

HOUSE No. 346.

[House, No. 258, as amended and passed to be engrossed by the House.]

Commonwealth of Massachusetts:

In the Year One Thousand Eight Hundred and Eighty-two.

AN ACT

To incorporate the Massachusetts Elevated Railway
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. Joe V. Meigs, Stilman B. Allen,
2 Franklin E. Gregory, Aaron H. Allen, James W.
3 Johnson, Thomas W. Pierce, Henry Hastings,
4 George J. Carney, Albert C. Woodworth, Nathan
5 Appleton, Frank Jones, Joseph H. Chadwick, Edgar
6 E. Dean, Marcellus Coggan, William S. Butler, their
7 associates and successors, are hereby made a cor-

8 poration by the name of the Massachusetts Elevated
9 Railway Company, subject to the provisions of chap-
10 ter one hundred and thirteen of the Public Statutes,
11 for the purpose of building, maintaining, and oper-
12 ating elevated railways between and in the city of
13 Cambridge and such other cities and towns in the
14 neighborhood thereof as the public good may seem
15 to require: *provided* that no such elevated railway or
16 any part thereof shall be built, maintained, or oper-
17 ated within the limits of the city of Boston.

1 SECT. 2. When a location of tracks for any such
2 railway shall be petitioned for in any city or town, a
3 hearing shall be had on such petition, after fourteen
4 days' notice, before the board of aldermen or select-
5 men as provided in section seven of said chapter
6 one hundred and thirteen; and after said hearing the
7 board of aldermen or selectmen may refuse the loca-
8 tion asked for, or grant the same, in whole or in part,
9 under such restrictions as they shall deem the public
10 interests shall require; and the board of aldermen
11 or selectmen of any city or town may, on like notice
12 and hearing, revoke any location after the expiration
13 of one year from the granting of the same, if in their
14 judgment the interests of the public so require; and,
15 in case of such revocation, may require the structures
16 of the company to be removed and the location to
17 be restored to its original condition at the expense
18 of the corporation, in the same manner and with
19 like requirements as in the revocation of locations
20 for street railways under section twenty-three of said
21 chapter one hundred and thirteen.

1 SECT. 3. The board of aldermen or selectmen, in
2 case of a grant of location, shall prescribe the gauge
3 of tracks, and the height at which the lowest part
4 of the girder supporting the same shall be above
5 the ground.

1 SECT. 4. Such railways shall not be opened to pub-
2 lic travel until the safety and strength thereof shall
3 be examined and approved by the board of railroad
4 commissioners, or by a competent engineer to be ap-
5 pointed by them, and to be paid by said corporation
6 a price to be fixed by said board.

1 SECT. 5. The provisions of section fourteen of
2 chapter one hundred and thirteen, and sections
3 thirty-eight to forty-five inclusive, and eighty-five to
4 one hundred and twelve inclusive, of chapter one
5 hundred and twelve of the Public Statutes, shall
6 apply to said corporation except as herein otherwise
7 provided.

1 SECT. 6. The owner of any property taken for
2 such railway, or of any property not so taken in
3 any manner injured or lessened in value by the
4 construction, maintenance, or operation of any such
5 railway may petition for assessment of his damages,
6 and his petition shall be presented, heard, and de-
7 termined in the same manner and with like effect
8 as now provided by law when real estate is taken
9 for public highways; but said corporation shall
10 not acquire title to any person's land, nor make
11 an adverse entry thereon, until it shall have paid

12 for the same, or secured the damages for the seiz-
13 ure thereof in a manner satisfactory to the owner,
14 or to be fixed by the supreme judicial court in
15 equity for the county where the land lies, upon
16 petition of either party, and summary hearing.

1 SECT. 7. The damages and costs recovered by any
2 person petitioning therefor, as hereinbefore provided,
3 shall become and be a first lien on all the property
4 of the said corporation, having priority of payment
5 in full, except over debts and taxes due to or as-
6 sessed by the United States, or the Commonwealth,
7 or any county, city, or town in the Commonwealth.
8 Said lien for damages and costs may be enforced in
9 equity.

1 SECT. 8. Whenever said corporation shall make
2 any excavation in or near any public highway, or
3 shall set any foundation, pier, or post in or near the
4 same, the surface of the street, sidewalk, or other
5 ground shall be restored, as soon as practicable, to
6 the condition it was in before the excavation was
7 made, as near as may be; and no interference shall
8 be had with, or change made in, water or gas mains
9 or pipes, sewers, drains, or other subterranean works,
10 except with the concurrence of the board of alder-
11 men or selectmen first had and obtained, and upon
12 condition that the same shall be immediately restored
13 to a serviceable condition, as good as before the
14 change or disturbance, at the sole cost and expense
15 of said corporation.

1 SECT. 9. This act shall take effect upon its pas-
2 sage.

HOUSE OF REPRESENTATIVES, May 10, 1882.

Passed to be engrossed.

Sent up for concurrence.

GEO. A. MARDEN, *Clerk.*

