

SENATE No. 258

To accompany the petition of Leo J. Sullivan that provision be made for the taxation of poles belonging to public utility companies and erected in public streets and highways. Taxation.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Forty-Three.

AN ACT RELATIVE TO THE TAXATION OF TELEPHONE,
TELEGRAPH, GAS AND ELECTRIC LIGHT, GAS, ELECTRIC
LIGHT AND CERTAIN OTHER COMPANIES.

1 *Whereas*, The deferred operation of this act would
2 tend to defeat its purpose, therefore it is hereby
3 declared to be an emergency law, necessary for the
4 immediate preservation of the public convenience.

*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 five of chapter fifty-nine of the
2 General Laws, as most recently amended by section
3 one of chapter three hundred and sixty-two of the
4 acts of nineteen hundred and thirty-six, is hereby
5 further amended by striking out clause Sixteenth, as
6 so amended, and inserting in place thereof the fol-
7 lowing:—

8 Sixteenth, Property, other than real estate, poles,
9 underground conduits, wires and pipes, and other than
10 machinery used in manufacture or in supplying or

11 distributing water, owned by Massachusetts savings
12 banks or cooperative banks, by Massachusetts cor-
13 porations subject to taxation under chapter sixty-
14 three except domestic business corporations as defined
15 in section thirty of said chapter or domestic manu-
16 facturing corporations, as defined in section thirty-
17 eight C of said chapter, or telephone, telegraph, gas
18 and electric light, gas or electric light companies, or
19 by foreign corporations subject to taxation under
20 section fifty-eight of said chapter, except telephone,
21 telegraph, gas and electric light, gas or electric light
22 companies; also property, other than real estate,
23 poles conduits, wires, pipes, machinery and equip-
24 ment, owned by telephone, telegraph, gas and electric
25 light, gas or electric light companies; also property,
26 other than real estate, poles, underground conduits,
27 wires and pipes, and other than machinery used in the
28 conduct of the business, owned by domestic business
29 corporations or by foreign corporations, as defined in
30 section thirty of chapter sixty-three; also property,
31 other than real estate, poles, underground conduits,
32 wires and pipes, owned by domestic manufacturing
33 corporations, as defined in section thirty-eight C of
34 said chapter, or by foreign manufacturing corporations,
35 as defined in section forty-two B of said chapter;
36 provided, that the term "machinery used in the
37 conduct of the business" shall not, as herein used, be
38 deemed to include stock in trade and that the classi-
39 fication by the commissioner of domestic business
40 corporations and foreign corporations, as defined in
41 section thirty of chapter sixty-three, of domestic
42 manufacturing corporations, as defined in section
43 thirty-eight C of said chapter, and of foreign manu-
44 facturing corporations, as defined in section forty-

45 two B of said chapter, shall be followed in the assess-
46 ment under this chapter of machinery used in the
47 conduct of the business.

1 SECTION 2. Section eighteen of said chapter fifty-
2 nine, as most recently amended by section two of said
3 chapter three hundred and sixty-two of the acts of
4 nineteen hundred and thirty-six, is hereby further
5 amended by striking out clause Second, as so amended,
6 and inserting in place thereof the following: —

7 Second, Machinery employed in any branch of man-
8 ufacture or in supplying or distributing water, includ-
9 ing machines used or operated under a stipulation
10 providing for the payment of a royalty or compensation
11 in the nature of a royalty for the privilege of using
12 or operating the same, and all tangible personal
13 property within the commonwealth leased for profit,
14 or, in the case of domestic business and foreign cor-
15 porations as defined in section thirty of chapter sixty-
16 three, machinery used in the conduct of the business,
17 or, in the case of telephone, telegraph, gas and electric
18 light, gas or electric light companies, machinery and
19 equipment, owned by them, shall be assessed where
20 such machinery or tangible personal property is
21 situated to the owner or any person having possession
22 of the same on January first.

1 SECTION 3. Section eighteen of said chapter fifty-
2 nine, as most recently amended by section two of said
3 chapter three hundred and sixty-two of the acts of
4 nineteen hundred and thirty-six, is hereby further
5 amended by striking out clause Fifth, as appearing
6 in the Tercentenary Edition, and inserting in place
7 thereof the following: —

8 Fifth, Poles, conduits, wires and pipes, laid or
9 erected in, on or over public ways, private property
10 or any railroad location, and wires in or on such poles,
11 conduits and pipes, except underground conduits,
12 wires and pipes laid in public ways and owned by a
13 street railway company, and except poles, under-
14 ground conduits, wires and pipes of a railroad cor-
15 poration, laid in or erected upon the location of such
16 railroad, and except poles, underground conduits,
17 wires and pipes laid in or erected upon any right of
18 way owned by a street railway company, shall be
19 assessed to the owners thereof in the towns where
20 laid or erected.

