

HOUSE No. 445.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, April 14, 1891.

The committee on Manufactures, to whom was referred the petition of Charles H. Lang, Jr., for an act enabling the town of Melrose to construct and maintain a system of municipal lighting, report the accompanying Bill.

For the Committee,

C. H. BAKER.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Ninety-one.

AN ACT

To enable the Town of Melrose to Construct and Maintain a System of Municipal Lighting.

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 Melrose may, subject
2 to the provisions of this act, construct, purchase,
3 lease, or establish and maintain within its limits
4 one or more plants for the manufacture or dis-
5 tribution of gas or electricity for lighting,
6 for municipal use, or for the use of such of
7 its inhabitants as may require and pay for the
8 same. Such plants may include suitable land,
9 structures, easements, water privileges, stations,
10 gasometers, tools, machinery, pipes, conduits,
11 poles, conductors and other appliances for making,
12 generating and distributing gas or electricity or
13 using the same.

1 SECT. 2. Said town, upon establishing a plant
2 within its limits as provided in this act or enlarg-

3 ing the same as provided in section three, may
4 issue bonds to pay for the same, payable in a
5 term not exceeding twenty years, and bearing
6 interest at a rate not exceeding five per cent.,
7 which shall not be disposed of for less than par
8 and accrued interest, and the indebtedness thereby
9 created shall not be included in the limitation of
10 indebtedness of said town provided by law.

11 But the whole amount of bonds so issued shall
12 not exceed at their par value the amount of five
13 per cent. of the total valuation of estates of said
14 town according to the last preceding State valua-
15 tion. And no indebtedness, except such as may
16 be paid from the tax levy of the current year in
17 common with other municipal expenses, shall be
18 created by said town to pay for such plant, or for
19 the enlargement or repair thereof, or to meet the
20 expense of making or distributing gas or elec-
21 tricity, or for any other purpose authorized by
22 this act, except such as may be created by the
23 issue of such bonds to pay for plant or enlarge-
24 ment.

1 SECT. 3. Said town may enlarge its plant
2 under the conditions provided in this act, but no
3 reconstruction, extension or enlargement thereof,
4 beyond the necessary and ordinary repair and
5 replacement thereof, except such increased appli-
6 cances for the distribution of gas and electricity
7 as may be necessary to furnish the same to new
8 takers, shall be made or undertaken without the
9 consent of the selectmen, nor, with such consent,

10 beyond what may be paid for from the current
11 income of the year with other municipal expen-
12 ses, without a vote therefor of two-thirds of the
13 legal voters present and voting at a town meeting
14 legally called for the purpose, in the taking of
15 which the check list shall be used.

1 SECT. 4. Said town may adopt by-laws pro-
2 viding for the equitable assessment upon the
3 owner or occupant of any premises of any part of
4 the cost of laying and maintaining pipes, conduits,
5 conductors or other appliances for distribution to
6 supply gas or electricity to the occupants thereof,
7 whether application be made therefor or not.
8 Payment of such assessments shall not be obliga-
9 tory, but shall be made a condition precedent to
10 the supply of gas or electricity to occupants upon
11 such premises, and may be exacted before pro-
12 viding any appliances for such supply thereon.
13 Provision may also be made for dividing the
14 assessment upon division of interest in the prem-
15 ises.

1 SECT. 5. Said town having established a
2 plant for the purpose as provided in this act may
3 manufacture, generate and distribute gas or elec-
4 tricity for municipal uses, or to its inhabitants
5 for lighting, under such regulations as it may
6 establish.

7 But said town shall not be compelled to furnish
8 gas or electricity to any person or corporation
9 except upon order of the gas and electric light

