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June 18, 1898.

CHAP. 468.—An Act To incorporate the East Washington Heights Traction Railroad Company in the District of Columbia.

District of Columbia. Incorporation of East Washington Heights Traction Railroad.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That James G. Berret, Archibald M. Bliss, George S. Boutwell, William Corcoran Hill, Brainard H. Warner, John A. Baker, Samuel Cross, T. E. Roessle, William H. Rapley, John T. Devine, Chester A. Snow, Charles T. Havenner, Charles A. Barker, Henry P. Blair, Charles L. Du Bois, W. N. Morrison, Appleton P. Clark, junior, Henry Brock, C. C. Lancaster, George H. Judd, D. C. Fountain, Thomas E. Young, Phillips Clark, Thomas J. Brown, R. F. Bradbury, Henry Naylor, all of Washington, District of Columbia; Albert W. Fletcher, Chauncey Marshall, William B. Duncan, junior, Edward C. Potter, Jacob J. Leeds, Edward H. Clark, J. P. Livingston, of New York City; Erwin C. Carpenter, James S. Dyett, of Rome, New York; Arthur Mahoney, of Brooklyn, New York; Philemon L. Hoadley, of Newark, New Jersey, and their associates and assigns, be, and they are hereby, created a body corporate under the name of the East Washington Heights Traction Railroad Company of the District of Columbia, and by that name shall have perpetual succession, and shall be able to sue and be sued, plead and be impleaded, defend and be defended, in all courts of law and equity within the United States, and may make and have a common seal; and said corporation is hereby authorized to construct and lay down a single or double track street railway, with the necessary switches, turn-outs, and other mechanical devices, in the District of Columbia, through and along the following routes:

Location.

Beginning at the circle at the western approach to the Pennsylvania Avenue Bridge, at a point to be fixed by the Commissioners of the District of Columbia: *Provided*, That this terminus be constructed in accordance with plans to be approved by the Commissioners of the District of Columbia, with a loop or passenger station, or both, as may be considered by them necessary for the interests and convenience of the public; thence across the Anacostia or Eastern Branch of the Potomac River, on a bridge or trestle to be built by the said company in accordance with plans to be approved by the Secretary of War; thence along Pennsylvania avenue extended to Branch avenue; thence along Branch avenue to the Bowen road or Albany street; thence along the Bowen road or Albany street to the settlement known as Good Hope; also from the intersection of Branch avenue and the Bowen road to the District line, by a route to be approved by the Commissioners of the District of Columbia; also from the intersection of Minnesota avenue with Pennsylvania avenue extended along Minnesota avenue to Harrison street; also from the intersection of Pennsylvania avenue extended and Twenty-eighth street northward to the Anacostia road; thence along said Anacostia road to a point to be fixed by the Commissioners of the District of Columbia opposite the settlement known as East Washington Park.

Proviso. Passenger station.

Construction outside country roads etc.

SEC. 2. That when the route described coincides with that of a country road of less width than sixty-six feet the railway shall be constructed entirely outside the road: *Provided*, That if at any time in the future any part of the right of way of the company shall be included within the lines of public highways, such part of said right of way shall be dedicated to the public without expense to the District of Columbia.

Proviso. Inclusion of right of way in highways.

Approval of materials for construction, etc.

SEC. 3. That the said railway shall be constructed in a substantial and durable manner, and all rails, electrical and mechanical appliances, conduits, stations, and so forth, shall be approved by the Commissioners of the District of Columbia.

Space between tracks, etc., to be kept in condition, etc.

SEC. 4. That the said corporation shall at all times keep the space between its tracks and rails and two feet exterior thereto in such condition as the Commissioners of the District of Columbia or their successors may direct; and whenever any street occupied by said railway is paved or repaired or otherwise improved the said corporation shall

bear all the expense of improving the spaces above described. Should the said corporation fail to comply with the orders of the Commissioners the work shall be done by the proper officials of the District of Columbia and the amounts due from said corporation shall be collected as provided by section five of the Act entitled "An Act providing a permanent form of government for the District of Columbia," approved June eleventh, eighteen hundred and seventy-eight. Vol. 20, p. 105.

Alteration of streets occupied by railway.

