

HOUSE No. 456.

[Substituted for the report of the Committee on Street Railways, leave to withdraw.]

Commonwealth of Massachusetts.

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

AN ACT

To authorize the Incorporation of the Winthrop
Electric Street 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. Erastus H. Doolittle, John A.
2 Enos, P. S. Macgowan, C. A. E. Ewing, Walter
3 Lawton, S. A. Freeman and Thomas N. Dwyer,
4 with such others as they may join, may associate
5 and become a corporation under the name of the
6 Winthrop Electric Street Railway Company, in
7 the manner provided by chapter one hundred and

8 thirteen of the Public Statutes and acts in addi-
9 tion thereto, subject to all the duties, restrictions
10 and liabilities contained therein, so far as the
11 same can be applied thereto, except those parts
12 referring to the "gauge" of the road, the amount
13 of its capital stock, and the manner of paying in
14 the same, with power to build, and maintain and
15 operate by electricity, an elevated railway from a
16 point at or near Winthrop junction, in that part
17 of East Boston, in the city of Boston, known as
18 Breed's Island, on the easterly side of the Boston,
19 Revere Beach and Lynn Railroad, and Point
20 Shirley, so called, in the town of Winthrop. For
21 the purpose of applying said provisions of said
22 chapter one hundred and thirteen to the corpora-
23 tion hereby authorized it shall be deemed a street
24 railway corporation.

1 SECT. 2. The amount of its capital stock
2 shall not be less than thirty thousand dollars for
3 each mile of road. Not less than ten per cent.
4 of said stock shall be paid in before a certificate
5 of incorporation is issued, and the whole capital
6 stock shall be paid in in cash before the construc-
7 tion of the road shall be commenced.

1 SECT. 3. Locations for tracks shall be peti-
2 tioned for between the points named in section
3 one of this act, and after fourteen days' notice,
4 of which notice a copy shall be left with the
5 owner or occupant of each estate on the line of
6 the proposed location, seven days before the hear-

7 ing, a hearing shall be had before the board of
8 aldermen of the city or the selectmen of the town
9 in which the location is asked, as provided in
10 section seven of said chapter one hundred and
11 thirteen, and after such hearing the board of
12 aldermen or selectmen may refuse the location
13 asked for, or grant the same, in whole or in part,
14 under such restrictions as they shall deem the
15 public interests require, and the board of alder-
16 men or selectmen may, on like notice and hearing,
17 revoke any location after the expiration of one
18 year from the granting of the same, if, in their
19 judgment, the public interests so require, and in
20 case of such revocation may require the structures
21 of the company to be removed and the location
22 to be restored to its original condition at the ex-
23 pense of the corporation, in the same manner and
24 with like requirements as in the revocation of
25 locations for street railways under sections twenty-
26 three, twenty-four, twenty-five and twenty-six
27 of said chapter one hundred and thirteen.

1 SECT. 4. No location of tracks shall be peti-
2 tioned for in the city of Boston until at least one
3 mile of the road has been built and operated, nor
4 until the safety and strength of the structure and
5 the rolling stock and motive power shall have
6 been examined and approved by the board of rail-
7 road commissioners or by a competent engineer,
8 to be appointed by them, and to be paid by said
9 corporation a price fixed by said board.

1 SECT. 5. The Winthrop electric street rail-
2 way shall not be built after the manner of the
3 New York elevated railways, but shall be built
4 according to the plans, methods and inventions of
5 John A. Enos, a copy of which shall be filed with
6 the secretary of state within sixty days of the pas-
7 sage of this act; and upon granting a location, the
8 board of aldermen and selectmen shall prescribe
9 the height at which the lowest part of the girder
10 shall be above the ground.

