

MEMORANDUM

DATE January 26, 1939

TO: Mr. Milton V. Freeman

FROM: Raoul Berger

SUBJECT: Letter of Eugene S. Leggett (January 23, 1939)

1. ^{Even} Mr. Leggett forwarded two opinions by the Division of Public Utilities of the State of Rhode Island, in which the Division adopts the "historical cost", i.e., the amount of money "prudently invested" as a utility rate base. Assuming arguendo that the adoption of the "historical cost" theory of evaluation constitutes an unconstitutional confiscation of property, I am of the opinion that the Commission is without jurisdiction in the premises, an opinion in which I am confirmed by a member of the Public Utilities Division. No issue of securities is apparently involved.
2. Mr. Leggett also enclosed a newspaper clipping indicating that stockholders of a corporation which has registered its common stock have been approached in behalf of the former management. A violation of the proxy rules would seem to be indicated, and the case might be turned over to the proxy unit for further investigation.