SEC. 5. That nothing in this Act shall prevent the District of Columbia at any time, at its option, from altering the grade of any avenue, street, or highway occupied by said railway or from altering and improving streets, avenues, and highways and the sewerage thereof. In such event it shall be the duty of said company at once to change its said railway and the pavement so as to conform to such grades and improvements as may have been established.

Excavations for operating machinery.

SEC. 6. That it shall be lawful for said railway company, its successors or assigns, having first obtained the permission of the District Commissioners therefor, to make all needful and convenient trenches and excavations in any of said streets or places where said railway company may have the right to construct and operate its road, and place in such trenches and excavations all needful and convenient devices and machinery for operating said railroad in the same manner and by the means herein provided, but shall forthwith restore the street to like good condition as it was before. But whenever such trenches or excavations shall interfere with any sewer, gas, or water pipes, or any subways or conduits, or any public work of the kind, then the expense necessary to change such underground constructions shall be borne by the said railway company.

—interference with pipes, etc.

Location of engine, etc., houses.

SEC. 7. That it shall also be lawful for said corporation, its successors or assigns, to erect and maintain, on private grounds, at such convenient and suitable points along its lines as may seem most desirable to the board of directors of the said corporation, and subject to the approval of the said Commissioners, an engine house or houses, boiler house, and all other buildings necessary for the successful operation of the said railroad.

Commencement and completion.

SEC. 8. That the line of the said railroad shall be commenced within one year and completed within two years from date of the passage of this Act; and in default of such commencement or completion within the time in this section specified, all rights, franchises, and privileges granted by this Act shall immediately cease and determine: *Provided*, That failure to commence to construct or to complete either of the said portions of the routes as provided for in section one of this Act shall operate to repeal the authority to build said portion or portions, and shall not repeal the charter of said company: *Provided, however*, That the said railroad shall be commenced and completed within the time aforesaid from the circle at the western approach to the Pennsylvania Avenue Bridge to the District line as hereinbefore provided.

Provisos.
—failure not to repeal charter.

—completion to District line.

Propelling power.

SEC. 9. That the said company may run its cars by the overhead-trolley electric system, or such other electric or mechanical system as the Commissioners of the District of Columbia may approve. Steam power shall not be used: *Provided*, That if electric power by trolley be used a return wire similar in capacity and insulation to the feed wire shall be provided, and each car shall be provided with a double trolley, and no pole of any dynamo furnishing power to the railway shall be connected with the earth: *Provided further*, That for the purpose of making a continuous connection over the route hereinbefore described the said company shall have the right to cross all streets, avenues, and highways that may be along the designated route: *Provided further*, That whenever the foregoing route or routes may coincide with the route or routes of any duly incorporated street-railway company in the District of Columbia the tracks shall be used by both companies, which are hereby authorized and empowered to use such tracks in common, upon such fair and equitable terms as may be agreed upon by said companies: and in the event the said companies fail to agree upon

Provisos.
Electric connection with earth, etc.

Crossing of streets, etc.

Use of tracks in common by coinciding lines, etc.

equitable terms, either of said companies may apply by petition to the supreme court of the District of Columbia, which shall immediately provide for proper notice to and hearing of all parties interested, and shall have power to determine the terms and conditions upon which, and the regulations under which, the company hereby incorporated shall be entitled so to use and enjoy the track of such other street-railway company, and the amount and manner of compensation to be paid therefor: *And provided further*, That neither of the companies using such track in common shall be permitted to make the track so used in common the depot or general stopping place to await passengers, but shall only be entitled to use the same for the ordinary passage of its cars, with the ordinary halts for taking up and dropping off passengers: *Provided further*, That this shall not apply to or interfere with any station already established on any existing lines. That said corporation is authorized and empowered to propel its cars over the lines of any other road or roads which may be in alignment with, and upon such streets as may be covered by, the route or routes as prescribed in this Act, in accordance with the conditions hereinbefore contained; and that this corporation shall construct and repair such portions of its road as may be upon the line or routes of any other road thus used; and in case of any disagreement with any company whose line of road is thus used, such disagreement may be summarily determined upon the application of either road to any court in said District having competent jurisdiction.

—not to be used as station to await passengers.