10 commissioners after payment of any assessment
11 provided for in section four. Any person or cor-
12 poration aggrieved by the refusal of said town to
13 furnish gas or electricity may appeal to such com-
14 missioners setting forth in such appeal what is
15 required of said town in such detail as the commis-
16 sioners may require. If it appears that additional
17 cost to the town in plant is likely to be necessary
18 the commissioners may require the town forthwith
19 to cause to be made the assessments, if any,
20 provided for in section four, if not previously
21 made, upon the owners or occupants of the
22 premises to which the gas or electricity applied
23 for is required to be supplied, and the town shall
24 at once comply with such request. The commis-
25 sioners shall then hear all parties interested, and
26 adjudge whether under the circumstances of the
27 case it is reasonable to require the town to furnish
28 gas or electricity, in any manner covered by the
29 description of the appeal, as applied for. In mak-
30 ing their decision they may take into account the
31 extra cost to the town, with any other peculiar
32 circumstances of the case, and whether after the
33 amount of all the assessments shall be paid the
34 extra supply required can be furnished without
35 incurring expense which cannot be met from the
36 current income of the town for the year in common
37 with other municipal expenses. Unless it shall
38 be made to appear that the expense cannot be so
39 met, they may, if they find it reasonable, make an
40 order, in which they may define the amount,
41 quality, or manner and locality and times of sup-

42 ply, of the gas or electricity to be supplied, and
43 may require the town to furnish the same to the
44 party applying as directed in the order, and the
45 town shall, without delay, after payment of the
46 assessments, comply with the order. Any order
47 made under this section shall be transmitted to
48 the selectmen. The superior court shall have
49 jurisdiction in equity to enforce compliance with
50 any order or request, made under this section, by
51 appropriate process.

1 SECT. 6. The control, management, repair and
2 improvement of said plant and the manufacture,
3 generation and distribution of gas and electricity
4 thereby, including the purchase of supplies, hiring
5 and discharge of employees, and all business relat-
6 ing to such manufacture, generation and distribu-
7 tion, and to the methods, amounts, times, prices
8 and quality of the supply to each person and cor-
9 poration, the collection of bills, the keeping of
10 accounts and custody of monies received for gas
11 or electricity or otherwise, and payment of bills
12 incurred in said business, shall be entrusted to
13 one manager who shall be appointed and hold
14 his office during the pleasure of the selectmen,
15 and have his compensation fixed annually by them.
16 The title of his office shall be manager of gas,
17 manager of electricity, or manager of gas and
18 electricity, according as a plant for one or both
19 may be under his charge. Before entering upon
20 the duties of his office he shall give bond to the
21 town for the faithful performance of his duties in

22 such sum and form and with such sureties as the
23 selectmen shall approve.

1 SECT. 7. The books and accounts pertaining
2 to the business authorized by this act shall be kept
3 in a form to be prescribed by the board of gas
4 and electric light commissioners, and the accounts
5 shall be closed on the thirtieth day of June in
6 each year so that a balance sheet of that date can
7 be taken therefrom and included in the return to
8 said board, which return shall be for the year
9 ending the thirtieth day of June.

10 The selectmen and manager shall annually, on
11 or before the second Wednesday of September,
12 make a return to said board in a form prescribed
13 by it, setting forth the financial condition of said
14 business, the amount of indebtedness authorized
15 or existing on account thereof, a statement of
16 income and expenses in such detail as the board
17 may require, with a list of salaried officers em-
18 ployed in said business and the amount of salary
19 paid to each. Said return shall be signed and
20 sworn to by a majority of the selectmen and mana-
21 ger. The town may direct, in addition, any addi-
22 tional returns to be made to the town at such
23 time and in such detail as it may vote. The
24 selectmen and manager shall also at all times, on
25 request, submit said books and accounts for the
26 inspection of said board, and furnish any state-
27 ment or information required by the board con-
28 cerning the condition, management and operation
29 of said business.

1 SECT. 8. The price to be charged for gas or
2 electricity to persons and corporations shall be
3 fixed, and shall not be changed oftener than once
4 in three months. Any change shall take effect
5 on the first day of a month, and the new price
6 adopted shall, before the change shall take effect,
7 be advertised in some newspaper published in
8 said town where the plant is, or in the county
9 in which said town is situated if there is no news-
10 paper published in such town. Such price shall
11 not, except with the written consent of the gas
12 and electric light commissioners, be fixed at less
13 than cost, in which shall be included interest at
14 four per cent. on the net investment in plant made
15 by the town, less assessments under section four,
16 and also eight per cent. for depreciation of the
17 plant and losses, but any losses exceeding three
18 per cent. of the investment in plant may be
19 charged in different years at not more than such
20 three per cent. per annum. And the price shall
21 not be greater than shall allow a profit of eight
22 per cent. per annum to the town above such cost.
23 In fixing such cost to establish the price to be
24 charged to persons and corporations the gas and
25 electricity used by the town shall be charged to
26 it at cost.