1 SECT. 6. The provisions of sections thirteen
2 and fourteen of chapter one hundred and thirteen,
3 and sections thirty-eight to forty inclusive, and
4 sections forty-three to forty-five inclusive, of
5 chapter one hundred and twelve of the Public
6 Statutes, and of chapter two hundred and sixty-
7 five of the acts of eighteen hundred and eighty-
8 two, shall apply to said corporation. The cor-
9 poration may take, in the manner prescribed in
10 sections ninety-one to ninety-three inclusive, of
11 chapter one hundred and twelve of the Public
12 Statutes, as much land as may be necessary for
13 the proper construction and security of the road,
14 or as may be necessary for depot and station
15 purposes.

1 SECT. 7. The owner of any property taken for
2 such railway, or of any property abutting on streets
3 through which said railway may pass, not so
4 taken, in any manner injuriously affected or les-
5 sened in value, whether by smoke, noise, obstruc-

6 tion of light, air or access, disturbance of quiet
7 enjoyment or otherwise, by the construction,
8 maintenance or operation of said railway, may
9 petition for assessment of his damages, and his
10 petition shall be heard and determined in the same
11 manner and with like effect as now provided by
12 law when real estate is taken for public highways.
13 But said corporation shall not acquire title to any
14 land, nor enter upon any street, until all damages
15 to the owners of land and abutters on any part of
16 a street occupied or to be occupied by its struc-
17 ture, have been paid or secured in manner satis-
18 factory to the owner, or to be fixed by the
19 superior court or any justice thereof, sitting in
20 equity for the county where the land lies, upon
21 the petition of either party and summary hear-
22 ing. And the erection of the structures author-
23 ized by this act in any street, shall be deemed
24 a new servitude, for which damages may be
25 claimed by any owner of land having a fee or
26 an easement appendant or appurtenant to his
27 land, in, on or over such street, or by any tenant
28 of such owner. But all persons claiming inter-
29 ests in the same estate shall join in one petition.
30 And such petition for damages on any street shall
31 be filed before the expiration of one year after the
32 structures authorized by this act are built or oper-
33 ated in that part of such street contiguous to the
34 petitioner's estate.

1 SECT. 8. The damages and costs recoverable
2 by the persons petitioning therefor, as herein be-

3 fore provided, shall become and be a first lien with-
4 out priority to any of said petitioners as among
5 themselves, on all the property of the said corpo-
6 ration, having priority of payment in full, except
7 over debts and taxes due to or assessed by the
8 United States or the Commonwealth, or any
9 county, city or town in the Commonwealth ; said
10 lien may be enforced for damages and costs, in
11 equity. If any damages recovered against said
12 corporation, other than damages recovered by
13 owners of land and abutters on any part of a
14 street occupied by any structure of said corpora-
15 tion, or their tenants, as such owners, abutters or
16 tenants, remain unpaid for thirty days after final
17 judgment therefor, the superior court may, by
18 injunction or other suitable process in equity,
19 prohibit and restrain the corporation from continu-
20 ing the operation of said road, or maintaining any
21 structure in any place or manner injurious to the
22 person applying for such relief.

1 SECT. 9. Whenever said corporation shall
2 make any excavation in or near any public high-
3 way, or shall set any foundation, pier or post, in
4 or near the same, the surface of the street, side-
5 walk or other ground shall be restored, as soon
6 as practicable, to the condition it was in before
7 the excavation was made, as near as may be ; and
8 no interference shall be had with, or change made
9 in, water or gas mains or pipes, sewers, drains,
10 or other subterranean works, except with the con-
11 currence of the board of aldermen first had and

12 obtained, and upon condition that the same shall
13 be immediately restored to a serviceable condi-
14 tion, as good as before the change or disturbance,
15 and at the sole cost and expense of said corpora-
16 tion. And the superior court in equity may sum-
17 marily enforce the provisions of this section by
18 injunction or other appropriate remedy.

1 SECT. 10. The provisions of section three of
2 chapter one hundred and five of the Public Stat-
3 utes shall apply to the corporation hereby author-
4 ized.

1 SECT. 11. This act shall take effect upon its
2 passage.