—existing stations not affected.

Use of aligning roads; repairs, etc.

—disagreements.

Passenger houses.

Cars.

Time-table.

SEC. 10. That the said company shall furnish and maintain passenger houses, provided with such conveniences for the public as required by the Commissioners of the District of Columbia, and shall use first-class cars on said railway, with all modern improvements for the convenience, comfort, and safety of passengers, and shall run cars as often as the public convenience may require, in accordance with a time-table, to be subject to the approval of the Commissioners of the District of Columbia.

Regulations.

Penalty.

SEC. 11. That the Commissioners of the District of Columbia may make such regulations as to the speed, mode of use of tracks, and the removal of ice and snow as in their judgment the interest and the convenience of the public may require. Should the servants or the agents of said company willfully or negligently violate such an ordinance or regulation, said company shall be liable to the District of Columbia for a penalty not exceeding five hundred dollars.

Organization of company.

Subscriptions to capital stock.

Provisos.

—payment at time of subscribing.

—in what payable.

First meeting of stockholders.

—choice of directors.

SEC. 12. That within thirty days after the passage of this Act the corporators named in the first section, their associates, successors, or assigns, or a majority of them, or, if any refuse or neglect to act, then a majority of the remainder, shall meet at some convenient and accessible place in the District of Columbia for the organization of said company and for the receiving of subscriptions to the capital stock of the company: *Provided*, That every subscriber shall pay at the time of subscribing ten per centum in cash of the amount by him subscribed to the treasurer appointed by the corporation, or his subscription shall be null and void: *Provided further*, That nothing shall be received in payment of the ten per centum at the time of subscribing except lawful money or certified checks from any established national bank. And when the books of the subscription to the capital stock of said company shall be closed the corporators named in the first section, their associates, successors, or assigns, or a majority of them, and in case any of them refuse or neglect to act, then a majority of the remainder, shall, within twenty days after, call the first meeting of the stockholders of the said company to meet within ten days thereafter for the choice of directors, of which public notice shall be given for five days in two daily newspapers published in the city of Washington, and by written personal notice to be mailed to the address of each stockholder by the clerk of the corporation; and in all meetings of the stockholders each share shall entitle the holder to one vote, to be given in person or by proxy.

Board of directors.

SEC. 13. That the government and direction of affairs of the company shall be vested in a board of directors, nine in number, who shall be stockholders of record, and who shall hold their office for one year, and until others are duly elected and qualified to take their places as directors; and the said directors, a majority of whom shall be a quorum, shall elect one of their number to be president of the board, who shall also be president of the company, and they shall also choose a vice-president, a secretary, and a treasurer, who shall give bond with surety to said company, in such sums as the said directors may require, for the faithful discharge of his trust. In the case of a vacancy in the board of directors by the death, resignation, or otherwise of any director the vacancy occasioned thereby shall be filled by the remaining directors.

—to elect officers of the company.

—vacancies.

—powers of board.

SEC. 14. That the directors shall have the power to make and prescribe such by-laws, rules, and regulations as they shall deem needful and proper touching the disposition and management of the stock, property, estate, and effects of the company not contrary to the charter or to the laws of the United States and the ordinances of the District of Columbia.

Annual choice of directors.

SEC. 15. That there shall be at least an annual meeting of the stockholders for choice of directors, to be holden at such time in the District of Columbia, under such conditions, and upon such notice as the said company in their by-laws may prescribe; and said directors shall annually make a report in writing of their doings to the stockholders.

—report of to stock holders.

Issue of capital stock and bonds; limit.

