

HOUSE No. 1274

By Messrs. MacLeod and Melley of Chelsea, petition of John W. MacLeod and William H. Melley that the Boston Elevated Railway Company be authorized to acquire the Chelsea Division of the Eastern Massachusetts Street Railway Company. Metropolitan Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-Two.

An Act authorizing the Boston Elevated Railway Company to acquire the Property Owned, Leased or Controlled and Operated, in whole or in part, by the Eastern Massachusetts Street Railway Company within the Limits of its Chelsea Division.

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 Boston Elevated Railway Com-
2 pany, hereinafter called the company, acting by the
3 trustees thereof, is hereby authorized, subject to the
4 conditions specified in sections one to six, inclusive, to
5 purchase the whole or any part of the following prop-
6 erty, hereinafter called the property: all street rail-
7 way lines, tracks, and locations, including ties, rails,
8 special work, joints, tie plates, fastenings, ballast,
9 paving, and brow stones, also all trestles, bridges, and
10 other structures for the support of said tracks; all pole
11 and line construction used in connection with the

12 operation of or appurtenant to said street railway lines,
13 tracks and locations, including all poles, trolley wires,
14 span wires, feeders, telephone and telegraph system,
15 signals and appurtenances, underground conduits, car
16 barns and equipment, including street railway cars,
17 motor vehicles and other rolling stock regularly
18 assigned to or operated from such car barns, power
19 houses and equipment, machinery and tools, materials
20 and supplies, land and rights in land, and all other
21 property owned, leased or in whole or in part operated
22 by the Eastern Massachusetts Street Railway Com-
23 pany "hereinafter called The Eastern Company" in
24 the limits of its Chelsea division, as now constituted,
25 which division includes all lines and property owned,
26 leased or operated by said company in the city of
27 Boston between Scollay square, Boston, and the
28 boundary line between Boston and Chelsea, and in
29 that part of Boston called East Boston; also all lines
30 and property owned, leased or operated by it in the
31 city of Chelsea, in the city of Everett, in the city of
32 Revere south of pole number J-76, which is located
33 approximately three thousand seven hundred and
34 ninety-five feet south of the boundary line between
35 Revere and Saugus on Broadway in Revere; and all
36 lines and property owned, leased or operated by it in
37 Malden, except that part of the line on Main street
38 north of a point fifty feet south of the southerly end of
39 the cross-over near the so-called Orpheum theatre;
40 excepting, however, from said purchase or taking the
41 following property: (a) all right, title and interest of
42 the Boston Elevated Railway Company and the city of
43 Boston in any such property; (b) all property in
44 Malden.

45 The consideration paid shall not exceed two million

46 dollars, if all of the property is purchased and if less
47 than all is purchased said limit shall be reduced by such
48 sum as the trustees shall deem to be the fair value of
49 the property excluded.

50 Any agreement of purchase may include the lease-
51 hold rights of the Eastern Company as lessee and the
52 rights of the lessors or any of them, as they shall re-
53 spectively appear, in the leases under which the
54 Eastern Company operates the lines of the Boston and
55 Chelsea Railroad Company, the Boston and Revere
56 Electric Street Railway Company and the Winnisim-
57 met Railroad Company. The Eastern Company may,
58 however, at any time after this act takes effect by vote
59 of its board of directors and by vote of its board of
60 trustees then holding office under the provisions of
61 chapter two hundred and ninety-eight of the acts of
62 nineteen hundred and twenty-eight purchase the re-
63 spective reversionary interests of any one or all of the
64 several lessors in the said leased lines, and the several
65 leased lines may respectively sell such reversionary
66 interest or interests by action of their respective boards
67 of directors. The provisions of section fifty-four of
68 chapter one hundred and fifty-nine and sections sixty-
69 two and sixty-three of chapter one hundred and sixty-
70 one of the General Laws shall not apply to any such
71 purchase and sale of any of the leased lines. The
72 Eastern Company may acquire and hold any part or
73 all of the stock of any of its leased lines or any bonds or
74 other evidences of indebtedness of any of its leased
75 lines.

76 If an agreement for purchase is not reached and
77 signed within six months after this act takes effect
78 the company is also hereby authorized to take by right
79 of eminent domain the whole but not part of the prop-

80 erty; and if an agreement is reached with and signed
81 by the Eastern Massachusetts Street Railway, then
82 the company may take by right of eminent domain the
83 part of the property included in such agreement. Any
84 taking under this section shall exclude all right, title
85 and interest of the city of Boston in any of the prop-
86 erty taken.

1 SECTION 2. The taking or takings by eminent
2 domain authorized by section one shall be made
3 and damages therefor determined and paid under
4 and in accordance with chapter seventy-nine of the
5 General Laws or any alternative method now or
6 hereafter provided by general law, except that peti-
7 tions for the assessment of damages may be filed in
8 the superior court for the counties of Suffolk or
9 Middlesex and except that the provisions of section
10 twenty-four of said chapter shall not apply in any
11 proceedings arising from any such taking or takings
12 of the lines or property of the Boston and Chelsea
13 Railroad Company, the Boston and Revere Electric
14 Street Railway Company and the Winnisimmet
15 Railroad Company, but the provisions of sections
16 twenty-seven to thirty inclusive of said chapter
17 shall apply to such takings as to the estates and
18 interests mentioned in said section twenty-four.

