

# HOUSE . . . . . No. 474.

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[Bill accompanying the petition of Jacob Tarplin and others for legislation to amend the laws relative to the purchase of municipal lighting plants by cities and towns Manufactures. Jan. 30.]

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## Commonwealth of Massachusetts.

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In the Year One Thousand Nine Hundred and One.

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### AN ACT

#### Relative to the Purchase of Gas and Electric Plants by Cities and Towns.

*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. Chapter four hundred and fifty-  
2 four of the acts of the year eighteen hundred  
3 and ninety-three is hereby amended by striking  
4 out the words "if there be no other private com-  
5 pany engaged in the same kind of lighting busi-  
6 ness in such adjoining city or town" from section  
7 four of said chapter, so that said section shall  
8 read as follows:—

9 *Section 1.* In case of the purchase by a city or  
10 town under and in pursuance of the provisions of

11 chapter three hundred and seventy of the acts of  
12 the year eighteen hundred and ninety-one of a  
13 gas or electric light plant, or both, having mains,  
14 poles, wires, or other distributing apparatus,  
15 lying or being in any adjoining city or town,  
16 said purchasing city or town shall have the right,  
17 at its election, to purchase the outlying mains,  
18 poles, wires and other distributing apparatus in  
19 any such adjoining city or town, in the manner  
20 and subject to the provisions specified in sections  
21 twelve, thirteen and fourteen of said chapter.

1 SECTION 2. Section twelve of chapter three  
2 hundred and seventy of the acts of the year eigh-  
3 teen hundred and ninety-one, as amended by said  
4 chapter four hundred and fifty-four, is hereby  
5 further amended by inserting after the word  
6 "therewith" in line thirty-two thereof the words  
7 "not exceeding, however, the reasonable cost of  
8 buying and establishing a new plant, or like por-  
9 tions of a new plant, having an equivalent capacity  
10 of production and distribution and as serviceable  
11 quality of material and construction, counting at  
12 its fair market value the land purchased, but less  
13 one-half of the depreciation, if any, in the value  
14 of the plant as compared with its value if new" so  
15 as to read as follows:—

16 *Section 12.* When any city or town shall de-  
17 cide as hereinbefore provided to establish a plant,  
18 and any person, firm or corporation shall at the  
19 time of the first vote required for such decision  
20 be engaged in the business of making, generating

21 or distributing gas or electricity for sale for light-  
22 ing purposes in such city or town, such city or  
23 town shall, if such person, firm or corporation  
24 shall elect to sell and shall comply with the pro-  
25 visions of this act, purchase of such person, firm  
26 or corporation before establishing a public plant,  
27 such portion of his, their or its gas or electric  
28 plant and property suitable and used for such  
29 business in connection therewith, as lies within  
30 the limits of such city or town. If in such city or  
31 town a single corporation owns or operates both a  
32 gas plant and an electric plant, such purchase  
33 shall include both of such plants; but otherwise  
34 such city or town shall only be obliged to purchase  
35 the existing gas plant or plants if it has voted only  
36 to establish a gas plant, and shall only be obliged  
37 to purchase the existing electric plant or plants if  
38 it has only voted to establish an electric plant. If  
39 the main gas works, in the case of a gas plant, or  
40 the central lighting station, in the case of an electric  
41 light plant, lie within the limits of the city or town  
42 which has voted to establish a plant as aforesaid,  
43 such city or town shall purchase as herein pro-  
44 vided the whole of such plant and property used  
45 in connection therewith lying within its limits,  
46 and the price to be paid therefor shall be its fair  
47 market value for the purposes of its use; no  
48 portion of such plant to be estimated, however,  
49 at less than its fair market value for any other  
50 purpose, including as an element of value any  
51 locations, or similar rights, acquired from private  
52 persons in connection therewith, not exceeding,

53 however, the reasonable cost of buying and estab-  
54 lishing a new plant or like portions of a new plant  
55 having an equivalent capacity of production and  
56 distribution, and as serviceable quality of material  
57 and construction, counting at its fair market value  
58 the land purchased, but less one-half of the de-  
59 preciation, if any, in the value of the plant as  
60 compared with its value if new, plus the damages  
61 suffered by the severance of any portion of such  
62 plant lying outside of the limits of such city or  
63 town, if it shall refuse or neglect to purchase the  
64 same, and minus the amount of any mortgage or  
65 other encumbrance or lien to which the plant so  
66 purchased, or any part thereof, may be subject at  
67 the time of transfer of title; but such city or town  
68 may require that such plant and property be  
69 transferred to it free and clear from any mort-  
70 gage or lien, unless the commissioners appointed  
71 under the provisions of section thirteen of this  
72 act shall otherwise determine. Such value shall  
73 be estimated without enhancement on account of  
74 future earning capacity, or good will, or of ex-  
75 clusive privileges derived from rights in the  
76 public streets. If the main gas works or central  
77 lighting station of such a plant do not lie within  
78 the limits of the city or town which has voted as  
79 aforesaid, then such city or town shall only pur-  
80 chase that portion of such plant and property  
81 which lies within its limits, paying therefor upon  
82 the basis of value above established, but without  
83 allowance of damages on account of severance  
84 of plant. No city or town shall be obligated by

85 this section to buy any apparatus or appliances  
86 covered by letters patent of the United States or  
87 embodying a patentable invention, unless a com-  
88 plete right to use the same and all other apparatus  
89 or appliances necessary for such use within the  
90 limits of such city or town, to such extent as such  
91 city or town shall reasonably require such right,  
92 shall be assigned or granted to such city or town  
93 at a cost as low as the cost of such right would  
94 be to the person, firm or corporation whose plant  
95 is purchased. No city or town shall be obliged  
96 to buy any property added to a plant unneces-  
97 sarily after the passage of its first vote that it is  
98 expedient to exercise the authority conferred in  
99 section one, nor any property except such as shall  
100 be suitable for the ordinary business of the  
101 vendor which the city or town may assume; and  
102 if any property or plant which the city or town  
103 shall be entitled or obliged to buy under this  
104 act will not be available to the city or town if  
105 purchased, by reason of liens, interests of third  
106 parties, private contracts or other cause, whereby  
107 the city or town purchasing would be at a dis-  
108 advantage, in the use of the same as compared  
109 with the vendor, the city or town may be re-  
110 leased from buying the same, or a discount may  
111 be made from the price to be paid for the plant,  
112 as the commissioner or commissioners provided  
113 for in section thirteen shall determine to be  
114 equitable under the circumstances.

1 SECTION 3. This act shall take effect upon its  
2 passage.