SEC. 16. That said company is hereby authorized to issue its capital stock to an amount not to exceed the estimated cost of the construction and equipment of the road, in shares of fifty dollars each, and to issue bonds not to exceed the cost of construction of the road, but such stock and bonds shall not exceed in the aggregate more than the actual cost of the right of way, construction, and equipment of said road. Said company shall require the subscribers to the capital stock to pay in cash to the treasurer appointed by the corporators the amounts severally subscribed by them, as follows, namely: Ten per centum at the time of subscribing and the balance of such subscription to be paid at such times and in such amounts as the board of directors may require; and no subscription shall be deemed valid unless the ten per centum thereof shall be paid at the time of subscribing, as hereinbefore provided; and if any stockholder shall refuse or neglect to pay any installment as aforesaid, or as required by the resolution of the board of directors, after reasonable notice of the same, the said board of directors may sell at public auction, to the highest bidder, so many shares of his stock as shall pay said installments, and the person who offers to purchase the least number of shares for the assessment due shall be taken to be the highest bidder, and such sale shall be conducted under such general regulations as may be adopted in the by-laws of the said company; but no stock shall be sold for less than the total assessments due and payable, or said corporation may sue and collect the same from any delinquent subscriber in any court of competent jurisdiction: *Provided*, That no certificates of stock shall be issued until the same has been paid for in money at its face value.

Payments of capital stock.

—failure to pay installment.

Proviso.
Certificates of stock.

Disposition of articles left in cars.

SEC. 17. That all articles of value that may be inadvertently left in any of the cars or other vehicles of the said company shall be taken to its principal depot and entered in a book of record of unclaimed goods, which book shall be open to the inspection of the public at all reasonable hours of business.

Taxes.

SEC. 18. That the East Washington Heights Traction Company shall annually pay to the District of Columbia a franchise tax of five-eighths of one per centum of the entire gross earnings of such company, and a personal tax of two per centum per annum on the entire gross earnings of said company. There shall also be levied and collected upon all of the real estate of said company a tax in the same manner and to the same extent as upon all other real estate in the District of Columbia;

said taxes shall be due and payable, subject to the same penalties on arrears, and collectible in the same manner as other taxes in the District of Columbia.

Fares.

SEC. 19. That said company shall receive a rate of fare not exceeding five cents per passenger; but six tickets shall be sold for twenty-five cents: *Provided*, That the said company and the Capital Traction Company are hereby required to issue free transfers, whereby a passenger on the said East Washington Heights Traction Company shall be entitled to a continuous ride over the line of the other company, or vice versa.

Proviso. Transfers.

Obstructions to transit, etc.

SEC. 20. That the said company shall have at all times the free and uninterrupted use of the roadway, subject to the rights of the public, and if any person or persons shall willfully, mischievously, and unlawfully obstruct or impede the passage of cars of said railway company with a vehicle or vehicles, or otherwise, or in any manner molest or interfere with passengers or operatives while in transit, or destroy or injure the cars of said railway, or depots, stations, or other property belonging to the said railway company, the person or persons so offending shall forfeit and pay for each such offense not less than twenty-five nor more than one hundred dollars, to be recovered as other fines and penalties in said District, and shall remain liable, in addition to said penalty, for any loss or damage occasioned by his or her or their act as aforesaid; but no suit shall be brought unless commenced within sixty days after such offense shall have been committed.

—penalty.

Construction across other railways.

SEC. 21. That the East Washington Heights Traction Company shall have the right of way across such other railways as are now in operation within the limits of the lines granted by this Act, and is hereby authorized to construct its said road across such other railways: *Provided*, That it shall not interrupt the travel of such other railways in such construction.

Proviso. —not to interrupt travel.

Ejection from cars.

SEC. 22. That no person shall be prohibited the right to travel on any part of said road, or be ejected from the cars by the company's employees, for any other cause than that of being drunk, disorderly, or contagiously diseased, or refusing to pay the legal fare exacted, or to comply with the lawful general regulations of the company.

Condemnation proceedings.

SEC. 23. That in the event the company should not be able to come to an agreement with the owner or owners of any land through which the said road may be located or pass, or which may be needed for terminal facilities and passenger stations, proceedings for the condemnation for the use of the company of so much of said land as may be required, not exceeding twenty feet in width for a right of way, and such tracts as may be necessary for terminal facilities and passenger stations, may be instituted in the usual way in the supreme court of the District of Columbia, under such rules and regulations as said court may prescribe for such purposes: *Provided*, That any property owner shall have the right of trial by jury in such issue.

Proviso. —trial by jury.

District Commissioners to approve plans, etc.