1 SECTION 4. Sections thirty-nine, forty, forty-one
2 and forty-two of said chapter fifty-nine, as appearing
3 in the Tercentenary Edition, are hereby repealed.

1 SECTION 5. Section fifty-five of chapter sixty-
2 three of the General Laws, as most recently amended
3 by section seven of chapter twenty-four of the acts of
4 nineteen hundred and thirty-nine, is hereby further
5 amended by striking out said section fifty-five and
6 inserting in place thereof the following:—

7 *Section 55.* The commissioner shall ascertain from
8 the returns or otherwise the true market value of the
9 shares of each corporation required to make a return
10 under section fifty-three or fifty-four, and shall esti-
11 mate therefrom the fair cash value of all the shares
12 constituting its capital stock on January first preced-
13 ing, which, unless by the charter of a corporation a
14 different method of ascertaining such value is pro-
15 vided, shall, for the purposes of this chapter, be taken
16 as the true value of its corporate franchise. From

17 such value there shall be made the following deduc-
18 tions: *First.* In case of a railroad, street railway or
19 electric railroad corporation or company, whether
20 chartered or organized in this commonwealth or else-
21 where, so much of the value of its capital stock as is
22 proportional to the length of that part of its line, if
23 any, lying without the commonwealth; and also the
24 value of its works, structures, real estate, motor
25 vehicles, trailers, machinery, poles, underground con-
26 duits, wires and pipes, subject to local taxation within
27 the commonwealth.

28 *Second.* In case of a domestic telephone company,
29 the amount and market value of all stock in other
30 corporations held by it upon which a tax has been
31 paid in this or other states for the twelve months last
32 preceding the date of the return.

33 *Third.* In case of a domestic or foreign telephone
34 company, so much of the value of its capital stock as
35 is proportional to the number of telephones used or
36 controlled by it, or under any letters patent owned or
37 controlled by it, without the commonwealth.

38 *Fourth.* In case of a domestic or foreign telephone
39 company, the value of its works, structures, real
40 estate, motor vehicles, trailers, machinery, equipment,
41 poles, conduits, wires and pipes, subject to local taxa-
42 tion within the commonwealth.

43 *Fifth.* In case of a domestic or foreign telegraph
44 company, so much of the value of its capital stock as is
45 proportional to the length of that part of its line, if
46 any, lying without the commonwealth; and also the
47 value of its works, structures, real estate, motor
48 vehicles, trailers, machinery, equipment, conduits,
49 poles, wires and pipes, subject to local taxation within
50 the commonwealth.

51 *Sixth.* In case of gas and electric light, gas or
52 electric light companies, the value of their works,
53 structures, real estate, motor vehicles, trailers, ma-
54 chinery, equipment, poles, conduits, wires and pipes,
55 subject to local taxation within the commonwealth.

56 *Seventh.* In case of corporations subject to section
57 fifty-three or fifty-four, other than railroad, tele-
58 graph, telephone, gas and electric light, gas, electric
59 light, street railway and electric railroad corporations
60 or companies, the value of their works, structures,
61 real estate, motor vehicles, trailers, machinery, poles,
62 underground conduits, wires and pipes, subject to
63 local taxation wherever situated.

64 *Eighth.* In case of corporations owning stock of
65 an electric company under section nine A of chapter
66 one hundred and sixty-four as thereto authorized by
67 the department of public utilities, the deduction
68 mentioned in paragraph seventh above, and the fair
69 cash value, as found by the commissioner, of the stock
70 of such electric companies so owned.

71 For the purposes of this section the commissioner
72 shall take the value at which any works, structures,
73 real estate, motor vehicles, trailers, machinery, poles,
74 underground conduits, wires and pipes are assessed
75 at the place where they are located as the true value.

76 The term "real estate", as used in this section
77 shall include the corporation's interest as lessee in
78 such buildings on land held under a lease as by the
79 terms of the lease are the property of and may be
80 removed by the lessee, and such buildings, for the
81 purposes of said section and of subdivision (a) of
82 paragraph three of section thirty and subdivision (a)
83 of paragraph four of said section thirty, shall not be
84 deemed real estate of the lessor.

1 SECTION 6. Section sixty-eight A of said chapter
2 sixty-three, as most recently amended by section
3 eight of said chapter twenty-four of acts of nineteen
4 hundred and thirty-nine, is hereby repealed.