27 A sufficient deposit to secure the payment for
28 gas or electricity for three months may be
29 required in advance from any taker, and the
30 supply may be shut off from any premises until
31 all arrearages for gas or electricity furnished
32 thereon, to whomsoever furnished, shall be paid.

33 After three months default in payment for such
34 arrearages all appliances for distribution on such
35 premises belonging to the town may be removed,
36 and after such removal shall not be restored
37 except on payment of all such arrearages, and a
38 sufficient sum to cover all expenses caused by
39 removal and restoration with any penalty the
40 town may impose in such cases.

1 SECT. 9. Said town may, subject to the
2 approval of the superior court, adopt by-laws
3 imposing penalties not exceeding fifty dollars to
4 protect its plant, control its use, prevent acci-
5 dents from gas or electricity supplied by the town,
6 and govern consumers in their use thereof.

1 SECT. 10. If said town votes to accept this act
2 and to establish a plant for gas or electric light-
3 ing, said town shall, before establishing the same,
4 purchase such existing gas or electric light plants
5 as are at the time of said vote installed and em-
6 ployed in the business of furnishing gas or electric
7 light in said town, if the person, firm or corpo-
8 ration owning such plant shall elect to sell the
9 same in compliance with the provisions of this
10 act.

11 The property which the town shall be required
12 to purchase shall include poles, wires, pipes or
13 lamps, now used to furnish existing lights within
14 the limits of said town, and the price to be paid
15 for such property shall be its actual cash value for
16 the purposes of its use without enhancement for

17 the good will of customers or any other circum-
18 stance.

19 Any person, firm or corporation desiring to
20 enforce the obligation imposed upon the town by
21 this section shall file with the town clerk, within
22 thirty days after the passage by the town of a
23 vote to establish a plant, a detailed schedule
24 describing such property and stating the terms of
25 sale proposed. If the parties fail to agree as to
26 what shall be sold or what the terms of sale and
27 delivery shall be, either party may within thirty
28 days after the filing of the schedule apply by
29 petition to the supreme judicial court, or any jus-
30 tice thereof, setting forth the facts and praying
31 an adjudication between the parties, and there-
32 after such court or justice shall appoint a special
33 commissioner, who shall hear the parties and deter-
34 mine what property, real or personal, including
35 rights and easements, shall be sold by the one
36 and purchased by the other, and what the price,
37 time and other conditions of the sale and delivery
38 thereof shall be. Such commissioner shall file his
39 award in the supreme judicial court for revision
40 or confirmation by said court.

1 Sect. 11. Any party aggrieved by the award
2 of the commissioner may, within fourteen days
3 after its filing, or such longer time as the court
4 may allow, file objections thereto and apply to the
5 court for a hearing on such award relative to any
6 matter of fact or law pertaining to the same, and
7 thereupon the court shall order a trial to be had

8 before said court or a justice thereof, after due
9 notice to all parties interested in the matter of
10 said award, in the manner of hearings in equity.
11 The decree of the court upon said award shall be
12 final and binding, and said court shall have juris-
13 diction in equity to compel compliance therewith,
14 and may also issue and enforce such interlocutory
15 decrees and orders as justice may require.

1 SECT. 12. All general laws of the Common-
2 wealth relative to the manufacture and distribu-
3 tion of gas or electricity, or the quality thereof
4 or plant or appliances therefor, shall apply to the
5 manufacture or distribution of gas or electricity
6 by said town, so far as the same may be applicable
7 and not inconsistent with the provisions of this
8 act.

1 SECT. 13. This act shall take effect upon
2 its acceptance by a two-thirds vote of the voters
3 of said town present and voting thereon at any
4 legal town-meeting called for the purpose within
5 three years from its passage, in the taking of
6 which vote the check list shall be used; but the
7 number of such meetings shall not exceed two
8 in any one year, and notice of such meetings
9 shall be given at least seven days before the time
10 fixed for holding the same.