1 SECTION 3. At any time and from time to time
2 after this act takes effect, the trustees of the company
3 shall have authority, in the name and on behalf of the
4 company, and without further authorization than
5 herein contained, in addition to the bonds, coupon
6 notes or other evidences of indebtedness payable at
7 periods of more than one year after the date thereof

8 which the company may otherwise lawfully issue, to
9 issue bonds of the company to an amount not ex-
10 ceeding two million dollars. The proceeds of such
11 bonds shall be used for acquiring the hereinbefore
12 mentioned property of the Eastern Massachusetts
13 Street Railway. Said bonds shall be for the term of
14 forty years and shall bear interest at the rate of six
15 per cent per annum.

16 The payment of interest as it accrues on said bonds
17 shall be deemed part of the cost of the service as
18 defined in section six of said chapter one hundred and
19 fifty-nine.

20 Said bonds, both as to principal and income, are
21 hereby made exempt from all taxes levied under au-
22 thority of the commonwealth and shall contain a
23 recital to such effect.

24 Said bonds shall be subject to the priority of bonds,
25 coupon notes or other evidences of indebtedness issued
26 for the purposes and under the authority specified in
27 section eighteen of chapter three hundred and thirty-
28 three of the acts of nineteen hundred and thirty-one
29 and shall be sold only to the metropolitan transit
30 district, which shall retain the same in its treasury until
31 surrendered for cancellation as provided in section six.

1 SECTION 4. The trustees of the metropolitan transit
2 district in the name and on behalf of said district shall
3 from time to time upon and in accordance with the re-
4 quest of the trustees of the company purchase the
5 bonds issued under authority of the preceding section
6 at the face value thereof, and shall procure the funds
7 necessary therefor by the issue of notes and bonds of
8 the district under and in the manner provided in
9 section ten of chapter three hundred and eighty-three

10 of the acts of nineteen hundred and twenty-nine, and
11 the provisions of said section shall apply thereto in
12 the same manner and to the same extent as if such
13 notes and bonds were specifically authorized in said
14 chapter. Said bonds may be issued on either the
15 sinking fund or serial payment plan, and if issued on
16 the serial plan, the trustees of said district shall en-
17 deavor so to arrange the maturities thereof that the
18 bonds maturing each year will be met by the amounts
19 available from interest upon the bonds purchased and
20 from the special compensation tax to be paid by the
21 company as provided in the following section. All
22 amounts received by the district from said interest
23 and special compensation tax shall be applied in pay-
24 ment of interest and principal of the notes and bonds
25 issued under this section as and when due and any
26 balance shall be accumulated in a sinking fund to be
27 used for such purpose. Said fund may be invested
28 by the trustees of the district in any bonds or coupon
29 notes of the company or in other securities which are
30 legal investments for savings banks in this common-
31 wealth and all income accruing therefrom shall be
32 added to the fund.

1 SECTION 5. The company shall annually on the
2 first day of February pay to the metropolitan transit
3 district, for the benefits conferred by this act, a special
4 compensation tax of an amount which, when added to
5 the interest payable to the said district during the
6 preceding calendar year upon the bonds of the com-
7 pany acquired under section five, shall be sufficient to
8 pay all interest upon the notes and bonds of the district
9 issued to provide funds for such acquisition and pay-

10 able during said preceding calendar year increased by
11 an amount which shall be computed at the rate of two
12 per cent per annum on the amount of bonds of the
13 company held by the district for the time while held
14 during said year.

1 SECTION 6. Upon the retirement of all bonds and
2 notes of the district issued under the provisions of
3 section five including all notes or bonds issued to
4 refund the same, or upon the accumulation of a sinking
5 fund sufficient to pay the same with interest to ma-
6 turity, the district shall surrender to the company for
7 cancellation the bonds of the company purchased
8 under said section and receive in exchange therefor a
9 "certificate of indebtedness" of the company in the
10 total amount of the par value of all bonds of the com-
11 pany surrendered to the company by the district under
12 the provisions of this section. Said "certificate of
13 indebtedness" shall not be entitled to receive interest
14 and shall be payable only in liquidation or in the event
15 of a sale of substantially all the assets and franchises of
16 the company and, in liquidation, only after payment
17 of all other indebtedness of the company.

1 SECTION 7. Any property acquired by the com-
2 pany under the authority contained in this chapter
3 shall be deemed to have been a part of the Boston
4 Elevated Railway Company system as of the date of
5 May nineteen, nineteen hundred and thirty-one, and
6 the management and control of said property shall
7 be governed by the provisions of chapter three hundred
8 and thirty-three of the acts of nineteen hundred and
9 thirty-one.

1 SECTION 8. This act shall be regarded as amenda-
2 tory of chapter one hundred and fifty-nine of the
3 Special Acts of nineteen hundred and eighteen, and
4 this act and said chapter shall, for purposes of interpre-
5 tation and construction, be treated as one act.