the location, construc-
31 tion, maintenance or operation of such railway? Second,
32 If so, how much? If the answer to the first question
33 shall be "No," a verdict shall be rendered for the corpo-
34 ration; otherwise, a verdict shall be rendered for the pe-
35 titioner for the amount found in answer to said second
36 question, including interest from the day of the filing of
37 the petition.