

HOUSE No. 79

The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES,
STATE HOUSE, BOSTON, December 1, 1926.

To the General Court of the Commonwealth of Massachusetts.

In accordance with the provisions of section 33 of chapter 30 of the General Laws, as amended by section 43 of chapter 362 of the Acts of 1923, copies of the recommendations for legislation to be contained in the annual report of this department (Pub. Doc. No. 14) are submitted herewith, together with drafts of bills embodying the legislation recommended. These drafts have been submitted to counsel for the House of Representatives, as required by law.

Yours respectfully,

HENRY C. ATTWILL,
Chairman.

LEGISLATION RECOMMENDED.

I.

The electric and gas companies of this Commonwealth, on the whole, are in a very sound financial condition. This has resulted from the policy of this Commonwealth to encourage ample provisions for depreciation and the ploughing in to the property of surplus earnings. As a result there are many companies as to which it can be safely asserted that the reproductive value of the property less depreciation is substantially in excess of its outstanding capital and obligations. These companies therefore present an attractive temptation to financial interests outside the State to acquire. Such interests, having been accustomed to regulation wherein the basis of fixing the rates is under the so-called United States Supreme Court rule of a fair return upon the reproductive value of the property less depreciation, see an opportunity by acquiring the control of our domestic corporations to obtain a larger income therefrom than the companies now obtain. We think it would be unfortunate for our domestic companies, which largely have grown up under our New England ideas of basing, in large measure, the rates upon the investment and which have conducted their business with thrift, to pass under the control of such foreign financial interests. All the evils of absentee landlordism would thus obtain. So far as it lies within the power of the Commonwealth to retain the control of its own public utilities in the hands of its own citizens, we think steps should be taken to accomplish the result. Section 10 of chapter 181 of the General Laws provides that whenever a majority of the stock of a domestic corporation becomes owned or controlled by a foreign corporation and such foreign corporation issues stock, bonds or other evidences of indebtedness based upon or secured by the property, franchise or stock of such domestic company, the Attorney General, by appropriate proceedings, may petition the Supreme Judicial Court for the dissolution of the domestic corporation thus owned or controlled and the Supreme Judi-

cial Court may dissolve it. We think that the same evils exist whether such foreign corporation does or does not issue securities against the ownership or control thereof and that the law ought to be amended and extended accordingly. We are also of the opinion that the pivotal stock is the common stock and such other stock as has like voting power and that the law should be made more specific in this regard.

II.

As a result of recent experience in considering requests for service to the public by certain public utilities, it has developed in some instances that pole locations and the right to string wires in certain communities have been granted by local authorities without condition, reservation or restriction and so have passed, apparently, beyond local control. Subsequently another form of service is demanded and required by the public in the same general locality. A company able, willing and ready to render such service is near at hand. It has no such pole locations, however, and is unable to obtain them by reason of duplication of lines or a change in jurisdictional authority. On the other hand, it is often unable to effect an arrangement with an existing company, which has acquired locations, for a joint use of poles. Under these circumstances the public is left without a remedy. Moreover, it is in the general interest of the public welfare that one pole line should be used wherever practicable instead of two or more. We feel, therefore, that machinery should be provided under and by which this department can exercise jurisdiction in bringing about a joint use of poles wherever it can be done without real injury to either service. To this end we recommend legislation.

