

# HOUSE . . . . . No. 324.

---

---

[Bill accompanying the petition of Frederic O. MacCartney for legislation to facilitate and to regulate the purchasing or establishing of gas or electric lighting plants by cities and towns. Manufactures. Jan. 25.]

---

---

## Commonwealth of Massachusetts.

---

In the Year One Thousand Nine Hundred and One.

---

### 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. 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 sec-  
4 tion five, chapter four hundred and fifty-four of  
5 the acts of the year eighteen hundred and ninety-  
6 three, is hereby further amended by inserting after  
7 the word "therefor," in the twenty-eighth line,  
8 the words: — shall not exceed the reasonable cost  
9 of buying and establishing a plant, or like portions

10 of a plant of equivalent capacity of production  
11 and distribution, and as serviceable quality of  
12 material and construction, counting at its fair  
13 market value the land purchased. Subject to the  
14 foregoing limitations the price; — also by striking  
15 out the word “unless,” in the thirty-fifth line, and  
16 inserting in place thereof the word: — if; — also  
17 by striking out all from and including the word  
18 “such,” in the forty-third line, to and including  
19 the word “streets,” in the forty-sixth line, and  
20 inserting in place thereof the following: — In the  
21 price to be paid for the plant nothing shall be  
22 included on account of future earning capacity or  
23 good will or of exclusive privileges derived from  
24 rights in the public streets, nor anything for or  
25 on account of the patronage or business given to  
26 the corporation owning the plant by the munici-  
27 pality making the purchase, — so as to read as  
28 follows: —

29 *Section 12.* When any city or town shall  
30 decide as hereinbefore provided to establish a  
31 plant, and any person, firm or corporation shall  
32 at the time of the first vote required for such  
33 decision be engaged in the business of making,  
34 generating or distributing gas or electricity for  
35 sale for lighting purposes in such city or town,  
36 such city or town shall, if such person, firm or  
37 corporation shall elect to sell and shall comply  
38 with the provisions of this act, purchase of such  
39 person, firm or corporation, before establishing a  
40 public plant, such portion of his, their or its gas  
41 or electric plant and property suitable and used

42 for such business in connection therewith as lies  
43 within the limits of such city or town. If in such  
44 city or town a single corporation owns or operates  
45 both a gas plant and an electric plant, such pur-  
46 chase shall include both of such plants; but  
47 otherwise such city or town shall only be obliged  
48 to purchase the existing gas plant or plants if it  
49 has voted only to establish a gas plant, and shall  
50 only be obliged to purchase the existing electric  
51 plant or plants if it has only voted to establish an  
52 electric plant. If the main gas works, in the case  
53 of a gas plant, or the central lighting station in  
54 the case of an electric light plant, lie within the  
55 limits of the city or town which has voted to  
56 establish a plant as aforesaid, such city or town  
57 shall purchase as herein provided the whole of  
58 such plant and property used in connection there-  
59 with lying within its limits, and the price to be  
60 paid therefor shall not exceed the reasonable cost  
61 of buying and establishing a plant, or like por-  
62 tions of a plant of equivalent capacity of produc-  
63 tion and distribution, and as serviceable quality  
64 of material and construction, counting at its fair  
65 market value the land purchased. Subject to the  
66 foregoing limitations the price shall be its fair  
67 market value for the purposes of its use; no por-  
68 tion of such plant to be estimated, however, at  
69 less than its fair market value for any other pur-  
70 pose, including as an element of value, any loca-  
71 tions, or similar rights, acquired from private  
72 persons in connection therewith, plus the dam-  
73 ages suffered by the severance of any portion



74 of such plant lying outside of the limits of such  
75 city or town if it shall refuse or neglect to pur-  
76 chase the same, and minus the amount of any  
77 mortgage or other incumbrance or lien to which  
78 the plant so purchased, or any part thereof, may  
79 be subject at the time of transfer of title; but  
80 such city or town may require that such plant and  
81 property be transferred to it free and clear from  
82 any mortgage or lien, unless the commissioners  
83 appointed under the provisions of section thirteen  
84 of this act shall otherwise determine.

85 In the price to be paid for the plant nothing  
86 shall be included on account of future earning  
87 capacity or good will or of exclusive privileges  
88 derived from rights in the public streets, nor  
89 anything for or on account of the patronage or  
90 business given to the corporation owning the  
91 plant by the municipality making the purchase.

92 If the main gas works or central lighting  
93 station of such a plant do not lie within the limits  
94 of the city or town which has voted as afore-  
95 said, then such city or town shall only purchase  
96 that portion of such plant and property which  
97 lies within its limits, paying therefor upon the  
98 basis of value above established, but without  
99 allowance of damages on account of severance  
100 of plant. No city or town shall be obligated by  
101 this section to buy any apparatus or appliances  
102 covered by letters patent of the United States  
103 or embodying a patentable invention, unless a  
104 complete right to use the same and all other  
105 apparatus or appliances necessary for such use

106 within the limits of such city or town, to such  
107 extent as such city or town shall reasonably re-  
108 quire such right, shall be assigned or granted  
109 to such city or town at a cost as low as the cost  
110 of such right would be to the person, firm or  
111 corporation whose plant is purchased. No city  
112 or town shall be obliged to buy any property  
113 added to a plant unnecessarily after the passage  
114 of its first vote that it is expedient to exercise  
115 the authority conferred in section one, nor any  
116 property except such as shall be suitable for the  
117 ordinary business of the vender which the city  
118 or town may assume ; and if any property or  
119 plant which the city or town shall be entitled or  
120 obliged to buy under this act will not be avail-  
121 able to the city or town if purchased, by reason  
122 of liens, interests of third parties, private con-  
123 tracts or other cause, whereby the city or town  
124 purchasing would be at a disadvantage in the use  
125 of the same as compared with the vender, the  
126 city or town may be released from buying the  
127 same, or a discount may be made from the price  
128 to be paid for the plant, as the commissioner or  
129 commissioners provided for in section thirteen  
130 shall determine to be equitable under the circum-  
131 stances.

1 SECTION 2. Chapter four hundred and fifty-  
2 four of the acts passed in the year eighteen hun-  
3 dred and ninety-three is hereby amended by  
4 striking out the words "if there be no other  
5 private company engaged in the same kind of

6 lighting business in such adjoining city or town,"  
7 from section one of said chapter, so that said sec-  
8 tion shall 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, lying  
15 or being in any adjoining city or town, said pur-  
16 chasing city or town shall have the right at its  
17 election to purchase the outlying mains, poles,  
18 wires and other distributing apparatus in any  
19 such adjoining city or town, in the manner and  
20 subject to the provisions specified in sections  
21 twelve, thirteen and fourteen of said chapter.

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