SEC. 24. That all plans of location and construction of tracks and other structures in public places pertaining to said railway shall be subject to the approval of the Commissioners of the District of Columbia, and all work thereof shall at all times be subject to their supervision. The said company shall, from time to time, deposit with the collector of taxes of the District of Columbia such amounts as may be deemed necessary by said Commissioners to cover the costs of inspection, supervision, changes to water pipes and sewer connections, changes of curb and pavement, and work not otherwise provided for, which may be made necessary by the location or grade of said railway. Any unexpended balance remaining after the construction of said road shall be returned to said company with an account in full of the disbursement of such deposits.

Deposit to cover cost of inspection, etc.

—unexpended balance returned.

Company's successors to comply with obligations, etc.

SEC. 25. That all the conditions, requirements, and obligations imposed by the terms of this Act upon the East Washington Heights Traction Company shall be complied with by any and all the successors to and assigns of said company.

SEC. 26. That within sixty days from the approval of this Act the company shall deposit one thousand dollars with the collector of taxes of the District of Columbia to guarantee the construction of its railway within the prescribed time. If this sum is not so deposited this charter shall be void. If the sum is so deposited and the road is not in operation as herein prescribed, said one thousand dollars shall be forfeited to the District of Columbia and this charter shall be void.

Deposit to guarantee construction.

—penalty, etc.

SEC. 27. That failure or neglect to comply with any of the provisions of this Act, except as hereinbefore provided for, shall render the said corporation liable to a fine of twenty-five dollars for each and every day during which such failure or neglect shall continue, which penalty may be recovered in the name of the District of Columbia by the Commissioners of the said District in any court of competent jurisdiction: *Provided, however*, That unless the line of the said railway shall be completed, with cars running regularly thereon for the accommodation of passengers, within two years from the date of the passage of this Act, this charter shall be null and void.

Penalty for failure to comply with act

Proviso.
Completion of line.

SEC. 28. That Congress reserves the right to alter, amend, or repeal this Act.

Amendment.

Approved, June 18, 1898.

CHAP. 469.—An Act To amend an Act entitled "An Act to promote the administration of justice in the Army," approved October first, eighteen hundred and ninety, and for other purposes.

June 18, 1898.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled an "An Act to promote the administration of justice in the Army," approved October first, eighteen hundred and ninety, as supplemented and amended by subsequent legislation, be, and the same is hereby, amended so as to read as follows:

Army.
Summary courts for trial of offenses of enlisted men.
Vol. 26, p. 648.
Vol. 27, p. 278.

"That the commanding officer of each garrison, fort, or other place, regiment or corps, detached battalion, or company, or other detachment in the Army, shall have power to appoint for such place or command, or in his discretion for each battalion thereof, a summary court to consist of one officer to be designated by him, before whom enlisted men who are to be tried for offenses, such as were prior to the passage of the Act 'to promote the administration of justice in the Army,' approved October first, eighteen hundred and ninety, cognizable by garrison or regimental courts-martial, and offenses cognizable by field officers detailed to try offenders under the provisions of the eightieth and one hundred and tenth articles of war, shall be brought to trial within twenty-four hours of the time of the arrest, or as soon thereafter as practicable, except when the accused is to be tried by general court-martial; but such summary court may be appointed and the officer designated by superior authority when by him deemed desirable; and the officer holding the summary court shall have power to administer oaths and to hear and determine such cases, and when satisfied of the guilt of the accused adjudge the punishment to be inflicted, which said punishment shall not exceed confinement at hard labor for one month and forfeiture of one month's pay, and, in the case of a non-commissioned officer, reduction to the ranks in addition thereto; that there shall be a summary court record kept at each military post and in the field at the headquarters of the proper command, in which shall be entered a record of all cases heard and determined and the action had thereon; and no sentence adjudged by said summary court shall be executed until it shall have been approved by the officer appointing the court, or by the officer commanding for the time being: *Provided*, That when but one commissioned officer is present with a command he shall hear and finally determine such cases: *And provided further*, That no one while holding the privileges of a certificate of eligibility to promotion shall be brought before a summary court, and that non-

—appointment.

—what offenses cognizable.
Vol. 26, p. 648.

R. S., sec. 1342, pp. 238, 240.

—powers of court, etc.

—record.

—approval of sentence.

Provisos.
—but one officer present with command, etc.
Exemptions from trial by summary court, etc.