

HOUSE No. 727.

[Bill accompanying the petition 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. Street Railways and Towns, sitting jointly. Feb. 1.]

Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and One.

AN ACT

To authorize the Laying Out of Special Ways for Street Railways and other Uses.

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 special
2 town ways for railways operated by any motive power
3 except steam. Such ways may cross highways and town
4 ways, at grade or otherwise, and shall be laid out, altered
5 and discontinued in the manner provided by law in the
6 case of town ways, except that the selectmen shall exercise
7 the powers conferred on the road commissioners, if any
8 are chosen by the town, and that there shall be no appeal
9 to the county commissioners; and the rights and remedies
10 of all persons interested shall be the same, so far as ap-

11 plicable, as those provided in the case of town ways.
12 There may be included in such ways land necessary or
13 convenient for approaches, and for buildings or structures
14 used in the operation of such railways.

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

1 SECTION 3. Such special town ways shall be used only
2 for the purpose stated in the first section, except that
3 drains, pipes, tubes, and conduits, for water, gas, electric
4 wires, or other like objects, and poles for wires and cables

5 may be laid, erected and maintained therein as in the
6 public streets. Town ways and highways may be laid
7 out, altered or located anew across any special town way
8 at grade or otherwise. The said town shall not be liable
9 for any defect in a special town way, nor obliged to keep
10 the same in repair.

1 SECTION 4. When any person is cut off by a special
2 town way from access to lands owned by such person, the
3 selectmen shall, after due notice to the parties in interest
4 and a hearing, establish a crossing, and shall make from
5 time to time all reasonable orders as to the construction,
6 maintenance and use thereof, and shall apportion the ex-
7 pense of construction, and from time to time the expense
8 of maintenance, between such person, the town and
9 the street railway companies using the way, as justice
10 may require. Any such crossing, if it has become un-
11 necessary or inconvenient, may be abolished by the select-
12 men after due notice to the parties in interest and a
13 hearing; but no crossing shall be abolished against the
14 consent of a person who would thereby be cut off from
15 access to his lands, until another crossing established in
16 the manner herein provided is substituted therefor. Any
17 person aggrieved by any action or failure to act on the
18 part of the selectmen in relation to such crossing, may
19 appeal to the railroad commissioners by petition filed
20 within one month after the action complained of, or within
21 three months after application is first made to the select-
22 men if they have failed for two months to take final action
23 thereon, and the railroad commissioners, after due notice
24 to the parties in interest and a hearing, shall make such
25 order as the selectmen might have made. The superior
26 court sitting in equity shall have jurisdiction to enforce
27 any order made by the selectmen or railroad commis-
28 sioners as above provided.

1 SECTION 5. For the purpose of paying and discharg-
2 ing all necessary expenses and liabilities incurred under
3 the provisions of this act, the said town of Lincoln shall
4 have authority from time to time to issue bonds to such
5 an amount as shall be approved by the railroad commis-
6 sioners. The said bonds shall be signed by the treasurer
7 and countersigned by a majority of the selectmen; shall
8 be payable at periods not exceeding thirty years from the
9 date of issue; shall bear interest payable semi-annually
10 at a rate not exceeding four per centum per annum; shall
11 bear on their face the words, "Lincoln Special Town Way
12 Loan;" and may be sold at public auction or private sale.
13 The said town shall annually raise by taxation a sum
14 sufficient to pay the interest on the said loan as it accrues,
15 and shall establish a sinking fund and contribute thereto
16 an amount raised annually by taxation, sufficient with the
17 accumulations thereof to extinguish the said loan at
18 maturity; and the said sinking fund shall be applied to
19 the payment of the principal of the said loan until the
20 same is discharged and paid, and shall be used for no
21 other purpose. The sinking fund commissioners of the
22 said town shall be trustees of the said sinking fund, and
23 may invest in said bonds. They shall report the condi-
24 tion of the said sinking fund, and render an account of
25 their doings in relation thereto, annually to the town.

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

1 SECTION 7. Nothing shall be done under this act until
2 it has been accepted at a town meeting called for the
3 purpose. After the town has accepted this act, no grant
4 by the selectmen to a street railway company of a location
5 in any public street in the town shall take effect until
6 approved by vote of the town.

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

