

SENATE No. 295.

[Mr. GILBRIDE moves to amend the House Report of the committee on Manufactures, leave to withdraw, on the petition (with accompanying bill, House, No. 681) of Henry R. Legate and others for legislation limiting the price to be paid for municipal lighting plants by the substitution of this bill.]

Commonwealth of Massachusetts.

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

AN ACT

Relative to the Establishment of Municipal Gas and
Electric Lighting Plants.

*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
3 eighteen hundred and ninety-one, as amended by
4 chapter four hundred and fifty-four of the acts
5 passed in the year eighteen hundred and ninety-
6 three, is hereby further amended by inserting
7 after the word "streets" in line forty-five thereof
8 the words "and shall not in any way include any
9 allowance for or by reason of any business done

10 for or with the purchasing city or town or the
11 profits thereof, excepting business to be done
12 under existing contracts therefor. Also by strik-
13 ing out in line fifty-seven thereof the words
14 "within the limits of such city or town," so as to
15 read as follows:—

16 *Section 12.* When any city or town shall
17 decide as hereinbefore provided to establish a
18 plant, and any person, firm or corporation shall
19 at the time of the first vote required for such
20 decision be engaged in the business of making,
21 generating or distributing gas or electricity for
22 sale for lighting purposes in such city or town,
23 such city or town shall, if such person, firm or
24 corporation, shall elect to sell and shall comply
25 with the provisions of this act, purchase of such
26 person, firm or corporation, before establishing a
27 public plant, such portion of his, their or its gas
28 or electric plant and property suitable and used
29 for such business in connection therewith, as lies
30 within the limits of such city or town. If in such
31 city or town a single corporation owns or
32 operates both a gas plant and an electric plant,
33 such purchase shall include both of such plants;
34 but otherwise such city or town shall only be
35 obliged to purchase the existing gas plant or
36 plants if it has voted only to establish a gas plant,
37 and shall only be obliged to purchase the existing
38 electric plant or plants if it has only voted to es-
39 tablish an electric plant. If the main gas works,
40 in the case of a gas plant, or the central lighting
41 station, in the case of an electric light plant, lie

42 within the limits of the city or town which has
43 voted to establish a plant as aforesaid, such city
44 or town shall purchase as herein provided the
45 whole of such plant and property used in con-
46 nection therewith lying within its limits, and the
47 price to be paid therefor shall be its fair market
48 value for the purposes of its use; no portion of
49 such plant to be estimated, however, at less than
50 its fair market value for any other pur-
51 pose, including as an element of value any
52 locations, or similar rights, acquired from pri-
53 vate persons in connection therewith, plus
54 the damages suffered by the severance of
55 any portion of such plant lying outside of the
56 limits of such city or town, if it shall refuse or
57 neglect to purchase the same, and minus the
58 amount of any mortgage or other encumbrance
59 or lien to which the plant so purchased, or any
60 part thereof, may be subject at the time of trans-
61 fer of title; but such city or town may require
62 that such plant and property be transferred to it
63 free and clear from any mortgage or lien, unless
64 the commissioners appointed under the provisions
65 of section thirteen of this act shall otherwise
66 determine. Such value shall be estimated with-
67 out enhancement on account of future earning
68 capacity, or good will, or of exclusive privileges
69 derived from rights in the public streets, and
70 shall not in any way include any allowance for, or
71 by reason of any business done for or with the
72 purchasing city or town, excepting business to be
73 done under existing contracts therefor.

74 If the main gas works or central lighting
75 station of such a plant do not lie within the lim-
76 its of the city or town which has voted as afore-
77 said, then such city or town shall only purchase
78 that portion of such plant and property which lies
79 within its limits, paying therefor upon the basis of
80 value above established, but without allowance of
81 damages on account of severance of plant. No
82 city or town shall be obligated by this section to
83 buy any apparatus or appliances covered by let-
84 ters patent of the United States or embodying a
85 patentable invention, unless a complete right to
86 use the same and all other apparatus or appliances
87 necessary for such use to such extent as such city
88 or town shall reasonably require such right shall
89 be assigned or granted to such city or town at a
90 cost as low as the cost of such right would be to
91 the person, firm or corporation whose plant is
92 purchased. No city or town shall be obliged to
93 buy any property added to a plant unnecessarily
94 after the passage of its first vote that it is
95 expedient to exercise the authority conferred in
96 section one, nor any property except such as shall
97 be suitable for the ordinary business of the vendor
98 which the city or town may assume ; and if any
99 property or plant which the city or town shall be
100 entitled or obliged to buy under this act will not
101 be available to the city or town if purchased,
102 by reason of liens, interests of third parties,
103 private contracts or other cause, whereby the
104 city or town purchasing would be at a dis-
105 advantage in the use of the same as compared

106 with the vendor, the city or town may
107 be released from buying the same, or a dis-
108 count may be made from the price to be paid for
109 the plant, as the commissioner or commissioners
110 provided for in section thirteen shall determine
111 to be equitable under the circumstances.

1 SECT. 2. This act shall take effect from its
2 passage.

